



Access for the Electronic Meeting

Via phone: 1-646-558-8656

Via web:

<https://zoom.us/j/98026910612?pwd=N3ZqdGUvZ1pUb3VhR1UwZ3hqNDc0UT09>

Via Zoom App:

Meeting ID: 980 2691 0612

Password: 499194

April 26, 2021

Stallings Town Hall
315 Stallings Road
Stallings, NC 28104
704-821-8557

www.stallingsnc.org

Town Council Agenda

	Time	Item	Presenter	Action Requested/Next Step
	7:00 p.m.	Invocation Pledge of Allegiance Call the Meeting to Order	Wyatt Dunn, Mayor	NA
	7:05 p.m.	Public Comment	Wyatt Dunn, Mayor	NA
1.	7:40 p.m.	Agenda Approval	Wyatt Dunn, Mayor	Approve agenda as written. <i>(ADD, IF APPLICABLE: with changes as described by Mayor Dunn)</i> Motion: I make the motion to: 1) Approve the Agenda as presented; or 2) Approve the Agenda with the following changes: _____.
2.	7:45 p.m.	DA19.11.03 - Stallings Farms 1. Open Public Hearing 2. Information from Staff 3. Public Hearing 4. Close Public Hearing	Lynne Hair, Town Planner	Information
3.	8:30 p.m.	TX21.03.01 and TX21.03.02 <i>Request to amend Development Ordinance Article 2 and 16 to address concerns with structures being built within floodplains, and the appearances of fences throughout the Town.</i> 1. Open Public Hearing 2. Information from Staff 3. Public Hearing 4. Close Public Hearing	Lynne Hair, Town Planner	Information
4.	8:50 p.m.	TX21.03.03 - Open Space 1. Open Public Hearing 2. Information from Staff 3. Public Hearing 4. Close Public Hearing	Lynne Hair, Town Planner	Information

5.	9:10 p.m.	<p>Stinson Farms</p> <p>A. DA19.01.06/DA19.11.02 - Development Agreement for the Stinson Farms Development <i>(Tabled from 02-22-2021)</i> Development Agreement Review and Recommendation for Stinson Farms, a mixed-use project located on the northeast corner of Idlewild Road and I-485.</p> <p>1. Information from Staff</p> <p>2. Council Potential Vote</p> <p>B. CZ21.02.01 Land Investments, LLC. (Stinson Farms) requests that an approximately 5.43 acre site be rezoned to the CZ-MU-2 zoning district to allow (1) up to 24 multi-family dwelling units, (2) any non-residential uses permitted by right or with additional standards in the MU-2 zoning district and (3) either a convenience store with gasoline pumps or a restaurant with drive-thru windows.</p> <p>1. Information from Staff</p> <p>2. Council Potential Vote</p>	Lynne Hair, Town Planner	Discussion and possible action
6.	10:20 p.m.	2020-2021 Road Resurfacing Interlocal Agreement with Indian Trail	Alex Sewell, Town Manager	Approve/Deny agreement
7.	10:30 p.m.	Resolution Opposing SB 349/HB 401 ("Increase Housing Opportunities)	Steven Ayers, Council Member	Approve/Deny resolution
8.	10:35 p.m.	Adjournment	Wyatt Dunn, Mayor	Motion to adjourn



MEMO

To: Town Council
 From: Lynne Hair, Planning Director
 Date: April 19, 2021
 RE: DA19.01.06 – Development Agreement Review and Recommendation for Stallings Farms, a mixed residential development located on the intersection of Stallings and Stevens Mill Roads.

Applicant: Stallings Farm Investments, LLC

Request:

Consideration of a Development Agreement for a mixed residential development. The project, Stallings Farms, is a 222 lot, single family residential, walkable neighborhood at the intersection of Stallings Road and Stevens Mill Road, across from Stallings Elementary School.

Project Details:

- The project is part of Stallings Elementary SAP.
- The project consists of three lot sizes: 40', 50', and 60' lot sizes.
- The project is approximately 83 acres, zoned MU-1.
- The proposed density is 2.7 units per acre, or 3.5 units per acre if the dedicated park and is not included.

Stallings Farms is a proposed mixed residential development that includes 83 acres of land that is split by Stallings Road as follows:

Tract	Total Lots	Acreage	40'	51'	60'
West	67	21.17	48	0	19
East	155	61.95	83	22	48
TOTAL	222	83.12	131	22	67

Background:

The original application for this project was submitted in November 2019. Over the past year and a half, the Town has worked with the applicant to ensure that the plan meets ordinance requirements.

The project was forwarded to the DA Sub Committee in February 2020. A TIA had to be provided before the subcommittee process could continue. The applicant entered the TIA process. Due to COVID, the study was delayed. The subcommittee met in January and after negotiations, voted to forward the project onto the Planning Board with a recommendation of approval.

The following conditions have been agreed to by the developer, as a result of Town Council negotiations and are included in the Development Agreement:

1. Landscape plan will be provided for the linear park proposed fronting Stallings, Stevens Mill and Oak Springs Roads and including as an exhibit to the DA.
2. The applicant will consider the use of a specific fruit, nut tree, or unique tree in the linear park,
3. The spine trail located in the linear park fronting Stallings, Stevens Mill and Oak Springs Roads will be maintained by the Town of Stallings; the linear park will be owned and maintained by the HOA. An easement agreement between the Town and the HOA will be provided that will allow the Town access to the spine trail for maintenance purposes.
4. Mast Arms will be installed by the applicant at the intersection of Stallings Road and Stevens Mill Road.
5. Mac McCarley will provide language in the DA that will ensure the installation of the required signal to the intersection of Stallings and Stevens Mill Roads with or without The Willows project moving forward. Tying the installation to the issuance of certificate of occupancy.
6. The pond at the corner of Oak Springs and Stevens Mill Roads will be incorporated into the park and will include a fountain.
7. A playground will be incorporated into the proposed neighborhood.
8. A creek crossing of the greenway trail will be provided on the south east side of the Sweet Birch lots providing a greenway loop and connection into the west side of the neighborhood and to Stallings Road. This trail and connection will be provided in lieu of the proposed parking lot and picnic shelter. It was also agreed that an additional lot could be placed on Sweet Birch with the addition of this creek crossing and additional greenway trail.
9. The applicant will work with the Town on researching and providing low maintenance materials to be used on the greenway bridge connecting the Stallings Spine at North Fork Crooked Creek.

The attached site plan is the final revision resulting from the negotiated conditions.

Additional Information:

TIA:

All improvements as identified in the TIA will be the responsibility of the applicant.

Greenways/Parks:

The applicants are showing the greenway trails that are identified by the Stallings Parks, Recreation, and Greenway Master Plan, including a portion of the Stallings Spine along the property frontage on Stallings and Stevens Mill Roads. Sweet Birch Parks is also located on the subject and will be donated to the Town as a part of the proposed project. In addition to the donated property, the application will also provide a bridge connection from the greenway to the proposed neighborhood and trails to be located to the north. On street parking will also be provided on Sweet Birch Road.

Planning Board Recommendation:

Approve as Submitted (unanimous)

DEVELOPMENT AGREEMENT
BY AND BETWEEN
STALLINGS FARM INVESTMENTS, LLC
AND
TOWN OF STALLINGS

Prepared by and Return to:
Wesley S. Hinson
Hinson Faulk, PA
309 Post Office Drive
Indian Trail, NC 28079

STATE OF NORTH CAROLINA)
COUNTY OF UNION) **DEVELOPMENT AGREEMENT**
)

This Development Agreement (the “**Agreement**”) is made and entered into this _____ day of _____, 2021 (the “**Effective Date**”) by and between **STALLINGS FARM INVESTMENTS, LLC**, a North Carolina limited liability company (hereinafter “**SFI**”) and the **TOWN OF STALLINGS**, a North Carolina municipal corporation (hereinafter “**Town**”).

STATEMENT OF PURPOSE

1. Section 160A-400.20(a)(1) [160D-1001] of the North Carolina General Statutes provides that “large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.”
2. Section 160A-400.20(a)(3) [160D-1001] of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.”
3. Section 160A-400.20(a)(4) [160D-1001] of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects involve substantial commitments of private capital by developers, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development.”
4. Section 160A-400.20(a)(5) [160D-1001] of the North Carolina General Statutes provides that “because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.”
5. Section 160A-400.20(a)(6) [160D-1001] of the North Carolina General Statutes provides that “to better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.”
6. Section 160A-400.23 [160D-1004] provides that a local government may enter into a development agreement with a developer for the development of “developable property of any size.”
7. In view of the foregoing, Sections 160A-400.20(b) [160D-1001(b)] and 160A-400.22 [160D-1003] of the North Carolina General Statutes expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of Sections 160A-400.20 through 160A-400.32 [160D-1001 through 160D-1012] of the North Carolina General Statutes, which procedures and requirements include approval of the

development agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

BACKGROUND

1. SFI is the owner of two (2) parcels of land located at the intersection of Stallings Road (S.R. 1365) and Stevens Mill Road (S.R. 1524) in the Town of Stallings, Union County, North Carolina, designated as Union County Tax Parcel Nos. 07099006 and 07099007, and consisting of approximately 83.122 acres as more particularly described in **Exhibit A** attached hereto and incorporated herein by reference. (the “**Property**”) The Property is zoned MU-1.
2. SFI, and its successors in interest, are hereinafter referred to as the “**Developer.**”
3. Developer desires to develop a single-family residential development (the “**Project**”) on the Property in accordance with the terms of this Agreement, the Conceptual Site Plan (defined hereinbelow) and the Town of Stallings Development Ordinance (the “**Ordinance**”) that will contain various sizes of single family detached dwelling units and associated residential amenities as permitted under the Ordinance.
4. After careful review and deliberation, the Town has determined that the Project is consistent with the Ordinance and that it would further the health, safety, welfare and economic well-being of the Town.
5. The Town has also determined that the Project will secure quality planning and growth, strengthen the tax base and provide public amenities and infrastructure.

Accordingly, Developer and the Town desire to enter into this Agreement for the purposes of coordinating the construction of infrastructure that will serve the Project and the community at large and providing assurances to Developer (and its successors in interest) that Developer may proceed with the development of the Project in accordance with the terms of this Agreement and the approvals set forth herein without encountering future changes in ordinances, regulations or policies that would affect Developer’s ability to develop the Project under the terms of this Agreement.

TERMS

NOW, THEREFORE, based upon the terms and conditions set forth herein and in consideration of the mutual promises and assurances provided herein, the parties do hereby agree as follows:

1. Public Hearing. Pursuant to Section 160A-400.24 [160D-1005] of the North Carolina General Statutes, the Town Council conducted a public hearing on _____, 2021 in accordance with the procedures set out in N.C.G.S. § 160A-364 [160D-601], and it approved on _____, 2021 the subsequent execution of this Agreement by the Town. The notice of public hearing specified, among other things, the location of the Property subject to this Agreement, the development uses proposed on the Property and a place where a copy of the Agreement can be obtained. The approval of this Agreement by the Town Council included the approval of the conceptual site plan (as defined in Section 7.7(D)(1) of the Ordinance) for the

Project (the “**Conceptual Site Plan**”) attached hereto as **Exhibit B** and incorporated herein by reference.

2. Permitted Uses/Maximum Density. Subject to the limitations set out herein and on the Concept Plan, the Property may be devoted to a single-family residential community containing a maximum of 221 residential units and the incidental and accessory uses and amenities associated therewith and permitted in the MU-1 zoning. The Developer shall construct an install a children’s playground as an amenity in the community.

3. Development of the Property. The Project shall be developed in accordance with the schedule set out hereinbelow, as may be amended by the agreement of the parties to reflect actual market absorption. Pursuant to N.C.G.S. § 160A-400.25(b) [160D-1006(b)], the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to N.C.G.S. § 160A-400.27 [160D-1008]but must be judged based upon the totality of the circumstances, including, but not limited to, Developer’s good faith efforts to attain compliance with the relevant development schedule, the availability of county utilities, including but not limited to public water and sewer to serve the Project, force majeure events and general market conditions. The development schedule is a budget planning tool and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace of development if market conditions support a faster pace.

A. Within ten (10) years of the Effective Date of this Agreement, Developer shall commence the development of the Project.

B. The development of the Project shall be substantially completed within fifteen (15) years of the Effective Date of this Agreement. Substantially completed shall mean that all streets and infrastructure have been constructed and installed on the Property.

4. Transportation Improvements. The development of the Property shall comply with the following transportation requirements.

A. Vehicular access to the Property shall be as generally depicted on the Conceptual Site Plan. The placement and configuration of the vehicular access points are subject to any minor modifications required to accommodate final site and construction plans and designs and to any other adjustments that are approved by the Town and/or the North Carolina Department of Transportation (“**NCDOT**”).

B. The Property will be also be served by internal public streets and/or internal private streets as depicted on the Conceptual Site Plan, as may be modified during the construction and development permitting process upon the approval of the Development Administrator, the Town Engineer or, for off-site improvements required by NCDOT, the NCDOT.

C. Subject to the approval of NCDOT, Developer, or its successors in interest, shall install all of the transportation improvements that are required to be installed by the developer of the Project pursuant to the Traffic Impact Analysis dated _____, 2020 prepared by Ramey Kemp and Associates or in any amended Traffic Impact Analysis for the Project subsequently approved by NCDOT (collectively, the “**TIA**”). The transportation improvements that are required to be installed by the developer of the Project shall be installed in accordance with the

schedule set out in the phasing analysis in the TIA or in any amended TIA approved by NCDOT, and such transportation improvements shall be installed in accordance with the specifications of NCDOT, including the completion of the following required transportation improvements as reflected on **Exhibit C**, attached hereto and incorporated herein by reference:

- (1) Stallings Road and Stevens Mill Road: Construction of a westbound left turn-lane with 250 feet of storage.
- (2) Stallings Road and Sweet Birch Drive: Construction of a westbound right turn-lane with 100 feet of storage.
- (3) Stevens Mill Road and Oakspring Road: Construction of an eastbound right turn-lane with 100 feet of storage.
- (4) Stallings Road and Access #1:
 - (a) Construction of a northbound left-turn with 100 feet of storage.
 - (b) Construction of a northbound right-turn with 100 feet of storage.
 - (c) Construction of a southbound left-turn with 100 feet of storage.
 - (d) Construction of a single lane ingress/egress on the westbound approach with an internal protected stem of 100 feet.
 - (e) Construction of a single lane ingress/egress on the eastbound approach with an internal protected stem of 100 feet.
- (5) Oakspring Road and Access #2:
 - (a) Construction of a single lane ingress/egress on the eastbound approach with an internal protected stem of 100 feet.
 - (b) Construction of a northbound left-turn lane with 100 feet of storage.
- (6) Sweet Birch Drive and Access #3: Construction of a single lane ingress/egress on the southbound approach with an internal protected stem of 100 feet.

D. Developer shall install decorative mast arms to the future signalization improvements at the intersection of Stallings Road and Stevens Mill Road at the time that intersection is fully signalized.

E. If Developer does not move forward with the development of the Project, Developer shall not be required to install any of the transportation improvements set out in the TIA or in any amended TIA

F. If The Willows project proceeds before the first building permit for a dwelling unit is requested for the Stallings Farm project the Developer shall be responsible for the cost of the Mast Arm for the signalization of the intersection at Stallings Road and Stevens Mill Road. However,

if the Developer requests a building permit for any dwelling in this Stallings Farm project before the first building permit is requested for The Willows, the Developer shall present an update of the existing Traffic Impact Analysis to determine what signalization improvements are necessary at the Stallings Road/Stevens Mill Road intersection based solely on the impact of the Stallings Farm project. In that event, the Developer shall be responsible for the signalization improvements indicated by the updated study and as agreed to by NCDOT, said improvements to be completed before the issuance of the 135th Certificate of Occupancy in the Stallings Farm project.

5. Multi-Use Path/Linear Streetscape Park/Pedestrian and Bicycle Improvements.

A. Developer shall install a 12-foot-wide meandering, multi-use path along a portion of the Property's frontage on Stallings Road, Stevens Mill Road and Oak Springs Road, as generally depicted on the Conceptual Site Plan. (the "Multi-Use Path") The Multi-Use Path shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way. The Multi-Use Path, once constructed, will be dedicated, and maintained by the Town.

B. Developer shall a linear streetscape park fronting Stallings Road and Stevens Mill Road as generally depicted on the Linear Streetscape Park Exhibit in **Exhibit D** attached hereto and incorporated herein by reference. (the "Linear Streetscape Park") The Developer will use a variety of unique trees, both new and existing, throughout the Linear Streetscape Park to enhance the pedestrian experience. Similarly, the Developer will also install a variety of unique and varied decorative plants throughout the Linear Streetscape Park. The Linear Streetscape Park shall be dedicated to and maintained by the homeowner's association serving the neighborhood.

6. Land Donation and Carolina Thread Trail Installation.

A. Developer shall dedicate and donate to the Town approximately 19 acres for the future Sweet Birch Park as shown on the Conceptual Site Plan. ("Sweet Birch Park")

B. Developer shall construct a portion of the Carolina Thread Trail within future Sweet Birch Park area as shown on the Conceptual Site Plan. These areas are referred to as the North Fork Crooked Creek Greenway West, Sweet Birch Connector and North Fork Neighborhood Connector in the Town of Stallings Parks, Recreation and Greenway Master Plan. The trail shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan. Final alignments shall be coordinated with the Town staff through the site planning process.

C. An easement agreement between the Town and the HOA will be provided that will allow the Town access to the respective connector paths and trails as shown on the Conceptual Site Plan for future maintenance purposes.

D. A creek crossing of the greenway trail located within the Sweet Birch Park areas will be provided on the south east side of the Sweet Birch lots as shown on the Conceptual Site Plan which provides a greenway loop and connection into the west side of the neighborhood and to Stallings Road. The Developer will work with the Town on researching and providing low maintenance

materials to be used on the greenway bridge connecting the spine trails at North Fork Crooked Creek.

E. The pond at the corner of Oak Springs and Stevens Mill Roads, as shown on the Conceptual Site Plan will be incorporated into the park and will include a fountain for aesthetic value and for water circulation.

7. Architectural and Design Standards. The primary exterior building materials on exterior walls of the single-family residential homes to be constructed on the Property will be a combination of stone, brick and cementitious siding with shake and board and batten accents and architectural shingles. Vinyl shall not be used as an exterior building material, except that vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.

8. Laws Governing the Development of the Project. The laws, land development regulations and ordinances applicable to the development of the Project are those in force as of the Effective Date and those applicable Ordinance provisions that were in force and effect on the date that the Development Agreement Application relating to this Agreement was filed with the Town (the “**Preserved Ordinance Provisions**”). Accordingly, Developer and its successors in interest shall have a vested right to develop the Project in accordance with the Conceptual Site Plan, the terms of this Agreement and the terms of the Ordinance and any applicable laws, land development regulations and ordinances in force as of the Effective Date and in accordance with the Preserved Ordinance Provisions during the entire term of this Agreement. Pursuant to N.C.G.S. § 160A-400.26 [160D-1008] and except as provided in N.C.G.S. § 160A-385.1(e) [160D-108], the Town may not apply subsequently adopted laws, land development regulations, ordinances or development policies to the Project or to the Property during the term of this Agreement without the written consent of Developer or its successors in interest. Additionally, no future impact fees shall apply to the Project or to the Property without the written consent of Developer or its successors in interest. This Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 [160D-107] or N.C.G.S. § 160A-385.1 [160D-108], or that may vest pursuant to common law or otherwise in the absence of this Agreement. The Town and Developer agree that the specific laws, land development regulations and ordinances in force as of the Effective Date and the applicable Preserved Ordinance Provisions are more particularly set out on **Exhibit E** attached hereto and incorporated herein by reference and are in a binder on file with the Town.

9. Term. Subject to the terms and conditions contained herein, the term of this Agreement shall commence on the Effective Date and shall expire twenty (20) years thereafter unless sooner terminated by the mutual consent of the parties hereto or their successors in interest, or unless extended by the mutual consent of the parties hereto or their successors in interest.

10. Local Development Permits. In accordance with N.C.G.S. § 160A-400.25(6) [listing not required by 160D. See 160D-1006], the following is a description or list of the local development permits approved or needed to be approved for the development of the Project:

- A. Erosion and Sediment Control Permit (Union County).
- B. Water Extension Permit (NCDENR).
- C. Sewer Extension Permit (NCDENR).

- D. NCDOT Encroachment Permit.
- E. NCDOT Entrance Permit.
- F. Zoning Permits.
- G. Building Permits.
- H. All other local, state or federal permits required for the Project.

The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve Developer of the necessity of complying with the law governing the local permitting requirements, conditions, terms or restrictions.

11. Public Facilities. Public water and sewer provided by Union County Public Works will serve the Project. Public water is currently available to the Property. As of the Effective Date hereof, it is unknown if public sewer is available to the Property. In any event, public sewer shall be available to the Property prior to the issuance of the first building permit for the Project.

12. Water and Sewer Lines. Developer, at its sole cost and expense, shall engineer, design, permit, construct and install the water and sewer lines to be located within the Project. The internal water and sewer lines shall be engineered, designed, constructed and installed in accordance with all applicable federal, state and local laws, regulations, ordinances and policies. The internal water and sewer lines shall be transferred to Union County for ownership and maintenance after they have been constructed and installed.

13. Amendment. The terms of this Agreement may be amended by the mutual consent of the parties hereto or their successors in interest. Major substantive modifications to the terms of this Agreement shall follow the same procedures as required for the initial approval of this Agreement. Minor or technical amendments to the terms of this Agreement or the Conceptual Site Plan approved by the Town of Stallings Development Administrator shall not be considered to be a major amendment to this Agreement. The Development Administrator shall have the authority to approved minor, administrative or technical amendments to the Conceptual Site Plan.

14. Recordation/Binding Effect. The Developer shall record this Agreement in the Union County Public Registry within ten (10) days of its full execution. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties hereto.

15. Periodic Review.

A. Pursuant to N.C.G.S. § 160A-400.27 [160D-1008], the Development Administrator or other Town Manager designee shall have the right to conduct a periodic review, (the "**Periodic Review**") at least every 12 months, at which time Developer shall be required to demonstrate good faith compliance with the terms of this Agreement.

B. If, as a result of the Periodic Review, the Town finds and determines that Developer has committed a material breach of the terms or conditions of the Agreement, the Town shall serve

notice in writing, within a reasonable time after the Periodic Review, upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing Developer a reasonable time in which to cure the material breach.

C. If Developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Agreement; provided, however, that the notice of termination or modification or finding of breach may be appealed to the Board of Adjustment in the manner provided by N.C.G.S. § 160A-388(b) [160D-406].

16. Default. The failure of Developer or the Town to comply with the terms of this Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as allowed under applicable law, provided, however, that no termination of this Agreement may be declared by the Town absent its according to Developer the notice and opportunity to cure set out in N.C.G.S. § 160A-400.27 [160D-1008]. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Superior Court of the County of Union, State of North Carolina, or in the Federal District Court in the Western District, and the parties hereto submit to the personal jurisdiction of such courts without application of any conflicts of law's provisions of any jurisdiction. Notwithstanding anything contained herein to the contrary, the violation of any rule, policy, regulation, ordinance, or law by a tenant in the Project shall not be considered to be an event of default under this Agreement. That being said, the Town is not waiving its ability or right to enforce the Ordinance or any other Town regulation in accordance with the terms of the Ordinance or any such regulation.

17. Notices. Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to:

The Town at: Town of Stallings
315 Stallings Road
Stallings, North Carolina 28104
Attn: Town Manager

Developer at: Stallings Farm Investments, LLC
3220 West Hwy 74
Monroe, North Carolina 28110
Attn: Bruce H. Griffin, III

With Copy to: Hinson Faulk, PA
309 Post Office Drive
Indian Trail, NC 28079
Attn: Wesley S. Hinson

18. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and Developer relative to the Property and the Project and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

19. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

20. Assignment. After notice to the Town, Developer may assign its rights and responsibilities hereunder to subsequent landowners of all or any portion of the Property, provided that no assignment as to a portion of the Property will relieve Developer of responsibility with respect to the remaining portion of the Property owned by Developer without the written consent of the Town. In the event that Developer sells the Property in its entirety and assigns its rights and responsibilities to a subsequent landowner, then Developer shall be relieved of all of its covenants, commitments and obligations hereunder.

21. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

23. Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

24. Agreements to Run with the Land. This Agreement shall be recorded in the Union County Public Registry. The agreements contained herein shall be deemed to be a lien upon, binding upon and run with the land and shall be binding upon and an obligation of all successors in the ownership of the Property unless otherwise provided herein.

25. Hold Harmless. Developer agrees to and shall hold the Town, its officers, agents, employees, consultants, special counsel and representatives, harmless from liability for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of Developer or their contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the Project. Developer agrees to pay all costs for the defense of the Town and its officers, agents, employees, consultants, special counsel and representatives

regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project. This hold harmless Agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this paragraph. The Town may make all reasonable decisions with respect to its representation in any legal proceeding.

Notwithstanding the foregoing, Developer's obligation to indemnify and hold the Town harmless shall not extend to any claims, losses or damages that arise from the acts or omissions of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives as well as any claims, losses or damages arising from the gross negligence or willful misconduct of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives.

26. Severability. If any term or provision herein shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions.

27. No Pledge of Taxing Power or Governmental Authority. No provision of this Agreement shall be construed or interpreted as (1) creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation, (2) delegating governmental powers, or (3) a donation or a lending of the credit of the Town within the meaning of the Constitution of the State of North Carolina. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Town monies or operate beyond its intended scope so as to restrict, to any extent prohibited by law, any future action or right of action on the part of the Town of Stallings Town Council. To the extent of any conflict between this section and any other provision of this Agreement, this section shall take priority. Town has pre-audited this Agreement and the obligations hereunder to ensure compliance with budgetary accounting requirements (if any) that may apply. This Agreement is conditioned upon, and shall not be operative until, any required pre-audited certification is supplied.

28. Authority. Each party represents that it has undertaken all actions necessary for corporate or public approval of this Agreement, and that the person signing this Agreement has the authority to bind the Developer or the Town.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

DEVELOPER:

Stallings Farm Investments, LLC,
a North Carolina limited liability company

By: _____
Name: Bruce H. Griffin, III
Title: Manager

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Bruce H. Griffin, III

Witness my hand and official seal this the _____ day of _____, 2021.

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

TOWN:

TOWN OF STALLINGS, NORTH CAROLINA

By: _____

Name: _____

Title: Mayor

ATTESTED BY:

Erinn E. Nichols, Town Clerk

North Carolina
County of Union

I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that Erinn E. Nichols personally appeared before me this day and acknowledged that she is the Clerk of the Town of Stallings, and that by authority duly given, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by Erinn E. Nichols as its Town Clerk.

Witness my hand and official seal this the _____ day of _____, 2021.

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

APPROVED AS TO FORM:

_____, Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Marsha Gross, Finance Director

EXHIBIT "A"

Property – Legal Description

EXHIBIT "B"

Conceptual Site Plan

EXHIBIT "C"

Traffic Improvement Exhibit

EXHIBIT "D"

Linear Streetscape Park Exhibit

EXHIBIT "E"

Laws Governing the Development of the Project

1. Town of Stallings Development Ordinance in force as of the Effective Date of this Agreement and the applicable Preserved Ordinance Provisions, all of which are in a binder on file with the Town.
2. The Development Agreement and Concept Plan approved on _____, 2020.
3. Town of Stallings Technical Standards and Specifications Manual in force as of the Effective Date of this Agreement.
4. NCGS 160A-400.20 through 400.32 as they existed on December 31, 2020.
5. NCGS 160D-1001 through 1012 as they existed on the date of adoption of the Development Agreement.



MEMO

To: Town Council
From: Lynne Hair, Planning Director
Date: April 19, 2021
RE: TX21.03.01/TX21.03.02 – Request to amend Development Ordinance Article 2 and 16 to address concerns with structures being built within floodplains, and the appearances of fences throughout the Town

Background:

To address concerns with structures being built within floodplains, and the appearances of fences throughout the Town, Council directed staff to make the following test amendments:

1. **TX21.03.01 - Restrict flood plain from being counted toward minimum lot size, subdivided, platted and sold to homeowners as private property.**

Staff would recommend language be added to the Development Ordinance as follows:

Article 2 General Standards and Specifications

ADD:

Article 2.2-1 Flood Plan not to be Counted Towards Minimum Lot Size Calculations/Remain Open Space

Lot lines for newly created single family detached lots, created through the requirements established by Article 16 of the Stallings Development Ordinance, shall not be platted to include any designated floodplain areas. Floodplain located within a single-family detached subdivision containing 4 or more lots will remain as common space.

Article 16 Subdivisions

CURRENT LANGUAGE

Article 16.2-3 (D) Lot Lines and Drainage of the Stallings Development Ordinance currently states the following:

(D) Lot lines and drainage. Lot boundaries shall be made to coincide with natural and pre-existing topography to the extent practicable to avoid the creation of lots that can

be built upon only by altering drainage ways. Lot boundary lines shall conform to the following requirements:

1. The Lot boundary lines of either a Minor Subdivision or Major Subdivision shall not extend into areas equal to or below the Base Flood contour line(s).
2. The Lot boundary lines of either the Minor Subdivision or Major Subdivision shall not extend into areas designated as a stream Buffer Zone.
3. The Lot boundary lines of either a Major Subdivision or Major Subdivision shall not extend into areas designated as Wetlands.
4. *Lot lines for newly created single family detached lots, created through the requirements established by Article 16 of the Stallings Development Ordinance, shall not be platted to include any designated floodplain areas. Floodplain located within a single-family detached subdivision containing 4 or more lots will remain as common space.*

2. TX21.03.02 - Fence Appearance

In keeping with Town goals of maintaining an attractive and inviting appearance, Town Council directed staff to prepare language dealing with fence installation, ensuring that the finished side faces outwards.

Article 2 General Standards and Specifications

ADD:

Article 2.13-2 regulates fences. Staff would suggest (G) be added to this section as follows:

2.13-2 (G) All finished sides of a fence shall face off-site.

Planning Board Recommendation:

Approve as written



Statement of Consistency and Reasonableness

(As per NC General Statute 160D-605)

Prior to adopting or rejecting any zoning amendment, the governing body shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing body that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing body.

ZONING AMENDMENT: TX21.03.01

REQUEST: Amend Article 2 and Article 16 of the Stallings Development Ordinance to address concerns with structures being built within floodplains.

STATEMENT OF CONSISTENCY AND REASONABLENESS:

The **Stallings Town Council** hereby finds that the proposed **text amendment** is consistent with the 2017 Stallings Comprehensive Land Use Plan adopted November 27, 2017 based on consistency with goals and objectives set forth in the document of promoting safe and healthy development patterns. At their **May 10, 2021** meeting the **Stallings Town Council** voted to recommend **APPROVAL** of the proposed amendment and stated that the **Town Council** finds and determines that the **text amendment** is consistent with the key guiding principles, goals, and objectives of the Comprehensive Land Use Plan and hereby recommends its approval.

The statement and motion was seconded and passed _____.

Wyatt Dunn, Mayor

Erinn Nichols, Town Clerk



Statement of Consistency and Reasonableness

(As per NC General Statute 160D-605)

Prior to adopting or rejecting any zoning amendment, the governing body shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explaining why the board considers the action taken to be reasonable and in the public interest. The planning board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing body that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the governing body.

ZONING AMENDMENT: TX21.03.02

REQUEST: Amend Article 2.13-2 of the Stallings Development Ordinance. In keeping with Town goals of maintaining an attractive appearance by ensuring when a fence is installed that the finished side faces outwards

STATEMENT OF CONSISTENCY AND REASONABLENESS:

The **Stallings Town Council** hereby finds that the proposed **text amendment** is consistent with the 2017 Stallings Comprehensive Land Use Plan adopted November 27, 2017 based on consistency with goals and objectives set forth in the document of promoting an attractive appearance. At their **May 10, 2021** meeting the **Stallings Town Council** voted to recommend **APPROVAL** of the proposed amendment and stated that the **Town Council** finds and determines that the **text amendment** is consistent with the key guiding principles, goals, and objectives of the Comprehensive Land Use Plan and hereby recommends its approval.

The statement and motion was seconded and passed _____.

Wyatt Dunn, Mayor

Erinn Nichols, Town Clerk



MEMO

To: Town Council
From: Matthew West, Planning Technician
Date: April 25th, 2021
RE: Town of Stallings Unified Development Ordinance – Article 21 Open Space Rewrite

Background:

To address concerns that the Open Space article of the Town's UDO does not adequately provide for the needs of the Town, Council directed staff to contract Centralina to assist with making adjustments to the ordinance to better serve the community:

1. Town of Stallings Unified Development Ordinance Open Space update:

Staff would recommend language be added to the Development Ordinance as follows:

Article 2 General Standards and Specifications

ADD:

OPEN SPACE, COMMON. Open space that is (1) owned in common and maintained by the owners of lots in a subdivision (i. e., a homeowner's association), or (2) owned by a private individual or entity but managed and maintained for common use by residents, occupants or customers of the development.

OPEN SPACE, IMPROVED. Open space that is improved with recreational areas and amenities such as, but not limited to, ballfields, tennis courts, swimming pools, nature trails, clubhouses, etc.

OPEN SPACE.PUBLIC. Open space that is accessible to the general public and maintained by the Town.

OPEN SPACE, UNIMPROVED.. Any area of land or water that is left natural and undisturbed or revegetated to enhance the purposes of natural resource preservation.

OPEN SPACE, URBAN AMENITIES. Facilities for active and passive recreational use located in urban areas that include sidewalks, widened beyond what is required by code, plazas, street furniture, outdoor eating or gathering areas, fountains, rooftop gardens, areas featuring public art, or other urban related amenities.

REMOVE:

SUBURBAN OPEN SPACE AMENITIES. Land available for and containing active and passive recreational elements, including parks, trails, clubhouses, playgrounds, athletic fields and courts, picnic facilities, benches, community gardens, and pools. It can include natural areas including floodplains, water bodies, wetlands, woodlands, land used for stormwater retention, and slopes over 15%.

Article 11 Subdivisions

CURRENT LANGUAGE

Article 11.6 Landscape Requirements of the Stallings Development Ordinance currently states the following:

Type B Buffer Yard: A medium-density screening buffer to partially block visual contact between uses with a minimum of *seventy-five (75%)* opacity.

Table 11.1 Buffer Yard Chart

Re-formatted buffer chart:

Table 11.1- BUFFER YARD CHART		
DEVELOPMENT DISTRICT <i>(Residential)</i>	ADJACENT DISTRICTS	BUFFER YARD REQUIRED
Single Family Residential - <i>SFR</i> Multi-Family Residential Transitional – <i>MFT</i> Traditional Neighborhood Development Overlay – <i>TNDO</i> Conditionally Zoned – <i>CZ</i> Mixed Use – <i>MU-1</i>	All other districts	Type A
DEVELOPMENT DISTRICT <i>(Non-Residential)</i>	ADJACENT DISTRICT	BUFFER YARD REQUIRED
All other districts	Single Family Residential – <i>SFR</i>	Type A

<p>Agriculture - AG</p> <p>Industrial - IND</p> <p>Heavy Industry Overlay – HIO</p> <p>Conditionally Zoned - CZ</p>	<p>All other districts</p>	<p>Type A</p>
<p>Mixed Use – MU-2</p> <p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p> <p>Vehicle Service and Repair – VSR</p>	<p>Multi-Family Residential Transitional – MFT</p> <p>Civic – CIV</p> <p>Traditional Neighborhood Development Overlay - TNDO</p>	<p>Type B</p>
<p>Town Center – TC</p> <p>Civic – CIV</p>	<p>Multi-Family Residential - MFR</p>	<p>Type C</p>
<p>Vehicle Service Repair – VSR</p>	<p>Town Center – TC</p> <p>Mixed Use – MU</p> <p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p>	<p>Type C</p>
<p>Town Center – TC</p> <p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p>	<p>Mixed Use – MU</p> <p>Industrial – IND</p>	<p>Type C</p>
<p>“MU”</p>	<p>“TC”, “C 74”, “CP 485”, “VSR”</p> <p>Town Center – TC</p> <p>US Highway 74 Commercial –</p>	

Mixed Use – MU-2	<p style="text-align: center;">C-74</p> <p style="text-align: center;">Interstate Highway 485 Corporate Park – CP-485</p> <p style="text-align: center;">Vehicle Service and Repair - VSR</p>	Type D
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ADD:

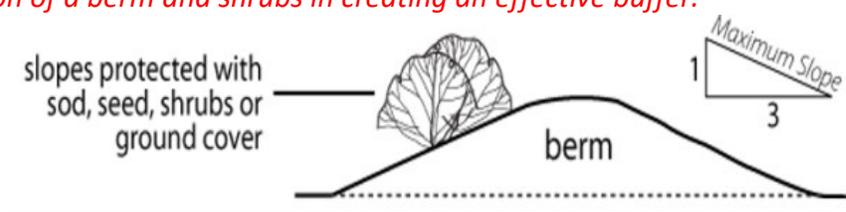
*The buffer must always meet the Average Width listed, but may vary in width within the Minimum/Maximums listed depending on site conditions.

Article 11.6-1 Buffering and Screening of Different Districts

ADD:

(F.) Berms. In all residential districts that adjoin a state or local thoroughfare as listed in Section 2.18-2, an earthen berm shall be used in conjunction with densely planted vegetation (i.e. a row of evergreen shrubs not less than 24 inches tall at the time of installation and planted not more than 3 feet apart), provided that the height of the berm shall be at least four feet (4') and provide approximately seventy five percent (75%) opacity within two (2) years of planting.

The maximum slope of any berm will be 3:1 and side slopes will be designed to ensure the prevention of soil erosion and practical maintenance. The figure below illustrates the combination of a berm and shrubs in creating an effective buffer.



Berms shall not be required when the development consists of four (4) or fewer homes. Front-loading homes shall also be exempt from this berm requirement.

Article 21 Open Space

Article 21.1 Purpose

... Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the

community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality. *Where applicable, the addition of active open space shall adhere to the Stallings Recreation and Greenway Master Plan.* The standards set forth below establish regulations for open space.

Article 21.1 Open Space should now be written:

The following standards are hereby established for open space. Percentage of required open space is calculated on the gross project acreage. Open space areas shall be identified and calculated on development proposals. For linear improvements, such as a greenway, open space shall be calculated by multiplying the length of the greenway by fifty (50) feet, unless obstructed by property lines.

Open Space shall consist of improved and unimproved areas. The total requirement for open space is shown in Table 21.1. Improved open space shall be fifty percent (50%) of the total requirement as shown in Table 21.1. The remaining fifty percent (50%) of open space may be unimproved and consist of land as listed in Section 21.2-10. The maximum unimproved open space allowed, as defined in Section 21.2-10, may be less than fifty percent (50%) of the total required open space. If this is the case, the remaining total open space must be met with improved open space.

Table 21.1 is to be changed to the following:

ZONING DISTRICT	REQUIRED TOTAL OPEN SPACE	REQUIRED IMPROVED OPEN SPACE
Single Family Residential (SFR-1) Single Family Residential (SFR-2) Single Family Residential (SFR-3)	25%	12.5%
Multi-Family Residential Transitional (MFT)	15%	7.5%
Traditional Neighborhood Development Overlay (TNDO)	10%	5%
Mixed Use (MU-1)	12%	6%
Mixed Use (MU-2) – When residential components are included, open space shall be centrally and internally located so as to provide focal points throughout the	10%	5%

development.		
Conditionally Zoned (CZ) <i>Requirements listed are a minimum but may be amended by the Town Council through the Conditional Zoning process.</i>	10%	5%
US Highway 74 Commercial (C 74) Interstate Highway 485 Corporate Park (CP 485) Vehicle Service and Repair (VSR) Industrial (IND) Heavy Industry Overlay (HIO)	10%	5%
Agriculture (AG) Civic (CIV) Scenic Corridor Overlay (SCO)	n/a	n/a
Town Center (TC) as <i>defined in Article 8. New development must adhere to the Parks and Greenway Master Plan when applicable.</i>	n/a	n/a

Article 21.2-2 Land designated as future open space. should be written:

Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the adopted Comprehensive Land Use Plan *and/or the Stallings Parks and Greenway Master Plan adopted by the Town of Stallings*, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development.

ADD:

Greenway, Park and Open Space Access: When a development abuts greenways, parks and/or public open space areas, public access to such features must be provided at a minimum of every 61000 feet when feasible, as determined by the Development Administrator. Such access shall be provided through greenway connectors a minimum of six feet wide. Connectors shall be paved or crushed gravel, engineered to allow water runoff, and connected to the pedestrian system within the development, and will be maintained by the Owner's Association.

Article 21.2-3 should be written:

~~Improved of open space. With the exception of Natural and Agricultural Open Space,~~
~~Improved usable~~ open space shall be planned ~~and improved~~, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain ~~improvements that include, but are not limited to: four or more of the following improvements:~~ landscaping, walls/fences, walks, statues, fountains, demarked ball fields, ~~picnic areas, pools, gazebos, barbeque areas,~~ picnic areas, pools, gazebos, barbeque areas, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height with the following exceptions: fences used in conjunction with ball fields, tennis courts, swimming pools, and/or play grounds.

Article 21.2-6 Focal Point

REMOVE:

~~A central square or green, for example, may comprise a majority of the open space.~~

Article 21.2-7 Types of open space. **REMOVED** entirely, including parts (A.) through (F.)

Article 21.2-10 – Rename to Land Acceptable for **Unimproved** Open Space Designation

ADD:

~~For unimproved open space to be counted towards the total open space requirement the area(s) must include a maintained access point.~~

~~A minimum of 50% of the total open space requirement shall be improved open space. The remainder of the open space shall be considered unimproved open space. A maximum of 25% of the total open space requirement may be areas of unimproved open space considered unbuildable as listed in 21.2-10(A)(B)(C). A minimum of 25% of the total open space requirement shall consist of the unimproved open space natural areas as listed in 21.2-10(D)(E). If unimproved open space that is considered unbuildable is less than 25% of the total open space requirement, the remainder shall be either unimproved open space that consists of natural areas as listed in 21.2-10(D)(E) or improved open space. Nothing in this section shall be intended to limit the entirety of open space to be improved open space.~~

~~(A.) Land which exceeds sixteen percent (16%) slope if existing slopes and vegetation remain undisturbed;~~

~~(B.) Land used for stormwater retention provided such land is natural in appearance and is not separately fenced. Additionally, land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater at the discretion of the Development Administrator.~~

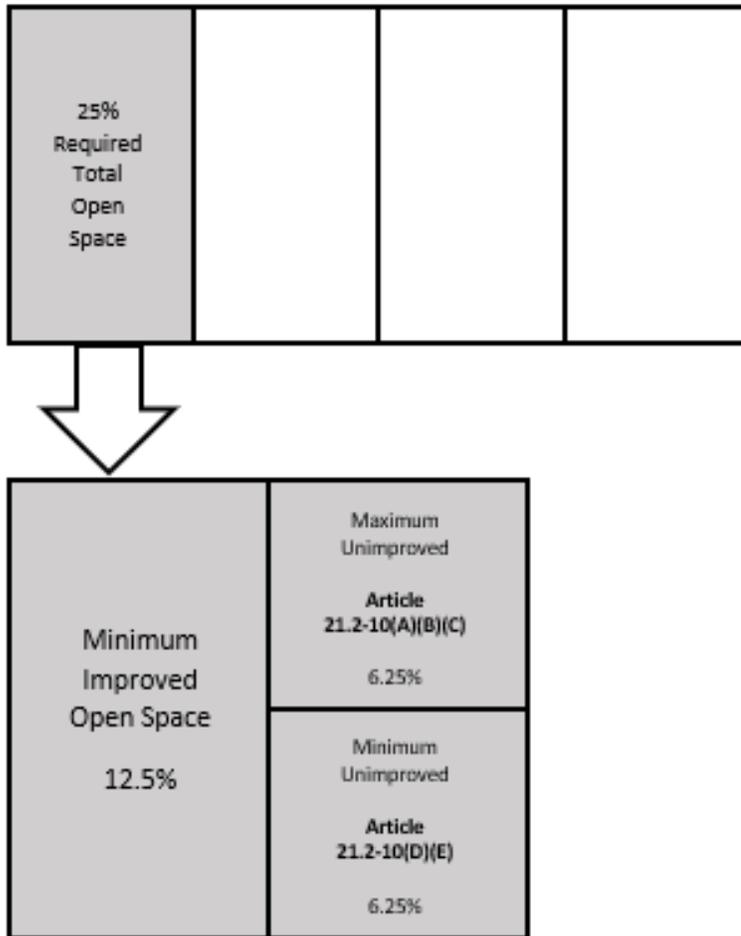
~~(C.) Stream buffers.~~

~~(D.) Grassed lands with no improvements that are accessible and maintained.~~

(E.) Naturally wooded areas not including required buffers, steep slopes, or stormwater retention areas as defined in this section.

Example Improved/Unimproved Open Space Calculation:

Single Family Residential Open Space
Total Requirement: 25%



REMOVE:

(A.) - (G.)

Article 21.2-11

ADD:

(D.) Land used for landscape buffers (Type A, B and C only), public sidewalks in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar high density area open

space amenities. Sidewalks that run through or are internal to improved open space shall be counted toward improved open space.

(E.) Surface water, wetlands, utility transmission rights-of-way, and undisturbed floodplains.

Re-order list as necessary.

REMOVE:

(D.) Playgrounds and athletic fields that have not been maintained to adequate standards for safe and sanitary use.

Article 21.2 Fee-in-Lieu.

Re-written to the following:

All proposed developed within the Town shall provide the improvements identified in the Stallings Parks, Recreation and Greenway Master Plan when those improvements are located on property involved with the proposed development.

When no improvements as identified by the Stallings Parks, Recreation and Greenway Master Plan are associated with a proposed project, the developer shall be required to pay a fee in lieu thereof, in accordance with this section. This fee shall be calculated as follows:

1/35 of an acre per lot multiplied by the tax value of the property (per acre).

Example: a 100-lot subdivision with a per acre tax value of \$10,000:

$$\begin{aligned} 1/35 &= .02857143 \\ &\quad \times 100 \\ &= 2.85714286 \\ &\quad \times \$10,000 \\ &= \$28,571.43 \end{aligned}$$

(1). At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plan or development.

(2). The payment of fees, in lieu of the dedication of land under subsection above shall be made to the Town of Stallings after having received a recommendation from the Planning Board and having evaluated the proposed dedication and the relationship the dedication would have with the town's Parks, Recreation and Greenway Master Plan.

(3). The fees in lieu of dedication shall be paid prior to final plat approval.

(4). The amount of the payment shall be the product of:

- (a). The number of acres to be dedicated, as required by subsection, above;
- (b). The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.

NONCONFORMITY, LAWFUL. Any current legal lot, structure, or use of property not otherwise permitted under current zoning regulations constructed or established in conformity with the then-applicable development requirements of the Town, but subsequently not permitted by action of the Town through a zoning map or unified development code text amendment. See *GRANDFATHERED*.

NONENCROACHMENT AREA. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated in the Flood Insurance Study report.

NONPROCESS DISCHARGE. Industrial effluent not directly resulting from the manufacturing process. An example is noncontact cooling water from a compressor.

NURSING HOME. An establishment which provides full-time convalescent and/or chronic care, including food, shelter, and caregiver or nursing care, for persons who are not related by blood or marriage to the operator or who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves. This term includes assisted care facility, convalescent home, home for the aging, sanitarium, rest home, or any similar facility.

OCCUPANCY. A separately leased or owned area within a building having ground level frontage on a right-of-way or parking facility.

OFF-PREMISES. Not located on the property to which it pertains.

OFFICE, PROFESSIONAL. The office of a member of a recognized profession maintained for the conduct of that profession, including, but not limited to, the offices of doctors, lawyers, dentists, landscape architects, architects, stockbrokers and financial analysts, chiropractors, engineers, surveyors, or town planners.

OFFICE-WAREHOUSE. A land use that includes offices that support showroom or warehouse uses.

ON-PREMISES. Located on the property to which it pertains.

OPEN SPACE. Any publicly dedicated or privately-owned area of land or water that is permanently preserved and maintained. Such an area may be predominately in a natural condition or modified for uses such as recreation, education, aesthetics, cultural or natural resource management or public health and safety.

OPEN SPACE, COMMON. Open space that is (1) owned in common and maintained by the owners of lots in a subdivision (i. e., a homeowner's association),

or (2) owned by a private individual or entity but managed and maintained for common use by residents, occupants or customers of the development.

OPEN SPACE, IMPROVED. Open space that is improved with recreational areas and amenities such as, but not limited to, ballfields, tennis courts, swimming pools, nature trails, clubhouses, etc.

OPEN SPACE.PUBLIC. Open space that is accessible to the general public and maintained by the Town.

OPEN SPACE, UNIMPROVED.. Any area of land or water that is left natural and undisturbed or revegetated to enhance the purposes of natural resource preservation.

OPEN SPACE, URBAN AMENITIES. Facilities for active and passive recreational use located in urban areas that include sidewalks, widened beyond what is required by code, plazas, street furniture, outdoor eating or gathering areas, fountains, rooftop gardens, areas featuring public art, or other urban related amenities.

PASSIVE RECREATION ELEMENT. Trails, open space, uncovered picnic areas, and similar facilities provided for recreational use.

PERENNIAL AND INTERMITTANT STREAMS. Those streams (and rivers), with associated lakes and ponds as indicated on the following:

- (A.) On the most recent version of the United States Geological Survey 1:24,000 scale (7.5-minute quadrangle) topographical map;
- (B.) On the most recent version of the Soil Survey of Union County developed by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (formerly the USDA Soil Conservation Service);
- (C.) By other site-specific evidence that indicates to the North Carolina Division of Water Quality (DWQ) the presence of such waters not shown on either of these two
 - (1) maps or evidence that no actual stream or water-body exists; or
- (D.) Upon determination following field inspection by a qualified professional.

ARTICLE 11

LANDSCAPE REQUIREMENTS AND TREE PROTECTION

11.1 Purpose

The regulations set forth in this Article are intended to reduce tree canopy loss and implement urban forest management improvements through requirements for tree protection, tree preservation, the planting of trees and the maintenance of existing and newly planted trees within the Town of Stallings. Additionally, this Article will establish minimum standards for the design of landscapes so as to improve the community aesthetically, economically, and environmentally. The requirements are intended to enhance the quality of life through sustainable urban forest practices and increase the benefits trees provide, including, but not limited to the following.

