



ENT 27166-2024 PG 1 of 13
ANDREA ALLEN
UTAH COUNTY RECORDER
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RECORDED FOR SANTAQUIN CITY CORPORATION

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FIG UT 1, LLC
Attn: Brian Schnell
223 Cougar Blvd #101
Provo, UT 84604

DECLARATION OF EASEMENT AND COVENANTS

THIS DECLARATION OF EASEMENT (this “Declaration”) is made and entered as of the ~~29th~~ day of April, 2024 by FIG UT 1, LLC, a Utah limited liability company (“Declarant”).

RECITALS

A. Declarant holds title to certain real property located in Santaquin, Utah County, Utah 84655, and specifically described on Exhibit “A” attached hereto (the “Commercial Property”).

B. Declarant also holds title to certain real property located in Santaquin, Utah County, Utah 84655, and specifically described on Exhibit “B” attached hereto (the “Residential Property”), which Residential Property is southwest and adjacent to the Commercial Property.

C. As part of certain proposed changes to the Commercial and Residential Properties, the City of Santaquin (the “City”) requires the Declarant to establish a perpetual easement for parking across portions of the Commercial Property for the benefit of the Residential Property.

D. It is anticipated that the Declarant will transfer the Commercial and Residential Properties to subsequent owners and this instrument will be binding on such owners. The owner of the Commercial Property (whether Declarant, a subsequent owner, or a subsequent group of owners) is referred to herein as the “Commercial PO” and the owner of the Residential Property (whether Declarant or a subsequent owner) is referred to as the “Residential PO.”

NOW, THEREFORE, the Declarant hereby declares as follows:

1. Grant of Parking Easement. Effective upon Completion of Construction of the Lot Two Parking (as defined below), Declarant grants, establishes, and reserves for the benefit of the Residential Property, and all subsequent owners thereof, a perpetual, non-exclusive right, privilege and easement over, across and through the Lot Two Parking for access to, and the use of, up to eighteen (18) surface level parking spaces (the “Parking Spaces”) located on the Lot Two Parking, 24 hours per day, 7 days per week (the “Easement”).

(a) The Commercial Property is to be developed in phases. The parking on Commercial Lot Two (“Lot Two”) (but not the entirety of Lot Two), which is specifically shown on Exhibit “C”, will be constructed first (the “Lot Two Parking”). Once construction of the Lot Two Parking is complete, the Parking Spaces shall be entirely in the Lot Two Parking as identified on Exhibit “C”. Subsequently, the remainder of Lot Two and the parking lot identified as

“Commercial Lot Four” (“**Lot Four**”) on Exhibit “C” shall be constructed. Once construction of Lot Four is complete, the Parking Spaces shall be spread between Lot Two and Lot Four with eight (8) of the Parking Spaces to be located on Lot Two and ten (10) of the Parking Spaces to be located on Lot Four. At all times, Commercial PO shall be entitled to designate (and thereafter change as it sees fit from time to time) which Parking Spaces on Lot Two and Lot Four are for the use of the Residential PO.

(b) Residential PO shall have the right to permit its members, employees, tenants, and their guests and invitees (“**Permittees**”), to use the Easement including the Parking Spaces. Notwithstanding the foregoing, Residential PO and its Permittees shall not be entitled to use: (a) any other parking spaces located on the Commercial Property other than in those areas of Lot Two and Lot Four designated by Commercial PO; (b) any areas of the Commercial Property that are not necessary for it to access the Parking Spaces made available to Residential PO at that time; and (c) collectively, more than eighteen (18) Parking Spaces on Lot Two and Lot Four at any one time. The Easement is intended to satisfy the approval requirements of the City for development of the Residential Property and Commercial Property.

2. Construction of Lot Two.

(a) Residential PO, at its sole cost and expense and subject to the approval of Commercial PO, shall be responsible to design, install and construct the Lot Two Parking located on Lot Two on the Commercial Property (the “**Lot Two Parking Improvements**”).

