

4514192

WHEN RECORDED, PLEASE RETURN TO:

DEE'S, INC.
777 East 2100 South
Salt Lake City, Utah 84106

5400

4514192
27 AUGUST 87 04:10 PM
KATIE L. DIXON
RECORDER, SALT LAKE COUNTY, UTAH
WESTERN STATES TITLE
REC BY: JEDD BOGENSCHUTZ, DEPUTY

AMENDED GRANT OF EASEMENTS AND COVENANTS AND RESTRICTIONS

FOR VALUE RECEIVED, the undersigned DEE'S, INC., hereby GRANTS, DECLARES, ACKNOWLEDGES and AGREES as follows:

W I T N E S S E T H:

A. The undersigned Dee's, Inc. is the owner of the fee title to the property more particularly shown on Exhibit "A". Said property has been in the process of a two-phase development. Phase I as shown on Exhibit "A" and the legal description shown on Exhibit "B" is currently developed except for ~~one~~ ^{two} pads ^{w/c} where ~~an~~ ^{w/c} additional buildings can be located and the enlargement of the Smith's Food King building which is now in process. The development of Phase I is shown on the attached site plan marked Exhibit "A". ^{w/c} Phase II, also shown on Exhibit "A" and the legal description shown on Exhibit "C" is to be developed as soon as reasonably feasible.

B. Canyon Center No. 1, a Utah limited partnership, which was predecessor in interest to said property heretofore filed a Grant of Easements and Covenants, Conditions and Restrictions dated December 20, 1978, in Salt Lake County Recorder's Office in Book 4789 at Pages 1323 through 1326 as Entry No. 3214227, and Dee's desires to amend and completely restate said Grant of Easements and Covenants, Conditions and Restrictions to read in total as herein provided.

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WSTC # 81768

NOW, THEREFORE, the undersigned Dee's, Inc. hereby GRANTS, DECLARES, ACKNOWLEDGES and AGREES as follows in respect to the property identified as Phase I and described in Exhibit "B" (herein referred to as "Shopping Center") attached hereto and incorporated herein. The undersigned reserves the right to include within Shopping Center part or all of Phase II as described in Exhibit "C" and additional contiguous property within this Grant of Easements and Covenants, Conditions and Restrictions from time to time hereafter, but neither Phase II as described in Exhibit "C" nor any other property shall be construed to be included within the Shopping Center and this Grant of Easements and Covenants, Conditions and Restrictions until specifically designated in writing as being included and such writing recorded in the Salt Lake County Recorder's Office. Dee's or Dee's successor in interest of Phase I shall have the right without consent of other owners to enter into Cross Easement Agreements with adjoining property owners to include such adjoining property into one integrated shopping center with Phase I without including such property within this declaration.

ARTICLE I

Definitions

1.02 Occupant. The term "Occupant" shall mean Dee's, Inc. and its successors and assigns (including mortgagees) and any person or entity who shall be from time to time entitled to

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the use and occupancy of space located within the parcel of property described in Exhibit "B" (including any part of Phase II or contiguous property that might be included within the Shopping Center and this declaration in the future) under any lease, sublease, license or concession agreement, or deed or other instrument or arrangement under which such rights are acquired.

1.02. Common Areas. The term "Common Areas" shall mean and include all parts and areas of the Shopping Center included within this declaration, which are from time to time not covered by a building, including all areas devoted primarily to parking, approaches, exits, entrances, sidewalks, exterior landscaping, incidental and interior roadways, service roads, loading areas and other similar areas.

1.03. Permittees. The term "Permittees" shall mean and refer to all Occupants and all customers, employees, licensees and other business invitees of Occupants.

1.04. Site. The term site shall mean and refer to a parcel of real property owned within the Shopping Center.

1.05. Owner or Owners. Owner shall mean any person or entity that owns the fee title to a site within the Shopping Center.

ARTICLE II

Easements

2. Grant of Easements. Dee's hereby grants to each Owner, the following easements for use by the Owners and their respective Occupants and Permittees:

2.01. Pedestrian and Vehicular Easements. A nonexclusive easement for the purpose of pedestrian and vehicular traffic over, upon, across and between each Site and (i) each other Site which is contiguous thereto; (ii) the public streets and alleys now or hereafter abutting or located on any portion of the Shopping Center; (iii) the parking areas now and hereafter located on the Shopping Center and (iv) over, upon, across and through the Common Areas; limited, however, to those portions of each Site which are improved and designated by the Owner thereof from time to time for pedestrian walkways and vehicular traffic respectively and made available by such Owner for general use, as such portions may be reduced, increased or relocated from time to time by each such Owner in conformity with the Site Plan.

2.02. Common Component Easements. A nonexclusive easement for the purpose of furnishing connection, support and attachment to walls, footings, foundations, slabs, roofs and other structural systems of any improvement now and hereafter constructed on each Site, the encroachment of common components

of improvements and the maintenance, repair and replacement of the same; limited, however, to those portions of each site on which an improvement is contiguous to an improvement constructed on another Site. Any Owner of a Site (the "Benefited Site") which desires to claim the benefit of the foregoing easement for common components and encroachments will be entitled to exercise such right on the following conditions:

(a) The Owner of the Benefited Site will submit plans and specifications showing the improvements proposed to be constructed on the Benefited Site to the Owner of the Site (the "Burdened Site") which will be burdened by the easement hereby created for approval of such plans and specifications by the Owner of the Burdened Site.

(b) Approval of such plans and specifications by the Owner of the Burdened Site will constitute a designation of the portion(s) of the Burdened Site to be used for the purposes therein described. Any approval requested shall not be unreasonably delayed, denied or withheld.

(c) The construction of the improvements on the Benefited Site will be diligently prosecuted by the Owner thereof with due care and in accordance with sound design, engineering and construction practices in a

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manner which is customary for such improvements and which will not unreasonably interfere with the use of the Burdened Site or the improvements thereon or impose an unreasonable load on such improvements.

(d) The Owner of the Benefited Site will indemnify and hold the Owner of the Burdened Site harmless from all damage, loss, cost and expense arising from the construction use, maintenance, repair, replacement and removal of the improvements on the Benefited Site and the exercise of the rights of the Owner of the Benefited Site hereunder. When the exercise of the rights hereby granted to the Owner of the Benefited Site requires entry upon the Burdened Site or the improvements thereon, the Owner of the Benefited Site will give due regard to the use of the Burdened Site and the improvements thereon in the exercise of such rights and will promptly repair, replace or restore any and all improvements on the Burdened Site which are damaged or destroyed in the exercise of such rights. Any costs for repairs necessitated by normal deterioration or construction of the original improvements which cannot be identified to have been caused by a particular Owner, Occupant or their agents or invitees shall be shared by the Owner of the Burdened Site and the Owner of the Benefited Site in

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accordance with that ratio which the load contributed by the improvements of each Owner bears to the total load on such common components. The cost of maintenance, insurance, property taxes, repair and replacement of any common wall, roof or structural joinder constructed by the Owner of the Benefited Site (other than components providing support) will be paid solely by the Owner of the Benefited Site except that the Owner of each site shall bear the costs of routine maintenance, repair and decoration of its side of any common wall.

