



W2842962

After Recording Return To:

Andrea Deguzman
WinCo Foods LLC
P.O. Box 5756
Boise, ID 83705

E# 2842962 PG 1 OF 9
Leann H. Kilts, WEBER COUNTY RECORDER
16-Feb-17 0358 PM FEE \$26.00 DEP TN
REC FOR: MERIDIAN TITLE COMPANY
ELECTRONICALLY RECORDED

**ACCOMMODATION RECORDING ONLY.
MERIDIAN TITLE COMPANY MAKE NO REPRESENTATION
AS TO CONDITION OF TITLE, PRIORITY OF LIEN, NOR
DOES IT ASSUME ANY RESPONSIBILITY FOR VALIDITY,
SUFFICIENCY OR EFFECT OF DOCUMENT.**

This Space Reserved for Recording Purposes
Weber County, Utah

**THIRD AMENDMENT TO
DECLARATION OF EASEMENTS AND CONDITIONS**

THIS THIRD AMENDMENT TO DECLARATION OF EASEMENTS AND CONDITIONS ("Third Amendment") is made as of the 14th day of February, 2017, by and among WINCO FOODS, LLC, a Delaware limited liability company ("WinCo Foods") and WRIGHT DEVELOPMENT GROUP, INC., a Utah corporation ("Wright Development") and OGDEN COMMONS, LLC, a Utah limited liability company ("Ogden Commons").

Recitals:

A. WinCo Foods and Wright Development entered into a Declaration of Easements and Conditions recorded on September 23, 2009 as Instrument No. 2436058 in the Official Records of Weber County, Utah (the "Original DEC"). The Original DEC was subsequently amended by that certain First Amendment to Declaration of Easements and Conditions dated June 9, 2010, by and between WinCo Foods and Wright Development, and recorded on June 10, 2010 as Instrument No. 2476752 in the Official Records of Weber County, Utah (the "First Amendment"). The Original DEC was again amended by that certain Second Amendment to Declaration of Easements and Conditions dated June 22, 2016 as Instrument No. 2800341 in the Official records of Weber County, Utah (the "Second Amendment"). The Original DEC, the First Amendment and the Second Amendment are collectively referred to herein as the "DEC".

B. The DEC affects certain real property located in Ogden, Utah (the "Shopping Center"). The Shopping Center is more particularly described on **Exhibit "A"** attached hereto and incorporated by reference herein.

C. Subsequent to recording of the Original DEC, Wright Development Group conveyed the Wright Development Parcel to its affiliate Ogden Commons.

D. As of the date of this Third Amendment, WinCo Foods and Wright Development Group are the "Approving Parties" as defined in the DEC. WinCo Foods and Wright Development

now desire to amend the DEC in certain respects, as permitted by the provisions of Section 8.4(e) of the DEC.

Terms and Conditions:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, WinCo Foods, Wright Development and Ogden Commons agree as follows:

1. Assignment of Declaration. Wright Development hereby assigns, transfers, delegates and conveys to Ogden Commons all of its rights, title and interest in and to the DEC. Ogden Commons hereby agrees to assume all of Wright Developments obligations under the DEC, and to faithfully perform all of the covenants, conditions, stipulations and agreements contained therein. WinCo Foods hereby approves and consents to the foregoing assignment. All references in the DEC to "Wright Development" are hereby amended to mean and shall refer to Ogden Commons.

2. Amendments to Declaration.

A. The Site Plan attached to the DEC as Exhibit "B" is hereby replaced and superseded by the Site Plan attached to this Third Amendment and labeled "**Exhibit B**". All references in the DEC to the Site Plan shall be deemed to refer to the site plan attached to this Amendment labeled "**Exhibit B**".

B. The table contained in Section 3.3(e) of the DEC is hereby deleted in its entirety and replaced with the following table:

| PARCEL | BUILDING | BUILDING HEIGHT | HEIGHT OF ARCHITECTURAL FEATURES | PARCEL AREA | ALLOWABLE FLOOR AREA |
|----------|----------------|-----------------|----------------------------------|-------------|-----------------------------|
| Parcel 1 | Major A | 40' | 48' | 9.84 acres | 95,000 sq. ft. |
| Parcel 2 | Future Shops A | 35' | 40' | 9.58 acres | Aggregate of 40,775 sq. ft. |
| | Future Shops B | 35' | 40' | | 7,700 sq. ft. |
| | Future Pad A | 25' | 30' | | 6,000 sq. ft. |
| | Future Pad B | 25' | 30' | | 6,000 sq. ft. |
| | Future Pad C | 25' | 30' | | 3,500 sq. ft. |
| | Future Pad D | 25' | 30' | | 7,700 sq. ft. |
| Parcel 3 | Future Pad E | 25' | 30' | 0.55 acres | 6,000 sq. ft. |
| | Future Pad F | 25' | 30' | | 6,000 sq. ft. |

