

28.
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PH-745123

After recording, return to:
Pizza Hut, Inc.
c/o YUM! Brands, Inc.
1441 Gardiner Lane
Louisville, Kentucky 40213
Attn: Law Department
Pizza Hut Store #745123

ENT 93631:2004 PG 1 of 10 !!!
RANDALL A. COVINGTON
UTAH COUNTY RECORDER
2004 Aug 13 4:22 pm FEE 28.00 BY LJ
RECORDED FOR FIRST AMERICAN TITLE CO

SUBORDINATION, NON-DISTURBANCE AND ATTORNMENT AGREEMENT

20068-524

THIS AGREEMENT dated this ___ day of July, 2004, among PIZZA HUT, INC., a California corporation, whose address is c/o YUM! Brands, Inc., 1441 Gardiner Lane, Louisville, Kentucky 40213 (hereinafter called "Lessee"), SANTA FE PALMS, LLC, successor in interest to CPI/AMERICAN FORK LIMITED PARTNERSHIP, an Idaho limited partnership (hereinafter called "Lessor"), and COLUMBIAN MUTUAL LIFE INSURANCE COMPANY, ~~a New York~~ *an Illinois* corporation (hereinafter "Mortgagee").

delete word
CM not
mortgage
CC

WITNESSETH:

WHEREAS, Lessee has leased a portion of the premises described in Exhibit "A" attached hereto and made a part hereof (the "Premises") and more commonly known as 100 East 76th Street North, American Fork, Utah, under that certain Lease dated February 18, 1994, as extended and amended, (the "Lease"); and

WHEREAS, the Premises is part of a larger property which is described on Exhibit "B" attached hereto and by this reference incorporated herein (the "Real Property"), which Lessor has pledged as collateral in order for Mortgagee to extend a loan; and

WHEREAS, Mortgagee holds the mortgage (the "Mortgage") on the Real Property (which encompasses the Premises) to secure the sum of _____ (\$ _____) which Mortgage is dated _____, and recorded the _____ day of _____, in Book _____, Page _____, of the Public Records of _____ County, State of _____.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the undersigned Mortgagee, Lessor and Lessee agree as follows:

1. Lessee hereby subordinates its rights under the aforesaid Lease to the lien of Mortgagee as evidenced by that certain Mortgage, so that for all purposes, the lien of said Mortgage shall be deemed to be superior to all rights of Lessee in the Premises.

2. The subordination of Lessee's interest shall not alter, diminish or modify Lessee's rights or interest in the Premises, except as provided for in this Agreement.

3. The Mortgagee does hereby covenant and agree that Mortgagee shall not disturb Lessee's and its successors' or assigns' quiet possession of the Premises under said Lease nor deprive Lessee of any of its rights, privileges or immunities thereunder including its ownership of the buildings and improvements thereon if the Lease so provides and shall not impose any additional obligations upon Lessee not specifically provided for in the Lease, provided that Lessee, its successors or assigns, is not in default thereunder beyond the expiration of all applicable grace, notice and cure periods, and so long as Lessee, its successors and assigns, shall pay the rent and observe and perform all of the provisions of the Lease as therein provided, unless the Lease is otherwise terminated pursuant to its terms.

4. Except as herein specifically modified and amended, all the covenants, agreements, restrictions, rights, privileges and obligations of the aforesaid Mortgage and Lease shall remain in full force and effect.

5. If the interest of the Lessor shall be transferred to and owned by Mortgagee by reason of foreclosure or other proceedings brought by Mortgagee, or by any other manner, and Mortgagee succeeds to the interest of the Lessor under the Lease, Mortgagee shall be bound to Lessee under all of the terms, covenants and conditions of the Lease for the balance of the term thereof remaining, and any extensions or renewals thereof which may be effected in accordance with any option therefore in the Lease and Lessee does hereby agree to attorn to Mortgagee as its Lessor, should Mortgagee require such attornment. However, Lessee shall be under no obligation to pay rent to Mortgagee until Lessee receives written notice from Mortgagee that Mortgagee has succeeded to the interest of the Lessor under the Lease. The respective rights and obligations of the Lessee and Mortgagee upon such attornment, to the extent of the then remaining balance of the terms of the Lease and any such extensions and renewals, shall be and are the same as now set forth therein; it being the intention of the parties hereto for this purpose to incorporate the Lease in the Agreement by reference with the same force and effect as if set forth at length herein.

6. Mortgagee shall not name Lessee as a party defendant in any action or proceeding to foreclose the Mortgage, and any foreclosure sale pursuant to the Mortgage shall be subject to the Lease.

