

Entry 2014002871  
Book 1374 Page 493-499 \$22.00  
31-MAR-14 01:06  
RANDY SIMMONS  
RECORDER, UINTAH COUNTY, UTAH  
ROSS STORES INC  
5130 HACIENDA DR DUBLIN CA 94568  
Rec By: HEATHER COON , DEPUTY

RECORDING REQUESTED BY

Ross Dress For Less, Inc.

PREPARED BY AND WHEN RECORDED MAIL TO.

Bartko, Zankel, Bunzel & Miller  
One Embarcadero Center, Suite 800  
San Francisco, CA 94111  
Attn: Theani C. Louskos, Esq.

Entry 2014002871  
Book 1374 Page 493

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

## MEMORANDUM OF LEASE

1 APN: 05-075-0017; 05-081-0027.

2           NESW           SWSE

3           1. This Memorandum of Lease is effective upon recordation and is entered into by and  
4 between GARDNER TOWNE CENTER, LLC, a Utah limited liability company ("Landlord"),  
5 having its principal place of business at 90 South 400 West , Suite 330, Salt Lake City, UT 84101,  
6 and ROSS DRESS FOR LESS, INC., a Virginia corporation ("Tenant"), having its principal place  
7 of business at 5130 Hacienda Drive, Dublin, CA 94568-7579, who agree as follows:

8           2. By written lease (the "Lease"), Landlord leases to Tenant and Tenant hires from  
9 Landlord a portion of the real property located in the City of Vernal, County of Uintah, State of  
10 Utah, described in Exhibit A hereto, for a term of approximately ten (10) years which term is subject  
11 to extension by Tenant for four (4) additional periods of five (5) years each. The Exhibit A lands are  
12 sometimes herein referred to as the "Shopping Center."

13           3. Landlord has granted Tenant and its authorized representatives and invitees the  
14 nonexclusive right to use the Shopping Center common area with others who are entitled to use  
15 those areas subject to Landlord's rights as set forth in the Lease.

16           4. The provisions of the Lease are incorporated into this Memorandum of Lease by  
17 reference. The Lease contains the following provision(s):

18           "3.2.1. Retail Use. (a) General. Tenant has entered into this Lease in  
19 reliance upon representations by Landlord that Landlord's Parcel is and shall remain  
20 retail in character, and, further, no part of Landlord's Parcel shall be used for office  
21 use or for residential purposes, or as a theater, auditorium, meeting hall, school,  
22 church or other place of public assembly, "flea market," mortuary or funeral home,  
23 gymnasium, veterinary services or pet vaccination clinic or overnight stay pet  
24 facilities (except as an incidental use in conjunction with the operation of a national  
25 or regional pet store retailer, provided such pet store retailer is not located within  
26 one hundred fifty (150) feet of the front and side perimeter walls of the Store), health  
27 club, dance hall, billiard or pool hall, massage parlor, video game arcade, bowling

1 alley, skating rink, car wash, facility for the sale, display, leasing or repair of motor  
2 vehicles, night club, bar, sports bar, or any restaurant where the on premises  
3 consumption of alcohol exceeds forty percent (40%) of gross sales (and which shall  
4 include Buffalo Wild Wings, Elephant Bar and BJ's Brewhouse regardless of the  
5 percentage sale of alcohol, and other similar establishments), facility offering  
6 gambling to the public (including any so called Internet café that offers gambling to  
7 the public, off track betting facility, casino or gaming facility), provided that the  
8 incidental sale of lottery tickets shall be permitted, the sale of adult products or adult  
9 bookstores or adult audio/video products stores (which are defined as stores in  
10 which at least ten percent (10%) of the inventory is not available for sale or rental to  
11 children under the age of majority in the state in which the Store is located because  
12 such inventory explicitly deals with or depicts human sexuality). No ATM or similar  
13 machine shall be permitted in Landlord's Parcel within one hundred (100) feet of the  
14 front and side perimeter walls of the Store, except if located wholly within the  
15 interior of another tenant's or occupant's premises. No tenant or occupant of  
16 Landlord's Parcel, other than Tenant, shall be permitted to use one thousand five  
17 hundred (1,500) square feet or more of Leasable Floor Area of its premises primarily  
18 for the rental or sale of prerecorded audio or video merchandise or electronic games  
19 software and technological evolutions thereof. Landlord shall not permit the sale of  
20 whole bean or ground coffee in Landlord's Parcel by a nationally known specialty  
21 coffee retailer, having one thousand (1,000) stores or more and leasing or occupying  
22 five thousand (5,000) square feet of Leasable Floor Area or less. Landlord shall not  
23 lease space nor allow space to be occupied in Landlord's Parcel by any occupant  
24 other than Tenant, whose use of the space shall be (a) for a store primarily selling  
25 merchandise at one price or set prices such as 99 Cents store, as they are operated as  
26 of the Effective Date, (b) for a discount department store under twenty thousand  
27 (20,000) square feet of Leasable Floor Area, such as, Family Dollar store, as they are  
28 operated as of the Effective Date, and other such types of operations, or (c) for a  
29 store whose principal business is the sale of bridal wear. Further, no restaurant or  
30 other "High Intensity Parking User" (as hereinafter defined) shall be permitted in  
31 Landlord's Parcel within three hundred (300) feet of the front and side perimeter  
32 walls of the Store. A "High Intensity Parking User" is a tenant or occupant whose  
33 use requires more than five (5) parking spaces per one thousand (1,000) square feet  
34 of Leasable Floor Area in accordance with either customary shopping center  
35 practices or governmental regulations, whichever has a higher parking requirement.  
36 The foregoing use restrictions, as modified by the provisions of Section 3.2.1(b)  
37 below, are referred to herein as the Ross Prohibited Uses.

