

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") is made this ____ day of _____, 2006, by and between the **TOWN OF WENDELL**, a municipal corporation existing under the laws of the State of North Carolina (the "Town"), and **WENDELL FALLS DEVELOPMENT, LLC**, a North Carolina limited liability company ("Developer").

WITNESSETH:

WHEREAS, Developer currently owns, is under contract or option to purchase, or plans to acquire multiple tracts of land comprising approximately 1,200 acres within the jurisdiction of the Town, all as more particularly described on the attached Exhibit A (collectively, the "Property");

WHEREAS, Developer plans to develop up to 4,000 residences and up to 450,000 square feet of retail and commercial space on the Property, together with supporting public and private infrastructure, including, without limitation, streets, sidewalks, water and sewer lines, storm drainage improvements, and other facilities, which development shall be known as "Wendell Falls" and is described in that Planned Unit Development Application dated May 2, 2006, and submitted to the Town by Developer for the Project (the "PUD Application") (collectively, the "Project") [reference hereinafter to the "Project" shall be deemed to include reference to the "Property"];

WHEREAS, the Project will offer numerous benefits to the Town, including, without limitation, providing for orderly and planned urban growth, permitting the systematic extension of municipal improvements, expanding the Town's tax-base (which will enable the Town to finance the provision of municipal services to the Project), providing public and private amenities to the Town's citizens, and improving the general quality of life in the Town, and the Town supports the Project and desires Developer to proceed with the Project; and

WHEREAS, Developer has requested or will request municipal services from the Town and the Town's permission to annex the Property from time to time to permit the orderly development of the Project, and, subject to compliance by Developer with all prerequisites to receipt of municipal services and approvals, the Town intends to provide such services and approve such annexations as the Project is developed;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained in this Agreement, the benefits that will accrue to both parties from the development of the Project within the corporate limits of the Town, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE 1 GENERAL

Section 1.1 Definitions. Whenever used in this Agreement, the following terms shall have the definitions indicated as set forth in this section.

(a) "Developer" shall mean Wendell Falls Development, LLC, a North Carolina limited liability company, and its officers, employees, successors, assigns, and successors in title.

(b) "Infrastructure" shall mean all Public Infrastructure (as defined below) and/or Private Infrastructure (as defined below) necessary to serve the Property and installed in accordance with the Standard Specifications, including, without limitation, schools, 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, roadways, bridges, traffic signals, streets, curbs, gutters, sidewalks, greenways, bikeways, transit facilities, park and recreation facilities, storm drainage facilities, and storm water retention facilities.

(c) “Laws” shall mean all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies, and rules adopted by the Town affecting the development of the Property, including, without limitation, all laws governing permitted uses of the Property, density, design, and improvements.

(d) “Offsite Public Infrastructure” shall mean any Public Infrastructure that is not located on the Property.

(e) “Onsite Infrastructure” shall mean any Onsite Public Infrastructure and Onsite Private Infrastructure (as defined below).

(f) “Onsite Private Infrastructure” shall mean any Private Infrastructure (as defined below) that is located on the Property.

(g) “Onsite Public Infrastructure” shall mean any Public Infrastructure that is located on the Property.

(h) “Private Infrastructure” shall mean any Infrastructure not owned by or dedicated to a governmental or public entity or authority in connection with the Project.

(i) “Public Infrastructure” shall mean any Infrastructure owned by or dedicated to a governmental or public entity or authority in connection with the Project.

(j) “Standard Specifications” shall mean the standards and specifications applicable to the development of the Project and the Infrastructure and all development documents necessary for approval for the Project, including, without limitation, all standards and conditions set forth in any zoning approvals, special use permits, subdivision plats, site plans, subdivision plat(s), and construction drawings required by the State of North Carolina, Wake County, and/or the Town; provided that if the Town’s utilities are merged with the City of Raleigh or any other utility operator, the construction standards of the Town or its assigns for such standards shall control to the greatest extent allowed by law, and the development of the Project shall comply with any applicable provisions of the utility merger agreement.

(k) “Town” shall mean the Town of Wendell, a municipal corporation existing under the laws of the State of North Carolina and its officers, employees, successors, assigns, and successors in title.

Section 1.2 Term. The term of this Agreement shall be for ten (10) years after the effective date of this Agreement (the “Term”), unless otherwise amended by the parties in accordance with the terms hereof.