7. This Agreement is to be governed and construed by the laws of the state where the Premises are situated.

8. Any notices which any party hereto may desire to or may be required to give to any other party shall be in writing and the mailing thereof by Certified Mail to the following addresses or to such other places any party hereto may by notice in writing designate, shall constitute service of notice hereunder.

LESSEE:	PIZZA HUT c/o YUM! Brands, Inc. 1441 Gardiner Lane Louisville, Kentucky 40213 Attn: Law Department (Store #745123)
LESSOR:	CPI/AMERICAN FORK LIMITED PARTNERSHIP P. O. Box 9207 Boise, Idaho 83707-9207 Attn: Connie Lagunas
MORTGAGEE:	COLUMBIAN MUTUAL LIFE INSURANCE COMPANY Vestal Parkway East Binghamton, New York 13902 Attn: Christine Cawley

9. This Agreement and each and every covenant and other provision hereof, shall be binding upon and be for the benefit of the parties hereto and their heirs, executors, administrators, representatives, successors, assigns and sub-lessees.

10. This Agreement may be executed in multiple counterparts by the parties hereto and each executed counterpart shall be considered an original, but all of the counterparts shall be construed together as one original Agreement between the parties.

THIS SPACE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the undersigned has executed this Agreement this 8th day of July, 2004.

LESSEE: ||| ENT 93631:2004 PG 4 of 10

PIZZA HUT, INC.,
a California corporation

WITNESS:

Kathy M Pearl

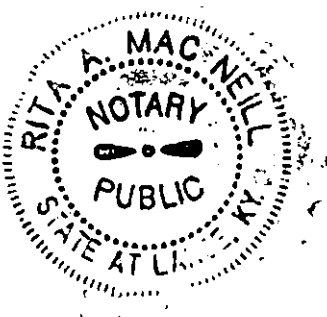
By: *Christine C. Marshall*
Christine C. Marshall
Assistant General Counsel
YUM! Brands, Inc./KFCC
Attorney-in-Fact, Pizza Hut, Inc.

nm

COMMONWEALTH OF KENTUCKY)
:)
COUNTY OF JEFFERSON)

BEFORE ME, the undersigned authority, personally appeared Christine C. Marshall, known to me to be the individual described in and who executed the foregoing instrument as Attorney-in-Fact of PIZZA HUT, INC., a California corporation, and acknowledged to and before me that she executed such instrument as such Attorney-in-Fact of said corporation.

WITNESS my hand and official seal this 8th day of July, 2004.



Rita A. Mac Neill
Notary Public

Rita A. Mac Neill
Notary Public, State at Large, KY
My commission expires Apr. 15, 2008

My Commission Expires: _____

IN WITNESS WHEREOF, the undersigned has executed this Agreement this 4th day of August, 2004.

MORTGAGEE:

~~COLUMBIAN MUTUAL LIFE INSURANCE COMPANY~~

WITNESS:

Shari Beittel

By: Christine L. Cawley
Printed Name: Christine L. Cawley
Title: Second Vice President, Investments

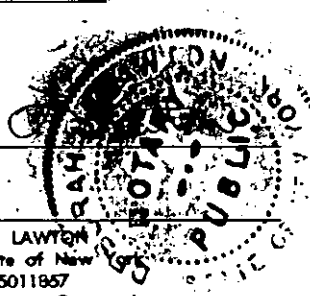
||| ENT 93631:2004 PG 6 of 10

STATE OF New York)
:
COUNTY OF Broome)

