

9212514

WNT # D403901
WHEN RECORDED RETURN TO:
Santa Fe Palms, LLC
71 East Wadsworth Park Drive
Draper, UT 84020

9212514
11/01/2004 10:57 AM \$313.00;
Book - 9055 Pg - 6785-6795
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
METRO NATIONAL TITLE
BY: ZJM, DEPUTY - WI 11 P.

**NOTICE OF LEASE PROVISIONS
AND DECLARATION**

THIS NOTICE OF LEASE PROVISIONS AND DECLARATION is made this 25
day of October, 2004, by SANTA FE PALMS, LLC, a Utah limited liability company
("SFP"), and TEMPE EXPRESS, LLC, a Utah limited liability company ("TPE.") SFP and TPE
are sometimes collectively referred to herein as "Declarants".

\$31.00

Parcel # 27-27-379-018
013
012

Recitals

A. TPE owns certain real property (the "Retail Premises") in Salt Lake County, State of Utah, depicted on Exhibit "A" (the "Site Plan") attached hereto and incorporated by reference herein, and more particularly described on Exhibit "B" attached hereto and incorporated by reference herein. SFP is the owner of certain other real property (the "Leased Premises") located immediately adjacent to the Retail Premises and more particularly described on Exhibit "C" attached hereto and incorporated by reference herein.

B. The Leased Premises are leased to CSK Auto, Inc., an Arizona corporation, pursuant to a Lease (the "Lease") between CSK Auto, Inc., as Tenant, and Exchange Holdings Corporation Three, a Utah corporation, as Landlord, dated July 1, 2004. In the Lease, the Landlord has made certain covenants and agreements with CSK Auto, Inc. which affect both the Leased Premises and the Retail Premises. The landlord's interest under the Lease was subsequently assigned by Exchange Holdings Corporation Three to SFP.

C. Declarants desire to adopt this Declaration to ensure that the covenants and agreements made with CSK Auto, Inc. in the Lease will continue to be honored as they affect the ownership and use of the Retail Premises, and to protect and preserve the value of both the Retail Premises and the Leased Premises and the improvements which are constructed or intended to be constructed thereon.

Terms and Conditions

NOW, THEREFORE, Declarants do hereby declare that, during the term of this Declaration as specified hereinbelow, the Retail Premises described on Exhibit "B" shall be held, sold, conveyed, transferred, leased, subleased, used and occupied subject to the easements, covenants, conditions and restrictions set forth herein and which easements, covenants, conditions and restrictions shall run with said real property and all portions thereof and shall be binding upon all parties having or acquiring any right, title or interest in and to all or any portion of said real property, and the respective heirs, successors and assigns of such parties.

1. Definitions for Entire Declaration. As used in this Notice of Lease Provisions and Declaration, the following terms shall have the meanings set forth in this paragraph 1:

Applicable Lease Covenants shall mean those particular covenants of the Lease restated in paragraph 3 below which affect, or may affect, the use and enjoyment of the Retail Premises.

Declarants shall mean Santa Fe Palms, LLC, a Utah limited liability company and Tempe Express, LLC, a Utah limited liability company, collectively.

Declaration shall mean this Notice of Lease Provisions and Declaration.

Lease shall mean that certain Lease between CSK Auto, Inc., as Tenant, and Exchange Holdings Corporation Three, a Utah corporation, as Landlord, dated July 1, 2004.

Leased Premises shall mean that real property located in Salt Lake County, State of Utah, described on Exhibit "C" attached hereto.

Owner shall mean any party, whether such party shall be an individual, corporation, limited liability company, joint venture, partnership or association, which holds in fee title, the rights and incidents of ownership of real property as evidenced in the official records of Salt Lake County, State of Utah. The term "Owner" shall not refer to any party that shall have such interest solely as security for performance of any obligation, including a mortgage.

Retail Premises shall mean that real property located in Salt Lake County, State of Utah, described on Exhibit "B" attached hereto.

SFP shall mean Santa Fe Palms, LLC, a Utah limited liability company.

TPE shall mean Tempe Express, LLC, a Utah limited liability company.

