

**Recording Requested by:**

Cole GS Heber City UT, LLC  
c/o CIM Group  
2398 E. Camelback Road, 4<sup>th</sup> Floor  
Phoenix, AZ 85016  
Attn: General Counsel

---

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

**CROSS ACCESS EASEMENT AGREEMENT**

This Cross Access Easement Agreement ("**Agreement**") is made and entered into on this 29 day of April, 2022 (the "**Effective Date**"), by and between COLE GS HEBER CITY UT, LLC, a Delaware limited liability company ("**Cole GS**"), and FSP7 HEBER, LLC, a Utah limited liability company ("**FSP7**").

**RECITALS**

A. Cole GS owns that certain real property legally described on Exhibit A attached hereto and incorporated herein (the "**Cole GS Lot**"). FSP7 owns that certain real property legally described on Exhibit B attached hereto and incorporated herein (the "**FSP7 Lot**").

B. Vitamin Cottage Natural Food Markets, Inc., a Colorado corporation, ("**Natural Grocers**") is the tenant of the Cole GS Lot pursuant to that certain Lease dated September 1, 2016 (as amended and assigned, collectively, the "**Natural Grocers Lease**").

C. The owner of the Cole GS Lot, as such owner may exist from time to time (including Cole GS), is referred to herein as the "**Cole GS Owner**." The owner of the FSP7 Lot, as such owner may exist from time to time (including FSP7), is referred to herein as the "**FSP7 Owner**." The Cole GS Owner and the FSP7 Owner may each be referred to herein individually as an "**Owner**" and collectively as the "**Owners**," as appropriate under the circumstances. The Cole GS Lot and the FSP7 Lot may each be referred to herein individually as a "**Lot**" and collectively as the "**Lots**," as appropriate under the circumstances.

D. The proposed Cole Easement, FSP7 Easement, and the Cross Access Easement (defined below) is graphically described on Exhibit C attached hereto and incorporated herein.

E. Cole GS and FSP7 desire to set forth the respective rights and obligations of the Owners relating to the Cross Access Easement, pursuant and subject to the terms and conditions hereinafter set forth.

**AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and for other good and valuable consideration, the receipt and sufficiency of are hereby acknowledged, Cole GS and FSP7 hereby agree as follows:

1. Creation of Cross Access Easement.

(a) **Cole Access Easement.** Cole GS hereby grants to FSP7 and its successors and assigns, for the benefit of the FSP7 Lot, and hereby creates and imposes upon the portion of the Cole GS Lot that consists of (a) the portion of the lot drive aisles as they exist from time to time and access ways to the public street adjacent to property lot that falls within the Cole GS Lot, and (b) the property legally described on **Exhibit C** attached hereto (collectively, the “**Cole Easement Area**”), for the benefit of the FSP7 Lot, a non-exclusive, perpetual easement (the “**Cole Easement**”) on, over, and through the Cole Easement Area for the purpose of pedestrian and vehicular ingress and egress by FSP7 Owner and its tenants, licensees, invitees, contractors, successors, and assigns (the “**FSP7 Parties**”).

(b) **FSP7 Access Easement.** FSP7 hereby grants to Cole GS and its successors and assigns, for the benefit of the Cole GS Lot, and hereby creates and imposes upon the portion of the FSP7 Lot that consists of (a) the portion of the lot drive aisles as they exist from time to time and access ways to the public street adjacent to property lot that falls within the FSP7 Lot, and (b) the property legally described on **Exhibit C** attached hereto (collectively, the “**FSP7 Easement Area**”), for the benefit of the Cole GS Lot, a non-exclusive, perpetual easement (the “**FSP7 Easement**”) on, over, and through the FSP7 Easement Area, for the purpose of pedestrian and vehicular ingress and egress by Cole GS Owner and its tenants, licensees, invitees, contractors, successors, and assigns (the “**Cole GS Parties**”).

(c) **Cross Access Easement.** The Cole Easement and the FSP7 Easement shall collectively be referred to herein as the “**Access Easements**”. The Access Easements include the use of the lot drive aisles as they exist from time to time and access ways to the public street adjacent to property, each for the purpose of vehicular ingress and egress, but not for parking (the “**Drive Aisles**”).

