

When Recorded Return To:

EM Commercial Development, LLC
1754 E Cedar Trails Way
Eagle Mountain, Utah 84005

ENT 52458:2023 PG 1 of 11
ANDREA ALLEN
UTAH COUNTY RECORDER
2023 Aug 11 11:15 AM FEE 40.00 BY KR
RECORDED FOR FNT Utah Downtown SLC - 170
ELECTRONICALLY RECORDED

**THIRD AMENDMENT
TO
DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND
EASEMENTS
OF
MARKETPLACE AT EAGLE MOUNTAIN TOWN CENTER**

THIS THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR MARKETPLACE AT EAGLE MOUNTAIN TOWN CENTER (“**Third Amendment**”) is made as of August 10, 2023, by EM COMMERCIAL DEVELOPMENT, LLC, a Utah limited liability company (“**Declarant**”), and joined by MONTE VISTA RANCH, L.C., a Utah limited liability company (“**Master Declarant**”), with reference to the following:

RECITALS

A. Declarant and Master Declarant caused to be recorded in the official records of the Office of the Recorder of Utah County, Utah (“**Official Records**”) that certain Declaration of Covenants, Conditions, Restrictions and Easements of Marketplace at Eagle Mountain Town Center, dated July 19, 2021 and recorded July 27, 2021 as Entry No. 130929:2021, as amended by that certain First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements of Marketplace at Eagle Mountain Town Center, dated November 10, 2021 and recorded in the Official Records on December 2, 2021, as Entry No. 200925:2021, and as further amended by that certain Second Declaration of Covenants, Conditions, Restrictions and Easements of Marketplace at Eagle Mountain Town Center, dated March 22, 2023 and recorded in the Official Records on March 24, 2023, as Entry No. 18366:2023, as further amended by any recorded supplemental declarations (collectively, “**Declaration**”).

B. The Declaration encumbers that certain real property located in Utah County, Utah, more particularly described in the Declaration, and described on the attached **Exhibit A** (“**Shopping Center Land**”).

C. Section 15.7 of the Declaration provides that Declarant will have the right to unilaterally amend the Declaration during the Declarant Control Period.

D. Declarant is executing and delivering this Third Amendment for the purpose of amending how assessments are assessed to certain Parcels, amending the Declarant Control Period, updating the Exclusive Uses exhibit, and other changes.

THIRD AMENDMENT

NOW, THEREFORE, for the reasons recited above, Declarant hereby declares as follows:

1. All defined terms as used in this Third Amendment and capitalized terms which are not otherwise defined will have the same meanings as those set forth in the Declaration, unless otherwise defined in this Third Amendment.

2. Section 7.4 of the Declaration is hereby amended to add the following to Section 7.4.4:

“Notwithstanding anything in this Section 7.4 or this Declaration to the contrary, the Owners of Parcel 205 will not be subject to or responsible for paying any portion of the Common Facilities Charge and Parcel 205 will not be part of the valuation of the Proportionate Share of Operating Costs as Parcel 205 will not use or benefit from the Common Facilities.”

3. Section 12.1.2.2 “Class B” of the Declaration is hereby amended and restated in its entirety to read as follows:

“The Class B Member shall be the Declarant. The Class B Member shall hold a majority of membership votes in the Association and the Class B Member’s consent and approval shall be required for approval of any vote. The Class B Membership shall automatically cease when Declarant no longer owns any Parcel or holds an interest in any Parcel. The period in which the Class B Membership exists is referred to hereunder as the “**Declarant Control Period**”.

4. An updated **Schedule “E”** “Shopping Center Exclusive Uses” is attached hereto.

5. Except as supplemented and amended by the provisions of this Third Amendment, the Declaration will remain unmodified and in full force and effect.

6. The Declaration, as supplemented and amended by this Third Amendment, will collectively be referred to as the “Declaration.”

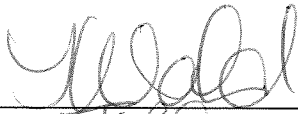
7. This Third Amendment shall be effective once it has been: (i) fully executed, and (ii) recorded in the in the Official Records.

8. This Third Amendment may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one fully executed document.

IN WITNESS WHEREOF, Declarant has caused this Third Amendment to be executed by an officer duly authorized to execute the same as of the date first above written.

