

WHEN RECORDED MAIL TO:
SLI COMMERCIAL REAL ESTATE CO.
261 EAST 300 SOUTH, #350
SALT LAKE CITY, UT 84111

RETURNED
OCT 13 2004

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RICHARD T. MAUGHAN, DAVIS CNTY RECORDER
2004 OCT 13 10:44 AM FEE 52.00 DEP MEC
REC'D FOR BONNEVILLE TITLE COMPANY, INC

**DECLARATION OF PROTECTIVE COVENANTS, AGREEMENTS,
RESTRICTIONS AND CONDITIONS AFFECTING THE REAL PROPERTY KNOWN AS
CHADWICK FARMS**

TO WHOM IT MAY CONCERN:

WHEREAS CHADWICK FARMS, LLC (hereinafter referred to as "Developer") is the owner of the following described real property located in Davis County, Utah;

Lot 1 through 37 inclusive of CHADWICK FARMS SUBDIVISION, according to the official plat thereof recorded as Entry No. 2021830, in Book 3636, at Page 366 in the Office of the Davis County Recorder.

11-560-LOT# (1 thru 37, inclusive)

WHEREAS, it is the desire and intention of the Developer to sell the lots (collectively, the "Lots" or, individually, a "Lot") described above, and to subject the Lots to mutually beneficial restrictions under a general plan of improvement for the benefit of all the Lots in the Chadwick Farms subdivision (the "Subdivision") and the future owners of these Lots, as such general plan of improvement is set forth in this Declaration Of Protective Covenants, Agreements, Restrictions, And Conditions Affecting The Real Property Known As Chadwick Farms (the "Declaration");

NOW, THEREFORE, the Developer hereby declares that all of the Lots described above are held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following covenants and conditions, all of which are declared and agreed to be in furtherance of a plan for improvement and sale of the Lots described above and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Lots. All of the covenants and conditions shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the above described Lots or any part hereof.

1. **LAND USE AND BUILDING TYPE.** No Lot shall be used except for residential purposes. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one (1) detached single-family dwelling not to exceed two stories in height and an attached garage for not fewer than two cars nor more than four cars; provided however, that the "Architectural Control Committee" (as such term is hereinafter defined) may permit one or more of the Lots to be used for school or church purposes or to be used for a swimming pool and other recreational facilities for the benefit of the owners of some or all of the other Lots described above.

2. **ARCHITECTURAL AND DESIGN CONTROL.** No building shall be erected, placed, or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the Architectural Control Committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finished grade elevation.

Each Lot shall be used for private residence purposes only, except as hereinafter set forth, and no pre-existing structure of any kind shall be moved from any other location and placed upon any Lot, nor shall any incomplete building be permitted to remain incomplete for a period in excess of one (1) year from the date the building was commenced, unless approved by the Architectural Control Committee.

All construction shall be comprised of new materials, except that used brick may be used with prior written approval of the Architectural Control Committee.

All of the exterior wall surface of a dwelling or outbuilding shall consist of brick, rock, stucco, or a combination of such materials. All roofs in the Subdivision shall be of Architectural Grade Asphalt shingles or better. All roofs shall have a pitch of 6-12 or greater (rise over run shall be 6-12 or greater). All roof vent cap louvers, plumbing stacks, chimney flashing, down spouts, and like or similar items are to be painted to match the color of the roof or the trim of the applicable dwelling or outbuilding. Other materials maybe used with prior written approval of the Architectural Control Committee.

3. **DWELLING QUALITY AND SIZE** The following minimum finished square footage living area requirements shall apply. Living areas shall be calculated exclusive of garages, one story open porches, and basements.

One Story Dwellings (Rambler): The minimum square foot living area shall not be less than 1,800 square feet.

Two Story Dwellings: The combined area of the two stories above curb level shall not be less than 2,500 square feet.

Split Level Dwellings: The combined area of the ground level and the adjoining levels, qualifying as stories as herein defined, shall not be less than 1,800 square feet.

Split Entry Dwellings: The combined area of the two levels shall not be less than 2,800 square feet; the lower level must qualify as a story as herein defined, and the minimum area of the upper level shall not be less than 1,800 square feet.

