

Amended and Restated Economic Development Agreement

THIS AMENDED AND RESTATED ECONOMIC DEVELOPMENT AGREEMENT (“Agreement”) is made effective as of February¹⁰, 2021 by and between the Town of Rolesville, a North Carolina municipal corporation (the “**Town**”), and Cobblestone Crossing of Rolesville LLC, a North Carolina limited liability company (“**Cobblestone**”). This Agreement supplants any prior agreements or understandings between the parties in regard an economic development project (hereinafter defined).

RECITALS

On September 15, 2020 the Town approved an Economic Development Agreement (the “2020 Agreement”) concerning an economic development project whereby:

- The Town will sell to Cobblestone the properties located near the intersection of Main and Young Streets in downtown Rolesville, North Carolina (collectively the “Property”), as illustrated on the “Vicinity Map” attached as Exhibit A.
- Cobblestone will partner with the Town to build a Town Center Project (the “Project”) on the Property. The Project will include space for residential, commercial, government and public uses.
- Cobblestone will entitle, design, and build the Project all as further described in this Agreement.

Cobblestone has an agreement to acquire the Property from the Town pursuant to a Purchase and Sale Agreement dated as of an even date herewith (the “Purchase Agreement”). As a part of the Project, the Town will occupy a “Municipal Facility” within the Property as more particularly set forth in this Agreement.

The parties now desire to terminate and replace the 2020 Agreement with this Agreement as more particularly set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. The development plan for the Project will be consistent with the schematic design presented to the Town on February 2.

a. Schematic design. Cobblestone provided a revised schematic design of the Project to the Town in December 2020 attached as Exhibit B. This revised design reflects changes made that the parties agree will further the development of the project. As provided for in the schematic design, the Project will include the following features, in all cases reasonably acceptable to the Town:

- A specified site within the Property for the Town's veterans' memorial.
- At least 49,830 square feet of commercial space distributed among at least five buildings.
- No more than 180 dwelling units (180 apartments) distributed among not more than 7 buildings (including both buildings used solely for residential purposes and those with mixed use). None of the buildings with a residential component may rise more than 3 additional stories above a ground story.
- A specified site within the Property acceptable to the Town for the "Municipal Facility," as further described in Section 2 below.
- A specified site within the Property acceptable to the Town for the public event space, as further described in Section 3 below.
- A cornerstone town space that will have a clock tower and other signage referring to the Town by name. The Town and Cobblestone will work together for the final design of these features.
- Identification of all street lead-ins to the Property from existing streets.

- The design will not include diagonal on-street parking on Main Street.
- Dedicated parking area for electric vehicle charging and bicycle parking.
- Preservation of the Town's existing trail in the northwest corner of the Property, either by leaving the existing trail outside the footprint of new buildings or showing the re-routing of the trail. Cobblestone shall pay the cost of any re-routing and development of the new trail to the standards of the existing trail. If Cobblestone chooses the re-routing option, Cobblestone must dedicate the redeveloped trail space to the Town at no cost. The Town will then be responsible for maintenance of the trail space.
- Its plans for the accommodating the Privette Insurance building into its development, either by leaving that building in place or by presenting its plan for the removal of the building.
- Its plans to develop the "Broughton Property".
- Its timeline for the key steps in the development.
- An updated Project Pro Forma, that will be reviewed by an independent financial consultant of the Town's choosing.

2. Cobblestone will also provide the Town with the following additional information by the time it submits the first phase design to the Town (thirty days after this Agreement is effective).

a. Additional Information. Cobblestone must provide the following additional information to the Town no later than when it submits the first phase design to the Town (*thirty days after this Agreement is effective*).

- Parking plans for weekday, weekend, and event parking that is consistent with Town parking standards.

b. Effect of the deadline. Cobblestone has no further rights under this

Agreement if this additional information is not presented to the Town by the time it provides the first phase design to the Town for review (*thirty days after this Agreement is effective*).

