

Excise Tax: N/A
Prepared By and After Recording Return to:
BRADSHAW & ROBINSON, LLP
P.O. Box 607, Pittsboro, NC 27312

STATE OF NORTH CAROLINA

**FIFTH AMENDMENT TO
DEVELOPMENT AGREEMENT**

COUNTY OF WAKE

THIS FIFTH AMENDMENT TO DEVELOPMENT AGREEMENT (the "Fifth Amendment") is made this __ day of _____, 2015 by and between the TOWN OF WENDELL, a municipal corporation existing under the laws of the State of North Carolina (the "Town"), and NASH WENDELL FALLS, LLC, a Delaware limited liability company authorized to transact business in North Carolina ("Wendell Falls").

WITNESSETH:

WHEREAS, on or about June 26, 2006, the Town and Wendell Falls Development, LLC ("WFD") entered into a Development Agreement (the "Original Agreement") with regard to multiple tracts of land comprising approximately 1,200 acres within the jurisdiction of the Town, described in Exhibit A attached to the Original Agreement (collectively, the "Property");

WHEREAS, on or about October 9, 2006 and July 14, 2008, the Town approved development of the Property as a Planned Unit Development (the "PUD Approval"), comprised in part of a maximum of 4,000 residential units and a maximum of 2,000,000 square feet of commercial development (the "Project");

WHEREAS, on or about July 27, 2011, the Town, REDUS Raleigh Housing, LLC, a North Carolina limited liability company ("REDUS"), and successor-in-interest to WFD, and the City of Raleigh, a municipal corporation existing under the laws of the State of North Carolina (as a party only to certain limited provisions not amended hereby, the "City") entered into that certain Amendment to Development Agreement (the "First Amendment"), which First Amendment is recorded at Book 14422, Page 1679 of the Wake County Register of Deeds;

WHEREAS, on or about June 17, 2014, the Town and Wendell Falls, entered into that certain Second Amendment to Development Agreement (the “Second Amendment”) which Second Amendment is recorded at Book 15762, Page 644 of the Wake County Register of Deeds, on January 16, 2015, the Town and Wendell Falls entered into that certain Third Amendment to Development Agreement (the “Third Amendment”), which Third Amendment is recorded at Book 15978, Page 995 of the Wake County Register of Deeds, and on April 20, 2015 the Town and Wendell Falls entered into that certain Fourth Amendment to Development Agreement, which Fourth Amendment is recorded at Book 15996, Page 1725(the “Fourth Amendment,” together with the Original Agreement, First Amendment, Second Amendment and Third Amendment, referred to hereinafter as the “Development Agreement”);

WHEREAS, the amendments and modifications contemplated by this Fifth Amendment do not amend any provision of the Development Agreement with respect to which the City is a party;

WHEREAS, Wendell Falls acquired rights as the “Developer” party as successor-in-interest to REDUS, itself the successor-in-interest to WFD, under the Development Agreement pursuant to, *inter alia*, that certain Assignment and Assumption of Development Agreement, dated October 21, 2013, and recorded at Book 15478, Page 1664 of the Wake County Register of Deeds;

WHEREAS, the original PUD Approval was sought and obtained under the Zoning Code of Ordinances of the Town of Wendell, North Carolina, as adopted on January 14, 1980 and as subsequently amended (the “Old Zoning Ordinance”);

WHEREAS, since the date of the PUD Approval, the Town has replaced the Old Zoning Ordinance with The Town of Wendell Unified Development Ordinance, as adopted on or about July 26, 2010 (together with amendments thereto, the “UDO”);

WHEREAS, in an effort to commence the residential development in a manner and form consistent with the Town’s current residential design standards under the UDO, prior amendments of this Development Agreement have allowed the Town to apply elements of the UDO requirements for certain residential components of the Project;

WHEREAS, with the residential development now taking hold, Wendell Falls now seeks to simultaneously progress with respect to the balance of the residential lands along with the commercial and mixed use components of the Project;

WHEREAS, the UDO envisions and includes zoning use categories which are more descriptive, inclusive and flexible than the Old Zoning Ordinance, which are more consistent with the regulatory scheme of the UDO and which are more functional for a large, master-planned community, such as the Project, that will include a diverse array of commercial and mixed-use components;

WHEREAS, although the UDO includes design flexibility and improved use descriptions conducive to development of a diverse master planned community, it does not currently include a

planned unit development (“PUD”) option for master planned communities larger than 200 acres in size;

