

After Recording, Return to:  
Albertson's, Inc.  
c/o Kimbal L. Gowland  
Meuleman & Miller LLP  
960 Broadway Avenue, Suite 500  
Boise, Idaho 83706

RECEIVED  
JUN 02 2004

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RICHARD T. MAUGHAN, DAVIS CNTY RECORDER  
2004 JUN 2 10:49 AM FEE 44.00 DEP MEC  
REC'D FOR EQUITY TITLE AGENCY

## FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS AND EASEMENTS

THIS FIRST AMENDMENT TO DECLARATION OF RESTRICTIONS AND EASEMENTS ("First Amendment") is entered into on May 12, 2004, between **SB Clinton L.C.**, a Utah limited liability company ("First Party"), **Clinton Towne Center Shops L.C.**, a Utah limited liability company ("Clinton Shops"), **SB Clinton Blockbuster L.C.**, a Utah limited liability company ("SB Clinton Blockbuster"), **Albertson's, Inc.**, a Delaware corporation ("Albertson's"), and **C&C Properties, LLC**, a Utah limited liability company ("C&C Properties").

### RECITALS

- A. First Party and Albertson's entered into that certain Declaration of Restrictions and Easements dated October 22, 1998, which was recorded on October 23, 1998, as Entry No. 1451282, in Book 2379, beginning at Page 380, official records of Davis County, Utah, with respect to that certain real property more particularly described therein as the Shopping Center (the "Declaration").
- B. First Party is now the Owner of Parcels 8, 9, 10 and 12 of the Shopping Center. Clinton Shops is the Owner of Parcels 1 and 3 of the Shopping Center. SB Clinton Blockbuster is the Owner of Parcel 6 of the Shopping Center. Albertson's is the Owner of Parcels 2 and 7 of the Shopping Center. C&C Properties is the Owner of Parcel 11 of the Shopping Center.
- C. The parties desire to amend the Declaration with respect to the matters more specifically set forth below.

### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Declaration is hereby amended as follows:

1. Capitalized terms not otherwise defined herein shall have the respective meanings ascribed to such terms in the Declaration.
2. The legal descriptions attached to the Declaration as Schedule I are hereby deleted and the revised legal descriptions attached hereto as Schedule I are substituted therefor. All

references to Schedule I in the Declaration or in this First Amendment shall refer to the Schedule I attached hereto.

3. The site plan attached to the Declaration as Exhibit "A" is hereby deleted and the revised site plan attached hereto as Exhibit "A" is substituted therefor. All references to the site plan or to Exhibit "A" in the Declaration or in this First Amendment shall refer to the site plan attached hereto as Exhibit "A".

4. Section 1.2(k) of the Declaration is hereby amended to read as follows:

**"(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 Smith Brubaker Haacke, 2231 East 4800 South, Salt Lake City, Utah 84117."

5. Section 1.3 of the Declaration is hereby amended to read as follows:

**"1.3 Parcel Owners.** First Party is the Owner of Parcels 8, 9, 10 and 12; Clinton Shops is the Owner of Parcels 1 and 3; SB Clinton Blockbuster is the Owner of Parcel 6; Albertson's is the Owner of Parcels 2 and 7; First Security Bank N.A. is the Owner of Parcel 4; Wendy's Old Fashioned Hamburgers of New York, Inc., an Ohio corporation, is the Owner of Parcel 5; and C&C Properties is the Owner of Parcel 11."

6. The final sentence of the first paragraph of Section 2.1 of the Declaration is hereby amended to read as follows:

"Parcels 4, 5, 6, 7, 8 and 9 shall each be Self-Parked and Parcels 8, 9, 10, 11 and 12 shall, in the aggregate, 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."

7. The second sentence of Section 5.2(a) of the Declaration is hereby amended to read as follows:

"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 and/or a National Chain CCF on Parcel 11), a second-hand or

surplus store, or for any entertainment or recreational facility or training or educational facility.”

8. Section 8.10(a) of the Declaration is hereby amended to provide that the notice address for First Party, Clinton Shops, and SB Clinton Blockbuster shall be c/o Smith Brubaker Haacke, 2231 East 4800 South, Salt Lake City, Utah 84117, and that the notice address for C&C Properties shall be 8505 Windhaven Drive, Parker, Colorado 80130.

