

Louisville Revitalization Commission

Agenda

**Monday, May 9, 2016
Louisville Public Library
1st Floor Conference Room
951 Spruce Street (Northwest entrance)
7:30 AM**

Note: The time frames assigned to agenda items are estimates for guidance only. Agenda items may be heard earlier or later than the listed time slot.

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of March 18, 2016 Meeting Minutes
- V. Public Comments on Items Not on the Agenda (Limit to 3 Minutes)
- VI. Reports of Commission
- VII. Business Matters of Commission

7:40 am – 8:45 am

- a. Executive Session

Real Property Acquisition and Disposition

(Louisville Charter, Section 5-2(c) – Authorized Topics – Consideration of real property acquisitions and dispositions, only as to appraisals and other value estimates and strategy, and C.R.S. 24-6-402(4)(a) and LRC Bylaws)

Staff is Requesting the LRC Convene an Executive Session for the Purpose of Consideration of Potential Real Property Acquisition and Disposition Concerning Property in Louisville

Pending Litigation

(Louisville Charter, Section 5-2(d) – Authorized Topics – Consultation with an attorney representing the City with respect to pending litigation, and C.R.S. 24-6-402(4)(b) and LRC Bylaws)

Staff and Legal Counsel are Requesting the City Council Convene an Executive Session for the Purpose of Consultation with Respect to Pending Litigation

City of Louisville

City Manager's Office 749 Main Street Louisville CO 80027
303.335.4533 (phone) 303.335.4550 (fax) www.LouisvilleCO.gov

- i. Requests for Executive Session
 - ii. Staff Statement
 - iii. Attorney Statement of Authority
 - iv. LRC Action on Motions for Executive Session
 - v. LRC Convenes Executive Session
 - vi. LRC Reconvene in Open Meeting
 - b. Report – Discussion/Direction/Action – Real Property Acquisition and Disposition and Pending Litigation
 - c. Adjourn to Regular Meeting
 - 8:45 am – 9:15 am d. 550 S. McCaslin Development Proposal
 - i. Staff Presentation
 - ii. Commissioner Comments
 - iii. Public Hearing
 - iv. Direction
- VIII. Items for Next Meeting June 13, 2016, 7:30am Library Meeting Room
 - a. DELO Update
- IX. Commissioners' Comments
- X. Adjourn

Revitalization Commission

Minutes

Friday, March 18 2016
Louisville Public Library
1st Floor Conference Room
951 Spruce Street (Northwest entrance)
7:30 AM – 9:00 AM

Call to Order – Chair Karl Becker called the meeting to order at 7:35 am in the Louisville Public Library at 951 Spruce Street, Louisville, CO.

Commissioners Present: Karl Becker, Chair
Steve Fisher
Alex Gorsevski
Rob Lathrop
Michael Menaker
Mayor Bob Muckle
Bob Tofte

Staff Present: Malcolm Fleming, City Manager
Heather Balser, Deputy City Manager
Sam Light, City Attorney
Aaron DeJong, Economic Development Director
Dawn Burgess, Executive Assistant to the City Manager

Others: Justin McClure, Rick Brew, Randy Caranci, John Leary, Ken Gambon, Lynn Miller, Jim Henderson, Malcolm Murray

Approval of Agenda
Approved

Approval of February 8, 2016 Minutes:
Sam Light had several punctuation/grammar corrections.

Public Comments on Items Not on the Agenda
None

Reports of Commission

Michael Menaker commended City Staff for reaching an agreement with H2 Development Services to coordinate all the public infrastructure projects in and around the Core Project Area.

Business Matters of Commission

a. DELO Update

Justin McClure gave a report on the DELO project. Submittal on Lofts was accomplished. Loan approval from 1st Bank. RMCS will work closely with Attorney Sam Light and City Manager Malcolm Fleming to finalize agreements. Takoda Properties will not be the owners of the Phase II project. Assignment documents can be done at the staff level given no substantive changes are required. Attorney Light will decide if LRC needs to be involved.

For Phase 1, public improvements are pretty much accomplished. Comcast fiber optic is out of the way. Nawatney greenway - All work is done up to foundations.

Attorney Light will dig into documents as quickly as he can. Can we authorize chair to sign documents? Yes.

