


STATE OF ALABAMA)
COUNTY OF SHELBY)


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Shelby Cnty Judge of Probate, AL
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**FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS,
CONDITIONS AND RESTRICTIONS**

This **FIRST AMENDMENT TO DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS** (this "First Amendment") is made and entered into as of this the 3rd day of March, 2017 by and between **SAC, LLC**, an Alabama limited liability company ("Grantor"), **Behymer Family, LLC**, a Missouri limited liability company, as successor to CSA Properties, Inc. ("Landlord"), and **Alabama CVS Pharmacy, L.L.C.**, an Alabama limited liability company ("CVS")

WHEREAS, Grantor, CSA Properties, Inc. ("CSA"), as the predecessor to Landlord, and CVS made and entered into that certain Declaration of Easements, Covenants, Conditions and Restrictions dated February 29, 2008 and recorded at Instrument 20080306000091940 in the Probate Office of Shelby County, Alabama (the "Declaration"); and

WHEREAS, the parties desire to enter into this First Amendment for the purpose of amending Paragraphs 9 (c) and 9 (d) of the Declaration.

NOW THEREFORE, in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor, Behymer and CVS agree as follows:

1. **Capitalized Terms.** Unless otherwise defined in this First Amendment, all capitalized terms used herein shall have the same meaning as defined in the Declaration.

2. **Modifications to Paragraph 9.** Paragraphs 9 (c) and (d) of the Declaration shall be deleted in their entirety and replaced with the following:

(c) No portion of the Adjacent Parcel may be leased or used for any of the following purposes: for a health and beauty aids store, a greeting card and gift store, a candy store, a store offering one-hour or other on-site photo processing, a vitamin store, a pharmacy mail order facility, a drug store, a pharmacy prescription department, and/or a discount, 99 cents store or "dollar" store which sells general merchandise (a "Dollar Store") except that the foregoing shall not prevent the operation of a pharmacy prescription department as an operationally and physically integrated department of a full-line supermarket as long as such supermarket does not have an exterior walk-up window or drive-through window for the delivery of prescription drugs. Examples of a Dollar Store (without limiting such Dollar Stores only to those listed) are stores such as Fred's, Dollar Store, Dollar General, or Family Dollar. Notwithstanding the above, incidental sales of health and beauty aids, greeting cards, gifts, candy or vitamins shall not constitute

a violation under this Paragraph 9 (c). For purposes of this Paragraph 9(c), "incidental sales" shall mean that the leasable floor area of a tenant's premises devoted to the sale of such items shall not exceed ten percent (10%) of the total leasable floor area of such premises. The phrase "used for" appearing in this Paragraph 9 shall include the support or benefit by means of parking, or other similar operational support services or facilities for a use prohibited pursuant to the terms of this Paragraph 9.

The parties acknowledge and agree that this Paragraph 9(c) shall not apply to the Future Development Tract.

As used in this Declaration, the term "pharmacy prescription department" shall include the dispensing of prescription drugs by physicians, dentists, other health care practitioners, or entities such as health maintenance organizations, where such dispensing is for profit; and a "health and beauty aids store" shall mean a store which devotes more than five percent (5%) of its retail selling space to the display and sale of health and beauty aids.


