

Register of Deeds

Sharon A. Davis
Durham County, NC

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DECL - DECLARATION

Fee: \$26.00 Excise Tax: \$0

INSTRUMENT #2025126400

Kelvin Williams

Prepared by and Return to:
David T. Pryzwansky
The Pryzwansky Law Firm, P.A.
1130 Situs Court, Suite 244
Raleigh, NC 27606

STATE OF NORTH CAROLINA :
COUNTY OF DURHAM :

**DECLARATION OF
RESTRICTIONS
AND EASEMENTS**

THIS DECLARATION OF RESTRICTIONS AND EASEMENTS ("Declaration") is made as of this 7th day of March, 2025, by Wildor Restaurant Group, LLC, a North Carolina limited liability company ("Declarant").

RECITALS

A. Declarant is the Owner of that certain tract of land containing approximately 1.76 acres located on NC Highway 55, Durham, Durham County, North Carolina (the "**Property**") containing two (2) lots designated as "**Lot 1A**" and "**Lot 2A**" as shown on that plat recorded in Plat Book 212, page 97, Durham County Registry ("**Plat**") Lot 1A and Lot 2A are referred to in this Declaration, individually, as a "**Lot**" and collectively as the "**Lots**".

B. Lot 1A is currently improved with a restaurant building.

C. Declarant desires that the Property be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the easements, restrictions, reservations, rights, covenants, conditions and equitable servitudes contained in this Declaration, all of which are for the purpose of enhancing the attractiveness and desirability of the Property, in furtherance of a general plan for the protection, maintenance, subdivision, improvement and sale of the Property.

NOW, THEREFORE, Declarant does hereby declare that the Property shall be held, transferred, sold, conveyed, occupied and enjoyed by all present and future owners and occupants subject to the terms of the covenants, easements, restrictions and conditions hereinafter set forth:

1. Definitions.

- A. The term "**Owner**" or "**Owners**" shall mean, initially, Declarant and, upon sale or transfer of a Lot, the future owners of such Lot and any and all successors or assigns of such persons as the Owner or Owners of the Lots.
- B. The term "**Permittees**" shall mean the tenant(s) or occupant(s) of the Lots, and the respective employees, agents, contractors, customers, invitees and licensees of (i) the Owner of such Lots, and/or (ii) such tenant(s) or occupant(s).

2. Grant of Access to Lots. Declarant hereby declares, gives, grants, conveys and establishes to and for the benefit of the Lots, and any future Owners and Permittees of the Lots, a perpetual non-exclusive easement, license, right and privilege of passage and use, both pedestrian and vehicular, for the purpose of ingress, egress, regress and access over and across the driveways and drive aisles that exist from time to time on each Lot (the "**Access Easement**") including, without limitation, those drive aisles and roadways labeled "Protected Access Easement (Width Varies)" as shown on the Plat (the "**Protected Access Drives**"). The Access Easement granted herein shall be for the non-exclusive benefit of all present and future Owners of the Lots and their mortgagees and Permittees, it being the intent hereof that the Access Easement shall run with the land as a burden on the Lots and as a benefit to the Lots. The Access Easement shall enable free flow of traffic between the Lots and roadways adjoining the Lots, but may not be used to queue any vehicles associated with drive through lanes on the Lots. Each Owner shall have the right to revise or relocate the drive aisles located on such Owner's Lot; provided, however, in no event shall any Owner be entitled to modify, relocate, terminate or block any portion of the Protected Access Drives without the prior written consent of the other Owner. The Protected Access Drives shall be kept open at all times, except for temporary closing for emergencies, maintenance, repair and replacement work or as may be necessary to avoid public dedication thereof, provided that such repairs by any Owner shall be performed upon not less than ten (10) business days prior written notice to the other Owner, except in cases of emergency, and be performed generally in accordance with a construction schedule mutually agreed upon by the Owners of the Lots. Except for temporary closures as provided in the preceding sentence, no obstruction to the free flow of traffic within the Protected Access Drives shall be permitted.

The Owner of each Lot shall be responsible for the installation of the Protected Access Drives located on such Owner's Lot including, without limitation, all paving curb cuts, curbing and gutters, in a first-class manner to the extent such roadways do not already exist in the Private Access Drives as of the date hereof. The Owner of each Lot shall be responsible for the installation and maintenance of all other road(s) and drive aisles located on their respective Lot that connects to the Protected Access Drives.

The Access Easement granted herein is for ingress, egress and regress of pedestrian and vehicular traffic only. No easement for parking is granted or implied and cross parking shall not be permitted on the Lots.

