



20241126000366570 1/6 \$37.00  
Shelby Cnty Judge of Probate, AL  
11/26/2024 12:53:45 PM FILED/CERT

Prepared by and to be returned to:  
Jonathan "JT" Thornbury, Esq.  
The Barber Companies, Inc.  
27 Inverness Center Parkway  
Birmingham, Alabama 35242

**Cross reference to:**  
**Instrument # 1998-33231**

**AMENDMENT TO DECLARATION OF  
RESTRICTIVE COVENANTS**

THIS AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS (the "**Amendment**") is made as of the 21st day of October, 2024, by The Barber Companies, Inc., whose address is 27 Inverness Center Parkway, Birmingham, Alabama 35242 (hereinafter referred to as "**TBC**") and Winn-Dixie Montgomery Leasing, LLC, a Florida limited liability company, whose address is 8928 Prominence Parkway #200, Jacksonville, Florida 32256 (hereinafter referred to as "**Tenant**").

**W I T N E S S E T H:**

WHEREAS, TBC owns certain real property commonly known as Chelsea Corners Shopping Center being situated in Shelby County, Alabama and more particularly described on Exhibit A attached hereto ("**Chelsea Corners**");

WHEREAS, Birmingham Realty Company, previous owner of Chelsea Corners, placed certain restrictions on Chelsea Corners and certain other property owned by Birmingham Realty located within one thousand (1,000) feet of any boundary of Chelsea Corners ("**Owner's Remaining Land**") in favor of Winn-Dixie Montgomery, Inc. (predecessor in interest to Tenant), pursuant to that certain Declaration of Restrictive Covenants dated as of April 17, 1998, and recorded as **Instrument # 1998-33231** in the Office of Judge of Probate of Shelby County, Alabama (the "**Declaration**");

WHEREAS, TBC currently owns both Chelsea Corners and Owner's Remaining Land;

WHEREAS, Tenant remains the beneficiary to the Declaration; and

WHEREAS, the parties have agreed to amend and modify the Declaration to allow for the construction, development and operation of a prototypical Target retail store within any part of the area designated as "Owner's Remaining Land."

NOW, THEREFORE, TBC and Tenant, for and in consideration of the sum of One Dollar (\$1.00) in hand paid, the receipt and sufficiency of which is hereby acknowledged, covenant and agree, and for themselves, their heirs, successors, legal representatives and assigns, do hereby covenant and declare as follows:

1. **Defined Terms.** Capitalized terms not otherwise defined herein shall have the meaning given in the Declaration.

2. **Amendment of Declaration.** The Declaration is hereby amended as follows:

- A. The terms of Section 1.1(b)(Exclusives) shall not apply to any Target retail store (or any successor retail brand owned or affiliated with Target) located within any part of Owner's Remaining Land, and that sells retail items consistent with other Target retail locations of similar size in similar markets.
- B. Notwithstanding the terms of Section 1.1(c), TBC shall be permitted to lease or sell any part of Owner's Remaining Land for the development, use and operation of a Target retail store (or any successor retail brand owned or affiliated with Target) that sells retail items consistent with other Target retail locations of similar size in similar markets.
- C. The restrictions on building height and size indicated in Section 1.2 shall not apply to any building constructed, developed and operated initially for a Target retail store (or any successor retail brand owned or affiliated with Target) that sells retail items consistent with other Target retail locations of similar size in similar markets.

3. **Acknowledgment.** TBC and Tenant hereby acknowledge and agree that (i), except for this Amendment, there have been no amendments, modifications or supplements to the Declaration, and (ii) no real property other than Chelsea Corners and Owner's Remaining Land is encumbered by the terms and conditions of the Declaration. Tenant further agrees and represents to TBC that no entities other than the undersigned Winn-Dixie Montgomery Leasing, LLC need to consent to this Amendment on behalf of Tenant to modify the Declaration.

4. **Effect of Amendment.** Except as amended hereby, the Declaration remains in full force and effect in accordance with its terms. In the event of any conflict between the terms of the Declaration and the terms of this Amendment, the terms of this Amendment shall prevail.

5. **Multiple Counterparts.** This Amendment may be executed in any number of counterparts, each of which will be deemed to be an original, but all of which together will constitute one instrument.

(End of text – signatures on following pages)





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IN WITNESS WHEREOF, TBC and Tenant have executed and sealed these presents the day and year above written.