(d) No portion of the Adjacent Parcel may be leased or used for any of the following purposes: a pinball, video game, or any form of entertainment arcade (except for video games that are an incidental part of a restaurant); a gambling or betting office, other than for the sale of lottery tickets; a massage parlor (except that licensed businesses offering massage and/or skin care services such as but not limited to Massage Envy or Elements Massage, shall be allowed); a cinema, video store or bookstore selling, renting, or exhibiting primarily material of a pornographic or adult nature; an adult entertainment bar or club; a bowling alley; a roller skating or ice skating rink; a billiards parlor or pool hall; a firearms shooting range or any other use which creates or causes excessive noise; a theater; a health club or exercise salon (except that a) a health spa commonly found in first class shopping centers shall be allowed, and b) a sports, health or fitness club occupying less than 7,000 square feet of gross leasable space shall be allowed and any such tenant that occupies greater than 7,000 square feet shall be allowed as long as such tenant is not located within 300 feet from any demising wall of the Building on the Premises); any type of educational or vocational institution; a flea market; a warehouse; a facility which performs on-site dry cleaning; a gas station (except that combination gas station-convenience store shall be allowed provided that such gas station-convenience store is not located within five hundred (500) feet of a demising wall of the building); or a facility which performs on-site auto repair (except that a retail oil change or tire store, such as but not limited to Express Oil, Valvoline, Jiffy Lube, Firestone, Goodyear or NTW, shall be allowed) . The parties acknowledge and agree that this Paragraph 9(d) shall not apply to the Future Development Tract.

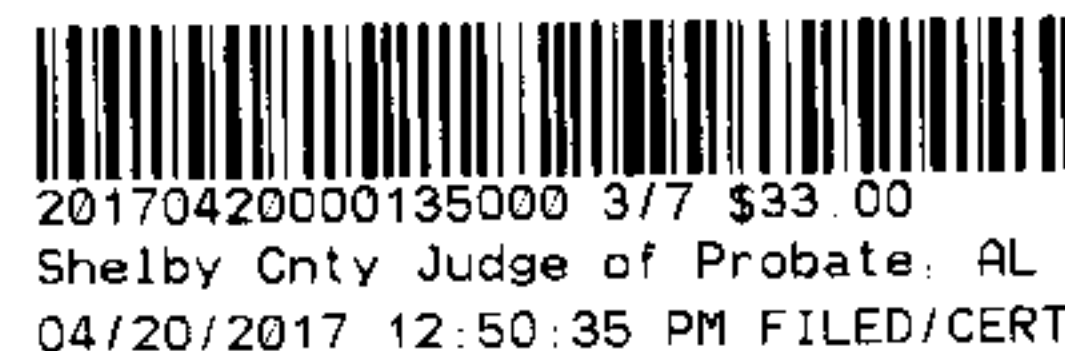
3. **Miscellaneous.** The Declaration, as amended by this First Amendment, constitutes and contains the sole and entire agreement of the parties hereto with respect to the subject matter hereof, and no prior or contemporaneous oral or written representations or agreements between the parties and relating to the subject matter hereof shall have any legal effect. Except as amended hereby, all terms, conditions and provisions of the Declaration shall remain in full force and effect and unmodified hereby. In the event of any conflict between the terms, conditions and provisions of this First Amendment and the terms, conditions and provisions of the Declaration, the terms, conditions and provisions of this First Amendment shall supercede and control. The captions contained in this First Amendment are inserted only as a matter of convenience and shall not be construed as defining, limiting, extending, or describing the scope of this First Amendment, any section hereof, or the intent of any provision hereof. This First Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors, successors-in-interest, representatives and permitted assigns. This First Amendment may be signed in multiple counterpart, which, when taken together, shall constitute a fully executed and binding original First Amendment.

IN WITNESS WHEREOF, this First Amendment has been executed by the parties hereto effective as of the date first written above.

GRANTOR:

SAC, LLC, an Alabama limited liability company


By: Eugene K. Cole
Its: Manager



STATE OF ALABAMA)
COUNTY OF JEFFERSON)

I, the undersigned Notary Public in and for said County and said State, hereby certify that Eugene K. Cole, whose name as Manager of SAC, LLC, an Alabama limited liability company, is signed to the foregoing First Amendment to Declaration and who is known to me acknowledged before me on this day that, being informed of the contents of said Agreement, he, as such manager for said company, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 8th day of March, 2017.