If there are any material changes being proposed – then it will come back to LRC, otherwise, Chair can sign if docs are materially the same.

Motion was made and seconded to authorize the chair to sign needed assignments. All were in favor.

McClure suggested City Manager Fleming, Attorney Light, Economic Development Director DeJong and McClure and his legal counsel meet to go over documents.

April 4th at 7:30 am is set for meeting if it is necessary.

b. Board and Commission input for 2017 City Budget

Does LRC have any items for Malcolm to consider for 2017 budget?

Commissioner Menaker does not like the suggestion by Council that South Street Gateway be value engineered. Chair Becker agrees.

Commissioner Fisher asked about formatting. DeJong responded that it was changes from what was requested.

If anyone has input, contact DeJong or bring back to next meeting.

c. Review Responses from 550 S. McCaslin RFP

Proposal is summarized in the packet. Light introduced Malcolm Murray. One proposal was received and it is from the property owner headed up by Rick Dunn and Tom Garvin. The proposal is for King Sooper Marketplace. King Sooper states interest in project.

Proposal states they would request Tax rebates, cost sharing, public assistance and modification of property use restrictions. They are willing to go into development negotiations.

Commissioner Menaker is concerned about lack of involvement by LRC. Negotiations should be between LRC and makers of proposal. Believes LRC is qualified to do the work. Everything should come through LRC to prepare for presentation to Council. LRC has agreed public process. Would like to move forward with this proposal.

Commissioner Gorsevski said the proposal is very light on details and had typos. Is this what we were expecting? DeJong said it is what Rick Dunn wanted to propose. Proposals for other RFP's released by the City have been more detailed. Gorsevski said would be helpful to have them come to us with more details.

Commissioner Fisher was embarrassed by lack of substance. He is disappointed in proposal. If Sam's Club did not work what makes us think King Sooper Market place would work. Would making a \$20m investment work? It would not bother him to walk away from this.

Commissioner Gorsevski said there is already an Albertson's there.

Commissioner Tofte would have liked more information. Is 13 acres appropriate for that type of development? Proposal was lacking detail.

Commissioner Lathrop said to negotiate anything with a committee is nearly impossible from developer standpoint. There is not enough information in the proposal to have a substantial discussion. Elimination of CCR to allow another grocery store will require deep discussion on how they justify grocery store, what happens to other businesses. Need detailed discussion. Proposal is interesting but lacking details.

Commissioner Menaker said key blight factor was restrictive covenant preventing another grocery store. At some point, property owners need to provide details in order to get LRC cooperation. King Sooper needs to come to the table as well. The City's Business Assistance Agreements typically are rebates, not cash awarded upfront.

Chair Becker said we have an opportunity to be a thought leader. These large shopping centers do not fit Louisville. We already have a food store there. If we can only get a food store there, we have a problem. He was hoping to see more innovative proposal and is disappointed.

Commissioner Menaker said there is zero opportunity to rezone the property. Not good options and King Soopers knows what they are doing. They would take market share from Target, Albertsons, Whole Foods. He believes a mixed use rezoning is a non-starter.

Mayor Muckle said Council has determined it is a tax revenue area. No support for anything else. Retail is important. Real objective is to eliminate blight. Vacancy of buildings is bad but the lack of detail is disappointing. Would like staff to go to proposer for more detail, ie; viability of proposal.

Commissioner Menaker said we did a blight study. Blight study did not find that zoning was a blight factor. Zoning conversation is over. Chair Becker said things can be revisited. The world changes and ideas change.

Commissioner Gorsevski asked what is Albertson's opinion? He would like Albertson's feedback.

Commissioner Lathrop said if this proposal had come thru with a letter from Albertson's saying they had reached agreement it would be different conversation. Until the covenant issue is addressed, he does not care about economics. He said everyone should take the opportunity to walk thru King Sooper Marketplace. It is very different. See how it will affect the economics of community.

Commissioner Menaker said lot of details the property owner needs to supply before we can move forward. He has no problem using public funds to bring businesses to town. Property owners need to talk to us.

John Leary said we need to go back and do role definition. Legal definitions – listening to discussion he cannot lay out roles but feels we are crossing the lines.

