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RANDALL A. COVINGTON
UTAH COUNTY RECORDER
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RECORDED FOR SECURITY TITLE AND ABSTRACT

RECORDING REQUESTED AND
WHEN RECORDED RETURN TO:
Stations West - Saratoga, LLC
c/o Roy D. Williams
175 East 400 South, Suite 402
Salt Lake City, UT 84111

41505

**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND
RESTRICTIONS AND COMMON AREA MAINTENANCE AGREEMENT**

DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS AND COMMON AREA MAINTENANCE AGREEMENT

THIS DECLARATION OF EASEMENTS AND COMMON AREA MAINTENANCE AGREEMENT ("Declaration") is made this 4th day of October, 2006, by Stations West – Saratoga, LLC, an Ohio limited liability company ("Developer").

1. PRELIMINARY

1.1 Purpose. Developer plans to develop the Shopping Center (as defined in Section 1.2(q) as an integrated retail and office complex for the mutual benefit of all real property in the Shopping Center pursuant to a general plan of improvements and desire that the Shopping Center be subject to the easements and the covenants, conditions and restrictions hereinafter set forth.

1.2 Definitions. The following terms shall have the definitions ascribed to them below.

(a) "Building Area": All of those areas on each Parcel shown as Building Area on the Site Plan attached hereto as Exhibit "B" and made a part hereof.

(b) "Common Area": All of those areas on each Parcel which are not Building Area. Canopies which extend over the Common Area, together with any columns or posts supporting the same, shall be deemed to be a part of the building to which they are attached and not a part of the Common Area. The current Common Area is depicted on Exhibit "B" attached hereto and incorporated herein by reference.

(c) "Common Area Improvements": The traffic directional arrow signs and other signs permitted under Article 4, paving, drainage bumper guards and curbs, landscape planters and other landscaped areas in the Common Area, lighting, perimeter walls and fences, common utility pads and equipment serving the Common Area, sidewalks walkways and other related improvements in the Common Area.

(d) "Consenting Owner": Developer, or any successor Owner of Parcel 1 as may be designated by Developer as a successor Consenting Owner.

(e) "Developer": shall mean Stations West – Saratoga, LLC, an Ohio limited liability company together with any person succeeding thereto by consolidation, merger or

acquisition of its assets substantially as an entirety, and any wholly owned subsidiary thereof. Developer's current address is 175 East 400 South, Suite 402, Salt Lake City, UT 84111.

(f) "Environmental Laws": The Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Toxic Substances Control Act, the Clean Water Act, the Resource Conservation and Recovery Act and any other similar federal, state or local law, rule or regulation respecting Hazardous Materials, together with all rules and regulations promulgated thereunder and all present or future amendments thereto.

(g) "Hazardous Materials": Underground storage tanks, petroleum and petroleum products, asbestos, PCB's, urea-formaldehyde and any hazardous or toxic substances, pollutants, contaminants, wastes or materials as defined under any Environmental Laws.

(h) "Lienholder": Any mortgagee under a mortgage, or a trustee or beneficiary under a deed of trust, constituting a lien on any Parcel. A Lienholder shall not be deemed to be an Owner for purposes of this Declaration until such time as said Lienholder acquires fee simple title to its Parcel(s) by foreclosure, trustee's sale or otherwise.

(i) "Owner": The record holder of fee simple title to a Parcel (including its heirs, personal representatives, successors and assigns).

(j) "Parcel": Parcels 1, 2, 3, 4, 5, 6, 7, and 8 as are shown on the Site Plan attached hereto as Exhibit "B."

(k) "Person": Individuals, limited liability companies, limited liability partnerships, partnerships, firms, associations, corporations, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

(l) "Prime Lessee": An Owner of a Parcel who sells said Parcel (whether or not such sale includes buildings and/or Common Area improvements located thereon) to an unaffiliated third party and thereafter enters into a lease (including a ground lease or building lease) for said Parcel with such third party or its lessee or sublessee. Prime Lessee includes the successors and assigns of the Prime Lessee but does not include the sublessees, licensees or concessionaires of the Prime Lessee.

(m) "Restrictions": The easements, covenants, restrictions, liens and encumbrances contained in this Declaration.

(n) "Service Facilities": Loading docks, trash compactors and enclosures, bottle storage areas, exterior coolers, electrical and refrigeration facilities and other similar service facilities.

(o) "Shopping Center": That certain parcel of real property legally described on Exhibit "A" attached hereto.

2. BUILDING AND COMMON AREA DEVELOPMENT

2.1 **Building Location.** All buildings and other structures (except those permitted in the Common Area pursuant to Section 2.2 below) shall be placed or constructed upon the Parcels only in the Building Areas; provided, however, that canopies, eaves and roof overhangs may project from the Building Area into the Common Area if permitted by governmental authorities with jurisdiction over the Shopping Center. All of the foregoing shall be constructed and maintained in accordance with all local, state and federal laws, rules and regulations applicable thereto.

(a) All Building Areas on which buildings are not under construction on the date the first Owner opens its building for business shall be kept weed-free and clean at the Owner's sole expense until such time as buildings are constructed thereon.

(b) Developer hereby reserves the right to further subdivide Parcel 1, so long as subdivision so long as such subdivision, and potential reconfiguration of the Common Area currently located in Parcel 1 is in compliance with all governmental regulations for the Shopping Center and does not materially, adversely impact the rights of ingress or egress of any Owner to and from its Parcel.

2.2 Common Area.

(a) Use. The Common Area is hereby reserved for the sole and exclusive use of all Owners of the Shopping Center, their tenants, subtenants and licensees, and the contractors, employees, agents, licensees and invitees of such Owners, tenants, subtenants and licensees. Portions of the Common Area developed as drive lanes may be used for vehicular driving and pedestrian traffic and for no other purpose unless otherwise specifically provided in this Declaration.

(b) Initial Development. The Common Area shall initially be developed in accordance with Exhibit "B."

(c) Changes and Additions. After the initial development of the Common Area, no buildings or structures not approved in writing by the Consenting Owner shall be placed in the Common Area.

(d) Undeveloped Building Area. All portions of a Building Area which are not from time to time used for buildings or other commercial structures shall be developed by the Owner thereof, at said Owner's sole cost and expense, in accordance with a site plan approved by the Consenting Owner and any governmental authority having jurisdiction over the Shopping Center and maintained by the Owner thereof.

(e) Reconfiguration of Common Area. Developer hereby reserves the right, without the consent or approval of any Owner, to reconfigure any portions of the Common Area located upon any Parcel owned by Developer, so long as such reconfiguration is in compliance with all governmental regulations for the Shopping Center and does not materially, adversely impact the rights of ingress or egress of any Owner to and from its Parcel.

2.3 Type and Design of Buildings.

(a) Architectural Compatibility. Each building and other structure in the Shopping Center, now and in the future, shall be of first quality construction and architecturally designed so that its exterior elevations (including, without limitation, signs and color) will be architecturally and aesthetically compatible and harmonious with all other buildings in the Shopping Center and shall be in full compliance with the Design Standards adopted by the City of Saratoga Springs and incorporated into that certain Amended and Restated Master Development Plan Agreement recorded September 12, 2006 as Entry #119581:2006 in the Official Records of Utah County, Utah and attached hereto as **Exhibit "C"**. Any such plans must be approved by any governmental authority having jurisdiction over the Shopping Center and by the Consenting Owner, which consent shall not be unreasonably withheld or delayed.

(b) Attachments. No Owner shall have the right to make any attachment whatsoever to another Owner's building (such other Owner being referred to in this subparagraph only as "Other Owner") without such Other Owner's prior written approval, which may be withheld in such Other Owner's sole and absolute discretion. If the Other Owner approves the requested attachment, the Owner making the attachment shall, prior to making such attachment, obtain the Other Owner's prior written approval (which may be withheld in its sole and absolute discretion) of the drawings and specifications detailing the attachment. Any such attachment shall be at the sole cost and expense of the Owner making the attachment and shall be in strict conformance with the approved drawings and specifications detailing the same.

(c) Structural Integrity. No building or other structure in the Shopping Center shall be built in such a manner as to adversely affect the structural integrity of any other building

or structure in the Shopping Center. Consenting Owner's approval of a building or structure shall not constitute any type of warranty, express or implied, as to the structural integrity of a building or structure.

