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REC'D FOR BONNEVILLE TITLE COMPANY, INC

DECLARATION OF RESTRICTIONS

1 thru 12, Clinton Towne Center
AND

14-266-0001 thru 0012
EASEMENTS

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AND EASEMENTS

THIS DECLARATION OF RESTRICTIONS AND EASEMENTS ("Declaration") is entered into on October 22, 1998, between SB Clinton L.C., a Utah limited liability company ("First Party"), and Albertson's, Inc., a Delaware corporation ("Albertson's").

1. PRELIMINARY

1.1 Purpose. The parties plan to develop the Shopping Center (as defined in Section 1.2[aa]) as an integrated retail sales complex for the mutual benefit of all real property in the Shopping Center. Therefore, the parties hereby establish the Restrictions (as defined in Section 1.2[x]).

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

(a) "Albertson's": Albertson's, Inc., a Delaware corporation, together with any corporation succeeding thereto by consolidation, merger or acquisition of its assets substantially as an entirety, and any wholly owned subsidiary thereof. Albertson's current address is 250 Parkcenter Boulevard, P.O. Box 20, Boise, Idaho 83726.

(b) "Building Area": All of those areas on each Parcel shown as Building Area on Exhibit "A" attached hereto and made a part hereof, together with those portions of the Expansion Area and Building Envelopes which are from time to time covered by a building or other commercial structure.

(c) "Building Envelopes": All those areas on each Parcel located within the "Building Envelope Lines" as shown on Exhibit "A."

(d) "Common Area": All of those areas on each Parcel which are not Building Area together with those portions of the Building Area on each Parcel which are not from time to time actually covered by a building or other commercial structure or which cannot under the terms of this Declaration be used for buildings. Canopies which extend over the Common Area or over any Fuel Center Facilities, together with any columns or posts supporting the same, shall be deemed to be a part of the building or Fuel Center Facilities to which they are attached or associated and not a part of the Common Area.

(e) "Common Area Maintenance Agreement": That certain Common Area Maintenance Agreement between the parties hereto which encumbers the Shopping Center and is recorded concurrently herewith.

(f) "Consenting Owners": (i) First Party, so long as First Party is an Owner or Prime Lessee of a Parcel herein, or, at the option of First Party, the person succeeding First Party as the Owner of Parcel 1 (but only if said option is exercised by written notice to all other Owners not later than thirty [30] days after Parcel 1 is conveyed by First Party to a successor Owner) and, (ii) the Owner of Parcel 2; provided, however, that in the event any such Owner sells its Parcel and becomes the Prime Lessee thereon, said Prime Lessee is hereby appointed the entity to cast the vote or give the consent for said Parcel on behalf of the Owner thereof so long as it is the Prime Lessee of said Parcel.

(g) "Development Agreement": That certain Development Agreement between the parties hereto which encumbers the Shopping Center and is recorded concurrently herewith.

(h) "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.

(i) "Expansion Area": All of those areas on Parcel 2 located within the "Expansion Limit Line" shown on Exhibit "A."

(j) "Financial Institution": Any federally chartered or state regulated banking entity, including thrift institutions and credit unions.

(k) "First Party": SB Clinton L.C., a Utah 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. First Party's current address is c/o SmithBrubaker, 2231 East Murray Holladay Road #200, Salt Lake City, Utah 84177.

(l) "Floor Area": The total number of square feet in a building, whether or not actually occupied, (including basement, subterranean, balcony and mezzanine space) measured from the exterior line of the exterior walls and from the center line of any party

or common interior walls without deduction for columns, walls or other structural or nonstructural components.

(m) "Fuel Center": A self-service gasoline or fueling station sometimes constructed and operated in conjunction with a convenience store and/or a car wash.

(n) "Fuel Center Facilities": Fuel islands, fuel island canopies, fuel pumps, fuel storage tanks, piping, tank filling ports, trash receptacles, air hoses, water hoses, vacuums, signs, safety equipment and other structures or equipment associated with the selling and dispensing of motor fuel. Fuel Center Facilities shall not be deemed Common Area or Service Facilities.

(o) "General Common Area Improvements": The traffic directional arrow signs and other signs permitted under Article 4, paving, bumper guards and curbs, landscape planters and other landscaped areas, parking lot lighting, perimeter walls and fences, utility pads and equipment, sidewalks, and walkways.

(p) "Ground Floor Area": The total number of square feet on the ground floor of a building, whether or not actually occupied, (excluding basement, subterranean, balcony and mezzanine space) measured from the exterior line of the exterior walls and from the center line of any party or common interior walls without deduction for columns, walls or other structural or nonstructural components.

(q) "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.

(r) **"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.

(s) **"National Chain CCF"**: An automotive maintenance, repair or care facility (such as a quick-lube, glass repair, tune-up or tire store) operating in not less than fifteen (15) total locations spread among three (3) or more states, all under the same trade name.

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

(u) **"Parcel"**: Parcel 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 as shown on Exhibit "A" and more particularly described in Schedule I attached hereto and made a part hereof. The Parcels are located at the northwest corner of the intersection of 2000 West Street and 1800 North Street in the City of Clinton, County of Davis, State of Utah.

(v) **"person"**: Individuals, partnerships, firms, associations, corporations, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

(w) **"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.

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

(y) **"Self-Parked"**: (i) Having a minimum of five (5) parking stalls per 1,000 square feet of Floor Area used as retail (not including restaurant or office) space and ten (10) parking stalls per 1,000 square feet of Floor Area used as restaurant or office space, and (ii) meeting all applicable laws, rules or regulations (without a variance) governing or relating to parking accommodations. For the purpose of this Section 1.2(y), a business which offers only fast-food, take-out or food delivery services (and does not offer any sit-down or "full" service) shall be deemed to be retail space as opposed to restaurant space.

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

(aa) **"Shopping Center"**: Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 collectively.

(bb) **"Sign Criteria"**: That criteria for certain signage in the Shopping Center set forth in Exhibit "B" attached hereto and made a part hereof.

1.3 **Parties.** First Party is the Owner of Parcels 1, 3, 4, 5, 6, 8, 9, 10, 11 and 12; and Albertson's is the Owner of Parcels 2 and 7.

2. BUILDING AND COMMON AREA DEVELOPMENT

2.1 **Building Location.** All buildings and other structures (except Fuel Center Facilities and those ^{or other} structures which are 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 (including columns or posts supporting the same), normal foundations, utility cabinets and meters, signs and doors for ingress and egress may project from the Building Area into the Common Area. All of the foregoing shall be constructed and maintained in accordance with all local, state and federal laws, rules and regulations applicable thereto. Buildings may be located (or relocated) anywhere within a Building Envelope provided the total Ground Floor Area of all buildings constructed within a Building Envelope does not exceed the square footage assigned to such Building Envelope as shown on Exhibit "A." Canopies (including, without limitation, the area under the fuel island canopy on Parcel 7), eaves and roof overhangs shall not be counted against the building square footage assigned to each Building Area (or Building Envelope, as the case may be). Parcels 4, 5, 6, 7, 8, 9, 10, 11 and 12 shall be Self-Parked and all other Restrictions in this Declaration governing the development (e.g., those set forth in this Article 2) or the use (e.g., those set forth in Article 5) of said Parcels shall be subject to this sentence.