9. This First Amendment shall be recorded in the official records of Davis County, Utah, and shall be effective as of the date of said recording.

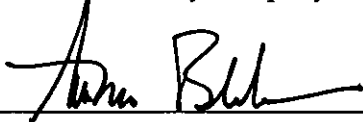
10. This First Amendment may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single instrument. Signature and acknowledgment pages may be detached from original counterparts and attached to a single or multiple original(s) in order to form a single or multiple original(s) of this document.

11. The execution and acknowledgment of this First Amendment by First Party, Clinton Shops, SB Clinton Blockbuster, Albertson’s and C&C Properties shall satisfy the requirement, set forth in Section 8.5 of the Declaration, that the Owners and Prime Lessees of the Parcels containing (not less than) ninety percent (90%) of the total square footage of Building Area in the Shopping Center consent to the modifications of the Declaration that are set forth in this First Amendment.

12. The Declaration, as amended herein, is hereby ratified and confirmed. Except as amended herein, the Declaration shall remain in full force and effect.

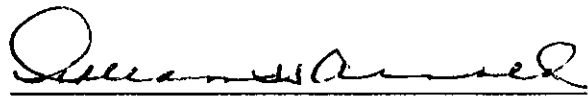
EXECUTED as of the date first set forth above.

**FIRST PARTY:**  
SB Clinton L.C.,  
a Utah limited liability company



By: Scott M. Brubaker  
A Member


**ALBERTSON’S:**  
Albertson’s, Inc.,  
a Delaware corporation



By: William H. Arnold *MW/KLG*  
Its: Group Vice President, Real Estate Law

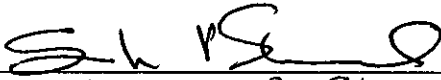
**CLINTON SHOPS:**

Clinton Towne Center Shops L.C.,  
a Utah limited liability company

  
By: Scott M. Brubaker  
A Member


**C&C PROPERTIES:**

C&C Properties, LLC,  
a Utah limited liability company

By:   
Name: Steven P. Cloward  
Its: Member

**SB CLINTON BLOCKBUSTER:**

SB Clinton Blockbuster L.C.,  
a Utah limited liability company

  
By: Scott M. Brubaker  
A Member

**List of Schedules and Exhibits:**


**Schedule I – Description of the Shopping Center Parcels**  
**Exhibit “A” – Site Plan**

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

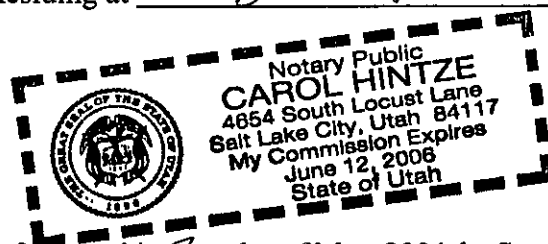
F 1991287 B 3552 P 319

The foregoing instrument was acknowledged before me this 20 day of May, 2004, by Scott M. Brubaker, Member of SB Clinton L.C., a Utah limited liability company.

My commission expires:  
6/12/06

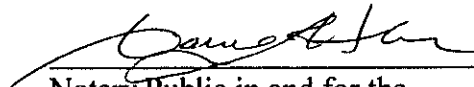
  
Notary Public in and for the  
State of Utah  
Residing at Salt Lake City Utah

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

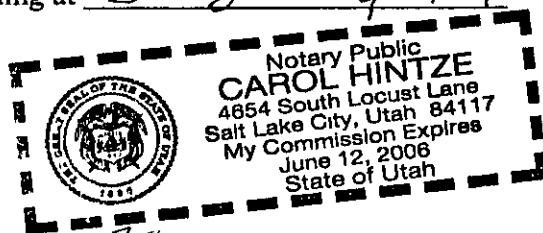


The foregoing instrument was acknowledged before me this 20 day of May, 2004, by Scott M. Brubaker, Member of Clinton Towne Center Shops L.C., a Utah limited liability company.

