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BY: ANGELA JASUREK
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2017004834
NEW HANOVER COUNTY, NC
TAMMY THEUSCH BEASLEY
REGISTER OF DEEDS

NC FEE \$46.00

DRAWN BY AND MAIL TO:

Troutman Sanders LLP (J. Goldberg)
301 S. College Street, 34th Floor
Charlotte, North Carolina 28202

DECLARATION

THIS DECLARATION (this "**Declaration**") is made as of the 14th day of February, 2017, by **BARCLAY COMMONS RETAIL, LLC**, a North Carolina limited liability company ("**Developer**").

BACKGROUND:

- A. Developer currently is the owner of fee simple title to all of the Development upon which it is developing a commercial project known as "The Pointe".
- B. Developer intends ultimately to develop, or sell to be developed, the Development.
- C. In connection with Developer's receipt of the Sewer Disposal System Permit (as defined below), Developer desires to establish and create certain covenants, conditions, rights and obligations with respect to the master sanitary sewer system serving the Development and to memorialize certain provisions regarding the Association.

NOW THEREFORE, Developer, for itself, its successors and assigns, hereby declares that the Development shall be held, occupied, used, rented, enjoyed, transferred, conveyed, mortgaged or otherwise encumbered subject to the following covenants and conditions:

- 1. **Definitions.** In addition to any terms whose definitions are fixed and defined elsewhere in this Declaration, each of the following terms, when used herein with an initial capital letter, shall have the following meaning:
 - (a) "**Assessment**" means each Owner's Proportionate Share of the Sewer Disposal System Maintenance Costs.
 - (b) "**Assessment Commencement Date**" shall mean the earlier to occur of (i) the date such Owner opens its building improvements to the public for business or (ii) the date that is ninety (90) days after such Owner acquires title to such Owner's Parcel.
 - (c) "**Association**" means Barclay Maintenance Association, Inc., a North Carolina non-profit corporation.
 - (d) "**Declaration**" shall mean this Declaration, as the same may be amended from time to time.

(e) “**Developer**” shall mean Barclay Commons Retail, LLC, a North Carolina limited liability company, and its successors and assigns specifically with respect to such capacity as Developer pursuant to Section 6(c) herein.

(f) “**Development**” shall mean that certain tract of real property containing approximately 24.1 acres currently owned by Developer and located in New Hanover County, North Carolina, which Development is more particularly described on Exhibit A attached hereto and incorporated herein by reference.

(g) “**Owner**” shall mean, as of any time, the fee simple owner of any Parcel at such time, including, without limitation, Developer.

(h) “**Parcel**” is each distinct, separately owned parcel within the Development.

(i) “**Proportionate Share**” shall mean a fraction, the numerator of which is the total acreage of the applicable Parcel and the denominator of which is the total acreage of the entire Development.

(j) “**Sewer Disposal System**” means those certain sewer lines and related equipment and facilities, now or hereafter located within the Development and intended to, and built so as to, serve the Parcels, for sewage flow from the Parcels, and to tie into the sewer facilities located on such Parcels, for such flow over the other Parcel(s) where such sewer facilities are located or are to be located. The Sewer Disposal System as of the date hereof is more particularly described in the Sewer Disposal System Permit. For avoidance of doubt, sewer lines and facilities which exclusively serve a particular Parcel are not part of the Sewer Disposal System, and notwithstanding anything contained herein to the contrary, the Owner of each Parcel shall maintain, repair and replace, at such Owner’s sole cost and expense, any such sewer lines and facilities which exclusively serve their respective Parcel.

(k) “**Sewer Disposal System Maintenance Costs**” means the costs and expenses incurred by Developer or the Association, as applicable, in connection with maintaining, repairing and replacing the Sewer Disposal System.

(l) “**Sewer Disposal System Permit**” means that certain Division of Water Resources Permit No. WQ0038430, Barclay Commons Retail, LLC, The Pointe at Barclay Commercial Private Sewer Wastewater Collection System Extension, New Hanover County, a copy of which is attached hereto as Exhibit B.

