This instrument was prepared by and is to be returned to:

Matthew D. Koblegard, Esq. Koblegard Law, PLLC 49 SW Flagler Ave., Suite 301 Stuart, FL 34994 JOSEPH E. SMITH, CLERK OF THE CIRCUIT COURT SAINT LUCIE COUNTY FILE # 4799091 12/31/2020 03:32:37 PM OR BOOK 4531 PAGE 1381 - 1391 Doc Type: DEC RECORDING: \$95.00

DECLARATION OF COVENANTS RUNNING WITH THE LAND IN LIEU OF UNITY OF TITLE

WHEREAS. Declarant owns the real property more particularly described on Exhibit "A" attached hereto and made a part hereof (the "the Property") and located in St. Lucie County, Florida; and

WHEREAS. Declarant (and/or Declarant's successors or assigns) intends to develop the Property in three (3) phases pursuant to the Site Plan attached hereto and made a part hereof as Exhibit "B" ("Site Plan") (or such other site plan subsequently approved by the City of Port St. Lucie ("City")). The Site Plan and any other site plan approved by the City shall be referred to as the "Approved Site Plan(s)"; and

<u>WHEREAS</u>. Declarant desires to replat the Property into three (3) separate platted lots ("Individual Parcels") as designated by the three (3) phases reflected on the Site Plan and as more particularly described in the proposed replat, Southern Grove Plat No. 28, attached hereto as Exhibit "C"; and

<u>WHEREAS</u>. Declarant desires, after replatting the Property, to market and convey title to one or more of the Individual Parcels to third parties; and

<u>WHEREAS</u> notwithstanding the replatting referenced above, Declarant desires the Property be developed pursuant to a "Unified Plan of Development" (as hereinafter defined) pursuant to the Approved Site Plan(s), whereby each portion of the Property shall be subject to the terms and provisions of this Declaration; and

<u>WHEREAS</u>, in the event the Individual Parcels are hereafter conveyed, each of the subsequent owners of the respective Individual Parcels of the Property ("Owner") may own, use, operate, convey and/or encumber its Individual Parcel separately; and

WHEREAS. in order for any potential mortgagee(s) ("Lienholders") to perfect their respective security interests in any Individual Parcel(s), said Lienholders may require the ability to foreclose or obtain title by deed in lieu with respect to one or more Individual Parcels comprising the Property; and

<u>WHEREAS</u> the Declarant consents to this Declaration as a covenant running with the land in lieu of unity of title; and

<u>WHEREAS</u> this Declaration is executed in order to assure that the existing and future development on the Property with multiple ownership will comply with this Declaration and the Site Plan or any future Approved Site Plan(s).

NOW THEREFORE. in consideration of the premises, the Declarant hereby agrees as follows:

- 1. The Declarant and each of its grantees, successors and assigns, including, without limitation, any Owner of any Individual Parcel or Lienholder acquiring any interest in any Parcel comprising a portion of the Property and any party acquiring any right, title or interest in any portion of the Property from any Owner or a Lienholder by virtue of any deed, foreclosure proceeding, deed in lieu or otherwise, hereby agree and declare that (i) for the purpose of determining compliance with all Approved Site Plans and other governmental requirements, including without limitation, FAR, setbacks, and design review standards, parking, landscaping, etc., the Property shall be considered as a Unified Plan of Development and shall be developed as a single property for purposes of meeting building, zoning and land development requirements, and (ii) so long as this Declaration shall remain in effect, any and all conveyances, transfers or encumbrances of all or any portion of the Property by any Owner of any portion of the Property and/or a Lienholder, their grantees, successors and assigns, shall be subject to the terms and restrictions of this Declaration as if any such grantee, successor, or assign, were a party hereto or a signatory hereof.
- 2. The Declarant agrees that, notwithstanding the relationship of Individual Parcels comprising the Property for building, zoning and land development code purposes, in the event any Owner or Lienholder who acquires an interest in all or a portion of the Property, including, without limitation, through deed, foreclosure, deed in lieu or otherwise, that the respective Owners, whether the Declarant, any Owner, any Lienholder or their successors or assigns, shall only be individually liable for their own respective Individual Parcel(s) for every other purpose including, but not limited to, any violations of any codes or laws including without limitation zoning codes, environmental codes, laws, rules, regulations and building codes which occur on their respective Individual Parcels. Furthermore, each Owner and their successors and assigns shall indemnify each other Owner and hold each other Owner harmless for any alleged violations of this Section 2 which affect the other Owners' Individual Parcels.
- 3. The Declarant hereby acknowledges that to the extent that there shall be any modification to the existing Site Plan, such Site Plan modification shall require the approval of the City in order to accommodate ingress, egress, drainage, utilities, or other improvements contemplated by development of the Individual Parcel(s). The Owner of an Individual Parcel shall take into consideration any modification's impact and whether any remaining easements are required pursuant to any Approved Site Plan or modification. In connection with the development of the Individual Parcels, the Owner of said Individual Parcel will construct the improvements and such portions of the infrastructure located on the Individual Parcel, including, but not limited to, any drainage, water, sewer, utility lines, roadways, and other improvements necessary to support the development as contemplated by the Approved Site Plan and in compliance with City regulations and requirements.
- 4. The Property will be developed as a unified development site in substantial conformity with the Approved Site Plan(s) ("<u>Unified Plan of Development</u>") whereby each portion of the Property shall be subject to the terms and provisions of this Declaration and shall be developed as a single property for purposes of meeting building, zoning and land development requirements, but may be conveyed or encumbered separately. No modification to the Approved Site Plan(s) shall be effectuated without the written consent of the City.