ARTICLE 2 ADDITION OF PROPERTIES TO PROJECT

Section 2.1 Additional Properties. The parties acknowledge that Developer currently owns, is under contract or option to purchase, or plans to acquire the Property described on Exhibit A.

Developer shall have the right, from time to time, to acquire additional properties during the Term to develop the Project after the effective date of this Agreement, provided that any such additional properties shall be located within the boundaries shown on Exhibit A-1. Provided that the Town first annexes such additional properties into the corporate limits of the Town in accordance with Section 2.2, Developer shall record a Supplementary Declaration to Add Property (the form of which is contained in Exhibit B) in the public records to provide notice of the addition of property(ies) to this Agreement. Upon the annexation of the additional properties by the Town and the recordation of the Supplementary Declaration for such additional property(ies), the description of the Property contained in Exhibit A of this Agreement shall be deemed amended automatically, without further action of the parties, to include the additional properties acquired by Developer and annexed by the Town.

Section 2.2 Annexation. No later than thirty (30) days after the effective date of this Agreement, Developer shall submit to the Town a voluntary petition for annexation for the Property currently owned by Developer as described in the attached Exhibit A. The Town shall decide whether or not to annex the Property and any additional properties acquired by Developer (as provided in Section 2.1) based upon the sufficiency of the annexation petition, the terms of this Agreement, and such other information as may be produced at a public hearing on the petition. If the Town declines to annex the Property or any portion thereof or addition thereto, the terms of this Agreement shall be deemed amended automatically to the extent necessary to take into account the reduction in size of the Project as a result of the non-annexation of the subject property(ies) on the ninetieth (90th) day following such decision. If the Town declines to annex any of the Property currently owned by Owner, this Agreement shall become null and void on the ninetieth (90th) day following the Town's decision not to annex.

ARTICLE 3 DEVELOPMENT TIMING AND STANDARDS

Section 3.1 Development Schedule. Developer shall develop the Project substantially in accordance with the development schedule set forth in Exhibit C (the "Development Schedule").

Section 3.2 Permits and Approvals. Developer shall obtain (without limitation) the following permits, as applicable, to develop the Project; provided that this Agreement's failure to address a particular permit, condition, term, or restriction does not relieve Developer of the necessity of complying with the law governing their permitting requirements, conditions, terms, or restrictions:

- (a) Annexation into the Town's corporate limits;
- (b) Rezoning;
- (c) Special Use Permits;
- (d) Subdivision Plat Approvals;
- (e) Site Plan Approvals (including, without limitation, approvals for signs and other site-specific design elements);
- (f) Right of way encroachments and driveway permits;
- (g) Permits for water and sewer lines and extensions;
- (h) Wetlands permits;
- (i) Building permits; and

(j) Certificates of Occupancy.

Section 3.3 Town's Cooperation. Subject to compliance by Developer with the Town's applicable development review and approval requirements, the Town agrees to cooperate in good faith with Developer and Developer's employees, agents, contractors, and subcontractors in obtaining the permits and approvals specified in Section 3.2 and in developing the Project and Infrastructure under this Agreement. Nothing herein is intended to waive, remove or compromise the Town's development review or approval obligations.

Section 3.4 Development Standards.

(a) The effectiveness of this Agreement shall be contingent upon the approval of the Planned Unit Development Application submitted to the Town by Developer for the Project (the "PUD Application"), and nothing in this Agreement shall abridge or terminate the rights or obligations of Developer or the Town as set forth in the approved PUD Application, which shall be deemed ratified, adopted, and incorporated herein by reference upon approval as if fully set forth in this Agreement. If any inconsistency arises between this Agreement and the approved PUD Application, this Agreement shall control. Unless waived by Developer in writing, the Town shall review and approve the PUD Application no less than sixty (60) days after the effective date of this Agreement.

(b) Except as otherwise provided herein, the Project shall be constructed in accordance with the terms of the approved PUD Application. The Laws applicable to the development of all phases of the Project shall be those in effect as of the effective date of this Agreement. Except as allowed by N.C. General Statute 160A-385.1(e), the Town shall not apply subsequently adopted ordinance(s) or development policies to the Project or Property during the Term of this Agreement. If a state or federal law is changed after the effective date of this Agreement and the change prevents or precludes compliance with one or more provisions of this Agreement, the Town may modify the affected provision(s) of this Agreement only upon making a finding, after public notice and conducting a public hearing, that the change in state or federal law has a fundamental effect on this Agreement.

