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³⁰³ JON FRESTON 849554
WEBER COUNTY RECORDER
DEPUTY *Janet Kelley*
DEC 29 1 10 PM '81
FILED AND RECORDED FOR
Utah Title

WHEN RECORDED MAIL TO:

ST. BENEDICT DEVELOPMENT COMPANY
c/o Robert D. Merrill
Van Cott, Bagley, Cornwall & McCarthy
50 South Main Street
Salt Lake City, Utah 84144

PLATTED VERIFIED
ENTERED MICROFILMED

DECLARATION OF RESTRICTIONS, EASEMENTS
AND COMMON AREA MAINTENANCE

between

ST. BENEDICT DEVELOPMENT COMPANY,

and

ST. BENEDICT'S HOSPITAL

DATED: December 14, 1981

LOCATION: ST. BENEDICT MEDICAL PLAZA
WASHINGTON TERRACE, WEBER COUNTY
Utah

07-053-0028

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DECLARATION OF RESTRICTIONS, EASEMENTS
AND COMMON AREA MAINTENANCE

THIS AGREEMENT is made as of the 14th day of December, 1981, by and between ST. BENEDICT'S HOSPITAL, a Utah nonprofit corporation whose address is 5475 South 500 East, Ogden, Utah 84403 (the "Owner") and ST. BENEDICT DEVELOPMENT COMPANY, a Utah general partnership (the "Lessee") whose address is 220 South 200 East, Suite 350, Salt Lake City, Utah 84111. Owner and Lessees are hereinafter collectively referred to as the "Declarants").

R E C I T A L S

(A) WHEREAS, Owner is the Lessor and Lessee is the Lessee under a lease dated July 6, 1977, as amended by Amendments dated August 24, 1977, December 19, 1978, and amendment dated of even date herewith (the "Original Lease"), of that certain real property located in the County of Weber, State of Utah, designated and shown as Phase I ("Parcel One") on the Benedicts Medical Center Survey Plat dated March 4, 1980 revised March 25, 1980 and April 1, 1980 and last revised October 27, 1981 attached hereto as Exhibit "A" and herein incorporated by reference; and

(B) WHEREAS, Owner is also the owner and Lessee is also the Lessee under a Lease dated of even date herewith entitled "Replacement Lease 'Phase II Property'" of that certain real property located in the County of Weber, State of Utah, designated and shown as Phase II ("Parcel Two"), on Exhibit A; and

(C) WHEREAS, the legal descriptions of Parcels One and Two are set forth on Exhibit "B" attached hereto and herein incorporated by reference; and

(D) WHEREAS, each of Parcel One and Two is herein individually referred to as a "Parcel" and both of such Parcels are herein collectively referred to as the "Development;" and

(E) WHEREAS, the Declarants desire that their interests in each of the respective Parcels and any portion thereof be developed in conjunction with each other Parcel for the mutual benefit of the Declarants and of each and all of the Parcels and every portion thereof, and accordingly do hereby establish a general plan for the improvement, protection, development, maintenance and use of each and all of the Parcels and for such purposes Declarants do hereby establish easements, covenants and restrictions, (hereinafter collectively referred to as "Restrictions") as are hereinafter set forth, subject to which each of the Parcels and any portion thereof, shall be improved, held, exchanged, leased, sold and/or conveyed. The Restrictions shall run with the land and shall inure to the benefit of and bind the owners of each and every Parcel and any portion thereof and their respective successors in interest,

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and each of the Restrictions is imposed upon each Parcel as a mutual equitable servitude in favor of each and every other Parcel and every part and portion thereof. The Restrictions shall create reciprocal rights and obligations among each of the owners of any parcel and any portion thereof; they shall further create a privity of contract and an estate between the owners of each and every parcel and their heirs, successors and assigns; and they shall, as to the owners of each and every Parcel, their heirs, successors and assigns, operate as covenants running with the land for the benefit of every other Parcel and each and every part and portion thereof.

NOW, THEREFORE, in consideration of the foregoing and the covenants and agreements set forth herein, the Declarants agree as follows:

I. DEFINITIONS.

The following term shall have the meaning specified below:

A. Owner. The Term "Owner" or "Owners" means the Owner of Parcel One and/or Parcel Two (as the case may be) and their respective assigns, grantees and successors in interest.

B. Lessee. The Term "Lessee" or "Lessees" means the Lessee of Parcel One and/or Parcel Two pursuant to the leases described in the Recital to the Agreement (as the case may be) and their respective assigns, grantees and successors in interest.

C. Building Areas. Subject to the provisions contained in Article III Paragraph B, subparagraph 2 herein, the "Building Areas" in the Development are the portions thereof upon which buildings have been constructed as shown on Land Title Survey of Saint Benedict's Professional Building Phase II dated October 5, 1981 and St. Benedict's Medical Center Title Survey Phase I dated January 4, 1979 and revised October 27, 1981 (both of said surveys being attached hereto as Exhibit "C" and collectively referred to as the "Plot Plan").

D. Common Areas. The Common Area is all real property within the Development except the Building Areas; provided those portions of the Building Areas upon which buildings are not located or being constructed shall be deemed to be Common Areas until such time as the construction of buildings thereon commences.

II. INCORPORATION.

Recitals (A) through (D) are incorporated herein by reference and made a part hereof.

III. BUILDING AREAS.

A. General Restrictions. No building or other structure shall be constructed upon any Parcel other than within the confines of the Building Area on such Parcel, except as

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is expressly otherwise provided by Paragraph B of this Article. Notwithstanding the foregoing, canopies and roof overhangs (including supporting columns or pillars), normal foundations, retaining walls, doors, trash enclosures, and loading and delivery docks, covered areas attached to such docks, and doors for ingress and egress may project from any building or structure up to a distance of twenty (20) feet over or outside of the Building Area on any Parcel; provided, however, that any such projection or extension must comply with all applicable laws, rules, ordinances and regulations of every governmental body having jurisdiction over such Parcel; and, provided further, that no such extension or projection shall be allowed if it would materially alter the parking, configuration or vehicular and pedestrian circulation in the Development from adjacent streets and between Parcels within the Development from that shown on the Plot Plan. The total building area of all buildings and other structures located on any Parcel shall not exceed the maximum building area designated for such Parcel on the Plot Plan. For the purposes hereof, "gross leasable area" shall be defined as all floor area within the exterior walls of any building or structure, excluding any mezzanine (so long as it is not used for a retail sales area), trash enclosure, loading, covered area attached to loading docks, canopies and roof overhangs (including supporting columns or pillars).

B. Specific Restrictions and Rights.

1. Parcel One. No building or other improvement located on Parcel One shall be used except in conjunction with the operation of a medical professional building, including medical suites, pharmacy or other facilities related thereto.

2. Parcel Two. No building or other improvement located on Parcel Two shall be used except in conjunction with the operation of a medical professional building, including medical suites, pharmacy or other facilities related thereto.

IV. COMMON AREA.

A. General Restrictions. The Common Areas shall be used primarily for vehicular access, circulation and parking, pedestrian traffic and the comfort and convenience of patients, invitees, licensees, agents and employees of the Owners, Lessees and subtenants of the buildings constructed in the Development and for the servicing and supplying thereof. In addition, the Common Areas may be used (i) in connection with the construction and repair of any buildings in the Development so long as such use does not unreasonably restrict access to and from and the conduct of business from the buildings in the Development or access to and from the adjacent streets; (ii) in connection with the use and maintenance of utility lines so long as such activity is undertaken in strict compliance with the requirements of Article V, Paragraph B hereof; and (iii)

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for any other use required by any governmental authority having jurisdiction thereof. No building, barricade or structure may be placed, erected or constructed within the Common Areas on any Parcel except loading and delivery docks and covered areas attached to such docks, trash enclosures, pylon (to the extent not herein prohibited) and directional signs, bumper guards or curbs, paving, landscaping and landscape planters, lighting standards, electrical transformers, driveways, sidewalks, walkways, parking stalls, columns or pillars supporting roof overhangs, and any other improvements as may be required under applicable laws, rules, ordinances and regulations of any governmental body having jurisdiction over the Development. There shall be no charge or other validation for parking on the Common Areas without the prior written consent of the Owners and Lessees, provided, that any Lessee may charge maintenance or management fees to its subtenants without obtaining such consent.

