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all Swan Lakes Business Park

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**Swan Lakes Business Park
Restrictive Covenants**

DECLARATION

E 1384617 8 2247 P 1416
JAMES ASHMAIER, DAVIS CNTY RECORDER
1998 FEB 27 12:53 PM FEE 35.00 DEP REC
REC'D FOR BACH DEVELOPMENT

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**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS
AND RESTRICTIONS OF THE SWAN LAKES BUSINESS PARK**

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THIS DECLARATION is made this 18th day of February, 1998, by Bach Development Company, a Utah Corporation, hereinafter referred to as "Declarant," as is based upon the following facts:

Declarant is the owner of certain property in the city of Layton, County of Davis, State of Utah, known as the Swan Lakes Business Park, which is more particularly described in Exhibit "A" attached hereto and by this reference incorporated herein, hereinafter referred to as the "Entire Property." and

Declarant desires to develop the Entire Property in individual parcels (hereinafter referred to as "Parcel" or "Parcels") each of which shall be subject to this Declaration.

**ARTICLE I
ARCHITECTURAL CONTROL**

SECTION 1. ARCHITECTURAL REVIEW COMMITTEE. Except for original development by the Declarant, and except for any improvements to any lot accomplished by the Declarant and except for purposes of property maintenance and repair, no building, fence, wall or other improvements or structures shall be commenced, directed, placed moved, altered or maintained upon the property nor shall any construction/building or other alteration thereupon be made until the complete plans and specifications showing compliance with applicable local ordinances and codes and the location, nature, shape, height, material, color, type of construction and/or any other proposed building (including, without limitation, any other information specified by the Architectural Review Committee) shall have been submitted to and approved in writing as to safety, harmony of external design, color and location in relation to surrounding structures and topography and conformity with the design concept for the community by the Architectural Review Committee designated by the Declarant.

SECTION 2. SUBMISSION TO COMMITTEE. No Improvements of a Parcel shall be constructed or be maintained, and no alteration, repainting or refurbishing of the exterior of an improvement situated on a Parcel shall be performed, unless complete plans and specifications therefor have first been submitted to and approved by the Committee, which approval shall not be unreasonably refused.

SECTION 3. APPROVAL PROCEDURES. Any plans or specifications submitted to the Committee shall be approved or disapproved by it in writing within sixty (60) days after submission. In the event Committee fails to take any action within such period, it shall be deemed to have approved the material submitted; provided, however, that with respect to any

such materials which contemplates a variation or waiver of any of the requirements and regulations in the Declaration stated, such variation or waiver shall be deemed to have been refused.

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SECTION 4. STANDARDS. In deciding whether to approve or disapprove plans or specifications submitted to it, the Committee shall use its best judgement to insure that all improvements, construction, landscaping, and alterations on Parcels within the Entire Property conform to and harmonize with the requirements and restrictions of this Declaration.

SECTION 5. NO LIABILITY FOR DAMAGES. The Committee shall not be liable for damages by reason of any action, inaction, approval, or disapproval by it with respect to any request made pursuant to this Article.

SECTION 6. ARCHITECTURAL REVIEW COMMITTEE OPERATION. The Declarant shall act as the Architectural Review Committee until the main 2,000 square foot buildings for each lot have been approved in the Swan Lakes Business Park. When this occurs, the Architectural Review Committee will become the seven owners of the lots comprising the Park. Each lot owner shall be entitled to one vote. The affirmative vote of five out of seven of the members of the Architectural Review Committee shall be required in order to adopt or promulgate any rule or regulation, or to make any finding, determination, ruling or order, or to issue any permit, consent, authorization, approval or the like pursuant to the authority contained in this Article. In the event of a split vote, an arbitrator may be called upon to resolve this issue.

ARTICLE II IMPROVEMENTS

Improvements on Parcels shall be constructed strictly in accordance with the following restrictions and requirements:

SECTION 1. CONSTRUCTION OF IMPROVEMENTS.

A. **Temporary Structures:** No temporary building or other temporary structure shall be permitted on any parcel; provided, however, that trailers, temporary buildings and the like shall be permitted for construction purposes during the construction period of a permanent building. Such structures shall be placed as inconspicuously as practicable, shall cause no inconvenience to Owners or Occupants of other Parcels, and shall be removed no later than thirty (30) days after the date of substantial completion for beneficial occupancy of the Building in connection with which the temporary structure was used.

B. **Architectural Design:** Any building material approved by Layton City for the M-2 zone may be used. All garage delivery and/or overhead doors shall be either on the sides or the rear of the building.

C. **Completion of Construction:** Once begun, any improvements, construction,

landscaping, or alteration approved by the Committee shall be diligently followed to completion.

