

**SUPPLEMENTAL REGULATIONS  
FOR  
SYCAMORE PLAZA PLANNED COMMERCIAL DISTRICT**

**SECTION 1. GENERAL PROVISIONS**

**1.1. Authority**

Pursuant to, and in accordance with, Sycamore Township Resolution \_\_\_\_\_ (the "Trustee Resolution") and Chapter 7 of the Sycamore Township Zoning Resolution (the "Zoning Resolution"), the real property and improvements now or to be constructed thereon located at 7800 Montgomery Road, Cincinnati, Hamilton County, Ohio and commonly known as Sycamore Plaza (the "Plaza," as more particularly described on **Exhibit A** and depicted on **Exhibit B**, both of which Exhibits are attached hereto and made a part hereof) has been rezoned as an "EE" Zoning District.

The "EE" Zoning District approved and created as described herein shall be known and referred to as the "Sycamore Plaza Planned Commercial District."

**1.2. Supplemental Regulations**

The regulations, conditions, restrictions, definitions, requirements, and plans contained herein, along with any exhibits attached hereto and referenced herein shall collectively constitute the Supplemental Regulations for the Sycamore Plaza Planned Commercial District (these "Supplemental Regulations"), and are hereby established pursuant to the Trustee Resolution and in accordance with Section 7-2.6 of the Zoning Resolution.

**1.3. Zoning Map Amendment**

As required by Section 7-2.2 of the Sycamore Township Zoning Resolution, the Official Sycamore Township Zoning Map shall be revised to reflect the Sycamore Plaza Planned Commercial District as an "EE" Zoning District.

**1.4. Sycamore Township Zoning Resolution**

These Supplemental Regulations supplement and, wherever noted herein, supersede the Zoning Resolution with respect to Land Use and Developmental Standards within the Sycamore Plaza Planned Commercial District. To the extent these Supplemental Regulations conflict with the Zoning Resolution, these Supplemental Regulations shall control Land Use and Developmental Standards within the Sycamore Plaza Planned Commercial District. To the extent not addressed by these Supplemental Regulations, Land Use and Developmental Standards within the

Sycamore Plaza Planned Commercial District shall be governed by the applicable provisions, if any, of the Zoning Resolution.

**1.5 Sycamore Plaza Planned Commercial Zone PUD Plan and Zoning Compliance Plan**

The approved Sycamore Plaza Planned Commercial Zone PUD Plan and Zoning Compliance Plan are attached to these Supplemental Regulations as **Exhibit C** and **Exhibit D**, respectively, and incorporated by reference. In the event of conflict between these Supplemental Regulations and either the PUD Plan or the Zoning Compliance Plan, these Supplemental Regulations shall control.

## SECTION 2. DEFINITIONS

The following definitions shall apply to these Supplemental Regulations:

Church: A building used principally for religious worship.

Commercial Use. An occupation, employment or enterprise which is carried on for profit by the owner, lessee or licensee, except for activities carried on by a not-for-profit organization which utilizes the proceeds of such activities solely for the purposes for which it is organized.

Cutoff Lights: An artificial outdoor light source designed to ensure that no light is directly emitted above a horizontal line parallel to the ground.

Office: A use or structure where business or professional services are made available to the public, including but not limited to financial institutions, tax preparation, accounting, architectural, legal services, medical laboratories, optical laboratories, dental laboratories, psychological counseling, real estate and securities.

Effective Date: The effective date of these Supplemental Regulations is \_\_\_\_\_, 2015.

Hotel: A building containing more than four individual rooms for the purpose of providing, for periods not exceeding thirty days, overnight lodging facilities to the general public for compensation with or without meals, and which has common facilities for reservations and cleaning services, combined utilities, and onsite management and reception.

Industrial Use. The assembly, fabrication or processing of goods and materials; or any operation or facility including buildings, equipment structures, or stationary items used for industrial purposes.

Institutional Use: A building, structure or land used for educational, religious, human care or similar types of public or quasi-public purposes. This category shall include but not be limited to schools, universities, churches, and other places of worship, cemeteries, correctional facilities, halfway houses, nursing and convalescent homes, day care centers, continuous care retirement facility and hospitals.

