

For Registration Sharon A. Davis
Register of Deeds
Durham County, NC
Electronically Recorded
2016 Oct 20 04:36 PM NC Rev Stamp: \$ 10200.00
Book: 8047 Page: 553 Fee: \$ 26.00
Instrument Number: 2016036619
DEED

Prepared by: William A. Anderson, III (without benefit of title examination)
Mail after recording to: Grantee

Addresses:
Parcel Nos.:
Excise Tax: \$10,200.00

**NORTH CAROLINA
SPECIAL WARRANTY DEED**

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

THIS DEED is made this 20th day of October, 2016, by and between:

GRANTOR: MILLER REAL ESTATE CO. OF DURHAM, INC., a North Carolina corporation
PO Box 2734
Durham, NC 27715

and

GRANTEE: HOLMES COLE MILL, LLC, a North Carolina limited liability company
100 Europa Dr., Suite 500
Chapel Hill, NC 27517

(The designation of Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns, and shall include the singular, plural, masculine, feminine or neuter as required by the context.)

THE GRANTOR, for a valuable consideration paid by Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto Grantee, in fee simple, all that certain real property lying and being in Durham County, North Carolina, and more particularly described as follows (and being hereinafter referred to as the "Property"):

See **Exhibit A** attached hereto and incorporated herein by reference.

submitted electronically by "Manning Fulton & Skinner, P.A."
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Durham County Register of Deeds.

TO HAVE AND TO HOLD, the aforesaid Property and all privileges and appurtenances thereto belonging to Grantee in fee simple.

AND THE GRANTOR covenants with Grantee that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons whomsoever claiming by, under or through Grantor, except for those exceptions set forth on Exhibit B hereof.

All or a portion of the property herein conveyed does NOT include the primary residence of the Grantor.

IN WITNESS WHEREOF, Grantor has executed this deed under seal as of the day and year first above written.

GRANTOR:

Miller Real Estate Co. of Durham, Inc.

By:

Kay M. Goad
Kay M. Goad, President

[seal]

STATE OF NORTH CAROLINA
COUNTY OF DURHAM

I certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she signed the foregoing document: Kay M. Goad

Date: 10/20/16

WA
Notary Public

Print Name: William A. Anderson III

My Commission Expires: 2/2/19

[Official Seal]

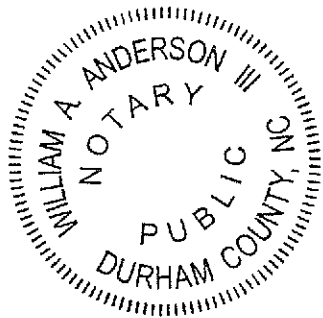


EXHIBIT A
LEGAL DESCRIPTION

TRACT 6:**PARCEL 1:**

BEGINNING at the intersection of the property line on the north side of the Greensboro-Durham Highway #10 and the west side of Christian Avenue and running thence along and with the property line on the north side of the said Greensboro-Durham Highway #10 North 58° 22' West 150 feet to a stake; thence North 31° 38' East 150 feet to a stake; thence South 58° 22' East 150 feet to a stake in the property line on the west side of said Christian Avenue; thence along and with the property line on the west side of said Christian Avenue South 37° 38' West 150 feet to a stake, the place and point of BEGINNING, and being Lots 1, 2, 3, 4, 5 and 6, Block D as shown on plat of John B. Christian Estate, of record in the office of the Register of Deeds of Durham County in Plat Book 6B, Page 144.

Address: 3572 and 3578 Hillsborough Road, Durham, NC 27705

PID: 124854 and 124855

Deed Reference: Deed Book 303, Page 247, Durham County Registry

PARCEL 2:

BEING Lots 7, 8, 9, 10, 11, and 12 in Block D of the Property of H.W. Miller, Incorporated as per plat and survey thereof by W.S. Wentz, Jr., Land Surveyor, dated November 20, 1961, now on file in the office of the Register of Deeds of Durham County in Plat Book 43, Page 70. See also Plat Book 6B, Page 144, Durham County Registry.

