

VALLEY TITLE

# 18881

Return to:  
Haws-Ivory  
370 E. South Temple, Suite 500  
Salt Lake City, UT 84111

29349

DECLARATION OF EASEMENTS, COVENANTS  
RESTRICTIONS AFFECTING LAND (ECR)

UTAH COUNTY CLERK  
NINA B. REID  
DEPUTY CLERK

1986 SEP -4 AM 10:26

VALLEY TITLE CO.

RECORDED AT THE REQUEST OF

29349

THIS DECLARATION ("Declaration"), made this 20<sup>th</sup> day of August, 1986, by Granada, Inc., a Utah corporation (hereinafter called "Declarant").

A. RECITALS

1. Description of Affected Property. Attached hereto as Exhibit "A," and incorporated by this reference herein, is a site plan (hereinafter variously referred to as "Exhibit A" and/or the "site plan").

Declarant is the fee owner of those tracts of land shown labeled as "Phase 1," "Phase 2" and "Phase 3," respectively, on the site plan, which tracts are more particularly described by metes and bounds as follows:

SHOPPING CENTER

The Shopping Center consists of Phase 1, Phase 2 and Phase 3, which Phases are more particularly described as follows:

PHASE 1

Beginning on the North right-of-way line of 2200 North Street at a point which is North 1052.12 feet and East 548.93 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central zone, bearings of section lines) and running thence North 87°17'24" West 385.43 feet along said right-of-way line to the point of tangency with a 517.67 foot radius curve to the left;

Thence Westerly along the arc of said curve and right-of-way 436.517 feet through a central angle of 48°19'57" to the Easterly right-of-way line of University Parkway and a point on a 11539.16 foot

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radius curve to the left (radius point bears South 44°49'53" West);

Thence Northwesterly along the arc of said curve and said right-of-way line 225.965 feet through a central angle of 1°07'19";

Thence leaving said right-of-way line North 43°26' East 124.29 feet;

Thence North 88°26' East 211.126 feet;

Thence North 43°26' East 35.72 feet;

Thence North 88°26' East 82.766 feet;

Thence North 1°34' West 53.476 feet;

Thence North 43°26" East 116.80 feet;

Thence North 46°34' West 215.00 feet;

Thence North 43°26' East 320.00 feet;

Thence North 46°34' West 103.86 feet;

Thence South 88°26' West 50.00 feet;

Thence North 1°34' West 70.00 feet;

Thence North 88°26' East 78.995 feet;

Thence North 1°34' West 8.52 feet;

Thence North 88°26' East 162.66 feet;

Thence North 43°26' East 83.02 feet;

Thence North 88°26' East 85.416 feet;

Thence South 46°30'04" East 164.34 feet;

Thence South 1°26'08" East 654.02 feet;

Thence South 1°16'14" East 114.52 feet to the point of beginning.

Contains 11.0047 Acres.

PHASE 2

Beginning at a point North 1931.216 feet and East 325.41 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central zone, bearings of section lines) and running thence South 43°26' West 83.02 feet;

Thence South 88°26' West 162.66 feet;

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Thence South 1°34' East 8.52 feet;  
 Thence South 88°26' West 78.995 feet;  
 Thence South 1°34' East 70.00 feet;  
 Thence North 88°26' East 50.00 feet;  
 Thence South 46°34' East 103.86 feet;  
 Thence South 43°26' West 320.00 feet;  
 Thence South 46°34' East 215.00 feet;  
 Thence South 43°26' West 116.80 feet;  
 Thence South 1°34' East 53.476 feet;  
 Thence South 88°26' West 82.766 feet;  
 Thence South 43°26' West 35.72 feet;  
 Thence South 88°26' West 211.126 feet;  
 Thence South 43°26' West 124.29 feet to a point on  
 the Easterly right-of-way line of University Parkway,  
 said point also being on a 11539.16 curve to the  
 left, the radius point of which bears South 43°32'34"  
 West;  
 Thence Northwesterly along the arc of said curve and  
 said right-of-way line 620.71 feet through a central  
 angle of 3°04'55";  
 Thence continuing along said right-of-way line along  
 the arc of a spiral curve 105.70 feet the chord of  
 which bears North 49°52'52" West, Thence leaving said  
 right-of-way line North 40°08'05" East 200.00 feet;  
 Thence North 72°32'28" East 260.35 feet;  
 Thence North 28°11'11" East 340.434 feet;  
 Thence South 38°18'55" East 76.33 feet;  
 Thence South 61°48'48" East 234.12 feet;  
 Thence North 88°26' East 466.855 feet to the point of  
 beginning.

Contains 13.9676 Acres.

Thence South 38°18'55" East 76.33 feet;  
 Thence South 61°48'48" East 234.12 feet;  
 Thence North 88°26' East 466.855 feet to the point of  
 beginning.

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Contains 13.9676 Acres.

Together with the following described parcel:

Beginning at a point which is North 2380.774 feet and West 1029.82 feet from the South quarter Corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based upon the Utah Coordinate System, Central Zone, bearings of section lines), and running thence North 88°27'37" East 395.99 feet;

Thence South 38°18'55" East 385.53 feet;

Thence South 28°11'11" West 340.434 feet;

Thence South 72°32'28" West 260.35 feet;

Thence North 40°08'05" East 259.09 feet;

Thence North 0°34'22" East 201.116 feet;

Thence North 89°25'38" West 305.18 feet;

Thence North 0°34'22" East 91.43 feet;

Thence North 27°09'37.5" West 198.215 feet to the point of beginning.

Contains 4.3643 Acres.

