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01/13/2000 03:10 PM NO FEE
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SL CITY REDEVELOPMENT AGENCY
451 S STATE ROOM 418
SLC UT 84111
BY: RDJ, DEPUTY - WI 16 P.

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Redevelopment Agency of Salt Lake City
Room 418, City and County Building
451 South State Street
Salt Lake City, Utah 84111

(Above space for recorder's use only)

HOUSING RESTRICTION

THIS HOUSING RESTRICTION (this "Agreement") is made this 23rd day of December, 1999 by and between REDEVELOPMENT AGENCY OF SALT LAKE CITY, a public agency ("Agency") and GATEWAY ASSOCIATES, LTD., a Utah limited liability company ("Developer"), both of whom are sometimes collectively referred to as the "Parties" and individually as a "Party".

RECITALS:

A. This Agreement relates to Developer's use of certain real property legally described on Exhibit "A," and shown on the site plan (the "Site Plan") in Exhibit "B," both attached hereto and incorporated herein by reference (the "Property"). The Property is located within what is known as the "Depot Project Area" which generally includes an area between North Temple Street and 400 South Street and 400 West Street and I-15.

B. Pursuant to the terms of a Reimbursement Agreement between Agency and Developer (the "Reimbursement Agreement"), Developer has agreed to construct on the Property, housing and housing-related improvements as more fully described on Exhibit "C" attached hereto and incorporated herewith (the "Housing Improvements").

C. In partial consideration for Agency's agreement to reimburse Developer for certain of its costs associated with the Housing Improvements, Developer has agreed, among other things, to develop a portion of the Housing Improvements as affordable housing, and to grant the covenants, conditions and restrictions hereinafter set forth (sometimes referred to as the "Housing Restrictions") and to record this Agreement as a first priority encumbrance against the Property.

D. Agency believes that the fulfillment of this Agreement and the intentions herein are in the vital and best interests of Salt Lake City (the "City") and the health, safety, morals and welfare of its residents, and in accord with the public purposes.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant and declare that the Property shall hereafter be held, transferred, sold, leased, conveyed, developed, used and occupied subject to the Housing Restrictions, each and all of which is and are for, and shall inure to the benefit of and pass with, each and every portion of or interest in the Property and shall apply to Developer, Agency and every owner, tenant, lessee, and occupant of the Property and their successors and assigns. The Housing Restrictions shall run with the Property and every part thereof.

ARTICLE I

DEFINITIONS

The capitalized terms used in this Agreement shall have the definitions set forth in this Article I.

1.1 "Affordable Housing Units" shall have the meaning set forth in Section 2.1 of this Agreement.

1.2 "Agency" shall have the meaning set forth in the first paragraph of this Agreement.

1.3 "Certificate of Occupancy" shall have the meaning set forth in Section 2.1 of this Agreement.

1.4 "City" shall have the meaning set forth in paragraph D of this Agreement.

1.5 "Developer" shall have the meaning set forth in the first paragraph of this Agreement.

1.6 "Housing Improvements" shall have the meaning set forth in paragraph B of this Agreement.

1.7 "Housing Restrictions" shall have the meaning set forth in paragraph C of this Agreement.

1.8 "Housing Units" shall have the meaning set forth in Section 2.1 of this Agreement.

1.9 "Low Income Housing Units" shall have the meaning set forth in Section 2.1 of this Agreement.

1.10. "Occupant" shall mean any person or entity, including, but not limited to, any Owner, tenant or lessee occupying all or part of the Property.

1.11. "Official Records" shall have the meaning set forth in Section 4.3 of this Agreement.

1.12. "Owner" shall mean any person or entity that owns fee title to all or any part of the Property.

1.13. "Property" shall have the meaning set forth in paragraph A of this Agreement.

1.14. "Reimbursement Agreement" shall have the meaning set forth in paragraph A of this Agreement.

1.15. "Site Plan" shall have the meaning set forth in paragraph A of this Agreement.

Any capitalized terms not otherwise defined in this Agreement shall have the meanings assigned thereto in the Reimbursement Agreement.