(e) The Owner of the Burdened Site agrees on the written request of the Owner of the Benefited Site, to execute and deliver an instrument in recordable form legally sufficient to evidence the grant of the easements herein described, the location thereof and such other conditions affecting the grant of such easements, as might have been approved by such Owners.

2.03. Utility Easements. Subject to existing leases and trust deeds, nonexclusive easements for the installation, use, connection to, operation, maintenance, repair, replacement and removal of: water lines and systems; telephone lines and systems; gas lines and systems; sanitary sewer lines and systems; electrical lines and systems; storm sewers, drainage lines and systems; and other utility lines or systems hereafter

developed to serve one or more of the Sites; provided, however, that all pipes, wires, lines, conduits, mains, sewers, systems and related equipment (hereafter called "Utility Facilities") will be installed underground or otherwise enclosed and will be installed, operated and maintained in a manner which will not unreasonably interfere with the use of each site or the Shopping Center or Improvements on which such Utility Facilities are located. All costs of installation and maintenance of a utility easement shall be paid by the Owner of the Benefited Site when due and prevent any liens being filed on any property of other Owners, including Common Areas. The Owner of the Benefited Site will provide the Owner(s) of the Burdened Site with 30 days advance notice in writing if any of the Utility Facilities are to be located initially other than as shown on the Site Plan or previously mutually approved in writing. The Owner of any Burdened Site affected by any of such utility easements will have the right, at any time, and from time to time, to relocate any Utility Facilities then located on the Burdened Site on the conditions that: (i) such right of relocation will be exercisably only after thirty (30) days' prior written notice of the intention to relocate has been given to all Owners using the Utility Facilities to be relocated; (ii) such relocation will not unreasonably interrupt any utility service to the improvements then located on the Benefited Site(s); (iii) such

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relocation will not reduce or unreasonably impair the usefulness or function of the Utility Facilities to be relocated; and (iv) all costs of such relocation will be borne by the Owner relocating the Utility Facilities. All utilities used shall be separately metered to the respective Owners or Occupants.

2.04. Access Easements. Nonexclusive easements in accordance with the Site Plan between each Site and the public streets and ways abutting or crossing any portion of the Shopping Center for the purpose of providing reasonable ingress, egress and access to the easements hereby created and to the Common Areas.

2.05. Parking Easements. Nonexclusive easements in and to the parking lot for access to and to use for vehicular parking purposes. The easements for parking spaces and access shall be provided in accordance with the Site Plan marked as Exhibit "A". *web*

2.06. Lighting Facilities Easement. Nonexclusive easements for access to and use by the Owners and Occupants of each Site to the public light poles located adjacent to the perimeters of each Site for installation, repair, replacement, maintenance and removal of electrical wires, conduit, lighting fixtures and related apparatus to share the use of such poles for lighting the Common Area on each Site.

2.07. Fire and Emergency Access. A nonexclusive easement for fire protection and emergency access for pedestrian and vehicular access, ingress and egress over, across, on and through the Common Areas.

2.08. Self-Help Easements. Nonexclusive rights of entry and easements over, across and under each Site for all purposes reasonably necessary to enable any other Owner of a Site to perform any of the provisions of this declaration which a defaulting Owner has failed to perform.

2.09 Unimpeded Access. The Owners agree that no barricade or other divider will be constructed between the Sites and the Owners will do nothing to prohibit or discourage the free and uninterrupted flow of vehicular or pedestrian traffic throughout the Shopping Center in the areas designated for such purpose by the Owner of each Site; provided that each Owner will have the right to temporarily erect barriers to avoid the possibility of dedicating such areas for public use or creating prescriptive rights therein.

ARTICLE III

Nature of Easements and Rights Granted

3.01 Each and all of the easements and rights granted or created herein are appurtenances to the affected portions of the Shopping Center and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance to

such portions. For the purposes of such easements and rights, the parcels which are benefited shall constitute the dominant estate, and the particular areas of the Shopping Center which respectively are burdened by such easements and rights shall constitute the servient estate.

3.02 Each and all of the easements, covenants, restrictions and provisions contained in this declaration:

(a) Are made for the direct, mutual and reciprocal benefit of the Occupants and Permittees of the respective Sites;

(b) Create mutual equitable servitudes upon each parcel in favor of the other Sites;

(c) Constitute covenants running with the land; and

(d) Shall bind every person or entity having any fee, leasehold or other interest in any portion of the Shopping Center at any time or from time to time to the extent that such portion is affected or bound by the easement, covenant, restriction, or provision in question, or to the extent that such easement, covenant, restriction or provision is to be performed on such portion.

3.03. The acceptance of any transfer or conveyance or passage of title from any Owner of any site or interest therein,

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or a transfer from an owner to its respective heirs, representatives, successors or assigns of all or any part of its interest in its Site shall be deemed to:

(a) Obligate the transferee to not use, occupy or allow any lessee or occupant of such Site to use or occupy the Site in any manner which would constitute a violation or breach of any of the easements and covenants contained herein; and

(b) Obligate the transferee to assume and perform each and all of the obligations of the transferring party under this declaration with respect to any such Site received by the transferee.

Upon such transfer, the transferring party shall thereupon be released from any future obligation under this declaration with respect to the parcel so transferred, but shall not be relieved from past obligations. The owners agree to execute and deliver any and all documents or assurances necessary or desirable to evidence such release for the purpose of recording or otherwise. When a transferee is a mortgagee or beneficiary under a trust deed, no personal liability or responsibility shall be deemed to be assumed by such mortgagee or trust deed beneficiary until and unless such mortgagee or trust deed beneficiary actually takes the transferring parties' title to a Site in connection with a

mortgage or trust deed foreclosure action or settlement in lieu of foreclosure.

ARTICLE IV

Maintenance of Common Areas

4.01. Owner Performs Maintenance. Except to the extent that such areas might be operated and maintained by public authorities or utility companies, the Owner of each site shall maintain the Common Areas from time to time located on its Site in clean operating condition for all easements created by this declaration. Such maintenance shall include, but shall not be limited to:

(a) Maintenance, repair and replacement of the surface and subsurface of the Parking Area to maintain it level, smooth and evenly covered with the type of materials originally constructed thereon or such substitutes as will in all respects be equal to such materials in quality, appearance and durability, and painted stripes to designate parking stalls, driveways, loading and delivery areas;

(b) Maintenance and care of all grass, shrubs and landscaping, including, but not limited to, the fertilizing, watering, mowing and trimming thereof;

(c) Removal from the Common Areas and Parking Area of papers, debris, ice, snow, refuse and other hazards

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to persons using the said Areas, and washing or thoroughly sweeping paved areas as required;

(d) Maintenance of such appropriate Parking Area entrance, exit and directional signs, markers and lights as will be reasonably required from time to time; and

(e) Such painting and repainting as may be required to maintain the Parking Area and equipment installed thereon in high quality condition.