WHEREAS, Wendell Falls has now sought to Amend the UDO to create a PUD option for master planned communities exceeding 200 acres in size and the Town has approved said amendment;

WHEREAS, Wendell Falls has sought to implement a revised Project map and design through the newly added PUD option under the UDO and has set forth certain parameters of the Project within the approved 2015 PUD Plan Document

WHEREAS, Wendell Falls now seeks to incorporate certain elements of the revised Project into the Development Agreement;

WHEREAS, North Carolina General Statute §§ 160A-400.26 and 160A- 385.1(e)(1)a. allow the Town to apply newer regulation to approved development plans with the written consent of the landowner; and

WHEREAS, modification of the Development Agreement is permitted under North Carolina General Statute §§ 160A-400.28 and Section 5.6 of said Development Agreement by a written instrument signed by both parties;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- (1) Defined Terms. Unless otherwise defined herein, terms defined in the Development Agreement shall have the same meaning in this Fifth Amendment.
- (2) Amendment of the Development Agreement. The terms and provisions of the Development Agreement are modified and amended as provided in this Fifth Amendment. Except as modified herein, the terms and provisions of the Development Agreement shall remain in full force and effect. If, and to the extent that this Fifth Amendment and the 2015 PUD Plan Document are inconsistent, this Fifth Amendment shall control.
- (3) Addition of Section 1.3. The following is added as Section 1.3 of the Development Agreement.

Section 1.3 Wake County Park and Lake Myra Elementary School Properties. Although, at the time of this Amendment (happening concurrently with approval of the 2015 PUD Plan Document approval) the Wake County Park property (approximately 125.8 acres) and the Lake Myra Elementary School properties (17.6 acres) have already been dedicated and conveyed, the acreages continue to be included as part of the 2015 PUD Plan Document for all purposes, including without limitation, for the purposes of calculations of open space and density for the Project.

(4) Amendment of Section 3.4 of the Development Agreement. Section 3.4 of the Development Agreement is amended by adding the following seven (7) new subparagraphs between paragraph (c) and paragraph (d), after existing subparagraph (c8):

“(c9) The applicable minimum residential design guidelines for the Project shall be as set forth in Exhibit E, attached hereto and incorporated herein by reference (the “Residential Design Guidelines”). Additional detailed standards at least as restrictive as the Residential Design Guidelines will be adopted and incorporated into restrictive covenants to be recorded and made applicable to residential structures within the Project (“Covenants”). In the event of any conflict between design standards set forth in the UDO and either the Residential Design Guidelines or the Covenants, or both, the most restrictive of the standards as between those set forth in the Residential Guidelines and the Covenants shall apply. The Town may enforce the Residential Design Guidelines and any applicable UDO provisions. Nothing herein shall limit the authority of Wendell Falls or its successors and assigns to enforce the Residential Design Guidelines or any other provisions of the Covenants.”

“(c10) The applicable minimum commercial design guidelines for the Project shall be as set forth in Exhibit F, attached hereto and incorporated herein by reference (the “Commercial Design Guidelines”). Additional detailed standards at least as restrictive as the Commercial Design Guidelines will be adopted and incorporated into restrictive covenants to be recorded and made applicable to commercial structures (including mixed – use structures) within the Project (“Covenants”). In the event of any conflict between design standards set forth in the UDO and either the Commercial Design Guidelines or the Covenants, or both, the most restrictive of the standards as between those set forth in the Commercial Guidelines and the Covenants shall apply. The Town may enforce the Commercial Design Guidelines and any applicable UDO provisions. Nothing herein shall limit the authority of Wendell Falls or its successors and assigns to enforce the Commercial Design Guidelines or any other provisions of the Covenants.”

“(c11) Any and all references to the “PUD Application” in this Agreement, or any amendments thereto, shall mean and refer to the application and associated materials, maps and exhibits approved by the Town on or about _____, 2015.”

“(c12) Any plats, plans or permits approved or granted prior to the date of the Fifth Amendment hereof are not invalidated by the Fifth Amendment.”

“(c13) The allowed number of residential units in the Project is 4,000. The allowed amount of commercial square footage in the Project is 2,000,000. The maximum density of the Project is 3.43 units per acre. For purposes of

the maximum density calculation, any lands conveyed to third parties since the inception of the Project are included in the calculation. The uses allowed within the Project are as set forth in the 2015 PUD Plan Document approved contemporaneously with the Fifth Amendment hereto. The maximum number of multi-family and attached residential units within the Project shall be 1,400, which is derived from calculating 35% of the number of permitted dwelling units, 4,000. Any of the elements included within this sub paragraph (c13) (number of units, amount of square footage, maximum density, allowed uses maximum percentage of multi-family and attached residential) may be changed by amendment of this Agreement.”

