



# Planning & Development

Zoning Division  
 One Exchange Plaza, Suite 300  
 Raleigh, North Carolina 27601  
 Phone 919-996-2626

## City of Raleigh Official Zoning Code Interpretation

Requested Interpretation		Case Number
<p>1. What is the permissible scope of the nonconformity of Hanson Aggregates Southeast, LLC at its real property situated in the vicinity of Crabtree and Richland Creeks, adjacent to Duraleigh Road in Raleigh, NC more particularly described as PIN 0786349208, 0786308569, 0786512559, 0786620033, and 0786554037 (the "Property")? We believe that Article 10.3 of the Unified Development Ordinance contains the relevant Code provisions. A proposed zoning interpretation detailing our analysis is enclosed for your consideration and use. If you concur with this analysis, we respectfully ask that you consider adopting it as the proper zoning interpretation of the Unified Development Ordinance under these facts.</p> <p>2. In light of your interpretation about the permissible scope of Hanson Aggregates' nonconformity, are the terms of the attached Settlement Agreement between Hanson Aggregates and the City of Raleigh consistent with applicable zoning ordinances?</p>		UI-1-2014
<p><b>Site Address/PIN:</b> 0786349208, 0786308569, 0786512559, 0786620033, and 0786554037</p>		
<p><b>Date Submitted:</b> 30 January 2014</p>	<p><b>Date Issued:</b> 6 February 2014</p>	<p><b>Code Sections Affected:</b> 10.3</p>

### STAFF ANALYSIS

See attached entitled "Zoning Interpretation/Determination – Crabtree Quarry" and Appendices

### STAFF INTERPRETATION

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### SIGNATORY

Travis R. Crane, Planning and Zoning Administrator



## CITY OF RALEIGH MEMORANDUM

**To:** Dorothy K. Leapley, Deputy City Attorney  
**From:** Travis R. Crane, Planning and Zoning  
Administrator  
**Date:** February 6, 2014  
**Re:** *Memorandum of Opinion on City of  
Raleigh's Code Interpretation Request*  
**CC:** Thomas A. McCormick, City Attorney

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On January 30, 2014, the City of Raleigh submitted a Code Interpretation Request seeking an interpretation on the following issues:

1. What is the permissible scope of the nonconformity of Hanson Aggregates Southeast, LLC at its real property situated in the vicinity of Crabtree and Richland Creeks, adjacent to Duraleigh Road in Raleigh, NC more particularly described as PIN 0786349208, 0786308569, 0786512559, 0786620033, and 0786554037 (the "Property")? We believe that Article 10.3 of the Unified Development Ordinance contains the relevant Code provisions. A proposed zoning interpretation detailing our analysis is enclosed for your consideration and use. If you concur with this analysis, we respectfully ask that you consider adopting it as the proper zoning interpretation of the Unified Development Ordinance under these facts.
2. In light of your interpretation about the permissible scope of Hanson Aggregates' nonconformity, are the terms of the attached Settlement Agreement between Hanson Aggregates and the City of Raleigh consistent with applicable zoning ordinances?

Section 10.2.14 of the Unified Development Ordinance allows the City to submit such a request. I have reviewed the relevant text of the Unified Development Ordinance, the Official Zoning Map, and other relevant information. After careful consideration, I adopt the Zoning Interpretation/Determination attached as Exhibit A to this Memorandum of Opinion and incorporate it herein by reference as the official Zoning Code Interpretation/Determination of this office. I do so in the exercise of my independent judgment regarding the proper interpretation and application of the Unified Development Ordinance under these facts. I have also reviewed the terms of the Settlement Agreement that was submitted to me and considered them in light of the relevant text of the Unified Development Ordinance, the Official Zoning Map, and other relevant information. The terms of that Settlement Agreement are consistent with Article 10.3 of the Unified Development Ordinance.

This decision is issued in accordance with Section 10.2.14.C.2 of the Unified Development Ordinance and the property owner has been notified of the decision by e-mail to its counsel ([GStyers@styerskemerait.com](mailto:GStyers@styerskemerait.com)). This decision is also being publicly noticed and available for

public inspection pursuant to Article 10.2. As provided in Section 10.2.14.C.3, any appeal of this written interpretation shall be made to the Board of Adjustment in accordance with Section 10.2.11 of the Unified Development Ordinance within 30 days after the date this written interpretation was decided.

# Zoning Interpretation/Determination – Crabtree Quarry

## I. Summary of Interpretation/Determination

The City of Raleigh (“City”) has long recognized that Crabtree Quarry operates at its current location as a nonconforming use. Over the last four decades the City and the owners of the quarry have disputed the scope of the lawful nonconformity, and litigation is pending on this issue. In order to resolve the longstanding legal dispute, the owner of Crabtree Quarry and the City have entered into a settlement agreement related to the operation of the quarry (the “Settlement Agreement”). The purpose of this document is to set out my zoning interpretations concerning the quarry and to measure the parties’ Settlement Agreement against my interpretations.

It is my determination that the terms of the Settlement Agreement relating to the Northern Assemblage are within the scope of the lawful nonconforming use at Crabtree Quarry or are allowed by the nonconforming use provisions contained in the current Raleigh City Unified Development Ordinance (the “UDO”). On July 4, 1985 Chief Zoning Inspector Hardy Watkins issued a determination concerning mining activity on the Southern Tract. It is my determination that the terms of the parties’ Settlement Agreement concerning activities on the Southern Tract are consistent with Mr. Watkins’ prior decision. It is my determination that the terms of the Settlement Agreement relating to Crabtree Quarry, described herein, contemplate and allow for the continuation of the lawful nonconforming use and are consistent with the City’s policy that “any lawfully existing nonconforming use may continue in operation on the same land area . . . that was occupied by the nonconforming use on the date the use first became a nonconforming use” as set forth in section 10.3.2(A)(1) of the UDO. Accordingly, all of the continuation, improvements, maintenance, repairs, and renovations contemplated for Crabtree Quarry by the Settlement Agreement are authorized as allowed for a lawful pre-existing nonconformity and/or by sections 10.3.2, 10.3.3, 10.3.4 of the UDO.

Finally, I further find that the term of the Settlement Agreement that the excavation of aggregate from the quarry shall cease on the earlier of thirty-eight (38) years or the removal of 30 million tons of Aggregate constitutes an amortization of the nonconforming use and ultimate end of this nonconformity.<sup>1</sup> The other terms of the Settlement Agreement, which allow for the maintenance, improvements, repairs, and renovations of certain aspects of the accessory structures, berms, landscaping, and access point to the quarry are appropriate and necessary in order to allow for the continued operation during this amortization period.

## II. Background

Hanson Aggregates Southeast, LLC (“Hanson” or the “Company”) currently owns an assemblage of real property situated in the vicinity of Crabtree and Richland Creeks, adjacent to

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<sup>1</sup> Any reference herein to a “thirty-eight year” amortization period shall also include by implication the further limitation of the removal of 30 million tons of Aggregate, whichever occurs first.

Duraleigh Road in Raleigh, North Carolina more particularly identified, in the aggregate, as PIN 0786349208 as well as PIN 0786554037, PIN 0786308569, PIN 0786512559, and PIN 0786620033 (the “Property”).<sup>2</sup> The Property is bisected by Crabtree Creek. Additionally, a portion of the Property is located east of Duraleigh Road.<sup>3</sup> Those parcels in the assemblage that are located north of Crabtree Creek and west of Duraleigh Road are referred to throughout as the “Northern Assemblage.” Those properties located south and west of Crabtree Creek are referred to throughout as the “Southern Tract.”

Since the 1940s, portions of the Property have been used for the excavation and processing of granite (the “Crabtree Quarry”) without interruption and with the knowledge of Wake County and the City. Open pit mining of aggregate currently occurs on the Northern Assemblage (the “Pit”). The normal operation of the Crabtree Quarry over the decades has involved the leasing and acquisition of granite reserves through the assemblage of adjoining properties. Today, the Crabtree Quarry constitutes an assemblage of reserves and buffer, as well as the Pit and related processing facilities. Hanson and the prior owners/operators of the quarry have considered all of the Northern Assemblage and much of the Southern Tract to be part of the Crabtree Quarry, regardless of whether currently under excavation. All of the Northern Assemblage and portions of the Southern Tract have been covered by various mining permits issued by the State of North Carolina. As set forth in the *North Carolina Mining Act of 1971*:

[n]o provision of this Article [*the Mining Act*] shall be construed to supersede or otherwise affect or prevent the enforcement of any zoning regulation or ordinance duly adopted by an incorporated city or county or by any agency or department of the State of North Carolina, except insofar as a provision of said regulation or ordinance is in direct conflict with this Article.

N.C. Gen. Stat. § 74-65.

The parcels that constitute the Northern Assemblage have been used for the extraction of granite beginning as early as the 1940s at a time when the County had no zoning regulations and the assemblage was outside the zoning jurisdiction of the City. Thereafter, owners and operators of the quarry secured their rights to mine on the properties surrounding the pit and to accommodate continued extraction by lease or by outright acquisitions. Although many of the

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<sup>2</sup> Note that the assignment of PIN numbers is unrelated to the number of separate parcels that make up the Property. Wake Tax Assessor Emmitt Curl informed Deputy City Attorney Dottie Leapley that for ease of administration he combined parcels north and south of Crabtree Creek and applied a single PIN to the combined tract. Tax records show that the change was made at the property owner’s request, but Mr. Curl indicated to Ms. Leapley that he and the property owner concurred in the decision. This did not constitute a recombination for land use purposes, a point also concurred in by Hanson’s predecessor, Benchmark Carolina Aggregates, in its May 30, 1996 letter to Mr. Curl. A GIS map showing the respective parcels and the PIN numbers currently attached to them is attached as Appendix 4.

<sup>3</sup> A former Hanson representative, Ward Nye, was deposed during one of the lawsuits involving the Property. Mr. Nye testified that Hanson could not and did not intend to mine properties to the east of Duraleigh Road. The Settlement Agreement incorporates this position. It is my determination that the requirements of the underlying R-4 zoning district apply to all property owned by Hanson that is located east of Duraleigh Road (PIN 0786620033 and PIN 0786512559). Hanson may not conduct mining activities on those parcels.

early leases or contractual arrangements were oral or are no longer available due to the passage of time, a timeline of known acquisition dates, as well as supporting documentation, relating to the Northern Assemblage, is attached hereto as Appendix 1.<sup>4</sup>

The City acquired zoning jurisdiction over the Southern Tract in 1973 when it extended its extraterritorial jurisdiction (“ETJ”) to Crabtree Creek and applied its R-4 zoning classification to the land. This ETJ extension did not include any portion of the Northern Assemblage. On February 17, 1981, the City extended its ETJ to include the Northern Assemblage and applied R-4 zoning to it.

Both the 1973 and the 1981 Raleigh City Code allow the continuation of lawful nonconforming uses. The scope of the nonconforming use of the Southern Tract has already been determined. On July 24, 1985, then Chief Zoning Inspector Hardy Watkins issued a decision that permitted the use of the sedimentation basins located on the Southern Tract as an allowed use, but prohibited all other activities associated with quarrying anywhere on the Southern Tract. According to Mr. Watkins’ decision, the property owner could lawfully operate the basins, which included periodically cleaning accumulated sediment from them and storing the sediment. Neither the property owner, the City, nor any third party with standing filed an appeal from Mr. Watkins’ decision. Therefore, it is the City’s position that Mr. Watkins’ decision became a final one that bound the property owner, the City, and any third party with standing. *S.T. Wooten Corp. v. Zebulon Board of Adjustment*, 711 S.E.2d 158 (N.C. App. 2011).<sup>5</sup>

Wake County’s zoning history concerning the Southern Tract is easier to discern than the zoning history for the Northern Assemblage.<sup>6</sup> Based on information from Wake County employees, I conclude that the Southern Tract was assigned residential zoning in 1960.

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<sup>4</sup> The parcels in the Northern Assemblage are identified by numbers (i.e., 1, 2, 3 ...) in Appendix 1. This system of parcel identification is used throughout this memo.

<sup>5</sup> On July 6, 1990, Hanson’s predecessor in interest purchased from a developer a roughly 16.5 acre tract located at the southern end of the Southern Tract. This property is assigned PIN 0786308569 in Wake County tax records. The property was and is zoned R-6 and, according to the deposition testimony of Ward Nye, was purchased to serve as a buffer. No nonconforming status applies to the property assigned PIN 0786308569 and that property must comply with all current zoning requirements applicable to it.

<sup>6</sup> Dottie Leapley was assigned to assist the City’s zoning officials with issues relating to Crabtree Quarry in the late 1990s. Early in her investigation concerning the Southern Tract, she met with officials from Wake County and reviewed extant County records concerning the history of Wake County zoning for the Property. She met with Stephen Sizemore from Wake County’s planning office and asked only about the Southern Tract. She learned from Mr. Sizemore that the County did not have a list of nonconformities pre-existing the County’s zoning laws. Because of the lack of historical records, Mr. Sizemore could not say definitively what zoning applied to the Property and when that zoning was first applied. He told Ms. Leapley that the RF district applied to Research Triangle Park and that he thought that the Property was most likely zoned R-20. He explained that the RR original zoning district enacted in 1960 was soon divided into residential zoning districts—R-20, R-15, and R-12.

Ms. Leapley also met with Mitch Liles of Wake County GIS and learned from him that the Southern Tract was zoned in its entirety in 1960, but the Northern Assemblage may not have been. Ms. Leapley recalls Mr. Liles telling her that land to the north of Crabtree Creek was zoned at different times. She has Xerox copies of portions of two old Wake County zoning maps that Mr. Liles copied for her. On one of the copies Mr. Liles marked the Northern Assemblage area with a question mark and has written R-20 on the right side of the map.

Prior to 1981, the Northern Assemblage was located in a Wake County “zoning area” created by the zoning ordinance adopted by the Wake County Board of Commissioners on January 4, 1960 (the “Wake County Ordinance”). As set forth in the Wake County Ordinance, attached as [Appendix 2](#), the Northwestern Wake County Zoning Area was established, and two “classes of districts” were authorized for the Northwestern Wake County Zoning Area: Research Farming (“RF”) and Rural Residential (“RR”). Wake County Ordinance, Section I(1). The ordinance provided that the “location and boundaries of the zoning district shall be as shown on a map” purportedly approved with and declared to be a part of the ordinance. Section I(2). The ordinance provided that “[d]istrict boundary lines are intended to follow street, lot or property lines . . . unless such district boundary lines are fixed by dimensions as shown on said map.” Section I(2).

However, extensive research of Wake County archives revealed no original zoning map as approved by the Wake County Board of Commissioners on January 4, 1960. Research of the Wake County archives revealed one map on which January 4, 1960 is handwritten at some unknown time. Ms. Leapley recalls Mitch Liles with Wake County GIS telling her that the original map had been drawn by hand and then was altered as zoning changed over time. A copy of the “January 4, 1960” map as it exists today is attached as [Appendix 2.1](#).

Because this map depicts more districts than RF and RR (and in fact does not identify RR as a possible district) and consistent with what Mr. Liles told Ms. Leapley, I conclude that the “January 4, 1960” map is not the original map in the form adopted by the County on January 4, 1960. Individual districts within the zoning area are evident on this map. However, there are no individual district boundaries around or encompassing the Northern Assemblage. Research of the Wake County archives revealed a second Wake County Zoning Map dated 1967, attached as [Appendix 2.2](#). Individual districts within the zoning area are evident on this map. However, there are no individual district boundaries around or encompassing the Northern Assemblage. The same is true for zoning maps dated 1969 and 1970, attached as [Appendix 2.3](#) and [Appendix 2.4](#), respectively. Research revealed no zoning maps dated 1971 through 1981, the date on which the City extended its ETJ to the Northern Assemblage. Thus, while the Wake County archives contain evidence that the Property was, in fact, included in the zoning area, there is a lack of evidence that the Northern Assemblage was in fact included in a zoning district that restricted use of the Northern Assemblage.<sup>7</sup>

The summary of amendments to the Wake County Ordinance and corresponding minutes from the meeting of the County Commissioners, attached as [Appendix 2.6](#), indicates that the ordinance was amended—rather rapidly following the initial adoption—on 2/8/60, 3/7/60, and

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<sup>7</sup> The enabling legislation for the Wake County Ordinance, Chapter 1006 of the 1959 Session Laws of the North Carolina General Assembly, attached as [Appendix 2.5](#), addresses both “zoning areas” and “zoning districts.” Specifically, the legislation authorizes counties to divide their jurisdictional territory into “districts of such number, shape and area as may be deemed best suited to carry out the purposes of [the legislation]” and allows the county to regulate development within such districts. Additionally, the legislation authorizes counties to designate portions of the counties as “zoning areas” where the governing body of the county determines that it is not necessary to zone the entire county. Thus, the legislation expressly conceives of zoning areas and districts as two distinct elements of zoning and regulation.

7/5/60 to create new classes of districts, including Industrial One, Industrial Two, Residence -20, Residence -12 Residence -15, General Business, and Heavy Commercial. The initial creation of the zoning area and two classes of districts with subsequent rather rapid amendment to create additional classes of districts is reflective of the attitude within the County, at that time, to create the zoning area as quickly as possible to accommodate the requests of the founders of the Research Triangle Park to zone the area surrounding RTP. See, for example, the comment of Mr. George Akers Moore, Jr., President of the Research Triangle Park, at the public hearing held on January 4, 1960 set forth in Appendix 2. See also the minutes from the Wake County Commissioners' meeting on November 16, 1959, attached as Appendix 2.7, at which Chairman Haigh, in presenting the Commissioners with the recommendation of the Wake County Planning Board regarding the ordinance, directed that the "necessary steps be taken to zone this area by county ordinance as outlined in the County zoning laws as quickly as practical." At the subsequent meeting on December 4, 1959, the minutes of which are included in Appendix 2.7, Chairman Haigh stated that the Commissioners, in adopting the ordinance, were "primarily trying to do immediately the thing that would give Research Triangle Park the protection it needs. . . ."

Thus, the existing Wake County archives reflect the desire of the County to create the zoning area quickly, in response to the demands of the developers of RTP, and, subsequent to the initial adoption of the ordinance, time was taken to create and adopt classes of districts and to zone districts that were reflective of the actual uses in the zoning area. See also the comment of Mr. Armistead Maupin, reflected in the minutes of the January 4, 1960 meeting, indicating his opinion that "the County was going about this zoning backwards" and that a "land use survey should be made before adopting this ordinance." The evidence suggests that Wake County acted quickly to adopt the ordinance which created the zoning area, intended to address the concerns of the developers of RTP, and later, over time, amended the ordinance to create new classes of districts and acted to zone property within the zoning area. The existing evidence does not support the proposition that district boundaries encompassing the Northern Assemblage were approved with the initial adoption of the ordinance.

It is worth noting that American Marietta continued to lease and purchase property throughout the early 1960s to include in its assemblage: e.g. Parcel 1, 1961; Parcel 3, 1962; Parcels 4 and 5, 1961; Parcels 8, 10, and 11, 1961. In 2002, Dottie Leapley spoke with John Graham, a former employee of Martin Marietta. Mr. Graham was extremely courteous even though it was clear that he did not want to be involved in litigation of any kind concerning the Property. Mr. Graham told Ms. Leapley that when he arrived in Raleigh in 1961, Martin Marietta did not have an adequate supply of land for long-term operation of the Crabtree Quarry. Long-term planning was a part of Mr. Graham's job duties, and he set about acquiring land for the quarry. According to Mr. Graham, Martin Marietta's intent in 1961 was to fully develop the pit on the land owned or leased to the north of Crabtree Creek and to use property to the south of Crabtree Creek solely to operate the plant. The remainder of the southern land was to serve as a buffer.

At some time prior to 1995, attorneys Francis Rasberry and Lisa Graham from the City Attorney's Office each spoke with J.R. Reid, also a former Marietta employee. Mr. Reid told Lisa Graham that the property south of Crabtree Creek was purchased as a buffer. Mr. Reid told

Mr. Raspberry that Reid himself purchased the tract south of Crabtree for American Marietta and that the property was purchased to prevent residences from being built close to the quarry. The southern tract, according to Mr. Reid, was purchased for buffer and not for mining.

These early 1960s acquisitions may have well been the exercise of options at the end of lease periods in light of concern about potential future zoning of these properties within the “zoning area” but would have been inconsistent with the imposition of any existing zoning restrictions prohibiting mining activities already in place prior to these acquisitions. Finally, even if a zoning classification had been shown on a map for this part of the County, there is no action or conduct by Wake County indicating that the continuation of mining during the period of rapid growth in the 1960s and 1970s—which would have involved enlarging the pit, the acquisition of additional properties to integrate as resource reserves into the long-term mining operations at this location, the inclusion of these properties in the state-issued mining permit, or the addition of the settling ponds—was the subject of any zoning enforcement action by Wake County prior to 1981. The County took no action, issued no orders, and made no pronouncements regarding the Crabtree Quarry—or the properties that had been assembled for future mining—that implicated, implied, or applied any zoning restrictions or limitations on use. Rather, all of these actions and conduct—both by the quarry operators and by the County—are consistent with the notion that the portions of the Northern Assemblage owned, leased, or acquired by the quarry operator in the 1960s were *not* subject to any zoning restrictions at the time that the operator acquired the land or interests therein.

Between 1961 and 1981, Hanson predecessors took action evidencing intent to mine the entirety of the Northern Assemblage. For example, in 1964, an appraisal of the Crabtree Quarry was commissioned in which the quarry life was assessed by way of measurement of reserves located on the Northern Assemblage. In addition, on March 10, 1970, as required by North Carolina law, then-owner of the Crabtree Quarry filed its application for registration of the quarry, both the entire Northern Assemblage and the Southern Tract for mining under the *North Carolina Mining Act*. In 1972, then-owner was issued a permit by the State of North Carolina authorizing the mining of 233 acres of property.

In 1981, the City exercised its ETJ over the Northern Assemblage. A tax map held in Wake County archives, a copy of which is attached as Appendix 3, confirms this date, as do records held by the City Clerk. At that time, the City applied a zoning classification of R-4 to the Property. Both the prior zoning regulations and the new UDO do not permit quarrying in property with a zoning classification of R-4. However, because the Crabtree Quarry—which, as described above, consists of parcels of real property north of Crabtree Creek assembled to provide a source of reserves—was in operation as a lawful use prior to the City’s assignment of the zoning classification, the Crabtree Quarry is a lawful nonconforming use. UDO § 10.3.2.<sup>8</sup> The scope of the nonconformity under City zoning ordinances was established by the lawful operations and structures in place in 1981. Therefore, based on the archived records and other

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<sup>8</sup> Prior versions of the Raleigh City Code also contained provisions allowing lawful nonconforming uses or structures to continue operation. Ms. Leapley obtained Codes back to 1950 and all of these contained nonconformity provisions. The 1981 version of the Code allowed nonconformities to continue and allowed certain maintenance and repair without first obtaining a special use permit.

documentary evidence, the Crabtree Quarry became a lawful nonconforming use under City zoning ordinances in 1981.

The history of the Crabtree Quarry, specifically with respect to issues related to zoning, presents a unique set of circumstances, which has not yet been addressed by the North Carolina courts but has been analyzed and treated differently than a typical nonconforming use by courts in jurisdictions other than North Carolina. The general rule in North Carolina, and as codified in UDO § 10.3.2, is that expansion or enlargement of a nonconforming use without prior approval is prohibited. Courts in other States have, however, generally recognized a limited exception to the general rule against the expansion of a nonconforming use where that use involves the extraction of a finite natural resource that, as a practical matter, must be extracted from the land itself over a substantial period of years—also described as a “diminishing asset.” Those courts have distinguished between the extraction of a natural resource (a diminishing asset) from nonconforming structures and other types of nonconforming uses in formulating the “diminishing assets doctrine.” The doctrine provides that in the context of an extractive use, since the land itself is a resource which is consumed in the process of use and the business operation consists of “using” all of that resource, the appropriate scope of the use is all of the land which contains the asset and not merely that portion under excavation at the time of the adoption of the restrictive ordinance. City of University Place v. McGuire, 30 P.3d 453 (Wa. 2001).

A majority of U.S. jurisdictions—including Kentucky, Rhode Island, California, Wisconsin, Alaska, New York, Illinois, New Jersey, Washington, Minnesota, Utah and New Mexico—have applied the doctrine of diminishing assets in the context of extractive uses or some variant of it. See, e.g., Legrand v. Ewbank, 284 S.W.3d 142 (Ky. 2008); Town of West Greenwich v. A. Cardi Realty Assocs., 786 A.2d 354 (R.I. 2001); Hansen Bros. Enters., Inc. v. Bd. of Supervisors, 907 P.2d 1324 (Cal. 1996); Sturgis v. Winnebago County Board, 413 N.W. 2d 642 (Wis. 1987); Stephan and Sons, Inc. v. Municipality of Anchorage Zoning Bd. of Examiners and Appeals, 685 P.2d 98 (Ak. 1984); Syracuse Aggregate Corp. v. Weise, 51 N.Y.2d 278 (1980); DuPage County v. Gary-Wheaton Bank, 192 N.E.2d 311 (Ill. 1963); Moore v. Bridgewater Tp., 173 A.2d 430 (N.J.1961); Romero v. Rio Arriba County Commissioners, 140 N.M. 848, 149 P.3d 945 (N.M Ct. App. 2006), cert. quashed, 142 N.M 716, 169 P.3d 409 (2007); see also Robert M. Anderson, AMERICAN LAW OF ZONING § 6.52 (3d ed. 1986). In those jurisdictions, it has been held that the proper scope of a nonconforming use for a diminishing asset are those lands contiguous to an existing excavation and owned or leased by the mine operator at the time the zoning restriction is enacted. In addition, the contiguous land must clearly have been intended to be excavated at the time the restrictive zoning ordinance was enacted and demonstrably dedicated to that use, both of which are determined on a case-by-case basis. Non-contiguous lots or parcels separated by a natural border, such as a stream, are not included in the nonconformity.

The California court has observed:

The very nature and use of an extractive business contemplates the continuance of such use of the entire parcel of land as a whole, without limitation or restriction to the immediate area excavated at the time the ordinance was passed. A mineral

extractive operation is susceptible of use and has value only in the place where the resources are found, and once the minerals are extracted it cannot again be used for that purpose. Quarry property is generally a one-use property. The rock must be quarried at the site where it exists, or not at all. An absolute prohibition, therefore, practically amounts to a taking of the property since it denies the owner the right to engage in the only business for which the land is fitted.

Hansen Bros. Enters., Inc., 907 P.2d at 1336-37 (internal citations omitted). Thus, the overwhelming weight of authority holds that the unique nature of extractive industry necessarily contemplates the use of the contiguous parcels of land as a whole, without limitation or restriction to the immediate area excavated at the time of enactment of the restrictive ordinance.

The diminishing assets doctrine has been applied in jurisdictions like North Carolina that have been committed to a narrow theory of nonconforming uses, which limits the extent of the nonconforming use to that which existed as of the date of the enactment of the restrictive ordinance (as opposed to a broader theory that would allow a nonconforming use to continue to the boundaries of the parcel). In the context of extractive uses, in New Jersey—a jurisdiction “committed to the narrower theory”—courts have adopted the broader theory of diminishing assets. Moore v. Bridgewater Tp., 173 A.2d 430 (N.J. 1961). The Moore court noted that “[a]ny other view would be unrealistic and of questionable constitutional validity. It is quite obvious that an owner intending to carry on a quarrying operation acquires more land than he thinks he will need so that he will not be a source of nuisance to his neighbors. For practical and economical reasons he must begin operations at one given point and continue from there to a point on his lands where his natural resource ends or at his boundary line. For the same reasons, it is not feasible for him to quarry at different locations at the same time.” Id.

Research revealed no appellate case law in North Carolina in which the court considers the diminishing assets doctrine in the context of an extractive use such as quarrying. Thus, whether the North Carolina courts recognize the doctrine of diminishing assets is a question of first impression. However, there is precedent in North Carolina for the proposition that increasing a nonconforming use on contiguous land that has already been cleared or is in use in some way does not constitute a prohibited expansion of a nonconforming use. See In re Tadlock, 261 N.C. 120, 134 S.E.2d 177 (1964). Therefore, based on the extractive nature of Hanson’s business, the Company’s manifestations of intent to use the contiguous parcels contained in the Northern Assemblage in conjunction therewith, and the existing precedent supporting the continuation or completion of a use on land that has been cleared and prepared for that use, Hanson has a compelling case under a theory of diminishing assets that its continued operation on those parcels contained in the Northern Assemblage and acquired prior to 1981 does not constitute the unlawful expansion of a nonconforming use. I agree. Hanson’s use of land contained in the Northern Assemblage that it acquired prior to 1981 for the extraction of granite is not an unlawful expansion of a nonconforming use. In addition, certain other limited activities associated with quarry operations are permitted on the Northern Assemblage as a part of that nonconforming use.

To this end, in order to resolve the longstanding legal dispute concerning the City’s zoning regulations and the extent of quarrying activities permitted on the Property, Hanson and the City have entered into a settlement agreement related to the operation of the Crabtree Quarry

(the “Settlement Agreement”) setting out the permissible use of the Property and involving certain permitted improvements and changes to the Crabtree Quarry as part of the continuation of the lawful nonconforming use. These improvements are depicted on the Operation Plan, which is attached to the Settlement Agreement as its Exhibit 1.

As set forth below, the components of the Settlement Agreement are authorized under the diminishing assets doctrine or the provisions of the UDO that allows certain limited repairs, improvements, maintenance, and renovations to nonconforming uses.

### **III. Components of the Settlement Agreement**

#### **A. Contiguous Excavation of the Pit on the Northern Assemblage, Paragraphs B.2 and C.2**

Pursuant to paragraph C.2. of the Settlement Agreement, Hanson will provide the City with a survey delineating the maximum extent of the Pit, which will conform to that which is depicted on the Operation Plan and will be contained entirely on the Northern Assemblage. This will be the extent of excavation to be conducted on the Property—except as related to the settling ponds as specifically set forth in paragraph C.7.d of the Settlement Agreement—and Hanson has expressly waived its right in paragraph B.2 of the Settlement Agreement to extract aggregate on any other portion of the Property.

The contiguous excavation of the Pit to the extent delineated on the Operation Plan simply makes use of the land area that was assembled for the purpose of mining—and is permitted for mining by the mining permit—prior to 1981 and constitutes, applying the diminishing assets theory, the uninterrupted continuation of the lawful nonconforming use during an amortization period, consistent with the City’s policy regarding zoning nonconformities set forth in section 10.3.2(A) of the UDO. Although section 10.3.2 states that “nonconforming uses shall not be extended, expanded, enlarge or increased in intensity,” excavation of the Pit, to the extent delineated on the Operation Plan and the survey required by paragraph C.2. of the Settlement Agreement, neither alters, expands nor enlarges the land area that constitutes the Crabtree Quarry, as the Northern Assemblage was assembled over a period of decades pre-dating any zoning restrictions for the purpose of mining.

In addition, the excavation of the Pit to the extent delineated on the Operation Plan and the survey required by paragraph C.2. of the Settlement Agreement, will not alter, expand or enlarge the extent or intensity of the Crabtree Quarry. The excavation will not change the maximum operating capacity of the Crabtree Quarry, the scale of the operation, or the pace of the operation. In other words, excavating the Pit to the extent delineated does not result in an increase in the capability of Crabtree Quarry to produce aggregate during any given period of time and is, therefore, not an unlawful expansion but rather a lawful continuation of the use.

Moreover, Section C.1. of the Settlement Agreement requires that Hanson “cease all Business Activities at the Property on the earlier of thirty eight (38) years from the Effective Date or when, subsequent to the Effective Date, 30 million tons of Aggregate has been removed.” This Section acts as an amortization provision, which is expressly allowed by the

UDO and during which continued operations of a nonconforming use are permitted. See Sec. 10.3.2(A.)(1) and Sec. 10.3.4(G) (“Expenditures required by this UDO to amortize a nonconformity are permitted in any amount.”) . After this period, the lawful nonconforming status of the Property will end. Without this amortization period, nonconforming operations could continue long after the end of the amortization period. Amortization of non-conforming uses over a period of time is well-established in North Carolina as an appropriate means of addressing non-conforming uses. See, e.g., State v. Joyner, 286 N.C. 366, 372-273, 211 S.E.2d 320, 325, appeal dismissed, 422 U.S. 1002 (1975) (amortization permits the non-conformity to continue for a specified period but to end upon the expiration of that period; quoting 1 Anderson, American Law of Zoning, sec. 6.65, 446-47 (1968)); Goodman Toyota, Inc. v. City of Raleigh, 63 N.C. App 660, 306 S.E.2d 192, 195 (1983), disc. review denied, 310 N.C. 477, 312 S.E.2d 884 (1984) (“An amortization provision in a zoning regulation represents a tacit recognition that owners of properties that do not comply with the subsequent law cannot immediately conform to the change without great personal and economic hardship.”)

As discussed in detail previously in this Zoning Interpretation/Determination, Hanson or its predecessors have made substantial investments for mining purposes and to comply with the North Carolina Mining Act. These expenses include not only the acquisition of contiguous parcels, but also the excavation of the pit; the construction of berms, settling ponds and stockpile areas; landscaping and buffering; and the installation and maintenance of the primary crusher, processing facility, entrance driveway, weigh station and other accessory structures and equipment on the mining property. These are long-term investments. The UDO expressly states that there is no limit on the amount of expenditures for the amortization of a nonconformity. Sec. 10.3.4.(G.) It is not unusual for the projected life of a modern quarry to be 100 years or more at the same location and for the quarry owner to continue mining the area purchased for reserves for that entire period. During the mining period, the Property has great value as an operating quarry, but that value diminishes over time, and the value of the property to the mining owner has little practical use or value at some point, as evidenced by Section C.3 of the Settlement Agreement. Absent a specified period of time in the UDO, this period of time during which the practical value of the quarry is declining is an appropriate amortization period, which, in this case, both the City and Hanson agree, is the earlier of thirty-eight (38) years or the removal of 30 million tons of Aggregate.

#### **B. Construction of Berm, Paragraph C.4.a**

Paragraph C.4.a of the Settlement Agreement provides that Hanson will construct and landscape a berm along the northern boundary of the Property in order to mitigate the potential impacts of the Crabtree Quarry on surrounding areas. The berm will be constructed on Parcel 1, first acquired for mining purposes in 1961 and later acquired by Hanson’s corporate predecessor in 1964, as set forth in Appendix 1. The UDO does not expressly prohibit the construction of a berm in low density residential zoning districts. Therefore, the berm is consistent with underlying zoning restrictions. Landscaping requirements for the berm contained in the Settlement Agreement aimed at improving appearance of the quarry are not required for the current zoning district by the City Code, but are permissible improvements.

Moreover, the construction of the berm is an integral component of the continuation of mining activities at Crabtree Quarry during the amortization period and is contemplated and required by Hanson's mining permit. To this end, construction of the berm would be a continuation of the lawful nonconforming use under the diminishing assets theory during the amortization period, as discussed above. Expenditures required by the UDO to amortize a nonconformity are permitted in any amount. Sec. 10.3.4.(G.).

In addition, the construction of the berm is expressly allowed by the UDO. Specifically Article 10.3 of the UDO specifies certain repair and maintenance items that can be made to nonconformities without a special use permit. Section 10.3.1(A) of the Code allows repairs requested for public safety. In this case, the berm would serve as a significant buffer during the amortization period between the active quarry operations and residential uses on adjacent properties and, therefore, would mitigate potential impacts to public safety and welfare posed by the Crabtree Quarry. The berm would, therefore, constitute a repair to be made in the interest of public safety, as allowed by section 10.3.1(A)

Finally, construction of the berm does not alter, expand or enlarge the land area, extent or intensity of Crabtree Quarry. The construction of the berm and associated landscaping does not result in an increase in the operating capacity of the plant but rather mitigates potential impacts of the Crabtree Quarry on the surrounding area.

### **C. Renovation and Maintenance of Primary Crusher and Processing Facility, Paragraph C.5**

Paragraph C.5 of the Settlement Agreement provides that certain accessory structures, specifically the primary crusher, will be renovated and maintained at a location inside of the Pit at a minimum depth of 50 feet below the surface so that the deterioration of this accessory structure can be repaired and the structure can be better maintained. As an additional benefit, at this location, the wall of the Pit will function as a noise baffle and mitigate potential impacts to the surrounding area. The Settlement Agreement contemplates that comparable equipment to that currently used will be in use following the renovation and, thus, Paragraph C.5 does not authorize an increase in the intensity of the nonconforming use. At the most, such renovation and maintenance keeps the general current magnitude of the use and does not increase it. Both the primary crusher and processing facility are accessory structures and integral components of the Crabtree Quarry and are necessary for the continued operation of the quarry during the amortization period. In other words, the renovation and maintenance of these accessory structures, consistent with reasonable mining practicing and legal permit requirements are necessary to effectuate the amortization of the quarry operations. Thus, Paragraph C.5 is consistent with the scope of the pre-existing nonconformity on the Northern Assemblage and is allowed for the amortization of the quarry.

Section 10.3.4(A) of the UDO specifies certain improvements that can be made to nonconforming accessory structures without a special use permit. The Primary Crusher and Processing Facility are clearly accessory structures to the mining operation and their maintenance and repair are required for the amortization of the quarry. Section 10.3.4(A) of the UDO allows maintenance and repair "necessary to maintain and correct any damage . . . or

deterioration to the structural soundness or features of an accessory structure.” During the thirty-eight year amortization period, the Primary Crusher and Processing Facility equipment will require maintenance in order to avoid deterioration and to preserve the structural soundness of the equipment.<sup>9</sup> Moreover, renovating and maintaining the primary crusher at a location inside the Pit is at a preferable location and will mitigate potential noise and dust impacts to surrounding properties and in this regard could also be considered to be required for public safety, as expressly allowed by section 10.3.1.(A).

Likewise, associated with the renovation of the primary crusher, the processing facility will be renovated or repaired as necessary to correct deterioration that will occur to that facility as well. Such renovation or repair is authorized by section 10.3.4(A) of the UDO as it will be undertaken to maintain the structural soundness and correct deterioration to the processing facility as required for the amortization of the quarry. The renovation or repair to the proposed facility will not expand, extend or increase the Crabtree Quarry as it will not increase the operating capacity of the quarry.

The expenditures for the renovation, maintenance and repair work to be undertaken by Hanson on the Primary Crusher and maintenance of Processing Facility in order to allow the amortization of the quarry operation are not limited, section 10.3.4.(G.), but it is expected that these expenditures will be consistent with the expenditure limitation set forth in section 10.3.4(A)(1) which limits annual expenditure on renovations to nonconformities to 15 percent of tax value of the Crabtree Quarry.

#### **D. Substitution of Impervious Surface for Access Point and Weigh Station and Associated Landscaping, Paragraph C.6**

Paragraph C.6 of the Settlement Agreement provides that the current point of access on Duraleigh Road may be landscaped and rerouted to a new location as depicted on the Operation Plan to a point farther north on Duraleigh Road than the current point of access after receiving any and all necessary federal, state, and local approvals. The current access point is located on Parcel 6 and will be rerouted to Parcel 2. The rerouted access point will be landscaped.

Section 10.3.2(B) and 10.3.4 of the UDO specifies certain improvements that can be made to nonconformities without a special use permit. Section 10.3.4(E) authorizes the substitution of impervious surface for a vehicular surface area or access point to another, provided the following criteria are met: the amount and extent of impervious surface is not increased; the placement of the new impervious surfaces conforms to the requirements of this UDO ; the impervious surface is for a lawful activity.

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<sup>9</sup> Employees of Hanson and/or its contractors routinely work around, or actually on, this equipment, which is subject to regularly inspection by the North Carolina Division Energy, Mineral and Land Resources, as well as the Department of Labor, Mine and Quarry Bureau, which is charged with ensuring compliance with the 1975 Mine Safety and Health Act of North Carolina. To the extent that federal or State law requirements apply, Hanson must be able to renovate, maintain, and repair this equipment, at an appropriate location, to comply with its safety obligations under those laws.

The landscaping and rerouting will involve the substitution of the impervious surface that was the previous access point for the impervious surface that is the new access point. In addition, the amount and extent of impervious surface will not be increased as a result of the relocation; the placement of the new impervious surface will conform to the locational requirements of the UDO and will require authorization by the NC DOT; the impervious surface is for the Crabtree Quarry, which is a lawful activity; and the substitution occurs within the land area that constitutes the Crabtree Quarry. Therefore, the substitution and rerouting of this impervious surface is authorized by section 10.3.4(E) of the Code.

Additionally, the rerouting of the access point will improve sight lines to and from vehicles entering and exiting the Crabtree Quarry, which is in the interest of both those entering and exiting the quarry as well as those motorists traveling on Duraleigh Road. In this regard, the rerouted access would benefit public safety and would also be allowed by section 10.3.1(A).

Rerouting of the access point to Crabtree Quarry will require replacement of the weigh station. The weigh station is simply a vehicular surface area that has a weigh scale beneath it. Section 10.3.4(E) authorizes the substitution of impervious surface of one structure or vehicular surface area for another, provided the following criteria are met: the amount and extent of impervious surface is not increased; the placement of the new impervious surface conforms to the requirements of the UDO; the impervious surface is for a lawful activity. The replacement weigh station will be limited to the existing impervious surface footprint of the old weigh station; thus the impervious surface that constitutes the new weigh station will be substituted for the impervious surface that constituted the old weigh station. In addition, the amount and extent of impervious surface associated with the weigh station will not increase; the placement of the new impervious surface conforms to the locational requirements of the Code; the impervious surface is for a lawful activity; and the substitution of impervious surface occurs within the land area that constitutes the Crabtree Quarry. Therefore, the re-location of the weigh station is authorized by section 10.3.4(E).

#### **E. Maintenance of Settling Ponds and Temporary Stockpiles, Paragraph C.7.c**

Paragraph C.7.c of the Settlement Agreement provides that Hanson will continue to use, operate and maintain the existing settling ponds as part of on-going operations and consistent with past practice for the duration of the amortization period. The Settlement Agreement makes clear that Hanson will not expand the existing ponds. Such on-going use is an integral part of the continuation of mining activities at Crabtree Quarry during the amortization period and was a lawful use in place as of 1973 as determined by Mr. Watkins in his 1985 directive to the quarry's owner.<sup>10</sup> The basins and their use in the same manner as in the past is a lawful nonconformity and is a required component of operations during the amortization of the quarry. The restrictions on the use of the Southern Tract for forestry that are contained in the Settlement Agreement are permissible restrictions, but are not mandated by the Code.

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<sup>10</sup> Mr. Watkins' decision was also consistent with a 1977 Raleigh Board of Adjustment decision: *In re Cannity*.

Moreover, sections 10.3.2(B) and 10.3.4(A) authorize the ordinary maintenance to nonconforming uses. The use and maintenance of the settling ponds proposed by the Settlement Agreement falls within the type of improvements and changes to nonconformities that are allowed by sections 10.3.2(B) and 10.3.4(A) as Hanson will conduct only that renovation, maintenance and repair which is necessary to correct deterioration. By their very nature, settling ponds and temporary stockpiles will deteriorate if they are not properly maintained, and Hanson has confirmed its commitment and its legal obligation under its mining permit to maintain them. In addition, the work will not expand, increase or extend the nonconformity as no such work will be conducted outside of that area designated on the Operation Plan as “Existing Settling Pond Area,” which is and has been used for this purpose. The expenditures for the renovation, maintenance and repair work to be undertaken by Hanson to maintain the Settling Ponds and Temporary Stockpiles as required for the amortization of the quarry are permitted in any amount under section 10.3.4.(G.), but it is expected that they will be consistent with the expenditure limitation set forth in section 10.3.4(A)(1).

The maintenance of the settling ponds and temporary stockpiles is an integral part of the quarry operations. The maintenance of these accessory structures, consistent with reasonable mining practices and legal permit requirements, is necessary to effectuate the amortization of the quarry operations.

As has been its ongoing practice, the Settlement Agreement authorizes Hanson to temporarily stockpile sediment removed from the settling ponds in that area designated on the Operation Plan as the Temporary Stockpile Area. The Settlement Agreement provides that such stockpiling will conform to the City’s regulations regarding height of stockpiles.

\* \* \* \* \*

## **Conclusion**

As described in detail above, Crabtree Quarry is a lawful nonconforming use. The terms of the Settlement Agreement contemplate and allow for the continuation of the lawful nonconforming use by application of the diminishing assets doctrine and are consistent with the City’s policy to allow existing nonconforming uses to continue in operation, pursuant to Sec. 10.3.2(A), and to allow maintenance, repair and renovations of zoning nonconformities, pursuant to Sec. 10.3.2(B) and 10.3.4(A) of the UDO. Notwithstanding these provisions, the Settlement Agreement, agreed to by the parties, sets forth an amortization period, after which mining operations on the Property shall cease. The combined effect of the diminishing assets doctrine and the amortization is that, after the current reserves are mined – at the earlier of thirty-eight (38) years or the removal of 30 million tons of Aggregate – the lawful nonconforming use status of the quarry will end. This is consistent with the policy objectives of the City of Raleigh.

As previously indicated by Zoning Inspector Supervisor Larry Strickland in a December 3, 1995 letter to the NC Division of Environment and Natural Resources, “so long as the changes and additions are only aimed at maintaining the general current magnitude of use, then [replacement equipment at the quarry] would be in compliance” with City zoning ordinances. This is consistent with this Zoning Interpretation/Determination that the proposed renovations,

maintenance, and repairs, as described above, are permitted by UDO Sections 10.3.2(B.), 10.3.4.(A.) and 10.3.4.(E).

The terms of the Settlement Agreement do not constitute an expansion of a nonconforming use that would require a special use permit. No special use permit is required for the matters described in the Settlement Agreement. Accordingly, the improvements contemplated for Crabtree Quarry by the Settlement Agreement are allowed and authorized as a continuation of a lawful nonconformity during the amortization period, consistent with applicable sections of the UDO cited above.

## APPENDIX 1

### NORTHERN ASSEMBLAGE — USE AND ACQUISITION DATES BY PARCEL

#### **Parcel 1 (25 acres)**

- Report of Commissioners to Martha Spikes et al.
  - August 8, 1917 – DB&P 317/400
- From Spikes to American Marietta Company
  - July 21, 1961 – DB&P 1463/96
- American Marietta consolidated into Martin-Marietta
  - October 18, 1961 – DB&P 2044/166
- From Martin-Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361
- Change of Name from Nello L. Teer to Benchmark Carolina Aggregates
- Change of Name from Benchmark to Hanson Aggregates Carolina
- Change of Name from Hanson Aggregates Carolina to Hanson Aggregates Southeast, Inc.

#### **Parcel 2 (9.14 acres)**

- From Jackson to King
  - June 13, 1941 – DB&P 865/227
- From King to Nello L. Teer Company
  - October 12, 1984 – DB&P 3366/856

#### **Parcel 3 (18 acres)**

- From Ashburn to Martin Marietta Corporation
  - October 24, 1962 – DB&P 1533/577
- From Martin-Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

#### **Parcel 4 (3.8 acres)**

- From Blake to American-Marietta Company
  - March 31, 1961 – DB&P 1447/602
- From Martin-Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

**Parcel 5 (5.4 acres)**

- From Howell to Gore
  - March 27, 1950 – DB&P 1040/408
- From Gore to Blake
  - October 1, 1958 – DB&P 1337/86
- From Blake to American Marietta Company
  - February 28, 1961 – DB&P 1443/372
- From Martin-Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

**Parcel 6 (0.9 acres)**

- From Rogers to Smith
  - February 11, 1972—DB&P 2090/553
- From Smith to Nello L. Teer Company
  - December 9, 1985 – DB&P 3620/549

**Parcel 7 (21.35 acres)**

- From Howell-Davidson to Rogers
  - February 9, 1948 – DB&P 983/621
- From Rogers to Bryan Rock & Sand Company
  - February 4, 1954 - DB&P 1142/411
- From Bryan Rock & Sand to American Marietta
  - July 31, 1959 – DB&P 1376/282
- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

**Parcel 8 (Parcel 8 and Parcel 11 30.0 acres)**

- Contract and Agreement-Lease J. Frank Davidson and Elizabeth Cahoon Howell to Bryan Rock & Sand
  - January 5, 1947 - DB&P 986/552
- Map by L.E. Wooten “Property of Davidson leased to Bryan Rock & Sand”
  - May 1, 1948 – DB&P BM 1947/111
- Assignment Bryan Rock and Sand Company and America-Marietta Company
  - July 31, 1959 – DB&P 1377/605

- Contract and Agreement-Lease Mrs. J. Frank Davidson (formerly Elizabeth Cahoon Howell) to America Marietta
  - January 3, 1961 - DB&P 1438/737
- From Mary Elizabeth Davidson to Henry Clarence Howell and Elizabeth Howell Derreth
  - August 11, 1965 - DB&P 1665/46
- From Howell and Derreth to Beazer Materials
  - February 21, 1989 – DB&P 443/347
- From Beazer East (f/k/a Beazer Materials) to Benchmark Carolina Aggregates
  - June 27, 1996 - DB&P 7050/296
- From Beazer East to Hanson Aggregates
  - January 7, 2014 – DB&P 15551/1988

**Parcel 9 (22.5 acres)**

- From Faucette to State Highway and Public Works Commission
  - February 21, 1941- DB&P 857/443
- Lease by North Carolina Department of Transportation to Nello L. Teer
  - November 20, 1979 - DB&P 2789/696

**Parcel 10 (10.8 acres)**

- From Hamilton, Trustee to Howell
  - October 22, 1934 – DB&P 657/475
- From Davidson (formerly Howell) to American Marietta Company
  - January 3, 1961 – DB&P 1437/382
- From Martin Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

**Parcel 11 (Parcel 8 and Parcel 11 30.0 acres)**

- Contract and Agreement-Lease J. Frank Davidson and Elizabeth Cahoon Howell to Bryan Rock & Sand
  - January 5, 1947 - DB&P 986/552
- Map by L.E. Wooten “Property of Davidson leased to Bryan Rock & Sand”
  - May 1, 1948 – DB&P BM 1947/111
- Assignment Bryan Rock and Sand Company and America-Marietta Company
  - July 31, 1959 – DB&P 1377/605

- Contract and Agreement-Lease Mrs. J. Frank Davidson (formerly Elizabeth Cahoon Howell) to America Marietta
  - January 3, 1961 - DB&P 1438/737
- From Mary Elizabeth Davidson to Henry Clarence Howell and Elizabeth Howell Derreth
  - August 11, 1965 - DB&P 1665/46
- From Howell to Derreth
  - February 5, 1982 – DB&P2994/479
- From Derreth to Beazer Materials
  - February 21, 1989 – DB&P 443/343
- From Beazer East (f/k/a Beazer Materials) to Benchmark Carolina Aggregates
  - June 27, 1996 - DB&P 7050/296
- From Beazer East to Hanson Aggregates
  - January 7, 2014 – DB&P 15551/1994

APPENDIX 2

WAKE COUNTY ZONING ORDINANCE, MAPS AND MINUTES

APPENDIX 3

WAKE COUNTY TAX MAP

APPENDIX 4

MAP WITH PARCELS AND CURRENT PINs SHOWN

# STATE OF NORTH CAROLINA



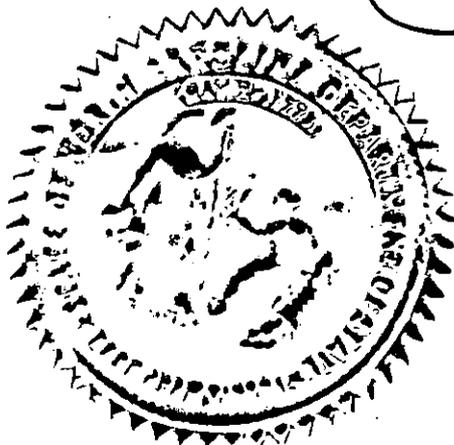
BOOK 2044 PAGE 166

Department of The  
Secretary of State

I, THAD EURE, Secretary of State of the State of North Carolina, do hereby certify that a certified copy of Articles of Consolidation were filed in this office on the 18th day of October, 1961, whereby AMERICAN-MARIETTA COMPANY, an Illinois domestic corporation, and THE MARTIN COMPANY, a Maryland non domestic corporation, were consolidated to form MARTIN-MARIETTA CORPORATION, a Maryland corporation. I further certify that the new corporation, MARTIN-MARIETTA CORPORATION, is active and in good standing in this State in so far as is disclosed by the records of this office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal.

DONE IN OFFICE at Raleigh, this the 5th day of January, 1972.



Filed for Registration at 12:10 o'clock P. M.  
January 19 72 and registered in the  
Office of the Register of Deeds for Wake County  
North Carolina, in Book 2044 Page 166  
January 6, 1972

J. A. Rowland  
REGISTER OF DEEDS  
Debra L. Smith DEPUTY

State of Delaware  
Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THAT THE SAID "BENCHMARK CAROLINA AGGREGATES, INC.", FILED A CERTIFICATE OF AMENDMENT, CHANGING ITS NAME TO "HANSON AGGREGATES CAROLINA, INC.", THE TWENTY-FIFTH DAY OF JANUARY, A.D. 1999, AT 10 O'CLOCK A.M.

Wake County, NC 442  
Laura M Riddick, Register Of Deeds  
Presented & Recorded 08/26/1999 11:45:01  
Book : 008399 Page : 00745 - 00746

RETURN TO: *ENV*  
Susannah Gales  
CT Corporation System  
Three Gateway Center, 16th Floor  
Pittsburgh, PA 15222



*Edward J. Freel*

Edward J. Freel, Secretary of State

0891993 8320

991345271

AUTHENTICATION: 9928280

DATE: 08-18-99

Laura M Riddick  
Register of Deeds  
Wake County, NC



Book : 008399 Page : 00745 - 00746



**Wake County Register of Deeds**  
**Laura M. Riddick**  
**Register of Deeds**

**North Carolina - Wake County**

The foregoing certificate \_\_\_ of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M Riddick, Register of Deeds

By: \_\_\_\_\_  
Assistant Deputy Register of Deeds

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Walnut Creek CA 94596

# Delaware

PAGE 1

*The First State*

Wake County, NC 689  
 Laura M Riddick, Register Of Deeds  
 Presented & Recorded 02/04/2002 15:14:36  
 Book : 009279 Page : 00454 - 00455

I, HARRIET SMITH WINDSOR, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE CERTIFICATE OF MERGER, WHICH MERGES:

"HANSON AGGREGATES CAROLINA, INC.", A DELAWARE CORPORATION, WITH AND INTO "HANSON AGGREGATES SOUTHEAST, INC." UNDER THE NAME OF "HANSON AGGREGATES SOUTHEAST, INC.", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, WAS RECEIVED AND FILED IN THIS OFFICE THE NINETEENTH DAY OF DECEMBER, A.D. 2001, AT 1 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE AFORESAID CORPORATION SHALL BE GOVERNED BY THE LAWS OF THE STATE OF DELAWARE.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF MERGER IS THE TWENTY-EIGHTH DAY OF DECEMBER, A.D. 2001.



*Harriet Smith Windsor*

Harriet Smith Windsor, Secretary of State

0891993 8330

AUTHENTICATION: 1586928

020061622

DATE: 01-30-02

Laura M Riddick  
Register of Deeds  
Wake County, NC



Book : 009279 Page : 00454 - 00455

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Please retain with original document and submit for rerecording.**



**Wake County Register of Deeds  
Laura M. Riddick  
Register of Deeds**

**North Carolina - Wake County**

The foregoing certificate \_\_\_ of \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Notary(ies) Public is (are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

Laura M. Riddick, Register of Deeds

By: \_\_\_\_\_  
Assistant/Deputy Register of Deeds

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POWER OF ATTORNEY  
A. S. PARTIN  
TO  
J. M. BROUGHTON JR.

NORTH CAROLINA, Wake County.

KNOW ALL MEN BY THESE PRESENTS that I, A. S. Partin, of said State and County have made, constituted and appointed, and by these presents do make, constitute and appoint J. M. Broughton, Jr., of said State and County, my true and lawful Attorney for me, and in my name, place and stead to contract for and complete the sale of any and all lumber of every kind and description which I may have at the date of the execution of this instrument, to make deliveries

*We hereby revoke & annul this Power of Attorney 3 July 1919*

*Witness My Hand*

of all lumber so sold and to collect for same; to arrange in his discretion for having sawed any timber on any property which I may possess and to make sale of same. To have supervision over and control of all real estate which I may own or possess, with full power to lease same for agricultural purposes to any person for a period not exceeding one year; and said J. M. Broughton, Jr., is authorized to apply receipts of any of the transactions above listed to the payment of interest and reduction of principal of any loans now outstanding on said real estate, in the order of their priority.

GIVING AND GRANTING unto the said J. M. Broughton, Jr., said Attorney, full power and authority to do and perform all and every act and thing whatsoever requisite and necessary to be done in and about the premises as fully to all intents and purposes, as I might of could do if personally present; hereby ratifying and confirming all that J. M. Broughton, Jr., said Attorney shall lawfully do or cause to be done by virtue hereof. It is understood that this Power of Attorney may be revoked by me at any time hereafter, such revocation, however, not to affect in any degree any acts done by said J. M. Broughton, Jr., said attorney by virtue of the powers herein granted prior to said revocation.

In witness whereof, I have hereunto set my hand and seal, this the 2nd day of Aug., 1917.

A. S. PARTIN (SEAL)

NORTH CAROLINA, Wake County.

Personally appeared before me this day, A. S. Partin, who duly acknowledged the execution of the foregoing power of attorney. Let the instrument, with the certificates be registered. Witness my hand this the 2nd day of August, 1917.

MILLARD MIAL, C. S. C.

Filed for registration at 4 o'clock P.M., Aug., 3, 1917, and registered in the office of the Register of Deeds for Wake County, in Book 317, Page 400, August 8, 1917.

ARCH J. WOOD, Register of Deeds.

By *M. R. Miller* Deputy.

REPORT OF COMMISSIONERS  
A. M. THOMPSON ET AL COMR'S.  
TO  
MARTHA SPIKES ET AL

NORTH CAROLINA, Wake County.

R. C. Choplin )  
vs )  
Martha Spikes, Wm. H. Spikes, ) REPORT OF COMR  
John H. Spikes et als. ) MISSIONERS.

A. M. Thompson, James Tilley and Ed. Hailey, commissioners named in a Judgment signed by His Honor W. A. Devin, Judge, on the 13th day of March, 1917, to allot dower to Martha Spikes and to make partition of the lands described in the pleadings in the above entitled proceeding, acting under and by virtue of

said judgment, respectfully report to the Court

That on the 23 day of March, 1917, they met upon the premises, about 7 1/2 miles northwest of Raleigh, in House Creek township, Wake County, pursuant to the order of this court, and after being duly sworn before John B. Bray, County Surveyor, they proceeded to have said lands of W. R. Spikes, deceased, surveyed under their direction by J. B. Bray, the county surveyor, who made a plat of said lands showing the one-third portion allotted said widow, Martha Spikes, as her dower, and the several parcels allotted by the Commissioners to the tenants, to-wit: R. C. Choplin, Wm. H. Spikes and Beulah S. Briggs, in severalty, which plat is filed herewith as a part of this report, and to divide the said lands among the said parties to this proceeding, as directed by the judgment of this court, as follows:

THE WIDOW'S DOWER.

We do allot to said Martha Spikes her dower and one third in value in the lands of W. R. Spikes, deceased, according to the following metes and bounds: Beginning at a stake in the Northern line of lot No. 1. of the Spikes land. The North East corner of the dower, runs thence S. 6° 00 W. 1591 ft. to a Beech; thence N. 84° 06' W. 695 ft. to a stake; thence N. 6° 00 E. 1595 ft. to a stake; thence S. 85° 00 E. 685 ft. to beginning containing 25 acres; Valued at \$300.; including the dwelling house lately and last occupied by the said W.R. Spikes, deceased, and the offices, outhouses, buildings and improvements upon the said dower lands.

PARTITION TO TENANTS IN SEVERALTY

d. To William H. Spikes they allot lot #1, which is valued at \$300.00; Beginning at a stake the N.E. corner of the Spikes land, runs thence S. 53° 30' W. 394 ft; thence N. 85° 00 W. 2707 ft to a stake; thence N. 6° 00 E. 405 ft. to a stake; thence S. 85° 00 W. 2696 ft. to the beginning containing 25 acres.

2. To Ransom C. Choplin they allot lot #2, which is valued at \$300.00; Beginning at a stake the S. E. corner of lot #1, runs thence S. 53° 30' W. 350 ft. to a stake Dr. Jenkins line; thence N. 85° 00 W. 555 ft. to a stake on the East side of the Branch, thence down the Branch 260 ft. to a stake on the W. side of the Branch; thence N. 85° 00 W. 1998 ft. to a stake; thence N. 6° 00 E. 480 ft. to a stake; thence S. 85° 00 E. 2707 ft. to beginning Cont. 27 acres.

3. To Beulah S. Briggs they allot lot #3, which is valued at \$300.00; Beginning at a stake the S. E. corner of Lot #2 on West side of Branch; thence down the Branch 860 ft. to a rock on W. side of Branch; thence N. 84° 06' W. 1565 ft. to an iron Axle; thence N. 6° 00 E. 712 ft. to a stake; thence S. 85° 00 East 1998 ft the beginning containing 29 acres.

And they further report that said partition is just and equal.

The Commissioners employed the County Surveyor for 3½ day; Hiley & Tilley 3 days & Thompson 2 days; and the Commissioners served in the discharge of their duties and laborers R. C. Choplin 3 days W. H. Spikes 2 days & F. H. Hall 1 day; All of which is respectfully submitted this the 7 day of April, 1917.

T. E. HAILEY (SEAL)  
J. L. TILLIE (SEAL)  
A. M. THOMPSON (SEAL) COMMISSIONERS.

NORTH CAROLINA, Wake County.

In the Superior Court Before the Clerk.

R. C. Choplin )  
vs )  
Martha Spikes, Wm. H. ) Decree Confirming the  
Spikes, John H. Spikes ) Report of Commissioners.  
et als. )

Whereas His Honor W. A. Devin, Judge Presiding, did on 13th day of March, 1917, sign a judgment, agreed and consented to by plaintiff and defendants, R. C. Choplin, Martha Spikes, W. H. Spikes and B. S. Briggs, being the parties in interest, wherein A. M. Thompson, J. L. Tillie and T. E. Hailey were appointed commissioners to allot to Martha Spikes, widow of W. R. Spikes, dower in one-third in value of the lands of W. R. Spikes, deceased, by metes and bounds, in which third part shall be included the dwelling house in which her late husband usually resided, unless said widow selected otherwise, together with office, outhouses, buildings and improvements thereunto belonging or appertaining, for her life and put her in possession of the same; and further to divide the whole of the lands of the late W. R. Spikes therein described into three equal shares and allot to each of the parties, to-wit R. C. Choplin, W. H. Spikes and B. S. Briggs, one share thereof in severalty: And whereas from said judgment it appears that the report of said commissioners, it was expressly agreed by the parties in interest, should be conclusive as to the dower assigned and as to the share or interest of said tenants in common and shall be recorded in lieu of deeds, and further that the above cause was remanded to the Clerk of this Court to proceed in accordance with the provisions of said judgment:

Now therefore, it appearing to the Court that the said A. M. Thompson, J. L. Tillie and T. E. Hailey, commissioners heretofore appointed as aforesaid, filed their report in this court on the 16th day of April, 1917, specifying therein the manner of executing their trust, and allotting,

WIDOW'S DOWER

To Martha Spikes her dower and one-third in value in the lands of W. R. Spikes, deceased, according to the following metes and bounds: Beginning at a stake in the norther line of lot No. 1 of the Spikes land, the northeast corner of the dower Runs thence S. 6 degrees W. 1591 feet to a Beech; thence N. 84 degrees 06' W. 685 feet to a stake; thence N. 6 degrees E. 1595 feet to a stake; thence S. 85 degrees E. 685 feet to the beginning, containing 25 acres; valued at \$300.; including the dwelling house last occupied by said W. R. Spikes, deceased, buildings and improvements upon said dower lands.

PARTITION TO TENANTS.

1. To William H. Spikes lot No. 1, valued at \$300.; Beginning at a stake, the N.E. corner of the Spikes land; Runs thence S. 53 degrees 30' W. 394 feet; thence N. 85 degrees W. 2707 feet to a stake; thence N. 6 degrees E. 405 feet to a stake; thence S. 85 degrees W. 2696 feet to the beginning; containing 25 acres.

2. To Ransom C. Choplin lot No. 2, valued at \$300.; Beginning at a stake, the S.E. corner of lot #1; Runs thence S. 53 degrees 30' W. 350 feet to a stake, Dr. Jenkins' line; then N. 85 degrees W. 555 feet to a stake on the east side of the branch; thence down the branch 260 feet to a stake on the west side of the branch; thence N. 85 degrees W. 1998 feet to a stake; thence N. 6 degrees E. 480 feet to a stake; thence S. 85 degrees E. 2707 feet to the beginning; containing 27 acres.

3. To Beulah S. Briggs lot #3, valued at \$300.; Beginning at a stake, the S.E. corner of lot #2 on the West side of Branch; thence down the Branch 860 feet to a rock on the W. side of Branch; thence N. 84 degrees 06' W. 1565 feet to an iron axle; thence N. 6 degrees E. 712 feet to a stake; thence S. 85 degrees East 1998 feet to the beginning; Containing 29 acres.

And it further appearing to the court that the dower allotted and the partition so made and reported by the said commissioners is just and fair. It is therefore decreed by the court, that the said report be and the same is hereby in all respects confirmed, and it is further ordered that said report and the plat appended, be enrolled in the records of this court, and that the same, together with this decree, be certified to the Register of Deeds for Wake County and registered in his office; and said report and this decree shall be binding among and between the said claimants, their heirs and assigns.

It is also adjudged and decreed that the said R. C. Choplin and B. S. Briggs pay each to the said Wm. H. Spikes the sum of \$14.55 (said sum being one-third of \$43.65) with interest at 6% per annum \$14.55 each from December 10, 1913, untill paid, said sums being a lien upon lot #2 of said Choplin and lot #3 of said Briggs to be discharged respectively by the payment of said principal and interest, and upon said payment the mortgage executed by the late W. R. Spikes and wife to A. M. Thompson, registered in Book 282 page 1, Registry for Wake County, which note and mortgage was assigned to Wm. H. Spikes for \$43.65, shall be duly satisfied of record.

It is also adjudged that the costs of this proceeding be paid by the parties as follows: Wm. H. Spikes one-third; Ransom C. Choplin one-third, and Beulah S. Briggs one-third, and that said costs shall be a lien upon the respective shares until paid.

This the 26th day of April, 1917.

MILLARD MIAL, Clerk Superior Court, Wake County.

Approved. W. A. Davis. (Deputy)

Consent, W. G. Briggs, Atty. for B. S. Briggs.

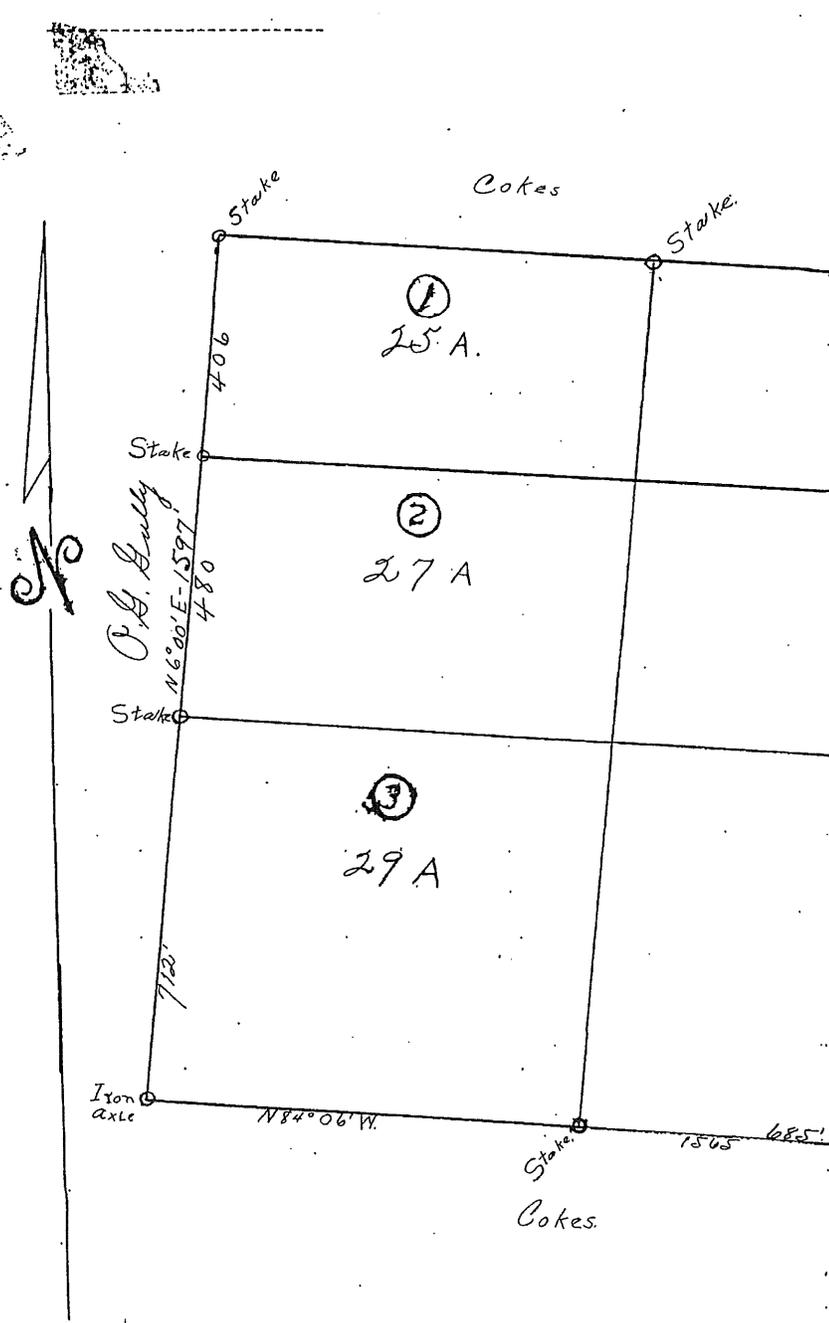
A. Jones & Son Atty. for Spikes.

E. C. Beckwith, Atty for Choplin.

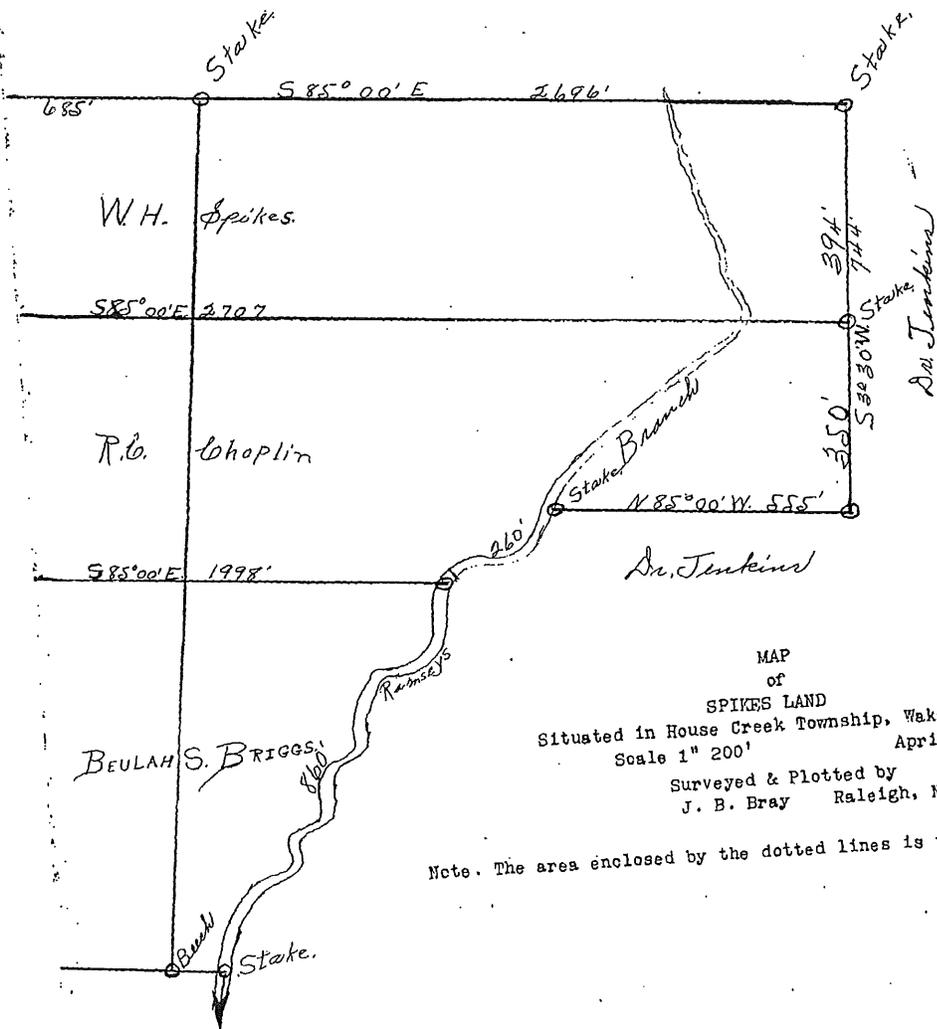
Filed for registration at 11:30 o'clock A. M. August 3, 1917, and registered in the office of the Register of Deeds for Wake County, in Book 317, Page 400, August 8, 1917.

ARCH J. WOOD, Register of Deeds,

By *M. R. Mullin* Deputy.



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NORTH CAROLINA :  
:   
WAKE COUNTY :

DEED

THIS DEED, Made and entered into this 31<sup>st</sup> day of March, 1964, between MARTIN-MARIETTA CORPORATION, a Maryland corporation, Grantor, and NELLO L. TEER COMPANY, a Delaware corporation, Grantee;

W I T N E S S E T H :

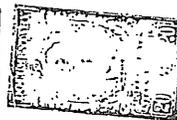
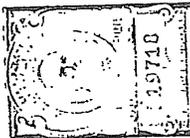
That the Grantor in consideration of Ten (\$10.00) Dollars and other valuable considerations to it paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee, its successors and assigns, certain tracts or parcels of land located in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

TRACT NO. 1:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence



LAW OFFICES  
JOYNER & HOWISON  
DALEIGH, NORTH CAROLINA



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along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 182 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948. See also Book 983, page 621. Being the property conveyed by Samuel G. Rogers to Mary Z. Bryan by deed dated February 4, 1954, and recorded in Book 1142, page 411, Wake County Registry.

TRACT NO. 2:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot, and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just West of a branch, thence North 59 degrees 56 minutes East along the course of said branch 130 feet to an iron pin located just East of said branch, thence South 88 degrees 15 minutes East 553 feet to an iron pin, thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said lot 150 feet to the point of BEGINNING, containing 5.4 acres, more or less, according to a survey made by Collier Cobb, C. E., on March 7, 1950; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated February 28, 1961, and recorded in Book 1443, page 372, Wake County Registry.

TRACT NO. 3:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the West bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet; more or less, to a stake on the West bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less, to a white

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oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated March 31, 1961, and recorded in Book 1447, page 602, Wake County Registry.

TRACT NO. 4:

BEGINNING at an iron stake corner; said corner being the Southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2707 feet to a point and place of BEGINNING, containing 25 acres, more or less; and being the property conveyed by Minnie K. Spikes, et al, to American Marietta Company by deed dated July 21, 1961, and recorded in Book 1463, page 96, Wake County Registry; said property being subject to easements to Carolina Power & Light Company recorded in Book 1005, page 354, Wake County Registry, and to Southern Bell Telephone and Telegraph Company recorded in Book 1165, page 495, Wake County Registry.