(c) Notwithstanding anything to the contrary in this Agreement, it is the intent of the parties that all development phases of the Project shall be subject only to stormwater phase 1 restrictions. If new stormwater rules or restrictions are imposed on the Project by state or federal law and such requirements make it impossible or materially impracticable for Developer to perform its obligations under this Agreement or the approved PUD Application, Developer shall have the option of either terminating this Agreement with prior written notice to the Town or submitting revisions to this Agreement and/or the approved PUD Application to accommodate the new stormwater requirements for the Town's approval, which approval shall not be unreasonably withheld.

(d) Nothing in this Agreement shall abrogate any vested or other rights otherwise enjoyed by Developer in the Property by operation of law.

Section 3.5 Modification to Project. Upon a change in the size or scope of the Project, as described in the approved PUD Application, that makes it impossible or materially impracticable for either party to continue to perform its obligations under this Agreement, the parties agree to negotiate in good faith to amend this Agreement to address the change in the size or scope of the Project.

**ARTICLE 4
INFRASTRUCTURE**

Section 4.1 Onsite Infrastructure. Developer shall design, construct and install all Onsite Infrastructure in accordance with the design criteria set forth in the Standard Specifications. The plans for the Onsite Infrastructure shall be prepared by a licensed engineer engaged by Developer. Developer shall obtain all required permits and approvals from all governmental agencies with jurisdiction over the Onsite Infrastructure prior to commencing construction of the Onsite Infrastructure.

(a) Onsite Public Infrastructure. Upon acceptance of Onsite Infrastructure by the Town or other applicable government authority, Developer shall dedicate and/or convey to the Town or its assigns ownership of the Onsite Public Infrastructure by recorded plat or deed and/or bill of sale (as applicable for personal property) in form and substance reasonably satisfactory to the Town, free and clear of all liens and encumbrances, except for matters of public records, together with perpetual easements on, over, under, and across the portions of the Property reasonably necessary or convenient for the maintenance and repair of the Onsite Public Infrastructure. Developer shall provide to the Town a complete set of as-built drawings showing all Onsite Public Infrastructure, as located by a North Carolina licensed surveyor and certified by Developer's engineer of record.

(b) Onsite Private Infrastructure. Developer shall be responsible for the maintenance, repair, and replacement of all Onsite Private Infrastructure, unless such obligations are otherwise assumed by the Town in writing. Developer shall provide to the Town a complete set of as-built drawings showing all Onsite Private Infrastructure, as located by a North Carolina licensed surveyor and certified by Developer's engineer of record.

Section 4.2 Public Infrastructure.

(a) Water and Sewer Improvements. The installation and extension of water and sanitary sewer lines to serve the entire Project, including the acquisition of rights of way for such lines, are projects that will benefit the Town and constitute public projects (individually, the "Water Improvements" and "Sewer Improvements"). Developer agrees to pay for the acquisition, design, engineering, construction, and inspections of the Water Improvements and Sewer Improvements, and the Town agrees to reimburse Developer for a portion of such costs for the Water Improvements (the "Water Costs") in accordance with Section 4.3. Developer shall obtain all applicable permits and approvals necessary to install the Water Improvements and Sewer Improvements, and the Town agrees to assist Developer in obtaining all permits and approvals from the applicable governmental authorities to install the improvements. The Town agrees further to use its best efforts to ensure that: (i) all terms of this Agreement, including the plan and schedule for extension of utilities contained in Exhibit D, are incorporated into and made a part of any utility merger agreement between the Town and the City of Raleigh; and (ii) the City of Raleigh adopts and agrees to perform all terms and conditions of this Agreement. All Water Improvements and Sewer Improvements constructed in accordance with the Standard Specifications shall be accepted and maintained by the Town or the City of Raleigh (as may be required by the Town's utility merger agreement with the City of Raleigh). The Water Improvements and Sewer Improvements are more specifically set forth in Exhibit D and shall include the following:

(i) The Town's water main must be accessed for water services. Public water extensions shall be extended to the Property line in a manner and location to be agreed to by the Town and Developer.

(ii) A sanitary sewer line shall be extended from existing installations to the Property in a manner and location to be agreed to by the Town and Developer.

