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6277873

RECORDING REQUESTED BY  
AND WHEN RECORDED, MAIL TO:

The Gap, Inc.  
900 Cherry Avenue  
San Bruno, CA 94066  
  
Attn: Joel R. Hall, Esq.

6277873  
02/12/96 11:16 AM 30.00  
NANCY WORKMAN  
RECORDER, SALT LAKE COUNTY, UTAH  
KATTEN MUCHIN & ZAVIS  
525 W MONROE ST #1600  
CHICAGO, IL 60661-3693  
REC BY: B GRAY , DEPUTY - MP

MEMORANDUM OF LEASE

This Memorandum of Lease is made and entered into as of the 22nd day of January, 1996, by and between EQUITY PROPERTIES AND DEVELOPMENT LIMITED PARTNERSHIP, an Illinois Limited Partnership, D/B/A EQUITY PROPERTIES AND DEVELOPMENT (ILLINOIS) LIMITED PARTNERSHIP, as agent for owner hereinafter called "Landlord" and THE GAP, INC., a Delaware corporation, hereinafter called "Tenant."

1. Demise. Landlord leases to Tenant and Tenant hires from Landlord that certain store premises (herein the "Premises") containing approximately 14,460 square feet of GLA (as herein defined) in the building commonly known as Space Cand constituting a part of a retail shopping center to be built by the Landlord to be known as South Towne Marketplace (the "Shopping Center") located at 10350 South State Street, in the City of Sandy, County of Salt Lake, State of Utah. All land comprising the Shopping Center is part of a larger tract (the "Tract"), which Tract is legally described in Exhibit A attached hereto and made part hereof. The Shopping Center is included within the Tract. The land comprising the Shopping Center is referred to as the "Property". All buildings and improvements situated on the Property may sometimes be collectively referred to as "Shopping Center Buildings" and are depicted on Exhibit A-1. The Premises is part of that certain building (the "Building") which constitutes one (or all) of the Shopping Center Buildings; said Premises is identified on Exhibit A-1.

2. Unrecorded Lease. This Lease is made upon all of the terms, covenants and conditions set forth in that certain unrecorded lease by and between the parties hereto of even date herewith, all of the terms and conditions of which are made a part hereof as though full set forth herein (the "Unrecorded Lease").

3. Term/Commencement Date. This lease shall commence in accordance with the terms of the Unrecorded Lease, and shall expire on the last day of the month, ten (10) years next following the commencement date unless earlier terminated or extended in accordance with the provisions of the unrecorded Lease. Alternatively, the original term may expire on the January 31st following the tenth (10th) anniversary of the commencement date upon the occurrence of certain conditions set forth in the unrecorded lease. In addition, Tenant is granted one (1) option to extend the original term for an additional five (5) years.

4. Common Easement. In addition to said Premises, Tenant, its employees, agents, licensees, customers, invitees, successors and assigns ("Tenant's Agents") shall have all rights appurtenant thereto and Landlord hereby grants and conveys to the Tenant, for itself, and for the benefit of Tenant's Agents for the term of this Lease a non-exclusive, irrevocable easement and right, in common with the other occupants of the Shopping Center and with the public for the purpose of access over and across as well as the use of all common areas in or about the Shopping Center Buildings and Property, including, without limitation, the driveways and parking areas (the "Common Areas"). The aforementioned easement(s) shall be appurtenant to the Premises, and shall run with the land.

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With respect to the site plan attached hereto and to the Unrecorded Lease as Exhibit A-1, Landlord agrees as follows:

(a) Landlord shall not do any of the following within the area designated on Exhibit A-1 as "No Build Area," without Tenant's prior written consent, which consent may be withheld by Tenant in its sole and absolute discretion: (i) erect or place any structures or objects of any kind; (ii) erect any barriers, obstructions or medians; (iii) alter or modify the pattern or flow of traffic or number of parking spaces from that existing on the date of this Lease or as may be reflected on the site plan attached hereto as Exhibit A-1, or (iv) eliminate or reduce in size any driveways. There shall be exempted from the foregoing restrictions (X) plants, shrubs and other landscaping not exceeding four feet (4') in height; (Y) any replacements of any existing landscaping (whether or not in excess of four feet (4') in height) with items of the same or smaller size, and (Z) any structures or objects existing on the date of this Lease or as may be generally reflected on the site plan attached hereto and to the Unrecorded Lease as Exhibit A-1 or replacements thereto of the same or smaller size.

