

Tax 10th 20-26-400-030

RECORDING REQUESTED BY: :
SMITH'S FOOD & DRUG CENTERS, INC. :

MAIL TAX STATEMENTS TO: :
SMITH'S FOOD & DRUG CENTERS, INC. :
WHEN RECORDED RETURN TO: :
Attention: Director of Real Estate Legal Services :
1550 South Redwood Road :
Salt Lake City, UT 84104 :

11803785
2/12/2014 4:10:00 PM \$76.00
Book - 10210 Pg - 9488-9516
Gary W. Ott
Recorder, Salt Lake County, UT
MERIDIAN TITLE
BY: eCASH, DEPUTY - EF 29 P.

SPACE ABOVE FOR RECORDER'S USE

RESTRICTIONS AND EASEMENTS AGREEMENT

THIS RESTRICTIONS AND EASEMENTS AGREEMENT ("REA") is made to be effective as of the 11th day of February, 2014, by and among SMITH'S FOOD & DRUG CENTERS, INC., an Ohio corporation, herein called "Smith's," and SAWTELL PROPERTIES LLC, a Utah limited liability company, and KICK CREEK LLC, a Utah limited liability company, or their assigns, herein collectively called "Developer."

RECITALS

A. **Smith's Lots.** Smith's is the owner of the Smith's Lots as shown on the "Site Plan" attached hereto as Exhibit A and which are more particularly described on Exhibit B hereto (the "Smith's Lots").

B. **Developer Lots.** Developer is the owner of the Developer Lots as shown on the Site Plan, and which are more particularly described on Exhibit C hereto (the "Developer Lots").

C. **Purpose.** Smith's and Developer desire that the Smith's Lots and the Developer Lots be developed and operated in conjunction with each other in an orderly fashion so as to create a commercial shopping center as set forth herein and further desire that the Smith's Lots and the Developer Lots be subject to certain easements, covenants, conditions and restrictions all as hereinafter set forth.

AGREEMENT

In consideration that the following encumbrances shall be binding upon the parties hereto and shall attach to and run with the Smith's Lots and the Developer Lots, and shall be for the benefit of and shall be limitations upon all future owners of the Smith's Lots and the Developer Lots and that all easements, restrictions and other covenants herein set forth shall be appurtenant to the dominant estates and obligations on the servient estates, and in consideration

of the promises, covenants, conditions, restrictions, easements and encumbrances contained herein, Smith's and Developer do hereby agree as follows:

1. **Definitions.**

a. **"Shopping Center."** The "Shopping Center" shall consist of the Developer Lots and the Smith's Lots.

b. **"Building Area; Floor Area."** The "Building Area" in the Shopping Center is the portion thereof upon which buildings may be constructed, as outlined and identified on the Site Plan. Initially, approximately one hundred thirteen thousand (113,000) sq. ft. of Floor Area of buildings, as defined below, are planned to be constructed within the Building Area on the Smith's Lots. Approximately twenty thousand (20,000) of the estimated fifty-one thousand (51,000) sq. ft. of Floor Area are planned to be constructed within the Building Areas on the Developer Lots (specifically, Lots 3, 5 and 6) which may be more or less as market demands. For purposes hereof, "Floor Area" shall be defined as the square foot floor area within exterior walls of any building or structure, excluding any equipment, restroom, or other raised mezzanine, exterior trash enclosures; open loading docks which are not heated or air conditioned; canopies and roof overhangs; and vestibules for ingress and egress. Such exclusions from Floor Area may project from any building or structure up to a distance of twenty-five feet (25') over or outside of the Floor Area on any Lot; provided, any such projection or extension complies with all applicable laws, rules, ordinances and regulations of every governmental body having jurisdiction over the Shopping Center; and provided further, no such extension or projection shall be allowed if it materially alters the parking configuration or vehicular or pedestrian circulation, and/or access in and through the entire Shopping Center as shown on the Site Plan.

c. **"Common Area(s)."** The "Common Area(s)" is all real property within the Shopping Center except the Building Area; provided, those portions of the Building Area upon which the parties are not obligated to construct buildings pursuant to this REA shall be deemed to be Common Area until such time as construction of buildings thereon commences. Docks, loading areas, service areas and canopies which are attached to buildings but which extend over Common Area shall be deemed to be part of the building which they serve or to which they are attached and not part of the Common Area.

d. **Conversion to Common Area(s).** Those portions of the Building Area on each Lot which are not from time to time used, or cannot under the terms of this REA be used, for buildings shall become part of the Common Area for the uses permitted hereunder and shall be improved, kept and maintained as provided in this REA. An area converted to Common Area may be, as set forth below, converted back to Building Area, if at the time of conversion back to Building Area, it meets the requirements of this REA.

e. Expansion of Floor Area. Each party shall have the right at any time subsequent to the execution of this REA, by written notice to the other party, to expand the Floor Area on the party's own Lot(s) to the limits of the Expansion Area identified on Exhibit A attached hereto, provided that such expansion does not reduce the number of available parking spaces below that required by this REA and/or applicable governmental authorities on the applicable Lot (without taking into account the parking which may exist on the other party's Lot or Lots).

f. Lots. The term "**Smith's Lots**" shall have the meaning ascribed to it in Recital A above. The term "**Developer Lots**" shall have the meaning ascribed to it in Recital B above. The term "**Parcel**" means any of the Smith's Lots or the Developer Lots.

g. Development Agreement. The term "**Development Agreement**" shall mean the Development Agreement being executed by the parties concurrently with this Agreement.

h. Smith's Building. The term "**Smith's Building**" shall mean the building to be constructed by Smith's on the Smith's Lots.

2. **Buildings.**

a. Retail Limitation. The buildings to be constructed in the Shopping Center shall be commercial buildings of the type usually found in first-class retail shopping centers in the greater metropolitan area in which the Shopping Center is located. The tenants occupying the buildings shall be primarily retail sales and retail service tenants of the type normally associated with first-class retail shopping centers in such metropolitan area. "**Retail services**" means restaurants, financial institutions, real estate and stock brokerage offices, travel or insurance agencies, medical and dental offices, and similar uses providing services directly to the public; but "retail services" specifically excludes nonprofit organization offices, government offices, office uses that do not involve direct service to consumers, office uses in excess of eleven thousand five hundred (11,500) aggregate square footage of floor area (subject to the Square Footage Limitations defined in 2.b below), and other uses not customarily associated with or contained in first-class retail developments. Without limiting the generality of the foregoing, without Smith's consent (which consent may be withheld in Smith's sole discretion), no portion of the Developer Lots shall be used for (i) flea markets, fire, bankruptcy or liquidation sales, or sales of "second-hand" or "surplus" merchandise; (ii) training or educational facilities (other than on-site employee training by an occupant incidental to the conduct of its business); or (iii) automotive or other vehicle service or tire or battery sales or service facilities (except that a "Pep Boys" or "Auto Zone" or other auto parts store shall be permissible); (iv) the renting, leasing, sale or display of any motor vehicle, truck,

trailer, recreational vehicle or boats; (v) movie theater; (vi) children's play land (except as part of a fast-food restaurant), (vii) night club or dance hall, (viii) bowling alley, (ix) skating or roller rink; (x) pool or billiard hall; (xi) health spa or fitness gym; (xii) and game room or video arcades (more than six [6] electronic games) or (xiii) the display or sale of Christmas trees or fireworks.

b. Square Footage Limitations. The Floor Area on the Developer Lots and the Smith's Lots depicted on the Site Plan shall be limited to the following:

Lot 1 shall be limited to 145,000 sq. ft. of Floor Area; Lot 2, Pad "A," shall be as depicted unless otherwise modified by the Parties.

Lot 3 is identified as Pad "B" with associated drive-thru lanes and is limited to a Floor Area of 5,600 sq. ft. Lot 4 is identified as Pad "C" and is limited to a Floor Area of 6,200 sq. ft. with associated drive thru lane; Lot 5, Pad "D," is limited to 6,500 sq. ft. of Floor Area; Lot 6, Pad "E," is limited to 6,500 sq. ft. of Floor Area; and Lot 7, identified as Pad "F," is limited to 7,300 sq. ft. of Floor Area.

