

NORTH CAROLINA
WAKE COUNTY

DEVELOPMENT AGREEMENT

This DEVELOPMENT AGREEMENT entered into this 8th day of March, 2005, by and between the TOWN OF ROLESVILLE (the "Town") and NORTH WAKE DEVELOPERS, LLC (referred to herein as the "Developer" and "Owner"):

WITNESSETH:

WHEREAS, the Owner is the owner of a parcel comprised of 156± acres within the Town more particularly described in *Exhibit A*, attached hereto and hereinafter referred to as the "Property"; and

WHEREAS, the Town has approved a Master Plan known as the Southern Property Specialists Master Plan a copy of which is attached hereto as *Exhibit B* and hereinafter referred to as the "Master Plan";

WHEREAS, concurrent with the Master Plan, the Town approved a special use permit with various conditions governing development of the Property, a copy of which is attached hereto as *Exhibit C* and hereinafter referred to as the "Special Use Permit";

WHEREAS, the Master Plan will include residential building lots and commercial building lots along with ancillary public and private facilities including streets, sidewalks, water and sewer lines, storm drainage improvements, a tot lot, walking trails and other recreational facilities to be developed pursuant to the approved Master Plan;

Whereas, the Master Plan and Special Use Permit require that Developer install certain improvements designed to mitigate the impact of the Development on the Town;

WHEREAS, the Town and Developer would like to establish a timetable for the installation of required improvements;

WHEREAS, the Master Plan calls for the installation of an oversized By-Pass road connecting Rogers Road and West Young Street in accordance with the Town's Thoroughfare Plan;

WHEREAS, the Town and Developer agree that installation for the oversized component of the By-Pass Road should not be borne entirely by Developer;

WHEREAS, the Developer agrees to advance the cost necessary to design and construct the By-Pass Road in accordance with Town standards so that the street may serve other properties; and

WHEREAS, the Town has in effect policies and ordinances governing and regulating the installation of oversized infrastructure and the reimbursement to persons installing such infrastructure of a portion of the cost thereof from fees collected by the Town at a time after the installation of such infrastructure.

WHEREAS, the Town and Developer agree to a policy for the allocation of utilities to serve the proposed development;

WHEREAS, the Developer agrees to abide by all the conditions of the approval.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by reference, and of the mutual covenants and agreements contained herein and other good and valuable consideration, the parties hereto agree as follows:

Section 1. Definitions.

Whenever used in this Agreement the following terms shall have the following definitions indicated hereafter in this Section I. Other terms may be defined elsewhere in this Agreement.

A. "Master Plan" shall mean the approved Master Plan for the project attached hereto as *Exhibit B* and incorporated herein as if fully set out.

B. "Infrastructure" shall mean all public and private infrastructure that is necessary to serve the Property, including, but not limited to, police and fire protection facilities, water mains, valves, fittings, fire hydrants, service connections, service lines, shutoffs, meter boxes, sewage pumping stations, force mains, gravity sewer mains, manholes, laterals, streets, curbs, gutters, sidewalks, greenways, bikeways, transit facilities, park and recreation facilities, storm drainage facilities and stormwater retention facilities. Infrastructure shall either be owned or otherwise controlled by the Town, City of Raleigh or North Carolina Department of Transportation (Public Infrastructure) or by a nonprofit homeowners association (Private Infrastructure).

C. "Property" and "Development" shall mean the land comprised of 156± acres within the Town and more particularly described in *Exhibit A*, attached hereto.

D. "By-Pass Road" shall mean the road shown on the Master Plan beginning at Rogers Road and ending at West Young Street.

E. "Developer" and "Owner" shall mean North Wake Developers, LLC, its successors and assigns.

F. "Town" shall mean the Town of Rolesville, a municipal corporation.

G. "Project" shall mean the development contemplated by the Master Plan.

Section 2. Development Improvements

Developer shall design, construct and install at its expense all Infrastructure required by the Master Plan, this document or other approvals in accordance with the design criteria set forth by the Town and the City of Raleigh, as applicable. The plans for the Infrastructure shall be prepared by a licensed engineer employed by Developer. Prior to commencing construction of the Infrastructure, Developer shall obtain at its expense the requisite permits and approvals from the requisite governmental agencies for such construction. Upon satisfactory inspection of Infrastructure by the Town, the City of Raleigh or other government authority, Developer shall do the following:

1. Developer shall dedicate for public use all streets and sidewalks, water and sewer lines on the Property free and clear of all liens and encumbrances, by warranty deed, deed of easement, dedication by approved plat or bill of sale, in form and substance reasonably satisfactory to the Town. Developer shall convey to the Town, North Carolina Department of Transportation or the City of Raleigh and its successors and assigns, perpetual easements on, through, over, under and across all portions of the Property necessary for repair and maintenance of the Public Infrastructure.
2. Developer shall deliver to the Town, North Carolina Department of Transportation, or City of Raleigh a lien waiver and release, in form and substance reasonably satisfactory to the Town, from all contractors, subcontractors and suppliers of materials or labor who may have a right to impose a lien on any portion of the Public Infrastructure.
3. Developer shall deliver to the Town security, in the form of a letter of credit or performance bond approved by the Town Attorney, for Developer's one year

warranty of the Public Infrastructure in the amount of one hundred twenty five percent (125%) of the cost of construction of such Public Infrastructure.