The Common Areas of Parcel Two, as they are to be or have been improved by the Lessee of Parcel Two in accordance with the terms of this Declaration, and the Common Areas of Parcel One as they have already been improved by the Lessee of Parcel One are depicted on the Plot Plan. The Lessee of Parcel Two shall cause the Common Areas on its Parcel to be improved in the manner shown on the Plot Plan. Subsequent to the improvements of the Common Areas on Parcel One and Parcel Two in the manner depicted on the Plot Plan, no Lessee thereof shall make any modification or alteration to such Common Areas which modifies the roadways within Parcels One or Two or the traffic flow contemplated thereby without the prior written consent of the other Lessee and the Owner of the other Parcel.

V. EASEMENTS.

A. Ingress, Egress and Parking. Each Owner and Lessee as grantor with respect to each Parcel owned or leased by such Owner or Lessee, hereby grants to each of the other Owners and/or Lessee as grantees, for the benefit of each of Owner and Lessee and their respective tenants, subtenants, invitees, licensees, employees, agents, patients, and customers and the invitees of such tenants, and for the benefit of each Parcel owned or leased by each grantee for ingress and egress by vehicular and pedestrian traffic and for vehicular parking upon, over and across the Common Area within each Parcel owned or leased by the grantor. Such easements shall be for the Common Area uses described in Article IV Paragraph A above and shall be subject to all restrictions imposed on such uses by this Declaration; provided, such easements shall not pertain to the construction and/or maintenance of utility lines which shall be solely governed by the provisions of Paragraph B of this Article.

B. Utility Lines. Each Owner and Lessee as grantor, with respect to each Parcel owned by such Owner or leased by such Lessee hereby grants to each other Owner and Lessee, as grantee, for the benefit of such Owner and Lessee and their respective Parcels, non-exclusive easements appurtenant to each Parcel owned or leased by each grantee, under, through and

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across the Common Areas of each Parcel owned by the grantor for the use, maintenance, repair and replacement of water drainage systems or structures, water mains, storm drains, sewers, water sprinkler system lines, telephone or electrical conduits or systems, gas mains and other public utility facilities necessary for the orderly development and operation of the Common Areas and each building in the Development; provided that the rights granted pursuant to such easements shall at all times be exercised in such a manner as to cause the least interference with the normal operation of the Development. All such systems, structures, mains, sewers, conduits, lines and other public utilities shall be, to the extent reasonably possible, installed and maintained below the ground level or surface of such easements. In the event an Owner or Lessee, in exercising the foregoing granted rights, disturbs or otherwise damages any portion of the Common Area improvements on a Parcel, such Owner or Lessee shall expeditiously prosecute to completion the utility work and at its sole expense shall immediately restore and repair the Common Area improvements to their condition prior to the disturbance.

C. Access Easement Across Hospital Property. In an amendment to the lease dated July 6, 1977, which amendment was dated December 19, 1978, the owner of certain real property more particularly described in Exhibit "D" attached hereto and made a part hereof (the "Hospital Property") granted to the Lessee of Parcel One certain easements for access across a walkway and across certain driveways on the Hospital Property, and the Parcel One Lessee obligated itself to perform certain maintenance obligations with regard thereto. Notice of said easement rights were recorded as a Notice of Claim of Easement dated December 19, 1978 and recorded on March 13, 1979 as entry number 769885 in Book 1291, Page 443 of the records of Weber County, State of Utah. In that certain Replacement Lease Phase II, the owner of the Hospital Property has this date granted to the Lessee of Parcel Two similar easement rights in common with the prior rights of the Lessee of Parcel One. Accordingly, the Lessee of Parcel One hereby consents to the grant to the Lessee of Parcel Two pursuant to that certain Replacement Lease Phase II of even date herewith of easement rights across the Walkway and Driveways in common with the Lessee of Parcel One, provided that the Lessee of Parcel Two agrees to pay 50% of the costs to keep the portion of the Walkway north of said doors in good repair and condition and free from obstruction (which the Lessee of Parcel Two hereby agrees to so pay). The owner of the Hospital Property by signing below hereby releases the Lessee of Parcel One from any and all liability for 50% of such costs and hereby grants to the Lessee of Parcel One the same rights as granted to the Lessee of Parcel Two under said Replacement Lease "Phase II Property" to the extent that such rights are in any way greater than those originally granted to the Lessee of Parcel One under the Original Lease. The owner of the Hospital Property hereby agrees that the rights of the Lessee of Parcel One under the Original Lease and the rights of the Lessee of Parcel Two under the Replacement Lease Phase II shall inure to the benefit respectively of the owners of Parcel One and Parcel Two and their successors and assigns in the event of a termination of either of such Leases.

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D. Sewer Easements Across Hospital Property. In the Original Lease, the owner of the Hospital Property granted to the Lessee of Parcel One certain rights with respect to utility lines on the Hospital Property. In that certain Replacement Lease Phase II, the owner of the Hospital Property has this date granted to the Lessee of Parcel Two similar rights in common with the rights of the Lessee of Parcel One. The Lessee of Parcel Two hereby agrees to undertake 50% of the maintenance cost of said sewerline from the point of connection to the point where said line connects to the city's sewer systems. The owner of the Hospital Property by signing below hereby releases the Lessee of Parcel One from any and all liability for 50% of the maintenance cost of said sewerline from the point of connection to the point where said line connects to the city's sewer system.

VI. COMMON AREA MAINTENANCE.

A. Lessee of Parcel One and Lessee of Parcel Two shall each maintain the Common Areas located on its own leased Parcel at all times in good and clean condition and repair which maintenance shall include but not be limited to the following:

(a) Maintaining the paved parking and driving 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 or superior in quality, use and durability;

(b) Removing all papers, 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 reasonably shall be required.

(e) Maintaining all landscaped areas and repairing automatic sprinkler systems or water lines and making replacements of shrubs and other landscaping as is reasonably necessary;

(f) Maintaining and repairing any and all common walls, common public areas, common storm drains, common utility lines, common sewers and other common services on such Parcel which are necessary for the operation of the buildings and improvements within the Development provided,

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however that the expenses of maintaining such common areas and services shall be borne and paid equally; and

(g) Maintaining free and unobstructed access to and from its Parcel and the adjoining portions of the Development and to and from its Parcel and the streets adjacent thereto.

B. In the event that either the Lessee of Parcel One or the Lessee of Parcel Two fails to maintain the Common Areas located on its own Parcel, then in addition to all other remedies pursuant to this agreement or at law or in equity, all rights of the party who has failed to perform said maintenance pursuant to this agreement shall be suspended until such time as such party performs said maintenance.

VII. SIGNS.

Each Lessee shall have the right to maintain such signs on the interior of buildings located on its Parcel as it desires, whether or not such signs are visible from the exterior. As permitted by local ordinances and other applicable governmental regulations, each Lessee shall have the right to erect, maintain and replace signs on the exterior of buildings located on its Parcel.