Address: 3566 and 3570 Hillsborough Road, Durham, NC 27705

PID: 124852 and 124853

Deed Reference: Deed Book 202, Page 32, Durham County Registry

TRACT 7:

BEGINNING at a stake at the southwestern intersection of Christian Avenue and Wortham Street and running thence in a southerly direction South 31° 38' West along and with the western edge of Christian Avenue 146 feet to a stake; thence in a westerly direction North 58° 22' West 150 feet to a stake; thence South 31° 38' West 4.0 feet to a stake at the northeastern corner of Lot #7; thence in a westerly direction along and with the southern edge of Lot #13 North 58° 22' West 193.65 feet to a stake on the eastern edge of Cole Mill Road at the southwest corner of Lot #13 and the northwestern corner of Lot #12; thence along and with the eastern edge of Cole Mill Road North 10° 13' East 161.1 feet to a stake at the southeastern intersection of Cole Mill Road and Wortham Street and at the northwestern corner of Lot #18; thence along and with the southern edge of Wortham Street South 58° 22' East 402.45 feet to a stake; being the point and place of BEGINNING; and being more particularly described as Lots 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, and a portion of 24 of Block D of the H.W. Miller, Incorporated

Property as per plat and survey thereof now on file in the office of the Register of Deeds of Durham County in Plat Book 43, at Page 70.

Address: 1104 Cole Mill Road and 1307 Christian Avenue, Durham NC 27705

PID: 124856

Deed Reference: Tract #3 in Deed Book 361, Page 188, Durham County Registry

TRACT 8:

BEGINNING at a stake at the southeastern corner of Lot 24, Block C as per Plat Book 6B at Page 144; thence proceeding in a westerly direction over and along the northern edge of Wortham Street and the southern edge of Lot 24, Block C and Lot 1, Block C as per Plat Book 6B, Page 144, North $58^{\circ} 22'$ West 426 feet to a stake located at the southwestern corner of Lot 1, Block C as per plat Book 6B at Page 144 where said point adjoins the eastern edge of Cole Mill Road at the northwestern corner of Wortham Street as it adjoins Cole Mill Road; thence proceeding in a southerly direction along and with that point where the eastern edge of Cole Mill Road intersects with the western edge of Wortham Street South $11^{\circ} 14'$ West 50 feet to a stake located on the southern edge of Wortham Street at that point where the southern edge of Wortham Street intersects with the eastern edge of Cole Mill Road at the northwestern corner of Lot 18, Block D, as per Plat Book 6B, Page 144; thence proceeding along and with the northern edge of Lot 18 and Lot 19 of Block D as per Plat Book 6B, Page 144 and the southern edge of Wortham Street South $58^{\circ} 22'$ East 411.7 feet to a stake located at the northeastern corner of Lot 19, Block D as per Plat Book 6B, Page 144 where the said southern edge of Wortham Street intersects with the western edge of Christian Avenue; thence proceeding in a northerly direction along and with the easternmost edge of Wortham Street at that point where it intersects with the westernmost edge of Christian Avenue 50 feet, more or less, to the southeastern corner of Lot 24, Block C hereinbefore described, the point and place of BEGINNING.

That the above portion of Wortham Street was abandoned and closed by the City of Durham from the eastern edge of Cole Mill Road to the western edge of Christian Avenue; that H.W. Miller, Incorporated hereby conveys all right, title and interest which it has or may in the future have in the above-described property to Miller Truck Sales & Service, Inc.

Address: 1309 Christian Avenue, Durham, NC 27705

PID: 124857

Deed Reference: Tract #8 in Deed Book 361, Page 188, Durham County Registry

TRACT 9:

BEGINNING at a stake on the east side of Huckleberry Springs Road (Cole Mill Road) 144 feet in a northerly direction from the north side of Wortham Street at the northwest corner of Lot #5 in Block C and running thence South $87^{\circ} 26'$ East 200 feet to a stake; thence North $2^{\circ} 54'$ East 50 feet to a stake, southeast corner of Lot 8; thence North $87^{\circ} 26'$ West 200 feet to a stake on the east side of Huckleberry Springs Road (Cole Mill Road); thence along and with the east side of said Huckleberry Springs Road (Cole Mill Road) in a southerly direction 50 feet to a stake, the point of beginning, and being Lots 6 and 7

in Block C of the J.B. Christian Estate as per plat and survey thereof now on file in the office of the Register of Deeds of Durham County in Plat Book 6B, Page 144 to which reference is hereby made for a more particular description of same.