Landscaping: The improvement of a lot, parcel or tract of land with grass, shrubs, and trees. Landscaping may include pedestrian walks, flower beds, ornamental objects such as fountains, statuary, and other similar natural and artificial objects designed and arranged to produce an aesthetically pleasing effect.

Localized Alternative Sign Resolution: Localized Alternative Sign Regulation (LASR) for Case No. 2011-01 approved by the Sycamore Township Zoning

Commission on February 14, 2011. The Localized Alternative Sign Regulation is also referred to in these Supplemental Regulations as "LASR 2011-01."

Mixed Use: A planned development that incorporates two or more categories of uses (e.g., retail and office, retail and residential).

Net Leasable Area: The sum of the horizontal areas of each floor of a tenant space, measured from the inside faces of exterior or shared walls, and includes the floor area of any outdoor seating areas, but excludes the floor areas of: (i) hallways, corridors, vestibules, stair cases, elevator shafts, closets, storage rooms, walk-in refrigeration units, and restrooms; (ii) spaces occupied by or dedicated to the maintenance, repair, and replacement of mechanical equipment; (iii) accessory buildings and structures; and (iv) areas used exclusively for the parking of motor vehicles.

Non-Commercial Use: Any use which is neither a Commercial Use nor an Industrial Use.

Nursing and Convalescent Home: A home, institution, building or residence, public or private, whether operated for profit or not, presently licensed pursuant to the Ohio Statutes, which provides maintenance, personal care or nursing to ill, physically infirm, convalescing, or aged persons who are not related by blood or marriage to the operator. The definition of nursing or convalescent home does not include hospitals, clinics, or similar institutions which are devoted primarily to the diagnosis and treatment of the sick or injured.

Owner: BRE DDR Crocodile Sycamore Plaza LLC, its successors, assigns, and transferees.

Pedestrian Areas: All exterior areas within the Sycamore Plaza Planned Commercial District, other than outdoor dining areas, that are not Vehicular Use Areas.

Planned Unit Development (PUD): A type of development that enables residential, commercial, industrial or any other uses to be developed alone or in combination under one unified plan of development.

Public Service Use: A building, structure, or place used by or for the general populous, owned or operated by a government organization. This category shall include but not be limited to police and fire stations, government buildings and storage yards, government facilities such as libraries, as well as park and rides, and other similar uses and facilities.

Recreation (Commercial): A public or private indoor or outdoor recreation facility operated as a commercial activity, including but not limited to batting cages, bowling alleys, drag strips, raceways, golf driving ranges, gun-firing ranges, mechanical rides,

miniature golf courses, racquet clubs, arenas, amphitheaters, stadiums, health and fitness facilities, and swimming pools.

Recreation, Community Facility: A building or facility operated for a social or recreational purpose, but not as a commercial activity. This includes but is not limited to country clubs, athletic fields, golf courses, swim/tennis facilities, parks, playgrounds, wildlife reservations, forests, senior centers, recreation centers, and YMCAs.

Recreation, Cultural, and Entertainment: A public or private facility, of a non-commercial nature, designed and equipped to be used for sport, leisure, cultural, or entertainment activities including internal recreation centers, private and public community recreation facilities, and cultural facilities, but excluding commercial recreation facilities.

Restaurant: An establishment where prepared and ready-to-consume food is available to the general public for consumption on or off the premises.

Retail Business (Sales and Services): A building, property, or activity, the principal use or purpose of which is the sale of goods, products, or merchandise directly to the consumer. In addition, it shall include the provision of personal services, including but not limited to barber shops, beauty parlors, laundry and dry cleaning establishments, tailoring shops, shoe repair shops and the like.

Shopping Center: A group of two or more retail establishments and/or restaurants, planned and developed with a unified design of buildings with off-street parking, landscaped areas, and service areas and pedestrian malls or plazas provided on the property as part of the unified design.

Supplemental Regulations for the Sycamore Plaza Planned Commercial District: The regulations, conditions, restrictions, definitions, requirements, and plans that supplement or supersede the Zoning Resolution and the LASR 2011-01 as the same may be applicable to the Sycamore Plaza Planned Commercial District. These Supplemental Regulations for the Sycamore Plaza Planned Commercial District are also referred to herein as these "Supplemental Regulations."

