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When recorded return to:  
Thomas E. Halter  
Gust Rosenfeld P.L.C.  
201 E. Washington, Suite 800  
Phoenix, Arizona 85004-2327

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RICHARD T. MAUGHAN, DAVIS CNTY RECORDER  
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REC'D FOR METRO NATIONAL TITLE

Clinton, UT

**EASEMENTS WITH COVENANTS AND  
RESTRICTIONS AFFECTING LAND ("ECR")**

THIS AGREEMENT is made as of the 9 day of April, 2003, between WAL-MART STORES, INC., a Delaware corporation, of 2001 S.E. Tenth Street, Bentonville, Arkansas 72716 ("Wal-Mart"), LANDSTAR DEVELOPMENT, LLC, a Utah limited liability company, WAYNE BELLEAU and GARY M. WRIGHT, each of Manor House Development, 872 W. Heritage Park Blvd., Suite 200, Layton, Utah 84041 (collectively, jointly and severally "Developer").

**WITNESSETH:**

WHEREAS, Wal-Mart is the owner of the Wal-Mart Tract as shown on the plan attached hereto as Exhibit A-1 hereof, said tract being more particularly described in Exhibit B attached hereto;

WHEREAS, Developer is the owner of the Developer Tract and the Outparcels shown on the plan attached hereto as Exhibit A-1 hereof, the same being more particularly described in Exhibit C hereof; and

WHEREAS, Wal-Mart and Developer desire that the Wal-Mart Tract and the Developer Tract be developed in conjunction with each other pursuant to a general plan of improvement to form a commercial Shopping Center (sometimes hereinafter referred to as the "Shopping Center"), and further desire that said tracts and the Outparcels be subject to the easements and the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, for and in consideration of the premises, easements, covenants, conditions, restrictions, and encumbrances contained herein, the sufficiency of which is hereby acknowledged, Wal-Mart and Developer do hereby agree as follows:

1. Building/Common Areas.

a. "Building Areas" as used herein shall mean that portion of the Wal-Mart Tract and those portions of the Developer Tract shown on Exhibit A-2 as "Building Area" (and "Future Building Area" and "Future Expansion Area"). Canopies may encroach from

the Building Areas over the Common Areas provided the canopies do not interfere with the use of the Common Areas.

b. "Common Areas" shall be all of the Wal-Mart Tract and the Developer Tract except the Building Areas.

c. Conversion to Common Areas: Those portions of the Building Areas on each tract which are not from time to time used or cannot, under the terms of this Agreement (including Paragraph 6a.(3)), be used for buildings shall become part of the Common Area until such time as the same is improved with building improvements and may be used for the uses permitted hereunder and shall be improved, kept and maintained as provided herein.

2. Use. Buildings in the Shopping Center shall be used for commercial purposes of the type normally found in a retail shopping center including, without limitation, financial institutions, service shops, offices, and retail stores. No cafeteria, restaurant occupying a building space larger than 3,500 square feet in size, theatre, bowling alley, billiard parlor, night club or other place of recreation or amusement, or any business serving alcoholic beverages shall occupy space within the Shopping Center without the prior written consent of Wal-Mart. In addition, no fitness center may be located within 300 feet of the Wal-Mart Tract property line nor occupy a building space larger than 7,500 square feet in size. Developer recognizes that said businesses may inconvenience Wal-Mart's customers and adversely affect Wal-Mart's business. Notwithstanding anything to the contrary contained herein it is expressly agreed that nothing contained in this Agreement shall be construed to contain a covenant, either express or implied, to either commence the operation of a business or thereafter continuously operate a business by Wal-Mart on the Wal-Mart Tract. Developer recognizes and agrees that Wal-Mart may, at Wal-Mart's sole discretion and at any time during the term of this Agreement, cease the operation of its business on the Wal-Mart Tract; and Developer hereby waives any legal action for damages or for equitable relief which might be available to Developer because of such cessation of business activity by Wal-Mart.

3. Competing Business. Developer covenants that as long as Wal-Mart, or any affiliate of Wal-Mart, is the user of the Wal-Mart Tract, either as owner or lessee, no space in or portion of the Developer Tract, and no space in or portion of any other real property contiguous to the Shopping Center which may subsequently be acquired by Developer, shall be leased or occupied by or conveyed to any other party for use as a membership warehouse club, a pharmacy, a discount department store or other discount store, as a grocery store or as any combination of the foregoing uses. In the event of a breach of this covenant, Wal-Mart shall have the right to terminate this Agreement and to seek any and all remedies afforded by either law or equity.

4. Buildings.

a. Design and Construction. The Buildings shall be designed so that the exterior elevation of each shall be architecturally and aesthetically compatible and so that building wall footings shall not encroach from one tract onto another tract except as provided for in Subsection d. below. The design and construction shall be of high quality. No building shall exceed thirty-five feet (35') in height above finished grade. No building shall have a metal exterior.

b. Location. No building shall be constructed on the Wal-Mart Tract and the Developer Tract (as either immediate development or future expansion) except within the Building Areas and no improvements or alterations which substantially vary from those shown on Exhibit A-2 may be made without the prior written consent of Wal-Mart. The front wall(s) of the building(s) on the Wal-Mart Tract and the Developer Tract shall be constructed in the location shown in Exhibit A-2.

c. Fire Protection. Any building constructed in the Shopping Center shall be constructed and operated in such a manner which will preserve the sprinklered rate on the other buildings in the Shopping Center.

d. Easements. In the event building wall footings encroach from one tract onto another, despite efforts to avoid that occurrence, the party onto whose tract the footings encroach shall cooperate in granting an encroachment permit or easement to the party whose building wall footings encroach.

e. Outparcels Development. The Outparcels shall be developed only under the following guidelines:

(1) The building constructed on the Outparcels shall not exceed twenty-two (22) feet in height, as measured from the mean finished elevation of the parking area of the Shopping Center.

(2) Any buildings to be constructed on the Outparcels shall not exceed 5,000 square feet in size.

(3) Any rooftop equipment shall be screened in a manner satisfactory to the Developer.

(4) No rooftop sign shall be erected on the building constructed.

(5) No freestanding identification sign may be erected on the Outparcels without approval of the Developer, and in no event shall such freestanding identification sign exceed the height of the shopping center pylon sign or block the visibility of the Wal-Mart Store. Notwithstanding the foregoing, there may be erected entrance-exit signs to facilitate the free flow of traffic, which entrance-exit signs shall be of a monument type, not to exceed 3'3" in height, the type and location of such signs to be approved by Developer.

(6) No improvements shall be constructed, erected, expanded or altered on the Outparcels until the plans for same (including site layout, exterior building materials and colors and parking) have been approved in writing by Developer. No building or structure of any kind shall be erected on the Outparcels except upon that area designated as a building area on Exhibit A-2; provided, there may be constructed and maintained a canopy or canopies projecting from said building area; normal foundations and doors for ingress and egress may project from such building area; and signs may be erected upon said canopy or canopies, so long as said signs do not obstruct the signs of any other owner or tenant of the Shopping Center.

