

**JONES, CORK & MILLER, LLP**

**P. O. Box 6437  
Macon, Georgia 31208-6437**

Phone: 478-745-2821  
Fax: 478-743-9609

Timothy K. Adams

October 23, 2014

Baxter:

Attached are clean and red-line copies of the "Permitted Exceptions". The original list of Permitted Exceptions did not include the reference to the B-K Columbus, Inc. Agreement dated January 11, 1978. I have added that Agreement to the updated list and suggest that you forward this to the Auction Company and tell them to substitute it for the one that is now on the site.

I am also attaching a copy of the B-K Columbus, Inc. Agreement for your convenience. The only section which might affect the property which was not sold to B-K Columbus, Inc. is Section 1, and that is applicable only if the property which is now owned by the three LLC's has designated common areas which are contiguous to the B-K Columbus, Inc. property. In my opinion, the covenant would be enforceable against a subsequent owner of the property even though it was placed on the property more than 20 years ago, since it does not affect the "use" of the property.

Tim Adams

Attachments/

cc: Mr. Tyler Evans

Exhibit "B"

(Permitted Exceptions)

1. Encroachments, overlaps, boundary line disputes, and any matters not of record which would be disclosed by an accurate survey and inspection of the Property.
2. Easements or claims of easements not shown by the public records.
3. Underground and above ground electric lines, water lines, gas lines, sewer lines, telephone lines, telegraph lines, pipe lines, cable lines, and any other utility easement, specifically including but not limiting this exception to the following easements which are found of record:
  - (a) Easement from J.C. Surrells dated June 7, 1928, in favor of Georgia Power Company recorded in Deed Book 368, Page 306.
  - (b) Easement dated 8-5-48 in favor of Georgia Power Company recorded in Deed Book 532, Page 300.
  - (c) Easement dated 4-9-59 in favor of Georgia Power Company recorded in Deed Book 795, Page 213.
  - (d) Undated Easement in favor of Georgia Power Company recorded on September 16, 1960, in Deed Book 831, Page 554.
  - (e) Easement in favor of Georgia Power Company recorded in Deed Book 831, Page 554.
  - (f) Easement dated June 30, 1976, in favor of Georgia Power Company recorded in Deed Book 1268, Page 747.
  - (g) Easement dated April 15, 1977, in favor of Georgia Power Company recorded in Deed Book 1293, Page 335.
4. All matters shown on the As-Built Survey for Summit Center at the Mall, LLLP by Robert A. Hurley, III, dated September 26, 2002, and recorded in Plat Book 90, Page 718, including, but not limited to:
  - (a) 20-Foot Sanitary Sewer Easement on the southerly boundary line of Parcel B, and on the northern portions of Lots 4 and 5 of Slumber Hill Subdivision.
  - (b) Drainage Easement on the westerly side of the Undeveloped Property.
  - (c) Pipe & Wire Rope Fence.
  - (d) Storm Sewer in the northeast corner of Tract L.
  - (e) 10-Foot Drainage Easement on the eastern portion of Lot 3 of Slumber Hill Subdivision;

5. Easement dated October 27, 1964, in favor of City of Macon recorded in Deed Book 939, Page 580.
6. Easement from Frank C. Amerson, Jr., et.al., to Macon-Bibb County Water and Sewerage Authority dated June 30, 1976, and recorded in Book 1268, Page 744, Clerk's Office, Superior Court of Bibb County, Georgia.
7. Agreement dated January 11, 1978, between B-K Columbus, Inc., as first party, and Frank C. Amerson, Jr., Whitney T. Evans and E. Baxter Evans, as second parties, recorded in Deed Book 1317, Page 295, Clerk's Office, Superior Court of Bibb County, Georgia, which was executed in connection with the sale of property which is adjacent to the Land, and which established certain rights and obligations of the respective parties.
8. Access Rights conveyed by Frank C. Amerson, Jr., et.al., to Georgia Department of Transportation dated June 9, 1986, recorded in Deed Book 1596, Page 722, said Clerk's Office.
9. Drainage Easement from Amerson Properties, Ltd. to the City of Macon, dated January 20, 1992, recorded in Deed Book 2093, Page 254, said Clerk's Office.
10. Unrecorded Parking Space Rental Agreement dated July 12, 2004, between Summit Center at the Mall, LLLP, Evans Commercial Investments, LLC and E.B. Evans Retail Properties, LLC, as Landlord, and Bank of America, as Tenant, as amended by an unrecorded Amendment dated \_\_\_\_\_, 2009. Tenant failed to notify Landlord of intent to exercise the option to extend beyond October 31, 2014.
11. Pylon Panel License Agreement dated April 11, 2007, between Summit Macon Equities, LLC, Summit CEEG IV, LLC, Summit West 22, LLC, Summit JHS, LLC and Summit Sedgwick, LLC, and Evans Commercial Investments, LLC, E.B. Evans Retail Properties, LLC and Summit Center at the Mall, LLLP, which is of record in the Clerk's Office of the Superior Court of Bibb County, Georgia in Deed Book 7468, Page 240.
12. Agreement for Easements dated April 11, 2007, between Summit Macon Equities, LLC, Summit CEEG IV, LLC, Summit West 22, LLC, Summit JHS, LLC and Summit Sedgwick, LLC, and Evans Commercial Investments, LLC, E.B. Evans Retail Properties, LLC and Summit Center at the Mall, LLLP, which is of record in the Clerk's Office of the Superior Court of Bibb County, Georgia in Deed Book 7468, Page 254.