(d) Exterior Maintenance. Each Owner shall maintain the exterior of any building located on such Owner's Parcel(s) in a quality and condition comparable to that of first class shopping centers of comparable size and nature located in the same geographic area as the Shopping Center. All Service Facilities shall be attractively screened from view from the customer parking areas.

2.4 Construction Requirements.

(a) Standards. All work performed in the construction, maintenance, repair, replacement, alteration or expansion of any building, sign or Common Area improvements located in the Shopping Center shall be effected as expeditiously as possible and in such a manner as not to unreasonably interfere, obstruct or delay (i) access to or from the Shopping Center (or any part thereof), or (ii) the receiving of merchandise by any business in the Shopping Center including, without limitation, access to Service Facilities. Staging for the construction, replacement, alteration or expansion of any building, sign or Common Area improvements located in the Shopping Center including, without limitation, the location of any temporary buildings or construction sheds, the storage of building materials, and the parking of construction vehicles and equipment shall be limited to that portion of the Shopping Center approved in writing by the Consenting Owner. Unless otherwise specifically stated herein, the person contracting for the performance of such work ("Contracting Party") shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all buildings, signs and Common Area improvements damaged or destroyed in the performance of such work.

(b) Liens. The Contracting Party shall not permit any liens to stand against any Parcel for any work done or materials furnished in connection with the performance of the work described in subparagraph (a) above; provided, however, that the Contracting Party may contest the validity of any such lien, but upon a final determination of the validity thereof, the Contracting Party shall cause the lien to be satisfied and released of record. The Contracting Party shall, within thirty (30) days after receipt of written notice from the Owner or Prime Lessee of any Parcel encumbered by any such lien or claim of lien, cause any such outstanding lien or claim of lien to be released of record or transferred to bond in accordance with applicable law,

failing which the Owner or Prime Lessee of said Parcel shall have the right, at the Contracting Party's expense, to transfer said lien to bond. The Contracting Party shall indemnify, defend and hold harmless the Owners and occupants of the Shopping Center from any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorney's fees and reasonable attorney's fees on any appeal), liens, claims of lien, judgments, proceedings and causes of action of any kind whatsoever, arising out of or in any way connected with the performance of such work, unless caused by the negligent or willful act or omission of the indemnified person, its tenants, subtenants, agents, contractors or employees.

(c) Encroachments. The Owners acknowledge and agree that incidental encroachments upon the Common Area may occur as a result of the use of ladders, scaffolds, store front barricades and similar facilities in connection with the construction, maintenance, repair, replacement, alteration or expansion of buildings, signs and Common Area improvements located in the Shopping Center, all of which are permitted hereunder so long as all activities requiring the use of such facilities are expeditiously pursued to completion and are performed in such a manner as to minimize any interference with use of the improved Common Area or with the normal operation of any business in the Shopping Center and do not present a health or safety risk.

2.5 Approval Procedures. Before any action requiring the Consenting Owner's approval is commenced, sufficient information shall be sent to the Consenting Owner to enable the Consenting Owner to make a reasonable decision as to the proposal. The Consenting Owner shall not unreasonably withhold its approval to the proposal unless otherwise specified in this Declaration. The Consenting Owner must approve or disapprove the proposal within thirty (30) days after receipt of the proposal, and, if such Consenting Owner disapproves the proposal, it shall provide a written explanation in reasonable detail of its reasons for disapproval. If the proposal is disapproved as provided herein, then an alternate proposal may be submitted, which alternate proposal shall be handled in the same manner as the initial proposal.

3. EASEMENTS

3.1 Ingress, Egress and Parking. Each Owner, as grantor, hereby grants to the other Owners, their respective tenants, contractors, employees, agents, licensees and invitees, and the subtenants, contractors, employees, agents, licensees and invitees of such tenants, for the benefit of each Parcel belonging to the other Owners, as grantees, a nonexclusive easement for ingress and egress by vehicular and pedestrian traffic upon, over and across all portions of such Owner's Parcel as have been improved for vehicular traffic, including any Common Area located on the grantor's Parcel(s), except those specifically designated for landscape improvements.

3.2 Utility Lines and Facilities.

(a) Easements. Each Owner, as grantor, hereby grants to the other Owners, for the benefit of each Parcel belonging to the other Owners, as grantees, a nonexclusive easement under, through and across the Common Area of the grantor's Parcel(s) for the installation, operation, maintenance, repair and replacement of water drainage systems or structures, water mains, sewers, water sprinkler system lines, telephones, communication lines, pneumatic tube systems, electrical conduits or systems, gas mains and other public or private utilities or underground systems facilitating communication and/or coordination of business operations between two or more Parcels. Each Owner agrees to grant such additional easements as are reasonably required by any public or private utility for the purpose of providing the utility lines and facilities described herein provided such easements are not otherwise inconsistent with the provisions of this Declaration.

(b) Construction Requirements. All such systems, structures, mains, sewers, conduits, lines and other utilities shall be installed and maintained below the ground level or surface of such easements except for ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service (including, without limitation, temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any buildings, signs or Common Area improvements located in the Shopping Center). The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the improved Common Area or with the normal operation of any business in the Shopping Center. The grantee shall bear all costs related to the installation, operation, maintenance, repair and

replacement of such easement facilities, shall repair to the original specifications any damage to the Common Area resulting from such use and shall provide as-built plans for all such facilities to the Owners of all Parcels upon which such utility lines and facilities are located within thirty (30) days after the date of completion of construction of same.

(c) Relocation. At any time and from time to time the Owner of a Parcel shall have the right to relocate on its Parcel any utility line or facility installed pursuant to the foregoing grant of easement which is then located on the land of such Owner, provided that any such relocation (i) shall be performed only after thirty (30) days' notice of the Owner's intention to undertake the relocation shall have been given to the Owner of each Parcel served by the utility line or facility, (ii) shall not unreasonably interfere with or diminish utility service to the Parcel(s) served by the utility line or facility, (iii) shall not reduce or unreasonably impair the usefulness or function of the utility line or facility, (iv) shall be performed without cost or expense to the Owner or occupant of any other Parcel, and (v) shall provide for the original and relocated area to be restored to their original specifications. The Owner performing such relocation shall provide as-built plans for all such relocated utility lines and facilities to the Owners of all Parcels served by such utility lines and facilities within thirty (30) days after the date of completion of such relocation.

3.3 Detention Pond Easement. Developer hereby reserves a non-exclusive easement over and across that portion of Parcel 4 as is depicted on **Exhibit "B"** for the benefit of Shopping Center, and all of the Owners thereof, for the purpose of installing and maintaining a detention pond to retain storm water for the Shopping Center.

4. OPERATION OF COMMON AREA

4.1 Parking. There shall be no parking permitted within the Common Area.

4.2 Protection of Common Areas. Each Owner and Prime Lessee shall have the right to take such steps as it deems necessary to prevent those persons not authorized by this Declaration to use the Common Area from using the Common Area for ingress, egress, parking, or any other purpose. Such steps shall include, without limitation, the construction of fences, walls or barricades along the boundary lines of any portion of the Shopping Center except along the common boundary line of any Parcel with any other Parcel; provided, however, that any

impairment of access to or from the Shopping Center, or any part thereof, shall require the Consenting Owner's prior written approval, which may be withheld in such Consenting Owner's sole and absolute discretion.

4.3 Outside Sales. No portion of the Common Area shall be used for the sale or display of merchandise.

4.4 Prohibited Activities. Picketing and distribution of pamphlets, handbills or similar materials within the Shopping Center shall be prohibited.

5. COMMON AREA MAINTENANCE

5.1 Responsibility.

(a) **Appointment.** Developer shall be responsible for the maintenance of the Common Area from and after the date an Owner first opens its building for business (sometimes referred to herein as the "**Commencement Date**"). Developer shall have the right to assign such maintenance obligations to another Owner upon written notice to all other Owners.