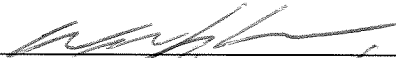
EM COMMERCIAL DEVELOPMENT,
LLC, a Utah limited liability company

By: Its Manager, Diamante Vista, L.L.C., a
Utah limited liability company

By: 
Name: Tiffany Walden
Title: Manager

EM COMMERCIAL DEVELOPMENT,
LLC, a Utah limited liability company

By: Its Manager, CP EM, LLC, a Utah
limited liability company

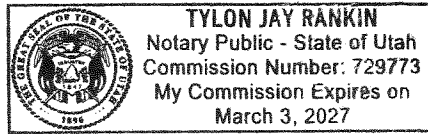
By: 
Name: William Gaskett
Title: Manager

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

The foregoing instrument was acknowledged to me this 10th day of August, 2023, by Tiffany Walden, as Manager of Diamante Vista, L.L.C., a Utah limited liability company, as Manager of EM COMMERCIAL DEVELOPMENT, LLC, a Utah limited liability company.

Tylon Rankin
NOTARY PUBLIC

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)



The foregoing instrument was acknowledged to me this 10th day of August, 2023, by William Gaskill, as Manager of CP EM, LLC, a Utah limited liability company, as Manager of EM COMMERCIAL DEVELOPMENT, LLC, a Utah limited liability company.

Tylon Rankin
NOTARY PUBLIC

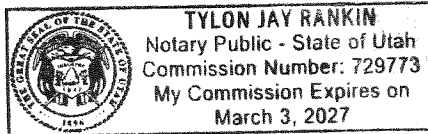


EXHIBIT "A"
TO
**THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
 RESTRICTIONS, AND EASEMENTS OF MARKETPLACE AT EAGLE MOUNTAIN
 TOWN CENTER**

Legal Description of the Shopping Center Land

The Shopping Center Land consists of that certain real property located in Utah County, Utah more particularly described as follows:

PARCEL 1:

A portion of the SE1/4 and SW1/4 of Section 12, Township 6 South, Range 2 West, Salt Lake Base and Meridian, Eagle Mountain City, Utah, more particularly described as follows:

Beginning on the westerly line of Sweetwater Road located N0°27'04"E along the Section line 1,333.00 feet to the Northeast Corner of the South 1/2 of the SE1/4 of Section 12 and S88°43'29"W along the 1/16th Section (40 acre) line 2,351.47 from the Southeast Corner of Section 12, T6S, R2W, S.L.B.& M.; thence S18°56'36"W along said westerly line of Sweetwater Road 729.56 feet to the northerly line of Eagle Mountain Boulevard; thence Northwesterly along said road and along the arc of a 9,953.50 foot radius non-tangent curve (radius bears: N18°57'04"E) 929.60 feet through a central angle of 5°21'04" (chord: N68°22'24"W 929.26 feet) to the southeast corner of that Real Property described as Deed Entry No. 72747:2000 of the Official Records of Utah County; thence along said deed-the following 5 (five) courses and distances: N24°17'50"E 228.84 feet; thence Northwesterly along the arc of a 9,725.00 foot radius non-tangent curve (radius bears: N24°18'19"E) 83.78 feet through a central angle of 0°29'37" (chord: N65°26'53"W 83.78 feet) to a point of reverse curvature; thence along the arc of a 119.69 foot radius curve to the left 185.84 feet through a central angle of 88°57'51" (chord: S70°19'00"W 167.73 feet); thence S25°50'05"W 90.46 feet; thence along the arc of a 20.00 foot radius curve to the left 31.57 feet through a central angle of 90°27'15" (chord: S19°23'33"E 28.40 feet) to the north line of said Eagle Mountain Boulevard; thence Northwesterly along the arc of a 9,953.50 foot radius non-tangent curve (radius bears: N25°22'50"E) 507.95 feet through a central angle of 2°55'26" (chord: N63°09'27"W 507.90 feet) to the north line of the South 1/2 of the SW1/4 of said Section; thence N88°40'38"E along the 1/16th (40 acre) line 1,406.78 feet to the northwest corner of the South 1/2 of the SE1/4 of said Section; thence; thence N88°43'29"E along the 1/16th (40 acre):line 317.50 feet to the point of beginning.