- (A.) Absorption of carbon dioxide and returning oxygen
- (B.) Reduction of soil erosion and increase in rainwater infiltration
- (C.) Provision of shade for cooling
- (D.) Screening of noise, dust, glare, and visual intrusions
- (E.) Reduction of storm-water runoff
- (F.) Maintenance and improvement of Town appearance and aesthetics
- (G.) Provision of habitat for wildlife
- (H.) Preservation, protection and enhancement of the natural environment

11.2 Administration

The following personnel have responsibility for administering and enforcing the provisions of this section:

- (A.) The *Development Administrator* shall have responsibility for overseeing the administration of this article.
- (B.) The *Public Works Administrator* shall have responsibility and control over all trees and shrubbery planted or growing upon Town property including public street right-of-way.
- (C.) The *Development Administrator* shall have the authority to enforce the standards of this Article in the event of compliance failure. The *Development Administrator* shall also have responsibility and control over all regulated, unsafe, and diseased trees located on public and private property.

11.3 Applicability

The provisions of this article shall apply to the following:

- 11.3-1 All new major subdivisions with four (4) or more new lots, all new non-residential developments, and all new multi-family developments with four (4) or more units except for those projects listed under Exemptions below.
- 11.3-2 Changes in use, expansions, and new buildings for already existing residential, non-residential, or mixed-use developments as per the following:
- (A.) Changes in use to a higher intensity, such as a change from residential to commercial. The requirements shall be applicable to the entire lot;
 - (B.) All non-residential expansions of buildings, except the first three thousand (3,000) square feet of gross leasable area. The requirements of this article shall be applicable only to the expansion area;
 - (C.) Expansions exceeding 50 percent of the pre-expansion floor area must bring the entire site into compliance, super-ceding 11.3-2(B);
 - (D.) Renovations with a total cost exceeding 50 percent of the appraised value of the building as established by the Union County Tax Office. The value of any expansions or reconstruction of such structures over a three-year period shall be considered in calculating the 50 percent threshold.
- 11.3-3 Vehicular use areas shall be subject to the landscape requirements as outlined under the Parking Lot Landscape Requirements as follows:
- (A.) Any new parking lot with six (6) or more spaces;
 - (B.) Expanded portions of existing parking lots which are less than 50 per cent of the total vehicular use areas shall landscape the area included in and around the expansion;
 - (C.) Expansions exceeding 50 percent of the paved area must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements;
 - (D.) Existing unpaved parking lots which are paved or existing paved lots which are demolished and repaved must bring the entire vehicular use area into compliance with the Parking Lot Landscape Requirements.
- 11.3-4 Any land disturbing activities or tree removal shall require a Tree Disturbance Permit as per section 11.10 of this Article.

11.4 Exemptions:

The provisions of this Article shall not apply to the uses and activities listed below. Any applicable requirements of Article 19 apply:

- 11.4-1 Properties within and abutting the Town Center (TC) District shall be exempt from the buffer and tree conservation area requirements but are still required to meet the street trees and parking lot landscaping requirements;
- 11.4-2 Property lines abutting utility easements in excess of sixty (60) feet in width and all railroad rights-of-way;
- 11.4-3 Property lines abutting dedicated street rights-of-way, which have remained unopened for a period of at least fifteen (15) years;
- 11.4-4 Tree removal on an area of three thousand (3,000) square feet or less, after the *Development Administrator* has determined that such a removal is not associated with a forthcoming development proposal and will not be inconsistent with any plan previously approved by the Town; however, watershed and/or soil erosion requirements may still apply if triggered;
- 11.4-5 Property covered by an active forestry management plan prepared by a North Carolina Registered Forester, provided that documentation has been furnished to the *Development Administrator*.

11.5 Landscape Plan Procedure

- 11.5-1 Landscape Plan Approval Required. An applicant must receive approval of a landscape plan from the *Development Administrator* prior to grading or before site work may begin.
- 11.5-2 Installation of Plant Materials Required. Installation of plant material shall occur prior to the issuance of a Certificate of Occupancy.
- 11.5-3 Performance Guarantee In lieu of Installation of Plant Materials.
 - (A.) If at the time of a request for a Certificate of Compliance, the required planting areas are not complete the developer may provide a performance guarantee in accordance with N.C.G.S. 160A-372, guaranteeing the installation of the plant materials if the following conditions are met:
 - (1.) Plant materials are unavailable,
 - (2.) Completion of the planting areas would jeopardize the health of the plant materials, or
 - (3.) Weather conditions prohibit completion of the planting areas.
 - (B.) The Performance Guarantee shall be in an amount equal to 125 percent of the

estimated cost of the installation of the required plant materials, as determined by the Town. The *Development Administrator* may accept a valid contract assignable to the Town containing a ninety-day (90) termination and/or cancellation notice to the Town by any party exercising such action incorporated therein for the remaining materials and turn-key installation, as a form of cost estimation. The performance guarantee shall secure the installation of the plant materials as shown on the approved landscape plan. The performance guarantee shall remain in full force and effect until such time as the installation of plant materials is completed, inspected, and accepted by the Town of Stallings. Failure to maintain the required performance guarantee shall result in the revocation of the approval of the site development plan and any permits issued as a result of the plan approval. The performance guarantee shall be renewed by the applicant unless all parties, including the Town, agree not to renew it at least sixty (60) days prior to its scheduled expiration date.

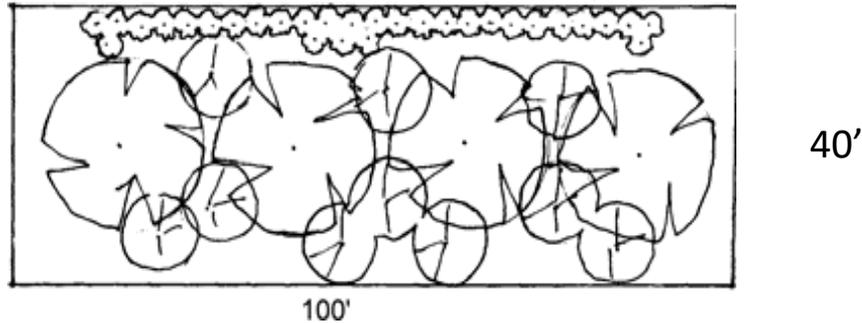
A temporary construction easement permitting the Town of Stallings or its designee(s) to access the property for the purpose of installing the guaranteed plant materials shall be provided with the performance guarantee. The temporary construction easement shall be valid until all guaranteed plant materials have been installed and approved by the Town. The temporary construction easement shall bind all successive owners until the guaranteed plant materials have been installed and approved by the Town.

- (C.) Failure to initiate installation of the plant materials within one year of the date the performance guarantee was accepted by the Town of Stallings may result in the Town, at its sole discretion, directing and/or installing the plant materials, with the cost to be paid from the performance guarantee. The performance guarantee shall, if requested by the Town, pay all or any portion of the performance guarantee to the Town up to the amount needed to complete the installation of the plant materials based on an estimate by the Town as described in 11.5-3(B) above. The Town at its discretion may spend such portion of said funds as deemed necessary to complete all or any portion of the required plant installation. The Town shall return to the developer any funds not spent in completing the plant installation, less reasonable administrative, professional and legal services cost resulting from the failure of the developer. Default on a project does not release the developer from responsibility for the completion of the plant installation. The Town may release a portion or all of any performance guarantee as the plant installation is completed and approved by the Town. In the event the amount of the performance guarantee on hand is insufficient to pay for completion of the plant installation, the property owner shall pay to the Town of Stallings the total amount of the insufficiency. If the Town is not re-paid in full, the amount of the insufficiency shall be the basis for a claim against the property and constitute a lien on the property in favor of the Town upon filing with the Register of Deeds.

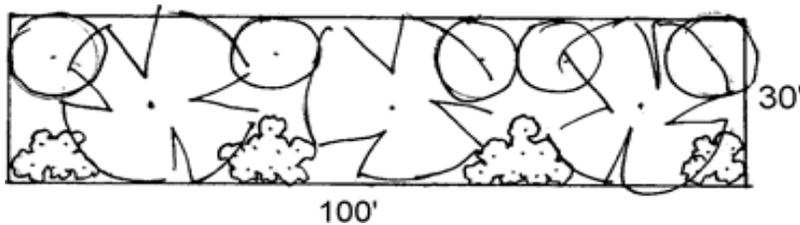
11.6 Landscape Requirements

The following buffer yards are hereby established and shall be required where applicable:

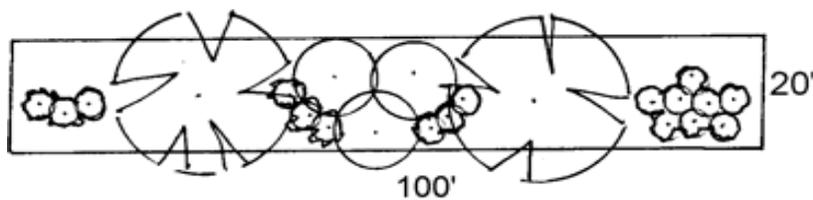
Type A Buffer Yard: A high-density screening buffer to substantially block visual contact between adjacent uses with a minimum of ninety percent (90%) opacity.



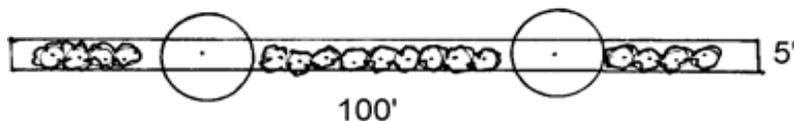
Type B Buffer Yard: A medium-density screening buffer to partially block visual contact between uses with a minimum of seventy-five percent (75%) opacity.



Type C Buffer Yard: A low-density screen intended to partially block visual contact between uses with a minimum of sixty percent (60%) opacity.



Type D Buffer Yard: A peripheral planting strip intended to separate uses, provide vegetation in densely developed areas, and to enhance the appearance of individual properties.



11.6-1 Buffering and Screening of Different Districts. Buffer yards, in accordance with section 11.3 above, to separate development in certain districts from adjacent districts are specified in Table 11.1 below. The buffer yards are required on the sides and rear of property being developed abutting the identified adjacent district. The following buffer yards shall be provided when property in an identified development district abuts one or more of the identified adjacent districts. To determine the required buffer yard for a development, first identify the development district in which the development is to be located. Then identify the adjacent district abutting the proposed development to determine the type buffer yard applicable to the project.

Table 11.1- BUFFER YARD CHART		
DEVELOPMENT DISTRICT <i>(Residential)</i>	ADJACENT DISTRICTS	BUFFER YARD REQUIRED
Single Family Residential - <i>SFR</i> Multi-Family Residential Transitional – <i>MFT</i> Traditional Neighborhood Development Overlay – <i>TNDO</i> Conditionally Zoned – <i>CZ</i> Mixed Use – <i>MU-1</i>	All other districts	Type A
DEVELOPMENT DISTRICT <i>(Non-Residential)</i>	ADJACENT DISTRICT	BUFFER YARD REQUIRED
All other districts	Single Family Residential – <i>SFR</i>	Type A
Agriculture - AG Industrial - IND Heavy Industry Overlay – HIO Conditionally Zoned - CZ	All other districts	Type A
Mixed Use – <i>MU-2</i>		

<p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p> <p>Vehicle Service and Repair – VSR</p>	<p>Multi-Family Residential Transitional – MFT</p> <p>Civic – CIV</p> <p>Traditional Neighborhood Development Overlay - TNDO</p>	Type B
<p>Town Center – TC</p> <p>Civic – CIV</p>	<p>Multi-Family Residential - MFR</p>	Type C
<p>Vehicle Service Repair – VSR</p>	<p>Town Center – TC</p> <p>Mixed Use – MU</p> <p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p>	Type C
<p>Town Center – TC</p> <p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p>	<p>Mixed Use – MU</p> <p>Industrial – IND</p>	Type C
<p>“MU”</p> <p>Mixed Use – MU-2</p>	<p>“TC”, “C 74”, “CP 485”, “VSR”</p> <p>Town Center – TC</p> <p>US Highway 74 Commercial – C-74</p> <p>Interstate Highway 485 Corporate Park – CP-485</p> <p>Vehicle Service and Repair - VSR</p>	Type D

Plantings shall be provided in buffer yards as indicated in Table 11.2 below:

Table 11.2 - PLANTING RATES						
Buffer Yard Type	Average Width (ft.)	Minimum/Maximum Width (ft.)*	Evergreen Tree Rate per 100 lf	Canopy Tree Rate	Understory Tree Rate	Shrubs Rate
Type A Yard	40	35/65	8	4/100 lf 25 feet on center	10/100 lf 10 feet on center	33/100 lf 3 feet on center
Type B Yard	30	25/50	6	3/100 lf	5/100 lf	25/100 lf
Type C Yard	20	15 /40	4	2/100 lf	3/100 lf	17/100 lf
Type D Yard	5	5/10	0		2/100 lf	18/100 lf

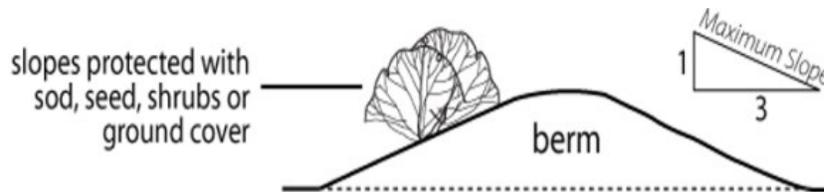
*The buffer must always meet the Average Width listed, but may vary in width within the Minimum/Maximums listed depending on site conditions.

(A.) Buffer Yard Alternative Standards and Conditions.

- (1.) The minimum landscaping requirements for all buffer yards except the Type D yard may be reduced by 30% with the use of an opaque wall or fence constructed of masonry, stone or pressure treated lumber providing such reductions do not disturb the Critical Root Zone (CRZ) of existing trees. The wall or fence should be a minimum of five (5) feet in height. The wall or fence shall be set back from the property line a minimum of five (5) feet and shall be planted with half the required plantings, including all types of shrubs and trees required, on the outside of the wall or fence (facing the adjacent property).
 - (2.) Understory trees shall be substituted for canopy trees at the rate of two (2) understory trees for every canopy tree to be planted within fifteen (15) feet of an overhead utility line.
 - (3.) Canopy trees may be substituted for shrubs at the rate of one (1) canopy tree for eight (8) shrubs and understory trees may be substituted for shrubs at the rate of one (1) understory tree for five (5) shrubs if approved by the *Development Administrator*.
- (B.) Location of Buffer Yard. Required trees and shrubs shall not be installed in street rights-of-way. Required trees and shrubs may be placed in water quality conservation easements, electric utility easements below overhead lines, and in drainage maintenance and utility easements upon approval by the *Development Administrator*.
- (C.) Setback Less Than Buffer Yard. If the required building setback is less than the required buffer yard width, the building setback shall reduce the required planting yard width only alongside the building. The planting rate of the required planting yard shall still apply.
- (D.) Encroachments Permitted in Required Planting Yards. The following are permitted in required planting yards provided the landscaping requirements are met and there is no interference with any sight area: Cornices, steps, canopies, overhanging eaves and gutters, windowsills, bay windows or similar architectural features, at-grade patios, chimneys and fireplaces, fire escapes, fire balconies, and fire towers may project not more than two and one-half (2 1/2) feet into any required planting yard, but in no case shall be closer than three (3) feet to any property line or handicap ramps except for porches and landings.
- (E.) Obstructions. Landscaping shall not be placed in the sight visibility triangle which would obstruct the view of motorists using any street, driveway, or parking aisle.
- (F.) Berms. In all residential districts that adjoin a state or local thoroughfare as listed in Section 2.18-2, an earthen berm shall be used in conjunction with densely planted vegetation (i.e. a row of evergreen shrubs not less than 24 inches tall at the time of installation and planted not more than 3 feet apart), provided that the

~~combined~~ height of the berm and ~~planted vegetation~~ shall be at least four feet (4') and provide approximately seventy five percent (75%) opacity within two (2) years of planting.

The maximum slope of any berm will be 3:1 and side slopes will be designed to ensure the prevention of soil erosion and practical maintenance. The figure below illustrates the combination of a berm and shrubs in creating an effective buffer.



Berms shall not be required when the development consists of four (4) or fewer homes. Front-loading homes shall also be exempt from this berm requirement.

11.6-2 Screening of Dumpsters, Outdoor Storage, and Utility Structures. All dumpsters, loading docks, outdoor storage areas over 40 square feet, and utility structures must be screened if they are visible to adjacent public or private streets or any adjacent properties. Screening of a dumpster shall not be required in the Industrial District, unless the dumpster is located within one hundred (100) feet of an existing non-industrial land use. Screening options include:

- (A.) A single opaque material wall or fence with a minimum height of 6 feet.
- (B.) A combination of opaque materials, berming, and/or evergreen landscaping spaced at 8 feet on center that provides the required screening effect. The combination of opaque materials, berming, and/or evergreen landscaping shall have a minimum height of 6 feet within three (3) years of planting.
- (C.) The wall(s) of a principal or accessory structure may also count for screening.
- (D.) Chain-link fencing with woven slats of opaque material is *not* acceptable.

11.6-3 Street Trees. Street trees are required along all street frontages for all new developments described in Sections 11.3-1 and 11.3-2, unless excepted in Section 11.4. Trees are required at the following rate:

- (A.) One large maturing tree required for every 80 linear feet of street frontage. If overhead utilities are present, planting of one small maturing tree for every 40 linear feet of property abutting a street is required.
- (B.) Where the street abuts a parking lot over 3000 square feet in area and located within 50 feet of the edge of the pavement, shrubs shall be planted at the rate of one deciduous or evergreen shrub for every 5 linear feet of vehicular use area abutting the street in addition to the required street trees. The shrubs must achieve a minimum

height of three feet at maturity.

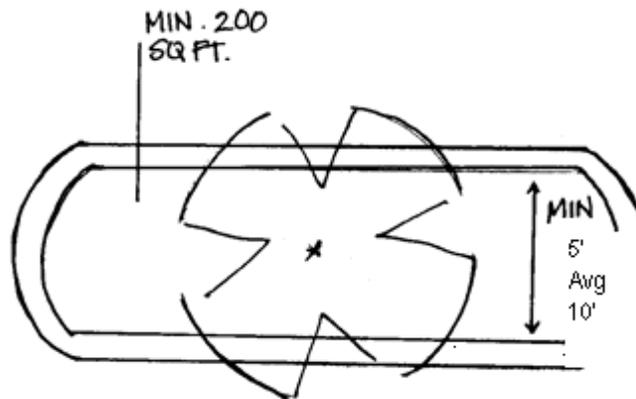


- (C.) Street trees may be evenly spaced or spaced to accommodate existing site features. Street trees shall be a minimum of fifteen (15) feet apart and a maximum of ninety (90) feet apart. No street tree shall be located more than twenty five (25) feet from the edge of pavement.
- (D.) Street trees shall be planted in the planting strip within the public right-of-way. In the Town Center (TC) and Mixed-Use (MU) Districts, the trees may be placed in tree pits with grates that are a minimum of sixteen (16) square feet.
- (E.) Existing Trees: See Section 11.9 for information regarding credits for preservation of existing trees.
- (F.) No more than fifteen (15) percent of the street-planting yard may be used for walkways serving individual lots, except in the TC, and MU districts. Parking, merchandise display, and off-street loading are prohibited in the street-planting yard.

11.6-4 Parking Lot Planting Areas.

- (A.) Applicability. Parking lot landscaping buffers shall be required to separate parking areas from adjacent uses for new and/or expanding parking lots with six (6) or more spaces. Required canopy trees and shrubs shall be located within the parking lot and adjacent to parking spaces in planting areas between rows of parking spaces, at the end of parking bays, in tree islands, and/or around the periphery of the parking lot. The following buffer requirements shall apply to parking lots with six (6) or more spaces:
 - (1.) A minimum of a type D buffer shall be provided for all parking lots with six (6) or more spaces.
 - (2.) A type C buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying less than 1/2 acre that abuts an AG, SFR, or MFT zoning district.

- (3.) A type C buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying less than 1/2 acre that is located within an AG, SFR, or MFT zoning district.
- (4.) A type D buffer shall be provided along any edge of a parking lot with a minimum of six (6) spaces and occupying 1/2 acre or more that abuts an AG, SFR, or MFT zoning district.
- (5.) A type D buffer shall be provided along all edges of any parking lot with a minimum of six (6) spaces and occupying 1/4 acre or more that is located within an AG, SFR, or MFT zoning district.
- (B.) Planting Rate. For every fifteen hundred (1500) square feet of vehicular use area (VUA), one (1) deciduous tree and four (4) shrubs must be planted. At least seventy five (75) percent of the trees shall be large maturing species. Trees and shrubs must be planted within fifteen (15) feet of the VUA to meet the requirement.
- (C.) Existing Trees. See Section 11.9 for information regarding credits for preservation of existing trees in parking lots.
- (D.) Reduction in Parking Requirements. To allow an existing development to retrofit parking to conform to the landscaping regulations, or for an existing or new development to preserve trees within or adjacent to a parking lot, the number of required off-street parking spaces may be reduced by the *Development Administrator* by up to ten (10) percent.
- (E.) Tree Islands and Medians. When more than four trees are required in a lot with interior rows, fifty (50) percent of the trees and shrubs must be planted in islands or medians located within the parking lot. The planting islands or medians shall be a minimum size of 200 square feet with no dimension smaller than five (5) feet and an average width of ten (10) feet.



- (F.) Multiple Parking Bays. When there are more than 4 bays of parking, an interior island with an average width of twenty (20) feet and a length equivalent to the parking bay shall be constructed. It should include a pedestrian walkway five (5) feet or more wide and a planted strip on one or both sides. The median should be located

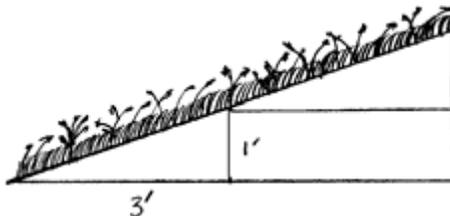
in such a way as to enhance pedestrian circulation within the development, leading to the entrance or to an adjacent sidewalk and/or walkway.

- (G.) Perimeter Parking. All continuous runs of fifteen (15) or more parking spaces shall be interrupted by a tree island.
- (H.) Grouping. Shrubs and trees may be grouped or clustered in the required planting yards, except for the perimeter landscaping adjacent to parking lots, outside storage, access drives, and loading and unloading areas. The remainder of the materials shall be distributed throughout the planting yard. There shall be at least one (1) row of evergreen shrubs or evergreen understory trees in all Type A planting yards used in parking areas.
- (I.) Plant Protection. Whenever planting areas are adjacent to parking lots or drives, such areas shall be protected from damage by vehicles, lubricants, or fuels. Curbing or some other structural barrier is required to be placed around trees within five feet of a car bumper. Allowances may be made if rain gardens are incorporated into the planting area. Trees and shrubs in islands should be set back at least three feet from the curb to allow for the operation of car doors.



11.7 Reforestation of Slopes Steeper than 3:1

11.7-1 Tree Cover Required. Areas having slopes steeper than 3:1 must be reforested to provide tree cover over the entire area.



The following standards apply:

- (A.) Reforestation shall include a minimum of one (1) tree per two hundred (200) square feet of surface area and shall be made up of a mixture of deciduous hardwood and

evergreen trees that are a minimum of twelve (12) inches high at planting and approved by the *Development Administrator*.

(B.) The trunk of any required tree shall be no closer than ten (10) feet from any other existing tree.

11.8 Tree Conservation and Protection

11.8-1 Purpose of Tree Conservation Area. The purpose of the Tree Conservation Area (TCA) is to encourage the preservation of healthy trees that are four (4) inches or greater in diameter at breast height (DBH).

11.8-2 Tree Conservation Area Determination. The TCA shall be provided in accordance with the chart below. If trees of four (4) inches or greater DBH exist within or partially within these areas, such trees must be saved to the extent possible. The area will be designated a TCA and shall not be disturbed except as allowed herein below in Table 11.3.

Table 11.3 – Tree Conservation Area (TCA)

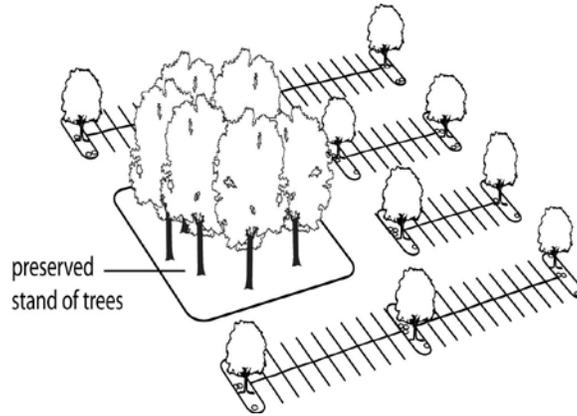
Size of Parcel	TCA Required to Include
0 – 55,000 sq. ft.	One percent (1%) of lot area and located within the required planting yard
55,000 sq. ft. – 5 acres	One and one-half percent (1.5%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yards
5.01 – 10 acres	Three percent (3%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within fifteen (15) feet of the side and rear property lines, whichever is greater
Greater than 10 acres	Six percent (6%) of lot area. All trees four (4) inches or greater DBH that are located within the required planting yard or within twenty-five (25) feet of the side and rear property lines, whichever is greater

11.8-3 Tree Conservation Area Selection.

(A.) In selecting which existing tree stands are to be designated as Tree Conservation Area (TCA), the landowner shall give due consideration to building, parking lot, driveway, street, and utility location as they relate to the practicality of preservation and shall use the following tree preservation priority list:

(1.) Existing stands of mature hardwoods as highest priority, then

- (2.) Existing stands of younger hardwoods, then
- (3.) Existing specimen trees (as determined by the *Development Administrator*), then
- (4.) Existing stands of hardwoods and Pine mix, and lastly
- (5.) Existing stands of Pine trees. Preservation of a single Pine tree is not typically encouraged.



(B.) If it is necessary to pick among two or more stands of trees within a category listed above, then Tree Conservation Areas adjacent to the following priority list shall be used in order of significance:

- (1.) Type A buffer yards, as a first priority, then
- (2.) Type B buffer yards, then
- (3.) Type C buffer yards, then
- (4.) Type D buffer yards, then
- (5.) Street tree yards, and lastly
- (6.) Vehicular use areas

(C.) Smaller Trees: Trees less than four (4) inches DBH within the TCA may be preserved at the landowner's option and counted toward buffer yard, street tree, or vehicular use area requirements.

11.8-4 Tree Conservation Flexibility Standards. Flexibility can be granted in the following circumstances:

(A.) Trees in Sensitive Areas: If there are trees that meet the TCA requirements on other areas of the site (riparian buffers, stream corridors, floodplains, etc.), the landowner may request that the required TCA be designated around such trees instead of the usual locations.

(B.) Stream Buffer Credits: Properties falling under the Stormwater Management Control Requirements, which are required to maintain an undisturbed stream buffer, may use some of or the entire buffer to satisfy the required TCA, provided that the undisturbed stream buffer contains trees that are a minimum of four (4) inches in DBH.

- (C.) Land Dedication: Land dedicated to the Town that is contiguous to the property being developed may be used towards the tree preservation requirement, if the dedicated land contains trees that are a minimum of four (4) inches in DBH.
- (D.) Reforestation Credits: In situations where TCA requirements cannot be met based on site conditions and when approved by the *Development Administrator*, reforestation efforts on the property can be used to satisfy up to fifty (50) percent of the required TCA.
- (E.) Reduction in the Amount of TCA Required for Specimen Tree Preservation Within the Lot: To allow developers the flexibility to manipulate the location of required Tree Conservation Areas, and to encourage the preservation of certain specimen trees or tree stands within developed lots rather than just at the periphery, the *Development Administrator* may, at his or her discretion, allow the developer the right to reduce the total amount of required TCA using the following table:

Table 11.4

DBH of Existing Specimen Tree(s) in Inches	Allowable Reduction in TCA
8 – 12	5 % reduction
13 – 20	10% reduction
21 – 30	25% reduction
31+	40% reduction

- (F.) Waivers: The *Development Administrator* shall have the authority to allow reduced buffer yards or to waive the buffer yard requirements to allow for a greater TCA in another area or make other exceptions, which meet the cause and intent of this section. Additionally, if the *Development Administrator* concludes that due to existing unusual or unique site characteristics, preserving some or all required trees in the TCA(s) would create an undue or unreasonable hardship, the protection of some or all of required trees in the TCA(s) may be waived.

Applicants for such a waiver shall submit their request in writing, along with any necessary site plans to demonstrate the hardship. The findings of the *Development Administrator* shall be final and binding to all parties. Appeals of the *Development Administrator's* decisions may be made to the *Board of Adjustment*, following the procedure outlined in Article 6 of this ordinance.

11.9 Tree Credits

- 11.9-1 Buffer Yards. All trees of appropriate size and type preserved in the Tree Conservation Area (TCA) that are within the buffer yard shall be credited toward meeting all or part of the buffer yard requirements. The protection of tree stands, rather than individual trees, is strongly encouraged.
- 11.9-2 Street Trees. Existing preserved trees may count toward up to 100% of the street tree requirement, providing there is no more than 65' between trees.
- 11.9-3 Parking Lots. For new, expanded, or rebuilt parking lots where trees are being preserved adjacent to the parking lot in order to meet the parking lot planting requirements, trees preserved in a TCA and within fifteen (15) feet of the parking lot may be used to satisfy up to fifty (50) percent of the required number of parking lot trees. Non-TCA trees located within the parking area may count towards up to 100% of the requirement. Trees in the TCA counted toward planting yard requirements may not count for required parking lot trees.
- 11.9-4 Tree Health. No credit will be allowed for any dead tree, any tree in poor health, or any tree subjected to grade alterations. Trees should have a life expectancy of greater than ten (10) years and have a relatively sound and solid trunk with no extensive decay, major insect, or pathological problems. For the purposes of determining the health or condition of any tree, the *Development Administrator* may defer to a qualified expert with the cost of the expert to be reimbursed by the applicant.
- 11.9-5 Tree Replacement. Except for storm damage, the death of any tree used for preservation credit within two (2) years of site development shall require the landowner to plant new trees equal to the number of credited trees. After two (2) years any trees that were used for preservation credit that die shall be replaced.
- 11.9-6 Calculation of Credit. Credits are to be given in accordance with the chart below.

Table 11.5 – Tree Credits

DBH of Existing Tree(s) in Inches	Number of Trees Credited
4" – 6"	1
7"-12"	2
13"-18"	3
19"-24"	4
25"+	5

11.9-7 Protection of Existing Trees. To receive credit, trees must be protected from direct and indirect root damage and trunk and crown disturbance. The following standards shall apply:

- (A.) Critical Root Zone. To preserve existing trees within the designated TCA, the Critical Root Zone (CRZ) of the trees shall be preserved. The CRZ includes a radius around the tree equal to, or at least, one foot for every one inch of DBH. It is recommended to preserve the entire CRZ of each preserved tree.
- (1.) If the entire CRZ cannot be preserved, tree roots must be cut prior to the grading of the site and no closer than 10 feet from the tree trunk.
 - (2.) Disturbance within the CRZ will be allowed only on one side of the tree(s) to be saved and only with prior approval by the *Development Administrator*.
 - (3.) Construction site activities such as parking, material storage, dirt stockpiling, concrete washout, and other similar activities shall not be permitted within the TCA.
 - (4.) The same land uses can encroach in the TCA as established in the Buffer Yards Section 11.6 provided there is no disturbance to the CRZ of the preserved trees.
 - (5.) Changes that significantly raise the grade of soil adjacent to the TCA shall be avoided.
 - (6.) Utility line trenches and similar uses shall avoid the TCA. Due to certain site conditions, where disturbance within the TCA is unavoidable, underground tunneling or directional boring of utilities is preferred and allowed on one side only. Trenching shall be used only as the last alternative and root-pruning equipment specifically designed for that purpose shall be used. The *Development Administrator* shall be notified prior to this type of activity and an on-site meeting shall be performed to ensure compliance. See the Town of Stallings Technical Standards & Specifications Manual for trenching detail.
 - (7.) Protective fencing shall be installed around the TCA prior to any tree disturbing activities. Such fences shall be at least four (4) feet high and shall consist of orange polyethylene safety fencing. Fencing shall remain in place until construction is complete and other landscaping has been installed, and the *Development Administrator* has approved its removal. See the Town of Stallings Technical Standards & Specifications Manual fencing detail.
 - (8.) The TCA should be designated as such with "Tree Conservation Area" signs (in both English and Spanish) posted visibly on the outside of the fenced-in area. Signs may not be posted on the trees.
- (B.) Tree Removal within the TCA. Trees less than four (4) inches DBH not being preserved, undergrowth and plant material in poor condition may be removed from the TCA. No roots shall be removed from the TCA. Stumps may be removed only

by grinding. All requests for tree removal within the TCA must have prior approval by the *Development Administrator* pursuant to the provisions of this chapter. Any tree within the TCA, including the CRZ, which the landowner chooses to remove or that must be removed due to poor health or impractical means of preservation shall be removed in a manner that is in accordance with standard arboricultural practice (Per American National Standards Institute (ANSI) Standards) so as to cause as little disturbance or harm to those trees intended to be saved as practical. However, in an emergency situation due to storm damage; to alleviate an immediate hazard to the health, safety, and welfare of the citizens; or to repair property damage, prior approval for tree removal in previously approved designated areas is not required.

- (C.) Tree Conservation Plan Procedures. Approval of a Tree Protection Plan is required for all projects described in Section 11.3, except those listed in Section 11.4 Exemptions and Section 11.10-2 below, and shall be submitted along with all other necessary drawings to the Technical Review Committee. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Upon approval of the plan, a Tree Disturbance Permit will be issued prior to any tree-disturbing activities.

11.10 Activities Requiring a Tree Disturbance Permit

11.10-1 Purpose. Except as otherwise exempted herein, it shall be unlawful to:

- (A.) Remove, excessively prune, apply chemicals that are harmful to, or disturb any tree or the soil within the CRZ of any tree; or
- (B.) Clear vegetation from a site; or
- (C.) Begin any excavation, remove soil, or place fill on a site within Stallings and its extraterritorial jurisdiction until the *Development Administrator* has issued a permit certifying that such activity complies with the applicable provisions of this Ordinance.

11.10-2 Applicability and Exceptions. The provisions of this section shall apply to all Land Development except:

- (A.) Routine maintenance of existing vegetation outside the public rights-of-way, such as pruning, watering and fertilizing.
- (B.) The removal of dead trees and shrubs or trees and shrubs that have been diagnosed and determined to be diseased beyond treatment, with the burden of proof being placed on the remover.
- (C.) Removal of soil or vegetation from undeveloped land to allow for non-commercial

open space no greater than one-quarter (1/4) acre, providing this activity does not take place within the CRZ of any rare or specimen tree.

(D.) Land disturbing activity normally associated with the occupancy of an existing single family or two-family dwelling.

(E.) Any new construction or expansion of a single family or two-family dwelling requiring a building permit and involving land disturbance less than ten thousand (10,000) square feet, unless the cumulative land disturbance is over ten thousand (10,000) square feet.

11.10-3 Tree Protection Plan Requirements. A Tree Protection Plan for all development projects to which these standards apply, along with all other necessary drawings, shall be submitted to the *Development Administrator*. Tree protection items shall be included on all grading plans, erosion control plans, and tree disturbance permit plans. Drawings shall identify the following items.

(A.) Boundaries of the required Tree Conservation Area (TCA)

(B.) Required planting yard

(C.) Protected trees within the TCA including tree size and species

(D.) CRZ of each proposed protected tree or group of trees

(E.) Limits of clearing

(F.) Grading

(G.) Trenching

(H.) Required tree protection measures including protective fencing and signage

(I.) Overhead and underground utilities, rights-of-way, and easement

(J.) Areas of reforestation, if any

(K.) Stream buffers, if any

(L.) A complete survey of all trees on the *site* (outside the labeled TCA) that exceed 18 inches DBH, including tree size and species.

11.10-4 Plan Notes. The following required notes shall be indicated on tree protection plans, erosion control plans, grading plans, and Tree Disturbance Permit plans in **CAPITAL LETTERS:**

(A.) Contact the Planning Department to set up a pre-construction meeting.

(B.) All tree protection devices must be installed prior to inspection by the *Development Administrator* and prior to any tree disturbance activities.

(C.) Removal or damage of trees in the conservation area will be subject to the penalties established in the Section 11.18, Enforcement, of this Ordinance.

11.10-5 Plan Review. The aforementioned plans shall be reviewed by the *Development Administrator* for conformance with applicable provisions of this section and for tree and vegetation viability. The plans will either be approved or returned for revisions. Reasons for return shall be noted on the proposed plan.

11.10-6 Installation of Protective Measures. All tree protection measures shall be installed prior to inspection by the *Development Administrator or his/her designee* and prior to tree disturbance.

11.10-7 Site Inspections. The *Development Administrator or his/her designee* will conduct follow-up site inspections for enforcement of the tree protection requirements.

11.10-8 Permit Display. All permits issued hereunder shall be so displayed as to be clearly visible from a public right-of-way.

11.10-9 Emergency Waiver. The provisions of this section are waived if compliance would hamper the rescue of life or property from immediate danger or the repair of utilities in the event of emergencies such as wind storms, ice storms, or other disasters.

11.11 Rare and Specimen Trees

11.11-1 Rare and Specimen Trees on Developing Land.

(A.) Rare and specimen trees shall be shown on all Tree Protection Plans if such trees are within one hundred (100) feet of areas where soil disturbance or construction activity is proposed. In addition, these trees shall be identified and located by survey on the Tree Protection Plan if such trees are located on the development site or adjacent public property. The *Development Administrator* may visit the site to determine the accuracy of identification.

(B.) Proposed development shall be designed to preserve rare and specimen trees. Where rare and specimen trees exist, flexible approaches such as adjustments to lot layout, placement of buildings and paved surfaces, and location of utilities shall be pursued in order to save them.

(C.) No soil disturbance from construction, trenching, grading, paving, or storage of equipment or materials shall take place within the critical root zone of any rare or specimen tree to be preserved unless the *Development Administrator* determines there is no reasonable way the property can be developed without such disturbance or

unless the proposed work will be carried out in accordance with the specifications for such work in the Stallings Technical Standards & Specifications Manual.

- (D.) No rare tree shall be removed from land being developed unless the *Development Administrator* determines there is no reasonable way the property can be otherwise developed, improved or properly maintained and the tree saved.

11.11-2 Voluntary Protection of Rare and Specimen Trees on Private Land.

Rare and specimen trees that are located on individual lots with single and two-family homes shall be protected if voluntarily registered by the property owner.

11.12 Land Being Developed Outside the Tree Conservation Area (TCA)

11.12-1 Protective Fencing.

- (A.) Vegetation located outside the TCA that is to be protected on land being developed, as indicated on a Tree Protection Plan, shall be protected by fences or other equally effective measures during construction activity. Such fencing shall be located and erected according to Town standards and be located as shown on the Tree Protection Plan and site grading plans. All land disturbing activity, storage of equipment, building material, soil, and other debris shall be kept within the area of development activity and outside of the protective fencing.

- (B.) Vegetation that is to be retained during rights-of-way clearing of single family or two-family residential subdivisions, as indicated on a Tree Protection Plan, shall be delineated by high visibility flagging during construction activity. Such flagging shall be located and installed according to Town standards and be located as shown on the landscape protection and site grading plans. The use of flagging shall be limited to those specific applications where no rare or specimen trees will be affected by development activity and the *Development Administrator* determines it to be as effective as protective fencing.

- (C.) Landscaping activities taking place after the removal of protective fencing shall be accomplished with light machinery or hand labor and in accordance with the Town of Stallings Technical Standards & Specifications Manual.

11.12-2 Treatment of Trees During Construction.

- (A.) No nails, ropes, cables, signs or fencing shall be attached to any part of any tree that is to be preserved.
- (B.) Trees that are damaged during construction shall be treated so as to promote their continued health.

11.12-3 Removal of Regulated Trees. No regulated tree shall be removed without first acquiring a permit from the *Development Administrator*. Failure to do so shall constitute a violation of this chapter and shall be subject to the penalty provisions in Section 11.18, Enforcement, of this Ordinance.

(A.) Enforcement. Upon a determination that work does not conform to the provisions of this section, the *Development Administrator* shall cause issue of a *Stop Work Order* which shall remain in effect until all corrections are made in conformance with this Ordinance.

(B.) Pre-construction Conference. Prior to the commencement of any activities requiring a permit, a pre-construction conference with the *Development Administrator* shall take place to review procedures for protection and management of all protected landscape elements identified on the landscape protection plan and to designate one or more persons as landscape protection supervisor(s).

11.13 Public Trees and Trees Interfering with Public Space – Maintenance and Protection

The following standards are hereby established for the maintenance and protection of public trees:

11.13-1 Approved Personnel. No person except an authorized employee or contractor of a public utility or other approved public personnel shall cut, prune, or remove any living tree on or in a public highway, right-of-way, public park, sidewalk, or other public property; or cut or disturb or interfere in any way with the roots of any tree on public property.

11.13-2 Owner Responsibility for Private Trees Interfering with Public Space. Every owner of any tree overhanging any street or right-of-way within the Town shall prune the branches so that such branches shall not significantly obstruct the view of any street intersection and so that there shall be a clear space of thirteen (13) feet above the street surface or eight (8) feet above the sidewalk surface. Said owners shall remove all dead, diseased or unsafe trees, or broken or decayed limbs that constitute a nuisance to the safety of the public. The Town shall have the right to prune any tree or shrub on private or public property when it constitutes a public safety hazard, interferes with pedestrian traffic or the visibility of any traffic control device, sign, or sight triangle.

11.13-3 Placement of Materials Around Plants. No person shall pile building or other material around any tree or shrub in a public right-of-way in any manner that will injure such tree or shrub.

11.13-4 Paving Adjacent to Trees. No person shall pave or place gravel, soil, or other such material within eight (8) feet of any tree on public property, unless approved by

the *Development Administrator*. Plans which fail to identify an impacted tree shall not constitute a transfer of responsibility to the Town or its *Development Administrator*.

- 11.13-5 Dumping of Deleterious Matter. No person shall dump, pour or spill any oil, pesticide, or other deleterious matter upon any tree or tree space in any public rights-of-way, or keep or maintain upon any public rights-of-way, any receptacle from which any oil, pesticide, or other deleterious matter leaks or drips onto any soil, parking area, or concrete gutter so as to injure any tree on any public property.
- 11.13-6 Disposal of Materials on Public Places. No person shall use parks, sidewalks, utility easements, or other public places to dump grass clippings, tree trimmings, rocks or other organic refuse. This shall not apply to properly placed yard waste that is intended for pickup by Town of Stallings Public Services or Solid Waste crews.
- 11.13-7 Decoration, Posting and/or Advertising on Public Trees. No person shall decorate a tree or shrub in any public right-of-way, neutral ground, park, sight triangle or sidewalk, either with or without lights, or place advertising material, posters, political placards, rope, or wire on trees in public properties.
- 11.13-8 Planting of Street Trees. No part of this section is intended to prohibit the planting of street trees by adjacent property owners within tree planter strips, providing that the selection and location of said trees is in accordance with planting specifications set forth in this section and that any such planting conducted under utility lines shall be limited to planting material taken from the list of recommended small-maturing trees in this Ordinance.

11.14 Hazard Trees

The following standards are hereby established for trees and shrubs determined to be hazardous.

- 11.14-1 Removal of Trees. The *Development Administrator* may order the removal of any tree, shrub, or part thereof on private or public property, which is unsafe or injurious to sewers or other public improvements, structures, or to the general public.
- 11.14-2 Right to Enter upon Property. The *Public Works Administrator* or his/her designee may enter upon public or private property in the Town to spray or otherwise treat any tree infected or infested by any parasite, insect, or disease to prevent the breeding or scattering of any parasite or animal pest and to prevent danger to persons or property or to trees planted on Town property.
- 11.14-3 Owner Notification and Opportunity to Correct. Prior to exercising the authority conferred by this section, the *Development Administrator* shall give the owner notice and an opportunity to correct the condition by requesting that corrective action be

taken. The request shall be in writing and sent via First Class Mail to the owner of the property in question and shall be acted upon within twelve (12) days (or a lesser period of time if an imminent threat to life or property exists) from the date of the receipt of the request. If, after twelve (12) days, the owner has not corrected the condition or undertaken action that would lead to a timely correction of the condition, the *Development Administrator* may enter upon the property, perform the work necessary to correct the condition, and bill the owner for the actual costs incurred. If the property owner fails to pay the bill for such work within thirty (30) days of such notice, the amount of the bill and any collection costs, including attorney's fees and court costs, incurred shall become a lien against the subject property and shall be collected in the same manner provided for the collection of delinquent taxes. In situations involving an immediate threat to public health, safety, or welfare, the Town may act without prior notification to the property owner.

11.15 Species Selection and Planting Techniques

In order to ensure that landscaping required by this article is suitable and is planted in the correct manner, the following selection and planting techniques are hereby established.

11.15-1 Plant Species: Species used in required planting yards and parking lots shall be of a locally adapted nature. Other species may be approved by the *Development Administrator*. See the Town of Stallings Technical Standards & Specifications Manual for: "recommended", "not recommended" and/or "prohibited species."

11.15-2 Plant Size: Specific plant sizes are listed below:

(A.) Canopy Tree Size: When mature, a canopy tree should have a minimum height of forty (40) feet and have a minimum crown width of thirty (30) feet. Canopy trees must be a minimum of two (2) inches in caliper, measured six (6) inches above grade, when planted.

(B.) Understory Tree Size: When mature, an understory tree should have a height of twenty-five (25) to forty (40) feet. Understory trees must be a minimum of one and one half (1.5) inches in caliper measured six (6) inches above grade at the time of installation.

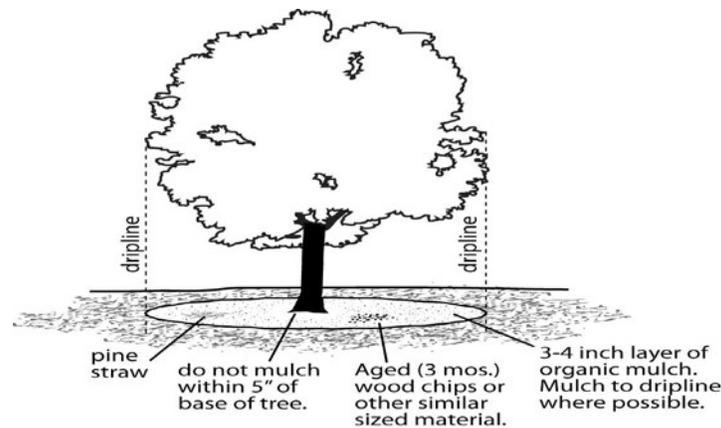
(C.) Shrub Size and Type: All shrubs approved for landscaping of vehicle use areas, loading and unloading areas, and outside storage areas shall be evergreen, with a minimum size of eighteen (18) inches, spread or height, when installed and reach a minimum height of thirty-six (36) inches and a minimum spread of thirty (30) inches. Such shrubs shall be planted using required planting techniques and located parallel to the edge of parking lots, access drives, loading and unloading areas, and outside storage areas. Required shrubs in other locations, outside of the areas listed above,

may be evergreen or deciduous and shall be three (3) gallon in size as per American National Standards Institute (ANSI) standards at the time of installation.

11.15-3 Planting Techniques

The following soil preparation techniques shall be used for all required landscape areas:

- (A.) Soil preparation for the entire landscape yard includes the addition of organic amendments tilled to a depth of eight (8) to twelve (12) inches.
- (B.) All plantings in landscape yards shall be mulched, including interior parking lot islands less than five hundred (500) square feet, to a depth of three to four (4) inches. The mulch shall be free of trash and maintained weed free thereafter. The sketch below and Figure 2 herein, illustrate these principles.



- (C.) Earthen basins are to be constructed around the installed plants.
- (D.) Plants, as required by this section, are to be grouped together where possible.
- (E.) For establishment and survival, plants shall be watered by the landowner or contractor for the first year after planting.

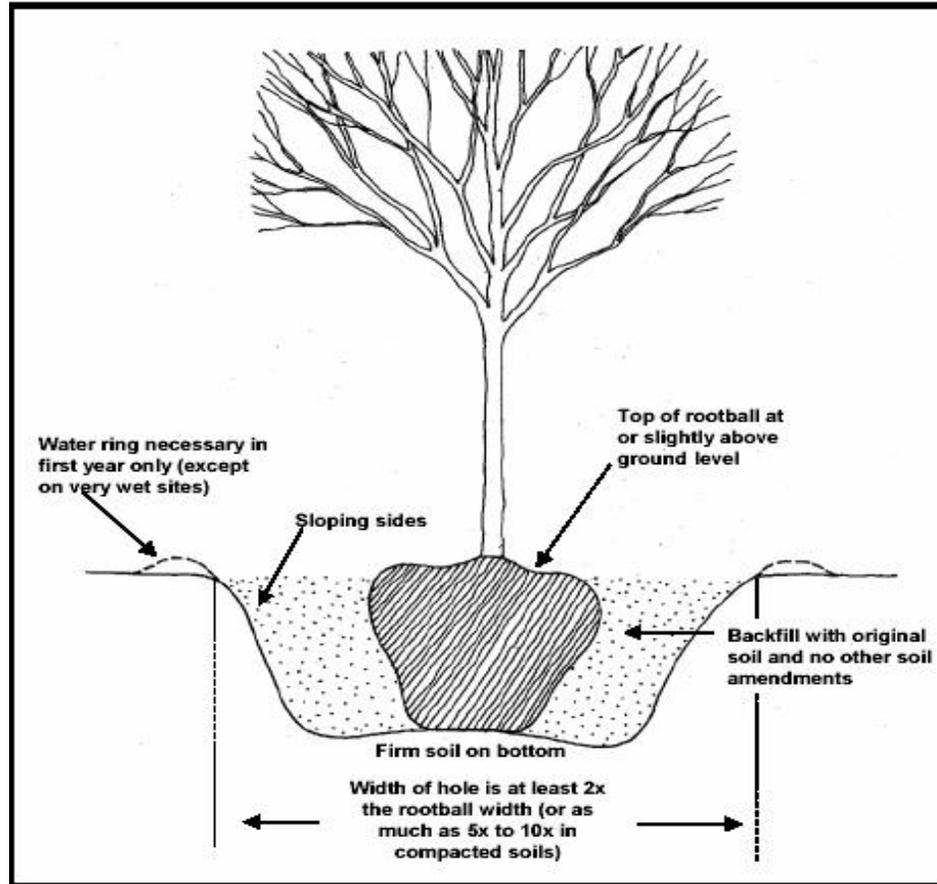


Figure 2. Recommended Tree Planting Method

11.16 Maintenance of Regulated Planting Spaces

11.16-1 Owner Responsibility. The owner or lessee of the property where landscaping is required shall be responsible for the maintenance and protection of all plant and screening material. Landscaped areas shall be maintained in good condition and kept free of debris. Any dead, unhealthy, or missing plants (preserved or planted) shall be replaced with new plant material equal to the number of credited plants planted or preserved, subject to the provisions of this Ordinance. The replacement plant material shall be sized according to the requirements of this section and shall conform to the initial planting rates and standards. The replacement plant material shall be planted within one hundred eighty (180) days of the date that dead, unhealthy, or missing plants are identified. Regulated spaces include those physical areas in which trees and landscape materials are required by this section.