- 5. The Property is currently entitled to allow for the development of 40,000 square feet of retail/restaurant/office and 100 assisted living facility units. Upon completion of the replatting process, as more particularly described in Composite Exhibit "C", Phase 1 shall be entitled to 10,000 square feet of retail/restaurant/office and 100 assisted living facility units. Phase 2 shall be entitled to 10,000 square feet of retail/restaurant/office. Phase 3 shall be entitled to 20,000 square feet of retail/office/restaurant.
- 6. Effective as of the date of the recording of this Declaration, Declarant, for itself as well as its successors and assigns, hereby covenants and agrees that the Property shall be subject to the following easements and conditions, each of which shall be in accordance with the Approved Site Plan:
- (a) A non-exclusive easement is hereby conveyed and granted to each Owner for the benefit of each Individual Parcel over the paved roadways constructed on each Individual Parcel of the Property as shown on the Approved Site Plan that exist from time to time for pedestrians, vehicular ingress and egress of any portion of the Property as well as their respective employees, agents, guests, tenants, invitees, mortgagees, subtenants, licensees, heirs, successors and/or assigns (collectively, "Specified Parties" and individually "Specified Party") from each portion of the Property and adjacent public and private road and/or rights-of-way and curb cuts; and
- (b) A non-exclusive easement (subject to the right to have exclusive parking as provided below) is hereby conveyed and granted to each Owner for the benefit of its Individual Parcel over the paved parking spaces constructed on each Individual Parcel of the Property as shown on the Approved Site Plan that exists from time to time for vehicular parking for the Owner of any portion of the Property and their respective Specified Parties; provided however, the Owner of the applicable Individual Parcel shall have the right to grant exclusive parking within their Individual Parcel, provided the remaining Individual Parcels have sufficient parking to serve their Individual Parcel(s); and
- (c) A non-exclusive easement is hereby conveyed and granted to each Owner of any portion of the Property and their respective Specified Parties for the benefit of Owner's Individual Parcel (other than any areas upon which a building or other improvement as shown on the Approved Site Plan is intended to be constructed ("Improvements")) for the installation, use, operation, maintenance, repair, replacement, relocation, and removal of utility facilities in appropriate areas in each such Individual Parcel within the Property (but not underneath any Improvements), including without limitation underground pipes, ducts, conduits and cables as necessary to transmit and distribute electricity, gas, water, sewer, cable television, drainage, telephone, lighting and other utilities and common public services. Notwithstanding the foregoing restriction relating to Improvements, this easement includes parking areas, driveways and roadways depicted on the Approved Site Plan; and
- (d) A non-exclusive easement is hereby conveyed and granted to each Owner for the benefit of its Individual Parcel over each Individual Parcel for the benefit of each other Individual Parcel as may be reasonably necessary for the development of Improvements by the Owner (or its Specified Parties) located upon such Owner's portion of the Property as shown on the Approved Site Plan: for (i) the construction of buildings and improvements as permitted by the Approved Site Plan; (ii) installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations; and (iii) attachment of buildings and building overhangs and other overhangs and projections encroaching upon such Individual Parcel unto the adjoining Individual Parcels within the Property such as, by way of example, but not a limitation, marquees, canopies, lights, lighting devices, awnings, wing walls and the like to the extent set forth on the Site Plan.

