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**STATE OF NORTH CAROLINA
TOWN OF ROLESVILLE**

**BEFORE THE TOWN OF ROLESVILLE
BOARD OF COMMISSIONERS
SUP16-02**

**MITCHELL MILL ROAD INVESTORS, LLC
APPLICATION FOR SPECIAL USE PERMIT
FOR 199-LOT RESIDENTIAL SUBDIVISION
OFF ROLESVILLE ROAD**

**EVIDENTIARY HEARING
FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

This request from Mitchell Mill Road Investors, LLC (the "Applicant"), pursuant to Rolesville Unified Development Ordinance (the "UDO") Section 3.6.2, for approval of a 199-lot residential subdivision off of Rolesville Road, Rolesville, North Carolina, known as "Kalas Village" came twice before the Town of Rolesville Board of commissioners (the "Board") on September 6, 2016, and again on October 3, 2016. The Applicant requested approval of a 199-lot residential subdivision on real property located off Rolesville Road, having Wake County Parcel Identification Numbers 1767-17-8299 and 1767-08-3228 and being more particularly described on that attached Exhibit A (the "Property").

Based upon testimony of the witnesses, documentary evidence, exhibits, and other evidence presented at both the September 6, 2016, and October 3, 2016, public hearings, the Board finds the special use approved, with the Conditions set forth below. On October 3, 2016, the Board voted unanimously to APPROVE the use on the Property as a 199-lot residential subdivision.

The Board's decision to approve the special use permit application is based on the Findings of Fact and Conclusions of Law set forth below:

FINDINGS OF FACT

1. The Applicant is seeking special use permit approval for a 199-lot residential subdivision to be located upon the Property.

2. The Property is 144.2 acres and is further described on the attached Exhibit A.
3. The application and other records pertaining to the special use permit application are part of the record.
4. Notice has been provided as required by law.
5. The Property currently is zoned Residential-2 Special Use District ("R2-SUD").
6. Pursuant to the UDO, a special use permit is required for a 199-lot residential subdivision in the R2-SUD zoning district.
7. The Applicant submitted a Special Use Permit Application to the Town of Rolesville, requesting that the Town approve the development of a 199-lot residential community upon the Property (the "Application").
8. Following advertisement, the Board conducted a quasi-judicial public hearing on the Application on September 6, 2016, and continued the hearing to its next regular meeting on October 3, 2016 (the "Hearing").
9. The future land use classification for the Property is Low Density Residential which is consistent with the request in the Application.
10. The Property previously has been annexed into the Town's corporate limits and will have fire and police protection as well as public water and sewer.
11. All applicable sections of the UDO are satisfied and met by the proposed plan.
12. Willie Hood, P.E., was qualified as an expert in engineering land development at the hearing, and his testimony, along with that of the development manager, Jay Gilleece; traffic engineers Christa Greene and Jeff Weller; and licensed real estate appraiser James Norman, provided that:
 - a. Based upon market analysis, the proposed development will not have a negative impact on the value of adjoining property;
 - b. Based upon recent development approvals and trends in the area, the proposed development is compatible with the surrounding areas as to the scale, bulk, coverage, density, and character of the surrounding neighborhood;
 - c. The proposed use will not cause any foreseeable traffic issues related to flow or parking because of existing and planned transportation infrastructure;
 - d. The proposed development is consistent with the Comprehensive Plan, other applicable official plans, manuals, or documents adopted by the Town;
 - e. The proposed use of the Property complies with applicable requirements of the UDO;
 - f. The proposed use of the Property is appropriately located with respect to public facilities and infrastructure; and
 - g. The proposed use will not materially endanger the public health or safety.

CONCLUSIONS OF LAW

1. Based upon the uncontroverted competent, substantial, and material evidence appearing in the record at the Hearing and in the Application, the approval criteria of a special use permit contained in Section 3.6.2 of the UDO have been met, specifically:
 - a. The proposed use of the Property will not materially endanger the public health or safety;
 - b. The proposed use of the Property will not substantially injure the value of adjoining property;
 - c. The proposed use of the Property will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;
 - d. The proposed use of the Property generally conforms with the Comprehensive Plan and other official plans and manuals or documents adopted by the Town;
 - e. The proposed use of the Property is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities;
 - f. The proposed use of the Property will not cause undue traffic congestion or create a traffic hazard; and
 - g. The proposed use of the Property will comply with all applicable requirements of the UDO.
2. That based upon the foregoing, Applicant is entitled to approval of the requested special use permit for a 199-lot residential subdivision on the Property.