(iii) Over-sizing of any Onsite Water Improvements required to accommodate future Town growth outside the Project;

(b) Sewer Improvements. Notwithstanding the foregoing, Developer shall not be required to oversize any Sewer Improvements, including any pump station in connection with the Sewer Improvements, to have more capacity or capability than is required for the Project; provided Developer agrees to dedicate a sixty (60) foot right of way to the Town or the City of Raleigh (as may be required by the Town's utility merger agreement with the City of Raleigh) for the Sewer Improvements and to design the Sewer Improvements in a manner that will permit the Town or City of Raleigh to add additional sewer capacity to the easement in the future.

(c) Road Improvements. The installation and extension of roads and roadway improvements to serve the entire Project, including the acquisition of rights of way for such improvements, are projects that will benefit the Town and constitute public projects (collectively, the "Town Road Improvements"). Developer agrees to pay for the acquisition, design, engineering, and construction of the Town Road Improvements (collectively, the "Road Costs"). Developer shall obtain all applicable permits and approvals necessary to install the Town Road Improvements, and the Town agrees to assist Developer in obtaining all permits and approvals from the applicable governmental authorities to install the Town Road Improvements. All Town Road Improvements constructed in accordance with applicable Standard Specifications shall be accepted and maintained by the Town or the North Carolina Department of Transportation, as applicable.

(d) Rights of Way for Improvements. The Town hereby finds that the construction of all Onsite and Offsite Public Infrastructure constitutes a public purpose for which the Town is authorized to exercise eminent domain in accordance with applicable law. Developer shall be responsible for obtaining all rights of way and other property necessary to construct all Offsite Public Infrastructure necessary to serve the Project. If Developer is unable, despite its commercially reasonable and good faith efforts, to acquire the necessary rights of way or other property for Onsite or Offsite Public Infrastructure, the Town agrees to consider the exercise of eminent domain to acquire such property and to make such property available for construction of the Infrastructure required under this Agreement. Before exercising eminent domain, the Town must be satisfied, in its sole discretion, that the Developer has exhausted all reasonable means to acquire the necessary rights of way. The Town shall use its best efforts to acquire such rights of way and property within a time period that will allow Developer to meet the Development Schedule.

Section 4.3 Reimbursement and Credits. Developer shall be responsible for all Water Costs up to Two Million Six Hundred Sixteen Thousand Dollars (\$2,616,000). The Town shall reimburse Developer for all Water Costs that exceed \$2,616,000 up to a cap of Three Hundred Eighty Five Thousand Dollars (\$385,000), and Developer shall be responsible for all Water Costs that exceed the \$385,000 cap. Reimbursement for Water Costs incurred by Developer up to the \$385,000 cap shall be provided to Developer in the form of credits from water acreage fees that otherwise would be due from Developer to the Town in connection with the development of the Project.

Section 4.4 Timing. All Infrastructure improvements contemplated by this Agreement to be constructed by Developer shall be completed in a reasonable time and in a manner to avoid substantially delaying the Development Schedule attached hereto as Exhibit C. Any breach of this Agreement by the Town shall not affect Developer's authorization or obligation to develop the Project in accordance with the Development Schedule. In the event of such a default by the Town, the Project shall be deemed to be in compliance with the Town's adequate public facilities policies, except to the extent such policies require temporary measures to address issues of public health or safety.

Section 4.5 Water and Sewer Capacity.

(a) Allocation. For the term of this Agreement, the Town hereby reserves (i) an average daily flow water capacity allocation for the Project from the effective date of this Agreement in the amount of 1,600,000 gallons per day for residential or commercial purposes and 86,400 gallons per day for commercial purposes only, and (ii) an average daily flow sewer capacity allocation for the Project from the effective date of this Agreement in the amount of 1,000,000 gallons per day for residential or commercial purposes and 54,000 gallons per day for commercial purposes only. The Town will seek additional water and sewer allocations from the City of Raleigh when necessary and when it is in the best interest of the Town to do so or the Town may seek to merge its utility system with the utility system of the City of Raleigh. The Town Planning Department shall maintain a public list of assigned water and sewer flows and the Town's available allocation of water and sewer capacity taking into account the reservation of water and sewer capacity for the Project.