Sycamore Plaza: The real property and all improvements located at 7800 Montgomery Road, Cincinnati, Hamilton County, Ohio 45236, as more particularly described on Exhibit A.

Sycamore Plaza Planned Commercial District: The title given to the Planned Business District ("EE" District) for Sycamore Plaza pursuant to Resolution No. \_\_\_\_\_ approved on \_\_\_\_\_, 2015 by the Sycamore Township Board of Trustees.

Sycamore Plaza Planned Unit Development (PUD) Plan: The plan, based upon a survey, for the use and development of the Sycamore Plaza showing the areas within

which buildings, Vehicle Use Areas, and buffering are to be located accompanied by a detailed description on the plat identifying the permissible range or limits of size, height, type, and other pertinent details for buildings, structures, signage, lighting, pedestrian ways, vehicular access, circulation patterns, parking areas, landscaping and buffering, impervious surface ratio, density, yards and other information with regard to Sycamore Plaza. The Sycamore Plaza Planned Unit Development (PUD) Plan is also referred to in these Supplemental Regulations as the "PUD Plan"

Sycamore Township Zoning Resolution: The version of the Official Zoning Resolution adopted by Sycamore Township pursuant to and in accordance with Chapter 519 of the Ohio Revised Code in effect as of the Effective Date, as modified by the Kenwood/Montgomery Road SPI Corridor Overlay and the Localized Alternative Sign Regulation.

Trade Dress: Construction and design elements, including without limitation, materials, colors, lighting, artwork, and architectural features, incorporated into the exterior façade of a commercial establishment for the purpose of creating or reinforcing a specific brand image.

Use: The purpose of activity for which land, or any structure thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

Vehicular Use Areas: All areas subject to vehicular traffic including parking lots, access-ways, loading areas and service areas.

**SECTION 3. EXISTING PLANNED UNIT DEVELOPMENTS; NONCONFORMING USES AND STRUCTURES**

**3.1 Existing Planned Unit Developments Recognized**

The following are hereby recognized as existing PUDs within the Sycamore Plaza Planned Commercial District as of the Effective Date:

<b>Resolution No.</b>	<b>Date of Adoption</b>	<b>Description</b>
		PUD II for Macaroni Grill, IHOP, Ruby Tuesday, and Texas Road House
		PUD II for Sprint
2007-35	June 21, 2007	PUD II for Jared Jewelers
		PUD II for Fresh Market
		PUD II for Staples

**3.2 Applicability of Supplemental Regulations to Existing Planned Unit Developments**

This Section 3.2 shall apply to the PUDs identified in Section 3.1 of these Supplemental Regulations, as well as any other PUDs within Sycamore Plaza Planned Commercial District and which are in effect as of the Effective Date (each an "Existing PUD"):

**3.2.1.** Except as provided in Sections 3.2.2 and 3.2.3 hereinafter, Existing PUDs shall be governed, first, by the conditions of approval set forth in the respective Resolutions adopting the Existing PUDs, and, second, by these Supplemental Regulations, but only to the extent that these Supplemental Regulations are not inconsistent with or more restrictive than such conditions of approval.

**3.2.2.** In the event an Existing PUD undergoes a change in use (e.g., retail to office) or a Redevelopment, such Existing PUD shall automatically terminate, and the portion of the Sycamore Plaza Planned Commercial District formerly included in such terminated PUD shall thereafter be subject to these Supplemental Regulations. For purposes of this Section 3.2.2, the defined term "Redevelopment" shall mean an activity for which a PUD adjustment, whether minor or major, would be required pursuant the Zoning Resolution.

**3.2.3.** The Owner, in its sole discretion, may elect at any time to terminate any Existing PUD, in which event the portion of the Sycamore Plaza Planned Commercial District formerly included in such terminated PUD shall thereafter be subject to these Supplemental Regulations.

### **3.3. Nonconforming Uses, Structures, and Signage**

**3.3.1.** For purposes of Section 3.3 of these Supplemental Regulations, the defined terms "Nonconforming Use," "Nonconforming Structure," and "Nonconforming Signage" shall have the following meanings:

"Nonconforming Use" shall mean a use that was allowed under the Zoning Resolution when the use commenced (either as a permitted use, a conditional use, or by virtue of an approved variance) but which is not a permitted use under Section 4.1 of these Supplemental Regulations.