Address: 1206 Cole Mill Road, Durham, NC 27705

PID: 124861

Deed Reference: Deed Book 354, Page 34, Durham County Registry

TRACT 10:

BEGINNING at the northeast intersection of the Cole Mill Road and Wortham Street and running thence along and with the north side of said Wortham Street South 58° 22' East 234.1 feet to a stake, corner of Lot #24 in Block C; thence in a northerly direction 158.5 feet to a stake, corner of Lot #20; thence South 87° 26' East 200 feet to a stake on the west side of Christian Avenue; thence along and with the west side of said Christian Avenue North 2° 54' East 200 feet to a stake, southeast corner of Lot #18; thence North 87° 26' West 200 feet to a stake; thence South 2° 54' West 100 feet to a stake, southeast corner of Lot #6; thence North 87° 26' West 200 feet to a stake on the east side of the Cole Mill Road; thence along and with the east side of said Cole Mill Road (formerly called Huckleberry Spring Road) in a southerly direction 144 feet to a stake on the north side of Wortham Street, the point of beginning, and being Lots 1, 2, 3, 4, 5, and 19 in Block C of the John B. Christian Estate as per plat and survey thereof now on file in the office of the Register of Deeds of Durham County in plat Book 6B, Page 144 to which reference is hereby made for a more particular description of same.

There is excepted from the above description that property taken by the North Carolina State Highway Department as set forth in Deed Book 274, Page 683, being Project No. 8.14107.

Address: 1200 and 1204 Cole Mill Road and 1407 Christian Avenue, Durham, NC 27705

PID: 124863, 124862, 124865

Deed Reference: Deed Book 286, Page 467, Durham County Registry

TRACT 11:

BEGINNING at the northwestern intersection of Wortham Street and Christian Avenue; and running thence along and with the northern edge of Wortham Street in a westerly direction North 58° 22' West 182.95 feet to a stake; thence North 3° 20' East along and with the eastern line of the Property of W.G. Brown, Jr., 158.35 feet to a stake at the northwestern corner of Lot #20; thence South 87° 00' East along and with the southern line of the property of W.G. Brown, Jr., 200 feet to a stake at the northeastern corner of Lot #20 and the western edge of Christian Avenue; thence South 2° 56' West along and with the western edge of Christian Avenue 70 feet to a stake; thence along and with the western edge of Christian Avenue in a southerly direction along an arc having a radius of 326.72 feet, 182.86 feet to a stake, being the point and place of BEGINNING; and being more particularly described as Lots 20, 21, 22, 23, and 24

of Block C of the H.W. Miller, Incorporated Property as per plat and survey thereof now on file in the office of the Register of Deeds of Durham County in Plat Book 43, Page 70.

ADDRESS: 1311 and 1315 Christian Avenue, Durham, NC 27705

PID: 124864

Deed Reference: Tract #2 in Deed Book 361, Page 188, Durham County Registry

TRACT 12:

BEGINNING at a stake at the northeast corner of the southern one-half of Lot #18 in Block C on the western edge of that property taken by North Carolina State Highway and Public Works Commission for high-way purposes, being North Carolina Interstate Highway #85; thence along and with the western edge of said highway South 33° 02' East 125.7 feet to a stake on the western edge of said property; thence North 87° 09' West 100.3 feet along and with the northern edge of the Property of W.G. Brown, Jr., to a stake; thence North 3° 20' East 100 feet along and with the eastern edge of the Property of P.S. Crabtree, Inc., to a stake; thence North 89° 08' East 27.3 feet to a stake, being the point and place of BEGINNING; and being more particularly described as the southern one-half of Lot #18 in Block C of the H.W. Miller, Incorporated Property as per plat and survey thereof now on file in the office of the Register of Deeds of Durham County in Plat Book 43, Page 70.

Address: 1409 Christian Avenue, Durham, NC 27705

PID: 124866

Deed Reference: Tract #1 in Deed Book 361, Page 188, Durham County Registry

LESS AND EXCEPT any portions of the foregoing Tracts 6 through 12 underlying public rights of way;

All Tracts 6 through 12 being hereby **SUBJECT TO** Grantor's reservation of a perpetual nonexclusive easement (the "Access Easement") appurtenant to the property to the east described on **Exhibit A-1** attached hereto and incorporated herein by reference ("Benefited Property") over, across and through the Property for the purposes of vehicular and pedestrian access to and from Benefited Property and Cole Mill Road, a variable width public right of way adjacent to the western boundary of the Property, in accordance with the following terms and conditions:

1. The Access Easement shall permit two-way vehicular traffic, which shall expressly include truck traffic. Grantee shall use all commercially reasonable efforts to obtain access to Cole Mill Road containing left and right turn lanes onto Cole Mill Road.