If four feet or more of foundation is above finished grade, then the level qualifies as a story. For the purposes of these covenants, the basement area shall in no event be considered a story. It is the purpose of this covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same as or better than that which can be produced at the date that these covenants are recorded.

4 **FENCES** Fences should be kept to a minimum to encourage the use of natural habitat and aesthetics. Any fence constructed on any Lot shall be as approved by the Architectural Control Committee, in advance and in writing, and in conformity with the following guidelines:

Material: Fences or walls shall be of wood, brick, wrought iron, plastic vinyl, or stone. No fence or wall shall be constructed of chain link, wire mesh, slump block (painted or unpainted), or concrete block unless first approved by the Architectural Control Committee, which approval may be withheld by the Architectural Control Committee for any reason, in its sole and absolute discretion.

Height: Fences, walls, or hedges shall not exceed six (6) feet in height.

Location: Unless approved by the Architectural Control Committee, no hedge more than three feet high and no fence or wall shall be erected, placed, altered, or permitted to remain on any Lot closer to the front street than the front of the residential structure on such Lot, except that where such hedge, fence, or wall is located along the boundary line between two adjoining Lots, such hedge, fence, or wall shall not be closer to the front street than the front of whichever residential structure on the two adjoining Lots is nearer to the street.

5. **SET BACK LINES.** All set back lines, side yards, and back yards shall be in accordance with Layton City ordinances

6. **LOT AREA AND WIDTH.** No dwelling shall be erected or placed on any Lot having a width of less than 80 feet at the point 30 feet behind the front Lot line, nor shall any dwelling be erected or placed on any Lot having an area of less than 10,000 square feet

7. **HEIGHT RESTRICTIONS.** No dwelling shall exceed thirty (38) feet in height, nor shall any dwelling be less than twelve (12) feet in height. No accessory building shall exceed fifteen (15) feet in height, nor shall any accessory building be less than six (6) feet in height.

8. **EASEMENTS.** Easements for drainage, landscaping, maintenance, and/or installation and maintenance of utilities are reserved on front and back Lot lines and on some side Lot lines 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 or maintenance of utilities. The easement area of each Lot and all improvements in it shall be maintained continuously by the owner of the Lot except for those improvements for which a public authority or utility company is responsible.

9. **DRAINAGE.** No Lot shall be graded and no structure or other obstacle shall be erected, placed, or permitted to remain thereon in such a way as to interfere with the established drainage pattern over the Lot to and from adjoining land, or in the event it becomes necessary to change the established drainage over a Lot, adequate provision shall be made for proper drainage. Any fence or wall erected along the side or rear property line of any Lot shall contain "weep holes" or shall be otherwise constructed so as not to prevent the flow of surface water from adjoining land where such flow is in accord with the established drainage. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

10. **NUISANCES.** No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance to the neighborhood.

11. **USE OF OTHER STRUCTURES AS RESIDENCES.** No trailer, basement, tent, shack, garage, barn, or other outbuilding or any structure of a temporary character shall be used on any Lot at any time as a residence, either temporarily or permanently.

12. **SIGNS.** No sign of any kind shall be displayed to the public view on any Lot except one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertize the property during the construction and sales period.

13. **ANIMALS.** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except that dogs, cats, or other household pets may be kept, provided that: (i) they are not kept, bred, or maintained for any commercial purposes, and (ii) they do not become an annoyance or nuisance to the neighborhood.

14. **GARBAGE AND REFUSE DISPOSAL.** No Lot shall be used or maintained as a dumping ground for trash, garbage, rubbish, or other waste. Trash, garbage, rubbish, or other waste shall not be kept except in sanitary containers. All containers or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

15. **EXCAVATIONS AND COMPLETING IMPROVEMENTS.** No excavation shall be made on any Lot except in connection with the erection, alteration, or repair of a dwelling or other improvement thereon. When excavation or the erection, alteration, or repair of a structure or other improvements has once begun, the work must be executed diligently and completed within a reasonable time.

16. **ROOFTOP ANTENNAS.** No television, ham radio, citizen band, radio antenna, or other similar electronic receiving or sending device shall be permitted upon the rooftop or side of any dwelling or elsewhere if exposed to the view from any other Lot, unless approved by the Architectural Control Committee. In no case will any such receiving or sending antenna or other device be allowed to interfere with the peace and quiet enjoyment of any neighboring Lot owner's premises or home entertainment facilities or equipment.