4. Developer shall deliver to the Town all original manufacturers' warranties and/or operation manuals, if any, for the Public Infrastructure and Developer shall deliver to the Town one (1) complete set of as-built drawings showing all the Public Infrastructure, easements and rights-of-way, as located by a North Carolina licensed surveyor and certified by Developer's engineer of record. The as-built drawings shall be submitted in a digital format compatible with the Town's GIS system and approved by the Town Manager.

A. Required Improvements by Developer

1. Traffic Impact Analysis

Prior to the issuance of any building permit, the Developer shall cause a traffic impact analysis to be conducted by a properly certified traffic engineer at his sole expense. Assumptions for the traffic impact analysis shall be reviewed and approved by the Town's consulting engineer and must include the entire project approved by the Master Plan anticipating the most intense development permitted under the approvals at build-out. While the traffic impact analysis will include a study of the Project, the Developer shall only be required to install road improvements recommended thereby at the intersection of Rogers Road and the By-Pass Road and West Young Street and the By-Pass Road (the "TIA Improvements"); specifically, the only TIA Improvements shall be those road improvements that the Developer's traffic engineer recommends, in his or her professional opinion, are necessary to safely and efficiently handle the volume of traffic generated by this Development at the intersection of Rogers Road and the By-Pass Road and West Young Street and the By-Pass Road. The TIA Improvements may include,

without limitation, road widening, turn lanes, traffic lights, stop signs, turn lanes, tapers, traffic calming measures and any and all other recommended improvements. To the extent permitted by the applicable governmental authorities, the Developer shall install the TIA Improvements in connection with its development of the Property.

2. Road Improvements by Developer

During the course of development of the Property, and subject to the terms and provisions of this Agreement, Developer shall at his sole expense provide all rights-of-way and utility easements for, and shall construct the following new roads in accordance with the Town's design standards:

<u>Street Name</u>	<u>Cross Section</u>	<u>Distance</u>	<u>Completion Date</u>
By-Pass Road	a 3 lane, 35' b/b road with curb, gutter and sidewalk on both sides of the street a 60' right of way	Connecting Rogers Road and W. Young Street, as shown on the Master Plan	January 1, 2006

The By-Pass Road shall be completed by January 1, 2006. In addition, Developer shall install the TIA Improvements contemplated above and all other roads shown on the Master Plan in accordance with town standards. As contemplated in Section 4 below, a two lane road is all that is required by the Town's Thoroughfare Plan to serve the Development, and the Town agrees to compensate Developer for oversizing the By-Pass Road. The Master Plan requires the By-Pass Road to be a 60' right of way consisting of a three lane roadway measuring 35' back-to-back with curb, gutter and sidewalks on both sides. Developer intends to construct the By-Pass Road as a three lane roadway measuring 41' back-to-back with curb, gutter and sidewalks on both sides. In the event Developer constructs the By-Pass Road to standards that exceed those required in the Master Plan, the additional costs incurred by Developer shall be reimbursed by the Town to the Developer as contemplated in Section 4 below, and the costs to install a roadway

cross section in excess of the 35' back to back shall be included in and count toward the Five Hundred Thousand Dollar (\$500,000) reimbursement threshold described in Paragraph 4 of Section 4 below.

3. Traffic Signal Requirements

The Town and the Developer anticipate that the impact of this development will require the installation of two traffic signals: (i) at the intersection of West Young Street and the By-Pass Road as shown on the Master Plan and (ii) at the intersection of Rogers Road and the By-Pass Road as shown on the Master Plan. The Developer agrees to install the traffic signals at his sole expense (subject to reimbursement as described below) as soon as the North Carolina Department of Transportation allows the signals to be installed. The Developer shall apply to the North Carolina Department of Transportation to install the two traffic signals upon the completion of the By-Pass Road described above and the Developer shall use commercially reasonable efforts to ensure that the traffic signal installation is approved by the North Carolina Department of Transportation. If the request is granted, the Developer shall proceed immediately with the installation of the traffic signals. If the request is denied, the Developer shall reapply every two (2) years until the request is approved or until January 15, 2015, whichever shall first occur. The Developer shall provide, at its expense, any and all information requested by the North Carolina Department of Transportation to evaluate each request to install traffic signals at the above-referenced intersections. The Developer agrees that his obligation to install the two traffic signals shall continue until January 15, 2015 or until the two traffic lights are installed and accepted by North Carolina Department of Transportation, whichever shall first occur. The Developer or his designee shall provide a performance bond or letter of credit,