VIII. EASEMENT TO USE PUBLIC AREAS OF BUILDINGS

The Lessee and Owner of each Parcel hereby grants to the Lessee of the other Parcel and said Lessees' subtenants, invitees, licensees, agents and employees the nonexclusive right in common with the tenants, subtenants, invitees, licensees, agents and employees of the Lessee of each Parcel and in common with the Owner and Lessee of each Parcel to use the elevators, entranceway, public restrooms and public corridors of the building presently located on each Parcel so long as such building shall stand, provided that the Lessee or Owner of Parcel Two shall pay 50% of the cost of maintaining such elevators, entranceway, public restrooms and public corridors in the building located on Parcel One, and provided that the Lessee of Parcel One shall pay 50% of the cost of maintaining such corridors in the building located on Parcel Two. The public restrooms and public corridors are designated as "public" on Exhibit "E" attached hereto and by this reference made a part hereof, but the Lessee of either Parcel may change the designation of "public" areas located in the building on its parcel, so long as ~~such change is made with the prior written consent of the other Lessee, which consent shall not be unreasonably withheld and so long as adequate public areas continue to be provided.~~ In the event that either the Lessee of Parcel One or the Lessee of Parcel Two fails to pay the costs as required in this Article VIII, then in addition to all other remedies pursuant to this Agreement or at law or in equity, all rights of the party who has failed to pay such costs pursuant to this Article VIII shall be suspended, together with the rights of such party's subtenants, invitees, licensees, agents and employees, until such time as such party pays the costs of such maintenance in full. The easements created by this Article shall terminate in any event when the building presently located on Parcel One is no longer standing.

~~adequate public areas continue to be provided, provided however, that the determination of what is adequate shall be mutually agreed upon by the lessees of .7. both parcels under a standard of reasonableness. If no agreement can be made, there will be no redesignation.~~

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IX. INDEMNIFICATION.

A. Indemnification of Owners and Lessees. The Owner and Lessee of Parcel One hereby agree to indemnify, hold harmless and defend the Owner and Lessee of Parcel Two, as well as any first mortgagee of Parcel Two from any and all claims, actions, judgments, liabilities, damages and expenses (including but not limited to attorneys' fees and reasonable investigative and discovery costs and court costs) as well as all other sums on account of any injury to persons, loss of life, or damage to property which occurs by reason of the exercise of the rights of the Owner and/or Lessee of Parcel One pursuant to this Agreement. The Owner and Lessee of Parcel Two hereby agree to indemnify, hold harmless and defend the Owner and Lessee of Parcel One, as well as any first mortgagee of Parcel One or of any leasehold interest thereon from any and all claims, actions, judgments, liabilities, damages and expenses (including but not limited to attorneys' fees and reasonable investigative and discovery costs and court costs) as well as all other sums on account of any injury to persons, loss of life or damage to property which occurs by reason of the exercise of the rights of the Owner and/or Lessee of Parcel Two or of their subtenants, invitees, licensees, agents or employees pursuant to this Agreement.

B. Waiver of Certain Rights. Each Owner and Lessee hereby waives any rights it may have against another Owner and/or Lessee on account of any loss or damage occasioned to each Owner or Lessee as the case may be, their respective Parcels (including buildings and contents of buildings thereon) or to other portions of the Development, arising from any risk generally covered by fire and extended coverage insurance provided such loss is covered by insurance and that there are insurance proceeds sufficient to cover the loss and further provided that each Owner and Lessee shall have procured from its insurer under all such policies a waiver of all rights of subrogation which the insurers might otherwise have under such policy. In the event that the foregoing conditions are not completely satisfied, then this paragraph B shall be of no force or effect, and each Owner and Lessee shall retain any and all rights against the other Owner and/or Lessee that it may have pursuant to other provisions of this Agreement or at law or in equity.

X. LIABILITY INSURANCE.

A. General Coverage and Limits. Each Owner and Lessee agrees to maintain or cause to be maintained liability insurance against claims for bodily injury, death or property damage occurring on, in or about its Parcel (including within the buildings thereon) and the streets and sidewalks adjacent to its Parcel, with a "Combined Single Limit" (covering bodily injury, death and property damage liability) of not less than an amount satisfactory to the first mortgagee of either Parcel or of a leasehold interest in either Parcel (a "first mortgagee"). The insurance described herein may be carried under a policy or policies covering other liabilities and locations of

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each respective Owner or Lessee or any affiliate or general partner (or any affiliate of a general partner) of an Owner or Lessee. Each Owner, Lessee or party providing insurance shall severally furnish to the Owners and Lessees and any first mortgagees evidence that the insurance referred to herein is in full force and effect. Each such insuring Owner, Lessees or party, shall name or cause to be named such other Owners and Lessees and first mortgagees as an additional insured under such policy of liability insurance and shall provide the Owners or Lessees evidence thereof.

B. Coverage and Limits During Construction. During the period of construction of a building on any of the Parcels or the performance of any offsite or onsite work in or about the Common Areas, the Lessee so constructing or performing agrees that it will maintain or cause to be maintained, at its expense, insurance covering such construction taking place which will insure against liability for injury to and/or death of and/or damage to property of any person or persons with a "Combined Single Limit" (covering bodily injury liability, death and property damage) of not less than an amount determined sufficient by a first mortgagee of either Parcel. The insurance described herein may be carried under a policy or policies covering other liabilities and locations of each respective Lessee, or any affiliates or general partner (or any affiliate of a general partner) of Lessee. Each Lessee or party providing insurance shall severally furnish to the Owners and Lessees and any first mortgagees evidence that the insurance referred to herein is in full force and effect. Each such insuring Lessee or party, shall name or cause to be named such other Owner or Lessee and any first mortgagee as an additional insured under such policy of liability insurance and shall provide the other Owner or Lessee and first mortgagee evidence thereof.

C. Performance of Indemnity Agreements. All policies of insurance required under this Article X shall insure the performance of the Lessee insured thereunder of the indemnity agreements contained in the article entitled "INDEMNIFICATION" if such insurance is obtainable, and shall contain a provision that the insurance company will give all Owners and Lessees and any first mortgagee twenty (20) days advance written notice of any cancellation or lapse, or the effective date of any reduction in the amounts or scope of coverage. Each Lessee shall deliver to each other a statement from the applicable insurer that such insurance insured the performance by the Lessee insured of the indemnity agreements to limits not less than those specified in this Article if such insurance is obtainable.

XI. DAMAGE OR DESTRUCTION.

In the event any building in the Development is damaged or destroyed by fire or other casualty or any other cause whatsoever, the Lessee of the Parcel upon which such building is located may, in its discretion tear down or rebuild the damaged building; provided, however, that such right is subject as to Parcel One to the terms and provisions of the Original Lease

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and to any first mortgage or deed of trust and related security instrument encumbering said Parcel One or any leasehold interest therein, including without limitation, that certain Deed of Trust, Assignment of Rents, and Security Agreement recorded in the County Recorder's Office of Weber County, Utah on April 2, 1979, as entry No. 772171, in Book 1295, at Page 75, and subject as to Parcel Two to the terms and provisions of Replacement Lease Phase II and to any first mortgage or deed of trust and related security instrument encumbering said Parcel Two or any leasehold interest therein, including without limitation that certain Deed of Trust and Security Agreement to be recorded in the County Recorder's Office of Weber County, Utah following the recordation of this Declaration naming Lessee as Trustor and Unionmutual Stock Life Insurance Co. of America as Beneficiary (the foregoing provision being hereinafter referred to as the "Prior Rights"). If the Lessee of either Parcel does not rebuild the building on its Parcel after the same is damaged or destroyed by fire or other casualty, this Agreement and all rights hereunder shall terminate and be of no further force or effect (except that the easements referred to in paragraphs C and D of Article V shall continue in effect in accordance with the terms of the instrument establishing same); but if such Lessee does rebuild the building on its Parcel, it shall cause the Common Areas on its Parcel to be cleaned and maintained in accordance with the requirements of this Agreement. In the event that the Common Areas of the Development or any portion thereof shall be damaged or destroyed by fires or other casualty or any other cause whatsoever, without any building being damaged or destroyed, then, subject to the Prior Rights, the Lessee of the Common Areas so damaged or destroyed shall forthwith proceed with due diligence to restore such Common Areas to a condition which permits the uses thereof which are contemplated herein to be undertaken. If the proceeds of insurance are insufficient after application as required by said Prior Rights to pay the cost to restore the Common Areas, then the costs in excess of insurance proceeds shall be shared equally by the Lessee of Parcel One and the Lessee of Parcel Two, whether the damage is to the Common Areas on Parcel One or Parcel Two.