2. **Parking.** FSP7 Owner and its successors and assigns shall take reasonable steps to ensure that the FSP7 Parties shall not park upon the Cole GS Lot unless, and only when, patronizing the retail business located upon the Cole GS Lot. Such reasonable steps shall include, without limitation, if requested by Cole GS and at FSP7 Owner’s sole cost and expense, (i) installing signage upon the FSP7 Lot advising the public of the foregoing restriction, and (ii) reimbursing Cole GS the reasonable costs incurred by Cole GS to install signage upon the Cole GS Lot advising the public of the foregoing restriction.

3. **Construction of Access Area.** As soon as reasonably practicable after the Effective Date, the FSP7 Owner shall pave and otherwise construct the Cross Access Easement Area consistent with comparable cross access easement areas for retail developments in Heber City, Utah (the “**Improvements**”). All such paving and construction shall be performed in a good and workmanlike manner, in accordance with the Legal Requirements. Prior to performing any construction work on the Cole GS Lot, FSP7 shall submit to Cole GS a complete set of FSP7’s construction drawings for such work (the “**Construction Plans**”). Within twenty (20) days after Cole GS’ receipt of the Preliminary Construction Plans, Cole GS shall review and notify FSP7 in writing of Cole GS’ approval or disapproval of the Construction Plans. FSP7 shall cause the Improvements to be constructed (and thereafter maintained) as contemplated by the approved Construction Plans.

4. **Grant of Temporary Construction Easement.** Cole GS hereby grants, sells, bargains and conveys to FSP7 and FSP7’s employees, agents, contractors, subcontractors, laborers, and suppliers (the “**Construction Parties**”) a temporary, non-exclusive construction easement on, over, through, along and across that portion of the Cole GS Lot (the “**Temporary Construction Easement**,” and together with the Cross Access Easement, the “**Easements**”), in the location identified on **Exhibit D** attached hereto and incorporated herein by this reference (the “**Temporary Construction Easement Area**”), for the benefit of the FSP7 Lot, for the purpose of allowing FSP7 and the Construction Parties to install certain grading, curbing, and pavement associated with the Improvements (as defined herein) over the Cross Access Area. The Temporary Construction Easement shall be specifically limited to the foregoing use by FSP7, and the Temporary Construction Easement shall not be open for use by the general public or any other person or

entity, other than the Construction Parties, nor shall FSP7 allow use of the Temporary Construction Easement by the general public or any other person or entity, other than the Construction Parties. FSP7 shall comply, and shall cause the Construction Parties to comply, with all Legal Requirements with respect to the construction, maintenance, repair, replacement and use of the Temporary Construction Easement. In exercising its rights hereunder, FSP7 shall use good-faith efforts reasonably calculated to minimize interference to the Cole GS Lot and shall cause all Improvements to be constructed in a good and workmanlike manner in accordance with all permits and Legal Requirements of governmental authorities having jurisdiction concerning such Improvements. The term of the Temporary Construction Easement shall begin on the Effective Date and shall continue until the date that is thirty (30) days after completion of the Improvements, but no later than ninety (90) days after the commencement of construction of such Improvements (“**Term**”).

5. Maintenance of Improvements.

(a) FSP7 Owner shall be responsible for all of the cost of maintenance, repair and replacement of the Improvements. FSP7 Owner shall maintain, repair and replace (as necessary) all Improvements constructed and/or installed on the Cross Access Easement Area at its sole cost and expense, in a first class condition and in a manner that does not unreasonably interfere with the exercise by Cole GS Owner, Natural Grocers, their respective successors and assigns, and their respective invitees, employees and agents of the area encumbered by the Cross Access Easement, the Improvements or the remainder of the Cole GS Lot. In addition, FSP7 Owner shall maintain, repair and replace all paved surfaces, lighting fixtures, signage, painted surfaces and other appurtenances constructed by, or on behalf of, FSP7 Owner on the Cross Access Easement Area in a smooth, clean, orderly, safe and good state of repair and condition, and FSP7 Owner shall be responsible for complying with all Legal Requirements relating to the construction, maintenance, repair, replacement and use of the Cross Access Easement. Without limiting the foregoing, FSP7 Owner shall promptly repair and restore, at its sole cost, any damage to the Cross Access Easement Area or any other portion of the Cole GS Lot caused by FSP7 Owner and any of the Construction Parties.

