

When recorded return to:  
Canyon Creek Phase Two L.L.C.  
c/o Woodbury Corporation  
Attn: Office of General Counsel  
2733 East Parleys Way, Suite 300  
Salt Lake City, Utah 84109

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### DECLARATION OF RESTRICTION

This DECLARATION OF RESTRICTION (the "Agreement") is made and entered into this 27<sup>th</sup> day of August, 2014, by and between QDA, L.L.C., a Utah limited liability company ("QDA"), CANYON CREEK PHASE FOUR L.L.C., a Utah limited liability company, or its assigns ("Canyon Creek"), CANYON CREEK PHASE TWO L.L.C., a Utah limited liability company, or its assigns ("CCSC Phase Two") and WELLS FARGO BANK, a National Association (hereinafter "Wells Fargo"). Canyon Creek, CCSC Phase Two, Wells Fargo and QDA may hereafter be referred to individually as a "party" or collectively as "parties".

#### RECITALS

- A. WHEREAS, QDA is the owner of property as legally described in Exhibit "A" attached hereto (the "QDA Property"), which QDA Property is located in Spanish Fork, Utah. The QDA Property is depicted on the site plan attached hereto as Exhibit "A-1".
- B. WHEREAS, CCSC Phase Two is the owner of property legally described on Exhibit "B" attached hereto (the "CCSC Phase Two Property"), which CCSC Phase Two Property is located in Spanish Fork, Utah, adjacent to the QDA Property. The CCSC Phase Two Property is also depicted on the Site Plan attached hereto as Exhibit "B-1".
- C. WHEREAS, the CCSC Phase Two Property is encumbered by a Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement, and Fixture Filing in favor of Wells Fargo, as recorded in the Utah County Recorder's Office on July 7, 2014 as Entry No. 46387:2014 at Pages 1 of 24 of the official records, and any subsequent amendments thereto.
- D. WHEREAS, the Canyon Creek Property is encumbered by a Construction Deed of Trust with Absolute Assignment of Leases and Rents, Security Agreement, and

Fixture Filing in favor of Wells Fargo as recorded in the Utah County Recorder's Office on July 7, 2014 as Entry No. 46388:2014 at Pages 1 of 24 of the official records, and any subsequent amendments thereto.

- E. WHEREAS, Canyon Creek is the owner of property as depicted on Exhibit "C" attached hereto (the "Canyon Creek Property").
- F. WHEREAS, QDA, CCSC Phase Two, and Canyon Creek intend to restrict the uses of the QDA Property, CCSC Phase Two Property, and Canyon Creek Property.

#### AGREEMENT

NOW THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. During the period QDA owns the QDA Property, the QDA Property shall be used solely as a Culvers or Similar Franchise restaurant primarily selling hamburgers and shakes, and for no other purpose without the prior written consent of CCSC PHASE TWO. It is expressly agreed that neither all nor any portion of the CCSC Phase Two Property, the Canyon Creek Property nor any additional property which CCSC Phase Two may now or hereafter own, lease or control, which is within the "Exclusive Use Area", as depicted on Exhibit "D", shall be used for a restaurant primarily selling hamburgers and shakes. As used in this Paragraph 1, "primarily" shall mean thirty-five percent (35%) or more of such restaurant's gross sales. For purposes of this Paragraph 1, "Similar Franchise" shall mean a regionally syndicated franchise with at least five (5) stores offering hamburger and shake based menu items ("QDA's Exclusive Use")

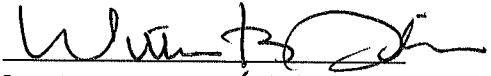
2. Notwithstanding the forgoing, the QDA's Exclusive Use shall not apply to any regional or national big box retailer occupying a building within the Exclusive Use Area whose leased premises are greater than ten thousand (10,000) square feet and Starbucks Corporation, a Washington Corporation, its successor or assigns.