38 (b) Exceptions.

39 (i) Notwithstanding the prohibition on gymnasiums and health  
40 clubs set forth in Section 3.2.1(a) above, a gymnasium or health club such as  
41 Anytime Fitness or other similar facility shall be permitted in the location designated  
42 as "Anytime Fitness" on Exhibit B, provided it does not exceed five thousand two  
43 hundred sixty (5,260) square feet of Leasable Floor Area.

1 (ii) Notwithstanding the prohibition on a car wash or a facility  
2 for the sale, display, leasing or repair of motor vehicles set forth in Section 3.2.1(a)  
3 above, the operation of Basin Tire shall be permitted (within the Shopping Center,  
4 but not within Landlord's Parcel).

5 (iii) Notwithstanding the prohibition on office use set forth in  
6 Section 3.2.1(a) above, use of the space designated as "K-3" on Exhibit B for  
7 Landlord's management office shall be permitted."

8 "15.3 Protection. Without the prior written consent of Tenant, which  
9 consent may be withheld in the absolute and sole discretion of Tenant, no tenant or  
10 occupant of Landlord's Parcel (other than Tenant) may use, and Landlord, if it has  
11 the capacity to do so, shall not permit any other tenant or occupant of Landlord's  
12 Parcel to (a) use its premises for the Off Price Sale (as hereinafter defined) of  
13 merchandise (except that the foregoing restriction in this clause (a) shall not apply to  
14 T.J. Maxx, Marshalls, HomeGoods, or any other affiliates of the TJX Companies,  
15 Inc.), or (b) use more than ten thousand (10,000) square feet of Leasable Floor Area  
16 of its premises for the sale of apparel (except for discount department stores in  
17 excess of fifty thousand (50,000) square feet of Leasable Floor Area, Sportsman's  
18 Warehouse, Herberger's, T.J. Maxx, Marshalls, HomeGoods, or any other affiliates  
19 of the TJX Companies, Inc.), or (c) use in excess of five hundred (500) square feet of  
20 Leasable Floor Area of its premises for the sale of (i) silk flowers, picture frames,  
21 wedding and other party goods, or (ii) health and beauty aids and related sundries  
22 (except that the foregoing restrictions in clauses (c)(i) and (c)(ii) shall not apply to Jo  
23 Ann Fabric, Sally Beauty, T.J. Maxx, Marshalls, HomeGoods, or any other affiliates  
24 of the TJX Companies, Inc.), or (d) use in excess of one thousand five hundred  
25 (1,500) square feet of Leasable Floor Area of its premises primarily for the rental or  
26 sale of prerecorded audio or video merchandise or electronic games software and  
27 technological evolutions thereof (except that the foregoing restriction in this clause  
28 (d) shall not apply to T.J. Maxx, Marshalls, HomeGoods, or any other affiliates of the  
29 TJX Companies, Inc.), or (e) Landlord shall not permit the sale of whole bean or  
30 ground coffee in Landlord's Parcel by a nationally known specialty coffee retailer,  
31 having one thousand (1,000) stores or more and leasing or occupying five thousand  
32 (5,000) square feet of Leasable Floor Area or less, or (f) use in excess of two  
33 thousand five hundred (2,500) square feet of Leasable Floor Area of its premises for  
34 the sale of any of the other types of merchandise specified in Section 15.1 above  
35 (except that the foregoing restrictions in this clause (f) shall not apply to T.J. Maxx,  
36 Marshalls, HomeGoods, or any other affiliates of the TJX Companies, Inc., Jo Ann  
37 Fabric, Shoe Show, Inc., Sportsman's Warehouse, and Herberger's). For purposes of  
38 this Section 15.3, "Off Price Sale" shall mean the retail sale of merchandise on an  
39 every day basis at prices reduced from those charged by full price retailers, such as  
40 full price department stores; provided, however, this definition shall not prohibit  
41 sales events by a retailer at a price discounted from that retailer's every day price.  
42 (As of the Effective Date, examples of Off Price Sale retailers include such retailers  
43 as Fallas Paredes, Nordstrom Rack, Factory 2U, Burlington Coat, Steinmart, Filene's  
44 Basement, Gordmans and Beall's Outlet.) Subject to the provisions of Section 15.4  
45 below with regard to the Concurrent Tenants, the foregoing use restrictions shall not

