

95000

MAIL TO Edward H. Post Law Red H. H. Post

(4)

NORTH CAROLINA)
:)
RANDOLPH COUNTY)

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

That SIXTY-ONE CORP., a corporation organized, existing and doing business under and by virtue of the laws of the State of North Carolina, with its principal office located in the City of Durham, North Carolina, does hereby covenant and agree with the lessees hereinafter recited that any future leases, deeds or other conveyances of property hereinafter described or any part thereof are hereby made and shall be subject to the following restrictive covenants that affect the property as hereinafter recited and described:

ARTICLE ONE

The following restrictions shall apply to the NORTHGATE SHOPPING CENTER, near Asheboro, North Carolina, which is described by metes and bounds on attached Exhibit "A", description of which is incorporated herein by reference:

1. By lease agreement dated October 24, 1968 by and between SIXTY-ONE CORP., "Landlord", and BANCROFT REALTY COMPANY (Eckerd Drug Stores), "Tenant", the Landlord covenants with the Tenant that within the confines of the area of the commercial development described in the Exhibit "A", now or in the future, owned or controlled, directly or indirectly, by Landlord, Landlord's principal owners, stockholders, directors or officers, or their assignees or vendees, no premises (other than the Bancroft Realty Company's store unit) shall be leased, rented, used or occupied as a prescription drug store department or as principally a "Discount Health and Beauty Aids"-type of store without tenant's prior written consent, and further that in addition no premises so owned or controlled outside the confines of the area of the commercial development but within a one mile radius thereof, shall be leased, rented, used or occupied for the operation of

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prescription drug department or as a "Discount Health and Beauty Aids"-type of store. This restriction is subject to the rights of Rose's Stores, Inc. under its lease by virtue of which no use restrictions are imposed upon Rose's. This covenant shall run with the land commencing with the date of the execution of the lease and continue until such date shall be the last day of the lease term or extension or renewal thereof.

2. By lease agreement dated November 8, 1968, between SIXTY-ONE CORP., "Landlord," and BIG BEAR OF NORTH CAROLINA, INC., "Tenant," and later amended by Amendment dated May 31, 1969, the Landlord granted to the Tenant the following covering said commercial development described in Exhibit "A" and for a distance of two miles from the said commercial development described in Exhibit "A": "Landlord shall not use or permit any other person or business enterprise to use any portion of the structure, development, or project of which the leased property is a part, or any other property owned or controlled by the Landlord or its partners within a distance of two miles from the leased property, for any of the same uses and purposes for which the leased property is rented to the Tenant, except the Rose Department Store may use not more than 2,500 square feet of the selling area of its premises for the sale or display of food intended to be consumed off the premises, and Eckerd Drug Store may use not more than 500 square feet of the selling area of its premises for the sale or display of food intended to be consumed off the premises. The leased premises may be used by the Tenant only for the operation of a retail grocery supermarket, retail bakery and retail delicatessen. Neither the premises nor any part of them shall be used as a prescription drug department or presently as a discount health and beauty aid type of store. Tenant agrees

(10) that it will make no unlawful or offensive use of the demised premises, and that it will comply with all applicable laws, ordinances, rules and regulations of the local, state and federal governments or any other public authority having jurisdiction which may affect the premises. Landlord or its successors and assigns, shall not consent to the closing of Arthur Street as shown upon Exhibit "A" without the written consent of Tenant." Landlord covenants that Parcel "B" as described on Exhibit "A" attached hereto is and will throughout the original or any renewal terms of this lease be and remain a part of the general shopping center premises as shown on Exhibit "A" for the purpose of providing all necessary ingress, egress and regress for Tenant to the rear of its store building and its loading dock.

3. By lease agreement dated October 25, 1968, between SIXTY-ONE CORP., "Landlord," and ROSE'S STORES, INC., "Tenant," and later amended by amendment dated May 26, 1969, the Landlord granted to the Tenant certain exclusive rights as follows that would apply to that area of the commercial development described in Exhibit "A" or any enlargement thereof that would exclude future grantees of the Landlord by lease, sale of property or other disposition of the subject property from the following activities or use of the premises: (a) Business of 5-10-25¢ or variety stores; (b) the business of a junior department store or a department store of the type operated by tenant except to Rose's, Inc.; (c) the business of a discount house or discount business which, for the purpose of this instrument, shall mean a retail establishment which regularly sells the major portion of its merchandise off-price or at prices below the normal retail prices or advertises or holds itself out to the public as a discount house or store, or as regularly selling off price; (d) business of a "discount health and beauty aids" type of

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(1) store whether or not said store operates prescription department; provided, nothing under this (i) excludes a conventional type drug store or (ii) shall be construed to exclude the Big Bear Supermarket, the Eckerd's Drug Store shown on the attached Exhibit "A", or their successors or assigns.