PARCEL 2:

Commencing North 1243.99 feet and East 321.88 feet from the South 1/4 Corner of Section 12, Township 6 South, Range 2 West, Salt Lake Base and Meridian; thence N18°55'24"E 28.66 feet; thence along the arc of a 1749.46 radius curve to the left (chord bears: N10°00'28"E 538.914 feet); thence N1°22'57"E 9.64 feet; thence N89°50'58"W 25.78 feet; thence S1°12'23"W 9.72 feet; thence along the arc of a 1750 foot radius curve to the right (chord bears: S2°27'33"W 76.53 feet) 76.54 feet; thence West 391.09 feet; thence North 251.34 feet; thence S89°57'53"W 1199.87 feet; thence

South 101.6 feet; thence East 305.8 feet; thence South 306 feet; thence West 306 feet; thence North 407.6 feet; thence $S89^{\circ}57'53''W$ 189.01 feet; thence $S1^{\circ}21'47''W$ 752.08 feet; thence along the arc of a 9950.49 foot radius curve to the left (chord: $S61^{\circ}44'39''E$ 23.49 feet); thence $N88^{\circ}57'07''E$ 1703.74 feet to beginning.

TOGETHER. WITH the following:

Commencing North 1746.91 feet and West 2271.8 feet from the Southeast Corner of Section 12, Township 6 South, Range 2 West, Salt Lake Base and Meridian; thence West 391.09 feet; thence North 251.34 feet; thence $N89^{\circ}57'53''E$ 99.05 feet; thence $S22^{\circ}13'07''E$ 177.82 feet; thence $S89^{\circ}50'58''E$ 228.29 feet; thence $S1^{\circ}12'23''W$ 9.72 feet; thence along the arc of a 1750 foot radius curve to the right (chord bears: $S2^{\circ}27'33''W$ 76.53 feet) to the beginning.

LESS AND EXCEPTING the following:

A portion of the SE1/4 and SW1/4 of Section 12, Township 6 South, Range 2 West, Salt Lake Base and Meridian, Eagle Mountain City, Utah, more particularly described as follows: Beginning on the westerly line of Sweetwater Road located $N0^{\circ}27'04''E$ along the Section line 1,333.00 feet to the Northeast Corner of the South 1/2 of the SE1/4 of Section 12 and $S88^{\circ}43'29''W$ along the 1/16th Section (40 acre) line 2,351.47 from the Southeast Corner of Section 12, T6S, R2W, S.L.B.& M.; thence $S18^{\circ}56'36''W$ along said westerly line of Sweetwater Road 729.56 feet to the northerly line of Eagle Mountain Boulevard; thence Northwesterly along said road and along the arc of a 9,953.50 foot radius non-tangent curve (radius bears: $N18^{\circ}57'04''E$) 929.60 feet through a central angle of $5^{\circ}21'04''$ (chord: $N68^{\circ}22'24''W$ 929.26 feet) to the southeast corner of that Real Property described as Deed Entry No. 72747:2000 of the Official Records of Utah County; thence along said deed the following 5 (five) courses and distances: $N24^{\circ}17'SO''E$ 228.84 feet; thence Northwesterly along the arc of a 9,725.00 foot radius non-tangent curve (radius bears: $N24^{\circ}18'19''E$) 83.78 feet through a central angle of $0^{\circ}29'37''$ (chord: $N65^{\circ}26'53''W$ 83.78 feet) to a point of reverse curvature; thence along the arc of a 119.69 foot radius curve to the left 185.84 feet through a central angle of $88^{\circ}57'51''$ (chord: $S70^{\circ}19'00''W$ 167.73 feet); thence $S25^{\circ}50'05''W$ 90.46 feet; thence along the arc of a 20.00 foot radius curve to the left 31.57 feet through a central angle of $90^{\circ}27'15''$ (chord: $S19^{\circ}23'33''E$ 28.40 feet) to the north line of said Eagle Mountain Boulevard; thence Northwesterly along the arc of a 9,953.50 foot radius non-tangent curve (radius bears: $N25^{\circ}22'50''E$) 507.95 feet through a central angle of $2^{\circ}55'26''$ (chord: $N63^{\circ}09'27''W$ 507.90 feet) to the north line of the South 1/2 of the SW1/4 of said Section; thence $N88^{\circ}40'38''E$ along the 1/16th (40 acre) line 1,406.78 feet to the northwest corner of the South 1/2 of the SE1/4 of said Section; thence; thence $N88^{\circ}43'29''E$ along the 1/16th (40 acre) line 317.50 feet to the point of beginning.

