

WHEN RECORDED RETURN TO

T-29027-A

D. Earl Ellis
EGSmetro Construction Corporation
Post Office Box 92959
Los Angeles, California 90009

18266

DECLARATION OF COVENANTS AND RESTRICTIONS AND
GRANT OF EASEMENTS

THIS DECLARATION is made this 13th day of July,
1976, by ELTINGE, GRAZIADIO & SAMPSON DEVELOPMENT CO., a
California partnership, hereinafter referred to as "Owner".

DEE:2
3-24-76
6-2-76
Orem,
Utah

1. Statement of Facts.

(a) Owner is the owner in fee of that certain
real property in the City of Orem, County of Utah,
State of Utah, sometimes hereinafter referred to as the
Shopping Center and more particularly described in Exhibit "A",
attached hereto and made a part hereof by this reference.

(b) Owner has improved portions of the property
and constructed thereon a partially completed shopping
center.

(c) Owner is about to, or may hereafter, sell,
dispose of, convey, lease or hypothecate a portion or portions
of the property.

(d) Owner desires to subject each and every
portion of the property to the easements, covenants, conditions,
restrictions, reservations, liens and charges hereinafter
set forth pursuant to a general plan of improvement of the
property.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS:

2. Common Plan.

(a) Owner declares and certifies it has established
a plan for the protection, maintenance and improvement of
said property, and has fixed and does hereby fix the easements,

D. Earl Ellis
See Above

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UTAH TITLE & ABSTRACT CO.
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DEPUTY *[Signature]*
PL. R.

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covenants, and reservations upon, and subject to which, all lots, parcels and portions of said Shopping Center shall be used, held, leased or sold, or conveyed by the Owner, whether by operation of law or otherwise, and each and all of which is and are for the benefit of said property, and of each owner of land therein, whether present or future, and which shall inure and pass with said property, and each and every parcel of land therein, and shall apply to and bind the Owner, its heirs, executors, administrators and successors in interest.

(b) Owner has leased the land in the Shopping Center described as Parcel A to the S. S. Kresge Company, and one of the purposes of this Declaration is to subject Parcel C to the restrictions and requirements in said lease with the S. S. Kresge Company.

(c) The covenants and restrictions set forth in this Declaration and affecting Parcel C are for the benefit of Parcel A and Parcel B; and whenever Parcel C is the servient tenement, both Parcel A and Parcel B shall be the dominant tenement. The easements and restrictions affecting Parcel B are for the benefit of Parcel C; and whenever Parcel B is the servient tenement, Parcel C shall be the dominant tenement. Owner reserves the right to record another declaration affecting only Parcel A and Parcel B, and the terms, covenants, restrictions and easements of such future declaration may differ from the restrictions in this Declaration, provided that nothing in such future declaration shall diminish the easements, covenants and restrictions of this Declaration in favor of Parcel C.

3. The Property. The property which is legally described in Exhibit "A" is likewise shown upon a map attached hereto and made a part hereof, marked Exhibit "B". The Shopping Center is divided into three Parcels, which are legally described on Exhibit "A" as Parcel A, Parcel B and

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Parcel C, and they are likewise generally identified on Exhibit "B". The entire Shopping Center is divided into two categories of use and are hereinafter referred to as "Building Area" and "Common Area". The Building Areas and Common Areas of Parcel B and Parcel C are defined in Paragraph 4.

4. Other Definitions.

(a) Persons. The word "person" or "persons" means and includes individuals, partnerships, firms, associations and corporations, or any other form of business entity.

(b) Building Areas. All areas permitted for construction or use for commercial purposes will be referred to as a "Building Area". Building Area includes sales and service, warehousing and storage areas, clerical or office areas, and employee facilities. Building Area excludes truck ramps, loading and delivery areas, whether or not situated within a building or enclosure.

(c) Allowable Gross Square Feet. The term "allowable gross square footage" means the maximum number of square feet of permitted Building Area on the relevant parcel, whether the entire amount is initially used or whether a portion of it is initially used and the balance used for expansion.

(d) Parcel. The word "parcel" means Parcel A, Parcel B, and/or Parcel C, as the context requires.

(e) Common Area. The phrase "Common Areas" refers to the sidewalks, service drives, parking aisles, driveways, streets, parking areas, and landscaped areas; those areas within the Shopping Center that are open to the public generally; and all other areas except those areas that are occupied from time to time by building structures and appurtenances permitted by this document.

(f) The phrase "major tenant" means any party who owns or is the tenant of more than twenty thousand (20,000) square feet of Building Area in the Shopping Center.

(g) A "major driveway" is one thirty feet (30') or wider.