4.02. Self Help. In the event that any Owner or Occupant shall fail to properly maintain that portion of the Common Area which is from time to time located on its parcel (such party being herein referred to as the "Defaulting Party"), any other Owner or Occupant (hereinafter referred to as the "Nondefaulting Party") may send written notice of such failure to the Defaulting Party. Such notice shall contain an itemized statement of the specific deficiencies (hereinafter referred to as the "Deficiencies") in the Defaulting Party's performance of the Common Areas maintenance to be performed by it. The Defaulting Party shall have ten (10) days after receipt of said notice in which to correct the Deficiencies or in which to commence to correct the Deficiencies if the Deficiencies cannot be reasonably corrected within the said ten (10) day period, and thereafter, to proceed diligently to complete the correction of the Deficiencies. In the event that the Defaulting Party shall

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unreasonably fail or refuse to timely correct or to begin to correct the Deficiencies, as the case may be, the Nondefaulting Party may, at its option, correct the Deficiencies. In the event that the Nondefaulting Party shall exercise the said option and shall correct the Deficiencies, the Defaulting Party shall, promptly upon receipt from the Nondefaulting Party of an itemized invoice for the costs incurred by the Nondefaulting Party in correcting the Deficiencies, pay all such costs to the Nondefaulting Party.

4.03. Cost of Maintenance of Common Areas. All expenses of maintaining all Common Areas, including but not limited to utilities, repairing, maintaining, replacing, lighting, cleaning, ice and snow removal, drainage, landscaping, traffic directional signs, or for parking attendants or traffic regulation and control, together with the cost of liability insurance, reasonably obtained, reasonable administrative costs, plus property taxes and assessments, special assessments, fees, permits or any other tax or assessment imposed upon the parking and other common areas shall be apportioned to each Owner who may apportion them to the Occupants. Each Owner's share shall be a fraction, the numerator of which is the square footage of the buildings from time to time located on each respective Owner's Site and the denominator of which is the square footage of all building space located on the Shopping Center as it may

increase or decrease from time to time from and after the additional space is included within this declaration. Each Owner will pay all costs associated with the operation and maintenance of Utility Facilities and the consumption of utility services which relate solely or can be identified or measured to the business of a particular Owner or to a particular Owner's building, and no other Owner will have any liability with respect thereto. Only the cost of utilities for the Common Areas shall be apportioned to the Owners or Occupants as part of the Common Area maintenance. Dee's or Dee's successor in interest as owner of Phase I shall be the coordinator for accounting and assessing each Owner for its share of the Common Area maintenance. Each Owner shall pay monthly within fifteen (15) days after billing is sent. The billing at the coordinator's option may be sent monthly in advance based on past experience and adjusted to actual costs annually on or before January 31st for the preceding year. Any unpaid amounts due from Owners shall be subject to a late fee of 5% of amount not paid on time and shall accrue interest at 18% per annum from date due until paid and the defaulting party agrees to pay for costs of collection including reasonable attorney's fees whether or not court action is instituted.

ARTICLE V

Enforcement - Injunctive Relief

5.01. In the event of any violation by any party hereto or by any Permittee or Occupant of any part of the Shopping Center of any of the terms, restrictions, covenants and conditions provided herein, any Owner or Occupant, or their respective successors or assigns, as the case may be, shall have in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, thirty (30) days' written notice of the violation will be given to all other Owners and to the persons or entity guilty of such violation or threatened violation.

5.02. An Owner will not be in default under this declaration unless such Owner shall have been served with a written notice specifying the default and shall fail to cure such default within thirty (30) days after receipt of such notice, or shall fail to commence to cure the default within such period of time if the default cannot be cured within the said thirty (30) day period, and thereafter, to proceed diligently to complete the curing of the default.

5.03. It is expressly agreed that no breach of this declaration shall entitle any Owner to cancel, rescind or otherwise terminate this declaration, but this limitation shall not

affect, in any manner, any other rights or remedies which the Owner may have by reason of any breach of this declaration.

ARTICLE VI

Restriction on Development

6.01. It is agreed that the Shopping Center shall be developed and utilized consistently with the Site Plan attached hereto as Exhibit "A" ^{with 60} for Phase I and no changes in building, parking access and right of ways shall occur without prior written consent of other owners in Phase I. The Site Plan will be attached for any property added to Shopping Center at the time it is added to this declaration and be deemed part of Site Plan.

6.02. It is agreed that for so long as a grocery store is operated as the principal business on the site of Smith's as described in Exhibit "E", no portion of the property described in both Exhibits "B" and "C", other than the Smith's Store Site as described in Exhibit "E", may be leased or used for a grocery store. This restriction shall not be deemed to prevent or prohibit any sale of food or confectionary items or incidental grocery items which are customarily sold from other types of retail stores, nor shall it be deemed to prevent the sale of miscellaneous non-grocery items similar to those which may be sold by a grocery store.

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6.03. It is agreed that so long as the site of Smith's as described in Exhibit "E" is being used for the operation of a pharmacy, no portion of the property described in Phase I as more particularly described in Exhibit "B", other than Smith's store site as described in Exhibit "E" may be leased or used for a pharmacy. *A pharmacy is permitted in Phase II* For purposes of this restriction a pharmacy is defined as the sale of drugs requiring a prescription and dispensed by a licensed pharmacist. The restriction shall not be determined to prevent or prohibit any sale of non-prescriptive drugs or other items that may be sold by pharmacies. WCA

6.04. So long as any part of Phase II is being used for the operation of a general merchandise discount department store, no portion of the Shopping Center in excess of 5000 square feet may be leased or used for a general merchandise discount department store as listed in the most current edition from time to time of the Director of Discount Department Stores published by Business Guides, Inc., Division of Lebhar-Friedman, Inc., or a like successor publication, nor may any portion of Shopping Center be leased or used for a dental clinic or optical center. This restriction shall not be deemed to prevent or prohibit any lessee under existing leases in the Shopping Center or owner to operate as now permitted including the sale of health and beauty aid items which are customarily sold from

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other types of retail stores, nor shall it be deemed to prevent any part of the Shopping Center from being leased, occupied or used for the sale of miscellaneous items similar to those which may be sold by a general merchandise department discount store.

6.05. No curbcuts or public highway access points shown on the Site Plan shall be altered, modified, vacated or discontinued in any manner whatsoever without the written approval of all the Owners in the Shopping Center.

6.06. Dee's or its successor in interest of Phase I shall always provide Smith's or its successor a reasonable truck access and right-of-way allowing Smith's to service all loading docks and trash containers located at the rear of its store. Such access and right-of-way shall include property owned by Smith's and also be in favor of and used by Dee's, it being the intent of the parties that there be a reasonable and functional method that the rear of Smith's store may be serviced. The access and right-of-way shown on the attached Site Plan is agreed to be acceptable to both parties. Said access and right-of-way contemplated, both to and from the rear of the store may be modified as long as reasonable and may include a truck turnaround at the rear of the Smith's store, a truck drive lane around the shops located on Dee's property, or some other access would accommodate Smith's needs.

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ARTICLE VII

Sign Criteria

7.01. Each Owner will adhere to the sign criteria established by Dee's or Dee's successor in interest to Phase I and as the Owners may agree from time to time in the future as is permitted by law.

ARTICLE VIII

Mutual Indemnification

8.01. Each Owner and Occupant, with respect to its portion of the Shopping Center, shall comply with all applicable laws, rules, regulations and requirements of all public authorities and shall indemnify, defend and hold each other Owner and Occupant harmless from and against any and all claims demands, losses, damages, liabilities and expenses and all suits, actions and judgments (including, but not limited to, costs and reasonable attorneys' fees) arising out of or in any way related to the failure by such Owner or Occupant to maintain its portion of the Shopping Center in a safe and proper condition except for acts or failure to act by other Owners, Occupants or their agents or representatives. Each Owner or Occupant shall give each other Owner and Occupant prompt and timely notice of any claim made or suit or action commenced which, in any way, could result in indemnification hereunder.