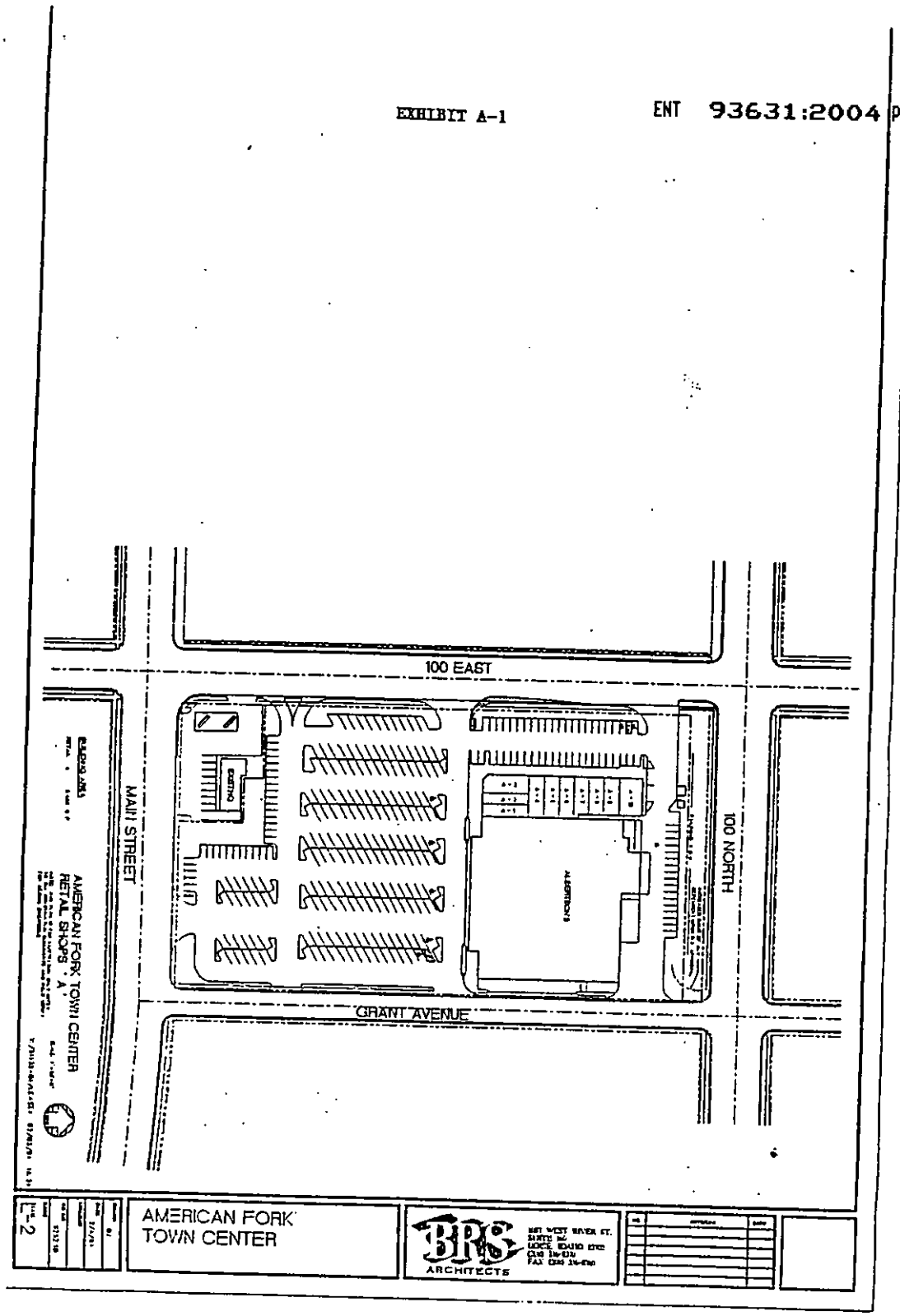
BEFORE ME, the undersigned authority, personally appeared Christine L. Cawley, known to me to be the individual described in and who executed the foregoing instrument as 2nd Vice President, Investments of ~~COLUMBIAN MUTUAL LIFE INSURANCE COMPANY~~, and acknowledged to and before me that he/she executed such instrument as such 2nd VP, Investments of said corporation.

WITNESS my hand and official seal this 4th day of August, 2004.

Deborah J. Lawton
Notary Public
My Commission Expires _____



DEBORAH J. LAWTON
Notary Public, State of New York
No. 01LA5011857
Residing in Broome County
My commission expires June 15, 2007