(b) Payment of Charges. The charges for Developer's water and sewer capacity allocation set forth above shall be as follows: (i) for water, the current rates for water charges in effect as of January 1, 2006, which shall be Three Dollars and Fifty Five Cents (\$3.55) per gallon; (ii) for the first 1,000,000 gallons per day of sewer, the current rates for sewer charges in effect as of January 1, 2006, which shall be Three Dollars and Sixty Cents (\$3.60) per gallon; and (iii) for the last 54,000 gallons per day of sewer, the rates for sewer charges in effect as of July 1, 2006, which shall be Three Dollars and Eighty Cents (\$3.80) per gallon; provided that all of the foregoing the charges are paid in full by Developer to Town no later than October 1, 2008. Thereafter, the charges for any unpaid capacity allocation shall be based upon the contract customer water and sewer rates in effect at the time of payment. In no event shall payments be delayed beyond the dates set forth on the Development Schedule shown as Exhibit C.

**ARTICLE 5
MISCELLANEOUS**

Section 5.1 Default. The terms and conditions of this Agreement shall be enforceable by actions for specific performance or injunction in addition to any other remedies available at law or in equity, provided that the non-defaulting party provides due notice and an opportunity to cure to the defaulting party and the defaulting party fails to cure the breach within a reasonable time. Any failure or omission of the non-defaulting party to exercise any right or remedy provided herein shall not be deemed a waiver of such party's right to enforce strictly the defaulting party's obligations in any other instance. At least every twelve (12) months after the effective date of this Agreement, the Town shall review Developer's progress with the Project and compliance with the Development Schedule. If, as a result of such review, the Town determines that Developer has committed a material breach of this Agreement, the Town shall serve notice thereof in writing, within a reasonable time after the Town's review, upon Developer setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing Developer a reasonable time in which to cure the material breach. If Developer fails to cure the material breach within the time given, then, notwithstanding any provision hereof to the contrary, the Town unilaterally may terminate or reasonably modify this Agreement to accommodate Developer's failure to perform hereunder; provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by G.S. 160A-388(b).

Section 5.2 Force Majeure. Notwithstanding anything to the contrary herein, neither party shall be liable to the other for any failure to perform under this Agreement as a result of a force majeure, including, without limitation, acts of governmental authorities (including, without limitation, the denial of permits which Developer or the Town has pursued in good faith), delays in the acquisition or condemnation of necessary rights of way or other property for Public Infrastructure, embargoes, fire, flood,

hurricanes, tornadoes, explosions, acts of God or a public enemy, strikes, labor disputes, vandalism, civil riots, or acts of terrorism; provided, such party (i) shall notify the other party promptly if the performance of any duty or obligation required under this Agreement will be delayed or prevented by a force majeure; and (ii) shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance.

Section 5.3 Authority. The Town and Developer each warrants and represents to the other that it has full right and authority to enter into this Agreement, that this Agreement has been presented to and approved by each party's governing board after proper notice and hearing, and that the person signing on behalf of each party is authorized to do so.

Section 5.4 No Partnership. Nothing contained in this Agreement shall be construed to make the Town a partner with Developer or render either party liable for the debts or obligations of the other.

Section 5.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the matters covered herein and supersedes any prior negotiations, understandings, or agreements with respect to the matters contemplated hereby.

Section 5.6 Amendment. Except as otherwise provided herein and except as provided in Section 2.1, this Agreement may not be amended or terminated except by written instrument signed by both parties.

Section 5.7 Successors and Assigns. All of the provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective permitted successors and assigns. Developer may not assign its rights or obligations under this Agreement without the express written approval of the Town, which approval shall not be unreasonably withheld so long as the assignee has the same resource availability and qualifications as Developer. Notwithstanding the foregoing, the Town acknowledges and agrees that Developer shall have the right to engage and utilize other parties not affiliated with Developer to develop all or certain phases of the Project, and the rights and obligations of Developer under this Agreement shall inure to the benefit of such parties so long as such parties are acting on behalf of and with the consent of Developer and provided that Developer remains liable to the Town for its obligations under this Agreement.

Section 5.8 Enforceability. The enforceability and validity of this Agreement, in whole or in part, shall not be affected by the unenforceability or invalidity of any particular provision of this Agreement.

Section 5.9 Applicable Laws. This Agreement shall be construed under the laws of the State of North Carolina. Furthermore, this Agreement is entered under the authority of N.C. General Statutes 160A-400.20 *et seq* and any provision hereof in conflict with that authority shall be null and void.

Section 5.10 Effective Date. The effective date of this Agreement shall be the day and year first above-written.

