

9179245

After recordation return to:

Ball Ventures LLC
PO Box 51298
Idaho Falls, ID 83405
Attention: Cortney Liddiard

9179245
09/22/2004 04:18 PM \$27.00
Book - 9040 Pg - 2298-2304
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
FIRST AMERICAN TITLE
BY: SBM, DEPUTY - WI 7 P.

(space above line for recorder's use)

SPECIAL WARRANTY DEED WITH RESTRICTIVE COVENANT

FRED MEYER STORES, INC., an Ohio corporation ("Grantor"), hereby conveys and warrants against all claiming by, through or under Grantor, but not otherwise, and further subject to the restrictive covenant stated below and to those encumbrances as disclosed on the attached **Exhibit B**, to **BALL VENTURES LLC, an Idaho limited liability company ("Grantee")**, for and in consideration of Ten Dollars and other good and valuable consideration, in hand paid, the receipt and sufficiency of which is hereby acknowledged, the real property which is more specifically described on the attached **Exhibit A** and which is commonly known as:

4091 West 3500 South, West Valley, Utah 84120.

Restrictive Covenant: No portion of the property conveyed hereunder shall, at any time, be used for any supermarket or drug store, which for purposes of this restriction shall mean any store, department or area within a store, containing at least 8,000 square feet of sales floor area, including aisle space and storage, primarily devoted to the retail sale of food or the retail sale of pharmaceutical or non-pharmaceutical drugs. This restrictive covenant shall automatically terminate if Grantor and all of its affiliated companies and/or subsidiaries of The Kroger Co., cease to operate a grocery or drug store within five miles of the Property.

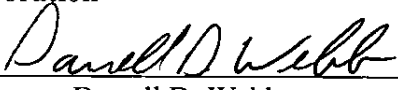
Until a change is requested, please send all tax statements to Ball Ventures LLC, PO Box 51298, Idaho Falls, Idaho 83405, Attention: Cortney Liddiard

BK 9040 PG 2298

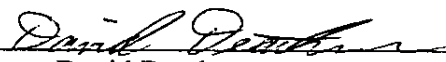
Dated this 23 day of July, 2004.

GRANTOR:

**FRED MEYER STORES, INC., an Ohio
corporation**



By: Darrell D. Webb
Its: President

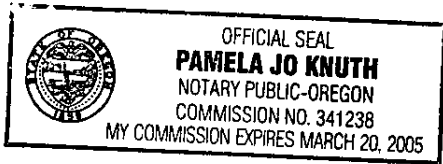


By: David Deatherage
Its: Senior Vice President and CFO

ACKNOWLEDGMENTS

STATE OF OREGON)
) ss.
County of Multnomah)

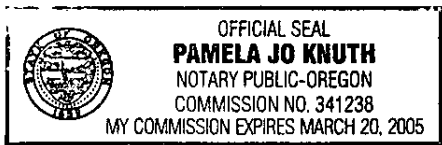
The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this 26 day of July, 2004 by Darrell D. Webb, the President of FRED MEYER STORES, INC, an Ohio corporation, on behalf of such corporation.



Pamela J Knuth
Notary Public for Oregon
Residing at: Gresham, OR
My commission expires: 3/20/05

STATE OF OREGON)
) ss.
County of Multnomah)

The foregoing instrument was acknowledged before me, the undersigned Notary Public, on this 03 day of July, 2004 by David Deatherage, Senior Vice President and CFO of FRED MEYER STORES, INC., an Ohio corporation, on behalf of such corporation.



Pamela Jo Knuth
Notary Public for Oregon
Residing at: Gresham, OR
My commission expires: 3/20/05

EXHIBIT A TO DEED

Legal Description

The following described property is located in Salt Lake County, Utah.

PARCEL 1:

BEGINNING at a point on the South right of way line of 3500 South Street, said point being South 89°56'54" West along the section line 515.00 feet and South 0°01'50" East 40.00 feet from the Northeast Corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence South 0°01'50" East 295.00 feet; thence North 89°56'54" East 475.00 feet to the West right of way line of 4000 West Street; thence South 0°01'50" East along said West line 94.00 feet; thence South 89°56'54" West 290.00 feet; thence South 0°01'50" East 132.00 feet; thence South 89°56'54" West 40.00 feet; thence South 0°01'50" East 233.60 feet; thence North 89°56'54" East 330.00 feet to the West right of way line of 4000 West Street; thence South 0°01'50" East along said West line 195.39 feet to the Northeast Corner of the Woodcove No. 1 Subdivision; thence South 89°58'10" West along the North lines of the Woodcove No. 1 and No. 2 Subdivisions, 878.85 feet; thence North 0°01'50" West 200.75 feet; thence South 89°58'10" West 93.63 feet; thence North 0°00'06" East and along the West side of a brick building 258.20 feet; thence South 89°56'54" West 24.68 feet; thence North 0°01'50" West 312.68 feet; thence North 89°56'54" East 13.65 feet; thence North 0°02'11" West 178.00 feet to the South right of way line of 3500 South State Street; thence North 89°56'54" East along said South line 508.35 feet to the point of beginning.

