

For Registration Sharon A. Davis
Register of Deeds
Durham County, NC
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NC Rev Stamp: \$ 0.00 Fee: \$ 26.00

Instrument Number: 2020008622

DECL

Prepared by and return to William T. Hutchins, Jr.; P.O. Box 51579; Durham, NC 27717-1579.

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

**DECLARATION
OF
USE RESTRICTIONS**

THIS DECLARATION OF USE RESTRICTIONS (the "Declaration") is made this 27th day of February, 2020, by HIGHWAY 55 RALDEN PROPERTIES, LLC ("Seller") and LAKEWOOD PARK DEVELOPMENT, LLC ("Buyer").

WITNESSETH:

WHEREAS, on even date herewith, Seller is conveying to Buyer a parcel of real property located in Durham County, North Carolina (the "Property") more particularly described on Exhibit A attached hereto and incorporated herein;

WHEREAS, Penrith Townhomes, LLC is the owner of certain real property adjacent to or in close proximity to the Property (the "Benefitted Property") more particularly described on Exhibit B attached hereto and incorporated herein; and

WHEREAS, in consideration for certain mutual covenants and agreements of Buyer and Seller as set forth in the unrecorded Agreement for Purchase and Sale of Real Property, the parties have agreed to impose certain restrictions on the use of the Property for the benefit of the owner of the Benefitted Property, all in accordance with the terms and provisions more particularly set forth herein:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Buyer and Seller covenant and agree as follows:

1. Neither the Buyer nor any of its successors or assigns may use the Property (or any portion thereof) for any use other than the Permitted Use (as hereinafter defined). For purposes herein, the "Permitted Use" for the Property shall be (i) single family or

Submitted electronically by "The Pryzwansky Law Firm"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Durham County Register of Deeds.

townhouse residential units for sale with related amenities, recreational areas, open spaces, common areas, and sales centers, and (ii) such retail and office use as is allowed in the City of Durham CG zoning. There shall be no multifamily "for rent" development of the property. No more than two (2) residential units owned by any single person or entity may be used as rental property with a "third party tenant". A "third party tenant" shall mean a person or entity unrelated to the owner of such home who pays rent for the exclusive use and occupancy of such home.

- 2. This Declaration and the restrictions set forth in Section 1 above shall expire on that date which is twenty (20) years from the date hereof but may be waived in writing by Penrith Townhomes, LLC for so long as Penrith Townhomes, LLC is the owner of the Benefitted Property, and thereafter, by the then current owner of the Benefitted Property.
- 3. If legal proceedings are instituted by the Buyer or the owner of the Benefitted Property to enforce, construe or interpret any provisions of this Declaration, or to enforce the rights of either party arising under or by virtue of this Declaration, the prevailing party shall be entitled to recover all reasonable attorney's fees from the other party.
- 4. This Declaration shall run with the Property and shall be binding on Buyer's respective heirs, successors and assigns.

IN WITNESS WHEREOF, the parties have caused this instrument to be executed in its name on the day and year first above written.

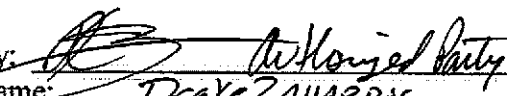
BUYER:

LAKWOOD PARK DEVELOPMENT, LLC,

By: 
Gary Wallace, Manager

SELLER:

HIGHWAY 55 RALDEN PROPERTIES, LLC

By:  Authorized Party
Name: Drake ZAHARIS
Its: Authorized Party

STATE OF NORTH CAROLINA

COUNTY OF Durham

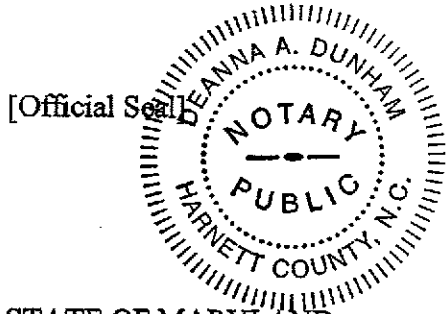
I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: **Gary Wallace**

Date: 2/28/2020

Deanna A. Dunham
Notary Public

Print Name: Deanna A. Dunham

My commission expires: 10/08/2021



STATE OF MARYLAND

COUNTY OF Baltimore

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: **Drake Zaharris**

Date: 2-27-2020

Christina L. Canatella
Notary Public

Print Name: CHRISTINA L. CANATELLA
NOTARY PUBLIC
HARFORD COUNTY

My commission expires: MARYLAND
MY COMMISSION EXPIRES 10-13-2023

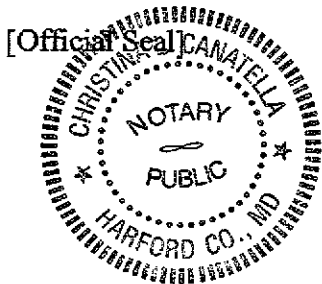


EXHIBIT A**Legal Description****Tract One: 3430, 3432 and 3440 NC Highway 55, Durham, NC**