TRACT NO. 5:

BEGINNING in the center of the Cary Farm Prison Road and in a Northern boundary of a tract of land now being leased by the Grantee from the Grantor, said point being located 350.45' Northeast from the center of Crabtree Creek; thence with said Northern property line North 66 degrees 29 minutes West 51.5 feet to a reference iron stake on the Western margin of said road; thence continuing the said line North 66 degrees 29 minutes West 55 feet to an original iron stake in the property line; thence continuing with said property line North 66 degrees 29 minutes West 480.5 feet to an iron pipe in the Western margin of a "dirt road to rock quarry", said iron stake being in the Eastern boundary line of a 13.7 acre tract leased by the Grantee from the Grantor; thence continuing with said line and along the Western margin of said road North 39 degrees East 374 feet to an original iron stake, said stake being the Northeast corner of the aforesaid mentioned 13.7 acre tract and also being the Southeast corner of a 21.35 acre tract owned by the Grantee; thence continuing along the Western margin of said road and the Eastern boundary of the aforesaid tract North 24 degrees East 418 feet to an iron stake; thence North 29 degrees East 555

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feet to a point in the Western margin of the Cary Farm Prison Road; thence North 29 degrees East 50 feet to a point in the center of the present Cary Prison Farm Road, said point being the intersection of the projection of the Western boundary of the Old Cary Farm Prison Road, now "dirt road to rock quarry" with the center line of the present Cary Farm Prison Road; thence continuing with the center line of said road South 6 degrees 23 minutes East 584.62 feet to a point; thence with continuing the center line South 3 degrees 24 minutes West 414.66 feet to a point; thence continuing with said center line South 23 degrees 53 minutes West 389.35 feet to a point; thence continuing with said center line South 35 degrees 44 minutes West 74.7 feet to the point and place of BEGINNING; said tract containing 10.8 acres, more or less, and being more fully described on that certain map dated November 21, 1959, prepared by J. L. Higgins, Civil Engineer, Cary, N. C.; and being the property conveyed by Mrs. J. Frank Davidson to American Marietta Company by deed dated January 3, 1961, recorded in Book 1437, page 382, Wake County Registry.

TRACT NO. 6:

BEGINNING at an iron pipe on Steep Hill (or Jackson) Branch in the dividing line between property of grantors and land known as Superior Stone-Spikes land and being the Northeast corner of Tract 1 of land conveyed to grantors by deed dated July 10, 1962, recorded in Book 1512, page 649, Wake County Registry, and runs thence the following courses along Steep Hill Branch: S 32-15 W 315.0 feet, S 41-30 W 85.0 feet, S 58-50 W 220.0 feet, S 39-15 W 183.0 feet, S 50-20 W 122.0 feet, S 29-45 W 248.0 feet, S 46-00 W 165.0 feet, S 20-30 W 136.0 feet, S 9-30 W 213.0 feet, S 19-45 W 234.0 feet, S 6-35 W 210 feet, S 18-00 W 187 feet, S 4-00 E 282.0 feet, S 26-30 E 115.0 feet to an iron pipe; S 1-20 E 163.0 feet to an iron pipe on Crabtree Creek; runs thence along Crabtree Creek N 43-00 W 171.0 feet and N 46-45 W 153.5 feet to a cedar post; runs thence N 9-50 E 2381.0 feet to a cedar post in line of Superior Stone-Spikes land; runs thence along said line S 84-05 E 864 feet to an iron pipe, the place of BEGINNING; containing 18.0 acres according to map prepared by C. W. Russum, Registered Surveyor, from actual survey, dated September, 1962; and being the property conveyed by J. E. Ashburn, et ux, to Martin Marietta Corporation by deed dated October 24, 1962, recorded in Book 1533, page 577, Wake County Registry; subject to easement to Carolina Power & Light Company recorded in Book 1262, page 185, Wake County Registry.

LAW OFFICES  
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RALEIGH, NORTH CAROLINA

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TRACT NO. 7:

BEGINNING at a hickory near Alford's Branch, and running North 4 degrees 30 minutes East 44.75 chains to Crabtree Creek; thence up Crabtree Creek 5.80 chains to a stake; thence nearly North 4 degrees 30 minutes East across creek to a birch; thence North 4 degrees 30 minutes East 5.41 chains to a stone, formerly a hickory; thence North 70 degrees West 24.85 chains to a birch on West side of Steep Hill Branch; thence down Steep Hill Branch 19 chains to Crabtree; thence up Crabtree Creek and through center of island 19.50 chains to Richland Creek; thence up said Creek 35.50 chains to a hickory on East bank of Richland Creek; thence South 5 degrees 30 minutes East 26.75 chains to a stone; thence South 4 degrees 30 minutes West 22.10 chains to a stone; thence South 88 degrees East 5.75 chains to the BEGINNING, containing 130 acres, more or less, and being the same land conveyed in deed registered in office of Register of Deeds for Wake County in Book 158, page 138 -- also see Book 212, page 541.

There is excepted from the above described property certain property conveyed by William J. Andrews, et ux, to H. A. Faucette, by deed dated October 11, 1935, and recorded in Book 722, page 555, Wake County Registry, and more particularly described as follows:

Situated in House Creek Township at High Bridge on New Road and BEGINNING at a birch on the North branch of Crabtree Creek, the corner of the Polly House land North of Crabtree Creek now owned by William J. Andrews, running thence North 4-1/2 degrees East 5.4 chains to a stone, formerly a hickory, running thence North 70 degrees West 24.85 chains to a birch on the West side of Steep Hill Branch, thence down Steep Hill Branch 19 chains to Crabtree Creek; thence down Crabtree Creek on the North bank, following the meanderings of the creek to the point of beginning, containing 30 acres, more or less.

There is also excepted from the above described property a tract conveyed by Martin-Marietta Corporation to Ashburn Construction Company by deed dated November 12, 1962, and recorded in Book 1533, page 527, and more particularly described as follows:

BEGINNING at a cement post on the Eastern edge of Prison Farm Road, said point being the Western

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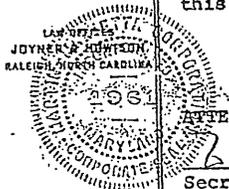
- 6 -

corner of the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293 of the Wake County Registry; running thence North 7 degrees 20 minutes East 503.6 feet to an iron pipe; thence North 4 degrees 10 minutes East, 1017.7 feet to a cement post; thence South 85 degrees East 383 feet to a cement post; thence approximately South 5 degrees 20 minutes West 1519 feet, more or less, to a point, said point being South 85 degrees 50 minutes East of and 379.5 feet from the point of BEGINNING; thence North 85 degrees 50 minutes West 379.5 feet to the point of BEGINNING, said tract containing approximately 13 acres according to a survey made by C. W. Russum, dated September, 1962, being the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293, of the Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

And the said Martin-Marietta Corporation, grantor, for itself, its successors and assigns, covenants with the Grantee, its successors and assigns, that it is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that it will warrant and defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, Martin-Marietta Corporation has caused this instrument to be signed in its corporate name by its Vice President, its corporate seal hereunto affixed, and attested by its Secretary, by order of its Board of Directors, this the day and year first above written.



ATTEST:  
*[Signature]*  
 Secretary

MARTIN-MARIETTA CORPORATION

By *[Signature]*  
 Vice President

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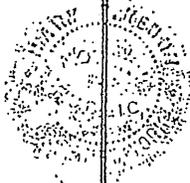
- 7 -

STATE OF NEW YORK  
COUNTY OF *New York*

This is to certify that on the *26<sup>th</sup>* day of *March*, 1964, before me personally came *W. L. Lucas* Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that *Joseph E. Muckley* is the President, and *W. L. Lucas* is the Secretary of MARTIN-MARIETTA CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said *Joseph E. Muckley* President, and the said *W. L. Lucas* President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the *26<sup>th</sup>* day of *March*, 1964.

*Mary T. Kenny*  
Notary Public  
My commission expires: *March 30, 1966*.



MARY T. KENNY  
Notary Public, State of New York  
No. 31724823  
Qualified in New York County  
Commission Expires March 30, 1966

STATE OF NORTH CAROLINA  
Wake County  
The foregoing certificate of *Mary T. Kenny*  
Notary Public, County of *New York*, State of *New York*  
is adjudged to be correct. Let the instrument  
with the certificates, be registered.

WITNESS my hand this the *23* day of  
*April*, 1964

*Barbara H. Beatty*  
Deputy Clerk Superior Court

LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA

Filed for Registration at *11:10 o'clock A.M.*  
*April 23, 1964* and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book *1592* Page *361*  
\_\_\_\_\_ 19\_\_

*B. McKenzie*  
REGISTER OF DEEDS  
DEPUTY

NORTH CAROLINA : ~~BOOK~~ 1463 PAGE 96

DEED

WAKE COUNTY :

THIS DEED, made this 21 day of July, 1961, by MINNIE K. SPIKES, widow; FRANK A. SPIKES and wife, ELGEVIA O'D. SPIKES; WALTER A. SPIKES and wife, RUTH K. SPIKES; MARGUERITE S. STEPHENS and husband, L. J. STEPHENS; JUANITA S. MORGAN and husband, N. R. MORGAN; MILDRED R. SPIKES, Guardian of Elizabeth Gail Spikes and Sheryl L. Spikes; and JACQUELINE S. COOKE and husband, LUTHER D. COOKE, Grantors to AMERICAN-MARIETTA COMPANY, an Illinois Corporation, with its principal office in Chicago, Cook County, Grantee;

WITNESSETH:

That the Grantors, in consideration of \$10.00 and other valuable consideration, to them paid by the Grantee, the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey unto the Grantee, its heirs, successors and assigns, all that parcel or tract of land in Wake County, North Carolina, in House Creek Township, described as follows:

BEGINNING at an iron stake corner; said corner being the southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2,696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2,707 feet to a point and place of BEGINNING, containing 25 acres more or less.

This conveyance is made subject to an easement given to Carolina Power & Light Company recorded



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in Book 1005 at Page 354 and an easement to Southern Bell recorded in Book 1165 at Page 495. This conveyance is also made subject to 1961 Wake County ad valorem taxes.

This property was conveyed to W. H. Spikes by deed recorded in Book 317, Page 400, Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcel of land and all privileges and appurtenances thereunto belonging to the said Grantee, its heirs, or successors and assigns forever. And the said Grantors, for themselves, their wards, their heirs, their executors and administrators, covenant with the Grantee, its heirs, or successors, and assigns that they are seized of said premises in fee and have the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that they will warrant and defend the said title to the same against the claims of all persons whomsoever. The plural number as used herein shall equally include the singular.

IN TESTIMONY WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written.

✓ Frank A. Spikes (SEAL) ✓ Elgevia O'D. Spikes (SEAL) ✓  
Frank A. Spikes Elgevia O'D. Spikes

✓ Walter A. Spikes (SEAL) ✓ Ruth K. Spikes (SEAL) ✓  
Walter A. Spikes Ruth K. Spikes

✓ Marguerite S. Stephens (SEAL) ✓ L. J. Stephens (SEAL) ✓  
Marguerite S. Stephens L. J. Stephens

✓ Juanita S. Morgan (SEAL) ✓ N. R. Morgan (SEAL) ✓  
Juanita S. Morgan N. R. Morgan

✓ Jacqueline S. Cooke (SEAL) ✓ Luther D. Cooke (SEAL) ✓  
Jacqueline S. Cooke Luther D. Cooke

✓ Minnie K. Spikes (SEAL) ✓ Mildred R. Spikes (SEAL) ✓  
Minnie K. Spikes Mildred R. Spikes,  
Guardian for Elizabeth  
Gail Spikes and Sheryl  
L. Spikes

NORTH CAROLINA :

WAKE COUNTY:

I, Richard N. Tyson, a Notary Public, do



hereby certify that FRANK A. SPIKES and his wife, ELGEVIA O'D. SPIKES, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 7 day of

July, 1961.

Richard N. Tyson  
Notary Public

My Commission Expires: 3-28-1962

NORTH CAROLINA :

WAKE COUNTY :

Richard N. Tyson  
I, R. N. Tyson, a Notary Public, do



hereby certify that WALTER A. SPIKES and his wife, RUTH K. SPIKES, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 8 day of

July, 1961.

Richard N. Tyson  
Notary Public

My Commission Expires: 3-28-1962

NORTH CAROLINA :

WAKE COUNTY :

I, Richard N. Lyza, a Notary Public, do hereby certify that MARGUERITE S. STEPHENS and her husband, L. J.



STEPHENS, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 8 day of

July, 1961.

Richard N. Lyza  
Notary Public

My Commission Expires: 3-28-1962

NORTH CAROLINA :

WAKE COUNTY :

I, Richard N. Lyza, a Notary Public,



do hereby certify that JUANITA S. MORGAN and her husband, N. R. MORGAN, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 8 day

of July, 1961.

Richard N. Lyza  
Notary Public

My Commission Expires: 3-28-1962

STATE OF TEXAS: BOOK 1463 PAGE 100  
COUNTY OF VAL VERDE:

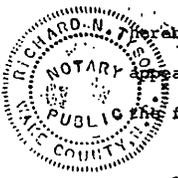
I, Virginia Krick, a Notary Public, do hereby certify that Jacqueline S. Cooke and her husband, Luther D. Cooke, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 21 day of July, 1961.

My Commission Expires: June 1, 1963 Virginia Krick Notary Public



NORTH CAROLINA :  
WAKE COUNTY :



I, Richard N. Tyson, a Notary Public, do hereby certify that Minnie K. Spikes, Widow, Grantor, personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 8 day of July, 1961.

My Commission Expires: 3-28-1962 Richard N. Tyson Notary Public

NORTH CAROLINA :  
WAKE COUNTY :



I, Richard N. Tyson, a Notary Public, do hereby certify that Mildred R. Spikes, Guardian of Elizabeth Gail Spikes and Sheryl L. Spikes, Grantors, personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 7 day of July, 1961.

Richard N. Tyson  
Notary Public

My Commission Expires: 3-28-1962  
STATE OF NORTH CAROLINA—WAKE COUNTY

The foregoing certificate of Richard N. Tyson, a Notary Public of Wake County, State of North Carolina, is adjudged to be correct. Let the instrument with the certificate, be registered.

WITNESS my hand this the 21 day of July, 1961

James L. Gauthier  
Clerk Superior Court

Filed for registration at 11:10 o'clock am day of July 21 1961

and registered in the office of the Register of Deeds for Wake County, in Book 1463, Page 96, 1961

[Signature]  
Register of Deeds

This deed given by W. T. Toyner, Jr. BOOK 1447 PAGE 602

NORTH CAROLINA - Wake County. THIS DEED, made this 31st day of March, 1961, by

F. L. Blake and wife, Lula J. Blake, of Wake County Grantors, To American-Marietta Company, an Illinois Corporation with an office in Wake County, North Carolina Grantee.

Witnesseth: That the Grantors, in consideration of Ten Dollars and other valuable considerations to them paid by the Grantee, the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey unto the Grantee, their heirs, or successors, and assigns, the parcel(s) of land in Wake County, North Carolina, in House Creek Township, adjoining the lands of and others, and more particularly described as follows:

Bounded on the North by Spikes tract; on the South by the Blake tract; on the east by the King tract; and on the West by the Ashburn tract; more particularly described as follows:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the west bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet, more or less, to a stake on the west bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less to a white oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less, being the remainder of the land conveyed to the Grantors by the State of North Carolina by deed dated December 29, 1953, and recorded in Book 1142 at Page 337 in the office of the Register of Deeds for Wake County.



This property was conveyed to Grantee by deed dated \_\_\_\_\_ recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ Wake County Registry. TO HAVE AND TO HOLD the aforesaid parcel(s) of land and all privileges and appurtenances thereto belonging to the said Grantee, their heirs, or successors, and assigns forever.

And the said F. L. Blake and wife, Lula J. Blake Grantor(s) for themselves, their heirs, executors and administrators; covenant with the Grantee, their heirs, or successors, and assigns that they are seized of said premises in fee and have the right to convey the same in fee simple; that the same are free from encumbrances (except as herein set forth); and that they will defend the title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written. F. L. Blake (Type name under each signature) (SEAL) Lula J. Blake (SEAL)



NORTH CAROLINA - Wake County. (If acknowledgment not taken in Wake County, N. C., show county and state where taken) Louise B. McAllister Notary Public, do hereby certify that F. L. Blake and his wife, Lula J. Blake, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance. Witness my hand and notarial seal, this 31 day of March, 1961. My commission expires 3-3-63. NOTARIAL SEAL HERE (Seal must be impregnated indelibly for Notary's name to be readable) Louise B. McAllister Notary Public.

NORTH CAROLINA - Wake County. The foregoing certificate(s) of Louise B. McAllister, Notary Public of Wake County, North Carolina, is/are supposed to be correct. Let the said deed and certificate(s) be registered. Witness my hand this the 31 day of March, 1961. James L. Carothers Deputy Clerk Superior Court.

Probate fee 25c paid. Filed for registration on the 31 day of March, 1961, at 10:45 o'clock AM, and duly recorded in the office of the Register of Deeds of Wake County, N. C., in Book 1447, Page 602. Fee \$ 1.25 paid. W. F. Booker Register of Deeds. H. L. Deering Deputy Register of Deeds.

CCCK 1592 PAGE 361

NORTH CAROLINA :  
: DEED  
WAKE COUNTY :

THIS DEED, Made and entered into this 31<sup>st</sup> day of March, 1964, between MARTIN-MARIETTA CORPORATION, a Maryland corporation, Grantor, and NELLO L. TEER COMPANY, a Delaware corporation, Grantee;

W I T N E S S E T H :

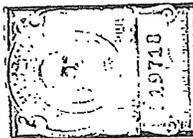
That the Grantor in consideration of Ten (\$10.00) Dollars and other valuable considerations to it paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee, its successors and assigns, certain tracts or parcels of land located in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

TRACT NO. 1:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence



LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA



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along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 182 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948. See also Book 983, page 621. Being the property conveyed by Samuel G. Rogers to Mary Z. Bryan by deed dated February 4, 1954, and recorded in Book 1142, page 411, Wake County Registry.

TRACT NO. 2:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot, and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just West of a branch, thence North 59 degrees 56 minutes East along the course of said branch 130 feet to an iron pin located just East of said branch, thence South 88 degrees 15 minutes East 553 feet to an iron pin, thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said lot 150 feet to the point of BEGINNING, containing 5.4 acres, more or less, according to a survey made by Collier Cobb, C. E., on March 7, 1950; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated February 28, 1961, and recorded in Book 1443, page 372, Wake County Registry.

TRACT NO. 3:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the West bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a southeasterly direction 430 feet; more or less, to a stake on the West bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less, to a white

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oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated March 31, 1961, and recorded in Book 1447, page 602, Wake County Registry.

TRACT NO. 4:

BEGINNING at an iron stake corner; said corner being the Southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2707 feet to a point and place of BEGINNING, containing 25 acres, more or less; and being the property conveyed by Minnie K. Spikes, et al, to American Marietta Company by deed dated July 21, 1961, and recorded in Book 1463, page 96, Wake County Registry; said property being subject to easements to Carolina Power & Light Company recorded in Book 1005, page 354, Wake County Registry, and to Southern Bell Telephone and Telegraph Company recorded in Book 1165, page 495, Wake County Registry.

TRACT NO. 5:

BEGINNING in the center of the Cary Farm Prison Road and in a Northern boundary of a tract of land now being leased by the Grantee from the Grantor, said point being located 350.45' Northeast from the center of Crabtree Creek; thence with said Northern property line North 66 degrees 29 minutes West 51.5 feet to a reference iron stake on the Western margin of said road; thence continuing the said line North 66 degrees 29 minutes West 55 feet to an original iron stake in the property line; thence continuing with said property line North 66 degrees 29 minutes West 480.5 feet to an iron pipe in the Western margin of a "dirt road to rock quarry", said iron stake being in the Eastern boundary line of a 13.7 acre tract leased by the Grantee from the Grantor; thence continuing with said line and along the Western margin of said road North 39 degrees East 374 feet to an original iron stake, said stake being the Northeast corner of the aforesaid mentioned 13.7 acre tract and also being the Southeast corner of a 21.35 acre tract owned by the Grantee; thence continuing along the Western margin of said road and the Eastern boundary of the aforesaid tract North 24 degrees East 418 feet to an iron stake; thence North 29 degrees East 555

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feet to a point in the Western margin of the Cary Farm Prison Road; thence North 29 degrees East 50 feet to a point in the center of the present Cary Prison Farm Road, said point being the intersection of the projection of the Western boundary of the Old Cary Farm Prison Road, now "dirt road to rock quarry" with the center line of the present Cary Farm Prison Road; thence continuing with the center line of said road South 6 degrees 23 minutes East 584.62 feet to a point; thence with continuing the center line South 3 degrees 24 minutes West 414.66 feet to a point; thence continuing with said center line South 23 degrees 53 minutes West 389.35 feet to a point; thence continuing with said center line South 35 degrees 44 minutes West 74.7 feet to the point and place of BEGINNING; said tract containing 10.8 acres, more or less, and being more fully described on that certain map dated November 21, 1959, prepared by J. L. Higgins, Civil Engineer, Cary, N. C.; and being the property conveyed by Mrs. J. Frank Davidson to American Marietta Company by deed dated January 3, 1961, recorded in Book 1437, page 382, Wake County Registry.

TRACT NO. 6:

BEGINNING at an iron pipe on Steep Hill (or Jackson) Branch in the dividing line between property of grantors and land known as Superior Stone-Spikes land and being the Northeast corner of Tract 1 of land conveyed to grantors by deed dated July 10, 1962, recorded in Book 1512, page 649, Wake County Registry, and runs thence the following courses along Steep Hill Branch: S 32-15 W 315.0 feet, S 41-30 W 85.0 feet, S 58-50 W 220.0 feet, S 39-15 W 183.0 feet, S 50-20 W 122.0 feet, S 29-45 W 248.0 feet, S 46-00 W 165.0 feet, S 20-30 W 136.0 feet, S 9-30 W 213.0 feet, S 19-45 W 234.0 feet, S 6-35 W 210 feet, S 18-00 W 187 feet, S 4-00 E 282.0 feet, S 26-30 E 115.0 feet to an iron pipe; S 1-20 E 163.0 feet to an iron pipe on Crabtree Creek; runs thence along Crabtree Creek N 43-00 W 171.0 feet and N 46-45 W 153.5 feet to a cedar post; runs thence N 9-50 E 2381.0 feet to a cedar post in line of Superior Stone-Spikes land; runs thence along said line S 84-05 E 864 feet to an iron pipe, the place of BEGINNING; containing 18.0 acres according to map prepared by C. W. Russum, Registered Surveyor, from actual survey, dated September, 1962; and being the property conveyed by J. E. Ashburn, et ux, to Martin Marietta Corporation by deed dated October 24, 1962, recorded in Book 1533, page 577, Wake County Registry; subject to easement to Carolina Power & Light Company recorded in Book 1262, page 185, Wake County Registry.

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TRACT NO. 7:

BEGINNING at a hickory near Alford's Branch, and running North 4 degrees 30 minutes East 44.75 chains to Crabtree Creek; thence up Crabtree Creek 5.80 chains to a stake; thence nearly North 4 degrees 30 minutes East across creek to a birch; thence North 4 degrees 30 minutes East 5.41 chains to a stone, formerly a hickory; thence North 70 degrees West 24.85 chains to a birch on West side of Steep Hill Branch; thence down Steep Hill Branch 19 chains to Crabtree; thence up Crabtree Creek and through center of island 19.50 chains to Richland Creek; thence up said Creek 35.50 chains to a hickory on East bank of Richland Creek; thence South 5 degrees 30 minutes East 26.75 chains to a stone; thence South 4 degrees 30 minutes West 22.10 chains to a stone; thence South 88 degrees East 5.75 chains to the BEGINNING, containing 130 acres, more or less, and being the same land conveyed in deed registered in office of Register of Deeds for Wake County in Book 158, page 138 -- also see Book 212, page 541.

There is excepted from the above described property certain property conveyed by William J. Andrews, et ux, to H. A. Faucette, by deed dated October 11, 1935, and recorded in Book 722, page 555, Wake County Registry, and more particularly described as follows:

Situated in House Creek Township at High Bridge on New Road and BEGINNING at a birch on the North branch of Crabtree Creek, the corner of the Polly House land North of Crabtree Creek now owned by William J. Andrews, running thence North 4-1/2 degrees East 5.4 chains to a stone, formerly a hickory, running thence North 70 degrees West 24.85 chains to a birch on the West side of Steep Hill Branch, thence down Steep Hill Branch 19 chains to Crabtree Creek; thence down Crabtree Creek on the North bank, following the meanderings of the creek to the point of beginning, containing 30 acres, more or less.

There is also excepted from the above described property a tract conveyed by Martin-Marietta Corporation to Ashburn Construction Company by deed dated November 12, 1962, and recorded in Book 1533, page 527, and more particularly described as follows:

BEGINNING at a cement post on the Eastern edge of Erison Farm Road, said point being the Western

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corner of the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293 of the Wake County Registry; running thence North 7 degrees 20 minutes East 503.6 feet to an iron pipe; thence North 4 degrees 10 minutes East, 1017.7 feet to a cement post; thence South 85 degrees East 383 feet to a cement post; thence approximately South 5 degrees 20 minutes West 1519 feet, more or less, to a point, said point being South 85 degrees 50 minutes East of and 379.5 feet from the point of BEGINNING; thence North 85 degrees 50 minutes West 379.5 feet to the point of BEGINNING, said tract containing approximately 13 acres according to a survey made by C. W. Russum, dated September, 1962, being the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293, of the Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

And the said Martin-Marietta Corporation, grantor, for itself, its successors and assigns, covenants with the Grantee, its successors and assigns, that it is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that it will warrant and defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, Martin-Marietta Corporation has caused this instrument to be signed in its corporate name by its Vice President, its corporate seal hereunto affixed, and attested by its Secretary, by order of its Board of Directors, this the day and year first above written.

MARTIN-MARIETTA CORPORATION

By Joseph C. Munday  
Vice President

ATTEST:

[Signature]  
Secretary



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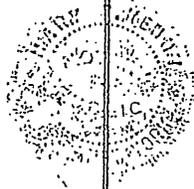
- 7 -

STATE OF NEW YORK  
COUNTY OF *New York*

This is to certify that on the *26<sup>th</sup>* day of *March*, 1964, before me personally came *W. L. Lucas* Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that *Joseph E. Muckley* is the President, and *W. L. Lucas* is the Secretary of MARTIN-MARIETTA CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and the said *W. L. Lucas* President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the *26<sup>th</sup>* day of *March*, 1964.

*Mary T. Kenny*  
Notary Public  
My commission expires: *March 30, 1966*



MARY T. KENNY  
Notary Public, State of New York  
No. 21-724823  
Qualified in New York County  
Commission Expires March 30, 1966

STATE OF NORTH CAROLINA  
Wake County

The foregoing certificate of *Mary T. Kenny*  
Notary Public, *New York* County, State of *New York*  
is adjudged to be correct. Let the instrument  
with the certificate, be registered.

WITNESS my hand this the *23* day of  
*April*, 19*64*

*Barbara H. Beatty*  
Deputy Clerk Superior Court

LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA

Filed for Registration at *11:10* o'clock *A.M.*  
*April 23, 1964* and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book *1592* Page *361*  
\_\_\_\_\_ 19\_\_\_\_

*B. McKenzie*  
REGISTER OF DEEDS  
DEPUTY

this deed drawn by W. T. Joyner, Jr. BOOK 1447 PAGE 602

NORTH CAROLINA - Wake County. THIS DEED, made this 31st day of March, 1961, by

F. L. Blake and wife, Lula J. Blake, of Wake County, Grantors, to American-Marietta Company, an Illinois Corporation with an office in Wake County, North Carolina, Grantee, ~~of~~

Witnesseth: That the Grantors, in consideration of Ten Dollars and other valuable considerations to them paid by the Grantee, the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey unto the Grantee, their heirs, or successors, and assigns, the parcel(s) of land in Wake County, North Carolina, in House Creek Township, adjoining the lands of \_\_\_\_\_ and others, and more particularly described as follows:

Bounded on the North by Spikes tract; on the South by the Blake tract; on the east by the King tract; and on the West by the Ashburn tract; more particularly described as follows:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the west bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet, more or less, to a stake on the west bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less to a white oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less, being the remainder of the land conveyed to the Grantors by the State of North Carolina by deed dated December 29, 1953, and recorded in Book 1142 at Page 337 in the office of the Register of Deeds for Wake County.



This property was conveyed to Grantors by deed dated \_\_\_\_\_ recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ Wake County Registry. TO HAVE AND TO HOLD the aforesaid parcel(s) of land and all privileges and appurtenances thereto belonging to the said Grantee, their heirs, or successors, and assigns forever.

And the said F. L. Blake and wife, Lula J. Blake Grantor(s), for themselves, their heirs, executors and administrators; covenant with the Grantee, their heirs, or successors, and assigns that they are seized of said premises in fee and have the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that they will warrant and defend the said title to the same against the claims of all persons whomsoever. The plural number as used herein shall equally include the singular. The masculine or feminine gender as used herein shall equally include the neuter.

IN TESTIMONY WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written.

(Type name under each signature) F. L. Blake (SEAL) Lula J. Blake (SEAL)



NORTH CAROLINA - Wake County. (If acknowledgment not taken in Wake County, N. C., show county and state where taken)

Louise B. McAllister, Notary Public, do hereby certify that F. L. Blake and his wife, Lula J. Blake, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance.

Witness my hand and notarial seal, this 31 day of March, 1961. My commission expires 3-3-63

NOTARIAL SEAL HERE (Seal must be impressed sufficiently for Notary's name to be readable) Louise B. McAllister, Notary Public.

NORTH CAROLINA - Wake County. The foregoing certificate(s) of Louise B. McAllister, Notary Public of Wake County, North Carolina, is/are adjudged to be correct.

Let the said deed and certificate(s) be registered. Witness my hand this the 31 day of March, 1961

Probate fee 25c paid Jane S. Carothers, Deputy Clerk Superior Court.

Filed for registration on the 31 day of March, 1961, at 10:45 o'clock A.M., and duly recorded in the office of the Register of Deeds of Wake County, N. C., in Book 1447, Page 602 by W. F. Booker, Register of Deeds.

Fee \$ 1.25 paid. H. L. Deanning, Deputy Register of Deeds

BOOK 1592 PAGE 361

NORTH CAROLINA :  
: DEED  
WAKE COUNTY :

THIS DEED, Made and entered into this 31<sup>st</sup> day of March, 1964, between MARTIN-MARIETTA CORPORATION, a Maryland corporation, Grantor, and NELLO L. TEER COMPANY, a Delaware corporation, Grantee;

W I T N E S S E T H :

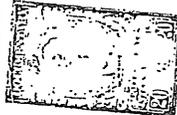
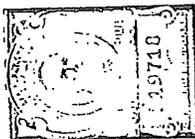
That the Grantor in consideration of Ten (\$10.00) Dollars and other valuable considerations to it paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee, its successors and assigns, certain tracts or parcels of land located in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

TRACT NO. 1:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence



LAW OFFICES  
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RALEIGH, NORTH CAROLINA



BOOK 1592 PAGE 362

along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 182 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948. See also Book 983, page 621. Being the property conveyed by Samuel G. Rogers to Mary Z. Bryan by deed dated February 4, 1954, and recorded in Book 1142, page 411, Wake County Registry.

TRACT NO. 2:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot, and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just West of a branch, thence North 59 degrees 56 minutes East along the course of said branch 130 feet to an iron pin located just East of said branch, thence South 88 degrees 15 minutes East 553 feet to an iron pin, thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said lot 150 feet to the point of BEGINNING, containing 5.4 acres, more or less, according to a survey made by Collier Cobb, C. E., on March 7, 1950; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated February 28, 1961, and recorded in Book 1443, page 372, Wake County Registry.

TRACT NO. 3:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the West bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet; more or less, to a stake on the West bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less, to a white

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oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated March 31, 1961, and recorded in Book 1447, page 602, Wake County Registry.

TRACT NO. 4:

BEGINNING at an iron stake corner; said corner being the Southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2707 feet to a point and place of BEGINNING, containing 25 acres, more or less; and being the property conveyed by Minnie K. Spikes, et al, to American Marietta Company by deed dated July 21, 1961, and recorded in Book 1463, page 96, Wake County Registry; said property being subject to easements to Carolina Power & Light Company recorded in Book 1005, page 354, Wake County Registry, and to Southern Bell Telephone and Telegraph Company recorded in Book 1165, page 495, Wake County Registry.

TRACT NO. 5:

BEGINNING in the center of the Cary Farm Prison Road and in a Northern boundary of a tract of land now being leased by the Grantee from the Grantor, said point being located 350.45' Northeast from the center of Crabtree Creek; thence with said Northern property line North 66 degrees 29 minutes West 51.5 feet to a reference iron stake on the Western margin of said road; thence continuing the said line North 66 degrees 29 minutes West 55 feet to an original iron stake in the property line; thence continuing with said property line North 66 degrees 29 minutes West 480.5 feet to an iron pipe in the Western margin of a "dirt road to rock quarry", said iron stake being in the Eastern boundary line of a 13.7 acre tract leased by the Grantee from the Grantor; thence continuing with said line and along the Western margin of said road North 39 degrees East 374 feet to an original iron stake, said stake being the Northeast corner of the aforesaid mentioned 13.7 acre tract and also being the Southeast corner of a 21.35 acre tract owned by the Grantee; thence continuing along the Western margin of said road and the Eastern boundary of the aforesaid tract North 24 degrees East 418 feet to an iron stake; thence North 29 degrees East 555

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feet to a point in the Western margin of the Cary Farm Prison Road; thence North 29 degrees East 50 feet to a point in the center of the present Cary Prison Farm Road, said point being the intersection of the projection of the Western boundary of the Old Cary Farm Prison Road, now "dirt road to rock quarry" with the center line of the present Cary Farm Prison Road; thence continuing with the center line of said road South 6 degrees 23-minutes East 584.62 feet to a point; thence with continuing the center line South 3 degrees 24 minutes West 414.66 feet to a point; thence continuing with said center line South 23 degrees 53 minutes West 389.35 feet to a point; thence continuing with said center line South 35 degrees 44 minutes West 74.7 feet to the point and place of BEGINNING; said tract containing 10.8 acres, more or less, and being more fully described on that certain map dated November 21, 1959, prepared by J. L. Higgins, Civil Engineer, Cary, N. C.; and being the property conveyed by Mrs. J. Frank Davidson to American Marietta Company by deed dated January 3, 1961, recorded in Book 1437, page 382, Wake County Registry.

TRACT NO. 6:

BEGINNING at an iron pipe on Steep Hill (or Jackson) Branch in the dividing line between property of grantors and land known as Superior Stone-Spikes land and being the Northeast corner of Tract 1 of land conveyed to grantors by deed dated July 10, 1962, recorded in Book 1512, page 649, Wake County Registry, and runs thence the following courses along Steep Hill Branch: S 32-15 W 315.0 feet, S 41-30 W 85.0 feet, S 58-50 W 220.0 feet, S 39-15 W 183.0 feet, S 50-20 W 122.0 feet, S 29-45 W 248.0 feet, S 46-00 W 165.0 feet, S 20-30 W 136.0 feet, S 9-30 W 213.0 feet, S 19-45 W 234.0 feet, S 6-35 W 210 feet, S 18-00 W 187 feet, S 4-00 E 282.0 feet, S 26-30 E 115.0 feet to an iron pipe; S 1-20 E 163.0 feet to an iron pipe on Crabtree Creek; runs thence along Crabtree Creek N 43-00 W 171.0 feet and N 46-45 W 153.5 feet to a cedar post; runs thence N 9-50 E 2381.0 feet to a cedar post in line of Superior Stone-Spikes land; runs thence along said line S 84-05 E 864 feet to an iron pipe, the place of BEGINNING; containing 18.0 acres according to map prepared by C. W. Russum, Registered Surveyor, from actual survey, dated September, 1962; and being the property conveyed by J. E. Ashburn, et ux, to Martin Marietta Corporation by deed dated October 24, 1962, recorded in Book 1533, page 577, Wake County Registry; subject to easement to Carolina Power & Light Company recorded in Book 1262, page 185, Wake County Registry.

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TRACT NO. 7:

BEGINNING at a hickory near Alford's Branch, and running North 4 degrees 30 minutes East 44.75 chains to Crabtree Creek; thence up Crabtree Creek 5.80 chains to a stake; thence nearly North 4 degrees 30 minutes East across creek to a birch; thence North 4 degrees 30 minutes East 5.41 chains to a stone, formerly a hickory; thence North 70 degrees West 24.85 chains to a birch on West side of Steep Hill Branch; thence down Steep Hill Branch 19 chains to Crabtree; thence up Crabtree Creek and through center of island 19.50 chains to Richland Creek; thence up said Creek 35.50 chains to a hickory on East bank of Richland Creek; thence South 5 degrees 30 minutes East 26.75 chains to a stone; thence South 4 degrees 30 minutes West 22.10 chains to a stone; thence South 88 degrees East 5.75 chains to the BEGINNING, containing 130 acres, more or less, and being the same land conveyed in deed registered in office of Register of Deeds for Wake County in Book 158, page 138 -- also see Book 212, page 541.

There is excepted from the above described property certain property conveyed by William J. Andrews, et ux, to H. A. Faucette, by deed dated October 11, 1935, and recorded in Book 722, page 555, Wake County Registry, and more particularly described as follows:

Situated in House Creek Township at High Bridge on New Road and BEGINNING at a birch on the North branch of Crabtree Creek, the corner of the Polly House land North of Crabtree Creek now owned by William J. Andrews, running thence North 4-1/2 degrees East 5.4 chains to a stone, formerly a hickory, running thence North 70 degrees West 24.85 chains to a birch on the West side of Steep Hill Branch, thence down Steep Hill Branch 19 chains to Crabtree Creek; thence down Crabtree Creek on the North bank, following the meanderings of the creek to the point of beginning, containing 30 acres, more or less.

There is also excepted from the above described property a tract conveyed by Martin-Marietta Corporation to Ashburn Construction Company by deed dated November 12, 1962, and recorded in Book 1533, page 527, and more particularly described as follows:

BEGINNING at a cement post on the Eastern edge of Prison Farm Road, said point being the Western

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corner of the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293 of the Wake County Registry; running thence North 7 degrees 20 minutes East 503.6 feet to an iron pipe; thence North 4 degrees 10 minutes East, 1017.7 feet to a cement post; thence South 85 degrees East 383 feet to a cement post; thence approximately South 5 degrees 20 minutes West 1519 feet, more or less, to a point, said point being South 85 degrees 50 minutes East of and 379.5 feet from the point of BEGINNING; thence North 85 degrees 50 minutes West 379.5 feet to the point of BEGINNING, said tract containing approximately 13 acres according to a survey made by C. W. Russum, dated September, 1962, being the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293, of the Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

And the said Martin-Marietta Corporation, grantor, for itself, its successors and assigns, covenants with the Grantee, its successors and assigns, that it is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that it will warrant and defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, Martin-Marietta Corporation has caused this instrument to be signed in its corporate name by its Vice President, its corporate seal hereunto affixed, and attested by its Secretary, by order of its Board of Directors this the day and year first above written.



ATTEST:

Secretary

MARTIN-MARIETTA CORPORATION

BY Joseph M. Munday  
Vice President

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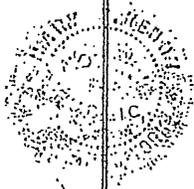
- 7 -

STATE OF NEW YORK  
COUNTY OF *New York*

This is to certify that on the *26<sup>th</sup>* day of *March*, 1964, before me personally came *W. L. Lucas* Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that *Joseph E. Muckley* is the President, and *W. L. Lucas* is the Secretary of MARTIN-MARIETTA CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and the said President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the *26<sup>th</sup>* day of *March*, 1964.

*Mary T. Kenny*  
Notary Public  
My commission expires: *March 30, 1966*



MARY T. KENNY  
Notary Public, State of New York  
No. 31-7234825  
Qualified in New York County  
Commission Expires March 30, 1966

STATE OF NORTH CAROLINA  
Wake County

The foregoing certificate of *Mary T. Kenny* Notary Public, State of *New York* is adjudged to be correct. Let the instrument with the certificate, be registered.

WITNESS my hand this the *23* day of *April*, 19*64*

*Barbara H. Beatty*  
Deputy Clerk Superior Court

LAW OFFICES  
JOYNER & HOWSON  
RALEIGH, NORTH CAROLINA

Filed for Registration at *11:10* o'clock *A.M.*  
*April 23, 1964* and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book *1592* Page *361*  
19*64*

*H. H. Booker*  
REGISTER OF DEEDS  
*B. McKenzie*  
DEPUTY

this deed given by Walton K. Jovner, Attorney **BOOK 1443 PAGE 372**  
 NORTH CAROLINA - Wake County  
 THIS DEED, made this 28th day of February, 1961, by  
F. L. Blake and wife Lula J. Blake  
 To American-Marietta Company, an Illinois Corporation  
 Grantors, all of  
 Wake County, North Carolina; Whereas, That the Grantors, in consideration of the Bakers and other valuable considerations in them paid by the Grantee, the  
 receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey unto the Grantee, their heirs, or  
 successors, and assigns, the parcel(s) of land in Wake County, North Carolina, in Housa Creek  
 Township,  
 adjoining the lands of  
 said others, and more particularly described as follows:

BEGINNING at a point in the center of Blue Ridge Boulevard,  
 this being the northeast corner of the Ruby McDonald lot,  
 and runs thence along the north line of said McDonald lot  
 South 37 degrees 17 minutes West 213.5 feet to an iron pin;  
 thence along the western line of said McDonald lot South  
 26 degrees 13 minutes West 204 feet to an iron pin, the  
 southwest corner of the said McDonald lot; thence North 71  
 degrees 01 minutes West 1061 feet to an iron pin located  
 just West of a branch, thence North 59 degrees 56 minutes  
 East along the course of said branch 130 feet to an iron  
 pin located just East of said branch, thence South 88 degrees  
 15 minutes East 553 feet to an iron pin, thence South 84  
 degrees 15 minutes East 691 feet to a point in the center of  
 said Blue Ridge Boulevard; thence in a southern direction  
 along the center line of said lot 150 feet to the point of  
 BEGINNING, containing 5.4 acres more or less, according to a  
 survey made by Collier Cobb, C.E., on March 7<sup>th</sup> 1950; and  
 being the same property conveyed to the parties of the first  
 part by Elnora Mills Gore, divorcee.

This property is made subject to the right of way of Blue  
 Ridge Boulevard.



This property was conveyed to Grantee by deed dated October 1, 1958 recorded in Book 1337 Page 86 Wake County Registry.  
 TO HAVE AND TO HOLD the above parcel(s) of land and all privileges and appurtenances thereto belonging to the said Grantee, their heirs, or successors, and  
 assigns forever.  
 And the said F. L. Blake and wife Lula J. Blake  
 Grantor(s), for themselves, their heirs, executors and administrators, covenant with the Grantee, their heirs, or successors, and assigns that they are owner of said  
 premises in fee and have the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that they will  
 warrant and defend the said title to the same against the claim of all persons whatsoever.  
 The plural number or word hereto shall equally include the singular. The masculine or feminine gender as used hereto shall equally include the neuter.  
 IN WITNESS WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written.

(Type name under each signature)  
 (SEAL) F. L. Blake (SEAL)  
 (SEAL) Lula J. Blake (SEAL)

(If absent, insert full name in Wake County, N. C., show county and state where taken)  
 I, Louise B. McAllister, a Notary Public, do hereby certify that  
F. L. Blake and his wife, Lula J. Blake, Grantors,  
 each personally appeared before me this day and acknowledged the execution of the foregoing deed of conveyance.  
 Witness my hand and notarial seal, this 28 day of Feb, 1961. My commission expires 3-3-61  
 NOTARIAL SEAL HERE  
 (Seal must be impressed sufficiently for Notary's name to be readable)  
Louise B. McAllister Notary Public  
 NORTH CAROLINA - Wake County. Louise B. McAllister, Notary/Not. Public of Wake County, North Carolina,  
 The foregoing certificate(s) of Louise B. McAllister, Notary/Not. Public of Wake County, North Carolina,  
 let the said deed and certificate(s) be registered. Witness my hand this 28 day of February, 1961.  
 Probate fee \$25 paid /  
 Fee for registration on the 28 day of Feb, 1961, at 11:45 o'clock P.M., and duly recorded in the office of the  
 Register of Deeds of Wake County, N. C. in Book 1443 Page 372  
 Fee \$          paid. Oliver J. D... Deputy Register of Deeds  
 Form No. 1-1-54-Rev. 5-54-Copyright 1954 by Wake County Bar Association.-Middell Printing Co., Raleigh, N. C.

NORTH CAROLINA :  
WAKE COUNTY : BOOK 1337 PAGE 86

THIS DEED, made and entered into this 1st day of October, 1958, by and between Elnora Mills Gore, divorcee, party of the first part, and F. L. Blake and wife, Lula J. Blake, parties of the second part, all of Wake County, North Carolina;

W I T N E S S E T H :

That said party of the first part, in consideration of ONE HUNDRED (\$100.00) DOLLARS and other valuable considerations, the receipt of which is hereby acknowledged, has bargained and sold and by these presents does grant, bargain, sell and convey unto the parties of the second part, their heirs and assigns, that certain tract or parcel of land situated in Wake County, North Carolina, and more particularly described as follows:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the northeast corner of the Ruby McDonald lot, and runs thence along the north line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just west of a branch; thence North 59 degrees 56 minutes East along the general course of said branch 130 feet to an iron pin located just east of said branch; thence South 88 degrees 15 minutes East 553 feet to an iron pin; thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a southern direction along the center line of said road 150 feet to the point of beginning; containing 5.4 acres, more or less, according to survey made by Collier Cobb, C. E., on March 7, 1950; and being the same property conveyed to the party of the first part by H. Clarence Howell, unmarried, by deed recorded in Book 1040, page 408, Wake County Registry.

This property is conveyed subject to the right of way of Blue Ridge Boulevard.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges and appurtenances thereunto belonging unto the said parties of the second part, their heirs and assigns, in fee simple forever.

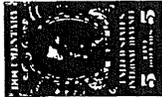
And the said party of the first part, for herself, her heirs, administrators, executors and assigns, covenants with the parties of the second

MANNING & FULTON  
ATTORNEYS AT LAW  
RALEIGH, NORTH CAROLINA

BOOK 1337 PAGE 87

part, their heirs, administrators, executors and assigns, that she is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free and clear of all encumbrances except as herein set forth, and that she will forever warrant and defend the title to the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, the party of the first part has hereunto set her hand and seal, the day and year first above written.



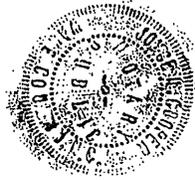
Elnora Mills Gore (SEAL)  
Elnora Mills Gore

NORTH CAROLINA :

WAKE COUNTY

I, James H. Cooper, a Notary Public, certify that Elnora Mills Gore, divorcee, personally appeared before me this day and acknowledged the due execution of the foregoing instrument for the purposes therein expressed.

Witness my hand and Notarial Seal this 9th day of October, 1958.



James H. Cooper  
Notary Public

My Commission expires: Oct. 1, 1959

Filed for Registration at 11:25 o'clock A M  
Oct. 9 1958 and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book 1337 Page 86  
\_\_\_\_\_, 19\_\_\_\_

STATE OF NORTH CAROLINA  
Wake County

The foregoing certificate of James H. Cooper  
A Notary Public of Wake County, State of North Carolina

is adjudged to be correct. Let the instrument with the certificates, be registered.

WITNESS my hand this the 9 day of  
October 1958

Jane L. Caruthers  
Dep. Clerk Superior Court

H. J. Penning  
REGISTER OF DEEDS  
DEPUTY

NORTH CAROLINA - Wake County.

This Deed, Made this 27 day of March, A.D. 1950, by  
Wife H. Clarence Howell, unmarried  
of Wake County and State of North Carolina, of the first part, to  
Wife Elnora Mills Gore  
of Wake County and State of North Carolina, of the second part:  
WITNESSETH, That said H. Clarence Howell  
in consideration of One Hundred Dollars and other good & valuable Consideration  
to him paid by Elnora Mills Gore  
the receipt of which is hereby acknowledged, had been bargained and sold, and by these presents do sell  
her heirs and assigns, a certain tract or parcel of land in Wake County, State of North Carolina  
adjoining the lands of \_\_\_\_\_

and others, and bounded as follows, viz.:

Beginning at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees .01 minutes West 1061 feet to an iron pin located just West of a branch; thence North 59 degrees 56 minutes East along the general course of said branch 130 feet to an iron pin located just East of said branch; thence South 88 degrees 15 minutes East 553 feet to an iron pin; thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said road 150 feet to the point of Beginning, containing 5.4 acres, more or less, according to survey made by Collier Cobb, C. E. on March 7th, 1950, and being a part of the land conveyed to Elizabeth Cahoon Howell by P. R. Hamlet, widower, Trustee, by deed dated October 22nd, 1934, and recorded in Book 657, page 475, in the Office of Wake County Registry.

This is the same property conveyed by Elizabeth H. Davidson and husband, J. F. Davidson, to H. Clarence Howell by deed dated March 9th, 1950, and recorded in Book 1044, page 146, in the office of the Register of Deeds for Wake County, North Carolina.

To HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging, to the said  
Elnora Mills Gore  
her heirs and assigns, to them only use and behoof forever.  
And the said H. Clarence Howell  
for himself and his heirs, executors, and administrators, covenant with said  
Elnora Mills Gore  
heirs and assigns, that he is seized of said premises in fee, and has a right to convey in fee simple; that the same are free and clear from all encumbrances, and that he do es hereby forever warrant and will forever defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said H. Clarence Howell, unmarried  
has his herunto set his hand and seal, the day of year first above written. H. Clarence Howell [SEAL]

Attest: Lucy W. Perry [SEAL]  
STATE OF NORTH CAROLINA - WAKE COUNTY  
I, Lucy W. Perry Notary Public, do hereby certify that  
H. Clarence Howell and unmarried

his wife, personally appeared before me this day and acknowledged the due execution of the annexed Deed of Conveyance; and the said \_\_\_\_\_ being by me privately examined separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she doth still voluntarily assent thereto. Let the instrument, with this certificate be registered.

Witness my hand and Notary seal, this 27th day of March, A.D. 1950,  
My commission expires Oct. 19 - 1950, Lucy W. Perry, N. P. [SEAL]

STATE OF NORTH CAROLINA - WAKE COUNTY  
The foregoing certificate of Lucy W. Perry Notary Public  
Wake County, State of North Carolina, is adjudged to be correct. Let the instrument, with the certificate, be registered.  
Witness my hand, this 27 day of March, A.D. 1950.

Filed for registration on the 27 day of March, 1950, at 4:00 o'clock P. and registered in the office of the Register of Deeds for Wake County, N. C., in Book No 1040, page 408, this 31st day of March, 1950.  
Robbie Paxton  
Clerk Superior Court.  
Spencer Ellington  
Register of Deeds, Wake County.  
Deputy

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NORTH CAROLINA :  
WAKE COUNTY : DEED

THIS DEED, Made and entered into this 31<sup>st</sup> day of March, 1964, between MARTIN-MARIETTA CORPORATION, a Maryland corporation, Grantor, and NELLO L. TEER COMPANY, a Delaware corporation, Grantee;

W I T N E S S E T H :

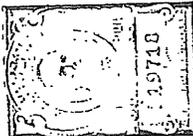
That the Grantor in consideration of Ten (\$10.00) Dollars and other valuable considerations to it paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee, its successors and assigns, certain tracts or parcels of land located in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

TRACT NO. 1:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence



LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA



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along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 182 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948. See also Book 983, page 621. Being the property conveyed by Samuel G. Rogers to Mary Z. Bryan by deed dated February 4, 1954, and recorded in Book 1142, page 411, Wake County Registry.

TRACT NO. 2:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot, and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just West of a branch, thence North 59 degrees 56 minutes East along the course of said branch 130 feet to an iron pin located just East of said branch, thence South 88 degrees 15 minutes East 553 feet to an iron pin, thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said lot 150 feet to the point of BEGINNING, containing 5.4 acres, more or less, according to a survey made by Collier Cobb, C. E., on March 7, 1950; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated February 28, 1961, and recorded in Book 1443, page 372, Wake County Registry.

TRACT NO. 3:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the West bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet; more or less, to a stake on the West bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less, to a white

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oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated March 31, 1961, and recorded in Book 1447, page 602, Wake County Registry.

TRACT NO. 4:

BEGINNING at an iron stake corner; said corner being the Southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2707 feet to a point and place of BEGINNING, containing 25 acres, more or less; and being the property conveyed by Minnie K. Spikes, et al, to American Marietta Company by deed dated July 21, 1961, and recorded in Book 1463, page 96, Wake County Registry; said property being subject to easements to Carolina Power & Light Company recorded in Book 1005, page 354, Wake County Registry, and to Southern Bell Telephone and Telegraph Company recorded in Book 1165, page 495, Wake County Registry.

TRACT NO. 5:

BEGINNING in the center of the Cary Farm Prison Road and in a Northern boundary of a tract of land now being leased by the Grantee from the Grantor, said point being located 350.45' Northeast from the center of Crabtree Creek; thence with said Northern property line North 66 degrees 29 minutes West 51.5 feet to a reference iron stake on the Western margin of said road; thence continuing the said line North 66 degrees 29 minutes West 55 feet to an original iron stake in the property line; thence continuing with said property line North 66 degrees 29 minutes West 480.5 feet to an iron pipe in the Western margin of a "dirt road to rock quarry", said iron stake being in the Eastern boundary line of a 13.7 acre tract leased by the Grantee from the Grantor; thence continuing with said line and along the Western margin of said road North 39 degrees East 374 feet to an original iron stake, said stake being the Northeast corner of the aforesaid mentioned 13.7 acre tract and also being the Southeast corner of a 21.35 acre tract owned by the Grantee; thence continuing along the Western margin of said road and the Eastern boundary of the aforesaid tract North 24 degrees East 418 feet to an iron stake; thence North 29 degrees East 555

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feet to a point in the Western margin of the Cary Farm Prison Road; thence North 29 degrees East 50 feet to a point in the center of the present Cary Prison Farm Road, said point being the intersection of the projection of the Western boundary of the Old Cary Farm Prison Road, now "dirt road to rock quarry" with the center line of the present Cary Farm Prison Road; thence continuing with the center line of said road South 6 degrees 23-minutes East 584.62 feet to a point; thence with continuing the center line South 3 degrees 24 minutes West 414.66 feet to a point; thence continuing with said center line South 23 degrees 53 minutes West 389.35 feet to a point; thence continuing with said center line South 35 degrees 44 minutes West 74.7 feet to the point and place of BEGINNING; said tract containing 10.8 acres, more or less, and being more fully described on that certain map dated November 21, 1959, prepared by J. L. Higgins, Civil Engineer, Cary, N. C.; and being the property conveyed by Mrs. J. Frank Davidson to American Marietta Company by deed dated January 3, 1961, recorded in Book 1437, page 382, Wake County Registry.

TRACT NO. 6:

BEGINNING at an iron pipe on Steep Hill (or Jackson) Branch in the dividing line between property of grantors and land known as Superior Stone-Spikes land and being the Northeast corner of Tract 1 of land conveyed to grantors by deed dated July 10, 1962, recorded in Book 1512, page 649, Wake County Registry, and runs thence the following courses along Steep Hill Branch: S 32-15 W 315.0 feet, S 41-30 W 85.0 feet, S 58-50 W 220.0 feet, S 39-15 W 183.0 feet, S 50-20 W 122.0 feet, S 29-45 W 248.0 feet, S 46-00 W 165.0 feet, S 20-30 W 136.0 feet, S 9-30 W 213.0 feet, S 19-45 W 234.0 feet, S 6-35 W 210 feet, S 18-00 W 187 feet, S 4-00 E 282.0 feet, S 26-30 E 115.0 feet to an iron pipe; S 1-20 E 163.0 feet to an iron pipe on Crabtree Creek; runs thence along Crabtree Creek N 43-00 W 171.0 feet and N 46-45 W 153.5 feet to a cedar post; runs thence N 9-50 E 2381.0 feet to a cedar post in line of Superior Stone-Spikes land; runs thence along said line S 84-05 E 864 feet to an iron pipe, the place of BEGINNING; containing 18.0 acres according to map prepared by C. W. Russum, Registered Surveyor, from actual survey, dated September, 1962; and being the property conveyed by J. E. Ashburn, et ux, to Martin Marietta Corporation by deed dated October 24, 1962, recorded in Book 1533, page 577, Wake County Registry; subject to easement to Carolina Power & Light Company recorded in Book 1262, page 185, Wake County Registry.

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TRACT NO. 7:

BEGINNING at a hickory near Alford's Branch, and running North 4 degrees 30 minutes East 44.75 chains to Crabtree Creek; thence up Crabtree Creek 5.80 chains to a stake; thence nearly North 4 degrees 30 minutes East across creek to a birch; thence North 4 degrees 30 minutes East 5.41 chains to a stone, formerly a hickory; thence North 70 degrees West 24.85 chains to a birch on West side of Steep Hill Branch; thence down Steep Hill Branch 19 chains to Crabtree; thence up Crabtree Creek and through center of island 19.50 chains to Richland Creek; thence up said Creek 35.50 chains to a hickory on East bank of Richland Creek; thence South 5 degrees 30 minutes East 26.75 chains to a stone; thence South 4 degrees 30 minutes West 22.10 chains to a stone; thence South 88 degrees East 5.75 chains to the BEGINNING, containing 130 acres, more or less, and being the same land conveyed in deed registered in office of Register of Deeds for Wake County in Book 158, page 138 -- also see Book 212, page 541.

There is excepted from the above described property certain property conveyed by William J. Andrews, et ux, to H. A. Faucette, by deed dated October 11, 1935, and recorded in Book 722, page 555, Wake County Registry, and more particularly described as follows:

Situated in House Creek Township at High Bridge on New Road and BEGINNING at a birch on the North branch of Crabtree Creek, the corner of the Polly House land North of Crabtree Creek now owned by William J. Andrews, running thence North 4-1/2 degrees East 5.4 chains to a stone, formerly a hickory, running thence North 70 degrees West 24.85 chains to a birch on the West side of Steep Hill Branch, thence down Steep Hill Branch 19 chains to Crabtree Creek; thence down Crabtree Creek on the North bank, following the meanderings of the creek to the point of beginning, containing 30 acres, more or less.

There is also excepted from the above described property a tract conveyed by Martin-Marietta Corporation to Ashburn Construction Company by deed dated November 12, 1962, and recorded in Book 1533, page 527, and more particularly described as follows:

BEGINNING at a cement post on the Eastern edge of Prison Farm Road, said point being the Western

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corner of the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293 of the Wake County Registry; running thence North 7 degrees 20 minutes East 503.6 feet to an iron pipe; thence North 4 degrees 10 minutes East, 1017.7 feet to a cement post; thence South 85 degrees East 383 feet to a cement post; thence approximately South 5 degrees 20 minutes West 1519 feet, more or less, to a point, said point being South 85 degrees 50 minutes East of and 379.5 feet from the point of BEGINNING; thence North 85 degrees 50 minutes West 379.5 feet to the point of BEGINNING, said tract containing approximately 13 acres according to a survey made by C. W. Russum, dated September, 1962, being the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293, of the Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

And the said Martin-Marietta Corporation, grantor, for itself, its successors and assigns, covenants with the Grantee, its successors and assigns, that it is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that it will warrant and defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, Martin-Marietta Corporation has caused this instrument to be signed in its corporate name by its Vice President, its corporate seal hereunto affixed, and attested by its Secretary, by order of its Board of Directors, this the day and year first above written.



ATTEST:

Secretary

MARTIN-MARIETTA CORPORATION

By

*Joseph C. Munday*  
Vice President

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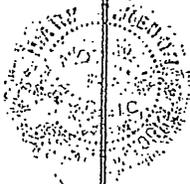
STATE OF NEW YORK  
COUNTY OF *New York*

This is to certify that on the *26<sup>th</sup>* day of *March*, 1964, before me personally came *W. L. Lucas* Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that *Joseph E. Muckley* is the President, and *W. L. Lucas* is the Secretary of MARTIN-MARIETTA CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said President, and the said *W. L. Lucas* President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the *26<sup>th</sup>* day of *March*, 1964.

*Mary T. Kenny*  
Notary Public  
My commission expires: *March 30, 1966*

MARY T. KENNY  
Notary Public, State of New York  
No. 24-7236823  
Qualified in New York County  
Commission Expires March 30, 1966



STATE OF NORTH CAROLINA  
Wake County

The foregoing certificate of *Mary T. Kenny* Notary Public in *New York* County, State of *New York* is adjudged to be correct. Let the instrument with the certificate, be registered.

WITNESS my hand this the *23* day of *April*, 19*64*

*Barbara H. Beatty*  
Deputy  
Clerk Superior Court

LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA

Filed for Registration at *11:10* o'clock *A.M.*  
*April 23, 1964* and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book *1592* Page *361*  
19*64*

*W. F. Booker*  
REGISTER OF DEEDS  
*B. McKenzie*  
DEPUTY

This deed drawn by Robert W. Brooks BOOK 2090 PAGE 553

NORTH CAROLINA—Wake County. THIS DEED, made this 11th day of February, 1972, by

James R. Rogers and wife, Ethel M. Rogers

Grantors, To C. W. Smith and wife, Helen D. Smith

Grantees, all of Wake County, North Carolina; Witnesseth: That the Grantors, in consideration of Ten Dollars and other valuable consideration to them paid by the Grantees, the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey unto the Grantees, their heirs, or successors, and assigns, the parcel(s) of land in Wake County, North Carolina, in House Creek Township, adjoining the lands of \_\_\_\_\_ and others, and more particularly described as follows:

BEGINNING at an iron stake on Blueridge Boulevard leading from State Fairgrounds to Durham Highway and runs thence North 85 degrees 15 minutes West 213.5 feet to an iron stake; thence North 28 degrees 15 minutes East 204 feet to an iron stake; thence South 85 degrees 15 minutes East 213.5 feet to an iron stake on Blueridge Boulevard; thence South 28 degrees West and with the Blueridge Boulevard 204 feet to the point of BEGINNING.

This property was conveyed to Grantors by deed dated \_\_\_\_\_ recorded in Book \_\_\_\_\_ Page \_\_\_\_\_ Wake County Registry. TO HAVE AND TO HOLD the aforesaid parcel(s) of land and all privileges and appurtenances thereunto belonging to the said Grantees, their heirs, or successors, and assigns forever.

And the said James R. Rogers and wife, Ethel M. Rogers Grantor(s), for themselves, their heirs, executors and administrators; covenant with the Grantees, their heirs, or successors, and assigns that they are seized of said premises in fee and have the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that they will warrant and defend the said title to the same against the claims of all persons whomsoever. The plural number as used herein shall equally include the singular. The masculine or feminine gender as used herein shall equally include the neuter.

IN TESTIMONY WHEREOF, the said Grantors have hereunto set their hands and seals the day and year first above written.

James R. Rogers (SEAL) Ethel M. Rogers (SEAL)  
(Type name under each signature) \_\_\_\_\_ (SEAL) \_\_\_\_\_ (SEAL)

NORTH CAROLINA—Wake County. (If acknowledgment not taken in Wake County, N. C., show county and state where taken) I, Robert W. Brooks, a Notary Public, do hereby certify that James R. Rogers and his wife, Ethel M. Rogers, Grantors, each personally appeared before me this day and acknowledged the due execution of the foregoing deed of conveyance. Witness my hand and notarial seal, this 11th day of February, 1972. My commission expires 11/11/72.  
NOTARIAL SEAL HERE (Seal must be impressed sufficiently for Notary's name to be readable) \_\_\_\_\_ Notary Public.

NORTH CAROLINA—WAKE COUNTY The foregoing certificate of Cecile Johnson

Notary Public is (are) certified to be correct. This instrument was presented for registration and recorded in this office in Book 2090, Page 553, this 7 day of Aug, 1972 at 10:15 o'clock A. M.  
By J. A. Rowland, Register of Deeds  
Deputy Register of Deeds

500 3620 PAGE 549

PRESENTED FOR REGISTRATION  
DEC 17 2 23 PM '85  
KENNETH C. WILKINS  
REGISTER OF DEEDS  
WAKE COUNTY, NC

State Tax 4300

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No. Tax Map 404-0088  
Verified by County on the day of 19  
by

Mail after recording to Nye & Mitchell, 100 Chancellor Building, 100 East Parrish Street,  
Durham, North Carolina 27701

This instrument was prepared by Charles B. Nye, Attorney at Law

Brief description for the Index 0.93 acres (1985/2160)

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 9th day of December, 1985, by and between

GRANTOR

GRANTEE

HELEN DAVIS SMITH (widow)

NELLO L. TEER COMPANY  
Post Office Box 1131  
Durham, NC 27702

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of House Creek Township, Wake County, North Carolina and more particularly described as follows:

BEGINNING at an existing iron pin (control corner) located North 80° 04' 40" West 176.95 feet from the center line of Duraleigh Road (marked by a P.K. Nail Set), said point being South 07° 49' 39" East 326.33 feet from the center line of Weaver Drive as it intersects with the center line of Duraleigh Road (P.K. Nail Set), and running thence in a northwesterly direction North 80° 04' 40" West 213.50 feet to a new iron pin; thence North 31° 00' 23" East 204.00 feet to an existing iron pin; thence South 80° 04' 40" East 213.50 feet to a RR Spike Set; thence South 31° 00' 23" West 204.00 feet to the point and place of BEGINNING, containing 0.93 acres, as shown on the plat and survey entitled "Survey for Nello L. Teer" dated 12/4/85, prepared by Ragsdale Consultants, P.A., recorded in Book of Maps 1985, Page 2160, Wake County Registry, to which plat reference is hereby made for a more particular description of same. The plat recorded in Book of Maps 1985, Page 2160, Wake County Registry, is a revision of the plat recorded in Book of Maps 1985, Page 2126, Wake County Registry.

NORTH CAROLINA—Wake County.

THIS DEED, Made this 9 February day of February, A.D. 1948, by Elizabeth C. Howell Davidson and husband J. Frank Davidson of Wake County and State of North Carolina parties, of the first part, to Samuel S. Rogers and wife, Frances R. Rogers of Wake County and State of North Carolina parties, of the second part:

WITNESSETH, That said parties of the first part in consideration of One Hundred (\$100.00) Dollars and other good and valuable considerations to them paid by the parties of the second part the receipt of which is hereby acknowledged, have bargained and sold, and by these presents do grant, bargain, sell and convey to said Parties of the second part Acres, more or less, and assigns, a certain tract or parcel of land in House Creek Township, Wake County, State of North Carolina adjoining the lands of Elizabeth C. Howell Davidson

and others, and bounded as follows, viz.:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70A North from Crabtree Creek; said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 192 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less; and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, Page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging, to the said Parties of the second part their heirs and assigns, to their only use and behoof forever.

And the said Parties of the first part for themselves and their heirs, executors, and administrators, covenant with said Parties of the second part their heirs and assigns, that they are seized of said premises in fee, and have right to convey in fee simple; that the same are free and clear from all encumbrances, and that they do hereby forever warrant and will forever defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said Parties of the first part ha. h. hereunto set their hand, and seal, the day of year first above written. Elizabeth C. Howell Davidson (Seal) J. Frank Davidson (Seal)

Attest: Rebekah B. Glenn (Revenue 6.60, pd.) STATE OF NORTH CAROLINA—Wake County.

I, Rebekah B. Glenn, Notary Public do hereby certify that Elizabeth C. Howell Davidson and husband J. Frank Davidson his wife, personally appeared before me this day and acknowledged the due execution of the annexed Deed of Conveyance; and the said

being by me privately examined separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she doth still voluntarily assent thereto. Let the instrument, with this certificate be registered.

Witness my hand and notarial seal, this 14 day of February, A.D. 1948 My commission expires 4/17, 1949 Rebekah B. Glenn, N. P. (Seal)

STATE OF NORTH CAROLINA—Wake County, The foregoing certificate of Rebekah B. Glenn, Notary Public of Wake County, State of North Carolina, is adjudged to be correct. Let the instrument, with the certificate, be registered.

Witness my hand, this 14 day of February, A.D. 1948 Sara Allen, Assistant Clerk Superior Court.

Filed for registration on the 14 day of February, 1948, at 10:20 o'clock A. M., and registered in the office of the Register of Deeds for Wake County, N. C., in Book No. 983, page 621, this 23 day of February, 1948.

Hunter Ellington, Register of Deeds, Wake County. Geraldine R. Watkins, Deputy Clerk.

Notary Seal

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NORTH CAROLINA :  
:   
WAKE COUNTY :

DEED

THIS DEED, Made and entered into this 31<sup>st</sup> day of March, 1964, between MARTIN-MARIETTA CORPORATION, a Maryland corporation, Grantor, and NELLO L. TEER COMPANY, a Delaware corporation, Grantee;

W I T N E S S E T H :

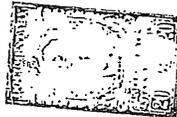
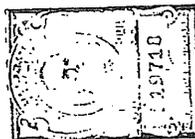
That the Grantor in consideration of Ten (\$10.00) Dollars and other valuable considerations to it paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee, its successors and assigns, certain tracts or parcels of land located in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

TRACT NO. 1:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence



LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA



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along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 182 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948. See also Book 983, page 621. Being the property conveyed by Samuel G. Rogers to Mary Z. Bryan by deed dated February 4, 1954, and recorded in Book 1142, page 411, Wake County Registry.

TRACT NO. 2:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot, and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just West of a branch, thence North 59 degrees 56 minutes East along the course of said branch 130 feet to an iron pin located just East of said branch, thence South 88 degrees 15 minutes East 553 feet to an iron pin, thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said lot 150 feet to the point of BEGINNING, containing 5.4 acres, more or less, according to a survey made by Collier Cobb, C. E., on March 7, 1950; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated February 28, 1961, and recorded in Book 1443, page 372, Wake County Registry.

TRACT NO. 3:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the West bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet; more or less, to a stake on the West bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less, to a white

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oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated March 31, 1961, and recorded in Book 1447, page 602, Wake County Registry.

TRACT NO. 4:

BEGINNING at an iron stake corner; said corner being the Southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2707 feet to a point and place of BEGINNING, containing 25 acres, more or less; and being the property conveyed by Minnie K. Spikes, et al, to American Marietta Company by deed dated July 21, 1961, and recorded in Book 1463, page 96, Wake County Registry; said property being subject to easements to Carolina Power & Light Company recorded in Book 1005, page 354, Wake County Registry, and to Southern Bell Telephone and Telegraph Company recorded in Book 1165, page 495, Wake County Registry.

TRACT NO. 5:

BEGINNING in the center of the Cary Farm Prison Road and in a Northern boundary of a tract of land now being leased by the Grantee from the Grantor, said point being located 350.45' Northeast from the center of Crabtree Creek; thence with said Northern property line North 66 degrees 29 minutes West 51.5 feet to a reference iron stake on the Western margin of said road; thence continuing the said line North 66 degrees 29 minutes West 55 feet to an original iron stake in the property line; thence continuing with said property line North 66 degrees 29 minutes West 480.5 feet to an iron pipe in the Western margin of a "dirt road to rock quarry", said iron stake being in the Eastern boundary line of a 13.7 acre tract leased by the Grantee from the Grantor; thence continuing with said line and along the Western margin of said road North 39 degrees East 374 feet to an original iron stake, said stake being the Northeast corner of the aforesaid mentioned 13.7 acre tract and also being the Southeast corner of a 21.35 acre tract owned by the Grantee; thence continuing along the Western margin of said road and the Eastern boundary of the aforesaid tract North 24 degrees East 418 feet to an iron stake; thence North 29 degrees East 555

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feet to a point in the Western margin of the Cary Farm Prison Road; thence North 29 degrees East 50 feet to a point in the center of the present Cary Farm Prison Road, said point being the intersection of the projection of the Western boundary of the Old Cary Farm Prison Road, now "dirt road to rock quarry" with the center line of the present Cary Farm Prison Road; thence continuing with the center line of said road South 6 degrees 23 minutes East 584.62 feet to a point; thence with continuing the center line South 3 degrees 24 minutes West 414.66 feet to a point; thence continuing with said center line South 23 degrees 53 minutes West 389.35 feet to a point; thence continuing with said center line South 35 degrees 44 minutes West 74.7 feet to the point and place of BEGINNING; said tract containing 10.8 acres, more or less, and being more fully described on that certain map dated November 21, 1959, prepared by J. L. Higgins, Civil Engineer, Cary, N. C.; and being the property conveyed by Mrs. J. Frank Davidson to American Marietta Company by deed dated January 3, 1961, recorded in Book 1437, page 382, Wake County Registry.

TRACT NO. 6:

BEGINNING at an iron pipe on Steep Hill (or Jackson) Branch in the dividing line between property of grantors and land known as Superior Stone-Spikes land and being the Northeast corner of Tract 1 of land conveyed to grantors by deed dated July 10, 1962, recorded in Book 1512, page 649, Wake County Registry, and runs thence the following courses along Steep Hill Branch: S 32-15 W 315.0 feet, S 41-30 W 85.0 feet, S 58-50 W 220.0 feet, S 39-15 W 183.0 feet, S 50-20 W 122.0 feet, S 29-45 W 248.0 feet, S 46-00 W 165.0 feet, S 20-30 W 136.0 feet, S 9-30 W 213.0 feet, S 19-45 W 234.0 feet, S 6-35 W 210 feet, S 18-00 W 187 feet, S 4-00 E 282.0 feet, S 26-30 E 115.0 feet to an iron pipe; S 1-20 E 163.0 feet to an iron pipe on Crabtree Creek; runs thence along Crabtree Creek N 43-00 W 171.0 feet and N 46-45 W 153.5 feet to a cedar post; runs thence N 9-50 E 2381.0 feet to a cedar post in line of Superior Stone-Spikes land; runs thence along said line S 84-05 E 864 feet to an iron pipe, the place of BEGINNING; containing 18.0 acres according to map prepared by C. W. Russum, Registered Surveyor, from actual survey, dated September, 1962; and being the property conveyed by J. E. Ashburn, et ux, to Martin Marietta Corporation by deed dated October 24, 1962, recorded in Book 1533, page 577, Wake County Registry; subject to easement to Carolina Power & Light Company recorded in Book 1262, page 185, Wake County Registry.

BOOK 1592 PAGE 365

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TRACT NO. 7:

BEGINNING at a hickory near Alford's Branch, and running North 4 degrees 30 minutes East 44.75 chains to Crabtree Creek; thence up Crabtree Creek 5.80 chains to a stake; thence nearly North 4 degrees 30 minutes East across creek to a birch; thence North 4 degrees 30 minutes East 5.41 chains to a stone, formerly a hickory; thence North 70 degrees West 24.85 chains to a birch on West side of Steep Hill Branch; thence down Steep Hill Branch 19 chains to Crabtree; thence up Crabtree Creek and through center of island 19.50 chains to Richland Creek; thence up said Creek 35.50 chains to a hickory on East bank of Richland Creek; thence South 5 degrees 30 minutes East 26.75 chains to a stone; thence South 4 degrees 30 minutes West 22.10 chains to a stone; thence South 88 degrees East 5.75 chains to the BEGINNING, containing 130 acres, more or less, and being the same land conveyed in deed registered in office of Register of Deeds for Wake County in Book 158, page 138 -- also see Book 212, page 541.

There is excepted from the above described property certain property conveyed by William J. Andrews, et ux, to H. A. Faucette, by deed dated October 11, 1935, and recorded in Book 722, page 555, Wake County Registry, and more particularly described as follows:

Situated in House Creek Township at High Bridge on New Road and BEGINNING at a birch on the North branch of Crabtree Creek, the corner of the Polly House land North of Crabtree Creek now owned by William J. Andrews, running thence North 4-1/2 degrees East 5.4 chains to a stone, formerly a hickory, running thence North 70 degrees West 24.85 chains to a birch on the West side of Steep Hill Branch, thence down Steep Hill Branch 19 chains to Crabtree Creek; thence down Crabtree Creek on the North bank, following the meanderings of the creek to the point of beginning, containing 30 acres, more or less.