- 7. The Declarant acknowledges that each of the Owners of any portion of the Property, their respective Specified Parties and other parties in interest of the Property, shall be bound by the terms, provisions and conditions of this Declaration. Each Owner of an Individual Parcel, or portion of the Property, shall be responsible for the maintenance of said Individual Parcel or portion therof including but not limited to Improvements, infrastructure, utilities, and stormwater drainage owned by such Owner for the mutual benefit of all Owners of the Property. To the extent of any damage to the Property or any Improvements thereon caused by such Owner or Specified Party's use of any easements set forth in this Declaration, such Owner or Specified Party shall be responsible for any injury to persons or damage to property resulting from its use of any of the easements set forth in this Declaration. Declarant shall control and maintain the stormwater drainage facilities throughout the Property until a more detailed declaration, as referenced in Paragraph 8 below, is established, the costs associated therewith being apportioned amongst the Individual Parcels based on the size of said Individual Parcel or portion thereof relative to the Property as a whole.
- 8. Declarant covenants and agrees that to the extent all Owner(s) of portions of the Property agree in writing to a more detailed declaration setting forth easements, allocation of maintenance responsibility, allocation of the costs in connection with such maintenance, and for better identification of the easements referenced above ("OEA") then such OEA shall supersede and control to the extent of any inconsistency with this Declaration. Such OEA may contain such other provisions with respect to the operation, maintenance and development of the Property as such Owner(s) of the Property may agree to ensure that applicable Individual Parcels will be constructed, conveyed, maintained and operated in accordance with the Approved Site Plan. Notwithstanding the foregoing, any such OEA may not be less stringent, conflict with, contradict, or supersede the terms set forth in this Declaration without the consent of the City. To the extent that any provisions of an OEA are in conflict with, contradict or attempt to supersede this Declaration, this Declaration shall control to the extent of the conflicting provisions. The easement provisions or portions set forth in Section 6(a) (d) of this Declaration may be waived in writing by the City if the City reasonably determines such easements are not needed.
- All of the covenants, easements and restrictions contained herein are not personal, shall be perpetual and shall constitute covenants running with the land, will be binding upon any and all persons and entities, their respective successors in interests, assigns, heirs and personal representatives having or hereafter acquiring any right, title or interest in and to all or any portion of the Property, and all benefits deriving therefrom will accrue to the benefit of all persons and entities, and their respective successors in interest, tenants, licensees, assigns, heirs and personal representatives having or hereafter acquiring any right, title or interest in all or any portion of the Property. If any easement created or intended to be created by this Declaration would be found ineffective as a matter of law on account of the fact that it is purported to be created at a time when both the burdened and benefited properties are owned by the same party, such easement shall be instead be deemed a contractual obligation and license having the same terms for the duration of the period that the burdened and benefited properties are owned by the same party, which shall automatically be converted to an easement on such future date as the burdened and benefited properties become owned by different parties, without requiring the execution or recordation of any further instruments, so as to preserve the intent and purpose of this Declaration. The Declarant acknowledges and agrees that this Declaration is not intended by the Declarant to be subject to the legal doctrine of merger, in that it is the intention that all the covenants, easements and restrictions shall apply to the land and all current and future owners and occupants thereof.