"Nonconforming Structure" shall mean a structure that complied with the Zoning Resolution when constructed (including structures approved pursuant to variances) but which does not comply to Sections 7, 8, 9, or 10 of these Supplemental Regulations.

"Nonconforming Signage" shall mean signage that complied with the Zoning Resolution when erected (including signage approved pursuant to variances) but which does not comply with Section 6 of these Supplemental Regulations.

**3.3.2.** Except as provided in Sections 3.3.3 and 3.3.4 hereinafter, Nonconforming Uses, Structures, and Signage in existence as of the Effective Date shall be permitted to continue notwithstanding the nonconformance.

**3.2.3.** In the event a Nonconforming Use undergoes a change in use or a Nonconforming Structure or Nonconforming Signage is altered in any way, the new use or altered structure or signage, as the case may be, may thereafter be required to conform to these Supplemental Regulations, subject to rights of continuance pursuant to the Zoning Resolution.

**3.2.4.** The Owner, in its sole discretion, may elect at any time to require that any Nonconforming Use, Structure, or Signage be brought into conformance with these Supplemental Regulations.



## SECTION 4. USES

### 4.1 Permitted Uses

The following shall be permitted uses in the Plaza District notwithstanding anything in the Zoning Resolution to the contrary:

- (a) Retail Businesses, including, but not limited to, establishments offering: (i) apparel, groceries, home furnishings, sporting goods/equipment, athletic wear, footwear, small electronics, eyewear (corrective and non-corrective), jewelry, child/infant products, and cosmetics and skin care products; (ii) commercial and consumer financial products and services (e.g., banks); (iii) automotive products and services (e.g., tire sales and installation); (iv) office and shipping supplies and services; (v) beauty and health services (e.g., salons); (vi) communication devices and services (e.g., mobile phones and tablets); and (vii) gasoline and convenience goods;
- (b) Offices;
- (c) Recreational uses, including, but not limited to: (i) Commercial Recreation Facilities; (ii) Community Recreation Facilities; and (iii) Recreation, Cultural, and Entertainment Facilities;
- (d) Public Service Uses;
- (e) Institutional Uses, including, but not limited to: (i) Churches and other places of worship; and (ii) Nursing and Convalescent Homes;
- (f) Mixed Use Developments (e.g., office and retail);
- (g) Restaurants (with or without drive through or drive up service); and
- (h) Hotels.

## SECTION 5. VEHICULAR USE AREAS

### 5.1. Parking Stall Count

5.1.1. For purposes of Section 5.1 of these Supplemental Regulations, the defined term "Total Floor Area" shall mean the sum of the Net Leasable Areas for all tenant spaces within the Sycamore Plaza Planned Commercial District.

5.1.2. Parking shall be provided in an amount equal to or greater than 4 stalls (including stalls designated for the handicapped) per every 1,000 square feet of Total Floor Area.

5.1.3. Notwithstanding anything in the Zoning Resolution to the contrary, and irrespective of the proximity of parking stalls to particular tenant spaces, parking shall be compliant if the total number of parking stalls within the Sycamore Plaza Planned Commercial District as a whole, wherever such stalls may be located, satisfies the requirement contained in Section 5.1 of these Supplemental Regulations.

### 5.2. Physical Layout and Orientation of Parking Stalls, Drive Aisles, and Access Drives

This Section 5.2 shall control the physical layout and orientation of parking stalls, drive aisles, and access drives within the Sycamore Plaza Planned Commercial District, notwithstanding anything in the Zoning Resolution to the contrary

5.2.1. Parking stalls, drive aisles, and access drives which meet the following requirements shall be compliant:

	Minimum Width	Minimum Depth
Parking Stalls	8 ft.	18 ft.
Drive Aisles (One Way / Two Way)	20 ft.	n/a
Access Drives (One Way / Two Way)	25 ft.	n/a

5.2.2. Nothing in these Supplemental Regulations or in the Zoning Resolution shall restrict the orientation or arrangement of parking stalls, drive aisles, or access drives within the Sycamore Plaza Planned Commercial District, nor shall requirements set forth in Section 5.2.1 of these Supplemental Regulations vary with based upon such orientation or arrangement.