**SCHEDULE “E”
TO
THIRD AMENDMENT TO THE DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, AND EASEMENTS OF MARKETPLACE AT EAGLE MOUNTAIN
TOWN CENTER**

Shopping Center Exclusive Uses

As of the date of this Amendment, the following is a list of current Exclusive Uses applicable to the Shopping Center:

Grocery Store: As long as the Grocery Store Lot Building is occupied and operated as a grocery store by Grocery Store Owner or another Qualified Lessee, and for a period of twelve (12) months after the termination of such occupancy or during the first and only continuous twelve (12) month period of no operations as a grocery store, to the extent lawful, there shall not be operated in the Shopping Center, and no part of the Shopping Center except the Grocery Store Lot Building, shall be used for (i) a grocery store, supermarket or convenience store (except one convenience store containing not more than five thousand (5,000) square feet, plus the square footage of any in-store fast food service such as but not limited to Burger King or McDonalds), that sells or offers for sale a combination of the following products: vegetables, fruits, and produce; meat products; deli and delicatessen products; milk, cheese, packaged or container ice cream, and other dairy products; canned and packaged unprepared food for off-premises consumption; soaps and detergents; (ii) a bakery or pastry shop (except that specialty donut bakeries such as but not limited to Tommies, Dunkin’ Donuts, and Krispy Kreme are allowed); or (iii) a delicatessen (except that sandwich-type shops such as but not limited to Blimpies, Subway and Quizno’s are allowed). Furthermore, no space in the Shopping Center shall be leased by or sold to WalMart or any subsidiary or affiliate thereof for use as a WalMart store, a Super WalMart store, a Neighborhood Market store, or a Sam’s Club store; and no space in the Shopping Center shall be leased or sold for use as a super center or club store, including without limitation a Super Target store (although a regular Target Store shall be permitted) or a Costco so long as the Grocery Store Lot Building is occupied and operated as a grocery store by Grocery Store Owner or another Qualified Lessee. A so-called “dollar store” shall also be permitted.

Hardware Store: As long as a portion of the Grocery Store Lot Building is occupied and operated as hardware store by Grocery Store Owner or another Qualified Lessee, and for a period of twelve (12) months after the termination of such occupancy or during the first and only continuous twelve (12) month period of no operations as a hardware store, to the extent lawful, there shall not be operated in the Shopping Center, and no part of the Shopping Center except the Grocery Store Lot Building, shall be used for a hardware store.

Drugstore/Pharmacy: As long as a portion of the Grocery Store Lot Building is occupied and operated as a drugstore/pharmacy by Grocery Store Owner or another Qualified Lessee, and for a period of twelve (12) months after the termination of such occupancy or during the first and only continuous twelve (12) month period of no operations as a drugstore/pharmacy, to the extent lawful, there shall not be operated in the Shopping Center, and no part of the Shopping Center

except the Grocery Store Lot Building, shall be used for a pharmacy that sells drugs or other products which are required by law to be dispensed by a registered pharmacist.

The foregoing, however, shall not apply to the sale of restricted items where the sale of such items is incidental to and does not constitute more than twenty percent (20%) of the business of the seller.

Such limitations and exclusive rights granted to Grocery Store Owner or a Qualified Lessee as specified herein while it is a tenant of the Shopping Center shall apply to the entire Shopping Center, as originally constructed or developed, and all additions or phases thereto and all expansions thereof.

Nothing herein shall be deemed to require Grocery Store Owner to operate a store or business on Grocery Store Lot under any particular trade name.

Credit Union: No portion of the Shopping Center shall be occupied or used directly or indirectly for a credit union so long as the Credit Union Owner is operating a credit union in the Shopping Center. “**Credit Union Owner**” shall mean the record holder(s) of fee simple title to Lot 5 in the Shopping Center as reflected in the records of the Recorder’s Office (the “**Credit Union Exclusive**”). The Credit Union Exclusive shall not apply to the interior of the Grocery Store Building.