2. Sewer Disposal System.

(a) Initial Construction. Developer shall construct the Sewer Disposal System in accordance with the Sewer Disposal System Permit.

(b) Maintenance. Developer shall properly maintain and operate the Sewer Disposal System in conformity with law and the provisions of the Sewer Disposal System Permit applicable to the construction, operation, repair and maintenance of the Sewer Disposal System (subject to reimbursement from the Assessments), until such time as said obligations are assigned to the Association, following which the Association shall properly maintain and operate the Sewer Disposal System as common elements in conformity with law and the provisions of the Sewer Disposal System Permit applicable to the construction, operation, repair and maintenance of the Sewer Disposal System (subject to reimbursement from the Assessments).

In connection with the foregoing, Developer hereby establishes and retains for its own benefit and for the benefit of the Association (as successor to Developer in its capacity as the party responsible for the operation, repair and maintenance of the Sewer Disposal System) a perpetual, non-exclusive easement over the Development to the extent required for Developer or the Association (as applicable) to perform its obligations set forth herein. Both Developer and Association shall use good faith efforts to minimize any disturbance to the businesses operating in the Development in performing its obligations hereunder.

(c) Assessments. The Sewer Disposal System shall be maintained out of the Assessments. In order to assure that there shall be funds readily available to repair, maintain or construct the Sewer Disposal System, beyond the routine operation and maintenance expenses, Developer or the Association (as applicable) shall create a fund out of the Assessments.

To that end, from and after the Assessment Commencement Date, each Owner shall pay Developer or the Association (as applicable) the Assessments in bi-annual installments in advance of January 1 and July 1 of each calendar year based upon the good faith estimates of such Assessments made by Developer or the Association. Such estimates shall be based upon an annual (calendar year) budget prepared by Developer or the Association in good faith. Such budget shall be revised bi-annually (on a calendar year basis) by Developer or the Association to reflect the preceding six (6) month's expenditures and anticipated increases or decreases in such costs. Notwithstanding the foregoing, neither Developer nor the Association shall reserve for capital expenditures in advance of incurring such expenditures. Within one hundred twenty (120) days after the end of each calendar year, Developer or the Association shall furnish the Owners with a written statement executed by a partner or officer of Developer or the Association setting forth in reasonable detail the actual Sewer Disposal System Maintenance Costs paid or incurred by Developer or the Association during the preceding calendar year along with a copy of a detailed general ledger showing the calculation of such Owner's Proportionate Share thereof. In the event such statement reflects an overpayment by an Owner of such Owner's Proportionate Share of such costs, such Owner shall receive a credit in the amount of such overpayment against the next installment of the Assessment becoming due after such Owner's receipt of such statement. Any deficiency in the total installments for the year in relation to an Owner's Proportionate Share of actual Sewer Disposal System Maintenance Costs shall be paid by such Owner to Developer or the Association within thirty (30) days after such Owner's receipt of the annual statement. Developer or the Association shall establish and maintain, in accordance with generally accepted accounting principles, adequate books and records of the receipts and disbursements arising in connection with the Sewer Disposal System Maintenance Costs (including copies or originals of paid invoices). Developer or the Association shall maintain its books and records relating to the maintenance of the Sewer Disposal System for any particular calendar year for a period of two (2) years from and after such calendar year. Provided the Owners are not in default of their obligations under this Declaration, including, without limitation, their obligation to pay their Assessments, the Owners and their respective authorized agents and representatives shall have the right to inspect or audit such books and records at Developer's office (or the Association's office) at any reasonable time during normal business hours and to make copies thereof.

Assessments, together with interest thereon (at the rate specified herein) and costs of collection thereof (including reasonable attorneys' fees), shall each be a charge upon each Parcel, binding upon each such Owner and all successors in title to each Parcel. The sale or transfer of any Parcel shall not affect the Assessments. The Sewer Disposal System Maintenance Costs shall receive the highest priority for expenditures by the Association.