approved by the Town Attorney, in the amount of One Hundred and Twenty-five per cent (125%) of the current cost of two traffic signals to secure the future installation of the two traffic signals prior to the issuance of a building permit. The current cost of a traffic signal shall be determined by the average of at least two cost estimates less than sixty (60) days old provided by the Developer and approved by the Town's Consulting engineer. The Developer shall be obligated to maintain the performance bond in full effect until January 15, 2015 or until the traffic signal is installed and accepted by the North Carolina Department of Transportation, whichever shall first occur. If the traffic signals are not installed as required, the Town shall have the right to draw on the posted performance bond or letter of credit and install the signals. If the signals are not approved by the North Carolina Department of Transportation by January 15th, 2015, the Town shall return the bond or letter of credit and the Developer shall be released from its obligation to install the traffic signals.

Notwithstanding the foregoing, the Town anticipates that other developments in the vicinity of the Project will generate traffic at the intersection of West Young street and the By-Pass Road and at the intersection of Rogers Road and the By-Pass Road and benefit from the installation of the traffic lights. At the request of the Developer prior to the installation of the traffic lights, the Town will hold a public hearing on the issue of assessing a portion of the cost of the traffic lights to adjacent and nearby property owners who benefit.

4. Utility Improvements by Developer

Town water and sewer services are available in close proximity to the Property. The Developer shall at its expense obtain all applicable permits and install all utility lines necessary

to provide water and sewer service to the Property as determined by the Town and City of Raleigh.

5. Stub-out Roads and Utility Lines

The Developer is required to stub-out road and utility lines to the property lines of the Project as approved by the Town, North Carolina Department of Transportation and/or the City of Raleigh as appropriate. In the event a property line as shown on the Master Plan or final site plan for the Property or portion thereof is located within a stream, other body of water, wetlands area, or other protected area which makes the immediate extension of the road or utility line impractical, Developer shall extend the road as close to the property line as practical and shall post a performance bond or letter of credit, approved by the Town Attorney, for one-half (1/2) the estimated cost of extending the road or utility line across the stream, body of water, wetlands, or other protected area. The performance bond or letter of credit shall be effective for ~~ten (10)~~ **fifteen (15)** years from the date of issue. In the event a road or utility line for which the performance bond or letter of credit is posted is not extended by the date that is ~~ten (10)~~ **fifteen (15)** years from the date of its issuance, such bond or letter of credit shall be returned to Developer, and Developer shall have no further obligation or liability under this Section.

Section 3 Phasing of Improvements

Infrastructure improvements to be constructed under this Agreement by Developer shall be completed in a timely fashion to enable the development of the Property in accordance with Developer's development schedule as approved by the Town Manager. Any failure on the part of the Developer to comply with this shall be deemed a violation of this Agreement, and upon notice and opportunity to cure as described in Section 14 the Town in addition to other remedies provided by law shall have the right to withhold further approvals for the development of the

Property, withhold and/or terminate utility allocations, utility connections, and occupancy permits. All roads to be constructed pursuant to this Agreement shall be dedicated to the Town or the North Carolina Department of Transportation upon completion.

Section 4. Reimbursement for Installation of Oversized Road Improvements

The Town acknowledges that installation of the By-Pass Road in accordance with the Town Thoroughfare Plan exceeds the lane and width requirements necessary to serve this development. A two-lane road is all that is necessary to serve the Development. The Developer agrees to advance the funds necessary to install the By-Pass Road as contemplated by the Thoroughfare Plan and the Town agrees to compensate Developer for such oversized improvements as follows:

1. All construction shall be performed by a contractor licensed to perform this type of work in the State of North Carolina. The contractor must be approved by the Town before a contract is entered into between the Developer and the contractor. C.C. Mangum is an approved contractor. All work shall be subject to inspection by the Town. Inspection shall be provided according to Town policy.

2. Subject to the reimbursement provision contained herein, Developer shall pay all costs and expense incurred in connection with the design and construction of the By-Pass Road, including, but not limited to, engineering and design fees, easement acquisition costs, construction costs, inspection costs, appraisals and legal expenses, and all other costs associated with the installation of the By-Pass Road ("By-Pass Road Costs").

3. In return for constructing the By-Pass Road, the Developer shall not be required to pay transportation or thoroughfare fees for its development in the Development and all thoroughfare fees collected by the Town from other developers/owners in the Development shall

be reimbursed by the Town to Developer to offset the costs for installation of the By-Pass Roads as provided below. Developer expressly elects to be reimbursed from transportation fees paid by the purchasers of lots in each of the Developments after such fees are paid. The Town reserves the right, in its sole discretion, to pre-pay all or part of the amount due Developer at any time.

