

PREPARED BY:
Robert M. Gordon, PLLC
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Leesburg, VA 20175

Doc ID: 007487420011 Type: DEE
Recorded: 03/11/2015 at 11:43:00 AM
Fee Amt: \$35.00 Page 1 of 11
Fauquier County, VA
Gail H Barb Clerk of Circuit Court
File# 2015-00001904

BK **1480** PG **452-462**

AFTER RECORDATION RETURN TO:
LOUDOUN COMMERCIAL TITLE, LLC
FIVE WIRT STREET SUITE 200
LEESBURG VA 20175-2923

PIN NUMBERS AFFECTED PARCELS:

- 6092-72-4966 (CG)
- 6092-80-2636 (Fazakerley)
- 6092-91-1216 (Fazakerley)
- 6092-65-3362 (Burnt Mill Farm)
- 6092-42-8531 (Burnt Mill Farm)
- 6092-33-6661 (Burnt Mill Farm)
- 6092-77-0449 (Mills)
- 6092-88-0853 (Mills)
- 6093-70-3658 (Mills)
- 6092-58-3805 (Mills)
- 6092-35-7876 (Mills)

DECLARATION OF PROTECTIVE COVENANTS

THIS DECLARATION OF PROTECTIVE COVENANTS (this "Declaration"), dated as of the 9TH day of MARCH, 2015, is made by and between CG HALFWAY ROAD LLC, a Virginia limited liability company ("CG"); GREGORY FAZAKERLEY, TRUSTEE of the Gregory W. Fazakerley Second Amended and Restated Trust Agreement dated November 1, 2012 and CANDY C. FAZAKERLEY, TRUSTEE, of the Candy C. Fazakerley Second Amended and Restated Trust Agreement dated November 1, 2012 ("Fazakerley"); BURNT MILL FARM, INC., a Delaware Corporation ("Burnt Mill"); and JAMES P. MILLS, JR. and DEBORAH J. MILLS ("Mills"), with reference to the following matters.

RECITALS:

A. CG Halfway Road LLC is the owner of that certain parcel of real property having a current Fauquier County PIN Number of 6092-72-4966, comprising 61.9118 acres of land more or less, acquired by

EXAMINED &
RETURNED

TITLE SOLUTIONS, INC

1 7 10

Grantor by Deed dated July 25, 2014, from Waverly, LLC recorded on July 25, 2014 in Deed Book 1464, at Pages 1561-1564 among the Land Records of Fauquier County, Virginia, as adjusted by Deed of Boundary Line Adjustment recorded in Deed Book 1471 at Page 2206 among the aforesaid Land Records (the "CG Property").

B. Fazakerley is the owner of those two certain parcels of real property as follows: (i) having a current Fauquier County PIN Number of 6092-80-2636, comprising 5.7062 acres of land more or less, acquired by Fazakerley by Deed recorded in Deed Book 1412, at Pages 1788-1791 among the aforesaid Land Records; and (ii) having a current Fauquier County PIN Number of 6092-91-1216, comprising 101.94 acres of land more or less, acquired by Fazakerley by Deed recorded in Deed Book 1412, at Pages 1792-1797 among the aforesaid Land Records (collectively, the "Fazakerley Property").

C. Burnt Mill Farm, Inc. is the owner of those certain three parcels of real property (i) having a current Fauquier County PIN Number of 6092-65-3362, comprising 293.8166 acres of land more or less, acquired by Burnt Mill by Deed recorded in Deed Book 747, at Page 210 among the aforesaid Land Records, as adjusted by Deed of Boundary Line Adjustment recorded in Deed Book 1471 at Page 2206 among the aforesaid Land Records; (ii) having a current Fauquier County PIN Number of 6092-42-8531 comprising 109.8 acres of land more or less, acquired by Burnt Mill by Deed recorded in Deed Book 747, at Page 210 among the aforesaid Land Records; and (iii) having a current Fauquier County PIN Number of 6092-33-6661, comprising 105.53 acres of land more or less, acquired by Burnt Mill by Deed recorded in Deed Book 747, at Page 210 among the aforesaid Land Records (collectively, the "Burnt Mill Farm Property").