(7) In developing and using the Outparcels, the owner of the Outparcels shall continuously provide and maintain a parking ratio on such Outparcels equal to one of the following: (i) eleven (11) spaces for every one thousand (1,000) square feet of building space for any McDonald's Restaurant; or (ii) ten (10) spaces for every one thousand (1,000) square feet of building space for any restaurant or entertainment use less than five thousand (5,000) square feet (subject to the exception above); or (iii) six (6.0) spaces per one thousand (1,000) square feet of building space for any other use. In addition, the owner shall cause landscaping areas to be added and maintained in conjunction with any building or other improvement constructed on the Outparcels.

(8) The Outparcels shall be kept neat, orderly, planted in grass and trimmed until improved and constructed.

(9) Subject to the prior written consent of Developer, any building, structure or improvement on the Outparcels shall be used for retail or commercial purposes only, however, no building, structure or improvement on the Outparcels may be used as a theater, night club, bowling alley, health spa, cafeteria, billiard parlor or other place of recreation or amusement, or as a business serving or selling alcoholic beverages or as a pharmacy, a discount department store, membership warehouse club, grocery store, a variety, general or "dollar" store or as any combination of the foregoing uses.

(10) The owner(s) of the Outparcels or Developer shall maintain comprehensive public liability insurance, property damage and all-risk hazard insurance on the Outparcels their buildings, appurtenances and other improvements located thereon. Such insurance shall (i) be carried with reputable companies licensed to do business in the state in which the Outparcels are located; (ii) have liability limits of at least \$2,000,000.00 for each occurrence, bodily injury and property damage combined; (iii) provide for full replacement value for the buildings and improvements covered thereunder; and (iv) not be subject to change, cancellation or termination without at least thirty (30) days prior written notice to Developer.

## 5. Common Areas.

a. Grant of Easements. Each party, as grantor, hereby grants to the other party, as grantee, and to the agents, customers, invitees, licensees, tenants and employees of grantee, a nonexclusive easement over, through and around their respective tracts for roadways, walkways, ingress and egress, parking of motor vehicles, loading and unloading of commercial and other vehicles, and the use of facilities installed for the comfort and convenience of customers, invitees, licensees, tenants and employees of all businesses and occupants of the buildings constructed on the Building Areas defined above. In addition to the foregoing, Wal-Mart and Developer hereby grant for the benefit of those certain Outparcels now owned by Developer and identified on Exhibit A-1, nonexclusive easements for vehicular and pedestrian access, ingress, and egress over and across the Wal-Mart Tract and the Developer Tract; provided, however, in no event shall the owner, occupant, licensee or invitee of any of the Outparcels be permitted to use the Wal-Mart Tract or the Developer Tract for vehicular parking or for any other purpose other than as described above. Notwithstanding the above, the access from the Developer Tract and Outparcel 2 (as depicted on Exhibit A-2) onto that portion of the Wal-Mart Tract labeled as the "Main Drive" on Exhibit A-2 shall only be permitted at the locations labeled as "Permitted Access Cuts" on Exhibit A-2.

b. Limitations on Use.

(1) Customers. Each party shall use reasonable efforts to ensure that customers and invitees shall not be permitted to park on the Common Areas except while shopping or transacting business on the Wal-Mart Tract and the Developer Tract.

(2) Employees. Each party shall use reasonable efforts to ensure that employees shall not park on the Common Areas, except in areas designated on Exhibit A-2 as "employee parking areas," if any. The parties hereto may from time to time mutually designate and approve "employee parking areas" not shown on Exhibit A-2.

(3) General. Any activity within the Common Areas other than its primary purpose of the Common Areas, which is to provide for parking for the customers, invitees and employees of those businesses conducted with the Building Areas and for the servicing and supplying of such businesses, shall be permitted so long as such activity shall not unreasonably interfere with such primary purpose. Persons using the Common Areas in accordance with this Agreement shall not be charged any fee for such use.

c. Utility and Service Easements. The parties shall cooperate in the granting of appropriate and proper easements for the installation, repair and replacement of storm drains, sewers, utilities and other proper services necessary for the orderly development and operation of the Shopping Center and the Outparcels. Both parties shall use their best efforts to cause the installation of such utility and service lines prior to paving of the Common Areas. No such lines, sewers, utilities or services of one party shall be installed within the Building Areas on the other party's parcel.

d. Water Flow. Any alteration in the natural water flow which may occur as a natural consequence of normal construction activities and the existence of the party's improvements substantially as shown on Exhibit A-2 (including without limitation building and building expansion, curbs, drives and paving) shall be permitted.

6. Development, Maintenance, and Taxes.

a. Development.

(1) Arrangement. The arrangement of the Common Areas shall not be changed in a manner inconsistent with the provisions of this Agreement.

(2) "Parking Area" Ratio. Each party hereto agrees that at all times there shall be independently maintained on each tract parking area sufficient to accommodate not fewer than four and one-half (4.5) car spaces for each one thousand (1,000) square feet of building or buildings on such tract, provided however, for any non-buffet style restaurant use or fitness center use on the Developer Tract, Developer agrees that at all times there shall be independently maintained on the Developer Tract parking area sufficient to accommodate not fewer than ten (10.0) car spaces for each one thousand (1,000) square feet of building or buildings on the Developer Tract devoted to such use, provided further however, for any buffet style restaurant use on the Developer Tract, Developer agrees that at all times there shall be independently maintained on the Developer Tract parking area sufficient to

accommodate not fewer than twelve (12.0) car spaces for each one thousand (1,000) square feet of building or buildings on the Developer Tract devoted to such use.

(3) Development Timing. Concurrent with any building being constructed within the Building Areas of either tract by the owner of said tract (the "Developing Party"), the Common Areas of that tract shall be developed in accordance with Exhibit A-2 at the expense of such Developing Party. In the event such construction by the Developing Party shall occur prior to the development of the other tract, the Developing Party shall have the right to grade, pave and use any portion of the Common Areas of the non-developing party's tract for access and for construction of, but not limited to, drainage structures and utility lines as is necessary to provide essential services to the Developing Party's tract. The Developing Party shall present an itemized statement of expenses incurred in the construction of said improvements to and upon the non-developing party's tract, and the non-developing party agrees to reimburse the Developing Party for such costs within thirty (30) days of receipt thereof.

(4) Service Drive. Wal-Mart shall have the right to construct the "Service Drive" on the Developer Tract as depicted on Exhibit A-2.

(5) The Future Access Parcel. In the event that the Developer acquires fee title to the "Future Access Parcel", as depicted on Exhibit A-2, the Developer, subject to receiving any and all required governmental approvals, shall develop the "Future Access Cut", as depicted on Exhibit A-2, simultaneously with the development of the Future Access Parcel by the Developer. The Future Access Cut shall be constructed in such a manner as to provide functional access between the Wal-Mart Tract and the Future Access Parcel. In the event Developer does not comply with the provisions of this Section 6(a)(5), in addition to any other legal remedies, Wal-Mart shall have the right to construct the Future Access Cut and Developer shall reimburse Wal-Mart for its costs in doing so within thirty (30) days of receipt of an itemized statement of expenses.

b. Maintenance.