3. Additional requirements for the Municipal Facility

The Project will contain a specified site within the Property acceptable to the Town for the "Municipal Facility." The Municipal Facility will comprise approximately 8,000 to 12,000 square feet. The Town will develop the final space programming and design for the facility. The Town will consider the following options for ownership of Municipal Facility:

a. Cobblestone will own the Municipal Facility and lease it to the Town. Cobblestone will provide for the Municipal Facility to be available for Town occupancy within three years of the date of this Agreement. The Municipal Facility will be designed to meet the Town's specifications. Town will develop the final space programming and design for the facility, and will develop the plans for a facility of approximately 8,000-12,000 square feet that will have offices for the Town's parks and recreation department, along with additional office, classroom and programming space.

The Town will lease the completed Municipal Facility for period of at least 10 years and not to exceed 20 years, as the parties may agree. After 10 years, either the Town or Cobblestone may terminate the lease by giving a 1 year notice of intent to terminate. The lease payments will be as the Town and Cobblestone may determine, but will be at least sufficient to amortize the complete building cost over the lease term (including architect, engineering and other "soft" costs and reasonable actual or imputed interest costs, but not including land costs).

The parties acknowledge that under current law, this lease by the Town may require the approval of the North Carolina Local Government Commission (the "LGC"). Although the Town cannot guarantee any result of the LGC approval process, the Town expects that the Town will be able to obtain the required approval. The parties acknowledge that under current LGC procedures, the Town will be unable to receive LGC approval until the parties have determined fixed lease payments and Cobblestone has a guaranteed maximum price contract in hand for construction of

the Municipal Facility. The Town will pursue the LGC approval process with due diligence at the appropriate time.

In addition, the parties acknowledge that under current law, given the Town's participation in designing the facility and making amortizing lease payments, the construction of the Municipal Facility may require the same approach to design and project bidding as if the Town were building the building directly. Also, under current law, (a) lease payments cannot begin until the building is available for the Town's occupancy, and (b) lease payments cannot continue if the building is unavailable for the Town's use (such as after a casualty loss), in either case unless the Town's lease payment obligations are generally subject to the annual appropriation of funds.

b. The Town will own the Municipal Facility. Cobblestone will deed to the Town the site specified for the Municipal Facility in the February 2 schematic design. The Town will construct, design, and develop the final space programming for an 8,000-12,000 square foot facility. The final space programming and design for the facility will include plans to serve some or all of the following components:

First, offices for the Town's parks and recreation department, along with additional office, classroom and programming space.

Second, a gymnasium and commercial kitchen facilities suitable to accommodate group events commensurate with the size of the gymnasium

4. Additional requirements for the Event Space

a. Cobblestone will provide within the Property a space of approximately 1 acre suitable for outside public gathering and events (the "Event Space"), including at least 18,976 square feet of dedicated green event space as shown in the February 2 schematic design. The event space can be a combination of grassy areas and hardscape areas suitable for use as parking when not being used for events. The Town and Cobblestone will work together to determine the final design of the Event Space, and will begin this work promptly after this Agreement is executed and delivered.

b. Cobblestone, at its own expense, will maintain the Event Space in a safe and well-maintained condition, to include safe lighting, appropriate signage, safe

walking surfaces, maintained grass and other vegetation, and proper drainage. Cobblestone shall maintain the Event Space to the same condition as the Town applies to Town park property. The parties will meet at least annually in the second week of January to discuss maintenance for the Event Space.

c. In addition, at its own expense, Cobblestone will maintain appropriate liability insurance against risks related to the Event Space and will designate the Town as an additional insured with respect to those risks.

d. The Town will have the exclusive right to use the Event Space for 21 calendar days each calendar year, including at least 15 days that constitute holidays or weekend days. The Town will be responsible for any setup or breakdown costs related to its use of the event space. The parties will meet annually on or about each September 1 to agree upon Town use dates for the following calendar year.

