

18/12/88

RETURNED

DEC 31 1992

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CAROL DEAN PAGE, DAVIS CNTY RECORDER
1992 DEC 31 11:03 AM FEE 12.00 DEP CO
REC'D FOR CDI-EVANS DEVELOPMENT CO

SECOND AMENDMENT TO COVENANTS FOR OPERATION,
MAINTENANCE AND RECIPROCAL EASEMENTS

SW 74N-1W

THIS SECOND AMENDMENT ("Second Amendment") to the Covenants for Operation, Maintenance and Reciprocal Easements dated November 20, 1980 ("Original Covenant") relating to property in the City of Layton, Davis County, State of Utah, is dated October 31ST 1991, and is made by CDI-EVANS DEVELOPMENT COMPANY, a Utah joint venture organized and existing as a Utah general partnership, DESERT MUTUAL BENEFIT ASSOCIATION, a Utah nonprofit corporation, McDONALDS CORPORATION, a Delaware corporation, KMART CORPORATION, a Michigan corporation, ALBERTSON'S, INC., a Delaware corporation, and DAVIS COUNTY BANK, a Utah corporation (together hereinafter referred to collectively as "the Parties").

R E C I T A L S

A. WHEREAS, CDI-Ltd., as predecessor to CDI-Evans executed the Original Covenant the 20th day of November, 1980, by and through its general partner CDI, Ltd., a Utah limited partnership, and such Original Covenant was recorded on December 11, 1980, as Entry No. 581474 in book 850 at Page 605, in the office of the County Recorder, Davis County, State of Utah, and affects the land originally defined as the "Shopping Center" more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference; and

B. WHEREAS, the Parties, together with Zions First National Bank, a national banking association, executed an Amendment to Covenants for Operation, Maintenance and Reciprocal Easements ("First Amendment") the 14th day of October, 1982, and such First Amendment was recorded on October 28, 1982, as Entry No. 625584 in Book 918 at Page 984, in the office of the County Recorder, Davis County, State of Utah; and

C. WHEREAS, the Parties desire to amend the Original Covenant and the First Amendment in order to change the size and configuration of certain portions of the Building Areas and Common Area of the Shopping Center as well as the number and configuration of Common Area automobile parking spaces within the Shopping Center.

THE ORIGINAL COVENANT AND FIRST AMENDMENT ARE HEREBY AMENDED AS FOLLOWS:

1. Replacement of Exhibit "B".
Exhibit "B" to the Original Covenant (Site Plan) and Exhibit "B" to the First Amendment are hereby deleted in their entirety and replaced by the Exhibit "B" attached hereto and incorporated herein by this reference. From and after the effective date of this Second Amendment, any reference in this Second Amendment or in the Original Covenant or in the First

Amendment to the "Site Plan" or to Exhibit "B" shall mean and refer to the Site Plan which is attached hereto as Exhibit "B." The "Building Areas" and "Common Area," as provided in Paragraphs 1.2 and 1.3 of the Original Covenant, and the parking space size and configuration of the Subject Land, as provided in Paragraph 4 of the Original Covenant, and as provided in the First Amendment, shall mean and include the Building Areas, Common Area and parking configuration, which is designated on the Site Plan attached hereto as Exhibit "B."

Exhibit "A" to the Original Covenant (legal description) is hereby deleted in its entirety and replaced by the Exhibit "A" attached hereto and incorporated herein.

2. Addition of Land to Shopping Center.

The term "Shopping Center" contained in the original Covenant is hereby redefined to include all parcels of property described in Exhibit "A" hereto.

3. Non-building Easements.

A new paragraph 2.5 is hereby added to the Original Covenant to provide as follows:

2.5. So long as required by local or national fire codes, a public way or yard 60 feet in width shall at all times be maintained on the west, south and east of the building currently designated on Exhibit "B" hereto as the Kmart building, and on the west, north and east sides of the building currently designated on Exhibit "B" hereto as the Albertson's and Retail #4 building. Landlord shall be solely liable for acquiring such public way or yard at its sole expense.

