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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND OPERATING AGREEMENT

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS AND OPERATING AGREEMENT is declared, made and entered into on this 1st day of Sept., 2005, by and between Colonial Properties Services, Inc., an Alabama corporation ("Owner"), and Ruby Tuesday, Inc., a Georgia corporation ("Outparcel Buyer").

RECITALS:

A. Effective contemporaneously with the execution and recording of this Declaration, Owner has sold to Outparcel Buyer that certain tract of land located in Alabaster, Shelby County, Alabama as described on Exhibit "A" attached hereto and incorporated herein by reference (the "Outparcel").

B. Owner is the owner of those certain outparcels of land depicted on Exhibit "B" which is attached hereto and incorporated herein by reference, which outparcels form a portion of that certain shopping center depicted on Exhibit "B" and commonly known and hereinafter referred to as "Colonial Promenade Alabaster".

C. In connection with the sale of the Outparcel to the Outparcel Buyer, Owner and Outparcel Buyer have agreed to certain covenants and restrictions which apply to the Outparcel in connection with the operation, maintenance and construction of the same.

NOW, THEREFORE, for Ten and No/100 Dollars ($10.00) and in consummation of that certain sale of the Outparcel to Outparcel Buyer and in order to protect the value and desirability of Colonial Promenade Alabaster and intending that the restrictions and covenants herein imposed shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

Section 1.1 "Building(s)" means the building(s) which has (have) been, will be or may be constructed on the Outparcel.

Section 1.2 "Parcel" shall mean and refer to the Outparcel, with respect to the Outparcel Buyer, and Colonial Promenade Alabaster with respect to the Owner. The Outparcel Buyer hereby acknowledges that the Owner may adjust, resubdivide, construct upon, or change the configuration of Colonial Promenade Alabaster as well as convey any interest in such properties without the consent of the Outparcel Buyer.

Section 1.3 The term "Party" means Owner and Outparcel Buyer; and "Parties" means all of the foregoing or any successor person(s) acquiring any interest of a Party in or to any portion of such Parties' Parcel.

Section 1.4 "Properties" shall mean and refer to that certain real property described on the attached Exhibit "A" and the attached Exhibit "B".

ARTICLE II
OUTPARCEL RESTRICTIONS

Section 2.1 **Land Use and Building Type**. No structure shall be erected or allowed to remain on the Outparcel unless the plans and specifications for such structure have been approved by appropriate governmental planning and zoning authorities, the Alabaster Architectural Review Committee, and Owner.

Section 2.2 **Completion of Improvements**. All improvements shall comply with the zoning, subdivision and building requirements of the City of Alabaster and Shelby County,

Alabama. Outparcel Buyer agrees to abide by all laws, rules, regulations and orders in connection with operating the facility as a restaurant site.

Section 2.3 **Nuisances**. The Outparcel shall not be used for anything other than purposes which may be permitted by applicable zoning regulations, nor shall anything be done on the Outparcel which is considered a nuisance, based on commercial real estate development standards, to Colonial Promenade Alabaster or the community.

Section 2.4 **Prohibited Uses**. No portion of the Outparcel may be used for any of the following purposes without the prior written consent of the Owner, which permission may be withheld in the sole discretion of the Owner:

(a) A tavern, bar, nightclub, discotheque or any other establishment selling alcoholic beverages for on-premises consumption; provided, however, the foregoing shall not prohibit the operation of a restaurant with the sale of alcoholic beverages therein comprised less than fifty percent (50%) of the restaurant's gross revenues;

(b) a theater (motion picture or live performance), arcade, video machine, amusements or games or bowling alley or similar operations;

(c) a flea market;

(d) a school;

(e) an adult-type book store or other establishment selling or exhibiting pornographic materials;

(f) a massage parlor;

(g) a skating rink;

(h) a mortuary;

(i) a mobile home or trailer court, labor camp, junkyard or stockyard;

(j) a landfill, garbage dump or for the dumping, disposing, incineration or reduction of garbage; or

(k) a dry cleaners which does on premises dry cleaning;

