

7114083

HAWLEY TROXELL ENNIS & HAWLEY,LLP
877 MAIN STREET, SUITE 1000
P. O. Box 1617
BOISE, IDAHO 83701-1617
ATTN: Donald E. Knickrehm

7114083
10/08/98 3:20 PM 28.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
METRO NATIONAL TITLE
REC BY:A GARAY ,DEPUTY - WI

#385 NWC 70th South & Redwood
West Jordan, UT
9/30/98

**FIRST AMENDMENT
TO
DECLARATION OF RESTRICTIONS AND EASEMENTS**

THIS FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS AND EASEMENTS (this "**Amendment**") is made as of the ~~57~~ day of October, 1998 by and among **CPI/West Jordan, LLC**, an Idaho limited liability company ("**Cantlon**"), **Albertson's Inc.**, a Delaware corporation ("**Albertson's**") and **Dayton Hudson Corporation**, a Minnesota corporation ("**Target**")

RECITALS:

A. Cantlon, Albertson's and Target executed and entered into that certain Declaration of Restrictions and Easements (the "**Declaration**") dated as of July 2, 1998, recorded July 2, 1998, as Entry No. 7016835, in Book 8027, Page 1563, Official Records of Salt Lake County, Utah (the "**Official Records**");

B. Reference is hereby made to the Declaration, and capitalized terms used herein without definition shall have the meanings given such terms in said Declaration. The parties hereto are the current owners and/or prime lessee of all of the properties described in the Declaration, and desire to amend said Declaration as more particularly set forth below, pursuant to the provisions of Section 8.5 of the Declaration.

C. Albertson's has given its prior written approval to Thrifty Payless, Inc., a wholly owned subsidiary of Rite Aid Corporation ("**Rite Aid**") to conduct a pharmacy operation on

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Parcel 1 of the Shopping Center, such that Rite Aid shall be entitled, so long as Rite Aid is the tenant under a lease of Parcel 1 from Cantlon, to sell items and provide services commonly sold and provided in its full line drug stores, including the dispensing of prescription drugs, and the sale of alcoholic beverages for off-premises consumption as an incidental part of its business, subject to the execution and recordation of this Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing Recitals and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto do hereby amend the Declaration as follows:

1. The parties hereby amend Section 1.2 of the Declaration to add a new Section (ee) to the end thereof as follows:

"(ee) **"Rite Aid"**: Rite Aid Corporation, a Delaware corporation, together with any corporation succeeding thereto by consolidation, merger, or acquisition of its assets substantially as an entirety, and any wholly owned subsidiary thereof, whose current mailing address is P. O. Box 3165, Harrisburg, PA 17105."

2. The parties hereby amend Section 4.5 of the Declaration by adding the following to the end thereof:

"Additionally, notwithstanding the foregoing, the seasonal sale of merchandise by the Owners or occupants of Parcel 1 (so long as Rite Aid is the tenant and occupant of the building on Parcel 1) shall be permitted from that portion of the parking lot located on Parcels 1 and 2, as described in subpart (iii) below and in no other location, subject to the following: (i) the Common Area shall be promptly restored to its condition immediately prior to such sale at the sole cost and expense of the Owner or occupant of the Parcel conducting such sale; (ii) sales shall be limited to not more than four (4) occasions per calendar year for a cumulative total of not more than sixty (60) days; (iii) the sales area shall be limited to that area designated **"Common Area Sales Area for Parcel 1"** on the Site Plan extract attached hereto as Exhibit A-1; (iv) such sales shall not unreasonably interfere with the free movement of traffic within the Shopping Center or with access to or from the Shopping Center or any part thereof; and (v)

Rite Aid shall and does hereby agree to indemnify, defend and hold harmless Albertson's from and against any and all liabilities, claims, damages, expenses, (including without limitation, reasonable attorneys' fees and reasonable attorneys' fees on any appeal), judgments, proceedings and causes of action of any kind whatsoever for injury to or death of any person or damage to or destruction of any property resulting from Rite Aid's exercise of its right to conduct seasonal sales of merchandise from or upon the area of the Common Area designated Common Area Sales Area for Parcel 1 pursuant to the foregoing provision."