C. Section 8.11 of the DEC is hereby amended to delete the Wright Development Notice addresses in their entirety and replace them with the following:

"IF TO OGDEN COMMONS:

Ogden Commons, LLC
1178 Legacy Crossing Blvd., Suite 100
Centerville, Utah 84014
Telephone: (801) 773-7339
Fax: (801) 773-7355
E-mail: spencer@wrightdevelopmentgroup.net

With a copy at the same address to:

Justin Atwater, Legal Counsel
E-mail: justin@wrightdevelopmentgroup.net"

3. **Miscellaneous.** All capitalized terms used in this Third Amendment and not defined herein shall have the meanings attributed to such terms in the DEC. This Third Amendment may be executed in any number of counterparts, provided each counterpart is identical in its terms. Each such counterpart, when executed and delivered will be deemed to be an original, and all such counterparts shall be deemed to constitute one and the same instrument. For convenience in recording, signature pages from different counterparts may be detached from the original counterparts and attached to one counterpart and recorded. To the extent that the provisions of this Third Amendment are inconsistent with the provisions of the DEC, the provisions of this Third Amendment shall control and the DEC is modified accordingly. Except as amended herein, the terms and conditions of the DEC shall remain the same and in full force and effect. This Third Amendment shall become effective upon recording in the Official Records of Weber County, Utah.

*[Remainder of page intentionally left blank.
Signature pages follow.]*

IN WITNESS WHEREOF, WinCo Foods, Wright Development and Ogden Commons have caused this Third Amendment to Declaration of Easements and Conditions to be executed as of the day and year first above written.

WINCO FOODS, LLC,
a Delaware limited liability company

By: [Signature]
Its: CFO

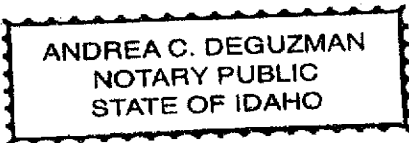
STATE OF IDAHO)

ss.

COUNTY OF ADA)

On this 14th day of February, 2017, before me, a Notary Public, personally appeared DAVID M. PATZER known or proved to me to be the CFO of WinCo Foods, LLC, a Delaware limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same in the name and on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Signature]
Notary Public
Residing at Boise, ID
My Commission expires May 16, 2019

[Additional Signature Page to Third Amendment to Declaration of Easements and Conditions]

WRIGHT DEVELOPMENT GROUP, INC.
a Utah corporation

By: [Signature]
Name: SPENCER H. WRIGHT
Title: PRESIDENT

STATE OF Utah)
)ss.
COUNTY OF Davis)

On this 10th day of February, 2017, before me, a Notary Public, personally appeared Spencer H. Wright, known or proved to me to be the Manager of Wright Development Group, Inc., a Utah corporation, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Chelsea Hunt
Notary Public
Residing at Davis County, UT
Comm. Expires 07/10/2019

[Additional Signature Page to Third Amendment to Declaration of Easements and Conditions]

OGDEN COMMONS, LLC
a Utah limited liability company

By: [Signature]
Name: SPENCER H. WRIGHT
Title: MANAGER

STATE OF Utah)
)ss.
COUNTY OF DAVIS)

On this 10th day of February, 2017, before me, a Notary Public, personally appeared Spencer H. Wright, known or proved to me to be the Manager of Ogden Commons, LLC, a Utah limited liability company, the person whose name is subscribed to the foregoing instrument, and acknowledged to me that she executed the same on behalf of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Chelsea Hunt
Notary Public
Residing at DAMS COUNTY, UT
Comm. Expires 07/10/2019

EXHIBIT "A"

Legal Description of Shopping Center

WINCO FOODS

Lot 1 of that certain plat entitled "The Commons at Ogden", which plat was filed in the office of the recorder of the County of Weber, State of Utah on August 7, 2009 as Entry No. 2428525 in Book 70 of Plat at Page 29.

OGDEN COMMONS

Lots 2 and 3 of that certain plat entitled "The Commons at Ogden", which plat was filed in the office of the recorder of the County of Weber, State of Utah on August 7, 2009 as Entry No. 2428525 in Book 70 of Plat at Page 29.