Albertsons representative, Lynn Miller, said Albertson's wants to remodel that store – they presented that to Council. It is on hold until this process is complete. Commissioner Gorsevski asked how far Albertson's took those plans. Is there something LRC can see? She will discuss with Albertson's and bring something if LRC would like.

When asked if Albertson's envisions any price at which the store would be sold, Miller said: Albertson's wants to continue to operate this store. Albertson's has intent to improve the store, some of that action is awaiting

outcome of Sam's Club site. She asked if Albertson's can learn more about the City's intent.

Deputy City Manager Balser said we have asked in the past for Albertson's plans. Is Albertson's willing to provide plans, timelines, something that is real? Miller said she can ask her group. She said money is being spent in Denver market. There is money on the table for this store. Deputy City Balser said we need something real rather than discussion.

Commissioner Menaker said it is of interest Council to look at this proposal. Nothing can happen if we don't take action. No way this proposal can move forward unless covenant is eliminated. We have to move this forward. When we are satisfied with proposal, we can move forward.

Randy Caranci said he interpreted Commissioner Lathrop to be saying he did not support the proposal, and asked Lathrop to clarify. Commissioner Lathrop said if King Sooper Marketplace is there it puts Kohl's in a tenuous position. Caranci said this proposal is a letter of interest at best. It is not a proposal. Covenant needs to be addressed. That would be a process that would prevent other proposals from coming forward. Only fair to Albertson's to let them do their business. The City does not need to go into a battle with Albertson's.

City Manager Fleming said we need to figure out what are other opportunities for site. We have a verbal suggestion from Albertson's that they want to improve their store. We need to flesh out details of both proposals. We need to specifics of how a King Sooper Marketplace would affect other businesses. We need a negotiating team.

Mayor said our role is to eliminate blight from 550 McCaslin. We need to take next step of figuring out what this would look like with more detail. He likes Fleming's idea of a small team.

Chair Becker asked would everyone like to move forward with Fleming's idea? Yes. Randy Caranci asked if Commissioner Menaker has a conflict because of position on BRaD? Commissioner Menaker said no, he is the LRC alternate representative to BRaD. Menaker would like to serve on the negotiating team.

When asked if he would serve on negotiating team, Commissioner Lathrop said he has made his position clear. He is willing to be on the negotiating team but property owners need to know where he is coming from: It isn't a matter of dollars it is a moral issue. Is condemnation of a person's property right? – if you do that, you have to pay. And where then

would that money come from? The real issue is taking care of Albertson's and we cannot sweep them off the table.

Commissioner Menaker said balance of having Rob's perspective would be great.

Chair moved that the LRC create a team with Lathrop and Menaker to bring the LRC more insight into outcomes of property. Commissioner Fisher seconded. All in favor.

Time will be dedicated on future agendas for updates.

Items for Next Meeting April 11, 2016

April 4th is overflow meeting

Commissioner Comments:

Commissioner Menaker referenced Longmont struggling to pay debt service because mall is delayed. City of Louisville is not at risk. We have a good deal with DELO – if they are delayed, the City is not at risk.

Adjourn – The meeting adjourned at 8:58 am

**SUBJECT: REDEVELOPMENT PROPOSAL FOR 550 S. MCCASLIN BLVD.
URBAN RENEWAL AREA**

DATE: MAY 9, 2016

PRESENTED BY: AARON DEJONG, ECONOMIC DEVELOPMENT

SUMMARY:

Staff received one proposal in response to the Request for Proposal (RFP) released January 8, 2016 and due March 10, 2016. The proposal is from Seminole Land Holding, LLC and Centennial Valley Investments, LLC, the current owner of the property, to construct a King Soopers Marketplace on the property. This memorandum outlines the proposal provided in response to the RFP and how it addresses the blighting factors present on the property.

BACKGROUND:

The property located at 550 South McCaslin Boulevard encompasses approximately 13.16 acres in the McCaslin Boulevard area of Louisville and was formerly occupied by a Sam's Club facility. The property has been mostly vacant since the store's closing in early 2010 and currently has two tenants, Ascent Church and Low Cost Furniture.

