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GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
PARR BROWN GEE & LOVELESS
101 S 200 E STE 700
SALT LAKE CITY UT 84111
BY: EEP, DEPUTY - WI 18 P.

AFTER RECORDING, PLEASE RETURN TO:

Lamont Richardson, Esq.
Parr Brown Gee & Loveless
101 South 200 East, Suite 700
Salt Lake City, Utah 84111

AMENDED AND RESTATED DECLARATION

OF

COVENANTS AND RESTRICTIONS

THIS AMENDED AND RESTATED DECLARATION OF COVENANTS AND RESTRICTIONS (this "**Declaration**"), dated as of the 9th day of July, 2015, is executed by ARBOR GARDNER BINGHAM JUNCTION HOLDINGS, L.C., a Utah limited liability company (the "**Declarant**"), VIEW 8, L.C., a Utah limited liability Company ("**View 8**"), and SAVAGE COMPANIES, a Utah corporation ("**Savage Companies**").

RECITALS:

A. View 8 is the owner of a certain parcel of real property the legal description of which is set forth on Exhibit "A" attached hereto and made a part hereof (the "**View 8 Parcel**").

B. Declarant is the owner of a certain parcel of real property the legal description of which is set forth on Exhibit "B" attached hereto and made a part hereof (the "**Declarant Parcel**") and, together with the View 8 Parcel, the "**Burdened Lots**", which are each, individually, a "**Burdened Lot**").

C. Savage Companies is the owner of a certain parcel of real property the legal description of which is set forth on Exhibit "C" attached hereto and made a part hereof (the "**Benefited Lot**").

D. The Burdened Lots and Benefited Lot are subject to that certain Declaration of Covenants and Restrictions dated May 16, 2012, and recorded May 17, 2012 as Entry No. 11393076 in the official records of Salt Lake County, Utah, which was executed by Declarant (the "**Original Declaration**").

E. Section 5 of the Original Declaration provides that the Original Declaration may be amended by an instrument that is executed by all of the Owners of the Lots (as defined below and in the Original Declaration), and Declarant, View 8 and Savage Companies are the sole owners of the respective Lots and have executed this Declaration as an amendment, restatement, and replacement of the Original Declaration in accordance with the terms and conditions set forth below.

DECLARATION:

NOW, THEREFORE, for the foregoing purposes, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Declarant makes the following declarations and establishes the following covenants and restrictions on the Burdened Lots for the benefit of the Benefitted Lot.

1. Definitions. Certain terms which are used in this Declaration are defined in this Declaration prior to this Section. In addition to those previously defined terms, the following terms shall have the meanings indicated.

(a) **“Building or Related Improvement”** means a building or other principal above-ground structure on a Lot (including, without limitation, all extensions or projections thereof, all structures or facilities accessory or integral thereto, and any garages, platforms or docks, storage tanks, canopies or overhangs, porches, enclosed malls, and similar items), but excluding any above ground utility structures pursuant to easements existing on the date hereof, or landscaping.

(b) **“Burdened Lot Owner”** shall mean an Owner of a Burdened Lot.

(c) **“Burdened Lot Owners”** shall mean, collectively, all of the Owners of the Burdened Lots.

(d) **“Eighty Six Foot Restricted Area”** means the area on the Burdened Lots which are more particularly described on Exhibit “D” attached hereto as the Eighty Six Foot Restricted Area.

(e) **“Lot”** means a Burdened Lot or the Benefitted Lot.

(f) **“Lots”** means the Burdened Lots and the Benefitted Lot.

(g) **“Mortgage”** means a recorded mortgage, deed of trust or other security agreement creating a lien on an Owner’s interest in a Lot or a portion of a Lot as security for the payment of indebtedness.

(h) **“Mortgagee”** means the mortgagee, beneficiary or other secured party under a Mortgage.

(i) **“One Hundred Foot Restricted Area”** means the area on the Burdened Lots which are more particularly described on Exhibit “D” attached hereto as the One Hundred Foot Restricted Area.

(j) **“Owner”** means the Person that, at the time concerned, is the owner of record in the office of the County Recorder of Salt Lake County, Utah, of a fee interest in any Lot or portion of any Lot. In the event that, at any time, more than one Person owns the fee interest in a Lot, they shall constitute one (1) Owner, and liability of each such

Person for performance or compliance with the applicable provisions of this Declaration shall be joint and several. Notwithstanding any applicable theory relating to a mortgage, deed of trust, or like instrument, the term "Owner" shall not mean or include a Mortgagee unless and until such Person has acquired fee title to the Lot encumbered by a Mortgage pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof.