3. The parties hereby amend Section 5.1 of the Declaration by deletion of the penultimate sentence thereof and by adding the following at the end thereof:

"Rite Aid may use Parcel 1 for the sale or offer for sale of any pharmaceutical products requiring the services of a registered pharmacist and for the sale of other customary Rite Aid sales and service items including the sale of alcoholic beverages for off-premises consumption as an incidental part of the operations of a drug store on such Parcel."

4. **Counterparts.**

4.1 The Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument, and shall be effective upon execution of one or more of such counterparts by each of the parties hereto.

5. **Recordation.**

5.1 This Amendment shall be recorded in the Official Records.

EXECUTED as of the date first set forth above.

CANTLON:
CPI/West Jordan, LLC,
an Idaho limited liability company

By: _____

Roger D. Cantlon
Manager

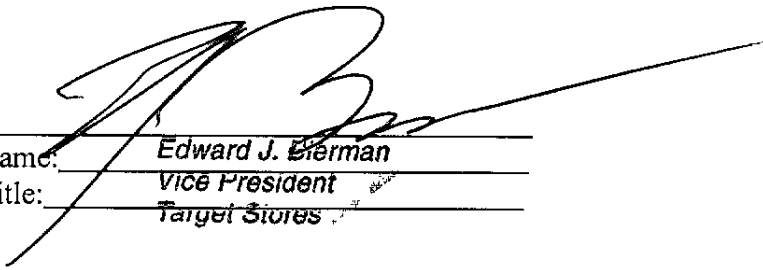
ALBERTSON'S:
Albertson's, Inc.,
a Delaware corporation

By: _____

William H. Arnold
Vice President, Real Estate Law

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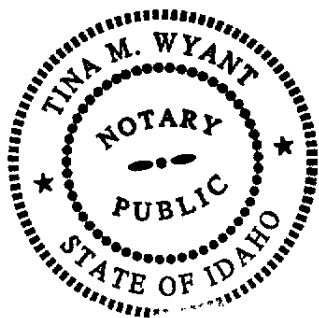
TARGET:
Dayton Hudson Corporation,
a Minnesota corporation

By: 
Name: Edward J. Bierman
Title: Vice President
Target Stores

STATE OF IDAHO)
) ss.
County of Ada)

On this 2nd day of October, 1998, before me, a Notary Public in and for said State, personally appeared William H. Arnold, known or identified to me to be the Vice President, Real Estate Law of **Albertson's Inc.**, the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



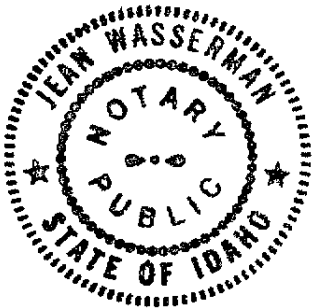
Tina M. Wyant
Notary Public for Idaho
Residing at Boise, Id
My commission expires 04/02/03

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STATE OF IDAHO)
) ss.
County of Ada)

On this 20 day of October, 1998, before me, a Notary Public in and for said State, personally appeared Roger D. Cantlon, known or identified to me to be the Manager of **CPI/West Jordan, LLC**, the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

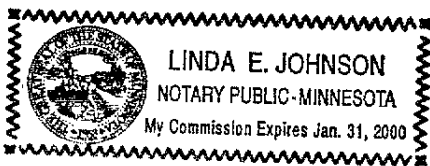


Jean Wasserman
Notary Public for Idaho
Residing at Boise, Idaho
My commission expires 2/21/2003

STATE OF MINNESOTA)
) ss.
County of Hennepin)

On this 5TH day of OCTOBER, 1998, before me, a Notary Public in and for said State, personally appeared EDWARD J. BIERMAN, known or identified to me to be the VICE PRESIDENT of **Target Stores**, a division of Dayton Hudson Corporation the corporation that executed the within instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Linda E. Johnson
Notary Public for Minnesota
Residing at EDINA, MN
My commission expires 1/31/2000

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EXHIBIT A-1

Site Plan Extract

Showing Location of Common Area Sales Area for Parcel 1

LOTS 1 thru 7 WEST JORDAN TOWN CENTER according to the official plat thereof recorded in the SALT LAKE COUNTY RECORDERS OFFICE.

