

## RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS, THAT, WHEREAS, the undersigned FIRST COMMERCIAL BANK, the present owner of the property described in Exhibit "A" attached hereto and made a part hereof (the "Property") is desirous of establishing certain restrictive covenants to insure the use of the Property is consistent with the covenants and conditions herein contained.

NOW, THEREFORE, the undersigned does hereby adopt the following conditions, restrictions, covenants, and limitations, which shall apply to the Property and shall thereafter be included in transferring and conveying title to the Property.

1. **USE RESTRICTIONS:** The following retail uses are prohibited: No banking or financial services (including pawn shops, title shops, credit card services, ATM services); No fast-food restaurants, or restaurants involving outside sales or service, or drive-through for food operations; No produce stands; No lounge, bar, "teen lounge", or social encounter club; No bingo or electronics or other game parlor; No theater; No area or space within a building, or a separate building, for the sale or display of pornographic or "adult" material; No abortion or HIV Clinic; No used car sales, or outside automobile repair or storage allowed; No manufacturing or industrial uses; No governmental tag office; No dry cleaning processing plant; No business requiring parking for delivery or service vehicles on a routine or frequent basis; No bookstore which is primarily a bookstore offering the sale or display of pornographic-type books and materials; No building or warehouse whose primary use is that of storage; and no massage parlor.

2. **EXTERIOR MATERIALS:** The colors and textures (such as stone, brick or other materials in like appearance) of the materials shall be in harmony with the existing First Commercial Bank Building. No metal buildings are permitted. Any storage facility detached from the main building shall be constructed to be in harmony with the main building.

3. **BUILDING SET-BACK LINE:** There shall be a building set-back line established on the Subdivision Plat, along the front of the property, and all buildings shall be behind the building set-back line. The Subdivision Plat establishing a 94 foot building set back line and a 20 foot utility easement along U. S. Highway 31 and a 10 foot utility easement along the driveway has been approved and will be recorded as submitted.

4. **FLOOR ELEVATIONS AND HEIGHT:** The finished floor elevation of the building(s) to be located shall at no greater finished floor elevation, and at no greater height, than the First Commercial Bank building, and any variation in the finished floor elevation at a higher elevation and in the height of the building at such greater height shall be first approved by First Commercial Bank, which approval will not be unreasonably withheld.

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5. **LOADING AREAS:** All loading and service areas will be to the rear of the building.

6. **TRASH & GARBAGE:** All trash and garbage containers will be screened from the adjacent properties, parking areas and streets.

7. **SUBMISSION OF PLANS AND SPECIFICATIONS AND APPROVAL OF SAME:**

No improvements shall be commenced, erected, placed, moved onto or permitted to remain on Byrd's lot, nor shall any approved improvement be altered in any way which materially changes the exterior appearance thereof, nor shall any initial or subsequent use be commenced on Byrd's lot, unless the plans and specifications therefor have been submitted to and approved in writing by FCB. Such plans and specifications shall be in such form and shall contain such information, as may be required by FCB, but in any event shall include (i) a site development plan of the lot showing the nature, grading, scheme, kind, shape, materials and location with respect to this lot (including the proposed front, rear and side setback lines ) of all improvements, the number and location of all parking spaces, parking areas, and driveways on the lot and all loading areas and screening of such, (ii) a landscaping plan for the lot, including a design for appropriate screening or enclosures for trash and refuse containers, (iii) a signage and lighting plan, and (iv) a building elevation plan showing dimensions, building height, materials, and exterior color scheme. Upon approval by FCB of any plans and specifications, submitted hereunder, a copy of such plans and specifications, as approved, shall be deposited as a permanent record with FCB and a copy of such plans and specifications bearing such approval shall be returned to Byrd.

7. **UTILITIES:** All utility service lines shall be underground, and all utility meters, sewer pump stations, irrigation system backflow preventers, etc. are not to be visible from the adjacent property, unless the location, type, size and installation of which is first approved by First Commercial Bank, which approval will not be unreasonably withheld. Byrd shall be permitted to tie onto FCB's sewer pump station after payment of a tie on fee, and upon Byrd's tie onto FCB's sewer pump station, Byrd (and his successors and assigns) will be responsible for prorata upkeep, maintenance and repair charges in connection with the pump station. In the event Byrd shall fail to pay his share of the upkeep, maintenance and repair of the sewer pump station, within thirty (30) days after written notice, FCB shall have the right to file liens against the property owned by Byrd in the amount of said costs, including reasonable attorney's fees and other legal expenses, plus interest as allowed by law.