### 5.3. Parking Illumination

Cut-off lights may be mounted at heights not to exceed the maximum height above grade of any cutoff light current installed on Sycamore Plaza.

## **SECTION 6. SIGNAGE**

With the exception of Existing PUDs (as defined in Sections 3.1 and 3.2) and Nonconforming Signage (as defined in Section 3.3), all signage within the Sycamore Plaza Planned Commercial District shall conform to **Exhibit E** attached hereto.

## **SECTION 7. LANDSCAPING**

### **7.1. Vehicular Use Areas**

Notwithstanding anything in the Zoning Resolution to the contrary, landscaping of the Vehicular Use Areas within the Sycamore Plaza Planned Commercial District may be limited to the roundabout[s], as depicted on the PUD Plan.

### **7.2. Pedestrian Areas**

Notwithstanding anything in the Zoning Resolution to the contrary, landscaping of Pedestrian Areas may be limited to: (i) the courtyard area fronting to the main entrance of the main Sycamore Plaza building; and (ii) the open space adjacent to the Staples PUD II, both as depicted on the PUD Plan.

## **SECTION 8. EXTERIOR CONSTRUCTION MATERIALS; TRADE DRESS**

### **8.1. Selection and Use of Materials**

There shall be no restriction on the materials selected and used in the exterior construction and cladding of buildings within the Sycamore Plaza Planned Commercial District, notwithstanding anything in the Zoning Resolution to the contrary; provided, however, that all such materials shall be: (i) installed in a manner consistent with manufacturer specifications; and (ii) generally appropriate for a first class commercial development.

### **8.2. No Preferred Materials**

There shall be no preferred materials for use in the exterior construction and cladding of buildings within the Sycamore Plaza Planned Commercial District.

### **8.2. Trade Dress Permitted**

Nothing in these Supplemental Regulations or in the Zoning Resolution shall prohibit, restrict, limit, or condition the incorporation of Trade Dress.

## **SECTION 9. LOADING AND UNLOADING AREAS**

### **9.1. Number and Location of Loading/Unloading Zones**

Notwithstanding anything in the Zoning Resolution to the contrary, there shall be at least, but need be no more than, 4 loading/unloading zones attached to the main Sycamore Plaza building in the locations depicted on the PUD Plan.

### **9.2. Screening of Loading/Unloading Zones**

Notwithstanding anything in the Zoning Resolution to the contrary, screening of loading/unloading zones within the Sycamore Plaza Planned Commercial District shall be required if and only to the extent that such loading/unloading zones are clearly visible from the intersection of Montgomery Road and Kenwood Road by motorists travelling south on Kenwood Road and northeast on Montgomery Road.

### **9.3. Gates not Required**

Nothing in these Supplemental Regulations or in the Zoning Resolution shall require the installation of gates at the entrance of any loading/unloading zones within the Sycamore Plaza Planned Commercial District.

## **SECTION 10. REFUSE CONTAINERS**

### **10.1. Screening of Refuse Containers**

Notwithstanding anything in the Zoning Resolution to the contrary, screening of refuse containers within the Sycamore Plaza Planned Commercial District shall be required if and only to the extent that such refuse containers are clearly visible from the intersection of Montgomery Road and Kenwood Road by motorists travelling south on Kenwood Road and northeast on Montgomery Road.

### **10.2. No Mandated Screening Materials or Construction Methods**

In the event refuse container screening is required in accordance with Section 10.1 of these Supplemental Regulations, there shall be no restriction on the materials or methods used to construct such screening, notwithstanding anything in the Zoning Resolution to the contrary; provided, however, that: (i) the materials used shall be installed in a manner consistent with manufacturer specifications and generally appropriate for a first class commercial development; and (ii) the construction methods employed shall conform to sound construction practices.



**EXHIBIT A**

**Legal Description**

[See Attached]

**EXHIBIT B**

**Survey**

[See Attached]

**EXHIBIT C**

**Approved PUD Plan**

[See Attached]

**EXHIBIT D**

**Approved Zoning Compliance Plan**

[See Attached]

**EXHIBIT E**

**Signage Standards**

[See Attached]