*[Remainder of page left intentionally blank]*

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed the day and year first above written.

QDA:

**QDA, L.L.C., a Utah limited liability company**

By:   
Its: LLC MGR/CEO  
WILLIAM B. GIBSON

By: ~~\_\_\_\_\_~~  
Its: ~~\_\_\_\_\_~~ N/A

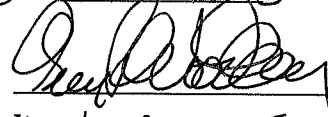
CANYON CREEK PHASE FOUR:

**CANYON CREEK PHASE FOUR L.L.C., a Utah limited liability company**

**By: TENEDOR L.L.C., a Utah limited liability company, Its Manager**

**By: WOODBURY CORPORATION, a Utah corporation, Its Manager**

By:   
Its: VICE PRESIDENT

By:   
Its: VICE PRESIDENT

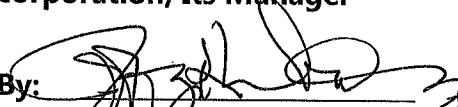
By:   
Richard L.K. Mendenhall, Its Manager

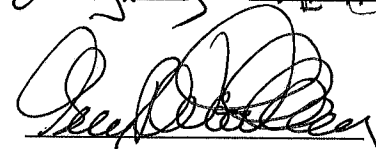
CCSC PHASE TWO:

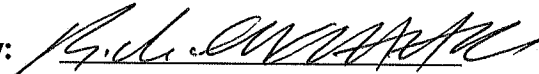
**CANYON CREEK PHASE TWO L.L.C., a Utah limited liability company**

**By: TENEDOR L.L.C., a Utah limited liability company, Its Manager**

**By: WOODBURY CORPORATION, a Utah corporation, Its Manager**

By:   
Jeffrey Woodbury Its ~~VICE~~ ~~PRES~~ ~~CHIEF~~ ~~EXECUTIVE~~

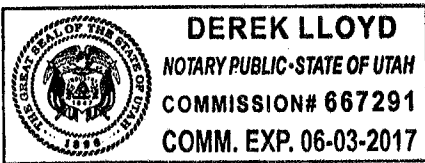
By:   
Guy R. Woodbury Its VICE PRESIDENT

By:   
**Richard L.K. Mendenhall, Manager**

ACKNOWLEDGEMENTS

STATE OF UT )  
 : SS.  
COUNTY OF UT )

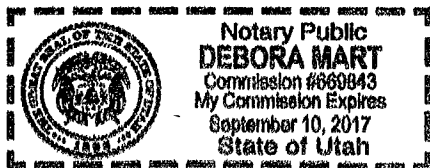
On the 15 day of August, 2014, before me personally appeared William B. Gibson and N/A, to me personally known to be the LLC mgr / CEO and N/A of QDA, L.L.C., the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.



[Signature]  
Notary Public

STATE OF Utah )  
 : SS.  
COUNTY OF Salt Lake )

On the 20<sup>th</sup> day of August, 2014, before me personally appeared G. Randall Woodbury and JEFFREY K. WOODBURY, to me personally known, who being by me duly sworn did say that they are the ~~President and Vice Presidents~~ of WOODBURY CORPORATION, which is a Manager of TENEDOR L.L.C., which is the Manager of Canyon Creek Phase Four L.L.C., the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.

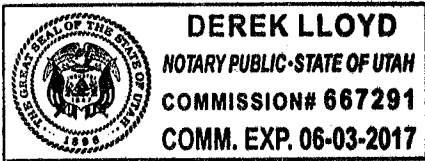


[Signature]  
Notary Public

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STATE OF UT )  
 : SS.  
COUNTY OF UT )

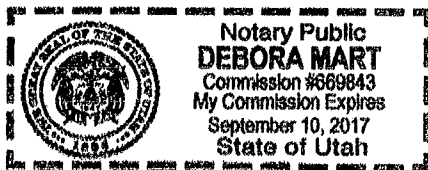
On the 18 day of August, 2014, before me personally appeared RICHARD L.K. MENDENHALL, to me personally known, who being by me duly sworn did say that he is the Manager of TENEDOR L.L.C., which is the Manager of Canyon Creek Phase Four L.L.C., the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.