5. Cobblestone will provide first phase design to the Town by (thirty days after this Agreement is effective).

a. Not later than March 12, 2021 (thirty days after this Agreement is effective), Cobblestone will provide drawings, plans and technical information sufficient to constitute a site plan application to the Town for its consideration of Cobblestone's first planned phase of Project development.

b. The first phase must include (i) at least 24,915 square feet of planned commercial space [one-half of the total], (ii) the Municipal Facility (iii) the Event Space, and (iv) the Privette Building disposition. There is no limit on the amount of residential space or units that may be included in the first phase.

c. Cobblestone shall not apply for a permit for grading or other site work until Cobblestone has confirmed to the Town that Cobblestone has received appropriate construction drawings and entitlements to begin construction on at least one building on the Property. Any amount of grading or other site work must be reasonable in scope and nature in light of entitlements received to the time of the work.

6. Other Cobblestone requirements

a. Materially consistent. Each stage of Project development must be consistent in all material respects with the schematic design prepared in accordance with Section 1. The Town Manager may approve changes to the schematic design that are not material or that may be necessary to comply with Town land use regulations or other necessary legal or regulatory approvals. The Town Manager will report any approved changes to the Town Board as soon as practicable.

b. Function of intersections. Upon each application for an entitlement, Cobblestone must supply a traffic impact analysis or other information acceptable to the Town projecting that any intersection of Young or Main Streets with the Property will have no adverse effect on the function level of those intersections (such as maintaining a Level B or Level C function, as may be the case, or improving the function level).

c. Requirements for additional phases. Cobblestone shall apply for entitlements of subsequent development phases within 90 days of obtaining a certificate of occupancy for the final building in the previous phase. Cobblestone may not divide the Project development into more than three phases. When applying for an entitlement Cobblestone shall provide the Town with Cobblestone's estimated development timeline for the phase. Cobblestone will pursue development according to that timeline with due diligence.

d. Prohibited uses. Cobblestone may not enter into any lease of commercial space within the Property where the intended use will be any of the uses described in Exhibit C.

e. Use of completed facilities. Any completed facilities must be open to all Town residents on the same basis as for people residing within the property, including with respect to requirements for memberships and fees. For example, any recreational or health club facilities within the Property may charge a membership or usage fee, but may not charge fees to persons residing within the Property that are different from those charged to people residing elsewhere in Rolesville.

f. Cooperation. Cobblestone will cooperate with the Town in its development of the Property and the redevelopment of the Town's historic center. By way of illustration, but not by way of limitation, Cobblestone agrees as follows:

i. Cobblestone will provide, within ten days of receipt, copies of reports and other documents related to the Property and the Project, including but not limited to reports concerning the financial feasibility, market feasibility, site assembly, phasing, and environmental remediation.

ii. Cobblestone will advise the Town on a pro-active basis and in a timely manner whenever any timeline previously provided to the Town becomes materially different from Cobblestone's updated expectations. Cobblestone at the same time will provide the Town with a revised timeline.

iii. Cobblestone will provide the Town with copies of existing floor plans and pro forma analyses on request. This paragraph does not require Cobblestone to create new versions of floor plans or pro formas, but instead only to provide copies of existing documents.

iv. Cobblestone will involve the Town Manager, or the Town Manager's designee, in Cobblestone's process with other governmental entities, including participation in calls or conferences and sharing documents.

g. Monthly reports; appearances before the Town Board. Cobblestone will provide, each month beginning in *March, 2021* [first full month following the Agreement's effective date], a written narrative report summarizing development activity for the previous month.

