

267

STATE OF ALABAMA)

COUNTY OF SHELBY)



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Shelby Cnty Judge of Probate, AL
05/04/1978 12:00:00 AM FILED/CERT

CONSENT

WHEREAS, Winn-Dixie Montgomery, Inc., a corporation ("Winn-Dixie") is a named "Beneficiary" under the terms of that certain Declaration of Restrictions and Easements dated December 29, 1977 and recorded at ^{Misc.} Book 23 Page 178 et seq. in the Probate Office of Shelby County, Alabama (the "Declaration"); and

WHEREAS, Alpha Partnership, Ltd., an Alabama limited partnership, and "Declarant" under the Declaration ("Alpha"), and Shelby Mart, Ltd., an Alabama limited partnership, and "Owner" under the Declaration desire to amend the Declaration in accordance with the terms of that certain corrective declaration, a copy of which is attached hereto as Exhibit A and is by this reference made a part hereof (the "Corrective Declaration"); and

WHEREAS, the consent of the undersigned is required for any modification or amendment of the Declaration; and

WHEREAS, the undersigned Winn-Dixie has consented to the terms of the Corrective Declaration and desires to evidence such consent in writing.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS: That in consideration of the premises, and the mutual benefits to the Declarant, Owners and Beneficiaries under the Declaration, the undersigned Winn-Dixie does hereby evidence its consent to the terms and provisions of the Corrective Declaration.

IN WITNESS WHEREOF the undersigned, Winn-Dixie, has caused this instrument to be executed this 27 day of April, 1978.

WINN-DIXIE MONTGOMERY, INC.

By: B. L. Moore

Its: Vice-President

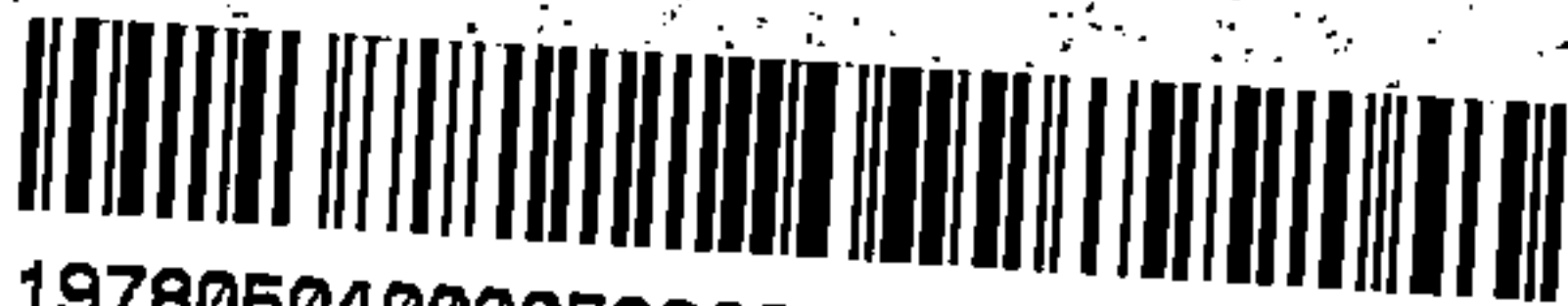
BOOK 25 PAGE 47

STATE OF FLORIDA)

COUNTY OF DUVAL)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that B.S. Thomas, whose name as Vice President of Winn-Dixie Montgomery, Inc., a Kentucky 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, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and seal this 27th day of April, 1978.



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Frances H. Bayless
Notary Public

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES DECEMBER 25, 1979.

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STATE OF ALABAMA)

COUNTY OF SHELBY)