Prior to the construction of any building or Common Area improvements within a Building Envelope, the Owner of the applicable Parcel shall obtain the Consenting Owners' prior written approval to the site plan for that portion of the Common Area located within the Building Envelope in accordance with the procedures set forth in Section 2.5. All Building Areas on which buildings are not under construction on the date the Owner of Parcel 2 first opens its building for

business shall be covered by a dust cap of irrigated grass, gravel or asphalt (at least one inch thick) and kept weed-free and clean at the Owner's sole expense until such time as buildings are constructed thereon.

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. The Common Area may be used for vehicular driving, parking (except that there shall be no multi-level parking) 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 "A" and in conformance with the Site Development Criteria attached to the Development Agreement as Exhibit "B" (which criteria are incorporated herein and made a part hereof, notwithstanding any termination of the Development Agreement); provided, however, in the event of any conflict between the site plan attached hereto as Exhibit "A" and the Site Development Criteria, Exhibit "A" shall control.

(c) Changes and Additions. After the initial development of the Common Area, no buildings or structures not approved in writing by the Consenting Owners shall be placed in the Common Area (unless it is within a Building Area designated as a Common Area under Section 1.2[d] because it is not then currently covered by a building) except: (i) Service Facilities; and (ii) public pay telephones provided their location has been approved in writing by

the Consenting Owners; provided, however, that the Owner or occupant of Parcel 2 shall have the right to locate public pay telephones on the exterior of the building located on Parcel 2 without the Consenting Owners' approval. The sizes and arrangements of Common Area improvements including, without limitation, General Common Area Improvements, service drives, parking areas and striping, recycle centers, cart corrals and all buildings and structures approved pursuant to this subparagraph (c) may not be changed without the Consenting Owners' prior written approval; provided, however, that nothing in this Section 2.2 shall be interpreted to require the Consenting Owners' approval to (i) the expansion of any building into the Expansion Area shown on Exhibit "A" (except as to changes to the exterior elevation of the building, which require the prior written approval of the Consenting Owners under Section 2.3[a]), or (ii) the construction, alteration or relocation of (A) any Service Facilities to the extent that they are located, and do not impede access, to the rear or sides of buildings, or (B) any Fuel Center Facilities. All requests for approval under this subparagraph (c) shall be processed in accordance with Section 2.5.

(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 Owners and maintained as improved Common Area until buildings are constructed thereon.

2.3 Type and Design of Buildings.

(a) Architectural Compatibility. No more than one (1) building shall be permitted on each of Parcels 4, 5, 6, 10, 11 and 12. 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. Each building in the Shopping Center shall initially be constructed so the exterior of such building conforms to the Building Design Drawings approved pursuant to Section 5.1 of the Development Agreement. No building for which Building Design Drawings have not been approved may be constructed, nor the exterior of any existing building changed in any way (including, without limitation, signs and color), without the Consenting Owners' prior written approval (which shall be obtained in accordance with the procedures set forth in Section 2.5) as to the exterior elevations (including, without limitation, signs and color) of the building to be constructed or modified; provided, however, that nothing in this Section 2.3 shall be interpreted to require the Consenting Owners' approval to building signs that conform to the Sign Criteria. No Consenting Owner may withhold its approval of the proposed building or modification if it is architecturally and aesthetically compatible and harmonious with all other buildings in the Shopping Center. Albertson's standard signs and logos (including, without limitation, signs identifying any tenant, subtenant, licensee, or concessionaire located and operating on Parcel 2 ["Parcel 2 Tenant"]) as they may exist from time to time and the opening, closing, modification or relocation of any door, however, shall not require approval.

(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) **Fire Protection.** Every building on Parcels 1, 2, 3 and 9 shall be equipped with automatic sprinkler systems which meet all the applicable standards of the National Fire Protection Association. The purpose of this subparagraph (c) is to allow such buildings to be considered as one (1) building for building code purposes.

(d) **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.

(e) **Height.** All buildings and other structures in the Shopping Center shall be single story with mezzanine permitted. No building or other structure located on Parcel 1, 3, 8 or 9 shall exceed thirty-five (35) feet in height (including mechanical fixtures and equipment and screening for the same). No building or other structure located on Parcel 4, 5, 6, 7, 10, 11 or 12 shall exceed twenty-four (24) feet in height (including mechanical fixtures and equipment and screening for the same). No mezzanine or basement shall be used for the sale or display of merchandise or for the offer or provision of retail services to the public.

(f) **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), (ii) customer vehicular parking in that portion of the improved Common Area located in front of any building constructed in the Shopping Center, or (iii) 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 Owners. 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.

2.5 **Approval Procedures.** Before any action requiring the Consenting Owners' approval is commenced, sufficient information shall be sent to the Consenting Owners to enable the Consenting Owners to make a reasonable decision as to the proposal. No Consenting Owner shall have the right to unreasonably withhold its approval to the proposal unless otherwise specified in this Declaration. Each 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 a Consenting Owner rejects or disapproves the proposal and fails to provide such explanation within the thirty (30) day period, such Consenting Owner shall be deemed to have approved the same provided that, when the approval was sought, the one seeking the approval stated in writing to the one whose approval was sought that, if a disapproval with explanation was not made within the thirty (30) day period, approval would then be deemed to have been given. 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

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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 and vehicular parking upon, over and across that portion of the Common Area located on the grantor's Parcel(s), except for those areas devoted to Service Facilities or driveup or drive through customer service facilities. The reciprocal rights of ingress and egress set forth in this Section 3.1 shall apply to the Common Area for each Parcel as such area shall be increased pursuant to Section 2.2 above.

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, electrical conduits or systems, gas mains and other public or private utilities. 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. The utility systems contemplated in this Section 3.2(a) shall include, without limitation, pneumatic tubes, data lines and other underground

equipment running between Parcel 2 and Parcel 7 under, through and across the Common Area located on any other Parcel.

(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 sixty (60) 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 **Signs.** Each Owner, as grantor, hereby grants to the other Owners, for the benefit of each Parcel belonging to the other Owners, as grantees, an easement under, through and across the Common Area of the grantor's Parcel(s) for the installation, operation, maintenance, repair and replacement of the free-standing signs referred to in Section 4.3 of this Declaration and all utility lines and facilities appurtenant thereto. Except where otherwise specifically stated herein to the contrary, the grantee(s) shall bear all costs related to the installation, maintenance, repair and replacement of its free-standing sign and appurtenant 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 facilities are located within thirty (30) days after the date of completion of construction of same.