Lot 8 is designated as Pad "G", and is limited to 4,500 sq. ft. of Floor Area with associated drive-thru lanes; Lot 9, Pad "H," is limited to 4,500 sq. ft. of Floor Area, with a drive thru. Lot 10 is designated as Pad "I" with drive-thru lanes and is limited to 4,700 sq. ft. Lot 11 is designated as Pad "J" and is limited to 6,000 sq. ft. of Floor Area.

Should any Developer Lot designated for a drive thru lane in this Section 2.b not able to accommodate a drive-thru lane, the Floor Area of the Developer Lot may be increased by as much as 1,500 square feet so long as the increase in square footage complies with this REA.

Developer shall, at Developer's sole cost and expense, have the right to reconfigure the Site Plan with respect to the Developer Lots including the Floor Areas thereof, provided (i) such reconfiguration complies with all provisions of this REA, and (ii) Smith's gives its prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Upon giving such consent, Smith's agrees to cooperate with Developer to effect such reconfiguration(s). Notwithstanding the foregoing, Developer can change the Site Plan for the purpose of adding or deleting drive thru facilities without Smith's prior consent.

It is contemplated by the Parties that the Floor Areas on the Developer Lots may need be adjusted slightly in order to accommodate Developer's leasing efforts; however, any such modification will be in conformance with this REA.

c. Restrictions on Types of Use. Developer recognizes the needs of Smith's customers to have adequate parking facilities in close proximity to the

building upon the Smith's Lots, and the importance of protecting against unreasonable or extensive use of parking spaces which is likely to result from parking by patrons or employees of certain types of business establishments. Developer further recognizes Smith's interest in not having tenants occupying space in close proximity to the Smith's Building who create or cause excessive noise, litter or odor or which are duplicative of the uses found in Smith's Store. To safeguard Smith's interest in having a clean, quiet and proper environment and in having adequate parking for its customers, Developer covenants and agrees that it shall not permit the use or operation of any portion of a building on the Developer Lots which building is located within three hundred feet (300') of any exterior building wall of the Smith's Building on Lot 1 for a restaurant (fast-food or sit-down), except Developer's Lot 11 which will be closer than three hundred feet (300'). All uses allowed and existing within the Developer Lots must include, within the Lot upon which such use is located, parking equal to the greater of:

- (i) that required by applicable laws and ordinances;
- (ii) seven (7) spaces per thousand (1,000) sq. ft. of floor area for any casual dining restaurant (such as, e.g., Panda Express, Zupas, Café Rio, or Costa Vida) or any fast-food restaurant;
- (iii) four and one-half (4.5) spaces per thousand (1,000) sq. ft. of floor area for any non-restaurant use; or
- (iv) ten (10) spaces per thousand (1,000) sq. ft. of floor area for any full-service, sit-down restaurant use (such as, e.g., Olive Garden or Chili's).

In addition, parking access pursuant to cross-easements between the Lots shall not be counted towards meeting the foregoing parking space requirements of Developer, except that Developer's Lots 4, 5, 6, and 7 shall be allowed to utilize the total parking area among Lots 4, 5, 6 and 7 toward their individual parking requirement.

d. Additional Restrictions. During the term of this REA, Developer shall not use or permit the use of any portion of the Developer Lots for (i) any supermarket or grocery store or drug store (which for purposes of this REA means any store, department or area within a store, containing at least 500 sq. ft. of sales floor area, including aisle space and storage, primarily devoted to the retail sale of food or liquor for off-premises consumption) or the retail sale of pharmaceutical drugs, but not restricting vitamin or health supplement stores such as GNC or hi-health; or for the sale of fresh or frozen meat, fish, poultry or produce for off-premises consumption (ii) any delicatessen, (but not restricting a sandwich shop such as Subway or Togo's), convenience store or fuel center; (iii) the sale of any pharmaceuticals requiring the services of a registered pharmacist, or (iv) the

operation of a cigarette or smoke shop or any other shop or store the primary business of which is to sell tobacco products.

e. General Restrictions on Use. Neither the Developer Lots nor the Smith's Lots nor any portion thereof shall in any event be leased, subleased, operated or otherwise used for (i) the display, distribution or sale of any "adult" books, "adult" films, "adult" periodicals or "adult" entertainment; (ii) the establishment or maintenance of a massage parlor (except a reputable massage establishment, such as Massage Envy), "adult" theater, "adult" bookstore, "sex" shop, "peep show" or bawdy house or brothel; (iii) the operation, establishment or maintenance of a veterinary clinic, a second hand or pawn shop type of business, or any use in violation of applicable zoning and other governmental laws and regulations; provided, however, that nothing herein shall be deemed, construed or interpreted as restricting or prohibiting gaming operations from being conducted on the Developer Lots or Smith's Lots, so long as such gaming operation is secondary to the Parcel's main use. In addition, and not in limitation of the foregoing, neither the Developer Parcel(s) nor the Smith's Lots, nor any portion thereof, shall be used or permitted to be used for (i) any use which emits an obnoxious odor, noise or sound which can be heard or smelled outside of any building in the Shopping Center; or (ii) any use which is a public or private nuisance, or which is likely to generate public protests or controversy interfering with the operation of the Shopping Center as a retail center; nor shall there be thereon any (iii) distilling, refining, smelting, agricultural, animal raising or boarding (other than consumer pet shops), or mining operation; (iv) any short or long-term residential use; (v) any primary use as a warehousing, assembling, manufacturing, waste processing or other industrial operation; (vi) any place for public assembly (such as a church mortuary or meeting hall).

f. Liquor Sales. With the exception of Developer Lots 4-7 and 11, in no event shall any portion of the Developer Lots be used for any bar, tavern or other business operation involved in the sale of alcoholic beverages for on-site or off-site consumption; provided, however, that liquor sales for on-premises consumption shall be permitted in conjunction with a restaurant or other eating or food service establishment, in which case, the bar area of the restaurant shall not exceed thirty-five percent (35%) of the restaurant's total sales floor area.

g. Location. No building shall be constructed on the Smith's Lots or the Developer Lots, except within the Building Areas, as they may be reconfigured or modified as provided herein.

h. Design and Construction. The buildings to be constructed in the Shopping Center shall be designed so that the exterior elevation of each will be architecturally and aesthetically compatible. The design and construction shall be in conformity with sound architectural and engineering standards and the construction shall be first quality. Except for the buildings on the Smith's Lots, the buildings on Developer Lots 5 and 6 shall be one story and shall not exceed

the average of twenty-two feet (22') in height. The Buildings on Developer Lots 4 and 7 shall be one story and shall not exceed the average of twenty-four feet (24') in height. Buildings on Developer Lot 3 shall be limited to one story and shall not exceed the average of twenty-five feet (25') in height. The Buildings on Developer Lots 8, 9, 10 and 11 shall each be one story and shall not exceed twenty-six feet (26') in height. All height limitations set forth herein shall include any architectural features for such Building(s).

Developer acknowledges that Smith's is a national grocery and drug supermarket retailer and that the architectural theme of its store is related to operational strategies which change from time to time. Although Smith's has no reason to believe that the architectural theme and signage, once adopted, will be subject to change, Smith's, subject to first obtaining approval of all applicable governmental authorities, may make such changes as are instructed to the signage and exterior design, materials, color, elevations and/or other elements of the architectural theme as it pertains to the Smith's Building.

i. Alterations to Shopping Center. Following completion of construction of any portion of the Shopping Center, the sizes and arrangements of said buildings and common areas related thereto (including parking areas and traffic circulation and flow patterns) will not be changed without Smith's written consent, which written consent shall not be unreasonably withheld, conditioned or delayed.

j. Footing Easements. In the event it is appropriate or practical to have building wall footings encroach from one Parcel onto the other Lot, the party onto whose Lot the footings encroach shall cooperate in granting an encroachment permit or easement to the party who desires to have its building wall footings so encroach.

k. No Covenant to Construct or Operate. Notwithstanding anything contained anywhere in this REA to the contrary, nothing herein shall be deemed to create an obligation on Smith's to commence or complete construction of any building on the Smith's Lots, or to operate any business for any period of time on the Smith's Lots. The construction of a building or operation of a business on the Smith's Lots shall, at all times, be in the sole and absolute discretion of Smith's.