No Owner may waive or otherwise escape liability for an Assessment by reason of abandonment of its respective Parcel. Any Assessment which is not paid when due shall be delinquent and, if not paid within thirty (30) days after the due date, the amount due shall bear interest from the date due at the lesser of (a) the highest rate permitted by law or (b) five percent (5%) per annum in excess of the prime rate

from time to time publicly announced by Wells Fargo Bank, N.A., or its successor. Further, Developer or the Association may bring an action at law against any record Owner, who by accepting a conveyance of any portion of the Development shall be personally obligated to pay the same. In each instance, all interest, costs and the reasonable attorneys' fees of such action shall be added to the amount due.

Developer shall have the right to waive or reduce, temporarily or permanently, any Assessment provided for herein for any Owner; provided, however, the aforementioned right shall not affect the right of Developer, or its successors, to levy the full amount of the Assessment against any subsequent Owner of any such Parcel.

In the event the regular, aforesaid Assessments are not adequate for the repair, maintenance and replacement of the Sewer Disposal System, Developer or the Association may levy so-called special assessments to cover the applicable Sewer Disposal System Maintenance Costs. Such special assessments can be made as necessary at any time.

(d) Conveyance.

(i) Developer shall not transfer control of the Sewer Disposal System to the Association at least until construction has been completed in accordance with the Sewer Disposal System Permit and approved plans, and the staff of the Division of Water Resources has inspected and approved of the Sewer Disposal System. In order to change the name of the permit holder, Developer must request that the Sewer Disposal System Permit be reissued to the transferee or the Association. The request must include a copy of the Association Bylaws and this Declaration.

(ii) Developer shall not transfer, convey, assign or otherwise relinquish or release its responsibility for the operation and maintenance of the Sewer Disposal System until a permit has been reissued to Developer's successor.

(iii) If a wastewater collection system and wastewater treatment and/or disposal facility provided by any city, town, village, county, water and sewer authorities, or other unit of government shall hereinafter become available to serve the Development, Developer shall take such action as is necessary to cause the Sewer Disposal System to be accepted and discharged into said governmental system, and shall convey or transfer as much of the Sewer Disposal System and such necessary easements as the governmental unit may require as condition of accepting the Development's wastewater.

3. Association.

(a) Generally. Developer deems it desirable to incorporate Barclay Maintenance Association, Inc. as a non-profit corporation under the laws of the State of North Carolina. The Association shall be the governing body for all Owners with respect to the management, maintenance, repair and replacement of the Sewer Disposal System, as provided by this Declaration and the Bylaws.

(b) Membership. Membership in the Association shall be composed of and limited to Owners of Parcels and such parties, including, without limitation, Developer, shall automatically be a member of the Association and entitled to vote as set forth below. Membership shall be appurtenant to and may not be separated from ownership of a Parcel. Upon termination of ownership of a Parcel, such Owner's membership shall automatically terminate and be automatically transferred to the new Owner of the Parcel.

(c) Voting. The Association shall have two classes of voting membership:

(i) Class A. Class A Members shall be all Owners of Parcels with the exception of Developer; provided, however, that Developer shall become a Class A Member when its Class B membership ceases as provided hereinafter. Class A Members shall be entitled to one (1) vote for each acre of Parcel(s) owned. When more than one person holds an ownership interest in any Parcel, all such persons shall be members, but no more than one vote shall be cast with respect to any Parcel. The vote for any such Parcel shall be exercised as the members holding an interest in such Parcel determine among themselves. In the event of disagreement, the decision of members holding a majority of interest in such Parcel shall govern. Unless otherwise notified by a co-owner as to a dispute between the co-owners regarding their vote prior to the casting of that vote, the vote of any co-owner shall be conclusively presumed to be the majority vote of the Owners of that Parcel.