2. Further Definitions Used in Applicable Lease Covenants. The Lease uses certain defined terms other than those mentioned in paragraph 1 of this Declaration. In order to clarify the Lease provisions which are restated in paragraph 3 below, the following Lease definitions are provided, which apply only to the defined terms when used in the Applicable Lease Covenants:

CC&Rs as used in the Applicable Lease Covenants means the provisions of that certain Declaration of Restrictions and Grant of Easements recorded against the Shopping Center on June 4, 2003 as document 8675263, in the records of the Salt Lake County Recorder.

Landlord's Premises as used in the Applicable Lease Covenants means both the Leased Premises and the Retail Premises.

Premises as used in the Applicable Lease Covenants means the Leased Premises, as defined in paragraph 1 above and as described on Exhibit "C" attached hereto.

Shopping Center means the property commonly known as IFA Shopping Center as depicted on Exhibit "A."

Site Plan means the Site Plan attached to this Declaration as Exhibit "A".

Tenant means CSK AUTO, INC., an Arizona corporation.

Term shall mean the term of this Declaration, as defined in paragraph 6 hereinbelow.

3. Notice of Lease Provisions. The Lease contains, among other provisions, the following provisions (the "Applicable Lease Covenants") which affect or could affect the ownership and use of the Retail Premises:

"4. Development of and Changes to Landlord's Premises by Landlord. . . . As part of this development and prior to the Landlord's Delivery Date, Landlord, at Landlord's expense, will establish, construct and complete the accesses from the existing highways and roads to adequately serve the Landlord's Premises and the Premises, all Common Areas (as defined below), including sidewalks, access streets and parking areas (including the surfacing of any access streets which Landlord is required to construct, and the parking areas, with a hard-surface pavement), construct the monument sign and make suitable provision for marking the parking and access areas, illumination, landscaping and for ingress and egress to adjoining highways and/or roads, all as indicated on the Site Plan and the Plans and Specifications. The location, size and height of buildings in the Landlord's Premises and other tenant spaces therein, the parking configuration, landscaping, signage and the medians, ingress, egress and access areas in and to the Landlord's Premises shall remain substantially the same as shown on the Site Plan, and the parking ratio for the Landlord's Premises shall be at least as shown thereon, but in no event shall said ratio be less than four parking spaces per 1,000 square foot of leasable building area or such greater parking ratio as required by applicable zoning requirements. Landlord shall not permit any construction traffic or construction related activities to unreasonably interfere with the conduct of Tenant's business."

"5. Easements. In addition to and simultaneously with the lease of the Premises, Landlord grants to Tenant certain nonexclusive leasehold easements over or upon certain areas of Landlord's Premises and Shopping Center, as set forth below and in the CC&R's, which easements shall run as covenants with the land during the Term and shall expire or terminate simultaneously with this Lease, except as provided below.

(a) Construction Easements. For the period of Tenant's fixturing and stocking of the Premises, and any renovation or reconstruction thereof, Landlord grants to Tenant a nonexclusive easement across a mutually agreeable designated route, providing access to and from the public roadways nearest to the Premises, over the Common Areas for the purpose of construction access to the Premises.

(b) Utility Easements. During the Term, upon prior reasonable request of Tenant, Landlord agrees to cooperate with Tenant in obtaining such underground, public or private utility easements as Tenant deems reasonably necessary, without unreasonably interfering with the use by Landlord or any other tenants of the Common Areas or any other portion of the Landlord's Premises, for the benefit of the Premises. For the purpose of exercising the rights granted in this Section, Tenant and/or the utility provider shall have the right to enter upon and use the Common Areas to install the utility systems, to such extent and so long as reasonably necessary to accomplish such purpose, subject to restoration of the Common Areas following such installation and any other reasonable conditions and requirements imposed by Landlord.

(c) Common Area Easement. During the Term, Landlord grants to Tenant, for the benefit of the Premises, the nonexclusive right, privilege and easement to use the Common Areas for their intended purposes and to permit Tenant and its employees, agents, subtenants, assignees, licensees, suppliers, customers and invitees to use the same, in common with Landlord, its successors, assigns, employees, agents, lessees, licensees, suppliers, customers and invitees and all other persons claiming by or through them, for the purposes (without limitation) of parking and pedestrian, service and vehicular access, ingress and egress to, from and between the Premises and the streets and highways abutting and adjacent to the Shopping Center.