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ARTICLE IX

Insurance and Subrogation

9.01. Each Owner and Occupant shall obtain and maintain all risk insurance covering all of the buildings and improvements now or hereafter located on its Site, in an amount equal to ninety percent (90%) of the full replacement cost thereof, provided such can be obtained at a reasonable cost. Each Owner and Occupant shall (if it can reasonably obtain) also obtain and maintain comprehensive public liability insurance covering injuries to persons and property on, in or about its Site, with a single limit of not less than Five Million Dollars (\$5,000,000.00) with a deductible not in excess of One Hundred Thousand Dollars (\$100,000.00), subject to being able to obtain such insurance for a reasonable premium. All such policies of insurance shall be issued by solvent and responsible insurance companies authorized to do business in the State of Utah, and all such policies shall contain a waiver of the right of subrogation against the other owners in the Shopping Center. In addition, whenever (a) any loss, cost, damage or expense resulting, directly or indirectly, from fire, explosion or any other casualty, accident or occurrence is incurred by any owner, and (b) such Owner or Occupant is then covered in whole or in part by insurance with respect to such loss, cost, damage or expense, then such Owner or Occupant hereby releases each other Owner or

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Occupant from any liability it may have on account of loss, cost, damage or expense to the extent of any amount recovered by reason of such insurance and hereby waives any right of subrogation in excess of a deductible under such insurance not in excess of \$100,000.00 per occurrence which might otherwise exist in or accrue to any person on account thereof.

ARTICLE X

Condemnation

10.01. If all or any part of the Shopping Center is condemned or taken by any duly constituted authority for a public or quasi-public use, then that portion of the resulting award attributable to the value of any land within the Common Areas so taken shall be payable only to the Owner thereof and no claim thereto shall be made by the other Owner; provided, however, that all other Owners and Occupants may file collateral claims with the condemning authority, over and above the value of the land within the Common Areas so taken, to the extent of any damage suffered by the Sites of such other Owners and Occupants resulting from the severance of the appurtenant Common Areas so condemned or taken. The Owner of the Common Areas so condemned or taken shall promptly repair and restore the remaining portion of the Common Areas owned by such Owner as near as practicable to the condition of same immediately prior to such condemnation or taking and without contribution from any other

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Owner. Nothing contained herein shall require any Owner to construct other than a ground-level parking lot. If any buildings or other improvements on a Site are condemned or taken, then the resulting award shall first be made available and used for repair and reconstruction of such buildings or other improvements, and the same shall promptly be repaired and reconstructed as near as practicable to the condition of same immediately prior to such condemnation or taking and any amounts of the award not needed for the repair and replacement that can be reasonably made shall be retained and be the sole property of the Owner of the land, building or improvement taken.

ARTICLE XI

Duration and Termination

11.01. The easements, covenants, restrictions and other provisions of this declaration shall be of perpetual duration.

11.02. This declaration, or any easement, covenant, restriction or undertaking contained herein, may be terminated, extended or amended as to each of the portions of the Shopping Center only by the recording of the appropriate document in the Office of the Salt Lake County Recorder, which document will be effective as against all property or sites and as against the owners and mortgagees and other holders of an interest in the Shopping Center from the date they respectively execute such document, and shall be effective against all successors in

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interest of any property or site and the owners, mortgagees, and other interest holders thereof in the Shopping Center from and after the date such document is recorded.

ARTICLE XII

Not a Public Dedication

12.01. Nothing contained in this declaration shall, or shall be deemed to, constitute a gift or dedication of any portion of the Shopping Center to the general public or for the benefit of the general public or for any public purpose whatsoever, it being the intention of the parties that this declaration will be strictly limited to and for the purposes expressed herein.

ARTICLE XIII

Benefit

13.01. This declaration shall inure to the benefit of, and be binding upon, the Owner hereto and its transferees and all heirs, executors, representatives, transferees, successors and assigns of Owner and of all transferees from Owner of an interest in the Shopping Center.

ARTICLE XIV

Waiver

14.01. No waiver of any breach of any of the easements, covenants and/or agreements herein contained shall be construed, as, or constitute a waiver of any other breach or a waiver,

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acquiescence in or consent to any further or succeeding breach of the same or any other covenant and/or agreement.

ARTICLE XV

Seperability

15.01. If any term or provision of this declaration shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this declaration shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

ARTICLE XVI

Applicable Law

16.01. This declaration shall be construed and enforced in accordance with the laws of the State of Utah.

ARTICLE XVII

Notice

17.01. All notices under this declaration shall be effective if mailed certified mail, return receipt requested, as follows (unless notice of a change of address is given pursuant hereto):

DEE'S, INC.
777 East 2100 South
Salt Lake City, Utah 84106

SMITH'S FOOD KING PROPERTIES, INC.
1550 South Redwood Road
Salt Lake City, Utah 84104

Attention: Peter H. Barth

To any owner or occupant:

OWNER OR OCCUPANT
At last known address

IN WITNESS WHEREOF, the parties hereto have executed
this declaration the 29 day of September, 1986.

DEE'S, INC.

Attest:

[Signature]
Secretary

By Wesley C. Anderson

Accepted, approved and
agreed to:

SMITH'S FOOD KING PROPERTIES, INC.

By Tom Wille President

STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

Personally came before me this 6 day of October,
1986, Wesley C. Anderson President, and Moran G. Hirschi,
Secretary, of DEE'S, INC., to me known to be such persons and
officers who executed the foregoing instrument and acknowledged
that they executed the same as such officers as the deed of such
corporation, by its authority.

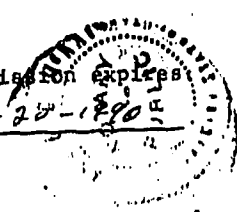
Baris J. McKay
Notary Public

Residing at:
Boonville, Utah

My commission expires

2-28-1990

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2 1/4 Cor. Sec. 3,
T3S, R1E
found monument

CAN

SI

N 89° 56' E

192.16'

Point of Beginning
Store Description

14

278.79'

N 0° 55' 00" W

2666.88' calc. from field ties

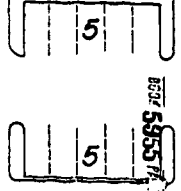
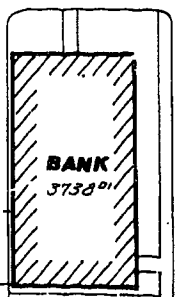
2666.27' - A.P.P.

to from field ties

664.26'