[Signature]  
Notary Public

STATE OF Utah )  
 : SS.  
COUNTY OF Salt Lake )

On the 20<sup>th</sup> day of August, 2014, before me personally appeared Guy R. ~~O. RANDALL~~ WOODBURY and JEFFREY K. WOODBURY, to me personally known, who being by me duly sworn did say that they are the ~~President and Vice Presidents~~ of WOODBURY CORPORATION, which is a Manager of TENEDOR L.L.C., which is the Manager of Canyon Creek Phase Two L.L.C., the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.

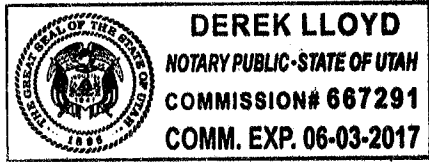


[Signature]  
Notary Public

[Handwritten initials]

STATE OF UT )  
 : ss.  
COUNTY OF UT )

On the 18 day of August, 2014, before me personally appeared RICHARD L.K. MENDENHALL, to me personally known, who being by me duly sworn did say that he is the Manager of TENEDOR L.L.C., Manager of CANYON CREEK COMMERCIAL CENTER L.L.C., Manager CANYON CREEK PHASE TWO L.L.C., the company that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said company therein named, and acknowledged to me that such company executed the within instrument pursuant to its articles of organization.




[Signature]  
Notary Public

[Handwritten initials]

**WELLS FARGO does hereby consent to and subordinate its lien to this  
DECLARATION OF RESTRICTIONS.**

**WELLS FARGO BANK, A NATIONAL  
ASSOCIATION**

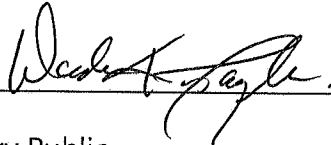
By:   
Erik W. Bengtzen, Vice President

STATE OF UTAH )

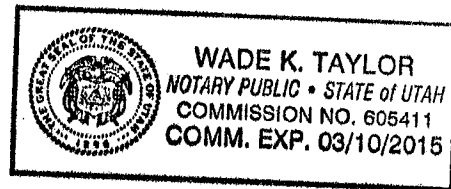
:SS

COUNTY OF SALT LAKE )

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of August,  
2014, by Erik W. Bengtzen, Vice President of Wells Fargo Bank, National Association.

  
Notary Public

My commission expires: 3/10/15



*Handwritten initials or marks*



EXHIBIT "A"  
LEGAL DESCRIPTION OF QDA PROPERTY

Lot 2, Phase 2, Canyon Creek Shopping Center Subdivision, according to the official plat there of recorded December 19, 2013, as Entry No. 115075:2013, as Map Filing No. 14098, in the office of the Utah County Recorder.