(k) "Person" means a natural person or a legal entity.

(l) "Restricted Areas" means, collectively, Thirty Foot Restricted Area, Thirty Eight Foot Restricted Area, Seventy-Two Foot Restricted Area, Eighty Six Foot Restricted Area, and the One Hundred Foot Restricted Area.

(m) "Seventy Two Foot Restricted Area" means the area on the Burdened Lots which are more particularly described on Exhibit "D" attached hereto as the Seventy Two Foot Restricted Area.

(n) "Thirty Foot Restricted Area" means the area on the Burdened Lots which are more particularly described on Exhibit "D" attached hereto as the Thirty Foot Restricted Area.

(o) "Thirty Eight Foot Restricted Area" means the area on the Burdened Lots which is more particularly described on Exhibit "D" attached hereto as the Thirty Eight Foot Restricted Area.

2. Restrictive Covenants. So long as Savage Companies is the Owner of the Benefited Lot, in order to preserve the views from the Benefited Lot, all Building or Related Improvements located in the Restricted Areas shall not exceed the following height limitations:

(a) No Building or Related Improvement shall be constructed in the Thirty Foot Restricted Area if such Building or Related Improvements exceeds thirty feet (30') in height measured at the natural grade of the land on which such Building or Related Improvement is constructed.

(b) No Building or Related Improvement shall be constructed in the Thirty Eight Foot Restricted Area if such Building or Related Improvements, excluding the railing, exceeds thirty-eight feet (38') in height measured at the natural grade of the land on which such Building or Related Improvement is constructed.

(c) No Building or Related Improvement shall be constructed in the Seventy Two Foot Restricted Area if such Building or Related Improvements exceeds seventy-two feet (72') in height measured at the natural grade of the land on which such Building or Related Improvement is constructed.

(d) No Building or Related Improvement shall be constructed in the Eighty Six Foot Restricted Area if such Building or Related Improvements exceeds eighty-six feet (86') in height measured at the natural grade of the land on which such Building or Related Improvement is constructed.

(e) No Building or Related Improvement shall be constructed in the One Hundred Foot Restricted Area if such Building or Related Improvements exceeds one hundred feet (100') in height measured at the natural grade of the land on which such Building or Related Improvement is constructed.

The restricted areas are depicted on Exhibit "E" attached hereto and made a part hereof.

3. Reservation of Rights. Except for those liens, rights and interests that have been expressly subordinated to this Declaration pursuant to the Consent and Subordination of Lienholder attached hereto and made a part hereof by this reference, the restrictive covenants imposed on the Restricted Areas in Section 1 of this Declaration shall not affect, limit, impede, impair or otherwise modify the rights of any Person, other than Declarant, having an interest in the Burdened Property as shown in the Salt Lake County Recorder's Office prior to the recoding of this Declaration.

4. Title and Mortgage Protection.

(a) No amendment to this Declaration shall in any way affect the rights of any Mortgagee pursuant to a Mortgage that is recorded at the time of the recordation of the amendment, or the rights of any successor in interest or title to such Mortgagee, either before or after such Mortgagee or its successor enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, unless such Mortgagee has consented in writing to such amendment.

(b) A breach of any of the covenants, provisions, or requirements of this Declaration shall not result in any forfeiture or reversion of title or of any other interest in a Lot. A breach of any of the covenants, provisions, or requirements of this Declaration shall not defeat, impair or render invalid the lien of or other rights under any Mortgage. Unless and until it enters into possession or acquires title pursuant to foreclosure, trustee's sale or any arrangement or proceeding in lieu thereof, a Mortgagee shall have no obligation to take any action to comply with, and may not be compelled to take any action to comply with, any of the covenants, provisions, or requirements of this Declaration.

5. Amendment or Termination; Duration of Declaration. In the event Savage Companies ceases to be the Owner of the Benefited Lot, this Declaration shall automatically terminate and shall be of no further force and effect. In all other events, this Declaration may be amended, but only by an instrument filed for record in the office of the County Recorder of Salt Lake County, Utah that is executed by all of the Owners of the Lots. In all other events, this Declaration may be terminated by an instrument filed for record in the office of the County Recorder of Salt Lake County, Utah that is executed by the Owner of the Benefited Lot. This Declaration shall be and remain in force and effect until amended or terminated pursuant to this Section.

