

PREPARED BY, AND WHEN RECORDED
PLEASE RETURN TO:

04/03/97 4:23 PM 6611002 36.00
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SURETY TITLE
REC BY: B ROME DEPUTY - W

6611002

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Kimball, Parr, Waddoups, Brown & Gee
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P.O. Box 11019
Salt Lake City, Utah 84147-0019
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DECLARATION OF RESTRICTIONS

[Boyer-3300 South Shopping Center Associates, Ltd. and West Bench Plaza,
L.C./Alan Summerhays and Kristine Summerhays]

THIS DECLARATION (this "Declaration") is entered into as of the 27th day of March, 1997, between BOYER-3300 SOUTH SHOPPING CENTER ASSOCIATES, LTD., a Utah limited partnership, and WEST BENCH PLAZA, L.C., a Utah limited liability company (collectively, "Boyer"), whose address is 127 South 500 East, Suite 100, Salt Lake City, Utah 84102, and ALAN SUMMERHAYS and KRISTINE SUMMERHAYS, husband and wife ("Summerhays"), whose address is 136 East 12300 South, Draper, Utah 84020.

FOR THE SUM OF TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Boyer and Summerhays agree as follows:

1. Definitions. As used in this Declaration, each of the following terms shall have the indicated meaning:

1.1. "Guandalahonky's" means the real property located in Salt Lake County, Utah, described as follows:

Beginning at a point South 89°48'40" East which is the base of bearing, along the Section line 1130.25 feet (total quarter section line distance 2642.34 feet) and North 1533.76 feet to the South line of 12300 South Street from the Southwest corner of Section 30, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence South 89°40'10" East along the South side of said street 128.72 feet; thence South 230.00 feet; thence North 89°40'10" West 128.72 feet; thence North 230.00 feet to the point of beginning.

1.2. "Mexican Restaurant" means a sit-down restaurant in which the menu is comprised exclusively or predominantly of Mexican cuisine, such as La Puente, La Frontera or Sophie Garcia's, but does not mean either of the following:

1.2.1. a sit-down restaurant in which the menu is not comprised exclusively or predominantly of Mexican cuisine; or

b/boy/draper/summer/decl.vat
March 17, 1997

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1.2.2. any fast food establishment, including, without limitation, a fast food establishment in which the menu is comprised exclusively or predominantly of Mexican cuisine, such as Taco Time or Taco Bell.

1.3. "Mortgage" means a mortgage or a deed of trust recorded in the official records of the Salt Lake County Recorder.

1.4. "Parcel 1" means the real property located in Salt Lake County, Utah, described as follows:

BEGINNING at a point South 89°48'40" East along the section line 1130.25 feet and North 909.595 feet and North 89°57'00" East 26.08 feet from the Southwest corner of Section 30, Township 3 South, Range 1 East, Salt Lake Base and Meridian, and running thence North 393.99 feet; thence South 89°40'10" East 102.64 feet; thence North 210.00 feet to the South line of 12300 South Street (53 foot half width); thence South 89°40'10" East along said South line 935.50 feet to a point on the West line of the Anderson Lumber Company property recorded March 2, 1993, as Entry No. 5445958, in Book 6613, at Page 2531 of official records; thence South 02°43'00" West along said West line 186.11 feet; thence South 02°29'00" West along said West line 411.61 feet to a point on the North line of 12450 South Street (not yet recorded); thence South 89°57'00" West along said North line 1011.47 feet to the point of BEGINNING.

1.5. "Parcel 2" means the real property located in Salt Lake County, Utah, described as follows:

BEGINNING at a point which is South 89°48'40" East along the section line 1130.25 feet and North 879.59 feet from the Southwest corner of Section 30, Township 3 South, Range 1 East, Salt Lake Base and Meridian; and running thence South 89°57'00" West 229.08 feet to a point of curvature; thence Northwesterly along the arc of a 300.00 foot radius curve to the right, through a central angle of 37°21'32", a distance of 195.611 feet; thence North 52°41'28" West 61.05 feet to a point on the arc of a 400 foot radius curve to the left; thence Northeasterly along said curve (center bears North 52°41'28" West), through a central angle of 37°22'04", a distance of 260.877 feet to a point of tangency; thence North 00°03'32" West 105.63 feet; thence South 89°40'10" East 54.00 feet; thence South 20.06 feet; thence South 89°40'10" East 350.084 feet; thence South 430.13 feet; thence South 89°57'00" West 26.08 feet; thence North 6.00 feet to the point of BEGINNING.