On September 1, 2015, City Council approved Resolution No. 58, Series 2015 approving an Urban Renewal Plan for 550 S. McCaslin Blvd.

The Urban Renewal Plan states the objective is to alleviate the conditions of blight by encouraging private redevelopment that will in turn encourage the development and redevelopment and avoid underutilization of other properties in the vicinity.

More specifically, as stated in the 550 S. McCaslin Urban Renewal Plan, the objectives for the Plan include the following:

- Create a retail rich environment where area businesses and residents can be successful.
- Re-tenant or redevelop the Property.
- Increase retail activity by encouraging occupancy of the Property

The Urban Renewal Plan did not authorize the use of Tax Increment Financing to create a funding source to address blighting factors.

The LRC reviewed and approved the draft RFP at its December 15, 2015 meeting. The City Council also reviewed the draft RFP and it was released on January 8, 2016. Responses were due March 10, 2016.

The RFP was broken into several sections to describe the property, related rules and regulations on the property, potential incentives, proposal requirements and preferences, and intended schedule.

DISCUSSION:

As noted above, in response to the RFP staff received one proposal: Seminole Land Holding, LLC and Centennial Valley Investments, LLC, the current owner of the property, proposes to construct a King Soopers Marketplace on the property. Relative to the submittal requirements in the RFP, the proposal can be summarized as follows:

Submittal Requirements

1) Identify and describe the Developer

The proposal is from Seminole Land Holding, LLC and Centennial Valley Investments, LLC. Tom Garvin is the majority owner and manager. His address is 8758 West Phillips Road, Boulder, CO 80301. The main contact for the group is Rick Dunn of Dunn & Associates, 7676 Quince Ct., Englewood, CO 80112.

2) Describe relevant project experience

The proposal indicates Rick Dunn has developed numerous retail centers over the past 30 years. Chuck Woods of Chandelle Development will consult with Mr. Dunn. Mr. Woods has developed many shopping centers from Ft. Collins to Pueblo. His most recent project is the redevelopment of the Lakeside Shopping Center, anchored by Wal-Mart. A letter submitted as part of the proposal by Joel Starbuck, Division Real Estate Manager for King Soopers/City Market, states, "We are comfortable with the experience of the development group you represent and are hopeful that mutually acceptable terms can be negotiated."

3) Provide a summary of the development proposal

The proposal is to build a King Soopers Marketplace store, comprised of approximately 124,000 square feet. According to the submitted proposal, King Soopers estimates this store would generate gross sales totaling \$1,000,000 per week (\$52,000,000 per year). Building elevation drawings from a previous King Soopers Marketplace project were provided to show an example of the exterior finish of the building. Estimated construction costs are \$20,000,000. They expect the development and construction process to take 20 months.

4) Documentation outlining control of the property

Seminole Land Holding, LLC and Centennial Valley Investments, LLC own the property. They submitted a copy of the signed special warranty deed to prove their ownership. The Boulder County Assessor lists these entities as owners of the property.

5) Requested assistance from the LRC or City to advance the project

Seminole Land Holding, LLC and Centennial Valley Investments, LLC expect a development agreement to include "cost sharing, public assistance, tax rebates, and modification of the property use restrictions."

6) Statement regarding willingness to enter into negotiations

The proposal states Seminole Land Holding, LLC, Centennial Valley Investments, LLC, and King Soopers would like to negotiate a Development Agreement with the City that will spell out the responsibilities of each party. These responsibilities would include but are not limited to: cost sharing, public assistance, tax rebates and modification of the property use restrictions.

Addressing Blight Factors

The July 2014 Conditions Survey conducted by Urban Revitalization Consulting found four blight factors on the Property. The City Council approved Resolution 60, Series 2014 on October 17, 2014, finding and declaring the property a blighted area based on the existence of the blight factors in the Study. The City Council also approved the 550 S. McCaslin Boulevard Urban Renewal Plan by Resolution 58, Series 2015 on September 1, 2015. The property owner and tenants provided letters stating they did not object to the property being determined to be blighted or included in the urban renewal area.

The following lists the four blight factors set out in the Conditions Survey, together with the reasons set forth in the Survey for each determination, and followed by staff comments on how the proposal addresses each blight factor.

