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STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD

2017 045267

2017 JUL 21 PM 4:09

MICHAEL B. BROWN
RECORDER

ENVIRONMENTAL RESTRICTIVE COVENANT

THIS ENVIRONMENTAL RESTRICTIVE COVENANT ("Covenant") is made this 30th day of June 2017, ~~XXX~~, by Perfection Bakeries, Inc., an Indiana corporation ("Owner").

WHEREAS: Owner is the fee owner of certain real estate in the County of Lake, Indiana, which is located at 790 West Commercial Avenue, Lowell, Indiana, 46356 and more particularly described in the attached Exhibit A ("Real Estate"), which is hereby incorporated and made a part hereof. This Real Estate was acquired by deed dated December 22, 2015, and recorded on December 30, 2015, as Instrument No. 2015 088420, in the Office of the Recorder of Lake County, Indiana. The Real Estate has also been identified by the county as parcel identification number 45-19-22-451-00206-038.

WHEREAS: The former owner of the Real Estate, Newell Operating Company, 3 Glenlake Parkway, Atlanta, Georgia 30328 ("Newell") entered into Indiana's Voluntary Remediation Program ("VRP") to address releases of hazardous substances and/or petroleum ("contaminants of concern") relating to the Real Estate. The Indiana Department of Environmental Management ("IDEM") assigned the project number 6131209. A Remediation Work Plan and Completion Report dated April 3, 2015 ("RWP/CR") was prepared on behalf of Newell April 3, 2015 in accordance with IC 13-25-5. Thereafter, IDEM provided comments to the RWP/CR to Newell dated July 28, 2015, and Newell provided a response to IDEM's comments dated February 4, 2016 to which IDEM provided comments dated July 13, 2016, and Newell provided a response on August 23, 2016. IDEM approved the RWP/CR as amended by Newell's response to IDEM's comments on May 10, 2017 ~~2018~~ ("Approved RWP/CR").

WHEREAS: The Approved RWP/CR allows certain contaminants of concern to remain in the groundwater and soil, provided that certain land use restrictions are implemented to protect human health. The remaining contaminants of concern are vinyl chloride and arsenic.

WHEREAS: The remediation work plan and completion report are hereby incorporated by reference and may be examined at the offices of IDEM, which is located in the Indiana Government Center North building at 100 N. Senate Avenue, Indianapolis, Indiana. The documents may also be viewed electronically in IDEM's Virtual File Cabinet by accessing IDEM's Web Site (currently www.in.gov/idem/).

NOW THEREFORE, Owner subjects the Real Estate to the following restrictions and provisions, which shall be binding on the Owner and all future owners of the Real Estate:

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JUL 21 2017

JOHN E. PETALAS
LAKE COUNTY AUDITOR

AMOUNT \$ 25 -
CASH CHARGE _____
CHECK # _____
OVERAGE _____
COPY _____
NON-COM _____
CLERK BM

I. RESTRICTIONS

1. Restrictions. The Owner:

(a) Shall not use or allow the use of the Real Estate for residential purposes, including, but not limited to, daily child care facilities or educational facilities for children (e.g., daycare centers or K-12 schools).

(b) Shall not use or allow the use or extraction of groundwater at the Real Estate for any purpose, including, but not limited to: human or animal consumption, gardening, industrial processes, or agriculture, except that groundwater may be extracted in conjunction with environmental investigation and/or remediation activities.

(c) Shall neither engage in nor allow excavation of soil at depths greater than eleven (11) feet in the area identified via GPS coordinates as the "Construction Worker Restriction Area" on the attached Exhibit B (which is incorporated herein), unless soil disturbed as a result of such excavation and construction activities is restored in such a manner that the remaining contaminant concentrations do not present an unacceptable risk to human health or the environment. This determination shall be made using IDEM's current risk-based guidance. Upon IDEM's request, the Owner shall provide IDEM written evidence (including sampling data) showing the excavated and restored area, and any other area affected by the excavation, does not represent such an unacceptable risk. Contaminated soils that are excavated must be managed in accordance with all applicable federal and state laws, and disposal of such soils must also be done in accordance with all applicable federal and state laws.