ARTICLE II

HOUSING RESTRICTIONS

2.1 Use of Property. The Developer shall construct the Housing Improvements, including without limitation, housing and underground or structured and enclosed parking for housing and housing-related infrastructure. Without limiting the generality of the foregoing, the Housing Improvements shall consist of (i) a minimum of 500 residential housing units to be located in the area depicted as "Housing Units" on the Site Plan ("Housing Units"), and (ii) one underground or structured and enclosed parking stall for each Housing Unit; provided, only fifty percent (50%) of such stalls shall be made available for shared use with other than residential users. Initially, the Housing Improvements may be used by the media during the 2002 Winter Olympics. The Housing Units shall be completed and a certificate of occupancy (the "Certificate of Occupancy") shall have been issued by the City for the Affordable Housing Units and a total of 500 Housing Units by date(s) set forth in the Reimbursement Agreement.

2.1.1 Affordable Housing Restriction. Promptly after use for the 2002 Winter Olympics is concluded, a minimum of 130 of the Housing Units shall either be (x) for a period of fifteen (15) years, rented or leased (or held available and vacant for rental or lease) to households whose income is sixty percent (60%) or less of the median income of Salt Lake County, (y) sold (or held available and vacant for sale) to households whose income is eighty percent (80%) or less of the median income of Salt Lake County or (z) some combination of (x)

or (y) (the "Affordable Housing Units"). In no event shall more than half of the Affordable Housing Units qualify under criteria (y) above. No more than forty percent (40%) of the Housing Units shall qualify under criteria (x) above.

2.1.2 Low Income Housing Restriction. Developer shall cooperate with the City to make ten (10) of the rented or leased Affordable Housing Units available to households whose income is thirty percent (30%) or less of the median income of Salt Lake County, with the City dictating the percentage to be targeted ("Low Income Housing Units"), for a period of twenty-five (25) years so long as loans or grants are made available by the City to Developer to pay the additional cost to the Developer (such that the cash flow from the Low Income Housing Units will cover debt service, operating expenses and a projected before-tax return on the Developer's equity of 7.5% per year on average). If the City is unable to budget and fund the Low Income Housing Units by December 31, 1999, Developer may proceed without developing the Low Income Housing Units, and in such event, the Property shall no longer be burdened by the restriction concerning Low Income Housing contained in this Section 2.1.2.

2.2 Compliance with Law. Neither Developer nor its successors and assigns, including any Owner, Occupant or Owners' association, shall use the Property or permit anything to be done in or about the Property which will conflict with any law, statute, ordinance, or governmental rule or regulation now in force or which may hereafter be enacted or promulgated ("law"), nor shall they cause, maintain or permit any nuisance or waste in or about the Property. In the event uses required in Section 2.1 conflict with any law, the Property shall be used in a manner that complies with such law while at the same time complying with the intent of Section 2.1 to the extent permitted by law.

2.3 Anti-Discrimination. Neither Developer, its successors or assigns, including Owners, Occupants and any Owners' association, shall discriminate against or with respect to any person or group of persons on the basis of race, color, creed, sex, marital status, age, religion, disability or national origin in the construction, sale, lease, rental, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or any part thereof. Neither Developer, its successors or assigns, including Owners, Occupants and any Owners' association, shall establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees or sublessees or vendees on the Property or any part thereof. Developer, its successors and assigns, including Owners, Occupants and any Owners' association, shall insert similar clauses in all leases, deeds, contracts and other instruments executed in connection with the Property.

ARTICLE III

ENFORCEMENT

3.1 Default. In the event of a violation or threatened violation of any term, covenant or condition of this Agreement by Developer, any Owner, Occupant or Owners' association, their successors or assigns, Agency or City, their respective successors and assigns, shall have all remedies at law or in equity, which shall include the right to restrain by injunction any violation or threatened violation and by decree to compel specific performance of any terms, covenants or conditions of this Agreement, it being agreed that the remedy at law for any breach of any such term, covenant or condition is not adequate. Any such default under this Agreement shall constitute a default pertaining to the Housing Improvements and the Housing Restrictions under the Reimbursement Agreement generally, and a failure of one of the Housing Conditions (as defined in the Reimbursement Agreement) specifically, and Agency or City, their respective successors and assigns shall have all the remedies applicable to Developer's default regarding Housing Improvements set forth in the Reimbursement Agreement, including without limitation (i) refusal to pay any installment of the Housing Reimbursement until the default is fully cured, in which case such installment shall be forfeited, or (ii) reduction of the amount of the Housing Reimbursement by the amount incurred by Agency to cure such default and/or the loss sustained by Agency or City as a result of such default. A default under any substitute Housing Restrictions, even if the covenants of Developer thereunder may be enforced by a person other than Agency, shall be deemed a default under this Agreement and under covenants pertaining to the Housing Improvements in the Reimbursement Agreement. Notwithstanding the foregoing, a default with respect to the Housing Improvements shall not constitute a default with respect to obligations in connection with the Commercial Improvements or the proportion of the Reimbursements related to the Commercial Improvements as those terms are defined in the Reimbursement Agreement.