1.6. "Project Drawing" means the drawing attached as Exhibit A, incorporated by this reference. (Such drawing is attached for reference purposes only, and shall not be binding on any person for any other purpose, including, without limitation, the type or location of any improvements shown on such drawing.)

1.7. "Second Anchor Location" means certain real property located in Salt Lake County, Utah, generally crosshatched and so labeled on the Project Drawing.

1.8. "Shopping Center" means the shopping center located on Parcel 1 and shown on the Project Drawing.

1.9. "Supermarket Parcel" means certain real property located in Salt Lake County, Utah, generally crosshatched and so labeled on the Project Drawing.

2. Restrictions on Certain Development.

2.1. Limitation on Mexican Restaurants. No property then owned by Boyer and located within the Shopping Center or adjacent to the Shopping Center may be used for the purpose of a Mexican Restaurant so long as, but only so long as, Guadalahonky's is operated as a Mexican Restaurant; provided, however, that such restriction (or any other use restriction) shall not apply to the Second Anchor Location or the Supermarket Parcel.

2.2. Limitation on Out Parcel. The one (1) out parcel (only) immediately to the East of Guadalahonky's may not be used for any of the following:

2.2.1. the purpose of a restaurant which has waiters or waitresses which take orders from, and serve food to, the table;

2.2.2. the purpose of a stand alone fast food facility like McDonald's, Burger King, Hardee's, Wendy's, Taco Bell or Kentucky Fried Chicken, having both of the following characteristics:

(a) a menu comprised exclusively or predominantly of cooked hamburgers, chicken or mexican food; and

(b) drive-through service with a reader board detached from the building, with traffic exiting on the East side of the building; provided, however, that such parcel may have a drive-through service on the South end of the building with traffic exiting on the East side of the building for uses not described in the foregoing subparagraph (a); or

2.2.3. a building having two or more full stories above ground level.

2.3. Limitation on Parcel 2. Parcel 2 may not be used for general or specialty retail purposes, other than for the following:

2.3.1. not more than 8,000 square feet for general or special retail purposes;

2.3.2. sit-down restaurants or retail uses within and incidental to a hotel or office, such as a gift shop, book store or snow board/ski shop; or

2.3.3. the incidental encroachment of a facility almost wholly located on the parcel South of Parcel 2 at the Southeast corner of the intersection of 12300 South Street and State Street.

3. Nature of Restrictions. This Declaration and each restriction set forth in this Declaration shall be perpetual. Each restriction contained in this Declaration shall constitute a covenant running with the land. No breach of this Declaration shall defeat or render invalid the lien of any Mortgage made in good faith and for value. The interests in and rights concerning any portion of the parcels affected by this Declaration shall be subject and subordinate to the arrangement provided for in this Declaration, and the arrangement provided for in this Declaration shall be prior and superior to such interests and rights, as may be necessary to effectuate all of the terms and provisions set forth in this Declaration.

4. Attorneys' Fees. If any person brings suit to enforce or interpret this Declaration or for damages on account of the breach of any provision of this Declaration, the prevailing party shall be entitled to recover from the other party its reasonable attorneys' fees and costs incurred in any such action or in any appeal from such action, in addition to the other relief to which the prevailing party is entitled.

5. General Provisions. This Declaration shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah. This Declaration shall inure to the benefit of, and be binding on, each Boyer and Summerhays and their respective heirs, personal representatives, successors and assigns. Whenever possible, each provision of this Declaration shall be interpreted in such manner as to be valid under applicable law; but, if any provision of this Declaration shall be invalid or prohibited under applicable law, such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provision or the remaining provisions of this Declaration.

BOYER AND SUMMERHAYS have executed this Declaration on the respective dates set forth below, to be effective as of the date first set forth above.

BOYER:

BOYER-3300 SOUTH SHOPPING CENTER
ASSOCIATES, LTD.,
by its general partner:

THE BOYER COMPANY, L.C.,
a Utah limited liability company

By *John O'Grady*
Its *President*
Date *3-31-97*

WEST BENCH PLAZA, L.C.
by its two managers:

THE BOYER COMPANY, L.C.,
a Utah limited liability company

By *John O'Grady*
Its *President*
Date *3-31-97*

ARBOR COMMERCIAL PROPERTIES, L.C.,
a Utah limited liability company,
by its members:



John Gust

Date

3-31-97



Cory Gust

Date

3-31-97



Trisha Christensen

Date

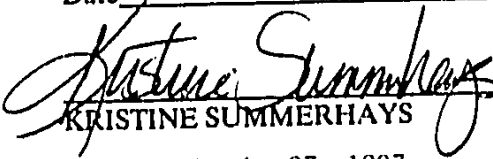
3-31-97

SUMMERHAYS:



ALAN SUMMERHAYS

Date March 27, 1997



KRISTINE SUMMERHAYS

Date March 27, 1997

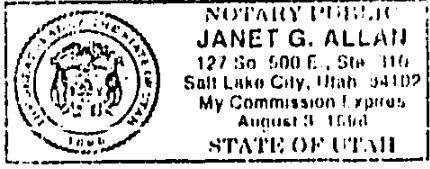
State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 31 day of March, 1997, by Kenn C. Gardner, the President of The Boyer Company, L.C., the general partner of Boyer-3300 South Shopping Center Associates, Ltd.

(Seal) Janet G. Allan
Notary Public

My Commission Expires:
8/3/98

Residing at:
Salt Lake County



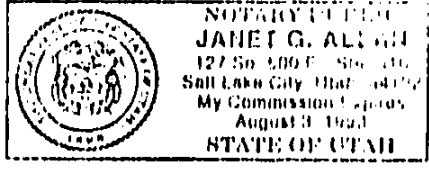
State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 31 day of March, 1997, by Kenn C. Gardner, the President of The Boyer Company, L.C., one of the managers of West Bench Plaza, L.C.

(Seal) Janet G. Allan
Notary Public

My Commission Expires:
8/3/98

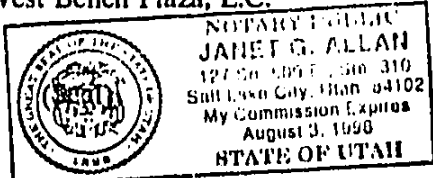
Residing at:
~~Janet~~ Salt Lake County



37763582341

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 31 day of March, 1997, by John Gust, one of the members of Arbor Commercial Properties, L.C., one of the managers of West Bench Plaza, L.C.



Janet G. Allan
Notary Public

My Commission Expires:

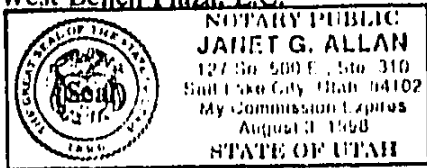
8/3/98

Residing at:

Salt Lake County

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 31 day of March, 1997, by Cory Gust, one of the members of Arbor Commercial Properties, L.C., one of the managers of West Bench Plaza, L.C.



Janet G. Allan
Notary Public

My Commission Expires:

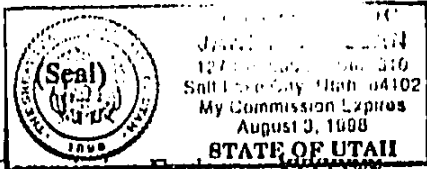
8/3/98

Residing at:

Salt Lake County

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 31st day of March, 1997, by Trisha Christensen, one of the members of Arbor Commercial Properties, L.C., one of the managers of West Bench Plaza, L.C.



My Commission Expires: 8/3/98

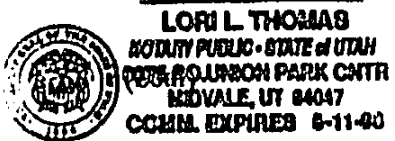
Janet E. Allen
Notary Public

Residing at: XXXXXXXXXXXX

Salt Lake County

State of Utah)
) ss.
County of Salt Lake)

The foregoing instrument was acknowledged before me this 27th day of MARCH, 1997, by Alan Summerhays and Kristine Summerhays.