(1) Standards. Following completion of the improvements on the Common Areas, the parties hereto shall maintain the Common Areas in good condition and repair. The maintenance is to include, without limitation, the following:

(a) Maintaining the surfaces in a level, smooth and evenly-covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use, and durability;

(b) Removing all papers, ice and snow, mud and sand, debris, filth and refuse and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

(c) Placing, keeping in repair and replacing any necessary appropriate directional signs, markers and lines;

(d) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;

(e) Maintaining all perimeter and exterior building walls including but not limited to all retaining walls in a good condition and state of repair; and

(f) Maintaining, mowing, weeding, trimming and watering all landscaped areas and making such replacements of shrubs and other landscaping as is necessary.

(2) Expenses. The respective owners shall pay the maintenance expense of their tracts.

(3) By Agent. Subject to the mutual agreement of the parties hereto, a third party may be appointed as an agent of the parties to maintain the Common Areas in the manner as above outlined. Said third party may receive for such agency a fee that is mutually acceptable to all parties to cover supervision, management, accounting and similar fees, which sums are to be included in the general maintenance expense paid by the respective owners of the Common Areas.

c. Taxes. Each of the parties hereto agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against that part of the Common Areas owned by it.

7. Signs.

a. Advertising Limits. No sign shall be located on the Common Areas on the Wal-Mart Tract and the Developer Tract except signs advertising businesses conducted thereon. No signs shall obstruct the ingress and egress shown on Exhibit A-2.

b. Construction of the Pylon Signs. Wal-Mart shall undertake the construction of two 31 foot double sided pylon signs (the "Pylon Signs") which shall be located on the Wal-Mart Tract as shown on Exhibit A-2 and the design of which is depicted on Exhibit D attached hereto and incorporated herein by this reference, which construction (including utilities) shall be completed in accordance with the parameters set forth in the plans prepared by Bootz & Duke, and referenced as Design No. L-1028-03-R1 as revised on February 18, 2003 (the "Plans"). The Plans may be modified by the mutual agreement of the parties. The intended scope and extent of the Pylon Signs shall meet the City of Clinton's (the "City") minimum standards and otherwise comply with all applicable laws, regulations and ordinances. Satisfaction of said minimum standards shall be evidenced by the City's issuance of a permit for the construction of the Pylon Signs, and the construction of the Pylon Signs in conformance with the parameters set forth in said permit.

c. Completion Date. Wal-Mart shall complete the above construction obligations on or before that date upon which a retail facility is opened on the Wal-Mart Tract.

d. Duties in Connection with the Improvements. In connection with its obligation to construct the Pylon Signs, Wal-Mart shall oversee and manage the completion of the construction of the Pylon Signs in accordance with the Plans and all applicable permits.

e. Panel Allocation. The panels on the Pylon Signs shall be perpetually allocated as follows:

(i) Wal-Mart shall be allocated the first tenant position on each side of each of the Pylon Signs. The panel on each side of said signs shall be 5.5 x 20 feet in size.

(ii) Wal-Mart shall be allocated the top two of the six subordinate tenant positions on each side of each of the Pylon Signs. Each panel on each side of said signs shall be 29 inches x 5 feet in size.

(iii) Developer shall be allocated the bottom four of the six subordinate tenant positions on each side of each of the Pylon Signs. Each panel on each side of said signs shall be 29 inches x 5 feet in size.

f. Reimbursement. Upon the execution of this Agreement, Developer shall pay to Wal-Mart the sum of \$12,880.00 as an agreed upon contribution to Wal-Mart for the costs to be incurred in connection with the construction of the Pylon Signs.

g. Panel Creation Costs/Approval. Each party shall be solely responsible for any and all costs incurred in connection with the design creation and maintenance and replacement of its signage to be placed on said signs. The content of all such signage must comply with the requirements of the City. Notwithstanding the above, the parties expressly acknowledge and agree that the signage content, as the same may be modified from time to time, shall not require the approval of any other party so long as all such signage is advertising tenants located within the Shopping Center.

h. Sign Maintenance. Wal-Mart shall at all times maintain (and provide utility service to) the Pylon Signs in good condition and repair and provide utility service thereto. Developer shall pay to Wal-Mart quarterly, within thirty (30) days of receipt of all applicable invoices (together with applicable back up documentation), its pro rata share of the reasonable actual invoiced out-of-pocket expenses (collectively "Maintenance Costs") incurred by Wal-Mart in connection with maintaining and providing utility service to the Pylon Signs. In no event shall management fees, overhead, employee expenses and other similar charges be included as Maintenance Costs. Developer's pro rata share of the Maintenance Costs shall be 28% of the Maintenance Costs.

i. Grants of Easements. Wal-Mart hereby grants to Developer for the benefit of Developer and the Developer Tract, a perpetual exclusive easement for signage purposes on and over the above described tenant positions of the Pylon Signs.

8. Indemnification/Insurance.

a. Indemnification. Each party hereby indemnifies and saves the other party harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from personal injury, death, or property damage and occurring on or from its own tract, except if caused by the act or negligence of the other party hereto.

b. Insurance.

(1) Wal-Mart and the Developer (for the Developer Tract and the Outparcels until such time as the Outparcels are sold or leased to other parties who shall



thereby assume this obligation) shall procure and maintain in full force and effect throughout the term of this Agreement general public liability insurance and property damage insurance against claims for personal injury, death or property damage occurring upon, in or about its property, each party's insurance to afford protection to the limit of not less than \$2,000,000.00 for injury or death of a single person, and to the limit of not less than \$2,000,000.00 for any one occurrence, and to the limit of not less than \$2,000,000.00 for property damage. Each party shall provide the other party with certificates of such insurance from time to time upon written request to evidence that such insurance is in force. Such insurance may be written by additional premises endorsement on any master policy of insurance carried by the party which may cover other property in addition to the property covered by this Agreement. Such insurance shall provide that the same may not be canceled without ten (10) days prior written notice to the other party.

(2) At all times during the term of this Agreement, each party shall keep improvements on its property insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the state in which the parties' respective properties are located, with such insurance to be for the full replacement value of the insured improvements.

(3) Policies of insurance provided for in this Paragraph 8 shall name Wal-Mart and Developer as insureds as their respective interests may appear, and each of them shall provide to the other certificates evidencing the fact that such insurance has been obtained.

(4) Wal-Mart for itself and its property insurer hereby releases Developer, and Developer for itself and its property insurer hereby releases Wal-Mart from and against any and all claims, demands, liabilities or obligations whatsoever for damage to each other's property or loss of rents or profits of either Wal-Mart or Developer resulting from or in any way connected with any fire or other casualty whether or not such fire or other casualty shall have been caused by the negligence or the contributory negligence of the party being released or by any agent, associate or employee of the party being released, this release being to the extent that such damage or loss is covered by the property insurance which the releasing party is obligated hereunder to carry, or, if the releasing party is not carrying that insurance, then to the extent such damage or loss would be covered if the releasing party were carrying that insurance.

(5) Notwithstanding anything to the contrary contained in this Paragraph 8, so long as the net worth of Wal-Mart shall exceed One Hundred Million Dollars (\$100,000,000.00), and so long as Wal-Mart is owner or Lessee of the Wal-Mart Tract, Wal-Mart shall have the right to retain (in whole or in part) the financial risk for any claim.

