

16. USE

16.01 Permitted Uses. Subject to the provisions of Paragraph 16.03 of this Lease, entitled "Prohibited Uses", Tenant shall have the right to use and occupy the Premises for any lawful purpose.

16.02 Exclusive Uses. Landlord covenants and agrees that during the Term, Tenant shall have the exclusive right within the Shopping Center Tract to: (i) operate a grocery supermarket, bakery, delicatessen, fish market, and on-premises photo finishing facility; (ii) sell drugs or other products which are required by law to be dispensed by a registered pharmacist; and (iii) engage in retail sales of items of food for "off-premises" consumption.

The foregoing exclusive rights granted to Tenant in this Article 16.02 shall not be deemed to prohibit the following:

(a) The sale by a restaurant operation (other than a bakery) of prepared ready to eat food items, for consumption either on or off the premises, or

(b) The sale of food items for consumption on or off the premises by a health food store or nutrition center, an ice cream parlor or frozen yogurt store, a bagel shop, coffee shop, a franchise doughnut shop (equivalent to a Dunkin' Donut or Krispy Kreme operation), a candy store, a pizza restaurant, take-out, or delivery outlet, or a combination gas station and convenience food store operation, provided the floor area devoted to the sale of food items in such gas station convenience food store operation does not exceed two thousand (2,000) square feet, or a video rental or sale store (similar to Blockbuster Video) which may offer the sale of items normally sold by movie theaters (i.e. popcorn or candy) for consumption off the premises, or

(c) A sit-down delicatessen type restaurant which offers take-out as an incidental part of its restaurant operation, provided that at least seventy (70%) percent of the floor space of such restaurant (provided that such percentage calculation of floor space shall exclude kitchen and food preparation area) is utilized as a sit-down restaurant.

(d) The sale by a major regional or national chain drug store tenant of drugs or other products which are required by law to be dispensed by a registered pharmacist, or the sale of food items for "off-premises" consumption as an incidental part of its primary business as a drug store.

16.03 Prohibited Uses.

(a) Unlawful or Nuisance Use. Tenant hereby covenants and agrees that it will not use the Premises for any unlawful purpose, or in any way which would constitute a legal nuisance to

adjoining tenants in the Shopping Center.

(b) Specific Prohibited Uses. Landlord and Tenant hereby covenant and agree that neither the Premises, nor any other premises in the Shopping Center Tract shall be used for the following "Prohibited Uses": nude or semi-nude dancing or service; lingerie modeling; "adult" or "x-rated" book or video store (except that this provision shall not prohibit the sale or rental of "adult" or "x-rated" video tapes as part of the business of a video store offering a substantial selection of other types of video tapes as a majority of its selection); for the display or sale of pornographic or obscene materials (i.e. books, magazines, newspapers, video tapes, video discs, computer software, or the like which would be considered obscene or pornographic under prevailing laws or community standards); "adult" or "x-rated" movie theater; a so-called "head shop" selling or displaying drug paraphernalia; massage parlor; a clinic offering abortions as part of its services; a dry cleaning plant; a funeral parlor; a flea market; a bingo parlor; a lot or building selling or leasing automobiles, trucks, motor homes, campers, other motorized vehicles, or trailers; a car wash (except in conjunction with the operation of a gas station on an outparcel); a video arcade or amusement gallery; a dance hall or nightclub; a cinema or theater; a skating rink or bowling alley; or a pool hall or billiards room. In addition, Landlord hereby covenants and agrees that no other premises in the Shopping Center Tract described on Exhibit "B" shall be used for a health spa or gymnasium or a "concept" restaurant and/or cocktail lounge of a parking intensive nature, such restaurants and/or cocktail lounges being similar in nature to Bennigan's, T.J. Applebee's, Outback Steakhouse, Chili's, Hooters, and T.G.I. Friday's, Ruby Tuesday's, or the like.

16.04 Covenant Running with the Land. Landlord covenants and agrees that all leases entered into between Landlord and other tenants within the Shopping Center shall prohibit such other tenants from violating the exclusive use rights and prohibited use restrictions set forth in Paragraphs 16.02 and 16.03(b) of this Lease, entitled "Exclusive Uses" and "Specific Prohibited Uses", respectively, for and during the Term. Landlord hereby covenants and agrees that in the event Landlord sells, transfers, or conveys all or any portion of the Shopping Center Tract, the exclusive use rights and prohibited use restrictions set forth in said Paragraphs 16.02 and 16.03(b) hereof shall be deemed to constitute a covenant running with title to such sold, transferred or conveyed portion of the Shopping Center Tract, which covenant shall remain in full force and effect and be binding upon the successors in title to Landlord for and during the Term. Upon expiration or termination of this Lease as herein permitted, such covenant shall likewise expire or terminate.

16.05 Enforcement. In the event any other tenant in the Shopping Center or successor in title of the Shopping Center Tract shall violate said exclusive use or prohibited use provisions, and

RESTRICTIONS ON USE.

a. General Restrictions. No part of the Project shall be used as a bar, tavern, cocktail lounge, adult book store, adult video store or other adult entertainment business, warehouse (excluding a warehouse for retail or wholesales to the public, such as a Sam's Club or Costco), car wash, entertainment or recreational facility, training or educational facility, business or professional office, for the renting, leasing or selling of or displaying for purposes of renting, leasing or selling of any boat, motor vehicles or trailer; or for industrial purposes. For the purpose of this Declaration, the phrase "entertainment or recreational facility" shall include, without limitation, a cinema, a theater, bowling alley, skating rink, gym, health spa or studio, dance hall, billiard or pool hall, massage parlor, game parlor or video arcade (which shall be defined as any store containing more than four (4) electronic games). The phrase "training or educational facility" shall include, without limitation, a beauty school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees as opposed to customers.

b. Drive-throughs. No facility on the Real Estate for vehicular drive-up or drive-through service in which the stopping or standing of motor vehicles in line at a location for drop-off, pickup, or service is intended (as for example, at a restaurant or a bank) shall be constructed, used or operated in any manner such that motor vehicles in line at such facility stop or stand onto any other parcel or otherwise interfere with the normal pattern and flow of pedestrian or vehicular traffic on and across any other parcel.

*Self-contained
drive through
OK.*

c. Publix Restrictions. During the term of the Publix Lease, no portion of the Real Estate other than the leased premises of Publix shall be used, directly or indirectly, for any of the following:

- i. Grocery supermarket, baker, delicatessen, fish market, and on-premises photo finishing facility.
- ii. Drugs or other products which are required by law to be dispensed by a registered pharmacist.
- iii. Engage in retail sales of items of food for "off-premises" consumption.

The foregoing shall not be deemed to prohibit the following:

- i. The sale by a restaurant operation (other than a bakery) of prepared ready to eat food items, for consumption either on or off the premises, or
- ii. The sale of food items for consumption on or off the premises by an ice cream parlor or frozen yogurt store, bagel shop, coffee shop, a franchise doughnut shop (equivalent to a Dunkin' Donut or Krispy Kreme operation), a candy store, a pizza restaurant, take-out, or delivery outlet, or a video rental or sale store (similar to Blockbuster Video) which may offer the sale of items normally sold by movie theaters (i.e. popcorn or candy.) for consumption off the premises; or
- iii. A sit-down delicatessen type restaurant which offers take-out as an incidental part of its restaurant operation, provided that at least seventy percent (70%) of the floor space of such restaurant (provided that such percentage calculation of floor space shall exclude kitchen and food preparation area) is utilized as a sit-down restaurant.