

Q Centerville marketplace 1-6 + 8-11
Centerville marketplace phase 2 201-202
02-161-0001 thru 0006 0008 thru 0011
02-176-0201, 0202
WHEN RECORDED MAIL TO:

Elizabeth M. Haslam
Jones, Waldo, Holbrook & McDonough
Post Office Box 45444 (84145-0044)
1500 Wells Fargo Plaza
170 South Main Street
Salt Lake City, Utah 84101

E 1378981 B 2235 P 1220
JAMES ASHAUER, DAVIS CNTY RECORDER
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REC'D FOR METRO NATIONAL TITLE

FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
CENTERVILLE MARKETPLACE SUBDIVISION

THIS FIRST AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CENTERVILLE MARKETPLACE SUBDIVISIONS (herein this "First Amendment") is made this 2nd day of FEBRUARY 1998, by Dayton Hudson Corporation, a Minnesota corporation (herein the "Declarant"), for the purpose of amending in part that certain Declaration of Restrictive Covenants, Conditions and Restrictions for Centerville Marketplace Subdivision dated April 5, 1995 and recorded with the Davis County Recorder on April 24, 1995 as Entry No. 1175743, in Book 1867, beginning at Page 33 (the "Declaration").

RECITALS

WHEREAS, Declarant has previously prepared and recorded the Declaration for the Centerville Marketplace Subdivision which Subdivision is legally described on Exhibit "A" attached hereto and incorporated herein by reference (hereinafter referred to as the "Subdivision"); and

WHEREAS, Declarant has previously entered into a Development Agreement with the City of Centerville (hereinafter referred to as the "City"), dated November 9, 1994 (as amended, referred to hereafter as the "Development Agreement"), regarding the development of the Subdivision; and

WHEREAS, Declarant desires to amend certain provisions of the Declaration as more particularly set forth herein in conjunction with the amendments to the Development Agreement;

NOW, THEREFORE, Declarant, as the sole owner of Lots 1 through 6, 201, 202, 8, 10, and 11 and lessee of Lot 9, inclusive, Centerville Marketplace Subdivision, according to the official plat thereof (as amended) as recorded in the office of the County Recorder of Davis County, Utah, hereby amends the Declaration as follows:

1. The property owners association which is contemplated to be created by the Declaration, and all references to and provisions regarding and pertaining to the "Association," "Articles" and "Bylaws," as such terms are defined in the Declaration, shall be deleted from the Declaration, including, without limitation, the reference to "Association" in the fifth "Whereas" paragraph of the Recitals, and paragraphs 1b, 3, 6, 7, 8, 9, 11, 12, 15, 16, 17, and 18 of the Declaration. All matters, decisions, obligations and agreements pertaining to the management, maintenance, insurance and administration of the common areas of the Subdivision by the Association and the owners of the Subdivision, and other related matters ("Common Area Provisions"), shall be handled and dealt with by the owners of the Subdivision in the manner set forth in that certain Operation and Easement Agreement (the "OEA") of even date with this First Amendment which has been or will be executed and recorded with the Davis County Recorder on the same date as this First Amendment, as a lien on all of the Subdivision. Any Common Area Provisions in the Declaration shall be deemed amended and superseded by the provisions of the OEA regarding the same.

2. Paragraph 13 of the Declaration is modified to provide that the OEA shall constitute the operation and easement agreement referred to therein, although such shall not preclude owners of the Subdivision from entering into further operation and easement agreements, amendments or supplements to the OEA or similar agreements pertaining to the operation of the Subdivision, or portions thereof. In accordance with the provisions set forth in this First Amendment, all matters, decisions, obligations and agreements pertaining to the management, maintenance, insurance and administration of the common areas of the Subdivision and other related matters shall be handled and dealt with in the manner set forth in the OEA, which provisions are intended to supersede conflicting provisions of the Declaration regarding the same. It is further intended that the Common Area Provisions of the OEA and the Declaration, as amended, comply with all City Ordinances, rules and regulations regarding the same.

3. Paragraph 2c of the Declaration is hereby amended to provide that the Architectural Control Committee shall consist of the Approving Parties (as such term is defined in the OEA); provided, the Approving Party representing Lot 202 shall only have approval rights of an Approving Party with regard to matters pertaining to Lot 201 and Lot 202. Common expenses (as defined in Paragraph 3c of the Declaration) shall be determined and shared in accordance with the OEA, and any provisions with respect to common expenses set forth in the Declaration are hereby deleted.