3. Utility Easement. Declarant hereby declares, gives, grants, conveys and establishes to and for the benefit of the Lots and any future Owners and Permittees of the Lots, a perpetual non-exclusive easement, license, right and privilege over, upon and across those portions of each Lot reasonably necessary for the installation of any utilities commonly needed in the normal course of construction or operation of a retail or restaurant building, including but not limited to water lines, irrigation lines, sanitary sewer lines, gas utility lines, communication utility lines for internet, cable, telephone or otherwise, and electric utility lines ("**Utility Easements**"). The location for each of the Utility Easements shall be: (i) in a location approved in advance by the Owner of the Lot burdened by such easement, and (ii) no larger than whatever is necessary to reasonably satisfy the requirements of the provider of such service if the utility line is to be owned by a third-party utility, or five (5) feet on each side of the utility line if the utility line is to be owned by an Owner, which approval shall not be unreasonably conditioned, withheld, or delayed. The Utility Easement granted herein shall be for the non-exclusive benefit of all present and future Owners of the Lots and their mortgagees and Permittees, it being the intent hereof that the Utility Easement shall run with the land as a burden on the Lots and as a benefit to the Lots. Should a utility line be dedicated to or condemned by a governmental authority, the portion of this Utility Easement with respect to the dedicated or condemned utility shall terminate. All utility lines shall be underground except: (i) as may be necessary during periods of construction, reconstruction, repair, or temporary service; (ii) as may be required by governmental agencies having jurisdiction over the Property; or (iii) as may be required by the provider of such service.

The owners of the Lots shall be responsible for the installation and maintenance of the utilities servicing their respective Lots and the Owner of a Lot may relocate any utilities located on such Owner's Lot, at its sole cost and expense, provided such relocation (i) does not materially negatively affect the utility service to the other Lot, (ii) only causes minimal interruption of utility service during the relocation and at times approved by the Owner being serviced by such utility, (iii) is performed without cost or expense to the other Owner, (iv) is completed using material and design standards which equal or exceed those originally used, (v) shall have been approved by the provider of such utility service and the appropriate governmental or quasi-governmental agencies having jurisdiction thereover, if required, and (vi) shall comply with the terms and conditions of this Declaration. In all instances of utility installation or relocation as provided for herein, the Owner performing such installation or relocation shall provide written notice to the other Lot Owners no less than thirty (30) days prior to commencement of any construction activity and such notice shall include a schedule and detail of the scope of work to be performed and shall not negatively impact the other Owners use of its property during utility construction activities.

4. Stormwater Easement. Declarant hereby declares, gives, grants, conveys and establishes to and for the benefit of the Lots and any future Owners and Permittees of the Lots, a perpetual non-exclusive easement, license, right and privilege for installation and maintenance of a system of underground stormwater lines, over, upon and across (i) that area labeled "Drainage Easement (14' Private)" on the Plat ("**14' Drainage Easement**"), to provide for a connection point and drain to the "16.0' Storm Drainage Easement" as shown on the Plat ("**16' Drainage Easement**" and, together with the 14' Drainage Easement, the "**Drainage Easement**") and

dedicated pursuant to plat recorded in Plat Book 210, Page 70 of the Durham County Registry. The Drainage Easement granted herein shall be for the non-exclusive benefit of all present and future Owners of the Lots and their mortgagees and Permittees, it being the intent hereof that the Drainage Easement shall run with the land as a burden on the Lots and as a benefit to the Lots. All drainage lines shall be designed by a licensed engineer with appropriate methods and means to capture substantially all run-off into underground piping systems and sized appropriately to carry the water from the Lots to the drainage area. Any construction by the Owner of Lot 2A of a drainage line as part of the Drainage Easement over Lot 1A shall be subject to the same terms and conditions with regard to the location and construction of utility lines as provided Paragraph 3 above.

The Owner of Lot 2A shall be responsible for the installation of the system of underground stormwater lines on Lot 2A and the construction of any improvements required for the operation of drainage lines located in on Lot 2A, to the extent such lines do not exist as of the date hereof.

5. Encroachment Easement. Declarant hereby declares, gives, grants, conveys and establishes to and for the benefit of Lot 1A and any future Owners and Permittees of Lot 1A, a perpetual non-exclusive easement, license, right and privilege for encroachment of the existing asphalt parking, curbing and gutters located on Lot 2A in that area labeled as “Encroachment Easement (Width Varies)” on the Plat (“**Encroachment Easement.**”) The Owner of Lot 1A shall be responsible, at its sole expense, for the maintenance and repair of any improvements located with the Encroachment Easement and shall maintain all such improvements in a neat and clean manner.