PHASE 3

Beginning at a point on a fence which is North 1892.71 feet and West 1082.46 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based upon the Utah Coordinate System, Central Zone, Bearings of Section Lines), and running thence North 0°34'22" East 423.12 feet along a fence;

Thence North 43°13'18" East 63.21 feet;

Thence North 87°58'07" East 5.63 feet;

Thence North 1°32'23" West 18.7 feet;

Thence South 27°09'37.5" East 198.215 feet;

Thence South 0°34'22" West 91.43 feet;

Thence South 89°25'38" East 305.18 feet;

Thence South 0°34'22" West 201.116 feet;

Thence South 40°08'05" West 459.09 feet to the Easterly right-of-way line of University Parkway and a point on a spiral curve;

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Thence Northwesterly along said right-of-way and said spiral curve 95.00 feet, the chord of which bears North 49°51'55" West;

Thence North 42°26' West 165.50 feet;

Thence leaving said right-of-way line North 1°14' East 150.65 feet;

Thence North 88°26' East 31.63 feet to the point of beginning.

Contains 5.0000 Acres.

Contained within Phase 1 are four pad sites, as shown on the site plan, which are hereinafter referred to as "Pad 1," "Pad 2," "Pad 3," and "Pad 4," respectively. Pad 1, Pad 2, Pad 3 and Pad 4 are more particularly described by metes and bounds as follows:

Pad 1

Beginning at a point on the North right-of-way line of 2200 North Street at a point which is North 1062.99 feet and East 319.24 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central zone, bearings of section lines) and running thence North 1°34' West 142.70 feet;

Thence North 88°26' East 175.00 feet;

Thence South 1°16'14" East 155.725 feet to a point on the aforementioned right-of-way line;

Thence along said right-of-way line North 87°17'24" West 174.68 feet to the point of beginning.

Contains 0.5981 Acres.

Pad 2

Beginning at a point on the North right-of-way line of 2200 North Street at a point which is North 1062.994 feet and East 319.24 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central zone, bearings of section lines) and running thence along said right-of-way line North 87°17'24" West 155.485 feet to the point of tangency with a 517.47 foot radius curve to the left, thence Westerly along the arc of

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said curve and right-of-way line 88.92 feet through a central angle of 9°50'43";

Thence leaving said right-of-way line, North 1°34' West 107.10 feet to the point of tangency with a 25.0 foot radius curve to the right, Thence Easterly along the arc of said curve 39.27 feet through a central angle of 90°00';

Thence North 88°26' West 218.856 feet;

Thence South 1°34' East 142.70 feet to the point of beginning;

Contains 0.7499 Acres.

Pad 3

Beginning on the North right-of-way of 2200 North Street at a point which is North 1055.85 feet and East 15.47 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central zone, bearings of section lines) said point also being on a 517.47 foot radius curve (radius to point bears South 13°51'51" East) and running thence Westerly along the arc of said curve and said right-of-way line 188.78 feet through a central angle of 20°54'08";

Thence leaving said curve and said right-of-way line North 1°34' West 188.87 feet;

Thence North 88°26' East 65.106 feet;

Thence North 43°26' East 35.72 feet;

Thence North 88°26' East 82.766 feet;

Thence South 1°34' East 141.534 feet to the point of beginning.

Contains 0.6370 Acres.

Pad 4

Beginning at a point which is the intersection of the North right-of-way line of 2200 North Street and the Easterly right-of-way line of University Parkway, said point being North 915.37 feet and West 230.39 feet from the South  $\frac{1}{4}$  corner of Section 25, Township 6 South, Range 2 East, Salt Lake Base and Meridian (based on the Utah Coordinate System, Central zone, bearings of section lines) and running thence Northwesterly along said right-of-way line and along the arc of a 11539.16 foot radius curve to the left (radius point bears South

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44°49'53" West) 225.965 feet through a central angle of 1°07'19";

Thence North 43°26' East 124.29 feet;

Thence North 88°26' East 146.02 feet;

Thence South 1°34' East 188.87 feet to a point on the Northerly right-of-way line of 2200 North Street, said point also being on a 517.47 foot radius curve to the left (radius point bears South 34°45'59" East);

Thence Westerly along the arc of said curve and said right-of-way line 98.045 feet through a central angle of 10°51'21" to the point of beginning.

Contains 0.9017 Acres.

Contained within Phase 2 are three pad sites, as shown on the site plan, which are hereinafter referred to as "Pad 5," "Pad 6" and "Pad 7," respectively. Metes and bounds descriptions are not yet available for said Pads 5-7; provided, however, that when said metes and bounds descriptions become available, this ECR shall be supplemented by a recorded document, to be approved by all Owners and the Supermarket Tenant (as hereinafter defined) and executed by Declarant, setting forth said metes and bounds descriptions.

Phases 1, 2 and 3, including Pads 1 through 7, inclusive, are hereinafter collectively referred to in their totality as the "Shopping Center."

2. Purpose. Declarant desires that the Shopping Center, and all portions thereof, be developed pursuant to a general plan of improvement to form a first class commercial shopping area. To enhance the values, attributes and unique qualities of the Shopping Center and every portion thereof, Declarant hereby declares that the Shopping Center is made subject to the following easements, covenants, conditions and restrictions, all of

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which shall run with the land and be binding upon Declarant and any subsequent Owners of the Shopping Center or any portion thereof:

B. EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS

1. Definitions:

(a) "Permissible Building Areas" and/or "Building Areas" as used herein shall mean those areas shown as designated for the erection of buildings on the site plan attached hereto as Exhibit "A."

(b) "Common Area" or "Common Areas," as used herein, shall mean all of the Shopping Center except the Building Areas. Common Area and/or Common Areas shall extend to the exterior of building walls.

(c) "Owner," as used herein, shall mean the fee owner of any Phase or Pad within the Shopping Center.

(d) "Phase Owner," as used herein, shall mean the fee owner or owners of any Phase within the Shopping Center (excluding any Pads within such Phase).