1 apply to the Concurrent Tenants or to the tenants or occupants of Landlord's Parcel  
2 listed on Exhibit K who are occupying their premises in Landlord's Parcel pursuant  
3 to leases or occupancy agreements executed prior to, or within thirty (30) days after,  
4 the Effective Date (as the same may be extended or renewed) (collectively, "Exempt  
5 Occupants") to the extent Landlord does not have the right, pursuant to the lease or  
6 occupancy agreement to restrict the use of the premises of the Exempt Occupants.  
7 However, if Landlord has the right of consent to any change in use of the premises  
8 occupied by an Exempt Occupant or if Landlord subsequently owns or controls the  
9 premises occupied by an Exempt Occupant, Landlord shall not permit any use in  
10 such premises in violation of the use restrictions set forth in this Section 15.3."

11 5. The terms, conditions, restrictions and covenants in the Lease, including the  
12 provisions of the Lease to be performed by Landlord whether to be performed at the Tenant's store,  
13 or any other portion of the Shopping Center, whether affirmative or negative in nature shall run  
14 with the real property comprising the Shopping Center and shall inure to the benefit of and be  
15 binding upon the parties hereto and the heirs, executors, administrators, successors, assigns and  
16 other successors in interest to the parties hereto.

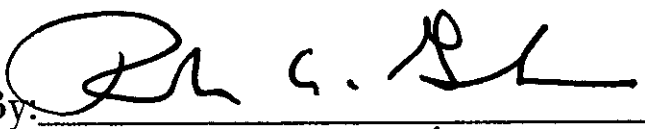
17 6. This Memorandum of Lease is prepared for the purpose of constructive notice and  
18 in no way modifies the provisions of the Lease.

19 Contents of Memorandum of Lease:

- Paragraphs 1-6
- Exhibit A - Legal Description of the Shopping Center  
(Landlord's Parcel)
- Exhibit B - Site Plan


20  
21  
22 IN WITNESS WHEREOF, Landlord and Tenant have duly executed this Memorandum of  
23 Lease on this 3 day of March, 2014.

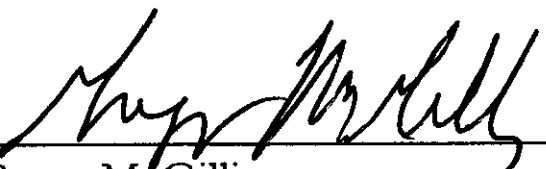
**LANDLORD:**  
**GARDNER TOWNE CENTER, LLC,**  
a Utah limited liability company

By:   
Name: RULON C. GARDNER  
Its: MANAGER

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

**TENANT:**  
**ROSS DRESS FOR LESS, INC.,**  
a Virginia corporation

By:   
Name: JAMES FASSIO  
Its: President and Chief Development Officer

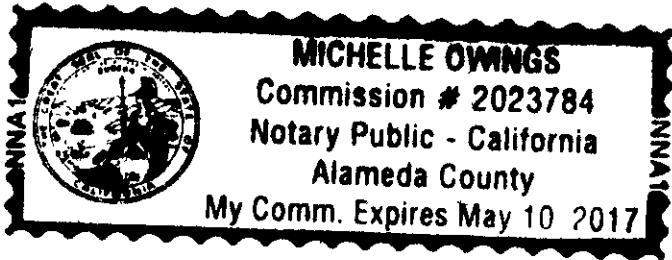
By:   
Name: GREGG MCGILLIS  
Its: Senior Vice President, Property Development