4. The Town shall reimburse the Developer **only** from ~~the first~~ transportation fees collected during the term of this Contract from the Development. ~~The Town shall reimburse the Developer~~ for By-Pass Road Costs in excess of Five Hundred Thousand Dollars (\$500,000.00) **in accordance with the reimbursement procedure described herein.** Developer shall submit an affidavit and paid invoices indicating Developer has spent Five Hundred Thousand Dollars (\$500,000.00) in By-Pass Road Costs. Developer shall thereafter submit copies of paid invoices to the Town for By-Pass Road Costs in excess of the Five Hundred Thousand Dollars (500,000.00) which shall be paid by the Town to Developer from transportation fees within thirty (30) days of submission to the Town by Developer, if the funds are available. Developer acknowledges that transportation fees collected from the Development may not be available when requested by Developer. In that case, funds will be paid to the Developer within fifteen (15) days of receipt of such funds by the Town. Developer acknowledges that transportation fees collected for the Development may not cover the cost of the improvements.

5. Except for any lots developed by Developer, the owner of lots at the time of building permit issuance will be responsible for the payment of all transportation fees charged by the Town. In consideration for constructing the By-Pass Road, the Developer shall not be required to pay transportation fees at the time of building permit issuance for lots that Developer develops.

6. The Town shall keep Seven Hundred Fifty Dollars (\$750.00) as an administrative fee for collecting and disbursing the first reimbursement payment; and shall keep three percent (3%) of all sums collected and disbursed thereafter.

7. The Town shall make reimbursement payments by its checks payable to Developer.

8. All payments by the Town shall be by its check drawn on a bank having offices in Wake County, North Carolina, and delivered to the named payees at the office of the Town Manager.

9. All moneys to be collected by the Town and reimbursed to the Developer shall originate from Transportation Fees paid by users of the roads in the Development. The parties expressly acknowledge that the Town shall pay no tax revenue to Developer hereunder. Nothing herein shall be construed to entitle anyone to the payment of revenues from tax sources, or any revenue source other than transportation fees generated within the Development.

10. Developer acknowledges that the cost of installing the oversized By-Pass Road may exceed the transportation fees generated by the Development.

11. In the event of a controversy over the right to any reimbursable fees hereunder, the Town shall disburse such fees by its check payable jointly to all parties claiming an interest in the proceeds, and by delivering the check to one of the claimants at its offices.

Section 5. Allocation of Water and Sewer

A. Water and sewer allocations shall be specifically assigned to new development on the Property when the Developer has a Board of Commissioners approved site plan, paid the fees due on the Property phase for which development is proposed, including but not limited to capacity fees and acreage fees, and has had the Property annexed into the

Town. The Town development fee schedule is subject to change at any time. The amount of fees due to the Town shall be the amount specified by the Fee Schedule at the time the fees are paid.

B. The Town Planning Department shall maintain a public list of the assigned flows and the Town's available allocation of water and sewer.

C. At the completion of the development of the Property or portions thereof, the Town will adjust the assigned allocation on the actual average usage.

Section 6. Residential Dwellings

A homeowners' association shall be created for all the residential development. All owners of residential lots shall be members of the association. The homeowners association shall provide for maintenance of all landscape and improvements located on common area, any private streets or drives, maintenance of pedestrian walkways, open space, and tot lots. The Developer's attorney shall certify to the Town Attorney in writing that all of these requirements have been met prior to issuance of the any certificate of occupancy for any residential use. Restrictive Covenants shall be incorporated into the Homeowners Association documents providing for the following:

- A. No residential lot shall be smaller than 11,250 square feet.
- B. All homes shall have garages.
- C. All garages shall be designed to accommodate at least two cars. **At least 50% of the garages shall contain two separate doors.**
- D. All homes shall contain a minimum of 2,000 square feet of heated square footage.
- E. The exterior of all homes shall be made up of varied architectural characteristics, including at least four of the following elements on the

front façade: differentiated materials and colors; varied roof lines and pitches; dormer windows; window mullions; bay windows; patterned stone or brick work; planted foundation beds; pre-cast quoins; keystones; pre-cast accents; standing seam roofs; decorative arches and/or shutters.

- F. Entries and front facades shall be located on lots such that they create visual interest, variety and appeal from the street. Varied setbacks and protrusions of the front façade may be provided to give variety along the streetscape. Identical home elevations shall be prohibited immediately adjacent to one another.
- G. All homes shall have front porches and/or covered stoops at the front entry. Porches and stoops shall be covered with pitched roof elements and provide a minimum depth of four feet (4').

Section 7. Amenities

1. All recreational amenities shall be provided at the expense of Developer and conveyed to the Homeowners Association, except for any private, commercial recreational facilities constructed by the Developer.

2. One fenced tot lot playground of a design to serve children from 2-10 years old shall be provided.

3. Paved walking trails at least 6 feet (6') in width shall be provided throughout the open space generally following the north branch of Sanford Creek **as shown on the Master Plan**. Walking trails shall total approximately 4,000 linear feet. The parties agree that 4,000 linear feet is an estimated number and that the exact number may be higher or lower except that not less than 2,000 linear feet. **Walking trails can be located in the exterior portion of the stream buffer if allowed by the North Carolina Department of Environment and Natural Resources.**

4. At least one pedestrian pathway, paved and at least six feet (6') in width and connecting to the paved walking trail above, shall provide pedestrian access from the residential

development in this Project to the Town of Rolesville Park which fronts on South Main Street. At least one pedestrian pathway, paved and at least six feet (6') in width, shall provide safe pedestrian access from the residential development in this Project to the commercial development in this Project. At least one pedestrian pathway, paved and at least six feet (6') in width, shall provide pedestrian access from the residential development in this Project to any school located within fifteen hundred feet (1500') of any property line of the Property.