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D. **Roof Mounted Equipment:** Roof mounted mechanical equipment shall be screened from view from adjacent street properties with either a higher parapet wall or one continual roof screening system that blends with the architectural style of the building.

E. **Raingutter:** Full raingutter on all buildings is required.

F. **Size of Units:** The minimum square footage for the main building on any parcel shall be 2,000 square feet on the main level. The square footage of any second level may be determined by the owner.

G. **Secondary Buildings:** the front facade of any secondary building shall match the main building in both architectural design and materials.

SECTION 2. BUILDING SETBACKS. All buildings shall be set back at least twenty (20) feet from Gordon Avenue and Swan Lake Court, with a minimum of ten (10) feet from the adjoining parcel lines. This setback requirement may be waived by the Committee with the written concurrence of the Owners of the adjoining parcels.

SECTION 3. PARKING AREAS. Parking areas shall be constructed on the Common Areas by the Parcel Owner as follows:

A. Parking Setbacks:

1. All parking areas shall be set back a minimum of twenty (20) feet from property line off dedicated streets.
2. All parking areas shall be set back a minimum of five (5) feet from parcel lines except that if shared parking area extend across Parcel Lines, no side or rear parking setback is required in such shared parking areas, provided that Landscaping be provided in the vicinity of such property lines to break the monotony of the parking areas.

B. Parking Requirements:

1. Parking on the street is prohibited.
2. There shall be sufficient land allocated by the Owner of each Parcel or Parcels to meet the requirements of the city of Layton and the following minimum parking requirements for the following uses:
 - a. Retail and Office Use: One space per 200 square feet of gross floor area.
 - b. Commercial and Office Use: One space per 400 square feet of gross floor area.
 - c. Warehouse Use: One space per employee on largest shift.
 - d. Industrial Use: One space per 800 square feet of gross floor area.
 - e. The forgoing minimum parking requirements may be modified

by the Committee in its sole judgement and discretion, which modification must be in writing, as long as it is approved by Layton City.

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SECTION 4. LOADING SERVICES AND OUTSIDE STORAGE.

A. Each Parcel shall provide sufficient on-site loading facilities to accommodate site activity. All loading movements, including turn around and maneuvering, shall be made off the public right-of-way.

B. Loading docks shall be located and screened so as to minimize visibility from any street. No loading dock shall face a public street.

C. Open storage shall be screened from the view of any street with a maintenance free fence. Storage cannot extend higher than a maximum of eight (8) feet, excluding vehicles. Fence requirements may be modified by the Committee upon written approval.

D. Rubbish and garbage facilities shall not be visible from a public street and must be screened.

E. Screening of loading, service and outside storage areas may consist of a combination of earth mounding, Landscaping, walls and/or fences approved by the Committee.

F. Overhead gas/diesel tanks must be painted once every two years and may not be visible from front street.

SECTION 5. SITE GRADING.

A. Earth Mounding: Along Gordon Avenue within the first twenty (20) feet from property line, earth mounding is required as a screen along the street in front of parking and service areas; mounding is not required where Landscaping extends from street to building.

B. Surface Drainage: A storm drainage system has been developed for use on all lots within the Entire Property. It is mandatory that all surface drainage systems be expressly approved in writing by the Committee prior to the installation thereof.

SECTION 6. SITE LANDSCAPING.

A. Site landscaping includes all planted materials, site furniture, site lighting, and mechanical equipment incidental to any building.

1. A minimum of two (2) feet of landscaping shall be required in front of the main building. The first twenty (20) feet from property line of frontage adjacent to Gordon Avenue shall be bermed and planted with grass and one and half (1½) inch caliper deciduous trees shall be planted not more than fifty (50) feet apart. The first 20 feet from property line of

frontage adjacent to Swan Lake Court shall be planted with grass and one and half (1½) inch caliper deciduous trees shall be planted not more than fifty (50) feet apart.

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2. Side Yards. There shall be a minimum of three (3) feet of landscaping between parking areas and at least one side yard.

3. Completion and Maintenance.

a. All landscaping shall be completed on or before final Layton City inspection of completed building, or as soon thereafter as weather permits, with money for landscaping as determined by the Architectural Review Committee, held in escrow at Layton City until completed.

b. Maintenance and upkeep will be the responsibility of each Parcel Owner. All dead shrubs, trees, etc. must be replaced within thirty (30) days. Undeveloped areas proposed for storage or future expansion shall be maintained free of weeds and trash.

c. All landscaped areas are required to have full sprinkler systems, for the intent and purposes of always keeping shrubs and grass green.

d. The Committee strongly recommends to Parcel Owners, the hiring of a professional landscaping company to maintain all landscaped areas.