3. **Common Areas: Use.**

a. Grant of Easements. Each party, as grantor, hereby grants to the other party for the benefit of said other party, its customers, invitees and employees, a nonexclusive easement for pedestrian and vehicular access, ingress and egress (but not parking), of motor vehicles in designated areas and use of facilities installed for the comfort and convenience of customers, invitees and employees on the Common Areas of the grantor's parcel. However, each party reserves the right to revise the configuration of such designated areas and facilities, in its discretion, subject to receiving the written consent of the other

party, which written consent shall not be unreasonably withheld, conditioned or delayed.

b. Use. Subject to existing easements of record, the Common Areas shall be used for roadways, walkways, ingress and egress, parking of motor vehicles, loading and unloading of commercial and other vehicles, for driveway purposes, and for the comfort and convenience of customers, invitees and employees of all businesses and occupants of the buildings constructed on the Building Areas defined above.

c. No Barriers. No walls, fences, or barriers of any kind shall be constructed or maintained on the Common Areas, or any portion thereof, by any party which shall prevent or impair the use or exercise of any of the easements granted herein, or the free access and movement, including without limitation, of pedestrians and vehicular traffic between the various Lots; provided, however, reasonable traffic controls approved in advance by Smith's (which approval shall not be unreasonably withheld, conditioned, or delayed) as may be necessary to guide and control the orderly flow of traffic may be installed so long as access driveways to the parking areas in the Common Areas are not closed or blocked. The only exceptions to this provision shall be (1) for changes to the Building Areas and Common Areas permitted by this REA, (2) for incidental encroachments upon the Common Areas which may occur as a result of the use of the ladders, scaffolding, storefront barricades and similar facilities resulting in temporary obstruction of the Common Areas, all of which are permitted hereunder so long as their use is kept within reasonable requirements of construction work being expeditiously pursued, (3) for incidental, immaterial and temporary encroachments upon the Common Areas which may occur in conjunction with the construction, maintenance or repair of buildings and improvements on the Smith's Lots or Developer Lots, so long as such construction, maintenance or repair is being diligently pursued, and (4) for temporary blockage of certain areas deemed necessary by the parties to prevent a public dedication of an easement or access right. Notwithstanding anything herein to the contrary, Smith's may elect to operate a Recycle Center on a portion of the parking area of the Smith's Lots, at a location reasonably determined by Smith's. This Recycle Center will not be affixed to the parking lot, will be fully moveable, and may consist of a trailer and additional containers into which recyclable materials may be deposited. Smith's agrees that the Recycle Center will be located within the parking stall areas and will not otherwise obstruct the access and parking easements as granted herein. The Recycle Center is thus deemed by the parties to be consistent with the rights and easements described herein. Smith's will cause a sight barrier (that is reasonably attractive in appearance) to be constructed, at its cost, to obstruct the view of the Recycle Center by the general public. Additionally, Smith's may conduct outdoor sales from its sidewalk and/or those areas in its parking lot as Smith's may deem appropriate. Said sales may include seasonal items, such as Christmas trees, fireworks or pumpkins, and may also include Girl Scout cookies and/or a small

kiosk for the sale of snow cones or shaved ice. Any of said outdoor sales may be undertaken by Smith's or a third party contracted by Smith's. Developer and/or its tenants may also conduct outdoor sales and community events within the common area(s) of Parcel(s) 4 through 7. Such sales and events shall be temporary in nature and subjected to the terms and conditions of this REA. Any such event shall not block the view corridor as depicted on Exhibit D.

d. Limitations on Use.

(1) Customers. Customers and invitees shall not be permitted to park on the Common Areas except while shopping or transacting business on the Smith's Lots or the Developer Lots with the occupants thereof.

(2) Employees. Employees shall not be permitted to park on the Common Areas, except in areas designated as "employee parking areas." The parties hereto may from time to time mutually designate and approve "employee parking areas"; however, if they do not, each party may designate "employee parking areas" on its own Parcel.

(3) General. All of the uses permitted within the Common Areas shall be used with reason and judgment so as not to interfere with the primary purpose of the Common Areas which is to provide for parking for the customers, invitees and employees of those businesses conducted within the Building Areas and for the servicing and supplying of such businesses. Persons using the Common Areas in accordance with this REA shall not be charged any fee for such use.

c. Utility and Service Easements. The parties shall cooperate in the granting of appropriate and proper easements for the installation, repair and replacement of storm drains, sewers, utilities and other proper services necessary for the orderly development and operation of the Common Areas and buildings to be erected upon the Building Areas. The parties will use their best reasonable efforts to cause the installation of such utility and service lines to be completed prior to paving of the Common Areas.

f. Temporary Storage Units on Smith's Common Area. Notwithstanding anything contained herein to the contrary, Smith's shall be allowed to place temporary storage units in the Common Area behind its building in order to accommodate seasonal merchandise and overstocks. Such storage units may not interfere with the flow of traffic and shall, at all times be operated and maintained in conformance with all applicable laws, rules and ordinances. The term "temporary" shall mean no longer than forty-five (45) consecutive days, and no more than three (3) times per calendar year.

4. **Common Areas: Development, Maintenance and Taxes.**

a. Development Timing.

(1) By Owner of Parcel. When any building is constructed on a Lot, the Common Areas on that Lot associated with such building shall be developed within the Building Areas in accordance with Exhibit A and the Development Agreement, all at the expense of the owner of said Parcel.

(2) On- and Off-Site Improvements. Each party agrees that all on- and off-site improvements for its own Parcel(s) shall be constructed as generally shown on the Site Plan and in accordance with the Development Agreement. All on- and off-site improvements shall be constructed in accordance with plans and specifications approved by Smith's and Developer (which approval shall not be unreasonably withheld, conditioned, or delayed), and shall be completed in a lien-free condition.

(3) If Smith's constructs improvements on the Smith's Lots prior to the development of the Developer Lots, Smith's may grade, pave and otherwise improve and use any portion of the Common Areas of the Developer Lots in accordance with Exhibit A. Smith's shall cause all of said Common Area improvement work to be separately bid on a competitive basis, as required in the Development Agreement, and the costs and proposed work shall be subject to Developer's prior written approval, such approval to be not unreasonably withheld, conditioned, or delayed. Developer agrees to reimburse Smith's for the costs of the Common Area improvement work done on the Developer Parcel(s) by Smith's. Such reimbursements shall be due and payable within forty-five (45) days following receipt of certification by Smith's and/or Smith's engineer that the applicable Common Area improvement work has been completed along with proof of payment and final lien releases from all materialmen, contractors or subcontractors who provided services. Should Developer fail to reimburse Smith's in the manner specified in this Section 4, interest shall accrue as provided in Section 8.c below.

b. Maintenance.

(1) Standards. With the exception of the areas designated as Common Maintenance Areas as shown on Exhibit E ("Common Maintenance Areas") and Exhibit D, following completion of the improvement of the Common Areas, the parties hereto shall maintain the Common Areas on their respective Lots in good condition and repair. The maintenance is to include, without limiting the generality of the foregoing, the following:

A. Maintaining the 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 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, and free of snow, ice, dirt, and debris.

C. Placing, keeping in repair and replacing any necessary or appropriate directional signs, markers and lines, including without limitation any handicapped parking signs.

D. Operating, keeping in repair and replacing, parking lot area lighting facilities, including lamps, ballasts and lenses.