My commission expires:  
6/12/06

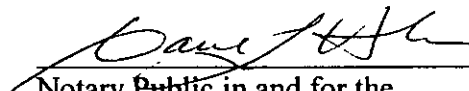
  
Notary Public in and for the  
State of Utah  
Residing at Salt Lake City Utah

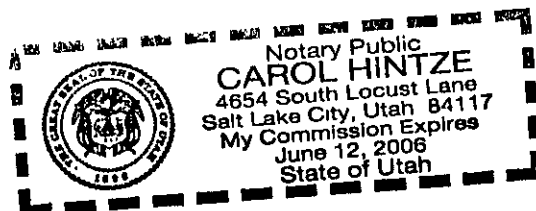
STATE OF UTAH )  
 ) ss.  
County of Salt Lake )



The foregoing instrument was acknowledged before me this 20 day of May, 2004, by Scott M. Brubaker, Member of SB Clinton Blockbuster L.C., a Utah limited liability company.

My commission expires:  
6/12/06

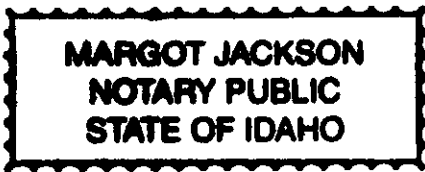
  
Notary Public in and for the  
State of Utah  
Residing at Salt Lake City Utah



STATE OF IDAHO )  
 ) ss.  
County of Ada )

On this 12<sup>th</sup> day of May, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared William H. Arnold, known or identified to me to be Group Vice President, Real Estate Law, of Albertson's, Inc., the corporation that executed the within and foregoing instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

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



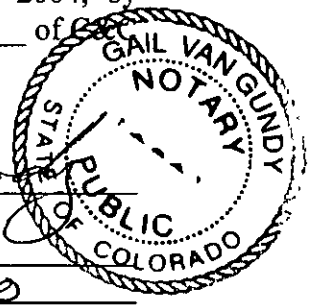
Margot Jackson  
Notary Public for Idaho  
Residing at Mt. Home, Idaho  
My commission expires: 8-26-08

STATE OF Colorado )  
County of Douglas ) ss.

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of May, 2004, by Steven P. Cloward, Member of CCP Properties, LLC, a Utah limited liability company.

My commission expires:  
My Commission Expires 06/08/2004  
10981 South Parker Road  
Parker, CO 80134

Gail Van Gundy  
Notary Public in and for the  
State of Colorado  
Residing at Parker, CO



**SCHEDULE I****to First Amendment to Declaration of Restrictions and Easements****Description of the Shopping Center Parcels**

- Parcel 1: Lot 1, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0001
- Parcel 2: Lot 2, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0002
- Parcel 3: Lot 3, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0003
- Parcel 4: Lot 4, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0004
- Parcel 5: Lot 5, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0005
- Parcel 6: Lot 6, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0006
- Parcel 7: Lot 7, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0007
- Parcel 8: Lot 8, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0008
- Parcel 9: Lot 9, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0009