6. Covenants to Run with Land. This Declaration and the covenants created by this Declaration are intended by the Declarant to be and shall constitute covenants running with the

land as to each of the Lots, and shall be binding upon each Owner and any Person who acquires or comes to have any interest in any Lot, and their respective grantees, transferees, lessees, heirs, devisees, personal representatives, successors, and assigns. Each Owner shall comply with, and all interests in all Lots shall be subject to, the terms of this Declaration. By acquiring, in any way coming to have an interest in, or occupying a Lot, the Person so acquiring, coming to have such interest in, or occupying Lot, shall be deemed to have consented to, and shall be bound by, each and every provision of this Declaration.

7. Enforcement and Remedies. The Owner of Lot or any portion of a Lot shall have the right to enforce, through any permitted proceeding at law or in equity, the terms, provisions, restrictions and requirements of this Declaration. Any failure to insist upon the strict performance of or compliance with any of the terms, provisions, covenants and requirements of this Declaration shall not result in or be construed to be an abandonment or termination of this Declaration or any waiver of the right to insist upon such performance or compliance with the terms of this Declaration in the future. If any action or proceeding is brought because of a breach of the provisions of, or to enforce or interpret any of the covenants, provisions, or requirements of, this Declaration, the Owner prevailing in such action shall be entitled to recover from the unsuccessful Owner reasonable attorneys' fees (including those incurred in connection with any appeal), the amount of which shall be fixed by the court and made a part of any judgment rendered.

8. Effective Date. This Declaration, any amendment or termination hereof, and any supplement hereto shall take effect upon its being filed for record in the office of the County Recorder of Salt Lake County, Utah.

9. Titles, Captions and References. All Section titles or captions in this Declaration are for convenience only, shall not be deemed part of this Declaration and in no way define, limit, extend or describe the scope or intent of any provisions of this Declaration. When this Declaration refers to a Section by number or other designation, such reference shall be deemed to be to the correspondingly numbered Section of this Declaration unless the context refers to another agreement, document or instrument.

10. Pronouns and Plurals. Whenever the context may require, any pronoun used in this Declaration shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

11. Applicable Law. This Declaration shall be construed in accordance with and governed by the laws of the State of Utah, without reference to its choice of law rules.

12. Counterparts. This Declaration may be executed in any number of counterparts. Each such counterpart of this Declaration shall be deemed to be an original instrument, and all such counterparts together shall constitute but one agreement.

13. Exhibits. All exhibits annexed to this Declaration are expressly made a part of and incorporated in this Declaration as fully as though completely set forth in this Declaration.

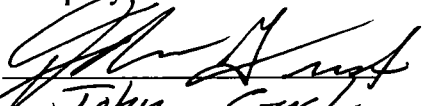
(Signatures begin on following page)

EXECUTED the day and year first above written.


"Declarant"

ARBOR GARDNER BINGHAM JUNCTION
HOLDINGS, L.C., a Utah limited liability company,
by its managers

Arbor Commercial Real Estate L.L.C., a Utah limited
liability company

By: 
Name: John Gust
Its: Manager

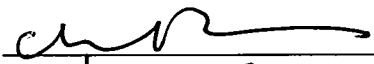
KC Gardner Company, L.C., a Utah limited liability
company

By: 
Name: Christina Gardner
Its: Manager

"View 8"


VIEW 8, L.C., a Utah limited liability company, by
its manager

KC Gardner Company, L.C., a Utah limited liability
company

By: 
Name: Christina Gardner
Its: Manager

"Savage Companies"

SAVAGE COMPANIES, a Utah corporation

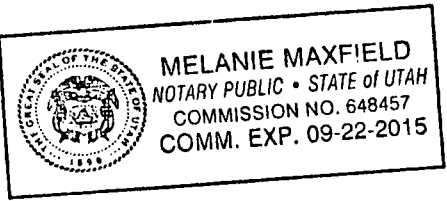
By: 
Name: Kelly Flint
Its: Sr. Vice President

STATE OF UTAH)
 : ss.
COUNTY OF)

On this 27 day of July, 2015, personally appeared before me John Gust, a Manager of Arbor Commercial Real Estate L.L.C., a Utah limited liability company, a manager of Arbor Gardner Bingham Junction Holdings, L.C., a Utah limited liability company, on behalf of said company.