(e) "Supermarket Tenant," as used herein, shall mean the party who, from time to time, is the prime lessee of the Supermarket building designated on the site plan, pursuant to a lease with the fee Owner of said Supermarket building.

(f) "Phase" and/or "Phases," as used herein, shall mean any of Phases 1, 2 and/or 3.

(g) "Pad" and/or "Pads," as used herein, shall mean any of Pads 1, 2, 3, 4, 5, 6 and/or 7.

2. Buildings

(a) Use: All buildings within the Shopping Center shall be used only for lawful commercial retail purposes, or to sell services to the general public, or for other uses customary to a

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retail shopping center and not expressly prohibited hereby. No buildings shall be used for office purposes, except that the buildings to be constructed on Phase 3, the building to be constructed on Pad 3 and the building to be constructed on Pad 4 may be used for office purposes. No buildings within the Shopping Center shall be used for warehouse purposes, except to the extent customary and necessary in connection with uses permitted hereunder, to stock the same with inventory, equipment and supplies.

(b) Location: No building shall be constructed upon Phase 1 of the Shopping Center (including Pads 1 through 4) except within Permissible Building Areas (as defined above), nor shall improvements of any sort be erected or constructed upon Phase 1 of the Shopping Center (including Pads 1 through 4) except in the locations designated on Exhibit "A," and in accordance with the notations on Exhibit "A," without the prior written consent of all Phase Owners and the Supermarket Tenant. Without limiting the generality of the foregoing, all striping, parking spaces, lanes, driveways, accessways, and sidewalks shall be as shown on Exhibit "A." The Owner or Owners of Phase 2 and/or Phase 3 (including Pads 5 through 7) may construct improvements on said Phases 2 and/or 3 which vary or deviate from the improvements shown on the site plan; provided, however, that no construction shall be permitted thereon in variance of, or deviation from, the site plan attached as Exhibit "A" hereto which would (i) alter the location of any Pad, (ii) increase any Permissible Building Area, (iii) alter the location of any Permissible Building Area, or (iv) alter access or affect traffic flow, without the prior written consent of the Supermarket Tenant. Such consent of the Supermarket Tenant shall not be unreasonably withheld; and, in addition, the Supermarket Tenant's consent shall be deemed given

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if the Supermarket Tenant has not responded to a request for consent within thirty-five (35) days after the Supermarket Tenant has received a written request for consent together with three (3) copies of a revised site plan which the deviation or variation is clearly set forth.

(c) Design and Construction: All buildings within the Shopping Center shall be designed so that their exterior elevations and appearances will be architecturally and aesthetically compatible with one another, and so that the buildings' wall footings shall not encroach from one Phase or Pad onto any other Phase or Pad. Design and construction shall be in conformity with sound architectural and engineering standards and construction shall be of the first quality. No building shall be higher than twenty-two (22) feet above finished grade, nor shall any building be permitted to have any signs, antennae, satellite dishes or other appurtenances whatsoever which are higher than twenty-two (22) feet above finished grade. Notwithstanding the foregoing, the building to be erected on Pad 4 may be twenty-eight feet (28') above finished grade in height, so long as its finished grade is at least six feet (6') below University Parkway and so long as no sign, antenna, satellite dish or other appurtenance to said building is higher than twenty-eight feet (28') above finished grade. In addition, the buildings to be erected on Phase 3 may be twenty-eight feet (28') above finished grade, so long as no sign, antenna, satellite dish or other appurtenance thereto is higher than twenty-eight feet (28') above finished grade.

(d) Easement for Common Areas: Each Phase of the Shopping Center, and every Pad therein, and their respective Owners, tenants, and subtenants, and the agents, customers, licensees and invitees of each of them, is hereby granted a non-exclusive

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reciprocal right, privilege and easement over, upon and across the Common Areas of every other Phase or Pad in the Shopping Center, to use all of said Common Areas for the respective purposes for which said Common Areas are designed. Such rights shall constitute a servitude on each such Phase or Pad, and shall be a benefit appurtenant to each such Phase or Pad. The easements granted in this paragraph shall continue in force and run with the land during the term of this Declaration.

(e) Vehicular and Delivery Easement. Each Phase of the Shopping Center, and every Pad therein, and their respective Owners, tenants and subtenants, and the agents, suppliers, purveyors, customers, licensees and invitees of each of them, is hereby granted a non-exclusive reciprocal right, privilege and easement over, upon and across all parking, access and driveway portions of the Common Areas, for vehicular access, parking and delivery. Nothing contained herein shall prevent the Owners and the Supermarket Tenant from establishing reasonable rules and regulations to insure orderly employee parking and delivery access, and to insure maximum customer access. In addition to the foregoing, the Supermarket Tenant is hereby granted a thirty foot (30') wide non-exclusive truck and vehicular access easement, to and from the rear of the Supermarket building (as shown on the site plan), from both sides of the Supermarket building. Said easement, as to the east side of the Supermarket building, is over and across the driveway along the east boundary of Phase 1. Said easement, as to the west side of the Supermarket building, is labeled "Temporary Access Road" on the site plan. The Owners may, from time to time, relocate the "Temporary Access Road," so long as the Supermarket Tenant at all times has a thirty foot (30') wide truck and vehicular access easement to the rear of the Supermarket building from the west side thereof.

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(f) Water Flow. After the construction of Phase 1 of the Shopping Center (excluding Pads 1-4), no Owner of any Phase or Pad shall alter the flow of surface water on such Phase or Pad in any manner which increases the volume, or decreases the purity or quality, of water flowing onto any other Phase or Pad.

3. Reduction of Common Areas. At no time during the term of this Declaration will the customer parking area, entrances and exits, service areas and other Common Areas of the Shopping Center be reduced in size from that shown on the site plan attached as Exhibit "A," unless such reduction is made necessary by the exercise of eminent domain by proper and duly constituted authority or authorities, without the prior written consent of all Phase Owners and the Supermarket Tenant.

