

When recorded, return to:  
 Midvale City  
 655 W. Center St.  
 Midvale, UT 84047

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 12/09/2010 08:55 AM \$0.00  
 Book - 9887 Pg - 4676-4695  
 GARY W. OTT  
 RECORDER, SALT LAKE COUNTY, UTAH  
 MIDVALE CITY  
 655 W CENTER STREET  
 MIDVALE UT 84047  
 BY: BRR, DEPUTY - WI 20 P.

**DEVELOPMENT AGREEMENT FOR  
 RIVERWALK WEST AT  
 BINGHAM JUNCTION RETAIL DEVELOPMENT  
 MIDVALE CITY, UTAH**

THIS DEVELOPMENT AGREEMENT ("Development Agreement") is entered into as of this 15 day of April, 2010 by and among Riverwalk Investment Holdings, LLC, its successors and assigns ("Developer") and Midvale City Corporation, a Utah municipal corporation ("Midvale" or "City") for the Riverwalk West at Bingham Junction Retail Development, which is a portion of that certain sub area of the Bingham Junction Project known as Riverwalk at Bingham Junction located in Midvale City, Utah.

A. Master Development Agreement. Developer and Midvale both acknowledge the existence and continuing applicability of that certain Master Development Agreement for the Bingham Junction Project dated April 6, 2005, and that certain Development Agreement for the Riverwalk Sub Area of the Bingham Junction Project dated August 1, 2006 ("Riverwalk Agreement"), both of which are binding upon and inure to the benefit of the Developer in the ownership and development of this portion of the Bingham Junction Project. Developer and Midvale desire to enter into this Development Agreement in order to address various issues specific to this portion of the Bingham Junction Project while recognizing that the remaining provisions of the Master Development Agreement and the Riverwalk Agreement continue to be applicable and remain in full force and effect.

B. Riverwalk West Retail Project. Developer is the owner of a certain portion of the Property which is subject to the Master Development Agreement for the Bingham Junction Project and the Riverwalk Agreement located west of Bingham Junction Boulevard, north of Jordan River Boulevard, and east and south of River Gate Drive, which is specifically described in Exhibit A attached hereto (the "Riverwalk West Retail Property"), and intends to develop the Riverwalk West Retail Property into a retail commercial project to be known as Riverwalk West at Bingham Junction Retail (the "Riverwalk West Retail Project"). The Riverwalk West Retail Project shall be developed in one or more phases, as determined by Developer.

C. Large Scale Master Plan and Subdivision Approval. Developer has submitted to the City a Large Scale Master Plan and Commercial Subdivision Plat for the Riverwalk West Retail Project as set forth in Section 17-7-9.2 of the Midvale City Code ("Amended BJ Zone").

NOW THEREFORE, in consideration of the above recitals, the parties agree as follows:

**Article 1  
The Project**

**1.1 Legal Description of Property.** The property covered by this Development Agreement consists of approximately 24.78 acres of land located at approximately 920 West River Gate Drive. This property is more fully described in Exhibit A, Legal Description.

**1.2 Project Description.** The Riverwalk West Retail Project covered by this Development Agreement consists of approximately 244,200 square feet of retail commercial space within eleven buildings/pad sites, approximately 1,282 parking stalls, 22% landscaped area, the continuation of a private road between Commerce Park Drive and River Reserve Court, and specified access points on Bingham Junction Boulevard and River Gate Drive as illustrated by the approved Large Scale Master Plan and shown in Exhibit B.

**1.3 Project Approval.** Pursuant to the Midvale City Zoning and Subdivision Ordinance, the Riverwalk West Retail Project Large Scale Master Plan has been approved under the Bingham Junction Zone provisions (Chapter 17-7-9) and the Riverwalk Zone provisions (Chapter 17-7-9.12.1) and the Subdivision Ordinance (Title 16). The review and approval process included a lawfully advertised public hearing with the Midvale City Planning Commission on January 13, 2010 and the City Council on February 16, 2010.

**Article 2  
Site Improvements and Performance Bond**

**2.1 Security for On-Site Public Improvements.** The Developer agrees to complete all required on-site public improvements in accordance with the approved Construction Plans. The Developer shall guarantee such improvements through a Subdivision Improvements Bond, which provides the financial security for the improvements, including, but not limited to, water, sewer, curb and gutter, sidewalk, street improvements, surface drainage, street trees, fiber optic conduit, street lighting, etc.

**2.2 Declaration of Covenants, Conditions and Restrictions (CC&R's).** All development shall be part of a common property owners group for the short term and long term maintenance of commonly used areas, parking lots, access drives, landscaping, etc.

**Article 3  
Specific Conditions of Master Planned Development**

**3.1 Agreement to Comply with Specific Conditions of Approval.** The Developer agrees to the following conditions of approval:

**3.1.1** All development shall comply with the Development Standards in Section 17-7-9.12.1.6 of the Zoning Ordinance, including but not limited to a maximum building height of 32 feet for a flat roof for portions of the structure within 100 feet of a single-family attached or detached residential structure.

**3.1.2** All development shall comply with the Landscape Standards in Section 17-7-9.12-1.7 of the Zoning Ordinance. Landscaping Plans shall incorporate the street trees required as part of the Riverwalk Thematic Design Elements. Landscape screening of maintenance buildings, trash collection and recycling, storage and service areas, mechanical equipment and loading docks, particularly where viewed from residential areas and public vantage points will be required.