- 1) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
 - a. Lot configuration results in former Sam's Club building being narrow and deep with respect to the front entrance, rather than shallow and wide
 - b. Building orientation makes it difficult to partition effectively; resulting spaces would be too narrow and deep for adequate retail layout
 - c. Other non-retail uses that might be compatible with a deep, narrow layout are prohibited

How the proposal addresses this blight factor:

The proposal necessitates a full redevelopment of the property with the existing building being demolished and a new building with new dimensions constructed. The new building will have different dimensions, eliminating the current faulty layout of the building.

- 2) Deterioration of site or other improvements;
 - a. Facility is 127,000 square feet with a 600+ car parking lot, requiring significant upkeep expenses
 - b. Currently only used during a small portion of the time by a community church, which does not generate the revenue needed for full maintenance
 - c. Potholes, cracked parking curbs, and other signs of lower maintenance levels are evident

How the proposal addresses this blight factor:

The proposal necessitates a full redevelopment of the property. The new use would be a King Soopers Marketplace retail grocery operation and would be open 7 days a week. Deteriorated elements on the property (building and parking lot) would be replaced or fixed during the redevelopment of the site.

- 3) Defective or unusual conditions of title rendering the title nonmarketable;
 - a. Restrictive covenants put in place at time of development to limit competition between tenants and sharply limit entertainment uses
 - b. Most notable restriction is that no competing grocer to Albertson's is allowed
 - c. More broad restrictions put in place during sale from Sam's Club to current owners after the store closed
 - d. No stores selling a range of merchandise "at a discount" allowed, which is the use the site was originally developed
 - e. Additional restrictions on entertainment uses put in place during recent sale
 - f. Viable tenants who would fully utilize the property would likely be prevented from doing so

How the proposal addresses this blight factor:

The RFP submittal states the proposal is contingent upon the City and LRC removing or disallowing the restrictive covenants on the Property. Action to remove the restrictive covenants would address this blight factor. The grocery restriction would need to be removed for the proposed use to be allowed on the property.

- 4) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements.
 - a. Underutilized property
 - b. Parking lot sits mostly empty during normal business hours
 - c. Community Church uses property during only a small portion of the week

How the proposal addresses this blight factor:

Facilitating the proposed use (retail grocery) would fully utilize the property, have the parking lot used during normal business hours, and the building would be used 7 days a week.

The LRC has stated concerns previously that the Urban Renewal Plan does not create a funding source to address the blighting factors. Commissioners have stated their desire that other entities must be responsible for financial obligations to implement the 550 S. McCaslin Urban Renewal Plan. Staff's intent is that the Development Agreement would include terms allocating responsibilities for financial obligations to implement the Plan.

RECOMMENDATION:

Staff believes the proposal addresses the present blighting factors on the Property. The proposal also meets the objectives of the 550 S. McCaslin Urban Renewal Plan in that it;

- Encourages a retail rich environment where area businesses and residents can be successful,
- Redevelops the property,
- Increases retail activity by encouraging occupancy of the Property, and
- Addresses the present blighting factors on the Property through private development.

As a next step, staff recommends commencing negotiations for a development agreement. Given the Cooperation Agreement between the LRC and City and the City's role regarding incentives, staff recommends the City serve as the lead for negotiations.

Therefore, **staff recommends that the LRC consider adoption of the following motion:**

"I move that the LRC find and determine that the proposal submitted for redevelopment of the 550 S. McCaslin Urban Renewal Area meets the objectives of the Urban Renewal Plan and will serve to mitigate blight in the Plan Area and on that basis the LRC recommend that the City Council authorize staff to negotiate a development agreement for the proposal, with any such agreement to be returned to the LRC for its consideration at a later date."

ACTION:

As noted in the above-suggested motion.

ATTACHMENT(S):

1. Proposal from Centennial Valley Investments, LLC and Seminole Land Holdings, LLC
2. Link to [550 S. McCaslin Urban Renewal Plan](#)
3. Link to [550 S. McCaslin RFP released January 8, 2016](#)
4. Link to [Restrictive Covenants](#)



7676 South Quince Ct.
Englewood, CO 80112
303-779-5416

Redevelopment Proposal
550 South McCaslin Boulevard
Louisville, Colorado
March 10, 2016

The following proposal is made to the Louisville Revitalization Commission as per their request on the above referenced property. The proposal is being made by Seminole Land Holding, LLC. and Centennial Valley Investments, LLC. the owners of the property. Tom Garvin is the majority owner and manager of these companies. His address is: 8758 West Phillips Road, Boulder, CO 80301.