44,415 square feet

1.02 Acres



EXHIBIT "A-1"  
QDA PROPERTY

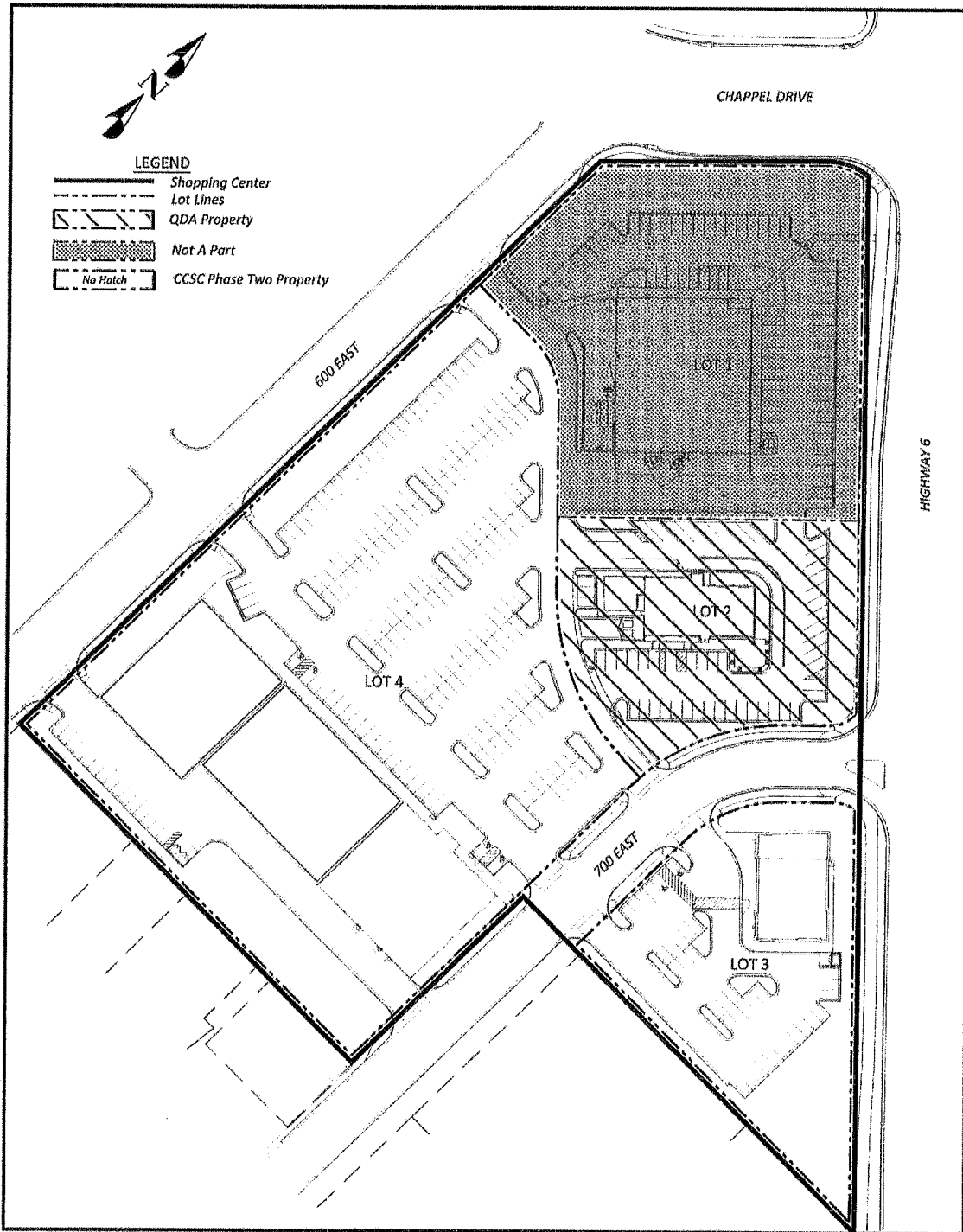


EXHIBIT "B"  
LEGAL DESCRIPTION OF CCSC PHASE TWO PROPERTY

Lots 3 and Lot 4, Phase 2, Canyon Creek Shopping Center Subdivision, according to the official plat there of recorded December 19, 2013, as Entry No. 115075:2013, as Map Filing No. 14098, in the office of the Utah County Recorder.