(b) Residential PO will cause to be prepared proposed plans for the design of the Lot Two Parking Improvements and shall deliver a copy of the proposed plans to Commercial PO for Commercial PO’s review and approval. Residential PO shall incorporate any changes to the proposed plans requested by Commercial PO. Once approved by the Commercial PO, Residential PO shall be responsible, at its cost, to submit the plans and specifications to the Approving Authorities (as defined below) for approval. The proposed plans for the Lot Two Parking Improvements approved by the Approving Authorities are hereinafter referred to as the “**Final Plans.**” Residential PO shall construct the Lot Two Parking Improvements in a good, workmanlike and lien-free manner in substantial conformity with the Final Plans, the requirements of this Declaration, and the applicable requirements of all applicable governmental authorities and utility companies having jurisdiction over the construction of the Lot Two Parking Improvements (collectively, the “**Approving Authorities**”).

(c) Declarant hereby grants, establishes, and reserves a temporary non-exclusive construction easement over the Commercial Property (the “**TCE**”), to the extent necessary or convenient to allow the Residential PO to enter the Commercial Property to construct the Lot Two Parking Improvements. The TCE is subject to the following conditions: (a) the Declarant shall keep the Commercial Property in a lien and debris free condition at all times, and upon Completion of Construction of Lot Two Parking Improvements, restore such property to substantially the same condition as existed prior to its entry and construction thereon, except for any changes necessitated by the construction and installation of the Lot Two Parking Improvements, (b) Residential PO shall indemnify, defend and hold the Commercial PO harmless for, from and against all claims, demands, actions, expenses (including, without limitation, court costs and attorneys’ fees), liabilities and obligations arising out of or relating to the entry of the

Residential PO onto such property during the construction of the Lot Two Parking Improvements, and (c) the TCE shall automatically terminate upon Completion of Construction of Lot Two Improvements.

(d) **“Completion of Construction of Lot Two Parking Improvements”** shall mean when the construction of the Lot Two Parking Improvements is sufficiently complete and all necessary approvals have been obtained by Residential PO for the Lot Two Parking Improvements and, in the opinion of the developer constructing the Lot Two Parking Improvements, the Lot Two Parking Improvements may be utilized for its intended use.

(e) Prior to any entry on the Commercial Property, Residential PO agrees to obtain the insurance required under Section 6 below and furnish Commercial PO with certificates of insurance evidencing such coverage. Residential PO shall require its contractors and subcontractors to likewise comply with the insurance requirements of Section 6, and to provide certificates evidencing such coverage prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance.

3. **Construction of Lot Four.** The owner of Lot Two (whether Commercial PO as a whole, an entity, an individual, or a group of entities or individuals among the commercial property owners), at its sole cost and expense, shall be responsible to design, install and construct the remainder of Lot Two (**“Completion of Construction of Lot Two Remainder”**). The **“Lot Two Remainder”** shall be considered all of Lot Two other than the Parking Spaces. The owner of Lot Four (whether Commercial PO as a whole, an entity, an individual, or a group of entities or individuals among the commercial property owners) at its sole cost and expense, shall be responsible to design, install and construct the parking lot located on Lot Four on the Commercial Property. **“Completion of Construction of Lot Four”** shall mean when the construction of Lot Four is sufficiently complete and all necessary approvals have been obtained by the owner for Lot Four and, in the opinion of the developer constructing Lot Four, Lot Four may be utilized for its intended use.

4. **Alterations of Parking Spaces on Lot Two and Lot Four.** Once constructed, the contour, size and location of the Parking Spaces shall be clearly marked and may, from time to time, be altered, modified, updated or changed by the owner(s) of such Parking Spaces, provided that any expense incurred in such alteration, modification, update or change shall be borne solely by said owner and the altered spaces are clearly marked.

5. **Maintenance of Easements and Costs Related Thereto.**

(a) The Commercial PO, at its cost and expense, shall be responsible to maintain, repair and replace, in good condition, the Easement; provided, however, (i) the Residential PO shall pay the Commercial PO \$100.00 per Parking Space per year (the **“Annual Fee”**) beginning on the Completion of Construction of Lot Two Parking Improvements and on the first of each year thereafter; and (ii) any cost and expense relating to maintenance, repair or replacement of the Easement granted herein which is attributable to the negligence or deliberate act or omission of the Residential PO or its Permittee shall be the sole responsibility and expense of the Residential PO.

(b) The Residential PO at its cost and expense shall be responsible to maintain in good condition those two areas identified on Exhibit "D" hereto as the "**Commercial Maintenance Areas**", until such time as the Commercial Property is fully developed. Once the Commercial Property is fully developed, the Commercial Property Owners shall be responsible to maintain the Commercial Maintenance Areas. For purposes hereof, "fully developed" shall mean upon Completion of Construction of the Lot Two Parking Improvements, Completion of Construction of Lot Two Remainder and Completion of Construction of Lot Four.