EXCEPTING FROM Parcel 1 the following property:

BEGINNING at a point on the South line of 3500 South Street, said point being South 89°56'54" West along the section line 672.25 feet and South 00°03'06" East 40.00 feet from the Northeast Corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence South 00°03'06" East 215.00 feet; thence South 89°56'54" West 170.00 feet; thence North 00°03'06" West 215.00 feet to the South line of said 3500 South Street; thence North 89°56'54" East along said South line 170.00 feet to the point of beginning.

PARCEL 2:

BEGINNING at a point on the South right of way line of 3500 South Street, said point being South 89°56'54" West along the Section Line 1170.00 feet and South 0°01'50" East 40.00 feet from the Northeast Corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence North 89°56'54" East along said South line 32.65 feet; thence South 0°02'11" East 178.00 feet; thence North 89°56'54" East 100.35 feet; thence South 0°01'50" East 312.68 feet; thence North 89°56'54" East 24.68 feet; thence South 0°00'06" West and along the West side of a brick building 258.20 feet; thence South 89°58'10" West 307.52 feet to the East right of way line (as constructed) of 4200 West Street; thence North 0°01'50" West along said West line 570.76 feet; thence North 89°56'54" East 150.00 feet; thence North 0°01'50" East 178.00 feet to the point of beginning.

EXCEPTING FROM Parcel 2 any portion lying within 4200 West Street.

Exhibit "A"

PARCEL NO. 3:

BEGINNING at a point on the East right of way line (as constructed) of 4200 West Street, said point being South 89°56'54" West along the Section Line 1320.00 feet and South 0°01'50" East 788.76 feet from the Northeast Corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian and running thence North 89°58'10" East 401.15 feet; thence South 0°01'50" East 200.75 feet to the North line of the Woodcove No. 2 Subdivision; thence South 89°58'10" West 401.15 feet; thence North 0°01'50" West and along a portion of the said East line of 4200 West Street 200.75 feet to the point of beginning.

EXCEPTING FROM Parcels 2 and 3 the following property:

BEGINNING at a point on the South line of 3500 South Street, said point being South 89°56'54" West along the Section line 1137.38 feet and South 00°02'11" East 40.00 feet from the Northeast Corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian, and running thence South 00°02'13" East 178.00 feet; thence North 89°56'54" East 101.07 feet; thence South 00°03'17" East 316.07 feet; thence South 89°56'54" West 29.00 feet; thence South 00°03'17" East 310.00 feet; thence North 89°56'54" East 20.50 feet; thence South 00°03'17" East 145.54 feet; thence South 89°58'10" West 254.08 feet to a point on the East right of way (as constructed) of 4200 West Street; thence North 00°03'17" West along said East line 771.52 feet; thence North 89°56'54" East 118.87 feet; thence North 00°02'13" West 178.00 feet to a point on the South line of 3500 South Street; thence North 89°56'54" East along said South line 42.65 feet to the point of beginning.

Parcels 1, 2, and 3 are described by survey as follows:

Beginning at a point on the South line of 3500 South Street, which point lies 515.00 feet South 89°56'54" West along the section line and 40.00 feet South 0°01'50" East from the Northeast Corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian; and running thence South 0°01'50" East 295.00 feet; thence North 89°56'54" East 475.03 feet to the West line of 4000 West Street; thence South 0°02'10" East along said West line 94.00 feet; thence South 89°56'54" West 290.04 feet; thence South 0°01'50" East 132.00 feet; thence South 89°56'54" West 40.00 feet; thence South 0°01'50" East 233.60 feet; thence North 89°56'54" East 330.08 feet to the West line of said 4000 West Street; thence South 0°02'10" East along said West line 195.39 feet to the Northeast corner of Woodcove Subdivision No. 1; thence South 89°57'50" West along the North lines of Woodcove No. 1 and No. 2 Subdivisions 1004.56 feet; thence North 0°03'17" West 145.65 feet; thence South 89°56'54" West 20.50 feet; thence North 0°03'17" West 310.00 feet; thence North 89°56'54" East 28.17 feet; thence North 0°01'50" West 316.07 feet; thence North 89°56'54" East 13.65 feet; thence North 0°02'11" West 178.00 feet to the South line of 3500 South Street; thence North 89°56'54" East along said South line 181.11 feet; thence South 0°03'06" East 215.00 feet; thence North 89°56'54" East 170.00 feet; thence North 0°03'06" West 215.00 feet to the said South line of 3500 South Street; thence North 89°56'54" East 157.24 feet to the point of beginning.