XII. GENERAL PROVISIONS.

A. Covenants Run With The Land. Each easement, restriction and covenant over each Parcel shall be appurtenant to and for the benefit of each other Parcel and each part thereof. Each covenant, restriction and undertaking as to each Parcel shall be a burden thereon for the benefit of each other Parcel and each part thereof, and shall run with the land.

B. Inurement. This instrument and the easements, covenants, restrictions, benefits and obligations created hereby shall inure to the benefit of and be binding upon each Owner and Lessee and its successors and assigns; provided, however, that if any Owner or Lessee conveys all of its interest in any Parcel owned by it, such Owner or Lessee shall thereupon be released and discharged from any and all further obligations under this Agreement as it had in connection with the property

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conveyed by it if the grantee of such Owner or Lessee assumes in writing all of such obligations, and provided further, that no such conveyance shall release such Owner or Lessee from any liabilities, actual or contingent, which have arisen prior to the time of such conveyance.

C. Duration. Except as otherwise provided herein, this Agreement shall remain in full force and effect in perpetuity; provided, however, that this Agreement shall terminate sooner in the event that the building on either Parcel is torn down and is not rebuilt within a period of two years from the date of such damage or destruction, or in the event that the Original Lease or Replacement Lease is terminated by means other than foreclosure under the Prior Rights, or in the event of the sale or assignment by either Lessee or Owner of less than a 100% fee or leasehold interest in either Parcel.

D. Injunctive Relief. In the event of any violation or threatened violation of any provision in this Agreement by any Owner, Lessee, or occupant of any portion of the Development, any or all of the Owners or Lessees shall have the right, in addition to the other remedies herein provided, to enjoin such violation or threatened violation. Notwithstanding the foregoing, tenants, subtenants, licensees, customers, invitees, employees and agents in the Development shall not have the foregoing rights but shall rather be limited to their rights granted by law and by their respective leases.

E. Right to Cure. Should any Owner or Lessee of any Parcel or a portion thereof fail to timely perform any of its obligations hereunder and thereafter fail to perform such obligation within fifteen (15) days of its receipt of any other Owner's or Lessee's written demand therefor, the Owner or Lessee giving such notice shall, in addition to any other remedy provided at law or in this Declaration, have the right (but not the obligation) to perform such obligation on behalf of the defaulting Owner or Lessee and the defaulting Owner or Lessee shall reimburse the curing Owner or Lessee for the cost of performing such work within ten (10) days after receipt of billing therefor and proof of payment thereof. In the event the defaulting owner or Lessee does not reimburse the curing owner or Lessee within such ten (10) day period, the costs of curing Owner or Lessee shall be secured by a lien enforceable against the Parcel of the defaulting Owner or Lessee in the amount thereof together with interest thereon at the rate of 21% per annum from the date of such default together with the costs of enforcement thereof. In addition, the curing Owner or Lessee shall have the right to exercise any and all rights which such curing Owner or Lessee might have at law or in equity or pursuant to other provisions of this Agreement.

XIII. MODIFICATION.

This Agreement may not be modified in any respect whatsoever or rescinded, in whole or in part, except with the written consent of the Owner of each Parcel, the Lessee of each Parcel and the holders of the Prior Rights affecting each Parcel.

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XIV. NOT A PUBLIC DEDICATION.

Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Development to the general public or for any public purposes whatsoever, it being the intention of the Declarants that this Agreement shall be strictly limited to and for the purposes herein expressed.

XV. BREACH SHALL NOT PERMIT TERMINATION.

No breach of this Agreement or exercise of any Prior Rights shall entitle any Owner or Lessee to cancel, rescind or otherwise terminate this Agreement, but the foregoing limitations shall not affect in any manner, any other rights or remedies which such Owner or Lessee may have hereunder by reason of any breach of this Agreement.

XVI. EMINENT DOMAIN.

A. Right to Award. Nothing herein shall be construed to give an Owner or Lessee any interest in any award or payment made to any other Owner or Lessee in connection with any exercise of eminent domain or transfer in lieu thereof affecting any other Owner's or Lessee's Parcel or giving the public or any government any rights in the Parcels. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas located within the Development, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to its Owner or Lessee (subject to the Prior Rights), and no claim thereon shall be made by any other Owner or Lessee.

B. Collateral Claims. All other Owners, Lessees or persons having an interest in the Common Areas so condemned (including without limitation any tenant of an Owner) 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.

C. Tenant's Claim. Nothing in this Article shall prevent a tenant of the Development from making a claim against a Lessee pursuant to the provisions of any lease between the tenant and Lessee for all or a portion of any such award or payment.

D. Restoration of Common Areas. In the event a portion of the Common Area is condemned without a condemnation of any portion of the buildings, the Lessee of each portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas so owned as near as practicable to its condition 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 Lessee; provided, however, that the Common Areas shall be restored to a condition which permits the uses thereof which are contemplated herein to be undertaken. In the event that the proceeds of the award are

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insufficient to pay the cost of such restoration after application as required by the Prior Rights the cost of such restoration in excess of such proceeds shall be shared equally by the Lessee of Parcel One and Parcel Two, whether such Common Areas are on Parcel One or Parcel Two.

E. Restoration of Building Area. In the event any building located in the Development is partially condemned, and the remaining portion is not restored, this Agreement shall terminate; but if the remaining portion is restored, the Lessee of the Parcel on which the building stands shall restore the Common Area surrounding such buildings to the condition required by this Agreement, and if the award is insufficient to pay the cost thereof after application as required by the Prior Rights the cost of such restoration in excess of such proceeds shall be shared equally by the Lessee of Parcel One and Parcel Two whether or not the restoration is on Parcel One or Parcel Two.

XVII. ATTORNEYS' FEES.

In the event that legal proceedings are reasonably brought or commenced to enforce any of the terms of this Agreement against any Owner, Lessee or other party with an interest in the Development, the successful party in such action shall then be entitled to receive and shall receive from the unsuccessful Owner, Lessee or party a reasonable sum as attorneys' fees and costs, to be fixed by the court in the same action.

XVIII. NOTICES.

Each Owner or Lessee shall give written notices to the other Owners and Lessees of any sale or conveyance of all of its Parcel to a third party, which notice shall set forth the name and address of such purchaser. All notices required hereunder shall be given to all other Owners and Lessees by forwarding the same by certified or registered mail, return receipt requested, postage prepaid and addressed to each Owner or Lessee to the last address provided for such Owner or Lessee hereunder. The addresses of existing Owners and Lessees are as set for at the beginning of this Declaration.

The foregoing addresses of the existing Owners may be changed by either Owner notice thereof to the other Owner. Notices shall be deemed received on the third (3rd) day after they are mailed in the manner provided above.

XIX. CAPACITY

Declarants have executed this Declaration in their capacities as parties to the Original Lease, the Replacement Lease Phase II and all other Agreements related thereto.

BOOK 1395 PAGE 532

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.

"LESSEE" OF PARCEL ONE AND PARCEL TWO
ST. BENEDICT DEVELOPMENT COMPANY

By *Leon Peterson*
Leon Peterson

By *Katie F. Gasser*
Katie F. Gasser, Trustee of
the G. Walter Gasser Family
Trust

BY GFI, Ltd.

By *[Signature]*
ICS *[Signature]*

"OWNER" OF PARCEL ONE, PARCEL TWO AND
THE HOSPITAL PROPERTY

ST. BENEDICT'S HOSPITAL

By *Robert B. Buehler*
ICS *[Signature]*

CONSENT

The undersigned hereby consent to the foregoing Declaration and agree that the Prior Rights held by the undersigned are and shall be during the term of the foregoing Declaration subordinate and subject to the terms thereof.

NEW YORK LIFE INSURANCE COMPANY

Date: 12-21-81

By *Arthur D. McGuilliana*
ICS Second Vice President
Arthur D. McGuilliana

UNIONMUTUAL STOCK LIFE INSURANCE
CO. OF AMERICA

Date: 12/16/81

By *[Signature]*
ICS SECOND VICE PRESIDENT JAA

BOOK 1395 PAGE 533

STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

On this 14th day of December, 1981, before me, the undersigned, a Notary Public in and for said county and state, personally appeared LEON PETERSON known to me to be the signer that executed the within instrument, and acknowledged to me that he executed the same as a General Partner in ST. BENEDICT DEVELOPMENT COMPANY, a Utah general partnership.

