

For Registration Sharon A. Davis
Register of Deeds
Durham County, NC
Electronically Recorded
2017 Feb 03 01:46 PM NC Rev Stamp: \$ 5000.00
Book: 8119 Page: 811 Fee: \$ 26.00
Instrument Number: 2017003841
DEED

This instrument prepared by:

Wal-Mart Stores East, LP
Sam M. Walton Development Complex
2001 S.E. 10th Street
Bentonville, AR 72716-5535
Attn: Brad Rogers, Assistant General Counsel (prepared by)

Return recorded document to:

Lawyers Title Company
4131 N. Central Expressway, Suite 450
Dallas, TX 75204
Attn: Denise Bell

Tax Parcel ID: 146337

Excise Tax \$ 5,000

1978014105

SPECIAL WARRANTY DEED

This SPECIAL WARRANTY DEED is made effective January 31, 2017, between **WAL-MART STORES EAST, LP**, a Delaware statutory trust, with an address of 702 S.W. 8th Street, Bentonville, AR 72716 ("Grantor"); and **TOL, LLC**, a North Carolina limited liability company, with an address of 7200 Falls of Neuse Road, Suite 303, Raleigh, NC 27615 ("Grantee").

W I T N E S S E T H:

THAT GRANTOR, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, to it in hand paid by Grantee, the receipt whereof is hereby acknowledged, does hereby forever grant, bargain, sell, convey and confirm to Grantee, and its successors and assigns, a certain tract of land, together with all improvements and fixtures of any kind thereon, including, but not limited to, a retail building, situated, lying, and being in the City of Durham, Durham County, North Carolina, as more particularly described to wit:

See Exhibit "A" attached hereto and made a part hereof ("Property");

TO HAVE AND TO HOLD said Property unto Grantee, and its successors and assigns, forever, with all tenements, appurtenances and hereditaments thereunto belonging, subject to easements, conditions, restrictions and other matters of record.

This conveyance is expressly subject to the following conditions and restrictions:

(a) The Property shall not be used for or in support of the following: (i) adult book store, adult video store (an adult video store is a video store that sells or rents videos that are rated NC-17, X, XX, XXX, or of a rating assigned to works containing material more sexually explicit than XXX, by the film rating board of the Classification and Rating Administration), "adult" business activities, including without limitation any massage parlor, escort service, facility with nude (or partially nude, bathing suit-clad or lingerie-clad) models or dancers or any establishment selling or exhibiting sexually explicit materials; or (ii) any business or facility used in growing, delivering, transferring, supplying, dispensing, dispersing, distributing or selling marijuana or any synthetic substance containing tetrahydrocannabinol, any psychoactive metabolite thereof, or any substance chemically similar to any of the foregoing, whether by prescription, medical recommendation or otherwise, and whether consisting of live plants, seeds, seedlings or processed or harvested portions of the marijuana plant (the "Noxious Use Restrictions").

(b) The Noxious Use Restrictions shall be perpetual unless applicable law prohibits a perpetual restriction, in which case the Noxious Use Restrictions shall remain in effect for the maximum amount of time allowed by law. The aforesaid covenants, conditions, and restrictions shall run with and bind the Property, and shall bind Grantee or an affiliated entity, or its successors or assigns, and shall inure to the benefit of and be enforceable by Grantor, or an affiliated entity, or its successors and assigns, by any appropriate proceedings at law or in equity to prevent violations of such covenants, conditions, and restrictions and/or to recover damages for such violations, including without limitation damages incurred by Grantor, or an affiliated entity, concerning the business conducted on the land adjacent to the Property.

No representations or warranties of any kind have been made by Grantor or anyone on its behalf to the Grantee as to the condition of the Property described herein or any improvements thereon erected, if any, and it is understood and agreed by the parties that the Property is sold **"AS IS, WHERE IS – WITH ALL FAULTS AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."**

Grantor makes no warranty or representation regarding the condition of the Property, including, without limitation, environmental or ecological condition, it being understood that the Grantee is taking the Property **"AS IS, WHERE IS – WITH ALL FAULTS AND WITHOUT ANY REPRESENTATION OR WARRANTY WHATSOEVER, EXPRESS OR IMPLIED."**

Without limiting the foregoing, Grantee hereby covenants and agrees that Grantee accepts the property "AS IS" and "WHERE IS", and with all faults and defects, latent or otherwise, and that Grantor is making no representations or warranties, either expressed or implied, by operation of law or otherwise, with respect to the quality, physical conditions or value of the Property, the Property's habitability, suitability, merchantability or fitness for a particular purpose, the presence

or absence of conditions on the Property that could give rise to a claim for personal injury, property or natural resource damages; the presence of hazardous or toxic substances, materials or wastes, substances, contaminants or pollutants on, under or about the Property, or the income or expenses from or of the Property.

