

LIBER 2631 FOLIO 683

**FIRST AMENDMENT TO DECLARATION OF COVENANTS AND
RESTRICTIONS FOR THE "WESTWOOD
COMMERCE PARK, PHASE I".**

This First Amendment To Declaration of Covenants and Restrictions for Westwood Commerce Park, Phase I (hereinafter referred to as the "Amendment") is made this 30th day of June, 2006, by The Westwood Owners Corporation, a Maryland Corporation (hereinafter referred to as the "Corporation"), and Westwood Development, LLC, a Maryland Limited Liability Company (formerly known as H&R Pepsi, LLC and hereinafter referred to as the "Developer").

RECITALS:

WHEREAS, the Developer is the owner of that certain real property situate in the Salisbury Election District of Wicomico County, Maryland, which is being developed into a certain business park known as the "Westwood Commerce Park, Phase I" as per plats thereof recorded among the Land Records of Wicomico County, Maryland in Plat Cabinet M.S.B. No. 14, Folio 804 and Plat Cabinet M.S.B. No. 14, Folio 999, (hereinafter referred to as the "Plats"), and being a part of the same property conveyed to the Developer by Deed dated February 14, 2000 and recorded among the Land Records of Wicomico County, Maryland in Liber M.S.B. No. 1731, Folio 465, et seq., and

WHEREAS, by Declaration of Covenants and Restrictions for the "Westwood Commerce Park, Phase I", dated March 31, 2005 and recorded among the Land Records of Wicomico County, Maryland in Liber M.S.B. No. 2385, Folio 176, et seq., the Developer subjected the land shown on the Plats (hereinafter referred to as "Phase I of the Park") and the lots contained within Phase I of the Park (hereinafter referred to as the "Lots") to the Covenants and Restrictions set forth therein, which shall hereinafter be referred to as the "Covenants and Restrictions"; and

WHEREAS, pursuant to Sections 5(c) and 18(h) of the Covenants and Restrictions, the Corporation has the power and authority to alter and amend the Covenants and Restrictions; and

WHEREAS, the Corporation now desires to amend the Covenants and Restrictions as set forth below.

NOW, THEREFORE, WITNESSETH:

1. The Recitals are hereby incorporated by reference herein in their entirety.
2. The terms and provisions of Section 11(c) of the Covenants and Restrictions are hereby amended to read as follows:

LIBER 2631 FOLIO 684

- c. Rear Yard: The minimum rear yard set-back shall be twenty feet (20'), except the Lots abutting U.S. Highway 50 bypass and 50 business, which will have a setback of fifty feet (50') from U.S. Highway 50 bypass and 50 business.

3. A new section 19 is hereby added to the Covenants and Restrictions as follows:

19. No Nuisance On Any Lot. No noxious or offensive activity shall be carried on upon any Lot including, without limitation, any activity which generates excessive noise as determined in the reasonable judgment and discretion of the Covenant Committee provided for in Section 15 hereof.

4. The Corporation and the Developer hereby ratify and confirm the Covenants and Restrictions as recorded and as amended hereby, and hereby declare that, except as expressly modified herein, the Covenants and Restrictions shall continue in full force and effect in their entirety. The Corporation and the Developer agree and confirm that this Amendment shall not be construed as an agreement to extinguish the original Covenants and Restrictions.

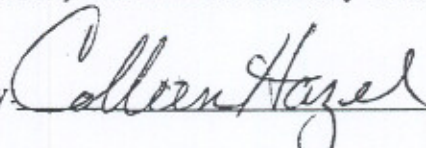
AS WITNESS the execution hereof, the day and year first above written.

ATTEST:

WESTWOOD OWNERS CORPORATION,
a Maryland Corporation

By:  (SEAL)
Morgan P. Hazel

WESTWOOD DEVELOPMENT, LLC
a Maryland Limited Liability Company

By:  (SEAL)

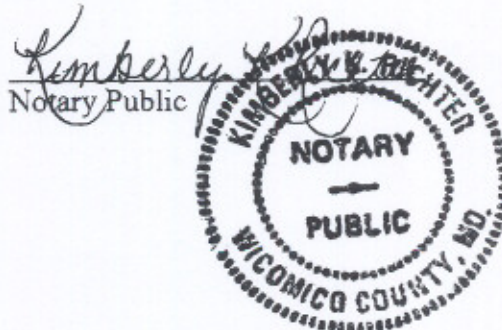
LIBER 2631 FOLIO 685

STATE OF MARYLAND:
COUNTY OF WICOMICO

I HEREBY CERTIFY that on this 30th day of June, 2006, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Morgan P. Hazel, who acknowledged himself to be the President of Westwood Owner's Corporation and that he, as such President, being specifically authorized so to do, executed the foregoing for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

My Commission Expires: 11-1-07



STATE OF MARYLAND:
COUNTY OF WICOMICO

I HEREBY CERTIFY that on this 30th day of June, 2006, before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Colleen Hazel who acknowledged herself to be a Member of Westwood Development, LLC and that she, as such Member, being specifically authorized so to do, executed the foregoing for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

My Commission Expires: 11-1-07

Kimberly K. Richter
Notary Public



g:\not\red\dev\sp\m\lib\land\...