D. L. Bents
Notary public in and for said county and state

My Commission Expires:

4-27-85
STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

On this 14th day of December, 1981, before me, the undersigned, a Notary Public in and for said county and state, personally appeared KATIE F. GASSER, Trustee of the G. Walter Gasser Family Trust, known to me to be the signer that executed the within instrument, and acknowledged to me that she executed the same as the Trustee for the said family trust, a General Partner in ST. BENEDICT DEVELOPMENT COMPANY, a Utah general partnership.

D. L. Bents
Notary public in and for said county and state

My Commission Expires:

7-27-85
STATE OF UTAH)
COUNTY OF SALT LAKE) ss.

On this 14th day of December, 1981, personally appeared before me G. WALTER GASSER, who did say that he is the general partner of GFT, LTD., a Utah limited partnership, and he acknowledged to me that he executed the foregoing document for and in behalf of said limited partnership.

D. L. Bents
Notary public in and for said county and state

My Commission Expires:

7-27-85

BOOK 1395 PAGE 534

STATE OF UTAH)
COUNTY OF SALT LAKE) ss.
PUBLIC

On this 14th day of December, 1981, personally appeared before me Robert K. Eisberg, who did say that he is the said Robert K. Eisberg of ST. BENEDICT'S HOSPITAL, and that the within and foregoing instrument was signed in behalf of said corporation by authority of a resolution of its board of directors and said Robert K. Eisberg duly acknowledged to me that said corporation executed the same and that the seal affixed is the seal of said corporation.

Did B. Sato
Notary public in and for said county and state

My Commission Expires:

7-27-85

STATE OF New York)
COUNTY OF NY) ss.

On the 21 day of December, 1981, personally appeared before me Arthur D. Macollett, who being by me duly sworn, did say that he is the Second Vice President of NEW YORK LIFE INSURANCE COMPANY, and that said instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors and the said Arthur D. Macollett duly acknowledged to me that said corporation executed the same.

Charmaine R. Williams
NOTARY PUBLIC 159-26 H.P.O.
Residing at: NY NY

My Commission Expires:

STATE OF Maine)
COUNTY OF Cumberland) ss.

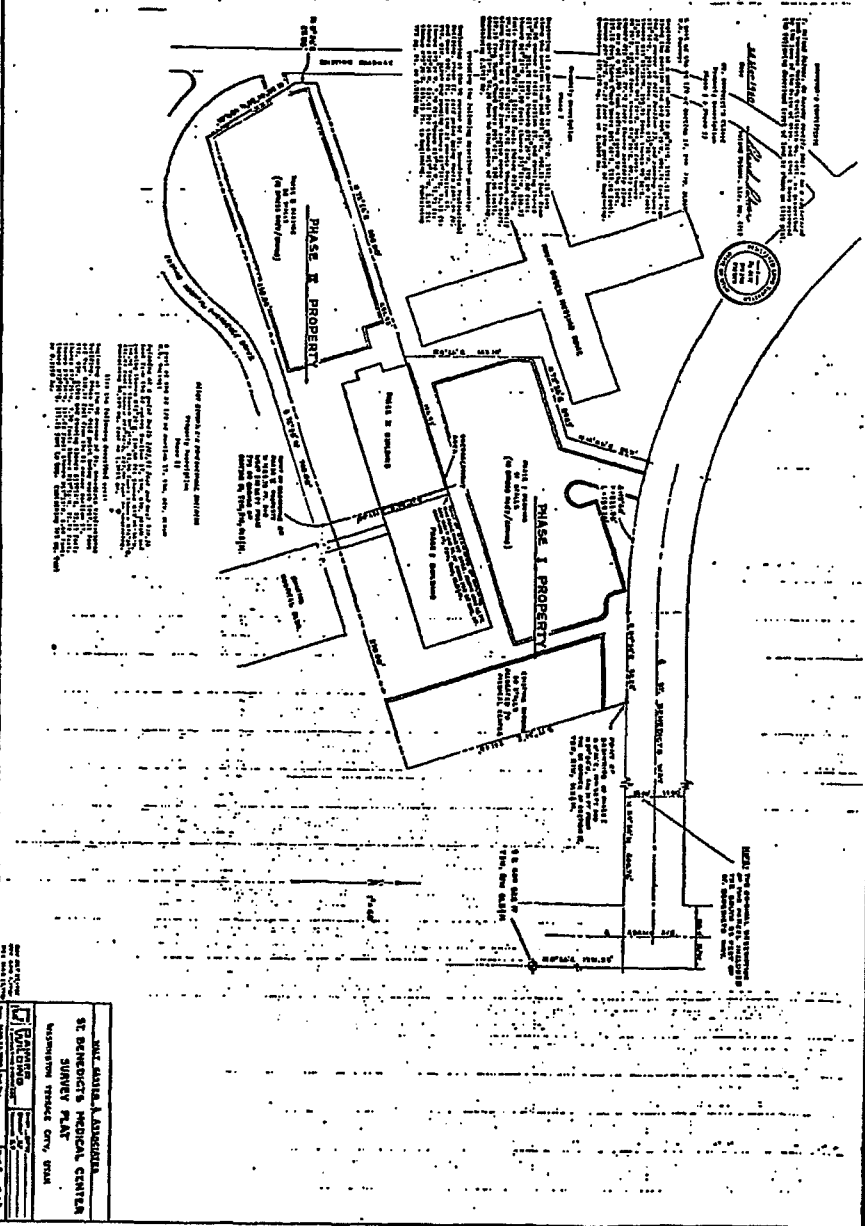
On the 16th day of December, 1981, personally appeared before me Ronald A. Davis, who being by me duly sworn, did say that he is the SECOND VICE PRESIDENT of UNION-MUTUAL STOCK LIFE INSURANCE CO. OF AMERICA, and that said instrument was signed on behalf of said corporation by authority of a resolution of its Board of Directors and the said Ronald A. Davis duly acknowledged to me that said corporation executed the same.

Julia P. Bunker
NOTARY PUBLIC
Residing at: Buxton, Maine

My Commission Expires:

NOTARY PUBLIC

BOOK 1395 PAGE 535



JAMES A. ANDERSON
 SURVEYOR
 31 BENEVOLENT MEDICAL CENTER
 SURVEY PLAN
 WASHINGTON TERRACE CITY, UTAH

EXHIBIT "A"
TO
DECLARATION OF RESTRICTIONS, EASEMENTS
AND COMMON AREA MAINTENANCE

BOOK 1395 PAGE 536

EXHIBIT "B"

(to Declaration of Restrictions, Easements and Common Area Maintenance)

The following described property in Weber County, State of Utah, being a part of the SE Quarter of Section 17, T5N, R1W, SLB&M, U.S. Survey:

PHASE I

Beginning at a point which is N 0°26'E, 1591.33 feet along the section line and N 89°34'W, 406.76 feet from the SE corner of said Section 17, and running thence S 17°34'E, 241.40 feet; thence S 72°26'W, 270.00 feet; thence N 17°34'W, 127.00 feet; thence S 72°26'W, 146.93 feet; thence N 0°26'E, 145.10 feet; thence N 72°26'E, 89.93 feet; thence N 16°06'E, 89.71 feet; thence easterly along the arc of a 582.06 foot radius curve to the left, 159.16 feet (Long Chord bears S 81°44'E, 158.66 feet), thence S 89°34'E, 94.24 feet to the point of beginning. Containing 2.19 acres more or less. Excluding the following described property: Beginning at the NE Cor of St. Benedict's Professional Building, Phase II, said point being North 1407.66 ft and West 610.74 ft from the SE Cor Sec 17, T5N, R1W, SLB&M and running thence S17°34'E, 73.33 ft; thence S72°26'W, 7.70 ft; thence N17°34'W, 71.73 ft; thence S72°26'W, 137.63 ft; thence N17°34'W, 1.60 ft; thence N72°26'E, 145.33 ft to beg. Containing 785 sq ft or 0.0180 Ac.