At any time and from time to time, at the Town's request, Cobblestone will provide an appropriate representative to appear before the Town Board to provide a narrative update on the Project and to provide full and complete answers to questions from Board members. The Town does not expect that these requests will occur more frequently than every three months.

h. Delivery of Work Product. If Cobblestone does not proceed with the Project, Cobblestone shall make available at no cost to the Town and for its unrestricted use all available work product related directly to the Property and the

Project in possession and control of Cobblestone, including market analyses, soil and engineering reports, geotechnical reports, environmental reports, studies and testing, construction budgets and other documentation produced specifically related to the Property and the Project.

7. Town's obligations.

a. Property sale. The Town will sell the Property to Cobblestone pursuant to the Purchase Agreement.

b. Utilities, sidewalks and other improvements. The Town shall act with due diligence to apply amounts received under its Locally Administered Projects Grant from Main Street LAPP (the "Grant") for public improvements between Burlington Mills Road to Young Street, including streetscape improvements, crosswalks, curb and gutter improvements, new sidewalks and bicycle transportation enhancements, as described in the Town's Grant application. The Town will maintain compliance with the Grant terms and will provide the matching funds for these improvements as required by the Grant terms. This commitment provides for the use of approximately \$3,700,000 in funding that will benefit the Project, including approximately \$735,000 in direct Town funding. The Town's participation in these improvements is contingent upon the Town actually receiving the grant funding.

c. Undergrounding of utilities. The Town will participate with Cobblestone in a project to underground utilities throughout the total road frontage of the Project. Cobblestone will provide a plan to the Town for review and approval of undergrounding the utilities near the Property. Town will contribute a maximum of \$250,000 (not to exceed 50% of the total cost of undergrounding) to the approved undergrounding project of the Duke Energy utilities located at the intersection of Main and Young Streets.

c. Cooperation; Town as land use regulator. The Town will cooperate with Cobblestone in carrying out the purposes and intents of this Agreement.

The Town shall provide to Cobblestone any of the following which the Town may have in its possession and which are related to the Property: blight reports, surveys, engineering and geotechnical reports, and previous concept plans.

Cobblestone acknowledges, however, that the Town acts in separate capacities as a party to a business agreement such as this Agreement, and as a land use regulator. **The Town makes no representation, and can give no assurances, that any land use or related approvals necessary for the Project will be forthcoming at any time.** The Town promises, however, to act in a prompt and professional manner in the review and consideration of all matters. The review process may result in Project design, construction and development requirements above the requirements stated in this Agreement, and may result in requests for community benefits beyond those provided for in this Agreement. If the development review process results in increasing Cobblestone's obligations under this Agreement, then Cobblestone must comply with the results of the development review process. Cobblestone will not be entitled to any setoff or reduction of commitments under this Agreement, or entitled to any additional compensation or other consideration from the Town.

d. Credits against Town fees. Upon Cobblestone's receipt of a building permit for the first building of each development stage, the Town will provide Cobblestone the following credits (but only up to the amount of the fee otherwise payable):

Against the Town's parks and recreation fees: any amounts (up to \$160,000) previously paid by Cobblestone towards the site, design, programming, building, parking, or equipping of the Municipal Facility.

e. Commercial development incentives. For each completed building on the Property with a commercial component (not including the Municipal Facility), the Town will pay Cobblestone a commercial development incentive, expected to be approximately \$90,000, as described in this subsection.

i. The Town will pay the incentive on each of the first three February 1's after a building receives its certificate of occupancy and has been assessed for property taxes on the completed building that were due on or before the previous October 1. The amount of the payment on each date will be equal to 50% of the property taxes actually paid with respect to that building in the previous six months.

ii. The total amount of commercial development incentives will be subject to a cap. This cap is equal to 100% of the payments that the Town

estimates would be due if Cobblestone completes its development in accordance with the schematic design provided under Section 1, using the Town's current tax rate and the current Wake County table of values.

iii. If at any time Cobblestone owes any taxes or governmental fees or charges with respect to the Project, whether those amounts are owed to the Town or to some other governmental entity, the Town may withhold any incentive payment until the resolution of the delinquency. These fees and charges may include regulatory or administrative fees or fines. At its option, the Town may apply any payment due under this subsection to satisfy taxes, fees or other charges owed to the Town. The Town need not pay any incentive payment provided for under this subsection if an Event of Default is continuing on Cobblestone's part.

f. Total development incentives. Total development incentives from the Town (including the Town's contribution to the undergrounding of utilities, any credits against fees owed to the Town, and performance based commercial development incentives) will not exceed approximately \$500,000.

