

This instrument prepared by:
John E. Hagefstration, Jr.
Bradley, Arant, Rose & White
1400 Park Place Tower
2001 Park Place
Birmingham, Alabama 35203

Inst # 1994-14612

DECLARATION OF RESTRICTIVE COVENANT

BIRMINGHAM REALTY COMPANY, an Alabama corporation (the "Declarant"), has executed this Declaration of Restrictive Covenant, and caused it to be filed in the Probate Office of Shelby County, Alabama (the "Probate Office") in order to establish the restrictive covenant hereinafter set forth.

RECITALS:

A. Declarant is the owner of a shopping center to be known as Oak Mountain Commerce Place, to be constructed on Lot 1, according to the map of Oak Mountain Commerce Place, as recorded in Map Book 18, page 58, in the Probate Office (the "Shopping Center").

B. Lawyers Title Exchange Company-BKC ("LTEC") is the owner of Lot 2, according to the map and survey of Oak Mountain Commerce Place, as recorded in Map Book 18, page 58, in the Probate Office (the "Outparcel").

C. LTEC has contracted to sell the Outparcel to AmSouth Bank N.A., and, in connection therewith, Declarant desires to establish certain restrictions on the Shopping Center, as hereinafter set forth.

NOW, THEREFORE, the Declarant hereby declares that the Shopping Center is subject to the following:

1. Restriction of Use. Subject to the terms of the lease of a portion of the Shopping Center to Winn-Dixie Montgomery, Inc., for so long as AmSouth Bank N.A. shall operate a bank on the Outparcel, no other commercial bank or savings and loan association shall be allowed to operate in the Shopping Center.

2. Effect of Covenants. The covenant set forth herein shall run with the title to the Shopping Center, and shall bind the successors and assigns of Declarant. Upon such time as AmSouth Bank N.A. shall cease to operate a bank on the Outparcel, the Declarant (or the then owner of the Shopping Center) shall be relieved from Declarant's obligations under this Declaration, and the Shopping Center shall not longer be subject to

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the foregoing restriction. The restriction contained herein is expressly for the benefit of AmSouth Bank N.A.

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the day and year first shown above.

BIRMINGHAM REALTY COMPANY

By: Stephen W. House
Its: Senior Vice President

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Stephen W. House, whose name as Senior Vice President of BIRMINGHAM REALTY COMPANY, a 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 the 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 of office this 2 day of May, 1994.

Kevin H. Hester
Notary Public

[NOTARIAL SEAL]

My commission expires: 11-13-94

CONSENT OF MORTGAGEE

AmSouth Bank N.A., a national banking association ("Mortgagee"), in its capacity as the owner and holder of a mortgage (the "Mortgage") on the Shopping Center, has executed this Consent in order to (i) acknowledge and agree to the terms and provisions contained in the attached Declaration of Restrictive Covenant and Declaration of Easements and (ii) to agree that the provisions of such documents shall survive any foreclosure of the Mortgage or conveyance in lieu of foreclosure.

IN WITNESS WHEREOF, AmSouth Bank N.A. has caused this instrument to be executed, acknowledged and delivered as of April 3, 1994, for the purposes stated above.
May

AMSOUTH BANK N.A.

By: Arthur J. Sharbel, III
Its: Vice President

STATE OF ALABAMA)
 :
JEFFERSON COUNTY)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Arthur J. Sharbel, III, whose name as Vice President of AMSOUTH BANK N.A., a national banking association, 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 the instrument, he as such officer, and with full authority, executed the same voluntarily for and as the act of said association.

Given under my hand and seal of office this 3rd day of May, 1994

Anna L. Vacarella
Notary Public

[NOTARIAL SEAL]

MY COMMISSION EXPIRES OCTOBER 12, 1996

My commission expires: _____

Inst # 1994-14612

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