

FILED SARPY CO. NE.
INSTRUMENT NUMBER
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Lloyd J. Dowding
REGISTER OF DEEDS

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Proof *S*
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LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS
1210 GOLDEN GATE DRIVE, STE 1109
PAPILLION, NE 68046-2895
402-593-5773

R + R
James C. Crispe
1231 Golden Gate Dr.
Papillion NE 68046

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DECLARATION OF PROTECTIVE COVENANTS
DANIELL CROSSING

THIS DECLARATION, made this 17 day of August, 2000, by
Daniell Crossing, L.L.C. ("Declarant").

RECITALS

Declarant has heretofore developed a certain tract of land in the County of Sarpy, State of Nebraska, legally described as Lots 1 through 15, inclusive, Daniell Crossing.

Declarant desires to subject the Lots to certain covenants, conditions, and restrictions which are for the benefit of each Owner, present and future, of any of the Lots.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which Declarant acknowledges, Declarant hereby declares and makes the Lots subject to the following covenants, conditions, and restrictions which shall run with the said real property and be binding upon all persons hereafter having any right, title, or interest in the Lots:

1. **USE.** All Lots are for commercial or office purposes; and, all Lots shall be used for such purposes only, and under the conditions hereinafter set forth. No lots in Daniell Crossing may at any time be used for any purpose of use in violation of the laws of the United States, State of Nebraska, or the County of Sarpy. No trade, use, or occupation shall be implemented on or about the said property or within any improvements constructed thereon which shall be in conflict with the uses permitted by the City of Bellevue Zoning Ordinances with reference to the classification and use applicable to the said property. The permitted uses will be those applicable to City of Bellevue Zoning Ordinances.
 - a. Uses specified in Zoning Code Section _____.
 - b. Any other industry or business whose manufacturing processes or methods of operation cannot be regulated or controlled so as to limit to their property the deleterious effects of their methods of operation, particularly as regards noise, air pollution, odor, litter, vibration, glare or explosion hazard.
2. **CONSTRUCTION LIMITATIONS.** Building construction shall conform to all applicable building codes and zoning

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regulations having jurisdiction. Building systems and components shall reflect those systems and components commonly associated with commercial and industrial construction. Structural systems shall be comprised of structural steel (conventional and pre-engineered systems) or concrete components. Exterior wall systems shall be comprised of glass, brick masonry, decorative concrete masonry units, precast concrete wall systems, plaster and synthetic plaster materials. It is encouraged to utilize materials requiring minimal maintenance and upkeep. Materials other than those mentioned above may be submitted for approval. The exterior fenestration shall utilize a high percentage of glass, masonry and concrete, or combination thereof. This fenestration shall be a consistent composition of building materials on all exterior elevations.

The total coverage of buildings and structures, including docks and loading platforms, shall not exceed sixty percent (60%) of the area of each individual lot. The total impervious coverage of each lot shall not exceed eighty percent (80%).

3. SETBACK, PARKING. All lots shall be subject to the City of Bellevue Zoning ordinance with reference to building setbacks and parking areas.

All vehicular parking (customer, visitor, and employee) truck maneuvering and unloading must be on private property. All exterior lighting that is located on the building or in the parking areas will be directed to the property on which it is located. In no case shall any storage, servicing, or dismantling of automobiles or other vehicles be permitted in the parking areas or any area except in an enclosed structure out of public view.

4. LOADING AREAS. All loading and unloading operations shall be off-street. In no case shall loading or unloading be permitted in the parking or lawn areas or in a location which will interfere with ingress or egress thereto. All loading areas shall be hard surfaced with a suitable dustless material. No loading areas shall be constructed facing any public street or highway without prior written approval of Declarant.

5. OUTSIDE STORAGE. Merchandise or other materials shall be within the confines of the building and, if outside the building, it shall be screened by fences, walls or plantings so as not to be seen from any public street. Parking or lawn areas shall not be used for permanent storage or abandonment of property. Property for sale may be displayed outside, if neatly arranged and usual and customary to the operating business.

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6. TEMPORARY STRUCTURES, MOVING. No trailer, tent, shack, garage, barn, or any temporary structure that shall be moved onto premises or erected thereon, shall be used for temporary or permanent operation of the proposed occupant's business or permitted to remain on premises unless and until such structure and the duration of its use on the premises has been approved in writing by the undersigned. No noxious or offensive trades, services, or activities shall be conducted on any building site nor shall anything be done thereon which may be or become an annoyance or nuisance to the owner, tenant, or occupant of other building sites within Daniell Crossing area by reason of unsightliness or the excessive emission of fumes, odors, glare, vibration, bases, radiation, dust, liquid waste, smoke, or noise.

