

⑥

8342371
09/05/2002 08:32 AM 30.00
Book - 8643 Pg - 8524-8533
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH
LANDMARK TITLE
BY: ZJM, DEPUTY - WI 10 P.

WHEN RECORDED PLEASE RETURN TO:

F. C. Stangl III
90 East 7200 South #200
Midvale, UT 84047

8342371

DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS

This Declaration of Easements, Covenants and Restrictions (the "Declaration") is made and shall be effective on the date of recording with the office of the Salt Lake County Recorder by G H Properties #1, LLC ("G H"), a Utah limited liability company.

WHEREAS, G H is the owner of a certain parcel of real estate located in Salt Lake County, State of Utah, as more fully described on Exhibit A as Parcel 1 ("Parcel 1"); and

WHEREAS, G H is also the owner of a certain parcel of real estate located in Salt Lake County, State of Utah, as more fully described on Exhibit A as Parcel 2 ("Parcel 2"); and

WHEREAS, G H is also the owner of a certain parcel of real estate located in Salt Lake County, State of Utah, as more fully described on Exhibit A as Parcel 3 ("Parcel 3"); and

WHEREAS, G H desires to provide reciprocal easements for utilities, pedestrian and vehicular ingress, egress, parking, passage and traffic, and to otherwise burden and benefit Parcels 1, 2 and 3 as hereinafter provided;

NOW THEREFORE, in consideration of the benefits to be derived from the easements, restriction, covenants, and requirements set forth below, G H hereby declares and provides as follows:

1. General Grant of Easement. Parcels 1, 2 and 3 shall have appurtenant thereto and shall be benefited and burdened by a non-exclusive easement for utilities, and ingress and egress by vehicular and pedestrian traffic over and across such portions of each of the respective parcels where improvements (excluding areas now or hereafter occupied by buildings) are located on such portions at the time concerned which are intended and designated for use in placement and maintenance of utilities, facilities, parking areas for automobiles, driveways and sidewalks as the same may be composed of from time to time ("The Common Areas").

2. Mutual Benefits and Burdens. The mutual benefits and burdens herein include:

JK8643PG8524

LTC #29415

a. Pedestrian easement. A non-exclusive easement for the purpose of pedestrian traffic between each parcel and the public streets and ways now and hereafter adjacent to or located on any portion of either parcel, the parking areas now and hereinafter located on either parcel, over, across, and upon the Common Areas; limited, however, to those portions of each site which are improved by the owner thereof from time to time for pedestrian sidewalks, parking lots and driveways and made available by such owner for general use, as such portions may be reduced, increased or relocated from time to time by each such owner.

b. Vehicle Easement. A non-exclusive easement for the purpose of vehicular traffic over, upon, across and between each parcel and public streets and ways now and hereafter adjacent to or located upon any portion of either parcel; limited, however, to those portions of each parcel which are improved by the owner thereof from time to time for vehicular access as such portions may be relocated from time to time by the owner of each parcel, the vehicular easement herein described shall include a non-exclusive right for the parking of vehicles upon either parcel in such areas as the owner of such parcel may designate, provided, however, the owner of each respective parcel shall retain the right to designate up to 100% of any such parking stalls for the exclusive use of the owner or its designees. Such designation shall be effective upon notice to the other owner in any manner reasonably calculated to convey the intent to designate such parking areas as exclusive. No such designation of exclusive parking areas shall in any way impair the non-exclusive easements for vehicular traffic over and across each parcel as hereinbefore agreed.

c. Utility Easements. A non-exclusive easement for the installation, use, connection to, operation, maintenance, repair, replacement and removal of: water lines and systems; telephone lines and other communication systems; gas lines and systems; sanitary sewer lines and systems; electrical lines and systems; storm sewers and drainage lines and systems; and other utility lines or systems hereafter developed to serve either of the parcels; provided, however, that all pipes, lines, wires, conduits, drains, sewers, systems and related equipment, ("Utility Facilities") will be installed underground to the extent practicable or otherwise enclosed and will be installed, operated and