5. Parking and Common Area Easements.

(a) Non-exclusive easements appurtenant to and for the benefit of Parcel C are hereby created over, in, upon and across the Common Areas of Parcel B. Non-exclusive easements appurtenant to and for the benefit of Parcel A and Parcel B are hereby created over, in, upon and across any future parking and driveway areas built on Parcel C. These easements are for the following purposes:

(1) The parking of passenger vehicles and pedestrian and vehicular traffic of the owners of the respective dominant parcels and their respective heirs, successors, grantees, mortgagees, tenants and subtenants and all persons who now own, hold or hereafter own or hold portions of real property within one of the dominant parcels or leasehold estate, or any interest therein, or building space thereon; and their respective tenants and subtenants thereof; and the officers, directors, concessionaires, employees, customers, visitors, and other licensees and invitees of any of them;

(2) The ingress, egress and regress of any of the above designated persons, and their passenger vehicles, to any and from any portion of the Common Areas and public streets adjacent thereto;

(3) The ingress, egress and regress of delivery and service trucks and vehicles to and from the Building Areas or any portion thereof and the public streets adjacent to the entire Shopping Center, for the delivery of goods, wares, merchandise and the rendition of services to said owners and their respective heirs, successors, grantees and assigns, and all person who now own or hereafter own or hold portions of any Building Area or any leasehold estate, or any other interest therein, or building space thereon, and their respective tenants, and subtenants; and the officers, directors, concessionaires, agents, employees, and licensees of any of them;

(4) The temporary parking or standing of trucks, tractors, trailers, and other delivery vehicles used in conjunction with the exercise of any of the activities described in subparagraph (3) immediately above;

(b) Non-exclusive easements appurtenant to and for the benefit of Parcel C are hereby created over, in, upon, and across the Common Areas of Parcel A for the purposes described in subparagraph (2) above.

The easements granted in this Paragraph are subject to the provisions of Paragraph 8, and said easements will cease upon proper exercise of the rights and powers set forth in Paragraph 8.

6. Building Areas.

(a) Building Size Limits. The allowable gross square footage of Parcel C is 5,000 square feet. The allowable gross square footage of Parcel B is 40,000 square feet. Nothing herein shall be deemed or interpreted to prohibit, in addition to the allowable gross square footage on Parcel B, mezzanine(s) in any building on Parcel B up to a total of 10,000 square feet. Neither the identification on Exhibit "B" of the Building Area on Parcel B as "Food Market" nor the configurations of building space on Exhibit "C" shall in any way be interpreted or deemed to restrict the actual location of the permissible buildings on Parcel B or to restrict the use of any building on Parcel B.

(b) Restriction. No building or any kind will be constructed, installed or maintained above the surface of the ground of Parcel B within that area specifically identified on Exhibit "B" as a "No Building Area."

(c) Height Restriction. No building will at any time be constructed or maintained on or above the surface of Parcel C in excess of one story.

(d) Permitted Uses. The owner of each parcel may use the Building Area of its parcel and the portions of its parcel adjacent to the Building Area of that parcel for the following purposes:

(1) The installation, removal, repair, replacement and maintenance of building canopies, cornices and similar building features projecting from any Building Area over pedestrian sidewalks and Common Areas a distance not exceeding fifteen (15) feet, together with support columns upon and over such sidewalks and common facilities.

(2) Pedestrian sidewalks and flower boxes, planting containers, and other decorative and landscaping features thereon;

(3) Such advertising or identification signs of building occupants as may be desired to be attached to or mounted upon such canopies, if not prohibited elsewhere herein.

(4) The installation, removal, replacement, repair, use and maintenance of fire hose connections, downspouts, hose bibbs, standpipes, yard and floodlights, subsurface building foundations, and such signs or shadow boxes of building occupants as may be attached to or form an integral part of a building at any time situated upon any portion of the Building Areas;

(5) The construction and operation of loading ramps and docks;

(6) The construction and operation of trash rooms and/or trash bins;

(7) The outward opening of doors from contiguous Building Areas;

(8) The temporary erection of ladders, scaffolding and store front barricades during periods of

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construction, remodeling or repair of buildings and building appurtenances, upon the condition, however, that such construction, remodeling or repair is diligently performed and such ladders, scaffolding and barricades are thereupon promptly removed.

The above permitted uses are in addition to those permitted by Paragraphs 11 and 12 for the Common Areas.

(e) The owner of any parcel may use the Building Area of that parcel as a part of the Common Areas. However, the improvement or use, or improvement and use of any portion of the permissible Building Area of any parcel for parking or other use permitted for Common Areas shall not be construed as a permanent inclusion thereof within the Common Areas and such portions may at any time thereafter be improved with buildings and appurtenances as herein provided for and shall thereupon be released from the easements of subparagraph 5(a).

7. Signs. No sign or billboard will be constructed, used, maintained, erected, displayed or permitted on or about any portion of Parcel C except wall and pylon signs, provided such signs shall be utilized solely for the purpose of advertising the name of the respective tenant(s) thereto, and that such signs shall not be located on Parcel A or Parcel B.

8. No Barriers.

(a) No raised curbing, fence, division, rail, hedge, walls or obstructions of any type or kind shall ever be placed, kept, permitted or maintained along the common boundary lines between the Common Areas of Parcel B and Parcel C, except as expressly permitted in subparagraph (b) herein.

(b) In the event there is a violation of any provision of this Declaration with respect to the use,

maintenance or occupation of Parcel C and such violation is not corrected within thirty (30) days after written notice from the owner of Parcel A, the owner of Parcel B, or from the major tenant of Parcel A or Parcel B, then the owner of Parcel A or the owner of Parcel B or the major tenant of Parcel A or Parcel B shall have the right to limit access between Parcel C and either Parcel A or Parcel B. The right to limit access may be exercised by any reasonable and lawful means including but not limited to the erection of raised curbing, fences, divisions, rails, hedges, walls, barriers or obstructions of any kind between Parcel C and either Parcel A or Parcel B or both.