Parcel 10: Lot 10, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0010

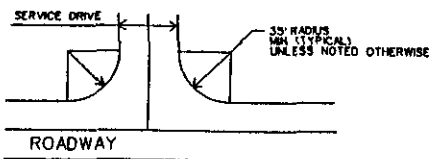
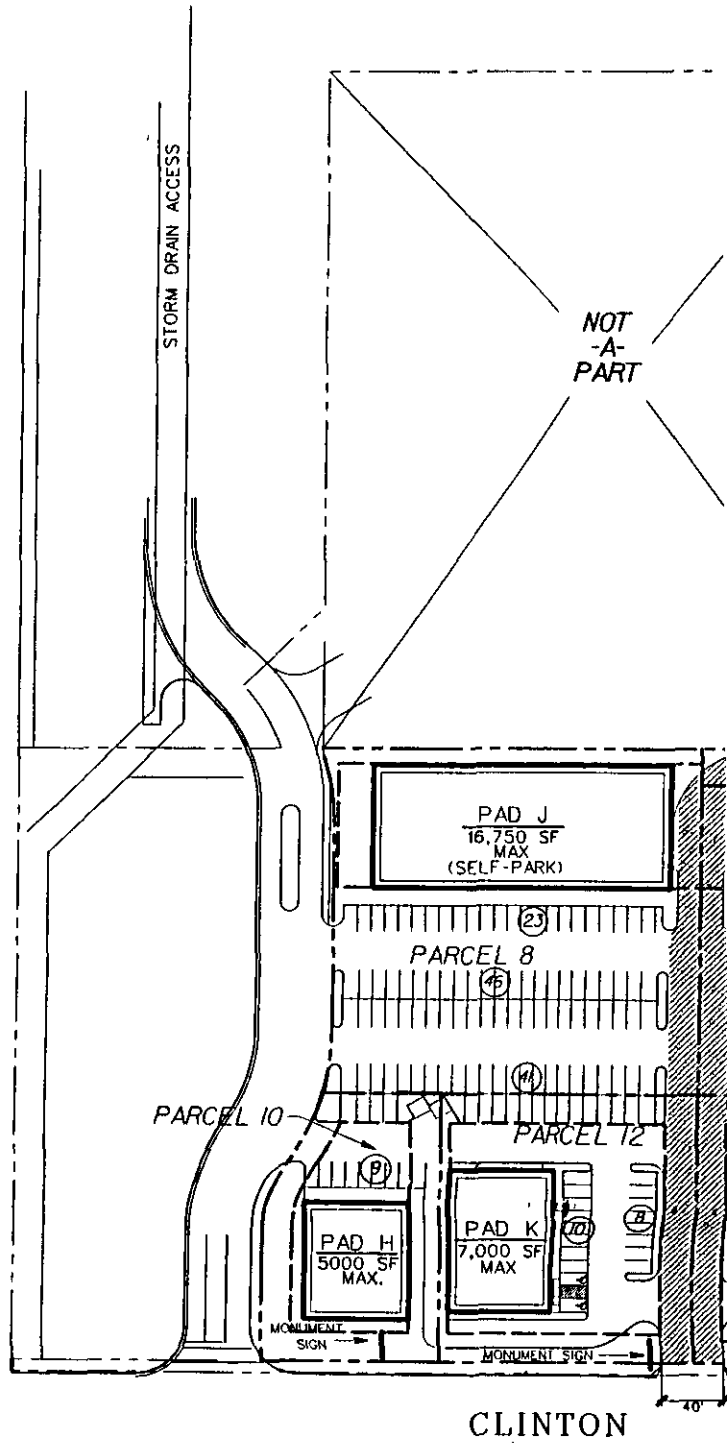
LESS AND EXCEPTING the Easternmost 18.0 feet of said Lot 10.

Parcel 11: Lot 11, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0011

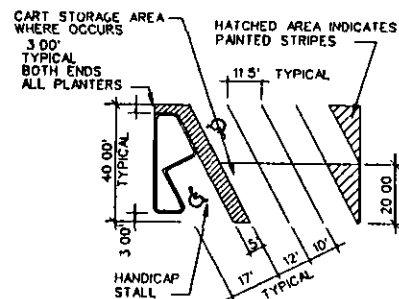
Parcel 12: Lot 12, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.  
Tax Parcel No. 14-266-0012

TOGETHER WITH the Easternmost 18.0 feet of Lot 10, Clinton Towne Center.





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



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



GENERAL NOTES

DRAWN WITH OUT BENEFIT OF  
NO TRUCK WELLS, NATURAL DO  
PARKING REQUIREMENTS:

1/200 SF OF G B A (ALBERTA)