Maffield
NOTARY PUBLIC
Residing at:

My Commission Expires: 9/22/19



STATE OF UTAH)
 : ss.
COUNTY OF SALT LAKE

On this 23 day of July, 2015, personally appeared before me CHRISTIAN GARDNER a Manager of KC Gardner Company, L.C., a Utah limited liability company, a manager of Arbor Gardner Bingham Junction Holdings, L.C., a Utah limited liability company, on behalf of said company.

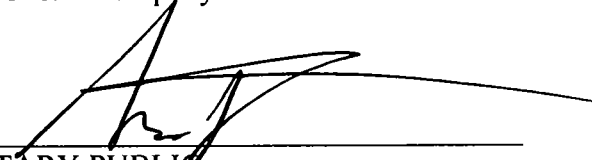
[Signature]
NOTARY PUBLIC
Residing at: DAVIS COUNTY, UT

My Commission Expires: 10.16.16



STATE OF UTAH)
 : SS.
COUNTY OF SALT LAKE

On this 23 day of July, 2015, personally appeared before me CHRISTIAN GARDNER, a Manager of KC Gardner Company, L.C., a Utah limited liability company, a manager of View 8, L.C., a Utah limited liability company, on behalf of said company.

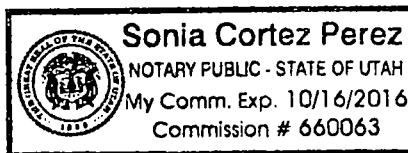


NOTARY PUBLIC

My Commission Expires: 10.16.16

Residing at: DAVIS COUNTY, UT

STATE OF UTAH)
 : SS.
COUNTY OF Salt Lake



On this 22 day of July, 2015, personally appeared before me Kelly Flint, a Sr Vice President of Savage Companies, a Utah corporation, on behalf of said corporation.





NOTARY PUBLIC
Residing at: Salt Lake

My Commission Expires: 05/02/2019

EXHIBIT "A"

TO

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

Legal Description of View 8 Parcel

Lot 2 as shown on the View 8 Hotel Subdivision Amendment Lot 1 of Bingham Junction Savage Subdivision recorded in the Salt Lake County Recorder's Office.

Tax Parcel Id: 21-26-202-006

EXHIBIT "B"

TO

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

Legal Description of Declarant Parcel

Parcel A View 72 Retail Subdivision 2nd Amended, Amending Lot 10 Parcel A of View 72 Retail Subdivision Amended, according to the official plat thereof as recorded in the office of the Salt Lake County Recorder

Tax Parcel Id: 21-26-276-006

EXHIBIT "C"

TO

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

Legal Description of Benefitted Lot

Lot 2 as shown on the Bingham Junction Savage Subdivision as recorded in the Salt Lake County Recorder's Office.

EXHIBIT "D"

TO

DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

Description of Restricted Areas

Thirty Foot Restricted Area

Parcel 1

Beginning at a point being South 00°17'30" West 738.23 feet along the Section Line and West 1,546.27 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence South 18°21'05" West 509.05 feet;
thence North 56°55'12" West 1.56 feet;
thence Northwesterly 69.25 feet along the arc of a 500.00 foot radius curve to the left (center bears South 33°04'48" West and the chord bears North 60°53'15" West 69.19 feet with a central angle of 07°56'06");
thence North 64°51'18" West 0.52 feet;
thence North 18°21'05" East 535.19 feet;
thence Southeasterly 7.11 feet along the arc of a 1,369.90 foot radius curve to the right (center bears South 47°30'39" West and the chord bears South 42°20'26" East 7.11 feet with a central angle of 00°17'51");
thence South 42°11'31" East 73.27 feet to the point of beginning.

Contains 36,489 Square Feet or 0.838 Acres

Parcel 2

Beginning at a point being South 00°17'30" West 1,430.63 feet along the Section Line and West 954.14 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence South 00°17'30" West 70.04 feet;
thence South 88°18'07" West 415.56 feet;
thence North 30°21'58" East 82.60 feet;
thence North 88°18'07" East 374.14 feet to the point of beginning.

Contains 27,640 Square Feet or 0.635 Acres

Thirty Eight Foot Restricted Area

Beginning at a point being South 00°17'30" West 1,422.40 feet along the Section Line and West 677.25 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence Southeasterly 72.30 feet along the arc of a 333.00 foot radius curve to the left (center bears North 80°27'49" East and the chord bears South 15°45'24" East 72.16 feet with a central angle of 12°26'26");

thence South 88°18'07" West 297.01 feet;

thence North 00°17'30" East 70.04 feet;

thence North 88°18'07" East 277.05 feet to the point of beginning.