My Commission Expires: 5-11-98

Lori L. Thomas
Notary Public

Residing at: Midvale, Utah

EXHIBIT A

to

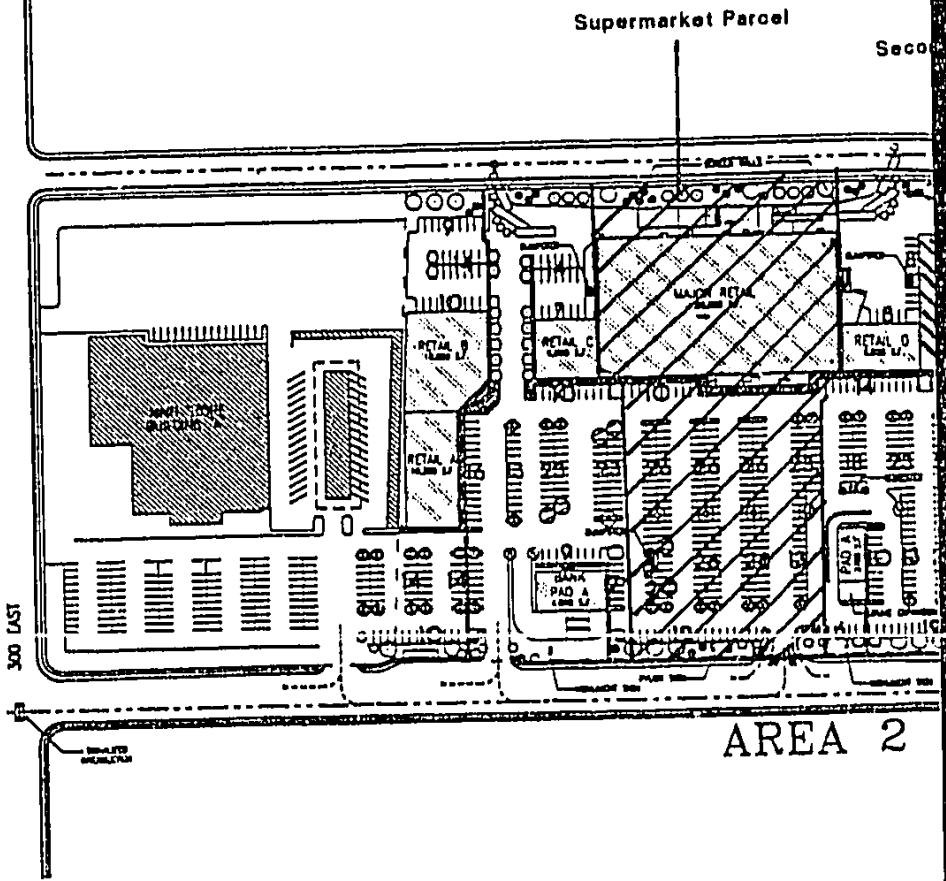
DECLARATION OF RESTRICTIONS

PROJECT DRAWING

The Project Drawing referred to in the foregoing instrument is attached, and consists of one (1) page, showing the Second Anchor Location, the Shopping Center and the Supermarket Parcel.

-POOR COPY-
CO. RECORDER

PROJECT



AREA 2 PROJECT DATA

SPACE	SQ. FT.	PARKING RECD.	PARKING PROVIDED
MAJOR RETAIL	60,000 S.F.	300 STALLS	305 STALLS
RETAIL A	10,200 S. F.	31 STALLS	52 STALLS
RETAIL B	10,000 S. F.	50 STALLS	50 STALLS
RETAIL C	8,000 S. F.	30 STALLS	31 STALLS
RETAIL D	8,000 S. F.	30 STALLS	31 STALLS
RETAIL E	40,000 S. F.	200 STALLS	205 STALLS
RETAIL F	5,400 S.F.	27 STALLS	27 STALLS
PAD A	2,700 S. F.	13.5 STALLS	14 STALLS
PAD B	8,000 S. F.	30 STALLS	45 STALLS
PAD C	2,500 S.F.	12.5 STALLS	13 STALLS
BANK PAD A	4,800 S.F.	23 STALLS	23 STALLS
TOTAL	153,400 S.F.	787 STALLS	802 STALLS