**3.1.3** All development shall comply with the Architectural Standards in Section 17-7-9.12-1.8 of the Zoning Ordinance, including but not limited to drive aisles located between the building and street being minimized as much as possible with berming and landscaping and complying with the specific development standards in the ordinance; and loading docks and service areas where visible from streets and residential buildings being screened with walls and dense landscaping.

**3.1.4** In order to achieve a consistency and theme between the individual buildings as they are developed over time and in addition to condition 3.1.3 above, all buildings shall incorporate into their design some of the exterior materials, colors and architectural elements included in Exhibit C, Exterior Building Palette. This condition defines an appropriate range of exterior materials, colors and architectural elements within the parameters of the general Architectural Standards in the Riverwalk Overlay Zone. The intent of this condition is to set the tone and theme for the Riverwalk West Retail Property to ensure a cohesive, master planned development, while still allowing some variation in colors, materials and architectural elements.

**3.1.5** All development shall comply with Sections 17-7-9.5 Common Development Standards and 17-7-9.6 Parking of the Zoning Ordinance.

**3.1.6** All development shall comply with the approved Riverwalk Thematic Design Elements and specific commercial retail thematic design elements included in Exhibit D, Thematic Design Elements.

**3.1.7** All driveway and road accesses shall comply with the requirements of the City Engineer.

#### **Article 4 General Terms and Conditions**

**4.1** Construction of Agreement. This Development Agreement shall be constructed and interpreted to ensure that the Developer complies with the requirements and conditions of the Large Scale Master Plan and Zoning Ordinance.

4.2 Laws of General Applicability. Where this Development Agreement refers to laws of general applicability to the Riverwalk West Retail Project, that language shall be deemed to refer to laws which apply to all other properties within Midvale City.

4.3 Agreements to Run with the Land. This Development Agreement shall be recorded against the Riverwalk West Retail Property. The agreements contained herein shall be deemed to run with the land and shall be binding on and shall inure to the benefit of all successors and assigns as described in 4.4 below.

4.4 Binding Effect. This Development Agreement shall be binding on any and all successors and assigns of the Developer in the ownership or development of any portion of the Riverwalk West Retail Project or Property.

4.5 Assignment and Transfer of Riverwalk West Retail Project. Any transfer or assignment of this Development Agreement shall comply with the provisions of Section 11.2 of the Master Development Agreement.

4.6 Duration. The term of this Development Agreement shall commence on the date the Development Agreement is executed by both parties. The term of this Development Agreement shall extend for the period of time the Developer or its successors owns any portion of the property, but in no event longer than the term of the Master Development Agreement as set forth in Section 12.2 thereof.

4.7 Notices. Any notice, confirmation or other communication hereunder shall be given in writing by mail or facsimile at the following addresses or numbers:

Midvale City:

Midvale City Manager  
655 W. Center St.  
Midvale, UT 84047  
FAX: (801) 567-0518

Midvale City Community & Economic Development Director  
655 W. Center St.  
Midvale, UT 84047  
FAX: (801) 567-0518

Midvale City Attorney  
655 W. Center St.  
Midvale, UT 84047  
FAX: (801) 567-0518

Developer:

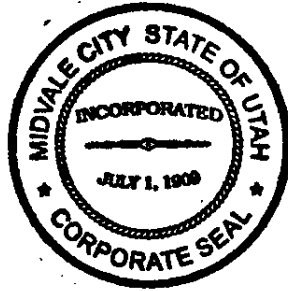
Ronald Tate, President  
Tate Diversified Development, Inc.  
22 South Santa Cruz Ave. Second Floor  
Los Gatos, CA 95030  
FAX: (408) 399-4960

**4.8 Savings Clause.** If any provision of this Development Agreement, or the application of such provision to any person or circumstance, shall be held invalid, the remaining provisions of the Development Agreement, or the application of such provision to the persons or circumstances other than those to which it is held invalid, shall not be affected thereby or considered invalid.

**4.9 Continuation of Terms of Master Development Agreement and Riverwalk Agreement.** All of the other provisions of the Master Development Agreement and Riverwalk Agreement which apply to the Riverwalk West Retail Property, except as specifically modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, this Development Agreement has been executed by Midvale City Corporation, acting by and through the Midvale City Council, and by a duly authorized representative of Riverwalk Investment Holdings, LLC (Developer), as of the above stated date.

CITY:



MIDVALE CITY CORPORATION

By: John B. Seghini, Mayor  
John B. Seghini, Mayor

ATTEST:

Rori L. Andreason  
Rori L. Andreason, MMC  
City Recorder

DEVELOPER:

Riverwalk Investment Holdings, LLC,  
a Utah limited liability company

By: Tate Diversified Development, Inc.,  
a California corporation, Manager

By: Ronald Tate  
Ronald Tate Its: President and Secretary

Subscribed and sworn to me this \_\_\_ day of \_\_\_\_\_, 2010

State of California  
County of Santa Clara

Subscribed and sworn to (or affirmed) before me on this 15 day of April,  
2010, by Ronald M Tate, proved to me on the basis of satisfactory  
evidence to be the person who appeared before me.