The proposed redevelopment of the property will be to construct a new King Soopers Marketplace Store, comprised of approximately 124,000 square feet (see the attached building rendering). A preliminary site plan is being prepared by King Soopers and will be made a part of this proposal. King Soopers estimates their construction cost for the building will be \$20,000,000.00. They estimate the Marketplace Store will generate \$1,000,000.00 per week in gross sales. Their proposed building and its use are in compliance with the current zoning and the City's General Development Plan.

As part of this proposal, CLH, CVI and King Soopers would like to negotiate a Development Agreement with the city that will spell out the responsibilities of each party. These responsibilities would include but are not limited to: cost sharing, public assistance, tax rebates and modification of the property use restrictions to accomplish the desired success of the project.

The proposed use, being a super market of greater than 5,000 square feet, is not in compliance with the existing Use Restriction Covenant that was recorded with the original Covenants, Conditions and Restrictions for the Centennial Valley Subdivision. As a result of the grocery use restriction, this proposal is contingent

upon the City and the LRC removing or disallowing the restriction from the CC&R's that are recorded on Lot 2 of the Subdivision.

It should be noted that SLH and CVI have made three written offers to purchase the adjoining Albertson's property. These offers were made in an attempt to prevent Albertsons, the beneficiary of the grocery restriction, from objecting to our proposed redevelopment. Unfortunately, Albertsons did not respond to any of the offers.

The removal of this use restriction will allow the construction of a very successful King Soopers grocery business. It will have a positive impact benefiting the City, the surrounding businesses and the residential community. This will end the existing blighting factors on this property.

As stated in the RFP, Rick Dunn is the contact for SLH and CVI, the owners of the property. His company, Dunn and Associates will assist King Soopers in the redevelopment of the property. Rick has developed numerous retail centers over the past 30 years. Chuck Woods of Chandelle Development is a consultant to Rick Dunn. His company has developed many shopping centers from Ft. Collins to Pueblo. King Soopers has anchored many of these retail centers. The redevelopment of the Lakeside Shopping Center, anchored by Wal-Mart, is his most recent redevelopment.

In summary, the proposed redevelopment is in compliance with the current zoning and General Development Plan. As soon as the City approves the removal of the grocery use restriction in the CC&R's for the subdivision, King Soopers, SLH and CVI are prepared to move forward with amending the PUD, developing the architectural and construction drawings to obtain the necessary permits and build a new King Soopers Marketplace Store. We estimate this process to take 20 months.



Rick Dunn

Mobile: 303 882-1798

rdunn7676@gmail.com



Real Estate

Denver Mailing Address - P.O. Box 5567, Denver, Colorado 80127
General Office & Warehouse - 65 Tejon St., Denver, Colorado 80223
(303) 778-3346 - Fax (303) 715-4546



January 22, 2016

Richard Dunn
Centennial Valley Investments, LLC
c/o Dunn & Associates
7676 South Quince Court
Centennial, CO 80112

Re: Former Sam's Club Building
550 So. McCaslin Boulevard, Louisville, CO 80217

Dear Rick:

I understand that Centennial Valley Investments is now the owner of the of the former Sam's Club building in Louisville, CO at the above stated address. As you, Rick Dunn and the real estate department of King Soopers have discussed, Dillon Companies, Inc., doing business as King Soopers, has a potential interest in that location for a new 123,000 square foot King Soopers Marketplace store.

Based on our preliminary review and previous discussions, King Soopers is very interested in potentially becoming a tenant or owner at this location provided that the site has no unusual public or private impediments to development. We are comfortable with the experience of the development group you represent and are hopeful that mutually acceptable terms can be negotiated.

Please keep me advised of the progress of this project so that we may commence more formal discussions regarding King Soopers' participation at the appropriate time.