9. Common Facilities Improvements.

(a) Prior to the occupancy of any building erected upon any parcel or portion thereof, the owner of that parcel shall improve or cause to be improved for parking and service, as herein contemplated, all portions of the common facilities herein established for that parcel, including concrete walkways along the front of any building erected.

(b) The construction of the common facilities shall include adequate parking aisles, driving aisles and access to the public streets adjacent to that parcel or portion thereof, and shall conform to the requirements of Paragraph 13 herein.

(c) It is agreed and acknowledged that Parcel B already meets the requirements of subparagraphs 9(a), 9(b), 13(a), and 13(c) except for the concrete walkways along the front of any future building.

10. Restricted Uses. No part of Parcel C shall be constructed, maintained or used for any purpose that may create a greater burden on the parking lot than does the use of such parcel as a supermarket. It is hereby agreed and acknowledged that the use of Parcel C as a restaurant does not create a greater burden on the parking lot than does

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the use of said parcel as a supermarket. Neither the Shopping Center nor any part of it will be used, and no building or other improvement will be constructed, maintained or used for any purpose other than the following: those generally located in similar shopping centers in Utah. Such purposes include, without limiting the foregoing, food market, retail, office and service establishments, including without limitation, financial institutions, brokerage houses, restaurants, automotive service stations, travels and other agencies. Such purposes exclude, without limiting the foregoing, automotive sales, display areas, bowling alleys, skating rinks, motion picture theatres, other similar recreational uses, mortuary, commercial laundry plant, transportation depot of any sort, and similar establishments unless specifically approved in writing by all of the owners of each parcel; provided, however, Parcel C only may be used for the purpose of a health club or spa. These restrictions are for the sole purpose of maintaining the integrity and adequacy of the Common Areas.

11. Common Areas.

(a) The "Common Areas" of Parcel C and the Common Areas of Parcel B, except as provided elsewhere, shall be used for the following purposes only:

(1) The parking of passenger vehicles and the pedestrian and vehicular traffic, of the owner of any and all parcels and their respective heirs, successors, assigns, grantees, mortgagees, tenants, subtenants, and all persons who now own, hold or hereafter own or hold, portions of real property within any of the parcels or any leasehold estate, or any other interest therein, or building space thereon; and the respective tenants or subtenant thereof; and the officers, directors, concessionaires, agents, employees, customers, visitors and other licensees and invitees of any of them;

(2) The ingress, egress and regress of any of the above designated persons, and the vehicles thereof, to any and from any portion of the Common Areas and the public streets adjacent to the Common Areas;

(3) The installation, maintenance and operation, within the confines of the Common Areas of public utilities services serving the Building Areas, together with and including vaults, manholes, meters, pipelines, valves, hydrants, sprinkler controls, conduits, and related facilities, and sewage facilities, all of which (except hydrants) shall be even with or below the surface whenever underground utilities are reasonably available;

(4) The movement of pedestrian and passenger vehicles between mercantile, business and professional establishments and occupants located or to be located within said Building Areas;

(5) The provision of other facilities such as mail boxes, public telephones, newspaper racks, and benches for the comfort and convenience of customers, visitors, invitees, licensees, and patrons of mercantile, business and professional establishments and occupants located or to be located upon the Building Areas or any portion thereof, as said owners and their respective heirs, successors, assigns, or grantees may from time to time deem appropriate;

(6) The construction, maintenance, repair, replacement, rearrangement and reconstruction of parking sites or stalls, private streets, sidewalks, ramps, driveways, lanes, curbs, gutters, traffic control areas, signals, traffic islands, traffic and parking lighting facilities, public utilities and underground sewage facilities;

(7) The construction, maintenance, repair, replacement and reconstruction of pylon signs (with appropriate

underground electrical connections), if otherwise permitted herein.

(8) The construction, maintenance, repair, replacement and reconstruction of any mall or landscaped areas including planters, planting boxes, edgers, decorative wall and sprinklers and valves.

(9) The temporary storage of construction materials and equipment used and to be used in connection with construction of any buildings which may hereafter be constructed upon the Building Areas, provided that such use thereof (i) does not unreasonably interfere with the normal use of such Common Areas; (ii) is generally limited to the portions of the Common Areas immediately adjacent to such Building Areas; and (iii) does not block major driveways.

(b) The Common Areas other than those north and west of the Building Areas shall not at any time be used for the parking of trucks or buses or the loading or unloading thereof, except for the parking, loading or unloading of trucks during and in connection with the construction or demolition of buildings upon the Building Areas, the servicing and supplying of Building Areas which cannot be serviced and supplied from the Common Area at the north side or rear (west) of the Building Areas, the delivery or removal of trade fixtures, including signs, or the construction, repair or maintenance of parking area and improvements and facilities herein permitted; upon the condition, however, that any such use shall be confined to that which is reasonably necessary in connection with the matters herein specified and shall be diligently and promptly performed.