4. Purpose of Common Areas. All of the activity permitted within the Common Areas shall be conducted so as not to unreasonably interfere with the primary purpose of the Common Areas, which is to provide parking and access for the customers, invitees, employees and contractors of those businesses conducted within the Building Areas and for the servicing and supplying of such businesses. Once the Common Area in any Phase or Pad is paved, no construction debris, construction equipment or trailers, building supplies, vehicles of contractors or construction personnel, or privies shall be stored, kept or allowed to remain upon such Common Area.

5. Parking Ratio. At all times there shall be maintained, within the Shopping Center, sufficient parking area to accommodate not less than three (3) car spaces for each one thousand (1,000) square feet of Building Area.

6. Development Timing. When any building is constructed within the Building Areas on any Phase or Pad, the Common Areas on such Phase or Pad shall be developed at the expense of the

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Owner of same. Any portion of the Shopping Center not initially developed with buildings or Common Areas shall be graded, graveled or otherwise maintained in a neat and clean condition. Notwithstanding the foregoing, Phase 2 or Phase 3 of the Shopping Center may be constructed in stages, so long as sufficient Common Areas are constructed, in conjunction with the construction of buildings thereon, to maintain the Parking Ratio described in Section 5 hereof.

7. Maintenance:

(a) Standards. Following completion of the improvement of any of the Common Areas, the Owner thereof shall maintain such Common Areas in a good condition and repair. The maintenance is to include, without limiting the generality of the foregoing, the following:

- (A) Maintaining the surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal in quality, use and durability;
- (B) Removing all papers, snow, debris, filth and refuse, and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;
- (C) Placing, keeping in repair and replacing any necessary or appropriate directional signs, markers, lines and striping.
- (D) Operating, keeping in repair and replacing, where necessary, such artificial lighting facilities as shall be reasonably required;
- (E) Maintaining all perimeter walls in a good condition and state of repair; and
- (F) Maintaining all landscaped areas and making such replacements of shrubs and other landscaping as is necessary.

(b) Expenses. The respective Owners shall pay the maintenance expenses of the Common Areas within their Phases or Pads; but nothing contained herein shall prevent the Owners from

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entering into agreements whereby any Phases or Pads are maintained in common by their Owners or any designated agent.

(c) Taxes. Each Owner of any Phase or Pad shall pay or cause to be paid, prior to foreclosure of any tax lien, directly to the appropriate taxing authorities all real property taxes and assessments which are levied against such Phase or Pad. Special assessments may be paid in installments as they accrue.

8. Signs. Pylon signs shall be erected in conformance with all governmental codes and ordinances and are to be located as depicted on Exhibit "A." The Owners of the Pads and Phases may erect customary directional and fascia signage. Each Pad, and Phase 3, may contain monument signage. No Owner, nor any of their respective tenants, shall permit or construct any sign (of any nature whatsoever) which would impair the visibility of or access to any premises, or Building Area, of the Shopping Center. No sign shall be erected in violation of the provisions of this Declaration.

9. Indemnification/Insurance.

(a) Indemnification: The Owner of any Phase or Pad shall indemnify and save any other Owner harmless from any and all liability, damage, expense, causes of action, suits, claims, or judgments arising from injury to person or property and occurring on its Phase or Pad, except if caused by the act or neglect of such other Owner.

(b) The Owner of any Phase or Pad shall maintain, or require its tenant(s) to maintain, at such Owner's or tenant's expense, during the full term of this Declaration, a policy of public liability and property damage insurance in a reputable company authorized to do business in the State of Utah, which policy shall name the other Owners of the Shopping Center as an additional insureds, as their respective interests appear, and to

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furnish each such other Owner current certificates evidencing the existence of such insurance providing that such insurance shall not be cancelled except after thirty (30) days' written notice to the other party. Such policy shall provide coverage in an amount not less than \$1,000,000.00 single limit combined bodily injury and property damage each occurrence, to cover all situations where any other person or persons claim bodily injury, death or property damage in or upon the Common Areas.

(c) At all times during the term of this Declaration, each Owner shall keep the improvements on its property insured against loss or damage by fire and other perils and events as may be insured against under the broad form of Uniform Extended Coverage Clause in effect from time to time in the State of Utah, with such insurance to be for at least ninety percent (90%) of the replacement value of the insured improvements. In the event of damage and destruction of any improvement on the Shopping Center, the Owner of such improvement shall promptly remove the debris and reconstruct and/or repair such improvements, unless all Phase Owners consent in writing to the contrary. Any mortgagee of such improvements shall permit the insurance proceeds to be used for such purposes, subject to reasonable disbursement controls.

10. Eminent Domain.

(a) Owner's Right to Award: Nothing herein shall be construed to give any party any interest in any award or payment made to the other party in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other party's parcel or give the public or any government any rights in the Shopping Center. In the event of any exercise of eminent domain or transfer in lieu thereof or any part of the Common Areas located on the Shopping Center, the award attributable to the land and improvements or such portion of the Common Areas

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shall be payable only to the Owner in fee thereof and to its mortgagee, and no claim therein shall be made by the Owners of any other portion of the Common Areas.

(b) Collateral Claim: All other Owners of the Common Areas may file collateral claims with the condemning authority for their losses which are separate and apart from the value of the land area and improvements taken from another Owner.

(c) Tenant's Claim: Nothing in this Section shall prevent a tenant from making a claim against an Owner or with the condemning authority pursuant to the provisions of any lease between tenant and such Owner for all or a portion of any such award or payment.

(d) Restoration of Common Areas: The Owner of the fee of each portion of the Common Areas so condemned shall promptly repair and restore the remaining portion of the Common Areas so owned as near as practicable to the condition of same immediately prior to such condemnation or transfer, without contribution from any other Owner.