Exhibit "B"

(Permitted Exceptions)

1. Encroachments, overlaps, boundary line disputes, and any matters not of record which would be disclosed by an accurate survey and inspection of the Property.
2. Easements or claims of easements not shown by the public records.
3. Underground and above ground electric lines, water lines, gas lines, sewer lines, telephone lines, telegraph lines, pipe lines, cable lines, and any other utility easement, specifically including but not limiting this exception to the following easements which are found of record:
  - (a) Easement from J.C. Surrells dated June 7, 1928, in favor of Georgia Power Company recorded in Deed Book 368, Page 306.
  - (b) Easement dated 8-5-48 in favor of Georgia Power Company recorded in Deed Book 532, Page 300.
  - (c) Easement dated 4-9-59 in favor of Georgia Power Company recorded in Deed Book 795, Page 213.
  - (d) Undated Easement in favor of Georgia Power Company recorded on September 16, 1960, in Deed Book 831, Page 554.
  - (e) Easement in favor of Georgia Power Company recorded in Deed Book 831, Page 554.
  - (f) Easement dated June 30, 1976, in favor of Georgia Power Company recorded in Deed Book 1268, Page 747.
  - (g) Easement dated April 15, 1977, in favor of Georgia Power Company recorded in Deed Book 1293, Page 335.
4. All matters shown on the As-Built Survey for Summit Center at the Mall, LLLP by Robert A. Hurley, III, dated September 26, 2002, and recorded in Plat Book 90, Page 718, including, but not limited to:
  - (a) 20-Foot Sanitary Sewer Easement on the southerly boundary line of Parcel B, and on the northern portions of Lots 4 and 5 of Slumber Hill Subdivision.
  - (b) Drainage Easement on the westerly side of the Undeveloped Property.
  - (c) Pipe & Wire Rope Fence.
  - (d) Storm Sewer in the northeast corner of Tract L.
  - (e) 10-Foot Drainage Easement on the eastern portion of Lot 3 of Slumber Hill Subdivision;

5. Easement dated October 27, 1964, in favor of City of Macon recorded in Deed Book 939, Page 580.
6. Easement from Frank C. Amerson, Jr., et.al., to Macon-Bibb County Water and Sewerage Authority dated June 30, 1976, and recorded in Book 1268, Page 744, Clerk's Office, Superior Court of Bibb County, Georgia.
7. Agreement dated January 11, 1978, between B-K Columbus, Inc., as first party, and Frank C. Amerson, Jr., Whitney T. Evans and E. Baxter Evans, as second parties, recorded in Deed Book 1317, Page 295, Clerk's Office, Superior Court of Bibb County, Georgia, which was executed in connection with the sale of property which is adjacent to the Land, and which established certain rights and obligations of the respective parties.
8. Access Rights conveyed by Frank C. Amerson, Jr., et.al., to Georgia Department of Transportation dated June 9, 1986, recorded in Deed Book 1596, Page 722, said Clerk's Office.
9. Drainage Easement from Amerson Properties, Ltd. to the City of Macon, dated January 20, 1992, recorded in Deed Book 2093, Page 254, said Clerk's Office.
10. Unrecorded Parking Space Rental Agreement dated July 12, 2004, between Summit Center at the Mall, LLLP, Evans Commercial Investments, LLC and E.B. Evans Retail Properties, LLC, as Landlord, and Bank of America, as Tenant, as amended by an unrecorded Amendment dated \_\_\_\_\_, 2009. Tenant failed to notify Landlord of intent to exercise the option to extend beyond October 31, 2014.
11. Pylon Panel License Agreement dated April 11, 2007, between Summit Macon Equities, LLC, Summit CEEG IV, LLC, Summit West 22, LLC, Summit JHS, LLC and Summit Sedgwick, LLC, and Evans Commercial Investments, LLC, E.B. Evans Retail Properties, LLC and Summit Center at the Mall, LLLP, which is of record in the Clerk's Office of the Superior Court of Bibb County, Georgia in Deed Book 7468, Page 240.
12. Agreement for Easements dated April 11, 2007, between Summit Macon Equities, LLC, Summit CEEG IV, LLC, Summit West 22, LLC, Summit JHS, LLC and Summit Sedgwick, LLC, and Evans Commercial Investments, LLC, E.B. Evans Retail Properties, LLC and Summit Center at the Mall, LLLP, which is of record in the Clerk's Office of the Superior Court of Bibb County, Georgia in Deed Book 7468, Page 254.