(c) The owner of Parcel B shall have the right, after consultation and reasonable consideration of input of the owner of Parcel C, to establish reasonable, non-discriminatory rules and regulations concerning the use of the Common Areas

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of Parcels B and C. The owner of Parcel B shall have the unrestricted right to limit employees' parking to the Common Area of the Parcel upon which the employees work.

12. Service Areas.

(a) Those portion of Parcel B and Parcel C at the north side and rear (west) of the future buildings on Parcel B and Parcel C (herein called "Service Areas") may, in addition to the purposes allowed by Paragraph 11, be used for the following purposes:

(1) The ingress, egress and regress of delivery and service trucks and vehicles to and from the Building Area or any portion thereof and the public streets adjacent to any parcel, for the delivery of goods, wares, merchandise and the rendition of services to said owners, and their respective heirs, successors, and grantees and assigns, and all persons who now hold or thereafter own or hold portions of the Building Area or any leasehold estate, or any other interest therein, or building space thereon, and the respective tenants and subtenants thereof; and the officers, directors, concessionaires, agents, employees, and licensees of any of them;

(2) The temporary parking or standing of trucks, tractors, trailers and other delivery vehicles used in conjunction with the exercise of any of the activities described in subparagraph (1) above; and

(3) Subject to adequate provision for the uses set forth in subparagraphs (1) and (2) above, rearrangement and reconstruction of truck loading and unloading areas, including ramps, docks and similar facilities; trash, refuse, and garbage contained storage areas; the opening of doors of the Building Area onto and over the Common Area adjacent to the rear of the Building Area; areas for the parking of the automobiles of the employees of the occupants of any Building Area; and other incidental and related facilities.

(b) The Service Areas of Parcel B are generally and approximately identified on Exhibit "C", attached hereto and made a part hereof, by the shaded areas north and west of the "market pad." Nothing in Exhibit "C" shall restrict the maximum Building Area of Parcel B, and the location of the Service Areas is subject to adjustment in conformance with the maximum Building Area as permitted elsewhere in this Declaration. The Service Area of Parcel C shall be those portions of that Parcel along the north side and rear (west) of the future buildings on Parcel C, as designated from time to time by the owner of Parcel C.

13. General Design Data. The following general design data will be followed, as minimum, unless governmental specifications for such work establish higher standards.

(a) Utilities. Sewer drainage and utility line, conduits and systems shall be constructed or maintained at or below the ground level of the Shopping Center whenever underground utilities are reasonably available.

(b) Walkways. Concrete walkways will be constructed along the front of any building on Parcel C. The walkways, when installed, will become a part of the Common Areas. Such walkways, however, will be constructed as a part of the construction of the buildings adjacent to each such walkway.

(c) Parking Areas. All driving aisles, parking aisles, driveways and parking areas shall be properly graded, leveled and paved with concrete or asphalt and properly marked with painted lines for the orderly distribution of automobiles. Driving aisles and driveways of adequate width shall be provided for the parking spaces within the Common Areas.

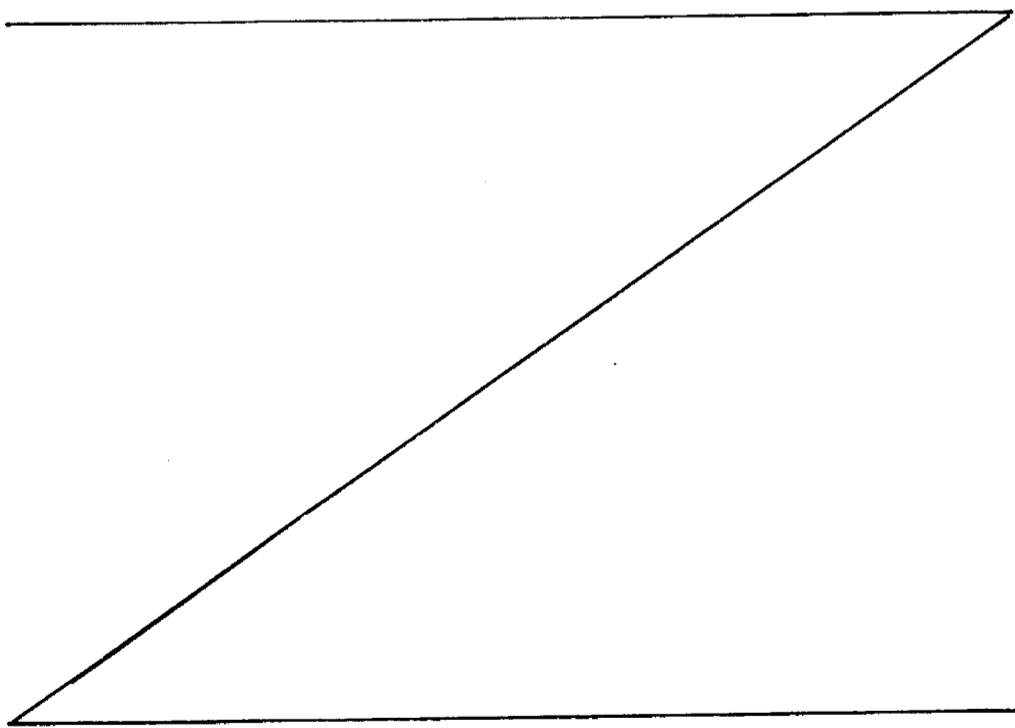
(d) Lighting. Lighting for motor vehicle parking areas will be illuminated, during business hours and a reasonable period prior and subsequent thereto, to a minimum

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of one and one-half (1-1/2) foot candles measured at ground level for each square foot of Common Area.