11.16-2 Failure to Maintain. Failure to maintain or replace dead, damaged, or diseased material or to repair a broken fence or wall (where such fence or wall is considered a required portion of the landscape as outlined by this section) shall constitute a violation of this Ordinance and shall be subject to the provisions in Section 11.18,

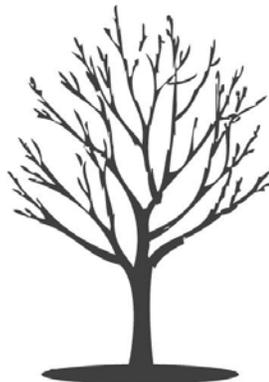
Enforcement, if not replaced within 30 days of notification.

- 11.16-3 Destruction by Natural Event. In the occurrence of a natural event which destroys a large quantity of vegetation, the owner or lessee shall have 180 days to replant. Replaced plant material must be in compliance with the minimum size, spacing and quantity standards of this section.
- 11.16-4 Irrigation. It is suggested that drip irrigation, which includes drip misters, be used for required landscaping planting beds during the required establishment period. After establishment, supplemental watering can be reduced and used on an as needed basis. Traditional spray irrigation is prohibited except for turf areas.
- 11.16-5 Pruning. All required trees shall be allowed to reach their mature size and shall be maintained at their mature size. Trimming and pruning shall be done in strict accordance with the (ANSI) standards. Topping is not an acceptable pruning practice. Topping is the reduction of a tree's size using heading cuts that shorten limbs or branches back to a predetermined crown limit. The *Development Administrator* may require the removal and replacement of any tree(s) located in required planting yards or TCA's that have been topped or excessively trimmed.



Before Pruning

Mature trees often need pruning due to crowded foliage, broken and dead branches, and asymmetrical shape.



After Proper Pruning

After pruning, trees should retain a symmetrical appearance and tree-like form. A minimum canopy spread of 20 feet must be maintained.



After Excessive Pruning

Pruning in excess of one fourth (25%) of the required canopy spread is prohibited. Tree-topping (hatracking) is prohibited.

11.17 Regulation of Tree Care Professionals

The following standards are established for tree care professionals working within the Town of Stallings and its jurisdiction.

11.17-1 Town-Owned Lands.

(A.) It shall be unlawful for any person or firm to engage in the business or occupation of

pruning, treating, or removing street or park trees or trees within Town owned public rights-of-way without first applying for and procuring a Tree Disturbance Permit. Such a permit will only be granted to individuals, businesses, or companies who employ a Certified Arborist to perform or supervise all tree work.

- (B.) In order to receive a Tree Disturbance Permit, applicants must first sign an affidavit agreeing to abide by ANSI 300 Standards for tree care. Specifically, the “topping” of trees shall be prohibited except in cases where the top of the tree has been injured beyond repair by a storm or related incident.
- (C.) Before any permit shall be issued, each applicant must first file evidence of possession of liability insurance and workman’s compensation insurance, in the minimum amounts as required by the Town of Stallings, indemnifying the Town or any person injured or damage resulting from the pursuit of such endeavors as herein described.
- (D.) The *Development Administrator* is authorized to suspend or revoke the right of any person or business to perform work for the Town of Stallings that engages in work practices that do not comply with tree care standards as specified in this section and the related ANSI Standards.

11.17-2 Private Lands.

- (A.) The Town of Stallings shall not directly regulate private companies providing tree care services on private property. However, the *Development Administrator* may direct property owners to the International Society of Arboriculture (ISA) website or other resources to assist in the location of Certified Arborists, who have specific training in tree care.

11.18 Enforcement

Enforcement of the standards and requirements set forth in this article shall be as provided below.

11.18-1 Notice and Appeal.

- (A.) Notice of Violation. The *Development Administrator* shall provide notice of the violation and any required remedies. The notice of violation shall be served by any means authorized under G.S. 1A-1, Rule 4, and the notice shall set forth the nature of the violation, the measures required to comply with this section, if compliance is at all practicable, and a reasonable time period (not less than 30 days and not to exceed 180 days) within which compliance must be met.

- (B.) Appeal. If any aggrieved party disagrees with a decision of the *Development*

Administrator, such party may request a hearing within twelve (12) working days of receipt of the violation. The request must be in writing and directed to the *Board of Adjustment*. The hearing will be conducted at the next regularly scheduled meeting of the *Board of Adjustment*.

- (C.) Decision of *Board of Adjustment*. The *Board of Adjustment* may modify, amend or revise the decision appealed. The decision of the *Board of Adjustment* shall be served upon the appealing party by registered or certified mail, return receipt requested, or by hand delivery.
- (D.) Appeal to Superior Court. If any aggrieved party is dissatisfied with the decision of the *Board of Adjustment*, an appeal may be filed with the Union County Superior Court. Notice of the appeal must be filed within thirty (30) days of receipt of the *Board of Adjustment* decision. Any appeals to the Superior Court shall be in the nature of certiorari.
- (E.) Injunction. Any aggrieved party may request an injunction to preserve the status quo during the pending of any appeal in accordance with applicable North Carolina law.

11.18-2 Penalties.

- (A.) Tree Disturbance Prior to Permit Approval. The penalty for the removal of or damage to trees, prior to the issuance of a tree disturbance permit shall be a civil penalty of ten thousand dollars (\$10,000.00) per acre or prorated fraction thereof. (i.e., the civil penalty for a site of 0.35 acres that is cleared prior to approval or prior to the issuance of a tree disturbance permit is three thousand five hundred dollars (\$3,500.00)). Additionally, the Town of Stallings, under G.S. 160A-458.5, may deny a building permit to any landowner who clears land in anticipation of development in violation of this section for up to three (3) years after completion of the timber harvest. If it is determined that the timber harvest was a “willful violation” of this Ordinance, then the Town of Stallings reserves the right to deny development approvals for a period of two (2) years following the timber harvest.
- (B.) Removal or Damage to Individual Trees after Permit Approval: The penalty for removal of or damage to the CRZ of protected trees after the issuance of a tree disturbance permit within an approved TCA without approval by the *Development Administrator* shall result in a civil penalty as determined by the *Development Administrator*, up to the amount shown in the chart below, in addition to the replacement of those trees with quality specimens native to the Appalachian region of North Carolina.

Table 11.6 – Penalties for Unauthorized Tree Removal

DBH of Tree(s) Removed or Damaged	Maximum Civil Penalty	Reforestation (4 inch DBH minimum)
4 – 11.9 inches	\$800	1 tree
12 – 20.9 inches	\$1,600	2 trees
21 – 28.9 inches	\$2,400	3 trees
29 – 35.9 inches	\$3,200	4 trees
36+ inches	\$4,000	5 trees

- (C.) Removal of an Area of Trees after Permit Approval. The penalty for removal of or damage to an area of protected trees that have not been surveyed after the issuance of a tree disturbance permit within an approved TCA without approval of the *Development Administrator*, shall result in a civil penalty of ten thousand dollars (\$10,000.00) per acre or prorated fraction thereof but not less than one thousand dollars (\$1,000.00). Such areas shall be reforested at a rate one (1), two-inch caliper canopy tree per two hundred (200) square feet.
- (D.) Failure to Install or Maintain Tree Protection Devices. There shall be a civil penalty of five hundred dollars (\$500.00) per day for failure to install or maintain approved tree protection measures sufficient to protect the TCA beginning with the date the citation is issued and ending when the site is in compliance. The property owner may be subject to any penalties for damage under Section 11.18-2 above.
- (E.) Failure to Comply with the provisions of Section 11.6 Landscape Requirements. There shall be a penalty of five hundred dollars (\$500.00) per day for failure to install required landscape material or to replace dead landscape material beginning with the date the citation is issued and ending when the site is in compliance.
- (F.) Civil Penalties Considered Restorative. Civil penalties assessed under this section are considered restorative; intended to provide compensation to the Town for costs associated with the Town’s program to monitor, control, prosecute, cure and/or correct the violation. As such, the amount declared herein is presumed to provide sufficient restoration to the Town for its costs. The decision of the *Development Administrator* to assess a civil penalty may be delivered by personal service, by registered mail, or certified mail return receipt requested or by any means authorized under G.S. 1A-1, Rule 4. Each day of a continuing violation shall constitute a separate violation.

- 11.18-3 Appeal to Superior Court. Every decision of the *Development Administrator* or the *Board of Adjustment* to assess a civil penalty shall be subject to review by the Union County Superior Court by proceedings in the nature of certiorari. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 days after the decision of the *Development Administrator* or *Board of Adjustment* to assess a civil penalty.
- 11.18-4 Failure to Appeal and/or Pay: Any civil penalty that is assessed against a person who violates the provisions of this Ordinance shall be recovered by the Town in a civil action in the nature of a debt (placement of liens against properties, etc.), to be brought in the Union County Superior Court if the violator fails to give notice of timely appeal and fails to pay the penalty within the prescribed period of time after he or she has been cited for the violation.
- 11.18-5 Violations Not Criminal: A violation of this Ordinance shall not be considered a misdemeanor under N.C. General Statute 14-4.

ARTICLE 21

OPEN SPACE

21.1 Purpose.

The open space standards contained herein are established to provide for the reservation of various forms of open spaces, including parks and greenways in all forms of developments located in the Town of Stallings territorial jurisdiction. Preservation of open space in developing areas serves a variety of purposes, including meeting the recreational needs of residents, improving the aesthetic character of the community, reducing stormwater runoff, improving stormwater runoff water quality, and enhancing air quality. Where applicable, the addition of active open space shall adhere to the Stallings Recreation and Greenway Master Plan. The standards set forth below establish regulations for open space.

21.2 Open Space.

The following standards are hereby established for open space. Percentage of required open space is calculated on the gross project acreage. Open space areas shall be identified and calculated on development proposals. For Greenways as identified on the Stallings Parks and Greenway Master plan, open space shall be calculated by creating a fifty (50) foot buffer, unless obstructed by property lines.

Open Space shall consist of improved and unimproved areas. The total requirement for open space is shown in Table 21.1. Improved open space shall be fifty percent (50%) of the total requirement as shown in Table 21.1. The remaining 50% of open space may be unimproved and consist of land as listed in Section 21.2-10. The maximum unimproved open space allowed, as defined in Section 21.2-10, may be less than fifty percent (50%) of the total required open space. If this is the case, the remaining total open space must be met with improved open space.

21.2-1 Open space land area requirements. Open space shall be provided in accordance with the following table for:

- (A.) initial residential development containing eight or more units,
- (B.) redevelopment or additional development that adds eight or more

- residential units, (C.) initial non-residential or mixed-use development greater than 0.6 acres, and
- (D.) re-development or additional development that adds 25 percent more non-residential or mixed-use floor area on a site that exceeds 0.6 acres within any 36-consecutive month period.

TABLE 21.1

ZONING DISTRICT	REQUIRED TOTAL OPEN SPACE	REQUIRED IMPROVED OPEN SPACE
Single Family Residential (SFR-1) Single Family Residential (SFR-2) Single Family Residential (SFR-3)	25%	12.5%
Multi-Family Residential Transitional (MFT)	15%	7.5%
Traditional Neighborhood Development Overlay (TNDO)	10%	5%
Mixed Use (MU-1)	12%	6%
Mixed Use (MU-2) – When residential components are included, open space shall be centrally and internally located so as to provide focal points throughout the development.	10%	5%
Conditionally Zoned (CZ) <i>Requirements listed are a minimum but may be amended by the Town Council through the Conditional Zoning process.</i>	10%	5%
US Highway 74 Commercial (C 74) Interstate Highway 485 Corporate Park (CP 485)	10%	5%

Vehicle Service and Repair (VSR) Industrial (IND) Heavy Industry Overlay (HIO)		
Agriculture (AG) Civic (CIV) Scenic Corridor Overlay (SCO)	n/a	n/a
Town Center (TC) as <i>defined in Article 8.</i> <i>New development must adhere to the Parks and Greenway Master Plan when applicable.</i>	n/a	n/a

21.2-2 Land designated as future open space. Regardless of the requirements and exemptions of this subsection, any portion of the site of the proposed development that is designated as future open space or greenway in the *adopted Comprehensive Land Use Plan and/or the Stallings Parks and Greenway Master Plan*, as amended from time to time, shall be reserved for open space. This area may be counted toward the total amount of open space required for the development.

Greenway, Park and Open Space Access: When a development abuts greenways, parks and/or public open space areas, public access to such features must be provided at a minimum of every 1000 feet when feasible, as determined by the *Development Administrator*. Such access shall be provided through greenway connectors a minimum of six feet wide. Connectors shall be paved, engineered to allow water runoff, and connected to the pedestrian system within the development, and will be maintained by the Owner’s Association.

If the total amount of land designated as future open space or greenway is less than the total amount of open space required for the development by Table 21.1, then the developer shall provide additional open space to meet the requirement of Table 21.1. If the amount of land designated as future open space or greenway exceeds the total amount of open space required by Table 21.1, then the developer must provide the open space designated in the official adopted plan.

As compensation for any open space dedication associated with implementing any official adopted plan above that requirement listed in Table 21.1, the developer is eligible for a density bonus of one dwelling

unit per each 4,356 square feet of land area in excess of that required in Table 21.1 or 500 square feet of non-residential gross floor area per each 2,178 square feet of land area in excess of that required in Table 21.1, up to a maximum of a fifteen (15%) percent increase above the maximum density or intensity allowed in the applicable zoning district. The density bonus in the proposed development is limited to additional yield that can be configured with less than a ten (10%) percent reduction in(s) in lot area and/or setback dimensions specified in Article 8.

- 21.2-3 Minimum open space area. Individual areas designated as open space areas shall not contain less than 500 square feet, although smaller areas may be approved by the *Development Administrator* if the intent of this Ordinance is determined to be met.
- 21.2-4 Improved open space. Improved open space shall be planned, accessible and usable by persons living nearby. Improved shall mean cleared of underbrush and debris and shall contain improvements that include, but are not limited to: landscaping, walls/fences, walks, statues, fountains, demarked ball fields, picnic areas, pools, gazebos, barbeque areas, and/or playground equipment. Walls and fences shall be made of brick, stone, wrought iron, or wood and shall not exceed 3.5 ft. in height with the following exceptions: fences used in conjunction with ball fields, tennis courts, swimming pools, and/or play grounds.
- 21.2-5 Design and location. In major subdivisions and multi-building developments in all zoning districts, except Agricultural, open space shall be integrated into the design of the site. In subdivisions where 50% or more of the lots are less than 0.75 acre in size, open space shall be located within ¼ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two. In subdivisions where 50% or more of the lots are 0.75 acre or more in size, open space shall be located within ½ mile of at least 90% of the building lots, as measured along the rights-of-way of streets providing access between the two.
- 21.2-6 Focal point. Open space features should provide focal points for the neighborhood. .
There should be a hierarchy of open space within new neighborhoods so that open space serves the needs of multiple age groups.
- 21.2-7 Intentionally left blank.

21.2-8 Open Space Ownership and Conservation Easement. Open space may be owned or administered by one or a combination of the following methods: fee simple ownership by a unit of government or private non-profit land conservancy; owned by a property association; or by individual private ownership such as a farmer, developer or other private entity that maintains the open space (i.e. farming, equestrian facility, etc.)

All lands within areas required to be maintained as open space shall be protected by a permanent conservation easement, prohibiting further development, and setting other standards safeguarding the site's special resources from negative changes.

Public use of the open space may be limited to residents of the development, except for land used for public sidewalks and multi-use trails, provided that such open space is held in private or property association ownership.

21.2-9 Maintenance. The owner or lessee of the property designated as the open space shall be responsible for the maintenance of the open space area. Landscaped areas shall be maintained in good condition and the entire area shall be kept clear of debris. Failure to maintain the area shall constitute a violation of this or other applicable ordinances. Alternatively, if acceptable to the Town Council, as applicable, the land may be dedicated to the Town for public use and thereafter maintained by the Town.

21.2-10 Land Acceptable for Unimproved Open Space Designation. The classes of land enumerated below may be utilized to meet the requirements of this section. For unimproved open space to be counted towards the total open space requirement the area(s) must include a maintained access point.

A minimum of 50% of the total open space requirement shall be improved open space. The remainder of the open space shall be considered unimproved open space. A maximum of 25% of the total open space requirement may be areas of unimproved open space considered unbuildable as listed in 21.2-10(A)(B)(C). A minimum of 25% of the total open space requirement shall consist of the unimproved open space natural areas as listed in 21.2-10(D)(E). If unimproved open space that is considered unbuildable is less than 25%

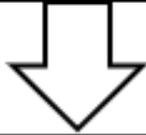
of the total open space requirement, the remainder shall be either unimproved open space that consists of natural areas as listed in 21.2-10(D)(E) or improved open space. Nothing in this section shall be intended to limit the entirety of open space to be improved open space.

- (A.) Land which exceeds sixteen percent (16%) slope if existing slopes and vegetation remain undisturbed;
- (B.) Land used for stormwater retention provided such land is natural in appearance and is not separately fenced. Additionally, land used for stormwater retention, provided such land is natural in appearance and is not separately fenced, that is developed using best management practices (e.g., constructed wetlands, rain gardens, green roofs or similar features), and either exceeds the required amount of retention or treats off-site stormwater at the discretion of the *Development Administrator*.
- (C.) Stream buffers.
- (D.) Grassed lands with no improvements that are accessible and maintained.
- (E.) Naturally wooded areas not including required buffers, steep slopes, or stormwater retention areas as defined in this section.

Example Improved/Unimproved Open Space Calculation:

**Single Family Residential Open Space
Total Requirement: 25%**

25% Required Total Open Space			
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Minimum Improved Open Space 12.5%	Maximum Unimproved Article 21.2-10(A)(B)(C) 6.25%
	Minimum Unimproved Article 21.2-10(D)(E) 6.25%

.21.2-11 Land not Acceptable for Open Space Designation: The classes of land enumerated below shall not be utilized to meet the requirements of this section:

- (A.) Land that is contaminated with hazardous or toxic waste or materials as defined by state or Federal regulations, with the exception of land covered by an approved mitigation plan and deemed acceptable by the Town Council or land that is designated in an officially adopted Open

Space, Park or Greenway master plan.

(B.) Land occupied by streets, drives, parking areas, or structures other than recreational structures.

(C.) Land with a minimum width less than twenty (20) feet. Mixed use developments in the TND district are exempt from the minimum width requirement.

(D.) Land used for landscape buffers (Type A, B and C only), public sidewalks in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk cafe areas, areas containing public art, and similar high density area open space amenities. Sidewalks that run through or are internal to improved open space shall be counted toward improved open space.

(E.) Surface water, wetlands, utility transmission rights-of-way, and undisturbed floodplains.

21.3 Fee-in-Lieu.

All proposed developed within the Town shall provide the improvements identified in the *Stallings Parks, Recreation and Greenway Master Plan* when those improvements are located on property involved with the proposed development.

When no improvements as identified by the Stallings Parks, Recreation and greenway Master Plan are associated with a proposed project, the developer shall be required to pay a fee in lieu thereof, in accordance with this section. This fee shall be calculated as follows:

1/35 of an acre per lot X tax value of the property (per acre).

Example: a 100-lot subdivision with a per acre tax value of \$10,000:

$$\begin{aligned} 1/35 &= .02857143 \\ &\quad \times 100 \\ &= 2.85714286 \\ &\quad \times \$10,000 \\ &= \$28,571.43 \end{aligned}$$

(1). At least one thirty-fifth (1/35) of an acre shall be dedicated for each dwelling unit planned or proposed in the subdivision plan or development.

(2). The payment of fees, in lieu of the dedication of land under subsection above shall be made to the Town of Stallings after having received a recommendation from the Planning Board and

having evaluated the proposed dedication and the relationship the dedication would have with the town's Parks, Recreation and Greenway Master Plan.

(3). The fees in lieu of dedication shall be paid prior to final plat approval.

(4). The amount of the payment shall be the product of:

(a). The number of acres to be dedicated, as required by subsection, above;

(b). The assessed value for property tax purposes of the land being subdivided, adjusted to reflect its current fair market value at the time the payment is due to be paid.



**PLANNING
& ZONING**
TOWN of STALLINGS

Open Space
Ordinance Re-
write
TX21.03.03

Staff Report

Summary of Feedback

Increase Landscape Buffering

- Buffers allow for new development to better fit into the existing community (residential/residential and residential/non-residential)
- Increase screening along roadways through landscaped berms (along street frontage) to screen rear yards and other private spaces and mitigate road noise and lights
- Include projects by right and DA agreements/conditional zoning
- More opaque with landscaping (added landscaping)

Clarify Open Space Definitions and Requirements

- Clarify improved versus unimproved open space
- Undevelopable areas should be preserved, but not counted toward improved open space

Codify Implementation of the Parks and Greenway Plan

Require Open Space Amenities Within Communities

- Usable space, amenities, trails

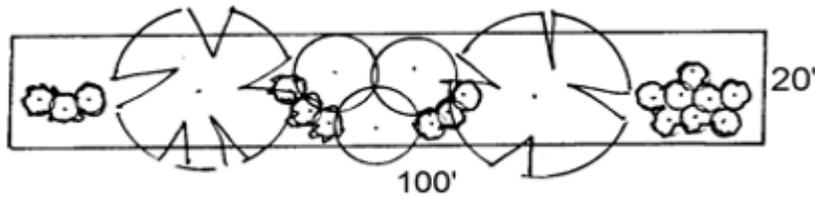
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Increased Opacity of Type B buffer

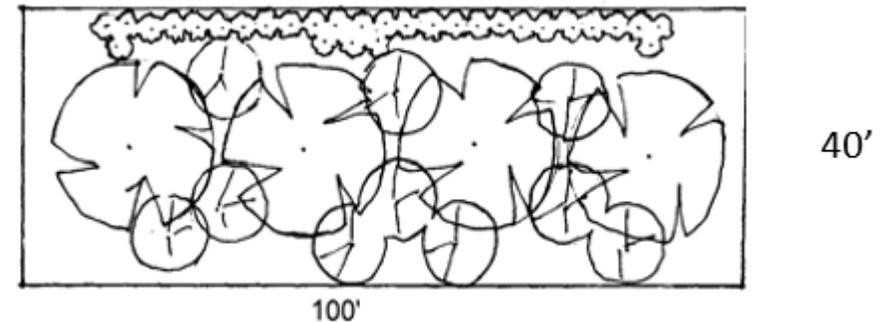
Increased Buffer between SFR, MFT, TNDO, and CZ projects from Type C buffer (20') to Type A buffer (40')

Adjusted table to differentiate between residential and non-residential projects

Changed option to reduce buffer width by installing a fence to reducing opacity with a fence



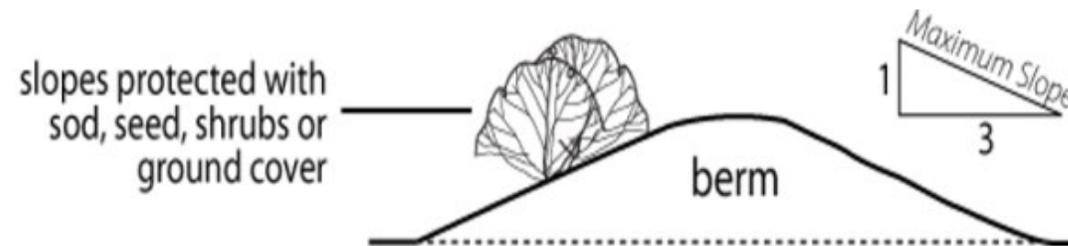
Type C buffer



Type A Buffer

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Berms with planted vegetation that will provide **75% screening** required along public thoroughfares
Added language requiring berms to have a specific slope to ensure the height is met, and for erosion and maintenance concerns
Berms would not be required for smaller developments (≤ 4 homes) or front-loaded homes – **Planning Board**



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Changed Open Space Requirements:

Greatly increased total open space requirements

Current - SFR – 10%, all other - 7.5%

Proposed – By district, ranging from 25% to 10%

Agriculture, Civic, and Town Center now have 0% required open space

Town Center: *New development must adhere to the Parks and Greenway Master Plan when applicable.*

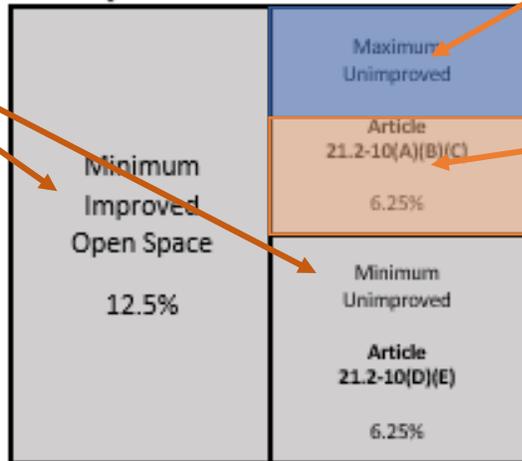
Added emphasis on improved open space

50% of total open space required is to be improved

Unimproved open space must have maintained access to be counted

Example Improved/Unimproved Open Space Calculation:

Single Family Residential Open Space
Total Requirement: 25%



Always Required

- (A) No Steep Slope
- (B) Some Stormwater Management
- (C) No Stream Buffer

The remaining open space would need to be made up with either more improved open space, or with the natural unimproved open space.

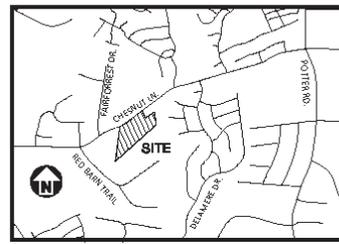
Courtyards on Chestnut Lane

CZ Zoning

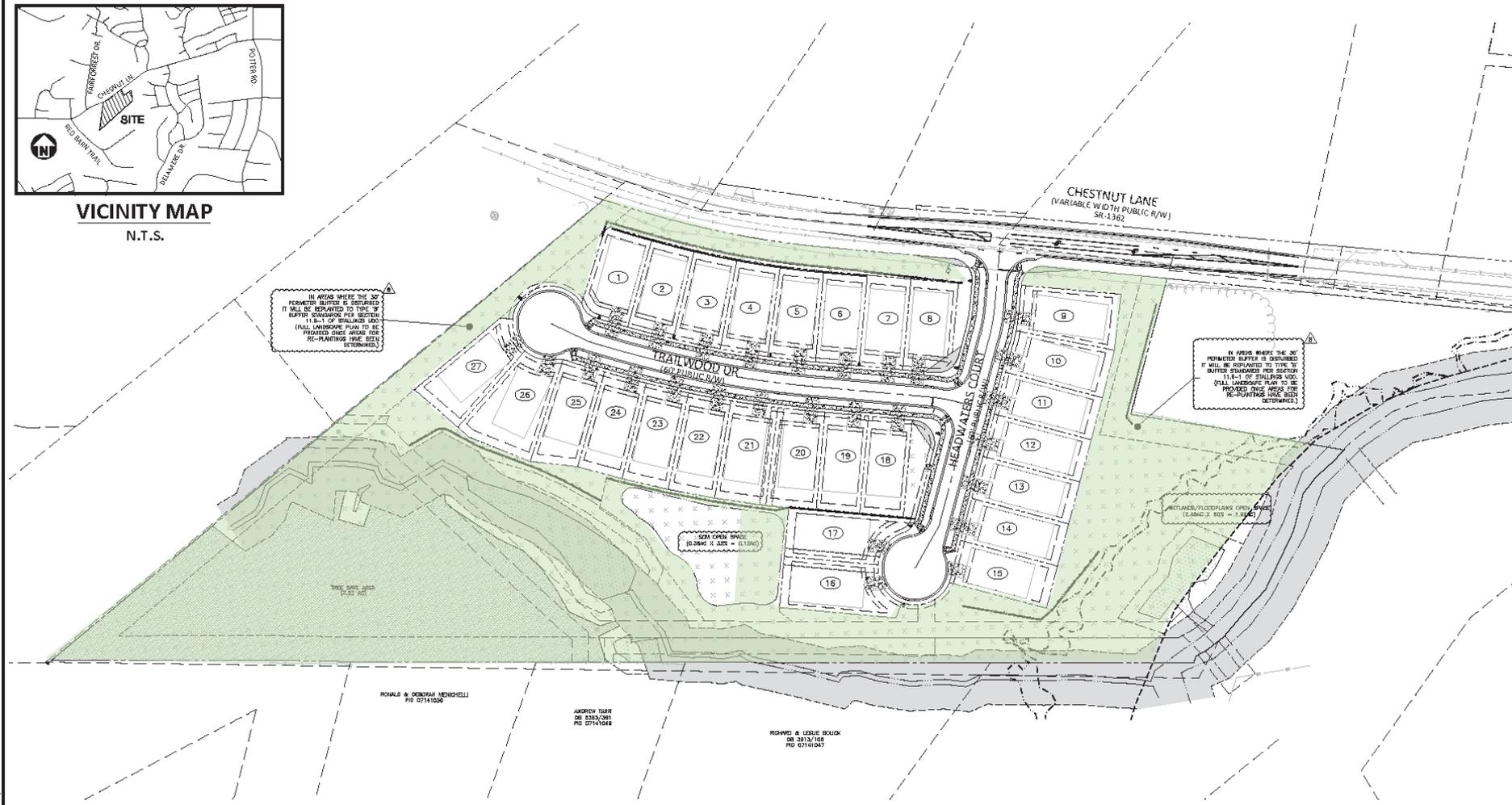
Parcel Size:
13.35 Ac

Req Open Space:
1 Ac (7.5%)

Currently Open Space: 6.21 Ac
(47%)



VICINITY MAP
N.T.S.



IN AREAS WHERE THE 30' PERMITS BUFFER IS DISTURBED IT WILL BE REPLANTED TO 100% OF BUFFER STANDARDS PER SECTION 11.4.1 OF ZONING CODE. (ALL LANDSCAPE PLAN TO BE PROVIDED PRIOR TO RE-PLANTING HAVE BEEN DETERMINED.)

IN AREAS WHERE THE 30' PERMITS BUFFER IS DISTURBED IT WILL BE REPLANTED TO 100% OF BUFFER STANDARDS PER SECTION 11.4.1 OF ZONING CODE. (ALL LANDSCAPE PLAN TO BE PROVIDED PRIOR TO RE-PLANTING HAVE BEEN DETERMINED.)

SOIL OPEN SPACE
(0.38AC @ 10% = 0.38AC)

WETLANDS/FLOODPLAINS OPEN SPACE
(6.83AC @ 10% = 0.68AC)

RONALD & DEBORAH MENCHELLI
DB 07141000

ANDREW DARR
DB 0313/081
RD 07141008

RONNY & LESLIE BOLIK
DB 0813/100
RD 07141007

GENERAL NOTES:

- STREETS ARE DESIGNED PER THE INCLUDE CROSS SECTIONS AND WILL BE TOWN MAINTAINED.
 - MAILS/MAILBOXES ARE TO THE EDGE OF PAVEMENT UNLESS OTHERWISE NOTED.
 - SEE SHEET 02.00 FOR ALL PROJECT SITE GRADING, STORM DRAINAGE, AND UTILITY NOTES.
 - ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE CURRENT TOWN OF STALLINGS STANDARDS OF PRACTICE AND SPECIFICATIONS TO RE AND NEEDS TO REPAIR DRAWINGS.
 - ROOF PITCH SHALL BE BETWEEN 4:12 AND 12:12.
 - SOILS TO BE MAINTAINED BY THE HOMEOWNER'S CONTRACTOR.
 - ALL CONSTRUCTION SHALL BE A MINIMUM 6" OF EXPOSED BRICK OR STONE ON ALL SIDES OF THE HOUSE PER PER 02.00 NOTES #6.
 - THE COURTYARD/COURTNEY LANE ROW WILL BE RESPONSIBLE FOR MAINTENANCE FOR STORMWATER FACILITIES, PIPES, AND/OR PCH WHICH IS LOCATED WITHIN THE PERMANENT DISTURBANCE FOOTPRINT.
- CONTRACTOR SHALL NOTIFY "NCS111" (811) OR (1-800-632-4949) AT LEAST 3 FULL BUSINESS DAYS PRIOR TO BEGINNING CONSTRUCTION OR EXCAVATION TO HAVE EXISTING UTILITIES LOCATED. CONTRACTOR SHALL CONTACT ANY LOCAL UTILITIES THAT PROVIDE THEIR OWN LOCATOR SERVICES INDEPENDENT OF "NCS111". REPORT ANY DISCREPANCIES TO THE ENGINEER IMMEDIATELY.

SITE LEGEND

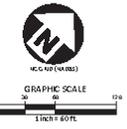
	SIGNAGE		PROPERTY LINE
	YARD LIGHTS		RIGHT-OF-WAY LINE
	LIGHT POLE		LOT LINE
	POWER POLE		EASEMENT LINE
	TRAFFIC DIRECTIONAL ARROW		CENTERLINE
	ACCESSIBLE RAMPS		UNSHADED STREAM BUFFER
	TREE SAVE AREA		WETLANDS
			COMMON OPEN SPACE

SITE DATA

CURRENT OWNER:	EPCOR CHESTNUT, LLC	ACREAGE:	13.35 AC +/-
PERM:	PERM 147 01 5	DATE:	08/20/24
NO:	08/20/24	NO:	177
TAX PARCEL NUMBER:	07 147 01 5		
JOBS:	EPCC/CLC		
CURVE RADIUS:	NO CONTACTS/UTILITY		
PROJECT USE:	SINGLE FAMILY RESIDENTIAL OVERLAPPING		
PROJECT DEVELOPER:	EP CORP 18 23 5AC 2 00 UNITS PER AC		
OFFER SPACE (W/ LAND/FLOODPLAIN/UTILITY ROW):	2.25 AC @ 10% = 0.225 AC		
OFFER SPACE (W/ PERMANENT RETENTION AREA):	0.38 AC @ 10% = 0.038 AC		
COMMON OPEN SPACE (MINIMUM WIDTH):	0.38 AC		
PROJECT TOTAL OPEN SPACE:	0.38 AC + 0.038 AC = 0.418 AC @ 10% (4.18%)		
REQUIRED TREE SAVE AREA:	0.38 AC @ 10% = 0.038 AC @ 10% = 0.038 AC		
PROJECT TREE SAVE AREA:	0.038 AC @ 10% = 0.0038 AC		
FRONT SETBACK:	10'		
DEVELOP SETBACK:	10'		
SIDE SETBACK:	10'		
FIELD NOTES:	NO TO EXCEED TWO STORES OF 80 FT		
MAXIMUM BUILDING HEIGHT:	NO TO EXCEED TWO STORES OF 80 FT		
REQUIRED PARKING:	WILL BE PROVIDED BY TOWN		
WATER:	WILL BE PROVIDED BY TOWN		
STORMWATER CONTROL:	WILL BE PROVIDED BY TOWN		



Know what's below.
Call before you dig.



1. Increase Landscape Buffering
 - a. Buffers allow for new development to better fit into the existing community (residential/residential and residential/non-residential)
 - b. Increase screening along roadways through landscaped berms (along street frontage) to screen rear yards and other private spaces and mitigate road noise and lights
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4. Require Open Space Amenities Within Communities
 - a. Usable space, amenities, trails

Required to reference the Stallings Parks and Greenway Master Plan
Same level of importance as the Comprehensive Land Use Plan

Added language requiring **connections**, if a project abuts public open space (including a greenway), to be maintained by the Owner's Association.

1. Increase Landscape Buffering
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Emphasis put on Improved Open Space by requiring a **minimum** percentage of Improved Open Space and a **maximum** limits on Unimproved Open Space

Added language to give extra improved open space credit for greenways
Calculated by a buffer around the trail centerline

Removed the requirement for providing 4 improvements from a finite list
More improved open space required, but broader requirements to be counted as improved

Summary of Feedback

Increase Landscape Buffering

- Buffers allow for new development to better fit into the existing community (residential/residential and residential/non-residential)
- Increase screening along roadways through landscaped berms (along street frontage) to screen rear yards and other private spaces and mitigate road noise and lights
- Include projects by right and DA agreements/conditional zoning
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Codify Implementation of the Parks and Greenway Plan

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MEMO

To: Town Council
From: Lynne Hair, Planning Director
Date: April 20, 2021
RE: DA19.01.06/DA19.11.02 – Development Agreement review and potential action for Stinson Farms, a mixed-use project located on the northeast corner of Idlewild Road and I-485.

Action Options:

1. **Defer meeting to a later date to give the applicant and Town additional time to work on unresolved issues.**
2. **Deny based on a lack of compatibility with the Stallings Comprehensive Land Use Plan designation of a Walkable Activity Center.**
3. **Approve with additional agreed upon conditions.**
4. **Approve as Submitted.**

Information:

At the March 22, 2021 Town Council meeting the public hearing for the Stinson Farms Development Agreement was held. During the hearing additional questions were raised. Council directed Staff to schedule a subcommittee meeting to address the outstanding issues prior to moving the request forward.

Questions that were requested to be discussed are as follows:

- Single family homes need to back up to Anglesey Court.
- The 100' buffer needs to be across the whole property line.
- The area in the 100' buffer needs natural vegetation and trees to be left standing.
- Buffer fence type and location needs to be specified.
- More mixed use is needed and less apartments.
- The 1 additional apartment building behind the C store needs to be removed.
- Stormwater maps and data needs to be reviewed by council.
- Need more concrete commitment on road improvement timeline.
- From I-485 to Stevens Mill needs to 4 lanes plus turn lanes.
- No drive thru restaurant.
- Commitment for monument signage including construction and installation needs to be provided for in the DA.

A TIA technical memo was provided by Andrew Eagle with DRG outlining required improvements and timing of their installation.

During the meeting, the applicant agreed to the following additional concessions:

11. An exhibit will be provided and attached to the DA showing where a fence would be provided, and the buffer reduced to 70'.
12. Fountains will be installed in all wet ponds on the site.

The following items were also discussed:

- The prescribed improvements to the intersection of Stevens Mill and Idlewild Road will improve traffic flow even with the additional traffic generated by the proposed development.
- 160D does not allow the Town to ask for road improvements above what is recommended by the TIA.
- The applicant agreed to include an exhibit showing where a fence would be provided, and the buffer reduced to 70'.
- It was requested that Mac McCarley and John Carmichael discuss timing of required improvements identified by the TIA.
- Applicant agreed to installing fountains in wet ponds.
- The site will be subject to all stormwater ordinances and improvements as identified by the Town Engineer. Stormwater effects on neighboring properties will not be affected by the development as prescribed by the Stallings PCSWO.
- The applicant will consider the request to construct and install Stallings's monument signage on the site.
- DR Horton was asked to consider installing elevators in some of their multifamily buildings.

Attached please find notes from the meeting outlining the discussion.

Background memo is provided below, and a copy of the Draft DAs, revised site plan and TIA Memo are attached for your reference.

Background:

Stinson Farms is a proposed mixed-use development involving several parcels of land located at the interchange of I-485 and Idlewild Road. The project has direct frontage on Idlewild Road and is adjacent to the Shannamara subdivision to the east.

The original application for this project was submitted in April 2019. Over the past year and a half, Staff has worked with the applicant to ensure that the plan meets Town requirements.

The project was forwarded to the DA Sub Committee in August at which time the Council began meeting with the applicant and negotiating conditions designed to protect existing residents and provide a sense of place and promote walkability.

The following are concessions made by the developer as a result of Council negotiations:

1. A 100' buffer (70' with a fence) where adjacent to the Shannamara neighborhood.
2. Provided single family residential adjacent to the existing single family residential in the Shannamara neighborhood.
3. The 3 homes in the Shannamara neighborhood that do not have single family residents behind them do have the 100' buffer (70' with a fence), a road and the side yard of a town home building behind them. The applicant has agreed to plant additional evergreens in this area.
4. Provided green way trails as shown on the Stallings Parks, Recreation and Greenway plan, including the Stallings Spine segment on Idlewild Road frontage.
5. Will be providing road improvements including the widening of Idlewild Road to 4 lanes from I-485 to Stevens Mill Road.
6. Reduced the overall residential unit count from 618 to 393, an overall reduction of 218 units, or 35%.
7. Agreed to limit reduce the number of fast-food restaurants from 3 to 1.
8. Moved the convenience store to property at the interchange of I-485 and Idlewild Road, moving away from the existing and proposed residential units.
9. The applicant has agreed that they will not pursue private sewer treatment if County sewer is not available.
10. The front setback on Idlewild will be calculated from the proposed right of way.

The attached site plan is the final revised plan based on negotiations with Town Council. Below please find project details and history.

Subcommittee Recommendation:

Forward onto the Planning Board with NO RECOMMENDATION.

Planning Board Recommendation:

DENIAL

Applicant Information:

An application was received for the two individual Development Agreements as follows:

1. DA19.01.06:
Applicant: JLA3, LLC and Idlewild Partners, LLC, Metrolina Properties
Size: 51.47 acres

Use: 384 Multi Family Units, 69 Townhome Units, 13 Single family lots, Retail, Office, Convenience Store with Gas Pumps.
Filed: June 25, 2019.
Amended Application Filed September 19, 2019.

2. DA19.11.02:
Applicant: Metrolina Properties Limited Partnership
Size: 22.798 acres
Use: 52 Townhome Units, 19 single family lots
Filed November 17, 2019

Please note, the DA applications were received prior to the adoption of the September 23, 2019 ordinance changes making apartments a CZ and the subsequent decrease in permitted densities. While a cohesive plan has been presented, the DA's will need to be voted on individually. However, the DAs are tied to a single project and will both need to be approved or denied. A split vote approving one and denying the other is not desired by the applicant.

History:

History of these properties has included the potential development of a mall and an outlet mall. There are three separate property owners involved, John Armistead (represented by Wade Robinson), Withrow Capital Group (represented by Terry Williams), and Wesley Faulk (represented by Wes Hinson).

During the Comprehensive Land Use Plan and Small Area Plan process, plans were adopted (11/27/2017) showing mixed use on the property to include an office park, retail use, multi family, townhomes, and single-family housing. A goal of these plans was and is to protect existing residential uses.

In April of 2019, the first development agreement application was received on the Withrow Capital property that included an apartment complex that straddled the County line. A second application for the Armistead properties was received in June 2019 that included an apartment complex and commercial outparcels fronting Idlewild Road.

Staff began meeting with the applicants individually Spring of 2019 to express concerns with the plans and their lack of compliance with the land use plans. Staff also expressed the need for single family housing to be located adjacent to the Shannamara development to protect this neighborhood as expressed in the approved Small Area Plan.

During these meetings staff also encouraged the applicants to work together and present a cohesive master plan for the entire area that would show connectivity, both vehicular and pedestrian as well as show how the projects would work together.

On September 19, 2019, a revised plan was submitted for the Armistead property showing a reduction in multifamily and the addition of townhomes on the eastern side of the property.

On November 7, 2019, a new plan was submitted by Withrow Capital for the Stinson property that showed townhomes directly adjacent to the Shannamara development. The original apartment project was amended to remove the portion of the project in Mecklenburg County and was incorporated into the overall Stinson Village plan in addition to the townhomes submitted on November 7th.

In early 2020, a combined plan was submitted, and DR Horton was introduced as the sole developer of all properties.

Development Agreement Sub Committee Meetings Summary:

Four Sub Committee meetings were held as follows:

8/24/2020:

Use	Units	Acreage	DUA
Multi Family	408	23.54	17.33
Townhomes	203	33.25	6.10
Commercial	N/A	13.3	N/A

Identified commercial: convenience store with gas pumps, fast food restaurants as well as the potential for all uses listed as permitted in the MU-2 zone by the Stallings Development Ordinance.

Discussion: With this plan, the subcommittee expressed concerns with the lack of single-family housing and buffering adjacent to the Shannamara neighborhood. Protection of existing residential uses was expressed as a goal of the Idlewild Road Small Area Plan. To address this concern, the subcommittee requested that the developer provide single family housing directly adjacent to the Shannamara neighborhood as well as a 100' buffer in this area.

The density of the project was also expressed as a concern.

Renderings of the proposed apartments were provided and discussed. A desire for on-street parking along the main street and the residential units fronting this street to be “activated” to the street was requested meaning further characteristics consistent with a traditional neighborhood development vision (ex: Birkdale Village, Baxter Village, etc.).

Renderings for the proposed townhomes were not provided at this time.

Outcome: The subcommittee directed the applicant to address the following:

- Single family residential adjacent to Shannamara
- 100' Buffer adjacent to Shannamara

- Address the density concerns.
- Provide renderings of the proposed townhomes.
- On-street parking along the main street
- Activation of residential units to the main street

A second meeting was scheduled for September 14, 2020.

9/14/2020:

Use	Units	Acreage	DUA
Multi Family	384	22.2	17.29
Townhomes	121	15.97	7.57
SFR	32	18.63	1.71
Commercial	N/A	13.3	N/A

A revised site plan was submitted by the applicant addressing the requested changes as follows:

- 32 single family homes were located adjacent to Shannamara.
- The inclusion of the 32 single family homes required the reduction in townhome units having a slight impact on overall density.
- A 100' buffer was provided adjacent to the Shannamara neighborhood with the option to reduce to 70' when a 5' screening fence is applied per ordinance allowance.
- Town home elevations were provided.
- On-street parking and building activation of the multifamily buildings facing the main street was shown on the revised site plan.

Discussion:

The subcommittee appreciated the concessions of the single family residential, the 100' buffer, and the on-street parking, but still expressed significant concerns with the overall proposal.

Discussions during the second meeting included a focus on the retail outparcels and their lack of integration into the overall site plan. It was expressed to the applicant that the Comprehensive Land Use Plan showed the subject property as a *Walkable Activity Center* and promoted an integrated mixed-use development connected both from a vehicular and pedestrian standpoint. The submitted site plan showed residential on the back portion of the property with retail outparcels along Idlewild Road. Concerns with the layout and the lack of compliance with the Comprehensive Land Use Plan were expressed to the applicant.

The townhome elevations were also discussed and a need for a larger front porch on the units.

A need for additional connectivity and integration of the retail outparcels into the overall site plan were expressed.

Concerns with a convenience store with gas pumps and multiple fast-food restaurants as a part of the plan were discussed and how these uses, and their locations do not comply with the approved land use designation of a *Walkable Activity Center* was expressed.

Outcome:

The subcommittee directed the applicant to address the following:

- Integrate the commercial uses into the overall site plan.
- Provide a reduction in the intensity of commercial uses.
- Continue to provide more connectivity and improved building elevations.

A third subcommittee meeting was scheduled for 9/28/2020.

9/28/2020:

Use	Units	Acreage	DUA
Multi Family	384	22.2	17.29
Townhomes	121	15.97	7.57
SFR	32	18.63	1.71
Commercial	N/A	13.3	N/A

No changes made to the site plan.

Discussion:

Concerns continued to be expressed that the commercial development was not integrated into the overall site plan and did not comply with the Comprehensive Land Use Plan designation for the site as a *Walkable Activity Center*.

A desire to see all the property owned by the applicants shown on a master plan for the area was expressed, including the Mecklenburg County properties.

Subcommittee members expressed a desire to see the office park shown on the Small Area Plan integrated into the overall site plan as future development. This request was not responded to by the applicant.

Concerns with the convenience store with gas pumps and fast-food restaurants with drive thru windows continued. The subcommittee expressed a desire to eliminate these uses from the plan because of inconsistency with the Comprehensive Land Use Plan.

Outcome:

- The subcommittee recommended that the Town’s attorney and the applicant’s attorney discuss some apparent legal disagreements and report back.
- It was requested that the applicant remove convenience stores with gas pumps and fast-food restaurants with drive thru windows from their proposed plan.

A fourth subcommittee was scheduled for October 26, 2020.

10/26/2020:

Use	Units	Acreage	DUA
Multi Family	384	22.2	17.29
Townhomes	121	15.97	7.57
SFR	32	18.63	1.71
Commercial	N/A	13.3	N/A

A revised site plan showing knee wall and improved landscaping between the commercial outparcels and residential uses was submitted.

Discussion:

Discussion of the commercial outparcels needing to be integrated into the overall site plan and to comply with the Comprehensive Land Use Plan designation of a *Walkable Activity Center* continued.

Including a list of uses that excluded convenience stores with gas pumps and fast-food restaurants with drive thru windows was discussed and the applicant was not in agreement with this request.

Outcome:

The subcommittee voted to move the proposed development agreement onto the Planning Board with NO RECOMMENDATION.

Additional Information:

TIA:

A Traffic Impact Analysis was conducted for the site and mitigation measures identified. A link to the TIA will be provided. Staff has also prepared a memo outlining the recommended improvements.

Idlewild Road is scheduled to be widened, impacting the applicant’s site. The proposed right of way has been considered and shows on their site plan.

School Impact:

Union County Public Schools were provided with a copy of the applicant's proposed plan and submitted their impact report. This has also been forwarded for the committee's use.

The development falls in the Porter Ridge cluster.

Greenways:

The applicants are showing greenway trails throughout and along their site that will connect to the future multi use path proposed on Idlewild Road and identified in the Stallings Parks and Greenway Master Plan. The multiuse path on Idlewild Road will also be provided by the applicant as a part of the widening of Idlewild Road.