Fuel Service Station/Convenience Store: So long as a fuel service station/convenience store is located and operating on the Maverik Parcel defined below, no portion of the Shopping Center, with the exception of the Maverik Parcel, shall be used for any of the Maverik Prohibited Uses. The “**Maverik Parcel**” shall mean, Lot 3 of the Subdivision Plat of Marketplace at Eagle Mountain Town Center Subdivision, as recorded in the official records of the Utah County Recorder’s Office on July 19, 2021, as Entry No. 127110:2021, also known and further defined as “Pad F” under the terms of the Declaration. The “**Maverik Prohibited Uses**” shall mean: (i) operating a fuel sales facility, convenience store, or other business engaging in the sale of fuel; (ii) in addition, and not by way of example, the following convenience stores operating under the listed trade names, are prohibited upon the Declaration Property, or any portion thereof, for the time period specified herein: Tesoro, Chevron, Arco, Flying J, Circle K, Amoco, Phillips, Sinclair, 7-11, Exxon, Texaco, and Top Stop; and (iii) operating a smoke shop or alcohol and/or liquor sales shop or store. Maverik shall have the right to exercise and pursue any and all remedies available at law or in equity to enforce this provision, including injunctive relief. For purposes of this Section, an alcohol and/or liquor sales shop or store shall be defined as any retail or wholesale establishment for which the primary source/majority of revenue is derived from the sale of alcohol and/or liquor (including boxed liquor) and alcohol and/or liquor related products, which are sold for consumption off the licensed premises. For purposes of this section, a smoke shop or store shall be defined as any retail or wholesale establishment for which the primary source/majority of revenue is derived from the sale of tobacco and/or its related products.

Little Ceasars Pizza Restaurant: So long as a pizza restaurant store is located and operating in the Little Caesars space defined below, no portion of the Shopping Center, with the exception of the Little Caesars restaurant, shall be used for any of the Little Caesars Prohibited Uses. The “**Little Caesars Space**” shall mean, the space leased by Sizzling Caesars, LLC in the building on Lot 4 of the Subdivision Plat of Marketplace at Eagle Mountain Town Center Subdivision, as recorded in the official records of the Utah County Recorder’s Office on July 19, 2021, as Entry No.

127110:2021, also known and further defined as “Pad E” under the terms of the Declaration. The “**Little Caesars Prohibited Use**” shall mean: a facility whose primary business is the sale of pizza provided, however that Tenant’s Exclusive Use shall not apply to: (a) the sale of pizza by tenants whose leased premises are larger than 5,000 square feet, (b) the sale of pizza in the grocery store located in the Shopping Center, (c) the sale of pizza in any gas mart or convenience store, and (d) the sale of pizza in a restaurant whose sale of pizza does not exceed twenty-five percent (25%) of its total sales.

Subway Sandwich Restaurant: So long as a sandwich restaurant is located and operating in the Subway Restaurant space defined below, no portion of the Shopping Center, with the exception of the Subway Restaurant, shall be used for any of the Subway Prohibited Uses. The “**Subway Restaurant Space**” shall mean, the space leased by Sub Architects, LLC in the building on Lot 4 of the Subdivision Plat of Marketplace at Eagle Mountain Town Center Subdivision, as recorded in the official records of the Utah County Recorder’s Office on July 19, 2021, as Entry No. 127110:2021, also known and further defined as “Pad E” under the terms of the Declaration. The “**Subway Prohibited Use**” shall mean: a facility which sells deli sandwiches as a primary product accounting for more than twenty five percent (25%) of sales on the property other than full service restaurants and anchor tenants (tenants occupying greater than 20,000 square feet).

Wendy’s: So long as a Wendy’s drive thru fast-food restaurant is located and operating in the Shopping Center, Wendy’s shall be entitled to the exclusive right to operate a drive through fast food hamburger themed restaurant in the Shopping Center (“**Excusive Right**”). The Exclusive Right means that no Competitive Business will be allowed to operate in the Shopping Center. Competitive Business would include, among others, Burger King, Carl’s Jr., Checkers, Culver’s, Five Guys Burgers and Fries, The Habit Burger Grill, Hardee’s, In-N-Out Burger, Jack-in-the-Box, , McDonald’s, Rally’s, Shake Shack, Smashburger, Sonic, Steak ‘n Shake, Whataburger, White Castle, or any fast food restaurant that sells hamburgers as its primary menu food item.

Arbys: So long as Arbys is open and continuously operating an Arbys restaurant, Arbys will be entitled to the exclusive use of such style restaurant and no other tenant or owner within the Shopping Center will be allowed to operate which derives more than thirty-five percent (35%) of its gross sales revenue from the sale of Arby’s style sandwiches.