Best Regards,



Joel Starbuck

Division Real Estate Manager
King Soopers/City Market

Return recorded document to:

Stewart Title Guaranty Company
10 S. Riverside Plaza, Suite 1450
Chicago, IL 60606
Attn: Michael Lebovitz

SPECIAL WARRANTY DEED

This **SPECIAL WARRANTY DEED** is made effective _____, 2014, between **SAM'S REAL ESTATE BUSINESS TRUST**, a Delaware statutory trust, with an address of 702 S.W. 8th Street, Bentonville, AR 72716 ("Grantor"); and **CENTENNIAL VALLEY INVESTMENT, LLC**, a Colorado limited liability company, and **SEMINOLE LAND HOLDING, INC.**, a Colorado corporation, as tenants-in-common with undivided interests of 26.027397% and 73.972603%, respectively, with an address of 8758 W. Phillips Road, Boulder, CO 80301 (collectively, "Grantee").

W I T N E S S E T H:

THAT GRANTOR, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, does hereby forever grant, bargain, sell, convey and confirm to Grantee, and its successors and assigns, a certain tract of land, together with all improvements and fixtures of any kind thereon, including, but not limited to, a retail building, situated, lying, and being in the City of Louisville, Boulder County, Colorado, as more particularly described to wit:

See Exhibit "A" attached hereto and made a part hereof ("Property");

TO HAVE AND TO HOLD said Property unto Grantee, and its successors and assigns, forever, with all tenements, appurtenances and hereditaments thereunto belonging, subject to easements, conditions, restrictions and other matters of record. Notwithstanding the foregoing, Grantor hereby expressly saves, excepts and reserves from this conveyance to itself, its successors and assigns, forever, all geothermal steam and heat and all metals, ores and minerals of any nature whatsoever in or upon the Property including, but not limited to, quartz, brine, coal, lignite, peat, oil and gas, including coal seam gas, together with the right to enter upon the Property for the purpose of exploring the same for such geothermal resources, metals, ores and minerals, and drilling, opening, developing and working mines and wells on the Property and taking out and removing there from, including by surface mining methods, all such geothermal

resources, metals, ores and minerals, and to occupy and make use of so much of the surface of the Property as may be reasonably necessary for such purposes.

This conveyance is expressly subject to the following conditions and restrictions:

(a) The Property will not be used for or in support of the following: (i) a grocery store or supermarket, as hereinafter defined below; (ii) a wholesale club operation similar to that of a Sam's Club owned and operated by Walmart; (iii) a discount department store or other discount store, as hereinafter defined; (iv) a pharmacy; or (v) gaming activities (including but not limited to gambling, electronic gaming machines, slot machines and other devices similar to the aforementioned), billiard parlor, any place of recreation/amusement, or any business whose principal revenues are from the sale of alcoholic beverages for on or off premises consumption (the "Property Restrictions"). "Grocery store" and "supermarket", as those terms are used herein, shall mean a food store or a food department containing more than thirty-five thousand (35,000) square feet of gross leasable area, for the purpose of selling food for consumption off the premises, which shall include but not be limited to the sale of dry, refrigerated or frozen groceries, meat, seafood, poultry, produce, delicatessen or bakery products, refrigerated or frozen dairy products, or any grocery products normally sold in such stores or departments. "Discount department store" and/or "discount store", as those terms are used herein, shall mean a discount department store or discount store containing more than fifty thousand (50,000) square feet of gross leasable area, for the purpose of selling a full line of hard goods and soft goods (e.g. clothing, cards, gifts, electronics, garden supplies, furniture, lawnmowers, toys, health and beauty aids, hardware items, bath accessories and auto accessories) at a discount in a retail operation similar to that of Walmart. Notwithstanding the foregoing, the Property Restrictions shall not apply to Wal-Mart Stores, Inc., or any parent company, affiliate, subsidiary, or related company.

(b) The Property shall not be used for or in support of the following: (i) adult book store, adult video store (an adult video store is a video store that sells or rents videos that are rated NC-17, X, XX, XXX, or of a rating assigned to works containing material more sexually explicit than XXX, by the film rating board of the Classification and Rating Administration), "adult" business activities, including without limitation any massage parlor, escort service, facility with nude (or partially nude, bathing suit-clad or lingerie-clad) models or dancers or any establishment selling or exhibiting sexually explicit materials; or (ii) bar or night club (the "Noxious Use Restrictions").