9. Eminent Domain.

a. Owner's Right To Award. Nothing herein shall be construed to give either party any interest in any award or payment made to the other party in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other party's tract or giving the public or any government any rights in said tract. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas located on the Wal-Mart Tract and the Developer Tract, the award attributable to the land and improvements of

such portion of the Common Areas shall be payable only to the owner thereof, and no claim thereon shall be made by the owners of any other portion of the Common Areas.

b. Collateral Claims. All other owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another owner.

c. Tenant's Claim. Nothing in this Paragraph 9 shall prevent a tenant from making a claim against an owner pursuant to the provisions of any lease between tenant and owner for all or a portion of any such award or payment.

d. Restoration Of Common Areas. The owner of any portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas within its respective tract as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer, to the extent that the proceeds of such award are sufficient to pay the cost of such restoration and repair and without contribution from any other owner.

10. Rights And Obligations Of Lenders. If by virtue of any right or obligation set forth herein a lien shall be placed upon the tract of either party hereto, such lien shall expressly be subordinate and inferior to the lien of any first lienholder now or hereafter placed on such tract. Except as set forth in the preceding sentence, however, any holder of a first lien on the Wal-Mart Tract or the Developer Tract, and any assignee or successor in interest of such first lienholder, shall be subject to the terms and conditions of this Agreement.

11. Expansion Of Shopping Center. The parties agree that in the event the Shopping Center is expanded by ownership, control of the parties or agreement with a third party, all of the provisions of this Agreement shall apply to the expanded area and the parking to the building ratio in the expanded area shall not be less than that provided in Paragraph 6.a.(2). In the event that the Developer acquires fee title to the real property identified as the "Future Developer Tract" on Exhibit A-2, and as such the same becomes a part of the Shopping Center, Developer agrees that no portion of the Future Developer Tract shall be a Building Area.

12. Release from Liability. Any person acquiring fee or leasehold title to the Wal-Mart Tract or the Developer Tract, or any expansion of the Shopping Center pursuant to Paragraph 11 or any portion thereof, shall be bound by this Agreement only as to the tract or portion of the tract acquired by such person. In addition, such person shall be bound by this Agreement only during the period such person is the fee or leasehold owner of such tract or portion of the tract, except as to obligations, liabilities or responsibilities that accrue during said period. Although persons may be released under this paragraph, the easements, covenants and restrictions in this Agreement shall continue to be benefits to and servitudes upon said tracts running with the land.

13. Breach. In the event of breach or threatened breach of this Agreement, only all record owners of the Wal-Mart Tract as a group, or all record owners of the Developer Tract as a group, or Wal-Mart so long as it or any affiliate has an interest as owner or lessee of the Wal-Mart Tract or Developer so long as it or any affiliate has an interest as owner or lessee of the Developer Tract, shall be entitled to institute proceedings for full and adequate relief from

the consequences of said breach or threatened breach. The unsuccessful party in any action shall pay to the prevailing party a reasonable sum for attorney's fees, which shall be deemed to have accrued on the date such action was filed.

14. Rights of Successors. The easements, restrictions, benefits and obligations hereunder shall create mutual benefits and servitudes running with the land. This Agreement shall bind and inure to the benefit of the parties hereto, their respective heirs, representatives, lessees, successors and assigns. The singular number includes the plural and the masculine gender includes the feminine and neuter.

15. Document Execution, Modification and Cancellation. It is understood and agreed that until this document is fully executed by both Developer and Wal-Mart there is not and shall not be an agreement of any kind between the parties hereto upon which any commitment, undertaking or obligation can be founded. This Agreement (including exhibits) may be modified or canceled only by the mutual agreement of (a) Wal-Mart as long as it or its affiliate has any interest as either owner or Lessee of the Wal-Mart Tract, or its successors in interest, and (b) Developer, as long as it or its affiliate has any interest as either owner or Lessor of the Developer Tract, or its successors in interest.

16. Non-Merger. So long as Wal-Mart or its affiliate is owner or lessee of the Wal-Mart Tract, this Agreement shall not be subject to the doctrine of merger.

17. Duration. Unless otherwise canceled or terminated, all of the easements granted in this Agreement shall continue in perpetuity and all other rights and obligations hereof shall automatically terminate and be of no further force and effect after ninety-nine (99) years from the date hereof.

18. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

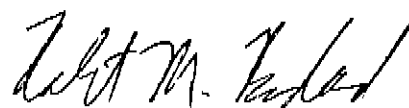
19. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto. The parties do not rely upon any statement, promise or representation not herein expressed, and this Agreement once executed and delivered shall not be modified or altered in any respect except by a writing executed and delivered in the same manner as required by this document.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ATTEST

WAL-MART STORES, INC., a Delaware corporation

  
Assistant Secretary

By   
Its Assistant Vice President

(SEAL)

"Wal-Mart"


LANDSTAR DEVELOPMENT, LLC, a Utah limited liability company

\_\_\_\_\_

By \_\_\_\_\_  
Its \_\_\_\_\_  
"Developer"

\_\_\_\_\_  
WAYNE BELLEAU  
"Developer"

\_\_\_\_\_  
GARY M. WRIGHT  
"Developer"

Approved as to legal/terms only  
by   
WAL-MART LEGAL DEPT.  
Date: 4-9-03

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first written above.

ATTEST

WAL-MART STORES, INC., a Delaware corporation

\_\_\_\_\_

By \_\_\_\_\_

Its Assistant Vice President

(SEAL)

"Wal-Mart"

LANDSTAR DEVELOPMENT, LLC, a Utah limited liability company

\_\_\_\_\_

By *Wayne Belleau*

Its *member*

"Developer"

*Wayne Belleau*  
WAYNE BELLEAU

"Developer"

*Gary M. Wright*  
GARY M. WRIGHT

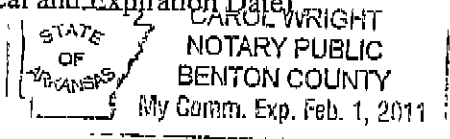
"Developer"

State of Arkansas

County of Benton

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of April, 2003, by ROBERT M. BEDARD, an Assistant Vice President of Wal-Mart Stores, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)



Carol Wright  
Notary Public

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, the \_\_\_\_\_ of Landstar Development, LLC, a Utah limited liability company, on behalf of the company.

(Seal and Expiration Date)

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_

County of \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by Wayne Belleau.

(Seal and Expiration Date)

\_\_\_\_\_  
Notary Public

State of Arkansas

E 1852873 B 3267 P 931

County of Benton

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by \_\_\_\_\_, an Assistant Vice President of Wal-Mart Stores, Inc., a Delaware corporation, on behalf of the corporation.

(Seal and Expiration Date)

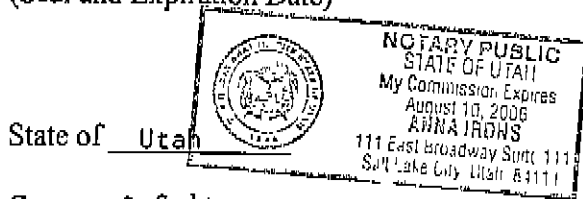
\_\_\_\_\_  
Notary Public

State of Utah

County of Salt Lake

The foregoing instrument was acknowledged before me this 9th day of April, 2003, by Wayne Belleau, the Members of Landstar Development, LLC, a Utah limited liability company, on behalf of the company.