CONDITIONS OF APPROVAL

The Special Use Approval is made subject to the following conditions:

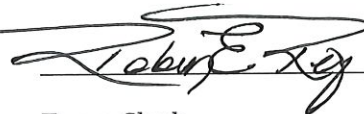
1. Approval of the preliminary plan is subject to street realignment and lot reconfiguration within the previously approved Rogers Farm project (Wake County PIN 1767295866) so as to coincide with the proposed layout. No plats shall be recorded in this development until formal approval of construction drawings for a complimentary plan on the Rogers Farm site has been granted and properly aligned public rights-of-way in the affected areas of Rogers Farm are dedicated. If, for any reason, the realignment and reconfiguration of Rogers Farm is not possible, then the approval of this preliminary plan shall be nullified. Any deviations to the approved preliminary plan associated with this special use permit shall require prior approval from the Town of Rolesville.
2. All homes will be a minimum of 2,500 heated square feet.
3. All homes shall have, at minimum, a two car garage.

4. All front loaded, two car garages shall have two separate garage doors. Three car, front loaded garages may have one double door and one single door if so desired. Side loaded garages may be fitted with any combination of doors.
5. No home shall be clad with aluminum or vinyl siding.
6. All homes shall either be "crawl space" or "stem-wall" type foundations. Those houses with "stem-wall" type foundations shall have a brick veneer around the full perimeter and be made accessible in compliance with the American with Disabilities Act (ADA).
7. All houses shall have sheathing that is nominally ½ inch or greater OSB, Densglass, or other similar materials. No "thermoply" or narrow wall panel structural sheathing will be permitted. All garages shall be completely dry walled for fire and energy rating purposes.
8. The architectural requirements of the neighborhood for both homes and accessory structures shall include an anti-monotony policy whereby duplicate plans/colors shall not be allowed on adjacent lots.
9. General architectural requirements of the neighborhood will be governed by recorded conditions, covenants, and restrictions. The developer shall submit a copy of the conditions, covenants, and restrictions to the Town of Rolesville to allow the Town Attorney to review them before recordation.
10. All required open space and drainage easements shall be owned and maintained by the homeowners association in perpetuity.
11. If unmarked human burials or human skeletal remains are encountered as a result of construction or agricultural activities, disturbance of the remains shall cease immediately and shall not resume without authorization from either the county medical examiner or the State Archaeologist.
12. A streetscape shall be installed along the property frontage (Rolesville Road) and within a landscape easement. The streetscape shall include a meandering sidewalk without curb and gutter. This landscape easement shall be improved to, at a minimum, those standards found in Section 14.4 of the UDO.
13. All required landscaping shall be maintained in perpetuity. Should any plantings become diseased, damaged, or die then the property owner shall be required to be replace them with others in the same quantities, of similar sizes, and of similar species so as to blend with the existing landscaping.
14. The developer shall stub out roads for future connectivity to adjacent properties. These stub outs shall be located so as to minimize the impact on the natural environment.
15. The developer shall notify all adjacent property owners no less than seven days prior to any blasting activities on the site. Notification shall be by hand delivery of written notice to the front door of each property owner.

16. At no time shall development activities exceed the noise standards set forth in Rolesville Town Code of Ordinances Chapter 130.
17. The sanitary sewer outfall should follow the presented Route B. If such route is not approved by the City of Raleigh Public Utilities Department, the applicant shall propose an alternative route for consideration by the Town Board before any construction drawings are approved by Town Staff.
18. Subject to the approval of the United States Postal Service, the developer shall provide two (2) mail kiosks separated by at least 500 linear feet within the subdivision for mail service.
19. Prior to the issuance of the first CO for any particular phase of the development, all greenways in that phase shall be completed, including dedication of a 30-foot public greenway easement, construction of 10-foot paved trail, and all applicable signage. Once completed to the town's satisfaction, the Town will accept ownership and maintenance of the public greenways.
20. Onsite amenities to include a community swimming pool and playground area shall be provided prior to the issuance of the 50th CO. The amenity site is subject to further review and approval by the Town through the site plan review process.