So long as required by local or national fire codes, no addition or modification to either the Kmart or Albertson's/Retail #4 buildings may be made unless a minimum 60 foot public way or yard is maintained as described above. Landlord represents and warrants that the required 60 foot public way shall not affect or interfere with Albertson's ability to expand into the space designated as Retail #4. The number of new parking spaces constructed in the area north of Retail #4 shall not be reduced or put to another use without the consent of Albertson's.

written

4. Effect of Amendments.

This Second Amendment, when duly executed by the Parties, shall be effective as of the date that it is recorded in the records of the County Recorder of Davis County, Utah, which date is

herein referred to as the "Effective Date." Except as specifically supplemented and amended by this amendment, the Original Covenant, as amended by the First Amendment, and each of the terms and provisions thereof, shall be and remain in full force and effect. Each of the Parties confirms and agrees that, except as otherwise provided in Paragraph 7.4(b) of the Original Covenant, all of its right, title and interest in and to the Subject Land or any part thereof is subject and subordinate to all of the agreements, rights, covenants and grants of easements contained in the Original Covenant, as supplemented and amended by the First Amendment, Second Amendment and as hereafter further changed, modified or amended in accordance with Paragraph 7.3 of the Original Covenant, as modified by Paragraph 3(d) of the First Amendment, and that all of such agreements, rights, covenants and grants of easements shall be binding upon and inure to the benefit of the Parties hereto, their respective heirs, successors (by merger, consolidation or otherwise), assigns, devisees, administrators, representatives, lessees and all other persons acquiring the Subject Land or any part thereof or interest therein, whether by operation of law or in any manner whatsoever.

5. Counterparts.

This Second Amendment may be executed in any number of counterparts, each of which shall for all purposes be deemed an original and all of which together shall constitute but one and the same instrument, and shall become effective only upon execution of one or more of such counterparts by each of the parties hereto.

IN WITNESS WHEREOF, the undersigned Parties have executed this Second Amendment and have dated it for convenience of reference as of the date set forth at the outset hereof.

CDI-EVANS DEVELOPMENT COMPANY, a joint venture organized and existing as a Utah general partnership.

By: CDI, LTD., General Partner of
CDI-Evans Development Company

By: 
G. Walter Gasser
General Partner of CDI, Ltd.

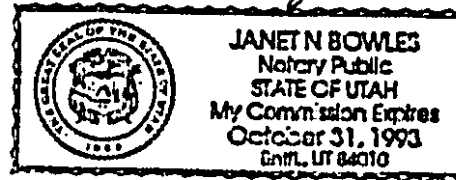
STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

E 1010660 B 1569 P 999

On the 5th day of ^{March} ~~October~~, 1992, personally appeared before me G. WALTER GASSER, who duly acknowledged to me that he executed the foregoing instrument as a General Partner in and on behalf of CDI, LTD., a Utah limited partnership.

Janet N. Bowles

NOTARY PUBLIC
Residing at *Beautiful Utah*



ALBERTSON'S, INC.,
a Delaware corporation

By: Thomas R. Saldin
ITS: Executive Vice President

STATE OF IDAHO)
): ss.
COUNTY OF ADA)

On the 27th day of May, 1992, personally appeared before me Thomas R. Saldin, who, being by me duly sworn, did say that he is the Senior Vice-President of ALBERTSON'S, INC., a Delaware corporation, and that the foregoing instrument was signed on behalf of said corporation by authority of its Bylaws or a resolution of its Board of Directors, and said Thomas R. Saldin acknowledged to me that said corporation executed the same.

Jamint R. Justice
NOTARY PUBLIC
Residing at: Base Rd.
My Commission expires: 1/24/95

EXHIBIT "A"

ANTELOPE SQUARE SHOPPING CENTER

CITY OF LAYTON, DAVIS COUNTY, STATE OF UTAH

OVERALL DESCRIPTION
(Including McDonalds and Davis County Bank)

PROPERTY DESCRIPTION

A part of the Southwest Quarter of Section 7, Township 4 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey:

Beginning at a point on the North right-of-way line of 2000 North Street (State Road No. 108) which is North 0°03'10" East 50.00 feet and South 89°47' West 502.16 feet from the South Quarter Corner of said Section 7 and running thence South 89°47' West 500.69 feet along said North line to the Easterly right-of-way line of U.S. Highway 91; thence North 36°47' West 975.58 feet along said Easterly line; thence North 89°43'40" East 681.59 feet; thence North 0°03'10" East 23.06 feet; thence North 89°43'40" East 425.84 feet; thence South 0°03'10" West 24.33 feet to a point which is North 0°03'10" East 833.54 feet and South 89°45'20" West 480.32 feet from said South Quarter Corner of Section 7; thence South 89°45'20"; West 21.84 feet; thence South 0°03'10" West 783.30 feet to the point of beginning.

