

1984 MAY -9 PM 3

84 R. 140519

DECLARATION OF RESTRICTIONS OFF REF 12143 PG 464

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THIS DECLARATION, made this 17th day of February, 1984, by KATHRYN MILLS, hereinafter referred to as "Owner", for the benefit of the BOARD OF COUNTY COMMISSIONERS, METROPOLITAN DADE COUNTY, FLORIDA, hereinafter referred to as "County";

WITNESSETH:

WHEREAS, Owner is the fee simple owner of certain property described in Exhibit "A" attached hereto and incorporated herein by reference, comprised of three (3) Tracts, A, B and C, so identified for planning purposes; and

WHEREAS, the property is presently the subject of a public hearing before the Dade County Board of County Commissioners under Public Hearing No. 83-601; and

WHEREAS, the proposed development is a Development of Regional Impact (DRI) pursuant to Chapter 380.06, Florida Statutes, and an Application for Development Approval (ADA) has been filed and reviewed by the South Florida Regional Planning Council (SFRPC) which has submitted its Report and Recommendations to the County; and

WHEREAS, the Dade County Developmental Impact Committee has issued its Recommendations regarding the proposed development;

NOW, THEREFORE, the said Owner hereby voluntarily delivers this Declaration to Dade County, Florida, and agrees that the real property herein described shall be subject to the following restrictions:

1. That said property shall be developed substantially in accordance with the spirit and intent of the plans previously submitted, prepared by Sasaki Associates, Inc. and Charles Kober Associates, entitled "Kendall Town and Country" containing fourteen (14) sheets, and last revised February 3, 1984, including substantial conformance with the harmonious architectural style depicted on Sheets 7 through 10, thereof.

2. The Owner will not convey any portion of the subject property to another party unless and until said Owner and such

This Instrument Prepared By: Debbie R. Malinsky - Greenberg, Traurig, Askew, Hoffman, Lipoff, Rosen & Quentel, P.A. 1401 Brickell Avenue, PH-1 Miami, Florida 33131

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other party execute and mutually deliver in recordable form an instrument to be known as "easement and operating agreement" which shall contain among other things: (i) easements in the common area of each parcel for ingress to and egress from the other parcels; (ii) easements in the common area of each parcel for the passage and parking of vehicles; (iii) easements in the common area of each parcel for the passage and accommodation of pedestrians; (iv) easements for access roads across the common area of each parcel to public and private roadways; (v) easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel; (vi) easements on each such parcel for construction of buildings and improvements in favor of each such other parcel; (vii) easements upon each such parcel in favor of each other adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations; (viii) easements on each parcel for attachment of buildings; (ix) easements on each such parcel for building overhangs and other overhangs and projections encroaching upon such parcel from the adjoining parcel such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and like; (x) appropriate reservations of rights to grant easements to utility companies; (xi) appropriate reservation of rights to dedicate road rights-of-way and curb cuts; (xii) easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ringroads and access roads; and (xiii) appropriate agreements between the owners of the several parcels as to the obligations to maintain and repair all private roadways, parking facilities, common areas, common facilities and the like. Notwithstanding the foregoing, the matters referred to herein shall be required only to the extent that they are necessary and appropriate, in the opinion of the Director of the Dade County Building and Zoning Department. No amendment to said easement and operating agreement shall be permitted without consent of the Dade County Attorney.

3. Notwithstanding any zoning designation placed upon the subject property, the Owner hereby agrees, on behalf of herself, her successors and assigns, that no gun shops shall be permitted within the proposed development.

4. In recognition of the need for additional community park facilities in the Kendall area, the Owner shall contribute \$35,000 to the Dade County Parks and Recreation Department for use by such Department in improving the 120-acre park site owned by the County within the "Kendall Home Complex", located east of the subject property. This voluntary contribution shall be due and payable upon issuance of the first building permit for any uses within the proposed development or on September 30, 1984, whichever occurs earlier. Said funds shall be paid directly to Dade County earmarked for the Parks and Recreation Department and shall be placed in a separate account designated for said park site.

5. In recognition of the need for additional fire service as a result of the proposed development, the Owner shall contribute \$100,000 to the Dade County Fire Department for use within the first-~~end~~ operations district in purchasing capital equipment to serve the proposed development and the adjacent neighborhood. This voluntary contribution shall be due and payable upon issuance of the first certificate of use and occupancy for any use within the proposed development or on December 31, 1985, whichever occurs earlier. Said funds shall be paid directly to the Dade County Fire Department.