8. Defaults and Remedies; Dispute Resolution

a. Defaults. A party is in default under this Agreement if it fails to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of 30 days after notice specifying the failure and requesting that it be remedied has been given by the other party. Any such failure is an "Event of Default" under this Agreement.

b. Remedies. Whenever any Event of Default is continuing, the non-defaulting party may take either or both of the following remedial steps:

i. At its option, cure the default by paying money or taking any other appropriate action, in which case the defaulting party must reimburse the defaulting party for all costs and expenses reasonably incurred in curing the default.

ii. Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of a party under this Agreement.

c. No remedy exclusive; other provisions. No remedy conferred or reserved in this Agreement is intended to be exclusive, but instead is intended to be cumulative. No delay or omission to exercise any right or power accruing upon any default constitutes a waiver of that right or power. A waiver of any default is limited to the default so waived and does not waive any other default. If a party incurs legal or other costs and expenses to collect any payments due under this Agreement, or to enforce the performance or observance of any obligation or covenant under this Agreement, then to the extent permitted by law each party promises to reimburse a non-defaulting party for all reasonable legal and other fees and costs incurred in the collection or enforcement.

d. Dispute resolution. In the event of a dispute between the parties concerning the terms or performance of this Agreement, the parties will take the following steps prior to commencing any proceeding before a court or administrative body:

i. Exchange of positions. Any party noting a dispute under this Agreement will notify the other party of the nature of the dispute and the first party's proposed resolution. Within ten days after the effective date of the notice, the other party must respond in writing as to its view of the dispute and its position on the proposed resolution.

ii. Meet and confer. If the parties are unable to reach an agreement on the dispute and upon notice from any party, the parties will promptly hold a meeting attended by representatives with appropriate authority to resolve the dispute. At this meeting the parties will attempt in good faith to negotiate a resolution of the dispute.

iii. Mediation. If the dispute remains unsettled by negotiation, the parties will engage the services of a professional mediator agreed upon by the parties. The parties will then attempt in good faith to resolve the dispute through mediation. The Town and Cobblestone will each pay one-half of the

mediator's fees and expenses and each party will pay all its own legal fees and other expenses related to the mediation. Each party must be represented at the mediation by a representative with appropriate authority to resolve the matters in dispute. Only after mediation may a part initiate legal or administrative proceedings.

9. Miscellaneous

a. Authority for this Agreement. The Project, and entering into this agreement, is an economic development project for the Town. The Town expects that the Project will enhance the Town's taxable property, employment, and business prospects. The Town is authorized to enter into this Agreement by statute, including Section 158-7.1 of the North Carolina General Statutes. **This Agreement does not constitute a "Development Agreement" within the meaning of Part 3d, Chapter 160A of the North Carolina General Statutes.**

b. Notices. Any communication provided for in this Agreement must be in writing (not including facsimile transmission or electronic mail). Any communication under this Agreement will be deemed given on the delivery date shown on a certified mail receipt, or a delivery receipt (or similar evidence) from a national commercial package delivery service, if addressed as follows:

If intended for the Town, to Town of Rolesville, c/o Town Manager,
Town Hall, 502 Southtown Circle., Rolesville, NC 27570

If intended for Cobblestone, to Cobblestone Crossing LLC, 8480
Honeycutt Road, Suite 200, Raleigh, NC 27615

Any addressee may designate additional or different addresses for communications by notice given under this Section to the other.