5.2 Maintenance and Insurance Obligations.

(a) **Maintenance.** Commencing on the Commencement Date the Developer shall, except as hereinafter provided, maintain the Common Area at all times in good and clean condition and repair, said maintenance to include, without limitation, the following:

5.2.a.1. Maintaining, repairing, resurfacing, and re-striping, when necessary, all paved 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;

5.2.a.2. Removing all snow, papers, debris, filth and refuse within the Common Area and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;

5.2.a.3. Maintaining, repairing and replacing, when necessary, all improvements within the Common Area.

5.2.a.4. Maintaining and watering all landscaped areas within the Common Area including maintaining, repairing and replacing, when necessary, automatic

landscape sprinkler systems and water lines; and replacing shrubs and other landscaping as is necessary;

5.2.a.5. Maintaining, repairing and replacing, when necessary, the Center Pylon Sign pylon structure shown on **Exhibit "B"** (except for the sign fascia and cans which shall be supplied and maintained by the businesses designated thereon). Notwithstanding the other provisions of this Declaration, the cost of maintaining, repairing and replacing the Center Pylon Sign pylon structure shall be paid by the Owners of all Parcels entitled to display designations thereon in the proportion that the total square footage of each Owner's designation or designations bears to the total square footage of all designations entitled to be displayed thereon; and;

5.2.a.6. Performing itself or contracting with a third party or parties to perform any of the services described herein; provided, however, that the Developer shall give prior written notice to the other Owners of its appointment of a third party to perform any of the services described herein and shall remain responsible and liable for the performance of all of said services in accordance with the terms of this Declaration and for the performance by any such third party or parties of such services.

5.3 Insurance for Common Area. In addition to the foregoing, the Developer shall provide and maintain commercial general liability insurance, which shall include contractual liability coverage, with broad form coverage insuring the Developer against claims for personal injury, bodily injury or death, and property damage arising out of the negligent act or omission of the Developer in performing (or failing to perform) its services hereunder. Such insurance shall be written with an insurer licensed or authorized to do business in the state in which the Shopping Center is located and all Owners or any owner of a leasehold estate or other interest therein as their respective interests may appear (provided that the Developer is notified in writing of such interest) shall be named on the policy as additional insureds. The limits of liability of all such insurance shall be a combined single limit (covering personal injury, bodily injury and property damage) of \$5,000,000 per occurrence. The Developer shall furnish all additional insureds with certificates evidencing such insurance and the Workers' Compensation insurance described below. The insurance policies shall provide that the insurance represented by such certificates shall not be canceled without the giving of thirty (30) days' prior written notice to the holders of such insurance and the additional insureds. The Developer shall also carry Workers' Compensation insurance as required under all applicable Workers' Compensation laws in an

amount not less than statutory limits as well as commercial automobile liability insurance. The insurance carried by the Developer hereunder shall be primary insurance and not contributory with any other insurance which is maintained by the Owners.

5.4 Insurance Items. If the Developer fails to acquire the necessary insurance for the Common Area and the insurance coverage has lapsed or will soon lapse, the Consenting Owner shall have the option (but not the obligation) of immediately acquiring said insurance, in which event the Developer shall pay to such Consenting Owner the insurance costs within ten (10) days after its receipt of a statement therefor from the Consenting Owner. Notwithstanding the foregoing, the Consenting Owner shall, prior to acquiring the insurance, be required to give the Developer reasonable notice (e.g., written or telephonic) and reasonable opportunity to obtain the insurance.

5.5 Developer's Indemnification Obligations. The Developer shall indemnify, defend and hold harmless the Owners and occupants of the Shopping Center from any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorney's fees and reasonable attorney's 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 any property resulting from the willful misconduct or negligent act or omission of the Developer in performing (or failing to perform) its services hereunder. Failure by the Developer to provide and maintain all insurance which the Developer is obligated to maintain pursuant to this Declaration shall not relieve the Developer of its obligations under this Section.

5.6 Lighting.

(a) The artificial lighting for the Common Area shall remain on while a majority of the businesses in the Shopping Center are open for business. If any Owners or occupants need artificial lighting for a time other than the foregoing ("**After Hours Lighting**"), then such artificial lights to service such Owners or occupants shall be separately metered or otherwise measured or reasonably estimated such that none of the expenses for the After Hours Lighting shall be included within Common Area Expenses as defined below (said expenses to be paid solely by the Owner or occupant[s] needing the After Hours Lighting).

5.7 Taxes.

(a) Each Owner shall pay directly to the tax collector when due the real property taxes and other special taxes and assessments assessed against the Owner's Parcel, including the portion of the Common Area on such Owner's Parcel; subject, however, to the right of any such Owner to contest the amount or validity of all or any part of said taxes and assessments.

5.8 Reimbursement of Developer.

(a) **Contracting for Maintenance.** The Developer shall contract for and pay for all of the items set forth Section 5.2 herein (the expenses therefore along with insurance expenses arising under Section 5.3 sometimes collectively being referred to as "**Common Area Expenses**"). All contracts entered into by the Developer for the services described herein (sometimes referred to as "**Maintenance Contracts**") shall be made expressly assignable to a Successor Developer or the Consenting Owner if no Successor Developer exists. A copy of all Maintenance Contracts shall be distributed to any Owner requesting the same.

(b) **Reimbursement/Limitations.** The Owners of all of the Parcels shall reimburse the Developer for all out-of-pocket expenses incurred by the Developer in performing the services described in Section 5.2 plus (subject to the provisions herein) and a service charge of fifteen percent (15%) of Common Area Expenses (excluding insurance premiums and utilities) to cover management and administration costs ("**Service Charge**").

(c) **Nonprofit Basis.** The Developer shall perform its duties under this Declaration on a nonprofit basis with the objective of keeping such expenses at a reasonable minimum.

5.9 Billing for Expenses.

(a) **Proportionate Share.** The Owner of each Parcel (or its respective tenants or agents, as it may direct) shall be billed quarterly in arrears for its pro rata share of all Common Area Expenses and the Service Charge with the first billing date being the last day of the first full calendar quarter following the Commencement Date. If the insurance premium for the Developer's obligations under this Declaration cannot be segregated from the Developer's obligations at other sites, then an estimate premium, agreed upon by the Consenting Owner, will be permitted. All billing statements shall include complete copies of all invoices, statements and documents supporting the expenses being billed (hereafter collectively referred to as "**Backup**

Invoices". The Developer shall, within fifteen (15) days after receipt of an Owner's written request, provide to such Owner such Additional Documentation as the Owner reasonably requests to substantiate the expenses (sometimes referred to herein as "**Additional Documentation**"), and such Owner's obligation to pay any invoice submitted by the Developer shall be contingent upon its receipt of said Additional Documentation. The bills shall be due and payable within thirty (30) days after receipt of the bills, Backup Invoices, and Additional Documentation.

The proportionate share of the total insurance premium and other Common Area Expenses to be borne by each Owner shall be the percentage obtained by dividing the square footage of a Building Area permitted on each Parcel by the total Building Area permitted in the entire Shopping Center, as set forth in the table below:

	Building Area	Percent
Parcel 1	613,228	59.47%
Parcel 2	66,432	6.44%
Parcel 3	38,056	3.69%
Parcel 4	32,662	3.17%
Parcel 5	68,997	6.69%
Parcel 6	103,240	10.01%
Parcel 7	52,226	5.07%
<u>Parcel 8</u>	<u>56,256</u>	<u>5.46%</u>
TOTAL:	1,031,097	100%

In the event the Building Area on any Parcel is modified above percentages shall be recalculated accordingly. In no event shall the percentage attributable to any Parcel be reduced by reason of the Owner's failure to utilize the entire Building Area permitted on such Parcel.

5.10 Inspection of Records. Any Owner may, upon not less than ten (10) days' prior written notice to the Developer, inspect the Developer's records for all Common Area maintenance and insurance expenses incurred during the preceding calendar year at the Developer's general offices or at such other location reasonably designated by the Developer at any time during reasonable business hours within six (6) months after the end of said calendar year. If said inspection reveals an overpayment of Common Area maintenance and insurance

expenses (including the Service Charge), the Developer shall reimburse the Owner of each Parcel (or its respective tenants or agents, as it may direct) its proportionate share of any such overpayment within thirty (30) days after receipt of notice of determination, and of the amount, of such overpayment. If said inspection reveals an underpayment of Common Area maintenance and insurance expenses (including the Service Charge but excluding all expenses for which a statement was not timely submitted pursuant to Section 7.1 above), the Owner of each Parcel shall reimburse the Developer its proportionate share of any such underpayment within thirty (30) days after receipt of proper billing in accordance with Section 7.1. The Developer's expenses for any calendar year shall be deemed correct if an Owner does not give the Developer written notice of any such overpayment or underpayment within the six (6) month period provided.