Signature:

Jennifer Drysdale



**EXHIBIT A**  
Legal Description

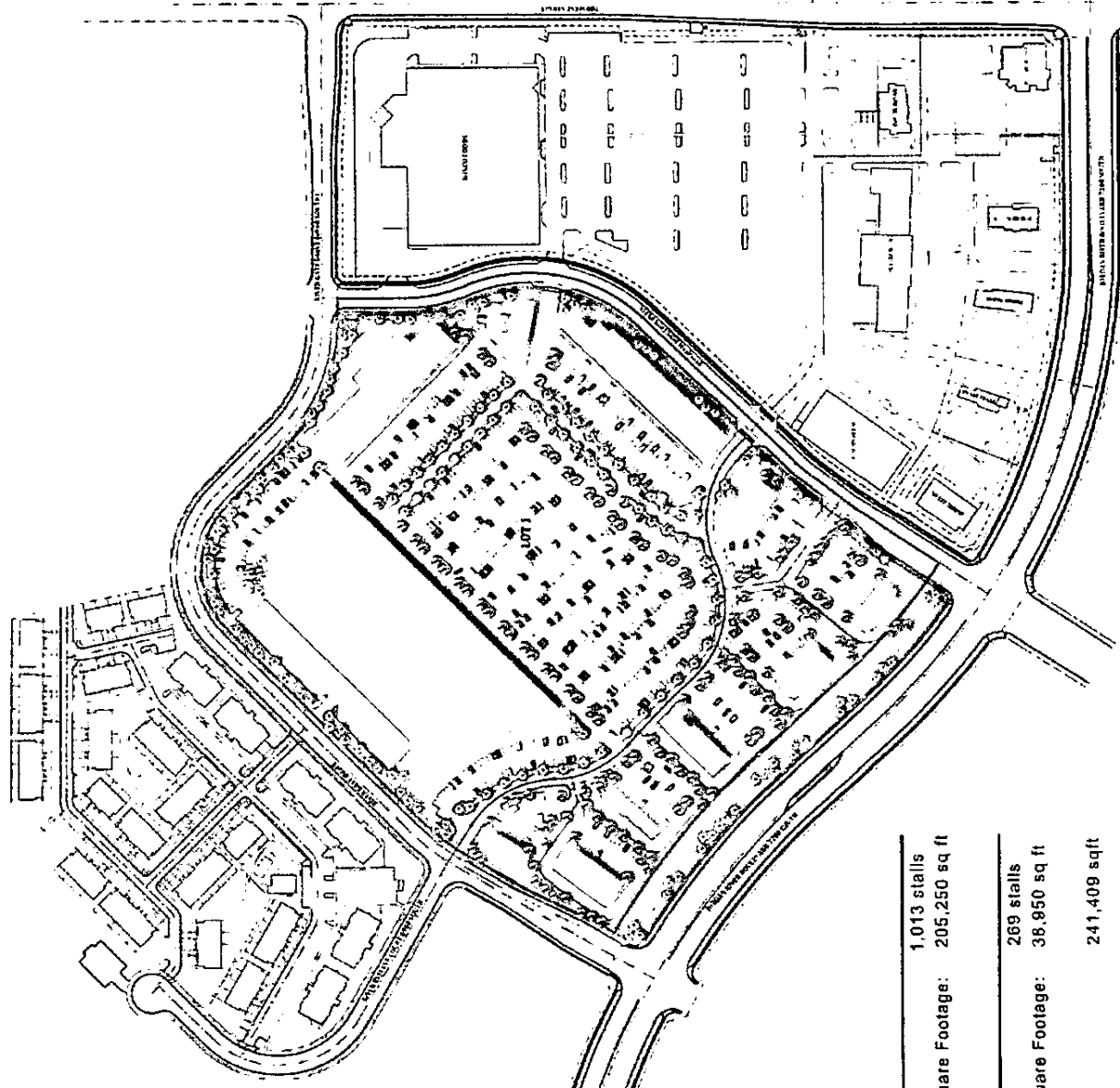
Boundary Description

All of Lot 4A, River Walk at Bingham Junction as found and on file at the Salt Lake County Recorder's Office, Book 2008 at Page 146.

Contains 1,079,533 sq. ft. or 24.78 acres.

# EXHIBIT B

Approved  
-Large Scale Master Plan



|                                |               |              |
|--------------------------------|---------------|--------------|
| <b>Lot 1 Totals:</b>           |               |              |
| Parking Count:                 | 1,013 stalls  |              |
| Total Building Square Footage: | 205,250 sq ft |              |
| <b>Lot 2-8 Totals:</b>         |               |              |
| Parking Count:                 | 269 stalls    |              |
| Total Building Square Footage: | 38,950 sq ft  |              |
| Open Space                     |               | 241,409 sqft |