CORRECTIVE DECLARATION

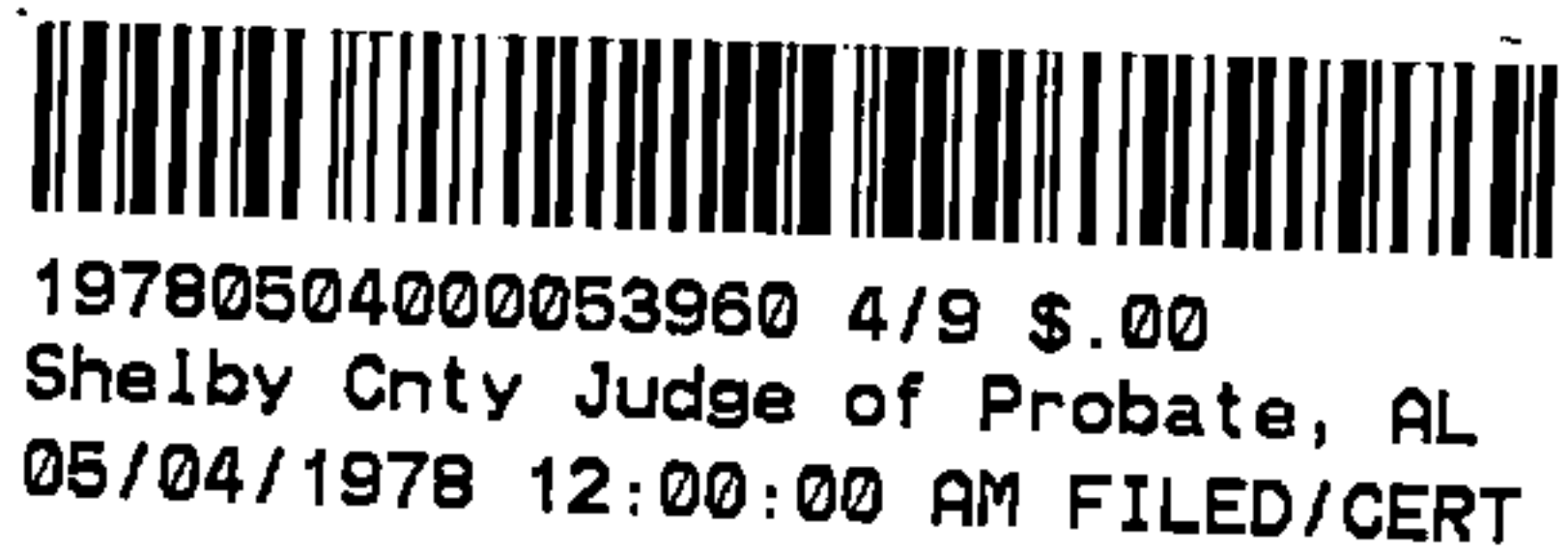


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THIS CORRECTIVE DECLARATION entered into this _____
day of April, 1978, by and between Alpha Partnership, Ltd., an
Alabama limited partnership ("Alpha") and Shelby Mart, Ltd., an
Alabama limited partnership ("Shelby").

R E C I T A L S

WHEREAS, by Declaration Of Restrictions And Easements
dated December 29, 1977, and recorded at Book 23 Page 178 et seq.
in the Probate Office of Shelby County, Alabama (the "Declaration")
Alpha did, as "Declarant" thereunder, declare, establish, grant
and provide for the benefit of (1) Declarant and any subsequent
owners, then or thereafter of all or any portion of the real
property described in the Declaration (the "Property"), and the
respective heirs, legal representatives, successors and assigns
of all of them, and any successors in title to all or any portion
of the Property (the "Owners"), (2) Winn-Dixie Montgomery, Inc.,
Eckerd's-Alabama, Inc. and the holder or holders of any Mortgages
then or thereafter constituting a lien against all or any portion
of the Property, and (3) the occupants and tenants from time to
time of any of the commercial buildings constructed within the
therein described "Building Areas" (those parties identified
under (2) and (3) being hereinafter collectively called the
"Beneficiaries") certain restrictions, rights, obligations,
easements and licenses to run with the title to said Property, to
the end that a mutually beneficial building plan, automobile
parking plan, and a compatible plan for the arrangement and
design of improvements and the permitted use thereof will be
established covering the Property; and



WHEREAS, Alpha did by deed dated December 29, 1978, recorded at Book 309 Page 676 in the Probate Office of Shelby County (the "Deed"), convey to Shelby two parcels within the Property, said parcels being designated in the Deed as Parcel I and Parcel II, and reserving two remaining parcels, said two remaining parcels being designated as Parcels A and B in the Deed, said Deed being made subject to the restrictions, rights, obligations, easements and licenses set forth in the Declaration; and

WHEREAS, by instrument dated _____, 1978, and recorded at Book ____ Page ____ in the Probate Office of Shelby County, Alabama ("Correction Deed"), Alpha, as Grantor thereunder, corrected the legal description of said Parcels I and II, and said Parcels A and B as described in the Deed; and

WHEREAS, Alpha, as Declarant under the Declaration, and Shelby, as an Owner of a portion of the Property, desire to amend the Declaration to conform the description of Parcels I - IV of the Property therein described to the revised descriptions set out in the Correction Deed; and