6. Temporary Construction Easements. Declarant hereby declares, gives, grants, conveys and establishes to and for the benefit of the Lots and any future Owners and Permittees of the Lots, a perpetual non-exclusive easement, license, right and privilege for reasonable access over the Lots to the extent reasonably required and for the shortest duration reasonably necessary for the construction of improvements on each Lot, provided such access does not materially interfere with existing use on the burdened Lot. For avoidance of any doubt, this easement does not encumber any Lot with an easement to use a Lot for storage of general construction material or equipment staging.

7. Construction and Maintenance. The improvements to each Lot shall be at the sole cost and expense of the owner of the Lot upon which the improvement is occurring. Construction of improvements within all of the easement areas established pursuant to this Declaration shall be completed in a good and workmanlike manner, free of any and all liens, and shall be constructed so that they comply with all applicable requirements of law and governmental regulations applicable thereto. The Owners of the Lots shall each be responsible for the installation and maintenance of lighting of the roadways and structures on their Lots to such a standard required by the applicable governmental authorities. The Owners of the Lots shall each maintain (in good condition free of potholes and breaks) the landscaping, driveways, traffic lanes and parking areas located on their own respective properties at their sole cost and expense. Maintenance shall include, but shall not be limited to, paving, cleaning, snow removal, repairs and replacements, including resurfacing and restriping, maintenance of lights and light standards, landscaping, and all other functions necessary for the proper upkeep and operation of such driveways and traffic

lanes in a manner consistent with a similar commercial retail development in Durham County, North Carolina.

Each Owner shall be responsible for that portion of the maintenance costs of the 14' Drainage Easement located on its respective Lot.

No later than January 31 of each year commencing on January 31, 2026, the Owner of Lot 2A shall provide to the Owner of Lot 1A an invoice and records indicating the maintenance, repair and administrative costs incurred by the Owner of Lot 2A relating to the 16' Drainage Easement and the Owner of Lot 1A shall reimburse the Owner of Lot 2A for fifty percent (50%) of the maintenance and repair costs and administrative fees associated with the 16' Drainage Easement within thirty (30) days after receipt of such invoice.

8. Intentionally deleted.

9. Use Restrictions on Specific Lots. So long as Quick Lube of Carolina, LLC, any affiliate thereof, or its permitted assigns is a tenant or the Owner of Lot 2A and is using such Lot as a quick service oil change facility (except for temporary closures due to casualty, renovations or other temporary closures) no portion of Lot 1A may be leased, used or occupied for or in support of any business whose primary use is the operation of automotive oil change or another retail establishment in which annual revenue from automotive oil change exceeds ten percent (10%) of the annual gross annual revenue of such business.

10. Use Restrictions on all Lots. Without the prior written consent of the Owners of all Lots, which may be withheld in any party's sole discretion, no portion of the Lots may be used for any of the following uses: (a) a night club or discotheque, (b) any mobile home park, trailer court, labor camp, junkyard, or stockyard (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction), (c) any dumping, disposing, incineration, or reduction of garbage (exclusive of dumpsters located in the rear or side designated locations of any building), (d) an auction house operation or flea market, (e) any skating rink, bowling alley, bingo parlor, or other place whose primary business is recreation or amusement, (f) any living quarters, sleeping apartments, hotels, motels or lodging rooms, (g) any animal raising facilities or pet shop, (h) a mortuary or funeral parlor, (i) any establishment renting, selling, or exhibiting pornographic materials, (j) a school or training facilities; provided, however, children's play centers and day care centers are allowed, (k) a manufacturing or warehouse facility, (l) a nursing home, (m) any church, (n) any central laundry, dry cleaning plant, or laundromat performing on-site dry cleaning; provided, however, this prohibition shall not be applicable to on-site service oriented to pickup and delivery by the ultimate consumer, (o) any coin operated laundry, (p) a massage parlor (provided that this restriction shall not apply to massage services provided by state licensed massage therapists in connection with a beauty salon, day spa, physical therapy or rehabilitation office, or to a first-class, franchised massage concept such as Massage Envy), (q) an adult entertainment bar or club, or (r) any restriction of record.

11. Signs. All signs located on any Lot shall be in conformance with all applicable governmental regulations. Should any Owner have, or subsequently install, any multi-party pylon signs (other than those specific to a particular building or parcel), the Owner of the other Lot shall

have the right to install a panel on each side of the pylon sign of similar size to the existing Owner's panels, for no additional cost or expense, other than the cost of installation, maintenance and removal of the panels for which the installing Owner will be solely liable.