“(c14) Development of the Project shall not at any time require preparation, submission or approval of a Downstream Impact Analysis as that term is used in the Town of Wendell UDO. Further, to the extent of any conflict between Chapter 6 of the Town of Wendell UDO and this Development Agreement, the provisions of this Development Agreement shall apply.”

“(c15) With respect to as-built plans for stormwater management facilities that may be required to be submitted under the Town of Wendell UDO, for phased development, where a stormwater management facility will continue to function in a pre-construction condition, the final as-built plans and certifications will not be required to be submitted until the drainage basin conveying to the stormwater management facility is fully developed and stabilized. Under such circumstances, certificates of occupancy shall be granted prior to final as-built plans and certifications being submitted, provided, however, that Wendell Falls shall be obligated to stabilize the incomplete portion of the applicable phase and the Town may require a bond for completion of the work necessary to fully develop and stabilize the stormwater facility. In addition, such as-built plans should display planted vegetation, but without necessity of an individual material survey.”

- (5) Amendment of Section 3.4(c) of the Development Agreement. Subsection (c) of Section 3.4 of the Development Agreement is deleted in its entirety and the following is substituted in lieu thereof:

(c) Phase I stormwater regulations will be applicable to Pods SF 1-5 and 15 (as shown on Exhibit A-2 of the 2015 PUD Plan Document). Phase II stormwater regulations will be applicable to the balance of the Project. If compliance with such regulations becomes impossible, materially impracticable or otherwise becomes a hardship under the Development Agreement or the 2015 PUD Plan Document, Wendell Falls, its successors or assigns, may submit revisions to this Development Agreement and/or the 2015 PUD Plan Document to accommodate the new stormwater requirements for the Town’s approval, which approval shall not be unreasonably withheld. To the extent of any conflict between any provision of the Town of Wendell UDO and

this Development Agreement, the provisions of this Development Agreement shall apply.

Except as specifically modified by this Fifth Amendment, the terms and provisions of the Development Agreement (including without limitation each other existing subparagraph of Section 3.4 of the Development Agreement) are hereby affirmed and shall remain in full force and effect.

(6) Public Hearing. The Board of Commissioners provided public notice and conducted a public hearing on October 12, 2015 to consider approval and execution of this Fifth Amendment. The Board of Commissioners approved this Fifth Amendment and the Town's execution of the same. After careful review and deliberation, the Board of Commissioners of the Town has determined that the Project, as amended by this Fifth Amendment, is consistent with the Town's comprehensive plan pertaining to future land use, and will further the Town's land use planning objectives and policies as articulated in the comprehensive plan, as well as enhance and secure the health, safety, welfare and economic well being of residents of and visitors to the Town.

(6) No Change in Term. Subject to any subsequent agreements extending the original duration, as extended by the First Amendment and as provided by N.C. Gen. Stat. Section 160A-400.25, the Term of the Development Agreement shall remain as set forth in Section 1.2 of the Development Agreement as amended by the First Amendment.

(7) No Pledge of Taxing Power or Governmental Authority. No provision of this Fifth Amendment shall be construed or interpreted as (1) creating a pledge of the faith and credit of the Town within the meaning of any constitutional debt limitation, (2) delegating governmental powers, or (3) a donation or a lending of the credit of the Town within the meaning of the Constitution of the State of North Carolina. No provision of this Fifth Amendment shall be construed to pledge or to create a lien on any class or source of Town monies, or operate beyond its intended scope so as to restrict, to any extent prohibited by law, any future action or right of action on the part of the Board of Commissioners. To the extent of any conflict between this section and any other provision of this Fifth Amendment, this section shall take priority.

[Signature Pages to Follow.]

IN WITNESS WHEREOF, the Town and Wendell Falls have caused this Fifth Amendment to be duly executed and sealed pursuant to proper authority as of the day and year first written above.

NASH WENDELL FALLS, LLC

By: _____
Print Name: _____
Title: _____

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of _____ County, State of North Carolina, do hereby certify that _____, the _____ of NASH Wendell Falls, LLC, a Delaware limited liability company, either being [] personally known to me or [] proven by satisfactory evidence (such evidence being _____), personally appeared before me this day and acknowledged the above execution of the foregoing instrument on behalf of NASH Wendell Falls, LLC.