March 31, 2021

Alex Sewell, Esq., ICMA-CM
Town Manager
Town of Stallings
315 Stallings Road
Stallings, NC 28104
P: 704-821-0314
E: asewell@stallingsnc.org

**Subject: Stinson Farms
Traffic Technical Memo
Stallings, NC**

Dear Mr. Sewell:

A Traffic Impact Analysis (TIA) has been prepared for the proposed Stinson Village site, now known as Stinson Farms. The North Carolina Department of Transportation (NCDOT) has reviewed and approved the TIA. This technical memorandum summarizes the TIA process and results.

TIA Process

The Town of Stallings hired Ramey Kemp Associates (RKA) to perform the TIA. RKA worked directly with the Town of Stallings and NCDOT to develop the scope and assumptions of the TIA.

The purpose of the TIA is to identify impacts to the roadway network that are expected to be caused by the additional traffic created by the proposed development. This is accomplished by comparing the traffic operations of the study intersections before and after the proposed site trips are added. The TIA identifies roadway improvements that are needed to mitigate or offset these impacts.

Trip Generation

The number of vehicles expected to travel to/from the proposed development was calculated to determine the future traffic conditions after the proposed development is completed. The Institute of Transportation Engineers (ITE) has compiled real world traffic data for different land use types and sizes. This data is then used to estimate the number of AM and PM peak hour trips a proposed land use type and size would generate. The ITE *Trip Generation Manual, 10th Edition* was used to estimate the number of vehicles expected to enter or exit the proposed site during the AM and PM peak hours.

Two phases of development were analyzed in the TIA. The first phase included the following assumptions for the land use types and sizes:

- 3,500 square feet of fast-food restaurant with drive-thru window
- 4,500 square feet of fast-food restaurant with drive-thru window
- 4,993 square feet of super convenience market / gas station

The second phase included the following assumptions for full buildout of the site:

- 203 townhomes
- 408 apartments
- 4,000 square feet of day care center
- 4,000 square feet of drive-in bank
- 5,000 square feet of high-turnover (sit-down) restaurant
- 3,500 square feet of fast-food restaurant with drive-thru window
- 4,500 square feet of fast-food restaurant with drive-thru window
- 3,500 square feet of coffee / donut shop without drive-thru window
- 4,993 square feet of super convenience market / gas station

Often the developer does not know the exact land uses that will be constructed, especially for commercial areas. For purposes of the TIA, land use types that generate more trips than other types were chosen. This helps to ensure that the impacts from the development are accounted for in the traffic analysis. The TIA assumed two fast-food restaurants and a coffee/donut shop would be constructed, though it is more likely land uses that generate fewer trips than these will actually be constructed. For example, the number of fast-food restaurants has been limited to one as part of the development agreement with the Town.

Roadway Improvements

The TIA identified roadway improvements to be constructed by the developer for Phase 1 and full buildout of the site. These roadway improvements are shown on Figures 1 and 2. A conceptual roadway design of the full buildout roadway improvements is also attached.

The TIA recommends an additional through lane in each direction on Idlewild Road. The westbound through lane would begin just east of Stevens Mill Road. The TIA recommended the eastbound through lane to end at Access C. When the conceptual roadway design was developed it was determined that there would not be enough length between Access C and Stevens Mill Road to taper down the through lane and then widen back out for a left turn lane at Stevens Mill Road. The developer has agreed to extend the additional through lane past Access C and end it at Stevens Mill Road as a left turn lane.

The Phase 1 roadway improvements must be constructed before the developer can receive a certificate of occupancy on any Phase 1 buildings. The full buildout roadway improvements must be constructed before the developer can receive a certificate of occupancy on any buildings beyond Phase 1.

Changes in Land Use Types/Sizes

In general, the roadway improvements are based on the number of trips the proposed development is expected to generate. If the land use types/sizes change and result in fewer trips than those in the TIA, then the developer can either construct the roadway improvements identified in the TIA or provide new analysis to identify fewer roadway improvements. If the land use types/sizes change and result in more trips than those in the TIA, then new analysis must be performed to identify any additional roadway improvements needed to mitigate the additional trips. In all cases the developer must mitigate impacts to the roadway network caused by the proposed development. Any new analysis would use the same process as the approved TIA; the Town would hire a traffic engineer to perform the analysis.

Conclusion

The Town of Stallings hired RKA to perform a TIA for the proposed Stinson Village site, now known as Stinson Farms. The TIA has identified roadway improvements to be constructed by the developer. NCDOT has reviewed and approved the TIA.

The TIA recommends an additional through lane in each direction on Idlewild Road. The eastbound through lane was recommended to end at Access C, but will continue past Access C and end at Stevens Mill Road as a left turn lane. The westbound through lane would begin just east of Stevens Mill Road. This effectively widens Idlewild Road to a 4-lane facility between I-485 and Stevens Mill Road.

There are options for roadway improvements if the developer decides to construct land use types and/or sizes that differ from those assumed in the TIA. In all cases the developer must mitigate impacts to the roadway network caused by the proposed development.

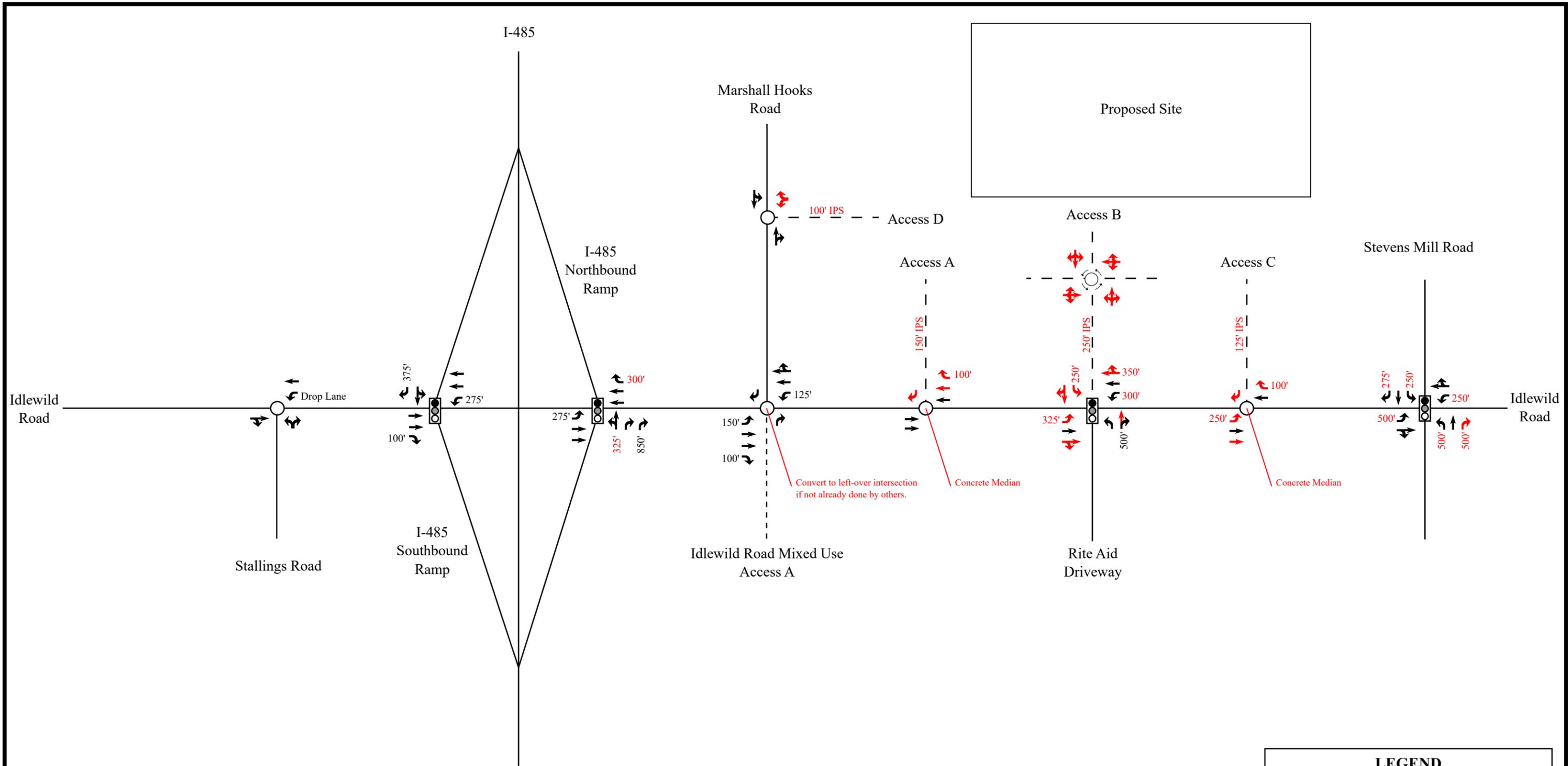
Please let us know if you have any questions regarding this letter or if additional information is required.

Sincerely,
Ramey Kemp & Associates, Inc.



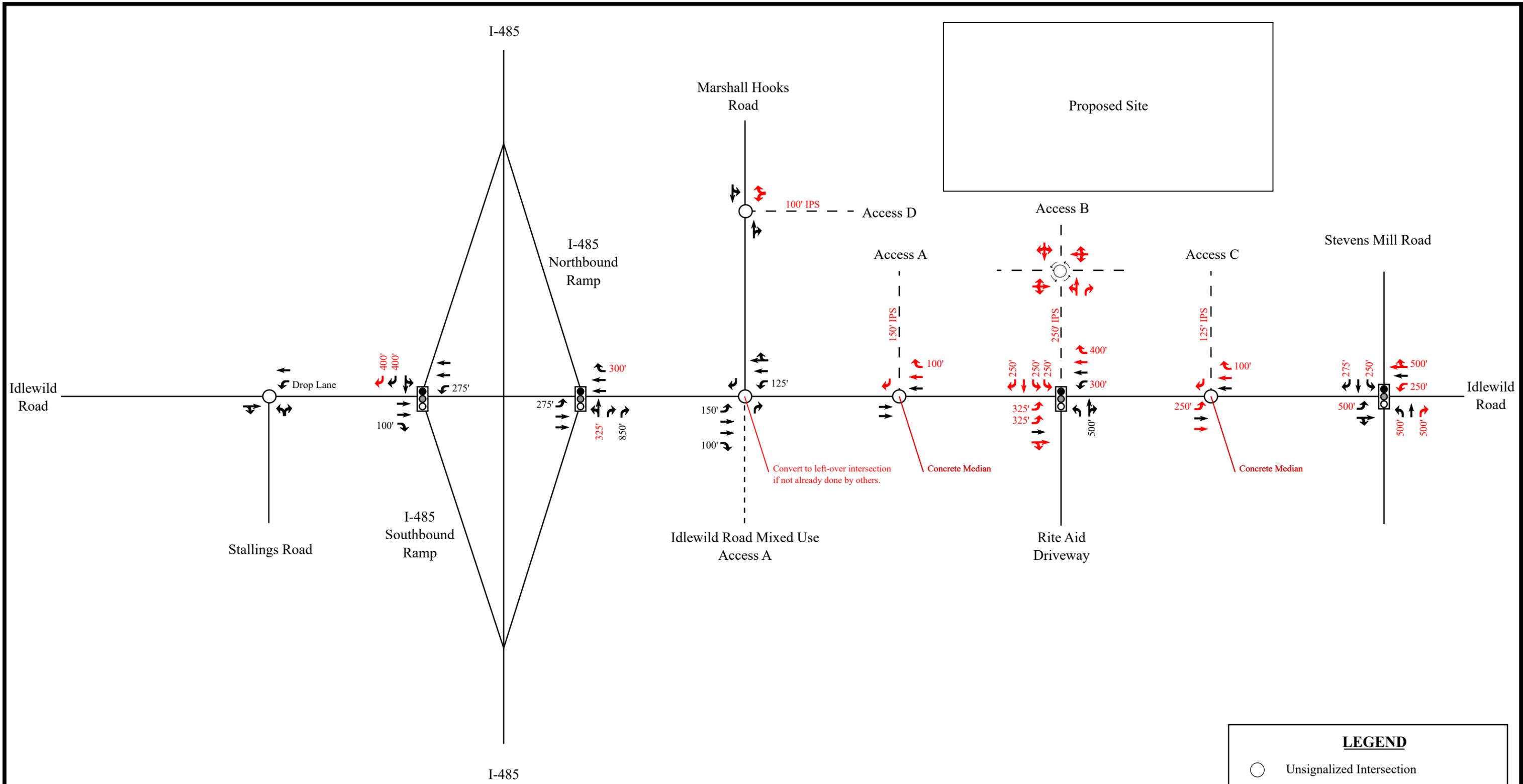
J. Andrew Eagle, PE, PTOE
Senior Traffic Engineering Project Manager
License #C-0910

Attachments: Figure 1: Phase 1 Recommended Lane Configurations
Figure 2: Full Buildout Recommended Lane Configurations
Full Buildout Conceptual Roadway Design



LEGEND

- Unsignalized Intersection
- Signalized Intersection
- Roundabout
- Existing Lane
- Improvement By Developer
- X' Storage (In Feet)



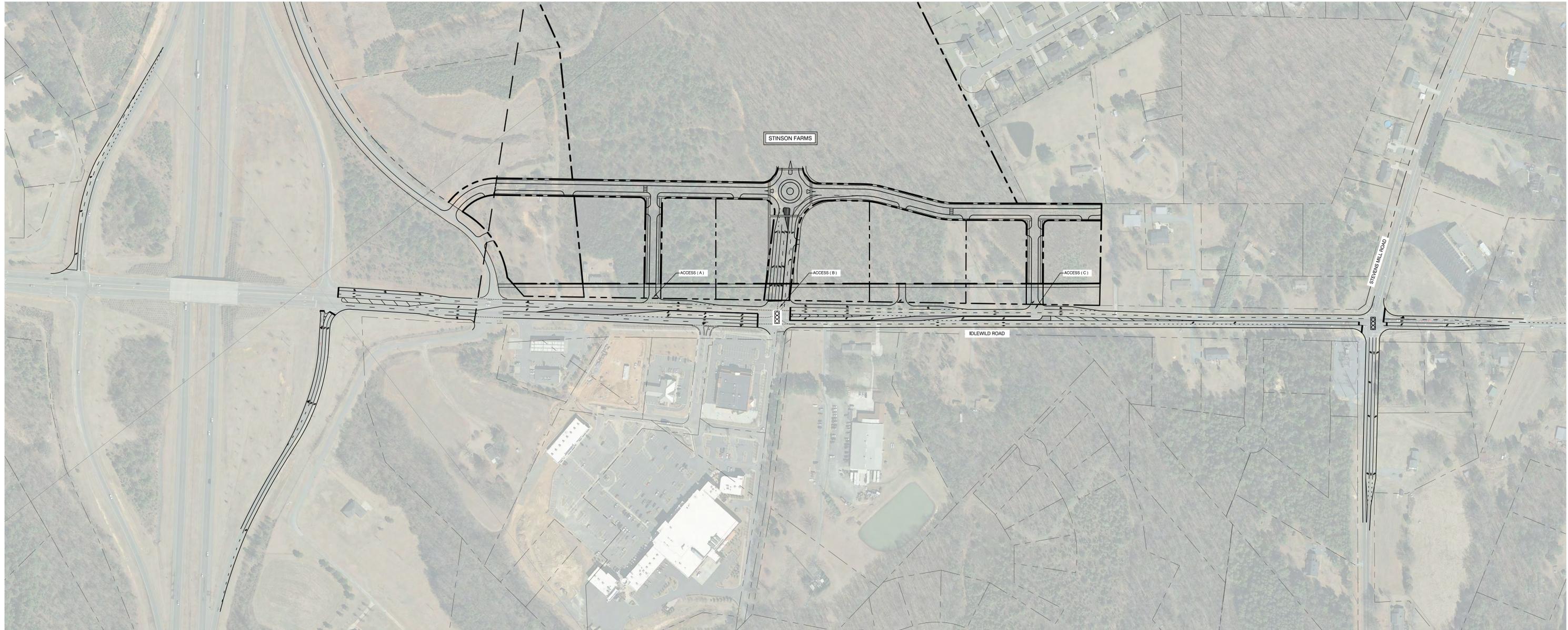
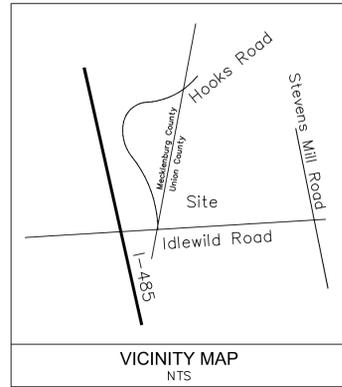
LEGEND

- Unsignalized Intersection
- ◫ Signalized Intersection
- ⊙ Roundabout
- ➔ Existing Lane
- ➔ Improvement By Developer
- X' Storage (In Feet)



STINSON FARMS

STALLINGS, NORTH CAROLINA

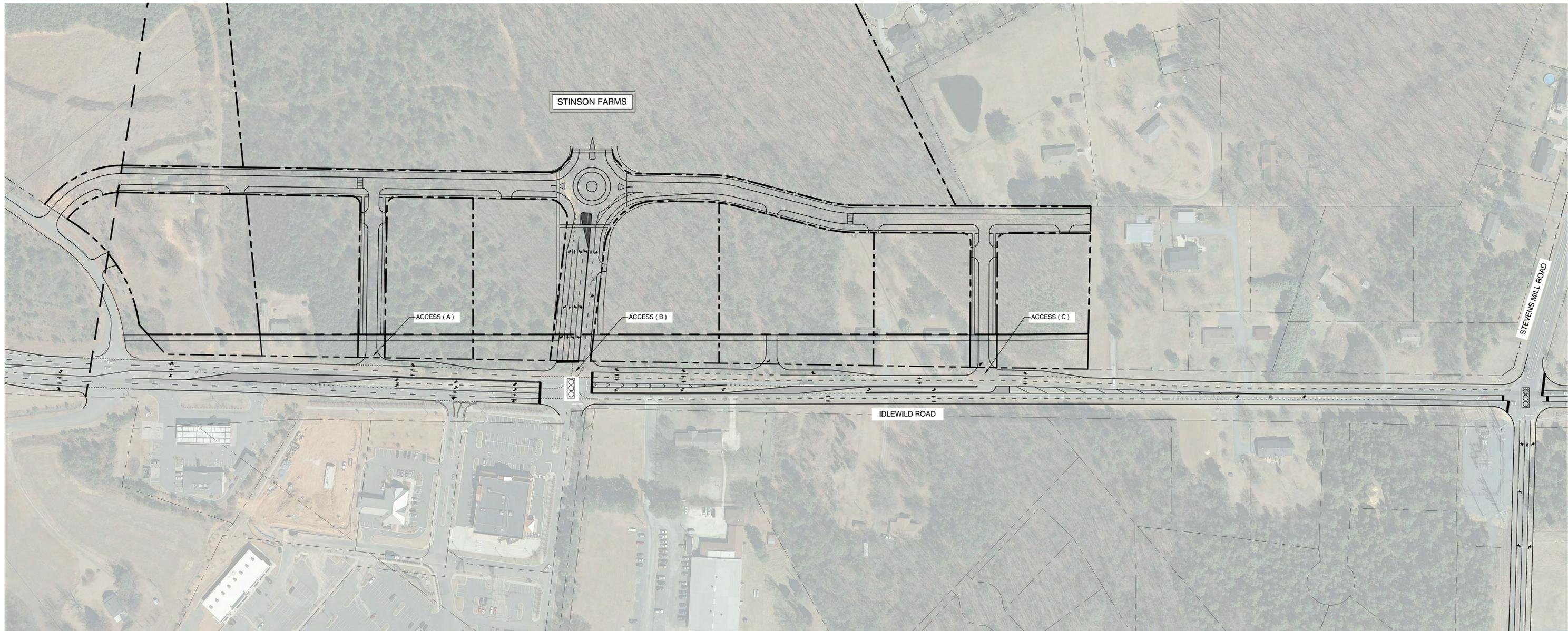
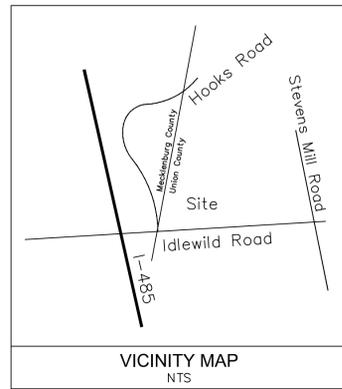


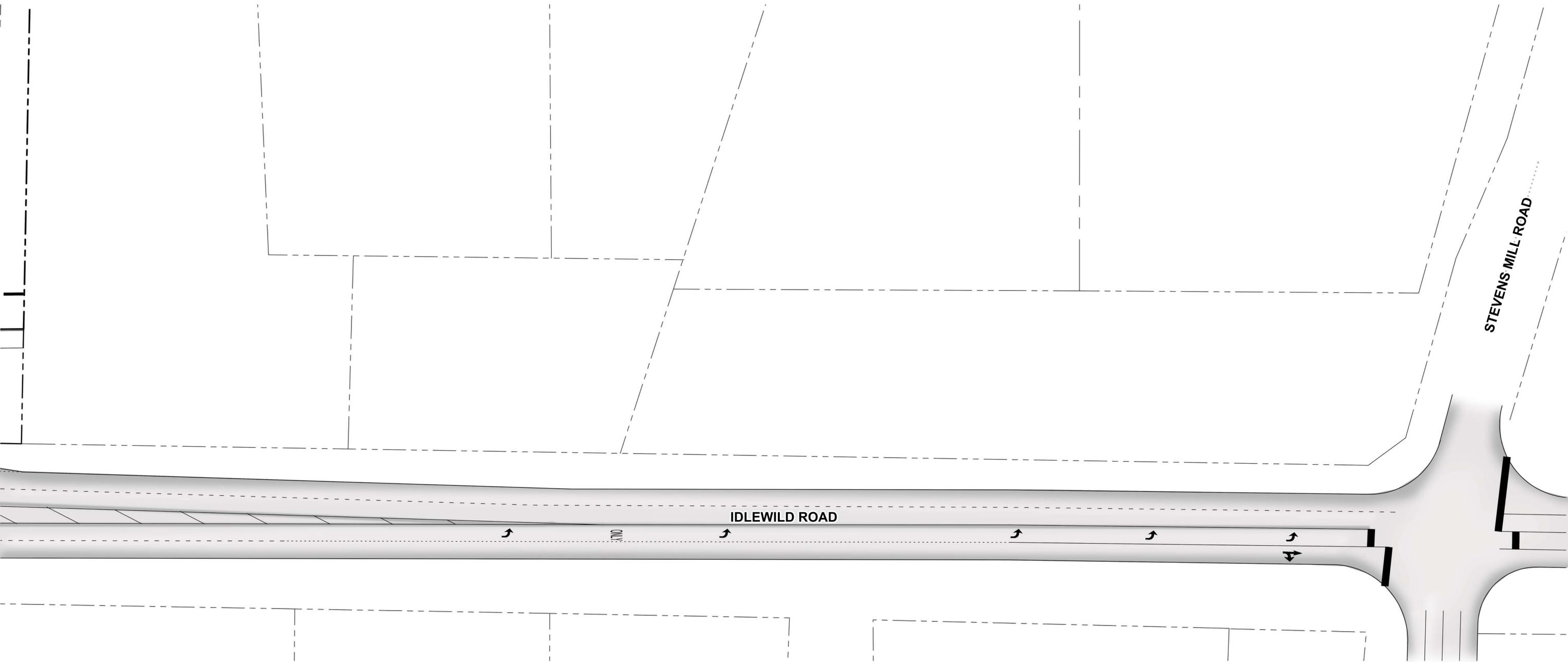


STINSON FARMS

STALLINGS, NORTH CAROLINA

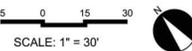
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IDLEWILD ROAD

STEVENS MILL ROAD



STINSON FARMS
STALLINGS, NORTH CAROLINA



DEVELOPMENT AGREEMENT
BY AND AMONG
JLA3, LLC, IDLEWILD ASSOCIATES, LLC,
METROLINA PROPERTIES LIMITED PARTNERSHIP, LAND INVESTMENTS, LLC
AND
TOWN OF STALLINGS

Prepared by and Return to:
John H. Carmichael
Robinson, Bradshaw & Hinson, P.A.
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246

TABLE OF CONTENTS

Page

STATE OF NORTH CAROLINA)
)
COUNTY OF UNION)

DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is made and entered into this _____ day of _____, 2021 (the “**Effective Date**”) by and among **JLA3, LLC**, a North Carolina limited liability company (“**JLA3**”), **Idlewild Associates, LLC**, a North Carolina limited liability company (“**Idlewild**”), **Metrolina Properties Limited Partnership**, a North Carolina limited partnership (“**Metrolina**”), **Land Investments, LLC**, a North Carolina limited liability (“**LI**”) and the **Town of Stallings**, a North Carolina municipal corporation (“**Town**”).

STATEMENT OF PURPOSE

1. Section 160A-400.20(a)(1) of the North Carolina General Statutes provides that “large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.”
2. Section 160A-400.20(a)(3) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.”
3. Section 160A-400.20(a)(4) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects involve substantial commitments of private capital by developers, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development.”
4. Section 160A-400.20(a)(5) of the North Carolina General Statutes provides that “because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas.”
5. Section 160A-400.20(a)(6) of the North Carolina General Statutes provides that “to better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.”
6. Section 160A-400.23 provides that a local government may enter into a development agreement with a developer for the development of “developable property of any size.”
7. In view of the foregoing, Sections 160A-400.20(b) and 160A-400.22 of the North Carolina General Statutes expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of Sections 160A-400.20 through 160A-400.32 of the North Carolina General Statutes, which procedures and requirements include approval of the development agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

BACKGROUND

1. JLA3 is the owner of five (5) parcels of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that are designated as Tax Parcel Nos. 070-750-20, 070-750-19, 070-750-17, 070-750-28 and 070-750-17A on the Union County Tax Maps (the “**JLA3 Property**”).
2. Idlewild is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-18 on the Union County Tax Maps (the “**Idlewild Property**”).
3. Metrolina is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-22A on the Union County Tax Maps (the “**Metrolina Property**”).
4. Metrolina and LI are the owners of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-22 on the Union County Tax Maps (the “**Metrolina-LI Property**”).
5. The JLA3 Property, the Idlewild Property, the Metrolina Property and the Metrolina-LI Property are hereinafter collectively referred to as the “**Property.**” The Property contains approximately 51.47 acres is subject to the terms and conditions of this Agreement. The Property is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference. The Property is zoned MU-2.
6. JLA3, Idlewild, Metrolina and LI and their successors in interest are hereinafter collectively referred to as the “**Developer.**”
7. Developer desires to develop a multi-use development (the “**Project**”) on the Property in accordance with the terms of this Agreement, the Concept Plan (defined below) and the Town of Stallings Development Ordinance (the “**Ordinance**”) that will contain single family detached dwelling units, single family attached dwelling units, multi-family dwellings units and associated residential amenities, and commercial uses as allowed under the Ordinance.
8. The Project is an approximately 51.47 acre portion of an approximately 74.268 acre multi-use development that has been planned as a single unified development. This single unified development of which the Project is a part is hereinafter referred to as the “**Unified Development.**”
9. After careful review and deliberation, the Town has determined that the Project is consistent with the Ordinance and that it would further the health, safety, welfare and economic well-being of the Town.
10. The Town has also determined that the Project will secure quality planning and growth, strengthen the tax base and provide public amenities and infrastructure.

Accordingly, Developer and the Town desire to enter into this Agreement for the purposes of coordinating the construction of infrastructure that will serve the Project and the community at

large and providing assurances to Developer and its successors in interest that Developer may proceed with the development of the Project in accordance with the terms of this Agreement and the approvals set forth herein without encountering future changes in ordinances, regulations or policies that would affect Developer's ability to develop the Project under the terms of this Agreement.

TERMS

NOW, THEREFORE, based upon the terms and conditions set forth herein and in consideration of the mutual promises and assurances provided herein, the parties do hereby agree as follows:

1. Public Hearing. Pursuant to Section 160A-400.24 of the North Carolina General Statutes, the Town Council conducted a public hearing on March 22, 2021 in accordance with the procedures set out in N.C.G.S. § 160A-364, and it approved on April 26, 2021 the subsequent execution of this Agreement by the Town. The notice of public hearing specified, among other things, the location of the Property subject to this Agreement, the development uses proposed on the Property and a place where a copy of the Agreement can be obtained. The approval of this Agreement by the Town Council included the approval of the ten (10) page Site Development Plan (as defined in Section 7.7(D)(1) of the Ordinance) for the Project (the "**Concept Plan**") attached hereto as Exhibit B and incorporated herein by reference. As referenced above, the Project is a portion of the Unified Development, and the Concept Plan includes the Property and the other portions of the Unified Development.

2. Permitted Uses/Maximum Density. Subject to the limitations set out herein and on the Concept Plan, the Property may be devoted to the uses and to the development densities set out below. That portion of the Property on which commercial uses may be located is designated on the Concept Plan as the "**Commercial Area**."

A. A maximum of 336 multi-family dwelling units may be developed on the Property.

B. A maximum of 84 single family attached dwelling units may be developed on the Property.

C. A maximum of 13 single family detached dwelling units may be developed on the Property.

D. Incidental and accessory uses relating to the foregoing residential uses that are permitted in the MU-2 zoning district may be developed on the Property. Incidental and accessory uses may include, without limitation, a leasing and management office for the multi-family dwelling units and amenities for the single family detached dwelling units, the single family attached dwelling units and the multi-family dwelling units.

E. Notwithstanding anything contained herein to the contrary, Developer may develop single family attached dwelling units and/or single family detached dwelling units in lieu of multi-family dwelling units, provided, however, that the total residential density on the Property shall not exceed 433 dwelling units.

F. Commercial Area.

(1) Subject to the limitations set out below in subparagraphs 3 and 4, the Commercial Area may be devoted to any non-residential use or uses listed by right, any non-residential use or uses listed with additional standards and/or any non-residential use or uses listed with conditions in the MU-2 zoning district as set out in Table 8.1 of the Ordinance, and to any non-residential accessory and incidental uses relating thereto that are permitted in the MU-2 zoning district.

(2) Neither the Agreement nor the Concept Plan limit the number and locations of principal buildings, accessory structures and parking areas or the maximum gross floor area that may be developed on the Commercial Area. The maximum number and locations of principal buildings, accessory structures and parking areas and the maximum gross floor area that may be developed on the Commercial Area shall be governed by the terms of the Ordinance

(3) A convenience store with gasoline sales shall not be permitted on the Commercial Area.

(4) A maximum of one (1) quick service/fast food restaurant may be developed on the Commercial Area. By way of example, and not by way of limitation, a quick service/fast food restaurant includes Chick Fil-A, McDonald's, Wendy's, Arby's, Bojangle's and similar restaurants. This limitation or restriction shall not apply to fast casual restaurants such as Panera Bread, Chipotle, Dunkin Donuts, Starbucks and similar restaurants, whether such fast casual restaurants are located in a freestanding building or in a multi-tenant building.

G. Private Sewer Treatment Facility. A private sewer treatment facility shall not be permitted on the on the Property.

3. Development of the Property. The Property may be developed in accordance with the Concept Plan, Site Construction Plans (as defined in Section 7.7(G)(1) of the Ordinance) subsequently submitted to and approved by the Development Administrator, associated permits, the applicable provisions of the Ordinance and the terms of this Agreement. Approval of this Agreement pursuant to Sections 160A-400.20 et seq. of the North Carolina General Statutes does not confer additional authority to the Town to consider the development of the Property or to impose conditions or restrictions beyond those allowed by the Ordinance. The agreements of the Developer herein are voluntary agreements. The development and uses depicted on the Concept Plan are schematic in nature and are intended to depict the general arrangement of uses and improvements on the Property. Accordingly, the ultimate layout, locations and sizes of the development and site elements depicted on the Concept Plan are graphic representations of the proposed development and site elements, and they may be altered or modified in accordance with the setback, yard, buffer and landscaping requirements set forth on the Concept Plan.

4. Development Schedule. The Project shall be developed in accordance with the schedule set out below, or as may be amended by the agreement of the parties to reflect actual market absorption. Pursuant to N.C.G.S. § 160A-400.25(b), the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to N.C.G.S. § 160A-400.27 but must be judged based upon the totality of the circumstances, including, but not limited to, Developer's good faith efforts to attain compliance with the relevant development schedule. The development schedule is a budget planning tool and shall not be

interpreted as mandating the development pace initially forecast or preventing a faster pace of development if market conditions support a faster pace.

A. Within the later to occur of five (5) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property, Developer shall commence the development of the single family detached dwelling units, the single family attached dwelling units and a minimum of 200 of the multi-family dwelling units.

B. Within the later to occur of ten (10) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property, Developer shall commence the development of the remaining 136 multi-family dwelling units and the Commercial Area.

C. The development of the Project shall be substantially completed within the later to occur of fifteen (15) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property. Substantially completed shall mean that all streets and infrastructure have been constructed and installed on the Property.

D. This Section 4 of the Agreement relates only to the development schedule of the Project. After the substantial completion of the development of the Project as defined above in subparagraph C, the development and use of the Property will continue to be subject to the terms and conditions of this Agreement.

5. Transportation Improvements. The development of the Property shall comply with the following transportation requirements.

A. Vehicular access to the Property shall be as generally depicted on the Concept Plan. The placement and configuration of the vehicular access points are subject to any minor modifications required to accommodate final site and construction plans and designs and to any other adjustments that are approved by the Town and/or the North Carolina Department of Transportation (“NCDOT”).

B. The Property will be served by internal public streets and internal private streets, and adjustments to the locations of the internal public streets and the internal private streets shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer. Additionally, modifications to the alignments and locations of the internal drives, vehicular circulation areas and driveways shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer.

C. Subject to the approval of NCDOT and the terms of this Section 5, Developer, or its successors in interest, shall install all of the transportation improvements that are required to be installed by the developer of the Project in a Traffic Impact Analysis dated _____, 2020 prepared by Ramey Kemp and Associates (the “TIA”). The transportation improvements that are required to be installed by the developer of the Project shall be installed in accordance with the schedule and/or the phasing analysis in the TIA and such transportation improvements shall be installed in accordance with the specifications of NCDOT.

(1) The TIA recommends that the additional eastbound lane to be installed by Developer on Idlewild Road taper down at Access C (the signalized access point into the Property from Idlewild Road) and terminate on the eastern side of Access C. Notwithstanding that recommendation and subject to the approval of NCDOT, Developer will extend the additional eastbound lane to be installed on Idlewild Road to Stevens Mill Road, and this extended eastbound lane shall terminate at Stevens Mill Road as a left turn lane onto Stevens Mill Road.

D. In the event that the density of the Project is reduced by Developer below the maximum density allowed in this Agreement and the reduction in density results in a decrease in the number of vehicular trips generated by the Project, Developer may, at its option, have an amended TIA prepared and approved by NCDOT (the “**Amended TIA**”). Developer shall then be required to only install the transportation improvements that are required to be installed by the developer of the Project in the Amended TIA rather than the transportation improvements that are required to be installed by the developer of the Project in the TIA, and such transportation improvements shall be installed in accordance with the schedule and/or the phasing analysis in the Amended TIA and in accordance with the specifications of NCDOT.

E. If Developer does not move forward with the development of the Project, Developer shall not be required to install any of the transportation improvements set out in the TIA or in any Amended TIA.

6. Multi-Use Path/Greenway Trail.

A. Developer shall install a minimum 12 foot wide multi-use path/greenway trail along a portion of the Property’s frontage on Idlewild Road as generally depicted on the Walkability Exhibit of the Concept Plan. This 12 foot wide multi-use path/greenway trail shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way.

B. Developer shall install a minimum 12 foot wide multi-use path/greenway trail within the Property as generally depicted on the Walkability Exhibit of the Concept Plan. This 12 foot wide multi-use path/greenway trail shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way.

C. The Project, and the infrastructure relating thereto, shall be developed in phases. The minimum 12 foot wide multi-use path/greenway trail referenced above located within each phase of the Project shall be completed prior to the issuance of the first certificate of occupancy for the phase of the Project in which the relevant portion of the 12 foot wide multi-use path/greenway trail is located.

7. Architectural and Design Standards/Buffers, Landscaping and Screening/Gateway Sign/Storm Water Facilities.

A. Single Family Detached Dwelling Units. The architectural standards set out below shall apply to any single family detached dwelling unit developed on the Property.

- (1) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.
- (2) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (3) Dimensional shingles shall be utilized on the roof.
- (4) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.
- (5) Each single family detached dwelling unit shall include a covered front porch that faces the adjacent street.
- (6) The minimum floor to ceiling height of the first floor of each single family detached dwelling unit shall be nine (9) feet.
- (7) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (8) Each single family detached dwelling unit shall have a minimum two (2) car garage with a carriage style door and hardware.
- (9) Adequate swales will be installed between the single family detached dwelling units in accordance with standard engineering design criteria.
- (10) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

B. Single Family Attached Dwelling Units. The architectural standards set out below shall apply to any single family attached dwelling unit developed on the Property.

- (1) Each single family attached dwelling unit will be alley loaded.
- (2) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.
- (3) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (4) Dimensional shingles shall be utilized on the roof.
- (5) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.
- (6) Each single family attached dwelling unit shall have a covered front porch with a minimum width equal to 40 percent (40%) of the width of the front façade of the single family attached dwelling unit.

- (7) The minimum floor to ceiling height of the first floor of each single family attached dwelling unit shall be nine (9) feet.
- (8) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (9) Sidewalks shall connect each single attached dwelling unit to a public sidewalk.
- (10) Adequate swales will be installed between the buildings containing single family attached dwelling units in accordance with standard engineering design criteria.
- (11) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

C. Multi-Family Dwelling Units. The architectural standards set out below shall apply to any multi-family building developed on the Property.

- (1) The minimum floor to ceiling height for each floor of a multi-family building shall be nine (9) feet.
- (2) Attached hereto as Exhibit C and incorporated herein by reference are conceptual, schematic images of the multi-family buildings proposed to be developed on the Property. The purposes of the conceptual, schematic images are to depict the general conceptual architectural style, design intent and character of the multi-family buildings to be developed on the Property. The finishes and colors of building exteriors may vary from what is depicted on the conceptual, schematic images. Additionally, changes and alterations to the exterior of the multi-family buildings that do not materially change the overall conceptual architectural style, design intent and character shall be permitted.
- (3) The Development Administrator may approve different building elevations for the multi-family buildings if the Development Administrator determines that such different building elevations are similar to the attached conceptual, schematic images in terms of quality and exterior building materials.
- (4) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding.
- (5) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (6) The maximum height of any multi-family building developed on the Property shall be governed by the Ordinance.

D. Non-Residential Buildings on the Commercial Area. The architectural and design standards set out below shall apply to the Commercial Area.

- (1) The minimum floor to ceiling height of the first floor of a building shall be nine (9) feet.

- (2) The development of the Commercial Area will meet the applicable site development and design requirements of the Ordinance.
- (3) The buildings developed on the Property shall meet the applicable building type requirements of the Ordinance.
- (4) Lot dimensions and densities shall be governed by the Ordinance.
- (5) All freestanding lighting fixtures installed on the Commercial Area (excluding street lights and lower, decorative lighting that may be installed along the driveways, sidewalks and parking areas and in the landscaped areas) shall be fully shielded and the illumination downwardly directed so that direct illumination does not extend past any property line of the Commercial Area.
- (6) Any lighting attached to a building on the Commercial Area shall be decorative, capped and downwardly directed. "Wall-pak" type lighting fixtures may not be installed on a building located on the Commercial Area.
- (7) Buildings will have a 12' minimum setback from street right of way when no buffer is required. Side and rear setbacks will vary according to the side and rear buffer requirements of the Ordinance.
- (8) Building facades shall be generally parallel to frontage property lines.
- (9) Parking areas shall be located to the rear and/or side of a building. Side-yard parking may occupy no more than 35% of the principal frontage line adjacent to a public street and shall be buffered from the street with a Type D Buffer Yard (5' minimum width; 17 to 20 shrubs and 2 small maturing trees per 100 LF).
- (10) The drive aisles for circulation purposes shall be screened from adjacent public and private streets by a garden wall, hedge, or knee wall.
- (11) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall shall have a minimum of 2.5' in height and a maximum of 3.5' in height and shall be installed along any street frontage adjacent to parking areas. Knee walls shall be built of brick, stone, or other decorative masonry material, or alternatively built of wrought iron or other decorative metal and shall generally match the architectural style of the Town.
- (12) Parking areas shall be connected with vehicular and pedestrian connections wherever practical to promote interconnectivity between uses.
- (13) Main pedestrian access to buildings may be from the side, front or rear. A non-functioning or locked door shall be located on the front of a building when the primary pedestrian access is from the side or rear of the building.
- (14) All street level retail uses with public or private sidewalk frontage shall be furnished with an individual entrance and direct access to the public or private sidewalk in addition to any other access which may be provided.

(15) Drive-through windows and other auto-oriented service facilities shall be located to the rear or side of the building. Notwithstanding the foregoing, drive aisles for circulation purposes may be located between the building and the adjacent public and/or private streets.

(16) Menu board(s), speaker boxes and/or windows associated with drive-through facilities may not be located on the façade of a building that faces the primary adjacent public street, but may be located on the façade of a building that faces a secondary public street or a private street.

(17) Massing and rhythm shall be factored into site design and future uses (a single large dominant building mass will be avoided).

(18) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding twenty (20) feet.

E. Buffer/Landscape Areas/Screen Fence/Gateway Sign.

(1) A 100 foot wide Type B buffer shall be established along the eastern boundary line of the Property as depicted on the Concept Plan. Notwithstanding the foregoing, the width of this Type B buffer may, at the option of Developer, be reduced by thirty percent (30%) to seventy (70) feet in those locations depicted on Sheet 8 of the Concept Plan through the installation of a minimum six (6) foot tall opaque, vinyl screen fence as allowed under the Ordinance.

(2) Subject to the terms of subparagraphs 7.E.(2)(a) and (b), the exterior thirty (30) feet of the Type B buffer referenced above in subparagraph 7.E.(1) shall remain undisturbed, provided, however, that in the event that the existing vegetation does not meet the tree and shrub requirements of a Type B buffer, supplemental plantings shall be installed to bring this Type B buffer into compliance with these requirements.

(a) The exterior thirty (30) feet of this Type B buffer may be disturbed to remove dead trees and shrubs.

(b) The exterior thirty (30) feet of this Type B buffer may be disturbed to install utility lines that serve the Project, provided, however, that utility lines may only cross the exterior thirty (30) feet of this Type B buffer at interior angles measured at the eastern boundary line of the Property that are not less than seventy-five (75) degrees. Where existing trees and natural vegetation have been cleared within the exterior thirty (30) feet of this Type B buffer to accommodate the installation of utility lines, the cleared, unimproved areas will be landscaped with trees and shrubs in accordance with the requirements of a Type B buffer.

(3) A twenty four (24) foot wide landscape area shall be established along the Property's frontage on Idlewild Road as depicted on the Concept Plan. A conceptual image of this twenty four (24) foot wide landscape area is set out on Sheets 9 and 10 of the Concept Plan. This twenty four (24) foot wide landscape area shall be measured from the future right of way line depicted on the Concept Plan. The twenty four (24) foot wide landscape area shall meet the following planting standards: twenty (20) evergreen shrubs and two (2) canopy trees or three (3) small maturing trees per one-hundred (100) linear feet. Perimeter street trees may be located within this landscape area to satisfy tree requirements. Hedges, garden walls or knee walls may be built within or along the rear edge of the twenty four (24) foot wide landscape area as a continuation of building walls.

(4) As depicted on Sheets 9 and 10 of the Concept Plan, Developer shall install landscaping between the outer edge of the twenty four (24) foot wide landscape area referenced above in subparagraph 7.E.(3) (such outer edge being the future right of way line) and the existing right of way line of Idlewild Road. This landscaping shall meet the following planting standards: twenty (20) evergreen shrubs and two (2) canopy trees or three (3) small maturing trees per one-hundred (100) linear feet. These trees and/or shrubs are subject to removal by NCDOT in the event that Idlewild Road is widened in the future by NCDOT. In the event that these trees and/or shrubs are removed by NCDOT, Developer shall have no obligation to replace or re-plant any trees or shrubs so removed by NCDOT.

(5) Prior to the issuance of the first certificate of occupancy for a new building constructed on the Property, Developer shall pay the sum of ten thousand dollars (\$10,000) to the Town, which funds shall be used by the Town to install landscaping within any future median installed within Idlewild Road by NCDOT or others. If a median is not installed within Idlewild Road within ten (10) years of the date on which such funds are paid to the Town by Developer, the Town may use the funds to pay for other Town projects in the general vicinity of the Property.

(6) Prior to the issuance of the first certificate of occupancy for a new building constructed on the Property, Developer shall convey to the Town a perpetual easement to construct, install, maintain, repair and replace as needed a “Town of Stallings Gateway Sign” on the Property (the “**Town of Stallings Gateway Sign Easement**”). The Town of Stallings Gateway Sign Easement shall be located within the twenty four (24) foot wide landscape area referenced above in subparagraph 7.E.(3), and the precise location of the Town of Stallings Gateway Sign Easement shall be determined in coordination with the Town of Stallings Development Administrator during permitting for the Project. The Town shall be solely responsible for the design, construction, installation, maintenance, repair and replacement of such sign and any costs associated therewith.

(7) Prior to the issuance of the first certificate of occupancy for a new building constructed on the Property, Developer shall pay the sum of five thousand dollars (\$5,000) to the Town, which funds shall be used by the Town to design, construct and install the Town of Stallings Gateway Sign referenced above in subparagraph 7.E.(6).

F. Storm Water Facilities.

(1) In the event that any storm water facility installed on the Property is a wet pond, Developer shall install a fountain in such wet pond to minimize the buildup of algae.

8. Laws Governing the Development of the Project. The laws, land development regulations and ordinances applicable to the development of the Project are those in force as of the Effective Date and those applicable Ordinance provisions that were in force and effect on the date that the Development Agreement Application relating to this Agreement was filed with the Town (the “**Preserved Ordinance Provisions**”). Accordingly, Developer and its successors in interest shall have a vested right to develop the Project in accordance with the Concept Plan, the terms of this Agreement and the terms of the Ordinance and any applicable laws, land development regulations and ordinances in force as of the Effective Date and in accordance with the Preserved Ordinance

Provisions during the entire term of this Agreement. Pursuant to N.C.G.S. § 160A-400.26 and except as provided in N.C.G.S. § 160A-385.1(e), the Town may not apply subsequently adopted laws, land development regulations, ordinances or development policies to the Project or to the Property during the term of this Agreement without the written consent of Developer or its successors in interest. Additionally, no future impact fees shall apply to the Project or to the Property without the written consent of Developer or its successors in interest. This Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 or N.C.G.S. § 160A-385.1, or that may vest pursuant to common law or otherwise in the absence of this Agreement. The Town and Developer agree that the specific laws, land development regulations and ordinances in force as of the Effective Date and the applicable Preserved Ordinance Provisions are more particularly set out on **Exhibit D** attached hereto and incorporated herein by reference, and are in a binder on file with the Town.

9. Term. The term of this Agreement shall commence on the Effective Date and shall expire twenty (20) years thereafter on _____ unless sooner terminated by the mutual consent of the parties hereto or their successors in interest, or unless extended by the mutual consent of the parties hereto or their successors in interest.

10. Local Development Permits. In accordance with N.C.G.S. § 160A-400.25(6), the following is a description or list of the local development permits approved or needed to be approved for the development of the Project:

- A. Erosion and Sediment Control Permit (Union County).
- B. Water Extension Permit (NCDENR).
- C. Sewer Extension Permit (NCDENR).
- D. NCDOT Encroachment Permit.
- E. NCDOT Entrance Permit.
- F. Zoning Permits.
- G. Building Permits.
- H. All other local, state or federal permits required for the Project.

The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve Developer of the necessity of complying with the law governing the local permitting requirements, conditions, terms or restrictions.

11. Public Facilities. The following public facilities will serve the Project: public sewer and public water. Public water will be provided by Union County Public Works and is currently available to the Property. Public sewer will be provided by Union County Public Works. Public sewer is not currently available to the Property, however, it is anticipated that public sewer will be available to the Property on or before March 31, 2022 as a result of a funded Union County Public Works project. In any event, public sewer shall be available to the Property prior to the issuance

of the first building permit for the Project. Notwithstanding the foregoing, with respect to public sewer and public water, the Project may utilize Charlotte Water with respect to public sewer and public water at the option of Developer.

12. Sewer and Water Lines. Developer, at its sole cost and expense, shall engineer, design, permit, construct and install the water and sewer lines to be located within the Project (the “**Internal Water and Sewer Lines**”). The Internal Water and Sewer Lines shall be engineered, designed, constructed and installed in accordance with all applicable federal, state and local laws, regulations, ordinances and policies. The Internal Water and Sewer Lines shall be transferred to Union County or other applicable public agency for ownership and maintenance after such lines have been constructed and installed.

13. Amendment. The terms of this Agreement may be amended by the mutual consent of the parties hereto or their successors in interest. A major modification of the terms of this Agreement shall follow the same procedures as required for the initial approval of this Agreement. A minor amendment to the Concept Plan approved by the Town of Stallings Development Administrator shall not be considered to be a major amendment to this Agreement. The Development Administrator shall have the authority to approve minor, administrative amendments to the Concept Plan.

14. Recordation/Binding Effect. Within fourteen (14) days after the Town enters into this Agreement, Developer shall record this Agreement in the Union County Public Registry. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties hereto.

15. Periodic Review.

A. Pursuant to N.C.G.S. § 160A-400.27, the Development Administrator or other Town Manager designee shall conduct a periodic review, (the “**Periodic Review**”) at least every 12 months, at which time Developer shall be required to demonstrate good faith compliance with the terms of this Agreement.

B. If, as a result of the Periodic Review, the Town finds and determines that Developer has committed a material breach of the terms or conditions of the Agreement, the Town shall serve notice in writing, within a reasonable time after the Periodic Review, upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing Developer a reasonable time in which to cure the material breach.

C. If Developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Agreement; provided, however, that the notice of termination or modification or finding of breach may be appealed to the Board of Adjustment in the manner provided by N.C.G.S. § 160A-388(b).