212,980 square feet

4.89 Acres



EXHIBIT "B-1"  
DEPICTION OF CCSC PHASE TWO PROPERTY

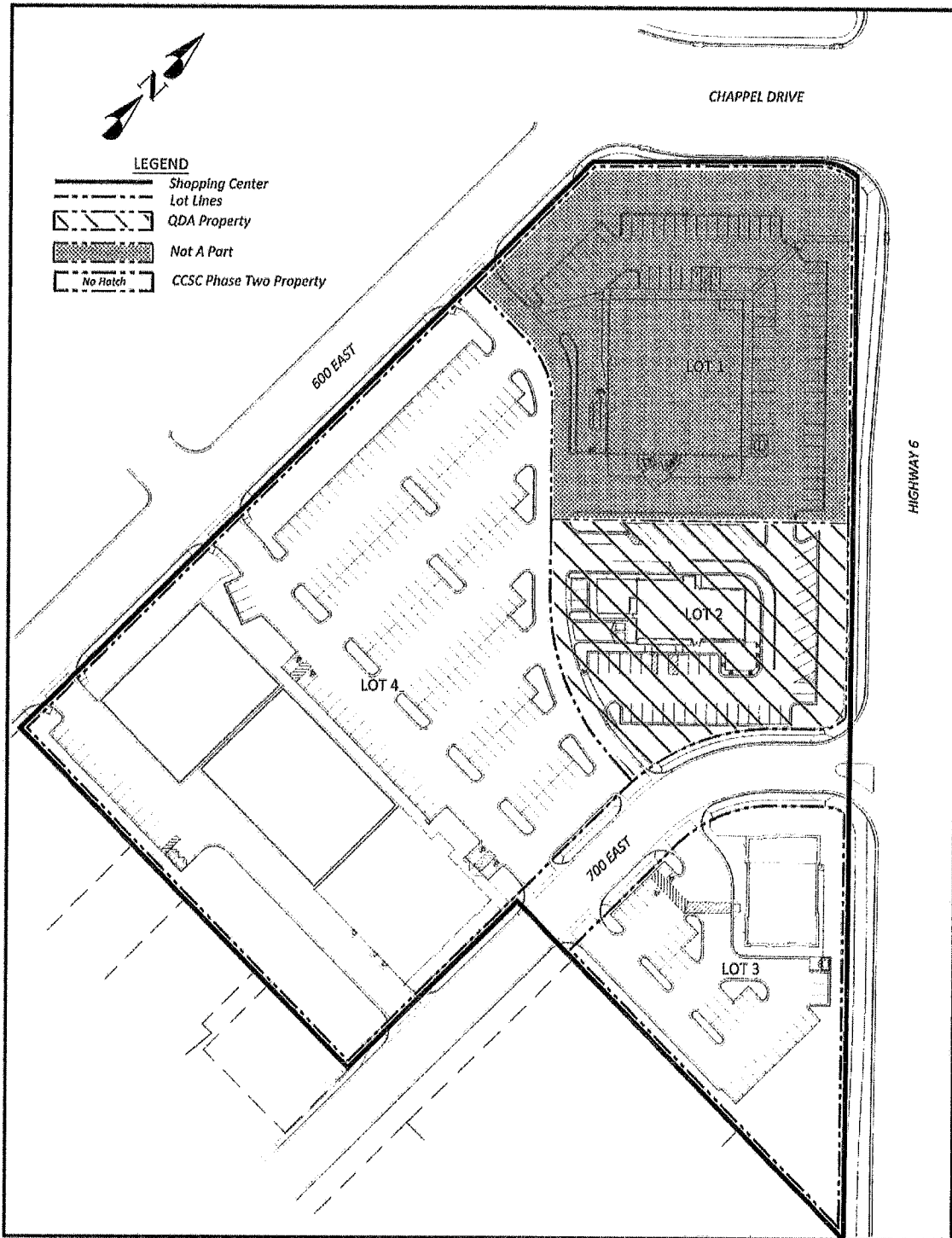


