

PREPARED BY:

Sarah L. Stephens, Esq.
Johnson Stephens & Leal, PLLC
4809 Cole Avenue, Suite 260A
Dallas, Texas 75205

For Registration Sharon A. Davis
Register of Deeds
Durham County, NC
Electronically Recorded

2021 Jul 22 04:02 PM

Book: 9404 Page: 688

NC Rev Stamp: \$ 7500.00 Fee: \$ 26.00

Instrument Number: 2021037087

DEED

RETURN TO:

Casey VanDerbrook
Kensington Vanguard
39 West 37th Street 3rd Floor
New York, New York 10018

EXCISE TAX: \$7,500.00

TAX PARCEL NUMBERS: 137071, 137072 and 137075

STATE OF NORTH CAROLINA :

:

**SPECIAL WARRANTY
DEED TO IMPROVEMENTS**

COUNTY OF DURHAM :

THIS SPECIAL WARRANTY DEED TO IMPROVEMENTS, made this 19th day of July, 2021 (the "Effective Date"), by and between **DURHAM WESTGATE PLAZA INVESTORS, LLC**, a North Carolina limited liability company, having an address of 455 Fairway Drive, Suite 301, Deerfield Beach, FL 33441 (hereinafter referred to as "Grantor"); and **FIREWHEEL USCAG LLC**, a Texas limited liability company, having an address of 1601 Palomino Ridge Drive, Austin, TX 78733 (hereinafter referred to as "Grantee").

WITNESSETH:

WHEREAS, Grantor is the current Tenant of certain real property described under that certain Ground Lease dated March 30, 1985, originally executed by Wachovia Bank and Trust Company, N.A., as Trustee under the Last Will and Testament of William E. Baker, Sr., William E. Baker, Jr., and Margaret B. Ray, Landlords, and Toys "R" Us, Inc., as Tenant, a Memorandum of which is recorded at Book 1209, Page 520, Durham County Registry; as amended by that certain

Submitted electronically by "Stewart Title Guaranty Company - Commercial Services Charlotte" in compliance with North Carolina statutes governing recordable documents and the terms of the submitter agreement with the Durham County Register of Deeds.

Amendment to Lease, which is recorded at Book 1316, Page 121, Durham County Registry; as assigned by that certain Assignment, which is recorded at Book 1316, Page 140, Durham County Registry; as amended by that certain unrecorded Amendment to Lease dated March 16, 1989; as assigned by that certain Assignment and Assumption of Ground Lease, which is recorded at Book 2693, Page 835, Durham County Registry; as amended by that certain unrecorded Third Amendment to Lease dated May 1, 2009; as amended by that certain unrecorded Fourth Amendment to Lease dated February 1, 2011; as amended by that certain unrecorded Fifth Amendment to Lease dated August 1, 2011 (together collectively referred to as the "Ground Lease"); and

WHEREAS, Grantor has this date transferred all of its right, title, and interest in said Ground Lease to Grantee; and

WHEREAS, now Grantor simultaneous therewith desires to sell and transfer all improvements on the real property described on Exhibit A hereof to Grantee, subject only to the exceptions herein set out.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00), paid to it by Grantee, receipt of which is hereby acknowledged and other good and valuable consideration, has, and by these presents does, grant, bargain, sell and convey unto the Grantee, in fee simple, all of the improvements located or situated upon the property described on Exhibit A hereof, including, but not limited to, all structures, facilities and buildings, all fixtures, equipment and machinery of the Grantor now located in or upon any building situated upon the property described on Exhibit A hereof, all driveway, parking lot and other paved improvements, all exterior lighting poles and fixtures, all plants and plantings, all construction or improvements of any kind, whether real or personal in nature, and all property, rights, and interests owned by

Grantor related thereto (all collectively hereafter referred to as the "Improvements"), whether or not attached, annexed or affixed to the property described herein, located on or pertaining to that tract or parcel of land located in Durham County, North Carolina, and more particularly described on Exhibit A attached hereto, which description is incorporated herein by reference.

TO HAVE AND TO HOLD the aforesaid Improvements located on the land described on Exhibit A hereof, and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title to the Improvements as Grantor has received and Grantor will warrant and defend the title thereto against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereafter stated. Title to the Improvements hereinabove described is subject to the exceptions set forth on Exhibit B attached hereto and by this reference made a part hereof.

*[THE REMINDER OF THIS PAGE IS INTENTIONALLY BLANK;
SIGNATURES TO FOLLOW.]*

IN WITNESS WHEREOF, the Grantor has hereunto caused this Special Warranty Deed to Improvements to be duly executed, under seal, as of the Effective Date.

GRANTOR:

DURHAM WESTGATE PLAZA INVESTORS, LLC,
a North Carolina limited liability company

By: *Simone Spiegel*
Simone Spiegel, Manager

STATE OF Florida :

COUNTY OF Broward :

I, the undersigned Notary Public, certify that **SIMONE SPIEGEL** personally came before me this day and acknowledged that she is the Manager of **DURHAM WESTGATE PLAZA INVESTORS, LLC**, a North Carolina limited liability company, and that by authority duly given and as the act of the Company, the foregoing instrument was signed for the purposes therein expressed, for and on behalf of the Company.

Witness my hand and Notarial Stamp/Seal this 15th day of July, 2021.