3.2 Breach Shall Not Permit Termination. No breach of this Agreement shall entitle Developer, any Owner, Occupant or Owners' association to cancel, rescind or otherwise terminate this Agreement.

3.3 No Limitation of Remedies. The various rights and remedies herein contained, except as otherwise provided in this Agreement shall not be considered as exclusive of any other right or remedy, but shall be construed as cumulative and shall be in addition to every other remedy now or hereafter existing at law, in equity or by statute. No delay or omission of the right to exercise any power or remedy shall impair any such right, power or remedy or be construed as a waiver of any default or nonperformance or as acquiescence therein. Developer, and the successors and assigns of Developer, including, but not limited to any Owner, Occupant and any Owners' association, shall be jointly and severally liable for any default under this Agreement; provided, any action with regard to such default may be instituted against all or any one of them.

3.4 Attorneys' Fees. In any legal or equitable proceeding for the enforcement of, or to restrain the violation of, or otherwise pertaining to a dispute concerning this Agreement or any provision hereof, by reference or otherwise, the prevailing Party shall be entitled to an award of reasonable attorneys' fees in such amount as may be fixed by the court in such proceedings. All remedies provided herein at law or in equity shall be cumulative and not exclusive.

3.5 Failure to Enforce Not a Waiver of Rights. The failure of Agency or City, or their respective successors or assigns to enforce any covenant, condition or restriction contained in this Agreement shall not be deemed a waiver of the right to do so thereafter, nor of the right to enforce any other covenant, condition or restriction.

ARTICLE IV

GENERAL PROVISIONS

4.1 Nonliability of Agency and City. Neither the Agency, the City, nor any of their respective appointees, agents, employees, partners, officers, directors, successors or assigns or designees shall be liable to Developer, or any successor thereto, including any Owner, Occupant or Owners' association for any damage, loss or prejudice suffered or claimed on account of any decision, course of action, act, omission, error, negligence or the like by Agency or City.

4.2 Constructive Notice and Acceptance. Every person or entity who now or hereafter owns or acquires any right, title or interest in or to any portion of the Property is and shall be conclusively deemed to have consented and agreed to every covenant, condition, and restriction, whether or not any reference to this Agreement is contained in the instrument by which such person or entity acquired an interest in the Property.

4.3 Term of Agreement; Release of Housing Restrictions. This Agreement shall remain in effect for twenty-five (25) years from the date upon which the Housing Units are vacated by media following the 2002 Olympics. Notwithstanding the foregoing, Agency and Developer may limit application of the Housing Restrictions concerning the development, rental, leasing or sale of Affordable Housing Units and Low Income Housing Units to certain Housing Units or subparcels of the Property by recording appropriate partial releases with the Salt Lake County Recorder's office and any other entity designated by Agency (the "Official Records"). Agency agrees that this Agreement may be terminated and released with Agency's prior written consent, which consent shall be granted upon Developer's written request if another public agency enters into an agreement which provides for covenants and restrictions against the Property which are substantially comparable to the Housing Restrictions set forth in this Agreement. Any such release shall be recorded in the Official Records.

4.4 Article and Paragraph Headings. The article and paragraph headings used herein are inserted for convenience only and are not intended to be a part of this Agreement or in any

way to define, limit or describe the scope and intent of the respective articles and sections to which they refer.

4.5 Effect of Invalidation. If any provision (by reference or otherwise) of this Agreement is held to be invalid by any court, the invalidity of such provision shall not affect the validity of the remaining provisions hereof.

4.6 Amendments. All negotiations and oral agreements acceptable to the Parties have been incorporated herein. This Agreement may not be modified or rescinded, in whole or in part, except by a writing executed by all Owners; provided such writing shall be first approved and executed by Agency and recorded against the Property in the Official Records.

4.7 Notices. Any notices, demands or requests pursuant to this Agreement shall be made in writing and shall be delivered personally or by reliable, receipted courier service, overnight mail service, facsimile transmission, certified mail (with postage prepaid, return receipt requested), or another commercially recognized means of delivery. Notice shall be deemed given when actually received.