8. **LANDSCAPING REQUIREMENTS:** The purchaser of the Property shall be required to landscape the Property prior to building occupancy, unless seasonal limitations prohibit, in which case the landscaping must be installed within sixty (60) days from the time planting operations can be undertaken. When seasonal conditions do not permit planting, erosion control measures must be taken. So long as the Property remains undeveloped, the purchaser will maintain the property a safe, clean and neat condition free of rubbish and reasonably free of unsightly weeds and vegetation.

9. **SIGN**: The sign size and height shall be subject to local government and code requirements. The size, height and location of the sign shall be subject to approval of First Commercial Bank, which approval will not be unreasonably withheld; provided, no sign shall be permitted which will block or impede the visibility of First Commercial Bank's sign or First Commercial Bank's building.

10. **TEMPORARY STRUCTURES**: No structure of a temporary character, trailer (excluding a construction trailer during construction), tent, shack, garage, barn or other outbuilding shall be used on any lot at any time either temporarily or permanently.

11. **TERM**: These covenants are to run with the land and shall be binding on all parties and all persons claiming under them and all successors in title for a period of twenty-five (25) years from the date these covenants are recorded, after which time said covenants shall be automatically extended for successive periods of ten(10) years unless an instrument signed by First Commercial Bank (or its successor) has been recorded, agreeing to change or modify said covenants in whole or in part.

12. **ENFORCEMENT**: Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damage and in such event, the party prevailing shall be entitled to recover reasonable costs, charges, expenses, including attorney's fees.

13. **SEVERABILITY**: Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

14. **CONSTRUCTION AND JOINDER**: It is agreed that First Commercial Bank and the purchaser of the Property, N. Keith Byrd, played an equal part in the negotiations and drafting of these Restrictive Covenants, and in the event any ambiguities should be realized in the construction or interpretation of these Restrictive Covenants, the result of those ambiguities shall be equally assumed and realized by First Commercial Bank and N. Keith Byrd, and their successors and assigns. N. Keith Byrd, joins in the execution of these Restrictive Covenants to evidence its consent to be bound by the terms and conditions herein contained.

*[SIGNATURES ON FOLLOWING PAGE]*

IN WITNESS WHEREOF, First Commercial Bank and N. Keith Byrd, have set their hands and seals this 23<sup>rd</sup> day of December, 1998.

FIRST COMMERCIAL BANK

By: Forest W. Whatley, Jr. (L.S.)  
Forest W. Whatley, Jr.  
Its First Vice President

N. Keith Byrd (L.S.)  
N. Keith Byrd

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that Forest W. Whatley, Jr., whose name as First Vice President of FIRST COMMERCIAL BANK, a Banking Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he, in his capacity as such officer and with full authority, executed the same voluntarily for and as the act of said Corporation on the same that bears date.

Given under my hand and official seal this the 23<sup>rd</sup> day of December, 1998.

[SEAL]

Claude McCain Moncus  
NOTARY PUBLIC  
My commission expires: 12/28/99

STATE OF ALABAMA )  
COUNTY OF JEFFERSON )

I, the undersigned authority, a Notary Public in and for said County, in said State, hereby certify that N. Keith Byrd whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of said instrument, he executed the same voluntarily.

Given under my hand and official seal this the 23<sup>rd</sup> day of December, 1998.

[SEAL]

Claude McCain Moncus  
NOTARY PUBLIC  
My commission expires: 12/28/99

This Instrument was Prepared By:  
Claude McCain Moncus  
Corley, Moncus & Ward, P.C.  
400 Shades Creek Parkway, Suite 100  
Birmingham, AL 35209  
(205) 879-5959

**EXHIBIT "A"**

Lot 1, according to the First Commercial Bank Survey, as recorded in Map Book 24, Page 106, in the Probate Office of Shelby County, Alabama.

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