There is also excepted from the above described property a tract conveyed by Martin-Marietta Corporation to Ashburn Construction Company by deed dated November 12, 1962, and recorded in Book 1533, page 527, and more particularly described as follows:

BEGINNING at a cement post on the Eastern edge of Prison Farm Road, said point being the Western

BOOK 1592 PAGE 366

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corner of the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293 of the Wake County Registry; running thence North 7 degrees 20 minutes East 503.6 feet to an iron pipe; thence North 4 degrees 10 minutes East, 1017.7 feet to a cement post; thence South 85 degrees East 383 feet to a cement post; thence approximately South 5 degrees 20 minutes West 1519 feet, more or less, to a point, said point being South 85 degrees 50 minutes East of and 379.5 feet from the point of BEGINNING; thence North 85 degrees 50 minutes West 379.5 feet to the point of BEGINNING, said tract containing approximately 13 acres according to a survey made by C. W. Russum, dated September, 1962, being the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293, of the Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

And the said Martin-Marietta Corporation, grantor, for itself, its successors and assigns, covenants with the Grantee, its successors and assigns, that it is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that it will warrant and defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, Martin-Marietta Corporation has caused this instrument to be signed in its corporate name by its Vice President, its corporate seal hereunto affixed, and attested by its Secretary, by order of its Board of Directors, this the day and year first above written.



ATTEST:

Secretary

MARTIN-MARIETTA CORPORATION

BY Joseph C. Munday  
Vice President

BOOK 1592 PAGE 367

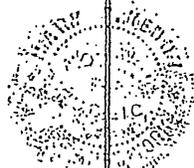
- 7 -

STATE OF NEW YORK  
COUNTY OF *New York*

This is to certify that on the *26<sup>th</sup>* day of *March*, 1964, before me personally came *W. L. Lucas* Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that *Joseph E. Muckley* is the President, and *W. L. Lucas* is the Secretary of MARTIN-MARIETTA CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said *Joseph E. Muckley* President, and the said *W. L. Lucas* President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the *26<sup>th</sup>* day of *March*, 1964.

*Mary T. Kenny*  
Notary Public  
My commission expires: *March 30, 1966*



MARY T. KENNY  
Notary Public, State of New York  
No. 34-7234825  
Qualified in New York County  
Commission Expires March 30, 1966

STATE OF NORTH CAROLINA  
Wake County  
The foregoing certificate of *Mary T. Kenny*  
Notary Public for *New York* County, State of *New York*  
is adjudged to be correct. Let the instrument  
with the certificate, be registered.

WITNESS my hand this the *23* day of  
*April*, 19*64*  
*Barbara H. Beatty*  
Deputy Clerk Superior Court

LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA

Filed for Registration at *11:10* o'clock *A.M.*  
*April 23, 1964* and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book *1592* Page *361*  
\_\_\_\_\_ 19\_\_

*W. E. Booker*  
REGISTER OF DEEDS  
*B. McKenzie*  
DEPUTY

RECORD OF POOR QUALITY  
DUE TO CONDITION OF  
ORIGINAL DOCUMENT

1142 411

NORTH CAROLINA  
WAKE COUNTY

THIS DEED, Made this 4th day of February, 1954, by Samuel G. Rogers and wife, Frances H. Rogers, of Wake County, North Carolina, parties of the first part, to Mary Z. Bryan and First-Citizens Bank & Trust Company of Smithfield, North Carolina, Executor and Testamentary Trustee under the Will of James E. Bryan, Deceased, co-partners trading as Bryan Rock and Sand Company, of the City of Raleigh, Wake County, North Carolina, parties of the second part:

W-I-T-N-E-S-S-E-T-H

That for and in consideration of the sum of One Hundred (\$100.00) Dollars and other good and valuable considerations paid by the parties of the second part to the parties of the first part, the receipt of which is hereby acknowledged, the parties of the first part have bargained and sold, and by these presents do hereby grant, bargain, sell and convey to said parties of the second part, their heirs, assigns and successors, a certain tract or parcel of land lying and being in Wake County, North Carolina, adjoining the lands of Elizabeth C. Howell Davidson and others, and more particularly described as follows:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 24 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 91 feet to a stake, another new corner of the said Davidson lands; thence along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 64 degrees 30 minutes East 142 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 350 feet to the point of beginning, containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Howell Davidson recorded in Book 475, Page 475, Wake County Registry, and according to map and survey of W. L. Wooten, Engineer, dated February 2, 1925. See also Book 423, Page 621.

BOOK 1142 PAGE 412

IN WITNESS WHEREOF

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging, to the said parties of the second part, their heirs, assigns and successors, to their only use and behoof forever.

And the said parties of the first part, for themselves and their heirs, executors and administrators, covenant with said parties of the second part, their heirs, assigns and successors, that they are seised of said premises in fee and have right to convey the same in fee simple; that the same are free and clear from all encumbrances, and that they do hereby forever warrant and will forever defend the said title to the same against the claims of all persons whomsoever. Subject, however, to 1954 taxes.

IN TESTIMONY WHEREOF, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

✓ Samuel R. Rogers (SEAL)  
✓ Frances R. Rogers (SEAL)

NORTH CAROLINA  
WAKE COUNTY

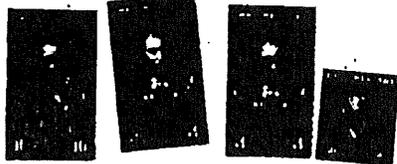
I, Ethel R. Currier, Notary Public, do hereby certify that Samuel G. Rogers and wife, Frances R. Rogers, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.



Witness my hand and Notarial Seal this 6 day of February,

Ethel R. Currier  
Notary Public

My Commission Expires:  
My Commission Expires June 7, 1954



RECORD OF POOR QUALITY  
DUE TO CONDITION OF  
ORIGINAL DOCUMENT

BOOK 1142 PAGE 413

STATE OF NORTH CAROLINA  
WAKE COUNTY

The foregoing certificate of Ethel R. Currier  
a Party of the said County, etc.

is adjudged to be correct and true  
with the certificate of 8 day of  
WATSON

February 24  
by Henry Lewis  
Clerk Superior Court

Filed for Registration at 3:05 o'clock  
P.M. Feb 24 1914 and  
Registered in the Office of the Register  
of Deeds of Wake County, North Caro-  
lina, in Book \_\_\_\_\_ Page \_\_\_\_\_

W. T. Booker, 19  
Register of Deeds

WAKE COUNTY, NC 232  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
01/07/2014 AT 16:18:06

BOOK:015551 PAGE:01988 - 01992

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$ 0.00  
Parcel Identifier No. 0786 341208 000 Verified by \_\_\_\_\_ County on the \_\_\_\_ day of \_\_\_\_\_, 2013  
By: \_\_\_\_\_

Mail/Box to: Lehigh Hanson, 300 East John Carpenter Freeway, Suite 1650, Irving, Texas 75062 Attn: Mineral Resources

This instrument was prepared by: Michael H. Hyer, General Counsel, Lehigh Hanson, 300 East John Carpenter Freeway, Suite 1650, Irving, Texas 75062

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 19th day of December, 2013, by and between

GRANTOR	GRANTEE
Beazer East, Inc., a Delaware corporation, as successor to Beazer Materials and Services, Inc., a Delaware corporation 300 East John Carpenter Freeway, Suite 1650 Irving, Texas 75062	Hanson Aggregates Southeast LLC, a Delaware limited liability company 300 East John Carpenter Freeway, Suite 1650 Irving, Texas 75063
[NOTICE TO CLERK: Please index both names as GRANTOR]	

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in House Creek Township, Wake County, North Carolina and more particularly described as follows:

See description of property being conveyed attached hereto and incorporated herein as Exhibit "A".

The Property hereinabove described was acquired by Grantor's predecessor by deed from Henry Clarence Howell and wife, Louellna S. Howell and Walter M. Derreth Jr., and wife, Elizabeth H. Derreth recorded in Book 4443 at page 0347, in Wake County Registry.

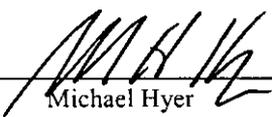
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons, other than the following exceptions:

- 1) Ad valorem taxes for the current year; and
- 2) Such unexpired rights of way, easements and restrictions as may appear on the public records of Wake County.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

BEAZER EAST, INC.,  
a Delaware corporation,  
as successor to  
Beazer Materials and Services Inc.,  
a Delaware corporation

By:   
Michael Hyer  
Vice President

STATE OF TEXAS  
COUNTY OF DALLAS

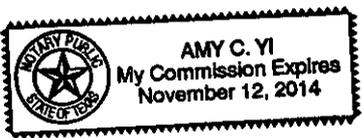
I, Amy Yi, a Notary Public of Dallas County, State of Texas, do hereby certify that Michael Hyer, the Vice President of Beazer East, Inc., a Delaware corporation, being authorized to do so, executed the foregoing on behalf of the corporation.

I certify that the Signatory personally appeared before me this day, and  
*(check one of the following)*

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
*(check one of the following)*
- a driver's license or
- in the form of \_\_\_\_\_); or
- (a credible witness has sworn to the identity of the Signatory).

The Signatory acknowledged to me that (s)he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 19<sup>th</sup> day of December, 2013.



*[Signature]*  
Notary Public

Print Name: Amy Yi  
*[Note: Notary Public must sign exactly as on notary seal]*

My Commission Expires: November 12, 2014  
☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)

## EXHIBIT A

Lying and being in House Creek Township, Wake County, North Carolina and being bounded on the north by Nello L. Teer Company on the east by a county road, also known as the Old Prison Camp Road, on the south by Nello L. Teer Company, on the west by Steep Hill Branch and being more particularly described as follows:

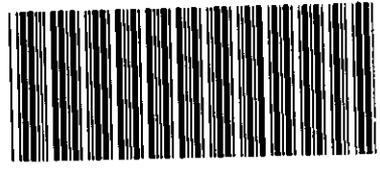
BEGINNING at a point set in the pit area of Nello L. Teer, said point being on the western right-of-way of a county road (Old Prison Camp Road) having a right-of-way of 60 feet, said point being located North  $68^{\circ} 14' 00''$  West 62.19 feet from a southwest corner of the 19.394 acre tract now or formerly owned by Nello L. Teer; thence from said beginning point with the northern line of Nello L. Teer North  $68^{\circ} 14' 00''$  West 1,204.87 feet to an iron pipe set on Steep Hill Branch; thence in a northeasterly direction with the run of Steep Hill Branch the following courses and distances:

North  $17^{\circ} 39' 07''$  East 159.85 feet to a point;  
 North  $06^{\circ} 46' 23''$  East 62.78 feet to a point;  
 North  $14^{\circ} 12' 41''$  East 90.71 feet to a point; and  
 North  $36^{\circ} 36' 48''$  East 128.45 feet to an iron pipe set;

thence leaving Steep Hill Branch and running with the southern line of Nello L. Teer South  $68^{\circ} 14' 00''$  East 1,329.97 feet to a point in the pit area of Nello L. Teer on the western right-of-way of the aforementioned county road; thence with the right-of-way of said county road South  $37^{\circ} 01' 00''$  West 450.00 feet to the point and place of beginning and containing 12.78 acres more or less according to a survey entitled "Survey for Nello L. Teer Company, the Walter M. Derreth, Jr. and Elizabeth H. Derreth Tract" dated February 20, 1989 prepared by Ragsdale Consultants, P.A.

TOGETHER WITH all of the area lying within the right-of-way the county road (Old Prison Camp Road) which was conveyed to the Grantors by deed recorded in Book 1665, page 46, Wake County Registry.

clp/leb229  
 8381.004



BOOK:015551 PAGE:01988 - 01992



**Please retain yellow trailer page**  
It is part of the recorded document and must be submitted with the original for re-recording.

**Laura M. Riddick**  
**Register of Deeds**  
Wake County Justice Center  
300 South Salisbury Street, Suite 1700  
Raleigh, NC 27601

New Time Stamp

\$25 Non-Standard Fee

Additional Document Fee

Additional Reference Fee

**This Customer Group**

**This Document**

\_\_\_\_\_ # of Time Stamps Needed

5 # of Pages  
TK

WAKE COUNTY

STATE OF NORTH CAROLINA



Real Estate Excise Tax

200.00

FEB 22 '89

000163

RECORDED  
INDEXED

09 FEB 22 PM 3:44

RECORDS  
REGISTERED  
WARRANTY

Recording Time, Book and Page

Excise Tax 200.00

Tax Lot No. 404-0004 Parcel Identifier No. 0033707  
Verified by County on the day of 19  
by

Mail after recording to Maupin Taylor Ellis & Adams, P. A.  
P. O. Box 19764, Raleigh, NC 27619  
This instrument was prepared by MAUPIN TAYLOR ELLIS & ADAMS, P. A.  
Brief description for the Index

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 21st day of February, 1989, by and between  
GRANTOR GRANTEE

HENRY CLARENCE HOWELL and wife,  
LOUELLNA S. HOWELL; and  
WALTER M. DERRETH, JR., and  
wife, ELIZABETH H. DERRETH

BEAZER MATERIALS AND SERVICES,  
INC.

C/O Nello L. Teer Company  
Post Office Box 1131  
Durham, North Carolina 27702

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Wake County, North Carolina and more particularly described as follows: House Creek Township,

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

The property hereinabove described was acquired by Grantor by instrument recorded in .....  
Book 1665, Page 46, Wake County Registry.

A map showing the above described property is recorded in Plat Book ..... page.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:  
Rights of way, easements and restrictions of record affecting title to the subject property.

1989 ad valorem taxes.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

-----  
(Corporate Name)

By: -----  
----- President

ATTEST:  
-----  
----- Secretary (Corporate Seal)

USE BLACK INK ONLY

*Henry Clarence Howell* (SEAL)  
Henry Clarence Howell

*Louellna S. Howell* (SEAL)  
Louellna S. Howell

*Walter M. Derreth, Jr.* (SEAL)  
Walter M. Derreth, Jr.

*Elizabeth H. Derreth* (SEAL)  
Elizabeth H. Derreth

SEAL-STAMP NORTH CAROLINA, Wake County.

KAYE M. HORTON  
NOTARY PUBLIC  
JOHNSTON COUNTY, N.C.  
MY COMMISSION EXPIRES 7-2-91

I, a Notary Public of the County and State aforesaid, certify that Henry Clarence Howell & wife, Louellna S. Howell; & Walter M. Derreth, Jr. & wife, Elizabeth H. Derreth, Grantor,  
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my  
hand and official stamp or seal, this 21st day of February, 1989.  
My commission expires: 7-2-91 *Kaye M. Horton* Notary Public

SEAL-STAMP NORTH CAROLINA, \_\_\_\_\_ County.

I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_  
personally came before me this day and acknowledged that \_\_\_\_\_ he is \_\_\_\_\_ Secretary of  
\_\_\_\_\_ a North Carolina corporation, and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_  
President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary.  
Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.  
My commission expires: \_\_\_\_\_ Notary Public

The foregoing Certificate(s) of *Kaye M. Horton*

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

KENNETH C WILKINS REGISTER OF DEEDS FOR *Wake* COUNTY  
By *Kenneth C. Smith* Deputy/Assistant - Register of Deeds

## EXHIBIT A

Lying and being in House Creek Township, Wake County, North Carolina and being bounded on the north by Nello L. Teer Company on the east by a county road, also known as the Old Prison Camp Road, on the south by Nello L. Teer Company, on the west by Steep Hill Branch and being more particularly described as follows:

BEGINNING at a point set in the pit area of Nello L. Teer, said point being on the western right-of-way of a county road (Old Prison Camp Road) having a right-of-way of 60 feet, said point being located North 68° 14' 00" West 62.19 feet from a southwest corner of the 19.394 acre tract now or formerly owned by Nello L. Teer; thence from said beginning point with the northern line of Nello L. Teer North 68° 14' 00" West 1,204.87 feet to an iron pipe set on Steep Hill Branch; thence in a northeasterly direction with the run of Steep Hill Branch the following courses and distances:

North 17° 39' 07" East 159.85 feet to a point;  
North 06° 46' 23" East 62.78 feet to a point;  
North 14° 12' 41" East 90.71 feet to a point; and  
North 36° 36' 48" East 128.45 feet to an iron pipe set;

thence leaving Steep Hill Branch and running with the southern line of Nello L. Teer South 68° 14' 00" East 1,329.97 feet to a point in the pit area of Nello L. Teer on the western right-of-way of the aforementioned county road; thence with the right-of-way of said county road South 37° 01' 00" West 450.00 feet to the point and place of beginning and containing 12.78 acres more or less according to a survey entitled "Survey for Nello L. Teer Company, the Walter M. Derreth, Jr. and Elizabeth H. Derreth Tract" dated February 20, 1989 prepared by Ragsdale Consultants, P.A.

TOGETHER WITH all of the area lying within the right-of-way the county road (Old Prison Camp Road) which was conveyed to the Grantors by deed recorded in Book 1665, page 46, Wake County Registry.

clp/leb229  
8381.004

NORTH CAROLINA : BOOK 1377 PAGE 605 ASSIGNMENT  
 :  
 WAKE COUNTY :

THIS ASSIGNMENT, made this 31st day of July, 1959, between BRYAN ROCK AND SAND COMPANY (sometime referred to as Bryan Rock and Sand Company, Incorporated), a North Carolina corporation, with its principal office and place of business in Wake County, North Carolina, Grantor, and AMERICAN-MARIETTA COMPANY, an Illinois corporation, authorized to do business in North Carolina, Grantee,

W I T N E S S E T H :

That the Grantor in consideration of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, does hereby transfer, set over and assign unto the Grantee, its successors and assigns, all of the right, title, privileges, estate and interest of the Grantor in and to those certain leased described hereinafter reference to which is hereby made for a more complete and accurate description:

1. A certain lease dated January 5, 1948, between Mrs. J. Frank Davidson and husband, J. Frank Davidson, and Bryan Rock and Sand Company, filed for record in the office of the Register of Deeds of Wake County, North Carolina, and recorded in Book 986 at Page 552 in said registry.
2. A certain lease dated August 31, 1949, between Mary Hilliard Hinton and Southern Aggregates Corp, filed for record in the office of the Register of Deeds of Wake County, North Carolina, and recorded in Book 1028 at Page 186 in said registry as amended by agreement dated July 27, 1951 between Mary Hilliard Hinton and Bryan Rock and Sand Company, recorded in Book 1123 at Page 409, said registry.
3. A certain lease dated April 9, 1953, between the State of North Carolina and Bryan Rock and Sand Company, a partnership, filed for record in the office of the Register of Deeds of Wake County, North Carolina, and recorded in Book \_\_\_\_\_ at Page \_\_\_\_\_ in said registry.

BOOK 1377 PAGE 606

4. A certain unrecorded lease agreement dated November 5, 1957 between Mrs. B. F. Robertson, Mary Leigh Whitaker, Bennett Robertson and Bryan Rock and Sand Company conveying rights to back water on property owned by the lessor.

5. An unrecorded lease agreement dated July 1, 1955 between Bryan Rock and Sand Company and B. W. Edwards in which a portion of the Hagwood property is leased.

The foregoing leases having been conveyed to Bryan Rock and Sand Company on April 15, 1958 by First Citizens Bank and Trust Company as the liquidating partner of Bryan Rock and Sand Company a limited partnership, et al and recorded in Book 1316 at page 381.

TO HAVE AND TO HOLD THE said premises unto the American-Marietta Company, its successors and assigns, for the residue of the term granted by the aforesaid lease agreements, at the rent thereby reserved, and subject to the covenants by the lessee and the conditions therein contained.

IN WITNESS WHEREOF, Bryan Rock and Sand Company has caused this instrument to be signed in its corporate name by its President, its corporate seal hereunto affixed, and attested by its Secretary, all by order of its Board of Directors, this the day and year first above written.

BRYAN ROCK AND SAND COMPANY

By Godfrey Cheshire, Jr.  
Godfrey Cheshire, Jr., President

ATTEST:

L. H. Shuping  
L. H. Shuping, Secretary

NORTH CAROLINA  
WAKE COUNTY

BOOK 1377 PAGE 607

This is to certify that on the 31st day of July, 1959, before me personally came L. B. Shuping, Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that Godfrey Cheshire, Jr. is the President, and L. B. Shuping is the Secretary of Bryan Rock and Sand Company, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said president, and the said President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors, of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal this the 31st day of July, 1959.

My Commission Expires: Feb. 8, 1960

*Elmer J. Pike*  
Notary Public

STATE OF NORTH CAROLINA  
Wake County

The foregoing certificate of *Elmer J. Pike*  
A Notary Public of Wake County, State of North Carolina  
is adjudged to be correct. Let the instrument  
with the certificates, be registered.

WITNESS my hand this the 18 day of  
August 1959.

*Jane A. Lauthers*  
Deputy Clerk Superior Court

Filed for Registration at 9:45 o'clock A.M.  
AUG 18 1959 19   and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book 1377 Page 605  
19  

*Louise S. Forrest*  
REGISTER OF DEEDS  
DEPUTY

BK7050PG0296

Tract 1: ID# 0033707; PIN #0786.14 43 7412 000  
Tract 2: ID# 0174292; PIN #0786.15 52 3867 000

00069

Prepared by and Mailed To:  
C. Howard Nye, Esquire  
Post Office Box 13983  
RTP, NC 27709-3983

REGISTERED  
55 JUN 1996 PM 0:30  
KENNETH L. NELLE  
REGISTER OF DEEDS  
WAKE COUNTY

NORTH CAROLINA

GENERAL WARRANTY DEED

WAKE COUNTY

THIS DEED, made this 27<sup>th</sup> day of June, 1996, by Beazer East, Inc. (f/k/a

Beazer Materials and Services, Inc.), a corporation organized under the laws of the State of Delaware, with its principal office in Allegheny County, Pennsylvania ("Grantor"), to Benchmark Carolina Aggregates, Inc. (f/k/a Nello L. Teer Company), a corporation organized under the laws of the State of Delaware with its principal office in Wake County, North Carolina, whose address is 2300 Gateway Centre Boulevard, Morrisville, North Carolina, 27560.

**WITNESSETH:**

That the Grantor, in consideration of One Dollar (\$1.00), to it paid by the said Grantee, the receipt of which is hereby acknowledged, has bargained and sold and by these presents does bargain, sell, and convey unto said Grantee in fee simple, all those certain lots and parcels of land situated in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

**Tract 1:**

Lying and being in House Creek Township, Wake County, North Carolina and being bounded on the north by Nello L. Teer Company on the east by a county road, also known as the Old Prison Camp Road, on the south by Nello L. Teer Company, on the west by Steep Hill Branch and being more particularly described as follows:

BEGINNING at a point set in the pit area of Nello L. Teer, said point being on the western right-of-way of a county road (Old Prison Camp Road) having a right-of-way of 60 feet, said point being located North 68° 14' 00" West 62.19 feet from a southwest corner of the 19.394 acre tract now or formerly owned by Nello L. Teer; thence from said beginning

(initial)

nye

EX 7050PG0297

point with the northern line of Nello L. Teer North 68° 14' 00" West 1,204.87 feet to an iron pipe set on Steep Hill Branch; thence in a northeasterly direction with the run of Steep Hill Branch the following courses and distances:

- North 17° 39' 07" East 159.85 feet to a point;
- North 06° 46' 23" East 62.78 feet to a point;
- North 14° 12' 41" East 90.71 feet to a point; and
- North 36° 36' 48" East 128.45 feet to an iron pipe set;

thence leaving Steep Hill Branch and running with the southern line of Nello L. Teer South 68° 14' 00" East 1,329.97 feet to a point in the pit area of Nello L. Teer on the western right-of-way of the aforementioned county road; thence with the right-of-way of said county road South 37° 01' 00" West 450.00 feet to the point and place of beginning and containing 12.78 acres more or less according to a survey entitled "Survey for Nello L. Teer Company, the Walter M. Derreth, Jr. and Elizabeth H. Derreth Tract" dated February 20, 1989 prepared by Ragsdale Consultants, P.A.

TOGETHER WITH all of the area lying within the right-of-way the county road (Old Prison Camp Road) which was conveyed to Walter M. Derreth, Jr. and Elizabeth H. Derreth by deed recorded in Book 1665, page 46, Wake County Registry.

**Tract 2:**

BEGINNING at an existing iron pipe, the southeastern corner of property now or formerly owned by Connell Realty & Mortgage Company and a corner of Lot 304, Oak Park Subdivision, Section Six, as shown on a map recorded in Book of Maps 1970, Volume One, Page 115, Wake County Registry; runs thence with the western boundaries of Lot 290 through 304, Oak Park Subdivision, Sections Five and Six, as shown on maps recorded in Book of Maps 1969, Page 68 and Book of Maps 1970, Page 115, Wake County Registry the following four courses and distances:

- (1) South 21° 03' 29" East 471.99 feet to an existing iron pipe;
- (2) South 21° 03' 29" East 199.98 feet to an existing iron pipe;
- (3) South 21° 03' 29" East 759.02 feet to an existing iron pipe;
- (4) South 05° 31' 21" East 260.25 feet to a point in the center line of Crabtree Creek; runs thence in a northwesterly direction with the center line of Crabtree Creek to a P.K. nail in the center line of the right-of-way of Duraleigh Road (100 foot right-of-way) in the bridge crossing Crabtree Creek, which center line of Crabtree Creek is referenced by a survey line beginning at the last aforementioned iron pipe, which survey line runs in a northwesterly direction the following four courses and distances:

(initial)  
NL

2K705060298

- (1) North 51° 25' 50" West 622.93 feet to an iron pipe set;
- (2) North 23° 10' 14" West 614.29 feet to an iron pipe set;
- (3) North 38° 40' 59" West 317.12 feet to an iron pipe set;
- (4) North 54° 55' 49" West 259.63 feet to the aforesaid existing P.K. nail in the center line of the right-of-way of Duraleigh Road (100 foot right-of-way) in the bridge crossing Crabtree Creek;

thence North 11° 06' 00" West 431.31 feet to a point; thence North 68° 14' 00" West 288.00 feet to an iron pipe set in the southeasterly right-of-way of a county road; runs thence with the southeasterly right-of-way of said county road North 37° 01' 00" East 57.05 feet to a point; thence leaving said right-of-way and running with the southern boundaries of property now or formerly owned by Nello L. Teer Company and Connell Realty & Mortgage Company the following six courses and distances:

- (1) South 68° 14' 00" East 476.45 feet to an existing iron pipe;
- (2) South 68° 14' 00" East 99.80 feet to an existing iron pipe;
- (3) South 68° 14' 00" East 54.41 feet to an existing iron pipe in the western right-of-way of Duraleigh Road;
- (4) South 68° 14' 00" East 53.91 feet to a P.K. nail set in the center line of Duraleigh Road;
- (5) South 68° 19' 21" East 53.91 feet to an iron pipe set in the easterly right-of-way of Duraleigh Road; and
- (6) South 68° 19' 21" East 245.49 feet to the point of BEGINNING and containing approximately 19.394 acres (to the center line of Crabtree Creek) inclusive of right-of-way according to a survey dated February 8, 1989 by Ragsdale Consultants, P.A. entitled "Nello L. Teer Company Walter Dereth Tract."

TOGETHER WITH all of the area lying within the right-of-way of the county road (Old Prison Camp Road) which was conveyed to Walter M. Dereth, Jr., *et al.* by deed recorded in Book 1665, Page 46, Wake County Registry. \*\*\*\*\*

BK 7050PG0299

That the property hereinabove described was acquired by Grantor by instruments recorded in Book 4443, page 347, *et seq.* and Book 4443, page 343, *et seq.* of the Wake County Registry.

To have and to hold the aforesaid tracts or parcels of land, all privileges and appurtenances thereunto belonging to the said Grantee and its heirs and assigns forever.

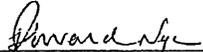
And the said Grantor does covenant that it is seized of the said premises in fee and has the right to convey the same in fee simple; and that the same are free from encumbrances; and that it will warrant and defend said title to the same against the claims of all persons whatsoever.

**IN TESTIMONY WHEREOF**, the said Grantor has caused this Deed to be signed in its corporate name by its Executive Vice President and attested by its Assistant Secretary, and sealed with its common corporate seal, on the day and year first written above.

Grantor:  
BEAZER EAST, INC.

BY:   
Philip R. Mickelson  
Executive Vice President

ATTEST:

  
C. Howard Nye  
Assistant Secretary



(Notary on following page)

PK7050PG0300

NORTH CAROLINA  
WAKE COUNTY

I, Tammy S. Butler, Notary Public for Durham County, North Carolina, certify that C. Howard Nye personally came before me this day and acknowledged that he is Assistant Secretary of Beazer East, Inc., a corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Executive Vice President, sealed with its corporate seal, and attested by himself as its Assistant Secretary.

Witness my hand and official seal, this the 27<sup>th</sup> day of June, 1996.



Tammy S. Butler  
Notary Public

NORTH CAROLINA — WAKE COUNTY

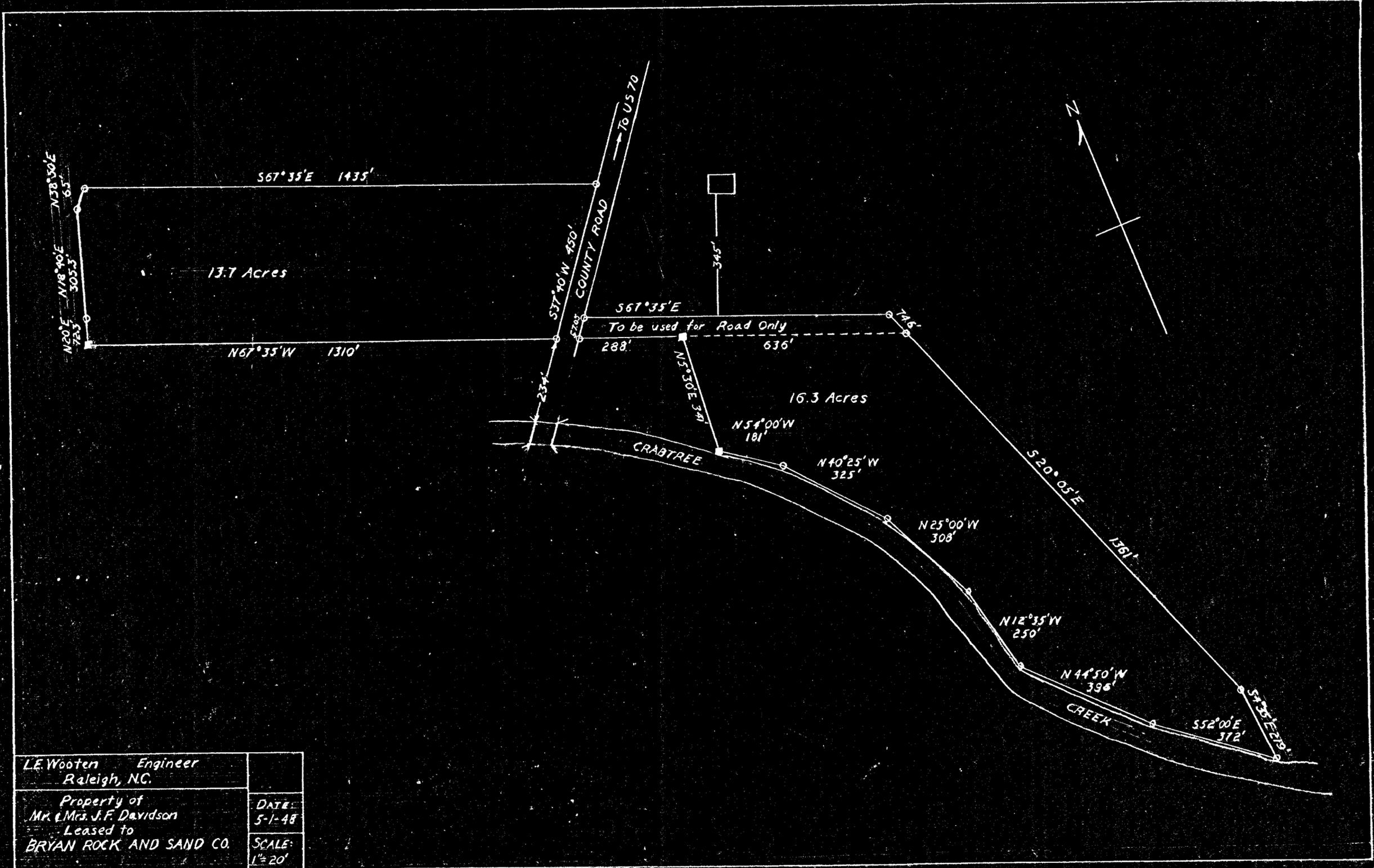
The foregoing certificate of \_\_\_\_\_

Tammy S. Butler \_\_\_\_\_  
Notary Public is

(are) certified to be correct. This instrument and this certificate are duly registered at the date and time and in the book and page shown on the first page hereof.

KENNETH C. WILKINS, Register of Deeds

By Meta N. Harris \_\_\_\_\_  
Asst./Deputy Register of Deeds



L.E. Wooten Engineer Raleigh, N.C.	
Property of Mr. & Mrs. J.F. Davidson Leased to BRYAN ROCK AND SAND CO.	DATE: 5-1-48
	SCALE: 1" = 20'

ACTUAL DATE UNKNOWN

Form WD-101-WARRANTY DEED

For Sale by James Williams & Co., Yadkinville, N. C.

NORTH CAROLINA, WAKE COUNTY

THIS DEED, made this 11<sup>TH</sup> day of August, A. D. 1965

by Mary Elizabeth Davidson

of Wake County and State of North Carolina, party

of the first part, to Henry Clarence Howell and Elizabeth Howell Derreth

of Wake County and State of North Carolina, parties

of the second part:

WITNESSETH, That said party of the first part in consideration of the love and affection the party of the first part bears to her children, Henry Clarence Howell and Elizabeth Howell Derreth, parties of the first part of the second part, and one Dollar and other valuable considerations

to her paid by said parties of the second part,

the receipt of which is hereby acknowledged has bargained and sold, and by these presents

do grant, bargain, sell and convey to said parties of the second part, their

heirs and assigns, a certain tract or parcel of land in House Creek Township,

Wake County, State of North Carolina, adjoining

the lands of

and others, and bounded as follows. viz:

BEGINNING at a point at an iron located N 37° 40' E 57.05 ft. from the SE corner of the 13.7 acre tract owned by the party of the first part and as shown on a map prepared by L. E. Wooten May 1, 1948 and being the SW corner of a 10.8 acre tract of land owned by the American-Marietta Company; thence crossing the Old Prison Camp Road and with the southern boundary of the said 10.8 acre tract of land S 67° 35' E 984 ft. to a corner; thence S 20° 5' E 1361 ft.; thence S 4° 35' E 219 ft. to the center of Crabtree Creek; thence with the center of the said Creek N 52° W 372 ft.; thence N 44° 50' W 396 ft.; thence N 12° 35' W 250 ft.; thence N 25° 00' W 308 ft.; thence N 40° 25' W 325 ft.; thence N 54° 00' W 181 ft. to the SW corner of a tract of land owned by the North Carolina State Highway and Public Works Commission; thence with the eastern boundary of said tract N 5° 30' E 341 ft. to the NE corner of said tract; thence with the Northern boundary of said tract N 67° 35' W 348 ft. more or less to an iron stake, said stake being the SE corner of the 13.7 acre tract owned by the party of the first part and, also, being in the Northern boundary of the tract owned by the North Carolina State Highway and Public Works Commission; thence continuing with the Northern boundary of the tract owned by the said Highway Commission N 67° 35' W 1310 ft. to an iron stake in the eastern line of a tract owned by J. E. Ashburn; thence with the eastern boundary of the land owned by J. E. Ashburn N 20° E 72.3 ft. N 18° 40' E 305.3 ft. and N 38° 50' E 65 ft. to a stake, said point being the southwestern corner of tract formerly owned by Samuel G. Rogers, now American-Marietta Company; thence with the southern boundary of said tract S 67° 35' E 1435 ft. to an iron stake in the western boundary of the 10.8 acre tract of land now or formerly owned by the American-Marietta Company, said iron also being on the western side of the Old Prison Camp Road; thence with the western boundary of the 10.8 acre tract of land and the Old Prison Camp Road S 37° 40' W 392.95 ft. to the point of beginning and containing 30 acres, more or less. Reference is made to a map prepared by L. E. Wooten, Engineer, May 1, 1948, and recorded in the Wake County Registry in Book of Maps 1947 at pg. 111.

Subject However to a life estate in the said Mary Elizabeth Dagidson, party of the first part in all of the above described lands, which the said party of the first part reserves for herself for and during the term of her natural life.

And, said party of the first part further reserves for herself all mineral rights in said lands for the term of her natural life.

Subject to all Leases and Easements of Record, and the Right of Way of the N. C. Highway Commission.

And being part of that certain 200-Acre tract or parcel of land conveyed to the party of the first part by Deed recorded in Book 657, Page 475 said Wake County Registry; and the said Mary Elizabeth Davidson being the same person as Mary Elizabeth Cohoon Howell by a former marriage.

The above described lands were conveyed to grantors by.....

See Book ....., Page.....

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging, to the said parties of the second part, their

heirs and assigns,

to their only use and behoof forever, subject, however, to the life estate of the party of the first part.

And the said party of the first part.....

for herself and her

heirs, executors and administrators, covenant with said parties of the second part,

their heirs and assigns, that

she is seized of said premises in fee and has a right to convey in fee simple;

that the same are free and clear from all encumbrances, and that she does hereby

forever warrant and will forever defend the said title to the same against the claims of all persons

whomsoever.....

IN TESTIMONY WHEREOF, the said Mary Elizabeth Davidson, party of the first part.....

has hereunto set her hand and seal, the day and year first above written.

Mary Elizabeth Davidson (SEAL)

(SEAL)

ATTEST: (SEAL)

Sylvia S. Kramer

(SEAL)

STATE OF NORTH CAROLINA ..... County.

I, ..... Clerk of the Superior Court, hereby certify that  
..... and .....  
his wife, personally appeared before me this day and acknowledged the due execution of the  
annexed Deed of Conveyance. Let the instrument, with this certificate, be registered.

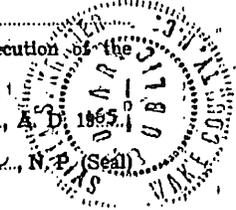
Witness my hand and official seal, this ..... day of ..... A. D. 19.....

.....  
Clerk Superior Court.

STATE OF NORTH CAROLINA, Wake ..... County.

I, Sylvia S. Kramer ..... Notary Public, do hereby certify that  
Mary Elizabeth Davidson, (Divorced)  
.....  
personally appeared before me this day and acknowledged the due execution of the  
annexed Deed of Conveyance.

Witness my hand and notarial seal, this 11<sup>th</sup> day of August, A. D. 1965.



My commission expires May 4, 1966 .....

STATE OF NORTH CAROLINA, Wake ..... County.

The foregoing certificate of Sylvia S. Kramer  
a Notary Public of Wake ..... County, State of North Carolina, is  
adjudged to be correct. Let the instrument, with the certificates, be registered.

Witness my hand and official seal, this 12 day of August, A. D. 1965.

Alice H. Perry  
Deputy Clerk Superior Court.

Filed for Registration at 10:05 o'clock  
A.M. AUG 12 1965 19 .. and  
Registered in the Office of the Register of  
Deeds of Wake County, North Carolina,  
In Book 11665 Page 46

....., 19.....  
J. A. Rowland  
REGISTER OF DEEDS

BOOK 1438 PAGE 737

Form 1-01, Revised Nov., 1959

STATE OF . . . NORTH CAROLINA

County of . . . WAKE

THIS AGREEMENT entered into this 3rd day of January, 1961, by and between Mrs. J. Frank Davidson, widow, (formerly Elizabeth Cahoon Howell)

of Wake County, State of North Carolina, party of the first part, hereinafter referred to as Lessors; and

AMERICAN-MARIETTA COMPANY, an Illinois corporation with its principal office in Chicago, Cook County, State of Illinois, party of the second part, hereinafter referred to as Lessee.

WITNESSETH:

The Lessors, their heirs, administrators or executors, for and in consideration of the sum of ONE DOLLAR the receipt of which is hereby acknowledged, and in further consideration of the covenants, agreements and the rentals and royalties hereinafter mentioned, do hereby lease, let and convey to the Lessee, its successors or assigns, for a period of 33 years (thirty-three) for the purpose hereinafter described all that certain tract or parcel of land situated in House Creek Township, Wake County, State

of North Carolina, said tract being more particularly described as follows:

BEGINNING at a point at an iron located N37° 40' E 57.05 ft. from the SE corner of the 13.7 acre tract owned by the Lessor and as shown on a map prepared by L. E. Wooten May 1, 1948 and being the SW corner of a 10.8 acre tract of land owned by the Lessor; thence crossing the Old Prison Camp Road and with the southern boundary of the said 10.8 acre tract of land S 67° 35' E 984 ft. to a corner; thence S 20° 5' E 1361 ft.; thence S 4° 35' E 219 ft. to the center of Crabtree Creek; thence with the center of the said Creek N 52° W 372 ft.; thence N 44° 50' W 396 ft.; thence thence N 12° 35' W 250 ft.; thence N 25° 00' W 308 ft.; thence N 40° 25' W 325 ft.; thence N 54° 00' W 181 ft. to the SW corner of a tract of land owned by the North Carolina State Highway and Public Works Commission; thence with the eastern boundary of said tract N 5° 30' E 341 ft. to the NE corner of said tract; thence with the Northern boundary of said tract N 67° 35' W 348 ft. more or less to an iron stake, said stake being the SE corner of the 13.7 acre tract owned by the Lessor and, also, being in the Northern boundary of the tract owned by the North Carolina State Highway and public Works Commission; thence continuing with the Northern boundary of the tract owned by the said Highway Commission N 67° 35' W 1310 ft. to an iron stake in the eastern line of a tract owned by J. E. Ashburn; thence with the eastern boundary of the land owned by J. E. Ashburn N 20° E 72.3 ft. N 18° 40' E 305.3 ft. and N 38° 50' E 65 ft. to a stake, said point being the southwestern corner of tract formerly owned by Samuel G. Rogers, now American-Marietta Company; thence with the southern boundary of said tract S 67° 35' E 1435 ft. to an iron stake in the western boundary of the 10.8 acre tract of land now or formerly owned by the Lessor, said iron also being on the western side of the Old Prison Camp Road; thence with the western boundary of the 10.8 acre tract of land and the Old Prison Camp Road S 37° 40' W 392.95 ft. to the point of beginning and containing 30 acres, more or less. Reference is made to a map prepared by L. E. Wooten, Engineer, May 1, 1948. and recorded in the Wake County Registry in Book of Maps 1947 at pg. 111.

1. TO HAVE AND TO HOLD the above promises together with all privileges and appurtenances unto the Lessee for and during the full term 33 years (thirty-three) from the date hereof, unless said term is sooner terminated as hereinafter provided, for the sole and only use of the Lessee for mining, quarrying, and removal therefrom

canals, power lines, pipe lines, telephone lines, roads, railway spur lines, stockpile areas, etc., and any other needed machinery or equipment on said premises, and a sixty foot right of way to said lease premises, and with full right of Lessee to remove any and/or all of said equipment or facility from said premises during the continuance of this lease and within six (6) months after termination thereof.

II. It is agreed that "strippings" or "overburden" that must be removed from the material to be processed to commence the quarry pit, or material that must be leveled or removed for the building of the plant site, dams, roads, stockpile areas, etc. are waste material and the lessee is granted the right without liability or payment of royalties as hereinafter set out to use the overburden or waste material on the hereinbefore described tract or by wasting or stockpiling it on said tract or by removing it from said tract in the manner and by such means within the sole discretion of the Lessee it deems best, so long as said use or removal is in furtherance of commencing and/or conducting and continuing a quarrying operation on the hereinbefore described tract of land.

III. The Lessee and its successors and assigns during the term of this lease agree it will indemnify and save harmless the Lessors against all actions or claims for damages growing out of its quarrying operation. And the Lessors, for himself, their heirs, executors and assigns hereby release the Lessee and its successors and assigns from any and all damages that might occur to the hereinbefore described premises by exercising of the rights set forth in paragraphs I and II.

IV. ~~It is agreed that the Lessee shall have the right to use the premises for the purpose of quarrying and processing of aggregate materials and for the purpose of stockpiling and storing of such materials and for the purpose of conducting and continuing a quarrying operation on the hereinbefore described tract of land.~~

(b) It is ~~not~~ agreed that the Lessee may ~~terminate this lease by paying for its exclusive possession and use for the above-named purposes the following rentals and/or royalties as hereinafter set forth, to wit:~~ continue this lease by paying for its exclusive possession and use for the above-named purposes the following rentals and/or royalties as hereinafter set forth, to wit:

(1) The sum of Five Hundred and no/100 DOLLARS (\$ 500.00) a year as a minimum rental for each lease year that this lease is in force. All minimum rentals shall be deductible from any earned royalties as set forth below during said lease year. The payment for each year's minimum rental is to be made within thirty (30) days following the beginning of each lease year.

four  
(2) The sum of ~~two~~ four cents (04¢) per ton of Two Thousand (2000) lbs. for each ton of crushed aggregate described in paragraph I removed and sold from said premises, at any time, but not to include "strippings" or waste materials which are removed to facilitate operations, as described in paragraph II, the tonnage to be determined by scale weight. The payment for any earned royalties from materials sold is to be made within (30) thirty days from the end of the month in which such materials were removed and sold. The Lessee agrees that it will afford the Lessors and/or their agents all reasonable opportunity to check the Lessee's operations conducted hereunder, by examination of the operation and such records as may be reasonably necessary for said Lessors to determine the amount of such materials removed and sold.

V. (a) It is agreed between the parties hereto that if and when the Lessee is in default of payment of any rentals and/or royalties due hereunder as set out in paragraph IV, Lessors may give the Lessee notice of the amount due and their intention to terminate this lease. If such payments then due are not paid within thirty (30) days from date the Lessee receives such notice, the Lessors may then declare the lease terminated, but otherwise this lease to remain in full force.

(b) The Lessee may terminate this lease at any time by giving the Lessors notice of such intention or by failing to pay any minimum rental due. However, it is agreed that this does not affect the Lessors' rights and interest in any earned royalties that may be due. Failure to pay said rentals or royalties shall not automatically cancel this lease, but if the Lessors notify the Lessee of its failure to pay said rentals or royalties and if said rentals or royalties are not paid within thirty (30) days from date such notice is received by Lessee, this lease is automatically cancelled. It is understood that this is a method which Lessee may use to terminate this lease should it so desire.

VI. ~~It is agreed that the Lessee shall have the right to use the premises for the purpose of quarrying and processing of aggregate materials and for the purpose of stockpiling and storing of such materials and for the purpose of conducting and continuing a quarrying operation on the hereinbefore described tract of land.~~

VII. The Lessors covenant that at the time of execution of this lease they are the owners of the demised premises in fee and have full right to lease or sell same, and that same is free and clear of all encumbrances, and will put the Lessee in actual possession of the premises.

VIII. It is agreed between the parties that the Lessee may pay off and/or satisfy any and all mortgages or liens against the within demised premises in such manner as it deems best. Such payments made on any mortgage or liens by the Lessee for the account of the Lessors may be deducted from any amounts that might be owed to the Lessors under the terms of this lease. It is further understood that the Lessors will notify the Lessee of any action that may be taken to foreclose on the premises due to any mortgage or lien not paid off by the Lessee.

IX. It is agreed that the Lessee may use such timber on said leased premises as is needed for the construction and maintenance of its installations.

X. This lease agreement is made in order that the Lessee may, in its election, enter on said leased premises for the purposes as set out in paragraph I and II, together with the operation of any related industry or activities which would facilitate or increase the sale and/or marketability of the materials mentioned in paragraph I.

XI. It is agreed between the parties and each party acknowledges that the other party has done and performed all things to be done under that certain lease agreement dated February 5, 1948 and recorded in Book 986 Page 552, Wake County Public Registry; that neither party has any other or future claim upon the other on account of said lease; and that each and every part and clause thereof be cancelled and terminated as of the 3rd day of January, 1961.

IN WITNESS WHEREOF the parties hereto have affixed their hands and seals and executed this Agreement in duplicate originals the day and year first above written.

*Helen J. Frank* (Widow) (SEAL)

..... (SEAL)

..... (SEAL)

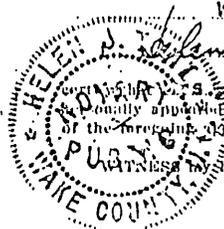
..... (SEAL)

Part (y) (low) of the first part

*Godfrey Charles J. [unclear]* attorney in fact (SEAL)  
Party of the second part

STATE OF North Carolina

Wake County



*Helen J. Frank*, a Notary Public for and in the aforesaid county do hereby

personally appear before me this day, and being by me first duly sworn, do hereby acknowledge the due execution of the foregoing agreement for the purposes herein expressed.

My hand and official seal, this 3<sup>rd</sup> day of January, 1961.

My Commission expires MY COMMISSION EXPIRES OCTOBER 14, 1962

*Helen J. Frank*  
Notary Public

STATE OF .....

..... County

I, ....., a Notary Public, for and in the aforesaid county do hereby

certify that ..... and wife, ..... personally appeared before me this day, and being by me first duly sworn, do hereby acknowledge the due execution of the foregoing agreement for the purposes herein expressed.

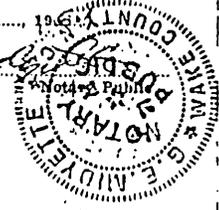
BOOK 1438 PAGE 740

NORTH CAROLINA

Wake COUNTY

I, E. Madgett, Notary Public, do hereby certify that  
Godfrey Clarke Jr., Attorney in Fact for American-Marietta Company, personally appeared before me this day and being by me duly sworn, says that he executed the foregoing and annexed instrument for and in behalf of American-Marietta Company, that his authority to execute and acknowledge said instrument is contained in an instrument duly executed, acknowledged, and recorded in the office of the Register of Deeds for Wake County, North Carolina, on the 26th day of October, 1959, and that this instrument was executed under and by virtue of the authority given by said instrument granting him power of attorney; that the said Godfrey Clarke Jr. acknowledged the due execution of the foregoing and annexed instrument for the purpose therein expressed for and in behalf of the said American-Marietta Company and as its act and deed.

WITNESS my hand and official seal, this 3rd day of January  
E. Madgett



My Commission expires July 16, 1961

STATE OF NORTH CAROLINA  
 Wake County

The foregoing certificate of Helen J. Tomm + D. E. Madgett, Notary Public of Wake County, State of North Carolina, is adjudged to be correct. Let the instrument with the certificates, be registered.

WITNESS my hand this the 3 day of January 1961  
James L. Caruthers  
 Deputy Clerk Superior Court

Filed for registration of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ State of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_  
 of \_\_\_\_\_  
 at 4:55 o'clock  
 In the office of the \_\_\_\_\_  
Wake  
 of Deeds on page \_\_\_\_\_  
W. F. B. Co.  
John O. DeWitt  
 Registrar  
 Private  
 Superior  
 Superior  
 est.

Jennie Mae Rogers his wife, personally appeared before me this day and acknowledged the due execution of the annexed Deed of Conveyance; and the said Jennie Mae Rogers being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state tha she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she doth still voluntarily assent thereto.

Witness my hand and private seal, this 22nd day of December 1947.

JANET JOHNSON NOTARY PUBLIC (SEAL)

(NOTARIAL SEAL) MY COMMISSION EXPIRES 10/16/48

STATE OF NORTH CAROLINA  
WAKE COUNTY

The foregoing certificate of Janet Johnson, a Notary Public of Harnett County, State of North Carolina, is adjudged to be in due form and according to law. Therefore, let the same, with this certificate be registered.

Witness my hand this 16 day of January A. D., 1948

ESTA S. CALLAHAN DEPUTY C. S. C.

Filed for registration on the 16th day of January 1948, at 9:00 A. M., and registered in the office of the Register of Deeds for Wake County, N. C., this 24 day of February 1948, in Book 986, page 549.

HUNTER ELLINGTON, Register of Deeds  
BY Janice Rowland Deputy

.....

.....

:: " CONTRACT AND AGREEMENT " ::

:: MRS. J. FRANK DAVIDSON & HUS. J. FRANK ::

:: TO ::

:: BRYAN ROCK & SAND COMPANY, INC. ::

NORTH CAROLINA

WAKE COUNTY

..... THIS CONTRACT AND AGREEMENT, Made this 5th day of January, 1948, by and between Mrs, J. Frank Davidson (formerly Elizabeth Cahoon Howell) and husband, J. Frank Davidson, of Wake County, North Carolina, parties of the first part, and Bryan Rock & Sand Company, Inc., a North Carolina corporation with its principal office and place of business in the City of Raleigh, Wake County, North Carolina, party of the second part,

WITNESSETH: THAT for and in consideration of the sum of TWO HUNDRED (\$200.00)

DOLLARS, paid this day by the party of the second part to the parties of the first part, the receipt of which is hereby acknowledged, and in further consideration of the performance by the parties of the first and second parts of the mutual covenants and agreements hereinafter set forth, the parties of the first part have bargained and sold, and by these presents do grant, bargain, sell and convey unto the party of the second part, its successors and assigns, the exclusive right and privilege of mining and quarrying any and all stone located upon the following described lands and premises situate on the North side of Crabtree Creek in House Creek Township, Wake County, North Carolina.

Thirty (30) acres to be surveyed on or near Crabtree Creek and adjoining the property of the State Highway and Public Works Commission, and being a portion of that certain piece, parcel or tract of land on Crabtree Creek and the public road leading Northward from U. S. Highways Nos. 1, 64, and 70 at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70A beyond Crabtree Creek; said public road being sometimes known as Blue Ridge Boulevard, said tract of land containing 200 acres, more or less, and being more particularly described in that certain deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell, dated October 22, 1934, and recorded in Book 657, page 475, Wake County Registry.

It is mutually covenanted and agreed between the parties hereto as follows:

1. The exclusive right and privilege of mining and quarrying stone herein granted by the parties of the first part to the party of the second part, its successors and assigns, shall be for a term of ten (10) years, commencing on February 1, 1948, and ending on January 31, 1958.

2. The party of the second part, at its option, may extend said exclusive right and privilege of mining and quarrying stone for an additional term of ten (10) years, by giving the parties of the first part, or their legal representatives, written notice of its intention to do so not less than sixty (60) days prior to January 31, 1958.

3. The party of the second part, in addition to the payment of the sum of TWO HUNDRED (\$200.00) Dollars, by it to the parties of the first part upon the execution of these presents, shall pay to Mrs. J. Frank Davidson, one of the parties of the first part, for all stone mined and quarried on the aforesaid lands and premises by way of royalty the sum of three (3¢) cents per ton, strict accounting to be made to Mrs. J. Frank Davidson by the party of the second part and correct payment of said three (3¢) cents per ton royalty made on or before the 20th day of each calendar month hereafter during the term of this CONTRACT and AGREEMENT, or during any extension thereof.

4. In the event that the party of the second part should elect not to mine or quarry stone upon said lands and premises for the term of this CONTRACT AND AGREEMENT, or any part of said term or any extension thereof, then the party of the

second part shall nevertheless pay to Mrs. J. Frank Davidson the sum of ONE HUNDRED (\$100.00 ) DOLLARS per year beginning on February 1, 1949, for each year of the term, or extension thereof, during which the party of the second part elects not to quarry said stone. If quarrying operations should be commenced by the party of the second part during any year after February 1, 1949, and after payment to Mrs. J. Frank Davidson of said ONE HUNDRED (\$100.00) DOLLARS for non- operations, then the party of the second part shall pay to said Mrs. J. Frank Davidson the additional sum of three (3%) cents per ton as royalty for all stone thus quarried.

5. No quarrying operations shall be conducted by the party of the second part upon said lands and premises within a radius of four hundred (400) feet of the present residence of said Mrs. J. Frank Davidson located on said lands and premises on the West side of the aforesaid road and of the present dwelling located on the East side of said road.

6. The party of the second part, in the conduct of quarrying operations shall have free and unrestricted right of ingress, egress and eregress over and upon said lands and premises of the parties of the first part for the taking and removal of stone and its by-products, and may cut over and clear such portion of said lands as may be necessary for the proper conduct of said operations. And the said party of the second part may build such road or roads, at its own expense, as may be necessary for the passing of its trucks, machinery and other equipment to and from any site of quarrying operations on said lands and premises.

This CONTRACT AND AGREEMENT IS EXECUTED IN DUPLICATE, and shall be deemed to be binding upon the parties of the first part, their heirs, assigns and legal representatives, and upon the party of the second part, its successors and assigns.

IN WITNESS WHEREOF, the parties of the first part have hereunto set their hands and seals, and the party of the second part has caused these presents to be signed in its name by its President, attested by its Secretary, and its corporate seal to be hereto affixed, all on the day and year first above sritten.

MRS. J. FRANK DAVIDSON (SEAL)

J. FRANK DAVIDSON (SEAL)

(CORPORATE SEAL)  
ATTEST:  
L. B. HUGHES  
Secretary

BRYAN ROCK & SAND COMPANY, INC.  
BY: JAMES E. BRYAN  
President

NORTH CAROLINA

WAKE COUNTY

I, Myrtle B. Langley, a Notary Public of the above County and State, do hereby certify that Mrs. J. Frank Davidson and husband, J. Frank Davidson, personally appeared before me this day and acknowledged the due execution of the foregoing CONTRACT AND AGREEMENT.

Witness my hand and Notarial seal this 19th day of January 1948.

MYRTIE B. LANGLEY , Notary Public

(NOTARIAL SEAL) MY COMMISSION EXPIRES JAN. 27, 1949.

NORTH CAROLINA.....WAKE COUNTY

I, D. T. Bailey, a Notary Public, of the above County and State, do hereby

certify that on this day personally appeared before me L. B. Hughes, Secretary of Bryan Rock & Sand Company, Inc., who, being by me first duly sworn, says that he knows the common seal of said corporation and is acquainted with James E. Bryan, who is President of said corporation; that he, the said L. B. Hughes, is Secretary of said corporation and saw said James E. Bryan, as President of said corporation, sign the foregoing instrument; that he, the said L. B. Hughes, as Secretary aforesaid, affixed said seal and became a subscribing witness thereto, and attested said instrument in the presence of said James E. Bryan, President as aforesaid; and that said instrument is the act and deed of said corporation..

Witness my hand and Notarial seal this 5 day of January 1948.

D. T. BAILEY Notary Public

(NOTARIAL SEAL) MY COMMISSION EXPIRES APRIL 29, 1949

STATE OF NORTH CAROLINA

WAKE COUNTY

The foregoing certificates of Myrtle B. Langley and D. T. Bailey, Notaries Public of Wake County, State of North Carolina, are adjudged to be correct, Let the instrument with the certificates, be registered.

WITNESS my hand this the 20 day of January, 1948.

ESTA S. CALLAHAN DEPUTY C. S. C.

Filed for registration at 4:50 o'clock P. M., January 20, 1948, and registered in the office of the Register of Deeds for Wake County, North Carolina, in Book 986, page 552, February 24, 1948.

HUNTER ELLINGTON, Register of Deeds  
 BY Gas. A. Rowland Deputy

.....

NORTH CAROLINA

WAKE COUNTY

I, Oliver H. Edwards, a notary public in and for the aforesaid state and county, do hereby certify that before me personally appeared, this day, Bessie E. Barrett (widow), who acknowledged the due execution of the foregoing instrument for the purpose therein expressed.

Witness my hand and seal this 26th day of February, 1941.

OLIVER H. EDWARDS  
Notary Public

(NOTARIAL SEAL) MY COMMISSION EXPIRES: JAN 21st 1943.

STATE OF NORTH CAROLINA

WAKE COUNTY

The foregoing certificate of Oliver H. Edwards, A Notary Public of Wake County, State of North Carolina, is adjudged to be correct. Let the instrument with the certificates, be registered.

WITNESS my hand this the 26 day of Feb 1941.

MABEL McDADE BAKER  
Dep Clerk Superior Court

Filed for Registration at 12 o'clock M. Feby 26, 1941 and Registered in the Office of the Register of Deeds of Wake County, North Carolina, in Book 857, Page 442, March 3rd, 1941.

HUNTER ELLINGTON, Register of Deeds

BY E. G. Bessiefield, Deputy

.....

.....  
:: "D E E D" ::  
:: H. F. FAUCETTE & WIFE GERTRUDE J. ::  
:: TO ::  
:: STATE HIGHWAY & PUBLIC WORKS COMMISSION ::  
.....

THIS DEED, made this the 21 day of February, 1941, by and between H. F. Faucette and wife, Gertrude J. Faucette, of Wake County, North Carolina, parties of the first part, and the State Highway and Public Works Commission, an agency of the State of North Carolina, party of the second part,

W I T N E S S E T H:

THAT FOR AND IN CONSIDERATION

of the sum of one thousand five hundred dollars (\$1,500.00), the receipt of which is hereby acknowledged, the parties of the first part have bargained and sold, and by these presents do grant, bargain, sell and convey unto the said State Highway and Public Works Commission, its successors and assigns, a certain tract or parcel of land lying in House Creek Township, Wake County, North Carolina, and bounded and described as follows:

Beginning on the north bank of Crabtree Creek at the junction with Steep Hill Branch; thence with Steep Hill Branch as it meanders north 350 feet; thence N. 64 degrees W., 67 feet; thence N. 3 degrees W., 267 feet; thence N. 23 degrees W., 155 feet; thence N. 3 degrees W., 200 feet; thence N. 22 degrees 30 minutes E., 321 feet to a stake with pointers, and there leaving Steep Hill Branch; thence with Mrs. Elizabeth Howell's line, S. 68 degrees E., 1684 feet to an iron pipe; thence S. 6 degrees 30 minutes W., 360 feet to a large beech tree on the north bank of Crabtree Creek; thence with the north bank of Crabtree Creek as it meanders N. 61 degrees W., 516 feet; thence N. 65 degrees 30 minutes W., 430 feet; thence S. 65 degrees 30 minutes W., 200 feet; thence S. 24 degrees 30 minutes W., 100 feet; thence S. 10 degrees E., 175 feet; thence S. 26 degrees 30 minutes W. 224 feet; thence S. 42 degrees 30 minutes W., 151 feet; thence S. 73 degrees W., 253 feet to the beginning and containing 22½ acres, more or less, and being the same tract conveyed to H. F. Faucette by William J. Andrews and wife, Augusta W. F. Andrews, and recorded in the office of the Register of Deeds of Wake County in Book 752 on page 555.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges and appurtenances thereto belonging to the said State Highway and Public Works Commission, its successors and assigns, to its only use and behoof forever.

And the said parties of the first part, for themselves and their heirs, executors and administrators, covenant with the said State Highway and Public Works Commission, its successors and assigns, that they are seized of said premises in fee and have the right to convey in fee simple; that the same are free and clear from all encumbrances, and that they do hereby forever warrant and will forever defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, the said parties of the first part have hereunto set their hands and seals in the day and year first above written.

(NO INT. REV.)

H. F. FAUCETTE (SEAL)

GERTRUDE J. FAUCETTE (SEAL)

NORTH CAROLINA  
WAKE COUNTY

I, Epsie Headen, a Notary Public, do hereby certify that H. F. Faucette and Gertrude J. Faucette, his wife, personally appeared before me this day and acknowledged the due execution of the annexed Deed of Conveyance; and the said Gertrude J. Faucette being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, doth state that she signed the same freely and voluntarily, without fear or compulsion of her said husband, or any other person, and that she doth still voluntarily assent thereto.

Witness my hand and notarial seal, this 21st day of February, 1941.

EPSIE HEADEN  
Notary Public

(NOTARIAL SEAL) MY COMMISSION EXPIRES: JAN 28-1943.

STATE OF NORTH CAROLINA .

WAKE COUNTY

The foregoing certificate of Epsie Headen, A Notary Public of Wake County, State of North Carolina, is adjudged to be correct. Let the instrument with the certificates, be registered.

WITNESS my hand this the 26 day of Feb 1941.

MABEL McDADE BAKER  
Dep Clerk Superior Court

Filed for Registration at 4:30 o'clock P. M. Feby 26, 1941 and Registered in the Office of the Register of Deeds of Wake County, North Carolina, in Book 857, Page 443, March 3rd, 1941.

HUNTER ELLINGTON, Register of Deeds

BY *C. P. Buntingfield*, Deputy

.....  
: : : : :  
: : "D E E D" : :  
: : GLYNN FIELDS : :  
: : TO : :  
: : KENNETH WEATHERSPOON & WIFE ETHEL S. : :  
: : : : :  
: : : : :

THIS DEED, Made and entered into this, the 15th day of January, 1941, by and between Glynn Fields (single), party of the first part, and Kenneth Weatherspoon and wife, Ethel S. Weatherspoon, parties of the second part,

W I T N E S S E T H:

That for and in consideration of the sum of TEN DOLLARS AND OTHER GOOD AND VALUABLE CONSIDERATIONS to him in hand paid, the receipt of which is hereby fully acknowledged, said party of the first part has given, granted, bargained, and sold and does by these presents, give, grant, bargain, sell and convey unto said parties of the second part and their heirs and assigns, the following tract or parcel of land, lying and being in Wake County, North Carolina, bounded and described as follows, to-wit:

All those certain lots or parcels of land situated, lying and being on Marsh Avenue near the City of Raleigh, N. C., and being Lots Nos. 15, 16, 17 and 18 in Block "A" of the property of W. A. Cox known as Westover Extension, as surveyed by W. H. Blanchard, Registered Surveyor, May 29, 1940, plot of which is on file in the office of the Register of Deeds of Wake County in Plot Book 1938, at Page 87, to which plot reference is hereby made for a more full and particular description, and described as BEGINNING at a stake in the East property line of Marsh Avenue which point is established by measuring along the East property line of March Avenue Northward 150 feet from the Northeastern interseption of Marsh Avenue and Merritt Street; running thence along the East property line of Marsh Avenue in a Northern direction 100 feet to a stake, the Southwest corner of Lot No. 14; running thence with the

NORTH CAROLINA

BOOK 2789 PAGE 696

WAKE COUNTY

THIS LEASE made this the 20 day of November, 1979.

by and between the NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, hereinafter called the LESSOR, and NELLO L. TEER COMPANY, a Delaware Corporation, with its principal office and place of business located in the County of Durham, State of North Carolina, hereinafter called the LESSEE;

W I T N E S S E T H:

That the Lessor, for and in consideration of the rent and royalty hereinafter specified to be paid and in consideration of the covenants and agreements herein set forth, does hereby lease unto the Lessee all that certain tract or parcel of land lying, being and situate in House Creek Township, Wake County, North Carolina, and bounded and described as follows:

BEGINNING on the north bank of Crabtree Creek at the junction with Steep Hill Branch; thence with Steep Hill Branch as it meanders north 350 feet; thence N. 64 degrees W., 67 feet; thence N. 3 degrees W., 267 feet; thence N. 23 degrees W., 155 feet; thence N. 3 degrees W., 200 feet; thence N. 22 degrees 30 minutes E., 321 feet to a stake with pointers, and there leaving Steep Hill Branch; thence with Mrs. Elizabeth Howell's line, S. 68 degrees E., 1684 feet to an iron pipe; thence S. 6 degrees 30 minutes W., 360 feet to a large beech tree on the north bank of Crabtree Creek; thence with the north bank of Crabtree Creek as it meanders N. 61 degrees W., 516 feet; thence N. 65 degrees 30 minutes W., 430 feet; thence S. 65 degrees 30 minutes W., 200 feet; thence S. 24 degrees 30 minutes W., 100 feet; thence S. 10 degrees E., 175 feet; thence S. 26 degrees 30 minutes W. 224 feet; thence S. 42 degrees 30 minutes W., 151 feet; thence S. 73 degrees W., 253 feet to the Beginning and containing 22 1/2 acres, more or less, and being the same tract conveyed to the State Highway and Public Works Commission, an agency of the State of North Carolina, by deed of H. F. Faucette and wife, Gertrude J. Faucette, dated February 21, 1941, and recorded in the office of the Register of Deeds of Wake County in Book 857, at page 443, to which deed and the deeds and records therein referred to reference is hereby made for a more particular description.

TO HAVE AND TO HOLD the above described premises, together with all privileges and appurtenances thereunto belonging, for the sole purpose of the operation of a quarry as hereinafter set out, to the said lessee for and during the term of Ten (10) years from January 21, 1980 for the sole and only use of the Lessee for the mining and removing therefrom by blasting or otherwise, such deposits of rock, stone, gravel and minerals on or under said property, with the full and exclusive rights and privileges to construct, operate and maintain thereon such quarrying, washing, crushing, and other plants, machinery, appliances, ponds, settling basins, dams, power

lines, roads, and other desirable facilities, including all types of buildings and structures connected with or related to said operations on said premises; and the Lessee shall have the right to remove all such structures, plants, appliances, accessories, and other improvements from said premises so placed thereon by it at any time during the term of this Lease.

This Lease is subject to the following conditions:

1. The Lessee shall pay the sum of eight cents for each ton of stone, mineral, or by-products thereof removed from said premises, the said payment to be in the nature of a royalty. The Lessee shall, on or before the fifteenth day of each calendar month, pay to the Lessor the royalty hereinbefore specified covering said deposits removed from the premises during the preceding month. The tonnage shall be determined by scale weight as such deposits are removed from the premises.

2. In addition to the royalty specified in paragraph 1, Lessee shall pay an annual rent for the exclusive possession and use of the premises the sum of Fifteen Hundred Dollars. The annual rental shall be due and payable in advance on January 21, 1980 and on January 21 of each year thereafter.

3. In addition to the payment of rent and royalty specified in paragraphs 2 and 3, the Lessee shall pay any ad valorem tax or property taxes on the premises which may be imposed by the County or City of Raleigh.

4. An adjustment will be made every 5 years in the annual rental and royalty payments to reflect the then current economic rent and the then current royalty rate. The current economic rental and current royalty shall be determined by the State Appraiser employed by the Department of Transportation. This section shall apply to any renewal of this Lease.

5. The Lessor hereby expressly releases the Lessee from any and all damages that the above premises may suffer by reason of quarrying, blasting, removing or washing said rock, stone, and minerals. The Lessee shall have the right to erect its plant at whatever location that may be most desirable on said premises and remove the deposits in such manner and at such place as deemed by it most desirable. The overburden may be disposed of either on or off the premises in such manner and by such means as the Lessee deems best, and if removed from the premises, it is understood that the rent or royalty shall not apply thereto.

6. The Lessee shall at all times during the term of this Lease, indemnify and save harmless the said Lessor against all suits, actions, and

damages whatsoever that shall or may at any time happen or result to said Lessor for or by reason of the mining, quarrying or blasting operations conducted by the Lessee; provided, however, that all of the rights, privileges, easements, and appurtenances relating to the use of said tract shall inure to the benefit of the Lessee as fully and for all intents or purposes as if the Lessor were directly operating said quarry.

7. The covenants and conditions of this contract shall be binding upon and inure to the benefit of the parties hereto and the use of the terms "Lessor" and "Lessee" shall be construed to mean the successors and assigns of the respective parties hereto.

8. In the event the Lessee fails to find of good quality sufficient rock, stone, gravel or minerals to justify the continued use of said property, or if the said operations become unprofitable for any reason, the Lessee to be the sole judge, it may of its own volition abandon said lease and venture after thirty days' written notice to the Lessor, and upon the abandonment of said Lease and venture by the Lessee and said written notice to the Lessor, no further payments will be made by it to the Lessor except the royalties and rental then due; and as of the 31st day after written notice by the Lessee, the said lease shall be cancelled automatically and be at an end, and the Lessor shall and will be at liberty to lease, handle or sell said property to the same extent as if said lease had never been made. Provided however, in order for such notice to have any effect, it shall be in the form of a Notice, Termination and Release of all Rights under this lease, and shall be properly executed and notarized to comply with the recording requirements for land records in the Wake County Registry.

9. This lease may be renewed by the Lessee for one term of ten (10) years.

10. Should the rock, stone, or minerals located on said property be exhausted, or should the quarrying, blasting, removing said rock, stone, or minerals, be or become unprofitable to the Lessee so that it should desire to temporarily abandon further quarrying, blasting, or removing of the same from said property but should Lessee still desire to maintain its plant, machinery, and equipment, for the purpose of quarrying, blasting, removing rock, stone or minerals from adjoining properties or to process and/or to sell the remaining stockpiles, then this lease shall still hold good for the term hereinabove specified and the Lessee shall pay as rent

for the lands so occupied and used by it the sum of Fifteen Hundred Dollars per annum, payable annually in advance on the 21st day of January, of each year, for the use of said property for said purposes.

11. Should the Lessee default in the payment of any rentals and/or royalties or taxes due as set out in paragraphs 1, 2, 3 and 10, Lessor may give the Lessee notice of the amount due and their intention to terminate this lease. If such payments are not paid within thirty (30) days from the date the Lessee receives such notice, the Lessors may then declare this lease terminated, but otherwise this lease to remain in full force and effect.

IN WITNESS WHEREOF, the Department of Transportation has hereunto set its hand and seal on the day and year first above written.

NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

BY: Billy Rose (SEAL)  
State Highway Administrator

NELLO L. TEER COMPANY

BY: Nello L. Teer (SEAL)

CORPORATE SEAL  
NELLO L. TEER COMPANY  
SECRETARY  
Nello L. Teer  
Secretary

NORTH CAROLINA WAKE COUNTY

I, Brenda W. Grady, a Notary Public of said County and State do hereby certify that Billy Rose personally appeared before me this day and being duly sworn, stated that he is the State Highway Administrator for the North Carolina Department of Transportation and pursuant to G. S. 136-4 and under authority duly given by the Secretary of Transportation and as authorized by the Board of Transportation, acknowledges the execution of the foregoing instrument on the behalf of the Department of Transportation.

WITNESS my hand and notarial seal, this the 21st day of November, 1979.

Brenda W. Grady  
Notary Public

NOTARY SEAL  
Brenda W. Grady  
My Commission Expires:  
April 30, 1984

BOOK 2789 PAGE 700

NORTH CAROLINA  
DURHAM COUNTY

I, Berita G. King (Kasner), a Notary Public of the  
County and State aforesaid, certify that Charles B. Nye  
personally came before me this day and acknowledged that he is  
Secretary of Nello L. Teer Company, a Delaware corporation, and that by  
authority duly given and as the act of the corporation, the foregoing in-  
strument was signed in its name by its Charles B. Nye President, sealed with its  
corporate seal and attested by Charles B. Nye as its  
Secretary.

WITNESS my hand and official stamp or seal, this 16<sup>th</sup> day of  
November, 1979.

Berita G. King (Kasner)  
Notary Public

My Commission Expires:

11/17/80

*Approved as to  
form and legality  
by James A. Smith,  
Special Deputy City Clerk.*

NORTH CAROLINA - WAKE COUNTY

By Brenda W. Grady  
Brenda J. King (Kasner) Notary Public

(are) certified to be correct. This instrument was presented for registration and recorded in this  
office in Book 2789, Page 696, 79, 925, Sub A  
This 29 day of November, 1979.  
R. B. W. N. S. Peoples  
Deputy Register of Deeds

STATE OF NORTH CAROLINA

WAKE COUNTY

From P. R. Hamlet, Trustee 475  
To Elizabeth Caban Howell

THIS DEED, Made this 22nd day of October, 1934, by P. R. Hamlet, Trustee of Wake County and State of North Carolina of the first part, to Wake County and State of North Carolina of the second part: WITNESSETH, That said P. R. Hamlet, Trustee in consideration of the sum of \$100.00 Dollars & other considerations here paid by Elizabeth Caban Howell the receipt of which is hereby acknowledged, has bargained and sold, and by these presents do grant, bargain, sell and convey to said Elizabeth Caban Howell heirs and assigns, a certain tract or parcel of land in Wake County, State of North Carolina, adjoining the lands of Smith, Davis and Choplin and others, and bounded as follows, viz.:

All that certain piece, farm or tract of land, situate, lying and being in House Creek Township, Wake County, State of N. C. and bounded by the lands of Smith, Davis, Choplin, Briggs Crabtree Creek, Big or Great Branch and others, and more particularly described as follows: Beginning at a stake on Steep Hill Branch, the intersection of Choplin's and Brigg's line, thence South 86 degrees East 2735 feet to a stake, the intersection of Davis' and Smith's line, thence in a Southerly direction along Great branch (Sometimes known as Big Branch) and following the meanderings of the same to the intersection of Big Branch and Crabtree Creek, thence in a Northwesterly direction up the course of Crabtree Creek and following the meanderings of the same to a red oak on the Southern side of said creek thence N. 3° 45' E. 698 feet more or less, to a stake. Andrews' and Jenkins' corner, thence N. 86° 15' W. 1900 feet to a maple, the intersection of Andrews' and Briggs' line, thence in a Northeasterly direction up the course of Steep Hill Branch and following the meanderings of the same 1300 feet more or less to a stake the intersection of Choplin's and Briggs' line the point beginning, containing two Hundred (200) acres, more or less, according to a plat of the Jenkins farm made by R. G. Ball, C. E. dated October 1925 and onfile with the Atlantic Joint Stock Land Bank of Raleigh, Raleigh, North Carolina. This deed is made subject to all the rights and privileges in a certain timber deed from the Atlantic Joint Stock Land Bank of Raleigh to H. A. Burke and A. W. Goldston, dated Nov. 18, 1933 and duly recorded in the Office of the Register of Deeds of Wake County, North Carolina. Also a deed to the laps or wood remaining after the timber is cut.