1 State of California )  
2 )  
3 County of Alameda )

4 On March 3, 2014 before me, Michelle Owings,  
5 a Notary Public, personally appeared James Fassio and Gregg McGillis, who proved to me on the  
6 basis of satisfactory evidence to be the persons whose names are subscribed to the within  
7 instrument and acknowledged to me that they executed the same in their authorized capacities, and  
8 that by their signatures on the instrument the persons, or the entity upon behalf of which the  
9 persons acted, executed the instrument.

10  
11 I certify under PENALTY OF PERJURY under the laws of the State of California that the  
12 foregoing paragraph is true and correct.

13  
14 WITNESS my hand and official seal.

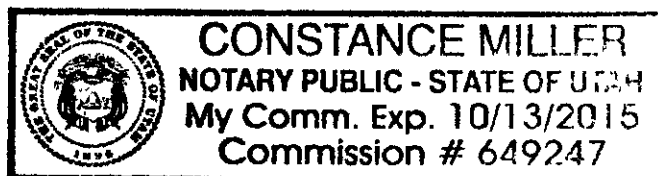


15  
Michelle Owings  
Notary Public

16  
17 State of UTAH )  
18 )  
19 County of SALT LAKE )  
20

21  
22  
23 On March 19 2014 before me, Constance Miller, a Notary Public,  
24 personally appeared Rulon C. GARDNER, personally known to me or who  
25 proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are  
26 subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
27 his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the  
28 person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

29  
30  
31 WITNESS my hand and official seal.



32  
Constance Miller  
Notary Public

EXHIBIT A

**LEGAL DESCRIPTION OF THE SHOPPING CENTER**

**(LANDLORD'S PARCEL)**

**Lot K**

BEGINNING AT A POINT ON THE 1/4 SECTION LINE THAT IS 220.00 FEET N. 02°23'02" W. FROM THE SOUTH QUARTER CORNER OF SECTION 28, T. 4 S., R. 21 E., S.L.B.&M.:

THENCE N. 88°00'48" E., PARALLEL WITH SOUTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION, 254.00 FEET; THENCE N. 2°23'02" W. PARALLEL WITH THE SOUTH LINE OF SAID 1/4 SECTION, 441.62 FEET; THENCE N. 88°04'33" E., ALONG THE ALIQUOT PART LINE 410.68 FEET;

THENCE N. 02°12'24" W., ALONG THE ALIQUOT PART LINE 661.17 FEET; THENCE S. 88°08'17" W., ALONG THE ALIQUOT PART LINE 266.02 FEET;

THENCE N. 0°46'58" W., 184.88 FEET; THENCE S. 89°26'11" W., 114.06 FEET; THENCE N. 45°54'35" W., 91.61 FEET;

THENCE S. 44°00'10" W. PARALLEL TO THE SOUTHEAST RIGHT-OF-WAY LINE OF U.S. HIGHWAY 40, 235.67 FEET;

THENCE N. 45°59'50" W. PERPENDICULAR TO THE SAID HIGHWAY RIGHT-OF-WAY LINE 145.50 FEET;

THENCE N. 44°00'10" E. PARALLEL TO THE SAID HIGHWAY RIGHT-OF-WAY LINE, 7.00 FEET;

THENCE N. 45°59'50" W. PERPENDICULAR TO THE SAID HIGHWAY RIGHT-OF-WAY LINE 23.00 FEET;

THENCE S. 44°00'10" W. ALONG THE SAID HIGHWAY RIGHT-OF-WAY LINE, 67.00 FEET;

THENCE S. 45°59'50" E. PERPENDICULAR TO THE SAID HIGHWAY RIGHT-OF-WAY LINE 168.50 FEET;

THENCE S. 44°00'10" W. PARALLEL WITH SAID HIGHWAY RIGHT-OF-WAY LINE 215.00 FEET;

THENCE S. 45°59'50" E. PERPENDICULAR TO THE SAID HIGHWAY RIGHT-OF-WAY LINE 207.72 FEET;

THENCE S. 43°58'25" W., 115.72 FEET; THENCE S. 46°01'35" E., 42.46 FEET; THENCE S. 43°58'25" W., 164.40 FEET;

THENCE S. 46°01'35" E., 175.29 FEET; THENCE N. 87°37'11" E., 50.12 FEET;

THENCE S. 2°23'02" E., ALONG THE 1/4 SECTION LINE 501.46 FEET TO THE POINT OF BEGINNING.