(Seal and Expiration Date)



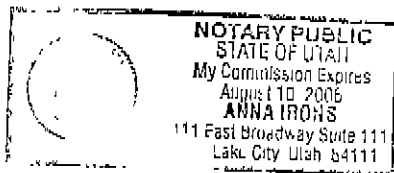
State of Utah

County of Salt

Anna Irons  
Notary Public

The foregoing instrument was acknowledged before me this 9th day of April, 2003, by Wayne Belleau.

(Seal and Expiration Date)



Anna Irons  
Notary Public

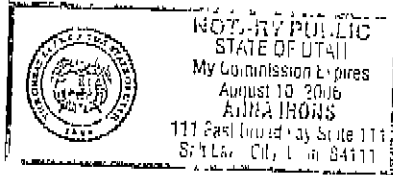
State of Utah

E 1852873 B 3267 P 932

County of Salt Lake

The foregoing instrument was acknowledged before me this 9th day of April, 2003, by Gary M. Wright.

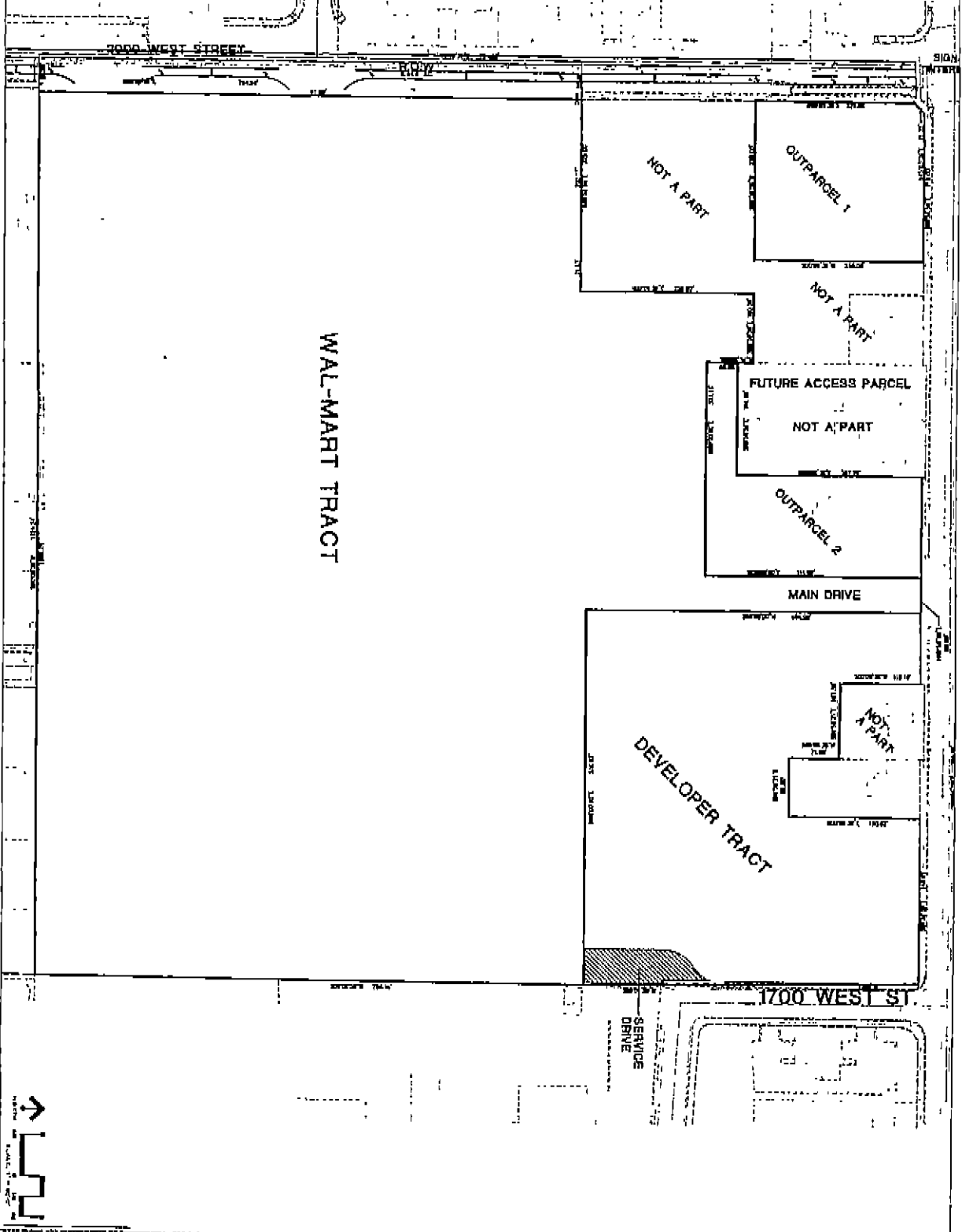
(Seal and Expiration Date)



