

**This instrument was prepared by:**

**JT Thornbury  
27 Inverness Center Parkway  
Birmingham, AL 35242  
205-795-4704**

STATE OF ALABAMA )

COUNTY OF SHELBY )

20260217000044440  
02/17/2026 01:27:49 PM  
RESTCOVN 1/12

**DECLARATION OF PROTECTIVE COVENANTS**

This Declaration of Protective Covenants (“Declaration”) is made by **BIRMINGHAM REALTY COMPANY**, an Alabama corporation (“Declarant”) on or as of this the 12th day of February, 2026.

**WITNESSETH:**

**WHEREAS**, certain property located in Pelham, Shelby County, Alabama previously was subdivided pursuant to the Oak Mountain Commerce Place plat as recorded in Map Book 18, page 58, in the Office of the Judge of Probate of Shelby County, Alabama (the “Oak Mountain Commerce Place”); and

**WHEREAS**, Lot 6 of the Oak Mountain Commerce Place has been further subdivided into Lot 6A, 6B and 6C pursuant to that certain Resurvey of Lot 6 of Oak Mountain Commerce Place as recorded in Map Book 62, Page 80, in the Office of the Judge of Probate of Shelby County, Alabama (the “Lot 6 Resurvey”); and

**WHEREAS**, Declarant is the owner of Lot 1 and Lot 4 within Oak Mountain Commerce Place, a part of Lot 7 within Oak Mountain Commerce Place commonly known as “Oak Mountain Corners,” and Lot 6A, Lot 6B and Lot 6C of the Lot 6 Resurvey (the “Barber Oak Mountain Properties”); and

**WHEREAS**, Declarant desires to impose upon Lot 6A and a parcel of real property being approximately 0.70 acres being more particularly described as Parcel 2 on Exhibit “A” attached hereto (collectively, the “Restricted Property”), certain restrictions, covenants, terms, conditions and limitations (herein referred to collectively as “Restrictions”), for the benefit of the Barber Oak Mountain Properties and the present and future owners of all lots within the Barber Oak Mountain Properties; and

**NOW, THEREFORE**, Declarant does hereby proclaim, publish and declare that the Restricted Property and all portions thereof, including any re-subdivision thereof into smaller lots or parcels, is subject to, and shall be held, conveyed, hypothecated or encumbered, rented, used, occupied and improved, subject to the Restrictions, which shall run with the land and shall be binding upon Declarant and all parties having or acquiring any right, title, or interest in and to the Restricted Property or any part of parts thereof.

**ARTICLE I**

**MUTUALITY OF BENEFIT AND OBLIGATION**

The restrictions and agreements set forth herein are made for the mutual benefit of Declarant and the present and future owners of the Barber Oak Mountain Properties and are intended to create equitable servitudes upon the Restricted Property in favor of Declarant and the present and future owners of the Barber Oak Mountain Properties; and to create a privity of contract and estate between the grantees of said parcels, their heirs, successors and assigns.

## ARTICLE II REQUIREMENTS OF CONSTRUCTION

**Section 2.1 Concept.** It is intended that the Restricted Property will be developed as a commissary and commercial bakery of high esteem and quality improvements (the "Development").

**Section 2.2 Architectural Control Committee.** The Architectural Control Committee (herein referred to as the "Committee") shall be composed of not less than two (2) members at all times. For so long as Declarant owns any property within the Barber Oak Mountain Properties, the membership of the Committee shall be appointed by the Declarant. Following the sale of the last of Declarant's interest in the Barber Oak Mountain Properties, the membership of the Committee shall be appointed by the owner of Lot 1 of Oak Mountain Commerce Place ("Oak Mountain Marketplace"). The initial Committee members upon recording of these covenants will consist of Charles M. Miller, Jr. and Charles W. Callans, II. The primary duty of the Committee shall be to examine and approve or disapprove all plans, including site plans, for construction of improvements on parcels within the Restricted Property in accordance with the provisions of these covenants. The Committee shall have such other responsibilities, duties, and authority as provided for herein, but the Committee shall not have any responsibility, duty, power, or authority not provided for herein.