ACCORDINGLY, based upon the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW and subject to the foregoing CONDITIONS OF APPROVAL, the Town of Rolesville Board of Commissioners hereby approves the special use permit for a 199-lot residential subdivision off Rolesville Road in Rolesville, North Carolina and further described on the attached Exhibit A.

This the 15th Day of November, 2016.



Town Clerk



EXHIBIT A

LYING AND BEING in Wake Forest Township, Wake County, North Carolina, adjoining the western margin of the right of way of Rolesville Road (North Carolina State Road 1003) and being more particularly described as follows:

BEGINNING at an iron pipe set on the western margin of the right of way of Rolesville Road at the northeast corner of property owned now or formerly by Sue Scarboro Parker (see deed recorded in Book 3599, Page 618 and map recorded in Book of Maps 1947, Page 78); then running the following lines:

1. With the northern boundary line of said property of Parker, North 87 degrees 05 minutes 58 seconds West 1632.42 feet to an iron pipe found at the northeast corner of property owned now or formerly by Bernard B. Bailey (see deed recorded in Book 3235, Page 171 and Lot 6 on map recorded in Book of Maps 1984, Page 114);

2. With the northern boundary line of said property of Bailey, North 89 degrees 18 minutes 35 seconds West 277.34 feet to an iron pipe found at the northeast corner of another property owned now or formerly by Bailey (see deed recorded in Book 10888, Page 2739 and Lot 5 on map recorded in Book of Maps 1984, Page 114);

3. With the northern boundary line of said property of Bailey, North 89 degrees 18 minutes 35 seconds West 158.25 feet to an iron pipe found at a corner in the eastern boundary line of property owned now or formerly by Annie H. Moody Heirs (see Estate File 00 E 955 in the office of the Wake County Clerk of Court and see map recorded in Book of Maps 1986, Page 862);

4. With the eastern boundary line of said property of Moody, the following three (3) lines:

a. North 89 degrees 27 minutes 47 seconds West 204.40 feet to an iron pipe found;

b. North 01 degree 13 minutes 56 seconds East 626.19 feet to an iron pipe found,
and

c. North 01 degrees 21 minutes 45 seconds East 458.28 feet to an iron pipe found at the northeast corner of said property of Moody;

5. With the northern boundary line of said property of Moody, South 89 degrees 43 minutes 28 seconds West 1251.07 feet to an iron pipe found at the southeast corner of property owned now or formerly by William Frank Hodge (see deed recorded in Book 15305, Page 2406);

6. With the eastern boundary line of said property of Hodge, the following two (2) lines:

a. North 00 degrees 13 minutes 03 seconds East 37.93 feet to an iron pipe found;
and

b. North 00 degrees 27 minutes 20 seconds East 412.56 feet to an iron pipe found at the northeast corner of Hodge and at the southeast corner of property owned now or formerly by The Watkins Family LLC (see deed recorded in Book 5931, Page 93 and Tract 1B on map recorded in Book of Maps 1925, Page 52);

7. With the eastern boundary line of said property of The Watkins Family LLC, the following four (4) lines:

a. North 00 degrees 10 minutes 48 seconds West 746.47 feet to an iron pipe found, said iron pipe having North Carolina Grid Coordinates of N=778,911.042 and E=2,159,804.854, and said iron pipe being located the following lines from N.C.G.S. Monument "Deisel", which monument has North Carolina Grid Coordinates (NAD 83) of N=789,627.371 and E=2,134,362.972: South 67 degrees 09 minutes 32 seconds East 27,606.69 feet (grid distance) and 27,608.56 feet (ground distance);

b. South 88 degrees 51 minutes 34 seconds East 855.49 feet to an iron pipe found;

c. North 01 degrees 02 minutes 00 seconds West 870.96 feet to an iron pipe found at a rock; and

d. South 87 degrees 39 minutes 19 seconds West 408.23 feet to an iron pipe set at a corner of an "Overlap Area" (see deed recorded in Book 14103, Page 2365);