JUL 7 2006

Received for Record _____ and recorded in the Land Records of Wicomico County, Maryland in Liber M.S.B.

No. 2631 Folios 683-685

Mark S. Bowe Clerk

IMP FUND SUR	20.00
RECORDING FEE	20.00
TOTAL	40.00
Rec'd W102	RCPT # 49442
MSB 2256	Blk # 412
Jul 07, 2006	01:37 PM

DECLARATION OF COVENANTS AND
RESTRICTIONS FOR THE "WESTWOOD
COMMERCE PARK, PHASE I".

This Declaration of Covenants and Restrictions for Westwood Commerce Park, Phase I (hereinafter referred to as the "Declaration") is made this _____ day of March, 2005, by H & R Pepsi, LLC, a Maryland Limited Liability Company, hereinafter referred to as "Developer".

WHEREAS, Developer is the Owner of that certain real property situate in the Salisbury Election District of Wicomico County, Maryland, which is being subdivided into a certain business park known as the "Westwood Commerce Park, Phase I" as per plats thereof intended to be recorded among the Land Records of Wicomico County, Maryland, (hereinafter referred to as the "Plats"), and being a part of the same property conveyed to the Developer by Deed dated February 14, 2000 and recorded among the Land Records of Wicomico County, Maryland in Liber M.S.B. No. 1731, Folio 465, et seq., and

WHEREAS, the Developer desires to subject the land shown on the Plats (hereinafter referred to as the "Park") and the Lots contained within the Park (hereinafter referred to as the "Lots") to the covenants, conditions, and restrictions set forth below which are for the purpose of protecting the value and desirability of such Lots and other land and for the purpose of distributing among purchasers of the Lots the cost of maintaining and operating the Common Areas as defined herein; the said covenants, conditions and restrictions being a general plan of improvement for the benefit of all the Lots in the Park, and the future Owners of the Lots, it being the intent of the Developer that these covenants and restrictions run with the land; and

WHEREAS, the Park or future extensions thereof may provide for certain parts thereof to be used for stormwater management area, drainage, open space areas, park areas, drainage easements, and other similar areas for the benefit of the entire Park, generally known as Common Areas, which are to be used for the benefit of all Lot owners, and the Developer intends to convey said areas to the Westwood Owners Corporation (hereinafter referred to as the "Corporation") for the purpose of maintenance and utilization thereof; and

WHEREAS, Developer deems it advisable to provide for the preservation and maintenance of said Common Areas and easements and to subject the Lots sold in the Park to certain mutually beneficial restrictive covenants, conditions, charges, easements and liens hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof; and

WHEREAS, Developer deems it advisable for the efficient preservation of the values, easements, and Common Areas in said Park to create the

Corporation to which will be delegated and assigned the powers and responsibilities of owning and maintaining the areas herein referred to, administering, and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, Developer intends to create the Corporation for the purpose of exercising the functions aforesaid, which Corporation will be known as the Westwood Owners Corporation.

NOW, THEREFORE, THE DEVELOPER HEREBY DECLARES that the real property above described known as "Westwood Commerce Park, Phase I", as per Plats thereof heretofore or hereafter recorded among the Land Records of Wicomico County and the Common Areas are held and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following limitations, restrictions, conditions, covenants, easements and reservations, liens and charges all of which are declared and agreed to be in furtherance of a plan for the Park, improvement, and sale of the Lots and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Lots and every part of the Park.

1) Definitions

- a) "Park" shall mean the real property shown on the Plats as the "Westwood Commerce Park, Phase I", the Common Areas (as defined herein and as shown on the Plats) plus any other land Developer may expressly subject to the Declaration by written instrument which is separate from this Declaration and which is also recorded among the Land Records of Wicomico County, Maryland pursuant to Section Three hereof. Unless the context clearly requires otherwise, the term "Park" shall also include all the public streets that are adjacent to any separately identified Lots within the Park.
- b) "Lots" shall mean each and every separately subdivided parcel or lot located within the Park as shown and depicted on the Plats.
- c) "Owner" shall mean the person or entity that is the holder of legal title to a Lot as indicated by the Land Records of Wicomico County, Maryland, provided that when the title to a Lot is held by more than one (1) person or

entity, each such holder must join in any action permitted hereunder before it shall be deemed to have been taken by any holder of title to the Lot. "Owner" shall not include any person, group of persons, other legal entity, or any combination thereof which holds such interest (i) solely as a security for the performance of an obligation or (ii) by virtue of an instrument or agreement other than one recorded among the Land Records of Wicomico County.