TO HAVE AND TO HOLD the aforesaid tract or parcel of land, and all privileges and appurtenances thereto belonging, to the said Elizabeth Caban Howell, her heirs and assigns, to the only use and behoof forever. And the said P. R. Hamlet, Trustee, for himself, his heirs, executors and administrators, covenant with said Elizabeth Caban Howell, her heirs and assigns, that he do and shall defend the title to the same against the claims of all persons whomsoever except 1934 taxes, and a deed of trust to Atlantic J. S. L. Bank of Raleigh, N. C. and a deed of trust to J. C. Lawrence, N. P. (Sue) which the purchaser agrees to assume.

IN TESTIMONY WHEREOF, the said P. R. Hamlet, Trustee hereunto set his hand and seal, this 22nd day of October first above written. P. R. Hamlet, Trustee (Seal) Attest: Rev. 1st pt (Seal) (Seal) (Seal)

STATE OF NORTH CAROLINA, Wake COUNTY. I, J. C. Lawrence, Notary Public, do hereby certify that P. R. Hamlet, Trustee and his wife, personally appeared before me this day and acknowledged the due execution of the annexed Deed of Conveyance; and the said being by me privately examined, separate and apart from her said husband, touching her voluntary execution of the same, both state that she signed the same freely and voluntarily, without fear or compulsion of her said husband or any other person, and that she doth still voluntarily assent thereto. Let the instrument, with this certificate, be registered.

Witness my hand and seal, this 25th day of Oct. A.D. 1934. My commission expires Oct. 28, 1935. J. C. Lawrence, N. P. (Sue)

NORTH CAROLINA—WAKE COUNTY. The foregoing certificate of J. C. Lawrence, Notary Public of Wake County, State of North Carolina, is adjudged to be in due form and correct, and the foregoing deed is adjudged to have been duly acknowledged and proven. Let the instrument, with the certificates, be registered.

Witness my hand, this 22nd day of Oct. A.D. 1934. Filed for registration on the 22nd day of Oct. 1934, at 11:15 o'clock A.M., and registered in the office of the Register of Deeds for Wake County, N. C., this 10th day of Nov. 1934, in Book 65 of Deeds, on page 475. Register of Deeds. Deputy



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NORTH CAROLINA :  
:   
WAKE COUNTY :

DEED

THIS DEED, Made and entered into this 31<sup>st</sup> day of March, 1964, between MARTIN-MARIETTA CORPORATION, a Maryland corporation, Grantor, and NELLO L. TEER COMPANY, a Delaware corporation, Grantee;

W I T N E S S E T H :

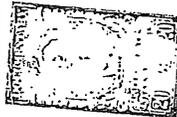
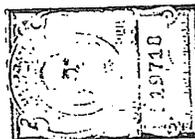
That the Grantor in consideration of Ten (\$10.00) Dollars and other valuable considerations to it paid by the Grantee, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant, bargain, sell and convey unto the Grantee, its successors and assigns, certain tracts or parcels of land located in House Creek Township, Wake County, North Carolina, and more particularly described as follows:

TRACT NO. 1:

BEGINNING at a stake in the West line of the public road leading Northwardly from U. S. Highways Nos. 1, 64 and 70 or 70A at the State Fair Grounds and running by the State Prison Camp toward U. S. Highway No. 70 or 70A North from Crabtree Creek, said public road being sometimes known as Blue Ridge Boulevard, said stake marking a new corner in the lands of Elizabeth C. Howell Davidson in House Creek Township, Wake County, North Carolina, runs thence along a new line North 67 degrees 35 minutes West 1465 feet to a stake in Steep Hill Branch; thence with the run of said Branch as follows: North 38 degrees 50 minutes East 141.5 feet; North 34 degrees 10 minutes East 205.3 feet; North 49 degrees 10 minutes East 162.7 feet; North 34 degrees 35 minutes East 117.9 feet; North 16 degrees 30 minutes East 98 feet to a stake, another new corner of the said Davidson lands; thence



LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA



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along another new line South 67 degrees 35 minutes East 1050 feet to a stake; thence South 84 degrees 30 minutes East 182 feet to a stake in the West line of the aforesaid public road; thence along said road South 25 degrees 40 minutes West 449 feet to a stake; thence continuing along said road South 20 degrees 30 minutes West 300 feet to the point of beginning. Containing 21.35 acres, more or less, and being a part of the lands described in deed from P. R. Hamlet, Trustee, to Elizabeth Cahoon Howell recorded in Book 657, page 475, Wake County Registry, and according to map and survey of L. E. Wooten, Engineer, dated February 2, 1948. See also Book 983, page 621. Being the property conveyed by Samuel G. Rogers to Mary Z. Bryan by deed dated February 4, 1954, and recorded in Book 1142, page 411, Wake County Registry.

TRACT NO. 2:

BEGINNING at a point in the center of Blue Ridge Boulevard, this being the Northeast corner of the Ruby McDonald lot, and runs thence along the North line of said McDonald lot South 87 degrees 17 minutes West 213.5 feet to an iron pin; thence along the Western line of said McDonald lot South 26 degrees 13 minutes West 204 feet to an iron pin, the Southwest corner of the said McDonald lot; thence North 71 degrees 01 minutes West 1061 feet to an iron pin located just West of a branch, thence North 59 degrees 56 minutes East along the course of said branch 130 feet to an iron pin located just East of said branch, thence South 88 degrees 15 minutes East 553 feet to an iron pin, thence South 84 degrees 15 minutes East 691 feet to a point in the center of said Blue Ridge Boulevard; thence in a Southern direction along the center line of said lot 150 feet to the point of BEGINNING, containing 5.4 acres, more or less, according to a survey made by Collier Cobb, C. E., on March 7, 1950; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated February 28, 1961, and recorded in Book 1443, page 372, Wake County Registry.

TRACT NO. 3:

BEGINNING at an iron stake corner, a common corner with Blake, Spikes and King; thence North 84 degrees 05 minutes West 360 feet to an iron stake on the West bank of Jackson Branch; thence with the run of Jackson Branch as it meanders in a Southeasterly direction 430 feet; more or less, to a stake on the West bank of said Branch; thence South 88 degrees 15 minutes East 600 feet, more or less, to a white

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oak corner; thence North 02 degrees 00 minutes North 310 feet, more or less, to the point and place of BEGINNING, containing 3.8 acres, more or less; and being the property conveyed by F. L. Blake, et ux, to American Marietta Company by deed dated March 31, 1961, and recorded in Book 1447, page 602, Wake County Registry.

TRACT NO. 4:

BEGINNING at an iron stake corner; said corner being the Southeast corner of Tract No. 1 as shown on a plat and survey by J. B. Bray, dated April, 1917; thence North 3 degrees 30 minutes East 394 feet to a point; thence North 85 degrees 00 minutes West 2696 feet to a point; thence South 6 degrees 30 minutes West 406 feet to a point; thence South 85 degrees 00 minutes East 2707 feet to a point and place of BEGINNING, containing 25 acres, more or less; and being the property conveyed by Minnie K. Spikes, et al, to American Marietta Company by deed dated July 21, 1961, and recorded in Book 1463, page 96, Wake County Registry; said property being subject to easements to Carolina Power & Light Company recorded in Book 1005, page 354, Wake County Registry, and to Southern Bell Telephone and Telegraph Company recorded in Book 1165, page 495, Wake County Registry.

TRACT NO. 5:

BEGINNING in the center of the Cary Farm Prison Road and in a Northern boundary of a tract of land now being leased by the Grantee from the Grantor, said point being located 350.45' Northeast from the center of Crabtree Creek; thence with said Northern property line North 66 degrees 29 minutes West 51.5 feet to a reference iron stake on the Western margin of said road; thence continuing the said line North 66 degrees 29 minutes West 55 feet to an original iron stake in the property line; thence continuing with said property line North 66 degrees 29 minutes West 480.5 feet to an iron pipe in the Western margin of a "dirt road to rock quarry", said iron stake being in the Eastern boundary line of a 13.7 acre tract leased by the Grantee from the Grantor; thence continuing with said line and along the Western margin of said road North 39 degrees East 374 feet to an original iron stake, said stake being the Northeast corner of the aforesaid mentioned 13.7 acre tract and also being the Southeast corner of a 21.35 acre tract owned by the Grantee; thence continuing along the Western margin of said road and the Eastern boundary of the aforesaid tract North 24 degrees East 418 feet to an iron stake; thence North 29 degrees East 555

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feet to a point in the Western margin of the Cary Farm Prison Road; thence North 29 degrees East 50 feet to a point in the center of the present Cary Farm Prison Road, said point being the intersection of the projection of the Western boundary of the Old Cary Farm Prison Road, now "dirt road to rock quarry" with the center line of the present Cary Farm Prison Road; thence continuing with the center line of said road South 6 degrees 23 minutes East 584.62 feet to a point; thence with continuing the center line South 3 degrees 24 minutes West 414.66 feet to a point; thence continuing with said center line South 23 degrees 53 minutes West 389.35 feet to a point; thence continuing with said center line South 35 degrees 44 minutes West 74.7 feet to the point and place of BEGINNING; said tract containing 10.8 acres, more or less, and being more fully described on that certain map dated November 21, 1959, prepared by J. L. Higgins, Civil Engineer, Cary, N. C.; and being the property conveyed by Mrs. J. Frank Davidson to American Marietta Company by deed dated January 3, 1961, recorded in Book 1437, page 382, Wake County Registry.

TRACT NO. 6:

BEGINNING at an iron pipe on Steep Hill (or Jackson) Branch in the dividing line between property of grantors and land known as Superior Stone-Spikes land and being the Northeast corner of Tract 1 of land conveyed to grantors by deed dated July 10, 1962, recorded in Book 1512, page 649, Wake County Registry, and runs thence the following courses along Steep Hill Branch: S 32-15 W 315.0 feet, S 41-30 W 85.0 feet, S 58-50 W 220.0 feet, S 39-15 W 183.0 feet, S 50-20 W 122.0 feet, S 29-45 W 248.0 feet, S 46-00 W 165.0 feet, S 20-30 W 136.0 feet, S 9-30 W 213.0 feet, S 19-45 W 234.0 feet, S 6-35 W 210 feet, S 18-00 W 187 feet, S 4-00 E 282.0 feet, S 26-30 E 115.0 feet to an iron pipe; S 1-20 E 163.0 feet to an iron pipe on Crabtree Creek; runs thence along Crabtree Creek N 43-00 W 171.0 feet and N 46-45 W 153.5 feet to a cedar post; runs thence N 9-50 E 2381.0 feet to a cedar post in line of Superior Stone-Spikes land; runs thence along said line S 84-05 E 864 feet to an iron pipe, the place of BEGINNING; containing 18.0 acres according to map prepared by C. W. Russum, Registered Surveyor, from actual survey, dated September, 1962; and being the property conveyed by J. E. Ashburn, et ux, to Martin Marietta Corporation by deed dated October 24, 1962, recorded in Book 1533, page 577, Wake County Registry; subject to easement to Carolina Power & Light Company recorded in Book 1262, page 185, Wake County Registry.

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TRACT NO. 7:

BEGINNING at a hickory near Alford's Branch, and running North 4 degrees 30 minutes East 44.75 chains to Crabtree Creek; thence up Crabtree Creek 5.80 chains to a stake; thence nearly North 4 degrees 30 minutes East across creek to a birch; thence North 4 degrees 30 minutes East 5.41 chains to a stone, formerly a hickory; thence North 70 degrees West 24.85 chains to a birch on West side of Steep Hill Branch; thence down Steep Hill Branch 19 chains to Crabtree; thence up Crabtree Creek and through center of island 19.50 chains to Richland Creek; thence up said Creek 35.50 chains to a hickory on East bank of Richland Creek; thence South 5 degrees 30 minutes East 26.75 chains to a stone; thence South 4 degrees 30 minutes West 22.10 chains to a stone; thence South 88 degrees East 5.75 chains to the BEGINNING, containing 130 acres, more or less, and being the same land conveyed in deed registered in office of Register of Deeds for Wake County in Book 158, page 138 -- also see Book 212, page 541.

There is excepted from the above described property certain property conveyed by William J. Andrews, et ux, to H. A. Faucette, by deed dated October 11, 1935, and recorded in Book 722, page 555, Wake County Registry, and more particularly described as follows:

Situated in House Creek Township at High Bridge on New Road and BEGINNING at a birch on the North branch of Crabtree Creek, the corner of the Polly House land North of Crabtree Creek now owned by William J. Andrews, running thence North 4-1/2 degrees East 5.4 chains to a stone, formerly a hickory, running thence North 70 degrees West 24.85 chains to a birch on the West side of Steep Hill Branch, thence down Steep Hill Branch 19 chains to Crabtree Creek; thence down Crabtree Creek on the North bank, following the meanderings of the creek to the point of beginning, containing 30 acres, more or less.

There is also excepted from the above described property a tract conveyed by Martin-Marietta Corporation to Ashburn Construction Company by deed dated November 12, 1962, and recorded in Book 1533, page 527, and more particularly described as follows:

BEGINNING at a cement post on the Eastern edge of Prison Farm Road, said point being the Western

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corner of the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293 of the Wake County Registry; running thence North 7 degrees 20 minutes East 503.6 feet to an iron pipe; thence North 4 degrees 10 minutes East, 1017.7 feet to a cement post; thence South 85 degrees East 383 feet to a cement post; thence approximately South 5 degrees 20 minutes West 1519 feet, more or less, to a point, said point being South 85 degrees 50 minutes East of and 379.5 feet from the point of BEGINNING; thence North 85 degrees 50 minutes West 379.5 feet to the point of BEGINNING, said tract containing approximately 13 acres according to a survey made by C. W. Russum, dated September, 1962, being the Southern portion of the land conveyed to the party of the first part by deeds recorded in Book 1408, page 636, and Book 1510, page 293, of the Wake County Registry.

TO HAVE AND TO HOLD the aforesaid parcels of land and all privileges and appurtenances thereunto belonging to the said Grantee, its successors and assigns forever.

And the said Martin-Marietta Corporation, grantor, for itself, its successors and assigns, covenants with the Grantee, its successors and assigns, that it is seized of said premises in fee and has the right to convey the same in fee simple; that the same are free from encumbrances except as herein set forth; and that it will warrant and defend the said title to the same against the claims of all persons whomsoever.

IN TESTIMONY WHEREOF, Martin-Marietta Corporation has caused this instrument to be signed in its corporate name by its Vice President, its corporate seal hereunto affixed, and attested by its Secretary, by order of its Board of Directors, this the day and year first above written.



ATTEST:

Secretary

MARTIN-MARIETTA CORPORATION

BY Joseph C. Munday  
Vice President

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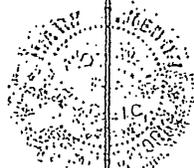
- 7 -

STATE OF NEW YORK  
COUNTY OF *New York*

This is to certify that on the *26<sup>th</sup>* day of *March*, 1964, before me personally came *W. L. Lucas* Secretary, with whom I am personally acquainted, who, being by me duly sworn, says that *Joseph E. Muckley* is the President, and *W. L. Lucas* is the Secretary of MARTIN-MARIETTA CORPORATION, the corporation described in and which executed the foregoing instrument; that he knows the common seal of said corporation; that the seal affixed to the foregoing instrument is said common seal, and the name of the corporation was subscribed thereto by the said *Joseph E. Muckley* President, and the said *W. L. Lucas* President and Secretary subscribed their names thereto, and said common seal was affixed, all by order of the Board of Directors of said corporation, and that the said instrument is the act and deed of said corporation.

Witness my hand and official seal, this the *26<sup>th</sup>* day of *March*, 1964.

*Mary T. Kenny*  
Notary Public  
My commission expires: *March 30, 1966*



MARY T. KENNY  
Notary Public, State of New York  
No. 34-7234825  
Qualified in New York County  
Commission Expires March 30, 1966

STATE OF NORTH CAROLINA  
Wake County  
The foregoing certificate of *Mary T. Kenny*  
Notary Public for *New York* County, State of *New York*  
is adjudged to be correct. Let the instrument  
with the certificate, be registered.

WITNESS my hand this the *23* day of  
*April*, 19*64*  
*Barbara H. Beatty*  
Deputy  
Clerk Superior's Court

LAW OFFICES  
JOYNER & HOWISON  
RALEIGH, NORTH CAROLINA

Filed for Registration at *11:10* o'clock *A.M.*  
*April 23, 1964* and registered in the  
Office of the Register of Deeds for Wake County,  
North Carolina, in Book *1592* Page *361*  
\_\_\_\_\_ 19\_\_

*W. E. Booker*  
*B. McKenzie*  
REGISTER OF DEEDS  
DEPUTY

WAKE COUNTY, NC 233  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
01/07/2014 AT 16:18:42

BOOK:015551 PAGE:01993 - 01998

**NORTH CAROLINA GENERAL WARRANTY DEED**

Excise Tax: \$ 0.00

Parcel Identifier No. 0786620033 000 Verified by \_\_\_\_\_ County on the \_\_\_\_ day of \_\_\_\_\_, 2013

By: \_\_\_\_\_

Mail/Box to: Lehigh Hanson, 300 East John Carpenter Freeway, Suite 1650, Irving, Texas 75062. Attn: Mineral Resources

This instrument was prepared by: Michael H. Hyer, General Counsel, Lehigh Hanson, 300 East John Carpenter Freeway, Suite 1650, Irving, Texas 75062

Brief description for the Index: \_\_\_\_\_

THIS DEED made this 19th day of December, 2013, by and between

**GRANTOR**

Beazer East, Inc.,  
a Delaware corporation,  
as successor to Beazer Materials and Services, Inc.,  
a Delaware corporation  
300 East John Carpenter Freeway, Suite 1650  
Irving, Texas 75062

**GRANTEE**

Hanson Aggregates Southeast LLC,  
a Delaware limited liability company  
300 East John Carpenter Freeway, Suite 1650  
Irving, Texas 75063

[NOTICE TO CLERK:  
Please index both names as GRANTOR]

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in House Creek Township, Wake County, North Carolina and more particularly described as follows:

See description of property being conveyed attached hereto and incorporated herein as Exhibit "A".

The Property hereinabove described was acquired by Grantor's predecessor by deed from Walter M. Derreth Jr., and wife, Elizabeth H. Derreth recorded in Book 4443 at page 0343, in Wake County Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor has done nothing to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons, other than the following exceptions:

- 1) Ad valorem taxes for the current year; and
- 2) Such unexpired rights of way, easements and restrictions as may appear on the public records of Wake County.

IN WITNESS WHEREOF, the Grantor has duly executed the foregoing as of the day and year first above written.

BEAZER EAST, INC.,  
 a Delaware corporation,  
 as successor to  
 Beazer Materials and Services Inc.,  
 a Delaware corporation

By:  \_\_\_\_\_  
 Michael Hyer  
 Vice President

STATE OF TEXAS  
COUNTY OF DALLAS

I, Amy Yi, a Notary Public of Dallas County, State of Texas, do hereby certify that Michael Hyer, the Vice President of Beazer East, Inc., a Delaware corporation, being authorized to do so, executed the foregoing on behalf of the corporation.

I certify that the Signatory personally appeared before me this day, and  
(check one of the following)

- (I have personal knowledge of the identity of the Signatory); or
- (I have seen satisfactory evidence of the Signatory's identity, by a current state or federal identification with the Signatory's photograph in the form of:  
(check one of the following)
  - a driver's license or
  - in the form of \_\_\_\_\_); or
  - (a credible witness has sworn to the identity of the Signatory).

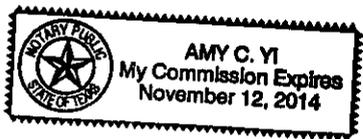
The Signatory acknowledged to me that (s)he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated.

Witness my hand and official stamp or seal this 19<sup>th</sup> day of December, 2013.

\_\_\_\_\_  
Notary Public

Print Name: Amy Yi  
[Note: Notary Public must sign exactly as on notary seal]

My Commission Expires: November 12, 2014  
☞ [NOTARY SEAL] (MUST BE FULLY LEGIBLE)



## EXHIBIT A

BEGINNING at an existing iron pipe, the southeastern corner of property now or formerly owned by Connell Realty & Mortgage Company and a corner of Lot 304, Oak Park Subdivision, Section Six, as shown on a map recorded in Book of Maps 1970, Volume One, Page 115, Wake County Registry; runs thence with the western boundaries of Lot 290 through 304, Oak Park Subdivision, Sections Five and Six, as shown on maps recorded in Book of Maps 1969, Page 68 and Book of Maps 1970, Page 115, Wake County Registry the following four courses and distances:

(1) South 21° 03' 29" East 471.99 feet to an existing iron pipe; and

(2) South 21° 03' 29" East 199.98 feet to an existing iron pipe;

(3) South 21° 03' 29" East 759.02 feet to an existing iron pipe; and

(4) South 05° 31' 21" East 260.25' to a point in the center line of Crabtree Creek; runs thence in a northwesterly direction with the center line of Crabtree Creek to a P.K. nail in the center line of the right-of-way of Duraleigh Road (100 foot right-of-way) in the bridge crossing Crabtree Creek, which center line of Crabtree Creek is referenced by a survey line beginning at the last aforementioned iron pipe, which survey line runs in a northwesterly direction the following four courses and distances:

(1) North 51° 25' 50" West 622.93 feet to an iron pipe set;

(2) North 23° 10' 14" West 614.29 feet to an iron pipe set;

(3) North 38° 40' 59" West 317.12 feet to an iron pipe set;

(4) North 54° 55' 49" West 259.63 feet to the aforesaid existing P.K. nail in the center line of the right-of-way of Duraleigh Road (100 foot right-of-way) in the bridge crossing Crabtree Creek;

thence North 11° 06' 00" West 431.31 feet to a point; thence North 68° 14' 00" West 288.00 feet to an iron pipe set in the southeasterly right-of-way of a county road; runs thence with the southeasterly right-of-way of said county road North 37° 01' 00" East 57.05 feet to a point; thence leaving said right-of-way and running with the southern boundaries of property now or formerly owned by Nello L. Teer Company and Connell Realty & Mortgage Company the following six courses and distances:

(1) South 68° 14' 00" East 476.45 feet to an existing iron pipe;

(2) South 68° 14' 00" East 99.80 feet to an existing iron pipe;

(3) South 68° 14' 00" East 54.41 feet to an existing iron pipe in the western right-of-way of Duraleigh Road;

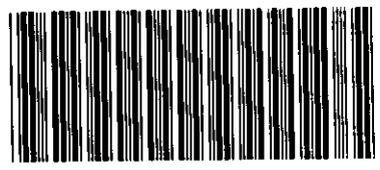
(4) South 68° 14' 00" East 53.91 feet to a P.K. nail set in the center line of Duraleigh Road;

(5) South 68° 19' 21" East 53.91 feet to an iron pipe set in the easterly right-of-way of Duraleigh Road; and

(6) South 68° 19' 21" East 245.49 feet to the point of BEGINNING and containing approximately 19.394 acres (to the center line of Crabtree Creek) inclusive of right-of-way according to a survey dated February 8, 1989 by Ragsdale Consultants, P.A. entitled "Nello L. Teer Company Walter Derreth Tract".

TOGETHER WITH with all of the area lying within the right-of-way of the county road (Old Prison Camp Road) which was conveyed to the Grantors by deed recorded in Book 1665, Page 46, Wake County Registry.

clp/leb227



BOOK:015551 PAGE:01993 - 01998



**Please retain yellow trailer page**  
It is part of the recorded document and must be submitted with the original for re-recording.

**Laura M. Riddick**  
**Register of Deeds**  
Wake County Justice Center  
300 South Salisbury Street, Suite 1700  
Raleigh, NC 27601

- New Time Stamp
- \$25 Non-Standard Fee
- Additional Document Fee
- Additional Reference Fee

**This Customer Group**  
\_\_\_\_\_ # of Time Stamps Needed

**This Document**  
\_\_\_\_\_ *6* # of Pages  
*Te*

WAKE COUNTY

24568

STATE OF NORTH CAROLINA



Real Estate Excise Tax

900.00

FEB 22 1989

BK4443PG0343

PRESENTED FOR RECORDED

89 FEB 22 PM 3:44

REGISTER OF DEEDS WAKE COUNTY

000162

Excise Tax 900.00

Recording Time, Book and Page

Tax Lot No. 404-0095 Parcel Identifier No. 0121812
Verified by County on the day of 19
by

Mail after recording to Maupin Taylor Ellis & Adams, P.A.
P. O. Box 19764, Raleigh, NC 27619

This instrument was prepared by MAUPIN TAYLOR ELLIS & ADAMS, P.A.

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 21st day of February, 19 89, by and between

GRANTOR

GRANTEE

WALTER M. DERRETH, JR., and wife, ELIZABETH H. DERRETH

BEAZER MATERIALS AND SERVICES, INC.

C/O Nello L. Teer Company
Post Office Box 1131
Durham, North Carolina 27702

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of House Creek Township, Wake County, North Carolina and more particularly described as follows:

SEE EXHIBIT A ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

The property hereinabove described was acquired by Grantor by instrument recorded in .....  
Book 1665, Page 46 and Book 2994, Page 479, Wake County Registry.

A map showing the above described property is recorded in Plat Book ..... page.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

Rights of way, easements and restrictions of record affecting title to the subject property.

1989 ad valorem taxes.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....  
(Corporate Name)  
By: .....  
.....  
President  
ATTEST:  
.....  
Secretary (Corporate Seal)

USE BLACK INK ONLY

*Walter M. Derreth, Jr.* ..... (SEAL)  
Walter M. Derreth, Jr.  
*Elizabeth H. Derreth* ..... (SEAL)  
Elizabeth H. Derreth  
..... (SEAL)  
..... (SEAL)

SEAL-STAMP

NORTH CAROLINA, WAKE County.

KAYE M. HORTON  
NOTARY PUBLIC  
JOHNSTON COUNTY, N.C.  
MY COMMISSION EXPIRES 7-2-91

I, a Notary Public of the County and State aforesaid, certify that  
Walter M. Derreth, Jr. and wife, Elizabeth H. Derreth, Grantor,  
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my  
hand and official stamp or seal, this 21st day of February 1989  
My commission expires: 7-2-91 *Kaye M. Horton* Notary Public

SEAL-STAMP

NORTH CAROLINA, ..... County.

I, a Notary Public of the County and State aforesaid, certify that .....  
personally came before me this day and acknowledged that ..... he is ..... Secretary of  
..... a North Carolina corporation, and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its .....  
President, sealed with its corporate seal and attested by ..... as its ..... Secretary.  
Witness my hand and official stamp or seal, this ..... day of ....., 19.....  
My commission expires: ..... Notary Public

The foregoing Certificate(s) of *Kaye M. Horton*

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

KENNETH C WILKINS

REGISTER OF DEEDS FOR *Wake* COUNTY

By *Bladys C. Smith* Deputy/Assistant - Register of Deeds

## EXHIBIT A

BEGINNING at an existing iron pipe, the southeastern corner of property now or formerly owned by Connell Realty & Mortgage Company and a corner of Lot 304, Oak Park Subdivision, Section Six, as shown on a map recorded in Book of Maps 1970, Volume One, Page 115, Wake County Registry; runs thence with the western boundaries of Lot 290 through 304, Oak Park Subdivision, Sections Five and Six, as shown on maps recorded in Book of Maps 1969, Page 68 and Book of Maps 1970, Page 115, Wake County Registry the following four courses and distances:

(1) South 21° 03' 29" East 471.99 feet to an existing iron pipe; and

(2) South 21° 03' 29" East 199.98 feet to an existing iron pipe;

(3) South 21° 03' 29" East 759.02 feet to an existing iron pipe; and

(4) South 05° 31' 21" East 260.25' to a point in the center line of Crabtree Creek; runs thence in a northwesterly direction with the center line of Crabtree Creek to a P.K. nail in the center line of the right-of-way of Duraleigh Road (100 foot right-of-way) in the bridge crossing Crabtree Creek, which center line of Crabtree Creek is referenced by a survey line beginning at the last aforementioned iron pipe, which survey line runs in a northwesterly direction the following four courses and distances:

(1) North 51° 25' 50" West 622.93 feet to an iron pipe set;

(2) North 23° 10' 14" West 614.29 feet to an iron pipe set;

(3) North 38° 40' 59" West 317.12 feet to an iron pipe set;

(4) North 54° 55' 49" West 259.63 feet to the aforesaid existing P.K. nail in the center line of the right-of-way of Duraleigh Road (100 foot right-of-way) in the bridge crossing Crabtree Creek;

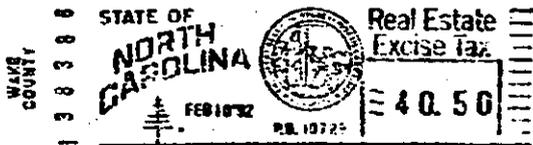
thence North 11° 06' 00" West 431.31 feet to a point; thence North 68° 14' 00" West 288.00 feet to an iron pipe set in the southeasterly right-of-way of a county road; runs thence with the southeasterly right-of-way of said county road North 37° 01' 00" East 57.05 feet to a point; thence leaving said right-of-way and running with the southern boundaries of property now or formerly owned by Nello L. Teer Company and Connell Realty & Mortgage Company the following six courses and distances:

BK 443 PG 0346

- (1) South 68° 14' 00" East 476.45 feet to an existing iron pipe;
- (2) South 68° 14' 00" East 99.80 feet to an existing iron pipe;
- (3) South 68° 14' 00" East 54.41 feet to an existing iron pipe in the western right-of-way of Duraleigh Road;
- (4) South 68° 14' 00" East 53.91 feet to a P.K. nail set in the center line of Duraleigh Road;
- (5) South 68° 19' 21" East 53.91 feet to an iron pipe set in the easterly right-of-way of Duraleigh Road; and
- (6) South 68° 19' 21" East 245.49 feet to the point of BEGINNING and containing approximately 19.394 acres (to the center line of Crabtree Creek) inclusive of right-of-way according to a survey dated February 8, 1989 by Ragsdale Consultants, P.A. entitled "Nello L. Teer Company Walter Derreth Tract".

TOGETHER WITH with all of the area lying within the right-of-way of the county road (Old Prison Camp Road) which was conveyed to the Grantors by deed recorded in Book 1665, Page 46, Wake County Registry.

clp/leb227



BOOK 2994 PAGE 479

PRESENTED FOR REGISTRATION

FEB 10 8 43 AM '82

R.S. HANZIE, JR.  
REGISTER OF DEEDS  
WAKE COUNTY, N.C.

Excise Tax 40.50

Recording Time, Book and Page

Tax Lot No. \_\_\_\_\_ Parcel Identifier No. Out of 0033707  
Verified by \_\_\_\_\_ County on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
by \_\_\_\_\_

Mail after recording to AKINS, MANN, PIKE & MERCER, P.A., Box 17884, Raleigh, NC 27619

This instrument was prepared by Akins, Mann, Pike & Mercer, P.A.

Brief description for the Index 18 acres, Crabtree Creek Land

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 5th day of February, 1982, by and between

GRANTOR

GRANTEE

HENRY CLARENCE HOWELL and wife,  
LOUELLNA STEGALL HOWELL

WALTER M. DERRETH, JR. and wife,  
ELIZABETH H. DERRETH

P. O. Box 10392  
Raleigh, North Carolina 27605

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of \_\_\_\_\_, \_\_\_\_\_ Township, \_\_\_\_\_ County, North Carolina and more particularly described as follows:

Wake \_\_\_\_\_ County, North Carolina and more particularly described as follows:

See Exhibit A, attached hereto and incorporated herein by reference.

The property hereinabove described was acquired by Grantor by instrument recorded in .....

A map showing the above described property is recorded in Plat Book ..... page .....  
TO HAVE AND TO HOLD a one-half undivided interest in the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

By: .....  
..... President  
ATTEST: .....  
..... Secretary (Corporate Seal)

USE BLACK INK ONLY

Henry Clarence Howell (SEAL)  
Henry Clarence Howell

Louellna Stegall Howell (SEAL)  
Louellna Stegall Howell



NORTH CAROLINA, Union County.  
I, a Notary Public of the County and State aforesaid, certify that Henry Clarence Howell, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 8th day of February, 1982.  
My commission expires: May 31, 1985 Betty L. McKey Notary Public



NORTH CAROLINA, Union County.  
I, a Notary Public of the County and State aforesaid, certify that Louellna Stegall Howell, Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 8th day of February, 1982.  
My commission expires: May 31, 1985 Betty L. McKey Notary Public

The foregoing Certificate(s) of Betty L. McKey

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

R.B. MCKENZIE, JR. REGISTER OF DEEDS FOR Wake COUNTY  
By Charles A. Kelly Deputy/Assistant - Register of Deeds

## EXHIBIT A

**TRACT I:** BEGINNING at an iron stake in the center line of Duraleigh Road, the southwestern corner of property owned now or formerly by Connell Realty & Mortgage Company; runs thence along the southeasterly line of said Connell Realty & Mortgage Company property South 68° 26' East 300.04 feet to an iron stake in the rear lot line of Lot 304, Oak Park Subdivision, Section 6, according to Book of Maps 1970, Page 115, Wake County Registry; runs thence along and with the rear of Lots 304 through 291, inclusive, of Oak Park Subdivision, Section 6, South 21° 08' East 1431.01 feet to an iron pin; runs thence along the rear of Lots 291 and 290, Oak Park Subdivision, Section 5, according to Book of Maps 1969, Page 68, Wake County Registry, South 05° 37' East 218.55 feet to a point marking a reference line which is approximately 85.0 feet from the center line of Crabtree Creek; runs thence along the center line of Crabtree Creek (the property line being the center line thereof) and following generally the reference line shown on the hereinafter recorded map the following courses and distances: North 47° 54' West 334.18 feet to a stake, North 46° 18' West 367.70 feet to a stake, North 21° 37' West 152.60 feet to a stake, North 79° 45' West 166.17 feet to a stake on the opposite side of Crabtree Creek, North 26° 18' West 395.25 feet to a stake, North 41° 56' West 331.78 feet to stake, and North 03° 23' West 89.69 feet to a point marking the center line of Crabtree Creek as it intersects with the center line of Duraleigh Road; runs thence along and with the center line of Duraleigh Road in a northerly direction along the following courses and distances: North 47° 49' East 138.19 feet to a stake, North 46° 54' East 98.50 feet to a stake, North 44° 41' East 96.64 feet to a stake, North 40° 02' East 103.62 feet to a stake, and North 36° 33' East 16.97 feet to a stake; runs thence across Duraleigh Road South 68° 26' East 52.00 feet to stake, the point and place of Beginning, and containing 15.99 acres (exclusive of right of way) as shown on a map entitled "Property of Walter M. Derreth, Jr. and wife, Elizabeth H. Derreth, Raleigh, N.C.", dated February 3, 1982, by John Y. Phelps, Jr., Registered Land Surveyor.

**TRACT II:** BEGINNING at a stake in the center line of Duraleigh Road, the southwest corner of property owned now or formerly by Nello L. Teer Co., runs thence along and with the center line of Duraleigh Road in a southwesterly direction the following courses and distances: South 36° 33' West 16.97 feet to a point, South 40° 02' West 103.62 feet to a point, South 44° 41' West 96.64 feet to a point, South 46° 54' West 98.50 feet to a point, and South 47° 49' West 138.19 feet to a point in the bridge marking the center line of Crabtree Creek; runs thence along and with the property owned now or formerly by Nello L. Teer Co., North 11° 06' West 431.31 feet to a point; runs thence North 68° 14' West 288.0 feet to a point in the western right of way line of a county road known as Old Prison Camp Road; runs thence along and with the eastern right of way line of said Old Prison Camp Road North 37° 01' East 57.05 feet to a point in the property line of Nello L. Teer Co.; runs thence along and with said Nello L. Teer Co. line South 68° 14' East 684.0 feet to a point in the center line of Duraleigh Road, the point and place of Beginning, and containing 2.01 acres (exclusive of right of way) as shown on a map dated February 5, 1982, entitled "Property of Walter M. Derreth, Jr. & Wife, Elizabeth H. Derreth, Raleigh, N.C.", by John Y. Phelps, Jr., Registered Land Surveyor.

REGULAR SESSION

FIRST DAY

January 4, 1960

The Wake County Board of Commissioners met in regular session in the Commissioners' Room, Wake County Courthouse, at 11:00 o'clock A. M., Monday, January 4, 1960. Members present were Chairman Haigh, Commissioners Powell, Holding, Robertson and Yancey.

Chairman Haigh called the meeting to order.

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Dr. W. L. Clegg, Pastor of the Hayes Barton Methodist Church, gave the invocation.

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IN RE PUBLIC HEARING AND ADOPTION OF ZONING ORDINANCE AND PLAN FOR WAKE COUNTY AS AMENDED

Chairman Haigh stated to the Board and interested citizens that pursuant to the provisions of Chapter 100b, Session Laws 1959, that the Board meeting is now open for public hearing upon the adoption of the Wake County Zoning Ordinance, including Zoning District Maps showing proposed district boundaries of Research Farming District and Rural Residential District, certified to the Wake County Board of Commissioners by the Wake County Planning Board as a Zoning Plan for that portion of Northwestern Wake County designated as a Zoning Area.

Chairman Haigh then asked if there were any interested citizens to be heard.

Mr. George Akers Moore, Jr., President of the Research Triangle Park, was the first person to appear. He stated that the Research Triangle Foundation feels that the zoning of this particular area is very important to the Research Triangle Park, and he stated that the Park is requesting that this area be zoned as so presented.

Mr. James Ray, Chairman of the Research Triangle Regional Planning Commission, stated that this proposed zoning plan will provide orderly growth of that particular area, and does not mean businesses cannot be developed in that area.

Mr. Pearson Stewart, Chief Planner for the Research Triangle Park, stated that this proposed ordinance for Wake County would divide the Northwestern portion of Wake County into two districts, the area around the Park as Research Farming District and the balance of the area as Rural Residential District. He stated that this ordinance will be considered a zoning plan and would be the first step forward for appropriate development of this area.

Mr. Louis E. Wooten appeared next and stated that he is heartedly in agreement with Mr. Moore, Mr. Ray and Mr. Stewart for zoning of this particular area. Mr. Wooten brought several sections and provisions in the proposed ordinance to the Board's attention, and stated that immediate provisions should be made so there will be no delays to builders in this area.

Mr. Banks, County Attorney, stated that the Board may at this time adopt zoning ordinance and map, adopt it with changes and modifications, or reject the entire plan.

FIRST DAY

January 4, 1960

Mr. Armistead Maupin, Attorney, appeared next and stated that he felt the County was going about this zoning backwards. Mr. Maupin then stated that he understood that this ordinance was patterned after the Durham County zoning ordinance which was adopted after a land use survey was made of the County; and, he stated that he felt that such a survey should be made in Wake County before adopting this ordinance.

Mr. J. J. Coggins appeared next and stated that this zoning does not affect any particular land he owns at the present, but that he feels that the property owners as a whole are being rushed and stampeded; and, that in his opinion the Research Triangle Foundation is nothing but a real estate development and promotion project.

Mr. Moore, President of the Research Triangle Foundation, denied that the Research Triangle is a real estate development that is promoted by people with a profit making motive and stated that the project is purely a civic project.

Mr. Maupin, Attorney, stated that he agreed with what Mr. Moore says about the Triangle Foundation, but that is not what the hearing is about. He then stated that he feels that the proper way to zone property is to make a plan and then to zone according to land uses.

Mr. Coggins then stated that he is not against the Research Triangle Park, but against zoning the portion of the County so designated before the ordinance is ready to take care of the zoning to come up.

Mr. Bruce Poole appeared next and stated that he agreed with Mr. Maupin that the only way to orderly zone anything is make a land use survey.

Mr. Jimmy Porter appeared next and stated that he is in favor of adopting the ordinance for zoning immediately as there is an emergency that calls for such steps.

Mr. Moore, President of the Foundation, stated that there are more people and companies interested in this area today than ever have been, and these people are going to make sure this area is orderly zoned.

Question was raised as to what is a land use survey and how long would a land use survey take.

Mr. Hale, Member of the Wake County Planning Board, stated that the idea of using the Durham County ordinance is that they had had made a survey, and that we could take advantage of their survey under this emergency situation.

Commissioner Holding stated that the Board had discussed for quite a few years the zoning of the County and that he feels this is a wise move.

At the request of the County Attorney, Mr. Banks, Mr. Pearson Stewart, Chief Planner of the Research Triangle Foundation, stated that the proposed zoning ordinance including district maps showing proposed district boundaries as certified by the Wake County Planning Board, does constitute a zoning plan for Wake County.

REGULAR SESSION

FIRST DAY

January 4, 1960

Mr. Armistead Maupin then stated that he would like to propose an amendment to this proposed ordinance. He stated that he would like that page 29 of the ordinance entitled, Section VIII NON-CONFORMING BUILDINGS AND USES, be amended to read, "It is the purpose of this Section to permit the continued normal operation of existing trades and businesses."

Commissioner Holding moved that Section VIII, NON-CONFORMING BUILDING AND USES, on page 29 of the Ordinance be amended to read, "It is the purpose of this Section to permit the continued normal operation of existing trades and businesses." Commissioner Yancey seconded this motion with all members voting aye.

Mr. Banks, County Attorney, brought to the Board's attention that the City of Raleigh has annexed some of the said property in the Wake County zoning area, and that the new city limits line will change the boundary line of the zoning area and amendment should be made to this zoning map.

Commissioner Holding moved that the zoning map be amended to conform with the new city limits of the City of Raleigh. Commissioner Powell seconded this motion with all members voting aye.

Chairman Haigh stated for the information of the interested citizens and the Board that a man to act as Director of Planning and Administrator of the Wake County Planning Board will be employed immediately to expedite this zoning plan being discussed and considered.

Commissioner Powell moved that the Zoning Ordinance, including Zoning District Maps showing proposed district boundaries of Research Farming District and Rural Residential District, a Wake County Zoning Plan, be adopted as amended. Commissioner Holding seconded this motion with all members voting aye.

The following resolution was adopted by the Board.

\* \* \*

RESOLUTION: RE: ZONING PLAN AND ORDINANCES

WHEREAS, the Wake County Planning Board duly appointed by the Wake County Board of Commissioners under and pursuant to the power and authority contained in Chapter 1006 of the Session Laws of 1959 and G. S. 153-9 (40), after having received and considered the recommendations of the Advisory Commission concerning Zoning Regulations for that area of Wake County duly designated as a Zoning Area, and after study and preparation of a Zoning Plan, Zoning Ordinance and Maps with the advice and assistance of trained, planning and zoning personnel; did on the 10th day of December, 1959 certify to the Wake County Board of Commissioners a Zoning Plan, including the full text of Zoning Ordinances and Maps showing the District boundaries, for the zoning area established by action of the Board of Commissioners in the manner provided by law; and

WHEREAS, upon receipt of the Zoning Plan including the full text of Zoning Ordinances with Maps attached showing the district boundaries by the Wake County Board of Commissioners, the Wake County Board of Commissioners by resolution duly adopted, and in the manner provided by Chapter 1006 of the Session Laws of 1959, called for a public hearing at 11:00 o'clock A. M. on Monday, January 4,

1960, on the adoption of the zoning plan and ordinance as recommended; and  
WHEREAS, at 11:00 o'clock A. M. on Monday, January 4, 1960,  
after due notice and advertisement as provided by law, and at a Regular Meeting  
of the Board of Commissioners, the meeting was declared open for a public hearing  
upon the Zoning Plan and Ordinances duly certified; and after an open and public  
hearing from all parties interested and desiring to be heard and after amending the  
proposed Zoning Ordinances as hereinabove in these minutes set forth, it was upon  
motion by Commissioner J. Dewey Powell, seconded by Commissioner W. W. Holding,  
and upon roll call vote unanimously voted and resolved as follows:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WAKE COUNTY  
that for the purpose of promoting the health, safety, morals and general welfare  
that an ordinance entitled "Zoning Ordinance", as amended, together with maps  
attached showing District Boundaries, is hereby adopted on this the 4th day of  
January, 1960 and:

\* \* \*

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY  
OF WAKE, NORTH CAROLINA, AS FOLLOWS:

#### SECTION I

##### KINDS OF DISTRICTS AND DISTRICT BOUNDARIES

1. That for the purpose of promoting the health, safety, morals or the general welfare of the community; to regulate and restrict the height, number of stories and size of buildings and other open spaces, the density of population, the location and use of buildings, structures, and land for trade, industry, residence or other purposes except farming or agriculture operations or the keeping of livestock; for the purpose of lessening congestion in the streets; to secure safety from fire, panic and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water sewerage, schools, parks, and other public requirements; with a view to conserving the value of buildings, regulating and restricting the location of trades and industries and the location of buildings designed for specific uses, and encouraging the most appropriate use of land throughout the county; with reasonable consideration given to the expansion, development, and orderly growth of the incorporated area of the County, the Northwestern Wake County Zoning Area is hereby divided into two (2) classes of districts as follows:

RF: Research - Farming District

RR: Rural Residential District

##### 2. DISTRICT BOUNDARIES

The location and boundaries of the zoning district shall be as shown on a map entitled "Wake County, Northwestern Wake County Zoning Area, Zoning Plan, \_\_\_\_\_", which map is hereby declared to be a part of this ordinance.

District boundary lines are intended to follow street, lot, or property lines as they exist at the time of the passage of this ordinance, unless such district boundary lines are fixed by dimensions as shown on said map.

##### 3. EXCEPT AS HEREINAFTER PROVIDED:

(a) No building shall be erected and no existing building shall be moved, altered, added to, or enlarged, nor shall any land or building be used, designed, or intended to be used for any purpose or in any manner other than is included among the uses hereinafter listed as permitted in the district in which such building or land is located.

(b) No building shall be erected, reconstructed, or structurally altered to exceed in height, the limit hereinafter designated for the district in which such building is located.

(c) No building shall be erected, nor shall any open space surrounding any building be encroached upon or reduced in any manner, except in conformity to the year, lot area, and building located regulations hereinafter designated for the district in which such building or open space is located.

(d) No yard or other open space provided about any building for the purpose of complying with the provisions of this ordinance shall be considered as providing a yard or any open space for any other building, and no yard or other open space on one lot shall be considered as providing a yard or open space for a building on any other lot.

REGULAR SESSION

FIRST DAY

January 4, 1900

SECTION II

DEFINITIONS:

For the purpose of this ordinance certain terms and words are herein defined as follows:

Words used in the present tense include the future; words in the singular number include the plural number, and words in the plural number include the singular number; the word "shall" is mandatory and not directory; the word "building" includes the word "structure", the word "lot" includes the word "plot".

ACCESSORY BUILDING:

A subordinate building on the same lot with a main building, the use of which is incidental to that of the main building, such as a private garage.

ALLEY:

A public thoroughfare less than thirty (30) feet wide.

APARTMENT:

A room, or suite of two or more rooms, which is designed or intended for occupancy by, or which is occupied by, one family doing its cooking therein.

BILLBOARDS OR POSTER PANEL:

Any sign or advertisement used as an outdoor display by painting, posting, or affixing on any surface, or a picture, emblem, words, figures, numbers, or lettering for the purpose of making anything known, the matter advertised or displayed being remote from its origin or point of sale. Ground signs exceeding 100 square feet in area shall be deemed Billboards by the terms of this ordinance.

BOARDING HOUSE:

A building other than a hotel where, for compensation, meals, or lodging and meals, are provided for five or more, but not exceeding nine guests.

BUILDING:

A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals, or chattels. When separated by division walls from the ground up without openings, each portion of such building shall be deemed a separate building.

BUILDING, FRONT OF:

The side of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.

BUILDING HEIGHT:

The vertical distance measured from the level of the curb or established center line grade of the street opposite the middle of the front elevation of the main entrance of the building to the highest point of the roof surface, if a flat roof; to the deck line of a mansard roof; and to the mean height level between eaves and ridge for a gable, hip, or gambrel roof. On corner lots exceeding twenty thousand (20,000) square feet in area, the height of the building may be measured from the curb grade or established center line grade of the street at the center of either street frontage. For lots extending through from street to street, the height may be measured from the curb grade or established center line grade of the street at the center of either street frontage, provided that the maximum permissible height as measured from the lower street shall extend back from the street line of such lower street for a distance of not less than one hundred fifty (150) feet.

BUILDING LINE:

A line between which and any street line of a district, lot, tract, or parcel of land, no buildings or parts of buildings may be erected, altered, or maintained.

BUILDING LINE SETBACK:

The distance between the building line and the street line in a district, lot, tract, or parcel of land.

BUILDING MAIN:

A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which the same is situated.

CENTER LINE OF STREET:

The center line of a street or highway, for the purpose of this ordinance, shall be that which has been ascertained and determined by the State Highway and Public Works Commission.

CERTIFICATE OF OCCUPANCY:

A statement, signed by an administrative officer, setting forth that a building, structure, or use complies with the Zoning Ordinance and that the same may be used for the purposes stated therein.

DWELLING, ONE FAMILY:

A detached building designed for, or occupied exclusively by, one family.

FAMILY:

One or more individuals, occupying a premises and living as a single non-profit housekeeping unit, including domestic servants.

GARAGE:

A building used for the storage or housing of motor-driven vehicles.

GARAGE, PUBLIC:

Any garage not included within the definition of a private garage.

GUEST ROOM:

A room which is designed or intended for occupancy by, or which is occupied by, one or more guests, but in which no provision is made for cooking, and not including dormitories for sleeping purposes.

HOME OCCUPATION:

An occupation for gain or support conducted entirely and only by members of a family within a residential building and provided that no article is sold or offered for sale except such as may be produced in the household by members of the family, and that no display of products shall be visible from the street, and that no accessory building shall be used for such home occupation.

LINEAR FRONTAGE:

The length of the front lot line.

LINEAR BLOCK:

That property abutting on one side of a street between the two nearest intersecting or intercepting streets, natural barrier, or between such cross-street and the end of a dead end street or cul-de-sac, provided, however, that where a street curves so that any two adjacent 100 feet chords thereof form an angle of one hundred and twenty degrees or less, measured on the lot side, such curve shall be construed as an intersecting street.

LOT:

A parcel of land which fronts on and has ingress and egress by means of a public right-of-way and which is occupied or intended to be occupied by one building and accessory buildings and uses, and including the open space required under this ordinance. A lot may be land so recorded on a plat of record or considered as a unit of property and described by metes and bounds, but it may include parts of, or a combination of such lots when adjacent to one another, provided such ground is used for one improvement.

LOT, CORNER:

A lot abutting on two (2) or more streets at their intersection.

LOT, DEPTH:

The mean distance between front and rear lot lines.

LOT, FRONT OF:

The front of a lot shall be considered to be that side of the lot which fronts on a street. In the case of a corner lot, the narrowest side fronting on the street shall be considered to be the front of the lot. In case the corner lot has equal frontage on two or more streets, the lot shall be considered to front on that street on which the greatest number of buildings have been erected on that side on the street within the same block.

LOT, INTERIOR:

A lot other than a corner lot.

LOT, WIDTH:

The distance between straight side lot lines measured at a point fifty (50) feet back from the front line thereof.

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NON-CONFORMING USE:

Use of a building or of land that does not conform to the regulations for the district in which it is situated.

ROOMING HOUSE:

Any building or portion thereof which contains guest rooms which are designed or intended to be used, let, or hired out for occupancy by, or which are occupied by five (5) or more, but not exceeding nine (9) individuals for compensation whether the compensation be paid directly or indirectly.

ROW HOUSE:

A row house is one of a series of three (3) or more houses, or living units, under a common roof, with common exterior wall, separated from one another by single partition walls extending from basement to roof, or otherwise so planned that the several unit houses may be sold to separate owners.

SIGN:

Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or trade marks by which anything is made known such as are used to designate an individual, a firm, an association, a corporation, a profession, a business, or a commodity or products, which are visible from any public highway and used to attract attention.

STREET:

A public thoroughfare, thirty (30) feet or more wide. Where title to land extends to the center of a road, easement, or right-of-way, the side lines of such road, easement, or right-of-way shall be considered as the side lines of a street.

STREET WIDTH:

The horizontal distance between the side lines of a street, measured at right angles to the side lines.

STORY:

The vertical distance of a building included between the surface of any floor and the surface of the next floor about it, or, if there be no floor about it, then the space between such floor and ceiling next about it, provided that a cellar shall not be considered a story.

TOURIST HOME:

A building in which board or lodging, or both are offered to the traveling public for compensation, open to transient guests, in contradistinction to a boarding house or a lodging house.

TRAILER:

Any vehicle, house car, camp car, or any portable or movable vehicle on wheels, skids, rollers, or blocks, either self-propelled or propelled by any other means, which is used or designed to be used for residential, living, sleeping, commercial, or utility purposes, but not including those vehicles primarily designed for the transportation of goods.

TRAILER CAMP:

Any premise used or intended to be used or occupied by two (2) or more trailers, ANCHORED IN PLACE or supported by a foundation or other stationary supports, together with automobile parking space, utility structures, or trailers and other required facilities incidental thereto. This definition shall not include trailer sales lots on which unoccupied trailers are parked for purposes of inspection and sale.

YARD:

An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward.

YARD, FRONT:

A yard extending across the full width of the lot and lying between the front line of the lot and the nearest line of the building. The depth of a front yard shall be measured at right angles to the front line of the lot.

YARD, REAR:

A yard extending across the full width of the lot and lying between the rear line of the lot and the nearest line of the building. The depth of a rear yard shall be measured at right angles to the rear line of the lot.

YARD, SIDE:

An open, unoccupied space between the side line of the lot and the nearest line of the building and extending from the front yard to the rear yard, or, in the absence of either of such yards, to the front or rear lot lines, as may be. The width of a side yard shall be measured at right angles to the side line of the lot.

SECTION III

RF: RESEARCH - FARMING DISTRICTS

(A) AGRICULTURAL OR FARMING PURPOSES

All realty, and all buildings and structures whatsoever, being or to be used for agricultural, farming, livestock, or poultry operations, and all forestry land shall be exempt from each and every provision of this ordinance. Agricultural or farming purposes shall be realty, buildings, or other structures which fall into any one of the following classifications:

- (a) Any area of realty which is comprised of forty (40) acres or more:
- (b) Any area smaller than forty (40) acres which yields an annual gross income of five hundred dollars (\$500) or more from any agricultural, farming, livestock or poultry operation, exclusive of home gardens.

1. USES PERMITTED:

Intent. It is the intent of the use regulations which follow to limit uses in RF Districts to research activities and related operations. It is the further intent of these use regulations to permit production of products, plans, or designs when the primary purpose of such production is research development, or evaluation; production of products primarily or customarily for sale or for use in production operations elsewhere is not a permitted use.

Definition. A tract is a parcel of land which is occupied or intended to be occupied by uses permitted by this section and including any open spaces required by this section.

- (a) Laboratories, offices, and other facilities for research, both basic and applied, conducted by or for any individual, organization, or concern, whether public or private.
- (b) Production of prototype products when limited to the scale necessary for full investigation of the merits of a product; in no case shall any such product be produced on the premises primarily or customarily for sale or for use in production operations elsewhere.
- (c) Pilot plants in which processes planned for use in production elsewhere can be tested; in no case shall any product be produced on the premises in a pilot plant primarily or customarily for sale or for use in production operations elsewhere.
- (d) Retail uses incidental to and in support of any uses permitted in paragraphs (a) through (c) above, such as cafeterias, soda or dairy bars, and shops on the same tract as the permitted use. Any such use shall be conducted primarily for the convenience of employees; shall be wholly within a building; and shall have no exterior advertising display.
- (e) Operations required to maintain or support any use permitted in paragraphs (a) through (c) above, on the same tract as the permitted use, such as maintenance shops, power plants, keeping of animals, antenna farms, machine shops.
- (f) Agricultural or farming purposes as permitted above. Dwellings; provided, however, that the occupants shall be engaged in agricultural activities on the premises as their principal means of livelihood.

2. BUILDING HEIGHT LIMIT.

None

3. REQUIRED LOT AREA.

Each tract of land devoted to building uses other than agricultural activities shall have an area of not less than six (6) acres and an average width of not less than four hundred (400) feet.

4. PERCENTAGE OF LOT COVERED.

Not more than five (5) percent of the total area of a tract shall be covered by buildings and the total floor area of all buildings shall not exceed an area equal to ten (10) per cent of the total area of a tract.

5. REQUIRED YARDS.

(a) Yards Facing and Existing or Proposed Street (not including interior circulation roads or drives within an individual tract):

There shall be a required yard adjacent to each existing or proposed street which bounds an individual tract. Such required yard shall have not less than one hundred and fifty (150) feet in depth, plus an additional one (1) foot for each acre of land which is included in the tract, provided that required yards adjacent to a street may be but need not be greater than two hundred and fifty (250) feet in depth. Examples of required yards are shown in Table 1.

Table 1

<u>Size of Tract</u>	<u>Required Yard Adjacent to a Street</u>
6 acres	156 feet
10 acres	160 feet
25 acres	175 feet
50 acres	200 feet
100 acres	250 feet

(b) Yards Adjacent to Interior Property Lines:

There shall be a required yard adjacent to each interior lot line of not less than one hundred and fifty (150) feet in depth except as provided in paragraph (c) below.

(c) Yards Adjacent to Railroads:

Requirements for yards adjacent to interior property lines shall not be applicable to buildings erected adjacent to a railroad or railroad siding.

(d) All required yards shall be kept clear of parking, loading area for supplies and services except railroad loading area, and buildings, provided, however, that a gate or security station may be located in a required yard.

6. LOCATION OF ACCESSORY USES.

Notwithstanding the provisions of Section VII, sub-section A 1, of this ordinance, maintenance and support uses permitted in sub-section 1 (e) above shall be permitted on any portion of a tract except within any required yards.

7. PARKING AND LOADING

Notwithstanding any other provisions or standards contained in this ordinance, parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, and employees shall be provided on the premises of each use. Except in the case of agricultural uses not related to research activity, parking areas shall not be placed in any required yard, shall be paved with dust-free, all-weather surface, and shall be properly drained and landscaped. Loading areas for supplies and services shall be sufficient to meet the requirements of each use. Loading areas except railroad loading areas shall not be placed within any required yard and shall be located or properly screened so as to be not visible from any property line.

8. SIGNS

Billboards or other outdoor advertising signs, other than those identifying the name, business, and products of the person or firm of a principal use located on the premises shall not be permitted. Permitted identification signs may be located in a required yard.

9. STORAGE

Outside storage of any materials, supplies, or products shall not be permitted within any required yard, and further, outside storage shall be located or properly screened so as to be not visible from any property line.

10. PERFORMANCE STANDARDS.

(a) Intent. It is the intent of this sub-section to provide that research and related activities shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of emission of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc.

It is the further intent of this sub-section to state the conditions of construction and operation with which research and related uses will be expected to comply. In many cases the relation of a prospective use to all these performance standards cannot be judged properly at the time of building permit issuance. In such cases, the recipient of the building permit should note that these performance standards, like all other provisions of this ordinance, are continuing obligations and that all research uses will be expected to operate in compliance with these standards.

(b) Compliance. The performance standards set forth in sub-paragraph (e) below shall be complied with and any use which fails to comply with these standards shall be in violation of this ordinance and be subject to penalties as accorded by the laws of the State of North Carolina for such violation.

(c) Measurement. Each measurable standard shall be measured at the appropriate indicated location.

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(d) Effects of Concurrent Operations. The sum total of the effects of concurrent operations on two or more tracts measured at any property line shall not be greater or more offensive to the senses than the standards contained herein. Compliance with the provisions of this sub-paragraph by single or mutual changes in operational levels, scheduling of operations, and other adjustments is permitted

(e) Standards:

1. Landscaping. All required yards shall either be open landscaped and green areas or be left in a natural state. If any yards are to be landscaped, they shall be landscaped attractively with lawn, trees, shrubs, etc. Any areas left in a natural state shall be properly maintained in a slightly and well-kept condition. Parking areas shall also be maintained in a slightly and well-kept condition.

2. Noise. Noise shall be measured on any property line of the tract on which the operation is located. Noise shall be muffled so as not to become objectionable due to intermittence, beat frequency, shrillness or intensity. At the property line the sound pressure level of noise radiated continuously from a facility shall not exceed the values given in Tables 2 and 3 in any octave band of frequency. The sound pressure level shall be measured with a Sound Level Meter and an Octave Band Analyzer that conform to specifications published by the American Standards Association. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, Z24.3-1944, and American Standard Specifications for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, Z24.10-1953, American Standards Association, Inc., New York, N. Y., shall be used.)

Table 2

Maximum permissible sound pressure levels at specified points of measurement for noise radiated continuously from a facility.

Frequency Band Cycles Per Second	Decibel*Level
20 -	75 ..... 69
75 -	150 ..... 54
150 -	300 ..... 47
300 -	600 ..... 41
600 -	1,200 ..... 37
1,200 -	2,400 ..... 34
2,400 -	4,800 ..... 31
4,800 -	10,000 ..... 28
10,000 -	20,000 ..... 26)
20,000 -	30,000 ..... 25)
30,000 -	40,000 ..... 24)
40,000 -	50,000 ..... 23)

(To avoid possible interference with animal experiments)

\* According to the following formula:

$$\text{Sound Pressure Level in Decibels equals } 10 \log \frac{P_1}{P_2}$$

where  $P_2$  equals 0.0002 dynes/cm<sup>2</sup>

If the noise is not smooth and continuous, one or more of the corrections in Table 3 below shall be added to or subtracted from each of the decibel levels given about in Table 2.

Table 3

Type of Operation or Character of Noise	Correction in Decibels
Noise source operates less than 20% of any one hour period	plus 5*
Noise source operates less than 5% of any one hour period	plus 10*
Noise source operates less than 1% of any one hour period	plus 15*
Noise of impulsive character (hammering, etc.)	minus 5
Noise of periodic character (hum, screech, etc.)	minus 5

\*Apply one of these corrections only.

3. Odors. Odors from any use hereafter begun shall not be discernible at the property line to a greater degree than odors from plants for the manufacture or fabrication of books, textile weaves, electronic equipment, or other plants in which operations do not result in greater degree of odors. The values given in Table III (Odor Thresholds) Chapter 5, "Physiological Effects", in the "Air Pollution Abatement Manual", by the Manufacturing Chemists' Association, Inc., Washington, D. C., copy-right 1951, shall be used as standard in case of doubt concerning the character of odors emitted. In such case the smallest value given in Table III shall be the maximum odor permitted. Detailed plans for the prevention of odors crossing property lines may be required before the issuance of a building permit.

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4. Glare: Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.

5. Exterior Lighting. Any lights used for exterior illumination shall direct light away from adjoining properties.

6. Vibration. Vibration shall not be discernible at any property line to the human sense of feeling for three minutes or more duration in any one hour. Vibration at any time shall not produce at any time an acceleration of more than 0.1 gravities or shall result in any combination of amplitudes and frequencies beyond the "safe" range of Table 7 United States Bureau of Mines Bulletin No. 442, "Seismic Effects of Quarry Blasting", on any structure. The methods and equations of said Bulletin No. 442 shall be used to compute all values for the enforcement of this provision.

7. Smoke. Measurement shall be of the point of emission. The Ringelman Smoke Chart published by the United States Bureau of Mines shall be used for the measurement of smoke. Smoke not darker or more opaque than No. 1 on said chart may be emitted except that smoke not darker or more opaque than No. 2 on said chart may be emitted for periods no longer than four (4) minutes in any thirty (30) minutes. These provisions, applicable to visible grey smoke, shall also apply to visible smoke of a different color but with an equivalent apparent opacity. The provisions of paragraph 12 below shall apply to smoke.

8. Dust. Solid or liquid particles shall not be emitted at any point in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air. The provisions of paragraph 12 below shall apply to dust.

9. Gases. Fumes or gases shall not be emitted at any point in concentrations or amounts that are noxious, toxic, or corrosive. The values given in Table I (Industrial Hygiene Standards - Maximum Allowable Concentration for eight hour day, five days per week), Table III (Odor Thresholds), Table IV (Concentrations of Substances Causing Pain in the Eyes), and Table V (Exposures to Substances Causing Injury to Vegetation) in the latest revision of Chapter 5, "Physiological Effects", that contains such tables, in the "Air Pollution Abatement Manual", by the Manufacturing Chemists' Association, Inc., Washington, D. C., are hereby established as guides for the determination of permissible concentration or amounts. Detailed plans for the elimination of fumes or gases may be required before the issuance of a building permit. The provisions of paragraph 12 below shall apply to gases.

10. Hazard. Any research operation shall be carried on with reasonable precautions against fire and explosion hazards.

11. Radiation. Research operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Atomic Energy Commission.

12. Radioactivity. Operations shall cause no radioactivity at any property line in violation of Title 10, Chapter 1, Part 20, Code of Federal Regulations, "Standards for Protection Against Radiation", dated January 16, 1957, or any subsequent revision or amendment thereof and Chapter 481 of the 1959 Session Laws of North Carolina, "The Use of Ionizing Radiation, Radiation Machines, and Radioactive Materials, and Atomic Energy".

13. Electrical Radiation. Any electrical radiation shall not adversely affect at any point any operations or any equipment other than those of the creator of the radiation. Avoidance of adverse effects from electrical radiation by appropriate single or mutual scheduling of operations is permitted.

14. Waste. All sewage and industrial wastes shall be treated and disposed of in such manner as to comply with the water quality standards applicable to the classification assigned to the receiving waters by the North Carolina Stream Sanitation Committee. Approval of the North Carolina Stream Sanitation Committee of all plans for waste disposal facilities shall be required before the issuance of any building permit. The provisions of paragraph 12 above shall apply to wastes.

SECTION IV

RR: RURAL RESIDENTIAL DISTRICTS

The following regulations shall apply in all RR Districts:

(A) AGRICULTURAL OR FARMING PURPOSES:

All realty, and all buildings and structures whatsoever, being used or to be used for agricultural, farming, livestock or poultry operations, and all forestry land, all as defined in Section III, sub-section (A), of this ordinance, shall be exempt from each and every provision of this ordinance.

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1. USES PERMITTED:

- (a) One family dwellings.
- (b) The offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, artists, architects, where such professions are carried on in their respective residences.
- (c) Customary home occupations, such as dressmaking, music teaching, preserving, home cooking and laundering, and beauty parlors, provided that such occupation shall be engaged in only by residents on the premises, and not more than the equivalent of the area of one floor shall be used for such occupations, that no display of products nor any advertising of any nature shall be visible from the street and that no accessory buildings shall be used for such home occupations.
- (d) Churches and other places of worship, including parish houses and Sunday Schools.
- (e) Colleges, schools, public libraries, public museums, and art galleries.
- (f) Clubs and grounds for games or sports, provided any such use is not primarily for commercial gain, nor for which any mechanical amusement equipment is operated incidental to such games or sports.
- (g) Publicly operated recreation buildings, playgrounds, parks, and athletic fields.
- (h) Community buildings.
- (i) Hospitals or sanatoria, philanthropic, or eleemosynary institutions, except correctional institutions, those intended for the care of insane and feeble-minded patients, and animal hospitals. Any building permitted to be used shall be set back not less than one hundred (100) feet from any lot line or street line, and provided further that the exterior appearance of the building shall be in appropriate harmony with the residential character of the area.
- (j) Buildings which are used exclusively by the Federal, State, County, or City governments for public purposes except penal and correctional institutions.
- (k) Static transformer stations, transmission lines and towers, and telephone exchanges, radio and television towers and transmitting or relay stations, not including service and storage yards; provided, that the exterior appearance of any building or structure permitted under this paragraph shall be in keeping with the character of the neighborhood in which it is located and that both the appearance and location of any buildings, transmission lines and towers, and incidental structures shall be specifically approved by the Board of Adjustment.
- (l) Cemeteries, provided that any location shall be approved by the County Board of Commissioners of Wake County.
- (m) Truck gardens, nurseries, and greenhouses, but not including any salesrooms or other buildings used primarily for the sale of products thereof.
- (n) Accessory buildings and accessory uses, including private garage, servant quarters, and non-commercial guest houses.

2. REQUIRED LOT AREA:

Each dwelling together with its accessory buildings hereafter erected shall be located on a lot or plot having any area of not less than twenty thousand (20,000) square feet and an average width of not less than one hundred (100) feet, except that a dwelling may be erected on a lot or plot having less than the foregoing minimum area and width, provided the same existed under one ownership by virtue of a recorded plat or deed at the time of the passage of this ordinance.

All such lots or plots shall front on and have ingress and egress by means of a public right-of-way.

3. PERCENTAGE OF LOT COVERAGE:

All dwellings and accessory buildings on any lot shall not cover more than thirty (30) per cent of the area of such lot. For the purpose of computing lot coverage for dwellings, unless otherwise shown, a minimum of one hundred eighty (180) square feet of accessory building space or automobile parking space shall be assumed as being required for each family occupying said lot.

4. FRONT YARD REQUIRED:

Each lot shall have a front yard having a depth equal to the building line setback as hereinafter set forth in this ordinance in Section IV.

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5. SIDE YARD REQUIRED:

(a) There shall be a side yard along each side of each building, each side yard having a width of not less than twenty (20) feet, provided that on any lot having an average width of less than 100 feet, which lot was recorded in a plat or deed under one ownership at the time of the adoption of this ordinance, the width of each side yard may be reduced to twelve (12) per cent of the width of such lot, but no such side yard shall have a width of less than eight (8) feet, and the aggregate width of both side yards on any lot shall be not less than thirty (30) per cent of the width of such lot. Provided further that all lots 55 feet in width, or less, subdivided prior to the passage of this ordinance, shall have a side yard of not less than six (6) feet.

(b) The side yard on the street side of a corner lot shall be in accordance with the provisions hereinafter set out in Section V, "Building Lines".

6. REAR YARD REQUIRED:

Each lot shall have a rear yard not less than twenty-five (25) feet in depth.

7. ONE DWELLING PER LOT:

Only one dwelling, whether building or trailer, shall be permitted on each lot except in the case of quarters for domestic servants as hereinafter described. No building to be used as a dwelling or tenement house shall be constructed or altered in the rear of or moved to the rear of a building situated on the same lot. Nor shall any building be constructed in front of or moved to the front of a dwelling or tenement house situated on the same lot. These provisions shall not be construed, however, as to prevent the erection, alteration, and maintenance of dwelling quarters in connection with an accessory building upon the rear of the lot, when the persons occupying such quarters are employed in domestic service upon the premises.

8. OFF-STREET PARKING:

Off-street parking spaces of sufficient number to provide for each vehicle customarily parked in conjunction with each lot shall be provided on each lot.

SECTION V

BUILDING LINES:

1. Residence Districts

(a) In any RR Districts no building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the residential buildings on the same side of the street and fronting thereon within the same block, or within 600 feet on each side thereof. No building shall be required to set back from the street a greater distance than the setback line observed by one of two existing buildings on the immediately adjoining lots on each side which is further removed from the street line. In no case shall such building setback line be nearer than fifty (50) feet from the center line of the street on which such building faces. Neither will the required setback need be more than fifty (50) feet from the street or highway right-of-way line.

(b) When there are buildings on only one side of a street or highway within the block, or within 600 feet on either side, the setback line for the unoccupied side shall be the same as that established on the occupied side as herein provided.

(c) Where there is no building on either side of the street within a block or within 600 feet on either side of the side proposed to be used, the setback lines shall not be less than seventy (70) feet measured from the center line of the street when fronting upon a street or highway of less than sixty (60) feet in width, and not less than forty (40) feet measured from the street line when fronting upon a street of sixty (60) feet or more in width.

(d) The side line of a building on a corner lot shall not be a factor in establishing the setback line on the side street.

(e) In all RR Districts there shall be a side yard on the street side of a corner lot which shall have a width of not less than fifty (50) per cent of the front yard depth required for the adjacent lot to the rear of such corner lot, when such adjacent lot fronts on the side street of the corner lot. In RR Districts such side yard shall be not less than twenty (20) feet. In any case, the side yard line in any RR Districts shall not be less than 50 feet from the center line of the side street.

(f) Corner lots that are re-subdivided to front a street other than that which they originally faced shall conform to the setback line of the street which they originally faced in addition to the setback line of the street upon which they front after re-subdivision. On corner lots where buildings or structures are designed to front on the side street of said corner lots, such structures shall be required to observe the setback line established for the street which such building or structure faces as well as that established for the street on which such lot fronts.

SECTION VI

SIGNS:

A. GENERAL REQUIREMENTS:

1. Intent

It is the intent of this section to restrict the use of advertising signs to promote and preserve the inherent right of enjoyment of the natural countryside by the public generally and to confine such advertising privileges to districts wherein such advertising is permitted in a controlled manner in order that such advertising rights are equally preserved and the general public benefitted.

Recognized advertising abuses are intended to be curbed, corrected, or eliminated. Individual advertising ingenuity is encouraged.

Where, in the exercise of such individual ingenuity and good judgment of an advertiser, the Board of Adjustment in certain circumstances may permit an exception to the following regulations, with proper safeguards and qualifications, and under certain conditions, and for limited periods of time, upon the filing of an appeal from the decision of the Administrative Officer charged with the enforcement of the following regulations.

2. Approval of Plans and Permits Required

No ground sign, roof sign, wall sign, projecting sign, or marquee sign shall be erected by any person until the plan has been approved and a permit has been granted by the County Zoning Administrator. For illuminated signs, an additional permit is required from the County Electrical Inspector.

B. GENERAL PROVISIONS:

1. No sign shall be erected, painted, repainted, placed, replaced, or rehung, in any RR District except as hereinafter provided.

2. Tacking, painting, pasting, marking, or otherwise affixing of signs or posters of a miscellaneous character visible from the streets and public highways, on the walls of buildings, barns, sheds, trees, fences, poles, or other structures except as otherwise provided in these regulations, is prohibited.

3. The practice of calling attention to a place of business by means of outlining the roof lines or building lines of a structure by means of illuminated tubing, is herein prohibited in all RR Districts.

4. Any sign containing less than one and one-third (1-1/3) square feet, and any real estate sign containing twelve (12) square feet or less, may be erected, if in compliance with all zoning regulations, without a permit.

5. In any RR District, small professional or announcement signs of professions or businesses permitted in these districts shall not exceed two (2) square feet in area fixed flat against the building where such profession or business is carried on, and shall not be illuminated. No permit is required for such signs.

6. Signs advertising truck gardens, nurseries and greenhouses, including office, permitted in any RR District, shall not exceed four (4) square feet. No permit is needed for such signs.

C. SPECIFIC PROVISIONS:

1. Billboards and Poster Panels

(a) Billboards and Poster Panels are hereby prohibited in all RR and RR Districts.