Contains 14.505 Acres

Subject to Proposed 8 Foot Road Widening along South line of Property. (PS-90-34)

09-022-00-18
0015, 0077, & 0133 87

09-022-00-18

DEPT. OF EMPLOYMENT

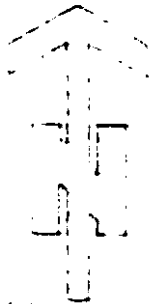
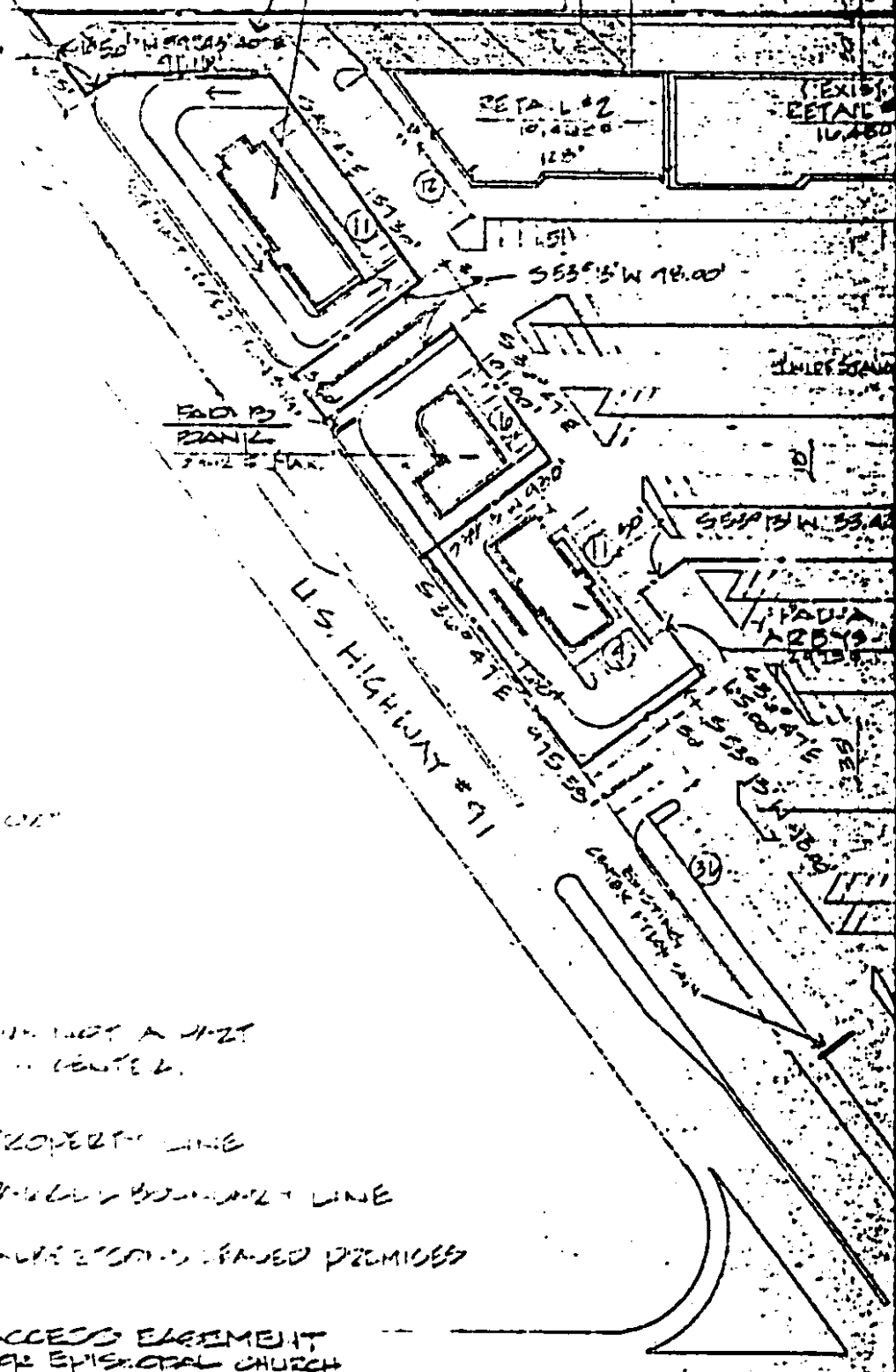
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ACCESS EGMT
FOR EPISCOPAL
CHURCH

PAD-C
McDONALDS (EXISTING)
3,300 P

NO ACCESS
DRIVE

N 55° 15' E 24.73'



SCALE: 1"=100'

NOTE

PAD-C IS TO BE A 1/2-2 1/2
MILE SQUARE CENTER.

- PROPERTY LINE
- ADJACENT PROPERTY LINE
- LEASED PREMISES
- ACCESS EASEMENT FOR EPISCOPAL CHURCH

6000 NORTH ST. CANTELOPE, P

MICROFILM MEMO --
LEGIBILITY OF TYPING OR PRINTING
UNSATISFACTORY IN THE DOCUMENT, IT
WHEN FILMED.