**Section 2.3 Plan Approval.** All plans and specifications for Exterior Improvements (defined below) and the proposed location thereof shall be subject to and shall require the approval in writing of the Committee before any work is commenced. "Exterior Improvements" means any structure or improvement to be erected on or moved upon the Restricted Property as well as the construction materials, roofs, and any changes or additions to improvements, and any remodeling, reconstruction, alterations or additions thereto. Construction for Exterior Improvements may not be started before receipt of a letter of approval from the Committee. The proposed plans must be delivered to the general office of Declarant for approval at least thirty (30) days prior to the proposed date that construction will be commenced. Copies of plans will be retained by the Declarant. Each such plan must include, in addition to such other matters as the Committee or the Declarant may reasonably require, the following (collectively, the "Exterior Improvement Plans"):

**2.3.1** All plans must take into consideration the particular topographic and vegetative characteristics of the parcel or parcels involved.

**2.3.2** All plans must state the elevations of all sides of the proposed structures as such sides will appear after finished grading of the parcel has been accomplished.

**2.3.3** The foundations and floor plan(s) shall show the existing grade on each elevation in order that the extent of cut and/or fill areas may be easily and clearly determined.

**2.3.4** The site plan shall show all outlines, setbacks, drives, fences, and underground trench locations at a scale of 1" – 20". After the plan and site plan for the structure is approved, the improvements or other structure may be staked out and construction started. All tree cutting and grading will be performed as to protect and maintain a natural surrounding for the parcels.

**Section 2.4 Design Criteria, Structure.** All structures on the Restricted Property shall be constructed in accordance with the design criteria set forth in this Section 2.4 (the "Design Criteria").

**2.4.1** All exterior materials and colors shall be subject to the Committee's approval prior to commencement of any construction on the Restricted Property. No metal buildings will be permitted. It is the intent of Declarant that all structures constructed on the Restricted Property incorporate as many natural surfaces and textures as commercially reasonable.

**2.4.2** All building(s) on the Restricted Property shall comply with the building code, and all rules and regulations of the City of Pelham, the Shelby County Health Department and the Alabama Department of Environmental Management, as applicable, as well as with the rules and regulations of any other governmental agency having jurisdiction over the Restricted Property.

**2.4.3** Dust abatement and erosion control measures (consistent with the “best management practices”) shall be provided by the contractor or owner during all stages of construction.

**2.4.4** The maximum development density for the Restricted Property shall be 80 percent of the total acreage of the Restricted Property. This requirement means that a maximum of 80 percent of the Restricted Property may be developed with impervious materials (including buildings, parking lots, sidewalks, except where sidewalks are minor to a landscaped courtyard, etc.), and further, that a minimum area of 20 percent of the Restricted Property must be developed as green-space/planting areas. The development density shall be determined by acreage or area within the Restricted Property. Green-space/planting areas outside of the Restricted Property shall not be considered as part of the required (20 percent) green-space/planting areas. Furthermore, that portion of the Restricted Property that comprises a ten-foot-wide band within the perimeter of the Restricted Property shall be left as green-space/planting areas to provide a natural vegetative screen and separation between different land uses (the “Green Band”). The Green Band may only be disturbed by paved roadway accessing public alleys, streets, or access easements benefitting or burdening the Restricted Property, and shall be included in the minimum 20 percent requirement for green-space/planting areas.

**2.4.5** No structure on the Restricted Property shall be greater than two (2) stories and a total of thirty-six (36) feet in height above the average ground level including parapets and any architectural features and equipment (berms shall not be constructed to raise the height of any structure).

**2.4.6** No structure on the Restricted Property shall be located nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the recorded plat, if any. In any event, no building on the Restricted Property shall be located nearer than 100 feet to the front line, or located nearer than 15 feet to an interior side parcel line and no building shall be located nearer than 35 feet to the rear parcel line. For the purpose of this covenant, eaves, steps and open porches shall not be construed to permit any portion of a building on a parcel to encroach upon another parcel.

**2.4.7** All building debris, stumps, trees, etc., must be removed from the Restricted Property by the builder as often as necessary to keep the building and parcel attractive. Such debris shall not be dumped in any area of the Restricted Property without approval of the Committee.