TBC:

THE BARBER COMPANIES, INC.,  
an Alabama corporation

Witnesses:

J. Thornburg  
Printed Name: Jonathan Thornburg

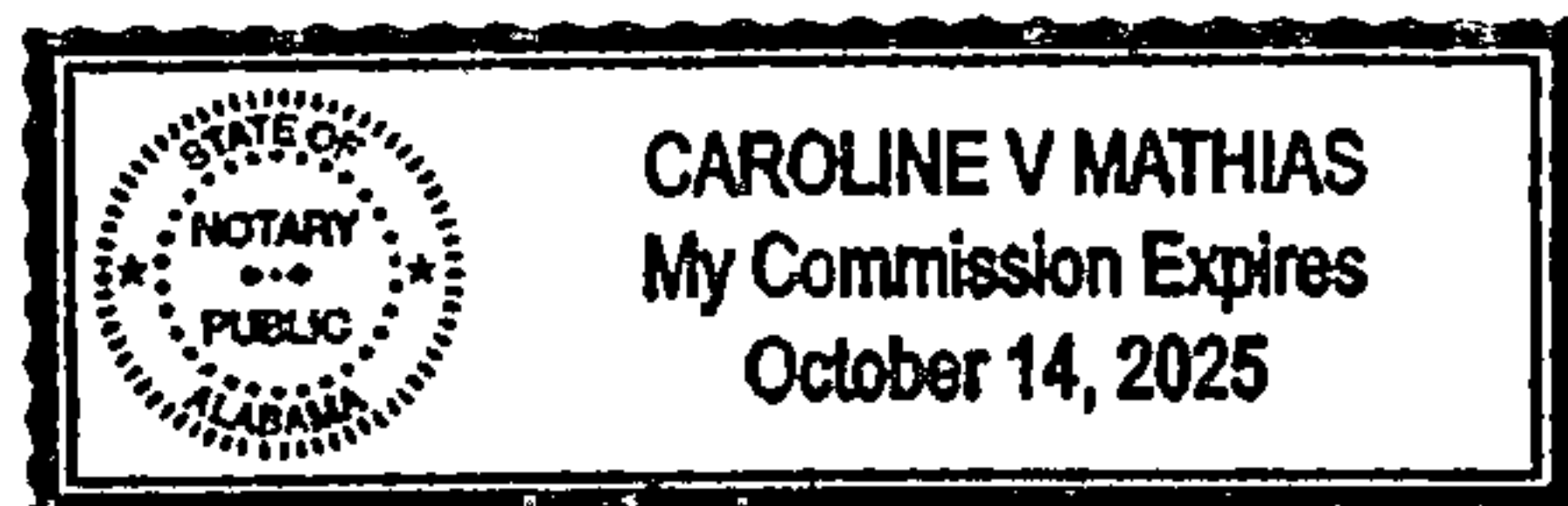
Wendy Stump  
Printed Name: Wendy Stump

By: Charles M. Miller, Jr.  
Name: Charles M. Miller, Jr.  
Title: President / CEO

STATE OF ALABAMA     )  
                                      )  
Shelby COUNTY     )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Charles M. Miller, Jr. as President / CEO of The Barber Companies, Inc., has signed the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the declaration, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 21<sup>st</sup> day of October, 2024.



Caroline V Mathias  
Notary Public  
My Commission Expires: 10/14/2025

(Signatures continue on the following page.)



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**TENANT:**

**WINN-DIXIE MONTGOMERY LEASING,  
LLC, a Florida limited liability company**

Witnesses:

Printed Name: Brian McGee

By:

Name: Daniel Gavin

Title: Authorized Signatory

STATE OF OHIO

FRANKLIN COUNTY

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Daniel Gavin as Authorized Signatory of Winn-Dixie Montgomery Leasing, LLC, has signed the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the declaration, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 4 day of October, 2024.



Katherine Galtten  
Notary Public, State of Ohio  
My Commission Expires:  
June 19, 2029

  
Notary Public

My Commission Expires: 06/19/2029

WINN-DIXIE MONTGOMERY LEASING,  
LLC, a Florida limited liability company

Witnesses:

TERRI L KAMANAOK  
Printed Name: TERRI L KAMANAOK

By: [Signature]  
Name: Chris Lloyd  
Title: Authorized Signatory

STATE OF FLORIDA )  
POLKCOUNTY )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that Chris Lloyd as Authorized Signatory of Winn-Dixie Montgomery Leasing, LLC, has signed the foregoing, and who is known to me, acknowledged before me on this day that, being informed of the contents of the declaration, he/she executed the same voluntarily on the day the same bears date.

Given under my hand and official seal this 7<sup>th</sup> day of October, 2024.

[Signature]  
Notary Public  
My Commission Expires: September 27, 2026

ANGELA A. MARTE  
MY COMMISSION #HH317224  
EXPIRES: SEP 27, 2026  
Bonded through 1st State Insurance



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## **EXHIBIT "A"**

### **Chelsea Corners**

Lot 1 of the Final Plat of Chelsea Corners as recorded in Map Book 27, Page 128 in the Office of the Judge of Probate of Shelby County, Alabama