11. Shopping Center Restrictions. There shall not be located upon the Shopping Center, or upon any Phase or Pad thereof, any hotel, motel, car wash, rental car office or agency, auto court, motor vehicle or motor home dealership, bowling alley, training facilities, educational facilities, skating rink or convenience store. No child care facility shall be located within three hundred feet (300') of the front door of the Supermarket. No theatre shall be located within six hundred feet (600') of the Supermarket building. There shall be no office buildings or office usages permitted within the Shopping Center except upon Phase 3, Pad 3 and/or Pad 4. Except for the Supermarket, there shall be no retail food stores of any nature in the Shopping Center; provided, however, that there may exist

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in the Shopping Center bars, restaurants, delicatessens, "fast food" establishments, candy shops, sandwich shops, fountains or ice cream stores, but no such bar, restaurant, delicatessen, "fast food" establishment, candy shop, sandwich shop, fountain or ice cream store shall be closer than two hundred feet (200') from the front door of the Supermarket, and no sandwich, candy or ice cream store, shop or fountain shall exceed two thousand (2,000) square feet in size. There shall be no "super bar" (hereby defined as a business having a tavern license and occupying more than 10,000 square feet of space) permitted within the Shopping Center.

12. Utilities Easements. Each Phase and Pad within the Shopping Center is hereby granted underground easements over the other Phases and Pads within the Shopping Center, for utilities, including without limitation electricity, water, gas, sewer, telephone and storm drains. The Owners shall use their best efforts to cause the installation of all utilities prior to the paving of Common Areas. No such utility easements shall be within Permissible Building Areas, without the prior written consent of the Owner (and any mortgagee) of the Phase or Pad in which the Permissible Building Area is situated. The utility easements granted hereby are for the purpose of installation, testing, maintenance, replacement and/or repair of utility lines, conduits or other facilities; provided, however, that in using the easements granted hereby, any Owner who goes, or causes his agent or any utility company to go, upon any other Owner's Phase or Pad shall (a) cause such use of its utility easement to be conducted in the manner which, under the circumstances, is the least disruptive to the other Owner, its tenants, and their respective invitees, customers and licensees, (b) cause such use to be conducted with due regard for the safety of all persons

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coming to the Shopping Center, and (c) cause any damage to the other Owner's improvements (including without limitation paving) to be repaired and restored as nearly as practicable to the prior condition of such improvements. Each such Owner shall be liable to such other Owner for any breach of the foregoing obligations, and each such Owner shall indemnify such other Owner and hold such other Owner free, clear and harmless from any and all claims, actions, demands, causes of action, costs and expenses whatsoever (including attorneys' fees and court costs) for personal injury or property damage arising from or as a result of such Owner's use of a utility easement upon such other Owner's Phase or Pad.

13. Parcelization. Phase 1 of the Shopping Center shall not be subdivided, nor shall any parcels be conveyed or created thereon, except as shown on Exhibit "A." Phases 2 and 3 may be subdivided in a manner other than as shown on Exhibit "A," but no buildings may be erected or constructed thereon other than as shown on Exhibit "A," unless all of the consents required by Subsection 2(b) hereof are first obtained.

14. Miscellaneous.

(a) Modification/Cancellation: This Declaration may be modified or cancelled only by the written consent of (a) Owners owning eighty percent (80%) of the square footage (including Building Areas and Common Areas) within the Shopping Center and (b) the Supermarket Tenant. Unless otherwise expressly provided herein, any approvals required hereunder shall not be valid unless (a) Owners owning eighty percent (80%) of the square footage (including Building Areas and Common Areas) within the Shopping Center and (b) the Supermarket Tenant, have given their written approval.

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(b) Breach: In the event of breach or threatened breach of this Declaration, any Owner and/or the Supermarket Tenant shall be entitled to institute proceedings for relief from the consequences of said breach. It is hereby expressly declared that any breach or threatened breach of this Declaration by any Owner shall subject the other Owners and the Supermarket Tenant to material, immediate and irreparable injury, without adequate remedy at law, such that said other Owners, and/or the Supermarket Tenant, shall be immediately entitled (in addition to all other rights, relief or remedies) to all forms of equitable relief, including without limitation a temporary restraining order, preliminary injunction and permanent injunction. The unsuccessful party or parties in any action shall pay to the prevailing party or parties all court costs together with a reasonable sum for attorneys' fees.

(c) Effective Date. This Declaration shall become effective upon its recordation in the Official Records of Utah County, Utah, and this Declaration may not thereafter be modified, revoked or terminated except in the manner set forth in Subsection 14(a), above.

(d) Duration: Unless otherwise cancelled and terminated, the Declaration and all the easements, rights and obligations hereof shall automatically terminate and be of no further force and effect sixty-five (65) years from the date hereof.

15. Rights and Obligations of Lenders. The charges and burdens of this Declaration are, and shall at all times be, prior and therefore superior to the lien or charge of any mortgage or deed of trust made in good faith and for value affecting the Shopping Center or any part thereof, or any improvements now or hereafter placed thereon. However, a breach of any of the easements, covenants, or restrictions hereof shall not defeat or

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render invalid the lien or charge of any mortgage or deed of trust. Title to any property acquired through sale under foreclosure of any mortgage or deed of trust effected by powers of sale, judicial proceedings, or otherwise, shall be subject to all the charges and burdens affecting the Shopping Center by virtue of this Declaration.

16. Rights of Successors. The easements, covenants, conditions, restrictions, benefits, and obligations contained herein shall create mutual benefits and servitudes upon the Phases and Pads upon or within the Shopping Center, running with the land. This Declaration shall bind and inure to the benefit of the Owners and the Supermarket Tenant, and their respective heirs, representatives, tenants, successors and/or assigns. The singular number includes the plural and the masculine gender includes the feminine or neuter gender, and vice versa.