E. Maintaining all perimeter walls in good condition and state of repair; and

F. Maintaining and irrigating all landscape areas in a thriving and trimmed condition and making such replacements of shrubs, trees and irrigation and other landscaping as is reasonably necessary or appropriate.

(2) Common Maintenance Areas. After construction of the applicable driveways, sidewalks, and landscaping, Developer shall be responsible for the exclusive management, maintenance and repair of the Common Maintenance Areas and all improvements thereon and shall keep the same in a good, clean, attractive, and sanitary condition, order and repair. Such maintenance shall generally include those items set forth in 4(b)(1)(A) – (F) above.

At Developer's election, Developer may use a third party management company to maintain the Common Maintenance Areas.

(3) Expenses.

A. Smith's will reimburse Developer on a pro-rata, land to land basis, for the costs of ongoing maintenance and repair for the Common Maintenance Areas delineated on Exhibit E, including the maintenance, repair and replacement (if necessary) of the interior and access roadways.

B. Developer shall be responsible for the Common Area Maintenance within the "View Corridor" which View Corridor is depicted on Exhibit D. Smith's and Developer agree to share equally in the cost of maintenance and repair within the "View Corridor." Reimbursement by Smith's

will be in accordance with the same procedures outlined in subparagraph (3)D. below.

C. Developer will reimburse Smith's on an annual basis for its pro rata share of the cost of lighting in the Shopping Center (except for the parking lot lighting within Smith's Lots 1 and 2) which shall include its pro rata share of the cost of lighting the two pylon signs, the lighting along the access driveways and the lighting along the interior roads. All of Developer Lots 3-11 are separately metered and will be billed separately to and paid by Developer.

D. Smith's will reimburse Developer for the cost of the Common Maintenance Areas on a quarterly basis and within forty-five (45) days of receipt by Smith's of an itemized invoice of actual costs. Interest on any item left unpaid shall accrue as outlined in Paragraph 8.c below. Once all Lots are completely built-out and Common Areas are established, the parties agree to create an annual budget. Developer shall create the annual budget prior to each forthcoming calendar year and submit it to Smith's for review and approval, which approval shall not be unreasonably withheld, conditioned or delayed.

E. Any owner or any future owner of a Developer Lot ("Future Owner") shall reimburse Developer for the cost of maintaining and repairing the Common Maintenance Areas based on a pro-rata, land to land basis. The reimbursement shall include a management fee equal to Ten Percent (10%) of the cost of maintaining and repairing the Common Maintenance Areas. No management fee will be added to the cost of taxes or insurance.

F. Taxes. Each of the parties hereto agrees to pay or cause to be paid, prior to delinquency, directly to the appropriate taxing authorities, all real property taxes and assessments which are levied against the respective portion of the Common Areas owned by it.

5. **Signs.**

Except for directional signs for guidance upon the Common Areas, no pylon or pole signs shall be located on the Common Areas on the Smith's Lots or the Developer Lots except in accordance with the terms and conditions of this REA and all applicable governmental requirements. Smith's and up to six (6) other "tenants", as reasonably determined and designated by Developer, will jointly design and construct a mutually acceptable common pylon sign with marquee in the place(s) designated on the Site Plan. The cost of constructing the common pylon sign(s), as well as the cost of maintaining and repairing such sign(s), shall be shared in accordance with the ratio that the surface area of the fascia of each party's designation bears to the total surface area of the fascia of the common sign(s). The common pylon sign(s) shall bear only the designation of the Shopping Center name, the designation of the trade name of the operator of

the Smith's Building, and the designation of the trade name of the "tenant(s)." Smith's or its successor shall have the first priority position on any common pylon sign(s) in the Shopping Center. Notwithstanding the foregoing, Lots 2, 3, 8, 9, 10 & 11 shall have the right to have their own exclusive monument sign as depicted on Exhibit A.

6. **Indemnification/Insurance.**

a. **Indemnification.** Each party hereby agrees to indemnify, defend and save the other party harmless from any and all liability, damage, expense, causes of action, suits, claims or judgments arising from injury to person or property and occurring on its own Lot, except if caused by the act or neglect of the other party hereto.

b. **Insurance.** Each party shall provide commercial general liability insurance affording protection to itself and the other party on its own parcel(s), naming the other party as an "additional insured" under the policy or policies, for a combined bodily injury and property damage limit of liability of not less than Two Million Dollars (\$2,000,000) per occurrence, Three Million Dollars (\$3,000,000) aggregate. The insurance company providing such insurance shall be rated at least A- VII, A.M. Best's rating. Such insurance may be a part of blanket liability coverage carried by a party so long as such blanket policy does not reduce the limits or diminish the coverage required herein.

c. **Self Insurance.** Each party shall have the right to satisfy its insurance obligations hereunder by means of self-insurance to the extent of all or part of the insurance required hereunder, in accordance with each party's established corporate policy; provided, however, that the party electing to self-insure must have a net worth of at least Fifty Million Dollars (\$50,000,000). Any party providing self-insurance shall, upon request, provide the other party with a description of such self-insurance program, financial statements, and evidence of any partial insurance coverage which may be supplementing any plan of partial self-insurance.

d. **Other Insurance Matters.** All policies of insurance required by this REA shall insure the performance of the party insured thereunder of the indemnity agreement contained in this Section 6, shall name the other party an additional insured and shall contain a provision that the insurance company will provide all parties with twenty (20) days advance written notice of any cancellation or lapse, or the effective date of any material reduction in the amounts or scope of coverage. Each party shall provide the other party a certificate or statement from the party's insurance company that such insurance insures the performance by the party insured of the indemnity agreement specified in this Section 6 and the existence of the insurance coverage to the limits herein required. Each party shall promptly notify each other party of any asserted claim

with respect to which such party is or may be indemnified against hereunder and shall deliver to such party copies of process and pleadings.

7. **Eminent Domain.**

a. Owner's Right Award. Nothing herein shall be construed to give to either party any interest in any award or payment made to the other party in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other party's Lot or give the public or any government any rights in the Smith's Lots or the Developer Lots. In the event of any exercise of eminent domain or transfer in lieu thereof of any part of the Common Areas located on the Smith's Lots or the Developer Lots, the award attributable to the land and improvements of such portion of the Common Areas shall be payable only to the owner in fee thereof and no claim thereon shall be made by the owners of any other portion of the Common Areas.

b. Collateral Claims. All other Owners of the Common Areas 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 from another owner.

c. Tenant's Claim. Nothing in this Section 7 shall prevent a tenant from making a claim against an owner pursuant to the provisions of any lease between such tenant and owner for all or a portion of any such award or payment.

d. Restoration of Common Areas. The owner of the fee 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 the condition of same 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 owner.

8. **Agreement.**

a. Modification, Cancellation and Delegation of Authority. This REA (including Exhibit A) may be modified or cancelled only by written consent of all record owners of the Smith's Lots and at least fifty percent (50%), by square footage, of all record owners of the Developer Lots, which consents shall not be unreasonably withheld, conditioned, or delayed. It is agreed that as long as either Smith's or the Developer is the user and/or operator of one or both the Lots, whether as owner or lessee, the authority for modifying this REA shall rest with them alone as to the Parcel(s) they own, use or operate. Any purchaser, lender, mortgagee, lessee, assignee, grantee, sublessee or other party having any interest in any portions of the Smith's Lots and/or the Developer Lots shall be deemed to have appointed Smith's and/or Developer, as the case may be, as their attorneys-in-fact for their respective Lots for the purpose of negotiating and entering into

any modifications of this REA, except for extending the duration hereof. This appointment as attorney-in-fact shall be deemed to be coupled with an interest.

b. Breach. In the event of breach or threatened breach by either party of this REA, only all record owners of the Smith's Lots as a group, or all the record owners of the Developer Lots as a group, or Smith's so long as it has an interest as owner or tenant in the Smith's Lots, or Developer so long as it has an interest in any part of the Developer Lots, shall be entitled to institute proceedings for full and adequate relief from the consequences of said breach. The unsuccessful party in any action shall pay to the prevailing party a reasonable sum for attorney's fees incurred in connection with such action and shall be enforceable whether or not such action is prosecuted to judgment.