2. Real Estate Signs

(a) In any district, real estate signs advertising property for sale, rent, lease or trade may be erected as set forth in area and setback distance as follows:

Area in Signs	Distance from All Street Lines
12 square feet or less	12 feet
13 to 20 square feet	50 feet
21 to 40 square feet	100 feet
41 to 60 square feet	150 feet

Provided further, that no real estate sign in any District shall exceed (60) square feet in area.

(b) In case the foregoing area and distance limitations cause the sign to be obscured from sight, the sign location and size shall be subject to the approval of the Board of Adjustment.

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(c) In any District real estate signs of six (6) square feet or less will be permitted to be placed on the front wall of any building which is for sale, rent, lease, or trade. No permit is required for such signs.

3. Sign Area

Square feet area shall be measured to include the entire sign, together with any lattice work, fencing or wall work, incidental to its decoration.

4. Directional Signs

(a) Temporary directional signs, pertaining to real estate, and not exceeding twenty (20) square feet, may be erected without a permit, provided they are not within the right-of-way of any street or highway.

(b) Signs used to direct the traveling public to Tourist Homes not abutting the highway shall be limited in area to three (3) square feet, and shall not be erected within the right-of-way of any street or highway, and provided further, that only one (1) such sign shall be permitted for each Tourist Home. No permit is required for such sign.

5. Tourist Home Signs

Signs advertising lodging and Tourist Homes shall be limited in size to six (6) square feet in area, and the height of the top of such sign shall not exceed six (6) feet from ground level. Not more than one sign shall be used to advertise any Tourist Home.

Tourist Home signs shall be located not closer than one (1) foot from the front property line and so placed that they will not obstruct the view of traffic in any way. If such signs are lighted, such light or lights shall be shaded so that it or they in no way interfere with the vision of motorists or cause annoyance to adjacent property owners.

Illuminated signs of the Neon type shall be erected to provide no less than 14 feet from the bottom of the sign to the ground level under said sign.

SECTION VII

ACCESSORY BUILDINGS AND USES:

A. General Requirements

1. Accessory buildings permitted by this ordinance shall be placed only in rear yards.
2. No accessory building in any RR District which is within ten (10) feet of any party lot line shall exceed fifteen (15) feet in height nor contain more than one story. No accessory building shall exceed thirty-five (35) feet in height or contain more than two (2) stories, including basement.
3. A garage or other accessory use attached to any dwelling and constructed as a part of such dwelling shall be considered as a part of the dwelling and not as an accessory building.
4. A garage or group of garages for more than three (3) motor vehicles shall not be permitted as an accessory use in connection with any one-family or two-family dwelling, irrespective of the district in which it is situated.
5. A fence or other structure deemed by the Zoning Administrator to be designed primarily to cause annoyance or damage to an adjoining owner shall in no case be permitted as an accessory use.

B. Location of Accessory Buildings in Residence Districts

Accessory buildings in residence districts shall conform to the following regulations as to their location upon the lot:

1. In the case of an interior lot fronting upon only one street, no accessory building shall be erected or altered so as to encroach upon that half of the lot depth nearest the street.
2. In the case of a through lot, no accessory building shall be erected or altered so as to encroach upon that fourth of the lot depth nearest each and every street.
3. In the case of a corner lot fronting upon two streets, no accessory building shall be erected or altered so as to encroach upon that area between each respective street and a line drawn parallel to such street in a manner to divide the lot into equal parts.
4. In the case of a corner lot fronting upon three or more streets, no accessory building shall be erected or altered so as to encroach upon that fourth of the lot depth nearest each and every street.

5. No accessory building shall be located within ten feet of its rear lot line or side lot line when such line forms part of the front half of the side line of an adjacent interior lot, or the front quarter of an adjacent through lot whether the latter be an interior or corner lot.

6. Notwithstanding any requirement in this section, the foregoing rules shall not prohibit an accessory building fifty feet or more from any street bounding the block.

7. The limitations imposed by this section upon the location of an accessory building shall be waived when the accessory building is incorporated as an integral part of and enclosed by the same enclosing walls as the building to which it is accessory.

#### SECTION VIII

##### NON-CONFORMING BUILDINGS AND USES:

###### A. Non-Conforming Buildings

###### 1. Occupancy Permitted:

A non-conforming building or structure may be maintained except as otherwise provided in this section.

###### 2. Repairs or Alterations:

No repairs or alterations may be made to a non-conforming building or structure except those needed to maintain the structural soundness of such building or structure and those which may be permitted by law or ordinance.

###### 3. Enlargements, Additions, Moving:

(a) A non-conforming building shall not be added to or enlarged in any manner unless such additions and enlargements are made to conform to all the requirements of the district in which such building or structure is located.

(b) No non-conforming building or structure shall be moved in whole or part to any other location on the same lot or on any other lot, unless every portion of such building or structure is made to conform to all the regulations of the district in which such building or structure is situated.

###### 4. Restoration of Damaged Buildings:

A non-conforming building or structure which is damaged or partially destroyed by fire, flood, wind, explosion, or other calamity, or Act of God, subsequent to time of passage of this Ordinance, shall not again be restored or used for such purposes if the expense of such restoration exceeds seventy-five (75) per cent of the replacement cost of the building or structure at the time such damage occurred.

Any non-conforming building or structure partially destroyed may be restored, provided that restoration is started within one (1) year of the date of partial destruction and is diligently prosecuted to completion.

Whenever a non-conforming building or structure is damaged in excess of its replacement value at that time, the repair or reconstruction of such building or structure shall conform to all of the regulations of the district in which it is located, and it shall be treated as a new building.

###### 5. Three Year Vacancy:

A non-conforming building or structure or portion thereof which is or hereafter becomes vacant, and remains unoccupied for a continuous period of three (3) years, shall be deemed an abandonment of such use and shall not thereafter be occupied, except for a use permitted by the regulations of the district in which it is situated.

###### B. Non-Conforming Use of Buildings

###### 1. Continuation and Change of Use:

(a) Except as otherwise provided in this ordinance, the non-conforming use of a building or structure lawfully existing under the provisions of the Zoning Ordinance of the County of Wake, North Carolina at the time of its effective date, may be continued.

(b) The use of a non-conforming building or structure may be changed to a use of the same, or more restricted classification, but where the use of a non-conforming building or structure is hereafter changed to a use of a more restricted classification, said act shall be deemed an abandonment of the original use, and it shall not thereafter be changed to a use of a less restricted classification.

(c) A vacant non-conforming building or structure may be occupied by a use for which the building or structure was designed or intended, if so occupied within a period of one (1) year after the effective date of this ordinance.

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(d) The use of a non-conforming building or structure which becomes vacant after the effective date of this ordinance, may be occupied by the use for which the building or structure was designed or intended, if so occupied within a period of one (1) year after the building becomes vacant.

2. Expansion Prohibited - Discontinuance"

(a) A non-conforming use of a conforming building or structure (a commercial use in a dwelling and the like) shall not be expanded or extended into any other portion of such conforming building or structure, nor changed except to a conforming use.

If such non-conforming use or portion thereof is discontinued or changed to a conforming use, any future use of such building, structure or portion thereof shall conform with the regulations of the district in which such building or structure is located.

(b) All non-conforming uses of conforming buildings or structures shall be discontinued not later than five (5) years from the effective date of this ordinance.

C. Non-Conforming Use of Land

1. Continuation of Uses

(a) The non-conforming use of land (where no main building or structure is involved), existing at the time of the effective date of this ordinance may be continued on the same basis and in accordance with the foregoing provisions in this section, provided:

(b) That no such non-conforming use of land shall in any way be expanded or extended either on the same or adjoining property.

(c) That if such non-conforming use of land or any portion thereof is discontinued or changed, any future use of such land shall be in conformity with the regulations of the district in which such use is situated.

D. Non-Conforming Uses Created by Reasoning

1. The foregoing provisions of this section shall apply to buildings, structures, land, or uses which may hereafter become non-conforming by reason of the reasoning of the area in which the same may be situated.

Amended 1-4-60

"It is the purpose of this Section to permit the continued normal operation of existing trades and businesses."

SECTION IX

PERMITS:

1. No excavation shall be commenced, no wall, structure, premises, or land used, building or part thereof shall be built, constructed or altered, nor shall any building be moved, nor shall any sign be erected, or structurally altered (unless exempted) until application has been made and the proper permit has been obtained from the Zoning Administrator, in accordance with the provisions of this Ordinance, and upon plan approved by him.

All applications for building permits shall be accompanied by accurate plot plans in duplicate, drawn to scale, showing the actual shape and dimensions of the lot to be built upon, the legal description of the lot to be built upon or used, the exact sizes and locations on the lot of the buildings and accessory buildings then existing, and the lines within which the proposed building or structure shall be erected or altered, the existing and intended use of each building or part of building, the number of families or housekeeping units the building is designed to accommodate, and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this ordinance. One copy of such plot plans shall be returned to the owner when such plans have been approved.

SECTION X

BOARD OF ADJUSTMENT:

1. A Board of Adjustment is hereby established. Said Board shall consist of five (5) members, each to be appointed for a term of three (3) years by the Board of County Commissioners of Wake County.

2. Upon appeal from a decision of an administrative officer, the Board of Adjustment shall have power to decide any questions involving the interpretation of any provision of this Ordinance, including determination of the location of any district boundary if there is uncertainty with respect thereto.
3. The Board of Adjustment, may, in appropriate cases and subject to appropriate conditions and safeguards, vary the strict application of the terms of this ordinance in harmony with its general purpose and intent, in accordance with specific rules contained herein; and shall adopt rules, hold meetings, and have powers, all as provided by law.
4. Written application for a variance shall accompany an application for a building permit. Said application shall be transmitted forthwith to the Board of Adjustment, who shall cause a public hearing to be held and the property in question and the neighborhood to be posted with placards stating the date of hearing and the nature of the variance requested.
5. An application for a Variance shall be advertised for 5 days in a newspaper having circulation in Wake County.
6. At such hearing the applicant shall present a statement and adequate evidence, in such form as the Board of Adjustment may require, and the Board of Adjustment shall not grant a variance unless it finds that:
  - (a) There are special circumstances or conditions applying to the land, building, or use referred to in the application.
  - (b) The granting of the application is necessary for the preservation and enjoyment of substantial property rights.
  - (c) The granting of the application will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use and will not be materially detrimental to the public welfare or injurious to property or improvements in such neighborhood.
  - (d) To exercise such other powers of variation as are, or may be, vested in the Board of Adjustment by law.
7. Every such variation made by the Board of Adjustment after a duly advertised hearing shall be accompanied by a finding of fact specifying the reasons for making such variation.
8. In granting any variance under the provisions of this section the Board of Adjustment shall designate such conditions in connection therewith as will, in its opinion, secure substantially the objectives of the regulations or provisions in the application of which the variance is granted, as to light, air, character of the neighborhood, and, generally, the public health, safety, comfort, convenience, and general welfare. The Board of Adjustment is authorized to impose such reasonable conditions in granting such variances as will be in keeping with the intent and purpose of the Zoning Ordinance.
9. The Board of Adjustment may vary the application of the regulations herein established in harmony with their general purpose and intent, without changing the boundaries of the respective zones, as follows:
  - (a) Where a zone boundary line divides a lot in a single ownership at the time of the passage of this ordinance, permit a use authorized on either portion of such lot to extend to the entire lot, but not more than twenty-five feet beyond the boundary line of the zone in which such use is authorized.
  - (b) Permit the extension of a non-conforming use of building upon the lot occupied by such use or building at the time of the passage of this ordinance in accordance with Section VIII of this ordinance.
  - (c) Permit the erection of an additional building upon a lot occupied at the time of passage of this ordinance by a business or industrial establishment and which additional building is a part of such establishment, where carrying out the strict letter of the provisions would result in practical difficulties or unnecessary hardships.
  - (d) Grant in undeveloped sections of the County temporary and conditional permits for not more than two years, structures and uses in contravention of the use regulations controlling residence zones; provided, such uses are important to the development of such undeveloped sections, and also provided that such uses are not prejudicial to adjoining and neighboring sections already developed.
  - (e) Exempt a proposed building, either in whole or in part from the front yard requirement. This relief may, however, be granted only in cases where the proposed building adjoins on either or both sides of buildings that do not
  - (f) Adopt from time to time such rules and regulations as may be deemed necessary to carry into effect the provisions of this ordinance.

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(g) Vary any requirement of this ordinance in harmony with its general purposes and intent, so that substantial justice may be done. This authority shall be exercised solely in instances where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of this ordinance and in a manner to secure the public health, safety and general welfare.

10. All meetings of the Board of Adjustment shall be public. The presence of four members shall be necessary for a quorum. The Clerk of the Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact. The final disposition of any appeal shall be in the form of a resolution either reversing, modifying, or affirming the decision of the Zoning Administration. If a resolution fails to receive four votes in favor of the appellant, the action shall be deemed a denial, and a resolution denying the appeal shall be entered upon the record.

SECTION XI

COMPLETION AND RESTORATION OF EXISTING BUILDINGS:

Nothing herein contained shall require any change in the plans, construction or designated use of a building under construction at the time of the passage of this ordinance and the construction of which shall have been diligently prosecuted within a year of the said effective date and the ground story framework of which, including the second tier of beams shall be completed within such year, and which entire building shall have been completed within two years from the date of the passage of this ordinance.

SECTION XII

INTERPRETATION AND APPLICATION:

In their interpretation and application the provisions of this ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this ordinance to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of the law or ordinance or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises; nor is it intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by such existing provisions of law or ordinance, or by such rules, regulations or permits, or by such easements, covenants or agreements, the provisions of this ordinance shall control.

SECTION XIII

CHANGES AND AMENDMENTS:

The Board of Commissioners may from time to time amend, supplement, change, modify or repeal the foregoing ordinance or sections thereof; provided, that in order for an amendment to become effective it must first be submitted to the Planning Board for its recommendations, and the failure of the Planning Board for its recommendations, and the failure of the Planning Board to make recommendations for a period of 30 days after the amendment has been referred to it shall constitute a favorable recommendation. No amendment may be adopted until after a public hearing thereon.

If any proposed amendment involves the designation of one or more additional portions of the County as a zoning area or areas, then in such event a public hearing shall be held on the question of the designation of such area or areas, and upon creation of such additional zoning area or areas, the Board of Commissioners will appoint an Advisory Commission for each of such areas charged with making recommendations to the Planning Board and the Board of Commissioners concerning Zoning Regulations for such area and upon receipt of the Zoning Plan for such area or areas from the County Planning Board, the Board of Commissioners shall hold a public hearing thereof, as provided by statute.

SECTION XIV

ENFORCEMENT AND PENALTIES:

It shall be the duty of the Zoning Administrator strictly to enforce all the provisions of this ordinance.

January 4, 1960

SECTION XV

EFFECT OF INVALIDITY OF ONE SECTION:

Should any section or provision of this Ordinance be decided by the Courts to be unconstitutional or invalid, such decisions shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part so held to be unconstitutional or invalid.

All Ordinances or parts thereof which are in conflict with the provisions of this Ordinance are hereby repealed.

SECTION XVI

DATE EFFECTIVE:

The date of effect of this Ordinance shall be from and after its passage and legal publication.

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IN RE MR. JAMES R. COLLIER APPEARED BEFORE THE BOARD REGARDING THE POSITION AS ADMINISTRATOR OF THE WAKE COUNTY PLANNING BOARD

Mr. James R. Collier of Garner, North Carolina, appeared before the Board as an applicant for the position of Wake County Planning Director and Administrator of the Wake County Planning Board.

IN RE APPLICATIONS TO THE WAKE COUNTY HOME CONSIDERED BY BOARD

Mr. J. A. Holmes, Superintendent of the Wake County Home, presented to the Board the following applications for admittance to the County Home, stating that he and the County Home Committee have investigated these applicants.

Mr. Willie Smith, Colored, Male, Age 62, was admitted as an emergency case on December 29, 1959.

Mr. Eddie Carpenter, Colored, Male, Age 67.

Mr. J. A. Holt, White, Male, Age 59, who has agreed to pay Wake County \$95.00 a month for his stay at the Home.

Mrs. Mamie D. Smith, Female, Age 83, is now a T. B. patient at McCain and will be dismissed soon. She has not signed the application or indicated desire to go to the Home as she is afraid her property at 1402 Crest Road, which is unlivable, will be taken from her. Application was made by a caseworker from the Welfare Department.

Mr. Holmes then brought to the Board's attention the danger of accepting persons in the Home who have had T. B. and cited a case to the Board.

The County Home Committee then recommended to the Board that every patient in the Home should be X-rayed not less than every 12 months, and stated that they would take this matter under consideration.

Commissioner Robertson, as a member of the County Home Committee, moved that the application for admittance to the County Home of Mr. Smith, Mr. Carpenter and Mr. Holt be approved and that the application of Mrs. Smith be withheld for further investigation. Commissioner Yancey seconded this motion with all members voting aye.

**COLOR GUIDE**

- R-20 RESIDENTIAL SHOWN IN WHITE
- R-12 RESIDENTIAL
- GENERAL BUSINESS
- HEAVY COMMERCIAL
- HIGHWAY
- INDUSTRIAL
- MOBILE HOMES
- RESEARCH-FARMING
- BOUNDARY OF ZONED AREA
- BOUNDARY OF PROPOSED ZONING
- AIRPORT DISTRICT

JAN 4 1960



# WAKE COUNTY ZONING

WAKE COUNTY PLANNING BOARD

SCALE: 1"=2000'

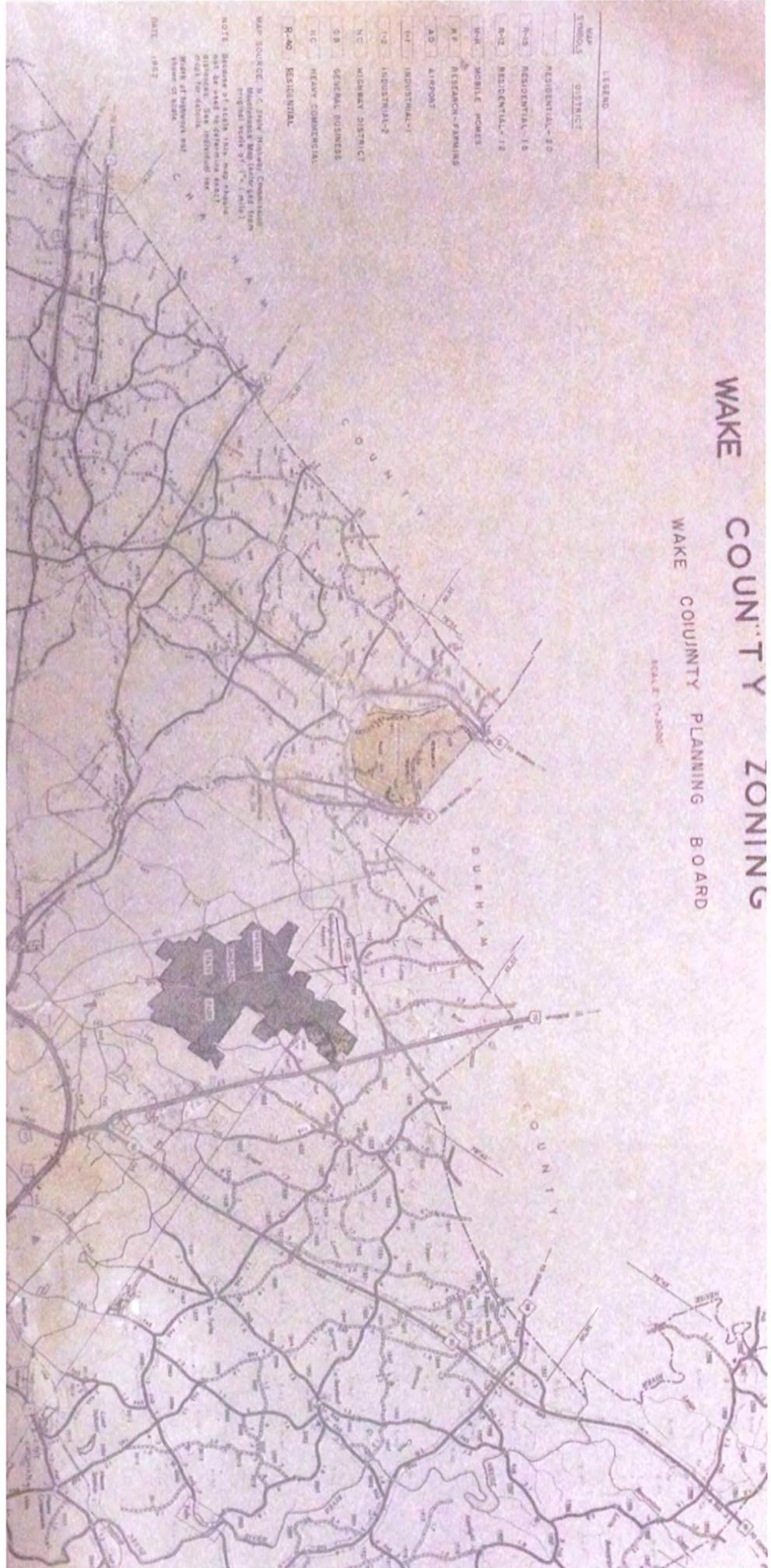
## LEGEND

MAP SYMBOL	DISTRICT
[Light Blue Box]	RESIDENTIAL - 10
[Light Green Box]	RESIDENTIAL - 15
[Light Yellow Box]	RESIDENTIAL - 12
[Light Purple Box]	MOBILE HOMES
[Light Orange Box]	RESEARCH-FARMING
[Light Red Box]	AIRPORT
[Light Brown Box]	INDUSTRIAL-1
[Light Tan Box]	INDUSTRIAL-2
[Light Grey Box]	HIGHWAY DISTRICT
[Light Blue-Grey Box]	GENERAL BUSINESS
[Light Green-Grey Box]	HEAVY COMMERCIAL
[Light Purple-Grey Box]	RESIDENTIAL

MAP SOURCE: N. C. STATE PLANNING COMMISSION  
original scale of 1" = 2 miles

NOTE: Boundaries of each town, and village  
not be used as determining zoning  
districts. See individual maps  
for each town or village.  
MILES OF HIGHWAY 981  
VILLAGES OF RICHMOND

DATE: 1967



# WAKE COUNTY ZONING MAP

WAKE COUNTY PLANNING BOARD

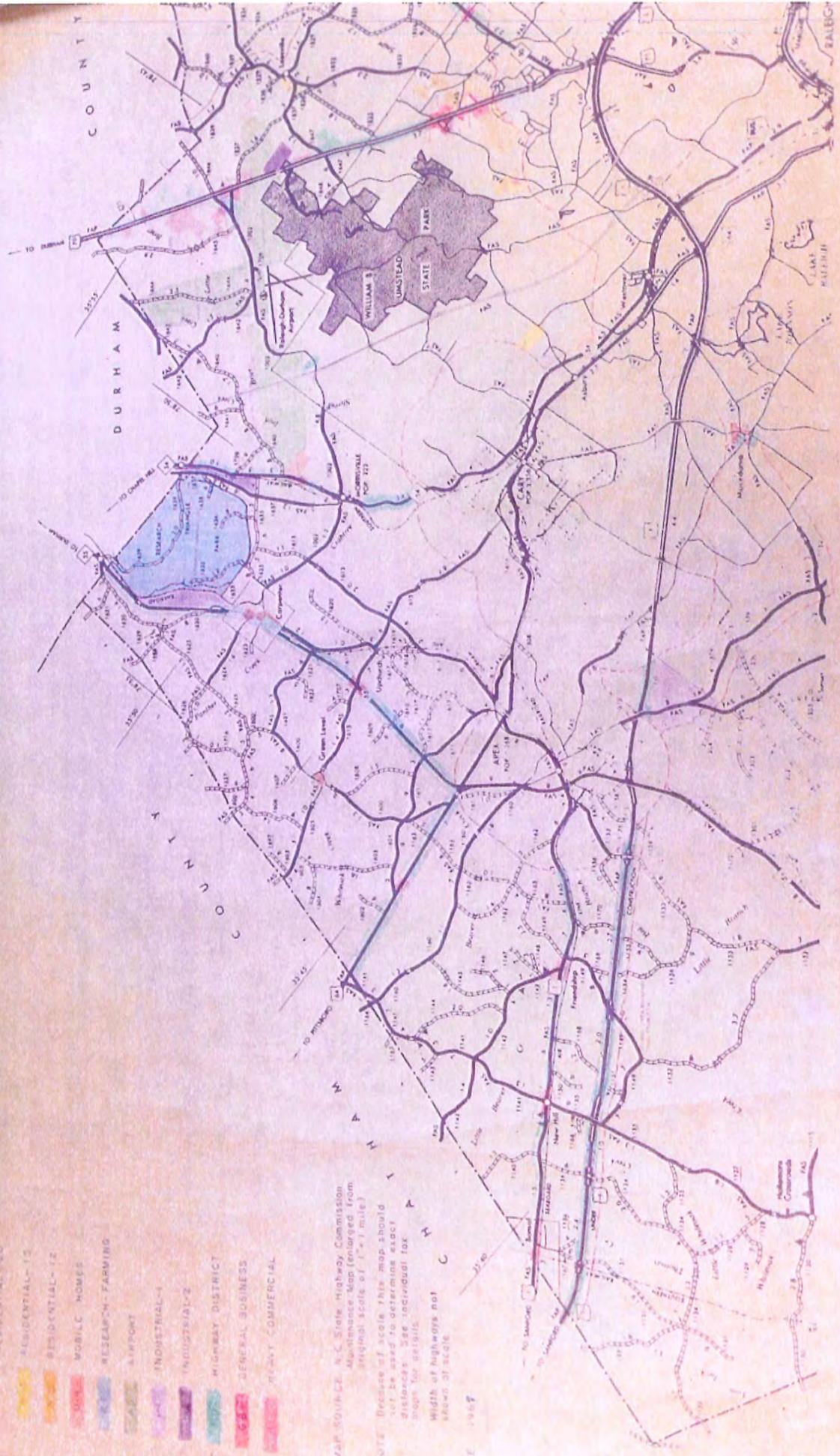
SCALE: 1" = 2000'

- LEGEND
- MAP SYMBOLS
  - DISTRICT
  - RESIDENTIAL-20
  - RESIDENTIAL-15
  - RESIDENTIAL-12
  - MOBILE HOMES
  - RESEARCH-FARMING
  - AIRPORT
  - INDUSTRIAL-1
  - INDUSTRIAL-2
  - HIGHWAY DISTRICT
  - GENERAL BUSINESS
  - HOUSY COMMERCIAL

MAP SOURCE: N.C. State Highway Commission  
 Appearance Map (enlarged from  
 original scale of 1" = 1 mile)  
 NOTE: Because of scale this map should  
 not be used to determine exact  
 distances. See individual tax  
 maps for details.

Width of highways not  
 shown at scale

DATE: 1967



WAKE COUNTY PLANNING BOARD

- RESIDENTIAL-10
- RESIDENTIAL-15
- RESIDENTIAL-15
- MOBILE HOMES
- RESEARCH-FARMING
- AIRPORT
- INDUSTRIAL-1
- INDUSTRIAL-2
- HIGHWAY DISTRICTS
- GENERAL BUSINESS
- HEAVY COMMERCIAL
- R-40 RESIDENTIAL

MAF 50456 N.C. State Highway Commission  
Topographic Map (colored from  
original scale of 1" = 1 mile)  
Because of scale this map shows  
only the general character of  
the terrain. See individual topographic  
maps for details.  
Width of highways per C  
Scale of scale  
1957 75 700



NORTH CAROLINA GENERAL ASSEMBLY  
1959 SESSION

CHAPTER 1006  
HOUSE BILL 372

AN ACT AUTHORIZING COUNTIES TO ADOPT ORDINANCES PROVIDING FOR THE ZONING AND REGULATION OF BUILDINGS AND OTHER STRUCTURES AND THE USE OF LAND, OTHER THAN FOR FARMING, IN AREAS OUTSIDE THE ZONING JURISDICTION OF MUNICIPALITIES.

The General Assembly of North Carolina do enact:

Section 1. Chapter 153 of the General Statutes is amended by adding a new Article immediately following Article 20A, to be designated as Article 20B, and to read as follows:

"ARTICLE 20B.

"G. S. 153-266.10. For the purpose of promoting health, safety, morals, or the general welfare, the board of county commissioners of any county is hereby empowered to regulate and restrict

"(a) the height, number of stories, and size of buildings and other structures,

"(b) the percentage of lot that may be occupied,

"(c) the size of yards, courts, and other open spaces,

"(d) the density of population, and

"(e) the location and use of buildings, structures, and land for trade, industry, residence or other purposes, except farming.

"No such regulations shall affect bona fide farms, but any use of such property for nonfarm purposes shall be subject to such regulations. Such regulations may provide that a board of adjustment may determine and vary their application in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

"G. S. 153-266.11. For any and all said purposes, the board of commissioners may divide the county, or portions of it as determined in accordance with the provisions of G. S. 153-266.13 below, into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this Article; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

"G. S. 153-266.12. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to

provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such county. Such regulations shall further be made with reasonable consideration to expansion and development of municipalities within the county, so as to provide for the orderly growth and development of such municipalities.

"G. S. 153-266.13. The county zoning ordinance may regulate all territory in the county outside the zoning jurisdiction of any municipalities within the county. In addition, the county zoning ordinance may regulate territory within the zoning jurisdiction of any municipality whose governing body, by resolution, agrees to such regulation; provided, however, that any such municipal governing body may, upon one year's written notice, withdraw its approval of the county zoning regulations, and those regulations shall have no further effect within the municipality's jurisdiction.

"Where the board of commissioners determines that it is not necessary to zone the entire county in order to serve the public interest, the board may, after a public hearing, designate one or more portions of the county as a zoning area or areas. Any such area or areas may be regulated in the same manner as if the entire county were zoned, and the remainder of the county need not be regulated. No zoning area may be designated which is less than six hundred forty (640) acres in area, or which contains less than ten separate tracts of land in separate ownership.

"G. S. 153-266.14. In order to avail itself of the powers conferred by this Article, the board of commissioners shall appoint a county planning board or a joint planning board under the provisions of G. S. 153-9(40) or of a special Act of the General Assembly. If the board of commissioners creates one or more zoning areas within the county under the provisions of G. S. 153-266.13 hereof, it shall also appoint an advisory commission for each such zoning area, composed of residents of the area. Each advisory commission shall be charged with the duty of making recommendations to the planning board and the board of commissioners concerning zoning regulations for its area.

"G. S. 153-266.15. The county planning board or joint planning board shall have the duty of preparing a zoning plan, including both the full text of a zoning ordinance and a map or maps showing proposed district boundaries. The planning board may hold such public hearings as it deems necessary in the course of preparing this plan. The planning board shall certify this plan to the board of county commissioners.

"On receipt of a zoning plan from the county planning board, the board of commissioners shall hold a public hearing thereon, after which it may adopt the zoning ordinance and map as recommended, adopt it with modifications, or reject it.

"The zoning ordinance, including the map or maps, may from time to time be amended, supplemented, changed, modified, or repealed. No amendment shall become effective, unless it first be submitted to the planning board for its recommendations; failure of the planning board to make recommendations for a period of 30 days after the

amendment has been referred to it shall constitute a favorable recommendation. No amendment may be adopted until after a public hearing thereon.

"G. S. 153-266.16. Whenever in this Act a public hearing is required all parties in interest and other citizens shall be given an opportunity to be heard. A notice of such public hearing shall be given once a week for two successive calendar weeks in a newspaper published in the county, or, if there be no newspaper published in the county, by posting such notice at four public places in the county, said notice to be published the first time or posted not less than 15 days prior to the date fixed for said hearing.

"G. S. 153-266.17. If it exercises the powers granted by this Article, the board of commissioners shall provide for the appointment of a board of adjustment consisting of five members, each to be appointed for three years; provided, that the board of commissioners in the appointment of the original members of such board, or in the filling of vacancies caused by the expiration of the terms of the existing members of any such board, may make appointments of certain members for less than three years to the end that thereafter the terms of all members shall not expire at the same time. The board of commissioners may, in its discretion, appoint not more than two alternate members to serve on such board in the absence, for any cause, of any regular members. Such alternate member or members shall be appointed for the same term or terms as regular members, and shall be appointed in the same manner as regular members and at the regular times for appointment. Each alternate member, while attending any regular or special meeting of the board and serving in the absence of any regular member, shall have and exercise all the powers and duties of such regular member so absent.

"Such board of adjustment shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with the enforcement of any ordinance adopted pursuant to this Article. Such appeal may be taken by any person aggrieved or by an officer, department, board, or bureau of the county. Such appeal shall be taken within such time as shall be prescribed by the board of adjustment by general rule, by filing with the officer from whom the appeal is taken and with the board of adjustment a notice of appeal, specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the board of adjustment, after notice of appeal shall have been filed with him, that by reason of facts stated or property, in which case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown. The board of adjustment shall fix a reasonable time for the hearing of the appeal and give due notice thereof to the parties, and decide the same within a reasonable time. The board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination appealed from, and shall make such order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end shall have all the powers of the officer from whom the appeal is taken.

"The zoning ordinance may provide that the board of adjustment may permit special exceptions to the zoning regulations in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in the ordinance. The ordinance may also authorize the board to interpret the zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in the administration of the ordinance. The board shall hear and decide all such matters referred to it or upon which it is required to pass under any such ordinance.

"Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of such ordinance, the board of adjustment shall have the power, in passing upon appeals, to vary or modify any of the regulations or provisions of such ordinance relating to the use, construction or alteration of buildings or structures or the use of land, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done.

"The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of an ordinance adopted pursuant to this Article, or to decide in favor of the applicant any matter upon which it is required to pass under any such ordinance, or to grant a variance from the provisions of such ordinance. Every decision of such board shall be subject to review by the Superior Court by proceedings in the nature of certiorari.

"G. S. 153-266.18. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Article or of any ordinance or other regulation made under authority conferred hereby, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings

"(a) to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use,

"(b) to restrain, correct, or abate such violation,

"(c) to prevent the occupancy of said building, structure, or land, or

"(d) to prevent any illegal act, conduct, business, or use in or about such premises.

"G. S. 153-266.19. Wherever the regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Article shall govern. Wherever the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of such statute or local ordinance or regulation shall govern.

"G. S. 153-266.20. This Article shall not have the effect of repealing any Zoning Act or County Planning Act, local or general, now in force; but it shall be construed to be in enlargement of the duties, powers, and authority contained in such statutes and all other

laws authorizing the appointment and proper functioning of county planning boards or zoning commissions by any county in the State of North Carolina.

"G. S. 153-266.21. All of the provisions of this Act and any ordinance adopted pursuant hereto are hereby made applicable to the erection and construction of buildings by the State of North Carolina and its political subdivisions.

"G. S. 153-266.22. This Article shall not apply to the following counties: Alleghany, Ashe, Bertie, Bladen, Brunswick, Caswell, Craven, Currituck, Duplin, Franklin, Greene, Halifax, Harnett, Hoke, Iredell, Lenoir, Martin, Moore, New Hanover, Onslow, Pender, Person, Scotland, Surry, Tyrrell, Warren, Washington, Watauga and Wayne."

Sec. 1½. The provisions of this Act shall not apply to Cumberland County and Johnston County.

Sec. 2. This Act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of June, 1959.

**ANNOTATED  
ZONING  
ORDINANCE**

*WAKE COUNTY, NORTH CAROLINA*

Originally Adopted January 4, 1960  
Readopted and codified March 5, 1984

This publication includes additional information not included in the codified version of the Zoning Ordinance. Additional information includes headings for paragraphs and notes about amendments. Added headings are enclosed by parentheses. Added notes are indicated by italic wording enclosed by brackets. Otherwise, this publication is intended to be a true and accurate presentation of the Wake County Zoning Ordinance.

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Includes amendments through O-93-22, adopted December 20, 1993.

See summary of amendments following title and contents page.

**SECTION 1-1-2      DISTRICTS ESTABLISHED**

In order to achieve the purposes of zoning as set forth in the Zoning Enabling Act of the State of North Carolina and promote the public health, safety, and general welfare, the Wake County Zoning Area is hereby divided into the following classes of districts:

- RA: Research Applications District
- CU-RA: Conditional Use Research Applications District
- R-80: Residential-80 District
- CU-R-80: Conditional Use Residential-80 District
- R-80W: Residential-80 Watershed District
- CU-R-80W: Conditional Use Residential-80 Watershed District
- R-40: Residential-40 District
- CU-R-40: Conditional Use Residential-40 District
- R-40W: Residential-40 Watershed District
- CU-R-40W: Conditional Use Residential-40 Watershed District
- R-30: Residential-30 District
- CU-R-30: Conditional Use Residential-30 District
- R-20: Residential-20 District
- CU-R-20: Conditional Use Residential-20 District
- R-15: Residential-15 District
- CU-R-15: Conditional Use Residential-15 District
- R-10: Residential-10 District
- CU-R-10: Conditional Use Residential-10 District
- R-12: Residential-12 District
- CU-R-12: Conditional Use Residential-12 District
- R-5: Residential-5 District
- CU-R-5: Conditional Use Residential-5 District
- GB: General Business District
- CU-GB: Conditional Use General Business District
- HC: Heavy Commercial District
- CU-HC: Conditional Use Heavy Commercial District
- I-I: Industrial-I District
- CU-I-I: Conditional Use Industrial-I District
- I-II: Industrial-II District
- CU-I-II: Conditional Use Industrial-II District
- MH: Mobile Home District
- CU-MH: Conditional Use Mobile Home District
- HD: Highway District
- CU-HD: Conditional Use Highway District
- AD-I: Airport District-I
- CU-AD-I: Conditional Use Airport District-I
- AD-II: Airport District-II
- CU-AD-II: Conditional Use Airport District-II
- O&I: Office and Institutional District
- CU-O&I: Conditional Use Office and Institutional District
- PD: Planned Development District

Section 1-1-2

SHD:	Special Highway District
CU-SHD:	Conditional Use Special Highway District
SHOD:	Special Highway Overlay District
ED:	Economic Development District
CU-ED:	Conditional Use Economic Development District
WS-II:	Water Supply II Overlay District
WCAO:	Watershed Critical Area Overlay District
WMAO:	Watershed Management Area Overlay District
WPAO:	Watershed Protected Area Overlay District

*[Amended 3/5/84 to add R-80W and R-40W Districts (R-84-37); amended 10/21/85 to substitute introductory paragraph for a list of purposes taken from the Zoning Enabling Act, to delete the R-12 District, to add the R-10 and R-5 Districts, to add the Special Highway District, and to add conditional use districts (R-85-205); amended 10/21/85 to add the R-12 and CU-R-12 Districts (R-85-206); amended 11/18/85 to delete the R-12 and CU-R-12 Districts, to add the Economic Development and Conditional Use Economic Development Districts, and to reorder the list of districts (R-85-233); amended 3/16/92 to substitute Research Applications District and Conditional Use Research Applications District for Research Farming District and Conditional Use Research Farming District (O-92-10); amended 12/20/93 to add Water Supply II, Watershed Critical Area, Watershed Management Area, and Watershed Protected Area Overlay Districts (O-93-22)]*

*[Note on unlisted districts: The River Fall Planned Development District was established on 10/21/85 by the amendment of Section 1-1-44.1 (R-85-210); the Beachwood Planned Development District was established on 4/21/87 by the adoption of Section 1-1-44.2 (R-87-42); the Beachwood Amendment Planned Development District was established on 9/19/88 by the adoption of Section 1-1-44.4 (R-88-85); the Resource Conservation Overlay District was established on 10/20/86 by the adoption of Section 1-1-48 (R-86-136R)]*

Conditional Use Districts (CU): Each of the above designated conditional use districts bears the designation CU and corresponds to a general use district. All zoning regulations that apply to the general use district are minimum requirements within the corresponding conditional use district. Conditional use zoning shall be considered only upon request of the applicant(s) as set forth in Section 1-1-7 of this Code. *[Added 10/21/85 (R-85-205)]*

*[Adopted 1/4/60; amended 2/8/60, 3/7/60, 3/28/60, 7/5/60, 5/7/62, 12/7/70, 2/1/71, 1/7/74, 9/3/74; readopted and codified 3/5/84 (R-84-30); amended 3/5/84 (R-84-37), 10/21/85 (R-85-205), 10/21/85 (R-85-206), 11/18/85 (R-85-233), 11/18/85 (R-85-232), 3/16/92 (O-92-10), 12/20/93 (O-93-22)]*

**SECTION 1-1-3      DISTRICT BOUNDARIES**

The location and boundaries of the zoning districts shall be as shown on a map entitled "Wake County Zoning Area, Zoning Plan," which map is hereby declared to be a part of this Ordinance.

District boundary lines are intended to follow street, lot, or property lines as they exist at the time of the passage of this Ordinance, unless such district boundary lines are fixed by dimensions as shown on said map.

*[Adopted 1/4/60; amended 12/7/70; readopted and codified 3/5/84 (R-84-30)]*

- |                              |                                |
|------------------------------|--------------------------------|
| 8. Eugene W. Jeffreys        | St. Matthews                   |
| 9. W. G. Mohorn              | 306 Duncan St.                 |
| 10. Moses Greer              | 1324 S. State                  |
| 11. George L. Berson         | 1336 Banbury                   |
| 12. D. G. Alford             | Marks Creek                    |
| 13. Robert Digh              | Neuse                          |
| 14. J. T. Hall               | Meredith                       |
| 15. John Oscar Maynard       | White Oak                      |
| 16. L. H. Hobbs              | Meredith                       |
| 17. E. A. Hughes Jr.         | 2814 Anderson Dr.              |
| 18. J. Ralph Brown           | Rose Lane                      |
| 19. L. W. Allen              | St. Matthews                   |
| 20. Mrs. R. C. Holt          | St. Matthews                   |
| 21. Sherfill B. Byrd         | Marks Creek                    |
| 22. Robert Edwin Dunn        | 2419 Glenwood Ave.             |
| 23. J. J. Henderson Sr.      | Marks Creek                    |
| 24. F. W. Ellen              | St. Matthews                   |
| 25. Robert W. Hontz          | 804 N. Blount                  |
| 26. Brodie E. Hood, Jr.      | 2518 $\frac{1}{2}$ Kenmore Dr. |
| 27. Glenn Bitler             | 817 Yarmouth Road              |
| 28. Brian Mahon Deely, Jr.   | Raleigh Apts                   |
| 29. John D. Minter           | 509 Saunders                   |
| 30. Mrs. Jewel Passmore Frye | 1210 Glenwood Ave.             |
| 31. J. D. Justice            | Leesville                      |
| 32. J. M. Keith              | Neuse                          |
| 33. John F. Bogdon           | 2120 Ridge Road                |
| 34. D. B. Black              | Cedar Fork                     |
| 35. Allie D. Hemingway       | 2702 Poole Rd.                 |
| 36. J. M. Mewborn            | Middle Creek                   |
| 37. A. G. Kornegay           | Swift Creek                    |
| 38. Collins Foster           | 307 Carver                     |
| 39. Edward Landrus           | Wake Forest                    |
| 40. H. G. Blue               | 2924 Oberlin Rd.               |
| 41. Eddie Homer Keith        | House Creek                    |
| 42. Mrs. Ella H. Hare        | Holly Springs                  |
| 43. Johnnie Freeman Jr.      | Ctty                           |
| 44. J. K. Barrow             | Little River                   |
| 45. John Chimos              | 12 Turner                      |
| 46. Luther George            | 221 E. North St.               |
| 47. L. B. Ellington Jr.      | 210 Plainview                  |
| 48. Leon G. Keith            | New Light                      |
| 49. Worth M. Aiken           | New Light                      |
| 50. Oren D. Massey Jr.       | Little River                   |
| 51. Donald E. Lee            | Neuse                          |
| 52. R. Nelson Leonard        | Neuse                          |
| 53. Mrs. Leslie M. Harp      | New Light                      |
| 54. Miss Charlotte Matthews  | Swift Creek                    |
| 55. F. W. Lawler             | Swift Creek                    |
| 56. Charles Langston         | Swift Creek                    |
| 57. A. O. Goodman            | 721 W. Morgan St.              |
| 58. Maggie W. Johnson        | Swift Creek                    |
| 59. Jessie Evans             | Bartons Creek                  |
| 60. G. W. Larkins            | 1105 E. Davie St.              |

A TRUE COPY

THE ABOVE JURORS WERE DRAWN BY JOSEPH J. BARROW A BOY UNDER TEN YEARS OF AGE.

/s/ A. C. Hall  
CLERK TO THE BOARD

-----  
Chairman Haigh adjourned the meeting of the Board until Monday,  
Febraary 8, 1960 at 11:00 a.m.

Respectfully submitted,

*A. C. Hall*

A. C. Hall  
Clerk to the Board

ADJOURNED SESSIONFIRST DAY

February 8, 1960

The Wake County Board of Commissioners met in adjourned session in the Commissioners' Room, Wake County Courthouse, at 11:00 o'clock A. M., Monday, February 8, 1960. Commissioners present were: Chairman Haigh, Commissioners Powell, Holding, and Robertson. Commissioner Yancey was absent.

Chairman Haigh called the meeting to order.

-----  
IN RE RESOLUTION AMENDING WAKE COUNTY ZONING ORDINANCE TO INCLUDE INDUSTRIAL DISTRICTS

Chairman Haigh stated to the Board that it is necessary for the Board at this time to take action regarding the amendment to the zoning ordinance to include industrial districts.

Mr. Banks, County Attorney, stated to the Board that the Board of Commissioners duly considered the recommendation of the Wake County Planning Board, gave notice pursuant to the provisions of Chapter 1006, Session Laws 1959, and held public hearing on February 1, 1960; and, this action being in compliance with the necessary procedure to amend the original ordinance, the Board may at this time take action on the adoption of the proposed amendment.

Mr. Banks, County Attorney, stated that this amendment has been prepared and approved by Mr. Sam Powell, Zoning Administrator, and Mr. Pearson Stewart, Chief Planner of the Research Triangle Foundation, and he then requested that Mr. Stewart explain this proposed amendment in detail to the Board.

Mr. Stewart read and explained this proposed amendment in great detail and explained that this amendment is a little different from most industrial districts in ordinary ordinances, as it sets out rules and standards instead of setting up a long list of things prohibited or permitted. Mr. Stewart further explained that this amendment provides for an Industrial One District and an Industrial Two District and explained the necessity of these two districts to the Board.

After consideration of this matter the following resolution incorporating the proposed industrial amendment was adopted by the Board.

\* \* \*

RESOLUTION AMENDING WAKE  
 COUNTY ZONING ORDINANCE

WHEREAS, THE Wake County Planning Board in meeting assembled on the 15th day of January, 1960, duly recommended to the Wake County Board of Commissioners that the Wake County Zoning Ordinance and Map be amended in the manner hereinafter set forth, which recommendations were duly presented to a Special Meeting of the Wake County Board of Commissioners convened and held at 11:00 o'clock A. M. on Monday, January 18, 1960; and

WHEREAS, upon consideration of the recommendation of the Wake County Planning Board and pursuant to resolution adopted, a public hearing was called to be held on Monday, February 1, 1960 at 11:00 o'clock A. M. in the Wake County Commissioners' Room, Wake County Courthouse, Raleigh, North Carolina, on the question of the adoption of the amendment proposed; and

WHEREAS, by order of the Board of Commissioners notice of said public hearing concerning the proposed amendment was caused to be published once a week for two successive weeks in The Raleigh News and Observer, and at 11:00 o'clock A. M. on Monday, February 1, 1960, and at the time and place fixed in said notice of hearing, a Special Meeting of the Wake County Board of Commissioners was declared open for a public hearing on the adoption of the proposed amendment; and

WHEREAS, at the conclusion of the public hearing, the Board of Commissioners took the matter under advisement and study, and for the purpose of final action adjourned the meeting until 11:00 o'clock A. M. on Monday, February 8, 1960, and at the adjourned meeting on February 8, 1960 and upon further consideration, the following resolution was offered:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS  
OF THE COUNTY OF WAKE, NORTH CAROLINA, AS FOLLOWS:

SECTION I

The text of the Zoning Ordinance of the Northwestern Wake County Zoning Area is hereby amended as follows:

- 1) Section I, paragraph 1, shall divide the Northwestern Wake County Zoning Area into four classes of districts by changing the numeral two (2) to the numeral four (4) and by the addition to the list of districts of the following:

I - 1: Industrial One District  
I - 2: Industrial Two District

- 2) A new Section V, INDUSTRIAL DISTRICTS, shall be inserted after Section IV as follows:

SECTION V, INDUSTRIAL DISTRICTS

1) USES PROHIBITED

Residence and business district uses, except as provided for as a non-conforming use, are prohibited and no building may hereafter be constructed and no land may hereafter be used in whole or in part for any such use.

2) USES PERMITTED

a) Industrial uses are declared to be the uses of land and buildings for administration, research, manufacturing, processing, fabrication, assembly, freight handling, storage, distribution, and similar operations. Any land may hereafter be used in an Industrial District for any industrial use provided the construction and operation of any industrial use comply with all the provisions of this section.

b) The storage and or salvaging of junk and other used material not pertinent to a manufacturing or fabrication use on the premises are permitted only 1-2 Districts. Any storage or salvaging of such junk and other used material shall be conducted entirely within a building or shall be enclosed by a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet high and shall be subject to the provisions of paragraph 4 of this section.

3) USES PERMITTED AFTER APPROVAL BY THE BOARD OF ADJUSTMENT

Banks, restaurants, and other business district uses consistent with the requirements of an Industrial District.

4) CONSTRUCTION AND OPERATION STANDARDS

a) Intent. It is the intent of this subsection to provide that industrial district uses shall be established and maintained with proper appearance from streets and adjoining properties and to provide that each such permitted use shall be a good neighbor to adjoining properties by the control of emission of noise, odor, glare, vibration, smoke, dust, liquid wastes, radiation, radioactivity, etc.

ADJOURNED SESSIONFIRST DAY

February 8, 1960

It is the further intent of this subsection to state the conditions of construction and operation with which industrial district uses will be expected to comply. In many cases the relation of a prospective use to all these performance standards cannot be judged properly at the time of building permit issuance. In such cases, the recipient of the building permit should note that these performance standards, like all other provisions of this ordinance, are continuing obligations and that all research uses will be expected to operate in compliance with these standards.

- b) Compliance. The performance standards set forth in subparagraph (e) below shall be complied with and any use which fails to comply with these standards shall be in violation of this ordinance and be subject to penalties as accorded by the laws of the State of North Carolina for such violation.
- c) Measurement. Each measurable standard shall be measured at the appropriate indicated location.
- d) Effects of Concurrent Operations. The sum total of the effects of concurrent operations on two or more tracts measured at any property line shall not be greater or more offensive to the senses than the standards contained herein. Compliance with the provisions of this subparagraph by single or mutual changes in operational levels, scheduling of operations, and other adjustments is permitted.
- e) Standards

	<u>I - 1 Districts</u>	<u>I - 2 Districts</u>
1) Noise	Industrial noise shall be measured on any property line of the tract on which the industrial operation is located.	Industrial noise shall be measured from the nearest I-2 District boundary line.
	The noise standard shall be the same as that contained in Section III, paragraph 10, e, 2 - Noise, of this ordinance.	
2) Odors	The odor standard shall be the same as that contained in Section III, paragraph 10, e, 2 - Odors, of this ordinance.	
3) Glare	Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at any property line.	Glare, whether direct or reflected, such as from floodlights or high temperature processes, and as differentiated from general illumination, shall not be visible at the nearest I -2 District Boundary line.
4) Exterior Lighting	Any lights used for exterior illumination shall direct light away from adjoining properties.	Any light used for exterior illumination shall direct light away from any adjoining zoning district.
5) Vibration	Vibration shall not be discernible at any property line	Vibration shall not be discernible at any I-2 District boundary line
	to the human sense of feeling for three minutes or more duration in any one hour.	
	The remainder of the vibration standard shall be the same as that contained in Section III, paragraph 10, e, 6 - Vibration, of this ordinance.	
6) Smoke	The smoke standard shall be the same as that contained in Section III, paragraph 10, e, 7 - Smoke, of this ordinance.	
7) Dust	Measurement shall be at the point of emission	Measurement shall be at any property line of the tract on which the operation is located.
	Solid or liquid particles shall not be measurable in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air. For measurement of the amount of particles in gases resulting from combustion, standard corrections shall be applied to a stack temperature of 500 degrees Fahrenheit and 50% excess air. The provisions of paragraph 12 below shall apply to dust.	
8) Gases	The gases standard shall be the same as that contained in Section III, paragraph 10, 3, 9, - Gases. of this ordinance.	

- 9) Hazard Any industrial operation shall be carried on with reasonable precautions against fire and explosion hazards.
- 10) Electrical Radiation The electrical radiation standard shall be the same as that contained in Section III, paragraph 10, e, 13 - Electrical Radiation, of this ordinance.
- 11) Radiation Industrial operations shall cause no dangerous radiation at any property line as specified by the regulations of the United States Atomic Energy Commission.
- 12) Radio-activity The radioactivity standard shall be the same as that contained in Section III, paragraph 10, e, 12 - Radioactivity, of this ordinance.
- 13) Waste The waste standard shall be the same as that contained in Section III, paragraph 10, e, 14 - Waste, of this ordinance.

5) YARD AND SPACE REQUIREMENTS

	<u>I-1 Districts</u>	<u>I-2 Districts</u>
a. <u>Building Height Limit</u>	None	None
b. <u>Required Lot Area</u>	None	None
c. <u>Minimum Depth of Front Yards and Corner Side Yards</u>	50 Feet	50 Feet
d. <u>Minimum Width of Side Yards</u>	25 Feet except along boundaries abutting railroad trackage.	25 Feet except along boundaries abutting railroad trackage.
e. <u>Minimum Depth of Rear Yards</u>	25 Feet except along boundaries abutting railroad trackage.	25 Feet except along boundaries abutting railroad trackage.
	50 feet from public right-of-way	

6) ACCESSORY BUILDINGS AND USES

Within any industrial district, buildings and uses of land customarily accessory to the principal land use are permitted. Accessory buildings and structures shall not be located in any required front, side, or rear yard.

7) OFF-STREET PARKING AND LOADING

Off-street parking and loading spaces of sufficient number to provide for each vehicle customarily parked or used in conjunction with each building or use shall be provided on each lot. All parking areas shall be so located and designed that egress is by forward motion of the vehicle.

8) SIGNS

Signs relating to a use on the premises on which the sign is located are permitted provided that any such sign shall be not located in any required yard.

- 3) Sections V through XVI are hereby renumbered as Sections VI through XVII appropriately.

SECTION II

The zoning plan of the zoning ordinance of the Northwestern Wake County Zoning Area is hereby amended by changing the zoning classification of the property described as follows from RR District to I-1 District:

This district being bounded on the east by the west side of the Reedy Creek Road, bounded on the west by the eastern incorporated limits of the Town of Cary, bounded on the north by the Seaboard and Southern Railway right-of-way, and bounded on the south by Highway known as Highway #1, #64, and #70-A, as shown on Wake County Tax Map of the Town of Cary, Sheet #26.

ADJOURNED SESSIONFIRST DAY

February 8, 1960

## SECTION III

The date of effect of this ordinance shall be from and after its passage.

\* \* \*

The adoption of the foregoing resolution was moved by Commissioner Robertson, seconded by Commissioner Holding and upon roll call was unanimously carried.

\*\*\*\*\*

It was then explained that it would be necessary for the Planning Board to recommend, when considering and recommending the rezoning of an Industrial district, whether this district should be zoned "I-1 District" or "I-2 District."

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IN RE AMENDMENT TO RESOLUTION RE: ACCEPTANCE OF BIDS AND EXECUTION OF CONTRACTS FOR THE CONSTRUCTION OF NURSES' RESIDENCE AND SCHOOL MEMORIAL HOSPITAL OF WAKE COUNTY

Mr. William F. Andrews, Administrator of the Wake County Hospital Authority, appeared before the Board of Commissioners regarding the acceptance of the low bidder for the Plumbing Work on the School of Nursing Building for the Memorial Hospital of Wake County.

The resolution passed by the Board at their regular February 1, 1960 meeting, regarding the acceptance of bids and execution of contracts for the construction of Nurses' Residence and School was duly amended by the Board as follows:

\* \* \*

AMENDMENT TO RESOLUTION RE: ACCEPTANCE OF BIDS AND EXECUTION OF CONTRACTS FOR THE CONSTRUCTION OF NURSES' RESIDENCE AND SCHOOL MEMORIAL HOSPITAL OF WAKE COUNTY

At an adjourned meeting of the Wake County Board of Commissioners convened and held on Monday, February 8, 1960, Mr. William F. Andrews, Administrator of the Wake County Hospital Authority, presented to the Board of Commissioners the following action taken by the Wake County Hospital Authority with respect to the plumbing work for the nurses' residence and school.

"WHEREAS the low bidder on the Plumbing work, Superior Mechanical Contractors of Durham, N. C., has disqualified his bid by refusing to sign the contract according to the plans and specifications,

"THEREFORE BE IT RESOLVED, that the second low bidder in the Plumbing Section, the W. M. Hunt Plumbing & Heating Company of Durham, N. C. be awarded the Plumbing Contract in the amount of \$40,476.00, and that the Hunt Plumbing & Heating Company be substituted for that of the Superior Mechanical Contractors and that the sum total of the Plumbing Contract be changed from \$30,781.00 to \$40,476.00 where these names and amounts appear on the resolution".

Upon consideration of the foregoing action, the following resolution was offered:

REGULAR SESSIONFIRST DAY

March 7, 1960

Commissioner Holding moved that the Wake County Board of Commissioners upon recommendation of the Wake County Agricultural Agent recommend to Mr. D. S. Weaver, Director of the State College Agricultural Extension Service, the list of people duly presented to the Board by Mr. Miller, Wake County Agricultural Agent, to serve as the Wake County Agricultural Extension Advisory Board. Commissioner Powell seconded this motion with all members voting aye.

-----  
IN RE RESOLUTION AMENDING WAKE COUNTY ZONING ORDINANCE TO PROVIDE FOR BUSINESS DISTRICTS AND ADDITIONAL RESIDENTIAL DISTRICTS

Chairman Haigh stated to the Board and interested citizens that pursuant to the provisions of Chapter 1006, Session Laws 1959, that the Board Meeting is now open for public hearing upon the adoption of the Zoning Ordinance Amendment providing for Business Districts and additional Residential Districts, including Zoning District maps as amended showing the proposed district boundaries, certified to the Wake County Board of Commissioners by the Wake County Planning Board.

Mr. Sam Powell, Zoning Administrator, reported to the Board that the Advisory Commission met in session at 10:00 a.m., Monday, March 7, 1960 and upon motion duly made and seconded with all members present voting aye, recommended the adoption of the proposed amendment as recommended by the Wake County Planning Board.

The meeting was open for public hearing and there were no interested parties to be heard; therefore, Chairman Haigh stated that it is necessary at this time for the Board to adopt the necessary resolution for amending the Wake County Zoning Ordinance.

The following resolution was unanimously adopted by the Board.

\* \* \*  
RESOLUTION AMENDING WAKE COUNTY ZONING ORDINANCE

WHEREAS, the Wake County Planning Board in meeting assembled on the 29th day of January, 1960, duly recommended to the Wake County Board of Commissioners that the Wake County Zoning Ordinance and Map be amended in the manner hereinafter set forth, which recommendations were duly presented to an adjourned meeting of the Wake County Board Commissioners convened and held at 11:00 o'clock A. M. on Monday, February 8, 1960; and

WHEREAS, upon consideration of the recommendation of the Wake County Planning Board and pursuant to resolution adopted, a public hearing was called to be held on Monday, March 7, 1960 at 11:00 o'clock A. M. in the Wake County Commissioners' Room, Wake County Courthouse, Raleigh, North Carolina, on the question of the adoption of the amendments proposed; and

WHEREAS, by order of the Board of Commissioners notice of said public hearing setting forth the proposed amendment was caused to be published once a week for two successive weeks in The Raleigh News and Observer, and at 11:00 o'clock A. M. on Monday, March 7, 1960, and at the time and place fixed in said notice of hearing, a Regular Meeting of the Wake County Board of Commissioners was declared open for a public hearing on the adoption of the proposed amendment; and

REGULAR SESSION

FIRST DAY

March 7, 1960

WHEREAS, the Wake County Advisory Commission in meeting assembled on the 7th day of March, 1960, convened and held at 10:00 o'clock A. M., duly recommended to the Wake County Board of Commissioners that the Wake County Zoning Ordinance and Map be amended in the manner hereinafter set forth; and

WHEREAS, at the conclusion of the public hearing, the Board of Commissioners, and upon further consideration, the following resolution was offered:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WAKE, NORTH CAROLINA, AS FOLLOWS:

SECTION I

The text of the Zoning Ordinance of the Northwestern Wake County Zoning Area is hereby amended as follows:

1. Section I, paragraph 1, shall divide the Northwestern Wake County Zoning Area into seven (7) classes of districts by changing the numeral (4) to the numeral (7) and by changing the list of districts to be:

RF : Research - Farming District  
R-20 : Residence 20 District  
R-15 : Residence 15 District  
GB : General Business District  
HC : Heavy Commercial District  
I-1 : Industrial One District  
I-2 : Industrial Two District

2. New Section IV and V shall be inserted after Section III as follows:

SECTION IV

RESIDENCE DISTRICTS

The following regulations shall apply in all Residence Districts:

A. Agricultural or Farming Purposes:

All realty, and all buildings and structures whatsoever, being used or to be used for agricultural, farming, livestock or poultry operations, and all forestry land, all as defined in Section III, sub-section (A), of this ordinance, shall be exempt from each and every provision of this ordinance.

Residence 20 District      Residence 15 District

1. Uses Permitted

- a. Dwellings      Dwellings
- b. The offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, artists, architects, where such professions are carried on in their respective residences.
- c. Customary home occupations, such as dressmaking, music teaching, preserving, home cooking and laundering, and beauty parlors, provided that such occupations shall be engaged in only by residents on the premises, and not more than the equivalent of the area of one floor shall be used for such occupations, that no display of products nor any advertising of any nature shall be visible from the street and that no accessory buildings shall be used for such home occupations.
- d. Churches and other places of worship, including parish houses and Sunday Schools.
- e. Colleges, schools, public libraries, public museums, and art galleries.
- f. Cemeteries, provided that any location shall be approved by the County Board of Commissioners of Wake County.
- g. Truck gardens, nurseries, and greenhouses, but not including any salesrooms or other buildings used primarily for the sale of products thereof.
- h. Accessory buildings and accessory uses, including private garages, servants quarters, and non-commercial guest houses.

REGULAR SESSIONFIRST DAY

March 7, 1960

2. Uses Permitted  
After Approval of  
Plans by the  
Board of Adjustment

- a. Publicly operated recreation buildings, playgrounds, parks, and athletic fields.
- b. Community buildings.
- c. Hospitals or sanatoria, philanthropic, or eleemosynary institutions, except correctional institutions, those intended for the care of insane and feeble-minded patients, and animal hospitals. Any building permitted to be used shall be set back no less than one hundred (100) feet from any lot line or street line. The exterior appearance of any such building shall be in appropriate harmony with the character of the area.
- d. Buildings which are used exclusively by the Federal, State, County, or City governments for public purposes except penal and correctional institutions.

3. Uses Permitted  
After Approval by  
The Board of  
Adjustment

- a. Clubs and grounds for games or sports, provided that any such use is not primarily for commercial gain, nor for which any mechanical amusement equipment is operated incidental to such games or sports.
- b. Static transformer stations, transmission lines and towers, and telephone exchanges, radio and television towers and transmitting or relay stations, not including service and storage yards, provided that the exterior appearance of any building or structure permitted under this paragraph shall be in keeping with the character of the neighborhood in which it is located.

4. Required Lot Area  
(see Paragraph 16)

20,000 square feet    15,000 square feet

5. Required Lot Area  
for Each Dwelling Unit  
in Excess of One

40,000 square feet    3,000 square feet

6. Minimum Lot Width

100 feet                      100 feet

7. Minimum Additional  
Lot Width for Each  
Dwelling Unit in  
Excess of One

10 feet                      10 feet

8. Minimum Width  
of Side Yard  
(see paragraph 16)

10 feet                      10 feet

9. Minimum Aggregate  
Width of Both Side  
Yards

30 feet                      30 feet

10. Minimum Depth of  
Rear Yard

25 feet                      25 feet

11. Minimum Depth of  
Front Yard and any  
Corner Side Yard40 feet                      35 feet  
except as provided below in paragraph 1712. Maximum Percentage  
of Lot Coverage

30 per cent                      30 per cent

13. One Dwelling  
Building Per lot

Only one dwelling building, whether house or trailer, shall be permitted on each lot except in the case of quarters for domestic servants as hereinafter described. No building or trailer to be used as a dwelling or tenement house shall be constructed, placed, or altered in the rear of or moved to the rear of a building situated on the same lot. No building or trailer shall be constructed or placed in front of or moved to the front of a dwelling or tenement house situated on the same lot. These provisions shall not be construed, however, as to prevent the erection, alteration, and maintenance of dwelling quarters in connection with an accessory building upon the rear of the lot, when the persons occupying such quarters are employed in domestic service upon the premises.

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14. Off-Street Parking

Off-street parking spaces of sufficient number to provide for each vehicle customarily parked in conjunction with each lot shall be provided on each lot.

15. Ingress and Egress

Each lot or plot shall front on and have ingress and egress by means of public right-of-way at least 30 feet wide or in the case of public right-of-way recorded in Wake County Register of Deeds Office after the passage of ordinance, 60 feet wide.

16. Lots Recorded Prior to Passage of Ordinance

a. Dwelling may be erected thereon

A dwelling may be erected on a lot or plot having less than the foregoing appropriate minimum area and width, provided the same existed under one ownership by virtue of a recorded plat or deed at the time of passage of this ordinance.

b. Side yard

On any lot having an average width of less than one hundred (100) feet, which lot was recorded in a plat or deed under one ownership at the time of adoption of this ordinance, the width of each side yard may be reduced to ten (10) percent of the width of such lot, but no such side yard shall have a width of less than eight (8) feet, and the aggregate width of both side yards on any lot shall be not less than thirty (30) percent of the width of such lot. Each lot 55 feet in width, or less, subdivided prior to the passage of this ordinance, shall have a side yard of not less than six (6) feet.

17. Building Lines

a. In any R. R. Districts no building shall be erected, reconstructed, altered or moved nearer to the street line on which it faces than the average setback observed by the residential buildings on the same side of the street and fronting thereon within the same block, or within 600 feet on each side thereof. No building shall be required to set back from the street a greater distance than the set back line observed by one of two existing buildings on the immediately adjoining lots on each side which is further removed from the street line. In no case shall such building setback line be nearer than fifty (50) feet from the center line of the street on which such building faces. Neither will the required setback need be more than fifty (50) feet from the street or highway right-of-way line.

b. When there are buildings on only one side of a street or highway within the block, or within 600 feet on either side, the setback line for the unoccupied side shall be the same as that established on the occupied side as herein provided.

c. Corner lots that are re-subdivided to front a street other than that which they originally faced shall conform to the setback line of the street which they originally faced in addition to the setback line of the street upon which they front after re-subdivision. On corner lots where buildings structures are designed to front on the side street of said corner lots, such structures shall be required to observe the setback line established for the street which such building or structure faces as well as that established for the street on which such lot fronts.

18. Utility Requirements

Approval of water supply and sewage disposal plans by the Health Departments will be required before the issuance of any building permit. Each lot must have available connections with municipal or community water supply systems approved by the State Board of Health, and sewage disposal plans approved by the Health Dept.

SECTION V

BUSINESS DISTRICTS

The following regulations shall apply in all Business Districts:

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1. Uses PermittedGeneral Business

Offices, clinics, medical or dental laboratories, tourist homes, rooming and boarding houses;

Retail stores and service establishments the principal activity of which is the selling of merchandise and services at retail, the merchandise or activity of which is principally and customarily stored within a building;

Hotels, Motels:

Commercial recreational establishments, the principal activity of which is the furnishing of recreation for a profit and the activity of which is conducted within a building;

Automobile salesrooms, filling stations;

Signs and poster panels.

Businesses providing service to customers in their vehicles. (drive-ins)

Residences shall be permitted only on approval by the Board of Adjustment. It is the intent of this ordinance that dwelling units in business structures, in General Business Districts shall be provided with yard space as necessary to satisfy the living and health requirements of the families in the dwelling units. Separate residence structures shall conform to the yard and space requirements of R-15 District.

Buildings and uses customarily accessory to an authorized use when located on the same lot are permitted.

Manufacturing for sale at retail and repair facilities incidental to a principal use when conducted entirely within a building.

All business uses shall be carried on in such a manner as to produce no offensive noise, dirt, odor, glare, heat, or vibration perceptible or measurable outside the appropriate property lines.

Heavy Commercial

General Business District uses except that residences shall be prohibited;

Retail stores, service establishments and repair shops, the merchandise and operations of which are stored or conducted outside a building as customarily as within but excluding junk and used material storage and salvage operations;

Wholesale establishments the principal activity of which is the sale of merchandise for resale to the public;

Commercial recreational establishments, the principal activity of which is the furnishing of recreation for a profit.

Automobile repair garages, used car sales establishments, trailer sales, and other automotive uses;

Businesses providing service to customers in their vehicles. (drive-ins)

Establishments processing for direct consumption the principal products from which are customarily delivered to individuals or retail outlets, as for example, baking plants, cleaning and dyeing plants, soft drink bottling plants, printers, provided such establishments comply with Industrial One District construction and operation standards and limitations.

Manufacturing for sale at retail and repair facilities incidental to a principal use.

2. Uses Permitted With Special Conditions3. Accessory Buildings and Uses4. Construction and Operating Standards and Limitations5. Yard and Space Requirementsa. Building Height

none

none

b. Required Lot Area

20,000 square feet for structures more than 50 percent of whose floor space is used for dwelling purposes

none

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- d. Minimum Depth of Front Yards and Corner Side Yards 50 feet 50 feet
- e. Minimum Width of Side Yards When a side yard adjoins a lot in a residence district, the required side yard shall be of the same width as the required side yard in the adjoining district.
- f. Minimum Depth of Rear Yards When a rear yard adjoins a lot in a residence district, the required rear yard shall be of the same depth as the required adjoining yard, side or rear, 50 feet if adjacent to a public right-of-way.
6. Off-Street Parking and Loading Off-Street parking and loading spaces of sufficient number to provide for each vehicle customarily parked or used in conjunction with each building or use shall be provided on each lot. All parking areas shall be so located and designed that ingress is by forward motion of the vehicle.
7. Utility Requirements Approval of water supply and sewage disposal plans by the Health Department will be required before the issuance of any building permit.
3. Section IV, RURAL RESIDENTIAL DISTRICTS, and Section VI, BUILDING LINES, are hereby repealed.
4. Section V, INDUSTRIAL DISTRICTS, is hereby renumbered as Section VI.
5. In Section VII, SIGNS, and Section VIII, ACCESSORY BUILDINGS AND USES, any designation "RR" is hereby changed to the word "Residence".

SECTION II

1. The zoning plan of the zoning ordinance of the Northwestern Wake County Zoning Area is hereby amended by changing the zoning classifications of all properties classified as RR District from to R-20 District.
2. The zoning plan of the zoning ordinance of the Northwestern Wake County Zoning Area is hereby amended by changing the zoning classification of the properties described below from R-20 District (RR District) to C.B. District:
- The property beginning at a point 100 feet eastwardly from a Texaco Service Station located on the north side of U. S. Highway #70 on the N. A. Napier property, thence along U. S. Highway #70 in a westwardly direction 300 feet wide, from north and south right of way of U. S. Highway #70 to a point 500 feet westwardly from the western right of way of Prison Farm Road, or Rock Quarry Road, as shown on Tax Maps numbers 405, 377, 376.
- The property in St. Matthews Township and designated by boundaries as follows: Beginning at the City of Raleigh, one mile zoning area, along U. S. #1 northward from the City limits of Raleigh, thence, 300 feet eastward and westward from the eastern and western right of way lines of U. S. Highway #1, 300 feet east and west from said right of way to the most northern Wake County zoning line, located 1000 feet from the center line intersection of U. S. Highway #1 and the road leading from New Hope Church to Millbrook, except 1000 feet eastward from the center line of U. S. Highway #1 North across the J. T. Hobby and Sons, Inc. property, known as Star Mount land, as shown on Wake County Tax Maps, 466, 467, 438, and 410.
3. The zoning plan of the zoning ordinance of the Northwestern Wake County Zoning Area is hereby amended by changing the zoning classification of the properties described below from R-20 District (RR District) to R-15 District:
- The property belonging to Mr. Cyrus Thompson and Mr. Marion B. Madlin located on Trinity Circle between Reedy Creek road and North Carolina highway #54, and shown on Tax Maps numbers 459, and 490.

SECTION III

The date of effect of this ordinance shall be from and after its passage.

\* \* \* \*

REGULAR SESSION  
FIRST DAY

July 5, 1960

The Wake County Board of Commissioners met in regular session in the Commissioners' Room, Wake County Courthouse, at 11:00 o'clock A. M., Tuesday, July 5, 1960. Members present were Chairman Haigh, Commissioners Powell, Holding, Robertson and Tancey. Chairman Haigh called the meeting to order.

Dr. James F. Heaton, Pastor of the Tabernacle Baptist Church, gave the invocation.

IN RE PUBLIC HEARING AND RESOLUTION AMENDING THE WAKE COUNTY ZONING ORDINANCE

Chairman Haigh stated that pursuant to the provisions of Chapter 1106, Session Laws 1959, having been complied with, that the regular meeting of the Wake County Board of Commissioners is now declared open for public hearing upon the adoption of the Zoning Ordinance Amendment providing for additional Residential Districts, including Zoning District maps showing the proposed boundaries to be rezoned.

Chairman Haigh then requested Mr. Sam Powell, Zoning Administrator, to present the proposed amendments for discussion.

Mr. Powell read the proposal for rezoning property known as Mrs. Anle Joslin property located in Cedar Fork Township from R-20 to G. B. District.

Chairman Haigh asked for opposition to the rezoning of this property and there was no opposition voiced at this public hearing.

Mr. Powell then presented the next proposal for rezoning property from R-20 to G.B. which was a district along the northeast side of U. S. Highway #70 west.

Mr. Pearson Stewart, Planner of the Research Triangle, recommended to the Board that they zone only the property involving the application submitted by L. W. Gardner and P. R. Wall, and that the rest of the proposed district be referred back to the Planning Board for further consideration.

The Board agreed to rezone only the part of the district concerning the property owned by Mr. L. W. Gardner and P. R. Wall.

Chairman Haigh asked for objections to the rezoning of this property and there were no objections.

Mr. Powell next read to the Board the proposal of rezoning property from R-20 to G.B. District owned by the Howell family located on Highway #70-A and #64 near Cary.

Chairman Haigh asked for objections to the rezoning of this property and there were no objections to this rezoning.

Mr. Powell next presented to the Board the proposal for rezoning property from R-20 to I-1 known as the R. A. Bashford land which is located between the Raleigh-Durham Airport Highway and the Prison Farm Road.

Chairman Haigh asked if there was anyone objecting to the rezoning of this property and no objections were heard.

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Mr. Powell then presented the proposed rezoning for property from R-20 to Heavy Commercial District owned by Regina R. Brown estate and located on the northeast side of U. S. Highway #70 west.

Chairman Haign asked if there were objections to the rezoning of this property and there were no objections voiced.

Mr. Powell next presented to the Board the proposal of the rezoning of property known as the Oak Park Subdivision located on the Southwest side of U. S. Highway #70 west, a portion of this property to be rezoned from R-20 District to R-12 District and a portion from R-20 to G. B. District.

Chairman Haign asked if there were any objections to the rezoning of these two districts involving the property known as Oak Park Subdivision. Mr. Samuel E. Johnson appeared as the attorney for the opponents in this rezoning matter and Mr. John Jordan appeared as the attorney for the proponents in this rezoning matter.

Mr. Johnson stated that he was appearing in behalf of the Glen Forest Subdivision, which is the adjoining property on the eastern side of Oak Park Subdivision, and the two principal stockholders of Glen Forest Subdivision, Mr. Louis E. Wooten, Jr. and Mr. Phillip R. Taylor also appeared at this time.