c. Each party will bear its own costs. Each party will bear its own costs of the fees and expenses of its counsel and consultants, and of the studies or surveys required under this Agreement or that it otherwise commissions or obtains for its use under this Agreement.

d. Limitation on liability of officers and agents. No officer, agent or employee of the Town will be subject to any personal liability or accountability because of the execution of this Agreement or any other documents related to the transactions contemplated by this Agreement. Those officers, agents or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This provision does not relieve any officer, agent or employee from the performance of any official duty provided by law.

e. No assignment. Neither party may assign any of its rights or obligations under this Agreement without the express consent of the other.

f. Amendments. This Agreement may only be modified in writing signed by all parties.

g. Governing law. The parties intend that North Carolina law will govern this Agreement and all matters of its interpretation. To the extent permitted by law, the parties agree that any action brought with respect to this Agreement must be brought in the North Carolina General Court of Justice in Wake County, North Carolina.

h. Severability. If any provision of this Agreement is determined to be unenforceable, that will not affect any other provision of this Agreement.

i. Binding effect. Subject to the specific provisions of this Agreement, this Agreement will be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

j. Entire agreement. This Agreement, together with the Purchase Agreement, constitutes the entire agreement between the Town and Cobblestone with respect to its general subject matter.

k. No third-party beneficiaries. There are no parties intended as third-party beneficiaries of this Agreement.

l. Counterparts. This Agreement may be executed in several counterparts, including separate counterparts. Each will be an original, but all of them together constitute the same instrument.

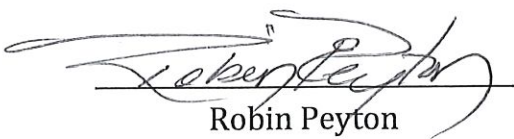
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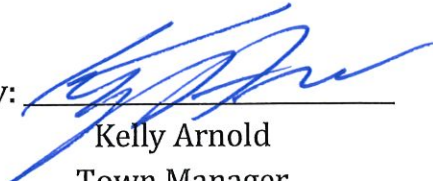
IN WITNESS WHEREOF, the Town and Cobblestone have caused this Agreement to be executed and delivered as of the day and year first above written by duly authorized officers.

(SEAL)

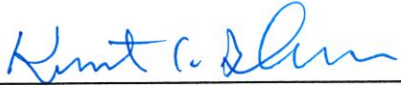
ATTEST:

TOWN OF ROLESVILLE
NORTH CAROLINA


Robin Peyton
Town Clerk

By: 
Kelly Arnold
Town Manager

COBBLESTONE CROSSING OF ROLESVILLE LLC

By: 