(c) All payments due hereunder shall be paid on the date due (if set forth herein) or within fifteen (15) days following receipt of an invoice (with supporting documentation). Any amount not timely paid by the Residential PO shall thereafter accrue interest at a rate of fifteen percent (15%) per annum until paid.

(d) Notwithstanding anything herein to the contrary, Commercial PO shall be entitled to assign its obligations to upkeep, maintain and repair the Easement and otherwise comply with this Declaration to an owners association formed to manage the Commercial Property (the "**Commercial Association**"). In the event of an assignment of any of the foregoing obligations by Commercial PO, Residential PO shall look solely to such Commercial Association for the performance of such Commercial PO obligations.

(e) Notwithstanding anything herein to the contrary, Residential PO shall be entitled to form an owners association (the "**Residential Association**") for the Residential Property which, upon formation, shall be assigned and shall assume the Residential PO's obligation to pay the Annual Fee, maintain the insurance set forth in Section 6, and provide the indemnities set forth in Section 8, and to which the Residential PO shall convey the Common Areas of the Residential Property. In the event of an assignment by Residential PO to the Residential Association, the Residential Association shall take steps to require all other Owners within the Residential Property to comply with the Rules and Regulations (defined below) applicable to the Parking Spaces as adopted by Commercial PO, but Commercial PO shall look solely to such Residential Association for any remedies it may have for enforcement of such Rules and Regulations or under this Declaration.

6. Insurance. Each Owner agrees to provide and maintain, or cause its Permittees to provide and maintain, one or more policies of commercial general liability insurance insuring against claims for bodily injury, personal injury, death or property damage (including contractual liability arising under the indemnities contained in Section 8 below), occurring on or about the Easement which are subject to use and enjoyment by such Owner and its Permittees hereunder, with combined single limit coverage of not less than One Million Constant Dollars (\$1,000,000), or such higher amounts of coverage as the Owners may mutually may from time to time designate (but without obligation to do so) based on insurance coverage carried by reasonable and prudent owners of like property in the State of Utah. Each policy shall identify the other Owner as an additional insured (or the Commercial Association or Residential Association, as applicable). Each policy of commercial general liability insurance procured and maintained by an Owner or its Permittees must be primary and not contributing with any policy or policies of insurance maintained by any other Owner or its Permittees. All insurance must be issued by insurance companies authorized to do business in the State of Utah having a rating in the then most current edition of Best's Key Rating Guide of B+/VII or better, must be written on an occurrence basis

and must include coverage for contractual liability and broad form property damage. Upon reasonable request by an Owner no more than once in a 12-month period (if the duration or expiration of the certificate of insurance is less than 12 months from the prior request, then an additional request may be made prior to the expiration of that 12-month period), the other Owner agrees to furnish to the requesting Owner Certificates of insurance and other reasonable evidence indicating that insurance meeting the requirements hereof has been obtained and is in full force and effect.

7. **Taxes and Assessments.** Commercial PO shall pay or cause to be paid, prior to delinquency, all Taxes levied or made by any governmental body or agency with respect to the Easement.

8. **Indemnification.** Each Commercial PO and Residential PO (each an "Owner") shall defend, indemnify and hold each other Owner, its members, affiliates, contractors, employees, agents, customers, licensees, invitees, successors and assigns harmless for, from and against any mechanics' and/or materialmen's liens and all other liabilities, claims, demands, losses and expenses (including reasonable attorneys' fees) that may arise out of or in connection with the exercise of the easement rights granted hereby by such Owner, except to the extent caused by the negligence or willful misconduct (whether comparative or total) of such other Owner, its affiliates, contractors, employees, agents, customers, licensees, invitees, successors and assigns.

9. **Remedies.** In the event of any violation or threatened violation of any of the terms, covenants and conditions of this Declaration, either party shall have the right to enjoin such violation or threatened violation in a court of competent jurisdiction in Utah County, Utah. The right of injunction shall be in addition to any and all other remedies available under statute, at law or in equity, including without limitation, specific performance of this Declaration. Each party waives incidental, consequential, and punitive damages.