(e) Conformance. The utilities, walkways, driving aisles, service driveways, lighting and parking on Parcel C shall be in a configuration, layout, size, form and grade generally corresponding to the prior similar improvements of Parcel A and Parcel B.

14. Maintenance of Common Areas. All Common Areas shall be maintained by the owner of the parcel on which said areas are located, at such owner's sole cost and expense, in good order and repair and in an adequate, sightly and serviceable condition. Said maintenance shall include, without limitation, keeping the same reasonably free and clear of foreign objects, papers, debris, obstructions, standing water, snow and ice; and to assure the foregoing, the owner of each respective parcel shall cause the common facilities to be thoroughly cleaned not less than once weekly, and more often if necessary, and snow to be properly removed on every occasion where it impedes the use of said facilities. The owner of each respective parcel shall also cause the painted lines on all service drives, parking aisles, driveways, streets and parking areas to be repainted annually.



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15. Insurance.

(a) The owner of each parcel will provide public liability insurance with limits of not less than \$250,000.00 with respect to injury of any one person and in the amount of \$1,000,000.00 with respect to any one accident or disaster and in the amount of \$100,000.00 with respect to damage to property.

(b) The owner of each parcel will insure all buildings within such owner's parcel against damage or destruction by fire or other casualties insured under a standard extended coverage endorsement. Said insurance shall be in an amount equal to not less than eighty percent (80%) of the replacement value of the permanent improvements thereof. The owner of each parcel waives right of recovery and subrogation against the owners of the other parcels and their tenants. All such policies will evidence that the assured has waived right of recovery and subrogation against the owner of the other parcels and their tenants.

(c) All such policies required above shall bear endorsements to the effect that the owner of another parcel so requesting and that owner's major tenant both shall be notified not less than ten (10) days in advance of any modification or cancellation thereof. Certificates evidencing the existence thereof shall be promptly delivered to each other owner of a parcel and that owner's major tenant upon written request therefore.

16. Obligation to Rebuild. In the event that any building or buildings within Parcel C shall be damaged or destroyed (partially or totally) by fire, the elements or any other casualty, the owner of said parcel shall, at its expense, promptly and with due diligence repair, rebuild and restore the same as nearly as practicable to the condition

existing just prior to such damage or destruction; or the owner may, at its option, elect to raze any building so damage or destroyed and pave the area formerly occupied by said buildings so as to provide additional parking facilities, said areas to be paved, marked, lighted, drained and maintained in the same manner as required by this Declaration for the Common Areas.

17. Enforcement.

(a) Entitlement to Enforcement. The right of enforcement of the terms, covenants and easements herein shall belong only to the owners of each benefitted parcel, and their major tenants, and to mortgagees and beneficiaries and trustees under deeds of trust, provided that the lease in favor of such major tenant or mortgage in favor or such mortgage or deed of trust in favor of such beneficiary and trustee is recorded in the office of the Recorder of Salt Lake County, Utah.

(b) Injunctive Relief. In the event of any violation or threatened violation of any of the terms, restrictions, or covenants, provided herein, any person entitled to enforce this Declaration will have in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction.

(c) Excuse for Nonperformance. If performance of any act or obligation of any party is prevented or delayed by act of God, war, labor, disputes, or other cause or causes beyond the reasonable control of such party, the time for the performance of the act or obligation will be extended for the period that such act or performance is delayed or prevented by any such cause.

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(d) Substantial Performance. Substantial performance of the provisions of this Declaration shall be sufficient to discharge all duties and obligations thereof.

(e) Attorney's Fees. In the event that any suit is brought for the enforcement of any provision of this Declaration or as the result of any alleged breach thereof or for a declaration of rights and duties hereunder, the successful party or parties to such suit shall be entitled to collect reasonable attorney's fees from the losing party or parties, and any judgment or decree rendered shall include an award thereof.

(f) Breach Will Not Permit Termination. It is expressly agreed that no breach or violation of this Declaration will terminate this Declaration, but this limitation will not affect, in any manner, any other rights or remedies for of any breach of this Declaration.

(g) Breach Will Not Defeat Mortgage. A breach of violation of any of the terms, covenants, or restrictions of this Declaration will not defeat or render invalid the lien of any first mortgage or first deed of trust, made in good faith and for value, but such term, covenant, or restriction will be binding on and effective against any one whose title to the property or any portion of such is acquired by foreclosure, trustee's sale, or otherwise.

(h) Remedies Cumulative. The specified remedies to which any person entitled to enforce this Declaration may resort under the terms of this Declaration are cumulative and are not intended to be exclusive of any other remedies or means of redress to which any person entitled to enforce this Declaration may be lawfully entitled in case of any breach or threatened breach of any provision of this Declaration. Failure to insist in any one or more cases upon the strict

performance of any of the covenants of this Declaration or to exercise any remedy herein contained shall not be construed as a waiver or a relinquishment for the future or such covenant or remedy.