16. Default. The failure of Developer or the Town to comply with the terms of this Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as allowed under applicable law, provided, however, that no termination of this Agreement may be declared by the Town absent its according to Developer the notice and opportunity to cure set out in N.C.G.S. § 160A-400.27. In addition to any other rights or remedies, either party may institute

legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Superior Court of the County of Union, State of North Carolina, or in the Federal District Court in the Western District, and the parties hereto submit to the personal jurisdiction of such courts without application of any conflicts of laws provisions of any jurisdiction. Notwithstanding anything contained herein to the contrary, the violation of any rule, policy, regulation, ordinance or law by a tenant in the Project shall not be considered to be an event of default under this Agreement. That being said, the Town is not waiving its ability or right to enforce the Ordinance or any other Town regulation in accordance with the terms of the Ordinance or any such regulation.

17. Notices. Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to:

The Town at: Town of Stallings
c/o Town Manager
315 Stallings Road
Stallings, North Carolina 28104

Developer at: JLA3, LLC
Attention: John Armistead
2121 Bucknell Avenue
Charlotte, North Carolina 28207

Idlewild Associates, LLC
Attention: Wesley F. Faulk
c/o Hinson Faulk, PA
309 Post Office Drive
Indian Trail, NC 28079

Metrolina Properties Limited Partnership
Attention: Terry Williams
1341 East Morehead Street, Suite 201
Charlotte, NC 28204

Land Investments, LLC
Attention: Terry Williams
1341 East Morehead Street, Suite 201
Charlotte, NC 28204

18. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and Developer relative to the Property and the Project and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

19. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

20. Assignment. After notice to the Town, Developer may assign its rights and responsibilities hereunder to subsequent land owners of all or any portion of the Property, provided that no assignment as to a portion of the Property will relieve Developer of responsibility with respect to the remaining portion of the Property owned by Developer without the written consent of the Town. In the event that Developer sells the Property in its entirety and assigns its rights and responsibilities to a subsequent land owner, then Developer shall be relieved of all of its covenants, commitments and obligations hereunder.

21. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

23. Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

24. Agreements to Run with the Land. This Agreement shall be recorded in the Union County Public Registry. The agreements contained herein shall be deemed to be a lien upon, binding upon and run with the land and shall be binding upon and an obligation of all successors in the ownership of the Property unless otherwise provided herein.

25. Hold Harmless. Developer agrees to and shall hold the Town, its officers, agents, employees, consultants, special counsel and representatives, harmless from liability for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of Developer or their contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the Project. Developer agrees to pay all costs for the defense of the Town and its officers, agents, employees, consultants, special counsel and representatives

regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project. This hold harmless Agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this paragraph. The Town may make all reasonable decisions with respect to its representation in any legal proceeding.

Notwithstanding the foregoing, Developer's obligation to indemnify and hold the Town harmless shall not extend to any claims, losses or damages that arise from the acts or omissions of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives as well as any claims, losses or damages arising from the gross negligence or willful misconduct of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives.

26. Severability. If any term or provision herein shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions.

27. No Pledge of Taxing Power or Governmental Authority. No provision of this Agreement shall be construed or interpreted as (1) creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation, (2) delegating governmental powers, or (3) a donation or a lending of the credit of the Town within the meaning of the Constitution of the State of North Carolina. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Town monies, or operate beyond its intended scope so as to restrict, to any extent prohibited by law, any future action or right of action on the part of the Town of Stallings Town Council. To the extent of any conflict between this section and any other provision of this Agreement, this section shall take priority. Town has pre-audited this Agreement and the obligations hereunder to ensure compliance with budgetary accounting requirements (if any) that may apply. This Agreement is conditioned upon, and shall not be operative until, any required pre-audited certification is supplied.

28. Authority. Each party represents that it has undertaken all actions necessary for corporate or public approval of this Agreement, and that the person signing this Agreement has the authority to bind the Developer or the Town.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

Developer:

JLA3, LLC, a North Carolina limited liability company

By: _____

Name: John L. Armistead

Title: Manager

State of North Carolina

County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: John L. Armistead.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

IDLEWILD ASSOCIATES, LLC, a North Carolina limited liability company

By: _____
Name: _____
Title: _____

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: _____.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

METROLINA PROPERTIES LIMITED PARTNERSHIP,
a North Carolina limited partnership

By: Withrow Capital Investments, LLC, a North
Carolina limited liability company,
Its General Partner

By: Withrow Capital, Inc., a North Carolina corporation,
Its Manager

By: _____
Name: Terry L. Williams
Title: President

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me
that he or she signed the foregoing document: Terry L. Williams.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

LAND INVESTMENTS, LLC, a North Carolina limited liability company

By: Withrow Capital, Inc., a North Carolina corporation,
Its Manager

By: _____
Name: Terry L. Williams
Title: President

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Terry L. Williams.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

Town:

TOWN OF STALLINGS, NORTH CAROLINA

By: _____

Name: _____

Title: Mayor _____

ATTESTED BY:

Erinn E. Nichols, Town Clerk

North Carolina
County of Union

I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that Erinn E. Nichols personally appeared before me this day and acknowledged that she is the Clerk of the Town of Stallings, and that by authority duly given, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by Erinn E. Nichols as its City Clerk.

Witness my hand and official seal this the _____ day of _____, 2021.

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

APPROVED AS TO FORM:

_____, Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Marsha Gross, Finance Director

EXHIBIT "A"

Property – Legal Description

JLA3, LLC Parcels (070-750-20, 070-750-19, 070-750-17, 070-750-28 and 070-750-17A)

Tract 1 #07075019 (25.602 Acres)


Beginning at a point in the northeast most corner of the Ronald L. Wallace property recorded in the Union County Register of Deeds Book 457 at Page 631, being the northwest most corner of the Kenneth Hall property found in the Union County Register of Deeds Book 194 at Page 426 and from an old iron found North 81-47-12 West 791.25 feet; thence North 10-29-18 East 342.69 feet to the point and place of beginning; thence North 10-29-18 East 305.64 feet to a rebar found; thence North 66-08-29 West 27.02 feet to a 1" rebar found; thence South 11-10-19 West 313.09 feet to a point; thence South 81-46-32 East 30.04 feet to the point and place of beginning and containing 0.20 acres as surveyed by Jeffrey S. Gordon, NCRLS, #L-3751 on the 21st day of February, 2003.

Tract 2 #07075020 (.0864 Acres)

BEGINNING at an iron stake on the east side of the Secrest Short Cut Road, being the corner of John B. Hooks as it adjoins the corner of M.A. Hooks, Sr. (formerly) on the east side of said road, and runs thence from said Beginning point, with the said John B. Hooks line N 32-30 E 210 feet to an iron stake, a new corner on said line; thence two new lines, first S 49-45 E 210 feet to an iron stake, a new corner on said line; thence two new lines, first S 49-45 E 210 feet to an iron stake, second S 32-30 W 210 feet to an iron stake on the old line and East side of said Road; thence with the old line along the east side of said road N 49-45 W 210 feet to the point or place of BEGINNING, and containing one acre according to the survey by Ralph W. Elliott, NCRLS, dated September 2, 1954.

Tract 3 #07075017A (1 Acre)

BEGINNING at an iron pin in the center line of State Road Number 1501, a corner of the lands conveyed by Dorothy Keesler to Azalee Cashion on May 22, 1968 and runs from said point along and with the center line of said Road, North 32 degrees 34 minutes West 210.00 feet, to an iron pin in the center line of the same Road, a corner of the Griffin property (now or formerly) thence along and with the line of the Griffin property, North 39 degrees 00 minutes East 405.0 feet to a large marked post oak, the common corner of Griffin (now or formerly), the Hooks estate and Dallas B. Forbis, thence a new dividing line along and with the lands conveyed by Dorothy Keesler to Azalee Cashion on May 22, 1968, South 10 degrees 23 minutes West 450.5 feet to the point and place of BEGINNING and containing one acre more or less, according to a survey and revised map by Douglas P. Moore, Surveyor dated May 8, 1968, and being a portion of the properties conveyed by Dallas B. Forbis and wife, Shirley H. Forbis to Dorothy Keesler and Azalee Cashion as tenants in common by deed dated November 23, 1966 and recorded in Book 207 at page 167, Union County Register of Deeds.

BEING the identical property shown in Deed Book 387 at page 939, Union County Register of Deeds.

Tract 4 #07075017 (1 Acre)

BEGINNING at a thirty (30") inch post oak stump, said post oak stump marking the southeastern corner of the property of Idlewild Associates, LLC, (now or formerly) shown in Deed Book 3116 at page 127, Union County Register of Deeds, and the common corner with the northernmost corner of the property of JLA3, LLC property (now or formerly) as shown in Deed Book 5981 at page 848, Union County Register of Deeds, and running thence with the western line of the JLA3, LLC property (now or formerly) South 12 degrees 32 minutes 30 seconds West 451.17 feet to a point in the center line of Idlewild Road and running thence with the centerline of Idlewild Road North 51 degrees 10 minutes 22 seconds West 215.21 feet to a point, thence leaving Idlewild Road along the common line of Idlewild Associates, LLC (now or formerly) North 41 degrees 00 minutes 29 seconds East 404.81 feet to the thirty (30") inch post oak stump marking the **BEGINNING** point, and being and containing a 1.00 acre tract as shown on that unrecorded plat drawn by Hugh E. White, Jr, dated January 31, 2017, to which unrecorded plat reference is hereby made for a more complete description.

Tract 5 #07075028 (3.232 Acres)

BEGINNING AT A POINT in the centerline of Idlewild Road (formerly known as Secret Shortcut Road), State Road #1582, and run thence from said point **N 07-09-30 W 41.69 feet** to a #4 found iron rebar which marks the northwesterly margin of said 60' public road right-of-way, said iron rebar also marks a southeasterly corner in the margin of the road right-of-way of property of Larry E. Little and wife, Pollie M. Little, now or formerly, (see deed recorded in Book 1133, Page 546, Union County Public Registry, "UCPR"), and running thence from said **BEGINNING POINT** along and with an easterly line of the Little property and along a barbed wire fence dividing the two properties, **N 07-09-30 W** (passing a found #4 iron rebar at 58.34 feet and a 1" iron pin found at 538.21 feet) a total distance of **540.29 feet** to a found #4 iron rebar marking a corner in the boundary shared with property of JLA3, LLC, now or formerly, (see deed recorded in Book 1584, Page 418, UCPR) and property of Richard H. Keesler, now or formerly, (see deed recorded in Book 387, Page 939, UCPR); thence running along and with a southeasterly line of JLA3, LLC, now or formerly, and along a barbed wire fence **S 52-41-32 E 246.86 feet** to a 24" oak tree which marks a common corner of JLA3, LLC, now or formerly, and property of Homer Purser, now or formerly, (see deed recorded in Book 210, Page 356, UCPR); thence running along and with a line of Purser, now or formerly, **S 51-58-26 E 301.97 feet** to a found #4 iron rebar, the same marking a northwesterly corner of property of Ricky B. Forbis, now or formerly, (see deed recorded in Book 602, Page 429, UCPR), said iron rebar also being located **N 52-22-40 W 30.12 feet** from another found #4 iron rebar; thence running along and with the Forbis property line **S 38-45-51 E 385.26 feet** to a found #4 iron rebar at the northwesterly margin of the road right-of-way of Idlewild Road; thence continuing along the same bearing of **S 38-45-51 W 30.22 feet** to a point in the centerline of Idlewild Road; thence running along and with the centerline of said roadway **N 51-01-44 W 130.63 feet** to the **POINT AND PLACE OF BEGINNING**. This property contains 3.232 acres, more or less, including 0.099 acres within the right-of-way of State Road #1582, and is also the same property as is shown as Lot 1 on plat recorded in Plat Cabinet D, Page 237, UCPR, entitled "Boundary and Division Survey of a Portion of Tract 1 of the Morris Forbis Estate Property", and this legal description is taken from a survey prepared by Western Carolina Surveyors, Inc., Hugh E. White, PLS #L-2646, dated 01/03/2005, entitled "Boundary Survey of 3.232 acres Tract on Idlewild Road".

Idlewild Associates, LLC Parcel (070-750-18) (8.57 Acres)

BEGINNING at a point in the center of the Secrest Short Cut Road, said point being indicated by an iron stake 23 feet distant on the north side of said road in range of first line, and running thence with two lines of the M.A. Hooks property, 1st, N. 46 deg. 15 min. E. 376 feet to an iron stake; 2nd, N. 23 deg. E. 660 feet to stones by a pine, P.O., B.J., and cedar; thence with another line of said M.A. Hooks property S.10 deg. 15 min. E. 937 feet to a large post oak; thence with the J.C. Forbis property line S. 41 deg. 15 min. W. 404 feet to a point in the center line of the Secrest Short Cut Road; thence along and with the center line of said road N. 50 deg. 30 min. W. 551 feet to the beginning corner and containing 8.57 acres of land according to a map and survey of said lands made by Ralph W. Elliott, Land Surveyor, dated July 28, 1955.

BEING IN ALL RESPECTS the same property conveyed to O.C. Griffin and Florence P. Griffin by deed dated July 30, 1955, and recorded in Book 131, Page 205 of the Union County Registry, the said O.C. Griffin having died leaving Florence P. Griffin as surviving tenant by the entirety who has also died on April 6, 1995.

Reference is also made to deed from Jan Poston Martin et als to Bruce H. Griffin, Jr., dated January 14, 1997, and recorded in Book 934, Page 615, Union County Registry.

Metrolina Properties Limited Partnership and Metrolina Properties Limited Partnership - Land Investments, LLC Parcels (070-750-22 and 070-750-22A) (11.9757 Acres)

BEING all that certain tract of land located within the Town of Stallings, Union County, North Carolina, and being located off Marshall Hooks Road and also located nearby and to the East of Interstate Highway 485, and also being portions of those certain parcels standing in the name of Metropolitan Properties, Limited Partnership, and Land Investments, LLC, and being more particularly described as follows:

BEGINNING at an existing iron pipe ("Beginning Point") located within Union County, North Carolina, said existing iron pipe Beginning Point being located at the southwesterly corner of Tract 3 located on the northerly boundary line of Lot 6 as shown on that certain plat recorded in Map Book 5 Page 97 of the Union County Registry, said existing iron pipe Beginning Point being also located North 75-25-58 East 1,273.03 feet along an overland tie line from an existing NC Department of Transportation right-of-way disk ("Commencement Point") located at the intersection of the northeasterly right-of-way margin of Idlewild Road and the southerly terminus of the intersection sight line connecting the northeasterly right-of-way margin of the said Idlewild Road with the southeasterly right-of-way margin of Marshall Hooks Road, said existing NC Department of Transportation right-of-way disk Commencement Point being also located near the easterly side of Interstate Highway 485, said existing NC Department of Transportation right-of-way disk Commencement Point having North Carolina State Plane coordinates of Northing = 504,543.96 feet and Easting = 1,505,556.05 feet as based on the Epoch 2010.0000 realization of the North American Horizontal Datum of 1983, said datum having a combined grid factor of 0.99984513 to convert from the ground distances called herein, and running thence from said POINT AND PLACE OF BEGINNING along the common boundary line with the said Lot 6 North 66-08-38 West 639.65 feet to a new iron rebar; thence along the common line between Lots 1 and 2 as shown on that certain plat recorded in Map Book 5 Page 97 of the Union County Registry North 13-10-07 East 272.39 feet to a point located on the Mecklenburg County-Union County Line as established by the North Carolina Geodetic Survey but not yet adopted by the respective counties; thence following with and along the Mecklenburg County-Union County Line as so established by the North Carolina Geodetic Survey North 46-37-29 East 1,118.24 feet to a point located on the southerly boundary line of Carolina Serrano Pena as described in Deed Book 27408 Page 123 of the Mecklenburg County Registry; thence along the common line with the said Carolina Serrano Pena South 75-55-27 East 33.74 feet to an existing iron rebar; thence along the common boundary line with Tract 3 as shown on that certain plat recorded in Map Book 5 Page 97 of the Union County Registry South 14-06-22 West (passing an existing iron rebar at 200.64 feet and passing an existing iron rebar at an additional 410.34 feet) a total distance of 1,323.61 feet to the point and place of BEGINNING, containing 11.9757 acres, more or less, as shown on a survey exhibit prepared by Andrew G. Zoutewelle, North Carolina Professional Land Surveyor No. L-3098, dated October 16, 2020.

EXHIBIT "B"

Approved Concept Plan

EXHIBIT "C"

Conceptual, Schematic Images of the Multi-Family Buildings

EXHIBIT "D"

Laws Governing the Development of the Project

1. Town of Stallings Development Ordinance in force as of the Effective Date of this Agreement and the applicable Preserved Ordinance Provisions, all of which are in a binder on file with the Town.
2. The Development Agreement and Concept Plan approved on _____, 2021.
3. Town of Stallings Technical Standards and Specifications Manual in force as of the Effective Date of this Agreement.

DEVELOPMENT AGREEMENT
BY AND BETWEEN
METROLINA PROPERTIES LIMITED PARTNERSHIP
AND
TOWN OF STALLINGS

Prepared by and Return to:
John H. Carmichael
Robinson, Bradshaw & Hinson, P.A.
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246

STATE OF NORTH CAROLINA)
)
COUNTY OF UNION)

DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is made and entered into this _____ day of _____, 2021 (the “**Effective Date**”) by and between **Metrolina Properties Limited Partnership**, a North Carolina limited partnership (“**Developer**”), and the **Town of Stallings**, a North Carolina municipal corporation (“**Town**”).

STATEMENT OF PURPOSE

1. Section 160A-400.20(a)(1) of the North Carolina General Statutes provides that “large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.”
2. Section 160A-400.20(a)(3) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.”
3. Section 160A-400.20(a)(4) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects involve substantial commitments of private capital by developers, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development.”
4. Section 160A-400.20(a)(5) of the North Carolina General Statutes provides that "because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas."
5. Section 160A-400.20(a)(6) of the North Carolina General Statutes provides that “to better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.”
6. Section 160A-400.23 provides that a local government may enter into a development agreement with a developer for the development of “developable property of any size.”
7. In view of the foregoing, Sections 160A-400.20(b) and 160A-400.22 of the North Carolina General Statutes expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of Sections 160A-400.20 through 160A-400.32 of the North Carolina General Statutes, which procedures and requirements include approval of the development agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

BACKGROUND

1. Developer is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Mecklenburg County, North Carolina that is designated as Tax Parcel No. 195-112-01 on the Mecklenburg County Tax Maps (the “**Metrolina - Mecklenburg Property**”).
2. Developer is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-23 on the Union County Tax Maps (the “**Metrolina – Union Property**”).
3. The Metrolina – Mecklenburg Property and the Metrolina – Union Property are hereinafter collectively referred to as the “**Property.**” The Property contains approximately 22.798 acres is subject to the terms and conditions of this Agreement. The Property is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference. The Property is zoned MU-2.
4. Developer desires to develop a portion of a residential community (the “**Project**”) on the Property in accordance with the terms of this Agreement, the Concept Plan (defined below) and the Town of Stallings Development Ordinance (the “**Ordinance**”) that will contain single family detached dwelling units and single family attached dwelling units and associated residential amenities.
5. The Project is an approximately 22.798 acre portion of an approximately 74.268 acre multi-use development that has been planned as a single unified development. This single unified development of which the Project is a part is hereinafter referred to as the “**Unified Development.**”
6. After careful review and deliberation, the Town has determined that the Project is consistent with the Ordinance and that it would further the health, safety, welfare and economic well-being of the Town.
7. The Town has also determined that the Project will secure quality planning and growth, strengthen the tax base and provide public amenities and infrastructure.

Accordingly, Developer and the Town desire to enter into this Agreement for the purposes of coordinating the construction of infrastructure that will serve the Project and the community at large and providing assurances to Developer and its successors in interest that Developer may proceed with the development of the Project in accordance with the terms of this Agreement and the approvals set forth herein without encountering future changes in ordinances, regulations or policies that would affect Developer’s ability to develop the Project under the terms of this Agreement.

TERMS

NOW, THEREFORE, based upon the terms and conditions set forth herein and in consideration of the mutual promises and assurances provided herein, the parties do hereby agree as follows:

1. Public Hearing. Pursuant to Section 160A-400.24 of the North Carolina General Statutes, the Town Council conducted a public hearing on March 22, 2021 in accordance with the procedures set out in N.C.G.S. § 160A-364, and it approved on April 26, 2021 the subsequent execution of this Agreement by the Town. The notice of public hearing specified, among other things, the location of the Property subject to this Agreement, the development uses proposed on the Property and a place where a copy of the Agreement can be obtained. The approval of this Agreement by the Town Council included the approval of the ten (10) page Site Development Plan (as defined in Section 7.7(D)(1) of the Ordinance) for the Project (the “**Concept Plan**”) attached hereto as **Exhibit B** and incorporated herein by reference. As referenced above, the Project is a portion of the Unified Development, and the Concept Plan includes the Property and the other portions of the Unified Development.

2. Permitted Uses/Maximum Density. Subject to the limitations set out herein and on the Concept Plan, the Property may be devoted to the uses and to the development densities set out below.

A. A maximum of 52 single family attached dwelling units may be developed on the Property.

B. A maximum of 19 single family detached dwelling units may be developed on the Property.

C. Incidental and accessory uses relating to the foregoing residential uses that are permitted in the MU-2 zoning district may be developed on the Property. Incidental and accessory uses may include, without limitation, amenities for the single family detached dwelling units and the single family attached dwelling units.

D. Private Sewer Treatment Facility. A private sewer treatment facility shall not be permitted on the on the Property.

3. Development of the Property. The Property may be developed in accordance with the Concept Plan, Site Construction Plans (as defined in Section 7.7(G)(1) of the Ordinance) subsequently submitted to and approved by the Development Administrator, associated permits, the applicable provisions of the Ordinance and the terms of this Agreement. Approval of this Agreement pursuant to Sections 160A-400.20 et seq. of the North Carolina General Statutes does not confer additional authority to the Town to consider the development of the Property or to impose conditions or restrictions beyond those allowed by the Ordinance. The agreements of the Developer herein are voluntary agreements. The development and uses depicted on the Concept Plan are schematic in nature and are intended to depict the general arrangement of uses and improvements on the Property. Accordingly, the ultimate layout, locations and sizes of the development and site elements depicted on the Concept Plan are graphic representations of the proposed development and site elements, and they may be altered or modified in accordance with the setback, yard, buffer and landscaping requirements set forth on the Concept Plan.

4. Development Schedule. The Project shall be developed in accordance with the schedule set out below, or as may be amended by the agreement of the parties to reflect actual market absorption. Pursuant to N.C.G.S. § 160A-400.25(b), the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to N.C.G.S. § 160A-400.27 but must be judged based upon the totality of the circumstances,

including, but not limited to, Developer's good faith efforts to attain compliance with the relevant development schedule. The development schedule is a budget planning tool and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace of development if market conditions support a faster pace.

A. Within the later to occur of five (5) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property, Developer shall commence the development of the single family detached dwelling units and the single family attached dwelling units.

B. The development of the Project shall be substantially completed within the later to occur of fifteen (15) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property. Substantially completed shall mean that all streets and infrastructure have been constructed and installed on the Property.

C. This Section 4 of the Agreement relates only to the development schedule of the Project. After the substantial completion of the development of the Project as defined above in subparagraph B, the development and use of the Property will continue to be subject to the terms and conditions of this Agreement

5. Transportation Improvements. The development of the Property shall comply with the following transportation requirements.

A. Vehicular access to the Property shall be as generally depicted on the Concept Plan. The placement and configuration of the vehicular access points are subject to any minor modifications required to accommodate final site and construction plans and designs and to any other adjustments that are approved by the Town and/or the North Carolina Department of Transportation ("NCDOT").

B. The Property will be served by internal public streets and internal private streets, and adjustments to the locations of the internal public streets and the internal private streets shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer. Additionally, modifications to the alignments and locations of the internal drives, vehicular circulation areas and driveways shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer.

C. Subject to the approval of NCDOT and the terms of this Section 5, Developer, or its successors in interest, shall install all of the transportation improvements that are required to be installed by the developer of the Project in a Traffic Impact Analysis dated _____, 2020 prepared by Ramey Kemp and Associates (the "TIA"). The transportation improvements that are required to be installed by the developer of the Project shall be installed in accordance with the schedule and/or the phasing analysis in the TIA and such transportation improvements shall be installed in accordance with the specifications of NCDOT.

(1) The TIA recommends that the additional eastbound lane to be installed by Developer on Idlewild Road taper down at Access C (the signalized access point into the Property from Idlewild Road) and terminate on the eastern side of Access C. Notwithstanding that recommendation and

subject to the approval of NCDOT, Developer will extend the additional eastbound lane to be installed on Idlewild Road to Stevens Mill Road, and this extended eastbound lane shall terminate at Stevens Mill Road as a left turn lane onto Stevens Mill Road.

D. In the event that the density of the Project is reduced by Developer below the maximum density allowed in this Agreement and the reduction in density results in a decrease in the number of vehicular trips generated by the Project, Developer may, at its option, have an amended TIA prepared and approved by NCDOT (the “**Amended TIA**”). Developer shall then be required to only install the transportation improvements that are required to be installed by the developer of the Project in the Amended TIA rather than the transportation improvements that are required to be installed by the developer of the Project in the TIA, and such transportation improvements shall be installed in accordance with the schedule and/or the phasing analysis in the Amended TIA and in accordance with the specifications of NCDOT.

E. If Developer does not move forward with the development of the Project, Developer shall not be required to install any of the transportation improvements set out in the TIA or in any Amended TIA.

6. Multi-Use Path/Greenway Trail.

A. Developer shall install a minimum 12 foot wide multi-use path/greenway trail within the Property as generally depicted on the Walkability Exhibit of the Concept Plan. This 12 foot wide multi-use path/greenway trail shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way.

B. The Project, and the infrastructure relating thereto, shall be developed in phases. The minimum 12 foot wide multi-use path/greenway trail referenced above located within each phase of the Project shall be completed prior to the issuance of the first certificate of occupancy for the phase of the Project in which the relevant portion of the 12 foot wide multi-use path/greenway trail is located.

7. Architectural and Design Standards/Buffer and Screening/Storm Water Facilities.

A. Single Family Detached Dwelling Units. The architectural standards set out below shall apply to any single family detached dwelling unit developed on the Property.

(1) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.

(2) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.

(3) Dimensional shingles shall be utilized on the roof.

(4) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.

- (5) Each single family detached dwelling unit shall include a covered front porch that faces the adjacent street.
- (6) The minimum floor to ceiling height of the first floor of each single family detached dwelling unit shall be nine (9) feet.
- (7) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (8) Each single family detached dwelling unit shall have a minimum two (2) car garage with a carriage style door and hardware.
- (9) Adequate swales will be installed between the single family detached dwelling units in accordance with standard engineering design criteria.
- (10) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

B. Single Family Attached Dwelling Units. The architectural standards set out below shall apply to any single family attached dwelling unit developed on the Property.

- (1) Each single family attached dwelling unit will be alley loaded.
- (2) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.
- (3) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (4) Dimensional shingles shall be utilized on the roof.
- (5) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.
- (6) Each single family attached dwelling unit shall have a covered front porch with a minimum width equal to 40 percent (40%) of the width of the front façade of the single family attached dwelling unit.
- (7) The minimum floor to ceiling height of the first floor of each single family attached dwelling unit shall be nine (9) feet.
- (8) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (9) Sidewalks shall connect each single attached dwelling unit to a public sidewalk.
- (10) Adequate swales will be installed between the buildings containing single family attached dwelling units in accordance with standard engineering design criteria.

(11) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

C. Buffer/Screen Fence.

(1) A 100 foot wide Type B buffer shall be established along the eastern and northern boundary lines of the Property as depicted on the Concept Plan. Notwithstanding the foregoing, the width of this Type B buffer may, at the option of Developer, be reduced by thirty percent (30%) to seventy (70) feet in those locations depicted on Sheet 8 of the Concept Plan through the installation of a minimum six (6) foot tall opaque, vinyl screen fence as allowed under the Ordinance.

(2) Notwithstanding anything contained herein to the contrary, the minimum six (6) foot tall opaque, vinyl screen fence shall be installed within the Type B buffer located along the northern boundary line of the Property whether or not the width of the Type B buffer located along the northern boundary line of the Property is reduced to seventy (70) feet as described above in subparagraph 7.C.(1).

(3) Subject to the terms of subparagraphs 7.C.(3)(a) and (b), the exterior thirty (30) feet of the Type B buffer referenced above in subparagraph 7.C.(1) shall remain undisturbed, provided, however, that in the event that the existing vegetation does not meet the tree and shrub requirements of a Type B buffer, supplemental plantings shall be installed to bring this Type B buffer into compliance with these requirements.

(a) The exterior thirty (30) feet of this Type B buffer may be disturbed to remove dead trees and shrubs.

(b) The exterior thirty (30) feet of the Type B buffer located along the eastern boundary line of the Property may be disturbed to install utility lines that serve the Project, provided, however, that utility lines may only cross the exterior thirty (30) feet of the Type B buffer at interior angles measured at the eastern boundary line of the Property that are not less than seventy-five (75) degrees. Where existing trees and natural vegetation have been cleared within the exterior thirty (30) feet of the Type B buffer to accommodate the installation of utility lines, the cleared, unimproved areas will be landscaped with trees and shrubs in accordance with the requirements of a Type B buffer.

(4) As depicted on the Concept Plan, evergreen screening trees shall be installed within the Type B buffer located along the northern boundary line of the Property outside of the thirty (30) foot undisturbed area referenced above in subparagraph 7.C.(3). These evergreen screening trees shall be in addition to the trees and shrubs required in a Type B buffer.

D. Storm Water Facilities.

(1) In the event that any storm water facility installed on the Property is a wet pond, Developer shall install a fountain in such wet pond to minimize the buildup of algae.

8. Laws Governing the Development of the Project. The laws, land development regulations and ordinances applicable to the development of the Project are those in force as of the Effective Date and those applicable Ordinance provisions that were in force and effect on the date that the

Development Agreement Application relating to this Agreement was filed with the Town (the “**Preserved Ordinance Provisions**”). Accordingly, Developer and its successors in interest shall have a vested right to develop the Project in accordance with the Concept Plan, the terms of this Agreement and the terms of the Ordinance and any applicable laws, land development regulations and ordinances in force as of the Effective Date and in accordance with the Preserved Ordinance Provisions during the entire term of this Agreement. Pursuant to N.C.G.S. § 160A-400.26 and except as provided in N.C.G.S. § 160A-385.1(e), the Town may not apply subsequently adopted laws, land development regulations, ordinances or development policies to the Project or to the Property during the term of this Agreement without the written consent of Developer or its successors in interest. Additionally, no future impact fees shall apply to the Project or to the Property without the written consent of Developer or its successors in interest. This Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 or N.C.G.S. § 160A-385.1, or that may vest pursuant to common law or otherwise in the absence of this Agreement. The Town and Developer agree that the specific laws, land development regulations and ordinances in force as of the Effective Date and the applicable Preserved Ordinance Provisions are more particularly set out on Exhibit D attached hereto and incorporated herein by reference, and are in a binder on file with the Town.

9. Term. The term of this Agreement shall commence on the Effective Date and shall expire twenty (20) years thereafter on _____ unless sooner terminated by the mutual consent of the parties hereto or their successors in interest, or unless extended by the mutual consent of the parties hereto or their successors in interest.

10. Local Development Permits. In accordance with N.C.G.S. § 160A-400.25(6), the following is a description or list of the local development permits approved or needed to be approved for the development of the Project:

- A. Erosion and Sediment Control Permit (Union County).
- B. Water Extension Permit (NCDENR).
- C. Sewer Extension Permit (NCDENR).
- D. NCDOT Encroachment Permit.
- E. NCDOT Entrance Permit.
- F. Zoning Permits.
- G. Building Permits.
- H. All other local, state or federal permits required for the Project.

The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve Developer of the necessity of complying with the law governing the local permitting requirements, conditions, terms or restrictions.

11. Public Facilities. The following public facilities will serve the Project: public sewer and public water. Public water will be provided by Union County Public Works and is currently available to the Property. Public sewer will be provided by Union County Public Works. Public sewer is not currently available to the Property, however, it is anticipated that public sewer will be available to the Property on or before March 31, 2022 as a result of a funded Union County Public Works project. In any event, public sewer shall be available to the Property prior to the issuance of the first building permit for the Project. Notwithstanding the foregoing, with respect to public sewer and public water, the Project may utilize Charlotte Water with respect to public sewer and public water at the option of Developer.

12. Sewer and Water Lines. Developer, at its sole cost and expense, shall engineer, design, permit, construct and install the water and sewer lines to be located within the Project (the "**Internal Water and Sewer Lines**"). The Internal Water and Sewer Lines shall be engineered, designed, constructed and installed in accordance with all applicable federal, state and local laws, regulations, ordinances and policies. The Internal Water and Sewer Lines shall be transferred to Union County or other applicable public agency for ownership and maintenance after such lines have been constructed and installed.

13. Amendment. The terms of this Agreement may be amended by the mutual consent of the parties hereto or their successors in interest. A major modification of the terms of this Agreement shall follow the same procedures as required for the initial approval of this Agreement. A minor amendment to the Concept Plan approved by the Town of Stallings Development Administrator shall not be considered to be a major amendment to this Agreement. The Development Administrator shall have the authority to approve minor, administrative amendments to the Concept Plan.

14. Recordation/Binding Effect. Within fourteen (14) days after the Town enters into this Agreement, Developer shall record this Agreement in the Union County Public Registry and the Mecklenburg County Public Registry. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties hereto.

15. Periodic Review.

A. Pursuant to N.C.G.S. § 160A-400.27, the Development Administrator or other Town Manager designee shall conduct a periodic review, (the "**Periodic Review**") at least every 12 months, at which time Developer shall be required to demonstrate good faith compliance with the terms of this Agreement.

B. If, as a result of the Periodic Review, the Town finds and determines that Developer has committed a material breach of the terms or conditions of the Agreement, the Town shall serve notice in writing, within a reasonable time after the Periodic Review, upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing Developer a reasonable time in which to cure the material breach.

C. If Developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Agreement; provided, however, that the notice of

termination or modification or finding of breach may be appealed to the Board of Adjustment in the manner provided by N.C.G.S. § 160A-388(b).

16. Default. The failure of Developer or the Town to comply with the terms of this Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as allowed under applicable law, provided, however, that no termination of this Agreement may be declared by the Town absent its according to Developer the notice and opportunity to cure set out in N.C.G.S. § 160A-400.27. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Superior Court of the County of Union, State of North Carolina, or in the Federal District Court in the Western District, and the parties hereto submit to the personal jurisdiction of such courts without application of any conflicts of laws provisions of any jurisdiction. Notwithstanding anything contained herein to the contrary, the violation of any rule, policy, regulation, ordinance or law by a tenant in the Project shall not be considered to be an event of default under this Agreement. That being said, the Town is not waiving its ability or right to enforce the Ordinance or any other Town regulation in accordance with the terms of the Ordinance or any such regulation.

17. Notices. Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to:

The Town at: Town of Stallings
c/o Town Manager
315 Stallings Road
Stallings, North Carolina 28104

Developer at: Metrolina Properties Limited Partnership
Attention: Terry Williams
1341 East Morehead Street, Suite 201
Charlotte, NC 28204

18. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and Developer relative to the Property and the Project and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

19. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

20. Assignment. After notice to the Town, Developer may assign its rights and responsibilities hereunder to subsequent land owners of all or any portion of the Property, provided that no assignment as to a portion of the Property will relieve Developer of responsibility with respect to the remaining portion of the Property owned by Developer without the written consent of the Town. In the event that Developer sells the Property in its entirety and assigns its rights and responsibilities to a subsequent land owner, then Developer shall be relieved of all of its covenants, commitments and obligations hereunder.

21. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

23. Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

24. Agreements to Run with the Land. This Agreement shall be recorded in the Union County Public Registry and the Mecklenburg County Public Registry. The agreements contained herein shall be deemed to be a lien upon, binding upon and run with the land and shall be binding upon and an obligation of all successors in the ownership of the Property unless otherwise provided herein.

25. Hold Harmless. Developer agrees to and shall hold the Town, its officers, agents, employees, consultants, special counsel and representatives, harmless from liability for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of Developer or their contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the Project. Developer agrees to pay all costs for the defense of the Town and its officers, agents, employees, consultants, special counsel and representatives regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project. This hold harmless Agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this paragraph. The Town may make all reasonable decisions with respect to its representation in any legal proceeding.

Notwithstanding the foregoing, Developer's obligation to indemnify and hold the Town harmless shall not extend to any claims, losses or damages that arise from the acts or omissions of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives

as well as any claims, losses or damages arising from the gross negligence or willful misconduct of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives.

26. Severability. If any term or provision herein shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions.

27. No Pledge of Taxing Power or Governmental Authority. No provision of this Agreement shall be construed or interpreted as (1) creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation, (2) delegating governmental powers, or (3) a donation or a lending of the credit of the Town within the meaning of the Constitution of the State of North Carolina. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Town monies, or operate beyond its intended scope so as to restrict, to any extent prohibited by law, any future action or right of action on the part of the Town of Stallings Town Council. To the extent of any conflict between this section and any other provision of this Agreement, this section shall take priority. Town has pre-audited this Agreement and the obligations hereunder to ensure compliance with budgetary accounting requirements (if any) that may apply. This Agreement is conditioned upon, and shall not be operative until, any required pre-audited certification is supplied.

28. Authority. Each party represents that it has undertaken all actions necessary for corporate or public approval of this Agreement, and that the person signing this Agreement has the authority to bind the Developer or the Town.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

Developer:

METROLINA PROPERTIES LIMITED PARTNERSHIP,
a North Carolina limited partnership

By: Withrow Capital Investments, LLC, a North
Carolina limited liability company,
Its General Partner

By: Withrow Capital, Inc., a North Carolina corporation,
Its Manager

By: _____

Name: Terry L. Williams

Title: President

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Terry L. Williams.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

Town:

TOWN OF STALLINGS, NORTH CAROLINA

By: _____

Name: _____

Title: Mayor _____

ATTESTED BY:

Erinn E. Nichols, Town Clerk

North Carolina
County of Union

I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that Erinn E. Nichols personally appeared before me this day and acknowledged that she is the Clerk of the Town of Stallings, and that by authority duly given, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by Erinn E. Nichols as its City Clerk.

Witness my hand and official seal this the _____ day of _____, 2021.

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

APPROVED AS TO FORM:

_____, Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Marsha Gross, Finance Director

EXHIBIT "A"

Property – Legal Description

BEING all that certain tract or parcel of land located within the Town of Stallings, Mecklenburg and Union Counties, North Carolina, and fronting on Marshall Hooks Road and also located nearby and to the East of Interstate Highway 485, and being more particularly described as follows:

BEGINNING at an existing iron pipe ("Beginning Point") located within Union County, North Carolina, said existing iron pipe Beginning Point being located at an existing corner on the northerly boundary line of JLA3 LLC as described in Deed Book 1584 Page 418 of the Union County Registry, said existing iron pipe Beginning Point being also located North 75-25-58 East 1,273.03 feet along an overland tie line from an existing NC Department of Transportation right-of-way disk ("Commencement Point") located at the intersection of the northeasterly right-of-way margin of Idlewild Road and the southerly terminus of the intersection sight line connecting the northerly right-of-way margin of the said Idlewild Road with the southeasterly right-of-way margin of Marshall Hooks Road, said existing NC Department of Transportation right-of-way disk Commencement Point being also located near the easterly side of Interstate Highway 485, said existing NC Department of Transportation right-of-way disk Commencement Point having North Carolina State Plane coordinates of Northing = 504,543.96 feet and Easting = 1,505,556.05 feet as based on the Epoch 2010.0000 realization of the North American Horizontal Datum of 1983, said datum having a combined grid factor of 0.99984513 to convert from the ground distances noted herein, and running thence from said POINT AND PLACE OF BEGINNING along the common boundary line with Land Investments, LLC, as described in Deed Book 4908 Pages 655 and 660 of the Union County Registry North 14-06-22 East 712.63 feet to an existing iron rebar; thence along the common boundary line with Metrolina Properties Limited Partnership as described in Deed Book 3154 Page 767 of the Union County Registry North 14-06-22 East 410.34 feet to an existing iron rebar; thence along the common boundary line with the said Land Investments, LLC, North 14-06-22 East 200.64 feet to an existing iron rebar; thence along the common boundary line with Carolina Serrano Pena as described in Deed Book 27408 Page 123 of the Mecklenburg County Registry and also crossing the Union County and Mecklenburg County boundary North 14-04-44 East (passing an existing iron rebar at 319.47 feet on the southerly right-of-way margin of Marshall Hooks Road, said right-of-way having a width of 60 feet as described in Deed Book 4169 Page 108 of the Mecklenburg County Registry) a total distance of 350.10 feet to a new surveyor's pk nail located at the centerline terminus of the open portion of the said Marshall Hooks Road; thence along the centerline of the unopened portion of the said Marshall Hooks Road the following two (2) calls: (1) South 69-27-53 East 114.76 feet to a new iron rebar and (2) South 87-44-35 East 93.71 feet to an existing #4 iron rebar; thence along the common boundary line with Lots 484, 485 and 486 as shown on that certain plat recorded in Plat Cabinet F File 323 of the Union County Registry the following five (5) calls: (1) South 87-44-35 East 6.31 feet to an existing #4 iron rebar, (2) North 75-30-52 East 99.98 feet to an existing #4 iron rebar, (3) North 67-34-53 East 100.04 feet to an existing #4 iron rebar, (4) North 54-28-01 East 100.00 feet to an existing #4 iron rebar and (5) North 53-38-33 East (passing an existing #4 iron rebar at 25.06 feet) a total distance of 86.21 feet to a new iron rebar; thence South 11-11-55 West 2,038.77 feet to an existing iron pipe at the common corner between two tracts of the aforesaid JLA3 LLC as described in Deed Book 1584 Page 418 and in Deed Book 3048 Page 183 both of the Union County Registry; thence along the common boundary line with the said JLA3 LLC North 66-02-45 West 612.01 feet to the point and place of BEGINNING, containing 22.7980 acres, more or less, as shown on a survey conducted by Andrew G. Zoutewelle, North Carolina Professional Land Surveyor No. L-3098, on May 28, 2019.

EXHIBIT "B"

Approved Concept Plan

EXHIBIT "C"

Laws Governing the Development of the Project

1. Town of Stallings Development Ordinance in force as of the Effective Date of this Agreement and the applicable Preserved Ordinance Provisions, all of which are in a binder on file with the Town.
2. The Development Agreement and Concept Plan approved on _____, 2021.
3. Town of Stallings Technical Standards and Specifications Manual in force as of the Effective Date of this Agreement.

**MINUTES OF THE SUBCOMMITTEE OF THE
TOWN OF STALLINGS, NORTH CAROLINA
DA19.01.06 & DA19.11.02 – STINSON FARMS
APRIL 7, 2020**

Members of the Subcommittee: Lynda Paxton, John Martin, and Brad Richardson

Others Present: Lynne Hair, Matthew West, Carol Fox, Brad Peter, Leigh Polzella, John Armistead, Terry Williams, Jeanne Lindsay, Beverly Haigler-Daly, Nick Bushon, Alex Sewell, Steven Ayers, Elam Hall, Mac McCarley, Wade Robinson, and David Scholl

Ms. Paxton calls meeting to order at 5:00 pm.

Ms. Paxton summarizes that the last Town Council meeting on March 22nd the DAs were sent back to subcommittee because there were a few items that Council thought were agreed to were not addressed. She asks Ms. Hair if she has a presentation.

Ms. Hair responds that she does not have a presentation, but would display comments from Council that were to be addressed.

Ms. Paxton asks to confirm that the comments are the list the Mayor had sent out.

Ms. Hair answers that the comments displayed are recorded from meeting; they include the comments from the Mayor.

Ms. Paxton suggests they begin the conversation with transportation. She is surprised that Idlewild Road was not 4 lanes. The current proposed 3 through lanes with a left turn was the "4th" lane.

Ms. Hair confirms that is what was said.

Ms. Paxton asks if the other members of the subcommittee expected 4 lanes or if they understood the left turn lane was the 4th?

Mr. Martin responds that he expected 4 through lanes with one of the turn lanes turning back to a single lane after the Stevens Mill intersection.

Mr. Richardson adds that he did not expect either 3 or 4 through lanes. He is worried that 4 through lanes and a turn lane is very similar to 6 lanes that the Town was opposed to. He did not think it was 2 through lanes, but if Idlewild Road was expanded too much it is getting too close to the cross section that the town did not want. He then asks for more clarification from the developer.

Ms. Paxton asks if the transportation engineer was available.

Ms. Hair answered that there were no town engineers on the call or the engineer who developed the Traffic Impact Analysis (TIA).

Ms. Paxton states that she expected 2 through lanes on Idlewild Road each way all the way to Stevens Mill, with 2 left turn lanes on each approach. This is 6 lanes if the turn lanes are included. The NCDOT plan that the Town opposes calls for 3 through lanes plus turn lanes, which would be an 8 lane cross section.

Mr. Richardson expresses thanks for clarification.

Ms. Hair adds that the intersection of Idlewild Road and Stevens Mill Road would necessitate a reduction in lanes on Idlewild because Stevens Mill Road has less lanes than Idlewild Road.

Mr. Carmichael offered to present an exhibit to help illustrate the situation. Mr. Carmichael displays the proposed lanes. The proposed road improvements would have 4 through lanes in front of Stinson Farms that is reduced down to 3 through lanes closer to the interstate and at the intersection of Stevens Mill Road and Idlewild Road.

Mr. Martin states that he is concerned about Stevens Mill intersection.

Mr. Carmichael explains that the TIA originally called for the turn lane to terminate at the end of the development, but they have extended it all the way to Stevens Mill. He adds that the developer feels they have more than satisfied the requirements of the TIA. He also adds that the TIA was developed to mitigate traffic for the original plan, but the development density has been significantly reduced since then.

Mr. Martin explains that his concern is that TIAs are developed at a moment in time, and are not always as accurate as they could be. He says from personal experience that traffic is always stacked up at that intersection. He feels it is a hazard every day that will become worse when pandemic is over. He is worried that this development will make a bad problem worse.

Mr. Eagle, the engineer who developed the TIA, joins the call at this time. He explains that the TIA considers the impacts of a development, and the original development plan did not necessitate extending the turn lane to the intersection. He adds that if the through lane was continued, they would have to make improvements beyond the intersection because Idlewild is only 3 through lanes on the other side of Stevens Mill. He finishes by stating that the TIA improvements are designed to at least match a No-Build scenario, and that since the density of the development has been reduced, the improvements would actually improve traffic flow.

Mr. Richardson asks for the definition of a No-build scenario?

Mr. Eagle explains that a no-build scenario is the baseline traffic flow without the development. The TIA engineers determine the baseline traffic flow, then look at what improvements would need to be provided with the added traffic from the project to meet the baseline traffic flow. With the improvements proposed, traffic flow would be better than the baseline flow because of the reduced density since the TIA was developed.

Ms. Paxton asks to confirm that the TIA was based on original site plan.

Mr. Eagle confirms that the TIA was developed on the original site plan.

Ms. Paxton then asks if the reduction in density would affect the trips in a positive way.

Mr. Eagle responds yes, the current plan would create less trips than is assumed in TIA.

Ms. Paxton asks that the developer does not want amended TIA.

Mr. Eagle answers that the developer has agreed to not seek an amendment to the TIA to consider the lower density.

Ms. Paxton states that Idlewild Road past Stevens Mill Road is already pretty wide. She asks how hard would it be to have 2 through lanes through the intersection.

Mr. Eagle responds that he would need to look at that. He reiterates that the improvements would still improve traffic flow without 2 through lanes.

Mr. Robinson states that the density of the project has been significantly reduced.

Ms. Paxton states that the Council needs to decide how comfortable they are with proceeding with this information.

Mr. Richardson states that the reason TIAs are developed is to consider the traffic increase for a full build-out scenario. He understands that the intersection of Stevens Mill and Idlewild is a bad intersection, but the TIA was developed assuming more units than in the current full build-out. He thinks that most of the problems will be away from the Stevens Mill intersection and would instead be concentrated more towards the highway. He finishes by saying that he is comfortable with approval with the condition that the developer will not seek to reduce the TIA.

Mr. McCarley adds information regarding 160D, but has poor quality audio.

Ms. Paxton asks to confirm that Mr. McCarley stated that 160D would not allow the Town to require any more road improvements than is required by the TIA.

Mr. McCarley confirms her statement.

Ms. Paxton states there is no further discussion that needs to be had then. She moves the discussion to the next point on the buffer between the development and the Shannamara neighborhood. She asks for clarification on if the buffer is 100' OR 70' with fence. She understood that the buffer was to be 100' except where the stormwater BMP would prevent that, and the buffer was to be reduced only in that area. She did not think the whole buffer could be reduced to 70'. She asks for input from the other council members.

Mr. Martin says that he was aware that the UDO allowed for reducing a buffer by 30% with screening installed.

Mr. Richardson agrees and states that he understood that it was an option of a 100' buffer or a 70' buffer with a screening fence. He states that he also remembers hearing that the buffer was to be 100' except where not possible. He would need clarity from the developer and would also like to know what is preferable to the Shannamara residents. He adds that he does not live in Shannamara,

but that if he did, he might want the fence with the reduced buffer width. He finishes by stating that he does not know if there is clear consensus from the Shannamara residents.

Ms. Hair confirms that the 30% reduction of the buffer with a screening fence is an ordinance allowance. She adds that Mr. McCarley can speak to if we can overrule that.

Mr. Richardson asks what the developer intends to do. He would like to know if they would accept preserving a 100' buffer except where not possible.

Mr. Carmichael states that the UDO only requires a 30' buffer, with the option of reducing that width by 30% with a fence. The developer has agreed to provide a 100' buffer but retains the option to reduce the buffer by 30% with a fence. The developer will now agree to provide a 6' fence and would use a vinyl fence instead of a wooden fence to ease maintenance costs. Mr. Bushon has created an exhibit detailing exactly where the developer would like to install the fence with the reduced buffer. The fence area would be 45% of buffer. The developer will also agree to add the exhibit to the DA.

Mr. Hall adds that the fence will also wrap around to the 4 other Shannamara homes, as shown on Mr. Bushon's exhibit.