17 **OFF-SITE IMPROVEMENTS.** Before taking title to or possession of any Lot, the purchaser thereof shall inspect the completed off-site improvements. Except for deficiencies or defects specified by such purchaser to the Developer before ownership is taken, such purchaser hereby releases the Developer from further obligations or responsibility as to the installation, repair, and maintenance of the off-site improvements.

If the off-site improvements are not complete at the time ownership is taken, the Developer will, upon completion of the uncompleted off-site improvements, give written notice of completion to the applicable purchaser and, unless such purchaser notifies the Developer of any deficiencies within seven (7) days after the date of receipt of the notice of completion, the off-site improvements shall be deemed acceptable to such purchaser and the Developer will be released from any further obligations or responsibilities as to the installation, repair and maintenance of the previously incomplete off-site improvements.

18. **CONDITION OF ACCEPTANCE:** Upon the transfer of title to a Lot from the Developer to a purchaser, such purchaser shall accept such Lot in its then "AS IS" condition. Consequently, prior to closing the purchase of a Lot, the applicable purchaser shall be solely responsible for resolving any and all questions and concerns relating to, and performing any all inspections relating to, the following matters.

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|--------------------|------------------|--------------------------|
| 1. Sewer | 5. Electric | 9. Sidewalks |
| 2. Water | 6. Telephone | 10. Grading |
| 3. Secondary Water | 7. Land Drains | 11. Others as applicable |
| 4. Gas | 8. Curb & Gutter | |

19. **LANDSCAPING.** Simultaneous with the construction of a dwelling upon a Lot as provided herein, and in any event not later than one (1) year subsequent to occupancy, the owner thereof shall landscape all front and side yards in a manner reasonably acceptable to the Architectural Control Committee. Trees of the same type shall be planted upon parking strips of the same street in order to give an appearance of uniformity. The Architectural Control Committee shall have authority to specify and limit the type and placement of trees and other foliage to preclude and minimize the creation of obstructions to drainage systems. All trees, lawns, shrubs, or other plantings shall be properly nurtured and maintained or replaced at the Lot owner's expense upon request of the Architectural Control Committee.

20 **ARCHITECTURAL CONTROL COMMITTEE** The Architectural Control Committee (the "Architectural Control Committee") shall consist of three (3) members who are originally to be elected by the Developer. Unless and until changed by written notice to the Lot owners from the Developer or the Architectural Control Committee, any communications to the Architectural Control Committee shall be addressed as follows.

Architectural Control Committee
CHADWICK FARMS
c/o 261 East 300 South, Suite 350
Salt Lake City, UT. 84111

Upon failure of the Developer to fill any vacancies in the Architectural Control Committee, the remaining members of the Architectural Control Committee may do so by a majority vote of their number. The Developer may, at its sole discretion, remove members from the Architectural Control Committee and fill vacancies. Said rights of appointment and removal shall, however, be subject to the right of the then record owners of a majority of the Lots, except that the Architectural Control Committee shall always have one (1) member selected by the Developer if the Developer desires. A majority of the Architectural Control Committee may designate a representative to act for it. Neither the members of the Architectural Control Committee nor their designated representative shall be entitled to any compensation for services performed under this Declaration.

The Architectural Control Committee's approval or disapproval required in this Declaration shall be in writing. In the event that the Committee, or its designated representative, fails to approve or disapprove plans and specifications within thirty (30) days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced before completion, approval shall not be required and related covenants shall be deemed to have been fully complied with.

As of the date of this Declaration, the Architectural Control Committee shall be composed of Howard Kent, John Gailey, and Heidi Nettleton.

21. **REPAIR OF BUILDINGS AND IMPROVEMENTS.** No building or improvements upon any Lot shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the then owner thereof.

22 **HOMEOWNERS ASSOCIATION.** The Developer shall establish a Homeowners Association (the "Homeowners Association") by filing Articles of Incorporation with the state of Utah. The Developer will also provide an initial set of By-Laws for the Homeowners Association, which shall be binding upon all persons who are, from time to time, Lot owners. All persons who are, from time to time, Lot owners, shall be members of such Homeowners Association, having all rights, remedies, duties, and responsibilities as are set forth in the By-Laws.