Notary Public

Name: Stacy R. Aycock
My commission expires: 03/27/19


LANDLORD:

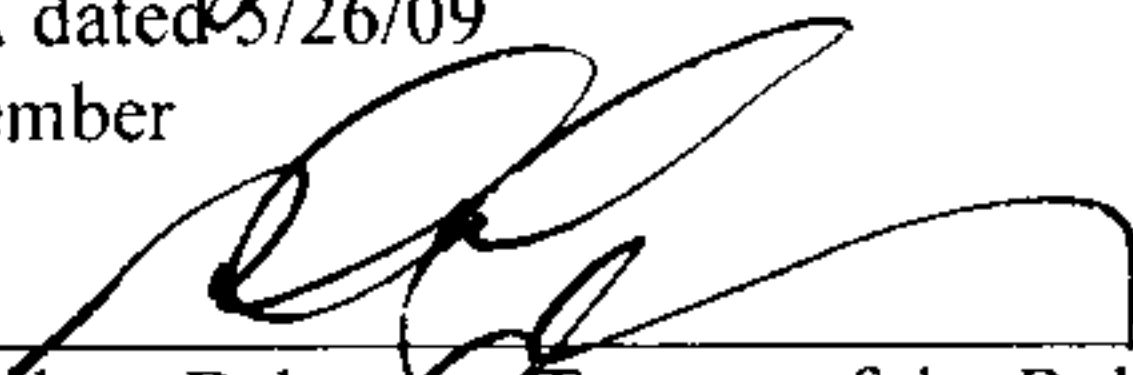
Behymer Family, LLC, a Missouri limited liability company

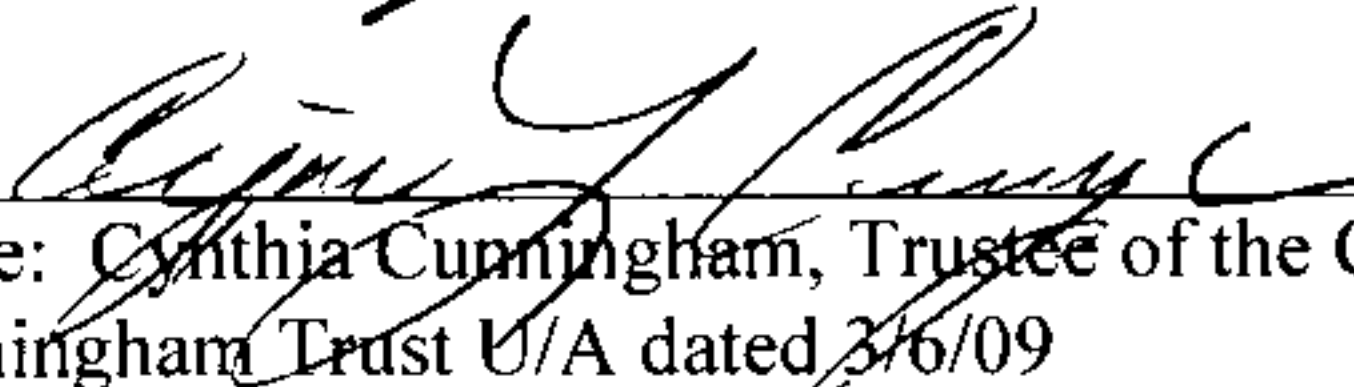


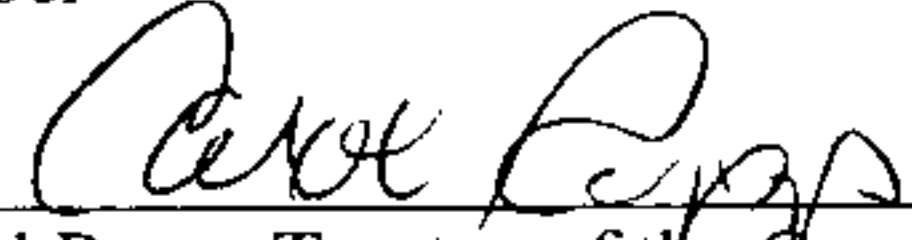
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By: Behymer Holding, LLC, a Missouri limited liability company,
sole member