c. Remedies for Default; Waiver. If the owner of any Lot shall, during the term of this REA, default in the full, faithful and punctual performance of any obligation required hereunder and if at the end of thirty (30) days after written notice from any owner of a Lot or the party to whom its authority has been delegated, stating with particularity the nature and extent of such default, the defaulting owner has failed to cure such default, and if a diligent effort is not then being made to cure such default, then any other owner of a Lot of land subject to this REA or the party to whom its authority has been delegated shall, in addition to all other remedies it may have at law or in equity, have the right to perform such obligation of this REA on behalf of such defaulting owner and be reimbursed by such defaulting owner for the cost thereof with interest thereon at the rate of ten percent (10%) per annum. Any such claim for reimbursement, together with interest as aforesaid, shall be a secured claim and a lien shall attach and take effect upon recordation of a property claim of lien by the claimant in the office of the county recorder of the county in which the land is located. The claim of lien shall include the following: (1) the name of the claimant; (2) a statement concerning the basis of the claim of lien, (3) the last known name and address of the owner or reputed owner of the Lot against which the lien is claimed; (4) a description of the property against which the lien is claimed; (5) a description of the "work performed or payment made" which has given rise to the claim of lien hereunder and a statement itemizing the amount thereof; and (6) a statement that the lien is claimed pursuant to the provision of this REA reciting the date, book and page of the recordation hereof. The notice shall be duly verified, acknowledged and contain a certificate that a copy thereof has been served upon the party against whom the lien is claimed, either by personal service or by mailing (first class, certified, or return receipt requested) to the defaulting owner, at the address for mailing of tax statements with respect to the property against which the lien is claimed. The lien so claimed shall attach from the date of recordation solely in the amount claimed thereby and it may be enforced in any manner allowed by law for the foreclosure of liens. Notwithstanding the foregoing, such lien shall be subordinate to any mortgage or deed of trust given in good faith and for value now or hereafter encumbering the property subjected to the lien, and any purchaser at any foreclosure or trustee's sale (as well as any

grantee by deed in lieu of foreclosure or trustee's sale) under any mortgage or deed of trust shall take free and clear from any such then existing lien, but otherwise subject to the provisions of this REA. The failure of the owner or owners of any of the Lots subject to this REA to insist in any one or more cases upon the strict performance of any of the promises, covenants, conditions, restrictions or agreements herein, shall not be construed as a waiver or relinquishment of any future breach of the same or other provisions hereof.

d. Non-Merger. If either party becomes a tenant of a Lot, this REA shall not, as a result, be subject to the doctrine of merger of title, even though the underlying fee ownership to the Lots described herein is also vested in such party.

e. Duration. Unless otherwise cancelled and terminated, this REA and all the easements, rights and obligations herein shall automatically terminate and be of no further force or effect after fifty-five (55) years from the date hereof, except that the access easements described in Section 3.a and except that the utility easements granted pursuant to Section 3.e, if any, shall continue in full force and effect until terminated in writing by the parties entitled to modify this REA in accordance with the provisions of Section 8.a hereof.

9. **Rights and Obligations of Lenders.**

Subject to, and except as provided under the provisions of Section 8.c above, the restrictions and burdens of this REA are, and shall at all times be, prior and therefore superior to the lien or encumbrance of any mortgage or deed of trust made in good faith and for value affecting the Smith's Lots or the Developer Lots or any part thereof, or any improvements now or hereafter placed thereon. However, a breach of any of the easements, covenants, or restrictions hereof shall not defeat or render invalid the lien or encumbrance of any mortgage or deed of trust.

10. **Release from Liability.**

Any person acquiring fee or leasehold title to the Smith's Lots or the Developer Lots or any portion thereon, including the parties to this REA, shall be bound by this REA only as to the Lots or portion of the Lots acquired by such person. Such person shall be bound by this REA only during the period such person is the fee or leasehold owner of such Parcel(s) or portion of the Parcel(s), except as to obligations, liabilities or responsibilities that accrue during said period. Although persons may be released under this Section, the easements, covenants and restrictions in this REA shall continue to be benefits and servitudes which run with the land as described in Section 11 next below.

11. **Rights of Successors.**

The easements, covenants, conditions, restrictions, benefits, and obligations hereunder shall create mutual benefits and servitudes upon the Smith's Lots and the Developer Lots and shall run with the land. This REA shall bind and inure to the benefit of the parties hereto, their respective heirs, personal representatives, tenants, successors, and/or assigns. The singular number includes the plural and any gender includes all other genders.

12. **Waiver of Jury Trial.**

All disputes or claims arising under this Agreement shall be mediated by a mediator to be agreed upon by the parties. If after good faith efforts by the parties mediation is unsuccessful in resolving the dispute(s), then any remaining controversy or claim arising out of or relating to this Agreement or the breach thereof shall be resolved by bench trial in a court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover all costs, including reasonable attorneys' fees, incurred in enforcing the terms of this Agreement. The parties hereby waive their right to a jury trial of any disputes or claims arising under this Agreement.

13. **Paragraph Headings.**

The paragraph headings herein contained are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

14. **Not a Public Dedication.**

Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Common Areas to the general public or for the general public or for any public purposes whatsoever, it being the intention of the parties hereto that this REA shall be strictly limited to and for the purposes herein expressed. The right of the public or any person to make any use whatsoever of the Common Areas of the Lots herein affected, or any portion thereof (other than any use expressly allowed by a written or recorded map, agreement, deed or dedication) is by permission, and subject to the control of the owner. Notwithstanding any other provisions herein to the contrary, the owners of the Lots affected hereby may periodically restrict ingress and egress from the Common Areas in order to prevent a prescriptive easement from arising by reason of continued public use. Any restriction on ingress and egress shall be limited to the minimum period necessary to prevent the creation of a prescriptive easement and shall occur at such at time as to have a minimum effect on the parties in occupancy within the Shopping Center.

15. **Document Execution and Change.**

It is understood and agreed that until this REA is fully executed and delivered by both Developer and Smith's there is not and shall not be an agreement of any kind between the parties hereto upon which any commitment, undertaking or obligation can be based. It is further agreed that once this document is fully executed and delivered that it contains the entire agreement between the parties hereto relating to the subject matter of this Agreement and that, in executing it, the parties do not rely upon any statement, promise or representation not herein expressed, and this document, once executed and delivered, shall not be modified, changed or altered in any respect except as provided in Section 8.a above.

16. **Force Majeure.**

Smith's and Developer shall each be excused from performing any obligation or undertaking provided in this REA, in the event, but only so long as, the performance of any such obligation or undertaking is prevented or delayed, retarded, or hindered by act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, sabotage, inability to procure or general shortage of labor, equipment, facilities, materials or supplies, failure of transportation, strikes, lockouts, action of labor unions, laws hereafter enacted, orders of governmental or civil or military or naval authorities, government action or inaction where action is required, court orders or any other cause, whether similar or dissimilar to the foregoing, not within the respective control of either party (other than lack of or inability to procure monies to fulfill its commitments and obligations under this REA).

17. **Option to Purchase.**

Smith acknowledges that Developer has entered into this REA with the understanding that Smith's has acquired the Smith's Lots for the express purpose of constructing the Smith's Building and operating it as a grocery store and pharmacy, and not with a view to resell or hold the Smith's Lots for investment. Accordingly, if Smith's determines to sell the Smith's Lots at any time prior to constructing and operating a grocery store on the Smith's Lots, then Smith's grants to Developer an option to purchase the Smith's Lots. The purchase price for the Smith's Lots shall be an amount equal to (i) Smith's purchase price of the Smith's Lots; plus (ii) the Site Works Costs (as defined in the Development Agreement) for the Smith's Lots previously paid by Smith's; plus (iii) "carry costs" in an amount equal to four and one-half percent (4.5%) of the above amounts accruing (on a simple interest basis) from and after the date Smith's paid them.