3.4 **Building Encroachments.** Each Owner, as grantor, hereby grants to the other Owners, for the benefit of each Parcel belonging to the other Owners, as grantees, an easement for any portion of any building or other structure located on any such Parcel which may

encroach into or over the grantor's adjoining Parcel(s); provided the easement for footings, piers, piles, grade beams and building encroachments does not exceed two (2) feet, and the easement for canopies, eaves and roof overhangs does not exceed four (4) feet. The easements granted in this Section 3.4 shall survive this Declaration and shall last so long as the encroaching building is standing following its initial construction or following its reconstruction where such building is substantially restored to its prior condition following a casualty or condemnation.

3.5 **Permanent Service Drive.** 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 perpetual non-exclusive easement for ingress and egress by vehicular and pedestrian traffic upon, over and across that portion of the Common Area located on the grantor's Parcel(s) shown on Exhibit "A" as "Permanent Service Drive" and more particularly described in Schedule II attached hereto and made a part hereof.

3.6 **Temporary Service Drive.** A portion of the Permanent Service Drive is located on a future development phase of the Shopping Center designated on Exhibit "A" as "Phase 2" (the "Future Phase Service Drive Area"). In light of the foregoing, each Owner of Parcels 3, 4, 9, and 11, 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 temporary non-exclusive easement for ingress and egress by vehicular and

pedestrian traffic upon, over and across that portion of the Common Area located on the grantor's Parcel(s) shown on Exhibit "A" as "Temporary Service Drive" and more particularly described in Schedule III attached hereto and made a part hereof. Such easement shall be an encumbrance upon and burden Parcels 3, 4, 9 and 11 until First Party completes the work associated with the construction of a paved service drive upon, over and across the Future Phase Service Drive Area (the "Future Phase Service Drive Work"), pursuant to the Site Development Criteria set forth in Exhibit "B" attached to the Development Agreement. In no event shall the construction of any building be commenced on Parcel 8, 9, 10, 11 or 12 until after First Party completes the Future Phase Service Drive Work, and, anything in Section 3.5 to the contrary notwithstanding, usage of the easement rights described in Section 3.5 upon, over and across that portion of the Permanent Service Drive comprised of the Future Phase Service Drive Area shall be delayed and held in abeyance until the Future Phase Service Drive Work is completed.

3.7 Self Help. Each Owner, as grantor (such Owner being referred to in this subparagraph only as "Grantor Owner"), hereby grants to the other Owners for the benefit of each Parcel belonging to the other Owners as grantees (such other Owners being referred to in this subparagraph only as "Grantee Owners"), an easement to enter the Grantor Owner's Parcel for the following purposes:

(a) To perform such work on the Grantor Owner's Parcel as is necessary to cure any default by the Grantor Owner under the Development Agreement, Declaration or CAMA, provided and to the extent the Grantee Owner has the express right to cure said default under the Development Agreement, Declaration or CAMA; and

Owner has under the Declaration, Development Agreement or CAMA.

4. OPERATION OF COMMON AREA

4.1 **Parking.** There shall be no charge for parking in the Common Area without the prior written approval of the Consenting Owners or unless otherwise required by law.

4.2 **Employee Parking.** Notwithstanding anything to the contrary in this Declaration, areas to be used for motor vehicle parking by employees of occupants of the Shopping Center may be designated within the Shopping Center from time to time with the prior written approval of the Consenting Owners. In the event employee parking areas are designated as provided herein, then employees of any Owner or occupant of any part of the Shopping Center shall use only those portions of the Common Area designated for such motor vehicle parking purposes. In no event shall employees of any Parcel other than Parcel 2 park within 100 feet of the front of any building located on Parcel 2. The authority herein granted shall be exercised in such manner as not to discriminate against any Owner or occupant of the Shopping Center.

4.3 Signs.

(a) **Center Pylon Signs.** Subject to governmental approval, a free-standing sign shall be erected at each of the locations designated "Center Pylon Sign" on Exhibit "A." Such signs may, at the option of the Owner or occupant of Parcel 2, display the designation of the Owner or occupant of Parcel 2 and/or the designation of a Parcel 2 Tenant. The designation for the Parcel 2 Tenant may, at the option of the Owner or occupant of Parcel 2, be included on a separate sign can, or be included as part of the designation on the sign can

otherwise permitted to the Owner or occupant of Parcel 2. Provided the amount of signage otherwise permitted by governmental authority to the Owner or occupant of Parcel 2 and any Parcel 2 Tenant is not adversely affected thereby, designations for not more than four (4) other businesses in the Shopping Center shall also be permitted on the Center Pylon Signs. The cost of constructing, installing, maintaining, repairing and replacing the Center Pylon Sign structures (excluding electrical hookup to the Common Area meter) 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. Each person displaying a designation on a Center Pylon Sign shall supply and maintain its own sign fascia and can. The design of the Center Pylon Sign structures and the size, design and location of sign fascia thereon shall be subject to the Consenting Owners' prior written approval (which shall be obtained in accordance with the procedures set forth in Section 2.5). Notwithstanding the foregoing, Albertson's and other persons occupying at least 4,000 square feet of Floor Area may use such standard fascia as they from time to time use generally in carrying on their businesses. The Owner or occupant of Parcel 2 shall have the top designation on the Center Pylon Signs. The Owner of Parcel 1 shall have the right to substitute a Shopping Center designation for any one (1) of its business designations.

(b) Monument Signs. In addition to the Center Pylon Signs, subject to governmental approval, and provided the signage described in this subsection (b) does not interfere with or impair the installation and use of the Center Pylon Signs or otherwise adversely

affect the amount of signage otherwise permitted by governmental authority in connection with the Center Pylon Signs, free-standing monument signs may be erected on Parcels 4, 5, 6, 7, 10, 11 and 12 at the locations therefor shown on Exhibit "A". No portion of any such monument sign (or any design feature thereof) shall exceed an elevation of six (6) feet above the street level of the nearest adjacent street. In no event shall the sign area of any such monument sign exceed thirty-two (32) square feet (with a maximum of four [4] feet in height and eight [8] feet in width). Each such monument sign shall display the designation of the Owner or an occupant of the Parcel on which the sign is located or, with respect to a Fuel Center, the price of the fuels being sold on the Parcel. The cost of designing, constructing, installing, lighting, maintaining, repairing and replacing each monument sign shall be paid by the Owner of the Parcel on which the sign is located or the business that is designated on the sign. Except for monument signs that conform to the Sign Criteria, the design of each monument sign structure, and the size, design and location of the sign fascia used, shall be subject to the approval of the Consenting Owners.

(c) Identification Sign. Clinton City officials are requiring that a monument sign reflecting the name of the development, Clinton Towne Center, be erected at the location designated "Shopping Center Identification Sign" on Exhibit "A". The sign shall be an eighteen (18) inch high by twelve (12) foot wide stone or faux stone front-lit sign in the landscaped setback area of Parcel 7. The cost of designing, constructing and installing the sign shall be paid by the Owners of all Parcels in the proportion that said Owners share Phase 1 Site Work Costs pursuant to Section 10.2(a) of the Development Agreement. The cost of lighting, maintaining, repairing and replacing the sign shall be paid by the Owners of all Parcels in the

proportion that said Owners share items of Common Area maintenance and insurance pursuant to Article 7 of the CAMA. The design of the sign, and the size, design and location of the sign fascia used, shall be subject to the approval of the Consenting Owners and Clinton City officials.