By: 
Name: Cheryl Hollensbe, Trustee of the Cheryl Hollensbe
Trust U/A dated 5/26/09
Title: Member

By: 
Name: Robert Behymer, Trustee of the Robert Behymer
Trust U/A dated 3/13/09
Title: Member

By: 
Name: Cynthia Cunningham, Trustee of the Cynthia
Cunningham Trust U/A dated 3/6/09
Title: Member

By: 
Name: Carol Rapp, Trustee of the Carol Rapp Trust U/A
dated 2/28/09
Title: Member

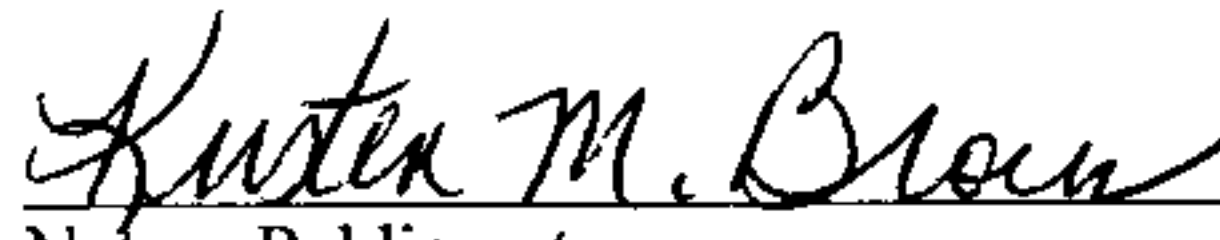
STATE OF MISSOURI
COUNTY OF St. Louis

I, the undersigned Notary Public in and for said County and said State, hereby certify that Cheryl Hollensbe, whose name as Trustee of the Cheryl Hollensbe Trust U/A dated 5/26/09, which is a member of Behymer Holding, LLC, a Missouri limited liability company, the sole member of Behymer Family, LLC, a Missouri limited liability company, is signed to the foregoing First Amendment to Declaration of Easements, Covenants, Conditions and Restrictions, and who is known to me acknowledged before me on this day that, being informed of the contents of said instrument, she/he, as trustee, and with full authority, executed the same voluntarily for and as the act of said trust.

Given under my hand and official seal this the 23 day of March, 2017.



KIRSTEN M. BROWN
My Commission Expires
May 2, 2019
St. Charles County
Commission #15425956


Notary Public
Name: Kirsten M. Brown
My commission expires: 5/2/2019



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STATE OF MISSOURI
COUNTY OF St. Louis)

I, the undersigned Notary Public in and for said County and said State, hereby certify that Robert Behymer, whose name as Trustee of the Robert Behymer Trust U/A dated 3/13/09, which is a member of Beyhmer Holding, LLC, a Missouri limited liability company, the sole member of Behymer Family, LLC, a Missouri limited liability company, is signed to the foregoing First Amendment to Declaration of Easements, Covenants, Conditions and Restrictions, and who is known to me acknowledged before me on this day that, being informed of the contents of said instrument, she/he, as trustee, and with full authority, executed the same voluntarily for and as the act of said trust.

Given under my hand and official seal this the 23 day of March, 2017.



KIRSTEN M. BROWN
My Commission Expires
May 2, 2019
St. Charles County
Commission #15425956

Kirsten M. Brown
Notary Public
Name: Kirsten M. Brown
My commission expires: 5/2/2019

STATE OF MISSOURI
COUNTY OF St. Louis)

I, the undersigned Notary Public in and for said County and said State, hereby certify that Cynthia Cunningham, whose name as Trustee of the Trustee of the Cynthia Cunningham Trust U/A dated 3/6/09, which is a member of Beyhmer Holding, LLC, a Missouri limited liability company, the sole member of Behymer Family, LLC, a Missouri limited liability company, is signed to the foregoing First Amendment to Declaration of Easements, Covenants, Conditions and Restrictions, and who is known to me acknowledged before me on this day that, being informed of the contents of said instrument, she/he, as trustee, and with full authority, executed the same voluntarily for and as the act of said trust.