(b) FSP7 Owner shall promptly (and in any event prior to the end of the Term) repair and restore, at its sole cost, any damage to the Temporary Construction Easement Area or any other portion of the Cole GS Lot caused by FSP7 Owner or any of the Construction Parties.

6. No Barriers. The Cross Access Easement Area shall be kept free and open and neither Owner shall prohibit or attempt to prohibit the use of the Cross Access Easement Area for the purposes herein described. No barriers or other obstructions (except ordinary traffic control devices) shall be placed, installed, constructed, or located within the Cross Access Easement Area.

7. Right to Reconfigure. Each Owner shall retain the right to reconfigure their Lot; provided that reasonable ingress and egress of the Cross Access Easement Area and Drive Aisles are maintained on the Lots and such reconfiguration does not prevent vehicular access from either Lot, or prevent either Lot from obtaining access to a public road.

8. Default; Remedies. In the event an Owner fails to perform its obligations required under this Agreement after written notice and not less than a fourteen (14) day cure period, then the other Owner shall have the right without further notice, as it deems appropriate, to perform the Owner’s obligations, and the Owner shall reimburse the other Owner for the costs the other Owner incurs in performing such obligations within ten (10) days after receipt of an invoice therefor.

9. Lot Change or Modification. Each Owner shall be able to change or modify their lot configuration as they so desire so long as reasonable thru access remains unimpeded by the changes.

10. Indemnification. Each Owner shall indemnify, defend, and save the other Owner and its agents, representatives, employees, successors, and assigns harmless from any and all claims, liability (including contractual liability), losses, costs, charges or expenses (including reasonable attorneys' fees and costs), judgments, proceedings, demands, and causes of action of any kind whatsoever arising from the acts or omission of the indemnifying Owner and/or its employees, occupants, guests, invitees, tenants, and licensees in connection with the use of the Cole Easement and the FSP7 Easement, respectively.

11. Commercial General Liability Coverage. Each Owner agrees to maintain a commercial general liability insurance policy ("CGL"), or shall cause its tenant(s) or occupant(s) to maintain, commercial general liability insurance, with a combined single limit of liability per occurrence of not less than One Million and No/100 Dollars (\$1,000,000.00) per occurrence, Three Million and No/100 Dollars (\$3,000,000.00) in the aggregate. All such insurance shall be with financially responsible insurance companies authorized to do business in the State of Utah; such insurance to provide protection against claims for (i) injury or death of any person or damage to any property occurring on its Lot; and (ii) use of the Cross Access Easement by such Owner. In addition, such comprehensive public liability insurance shall also insure against the indemnity requirements of each respective Owner set forth in Section 10 above. Each Owner agrees to name the other Owner as an additional insured on the CGL policy.

12. Not a Public Dedication. Nothing herein contained shall be deemed to be a grant or dedication of any portion of the Lots to the general public or for any public purposes whatsoever, it being the intention of the Owners that this Agreement and the easements granted herein shall be strictly limited to and for the purposes herein expressed.

13. Modification; Termination. This Agreement may not be modified in any respect whatsoever or terminated, in whole or in part, except with the prior written consent of both Owners, and then only by written instrument duly executed and acknowledged by such Owners, recorded in the real property records of Wasatch County, Utah.

14. Runs with the Land. This Agreement and each term, covenant, condition and agreement contained in this Agreement shall be a benefit and burden on each Lot and shall run with the land. This Agreement is binding on the Owners and their respective successors and assigns.

15. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be given by: (a) hand delivery, in which event such notice shall be deemed received upon the delivery or refusal to accept delivery thereof; or (b) U.S. Certified Mail, return receipt requested, with postage prepaid, in which event such notice shall be deemed received upon the earlier of the date of actual receipt, the date of delivery as shown on the return receipt, or the third day after deposit in the mail; or (c) a nationally-recognized overnight delivery service (e.g., FedEx), in which event such notice shall be deemed received upon the earlier of the actual date of receipt or the day after deposit with the nationally-recognized overnight delivery service. Notwithstanding the foregoing, actual notice, however given and from whomever received shall always be effective. All such notices shall be addressed to the appropriate Owner at the address set forth below, or at such other address as an Owner may specify from time to time by notice to the other Owner:

If to Cole GS:                    COLE GS HEBER CITY UT, LLC,  
   c/o CIM Group  
   2398 E. Camelback Road, 4<sup>th</sup> Floor  
   Phoenix, AZ 85016  
   Attn: Elizabeth Kinney

If to FSP7:                         FSP7 Heber, LLC,

7070 S Union Park, Suite 300  
Midvale, UT 84047

16. Attorneys' Fees. In the event of any controversy, claim, or action being filed or instituted between the Owners to interpret or enforce the terms of this Agreement, or arising from the breach of any provision hereof, the prevailing Owner shall be entitled to receive from the non-prevailing Owner all costs, damages, and expenses, including without limitation reasonable attorneys' fees incurred by the prevailing Owner (whether incurred prior to trial, at trial, on appeal, and/or during any post-judgment collection activities).

17. FSP7 Use Restriction. So long as Vitamin Cottage Natural Food Markets, Inc., dba Natural Grocers, is operating a grocery, nutritional supplements, and/or produce business upon the Cole GS Lot, FSP7 Owner agrees that no portion of the FSP7 Lot shall be used for the sale of grocery, nutritional supplements, and/or produce items, excluding incidental sales. For purposes of the foregoing, "incidental sales" means sales generated from not more than 150 square feet of shelf space, which shelf space may be used for the relevant prohibited use. In the event the foregoing restriction is violated, FSP7 Owner shall take all steps necessary to cause the violation to immediately cease, at FSP7 Owner's sole cost and expense. The foregoing restriction shall be recorded against the FSP7 Lot contemporaneously with the recordation of this Agreement. Without limiting Cole GS Owner's other rights and remedies, should a violation of the restriction in this Section 15 occur, Cole GS shall have the unilateral and immediate right to cause this Agreement and the Cross Access Easement rights herein granted to terminate, and shall have the immediate right to close off the Cross Access Easement Area.

18. Miscellaneous. This is the entire agreement of the Owners with respect to the matters covered hereby and supersedes all prior agreements between them, written or oral. This Agreement shall be governed in all respects by the laws of the State of Utah. Each Owner agrees to take such further acts and execute such further documents and instruments as may be reasonably required to consummate the transactions set forth herein. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision hereof. This Agreement may be executed in one or more counterparts, which taken together shall constitute one and same document. Delivery of an executed counterpart of a signature page of this Agreement via facsimile transmission or electronic mail shall be as effective as delivery of an executed original.

19. Governing Law. The terms and conditions of this Agreement shall be governed and construed under the laws of the State of Utah.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Cole GS and FSP7 have executed this Agreement effective as of the Effective Date.

COLE GS:

COLE GS HEBER CITY UT, LLC,  
a Delaware limited liability company

By: CIM Real Estate Finance Management, LLC,  
a Delaware limited liability company,  
its Manager

By: [Signature]  
Name: Nathan DeBacker  
Its: Vice President

State of Arizona )  
  ) ss.  
County of Maricopa )

On this 13<sup>th</sup> day of April, in the year ~~2021~~ 2022, before me, a Notary Public in and for said State, personally appeared Nathan DeBacker, known or identified to me to be a Vice President of COLE GS HEBER CITY UT, LLC, a Delaware limited liability company, who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first written above.



Bethany Van Oosten  
Notary Public for State of Arizona  
My Commission expires 11-17-23

**FSP7:**

**FSP7 HEBER, LLC,**  
a Utah limited liability company

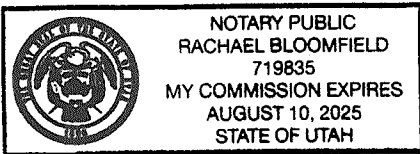
By: [Signature]  
Name: Jim Balderson  
Its: Manager

State of Utah )  
County of Salt Lake ) ss.

On this 22 day of April, in the year 2022, before me, a Notary Public in and for said State, personally appeared James Balderson, known or identified to me to be a manager of FSP7 HEBER, LLC, a Utah limited liability company, who subscribed said limited liability company name to the foregoing instrument, and acknowledged to me that he executed the same in said limited liability company name.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first written above.