4. Paragraph 2a(5)(i) of the Declaration shall be amended and restated in its entirety as follows:

- (i) Except as provided herein, each lot shall be required to provide at least 5.0 parking stalls per thousand square feet of floor area. Overabundance of parking stalls in one lot of the Subdivision may not be used in calculating the required parking stall requirements for another lot. The City may approve, as part of and in

connection with its site plan approval process, lesser parking stall requirements of no fewer than 4.0 parking stalls per one thousand square feet of floor area for any lot, as deemed appropriate in its sole discretion in light of the proposed uses and other factors relevant to the particular lot under consideration. Any request for a reduction in parking stalls below the 5.0 minimum shall be made in writing by the Developer to the City as part of the site plan review process and shall be supported by a written traffic and parking density analysis or study prepared by a professional traffic engineer justifying the requested reduction in light of the proposed use and other factors relevant to the particular lot under consideration. Any request and/or approval for reduced parking stall requirements for any lot shall also require compliance and approval in accordance with the OEA. Each parking stall shall measure at least nine (9) feet wide by nineteen (19) feet long, except where any stall abuts a curb, in which case the stall may be no less than eighteen (18) feet long.

5. Paragraph 2a(5)(iv) of the Declaration shall be amended and restated in its entirety as follows:

- (iv) All loading areas used or to be used by suppliers of product to a building located in the Subdivision, but not loading areas used or to be used solely for customer use and pickup as permitted under the OEA and Development Agreement, shall be screened from view from all public streets and rights of way.

6. Paragraph 2a(8)(i) shall be amended and restated in its entirety as follows:

- (i) Except as provided herein, storage areas including but not limited to areas containing vehicle storage, merchandise, or equipment, etc., shall be screened with decorative opaque fencing and landscaping. Each wall or fence shall be at least 6 feet in vertical height or equal in height to the material to be screened and shall be sufficient to screen facilities from view of public streets and public rights of way and neighboring lots. The City may approve, as part of and in connection with the site plan review process for any lot or building complex, non-opaque fencing for storage areas containing solely plant and garden merchandise, as deemed appropriate in its sole discretion in light of the proposed use and other factors relevant to the particular lot or building complex under consideration. Appropriate landscaping shall be required around any approved non-opaque fencing sufficient to create a

visual barrier and to add interest and variety to the non-opaque fencing.

7. Paragraph 2a(8)(ii) shall be amended and restated in its entirety as follows:

- (ii) Except as otherwise provided herein, outside displays shall be limited to designated outside display areas as shown on approved final site plans for the Subdivision. No outside display (either permanent or temporary) shall be permitted to block required driveways, fire lanes, sidewalks, traffic visibility, traffic and parking aisles, public right-of-way, nor be located upon any landscape area (other than on approved display pads). The City may approve outside display areas that are not located within designated outside display areas as shown on approved final site plans on a limited and temporary basis solely in accordance with and upon application by Declarant and/or property owners for a temporary Conditional Use Permit Ordinance; provided, no more than three (3) temporary conditional use permits may be issued for property within the Subdivision at any given time. Applications for permits shall be reviewed and addressed by the City in the order in which they are received. Any such application for limited and temporary outside display areas not located within designated outside display areas pursuant to an approved temporary conditional use permit shall also require compliance and approval in accordance with terms and conditions of the OEA and the Development Agreement.

8. Paragraph 2a(9)(i) shall be amended and restated in its entirety as follows:

All garbage containers and dumpsters within view of public streets or rights of way shall be screened from view with masonry enclosures with decorative opaque gates.

9. Paragraph 2a(12)(i), second sentence, shall be amended and restated in its entirety as follows:

- (i) Transformers shall be grouped with other utility meters where possible and screened with vegetation or other appropriate method. Gas meters and electric service meters and panels shall be located on the side or rear of the building.

10. Paragraph 2a(16) shall be amended and restated in its entirety as follows:

The intent of the architectural theme is to create a continuous and harmonious design scheme utilizing common use of building materials, neutral color scheme emphasizing earthtone colors, various design features, and accent elements.