D. James P. Mills, Jr. is the owner of three parcels of real property containing of record (i) 144.75 acres of land, having a current Fauquier County PIN Number of PIN 6092-77-0449; (ii) eight (8) acres of land, having a current Fauquier County PIN Number of PIN 6092-88-0853, and (iii) 57.15 acres of land, having a current Fauquier County PIN Number of PIN 6093-70-3658 all acquired by James P. Mills and described as tracts "First" "Second" and "Third" in Deed dated December 31, 1970, recorded in Deed Book 264 at Page 767 among the aforesaid Land Records. James P. Mills, Jr. is also the owner of a 19.58

acre parcel of land, having a current Fauquier County PIN Number of 6092-58-3805, acquired by James P. Mills by Deed dated December 11, 2009, recorded in Deed Book 1334 at Page 178 among the aforesaid Land Records. James P. Mills Jr. and Deborah J. Mills, husband and wife, tenants by the Entirety, are the owner of one parcel of real property containing of record 80.5 acres of land, having a current Fauquier County PIN Number of 6092-35-7876, acquired by them by Deed dated December 16, 2002, recorded in Deed Book 996 at Page 1631 among the aforesaid Land Records (all five of the foregoing parcels are collectively referred to as the "Mills Property").

E. The parties hereto have been adversely affected by winery uses allowed on rural properties by Fauquier County Virginia, including impacts associated with the growing of grapes, the production of wine, the sale of wine on premises, and additional activities including winery tours, weddings as a commercial business, and related noise and traffic. The parties also wish to prevent the use of any of their respective properties for the commercial making, manufacturing, distribution or sale of cider products or for the commercial brewing, distribution or sale of beer or other malt beverage products. The parties hereto are in agreement that although such activities may be permissible by current or future Fauquier County zoning ordinance and applicable state law, the parties hereto by covenant and agreement wish to restrict and prevent any of such activities and uses on the properties described above.

F. The parties hereto wish to jointly record a Protective Covenant for the mutual protection and benefit of their respective properties, prohibiting in perpetuity the use of any of the properties owned by any of the parties hereto, and their heirs, successors, and assigns, for "Winery Uses" or "Cidery or Brewery Uses" as defined herein and as set forth more specifically below.

G. None of the parcels of real property described above is subject to the lien, operation, and effect of any Deed of Trust, mortgage, or financial lien or encumbrance of any kind, and no consent of any lender or lienholder is necessary for the execution and delivery of this Deed by either party hereto.

H. The execution, delivery and recordation of this Declaration was agreed to by the parties as a condition of the conveyance of land in Deed of Boundary Line Adjustment recorded in Deed Book 1471 at Page 2206 among the aforesaid Land Records.

NOW, THEREFORE, in consideration of the foregoing, the mutual covenants and benefits given and received by the parties hereto, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties hereto agree as follows.

1. **Covenant Against Winery, Cidery or Brewery Uses.** The parties hereto agree for themselves and their respective heirs, successors and assigns, that no Winery Uses shall be allowed on any of the properties described herein. The term "Winery Uses" shall mean the production and harvesting of grapes for the manufacturing of wine either on or off site, the manufacturing and production of wine, the sale of wine on premises, wine tasting and consumption; the direct sale and shipment from the property of wine by common carrier to consumers; the sale and shipment of wine to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers. The parties also agree for themselves and their respective heirs, successors and assigns, that no Cidery or Brewery Uses shall be allowed on any of the properties described herein. The term "Cidery or Brewery Uses" shall mean the commercial pressing, making or production of apple or other cider products or the commercial brewing or production of beer or other malt beverage products, the sale of cider or beer on premises, cider or beer tasting and consumption, the direct sale and shipment from the property of cider or beer by common carrier to consumers, or the sale or shipment of cider or beer to the Alcoholic Beverage Control Board, licensed wholesalers, and out-of-state purchasers.

2. **Enforcement.** The parties agree that monetary damages would not be an adequate remedy for the breach of any terms, conditions, and restrictions of this Declaration. Any party to this Agreement or any heir, successor assign to any party to this Agreement, who owns any of the parcels of real property described above, shall have the right to bring an action at law or in equity to enforce the covenants contained herein. This right specifically includes (i) the right to seek and obtain injunctive

relief from a court having jurisdiction; and (ii) the right to require removal of any improvements erected in violation of this Declaration and restoration of the property to its last prior condition conforming to the terms hereof. The prevailing party in any such litigation shall be entitled to such reimbursement, including costs and attorneys' fees, as may be awarded by the court.

3. Covenant Real, Running With Land. The parties hereto agree that this Declaration and the undertakings and restrictions set forth herein shall run with the land and shall inure to the benefit of, and be binding upon, the heirs, executors, administrators, successors and assigns of the parties hereto.

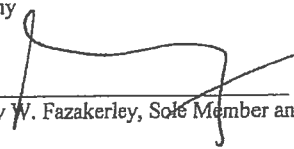
4. Severability. In the event that for any reason whatsoever a court of competent jurisdiction shall determine that any use or activity described as prohibited hereby is determined to not be so prohibited, such determination shall not affect the enforceability of this Declaration against other uses or activities described herein, and such covenants, conditions and restrictions shall remain in full force and effect. In the event that for any reason whatsoever a court of competent jurisdiction shall determine that any parcel of real property described as encumbered hereby is determined to not be so encumbered, such determination shall not affect the enforceability of this Declaration against all other properties and landowners described herein, and such covenants, conditions and restrictions shall remain in full force and effect.