Further that the SIXTY-ONE CORP. has covenanted and agreed to provide, grade and surface the area shown for parking on the plot and development plan set forth in Exhibit "A" together with the sidewalks, aisles, streets and driveways shown thereon, and also to provide adequate water drainage and lighting systems therefor;

Further that said Landlord covenants that for the term of the Rose's Store, Inc. lease and any renewal thereof, there will not be any building or will any obstruction be permitted on any portion of the common areas shown on the plot and development plan attached, and marked Exhibit "A", herewith, which are provided for parking, aisles, walks, entrances, exits, service areas, etc., except those areas reserved for future expansion, as shown on said Exhibit "A".

ARTICLE TWO

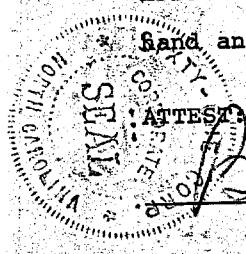
It is understood and agreed that the rights of each Tenant as set out in ARTICLE ONE of this instrument do not inure to the benefit of any other tenant and may be waived or released by the Tenant to which such right was granted by an instrument in writing expressly stating that it is intended to operate as a supplement, alteration or amendment to its respective lease.

ARCHIE C. WALKER, as Trustee, and WACHOVIA BANK AND TRUST COMPANY, N.A., as Beneficiary, under a Deed of Trust dated July 7, 1969, made by SIXTY-ONE CORP. and recorded in Book 998, Page 97, Randolph County Registry, as amended by Amendment to Deed of Trust dated the 20th day of April, 1970 and recorded in Book 1001, Page 364, Randolph County Registry, join

(12)

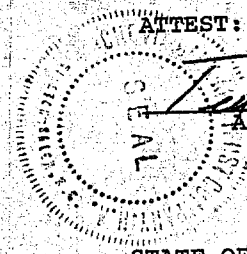
in the execution of this instrument in order to subordinate the lien of said Deed of Trust as amended to this instrument so that any conveyance of said property by said Trustee shall be subject in all respects to the provisions hereof.

IN WITNESS WHEREOF, the SIXTY-ONE CORP. and WACHOVIA BANK AND TRUST COMPANY, N.A., have caused these presents to be executed in their respective names by their duly authorized officers and their respective Corporate Seals to be affixed hereto and ARCHIE C. WALKER, Trustee, has hereunto set his hand and seal, all as of the 30th day of April, 1970.



[Signature]
Secretary

SIXTY-ONE CORP.
By *[Signature]*
President



[Signature]
Asst. Secretary

WACHOVIA BANK AND TRUST COMPANY, N.A.
By *[Signature]*
Vice President

[Signature] (SEAL)
Trustee

STATE OF FLORIDA
~~XXXXXXXXXXXX~~
COUNTY OF DADE
~~XXXXXXXXXXXX~~

I, Dolores L. Fahrner, a Notary Public, do hereby certify that Bart L. Cohen personally came before me this day and acknowledged that he is Secretary of SIXTY-ONE CORP., and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal, and attested by himself as its Secretary.

Witness my hand and official seal, this 6th day of May, 1970.
My commission expires: _____

[Signature]
Notary Public

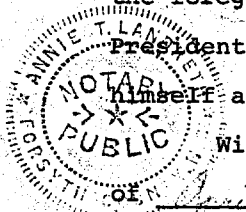
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES FEB. 1, 1974
BONDED THRU FRED W. BIESELHOUST

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NORTH CAROLINA

FORSYTH COUNTY

I, Annie B. Landreth, a Notary Public, do hereby certify that Paul M. Kottmann personally came before me this day and acknowledged that he is Assistant Secretary of WACHOVIA BANK AND TRUST COMPANY, N.A., and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by himself as its Assistant Secretary.



Witness my hand and official seal, this the 30 day of April, 1970.

My commission expires:

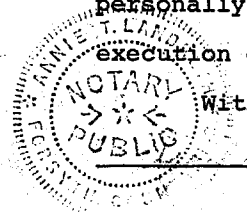
November 14, 1971

Annie B. Landreth
Notary Public

NORTH CAROLINA

FORSYTH COUNTY

I, Annie B. Landreth, a Notary Public of Forsyth County, do hereby certify that Paul M. Kottmann personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



Witness my hand and notarial seal, this _____ day of _____, 1970.