Riverwalk West at Bingham Junction Retail  
Development Agreement

Riverwalk West at Bingham Junction Retail: Site Plan, Midvale, UT



## **EXHIBIT C**

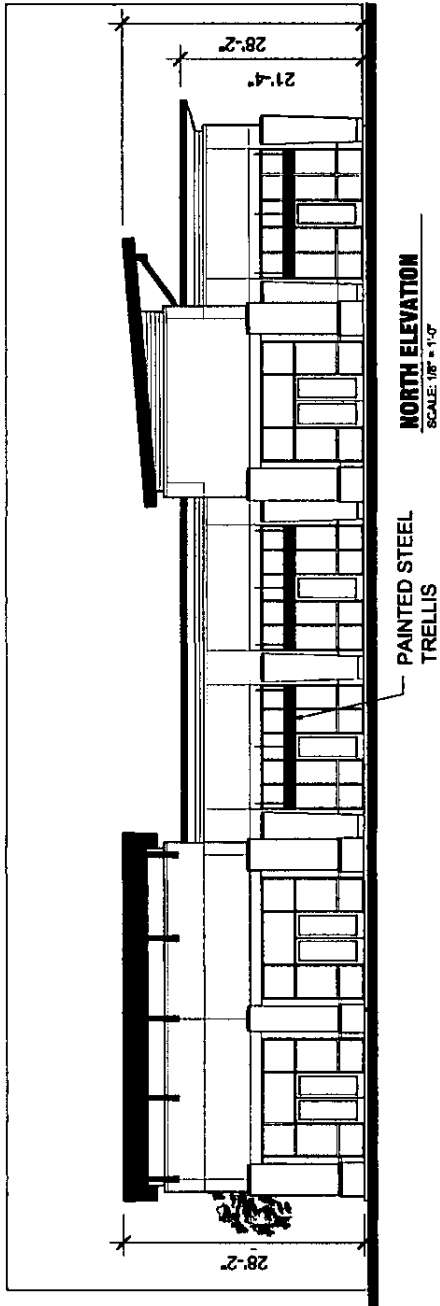
### **Exterior Building Palette**

In order to ensure each building within the Riverwalk West Retail Project fits within a cohesive, master planned framework with regard to building design, an exterior building palette for this area has been created. This exterior building palette refines the general architectural requirements of the Riverwalk Overlay by creating a range of acceptable building forms, materials and colors that will help establish consistency between the individual projects and buildings within the project area.

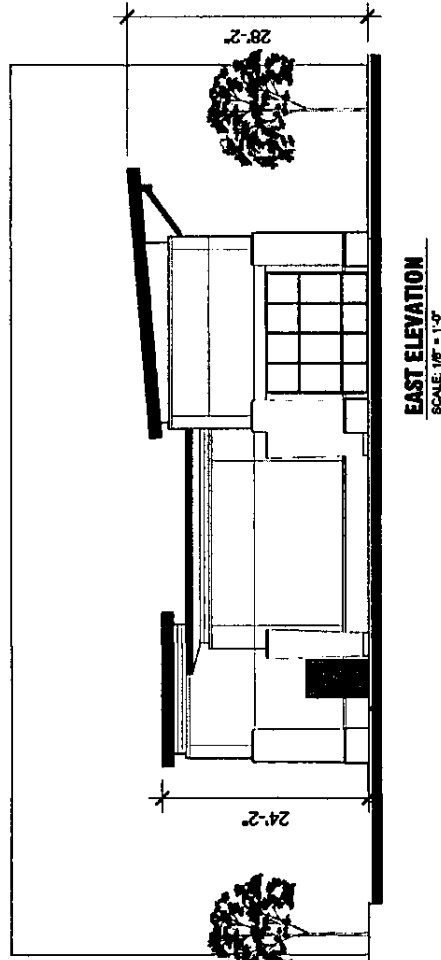
In addition to complying with the Architectural Standards in Section 17-7-9.12-1.8 of the Zoning Ordinance, it will be expected that developments within the Riverwalk West Retail Project utilize some of the building forms, materials and colors contained herein.

### **Building Forms**

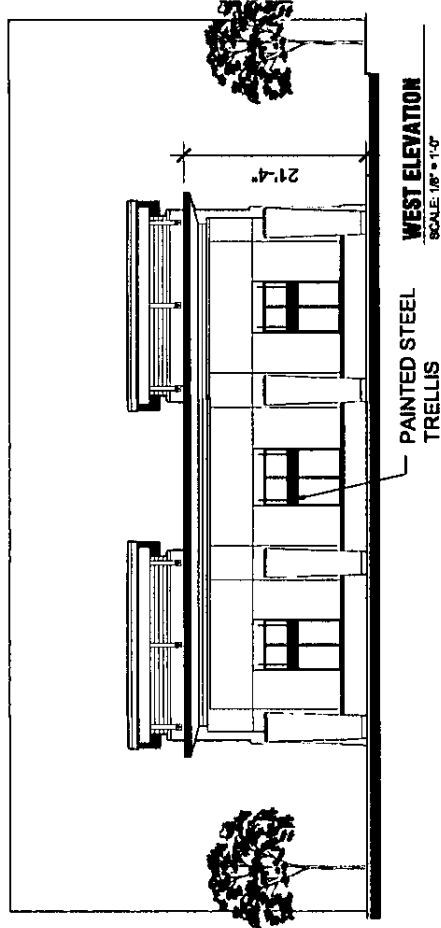
The following illustrations reflect building forms to be utilized within the individual buildings in the Riverwalk West Retail Project. Building forms include elements such as roof lines, windows, columns, wall outlines, canopies/arcades, entrances, façade shifts, etc.