07-053-0028

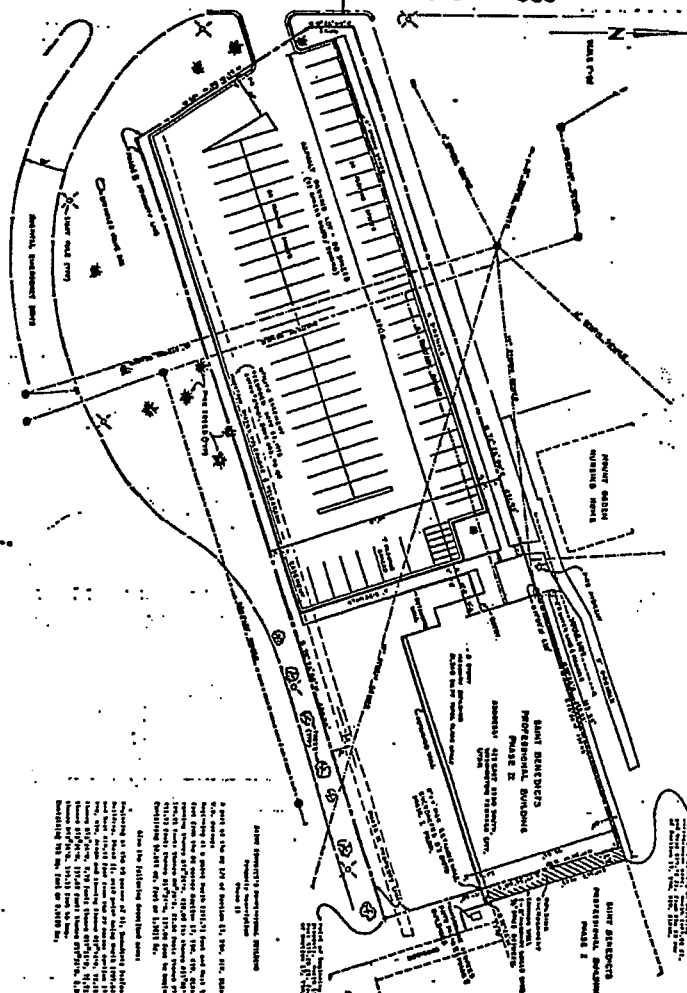
PHASE II

Beginning at a point North 1282.73 feet and West 579.26 feet from the SE corner Section 17, T5N, R1W, SLB&M and running thence S 72°26'W, 430.00 ft; thence N 33°01'30" W, 109.01 feet; thence N 0°26'E, 23.06 feet; thence N 72°26'E, 451.93 feet; thence S 17°34'E, 127.00 feet to beginning. Containing 56,695 sq. feet or 1.3015 Ac. Also the following described area: Beginning at the NE Cor of St. Benedict's Professional Building, Phase II, said point being North 1407.66 ft and West 610.74 ft from the SE Cor Sec 17, T5N, R1W, SLB&M and running thence S17°34'E, 73.33 ft; thence S 72°26'W, 7.70 ft; thence N 17°34'W, 71.73 ft; thence S 72°26'W, 137.63 ft; thence N 17°34'W, 1.60 ft; thence N 72°26'E, 145.33 ft to beg. Containing 785 sq ft or .0180 Ac.

EXHIBIT "B"

TO
DECLARATION OF RESTRICTIONS, EASEMENTS
AND COMMON AREA MAINTENANCE

BOOK 1395 PAGE 538



A portion of the lot on the SW 1/4 of Section 11, T4N, R10E, S4M, Salt Lake County, Utah, is shown. The lot is owned by the State of Utah. The plan shows the location of the building and parking lot. The building is situated on the east side of the lot, and the parking lot is on the west side. The plan also shows the location of the restrooms and office buildings. The plan is drawn to scale and shows the exact location of the building and parking lot. The plan is a true and correct copy of the original plan on file in the office of the Surveyor General of the State of Utah.

STATE OF UTAH
DEPARTMENT OF HERITAGE AND ARTS
OFFICE OF THE SURVEYOR GENERAL
SALT LAKE CITY, UTAH

SAINT BENEDECT'S PROFESSIONAL SERVICES BUILDING
 CHURCHILL PARKING LOT
 SAINT BENEDECT'S RESTROOMS
 SAINT BENEDECT'S OFFICE BUILDING

SAINT BENEDECT'S PROFESSIONAL SERVICES BUILDING
 CHURCHILL PARKING LOT
 SAINT BENEDECT'S RESTROOMS
 SAINT BENEDECT'S OFFICE BUILDING

LAND TITLE SURVEY
SAINT BENEDECT'S PROFESSIONAL SERVICES BUILDING
CHURCHILL PARKING LOT
SAINT BENEDECT'S RESTROOMS
SAINT BENEDECT'S OFFICE BUILDING
UTAH

EXHIBIT "C" (cont.)
TO
DECLARATION OF RESTRICTIONS, EASEMENTS
AND COMMON AREA MAINTENANCE

BOOK 1395 PAGE 539

EXHIBIT "D"

(to Declaration of Restrictions, Easements and Common Area Maintenance - Description of Hospital Property)

07-053-0128, 0227

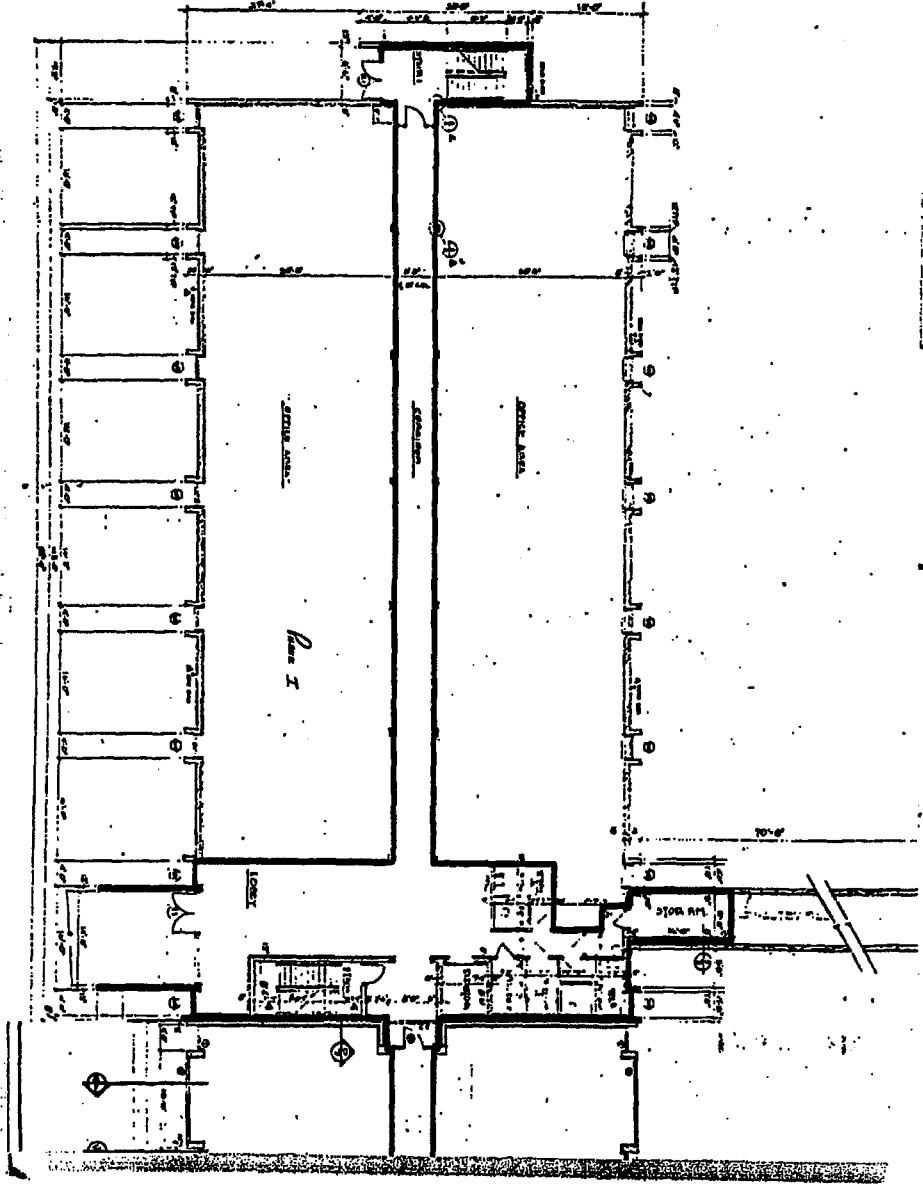
A part of the SE Quarter of Section 17, T5N, R1W, SLB&M, U.S. Survey: Beginning at a point which is North 0°26' East 884.32 feet along the section line and North 89° 34' West 66 feet from the SE corner of said Section 17, (said point is also on the West line of an existing County Road); running thence North 89° 34' West 1030.0 feet, thence North 0° 26' East 827.50 feet, thence North 45° East 197.31 feet, thence South 45° East 100.0 feet, thence Easterly along the arc of a 549.06 foot radius curve to the left 427.08 feet, thence South 89° 34' East 435.0 feet to the West line of a County Road, thence South 0° 26' West 740.01 feet to the point of beginning. SUBJECT TO a road across the Northerly 40 feet thereof. Contains 18.75 acres.