(ii) Class B. Developer shall be a Class B Member. Developer shall be entitled to five (5) votes for each acre of Parcel(s) owned. In any event, Developer's Class B membership shall cease and be converted to Class A membership on the happening of one of the following events, whichever occurs earlier:

(1) when the total number of votes of the Class A Members equals the total number of votes of the Class B Members; or

(2) on December 31, 2030; or

(3) when Developer, in its option, so determines.

(d) Commencement of Voting Rights. Voting rights attributable to an ownership interest shall not commence until the first Assessment against that interest has been levied as provided herein.

(e) Developer's Voting Rights. If and to the extent applicable, no requirement for the approval of a prescribed majority of the voting power of members of the Association other than Developer for action to be taken by the Association is intended to preclude Developer from casting votes attributable to Parcels owned by Developer.

(f) Control by Developer. Notwithstanding any other language or provision to the contrary in this Declaration, in the Articles of Incorporation, or in the Bylaws of the Association, Developer hereby retains the right to appoint and remove any person, whether or not an Owner, on the Board of Directors of the Association and any officer or officers of the Association until ninety (90) days after the first to occur of the following: (i) on December 31, 2030, or (ii) upon the surrender by Developer of the authority to appoint and remove directors and officers by an express amendment to this Declaration executed and recorded by Developer (and which such amendment shall not require the approval of any Owner). Upon the expiration of the period of Developer's right to appoint and remove directors and officers of the Association pursuant to the provisions of this Section, such right shall automatically pass to the Owners, including, without limitation, Developer if it then owns one or more Parcels; and a special meeting of the Association shall be called for and held within ninety (90) days from the date of the expiration of Developer's rights hereunder. At such special meeting the Owners shall elect a new Board of Directors which shall undertake the responsibilities of running the Association and Developer shall deliver the books, accounts, and records, if any, which they have kept on behalf of the Association as well as any agreements or contracts executed by or on behalf of the Association which may still be in effect or operation. Each Owner by acceptance of a deed to or other conveyance of a Parcel vests in Developer such authority to appoint and remove directors and officers of the Association as provided in this Section.

4. Default. If an Owner fails to comply with any provision herein, then Developer or the Association may, at its option and with thirty (30) days prior written notice to the defaulting Owner, pursue whatever remedy it may have at law or in equity.

5. Term. This Declaration shall be effective as of the date first above written and shall continue in full force and effect for the maximum period as may be permitted under the laws of the State of North Carolina. Upon the termination of this Declaration, all rights and privileges derived from, and all duties and obligations created and imposed by, the provisions of this Declaration, except as contained in or otherwise relating to the easement provisions mentioned herein, shall terminate and have no further force or effect; provided, however, the termination of this Declaration shall not limit or affect any remedy at law or in equity of any party against any other party with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination. In no event shall a breach or default under the provisions of this Declaration result in the termination hereof.

6. Miscellaneous.

(a) Notices. All notices, demands, statements, and requests required or permitted to be given under this Declaration must be in writing and given, delivered, or served, either by personal delivery, by recognized overnight courier service with receipt, or by certified or registered U.S. mail, return receipt requested. Notices shall be effective upon receipt; provided, however, inability to make delivery due to a changed address of which no notice was given or refusal to accept delivery shall constitute receipt for purposes hereof. In the event of a sale of any respective portion of the Development, either the Owner selling such portion of the Development or the new Owner of such portion of the Development shall give written notice to Developer and each of the other Owners of the name and address of such new Owner. Until such time as any Owner shall receive such a notice of the address of a new Owner, the previous Owner shall be deemed to be the agent for any such new Owner for purposes of notices hereunder. For purposes hereof, until changed as hereinabove provided, all notices shall be given to the following addresses:

If to Developer: c/o Cameron Properties Land Company, LLC
1201 Glen Meade Road
Wilmington, North Carolina 28401
Attn: Hill Rogers

With copy to: c/o CP Wilmington GP, LLC
1111 Metropolitan Avenue, Suite 700
Charlotte, North Carolina 28204
Attn: John Collett

Each Owner shall have the right, from time to time and at any time, upon at least ten (10) days' prior written notice thereof in accordance with the provisions hereof, to change its respective address and to specify any other address within the United States of America; provided, however, such address may not be a post office box.