5. An opaque landscape buffer consisting of planted vegetation and/or an earthen berm shall be installed in accordance with the Town Code, and shall be at least ten feet (10') in height at installation and shall be provided along the Property's frontage on Rogers Road.

6. Developer shall convey to the Homeowners Association ownership of the Private Infrastructure, free and clear of all liens and encumbrances, by warranty bill of sale, in form and substance reasonably satisfactory to the Town Attorney, along with any easements necessary for repair and maintenance.

7. Developer shall deliver to the Homeowners' Association a lien waiver and release from all contractors, subcontractors and suppliers of materials or labor who may have a right to impose a lien on any portion of the Private Infrastructure. The Developer shall warrant the Private Infrastructure for a period of one year and shall deliver to the Homeowners' Association all original manufacturers' warranties and/or operation manuals, if any.

8. Developer shall provide both the Homeowners' Association and the Town a complete set of as-built drawings showing all the Private Infrastructure, easements and rights-of-way, as located by a North Carolina licensed surveyor and certified by Developer's engineer of record. The as-built drawings shall be submitted in a digital format compatible with the Town's GIS system and approved by the Town Manager.

9. The Developer shall comply with all conditions of the Special Use Permit, Master Plan and other approvals.

Section 8. General Provisions

1. All notices to be given hereunder shall be in writing, and shall be delivered to the party to be notified at the following addresses:

Town of Rolesville
200 East Young Street
Rolesville, NC 27571

Hal Perry
North Wake Developers, LLC
5909 Falls of Neuse Road
Raleigh, NC 27609

With a copy to:

Holt York McDarris
& High, LLP
Attention: Beth Trahos, Esquire
Post Office Box 2060
Raleigh, NC 27602

With a copy to:

Kennedy, Covington, Lobdell
& Hickman, LLP
Attention: Michael King, Esq.
Post Office Box 1070
Raleigh, NC 27602-1070

2. Reference to the parties hereto shall include their heirs, successors and assigns. It shall be the sole responsibility of the Developer and its successors to give written notice of any successive interest to the rights hereby established to the Town. If there is any controversy over the right to any reimbursable fees hereunder, the Town shall disburse such fees by its check payable jointly to all parties claiming an interest in the proceeds, and by delivering the check to one of the claimants at its offices as defined above.

3. This Contract shall be governed by and construed in accordance with the laws of the State of North Carolina, and it shall be binding upon, and inure to the benefit of, the Town, the Developer, and their respective successors and assigns.

4. The terms and conditions set out herein constitute the entire agreement between the parties and supersede any prior agreement, written or oral, regarding the subject matter set out herein.

5. The Developer shall furnish the Town original tracings of the as-built plans when the work is complete.

6. The parties hereto shall not be liable for any failure to perform hereunder as a result of an external event or events beyond their respective control, including, without limitation, acts of the United States of America, acts of the State of North Carolina (including the denial of permits which the Town or Developer has pursued in good faith), embargos, fire, flood, drought, hurricanes, tornadoes, unseasonable or severe weather conditions, explosions, acts of God or a public enemy, strikes, labor disputes, vandalism or civil riots. However, if any such event interferes with the performance by a party hereunder, such party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance or to complete performance in as timely a manner as is reasonably possible.

7. In the event of a conflict or inconsistency between this Agreement and any currently existing agreement between the Town and Developer, the provisions of this Agreement shall control. In the event of a conflict or inconsistency between this Agreement and the Town, City of Raleigh, and North Carolina Department of Transportation construction standards, the construction standards effective as of the date hereof shall control.

8. This Agreement shall not be modified in any manner except in writing, signed by each of the parties.

9. The term of this Agreement shall be a period of twenty (20) years following execution by both parties.

10. This Agreement shall be a real covenant running with the Property, and any portion thereof as it may be subdivided or recombined, and shall apply to the development of all or any portion of the Property. Developer shall be released from its obligations under this Agreement only upon the assumption of Developer's obligations hereunder by a successor in title to the Property and only with the prior written consent of the Town. The Town's consent shall not be withheld if, as reasonably determined by the Town, the party assuming Developer's obligations possesses adequate financial resources, ownership interests and development expertise needed to complete the requirements of this Agreement, and provided Developer delegates, and proposed assignee assumes, in writing, all of Developer's duties set forth in this Agreement, which assignment and assumption shall be recorded. Developer shall record a Memorandum of Agreement designed to give future property owners notice of this Agreement.