maintained in a manner which will not unreasonably interfere with the use of the entire parcel or improvements on which such Utility Facilities are located. Items such as manhole covers, hydrants, standpipes, meters, control valves, transformers and other similar items customarily required to be located above ground, will not be required to be installed underground. The initial location of Utility Facilities shall be subject to the reasonable approval of the owner of the burdened site, which approval shall not be unreasonably delayed, conditioned or denied. The owner of any burdened site affected by any such utility easement will have the right, at any time, to relocate any Utility Facilities then located on the burdened site on the conditions that: (i) such right of relocation will be exercisable only after 30 days prior written notice of the intention to relocate has been given to all owners using the Utility Facilities to be relocated; (ii) such relocation will not unreasonably interrupt any utility service to the improvements then located on the benefited site; (iii) such relocation will not reduce or unreasonably impair the usefulness or the function of the Utility Facilities to be relocated; and (iv) all costs of such relocation will be borne by the owner relocating the Utility Facilities.

d. No Barriers. Except to the extent approved in writing by the other owner, no owner shall permit or suffer to be constructed or placed upon any portion of the Common Areas, any fence, wall, barricade, or other obstruction, whether temporary or permanent in nature, which materially limits or impairs vehicular or pedestrian traffic over any portion of the Common Areas or shall otherwise obstruct or interfere with the free flow of such traffic upon the Common Areas, except as may be reasonably necessary or appropriate during periods that construction activities are ongoing or to the extent that it may be necessary to do so temporarily to prevent a public dedication of, or the accrual of any rights in the public in either parcel or to the extent objectively necessary to prevent eminent damage to the Common Areas. Any obstruction or interference permitted under this paragraph shall be done in a manner reasonably calculated to minimize its impact upon the businesses located on the subject premises.

3. Restrictions of Use and Development. Neither party shall construct any building or other structure of whatsoever nature or allow any use of their respective property which construction or use would entail or be the subject of any law, ordinance, or regulation, wherein the parking requirements

under such law, ordinance or regulation would be in excess of the areas actually dedicated to parking on such parcel. It is the intent of this provision that except as parking may be available on such parcel, the easements and other rights herein conveyed shall not be considered as parking available for any development or use of such parcel for purposes of compliance with parking laws, regulations, or ordinances and that each parcel must be used and developed with adequate parking facilities associated with each individual parcel.

4. Maintenance. Each owner shall maintain the Common Areas and landscaped areas from time to time located upon its site. Such maintenance shall include, but shall not be limited to: (a) reasonable maintenance, repair and replacement of the surface and subsurface of parking lot and driveways situated on the Common Areas to maintain its level, smooth and evenly covered with the types of materials originally constructed thereon or such substitutes as will in all respects be equal to such materials in quality, appearance and durability; (b) reasonable maintenance and care of all grass, shrubs and landscaping, including, but not limited to, the fertilizing, watering, mowing and trimming thereof and maintaining, repairing and replacing automatic sprinkler systems and waterlines as may be necessary; (c) removal from the Common Areas of papers, debris, ice, snow, refuse and other hazards to persons using all said areas and thoroughly sweeping and cleaning such areas as may reasonably be required to maintain the same in neat and orderly condition; (d) maintenance of such appropriate parking area entrance, exits and directional signs, markers, and lights as may be reasonably required from time to time; and (e) such painting and repainting as may be required to maintain the parking area and the equipment installed thereon in a reasonably high quality condition.

5. Failure to Properly Maintain. In the event that any owner shall fail to properly maintain that portion of the Common Area or landscaped areas, as required herein, which is from time to time located on such parcel, the other owner may send written notice of such failure. Such notice shall contain an itemized statement of the specific deficiencies in performance of Common Area or landscape maintenance. The owner receiving such notice shall then have thirty (30) days after receipt in which to correct the deficiencies, or in which to commence to correct the deficiencies if said deficiencies cannot be

corrected within a thirty (30) day period and thereafter to proceed diligently to complete the correction of the deficiencies. In the event the owner receiving notice shall unreasonably fail or refuse to timely correct or begin to correct the deficiencies, the other owner may, at its option, correct the deficiencies. In that event, the other owner shall promptly upon receipt of an itemized invoice for the costs incurred in correcting the deficiencies, pay such reasonable costs to the other owner.