(b) Notices to Mortgagees; Mortgagee Cure Rights. In the event an Owner provides Developer or the Association with notice of the name and address of the holder or beneficiary of any mortgage or deed of trust on all or any part of such Owner's Parcel, Developer or the Association, when giving notice or demand of any matter hereunder, shall provide a copy of such notice or demand to such holder or beneficiary of said mortgage or deed of trust and, in the case of any default by the Owner whose respective portion of the Development is subject to such mortgage or deed of trust, the non-defaulting Owner(s) shall allow said holder or beneficiary the same period of time as the Defaulting Owner is

allowed under the terms of this Declaration to cure such default, and Developer and the Association shall not exercise any right which it or they may have hereunder until such cure period for said holder or beneficiary shall have lapsed.

(c) Developer's Rights Assignable. All rights, powers, privileges, and reservations of Developer herein contained may be assigned to any person or entity, including, without limitation, any mortgagee of Developer. Any assignment of the rights, powers, privileges, and reservations of Developer to any party other than Developer's mortgagee must be to the Owner of one or more tracts within the Development. In any event, an assignee under this Section other than Developer's mortgagee must assume the duties and responsibilities of Developer pertaining to the particular Developer's rights, powers, privileges and reservations assigned; and upon any such assignee evidencing its consent in writing to accept such assignment and assume such duties and responsibilities (except for the Developer's mortgagee, which shall not be required to evidence its consent to accept such assignment), he, she or it shall, to the extent of such assignment, have the same rights, powers, privileges and reservations and be subject to the same obligations and duties as are given to and apply to Developer herein. However, the mere sale, ground lease or other conveyance of any portion or phase of the Development by Developer shall not constitute an assignment to the purchaser(s), lessee(s) or transferee(s) thereof of the rights, powers and reservations of Developer hereunder unless expressly stated otherwise in any such instrument of sale, ground lease or conveyance. Any assignment or appointment made under this Section shall be in recordable form and shall be recorded in the public real estate records in New Hanover County, North Carolina. With respect to any rights, powers, privileges and reservations of Developer which are hereafter exclusively assigned to (and assumed by) any assignee hereunder pursuant to the terms of this Section, such assignee shall thereafter be deemed to be Developer under this Declaration; and the Owners shall then look solely to such assignee in connection with the performance of any responsibilities and obligations of Developer encompassed by such rights, powers, privileges and reservations so assigned.

(d) Covenants Run with the Land. The terms of this Declaration shall constitute covenants running with, and shall be appurtenant to, the land affected. All terms of this Declaration and all easements established by this Declaration shall inure to the benefit of and be binding upon the parties which have an interest in the benefited or burdened land and their respective successors and assigns in title. This Declaration is not intended to supersede, modify, amend, or otherwise change the provisions of any prior instrument affecting the land burdened hereby.

(e) Amendments. Except as otherwise expressly set forth herein, (i) this Declaration may be amended by, and only by, a written agreement which shall be deemed effective only when recorded in the public real estate records in New Hanover County, North Carolina, and executed by (i) the Developer and (ii) all other Owners whose Parcel(s) would be materially affected by such amendment.


(f) Governing Law. This Declaration shall be construed in accordance with the laws of the State of North Carolina.

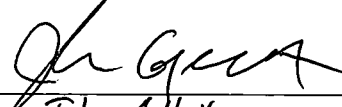
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IN WITNESS WHEREOF, Developer has caused this Declaration to be executed effective as of the day and year first above written.