(d) Non-Dedication. None of the easements granted by the parties to this Lease is intended, nor shall any of them be construed, as a dedication of any portion of the Landlord's Premises for public use, and the parties will refrain from taking any action which would cause such a dedication and will take whatever steps may be necessary to avoid any such dedication, except as may be agreed upon in writing by the parties hereto or their respective successors or assigns."

"6. Common Areas and Common Area Maintenance.

(a) Definition of Common Areas. The term "Common Areas" is defined in the CC&R's and includes the parking areas, lanes, drives, entrances, truck passageways, sidewalks, ramps, stairways, landscaped and other unpaved areas, parking lot lighting facilities and equipment, directional and traffic signs and shared utility facilities which do not exclusively serve a single tenant located in the Shopping Center and intended and available for the common use of all of the tenants within the Shopping Center, their subtenants, licensees, and business invitees, but including in any event all of such area shown on the Site Plan, less any portion of such areas upon which buildings are later built as expressly permitted by the terms of this Lease.

(b) Common Area Maintenance. Landlord shall be responsible for maintaining and repairing the Common Areas on the Landlord's Premises in a first-class manner, including without limitation, cleaning, maintaining any monument sign and other sign structure(s) not specific to a particular tenant, snow removal and ice treatment, removal of Common Area trash and garbage, lighting, repairing the parking area, and maintaining landscaping, all such work to be referred to collectively as "Common Area Maintenance". Pursuant to the CC&R's, the owners of the other lots within in the Shopping Center, exclusive of the Landlord's Premises, separately maintain the Common Areas on their respective lots. . . ."

"10. Payment of Utility Bills. . . . Landlord shall pay when due all utility charges incurred in the operation of the Common Areas of the Landlord's Premises."

"13. Insurance.

(a) Property Damage. . . . During the Term, Landlord shall keep in full force and effect a policy of Special Form property insurance covering loss or damage to the Landlord's Premises, including the Premises, but excluding Tenant's betterments

to standard Shopping Center finish and Tenant's removable trade fixtures in the amount of full insurable replacement value thereof, with a commercially reasonable deductible, for which Landlord shall be fully responsible. . . .

(c) Workers' Compensation Insurance. To the extent required by law, Landlord and Tenant shall maintain state workers' compensation insurance in the statutorily mandated limits covering their respective employees in statutory limits, or maintain such alternate coverages or arrangements as legally permissible. . . .

(e) Common Area, Additional Area and Third Party Tenant Insurance. During the Term, Landlord shall keep in full force and effect, in form reasonably acceptable to Tenant, a policy or policies of commercial general liability insurance, with bodily injury and property damage coverage with respect to the Common Areas of the Landlord's Premises and with respect to all other areas of the Landlord's Premises which are not adequately and separately insured by other tenants (the "Additional Areas"). Said policies shall name Tenant as an additional insured to the fullest extent Tenant has an insurable interest. The limits of such policies shall be. . . [not less than \$2,000,000.00 combined single limit for bodily injury and property damage.] The cost of the premiums for liability insurance relating to Common Areas of the Landlord's Premises shall be in line with similar premiums of the type for similar centers and shall be an element of CAM Charges.

(f) Policy Provisions. All policies of insurance enumerated above shall be provided by insurance carriers with a financial rating of at least VII and a policy holder's rating of not less than A- in "Best's Insurance Guide" and qualified to write insurance in the state in which the Premises are located. All commercial general liability and property damage policies maintained by Landlord or Tenant shall contain a provision that the other party, although an additional insured, shall nevertheless be entitled to recover under said policies for any loss occasioned to it, its servants, agents or employees, by reason of the negligence of said insured party.

(g) Waiver of Right of Recovery and Subrogation. Neither Landlord nor Tenant shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building, structure or other tangible property, or any resulting loss of income, or losses under worker's compensation laws and benefits, even though such loss or damage might have been occasioned by the acts or omissions of such party, its agents or employees; provided the provisions of this subsection shall apply only to the extent of the insurance coverage maintained with respect to such loss or damage.

(h) Evidence of Insurance. Tenant and Landlord shall cause to be issued to each other in lieu of the original policy certificates of insurance reasonably acceptable to the other party and evidencing compliance with the applicable covenants of this Section. The parties shall use best efforts to provide certificates of insurance stating that no expiration, cancellation or material change in the insurance evidenced thereby shall be effective unless thirty (30) days (in all cases other than nonpayment of premium, in which event, ten [10] days) written notice of

such expiration, cancellation or material change shall have been given to Landlord.”