E A S T
S T R E E T

Bicycle Track

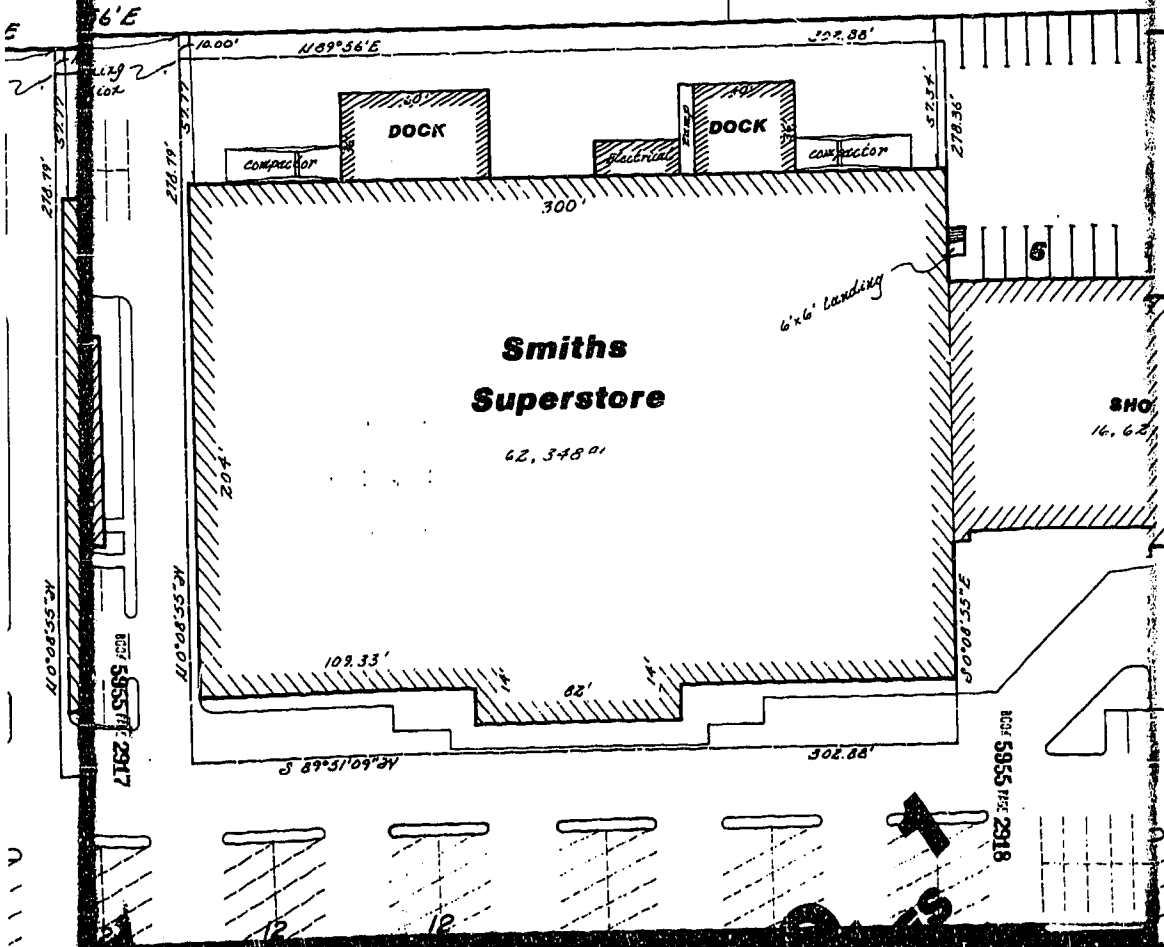


667 5955 7/8 2917



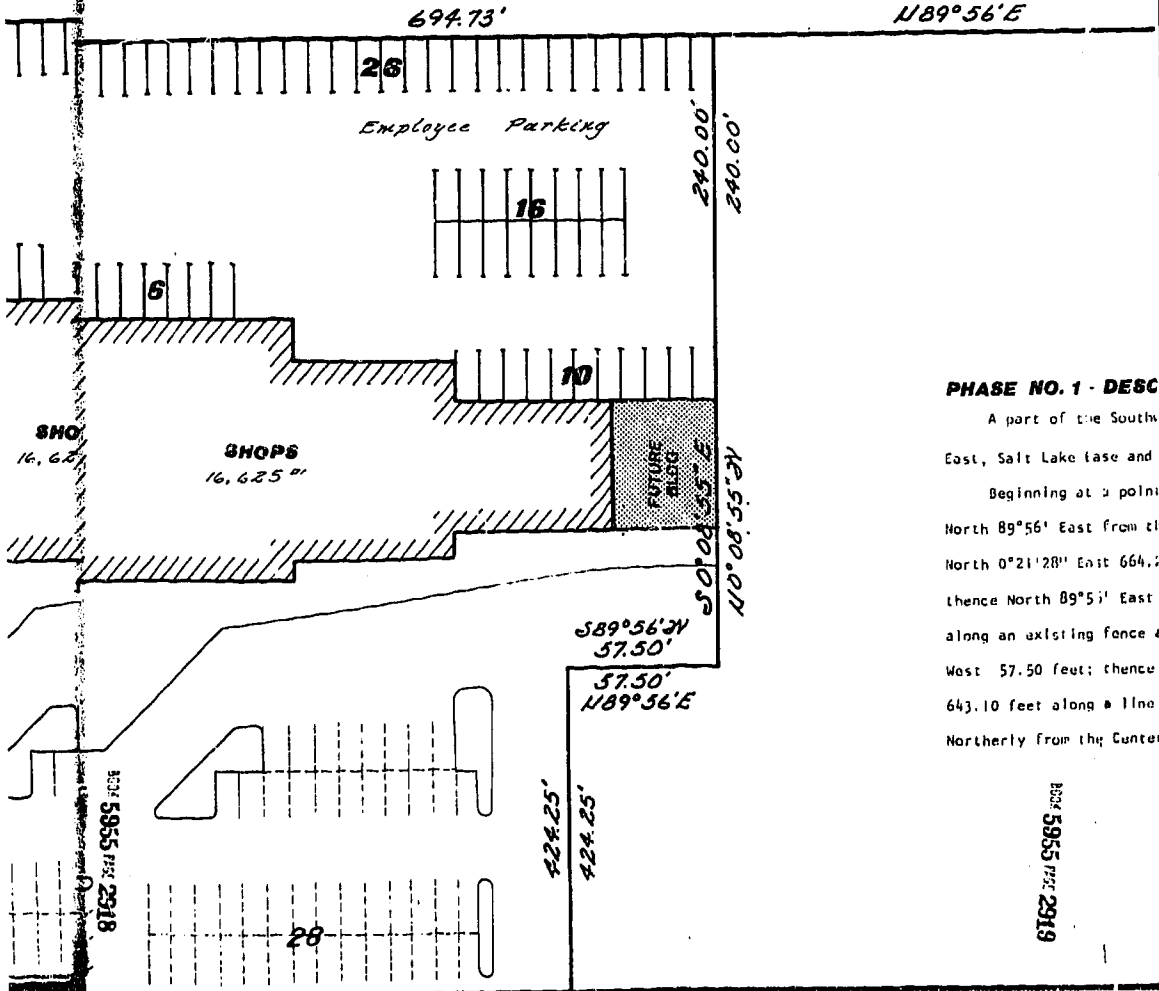
NANYON SHOPPING

SMITHS SUPERSTORE # 47



G CENTER

Exhibit



PHASE NO. 1 - DESC

A part of the South
East, Salt Lake base and
Beginning at a point
North 89°56' East from the
North 0°21'28" East 664.10
thence North 89°56' East
along an existing fence 4
West 57.50 feet; thence
643.10 feet along a line
Northerly from the Center

Exhibit "A"

Wed

417.27'

S0°04'E 113.78'

12

N89°56'02"E

VB

PHASE NO. 1 - DESCRIPTION

of the Southwest Quarter of Section 3, Township 3 South, Range 1
Lake Base and Meridian, U.S. Survey:
Beginning at a point 53.00 feet North 0°21'28" East and 106.00 feet
West from the Southwest corner of said Section 3; and running
North 28° East 664.26 feet along the East line of 2000 East Street;
thence North 89°56' East 694.73 feet; thence South 0°08'55" East 240.00 feet
along a line parallel to and being 53.00 feet perpendicularly distant
from the centerline of 9400 South Street to the point of beginning.