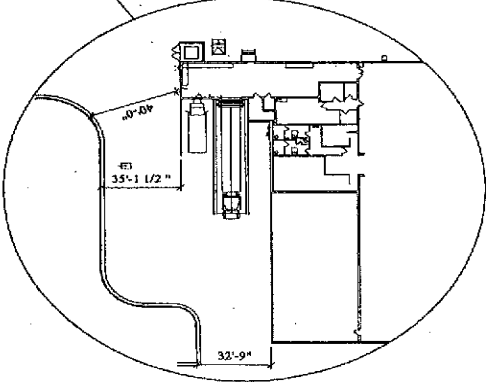
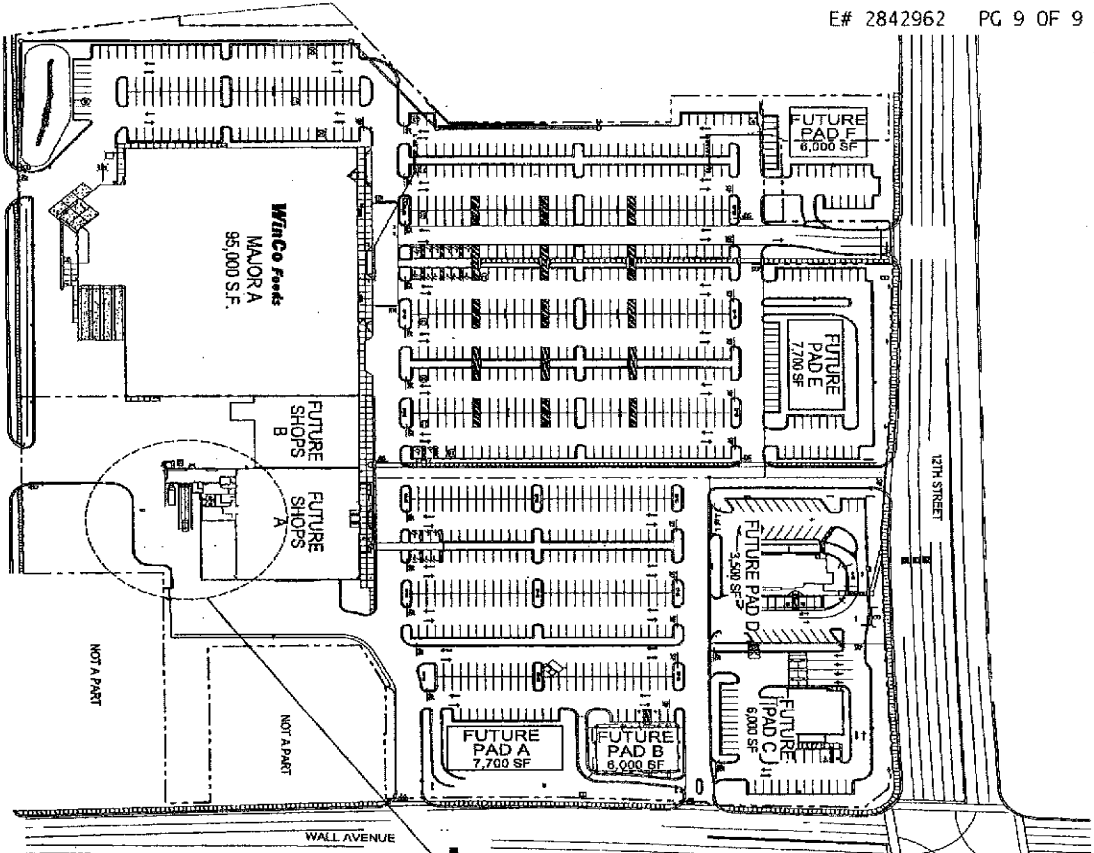
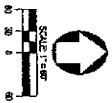
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~~12-236-0002~~ 12-241-0001
~~12-236-0003~~ 12-236-0003 CUM

EXHIBIT "B"

Site Plan

[See attached.]

EXHIBIT B



| PARCEL | BUILDING | BUILDING HEIGHT | HEIGHT OF ARCHITECTURAL FEATURES | PARCEL AREA | ALLOWABLE FLOOR AREA |
|----------|----------------|-----------------|----------------------------------|-------------|-----------------------------|
| PARCEL 1 | MAJOR A | 40' | 45' | 9.84 ACRES | 96,000 SQ. FT. |
| PARCEL 2 | FUTURE SHOPS A | 35' | 40' | 8.58 ACRES | AGGREGATE OF 40,775 SQ. FT. |
| | FUTURE SHOPS B | 35' | 30' | | 7,700 SQ. FT. |
| | FUTURE PAD A | 25' | 30' | | 6,000 SQ. FT. |
| | FUTURE PAD B | 25' | 30' | | 6,000 SQ. FT. |
| | FUTURE PAD C | 25' | 30' | | 6,000 SQ. FT. |
| | FUTURE PAD D | 25' | 30' | | 3,500 SQ. FT. |
| PARCEL 3 | FUTURE PAD E | 25' | 30' | 0.55 ACRES | 7,700 SQ. FT. |
| | FUTURE PAD F | 25' | 30' | 0.55 ACRES | 6,000 SQ. FT. |

LEGEND
 - - - - - PROPERTY/PARCEL LINE

EX-B

SHEET
 SITE PLAN



WINCO FOODS STORE
 S.W.C. 12TH STREET
 & WALL AVENUE
 OGDEN, UTAH

REVISIONS