JCM:rp

1978 JAN 16 AM 10:18

SUPERIOR COURT OF  
BIBB COUNTY, GEORGIA

paid  
notary  
5.00

GEORGIA, BIBB COUNTY.

THIS AGREEMENT made and entered into this

11<sup>th</sup>

day of January, 1978 between B-K COLUMBUS, INC., a corporation of Muscogee County, Georgia (first party) and FRANK C. AMERSON, JR., WHITNEY T. EVANS, JR., AND E. BAXTER EVANS (second parties),

W I T N E S S E T H:

WHEREAS, first party has contracted to purchase from second parties a tract of land located on the westerly line of Bloomfield Road being designated Tract "K" on a plat thereof recorded in Plat Book 59, Page 38, Clerk's Office, Bibb Superior Court; and

WHEREAS, said contract provides that certain stipulations therein shall survive the closing, and the purpose of this agreement is to separate those items surviving the closing from the items merging therein.

NOW, THEREFORE, in consideration of second parties executing and delivering a warranty deed conveying title to said property to first party today, the parties hereto do hereby agree as follows:

1. In the event that second parties develop their adjoining property with designated common areas which are contiguous to the property being conveyed to first party, the parties hereto agree that upon completion of development of the common areas there will be no curbs or barricades which would hinder the flow of traffic from first party's property to second parties' property and vice versa at the points where these common areas are contiguous. Curbs or other such barricades which have been constructed by first party will be removed at that time. The parties hereto agree to cooperate in every reasonable manner to maintain the parking and traffic lanes on their respective property for their own respective

use and the use of their employees, tenants or customers, both recognizing that some cross-over in the use of parking spaces and traffic lanes will inevitably occur.

2. First party will at its expense disconnect the present sanitary sewer line shown in red on the plat attached to the sales contract and relocate it as shown in blue, including installing new manholes as shown in blue on said plat. First party will then tie its sewer line into the manhole nearest Bloomfield Road. First party agrees to submit plans for the relocated sewer line to second parties for approval, which approval will not be unreasonably withheld, and to coordinate construction with second parties so that second parties' sewer service will not be disrupted. First party agrees that the construction of said facilities will be completed in a workmanlike manner and in compliance with all prevailing codes and ordinances.

3. First party agrees that the improvements to be constructed on this property will be located substantially as shown on sheet one of the layout plan for Burger King Corporation prepared by Templin & Sherrill, Inc., in December, 1977; provided, however, that in no event shall said improvements be located any closer than sixty-five (65) feet to the northerly line of first party's property ~~than as shown on said layout~~; and further provided that the trash enclosures shown on the layout plan will be located and constructed in the southwest corner of the property.

4. First party agrees to develop its property in such a manner that the elevation and drainage plan will not adversely affect second parties' adjoining property.

5. This agreement shall inure to the benefit of and be binding on the parties hereto, their

successors and assigns.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals, the day and year first above written.

Signed, sealed and delivered in the presence of:

Looy Rain, Jr.  
Just Craig  
Notary Public, State of Georgia  
Residing in Bibb County

B-K COLUMBUS, INC.

BY: Merrill Belkater (LS)  
Title President

ATT: \_\_\_\_\_ (LS)  
Title \_\_\_\_\_

Signed, sealed and delivered in the presence of:

Samela S. Hill  
Just Craig  
Notary Public, State of Georgia  
Residing in Bibb County

Frank C. Amerson, Jr. (LS)  
Title \_\_\_\_\_

Whitney F. Evans, Jr. (LS)  
Title \_\_\_\_\_

E. Baxter Evans (LS)  
Title \_\_\_\_\_

GEORGIA, Bibb County, Clerk's Office Superior Court  
Filed for Record JAN 16 1978 at 10:18 A.M.  
Recorded JAN 17 1978

Dep. Clerk Jm

FILED 502