5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Virginia.

IN WITNESS WHEREOF, the parties have executed this Declaration as of the date first above written.

SIGNATURE PAGE TO DECLARATION

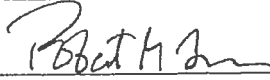
CG HALFWAY ROAD LLC, a Virginia limited liability company

By:  (SEAL)
Gregory W. Fazakerley, Sole Member and Manager

COMMONWEALTH OF VIRGINIA
COUNTY OF Fauquier, to wit:

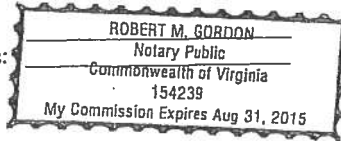
I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Gregory W. Fazakerley, Sole Member and Manger of CG HALFWAY ROAD LLC, whose name is signed to the foregoing instrument, appeared before me and personally acknowledged the same as his act and deed and the act and deed of said limited liability company

GIVEN under my hand and seal this 9TH day of MARCH, 2015.



(SEAL)

Notary Public
Notary Public Number:
My commission expires:



SIGNATURE PAGE TO DECLARATION

BURNT MILL FARM INC., a Delaware corporation

By: James P. Mills, Jr. (SEAL)
James P. Mills, Jr., President

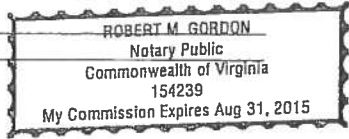
COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that James P. Mills, Jr., President of Burnt Mill Farm, Inc., appeared before me and personally acknowledged the same as an authorized signatory of and as the act and deed of said corporation.

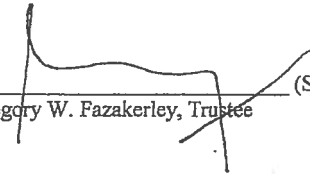
GIVEN under my hand and seal this 9th day of MARCH, 2015.

Robert M. Gordon (SEAL)
Notary Public

Notary Public Number:
My commission expires:



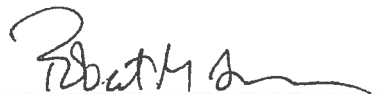
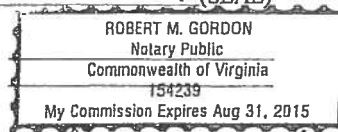
SIGNATURE PAGE TO DECLARATION

 (SEAL)
Gregory W. Fazakerley, Trustee

COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Gregory W. Fazakerley, Trustee, whose name is signed to the foregoing instrument, appeared before me and personally acknowledged the same as his act and deed.

GIVEN under my hand and seal this 9TH day of MARCH, 2015.

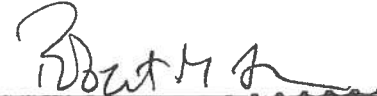
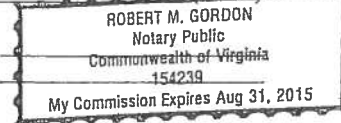
 (SEAL)
Notary Public
Notary Public Number:
My commission expires:



Candy C. Fazakerley, Trustee

COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Candy C. Fazakerley, Trustee, whose name is signed to the foregoing instrument, appeared before me and personally acknowledged the same as her act and deed.

GIVEN under my hand and seal this 9TH day of MARCH, 2015.

 (SEAL)
Notary Public
Notary Public Number:
My commission expires:


SIGNATURE PAGE TO DECLARATION

James P. Mills, Jr. (SEAL)
James P. Mills, Jr.

COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to wit:

I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that James P. Mills, Jr., whose name is signed to the foregoing instrument, appeared before me and personally acknowledged the same as his act and deed.

GIVEN under my hand and seal this 9th day of MARCH, 2015.

