

When Recorded Please Mail To:
Gene Colley
3207 Justin Road
Flower Mound, Texas 75028
(972) 539-6771

Ent **842136** Bk **1264** Pg **444**
Date 3-Oct-2003 4:14PM Fee \$31.00
Michael Glead, Rec. - Filed By CL
Cache County, UT
For NORTHERN TITLE COMPANY

NT-30976

COMMON ACCESS EASEMENT AGREEMENT

COUNTY OF CACHE §
 §
STATE OF UTAH §

This Common Access Easement Agreement is entered into this 27 day of September, 2003, by and among, ROYAL SEAL INVESTMENTS, INC., a Texas corporation ("Royal Seal"); JANICE J. SACKETT, and JANE S. JOHNSON, TRUSTEE OF THE ~~best NON-EXEMP QTIP~~ TRUST (collectively, "Sackett").

WITNESSETH:

WHEREAS, Royal Seal is the owner of the property attached hereto as Exhibit "A" ("Family Dollar Property") and Royal Seal is the owner of the immediately adjacent property attached hereto as Exhibit "B" ("Movie Gallery Property"). The Family Dollar Property and the Movie Gallery Property are immediately adjacent to the property owned by Sackett attached hereto as Exhibit "C" ("Sackett Property");

WHEREAS, the development of the Family Dollar Property and the Movie Gallery Property requires the use of a reciprocal access easement between the two properties, as shown outlined on page 1 of the two-page Exhibit "D"- Site Plan and the Sackett Property; and,

WHEREAS, the parties desire to enter into this Agreement to establish their rights and obligations with respect to the Common Access Easement, more particularly described in page 2 of the two-page Exhibit "D".

NOW, THEREFORE, in consideration of the mutual benefits being derived therefrom, and other valuable consideration, Royal Seal and Sackett agree as follows:

1. Grant of Easement. The parties hereby grant the other a reciprocal easement for the use of the Common Access Easement as follows: the parties hereto, their assigns, successors, employees, agents, licensees, invitees, customers and all persons patronizing, serving or visiting the Family Dollar Property, the Movie Gallery Property or the Sackett Property or the business or businesses conducted thereon, may use the Common Access Easement described on Exhibit "D" for the purpose of ingress and egress to and from the respective properties.

2. Parking. All persons visiting or serving the Family Dollar Property shall park on the Family Dollar Property. All persons visiting or serving the Movie Gallery shall park on the Movie Gallery Property. All persons visiting or serving the Sackett Property shall park on the

Sackett Property.

3. **Traffic and Obstructions.** No barriers, impediments, or obstructions of any kind shall be erected, built or placed by, at the direction of, or with the permission of any of the parties hereto which would impede or hinder the free flow of traffic, both vehicular and pedestrian along the Common Access Easement; provided however, in the event the owner of the Sackett Property chooses not to use the Common Access Easement, it may erect a fence at its property line adjacent to the Common Access Easement.

4. **Common Access Easement Expansion.** It is expressly understood that the owner of the Sackett Property shall have the option to expand the Common Access Easement to a width minimum of 32 feet. This option shall continue for a period of 10 years from the date of recording. In the event the owner of the Sackett Property exercises its option within fourteen (14) days from the recording date of this Easement, the owner of the Family Dollar Property shall pay for the construction of such expansion.

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5. Maintenance

(a) The owner of the Family Dollar Property shall be responsible for and have an affirmative duty to complete the initial construction of the Common Access Easement.

(b) At such time as Sackett Property is commercially developed, the owner of the Family Dollar Property, the owner of the Movie Gallery Property, and the owner of the Sackett, or their successors and assigns, shall enter into an equitable joint maintenance and management agreement of the Common Access Easement to be recorded in the County records. If such an agreement is not entered into upon sixty days notice, then any party shall have the right to seek binding arbitration, conducted pursuant to Utah's Uniform Arbitration Act.