A part of the SE Quarter of Section 17, T5N, R1W, SLB&M, U.S. Survey: Beginning at a point which is North 0° 26' East 620.0 feet along the section line and North 89° 34' West 66 feet from the SE corner of said Section 17, (said point is also on the West line of an existing County Road); running thence North 89° 34' West 1030.0 feet, thence North 0° 26' East 264.32 feet, thence South 89° 34' East 1030.0 feet to the West line of County Road, thence South 0°26' West 264.32 feet to the point of beginning. Contains 6.25 acres.

EXHIBIT "D"

TO
DECLARATION OF RESTRICTIONS, EASEMENTS
AND COMMON AREA MAINTENANCE

BOOK 1395 PAGE 540



BOOK 1395 PAGE 541

FIRST FLOOR PLAN

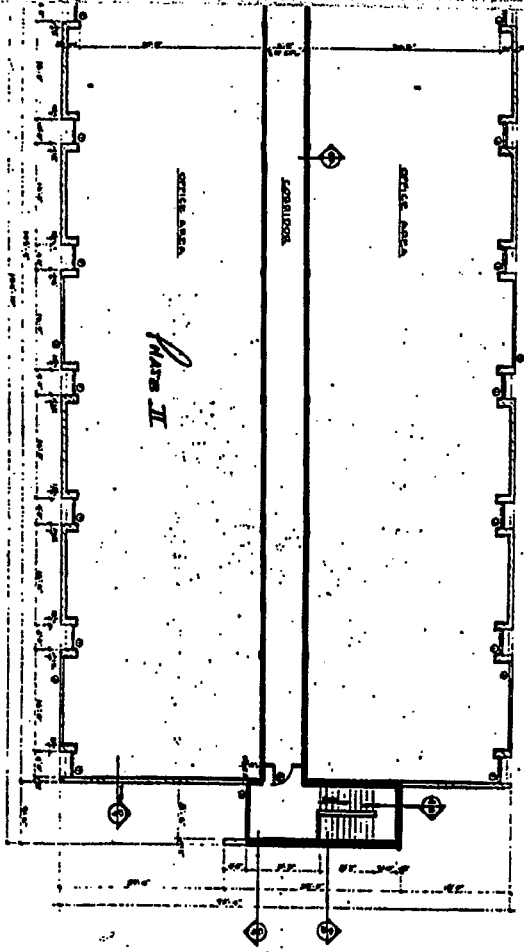


EXHIBIT "E" "PUBLIC" AREAS OUTLINED IN RED
Page 1 of 3

ROBERT A. RICHARDS
REGISTERED ARCHITECT
NO. 12345

5

BREAK FIELD
FIRST FLOOR PLAN
First

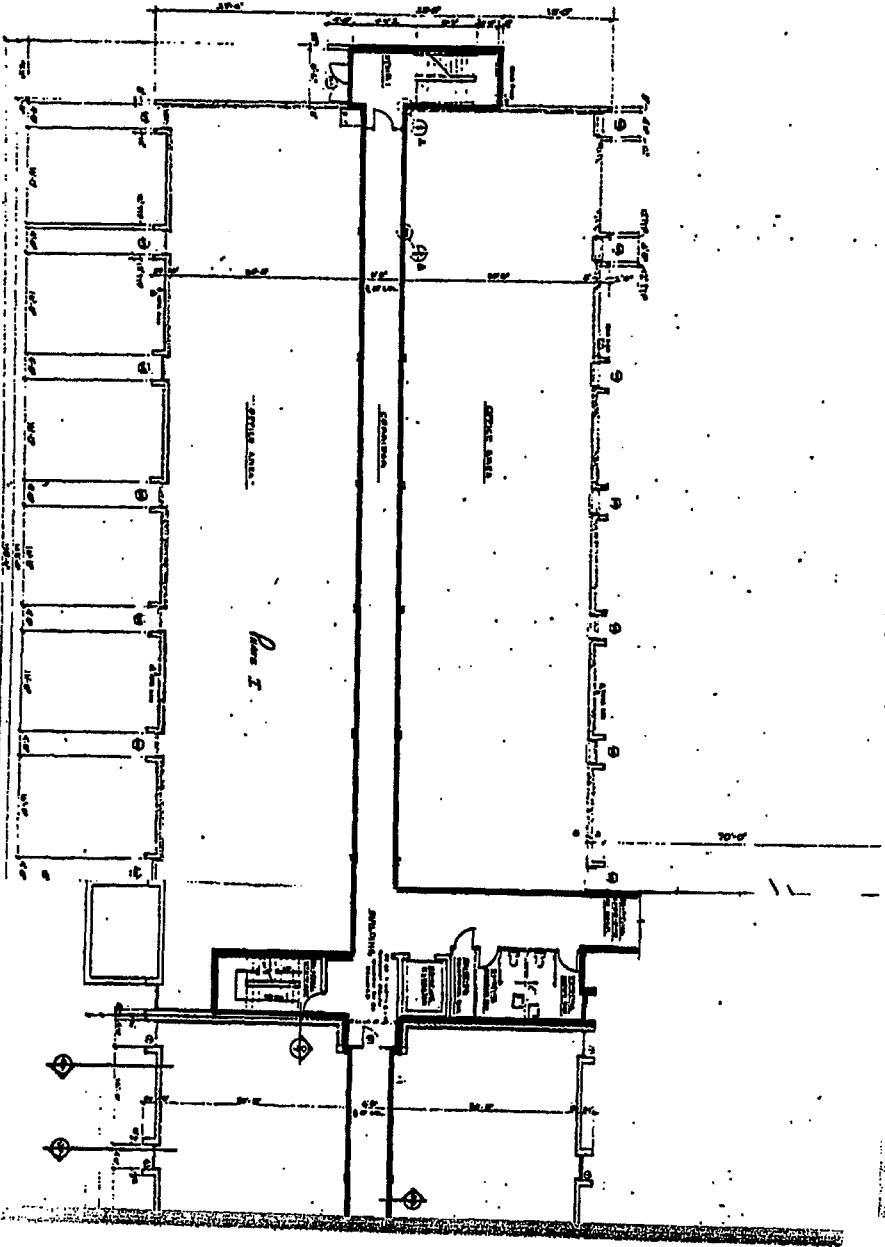