Witness my hand and seal, this _____ day of _____, 2015.

Notary Public

My Commission Expires:

[NOTARY SEAL]

THE TOWN OF WENDELL

By: _____
_____, Mayor

ATTEST:

_____, Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF _____

I, _____, a Notary Public of _____ County, State of North Carolina, do hereby certify that _____, either being [] personally known to me or [] proven by satisfactory evidence (such evidence being _____), personally appeared before me this day and acknowledged that she is the Clerk of the TOWN OF WENDELL, a North Carolina municipal corporation, and that by authority duly given and as an act of the corporation, the foregoing instrument was voluntarily signed in its name by the its Mayor, sealed with its municipal seal and voluntarily attested by her as its Clerk for the purposes stated herein on behalf of the TOWN OF WENDELL.

Witness my hand and seal, this _____ day of _____, 2015.

Notary Public

My Commission Expires:

[NOTARY SEAL]

EXHIBIT E

Wendell Falls Minimum Residential Design Standards

10/06/15

SINGLE FAMILY LOTS

Foundations

Foundations allowed will include:

- Crawlspace built to a minimum height of 12" and maximum height as defined by building code
- Slab with continuous stemwall built to a minimum height of 12" and maximum height as defined by building code
- Slab-on-grade (active adult housing, live-work, apartment/condominiums only)

Brick, stone or stucco will be required on each side that faces public street fronts on foundations with height of 12" or more.

Wall Material

Wall materials allowed will include: standard-size brick, natural stone and synthetic from designated manufacturers, wood clapboard and fiber cement siding (such as hardie siding). Vinyl siding will not be allowed. Other architectural accent features may be approved by staff.

Windows and Doors

Windows and doors are important design elements that shall be part of the overall architectural massing and style chosen. It will be important to consider these elements on all sides of the building. A minimum of one window or door is required on all side elevations. A side yard/zero lot line house will not require a window or door on the side of the home with the reduced setback.

Attached Front and Side Load Garages

The visual impact of the garage door should be minimized whenever possible. This could include placement on the side or rear of the house (if applicable to lot size), choosing doors that blend with the main cladding material, and staggering the bays to break the line of the wall. Divided garage doors are encouraged on frontage conditions.

Front load and side load garages shall have two-door appearance. Architectural details at a minimum will include window inserts. Additional features such as trellises, roof overhangs, etc. are encouraged to further deemphasize the garage.

Attached garages with front-loading bays are encouraged to be recessed from the front façade of the house. Front porches may be considered the front façade and be used as the point of measurement. Garages which extend beyond the front façade of the house (to a maximum of 6 feet beyond the front façade) may be constructed when the following additional design criteria are applied:

- No single garage door(s) greater than 12 feet in width.
- Utilize garage doors containing window inserts and/or utilize a carriage style or similarly stylistic garage door that is compatible with the housing style
- Incorporate a trellis, eyebrow roof, columned projection or other architectural element that is compatible with the housing style

EXHIBIT E

Porches

Front porches are an important design element and are encouraged, where possible. Porches, when applicable, shall be a minimum 6' in depth (as measured at house entry). Stoops will be permitted on no more than 40% of such lots in each phase of development. Two-story porches are encouraged. Porches shall be constructed of concrete, wood, brick, etc. Porches shall not be constructed of mill-finished aluminum.

Roof Forms and Slopes

Architecturally appropriate principal roof forms such as hip and gable are encouraged, along with varying roof planes and wall plates. A minimum overhang of 6" for all roofs is required.

Roof Materials

Roof shingles will carry a 25-year warranty and come from a specified manufacturer. Standing seam metal roofing will be allowed as a secondary roofing material.

Accessory Structures

Accessory structures shall be located only in side or rear yards. Accessory structures shall be constructed with similar materials and colors as the main building and must be in scale with the size of the yard and existing buildings. The finished square footage of the accessory structure must not exceed 70% of the finished square footage of the principal structure on the lot. Accessory structures should be sited as close to the minimum setbacks as possible to maximize the yard area.

Fences and Walls

Fences and walls further define private areas around a residential structure. Fences shall be made of wood, brick, stone, aluminum or metal. Vinyl, chain link and roll wire fencing is not permitted on a residential lot. Front yard fences shall not exceed 3 feet in height. Rear yard fences shall not exceed 6 feet in height. Powder coated (green or black) chain link will be permitted in common areas.