Contains 19,998 Square Feet or 0.459 Acres

Seventy Two Foot Restricted Area

Parcel 1

Beginning at a point being South 00°17'30" West 1,744.13 feet along the Section Line and West 1,207.61 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence North 68°31'47" West 258.59 feet;

thence North 30°21'58" East 158.20 feet;

thence North 88°18'07" East 240.72 feet;

thence South 18°32'52" West 251.33 feet to the point of beginning.

Contains 48,589 Square Feet or 1.115 Acres

Parcel 2

Beginning at a point being South 00°17'30" West 1,422.40 feet along the Section Line and West 677.25 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence South 88°18'07" West 651.19 feet;

thence North 30°21'58" East 263.93 feet;

thence North 33°11'04" East 17.47 feet;

thence South 67°51'20" East 356.36 feet;

thence South 83°35'13" East 174.63 feet;

thence Southeasterly 69.47 feet along the arc of a 333.00 foot radius curve to the left (center bears South 87°34'59" East and the chord bears South 03°33'35" East 69.35 feet with a central angle of 11°57'12") to the point of beginning.

Contains 86,182 Square Feet or 1.978 Acres

Eighty Six Foot Restricted Area

Beginning at a point being South 00°17'30" West 1,547.48 feet along the Section Line and West 966.53 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

thence South 21°28'13" West 456.91 feet;
thence North 69°00'29" West 441.50 feet;
thence North 30°21'58" East 191.31 feet;
thence South 68°31'47" East 258.59 feet;
thence North 18°32'52" East 251.33 feet;
thence North 88°18'07" East 52.31 feet;
thence South 68°31'47" East 118.04 feet to the point of beginning.

Contains 122,851 Square Feet or 2.820 Acres

One Hundred Foot Restricted Area

Beginning at a point being South 00°17'30" West 814.54 feet along the Section Line and West 1,571.20 feet from the Northeast Corner of Section 26, Township 2 South, Range 1 West, Salt Lake Base and Meridian; and running

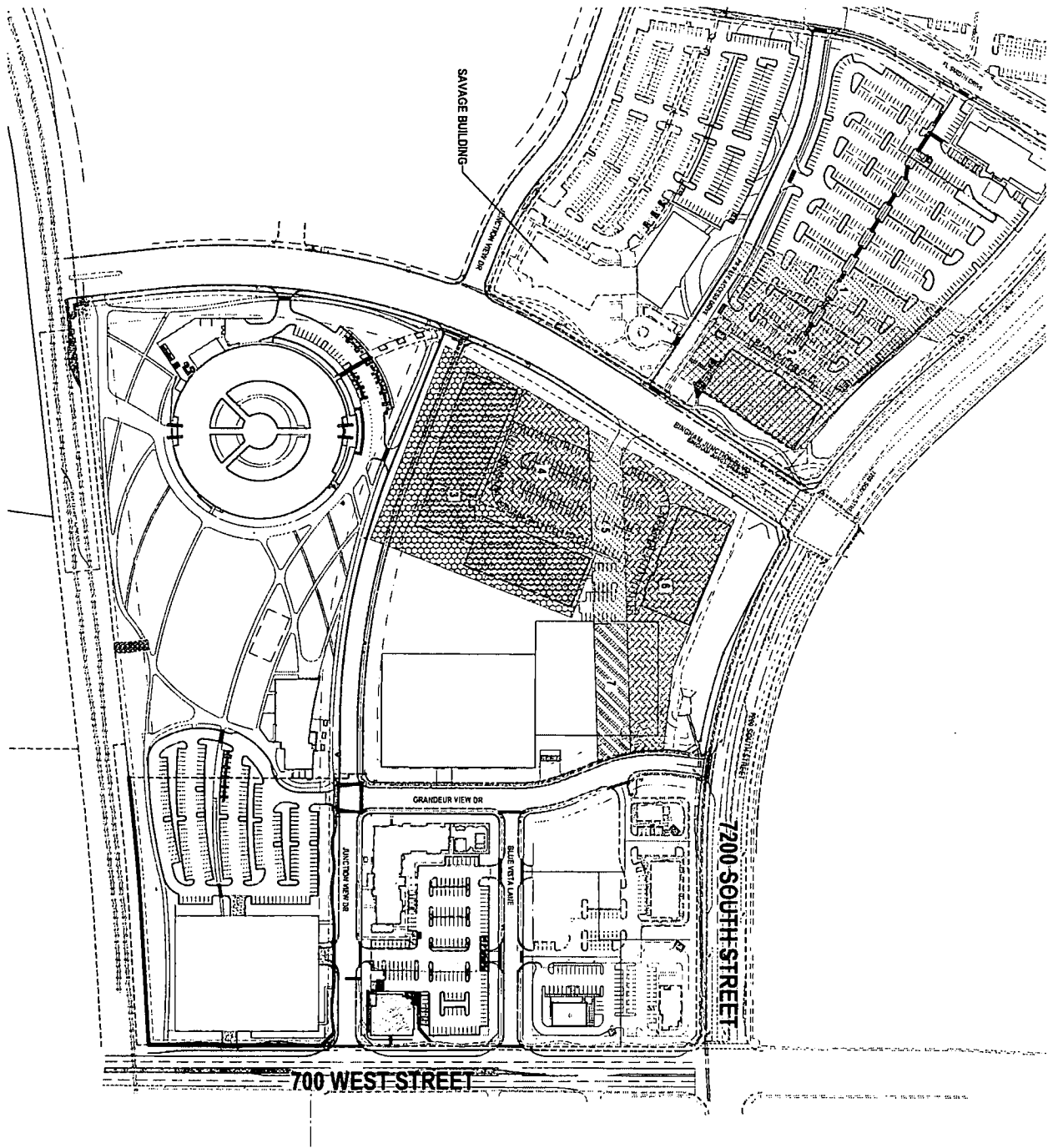
thence South 42°11'35" East 114.45 feet;
thence Southeasterly 247.78 feet along the arc of a 1,397.90 foot radius curve to the left (center bears North 47°20'26" East and the chord bears South 47°44'14" East 247.45 feet with a central angle of 10°09'20");
thence South 33°11'04" West 306.99 feet;
thence North 56°55'12" West 255.68 feet;
thence North 18°21'05" East 388.33 feet to the point of beginning.