11. This Agreement shall be applicable to the Project as it has been approved at the time of this Agreement. Any increase in residential density, reduction in home sizes or increase of nonresidential square footage will require an amendment to this Agreement.

12. The preambles to this Agreement are a part of the agreement of the parties set forth in this Agreement, and shall be binding upon the parties in accordance with their terms.

13. The parties hereto agree that this Agreement is mutually beneficial in that it provides for orderly urban growth and systematic extension of municipal improvements while at the same time saving a substantial amount of money for the development by relieving it of certain infrastructure expenses for which it would otherwise have been obligated. The parties acknowledge that these mutual benefits are sufficient to constitute good and valuable consideration in support of this contractual agreement.

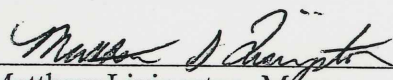
14. In addition to other remedies provided for in this Agreement or by law or equity, any material breach which remains uncured for a period of thirty (30) days after receipt of written notice from the non-breaching party (to the extent such breach can be reasonably cured within such thirty (30) day period; if such breach cannot reasonably be cured within a thirty (30) day period, then the breaching party shall commence a cure within thirty (30) days and proceed diligently thereafter to cure), shall entitle the non-breaching party to require specific performance of breaching party's obligations hereunder and recover such damages as to which the non-breaching party may be entitled, plus reasonable attorneys fees and costs. In the event the Town is the non-breaching party, the Town shall also have the right to withhold further approvals for development of the Property, withhold and/or terminate utility allocations, utility connections and occupancy permits. Any failure of the non-breaching party to exercise any right or remedy as provided for herein shall not be deemed a waiver of the non-breaching party right to strictly enforce breaching party's obligations in any other instance.

IN WITNESS WHEREOF the Town of Rolesville has caused this Agreement to be executed in duplicate originals by its Town Manager, and its seal to be affixed hereto by

authority duly given by its Board of Commissioners, and North Wake Developers, LLC have executed this Contract on the day and year first above written.

[Remainder of page intentionally left blank]

TOWN OF ROLESVILLE


Matthew Livingston, Manager

ATTEST:


Lynn House, Town Clerk

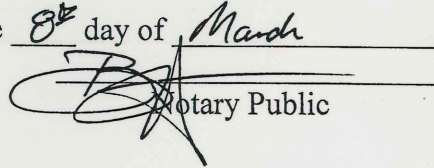
NORTH CAROLINA
COUNTY OF WAKE

TOWN/MANAGER
ACKNOWLEDGEMENT

This is to certify that on the 8th day of March, 2005, before me personally came Lyna House, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Matthew Livingston is the Town Manager of the Town of Rolesville, the municipal corporation described in and which executed the foregoing; that she knows the corporate seal of said municipal corporation; that the seal affixed to the foregoing instrument is said corporate seal, and the name of the municipal corporation was subscribed thereto by the said City Clerk and that the said corporate seal was affixed, all by order of the governing body of said municipal corporation, and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal this the 8th day of March, 2005.

(SEAL)


Notary Public

My Commission Expires: 11/3/07

NORTH WAKE DEVELOPERS, LLC

 (SEAL)
By: Hal Perry, Manager

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, a Notary Public for Wake County, North Carolina, hereby certify that Hal Perry, Manager and X, X of North Wake Developers, LLC personally came before me this day and acknowledged that he is the Manager of North Wake Developers, LLC, and that by authority duly given and as the act of the company the foregoing instrument was signed in its company name by him as its manager as the act and deed of the company.

Witness my hand and official stamp or seal, this the 7 day of March, 2005.

D. Sain Perry

Notary Public

My Commission Expires: Sept. 23, 2006

Exhibit A

Property Descriptions

Parcel 1:

BEING all of that certain tract or parcel of land designated as Tract 4, containing 0.858 acres, as shown on plat of survey entitled "Recombination & Right of Way Dedication Survey for Michael J. Vance, Owner: Michael J. Vance, Wake Forest Township, Wake County, North Carolina" dated June 16, 2003 and last revised November 11, 2003, prepared by Michael A. Moss, Professional Land Surveyor, of Cawthorne, Moss & Panciera, P. C., Professional Land Surveyors, and recorded in Book of Maps 2003, Page 2030, Wake County Registry, to which plat is referenced for a more particular description.

Parcel 2:

BEING all of that certain tract or parcel of land containing 37.895 acres as shown on plat of survey entitled "Property of Josie S. Walsh & William K. Walsh, Survey for Karolyn Hector, Wake Forest Township, Wake County, North Carolina" dated September 24, 2003, prepared by Michael A. Moss, Professional Land Surveyor, of Cawthorne, Moss & Panciera, P. C., Professional Land Surveyors, and recorded in Book of Maps 2004, Page 127, Wake County Registry, to which plat is referenced for a more particular description.