(l) a supermarket (including bakery and delicatessen), grocery store, convenience store, meat, fish or vegetable market;

(m) pharmacy or drug store or for the sale, display or advertising of drugs, medicines, hospital rubber goods or hospital supplies and for the preparation, compounding and sale of medicines from the prescriptions of medical doctors, osteopaths, and dentists, and for the sale, display and advertising of any product whatsoever which by law requires the attendance or direction of a licensed pharmacist for the compounding or dispensing thereof;

(n) a purveyor of food or beverages for offsite consumption including, without limitation, any package store for the sale of alcoholic beverages;

(o) a gasoline service station, car wash or similar facility;

(p) a facility engaged in the sale, showing, demonstrating or leasing of motor vehicles of any type or kind;

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(q) a medical facility that performs abortions;

(r) no advertising or use of the name "Colonial" shall be used in connection with any signage, advertising or promotion of any business on the Outparcel;

(s) automobile parts stores, such as NAPA and Pep Boys;

(t) laundromat;

(u) discount or "dollar store" concept retail store;

(v) any use prohibited by that certain Easements With Covenants And Restrictions Affecting Land filed in the Shelby County Judge of Probate Office in Instrument Number 20040507000243250 on May 7, 2004 and First Amendment to Easements with Covenants and Restrictions Affecting Land recorded in the Shelby County Judge of Probate Office in Instrument 20040507000243260 on May 7, 2004; or

(w) others may be added.

Section 2.5 **Signage**. Only such signage that may be permitted by local zoning ordinances shall be permitted on the Outparcel. Notwithstanding the above, in no event shall any signage interfere with or impair the visibility of any of the signage for Colonial Promenade Alabaster. All signage shall comply with the sign criteria set forth on Exhibit "D" which is attached hereto and incorporated herein by reference.

Section 2.6 **Height Limitation**. Any building constructed on the Outparcel shall not exceed twenty-six (26) feet in height (exclusive of any non-occupiable architectural features not to exceed an additional two (2) feet in height), as measured from the finished elevation of the parking area of the Outparcel.

Section 2.7 **Parking**. Parking on the outparcel shall meet the zoning codes of the City of Alabaster, Shelby County, Alabama, as well as maintaining a minimum parking ratio of 10 spaces per 1,000 square feet of floor area. In addition, the parking area of the Outparcel must be self-sufficient and specifically does not include any cross-parking rights in determining parking spaces for the Outparcel.

ARTICLE III
OUTPARCEL MAINTENANCE, REPAIR AND MISCELLANEOUS

Section 3.1 **Damage and Destruction**. In the event of the destruction or damage to any extent to the buildings and improvements on the Outparcel, Outparcel Buyer shall either (i) diligently commence and pursue completion of the repair or restoration or (ii) within ninety (90) days after the destruction or damage clear away the ruins and leave the Parcel in a clean, orderly, sightly and safe condition.

Section 3.2 **Maintenance**. Outparcel Buyer shall maintain the buildings and improvements on the Outparcel in good order and condition in the state of repair, in accordance with the standards of good outparcel operation, including, but not limited to, sweeping and removal of trash, litter and refuse, painting and striping of parking areas, repair and replacement of paving as necessary, maintenance of landscaped areas (including replacement and replanting), removal of ice and snow from driveways and parking areas, as needed, and maintenance and repair of lighting standards and signs. Outparcel Buyer covenants that it, in addition to other requirements of this Section, will keep the inside and outside of all glass in all doors and windows of its building clean, will maintain its building at its own expense in a clean, orderly and sanitary condition and free of insects, rodents, varmint and other pests, will not permit accumulation of garbage, trash, rubbage and other refuse, and will remove the same at its own expense and will keep such refuse in proper containers and compactors in places designated therefor until called for to be removed, and will keep the common areas on its Parcel clear of accumulations of ice and snow. The parties confirm their intention that the maintenance and repair of the Outparcel should be of such a character to comply and be maintained in a similar fashion to that of Colonial Promenade Alabaster.