4. All lot owners agree to plant grass in the parkstrips and maintain the landscaping along Gordon Avenue and the street forming the culdesac called Swan Lake Court.

5. Site Lighting. Street lights and building lights are required as follows:

a. Floodlighting of buildings is limited to concealed light sources.

b. Other fixtures, except parking area lighting, shall be selected and installed so that light sources are not visible from any street, and concealed light sources shall be utilized wherever practical.

SECTION 7. DRIVEWAY ACCESS AND DESIGN. All parcels shall be required to, whenever a common driveway is serving two properties, the common curb opening shall have a maximum width of thirty-six (36) feet. Curb openings and driveways shall be paved and shall provide for adequate drainage. The first half of the driveway must be a minimum of twenty-five (25) feet wide.

SECTION 8. SIGNS. All signs must be approved in writing by the Committee. All signs must be attached to a building, parallel to and contiguous with its wall, and shall not project above its roof line. No sign of a flashing or moving character shall be installed and no sign shall be painted on a building wall. No billboards, banners, or outdoor advertising is permitted. All signage must have Layton City approval.

SECTION 9. EXTENDED MAINTENANCE. Buildings, landscaping, and other improvements shall be continuously maintained so as to preserve a well-kept appearance. If any parcel owner is not satisfied with the level of maintenance on a Parcel, he shall notify the Committee who shall notify the Owner in writing and the Owner shall have thirty (30) days thereafter in which to restore its Parcel to a level of maintenance acceptable to the Committee. If in the Committee's opinion the owner has failed to bring the Parcel to an acceptable standard within such thirty (30) day period, the Committee may order the necessary work performed on the Parcel at the Owner's expense.

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SECTION 10. UTILITY CONNECTIONS. All utility lines, connections and installations must be underground and rise within the Building or fixture. Any external transformers, meters and similar apparatus must be at ground level and screened so as to minimize visibility thereof from any street.

ARTICLE III PROHIBITED USES

Entire Property: No portion of the Entire Property may be used for any of the following:

- A. Any use which is in violation of applicable ordinances, laws and regulations of any governmental entity having jurisdiction over the use of all or any of the Entire Property.
- B. Residential purposes except for the dwelling of watchmen or other employees attached to a particular authorized enterprise.
- C. No labor or work shall be performed in the store front or parking areas.
- D. No basketball standards, etc. shall be placed in the front parking areas. Such items will be allowed in rear yards with written permission of the Committee.
- E. No land or building shall be used or occupied in any manner so as to create dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise vibration, smoke, dust, odor, or other form of air pollution; heat, cold, dampness, glare, electrical, or other disturbance; liquid or solid refuse or waste; or other substance, condition, or element, in such a manner or in such an amount as to affect adversely the surrounding area or adjoining premises.
- F. No particle or gaseous pollutants shall be emitted into the air in violation of the Utah State Air Conservation Act, its amendments, or resulting regulations.
- G. Burning of waste materials in open fires or barrels/drums is prohibited.

**ARTICLE IV
GENERAL CONDITIONS**

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SECTION 1. EASEMENTS. Easements for all installations and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements or which may obstruct or retard the flow of water through drainage channels in the easements.

SECTION 2. ENFORCEMENT. The Committee shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Any offender shall pay all attorney's fee and court costs related to the incident.

SECTION 3. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way affect any other provisions which shall remain in full force and effect.

SECTION 4. DURATION. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, to a maximum of ninety-nine (99) years unless terminated at the end of any such period by vote of the Owners.

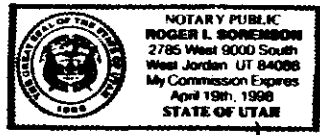
SECTION 5. AMENDMENT. This Declaration may be amended or terminated by a vote of at least five (5) out of seven (7) of the total votes of all owners, which vote shall be taken at a duly called meeting. Any amendment approval shall be reduced to writing, signed, and recorded against the Lots.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand the 18th day of February, 1998.

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DECLARANT:

Dale L. Rindlisbacher
BACH DEVELOPMENT COMPANY
by: Dale L. Rindlisbacher, President



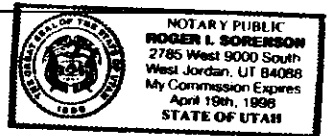
Roger L. Sorenson

OWNER:

~~Owner~~ Stacy Associates
OWNER: LOT 6
By: Dan Burton, *Dan Burton*

2/25/98
DATE

NOTARY PUBLIC:



Roger L. Sorenson