Given under my hand and official seal this the 23 day of March, 2017.



KIRSTEN M. BROWN
My Commission Expires
May 2, 2019
St. Charles County
Commission #15425956

Kirsten M. Brown
Notary Public
Name: Kirsten M. Brown
My commission expires: 5/2/2019

STATE OF MISSOURI
COUNTY OF St. Louis)

I, the undersigned Notary Public in and for said County and said State, hereby certify that Carol Rapp, whose name as Trustee of the Carol Rapp Trust U/A dated 2/28/09, which is a member of Beyhmer Holding, LLC, a Missouri limited liability company, the sole member of Behymer Family, LLC, a Missouri limited liability company, is signed to the foregoing First Amendment to Declaration of Easements, Covenants, Conditions and Restrictions, and who is known to me

acknowledged before me on this day that, being informed of the contents of said instrument, she/he, as trustee, and with full authority, executed the same voluntarily for and as the act of said trust.

Given under my hand and official seal this the 23 day of March, 2017.



KIRSTEN M. BROWN
My Commission Expires
May 2, 2019
St. Charles County
Commission #15425956

Kirsten M. Brown
Notary Public
Name: Kirsten M. Brown
My commission expires: 5/2/2019

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STATE OF MISSOURI)
COUNTY OF _____)

I, the undersigned Notary Public in and for said County and said State, hereby certify that _____, whose name as _____ of Behymer Family, LLC, a Missouri limited liability company, is signed to the foregoing First Amendment to Declaration and who is known to me acknowledged before me on this day that, being informed of the contents of said instrument, he, as such manager for said company, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the _____ day of March, 2017.

Notary Public

Name: _____

My commission expires: _____

CVS:

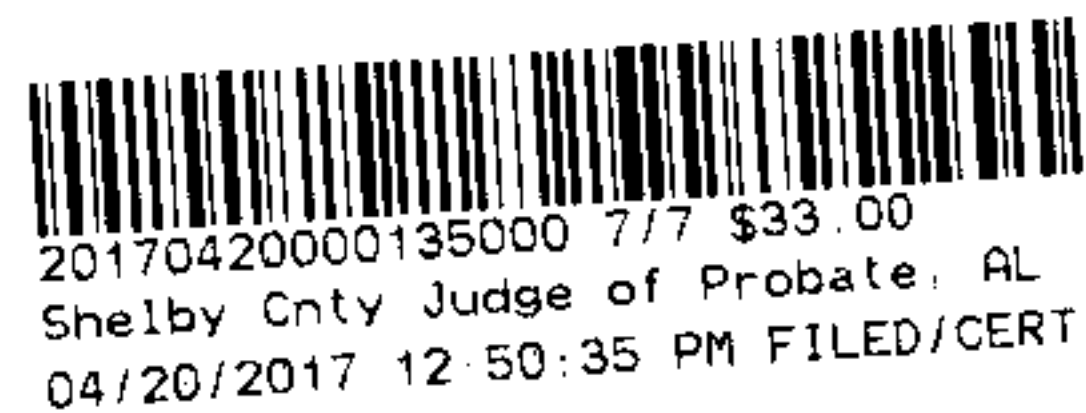
Alabama CVS Pharmacy, L.L.C., an Alabama limited liability company

Clay O. Wilson

By:

Its:

Clay O. Wilson
Vice President



STATE OF Alabama
COUNTY OF Jefferson)

I, the undersigned Notary Public in and for said County and said State, hereby certify that Clay Wilson, whose name as RVP of Alabama CVS Pharmacy, LLC, an Alabama liability company, is signed to the foregoing First Amendment to Declaration 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 RVP for said company, and with full authority, executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 3rd day of March, 2017.

Donna M. Daniel
Notary Public

Name: _____