17. Headings. The headings herein contained are inserted only as a matter of convenience and for reference, and in no way

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define, limit or describe the scope or intent of this document nor in any way affect the term and provisions hereof.

IN WITNESS WHEREOF, Declarant has executed this Declaration as of the day and year first above written.

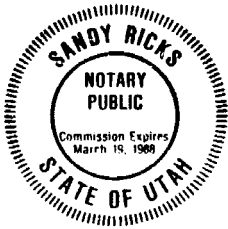
DECLARANT

Granada, Inc.  
a Utah corporation

  
Dean Larsen, President

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

On this 26 day of <sup>August</sup>~~July~~, 1986, personally appeared before me DEAN LARSEN, who, being by me duly sworn, did say, that he is the president, of GRANADA, INC., and that said instrument was signed in behalf of said corporation by authority of its by-laws, and said DEAN LARSEN acknowledged to me that said corporation executed the same.



  
Notary Public

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29349

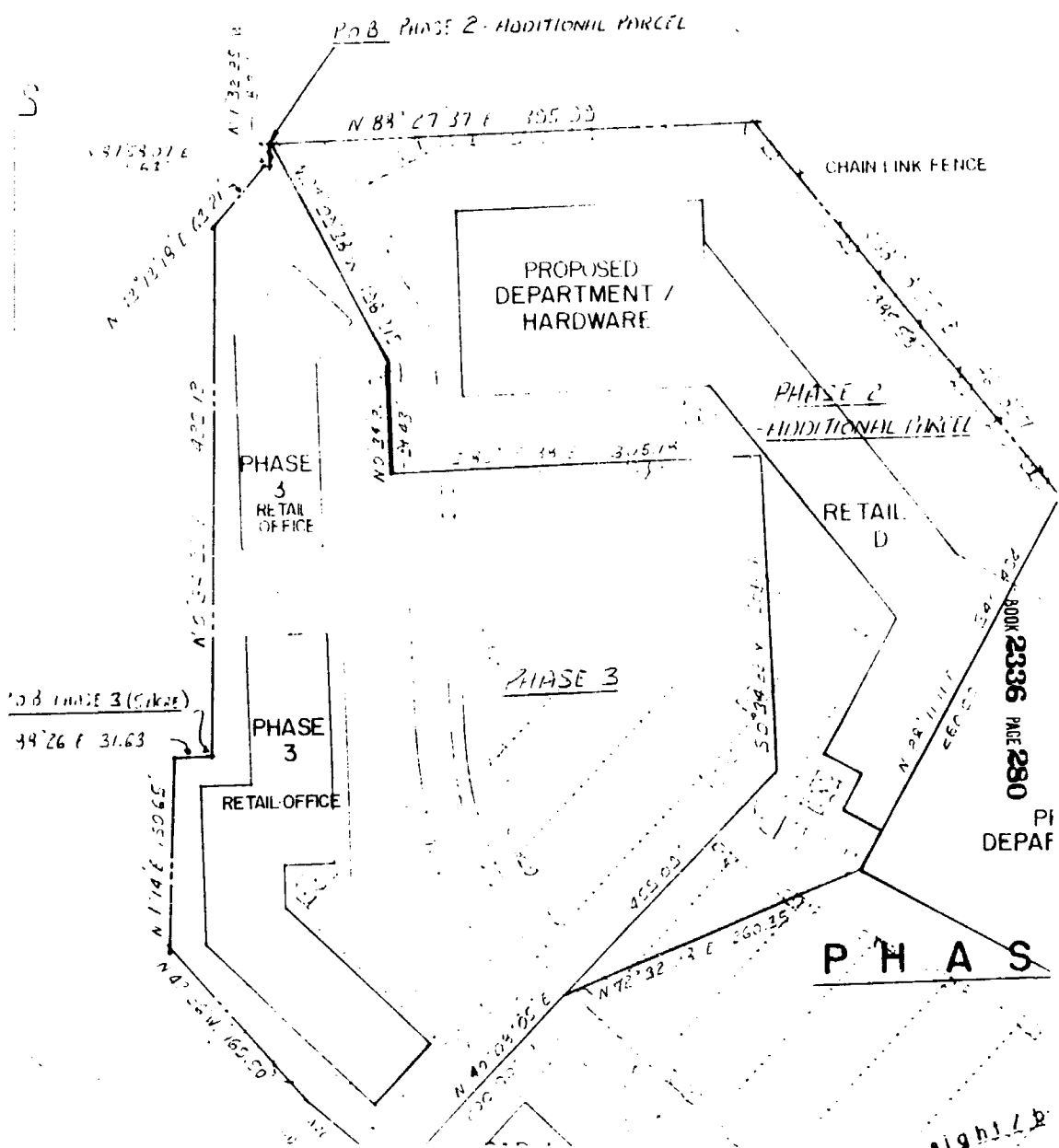
PARCEL EXHIBIT -  
PRESENTATION C - 7/201