- 10. Nothing contained in this Declaration shall in any way be construed as a dedication of any portion of the Property for public use, and all of the agreements herein created are private and do not constitute grants for public use.
- 11. In the event of any litigation concerning this Declaration, any provision hereof, or any right or easement reserved or arising under, out of or by virtue of the execution of the delivery and/or recordation of this instrument, the prevailing party in such litigation shall be entitled to recover its reasonable attorneys' fees and other legal expenses related thereto, including without limitation, those incurred at or before the trial level or in any appellate, bankruptcy or administrative proceeding. TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT. This clause shall survive the expiration or termination of this Agreement.
- 12. No waiver of any of the provisions of this Declaration shall be effective unless it is in writing, signed by the party against whom it is asserted and any such waiver shall only be applicable to the specific instance in which it relates and shall not be deemed to be a continuing or future waiver.
- 13. This Declaration shall be governed by and construed in accordance with the laws of the State of Florida and venue for any litigation arising hereunder shall be in St. Lucie County, Florida.
- 14. Any notice, request, demand, instruction or other communication to be given to any owner hereunder, shall be in writing and shall either be (i) hand-delivered, (ii) sent by Federal Express or a comparable overnight mail service, or (iii) mailed by U.S. certified mail, return receipt requested, postage prepaid to the address of the Owner as reflected on the tax assessor's records for the affected Individual Parcel.
- 15. If any provision of this Declaration or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions hereof and any other application thereof, shall not in any way be affected or impaired, and such remaining provisions shall continue in full force and effect.
- 16. As used in this Declaration, the singular shall include the plural, the plural shall include the singular, and words of any gender shall include the other genders as the context may require.
- 17. This Declaration shall be recorded in the Public Records of St. Lucie County, Florida. The provisions of this Declaration shall become effective upon their recordation in the Public Records of St. Lucie County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by all of the then Owners of the Property (or if any portion of the Property has been submitted to the condominium form of ownership, then by the condominium association governing such condominium in lieu of all of the Owners thereof) and the City, upon the determination and affirmative finding that the same is no longer necessary to preserve and protect the Property for the purposes herein intended.
- 18. The provisions of this Declaration may be amended, modified or released by a written instrument executed by the Declarant, any subsequent Owners of Individual Parcels, or their successors or assigns of any portion of the Property provided the same is approved in writing by the City prior to such amendment, modification or release.
- 19. Any party acquiring a subsequent interest in any portion of the Property shall be bound by the terms, provisions and conditions of the covenants contained in this Declaration.

- 20. Enforcement shall be by action against any persons or entities violating or attempting to violate any covenants contained herein. The prevailing party to any action or suit pertaining to or arising out of this Declaration shall be entitled to recover reasonable attorneys' and paralegals' fees, in addition to costs and disbursements. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.
- 21. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect.
- 22. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the Party exercising the same from exercising such other additional rights, remedies or privileges as any be available to it at law or in equity.

IN WITNESS WHEREOF, the Declarant hereby executes this Declaration as of the date first above written.

WITNESSES:

BARON SHOPPES TRADITION, LLC,

a Florida limited liability company

Name

Name:
Title:_

By

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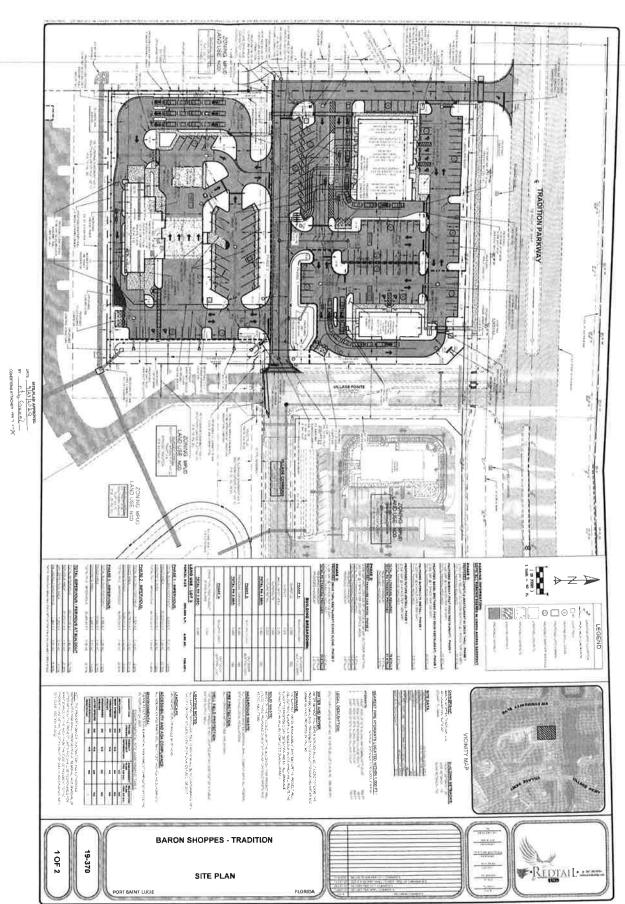
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AN KILLINGSWORTH

