

MNT 07052733
When recorded, please return to:

Givens Pursley LLP
Attention: Jeremy G. Ladle
601 West Bannock Street
Boise, Idaho 83702

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RICHARD T. MAUGHAN
DAVIS COUNTY, UTAH RECORDER
5/28/2008 3:41:00 PM
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DECLARATION OF RESTRICTIVE COVENANT
REGARDING
USE RESTRICTIONS

THIS DECLARATION OF RESTRICTIVE COVENANT REGARDING USE RESTRICTIONS (the "Declaration") is made on the 28th day of May, 2008, by Kaysville I, LLC, a Utah limited liability company ("Declarant").

WHEREAS, Declarant is the owner of that certain parcel of land consisting of approximately twenty-five (25) acres and located in Kaysville, Utah, more particularly described on Exhibit A, attached hereto and made a part hereof (the "Burdened Property"); and

WHEREAS, for the period set forth below, Declarant desires to burden the Burdened Property and all subsequent owners of the Burdened Property with the covenants, conditions, and restrictions described on Exhibit B (collectively, the "Covenants"), which are attached hereto and made a part hereof.

NOW, THEREFORE, the Burdened Property shall be held, sold, transferred, encumbered, leased, used, occupied, and improved subject to this Declaration. The Covenants in this Declaration shall run with the land and shall be binding upon all persons with any right, title or interest in the Burdened Property or any portion of it. This Declaration is for the benefit of, and may be enforced by Declarant and its successors, heirs, and assigns and/or the owners, successors, heirs and assigns of that certain real property consisting of Ten and Three Thousandths (10.003) acres to the North of the Burdened Property, which is legally described on Exhibit C (the "Benefited Property"), attached hereto and incorporated herein. This Declaration may be released and/or terminated exclusively upon an agreement between Declarant, or its successors, heirs, or assigns, and the owners, successors, heirs, or assigns of the Benefited Property. Furthermore, each owner accepting a deed to any of the Burdened Property, or any portion thereof, agrees that in the event Declarant or the then current owner of the Benefited Property files suit or action to enforce the Covenants, Declarant and/or such owner shall have the right to recoup all expenses incurred in the enforcement action, including but not limited to attorneys' fees, both as to the original action itself and any appeals.

This Declaration shall expire upon the earlier to occur of the following: (i) the failure of the owner(s) of the Benefited Property, after commencing the use of the Property as a family fun center, with a miniature golf course, go-cart track, bumper boats, batting cages, bowling, laser tag, and video and redemption games (the "Intended Use"), to use the Property for any of the uses constituting the Intended Use for twelve (12) consecutive months, or (ii) January 23, 2038.

[end of text]

DATED as of the year and day first set forth above.

DECLARANT:

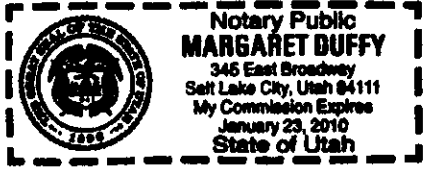
Kaysville I, LLC, a Utah limited liability company

By: [Signature]
Terry C. Diehl, Manager

State of Utah)
) SS:
County of SALT LAKE

On this 28th day of May, in the year of 2008, before me (M.D.) MARGARET DUFFY, a notary public, personally appeared Terry C. Diehl, known or identified to me to be the Manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

[Notarial Seal]



Margaret Duffy
Notary Public for Utah

Exhibit A

Legal Description of the Burdened Property

[to be attached]

Order Number:

PARCEL 1:

Beginning 367.70 feet South and South 66 deg. 31'10" West 367.61 feet and South 15 deg. 37'20" East 1012.66 feet from the Northeast corner of Section 4, Township 3 North, Range 1 West, Salt Lake Base and Meridian; and running thence South 15 deg. 37'20" East 345.62 feet; thence South 22 deg. 18'40" East 907.33 feet; thence South 88 deg. 06'40" East 222.96 feet; thence North 21 deg. 27'40" West 1209.28 feet along an existing fence; thence North 63 deg. 31'05" East 654.31 feet along said fence to the Westerly line of the railroad right of way; thence North 19 deg. 36'30" West 102.50 feet along said right of way; thence South 66 deg. 31'10" West 838.62 feet to the point of beginning.