Mr. Johnson presented to the Board a letter dated July 5, 1960 requesting that they be notified of hearing when held regarding the proposed sewage disposal plant to be used at Oak Park Subdivision as his clients wish to be heard in this matter in the interest of promoting health, recreational facilities and the general welfare of citizens residing in Glen Forest Subdivision as it appears that Crabtree Creek is the route that would be used in discharging the liquid from the treatment plant.

Mr. J. J. Wyle, Jr., Chairman of the Laurel Hills Homeowners Association appeared before the Board next representing the Association and opposing the rezoning of the Oak Park Subdivision. He stated that it is the understanding of the Association that this proposed rezoning could make the installation of a sewage treatment plant quite likely, and such a plant would create objectional odors and considerable pollution of adjacent streams of Crabtree Creek.

Mr. Kid Brewer who lives and owns property in the Crabtree Creek Area appeared before the Board opposing this rezoning of property and stated that he has been making plans for a shopping center in this area for over eleven years and that the proposed sewage disposal plant would make the Crabtree Creek unusable in the way he had planned for his proposed shopping center.

Mr. John Jordan, Attorney, appeared before the Board representing the General Investment Corporation, known as Oak Park Subdivision.

Mr. Jordan stated that this subdivision was designed by G. Milton Small & Associates and the plans call for a general business area in the front for a shopping center which will sit back of the highway. He brought out that if the rezoning of this property is approved that all lots in this subdivision must be served by a central water and central sewage system satisfactory to the County and

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as to meet Health Department and Stream Sanitation Commission regulations at all times.

Mr. Pearson Stewart, Chief Planner of the Research Triangle Area, Mr. G. Milton Small, Architect and Designer of the Subdivision, Mr. A. C. Hall, Jr., Raleigh City Planner, Mr. Williams, Sanitation Engineer, Mr. Stephenson of the State Health Department, each appeared approving the plans for the Oak Park Subdivision and the proposed sewage disposal plant.

Mr. Johnson then brought to the Board's attention that if the area designated as General Business is approved and zoned as such, that this proposed business district will back up to the residential lots in the Glen Forest Subdivision and be undesirable for these residents.

Mr. Bill Teague and several other property owners then appeared in this matter, stating that they were opposed to the rezoning of this business property as it would make their residential property very undesirable.

Chairman Haigh recessed this public hearing until 2:30 in the afternoon and the hearing was resumed at 2:30 and was continued as follows:

Mr. Johnson appeared again in this rezoning matter and stated that the Glen Forest Subdivision is objection now only to the rezoning of a parcel of the Oak Park Subdivision reserved for General Business as this business would make it very undesirable and lessen the value of the residential property in the Glen Forest Subdivision touching this area. He then requested that the Board resubmit this proposed rezoning from R-20 to G.B. back to the Wake County Planning Board for their further consideration.

Mr. Jordan stated that the lots #5, #7, and #8 are the only lots in the Glen Forest Subdivision that will touch the proposed G-B area and that lots #6 and #9 only touch in part, and the one single lot holder in question is Bill Teague.

Mr. Haigh stated that the Board would now hear from individuals in this matter.

The owners of the Ranch Motel which is located just north of this property in question appeared next requesting that the proposed rezoning of the Oak Park Subdivision property be approved.

Mr. Ed Brewer appeared again in the matter and presented a proposed layout of his shopping center and stated that he is opposing the rezoning of the proposed property.

Mr. Smith of Laurel Hills, and a representative of the Wake County Girl Scout Camp, appeared next opposing the use of the proposed sewage treatment plant as they felt it would make the Crabtree Creek area undesirable and objectional.

Mr. Louis Wooten stated that the sole purpose of this hearing now is to protect the rights of a single property owner, Mr. Bill Teague, and that the Glen Forest Subdivision feels his rights as an individual should be protected.

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Mr. Jordan stated as it would cost his clients a tremendous amount of money to have this hearing delayed as they are ready to start construction, that his clients are now prepared to offer Mr. Peague and the other two lot owners a buffer strip of fifty feet. He stated that fifty feet of property behind lot #7, #8, and #9 in Glen Forest Subdivision would be left residential as a buffer zone between these lots and the business district.

Mr. A. M. Hale, Chairman of the Wake County Planning Board, and Mr. Sam Powell, Zoning Administrator, recommended to the Board that they accept the proposal of leaving a fifty foot buffer strip zoned residential behind lots #6, #7, and #8 of the Glen Forest Subdivision.

The Board of Commissioners agreed to accept the recommendation of the Chairman of the Planning Board regarding the fifty foot buffer-Residential zone behind lots #6, #7 and #8 of the Glen Forest Subdivision, and the following resolution was adopted by the Board approving the zoning ordinance amendments as discussed and agreed upon.

\* \* \*

RESOLUTION AMENDING THE WAKE COUNTY

ZONING ORDINANCE

WHEREAS, the Wake County Planning Board in meeting assembled on the 1st day of June, 1960, duly recommended to the Wake County Board of Commissioners that the Wake County Zoning Ordinance and Map be amended in the manner hereinafter set forth, which recommendations were duly presented to a regular meeting of the Wake County Board of Commissioners convened and held at 11:00 o'clock A. M. on Monday, June 6, 1960; and

WHEREAS, upon consideration of the recommendation of the Wake County Planning Board and pursuant to resolution adopted, a public hearing was called to be held on Tuesday, July 5, 1960 at 11:00 o'clock A. M. in the Wake County Commissioners' Room, Wake County Courthouse, Raleigh, North Carolina, on the question of the adoption of the amendment proposed; and

WHEREAS, by order of the Board of Commissioners notice of said public hearing setting forth the proposed amendment was caused to be published once a week for two successive weeks in the Raleigh News and Observer, and at 11:00 o'clock A. M. on Tuesday, July 5, 1960, and at the time and place fixed in said notice of hearing, a regular meeting of the Wake County Board of Commissioners was declared open for a public hearing on the adoption of the proposed amendment; and

WHEREAS, at the conclusion of the public hearing, the Board of Commissioners, upon further consideration, offered the following resolution:

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WAKE, NORTH CAROLINA, AS FOLLOWS:

SECTION I

The text of the Zoning Ordinance of the Northwestern Wake County Zoning Area is hereby amended as follows:

1) Section 1, paragraph 1, shall divide the Northwestern Wake County Zoning Area into nine (9) classes of districts by changing the numbers (8) to the numeral (9) and by adding to the list of districts the following named districts:

July 5, 1960

REG-2: Residence 12 District  
20 A Map Column, entitled Residence 12 District, shall be added to the table of district regulations in Section 17g as follows: Residence 12 District

1. Uses Permitted  
same as for Residence 20
2. Uses Permitted After Approval of Plans by Board of Adjustment  
same as for Residence 20
3. Uses Permitted After Approval by the Board of Adjustment  
same as for Residence 20
4. Required Lot Area  
12,000 square feet
5. Required Lot Area for each Dwelling Unit in Excess of One  
3,000 square feet
6. Minimum Lot Width  
75 feet
7. Minimum Additional Lot Width for Each Dwelling Unit in Excess of One  
10 feet
8. Minimum Width of Side Yard  
10 feet  
provided that stoops, uncovered or unenclosed porches, carports open on two sides may extend to 5 feet from a side lot line
9. Minimum Aggregate Width of Both Side Yards  
20 feet, excluding any area included by stoops, uncovered or unenclosed porches, carports open on two sides
10. Minimum Depth of Rear Yard  
25 feet
11. Minimum Depth of Front Yard and any Corner Side Yard  
30 feet
12. Maximum Percentage of Lot Coverage  
30 feet
13. One Dwelling Building Per Lot  
same as for Residence 20
14. Off-Street Parking  
same as for Residence 20
15. Ingress and Egress  
same as for Residence 20
16. Lots Recorded Prior to Passage of Ordinance  
same as for Residence 20
17. Building Lines  
same as for Residence 20
18. Utility Requirements  
Each lot must have available connections with municipal or community water supply and sewage disposal systems approved by the Park County Health Department, the State Board of Health and the State Utilities Commission.

SECTION II

The zoning plan of the zoning ordinance of the Northwestern Wake County Zoning Area is hereby amended by changing the zoning classification of the properties described below as follows:

From Residential 20-District to Residential-12 District

The property known as Oak Park Subdivision located on the southwest side of U. S. Highway #70 west, about 2 1/2 miles from Raleigh on the west side of Glen Forest and south of the Ranch Motel, containing about 242.5 acres as shown on Tax Maps #377, #405, and Oak Park Subdivision Map.

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From Residential 29-District to General Business District.

The property known as Oak Park Subdivision located on the southeast side of U. S. Highway #70, containing 100 feet of said highway #70, 704 feet and approximately 100 feet in depth southward from highway right of way of 110 feet in depth as shown on Oak Park Subdivision Map dated May 31, 1960 and Wake County Tax Map #377.

Except the following: A strip of land 50 feet wide at right angles along one of the eastern lines of Oak Park Subdivision measuring 334 feet and also being the rear line of lots #6 and #7 of Glen Forest Subdivision.

The property known as Mrs. Annie Joaslin property located in Cedar Park Township, northwest of Morrisville on the east side of highway #24, adjoining Pine Hill Mobile Home Park on the northwest, containing 4.42 acres as shown on Wake County Tax Map, Morrisville #13, #14.

The property along the northwest side of U. S. Highway #70 West of Morrisville, 400 feet at right angles from the northeast right of way line to the point beginning as a point in the western line of the Kate W. Shuman land and thence in a western direction across the land of U. W. George and in P. R. Walls land to the eastern line of Blue Flame Gas Co. land, 400 feet from and parallel to U. S. Highway #70.

The property located on the south side of U. S. Highway #1 West, between Raleigh and Cary from the west line of the State Road to the eastern right of way to said highway as shown on Tax Maps of Wake County.

From Residential-20 District to Equity Commercial District.

The property owned by Reginald R. Brown estate located on the northeast side of U. S. Highway #70 west, a depth of 300 feet from the northeast right of way line, beginning at the northwest line of H. M. Hubbard's land and going to the Southeast line of the State Park as shown on Wake County Tax Map #320.

From Residential-20 District to Industrial-1 District.

The property adjoining state road #1665 and #1666, being 300 feet deep from the right of way line of road #1666 and across lots #1 through #9 of the R. A. Baskford's land and a small portion of the Lipscomb land as shown on Wake County Tax Maps #376, #377.

SECTION III

The date of effect of this ordinance shall be from and after its passage.

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The adoption of the foregoing resolution was moved by Commissioner Powell, seconded by Commissioner Tancey, and upon roll call the Commissioners voted as follows:

Voting Aye: All

Voting Nay: None

IV RE COMPOSITE BOARD

The Board of County Commissioners, the Board of Education, and the Board of Health, met as a Composite Board at 12:00 noon, Tuesday, July 5, 1960.

Upon roll call by Chairman Haigh, the following members of the Composite Board were present:

Members of the Board of Commissioners present, Chairman Haigh, Commissioners Powell, Holting, Robertson and Tancey.

Members of the Board of Health present, Mr. Fred A. Smith, Mr. Robert I. Crombley, Dr. E. D. Baker, Dr. E. H. Herring, Mr. Kenneth R. Wyatt.

FIRST DAY

November 16, 1959

The Wake County Board of Commissioners met in called session in the Commissioners' Room, Wake County Courthouse, at 11:00 o'clock A. M., Monday, November 16, 1959. Members present were Chairman Haigh, Commissioners Powell, Holding and Robertson. Commissioner Yancey was absent.

Chairman Haigh called the meeting to order.

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IN RE ROAD PETITION

The following road petitions were presented to the Board requesting improvements:

The first petition presented was for improvement of the new road running by the Wendell-Zebulon Branch Hospital and Commissioner Powell as Chairman of the Wake County Hospital Authority requested that this petition be given special attention.

#358. Little River Township: Road runs from new paving at entrance of Wendell-Zebulon hospital running S.E. for 675' to existing U. S. 64 from Zebulon to Wendell and is known as new road running by Wendell-Zebulon branch hospital. Length of road 675'; number of houses on road: none. Present status of road: Road is not worked by the State as part of system but is known as a neighborhood road. Present condition of road: graded with 8" of crushed stone base. Work requested: An asphalt surface of at least 1 1/2" thickness, placed over existing stone base course for 675' by 22'. What help will be furnished by petitioners if requested by Highway Commission, is not given. Petitioner to contact if necessary: Mr. J. Dewey Powell, Wake County Commissioner, Apex, North Carolina.

The next two petitions presented to the Board are as follows:

#359. Raleigh Township: Road runs from Poole Road to New Bern Avenue (US #64) and is known as Sunny Brook Road. Length of road 1 1/2 miles; number of houses on road: New County Hospital and 15 houses. Present status of road: Road is worked by State as a neighborhood road. Present condition of road: Graded dirt road now ending at point indicated on map attached to petition. Work requested: (1) Extend grading of road in northwesterly direction along NE boundary of Wake County Hospital to New Bern Ave. (2) Pave or black-top from Poole Road to New Bern Avenue. What help will be furnished by petitioners if requested: They will grant 30' right of way each side of center line. Petitioner to contact: Mr. C. A. Poe, Box 2454, Raleigh, North Carolina.

#360. Swift Creek Township. Road runs from S. Saunders St. Extension to Carolina Fines Avenue and is known as Leagnes Ave. and Cherry Circle. Length of road 2278 ft.; number of houses on road: 14. Present status of road: Road is not worked by the State as part of system, but is known as a neighborhood road. Present condition of road: Paved. Work requested: maintenance. What help will be furnished by petitioners if requested is not given. Petitioner to contact: R. W. Smith, Raleigh, North Carolina.

Commissioner Holding moved that the Clerk refer these petitions to the State Highway and Public Works Commission for their consideration and that a special letter be written for the petition #358, new road running by Wendell-Zebulon Branch Hospital, with the request that this road be given top priority. Commissioner Robertson seconded this motion with all members voting aye.

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IN RE APPROVAL OF RECOMMENDATION FROM PLANNING BOARD FOR CREATION OF ZONING AREA IN WAKE COUNTY

Chairman Haigh stated that the Wake County Planning Board met in adjourned session this morning and took action regarding the creation of a zoning area in Wake County.

CALLER MEETING

FIRST DAY

November 16, 1959

Chairman Haigh then presented a map and description to the Board and stated that the Wake County Planning Board recommends to the Wake County Board of Commissioners that the area described in the attached description and outlined on the attached map be designated a Wake County zoning area, and that the necessary steps be taken to zone this area by county ordinance as outlined in the County zoning laws as quickly as practical; and, that this motion duly made and seconded, was based upon the Planning Board finding that immediate zoning of the entire county is not now necessary.

Commissioner Holding moved that the Board approve the action of the Wake County Planning Board and that at 11:00 A. M. on Friday, December 4, 1959, in the Wake County Commissioners' Room, Wake County Courthouse, Raleigh, North Carolina, a public hearing be held after publication of notice of such hearing once a week for two successive calendar weeks in the News and Observer a newspaper published in Wake County, on the question as to whether or not that portion of Wake County designated by boundaries as follows be designated as a zoning area.

BEGINNING at a point 1000 ft. East of the intersection of U.S. #1 North of Raleigh and the boundary line of the Raleigh one-mile perimeter zoning area; following U. S. #1 North at a distance East of 1000 ft. from the center line of right of way; until reaching New Hope Church at U. S. #401 North; then turning in a Northwesterly direction on a line 1000 ft. East of and parallel to center line of the right of way of the paved road running through Millbrook to the Falls of Neuse Road; then turning in a Northerly direction in a line 1000 ft. East of and parallel to the center line of the right of way of the Falls of Neuse Road; then at its intersection with the Six Forks - Leesville Road, turning in a Northwesterly direction in a line 1000 ft. North of and parallel to the center line of the Six Forks - Leesville Road until this road after passing through Leesville crosses the Durham County line; then turning in a westerly direction following exactly the Durham County, Orange County and Chatham County lines until the Chatham County line is intersected by U. S. #1 Relocated; then following at a southern distance of 1000 ft. from the center line of the relocated U. S. #1 toward Raleigh in an Easterly direction until it intersects again the Raleigh one-mile perimeter zoning area boundary line; and following this line around the West and North sides of the City to the point of its BEGINNING.

Commissioner Powell seconded this motion with all members present voting aye.

Mr. Banks, County Attorney, then outlined briefly to the Board the necessary procedure to be taken by the Board after this public hearing.

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IN RE COMPENSATION FOR MEMBERS OF THE WAKE COUNTY PLANNING BOARD

Chairman Haigh brought to the attention of the Board the matter of compensation for the members of the Wake County Planning Board.

Chairman Haigh then recommended that the Board authorize the payment to the Planning Board members of \$10.00 per day for meetings plus mileage.

Commissioner Robertson moved that the Wake County Planning Board members be paid compensation for their time spent at meetings on the basis of \$10.00 per day for meetings, plus mileage at the rate of ten cents per mile one way, and that this be charged as paid from the Contingency Fund in the Budget. Commissioner Powell seconded this motion with all members present voting aye.

IN RE APPROVAL OF MINUTES

Upon motion of Commissioner Yancey, seconded by Commissioner Holding, with all members voting aye, the minutes of the last meeting of the Board were approved.

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IN RE PUBLIC HEARING ON ADOPTION OF ZONING ORDINANCE AMENDMENTS AND ZONING PROPERTY LOCATED JUST OUTSIDE OF THE TOWN OF CARY AS INDUSTRIAL DISTRICT

Chairman Haigh stated that pursuant to the provisions of Chapter 1006, Session Laws 1959, that the Board will hold a public hearing regarding the adoption of amendment to the zoning ordinance and the rezoning of certain property located outside of the Town of Cary as an industrial district.

Chairman Haigh then stated that due to the passing away of the Mother of the County Attorney, Mr. Banks, the Board will defer action regarding these matters until an adjourned meeting of the Board on Monday, February 8, 1960.

Chairman Haigh stated that the meeting is now open for public hearing for adoption of the amendment to the Zoning Ordinance and for the rezoning of a district located outside the Town of Cary from rural-residential district to industrial district as recommended and certified to the Board of Commissioners by the Wake County Planning Board at their meeting on January 15, 1960.

Chairman Haigh then asked if there were any interested citizens to be heard.

Mr. Henry H. Sink, Attorney, appeared before the Board representing the Southern Equipment Corporation who has made application for rezoning of property within the proposed industrial district to be put to use as a Ready Mixed Concrete Plant site.

Mr. Sink stated that his Company is urging that the Board take favorable action in rezoning the said district in question located just outside the Town of Cary on the north side of U. S. Highway #1 from a rural-residential district to an industrial district.

There being no other citizens to be heard, Chairman Haigh stated that the Board would call a special adjourned meeting of the Board to be held next Monday, February 8, 1960, at which time they would take action on the amendment to the zoning ordinance and the proposal to rezone a specific area to industrial district.

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IN RE APPLICATION OF MRS. MAMIE D. SMITH TO THE WAKE COUNTY HOME CONSIDERED BY BOARD

Mr. J. A. Holmes, Superintendent of the Wake County Home, again brought to the attention of the Board the application for admission to the Home of Mrs. Mamie D. Smith, female, age 83, who is now a T. B. patient at McCain and who will be dismissed this week.

Mr. Holmes stated that this woman had not signed the application to the Home as she is afraid her property at 1402 Crest Road which is unlivable, will be taken from her; but, that Dr. Grant, Health Officer for Wake County, has contacted him and stated that Mrs. Smith is now willing to go to the Home and that she is sending an application for her.

REGULAR SESSIONFIRST DAY

February 1, 1960

Mr. Holmes brought to the Board's attention that Mrs. Smith had seven children and that four of these children died with T. B.

Mr. Holmes brought to the Board's attention also that at the regular meeting of the Board, January 4, 1960 he was requested to have all of the patients in the Home X-rayed, and that 80 out of 84 of the patients in the Home have been X-rayed.

The Board and the County Home Committee agreed that Mrs. Smith be accepted in the Home subject to her having been adjudged completely cured and having signed the application for admittance.

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IN RE MR. POWELL PRESENTS RECOMMENDATIONS TO THE BOARD ON APPLICATIONS CONSIDERED BY THE PLANNING BOARD AT THEIR MEETING JANUARY 29, 1960

Mr. Sam Powell, Zoning Administrator for Wake County, appeared before the Board and presented recommendations from the Planning Board on the rezoning of certain property on which applications they took action Friday, January 29, 1960.

Mr. Powell stated that the Board considered three applications for business zones to be rezoned from rural-residential and retail business district.

Mr. Powell presented the following recommendation from the Planning Board regarding action on application from Mr. J. T. Hobby, Jr.:

"Mr. Powell presented an application from Mr. J. T. Hobby, Jr., for property located on the East side of U.S. highway #1 North and approximately 3 miles Northward from Raleigh. Said property being in the name of J. T. Hobby and Son, Inc. and being approximately 752 feet along U.S. highway #1 and approximately 1000 feet in depth, to be rezoned from rural residential to commercial business district. The following action was taken by the Planning Board. Mr. Howell made a motion to rezone for commercial retail business the following described area. The motion was seconded by Mr. Richardson, all members present voted aye.

Beginning at the City of Raleigh, one mile zoning area, along U. S. #1 Northward from the City limits of Raleigh, thence, 300 feet Eastward and Westward from the Eastern and Western right of way lines of U. S. highway #1, running North along U. S. highway #1, 300 feet East and West from said right of way to the most Northern Wake County Zoning line, located 1000 feet from the center line intersection of U. S. highway #1 and the road leading from New Hope Church to Millbrook. The above described area includes a 300 feet depth area across the J. T. Hobby and Sons, Inc. Property."

After some discussion of this matter, the Board stated that they felt that Mr. Hobby's property should be rezoned 1000 feet in depth instead of 300 feet.

The next recommendation from the Planning Board is regarding the application of Mr. J. J. Coggins and is as follows:

"Mr. Sam Powell, Administrator of the Wake County Planning Board, presented to the Board Mr. J. J. Coggins application for rezoning property located on the North side of U. S. highway #70 West, from rural residential district, to commercial business district, as continued from the January 15, 1960 meeting.

Mr. Miller made a motion that the property in the above stated application be rezoned from rural residential to light retail commercial business district. The motion was seconded by Mr. Howell, all members present voted aye."

Mr. Powell presented next recommendation from Planning Board regarding action on application from Mr. L. S. Faison, and this is as follows:

"Mr. Powell presented to the Board, Mr. L. S. Faison's application for rezoning from, rural residential district to commercial business district, a lot 300 feet by 324 feet, located at Southwestern intersection of U. S. highway #70 and Rock Quarry Road, or Prison Farm Road.

The Wake County Board of Commissioners met in called session in the Commissioners' Room, Wake County Courthouse, at 11:00 o'clock A. M., Friday, December 4, 1959. Members present were Chairman Haigh, Commissioners Powell, Holding, Robertson and Yancey.

Chairman Haigh called the meeting to order.

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IN RE PUBLIC HEARING ON CREATING ZONING AREA AND ADOPTION OF RESOLUTION DESIGNATING  
A PORTION OF WAKE COUNTY AS A ZONING AREA

Chairman Haigh stated that a public hearing was called by the Board of Commissioners at 11:00 for the purpose of giving people involved in the zoning of a area west of Raleigh, this area being a certain portion of Northwestern Wake County, an opportunity to be heard as to their feelings in the proposed zoning of this area.

Chairman Haigh explained the proposed zoning program to the people present and cited two appeals made to the Board of Commissioners by property owners. He stated that there was made an appeal regarding a stockyard on Highway #64 and an appeal regarding a trailer camp near Cary.

Chairman Haigh stated that the Board is at this time primarily trying to do immediately the thing that would give the Research Triangle Park the protection it needs, as well as set a pattern for orderly planning in Wake County.

Chairman Haigh then requested Mr. Pearson Stewart, Head of the Research Triangle Regional Planning Board, to appear before the Board.

Mr. Stewart appeared and stated that the Research Triangle Park is urging very strongly that Wake County take appropriate action to zone in whatever way it sees fit, and that the Park is urging that the area in question be set up as such a zoning area.

Mr. Jimmy Briggs, the County's representative on the Research Triangle Regional Planning Commission, appeared next and stated that he has had considerable experience in zoning and planning, and that the advantages of zoning and planning so far out-weigh the disadvantages and he heartily endorsed the zoning of the proposed area in question.

Chairman Haigh then requested Mr. Banks, County Attorney, to explain the purpose and legality of this hearing.

Mr. Banks, County Attorney, stated that the only action before the Board today is the question as to whether or not the area described in Northwestern Wake County shall be designated as a zoning area subject to zoning regulations. He stated further that after action for creating zoning area, the Board appoints an advisory commission of residences of that area to make recommendations to the Planning Board and Commissioners.

Mr. Banks next read to the Board the notice entitled "Notice Public Hearing on Creating Zoning Area" which was duly advertised as required by law and stated that this meeting is open for public hearing and open for determination by the Board as to whether or not this area should be designated as a zoning area.

CALLLED MEETINGFIRST DAY

December 4, 1959

Chairman Haigh stated that the Board at this time would be glad to hear from interested citizens in this matter.

Mr. F. L. McMillan appeared representing Mr. W. G. Purvis who owns eight acres in the Chestnut Hills area. Mr. McMillan stated that his client requests that he express his approval of the zoning of this area and to express his approval for the zoning of all of Wake County. Mr. McMillan then presented facts regarding the development of his client's property and presented a map to be studied by the Wake County Planning Board.

Mr. F. N. Tyson appeared next stating that his property is located two miles north of the Fair Grounds and endorsed the zoning of this area as being the best thing for the property owners in Wake County.

Mr. Jack Coggins who owns property on Highway #70 appeared next and expressed to the Board that he felt the whole County should be zoned. Mr. Coggins reviewed with the Board the proposed use of his land and he was in agreement with the zoning of the area in question.

Mr. H. W. Graeber appeared next and stated that he owns property within the proposed area and property outside the proposed area, and that he is opposed to zoning the proposed area but is in favor of zoning the whole County. Mr. Graeber stated further that if this area is zoned, that the Board should appoint the Planning Board from within the area that is zoned.

Chairman Haigh explained that the Planning Board is appointed as provided by law and that the law provides that an Advisory Commission be appointed from this area to make recommendations to the Planning Board and Commissioners.

Mr. David Cockman, Attorney, appeared next representing Mr. John Sweat. Mr. Cockman stated that his client is opposed to the zoning of this area as he bought property in this area several years ago with a specific use in mind; and, that he does not want all of his time, energy and money to hinge on the proposed zoning of this property. He stated that his client feels that all the County should be treated alike and that zoning should be set up in the entire County and not just in this area.

Chairman Haigh stated that it is the feeling of the Board that the planning program will be a liberal one so far as land use is concerned.

Dean Schaub, member of the Enlarged City-County Planning Commission, who owns property off Western Boulevard, appeared next endorsing the zoning of this area.

Mr. Louis Wooten, Chairman of the Planning Committee of the Raleigh Chamber of Commerce, appeared before the Board stating that County planning is favored by the Chamber of Commerce.

Mr. Si Thompson, Realtor, appeared next stating that he is wholeheartedly in favor of zoning this area and that delay would be fatal to the County.

A retired Professional Engineer who resides in the area in question stated to the Board that he is entirely in favor of zoning this area and the whole County should be zoned as quickly as possible.

After having heard all interested citizens and persons and after consideration by the Board, Chairman Haigh read to the Board the necessary resolution for designating a portion of Wake County as a zoning area and this resolution was unanimously adopted as follows:

\* \* \*

RESOLUTION DESIGNATING A PORTION OF WAKE  
COUNTY AS A ZONING AREA

WHEREAS, at a Special Meeting of the Board of County Commissioners of Wake County convened and held at the Wake County Commissioner's Room, Wake County Courthouse, Raleigh, North Carolina at 10:00 o'clock A. M. on Monday, November 16, 1959, for the purpose of considering a Zoning Program for Wake County, representatives of the Research Triangle and interested citizens appeared before the Board to present their views upon the zoning needs of the County.

Also, at this meeting, the Wake County Planning Board duly appointed under the provisions of G. S. 153 9(40) as provided by Chapter 1006 of the Session Laws of 1959, having met and given consideration and study to the zoning needs of the County, appeared before the Board of Commissioners and made their recommendation that it was not necessary for the public interest that the entire County be zoned immediately, that further survey and study would be in order before adopting a zoning plan for the entire County and presented to the Board a recommendation that the area of Northwestern Wake County, hereinafter described by metes and bounds, be designated as a "Zoning Area" as provided and authorized by the provisions of Chapter 1006 of the Session Laws of 1959, and after hearing the recommendations of the Planning Board, representatives of the Research Triangle Commission and other interested citizens, a resolution was duly adopted calling for a public hearing after due advertisement as provided by law in the Wake County Commissioners' Room, Wake County Courthouse, Raleigh, North Carolina, at 11:00 o'clock A. M. on Friday, December 4, 1959 on the question as to whether or not that portion of Northwestern Wake County, hereinafter described by metes and bounds, should be designated as a zoning area; and

WHEREAS, pursuant to order of the Board of Commissioners, a notice of the public hearing describing by metes and bounds the portion of the County proposed to be designated as a zoning area, was duly published in the News and Observer on Wednesday, November 18th and on Wednesday, November 25, 1959, giving notice to all persons that at 11:00 o'clock A. M. in the Wake County Commissioner's Room on December 4, 1959, a public hearing would be held on the question of designating the described portion of Wake County as a zoning area, affidavit of publication of said notice being hereto attached and incorporated as a part of the permanent records of the Board; and

WHEREAS, at 11:00 o'clock A. M. on Friday, December 4, 1959 at a Special Meeting of the Wake County Board of Commissioners called and convened in the manner provided by law, the meeting was declared open for a hearing on the proposal, and after hearing all interested persons and interested citizens, and after full consideration, the following resolution was offered:

"RESOLVED:

That the Board of County Commissioners of Wake County finds and determines that it is not necessary to zone the entire County at this time in order to serve the public interest.

CALL'D MEETING

FIRST DAY

December 4, 1959

Be it further RESOLVED that after hearing the recommendations of representatives of the Research Triangle Planning Commission and representatives, citizens and business interest of the area involved, and after public hearing as provided by law, the Wake County Board of Commissioners finds and determines that in order to serve the public interest and for the purpose of promoting health, safety and the general welfare, that certain portion of Northwestern Wake County should be designated, and the Board of Commissioners acting pursuant to the power and authority granted in Chapter 1006 of the Session Laws of 1959 and other powers vested in Boards of County Commissioners, does hereby designate as a zoning area that certain portion of Northwestern Wake County described by metes and bounds as follows:

BEGINNING at a point 1000 ft. East of the intersection of U. S. #1 North of Raleigh and the boundary line of the Raleigh one-mile perimeter zoning area; following U. S. #1 North at a distance East of 1000 ft. from the center line of right of way; until reaching New Hope Church at U. S. #401 North; then turning in a Northwesterly direction on a line 1000 ft. East of and parallel to center line of the right of way of the paved road running through Millbrook to the Falls of Neuse Road; then turning in a Northerly direction in a line 1000 ft. East of and parallel to the center line of the right of way of the Falls of Neuse Road; then at its intersection with the Six Forks - Leesville Road, turning in a Northwesterly direction in a line 1000 ft. North of and parallel to the center line of the Six Forks - Leesville Road until this road after passing through Leesville crosses the Durham County line; then turning in a westerly direction following exactly the Durham County, Orange County and Chatham County lines until the Chatham County line is intersected by U. S. #1 Relocated; then following at a southern distance of 1000 ft. from the center line of the relocated U. S. #1 toward Raleigh in an Easterly direction until it intersects again the Raleigh one-mile perimeter zoning area boundary line; and following this line around the West and North sides of the City to the point of its BEGINNING.

The adoption of the foregoing resolution was moved by Commissioner Holding, seconded by Commissioner Yancey, and upon roll call the Commissioners voted as follows: Those voting Aye were Commissioners Haigh, Powell, Holding, Robertson and Yancey. Those voting Nay were none.

\* \* \*

After the adoption of this resolution, Chairman Haigh stated that the Board of Commissioners is required by law to appoint an Advisory Commission from each area, to make recommendations to the Planning Board and Commissioners, and that this Commission should be composed of five members.

Chairman Haigh stated that since the area involved is in the districts of Commissioner Holding, Commissioner Powell and Commissioner Robertson, that he would like to request that these three Commissioners nominate members for this Commission.

Chairman Haigh then requested that Commissioner Robertson nominate one member.

Commissioner Robertson stated that he would like to nominate Mr. Jack Norwood of Millbrook.

Chairman Haigh then requested that Commissioner Holding nominate two members as a large portion of this area is in his district.

Commissioner Holding stated that he would like to nominate Mr. C. H. Mims and Mr. F. Carter Williams.

Chairman Haigh then requested that Commissioner Powell nominate two members for this Commission as a large portion of this area is also in his district.

Commissioner Powell stated that he would like to nominate Mr. Carl Burt of Route #1, Cary, North Carolina, and Mr. Raymond Johnson of Route #1 Morrisville, North Carolina.

FIRST DAY

December 4, 1959

Commissioner Robertson moved that the following resolution be adopted by the Board appointing these duly nominated men as an Advisory Commission. Commissioner Powell seconded this motion with all members voting aye.

\* \* \*

That Jack Norwood, C. H. Mims, F. Carter Williams, Carl Burt, and Raymond Johnson each of whom are residents of the above described area be, and they are hereby appointed as an Advisory Commission, and charged with the duty of making recommendations to the Wake County Planning Board and to the Board of Commissioners concerning zoning regulations for such area.

That the Wake County Planning Board after receipt and consideration of the recommendations of the Advisory Commission be requested to prepare a Zoning Plan including both the full text of Zoning Ordinances and map or maps showing the boundary of any proposed districts in the area involved and certify the same to the Board of Commissioners for action.

\* \* \*

IN RE APPROVAL OF APPROPRIATION TO THE RESEARCH TRIANGLE REGIONAL PLANNING COMMISSION

Mr. James E. Briggs, the County's representative on the Research Triangle Regional Planning Commission, presented to the Board a budget for the period January 1 through June 30, 1960 adopted by the Commission on November 24, 1959. He stated that the Commission voted to recommend to the component local governments that the current budget be divided among the several governments on the following basis: Raleigh 1/5, Wake County 1/5, Durham 1/5, Durham County 1/5, Chapel Hill 1/10, Orange County 1/10.

Chairman Haigh then read to the Board a letter dated December 2, 1959 from Mr. James Ray, Chairman of the Research Triangle Planning Commission with a copy of the Commission's Budget attached thereto.

Chairman Haigh stated that the Commission is requesting that Wake County appropriate \$1,775.00 to the Research Triangle Regional Planning Commission for the period January 1 to June 30, 1960 as Wake County's share 1/5 of the total budget of \$8,875.00.

Commissioner Robertson moved that the Board approve the appropriation of \$1775.00 from the Contingency Fund to the Research Triangle Regional Planning Commission for the period January 1 to June 30, 1960. Commissioner Yancey seconded this motion with all members voting aye.

IN RE ACCEPTANCE OF RESIGNATION OF THOMAS W. STEED, JR. AS ASSISTANT SOLICITOR AND APPOINTMENT OF WILLIAM G. RANDELL, JR. TO FILL THE POSITION AS ASSISTANT SOLICITOR OF WAKE COUNTY

Chairman Haigh presented to the Board a letter dated December 4, 1959 from Lester V. Chalmers, Jr., Solicitor, which stated that it is with deep regret that he accepts the resignation of Thomas W. Steed, Jr., as assistant solicitor for the Superior Court of Wake County.

CALLED MEETINGFIRST DAY

December 4, 1959

Chairman Haigh stated that Solicitor Chalmers further stated in this letter that pursuant to HB 1112, Chapter 1061 of the 1949 Session Laws of North Carolina, he hereby recommends and nominates Mr. William G. Fansdell, Jr. to assist the Solicitor of the Seventh Solicitorial District in the prosecution of the criminal docket of the Superior Court of Wake County.

Commissioner Robertson moved that the Board accept the resignation of Thomas W. Steed, Jr. as assistant solicitor as of December 4, 1959; and, that upon recommendation of Solicitor Chalmers that Mr. William G. Ransdell, Jr. be appointed as assistant solicitor to serve for a period of one year from December 4, 1959 to December 1, 1960. Commissioner Powell seconded this motion with all members voting aye.

IN RE ROAD PETITIONS

The following road petitions were presented to the Board requesting improvements:

- #361. Buck Horn Township: Road runs from West Holly Springs and Apex Road to Apex Road Hwy. #1 by Apex Junior High School and road is known as Road to Oker Richardson's House. Length of road: .4 mile; number of houses on road: 4. Present status of road: road is not worked by the State as part of system but is known as a neighborhood road. Present condition of road: dirt and sandy. Work requested: Pull-up and put on map. What help will be furnished by petitioners, if requested by S.H. & P.W.: "What help is needed will be furnished". Petitioner to contact if necessary: Oker Richardson, Rt. #1, Apex, N. C.
- #362. Little River Twp. Road runs from Point South of Fowlers Crossroad at J. D. Watkins' House on Rolesville to Zebulon Road to Dead-end. Name of road is not given. Length of road: 3/4 mile; number of houses on road: 6. Present status of road: Road is not worked by the State as part of system but is known as a neighborhood road. Present condition of road: bad. Work requested: Take over as part of system. What help will be furnished by petitioners if requested by S.H. & P.W.: Right of Way and Top Soil. Petitioner to contact if necessary: J. B. Watkins, R. F. D. #4, Raleigh.

Upon motion by Commissioner Robertson, seconded by Commissioner Powell, the Clerk was ordered to refer these petitions to the State Highway and Public Works Commission for their consideration, all Commissioners voting aye.

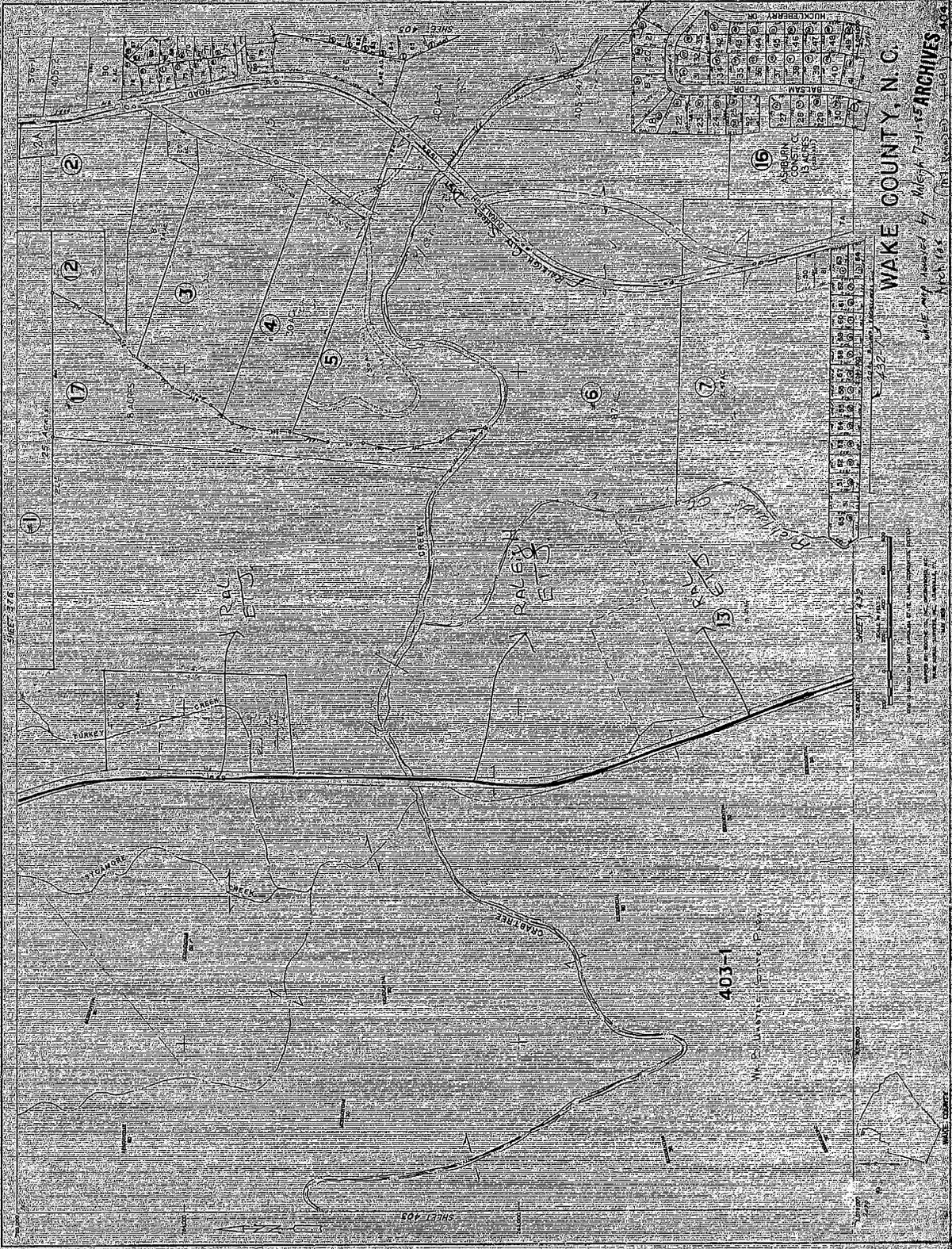
IN RE APPROVAL OF EMPLOYMENT OF LONNIE BOST AS APPRAISER IN WAKE COUNTY TAX SUPERVISOR OFFICE

Chairman Haigh presented to the Board a request and recommendation from Mr. R. E. Richardson, Tax Supervisor, for approval of the employment of Lonnie Bost as a field man to appraise property for the Wake County Tax Supervisor's Office.

Chairman Haigh stated that Mr. Bost is now employed by Southern Appraisal Company and that Mr. Richardson feels the need of having this man to work with him beginning at the expiration of his employment with Southern Appraisal Company, in order to have new construction put on the tax books properly.

Chairman Haigh stated that Mr. Bost would be employed at a salary of \$100 per week at the termination of his employment with Southern Appraisal Company and that Mr. Bost's salary would be paid from the Revaluation Fund for the remainder of this budget year.

Commissioner Holding moved that upon recommendation of Mr. Richardson, Tax Supervisor, that the Board approve the employment of Mr. Lonnie Bost in the Wake County Tax Supervisor's Office with said employment beginning at the expiration of his work



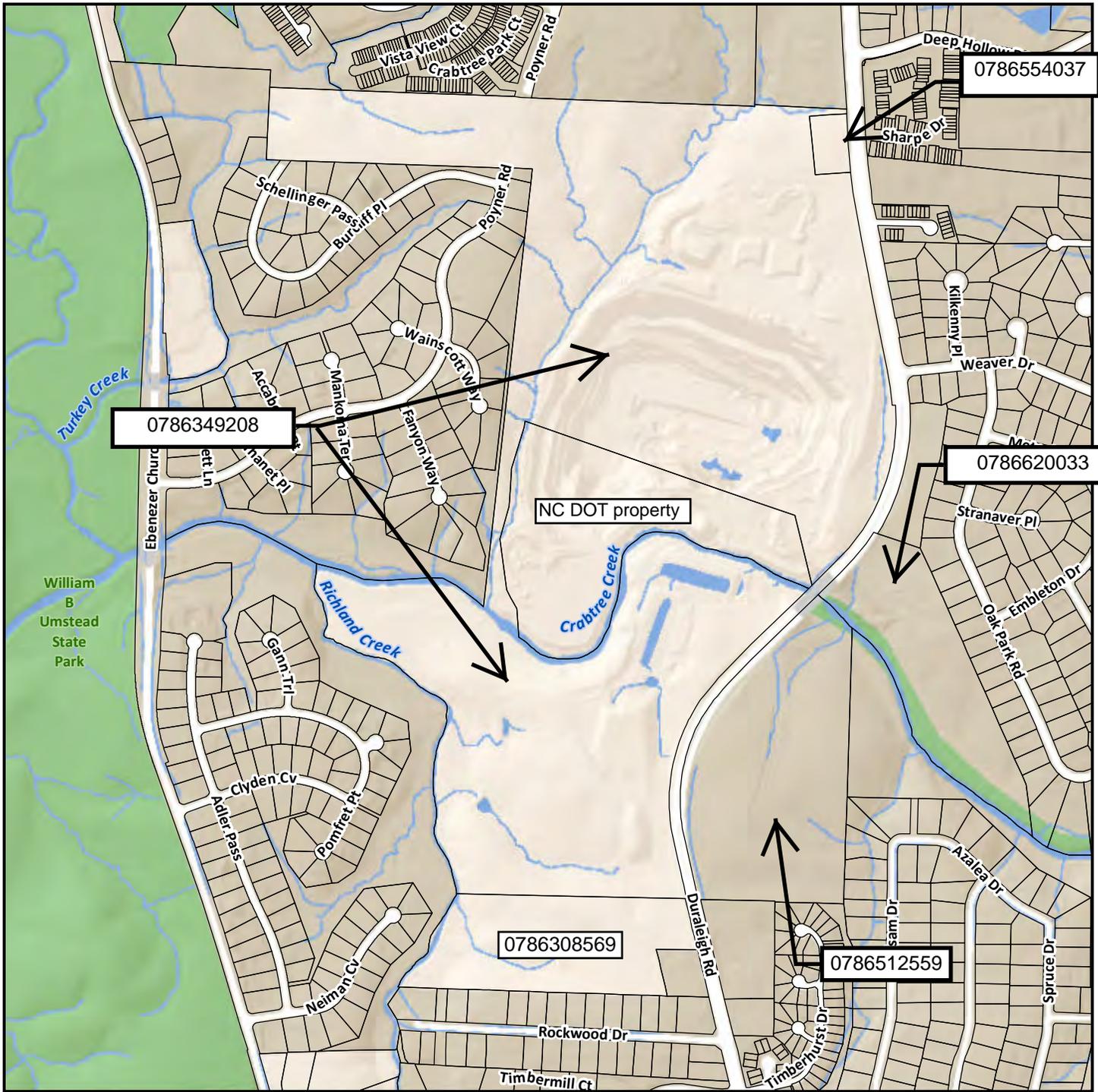
WAKE COUNTY, N. C.

Map prepared by Wake County Archives

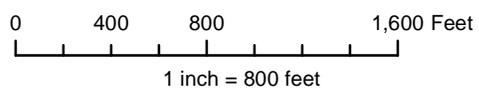
Parcel No.	Area (Acres)	Owner
1	1.2	...
2	1.5	...
3	1.8	...
4	2.1	...
5	2.4	...
6	2.7	...
7	3.0	...
8	3.3	...
9	3.6	...
10	3.9	...
11	4.2	...
12	4.5	...
13	4.8	...
14	5.1	...
15	5.4	...
16	5.7	...
17	6.0	...

403-1

SHEET 403



MAP TITLE PIN Numbers



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## **SETTLEMENT AGREEMENT**

**THIS SETTLEMENT AGREEMENT** (“Settlement Agreement”) is made this \_\_\_ day of \_\_\_\_\_, 2014, (“the Effective Date”) by HANSON AGGREGATES SOUTHEAST, LLC, a Delaware limited liability company, and the CITY OF RALEIGH, a North Carolina municipal corporation, hereinafter referred to as the “City.” Hanson and the City are referred to throughout as Party and/or Parties.

### **WITNESSETH:**

**WHEREAS**, Hanson owns certain real property situated in the vicinity of Crabtree and Richland Creeks, adjacent to Duraleigh Road in Raleigh, NC more particularly described as PIN 0786349208, 0786308569, 0786512559, 0786620033, and 0786554037 (the “Property”);

**WHEREAS**, specifically, Hanson, or its predecessors in interest, has extracted subsurface granite from portions of the Property since the 1940s and has done so continually and with the City’s knowledge since before the Property became subject to the City’s planning jurisdiction;

**WHEREAS**, the portion of the Property located to the east of Duraleigh Road is within the City’s corporate limits. The portion of the Property located to the west of Duraleigh Road is within the City’s extraterritorial jurisdiction (“ETJ”). Hanson and the City agree that the City’s zoning ordinances apply to all of the Property. However, Hanson and the City dispute the specific dates on which various portions of the Property became subject to the City’s zoning ordinances and also dispute the requirements that the City’s zoning regulations impose on the Property. Hanson and the City also dispute the requirements, if any, that were imposed on the Property by Wake County zoning restrictions prior to the Property’s becoming subject to City zoning restrictions;

**WHEREAS**, Hanson contends that all portions of the Property purchased or leased by Hanson or its predecessors in interest, were specifically purchased or leased in order to acquire and secure subsurface mineral rights and reserves for future quarrying on the Property; and that Hanson, or its predecessors in interest, at all relevant times has intended to quarry and extract granite from the Property by contiguous extensions of the existing pit to the extent allowed by its North Carolina mining permit;

**WHEREAS**, the City contends that the portions of the Property to the east of Duraleigh Road cannot be used in quarry operations. The City also contends that the portion of the Property assigned PIN 0786308569 can be used only in accordance with current zoning regulations and that no rights associated with a non-conforming use apply to this portion of the Property. As for the portion of the Property located to the south of Crabtree Creek and included in PIN 0786349208, the City contends that zoning regulations allow Hanson only to use and maintain its existing settling ponds, to clean those ponds, temporarily to store materials removed from the ponds, and to remove materials taken from those ponds off the Property;

**WHEREAS**, the North Carolina Department of Transportation (“NCDOT”) owns land abutting Crabtree Creek, which land is surrounded by the Property. NCDOT’s land has been used for quarry operations since at least the 1940s. NCDOT leases mineral rights in its land to Hanson under a lease with an effective date of December 11, 2007 (the “NCDOT Mineral Lease”);

**WHEREAS**, on April 23, 2002, the City’s Zoning Enforcement Administrator issued an Order for Compliance regarding Hanson’s use of the Property to the south of Crabtree Creek;

**WHEREAS**, Hanson initiated a proceeding before the Raleigh Board of Adjustment to appeal said Order for Compliance;

**WHEREAS**, the Board of Adjustment proceeding is currently pending and neither party has requested that the proceeding be set for hearing;

**WHEREAS**, Hanson and the City have conferred together and have settled their disputes under the terms described in this Settlement Agreement;

**WHEREAS**, the City has agreed to accept the easements and other interests described in this Settlement Agreement; and

**WHEREAS**, this Settlement Agreement, unless any part hereof is determined to be null and void by judicial decision, settles, compromises and resolves forever the disputed claims over Hanson’s rights to use the Property.

**NOW, THEREFORE**, in consideration of the mutual promises contained in this Settlement Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Hanson and the City agree as follows:

**A. Definitions**

*Aggregate* – means sand, stone, gravel, topsoil and overburden extracted from the mineral deposits on the Property.

*Business Activities* – means activities that are not residential in character, except that activities directly and solely related to remediation and reclamation of the Property after the Excavation Period are not Business Activities.

*Crabtree Quarry* – means the quarry operated on portions of the Property and under the NCDOT Mineral Lease.

*Effective Date* – means February 4, 2014.

*Excavation Period* – means the time period beginning on the Effective Date and ending on the earlier of: 1) thirty-eight (38) years from the Effective Date; or 2) the date on which thirty (30) million tons of Aggregate has been removed from the Excavation Pit.

*Excavation Pit* – that area of Northern Property from which Aggregate has, is and will during the Excavation Period be excavated from below the surface, including the contiguous extension of the open pit as existing on the Effective Date as depicted on Exhibit 1 hereto.

*Mining Permit* – that certain permit for the operation of a crushed stone quarry issued by the Department of Environment and Natural Resources, Wake County - Permit No. 92-03.

*NCDOT land* – means the land located north of Crabtree Creek and west of Duraleigh Road that is owned by the North Carolina Department of Transportation and leased by Hanson under the NCDOT mineral lease.

*Northern Property* – means the portion of the Property located north of Crabtree Creek and west of Duraleigh Road.

*Reclamation Bond* – means the security posted by Hanson, as required by section 74-54 of the North Carolina General Statutes, in favor of the State of North Carolina, liability under which is maintained until Hanson completes the reclamation required by North Carolina law and regulation.

*Reclamation Period* – that period of time during which Hanson shall complete its reclamation obligations in accordance with the reclamation conditions on the Mining Permit and shall complete other reclamation or remediation described in this Settlement Agreement. The Reclamation Period shall begin at the expiration of the Excavation Period and shall end two years thereafter.

*Temporary Stockpile Area* – means that area shown on Exhibit 1 hereto and used to store materials removed from the settling ponds located on the Property south of Crabtree Creek.

**B. Hanson's Use of the Property**

1. Hanson shall have the right to use the Property in accordance with the zoning memorandum of opinion dated February 4, 2014 from the City of Raleigh Zoning Enforcement Administrator, attached hereto as Exhibit 2.
2. Hanson shall not extract Aggregate on any portion of the Property other than the portion of the Northern Property detailed in the survey provided in accordance with paragraph C(2) hereof. Further Hanson shall not remove overburden or topsoil on any portion of the Property other than the portion of the Northern Property detailed in the survey provided in accordance with paragraph C(2) hereof or the Settling Pond area south of Crabtree Creek in accordance with paragraph C(7)(d) hereof.
3. Hanson shall use the Property and the NCDOT land, and conduct operations thereon, only as expressly set forth herein.

C. **Operational Terms**

1. **End of Business Activities.** Hanson shall cease all Business Activities at the Property and the NCDOT land on the earlier of thirty eight (38) years from the Effective Date or when, subsequent to the Effective Date, 30 million tons of Aggregate has been removed from the Northern Property. However, notwithstanding the foregoing, during the Reclamation Period, any remaining Aggregate that was extracted during the Excavation Period and any materials stockpiled in the Temporary Stockpile Area may be removed and/or sold from the Property.
2. **Delineation of Excavation Pit.** Within ninety (90) days of the Effective Date, Hanson shall provide the City with a survey delineating the maximum extent of the Excavation Pit. The survey shall provide the precise boundaries of the Excavation Pit, which are generally depicted in Exhibit 1 hereto and shall conform to that which is depicted in Exhibit 1. If the City determines that the survey does not substantially conform, the City shall notify Hanson within thirty (30) days after receiving the survey and Hanson shall allow the City to perform its own survey at the City's expense. The parties shall confer in good faith after the completion of the City's survey and use their best efforts to resolve all discrepancies concerning the boundaries.
3. **Sale of Portion of Northern Property of Crabtree Creek to the City.** Within ninety (90) days of the release of the Reclamation Bond, upon request of the City, Hanson shall convey to the City title to that portion of the Northern Property, depicted in Exhibit 3 hereto, to the City for the nominal value of Ten U.S. Dollars (\$10.00).

The parties shall record the option agreement attached as Exhibit 3 or another instrument with the Wake County Register of Deeds documenting the interest described in this section within sixty (60) days from the Effective Date.

The NCDOT Mineral Lease states that it expires ten (10) years after its December 11, 2007 effective date unless Hanson exercises its right to a five (5) year renewal. After the expiration of the NCDOT Mineral Lease and its five (5) year renewal, Hanson shall use all reasonable efforts to enter into a lease with NCDOT sufficient to allow it to continue operations. Notwithstanding the foregoing, if Hanson is unable to negotiate a lease for NCDOT land throughout the Excavation Period through no fault of Hanson and, as a result, Hanson is prevented from conducting operations for the entire Excavation Period, Hanson is under no obligation to convey the portion of the Northern Property to the City. Hanson shall in good faith use its best efforts to diligently seek the issuance or renewal of NCDOT leases necessary for conducting operations as contemplated in Sections B and C hereof.

#### 4. Noise and Vibration Mitigation.

a. **Berm.** Within six months of commencement of mining operations in an area north of the existing quarry Hanson shall begin construction of a landscaped earthen berm along the northern boundary of the Property, in accordance with the plan attached hereto as Exhibit 4. The construction of the earthen berm shall be completed before excavation of the overburden is any closer than 750 feet from the northern property boundary and no later than eight (8) years from the Effective Date. Hanson shall maintain the berm and shall replace any element of the landscaping that dies or becomes diseased or as otherwise required by law or regulation at the time of the berm construction.

b. **Blasting Techniques Required.** Hanson shall design each blast using the latest available techniques to minimize impacts from blasting. Techniques to be employed include laser profiling of the face and orientation of the blasts away from the adjacent properties to the north of the quarry to reduce impacts from both ground vibrations and air blasts. In addition, Hanson shall be sensitive to weather events that might increase air blast impacts on neighbors and shall postpone blasting during such events.

c. **Blasting Limits.** During all blasting operations implemented from top-of-rock to a depth of 250 feet below top-of-rock, the maximum peak particle velocity (“PPV”) of any component of ground motion shall not exceed 75% of the current legally allowable limit applicable to Crabtree Quarry.

During all blasting operations implemented below a depth of 250 feet below top-of-rock, the PPV of any component of ground motion shall not exceed 50% of current legally allowable limit applicable to Crabtree Quarry.

A table depicting the maximum limits allowed hereunder is attached hereto as Exhibit 5.

d. **Enforcement of Blasting Limits.** All records maintained by Hanson concerning blasting, including those documenting the PPV associated with blasting operations, shall be available to the City upon request, within 24-hours. Hanson shall self-report to the City any violation of the blasting limits set forth herein. If a violation occurs, Hanson shall cease all blasting at the depth at which the violation occurred until the violation has been investigated and a corrective action plan implemented. Any corrective action plan shall contain sufficient remedial measures so that no future violation is likely to occur.

The parties acknowledge that failure to comply with Blasting Limits may result in damages due to public disturbance and inconvenience, and increased inspection and administrative costs. In view of the uncertainty and difficulty of making a precise determination of any such damages, the parties agree that the City shall be entitled to recover liquidated damages in addition to actual costs/damages recoverable by the City for matters other than public disturbance and inconvenience, and increased inspection and administrative costs. This sum is a reasonable pre-estimate of the probable damages to be incurred due to any potential public disturbance and inconvenience, and increased inspection and administrative costs. The parties intend such monies to provide for payment of such damages and not a penalty.

If a second violation occurs at that same depth within six months of the first violation, Hanson shall remit to the City liquidated damages in the amount of \$2,500 for the second violation. In addition, if a second violation occurs, Hanson shall cease all blasting at the depth at which the violation occurred until the violation has been investigated and corrective action plan implemented. If a third (and subsequent) violation occurs within six months of the first violation, Hanson shall remit to the City liquidated damages in the amount of \$5,000 for the third (and each subsequent) violation. In addition, if a third (or subsequent) violation occurs, Hanson shall cease all blasting at the depth at which the violation occurred until the violation has been investigated and corrective action plan implemented.

e. **Hours of Blasting.** Unless otherwise necessitated as a result of events or causes beyond its reasonable control, including acts of God or the public enemy, acts and omissions of any governmental authority, declared or undeclared wars, riots, terrorism, strikes, floods, earthquakes, storms, epidemics, fires or other natural calamities, Hanson shall limit blasting events to the hours of 10:00 a.m. to 4:00 p.m., Monday through Friday and shall not conduct blasting events on Saturday or on Sunday. A “blasting event” means any use of a substance in a manner intended to cause an explosion.

f. **Hours of Operation of Crushing Equipment.** Hanson shall limit the operation of all crushing equipment to the hours of 6:00 a.m. to 9:00 p.m., Monday through Saturday and 1:00 p.m. to 9:00 p.m. on Sunday.

g. **Low-Frequency Alarms.** Hanson shall install low-frequency back-up alarms on all machinery and equipment for which back-up alarms are required by law or regulation.

5. **Renovation of Primary Crusher and Maintenance of Processing Plant.** During the Excavation Period, as soon as practicable, Hanson shall renovate the primary crusher at a location that is away from Crabtree Creek and that is, at a minimum,

fifty (50) feet below the current grade surface level and at which the wall of the Excavation Pit will function as a noise baffle.

6. **Relocation of Access Point.** Hanson may relocate its access point to Crabtree Quarry as depicted in Exhibit 6. No later than one hundred and twenty (120) days following the receipt of any and all federal, state and local approvals necessary to re-locate the point of ingress/egress to Crabtree Quarry from Duraleigh Road, Hanson shall install landscaping at the location of the current point of ingress/egress and future point of ingress/egress to the Property from Duraleigh Road in accordance with the plan attached hereto as Exhibit 6.
7. **Activities and Limits on Use of Property South of Crabtree Creek; Waiver and/or Relinquishment of Claims or Rights to Use Property South of Crabtree Creek.**

- a. Hanson shall not use the portion of the Property south of Crabtree Creek except as specifically set forth herein.

- b. Hanson waives and relinquishes any claim or rights of any sort that it might possess that the portion of the Property south of Crabtree Creek constitutes a pre-existing non-conforming use except to the extent set out in this Settlement Agreement.

- c. **Settling Ponds and Temporary Stockpile Area.** During the Excavation Period, Hanson may continue to use, operate and maintain the existing settling ponds as part of its on-going operations and consistent with past practice, but shall not expand the existing settling ponds. Sediment removed from the settling ponds may continue to be stockpiled temporarily in the Temporary Stockpile Area. Hanson shall restrict the height of stockpiles to comply with current and future City ordinances governing stockpile height. Stockpiling shall occur only in the Temporary Stockpile Area. The parties specifically acknowledge that nothing in this Settlement Agreement prevents stockpiled materials taken from the settling ponds from being used as fill material as a part of the reclamation process when a settling pond is removed or when the Reclamation Plan is implemented at the end of the Excavation Period.

Hanson may maintain the existing pipe from the slurry pump to the settling pond in the location that is shown on Exhibit 1, but may not expand it or relocate it to any other place within the Buffer Zone described below. If Hanson's activities concerning the pipe require disturbing topsoil, then Hanson shall complete those activities as promptly as possible and shall restore the area as nearly as possible to the condition that existed prior to commencing its work.

If Hanson installs a settling pond for use in mining operations on the Northern Property or on the NCDOT land, Hanson shall reduce the

footprint of its operations south of Crabtree Creek by an equivalent square footage. However, to the extent that Hanson is required, by federal, North Carolina, or local law or regulation to install a stormwater control or management device on the Northern Property or the NCDOT land, Hanson shall not be required to reduce the footprint of its operations south of Crabtree Creek by an equivalent square footage.

d. **Excavation Limited.** No excavation of Aggregate shall occur from the surface of the Property located south of Crabtree Creek except for: i) removal of materials taken from the settling ponds located south of Crabtree Creek and stockpiled in the Temporary Stockpile Area; or ii) removal of materials necessary to maintain the existing settling ponds within the area specifically designated for the settling ponds on Exhibit 1 and as previously allowed by the City.

e. Hanson agrees that no non-conforming use status applies to the portion of the Property assigned PIN number 0786308569.

f. **Mining Permit Restrictions; Tree Preservation South of Crabtree Creek.** Hanson shall modify the Mining Permit, and specifically the mining plan, to classify the portion of the Property south of Crabtree Creek, except for that area in which the settling ponds, Temporary Stockpile Area, and existing one-lane driveways are located, as Buffer Zone in which no blasting, excavation, tree removal, or activity inconsistent with applicable zoning regulations shall occur, except as set forth herein ("Buffer Zone"). Such modification will conform to the area identified as Buffer Zone on Exhibit 1 hereto.

Hanson shall maintain the undisturbed vegetated buffer a minimum of 100 feet in width, as shown on Exhibit 1, existing as of the Effective Date, around the perimeter of the portion of Property located south of Crabtree Creek throughout the Excavation Period, except at such locations where the City may remove vegetation for the construction and maintenance of a greenway pursuant to rights granted in Section D of this Agreement. It is the parties' intent that the undisturbed vegetated buffer continue to provide visual screening of the settling ponds and the Temporary Stockpile Area. Hanson shall preserve the 100' vegetated buffer until the Reclamation Period ends and shall remove trees or vegetation only when the material is diseased or dead, or when the City's Chief Arborist determines that it is necessary to preserve the health of the 100' vegetated buffer or areas surrounding it.

Except as allowed for greenway construction and maintenance by the City, any tree removal conducted within the Buffer Zone shall be in compliance with the Mining Permit and shall comply with applicable City regulations in place at the time of removal, and any removal of trees within the Buffer Area prior to the end of the Reclamation Period shall be in conformance

with a written Forestry Management Plan approved by the City's Chief Arborist. The Forestry Management Plan shall allow thinning and other forestry activities that protect the health of the trees within the Buffer Zone and if required in order to use the one-lane driveways effectively or safely, may also allow trimming or removal of trees that abut or overhang those driveways.

Notwithstanding the foregoing, in the event Hanson desires to sell any portion of the Property classified as Buffer Zone to an unaffiliated entity for a purpose, **other than for forestry or timbering**, that is consistent with the underlying zoning or with the City of Raleigh Comprehensive Plan in effect at the time of the sale, such sale shall not violate the terms of this Settlement Agreement.

g. **Use of Southernmost Driveway.** Hanson shall limit ingress and egress from its southernmost driveway to the period 7:00 a.m. through 5:00 p.m., Monday through Friday, except as necessary to address emergencies or events or causes beyond its reasonable control. The parties also specifically acknowledge that dust suppression requirements described herein apply to vehicles entering or exiting the southernmost driveway.

8. **Reclamation and Remediation.** At the end of the Excavation Period, Hanson shall immediately begin work to implement the Reclamation Plan. Hanson's reclamation and remediation shall at minimum comply with the requirements of Mining Permit, the N.C. Mining Act, and federal and State environmental laws and regulations applicable at the time of reclamation and remediation. To this end, Hanson shall remediate all known environmental conditions that have resulted from the use of the Property by Hanson or its predecessors in interest for mining operations in accordance with applicable regulatory requirements prior to the conveyance of the Northern Property contemplated by paragraph C(3) hereof.

In addition, Hanson shall reclaim the portion of the Property south of Crabtree Creek so that it is suitable for use compatible with the underlying zoning classification in place at the time of reclamation.

Under this Settlement Agreement and in accordance with the City's prior zoning interpretations, Hanson is permitted to stockpile materials removed from the settling ponds temporarily in the Temporary Stockpile Area. Any stockpiled material remaining at the end of the Excavation Period and not used as fill as a part of reclamation shall be removed from the Property by Hanson.

Hanson shall complete all reclamation and remediation of the Property within a reasonable time after work begins, in accordance with all applicable laws and regulations, and no later than the termination of the Reclamation Period.

9. **Environmental Permit Renewals and Modifications.** If Hanson requests a

renewal of or modification to any of its environmental permits, Hanson shall not request a permit condition that would impose a more lenient standard relating to dust or noise than any such standard set forth in this Settlement Agreement or otherwise in effect at the time of the request.

**10. Community Outreach.** As of the Effective Date, Hanson shall implement the following community outreach activities:

a. Hanson shall maintain a call list / e-mail list by which to notify any property owners within 2,500 feet of the Property, who request notification, prior to blasting events.

b. Hanson shall establish and maintain a website, accessible to the public, on which seismographic information and data shall be posted.

c. Hanson shall establish a Neighborhood Advisory Group consisting of residents from the surrounding neighborhoods and shall meet with such group two times per year at the request of the group, or fewer if no such meeting is requested. Hanson shall give careful consideration to concerns and suggestions from the Neighborhood Advisory Group.

d. Hanson shall implement and maintain a Protocol for Investigating Blasting Complaints and Binding Arbitration Program similar to that outlined in Exhibit 7 to address complaints arising from damages allegedly caused by operations at the Property.

These community outreach activities shall continue throughout both the Excavation Period and the Reclamation Period.

**11. Dust Mitigation.**

a. **Dust Control Guidance Plan.** Upon the Effective Date, Hanson shall implement the Crabtree Quarry Dust Control Guidance Plan, a copy of which is attached as Exhibit 8.

b. **Opacity Standards.** Hanson shall comply with applicable opacity standards set forth in federal regulations regardless of any exception that might otherwise apply.

c. **Load Covers.** For all trucks entering Crabtree Quarry, Hanson shall ensure that any trucks leaving the Property have a working, functioning load cover. Any such truck that does not have a functioning load cover shall not be loaded by Hanson. Hanson shall use best efforts to ensure that the loads of all trucks exiting Crabtree Quarry are covered. Hanson shall also install signs on the Property stating that all loads must be covered and that all violations related to load covers will be reported to

N.C. D.M.V. – Enforcement. Hanson shall instruct employees to report all violations related to load covers to site management who will, in turn, report such violations to N.C. D.M.V. or another State agency that regulates motor vehicles.

e. **Mining Permit Limitation.** Hanson shall not request any modification to the Mining Permit, or any mining permit hereinafter issued to Hanson, that reduces or relaxes any standard applicable to dust control or mitigation.

**D. Greenway Terms, Conservation Easement, and Nature Preserve**

**1. Dedication and Conveyance of Permanent Greenway Easement East and West of Duraleigh Road**

On the Effective Date, Hanson shall execute the easement agreement attached hereto as Exhibit 9, conveying to the City a permanent greenway easement along the south bank of Crabtree Creek, east of Duraleigh Road and, in addition, a permanent greenway easement providing trail access to the multipurpose pathway along Duraleigh Road. These easements are more particularly identified as “NEW CITY OF RALEIGH GREENWAY EASEMENT”, comprising 22,585 sq.ft. (0.519 acres); 157,968 sq. ft. (3.626 acres); and 46,296 sq.ft. (1.063 acres) as shown and described on that exhibit plat entitled, “EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY”, sheets 1 of 3, 2 of 3, and 3 of 3, respectively, prepared by Stewart Engineering Company, and attached hereto as a part of Exhibit 9. The minimum width of the Permanent Greenway Easement shall be 100 feet from the top of the bank of Crabtree Creek.

**2. Dedication of Conservation Easement (Preservation of Catawba Rhododendron).**

On the Effective Date, Hanson shall execute the easement agreement attached hereto as Exhibit 10, conveying to the City a conservation easement to protect an approximately 0.96 acre tract along the southern bank of Crabtree Creek. This conservation easement is more particularly identified Being the easement area identified as “NEW CITY OF RALEIGH CONSERVATION EASEMENT”, comprising 41,716 sq. ft. (0.958 acre) as shown and described on that exhibit plat entitled, “EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY”, sheet 1 of 2 and 2 of 2, respectively, prepared by Stewart Engineering Company, and attached hereto as a part of Exhibit 10.

**3. Dedication and Conveyance of Temporary and Provisional Easement for Greenway Purpose**

On the Effective Date, Hanson shall execute (and the City shall join in execution thereof for purposes of affirming its consent thereto) the easement agreement attached hereto as Exhibit 11, conveying a Temporary and Provisional Greenway Easement extending generally westward across the southern portions of the Property from Duraleigh Road to Richland Creek and generally northward along Richland Creek (“Temporary and Provisional Greenway Easement”). These easements are more particularly identified as

Being those easement areas identified as “NEW CITY OF RALEIGH GREENWAY EASEMENT”, comprising 46,921 sq.ft. (1.007 acres); 4,809 sq. ft. (.110 acre); 88,130 sq.ft. (2.032 acres); and 86,643 sq. ft. (1.989 acres), as shown and described on that exhibit plat entitled, “EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY”, sheets 1 of 4, 2 of 4, 3 of 4, and 4 of 4, respectively, prepared by Stewart Engineering Company, and attached hereto as a part of Exhibit 11.

In accordance with express provisions of the Temporary and Provisional Greenway Easement, the Temporary and Provisional Greenway Easement shall expire at the earlier of: i) the opening to the public of the Permanent Greenway Easement contemplated by paragraph D(4); or ii) eighteen months after the expiration of the Reclamation Period.

The City shall construct and fence the greenway trails within the Temporary and Provisional Greenway Easement at its own risk, such that, in the event this Settlement Agreement fails as contemplated by paragraph E(12), the City shall be solely responsible for the removal of any greenway trails then installed on the Property and any necessary restoration of the Property within nine (9) months of the failure of the Settlement Agreement.

#### **4. Dedication and Conveyance of Permanent and Provisional Greenway Easement South of Crabtree Creek**

On the Effective Date, Hanson shall execute the easement agreement attached hereto as Exhibit 12, conveying to the City a permanent greenway easement along the south bank of Crabtree Creek, more particularly identified as “NEW CITY OF RALEIGH GREENWAY EASEMENT,” comprising 329,204 sq. ft. (7.558 acres) as shown and described on that exhibit plat entitled, “EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY”, sheet 1 of 3, 2 of 3, and 3 of 3, respectively, prepared by Stewart Engineering Company, and attached hereto as a part of Exhibit 12. The minimum width of the Permanent Greenway Easement shall be 100 feet from the top of the bank of Crabtree Creek. In accordance with express provisions of the permanent greenway easement, the City agrees that it will have limited access to and will not operate a greenway on this easement until the expiration of the Reclamation Period.

#### **5. Nature Preserve Area**

On the Effective Date, Hanson shall execute the instrument attached hereto as Exhibit 13, conveying by Special Warranty Deed a fee simple interest to the City the approximate 7.46 acre portion of the Property located near the confluence of Crabtree and Richland Creeks (“Nature Preserve Area”), more particularly identified Being that parcel identified as “NEW CITY OF RALEIGH NATURE PRESERVE AREA” as shown and described on that exhibit plat entitled, “EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY”, sheet 1 of 2 and 2 of 2, respectively, prepared by Stewart Engineering Company, and attached hereto as a part of Exhibit 13, to be used solely for purposes of a nature preserve and conservation and as part of the Crabtree Creek Greenway project.

## **6. Use and Maintenance of Temporary and Permanent Greenway Easements**

Except as otherwise set forth herein, City shall be solely responsible for the construction, operation and maintenance of Greenway trails, and other rights and interests under its Greenway easement within the Temporary or Provisional Easements and Permanent Easements located on property of Hanson. City shall secure all temporary and permanent easements with fencing acceptable to Hanson to discourage and prevent users of the Temporary or Provisional Easements from trespassing on those portions of the Property in which Hanson conducts business operations. The parties acknowledge that a six (6) foot high chain link fence is generally acceptable to Hanson.

## **7. Noise, Dust and Vibration Easement.**

The City agrees to the inclusion of the following language of reservation in those instruments conveying the interests described in paragraphs D(1), (2), (3), and (5) of this Agreement:

“The Grantor expressly excepts from the provisions of the *[insert instrument name]* and, for its successors and assigns, reserves the right to cause vibrations, noise, dust, particulates, debris, and other similar materials and odors to be in the air above, descend upon, go across, or go through the *[insert name]* Area, and in general to subject the *[insert name]* Area to all similar consequences arising from the location and operation in the vicinity of the *[insert name]* Area of the Crabtree Quarry and any related activities, including without limitation equipment operation and truck traffic at, to and from Crabtree Quarry. By accepting this grant of *[insert instrument name]*, the City hereby subordinates its rights under the *[insert instrument name]* to those of the Grantor relating to noise, dust, and vibration as enumerated above (“Noise, Dust, and Vibration Exception”). Notwithstanding the foregoing, nothing contained herein shall be construed to allow Grantor's vehicles, equipment, employees or customers to physically enter the *[insert name]* Area or to conduct mining operations thereon. This Noise, Dust and Vibration Exception shall terminate upon the expiration of the Reclamation Period, as defined in that agreement between Grantor and the City dated \_\_\_\_\_ (ref: DB \_\_\_\_\_, PG\_\_\_\_, WCR).”

## **E. Miscellaneous**

### **1. Covenant as to Ownership of the Property,**

Hanson covenants that it owns all portions of the Property in fee simple absolute.

### **2. City's Right to Verify Reserves and Audit Excavation.**

The City and Hanson acknowledge that the City is subject to the North Carolina Public Records Act, NCGS 132-1 et seq., and specifically, those provisions of the Act concerning the definition of public records, and requirements for disclosure thereof. The

City and Hanson further acknowledge that statutory penalties for violation of the Public Records Act would be imposed against the City and its officers, and may be substantial. With respect to any information, reports, calculations, data, inspection reports, or other documentation provided by Hanson to the City or its representatives, and specifically to any independent expert under provisions hereof (“Provided Information”), it shall be the responsibility of Hanson to indicate (prior to submission and in the form required by law) that such Provided Information is claimed by Hanson to constitute a “trade secret” under NCGS 66-152(3), and is consequently exempted and protected from the disclosure requirement of the law. Hanson acknowledges and agrees that, upon receiving Provided Information which is claimed to constitute a Trade Secret, the City shall take any and all actions necessary to comply with applicable federal, state, and local laws concerning public records.