(c) After the completion of the initial construction of the Common Access Easement and prior to the time that a joint maintenance and management agreement is entered into between the owner of the Family Dollar Property, the owner of the Movie Gallery Property and the owner of the Sackett Property, the owner of the Family Dollar Property and the owner of the Movie Gallery Property shall share in the maintenance and repair of the Common Access Easement. During this time only, the following shall apply:

(i) The owner of the Family Dollar Property shall maintain and repair the Common Access Easement and the owner of the Movie Gallery Property shall reimburse the owner of the Family Dollar Property for one-half of the expense of maintaining, repairing and replacing the Common Access Easement, and for the costs of removal of trash, graffiti, and debris within thirty (30) days after receiving an invoice for the reasonable expenses incurred. In the event the owner of the Movie Gallery Property does not reimburse the owner of the Family Dollar Property for the expenses incurred as described above, the owner of the Family Dollar Property shall provide written notice to the owner of the Movie Gallery Property of its breach under the terms of this Agreement. If the owner of the Movie Gallery Property does not cure the breach within fifteen (15) days after

receipt of such notice, the owner of the Family Dollar Property may place a lien for the amount owed upon the property of the Movie Gallery Property.

(ii) In the event the owner of the Family Dollar Property is not adequately maintaining the Common Access Easement in a commercially reasonable manner, the owner of the Movie Gallery Property shall have the right to demand joint maintenance and management with the owner of the Family Dollar Property of the Common Access Easement. If the joint maintenance and management takes place between the owner of the Movie Gallery Property and the owner of the Family Dollar Property, and the parties disagree on any improvements or maintenance of the Common Access Easement requested by either party, then either party shall have the right to seek binding arbitration, conducted pursuant to Utah's Uniform Arbitration Act.

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6. Agreement Binding upon Successors and Assigns. The easement, restrictions and agreements provided for herein shall constitute reciprocal benefits to and burdens upon the dominant and servient estates. Such easements, restrictions and agreements shall inure to the benefit of and be binding upon the respective successors, successors in title, assigns and heirs of the owners of the Family Dollar Property and the owners of the Movie Gallery and Sackett Properties, and may be enjoyed by the tenants, customers, employees and invitees of such parties, and shall remain in full force and effect and shall be unaffected by any change in ownership of said properties, any change in use; provided however, Royal Seal Investments, Inc. shall have no further rights, benefits, duties or obligations under this Agreement upon the termination of all interest it may have in the Family Dollar Property and the Movie Gallery Property. Except as noted otherwise, each party shall bear its own costs.

7. Recording. Parties agree that this Agreement shall be recorded in the appropriate office for the recordation of real estate conveyances in Cache County, Utah.

8. No Merger. It is the intention of the parties that the separate estates and rights created hereby shall not merge if all or portions of the Common Access Easement are owned by the same individual or entity.

9. Governing Law. This Agreement shall be constructed in accordance with and governed by the laws of the State of Utah.

10. Authority. Each party represents and warrants that they have full right and lawful authority to enter into Agreement; that each is fully seized of and has good title thereto, and that no consent or approval is required.

11. Attorney's Fees. If any party defaults in any covenants or agreements herein contained, the defaulting party shall pay all costs and expenses, including reasonable attorneys' fees, incurred by the other party in enforcing its rights arising under this Agreement, whether incurred through legal action or otherwise.

Dated this 27 day of September, 2023.

Royal Seal Investments, Inc.

By: *K. Eugene Colley*
Name: K. Eugene Colley
Title: President

Janice J. Sackett
Janice J. Sackett

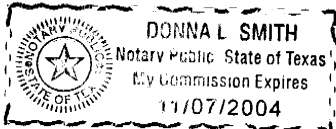
Jane S. Johnson, Jr.
Jane S. Johnson, Trustee of the GST Non-Exempt QTIP Trust Created under the will of Max L. Johnson

ACKNOWLEDGMENT

STATE OF *Texas* §
 §
COUNTY OF *Denton* §

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This instrument was acknowledged before me on the *27th* day of *September*, 2003, by **K. Eugene Colley, President of Royal Seal Investments, Inc.,** on behalf of said corporation.