4.8 No Relationship of Principal and Agent. Nothing contained in this Agreement, nor any acts of any Parties nor any Owners, Occupants or Owners' association shall be deemed or construed to create the relationship of principal and agent or of limited or general partnership or of joint venture or of any other similar association between Agency, its successors or assigns, or Developer, or any of the Owners, Occupants or Owners' association.

4.9 Binding Effect. It is intended and agreed that the Housing Restrictions set forth in this Agreement shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding to the fullest extent permitted by law and equity for the benefit of Agency and City against Developer, its successors and assigns, including any Owner, Occupant and Owners' association, to or of the Property, any part thereof, or any interest therein.

4.10 Assignment by Agency. Agency may assign its rights under this Agreement to any person, entity, or governmental body, at any time after the Certificate of Occupancy is issued.

4.11 No Presumption. This Agreement shall be interpreted and construed only by the contents hereof and there shall be no presumption or standard of construction in favor of or against either Party.

4.12 Governing Law. This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Utah.

4.13 Mortgagee Protection.

4.13.1 Definitions. As used in this Section 4.13 each of the following terms shall have the indicated meaning:

4.13.2 "Mortgage" means a mortgage or a deed of trust, or other security instrument recorded in the Official Records.

4.13.3 "Mortgagee" means the mortgagee under a mortgage, or the beneficiary under a deed of trust or the secured party under any security agreement recorded with respect to the Property or any portion thereof in the Official Records.

4.13.4 "Qualified Mortgagee" means a Mortgagee of which Agency has been given written notice, including such Mortgagee's name and address.

4.13.5 Obligations of Mortgagee. Unless and until it enters into possession or acquires title pursuant to foreclosure or any arrangement or proceeding in lieu of foreclosure, any Qualified Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, this Agreement.

4.13.6 Notices; Right to Cure. On delivering to Developer any notice, demand or other communication pursuant to the provisions of this Agreement, Agency shall at the same time deliver copies of such notice to each Qualified Mortgagee at the latest address provided to Agency by such Qualified Mortgagee. Although otherwise effective with respect to Developer, no notice delivered to Developer shall affect any rights or remedies of a Qualified Mortgagee unless a copy of such notice has been delivered to such Qualified Mortgagee in accordance with the immediately preceding sentence. Each Qualified Mortgagee shall have the right to remedy a default, or cause the same to be remedied within the time allowed to Developer plus, in the case of monetary defaults, an additional thirty (30) days and, in the case of non-monetary defaults, an additional thirty (30) days; provided, however, that if a non-monetary default reasonably requires more than thirty (30) days to cure, each Qualified Mortgagee shall have the right to remedy such default if such Qualified Mortgagee promptly commences such cure and thereafter diligently prosecutes such cure to completion.

4.13.7 Performance. A Qualified Mortgagee shall have the right to act for and in the place of Developer to the extent permitted by the applicable Mortgage or otherwise agreed to by Developer in writing. Agency shall accept performance by or on behalf of a Qualified Mortgagee as if the same had been performed by Developer. A Qualified Mortgagee shall have the right, to the extent Developer agrees in writing,

to appear in a legal action or proceeding on behalf of Developer in connection with the Property.


4.13.8 Recognition. Within 30 days of a written request therefor together with evidence as Agency may reasonably require that a proposed Qualified Mortgagee in fact meets the requirements of a Qualified Mortgagee as set forth herein, Agency agrees to execute, acknowledge and deliver to such Qualified Mortgagee an instrument stating that such Qualified Mortgagee is a "Qualified Mortgagee" entitled to the benefits of this Section. Agency shall not be obligated to make any other statement or agreement for the benefit of the Qualified Mortgagee.

IN WITNESS WHEREOF, this Agreement has been executed as of the date first above written.


GATEWAY ASSOCIATES, LTD.,
a Utah limited liability company
by its general partner


BOYER GATEWAY, L.C., a Utah
limited liability company, by its manager:

THE BOYER COMPANY, L.C., a Utah
limited liability company

By 
H. Roger Boyer
Its: MANAGER

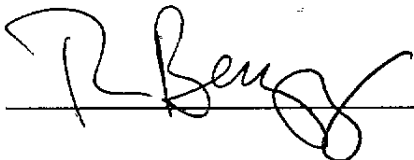
**REDEVELOPMENT AGENCY OF SALT
LAKE CITY**

By 
Deedee Corradini
Its Chief Administrative Officer

By 
Alice Larkin Steiner
Its Executive Director

Approved as to legal form:

Jones, Waldo, Holbrook & McDonough

By 

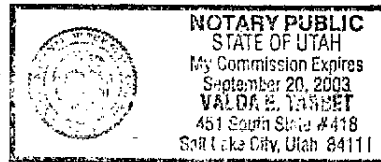
STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 33rd day of December, 1999, personally appeared before me Deedee Corradini and Alice Larkin Steiner, who being by me duly sworn did say they are the Chief Administrative Officer and Executive Director of The Redevelopment Agency of Salt Lake City, and that the within and foregoing instrument was signed on behalf of said Agency.