Contains 10.079 Acres

PHASE NO. 2 - DESCRIPTION

A part of the Southeast
East, Salt Lake Base and
Beginning at a point
North 89°56' East from
North 0°08'55" West 420.00
North 0°08'55" West 240.00
projected; thence North
113.78 feet; thence North
420.48 feet; thence South
130.00 feet to the North
698.84 feet along said

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2919

Scale: 1" = 40'



17
17
02"E
N 89° 56' 02" E

379.10'

420.48'

10.2 - DE

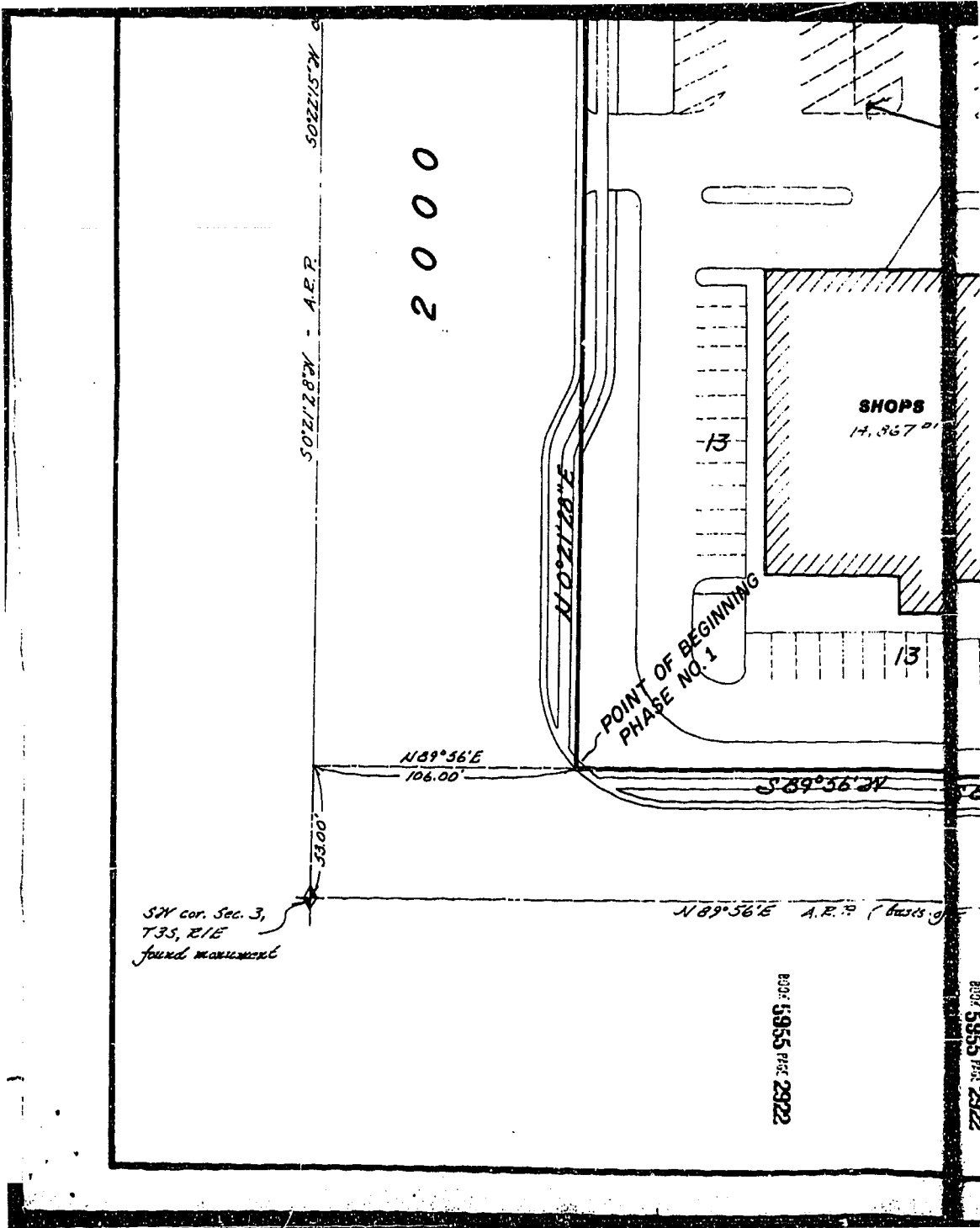
PHASE NO. 2 - DESCRIPTION

of the South Lake Base and Meridian, U.S. Survey:
A part of the Southwest Quarter of Section 3, Township 3 South, Range 1
Beginning at a point 53.00 feet North 0°21'28" East and 749.10 feet
East from the Southwest corner of said Section 3; running thence
East from the Southwest corner of said Section 3; running thence
North 89°56' East from the Southwest corner of said Section 3; running thence
West 42°55' West 424.25 feet; thence North 89°56' East 57.50 feet; thence
West 24°55' West 424.25 feet; thence North 89°56' East 57.50 feet; thence
North 0°08'55" West 240.00 feet along an existing fence and said fence line
thence North 0°08'55" West 240.00 feet along an existing fence and said fence line
projected; thence North 89°56' East 417.27 feet; thence South 0°04' East
13.78 feet; thence North 89°56'02" East 379.10 feet; thence South 0°21'28" West
130.48 feet; thence South 89°56' West 150.00 feet; thence South 0°21'28" West
to the North line of 9400 South Street; thence South 89°56' West
130.00 feet to the North line of 9400 South Street; thence South 89°56' West
130.84 feet along said North line to the point of beginning.

Contains 11.233 Acres

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N 51° 22' 05\"/>

N 87° 12' 05\"/>

53.00'

2000

N 0° 21' 28\"/>

POINT OF BEGINNING
PHASE NO. 1

SHOPS
17,867'

13

13

N 89° 56' E
106.00'