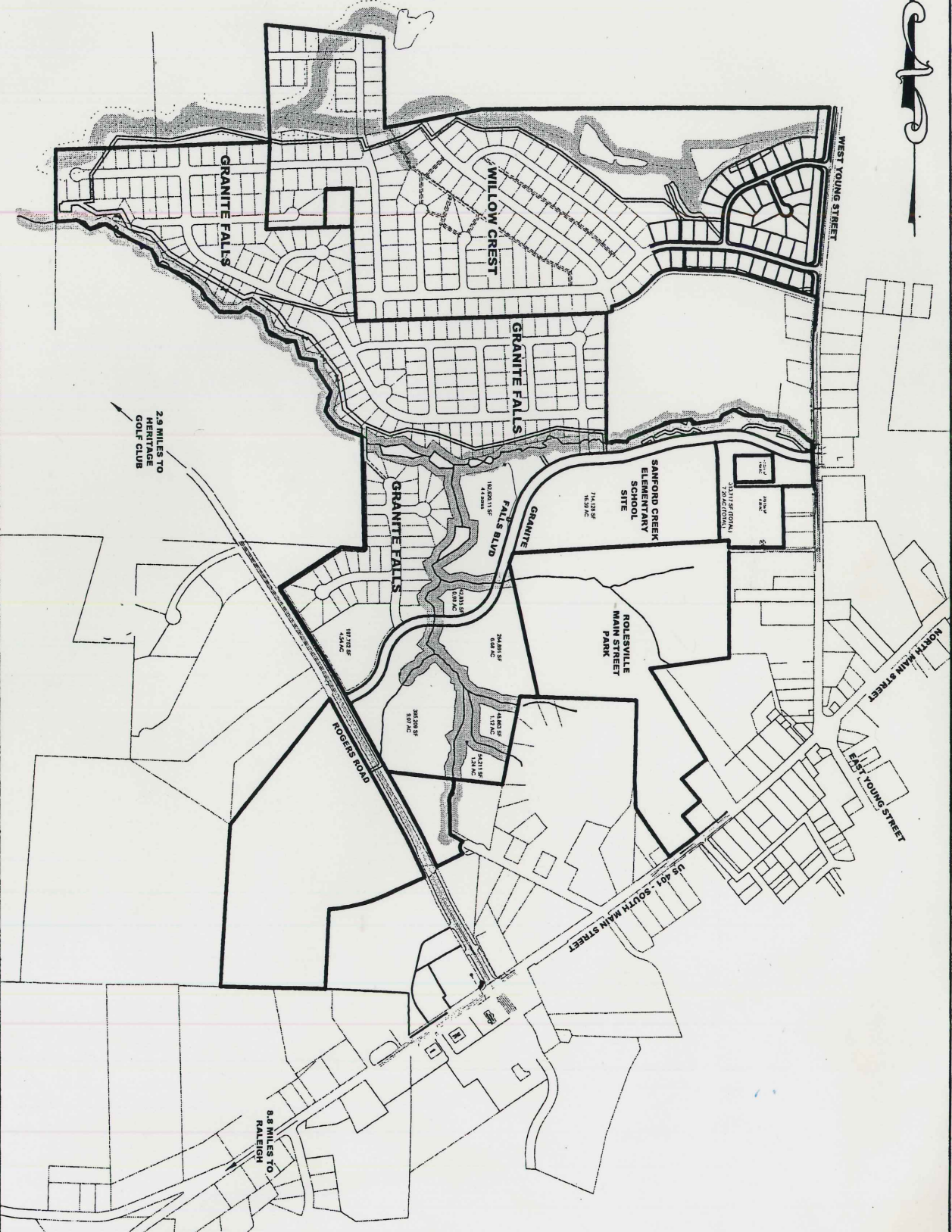
Parcel 3:

BEING all of that certain tract or parcel of land designated as Tract 1, containing 38.948 acres, as shown on plat of survey entitled "Recombination & Right of Way Dedication Survey for Michael J. Vance, Owner: Michael J. Vance, Wake Forest Township, Wake County, North Carolina" dated June 16, 2003 and last revised November 11, 2003, prepared by Michael A. Moss, Professional Land Surveyor, of Cawthorne, Moss & Panciera, P. C., Professional Land Surveyors, and recorded in Book of Maps 2003, Page 2030, Wake County Registry, to which plat is referenced for a more particular description.

Parcel 4:

BEING all of those certain tracts or parcels of land designated as Tract 2, containing 71.106 acres (inclusive of Tract 6, containing 0.321 acres); Tract 3, containing 10.001 acres; and Tract 5, containing 0.505 acres, as shown on plat of survey entitled "Recombination Survey for C. Glenn Scarboro, Delores Scarboro, & Sandra S. Harrison" dated June 16, 2003 and last revised January 9, 2004, prepared by Michael A. Moss, Professional Land Surveyor, of Cawthorne, Moss & Panciera, P. C., Professional Land Surveyors, and recorded in Book of Maps 2004, Page 126, Wake County Registry, to which plat is referenced for a more particular description.