Crumbl: Provided that Crumble is in possession of its premises and continuously operating as a Crumbl store, no other cookie bakery stores in the Shopping Center, including but not limited to any bakery that derives at least 30% or more of its revenues from cookie sales will be allowed.

SWIG: So long as SWIG is in possession of its premises and continuously operating as a SWIG store, no other person or entity whose primary sales (i.e., more than 30%) of beverages are derived from the sale of specialty soda beverages will be allowed within the Shopping center. This use restriction specifically prohibits the following (and similar) restaurants: Fiiz, Sodalicious, Soda Rush, Twisted Sugar, Quench It, Slurp, Soda Therapy, Rock Fizz, and Pop Drinks. This use restriction does not apply to the following restaurants: (a) Starbucks, (b) Beans and Brew, and (c) Dutch Bros.

Chipotle: Chipotle shall have the exclusive right to sell Mexican or Tex-Mex style food, including entrees, soups, salads, appetizers and other Mexican or Tex-Mex style dishes at the Shopping Center

as more than twenty five percent (25%) of its total sales; and no use of any space in the Shopping Center will be allowed for the operation of a sit down or fast casual/quick serve food establishment with sales in excess of twenty five percent (25%) of its total sales from Mexican or Tex-Mex style food, including entrees, soups, salads, appetizers and other Mexican or Tex-Mex style dishes. This restriction does not include a lease or sell to a Taco Bell on the proposed Lot 201, Marketplace at Eagle Mountain Town Center Phase 2 Subdivision.

Roxberry: Provided that Roxberry is in possession of the its premises and continuously operating as a Roxberry, no lease which permits the tenant thereunder to derive more than twenty percent (20%) of its gross sales revenue from the sale of fresh juices, yogurt, smoothies, acai and pitaya bowls will be allowed within the Shopping Center.

Taco Bell: So long as Taco Bell is operating as a drive thru fast food restaurant, it will have the exclusive right to operate a quick serve and drive through Mexican themed restaurant in the Shopping Center including, but not limited to, Del Taco, Taco John's, Taco Cabana, Taco Bueno, Freebirds World Burrito or any quick serve or drive through restaurant that sells Mexican-style food as its primary menu food item. This does not include Chipotle Mexican Grill, Costa Vida, Café Rio, and other similar fast causal businesses which serve Mexican-style food.

Great Clips: So long as Great Clips is operating continuously, no lease that permits the tenant thereunder to operate a family oriented hair salon, including haircutting and/or beauty and cosmetology schools will be allowed within the Shopping Center.

Noodles: Noodles and Company shall have the exclusive right to sell noodles and pasta and noodle and pasta-related dishes, for on or off-premises consumption at the Shopping Center; provided, however, other tenants in the Shopping Center shall have the right to sell noodles and pasta dishes if (i) the sale of noodle and pasta dishes by such tenant is incidental to another primary business of such tenant and (ii) such tenant's sale of noodle and pasta dishes from the Shopping Center does not exceed fifteen percent (15%) of such tenant's annual gross revenues derived from its business operations at the Shopping Center. In addition to the foregoing, any direct category competitors, including by way of example, the following restaurants operating under the listed trade names, or operating under any successor trade names, are prohibited from operating in the Shopping Center: Wild Noodles, Nothing But Noodles, Zyng's Asian Grill, Pei Wei, Mama Fu's, Tokyo Joes, Wagamama, Vapiano, Fire Bowl Café, ShopHouse Southeast Asian Kitchen, Go Roma, Noodles, Etc., Piada Italian Street Food. Zao Asian Café would not be a prohibited concept.

Wing Stop: As long as Wingstop is open and operating as a Wingstop restaurant no other tenant or owner of any space within the Shopping Center, will be permitted to operate: (i) a food use or restaurant having the word "Wing" in its name; (ii) a restaurant with chicken as a primary product and constituting over 20% of sales, or (iii) a tenant serving chicken wings as either a main menu item or exceeding 10% of that Tenant's total annual sales. This use will not apply to general , non-regional or national chain restaurants which: (a) do not have "chicken" or "wing" or derivations of such words in the name, (b) provide waited table service, or (c) occupy premises over 3,500 sq. ft. in size.