Building materials shall include the following:

- (i) Split Face Concrete Masonry - Painted
- (ii) Split Face - Single Scored Masonry - Painted
- (iii) Tilt-Up Embossed Concrete - Painted and comparable in appearance to split face concrete masonry
- (iv) Exterior Stucco System
- (v) Anodized Aluminum or Colored Metal Store Front
- (vi) Ceramic Tiles Accent
- (vii) Farmington Fieldstone

The Subdivision architectural color pallet shall include the following Sherwin Williams Colors or equal:

- (i) Ruby Gem 1595 LRV 14%
- (ii) Cubist Gray 1022 LRV 56%
- (iii) Kohl 1028 LRV 7%
- (iv) Grid Gray 1026 LRV 37%
- (v) River Pebble 1027 LRV 25%
- (vi) Stones Throw 1013 (on Lot 202 only)
- (vii) Safety Orange I.C.I. Paint Co. #4208-/9200 (on Lot 202 only)
- (viii) Parchment B.H.P. Steel Building Products (on Lot 202 only)
- (ix) Forest Green B.H.P. Steel Building Products (on Lot 202 only)

Tile Color shall include the following:

- (i) Carmine Red (Butchel Tile Co. or equal)
- (ii) Tiger Lily (Dal-Tile, Quarry Tile "Natural Hues" or equal) (on Lot 202 only)

All buildings in the Subdivision will have the dominant color value of the structure based in the above or approved color palette. Slight variations may be allowed for corporate accents, logos, etc. The Subdivision shall be consistent with the drawing set forth in the Development Agreement.

11. Paragraph 18a is hereby amended and restated in its entirety as follows:

- a. Except as otherwise provided in this Declaration, the provisions of this Declaration may be amended only by an instrument in writing, signed and acknowledged by the Approving Parties.

12. All capitalized terms used herein, unless otherwise defined herein, shall have the meanings given them in the Declaration. As amended hereby, the Declaration shall continue in full force and effect.

IN WITNESS WHEREOF, the undersigned has executed this First Amendment as of the day and year first above written.

DECLARANT:

Dayton Hudson Corporation,
a Minnesota Corporation

By: 
Its: William D. Harrison
Vice President
Target Stores

STATE OF MINNESOTA)
 : ss.
COUNTY OF HENNEPIN)

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The foregoing instrument was duly acknowledged before me this 24 day of JANUARY, 1998, by ^{WILLIAM B}~~HARRISON~~, the V.P. TRUST ~~STORES~~ of Dayton Hudson Corporation, a Minnesota corporation.

Linda E. Johnson
NOTARY PUBLIC
Residing at: EDINA, MN

My Commission Expires:

1/31/2000



Legal Description of Subdivision

Real property located in Davis County, State of Utah, described as follows:

All of Lots 1 through 6, inclusive, and 8 through 11, inclusive, CENTERVILLE MARKETPLACE SUBDIVISION, according to the official plat thereof filed in Book 1867 of Plats, at Page 32 of Official Records of Davis County.

LESS AND EXCEPTING from Lot 1 the following described parcel conveyed to Centerville City, as Entry No. 1217919, in Book 1949, at page 1263 of Official Records and being described as follows:

Beginning at a point on the West line of said Lot 1, which lies North 00 deg. 05'23" West, a distance of 2376.02 feet along the Section line and North 89 deg. 54'27" East a distance of 1165.42 feet from the Southwest corner of said Section 7; thence North 00 deg. 06'15" West along the West line of said Lot 1, a distance of 13.23 feet; thence continuing along the Westerly line said Lot 1 along the arc of a curve to the right, through a central angle of 90 deg. 00'17" an ac distance of 39.27 feet, a radius of 25.00 feet and a chord bearing of North 44 deg. 53'54" East with a distance of 35.36 feet to the North line of said Lot 1; thence North 89 deg. 54'02" East along said North line, a distance of 88.09 feet; thence South 88 deg. 15'50" West, a distance of 78.14 feet; thence South 44 deg. 04'48" West a distance of 50.20 feet to the point of beginning.

All of Lots 201 and 202, inclusive, CENTERVILLE MARKETPLACE SUBDIVISION PHASE 2, according to the official plat thereof filed in Book 2235 of Plats, at Page 350 of Official Records of Davis County.