No building constructed in another area or addition may be moved onto or permitted to remain on any lot in this subdivision.

7. ERECTION OF SIGNS. No owner, lessee, or occupant of any Lot shall use, permit to be used, any portion of the Lot under its control for the erection of signs, billboards, or displays, other than those directly connected with the business operated on said site. No flashing signs or light, revolving beacons, strobe lights, or similar electrical or mechanical mechanisms, whether permanent or temporary in nature, shall be permitted. No signs shall be erected or maintained on the roof of any building. Written approval from Declarant is required prior to the erection or modification of any sign, other than a sign attached to a building and identifying the address and/or the occupant thereof.

8. LANDSCAPING, GRADING. Grading and drainage shall be designed in accordance with the subdivision master plan and meet the City of Bellevue standards. The use of retaining walls is discouraged. Where required, retaining walls shall be poured concrete, a masonry retaining wall system such as Keystone, or landscape timbers (designed by a registered structural engineer) where the wall height does not exceed six (6) feet in height. Graded slopes shall have a maximum slope of 3:1, and shall be landscaped to prevent erosion.

Landscaping shall meet the requirements of the City of Bellevue Zoning Ordinance for industrial zoned areas. Landscaped areas shall be designed to project an attractive image with trees, shrubs, lawn, etc., and shall be properly maintained in a slightly and well kept condition. Plant material that is diseased, destroyed, etc., shall be replaced with new plant material during the next planting season.

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9. MAINTENANCE OF UNDEVELOPED AREAS. That portion of each Lot which is not improved through the construction of building, parking facilities, loading facilities, and lawn area, as hereinbefore provided, shall be seeded to a cover planting which grows to a height not to exceed approximately eighteen (18) inches, and shall be continuously and attractively maintained. In no event and at no time shall any Lot be planted to cultivated row crops. Each Lot owner shall be responsible for the maintenance of the property beyond the lot line up to the edge of the pavement of the abutting street or streets.

10. LOT SPLITS. Any owner of a lot shall obtain from the Declarant written approval before lot splits or subdivision of any lot is permitted, along with approval of the City of Bellevue.

11. APPROVAL OF PLANS.

a. No building, fence, wall, driveway, or other external improvements, above or below the surface of the ground, shall be built, erected, placed, altered, or otherwise maintained or permitted to remain on any Lot, nor shall any grading or excavation be commenced without the express written approval of the Declarant. "Approval of Declarant" (including disapproval) shall also mean approval (or disapproval) by another person designated by Declarant in a writing duly recorded in the Office of the Register of Deeds and indexed against the Subdivision as approving authority in lieu of Declarant.

b. Documents submitted for approval shall be clear, concise, complete, consistent, and legible. Samples of materials to be included in the improvement may be required of the applicant at the discretion of Declarant. Submittals for approval shall be made in duplicate and comments and action of Declarant will be identically marked on both copies of said submittals. One copy will be returned to the applicant and one copy will be retained as part of the permanent records of Declarant. Each applicant shall submit to Declarant the following documents, materials and/or drawings:

(i) Site plan, indicating specific improvement and indicating Lot number, street address, grading, surface drainage, and sidewalks.

(ii) Complete construction plans, including, but not limited to, floor areas of each level, wall sections and exterior elevations clearly indicating type and extent of exterior materials and roofing.

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c. The applicant's name, address, and telephone number shall appear on each set of plans submitted to Declarant.

d. The approval or disapproval of Declarant, as required by these covenants, shall be in writing. Failure of Declarant to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as approval of the plans and specifications submitted.

11. SEVERABILITY. If any term or provision of this Declaration, or the application of it to any person or circumstance shall, to any extent, be invalid and unenforceable, the remainder of this Declaration and the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby and each term and provision thereof shall be valid and shall be enforced to the extent permitted by law.

12. ENFORCEMENT. Any Owner of any part of Declarant Tract shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants, and reservations now or hereafter imposed by the Protective Covenants either to prevent or restrain any violation of same or to recover damages of such violation. Failure by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. In the event any entity which is entitled to the benefits of this Declaration brings any action at law or equity to enforce this Declaration, the prevailing party of such action shall be entitled to recover from the other party its reasonable attorney's fees and all court costs, in addition to all other appropriate relief.