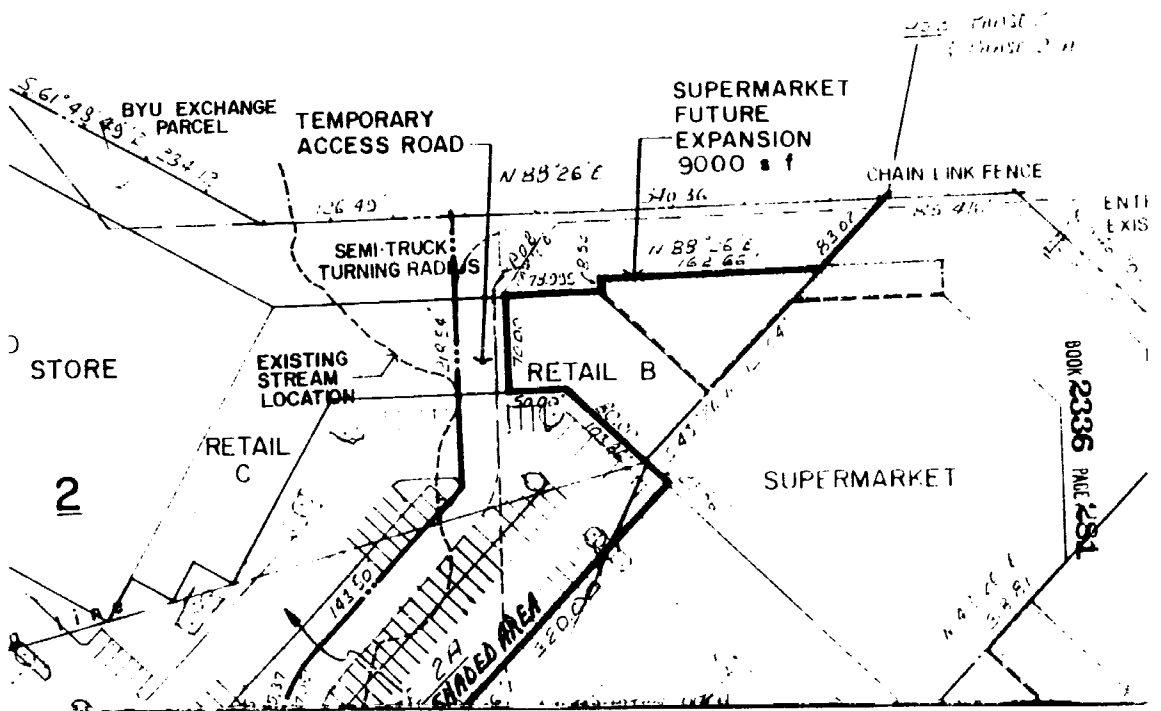
PARCEL	AREA in A.
- SUPERMARKET	5.1296
- RETAIL H	2.3743
- RETAIL B	0.4228
PHD 1	0.5981
- PHD 2	0.7433
- PHD 3	0.6370
- PHD 4	0.0017
- ENTRANCE ROAD	0.1907
<hr/>	
- PHASE 1 TOTAL	11.0047
PHASE 2 A (SHRIMP AREA)	3.1010
PHASE 2 B	13.3676
- PHASE 2 - ADDITIONAL PARCEL	4.3643
PHASE 3	5.0000