- d) "Common Areas" shall mean those areas designated on the Plats as such, those areas, if any, designated on any additional plats filed by the Developer pursuant to Section Three hereof as "Common Area(s)", all stormwater management facilities and drainage easements as shown on the Plats, and any other lands hereafter declared by the Developer to be Common Area(s).

2) Additions To Property Subject To This Declaration.

- a) Developer shall be permitted, without the assent of any other person or entity, to from time to time annex to the land included within the Park under the terms hereof so much of any additional lands as Developer shall wish to have annexed. Developer shall effectuate such annexation by the filing of supplements to this Declaration among the Land Records for Wicomico County, Maryland stating its intention to make such annexation and an additional plat or plats entitled "Westwood Commerce Park, Phase ____". Once annexed, such additional land shall be treated as part of the Park with all of the benefits and burdens set forth herein, including use of the Common Areas and all drainage easement areas and storm water management facilities, subject to all covenants and restrictions set forth herein. No other land in the vicinity of the Park shall be subject to this Declaration or the restrictions or covenants set forth without such filing by the Developer.

3) **Westwood Owners Corporation**

- 3.1 Purpose and Membership. Developer shall cause to be formed a Maryland, non-stock, membership corporation known as Westwood Owner's Corporation, hereinbefore and hereinafter referred to as the "Corporation", in which all Owners of Lots in the Park agree to become, and shall be, a member, and agree to pay such dues and annual assessments as shall be voted by a majority of the Members as such Corporation. All action taken by the Corporation shall be done by a majority vote with each Lot having one (1) vote. Complete control of the Corporation shall remain with the Developer until all the Lots are sold, and the Developer shall be exempt from paying dues. However, the Developer may turn over control of the Corporation prior to the sale of all of the Lots if the Developer so chooses. The purposes and duties of such Corporation shall include, but not be limited to, the enforcement of all restrictions, covenants and conditions set forth herein, as well as in any amendment hereto, the maintenance, preservation, and improvement of all drainage ditches, storm water management facilities and Common Areas, and the transaction of other business as may be permitted by law.
- 3.2 Voting Rights. It is understood and agreed that the by-laws of the Corporation shall provide that each purchaser or Owner of a Lot in the Park shall be entitled to one vote at all elections and on all other matters that may come before a meeting of the members, provided that if any members of the Corporation shall be a purchaser or Owner of more than one Lot in the Park, that Member shall be entitled to as many votes as the number of Lots purchased or owned by such member.
- 3.3 Covenant For Assessment. Each Owner of any Lot, excepting Developer, by acceptance of a deed hereafter conveying any such

Lot, whether or not so expressed in the deed or other conveyance, shall be deemed to have covenanted and agreed to pay the Corporation (i) annual assessments or charges; and (ii) special assessments or charges for capital improvements, such annual and special assessments and charges to be established and collected as provided herein. The annual and special assessments or charges, together with interest at the rate of ten percent (10%) interest per annum accruing from their due date until payment is made, and the cost of collection thereof and reasonable attorney's fees, shall be a charge on, and continuing lien upon each Lot against which an assessment is made. Each assessment or charge, together with interest at ten percent (10%) accruing as aforesaid, and costs and reasonable attorney's fees incurred or expanded by the Corporation in the collection thereof, shall also be the personal obligation of the Owner of the Lot. The personal obligation for any delinquent assessment or charge, together with interest, costs and reasonable attorney fees, however, shall not pass to the Owner's successors in title, unless expressly assumed by them. The Developer shall not pay annual or special assessment or charges, and no Lots owned by the Developer shall be assessed or charged with respect to any period the Lot is so owned. The Developer shall collect the first year's assessments at the time of settlement and deposit all such collections in an interest-bearing account titled in the name of the Corporation.

- 3.4 Use of Assessments. The assessments and charges levied by the Corporation shall be exclusively for promoting the value and desirability of the Lots, and in particular for the improvement, operation and maintenance of the Common Areas, including, but not limited to, the payment of taxes (except to the extent that proportionate shares of such public charges and assessments on the Common Area may be levied against all Lots in the subdivision

by the tax collecting authority so that the same are payable directly by all Owners thereof, in the same manner as real property taxes assessed or assessable against the Lot) and insurance thereon.