5.11 Default.

(a) **Failure to Pay Common Area Expenses.** In the event any Owner fails or refuses to pay when due its share of any bill for the Common Area Expenses (including the Service Charge), which failure continues for a period of ten (10) days after receipt of written notice thereof, such failure shall constitute a default and legal action may thereafter be instituted against the defaulting Owner by the Developer or other person paying the expense (including the Service Charge) of the defaulting Owner ("**Curing Party**") for reimbursement plus interest. Interest shall accrue from the date said bill was due and payable to and including the date said bill is paid at a rate equal to the lesser of (i) the highest rate allowed by law, and (ii) Eighteen Percent (18%) per annum (the lesser rate being hereinafter referred to as the "**Default Rate**"). Furthermore, the Curing Party shall have a lien on the defaulting Owner's Parcel for the amount of said expenses (including the Service Charge) plus accrued interest as set forth above; provided, however, that if there be a bona fide dispute as to the existence of such default or of the amount due and all undisputed amounts are paid, there shall be no right to place a lien on such Owner's Parcel until ten (10) days after such dispute is settled by final court decree or mutual agreement and payment thereof to the Curing Party has not been made.

(b) **Failure to Pay Taxes.** In the event an Owner fails to pay when due all taxes and assessments required in accordance with this Article 5, which failure continues for a period of ten (10) days after receipt of written notice thereof, such failure shall constitute a default and the Developer or any other Owner or Prime Lessee ("**Curing Owner**") may thereafter pay such taxes if such taxes are delinquent and the owing Owner has not commenced

and is not duly prosecuting any contest of such taxes. The Curing Owner shall then bill the defaulting Owner for the expenses incurred. The defaulting Owner shall have fifteen (15) days within which to pay the bill. If the defaulting Owner does not so pay, the Curing Owner shall have a lien on the Parcel of the defaulting Owner for the amount of the bill, which amount shall bear interest at the Default Rate from the date of expiration of said fifteen (15) day period until paid; provided, however, that if there be a bona fide dispute as to the existence of such default or of the amount due and all undisputed amounts are paid, there shall be no right to place a lien on such Owner's Parcel until ten (10) days after such dispute is settled by final court decree or mutual agreement and payment thereof to the Curing Party has not been made.

(c) **Failure of Developer to Perform.** In the event the Developer fails to perform any of the provisions of this Declaration, which failure continues for a period of thirty (30) days (ten [10] days in the event of failure to pay money) after receipt of written notice from any Owner or Prime Lessee specifying the particulars of such failure, such failure shall constitute a default and any Owner or Prime Lessee may thereafter institute legal action against the Developer for specific performance, declaratory or injunctive relief, monetary damages or any other remedy provided by law and/or may perform the obligations of the Developer specified in said notice of default and offset the cost thereof from amounts due the Developer; provided, however, that the Developer shall not be deemed to be in default if such failure to perform (excluding the payment of money) cannot be rectified within said thirty (30) day period and the Developer is diligently proceeding to rectify the particulars of such failure.

5.12 Establishing Lien. The lien provided for in this Article 5 above shall only be effective when filed for record by the Curing Owner or Curing Party as a claim of lien against the defaulting Owner in the office of the recorder of the county in which the Shopping Center is located, signed and verified, which shall contain at least:

- (a) An itemized statement of all amounts due and payable pursuant hereto;
- (b) A description sufficient for identification of that portion of the real property of the defaulting Owner which is the subject of the lien;
- (c) The name of the defaulting Owner; and
- (d) The name and address of the Curing Owner or Curing Party.

5.13 Priority. The lien, when so established against the real property described in the lien, shall be prior and superior to any right, title, interest, lien or claim which may be or has

been acquired or attached to such real property after the time of filing the lien. The lien shall be for the use and benefit of the person curing the default of the defaulting Owner and may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction.

6. USE RESTRICTIONS

6.1 General Restrictions.

(a) Retail Use Restrictions. No part of any of the Parcels shall be used for any purpose other than for retail sales, retail services, restaurants or office uses. No part of the Shopping Center shall be used for the the conduct of any illegal, offensive, noisy or dangerous trade, business, activity or occupation, (ii) any activity which physically and materially interferes with the business of any other Owner or Owner's tenants on another Parcel, or (iii) any other unreasonable use not compatible with the operation of a retail, office and commercial shopping center, well maintained in accordance with the standards of this Declaration. Without limiting the foregoing, no part of the Shopping Center shall be used as a bar, tavern, cocktail lounge, adult book or adult video store, hotel, motel, warehouse, animal kennel, mobile home park or trailer court; for the renting, leasing or selling of or displaying for the purpose of renting, leasing or selling of any boat, motor vehicle or trailer; or for industrial purposes; or for any bankruptcy sales or going out of business sales.

6.2 **Mall Restrictions.** There shall be no open or enclosed malls in the Shopping Center unless the Consenting Owner has first given its written approval, which shall not be unreasonably withheld.

6.3 **Hazardous Materials.** No Owner or occupant shall use or permit the use, handling, generation, storage, release, disposal or transportation of Hazardous Materials on, about or under its Parcel except in the ordinary course of its business and in compliance with all Environmental Laws.

7. CASUALTY AND CONDEMNATION

7.1 **Casualty.** If all or any portion of any building in the Shopping Center is damaged or destroyed by fire or other casualty, the Owner of such building shall promptly

restore or cause to be restored the remaining portion of such building, subject to Section 2.3 herein, or, in lieu thereof, shall remove the damaged portion of such building together with all rubble and debris related thereto. All Building Areas on which buildings are not reconstructed following a casualty shall be graded or caused to be graded by the Owner thereof to the level of the adjoining property and in such a manner as not to adversely affect the drainage of the Shopping Center or any portion thereof, shall be covered by a one inch asphalt dust cap and shall be kept weed free and clean at the Owner's sole cost and expense until buildings are reconstructed thereon.

7.2 Condemnation.

(a) Building Restoration. If all or any portion of any building in the Shopping Center is taken or damaged as a result of the exercise of the power of eminent domain or any transfer in lieu thereof ("Condemnation"), the Owner of such building shall have the same obligations with respect to restoration or removal of the building and Building Area as are set forth in Section 6.1.

(b) Allocation of Award. If all or any portion of any Parcel in the Shopping Center is taken or damaged as a result of a Condemnation ("Condemned Parcel"), the Owner of the Condemned Parcel shall be entitled to the entire award or purchase price paid for the Condemned Parcel; provided, however, that nothing contained herein shall affect any other person's right to seek severance damages for its Parcel, provided the award of such severance damages does not reduce or diminish the amount which would otherwise be paid to the Owner of the Condemned Parcel. The Owner of the Condemned Parcel shall restore or cause to be restored the remaining portion of the Condemned Parcel as near as practicable to the condition immediately prior to such Condemnation to the extent, but only to the extent, of any condemnation proceeds allocated by the court or condemning party, as the case may be, to such restoration and actually received by the Owner of the Condemned Parcel. Any restoration of the Condemned Parcel which involves a change in the configuration of the Common Area or the sizes and arrangements thereof from that shown on Exhibit "B" shall require the Consenting Owner's prior written approval. Notwithstanding the above, this Section 6.2 is not intended to and shall not alter the allocation of any award between the Owner of a Condemned Parcel and any tenant of such Condemned Parcel pursuant to the terms of any lease or other agreement between the parties.

8. INDEMNIFICATION

8.1 Indemnification. Each Owner shall indemnify, defend and hold harmless the other Owners and occupants of the Shopping Center from any and all liabilities, claims, damages, expenses (including, without limitation, court costs, reasonable attorney's and paralegal fees and reasonable attorney's 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 any property resulting from the willful misconduct or negligent act or omission of the indemnifying Owner.