“15. Condemnation.

(a) Definition of Taking and Substantial Taking. For the purpose of this Lease, a “Taking” shall mean any condemnation or exercise of the power of eminent domain by any authority vested with such power or any other taking for public use, including a private purchase in lieu of condemnation by an authority vested with the power of eminent domain; the “Date of Taking” shall mean the earlier of the date upon which title to the Premises or any portion thereof so taken is vested in the condemning authority or the date upon which possession of the Premises or any portion thereof is taken by the condemning authority; and “Substantially All of the Premises” shall mean (i) so much of the Premises as, when taken, leaves the untaken portion unsuitable, in Tenant’s reasonable opinion, for the continued feasible and economic operation of the Premises by Tenant for the same purposes as immediately prior to such Taking or as contemplated herein, (ii) so many of the parking spaces within the Shopping Center are taken such that the parking ratio is reduced to a ratio below that ratio which is required by the zoning ordinance applicable to the Premises, and Landlord is unable to provide substantially equivalent alternative parking reasonably acceptable to Tenant within sixty (60) days after such Taking, or (iii) the ingress and egress to the Premises is taken and/or altered and Landlord is unable to provide substantially equivalent alternative ingress and egress reasonably acceptable to Tenant within thirty (30) days after such Taking. . . .

(d) Landlord’s Obligations Upon Any Taking. In the event of any Taking following which the Lease continues in effect, Landlord shall make all necessary restorations to all portions of the Common Areas on the Landlord’s Premises and Additional Areas such that they each constitute a complete architectural unit and serve the function originally intended. . . .

(e) Rights Upon Temporary Taking. In the event of a Taking of the Premises, the Common Areas on the Landlord’s Premises and/or any other area within the Landlord’s Premises, or any portion thereof, for temporary use (specifically one not exceeding sixty (60) days in duration), without the taking of the fee simple title thereto. . . [a]ll awards, damages, compensation and proceeds payable by the condemnor by reason of such Taking relating to the Premises, or relating to the Common Areas on the Landlord’s Premises, but reasonably attributable to the Premises, for periods prior to the expiration of the Lease shall be payable to Tenant. All such awards, damages, compensation and proceeds for periods after the expiration of the Lease shall be payable to Landlord. . . .”

“17. Use. Tenant shall initially open, use and operate the Premises as a retail store for the sale of automotive parts, supplies and accessories (the “Products”). . . . So long as the Premises are used for the initial uses set forth above, no other tenant or occupant of the Landlord’s Premises shall be entitled to sell any of the Products other than as an incidental and non-material portion of the goods sold by such tenant or occupant, subject only to rights granted any tenant under a lease in existence as of the date of this Lease. . . .”

“18. Warranties and Representations and Site Covenants.

(a) Landlord's Warranties, Representations and Site Covenants. Landlord represents, warrants and covenants to Tenant that:

* * * * *

(vii) Prohibited Activities. Landlord shall not sell, operate or lease (or permit to be sold, operated or leased) any building or tenant space in any portion of the Landlord's Premises for use as: (A) a restaurant, bar, pub, nightclub, music hall or disco; (B) a bowling alley; (C) a billiard or bingo parlor; (D) a flea market; (E) a massage parlor; (F) a funeral home; (G) a facility for the sale of paraphernalia for use with illicit drugs; (H) a facility for the sale or display of pornographic material (as determined by community standards for the area in which the Shopping Center is located); (I) an off-track betting parlor; (J) a carnival, amusement park, circus, tent sale, pumpkin patch or Christmas tree lot; (K) a facility for the sale of new or used motor vehicles, trailers or mobile homes; (L) a facility for any use which is illegal or dangerous or constitutes a nuisance; (M) a skating rink; (N) an arcade, pinball or computer game room (provided that retail facilities in the Shopping Center may operate no more than four (4) such electronic games incidentally to their primary operations); (O) a banquet hall, auditorium or other place of public assembly; (P) a training or educational facility (including, without limitation, a beauty school, barber college, reading room, school or other facility catering primarily to students or trainees rather than customers); (Q) a theater of any kind; or (R) a gymnasium, sport or health club or spa (collectively, the “Prohibited Activities”).

(viii) Site Covenants.