Donna L. Smith
Notary Public

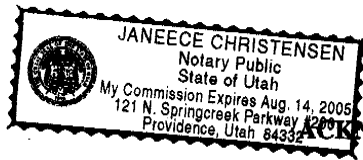
ACKNOWLEDGMENT

STATE OF UTAH §
§
COUNTY OF CACHE §

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This instrument was acknowledged before me on the 2nd day of October, 2003, by Janice J. Sackett.

Jane Christensen
Notary Public, State of Utah



ACKNOWLEDGMENT

STATE OF UTAH §
§
COUNTY OF CACHE §

This instrument was acknowledged before me on the 1st day of October, 2003, by Jane S. Johnson, Trustee, of the GST Non-Exempt QTIP Trust Created under the will of Max L. Johnson.

Jane Christensen
Notary Public, State of Utah

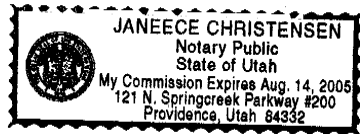


Exhibit A**Legal Description**Ent **842136** Bk **1264** Pg **449**

PART OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 1 EAST OF THE SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 165, SAID POINT BEING SOUTH 00°00'06" EAST 215.44 FEET FROM A MONUMENT IN THE INTERSECTION OF SAID HIGHWAY NO. 165 AND 5400 SOUTH STREET ALONG A LINE BETWEEN TWO FOUND CITY STREET MONUMENTS IN SAID HIGHWAY NO. 165 BEING SOUTH 00°00'06" EAST 764.50 FEET APART AND NORTH 89°59'54" EAST 50.25 FEET FROM SAID INTERSECTION MONUMENT; THENCE SOUTH 89° 59' 54" EAST 264 FEET; THENCE SOUTH 00°00'06 WEST 106.00 FEET; THENCE NORTH 89°59'54" WEST 264.00 FEET TO SAID EAST RIGHT-OF-WAY LINE; THENCE NORTH 00°00'06" EAST ALONG SAID RIGHT-OF-WAY LINE 106.00 FEET TO THE POINT OF BEGINNING. (PART OF 01-003-0016)

CONTAINING 27,984 SQUARE FEET

Also known as: 31 South 800 East, Hyrum, UT

EXHIBIT B**LEGAL DESCRIPTION**Ent **842136** Bk **1264** Pg **450**

PART OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 10 NORTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN, U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 165, SAID POINT BEING SOUTH 00°00'06" EAST 321.43 FEET FROM A MONUMENT IN THE INTERSECTION OF SAID HIGHWAY NO. 165 AND 5400 SOUTH STREET ALONG A LINE BETWEEN TWO FOUND CITY STREET MONUMENTS IN SAID HIGHWAY NO. 165 BEING SOUTH 00°00'06" EAST 764.50 FEET APART AND NORTH 89°59'54" EAST 50.25 FEET FROM SAID INTERSECTION MONUMENT; THENCE SOUTH 89°59'54" EAST 264.00 FEET; THENCE SOUTH 00°00'06" WEST 86.00 FEET; THENCE NORTH 89°59'54" WEST 264.00 FEET TO SAID EAST RIGHT-OF-WAY LINE; THENCE NORTH 00°00'06" EAST ALONG SAID RIGHT-OF-WAY LINE 86.00 FEET TO THE POINT OF BEGINNING.

CONTAINING 22,704 SQUARE FEET

Also known as: 45 South 800 East, Hyrum, UT

EXHIBIT CEnt **842136** Bk **1264** Pg **451**

PART OF THE SOUTHWEST QUARTER OF SECTION 3, T.10N., R.1E., S.L.B.&M., U.S. SURVEY, DESCRIBED AS FOLLOWS:

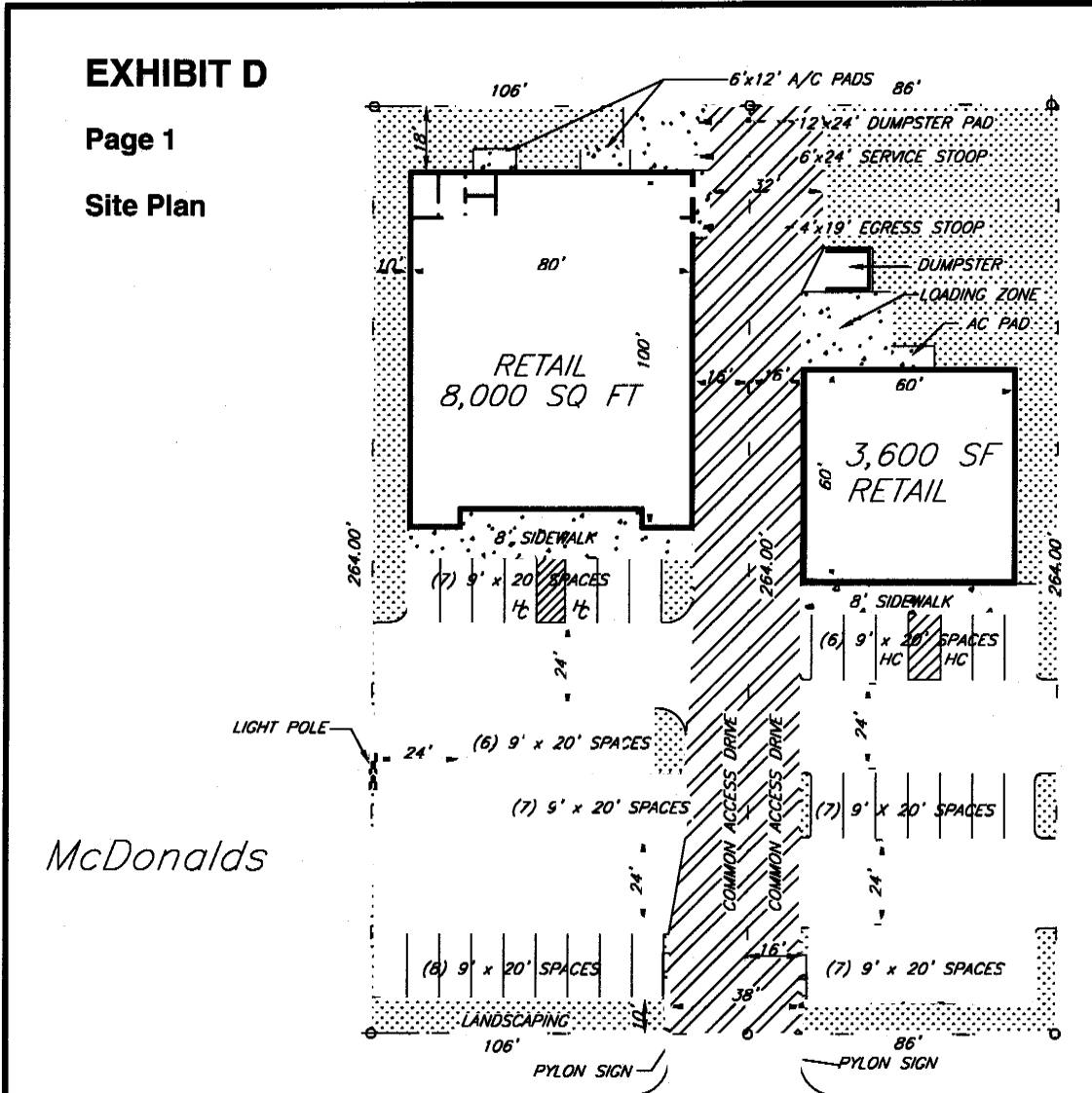
BEGINNING AT A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF 5400 SOUTH STREET AND A 1136.35 FOOT RADIUS CURVE THE CENTER OF WHICH BEARS N11°07'29"W, SAID POINT BEING S00°00'03"E ALONG THE LINE BETWEEN THE TWO FOUND CITY STREET MONUMENTS IN THE INTERSECTION OF 5400 SOUTH STREET AND SAID STATE HIGHWAY AND IN SAID STATE HIGHWAY 764.48 FEET SOUTH OF SAID INTERSECTION, 25.85 FEET AND N89°59'57"E 297.01 FEET FROM THE MONUMENT IN SAID INTERSECTION OF SAID 5400 SOUTH STREET AND STATE HIGHWAY NO. 165; THENCE NORTHEASTERLY ALONG SAID SOUTH LINE AND CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 13°29'41" A DISTANCE OF 267.64 FEET, N63°12'08"E 197.35 FEET TO A 1053.85 FOOT RADIUS CURVE THE CENTER OF WHICH BEARS S24°37'10"E, AND NORTHEASTERLY ALONG SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 23°27'06" A DISTANCE OF 431.35 FEET TO THE HYRUM ASSOCIATES PROPERTY; THENCE S00°12'24"E 394.44 FEET AND N89°43'16"E 175.00 FEET TO THE BAXTER PROPERTY; THENCE S00°12'24"E ALONG SAID BAXTER PROPERTY 899.75 FEET TO THE MOUNTAIN CREST HIGH SCHOOL PROPERTY; THENCE N89°57'37"W ALONG SAID HIGH SCHOOL PROPERTY 1274.28 FEET TO THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 165; THENCE N00°00'06"E ALONG SAID EAST LINE 644.35 FEET; THENCE S89°59'54"E 264.00 FEET; THENCE N00°00'06"E 192.00 FEET; THENCE N89°59'54"W 17.25 FEET; THENCE N00°00'06"E 189.60 FEET TO THE POINT OF BEGINNING.