PARCELS 1, 2, and 3 TOGETHER WITH the appurtenant undivided interest in the "Common Areas" and "Access Easements", as defined and described in the Declaration of Covenants, Conditions, Restrictions and Easements, dated March 28, 1995 and recorded April 4, 1995 as Entry No. 6053818 in Book 7127 at Page 1680 of Official Records.

15-31-226-017-0000

15-31-226-019-0000

EXHIBIT B TO DEED

Encumbrances

1. Taxes for the year 2004 a lien not yet due or payable.

2. Any charge upon the land by reason of its inclusion in West Valley City and Granger-Hunter Improvement District.

3. A joint and non-exclusive right of way over the following described property:

Commencing 335.4 feet South from the Northeast corner of Section 31, Township 1 South, Range 1 West, Salt Lake Base and Meridian, Salt Lake County, State of Utah, thence South 94 feet; thence West 480 feet; thence North 94 feet; thence 480 feet to the place of beginning.

As disclosed by that certain instrument recorded January 13, 1964, Entry No. 1972059 in Book 2142 at Page 519 of Official Records.

4. The right, privilege, and authority to construct, reconstruct, operate, maintain and repair its lines of Telephone and Telegraph including underground conduit, poles, anchors, cables, wires and fixtures, as granted to the Mountain States Telephone and Telegraph Company by Easement dated June 27, 1966 and recorded October 6, 1966 as Entry No. 2174019 in Book 2499 at Page 35 and by Easement dated June 21, 1966 and recorded October 6, 1966 as Entry No. 2174034 in Book 2499 at Page 50 and by Easement dated June 21, 1966 and recorded October 6, 1966 as Entry No. 2174035 in Book 2499 at Page 51 of Official Records.

5. The terms, conditions, covenants and easements contained in that certain Agreement recorded May 26, 1971 as Entry No. 2387778 in Book 2962 at Page 876 of Official Records.

6. An easement over, across or through the land for installation and maintenance of pipe lines and incidental purposes, as granted to Mountain Fuel Supply Company by Instrument recorded January 17, 1972 as Entry No. 2432253 in Book 3034 at Page 117 of Official Records.

7. A Pole Line Easement for electrical distribution facilities as granted to Utah Power and Light Company by Easement recorded June 26, 1972 as Entry No. 2465649 in Book 3094 at Page 192 of Official Records

Exhibit "B"

8. The limitations, covenants, restrictions, conditions, reservations, exceptions, easements, terms and liens, but deleting any covenant, condition or restriction indicating a preference, limitation or discrimination based on race, color, religion, sex, handicap, familial status, or national origin to the extent such covenants, conditions or restrictions violate 42 USC 3604(c), contained in the Declaration of Covenants, Conditions and Restrictions, executed by Grand Central, Inc, recorded April 4, 1995 as Entry No. 6053818 in Book 7127 at Pages 1680 through 1708 of Official Records, which provided, among other things, that a violation thereof shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value.
9. The Terms and Conditions of the Option to Purchase, contained within that certain Declaration of Covenants, Conditions and Restrictions and Easement recorded April 4, 1995 as Entry No. 6053818 in Book 7127 at Page 1680 of Official Records.
10. Two 20 foot perpetual, exclusive setback easements as created in favor of HVIOMD, L.C., a Utah Limited Liability Company by instrument recorded December 21, 1995 as Entry No. 6241183 in Book 7295 at Page 1334 of Official Records.
11. An easement over, across or through the land for construction and maintenance of telecommunications facilities and incidental purposes, as granted to US West Communications, Inc. by Instrument recorded February 10, 1996 as Entry No. 6281829 in Book 7331 at Page 1645 of Official Records.
12. Subject to the following matters disclosed on that certain survey prepared by Flint Land Surveying, having been certified under the date of May 18, 2004 and revised August 24, 2004, as Job No. 040503 :
 - 1) Curb overlaps and gaps;
 - 2) Fence overlapping the Southwest corner;
 - 3) Gate in the Southwest corner to other property;
 - 4) Shared ingress and egress with properties on the East.
13. Supplemental Agreement between Fred Meyer Stores, Inc., an Ohio corporation, successor by merger to Fred Meyer Stores, Inc., a Delaware corporation (whose name before September 9, 1997 was Fred Meyer, Inc., a Delaware corporation), or affiliate, (Declarant) and Sundaw company, L.L.C., a Utah limited liability company, recorded concurrently herewith.