18. Duration. Each easement, covenant and restriction will continue in full force and effect in perpetuity.

19. Modifications. This Declaration and any provision, covenant, or restriction contained within it may be terminated, extended, modified or amended with the written consent of the owners of not less than ninety-eight and three tenths percent (98.3%) of the Shopping Center. It is understood and agreed that Parcel C is not less than 1.8% of the Shopping Center. No termination, extension, modification or amendment will be effective unless a written instrument setting forth its terms has been executed, acknowledged and recorded in the Office of the Recorder of Salt Lake County, Utah.

No such amendment, modification, extension, or termination (collectively referred to as "change") will affect the rights of (1) any mortgagee under a mortgage or (2) the trustee or beneficiary under any deed of trust constituting a lien on the Shopping Center at the time of such change unless the mortgagee, or beneficiary and trustee consent to such, nor will any change be effective against such mortgagee, trustee, or beneficiary subsequent to its securing title to its encumbered parcel by foreclosure, trustee's deed, or deed in lieu of foreclosure, unless the mortgagee, or trustee and beneficiary have consented in writing.

No lessee, licensee, or other person having a possessory interest, other than an owner of a parcel or portion thereof, will be required to join in the execution of or consent to any act taken in accordance with this section.

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20. Not A Public Dedication. Nothing contained in this Declaration will be deemed to be a gift or dedication of any portion of the Shopping Center to the general public or for the general public or for any public purpose whatsoever, it being the intention that this Declaration will be strictly limited to and for the purpose expressed herein.

21. Severability. If any clause, sentence, or other portion of the terms, covenants, and restrictions of this Declaration becomes illegal, null, or void for any reason, or be held by any court of competent jurisdiction to be so, the remaining portions will remain in full force and effect.

22. Mechanics' Liens. Wherever under the terms of this Declaration any owner of a parcel is permitted to perform any work upon the parcel of another person, it is expressly understood and agreed that such owner will not permit any mechanics', materialmen's, or other similar liens to stand against the parcel on which such labor or material has been furnished in connection with any work so performed. Such owner may bond and contest the validity and the amount of such lien, but such owner will immediately pay any judgment rendered, with all proper costs and charges, and will have the lien released at his expense.

23. Dominant and Servient Estates. Each and all of the easements and rights granted or created here are appurtenances to the applicable portions of the Shopping Center and none of the easements and rights may be transferred, assigned, or encumbered except as an appurtenance to such portions. For the purposes of the easements and rights, the property benefited will constitute the dominant estate, and the particular area of the Shopping Center which respectively is burdened by such easements and rights will constitute the servient estate.

24. Covenants Run With Land. Each and all of the covenants, restrictions, and provisions contained in this Declaration (whether affirmative or negative in nature) (a) are made for the direct, mutual and reciprocal benefit of each parcel of land in the Shopping Center; (b) will create mutual equitable servitudes upon each parcel of land in the Shopping Center in favor of the land benefitted; (c) will bind every person having any fee, leasehold, or other interest in any portion of the Shopping Center at any time or from time to time to the extent that such portion is affected or bound by the covenant, restriction, or provision in question, or that the covenant, restriction, or provision is to be performed on such portion; and (d) will inure to the benefit of the parties and their respective successors and assigns as to their respective parcels of land in the Shopping Center.

25. Discharge of Rights and Duties Upon Transfer. In the event of assignment, transfer or conveyance of the whole of the interest of any person in and to any parcel in which such person has an interest, without retaining any beneficial interest other than under the terms of a deed of trust or mortgage, without simultaneously acquiring a new interest on such parcel by way of leasehold, life estate or other possessory interest, then the powers, rights and interest conferred on such person will be deemed assigned, transferred, or conveyed to such transferee, assignee, or grantee; the obligations will be deemed assumed by such transferee, assignee or grantee with interest so acquired; and the duties, obligations and rights of the person so transferring the interest shall be discharged.

26. Condemnation. In the event of condemnation by any duly constituted authority for a public or quasi-public use of all or any part of the Shopping Center, that portion of

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the award attributable to the value of any land within the Common Areas so taken shall be payable only to the owner in fee thereof, and no claim thereon shall be made by other owners of any other portion of the Shopping Center; provided, however, this provision shall in no way affect any disposition of condemnation awards made in a lease between such owner and his tenant or in a mortgage or deed of trust between such owner and his mortgagee or beneficiary and trustee; provided, further, however, all other owners of the Shopping Center may file collateral claims with the condemning authority over and above the value of the land of the area so taken. The owner of the fee of each portion of the area so condemned shall promptly repair and restore the remaining portion of the area so owned by such owner as near as practicable to the condition of same immediately prior to such condemnation and without contribution from any other owner, except to the extent that the proceeds of such award are insufficient to pay the costs of such restoration and repair.