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Section 3.3 **Estoppel Certificate**. Outparcel Buyer, its successors and assigns, shall, upon not less than ten (10) days from receipt of written notice from the Owner, its successors and assigns, execute and deliver to the Owner a certificate in recordable form stating that (i) either this Agreement is unmodified and in full force and effect or is modified (in stating the modification); and (ii) whether or not to the best of its knowledge, the Owner is in default in any respect under this Agreement and if in default, specifying such default.

ARTICLE IV
PERPETUITY OF AGREEMENT

Section 4.1 **Perpetual**. Except as specifically set forth in this Agreement, the covenants, conditions, restrictions contained herein shall be binding upon the parties hereto and shall be deemed perpetual and construed to run with the land.

Section 4.2 **Notices**. Any notice required or to be given under this Agreement shall be in writing and shall be deemed to have been given and deposited in the United States Mail, Certified, Return Receipt Requested, postage prepaid, and addressed to the party being notified at the address given below (or such address which any party may designate for itself from time to time hereinafter by written notice to the other parties):

If to Owner:

Colonial Properties Trust
300 Colonial Center Parkway
Suite 200
Roswell, Georgia 30076
Attention: Kirsten H. Kowalski, Esq.

and to

Colonial Properties Trust
2101 6th Avenue North, Suite 750
Birmingham, AL 35203
Attention: Retail Division, Legal Department

If to Outparcel Buyer:

Ruby Tuesday, Inc.
150 West Church Avenue
Maryville, TN 37801
Attention: Legal Real Estate

Section 4.3 **Term and Endorsement**. The restrictions and obligations created and imposed herein shall be effective upon the date hereof, shall run with the land and shall inure to the benefit of and be binding upon the parties, their heirs, executors, administrators, successors, successors-in-title, assigns and Outparcel Buyers, including any ground lessee under a ground lease and the customers, employees and invitees of such parties. Said restrictions and obligations shall be unaffected by any change of the ownership of any property covered by this Declaration or by any change of use, demolition, reconstruction, expansion or other circumstances, except as specified herein. Notwithstanding the recording of this Declaration, any other declarations or covenants and conditions effecting any Parcel hereunder shall remain in full force and effect in accordance with its terms. Each of the rights created hereunder may be enforceable and a court of equity by the owner or landlord of any property covered by this Agreement and by any mortgagee of said property; however, enforcement hereunder shall be solely against the then-owner of the property or of the Parcel (or the owner of an interest in such property or Parcel) or the Outparcel Buyer on such Parcel alleged to be in default hereunder. If either Party must institute an action to enforce any of the rights or obligations contained herein, such Party shall be entitled to all remedies at law or in equity, and the prevailing party shall be entitled to the recourse of all cost of enforcement, including, without limitation, its attorney's fees.

Section 4.4 **Severability**. In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not effect the remainder hereof, and the remaining provision shall continue in full force and effect at the same extent as would have been the case had just invalid or unenforceable provision or portion never been a part hereof.

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ARTICLE V
OPENING AND OPERATING COVENANTS

Section 5.1 **Covenant to Open.** As a material inducement to Owner, without which Owner would not have entered into the Contract for Sale and Purchase with Outparcel Buyer nor sold the Outparcel to Outparcel Buyer, Outparcel Buyer covenants and agrees that it will, subject to unavoidable delays, begin construction of a "Ruby Tuesday" on the Outparcel no later than October 3, 2005 and open for business to the public on or before March 6, 2006. As used in this Declaration, the term "Ruby Tuesday" shall mean a prototypical Ruby Tuesday restaurant of not more than five thousand (5,000) square feet with table service of a varied menu and alcoholic beverage service. In the event that Outparcel Buyer fails to complete such construction and open for business to the public for any reason on or before July 31, 2006, then in such event Owner shall have the option of buying the Outparcel back from Outparcel Buyer for the price paid by Outparcel Buyer to Owner.