Printed name: Kenneth C. Bowman

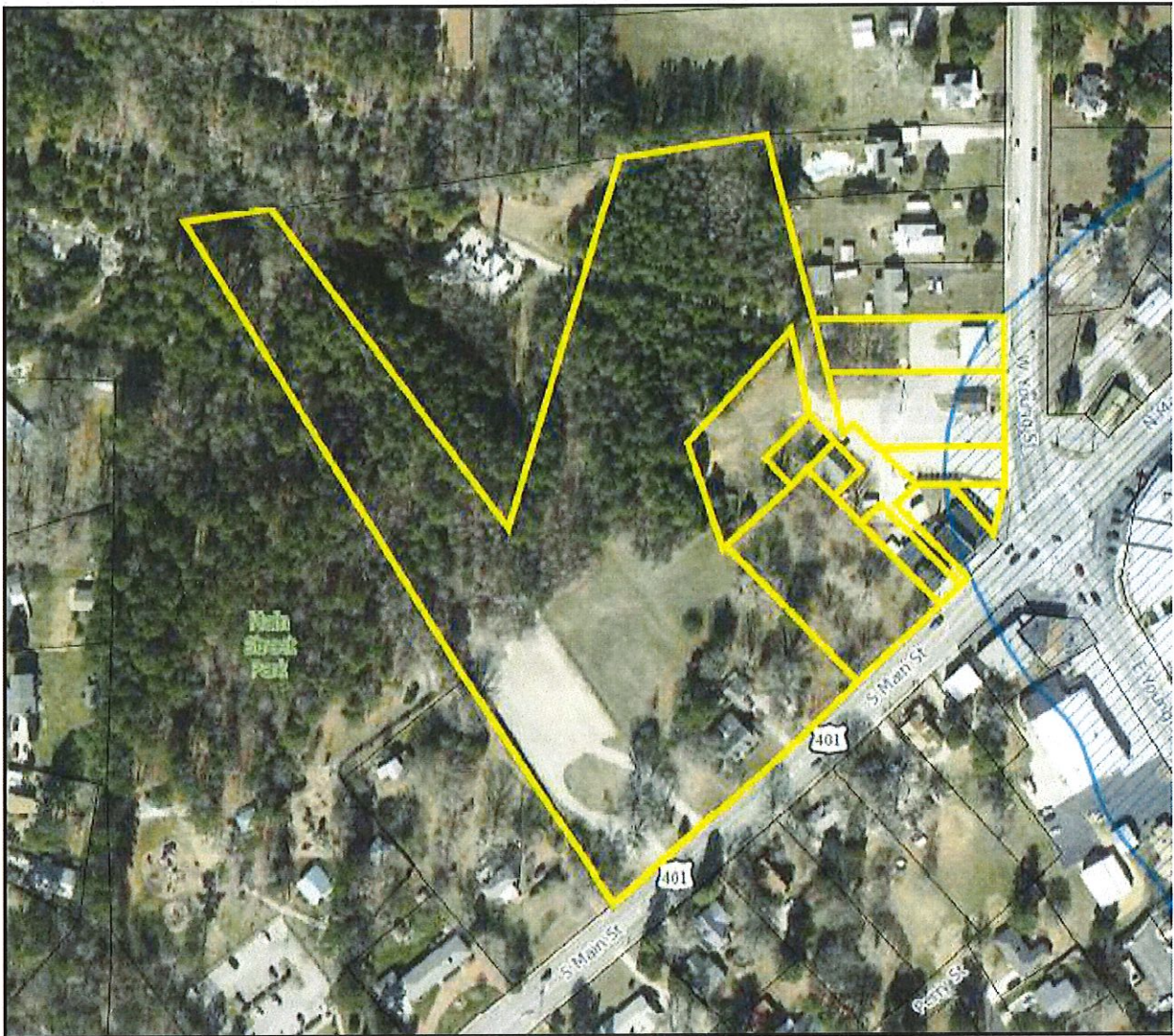
Title: Managing Member

Exhibits:

- A - Vicinity Map
- B - Schematic Design July 21, 2020
- C - Prohibited commercial uses

[Economic Development Agreement dated as of February 10, 2021]