AND SAID GRANTOR does hereby warrant the title to said Property, and will defend the same against the lawful claims of all persons claiming by, through and under Grantor, but none other, subject to the easements, encumbrances, restrictions, and other matters of record, the conditions and restrictions as stated herein, and subject to real property taxes for the year of 2017, and thereafter.

No part of the Property includes Grantor's primary residence.

[Signature page follows]

EXHIBIT "A"

Lying and being in Durham County, North Carolina, and more particularly described as follows:

Commencing at NCGS Monument "Deby" having grid coordinates N 799099.5000, E 2009456.9200; thence along a tie line N 81-20-22 E for 12,490.11 feet to a point located on the northern right of way of Martin Luther King, Jr. Parkway (110' Public R/W) and being the Point of Beginning; thence leaving said right of way along the common line of Caswyck-HVF, LLC (Deed Book 2246, page 109) N 38-24-46 E for 626.09 feet to a point; thence S 38-30-00 E for 454.00 feet to a point located on the northern right of way of Ardmore Drive (60' Public R/W); thence along said right of way S 37-54-22 W for 80.33 feet to a point; thence crossing said right of way S 52-05-38 E for 30.00 feet to a point located on the centerline of Ardmore Drive (60' Public R/W); thence continuing across said right of way S 51-00-46 E for 30.01 feet to a point located on the southern right of way of Ardmore Drive (60' Public R/W); thence leaving said right of way along the common line of City of Durham (Deed Book 4842, page 100) S 23-31-38 E for 176.13 feet to a point; thence S 89-22-52 E for 65.15 feet to an iron pin located on the common line of Kenneth & Sharyn Lofton (Deed Book 3084, page 803); thence along said common line N 89-56-34 E for 38.42 feet to an iron pin located on the common line of Lot 23 of Ardmore Hills Subdivision (Plat Book 24, page 19); thence along said common line S 89-31-01 E for 100.62 feet to an iron pin located on the common line of Lot 22 of Ardmore Hills Subdivision (Plat Book 24, page 19); thence along said common line N 89-30-12 E for 92.91 feet to a point located on the western right of way of South Roxboro Street (110' Public R/W); thence along said right of way S 08-04-25 W for 74.55 feet to a point; thence leaving said right of way with a new line through Heartland, LLC, Indra Group, LLC, Mayin, LLC (Deed Book 4649, page 535) the following four courses and distances: on a curve to the left having a radius of 25.00 feet, an arc length of 21.54 feet, and a chord bearing and distance of N 49-08-01 W for 20.88 feet to a point; thence S 87-22-50 W for 17.78 feet to a point; thence S 43-53-24 W for 202.45 feet to a point; thence S 35-06-39 W for 526.22 feet to a point located on the northern right of way of Martin Luther King, Jr. Parkway (110' Public R/W); thence along said right of way with a curve to the right having a radius of 5674.58 feet, an arc length of 654.65 feet, and a chord bearing and distance of N 38-35-00 W for 654.29 feet to a point; thence N 35-02-11 W for 170.46 feet to a point; thence N 21-00-01 W for 122.03 feet to a point being the Point of Beginning. Said tract contains 583,606 SQ.FT or 13.397 acres, more or less.

AND BEING the same real estate designated as Lot 3 on that certain plat made by Freeland & Associates, Inc. dated December 1, 2005, last revised June 23, 2006, entitled "Recombination Plat for Eileen C. Ventura; Julie L. Jones; Indra Group, LLC; Heartland, LLC; Mayin, LLC", a copy of which plat was recorded July 14, 2006 in the Durham County Register of Deeds office in Plat Book 173, page 111.

TOGETHER WITH those certain non-exclusive easements as set forth in Easements with Covenants and Restrictions Affecting Land ("ECR"), by and between Wal-Mart Stores East, LP, Indra Group, LLC, Heartland, LLC and Mayin, LLC, dated August 3, 2006, and recorded in the Durham County Register of Deeds Office in Book 5315, Page 37.