DATE	REVISION	CHANGES

PROJECT
ST. BENEDICT'S PROFESSIONAL BUILDING
85 BENTLEY'S WAY
WASHINGTON TERRACE, WY80



ROBERT A. RICHARDS
REGISTERED ARCHITECT
NO. 12345

BOOK 1395 PAGE 542



BOOK 1395 PAGE 543

SECOND FLOOR PLAN

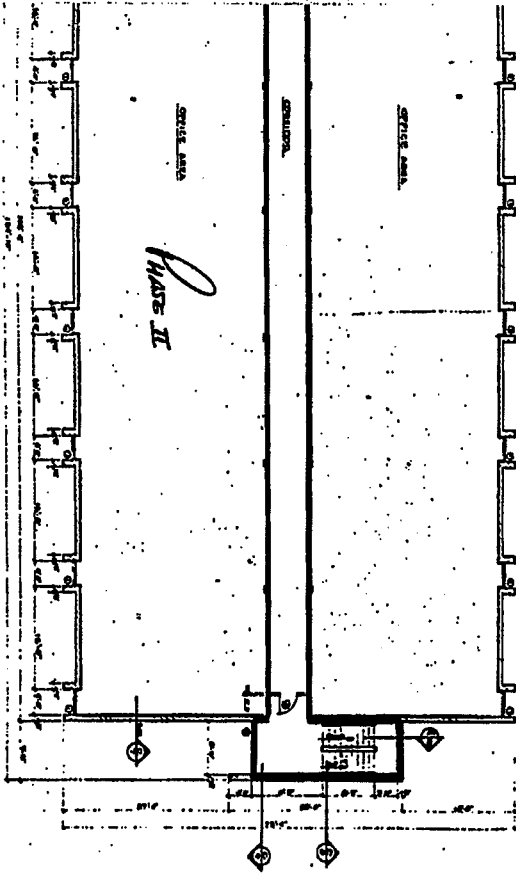


EXHIBIT "5"
Page 2 of 3

ENGINEER'S SIGNATURE
DATE

4
SCALE

SECOND FLOOR PLAN

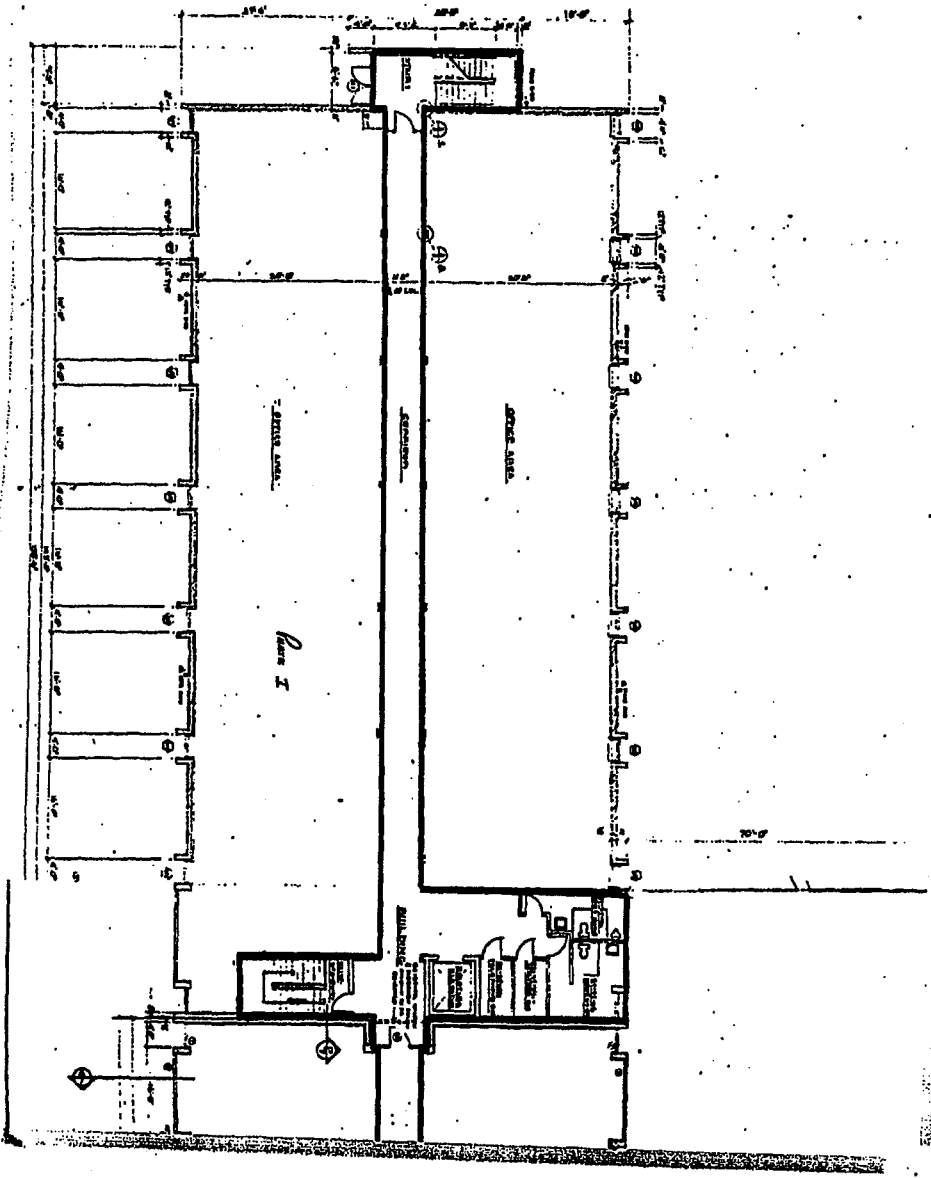
DATE	BY	CHECKED

PROJECT
ST. BENEDICT'S PROFESSIONAL BUILDING
 64 BENEFICENT WAY
 WASHINGTON TERRACE, UTAH



ROBERT A. R. C.
ENGINEER

BOOK 1395 PAGE 544



BOOK 1395 PAGE 545

THIRD FLOOR PLAN

Phase II

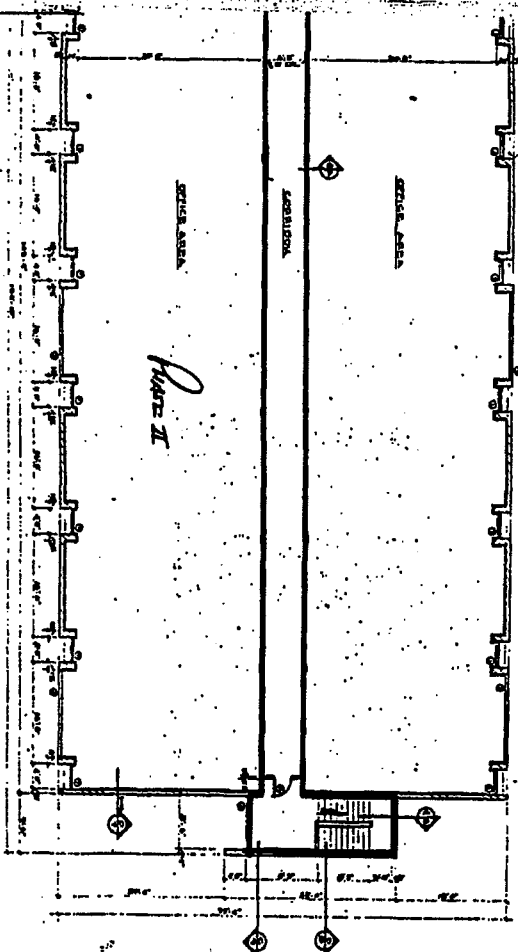


EXHIBIT "E"
Page 3 of 3

DRIVING LICENSE AND
MILITARY

5

THIRD FLOOR PLAN

DATE	REVISION	BY

PROJECT
ST. BENEDICT'S PROFESSIONAL BUILDING
 NEW ADDITION
 65 GERRARD'S WAY
 WASHINGTON TERRACE, UTAH



ROBERT A. R. C.
ARCHITECT