Valda E. Tarbet
NOTARY PUBLIC
Residing at: _____

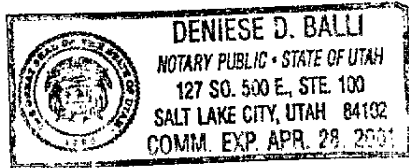
My Commission Expires:

9/20/03



STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE)

On the 23 day of December, 1999, personally appeared before me H. Roger Boyer, the signer of the foregoing instrument, who being by me duly sworn did say he is the manager of The Boyer Company, L.C., which is the manager of Boyer Gateway, L.C., which is the general partner of Gateway Associates, Ltd., and that the within and foregoing instrument was signed on behalf of said entities.



Deniese D. Balli
NOTARY PUBLIC
Residing at: Salt Lake County

My Commission Expires:

4-28-01

Exhibit A

Legal Description for Residential #1 Parcel:

BEGINNING AT A POINT NORTH 0.03 FEET AND EAST 59.80 FEET FROM THE SOUTHWEST CORNER OF LOT 4, BLOCK 65, PLAT "A", SALT LAKE CITY SURVEY; THENCE N00°00'00"E 345.05 FEET, THENCE S90°00'00"W 231.35 FEET; THENCE S00°00'00"E, 344.94 FEET; THENCE S89°58'20"W 231.35 FEET TO THE POINT OF BEGINNING, CONTAINING 1.83 ACRES. (79,814 SQ. FT.)

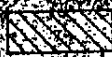
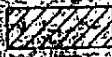

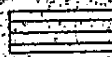

Legal Description for Residential #2 Parcel:

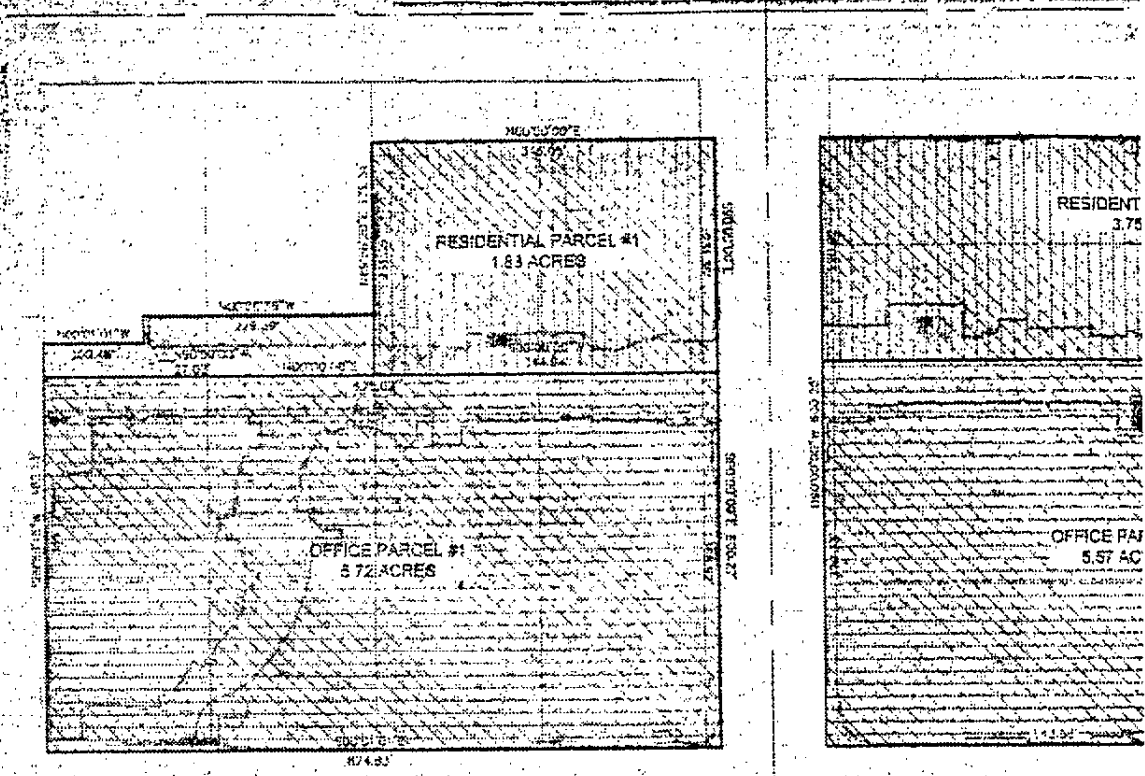
BEGINNING AT A POINT SOUTH 9.71 FEET AND EAST 58.51 FEET FROM THE SOUTHWEST CORNER OF BLOCK 80, PLAT "A", SALT LAKE CITY SURVEY; THENCE N00°00'00"E, 738.81 FEET; THENCE S90°00'00"E, 220.92 FEET; THENCE S00°00'00"W, 738.81 FEET; THENCE N90°00'00"W, 220.92 FEET TO THE POINT OF BEGINNING, CONTAINING 3.75 ACRES. (163,218 SQ. FT.)