TOWNHOME LOTS

The following design criteria shall apply:

- A variety of forms and materials is encouraged; the mixing of incompatible architectural elements or styles is not allowed.
- The overall streetscape (intersection to intersection) shall display massing and design continuity while also incorporating variety.
- Sufficient wall articulation is required to avoid large unbroken expanses of roof or wall planes including the stepping of units and the use of bays and gables where appropriate.
- Distinctive design features at end units are encouraged to create a sense of place, such as tower features, bay projections, second-story balconies, or other suitable feature is encouraged.
- Compatibility in height and massing between adjacent dwellings and dwellings on the opposite side of the street is required.
- Townhome buildings shall provide detailed design along all primary elevations and elevations facing a public street or open space. Detailed design shall be provided by using at least (3) of the following architectural features as appropriate for the proposed building type and style (may vary features on rear/side/front elevations): Dormers, gables, recessed entries, covered porch or stoop entry, cupolas or towers, pillars or posts, eaves (minimum 10" projection which may include

EXHIBIT E

gutter), off-sets in building face or roof (minimum 12”), window trim, bay windows, balconies, and decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, and similar features).

- All front entrances shall be raised from the finished grade (at the building line) a minimum of 12”, except active adult housing, or live/work units, which may have entrances at grade.
- Maximum height 3 stories.

APARTMENTS / CONDOMINIUMS

The following design criteria shall apply:

- A variety of forms and materials is encouraged; the mixing of incompatible architectural elements or styles is not allowed.
- The overall streetscape (intersection to intersection) shall display massing and design continuity while also incorporating variety.
- Sufficient wall articulation is required to avoid large unbroken expanses of roof or wall planes. A minimum 30% of front elevations and a minimum of 15% of side and rear building elevations, shall provide doors, porches, balconies and/or windows.
- Front entrances may be slab on grade or with a raised foundation.
- Porches and stoops shall form a predominate motif of the building design. Porches are at least 6’ deep.
- All buildings shall provide detailed design along all primary elevations and elevations facing a public street or open space. Detailed design shall be provided by using at least (3) of the following architectural features as appropriate for the proposed building type and style (may vary features on rear/side/front elevations): Dormers, gables, recessed entries, covered porch or stoop entry, cupolas or towers, pillars or posts, eaves (minimum 10” projection which may include gutter), off-sets in building face or roof (minimum 12”), window trim, bay windows, balconies, decorative patterns on exterior finish (e.g. scales/shingles, wainscoting, and similar features), decorative cornices and roof lines, or other architectural features appropriate to the architectural style of the unit.
- If pitched roofs are used, they shall be gables or hips with a pitch between 4:12 and 12:12 unless otherwise approved to remain consistent with the intended character of the building.
- All rooftop equipment shall be screened from view.
- Maximum height five stories.

EXHIBIT E

LANDSCAPE DESIGN AND PLANTS

Shade/Street Trees

- Deciduous and evergreen shade trees shall be used in yards to create pockets of shade, screen southern/western building faces, and provide fall or year-round color.
- 2" caliper minimum install size for required shade trees.

Evergreen Trees

- Evergreen trees shall be used for visual screening, accents, and year round foliage.
- 6'0" minimum install height for required evergreen trees

Ornamental Trees

- Flowering trees used to provide seasonal color, primarily in spring and summer as well as to provide intermediate vertical scale.
- 1.5" caliper or 8'0" height minimum for required ornamental trees

Foundation Plantings

- Evergreen shrubs used primarily around the foundations of structures and porch skirting along street sides.
- Typical plantings shall be 18" minimum installed height and 5' on center spacing unless larger growing specimens are being utilized in which case spacing may be increased.
- Shrubs should be used to complement architectural features and not obstruct views from windows.

Shrub Plantings

- A variety of deciduous and evergreen shrubs and ornamental grasses used to create lush landscape beds.

Lawn Grasses

- Turf Types: front, side, and rear yard: warm season turf types.
- Warm season grasses
 - Hybridized Bermuda: seeded or vegetative cultivars (sprigs, plugs, or sod)
 - Zoysia grass: recommended cultivars include but are not limited to Cavalier, Emerald, Palisades, Zeon, and Zorro
- Grass located in the right-of-way shall remain Bermuda.
- Residential front yard grass shall be sod.