8. With the eastern boundary of the Overlap Area, the following three (3) lines:

a. North 01 degrees 01 minutes 29 seconds West 231.03 feet to an iron pipe set;

b. North 88 degrees 28 minutes 45 seconds East 165.00 feet to an iron pipe set; and

c. North 06 degrees 51 minutes 15 seconds West 264.00 feet to an iron pipe found at the southwest corner of property owned now or formerly by Joseph E. Wall and Betty R. Gunz (see deed recorded in Book 5178, Page 858 and map recorded in Book of Maps 1985, Page 1806);

9. With the southern boundary line of said property of Wall and Gunz, South 87 degrees 57 minutes 13 seconds East 1023.41 feet to an iron pipe found on the western boundary line of property owned now or formerly by Tar Heel Blue Farm LLC (see deed recorded in Book 12866, Page 2353 and map recorded in Book of Maps 2007, Page 1479);

10. With the western boundary line of said property of Tar Heel Blue Farm LLC, South 00 degrees 09 minutes 21 seconds East a total distance of 973.01 feet to an iron pipe found at the northwest corner of property owned now or formerly by Lyda Sue Moody (see Estate File 88 E 1618 and Lot 6A on map recorded in Book of Maps 1928, Page 142);

11. With the western boundary line of said property of Moody, the following two (2) lines:

a. South 00 degrees 09 minutes 21 seconds East 60.99 feet to an iron pipe found in the centerline of a creek, and

b. South 27 degrees 36 minutes 56 seconds East 258.11 feet to an iron pipe found at the northwest corner of property owned now or formerly by Benny Lawrence Moody et al. (see deed recorded in Book 14297, Page 1583 and maps recorded in Book of Maps 2016, Page 38, Book of Maps 1986, Page 968, and Book of Maps 1928, Page 142);

12. With the western boundary line and then the southern boundary line of said property of Moody, the following five (5) lines:

a. South 29 degrees 16 minutes 51 seconds East 103.15 feet to an iron pipe found;

b. South 24 degrees 05 minutes 29 seconds West 371.97 feet to an iron pipe found;

- c. South 02 degrees 53 minutes 11 seconds East 246.17 feet to a point;
- d. South 47 degrees 16 minutes 10 seconds East 515.62 feet to a point; and
- e. North 88 degrees 05 minutes 26 seconds East a total distance of 1591.92 feet to an iron pipe found at the northwest corner of property owned now or formerly by Pennina B. Rowell and Rachel K. Rowell (see deed recorded in Book 15779, Page 229);

13. With said property of Rowell, the following two (2) lines:

- a. With the western boundary line, South 11 degrees 50 minutes 07 seconds West 214.01 feet to a rebar found, and

- b. With the southern boundary line, North 88 degrees 07 minutes 12 seconds East 209.76 feet to an axle found on the western margin of the right of way of Rolesville Road;

14. Then continuing along a line running North 88 degrees 07 minutes 12 seconds East 30.85 feet to a point in the center line of Rolesville Road;

15. With the center line of the right of way of Rolesville Road the following four (4) lines:

- a. South 11 degrees 29 minutes 36 seconds West 164.22 feet to a point;

- b. South 11 degrees 42 minutes 08 seconds West 299.80 feet to a point;

- c. South 11 degrees 53 minutes 37 seconds West 500.09 feet to a point; and

- d. South 12 degrees 04 minutes 19 seconds West 290.54 feet to a point in the center line of Rolesville Road;

16. Then leaving the center line of Rolesville Road and running North 87 degrees 05 minutes 58 seconds West 30.39 feet to the BEGINNING POINT,

and containing 145.063 acres, more or less, according to a survey by Matthew J. Timblin, Professional Land Surveyor, of Withers & Ravenel, entitled "Satellite Annexation Map For The Town Of Rolesville Property Of Mitchell Mill Road Investors LLC", dated 01-19-2016 and revised 08-30-2016 (CAD FILE: BD_16003 AND PROJECT NO. 05150229.00).

CERTIFICATION

I, Robin E. Reif, Town Clerk for the Town of Rolesville, North Carolina, do hereby certify the foregoing to be a true copy of a development order duly adopted at the meeting of the Town of Board of Commissioners held on the 15th Day of November, 2016.

In witness hereof, I have hereunto set my hand and caused the seal of the Town of Rolesville to be affixed this 15th Day of November, 2016.



Robin E. Reif
Robin E. Reif

Rolesville Town Clerk