**2.4.8** At all times during construction, the builder must keep the building clean, cut all grass and otherwise maintain the Restricted Property in a neat and orderly fashion.

**2.4.9** The landscaping shall provide a suitable setting for the building and will maintain as much of a natural surrounding as commercially reasonable. All structures shall have a minimum 10-foot wide planting area around the perimeter of the Restricted Property (except at entrance and exit points) and the planting area shall incorporate such plants, either planted or naturally existing, as may be reasonably required by the Committee or the Declarant. The landscaping in and around the Restricted Property must be maintained up to the curb and gutters of adjacent roadways.

**Section 2.5 No Liability for Approval.** Neither the Committee nor the Declarant nor any architect nor agent thereof shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications and each owner of a parcel within the Restricted Property waives any such claim against the Committee, the Declarant, the officers, directors, employees, or affiliates of the Committee or the Declarant, and all people working under their direction. Neither the Declarant nor the Committee shall be liable for any acts or omissions of any nature

whatsoever (including without limitation, any mistake in judgment, negligence, or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve any plans).

**Section 2.6 Declarant or Committee Approval.** Under this Article II, and in the event either the approval of the Declarant or the Committee for construction is expressly required pursuant to any other provision of this Declaration, the appropriate party shall issue in writing either its approval, its denial, or specify the conditions under which it would issue its approval within ten (10) business days from the receipt of a written request for such approval pursuant to the terms of this Declaration, together with the requesting party's submission of the Exterior Improvement Plans made in accordance with the Design Criteria (a "Request for Approval"). Any disapproval notice shall specify, with reasonable particularity, the reason(s) for disapproval; provided, however, that grounds for such disapproval may be limited to confirmation that the Exterior Improvements violate the Restrictions. If such Request for Approval is not approved, disapproved or modified within said time period, then the Request for Approval shall be deemed not to have been approved; provided, however, that if the Committee or the Declarant shall fail to act within the foregoing ten (10) business day time period, and shall fail to do so within ten (10) business days after receipt of a second written request to do so, such failure to act shall be deemed an approval of the Request for Approval.

**Section 2.7 Amendments.** The Declarant reserves the right to amend the provisions of this Article from time to time at its discretion, except that the Declarant shall have no right to make any amendment retroactive or to impose on any property no longer owned by Declarant any restriction which would require the destruction of any improvements already constructed thereon (or the modification of any plans for proposed improvements which have been approved prior to the date of such amendment) or which would impose any greater or additional requirements with respect to such property.

### **ARTICLE III MINIMUM LOT SIZE**

The Restricted Property shall not be subdivided (i) without the consent of the Declarant, or (ii) to create a parcel containing less than 40,000 square feet, unless that parcel exists as of the time of recording of this Declaration.

### **ARTICLE IV GENERAL PROHIBITIONS AND REQUIREMENTS**

**Section 4.1 Responsibility for Upkeep.** It shall be the responsibility of the owner of the Restricted Property to prevent any unclean, unsightly or unkept conditions of buildings or grounds on the Restricted Property that would tend to decrease the beauty of the specific area or of the Barber Oak Mountain Properties as a whole.

**Section 4.2 Prohibited Use.** Except as specifically provided for herein or in any amendment to this Declaration, the Restricted Property shall not be used and/or occupied for any of the following purposes:

- (i) amusement arcade;
- (ii) funeral parlor;
- (iii) night club, cabaret or liquor bar;
- (iv) massage parlor;
- (v) pornographic video and/or book store;
- (vi) laundromat;
- (vii) cleaners;
- (viii) a convenience store, gasoline sales outlet, or car wash, or any combination thereof;

- (ix) any type parimutuel gambling, bingo parlor, or night club;
- (x) an operation primarily used as a beauty salon or barber shop;
- (xi) flea market;
- (xii) pawn shop;
- (xiii) skating rink;
- (xiv) gymnasium or any fitness or workout facility;
- (xv) hotel or motel;
- (xvi) a store that sells beer, wine, or liquor for off-premises consumption;
- (xvii) barbeque restaurant;
- (xviii) Mexican restaurant;
- (xix) store selling mobile phones;
- (xx) any banking institution or other lending institution;
- (xxi) store selling cosmetics;
- (xxii) any type of single price point variety retail store or variety store with the word "dollar" in its trade name;
- (xxiii) hair salon or nail salon ; or
- (xxiv) a retail store devoting more than thirty percent (30%) of its interior square footage to the sale of goods that commonly would be sold in a food market or grocery store.