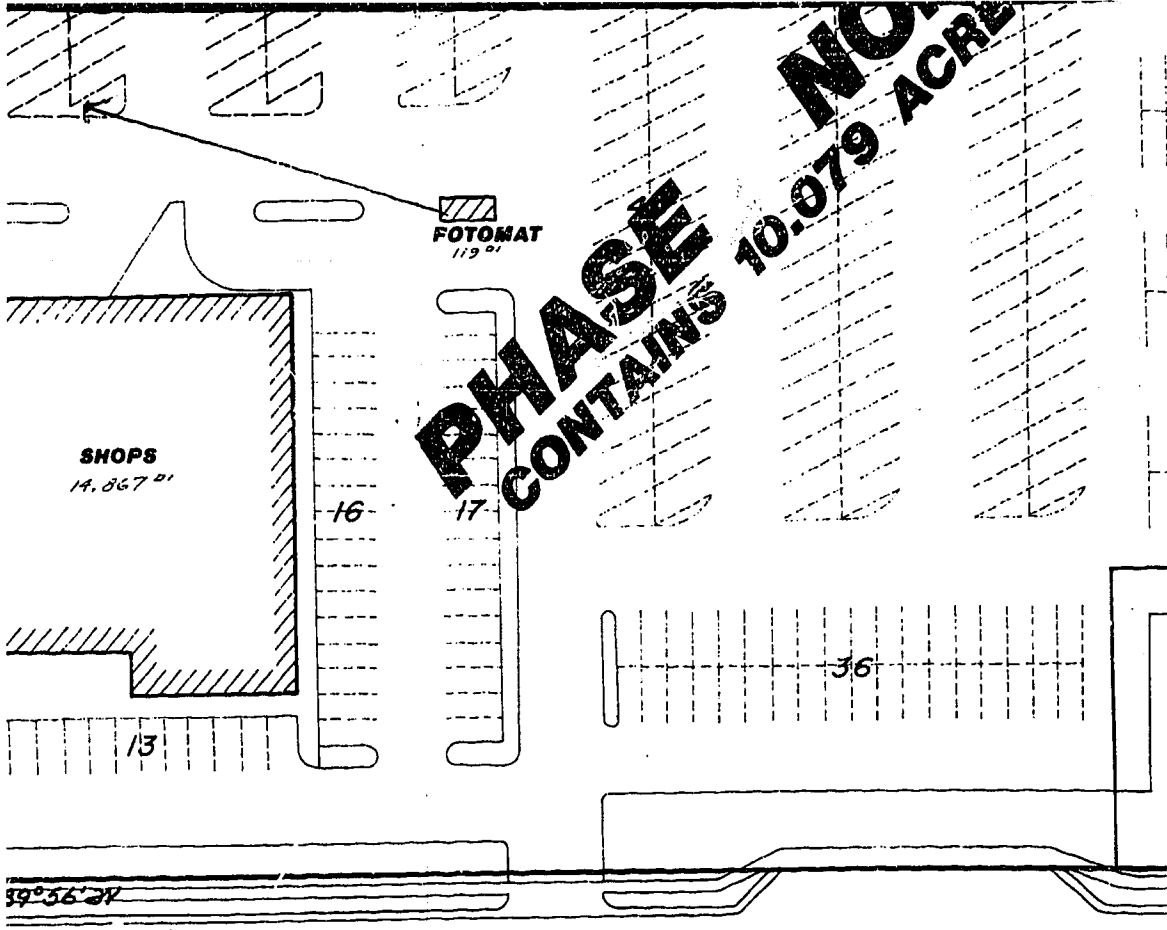
S 89° 56' 24\"/>

SW cor. Sec. 3,
T35, R1E
found monument

N 89° 56' E A.R.P. (basis of)

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BOOK 5955 PAGE 2922

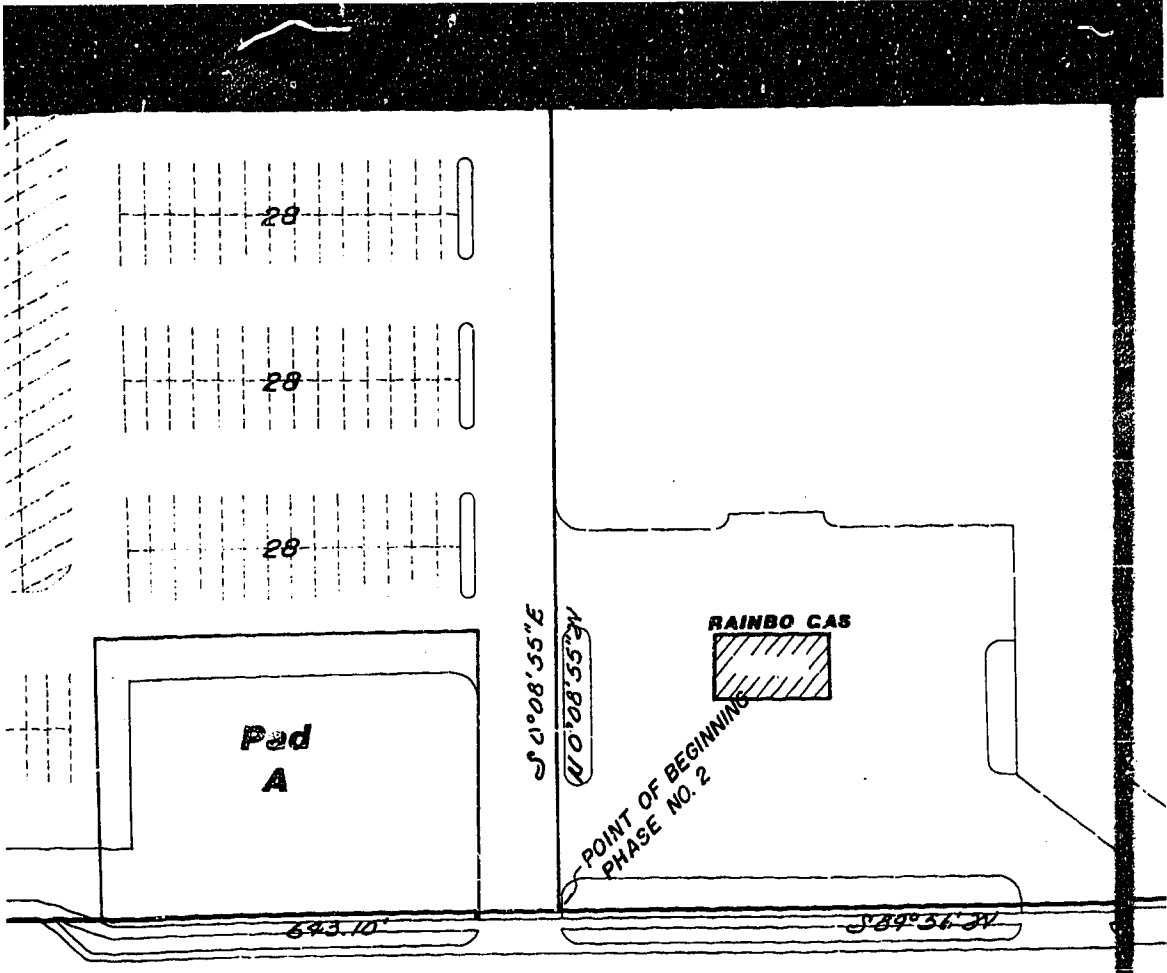


A. E. P. (basis of bearings)

9 4 0 0

S O

8004-5955 REC-2923



S O U T H

S T R E E T

2004 5955 PLOT 2924

2004 5955 PLOT 2924

PHASE NO. 1
CONTAINS 11.233 ACRES

STORE DESCRIPTION #47

A part of the Southwest Quarter of Section 3, Township 3 South, Range 1 East, Salt Lake B
Beginning at a point 53.00 feet North 0°21'28" East; 106.00 feet North 89°56' East; North
along the East line of 2000 East Street; 142.16 feet North 89°56' East and 10.00 feet South 0°
Southwest corner of said Section 3; and running thence North 89°56' East 302.88 feet; thence S
278.36 feet along the East line of the existing building; thence South 09°51'05" West 302.88 fe
North 0°08'55" West 278.79 feet to the point of beginning.