6. Easement Appurtenant. Each and all of the easements and rights granted or created herein are appurtenant to the affected portions of the entire parcel and none of easements and rights may be transferred, assigned, or encumbered, except as an appurtenance to such parcel. For the purposes of such easements and rights, the entire parcel which is benefited by such easements shall constitute the dominant estate and the particular areas of the entire parcel which are burdened by such easements and rights shall constitute the servient estate.

7. Nature and Effect of Easements. Each and all of the easements, restrictions and covenants, and provisions contained in this agreement: (a) are made for the direct, mutual, and reciprocal benefit of the respective parcels; (b) create mutual equitable servitudes upon each parcel in favor of the other; (c) constitute covenants running with the land; (d) shall bind every person or entity that may have, or acquire any fee, leasehold or other interest in any portion of either parcel at any time or from time to time to the extent that such interest is affected or bound by the easement, covenant, restriction or provision or to the extent that such easement, covenant, restriction, or provision is to be performed by such person.

8. Taxes. The owner of each parcel shall pay or cause to be paid all real estate taxes and special assessments, which are levied against that portion of the Common Area on its parcel prior to delinquency of such taxes or special assessments.

9. Mutual Indemnification. Each owner, if there be more than one such owner, with respect to its parcel shall comply with all applicable laws, rules, regulations and requirements of all public authorities and shall indemnify and hold the other owner harmless from and against any and all claims, demands, losses, damages, liabilities and expenses and all suits, actions and judgments (including but not

limited to costs and reasonable attorney's fees) arising out of or in any way related to the failure of such owner to maintain the Common Areas or landscaped areas situated on its parcel in a safe and proper condition. Each owner shall give notice to the other in a prompt and timely manner of any claim made or suit or action commenced which in any way could result in a claim for indemnification hereunder.

10. Insurance. In furtherance of the indemnification agreements provided herein, and in addition thereto, each owner if there shall be more than one such owner, shall obtain and maintain comprehensive public liability insurance covering injuries to persons and properties with a single limit of not less than \$2,000,000.00. All such policies of insurance shall be issued by responsible insurance companies authorized to do business in the state of Utah and all such policies shall contain a waiver of the right of subrogation. Each owner shall furnish the other upon request, a copy of such certificates of insurance evidencing the coverages required herein.

11. Remedies. In the event of any violation by any owner or by any designee, permittee or occupant of any part of either parcel of any of terms, restrictions, covenants and conditions provided herein, any of the parcel owners or their respective successors or assigns as the case may be, shall have in addition to the right to collect damages, the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, thirty (30) days written notice of the claimed violation must be given to all of the owners of parcels, which are the subject hereof and to persons or persons claimed to be in violation of this agreement.

12. No Third Party Enforcement. It is the intent of this agreement that only the owners of the parcels which are the subject hereof or their successors or assigns in title shall be entitled to enforce or bring an action to enforce the terms hereof and no tenant, occupant or third party is an intended beneficiary hereof and any benefits flowing to such persons are merely incidental and it is the intent of the parties hereto that no such third person shall have an independent right of action hereunder.

13. Breach Does Not Affect Agreement. It is expressly agreed that no breach of this agreement shall entitle any party to cancel, rescind, or otherwise terminate this agreement, but this

limitation shall not affect any other right to remedies, which the owners may have by reason of any breach of the terms hereof.

14. Duration. The easements, covenants, restrictions and other provisions of this agreement shall become effective upon the filing of the same with the Office of the Salt Lake County Recorder and shall terminate 50 years after the filing of this agreement with the Office of the Salt Lake County Recorder unless extended by mutual agreement of the owners or their successors in interest.

15. Amendment. This agreement or any easement, covenant, restriction, or undertaking contained herein, may be terminated, extended or amended by recording of an appropriate document in the Office of the Salt Lake County Recorder, State of Utah, which document must be executed by the owners of Parcels 1, 2 and 3 or their successors or assigns in title.

16. No Public Dedication. Nothing contained in this agreement shall, constitute a gift or dedication of any portion of any parcel to the general public or for any public purpose whatsoever.

17. Waiver. No waiver of any breach of any of the terms hereof shall be construed as or constitute a waiver of any other breach or acquiescence in or consent to any further or succeeding breach of the same or other covenant or term of this agreement.

18. Severability. If any term or provision hereof shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by the law.

IN WITNESS WHEREOF, G H Properties #1, LLC has executed this declaration for the purposes set forth herein.