- 3.5 Annual Assessment. Until December 31 of the first year the first Lot is conveyed by the Developer, the annual assessment shall be \$500.00 per Lot. The assessment for all subsequent years shall be the same until such time as the amount is changed by the Corporation as provided for herein.
- 3.6 Special Assessment. In addition to the annual assessments, the Corporation may levy in any year, a special assessment, applicable for that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of any capital improvement located on any Common Area, including fixtures and personal property related thereto.
- 3.7 Uniform Assessments. With the exception of the Lots owned by the Developer, as to which no assessments shall be made, all assessments or charges shall be a uniform rate for all Lots.
- 3.8 Notices of Meeting and Quorum. Written notice of any meetings of members of the Corporation called for the purpose of taking any action authorized under Sections 4.5 or 4.6 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days, in advance of the meeting. At a meeting called for such purpose the presence of members, or of proxies, entitled to cast sixty percent (60%) of the votes entitled to be cast shall be necessary and sufficient to constitute a quorum.
- 3.9 Payment and Enforcement of Assessment. The Board of Directors of the Corporation shall fix the date of commencement and the amount of the annual assessment against each Lot for each assessment period at least one month in advance of the due date for the payment thereof and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in

the office of the Corporation and shall be open to inspection by any Owner. If an annual or special assessment is not paid on the due date, the assessment shall be delinquent and shall bear interest from the date of the delinquency at the rate of ten percent (10%) per annum, and the Corporation may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien against the Lot for such assessment, and there shall be added to the amount of such assessment the reasonable costs for preparing and filing the action, and in the event that judgment is obtained, such judgment shall include interest on the assessment as above provided and reasonable attorney's fees to be fixed by the Court together with the costs of the action. Each Owner of a Lot in the Park shall be deemed to have assented to the passage of a decree for the foreclosure of any lien upon his Lot which results from his failure to pay an assessment on the due date thereof.

4) Common Areas

4.1 Conveyance to Corporation. Prior to the conveyance of all of the Lots by the Developer, the Developer shall grant and convey to the Corporation and the Corporation shall take and accept from the Developer, the Common Areas (then existing), free of any mortgages, judgment liens or similar liens or encumbrances. The Corporation shall hold the Common Areas conveyed to it subject to the following:

4.1.1 The reservation, to the Developer, its successors and assigns, of the beds, in fee, of any streets, avenues and public highways shown on the plat of the Park, which includes the Common Areas, so conveyed.

4.1.2 The reservation to the Developer, its successors and assigns, of the right to lay, install, construct and maintain,

on, over, under or in the Common Areas, pipes, drains, mains, conduits, lines and other facilities for water, storm sewer, sanitary sewer, gas, electric, telephone, and other public utilities or quasi-public utilities deemed necessary or advisable to provide adequate service to any Lot now or hereafter laid out or established in the Park, or the area in which the same is located, together with the right and privilege of entering upon the Common Area for such purposes and making openings and excavation therein.

4.1.3 The reservation to the Developer, its successors and assigns, of the right to continue to use and maintain any drainage easement areas or stormwater management facilities located on, in, or under any Common Area conveyed to the Corporation, regardless of whether Developer has the obligation to maintain such areas of facilities at such time.

4.2 Use of Common Areas. The Common Areas shall be deemed property and facilities for the use, benefit and enjoyment, in common, of each Owner. Except as otherwise permitted by the provisions of this Declaration, no structure or improvement of any kind shall be erected, placed or maintained on any Common Area except: (i) structures or improvements designed exclusively for community use, including, without limiting the generality of the foregoing, shelters, benches, chairs or other seating facilities, fences and walls, walkways, and roadways, and (ii) drainage, stormwater and utility systems and structures. The Common Areas may be graded, and trees, shrubs or other plants may be placed and maintained thereon for the use, comfort and enjoyment of the Owners, or the establishment, retention or preservation of the natural growth or topography of the Common Area, or for aesthetic reasons. The Developer may (but shall not be obligated to) erect

any of the structures or improvements described above on, under or over the Common Areas.

- 4.3 No Nuisance in Common Areas. No noxious or offensive activity shall be carried on upon any Common Area.
- 4.4 Maintenance of Common Areas. The Corporation shall improve, develop, supervise, manage, operate, examine, inspect, care for, repair, replace, restore and maintain the Common Areas as from time to time improved, together with any items of personal property placed or installed thereon, all at its own cost and expense. The Corporation shall maintain all Common Areas, drainage easements and stormwater management facilities and in the event that the Developer, the Owners or the Corporation at any time hereafter shall fail or refuse to maintain those areas so that such shall fall into a state of disrepair or disorder, the County Council of Wicomico County or the City Council of the City of Salisbury (after annexation of the Park), after providing fifteen (15) days advance written notice, shall have the right to provide any reasonably required maintenance and cleaning of the areas and shall assess any such Owner or Owners of the Property in the Park and/or the Corporation for their proportionate share of the costs incurred as in the case of annual or special assessments for delinquent taxes; and any such charge shall constitute a lien on such properties as well as the Lot of any individual Owner who does not pay such assessment. Furthermore, it shall be the specific obligation of the Corporation to maintain all Stormwater drainage and maintenance easements. The said Wicomico County (or City of Salisbury) may also institute suit against the Corporation for any expense incurred in the repair and maintenance of the specific areas enumerated above. Furthermore, the said Wicomico County (or City of Salisbury) may also institute suit against any individual Lot Owner for such Lot Owner's proportionate share of any expense incurred