II. GENERAL PROVISIONS

2. Restrictions to Run with the Land. The restrictions and other requirements described in this Covenant shall run with the land and be binding upon, and inure to the benefit of the Owner of the Real Estate and the Owner's successors, assignees, heirs and lessees and their authorized agents, employees, contractors, representatives, agents, lessees, licensees, invitees, guests, or persons acting under their direction or control (hereinafter "Related Parties") and shall continue as a servitude running in perpetuity with the Real Estate. No transfer, mortgage, lease, license, easement, or other conveyance of any interest in or right to occupancy in all or any part of the Real Estate by any person shall affect the restrictions set forth herein. This Covenant is imposed upon the entire Real Estate unless expressly stated as applicable only to a specific portion thereof.
3. Binding upon Future Owners. By taking title to an interest in or occupancy of the Real Estate, any subsequent Owner or Related Party agrees to comply with all of the restrictions set forth in paragraph 1 above and with all other terms of this Covenant.
4. Access for Department. The Owner shall grant to IDEM and its designated representatives the right to enter upon the Real Estate at reasonable times for the purpose of monitoring compliance with this Covenant and ensuring its protectiveness; this right includes the right to take samples and inspect records.

5. Written Notice of the Presence of Contamination. Owner agrees to include in any instrument conveying any interest in any portion of the Real Estate, including but not limited to deeds, leases and subleases (excluding mortgages, liens, similar financing interests, and other non-possessory encumbrances), the following notice provision (with blanks to be filled in):

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL RESTRICTIVE COVENANT, DATED _____ 20__, RECORDED IN THE OFFICE OF THE RECORDER OF _____ COUNTY ON _____, 20__, INSTRUMENT NUMBER (or other identifying reference) _____ IN FAVOR OF AND ENFORCEABLE BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT.

6. Notice to Department of the Conveyance of Property. Owner agrees to provide notice to IDEM of any conveyance (voluntary or involuntary) of any ownership interest in the Real Estate (excluding mortgages, liens, similar financing interests, and other nonpossessory encumbrances). Owner must provide IDEM with the notice within thirty (30) days of the conveyance and: (a) include a certified copy of the instrument conveying any interest in any portion of the Real Estate; (b) if it has been recorded, its recording reference; and (c) the name and business address of the transferee.

7. Indiana Law. This Covenant shall be governed by, and shall be construed and enforced according to, the laws of the State of Indiana.

III. ENFORCEMENT

8. Enforcement. Pursuant to IC 13-14-2-6 and other applicable law, IDEM may proceed in court by appropriate action to enforce this Covenant. Damages alone are insufficient to compensate IDEM if any owner of the Real Estate or its Related Parties breach this Covenant or otherwise default hereunder. As a result, if any owner of the Real Estate, or any owner's Related Parties, breach this Covenant or otherwise default hereunder, IDEM shall have the right to request specific performance and/or immediate injunctive relief to enforce this Covenant in addition to any other remedies it may have at law or at equity. Owner agrees that the provisions of this Covenant are enforceable and agrees not to challenge the provisions or the appropriate court's jurisdiction.

IV. TERM, MODIFICATION AND TERMINATION

9. Term. The restrictions shall apply until IDEM determines that the contaminants of concern no longer present an unacceptable risk to the public health, safety, or welfare, or to the environment.
10. Modification and Termination. This Covenant shall not be amended, modified, or terminated without IDEM's prior written approval. Within thirty (30) days of executing an amendment, modification, or termination of the Covenant, Owner shall record such amendment, modification, or termination with the Office of the Recorder of Lake County and within

thirty (30) days after recording, provide a true copy of the recorded amendment, modification, or termination to IDEM.