10. **Use of Easement.** All persons and entities using the Easement pursuant to the rights granted hereby shall avoid any damage to property and any improvements located at any time thereon. All Owners shall comply with such reasonable rules and regulations pertaining to the Parking Spaces ("**Rules and Regulations**") as Commercial PO may from time to time adopt.

11. **Covenants Running With the Land.** Subject to Section 5(d) above, all provisions and conditions of this Declaration, including the benefits and burdens, run with and are appurtenant to the Commercial Property and the Residential Property and are binding upon and shall inure to the benefit of the respective successors and assigns of the fee title owners of the Commercial Property and the Residential Property. This Declaration shall bind Declarant and each successive Owner during their respective periods of ownership.

12. **Governing Law.** The validity, construction and enforceability of this Declaration shall be governed in all respects by the laws of the State of Utah, without regard to conflict of law principals.

13. **Not a Public Dedication.** Nothing contained in this Declaration shall be deemed to be a gift or dedication of fee title to any portion of the Easement to or for the general public, and this Declaration shall be strictly limited to and for the purposes expressed herein.

14. Attorneys' Fees. In the event of any controversy, claim or dispute among the parties relating to this instrument or the breach hereof, the prevailing party shall be entitled to recover from the other party its reasonable costs and attorneys' fees in an amount determined by a court and not a jury.

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EXHIBIT "A"

Legal Description of Commercial Property

SILVER OAKS LOT 2 DESCRIPTION

BEGINNING AT POINT LOCATED WEST 1234.599 FEET AND SOUTH 1097.213 FEET FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 51°29'54" EAST 521.129 FEET; THENCE ALONG THE ARC OF A 107.500-FOOT RADIUS CURVE TO THE LEFT 68.806 FEET (CHORD BEARS S 69°50'04" E 67.637 FEET); THENCE SOUTH 39°01'31" WEST 146.447 FEET; THENCE NORTH 51°05'26" WEST 163.509 FEET; THENCE NORTH 51°29'54" WEST 420.488 FEET; THENCE NORTH 38°30'06" EAST 123.999 FEET TO THE POINT OF BEGINNING.

AREA = 73,015 SQ. FT. OR 1.6762 ACRES

SILVER OAKS LOT 4 DESCRIPTION

BEGINNING AT POINT LOCATED WEST 40.008 FEET AND SOUTH 1362.618 FEET FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE ALONG THE ARC OF A 10.00-FOOT RADIUS CURVE TO THE RIGHT 2.789 FEET (CHORD BEARS S 07°26'33" W 2.779 FEET); THENCE ALONG THE ARC OF A 227.50-FOOT RADIUS CURVE TO THE LEFT 45.148 FEET (CHORD BEARS S 09°44'45" W 45.074 FEET); THENCE SOUTH 04°03'38" WEST 436.796 FEET; THENCE ALONG THE ARC OF A 10.00-FOOT RADIUS CURVE TO THE RIGHT 14.64 FEET (CHORD BEARS S 46°00'04" W 13.367 FEET); THENCE NORTH 89°59'42" WEST 109.93 FEET; THENCE NORTH 04°11'33" EAST 387.924 FEET; THENCE NORTH 85°48'27" WEST 282.012 FEET; THENCE NORTH 38°59'57" EAST 139.45 FEET; THENCE SOUTH 85°48'27" EAST 324.473 FEET TO THE POINT OF BEGINNING.

AREA = 86,572 SQ. FT. OR 1.9874 ACRES

EXHIBIT "B"**Legal Description of Residential Property****Silver Oaks Residential Description**