EXHIBIT B



2.9 MILES TO
HERITAGE
GOLF CLUB

8.8 MILES TO
RALEIGH

DATE	REVISION
JOHN A. EDWARDS & COMPANY Consulting Engineers 809 White Ave., Pikesville, MD 21076 Phone (410) 426-4488 FAX (410) 426-4711 e-mail: jae@edwards.com	
SCALE	DATE
1" = 300'	2-16-2005
PROJECT	NO.
GRANITE FALLS/WILLOW CREST	2005-002
CITY	NO.
Pikesville	100
COUNTY	NO.
WANE COUNTY	100
GRANITE FALLS/WILLOW CREST VANCE COUNTY NORTH CAROLINA SITE PLAN	
1	1

Exhibit C

Special Use Permit Conditions for Southern Properties

Approximately 156 acres currently known by Wake County PIN's 1759.19 64 7805; 1759.16 83 2492; 1759.16 73 8112; 1759.20 81 2836 and 1759.16 93 5070

Conditions numbered 1 through 12 on 3 pages.

September 7, 2004

1. The subject property shall be developed in accordance with the preliminary plat dated _____, entitled _____, and prepared by _____, hereinafter referred to as "Approved Plat."
2. Generally following the path shown on the Approved Plat, a by-pass road connecting West Young Street and Rogers Road shall be constructed at the property owner's cost and completed no later than January 1, 2006. This road shall be three lanes in width, including a center turn lane, and shall meet all requirements of the Approved Plat and the Rolesville code.
3. Prior to the issuance of any building permit, a traffic impact analysis must be conducted for the entire project anticipating the most intense development permitted under the approvals at build-out. The assumptions for the traffic impact analysis shall be reviewed and approved by the Town's consulting engineer. A development agreement shall be required to set the schedule for improvement installation. This development agreement shall require the approval of the Board of Commissioners and the Town Attorney.
4. The property owner and the Town of Rolesville anticipate that the impact of this development will require the installation of traffic lights at the intersection of West Young Street and the new by-pass road as shown on the Approved Plat and the intersection of Rogers Road and new by-pass road as shown on the Approved Plat. The property owner or his designee shall provide a performance bond, approved by the Town Attorney, in the amount of 125% of the current cost to secure the future installation of the two traffic lights prior to the issuance of a building permit. The traffic lights shall be installed at the expense of the individual or entity that posts the performance bond referenced above, at the earliest time permitted by the Department of Transportation. If the traffic lights are not installed as required, the Town shall have the right to draw on the posted performance bond and install the lights.
5. Pedestrian pathways meeting the standards of the town code shall be provided connecting the residential and commercial development to the Town of Rolesville Park, which fronts on South Main Street (Highway 401) as approved by the Town on future for specific site development.
6. In the event a school is constructed on any of the subject property or within 1500 linear feet of this development, pedestrian pathways meeting the standards of the town code shall connect the residential development to the school site in a location approved by the Town on future site specific development plans.

7. The property owner offers the following requirements relative to residential construction:

- A. No residential lot shall be smaller than 11,250 square feet.
- B. All homes shall have garages.
- C. All garages shall be designed to accommodate at least two cars.
- D. All homes shall contain a minimum of 2,000 square feet of heated square footage.
- E. The exterior of all homes shall be made up of varied architectural characteristics, including at least four of the following elements on the front façade: differentiated materials and colors; varied roof lines and pitches; dormer windows; window mullions; bay windows; patterned stone or brick work; planted foundation beds; pre-cast quoins; keystones; pre-cast accents; standing seam roofs; decorative arches and/or shutters.
- F. Entries and front facades shall be located on lots such that they create visual interest, variety and appeal from the street. Varied setbacks and protrusions of the front façade may be provided to give variety along the streetscape. Identical home elevations shall be prohibited immediately adjacent to one another.
- G. All homes shall have front porches and/or covered stoops at the front entry. Porches and stoops shall be covered with pitched roof elements and provide a minimum depth of four feet (4').

8. A homeowners association shall be created for all the residential development. The homeowners association shall provide for maintenance of all landscape and improvements located on common area, any private streets or drives, and maintenance of pedestrian walkways, open space, and tot lots. The property owner's attorney shall certify to the Town Attorney in writing that all of these requirements have been met prior to issuance of the any certificate of occupancy for any residential use.

9. A tot lot will be constructed on the (identify leftover lot) , prior to the issuance of building permits for more than 100 residential units.

10. The property owner shall install opaque buffers, as defined by the Town code, at least 10 feet in height along the property's frontage on Rogers Road.

11. Paved walking trails at least 6 feet in width shall be installed throughout the open space as shown on the Approved Plat.

12. Prior to the issuance of any grading permits, the property owner shall enter into a development agreement with the Town of Rolesville incorporating all of the conditions of this special use permit, all of the requirements of the Approved Plat, and the installation of required improvements prior to issuance of any building permit. This development agreement shall require the approval of the Board of Commissioners and the Town Attorney.