(c) The Property Restrictions shall remain in effect for a period of twenty-five (25) years; **provided, however, Grantor agrees to release the Property Restrictions from the public record with reasonable promptness upon the payment to Grantor by Grantee of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS.** The Noxious Use Restrictions shall be perpetual unless applicable law prohibits a perpetual restriction, in which case the Noxious Use Restrictions shall remain in effect for the maximum amount of time allowed by law. The aforesaid covenants, conditions, and restrictions shall run with and bind the Property, and shall bind Grantee or an affiliated entity, or its successors or assigns, and shall inure to the benefit of

and be enforceable by Grantor, or an affiliated entity, or its successors and assigns, by any appropriate proceedings at law or in equity to prevent violations of such covenants, conditions, and restrictions and/or to recover damages for such violations, including without limitation damages incurred by Grantor, or an affiliated entity, concerning the business conducted on the land adjacent to the Property.

No representations or warranties of any kind have been made by Grantor or anyone on its behalf to the Grantee as to the condition of the Property described herein or any improvements thereon erected, if any, and it is understood and agreed by the parties that the Property is sold **“AS IS, WHERE IS – WITH ALL FAULTS AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED.”**

Grantor makes no warranty or representation regarding the condition of the Property, including, without limitation, environmental or ecological condition, it being understood that the Grantee is taking the Property **“AS IS, WHERE IS – WITH ALL FAULTS AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED.”**

Without limiting the foregoing, Grantee hereby covenants and agrees that Grantee accepts the property “AS IS” and “WHERE IS”, and with all faults and defects, latent or otherwise, and that Grantor is making no representations or warranties, either expressed or implied, by operation of law or otherwise, with respect to the quality, physical conditions or value of the Property, the Property’s habitability, suitability, merchantability or fitness for a particular purpose, the presence or absence of conditions on the Property that could give rise to a claim for personal injury, property or natural resource damages; the presence of hazardous or toxic substances, materials or wastes, substances, contaminants or pollutants on, under or about the Property, or the income or expenses from or of the Property.

AND SAID GRANTOR does hereby warrant the title to said Property, and will defend the same against the lawful claims of all persons claiming by, through and under Grantor, but none other, subject to the easements, encumbrances, restrictions, and other matters of record, the conditions and restrictions as stated herein, and subject to real property taxes for the year of 2014, and thereafter.

[Signature page follows]

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed in its name by its Senior Director and caused its seal to be hereto affixed the 20th day of January, 2014.

**SAM'S REAL ESTATE
BUSINESS TRUST,**
a Delaware statutory trust

By: [Signature]



ACKNOWLEDGEMENT

STATE OF ARKANSAS)
) §§
COUNTY OF BENTON)

In the State of Arkansas, County of Benton, on this January 20, 2014, before me, the undersigned, a Notary Public in and for said County and State, personally appeared Jeffery G. Snyder to me personally known, who being by me duly sworn did say that he/she is Senior Director of the Grantor in the foregoing special warranty deed, and that the seal thereto affixed is the seal of said Sam's Real Estate Business Trust, and that said special warranty deed was signed, sealed and delivered by him/her on behalf of said trust by authority of its Managing Trustee and said Jeffery G. Snyder acknowledged said special warranty deed to be the free act and deed of said trust.

WITNESS MY HAND and notarial seal subscribed and affixed in said County and State, the day and year in this certificate above written.

By: Nancy R. Donckers
Name: Nancy R. Donckers
Notary Public

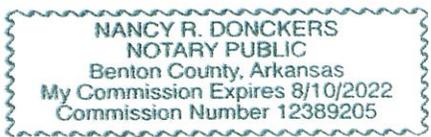


Exhibit "A"
to Special Warranty Deed

[Legal Description]

Lot 2, CENTENNIAL VALLEY PARCEL O, FILING NO. 7

Together with an undivided 33.03% interest in Lots 10 and 11, Centennial Valley Parcel O, Filing No. 3,
County of Boulder, State of Colorado.