\* INCLUDES PHASE 2 AREA

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REVISION 7/19/86  
REVISION BY: JLR DEVELOPMENT  
REVISION: 8/11/86







BABCOCK PLACE

PROVO, UTAH

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NOTE OF  
DITCH

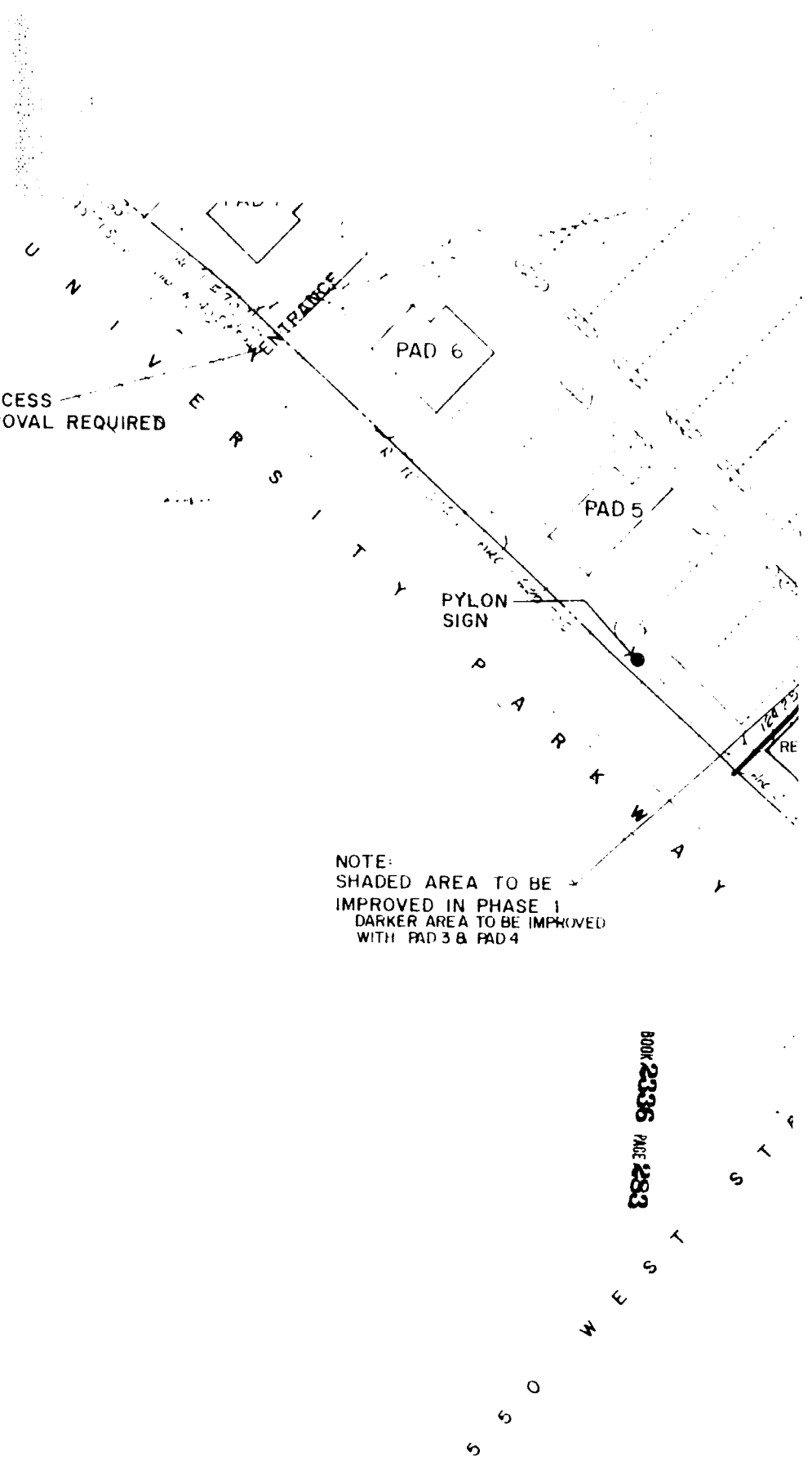


12' RETAIL PI  
RESPONSIBLE

RE ROUTED  
DITCH EASEMENT

FUTURE EXPANSION

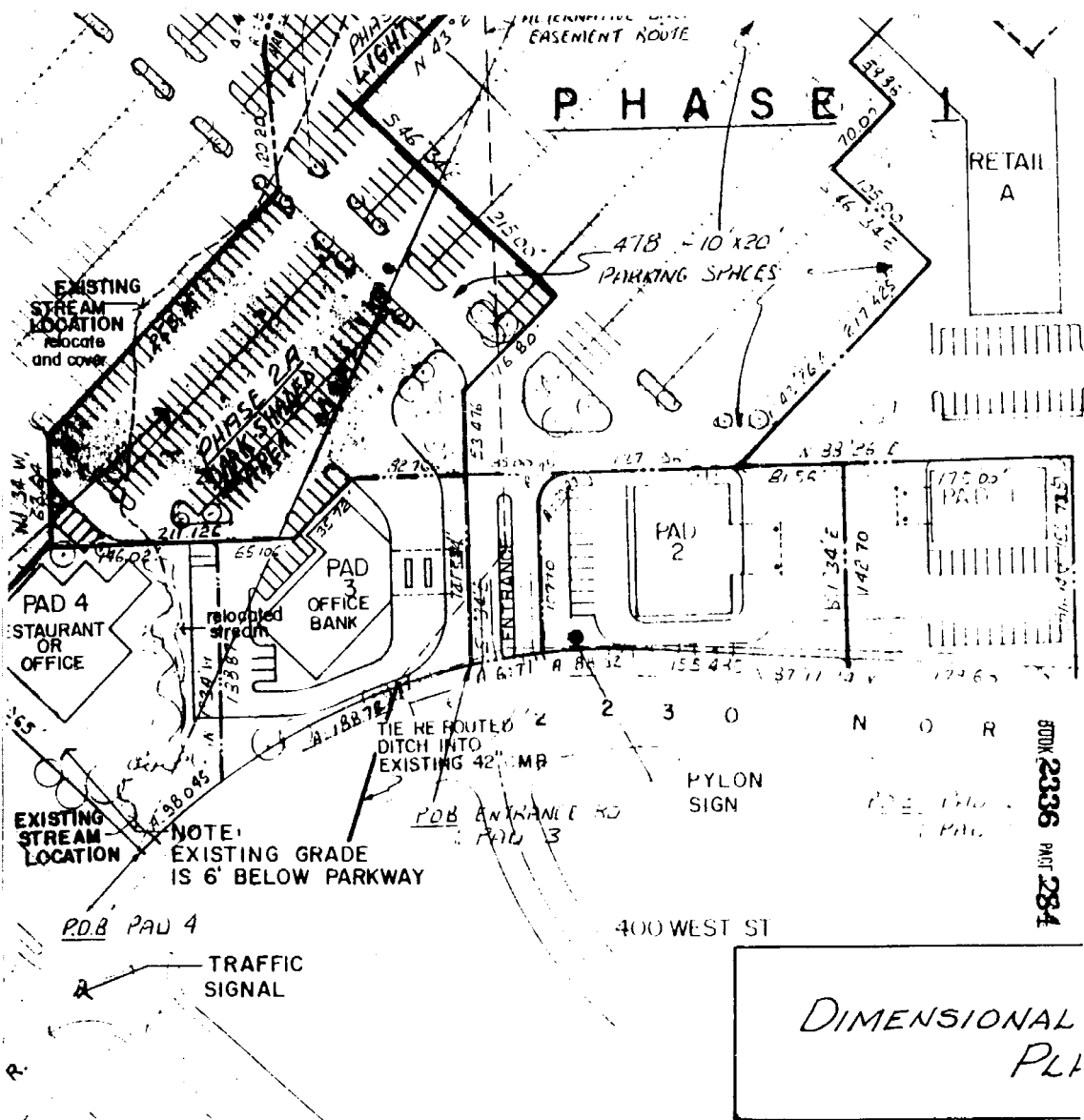
PROPOSED ACCESS  
STRUCTURE APPROVAL REQUIRED



NOTE:  
SHADED AREA TO BE  
IMPROVED IN PHASE 1  
DARKER AREA TO BE IMPROVED  
WITH PAD 3 & PAD 4

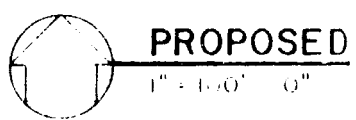
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UNIVERSITY  
WEST STREET



DIMENSIONAL  
PL

ECR EXHIBIT "A"



5000 B L

PROPOSED  
UTILITY LOOP

ROUTED  
TCH

CHAINLINK FENCE  
STARTS BACK 144'

Pd B (last)

S T R

REFERENCE

TE PLAN

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# PLUM TREE SHOPPING CENTER

a joint development by

HAWS-IVORY COMPANY

WRIGHT-LEASURE DEVELOPMENT COMPANY

PRINTED

29349

AUG 12 1935

J.M.R. DEV. INC.