Section 5.2 **Covenant to Operate.** As a material inducement to Owner, without which Owner would not have entered into the Contract for Sale and Purchase with Outparcel Buyer nor sold the Outparcel to Outparcel Buyer, Outparcel Buyer covenants and agrees that upon opening the Ruby Tuesday for business to the public, Outparcel Buyer: (i) will continuously and uninterruptedly operate on the Outparcel a Ruby Tuesday restaurant for a period of at least three (3) full years after such opening; (ii) after said initial three (3) year period, for a period of at least an additional five (5) full years, Buyer will continuously and uninterruptedly operate on the Outparcel either a Ruby Tuesday restaurant or such other restaurant as is expressly permitted hereinbelow; and (iii) shall thereafter continue to operate a business on the Outparcel, and Outparcel Buyer covenants that such business shall not violate any of the use restrictions then in effect at Colonial Promenade Alabaster.

After said initial three (3) year period, with Owner's prior written permission, Outparcel Buyer may operate a restaurant other than a Ruby Tuesday on the Outparcel, provided that such other restaurant: (i) shall not violate any of the terms and conditions stated herein; (ii) shall not violate any of the use restrictions then in effect at Colonial Promenade Alabaster; and (iii) shall not compete with any other then existing restaurant in Colonial Promenade Alabaster. As used herein, the term "compete" shall mean operating a restaurant that derives twenty percent (20%) or more of its sales from the same food style or ethnicity as another restaurant in Colonial Promenade Alabaster, which other restaurant derives fifty percent (50%) or more of its sales from such food style or ethnicity.

In the event that at any time during said initial three (3) year period Outparcel Buyer ceases to continuously and uninterruptedly operate a restaurant as expressly set forth hereinabove for more than one (1) period in excess of thirty (30) consecutive days (subject only to damage by fire, casualty or condemnation, or construction activity caused by remodeling, renovation or concept change), Owner shall have the option of buying the Outparcel and improvements thereon (excluding trade fixtures and equipment) from Outparcel Buyer for the "Option Purchase Price" (as defined hereinbelow).

In the event that at any time after said initial three (3) period Outparcel Buyer ceases to continuously and uninterruptedly operate a business as expressly set forth hereinabove for more than one (1) period in excess of ninety (90) consecutive days (subject only to damage by fire, casualty or condemnation, or construction activity caused by remodeling, renovation or concept change), Owner shall have the option of buying the Outparcel and improvements thereon (excluding trade fixtures and equipment) from Outparcel Buyer for the Option Purchase Price.

The operating covenant as set forth herein shall remain in effect until the earlier of: (i) ninety-nine (99) years from the date of this Agreement; and (ii) twenty-one (21) years after the death of the last to die of the bodily heirs of George H. W. Bush who were alive at the time this Agreement was executed.

Anything in this Agreement to the contrary notwithstanding, Outparcel Buyer shall be allowed to cease operations for one (1) period of sixty (60) consecutive days every ten (10) calendar years for purposes of renovating its improvements on the Outparcel.

The term "Option Purchase Price" shall mean the fair market value of the Outparcel and

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improvements (excluding trade fixtures and equipment) as determined herein. Within fifteen (15) days after Owner has given notice (the "Notice") of conditional exercise of its right and option to purchase the Outparcel and improvements as provided above, Owner and Outparcel Buyer shall each select and designate a qualified appraiser to determine the fair market value of the Outparcel and improvements as of the date of the Notice, and shall notify the other of such choice and designation. The two (2) appraisers so chosen and designated shall choose a third appraiser as soon as practicable and, in any event within ten (10) days following their selection. The three (3) appraisers so chosen shall independently appraise the Outparcel and improvements, completing same and rendering their reports to each other and to Owner and Outparcel Buyer within thirty (30) days following their respective appointments. Upon said appraisals being completed and reports rendered as aforesaid, the appraisal closest in value to the independent appraisal shall determine the fair market value of the Outparcel and shall be conclusive and binding upon the parties hereto. Each party will pay for the services of the appraiser chosen by it and the charges of the third appraiser will be borne equally by the parties. Should either party fail or refuse to designate an appraiser within fifteen (15) days following the Notice, then and in such event the fair market value of the Outparcel and improvements will be determined by the appraiser timely designated by the other party.