12. No Barriers. Each of the parties agrees that it will not erect any barrier or construction which would prevent the free flow of pedestrian and vehicular traffic between the Lots and the public roads adjoining the Lots, except that driveways may be blocked or closed temporarily in the event of emergency and as necessary for reasonable maintenance or repair subject to the terms of Paragraph 2 above.

13. Reasonable Use of Easements. The easements herein above granted shall be used and enjoyed by each party in such a manner so as not to unreasonably interfere with, obstruct or delay the conduct and operations of the business of any other party, or its successors and assigns, and any future Owners and Permittees, at any time conducted on its property, including, without limitation, public access to and from said business, and the receipt or delivery of merchandise in connection therewith.

14. Indemnification and Insurance.

A. The Owners of the Lots shall indemnify and hold harmless each other and their Permittees for any and all claims, demands, actions, causes of action, suits, proceedings, damages, liability and costs and expenses of every kind whatsoever (including the other party's reasonable attorneys' fees) arising from the negligent, intentional or willful acts or omissions of such Owner, its contractors, employees, agents, or others acting on behalf of such Owner, or such Owner's Permittees in the use of the easements granted in this Declaration.

B. The Owners of the Lots, at each party's sole cost and expense, shall procure and maintain, or cause to be procured and maintained, general and/or comprehensive public liability and property damage insurance against claims for personal injury (including contractual liability arising under the indemnity contained in subsection (A) above), death, or property damage occurring upon such Owner's property, with single limit coverage of not less than an aggregate of Five Million Dollars (\$5,000,000.00) including umbrella coverage, if any, and naming each other Owner and its tenant(s) (provided the Owner obtaining such insurance has been supplied with the name of such other Owner and its tenant(s) in the event of a change thereof) as additional insureds. If requested, an Owner shall provide a certificate of insurance to the other Owner confirming the insurance required to be maintained hereunder.

15. Road Maintenance Assessment. Declarant acknowledges that the Property is encumbered by that certain Road Maintenance Agreement recorded in Book 1272, Page 133 of the Durham County Registry (the "**Maintenance Agreement**") pursuant to which the owners of the Property, along with owners of other real property as described in the Maintenance Agreement are required to pay their pro rata share of all costs for repairs and capital improvements to Meredith Road, the private roadway running adjacent to and south of the Property. The Property is identified as Lot 1 in the Maintenance Agreement and its pro rata share of such maintenance costs is 13%. Each Owner of a Lot shall be responsible to contribute to the assessments made by the manager as described in the Maintenance Agreement in equal shares so that the Owner of each of Lot 1A and Lot 2A shall be responsible for 6.5% of the total assessment levied against Lots by the manager

under the Maintenance Agreement. In the event either Owner fails to pay their portion of the assessment, as provided above, within the deadline required by the Maintenance Agreement, the Owner of the other Lot shall have the right, but not the obligation, to pay the defaulting Owner's pro rata share and the defaulting Owner shall immediately reimburse such Owner for such payment together with interest at the rate of the lesser of 15% or the highest amount permitted by applicable law. In the event the defaulting Owner fails to reimburse the paying Owner within thirty (30) days after written demand, the paying Owner shall have the right to pursue all remedies as provided in Paragraph 16 below.

16. Breach and Remedies. In the event of a breach, or attempted or threatened breach, by any Owner of the Lots in any of the terms, covenants and conditions hereof, any one or all of the other Owners of the Lots shall be entitled: (i) after ten (10) days written notice to the offending party to go on such party's property and correct the breach and to recover the cost of so doing, together with reasonable attorneys' fees, or (ii) to full and adequate relief by injunction or other available legal and equitable remedies from the consequences of such breach, each Owner agreeing that such violation or threat thereof shall cause the nondefaulting Owner and/or its Permittees to suffer irreparable harm and such nondefaulting Owner and its Permittees shall have no adequate remedy at law. All costs and expenses incurred by any Owner to secure the observance of the terms of this Declaration, including the cost of any suit or legal proceedings and reasonable attorneys' fees incurred thereby (at all tribunal levels), shall be assessed against the defaulting Owner and shall constitute a lien against such defaulting Owner's Lot or his interest therein effective upon recordation of notice thereof in the appropriate jurisdictional body in Durham County, North Carolina, provided, however, that any such lien shall be junior and subordinate to any mortgage lien then existing, and provided further that the foreclosure or enforcement of any such lien will not invalidate any lease executed by the Owner of the Lots prior to the date of recording the lien, whether or not the lease, or a memorandum thereof, is recorded.