EXHIBIT E

LANDSCAPING STANDARDS BY LOT SIZE

Overall

- Shade/Street trees per approved street tree plan
- Corner lots may require additional street trees per approved street tree plan
- Foundation plantings as required
- HVAC units/utilities shall be screened with a minimum of 2 shrubs to minimize impact to public view
- All front yards will be fully sodded

26' Lots

Rear Yard

- Five ornamental shrubs or one ornamental tree

30-49' Lots

Rear Yard

- One ornamental tree

50' – 59' Lots

Front Yard

- One ornamental tree

Rear Yard

- One ornamental tree

60' - 70' Lots

Front Yard

- One ornamental tree

Rear Yard

- One shade tree
- One ornamental tree

80' and Wider Lots

Front Yard

- One ornamental tree

Rear Yard

- One shade tree
- One ornamental tree

Additional Requirements

- One additional ornamental tree in front or rear yard
- One additional evergreen tree in front or rear yard

EXHIBIT F

Wendell Falls Minimum Commercial Design Standards 10/06/15

Design Principles

1. Sustainability

The implementation of sustainable building design strategies is strongly encouraged. Strategies that may be considered include but are not limited to the following:

- Provisions for sustainable means of transportation (convenient parking for bicycles, dedicated spaces for fuel efficient vehicles, charging stations for electric vehicles, etc.)
- Sustainable, regional, drought tolerant plant selection
- Rainwater collection
- Building materials with recycled content
- Regional building materials
- High performance glazing
- Low emitting materials
- Reflective roof materials (white membrane, for instance)
- Water use reduction
- Optimized building systems energy performance
- On site renewable energy and/or green power
- Construction waste management

The use of sustainable strategies is strongly encouraged, but no specific strategies are required by these guidelines. Developers and designers are encouraged to implement the right strategies that work for each project. Detailed information about specific strategies can be obtained through a variety of organizations including the U.S. Green Building Council and other sources.

2. Contextual Design

The design of the building(s) shall complement the surrounding architecture. This shall be achieved through the use of similar colors, materials, and building forms used in the rest of the existing development. Design features and architectural style shall be complementary of the existing development.

The goal of these guidelines is to promote quality architecture while providing design flexibility. These guidelines do not promote any one architectural style, but instead focus on fundamental design principles found in quality design.

3. Scale

The scale of all building elements shall be proportional to human scale. Large expanses of blank wall space are prohibited. Facades shall have articulation of details in the first 10 feet of facade height and be pedestrian friendly. This can be achieved through a variety of design elements including but not limited to the following:

EXHIBIT F

- Masonry accent courses below 10'
- Projecting details in materials below 10'
- Reveals
- Awnings and/or canopies
- Light fixtures
- Covered walkways or arcades
- Trellises

Facade details can vary in height and design across individual facades.

4. Color

The primary colors of building materials shall feature earth tones and/or neutral colors. Intensely bright colors are discouraged, but may be acceptable as an accent color for branding purposes to be reviewed on a case by case basis for quality of design and appropriateness. Contrast of building colors is encouraged for visual impact.

Building colors shall be complementary of surrounding buildings in the development, but are not required to match them. The proposed colors will be reviewed in conjunction with the proposed building materials for each project.

Designers are required to use at least 2 primary building colors and 1 secondary or accent color for each building. Architecture with rigidly uniform color is discouraged.

5. Materials

Building materials shall be similar to those of surrounding buildings in the development. A list of materials may be included in overall design guidelines for the development separate from the requirements listed here.

The majority of building cladding materials (50% or more) for facades visible from parking lots, public streets, sidewalks, pedestrian paths, and parks shall be of brick or glazed brick, wood, cementitious fiber board, stone, cast stone, stone masonry units, architectural concrete block, metal composite panels, glass, aluminum storefront glass, marble or similar material.

Additional materials for facades visible from parking lots, public streets, sidewalks, pedestrian paths, and parks may be used.

These materials may include the following:

- Exterior insulation finishing systems (EIFS)
- Awnings with fabric or metal panels
- A limited amount of up to 25% of a façade area may be; concrete masonry units, split face block, concrete (pre-cast or cast in place) or concrete block. Cinder block is not permitted.

For facades that are not visible from parking lots and public streets, the above restrictions are strongly encouraged but not specifically required. These facades will not be visible from primary vehicular or pedestrian circulation. Additional landscape screening requirements may be enforced for facades with otherwise prohibited materials.