9. GENERAL PROVISIONS

9.1 Covenants Run With the Land. Each Restriction on each Parcel shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcels and each part thereof and shall run with the land.

9.2 Successors and Assigns

(a) Persons Bound. This Declaration and the Restrictions created hereby shall inure to the benefit of and be binding upon the Owners, their heirs, successors, assigns and personal representatives, and upon any person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise. Notwithstanding the foregoing, if any Owner sells or transfers all or any portion of its interest in any Parcel, such Owner shall, upon the sale and conveyance of title, be released and discharged from all of its obligations as Owner in connection with the property sold by it arising under this Declaration after the sale and conveyance of title but shall remain liable for all obligations arising under this Declaration prior to the sale and conveyance of title. The new Owner of any such Parcel or any portion thereof (including, without limitation, any Owner (or Lienholder who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Declaration with respect to such Parcel or portion thereof after the date of sale and conveyance of title.

9.3 Duration. Except as provided herein, the term of this Declaration shall be for a period of sixty-five (65) years ("Primary Period") from the date hereof. Notwithstanding the foregoing, upon the expiration of the Primary Period, the term of this Declaration shall automatically renew for successive periods of ten (10) years each (each such period being referred to as an "Extension Period") unless, at least ninety (90) days prior to the date of

expiration of the Primary Period or Extension Period then in effect, the Consenting Owner delivers to the other Owners in the Shopping Center written notice of termination, in which event, the Declaration shall automatically expire at the end of the Primary Period or Extension Period then in effect.

9.4 Injunctive Relief. In the event of any violation or threatened violation by any person of any of the Restrictions, any or all of the Owners and Prime Lessees of the property included within the Shopping Center shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. The right of injunction shall be in addition to all other remedies set forth in this Declaration or provided by law.

9.5 Modification and Termination. This Declaration may not be modified in any respect whatsoever or terminated, in whole or in part, except with the consent of the Owners and Prime Lessees of the Parcels containing ninety percent (90%) of the total square footage of Parcels in the Shopping Center, and then only by written instrument duly executed and acknowledged by all of the required Owners and Prime Lessees and recorded in the office of the recorder of the county in which the Shopping Center is located. No modification or termination of this Declaration shall affect the rights of any Lienholder unless the Lienholder consents in writing to the modification or termination.

Notwithstanding anything in the foregoing to the contrary, Developer reserves the right to execute an amendment to this Declaration, for the purpose of reconfiguring the Common Area in accordance with the rights provided to Developer in accordance with Section 2.2(e) herein.

9.7 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for the general public or for any public purpose whatsoever, it being the intention of the parties that this Declaration shall be strictly limited to and for the purposes herein expressed.

9.8 Breach Shall Not Permit Termination. It is expressly agreed that no breach of this Declaration shall entitle any Owner to terminate this Declaration, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Declaration. Any breach of this Declaration shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this

Declaration shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

9.9 Default. A person shall be deemed to be in default of this Declaration only upon the expiration of thirty (30) days (ten [10] days in the event of failure to pay money) from receipt of written notice from any Owner or Prime Lessee specifying the particulars in which such person has failed to perform the obligations of this Declaration unless such person, prior to the expiration of said thirty (30) days (ten [10] days in the event of failure to pay money), has rectified the particulars specified in said notice of default. However, such person shall not be deemed to be in default if such failure (except a failure to pay money) cannot be rectified within said thirty (30) day period and such person is using good faith and its best efforts to rectify the particulars specified in the notice of default.

9.10 Notices.

(a) **Delivery.** All notices given pursuant to this Declaration shall be in writing and shall be given by [telefacsimile,] personal service, by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, return receipt requested, addressed to the appropriate party at the address [or telefacsimile number] set forth below. If a notice must be given to a person other than one designated below, such notice shall be sent to the person and address shown on the then current real property tax rolls of the county in which the Shopping Center is located. All notices to First Party or Albertson's shall be sent to the appropriate party at the address [or telefacsimile number] set forth below:

Developer: Stations West – Saratoga, LLC
Attn: Roy D. Williams
175 East 400 South, Suite 402
Salt Lake City, UT 84111
Fax No.: 801-521-6970

With a copy to:

James P. Shipman
998 Douglas Street
Salt Lake City, Utah 84111
Telephone: (801) 583-0745
Telecopier: (801) 533-6780

The person and address to which notices are to be given may be changed at any time by any party upon written notice to the other party. All notices given pursuant to this Declaration shall be deemed given upon receipt.

(b) **Receipt.** For the purpose of this Declaration, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to subparagraph (a) above as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to subparagraph (a) above, or (iii) in the case of refusal to accept delivery or inability to deliver the notice or other document, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending party (or in the case of a telefacsimile, the date and time of receipt as shown on the confirmation of the telefacsimile transmission).

9.11 Waiver. The failure of a person to insist upon strict performance of any of the Restrictions contained herein shall not be deemed a waiver of any rights or remedies that said person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the Restrictions contained herein by the same or any other person.

9.12 Attorney's Fees. In the event either party initiates or defends any legal action or proceeding in any way connected with this Declaration, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, court costs, reasonable costs and attorney's and paralegal fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

9.13 Sale & Sale-leaseback Purchaser. Notwithstanding anything to the contrary contained in this Declaration, it is expressly agreed that in the event an Owner sells its Parcel (whether or not such sale includes buildings and/or Common Area improvements located thereon) to an unaffiliated third party and thereafter enters into a lease (including a ground lease or building lease) for such Parcel with such third party or its lessee or sublessee (hereinafter

referred to collectively as the "Prime Lessor"), so long as said Owner is in possession of the property as a Prime Lessee the parties hereto shall look solely to said Prime Lessee (and said Prime Lessee shall be liable therefor) for the performance of any obligations either the Prime Lessee or the Prime Lessor shall have under this Declaration and the Prime Lessor shall be relieved of any obligation for the performance of or liability for the Restrictions set forth herein relating to either the Prime Lessee or its Parcel.

9.14 Severability. If any term or provision of this Declaration or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Declaration or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Declaration shall be valid and shall be enforced to the extent permitted by law.

9.15 Not a Partnership. The provisions of this Declaration are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

9.16 No Third Party Beneficiary Rights. This Declaration is not intended to create, nor shall it be in any way interpreted or construed to create, any third party beneficiary rights in any person not a party hereto.

9.17 Captions and Headings. The captions and headings in this Declaration are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

9.18 Construction. In construing the provisions of this Declaration and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

9.19 Joint and Several Obligations. In the event any Owner is composed of more than one (1) person, the obligations of said party shall be joint and several.

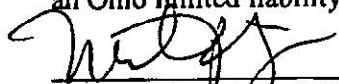
9.20 Recordation. This Declaration shall be recorded in the office of the recorder of the county in which the Shopping Center is located.

9.21 Lender Protection. This Declaration, and the rights, privileges, covenants, agreements and easements hereunder with respect to each Owner and all Parcels, shall be superior and senior to any lien placed upon any Parcel, including the lien of any mortgage or deed of trust. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value, but all of the covenants and restrictions, easements and conditions and other provisions, terms and conditions contained in this Declaration shall be binding upon and effective against any person or entity (including any mortgagee or beneficiary under a deed of trust) who acquires title to any parcel or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise.

EXECUTED as of the date first set forth above.

DEVELOPER:

Stations West – Saratoga, LLC,
an Ohio limited liability company



By: Michael C. Phillips
Its: Authorized Signatory

List of Exhibits and Schedules:

Exhibit "A" – Legal Description of Shopping Center
Exhibit "B" – Site Plan
Exhibit "C" – Design Guidelines

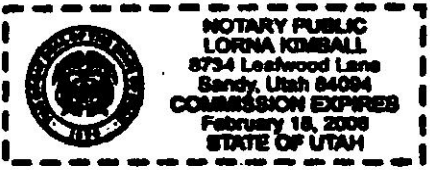
STATE OF UTAH)
) ss.
COUNTY OF SALT LAKE)

On this 4th day of October, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared **Michael C. Phillips**, to me known to be the Authorized Signatory, of **Stations West - Saratoga, LLC**, the limited liability company that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said limited liability company, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:
2-18-08

Lorna Kimball
Notary Public in and for the State of Utah



JOINDER BY TRUSTEE/MORTGAGEE

See Deed of Trust, Security Agreement and Fixture Filing ("Deed of Trust") dated as of May 10, 2005 and recorded as Entry No. 50582 of the Official Records of Utah County, Utah. The undersigned Landmark Title Company as Trustee under the Deed of Trust and LaSalle Bank National Association as Beneficiary under the Deed of Trust, join herein to assent to the terms and provisions of this Declaration of Easements, Covenants, Conditions and Restrictions and Common Area Maintenance Agreement (the "Declaration") and assent to waive and subordinate the lien of said Deed of Trust to such Declaration.