**Section 4.3 Right to Enter; Liens.** The Restricted Property, whether occupied or unoccupied, and any improvements placed thereon, shall at all times be maintained in a neat and attractive condition and in such a manner as to prevent their becoming unsightly by reason of unattractive growth or the accumulation of rubbish or debris thereon. In order to implement effective control of this item, Declarant reserves for itself and its successors and assigns the right, after ten (10) days notice, to enter upon the Restricted Property with such equipment and devices as may be necessary for the purpose of (a) repairing or removing signage or improvements that are in disrepair, mowing, removing, clearing, (b) cutting underbrush, weeds or other unsightly growth and trash which in the opinion of Declarant detracts from the overall beauty and safety of the Barber Oak Mountain Properties, or (c) to secure the Restricted Property in the event the owner fails to comply with the terms of Section 4.15 below. Declarant's entrance upon the Restricted Property for such purposes shall occur between the hours of 7:00 A.M. and 6:00 P.M. on any day and shall not constitute a trespass. Declarant may charge the owner of the Restricted Property the cost for such services or measures, which charge, if not paid within thirty (30) days, shall constitute a lien upon the Restricted Property enforceable by appropriate proceedings at law or equity. The provisions of this paragraph shall not be construed as an obligation on the part of Declarant to mow, clear, cut or prune the Restricted Property, or to provide garbage or trash removal services.

**Section 4.4 Service Yard.** The Restricted Property shall have a service yard, or yards, adequate for the handling of waste and garbage and any exterior materials or equipment storage. All service yard(s) shall (i) be paved, (ii) be accessible from a public street or alley, and (iii) be located to the side or rear of Development and/or building, be enclosed by a structure on all four sides with access through a gate, said structure to be at least six feet tall and adequate to conceal from visibility the service yard, equipment and material stored within the wall or fence.

**Section 4.5 Signage Regulations.** The signage regulations for the Restricted Property shall be as follows:

- (i) All signs shall be submitted for, reviewed, and approved by the Committee and shall not be erected or displayed without prior approval of the Committee, all in accordance with the plan approval process set forth in Article II. Generally, the only signs exempt from the Committee's review and approval are governmental signs, public notices, instructional signs, and traffic control and warning signs, symbols and

insignia as may be necessary and required by governmental entities for the public health, safety and welfare.

- (ii) The criteria regarding signs for freestanding structures on the Restricted Property shall be as follows (the following sign criteria shall be included in the definition of “Design Criteria” above):
  - (a) All signs must be within the boundary/property line;
  - (b) Only one building sign or one permanent free-standing monument type sign will be allowed on each fronting street.
  - (c) The top of the monument signs shall not extend higher than 22 feet above ground level (no artificial berms shall be constructed to raise the height of the sign). Building signs shall not project more than 18 inches from the building.
- (iii) No sign shall be painted or pasted directly on the surface of any building, wall, fence or window on the Restricted Property.
- (iv) There shall be no flashing signs on the Restricted Property. Signs can be illuminated either directly or indirectly (internally or externally) but all illumination shall be kept at a constant intensity at all times when in use and shall not exhibit sudden or marked changes in lighting effect. No rotating, flashing, blinking, fluctuating, or otherwise animated signs shall be permitted.
- (v) All on-premise construction, real estate (“For Sale” or “For Rent”) signs or other temporary signs used on the Restricted Property must be approved by the Declarant. In general, only one temporary business located sign will be allowed. Any approved temporary business location sign may provide information regarding the owner, developer, architect and designer, real estate agents, etc.
- (vi) Except as otherwise covered, stated or excepted above, all signage regulations of the City of Pelham (or any other governmental agency having jurisdiction over such matters) shall also apply to the Restricted Property.