Contains

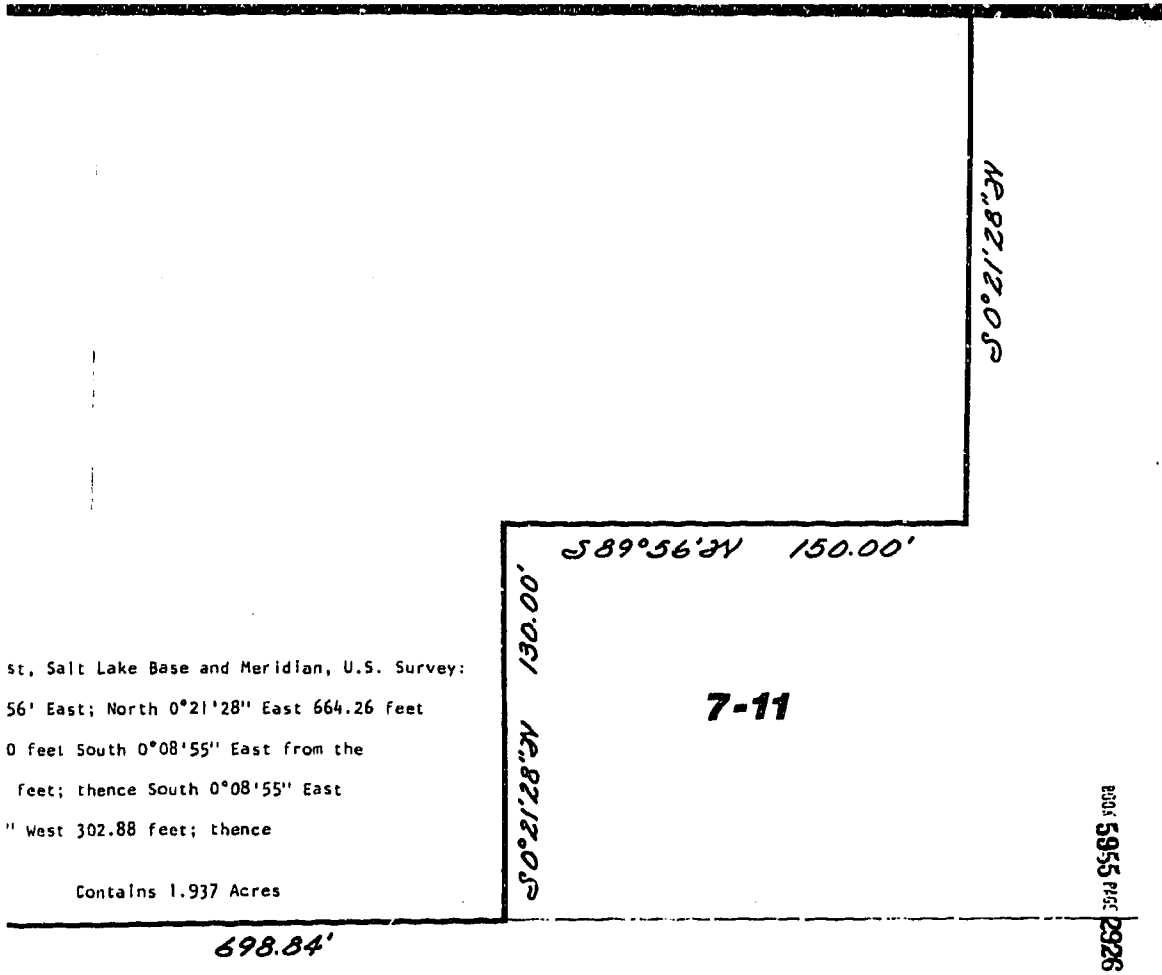


2667.55' A.P.P.

2667.83' meas.


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E T


5855 P. 2925



st, Salt Lake Base and Meridian, U.S. Survey:
 56' East; North 0°21'28" East 664.26 feet
 0 feet South 0°08'55" East from the
 feet; thence South 0°08'55" East
 West 302.88 feet; thence
 Contains 1.937 Acres

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 3/4 cor. Sec. 3
 T3S, R1E
 found monument
 1


GREAT BASIN ENGINEERING, INC.
 CONSULTING ENGINEERS & SURVEYORS
 OGDEN & SALT LAKE CITY, UTAH

**CANYON SHOPPING CENTER
 PARCEL EXHIBIT**

a part of the SW 1/4 of Section 3, T3S, R1E, S18T

BP		
1986	1" = 40'	

EXHIBIT "B"

PHASE I OF CANYON CENTER SHOPPING CENTER

A part of the Southwest Quarter of Section 3, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U. S. Survey:

Beginning at a point 53.00 feet North $0^{\circ}21'28''$ East and 106.00 feet North $89^{\circ}56'$ East from the Southwest corner of said Section 3; and running North $0^{\circ}21'28''$ East 664.26 feet along the East line of 2000 East Street; thence North $89^{\circ}56'$ East 694.73 feet; thence South $0^{\circ}08'55''$ East 240.00 feet along an existing fence and said fence line projected; thence South $89^{\circ}56'$ West 57.50 feet; thence South $0^{\circ}08'55''$ East 424.25 feet; thence South $89^{\circ}56'$ West 643.10 feet along a line parallel to and being 53.00 feet perpendicularly distant Northerly from the Centerline of 9400 South street to the point of beginning.

Contains 10.079 Acres.

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EXHIBIT "C"

PHASE II OF CANYON CENTER SHOPPING CENTER

A part of the Southwest Quarter of Section 3, Township 3 South, Range 1 East, Salt Lake Base and Meridian, U. S. Survey:

Beginning at a point 53.00 feet North $0^{\circ}21'28''$ East and 749.10 feet North $89^{\circ}56'$ East from the Southwest corner of said Section 3; running thence North $0^{\circ}08'55''$ West 424.25 feet; thence North $89^{\circ}56'$ East 57.50 feet; thence North $0^{\circ}08'55''$ West 240.00 feet along an existing fence and said fence line projected; thence North $89^{\circ}56'$ East 417.27 feet; thence South $0^{\circ}04'$ East 113.78 feet; thence North $89^{\circ}56'02''$ East 379.10 feet; thence South $0^{\circ}21'28''$ West 420.48 feet; thence South $89^{\circ}56'$ West 150.00 feet; thence South $0^{\circ}21'28''$ West 130.00 feet to the North line of 9400 South Street; thence South $89^{\circ}56'$ West 698.84 feet along said North line to the point of beginning.

Contains 11.233 Acres.

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EXHIBIT "E"

Smith's Store Site in Canyon Shopping Center at 9400 South and
2000 East, Sandy, Salt Lake County, Utah:

A part of the Southwest Quarter of Section 3, Township 3
South, Range 1 East, Salt Lake Base and Meridian, U. S.
Survey;

Beginning at a point 53.00 feet North 0°21'28" East;
106.00 feet North 89°56' East; North 0°21'28" East
664.26 feet along the East line of 2000 East Street;
142.16 feet North 89°56' East and 10.00 feet South
0°08'55" East from the Southwest corner of said
Section 3; and running thence North 89°56' East
302.88 feet; thence South 0°08'55" East 278.36 feet
along the East line of the existing Smith's
building; thence South 89°51'05" West 302.88 feet;
thence North 0°08'55" West 278.79 feet to the point
of beginning.

Contains 1.937 Acres.

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