27. Compliance with Laws. The owner of each parcel shall comply promptly with all federal, state, and municipal statutes and ordinances, and with all regulations, orders, and directives of appropriate governmental agencies, as such statutes, ordinances, regulations, orders, and directives now exist or may hereafter provide concerning the use or safety of such owner's parcel and, at such owner's sole expense, make or cause to be made any repairs, changes, or modification in, on, or to his parcel required by any of the foregoing.

28. Headings. The caption headings of the various sections of this Declaration are for convenience and identification only, and shall not be deemed to limit or define the contents of their respective sections.

29. Exhibits. All exhibits referred to herein and attached hereto are a part of this Declaration.

30. Gender and Number. The neuter gender includes the feminine and masculine, and the singular includes the plural.

ELTINGE, GRAZIADIO & SAMPSON
DEVELOPMENT CO.

By *James K. Sampson*
By *George M. Eltinge*

TO 1946 CA (B-74)
(Partnership)

STATE OF CALIFORNIA }
COUNTY OF Los Angeles } SS.

**TITLE INSURANCE
AND TRUST**
A TICOOR COMPANY

↑ STAPLE HERE
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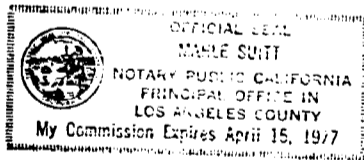
On July 15, 1976
before me, the undersigned, a Notary Public in and for said State, personally appeared
James K. Sampson and George M. Eltinge

_____ known to me
to be two of the partners of the partnership
that executed the within instrument, and acknowledged to me
that such partnership executed the same.

WITNESS my hand and official seal.

Signature *James K. Sampson*

18266



(This area for official notarial seal)

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ENTIRE SHOPPING CENTER (THE PROPERTY)

LEGAL DESCRIPTION

BEGINNING at the southeast corner of Block 3, Fruitland Townsite, A subdivision of part of Section 10, T6S, R2E, S.L.B. & M. and running thence North $18^{\circ} 28'$ West along the westerly right-of-way line of State Highway U.S. 91, a distance of 709.30 feet to a POINT OF BEGINNING; thence continuing along the westerly right-of-way line of State Highway U.S. 91, a distance of 218.50 feet to the northerly property line; thence West along the northerly property line a distance of 283.00 feet; thence South 149.30 feet; thence West along the northerly property line 273.56 feet to the easterly line of an abandoned railroad right-of-way; thence South $18^{\circ} 34'$ East 770.84 feet, more or less to the northerly line of 400 North Street; thence East along said northerly line of 400 North Street, 462.50 feet, more or less to a point that is a distance of 142.50 feet from the southeast corner of block 3, Fruitland Townsite, above described subdivision; thence North $18^{\circ} 28'$ West 131.00 feet; thence North $71^{\circ} 32'$ East 136.50 feet to a point on the westerly right-of-way line of State Highway U.S. 91, said point being 177.00 feet northerly of the southeast corner of Block 3, Fruitland Townsite, above described subdivision; thence North $18^{\circ} 28'$ West along the westerly right-of-way line of State Highway U.S. 91, a distance of 532.30 feet to the POINT OF BEGINNING.

PARCEL A

S. S. KRESGE DEMISED PREMISES

BEGINNING at the Southeast corner of Block 3, Fruitland Townsite, a subdivision of part of Section 10, T6S, R2E, S.L.B. & M. and running thence North $18^{\circ} 28'$ West along the Westerly right-of-way line of State Highway U.S. 91, a distance of 709.30 feet to a POINT OF BEGINNING; thence South $71^{\circ} 32'$ West a distance of 280.00 feet; thence South $18^{\circ} 28'$ East 30.00 feet; thence South $71^{\circ} 32'$ West along the North line of the North wall of the building located thereon and an extension thereof a distance of 248.20 feet; thence North $18^{\circ} 28'$ West 264.00 feet to a point on the North property line; thence West 52.45 feet to the Easterly line of an abandoned railroad right-of-way; thence South $18^{\circ} 34'$ East 770.84 feet, more or less to the Northerly line of 400 North Street; thence East along said Northerly line of 400 North Street, 462.50 feet, more or less to a point that is a distance of 142.50 feet from the Southeast corner of Block 3, Fruitland Townsite, above described subdivision; thence North $18^{\circ} 28'$ West 131.00 feet; thence North $71^{\circ} 32'$ East 136.50 feet to a point on the Westerly right-of-way line of State Highway U.S. 91, said point being 177.00 feet northerly of the southeast corner of Block 3, Fruitland Townsite, above described subdivision; thence North $18^{\circ} 28'$ West along the westerly right-of-way line of State Highway U.S. 91, a distance of 532.30 feet to the POINT OF BEGINNING.

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PARCEL B

BEGINNING at the southeast corner of Block 3, Fruitland Townsite, a subdivision of part of Section 10, T6S, R2E, S.L.B. & M. and running thence North $18^{\circ} 28'$ West along the westerly right-of-way line of State Highway U.S. 91, a distance of 709.30 feet to a POINT OF BEGINNING; thence South $71^{\circ} 32'$ West a distance of 280.00 feet; thence South $18^{\circ} 28'$ East 30.00 feet; thence South $71^{\circ} 32'$ West along the North line of the North wall of the building located thereon and an extension thereof a distance of 248.20 feet; thence North $18^{\circ} 28'$ West 264.00 feet to a point on the North property line; thence East along the northerly property line 273.56 feet; thence North 149.30 feet; thence East 283.00 feet to a point on the westerly right-of-way line of State Highway U.S. 91; thence South $18^{\circ} 28'$ East along the westerly right-of-way line of State Highway U.S. 91 a distance of 218.50 feet to the Point of Beginning, EXCLUDING THEREFROM the land described as Parcel C.