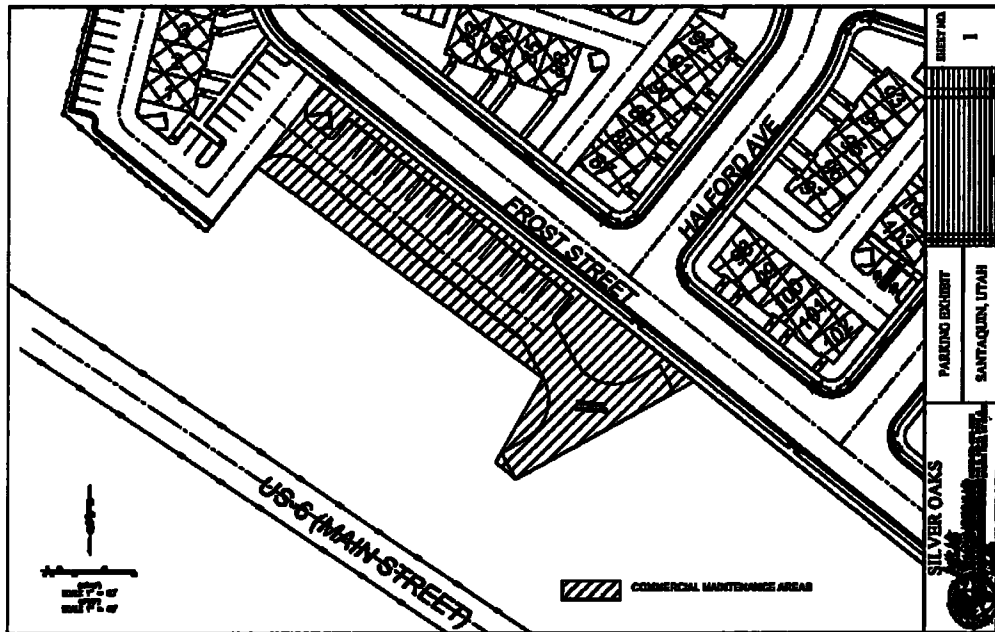
BEGINNING AT THE NORTHWEST CORNER OF RANDOLPH'S ACRE SUBDIVISION PLAT "A", WHICH POINT LIES N89°45'12"E 188.78 FEET ALONG THE SECTION LINE AND SOUTH 1184.54 FEET FROM THE NORTH 1/4 CORNER OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 1 EAST, SALT LAKE BASE AND MERIDIAN; THENCE ALONG THE BOUNDARY OF SAID SUBDIVISION THE FOLLOWING (7) COURSES TO WIT: (1) S30°00'00"W 52.67 FEET, (2) N72°00'00"W 13.88 FEET, (3) SOUTHWESTERLY 59.34 FEET ALONG THE ARC OF A 50.00 FOOT RADIUS CURVE TO THE LEFT THROUGH A CENTRAL ANGLE OF 68°00'04", THE CHORD BEARS S74°00'00"W 55.92 FEET, (4) S40°00'00"W 44.97 FEET, (5) N70°00'00"W 12.79 FEET, (6) S00°58'08"E 87.85 FEET, (7) S67°30'00"E 237.34 FEET; THENCE S03°23'14"W 410.46 FEET; THENCE N88°06'09"W 244.70 FEET; THENCE SOUTH 64.91 FEET; THENCE N84°57'48"W 95.86 FEET; THENCE N00°30'26"E 52.56 FEET; THENCE ALONG A 10.00 FOOT NON-TANGENT RADIUS CURVE TO THE LEFT 14.64 FEET (CHORD BEARS NORTH 46° 00' 04" EAST 13.37 FEET); THENCE NORTH 04° 03' 38" EAST 436.80 FEET; THENCE ALONG A 227.50 FOOT RADIUS CURVE TO THE RIGHT 45.15 FEET (CHORD BEARS NORTH 09° 44' 45" EAST 45.07 FEET); THENCE ALONG A 10.00 FOOT RADIUS CURVE TO THE LEFT 2.79 FEET (CHORD BEARS NORTH 07° 26' 33" EAST 2.78 FEET); THENCE NORTH 85° 48' 27" WEST 324.47 FEET; THENCE SOUTH 38° 59' 57" WEST 474.96 FEET; THENCE NORTH 55° 00' 24" WEST 55.13 FEET; THENCE NORTH 38° 59' 57" EAST 276.07 FEET; THENCE ALONG A 10.00 FOOT RADIUS CURVE TO THE LEFT 15.71 FEET (CHORD BEARS NORTH 06° 00' 03" WEST 14.14 FEET); THENCE NORTH 51° 00' 03" WEST 126.32 FEET; THENCE ALONG A 10.00 FOOT RADIUS CURVE TO THE LEFT 15.71 FEET (CHORD BEARS SOUTH 83° 59' 57" WEST 14.14 FEET); THENCE SOUTH 38° 59' 57" WEST 45.54 FEET; THENCE ALONG A 107.50 FOOT RADIUS CURVE TO THE RIGHT 167.93 FEET (CHORD BEARS SOUTH 83° 45' 01" WEST 151.37 FEET); THENCE NORTH 51° 29' 54" WEST 521.13 FEET; THENCE SOUTH 38° 30' 06" WEST 124.00 FEET TO THE NORTHERLY LINE OF U.S. HIGHWAY 6; THENCE ALONG HIGHWAY 6 THE FOLLOWING (2) COURSES TO WIT: (1) N51°29'54"W 60.28 FEET, (2) N49°41'03"W 63.18 FEET; THENCE N14°06'45"E 355.65 FEET; THENCE S71°45'22"E 472.28 FEET ALONG THE REMNANTS OF AN OLD FENCE; THENCE S01°20'49"W 4.13 FEET; THENCE S71°10'53"E 115.14 FEET; THENCE S00°01'23"W 11.74 FEET; THENCE S70°28'44"E 150.20 FEET; THENCE N04°00'00"W 21.60 FEET; THENCE S70°45'00"E 39.68 FEET; THENCE NORTH 23.23 FEET; THENCE S70°47'24"E 332.91 FEET ALONG AN EXISTING BOUNDARY LINE AGREEMENT (ENTRY No. 36074:1986); THENCE S69°30'48"E 245.96 FEET CONTINUING ALONG SAID BOUNDARY LINE AGREEMENT; THENCE SOUTH 27.27 FEET; THENCE S70°45'01"E 46.53 FEET; THENCE N00°21'44"E 34.04 FEET; THENCE N00°09'44"W 162.79 FEET TO THE SOUTH LINE OF LARK STREET; THENCE S50°42'27"E 240.06 FEET ALONG SAID STREET TO THE POINT OF BEGINNING.