(b) With respect to the remainder of the Common Area outside of said No Build Area, Landlord hereby reserves the right, at any time and from time to time, to (i) make alterations or additions to, build additional stories on, and demolish or otherwise change, all or any part of any buildings or other improvement in or about the Shopping Center, and build other buildings or improvements in or about the Shopping Center; (ii) construct deck or elevated parking facilities; and (iii) convey portions of the Shopping Center to others or withdraw portions from the Shopping Center. So long as the conditions hereinafter set forth are observed, Landlord shall not be subject to any liability as a result of any change in the Shopping Center, nor shall the same entitle Tenant to any compensation or diminution of Minimum Rent or other charges due under this Lease, or entitle Tenant to terminate this Lease or constitute an actual or constructive eviction. Landlord shall use due diligence to complete all such repairs, remodeling, renovations, redevelopment or other construction. Notwithstanding the foregoing, Landlord shall not do any of the following to an extent that the same will materially interfere with access to or visibility of the Premises without Tenant's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed: (i) decrease the number of parking spaces to a parking ratio below 4.5 spaces per 1,000 square feet of building area (and in no event to a level below that required by Code), (ii) reduce in size or eliminate any driveways from State Street or Centennial Boulevard.

5. Use. The Premises may be used (the "Permitted Use") for the sale of (i) wearing apparel including shoes and other footwear as well as accessories related to all of the foregoing, including but not limited to bags, pocketbooks, luggage, belts, hats, scarves, bandannas, hair accessories, umbrellas, sunglasses, watches and pins (all or any portion of the foregoing being referred to as the "Apparel Use"), (ii) baby strollers, stuffed animals, toys and games, and other children's and infants' items as well as vending machines dispensing the foregoing (all or any portion of the foregoing being referred to as "Children's Hard Goods"), (iii) cosmetics and other personal care and related items, candles and sundries, linens, bedding, towels and bath items, accents for the home and other domestic products (all or any portion of the foregoing being referred to as "Cosmetics and Domestic"). In addition, Tenant shall have the right to install and operate in and about the Premises the following (the "Additional Use"): (a) this clause intentionally deleted; (b) a coffee and juice bar, for the sale for on and off-premises consumption of coffee, tea, juices and other non-alcoholic beverages as well as baked goods such as muffins, bagels and cookies; in addition, the sale of fast food items such as, without limitation, hot dogs, pretzels and pizza (all or any portion of the foregoing being referred to as the "Food Uses"); (c) vending machines for the dispensing of candy, food items and non-alcoholic beverages (all or any portion of the foregoing being referred to as the "Food Vending Machine Uses"); (d) up to five percent (5%) of the area of the Premises for any other lawful retail purpose, carrying such merchandise or offering such services as are found in Tenant's other stores operating under the same tradename as is used

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by Tenant at the Premises.

The foregoing terms "Apparel," "Children's Hardgoods", "Cosmetics and Domestic", and "Additional Use" are included in the broader term "Permitted Use." Notwithstanding the foregoing, Tenant shall be subject to the following percentage limitations with respect to display area of the Premises to be devoted to the use in question:

<u>Use</u>	<u>Limitation</u>
Children's Hard Goods	15% of the total GLA of the Premises
Food Use & Food Vending Machine Use	15% of the total GLA of the Premises

Landlord acknowledges that Tenant is entering into this Lease in reliance upon its ability to conduct the Permitted Use. Further, Landlord agrees that it shall take no actions which would impair or limit Tenant in the conduct of the Permitted Use.

6. Restrictions. Landlord expressly acknowledges that subject to the provisions hereinafter set forth, Tenant is entering into this Lease in reliance upon its ability to conduct the Permitted Use without any limitation or restriction whatsoever by reason of any exclusive provision or contractual restriction (any such limitation, exclusive or restriction being called a "Restriction") granted to any other party whatsoever and wherever located, which applies or pertains to the Premises or Tenant's use therein.