The closing and consummation of the purchase of the Outparcel (the "Closing") shall occur no later than sixty (60) days following the Notice from Owner, at such time and place reasonably selected by Owner, or at such other time and place as Owner and Outparcel Buyer may agree. At the Closing, Outparcel Buyer shall convey to Owner by statutory warranty deed, good and marketable fee simple title to the Outparcel and improvements, without exception for any item other than those title exceptions existing at the time of the conveyance of the Outparcel and the improvements located thereon by Owner to Outparcel Buyer or other title exceptions approved by Owner in writing. Notwithstanding anything contained herein to the contrary, in the event that Owner fails to close the repurchase of the Outparcel as specified above on or before ninety (90) days from the date of the Notice, except as a result of the default of Outparcel Buyer, Owner shall permanently forfeit its right to repurchase the Outparcel and the provisions of this Section 5.2 shall be of no further force or effect.

(Signature Page immediately following)

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first set above written.

OWNER:

COLONIAL PROPERTIES SERVICES, INC.,
an Alabama corporation

By: _____
Charles E. Light
Its: Executive Vice President

OUTPARCEL BUYER:

RUBY TUESDAY, INC., a Georgia corporation

By: _____
Its: _____

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that Charles E. Light, whose name as Executive Vice President of Colonial Properties Services, Inc., an Alabama 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, as aforesaid. Given under my hand this the 2nd day of September, 2005.

DEBORAH V. ISBELL
NOTARY PUBLIC
STATE AT LARGE
EXPIRES: March 30, 2008

Deborah V. Isbell
Notary Public
My Commission Expires: _____

STATE OF _____)
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify ___ _____, whose name as _____ of **Ruby Tuesday, Inc.**, a Georgia 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/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as of the day the same bears date. Given under my hand this day _____, 2005.

_____
Notary Public
My Commission Expires: _____

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day and year first set above written.

OWNER:

COLONIAL PROPERTY SERVICES, INC.,
an Alabama corporation

By:_____
William Leitner
Its: Executive Vice-President

OUTPARCEL BUYER:

RUBY TUESDAY, INC., a Georgia corporation

By:_____
Its: Vice President Walter G. Cole, JR.

STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned, a Notary Public in and for said County, in said State, hereby certify that **William Leitner**, whose name as Executive Vice-President of Colonial Properties Services, Inc., an Alabama 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, as aforesaid. Given under my hand this the _____ day of _____ _____, 2005.

_____
Notary Public
My Commission Expires:_____

STATE OF Georgia)
COUNTY OF Cobb)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify ___ Walter G. Cole, Jr., whose name as Vice President of **Ruby Tuesday, Inc.**, a Georgia 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/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation as of the day the same bears date. Given under my hand this 31st day of August, 2005.

Jennifer Kuykendall
Notary Public
My Commission Expires:_____

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EXHIBIT "A"
TO DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
LEGAL DESCRIPTION OF "OUTPARCEL"

Lot 13, according to the Final Plat of Colonial Promenade Alabaster Survey, as recorded in Map Book 35, Page 102A, in the Office of the Judge of Probate of Shelby County, Alabama.

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EXHIBIT "B"
TO COVENANTS, CONDITIONS AND RESTRICTIONS

SITE PLAN OF "COLONIAL PROMENADE ALABASTER"