EXHIBIT F

Roof systems may include single ply membrane roofs, standing seam metal, and architectural shingle roofs. Parapets shall be designed to minimize views of the backs of parapets not clad in wall cladding materials as much as possible (to minimize visibility of single ply membrane roofing and membrane flashing).

6. Composition and Proportion

Composition, for the purpose of these guidelines, is defined as the arrangement of building forms and openings of individual facades. The composition should have pleasing proportions with a good balance of forms and openings. Facades should incorporate multiple building forms and opening types to establish a variation of composition and proportion. Uniformly monolithic and/or highly repetitive designs are not permitted. Buildings shall have changes in roofline, wall depth, facade design, building materials, and/or color for walls over 100' in length.

Proportions of building elements may have either vertical or horizontal proportions, and be either symmetric or asymmetric in their organization. The emphasis for these guidelines is on the quality of the design as a whole. Projects that are extremely horizontal or vertical in proportion and composition are discouraged.

7. Lighting

General uplighting of commercial building features is encouraged. Design elements such as cornices, pilasters, towers, awnings, and storefronts should be considered as an integral feature of the architecture. These design elements are encouraged to be incorporated into the lighting design. The use of energy saving fixtures with a long bulb life is strongly encouraged.

8. Transparency

The appropriate and responsible use of windows is required for all building types. The amount of transparency desired varies based on the use of the building, as well as the visibility of each individual facade. In addition to the amount of transparency, the design of individual windows is encouraged to incorporate articulation of elements such as mullions and/or muntins to create interest. In lieu of this, smaller openings can be clustered together to create larger compositions of transparency. The use of a variety of sizes of windows, mullions, and groupings is encouraged to avoid a monolithic appearance.

The following minimum percentages of transparency are required for each type of use. These are minimums, so any increase of transparency above the percentages shown is encouraged.

- | | |
|-----------------------|---|
| A. Office: | 30-50% of wall area for occupied tenant space facades |
| B. Retail Shops: | 20-40% of wall area for front storefronts for first 15' of facade height
15-20% of wall area for side storefronts for first 15' of facade height |
| C. Retail Anchors: ** | 20-30% of wall area for front storefronts for first 15' of facade height
(>15,000 sf) |

EXHIBIT F

** For Retail Anchors, the use of highly articulated, detailed facades of strong pedestrian character may be considered in exchange for lower transparency. This will be reviewed on a case-by-case basis and should be related to tenant functionality within the building. Exceptions would be reviewed and approved by Town Administrator on a case by case basis.

9. Trash Enclosures

All trash dumpsters and recycling bins are required to be carefully screened from view from any street right of way with screen wall enclosures. The construction of the enclosures shall match the design and quality of the surrounding buildings and will be at least 6' tall. These enclosures shall contain adjacent planting strips landscaped with evergreen shrubs along the side or rear of the enclosure.

10. Utilities and Mechanical Screening

All HVAC equipment must be adequately screened from view of the public right of way within each parcel with evergreen shrubs. All exterior mounted electrical, gas, telephone, and other utilities mounted to buildings shall be adequately screened from view when adjacent to parking lots, public streets, sidewalks, pedestrian paths, and parks. Screening for utilities for portions of buildings not facing parking lots, public streets, sidewalks, pedestrian paths, and parks is not required - utilities in these locations should be painted to match the building materials upon which they are mounted.

11. Service Areas

All service areas for loading/unloading, deliveries, etc. shall be labeled on the site plan. Service areas visible from parking lots, public streets, sidewalks, pedestrian paths, and parks will be screened with 4- 6 foot evergreen shrubs or 6 foot fencing with smaller shrubs to help break up the fence line. Service areas should be located to minimize disruption of pedestrian and vehicular circulation on the site, as well as the use of parks and outdoor gathering spaces.

12. Landscape

1. Landscaping Plan Application Requirements

A landscaping plan must be submitted for review for every commercial application. The plan is to indicate the following minimum information, as well as those items listed within the Submittal Checklist:

- Shall indicate all proposed topography, trees and planting (shrubs, ornamentals, perennials and turf areas). Any existing trees or vegetation that is to be preserved must be indicated.
- All required buffers per 2015 PUD Plan must be included.
- All required street trees per the PUD Plan.