Present Restrictions. Landlord has furnished to Tenant the names of the parties and verbatim excerpts of all such Restrictions, regardless of such parties' use or business, which have heretofore been granted to any party and which are applicable to the Property. A schedule containing such Restrictions is attached to the Unrecorded Lease as Exhibit E. If Landlord has failed to furnish to Tenant any such present Restriction, Landlord agrees to indemnify, defend and hold Tenant harmless from and against all liability, obligation, claims, suits, expenses, including reasonable attorney's fees, damages or loss incurred or suffered by Tenant by reason of the enforcement by any party of such present Restriction. Except as hereinafter provided, Tenant shall not violate the Restrictions set forth in Exhibit E of the Unrecorded Lease. With respect to any such present Restriction which applies to or restricts in any manner the Permitted Use or any portion of such use, Landlord shall obtain an express, unconditional waiver by such party of the application of such Restriction to the Permitted Use insofar as it applies to the Premises during the term of this Lease. The obtaining of such waiver(s) shall be a condition to the validity and effectiveness of this Lease; such waiver(s), if any are required, shall be attached to the Unrecorded Lease as Exhibit E-1.

Future Restrictions. Landlord agrees that any Restriction granted after the date of this Lease which would in any way or manner pertain to the Permitted Use or the Premises shall have no application whatsoever to the Tenant's conduct of said Permitted Use in the Premises and all such Restrictions shall expressly exclude, by specific reference, the Premises so long as this Lease is in full force and effect. Landlord agrees to advise all such parties of the provisions of Paragraphs 5 and 6 hereof (being Section 3.01 and 3.02 of the Unrecorded Lease) and is hereby authorized to disclose such provisions verbatim to such party.

With respect to any such future Restrictions, Landlord agrees to indemnify, defend and hold Tenant harmless from and against all liability, obligation, claims, suits, expenses, including reasonable attorney's fees, damages or loss including any civil or criminal fine or penalty incurred or suffered by Tenant by reason of the enforcement by any party of such Restriction.

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7. Interpretation. Landlord and Tenant have entered into this Memorandum of Lease in order that third parties may have notice of the existence of the Unrecorded Lease and some of its specific provisions. This Memorandum of Lease is not a complete summary of the Unrecorded Lease. This Memorandum of Lease is not intended to amend, modify, or otherwise change the terms and conditions of the Unrecorded Lease between the parties hereto. Provisions in this Memorandum shall not be used in interpreting the provisions of the Unrecorded Lease. In the event of a conflict between this Memorandum and the Unrecorded Lease, the Unrecorded Lease shall control.

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IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Lease as of the date and year first above written.

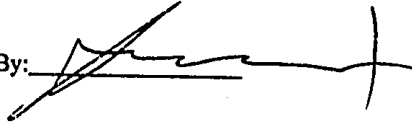
**LANDLORD**

WITNESS OR ATTEST:

EQUITY PROPERTIES AND DEVELOPMENT  
LIMITED PARTNERSHIP

Cwen Hollans

By:



**TENANT**

ATTEST:

THE GAP, INC.

Joel R. Hall  
Joel R. Hall  
Assistant Secretary

By:

J.M. Whisman  
J.M. Whisman  
Vice President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF SAN MATEO )

On January 23, 1996 before me, Kathleen Warner, Notary Public, personally appeared J. M. Whisman and Joel R. Hall personally known to me to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacity, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Kathleen Warner (SEAL)  
Notary Public Signature



STATE OF Illinois )  
 ) ss:  
COUNTY OF COOK )

On January 30, 1996 before me, Thomas Patrick Kelly Notary Public, personally appeared Suzanna Subitnik, personally known to me to or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Thomas Patrick Kelly (SEAL)  
Notary Public Signature