BASIS OF BEARING IS THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 28, WHICH BEARS N. 2°23'02" W.

THE ABOVE DESCRIBED PARCEL CONTAINS 15.656 ACRES IN AREA MORE OR LESS.

Vernal, Utah

Walmart  
Supercenter  
138,400 sf

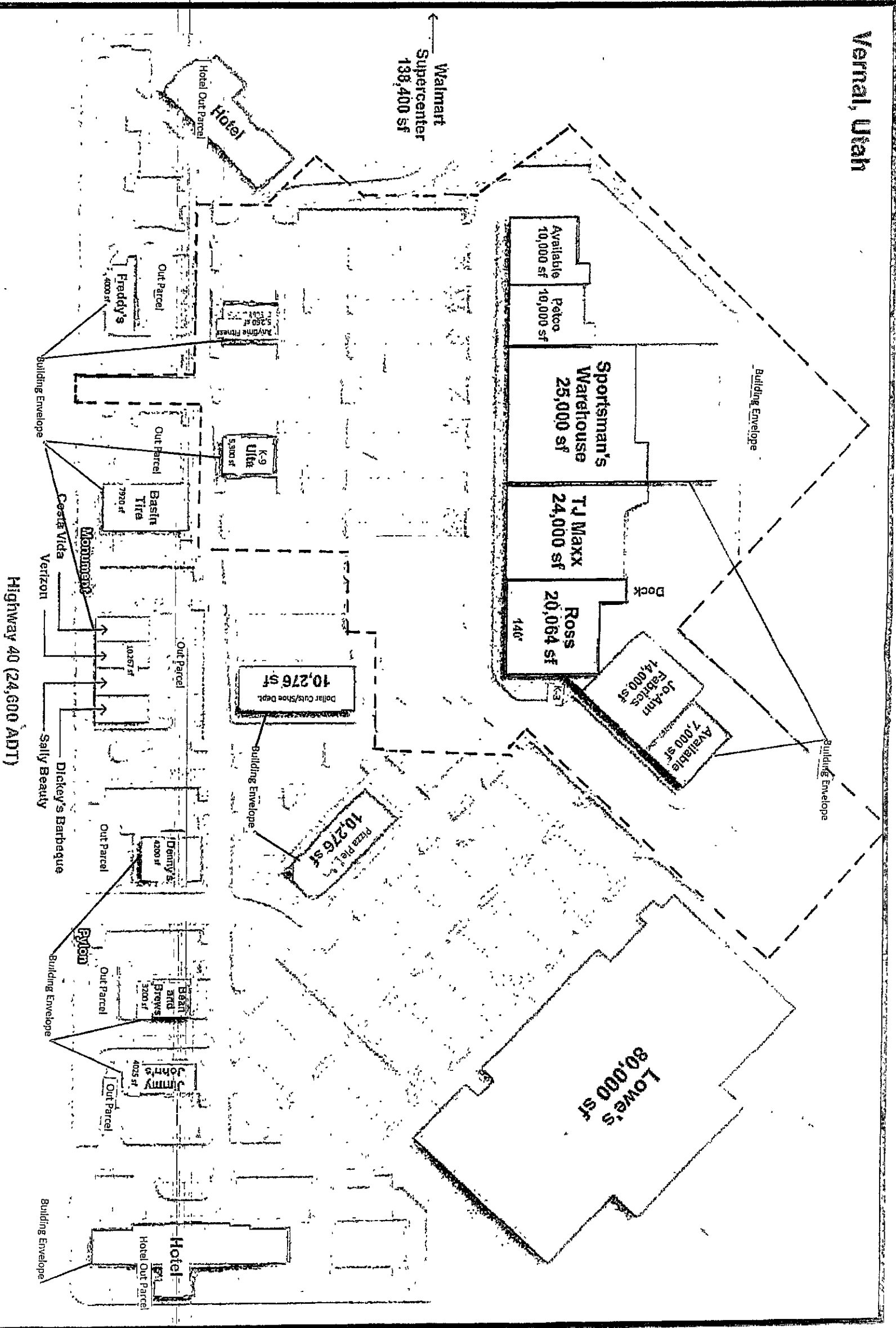


Exhibit B