If any Owner shall fail to pay any sum due and payable to another Owner pursuant to this Declaration, such unpaid sum shall constitute a lien against such defaulting Owner's Lot or his interest therein effective upon recordation of notice thereof in the appropriate jurisdictional body in Durham County, North Carolina, provided, however, that any such lien shall be junior and subordinate to any mortgage lien then existing, and provided further that the foreclosure or enforcement of any such lien will not invalidate any lease executed by the Owner of the Lots prior to the date of recording the lien, whether or not the lease, or a memorandum thereof, is recorded. be secured by a lien on the Lot of such defaulting Owner. Any lien filed in accordance with the terms of this Paragraph 15 may be enforced by foreclosure of a lien for services as provided in Chapter 44A of the North Carolina General Statutes, or in any other manner permitted by law, at the election of the Owner filing such lien.

Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any property made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such property covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

16. No Public Rights. Nothing herein is intended, nor shall be construed, to create any rights whatsoever for the benefit of the general public in and to the property or the improvements constructed thereon, and nothing herein shall be constituted to effect, or intend to effect, a dedication of any road, street or driveway on the property to the general public.

17. Taxes and Assessments. The Owner of each Lot shall pay all taxes, assessments, or charges of any type levied or made by any governmental body or agency with respect to its Lot.

18. Covenants Running with Land. It is understood and agreed that this Declaration is perpetual and shall exist and be binding upon the parties hereto, their heirs, successors and assigns and shall be appurtenant to and run with the title to the Lots and be enforceable by the Owner or Owners, from time to time, of the Lots. All rights and responsibilities hereunder shall inure to future owners of the Lots whether or not they are specifically assigned to or assumed by the future owner(s).

19. Estoppel Certificates. Each Owner, within thirty (30) days of its receipt of a written request from the other Owner(s), shall from time to time provide the requesting Owner a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any Owner is in default or violation of this Declaration and if so identifying such default or violation; (b) that this Declaration is in full force and effect and identifying any amendments to the Agreement as of the date of such certificate; and (c) such other terms as may be reasonably requested to confirm the terms of this Declaration.

TO HAVE AND TO HOLD the aforesaid easement interest and all privileges and rights thereunto belonging to Declarant and the future Owners of the Lots, as appropriate, their successors and assigns forever.

[the remainder of this page intentionally blank – signature on following page]

IN WITNESS WHEREOF, Declarant has caused this instrument to be executed as of the date first above written.

Wildor Restaurant Group, LLC,
a North Carolina limited liability company

By: Charles E. Bright, IV
Charles E. Bright, IV, Managing Member

STATE OF NORTH CAROLINA
COUNTY OF WAKE

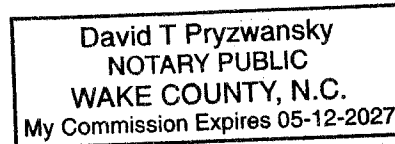
I, the undersigned notary public, certify that the following person(s) *personally appeared* before me this day, each acknowledging to me that he or she *voluntarily signed* the foregoing document for the purpose stated therein and in the *capacity indicated*: Charles E. Bright, IV, Managing Member of Wildor Restaurant Group, LLC, a North Carolina limited liability company.

Witness my hand and official seal, this 7th day of March, 2025.

David T Pryzwansky
Notary Public
Printed Name of Notary: _____

My Commission Expires:

Affix Seal



LENDER CONSENT AND SUBORDINATION

Providence Bank as Beneficiary under that Deed of Trust recorded in Book 9775, page 265, Wake County Registry joins in this Declaration of Restrictions and Easements for the sole purpose of expressing its consent hereto and of binding, subjecting and subordinating said Deed of Trust and its interest in the property encumbered by the Deed of Trust to the terms, covenants and conditions of this Declaration.

Providence Bank

By: Ted E. Whitehurst
Name: Ted E. Whitehurst
Title: CEO

STATE OF NORTH CAROLINA
COUNTY OF ~~WAKE~~ NASH

I, the undersigned notary public, certify that the following person(s) *personally appeared* before me this day, each acknowledging to me that he or she *voluntarily signed* the foregoing document for the purpose stated therein and in the *capacity indicated*:
Ted E. Whitehurst, CEO of Providence Bank.

Witness my hand and official seal, this 10th day of March, 2025.

Robin C. Connie
Notary Public

Printed Name of Notary: Robin C. Connie

My Commission Expires:
4/20/2027

Affix Seal