Section 5.11 Time is of the Essence. Time is of the essence in the performance of the obligations set forth in this Agreement.

Section 5.12 Preambles. The preamble and recitals to this Agreement are part of the agreement between the parties and shall be binding upon the parties in accordance with their terms.

[SIGNATURES ON FOLLOWING PAGES.]

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

DEVELOPER:

WENDELL FALLS DEVELOPMENT, LLC

By: _____
Print Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, a Notary Public of Wake County, State of North Carolina, do hereby certify that _____, Manager of **WENDELL FALLS DEVELOPMENT, LLC**, a 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 **WENDELL FALLS DEVELOPMENT, LLC**.

Witness my hand and seal, this ___ day of _____, 2006.

Notary Public

My Commission Expires:

[NOTARY SEAL]

THE TOWN OF WENDELL

By: _____
Mayor

ATTEST:

Town Clerk

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, a Notary Public of the County of Wake and State of North Carolina, certify that Timothy Burgess, either being personally known to me or proven by satisfactory evidence (such evidence being _____), personally came before me this day and acknowledged that he is the clerk of the TOWN OF WENDELL, a North Carolina municipal corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was voluntarily signed in its name by its Mayor, sealed with its municipal seal and voluntarily attested by him as its clerk for the purposes stated therein.

Witness my hand and seal, this ___ day of _____, 2006.

Notary Public

My Commission Expires:

[NOTARY SEAL]

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

Town Finance Officer:

EXHIBIT A

DESCRIPTION AND CURRENT OWNERSHIP OF PROPERTY

All of those tracts or parcels of land lying and being in Wake County, North Carolina, and being more particularly described as follows:

1. BEING 238 acres, more or less, as described in a General Warranty Deed dated and recorded February 15, 2006 in Book 11817 at Page 1539, Wake County Registry, and shown as Tracts 1, 2, and 3 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
2. BEING 117.01 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2367, Wake County Registry, and shown as Tracts 4, 5, and 26 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
3. BEING 71.99 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2606, Wake County Registry, and shown as Tracts 6 and 6A on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
4. BEING 16.85 acres, more or less, as described in a General Warranty Deed dated January 31, 2006 and recorded February 8, 2006 in Book 11810 at Page 220, Wake County Registry, and shown as Tract 7 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
5. BEING 1.174 acres, more or less, as described in a General Warranty Deed dated January 31, 2006 and recorded February 8, 2006 in Book 11810 at Page 2140, Wake County Registry, and shown as Tract 8 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
6. BEING 19.57 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2618, Wake County Registry, and shown as Tract 9 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
7. BEING 126.73 acres, more or less, as described in a General Warranty Deed dated and recorded February 8, 2006 in Book 11810 at Page 205, Wake County Registry, and shown as Tracts 10 and 14 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
8. BEING 1.7 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2612, Wake County Registry, and shown as Tract 11 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December

- 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
9. BEING 1.0 acre, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2594, Wake County Registry, and shown as Tract 13 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 10. BEING 3.0 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2588, Wake County Registry, and shown as Tract 15 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 11. BEING 76.68 acres, more or less, as described in a General Warranty Deed dated and recorded February 8, 2006 in Book 11810 at Page 199, Wake County Registry, and shown as Tracts 16, 17, and 18 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 12. BEING 12.64 acres, more or less, as described in a General Warranty Deed dated May 9, 2006 and recorded May 11, 2006 in Book 11950 at Page 1644, Wake County Registry, and shown as Tract 19 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 13. BEING 90 acres, more or less, as described in a General Warranty Deed dated and recorded March 14, 2006 in Book 11858 at Page 53, Wake County Registry, and being a portion of the property shown as Tract 22 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 14. BEING 74 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2600, Wake County Registry, and shown as Tract 23 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 15. BEING 23.9 acres, more or less, as described in a General Warranty Deed dated January 31, 2006 and recorded February 8, 2006 in Book 11810 at Page 226, Wake County Registry, and shown as Tract 24 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
 16. BEING 110.03 acres, more or less, as described in a General Warranty Deed dated December 29, 2005 and recorded December 30, 2005 in Book 11755 at Page 2624, Wake County Registry, and shown as Tract 25 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.