WHEREAS, Alpha, as Declarant under the Declaration, adopted in the Declaration a site plan dated December 15, 1977, showing substantially the general layout, orientation and plan of the existing and proposed developments upon the Property, which said site plan was attached to the Declaration as Exhibit A and was by reference made a part thereof (the "Site Plan"); and

WHEREAS, Alpha, as Declarant under the Declaration, and Shelby, as Owner of the two parcels of the Property conveyed to it by Alpha, desire to supercede said Site Plan by adopting, in lieu thereof, that certain revised site plan dated February 1, 1978, a copy of which is made Exhibit A to this Corrective Declara-

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tion and is by this reference made a part hereof (the "Revised Site Plan"); and

WHEREAS, Alpha, as Declarant under the Declaration, and Shelby, as Owner of the two parcels of the Property conveyed to it by Alpha, further desire to amend paragraph 9 of the Declaration to provide that the mortgagee of any mortgage on the Property, or any part thereof, be named as additional assureds under any public liability insurance coverages.

WHEREAS, The First National Bank of Birmingham, a national banking association ("First National"), is the holder of a mortgage from Shelby establishing a first mortgage lien against the two parcels of the Property conveyed to Shelby by Alpha, said mortgage being dated December 29, 1977, and recorded at Book 373 Page 108 et seq. in the Probate Office of Shelby County, Alabama, and corrected by instrument dated April __, 1978 recorded at Book ____ Page ____ in said Probate Office (said mortgage, as corrected, being herein called the "Mortgage"); and

WHEREAS, First National, as such mortgagee and a Beneficiary under the Declaration, has agreed to join herein for the purpose of evidencing its consent to this Corrective Declaration;

WHEREAS, First National is the holder of the sole outstanding mortgage lien against all or any portion of the Property; and

WHEREAS, Winn-Dixie Montgomery, Inc. and Eckerd's-Alabama, Inc. have consented to the terms of this Corrective Declaration, such consent to be evidenced by separate instruments in writing, the same to be filed of record in the Probate Office of Shelby County, Alabama; and

WHEREAS, the consent of all necessary parties has been obtained to this Corrective Declaration as required in accordance with the provisions of paragraph 10 of the Declaration.



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NOW, THEREFORE, in consideration of the premises, and the mutual benefits to the Declarant, the Owners and the Beneficiaries hereunder, the Declaration is hereby amended as follows:

1. The description of Parcel I in the Declaration is hereby amended to read as follows:

Part of the SW 1/4 of NE 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, said part being more particularly described as follows: From the northwest corner of said SW 1/4 of NE 1/4, run east along the north line thereof for 881.83 feet, more or less to a point on the west right-of-way of U. S. Highway 31; thence turn an angle to the right of 115°53' and run southwesterly along said west right-of-way line for a distance of 392.81 feet to the point of beginning; thence continue southwesterly along said right-of-way for a distance of 460.36 feet; thence turn at an angle to the right of 90° and run northwesterly for a distance of 125 feet; thence turn an angle to the left of 90°00' and run southwesterly for a distance of 18 feet; thence turn an angle to the right of 90°00' and run northwesterly for a distance of 333.22 feet to the centerline of the Old Montgomery Highway; thence turn an angle to the right of 86°07' and run northerly along the centerline of the Old Montgomery Highway for a distance of 124.34 feet; thence turn an angle to the right of 12°09' and run northerly along the centerline of old highway, 251.86 feet; thence turn at an angle to the right of 55°51' and run easterly for a distance of 389.50 feet; thence turn at an angle to the right of 115°53' and run southerly for a distance of 65 feet; thence turn at an angle to the left of 90°00' and run easterly for a distance of 80 feet to the point of beginning, said land containing 205,114 square feet, more or less.

2. The description of Parcel II in the Declaration is hereby amended to read as follows:

Part of the SW 1/4 of NE 1/4 and part of the SE 1/4 of NW 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, said parts being more particularly described as follows: From the northwest corner of said SW 1/4 of NE 1/4, run east along the north line thereof for 881.83 feet, more or less, to a point on the west line of the right-of-way of U. S. Highway 31; thence turn at an angle to the right of 115°53' and run southwesterly along said west right-of-way line for a distance of 944.93 feet to a point; thence turn at an angle to the right of 65°01' and run westerly for a distance of 137.90 feet to the point of beginning; thence continue along the same course for 346.76 feet to center of the Old Montgomery Highway; thence turn at an angle to the right of 111°06' and run northeasterly along the center of the old

highway for a distance of 279.14 feet; thence turn at an angle to the right of 93°53' and run easterly 333.22 feet; thence turn at an angle to the right of 90°00' and run southwesterly for a distance of 132.00 feet to the point of beginning; said land containing 67,149 square feet, more or less.