(d) No Other Signs. There shall be no other signs, except directional signs, signs on any overhead canopy structure constituting a portion of any Fuel Center improvements, and signs on buildings, in the Shopping Center. All exterior building signs on Parcels 1, 3, 4, 5, 6, 8, 9, 10, 11 and 12 shall be restricted to identification of the businesses or services located or provided therein. No exterior building sign shall be placed on penthouse walls, extend above the building roof or be painted on the exterior building surface. No exterior building or free-standing sign shall utilize flashing, moving or audible lights or appurtenances.

4.4 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 Owners' prior written approval, which may be withheld in such Consenting Owner's sole and absolute discretion.

4.5 Outside Sales. No portion of the Common Area, except sidewalks, shall be used for the sale or display of merchandise; provided, however, that the sale or display of

merchandise shall be permitted from Fuel Center Facilities and provided, further, that the seasonal sale of merchandise by the Owner or occupant of Parcel 2 shall be permitted from the parking lot located on Parcel 2 subject to the following restrictions: (i) the Common Area shall be promptly restored to its condition immediately prior to said sale at the sole cost and expense of the Owner or occupant of Parcel 2, and (ii) sales shall not unreasonably interfere with the free movement of vehicular traffic within the Shopping Center or with access to or from the Shopping Center, or any part thereof.

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

5. USE RESTRICTIONS

5.1 Food, Pharmacy and Fuel Center Restrictions. No part of Parcel 1, 3, 4, 5, 6, 8, 9, 10, 11 or 12 shall be used as a supermarket, which shall be defined as any store or department containing more than 2,000 square feet of Floor Area, including aisle space and storage, primarily devoted to the retail sale of food for off-premises consumption; as a bakery or delicatessen; as a cigarette or smoke shop or any other store the primary business of which is to sell tobacco products and/or accessories; for the sale of fresh or frozen meat, fish, poultry or produce for off-premises consumption; for the sale of alcoholic beverages for off-premises consumption; or for the sale or offer for sale of any pharmaceutical products requiring the services of a registered pharmacist. No part of Parcel 1, 3, 4, 5, 6, 8, 9, 10, 11 or 12 shall be used as a gasoline station or fueling facility or any other operation the primary business of which is to sell gasoline products and/or accessories. No sandwich shop (such as a Subway or Blimpies), pizza

shop that is primarily take-out or delivery (such as Domino's, Little Caesar's, Papa Murphy's or Pizza Hut Delivery) or restaurant that has drive-thru facilities or take-out services (provided that the majority of the restaurant's sales do not arise from the drive-thru facilities or the take-out services) shall constitute a use which is restricted by any of the "off-premises consumption" provisions set forth above in this Section 5.1 other than the restriction against the sale of alcoholic beverages for off-premises consumption.

5.2 General Restrictions.

(a) **Retail Use Restrictions.** No part of Parcel 1, 3 or 4 shall be used for any purpose other than for retail sales, retail services (including Financial Institutions) or restaurants. Without limiting the foregoing, no part of the Shopping Center shall be used for an automotive maintenance or repair facility (other than a Fuel Center where permitted in the Shopping Center and/or a National Chain CCF on Parcel 7), a second hand or surplus store, or for any entertainment or recreational facility or training or educational facility. For the purpose of this Declaration, the phrase "entertainment or recreational facility" shall include, without limitation, a theater, bowling alley, skating rink, gym (except that a gym shall be permitted on either Parcel 8 or 10, but not both Parcels), health spa or studio, dance hall, billiard or pool hall, massage parlor, game parlor or video arcade (which shall be defined as any store containing more than four [4] electronic games). The phrase "training or educational facility" shall include, without limitation, a beauty school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees as opposed to customers.

(b) Special Use Restrictions. No part of the Shopping Center shall be used as a bar, tavern, cocktail lounge, adult book or adult video store, hotel, motel, car wash (except in conjunction with the operation of a Fuel Center where permitted in the Shopping Center and/or a National Chain CCF on Parcel 7 and except for a car wash operated on any one [but not more than one] of Parcels 8, 10, 11 or 12), warehouse, animal kennel (except that a single veterinary clinic shall be permitted provided that no portion of it is located within 100 feet of the Building Area of Parcel 2), 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.

5.3 Location Restrictions. No part of Parcel 1, 3 or 9 shall be used as a restaurant or as a medical (including, without limitation, eye care or chiropractic), dental, professional or business office (the foregoing office uses being referred to herein as "Office Use") unless all primary public entrance doors to all such restaurants and Office Uses on each of Parcels 1, 3 and 9 are more than 150 feet away from the Building Area of Parcel 2. No part of Parcel 4 shall be used as a restaurant or for an Office Use unless there are no public entrance doors on the northern one third ($\frac{1}{3}$) of the building placed or constructed on Parcel 4. No part of Parcel 5 shall be used for an Office Use unless there are no public entrance doors on the western one-half ($\frac{1}{2}$) of the building placed or constructed on Parcel 5. No part of Parcel 5 shall be used for a sit-down or full-service restaurant, but a fast-food or a take-out or delivery operation shall be permissible. No part of Parcel 6 shall be used as a restaurant or for an Office Use unless the primary public entrance doors to the building placed or constructed on Parcel 6 face to the north or to the east.

For purposes of this Section 5.3 only, (i) a Financial Institution shall not constitute an Office Use, and (ii) an eating establishment that is solely take-out or delivery and which offers no sit-down or "full" service shall not constitute a restaurant use. The total Floor Area of all restaurants and Office Uses located on Parcels 1, 3, 4, 5 and 6 shall not exceed 12,000 square feet.

5.4 Financial Institution Restrictions.

(a) **General Restrictions.** No part of Parcel 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 shall be used as a Financial Institution other than a First Security Bank, N.A. banking facility or its related entity ("First Security").

(b) **Restrictions on Parcel 2.** Albertson's and First Security are parties to that certain unrecorded Master Agreement dated October 7, 1997 (the "Master Agreement"), pertaining to certain banking operations, including, without limitation, automatic teller machines ("ATM's") in Albertson's supermarket buildings located in the State of Utah ("Banking Operations"), which would include Banking Operations within an Albertson's supermarket building on Parcel 2. The Master Agreement (for so long as the Master Agreement, including extensions thereof, is in effect) is incorporated into this Declaration by this reference and made a part hereof with respect to Banking Operations on Parcel 2. The Master Agreement does not restrict or otherwise affect any real property in the Shopping Center other than Parcel 2.