in the repair and maintenance of the aforementioned areas. "Written notice" hereinbefore referred to shall be deemed to have been given when such notice is placed in the United States mails with proper postage addressed to any such Owner, Owners, Corporation or Members of the Corporation at the address shown for them in the tax records of Wicomico County. The Corporation shall keep a Registered Agent with the County Department of Public Works and this agent shall accept all notices from the County. Initially, this agent shall be Morgan P. Hazel, 1510 Handys Meadows, Salisbury, Maryland 21801. In the event that the Registered Agent is changed, the County Department of Public Works shall be notified immediately.

- 4.5 Regulation of Common Areas. The right of each Owner to use the Common Areas shall be subject to the terms, conditions, and provisions as set forth in this Declaration and, of any rule or regulation now or hereafter adopted by the Corporation for the safety, care, maintenance, good order and cleanliness of the Common Areas. All such terms, conditions, provisions, rules and regulations shall inure to the benefit of and be enforceable by the Corporation and the Developer, or either of them, their respective successors and assigns, against any Owner, any other person, violating or attempting to violate the same, either by an action at law for damages or a suit in equity to enjoin a breach or violation, or to enforce performance of any term, condition, provision, rule or regulation. The Corporation and the Developer shall each have the right, summarily, to abate and remove any breach or violation by any Owner at the cost and expense of the Owner.
- 4.6 Rights of Owners in Common Areas. Each Owner shall have the following rights and be subject to the following with respect to the Common Areas:

- 4.6.1 Each Owner, in common with all other Owners, shall have the right and privilege to use and enjoy the Common Areas for the purposes for which the same were designed. This right and privilege shall be appurtenant to and pass with the title of the Lot. The right to the use and enjoyment of all Common Areas shall be subject to the right of the Corporation to suspend the voting rights and rights to use the Common Areas by an Owner (a) for any period in which any assessment against its Lot remains unpaid, or (b) for a period not to exceed sixty (60) days for any infraction of published rules and regulations of the Corporation.
- 4.6.2 Any Owner may delegate, in accordance with the By-Laws of the Corporation, its right to the use and enjoyment of the Common Areas, and any facilities thereon, to its employees.
- 4.6.3 Each Owner shall fully and faithfully comply with the rules, regulations and restrictions applicable to use of the Common Areas, as these rules, regulations and restrictions are from time to time adopted by the Corporation for the safety, care, maintenance, good order and cleanliness of the Common Area. Each Owner shall comply with the covenants, agreements and restrictions imposed by this Declaration on the use and enjoyment of the Common Area.

5) **General Provisions**

- a) Duration and non-waiver. These covenants and restrictions, unless terminated in accordance with their terms, shall exist in perpetuity and forever run with and be binding upon the Lots of the Park and shall inure to the benefit of and be enforceable by Developer, the Corporation, or any Owner or Owners of any Lot or Lots, their respective successors, heirs, personal representatives, or assigns. Failure by the Developer, the

Corporation, or any of the Owners of the Lots to enforce any restrictions, conditions, covenants or charges herein contained shall in no event be deemed to be a waiver of the right to do so thereafter as to the same breach or to one occurring prior or subsequent thereto. The rights granted herein to Wicomico County, Maryland and/or the City of Salisbury, Maryland, shall exist in perpetuity and shall not be subject to any power of termination.

- b) Liability. Neither the Developer nor any transferee of its rights and power hereunder nor any organization or person that shall have the authority to administer these covenants and restrictions shall be liable or responsible for:
- i) Any claim or cause of action arising from or based upon the exercise or non-exercise by Developer, its successors or assigns, of its rights and powers hereunder;
 - ii) Any act or omission taken or made in good faith in the administration or enforcement of these covenants and restrictions; or
 - iii) Any defect in any plans or specifications approved as herein provided nor for any structural or other defects in any work done according to any such plans and specifications.
- c) Amendment. These covenants and restrictions may be amended at any time by the recordation among the Land Records of Wicomico County, Maryland, of an amendment that refers to these covenants and restrictions by their recording reference (Liber and Folio) among those Land Records and that has been executed by and acknowledged as the act and deed of the Corporation. An amendment shall become effective when it is recorded among the Land Records and indexed therein in the name of Westwood Commerce Park, and thereafter shall operate and have full force and effect. An amendment shall not operate or have any force or effect with regard to any activity upon a particular Lot or to any improvement or use thereof that has substantially begun or which exists before the time when the

amendment shall have begun to operate and to have force and effect with regard to that Lot, unless the activity, improvement, or use shall thereafter cease to exist or be abandoned, in which event any such activity, improvement or use of the Lot that shall subsequently be begun or exist shall be subject to the full operation, force and effect of the amendment in the same manner as if the Amendment had been recorded before the activity, improvement, or use was substantially begun or existed.