BEGINNING at an existing iron lying in the west right-of-way of NC Highway 55, a control Corner "A" with North Carolina grid coordinates N792,984.38, E2,032,810.09; thence North 89° 19' 08" West 403.36 feet to an existing iron; thence North 08° 12' 21" East 152.93 feet; thence North 08° 12' 21" East 100.29 feet to an existing iron; thence North 08° 13' 37" East 50.00 feet to an existing iron; thence North 08° 05' 57" East 49.75 feet to an existing iron; thence North 08° 01' 23" East 49.56 feet to an existing iron; thence South 82° 00' 30" East 399.53 feet to an existing iron located in the west right-of-way of N.C. Highway 55; South 07° 57' 46" West 101.55 feet to an existing iron; thence South 08° 08' 50" West 150.57 feet to an existing iron; thence South 08° 12' 17" West 99.10 feet to an existing iron, the point and place of BEGINNING, being Lots A (0.92 acres), Lot B (1.38 acres) and Lot C (1.16 acres), containing a total of 3.46 acres, more or less, as shown on that survey by Callemyn-Parker, dated March 8, 2001 and also being the property of the Fletcher P. Chambers Estate, consisting of Lot 7, 8, 9, 10, 11, 12 and 13, Block A, Property of A.J. Pollard, Plat Book 18B, Page 183, Durham County Registry.

Tract Two: 3500 NC Highway 55, Durham, NC

BEGINNING at the southwestern intersection of Odyssey Drive with NC Highway 55; thence with the western side of NC Highway 55 South 08° 06' 42" West 821.44 feet to a stake, the northeastern corner of Lot L (Tract Three described below); thence with the northern line of said Lot L, North 83° 24' 48" West 683.75 feet to a stake in the eastern line of Tract H as shown in Plat Book 153 at Page 359, Durham County Registry; thence with the eastern line of said Tract H, North 02° 03' 17" West 460.02 feet to a stake, southeastern corner of General Telephone property; thence with the eastern line of the General Telephone property, North 02° 01' 28" West 99.99 feet to a stake, the northeastern corner of the General Telephone property and a corner of Revised Tract B as shown on said plat; thence with the eastern line of said Revised Tract B, North 02° 03' 24" West 209.70 feet to a stake, corner of said Revised Tract B on the southern side of Odyssey Drive; thence with the southern side of Odyssey Drive, South 89° 47' 35" East 466.46 feet to a stake; thence continuing with the southern side of Odyssey Drive in an easterly direction along an arc having a radius of 1,879.74 feet, an arc distance of 259.52 feet (chord bearing South 85° 50' 16" East, chord distance 259.31 feet) to a stake at the southwestern intersection of Odyssey Drive with NC Highway 55, the point and place of BEGINNING, containing 13.90 acres more or less, and being all of Lot K as shown on an unrecorded survey entitled "Final Plat Boundary Survey of DeChiaro Limited Partnership," dated November 6, 2001, and drawn by William H. McCarthy, Jr., Professional Land Surveyor of Sear-Brown Engineering. This property is the greater portion of Parcel 9 of the Property of Home Savings and Loan Association shown on plat recorded in Plat book 94 at Page 128, Durham County Registry.

This property is conveyed subject to a 42 foot wide non-exclusive access easement which runs along a portion of the western property line and is more particularly described by easement instruments

recorded in Book 1201 at Page 67 and Book 3621 at Page 595, Durham County Registry.

This property is also conveyed subject to a sign easement at the southwestern intersection of Odyssey Drive and NC Highway 55, as shown on the unrecorded survey referred to above, and as further created and described by Deed of Easement recorded in Book 3576 at Page 307, Durham County Registry.