Trustee:

Landmark Title Company
A Utah corporation

By: *Devin D. Deen*
Title: *President*

LaSalle Bank National Association
a national banking association

By: *Steven J. Kinn*
Title: *FIRST VICE PRESIDENT*

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

On this 5TH day of OCTOBER, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared JEFFREY J. JENSEN, to me known to be the PRESIDENT, of Landmark Title Company, the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:
MARCH 9, 2010

Joshua J. Jensen
Notary Public in and for the State of Utah

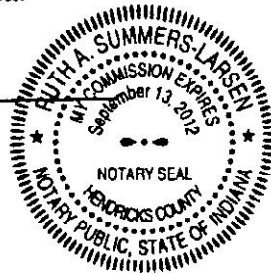


STATE OF INDIANA)
) ss.
COUNTY OF MARION)

On this 19 day of September, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven L. Karn, to me known to be the First Vice President, of LaSalle Bank National Association, the limited liability company that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said national banking association, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:

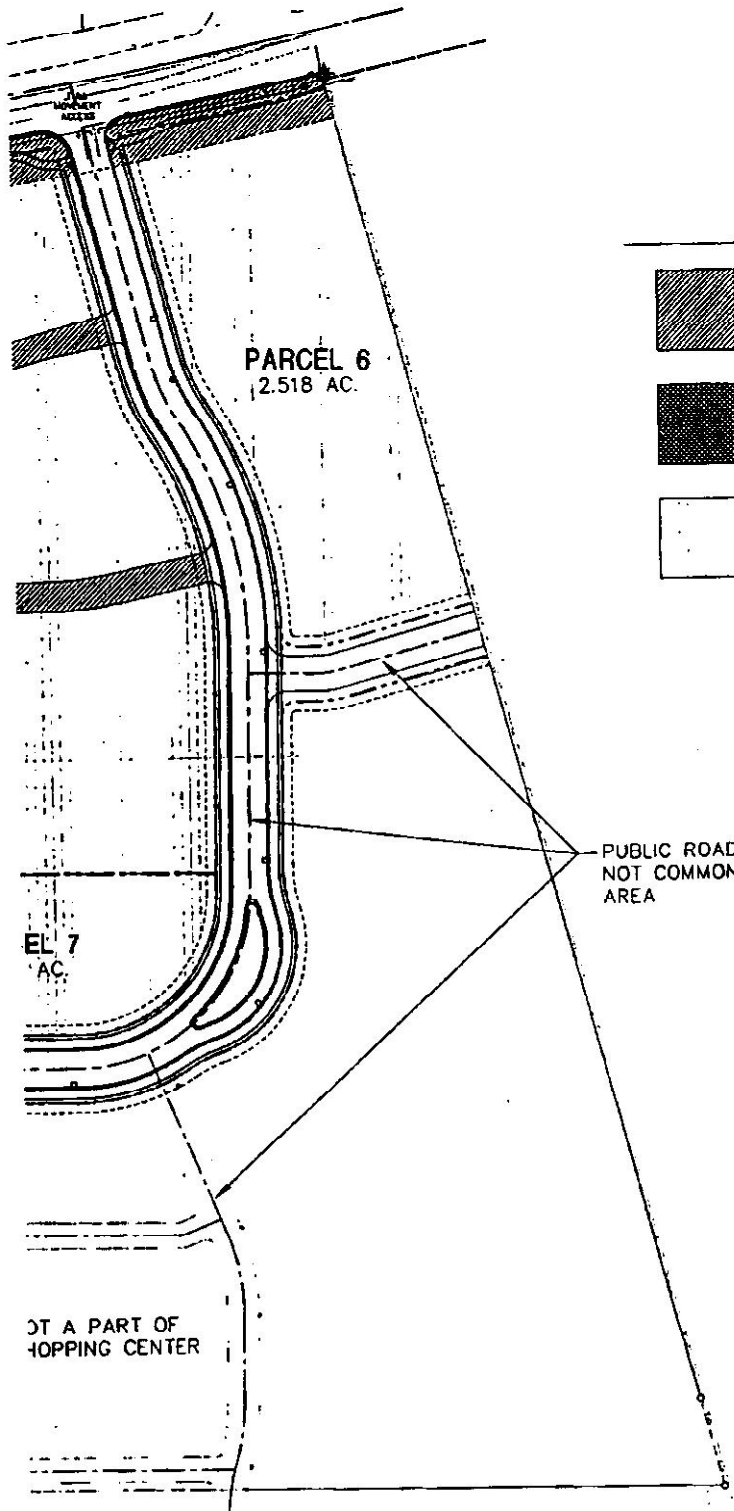


Ruth A. Summers-Larsen
Notary Public in and for the State of ~~Utah~~ Indiana




Exhibit A
Legal Description of the Shopping Center

Lots 1, 2, 3, 4, 5, 8, 9 and 10 of the Saratoga Town Center Subdivision in accordance with the Plat thereof recorded October 3, 2006 at Entry No. 131021:2006, Map Filing No. 11899, in Map Book 66, at Map Page 170, of the Official Records in the Official Records of the Recorder of Utah County, Utah.

FOR REFERENCE PURPOSES ONLY:
TAX PARCEL NOS. 66-170-0001 THROUGH
66-170-0010, INCLUSIVE



LEGEND

-  COMMON AREA
-  DETENTION POND EASEMENT
-  BUILDING AREA



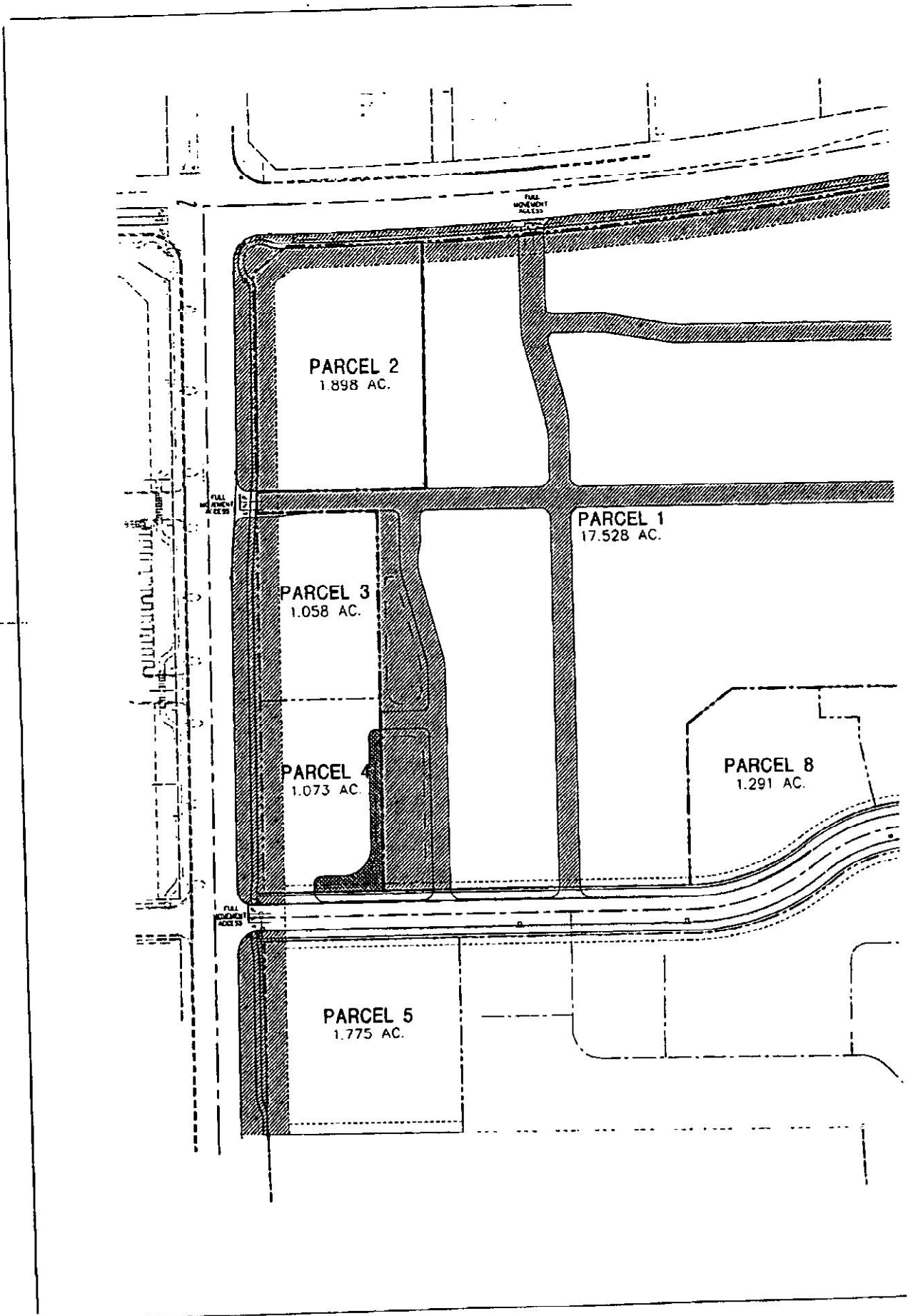
ELC ASSOCIATES
 400 EAST SOUTH TEMPLE
 SUITE 500
 SALT LAKE CITY
 UTAH 84111
 P 801 363 9488
 F 801 363 9487
 ELSA@ELC.COM