- d) No forfeiture of title. The violation of these covenants and restrictions shall not cause or result in any forfeiture or reversion of the title to any Lot.
- e) Grantee's acceptance. The Owner of any Lot, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Developer or a subsequent Owner of such Lot, shall accept such deed or contract upon and subject to each and all of these covenants, restrictions, easements, reservations, agreements, and charges herein contained, and also the jurisdiction, rights and powers of Developer and/or the Corporation and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Developer, the Corporation, and to and with the grantees and subsequent Owners of each of the Lots to keep, observe, comply with and perform said covenants, restrictions and agreements.
- f) Abatement of violations. If any of these covenants and restrictions are violated, the Developer, the Corporation, or any Owner or Owners of any Lot hereby conveyed or his heirs, successors or assigns, upon failure of any Lot Owner(s) to abate such violation within Thirty (30) days after the giving of written notice to abate, may abate such violation at the expense of the Owner and any other person causing or permitting the violation, without liability for entry upon said premises or any conduct that is reasonably necessary for the abatement of such violation. In the event that a proceeding at law or in equity is commenced for the abatement of

such violation or for damages resulting from such violation, the Owner of each Lot that is the site of the violation shall be jointly and severally liable for the costs of such action, including reasonable attorney's fees, provided, however, that such liability shall be imposed only upon a Lot Owner who has been given the aforementioned notice and has not caused the abatement of the violation on the particular Lot of which he is the Owner.

- g) Severability. Every one of these covenants and restrictions herein contained is hereby declared to be independent of, and severable from, every other one of these covenants and restrictions. If any of these covenants and restrictions shall be held to be invalid or to be unenforceable or to lack the quality of running with the land, that holding shall be without effect upon the validity, enforceability, or "running" quality of any other one of these covenants and restrictions.
- h) Assignment. All rights and interests of Developer hereunder may be assigned and shall pass to any successor(s) or assigns of Developer.
- i) Notices to Lot Owners. Whenever notice of any matter is required or provided under these covenants and restrictions, such notice shall be deemed to have been received by an Owner of a Lot when it has been delivered to the Lot or placed in the regular U.S. Mail, postage prepaid, addressed to the Owner at the street address of the Lot or any other address of the Owner of which the person giving the notice is aware, provided that when the title to a Lot is held by more than One (1) person or entity, notice to any one such person or entity shall constitute notice to all.

6. General Conditions

The real property covered hereby, being a part of the Westwood Commerce Park, Phase I, is subject to the conditions, covenants, restrictions, easements and protections hereby declared to insure proper use and

appropriate development and improvements of each Lot; to protect the environment in the Park; to guard against the erection thereon of structures built of improper or unsuitable materials, to require conformance to applicable zoning ordinances and building codes; to insure reasonable development of the Park including, but not limited to, proper setbacks from the street, adequate free space between structures, adequate parking, and in general, to provide for a high quality of improvements in the Park, to insure that each Lot will not adversely affect the general plan for the Park, nor be detrimental to the use or development of other Lots in the Park.

7. Land Use

All lands within the shall be utilized only as provided in the permitted uses in the Wicomico County and/or City of Salisbury Zoning Ordinances and in full compliance with these covenants and restrictions.

8. Plans and Specifications

a) No buildings, fence, wall, sign, advertising device, roadway, loading facility, outside storage facility, parking area, site grading, planting, landscaping, facility for industrial waste or sewage disposal, nor any other improvement shall be commenced, erected or constructed, nor shall any addition thereto or change or alteration therein be made (except to the interior of a building), nor shall any change in the use of any premises be made, until the plans and specifications therefore, showing, without limitation, the nature, kind, shape, height, material, color scheme, lighting, elevation, and location on the Lot of the proposed use or change in the use of the premise, shall have been submitted to and approved in writing by the Developer and, after all of the Lots in the Park have been sold by the Developer, by the Corporation. A copy of plans and specifications as

- finally approved shall be filed permanently with the Developer and the Corporation.
- b) The Developer and the Corporation shall have the right to refuse to approve any such plans or specifications or proposed use of the premises for any reason which the Developer and the Corporation, in its sole direction, may deem in the best interests of the Park, the Owners/lessees, or prospective owners/lessees of the Lots therein.
 - c) In the event the Developer and the Corporation should fail to approve or disapprove in writing such plans and specifications within forty-five (45) days after they have been submitted, such approval will not be required and this covenant will be deemed to have been complied with.
 - d) At such time as the Developer or the Corporation desires to relinquish its authority under these covenants, said authority shall inure to its successors or assigns.
 - e) The Developer and the Corporation reserve the right to construct utility lines overhead and utility line, pipes and conduits underground through an area of not more than twenty feet (20') in width across any Lot, and the Grantee or Lessee agrees to execute any and all instruments necessary and reasonable for the further development of the Park, including the granting of easements of not more than twenty feet (20') in width for future gas, water, sewerage, telephone, entrance and access roads and electrical lines, provided that no such area or easements shall interfere with any building planned for or constructed on the said Lot.
 - f) Construction and alteration of all improvements in the Park shall be in accordance with the requirements of all applicable building, zoning, and other codes and regulations.
 - g) No construction shall be commenced or otherwise initiated without securing a building permit from Wicomico County, State of Maryland, and/or the City of Salisbury, Maryland in compliance with the general zoning requirements affecting subject property.