**Section 4.6 Temporary Structures.** No structure of a temporary character shall be placed on any portion of the Restricted Property without approval of the Committee in accordance with the plan approval process set forth in Article II; provided, however, that construction trailers are permitted to be placed on the Restricted Property during periods of approved construction on the Restricted Property. Approved storage buildings permanently affixed to the Restricted Property so as to constitute an improvement shall not be considered structures of a temporary character.

**Section 4.7 Restoration.** Any building or other structure on any parcel on the Restricted Property which may be destroyed in whole or in part for any reason must be razed or restored to a sightly condition with reasonable promptness, provided that in no event shall such debris remain on the Restricted Property longer than ninety (90) days.

**Section 4.8 Off Street Parking.** The Restricted Property must provide adequate off street parking to accommodate all existing and future needs for employees, visitors and company vehicles. Parking lots shall be paved and have access to a public street or alley. Parking spaces shall be no less

than the City of Pelham's off street parking requirements. Each space shall be a minimum of nine (9) feet wide, unless designated as handicapped parking. Areas designated for automobile use shall not be used for trucks, commercial vehicles and/or material storage. No parking will be permitted in open fields, on streets, or vacant lots. Inoperative or junk vehicles may be towed away by Declarant at owner's expense.

**Section 4.9 Off Street Loading.** Truck and trailer maneuvering areas shall be entirely off street and no backing shall be allowed into or from the public street. Truck maneuvering areas shall be one a minimum of hundred twenty-five (125) feet in depth and truck berths a minimum of twelve (12) feet wide. No loading areas shall be permitted on the front of any building or on any side facing a public street. Additional screening and/or beautification may be required by the Committee adjacent to any loading facility.

**Section 4.10 Exterior lighting.** Exterior lighting fixtures shall not extend higher than 22 feet as measured from the ground (unless required to do so by applicable governmental requirements) and must be constructed to direct and control the beam within the Restricted Property.

**Section 4.11 Certain Action Prohibited Without the Prior Written Consent of the Committee.** No facilities, including poles and wires, for the transmission of electricity, telephone, internet, cable or other utility services or communication services shall be placed or maintained above the surface of the ground of the Restricted Property and no external or outside antennas of any kind shall be constructed or maintained on the Restricted Property; provided, however, one satellite dish shall be permitted to be located on the Restricted Property provided that the location of such satellite dish shall be approved by the Committee prior to the installation thereof and is not visible from streets or other parcels. No boat, boat trailer, house trailer, trailer, motor home or any similar items shall be stored in the open on the Restricted Property for a period of time in excess of twenty-four (24) hours.

**Section 4.12 Animals.** No birds, livestock, animals, or insects shall be kept or maintained on the Restricted Property without the express written consent of the Committee.

**Section 4.13 Accumulation of Refuse.** No lumber, metals, or bulk materials shall be kept, stored or allowed to accumulate on the Restricted Property, except building materials to be used during the course of construction of any approved structure and no refuse or trash shall be kept, stored or allowed to accumulate, except between scheduled pick-ups.

**Section 4.14 Pipes.** No water pipe, gas pipe, sewer pipe, or drainage pipe shall be installed or maintained above the surface of the ground on the Restricted Property, except hoses and movable pipes used for irrigation purposes.

**Section 4.15 Mining.** Except for construction approved hereunder, the Restricted Property shall not be used for the purpose of boring, mining, quarrying, exploring for or removing oil or other hydrocarbons, minerals, gravel, or earth.

## ARTICLE V EASEMENTS

**Section 5.1 Utility Easements Reserved.** Declarant reserves for itself, its successors and assigns, the right to use, dedicate and/or convey to the State of Alabama, Shelby County, the City of Pelham, and/or to the appropriate utility company or companies, rights-of-way or easements on, over and under the Restricted Property to erect, maintain and use all utility services, including electric and telephone poles, wires, cables, conduits, storm sewers, sanitary sewers, water mains and other suitable equipment for the conveyance and use of electricity, telephone equipment, gas sewer, water, or other public conveniences or utilities, on, in and over strips of land along the property line of each parcel, as shown on the recorded plat, with a further easement reserved to cut or fill at a 3-in-1 slope along the boundaries of all public streets or roads built in and around the Barber Oak Mountain Properties.