DRAPER

MAIL P. 0-8747

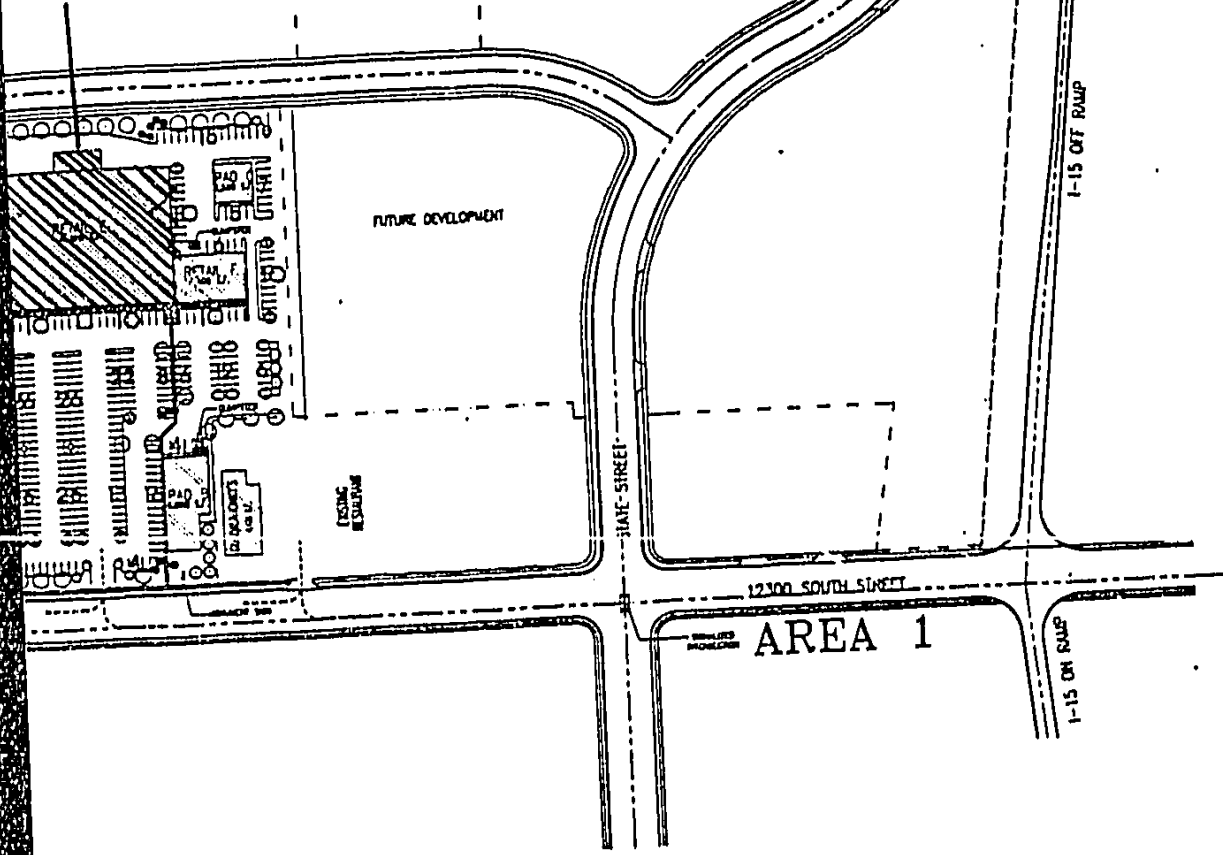
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POOR COPY.
CO. RECORDER

DRAWING

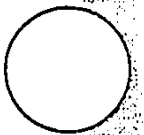
AREA 3

Anchor Location

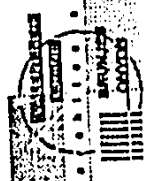


AREA 1

CROSSING SITE PLAN



Draper Crossing
 A Boyer Development
 Draper, Utah



DATE	07-14-87
BY	...
SCALE	...
PROJECT	...
NO.	...

A0.01

BK 7635 PG 2346


AGREEMENT OF DRAPER BANK AND TRUST
REGARDING DECLARATION OF RESTRICTIONS

THE UNDERSIGNED, DRAPER BANK AND TRUST, a Utah corporation ("Draper Bank"), agrees that (i) all right, title and interest (including, without limitation, any lien arising under any deed of trust or mortgage) held by or vested in Draper Bank on or after the date of this instrument in or to the property covered by the foregoing Declaration of Restrictions (the "Declaration") are subject and subordinate to the Declaration and all of its provisions, and (ii) the Declaration and all of its provisions shall be prior and superior to such right, title and interest.

THIS INSTRUMENT shall be binding on Draper Bank and its successors and assigns, and shall constitute a covenant running with the land. This instrument shall be governed by, and construed and interpreted in accordance with, the laws (excluding the choice of laws rules) of the State of Utah.

DRAPER BANK has executed this instrument on the date set forth below, to be effective as of the date on which the Declaration is recorded in the official records.

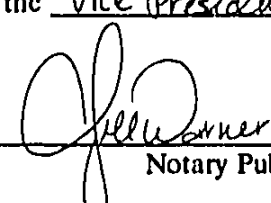
DRAPER BANK AND TRUST

By 
 Its GLENN B. CHERINGTON
VICE PRESIDENT
 Date 3-27-97

State of Utah)
) ss.
 County of Salt Lake)

The foregoing instrument was acknowledged before me this 27 day of Mar, 1997, by Glenn B. Cherrington, the Vice President of Draper Bank and Trust.

(Seal)



 Notary Public

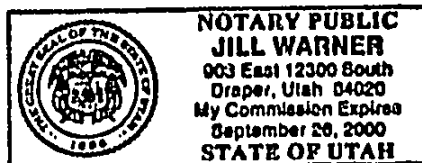
My Commission Expires:

Sept. 26, 2000

Residing at

Draper, UT

b/boy/draper/summer/decl.vat
 March 17, 1997



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