Michelle Sturges Craig
Notary Public

[NOTARY SEAL]

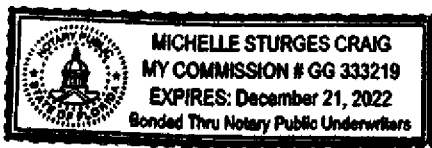


EXHIBIT A

BEGINNING, at a stake located at the intersection of the southern right-of-way of U.S. 15-501 Chapel Hill Boulevard and the western right-of-way of Westgate Drive (a 75-foot right-of-way), said stake having N.C. grid coordinate values of $y=807,137.41$ and $x=2,011,333.37$, running thence along and with the western right-of-way of Westgate Drive south $08^{\circ} 10' 44''$ east 538.10 feet to a stake, thence continuing along said right-of-way south $08^{\circ} 07' 48''$ east 255.94 feet to a stake, thence north $51^{\circ} 28' 22''$ west 100.25 feet to a stake, thence south $12^{\circ} 29' 54''$ west 100.19 feet to an existing concrete monument, thence south $28^{\circ} 24' 16''$ west 337.47 feet to an existing concrete monument, thence south $29^{\circ} 22' 42''$ west 96.08 feet to a stake, thence along the northern line now or formerly belonging to Westgate Plaza Associates north $88^{\circ} 31' 01''$ west 263.67 feet to a stake, thence along the northern line of Collinswood Subdivision as shown in Plat Book 28-B, Page 66, north $63^{\circ} 35' 15''$ west 268.34 feet to a stake, thence continuing along the same line north $61^{\circ} 34' 18''$ west 330.09 feet to an existing concrete monument, thence along the eastern right-of-way of U.S. 15-501 Chapel Hill Boulevard north $02^{\circ} 44' 14''$ east 131.00 feet to an existing concrete monument, thence along the southern right-of-way of U.S. 15-501 Chapel Hill Boulevard north $49^{\circ} 14' 37''$ east 352.07 feet to a stake, thence continuing along with said right-of-way north $38^{\circ} 26' 16''$ east 118.46 feet to a stake, thence continuing along said right-of-way as it makes a counterclockwise curve having a radius of 1550.61 feet, an arc distance of 223.12 feet to a stake, thence continuing along said right-of-way north $57^{\circ} 49' 30''$ east 388.13 feet to a stake, the point and place of **BEGINNING**, and being that parcel of land containing 17.568 acres, more or less, as shown on plat and survey thereof by James S. Murphy, Registered Land Surveyor, dated 21 March 1989, last revised April 27, 1999, and entitled, "As-Built Survey for The Western and Southern Life Insurance Company, 2T-Ducham Associates II, Moore & Van Allen, TICOR Title Insurance Company", to which plat reference is hereby made for a more particular description of same.

LESS AND EXCEPT the following described tract or parcel of land:

Beginning at a point lying North $63^{\circ} 39' 59''$ West 158.57 ft. from Survey Station $43+28.44$ in Survey Line RP "D" of Highway Project 8:1350702, being designated as point "A" upon the aforementioned map filed herein; running thence with points designated on said map as follows: North $2^{\circ} 42' 57''$ East 131.00 ft. to point "B"; thence North $49^{\circ} 21' 43''$ East 352.24 ft. to point "C" thence North $38^{\circ} 33' 35''$ East 318.46 ft. to point "D"; thence a curve turning to the left, being a segment of a circle having a radius of 2967.79 ft. and having a chord with a bearing of North $60^{\circ} 17' 29''$ East and a chord distance of 111.22 ft., an arc distance of 111.23 ft. along said curve to point "E"; thence South $44^{\circ} 31' 17''$ West 170.35 ft. to point "F"; thence South $36^{\circ} 17' 25''$ West 46.85 ft. to point "G"; thence South $44^{\circ} 28' 18''$ West 152.84 ft. to point "H"; thence South $30^{\circ} 02' 07''$ West 68.00 ft. to point "J"; thence South $2^{\circ} 52' 19''$ West 430.15 ft. to point "K"; thence South $1^{\circ} 12' 36''$ West 35.37 ft. to point "M"; thence North $63^{\circ} 39' 59''$ West 287.89 ft. to the point of beginning, containing 2.07 acres.

EXHIBIT B

1. Taxes for the year 2021, and subsequent years, which are not yet due and payable.
2. Easements, setback lines and any other matters shown or noted on plat recorded in Plat Book 112, Page 192, Durham County Registry.
3. Terms, conditions and requirements of the Ground Lease referenced above.
4. Rights of tenants in possession, as tenants only, under any and all unrecorded leases.
5. Easement(s) and/or Right(s) of Way in favor of Duke Power Company, recorded in Book 1347, Page 797 and Book 1361, Page 342, Durham County Registry.
6. Deed of Easement in favor of General Telephone Company of the South, recorded in Book 1353, Page 738, Durham County Registry.
7. Assignment and Assumption of Leases between The Western and Southern Life Insurance Company, as Assignor and Durham Westgate Plaza Investors, LLC, as Assignee, recorded in Book 2693, Page 844, Durham County Registry.
8. Right of Way Agreement in favor of Duke Energy Corporation, recorded in Book 4707, Page 539, Durham County Registry.
9. Unrecorded Shopping Center Ground Lease between Durham Westgate Plaza Investors, LLC, as Landlord and Wildor Restaurant Group, LLC, as Tenant, as evidenced by Memorandum of Lease recorded in Book 9290, Page 648, Durham County Registry.