My commission expires:

November 14, 1971

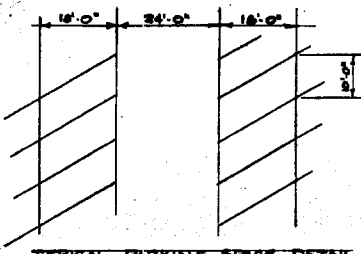
Annie B. Landreth
Notary Public

NORTH CAROLINA - Forsyth County

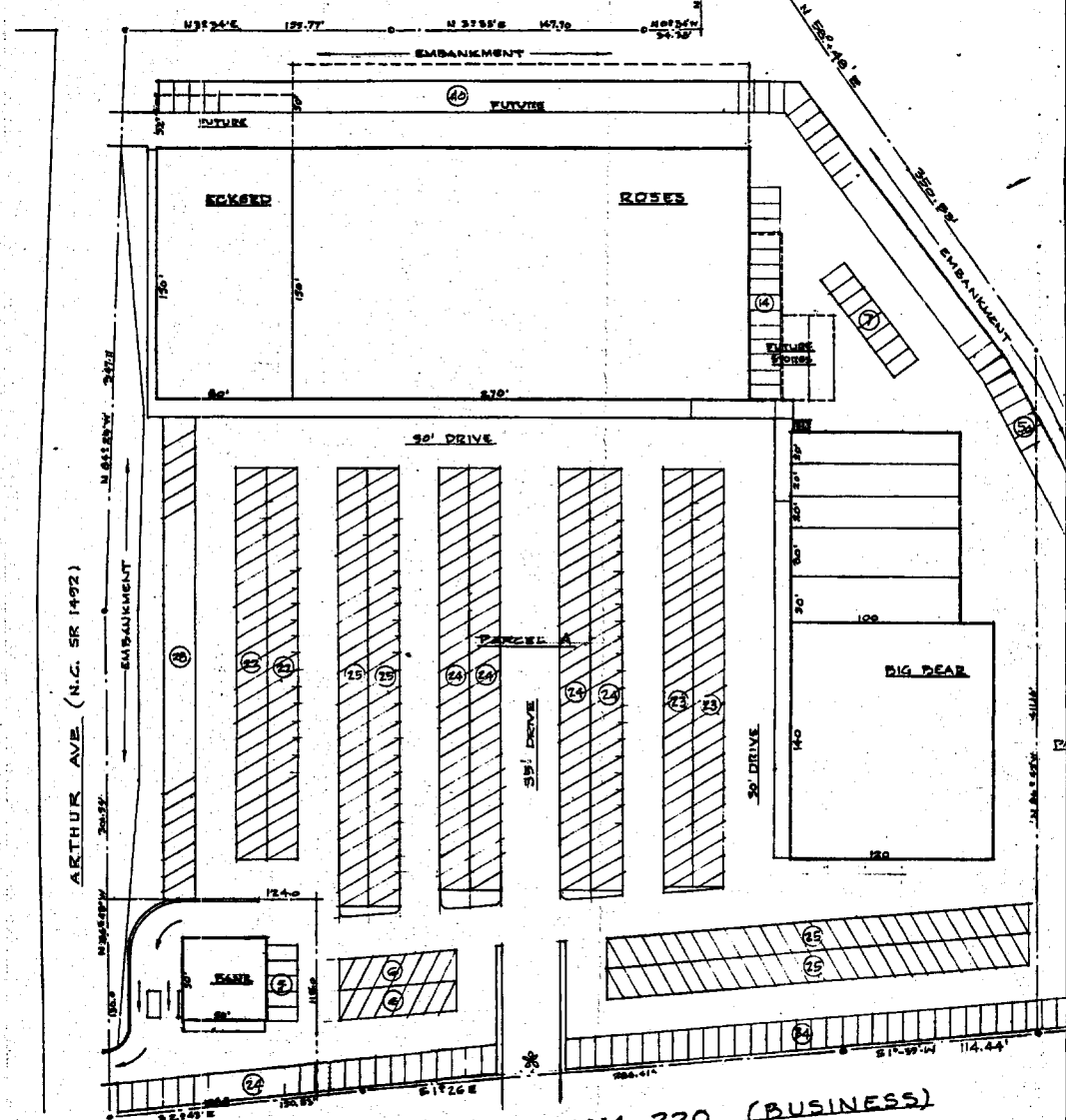
The foregoing certificate(s) of Dolores L. Zahner, n. p. of Dade Co, Fla.
and Annie B. Landreth, n. p. of Forsyth Co, N.C.
is (are) certified to be correct. This instrument was presented for registration and recorded in this office of _____, Page _____