Exhibit "B"

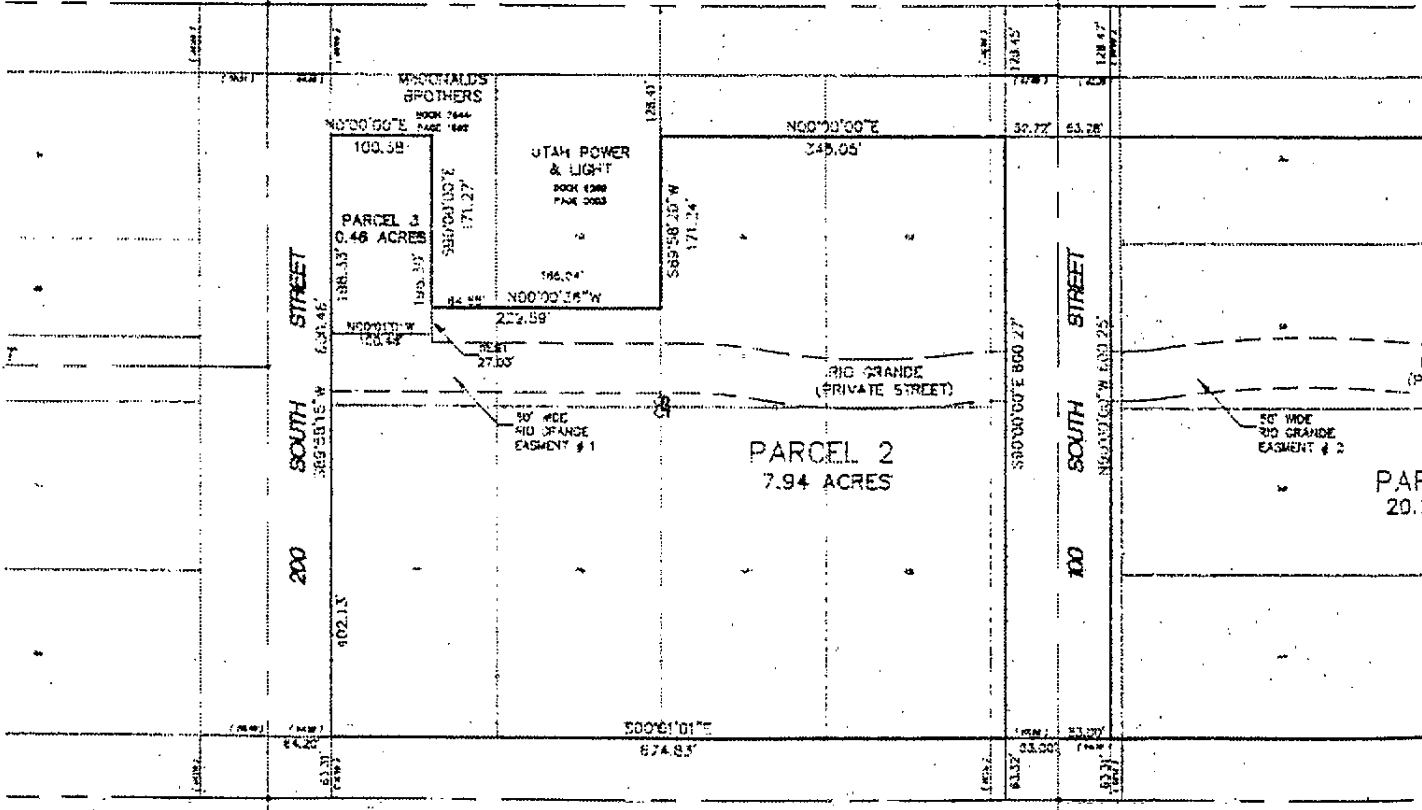
SITE PLAN

LEGEND

-  RETAIL PARCEL
-  HOTEL PARCEL
-  RESIDENTIAL PARCEL
-  OFFICE PARCEL
-  DEPOT PARCEL

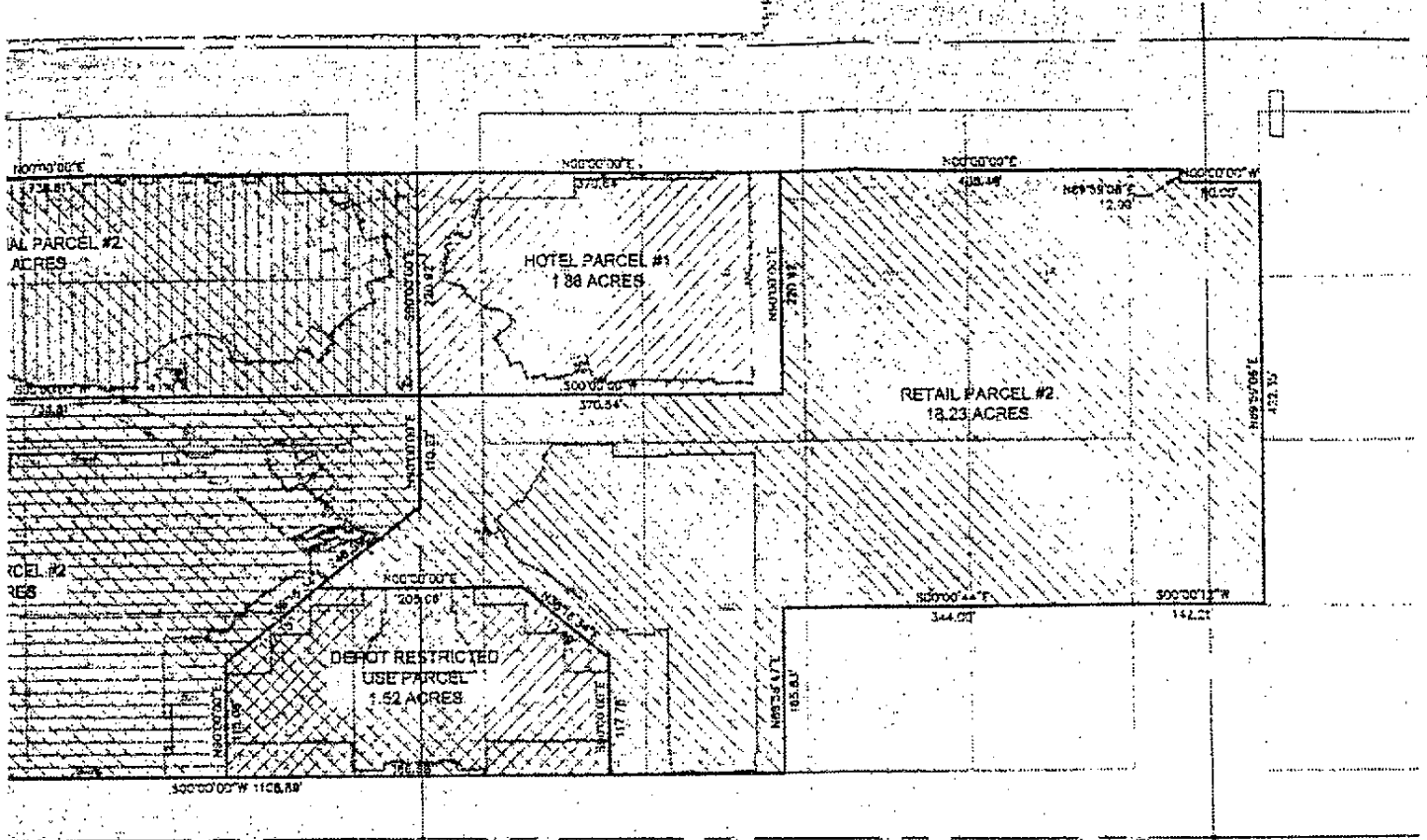


ET 500 WEST STREET 500 WE