If a third party challenges any trade secret protection claimed by Hanson in association with a discovery request or public records request, City will promptly notify Hanson of the challenge. Before disclosing the information City: (a) must allow Hanson an opportunity to support its trade secret assertion by seeking injunctive relief to prevent City’s disclosure of such information within forty-eight (48) hours of receiving notification from City of the challenge; or (b) allow Hanson to affirmatively respond in writing that it no longer makes a trade secret assertion for the information. If Hanson does not respond in the manner set forth above within forty-eight (48) hours of receiving notice from City of the challenge to the trade secrets assertion, the City may release the material without penalty.

If, following notice of the challenge, Hanson maintains that the information described above remains a trade secret, Hanson shall provide the City with a detailed legal justification of the trade secrets assertion under North Carolina law. Hanson agrees to indemnify, defend, and hold harmless the City from any costs associated with the City’s withholding of information indicated by the Hanson as a trade secret (including, without limitation, reasonable attorney’s fees borne by the City and any penalties or costs borne by the City in the matter, including, but not limited to, any award of attorney’s fees against the City in favor of the party making the request for public information).

No later than February 1 of each year, Hanson shall prepare a report documenting the total amount of Aggregate removed from the Property during the prior calendar year. This report, which shall remain on premises at Hanson’s office location in Wake County, shall be made available for the City’s inspection upon twenty-four (24) hour advance notice. The report, and supporting documentation, shall constitute Provided Information and may be designated and indicated by Hanson as a trade secret on the terms and conditions described above.

The City may employ an independent expert to verify that 30,000,000 tons of Aggregate remains within Excavation Pit. Should the City employ an independent expert, the parties acknowledge that any supporting documentation provided to such expert by Hanson, shall constitute Provided Information and may be designated and indicated by Hanson as a trade secret on the terms and conditions described above.

The City may employ an independent expert to audit Hanson's records concerning the amount of Aggregate removed from the Property. The City shall provide Hanson with thirty (30) days written notice of the audit. The expert shall produce a report to the City showing the period audited, containing the total amount of Aggregate removed during that period, and describing in detail any discrepancies or exceptions that the audit revealed. Discrepancies involving less than 25,000 tons of Aggregate shall be considered de minimis. Such discrepancies shall be added to or subtracted from, as the case may be, the total aggregate removed from Crabtree Quarry so that no more than 30 million tons shall be removed. The audit report (and supporting documentation) shall constitute Provided Information and may be designated and indicated by Hanson as a trade secret on the terms and conditions described above. The parties acknowledge that Hanson has indicated an intent to designate these materials as a trade secret.

Hanson shall cooperate with any expert employed by the City to carry out activities described in this section. Hanson shall make available all relevant business records requested by the expert within a reasonable time after the request.

If the parties dispute the amount of Aggregate removed during any audit period, the parties and any experts employed by them shall confer in good faith and use their best efforts to resolve any disputes.

- 3. No Admission.** Hanson and the City agree and understand that this Settlement Agreement, subject to North Carolina General Statute § 1C-1, Rule 408, and the settlement terms set out above are solely for purposes of settlement and are a compromise of the dispute between the City and Hanson. Hanson and the City agree to the entry of this Settlement Agreement, but this Settlement Agreement shall not be deemed an admission of any fact or position at law except and solely as necessary for enforcement of this Settlement Agreement. The Parties have entered into this Settlement Agreement solely to avoid the expense, uncertainty and inconvenience of litigation.
- 4. Injunctive Relief.** Hanson and the City agree and understand that the terms of this Settlement Agreement may be enforced by either Party by action for specific performance, injunctive relief, or other remedy as by law provided or as set forth herein.
- 5. Remedies Cumulative.** The remedies contained herein shall be cumulative and asserting a particular remedy shall not preclude a party from asserting any other rights or seeking any other remedies against any other party as provided herein or by applicable law.
- 6. Cooperation.** Hanson and the City agree that should this Settlement Agreement be challenged or appealed in a court of law or otherwise, Hanson and the City shall cooperate in the defense of the Settlement Agreement. Hanson and the City will vigorously defend this Settlement Agreement. Hanson further agrees that it shall provide competent attorneys to defend the Settlement Agreement and that it shall pursue all appeals and petitions available to it or to the City to challenge any adverse decision. In addition, Hanson and the City agree that the City shall cooperate and shall not interfere

with Hanson's efforts to renew its lease with the N.C. Department of Transportation during the Excavation Period, so long as such renewal or modification is consistent with the terms hereof.

Hanson and the City agree to execute any supplementary documents necessary to put the terms of this Settlement Agreement into effect.

- 7. Release of All Claims Against City.** Hanson, for itself and for its representatives, agents, successors and assigns, unconditionally and forever releases the City, its employees, its officers, and its elected officials of and from any and all actions, compensation, claims, including claims for attorneys' fees, interest, costs, damages, debts, expenses, suits at law or in equity, and demands of any description, whether known or unknown, now existing or which may hereafter accrue, arising out of any matter or thing done, omitted, or suffered to be done by any of the persons, firms, or corporations herein released before, up to, and including the date of this Settlement Agreement on account of any violations of right, injuries, losses, breaches of contract, or damage of any kind, related in any way to the use of the Property, zoning restrictions on the Property, the City's enforcement actions concerning the Property, or public records requests made by or on behalf of Hanson, all occurring at any time prior to the Effective Date. However, nothing in this release relinquishes Hanson's rights under this Settlement Agreement.
- 8. Attorney's Fees.** This Settlement Agreement resolves any claim for attorney's fees or costs as between Hanson and the City, its employees, its officers, and its elected officials related to the matters described in the Release of All Claims Against City and those described in this Settlement Agreement. Each party shall bear its own attorney's fees and costs.
- 9. Waiver of Rights.** Hanson waives any rights it may have to use the Property as a non-conforming use except as provided in this Settlement Agreement and the attachments to it. Hanson specifically relinquishes and abandons any claim to use the portion of the Property to the south of Crabtree Creek as a non-conforming use except for the use of the settling ponds and Temporary Storage Area as set forth in this Settlement Agreement. Hanson agrees that no non-conforming use status applies to the portion of the Property assigned PIN numbers 0786308569, 0786512559, and 0786620033. Hanson further agrees that the permissible scope of the non-conforming use of the Property is only as set out in this Settlement Agreement and its attachments.
- 10. Full and Final Resolution.** It is the intent of the parties that this Settlement Agreement fully, finally, and forever ends all disputes about the non-conforming status of all portions of the Crabtree Quarry, including the Property. Neither this Settlement Agreement, nor any provision hereof, may be waived, modified, amended, discharged or terminated except by written instrument signed by the City and Hanson.
- 11. Withdrawal of BOA Appeal.** Within 45 days after the Effective Date, Hanson shall withdraw its pending Board of Adjustment appeal so long as no appeal is taken from

Exhibit 2. If any appeal is taken from Exhibit 2, then Hanson shall withdraw its pending Board of Adjustment appeal within 45 days after a final resolution of all of the challenges to Exhibit 2 that substantially upholds the terms contained in Exhibit 2.

**12. Non-severability.** If any part of this Settlement Agreement is determined is held to be illegal, invalid, or unenforceable under any current law or regulation, then the entire Settlement Agreement shall be null and void and shall have no force and effect.

**13. Bind and Benefit.** The terms and conditions contained in this Settlement Agreement will bind and inure to the benefit of the Parties and their respective representatives, successors and assigns, including, but not limited to any and all future owners of the Property.

**14. No Waiver.** The failure of the City or Hanson or their successors or assigns to enforce any covenant, condition, or restriction herein contained shall in no event be deemed a waiver by the City or Hanson or their successors or assigns of their rights to thereafter enforce the same nor shall any liability attach to the City or to Hanson for failure to enforce any provision of this Settlement Agreement.

**15. Declaration of Covenants, Conditions and Restrictions.** Hanson and the City shall cause to be recorded with the Wake County Register of Deeds the Declaration of Covenants, Conditions and Restrictions attached as Exhibit 14 setting forth the terms and conditions hereof that run with the land and that will bind future owners of the Property.

\* \* \* \* \*

**IN WITNESS WHEREOF**, Hanson and the City have executed the foregoing, under seal, by the signatures of their respective, duly authorized officers, the day and year first above written.

**Hanson Aggregates Southeast, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

**The City of Raleigh**

By: \_\_\_\_\_  
City Manager

Attest: \_\_\_\_\_  
City Clerk-Treasurer

## Exhibits

- Exhibit 1:                    Operation Plan
- Exhibit 2:                    Memorandum of Opinion
- Exhibit 3:                    Option Agreement - Property to be Conveyed to City
- Exhibit 4:                    Berm, Northern Boundary
- Exhibit 5:                    Blasting Limits
- Exhibit 6:                    Entrance Relocation and Landscaping
- Exhibit 7:                    Arbitration Protocol
- Exhibit 8:                    Dust Control Guidance Plan
- Exhibit 9:                    Crabtree Creek East of Duraleigh Greenway Easement
- Exhibit 10:                   Conservation Easement
- Exhibit 11:                   Temporary and Provisional Greenway Easement
- Exhibit 12:                   Permanent Greenway Easement South of Crabtree Creek
- Exhibit 13:                   Nature Preserve Area
- Exhibit 14:                   Declaration of Covenants, Conditions, and Restrictions



SYMBOL	CATEGORY	ACREAGE
[Blue hatched box]	TAILING PONDS / STORAGE	12.5
[Red hatched box]	STOCKPILES	6
[Green hatched box]	WASTEPILES / BERM	7.5
[Orange hatched box]	PROCESSING AREA / HAUL ROADS	9.5
[Purple hatched box]	MINE EXCAVATION	51.9



PRELIMINARY FOR REVIEW ONLY



**EXHIBIT 1 OPERATION PLAN**

Instrument prepared by: Raleigh City Attorney's Office and Styers, Kemeraitt & Mitchell,  
PLLC  
Brief Description for Index: Crabtree Creek  
Tax ID: PIN 0786349208  
Mail after recording to: Raleigh City Attorney's Office  
P.O. box 590 Raleigh, NC 27607

STATE OF NORTH CAROLINA

COUNTY OF WAKE

PERMANENT  
CONSERVATION EASEMENT

This CONSERVATION EASEMENT ("Conservation Easement") is made on the \_\_\_\_\_ day of \_\_\_\_\_, 2014 (the "Effective Date") by HANSON AGGREGATES SOUTHEAST LLC, a Delaware limited liability company with an address of 2310 Parklake Drive, Suite 550 Atlanta, Georgia 30345, hereinafter referred to as "Hanson" or the "Grantor", to the City of Raleigh, a North Carolina Municipal corporation with an address of P.O. Box 590, Raleigh, NC 27602, (the "City")

**WITNESSETH:**

**WHEREAS**, Hanson is the owner in fee simple of the property having Wake County PIN 0786349208 (the "Property"), particular areas of which have significant ecological, horticultural, environmental, aesthetic, and recreational value in their present state, which values should be preserved and maintained (the "Easement Area"); and

**WHEREAS**, the City is authorized by its Charter and the North Carolina General Statutes to acquire land and interests in land, including conservation easements, for open space preservation, conservation and protection of natural areas and areas of environmental

significance, including riparian buffers, and establishing a network of greenways for environmental, educational, and recreational uses; and

**WHEREAS**, the Grantor and the City have entered into a Settlement Agreement dated \_\_\_\_\_, 2014 (“Settlement Agreement”) in order to resolve a longstanding legal dispute concerning quarrying activities permitted on the Property, the resolution of such matters having implications for the location of greenway trails and easement to accommodate such trails; and

**WHEREAS**, pertinent provisions of the Settlement Agreement are incorporated into that Declaration of Covenants, Conditions, and Restrictions (“Declaration of Covenants”) dated \_\_\_\_\_, and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry; and

**WHEREAS**, the Property is subject to that certain permit number 92-03 for the operation of a crushed stone quarry issued by the North Carolina Department of Environment and Natural Resources (the “Mining Permit”); and

**WHEREAS**, the City has proposed to construct, and intends to make available for public use, the Crabtree Creek Greenway (“Greenway Project”), portions of which are to be located on or adjacent to the Easement Area; and

**WHEREAS**, in furtherance of the above stated environmental and conservation objectives; for the enhancement of the Greenway Project; and in accordance with terms of the referenced Settlement Agreement, Hanson has agreed to convey to the City this non-exclusive Conservation Easement (the “Easement”) over the Easement Area, and the City has agreed to accept such Easement.

**NOW, THEREFORE** in consideration of the Recitals and other valuable consideration the receipt and sufficiency of which are hereby acknowledged, and the further mutual terms and conditions hereof, the Grantor hereby irrevocably grants and conveys in perpetuity, and the City hereby accepts, the Conservation Easement of the nature and character and to the extent hereinafter set forth in, over, through and across the Easement Area, described as follows:

See Exhibit 1, attached.

#### **ARTICLE I. PURPOSES AND USES**

1. The purpose of the Easement is to preserve, protect, and maintain the Easement Area as an undeveloped and natural area.

2. The qualities of the Easement Area intended to be protected under this Easement (subject to provisions of Article II. H. hereof) include conservation of the natural heritage of the area; water pollution control and abatement, ecological preservation; wildlife habitat management; preservation of the visual amenities of the Easement Area; preservation of a natural ecosystem; and provision of a recreation resource to members of the public.

3. Subject expressly to those terms, conditions, and restrictions set forth herein, the Easement Area shall remain in its present, natural, and undeveloped state as a conservation and recreation use area.

4. There shall be no access by the City, the State, or the public at large granted by this Easement to any other property of the Grantor, save that described and conveyed herein.

5. The Grantor shall remain the fee owner of the property subject to this Easement and as such, may use and enjoy the Easement Area for purposes not inconsistent with terms of this Easement. More specifically (by way of illustration and not limitation), the Grantor shall enjoy rights and entitlements of fee ownership for purposes of applicable land use regulations (including measurement of building setback distances, density credit transfers, and similar regulations); the payment of taxes on the property; and other applicable laws and ordinances.

## **ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES; GRANTOR'S RESERVED ACTIVITIES**

Except as specifically reserved herein by the Grantor, any activity on, or use of, the Easement Area inconsistent with the purposes of this Conservation Easement is prohibited. Subject to the rights granted the City under Article III. hereof, the Easement Area shall be maintained in its natural, scenic, wooded, and undisturbed condition, restricted from any development or use that would impair or interfere with the conservation values of the Easement Area.

Without limiting the generality of the foregoing, the following activities and uses are expressly prohibited or restricted.

A. Industrial and Commercial Use. Industrial and commercial activities and any right of vehicular or pedestrian passage for such purposes are prohibited.

B. Agricultural, Timber Harvesting, Grazing and Horticultural Use. Agricultural, timber harvesting, grazing, and horticultural and animal husbandry operations are prohibited.

C. Disturbance of Natural Features, Plants and Animals. There shall be no cutting or removal of trees, or the disturbance of other natural features, plants or animals except for the

following: (1) as incidental to boundary marking, fencing, signage, construction and maintenance of nature/greenway trails; and (2) selective cutting and prescribed burning or clearing of vegetation and the application of mutually approved pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants.

D. Construction of Buildings and Recreational Use. There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, waste facility, billboard or other advertising display, antenna, utility pole, tower, conduit, line, pier landing, dock or any other temporary or permanent structure or facility on or above the Easement Area except for the following: placing and display of signs identifying the conservation values of the Easement Area, and signs identifying the as owner or owners of the Conservation Easement.

E. Mineral Use. Excavation. Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, minerals or other materials, and no change in the topography of the land in any manner except by the City as necessary for erosion control or conservation management activities.

F. Wetlands and Water Quality. There shall be no pollution or alteration of water bodies and no activities that would be detrimental to water purity or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Easement Area or into any surface waters, or cause soil degradation or erosion or diking, dredging, alteration, draining, filling or removal of wetlands, except activities to restore natural hydrology or wetlands enhancement as permitted by state and any other appropriate authorities.

G. Dumping. Dumping of soil, trash, ashes, garbage, waste, abandoned vehicles, appliances, machinery, or other materials on the property is prohibited.

H. Noise, Dust Vibration Exception The Grantor expressly excepts from the provisions of the Greenway Easement and, for its successors and assigns, expressly reserves the right to cause vibrations, noise, dust, particulates, debris, and other similar materials and odors to be in the air above, descend upon, go across, or go through the Easement Area, and in general to subject the Easement Area to all similar damages and/or consequences arising from the location and operation in the vicinity of the Easement Area of any the Crabtree Quarry and related activities, including without limitation equipment operation and truck traffic at, to and from Crabtree Quarry. By accepting this grant of a Conservation Easement, the City hereby subordinates its rights under the Conservation Easement to those of the Grantor relating to noise, dust, and vibration as enumerated above ("Noise, Dust, and Vibration Exception"). Notwithstanding the foregoing, nothing contained herein shall be construed to allow Grantor's vehicles, equipment, employees or customers to physically enter the Easement Area or to conduct mining operations thereon. This Noise, Dust and Vibration Exception shall terminate upon the expiration of the Reclamation Period, as defined in the above referenced Settlement Agreement and recorded Declaration of Covenants.

### ARTICLE III. FUTURE RIGHT OF ACCESS AND USE

A. Connector Trail and Facilities; Public Use. Subsequent to or contemporaneous with the construction by the City of a Greenway trail on lands adjacent to the Easement Area (pursuant to that Permanent, Provisional Easement from Hanson to the City dated \_\_\_\_\_, and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, WCR), the City shall have the right to construct, maintain, repair, and devote to use by the public, a trail or walkway providing access by users of the Greenway Trail to the Easement Area. In association with such public access facilities, the City may also construct and maintain within the Easement Area observation platforms, instructional signs and displays, and safety and convenience facilities.

B. Trail Construction and Use Delayed; "City Access Date". The City is expressly prohibited from construction of trails and facilities upon, and providing public access to, the Easement Area until the "City Access Date" pursuant to the referenced Settlement Agreement, which date is anticipated to be a maximum of forty (40) years from the Effective Date hereof.

### ARTICLE IV. ENFORCEMENT & REMEDIES

1. The City shall have authority and responsibility for enforcement of the terms of this Easement. Any forbearance by the City to exercise rights hereunder in the event of breach of any term, condition, or restriction shall not be deemed or construed to be a waiver of any right of enforcement. No delay or omission by the City in the exercise of any right or remedy shall impair such right or remedy, or be construed as a waiver.

2. No provision of this Easement shall be construed or applied to limit the rights of, or remedies available to, the Parties under terms of the referenced Settlement Agreement and Declaration of Covenants. In the event of ambiguity or inconsistency between provision of this Easement and the Settlement Agreement and Declaration of Covenants, the latter shall prevail.

4. Upon breach of any of the terms and conditions of this Easement by the Grantor, or anyone acting for or under authority of the Grantor, the City shall, except as provided below, notify the Grantor in writing of such breach. The Grantor shall have 30 days after receipt of such notice to correct any conditions constituting such breach. If the breach remains uncorrected after 30 days, the City may enforce the terms of this Greenway Easement by any appropriate legal proceedings, including actions for damages, injunctive, and other relief. In addition, the City shall also have the further power and authority to:

- (a) immediately abate or prevent any impairment or degradation of the property subject to the Easement by acts which may be unlawful or otherwise in violation of this Easement; and
- (b) otherwise preserve or protect its interest in the Easement Area; and
- (c) seek damages from any appropriate person or entity.

5. Inspections. Prior to the City's Access Date, the City may have limited access to the Easement Area for the purpose of inspecting the Easement Area to monitor and determine compliance with the terms, conditions and restrictions of this Conservation Easement. Such limited access requires forty eight (48) hours prior notice to Grantor. Because, prior to the City's Access Date, the Property will be an active mine under the jurisdiction of the U.S. Department of Labor Mine Safety and Health Administration ("MSHA"), the City, its employees, contractors, representatives and agents shall be considered a contractor under MSHA rules and regulations and will subject to all MSHA rules and regulations while on the Property, including the requirement to have safety training prior to entering the Property. The City, and any of its employees, contractors, representatives and agents that access the Easement Area prior to the City's Access Date must be accompanied by representative of Grantor during such inspection. The above-stated requirements and conditions upon inspections shall be of no further effect subsequent to the City's Access Date.

6. Acts Beyond the Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle the City to bring any action against the Grantor for any injury or change in the Easement Area, resulting from causes beyond the Grantor's control, including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken in good faith by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to life, damage to property or harm to the Property resulting from such causes.

#### ARTICLE V. MISCELLANEOUS

1. Conservation Purpose. Subject to the uses specifically reserved herein to the Grantor, the Grantor and the City, their respective successors and assigns, agree that this Conservation Easement shall be held exclusively for conservation purposes.

2. Construction of Terms. This Conservation Easement shall be construed to promote the purposes of the North Carolina enabling statute set forth in N.C.G.S. 121-34, which authorizes the creation of Conservation Easements for purposes including those set forth in the Recitals herein, and the conservation purposes of this Conservation Easement, including such purposes as are defined in Section 170(h)(4)(A) of the Internal Revenue Code.

2. Jurisdiction and Venue. In the event of any dispute arising under terms of this Easement, jurisdiction shall be in the courts of North Carolina, and venue shall be in Wake County.

3. Severability. If any provision of this Easement is declared void, invalid or otherwise unenforceable for any reason by a court of competent jurisdiction, the remaining provisions shall continue to be fully effective and enforceable, it being the express intent of the Parties that the provisions hereof be Severable.

**THE EASEMENT AREA** described and conveyed herein does not comprise a primary residence of the Grantor.

**TO HAVE AND TO HOLD** unto the City, its successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon the Grantor, its successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

**AND THE GRANTOR COVENANTS** that it is vested of the Property in fee and has the right to convey the herein described Easement in the same; that the same is free from encumbrances except as hereinafter stated, and that the Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

Subject to easements, encumbrances, and restrictions of record.

**IN WITNESSETH WHEREOF**, the Grantor has duly executed the foregoing instrument in the name of the limited liability company, by the signature of its \_\_\_\_\_ as the act and deed of the limited liability company, and the City has executed the instrument in its corporate name, by the signature of its (Interim) City Manager, attested by its City Clerk-Treasurer, for the purpose of giving and memorializing its consent thereto, all on the day and year first above written.

HANSON AGGREGATES, SOUTHEAST, LLC

By: \_\_\_\_\_(SEAL)

Its \_\_\_\_\_

**Consented to:**

CITY OF RALEIGH

By: \_\_\_\_\_ (SEAL)

Its \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

PROPERTY DESCRIPTION APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being be me duly sworn, says that (s)he is the \_\_\_\_\_ of Hanson Aggregates Southeast, LLC , the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(notary's printed name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA

COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, 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 City Clerk and Treasurer and that the official corporate seal was affixed, all by order of the governing body of the municipal corporation, and that the said instrument is the act and deed of the municipal corporation.

WITNESS my hand and official seal this the \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

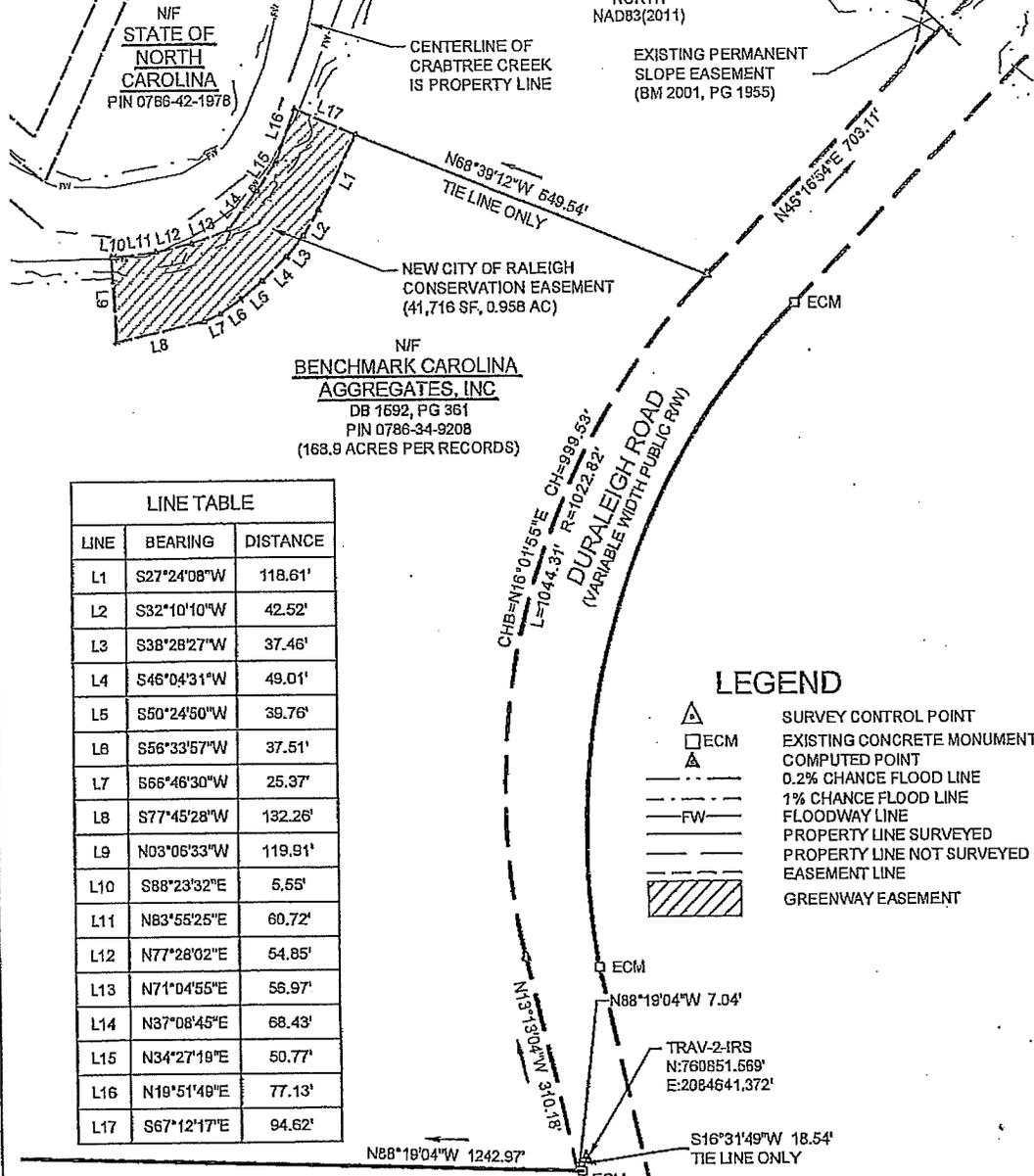
(SEAL)

My Commission Expires: \_\_\_\_\_

## EXHIBIT 1

Being the easement area identified as "NEW CITY OF RALEIGH CONSERVATION EASEMENT", comprising 41,716 sq. ft. (0.958 acre) as shown and described on that exhibit plat entitled, "EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY", sheet 1 of 2 and 2 of 2, respectively, prepared by Stewart engineering company, and attached hereto as EXHIBIT 1-A.

EXHIBIT 1-A

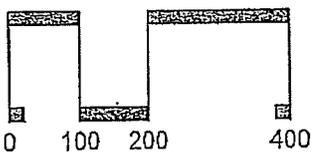


LINE TABLE		
LINE	BEARING	DISTANCE
L1	S27°24'08"W	118.61'
L2	S32°10'10"W	42.52'
L3	S38°28'27"W	37.46'
L4	S46°04'31"W	49.01'
L5	S50°24'50"W	39.76'
L6	S56°33'57"W	37.51'
L7	S66°46'30"W	25.37'
L8	S77°45'28"W	132.26'
L9	N03°06'33"W	119.91'
L10	S88°23'32"E	5.65'
L11	N83°55'25"E	60.72'
L12	N77°28'02"E	54.85'
L13	N71°04'55"E	56.97'
L14	N37°08'45"E	68.43'
L15	N34°27'19"E	50.77'
L16	N19°51'49"E	77.13'
L17	S67°12'17"E	94.62'

LEGEND

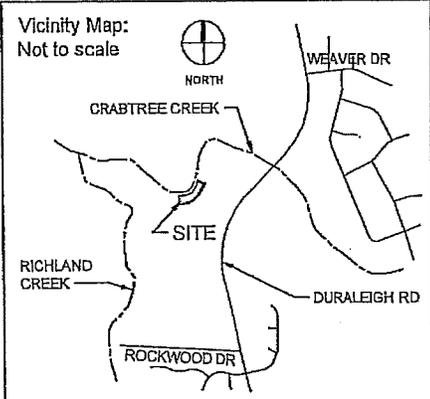
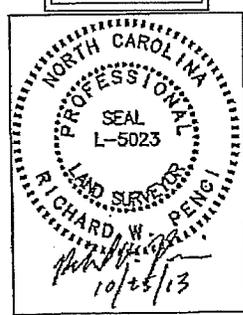
- SURVEY CONTROL POINT
- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
- 0.2% CHANGE FLOOD LINE
- 1% CHANGE FLOOD LINE
- FLOODWAY LINE
- PROPERTY LINE SURVEYED
- PROPERTY LINE NOT SURVEYED
- EASEMENT LINE
- GREENWAY EASEMENT

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



SCALE: 1" = 200'

SEE SHEET 2 FOR GENERAL NOTES



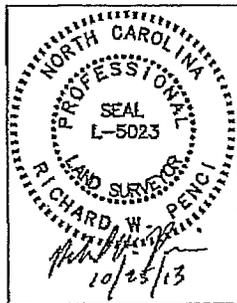
EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: -
Scale: 1"=200'	Date: 10/25/13
Drawn By: RWP	Drawing No: 1 of 2
Checked By: RWP	

## GENERAL NOTES

1. THIS PLAT IS INTENDED TO REPRESENT CITY OF RALEIGH GREENWAY EASEMENTS ON A PORTION OF THE PROPERTY OF BENCHMARK CAROLINA AGGREGATES, INC., PIN 0786-34-9208, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.
2. REFERENCES:  
 DEED BOOK 1592, PAGE 381  
 DEED BOOK 14831, PAGE 744  
 BOOK OF MAPS 1990, PAGE 765  
 BOOK OF MAPS 2001, PAGES 1953-1955
3. HORIZONTAL DATUM IS NAD 83 (2011) AND VERTICAL DATUM IS NAVD83. BASED ON GPS METHODS USING REAL-TIME KINEMATIC SOLUTIONS FOR THE SURVEY CONTROL POINTS SHOWN HEREON AND TIED TO NORTH CAROLINA GEODETIC SURVEY MONUMENTS "ANNE LAKE 3" AND "PATROL 2".
 

"ANNE LAKE 3"	"PATROL 2"
N 772886.53'	N 747347.08'
E 2080781.95'	E 2086727.63'
EL 376.96'	EL 493.99'
4. THE INITIAL STATE PLANE POSITIONS FOR THIS SURVEY WERE SCALED FROM GRID TO GROUND FROM A PROJECT LOCATION OF N:760851.569' E:2084641.372', AN ELEVATION OF 361.55', USING A COMBINED FACTOR OF 0.99991636.
5. THE SUBJECT PROPERTY IS ZONED PIN 0786-34-9208 "R-4" (RESIDENTIAL) AND PIN 0786-30-8569 "R-6" (RESIDENTIAL) PER THE WAKE COUNTY GEOGRAPHIC INFORMATION SYSTEM.
7. THE SUBJECT PROPERTY LIES IN ZONES X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE AND FUTURE CONDITIONS 1% ANNUAL CHANCE FLOODPLAIN), X (SHADED) (AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF FUTURE CONDITIONS 1% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS OF LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD), AE (AREA DETERMINED TO BE INSIDE THE 1% ANNUAL CHANCE FLOOD, BASE FLOOD ELEVATIONS DETERMINED), AND FLOODWAY (DELINEATED FLOODWAY OF A STREAM). BASED ON THE FLOOD INSURANCE RATE MAP COMMUNITY MAP NUMBER 3720078600J DATED MAY 2, 2006. FLOOD HAZARD LINES SHOWN HEREON ARE FROM NCFLOODMAPS.COM.
8. ADDRESS: 5209 DURALEIGH ROAD



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



**EASEMENT ACQUISITION MAP FOR:  
 CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: --
Scale: NA	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	2 OF 2

Instrument prepared by: Raleigh City Attorney's Office and Styers, Kemerait & Mitchell,  
PLLC  
Brief Description for Index: Duraleigh Road  
Parcel Identifier: PIN 0786308569; 0786349208  
Mail after Recording to: City Attorney's Office,  
PO Box 590, Raleigh, N.C. 27602

**STATE OF NORTH CAROLINA  
WAKE COUNTY**

**TEMPORARY AND PROVISIONAL DEED  
OF EASEMENT FOR CONSERVATION AND  
GREENWAY PURPOSES**

**THIS DEED OF EASEMENT** is made this \_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date") by HANSON AGGREGATES SOUTHEAST LLC, a Delaware limited liability company having the address of 2310 Parklake Drive, Suite 550 Atlanta, Georgia 30345, hereinafter referred to as "Hanson" or the "Grantor", to the CITY OF RALEIGH, a North Carolina municipal corporation having the address of P.O. Box 590, Raleigh, NC 27602, hereinafter referred to as the "City."

**WITNESSETH:**

**WHEREAS**, the City of Raleigh has established and presently operates the Capital Area Greenway Program, which has as its purposes the conservation of natural, scenic, or ecologically valuable properties (generally known as "greenways"), and the development and provision for public use of paved or unpaved trails ("greenway trails") within such properties; and

**WHEREAS**, the Grantor is the owner in fee simple of certain real property, more particularly identified as PIN 0786349208 and PIN 0786308569 (the "Property"); and

**WHEREAS**, certain areas of the Property have conservation, ecological, and recreational values in their present state, which values should be preserved and maintained for the period of their use as a public greenway and greenway trail; and

**WHEREAS**, the City has proposed to develop as a component of the Capital Area Greenway System a Greenway trail commonly known as the "Crabtree Creek Greenway", a portion of which is proposed to be located upon the Property; and

**WHEREAS**, Hanson and the City have entered into a Settlement Agreement dated \_\_\_\_\_ ("Settlement Agreement") in order to resolve a longstanding legal dispute concerning quarrying activities permitted on the Property, the resolution of such matters having implications for the location of greenway trails and easements to accommodate such trails: and

**WHEREAS**, pertinent provisions of the Settlement Agreement are incorporated into that Declaration of Covenants, Conditions, and Restrictions ("Declaration of Covenants") dated \_\_\_\_\_, and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry.

**WHEREAS**, the Property is subject to that certain permit number 92-03 for the operation of a crushed stone quarry issued by the North Carolina Department of Environment and Natural Resources (the "Mining Permit"); and

**WHEREAS**, pursuant to and subject to terms of the Settlement Agreement, Hanson has, by instrument of even date, conveyed to the City a Permanent, Provisional Conservation and Greenway Easement (located north of the easement described herein, and referred to herein as the "Permanent Easement"), providing for the deferral of the City's installation and use of greenway improvements upon the Permanent Easement area until the Grantor's quarry operations on the Property cease and quarry site Reclamation is completed, all as more specifically described in the Settlement Agreement and recorded Declaration of Covenants; and

**WHEREAS**, in order to allow the Crabtree Creek Greenway trail to be timely constructed and opened for public use and enjoyment, Hanson and the City have agreed, according to terms of the Settlement Agreement and as set forth herein, to the conveyance of a temporary conservation and greenway easement, to expire in accord with Article IV hereof; and

**WHEREAS**, in furtherance of the above stated conservation and environmental objectives and the Greenway Project; in accordance with the referenced Settlement Agreement; and subject to the aforesaid agreements, conditions and restrictions, Hanson is willing to grant this non-exclusive, temporary easement over portions of the Property, (the "Easement Area") and the City has agreed to accept such Easement.

**NOW, THEREFORE**, in consideration of the Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the Settlement Agreement and the mutual covenants, terms, conditions, and restrictions hereinafter set forth, the Grantor has bargained and sold, and hereby sells, grants and conveys to the City, its successors and assigns forever, a Temporary Conservation and Greenway Easement (“Temporary Easement” or “Easement”) of the nature and to the extent hereinafter set forth, in and over the Easement Area described as follows:

See Exhibit 1, attached.

The terms, conditions and restrictions of this Temporary Easement are as follows:

### **ARTICLE I. PURPOSE AND USES**

1. The purpose of the Easement is to preserve, protect, and maintain the Easement Area as an undeveloped and natural area while allowing certain recreational uses of the Easement Area, specifically, a greenway trail, or trails, in accord with the Capital Area Greenway Plan and Program.
2. The qualities of the easement area intended to be protected under this Easement include conservation of the natural heritage of the area; water pollution control and abatement, ecological preservation; wildlife habitat management; preservation of the visual amenities of the easement area; preservation of a natural ecosystem; and provision of a recreation resource, specifically, a greenway trail, to members of the public.
3. Subject expressly to those terms, conditions, and restrictions set forth herein, the Property shall remain in its present, natural, and undeveloped state as a conservation and recreation use area.
4. The City may construct paved or unpaved greenway trails within the Easement Area, and facilities incidental to and for the convenience of users of the greenway trail, such as observation platforms, boardwalks, bridges, ramps, litter receptacles, benches and similar convenience facilities.
5. Following construction of a greenway trail, the City of Raleigh shall incorporate the Easement Area as a component of the Capital Area Greenway System of the City. Members of the general public shall have free access to and use of the Easement Area, subject to the laws and ordinances of the City of Raleigh, and for the purposes allowed under the official Greenway Program of the City, including walking, educational tours, scientific study of the Easement Area and its natural ecosystems, hiking, bike riding, jogging and picnicking. Such uses of the Easement shall all be in accord with the Capital Area Greenway Plan and Program.
6. The City shall have the right and duty to maintain the Easement Area in a clean, natural and undisturbed state, consistent with the Capital Area Greenway Plan and Program.

7. There shall be no access by the City, or the public at large, granted by this Easement to any other property of the Grantor, save that described and conveyed herein.

8. The Grantor shall remain the fee owner of the Property subject to this Easement for purposes of applicable land use regulations (including measurement of building setback distances, density credit transfers, and similar regulations); the payment of taxes on the property; and other applicable laws and ordinances.

## **ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES; EXCEPTED AND RESERVED RIGHTS**

### **A. Activities Prohibited.**

Any activity on, or use of, the Easement Area inconsistent with the purposes of this Easement is prohibited. By way of illustration and not limitation, the following activities and uses of the Easement Area are expressly prohibited:

1. Industrial and Commercial Use. Industrial and commercial activities of any type, and ingress and/or egress for such purposes are prohibited.

2. Agricultural, Timber Harvesting, Grazing and Horticultural Use. Agricultural, timber harvesting, grazing, horticultural and animal husbandry operations are prohibited.

3. Disturbance of Natural Features, Plants and Animals. There shall be no cutting or removal of trees, or disturbance of other natural features, including plant and animal life, except for the following: (1) as incidental to boundary marking, fencing, signage, construction and maintenance of asphalt and greenway trails and related convenience facilities, and public accesses allowed hereunder; (2) selective cutting and prescribed burning or clearing of vegetation, and the application of approved pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants; and (3) hunting and fishing, (otherwise permitted by law or ordinance) pursuant to applicable rules and regulations.

4. Construction of Buildings; Structures; Signage. There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display antenna, utility pole, waste facility, tower, conduit, line, pier landing, dock or any other temporary or permanent structure or facility on or above the Easement Area, except for the following: Placing and display of no trespassing signs; state or federal traffic or similar signs; greenway trail signs; for sale or lease signs; signs identifying the conservation values of the Property, and/or signs identifying the Grantor as the owner of the Easement Area and the City as holder of this Easement; educational and interpretive signs; identification labels or any other

similar temporary or permanent signs, as approved by the City; and installation and maintenance by the City of perimeter fencing along the Greenway, in accordance with terms of the Settlement Agreement and recorded Declaration of Covenants..

5. Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, or other minerals; and no change in the topography of the land in any manner except as necessary to prevent erosion or incidental to greenway trail construction or conservation management activities otherwise permitted by this Easement.

6. Wetlands and Water Quality. There shall be no pollution or alteration of water bodies and no activities that would be detrimental to water purity or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Easement Area or into any surface waters, or cause soil degradation or erosion, nor diking, dredging, alteration, draining, filling or removal of wetlands, except activities to restore natural hydrology or wetlands enhancement as permitted by the City, State and any other appropriate authorities.

7. Dumping. Dumping of soil, trash, garbage, waste, abandoned vehicles, appliances, machinery, or other materials on the Easement Area is prohibited.

8. Noise, Dust, Vibration Exception. The Grantor expressly excepts from the provisions of the Greenway Easement and for itself, its successors and assigns, reserves the right to cause vibrations, noise, dust, particulates, debris, and other similar materials and odors to be in the air above, descend upon, go across, or go through the Easement Area, and in general to subject the Easement Area to all similar consequences arising from the location and operation in the vicinity of the Easement Area of any the Crabtree Quarry and related activities, including without limitation equipment operation and truck traffic at, to and from Crabtree Quarry. By accepting this grant of Greenway Easement, the City hereby subordinates its rights under the Greenway Easement to those of the Grantor relating to noise, dust, and vibration as enumerated above ("Noise, Dust, and Vibration Exception"). Notwithstanding the foregoing, nothing contained herein shall be construed to allow Grantor's vehicles, equipment, employees or customers to physically enter the Easement Area or to conduct mining operations thereon. This Noise, Dust and Vibration Exception shall terminate upon the expiration of the Reclamation Period, as defined in the Settlement Agreement and recorded Declaration of Covenants.

### **ARTICLE III. ENFORCEMENT AND REMEDIES**

1. The City shall have authority and responsibility for enforcement of the terms of this Easement. Any forbearance by the City to exercise rights hereunder in the event of breach of any term, condition, or restriction shall not be deemed or construed to be a waiver of any right of enforcement. No delay or omission by the City in the exercise of any right or remedy shall impair such right or remedy, or be construed as a waiver.

2. No provision of this Easement shall be construed or applied to limit the rights of, or remedies available to, the Parties under terms of the referenced Settlement Agreement and Declaration of Covenants. In the event of ambiguity or inconsistency between provision of this Easement and the Settlement Agreement and Declaration of Covenants, the latter shall prevail.

3. The City of Raleigh may provide for the day-to-day inspection, oversight, and enforcement on the Easement Area of its rules governing activities and uses of City-owned parks, including property comprising a part of the City's Greenway System. Such inspection, oversight, and enforcement will be the responsibility of the City Police personnel. In addition to such control and oversight over the Easement by City Police, other officers of the City, their employees, agents and successors and assigns, shall have the right to enter the Easement Area for the purpose of inspecting such area to assess compliance with the various terms, conditions, and restrictions of the Easement.

3. Breach of Easement Conditions; Remedies Generally. Upon breach of any of the terms and conditions of this Easement by the Grantor, or anyone acting for or under authority of the Grantor, the City shall, except as provided below, notify the Grantor in writing of such breach. The Grantor shall have 30 days after receipt of such notice to correct any conditions constituting such breach. If the breach remains uncorrected after 30 days, the City may enforce this Easement by any appropriate legal proceedings, including actions for damages, injunctive, and other relief. In addition, the City shall also have the further power and authority to:

- (a) immediately abate or prevent any impairment or degradation of the property subject to the Easement by acts which may be unlawful or otherwise in violation of this Easement; and
- (b) otherwise preserve or protect its interest in the Easement; and
- (c) seek damages from any appropriate person or entity.

#### **ARTICLE IV. TERMINATION OF TEMPORARY EASEMENT; CONVEYANCE OF PERMANENT GREENWAY EASEMENT**

The Easement described and conveyed herein shall terminate according to the following terms and conditions:

1. Early Termination; Invalidation. In the event the Settlement Agreement is determined by a court of law to be illegal, invalid, or unenforceable, or the Easement is otherwise terminated except as provided in paragraph (b) below, then the City shall remove all greenway improvements from the Temporary Easement area within nine (9) months from the date of such invalidation or termination. In such event, no provisions of this Easement, or rights exercised by the City pursuant to terms of this Easement prior to the period commencing nine (9) months following such invalidation or termination, shall constitute an inverse condemnation by the City, actionable under either GS 40A-51 or GS 136-111.

2. Termination on Opening of Permanent Greenway. If not earlier terminated, the Temporary Easement shall terminate automatically at the earlier of: (a) the opening to the public of the Permanent Greenway Easement referenced hereinabove and described in the Settlement Agreement and Declaration of Covenants; or (b) eighteen (18) months after the expiration of the Reclamation Period described in the Settlement Agreement and Declaration of Covenants.

3. Post-Termination Restoration. Prior to termination pursuant to Art. IV, para. 1 or 2 hereof the City shall remove from the Easement Area all greenway trail improvements, and shall regrade, mulch, and generally restore the easement area in accord with generally accepted engineering and landscaping practices. In addition, the City and Grantor shall provide for the mutual execution and recordation in the Wake County Registry of an appropriate instrument memorializing such termination.

## ARTICLE V. MISCELLANEOUS

1. General Reservation of Rights. The Grantor reserves the right to continue the use of the property for all purposes not inconsistent with this Easement.

2. Development Regulations and Dedication Requirements Unaffected. Neither the conveyance of this Easement, nor any provision contained herein, shall abridge or affect the application of any land use and development regulation of the City, and specifically, any regulatory requirement for the dedication of property interests to the City as a condition of development plan approval.

3. City's Covenant and Indemnity. To the extent authorized by law, the City agrees to hold the Grantor harmless from liability for personal injury or property damage arising out of the use of the Easement Area for public Greenway purposes, including rights and duties granted to the City in this Easement; provided, the Grantor shall not be held harmless from liability caused by its active fault or solely by the negligence of the Grantor, its agents, invitees, or contractors; or solely by acts of the Grantor, its agents, invitees, or contractors which violate the terms and conditions of this Easement. The Parties acknowledge that the authority of a municipality to indemnify against claims has not been established by any N.C. statute or court decision.

4. Disputes; Jurisdiction and Venue. In the event of any dispute arising under terms of this easement, jurisdiction shall be in the courts of North Carolina, and Venue shall be in Wake County.

5. Severability. If any provision of this Easement is declared void, invalid or otherwise unenforceable for any reason by a court of competent jurisdiction, the remaining provisions shall continue to be fully effective and enforceable, it being the express intent of the Parties that the provisions hereof be Severable.

**THE EASEMENT AREA** does not comprise a primary residence of the Grantor.

**TO HAVE AND TO HOLD** the right, privileges, and easements herein granted to the City, their successors and assigns. The Easement shall run with the land as a perpetual servitude, and shall be binding upon the Grantor and its agents, personal representatives, heirs, successors and assigns for the duration of the Easement.

**AND THE GRANTOR COVENANTS** that it is vested of the Easement Area, and has the right to convey the same; that the same are free from encumbrances except as hereinafter set forth, and that the Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

Subject to easements, encumbrances and restrictions of record.

**IN WITNESSETH WHEREOF**, the Grantor has duly executed the foregoing instrument in the name of the limited liability company, by the signature of its \_\_\_\_\_ as the act and deed of the limited liability company, and the City has executed the instrument in its corporate name, by the signature of its (Interim) City Manager, attested by its City Clerk-Treasurer, for the purpose of giving and memorializing its consent thereto, all on the day and year first above written.

HANSON AGGREGATES SOUTHEAST, LLC

By: \_\_\_\_\_ (SEAL)

Its \_\_\_\_\_

THE CITY OF RALEIGH

By: \_\_\_\_\_ (SEAL)

Its \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

PROPERTY DESCRIPTION APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being \_\_\_\_\_ me duly sworn, says that (s) he is the \_\_\_\_\_ of Hanson Aggregates Southeast, LLC, the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(notary's printed name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA

COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, 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 Treasurer 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 \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

(SEAL)

My Commission Expires: \_\_\_\_\_

## EXHIBIT 1

Being those easement areas identified as "NEW CITY OF RALEIGH GREENWAY EASEMENT", comprising 46,921 sq.ft. (1.08 acres); 4,809 sq. ft. (.110 acre); 88,130 sq.ft. (2.032 acres); and 86,643 sq. ft. (1.989 acres), as shown and described on that exhibit plat entitled, "EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY", sheets 1 of 4, 2 of 4, 3 of 4, and 4 of 4, respectively, prepared by Stewart engineering company, and attached hereto as EXHIBIT 1-A.

## EXHIBIT 1

Being those easement areas identified as "NEW CITY OF RALEIGH GREENWAY EASEMENT", comprising 46,921 sq.ft. (1.08 acres); 4,809 sq. ft. (.110 acre); 88,130 sq.ft. (2.032 acres); and 86,643 sq. ft. (1.989 acres), as shown and described on that exhibit plat entitled, "EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY", sheets 1 of 4, 2 of 4, 3 of 4, and 4 of 4, respectively, prepared by Stewart engineering company, and attached hereto as EXHIBIT 1-A.



N/F  
**THE HAMPTONS**  
**DEVELOPMENT COMPANY, LLC**  
 DB 11903, PG 91  
 BM 2007, PG 2444-2446  
 PIN 0788-21-7624

CENTERLINE OF  
 RICHLAND CREEK  
 IS PROPERTY LINE

NEW CITY OF  
 RALEIGH TEMPORARY  
 GREENWAY EASEMENT  
 (4,809 SF, 0.110 AC)

NEW CITY OF  
 RALEIGH TEMPORARY  
 GREENWAY EASEMENT  
 (88,130 SF, 2.032 AC)

N/F  
**HANSON AGGREGATES**  
**SOUTHEAST, LLC**  
 DB 14831, PG 744  
 BM 1990, PG 765  
 PIN 0788-30-8569  
 (16.52 ACRES PER RECORDS)

N/F  
**BENCHMARK CAROLINA**  
**AGGREGATES, INC**  
 DB 1592, PG 361  
 PIN 0786-34-9208  
 (168.9 ACRES PER RECORDS)

NEW CITY OF  
 RALEIGH TEMPORARY  
 GREENWAY EASEMENT  
 (46,921 SF, 1.077 AC)

**LEGEND**

- SURVEY CONTROL POINT
- EXISTING IRON PIPE
- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
- 0.2% CHANGE FLOOD LINE
- 1% CHANGE FLOOD LINE
- FLOODWAY LINE
- PROPERTY LINE SURVEYED
- PROPERTY LINE NOT SURVEYED
- EASEMENT LINE
- GREENWAY EASEMENT

EXISTING PERMANENT  
 SLOPE EASEMENT  
 (BM 2001, PG 1953)

EXISTING PERMANENT  
 UTILITY EASEMENT  
 (BM 2001, PG 1953)

SEE SHEET 2 FOR  
 GENERAL NOTES  
 AND LINE TABLES

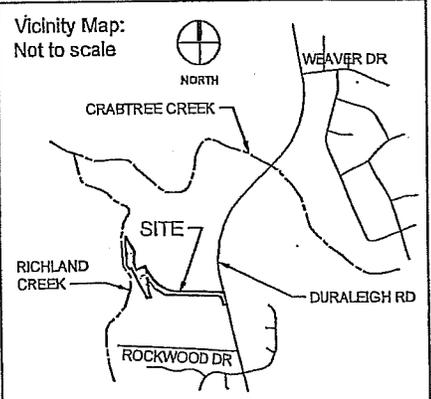
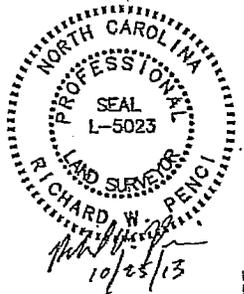
**DURALEIGH ROAD**  
 (VARIABLE WIDTH PUBLIC RW)

TRAV-2-IRS  
 N:760851.569'  
 E:2084641.372'

THIS MAP IS NOT A CERTIFIED SURVEY  
 AND HAS NOT BEEN REVIEWED BY A  
 LOCAL GOVERNMENT AGENCY FOR  
 COMPLIANCE WITH ANY APPLICABLE  
 LAND DEVELOPMENT REGULATIONS.



SCALE: 1" = 200'



EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: -
Scale: 1"=200'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	1 OF 4

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S13°05'37"E	155.24'
L2	S76°42'12"W	44.86'
L3	N13°17'48"W	46.74'
L4	N28°08'09"W	75.74'
L5	N88°10'27"W	725.53'
L6	N59°12'55"W	100.67'
L7	N59°12'55"W	68.54'
L8	N35°29'03"W	169.92'
L9	S06°02'19"E	162.24'
L10	S06°02'19"E	31.87'
L11	S16°40'28"E	47.67'
L12	S73°19'32"W	50.00'

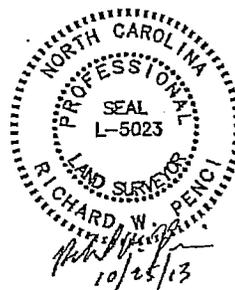
LINE TABLE		
LINE	BEARING	DISTANCE
L13	N16°40'28"W	47.67'
L14	N27°18'38"W	54.10'
L15	N27°18'38"W	327.64'
L16	S62°41'22"W	29.61'
L17	N34°27'52"W	74.08'
L18	N02°37'57"E	108.14'
L19	N01°31'56"E	32.52'
L20	N03°35'55"W	16.49'
L21	N06°34'31"W	35.82'
L22	N05°05'51"W	67.86'
L23	N00°33'03"W	26.04'
L24	N06°45'13"E	23.24'

LINE TABLE		
LINE	BEARING	DISTANCE
L25	N05°07'59"E	13.96'
L26	S31°43'56"E	217.35'
L27	S12°48'16"W	71.87'
L28	S00°49'28"E	61.13'
L29	S14°04'03"E	58.40'
L30	S27°18'38"E	48.59'
L31	N69°14'18"E	112.05'
L32	S20°45'41"E	46.77'
L33	S35°29'03"E	158.69'
L34	S47°20'59"E	93.74'
L35	S60°59'07"E	120.05'
L36	S74°37'15"E	89.41'

### GENERAL NOTES

- THIS PLAT IS INTENDED TO REPRESENT CITY OF RALEIGH TEMPORARY GREENWAY EASEMENTS ON A PORTION OF THE PROPERTY OF BENCHMARK CAROLINA AGGREGATES, INC., PINS 0786-34-9208, AND HANSON AGGREGATES SOUTHEAST, LLC, PIN 0786-30-8569, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.
- REFERENCES:  
DEED BOOK 1592, PAGE 361  
DEED BOOK 14831, PAGE 744  
BOOK OF MAPS 1990, PAGE 765  
BOOK OF MAPS 2001, PAGES 1953-1955
- HORIZONTAL DATUM IS NAD 83 (2011) AND VERTICAL DATUM IS NAVD88. BASED ON GPS METHODS USING REAL-TIME KINEMATIC SOLUTIONS FOR THE SURVEY CONTROL POINTS SHOWN HEREON AND TIED TO NORTH CAROLINA GEODETIC SURVEY MONUMENTS "ANNE LAKE 3" AND "PATROL 2".  
  

"ANNE LAKE 3"	"PATROL 2"
N 772886.53'	N 747347.08'
E 2080781.95'	E 2086727.63'
EL 376.95'	EL 493.99'
- THE INITIAL STATE PLANE POSITIONS FOR THIS SURVEY WERE SCALED FROM GRID TO GROUND FROM A PROJECT LOCATION OF N:760851.569' E:2084641.372', AN ELEVATION OF 361.55', USING A COMBINED FACTOR OF 0.99991836.
- THE SUBJECT PROPERTY IS ZONED PIN 0786-34-9208 "R-4" (RESIDENTIAL) AND PIN 0786-30-8569 "R-6" (RESIDENTIAL) PER THE WAKE COUNTY GEOGRAPHIC INFORMATION SYSTEM.
- THE SUBJECT PROPERTY LIES IN ZONES X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE AND FUTURE CONDITIONS 1% ANNUAL CHANCE FLOODPLAIN), X (SHADED) (AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF FUTURE CONDITIONS 1% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS OF LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD), AE (AREA DETERMINED TO BE INSIDE THE 1% ANNUAL CHANCE FLOOD, BASE FLOOD ELEVATIONS DETERMINED), AND FLOODWAY (DELINEATED FLOODWAY OF A STREAM). BASED ON THE FLOOD INSURANCE RATE MAP COMMUNITY MAP NUMBER 3720078600J DATED MAY 2, 2006. FLOOD HAZARD LINES SHOWN HEREON ARE FROM NCFLOODMAPS.COM.
- ADDRESS: PIN 0786-30-8569 - 4521 DURALEIGH ROAD  
PIN 0786-34-9208 - 5209 DURALEIGH ROAD



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



EASEMENT ACQUISITION MAP FOR:  
CRABTREE CREEK GREENWAY  
MEREDITH TOWNSHIP, CITY OF RALEIGH  
WAKE COUNTY, NORTH CAROLINA

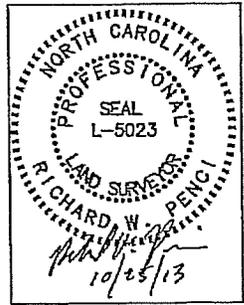
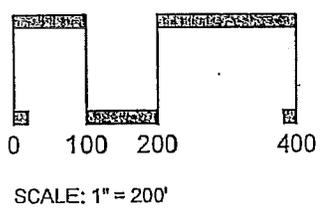
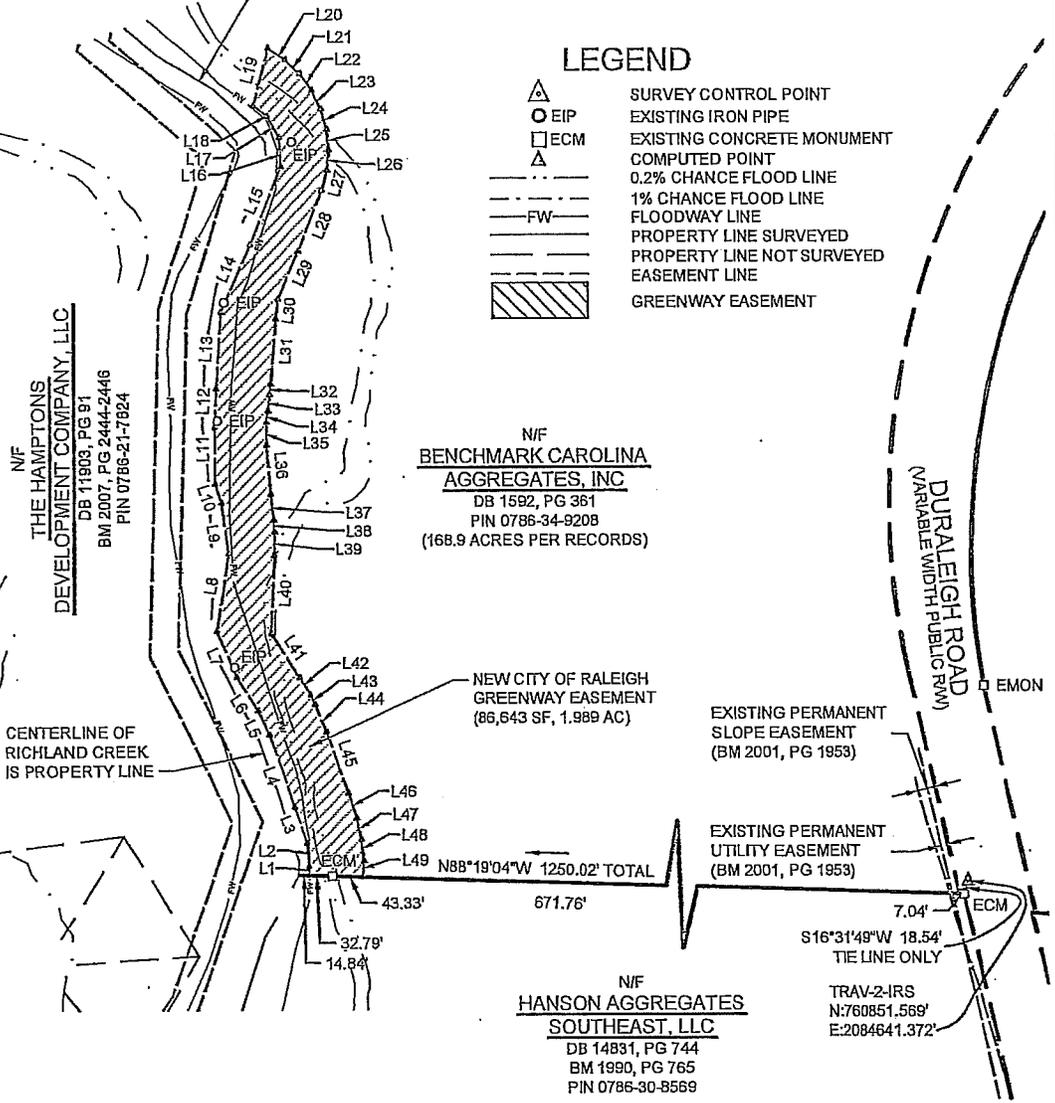
Project No: G13026	Ref No: -
Scale: NA	Date: 10/18/13
Drawn By: RWP	Drawing No:
Checked By: RWP	2 of 4



CENTERLINE OF RICHLAND CREEK IS PROPERTY LINE

**LEGEND**

- SURVEY CONTROL POINT
- EXISTING IRON PIPE
- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
- 0.2% CHANCE FLOOD LINE
- 1% CHANCE FLOOD LINE
- FLOODWAY LINE
- PROPERTY LINE SURVEYED
- PROPERTY LINE NOT SURVEYED
- EASEMENT LINE
- GREENWAY EASEMENT



SEE SHEET 2 FOR  
GENERAL NOTES  
AND SHEET 4 FOR  
LINE TABLES

THIS MAP IS NOT A CERTIFIED SURVEY  
AND HAS NOT BEEN REVIEWED BY A  
LOCAL GOVERNMENT AGENCY FOR  
COMPLIANCE WITH ANY APPLICABLE  
LAND DEVELOPMENT REGULATIONS.



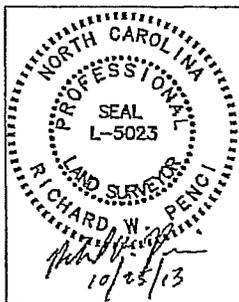
EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
MEREDITH TOWNSHIP, CITY OF RALEIGH  
WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: -
Scale: 1"=200'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	<b>3 OF 4</b>

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N00°14'25"E	12.66'
L2	N06°03'23"W	32.28'
L3	N18°57'53"W	52.05'
L4	N20°15'32"W	106.78'
L5	N25°53'37"W	38.74'
L6	N32°58'36"W	55.96'
L7	N24°17'40"W	69.21'
L8	N09°20'31"E	108.73'
L9	N08°10'54"W	70.55'
L10	N19°48'50"W	27.87'
L11	N00°26'47"W	77.99'
L12	N02°51'43"E	53.83'
L13	N03°45'05"E	106.27'
L14	N25°07'43"E	102.76'
L15	N22°11'26"E	116.20'
L16	N03°14'30"W	40.10'
L17	N30°12'37"W	33.61'

LINE TABLE		
LINE	BEARING	DISTANCE
L18	N52°54'00"W	24.33'
L19	S15°16'53"W	61.39'
L20	S57°33'59"E	29.36'
L21	S47°56'14"E	28.72'
L22	S37°21'30"E	28.72'
L23	S26°46'45"E	28.72'
L24	S15°56'27"E	28.52'
L25	S05°26'09"E	28.52'
L26	S05°04'08"W	28.52'
L27	S15°34'26"W	28.52'
L28	S22°21'38"W	90.71'
L29	S24°27'00"W	73.32'
L30	S06°56'01"W	26.57'
L31	S04°37'52"W	91.16'
L32	N05°07'59"E	13.96'
L33	N06°45'13"E	23.24'
L34	N08°57'27"E	15.27'

LINE TABLE		
LINE	BEARING	DISTANCE
L35	N00°33'03"W	26.04'
L36	N05°05'51"W	67.86'
L37	N06°34'31"W	35.82'
L38	N03°35'55"W	16.49'
L39	N01°31'56"E	32.52'
L40	N02°37'57"E	108.14'
L41	N34°27'52"W	74.08'
L42	S33°15'06"E	28.14'
L43	S27°37'35"E	14.70'
L44	S21°55'07"E	41.64'
L45	S19°50'21"E	90.01'
L46	S16°53'51"E	35.89'
L47	S13°11'53"E	30.19'
L48	S06°20'44"E	30.19'
L49	S04°26'48"W	21.80'



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No:	G13026	Ref No:	—
Scale:	NA	Date:	10/25/13
Drawn By:	RWP	Drawing No:	
Checked By:	RWP		<b>3 OF 4</b>

Instrument prepared by: Raleigh City Attorney's Office and Styers, Kemerait  
& Mitchell, PLLC  
Brief Description for Index: Crabtree Creek  
Parcel Identifier: PIN# 0786349208  
Mail after Recording to: City Attorney's Office  
P. O. Box 590, Raleigh, N.C. 27602

**STATE OF NORTH CAROLINA  
WAKE COUNTY**

**PERMANENT, PROVISIONAL  
EASEMENT FOR CONSERVATION  
AND GREENWAY PURPOSES AND  
RESERVATION OF RIGHTS**

**THIS DEED OF EASEMENT** is made this \_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date") by HANSON AGGREGATES SOUTHEAST, LLC, a Delaware limited liability company with an address of 2310 Parklake Drive, Suite 550 Atlanta, Georgia 30345, hereinafter referred to as "Hanson" or the "Grantor", to the CITY OF RALEIGH, a North Carolina municipal corporation with an address of P.O. Box 590 Raleigh, NC 27602, hereinafter referred to as the "City." The Grantor and the City are at times referred to herein as "Party" or "Parties".

**WITNESSETH:**

**WHEREAS**, the City of Raleigh has established and presently operates the Capital Area Greenway Program, which has as its purposes the conservation of natural, scenic, or ecologically valuable properties (generally known as "greenways"), and the

development and provision for public use of paved or unpaved trails (“greenway trails”) within such properties; and

**WHEREAS**, the Grantor is the owner in fee simple of certain real property, more particularly identified as PIN 786349208 (the “Property”); and

**WHEREAS**, the Property is subject to that certain permit number 92-03 for the operation of a crushed stone quarry issued by the North Carolina Department of Environment and Natural Resources (the “Mining Permit”); and

**WHEREAS**, certain areas of the Property have aesthetic, conservation, ecological, and recreational values in their present state, which values should be preserved and maintained for use and enjoyment by the public in the future; and

**WHEREAS**, the City has planned to construct, and intends to make available for public use, the Crabtree Greenway Trail (the “Project” or “Greenway Project”), portions of which are to be located on areas of the Property; and

**WHEREAS**, the Grantor and the City have entered into a Settlement Agreement dated \_\_\_\_\_ (“Settlement Agreement”) in order to resolve a longstanding legal dispute concerning the quarrying activities permitted on the Property, the resolution of such matters having implications for the location of greenway trails and easements to accommodate such trails; and

**WHEREAS**, pertinent provisions of the Settlement Agreement are incorporated into that Declaration of Covenants, Conditions, and Restrictions (“Declaration of Covenants”) dated \_\_\_\_\_, and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry; and

**WHEREAS**, in furtherance of the above referenced environmental and conservation objectives and the Greenway Project, in accordance with terms of the referenced Settlement Agreement, and subject to the conditions, terms and restrictions hereof, Hanson has agreed to convey to the City this non-exclusive conservation and greenway easement (the “Easement”) over portions of the Property, (the “Easement Area”) and the City has agreed to accept such Easement; and

**WHEREAS**, the City of Raleigh acknowledges that the Easement Area is part of an active mining operation and;

**WHEREAS**, consistent with terms of the Settlement Agreement, the City has agreed that it will have limited access to and will not operate a greenway, including a greenway trail, on the Easement Area until the end of the Reclamation Period referenced in the Settlement Agreement and Declaration of Covenants, which period will be at most forty (40) years from the date of this instrument.

**NOW, THEREFORE**, in consideration of the Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, the Grantor has bargained and sold, and hereby sells, grants and conveys to the City, its successors and assigns forever, an Easement of the nature and to the extent hereinafter set forth, in and over the lands of the Grantor described as follows:

See Exhibit 1, attached.

The terms, conditions and restrictions of this Easement are as follows:

### **ARTICLE I. PURPOSE AND USES**

1. The purpose of the Easement is to preserve, protect, and maintain the Easement Area in its current state area while providing for certain recreational uses of the Easement Area in the future.
2. The qualities of the Easement Area intended to be protected under this Easement include conservation of the natural heritage of the area; water pollution control and abatement, ecological preservation; wildlife habitat management; preservation of the visual amenities of the Easement Area; preservation of a natural ecosystem (collectively, "conservation values"); and provision of a recreation resource, specifically, a future greenway trail, to members of the public.
3. Subject to those terms, conditions, and restrictions set forth herein, and expressly subject to those rights reserved by the Grantor in Article III hereof, the Easement Area shall be preserved and maintained in its current state for use as a conservation and future recreation area.
4. At a date to be fixed in accord with terms of the Settlement Agreement and Declaration of Covenants (which date will be at most 40 years from the execution hereof), ("City's Access Date"), the City may construct a paved or unpaved trail, or trails, ("Greenway Trails") within the Easement Area, and facilities incidental to and for the convenience of user of the Greenway Trail, such as observation platforms, boardwalks, litter receptacles, benches and similar convenience facilities. Following completion of construction of the Greenway Trail, the City shall incorporate the Easement Area as a component of the Capital Area Greenway System of the City. After the Easement Area has been incorporated as a component of the Capital Area Greenway System, members of the general public shall have free access to and use of the Easement Area, subject to the laws and ordinances of the City of Raleigh, and for the purposes allowed under the official Greenway Program of the City, including walking, educational tours, scientific study of the Easement Area and its natural ecosystems, hiking, bike riding, jogging and picnicking. Such uses of the Easement Area shall all be in accord with the Capital Area Greenway Plan and Program and with the terms and conditions hereof.

5. (a) Prior to the City's Access Date and subject to the requirements of Article IV, section 3 hereof, the City may have access to and use the Easement Area for the purpose of conducting periodic inspections to insure the conservation covenants of this Easement are observed.

(b) Beginning no sooner than two (2) years prior to the City's Access Date and subject to the requirements of Article IV, section 3 hereof, the City may have access to the Easement Area for purposes of conducting surveys, soil borings, and other investigations as incidental to planning the construction of greenway trails and/or commencing and proceeding with greenway trail construction work, so long as such access of the Easement Area by the City does not interfere with any of the reclamation obligations of the Grantor required by the Mining Permit.

6. Upon completion of construction and opening of the Greenway Trail to members of the public, the City shall have the right and duty to maintain the Easement Area in a clean, natural and undisturbed state, consistent with the City's Master Greenway Plan.

7. There shall be no access by the City, the State, or members of the general public granted by this Easement to any other property of the Grantor, save that conveyed herein.

8. The Grantor shall remain the fee owner of the property subject to this Easement for purposes of applicable land use regulations (including measurement of building setback distances, density credit transfers, and similar regulations); the payment of taxes on the property; and other applicable laws and ordinances.

## **ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES; EXCEPTED AND RESERVED RIGHTS**

Expressly subject to the Grantor's reserved rights, any activity conducted by either Party on, or use of, the Easement Area inconsistent with the purposes of this Easement is prohibited. By way of illustration and not limitation, the following activities and uses of the Easement Area are expressly prohibited:

1. Industrial and Commercial Use. Industrial and commercial activities of any type, and ingress and/or egress for such purposes are prohibited, except for those activities contemplated under and allowed by the Mining Permit and Settlement Agreement, provided, however, such activities shall be in strict conformance with terms of the Settlement Agreement and Declaration of Covenants.

2. Agricultural, Timber Harvesting, Grazing and Horticultural Use. Agricultural, timber harvesting, grazing, horticultural and animal husbandry operations are prohibited, except for those activities contemplated under and allowed by the Mining Permit and the Settlement Agreement, provided, however, such activities shall be in strict conformance with terms of the Settlement Agreement and Declaration of Covenants.

3. Disturbance of Natural Features, Plants and Animals. Except as otherwise contemplated under and allowed by the Mining Permit and the Settlement Agreement, there shall be no cutting or removal of trees, or disturbance of other natural features, including plant and animal life, except for the following: (1) as incidental to boundary marking, fencing, signage, construction and maintenance of greenway trails and related convenience facilities, and public accesses allowed hereunder; (2) selective cutting and prescribed burning or clearing of vegetation, and the application of approved pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants (such to be in strict conformance with terms of the referenced Settlement Agreement); and/or (3) hunting and fishing, (otherwise permitted by law or ordinance) pursuant to applicable rules and regulations.

4. Construction of Buildings; Structures; Signage. Except as otherwise contemplated under and allowed by the Mining Permit and the Settlement Agreement, there shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display antenna, utility pole, tower, conduit, line, pier landing, dock or any other temporary or permanent structure or facility on or above the Easement Area, except for the following: placing and display of no trespassing signs; state or federal traffic or similar signs; greenway trail signs; for sale or lease signs; signs identifying the conservation values, and/or signs identifying the Grantor as the owner of the property and the City as holder of this Easement; educational and interpretive signs; identification labels or any other similar temporary or permanent signs, as approved by the City; and installation and maintenance by the City of perimeter fencing along the Greenway, in accordance with terms of the Settlement Agreement and recorded Declaration of Covenants.

5. Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, or other minerals; and no change in the topography of the land in any manner except as necessary to prevent erosion or incidental to Greenway Trail construction or conservation management activities otherwise permitted by this Easement, except for those activities contemplated under and allowed by the Mining Permit and the Settlement Agreement, provided, however, such activities shall be in strict conformance with terms of the Settlement Agreement and Declaration of Covenants.

6. Wetlands and Water Quality. There shall be no pollution or alteration of water bodies and no activities that would be detrimental to water purity or that would alter natural water levels, drainage, sedimentation and/or flow in or over the Property or into any surface waters, or cause soil degradation or erosion, nor diking, dredging, alteration, draining, filling or removal of wetlands, except activities to restore natural hydrology or wetlands enhancement as permitted by the State and any other appropriate authorities and as allowed by the Mining Permit, so long as such activities are in strict conformance with the Settlement Agreement and Declaration of Covenants.

7. Dumping. Dumping of soil, trash, garbage, waste, abandoned vehicles, appliances, machinery, or other materials on the Easement Area is prohibited.

### ARTICLE III. RESERVATION OF RIGHTS BY GRANTOR

1. Fee Ownership. The Grantor shall remain the fee owner of the Property subject to this Easement for purposes of applicable land use regulations (including measurement of building setback distances, density credit transfers, and similar regulations); the payment of taxes on the Property; and any other applicable laws and ordinances.

2. Non-Exclusive Easement. The Easement is non-exclusive. The Grantor expressly reserves the right to continue the use of the Easement Area for all purposes not inconsistent with this Easement and consistent with the Settlement Agreement, including: (1) the use, operation, and maintenance of existing settling ponds; (2) the maintenance of the temporary stockpile materials; and (3) activities conducted in furtherance of an approved Reclamation Plan. The use of the Easement Area for all purposes shall not be inconsistent with this Easement and shall be consistent with the Mining Permit and Settlement Agreement.

3. Noise, Dust, and Vibration Exception. The Grantor expressly excepts from the provisions of the Greenway Easement and, for its successors and assigns, reserves the right to cause vibrations, noise, dust, particulates, debris, and other similar materials and odors to be in the air above, descend upon, go across, or go through the Easement Area, and in general to subject the Easement Area to all similar consequences arising from the location and operation in the vicinity of the Easement Area of any the Crabtree Quarry and related activities, including without limitation equipment operation and truck traffic at, to and from Crabtree Quarry. By accepting this grant of Greenway Easement, the City hereby subordinates its rights under the Greenway Easement to those of the Grantor relating to noise, dust, and vibration as enumerated above ("Noise, Dust, and Vibration Exception"). Notwithstanding the foregoing, nothing contained herein shall be construed to allow Grantor's vehicles, equipment, employees or customers to physically enter the Easement Area or to conduct mining operations thereon. This Noise, Dust and Vibration Exception shall terminate upon the expiration of the Reclamation Period, as provided under terms of the Settlement Agreement and Declaration of Covenants.