This 26 day of June, 1970
at 4:15 o'clock PM

By: Annie Shaw Register of Deeds
Sue Phillips Asst. Register of Deeds



TYPICAL PARKING SPACE DETAIL
1" = 20'-0"



U.S. HIGHWAY 220 (BUSINESS)

PLOT PLAN SCALE 0 25 50 75 100 150 200

EXHIBIT 'A'

BY TENANT _____
BY LANDLORD *Blitz*

Parcel A - Legal Description

Beginning at an iron pipe on the West side of U.S. Highway 220 (Business) at the Northeast corner of said Arthur Street where it intersects with said Highway 220 (Business); thence along Arthur Street North 86 deg. 43 min. West 301.54 feet to an iron; thence continuing along said Arthur Street North 84 deg. 29 min. West 347.11 feet to an iron; thence North 3 deg. 34 min. East 155.77 feet; thence North 3 deg. 35 min. East 147.70 feet; thence North 0 deg. 34 min. West 34.38 feet; thence North 86 deg. 43 min. West 93.55 feet; thence North 58 deg. 48 min. East 350.53 feet to an iron pipe; thence South 86 deg. 43 min. East 411.16 feet to an iron along Highway 220 (Business); thence South 1 deg. 39 min. West 114.44 feet along Highway 220 (Business) to a concrete Right-of-Way marker; thence South 1 deg. 26 min. East 286.41 feet; thence South 2 deg. 43 min. East 150.83 feet to the point and place of beginning, containing 7.581 acres, more or less, shown on survey by Clotus Craven.

Parcel B - Legal Description

Beginning at a concrete Right-of-Way marker the West side of U.S. Highway 220 (Business) where it intersects with the Right-of-Way line of U.S. Highway 220 By-Pass; thence along said U.S. Highway 220 (Business) South 1 deg. 39 min. West 175.46 feet to an iron pipe; thence North 86 deg. 43 min. West 411.16 feet; thence along the Right-of-Way line of U.S. Highway 220 By-Pass North 69 deg. 00 min. East 203.60 feet to a concrete Right-of-Way marker; thence North 70 deg. 46 min. East 238.91 feet to a concrete marker the point and place of beginning containing 0.846 acres as shown on survey by Clotus Craven dated January, 1969. Being the land on the South side of a new 220 By-Pass.

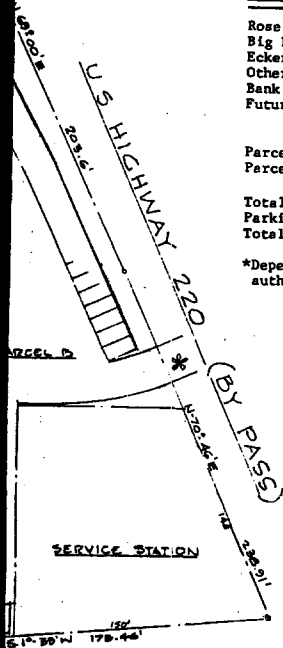
AREA CALCULATION

Rose's	40,500 s.f.
Big Bear	16,800 s.f.
Eckerd's	12,000 s.f.
Other Stores	12,000 s.f.
Bank	2,500 s.f.
Future Stores	3,500 s.f.
Total	87,300 s.f.

Parcel A	±7.581 acres
Parcel B	±0.846 acres

Total Land Area	±367,210 s.f.
Parking Ratio	3.20 to 1
Total Parking	500 cars

*Dependent upon approval of highway authorities



NORTHGATE SHOPPING CENTER ASHEBORO, N. C.		DESIGNED BY: RIB
PETER A. ZIMAN, DEVELOPER 2970 N.E. 28th AVE. FT. LAUDERDALE, FLA.		DRAWN BY: RIB
READ BARNES A.I.A. ARCHITECT 122 MEETING ST., CHARLESTON, S.C.		DATE 4 MAR '69
REVISIONS		REVISIONS
		3 MAR '69
		6 MAR '69
		27 MAR '69
		18 MAY '69 1 APR '69
		13 MAY '69 8 MAY '68