Ms. Paxton states she is satisfied with the 6' fence in the areas provided, however, the 4 corner Shannamara homeowners still want single family adjacent to their properties instead of the townhomes, even with the fence.

Mr. Carmichael addresses this concern by stating that there will be a 70' buffer, 6' fence, and enhanced landscaping between the Shannamara homes and the townhomes. He adds that the townhomes are further away than single family homes would be.

Mr. Bushon provides details on Mr. Carmichael's statement. At the closest point the town homes are 175' from the property line. If single family homes were provided in that location, the distance from the property line to the single family homes would only be 75'. He states that they did explore the option of including single family homes, but that townhomes provide more separation.

Mr. Richardson asks why a fence was included behind the central BMP.

Mr. Bushon states that they want to reduce the buffer in that area to include a larger BMP.

Mr. Robinson clarifies that the BMP is within the 100' buffer, so they are proposing to put in the fence to meet the buffer requirement as well as the stormwater management requirements.

Mr. Carmichael explains that the exhibit can either be where a fence is required, or where a fence can only be installed. Currently, the exhibit shows where the developer only wants to put a fence.

Ms. Paxton asks if the subcommittee members would like the exhibit added to the DA.

Mr. Richardson answers yes.

Mr. Martin also answers yes.

Ms. Paxton asks to move onto the next comment.

Mr. Martin states that he does not want to diminish resident's complaints, but that his biggest complaint is the commercial. His criticism is that the overall layout of the development does not meet the Town's vision of walkable community. He feels there is nothing to encourage visitors to walk around, and there is nothing to draw in Shannamara residents.

Ms. Paxton asks if Mr. Martin would like to talk about the more mixed use and less apartments.

Mr. Martin states that he does not necessarily want less apartments, but he does want the development to be more mixed. His concern is that the current plan is more of a drive-by stop than a destination.

Mr. Richardson agrees with Mr. Martin's concern, but he thinks the Council is limited by the ordinance. He restates a comment made at the last public hearing that this development is not being considered from a birds eye view, but a micro look at just this development. If the greater area is considered, he could argue that this development meets the definition of mixed use due to the surrounding amenities and communities. However, he feels that walkability is hard in this area. His concern is how do people get across Idlewild road. On the criticism that Shannamara residents do not having access: early on in the process this issue was raised, but the neighborhood residents have said they do not want access.

Mr. Martin rebuts that one of the goals was to create a sense of community and a place to "hang out".

Ms. Paxton adds that she has advocated for more integrated commercial, but her understanding is the developer does not think that integrated commercial is marketable. Mr. Bushon has showed all of the walkability features provided, which she feels is adequate for providing walkability connections. She asks if the Council should ask for more or different connections.

Mr. Richardson states that he is satisfied with the the interior connections, but that he is more concerned about the availability of walking connections to other communities. He reiterates that the Shannamara residents rejected more walking connections. He would like to connect Shannamara and this development along Idlewild Road and across the street and to the Greenway in Vickery.

Ms. Paxton reminds Mr. Richardson that any connection across Idlewild will be crossing 6 lanes of traffic.

Mr. Richardson responds that the Greenway calls for road crossings crossings. He concedes that the Greenway road crossings is a conversation for another time, but is a consideration he has.

Ms. Paxton states that she is not sure how the development could be changed to meet that goal. She asks what requests of developer they could make to meet that.

Mr. Richardson asks to be reminded of what Greenway improvements along Idlewild the developer is installing, and how does it connect with the greater Greenway system.

Ms. Hair answers that the Greenway plan was created because most properties are built out, so there is limited park property left in the Town. The “Stallings Spine”, a 12’ multi use path, is part of the Greenway plan. Part of this trail is along Stevens Mill Road. Across Idlewild from Stinson Farms a portion of the Greenway is along the entry road to the Aria at Idlewild development, leading inside the development. That developer is providing parking and signs from the Greenway. The Stinson Farms developer is providing the Greenway connection along Idlewild to Stevens Mill for when that corner develops and the Stevens Mill Greenway is built.

Mr. Richardson thanks Ms. Hair for the summary, and reiterates that the dilemma is road crossings, especially when the road needs to be widened.

Ms. Paxton asks Mr. Martin for any more concerns on the mixed use concern.

Mr. Martin responds no, but would really like to re-do the layout. He thanks to the developer for their work, but feels the layout does not meet the vision of the Comprehensive Land Use Plan. He is concerned that this is one of the last big pieces of land in the town, so it needs to be developed right.

Mr. Richardson asks what the concerns with the stormwater were, and what does the commitment on road improvement timeline mean.

Ms. Paxton answers that the road timeline is determined by TIA. Phase I of the roadway improvements must be done before a CO is approved for any building. All road improvements need to be finished before CO on any building not in Phase I is provided.

Mr. Eagle adds that the TIA presents the impacts on traffic created by each phase, and establishes what improvements need to be made to mitigate each phase. The developer will need to have improvements in place before the buildings are built.

Mr. Richardson asks for clarification on why the timeline is even a question. He states the timeline seems established because of TIA.

Mr. Martin explains that the question was around the concern that if the development stalls and NCDOT comes in to do their development it was unclear what happens to the developer commitments. He would just like more information on that potential scenario.

Mr. McCarley states that he will discuss this with developer.

Ms. Paxton moves the conversation to the stormwater management concerns and asks Mr. Bushon to address that issue.

Mr. Bushon states that if this project were to be approved, the developer would comply with all Town and State permitting requirements. Specifically, the developer would need to provide facilities to capture all runoff, treat it, and detain it before discharging it at the same rate as existing conditions. There would also be inspections, maintenance and maintenance inspections, as-built surveys, reviews, and continual maintenance.

Mr. Richardson asks if the developer has decided what BMPs would be used, and if they will be using wet ponds.

Mr. Bushon states that there needs to be 20 acres of drainage for a wet pond. The developer plans to make all BMPs 3 wet ponds, or at least 2 BMPs wet ponds. This decision depends on the drainage areas, and they have not gotten far enough into the details yet to have made this decision.

Mr. Richardson adds that the Stallings Farms development has a wet pond that is closer to the public realm, and that the Town spent time negotiating to make the wet ponds a public feature with a fountain.

Mr. Bushon states that the developer would be more than happy to include fountains for the wet ponds. He agrees that fountains in wet ponds look nice and provides a pragmatic function of moving the water to prevent stagnation.

Mr. Richardson states that he would like fountains to be added to the DA.

Mr. Martin states that a few residents have expressed concerns over existing stormwater problems. As long as the developer prevents more problems, then there is no issue. He asks Ms. Hair if she could include that as a note that no additional runoff will affect those residents.

Mr. Bushon adds that part of the stormwater requirements is that no negative impacts are created.

Mr. Martin states that with the large buffers he would not expect the developer to address an existing problem, but that he just wants to be sure there are no new problems added due to this development.

Mr. Robinson states that the laws say a development cannot cause more runoff. He asks if the Town has to specify specific addresses the developer needs to address specifically.

Mr. McCarley states that the laws are in place specifically so that there are no new issues created anywhere because of the development, so addressing specific properties that have concerns is not necessary.

Ms. Paxton states that she understands the protections are there, but there are other developments that have met those requirements but problems still arose.

Mr. Richardson asks if any of the apartments have elevators as an amenity.

Mr. Hall responds that there are no elevators proposed. He explains that the builder typically includes elevators in 4 story buildings, but that these are 3 story buildings. Additionally, elevators are for bigger buildings with more units, but the proposed buildings are too small for that to be economically viable as an amenity.

Ms. Paxton asks for any further questions or comments.

Mr. Carmichael asks to address a comment regarding what portion of the buffer would be undisturbed. Mr. Bushon did a quick grading plan, and determined that the developer can commit that at least the outside 30' of the buffer would be undisturbed. He reiterates that the Town's

ordinance only requires 30' buffer, but the developer is providing more. The developer will plant the buffer outside the undisturbed buffer in accordance with the ordinance requirements.

Ms. Paxton states that there are a few comments left to address: removing the apartment building behind C-store, removing the drive-thru, and including monument signing.

Mr. Hall asks to speak to the comment on removing apartment building. He states the developer has paid special attention to the density gradient. From an apartment development perspective, they see the commercial uses as an amenity. Residents want to walk to commercial areas if possible. He adds if the commercial area near the interstate is developed as C-store, there is a sizable buffer. He also adds that it is important to keep different residential uses together. This prevents the developer from replacing the multifamily building with any other residential use.

Ms. Paxton asks what commercial use could be developed lieu of C-store.

Mr. Carmichael answers that the CZ application would allow for C-store OR drive thru restaurant AND any other use allowed in MU-2. The commercial area in the CZ could not be both C-Store and Drive thru restaurant but could be any other use allowed in MU-2.

Ms. Paxton asks if it is a drive-thru restaurant if it would be in addition to the one drive thru restaurant allowed by the DAs?

Mr. Carmichael answers that the CZ drive thru restaurant would be in addition to the one drive thru restaurant allowed by the DAs.

Ms. Paxton asks if the council understood this.

Mr. Richardson answers that he understood that to be the case.

Ms. Paxton asks if the developer would commit to monument signs in the DA, and if they would accept input from Council?

Mr. Carmichael answers that the monument signage was not included in the DA currently. He remembers that request being state, but that it has not been part of the conversation. He asks for clarification on the request, specifically is the request for an easement or an easement and a "Welcome to Stallings" sign?

Ms. Paxton states that she would like both a "Welcome to Stallings" and a "Welcome to Stinson Farms" sign.

Ms. Hair adds that the monument sign was a request that staff suggested. There are other developers that have committed to providing signage. The Town has designs for monument signs and has been looking for places to put them. Staff would like the developer to put a "Welcome to Stallings" sign in front of their development.

Ms. Paxton asks if the developer would agree to this.

Mr. Robinson states that he thought the developer was being asked for an easement, but he did not think they would put the sign in. He answers that they are not prepared to commit to that in this meeting.

Mr. Hall adds that he also thought it was a request for an easement.

Mr. Robinson states that he does not know if this is appropriate to ask for in the DA.

Ms. Paxton responds that the Town has asked this of other developers, and would like this developer to consider the request.

Mr. Robinson asks about the timeline for approval of the project. He also asks if the developer makes the changes requested if the subcommittee would be in support of the project.

Ms. Paxton responds that it would need to be voted on. She adds that the decision is with the Council, and the subcommittee has already recommended this to Council previously.

Mr. Richardson says that he thought the monument sign was for the development, and not the town. However, he feels this is an important location for a monument sign. He states that he is personally fine with moving the project on now.

Ms. Paxton asks Ms. Hair if this project is on the council agenda for April 12th.

Ms. Hair responds that it is not, but it is on the agenda for the 26th.

Ms. Paxton states that there are no further comments that the subcommittee needs to be addressed. She asks the other council members are ready to send back to council, and then asks if the subcommittee has made any changes, or if they just discussed the comments in this meeting.

Mr. Carmicheal responds that the developer has committed to adding fountains to the BMP and to the fence locations. He states that he will add that information to the DA and will work with Mr. McCarley and Ms. Hair to finalize that document.

Ms. Paxton states that she would like the developer to consider elevators.

Ms. Paxton adjourns the meeting at 5:56 pm.

DEVELOPMENT AGREEMENT
BY AND AMONG
JLA3, LLC, IDLEWILD ASSOCIATES, LLC,
METROLINA PROPERTIES LIMITED PARTNERSHIP, LAND INVESTMENTS, LLC
AND
TOWN OF STALLINGS

Prepared by and Return to:
John H. Carmichael
Robinson, Bradshaw & Hinson, P.A.
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246

TABLE OF CONTENTS

Page

STATE OF NORTH CAROLINA)
)
COUNTY OF UNION)

DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is made and entered into this _____ day of _____, 2021 (the “**Effective Date**”) by and among **JLA3, LLC**, a North Carolina limited liability company (“**JLA3**”), **Idlewild Associates, LLC**, a North Carolina limited liability company (“**Idlewild**”), **Metrolina Properties Limited Partnership**, a North Carolina limited partnership (“**Metrolina**”), **Land Investments, LLC**, a North Carolina limited liability (“**LI**”) and the **Town of Stallings**, a North Carolina municipal corporation (“**Town**”).

STATEMENT OF PURPOSE

1. Section 160A-400.20(a)(1) of the North Carolina General Statutes provides that “large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.”
2. Section 160A-400.20(a)(3) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.”
3. Section 160A-400.20(a)(4) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects involve substantial commitments of private capital by developers, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development.”
4. Section 160A-400.20(a)(5) of the North Carolina General Statutes provides that "because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas."
5. Section 160A-400.20(a)(6) of the North Carolina General Statutes provides that “to better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.”
6. Section 160A-400.23 provides that a local government may enter into a development agreement with a developer for the development of “developable property of any size.”
7. In view of the foregoing, Sections 160A-400.20(b) and 160A-400.22 of the North Carolina General Statutes expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of Sections 160A-400.20 through 160A-400.32 of the North Carolina General Statutes, which

procedures and requirements include approval of the development agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

BACKGROUND

1. JLA3 is the owner of five (5) parcels of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that are designated as Tax Parcel Nos. 070-750-20, 070-750-19, 070-750-17, 070-750-28 and 070-750-17A on the Union County Tax Maps (the “**JLA3 Property**”).
2. Idlewild is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-18 on the Union County Tax Maps (the “**Idlewild Property**”).
3. Metrolina is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-22A on the Union County Tax Maps (the “**Metrolina Property**”).
4. Metrolina and LI are the owners of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-22 on the Union County Tax Maps (the “**Metrolina-LI Property**”).
5. The JLA3 Property, the Idlewild Property, the Metrolina Property and the Metrolina-LI Property are hereinafter collectively referred to as the “**Property.**” The Property contains approximately 51.47 acres is subject to the terms and conditions of this Agreement. The Property is more particularly described on Exhibit A attached hereto and incorporated herein by reference. The Property is zoned MU-2.
6. JLA3, Idlewild, Metrolina and LI and their successors in interest are hereinafter collectively referred to as the “**Developer.**”
7. Developer desires to develop a multi-use development (the “**Project**”) on the Property in accordance with the terms of this Agreement, the Concept Plan (defined below) and the Town of Stallings Development Ordinance (the “**Ordinance**”) that will contain single family detached dwelling units, single family attached dwelling units, multi-family dwellings units and associated residential amenities, and commercial uses as allowed under the Ordinance.
8. The Project is an approximately 51.47 acre portion of an approximately 74.268 acre multi-use development that has been planned as a single unified development. This single unified development of which the Project is a part is hereinafter referred to as the “**Unified Development.**”
9. After careful review and deliberation, the Town has determined that the Project is consistent with the Ordinance and that it would further the health, safety, welfare and economic well-being of the Town.

10. The Town has also determined that the Project will secure quality planning and growth, strengthen the tax base and provide public amenities and infrastructure.

Accordingly, Developer and the Town desire to enter into this Agreement for the purposes of coordinating the construction of infrastructure that will serve the Project and the community at large and providing assurances to Developer and its successors in interest that Developer may proceed with the development of the Project in accordance with the terms of this Agreement and the approvals set forth herein without encountering future changes in ordinances, regulations or policies that would affect Developer's ability to develop the Project under the terms of this Agreement.

TERMS

NOW, THEREFORE, based upon the terms and conditions set forth herein and in consideration of the mutual promises and assurances provided herein, the parties do hereby agree as follows:

1. Public Hearing. Pursuant to Section 160A-400.24 of the North Carolina General Statutes, the Town Council conducted a public hearing on ~~_____~~ March 22, 2021 in accordance with the procedures set out in N.C.G.S. § 160A-364, and it approved on ~~_____~~ April 26, 2021 the subsequent execution of this Agreement by the Town. The notice of public hearing specified, among other things, the location of the Property subject to this Agreement, the development uses proposed on the Property and a place where a copy of the Agreement can be obtained. The approval of this Agreement by the Town Council included the approval of the ~~eighteen~~ (810) page Site Development Plan (as defined in Section 7.7(D)(1) of the Ordinance) for the Project (the "**Concept Plan**") attached hereto as **Exhibit B** and incorporated herein by reference. As referenced above, the Project is a portion of the Unified Development, and the Concept Plan includes the Property and the other portions of the Unified Development.
2. Permitted Uses/Maximum Density. Subject to the limitations set out herein and on the Concept Plan, the Property may be devoted to the uses and to the development densities set out below. That portion of the Property on which commercial uses may be located is designated on the Concept Plan as the "**Commercial Area**."
 - A. A maximum of 336 multi-family dwelling units may be developed on the Property.
 - B. A maximum of 84 single family attached dwelling units may be developed on the Property.
 - C. A maximum of 13 single family detached dwelling units may be developed on the Property.
 - D. Incidental and accessory uses relating to the foregoing residential uses that are permitted in the MU-2 zoning district may be developed on the Property. Incidental and accessory uses may include, without limitation, a leasing and management office for the multi-family dwelling

units and amenities for the single family detached dwelling units, the single family attached dwelling units and the multi-family dwelling units.

E. Notwithstanding anything contained herein to the contrary, Developer may develop single family attached dwelling units and/or single family detached dwelling units in lieu of multi-family dwelling units, provided, however, that the total residential density on the Property shall not exceed 433 dwelling units.

F. Commercial Area.

(1) Subject to the limitations set out below in subparagraphs 3 and 4, the Commercial Area may be devoted to any non-residential use or uses listed by right, any non-residential use or uses listed with additional standards and/or any non-residential use or uses listed with conditions in the MU-2 zoning district as set out in Table 8.1 of the Ordinance, and to any non-residential accessory and incidental uses relating thereto that are permitted in the MU-2 zoning district.

(2) Neither the Agreement nor the Concept Plan limit the number and locations of principal buildings, accessory structures and parking areas or the maximum gross floor area that may be developed on the Commercial Area. The maximum number and locations of principal buildings, accessory structures and parking areas and the maximum gross floor area that may be developed on the Commercial Area shall be governed by the terms of the Ordinance

(3) A convenience store with gasoline sales shall not be permitted on the Commercial Area.

(4) A maximum of one (1) quick service/fast food restaurant may be developed on the Commercial Area. By way of example, and not by way of limitation, a quick service/fast food restaurant includes Chick Fil-A, McDonald's, Wendy's, Arby's, Bojangle's and similar restaurants. This limitation or restriction shall not apply to fast casual restaurants such as Panera Bread, Chipotle, Dunkin Donuts, Starbucks and similar restaurants, whether such fast casual restaurants are located in a freestanding building or in a multi-tenant building.

G. Private Sewer Treatment Facility. A private sewer treatment facility shall not be permitted on the on the Property.

3. Development of the Property. The Property may be developed in accordance with the Concept Plan, Site Construction Plans (as defined in Section 7.7(G)(1) of the Ordinance) subsequently submitted to and approved by the Development Administrator, associated permits, the applicable provisions of the Ordinance and the terms of this Agreement. Approval of this Agreement pursuant to Sections 160A-400.20 et seq. of the North Carolina General Statutes does not confer additional authority to the Town to consider the development of the Property or to impose conditions or restrictions beyond those allowed by the Ordinance. The agreements of the Developer herein are voluntary agreements. The development and uses depicted on the Concept Plan are schematic in nature and are intended to depict the general arrangement of uses and improvements on the Property. Accordingly, the ultimate layout, locations and sizes of the development and site elements depicted on the Concept Plan are graphic representations of the

proposed development and site elements, and they may be altered or modified in accordance with the setback, yard, buffer and landscaping requirements set forth on the Concept Plan.

4. Development Schedule. The Project shall be developed in accordance with the schedule set out below, or as may be amended by the agreement of the parties to reflect actual market absorption. Pursuant to N.C.G.S. § 160A-400.25(b), the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to N.C.G.S. § 160A-400.27 but must be judged based upon the totality of the circumstances, including, but not limited to, Developer's good faith efforts to attain compliance with the relevant development schedule. The development schedule is a budget planning tool and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace of development if market conditions support a faster pace.

A. Within the later to occur of five (5) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property, Developer shall commence the development of the single family detached dwelling units, the single family attached dwelling units and a minimum of 200 of the multi-family dwelling units.

B. Within the later to occur of ten (10) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property, Developer shall commence the development of the remaining 136 multi-family dwelling units and the Commercial Area.

C. The development of the Project shall be substantially completed within the later to occur of fifteen (15) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property. Substantially completed shall mean that all streets and infrastructure have been constructed and installed on the Property.

D. This Section 4 of the Agreement relates only to the development schedule of the Project. After the substantial completion of the development of the Project as defined above in subparagraph C-~~above~~, the development and use of the Property will continue to be subject to the terms and conditions of this Agreement.

5. Transportation Improvements. The development of the Property shall comply with the following transportation requirements.

A. Vehicular access to the Property shall be as generally depicted on the Concept Plan. The placement and configuration of the vehicular access points are subject to any minor modifications required to accommodate final site and construction plans and designs and to any other adjustments that are approved by the Town and/or the North Carolina Department of Transportation ("NCDOT").

B. The Property will be served by internal public streets and internal private streets, and adjustments to the locations of the internal public streets and the internal private streets shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer. Additionally, modifications to the alignments and locations of the internal drives, vehicular circulation areas and driveways shall be allowed during

the construction permitting process upon the approval of the Development Administrator and the Town Engineer.

~~C. C.~~ Subject to the approval of NCDOT and the terms of this ~~paragraph~~ Section 5, Developer, or its successors in interest, shall install all of the transportation improvements that are required to be installed by the developer of the Project in a Traffic Impact Analysis dated _____, 2020 prepared by Ramey Kemp and Associates (the "TIA"). The transportation improvements that are required to be installed by the developer of the Project ~~in a Traffic Impact Analysis dated _____, 2020 prepared by Ramey Kemp~~ shall be installed in accordance with the schedule and ~~Associates~~ /or in any amended Traffic Impact Analysis for the Project subsequently approved by NCDOT (collectively, the "TIA"). The transportation improvements that are required to be installed by the developer of the Project shall be installed in accordance with the schedule and/or the phasing analysis in the TIA or in any amended TIA approved by NCDOT, the phasing analysis in the TIA and such transportation improvements shall be installed ~~in accordance with the specifications of NCDOT.~~

~~D.~~ ~~The transportation improvements that are required to be installed by the developer of the Project as set out in the TIA may be amended and revised provided that an amended TIA is prepared and approved by~~ in accordance with the specifications of NCDOT.

(1) The TIA recommends that the additional eastbound lane to be installed by Developer on Idlewild Road taper down at Access C (the signalized access point into the Property from Idlewild Road) and terminate on the eastern side of Access C. Notwithstanding that recommendation and subject to the approval of NCDOT, Developer will extend the additional eastbound lane to be installed on Idlewild Road to Stevens Mill Road, and this extended eastbound lane shall terminate at Stevens Mill Road as a left turn lane onto Stevens Mill Road.

D. In the event that the density of the Project is reduced by Developer below the maximum density allowed in this Agreement and the reduction in density results in a decrease in the number of vehicular trips generated by the Project, Developer may, at its option, have an amended TIA prepared and approved by NCDOT (the "Amended TIA"). Developer shall then be required to only install the transportation improvements that are required to be installed by the developer of the Project in the Amended TIA rather than the transportation improvements that are required to be installed by the developer of the Project in the TIA, and such transportation improvements shall be installed in accordance with the schedule and/or the phasing analysis in the Amended TIA and in accordance with the specifications of NCDOT.

~~E. E.~~ If Developer does not move forward with the development of the Project, Developer shall not be required to install any of the transportation improvements set out in the TIA or in any ~~amended~~ Amended TIA.

6. Multi-Use Path/Greenway Trail.

A. Developer shall install a minimum 12 foot wide multi-use path/greenway trail along a portion of the Property's frontage on Idlewild Road as generally depicted on the Walkability Exhibit of the Concept Plan. This 12 foot wide multi-use path/greenway trail shall be

constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way.

B. Developer shall install a minimum 12 foot wide multi-use path/greenway trail within the Property as generally depicted on the Walkability Exhibit of the Concept Plan. This 12 foot wide multi-use path/greenway trail shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way.

C. The Project, and the infrastructure relating thereto, shall be developed in phases. The minimum 12 foot wide multi-use path/greenway trail referenced above located within each phase of the Project shall be completed prior to the issuance of the first certificate of occupancy for the phase of the Project in which the relevant portion of the 12 foot wide multi-use path/greenway trail is located.

7. Architectural and Design Standards/Buffers, Landscaping and Screening/Gateway Sign/Storm Water Facilities.

A. Single Family Detached Dwelling Units. The architectural standards set out below shall apply to any single family detached dwelling unit developed on the Property.

- (1) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.
- (2) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (3) Dimensional shingles shall be utilized on the roof.
- (4) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.
- (5) Each single family detached dwelling unit shall include a covered front porch that faces the adjacent street.
- (6) The minimum floor to ceiling height of the first floor of each single family detached dwelling unit shall be nine (9) feet.
- (7) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (8) Each single family detached dwelling unit shall have a minimum two (2) car garage with a carriage style door and hardware.
- (9) Adequate swales will be installed between the single family detached dwelling units in accordance with standard engineering design criteria.

(10) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

B. Single Family Attached Dwelling Units. The architectural standards set out below shall apply to any single family attached dwelling unit developed on the Property.

(1) Each single family attached dwelling unit will be alley loaded.

(2) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.

(3) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.

(4) Dimensional shingles shall be utilized on the roof.

(5) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.

(6) Each single family attached dwelling unit shall have a covered front porch with a minimum width equal to 40 percent (40%) of the width of the front façade of the single family attached dwelling unit.

(7) The minimum floor to ceiling height of the first floor of each single family attached dwelling unit shall be nine (9) feet.

(8) The front façade (street facing façade) shall be articulated through the use of gables and offsets.

(9) Sidewalks shall connect each single attached dwelling unit to a public sidewalk.

(10) Adequate swales will be installed between the buildings containing single family attached dwelling units in accordance with standard engineering design criteria.

(11) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

C. Multi-Family Dwelling Units. The architectural standards set out below shall apply to any multi-family building developed on the Property.

(1) The minimum floor to ceiling height for each floor of a multi-family building shall be nine (9) feet.

(2) Attached hereto as **Exhibit C** and incorporated herein by reference are conceptual, schematic images of the multi-family buildings proposed to be developed on the Property. The purposes of the conceptual, schematic images are to depict the general conceptual architectural

style, design intent and character of the multi-family buildings to be developed on the Property. The finishes and colors of building exteriors may vary from what is depicted on the conceptual, schematic images. Additionally, changes and alterations to the exterior of the multi-family buildings that do not materially change the overall conceptual architectural style, design intent and character shall be permitted.

(3) The Development Administrator may approve different building elevations for the multi-family buildings if the Development Administrator determines that such different building elevations are similar to the attached conceptual, schematic images in terms of quality and exterior building materials.

(4) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding.

(5) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.

(6) The maximum height of any multi-family building developed on the Property shall be governed by the Ordinance.

D. Non-Residential Buildings on the Commercial Area. The architectural and design standards set out below shall apply to the Commercial Area.

(1) The minimum floor to ceiling height of the first floor of a building shall be nine (9) feet.

(2) The development of the Commercial Area will meet the applicable site development and design requirements of the Ordinance.

(3) The buildings developed on the Property shall meet the applicable building type requirements of the Ordinance.

(4) Lot dimensions and densities shall be governed by the Ordinance.

(5) All freestanding lighting fixtures installed on the Commercial Area (excluding street lights and lower, decorative lighting that may be installed along the driveways, sidewalks and parking areas and in the landscaped areas) shall be fully shielded and the illumination downwardly directed so that direct illumination does not extend past any property line of the Commercial Area.

(6) Any lighting attached to a building on the Commercial Area shall be decorative, capped and downwardly directed. "Wall-pak" type lighting fixtures may not be installed on a building located on the Commercial Area.

(7) Buildings will have a 12' minimum setback from street right of way when no buffer is required. Side and rear setbacks will vary according to the side and rear buffer requirements of the Ordinance.

- (8) Building facades shall be generally parallel to frontage property lines.
- (9) Parking areas shall be located to the rear and/or side of a building. Side-yard parking may occupy no more than 35% of the principal frontage line adjacent to a public street and shall be buffered from the street with a Type D Buffer Yard (5' minimum width; 17 to 20 shrubs and 2 small maturing trees per 100 LF).
- (10) The drive aisles for circulation purposes shall be screened from adjacent public and private streets by a garden wall, hedge, or knee wall.
- (11) Hedges, garden walls, or knee walls may be built on property lines or as the continuation of building walls. A garden wall, hedge or knee wall shall have a minimum of 2.5' in height and a maximum of 3.5' in height and shall be installed along any street frontage adjacent to parking areas. Knee walls shall be built of brick, stone, or other decorative masonry material, or alternatively built of wrought iron or other decorative metal and shall generally match the architectural style of the Town.
- (12) Parking areas shall be connected with vehicular and pedestrian connections wherever practical to promote interconnectivity between uses.
- (13) Main pedestrian access to buildings may be from the side, front or rear. A non-functioning or locked door shall be located on the front of a building when the primary pedestrian access is from the side or rear of the building.
- (14) All street level retail uses with public or private sidewalk frontage shall be furnished with an individual entrance and direct access to the public or private sidewalk in addition to any other access which may be provided.
- (15) Drive-through windows and other auto-oriented service facilities shall be located to the rear or side of the building. Notwithstanding the foregoing, drive aisles for circulation purposes may be located between the building and the adjacent public and/or private streets.
- (16) Menu board(s), speaker boxes and/or windows associated with drive-through facilities may not be located on the façade of a building that faces the primary adjacent public street, but may be located on the façade of a building that faces a secondary public street or a private street.
- (17) Massing and rhythm shall be factored into site design and future uses (a single large dominant building mass will be avoided).
- (18) No wall that faces a street or connecting walkway shall have a blank, uninterrupted length exceeding twenty (20) feet.

E. Buffer/Landscape Areas/Screen Fence/Gateway Sign.

- (1) ~~As depicted on the Concept Plan, a~~ 100 foot wide Type B buffer shall be established along the eastern boundary line of the Property. ~~The~~ as depicted on the Concept Plan. Notwithstanding the foregoing, the width of this Type B buffer may, at the option of Developer, be reduced by thirty percent (30%) to seventy (70) feet in those locations depicted on Sheet 8 of

the Concept Plan through the installation of a five minimum six (56) foot tall opaque, vinyl screen fence as allowed in under the Ordinance.

(2) Subject to the terms of subparagraphs 7.E.(2)(a) and (b), the exterior thirty (30) feet of the Type B buffer referenced above in subparagraph 7.E.(1) shall remain undisturbed, provided, however, that in the event that the existing vegetation does not meet the tree and shrub requirements of a Type B buffer, supplemental plantings shall be installed to bring this Type B buffer into compliance with these requirements.

(a) The exterior thirty (30) feet of this Type B buffer may be disturbed to remove dead trees and shrubs.

(b) The exterior thirty (30) feet of this Type B buffer may be disturbed to install utility lines that serve the Project, provided, however, that utility lines may only cross the exterior thirty (30) feet of this Type B buffer at interior angles measured at the eastern boundary line of the Property that are not less than seventy-five (75) degrees. Where existing trees and natural vegetation have been cleared within the exterior thirty (30) feet of this Type B buffer to accommodate the installation of utility lines, the cleared, unimproved areas will be landscaped with trees and shrubs in accordance with the requirements of a Type B buffer.

(3) A twenty four (24) foot wide landscape area shall be established along the Property's frontage on Idlewild Road as depicted on the Concept Plan. A conceptual image of this twenty four (24) foot wide landscape area is set out on Sheets 9 and 10 of the Concept Plan. This twenty four (24) foot wide landscape area shall be measured from the future right of way line depicted on the Concept Plan. The twenty four (24) foot wide landscape area shall meet the following planting standards: twenty (20) evergreen shrubs and two (2) canopy trees or three (3) small maturing trees per one-hundred (100) linear feet. Perimeter street trees may be located within this landscape area to satisfy tree requirements. Hedges, garden walls or knee walls may be built within or along the rear edge of the twenty four (24) foot wide landscape area as a continuation of building walls.

(4) As depicted on Sheets 9 and 10 of the Concept Plan, Developer shall install landscaping between the outer edge of the twenty four (24) foot wide landscape area referenced above in subparagraph 7.E.(3) (such outer edge being the future right of way line) and the existing right of way line of Idlewild Road. This landscaping shall meet the following planting standards: twenty (20) evergreen shrubs and two (2) canopy trees or three (3) small maturing trees per one-hundred (100) linear feet. These trees and/or shrubs are subject to removal by NCDOT in the event that Idlewild Road is widened in the future by NCDOT. In the event that these trees and/or shrubs are removed by NCDOT, Developer shall have no obligation to replace or re-plant any trees or shrubs so removed by NCDOT.

(5) Prior to the issuance of the first certificate of occupancy for a new building constructed on the Property, Developer shall pay the sum of ten thousand dollars (\$10,000) to the Town, which funds shall be used by the Town to install landscaping within any future median installed within Idlewild Road by NCDOT or others. If a median is not installed within Idlewild Road

within ten (10) years of the date on which such funds are paid to the Town by Developer, the Town may use the funds to pay for other Town projects in the general vicinity of the Property.

(6) Prior to the issuance of the first certificate of occupancy for a new building constructed on the Property, Developer shall convey to the Town a perpetual easement to construct, install, maintain, repair and replace as needed a “Town of Stallings Gateway Sign” on the Property (the “Town of Stallings Gateway Sign Easement”). The Town of Stallings Gateway Sign Easement shall be located within the twenty four (24) foot wide landscape area referenced above in subparagraph 7.E.(3), and the precise location of the Town of Stallings Gateway Sign Easement shall be determined in coordination with the Town of Stallings Development Administrator during permitting for the Project. The Town shall be solely responsible for the design, construction, installation, maintenance, repair and replacement of such sign and any costs associated therewith.

(7) Prior to the issuance of the first certificate of occupancy for a new building constructed on the Property, Developer shall pay the sum of five thousand dollars (\$5,000) to the Town, which funds shall be used by the Town to design, construct and install the Town of Stallings Gateway Sign referenced above in subparagraph 7.E.(6).

F. Storm Water Facilities.

(1) In the event that any storm water facility installed on the Property is a wet pond, Developer shall install a fountain in such wet pond to minimize the buildup of algae.

8. Laws Governing the Development of the Project. The laws, land development regulations and ordinances applicable to the development of the Project are those in force as of the Effective Date and those applicable Ordinance provisions that were in force and effect on the date that the Development Agreement Application relating to this Agreement was filed with the Town (the “**Preserved Ordinance Provisions**”). Accordingly, Developer and its successors in interest shall have a vested right to develop the Project in accordance with the Concept Plan, the terms of this Agreement and the terms of the Ordinance and any applicable laws, land development regulations and ordinances in force as of the Effective Date and in accordance with the Preserved Ordinance Provisions during the entire term of this Agreement. Pursuant to N.C.G.S. § 160A-400.26 and except as provided in N.C.G.S. § 160A-385.1(e), the Town may not apply subsequently adopted laws, land development regulations, ordinances or development policies to the Project or to the Property during the term of this Agreement without the written consent of Developer or its successors in interest. Additionally, no future impact fees shall apply to the Project or to the Property without the written consent of Developer or its successors in interest. This Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 or N.C.G.S. § 160A-385.1, or that may vest pursuant to common law or otherwise in the absence of this Agreement. The Town and Developer agree that the specific laws, land development regulations and ordinances in force as of the Effective Date and the applicable Preserved Ordinance Provisions are more particularly set out on **Exhibit D** attached hereto and incorporated herein by reference, and are in a binder on file with the Town.

9. Term. The term of this Agreement shall commence on the Effective Date and shall expire twenty (20) years thereafter on _____ unless sooner terminated by the mutual consent of the parties hereto or their successors in interest, or unless extended by the mutual consent of the parties hereto or their successors in interest.

10. Local Development Permits. In accordance with N.C.G.S. § 160A-400.25(6), the following is a description or list of the local development permits approved or needed to be approved for the development of the Project:

- A. Erosion and Sediment Control Permit (Union County).
- B. Water Extension Permit (NCDENR).
- C. Sewer Extension Permit (NCDENR).
- D. NCDOT Encroachment Permit.
- E. NCDOT Entrance Permit.
- F. Zoning Permits.
- G. Building Permits.
- H. All other local, state or federal permits required for the Project.

The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve Developer of the necessity of complying with the law governing the local permitting requirements, conditions, terms or restrictions.

11. Public Facilities. The following public facilities will serve the Project: public sewer and public water. Public water will be provided by Union County Public Works and is currently available to the Property. Public sewer will be provided by Union County Public Works. Public sewer is not currently available to the Property, however, it is anticipated that public sewer will be available to the Property on or before March 31, 2022 as a result of a funded Union County Public Works project. In any event, public sewer shall be available to the Property prior to the issuance of the first building permit for the Project. Notwithstanding the foregoing, with respect to public sewer and public water, the Project may utilize Charlotte Water with respect to public sewer and public water at the option of Developer.

12. Sewer and Water Lines. Developer, at its sole cost and expense, shall engineer, design, permit, construct and install the water and sewer lines to be located within the Project (the “**Internal Water and Sewer Lines**”). The Internal Water and Sewer Lines shall be engineered, designed, constructed and installed in accordance with all applicable federal, state and local laws, regulations, ordinances and policies. The Internal Water and Sewer Lines shall be transferred to Union County or other applicable public agency for ownership and maintenance after such lines have been constructed and installed.

13. Amendment. The terms of this Agreement may be amended by the mutual consent of the parties hereto or their successors in interest. A major modification of the terms of this Agreement shall follow the same procedures as required for the initial approval of this Agreement. A minor amendment to the Concept Plan approved by the Town of Stallings Development Administrator shall not be considered to be a major amendment to this Agreement. The Development Administrator shall have the authority to ~~approved~~approve minor, administrative amendments to the Concept Plan.

14. Recordation/Binding Effect. Within fourteen (14) days after the Town enters into this Agreement, Developer shall record this Agreement in the Union County Public Registry. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties hereto.

15. Periodic Review.

A. Pursuant to N.C.G.S. § 160A-400.27, the Development Administrator or other Town Manager designee shall conduct a periodic review, (the "**Periodic Review**") at least every 12 months, at which time Developer shall be required to demonstrate good faith compliance with the terms of this Agreement.

B. If, as a result of the Periodic Review, the Town finds and determines that Developer has committed a material breach of the terms or conditions of the Agreement, the Town shall serve notice in writing, within a reasonable time after the Periodic Review, upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing Developer a reasonable time in which to cure the material breach.

C. If Developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Agreement; provided, however, that the notice of termination or modification or finding of breach may be appealed to the Board of Adjustment in the manner provided by N.C.G.S. § 160A-388(b).

16. Default. The failure of Developer or the Town to comply with the terms of this Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as allowed under applicable law, provided, however, that no termination of this Agreement may be declared by the Town absent its according to Developer the notice and opportunity to cure set out in N.C.G.S. § 160A-400.27. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Superior Court of the County of Union, State of North Carolina, or in the Federal District Court in the Western District, and the parties hereto submit to the personal jurisdiction of such courts without application of any conflicts of laws provisions of any jurisdiction. Notwithstanding anything contained herein to the contrary, the violation of any rule, policy, regulation, ordinance or law by a tenant in the Project shall not be considered to be an event of default under this Agreement. That being said, the Town is not

waiving its ability or right to enforce the Ordinance or any other Town regulation in accordance with the terms of the Ordinance or any such regulation.

17. Notices. Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to:

The Town at: Town of Stallings
c/o Town Manager
315 Stallings Road
Stallings, North Carolina 28104

Developer at: JLA3, LLC
Attention: John Armistead
2121 Bucknell Avenue
Charlotte, North Carolina 28207

Idlewild Associates, LLC
Attention: Wesley F. Faulk
c/o Hinson Faulk, PA
309 Post Office Drive
Indian Trail, NC 28079

Metrolina Properties Limited Partnership
Attention: Terry Williams
1341 East Morehead Street, Suite 201
Charlotte, NC 28204

Land Investments, LLC
Attention: Terry Williams
1341 East Morehead Street, Suite 201
Charlotte, NC 28204

18. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and Developer relative to the Property and the Project and there are no promises, agreements, conditions or understandings,

oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

19. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

20. Assignment. After notice to the Town, Developer may assign its rights and responsibilities hereunder to subsequent land owners of all or any portion of the Property, provided that no assignment as to a portion of the Property will relieve Developer of responsibility with respect to the remaining portion of the Property owned by Developer without the written consent of the Town. In the event that Developer sells the Property in its entirety and assigns its rights and responsibilities to a subsequent land owner, then Developer shall be relieved of all of its covenants, commitments and obligations hereunder.

21. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

23. Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

24. Agreements to Run with the Land. This Agreement shall be recorded in the Union County Public Registry. The agreements contained herein shall be deemed to be a lien upon, binding upon and run with the land and shall be binding upon and an obligation of all successors in the ownership of the Property unless otherwise provided herein.

25. Hold Harmless. Developer agrees to and shall hold the Town, its officers, agents, employees, consultants, special counsel and representatives, harmless from liability for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of Developer or their contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the Project. Developer agrees to pay all costs for the defense of the Town and its officers, agents, employees, consultants, special counsel and representatives regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project. This hold harmless Agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this paragraph. The Town may make all reasonable decisions with respect to its representation in any legal proceeding.

Notwithstanding the foregoing, Developer's obligation to indemnify and hold the Town harmless shall not extend to any claims, losses or damages that arise from the acts or omissions of the

Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives as well as any claims, losses or damages arising from the gross negligence or willful misconduct of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives.

26. Severability. If any term or provision herein shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions.

27. No Pledge of Taxing Power or Governmental Authority. No provision of this Agreement shall be construed or interpreted as (1) creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation, (2) delegating governmental powers, or (3) a donation or a lending of the credit of the Town within the meaning of the Constitution of the State of North Carolina. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of Town monies, or operate beyond its intended scope so as to restrict, to any extent prohibited by law, any future action or right of action on the part of the Town of Stallings Town Council. To the extent of any conflict between this section and any other provision of this Agreement, this section shall take priority. Town has pre-audited this Agreement and the obligations hereunder to ensure compliance with budgetary accounting requirements (if any) that may apply. This Agreement is conditioned upon, and shall not be operative until, any required pre-audited certification is supplied.

28. Authority. Each party represents that it has undertaken all actions necessary for corporate or public approval of this Agreement, and that the person signing this Agreement has the authority to bind the Developer or the Town.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

Developer:

JLA3, LLC, a North Carolina limited liability company

By: _____

Name: John L. Armistead

Title: Manager

State of North Carolina

County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: John L. Armistead.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

IDLEWILD ASSOCIATES, LLC, a North Carolina limited liability company

By: _____
Name: _____
Title: _____

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: _____.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

METROLINA PROPERTIES LIMITED PARTNERSHIP,
a North Carolina limited partnership

By: Withrow Capital Investments, LLC, a North
Carolina limited liability company,
Its General Partner

By: Withrow Capital, Inc., a North Carolina
corporation,
Its Manager

By: _____
Name: Terry L. Williams
Title: President

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me
that he or she signed the foregoing document: Terry L. Williams.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

LAND INVESTMENTS, LLC, a North Carolina limited liability company

By: Withrow Capital, Inc., a North Carolina corporation,
Its Manager

By: _____
Name: Terry L. Williams
Title: President

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Terry L. Williams.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

Town:

TOWN OF STALLINGS, NORTH CAROLINA

By: _____

Name: _____

Title: Mayor

ATTESTED BY:

Erinn E. Nichols, Town Clerk

North Carolina
County of Union

I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that Erinn E. Nichols personally appeared before me this day and acknowledged that she is the Clerk of the Town of Stallings, and that by authority duly given, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by Erinn E. Nichols as its City Clerk.

Witness my hand and official seal this the _____ day of _____, 2021.

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

APPROVED AS TO FORM:

_____, Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

EXHIBIT "A"

Property – Legal Description

JLA3, LLC Parcels (070-750-20, 070-750-19, 070-750-17, 070-750-28 and 070-750-17A)

Tract 1 #07075019 (25.602 Acres)


Beginning at a point in the northeast most corner of the Ronald L. Wallace property recorded in the Union County Register of Deeds Book 457 at Page 631, being the northwest most corner of the Kenneth Hall property found in the Union County Register of Deeds Book 194 at Page 426 and from an old iron found North 81-47-12 West 791.25 feet; thence North 10-29-18 East 342.69 feet to the point and place of beginning; thence North 10-29-18 East 305.64 feet to a rebar found; thence North 66-08-29 West 27.02 feet to a 1" rebar found; thence South 11-10-19 West 313.09 feet to a point; thence South 81-46-32 East 30.04 feet to the point and place of beginning and containing 0.20 acres as surveyed by Jeffrey S. Gordon, NCRLS, #L-3751 on the 21st day of February, 2003.

Tract 2 #07075020 (.0864 Acres)

BEGINNING at an iron stake on the east side of the Secrest Short Cut Road, being the corner of John B. Hooks as it adjoins the corner of M.A. Hooks, Sr. (formerly) on the east side of said road, and runs thence from said Beginning point, with the said John B. Hooks line N 32-30 E 210 feet to an iron stake, a new corner on said line; thence two new lines, first S 49-45 E 210 feet to an iron stake, a new corner on said line; thence two new lines, first S 49-45 E 210 feet to an iron stake, second S 32-30 W 210 feet to an iron stake on the old line and East side of said Road; thence with the old line along the east side of said road N 49-45 W 210 feet to the point or place of BEGINNING, and containing one acre according to the survey by Ralph W. Elliott, NCRLS, dated September 2, 1954.

Tract 3 #07075017A (1 Acre)

BEGINNING at an iron pin in the center line of State Road Number 1501, a corner of the lands conveyed by Dorothy Keesler to Azalee Cashion on May 22, 1968 and runs from said point along and with the center line of said Road, North 32 degrees 34 minutes West 210.00 feet, to an iron pin in the center line of the same Road, a corner of the Griffin property (now or formerly) thence along and with the line of the Griffin property, North 39 degrees 00 minutes East 405.0 feet to a large marked post oak, the common corner of Griffin (now or formerly), the Hooks estate and Dallas B. Forbis, thence a new dividing line along and with the lands conveyed by Dorothy Keesler to Azalee Cashion on May 22, 1968, South 10 degrees 23 minutes West 450.5 feet to the point and place of BEGINNING and containing one acre more or less, according to a survey and revised map by Douglas P. Moore, Surveyor dated May 8, 1968, and being a portion of the properties conveyed by Dallas B. Forbis and wife, Shirley H. Forbis to Dorothy Keesler and Azalee Cashion as tenants in common by deed dated November 23, 1966 and recorded in Book 207 at page 167, Union County Register of Deeds.

BEING the identical property shown in Deed Book 387 at page 939, Union County Register of Deeds.

Tract 4 #07075017 (1 Acre)

BEGINNING at a thirty (30") inch post oak stump, said post oak stump marking the southeastern corner of the property of Idlewild Associates, LLC, (now or formerly) shown in Deed Book 3116 at page 127, Union County Register of Deeds, and the common corner with the northernmost corner of the property of JLA3, LLC property (now or formerly) as shown in Deed Book 5981 at page 848, Union County Register of Deeds, and running thence with the western line of the JLA3, LLC property (now or formerly) South 12 degrees 32 minutes 30 seconds West 451.17 feet to a point in the center line of Idlewild Road and running thence with the centerline of Idlewild Road North 51 degrees 10 minutes 22 seconds West 215.21 feet to a point, thence leaving Idlewild Road along the common line of Idlewild Associates, LLC (now or formerly) North 41 degrees 00 minutes 29 seconds East 404.81 feet to the thirty (30"0) inch post oak stump marking the **BEGINNING** point, and being and containing a 1.00 acre tract as shown on that unrecorded plat drawn by Hugh E. White, Jr, dated January 31, 2017, to which unrecorded plat reference is hereby made for a more complete description.

Tract 5 #07075028 (3.232 Acres)

BEGINNING AT A POINT in the centerline of Idlewild Road (formerly known as Secrest Shortcut Road), State Road #1582, and run thence from said point **N 07-09-30 W 41.69 feet** to a #4 found iron rebar which marks the northwesterly margin of said 60' public road right-of-way, said iron rebar also marks a southeasterly corner in the margin of the road right-of-way of property of Larry E. Little and wife, Pollie M. Little, now or formerly, (see deed recorded in Book 1133, Page 546, Union County Public Registry, "UCPR"), and running thence from said BEGINNING POINT along and with an easterly line of the Little property and along a barbed wire fence dividing the two properties, **N 07-09-30 W** (passing a found #4 iron rebar at 58.34 feet and a 1" iron pin found at 538.21 feet) a total distance of **540.29 feet** to a found #4 iron rebar marking a corner in the boundary shared with property of JLA3, LLC, now or formerly, (see deed recorded in Book 1584, Page 418, UCPR) and property of Richard H. Keesler, now or formerly, (see deed recorded in Book 387, Page 939, UCPR); thence running along and with a southeasterly line of JLA3, LLC, now or formerly, and along a barbed wire fence **S 52-41-32 E 246.86 feet** to a 24" oak tree which marks a common corner of JLA3, LLC, now or formerly, and property of Homer Purser, now or formerly, (see deed recorded in Book 210, Page 356, UCPR); thence running along and with a line of Purser, now or formerly, **S 51-58-26 E 301.97 feet** to a found #4 iron rebar, the same marking a northwesterly corner of property of Ricky B. Forbis, now or formerly, (see deed recorded in Book 602, Page 429, UCPR), said iron rebar also being located **N 52-22-40 W 30.12 feet** from another found #4 iron rebar; thence running along and with the Forbis property line **S 38-45-51 E 385.26 feet** to a found #4 iron rebar at the northwesterly margin of the road right-of-way of Idlewild Road; thence continuing along the same bearing of **S 38-45-51 W 30.22 feet** to a point in the centerline of Idlewild Road; thence running along and with the centerline of said roadway **N 51-01-44 W 130.63 feet** to the POINT AND PLACE OF BEGINNING. This property contains 3.232 acres, more or less, including 0.099 acres within the right-of-way of State Road #1582, and is also the same property as is shown as Lot 1 on plat recorded in Plat Cabinet D, Page 237, UCPR, entitled "Boundary and Division Survey of a Portion of Tract 1 of the Morris Forbis Estate Property", and this legal description is taken from a survey prepared by Western Carolina Surveyors, Inc., Hugh E. White, PLS #L-2646, dated 01/03/2005, entitled "Boundary Survey of 3.232 acres Tract on Idlewild Road".