CONTAINS: 30.19 ACRES

EXHIBIT D

Page 1

Site Plan



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--- HWY 165 ---

RSI	3201 JUSTIN ROAD FLOWER MOUND, TX. 75028	HWY 165 McDonald	PRELIMINARY SITE PLAN	
	972-724-0596 PH. 972-355-1100 FAX	9/23/03 REV 4		FAMILY DOLLAR & MOVIE GALLERY
		27,984 & 22,704 SF		HYRUM, UTAH PARKING SHOWN 28 REQ'D. 28
		SCALE: NTS	PARKING SHOWN 20 REQ'D. 14	

EXHIBIT D**Page 2****Legal Description**Ent **842136** Bk **1264** Pg **453**

AN EASEMENT FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED PROPERTY:

PART OF THE SOUTHWEST QUARTER OF SECTION 3, T.10N., R.1E., S.L.B.A7M., U.S. SURVEY, DESCRIBED AS FOLLOWS:

BEGINNING ON THE EAST RIGHT-OF-WAY LINE OF STATE HIGHWAY NO. 165, SAID POINT BEING S00°00'06"E 337.44 FEET FROM A MONUMENT IN THE INTERSECTION OF SAID HIGHWAY NO. 165 AND 5400 SOUTH STREET ALONG A LINE BETWEEN TWO FOUND CITY STREET MONUMENTS IN SAID HIGHWAY NO. 165 BEING S00°00'06"E 764.50 FEET APART AND N89°59' 54"E 50.25 FEET FROM SAID INTERSECTION MONUMENT; THENCE NORTH 00°00'06" EAST, A DISTANCE OF 38.00 FEET; THENCE NORTH 89°58'59" EAST, A DISTANCE OF 25.00 FEET; THENCE SOUTH 87°39'39" EAST, A DISTANCE OF 49.04 FEET; THENCE SOUTH 89°59'54" EAST, A DISTANCE OF 12.00 FEET; THENCE SOUTH 84°17'15" EAST, A DISTANCE OF 40.20 FEET; THENCE SOUTH 89°59'54" EAST, A DISTANCE OF 101.00 FEET; THENCE SOUTH 00°00'06" WEST, A DISTANCE OF 4.01 FEET; THENCE NORTH 89°59'21" EAST, A DISTANCE OF 37.00 FEET; THENCE SOUTH 00°00'06" WEST, A DISTANCE OF 32.00 FEET; THENCE NORTH 89°59'54" WEST, A DISTANCE OF 44.83 FEET; THENCE NORTH 71°35'51" WEST, A DISTANCE OF 12.65 FEET; THENCE NORTH 89°59'54" WEST, A DISTANCE OF 207.17 FEET TO THE POINT OF BEGINNING. CONTAINING 0.2073 ACRES, MORE OR LESS.