Contains 100,246 Square Feet or 2.301 Acres

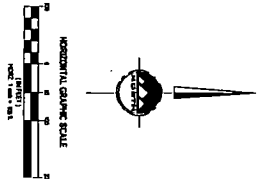
EXHIBIT "E"
TO
DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

Depiction of Restricted Areas

4830-0552-4002, v. 6



- RELATED REPORT REFERENCES:**
- 1. SITE PLAN
 - 2. CONCEPT SCHEMATIC FOR ALL AREAS
 - 3. PRELIMINARY PLANNING REPORT
 - 4. PRELIMINARY PLANNING REPORT
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 - 100. PRELIMINARY PLANNING REPORT



CONSENT AND SUBORDINATION OF LIENHOLDER

Effective as of the 29 day of July, 2015, Wells Fargo Bank, National Association ("Wells Fargo"), as the holder of the liens encumbering the Burdened Lots arising under each of the following documents (including all amendments and/or modifications thereto):

Deed of Trust, dated July 28, 2006, from Arbor/Gardner/Plum Sunset Hills, L.L.C., a Utah limited liability company, for the benefit of Wells Fargo, and recorded on August 3, 2006 as Entry No. 9801582 in Book 9331 at Page 2819 in the Official Records, as amended, restated, supplemented or otherwise modified from time to time;

Construction Deed of Trust, dated November 19, 2007, from Arbor Gardner Bingham Junction Holdings, L.C., a Utah limited liability company, for the benefit of Wells Fargo, and recorded on November 20, 2007 as Entry No. 10281128 in Book 9539 at Page 7100 in the Official Records, as amended, restated, supplemented or otherwise modified from time to time; and

Construction Deed of Trust, dated July 19, 2010, from Arbor Gardner Bingham Junction Holdings, L.C., a Utah limited liability company, for the benefit of Wells Fargo, and recorded on July 19, 2010 as Entry No. 11014001 in Book 9850 at Page 6519 in the Official Records, as amended, restated, supplemented or otherwise modified from time to time;

Deed of Trust, dated March 17, 2015, granted by View 8, L.C., a Utah limited liability company, for the benefit of Wells Fargo, and recorded on March 18, 2015, as Entry No. 12013408 in Book 10306 at Page 2864 in the Official Records, as amended, restated, supplemented or otherwise modified from time to time.

hereby consents to the recording of this Declaration and agrees that the liens evidenced by, and all other rights and interests of Wells Fargo arising under, the foregoing documents shall be and are hereby subordinated to this Declaration.