23. **GEOLOGIC CONDITIONS; RELATED MATTERS.**

- a. The real property upon which the Subdivision is located, together with certain adjacent real property, is affected by steep slopes and certain other geologic conditions. Such geologic conditions are more particularly described in the following reports (collectively, the "Geologic Reports"): (i) Geotechnical Investigation And Slope Stability Analysis, dated June 10, 2002 and performed by Applied Geotechnical Engineering Consultants, Inc., (ii) Earthtec Testing & Engineering, P.C. report, dated February 24, 2003, and (iii) Review of geotechnical and slope-stability-analysis reports for the proposed Chadwick Farms residential subdivision, Layton, Utah, dated March 12, 2003 and performed by the Utah Geologic Survey. The Developer agrees to provide, to each person who enters into an agreement to purchase a Lot in the Subdivision from the Developer, a copy of each of the Geologic Reports.
- b. The Developer shall install a landscape buffer along the southern border of Lots 1-9, which landscape buffer shall consist of a five (5) foot easement within each of such Lots, plus additional space extending south into the public right-of-way. The specific nature of such landscape buffer shall be as approved by Layton City. Until the sale of 75% of the Lots in the Subdivision, the Developer shall repair and maintain the landscape buffer. Subsequent to the sale of 75% of the Lots in the Subdivision, the landscape buffer shall be repaired and maintained by the Homeowners Association.
- c. As a consequence of certain slope conditions associated with such Lots, the following restrictions and obligations shall apply to Lots 13-21 (collectively, the "Slope Lots" or, individually, a "Slope Lot"), inclusive:
 - i. All dwellings, outbuildings, and other structures of any kind or nature must be constructed: (A) in accordance with the setback distances and requirements set forth in the Geologic Reports, and (B) in compliance with the geotechnical matters identified in the Geologic Reports.
 - ii. Each owner of a Slope Lot shall refrain from causing, and shall prevent others from causing, removal of or damage to the vegetation and soils associated with such Slope Lot, erosion with respect to such Slope Lot, whether as a consequence of over-watering or otherwise, or the grading or other disturbance of such Slope Lot in a way which would adversely affect the slope conditions associated with such Slope Lot. In the event that any of the above conditions at any time exist with respect to a Slope Lot, whether as a consequence of the acts of the owner, the acts of others, or Acts of God, such as fire or flooding, the then owner of the applicable Slope Lot shall, at the sole cost and expense of such owner, promptly take such repair, restoration, or other remedial actions necessary to remedy or alleviate such conditions including, but not limited to, replacing lost or damaged soil, revegetating where appropriate, installing retaining walls where applicable, and taking all other necessary and appropriate actions.

24. **TERM OF RESTRICTIONS** These restrictions are to run with the land permanently, except that they may be changed, canceled, or added to in whole or in part by a duly recorded instrument signed by the then owners of record of a majority of the Lots.

25. **SEVERABILITY.** Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

THIS DECLARATION is made this 12th day of October, 2004

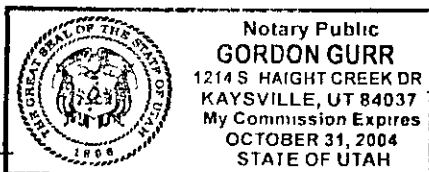
CHADWICK FARMS, LLC
 SLI COMMERCIAL REAL ESTATE CO., Manager

by: *Howard Kent*
 Howard Kent, President

STATE OF UTAH)
):§
 COUNTY OF DAVIS)

On the 12th day of October, 2004, personally appeared before me Howard Kent, President of SLI Commercial Real Estate Co, who being by me duly sworn did say that SLI Commercial Real Estate Co is the Manager of CHADWICK FARMS, LLC, and that said instrument was signed by him in behalf of said limited liability company by authority of its Operating Agreement, and said limited liability company executed the same.

My commission expires:
October 31, 2004



Gordon Gurr
 NOTARY PUBLIC
 Residing at: Kaysville, Utah