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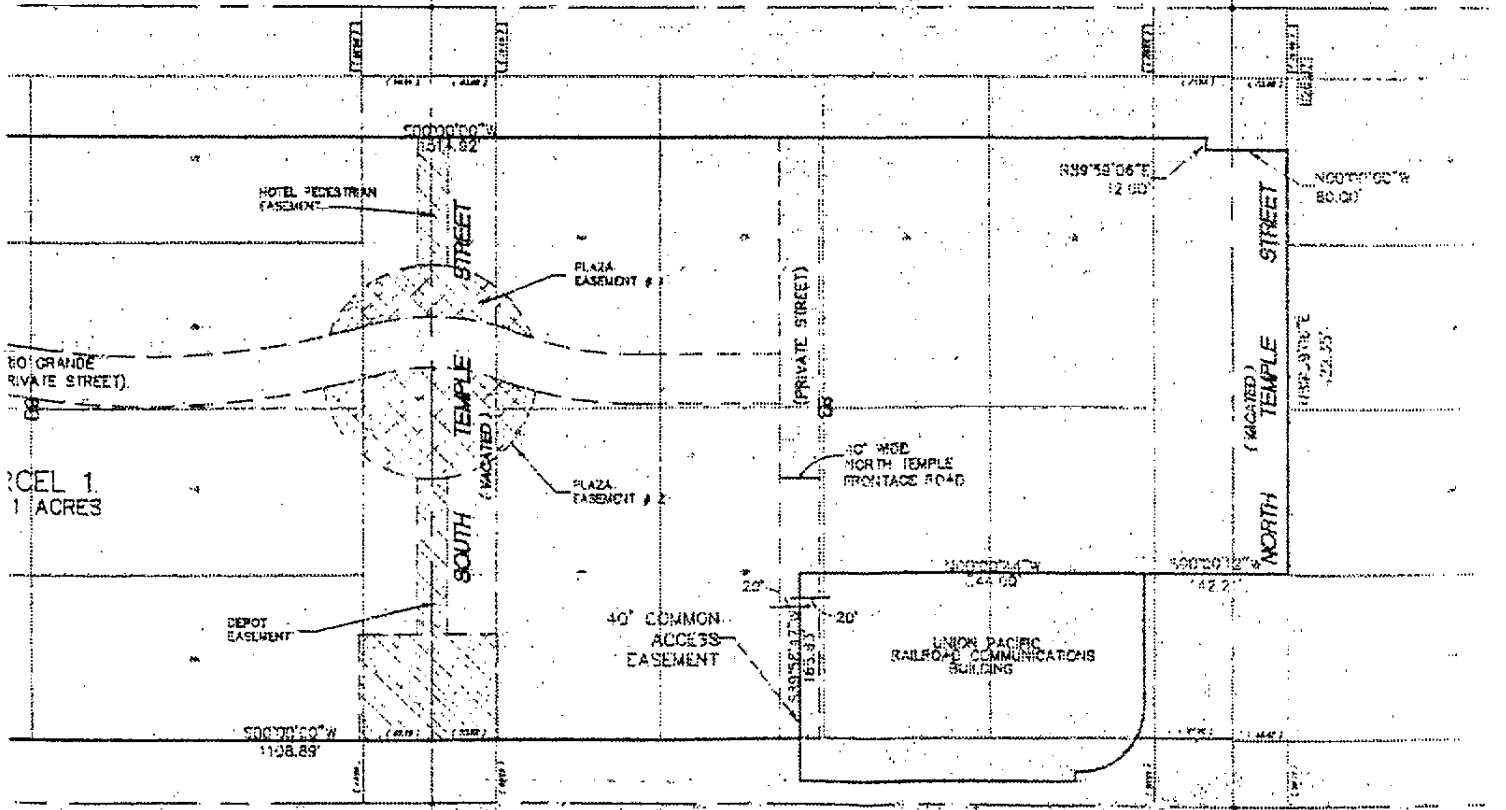
BIT "B"



ST STREET
(PART OF WEST STREET)

500 WEST STREET
(COMPLETELY ON WEST STREET)

500



WEST STREET
(PART OF WEST STREET)

400 WEST STREET
(COMPLETELY ON WEST STREET)

400

Exhibit "C"
HOUSING IMPROVEMENTS

The Housing Improvements shall include a minimum of 500 housing units with underground and structured and enclosed parking in the locations shown on the Site Plan, all as approved by the Salt Lake City Planning Commission.