AMERICAN FORK TOWN CENTER
 RETAIL SHOPS
 100 EAST
 100 NORTH
 MAIN STREET
 GRANT AVENUE

FEB 07 1994

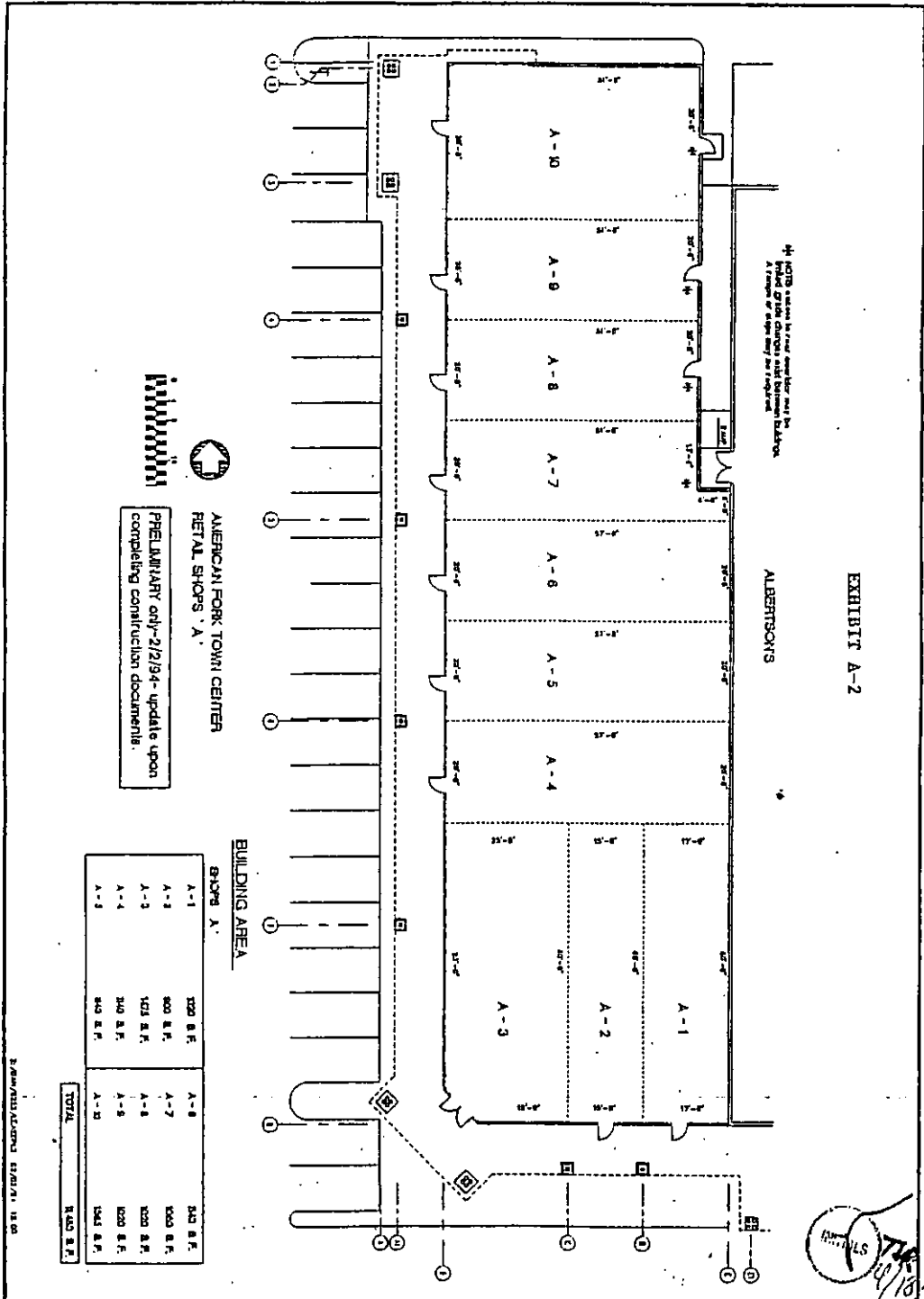
AMERICAN FORK TOWN CENTER



181 WEST BEAVER ST.
 SUITE 100
 LOGAN, UTAH 84301
 TEL: 435-724-4400
 FAX: 435-724-4400

NO.	DESCRIPTION	DATE

TIP
 4/15/94



PRELIMINARY only - 2/2/94 - update upon completing construction documents.

AMERICAN FORK TOWN CENTER
RETAIL SHOPS 'A'

SHOP	AREA	AREA
A-1	300 S.F.	A-1
A-2	300 S.F.	A-2
A-3	100 S.F.	A-3
A-4	300 S.F.	A-4
A-5	300 S.F.	A-5
A-6	300 S.F.	A-6
A-7	300 S.F.	A-7
A-8	300 S.F.	A-8
A-9	300 S.F.	A-9
A-10	300 S.F.	A-10
TOTAL	3000 S.F.	

FEB 07 1994

AMERICAN FORK, UTAH
RETAIL SHOP
CANTON PROPERTIES / CPI

BRS ARCHITECTS
100 WEST BIRCH ST.
SALT LAKE CITY, UT 84119
TEL: 531-1111
FAX: 531-1111

NO.	REVISION	DATE

EXHIBIT **A-3**

THE LAND REFERRED TO HEREIN IS IN THE STATE OF UTAH, UTAH COUNTY, AND IS DESCRIBED AS FOLLOWS:

Lot 1, Plat "A", Albertson's Center No. 2, American Fork, Utah, according to the official plat thereof, on file in the office of the Utah County Recorder.

34.201-0001

Exhibit B
(Legal Description - Real Property)

Lot 1, Plat "A", Albertson's Center No. 2, American Fork, Utah, according to the official plat thereof, on file in the office of the Utah County Recorder.

34-201-0001