2. Grantor may, but shall not be obligated, to construct the road improvements within the Access Easement (the "Improvements") at Grantor's cost prior to Grantee's development of the Property. Grantor also hereby reserves a reasonable construction easement over, across and through the Property for the purposes of constructing the Improvements. If practicable Grantor may use the Access Easement without improving the Access Easement, for example if there is already a gravel drive or lot across the Property. If Grantee uses the Improvements constructed by Grantor, Grantee shall first reimburse Grantor

for the cost of a portion of the total cost of the Improvements expended by Grantor, such portion to be determined by the relative intensity of use by Grantor and Grantee.

3. If Grantor has not constructed the Improvements prior to Grantee's development of the Property, then Grantee may construct the Improvements at Grantee's cost with the prior written consent of Grantor as to location of the Access Easement, not to be unreasonably withheld, conditioned or delayed. The Access Easement must align with the existing entrance(s) to Benefited Property along Christian Avenue.

4. If Grantee develops the Property after Grantor's construction of the Improvements, then Grantee may realign the Access Easement and reconstruct the Improvements within the realigned Access Easement, provided that Grantor's access to Cole Mill Road shall not be interrupted and the realigned Access Easement remains aligned with the existing entrance(s) to Benefited Property along Christian Avenue.

5. Upon the completion of any construction of the Improvements or any later realignment of the Access Easement, either party may request that the other party join, and the other party shall join, in an amendment to this reserved easement concretely establishing the location of the Access Easement. The costs of preparing the amendment, the related surveying, and recording shall be borne by the requesting party.

6. Grantor, by accepting this deed, agrees to all the terms and provisions set forth herein concerning the Access Easement.

7. This Access Easement and all the foregoing related terms and provisions shall run with and burden the Grantee Property and Grantee's successors and assigns, and shall run with and benefit the Benefited Property, and Grantor's successors and assigns.

EXHIBIT A-1

LEGAL DESCRIPTION OF BENEFITED PROPERTY

Lying generally on the east side of Christian Avenue, the south side of Interstate 85, the west side of Butler Avenue, and the north side of Hillsborough Road, and BEING all of the following property:

Lots 8 through 36, inclusive, of Block F of the John B. Christian Estate property as shown on the plat recorded in Plat Book 6B, Page 144, Durham County Registry (the "Plat"); and

Lots 21 through 41, inclusive, of Block G of the John B. Christian Estate property as shown on the Plat;

LESS and EXCEPT the lands taken in fee for Interstate 85 or otherwise underlying public rights of way.

EXHIBIT B
TITLE EXCEPTIONS

1. Taxes for the year 2017, and subsequent years, not yet due and payable.
2. Subject to matters shown on plats recorded in Plat Book 43, Page 70, Plat Book 6, Page 144, and Plat Book 6B, Page 144.
3. Deeds to the North Carolina Department of Transportation for improvements to Hillsborough Road at the intersection with Cole Mill Road as provided by instruments recorded in Book 1812, Page 221 and Book 1912, Page 233.
4. Drainage Easement to the North Carolina Department of Transportation per instrument recorded in Book 1812 at Page 225.
5. Portion of the property deeded to City of Durham for the northwestern intersection of Christian Avenue and Hillsborough Road as provided by that Deed recorded in Book 360, Page 474 and as shown on Plat Book 61, Page 51.
6. Right-of-way to State Highway Commission as provided by instrument recorded in Book 274, Page 683.
7. Memorandum of Lease to Kenan Oil as recorded in Book 1324, Page 678, as subsequently sublet to Taco Bell Corp per instrument recorded in Book 1536, Page 148 and assigned to Luhn Four, Inc. by instrument recorded in Book 2145, Page 184
8. Memorandum of Lease to Kenan Oil recorded in Book 1324, Page 678, as subsequently sublet to Taco Bell Corp as memorialized by instrument recorded in Book 1536, Page 148 and assigned to Luhn Four, Inc. memorialized by instrument recorded in Book 2145, Page 184, and unrecorded leases to Luhn Four, Inc., Lonnie's, and Holmes Oil Company, Inc.
9. Matters as disclosed by that certain survey entitled "Boundary Survey and Existing Conditions Property of Miller Real Estate Co. of Durham, Inc.," prepared by CE Group, bearing the seal and certification of Jamie Shane Strickland, Professional Land Surveyor, CFS, dated September 27, 2016.
10. Access easement reserved in the deed to which this **Exhibit B** is attached.