Idlewild Associates, LLC Parcel (070-750-18) (8.57 Acres)

BEGINNING at a point in the center of the Secrest Short Cut Road, said point being indicated by an iron stake 23 feet distant on the north side of said road in range of first line, and running thence with two lines of the M.A. Hooks property, 1st, N. 46 deg. 15 min. E. 376 feet to an iron stake; 2nd, N. 23 deg. E. 660 feet to stones by a pine, P.O., B.J., and cedar; thence with another line of said M.A. Hooks property S.10 deg. 15 min. E. 937 feet to a large post oak; thence with the J.C. Forbis property line S. 41 deg. 15 min. W. 404 feet to a point in the center line of the Secrest Short Cut Road; thence along and with the center line of said road N. 50 deg. 30 min. W. 551 feet to the beginning corner and containing 8.57 acres of land according to a map and survey of said lands made by Ralph W. Elliott, Land Surveyor, dated July 28, 1955.

BEING IN ALL RESPECTS the same property conveyed to O.C. Griffin and Florence P. Griffin by deed dated July 30, 1955, and recorded in Book 131, Page 205 of the Union County Registry, the said O.C. Griffin having died leaving Florence P. Griffin as surviving tenant by the entirety who has also died on April 6, 1995.

Reference is also made to deed from Jan Poston Martin et als to Bruce H. Griffin, Jr., dated January 14, 1997, and recorded in Book 934, Page 615, Union County Registry.

Metrolina Properties Limited Partnership and Metrolina Properties Limited Partnership - Land Investments, LLC Parcels (070-750-22 and 070-750-22A) (11.9757 Acres)

BEING all that certain tract of land located within the Town of Stallings, Union County, North Carolina, and being located off Marshall Hooks Road and also located nearby and to the East of Interstate Highway 485, and also being portions of those certain parcels standing in the name of Metropolitan Properties, Limited Partnership, and Land Investments, LLC, and being more particularly described as follows:

BEGINNING at an existing iron pipe (“Beginning Point”) located within Union County, North Carolina, said existing iron pipe Beginning Point being located at the southwesterly corner of Tract 3 located on the northerly boundary line of Lot 6 as shown on that certain plat recorded in Map Book 5 Page 97 of the Union County Registry, said existing iron pipe Beginning Point being also located North 75-25-58 East 1,273.03 feet along an overland tie line from an existing NC Department of Transportation right-of-way disk (“Commencement Point”) located at the intersection of the northeasterly right-of-way margin of Idlewild Road and the southerly terminus of the intersection sight line connecting the northeasterly right-of-way margin of the said Idlewild Road with the southeasterly right-of-way margin of Marshall Hooks Road, said existing NC Department of Transportation right-of-way disk Commencement Point being also located near the easterly side of Interstate Highway 485, said existing NC Department of Transportation right-of-way disk Commencement Point having North Carolina State Plane coordinates of Northing = 504,543.96 feet and Easting = 1,505,556.05 feet as based on the Epoch 2010.0000 realization of the North American Horizontal Datum of 1983, said datum having a combined grid factor of 0.99984513 to convert from the ground distances called herein, and running thence from said POINT AND PLACE OF BEGINNING along the common boundary line with the said Lot 6 North 66-08-38 West 639.65 feet to a new iron rebar; thence along the common line between Lots 1 and 2 as shown on that certain plat recorded in Map Book 5 Page 97 of the Union County Registry North 13-10-07 East 272.39 feet to a point located on the Mecklenburg County-Union County Line as established by the North Carolina Geodetic Survey but not yet adopted by the respective counties; thence following with and along the Mecklenburg County-Union County Line as so established by the North Carolina Geodetic Survey North 46-37-29 East 1,118.24 feet to a point located on the southerly boundary line of Carolina Serrano Pena as described in Deed Book 27408 Page 123 of the Mecklenburg County Registry; thence along the common line with the said Carolina Serrano Pena South 75-55-27 East 33.74 feet to an existing iron rebar; thence along the common boundary line with Tract 3 as shown on that certain plat recorded in Map Book 5 Page 97 of the Union County Registry South 14-06-22 West (passing an existing iron rebar at 200.64 feet and passing an existing iron rebar at an additional 410.34 feet) a total distance of 1,323.61 feet to the point and place of BEGINNING, containing 11.9757 acres, more or less, as shown on a survey exhibit prepared by Andrew G. Zoutewelle, North Carolina Professional Land Surveyor No. L-3098, dated October 16, 2020.

EXHIBIT "B"

Approved Concept Plan

EXHIBIT "C"

Conceptual, Schematic Images of the Multi-Family Buildings

EXHIBIT "D"

Laws Governing the Development of the Project

1. Town of Stallings Development Ordinance in force as of the Effective Date of this Agreement and the applicable Preserved Ordinance Provisions, all of which are in a binder on file with the Town.
2. The Development Agreement and Concept Plan approved on _____, 2021.
3. Town of Stallings Technical Standards and Specifications Manual in force as of the Effective Date of this Agreement.

Document comparison by Workshare 10.0 on Sunday, April 18, 2021 4:29:43 PM

Input:	
Document 1 ID	iManage://WORKSITE/WSACTIVE/13482831/7
Description	#13482831v7<WSACTIVE> - JLA3 - Stallings Development Agreement
Document 2 ID	iManage://WORKSITE/WSACTIVE/13482831/8
Description	#13482831v8<WSACTIVE> - JLA3 - Stallings Development Agreement
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	53
Deletions	30
Moved from	6
Moved to	6
Style changes	0
Format changes	0
Total changes	95

DEVELOPMENT AGREEMENT
BY AND BETWEEN
METROLINA PROPERTIES LIMITED PARTNERSHIP
AND
TOWN OF STALLINGS

Prepared by and Return to:
John H. Carmichael
Robinson, Bradshaw & Hinson, P.A.
101 N. Tryon Street, Suite 1900
Charlotte, NC 28246

STATE OF NORTH CAROLINA)
)
COUNTY OF UNION)

DEVELOPMENT AGREEMENT

This Development Agreement (the “**Agreement**”) is made and entered into this _____ day of _____, 2021 (the “**Effective Date**”) by and between **Metrolina Properties Limited Partnership**, a North Carolina limited partnership (“**Developer**”), and the **Town of Stallings**, a North Carolina municipal corporation (“**Town**”).

STATEMENT OF PURPOSE

1. Section 160A-400.20(a)(1) of the North Carolina General Statutes provides that “large-scale development projects often occur in multiple phases extending over a period of years, requiring a long-term commitment of both public and private resources.”
2. Section 160A-400.20(a)(3) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects often require careful integration between public capital facilities planning, financing, and construction schedules and the phasing of the private development.”
3. Section 160A-400.20(a)(4) of the North Carolina General Statutes provides that “because of their scale and duration, such large-scale projects involve substantial commitments of private capital by developers, which developers are usually unwilling to risk without sufficient assurances that development standards will remain stable through the extended period of development.”
4. Section 160A-400.20(a)(5) of the North Carolina General Statutes provides that "because of their size and duration, such developments often permit communities and developers to experiment with different or nontraditional types of development concepts and standards, while still managing impacts on the surrounding areas."
5. Section 160A-400.20(a)(6) of the North Carolina General Statutes provides that “to better structure and manage development approvals for such large-scale developments and ensure their proper integration into local capital facilities programs, local governments need the flexibility in negotiating such developments.”
6. Section 160A-400.23 provides that a local government may enter into a development agreement with a developer for the development of “developable property of any size.”
7. In view of the foregoing, Sections 160A-400.20(b) and 160A-400.22 of the North Carolina General Statutes expressly authorize local governments and agencies to enter into development agreements with developers pursuant to the procedures and requirements of Sections 160A-400.20 through 160A-400.32 of the North Carolina General Statutes, which procedures and requirements include approval of the development agreement by the governing body of the local government by ordinance after a duly noticed public hearing.

BACKGROUND

1. Developer is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Mecklenburg County, North Carolina that is designated as Tax Parcel No. 195-112-01 on the Mecklenburg County Tax Maps (the “**Metrolina - Mecklenburg Property**”).
2. Developer is the owner of a parcel of land located near the Idlewild Road – Interstate 485 interchange in the Town of Stallings, Union County, North Carolina that is designated as Tax Parcel No. 070-750-23 on the Union County Tax Maps (the “**Metrolina – Union Property**”).
3. The Metrolina – Mecklenburg Property and the Metrolina – Union Property are hereinafter collectively referred to as the “**Property**.” The Property contains approximately 22.798 acres is subject to the terms and conditions of this Agreement. The Property is more particularly described on **Exhibit A** attached hereto and incorporated herein by reference. The Property is zoned MU-2.
4. Developer desires to develop a portion of a residential community (the “**Project**”) on the Property in accordance with the terms of this Agreement, the Concept Plan (defined below) and the Town of Stallings Development Ordinance (the “**Ordinance**”) that will contain single family detached dwelling units and single family attached dwelling units and associated residential amenities.
5. The Project is an approximately 22.798 acre portion of an approximately 74.268 acre multi-use development that has been planned as a single unified development. This single unified development of which the Project is a part is hereinafter referred to as the “**Unified Development**.”
6. After careful review and deliberation, the Town has determined that the Project is consistent with the Ordinance and that it would further the health, safety, welfare and economic well-being of the Town.
7. The Town has also determined that the Project will secure quality planning and growth, strengthen the tax base and provide public amenities and infrastructure.

Accordingly, Developer and the Town desire to enter into this Agreement for the purposes of coordinating the construction of infrastructure that will serve the Project and the community at large and providing assurances to Developer and its successors in interest that Developer may proceed with the development of the Project in accordance with the terms of this Agreement and the approvals set forth herein without encountering future changes in ordinances, regulations or policies that would affect Developer’s ability to develop the Project under the terms of this Agreement.

TERMS

NOW, THEREFORE, based upon the terms and conditions set forth herein and in consideration of the mutual promises and assurances provided herein, the parties do hereby agree as follows:

1. Public Hearing. Pursuant to Section 160A-400.24 of the North Carolina General Statutes, the Town Council conducted a public hearing on ~~_____~~ March 22, 2021 in accordance with the procedures set out in N.C.G.S. § 160A-364, and it approved on ~~_____~~ April 26, 2021 the subsequent execution of this Agreement by the Town. The notice of public hearing specified, among other things, the location of the Property subject to this Agreement, the development uses proposed on the Property and a place where a copy of the Agreement can be obtained. The approval of this Agreement by the Town Council included the approval of the ~~eighteen~~ (810) page Site Development Plan (as defined in Section 7.7(D)(1) of the Ordinance) for the Project (the “**Concept Plan**”) attached hereto as **Exhibit B** and incorporated herein by reference. As referenced above, the Project is a portion of the Unified Development, and the Concept Plan includes the Property and the other portions of the Unified Development.

2. Permitted Uses/Maximum Density. Subject to the limitations set out herein and on the Concept Plan, the Property may be devoted to the uses and to the development densities set out below.

A. A maximum of 52 single family attached dwelling units may be developed on the Property.

B. A maximum of 19 single family detached dwelling units may be developed on the Property.

C. Incidental and accessory uses relating to the foregoing residential uses that are permitted in the MU-2 zoning district may be developed on the Property. Incidental and accessory uses may include, without limitation, amenities for the single family detached dwelling units and the single family attached dwelling units.

D. Private Sewer Treatment Facility. A private sewer treatment facility shall not be permitted on the on the Property.

3. Development of the Property. The Property may be developed in accordance with the Concept Plan, Site Construction Plans (as defined in Section 7.7(G)(1) of the Ordinance) subsequently submitted to and approved by the Development Administrator, associated permits, the applicable provisions of the Ordinance and the terms of this Agreement. Approval of this Agreement pursuant to Sections 160A-400.20 et seq. of the North Carolina General Statutes does not confer additional authority to the Town to consider the development of the Property or to impose conditions or restrictions beyond those allowed by the Ordinance. The agreements of the Developer herein are voluntary agreements. The development and uses depicted on the Concept Plan are schematic in nature and are intended to depict the general arrangement of uses and improvements on the Property. Accordingly, the ultimate layout, locations and sizes of the development and site elements depicted on the Concept Plan are graphic representations of the

proposed development and site elements, and they may be altered or modified in accordance with the setback, yard, buffer and landscaping requirements set forth on the Concept Plan.

4. Development Schedule. The Project shall be developed in accordance with the schedule set out below, or as may be amended by the agreement of the parties to reflect actual market absorption. Pursuant to N.C.G.S. § 160A-400.25(b), the failure to meet a commencement or completion date shall not, in and of itself, constitute a material breach of this Agreement pursuant to N.C.G.S. § 160A-400.27 but must be judged based upon the totality of the circumstances, including, but not limited to, Developer's good faith efforts to attain compliance with the relevant development schedule. The development schedule is a budget planning tool and shall not be interpreted as mandating the development pace initially forecast or preventing a faster pace of development if market conditions support a faster pace.

A. Within the later to occur of five (5) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property, Developer shall commence the development of the single family detached dwelling units and the single family attached dwelling units.

B. The development of the Project shall be substantially completed within the later to occur of fifteen (15) years after the Effective Date of this Agreement or five (5) years after the availability of sufficient public sewer capacity to the Property. Substantially completed shall mean that all streets and infrastructure have been constructed and installed on the Property.

C. This Section 4 of the Agreement relates only to the development schedule of the Project. After the substantial completion of the development of the Project as defined above in subparagraph B-~~above~~, the development and use of the Property will continue to be subject to the terms and conditions of this Agreement

5. Transportation Improvements. The development of the Property shall comply with the following transportation requirements.

A. Vehicular access to the Property shall be as generally depicted on the Concept Plan. The placement and configuration of the vehicular access points are subject to any minor modifications required to accommodate final site and construction plans and designs and to any other adjustments that are approved by the Town and/or the North Carolina Department of Transportation ("NCDOT").

B. The Property will be served by internal public streets and internal private streets, and adjustments to the locations of the internal public streets and the internal private streets shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer. Additionally, modifications to the alignments and locations of the internal drives, vehicular circulation areas and driveways shall be allowed during the construction permitting process upon the approval of the Development Administrator and the Town Engineer.

C. Subject to the approval of NCDOT and the terms of this ~~paragraph~~Section 5, Developer, or its successors in interest, shall install all of the transportation improvements that are required to be installed by the developer of the Project in a Traffic Impact Analysis dated

_____, 2020 prepared by Ramey Kemp and Associates ~~or in any amended Traffic Impact Analysis for the Project subsequently approved by NCDOT (collectively,~~ (the “TIA”). The transportation improvements that are required to be installed by the developer of the Project shall be installed in accordance with the schedule and/or the phasing analysis in the TIA ~~or in any amended TIA approved by NCDOT,~~ and such transportation improvements shall be installed in accordance with the specifications of NCDOT.

(1) The TIA recommends that the additional eastbound lane to be installed by Developer on Idlewild Road taper down at Access C (the signalized access point into the Property from Idlewild Road) and terminate on the eastern side of Access C. Notwithstanding that recommendation and subject to the approval of NCDOT, Developer will extend the additional eastbound lane to be installed on Idlewild Road to Stevens Mill Road, and this extended eastbound lane shall terminate at Stevens Mill Road as a left turn lane onto Stevens Mill Road.

D. ~~The~~In the event that the density of the Project is reduced by Developer below the maximum density allowed in this Agreement and the reduction in density results in a decrease in the number of vehicular trips generated by the Project, Developer may, at its option, have an amended TIA prepared and approved by NCDOT (the “Amended TIA”). Developer shall then be required to only install the transportation improvements that are required to be installed by the developer of the Project ~~as set out in the Amended TIA may be amended and revised provided that an amended TIA is prepared and approved by NCDOT~~ rather than the transportation improvements that are required to be installed by the developer of the Project in the TIA, and such transportation improvements shall be installed in accordance with the schedule and/or the phasing analysis in the Amended TIA and in accordance with the specifications of NCDOT.

E. If Developer does not move forward with the development of the Project, Developer shall not be required to install any of the transportation improvements set out in the TIA or in any ~~amended~~Amended TIA.

6. Multi-Use Path/Greenway Trail.

A. Developer shall install a minimum 12 foot wide multi-use path/greenway trail within the Property as generally depicted on the Walkability Exhibit of the Concept Plan. This 12 foot wide multi-use path/greenway trail shall be constructed in accordance with the applicable standards set out in the Town of Stallings Parks, Recreation and Greenway Master Plan and shall be located within public right of way.

B. The Project, and the infrastructure relating thereto, shall be developed in phases. The minimum 12 foot wide multi-use path/greenway trail referenced above located within each phase of the Project shall be completed prior to the issuance of the first certificate of occupancy for the phase of the Project in which the relevant portion of the 12 foot wide multi-use path/greenway trail is located.

7. Architectural and Design Standards/Buffer and Screening/Storm Water Facilities.

A. Single Family Detached Dwelling Units. The architectural standards set out below shall apply to any single family detached dwelling unit developed on the Property.

- (1) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.
- (2) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (3) Dimensional shingles shall be utilized on the roof.
- (4) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.
- (5) Each single family detached dwelling unit shall include a covered front porch that faces the adjacent street.
- (6) The minimum floor to ceiling height of the first floor of each single family detached dwelling unit shall be nine (9) feet.
- (7) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (8) Each single family detached dwelling unit shall have a minimum two (2) car garage with a carriage style door and hardware.
- (9) Adequate swales will be installed between the single family detached dwelling units in accordance with standard engineering design criteria.
- (10) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

B. Single Family Attached Dwelling Units. The architectural standards set out below shall apply to any single family attached dwelling unit developed on the Property.

- (1) Each single family attached dwelling unit will be alley loaded.
- (2) The primary exterior building materials on exterior walls will be a combination of stone, brick and cementitious siding with shake and board and batten accents.
- (3) Vinyl may not be used as an exterior building material. Notwithstanding the foregoing, vinyl may be utilized on windows, doors, garage doors, soffits, trim and railings.
- (4) Dimensional shingles shall be utilized on the roof.
- (5) Approximately 18 inches to 24 inches of the base of the front and side exterior walls shall be clad with brick or stone.
- (6) Each single family attached dwelling unit shall have a covered front porch with a minimum width equal to 40 percent (40%) of the width of the front façade of the single family attached dwelling unit.
- (7) The minimum floor to ceiling height of the first floor of each single family attached dwelling unit shall be nine (9) feet.
- (8) The front façade (street facing façade) shall be articulated through the use of gables and offsets.
- (9) Sidewalks shall connect each single attached dwelling unit to a public sidewalk.
- (10) Adequate swales will be installed between the buildings containing single family attached dwelling units in accordance with standard engineering design criteria.
- (11) Crawl space construction techniques and professional landscape design shall be employed to establish finished floor elevations a minimum of two (2) feet above the adjacent public sidewalk.

C. Buffer/Screen Fence.

- (1) ~~As depicted on the Concept Plan, a~~ 100 foot wide Type B buffer shall be established along the eastern and northern boundary lines of the Property as depicted on the Concept Plan. Notwithstanding the foregoing, the width of this Type B buffer may, at the option of Developer, be reduced by thirty percent (30%) to seventy (70) feet in those locations depicted on Sheet 8 of the Concept Plan through the installation of a minimum six (6) foot tall opaque, vinyl screen fence as allowed under the Ordinance.
- (2) Notwithstanding anything contained herein to the contrary, the minimum six (6) foot tall opaque, vinyl screen fence shall be installed within the Type B buffer located along the northern boundary linesline of the Property. ~~The whether or not the~~ width of ~~this~~the Type B buffer ~~may be~~located along the northern boundary line of the Property is reduced ~~by thirty percent (30%)~~ to

seventy (70) feet ~~through the installation of a five (5) foot tall screen fence as allowed~~ as described above in subparagraph 7.C.(1).

(3) Subject to the terms of subparagraphs 7.C.(3)(a) and (b), the exterior thirty (30) feet of the Type B buffer referenced above in subparagraph 7.C.(1) shall remain undisturbed, provided, however, that in the event that the existing vegetation does not meet the tree and shrub requirements of a Type B buffer, supplemental plantings shall be installed to bring this Type B buffer into compliance with these requirements.

(a) The exterior thirty (30) feet of this Type B buffer may be disturbed to remove dead trees and shrubs.

(b) The exterior thirty (30) feet of the Type B buffer located along the eastern boundary line of the Property may be disturbed to install utility lines that serve the Project, provided, however, that utility lines may only cross the exterior thirty (30) feet of the Type B buffer at interior angles measured at the eastern boundary line of the Property that are not less than seventy-five (75) degrees. Where existing trees and natural vegetation have been cleared within the exterior thirty (30) feet of the Type B buffer to accommodate the installation of utility lines, the cleared, unimproved areas will be landscaped with trees and shrubs in accordance with the ~~Ordinance~~ requirements of a Type B buffer.

(24) ~~The~~ ~~As depicted on the Concept Plan,~~ evergreen screening trees shall be installed within the Type B buffer located along the northern boundary line of the Property ~~shall include~~ ~~outside of the thirty (30) foot undisturbed area referenced above in subparagraph 7.C.(3).~~ These evergreen ~~trees to provide additional screening for the existing single family homes located on Anglesey Court~~ trees shall be in addition to the trees and shrubs required in a Type B buffer.

D. Storm Water Facilities.

(1) In the event that any storm water facility installed on the Property is a wet pond, Developer shall install a fountain in such wet pond to minimize the buildup of algae.

8. Laws Governing the Development of the Project. The laws, land development regulations and ordinances applicable to the development of the Project are those in force as of the Effective Date and those applicable Ordinance provisions that were in force and effect on the date that the Development Agreement Application relating to this Agreement was filed with the Town (the “**Preserved Ordinance Provisions**”). Accordingly, Developer and its successors in interest shall have a vested right to develop the Project in accordance with the Concept Plan, the terms of this Agreement and the terms of the Ordinance and any applicable laws, land development regulations and ordinances in force as of the Effective Date and in accordance with the Preserved Ordinance Provisions during the entire term of this Agreement. Pursuant to N.C.G.S. § 160A-400.26 and except as provided in N.C.G.S. § 160A-385.1(e), the Town may not apply subsequently adopted laws, land development regulations, ordinances or development policies to the Project or to the Property during the term of this Agreement without the written consent of Developer or its successors in interest. Additionally, no future impact fees shall apply to the Project or to the Property without the written consent of Developer or its successors in interest. This Agreement does not abrogate any rights preserved by N.C.G.S. § 160A-385 or

N.C.G.S. § 160A-385.1, or that may vest pursuant to common law or otherwise in the absence of this Agreement. The Town and Developer agree that the specific laws, land development regulations and ordinances in force as of the Effective Date and the applicable Preserved Ordinance Provisions are more particularly set out on Exhibit D attached hereto and incorporated herein by reference, and are in a binder on file with the Town.

9. Term. The term of this Agreement shall commence on the Effective Date and shall expire twenty (20) years thereafter on _____ unless sooner terminated by the mutual consent of the parties hereto or their successors in interest, or unless extended by the mutual consent of the parties hereto or their successors in interest.

10. Local Development Permits. In accordance with N.C.G.S. § 160A-400.25(6), the following is a description or list of the local development permits approved or needed to be approved for the development of the Project:

- A. Erosion and Sediment Control Permit (Union County).
- B. Water Extension Permit (NCDENR).
- C. Sewer Extension Permit (NCDENR).
- D. NCDOT Encroachment Permit.
- E. NCDOT Entrance Permit.
- F. Zoning Permits.
- G. Building Permits.
- H. All other local, state or federal permits required for the Project.

The failure of this Agreement to address a particular permit, condition, term or restriction does not relieve Developer of the necessity of complying with the law governing the local permitting requirements, conditions, terms or restrictions.

11. Public Facilities. The following public facilities will serve the Project: public sewer and public water. Public water will be provided by Union County Public Works and is currently available to the Property. Public sewer will be provided by Union County Public Works. Public sewer is not currently available to the Property, however, it is anticipated that public sewer will be available to the Property on or before March 31, 2022 as a result of a funded Union County Public Works project. In any event, public sewer shall be available to the Property prior to the issuance of the first building permit for the Project. Notwithstanding the foregoing, with respect to public sewer and public water, the Project may utilize Charlotte Water with respect to public sewer and public water at the option of Developer.

12. Sewer and Water Lines. Developer, at its sole cost and expense, shall engineer, design, permit, construct and install the water and sewer lines to be located within the Project (the “**Internal Water and Sewer Lines**”). The Internal Water and Sewer Lines shall be engineered,

designed, constructed and installed in accordance with all applicable federal, state and local laws, regulations, ordinances and policies. The Internal Water and Sewer Lines shall be transferred to Union County or other applicable public agency for ownership and maintenance after such lines have been constructed and installed.

13. Amendment. The terms of this Agreement may be amended by the mutual consent of the parties hereto or their successors in interest. A major modification of the terms of this Agreement shall follow the same procedures as required for the initial approval of this Agreement. A minor amendment to the Concept Plan approved by the Town of Stallings Development Administrator shall not be considered to be a major amendment to this Agreement. The Development Administrator shall have the authority to ~~approved~~approve minor, administrative amendments to the Concept Plan.

14. Recordation/Binding Effect. Within fourteen (14) days after the Town enters into this Agreement, Developer shall record this Agreement in the Union County Public Registry and the Mecklenburg County Public Registry. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties hereto.

15. Periodic Review.

A. Pursuant to N.C.G.S. § 160A-400.27, the Development Administrator or other Town Manager designee shall conduct a periodic review, (the "**Periodic Review**") at least every 12 months, at which time Developer shall be required to demonstrate good faith compliance with the terms of this Agreement.

B. If, as a result of the Periodic Review, the Town finds and determines that Developer has committed a material breach of the terms or conditions of the Agreement, the Town shall serve notice in writing, within a reasonable time after the Periodic Review, upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination, and providing Developer a reasonable time in which to cure the material breach.

C. If Developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the Agreement; provided, however, that the notice of termination or modification or finding of breach may be appealed to the Board of Adjustment in the manner provided by N.C.G.S. § 160A-388(b).

16. Default. The failure of Developer or the Town to comply with the terms of this Agreement shall constitute a default, entitling the non-defaulting party to pursue such remedies as allowed under applicable law, provided, however, that no termination of this Agreement may be declared by the Town absent its according to Developer the notice and opportunity to cure set out in N.C.G.S. § 160A-400.27. In addition to any other rights or remedies, either party may institute legal action to cure, correct, or remedy any default or breach, to specifically enforce any covenants or agreements set forth in the Agreement or to enjoin any threatened or attempted violation of the Agreement; or to obtain any remedies consistent with the purpose of the Agreement. Legal actions shall be instituted in the Superior Court of the County of Union, State of North Carolina, or in the Federal District Court in the Western District, and the parties hereto

submit to the personal jurisdiction of such courts without application of any conflicts of laws provisions of any jurisdiction. Notwithstanding anything contained herein to the contrary, the violation of any rule, policy, regulation, ordinance or law by a tenant in the Project shall not be considered to be an event of default under this Agreement. That being said, the Town is not waiving its ability or right to enforce the Ordinance or any other Town regulation in accordance with the terms of the Ordinance or any such regulation.

17. Notices. Any notice, demand, request, consent, approval or communication which a signatory party is required to or may give to another signatory party hereunder shall be in writing and shall be delivered or addressed to the other at the address below set forth or to such other address as such party may from time to time direct by written notice given in the manner herein prescribed, and such notice or communication shall be deemed to have been given or made when communicated by personal delivery or by independent courier service or if by mail on the fifth (5th) business day after the deposit thereof in the United States Mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, consents, approvals or communications to the Town shall be addressed to:

The Town at: Town of Stallings
c/o Town Manager
315 Stallings Road
Stallings, North Carolina 28104

Developer at: Metrolina Properties Limited Partnership
Attention: Terry Williams
1341 East Morehead Street, Suite 201
Charlotte, NC 28204

18. Entire Agreement. This Agreement sets forth, and incorporates by reference all of the agreements, conditions and understandings between the Town and Developer relative to the Property and the Project and there are no promises, agreements, conditions or understandings, oral or written, expressed or implied, among these parties relative to the matters addressed herein other than as set forth or as referred to herein.

19. Construction. The parties agree that each party and its counsel have reviewed and revised this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendments or exhibits hereto.

20. Assignment. After notice to the Town, Developer may assign its rights and responsibilities hereunder to subsequent land owners of all or any portion of the Property, provided that no assignment as to a portion of the Property will relieve Developer of responsibility with respect to the remaining portion of the Property owned by Developer without the written consent of the Town. In the event that Developer sells the Property in its entirety and assigns its rights and responsibilities to a subsequent land owner, then Developer shall be relieved of all of its covenants, commitments and obligations hereunder.

21. Governing Law. This Agreement shall be governed by the laws of the State of North Carolina.

22. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterparts shall constitute one and the same instrument.

23. Agreement to Cooperate. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the parties hereby agree to cooperate in defending such action; provided, however, each party shall retain the right to pursue its own independent legal defense.

24. Agreements to Run with the Land. This Agreement shall be recorded in the Union County Public Registry [and the Mecklenburg County Public Registry](#). The agreements contained herein shall be deemed to be a lien upon, binding upon and run with the land and shall be binding upon and an obligation of all successors in the ownership of the Property unless otherwise provided herein.

25. Hold Harmless. Developer agrees to and shall hold the Town, its officers, agents, employees, consultants, special counsel and representatives, harmless from liability for damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including health, and claims for property damage which may arise from the direct or indirect operations of Developer or their contractors, subcontractors, agents, employees or other persons acting on their behalf which relates to the Project. Developer agrees to pay all costs for the defense of the Town and its officers, agents, employees, consultants, special counsel and representatives regarding any action for damages, just compensation, restitution, judicial or equitable relief caused or alleged to have been caused by reason of Developer's actions in connection with the Project. This hold harmless Agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered or alleged to have been suffered by reason of the events referred to in this paragraph. The Town may make all reasonable decisions with respect to its representation in any legal proceeding.

Notwithstanding the foregoing, Developer's obligation to indemnify and hold the Town harmless shall not extend to any claims, losses or damages that arise from the acts or omissions of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives as well as any claims, losses or damages arising from the gross negligence or willful misconduct of the Town and/or its officers, agents, employees, consultants, special counsel, contractors and representatives.

26. Severability. If any term or provision herein shall be judicially determined to be void or of no effect, such determination shall not affect the validity of the remaining terms and provisions.

27. No Pledge of Taxing Power or Governmental Authority. No provision of this Agreement shall be construed or interpreted as (1) creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation, (2) delegating governmental powers, or (3) a donation or a lending of the credit of the Town within the meaning of the Constitution of the State of North Carolina. No provision of this Agreement shall be construed to pledge or to

create a lien on any class or source of Town monies, or operate beyond its intended scope so as to restrict, to any extent prohibited by law, any future action or right of action on the part of the Town of Stallings Town Council. To the extent of any conflict between this section and any other provision of this Agreement, this section shall take priority. Town has pre-audited this Agreement and the obligations hereunder to ensure compliance with budgetary accounting requirements (if any) that may apply. This Agreement is conditioned upon, and shall not be operative until, any required pre-audited certification is supplied.

28. Authority. Each party represents that it has undertaken all actions necessary for corporate or public approval of this Agreement, and that the person signing this Agreement has the authority to bind the Developer or the Town.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties hereby set their hands and seals, effective the date first above written.

Developer:

METROLINA PROPERTIES LIMITED PARTNERSHIP,
a North Carolina limited partnership

By: Withrow Capital Investments, LLC, a North
Carolina limited liability company,
Its General Partner

By: Withrow Capital, Inc., a North Carolina
corporation,
Its Manager

By: _____
Name: Terry L. Williams
Title: President

State of North Carolina
County of _____

I certify that the following person personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Terry L. Williams.

Date: _____

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

Town:

TOWN OF STALLINGS, NORTH CAROLINA

By: _____

Name: _____

Title: Mayor

ATTESTED BY:

Erinn E. Nichols, Town Clerk

North Carolina
County of Union

I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that Erinn E. Nichols personally appeared before me this day and acknowledged that she is the Clerk of the Town of Stallings, and that by authority duly given, the foregoing instrument was signed in its name by its Mayor, sealed with its corporate seal, and attested by Erinn E. Nichols as its City Clerk.

Witness my hand and official seal this the _____ day of _____, 2021.

Notary Public Signature

Notary Public Printed or Typed Name

My Commission Expires: _____

APPROVED AS TO FORM:

_____, Town Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

EXHIBIT "A"

Property – Legal Description

BEING all that certain tract or parcel of land located within the Town of Stallings, Mecklenburg and Union Counties, North Carolina, and fronting on Marshall Hooks Road and also located nearby and to the East of Interstate Highway 485, and being more particularly described as follows:

BEGINNING at an existing iron pipe ("Beginning Point") located within Union County, North Carolina, said existing iron pipe Beginning Point being located at an existing corner on the northerly boundary line of JLA3 LLC as described in Deed Book 1584 Page 418 of the Union County Registry, said existing iron pipe Beginning Point being also located North 75-25-58 East 1,273.03 feet along an overland tie line from an existing NC Department of Transportation right-of-way disk ("Commencement Point") located at the intersection of the northeasterly right-of-way margin of Idlewild Road and the southerly terminus of the intersection sight line connecting the northerly right-of-way margin of the said Idlewild Road with the southeasterly right-of-way margin of Marshall Hooks Road, said existing NC Department of Transportation right-of-way disk Commencement Point being also located near the easterly side of Interstate Highway 485, said existing NC Department of Transportation right-of-way disk Commencement Point having North Carolina State Plane coordinates of Northing = 504,543.96 feet and Easting = 1,505,556.05 feet as based on the Epoch 2010.0000 realization of the North American Horizontal Datum of 1983, said datum having a combined grid factor of 0.99984513 to convert from the ground distances noted herein, and running thence from said POINT AND PLACE OF BEGINNING along the common boundary line with Land Investments, LLC, as described in Deed Book 4908 Pages 655 and 660 of the Union County Registry North 14-06-22 East 712.63 feet to an existing iron rebar; thence along the common boundary line with Metrolina Properties Limited Partnership as described in Deed Book 3154 Page 767 of the Union County Registry North 14-06-22 East 410.34 feet to an existing iron rebar; thence along the common boundary line with the said Land Investments, LLC, North 14-06-22 East 200.64 feet to an existing iron rebar; thence along the common boundary line with Carolina Serrano Pena as described in Deed Book 27408 Page 123 of the Mecklenburg County Registry and also crossing the Union County and Mecklenburg County boundary North 14-04-44 East (passing an existing iron rebar at 319.47 feet on the southerly right-of-way margin of Marshall Hooks Road, said right-of-way having a width of 60 feet as described in Deed Book 4169 Page 108 of the Mecklenburg County Registry) a total distance of 350.10 feet to a new surveyor's pk nail located at the centerline terminus of the open portion of the said Marshall Hooks Road; thence along the centerline of the unopened portion of the said Marshall Hooks Road the following two (2) calls: (1) South 69-27-53 East 114.76 feet to a new iron rebar and (2) South 87-44-35 East 93.71 feet to an existing #4 iron rebar; thence along the common boundary line with Lots 484, 485 and 486 as shown on that certain plat recorded in Plat Cabinet F File 323 of the Union County Registry the following five (5) calls: (1) South 87-44-35 East 6.31 feet to an existing #4 iron rebar, (2) North 75-30-52 East 99.98 feet to an existing #4 iron rebar, (3) North 67-34-53 East 100.04 feet to an existing #4 iron rebar, (4) North 54-28-01 East 100.00 feet to an existing #4 iron rebar and (5) North 53-38-33 East (passing an existing #4 iron rebar at 25.06 feet) a total distance of 86.21 feet to a new iron rebar; thence South 11-11-55 West 2,038.77 feet to an existing iron pipe at the common corner between two tracts of the aforesaid JLA3 LLC as described in Deed Book 1584 Page 418 and in Deed Book 3048 Page 183 both of the Union County Registry; thence along the common boundary line with the said JLA3 LLC North 66-02-45 West 612.01 feet to the point and place of BEGINNING, containing 22.7980 acres, more or less, as shown on a survey conducted by Andrew G. Zoutewelle, North Carolina Professional Land Surveyor No. L-3098, on May 28, 2019.

EXHIBIT "B"

Approved Concept Plan

EXHIBIT "C"

Laws Governing the Development of the Project

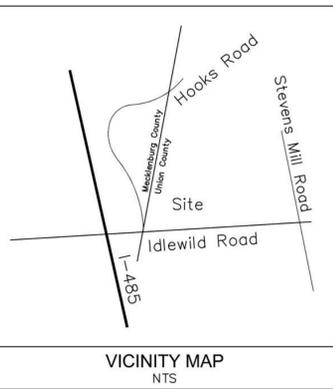
1. Town of Stallings Development Ordinance in force as of the Effective Date of this Agreement and the applicable Preserved Ordinance Provisions, all of which are in a binder on file with the Town.
2. The Development Agreement and Concept Plan approved on _____, 2021.
3. Town of Stallings Technical Standards and Specifications Manual in force as of the Effective Date of this Agreement.

Document comparison by Workshare 10.0 on Sunday, April 18, 2021 4:31:21 PM

Input:	
Document 1 ID	iManage://WORKSITE/WSACTIVE/13486601/4
Description	#13486601v4<WSACTIVE> - Metrolina Properties - Stallings Development Agreement
Document 2 ID	iManage://WORKSITE/WSACTIVE/13486601/5
Description	#13486601v5<WSACTIVE> - Metrolina Properties - Stallings Development Agreement
Rendering set	Standard

Legend:	
Insertion	
Deletion	
Moved from	
Moved to	
Style change	
Format change	
Moved deletion	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	45
Deletions	32
Moved from	2
Moved to	2
Style changes	0
Format changes	0
Total changes	81



EXISTING CONDITIONS INFORMATION SHOWN ON THIS PLAN IS PER SITE SURVEYS, UNION COUNTY GIS, & SITE ANALYSIS. INFORMATION PROVIDED IS FOR REFERENCE ONLY AND MAY ADJUST BASED ON FINAL SITE SURVEY AND CONSULTANT VERIFICATION DURING PERMITTING.

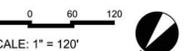


DEVELOPMENT AGREEMENT

STINSON FARMS
STALLINGS, NORTH CAROLINA

D.R. HORTON

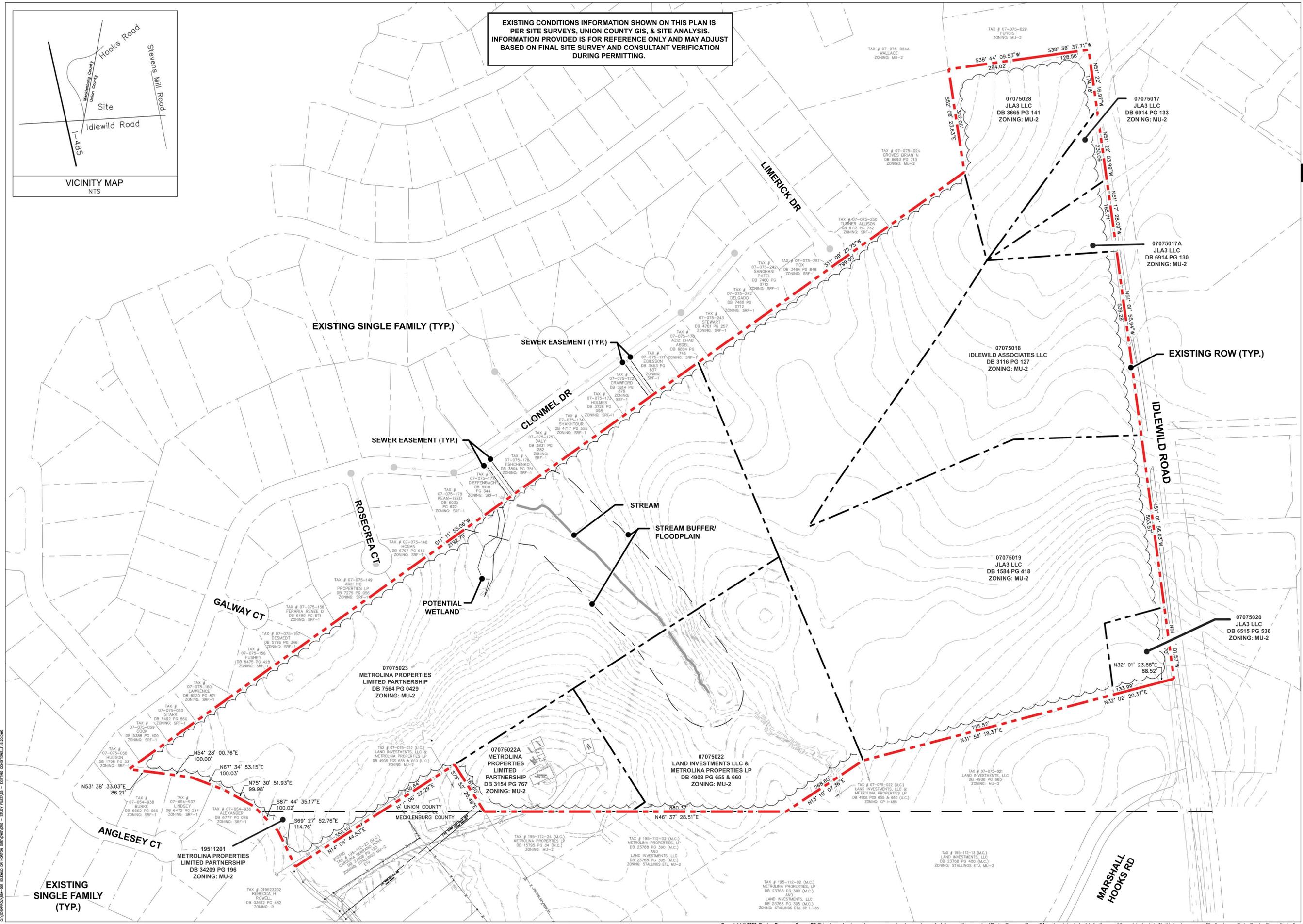
EXISTING
CONDITIONS

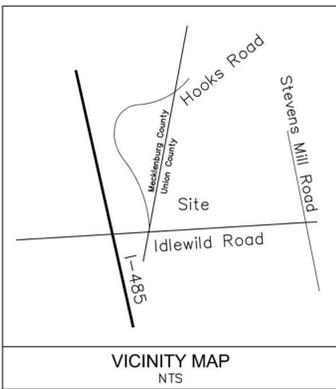


PROJECT #: 854-001
DRAWN BY: JO
CHECKED BY: NB

APRIL 20, 2021

REVISIONS:





SITE DATA

TAX MAP NO U.C.: 07075020, 07075019, 07075018, 07075017A, 0707017, 07075028, 07075023, 07075022, 07075022A, 07075021
 TAX MAP NO M.C.: 19511224, 19511202, 19511201, 19511213

ZONING: MU-2

TOTAL SITE AREA: ±72.80 ACRES

SITE AREA PER FUTURE IDLEWILD ROW: ±70.1 ACRES

COMMERCIAL AREA: ±13.3 ACRES
 RESIDENTIAL AREA: ±56.8 ACRES

EXISTING LAND USE: VACANT (WOODED LAND)
 PROPOSED USE: MULTIFAMILY RESIDENTIAL, ATTACHED HOMES (TOWNHOMES), SINGLE FAMILY DETACHED HOMES, COMMERCIAL

BUILDING STANDARDS

SETBACKS:

- COMMERCIAL = FRONT: 12' MINIMUM FROM STREET ROW REAR: 12' MINIMUM WHEN NO BUFFER IS REQUIRED SIDE: 12' MINIMUM WHEN NO BUFFER IS REQUIRED

- SINGLE FAMILY DETACHED = FRONT: 16' REAR: 12' SIDE: 5'

- MULTIFAMILY = FRONT (MAIN STREET): 21' FRONT: 16' (BUILD TO LINE) REAR: 12' SIDE: 5'

PROPOSED BUILDING DIMENSIONS & AREA CALCS:

- SINGLE FAMILY DETACHED = ± 39'x63' (±2,700 AVERAGE SF PER HOME)
- 32 HOMES X 2,700 SF = ±86,400 SF TOTAL

- ATTACHED HOMES = ± 22'x56' (±1,720 AVERAGE SF PER UNIT)
- 136 UNITS X 1,720 SF = 233,920 SF

- MULTIFAMILY = 14 BUILDINGS (±30,920 AVERAGE SF PER BUILDING)
- 14 BUILDINGS X 30,920 SF = ±432,880 SF
- ±7,000 SF CLUB
- = ±439,880 SF TOTAL

- COMMERCIAL AREA WILL BE GOVERNED BY THE ORDINANCE AND DEVELOPMENT AGREEMENT

PROPOSED IMPERVIOUS CALCULATIONS:

- SINGLE FAMILY DETACHED = ±3.50 AC (152,460 SF) IMPERVIOUS
- ATTACHED HOMES = ±9.60 AC (418,176 SF) IMPERVIOUS
- MULTIFAMILY = ±14.46 AC (629,880 SF) IMPERVIOUS
- COMMERCIAL AREA = ±9.96 ACRES (433,858 SF) IMPERVIOUS
- = ±37.52 ACRES (434,510 SF) IMPERVIOUS TOTAL

UNITS: 336 MULTI-FAMILY UNITS
 136 ALLEY LOADED TOWNHOMES
 32 SINGLE FAMILY DETACHED (6,000 SF MIN. & 60' WIDE MIN.)

BUILDING HEIGHT: THE MAXIMUM HEIGHT OF ANY BUILDING DEVELOPED ON THE SITE SHALL BE GOVERNED BY THE ORDINANCE

MAX DUA: 28 DUA
 PROPOSED RESIDENTIAL DUA: ±8.87 DUA (PER 56.8 AC)
 MULTIFAMILY DUA: ±16.71 DUA
 TOWNHOME DUA: ±7.51 DUA
 SINGLE FAMILY DUA: ±1.71 DUA

TREE SAVE REQUIRED: 6% MINIMUM
 SEE SHEET 6 FOR FURTHER DETAIL

OPEN SPACE REQUIRED: 7.5% MINIMUM
 SEE SHEET 3 FOR FURTHER DETAIL

PARKING: PARKING WILL MEET THE REQUIREMENTS OF THE ORDINANCE

WATERSHED: GOOSE CREEK BASIN

A. VEHICULAR ACCESS TO THE PROPERTY SHALL BE AS GENERALLY DEPICTED ON THE CONCEPT PLAN. THE PLACEMENT AND CONFIGURATION OF THE VEHICULAR ACCESS POINTS ARE SUBJECT TO ANY MINOR MODIFICATIONS REQUIRED TO ACCOMMODATE FINAL SITE AND CONSTRUCTION PLANS AND DESIGNS AND TO ANY OTHER ADJUSTMENTS THAT ARE APPROVED BY THE TOWN AND/OR NCDOT.

B. THE PROPERTY WILL BE SERVED BY INTERNAL PUBLIC STREETS AND INTERNAL PRIVATE STREETS, AND ADJUSTMENTS TO THE LOCATIONS OF THE INTERNAL PUBLIC STREETS AND THE INTERNAL PRIVATE STREETS SHALL BE ALLOWED DURING THE CONSTRUCTION PERMITTING PROCESS UPON THE APPROVAL OF THE DEVELOPMENT ADMINISTRATOR AND THE TOWN ENGINEER. ADDITIONALLY, MODIFICATIONS TO THE ALIGNMENTS AND LOCATIONS OF THE INTERNAL DRIVES, VEHICULAR CIRCULATION AREAS AND DRIVEWAYS SHALL BE ALLOWED DURING THE CONSTRUCTION PERMITTING PROCESS UPON THE APPROVAL OF THE DEVELOPMENT ADMINISTRATOR AND THE TOWN ENGINEER.

C. THE DEVELOPMENT AND USES DEPICTED ON THE CONCEPT PLANS (SHEETS 0-7) ARE SCHEMATIC IN NATURE AND ARE INTENDED TO DEPICT THE GENERAL ARRANGEMENT OF USES AND IMPROVEMENTS ON THE PROPERTY. ACCORDINGLY, THE ULTIMATE LAYOUT, LOCATIONS AND SIZES OF THE DEVELOPMENT AND SITE ELEMENTS DEPICTED ON THE CONCEPT PLAN ARE GRAPHIC REPRESENTATIONS OF THE PROPOSED DEVELOPMENT AND SITE ELEMENTS, AND THEY MAY BE ALTERED OR MODIFIED IN ACCORDANCE WITH THE SETBACK, YARD, BUFFER AND LANDSCAPING REQUIREMENTS SET FORTH ON THE CONCEPT PLAN.



LANDSCAPE BUFFER AREA WITH EVERGREEN SCREENING TREES

ANGLESEY CT

UNION COUNTY
 MECKLENBURG COUNTY

12' PEDESTRIAN CONCRETE MUP/GREENWAY, INTERNAL MUP LENGTH ±2,700 LF

MULTIFAMILY AND ATTACHED HOMES TO HAVE INDIVIDUAL UNIT SIDEWALK CONNECTIONS TO ADJACENT STREETS WHERE ON STREET PARALLEL PARKING OCCURS (TYP). SEE SHEET 7 FOR PROPOSED STREET CROSS SECTIONS

COMMERCIAL AREA VEHICULAR ACCESS POINTS TO MEET THE TOWN OF STALLINGS UDO AND NCDOT REQUIREMENTS (TYP.)

30' MIN. TYPE B BUFFER ADJACENT TO TAX MAP #07075024

100' WIDTH LANDSCAPE BUFFER AREA WITH THE ABILITY TO REDUCE TO 70' (30%) WHEN A 6' OPAQUE VINYL SCREENING FENCE IS APPLIED. BUFFER APPLICATIONS TO BE PLACED ALONG ALL MUTUAL EDGES WITH THE ADJACENT SHANNAMARA NEIGHBORHOOD (TYP.)

BUFFER AREAS TO MEET THE PLANTING STANDARDS OF A TYPE B BUFFER WHERE EXISTING TREE COVERAGE IS NOT PRESERVED (TYP.). 6 EVERGREEN TREES, 3 CANOPY TREES, 5 UNDERSTORY TREES & 25 SHRUBS PER 100 LF (TYP.)