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DEVELOPER TRACT

PARCEL 1, 2, 3, & 10

FINAL SITE PLAN
APPROVED 5/97

BY WEST JORDAN P&Z AS PHASE 1
OF THE WEST JORDAN TOWN CENTER

D
PAF

Heatherwood Subdivision Ph.

Medina
Road Ave

40

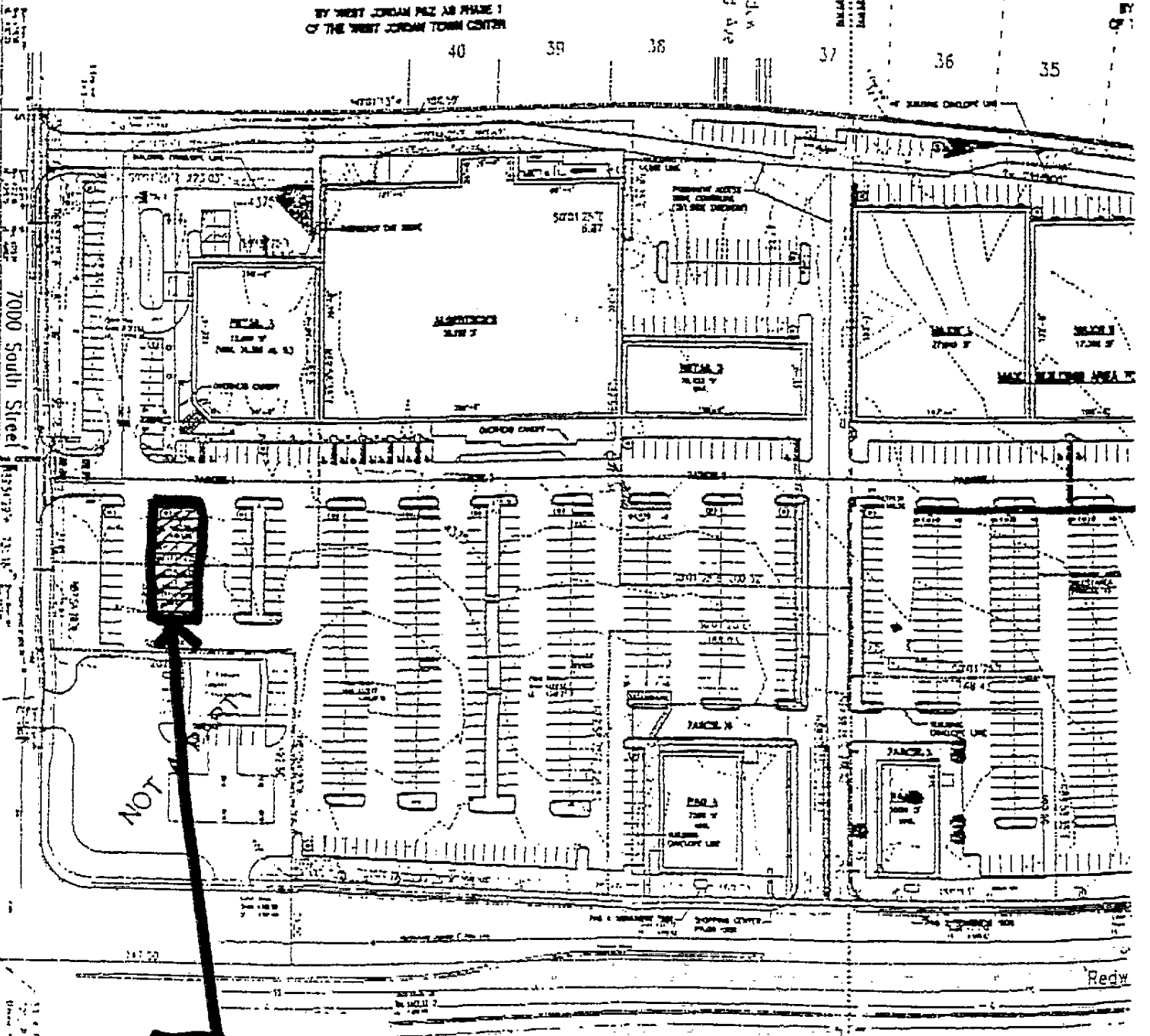
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Common Area
Sales Area
For Parcel 1

EXHIBIT A-1

Redy
PARC
PARC
PARC

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