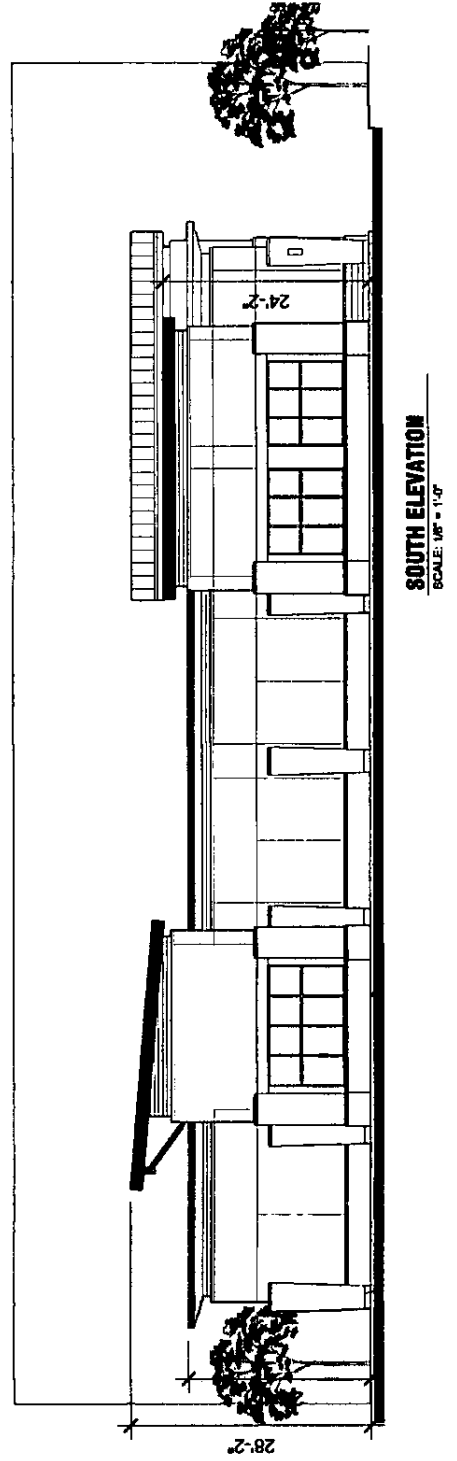
**NORTH ELEVATION**  
SCALE: 1/8" = 1'-0"



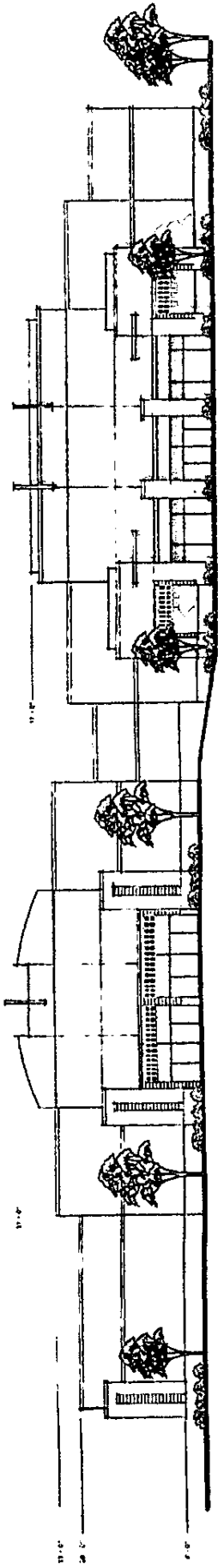
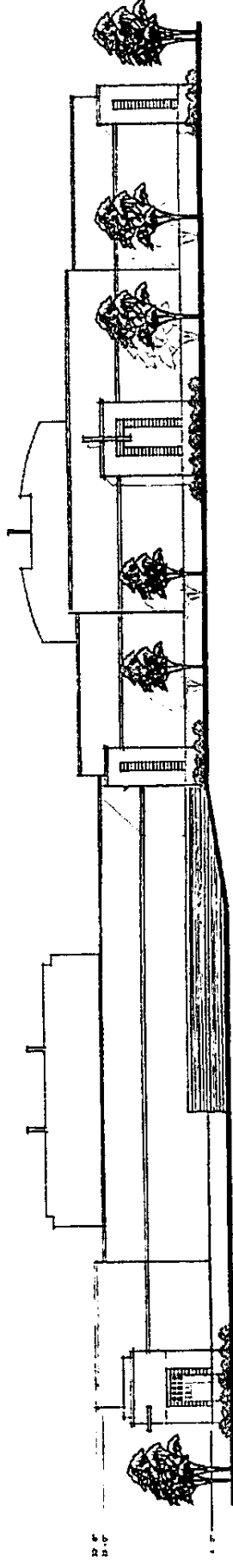
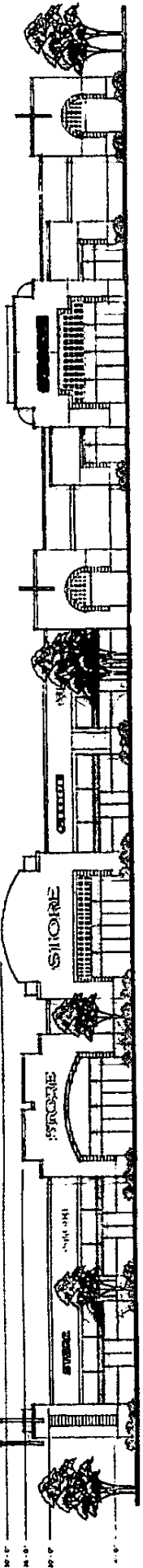
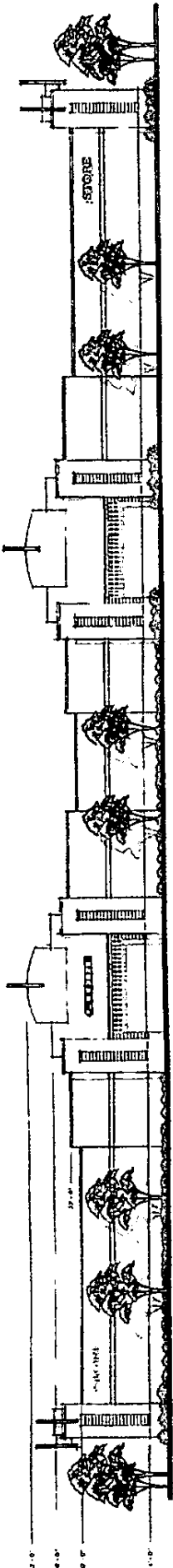
**EAST ELEVATION**  
SCALE: 1/8" = 1'-0"