13. BINDING. These Covenants are to run with the land and shall be binding on all parties claiming under them until January 1, 2020, at which time said covenants shall be automatically extended for successive period of ten (10) years, unless by a vote of the Owners of a majority of lots it is agreed to change these covenants in whole or in part. However, by a vote of the Owners of seventy-five percent (75%) of the total area of Lots, these restrictive Covenants may be altered or amended at any time.

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Steve Daniell
Steve Daniell, President of
Daniell Crossing, L.L.C.

STATE OF NEBRASKA)
) SS
COUNTY OF SARPY)

On this 17 day of ~~January~~ August 2000, before me, a Notary Public in and for said county, personally appeared Steve Daniell, President of Daniell Crossing, L.L.C., known to me to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal the day and year last above written.

James C. Cripe
Notary Public



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INSTRUMENT NUMBER
2001-11496

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Shirley J. Danberg
REGISTER OF DEEDS

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Verify my
D.E. SK
Proof for
Fee \$ 23.00
Ck Cash Chg
7076

DECLARATION AND ESTABLISHMENT OF
CONDITIONS, RESERVATIONS AND RESTRICTIONS

To the Public:

The undersigned are the true and lawful owners or otherwise have an interest in the following described real estate situated within Sarpy County, Nebraska:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 14, 15 and Outlot A, Daniell Crossing, and Lot 2 of Daniell Crossing Replat 1, all in Sarpy County, Nebraska (the "Property").

The undersigned, in consideration of and pursuant to the terms and conditions of the Purchase Agreement dated February 6, 2001, do hereby establish the following covenants, conditions, reservations, and restrictions which shall govern the Property for the benefit of the owner of Lot 1, Daniell Crossing Replat 1.

1. Restrictive Covenant. The undersigned promises, declares and covenants that during the Term of this Declaration and Establishment of Conditions, Reservations and Restrictions (the "Restrictive Covenant"), the Property shall not be used, sold, leased or in any way operated in violation of the terms and conditions set forth herein.
2. Fast Food Hamburger Exclusive. The following restaurants are specifically prohibited from operating in any manner within the Property: McDonald's, Hardees, Burger King, Wendy's, Sonic, A & W, King's, Don and Millie's, Hot 'N Now, Bronco's, Culver's, Carl's Jr. and Sam's. In addition, any other restaurant with a drive-thru window that serves hamburgers not previously listed shall be prohibited from operating in any manner within the Property; provided, however, that Arby's and Dairy Queen are NOT prohibited from operating within the Property.
3. Term. The Term of this Restrictive Covenant shall be 10 years from the date this Restrictive Covenant is filed with the Sarpy County Register of Deeds.
4. Run With The Land. This Restrictive Covenant shall run with the Property and be binding on the undersigned and its heirs, successors, assigns, grantees, personal representatives and any other subsequent owner(s). The owner of Lot 1, Daniell Crossing Replat 1, shall have, in addition to any other rights and remedies it may be entitled to under law or equity, the right of specific performance to enforce this Restrictive Covenant.

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5. Modification. Notwithstanding anything to the contrary herein, this Restrictive Covenant may be terminated or modified at any time and in any respect by written agreement between the owner of Lot 1, Daniell Crossing Replat 1 and an owner of any part of the Property.

DANIELL CROSSING, L.L.C.

JACOBS OIL L.L.C.

By: Steven L. Daniell
Steven L. Daniell, President

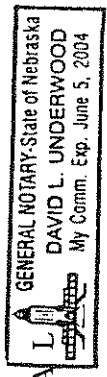
By: Calvin L. Jacobs
Calvin L. Jacobs
Member and Manager

PINNACLE BANK

By: [Signature]
Its: President

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me on this 25th day of APRIL, 2001, by Steven L. Daniell, who represented himself to be the President of Daniell Crossing, L.L.C. and that he had the full legal power and authority to execute this document on behalf of the Company.

S E A L


[Signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me on this 25th day of APRIL, 2001, by Calvin L. Jacobs, who represented himself to be the Member and manager of Jacobs Oil L.L.C. and that he had the full legal power and authority to execute this document on behalf of the Company.

S E A L


[Signature]
Notary Public

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STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me on this 25th day of APRIL, 2001, by STEVE ZEY, who represented himself to be the PRESIDENT of Pinnacle Bank and that he had the full legal power and authority to execute this document on behalf of the Bank.



David L. Underwood
Notary Public

Please return after filing to:
Carl J. Sjulín, Esq.
1201 Lincoln Mall, Suite 102
Lincoln, NE 68508

restrict-cov-runza.wpd/cjs/i
April 24, 2001