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EXHIBIT A  
TO GROUND LEASE

LEGAL DESCRIPTION OF SHOPPING CENTER

BEGINNING at a point on the Westerly right of way line of State Street, which point is North  $89^{\circ}50'56''$  East 41.33 feet from the Northeast Corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South  $00^{\circ}01'50''$  East 2599.11 feet along the monument line of State Street between the monuments found marking the intersections of 10600 South & 10200 South Streets), said Northeast Corner of Section 13 being South  $89^{\circ}53'20''$  West 92.33 feet from the monument at the intersection of 10200 South and State Streets, and running thence South  $00^{\circ}01'50''$  East 583.24 feet along said line; thence South  $00^{\circ}50'43''$  East 70.31 feet along said line; thence South  $00^{\circ}01'50''$  East 53.16 feet along said line to the northerly line of an access road and a point on a 25.00 foot radius curve to the right; thence running along said Northerly line for the next five courses, Southwesterly 21.60 feet along the arc of said curve through a central angle of  $49^{\circ}30'41''$  (chord bearing South  $65^{\circ}15'40''$  West 20.94 feet); thence North  $89^{\circ}59'00''$  West 192.15 feet to the point of tangency with a 306.00 foot radius curve to the left; thence Southwesterly 162.31 feet along the arc of said curve through a central angle of  $30^{\circ}23'31''$ ; thence South  $59^{\circ}37'30''$  West 74.04 feet to the point of tangency with a 25.00 foot radius curve to the right; thence Northwesterly 37.15 feet along the arc of said curve through a central angle of  $85^{\circ}08'19''$  to the point of tangency with a 758.00 foot radius curve to the left and being the North line of the South Towne Mall Ring Road; thence Northwesterly 712.45 feet along the arc of said curve through a central angle of  $53^{\circ}51'11''$  along said line; thence North  $00^{\circ}00'36''$  East 1300.81 feet; thence South  $89^{\circ}57'20''$  East 519.88 feet; thence North  $86^{\circ}50'50''$  East 266.48 feet; thence South  $89^{\circ}59'01''$  East 280.57 feet to said West right of way line of State Street; thence South  $00^{\circ}07'35''$  East 847.85 feet along said line to the point of BEGINNING.

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CO. RECORDER

EXHIBIT "A"

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CA RECORDER

LESS AND EXCEPTING the following:

Beginning at a point on the Westerly right of way line of State Street, which point is North 89°50'56" East 41.33 feet from the Northeast corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South 00°01'50" East 2599.11 feet along the monument line of State Street between the monuments found marking the intersections of 10600 South & 10200 South Streets), said Northeast corner of Section 13 being South 89°53'20" West 92.33 feet from the monument at the intersection of 10200 South and State Streets, and running thence South 00°01'50" East 142.94 feet along said line; thence North 45°00'00" West 32.77 feet to a point on a 116.00 foot radius curve to the right; thence Southwesterly 38.99 feet along the arc of said curve through a central angle of 19°15'29" (chord bears South 39°19'27" West 38.81 feet); thence South 41°02'50" East 28.93 feet; thence South 50°28'54" West 7.88 feet to a point of curvature with a 102.00 foot radius curve to the left; thence Southwesterly 89.92 feet along the arc of said curve through a central angle of 50°30'43"; thence South 13°14'00" West 71.92 feet; thence South 00°01'50" East 190.71 feet to a point of curvature with a 17.00 foot radius curve to the left; thence Southeasterly 18.24 feet along the arc of said curve through a central angle of 61°29'08"; thence South 61°30'58" East 67.84 feet; thence North 00°01'50" West 308.03 feet to a point of curvature with a 50.00 foot radius curve to the right; thence Northeasterly 44.08 feet along the arc of said curve through a central angle of 50°30'43"; thence North 50°28'54" East 2.33 feet to said Westerly right of way line of State Street; thence South 00°01'50" East 367.99 feet along said line; thence South 00°50'43" East 66.61 feet along said line; thence North 61°30'58" West 86.65 feet to a point on a 25.00 foot radius curve to the right; thence Southwesterly 36.21 feet along the arc of said curve through a central angle of 82°58'40" (chord bears South 48°31'41" West 33.12 feet); thence North 89°59'14" West 63.53 feet; thence North 00°01'50" West 590.56 feet; thence North 89°52'57" East 89.62 feet; thence North 00°07'35" West 469.81 feet to a point of curvature with a 113.00 foot radius curve to the right; thence Northeasterly 89.42 feet along the arc of said curve through a central angle of 45°20'24"; thence North 45°12'48" East 56.83 feet to said Westerly right of way; thence South 00°07'35" East 550.60 feet to the point of beginning.

EXHIBIT "A"

BK 7328 PG 0167



AND LESS AND EXCEPTING the following:

Beginning at a point North  $29^{\circ}49'33''$  West 1027.21 feet along the Section line and North  $00^{\circ}00'36''$  East 223.78 feet from the Northeast corner of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian (Basis of bearing being South  $00^{\circ}01'30''$  East 2579.11 feet along the monument line of State Street between the monument found marking the intersections of 10600 South & 10200 South Streets), said Northeast corner of Section 13 being South  $89^{\circ}53'20''$  West 92.33 feet from the monument at the intersection of 10200 South and State Streets, and running thence North  $00^{\circ}00'36''$  East 310.00 feet; thence East 110.28 feet; thence South 310.00 feet; thence West 110.37 feet to the point of beginning.