Exhibit A - Vicinity Map



Vicinity Map - Exhibit A

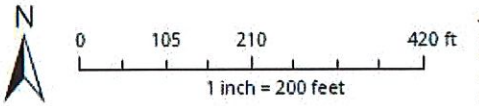


Exhibit B – Schematic Design February 2, 2021

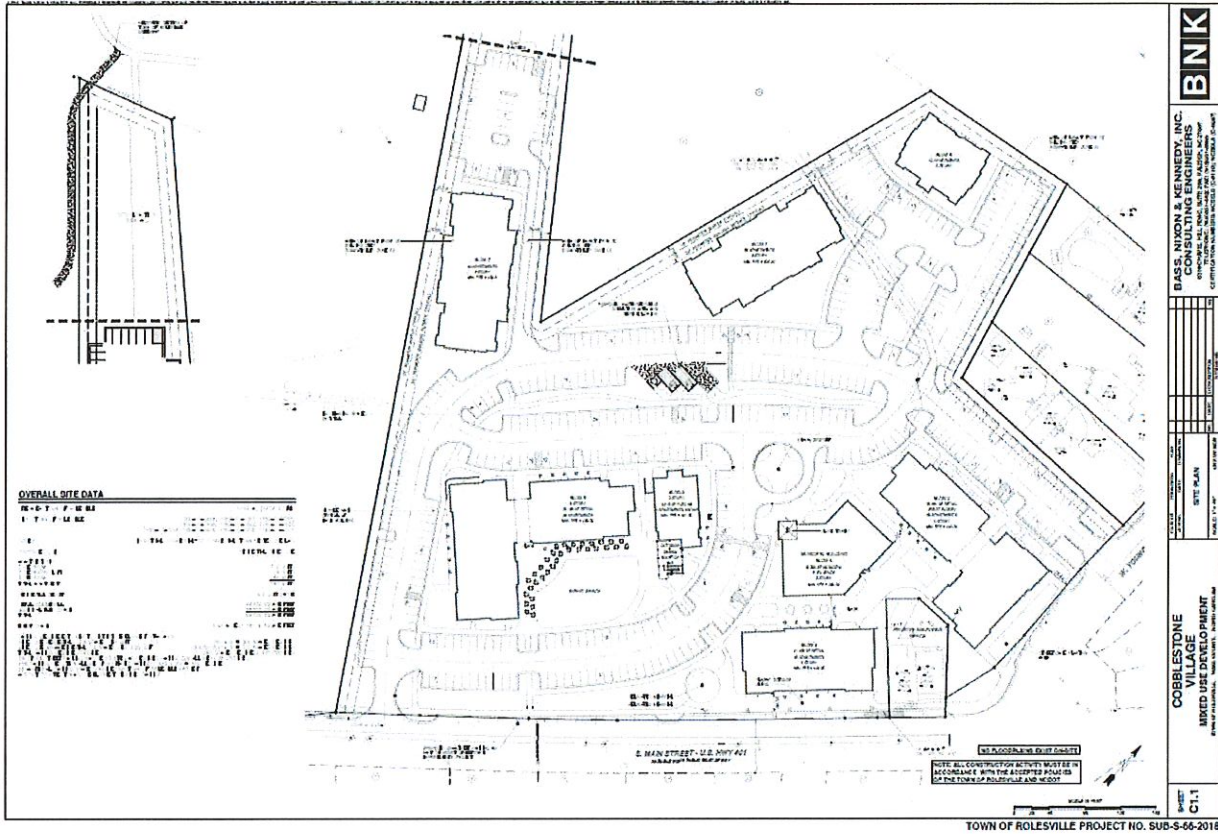


Exhibit C – Prohibited Uses

- laundry or dry-cleaning establishment, provided, the foregoing restriction shall not include an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed at the subject property;
- off-track betting establishment;
- a pool or billiard hall (unless operated as part of a large-scale family recreation or entertainment facility);
- adult bookstore or any form of adult entertainment;
- bingo parlor;
- a video game parlor or amusement arcade;
- a business which would emit or produce noxious fumes or gases (excluding nail salons and restaurants) or loud noises;
- an assembly or manufacturing operation;
- an establishment selling or exhibiting pornographic materials;
- nightclub, discotheque or dance hall;
- a mortuary or funeral home;
- a church or other place of worship;
- any establishment which stocks, displays, sells, rents, or offers for sale or rent any merchandise or material commonly used or intended for the use with or in consumption of any narcotic, dangerous drug, or other controlled substance (other than alcohol or tobacco), including, without limitation, any hashish pipe, water pipe, bong, pipe screens, rolling papers, rolling devices, coke spoons or roach clips;

- an operation whose principal use is a massage parlor and/or exotic dancing, provided this shall not prohibit massages in connection with a beauty salon, health club or athletic facility; or
- a pawn shop.