DEVELOPER:

BARCLAY COMMONS RETAIL LLC,
a North Carolina limited liability company

By: 
Name: BILL OWENS
Its: MANAGER

By: 
Name: John Collett
Its: Manager

New Hanover County, No. Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: R. Hill Rogers

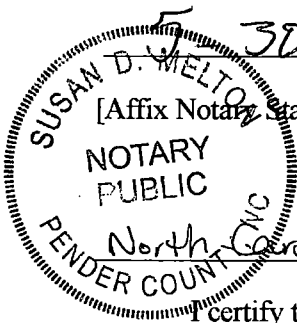
Date: 2-13-17

My Commission Expires:

5-30-21

Susan D. Melton
Notary Public

Print Name: Susan D. Melton



[Affix Notary Stamp or Seal]

NOTARY PUBLIC

North Carolina County, Mecklenburg

I certify that the following person personally appeared before me this day and acknowledged to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: manager

Date: Feb. 14, 2017

My Commission Expires:

Nov-2, 2021

Lorraine English
Notary Public

Print Name: Lorraine English

[Affix Notary Stamp or Seal]

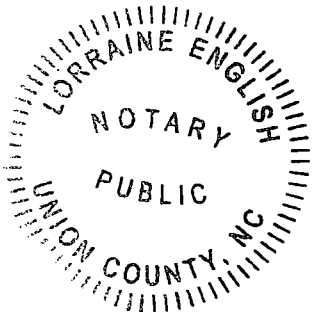


EXHIBIT A

Description of Development

That certain tract or parcel of land situated, lying and being in New Hanover County, North Carolina, and being more particularly described as follows:

Being all of "Tract 1", as shown on that plat titled "Subdivision Plat – The Pointe at Barclay, Independence Dr. – 17th Street, City of Wilmington, New Hanover County, NC", prepared by Paramounte Engineering and recorded in Map Book 61 at Pages 127-129 of the New Hanover County Public Registry.

EXHIBIT B

Sewer Disposal System Permit

June 7, 2016

John Collett, Manager
Barclay Commons Retail, LLC
1111 Metropolitan Ave
Suite 700
Charlotte, NC 28204

Subject: Permit No. WQ0038430
Barclay Commons Retail, LLC
The Pointe at Barclay Commercial Private Sewer
Wastewater Collection System Extension
New Hanover County

Dear Mr. Collett:

In accordance with your application received April 20, 2016 and additional information received on May 18th, May 27th, and June 6th, 2016, we are forwarding herewith Permit No. WQ0038430 dated June 7, 2016 to the Barclay Commons Retail, LLC (Permittee) for the construction and operation upon certification of the subject wastewater collection system extension. This permit shall be effective from the date of issuance until rescinded and shall be subject to the conditions and limitations as specified therein. This cover letter shall be considered a part of this permit and is therefore incorporated therein by reference.

Please pay particular attention to the following conditions contained within this permit:

Special Conditions:

Condition I.1: This permit shall become voidable unless the agreement between the Barclay Commons Retail, LLC and the CFPWA for the collection and final treatment of wastewater is in full force and effect. [15A NCAC 02T.0304(h)]

Condition I.2: No flow in excess of the quantity or number & type of connections permitted herein shall be made tributary to the subject sewer system until an application for permit modification has been submitted to and approved by the Division. [15A NCAC 02T.0304(b)]

Condition I.3: The Operational Agreement between the Permittee and the Environmental Management Commission is incorporated herein by reference and shall be a condition of this permit. Noncompliance with the terms of the Operational Agreement shall subject the Permittee to all sanctions provided by North Carolina General Statutes

§143-215.6A to §143-215.6C for violation of or failure to act in accordance with the terms and conditions of this permit. [15A NCAC 02T.0115]

Standard Conditions:

Condition II.1: This permit shall not be automatically transferable; a request must be made and approved.

Condition II.4: Requires that the wastewater collection facilities be properly operated and maintained in accordance with 15A NCAC 2T .0403 or any individual system-wide collection system permit issued to the Permittee.