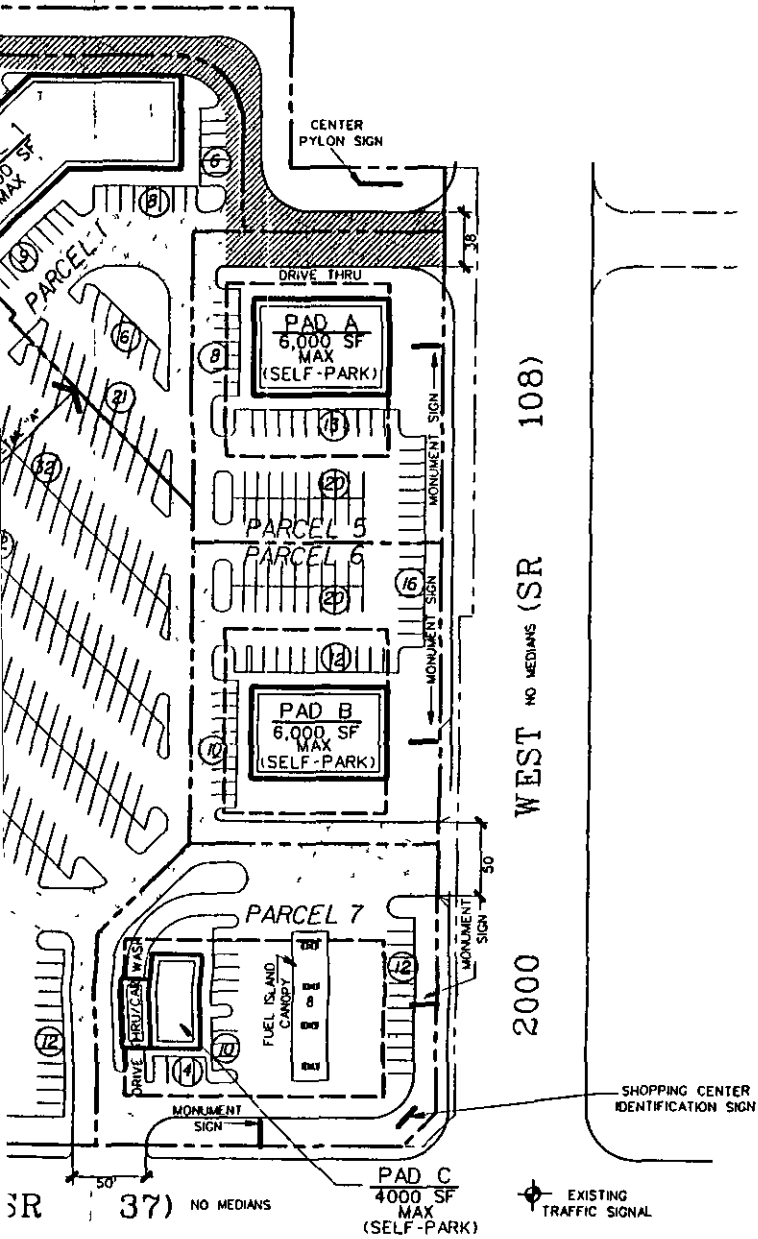
BUILDING SETBACK REQUIREMENT  
PER CITY REVIEW

LANDSCAPE REQUIREMENTS  
PER CITY REVIEW

ZONING REQUIREMENTS-  
EXISTING -

	REV PAR LINES PKG
	BLDG SF AND TEMP
	SERVICE DRIVE
MR	9-17-'98 CSD REV STORE DOCK AREA PKG & PARCEL 7
MR	10-20-'98 CSD REV PKG & PAR LINES
ML	04-28-'04 L S
DM	REV PARCELS 10 11,12 PER CURRENT PLAN

NOT  
-A-  
PART



NOTES

BENEFIT OF SURVEY

LEGEND

PROPERTY/PARCEL LINE	---
PHASE LINE	---
EXPANSION LIMIT LINE	---
BUILDING ENVELOPE	[Solid Line]
BUILDING AREA	[Hatched Box]
HEAVY DUTY PAVING	[Dotted Box]
TEMPORARY SERVICE DRIVE	[Horizontal Lines Box]
PERMANENT SERVICE DRIVE	[Diagonal Lines Box]

EXHIBIT 'A' SITE PLAN

TOTAL GROSS BUILDING AREA	149,310 SF
TOTAL CARPARKS REQUIRED	747 (1/200)
TOTAL CARPARKS PROVIDED	748 (1)
TOTAL SITE AREA	685,136 SF (15.73 AC)

APPROVED BY	DATE	
CHAIRMAN	7-27-'98	SIGNED
PRESIDENT	7-27-'98	SIGNED
EXEC VP /SD	7-27-'98	SIGNED
EXEC VP /OPS.	7-27-'98	SIGNED
SR VP /REG	7-27-'98	SIGNED
GROUP VP /R E	7-27-'98	SIGNED
GRP VP /REAL ESTATE	7-27-'98	SIGNED