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CO. RECORDER

EXHIBIT "A"

BK7328PG0168

STATE STREET (U.S. 05-51)

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**FIRE CANCELLATION  
ZONE REFERRED TO  
IN SECTION 12.02**

**"NO BUILD AREA"  
REFERRED TO IN  
SECTION 1.03**

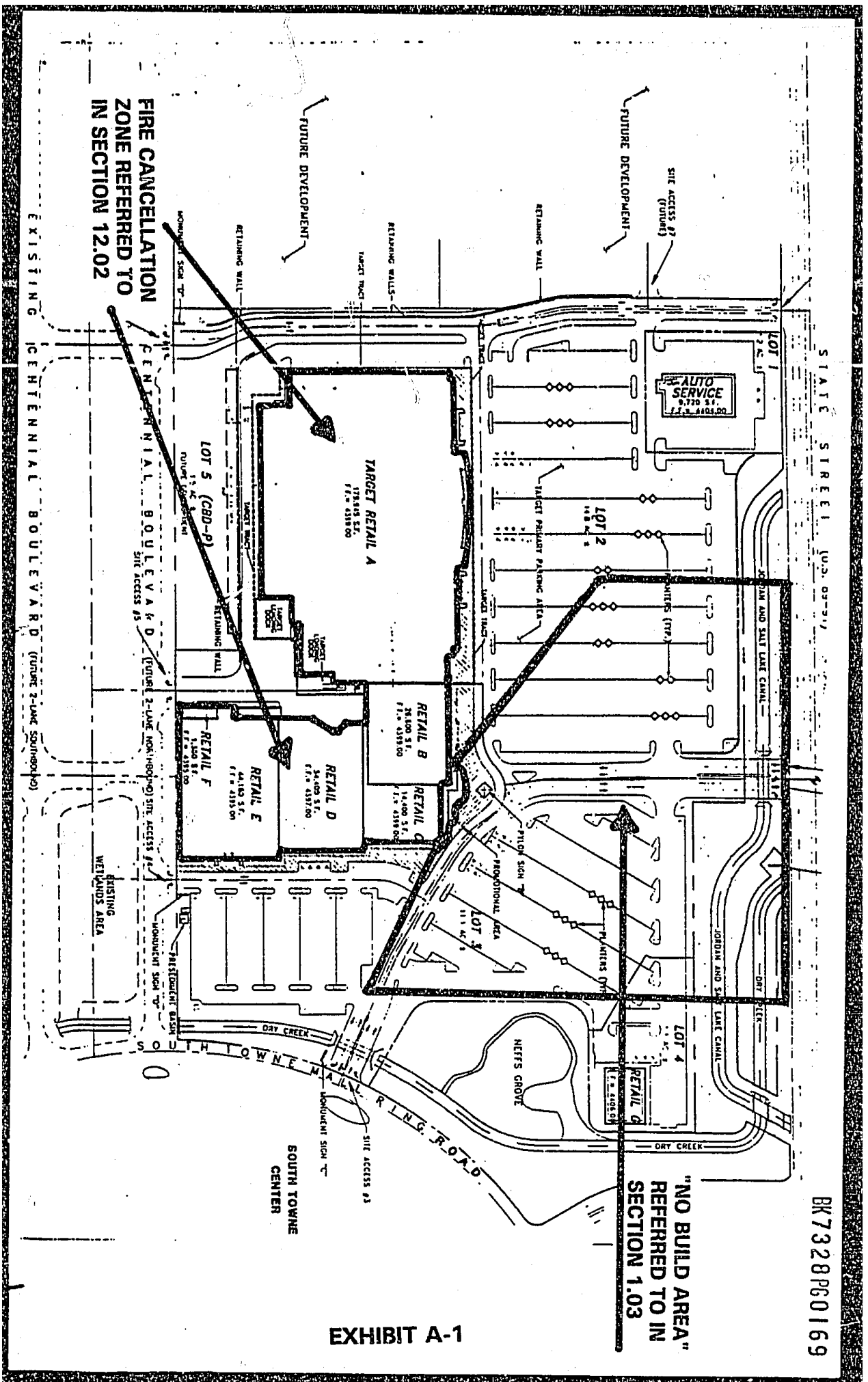


EXHIBIT A-1