6. The Owner hereby acknowledges that the Development Order to be issued for this project shall contain conditions regarding the Owner's commitment to construct roadway improvements at a cost in excess of \$3,700,000.

7. The Owner hereby agrees to refrain from leasing or otherwise conveying a minimum of 20,000 square feet of gross leaseable space, which may be comprised of two stories, within the northern portion of the proposed "Convenience Center" for a period of two (2) years from the date of issuance of the first certificate of use and occupancy for any use within the Con-

venience Center north of the movie theatre, as designated on the plans identified in paragraph 1, hereof, to any tenant other than the operator of a legitimate (live performance) theatre or dinner-theatre. During said two year period the Owner shall use due diligence to attract a legitimate theatre operator to establish a theatre within the proposed development.

8. As further part of this Covenant, it is hereby understood and agreed that any official inspector of the Dade County Building and Zoning Department, or its agents duly authorized, may have the privilege at any time during normal working hours of entering and investigating the use of the premises to determine whether or not the requirements of the building and zoning regulations and the conditions herein agreed to are being complied with.

9. This Agreement on the part of the owner shall constitute a covenant running with the land and may be recorded in the public records of Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned, and the heirs, successors and assigns until such time as the same is modified or released.

10. These Covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of thirty (30) years from the date these Covenants are recorded, after which time they shall be extended automatically for successive periods of ten (10) years, unless an instrument signed by a majority of the then owner(s) of the real property has been recorded agreeing to change the Covenants in whole, or in part, provided that the covenants have first been released or amended by Dade County.

11. This Covenant may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner of the fee-simple title to the lands to be affected by such modification, amendment or release, provided that the same is also approved by the Board of County Commissioners of Metropolitan Dade County, Florida after public hearing.

12. Should this Covenant be so modified, amended or released, the Director of the Metropolitan Dade County Building and Zoning Department, or his successor, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

13. Enforcement shall be by action at law or in equity against any parties or persons violating, or attempting to violate, any covenants, either to restrain violation or to recover damages. The prevailing party in the action, or suit, shall be entitled to recover, in addition to costs and disbursements allowed by law, such sum as the court may adjudge to be reasonable for the services of his attorney. This enforcement action shall be in addition to any other remedies available under the law.

14. Invalidation of any one of these Covenants, by judgment or court, in no wise shall affect any of the other provisions which shall remain in full force and effect.

15. In the event payments and improvements are not made as provided herein, in addition to any other remedies available, the Director of the Dade County Building and Zoning Department is hereby authorized to withhold any further permits, and refuse any inspections or grant any approvals, until such time as the terms hereof are complied with; provided, however, that the Director shall send written notice by certified mail to the Owner that the payments and/or improvements are delinquent and the Director therefore intends to immediately exercise the authority granted in this paragraph. Until such time as the payments and improvements covenanted to herein are made, the Director of Building and Zoning will be notified of any changes in ownership of the subject property so that notice to the appropriate party is assured. In the event the Director so withholds any permits, approvals or refuses inspection, upon payment of the funds covenanted to be made and commencement of the improvements contemplated herein, the Director shall, without undue delay, issue permits and approvals and/or make inspections as provided under the Dade County Code.

REF: 12143 PG 486

IN WITNESS WHEREOF, the undersigned has set his hand and seal this 17 day of February, 1984.

Signed, sealed and delivered in the presence of:

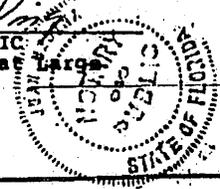
*Martha S. Wilson*

*Kathryn Mills*  
KATHRYN MILLS

STATE OF FLORIDA )  
COUNTY OF DADE ) SS:

THE FOREGOING Declaration of Restrictions was acknowledged before me this 17 day of February, 1984, by KATHRYN MILLS.

*Juan M. Salinas*  
NOTARY PUBLIC  
State of Florida at Large



My Commission Expires:  
NOTARY PUBLIC STATE OF FLORIDA  
MY COMMISSION EXPIRES JUNE 21 1986  
BONDED THRU GENERAL INS. CO.