Less and excepting that portion lying within Deseret Drive Roadway as shown by Dedication Plat Recorded January 08, 2007, as Entry No. 2234041, In Book 4194, at Page 514 of the Official Records.

Less and excepting any portion lying within the following:

Commencing at a point which is South 0°39'51" East a distance of 645.22 feet along the Section line from the Northwest corner of Section 3, Township 3 North, Range 1 West, Salt Lake Base and Meridian; thence North 89°20'09" East a distance of 512.85 feet, to the Westerly Right of Way of the Union Pacific Railroad and the point of beginning, said point also being the Southeast corner of the Legacy Office Complex property described in the Deed recorded in Book 4281 at Page 528, Davis County Records; thence along said Right of Way, South 19°35'10" East 584.08 feet; thence South 65°53'22" West 766.74 feet; to the East Right of Way line of Deseret Drive; thence along said East Right of Way, North 15°37'20" West 591.92 feet to the Southwest Corner of said Legacy Office Complex property; thence along the Southerly line of said property, North 66°08'27" East 725.44 feet to the point of beginning

PARCEL 2:

Beginning South 367.7 feet along the section line and North 66 deg. 31'10" East 400.67 feet to the Westerly line of a Railroad right of way and South 19 deg. 36'30" East 1107.93 feet along said right of way from the Northwest corner of Section 3, Township 3 North, Range 1 West, Salt Lake Meridian; and running thence South 63 deg. 31'05" West 654.31 feet along an existing fence line; thence South 21 deg. 27'40" East 1209.28 feet, along a fence line to the South line of the Northwest quarter of said Section 3; thence South 88 deg. 13' East 639.9 feet,

Continued on next page

Continuation of Exhibit A
Order Number:

more or less, along the South line of said Northwest quarter to the West line of said Railroad right of way; thence North 19 deg. 44' West 1520 feet, more or less, along said Railroad right of way to the point of beginning.

The following being further described by survey as follows:

Part of the West half of Section 3, Township 3 North, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, described as follows:

Beginning at a point on a fence, said point being South 88 deg. 10'19" East 564.66 feet from the West quarter corner of said Section 3 (basis of bearings being North 00 deg. 39'49" East along the line between the West quarter corner and the Northwest corner of said Section 3; thence along said fence the following five (5) courses; (1) North 18 deg. 56'43" West 128.76 feet, (2) North 21 deg. 51'18" West 523.03 feet, (3) North 21 deg. 22'54" West 243.62 feet, (4) North 18 deg. 55'10" West 266.27 feet, and (5) North 23 deg. 03'55" West 50.72 feet; thence North 63 deg. 21'25" East 642.81 feet to the West right of way line of the Union Pacific Railroad; thence South 19 deg. 35'57" East along said West line 1530.51 feet; thence North 88 deg. 10'19" West 656.75 feet to the point of beginning.

Exhibit B

"Covenant"

General Use Restriction. No portion of the Property shall be used for a family fun center, including, without limitation, go-cart tracks, miniature golf courses, bumper boat ponds, batting cages, bowling alleys, laser tag facilities, an arcade containing video and/or redemption games, and ancillary businesses or operations.

Exhibit C

Legal Description of the Benefited Property

[to be attached]

Order Number: 07052733F

Commencing at a point which is South $0^{\circ}39'51''$ East a distance of 645.22 feet along the Section line from the Northwest corner of Section 3, Township 3 North, Range 1 West, Salt Lake Base and Meridian; thence North $89^{\circ}20'09''$ East a distance of 512.85 feet, to the Westerly Right of Way of the Union Pacific Railroad and the point of beginning, said point also being the Southeast corner of the Legacy Office Complex property described in the Deed recorded in Book 4281 at Page 528, Davis County Records; thence along said Right of Way, South $19^{\circ}35'10''$ East 584.08 feet; thence South $65^{\circ}53'22''$ West 766.74 feet; to the East Right of Way line of Deseret Drive; thence along said East Right of Way, North $15^{\circ}37'20''$ West 591.92 feet to the Southwest Corner of said Legacy Office Complex property; thence along the Southerly line of said property, North $66^{\circ}08'27''$ East 725.44 feet to the point of beginning