EXHIBIT "C"  
CANYON CREEK PROPERTY DEPICTION

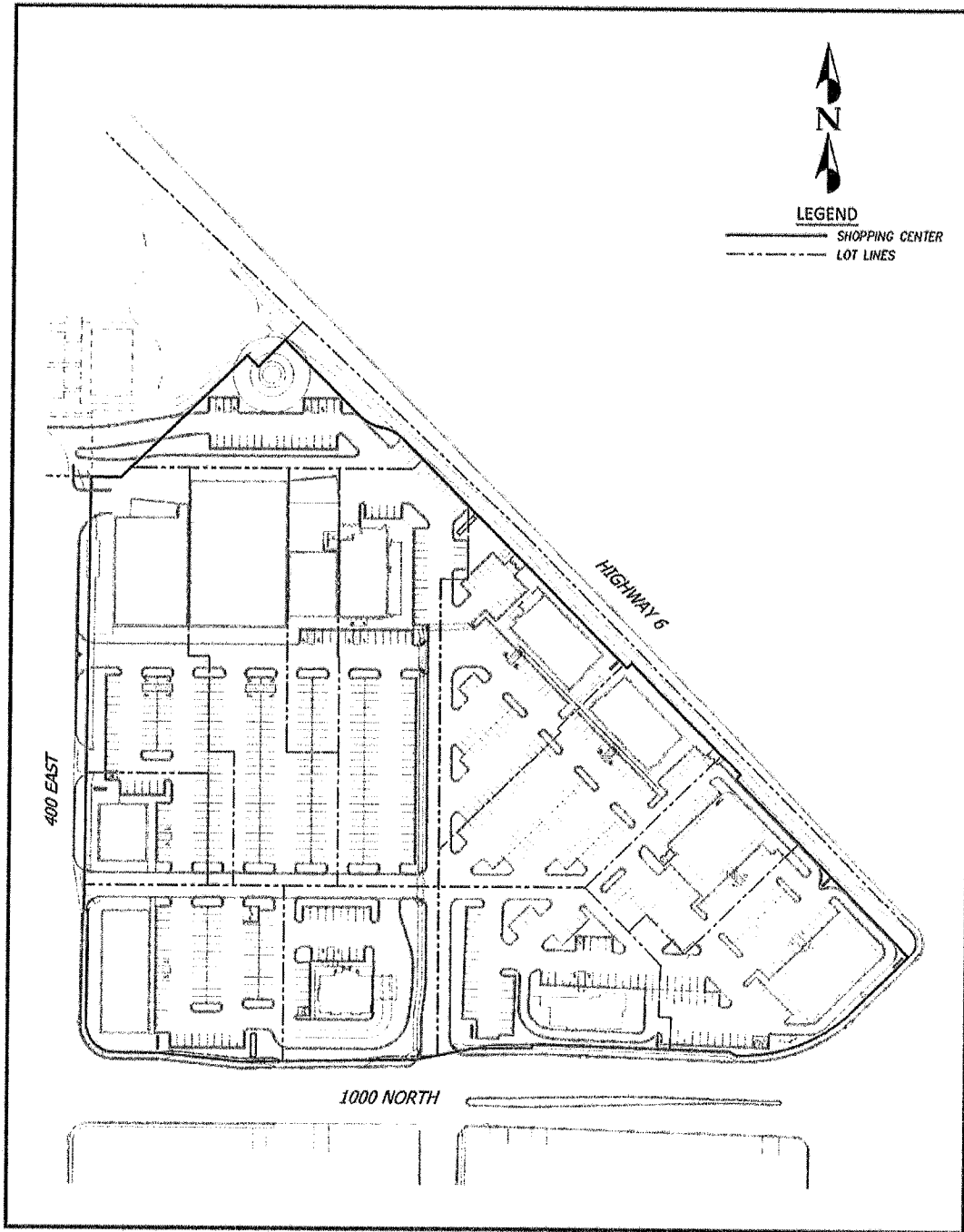


EXHIBIT "D"  
EXCLUSIVE USE AREA