Smith's agrees to pay from the proceeds of such sale any debt secured by liens of record against the Smith's Lots (not authorized or caused by Developer) to the extent such debt (or any portion thereof) was (a) used to acquire the Smith's Lots from Developer, or (b) not used to make improvements to the Smith's Lots or

Developer Lots as provided for under this REA or the Development Agreement, and to cause all liens or encumbrances securing such debt to be released. Developer shall pay all closing costs. Property taxes for the year of sale shall be prorated between the parties as of the closing date. Title to the Smith's Lots shall be conveyed by Smith's by Special Warranty Deed, in the same condition, without lien or encumbrance, it was in when Smith's first acquired it, subject to easements approved by Developer in writing which were placed on the Smith's Lots as part of the development of the Shopping Center. Smith's shall provide to Developer a standard-coverage, owner's title insurance policy in the amount of the purchase price. Developer shall take the Smith's Lots "as-is, where-is" with no representation or warranty from Smith's regarding the environmental or physical condition of the Smith's Lots, except that Smith's shall represent and warrant that, to its actual knowledge, it has not (y) brought any environmental contaminants or pollutants onto the Smith's Lots or the Developer Lots, or (z) consented to any such contaminants or pollutants being brought onto the Smith's Lots or the Developer Lots. If Smith's determines to sell the Smith's Lots at any time prior to constructing and operating a grocery store on the Smith's Lots, it shall promptly give written notice thereof to Developer. Any time within ninety (90) days after receiving such notice, Developer may exercise its option to purchase the Smith's Lots by giving written notice thereof to Smith's. Developer shall close on its purchase of the Smith's Lots no later than ninety (90) days after giving Smith's its notice of intent to purchase. If Developer fails to (A) give its notice of intent to purchase within the ninety (90)-day period set forth above, or (B) close on its purchase of the Smith's Lots within the second ninety (90)-day period set forth above, then, in either event, Developer's Option to Purchase shall automatically expire.

18. No Third-Party Beneficiaries.

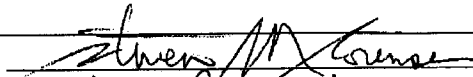
No rights in favor of any person other than the parties to this Agreement will be created, implied or inferred from the provisions of this Agreement, except rights in successors as provided in Section 11 above.

[Signatures are on the following page(s).]

IN WITNESS WHEREOF, the parties hereto have executed this REA
the day and year first above written.

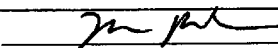
"SMITH'S"

SMITH'S FOOD & DRUG CENTERS, INC.,
an Ohio corporation

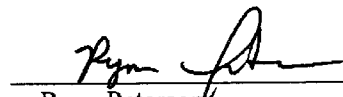
By: 
Its: VICE PRESIDENT

"DEVELOPER"

SAWTELL PROPERTIES LLC
A Utah limited liability company

By: 
Barrett Peterson
Its: Managing Member

KICK CREEK LLC
A Utah limited liability company

By: 
Ryan Peterson
Its: Managing Member

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

Before me, the undersigned authority, on this day personally appeared STEVEN M. SORENEEN, VICE PRESIDENT of SMITH'S FOOD & DRUG CENTERS, INC., an Ohio corporation, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 30th day of JANUARY, 2014.



My Commission Expires:
8-8-14

Susan T. Thomson
Notary Public

Notary's name printed:

SUSAN T. THOMSON

STATE OF Utah)
 : ss.
COUNTY OF Salt Lake)

Before me, the undersigned authority, on this day personally appeared Barrett Peterson, Managing Member of SAWTELL PROPERTIES LLC, a Utah limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

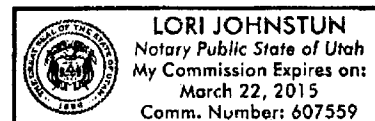
Given under my hand and seal of office on this 29th day of January, 2014.

Lori Johnston
Notary Public

Notary's name printed:

LORI JOHNSTUN

My Commission Expires:
03.22.2015



STATE OF Utah)
: ss.
COUNTY OF Salt Lake)

Before me, the undersigned authority, on this day personally appeared Ryan Peterson, Managing Member of KICK CREEK LLC, a Utah limited liability company, known to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated and as the act and deed of said corporation.

Given under my hand and seal of office on this 29th day of January,
2014.

Lori Johnston
Notary Public
Notary's name printed:
LORI JOHNSTUN

My Commission Expires:
03.22.2015



Exhibit A Site Plan

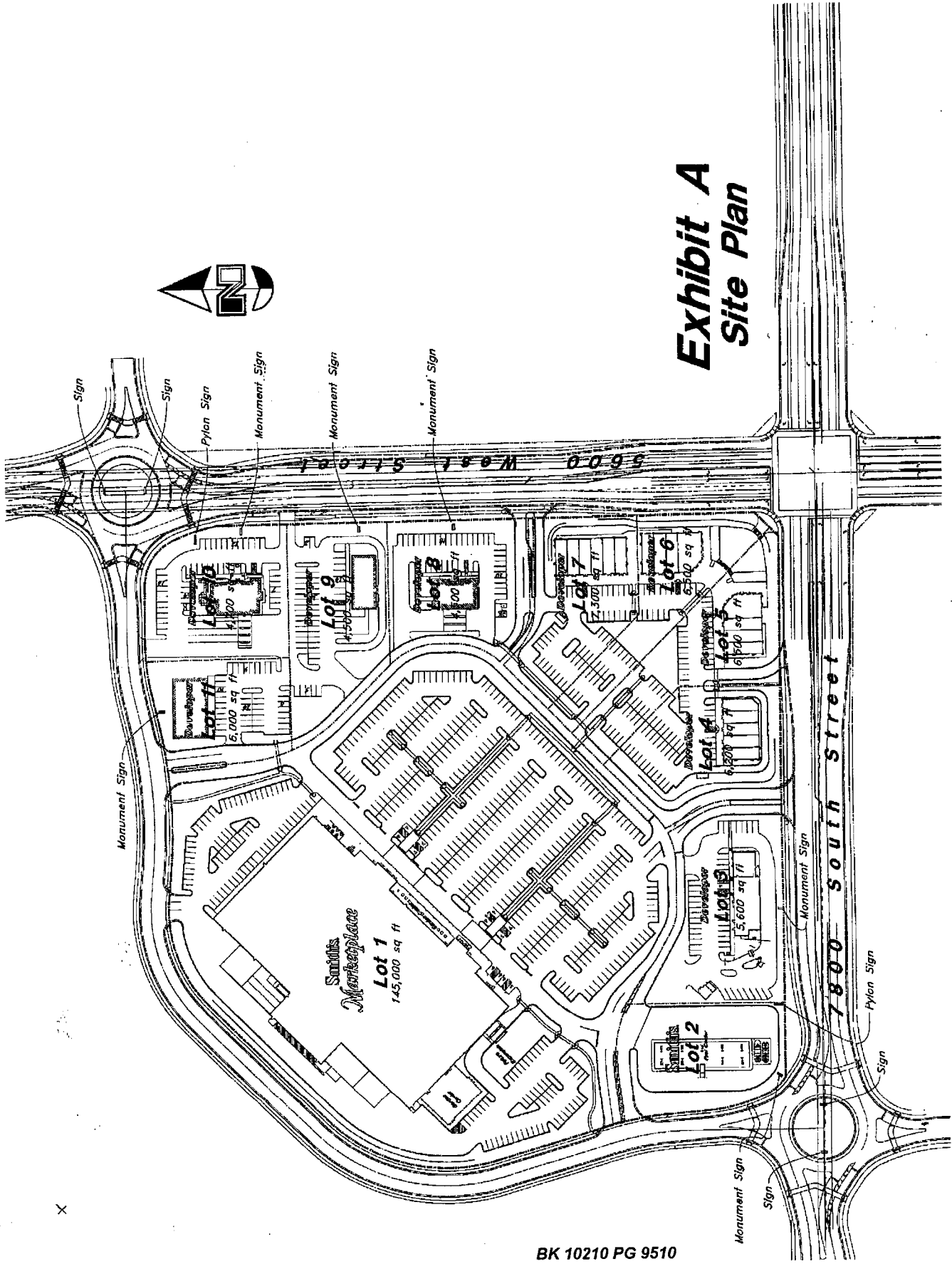


EXHIBIT "B"