It shall be responsibility of the Permittee to ensure that the as-constructed project meets the appropriate design criteria and rules. Failure to comply may result in penalties in accordance with North Carolina General Statute §143-215.6A through §143-215.6C, construction of additional or replacement wastewater collection facilities, and/or referral of the North Carolina-licensed Professional Engineer to the licensing board.

If any parts, requirements, or limitations contained in this permit are unacceptable, you have the right to request an adjudicatory hearing upon written request within 30 days following receipt of this permit. This request must be in the form of a written petition, conforming to Chapter 150B of North Carolina General Statutes, and filed with the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, NC 27699-6714. Unless such demands are made, this permit shall be final and binding.

If you need additional information concerning this matter, please contact Dean Hunkele at (910) 796-7215 or via e-mail at Dean.Hunkele@ncdenr.gov.

Sincerely,

James H. Gregson, Regional Supervisor
Water Quality Regional Operations Section
Wilmington Regional Office
Division of Water Resources, NCDEQ

Attachment: Operational Agreement

Cc: Daniel Fisk, Paramounte Engineering
New Hanover County Health Department
Carel Vandermeiden, CFPUA
WIRO, Water Quality Section – Southside WWTF (NC0023873) Sewer Ext. File
Central Files, Water Quality Section

Michael Leggett, PERCS Unit (via email)



Environmental
Quality

In accordance with the provisions of Article 21 of Chapter 143, General Statutes of North Carolina as amended, and other applicable Laws, Rules, and Regulations, permission is hereby granted to the

BARCLAY COMMONS RETAIL, LLC

NEW HANOVER COUNTY

for the construction and operation upon certification of approximately 2,612 linear feet of 8-inch gravity sewer to serve a mixed-use commercial development with up to 14 total buildings (only buildings 1-4, 7, 9, & 10 approved to be built and #1 is allocated here but routed directly to sewer installed under WQ0037217; uses defined below) as part of The Pointe at Barclay Commercial Private Sewer project, and the discharge of 55,110 gallons per day of collected domestic and commercial wastewater into the CFPUA's existing sewerage system, pursuant to the application received April 20, 2016 and additional information received May 18th, May 27th, and June 6th, 2016, and in conformity with 15A NCAC 2T; the Division's Gravity Sewer Minimum Design Criteria adopted February 12, 1996 as applicable; the Division's Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains adopted June 1, 2000 as applicable; and other supporting data subsequently filed and approved by the Department of Environmental Quality and considered a part of this permit.

<u>Building #</u>	<u>Use</u>	<u>Size</u>	<u>Flow (gpd)</u>
1	Movie Theater	2,822 seats	14,110
2a	Restaurant	225 seats	9,000
2b	General Retail	4800 ft ²	480
3a	Restaurant	211 seats	8,440
3b	General Retail	4500 ft ²	450
4	General Retail	7100 ft ²	710
7	Restaurant	500 seats	20,000
9	General Retail	7150 ft ²	715
10	General Retail	9100 ft ²	910

This permit shall be effective from the date of issuance until rescinded and shall be subject to the specified conditions and limitations contained therein.

Permit Number: WQ0038430

Issued Today:

June 7, 2016

James H. Gregson, Regional Supervisor
Wilmington Regional Office
Water Quality Regional Operations Section

Division of Water Resources, NCDEQ
 By Authority of the Director and The Environmental Management Commission

(a) SUPPLEMENT TO PERMIT COVER SHEET

BARCLAY COMMONS RETAIL, LLC is hereby authorized to:

Construct, and then operate upon certification the aforementioned wastewater collection extension. The sewage and wastewater collected by this system shall be treated in the Wilmington Southside Wastewater Treatment Facility in accordance with Permit Number NC0023973.