Anna Irons  
Notary Public



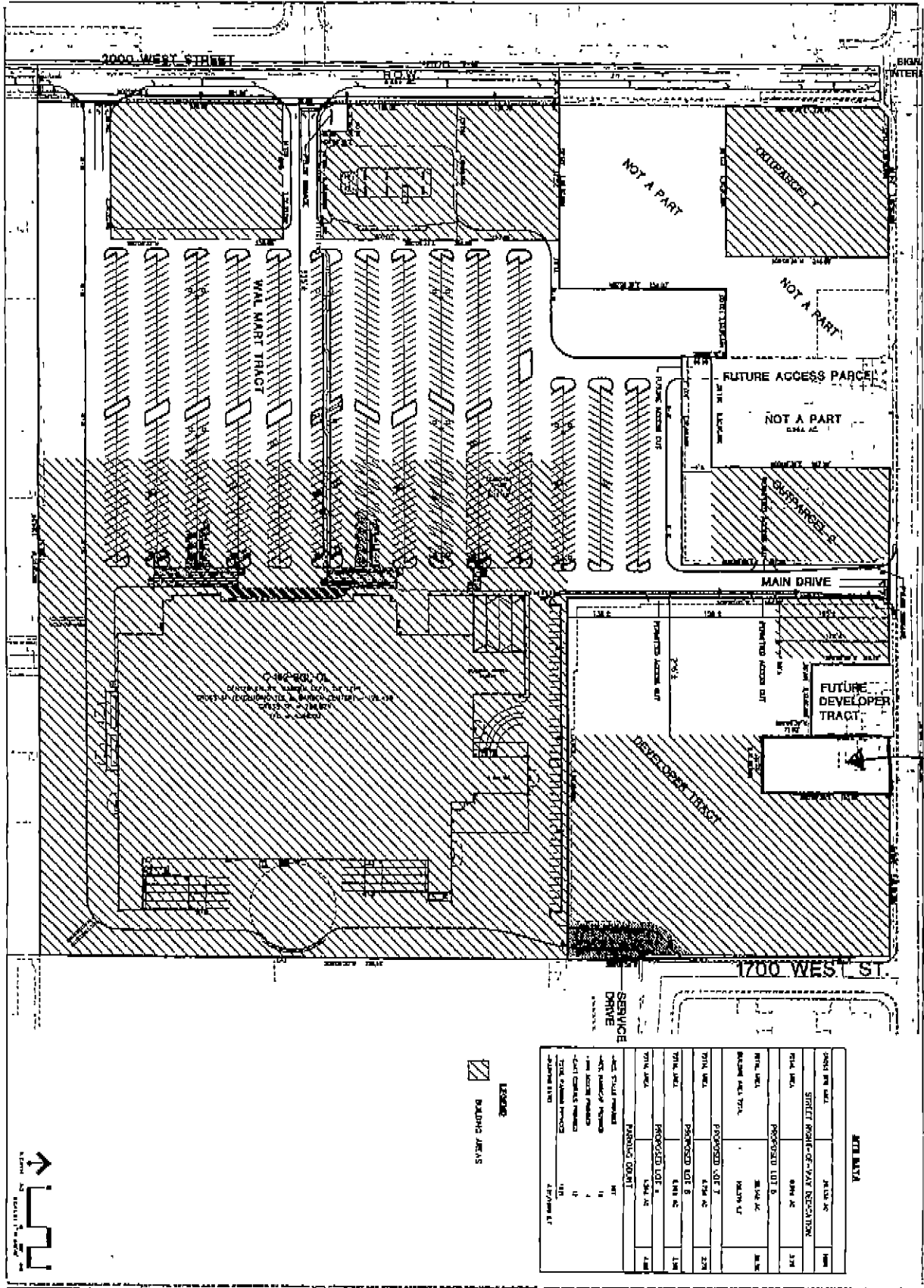
E 1852873 | 3267 P 933



EXH. A-1 DATE: 11/11/03 DRAWN BY: [illegible] CHECKED BY: [illegible]	SHEET NO. 1 OF 1
	EXHIBIT A-1