V. MISCELLANEOUS

11. Waiver. No failure on the part of IDEM at any time to require performance by any person of any term of this Covenant shall be taken or held to be a waiver of such term or in any way affect IDEM's right to enforce such term, and no waiver on the part of IDEM of any term hereof shall be taken or held to be a waiver of any other term hereof or the breach thereof.
12. Conflict of and Compliance with Laws. If any provision of this Covenant is also the subject of any law or regulation established by any federal, state, or local government, the strictest standard or requirement shall apply. Compliance with this Covenant does not relieve the Owner of its obligation to comply with any other applicable laws.
13. Change in Law, Policy or Regulation. In no event shall this Covenant be rendered unenforceable if Indiana's laws, regulations, guidance, or remediation policies (including those concerning environmental restrictive covenants, or institutional or engineering controls) change as to form or content. All statutory references include any successor provisions.
14. Notices. Any notice, demand, request, consent, approval or communication that either party desires or is required to give to the other pursuant to this Covenant shall be in writing and shall either be served personally or sent by first class mail, postage prepaid, addressed as follows:

To Owner:
Perfection Bakeries, Inc
350 Pearl Street
Fort Wayne, IN 46802
Attn: President

To Department:
IDEM, Office of Land Quality
100 N. Senate Avenue
IGCN 1101
Indianapolis, IN 46204-2251
Attn: Section Chief, Voluntary Remediation Program

An Owner may change its address or the individual to whose attention a notice is to be sent by giving written notice via certified mail.

15. Severability. If any portion of this Covenant or other term set forth herein is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions or terms of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.

16. Authority to Execute and Record. The undersigned person executing this Covenant represents that he or she is the current fee Owner of the Real Estate or is the authorized representative of the Owner, and further represents and certifies that he or she is duly authorized and fully empowered to execute and record, or have recorded, this Covenant.

Owner hereby attests to the accuracy of the statements in this document and all attachments.

[Remainder of page intentionally left blank]



IN WITNESS WHEREOF, Perfection Bakeries, Inc., the said Owner of the Real Estate described above has caused this Environmental Restrictive Covenant to be executed on this 30th day of June, 2017. ~~2018~~

PERFECTION BAKERIES, INC.

By: *John F. Popp*
John F. Popp, President

STATE OF INDIANA)

COUNTY OF ALLEN)

Document is NOT OFFICIAL!

This Document is the property of the Lake County Recorder.

Before me, a Notary Public in and for said County and State, this 30th day of June, 2017, ~~2018~~, personally appeared John F. Popp, the President of PERFECTION BAKERIES, INC., an Indiana corporation, and acknowledged the execution of the above and foregoing on behalf of the company.

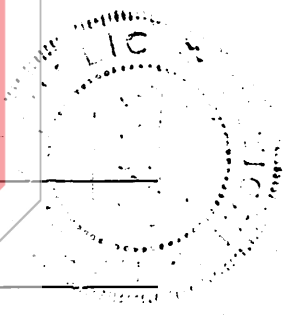
In witness whereof, I have hereunto set my hand and seal.

My Commission Expires:

March 1, 2025

A resident of Allen
County, State of Indiana

Mary E. Walton
Notary Public's Signature
Mary E. Walton
Notary Public's Printed Name



This instrument prepared by, and after recording return to: David R. Steiner, Esq., Barrett McNagny LLP, 215 East Berry Street, P.O. Box 2263, Fort Wayne, Indiana 46801-2263.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. Galina Georgiew

EXHIBIT A

LEGAL DESCRIPTION OF REAL ESTATE

PARCEL 1:

Part of the Southeast 1/4 of Section 22, Township 33 North, Range 9 West of the 2nd P.M. in Lake County, Indiana, described as follows: Beginning at a point on the West line of said Southeast 1/4 and 330 feet North of the Southwest corner thereof; thence North along said West line 1320 feet; thence East 660 feet; thence South 1320 feet to a point 330 feet North of the South line of said 1/4 Section; thence West 660 feet to the point of beginning.