2. Planting Configuration, Massing, Materials and Installation Standards

Planting should complement adjacent architecture, and preserve visibility from pedestrian and vehicular traffic areas. Trees, shrubs, ornamental grasses and groundcovers are planted in masses of appropriate size, scale and location. Significant massing of single species of plants is

EXHIBIT F

encouraged, often these will need to be located in front of walls or fences such that they provide a sufficient background for additional, lower plant material in the foreground. Landscape beds are required surrounding the entire perimeter of the building; where possible, these foundation beds are encouraged to extend outwards into the landscape. All planting is required to meet the minimum standards of the PUD Plan, as it relates to quantity, size, species and location on the site.

Areas of the commercial lot not occupied by structures, paving and walls are to be planted. Any highly visible turf areas are to be sodded. Any tree, shrub and groundcover areas, with the exception of beds consisting solely of groundcover, are to be mulched with shredded hardwood bark or pine straw.

All turf or lawn areas and planting beds in the commercial lots are to be irrigated. The use of native and adaptive xeriscape plant materials reduces irrigation demand

3. Plant List and Native Species Selection

The use of native and adaptive, drought tolerant plant species is required and should be considered in the preparation of any landscape plan.

Shade Trees – Locally adapted species with a mature height of 35' or greater and an expected mature crown spread of 30 feet or greater. Canopy trees, existing or planted, must be a minimum of 8' high and have a minimum caliper of 2 inches measure 6" above grade.

Understory Trees – Understory trees must be a minimum of 6' high and 1" in caliper, measured 6" above grade. When mature, the understory trees should have an expected height of 15-35 feet.

Shrubs – All shrubs shall be a minimum of 1-1/2 feet in height when planted and shall reach a height of 36 inches within two years of planting.

Ground Cover – All ground cover type plants must be a minimum of 1-1/2 to 2-1/2 inch pots with a 4 inch minimum length and shall be planted with on-center spacing equal to the average mature spread for each species.

4. Landscape Planting Requirements

a. Foundation Plantings

Foundation plantings shall be planted at a size that will provide impact upon installation and will serve as a framework for the building's border. To provide vertical layering and interest, shrubs should comprise a minimum of 25% of the foundation planting and groundcover, perennials, ornamentals, and annual beds should comprise of at least 15% of the landscape border.

b. Parking Lot Plantings

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Applicability: Interiors of all parking lots with more than 12 parking spaces.

Tree islands are to be a minimum of 8' x 18' and will be provided within the interior of the parking lot and are to be planted with a minimum of one shade tree and four shrubs per 12 spaces. For parking lots of 24 spaces or less, trees and shrubs may be planted at the end of the parking rows or in planting strips. The island shrubs may be transferred to use for the 3.5' semi-opaque parking lot screening from the public right of way or public views.

c. **Street Trees**

Street tree planting is required along all public streets, as well as any private drives within the commercial development areas as indicted per the PUD plan.

d. **Parking Lot Screening**

Parking lots visible from the public right of way shall be screened with a minimum of a 3.5 foot semi-opaque screen. This shall only be required along the parking area that fronts the public right-of-way or any side of a parking lot that is not protected by a buffer yard. The location of such yards shall be determined by the Administrator upon review. Effective screening devices may include solid decorative brick walls, wood fences, earth berms, and evergreen hedges which shall reach the required height within two years of planting, or any combination of the above.

Groundcover, exclusively, shall be planted in the sight triangle on each side of drives or streets. A 6-foot opening shall be allowed every 100 feet to permit pedestrian passage where a formal connection to a sidewalk or pathway is provided.

5. Fencing and Railing

Fencing and railings are required to match the character and architectural style of Wendell Falls. All fencings and railings must be designed and installed to meet all height, structural and barrier requirements of all state and federal guidelines. Standard chain link fencing is not allowed. Black or green vinyl coating chain link can be used in rear yards or service areas that are not visible from public right of way. Fencing alternate and those in excess of 8' can be reviewed and approved by the Administrator.

6. Freestanding and Retaining Walls

All walls are required to complement the character and architectural style of Wendell Falls. Wall materials that may be used include brick, masonry, concrete, or natural stone. The height of walls should be considered on a case by case basis as it relates to their purpose and intent. All walls must be designed and installed to meet all local, state and federal guidelines.

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13. Industrial Building Design and Landscape Standards

With regard to Industrial building design and landscape standards applicable to Zone 5A, this document shall be amended prior to the issuance of any building permit in Zone 5A. Such standards shall be subject to review and approval of the Town Board.