**WEST ELEVATION**  
SCALE: 1/8" = 1'-0"



**SOUTH ELEVATION**  
SCALE: 1/8" = 1'-0"

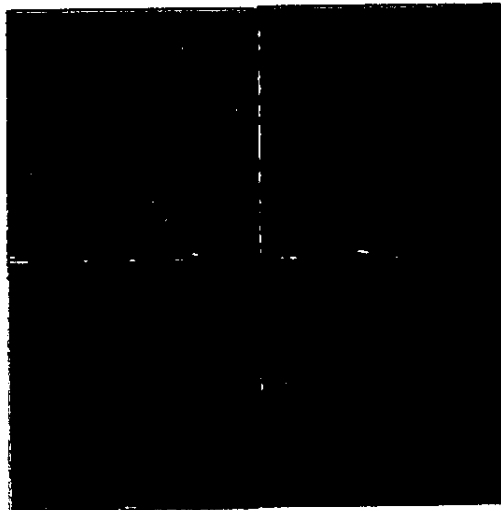
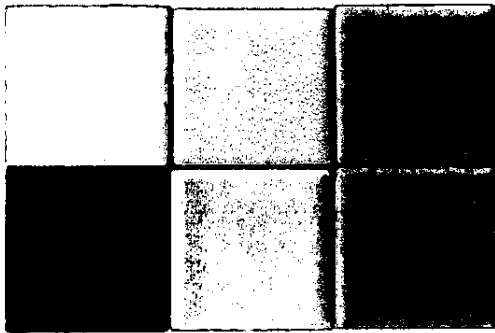


### **Materials & Colors**

Following are samples of exterior building materials and colors to be utilized on the individual buildings in the Riverwalk West Retail Project. The full list of colors includes a range of colors within the color samples shown. The color list reflects Benjamin Moore color swatches. These materials and colors are intended as examples only, and not intended as specific manufacturer's products. Products similar in nature and color are acceptable.

**RIVERWALK WEST  
AT  
BINGHAM JUNCTION  
RETAIL**

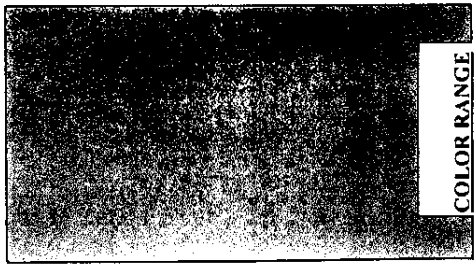
**EXTERIOR BUILDING  
MATERIALS & COLORS**





COLOR RANGE

1128  
1129  
1130  
1131  
1132  
1133  
1134

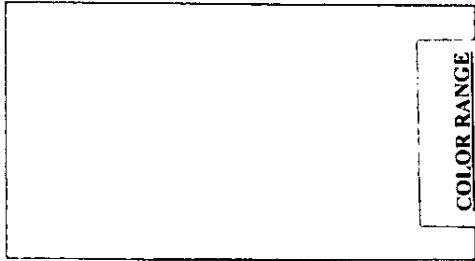


COLOR RANGE

230  
231  
235  
236  
237

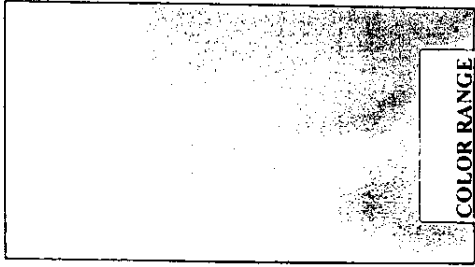
COLOR RANGE

232  
233  
234  
239  
240  
241



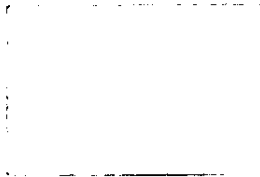
COLOR RANGE

HC-19  
HC-20  
HC-21  
HC-23  
HC-25  
HC-26  
HC-28



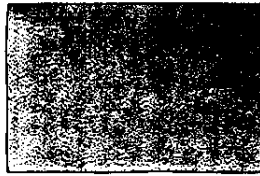
COLOR RANGE

S09  
S10  
S11  
S16  
S17  
S18



COLOR RANGE

HC-7  
HC-8  
HC-9  
HC-10  
HC-11  
HC-12



COLOR RANGE

HC-49  
HC-50  
HC-51  
1202  
1203



COLOR RANGE

910  
912  
913  
914  
915

## EXHIBIT D

### Riverwalk Thematic Design Elements

Certain thematic design elements are required throughout the Riverwalk area to tie the project together. These elements include street trees, street lighting, signage and benches. In addition to these overall thematic elements, there are certain thematic design elements within the Riverwalk West Retail Project that will ensure this commercial retail area remains a cohesive, master planned development within the larger Riverwalk framework. These design elements include parking lot lighting and pedestrian crossings.