Robert M. Gordon (SEAL)

Notary Public
Notary Public Number:
My commission expires:

ROBERT M. GORDON
Notary Public
Commonwealth of Virginia
154239
My Commission Expires Aug 31, 2015

Deborah J. Mills (SEAL)
Deborah J. Mills

COMMONWEALTH OF VIRGINIA
COUNTY OF FAUQUIER, to wit:

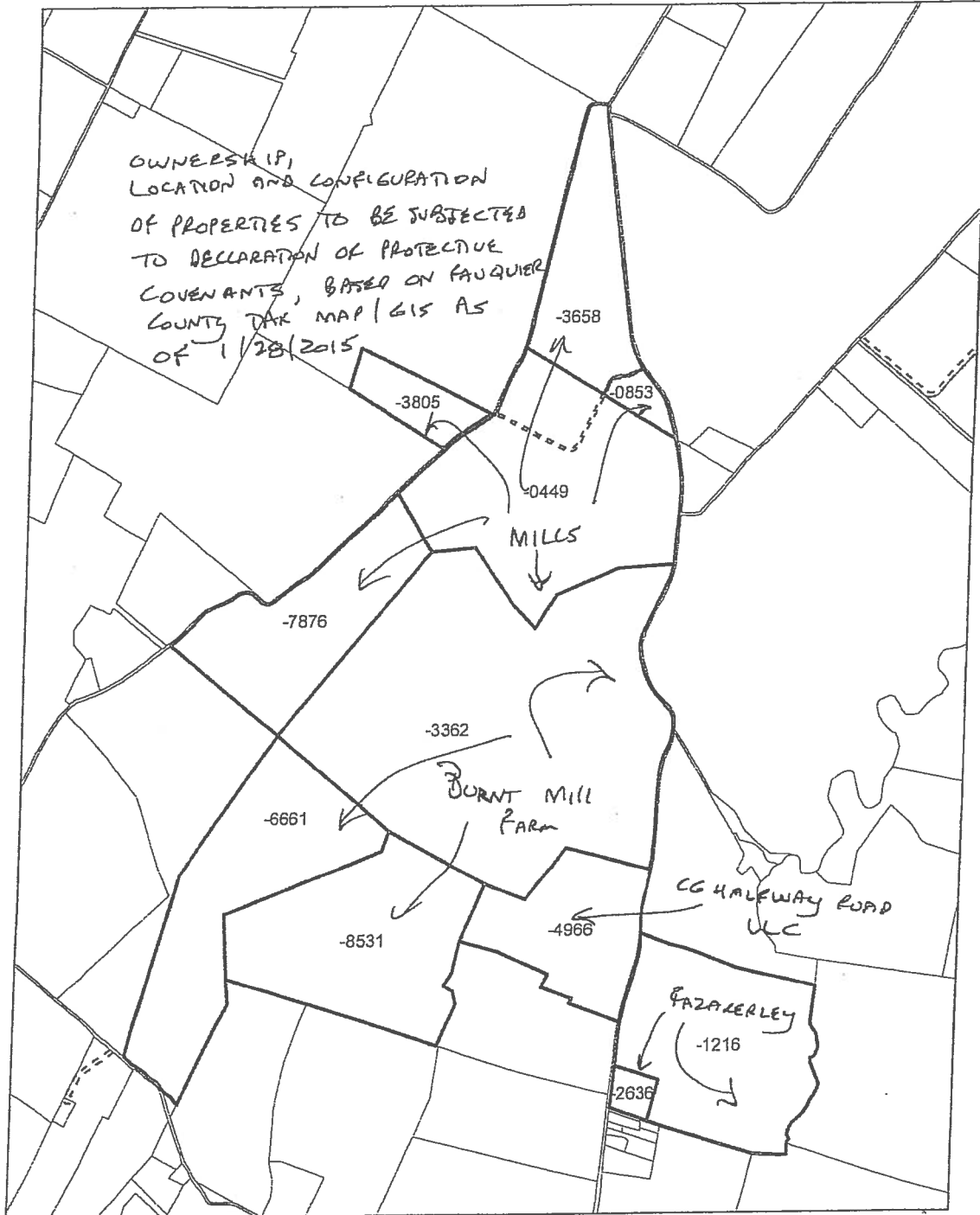
I, the undersigned Notary Public, in and for the jurisdiction aforesaid, do hereby certify that Deborah J. Mills, whose name is signed to the foregoing instrument, appeared before me and personally acknowledged the same as her act and deed.

GIVEN under my hand and seal this 9th day of MARCH, 2015.

Robert M. Gordon (SEAL)

Notary Public
Notary Public Number:
My commission expires:

ROBERT M. GORDON
Notary Public
Commonwealth of Virginia
154239
My Commission Expires Aug 31, 2015



1 inch = 1,500 feet

EXHIBIT A TO DECLARATION
OF PROTECTIVE COVENANTS
10



RECORDED IN CLERK'S OFFICE OF
FAUQUIER ON
MARCH 11, 2015 at 11:43:00 AM
AS REQUIRED BY VA CODE §58.1-802
STATE: \$0.00 LOCAL: \$0.00
FAUQUIER COUNTY, VA
GAIL H BARB CLERK OF CIRCUIT COURT

Gail H Barb

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