EXCEPT:

Part of the Southeast Quarter of Section 22, Township 33 North, Range 9, West of the Second Principal Meridian, in Lake County, Indiana, described as follows: Beginning at a point on the West line of said Southeast Quarter that is 1057 feet North of the Southwest corner thereof; thence North along said West line 593 feet to the North line of the South 1650.0 feet of the Southeast Quarter of said Section 22; thence East on said North line of the South 1650.0 feet 238.0 feet; thence South on a line parallel to and 238.0 feet East of the West line of said Southeast Quarter for a distance of 593 feet to the South line of an existing retention pond fence extended; thence West 238.0 feet to the point of beginning and containing 141,134 square feet which is 3.24 acres.

PARCEL 2:

The West 160 feet of the South 330 feet of the Southwest 1/4 of the Southeast 1/4 of Section 22, Township 33 North, Range 9 West of the 2nd P.M., in Lake County, Indiana.

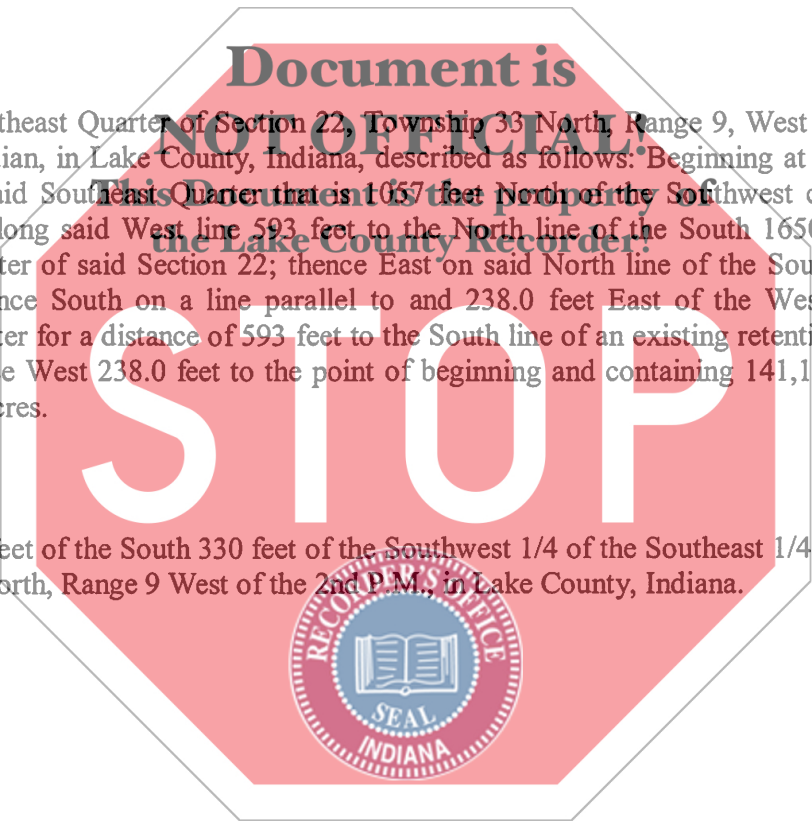