In addition to complying with the relative development standards in Chapter 17-7-9.12.1 of the Zoning Ordinance, it will be expected that developments within the Riverwalk West Retail Project utilize the thematic design elements contained herein.

#### Street Trees

Generally, trees are not to be placed in any park strip that is less than 5 feet in width between the back of curb and the sidewalk. Where a park strip is less than 5 feet in width, trees shall be planted behind the sidewalk in the landscape buffer area. The distance from the back of the sidewalk to the center of the tree shall be 5 feet at the time of planting. All trees shall meet or exceed the minimum sizes specified and conform to the landscaping standards in the Zoning Ordinance. Street trees shall be planted as follows. It is noted that tree varieties are selected based on availability and future substitutions may be required. Any substitution must be approved by the Review Committee and Midvale City.

River Gate Drive: This street serves as a collector street with a substantial residential frontage. The street trees are intended to provide a buffer from the traffic noise while adding to the character and aesthetic quality of the street. A large tree variety planted with uniform spacing that will create a full canopy over the street at maturity is expected. Low level plantings to mitigate views into parking lots may also be required.

Required Tree: Platanus x acer 'Bloodgood'                      London Plane Tree  
Spacing:                      60 feet o.c.  
Location:                      Behind sidewalk in landscape buffer area

Bingham Junction Boulevard: This street provides through access between two commercial areas. The street trees are intended to tie these two areas together with a common landscape element. A tree variety that allows some flexibility in placement and spacing to ensure visibility for the commercial tenants along Bingham Junction Boulevard is expected. Low level plantings to mitigate views into parking lots may also be required.

Required Tree: Tilla cordata    Little Leaf Linden



Planting Rate: One tree per 30 feet of frontage  
Spacing: As required for visibility; clustering expected in some areas  
Location: Behind sidewalk in landscape buffer area

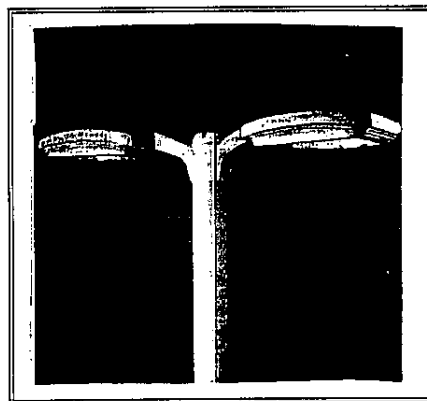
### **Street Lighting**

All street lights within the public right-of-ways, i.e. River Gate Drive and Bingham Junction Boulevard, shall be the same. This light has been approved by Midvale City and is currently in use along some of the Riverwalk streets. This pattern shall be continued throughout the public right-of-ways and future public right-of-ways.

### **Parking Lot Lighting**

All parking lot lighting within the Riverwalk West Retail Project shall be similar. All parking lot light fixtures and poles shall be black in color, a maximum height of 35 feet (including the base - height is measured from parking lot or driveway surface), and similar in design to the example below. Single head and multiple head fixtures are allowed. The base of the pole shall be treated with paint, stain, stucco or another form of decorative cover. A similar base treatment shall be utilized throughout the large scale master plan area. All attempts shall be made to locate light poles within landscaped areas.

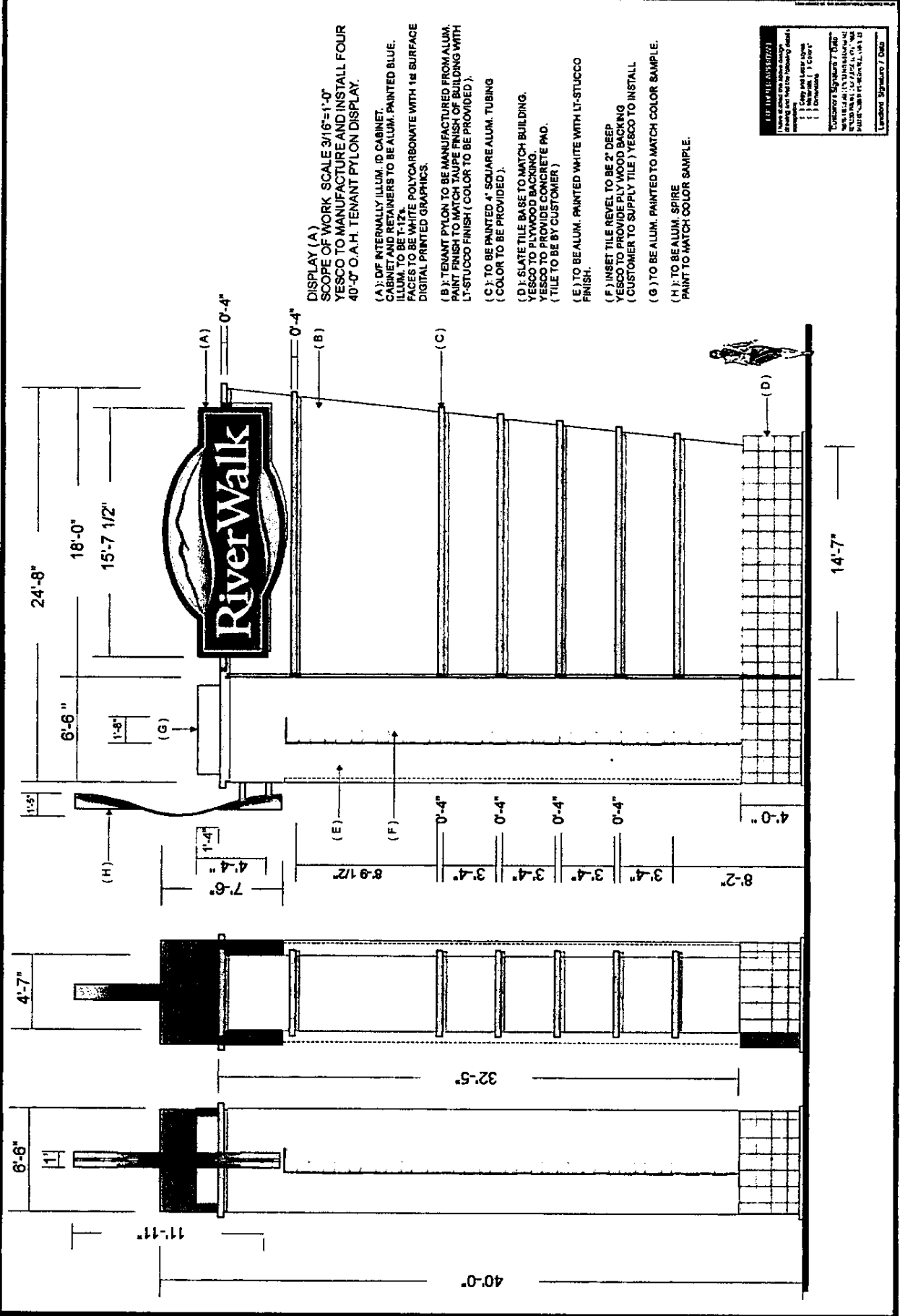
All lights shall be a 'down-light' with a hidden or shielded light source. Up-lighting is only allowed to accentuate architectural features, signs or flagpoles. Photometrics, candlepower and footcandle ratings shall be considered in the selection of light fixtures to ensure compliance with the light distribution standards required in the Zoning Ordinance.