**Section 5.2 Drainage.** The Restricted Property must include plans to handle drainage flow which will be in keeping with the overall drainage plan for Oak Mountain Commerce Place, including without limitation Oak Mountain Marketplace and properties owned by Declarant adjacent to the Restricted Property, as adopted from time to time. The design and construction of any roadways installed on the Restricted Property shall address proper storm water management procedures consistent with the overall drainage plan for Oak Mountain Commerce Place. Drainage flow shall not be obstructed nor be diverted from drainage swales, storm sewers and/or utility easements as designated herein, or as may hereafter appear on any plat of record in which reference is made to these covenants. Consistent with the foregoing, any stormwater improvements on the Restricted Property shall not impair drainage flow from upgradient properties such as Oak Mountain Marketplace and other properties owned by Declarant adjacent to the Restricted Property. Declarant and/or the Committee reserves the specific right to enter upon the Restricted Property from time to time to make such repairs or modifications to the drainage retention pond and related land as may be needed or useful in order to keep the same in working condition, and the reasonable cost thereof shall be paid by each parcel owner of the Restricted Property which cost, if not paid within thirty (30) days after delivery of an invoice thereof from Declarant or the Committee, shall constitute a lien on such parcel or parcels which shall be enforceable in the same manner as provide in Section 4.3 hereof. Should the owner or owners of the Restricted Property construct roadways on or through the Restricted Property, the design and construction of any such roadways shall address proper storm water management consistent with the overall drainage plan for the Barber Oak Mountain Properties (including without limitation Oak Mountain Marketplace) and Oak Mountain Commerce Place.

**Section 5.3 Utilities.** All on-site utility service lines on the Restricted Property must be underground and metered at a location approved by the Declarant.

**Section 5.4 Additional Easements.** Declarant reserves the right to impose further restrictions and to grant or dedicate additional easements and roadway rights of way on any unsold parcels in the Restricted Property.

## **ARTICLE VI ENFORCEMENT, PROTECTION OR MORTGAGES**

**Section 6.1 Enforcement.** In the event of a violation or breach of any of these restrictions, including any amendments thereto, by the Restricted Property owner, or any affiliate thereof, or agent of such owner, Declarant or any party to whose benefit these restrictions inure shall have the right to proceed at law or in equity to compel compliance with the terms and conditions hereof, to prevent the violations or breach of said restrictions, to sue for and recover damages or other dues, or take all such courses of action at the same time or such other legal remedy it may deem appropriate. The Restricted Property owner must pay Declarant a reasonable attorney or other professional fee and all other reasonable expenses related thereto in the event Declarant employs an attorney or other professional to prevent the violation of, or to rectify the violation of, any of the terms, conditions or covenants of this Declaration, which amount, if not paid within thirty (30) days following receipt of written request from Declarant, shall constitute a lien upon the Restricted Property enforceable by appropriate proceedings at law or equity. No delay or failure on the part of an aggrieved party to invoke an available remedy set forth herein shall be held to be a waiver of that party or an estoppel of that party or of any other party to assert any right available to it upon the recurrence or continuance of said violation or the occurrence of a different violation.

**Section 6.2 Protection of Lien of Mortgage.** No violation or breach of or failure to comply with any provision of this Declaration and no action to enforce any such provision shall affect, defeat, render invalid or impair the lien of any mortgage taken in good faith and for value and perfected by recording in the appropriate office, prior to the time of recording in said office of an instrument describing the parcel and listing the name or names of the owner or owners thereof and giving notice of such

violation, breach, or failure to comply; however, any purchaser on foreclosure or person accepting a deed in lieu thereof shall take title to such property subject to the terms of this Declaration.