- h) All building or other improvements constructed on this property shall be constructed so as to comply with all setback lines, general notes, landscaping requirements and all other limitations delineated, enumerated or in any other manner noted on the aforementioned subdivision plat.

9. Development Standards

- a) Buildings: The front facade and street side facades shall be made of bricks, stones, architectural concrete panels, architectural metals, architectural woods and/or glasses.
- b) All electrical and air conditioning structures, including towers and air handling units, regardless of location and whether on the roof or otherwise, shall be concealed by landscaping or by decorative screening materials which form an integral part of the design.
- c) No materials, supplies, or products shall be stored, temporary stored, or permitted to remain on the premises outside a permanent structure without the prior written consent of the Developer or the Westwood Owner's Association.
- d) The maximum impervious area for development on any Lot will be 80% of the Lot's developable area. Areas designated for forest conservation shall not be included in determining a Lot's developable area.

10. Parking

- a) All present and future vehicular parking, including trucks, trailers, employee and visitor parking shall be provided on the premises and shall comply with all the provisions of the applicable zoning regulations.
- b) Parking is prohibited on all public streets within the Westwood Commerce Park area.
- c) Sufficient off-street parking shall be provided and planned for employees, customers, and visitors.

- d) Parking lots shall be located no closer than twenty feet (20') from the front property line, subject to approval of the Developer and the Corporation.
- e) All parking areas and drives located to the sides, rear, and front of any building shall be improved with concrete, asphalt, or equivalent within twelve (12) months from time of occupancy of the building improvement constructed on the Lot.

11. Setback Requirements

- a) Front Yard: No building shall be constructed on a Lot nearer than seventy feet (70') of the right-of-way of any public street or highway. In the case of corner Lots, no building shall be constructed within the designated setback of both abutting public streets or highways.
- b) Side Yard: The minimum side yard set-back shall be thirty feet (30'). In the event that two (2) adjoining sites shall be owned by the grantee and in the improvements of such sites a building shall be erected on these combined sites, then the side yard requirements on the interior line are waived.
- c) Rear Yard: The minimum rear yard set-back shall be twenty feet (20'), except the Lots abutting U.S. Highway 50 bypass and 50 business, which will have a setback of one hundred feet (100') from U.S. Highway 50 bypass and 50 business.

12. Signs

- a) A scale drawing of any sign, trademark, or advertising device to be used on any Lot or exterior of any building or structure shall be submitted to the Developer and the Corporation for approval. Normally, the occupant's trademark and/or trade name may be displayed on the building in the manner in which they are generally used by the occupant.
- b) Signs within the Park shall comply with both Wicomico County and City of Salisbury's Sign Ordinances in effect on the date a sign is installed.

- c) Billboards are not permitted.
- d) All lettering and company logos shall be comprised of individually cut or fabricated letters. No panel or wood signs are permitted. Lighted signs on buildings must be internally illuminated without a halo. Ground signs shall be either internally illuminated, or illuminated by ground-mounted fixtures. Fixture must be screened from view from the street.

13. Landscaping/Fencing

- a) The front yard setback area of each Lot shall be landscaped with an effective combination of street trees, trees, ground cover, and shrubbery. All unpaved areas not utilized for parking shall be landscaped in a similar manner. The entire area of any property fronting on the U.S. Highway 50 bypass and 50 business shall be densely landscaped with a combination of landscape plantings and berming to create an effective visual screen on all use areas with the exception of the building facade.
- b) Side and rear yard setback areas not used for parking or storage shall be landscaped utilizing ground cover and/or shrubs and trees.
- c) Areas used for parking shall be landscaped and/or fenced in such a manner as to interrupt or screen said areas from view from access streets, freeways, and adjacent properties. Plant materials used for this purpose shall consist of lineal or grouped masses or shrubs and/or trees.
- d) Undeveloped areas proposed for future expansion shall be maintained and landscaped, as required by the Corporation and applicable Codes.
- e) Architectural review by the Developer and the Corporation will take into account the appearance of all buildings, parking areas, and storage areas as viewed from U.S. Highway 50.
- f) Lots within the Park may be fenced with materials including brick, wood, decorative masonry, or chain link with decorative slating. Alternate materials may be approved by the Developer and the Corporation on a case-by-case basis. Fence height shall not exceed eight feet (8'). Fences

must be kept in good repair and wood must be painted or stained. Fences shall not be permitted in the front of any building. Provisions must be made for access by emergency response personnel and equipment to all sides of any building.