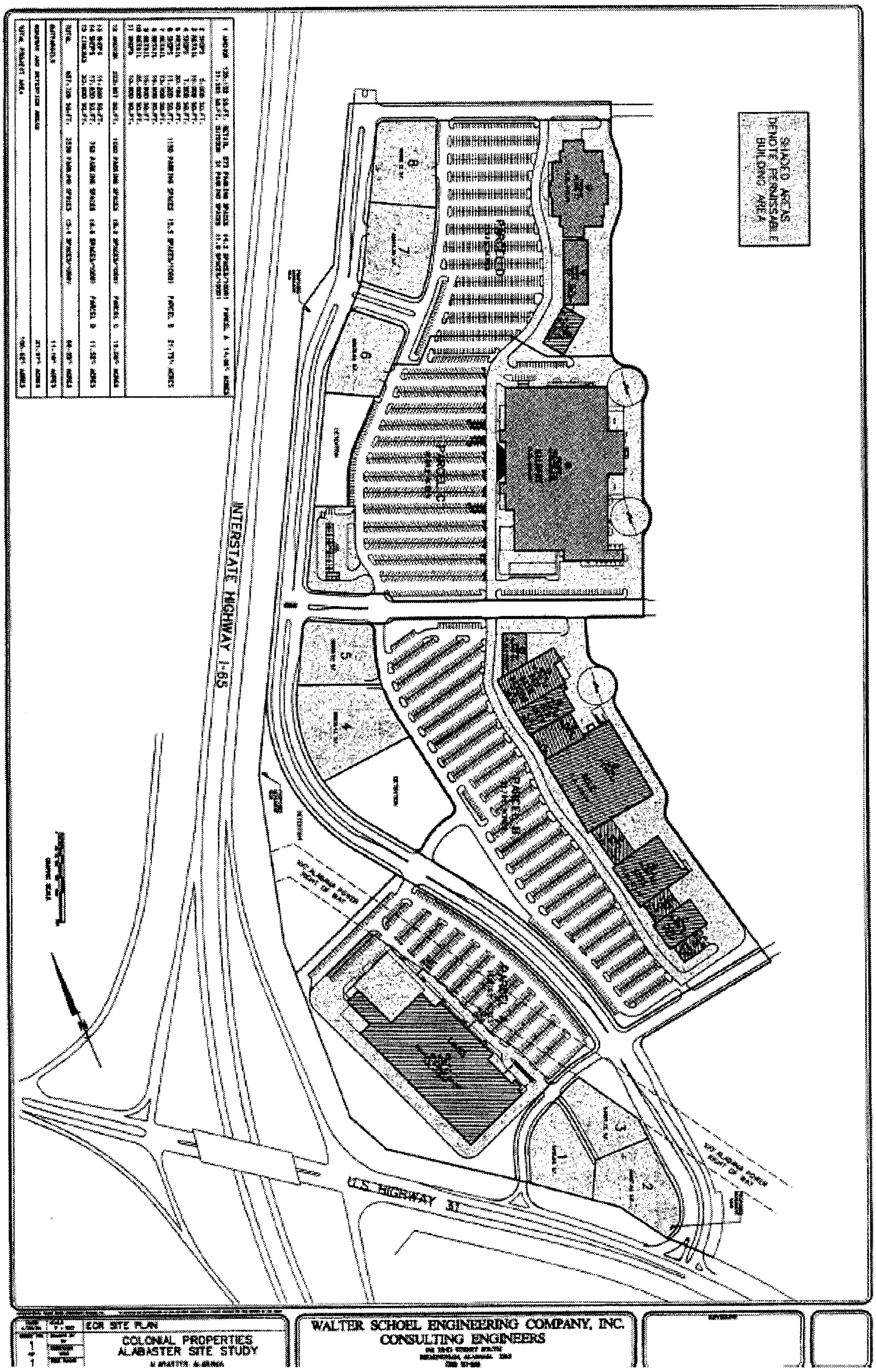

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EXHIBIT "C"
TO COVENANTS, CONDITIONS AND RESTRICTIONS

INTENTIONALLY DELETED

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EXHIBIT "D"
TO COVENANTS, CONDITIONS AND RESTRICTIONS

SIGN CRITERIA

1. There shall be no flashing, blinking, rotating, exposed light or moving signs or markers of any type.

2. There shall be no signs painted on the exterior surface of any building, except rear service door identification signs.

3. All signs must comply with all applicable city, county and state or other governmental laws, codes and regulations and with that certain Easements With Covenants And Restrictions Affecting Land filed in the Shelby County Judge of Probate Office in Instrument Number 20040507000243250 on May 7, 2004 and First Amendment to Easements with Covenants and Restrictions Affecting Land filed in the Shelby County Judge of Probate Office in Instrument 20040507000243260 on May 7, 2004 (the "ECR's"). Owner does not represent any signage otherwise permitted herein is permitted by such laws, codes, regulations, or ECR's.

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