(A) Prohibited Uses in Common Areas. Landlord shall not seek, nor permit any other occupant of the Landlord's Premises to seek a variance or waiver from the minimum parking requirements applicable to the Landlord's Premises under the applicable zoning code or other applicable ordinance establishing the ratio of parking spaces to building area or otherwise mandating the number of parking spaces required for the Landlord's Premises and the uses contained therein. Parking by employees of Tenant, Landlord and other occupants of the Landlord's Premises shall be only in designated “employee parking” areas, the location of which shall be agreed upon by Landlord and Tenant.

(B) Easements. Landlord shall not subdivide, parcel or otherwise divide the Shopping Center or create, amend, modify, or terminate any easements or existing easement agreements or other agreements relating to the Common Areas affecting the Premises without Tenant's prior written consent, which consent shall be granted or denied in the absolute and sole discretion of Tenant.

(ix) Interference with Tenant's Reception/ Transmission. Landlord shall not install or permit to be installed any radio or other transmitting equipment which would cause any interference with satellite, radio or television reception or transmission in or from the Premises.

(x) Notices Affecting the Premises. Landlord shall promptly forward to Tenant any notice or other communication affecting the Premises, Landlord's Premises or the Shopping Center received by Landlord from any owner of property adjoining, adjacent or nearby to the Premises, Landlord's Premises or the Shopping Center or from any municipal or governmental authority, in connection with any hearing or other administrative procedure relating to the use or occupancy of the Premises, Landlord's Premises Shopping Center or any such neighboring property."

4. Covenant to Comply. TPE, for itself and all successor Owners of the Retail Premises, hereby covenants and agrees that it will comply with the Applicable Lease Covenants to the extent they affect the ownership and use of the Retail Premises, and will cause the Retail Premises to conform to the requirements thereof, with the same force and effect as though TPE and the successor Owner(s) were the Landlord under the Applicable Lease Covenants, as those covenants relate to the ownership and use of the Retail Premises.

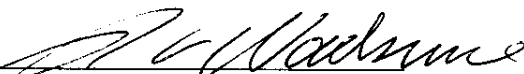
5. Enforcement. The provisions of this Declaration will be enforceable only by the Declarants, the Owner of the Leased Premises, and the holder of any first mortgage lien affecting title to the Leased Premises. In the event of any default hereunder by the Owner of the Retail Premises, then, in addition to all other remedies available at law or in equity, the Declarants, the Owner of the Leased Premises and the holder of a first mortgage lien upon the Leased Premises shall each have the right to injunctive relief to enforce the provisions hereof.

6. Term of Declaration. Unless extended by a written instrument signed by the Owner of the Retail Premises and recorded in the office of the Salt Lake County Recorder, this Declaration shall expire and shall cease to have any binding effect upon the earlier to occur of: (a) the expiration or earlier termination of the Lease; or (b) the twenty-fifth (25th) anniversary of the date that this Declaration is recorded in the Official Records of Salt Lake County, Utah. Upon the earlier to occur of said events, this Declaration shall automatically expire without the requirement of any further act or notice to any party.

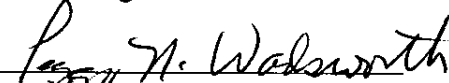
IN WITNESS WHEREOF, Declarants have caused this Declaration to be executed as of the day and year first above written.