CONTAINING 15.71 ACRES.

EXHIBIT "C"

Depiction of Area of Commercial Lot 2 and Commercial Lot Four for Easement and Available Parking Spaces Shown

Commercial Lot Two Easement Area/Lot Two Parking Improvements



Commercial Lot Four Easement Area

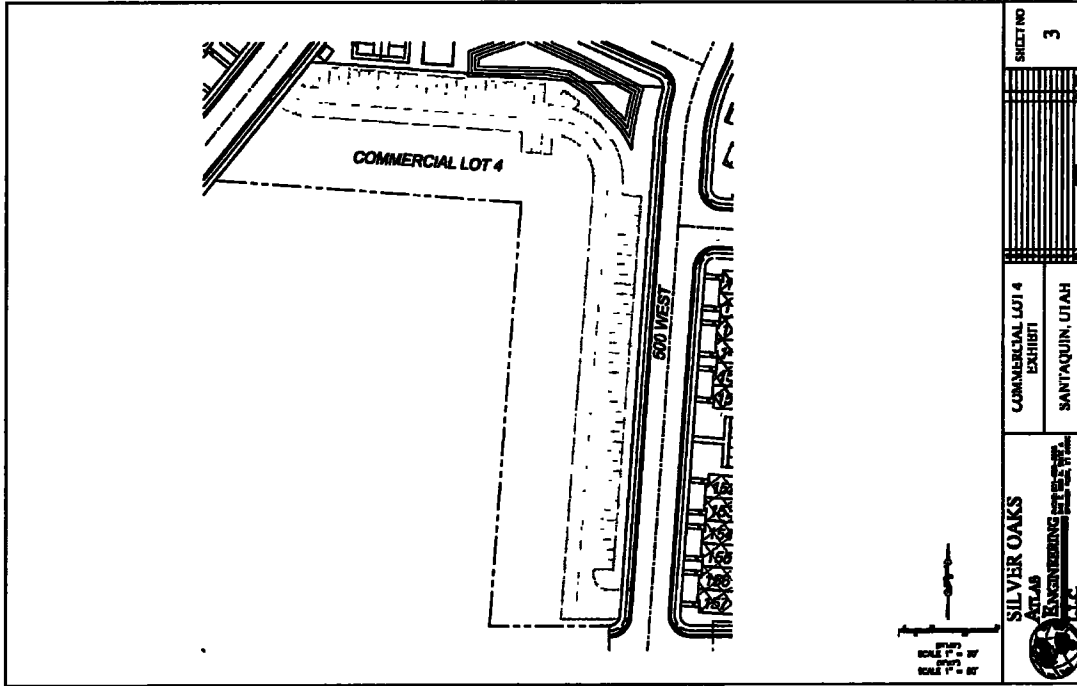


EXHIBIT "D"