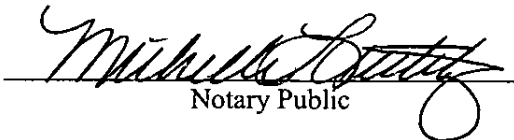
G H Properties #1, LLC
By: S-DEV / G H, LLC, Its: Manager

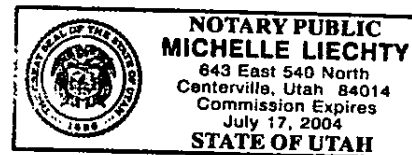
By: F. C. Stangl III, Its: Manager

ACKNOWLEDGMENT – G H Properties #1, LLC

I, Michelle Liechty a Notary Public in and for the county and state aforesaid, do hereby certify that F. C. Stangl III, Manager of S-DEV GH, LLC, which is the Manager of GH Properties #1, LLC is personally known to me to be the person whose name is subscribed to the foregoing instrument as Manager, appeared before me this day in person and acknowledged that he signed, sealed and delivered the said instrument as his free and voluntary act as such Manager and as the free and voluntary act of said Limited Liability Company for the uses and purposes therein set forth.

Given under my hand and notarial seal this 4th day of September, 2002.


Notary Public



BK8643PG8531

EXHIBIT A

Legal Description

PARCEL 1:

BEGINNING at a point on the west line of the West Frontage Road of Interstate 15 and the north line of Golden Harvest Road, said point being North 89°58'00" West 115.46 feet to a Witness Corner for the East Quarter Corner of Section 36, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and North 00°10'39" East 358.97 feet and West 40.32 feet from the East Quarter Corner of Section 36, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said point also being North 00°37'59" East 24.80 feet and West 40.32 feet from a street monument located at the intersection of the West Frontage Road of Interstate 15 and Golden Harvest Road, and running thence West 337.00 feet along the north line of Golden Harvest Road; thence North 00°10'24" East 440.84 feet; thence North 89°46'52" East 337.01 feet to the west line of the West Frontage Road of Interstate 15; thence South 00°10'24" West 442.13 feet along the west line of said West Frontage Road of Interstate 15 to the point of BEGINNING.

PARCEL 2:

BEGINNING at a point on the North line of Golden Harvest Road, said point being North 89°58'00" West 115.46 feet to a Witness Corner for the East Quarter Corner of Section 36, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and North 00°10'39" East 358.97 feet and West 377.32 feet from the East Quarter Corner of Section 36, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said point also being North 00°37'59" East 24.80 feet and West 377.32 feet from a street monument located at the intersection of the West Frontage Road of Interstate 15 and Golden Harvest Road, and running thence West 283.30 feet along the north line of Golden Harvest Road; thence North 00°10'24" East 439.76 feet; thence North 89°46'52" East 283.31 feet; thence South 00°10'24" West 440.84 feet to the point of BEGINNING.

(Continued)

3K86643PG8532

PARCEL 3:

BEGINNING at a point on the North line of Golden Harvest Road, said point being North 89°58'00" West 115.46 feet to a Witness Corner for the East Quarter Corner of Section 36, Township 3 South, Range 1 West, Salt Lake Base and Meridian, and North 00°10'39" East 358.97 feet and West 660.62 feet from the East Quarter Corner of Section 36, Township 3 South, Range 1 West, Salt Lake Base and Meridian, said point also being North 00°37'59" East 24.80 feet and West 660.62 feet from a street monument located at the intersection of the West Frontage Road of Interstate 15 and Golden Harvest Road, and running thence West 694.67 feet along the north line of Golden Harvest Road to the Southeast corner of Lot A, as platted on the recorded subdivision plat of Greenfield Farms Phase IV Subdivision; thence along the Easterly line of said Greenfield Farms Phase IV Subdivision and the extension thereof North 437.10 feet (North 0°02' East on said recorded plat); thence North 89°46'52" East 696.00 feet; thence South 00°10'24" West 439.76 feet to the point of BEGINNING.

+++

[FOR REFERENCE ONLY: TAX PARCEL NUMBERS 27-36-277-003; 27-36-277-005; 27-36-277-006; 27-36-277-007; 27-36-277-008; 27-36-277-009]