(c) **ATM Restrictions.** No ATM shall be located on Parcel 1, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 unless and until the Owner of the pertinent Parcel (or the person desiring to sell, lease or license part of the pertinent Parcel to a third person for use as an ATM location [the "Offeror"]) shall first offer, in writing, to sell, lease or license the ATM location to First

Security (the "Offer"). If Offeror has not received First Security's written acceptance of the Offer within thirty (30) days after First Security receives the Offer, Offeror shall then have the right to sell, lease or license the ATM location to any third person on the terms and conditions set forth in the Offer. In the event any of the terms and conditions of a proposed sale, lease or license by Offeror of an ATM location to any third person are materially different from the Offer, the Offer, as modified by such changes and differences (the "Modified Offer"), shall be resubmitted to First Security. If Offeror has not received First Security's written acceptance of the Modified Offer within fifteen (15) days after First Security receives the Modified Offer, Offeror shall then have the right to sell, lease or license the ATM location to said third person on the terms and conditions set forth in the Modified Offer.

(d) Termination of Restrictions. This Section 5.4 shall terminate in the event no part of the Shopping Center is utilized by First Security for the operation of a Financial Institution for a continuous period of one hundred eighty (180) days or more for any reason other than: (i) strikes, lockouts or other labor difficulties, fire or other casualty, condemnation, war, riot, insurrection, act of God, or the requirements of any local, state or federal law, rule or regulation, (ii) the initial construction of the premises utilized by First Security as a Financial Institution, or (iii) temporary closure of the premises utilized by First Security as a Financial Institution due to the restoration, reconstruction, expansion, alteration or remodeling thereof. Anything in this subparagraph (d) to the contrary notwithstanding, this subparagraph (d) shall have no impact whatsoever on the Master Agreement, or the term or duration thereof, or the continuation or termination thereof.

5.5 Driveup and Drive Through Facilities. No vehicular driveup or drive through customer service facilities shall be located in the Shopping Center unless the Consenting Owners have first given their written approval, which shall not be unreasonably withheld, to the location, parking and drive lanes of such facility. Anything in this Declaration (or shown on Exhibit "A") to the contrary notwithstanding, a vehicular driveup or drive through customer service facility shall not be permitted in the Shopping Center if it does not allow sufficient room for a stack of at least five (5) vehicles that does not block any part of a drive aisle in the Common Area. The parties hereby approve the vehicular driveup and drive through customer service facilities shown on Exhibit "A" subject to the five (5) vehicle stacking standard set forth in the immediately preceding sentence.

5.6 Mall Restrictions. There shall be no open or enclosed malls in the Shopping Center unless the Consenting Owners have first given their written approval, which shall not be unreasonably withheld, to the location of the entrance to such mall.

5.7 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.

6. CASUALTY AND CONDEMNATION

6.1 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 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.

6.2 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 "A" shall require the Consenting Owners' 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.

7. **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, 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 or destruction of any property resulting from the willful or negligent act or omission of the indemnifying Owner or its respective tenants, contractors, employees, agents, licensees or invitees.

8. GENERAL PROVISIONS

8.1 **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.

8.2 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 delivery of the Transfer Notice (as defined in subparagraph [b] below), 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.

(b) Transfer Notice. An Owner selling or transferring all or any portion of its interest in any Parcel shall give prior written notice thereof to each Consenting Owner ("Transfer Notice"), which Transfer Notice shall include at least the following information: (i) the name, current address and current phone number of the transferor, (ii) the name, current address and current phone number of the transferee, and (iii) a copy of the legal description of the portion of the Parcel or interest sold or transferred.

8.3 Duration. Except as hereinafter provided, 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 Owner of Parcel 2 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.

8.4 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.

8.5 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 Building Area 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.

8.6 Method of Approval. Whenever the consent or approval of any Owner is required, such consent or approval shall be exercised only in the following manner. Each Parcel shall have only one (1) vote. The Owners (if consisting of more than one [1] person) of each

Parcel shall agree among themselves and designate in writing to the Owners and Prime Lessees of each of the other Parcels a single person who is entitled to cast the vote for that Parcel. If the Owners of any such Parcel cannot agree who shall be entitled to cast the single vote of that Parcel, or if the Owners fail to designate the single person who is entitled to cast the vote for that Parcel within thirty (30) days after receipt of request for same from any other Owner or Prime Lessee, then that Parcel shall not be entitled to vote. In the event a Parcel is not entitled to vote, its consent or approval shall not be necessary and the total square footage of Building Area located on said Parcel shall be disregarded for the purpose of computing the percentage requirement set forth in Section 8.5. Except as otherwise set forth in Section 8.5, in the event an Owner sells its Parcel and becomes the Prime Lessee thereon, said Prime Lessee is hereby appointed (unless the Owner and Prime Lessee otherwise agree) the entity to cast the vote or give the consent for said Parcel on behalf of the Owner thereof and is hereby granted all of the rights and remedies granted to the Owner of said Parcel so long as it is the Prime Lessee of said Parcel, anything in this Declaration to the contrary notwithstanding.

8.7 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.

8.8 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.

8.9 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.

8.10 Notices.

(a) **Delivery.** All notices given pursuant to this Declaration shall be in writing and shall be given by 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 set forth below (or, if a Transfer Notice has been given, to the person designated in the Transfer Notice). If a notice must be given to a person other than one designated below or in a Transfer Notice, 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 set forth below:

First Party: SB Clinton L.C.
c/o SmithBrubaker
2231 East Murray Holladay Road #200
Salt Lake City, Utah 84177

Albertson's: Albertson's, Inc.
250 Parkcenter Boulevard
P.O. Box 20
Boise, ID 83726
Attention: Legal Department

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 nondelivery by the sending party.

8.11 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.

8.12 Attorney's Fees. In the event any Owner (or any other person entitled to enforce the provisions of this Declaration) initiates or defends any legal action or proceeding in any way connected with this Declaration, the prevailing person(s) 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 person(s) in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's 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.

8.13 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 Lease or its Parcel.

8.14 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.

8.15 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.

8.16 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.

8.17 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.

8.18 Entire Agreement. This Declaration contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Declaration shall be construed as a whole and not strictly for or against any party.

8.19 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.

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

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

EXECUTED as of the date first set forth above.

FIRST PARTY:

S B Clinton L.C.,
a Utah limited liability company

ALBERTSON'S:

KLG
By
WHA
Albertson's, Inc.,
a Delaware corporation

By: *Scott M. Brubaker*
Name: SCOTT M BRUBAKER
Its: MEMBER

William H. Arnold
By: William H. Arnold
Its: Vice President, Real Estate Law

E:\125\462\DOCS\DEC.05B

List of Schedules and Exhibits:

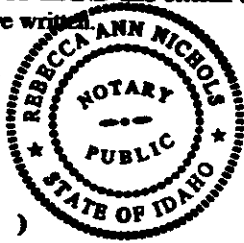
- Schedule I - Description of the Shopping Center Parcels
- Schedule II - Description of Permanent Service Drive
- Schedule III - Description of Temporary Service Drive
- Exhibit "A" - Site Plan
- Exhibit "B" - Sign Criteria

STATE OF IDAHO)
) ss.
County of Ada)

E 1451282 B 2379 P 421

On this 6th day of October, 1998, before me, the undersigned, a Notary Public in and for said State, personally appeared William H. Arnold, to me known to be the Vice President, Real Estate Law, of Albertson's, Inc., 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.