SITE PLAN  
 FOR  
**WAL-MART SUPERCENTER**  
 STORE #5284-00  
 2000 WEST & 1800 NORTH  
 CLINTON, OYAH

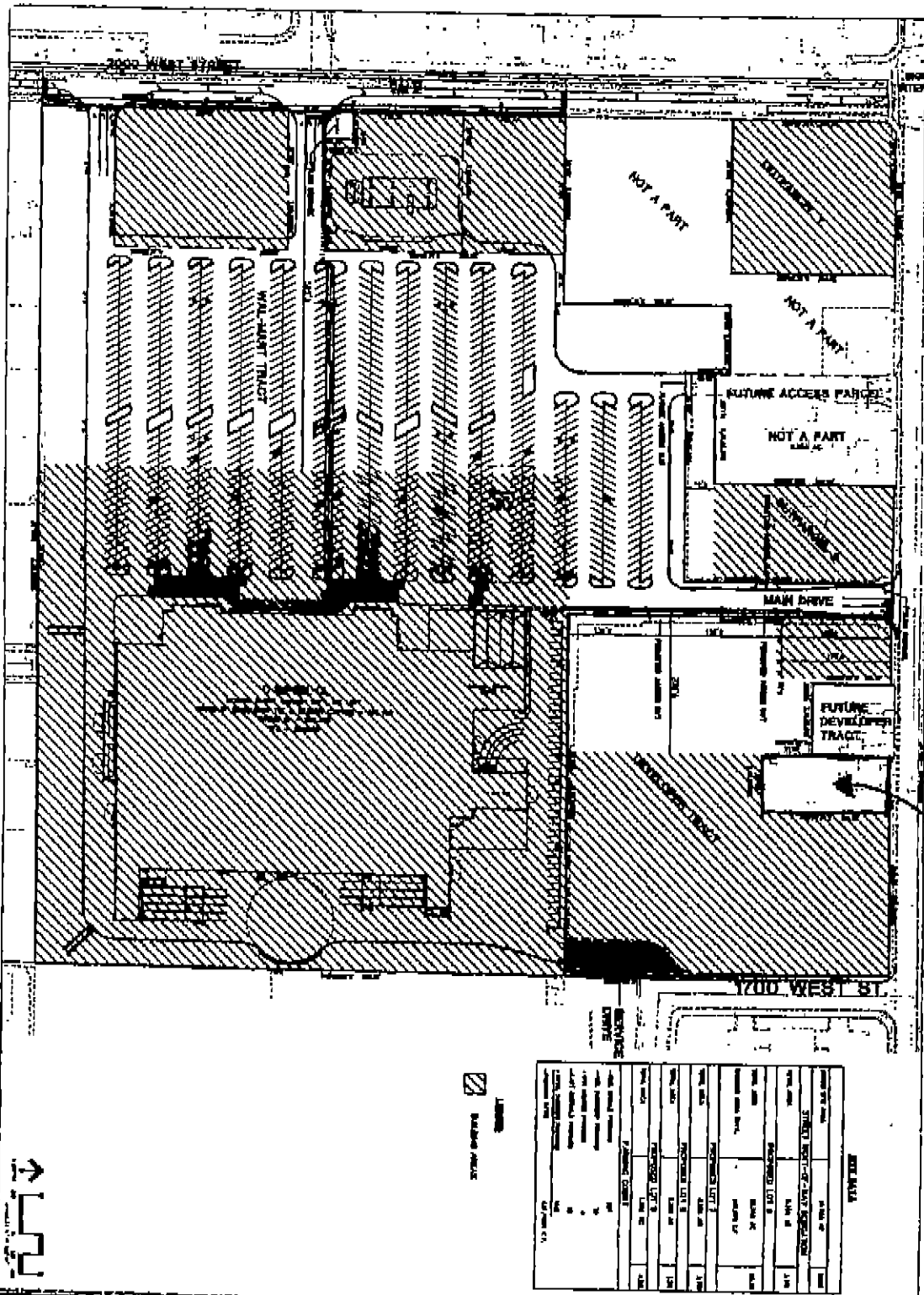




Area to be included as Building Areas if acquired by Developer  
 W.B.  
 gm

SITE DATA	
SHEET NO. 1	DATE: 10/14/00
PROJECT NAME: WAL-MART SUPERCENTER	SCALE: AS SHOWN
PROPOSED LOT 1	AREA: 4.38 AC
PROPOSED LOT 2	AREA: 4.38 AC
PROPOSED LOT 3	AREA: 4.38 AC
PROPOSED LOT 4	AREA: 4.38 AC
PROPOSED LOT 5	AREA: 4.38 AC
PROPOSED LOT 6	AREA: 4.38 AC
PROPOSED LOT 7	AREA: 4.38 AC
PROPOSED LOT 8	AREA: 4.38 AC
PROPOSED LOT 9	AREA: 4.38 AC
PROPOSED LOT 10	AREA: 4.38 AC
PROPOSED LOT 11	AREA: 4.38 AC
PROPOSED LOT 12	AREA: 4.38 AC
PROPOSED LOT 13	AREA: 4.38 AC
PROPOSED LOT 14	AREA: 4.38 AC
PROPOSED LOT 15	AREA: 4.38 AC
PROPOSED LOT 16	AREA: 4.38 AC
PROPOSED LOT 17	AREA: 4.38 AC
PROPOSED LOT 18	AREA: 4.38 AC
PROPOSED LOT 19	AREA: 4.38 AC
PROPOSED LOT 20	AREA: 4.38 AC
PROPOSED LOT 21	AREA: 4.38 AC
PROPOSED LOT 22	AREA: 4.38 AC
PROPOSED LOT 23	AREA: 4.38 AC
PROPOSED LOT 24	AREA: 4.38 AC
PROPOSED LOT 25	AREA: 4.38 AC
PROPOSED LOT 26	AREA: 4.38 AC
PROPOSED LOT 27	AREA: 4.38 AC
PROPOSED LOT 28	AREA: 4.38 AC
PROPOSED LOT 29	AREA: 4.38 AC
PROPOSED LOT 30	AREA: 4.38 AC
PROPOSED LOT 31	AREA: 4.38 AC
PROPOSED LOT 32	AREA: 4.38 AC
PROPOSED LOT 33	AREA: 4.38 AC
PROPOSED LOT 34	AREA: 4.38 AC
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PROPOSED LOT 36	AREA: 4.38 AC
PROPOSED LOT 37	AREA: 4.38 AC
PROPOSED LOT 38	AREA: 4.38 AC
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PROPOSED LOT 84	AREA: 4.38 AC
PROPOSED LOT 85	AREA: 4.38 AC
PROPOSED LOT 86	AREA: 4.38 AC
PROPOSED LOT 87	AREA: 4.38 AC
PROPOSED LOT 88	AREA: 4.38 AC
PROPOSED LOT 89	AREA: 4.38 AC
PROPOSED LOT 90	AREA: 4.38 AC
PROPOSED LOT 91	AREA: 4.38 AC
PROPOSED LOT 92	AREA: 4.38 AC
PROPOSED LOT 93	AREA: 4.38 AC
PROPOSED LOT 94	AREA: 4.38 AC
PROPOSED LOT 95	AREA: 4.38 AC
PROPOSED LOT 96	AREA: 4.38 AC
PROPOSED LOT 97	AREA: 4.38 AC
PROPOSED LOT 98	AREA: 4.38 AC
PROPOSED LOT 99	AREA: 4.38 AC
PROPOSED LOT 100	AREA: 4.38 AC

**EXHIBIT A-2**  
**WAL-MART SUPERCENTER**  
**STORE #5234-00**  
**2000 WEST & 1000 NORTH**  
**CLINTON, UTAH**



*Handwritten:* Area to be included as Building Areas if acquired by Developer

DETAILS	
1. 10' WIDE SIDEWALK	10' WIDE SIDEWALK
2. 10' WIDE DRIVE	10' WIDE DRIVE
3. 10' WIDE DRIVE	10' WIDE DRIVE
4. 10' WIDE DRIVE	10' WIDE DRIVE
5. 10' WIDE DRIVE	10' WIDE DRIVE
6. 10' WIDE DRIVE	10' WIDE DRIVE
7. 10' WIDE DRIVE	10' WIDE DRIVE
8. 10' WIDE DRIVE	10' WIDE DRIVE
9. 10' WIDE DRIVE	10' WIDE DRIVE
10. 10' WIDE DRIVE	10' WIDE DRIVE
11. 10' WIDE DRIVE	10' WIDE DRIVE
12. 10' WIDE DRIVE	10' WIDE DRIVE
13. 10' WIDE DRIVE	10' WIDE DRIVE
14. 10' WIDE DRIVE	10' WIDE DRIVE
15. 10' WIDE DRIVE	10' WIDE DRIVE
16. 10' WIDE DRIVE	10' WIDE DRIVE
17. 10' WIDE DRIVE	10' WIDE DRIVE
18. 10' WIDE DRIVE	10' WIDE DRIVE
19. 10' WIDE DRIVE	10' WIDE DRIVE
20. 10' WIDE DRIVE	10' WIDE DRIVE

**WAL-MART SUPERCENTER**  
**STORE #224-00**  
 1800 WEST & 1800 NORTH  
 SLINGTOWN, UTAH



EX-A-18-D

EXHIBIT A-2

**EXHIBIT B**

(Wal-Mart Tract legal description)

Lots 6, 7, 8 and 9 of the FINAL PLAT OF CLINTON PINES SUBDIVISION  
PHASE 2, according to the official plat thereof recorded April 11, 2003, in  
Book 3347 of maps, Page 912, Official Records of Davis County,  
Utah.

**EXHIBIT C**  
**DEVELOPER TRACT AND OUTPARCEL LEGAL DESCRIPTIONS**

**DEVELOPER TRACT**

That portion of the Southwest of Section 27, Township 5 North, Range 2 West, Salt Lake Base and Meridian, Davis County, Utah described as follows:

Commencing at the West one-quarter corner of said Section 27, said corner bears North 34°37'46" East a distance of 74.23 feet and also bearing South 55°26'40" West a distance of 74.15 feet and also bearing South 34°31'05" West a distance of 74.32 feet from 3 separate Utah Department of Transportation Brass Cap monuments, said point being the centerline intersection of 1800 North Street and 2000 West Street; thence North 89°58'59" East along the North line of said Section 27 and the centerline of said 1800 North Street a distance of 785.18 feet;

Thence South 00°01'01" East a distance of 42.00 feet to a point on the South line of said 1800 North Street right-of-way and a point on the Northerly line of the property as described in Special Warranty Deed recorded in Book 2571, Pages 928 and 929, as Entry Number 1553018, records of Davis County, said point also being the **TRUE POINT OF BEGINNING**;

Thence along said Northerly line the following 7 courses and distances;

- 1) North 89°58'59" East a distance of 99.70 feet;
- 2) South 00°09'39" West a distance of 118.10 feet;
- 3) North 89°59'21" East a distance of 107.50 feet;
- 4) South 00°09'39" West a distance of 71.90 feet;
- 5) North 89°58'59" East a distance of 82.00 feet;
- 6) North 00°09'39" East a distance of 190.01 feet;
- 7) North 89°58'59" East a distance of 248.69 feet to a point on the East line of the Northwest one-quarter of said Southwest one quarter of Section 27;

Thence South 00°06'50" West along said East line a distance of 484.15 feet;

Thence South 89°59'55" West a distance of 536.92 feet;

Thence North 00°00'00" West a distance of 484.00 feet to the **TRUE POINT OF BEGINNING**;

Said parcel of land containing 231,867 square feet or 5.32 acres.

**Outparcel #1**Legal Description for Lot 2 Clinton Pines Subdivision No. 1

That portion of the Southwest one-quarter of Section 27, Township 5 North, Range 2 West, Salt Lake Base and Meridian, Clinton City, Davis County, Utah described as follows:

Lot 2, Clinton Pines Subdivision as recorded in Book 2736 of Official Records, Page 981, under Entry No. 1633948, records of Davis County, Utah.