14. Outdoor Storage

- a) No outside storage of any kind shall be permitted unless such storage material is visually screened from all access streets, U.S. Highway 50, and adjacent properties with a suitable fence and/or berm at least six feet (6') in height. Said screening shall provide for a complete opaque screen.
- b) No storage shall be permitted between a frontage street, or public street, highway, and building line.
- c) No waste materials or refuse may be dumped or permitted to remain on any part of the property outside of the building.
- d) Storage of fuel, oil, or other bulk fluids must be in above-ground tanks, with suitable visual screening provided.
- e) Fences, walls, or hedges may not exceed forward of building setback lines.

15. Covenant Committee

A Covenant Committee shall be appointed by the Corporation for the purposes of administering, enforcing, and revising the covenants described herein. All by-laws governing the duties and powers of the Covenant Committee shall be established by the Developer and the Corporation. All owners of Lots in the Park hereby agree and consent to the powers and discretion granted unto the Developer and Corporation by this covenant, and hereby for themselves, their personal representatives, heirs, successors and assigns, forever release the Developer and the Corporation, its officers, members and directors, from any and all claims or liability with regard thereto.

16. Loading Docks

Loading docks shall not face interior park roadways. Loading docks shall not be located on the same side of the building as the main entrance to the property.

17. Refuse Collection Areas

- a) All outdoor refuse collection areas shall be visually screened from access streets, U.S. Highway 50, and adjacent properties by a complete opaque screen. No refuse collection areas shall be permitted between a frontage street, or public street, or highway and the building line.
- b) No rubbish may be burned on the premises within the Park.

18. Maintenance

- a) Each Lot owner shall at all times keep its premises, buildings and improvements in a safe, clean, neat, and sanitary condition and shall keep all grass, trees, and shrubbery in good appearance at all times and shall comply with all laws, ordinances, and regulations pertaining to health and safety codes. Each Lot owner shall provide for the removal of trash and rubbish from its premises.
- b) During construction, it shall be the responsibility of each Lot owner to insure that construction sites are kept free of unsightly accumulations of rubbish and scrap materials, and that construction materials, trailers, shacks, and the like are kept in a neat and orderly manner.
- c) It is the responsibility of the property owner to ensure that the landscaping is maintained in an attractive condition.

- d) The Lot owner and prime contractor(s) shall control soil and water loss, so as to prevent damage to other properties and structures in the Park and beyond.
- e) All Owners within the Park shall share all costs of maintaining all common land areas. Areas for shared maintenance will be designated by the Developer and the Corporation, and the Developer and the Corporation will be responsible for assessing fees and providing for these shared maintenance services. Maintenance fees will be assessed to each property owner on a per acre basis. The Development and the Corporation will update the per acre maintenance fee on an annual basis.

f) Variances

Notwithstanding anything herein contained to the contrary, the Developer and the Corporation expressly reserves the right at any time and from time to time to authorize variances from the strict application of these Westwood Commerce Park Protective Covenants or any one (1) or more of them where the circumstances, in its sole and exclusive judgement, justifies the granting of same. Any variances hereunder shall be in writing and executed by an authorized officer of the Developer and the Corporation.

g) Enforcement and Invalidation

- a) In the event the Grantee violates any of the terms or conditions hereof and fails to cure same within thirty (30) days, after the receipt of a written notice from the Corporation to do so, then the Corporation hereby reserves the right, privilege, and license to enter upon the premises at any time and take action to cure such violation(s). All reasonable cost thereof shall be at the expense of the violator. In addition, the Corporation may pursue any other legal remedies available to it to enforce the Westwood Commerce Park Protective Covenants and restrictions set forth herein.

STATE OF MARYLAND:
COUNTY OF Wicomico

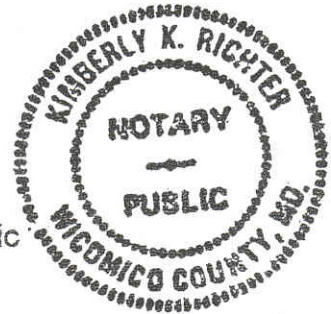
I HEREBY CERTIFY that on this 31st day of March, 2005,
before me, the subscriber, a Notary Public in and for the State and County
aforesaid, personally appeared Morgan Hazel who acknowledged himself to be
a Member of H & R Pepsi, LLC and that he, as such Member being specifically
authorized so to do, executed the foregoing for the purposes therein contained.

AS WITNESS my hand and Notarial Seal.

My Commission Expires:

11-1-07

Notary Public



Kimberly K Richter