ARCHITECTURE
 LANDSCAPE ARCHITECTURE
 LAND SURVEYING

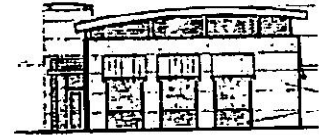
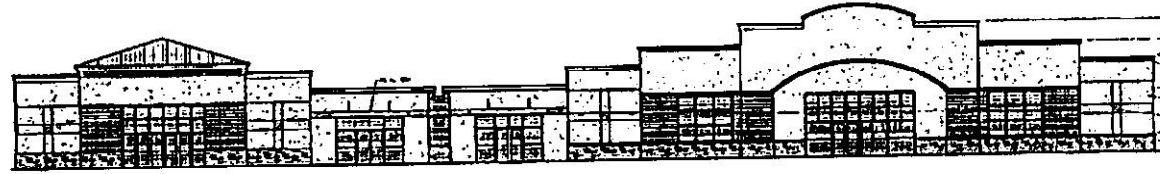
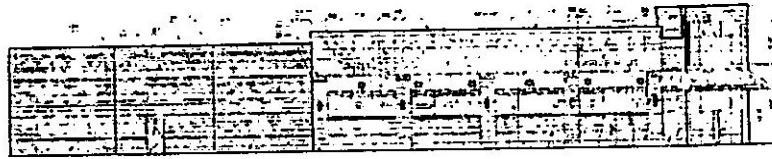
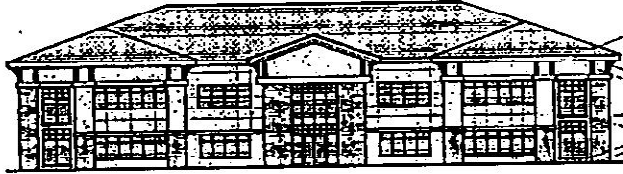
PRELIMINARY SITE PLAN
SARATOGA SPRINGS TOWNE CENTER
 CITY OF SARATOGA SPRINGS
 UTAH COUNTY, UTAH

EXHIBIT B - SITE PLAN

DATE: _____
 PROJECT #: 05-0288
 DRAWN BY: JUS
 DESIGNED BY: JUS
 CHECKED BY: SDS



DELINES for
LOPMENT
WN CENTER



ELEVATIONS ARE FOR ILLUSTRATIVE PURPOSES ONLY
AND DO NOT REPRESENT ELEVATIONS THAT ARE IN COMPLIANCE WITH
THESE MINIMUM DESIGN GUIDELINES

J. Signs - The following standards shall be employed:

1. All on-premise signage shall be in accordance with Title 19.
2. Pole-mounted or pylon signs shall not be allowed within this development. Freestanding signage on site must not require external bracing, angle iron, guy-wires or other visible external supports.
3. Freestanding monument signs shall be regulated per Title 19..
4. Flashing, oscillating, blinking or non-stationary signage is prohibited within this development.
5. Signage with audible devices is prohibited within this development.
6. Banners, pennants, streamers or ribbons shall be prohibited within this development unless they are used specifically for special events and have the prior approval of the City.
7. No sign shall overhang the public street right-of-way or extend above the roofline.
8. Off-premise signage shall not be allowed within the development.
9. No illuminated signage shall be placed in a location where it is directly visible from residentially zoned areas existing at the time of this subdivision.
10. Building mounted signage shall be regulated by Title 19.



REV.	DATE	DESCRIPTION

Phillips Edison & Company
175 East 400 South, Suite 402
Salt Lake City, Utah 84111
801-571-6970

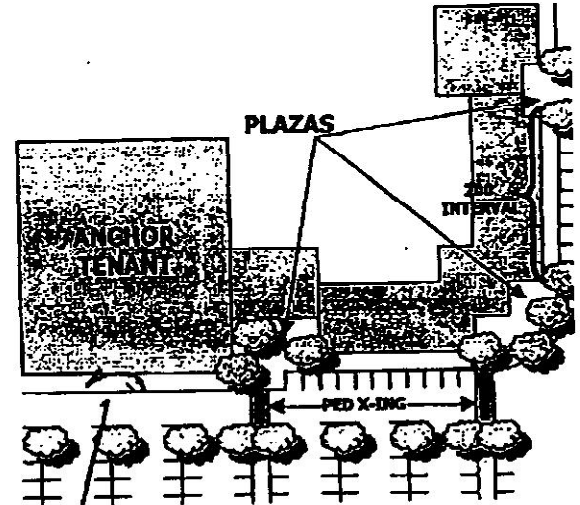
Minimum Design Guidelines
SARATOGA TOWN CENTER
EXHIBIT C

SHEET NO.
1 of 2

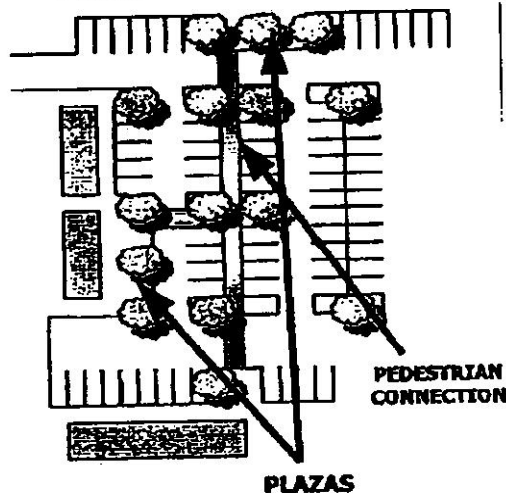
MINIMUM DESIGN
COMMERCIAL
WITHIN SARATOGA

I. SITE PLANNING STANDARDS

- A. Intent - The following minimum standards are intended to achieve the following goals for the proposed development:
1. Encourage an overall pedestrian-friendly environment through particular attention to the special relationship between buildings and the circulation systems;
 2. Create a clearly inviting atmosphere within the development, and;
 3. Produce a visually attractive development that stands apart from otherwise similar yet conventional development.
- B. Refuse Containment - Trash enclosures shall be in compliance with both the City's Comprehensive Zoning Ordinance and Solid Waste Ordinance. Trash enclosures shall be discouraged between any building front and any public street right-of-way.
- C. Ground-mounted items - Transformers, utility pads, and telephone switch boxes shall be screened from the public's view through either an opaque, solid wall or appropriate vegetative screening. Screening shall not restrict or curtail purveyor's access to the equipment being screened.
- D. Transmission Towers - No freestanding cellular or radio transmission towers shall be permitted within the development. Any such towers shall be architecturally integrated and stealthily designed into the site.
- E. Audio Devices - No outdoor loudspeakers or paging systems shall be allowed within the development.
- F. Clear Sight Triangle - No structures, vegetation or signage shall be erected within the clear sight triangle of any access from a public street right-of-way.
- G. Pedestrian Amenities and Plazas - Pedestrian amenities shall be installed within the development as required by Title 19.