Rebecca Ann Nichols
Notary Public in and for the State of Idaho
Residing at Bowl, Idaho
My commission expires: 09-29-00

STATE OF UTAH)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 29 day of September, 1998, by Scott M. Bubaker, a member of S B Clinton L.C., a Utah limited liability company.

My commission expires:

6-12-2002

Carol Hintze
Notary Public in and for the
State of Utah
Residing at Salt Lake City, UT



Description of the Shopping Center Parcels

- Parcel 1: Lot 1, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 2: Lot 2, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 3: Lot 3, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 4: Lot 4, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 5: Lot 5, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 6: Lot 6, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 7: Lot 7, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 8: Lot 8, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 9: Lot 9, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 10: Lot 10, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 11: Lot 11, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 12: Lot 12, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.



BUSH & GUDGELL, INC.
Engineers • Planners • Surveyors
555 South 300 East
Salt Lake City, Utah 84111
(801) 364-1212
FAX (801) 364-1225

Schedule II
Description of Permanent Service Drive

M10
10/16/98

Beginning at a point, said point being North $89^{\circ}59'06''$ West 863.04 feet and NORTH 42.0 feet from the Southeast Corner of the Northeast Quarter of Section 28, Township 5 North, Range 2 West, Salt Lake Base and Meridian; said point being on the north right of way line of 1800 North Street; thence along said right of way line North $89^{\circ}59'06''$ West 25.0 feet; thence NORTH 422.65 feet; thence EAST 61.33 feet; thence North 45° East 82.40 feet to a point of a 35 foot radius curve to the left; thence along the arc of said curve 27.49 feet and through a delta angle of $45^{\circ}00'00''$; thence NORTH 60.49 feet to a point of a 60 foot radius curve to the right; thence along the arc of said curve 47.12 feet and through a delta angle of $45^{\circ}00'00''$; thence North 45° East 207.56 feet to a point of a 60 foot radius curve to the right; thence along the arc of said curve 47.12 feet and through a delta angle of $45^{\circ}00'00''$; thence EAST 142.29 feet; thence SOUTH 3.41 feet to a point of a 5 foot radius curve to the left; thence along the arc of said curve 7.85 feet and through a delta angle of $90^{\circ}00'00''$; thence EAST 165.85 feet to a point of a 60 foot radius curve to the right; thence along the arc of said curve 94.25 feet and through a delta angle of $89^{\circ}59'59''$; thence SOUTH 27.11 feet to a point of a 35 foot radius curve to the left; thence along the arc of said curve 54.98 feet and through a delta angle of $89^{\circ}59'58''$; thence EAST 89.78 to a point on the west right of way line of 2000 West Street; thence said right of way line South $00^{\circ}07'29''$ West 25.0 feet; thence WEST 89.67 feet to a point of a 60 foot radius curve to the right; thence along the arc of said curve 94.25 feet and through a delta angle of $89^{\circ}59'59''$; thence NORTH 27.11 feet to a point of a 35 foot radius curve to the left; thence along the arc of said curve 54.98 feet and through a delta angle of $89^{\circ}59'58''$; thence WEST 165.58 feet to a point of a 60' radius curve to the right; thence along the arc of said curve 32.16 feet and through a delta angle of $30^{\circ}42'50''$; thence WEST 126.88 feet to a point of a 35 foot radius curve to the left; thence along the arc of said curve 27.49 feet and through a delta angle of $45^{\circ}00'00''$; thence South 45° West 193.08 feet to a point of a 35 foot radius curve to the left; thence along the arc of said curve 27.49 feet through a delta of $45^{\circ}00'00''$; thence SOUTH 70.39 feet to a point of a 60 foot radius curve to the right; thence along the arc of said curve 47.12 feet and through a delta angle of $45^{\circ}00'00''$; thence South 45° West 93.28 feet; thence WEST 11.65 feet to a point of a 35 foot radius curve to the left; thence along the arc of said curve 54.98 feet and through a delta angle of $90^{\circ}00'00''$; thence SOUTH 362.63 feet to the point of beginning. Contains 0.84 acres.

Lot 1 thru 12

Revised 9/24/98

CTT

Prepared for BBSA Architects



E 1451282 12379 P 424

BUSH & GUGGELL, INC.
Engineers • Planners • Surveyors
555 South 300 East
Salt Lake City, Utah 84111
(801) 384-1212
FAX (801) 384-1225

Schedule III
Description of Temporary Service Drive

YV
10/10/98

Beginning at a point, said point being North $89^{\circ}59'06''$ West 631.02 feet and NORTH 42.0 feet from the Southeast Corner of the Northeast Quarter of Section 28, Township 5 North, Range 2 West, Salt Lake Base and Meridian; said point being on the north right of way line of 1800 North Street; thence along said right of way line North $89^{\circ}59'06''$ West 25.0 feet; thence NORTH 287.00 feet; thence North 45° West 191.66 feet; thence North 45° East 52.12 feet; thence SOUTH 38.35 feet; thence South 45° East 174.90; thence SOUTH 297.35 feet to the point of beginning. Contains 0.289 acres.

Lot 3, 4 + 11

Job # 44902
Revised 09/25/98
CTT

Exhibit "B"
to Declaration of Restrictions and Easements

Sign Criteria

Conformance with this sign criteria shall be strictly enforced; and any signage installed not conforming with this criteria shall be immediately removed and/or brought into conformance.

A: The following sign criteria shall apply to all exterior signage on all Parcels (except signage on Parcel 2 and the Center Pylon Signs) in the Shopping Center, including, but not limited to, monument signs, exterior building signs, directional signs, and menu boards.

1. All signage in the Shopping Center, now and in the future, shall be of first quality construction and architecturally designed to be aesthetically compatible and harmonious with the buildings, elevations, colors, materials and other signage within the Shopping Center.
2. No sign shall utilize flashing, blinking, animated, moving or audible lights or appurtenances. No sign shall utilize audible sounds (except this shall not prohibit a drive-thru speaker in conjunction with or adjoining a menu board sign which adjoins a vehicular drive-thru lane). No black iron material of any type will be permitted. All conductors, transformers and other equipment shall be concealed.
3. No sign shall contain exposed florescent or incandescent lamps. There shall be no iridescent painted sign or daylight florescent plastic signs.
4. Sign supports, brackets, wiring, conduits, conductors, transformers, and other equipment must be concealed.
5. All signs shall be professionally fabricated and installed by a licensed sign contractor. All signs shall be installed per local building and electrical codes, city code and ordinances.
6. All signs shall be kept in good repair and working order at all times. Broken signs shall be immediately repaired.
7. No labels will be permitted on exposed surface of signage except those required by local ordinance. Sign supports, wiring and transformers must be concealed. Any penetration of building structures required for sign installation shall be neatly sealed in a water-tight condition.