**LOT 1
Smith's #274
Highlands Center**

**September 30, 2013
Revised November 5, 2013**

All of Lot 1 of The Highlands Commercial Subdivision according to the plat thereof as recorded in the office of the Salt Lake County Recorder lying within the Southeast Quarter of Section 26, Township 2 South, Range 2 West, Salt Lake Base & Meridian, U.S. Survey in Salt Lake County, Utah:

Beginning at a point located 351.68 feet North $0^{\circ}43'28''$ West along the Section Line, and 1076.69 feet South $89^{\circ}16'32''$ West from the Southeast Corner of said Section 26; and running thence Northwesterly along the arc of a 480.00 foot radius curve to the left a distance of 22.46 feet (Center bears South $76^{\circ}07'02''$ West, Central Angle equals $2^{\circ}40'51''$ and Long Chord bears North $15^{\circ}13'24''$ West 22.46 feet) to a point of tangency; thence North $16^{\circ}33'50''$ West 200.08 feet to a point of curvature; thence Northerly along the arc of a 284.25 foot radius curve to the right a distance of 305.35 feet (Central Angle equals $61^{\circ}32'55''$ and Long Chord bears North $14^{\circ}12'38''$ East 290.88 feet) to a point of tangency; thence North $44^{\circ}59'06''$ East 282.74 feet to a point of curvature; thence Northeasterly along the arc of a 220.00 foot radius curve to the right a distance of 193.59 feet (Central Angle equals $50^{\circ}25'07''$ and Long Chord bears North $70^{\circ}11'39''$ East 187.41 feet) to a point of tangency; thence South $84^{\circ}35'47''$ East 50.00 feet to a point of curvature; thence Easterly along the arc of a 731.27 foot radius curve to the left a distance of 165.82 feet (Central Angle equals $12^{\circ}59'31''$ and Long Chord bears North $88^{\circ}54'27''$ East 165.46 feet); thence South $5^{\circ}25'31''$ East 136.15 feet to a point of curvature; thence Southeasterly along the arc of a 250.00 foot radius curve to the left a distance of 172.74 feet (Central Angle equals $39^{\circ}35'23''$ and Long Chord bears South $25^{\circ}13'13''$ East 169.33 feet) to a point of tangency; thence South $45^{\circ}00'54''$ East 121.98 feet to a point of curvature; thence Southeasterly along the arc of a 115.00 foot radius curve to the right a distance of 90.26 feet (Central Angle equals $44^{\circ}58'15''$ and Long Chord bears South $22^{\circ}31'47''$ East 87.96 feet) to a point of tangency; thence South $0^{\circ}02'40''$ East 25.25 feet to a point of curvature; thence Southwesterly along the arc of a 115.00 foot radius curve to the right a distance of 86.38 feet (Central Angle equals $43^{\circ}02'09''$ and Long Chord bears South $21^{\circ}28'25''$ West 84.36 feet); thence South $45^{\circ}00'54''$ East 34.29 feet to a point of curvature; thence Southeasterly along the arc of a 96.00 foot radius curve to the left a distance of 76.59 feet (Central Angle equals $45^{\circ}42'34''$ and Long Chord bears South $67^{\circ}52'11''$ East 74.57 feet) to a point of tangency; thence North $89^{\circ}16'32''$ East 144.59 feet to the West Line of 5600 West Street as dedicated to 63.00 foot half-width; thence South $0^{\circ}43'28''$ East 8.00 feet along said West Line; thence South $89^{\circ}16'32''$ West 144.59 feet to a point of curvature; thence Northwesterly along the arc of a 104.00 foot radius curve to the right a distance of 82.97 feet (Central Angle equals $45^{\circ}42'34''$ and Long Chord bears North $67^{\circ}52'11''$ West 80.79 feet) to a point of tangency; thence North $45^{\circ}00'54''$ West 34.22 feet; thence South $44^{\circ}59'06''$ West 357.13 feet to a point of curvature; thence Southwesterly along the arc of a 115.00 foot radius curve to the right a distance of 28.41 feet (Central Angle equals $14^{\circ}09'08''$ and Long Chord bears South $52^{\circ}03'40''$ West 28.33 feet); thence

South 28°52'11" East 62.59 feet to a point of curvature; thence Southeasterly along the arc of a 124.00 foot radius curve to the right a distance of 62.44 feet (Central Angle equals 28°51'01" and Long chord bears South 14°26'40" East 61.78 feet) to a point of tangency; thence South 0°01'10" East 82.24 feet to the North Line of 7800 South Street as dedicated to 63.00 foot half-width; thence South 89°58'50" West 8.00 feet along said North Line; thence North 0°01'10" West 82.24 feet to a point of curvature; thence Northwesterly along the arc of a 116.00 foot radius curve to the left a distance of 58.41 feet (Central Angle equals 28°51'01" and Long chord bears North 14°26'40" West 57.79 feet) to a point of tangency; thence North 28°52'11" West 62.59 feet; thence Southwesterly along the arc of a 115.00 foot radius curve to the right a distance of 53.91 feet (Center bears North 26°52'35" West, Central Angle equals 26°51'25" and Long Chord bears South 76°33'08" West 53.41 feet) to a point of tangency; thence South 89°58'50" West 73.26 feet to a point of curvature; thence Northwesterly along the arc of an 85.00 foot radius curve to the right a distance of 42.16 feet (Central Angle equals 28°25'09" and Long Chord bears North 75°48'35" West 41.73 feet) to a point of tangency; thence North 61°36'01" West 46.19 feet to a point of curvature; thence Northwesterly along the arc of a 150.00 foot radius curve to the right a distance of 32.97 feet (Central Angle equals 12°35'42" and Long Chord bears North 55°18'10" West 32.91 feet) to a point of reverse curvature; thence Northwesterly and Westerly along the arc of a 224.00 foot radius curve to the left a distance of 187.22 feet (Central Angle equals 47°53'16" and Long Chord bears North 72°56'57" West 181.82 feet) to a point of tangency; thence South 83°06'26" West 79.99 feet to the point of beginning.

**Contains 535,127 sq. ft.
or 12.285 acres**

LOT 2
Smith's #274
Highlands Center

September 30, 2013
Revised January 14, 2014

All of Lot 2 of The Highlands Commercial Subdivision according to the plat thereof as recorded in the office of the Salt Lake County Recorder lying within the Southeast Quarter of Section 26, Township 2 South, Range 2 West, Salt Lake Base & Meridian, U.S. Survey in Salt Lake County, Utah:

Beginning at a point located 351.68 feet North $0^{\circ}43'28''$ West along the Section Line, and 1076.69 feet South $89^{\circ}16'32''$ West from the Southeast Corner of said Section 26; and running thence North $83^{\circ}06'26''$ East 79.99 feet to a point of curvature; thence Easterly and Southeasterly along the arc of a 224.00 foot radius curve to the right a distance of 123.33 feet (Central Angle equals $31^{\circ}32'44''$ and Long Chord bears South $81^{\circ}07'12''$ East 121.78 feet); thence South $0^{\circ}00'16''$ West 266.14 feet to the North Line of 7800 South Street as it has been widened to 63.00 foot half-width; thence South $89^{\circ}58'50''$ West 119.81 feet; thence Northwesterly along the arc of an 83.50 foot radius curve to the right a distance of 50.45 feet (Center bears North $30^{\circ}52'51''$ East, Central Angle equals $34^{\circ}37'00''$ and Long Chord bears North $41^{\circ}48'39''$ West 49.69 feet to a point of compound curvature; thence Northwesterly along the arc of a 283.50 foot radius curve to the right a distance of 77.33 feet (Central Angle equals $15^{\circ}37'44''$ and Long Chord bears North $16^{\circ}41'17''$ West 77.09 feet) to a point of tangency; thence North $8^{\circ}52'25''$ West 28.93 feet to a point of curvature; thence Northwesterly along the arc of a 183.50 foot radius curve to the right a distance of 14.02 feet (Central Angle equals $4^{\circ}22'39''$ and Long Chord bears North $6^{\circ}41'06''$ West 14.02 feet); thence North $49^{\circ}53'46''$ West 3.07 feet; thence North $4^{\circ}53'53''$ West 45.99 feet; thence Northwesterly along the arc of a 480.00 foot radius curve to the left a distance of 75.29 feet (Center bears South $85^{\circ}06'14''$ West, Central Angle equals $8^{\circ}59'12''$ and Long Chord bears North $9^{\circ}23'22''$ West 75.21 feet) to the point of beginning.