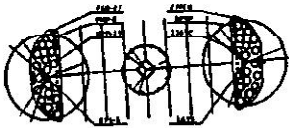
- H. Building Architecture - The following standards shall be employed:
1. Specific architectural style shall not be dictated. Proposed architecture should be in confluence with, or at least complementary to, the surroundings environs and should represent a high-quality aesthetic character throughout the development.
 2. All buildings and structure shall comply with City Zoning and Building Code's.
 3. Architectural consistency shall be maintained throughout all buildings and signage within the overall development.
 4. Maximum building height shall be generally thirty-five (35').
 5. All roof-mounted equipment shall be screened from public view by materials that are compatible to the serviced building.
 6. Pre-engineered buildings, with or without any attached veneers, shall not be allowed within the development.
 7. The following architectural elements shall be prohibited within the development:
 - a. Highly reflected surfaces;
 - b. Exposed or untreated precision block walls;
 - c. Corrugated metal facades;
 8. All building facades of one hundred feet (100') or greater shall incorporate any combination of diverse architectural elements such as staggering of planes, different textures, pilasters, offsets, reveals, etc., to offer visual relief.
 9. All building elevations shall provide a combination of at least two(2) different building materials to promote visual interest. Acceptable materials shall include but not be limited to wood, stucco, stone, brick, decorative concrete block.



Service and loading dock areas shall be located, if possible, at the rear of buildings and away from adjacent public street rights-of-way. Service and loading dock areas that are visible from any public street right-of-way shall be screened from view with a combination of coniferous and all-season vegetation and if a loading dock is involved a six-foot-high solid wall shall be provided that is architecturally compatible with the building from which it is extended.

Size and Installation of Plantings - The following standards shall be employed:

Off-street parking areas shall have one (1) tree for each ten (10) parking stalls.



No parking space shall be more than ninety (90) feet from a tree trunk.
At least seventy-five percent (75%) of the trees required for parking areas shall be deciduous with a minimum mature canopy of twenty-five feet (25').
At least twenty percent (20%) of the site area, excluding that encumbered by building area, shall be devoted to landscaping.
At least seventy-five percent (75%) of required landscaping shall consist of live, organic materials. Suitable non-living covering materials shall include crushed rock, river rock, or similar material that extends completely under the plant material.
Landscape headers consisting of 6" by 6" concrete, brick or steel shall be required to separate turf and groundcover areas.
An automatic, underground sprinkler system shall be required and is subject to periodic inspections to ensure optimum efficiency.
Landscaped treatments at prominent entryways shall achieve a greater concentration or density of plant material.

MISCELLANEOUS STANDARDS

Limits and Scope of Site Plan - the standards expressed in this site plan for subdivision represent base standards for acceptable development. Subsequent development within this subdivision shall abide by these minimum standards. Any additional standards deemed necessary and appropriate, however, may be imposed upon any associative site plans for building permit at the City's discretion.

Land Uses - The following shall be prohibited within this development:

- Adult-oriented business establishments.
- Outdoor storage of any kind, unless for specific special events and only with the prior approval from the City.

Setbacks - The setbacks for buildings and parking fields shall be per Title 19.

NO.	DATE	DESCRIPTION

Phillips Edison & Company
175 East 400 South, Suite 402
Salt Lake City, Utah 84111
801-521-8870

Minimum Design Guidelines
SARATOGA TOWN CENTER
EXHIBIT C



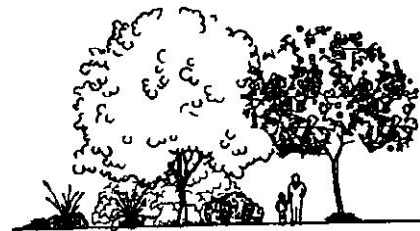
II. INTERNAL CIRCULATION & PARKING STANDARDS

- A. Intent - The following minimum standards are intended to achieve the following goals for the proposed development:
 - 1. Encourage an overall pedestrian-friendly environment;
 - 2. Ensure reasonable and logical internal vehicular circulation to avoid congestion and discourage speeding, and;
 - 3. Promote optimal and safe interaction between both vehicular and pedestrian traffic.
- B. Adherence to the City Standards - Internal pedestrian and vehicular circulation and parking shall be designed and constructed in accordance with minimum standards outlined by the City.
- C. Reciprocal Parking and Access - Reciprocal access shall be required of all owner within the overall development.
- D. Pedestrian Circulation - The following standards shall be employed:
 - 1. Sidewalks along the primary façade of all major buildings shall be a least eight feet (8') wide with a minimum clear path of six feet (6').
 - 2. Entries shall be clearly defined and linked to the pedestrian walkway grid.
 - 3. All currently proposed and subsequent lots within this development shall have direct pedestrian access to all abutting public street rights-of-way.
 - 4. All pedestrian walkways shall be periodically shaded either through vegetative or artificial means.
 - 5. Pedestrian walkways through vehicular areas shall be clearly demarcated through such paving materials as colored concrete, brick or concrete pavers. Clear and distinct separation between pedestrian walkways and vehicular travel or parking areas shall be maintained.
- E. Off-Street Parking - The following standards shall be employed:
 - 1. The minimum number of parking spaces shall be four spaces per 1000 square feet of building use.
 - 2. Parking areas shall be broken up through the use of convenient and logical pedestrian connections.
 - 3. Site parking within a landscape buffer shall be prohibited.
 - 4. Parking on pad sites, owned or leased, shall be permitted between a building and a public street right-of-way.
- K. Lighting and Security - The following standards shall be employed:
 - 1. No chain-link fencing, plastic or vinyl fencing, or either barbed or concertina wire shall be allowed within the development.
 - 2. All outdoor site lighting shall be architecturally complementary to the overall development.

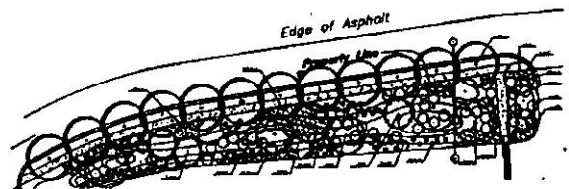
- 3. All outdoor site lighting shall be equipped with automatic timers and fully shielded to prevent upward light pollution and unwarranted light trespass onto adjacent properties. Area light fixtures and building mounted fixture shall be full cut-off design with no visible light source above a horizontal line projected from the bottom of the fixture housing.
- 4. Searchlights, floodlights and spotlights shall be discouraged within this development.

III. LANDSCAPE STANDARDS

- A. Intent - The following minimum landscape standards are intended to achieve the following goals for the proposed development:
 - 1. Provide an attractive streetscape;
 - 2. Promote a unified, visually attractive and inviting interior environment, and;
 - 3. Offer adequate buffering of non-residential uses within the proposed development from residential uses within close proximity to the final subdivision.
- B. Responsibility - Landscape maintenance shall be the responsibility of the property owner, except for those common areas as are defined in any CCR's or Declaration encumbering the development, or as otherwise may be maintained by the City of Saratoga Springs.
- C. Limits of Compliance - Landscape standards shall be in, but not limited to, minimum compliance with the requirements of the City's Title 19, Zoning Ordinance of City of Saratoga Springs.
- D. Buffers - The following standards shall be employed:



- 1. Parking and loading areas shall be screened from adjacent public street rights-of-way through a minimum twenty-foot-wide (20') landscape strip.



- 2. For parking areas, the landscape strip shall contain some combination of vegetative materials, walls, fences, and/or earthen berms if grades permit.