## **ARTICLE VII GRANTEE'S ACCEPTANCE**

Any grantee of the Restricted Property, by acceptance of the deed or other instrument conveying an interest in or title to, or the execution of a contract for the purchase thereof, whether from Declarant, or a subsequent owner of all or a portion of the Restricted Property, shall accept such deed or other contract upon and subject to each and all of these Restrictions and the agreements herein contained.

## **ARTICLE VIII TERM AND MODIFICATION**

Unless sooner terminated, these Restrictions shall run for a term of thirty-five (35) years from the date hereof, after which, such Restrictions shall automatically extend for successive periods of five (5) years unless Declarant records an instrument in the Probate Office of Shelby County, Alabama at least thirty (30) days prior to the expiration of the-then current term confirming the termination and expiration of such Restrictions upon such date. Unless terminated, these Restrictions shall run with the land and can be changed, modified, amended, altered or terminated only with the approval of Declarant, or after Declarant has sold all of the Barber Oak Mountain Properties; provided, however, the restrictions set forth in Section 4.2 hereof ("Prohibited Uses") can be changed, modified, amended, altered or terminated only with the approval of both Declarant and the-then current owner of Oak Mountain Marketplace. Further, for so long as Declarant owns any of the Barber Oak Mountain Properties, Declarant reserves the right at any time, and from time to time, to modify, amend or supplement these Restrictions by a written amendment recorded in the Probate Office of Shelby County, Alabama, including the right to subject additional property to the Restrictions, or to remove any portion of property then owned by Declarant therefrom, so long as there is no adverse impact on the Restricted Property and such modifications do not prohibit the use of the Restricted Property as a retail and/or wholesale commercial bakery business and commercial office.

## **ARTICLE IX SEVERABILITY**

Every one of the Restrictions is hereby declared to be independent of, and severable from the rest of the Restrictions and of and from every other one of the Restrictions and of and from every combination of the Restrictions. Invalidation by any court of any Restriction contained in this instrument shall in no way affect any of the other Restrictions which shall remain in full force and effect.

## **ARTICLE X ASSIGNMENT OF DECLARANT RIGHTS; NO LIABILITY**

**Section 10.1 Assignment of Declarant Rights.** Declarant reserves the right to assign or delegate all or any part of its rights or obligations hereunder to the Committee or to the owner of Oak Mountain Marketplace. In the event that Declarant no longer owns any of the Barber Oak Mountain Properties, Declarant shall, upon the sale of the last of its interest in the Barber Oak Mountain Properties, assign all of its rights and obligations under this Declaration to the-then current owner of Oak Mountain Marketplace. Upon any such written assignment or delegation pursuant to this Section, Declarant shall be relieved of the rights and obligations so assigned or delegated.

**Section 10.2 Director, Officer and Declarant Liability.** The directors, officers, and/or members of Declarant shall not be personally liable for any acts or omissions of any nature whatsoever (including, without limitations, any mistake in judgment, negligence, or nonfeasance arising out of or in connection with approval or disapproval or failure to approve any plans).

**ARTICLE XI  
ESTOPPEL CERTIFICATES**

Upon the reasonable request of Declarant or the Restricted Property owner, each shall execute, acknowledge and deliver to the other within thirty (30) days after request, a written instrument in a form reasonably satisfactory to both (a) certifying that these Restrictions have not been modified except as set forth in such certificate and are in full force and effect as modified, (b) stating whether or not, to the knowledge of the party executing such instrument, the other party thereto is in violation of these Restrictions and, if so, stating the nature of such violation, and (c) affirming such other factually accurate matters pertaining to the provisions or subject matter of these Restrictions as may be reasonably requested by the other party. Each party shall pay the reasonable expenses (including reasonable attorneys' fees) incurred by the other party in providing the second and any subsequent such certificate requested during any twelve (12) month period. Such instrument shall not have the effect of waiving, estopping any party from asserting or otherwise depriving any party of the benefit of any provision of these Restrictions.

**ARTICLE XII  
CAPTIONS & GENDER**

The captions preceding the various paragraphs and subparagraphs of these Restrictions are for the convenience of reference only, and none of them shall be used as an aid to the construction of any provision of the Restrictions. Wherever and whenever applicable, the singular form of any word shall be taken to mean or apply to the plural, and the masculine form shall be taken to mean or apply to the feminine or the neuter.