LIMERICK DR

CLOMDEL DR

SINGLE FAMILY DETACHED HOMES

ATTACHED HOMES

MULTI-FAMILY

CLUB

COMMERCIAL AREA (TYP.)

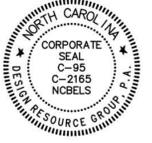
COMMERCIAL AREA (TYP.)

MARSHALL HOOKS RD



LANDSCAPE ARCHITECTURE
 CIVIL ENGINEERING
 TRANSPORTATION PLANNING

2459 Wilkinson Blvd, Ste 200 Charlotte, NC 28208
 704.343.0608
 www.drgpp.com



DEVELOPMENT AGREEMENT

STINSON FARMS
 STALLINGS, NORTH CAROLINA

D.R. HORTON

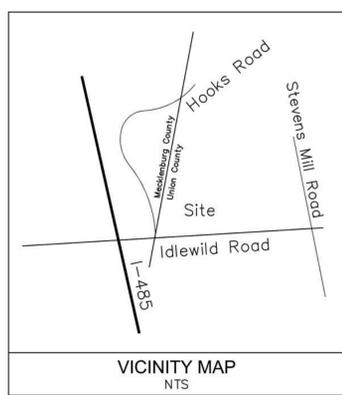
DA
 SITE PLAN

50 0 50 100
 SCALE: 1" = 100'

PROJECT #: 854-001
 DRAWN BY: JO
 CHECKED BY: NB

APRIL 20, 2021

REVISIONS:



DEVELOPMENT AGREEMENT

STINSON FARMS
STALLINGS, NORTH CAROLINA

D.R. HORTON

**GREENSPACE
PLAN**

50 0 50 100
SCALE: 1" = 100'

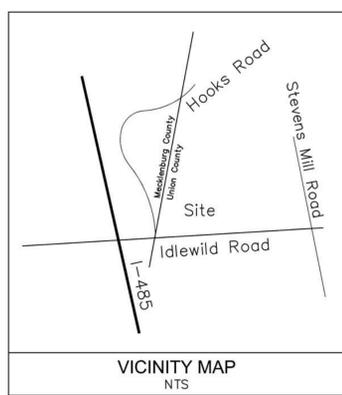
PROJECT #: 854-001
DRAWN BY: JO
CHECKED BY: NB

APRIL 20, 2021

REVISIONS:



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SITE DATA

FUTURE SITE AREA: ±70.14 ACRES

TREE SAVE REQUIRED: 6% MINIMUM = 4.21 AC
 TREE SAVE PROVIDED: ±7.93 AC

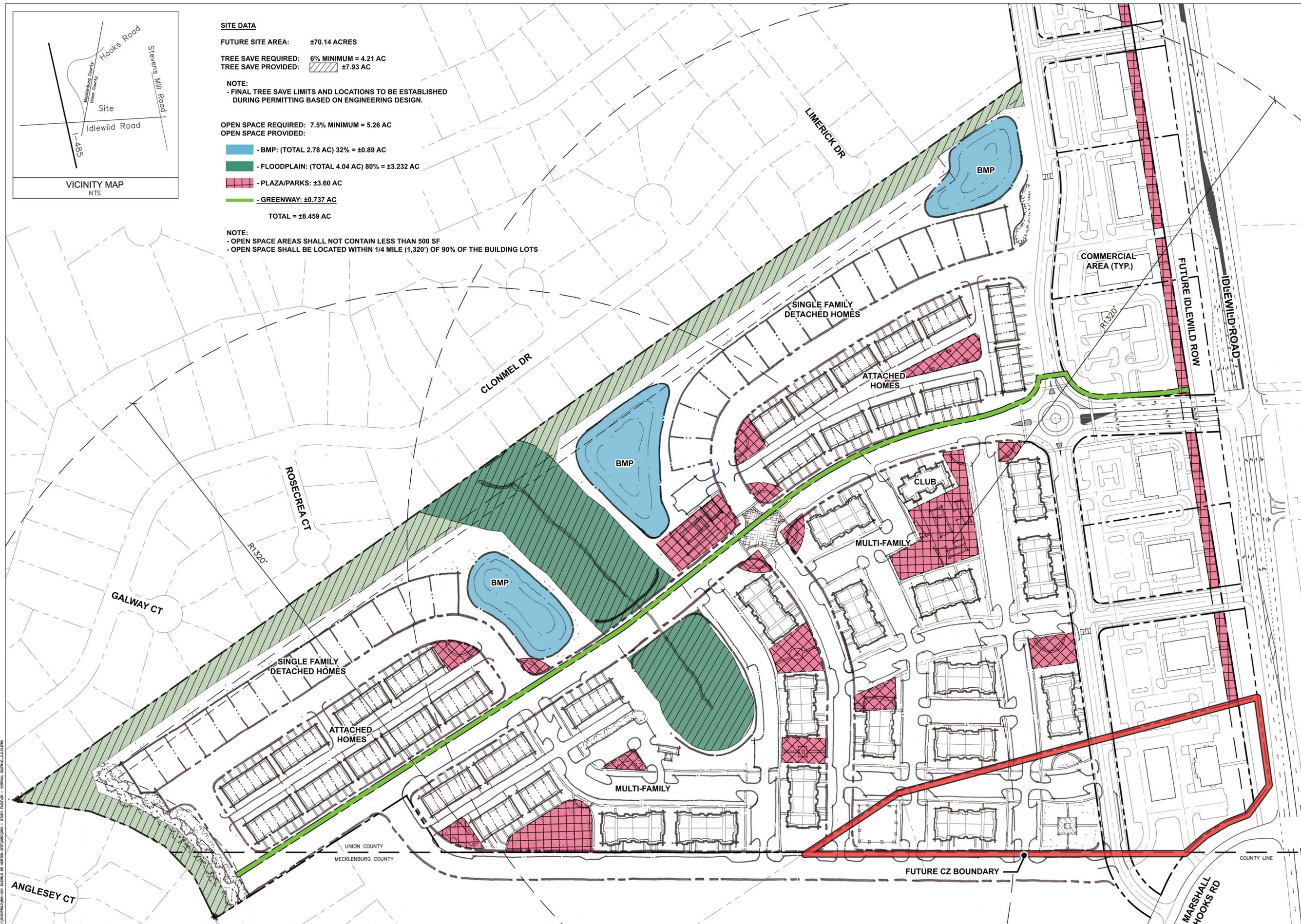
NOTE:
 - FINAL TREE SAVE LIMITS AND LOCATIONS TO BE ESTABLISHED DURING PERMITTING BASED ON ENGINEERING DESIGN.

OPEN SPACE REQUIRED: 7.5% MINIMUM = 5.26 AC
 OPEN SPACE PROVIDED:

- BMP: (TOTAL 2.78 AC) 32% = ±0.89 AC
- FLOODPLAIN: (TOTAL 4.04 AC) 80% = ±3.232 AC
- PLAZA/PARKS: ±3.60 AC
- GREENWAY: ±0.737 AC

TOTAL = ±8.459 AC

NOTE:
 - OPEN SPACE AREAS SHALL NOT CONTAIN LESS THAN 500 SF
 - OPEN SPACE SHALL BE LOCATED WITHIN 1/4 MILE (1,320') OF 90% OF THE BUILDING LOTS



DEVELOPMENT AGREEMENT

STINSON FARMS
 STALLINGS, NORTH CAROLINA

D.R. HORTON

TREE SAVE
 & OPEN SPACE

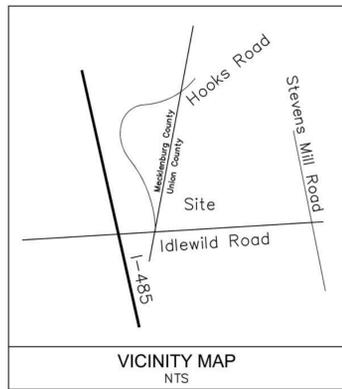
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 SCALE: 1" = 100'

PROJECT #: 854-001
 DRAWN BY: JO
 CHECKED BY: NB

APRIL 20, 2021

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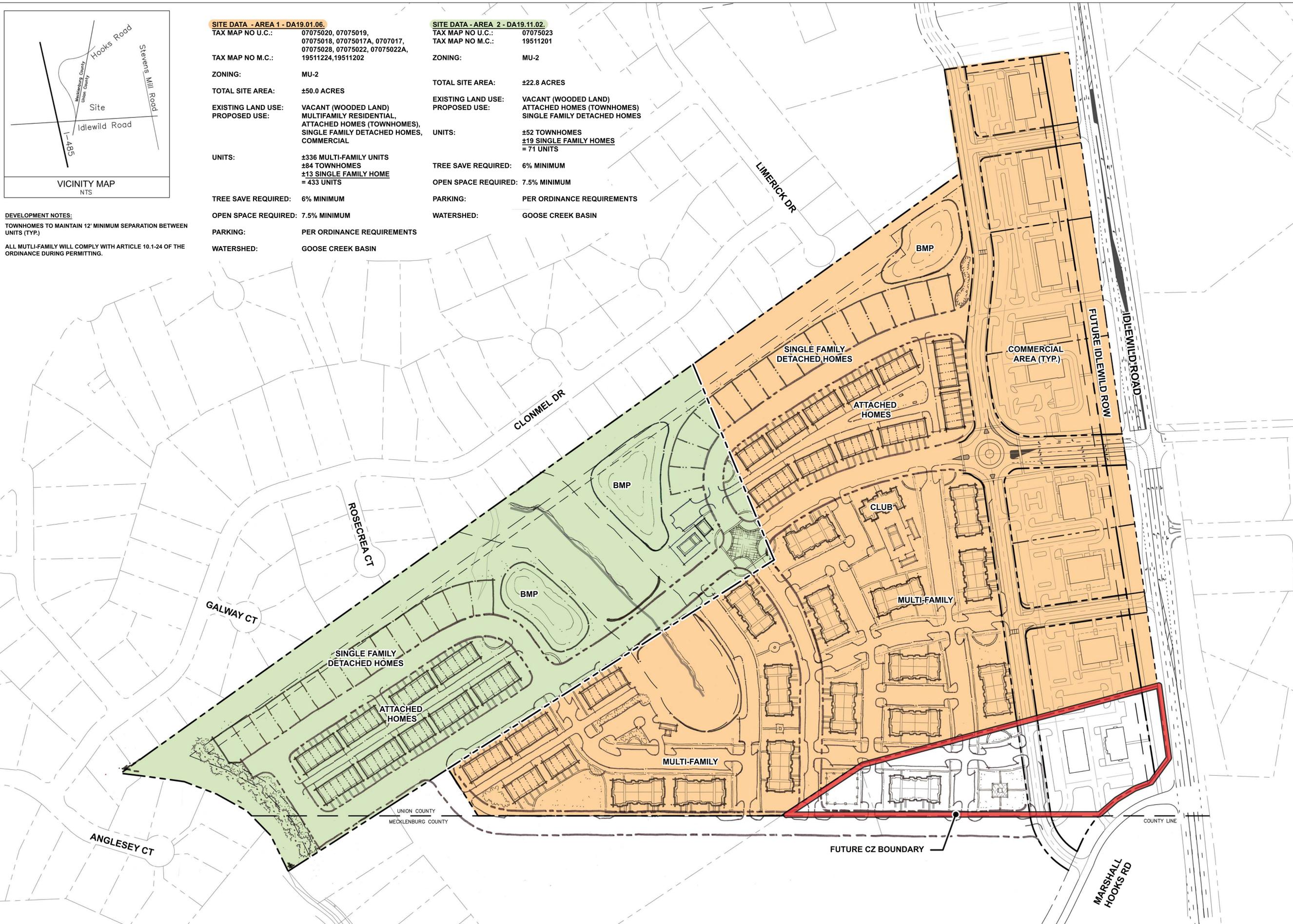
DEVELOPMENT NOTES:
 TOWNHOMES TO MAINTAIN 12' MINIMUM SEPARATION BETWEEN UNITS (TYP.)
 ALL MULTI-FAMILY WILL COMPLY WITH ARTICLE 10.1-24 OF THE ORDINANCE DURING PERMITTING.

SITE DATA - AREA 1 - DA19.01.06.

TAX MAP NO U.C.: 07075020, 07075019, 07075018, 07075017A, 0707017, 07075028, 07075022, 07075022A, 19511224, 19511202
 TAX MAP NO M.C.:
 ZONING: MU-2
 TOTAL SITE AREA: ±50.0 ACRES
 EXISTING LAND USE: VACANT (WOODED LAND)
 PROPOSED USE: MULTIFAMILY RESIDENTIAL, ATTACHED HOMES (TOWNHOMES), SINGLE FAMILY DETACHED HOMES, COMMERCIAL
 UNITS: ±336 MULTI-FAMILY UNITS, ±84 TOWNHOMES, ±13 SINGLE FAMILY HOME = 433 UNITS
 TREE SAVE REQUIRED: 6% MINIMUM
 OPEN SPACE REQUIRED: 7.5% MINIMUM
 PARKING: PER ORDINANCE REQUIREMENTS
 WATERSHED: GOOSE CREEK BASIN

SITE DATA - AREA 2 - DA19.11.02.

TAX MAP NO U.C.: 07075023
 TAX MAP NO M.C.: 19511201
 ZONING: MU-2
 TOTAL SITE AREA: ±22.8 ACRES
 EXISTING LAND USE: VACANT (WOODED LAND)
 PROPOSED USE: ATTACHED HOMES (TOWNHOMES), SINGLE FAMILY DETACHED HOMES
 UNITS: ±52 TOWNHOMES, ±19 SINGLE FAMILY HOMES = 71 UNITS
 TREE SAVE REQUIRED: 6% MINIMUM
 OPEN SPACE REQUIRED: 7.5% MINIMUM
 PARKING: PER ORDINANCE REQUIREMENTS
 WATERSHED: GOOSE CREEK BASIN



DEVELOPMENT AGREEMENT

STINSON FARMS
 STALLINGS, NORTH CAROLINA
 D.R. HORTON

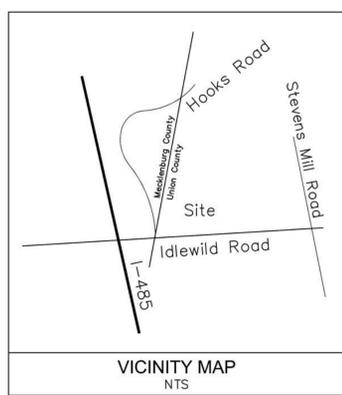
DA
 AREA MAP

60 0 60 120
 SCALE: 1" = 120'

PROJECT #: 854-001
 DRAWN BY: JO
 CHECKED BY: NB

APRIL 20, 2021

REVISIONS:

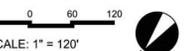


DEVELOPMENT AGREEMENT

STINSON FARMS
STALLINGS, NORTH CAROLINA

D.R. HORTON

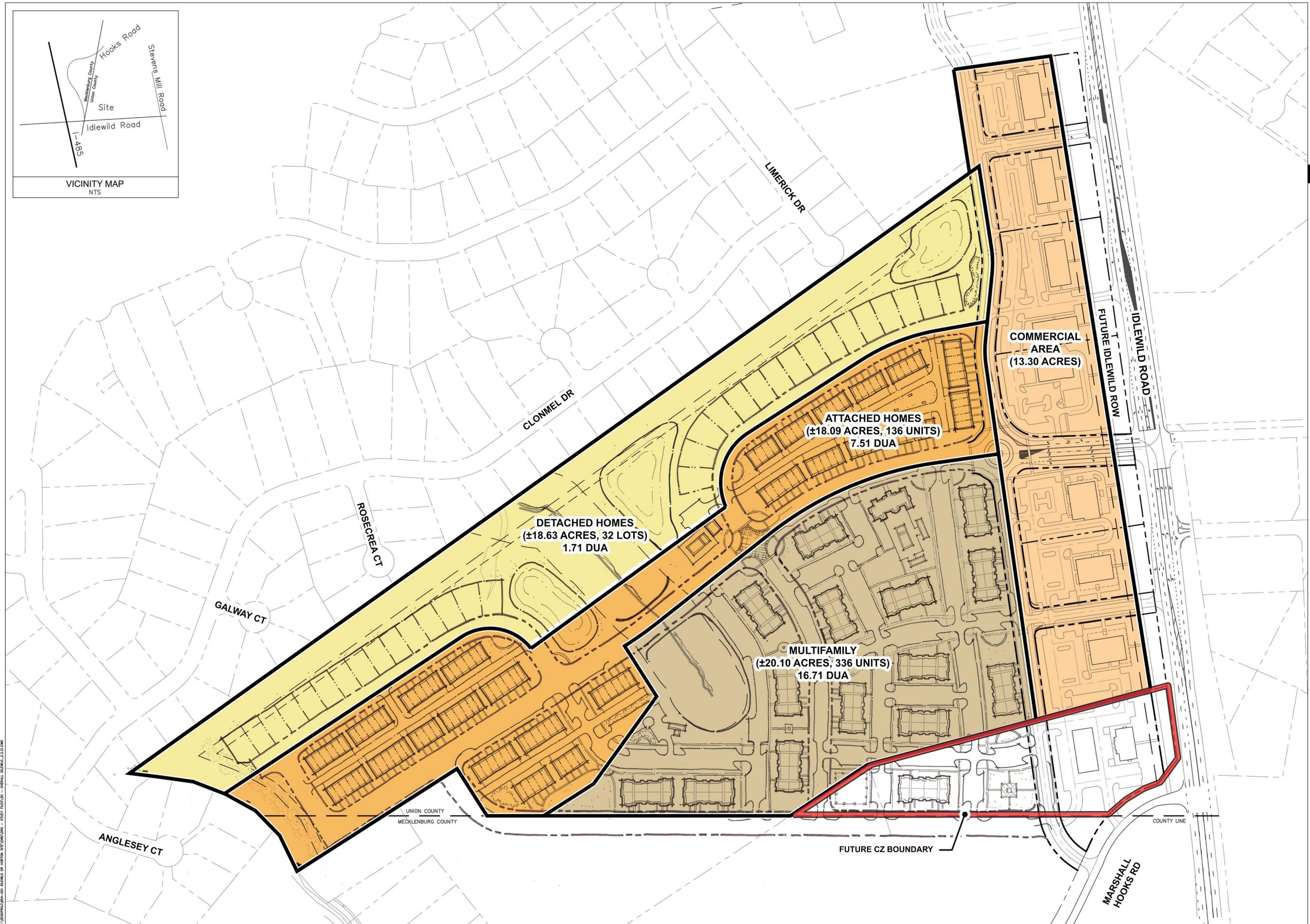
DENSITY
PLAN



PROJECT #: 854-001
DRAWN BY: JO
CHECKED BY: NB

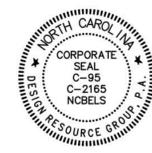
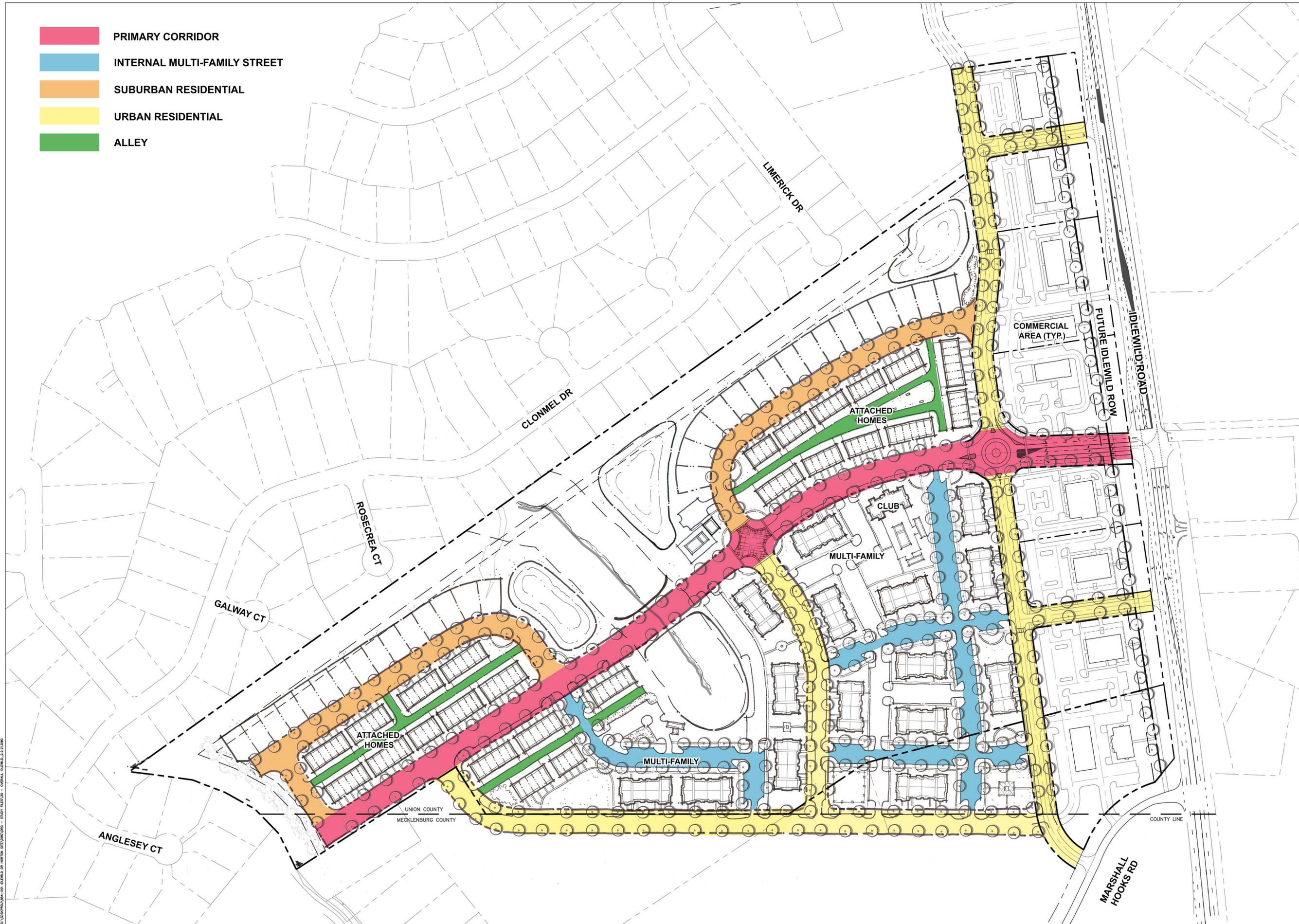
APRIL 20, 2021

REVISIONS:



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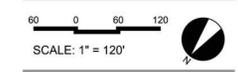
- PRIMARY CORRIDOR
- INTERNAL MULTI-FAMILY STREET
- SUBURBAN RESIDENTIAL
- URBAN RESIDENTIAL
- ALLEY



DEVELOPMENT AGREEMENT

STINSON FARMS
STALLINGS, NORTH CAROLINA
D.R. HORTON

ROADWAY
PLAN



PROJECT #: 854-001
DRAWN BY: JO
CHECKED BY: NB

APRIL 20, 2021

REVISIONS:

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DEVELOPMENT AGREEMENT

STINSON FARMS
 STALLINGS, NORTH CAROLINA

D.R. HORTON

ROAD CROSS SECTIONS

SCALE: 1" = 10'

PROJECT #: 854-001
 DRAWN BY: JO
 CHECKED BY: NB

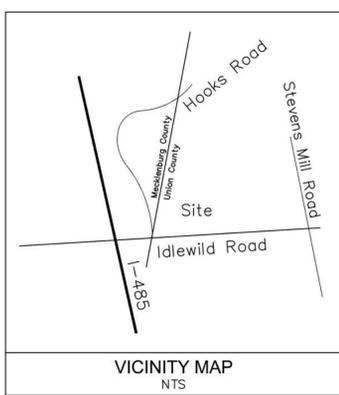
APRIL 20, 2021

REVISIONS:



NOTE: FINAL ON STREET PARKING TO BE DETERMINED DURING PERMITTING BY TOWN OF STALLINGS AND NCDOT.

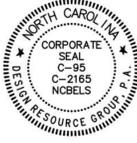
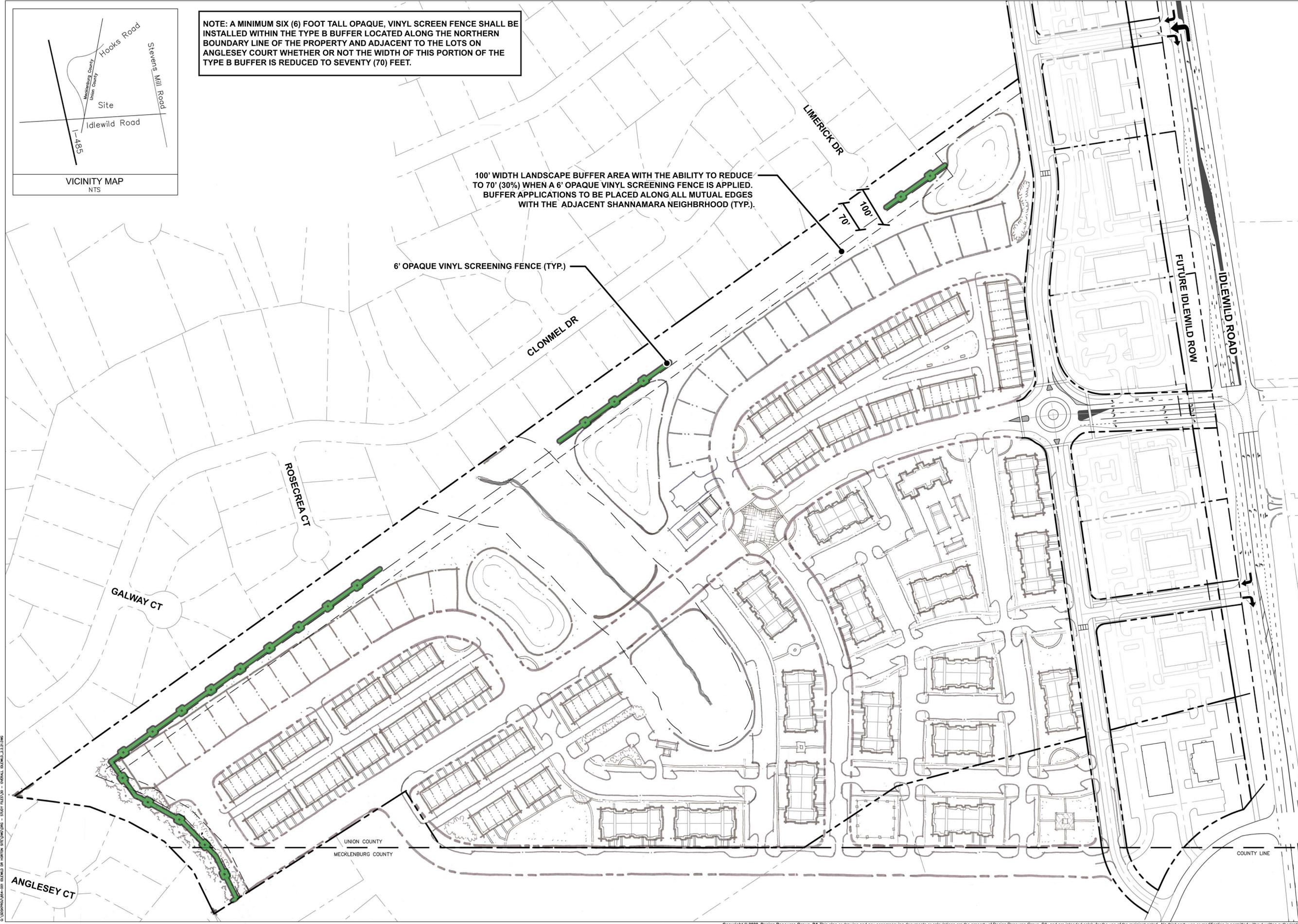
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NOTE: A MINIMUM SIX (6) FOOT TALL OPAQUE, VINYL SCREEN FENCE SHALL BE INSTALLED WITHIN THE TYPE B BUFFER LOCATED ALONG THE NORTHERN BOUNDARY LINE OF THE PROPERTY AND ADJACENT TO THE LOTS ON ANGLESEY COURT WHETHER OR NOT THE WIDTH OF THIS PORTION OF THE TYPE B BUFFER IS REDUCED TO SEVENTY (70) FEET.

100' WIDTH LANDSCAPE BUFFER AREA WITH THE ABILITY TO REDUCE TO 70' (30%) WHEN A 6' OPAQUE VINYL SCREENING FENCE IS APPLIED. BUFFER APPLICATIONS TO BE PLACED ALONG ALL MUTUAL EDGES WITH THE ADJACENT SHANNAMARA NEIGHBORHOOD (TYP.).

6' OPAQUE VINYL SCREENING FENCE (TYP.)



DEVELOPMENT AGREEMENT

STINSON FARMS
STALLINGS, NORTH CAROLINA
D.R. HORTON

**BUFFER
FENCE**

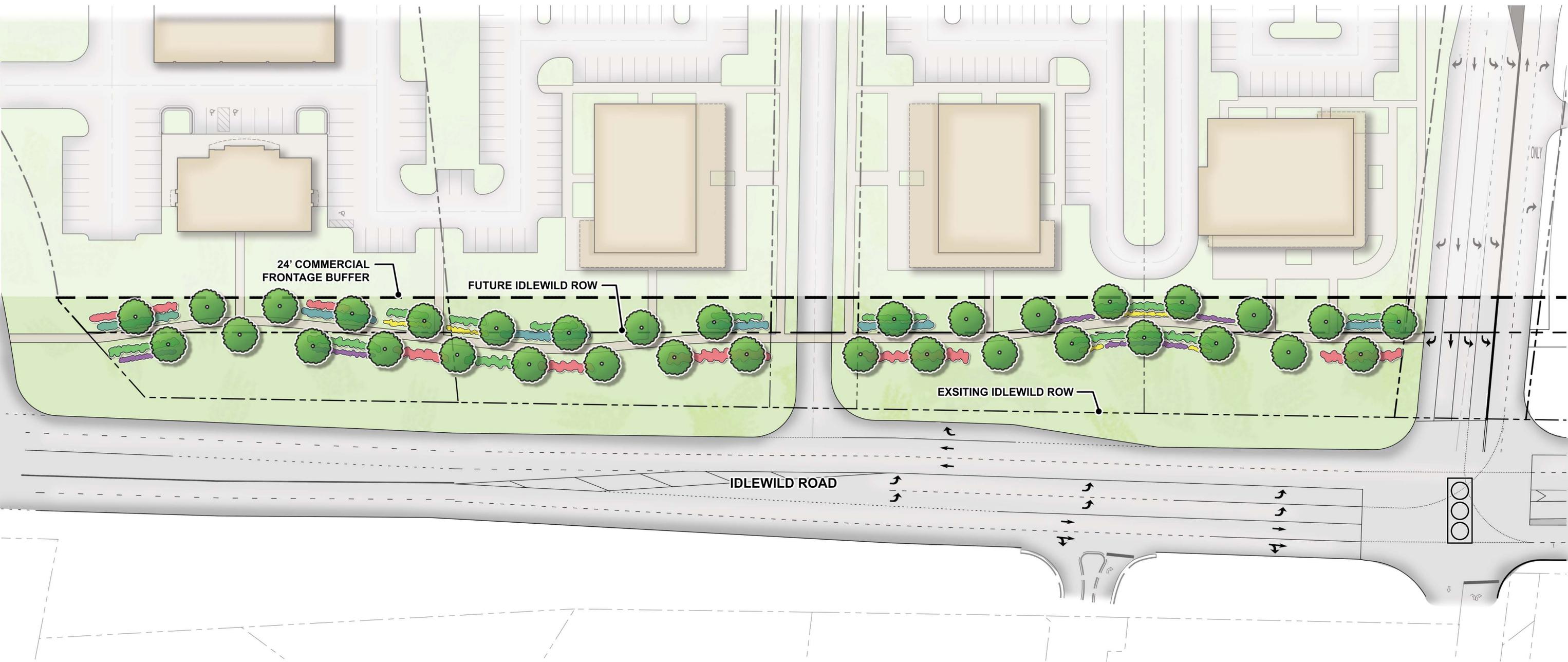
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SCALE: 1" = 100'

PROJECT #: 854-001
DRAWN BY: JO
CHECKED BY: NB

APRIL 20, 2021

REVISIONS:

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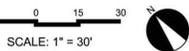
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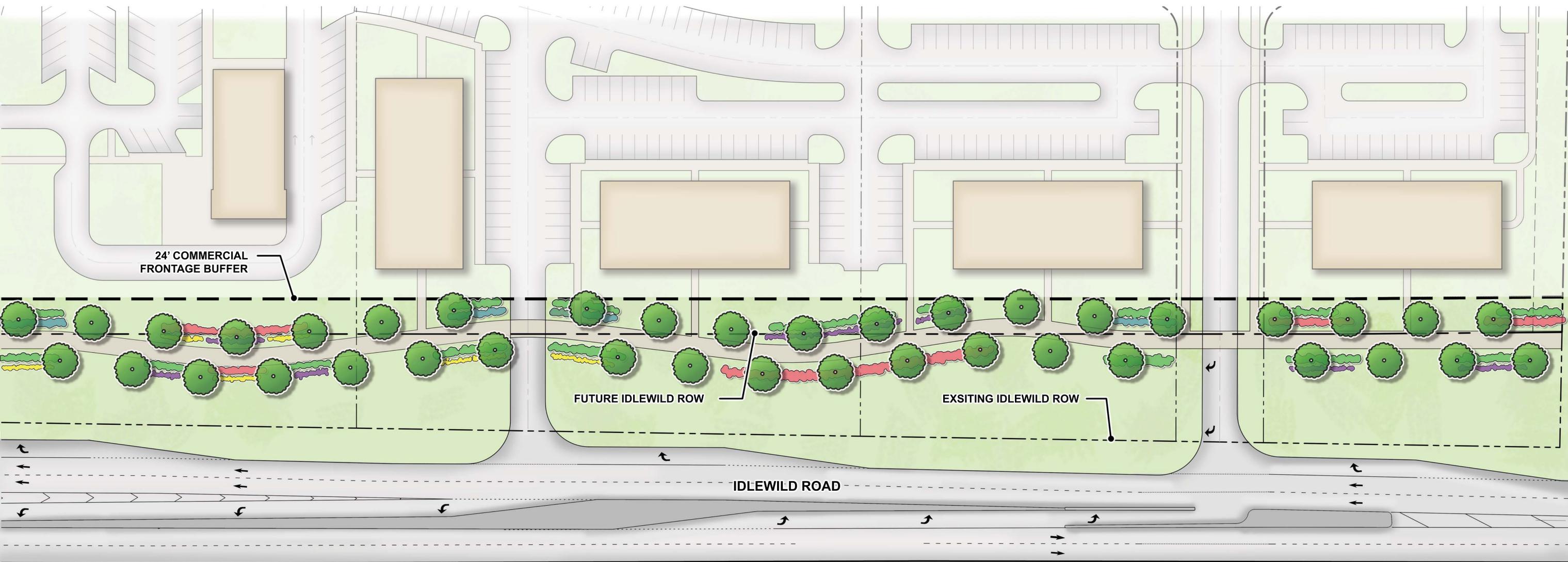
- FINAL LOCATION OF SIDEWALK, MUP, & PLANTINGS TO BE DETERMINED DURING PERMITTING.
- MONUMENT SIGNAGE LOCATION TO BE DETERMINED DURING PERMITTING.
- COMMERCIAL AREAS ARE CONCEPTUAL. FINAL DESIGN & LOCATIONS TO BE DETERMINED DURING PERMITTING.

PLANTING REQUIREMENTS:

- 24' FRONTAGE BUFFER:**
- 2 LARGE MATURING TREES PER 100 LF OR 3 SMALL MATURING TREES PER 100 LF
 - 20 EVERGREEN SHRUBS PER 100 LF

- AREA BETWEEN IDLEWILD ROAD & FUTURE ROW:**
- 2 LARGE MATURING TREES PER 100 LF OR 3 SMALL MATURING TREES PER 100 LF
 - 20 EVERGREEN SHRUBS PER 100 LF





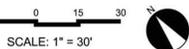
NOTES:

- FINAL LOCATION OF SIDEWALK, MUP, & PLANTINGS TO BE DETERMINED DURING PERMITTING.
- MONUMENT SIGNAGE LOCATION TO BE DETERMINED DURING PERMITTING.
- COMMERCIAL AREAS ARE CONCEPTUAL. FINAL DESIGN & LOCATIONS TO BE DETERMINED DURING PERMITTING.

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- 2 LARGE MATURING TREES PER 100 LF OR 3 SMALL MATURING TREES PER 100 LF
 - 20 EVERGREEN SHRUBS PER 100 LF

- AREA BETWEEN IDLEWILD ROAD & FUTURE ROW:**
- 2 LARGE MATURING TREES PER 100 LF OR 3 SMALL MATURING TREES PER 100 LF
 - 20 EVERGREEN SHRUBS PER 100 LF





MEMO

To: Mayor and Council
From: Alex Sewell, Town Manager
Date: April 21, 2021
RE: **FY 2020-21 Road Resurfacing Contract – Indian Trail Interlocal Agreement**

Purpose: This memorandum provides background on street resurfacing and seeks Council direction on partnering with Indian Trail through an interlocal agreement.

Background: The Town budgets for annual resurfacing and maintenance for Town streets and sidewalks. Each year Town engineers assess and quantitatively determine the streets with the greatest resurfacing needs using an engineering methodology called the Pavement Condition Index (“PCI”). Using this evaluation system, funding is applied first to streets scored to be in the worst condition.

Partnering with Indian Trail: Previously, the Council expressed an interest in partnering with Indian Trail to take a more collaborative approach to street resurfacing. The idea was that partnering together could potentially lead to greater economies of scale/more bidders which could potentially reduce the cost to both jurisdictions. The staffs of Indian Trail and Stallings have been working towards that goal and were anticipating doing a joint resurfacing contract in the Late Spring/Early Summer timeframe. At the 4/12/21 Council Meeting the Council again confirmed they would like to partner with Indian Trail.

Enclosed is a draft interlocal agreement with Indian Trail. If/when approved, staffs would work together to develop a more detailed contract for bidding and resurfacing execution purposes subject to Town Attorney approval. Below is a draft tentative schedule:

April 26 - Interlocal Agreement approved by Stallings
May 11 - Interlocal Agreement approved by Indian Trail
May 12 - Advertisement
May 24 - Pre-Bid Meeting
May 27 - Bid Opening
June 8 - Notice to Award
TBD - Notice to Proceed (based on Pre-construction meeting discussions)

Again, please note this schedule is tentative, there could be changes based on a variety of factors.

Tentative Resurfacing Schedule: In FY 2020-21, the Town is tentatively scheduled to resurface 11 streets totaling 0.85 miles (Town streets total 53.23 miles) using Powell Bill funds. The current amount budgeted is \$320,000. Below is the list of streets scheduled to be resurfaced in FY 2020-21 in **red** while FY 2021-22 is listed in **pink** (the FY 21-22 list is just listed for informational purposes). Please note that some minor curbing work is also included as part

of this work in certain areas where needs have been identified. This budget includes contingency and if funds are left over then it is possible the Town could continue to resurface streets scheduled for FY 21-22 until the budgetary allowance is exhausted.

Road Name	Subdivision	Road Type	From	To	Lanes	Maintain	Length (ft)	Town_Num	Width (feet)	Area (YD ²)	Cul-de-sac Dia. (feet)	Corrected DV	PCI Value		
AMHURST	Chestnut	CT	Strawberry Rd	Cul-de-sac	2	TOWN	227	ST-CT-1001	24	605	60	59	41	FY2020-2021	41-43
FAIRFOREST	Fairforest	DR	Stonehedge	Cul-de-sac	2	TOWN	555	ST-FD-1004	26	1,603		59	41	\$ 312,545.84	
GLAMORGAN	Shannamara	LN	Kidwelly Ln	Dilwyn Ct	2	TOWN	938	ST-SA-1035	24	2,500		59	41		
LIMERICK DR	Shannamara	DR	Donegal Ct	Killian Ct	2	TOWN	121	ST-SA-1006	32	430		59	41		
GALWAY	Shannamara	CT	Clonmel Dr	Cul-de-sac	2	TOWN	130	ST-SA-1023	18	260	70	58	42		
QUINCE	Country Woods East	CT	Hawthorne Dr	Cul-de-sac	2	TOWN	300	ST-CE-1011	20	668	60	57	43		
FLAGSTICK	Emerald Lake	DR	Dogleg Ct	Wedge Ct	2	TOWN	296	ST-EL-1001	32	1,051		57	43		
THREE WOOD	Emerald Lake	DR	Birdie Ct	Four Wood Dr	2	TOWN	687	ST-EL-1014	20	1,527		57	43		
BLARNEY	Shannamara	CT	Clonmel Dr	Clifden Dr	2	TOWN	532	ST-SA-1016	24	1,418		57	43		
CLONMEL	Shannamara	DR	Rosecrea Ct	Galway Ct	2	TOWN	586	ST-SA-1019	32	2,084		57	43		
DRUMCLIFF	Shannamara	CT	Killian Ct	Cul-de-sac	2	TOWN	129	ST-SA-1014	18	257	70	57	43		
LIMERICK	Shannamara	DR	Killian Ct	Ballymote Ct	2	TOWN	341	ST-SA-1006	32	1,212		57	43		
SHADOW LAKE	Willowbrook	LN	Wild Rose Ct	Cul-de-sac	2	TOWN	415	ST-WW-1006	24	1,107	70	57	43		
STRAWBERRY	Chestnut	RD	Chestnut Ln	Amhurst Ct	2	TOWN	962	ST-CT1000	24	2,564		56	44		
STEVEN SCHULZ	Woodbridge	LN	Lawrence Daniels	Cul-de-sac	2	TOWN	280	ST-SA-1005	18	874	60	54	46	FY 2021-2022	43-47
GLADSTOLE	Chestnut	CT	Strawberry Rd	Cul-de-sac	2	TOWN	287	ST-CT-1003	24	764	60	53	47	\$ 302,442.54	
BUTTERNUT	Millstone	LN	Cobblers	E. Cul-de-sac	2	TOWN	440	ST-SA-1005	18	1,194	60	53	47		
ALGLESEY	Shannamara	CT	Clonmel Dr	Cul-de-sac	2	TOWN	390	ST-SA-1024	18	781	70	53	47		
CLIFDEL	Shannamara	DR	Blarney Ct	Killian Ct	2	TOWN	1,315	ST-SA-1015	24	3,506		53	47		

Adjusting PCI Ranking System: The Town's current PCI system does not take traffic volumes into account. During the 4/19/21 Council Meeting, the Council expressed a desire to adjust the Town's ranking system to prioritize primary entrance roads for neighborhoods due to likely higher traffic volumes. Staff have begun work on how to change the ranking system to do this. However, this will take some time to thoroughly think through this technically, collaborate with Council on how exactly staff can help Council meet its resurfacing goals, and ultimately receive Council approval. As such, staff believe there would likely not be enough time to complete this process and still partner with Indian Trail for FY 20-21. As a result, staff's recommendation would be to move forward with resurfacing based on the current PCI ranking system for the FY 20-21 resurfacing contract and incorporate an updated ranking for FY 21-22 resurfacing.

Next Steps: If Council seeks to move forward, next steps would be for the Council to:

- Approve the interlocal agreement with the Town of Indian Trail.
- Authorize the Town Manager to:
 - Enter into a subsequent agreement with Indian Trail for resurfacing execution contingent on Town Attorney approval.
 - To let the resurfacing project.

- To award the project/contract with the lowest responsible bidder contingent on the that bid being within allocated budget parameters.

STATE OF NORTH CAROLINA

**INTERLOCAL AGREEMENT
FOR ADMINISTERING
FY 20/21 SPRING
RESURFACING CONTRACT**

COUNTY OF UNION

THIS AGREEMENT, is made and entered into this the ___ day of the _____, 2021, by and among the Town of Indian Trail, North Carolina and the Town of Stallings, NC (hereinafter collectively referred to as the “Parties”).

WITNESSETH:

WHEREAS, both Parties have agreed to work together to engage a contractor to repave certain streets located in both Indian Trail and Stallings and that Indian Trail shall oversee the drafting and administering the resulting contract; and

WHEREAS, as the conditions and standards of this contract will be reviewed and approved by both parties before it is advertised to the public;

WHEREAS, more specifically, this Contract will identify streets or street sections that each Party would like to see remediated in the same consistent manner based on specifications and special provisions outlined in the approved Contract;

WHEREAS, both Parties have determined that it is most economical and in the best interests of the citizens of Indian Trail and Stallings that this project shall proceed at the same time, and under the supervision and control of the Town of Indian Trail; and

WHEREAS, the Parties have agreed that the engineer’s estimate shall be prepared and approved by both parties before an Invitation to Bid is executed;

WHEREAS, this Agreement is made under the authority of N.C. Gen. Stat. § 160A-460 et seq.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the parties hereto do each contract and agree with the other as follows:

1. Purpose: The purpose and intent of this Interlocal Agreement is to provide for a binding agreement that obligates Indian Trail to administer and complete the FY 20/21 Spring Resurfacing Project within the Towns of Indian Trail and Stallings (collectively, the “Project”) and obligates the Town of Stallings to pay to Indian Trail the contract amount allocated to the portion of the Project that is performed and completed in Stallings.
2. Term: This Agreement shall commence upon execution by both parties and shall continue until the earlier of completion of the Project or December 31, 2021.

3. No Joint Agency Established: No joint agency under NCGS § 160A-462 is to be established as a result of the execution of this Agreement.
4. Contract: Indian Trail shall be responsible to bid and contract for the work to be performed to design and complete the Project (the "Contract"). Prior to bidding the Project, the Parties shall A) obtain an engineer's estimate for the cost of the project; B) work together to determine which streets shall be repaved in each jurisdiction and C) establish the specifications and standards required for the Project. Once awarded, Indian Trail shall administer the Contract on behalf of both Parties. The Contract shall contain terms that clarify no payment will be due contractor until the work performed is inspected and approved by Indian Trail and Stallings.
5. Funding:
 - a. Stallings agrees to pay to Indian Trail those amounts invoiced under the Contract for the portion of the Project that provides for the repaving of roads within Stallings' jurisdiction.
 - b. Indian Trail agrees to pay those amounts invoiced under the Contract for the portion of the Project that provides for the repaving of roads within Indian Trail's jurisdiction.
 - c. Payment Due to Indian Trail: Stallings shall make payment to Indian Trail within 15 days after receipt of each invoice. Each invoice shall include sufficient detail such that Parties can confirm that the work completed and invoiced was performed in Stallings.
6. Inspection of Work: The Parties shall inspect and approve the work performed in their jurisdiction and may withhold payment if the work is not completed to each Party's satisfaction. Notwithstanding the foregoing, such approval shall not be unreasonably withheld and payment shall be made promptly when the unapproved condition is remedied.
7. Amendment or Termination: This Agreement may be amended or terminated only by an instrument in writing executed by both parties hereto and approved by their respective Councils.
8. Assignment: Neither party may assign its rights under this Interlocal Agreement unless by written consent of the other party.
9. Waiver: No waiver of any breach of any one or more of the conditions or covenants of this Agreement by either town shall be deemed to imply or constitute a waiver of any succeeding or other breach under this Agreement.

10. Governing Law and Jurisdiction: North Carolina law shall govern the interpretation and enforcement of this Interlocal Agreement, and any other matters relating to this Interlocal Agreement.
11. Severability: Should any one or more of the provisions contained in this Interlocal Agreement be held invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained in the Interlocal Agreement shall not in any way be affected or impaired thereby, and this Agreement shall otherwise remain in full force and effect. If any such provision is held to be invalid or unenforceable, then upon the request of either party, the parties shall attempt in good faith to negotiate and agree upon a replacement provision.
12. Counterparts: This Interlocal Agreement may be simultaneously executed in several counterparts, each of which when so executed shall be deemed to be an original, and such counterparts together shall constitute but one and the same instrument.
13. Miscellaneous: The headings, captions and numbers in this Interlocal Agreement are solely for convenience and shall not be considered in construing or interpreting any provision in this Agreement. Wherever appropriate in this Agreement, personal pronouns shall be deemed to include other genders and singular to include plural if applicable.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed the day and year above written.

TOWN OF STALLINGS:

Attest: _____
By: _____
(Signature)

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Director

TOWN OF INDIAN TRAIL:

Attest: _____
By: _____
Town Manager

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Finance Director



**A RESOLUTION BY THE TOWN OF STALLINGS
OPPOSING SB 349/HB 401 (“INCREASE HOUSING OPPORTUNITIES”)**

WHEREAS, the legislation proposed in SB 349/HB 401 (“Increase Housing Opportunities”) is of great concern to the Town of Stallings and other local governments within North Carolina; and

WHEREAS, provisions within this legislation would severely diminish or even eliminate the ability of local government to determine what is best for its community or even allow community input or involvement in the decision-making process; and

WHEREAS, development would become uncontrolled and reckless with little to no regard for property owners rights, not to mention the added stress and demand on a local government’s infrastructure which would eventually lead to declining property values; and

WHEREAS, Town officials were elected by their citizens for a reason – to protect and preserve the quality of life that they have come to enjoy; and

WHEREAS, residents could not enjoy a safe and secure, clean and well-kept environment with plenty of amenities offered, if it were not for the efforts put forth by its elected officials and Town staff in utilizing effective and proven zoning processes that include community input; and

WHEREAS, a one-size fits all approach to land use is radical, reckless and irrational— a blatant attack on local land use decision-making; and

WHEREAS, uniform legislation for all local governments under one statewide zoning mandate would eliminate the single-family zoning designation and allow multi-family housing in every neighborhood with no minimum parking requirements in place to ensure adequate parking for all; and

WHEREAS, increased housing does not guarantee more affordable housing nor does this legislation.

NOW, THEREFORE BE IT RESOLVED that copies of this resolution are sent to our legislative delegation and to the leadership of the North Carolina General Assembly in an effort to stop SB 349/HB 401 from becoming law and to work together to find real ways to advance affordable housing opportunities.

Adopted this the _____ day of _____, 2021.

Wyatt Dunn, Mayor
Stallings Town Council

ATTEST:

Erinn Nichols
Town Clerk

(SEAL)