SANTA FE PALMS, LLC
By: Wadsworth & Sons, LLC, its Manager

TEMPE EXPRESS, LLC
By: Wadsworth & Sons, LLC, its Manager

By: 
Manager

By: 
Manager

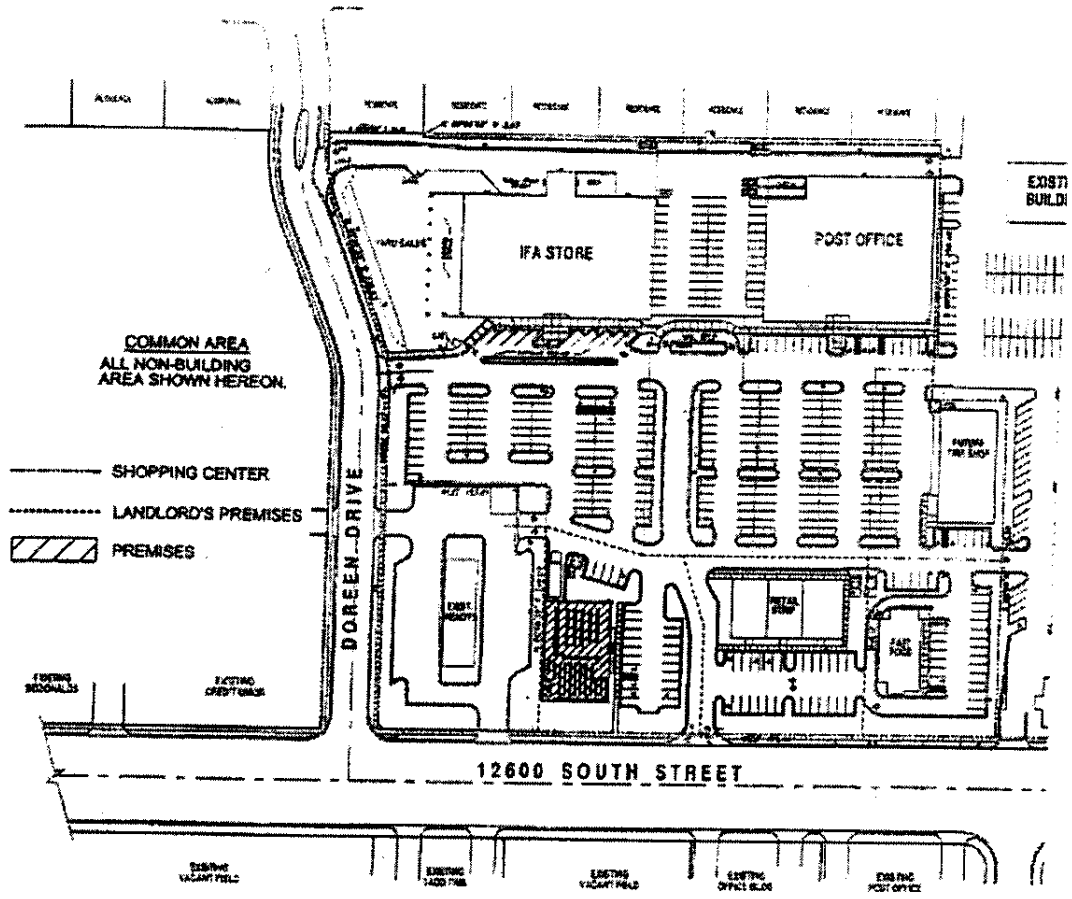
By: 
Manager

By: 
Manager

NO ACKNOWLEDGEMENT
CO. RECORDER

EXHIBIT "A"

Site Plan



CONCEPTUAL SITE PLAN FOR
RIVERTON, UT
 W of NWC of REDWOOD & 12600 SOUTH



NEW BUILDING	
BUILDING SIZE:	7,000 S.F.
PARCEL SIZE:	33,911 S.F.
9' X 20' PARKING SPACES:	24
ACCESSIBLE SPACES (INCLUDED IN TOTAL):	3
TIM WALD	3-30-04

EXHIBIT "B"

Legal Description of Retail Premises

PARCEL 1:

Lot 2, IFA COUNTRY SQUARE SUBDIVISION, according to the Official Plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

PARCEL 2:

Together with the easement rights appurtenant to Lot 2 as created and set forth in that certain Declaration of Restrictions and Grant of Easements recorded June 4, 2003 as Entry No. 8675263 in Book 8811 and Page 1183 of Official Records and in that certain Grant of Easement and Restrictive Covenants recorded July 31, 2003 as Entry No. 8754042 in Book 8853 at Page 3038 of Official Records.

EXHIBIT "C"

Legal Description of Leased Premises

PARCEL 1:

Lot 3, IFA COUNTRY SQUARE SUBDIVISION, according to the Official Plat thereof, on file and of record in the Office of the Salt Lake County Recorder.

PARCEL 2:

Together with easement rights appurtenant to Lot 3 as created and set forth in that certain Declaration of Restrictions and Grant of Easements recorded June 4, 2003 as Entry No. 8675263 in Book 8811 at Page 1183 of Official Records and in that certain Grant of Easement and Restrictive Covenants recorded July 31, 2003 as Entry No. 8754042 in Book 8853 at Page 3038 of Official Records.