Permitting of this project does not constitute an acceptance of any part of the project that does not meet 15A NCAC 2T; the Division of Water Resources' (Division) Gravity Sewer Minimum Design Criteria adopted February 12, 1996 as applicable; and the Division's Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains adopted June 1, 2000 as applicable, unless specifically mentioned herein. Division approval is based on acceptance of the certification provided by a North Carolina-licensed Professional Engineer in the application. It shall be the Permittee's responsibility to ensure that the as-constructed project meets the appropriate design criteria and rules.

Construction and operation is contingent upon compliance with the Standard Conditions and any Special Conditions identified below.

I. SPECIAL CONDITIONS

1. This permit shall become voidable unless the agreement between the Barclay Commons Retail, LLC and the CFPWA for the collection and final treatment of wastewater is in full force and effect. [15A NCAC 02T.0304(h)]
2. No flow in excess of the quantity or number & type of connections permitted herein shall be made tributary to the subject sewer system until an application for permit modification has been submitted to and approved by the Division. [15A NCAC 02T.0304(b)]
3. The Operational Agreement between the Permittee and the Environmental Management Commission is incorporated herein by reference and shall be a condition of this permit. Noncompliance with the terms of the Operational Agreement shall subject the Permittee to all sanctions provided by North Carolina General Statutes §143-215.6A to §143-215.6C for violation of or failure to act in accordance with the terms and conditions of this permit. [15A NCAC 02T.0115]

II. STANDARD CONDITIONS

1. **This permit shall not be transferable.** In the event there is a desire for the wastewater collection facilities to change ownership, or there is a name change of the Permittee, a formal permit request shall be submitted to the Division accompanied by documentation from the parties involved, and other supporting materials as may be appropriate. The approval of this request shall be considered on its merits and may or may not be approved. [15A NCAC 02T.0104; G.S 143-215.1(d3)]

2. This permit shall become voidable unless the wastewater collection facilities are constructed in accordance with the conditions of this permit; 15A NCAC 2T; the Division's Gravity Sewer Minimum Design Criteria adopted February 12, 1996 as applicable; the Division's Minimum Design Criteria for the Fast-Track Permitting of Pump Stations and Force Mains adopted June 1, 2000 as applicable; and other supporting materials unless specifically mentioned herein. [15A NCAC 02T.0110]
3. This permit shall be effective only with respect to the nature and volume of wastes described in the application and other supporting data. [15A NCAC 02T .0110]
4. The wastewater collection facilities shall be properly maintained and operated at all times. The Permittee shall maintain compliance with an individual system-wide collection system permit for the operation and maintenance of these facilities as required by 15A NCAC 2T .0403. If an individual permit is not required, the following performance criteria shall be met: [15A NCAC 02T .0108(b)]
 - a. The sewer system shall be effectively maintained and operated at all times to prevent discharge to land or surface waters, and to prevent any contravention of groundwater standards or surface water standards.
 - b. A map of the sewer system shall be developed and shall be actively maintained.
 - c. An operation and maintenance plan including pump station inspection frequency, preventative maintenance schedule, spare parts inventory and overflow response has been developed and implemented.
 - d. Pump stations that are not connected to a telemetry system shall be inspected every day (i.e. 365 days per year). Pump stations that are connected to a telemetry system shall be inspected at least once per week.
 - e. High-priority sewer lines shall be inspected at least once per every six-months and inspections are documented.
 - f. A general observation of the entire sewer system shall be conducted at least once per year.
 - g. Overflows and bypasses shall be reported to the appropriate Division regional office in accordance with 15A NCAC 2B .0506(a), and public notice shall be provided as required by North Carolina General Statute §143-215.1C.
 - h. A Grease Control Program is in place as follows:
 1. For public owned collection systems, the Grease Control Program shall include at least biannual distribution of educational materials for both commercial and residential users and the legal means to require grease interceptors at existing establishments. The plan shall also include legal means for inspections of the grease interceptors, enforcement for violators and the legal means to control grease entering the system from other public and private satellite sewer systems.
 2. For privately owned collection systems, the Grease Control Program shall include at least bi-annual distribution of grease education materials to users of the collection system by the permittee or its representative.