3. The description of Parcel III in the Declaration is hereby amended to read as follows:

Part of the SW 1/4 of NE 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, said part being more particularly described as follows: From the northwest corner of said SW 1/4 of NE 1/4, run east along the north line thereof for 881.83 feet, more or less to a point on the west line of the right-of-way of U. S. Highway 31; thence turn an angle to the right of 115°53' and run southwesterly along said west right-of-way line for a distance of 288.99 feet to a point of beginning; thence continue southwesterly along said west right-of-way line for a distance of 103.82 feet; thence turn at an angle to the right of 90°00' and run westerly for a distance of 80 feet; thence turn at an angle to the right of 90°00' and run northerly for a distance of 65 feet; thence turn at an angle to the right of 64°07' and run easterly for a distance of 88.92 feet to the point of beginning, said land containing 6,753 square feet more or less.

4. The description of Parcel IV in the Declaration is hereby amended to read as follows:

Part of the SW 1/4 of NE 1/4 of Section 12, Township 20 South, Range 3 West, Shelby County, Alabama, said part being more particularly described as follows: From the northwest corner of said SW 1/4 of NE 1/4 run east along the north line thereof for 881.83 feet, more or less, to a point on the west line of the right-of-way of U. S. Highway 31; thence turn at an angle to the right of 115°53' and run southwesterly along said west right-of-way line for a distance of 853.17 feet to a point of beginning; thence continue southwesterly along said west right-of-way line for a distance of 91.76 feet; thence turn at an angle to the right of 65°01' and run westerly for a distance of 137.90 feet; thence turn at an angle to the right of 114°59' and run northeasterly for a distance of 150.00 feet; thence turn at an angle to the right of 90°00' and run easterly 125.0 feet to the point of beginning; said land containing 15,110.00 square feet, more or less.

5. The Revised Site Plan attached hereto as Exhibit A is hereby adopted to show substantially the present general layout, orientation and plan of the existing and proposed developments upon the Property, superceding the December 15, 1977 Site Plan for all purposes.

6. Paragraph 9 of the Declaration is hereby amended in its entirety to read as follows:

"9. Owners of the Building Areas shall carry and maintain comprehensive public liability insurance covering injuries to persons and property on, in or about the Common facilities, in amounts to be agreed upon by all such Owners, but not less than \$300,000.00 for injuries to persons, and \$50,000.00 for damages to property, the premiums for which shall be paid pro rata as aforesaid by each of the said Owners, and each such policy or policies of insurance shall name all of the Owners of such Building Areas, and the mortgagee of any mortgage on the Property, or any part thereof, as additional assureds thereunder."

7. Except as hereby amended the Declaration shall remain in full force and effect.


IN WITNESS WHEREOF, the undersigned has caused these presents to be executed this _____ day of _____, 1978.

ALPHA PARTNERSHIP, LTD.

By: _____
Its General Partner

STATE OF ALABAMA)

JEFFERSON COUNTY)


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Shelby Cnty Judge of Probate, AL
05/04/1978 12:00:00 AM FILED/CERT

I, the undersigned, a Notary Public in and for said county in said state, hereby certify that _____, whose name as General Partner of Alpha Partnership, Ltd., a limited partnership, 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, as such general partner and with full authority, executed the same voluntarily for and as the act of said limited partnership on the day the same bears date.

Given under my hand and official seal of office this _____ day of _____, 1978.

Notary Public

My Commission expires: _____

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Shelby Cnty Judge of Probate, AL
05/04/1978 12:00:00 AM FILED/CERT

SHELBY MART SHOPPING CENTER

BOOK

4/14/77

TO AC SIGNALITE
AT STAFF CT ALA
MICHIGAN CLPT

EXHIBIT "A"

STATE OF ALA. SHELBY CO.
I CERTIFY THIS
DOCUMENT WAS FILED

1378 MAY -4 PM 1: 04

Thomas G. Bowles, Jr.
JUDGE OF PROBATE

Rec. 13.50
 Dr. 1.00
12.50