Tract Three: 3614 NC Highway 55, Durham, NC

BEGINNING at a stake on the western side of NC Highway 55, said stake being the southeastern corner of Lot K as shown on the unrecorded plat referred to below, and said BEGINNING stake being situated South 08° 06' 42" West 821.44 feet from the southwestern intersection of Odyssey Drive and NC Highway 55; thence from the BEGINNING stake so situated, along and with the western side of NC Highway 55, South 08° 07' 14" West 251.81 feet to a stake, corner of Fern G. King property; thence with the northern lines of the King property, North 87° 00' 33" West 329.62 feet to a stake and North 86° 56' 40" West 304.46 feet to a stake, the southeastern corner of Lot H as shown in Plat Book 153 at Page 359, Durham County Registry; thence with the eastern line of said tract H, North 02° 02' 17" West 294.47 feet to a stake, the southwestern corner of Lot K as shown on the unrecorded plat referred to below; thence with the southern line of said Lot K, South 83° 24' 48" East 683.75 feet to a stake on the western side of NC Highway 55, the point and place of BEGINNING, and being all of Lot L as shown on the unrecorded survey entitled "Final Plat boundary Survey of DeChiaro Limited Partnership," dated November 6, 2001, and drawn by William H. McCarthy, Jr., Professional Land Surveyor of Sear-Brown Engineering. This property is also described as being all of Tract 2 of the Property of Wheeler-Leonard & Co., Inc., as shown on plat recorded in Plat Book 76 at Page 38, Durham County Registry.

Tract Four: 1403 Odyssey Drive, Durham, NC

LYING at the northwestern intersection of Odyssey Drive and NC Highway 55, containing 3.52 acres, more or less, and being all of Lot 10 as shown on a plat entitled "Property Surveyed for DeChiaro Limited Partnership," drawn by William H. McCarthy, Jr., Registered Land Surveyor, of McCarthy-Love & Associates, Land Surveyors, and being duly filed for record in Plat Book 151 at Page 133 in the Office of the Register of Deeds of Durham County, to which plat reference is hereby expressly made for a more particular description of same.

This property is conveyed subject to a sanitary sewer easement, flood zone area and no access limitation to NC Highway 55, all as shown on the plat hereinabove referred to.

This property is also conveyed subject to a sign easement at the northwestern intersection of Odyssey Drive and NC Highway 55, as created and described by Deed of Easement recorded in Book 3576 at Page 307, Durham County Registry.

Tract Five: 5221 Penrith, Durham, NC

LYING on the eastern side of Penrith Drive, containing 8.88 acres, more or less, and being all of Tract H as shown on a plat entitled "Penrith Apartments, Sheets 1, 2 and 3," drawn by William H. McCarthy, Jr., Registered Land Surveyor, of Callernyn-Parker, Engineering and Land Surveying, and being duly filed for record in Plat Book 153 at Pages 357, 359 and 361 in the Office of the Register of Deeds of Durham County, to which plat reference is hereby expressly made for a more particular description of same.

EXHIBIT B
LEGAL DESCRIPTION OF THE BENEFITTED PROPERTY

TRACT ONE: PIN 155342

LYING on the southern side of Odyssey Drive and the eastern side of Penrith Drive, containing 15.78 acres (687,377 square feet), more or less, and being all of Tract B Revised (Tracts B and E combined) as shown on a plat entitled "Penrith Apartments, Sheets 1, 2 and 3," drawn by William H. McCarthy, Jr., Registered Land Surveyor, of Callemyn-Parker, Engineering and Land Surveying, and being duly filed for record in Plat Book 153 at pages 357, 359 and 361 in the Office of the Register of Deeds of Durham County, to which plat reference is hereby expressly made for a more particular description of same.

TRACT TWO: PIN 155346

LYING on the western side of Penrith Drive, containing 19.00 acres (827,640 square feet), more or less, and being all of Tract C as shown on a plat entitled "Penrith Apartments, Sheets 1, 2 and 3," drawn by William H. McCarthy, Jr., Registered Land Surveyor, of Callemyn-Parker, Engineering and Land Surveying, and being duly filed for record in Plat Book 153 at pages 357, 359 and 361 in the Office of the Register of Deeds of Durham County, to which plat reference is hereby expressly made for a more particular description of same.

TRACT THREE: PIN 155344

LYING on the northern side of Odyssey Drive, containing 2.61 acres (113,692 square feet, more or less, and being all of Tract A as shown on a plat entitled "Penrith Apartments, Sheets 1, 2 and 3," drawn by William H. McCarthy, Jr., Registered Land Surveyor, of Callemyn-Parker, Engineering and Land Surveying, and being duly filed for record in Plat Book 153 at pages 357, 359 and 361 in the Office of the Register of Deeds of Durham County, to which plat reference is hereby expressly made for a more particular description of same.

TRACT FOUR: PIN 155350

LYING on the western and northwestern side of Penrith Drive, containing 4.33 acres (188,615 square feet), more or less, and being all of Tract D as shown on a plat entitled "Penrith Apartments, Sheets 1, 2 and 3," drawn by William H. McCarthy, Jr., Registered Land Surveyor, of Callemyn-Parker, Engineering and Land Surveying, and being duly filed for record in Plat Book 153 at pages 357, 359 and 361 in the Office of the Register of Deeds of Durham County, to which plat reference is hereby expressly made for a more particular description of same.