Contains 49,243 sq. ft.
or 1.130 acres

EXHIBIT "C"

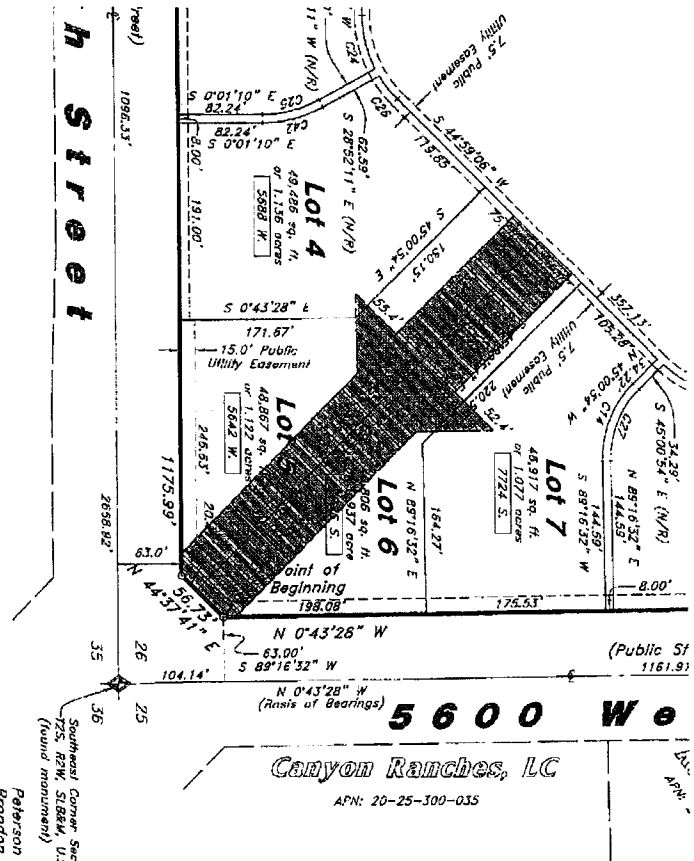
**Smith's #274
Highlands Center
Developer Lots**

November 18, 2013

All of Lots 3, 4, 5, 6, 7, 8, 9, 10 and 11 of The Highlands Commercial Subdivision according to the plat thereof as recorded in the office of the Salt Lake County Recorder lying within the Southeast Quarter of Section 26, Township 2 South, Range 2 West, Salt Lake Base & Meridian, U.S. Survey in Salt Lake county, Utah.

**Contains 444,204 sq. ft.
or 10.198 acres**

Reams & Shingles
 APN: 20-35-200-025



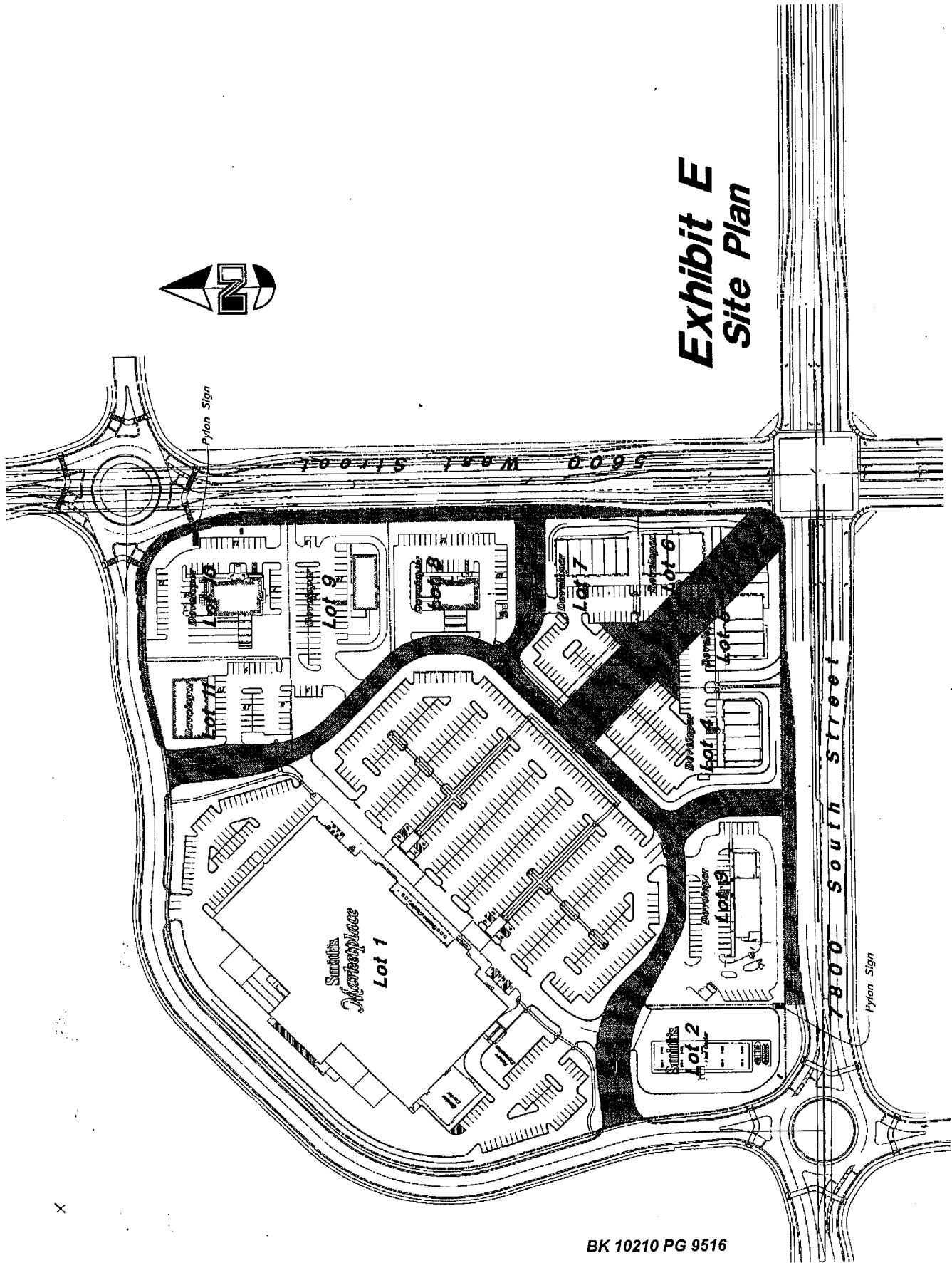
Peterson Development
 Brandon Peterson
 225 South 200 East, Suite 300
 Salt Lake City, Utah 84111
 Phone: 801-532-2233

Smith's
FOOD & DRUG STORES
 1550 South Redwood Road
 Salt Lake City, Utah 84104
 Telephone (801) 974-1400

Owner - Developer

Exhibit "D"

Exhibit E Site Plan



x