PARCEL C

BEGINNING on the westerly right of way line of State Highway U.S. 91 at a point North $18^{\circ} 28'$ West 850.30 feet from the Southeast corner of Block 3, Fruitland Townsite, a subdivision of part of Section 10, Township 6 South, Range 2 East, Salt Lake Base and Meridian, and running thence South $71^{\circ} 32'$ West 93.60 feet; thence North $18^{\circ} 28'$ West 87.67 feet; thence North 20.00 feet; thence East 92.00 feet to the West right of way line of said Highway, thence South $18^{\circ} 28'$ East 77.50 feet to the point of beginning.

N.W. COR. U.S. HWY. 91 (STATE ST.) & 400
ORL

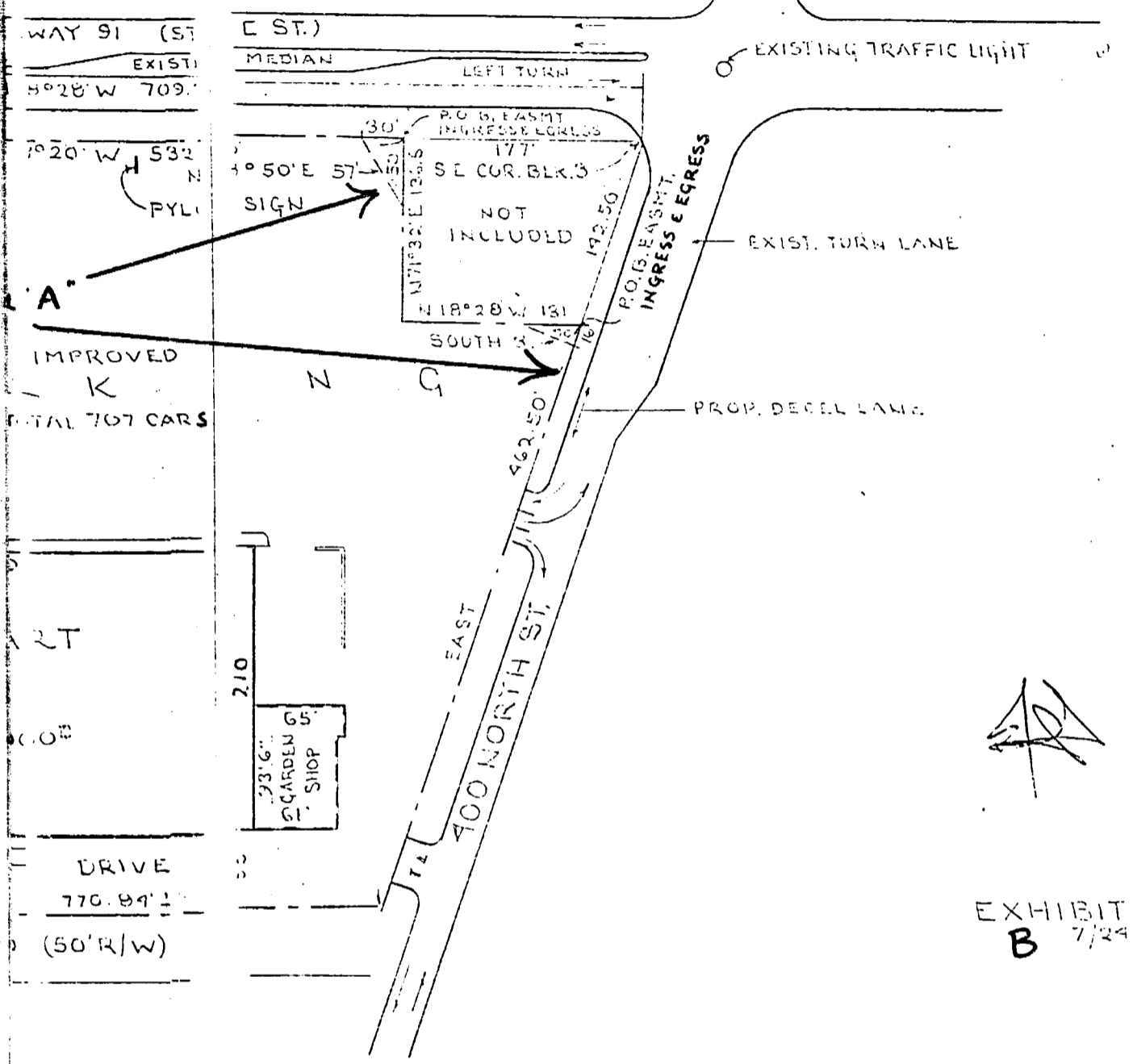


EXHIBIT
B 7/24

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