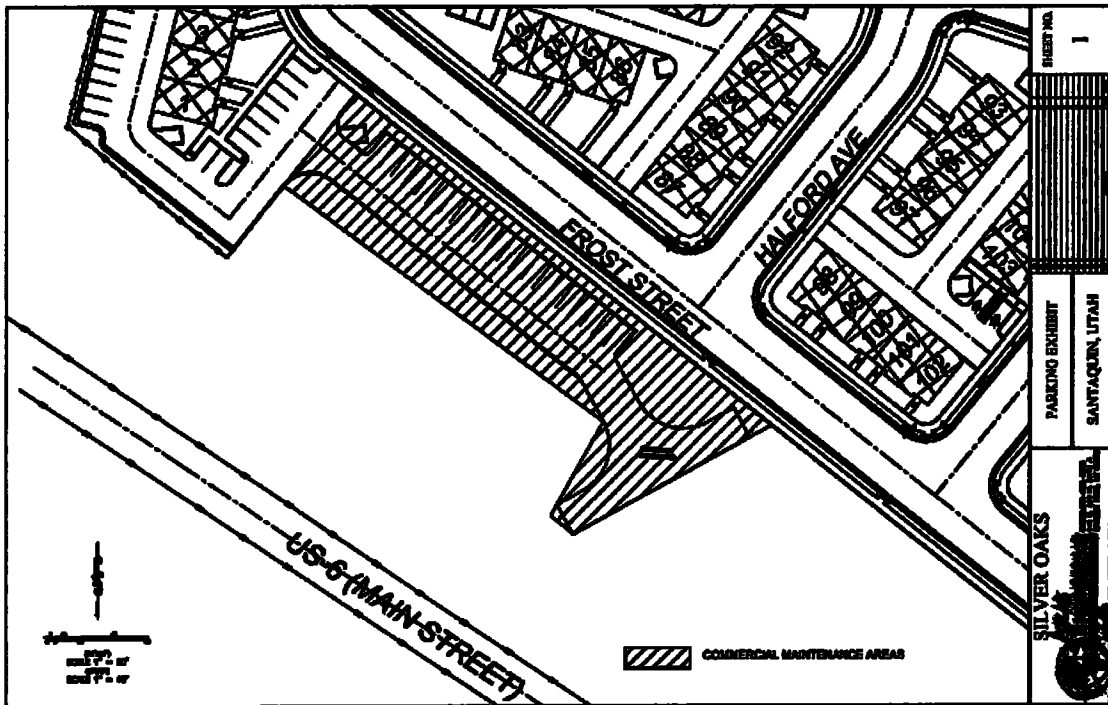
Commercial Maintenance Areas

The Commercial Maintenance Areas are shown on the attached exhibits and include the following:

I. **SILVER OAKS TEMPORARY TURN-AROUND AREA DESCRIPTION**

BEGINNING AT POINT LOCATED WEST 986.889 FEET AND SOUTH 1294.263 FEET FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 61°22'31" WEST 134.931 FEET; THENCE NORTH 50°31'17" WEST 18.863 FEET; THENCE NORTH 41°49'33" EAST 54.592 FEET; THENCE NORTH 51°29'54" WEST 248.384 FEET; THENCE NORTH 38°30'06" EAST 69.499 FEET; THENCE SOUTH 51°29'54" EAST 316.527 FEET TO THE POINT OF BEGINNING.

AREA = 22,558 SQ. FT.



II. SILVER OAKS DETENTION AREA DESCRIPTION

BEGINNING AT POINT LOCATED WEST 57.848 FEET AND SOUTH 1361.303 FEET FROM THE NORTH QUARTER CORNER OF SECTION 2, TOWNSHIP 10 SOUTH, RANGE 2 EAST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 10°59'12" WEST 58.886 FEET; THENCE NORTH 42°55'34" WEST 81.858 FEET; THENCE NORTH 85°48'27" WEST 94.479 FEET; THENCE NORTH 01°54'50" EAST 2.771 FEET; THENCE SOUTH 85°48'27" EAST 161.538 FEET TO THE POINT OF BEGINNING.

AREA = 2,302 SQ. FT.