### **Signage**

Project identification signs within the Riverwalk West Retail Project may be designed by the individual users, but shall include the Riverwalk project logo and comply with the sign standards for Sub-Area 2 in the Bingham Junction Zone District. All signs must be located within a landscaped feature.

Two multi-tenant pylon signs, each with a maximum area of 650 square feet and a maximum height of 40 feet, and located along Jordan River Boulevard, are allowed within the Riverwalk West Retail Project. These signs shall be designed as shown in the illustration attached.



- DISPLAY (A)  
 SCOPE OF WORK SCALE 3/16"=1'-0"  
 YESCO TO MANUFACTURE AND INSTALL FOUR  
 40'-0" O.A.H. TENANT PYLON DISPLAY.
- (A) DIE INTERNALLY ILLUM. ID CABINET  
 CABINET AND RETAINERS TO BE ALUM. PAINTED BLUE.  
 ILLUM. TO BE 12" x 12" x 1/2"  
 FACES TO BE WHITE POLYCARBONATE WITH 1/8" SURFACE  
 DIGITAL PRINTED GRAPHICS.
- (B) TENANT PYLON TO BE MANUFACTURED FROM ALUMINUM  
 PAINT FINISH TO MATCH TAUPE FINISH OF BUILDING WITH  
 LT-STUCCO FINISH (COLOR TO BE PROVIDED).
- (C) TO BE PAINTED 4" SQUARE ALUM. TUBING  
 (COLOR TO BE PROVIDED).
- (D) SLATE TILE BASE TO MATCH BUILDING.  
 YESCO TO PLYWOOD BACKING.  
 YESCO TO PROVIDE CONCRETE PAD.  
 (TILE TO BE BY CUSTOMER)
- (E) TO BE ALUM. PAINTED WHITE WITH LT-STUCCO  
 FINISH.
- (F) INSET TILE REVEL TO BE 2" DEEP  
 YESCO TO PROVIDE PLY WOOD BACKING  
 (CUSTOMER TO SUPPLY TILE) YESCO TO INSTALL
- (G) TO BE ALUM. PAINTED TO MATCH COLOR SAMPLE.
- (H) TO BE ALUM. SPIRE  
 PAINT TO MATCH COLOR SAMPLE.

UP (REV. 01/11/01)  
 THIS DRAWING IS THE PROPERTY OF SOFT JOKE DIVISION.  
 IT IS TO BE USED ONLY FOR THE PROJECT AND SITE SPECIFICALLY IDENTIFIED.  
 IT IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM.  
 CONSULT WITH ARCHITECT FOR ANY CHANGES.  
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 CONSULT WITH ARCHITECT FOR ANY CHANGES.  
 CONSULT WITH ARCHITECT FOR ANY CHANGES.

### **Pedestrian Crossings**

All pedestrian crossings within the Riverwalk West Retail Project shall be differentiated from the roadway or driveway through the use of pavers, stamped concrete, or stamped asphalt wherever a pedestrian walkway crosses a road or driveway equal to or greater than 20 feet in width or as required by the Zoning Ordinance across certain drive aisles. The design of these pedestrian crossings shall be similar to the existing pedestrian crossing for the WinCo driveway along Bingham Junction Boulevard.

### **Benches**

All exterior benches used within the Riverwalk West Retail Project shall be similar in style as illustrated below.