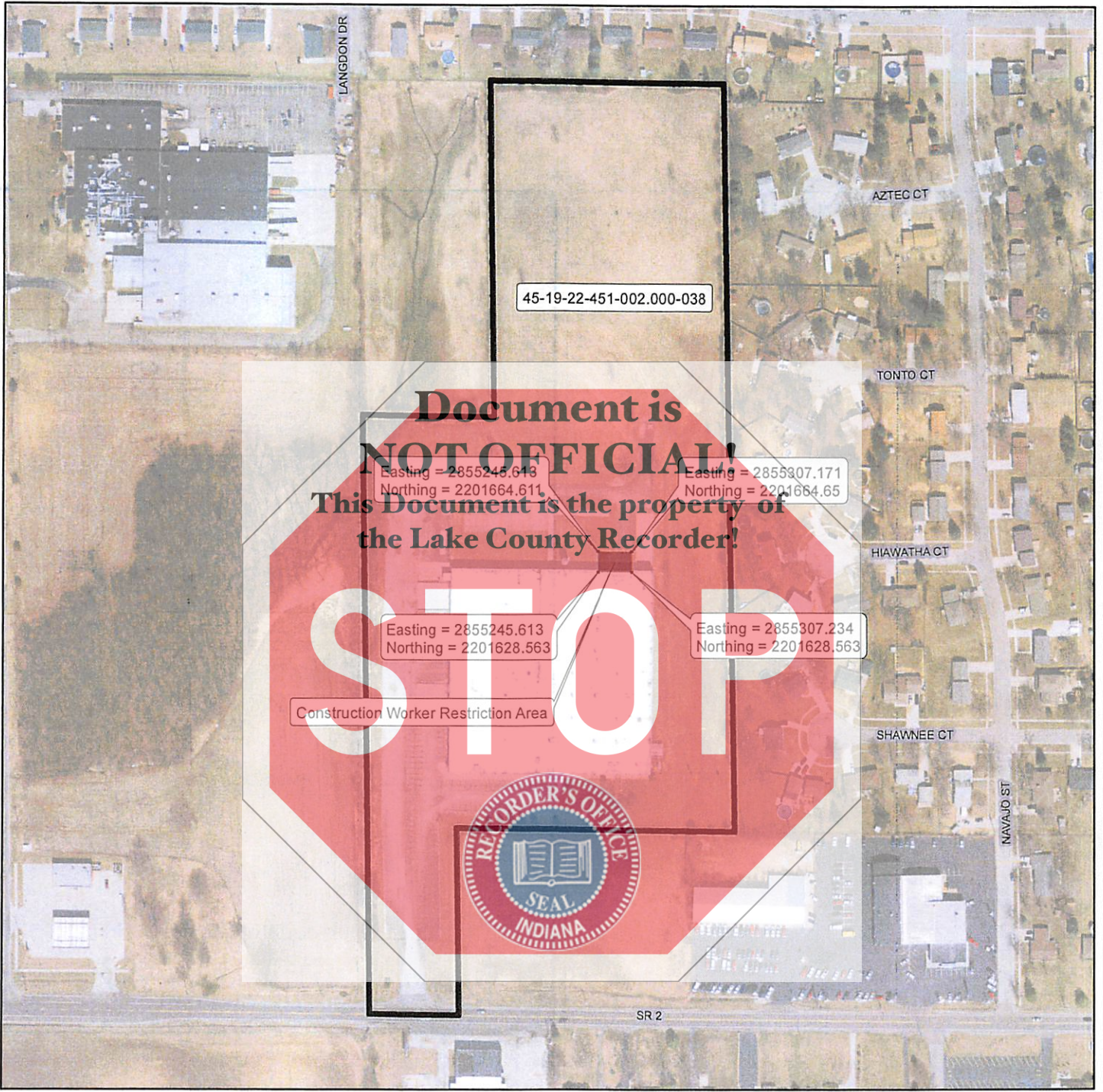


EXHIBIT B

CONSTRUCTION WORKER RESTRICTION AREA



VRP # 6131209 - ERC (Real Estate & Construction Worker Restriction Area)



Mapped By: Mike Hill, IDEM, Office of Land Quality, Science Services Branch, Engineering & GIS Services, May 31, 2017

Deed Info: Instrument # 2015-088420 Recorded December 30, 2015

Parcel ID: 45-19-22-451-002.000-038

Construction Worker Restriction Area Coordinate Info:
 Construction Worker Restriction Area coordinates plotted using the following parameters:
 Projection: State Plane Coordinate System, Indiana West (Zone 1302)
 Datum: NAD83
 Units: U.S. Feet

PLSS Info: Section 22, T33N, R9W, West Creek Township, Lake County, IN

Property: 790 West Commercial Avenue, Lowell, IN

Aerial Info: 2013 Statewide Orthophotography Program

Disclaimer: This map is intended to serve as an aid in graphic representation only. This information is not warranted for accuracy or other purposes.

Real Estate

Construction Worker Restriction Area