*[Signature(s) on the Following Page(s)]*

IN WITNESS WHEREOF, Declarant has caused these restrictions to be executed on or as of the date first above written.

**DECLARANT:**

**BIRMINGHAM REALTY COMPANY**

Witnesses:

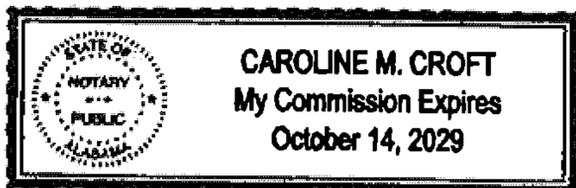
J. Thro  
Printed Name: Josyhan "JT" Throburg

By: T. Paul Sanford  
Name: T. Paul Sanford  
Its: Chief Financial Officer

Wendy Stumph  
Printed Name: Wendy Stumph

STATE OF ALABAMA       )  
SHELBY COUNTY         )

I, the undersigned authority, a Notary Public in and for said county in said state, hereby certify that T. Paul Sanford, as Chief financial officer of Birmingham Realty Company, 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 executed the same voluntarily on the day the same bears date. Given under my hand and official seal this 11<sup>th</sup> day of February, 2026.



Caroline M. Croft  
Notary Public  
My Commission Expires: 10/14/2029

**EXHIBIT "A"**

**Legal Description**

Parcel 1:

Lot 6A, according to that certain Resurvey of Lot 6 Oak Mountain Commerce Place as recorded in Map Book 18, Page 58, Shelby County, Alabama, recorded in Map Book 62, Page 80, Probate Records of Shelby County, Alabama.

Parcel 2:

Commence at a 3" capped rebar in place being the Northwest corner of Section 6, Township 19 South, Range 2 West, Shelby County, Alabama; Thence proceed South 00 degrees 31' 13" East along the West boundary of said quarter-quarter section for a distance 316.12 feet to a 1/2 rebar in place; Thence proceed South 82 degrees 08' 09" East for a distance of 224.28 feet (set 1/2 rebar CA-0114-LS), said point being located on the Easterly right-of-way of Commerce Parkway, said point being the point of beginning. From this point of beginning proceed South 82 degrees 08' 09" East for a distance of 148.96 feet; Thence proceed North 07 degrees 40' 11" East for a distance of 192.48 feet to a point on the Northerly boundary of Lot No. 7 of the Oak Mountain Commerce Place Subdivision as shown by map of said subdivision on record in the Office of the Judge of Probate of Shelby County, Alabama in Map Book 18 at Page 58, said point also being located on the Southerly right-of-way of Commerce Parkway; Thence proceed North 82 degrees 15' 10" West along the North boundary of said Lot No. 7 and along the North boundary of said street for a distance of 147.46 feet to the P. C. of a concave curve left having an arc distance of 35.57 feet and a radius of 25.0 feet; Thence proceed Southwesterly along the right-of-way of Commerce Parkway and along the curvature of said curve for a chord bearing and distance of South 49 degrees 08' 47" West, 32.64 feet to the P. T. of said curve, which is also the P. C. of a concave curve right having an arc distance of 51.79 feet and a radius of 364.93 feet; Thence proceed Southwesterly along the Easterly right-of-way of said Commerce Parkway for a chord bearing and distance of South 03 degrees 40' 15" West, 51.74 feet to the P. T. of said curve; Thence proceed South 00 degrees 25' 36" East along the Easterly right-of-way of said road for a distance of 117.24 feet to the point of beginning.

The above described land being a part of Lot No. 7 of the Oak Mountain Commerce Place Subdivision as shown by map of said subdivision on record in the Office of the Judge of Probate of Shelby County, Alabama, in Map Book 18 at Page 58 and contains 0.70 acres.



Filed and Recorded  
Official Public Records  
Judge of Probate, Shelby County Alabama, County  
Clerk  
Shelby County, AL  
02/17/2026 01:27:49 PM  
\$55.00 KELSEY  
20260217000044440

*Allie S. Bayl*