B: The following sign criteria shall apply to all exterior building signs on all buildings located in the Shopping Center, except that building located on Parcel 2.

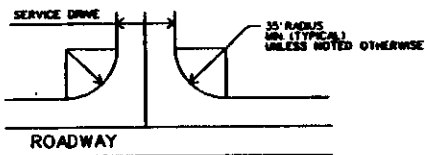
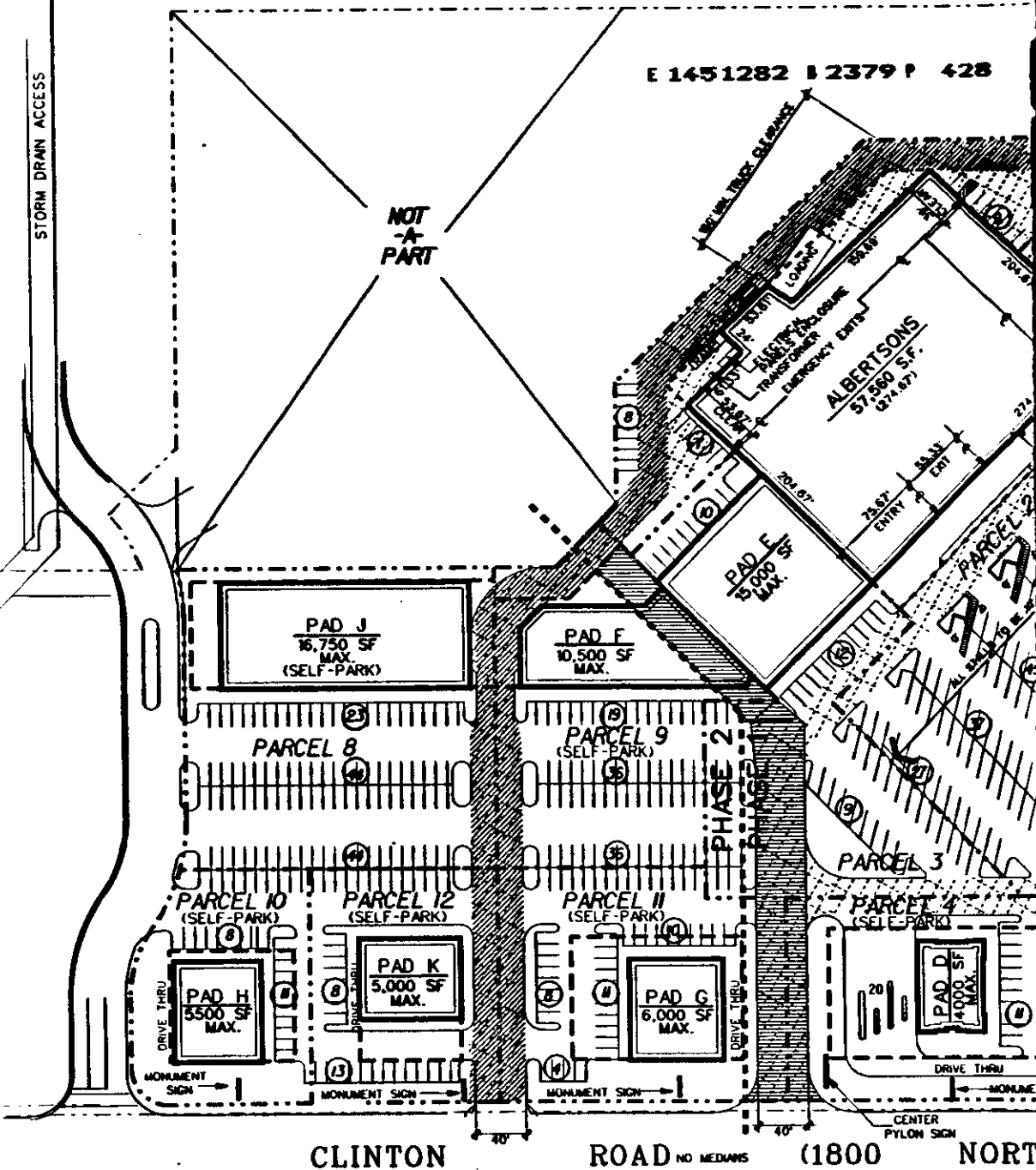
1. All exterior building signs shall be restricted to identification of the business(es) or service(s) located or provided therein.
 2. No exterior building signs shall be placed on penthouse walls, extend above the building roof, below a canopy, or be painted on the exterior building surface. The signage shall be parallel with the exterior building surface; for buildings on Parcels 1 and 3, within the approved sign band.
 3. The maximum allowable area of a building sign shall not exceed twenty percent (20%) of the building facade or wall on which the sign is to be placed.
 4. Signage lettering and logos shall be internally illuminated individual letters with Plexiglas faces with contrasting copy.
 5. All individual letters and logos may or may not be mounted on a metal raceway not to exceed eight (8) inches deep by eight (8) inches high. No visible fasteners will be allowed. Raceway shall be primed and painted with an automotive grade acrylic enamel, color to match.
 6. Signage shall be horizontally centered in allotted signage space and shall not exceed eighty percent (80%) of the horizontal store front width. Signage shall be centered and parallel to the exterior building surface, and shall not extend more than twenty-four (24) inches from the front wall.
 7. Only internal lighting may be used with flat cabinet signs.
 8. The maximum permissible height of letters will be:
 - A) Thirty (30) inches for all spaces occupying less than 10,000 SF on Parcels 1, 3, 8 and 9.
 - B) Forty (40) inches for spaces occupying 10,000 SF or more on Parcels 1, 3, 8 and 9 and all buildings on Parcels 4, 5, 6, 7, 10, 11 and 12.
- C: The following sign criteria shall apply to all monument signs and/or directional signs on all pads (out parcels) located in the Shopping Center, except that building located on Parcel 2.
1. The maximum allowable height of free standing signs shall be four (4) feet above ground level and six (6) feet above the closest public street level (except fast food menu boards which maximum height shall be seven [7] feet above ground level). The maximum allowable width shall be eight (8) feet. The maximum allowable depth shall be eighteen (18) inches.
 2. Signage lettering, logos and/or face for monument signs and/or directional signs and/or menu boards shall be internally illuminated individual letters or Plexiglas face (can) signs with contrasting copy.

3. All monument sign structures shall be uniform in nature as to color, shape, style, materials and design. The Owner of Parcel 2 shall approve the initial monument sign design.
4. The Owner of Parcel 2 shall approve the design and location of any sign towers.

