

flag-legal

lots 3 thru 14
Wilcox Farms Amd.

12-391~

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E 1594708 B 2653 P 452
SHERYL L. WHITE, DAVIS CNTY RECORDER
2000 MAY 30 3:21 PM FEE 25.00 DEP CY
REC'D FOR FOUNDERS TITLE COMPANY

(no lot 1)

Declaration of Restrictions

PD-20544

This Declaration of Restrictions is made and executed this 30th day of May, 2000, by Wilcox Farms, L.C., a Utah limited liability company, hereinafter referred to as the "Declarant."

Recitals:

A. Declarant is the record owner of all legal and beneficial right, title and interest in and to that real property referred to and described herein as Parcel A and Lot 4, Wilcox Farms Amended, according to the official plat thereof on file at the Office of the Davis County Recorder.

B. Declarant desires to sell Lot 4, Wilcox Farms Amended, according to the official plat thereof on file at the Office of the Davis County Recorder, to Perry-Hull Enterprises, Inc., a Utah corporation, and to impose upon Parcel A, in consideration for the purchase of said Lot 4 by Perry-Hull Enterprises, Inc., certain restrictive covenants.

Now, therefore, for the foregoing purposes and in consideration of the reciprocal benefits to be derived by Declarant and Perry-Hull Enterprises, Inc., Declarant hereby consents, acknowledges and agrees to all of the following terms and provisions and does hereby subject Parcel A to the restrictive covenants set forth in this Declaration of Restrictions:

1. Burdens. The restrictive covenants and restrictions set forth herein shall be considered as covenants running with the land and shall bind that real property described herein as Parcel A, and all subsequent owners and occupants thereof. The restrictive covenants and restrictions set forth herein shall extend to and be binding upon the Declarant, its legal representatives, lessees, sublessees, assigns and successors of every kind.

2. Benefits. The restrictive covenants and restrictions set forth herein shall inure to the benefit of Lot 4, Wilcox Farms Amended, according to the official plat thereof on file at the Office of the Davis County Recorder, and all subsequent owners and occupants thereof. The restrictive covenants and restrictions set forth herein shall inure to the benefit of Perry-Hull Enterprises, Inc., its successors, assigns, licensees and franchisees.

3. Terms of the Restrictive Covenants. During the term of these restrictive covenants,

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LEGIBILITY OF TYPING OR PRINTING
UNSATISFACTORY IN THE DOCUMENT
WHEN FILMED.

neither Declarant nor its legal representatives, lessees, sublessees, assigns or successors shall conduct upon or use that real property described herein as Parcel A, or permit the conduct upon or use of said real property as or for any restaurant which features hamburgers as the primary item or which generates more than thirty percent (30.0%) of its net sales from the sale of hamburgers.

E 1594708 B 2653 P 453

4. Duration of the Restrictive Covenants. Each and all of the restrictive covenants and restrictions contained in this instrument shall automatically terminate of its own force and effect, and shall thereafter not be enforceable, upon the first to occur of the following two events:

- (i) The passage of forty (40) years from the date a deed, describing Lot 4, Wilcox Farms Amended, according to the official plat thereof on file at the Office of the Davis County Recorder, and with Perry-Hull Enterprises, Inc., its affiliate, successor or assignee, as grantee, is recorded in the Office of the Davis County Recorder.
- (ii) Perry-Hull Enterprises, Inc. or its successors, assigns, licensees or franchisees cease to operate a store upon Lot 4, Wilcox Farms Amended, according to the official plat thereof on file at the Office of the Davis County Recorder, which features hamburgers as the primary item. A temporary closure due to casualty or for the purpose of remodeling which does not exceed ten (10) months in duration shall not be considered a cessation of operation. Failure to construct and place into operation a store which features hamburgers as the primary item within two (2) years from the date a deed, describing the aforesaid Lot 4 and with Perry-Hull Enterprises, Inc. its affiliate, successor or assignee, as grantee, is recorded in the Office of the Davis County Recorder shall be deemed a cessation of operation.

5. Instrument of Release or Quit Claim. Upon the automatic termination of the restrictive covenants and restrictions contained herein, Perry-Hull Enterprises, Inc., its legal representatives, successors, assigns, licensees and franchisees shall forthwith deliver to Declarant, its successors or assigns, an instrument, in recordable form, releasing the burdened real property (being that real property referred to and described herein as Parcel A) from the foregoing restrictive covenants and restrictions and quit claiming any and all interest in and to said burdened real property to Declarant, its successors or assigns.

6. Description of Parcel A. Parcel A is described as follows:

Lots 1, 3, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of Wilcox Farms Amended, a subdivision, according to the official plat thereof on file at the Office of the Davis County Recorder.

Lot 14 of Wilcox Farms Amended, a subdivision, according to the official plat thereof on file at the Office of the Davis County Recorder except a portion thereof described as follows: Beginning at a point that is South 89°59'50"E. 1341.646 feet along the section line and North 275.000 feet from the Southwest corner of Section 11,

Township 4 North, Range 2 West, Salt Lake Base & Meridian, thence North 89°59'50" West 124.426 feet, thence North 00°00'10" West 167.035 feet, thence South 36°41'01" East 208.294 feet to the point of beginning.

~~12-337-009~~

TOGETHER WITH AND SUBJECT TO ANY AND ALL EASEMENTS, RESTRICTIONS, ENCUMBRANCES AND RIGHTS OF WAY APPEARING OF RECORD OR ENFORCEABLE AT LAW OR IN EQUITY.

7. Effect of Partial Invalidity. It is expressly understood and agreed that if any restrictive covenant or restriction contained in this instrument, or any portion of any such restrictive covenant or restriction, is held by a court of competent jurisdiction to be invalid or void, such invalidity or voidness shall in no way affect any other restrictive covenant or restriction, or any other portion of any such restrictive covenant or restriction, contained in this instrument.

In Witness Whereof, the Declarant has caused this Declaration of Restrictions to be executed the day and year first above written.

Wilcox Farms, L.C., a Utah limited liability company

by: Con Layne Wilcox, a member
Con Layne Wilcox, a member

STATE OF UTAH)
 : ss.
COUNTY OF DAVIS)

On the 30th day of May, 2000, personally appeared before me and Con Layne Wilcox, who being by me duly sworn did say that he is a member of Wilcox Farms, L.C. and that the foregoing instrument was signed in behalf of said limited liability company by authority, and said Con Layne Wilcox duly acknowledged before me that said limited liability company executed the same.

Jim C. Morris
Notary Public
Residing in the State of Utah

My Commission Expires:
10-22-03

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