**Albertsons**  
DESIGN & CONSTRUCTION  
220 PARKCENTER BLVD  
BOISE, IDAHO 83728  
(208)395-6200

PROJECT

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

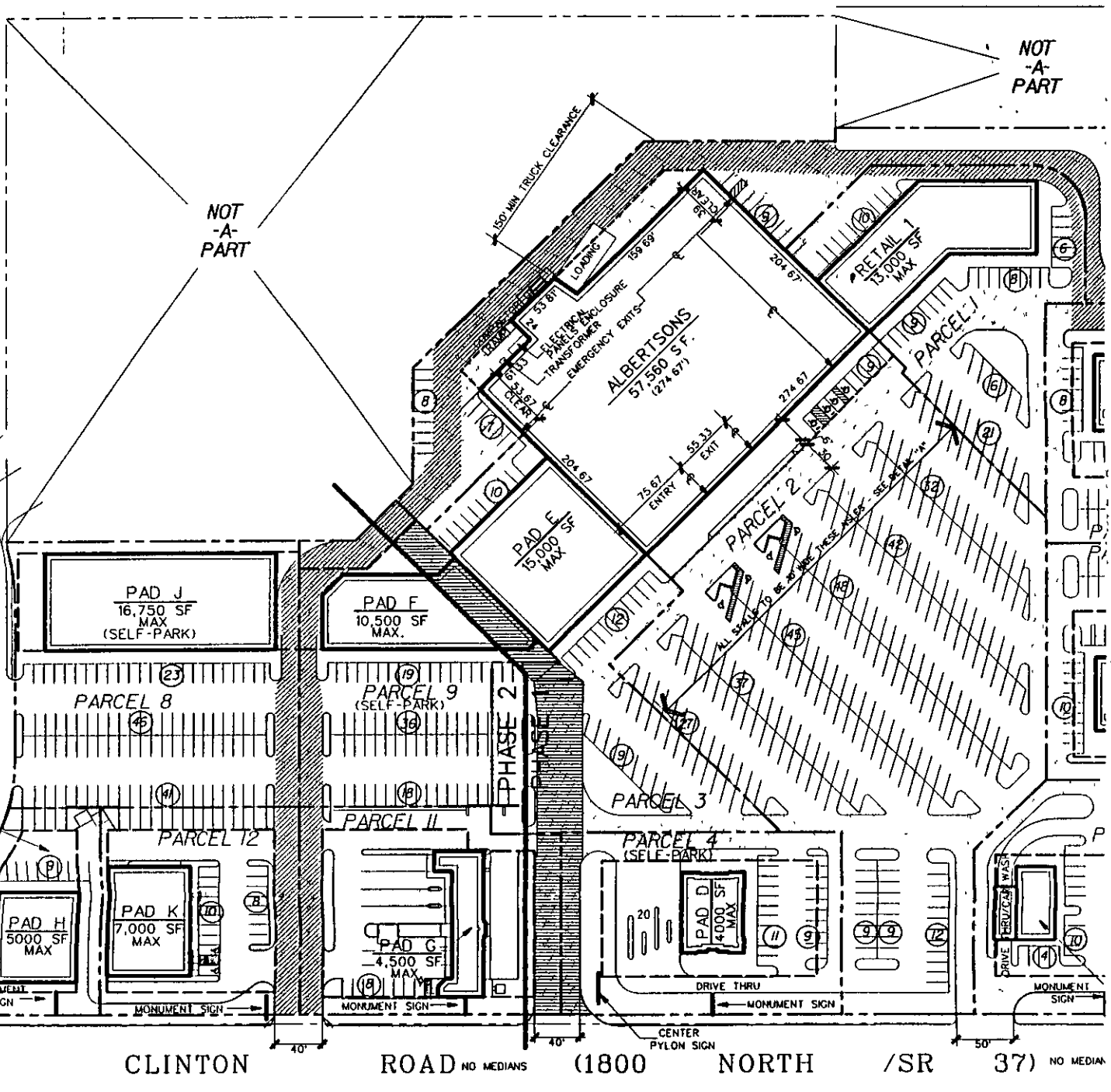
STORE NO

393

DRAWN	CSD	CHECKED	RAC
DATE	7-23-'98		

SHEET TITLE  
EXHIBIT 'A'  
SITE PLAN

SHEET  
1  
OF 1  
393clint.dgn



**GENERAL NOTES**  
DRAWN WITH OUT BENEFIT OF SURVEY

**GENERAL NOTES**

DRAWN WITH OUT BENEFIT OF SURVEY  
NO TRUCK WELLS, NATURAL DOCK ONLY  
PARKING REQUIREMENTS

1/200 SF OF G B A (ALBERTSONS STANDARD)

**BUILDING SETBACK REQUIREMENTS**  
PER CITY REVIEW

**LANDSCAPE REQUIREMENTS:**  
PER CITY REVIEW

**ZONING REQUIREMENTS-**  
EXISTING -  
REQUIRED - COMMERCIAL

**LEGEND**

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