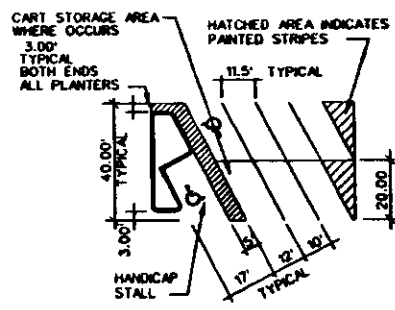
E 1451282 | 2379 P 428

STORM DRAIN ACCESS

NOT
A
PART



(B) CURB CUT DETAIL
1"=100'-0"



(A) PARKING DETAIL
1"=50'-0"



SCALE : 1" = 100'



GE
DRA
NO
PAR

1/
BUL
P
LAN

ZON

LEGEND

- PROPERTY/PARCEL LINE
- PHASE LINE
- EXPANSION LIMIT LINE
- BUILDING ENVELOPE
- BUILDING AREA
- HEAVY DUTY PAVING
- TEMPORARY SERVICE DRIVE
- PERMANENT SERVICE DRIVE

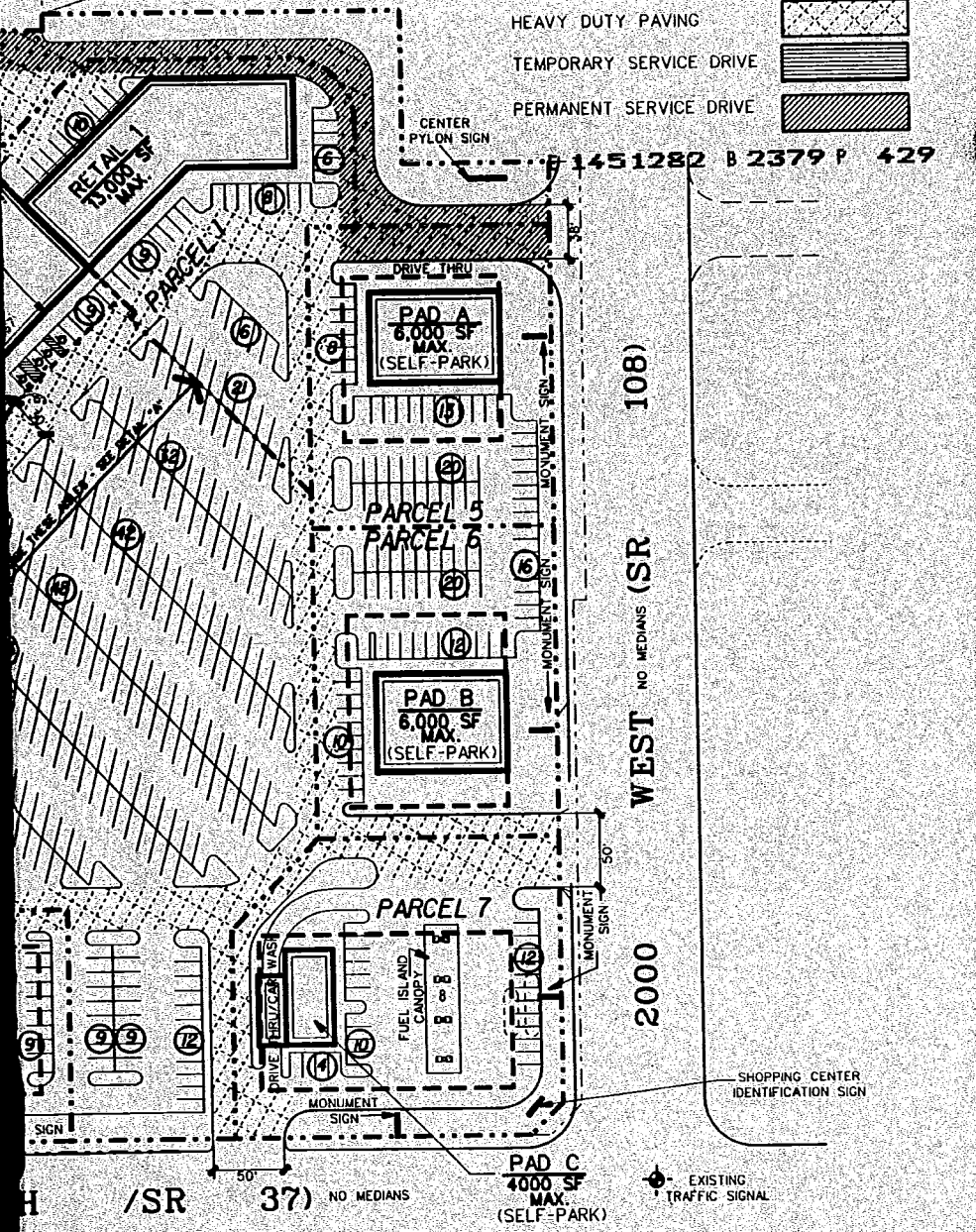
MR
MR
MR

REVISIONS	
7-28-'98	CSD CHANGED TO EXHIBIT A
8-7-'98	CSD REV. PAR. LINES, PKG. BLDG. S.F. AND TEMP. SERVICE DRIVE
9-17-'98	CSD REV. STORE DOCK AREA PKG. & PARCEL 7
10-20-'98	CSD REV. PKG. & PAR. LINES

NOT
-A-
PART

CENTER
PYLON SIGN

1451282 B 2379 P 429



108
WEST NO MEDIANS (SR)
2000

GENERAL NOTES

- WORK WITH OUT BENEFIT OF SURVEY
- TRUCK WELLS, NATURAL DOCK ONLY
- LOADING REQUIREMENTS:
- 100 S.F. OF G.B.A. (ALBERTSONS STANDARD)
- LOADING SETBACK REQUIREMENTS:
- PER CITY REVIEW.
- LANDSCAPE REQUIREMENTS:
- PER CITY REVIEW.
- LOADING REQUIREMENTS:
- EXISTING -
- REQUIRED - COMMERCIAL

EXHIBIT 'A' SITE PLAN

TOTAL GROSS BUILDING AREA	149,310 S.F.
TOTAL CARPARKS REQUIRED	747 (1/200)
TOTAL CARPARKS PROVIDED	805 (+58)
TOTAL SITE AREA	685,136 S.F. (15.73 AC.)

APPROVED BY:	DATE:
CHAIRMAN	7-27-'98 SIGNED
PRESIDENT	7-27-'98 SIGNED
EXEC. V.P./S.D.	7-27-'98 SIGNED
EXEC. V.P./OPS.	7-27-'98 SIGNED
SR. V.P./REG.	7-27-'98 SIGNED
GROUP V.P./R.E.	7-27-'98 SIGNED
V.P./ARCH. & ENG.	7-27-'98 SIGNED



PROJECT
N.W.C.
2000 WEST
&
1800 NORTH
CLINTON,
UTAH

STORE NO.
393

DRAWN	CSD	CHECKED	RAC
DATE	7-23-'98		

SHEET TITLE
EXHIBIT 'A'
SITE PLAN

SHEET
1
OF 1
393clint.dgn