TOGETHER WITH all rights, titles, privileges, easements, rights of way, hereditaments, and appurtenances belonging or appurtenant to the above-described properties and any reversions and remainders thereto, including, without limitation, all rights of way, alleyways, rights of ingress and egress, party walls, and licenses appurtenant to or benefiting the above-described properties.

EXHIBIT A-1

**BOUNDARIES WITHIN WHICH ADDITIONAL PROPERTIES MAY BE ADDED TO THE
DEVELOPMENT AGREEMENT**

All of those certain tracts or parcels of land, lying and being in Wake County, North Carolina, and more particularly described as follows (less and except the property described on Exhibit A attached hereto):

The Project is defined approximately by the following boundaries:

1. Bounded on the North by the Norfolk Southern Railroad right of way;
2. Bounded generally on the Northeast by Knightdale Eagle Rock Road and Martin Pond Road;
3. Bounded generally on the East and Southeast by Martin Pond Road, Poole Road, and properties immediately to the East of Martin Pond Road and Poole Road;
4. Bounded on the South and Southwest by Lake Myra, Amber Acres North Subdivision, and Amber Ridge Subdivision; and
5. Bounded generally on the West and Northwest by the U.S. 64 Bypass.

Wendell Falls Development, LLC plans to acquired the following properties, which are within the above-described Project boundaries:

1. BEING 1.01 acres, more or less, as described in a General Warranty Deed dated February 12, 2004 and recorded February 23, 2004 in Book 10678 at Page 398, Wake County Registry, and shown as Tract 12 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
2. BEING 48.838 acres, more or less, as described in a General Warranty Deed dated March 14, 2005 and recorded March 15, 2005 in Book 11263 at Page 201, Wake County Registry, and shown as Tracts 20 and 21 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
3. BEING 3.67 acres, more or less, as described in a General Warranty Deed dated June 19, 2002 and recorded June 26, 2002 in Book 9468 at Page 2545, Wake County Registry, and shown as Tract 27 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
4. BEING 21.41 acres, more or less, described in a Special Warranty Deed dated January 6, 1998 and recorded January 7, 1998 in Book 7840 at Page 391, Wake County Registry, and shown as Tract 28 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
5. BEING 1.426 acres, more or less, as described in a General Warranty Deed dated December 22, 1986 and recorded December 29, 1986 Book 3900 at Page 906, Wake County Registry, and shown as the out parcel within Tract 28 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.

6. BEING 80 acres, more or less, and described as the First Tract in a General Warranty Deed dated October 11, 1995 and recorded October 23, 1995 in Book 6717 at Page 932, Wake County Registry, and shown as Tract J on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
7. BEING 5.91 acres, more or less, as described in a General Warranty Deed dated October 11, 1988 and recorded October 19, 1988 in Book 4369 at Page 921, Wake County Registry, and shown as Tract J1 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
8. BEING 19.983 acres, more or less, as described in a General Warranty Deed dated October 13, 1988 and recorded October 14, 1988 in Book 4367 at Page 246, and further described in a Special Warranty Deed dated and recorded August 5, 1998, in Book 8119 at Page 2202, Wake County Registry, and shown as Tract Q on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
9. BEING that 1.55 acre, more or less, parcel of land located east of and abutting the eastern right of way boundary of SR 2503 (a 60-foot public right of way), which parcel is the easternmost portion of the 37.014-acre tract shown on the plat titled, "Property of Nancy Rogers Pulley, Mark's Creek Township, Wake County, North Carolina," prepared by Robert W. Keefe, dated August 4, 1981, and recorded in Book of Maps 1981, Page 817, Wake County Public Registry (being Parcel Number 1773267084 as defined by the Wake County Tax Assessor's Office), and shown as Tract Q2 on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
10. BEING 48.932 acres more or less, as described in a General Warranty Deed dated August 18, 1988 and recorded October 14, 1988 in Book 4367 at Page 250, and further described in a Special Warranty Deed dated and recorded August 5, 1998 in Book 8119 at Page 2194, Wake County Registry, and shown as Tract V on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
11. BEING 23.95 acres, more or less, as described in a Deed dated October 10, 1972 and recorded October 30, 1972 in Book 2110 at Page 347, Wake County Registry, and shown as Tract Y on that certain boundary survey titled "Wendell Falls – Boundary Exhibit" dated December 1, 2005, and last revised January 26, 2006, prepared by Withers & Ravenel Engineers/Planners/Surveyors.
12. BEING 45.51 acres, more or less, as described in a General Warranty Deed dated December 1, 1992 and recorded January 7, 1993 in Book 5465 at Page 615, Wake County Registry.
13. BEING 2.41 acres, more or less, as described in a General Warranty Deed dated October 31, 1991 and recorded November 1, 1991 in Book 5024 at Page 702, Wake County Registry.