STATE OF FLORIDA) ss: COUNTY OF MARTIN)	
The foregoing instrument was acknowled or online notarization this 3147 day of as the sole manager/member of Baron Shoppes Tepersonally known or produced identification with KILLINGS WILLINGS WILLIAM KILLINGS WILL	dged before me by means of physical presence DEWMORE, 2020, by JEREMIAH BARON, radition, LLC, a Florida limited liability company. He is a limited liability company. When the second s

Exhibit "A"

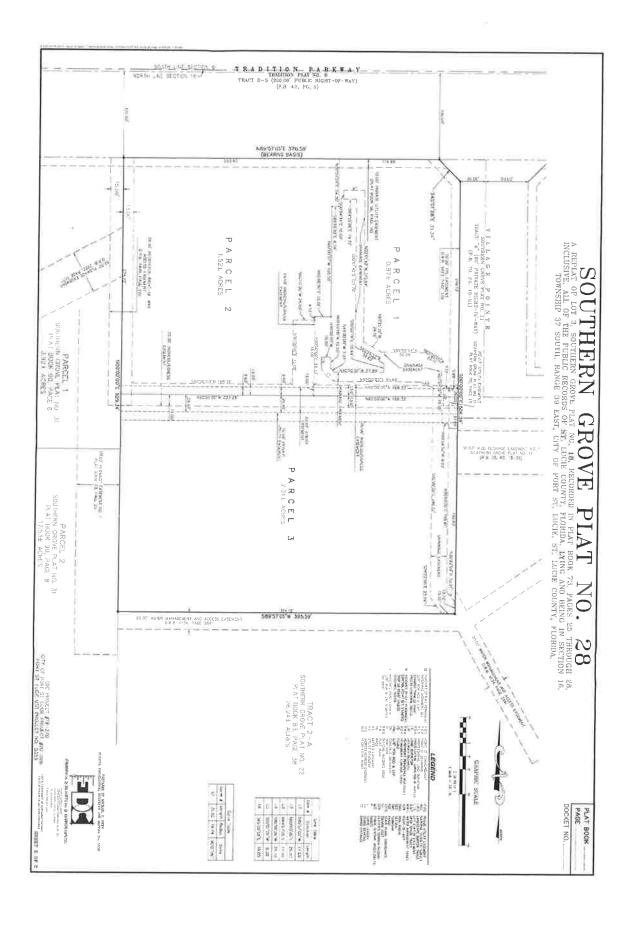
Lot 3, Southern Grove Plat No. 18, according to the Map or Plat thereof, as recorded in Plat Book 73, Pages 25 through 28, of the Public Records of St. Lucie County, Florida.



PSLUSD FILE#5359 PLANNING & ZONING DEPT SITE PLAN REVIEW #PP20 004 RECEIVED

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RECEIPT



JOSEPH E. SMITH Clerk of the Circuit Court

St. Lucie County

1981558

www.stlucieclerk.com

Clerk of the Circuit Court

St. Lucie County

201 South Indian River Drive

Fort Pierce, FL 34950

(772) 462-6900

Transaction #: Receipt #:

1981558

1715587

Cashier Date:

12/31/2020 3:32:38PM

Print Date:

12/31/2020 3:32:42PM

12/31/2020 3:28:13PM

CUSTOMER INFORMATION

KLOEGARD LAW PLLC 49SW FLAGER AVE

STE 301

STUART,FL 34994

TRANSACTION INFORMATION

Location: Return Code:

Date Received:

North County

Mail

Trans Type: Reference:

Recording

Cashier: LARACUENTEJ PAYMENT SUMMARY

Total Fees:

\$98.33 Total Payments: \$98.33

Balance Due:

\$0.00

Cash Tendered:

Change:

\$0.00

Payment

CREDIT CARD

IPASS Convenience Fee

3.33

\$98.33

CUSTOMER SIGNATURE:

Official Record

DECLARATION

BK/PG: 4531/1381 DOC #: 4799091 Date: 12/31/2020 3:32:37PM

FROM: BARON SHOPPES TRADITION LLC TO:

Indexing @ 1st 4 Names Free, Addt'I=\$1 ea.

Recording @ 1st=\$10 Addt'l=\$8.50 ea.

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95.00