Rachael Bloomfield  
Notary Public for State of Utah  
Residing at 7620 Union Park Ave Midvale UT 84047  
My Commission expires August 10, 2025



**EXHIBIT A**

**Legal Description of Cole GS Lot**

LOT 1 OF VIKING LODGE SUBDIVISION, A SUBDIVISION IN HEBER CITY, WASATCH COUNTY, UTAH, ACCORDING TO THE OFFICIAL PLAT THEREOF, FILED IN BOOK 1186 OF PLATS AT PAGE 1088 OF THE OFFICIAL RECORDS.



**EXHIBIT B-1**

**Legal Description of FSP7 Lot**

**LEGAL DESCRIPTION**

The Land referred to in this policy is described as follows:

Beginning at a point on an existing chain-link fence line, which point is North 01°09'39" East 9.22 feet from the Northwest corner of Lot 3, One Stop Subdivision, according to the official plat thereof on file and of record in the Office of the Wasatch County Recorder, said point also being North 89°54'30" East 781.49 feet along section line and North 339.52 feet from the Southwest corner of Section 5, Township 4 South, Range 5 East, Salt Lake Base and Meridian, and running thence North 01°09'39" East 186.44 feet to an existing chain-link fence; thence North 89°58'14" East 164.62 feet along said chain-link fence to an existing chain-link fence corner; thence South 00°28'53" West 186.85 feet along said chain-link fence to an existing chain-link fence corner; thence North 89°52'42" West 166.83 feet along said chain-link fence to the point of beginning.

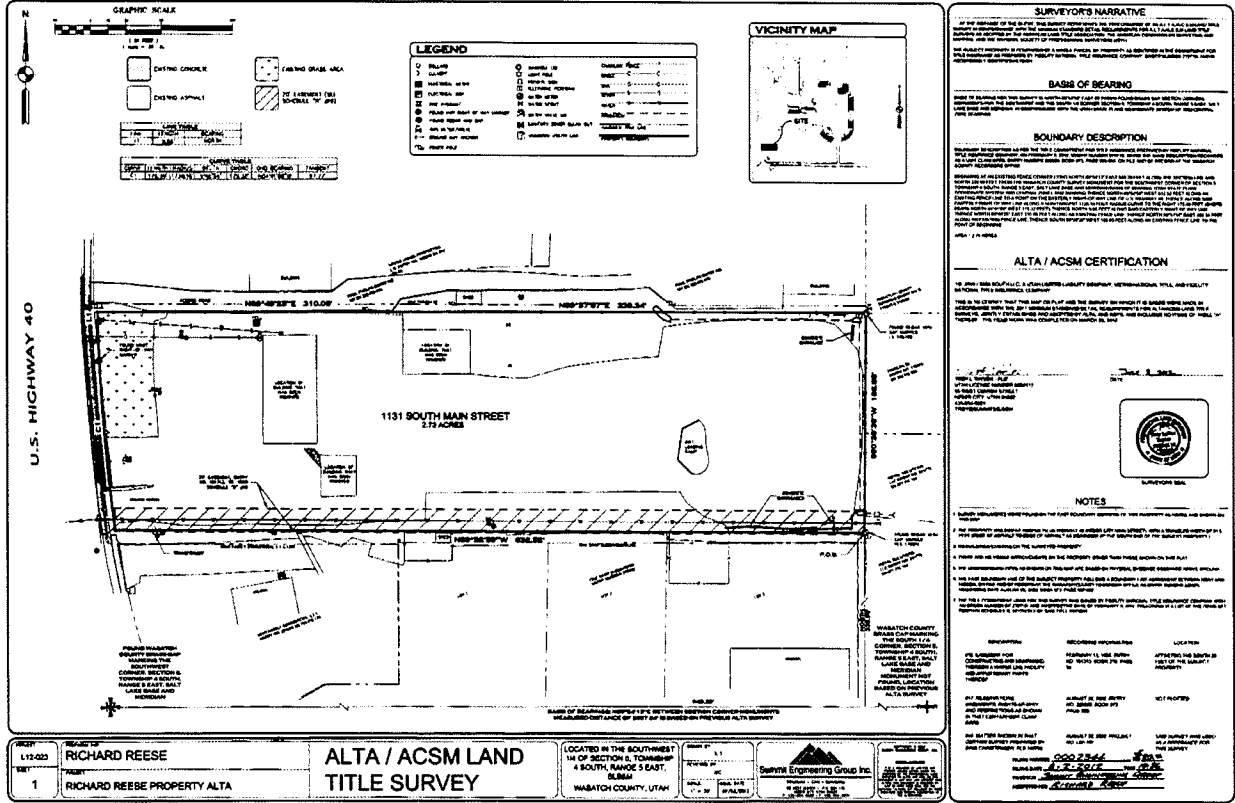
Less and excepting:

All of Lot 3, One Stop Subdivision-Lot 3 Amended, as described in the official plat on file and of record in the office of the Wasatch County Recorder, State of Utah.

Tax ID No. OHE-1318-1

### EXHIBIT B-2

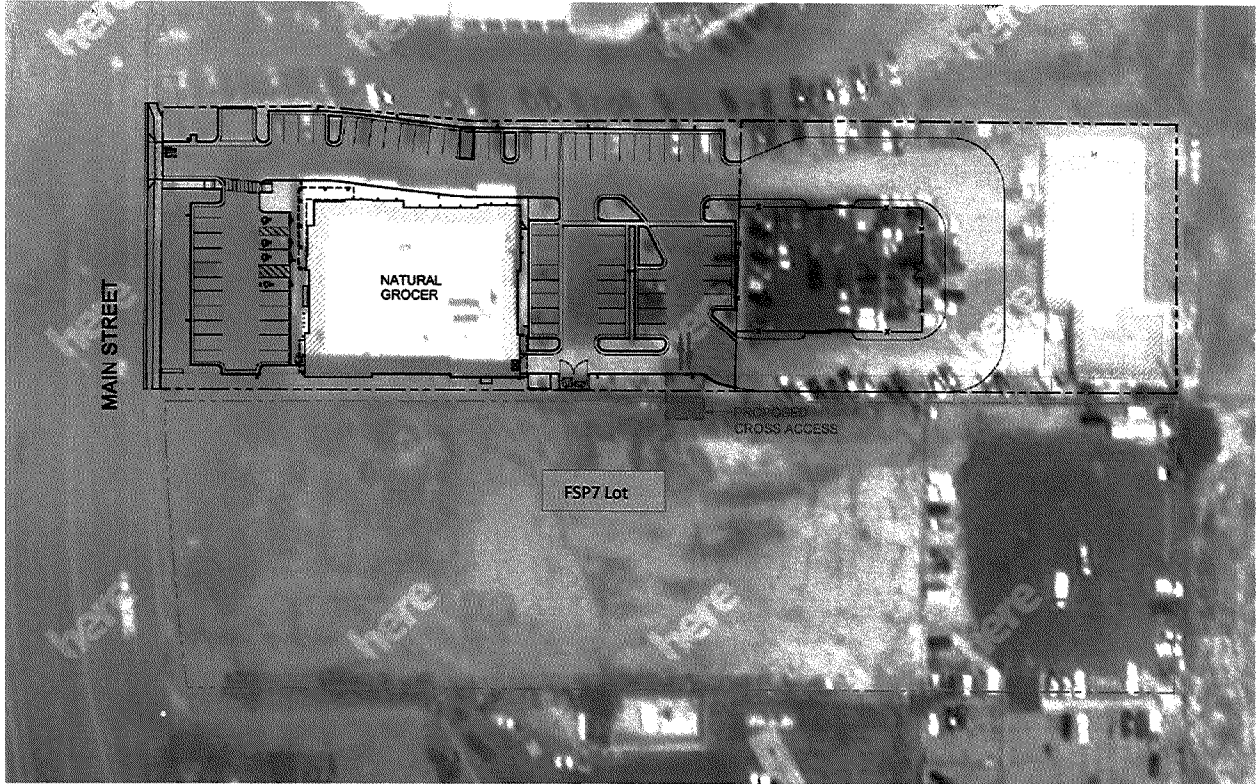
## Graphical Description of FSP7 Lot



2344

**EXHIBIT C**

**Graphical Description of Cross Access Easement**



**EXHIBIT D**

**Temporary Construction Easement Location**