TOGETHER WITH all rights, titles, privileges, easements, rights of way, hereditaments, and appurtenances belonging or appurtenant to the above-described properties and any reversions and remainders thereto, including, without limitation, all rights of way, alleyways, rights of ingress and egress, party walls, and licenses appurtenant to or benefiting the above-described properties.

EXHIBIT B

FORM SUPPLEMENTARY DECLARATION TO ADD PROPERTY

ATTENTION REGISTER OF DEEDS: PLEASE CROSS-INDEX “WENDELL FALLS DEVELOPMENT, LLC” AND THE “TOWN OF WENDELL” AS GRANTORS AND GRANTEEES FOR THIS INSTRUMENT.

Prepared by and return to: Jeff Bandini, Parker Poe Adams & Bernstein LLP, PO Box 389, Raleigh, NC 27602

**SUPPLEMENTARY DECLARATION TO ADD PROPERTY
TO DEVELOPMENT AGREEMENT**

THIS SUPPLEMENTARY DECLARATION TO ADD PROPERTY TO DEVELOPMENT AGREEMENT (the “Declaration”) is made this ____ day of _____, 2006, by **WENDELL FALLS DEVELOPMENT, LLC**, a North Carolina limited liability company (“Developer”).

WITNESSETH:

WHEREAS, the Town of Wendell (the “Town”) and Developer entered into a certain Development Agreement dated _____, 2006, and recorded in Deed Book _____, Page _____, Wake County Register of Deeds (the “Development Agreement”), which contains certain mutual obligations by the parties with respect to the development of a residential, retail, and commercial development in Wendell, North Carolina, all as more particularly set forth in the Agreement (collectively, the “Project”);

WHEREAS, Article 2 of the Development Agreement provides that Developer may cause additional real property to be made subject to the operation and effect of the Development Agreement by filing in the Wake County Register of Deeds a Supplementary Declaration to Add Property with respect to such additional real property; and

WHEREAS, Developer desires to bring within the operation and effect of the Development Agreement certain additional real property more particularly described on the attached Exhibit A (the “Additional Property”);

NOW, THEREFORE, Developer, by this Declaration, declares that:

Section 5.13 Recitals. The above-stated recitals are incorporated herein by reference.

Section 5.14 Additional Property. The Additional Property shall be held, sold, conveyed, developed, and used subject to the Development Agreement and this Declaration, the provisions of which shall run with the title to the Additional Property and be binding upon and inure to the benefit of all parties having or acquiring any right, title, or interest in the Additional Property, or any part thereof, their heirs, personal representatives, successors, and assigns.

Section 5.15 Terms. The terms "Property" and "Project" as used in the Development Agreement and all amendments and supplements thereto, including, without limitation, this Declaration, hereinafter shall be deemed to include the Additional Property, together with all improvements located or constructed thereon. Such terms also shall be deemed to include any additional property that may not be referenced in this Declaration, but which shall have been previously made part of or which hereafter shall be made part of the Project and Property. Any capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement.

IN WITNESS WHEREOF, Developer has caused this Declaration to be duly executed effective the day and year first above written.

DEVELOPER:

WENDELL FALLS DEVELOPMENT, LLC

By: _____
Print Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF WAKE

I, _____, a Notary Public of Wake County, State of North Carolina, do hereby certify that _____, Manager of **WENDELL FALLS DEVELOPMENT, LLC**, a 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 **WENDELL FALLS DEVELOPMENT, LLC**.

Witness my hand and seal, this ___ day of _____, 2006.

Notary Public

My Commission Expires:

[NOTARY SEAL]

EXHIBIT C

DEVELOPMENT SCHEDULE

<u>Year</u>	<u>Homes</u>	<u>Commercial SF</u>
2007	175	
2008	350	
2009	400	90,000
2010	450	90,000
2011	450	90,000
2012	450	90,000
2013	450	90,000
2014	450	
2015	450	
2016	375	
Total	4000	450,000

EXHIBIT D

PLAN AND SCHEDULE OF EXTENSION OF UTILITIES

[To be prepared]