**Outparcel #2**

The following 2 described properties:

That portion of the Southwest one-quarter of Section 27, Township 5 North, Range 2 West, Salt Lake Base and Meridian, Clinton City, Davis County, Utah described as follows:

Commencing at the West one-quarter corner of said Section 27, said corner bears North 34°37'46" East a distance of 74.23 feet and also bearing South 55°26'40" West a distance of 74.15 feet and also bearing South 34°31'05" West a distance of 74.32 feet from 3 separate Utah Department of Transportation Brass Cap monuments, said point being the centerline intersection of 1800 North Street and 2000 West Street; thence North 89°58'59" East along the North line of said Section 27 and the centerline of said 1800 North Street a distance of 735.18 feet;

Thence South 00°01'01" East a distance of 42.00 feet to a point on the South line of said 1800 North Street right-of-way and a point on the Northerly line of the property as described in Quit Claim Deed recorded in Book 2769, Page 177, as Entry Number 1646656, records of Davis County, said point also being the **TRUE POINT OF BEGINNING;**

Thence South 00°00'00" East a distance of 9.68 feet to a point on the East line of said property;

Thence South 00°09'39" West along said East line a distance of 302.31 feet;

Thence South 90°00'00" West a distance of 306.33 feet to a point on the West line of said property;

Thence along the Westerly and Northerly boundary of said property the following four courses and distances:

- 1) North 00°09'39" East a distance of 44.62 feet;
- 2) North 89°58'59" East a distance of 161.00 feet;
- 3) North 00°09'39" East a distance of 267.28 feet;
- 4) North 89°58'59" East a distance of 145.31 feet to the **TRUE POINT OF BEGINNING.**

Containing 52,526 square feet or 1.21 acres.

**Outparcel #2 (cont)**

That portion of the Southwest of Section 27, Township 5 North, Range 2 West, Salt Lake Base and Meridian, Davis County, Utah described as follows:

Commencing at the West one-quarter corner of said Section 27, said corner bears North 34°37'46" East a distance of 74.23 feet and also bearing South 55°26'40" West a distance of 74.15 feet and also bearing South 34°31'05" West a distance of 74.32 feet from 3 separate Utah Department of Transportation Brass Cap monuments, said point being the centerline intersection of 1800 North Street and 2000 West Street; thence North 89°58'59" East along the North line of said Section 27 and the centerline of said 1800 North Street a distance of 735.18 feet;

Thence South 00°01'01" East a distance of 42.00 feet to a point on the South line of said 1800 North Street right-of-way;

Thence South 00°00'00" East a distance of 9.68 feet to a point on the West line of the property as described in Special Warranty Deed recorded in Book 2571, Pages 928 and 929, as Entry Number 1553018, records of Davis County, said point being the **TRUE POINT OF BEGINNING**;

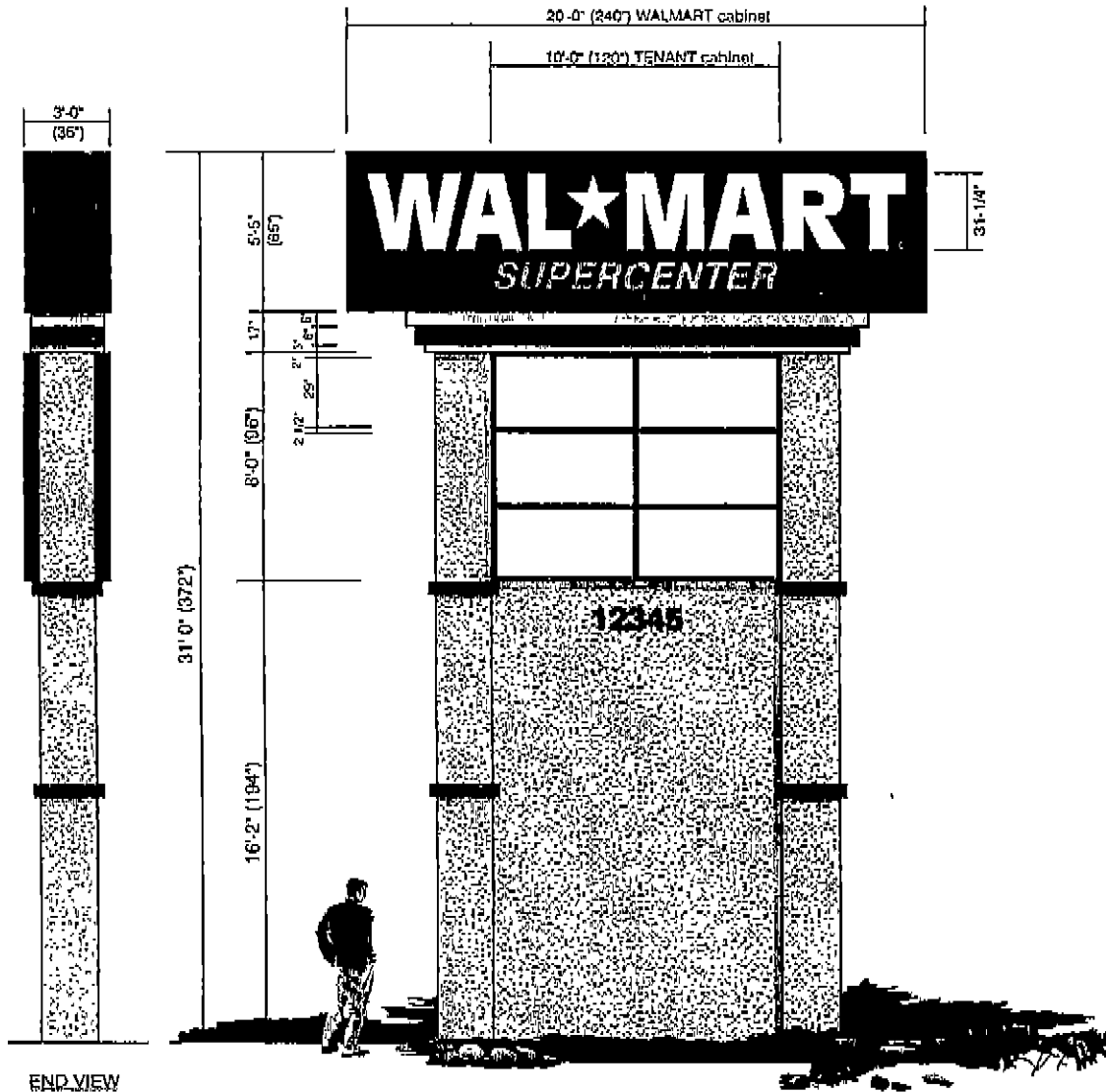
Thence South 00°00'00" East a distance of 302.31 feet;

Thence South 90°00'00" West a distance of 0.85 feet to a point on said West line;

Thence North 00°09'39" East along said West line a distance of 302.31 feet to the **TRUE POINT OF BEGINNING**.

Containing 129 square feet or 0.003 acres.

EXHIBIT D



(1) ONE DOUBLE FACE ILLUMINATED MAIN PYLON DISPLAY  
scale 1/4"=1'-0"

Rev 1- Added a larger base w/ 2 poles.

CLIENT WALMART SUPERCENTER #5234		DATE 2-18-03	400 N. J. 2-18-03 ADDRESS 425 W. WHITTON PKW. AZ 85019 PHONE (602) 3-272-9359 FAX (602) 3-272-4606 E-MAIL www.bootzandduke.com	
ADDRESS Clinton, Utah	SALESMAN Gill Gibson	DESIGNER Lisa Wilkins		
DATE 01-29-2003	SCALE AS NOTED	PAGE 1 OF 1		