### ARTICLE IV. ENFORCEMENT AND REMEDIES

1. Enforcement. Subject to the terms and conditions hereof, the City shall have authority and responsibility for enforcement of the terms of this Easement. Any forbearance by either the City or Grantor to exercise rights hereunder in the event of breach of any term, condition, or restriction shall not be deemed or construed to be a waiver of any right of enforcement. No delay or omission by the City or Grantor in the exercise of any right or remedy shall impair such right or remedy, or be construed as a waiver.

2. Settlement Agreement. No provision of this Easement shall be construed or applied to limit the rights of, or remedies available to, the Parties under terms of the

referenced Settlement Agreement and Declaration of Covenants. In the event of ambiguity or inconsistency between provision of this Easement and the Settlement Agreement and Declaration of Covenants, the latter shall prevail.

3. Access; Oversight; Inspections. Prior to the City's Access Date, consistent with the Settlement Agreement and Article I, section 5(a) and (b) hereof, the City may have limited access to and use of the Easement Area. Such limited access requires forty eight (48) hours prior notice to Grantor. Because, prior to the City's Access Date, the Property will be an active mine under the jurisdiction of the U.S. Department of Labor Mine Safety and Health Administration ("MSHA"), the City, its employees, contractors, representatives and agents shall be considered a contractor under MSHA rules and regulations and will subject to all MSHA rules and regulations while on the Property, including the requirement to have safety training prior to entering the Property. The City, and any of its employees, contractors, representatives and agents that access the Easement Area prior to the City's Access Date must be accompanied by representative of Grantor during such inspection. In addition to the foregoing requirements, when the City requests access to the Easement Area for the purposes specified in Article I, section 5(b) hereof, any employee, contractor, representative and agent of the City shall be required to execute a right of entry agreement provided by Grantor at the time of the request to access.

4. Breach of Easement Conditions; Remedies Generally. Upon breach of any of the terms and conditions of this Easement by the City or by Grantor, or anyone acting for or under authority of the defaulting party, the non-defaulting party shall, except as provided below, notify the defaulting party in writing of such breach. The defaulting party shall have thirty (30) days after receipt of such notice to correct any conditions constituting such breach. If the breach remains uncorrected after thirty (30) days, the non-defaulting party may enforce the terms and conditions of this Easement by any appropriate legal proceedings, including actions for damages, injunctive, and other relief. In addition, either party shall also have the further power and authority to:

(a) immediately abate or prevent any impairment or degradation of the property subject to the Easement by acts which may be unlawful or otherwise in violation of this Easement; and

(b) otherwise preserve or protect its interest in the property; and

(c) seek damages from any appropriate person or entity.

#### **ARTICLE V. MISCELLANEOUS**

1. City's Covenant and Indemnity. To the extent authorized by law, the City agrees to hold the Grantor harmless from liability for personal injury or property damage arising out of the use of the Easement Area for public Greenway purposes, including rights and duties granted to the City in this Easement; provided, the Grantor shall not be held harmless from liability caused by its active fault or solely by the negligence of the

Grantor, its agents, invitees, or contractors; or solely by acts of the Grantor, its agents, invitees, or contractors which violate the terms and conditions of this Easement. The Parties acknowledge that the authority of a municipality to indemnify against claims has not been established by any N.C. statute or court decision.

2. Grantor's Covenant and Indemnity. Prior to the City's Access Date, Grantor agrees to hold the City harmless from liability for personal injury or property damage arising out of the uses by and activities of the Grantor within the Easement Area, including rights reserved by Grantor hereunder; provided, the City shall not be held harmless from liability caused by its active fault or solely by the negligence of the City, its agents, invitees, or contractors; or solely by acts of the City, its agents, invitees, or contractors which violate the terms and conditions of this Easement.

3. Jurisdiction and Venue. In the event of any dispute arising under terms of this Easement, jurisdiction shall be in the courts of North Carolina, and venue shall be in Wake County.

4. Severability. If any provision of this Easement is declared void, invalid or otherwise unenforceable for any reason by a court of competent jurisdiction, the remaining provisions shall continue to be fully effective and enforceable, it being the express intent of the Parties that the provisions hereof be Severable.

**TO HAVE AND TO HOLD** the right, privileges, and easements herein granted to the City, their successors and assigns forever. The Easement shall run with the land as a perpetual servitude, and shall be binding upon the Grantor and its agents, personal representatives, heirs, successors and assigns forever.

**THE EASEMENT AREA** does not comprise a primary residence of the Grantor.

**AND THE GRANTOR COVENANTS** that it is vested of the Easement, and has the right to convey the same; that the same are free from encumbrances except as hereinafter stated, and that the Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

Subject to easements, encumbrances and restrictions of record.

**IN WITNESSETH WHEREOF**, the Grantor has duly executed the foregoing instrument in the name of the limited liability company, by the signature of its \_\_\_\_\_ as the act and deed of the limited liability company, and the City has executed the instrument in its corporate name, by the signature of its (Interim) City Manager, attested by its City Clerk-Treasurer, for the purpose of giving and memorializing its consent thereto, all on the day and year first above written.

HANSON AGGREGATES SOUTHEAST  
LLC

By: \_\_\_\_\_(SEAL)

Its \_\_\_\_\_

**Consented to:**

THE CITY OF RALEIGH

By: \_\_\_\_\_ (SEAL)

Its \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

PROPERTY DESCRIPTION APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being be me duly sworn, says that (s) he is the \_\_\_\_\_ of Hanson Aggregates Southeast LLC , the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(notary's printed name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA  
COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, 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 Treasurer 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 \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

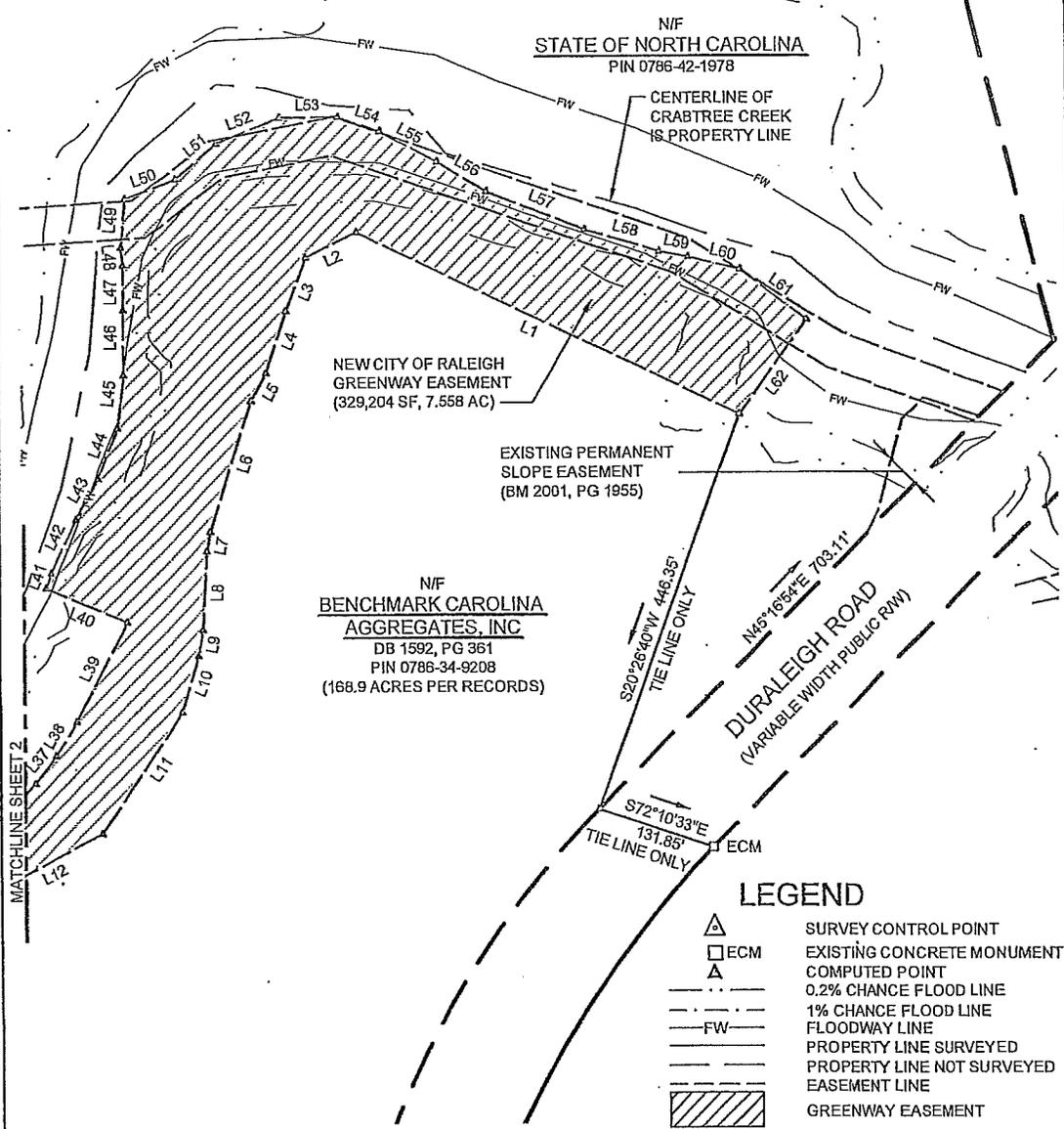
(SEAL)

My Commission Expires: \_\_\_\_\_

## EXHIBIT 1

Being that easement area identified as "NEW CITY OF RALEIGH GREENWAY EASEMENT", comprising 329,204 sq. ft. (7.558 acres) as shown and described on that exhibit plat entitled, "EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY", sheet 1 of 3, 2 of 3, and 3 of 3, respectively, prepared by Stewart engineering company, and attached as EXHIBIT 1-A.

EXHIBIT 1-A



N/F  
**BENCHMARK CAROLINA  
 AGGREGATES, INC**  
 DB 1592, PG 361  
 PIN 0786-34-9208  
 (168.9 ACRES PER RECORDS)

N/F  
**STATE OF NORTH CAROLINA**  
 PIN 0786-42-1978

CENTERLINE OF  
 CRABTREE CREEK  
 IS PROPERTY LINE

NEW CITY OF RALEIGH  
 GREENWAY EASEMENT  
 (329,204 SF, 7.558 AC)

EXISTING PERMANENT  
 SLOPE EASEMENT  
 (BM 2001, PG 1955)

**DURALEIGH ROAD**  
 (VARIABLE WIDTH PUBLIC R/W)

**LEGEND**

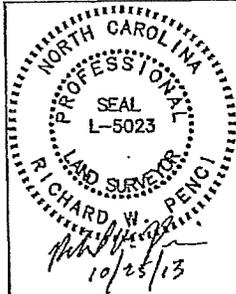
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- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
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- 1% CHANCE FLOOD LINE
- FLOODWAY LINE
- PROPERTY LINE SURVEYED
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- EASEMENT LINE
- GREENWAY EASEMENT

SEE SHEET 3 FOR  
 GENERAL NOTES  
 AND LINE TABLES

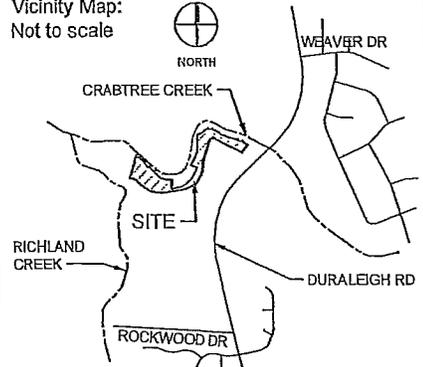
THIS MAP IS NOT A CERTIFIED SURVEY  
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 LAND DEVELOPMENT REGULATIONS.



SCALE: 1" = 150'



Vicinity Map:  
 Not to scale

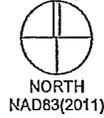


**EASEMENT ACQUISITION MAP FOR:  
 CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: --
Scale: 1"=150'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	1 OF 3

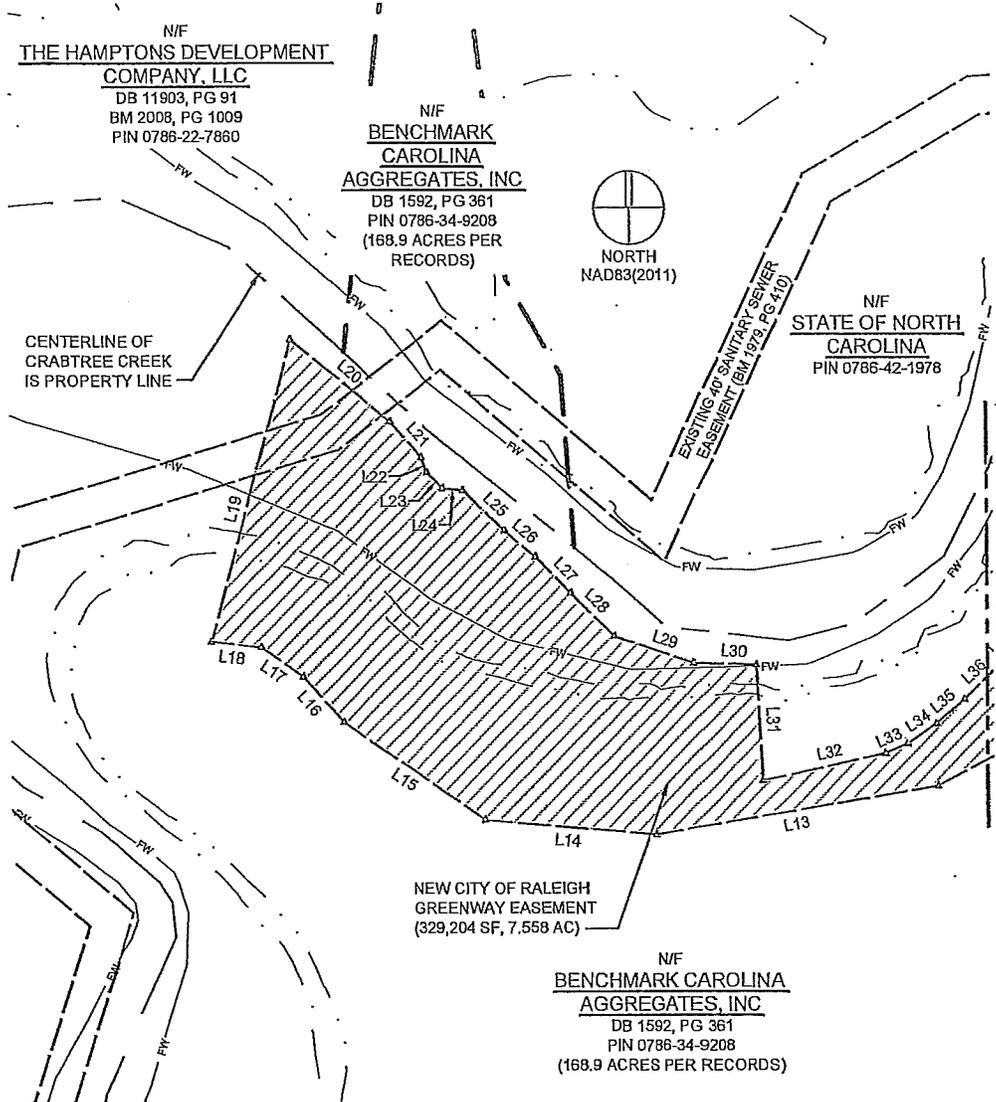
N/F  
**THE HAMPTONS DEVELOPMENT  
 COMPANY, LLC**  
 DB 11903, PG 91  
 BM 2008, PG 1009  
 PIN 0786-22-7860

N/F  
**BENCHMARK  
 CAROLINA  
 AGGREGATES, INC**  
 DB 1592, PG 361  
 PIN 0786-34-9208  
 (168.9 ACRES PER  
 RECORDS)



N/F  
**STATE OF NORTH  
 CAROLINA**  
 PIN 0786-42-1978

CENTERLINE OF  
 CRABTREE CREEK  
 IS PROPERTY LINE

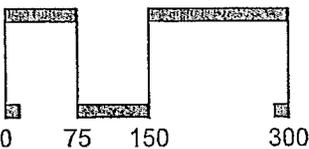


NEW CITY OF RALEIGH  
 GREENWAY EASEMENT  
 (329,204 SF, 7,558 AC)

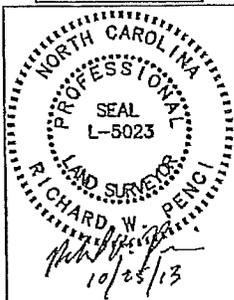
N/F  
**BENCHMARK CAROLINA  
 AGGREGATES, INC**  
 DB 1592, PG 361  
 PIN 0786-34-9208  
 (168.9 ACRES PER RECORDS)

SEE SHEET 3 FOR  
 GENERAL NOTES  
 AND LINE TABLES

THIS MAP IS NOT A CERTIFIED SURVEY  
 AND HAS NOT BEEN REVIEWED BY A  
 LOCAL GOVERNMENT AGENCY FOR  
 COMPLIANCE WITH ANY APPLICABLE  
 LAND DEVELOPMENT REGULATIONS.



SCALE: 1" = 150'



**LEGEND**

- SURVEY CONTROL POINT
- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
- 0.2% CHANCE FLOOD LINE
- 1% CHANCE FLOOD LINE
- FLOODWAY LINE
- PROPERTY LINE SURVEYED
- PROPERTY LINE NOT SURVEYED
- EASEMENT LINE
- GREENWAY EASEMENT



**EASEMENT ACQUISITION MAP FOR:  
 CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: -
Scale: 1"=150'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	2 OF 3

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S64°59'52"E	459.41'
L2	N64°16'49"E	61.31'
L3	N22°00'13"E	61.31'
L4	N18°23'55"E	69.29'
L5	N28°47'33"E	33.81'
L6	N17°35'34"E	145.20'
L7	N10°33'01"E	20.84'
L8	N03°30'29"E	83.44'
L9	N10°33'01"E	28.20'
L10	N17°35'34"E	62.73'
L11	N33°56'57"E	153.90'
L12	N62°47'24"E	153.90'
L13	N80°26'50"E	303.73'
L14	S85°06'01"E	182.19'
L15	S56°11'43"E	182.19'
L16	S41°44'34"E	63.11'
L17	S55°37'39"E	53.75'
L18	S83°23'57"E	53.75'
L19	S15°16'53"W	324.07'
L20	S51°01'40"E	135.24'
L21	S41°30'06"E	49.67'

LINE TABLE		
LINE	BEARING	DISTANCE
L22	S21°52'05"E	16.68'
L23	S46°02'44"E	23.89'
L24	S84°36'19"E	20.84'
L25	S46°54'40"E	61.60'
L26	S49°43'02"E	42.22'
L27	S44°58'57"E	53.11'
L28	S45°37'27"E	64.13'
L29	S72°13'32"E	90.26'
L30	S88°23'32"E	65.95'
L31	N03°06'33"W	119.91'
L32	S77°45'28"W	132.26'
L33	S66°46'30"W	25.37'
L34	S56°33'57"W	37.51'
L35	S50°24'50"W	39.76'
L36	S46°04'31"W	49.01'
L37	S38°28'27"W	37.46'
L38	S32°10'10"W	42.52'
L39	S27°24'08"W	118.61'
L40	S67°12'17"E	94.62'
L41	N19°51'49"E	16.72'
L42	N25°51'30"E	62.97'

LINE TABLE		
LINE	BEARING	DISTANCE
L43	N28°57'21"E	49.04'
L44	N21°14'56"E	57.04'
L45	N07°17'18"E	57.09'
L46	N00°00'39"W	68.76'
L47	N00°01'45"E	47.54'
L48	N06°13'15"W	19.26'
L49	N05°18'19"E	51.40'
L50	N69°11'14"E	58.28'
L51	N51°00'30"E	58.93'
L52	N67°56'53"E	72.91'
L53	N89°43'42"E	64.69'
L54	S71°27'44"E	48.15'
L55	S62°55'11"E	70.52'
L56	S59°33'33"E	62.03'
L57	S69°07'06"E	114.17'
L58	S73°53'11"E	84.19'
L59	S79°19'35"E	32.30'
L60	S76°30'27"E	57.10'
L61	S53°46'01"E	90.11'
L62	S36°37'22"W	124.83'

### GENERAL NOTES

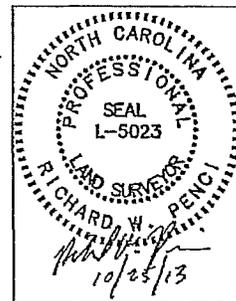
- THIS PLAT IS INTENDED TO REPRESENT CITY OF RALEIGH GREENWAY EASEMENTS ON A PORTION OF THE PROPERTY OF BENCHMARK CAROLINA AGGREGATES, INC., PIN 0786-34-9208, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.
- REFERENCES:  
DEED BOOK 1592, PAGE 361  
DEED BOOK 14831, PAGE 744  
BOOK OF MAPS 1990, PAGE 765  
BOOK OF MAPS 2001, PAGES 1953-1955
- HORIZONTAL DATUM IS NAD 83 (2011) AND VERTICAL DATUM IS NAVD88. BASED ON GPS METHODS USING REAL-TIME KINEMATIC SOLUTIONS FOR THE SURVEY CONTROL POINTS SHOWN HEREON AND TIED TO NORTH CAROLINA GEODETIC SURVEY MONUMENTS "ANNE LAKE 3" AND "PATROL 2".

"ANNE LAKE 3"  
N 772886.53'  
E 2080781.95'  
EL 376.96'

"PATROL 2"  
N 747347.08'  
E 2086727.63'  
EL 493.99'

- THE INITIAL STATE PLANE POSITIONS FOR THIS SURVEY WERE SCALED FROM GRID TO GROUND FROM A PROJECT LOCATION OF N:760851.569' E:2084641.372', AN ELEVATION OF 361.55', USING A COMBINED FACTOR OF 0.99991836.
- THE SUBJECT PROPERTY IS ZONED PIN 0786-34-9208 "R-4" (RESIDENTIAL) AND PIN 0786-30-6569 "R-6" (RESIDENTIAL) PER THE WAKE COUNTY GEOGRAPHIC INFORMATION SYSTEM.
- THE SUBJECT PROPERTY LIES IN ZONES X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE AND FUTURE CONDITIONS 1% ANNUAL CHANCE FLOODPLAIN), X (SHADED) (AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF FUTURE CONDITIONS 1% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS OF LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD), AE (AREA DETERMINED TO BE INSIDE THE 1% ANNUAL CHANCE FLOOD, BASE FLOOD ELEVATIONS DETERMINED), AND FLOODWAY (DELINEATED FLOODWAY OF A STREAM). BASED ON THE FLOOD INSURANCE RATE MAP COMMUNITY MAP NUMBER 3720078600J DATED MAY 2, 2006. FLOOD HAZARD LINES SHOWN HEREON ARE FROM NCFLOODMAPS.COM.

B. ADDRESS: 5209 DURALEIGH ROAD



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



### EASEMENT ACQUISITION MAP FOR: CRABTREE CREEK GREENWAY

MEREDITH TOWNSHIP, CITY OF RALEIGH  
WAKE COUNTY, NORTH CAROLINA

Project No:	G13026	Ref No:	—
Scale:	NA	Date:	10/25/13
Drawn By:	RWP	Drawing No:	3 OF 3
Checked By:	RWP		

Instrument Prepared By: Raleigh City Attorney's Office  
Brief Description for Index: Crabtree Creek  
Parcel Identifier: PIN Out of 0786349208  
Mail After Recording To: City Attorney's Office  
P.O. Box 590  
Raleigh, N.C. 27602

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STATE OF NORTH CAROLINA

SPECIAL WARRANTY DEED  
TO CITY

COUNTY OF WAKE

---

THIS DEED is made this \_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date") by HANSON AGGREGATES SOUTHEAST LLC, a Delaware limited liability company with an address of 2310 Parklake Drive, Suite 550 Atlanta, Georgia 30345, hereinafter referred to as "Hanson" or the "Grantor", to the CITY OF RALEIGH, a North Carolina Municipal corporation with an address of P.O. Box 590, Raleigh, NC 27602, (the "City").

**WITNESSETH:**

**WHEREAS**, the City of Raleigh has established and presently operates the Capital Area Greenway Program, which has as its purposes the conservation of natural, scenic, or ecologically valuable properties (generally known as "greenways"), and the development and provision for public use of paved or unpaved "greenway trails" within such properties; and

**WHEREAS**, the Grantor is the owner in fee simple of certain real property (the Property”), described in Exhibit 1, attached

**WHEREAS**, the Property has conservation, ecological, and recreational value in its present state, which values should be preserved and maintained for use and enjoyment by the public; and

**WHEREAS**, the City has planned to construct, and intends to make available for public use, the Crabtree Greenway Trail (the “Project” or “Greenway Project”), portions of which may be located on areas of or immediately adjacent to the Property; and

**WHEREAS**, the Grantor and the City have entered into a Settlement Agreement dated \_\_\_\_\_, 2014 (the “Settlement Agreement”) in order to resolve a longstanding legal dispute concerning quarrying activities permitted on the Property, the resolution of such matters having implications for the location of greenway trails and easements to accommodate such trails; and

**WHEREAS**, pertinent provisions of the Settlement Agreement are incorporated into that Declaration of Covenants, Conditions, and Restrictions (“Declaration of Covenants”) dated \_\_\_\_\_, 2014 and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry; and

**WHEREAS**, the Property is subject to that certain permit number 92-03 for the operation of a crushed stone quarry issued by the North Carolina Department of Environment and Natural Resources (the “Mining Permit”); and

**WHEREAS**, in furtherance of the above stated environmental and conservation objectives, the enhancement of the Greenway Project, and in accordance with terms of the referenced Settlement Agreement, Hanson has agreed to convey to the City, and the City has agreed to accept, the Property described herein.

**NOW THEREFORE**, in consideration of the Recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Hanson has and by these presents does grant, bargain, sell and convey unto the City in fee simple, that certain lot or parcel of land situated in Wake County, North Carolina (the “Property”) and more particularly described as follows:

See “Exhibit 1”, attached.

**THE GRANTOR EXPRESSLY EXCEPTS** from the Property and interest herein conveyed and, for its successors and assigns, expressly **RESERVES** the right to cause vibrations, noise, dust, particulates, debris, and other similar materials and odors to be in the air above, descend upon, go across, or go through the Property, and in general to subject the Property to all similar damages and/or consequences arising from the location and operation in the vicinity of the property of any the Crabtree Quarry and related activities, including without limitation equipment operation and truck traffic at, to and from the Crabtree Quarry. By accepting the conveyance of this Property, the City hereby subordinates its rights in and to the Property to those of the Grantor relating to noise, dust, and vibration as enumerated above ("Noise, Dust, and Vibration Exception"). Notwithstanding the foregoing, nothing contained herein shall be construed to allow Grantor's vehicles, equipment, employees or customers to physically enter the Property or to conduct mining operations thereon. This Noise, Dust and Vibration Exception shall terminate upon the expiration of the Reclamation Period, as defined in the above referenced Settlement Agreement and recorded Declaration of Covenants.

**TO HAVE AND TO HOLD** the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the City in fee simple.

**THE PROPERTY** does not comprise a primary residence of the Grantor.

**GRANTOR COVENANTS** with the City, that Grantor has done nothing to impair good and marketable title to the Property, and it will warrant and defend the title to the same against the lawful claims of all persons claiming by, through, or under Grantor, subject only to liens, encumbrances, restrictions, and other matters of record.

**IN WITNESSETH WHEREOF**, the Grantor has duly executed the foregoing instrument in the name of the limited liability company, by the signature of its \_\_\_\_\_ as the act and deed of the limited liability company, and the City has executed the instrument in its corporate name, by the signature of its City Manager, attested by its City Clerk-Treasurer, for the purpose of giving and memorializing its consent thereto, all on the day and year first above written.

HANSON AGGREGATES SOUTHEAST LLC .

BY:

\_\_\_\_\_(SEAL)

ITS \_\_\_\_\_

**Consented to:**

THE CITY OF RALEIGH

By: \_\_\_\_\_ (SEAL)

Its \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

PROPERTY DESCRIPTION APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Chief City Engineer

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being \_\_\_\_\_ me duly sworn, says that (s) he is the \_\_\_\_\_ of Hanson Aggregates Southeast LLC, the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(Notary's Printed Name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA

COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, 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 Treasurer 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 \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

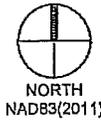
(SEAL)

My Commission Expires: \_\_\_\_\_

Exhibit 1

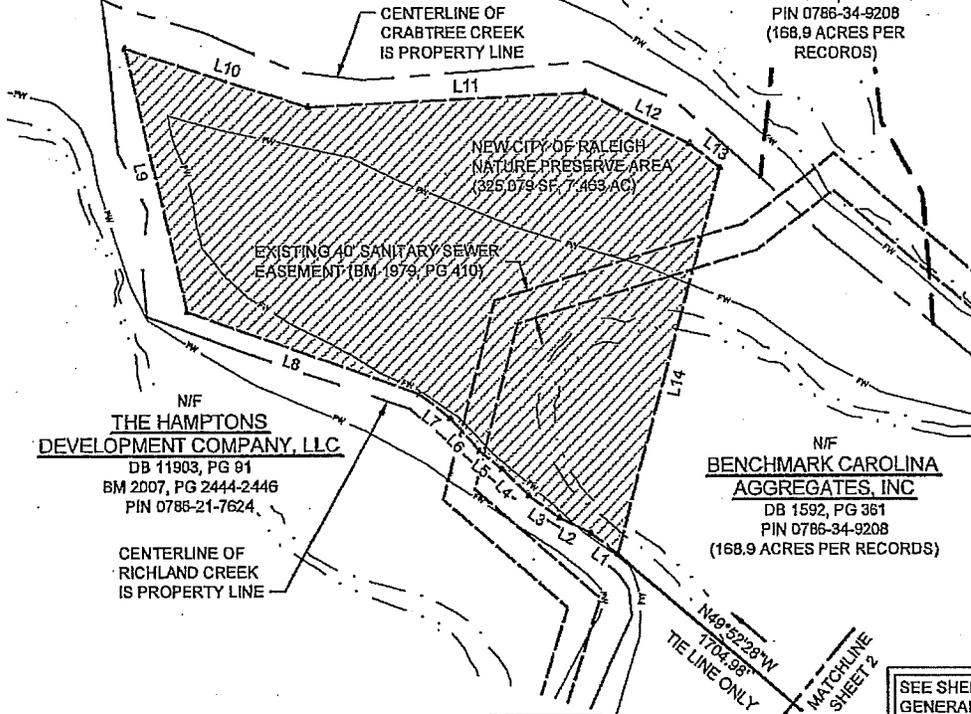
Being that parcel identified as "NEW CITY OF RALEIGH NATURE PRESERVE AREA", comprising 325,079 sq. ft. (7.463 acres), as shown and described on that exhibit plat entitled, "EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY", sheet 1 of 2 and 2 of 2, respectively, prepared by Stewart engineering company, and attached hereto as EXHIBIT 1-A.

EXHIBIT 1-A



N/F  
**THE HAMPTONS  
 DEVELOPMENT COMPANY, LLC**  
 DB 11903, PG 91  
 BM 2008, PG 1009  
 PIN 0786-22-7860

N/F  
**BENCHMARK  
 CAROLINA  
 AGGREGATES, INC**  
 DB 1592, PG 361  
 PIN 0786-34-9208  
 (168.9 ACRES PER  
 RECORDS)



N/F  
**THE HAMPTONS  
 DEVELOPMENT COMPANY, LLC**  
 DB 11903, PG 91  
 BM 2007, PG 2444-2446  
 PIN 0786-21-7624

N/F  
**BENCHMARK CAROLINA  
 AGGREGATES, INC**  
 DB 1592, PG 361  
 PIN 0786-34-9208  
 (168.9 ACRES PER RECORDS)

CENTERLINE OF  
 RICHLAND CREEK  
 IS PROPERTY LINE

N49°52'20"W  
 1705.98'  
 TIE LINE ONLY  
 MATCHLINE  
 SHEET 2

SEE SHEET 2 FOR  
 GENERAL NOTES  
 AND TIE LINES

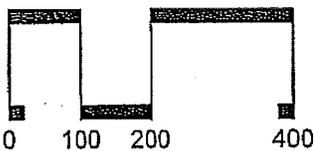
LINE TABLE		
LINE	BEARING	DISTANCE
L1	N52°54'00"W	47.96'
L2	N64°24'45"W	49.18'
L3	N55°46'12"W	54.06'
L4	N45°07'36"W	52.69'
L5	N52°48'08"W	41.10'
L6	N42°30'57"W	61.12'
L7	N52°55'42"W	56.63'

LINE TABLE		
LINE	BEARING	DISTANCE
L8	N70°36'08"W	344.73'
L9	N13°35'58"W	373.18'
L10	S72°38'58"E	270.71'
L11	N87°21'22"E	394.52'
L12	S64°25'58"E	163.66'
L13	S51°45'03"E	53.71'
L14	S15°16'53"W	551.91'

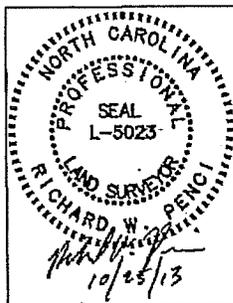
LEGEND

- SURVEY CONTROL POINT
- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
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- 1% CHANCE FLOOD LINE
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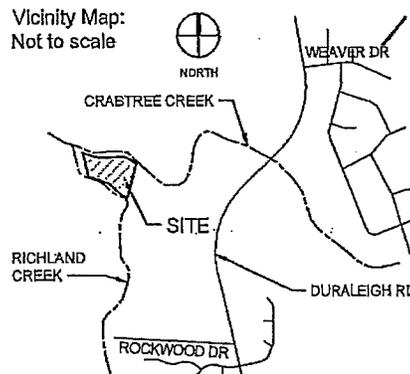
THIS MAP IS NOT A CERTIFIED SURVEY  
 AND HAS NOT BEEN REVIEWED BY A  
 LOCAL GOVERNMENT AGENCY FOR  
 COMPLIANCE WITH ANY APPLICABLE  
 LAND DEVELOPMENT REGULATIONS.



SCALE: 1" = 200'



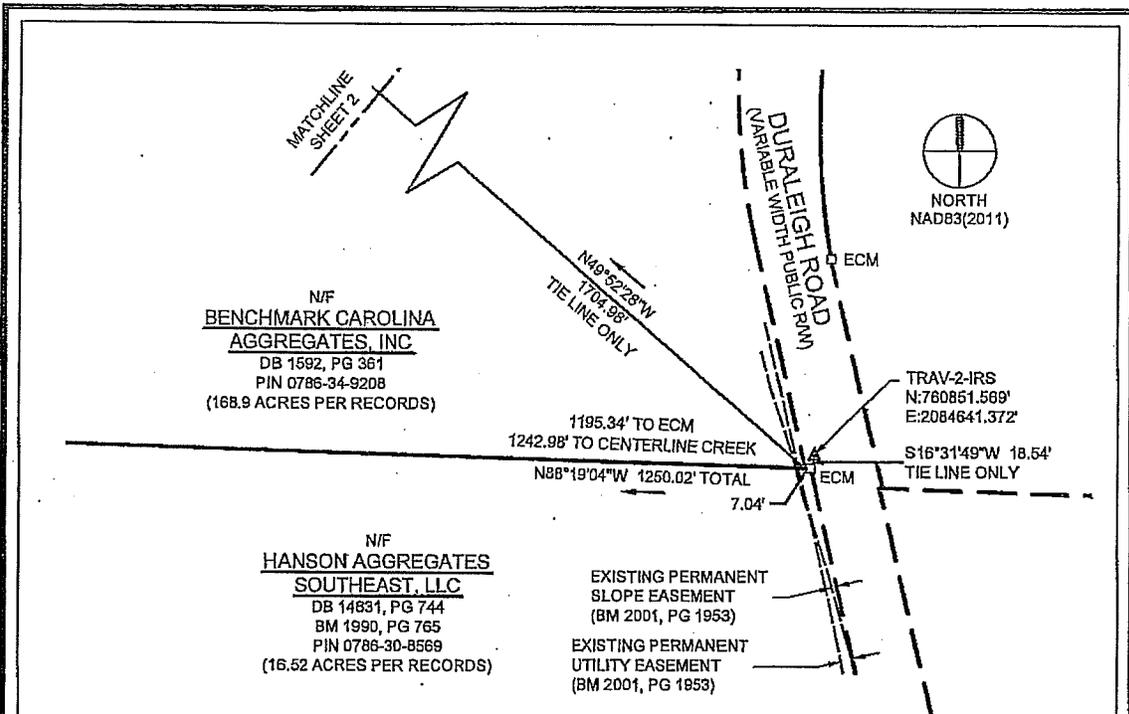
Vicinity Map:  
 Not to scale



EASEMENT ACQUISITION MAP FOR:  
 CRABTREE CREEK GREENWAY

MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: --
Scale: 1"=200'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	1 OF 2



**GENERAL NOTES**

- THIS PLAT IS INTENDED TO REPRESENT CITY OF RALEIGH NATURE PRESERVE AREA ON A PORTION OF THE PROPERTY OF BENCHMARK CAROLINA AGGREGATES, INC., PIN 0786-34-9208, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.
- REFERENCES:  
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DEED BOOK 14831, PAGE 744  
BOOK OF MAPS 1990, PAGE 765  
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- ADDRESS: 5209 DURALEIGH ROAD

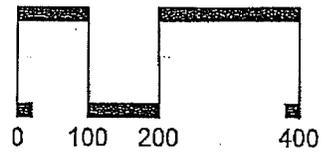
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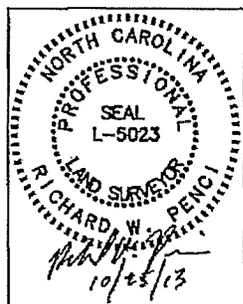
**LEGEND**

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- COMPUTED POINT
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- GREENWAY EASEMENT

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SCALE: 1" = 200'



EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
MEREDITH TOWNSHIP, CITY OF RALEIGH  
WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Ref No: --
Scale: 1"=200'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	<b>2 OF 2</b>

Instrument prepared by: Raleigh City Attorney's Office and Styers, Kemerait  
& Mitchell, PLLC  
Brief Description for Index: Duraleigh Road  
Parcel Identifier: REID# 0039195; 0069748; 0069748; 0120280; 0174293; 0174292;  
0148763  
Mail after Recording to: City Attorney's Office,  
PO Box 590, Raleigh, N.C. 27602

**STATE OF NORTH CAROLINA  
COUNTY OF WAKE**

**DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**  
("Declaration") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2014 by HANSON AGGREGATES  
SOUTHEAST LLC, a Delaware limited liability company ("Hanson").

**WITNESSETH:**

**WHEREAS**, Hanson owns or leases certain real property situated in the vicinity of  
Crabtree and Richland Creeks, adjacent to Duraleigh Road in Raleigh, NC described in Exhibit  
1, attached (the "Property"); and

**WHEREAS**, Hanson and the City of Raleigh (the "City") have for over thirty years  
disputed Hanson's right to engage in aggregate quarrying activities over portions of the  
Property; and

**WHEREAS**, Hanson and the City have, on \_\_\_\_\_, 2014, entered into a  
Settlement Agreement (the "Agreement") providing for certain activities on portions of the  
Property, the conveyance of greenway easements and other property rights to the City, and  
resolving other disputed matters; and

**WHEREAS**, the Agreement sets forth restrictions, conditions, requirements,  
prohibitions, rights and entitlements with respect to the Property which, being integral to

property rights of the City and Hanson, are intended to run with the land, and be binding upon the grantees, successors, and assigns of Hanson; and

**WHEREAS**, pursuant to terms of the Agreement, Hanson desires to incorporate and set forth the provisions of the Agreement related to the use of the Property as Hanson's Declaration of Covenants, Conditions and Restrictions upon the Property, to be recorded in the land records of Wake County; and

**WHEREAS**, with respect to those portions of the Property which are leased by Hanson, these Covenants, Conditions, and Restrictions are intended to be effective and binding on the successors and assigns of Hanson only as authorized by terms of Hanson's lease, and only to the extent of its leasehold interest.

**NOW, THEREFORE**, in consideration of terms of the Agreement, and the mutual promises between the City and Hanson relating to property interests of both, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Hanson hereby **Declares**, and imposes upon the Property, **Covenants, Conditions, and Restrictions**, intending the same to run with the subject land, and be binding upon the grantees, successors, and assigns of Hanson, as follows:

## 1. Definitions

*Aggregate* – means sand, stone, gravel, topsoil and overburden extracted from the mineral deposits on the Property.

*Business Activities* – means activities that are not residential in character, except that activities directly and solely related to remediation and reclamation of the Property after the Excavation Period are not Business Activities.

*Crabtree Quarry* – means the quarry operated on portions of the Property and under the NCDOT Mineral Lease.

*Effective Date* – means \_\_\_\_\_, 2014.

*Excavation Period* – means the time period beginning on the Effective Date and ending on the earlier of: 1) thirty-eight (38) years from the Effective Date; or 2) the date on which thirty (30) million tons of Aggregate has been removed from the Excavation Pit.

*Excavation Pit* – that area of Northern Property from which Aggregate has, is and will during the Excavation Period be excavated from below the surface, including the contiguous extension of the open pit as existing on the Effective Date as depicted on Exhibit 2 hereto.

*Mining Permit* – that certain permit for the operation of a crushed stone quarry issued by the Department of Environment and Natural Resources, Wake County - Permit No. 92-03.

*NCDOT land* – means the land located north of Crabtree Creek and west of Duraleigh Road that is owned by the North Carolina Department of Transportation and leased by Hanson under the NCDOT mineral lease.

*Northern Property* – means the portion of the Property located north of Crabtree Creek and west of Duraleigh Road.

*Reclamation Bond* – means the security posted by Hanson, as required by section 74-54 of the North Carolina General Statutes, in favor of the State of North Carolina, liability under which is maintained until Hanson completes the reclamation required by North Carolina law and regulation.

*Reclamation Period* – that period of time during which Hanson shall complete its reclamation obligations in accordance with the reclamation conditions on the Mining Permit and shall complete other reclamation or remediation described in this Settlement Agreement. The Reclamation Period shall begin at the expiration of the Excavation Period and shall end two years thereafter.

*Temporary Stockpile Area* – means that area shown on Exhibit 2 hereto and used to store materials removed from the settling ponds located on the Property south of Crabtree Creek.

## **2. Hanson's Use of the Property**

Hanson shall not extract Aggregate on any portion of the Property other than the portion of the Northern Property detailed in the survey provided to the City in conjunction with the Settlement Agreement (the "Survey"). Further Hanson shall not remove overburden or topsoil on any portion of the Property other than the portion of the Northern Property detailed in the Survey or the Settling Pond area south of Crabtree Creek in accordance with paragraph 8 hereof.

Hanson shall use the Property, including the NCDOT land, and conduct operations thereon, only as expressly set forth herein, as envisioned by the Operation Plan attached hereto as Exhibit 2.

## **3. End of Business Activities.**

Hanson shall cease all Business Activities at the Property, including the NCDOT land, on the earlier of thirty eight (38) years from the Effective Date or when, subsequent to the Effective Date, 30 million tons of Aggregate has been removed from the Northern Property. However, notwithstanding the foregoing, during the Reclamation Period, any remaining Aggregate that

was extracted during the Excavation Period and any materials stockpiled in the Temporary Stockpile Area may be removed and/or sold from the Property.

#### 4. Sale of Portion of Northern Property of Crabtree Creek to the City.

Within ninety (90) days of the release of the Reclamation Bond, and pursuant to terms of that Option to Purchase Agreement of (date) \_\_\_\_\_, entered into between the parties and recorded in Book \_\_\_\_, Page \_\_\_\_\_, Wake County Registry, Hanson shall convey to the City title to that portion of the Northern Property depicted on Exhibit 3 hereto, to the City for the nominal value of Ten U.S. Dollars (\$10.00).

#### 5. Noise and Vibration Mitigation.

- a. **Berm.** Within six months of commencement of mining operations in an area north of the quarry existing as of the Effective Date Hanson shall begin construction of a landscaped earthen berm along the northern boundary of the Property, in accordance with the plan attached hereto as Exhibit 4. The construction of the earthen berm shall be completed before excavation of the overburden is any closer than 750 feet from the northern property boundary and no later than eight (8) years from the Effective Date. Hanson shall maintain the berm and shall replace any element of the landscaping that dies or becomes diseased or as otherwise required by law or regulation at the time of the berm construction.
- b. **Blasting Techniques Required.** Hanson shall design each blast using the latest available techniques to minimize impacts from blasting. Techniques to be employed include laser profiling of the face and orientation of the blasts away from the adjacent properties to the north of the quarry to reduce impacts from both ground vibrations and air blasts. In addition, Hanson shall be sensitive to weather events that might increase air blast impacts on neighbors and shall postpone blasting during such events.
- c. **Blasting Limits.** During all blasting operations implemented from top-of-rock to a depth of 250 feet below top-of-rock, the maximum peak particle velocity ("PPV") of any component of ground motion shall not exceed 75% of the current legally allowable limit applicable to Crabtree Quarry.

During all blasting operations implemented below a depth of 250 feet below top-of-rock, the PPV of any component of ground motion shall not exceed 50% of current legally allowable limit applicable to Crabtree Quarry.

A table depicting the maximum limits allowed hereunder is attached hereto as Exhibit 5.

- d. **Enforcement of Blasting Limits.** All records maintained by Hanson concerning blasting, including those documenting the PPV associated with blasting operations, shall be available to the City upon request, within 24-hours. Hanson shall self-report to the City any violation of the blasting limits set forth herein. If a violation occurs,

Hanson shall cease all blasting at the depth at which the violation occurred until the violation has been investigated and a corrective action plan implemented. Any corrective action plan shall contain sufficient remedial measures so that no future violation is likely to occur.

The parties acknowledge that failure to comply with Blasting Limits may result in damages due to public disturbance and inconvenience, and increased inspection and administrative costs. In view of the uncertainty and difficulty of making a precise determination of any such damages, the parties agree that the City shall be entitled to recover liquidated damages in addition to actual costs/damages recoverable by the City for matters other than public disturbance and inconvenience, and increased inspection and administrative costs. This sum is a reasonable pre-estimate of the probable damages to be incurred due to any potential public disturbance and inconvenience, and increased inspection and administrative costs. The parties intend such monies to provide for payment of such damages and not a penalty.

If a second violation occurs at that same depth within six months of the first violation, Hanson shall remit to the City liquidated damages in the amount of \$2,500 for the second violation. In addition, if a second violation occurs, Hanson shall cease all blasting at the depth at which the violation occurred until the violation has been investigated and corrective action plan implemented. If a third (and subsequent) violation occurs within six months of the first violation, Hanson shall remit to the City liquidated damages in the amount of \$5,000 for the third (and each subsequent) violation. In addition, if a third (or subsequent) violation occurs, Hanson shall cease all blasting at the depth at which the violation occurred until the violation has been investigated and corrective action plan implemented.

- e. **Hours of Blasting.** Unless otherwise necessitated as a result of events or causes beyond its reasonable control, including acts of God or the public enemy, acts and omissions of any governmental authority, declared or undeclared wars, riots, terrorism, strikes, floods, earthquakes, storms, epidemics, fires or other natural calamities, Hanson shall limit blasting events to the hours of 10:00 a.m. to 4:00 p.m., Monday through Friday and shall not conduct blasting events on Saturday or on Sunday. A "blasting event" means any use of a substance in a manner intended to cause an explosion.
- f. **Hours of Operation of Crushing Equipment.** Hanson shall limit the operation of all crushing equipment to the hours of 6:00 a.m. to 9:00 p.m., Monday through Saturday and 1:00 p.m. to 9:00 p.m. on Sunday.
- g. **Low-Frequency Alarms.** Hanson shall install low-frequency back-up alarms on all machinery and equipment for which back-up alarms are required by law or regulation.

**6. Relocation of Primary Crusher and Maintenance of Processing Plant.**

During the Excavation Period, as soon as practicable, Hanson shall renovate the primary crusher at a location that is away from Crabtree Creek and that is, at a minimum, fifty (50) feet below the current grade surface level and at which the wall of the Excavation Pit will function as a noise baffle.

**7. Relocation of Access Point.**

Hanson may relocate its access point to Crabtree Quarry as depicted in Exhibit 6. No later than one hundred and twenty (120) days following the receipt of any and all federal, state and local approvals necessary to re-locate the point of ingress/egress to Crabtree Quarry from Duraleigh Road, Hanson shall install landscaping at the location of the current point of ingress/egress and future point of ingress/egress to the Property from Duraleigh Road in accordance with the plan attached hereto as Exhibit 6.

**8. Activities and Limits on Use of Property South of Crabtree Creek; Waiver and/or Relinquishment of Claims or Rights to Use Property South of Crabtree Creek.**

- a. Hanson shall not use the portion of the Property south of Crabtree Creek except as specifically set forth herein.
- b. Hanson waives and relinquishes any claim or rights of any sort that it might possess that the portion of the Property south of Crabtree Creek constitutes a pre-existing non-conforming use except to the extent set out in this Settlement Agreement.
- c. **Settling Ponds and Temporary Stockpile Area.** During the Excavation Period, Hanson may continue to use, operate and maintain the existing settling ponds as part of its on-going operations and consistent with past practice, but shall not expand the existing settling ponds. Sediment removed from the settling ponds may continue to be stockpiled temporarily in the Temporary Stockpile Area. Hanson shall restrict the height of stockpiles to comply with current and future City ordinances governing stockpile height. Stockpiling shall occur only in the Temporary Stockpile Area. The parties specifically acknowledge that nothing in this Settlement Agreement prevents stockpiled materials taken from the settling ponds from being used as fill material as a part of the reclamation process when a settling pond is removed or when the Reclamation Plan is implemented at the end of the Excavation Period.

If Hanson installs a settling pond for use in mining operations on the Northern Property, including the NCDOT land, Hanson shall reduce the footprint of its operations south of Crabtree Creek by an equivalent square footage. However, to the extent that Hanson is required, by federal, North Carolina, or local law or regulation to install a stormwater control or management device on the Northern Property,

including the NCDOT land, Hanson shall not be required to reduce the footprint of its operations south of Crabtree Creek by an equivalent square footage.

d. **Excavation Limited.** No excavation of Aggregate shall occur from the surface of the Property located south of Crabtree Creek except for: i) removal of materials taken from the settling ponds located south of Crabtree Creek and stockpiled in the Temporary Stockpile Area; or ii) removal of materials necessary to maintain the existing settling ponds within the area specifically designated for the settling ponds on Exhibit 2 and as previously allowed by the City.

e. Hanson agrees that no non-conforming use status applies to the portion of the Property assigned PIN number 0786308569.

f. **Mining Permit Restrictions; Tree Preservation South of Crabtree Creek.** Hanson shall modify the Mining Permit, and specifically the mining plan, to classify the portion of the Property south of Crabtree Creek, except for that area in which the settling ponds and Temporary Stockpile Area are located, as Buffer Zone in which no blasting, excavation, tree removal, or activity inconsistent with applicable zoning regulations shall occur, except as set forth herein ("Buffer Zone"). Such modification will conform to the area identified as Buffer Zone on Exhibit 2 hereto.

Hanson shall maintain the undisturbed vegetated buffer a minimum of 100 feet in width, as shown on Exhibit 2, existing as of the Effective Date, around the perimeter of the portion of Property located south of Crabtree Creek throughout the Excavation Period, except at such locations where the City may remove vegetation for the construction and maintenance of a greenway pursuant to rights granted by easement(s) from Hanson to the City. It is the parties' intent that the undisturbed vegetated buffer continue to provide visual screening of the settling ponds and the Temporary Stockpile Area. Hanson shall preserve the 100' vegetated buffer until the Reclamation Period ends and shall remove trees or vegetation only when the material is diseased or dead, or when the City's Chief Arborist determines that it necessary to preserve the health of the 100' vegetated buffer or areas surrounding it.

Except as allowed for greenway construction and maintenance by the City, any tree removal conducted within the Buffer Zone shall be in compliance with the Mining Permit and shall comply with applicable City regulations in place at the time of removal, and any removal of trees within the Buffer Area prior to the end of the Reclamation Period shall be in conformance with a written Forestry Management Plan approved by the City's Chief Arborist. The Forestry Management Plan shall allow thinning and other forestry activities that protect the health of the trees within the Buffer Zone.

Notwithstanding the foregoing, in the event Hanson desires to sell any portion of the Property classified as Buffer Zone to an unaffiliated entity for a purpose, **other than for forestry or timbering**, that is consistent with the underlying zoning or with the City of Raleigh Comprehensive Plan in effect at the time of the sale, such sale shall not violate the terms of this Settlement Agreement.

## **9. Reclamation and Remediation.**

At the end of the Excavation Period, Hanson shall immediately begin work to implement the Reclamation Plan. Hanson's reclamation and remediation shall at minimum comply with the requirements of Mining Permit, the N.C. Mining Act, and federal and State environmental laws and regulations applicable at the time of reclamation and remediation. To this end, Hanson shall remediate all known environmental conditions that have resulted from the use of the Property by Hanson or its predecessors in interest for mining operations in accordance with applicable regulatory requirements prior to the conveyance of the Northern Property contemplated by paragraph 4 hereof.

In addition, Hanson shall reclaim the portion of the Property south of Crabtree Creek so that it is suitable for use compatible with the underlying zoning classification in place at the time of reclamation.

Hanson is permitted to stockpile materials removed from the settling ponds temporarily in the Temporary Stockpile Area. Any stockpiled material remaining at the end of the Excavation Period and not used as fill as a part of reclamation shall be removed from the Property by Hanson.

Hanson shall complete all reclamation and remediation of the Property within a reasonable time after work begins, in accordance with all applicable laws and regulations, and no later than the termination of the Reclamation Period.

**9. Environmental Permit Renewals and Modifications.** If Hanson requests a renewal or modification to any of its environmental permits, Hanson shall not request a permit condition that would impose a more lenient standard relating to dust or noise than any such standard set forth in these Covenants, Conditions, and Restrictions.

## **10. Community Outreach.**

As of the Effective Date, Hanson shall implement the following community outreach activities:

- a. Hanson shall maintain a call list / e-mail list by which to notify any property owners within 2,500 feet of the Property, who request notification, prior to blasting events.
- b. Hanson shall establish and maintain a website, accessible to the public, on which seismographic information and data shall be posted.
- c. Hanson shall establish a Neighborhood Advisory Group consisting of residents from the surrounding neighborhoods and shall meet with such group two times per year at the request of the group, or fewer if no such meeting is requested. Hanson shall give careful consideration to concerns and suggestions from the Neighborhood Advisory Group.
- d. Hanson shall implement and maintain a Protocol for Investigating Blasting Complaints and Binding Arbitration Program similar to that outlined in Exhibit 7 to

address complaints arising from damages allegedly caused by operations at the Property.

These community outreach activities shall continue throughout both the Excavation Period and the Reclamation Period.

## **11. Dust Mitigation.**

- a. **Dust Control Guidance Plan.** Upon the Effective Date, Hanson shall implement the Crabtree Quarry Dust Control Guidance Plan, a copy of which is attached as Exhibit 8.
- b. **Opacity Standards.** Hanson shall comply with applicable opacity standards set forth in federal regulations regardless of any exception that might otherwise apply.
- c. **Load Covers.** For all trucks entering Crabtree Quarry, Hanson shall ensure that any trucks leaving the Property have a working, functioning load cover. Any such truck that does not have a functioning load cover shall not be loaded by Hanson. Hanson shall use best efforts to ensure that the loads of all trucks exiting Crabtree Quarry are covered. Hanson shall also install signs on the Property stating that all loads must be covered and that all violations related to load covers will be reported to N.C. D.M.V. – Enforcement. Hanson shall instruct employees to report all violations related to load covers to site management who will, in turn, report such violations to N.C. D.M.V. or another State agency that regulates motor vehicles.
- d. **Mining Permit Limitation.** Hanson shall not request any modification to the Mining Permit, or any mining permit hereinafter issued to Hanson, that reduces or relaxes any standard applicable to dust control or mitigation.

## **12. Non-Waiver; Severability; Governing Law; Settlement Agreement**

No waiver of any breach of any covenant or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof, or of any other covenant or provision herein contained. No extension of time for performance of any obligation or act shall be deemed an extension of time for performance of any other obligation or act. If any term, covenant or condition of this Declaration or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Declaration shall not be affected thereby and each such term, covenant or condition of this Declaration shall be valid and enforceable to the full extent permitted by law. This Declaration shall be construed in accordance with and governed by the laws of the State of North Carolina. These Covenants, Conditions, and Restrictions are intended by the Declarant to set forth those provisions of the referenced Settlement Agreement which are integral to the property rights of Hanson and the City and which, by agreement between Hanson and the City, should be recorded in the land

records of Wake County, as running with the land affected thereby, and binding upon the grantees, successors, and assigns of Hanson. No provision hereof shall be construed or applied in a manner which precludes or impairs the application or enforceability of any provision of the Settlement Agreement. In the event of any conflict or inconsistency between the Settlement Agreement and these Covenants, Conditions, and Restrictions, the former shall take precedence.

IN WITNESS WHEREOF, the Declarant has duly executed the foregoing in the limited liability company name, by the signature of its Manager, and the City of Raleigh has executed in its corporate name by the signature of its City Manager, attested by its City Clerk with the official seal affixed, for the sole purpose of consenting to the terms hereof, the day and year first above written.

\* \* \* \* \*

**HANSON AGGREGATES SOUTHEAST LLC**

**By: \_\_\_\_\_ (SEAL)**

**Its: \_\_\_\_\_**

**CONSENTED TO :**

**THE CITY OF RALEIGH**

**By:** \_\_\_\_\_ **(SEAL)**

**Its:** \_\_\_\_\_

**ATTEST:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**PROPERTY DESCRIPTION APPROVED:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being be me duly sworn, says that (s) he is the \_\_\_\_\_ of Hanson Aggregates Southeast LLC , the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(notary's printed name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA  
COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, the municipal corporation described in and which executed the foregoing; that she knows the corporate seal of the 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 Treasurer and that the official corporate seal was affixed, all by order of the governing body of the municipal corporation, and that the instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

(SEAL)

My Commission Expires: \_\_\_\_\_

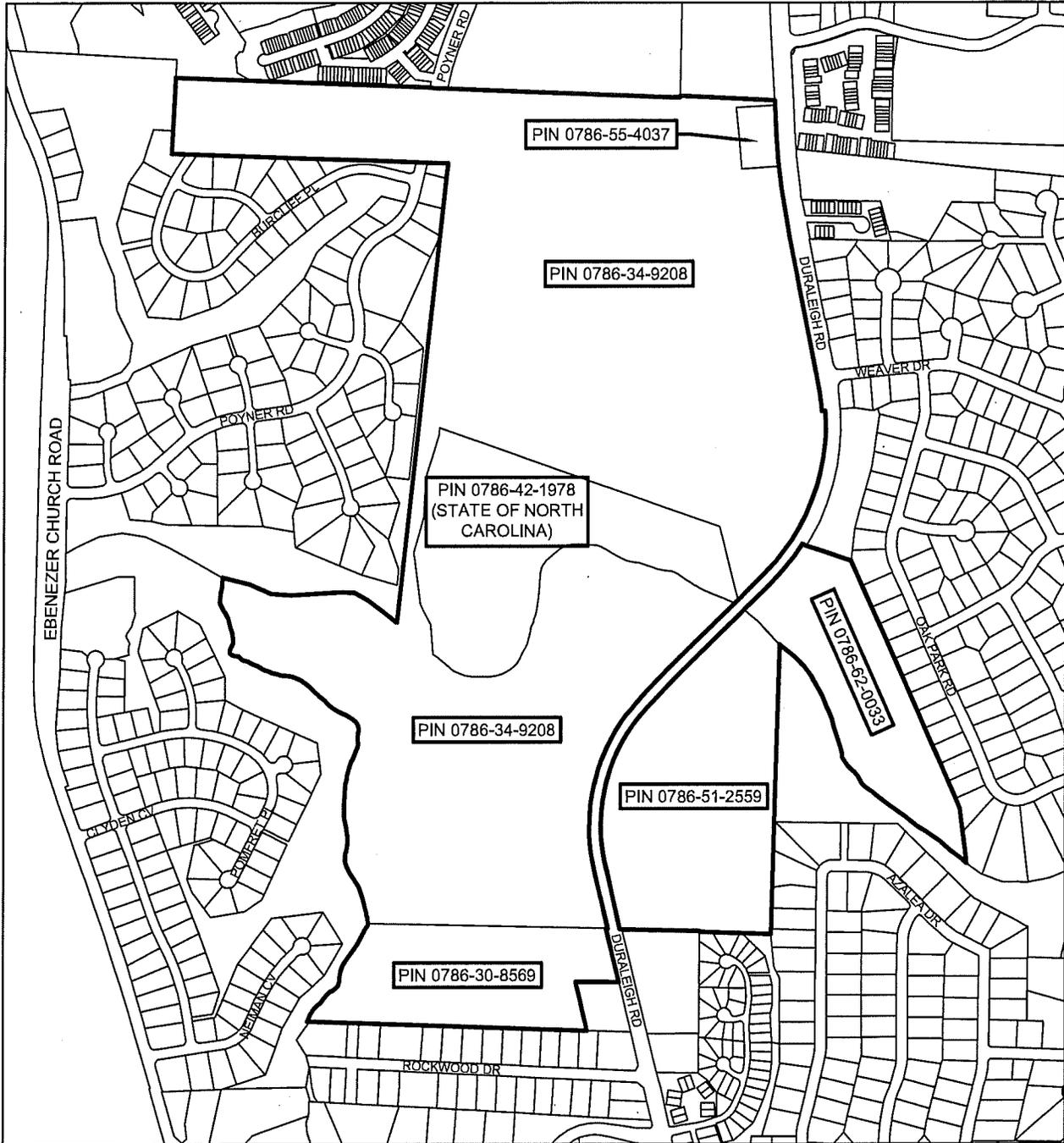
EXHIBIT 1

BEING those parcels having Wake County parcel identifier numbers as follows:

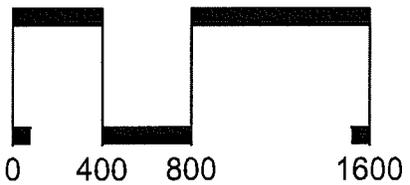
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PIN 0786349208 REID 0069748  
PIN 0786308569 REID 0120280  
PIN 0786620033 REID 0174292  
PIN 0786512559 REID 0174293  
PIN 0786421978 REID 0148763 (NCDOT land leased by Hanson),

The Property is further shown and described on the map attached hereto as Exhibit 1-A.

# EXHIBIT 1-A

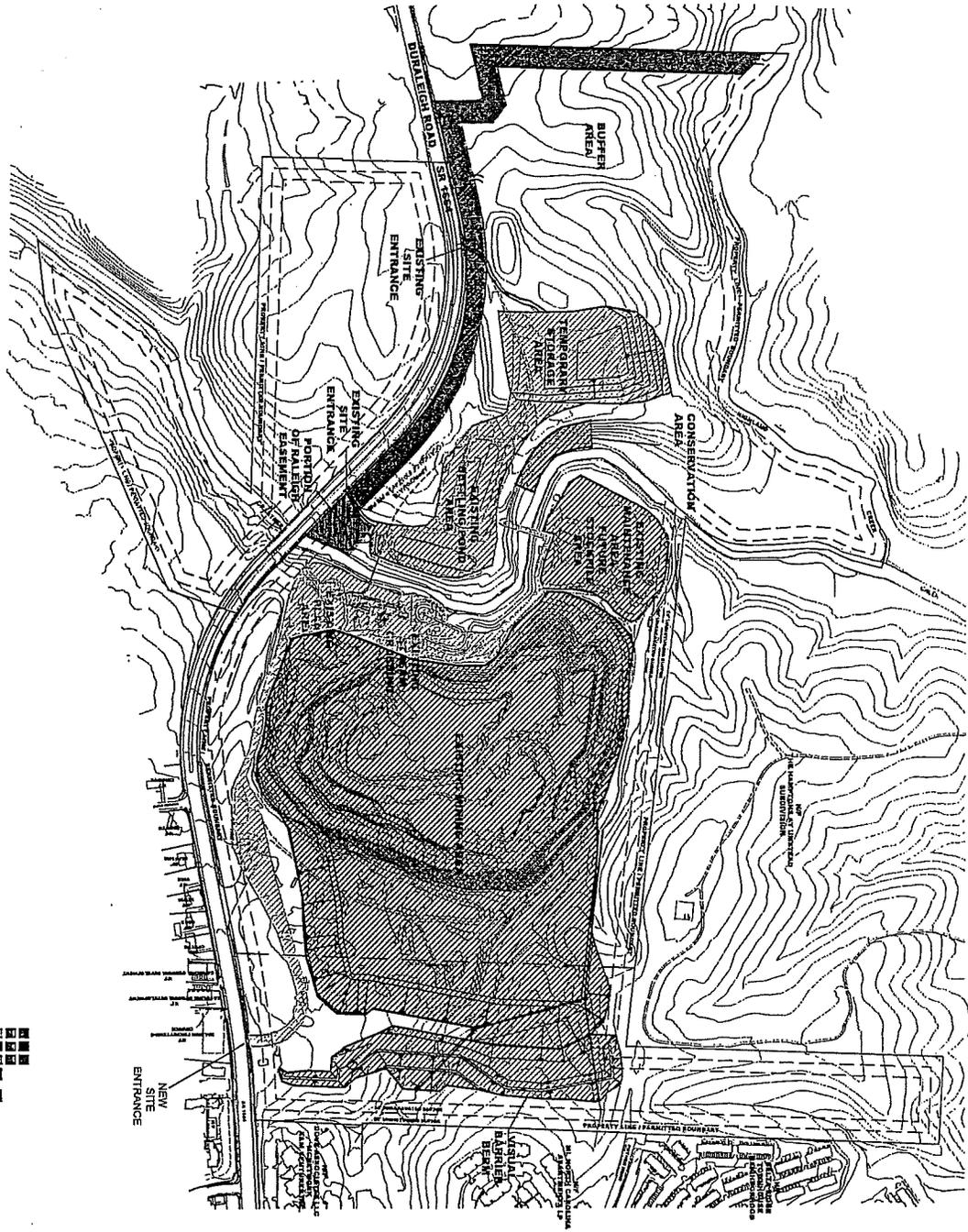


## PROPERTY BOUNDARIES WAKE COUNTY, NORTH CAROLINA



SCALE: 1" = 800'

THIS MAP IS BASED ON GIS DATA PROVIDED BY WAKE COUNTY AND IS FOR INFORMATIONAL PURPOSES ONLY. THIS MAP IS NOT A CERTIFIED SURVEY.



SYMBOL	CATEGORY	ACREAGE
[Diagonal Hatching]	TAILING PONDS / STORAGE	12.5
[Cross-hatching]	STOCKPILES	8
[Horizontal Hatching]	WASTEWATER / BEHM	7.2
[Vertical Hatching]	PROCESSING AREA / HALL ROADS	8.5
[Dotted Hatching]	MINE EXCAVATION	61.9

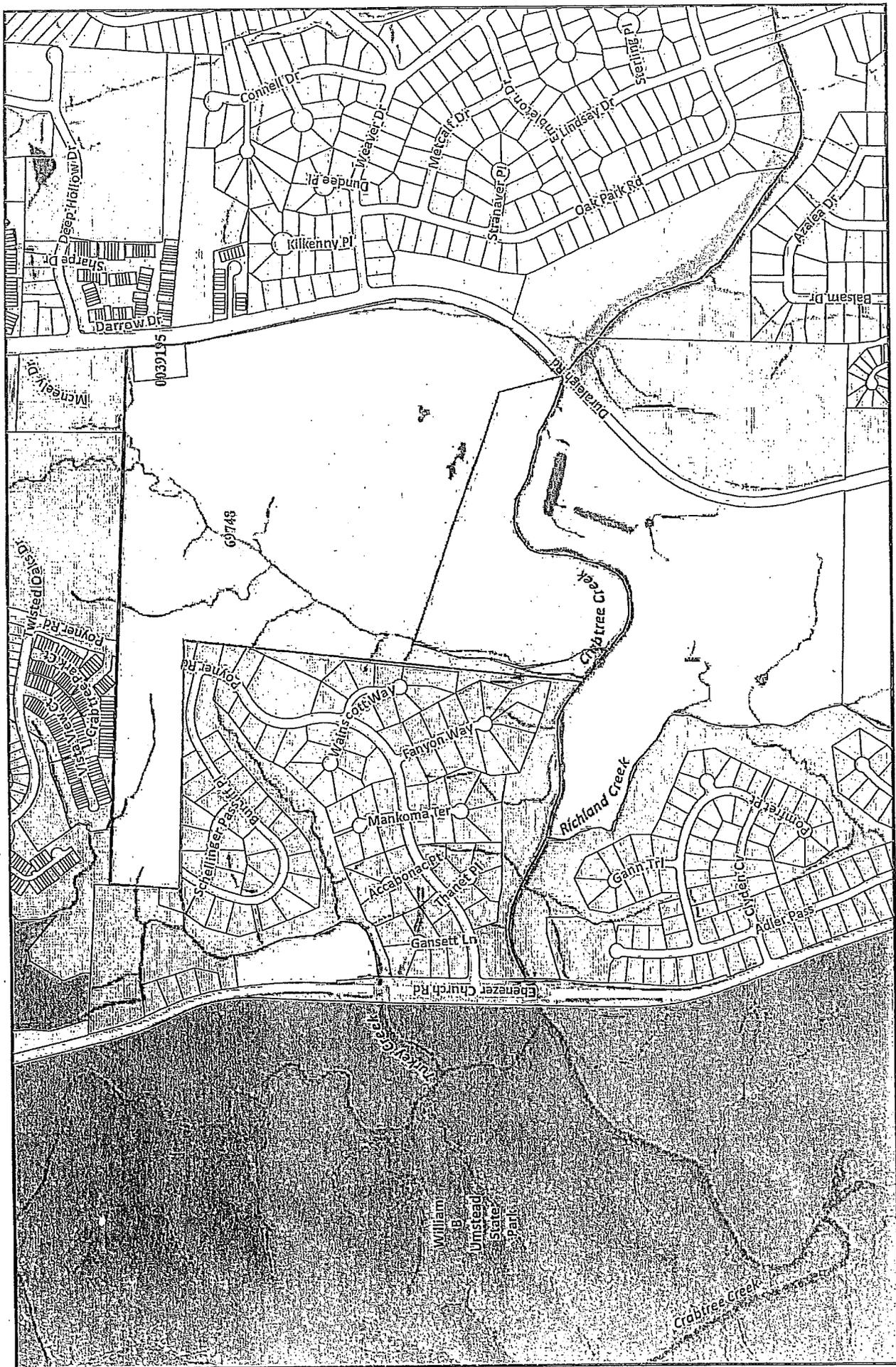
**Hanson**  
HIDELBERGCEMENT Group



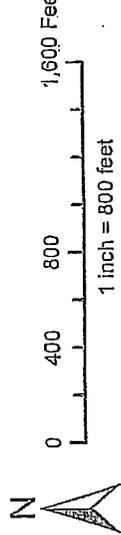
PRELIMINARY  
FOR REVIEW ONLY



**EXHIBIT 2 OPERATION PLAN**

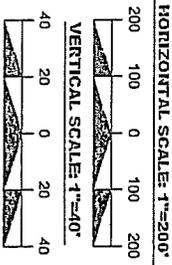


Disclaimer  
 Maps makes every effort to produce and publish  
 the most current and accurate information possible.  
 However, the maps are produced for information purposes,  
 and are NOT surveys. No warranties, expressed or implied,  
 are provided for the data therein, its use, or its interpretation.

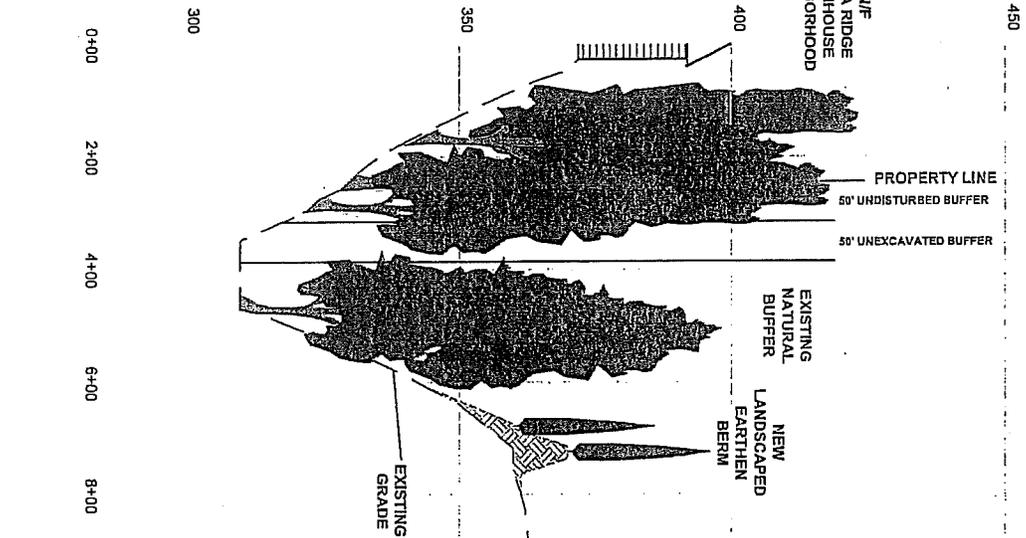


**EXHIBIT**  
**3-A**

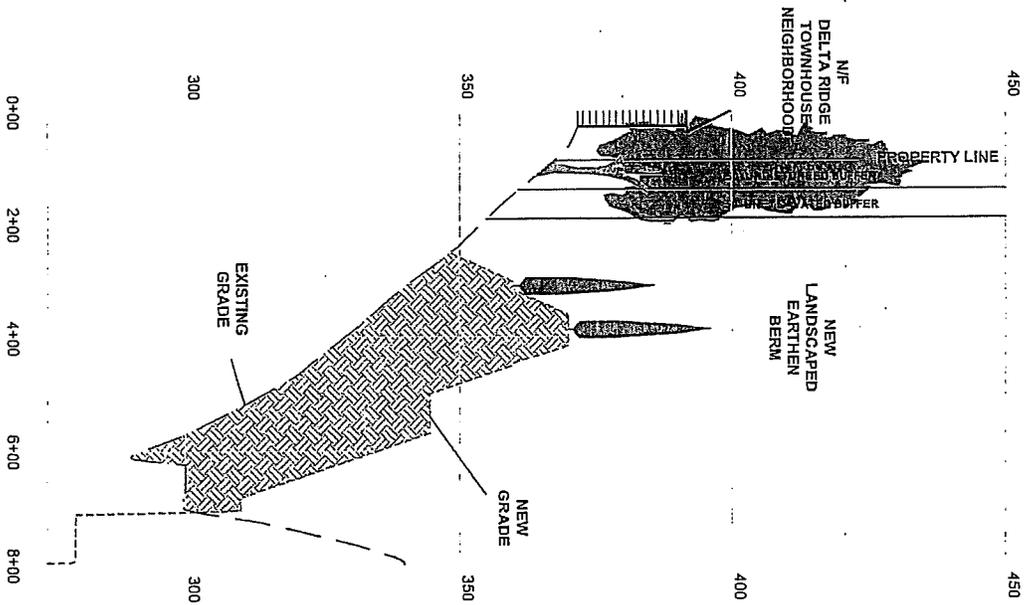

**Hanson**  
 HEIDELBERGCEMENT Group



**SIGHT LINE - A**

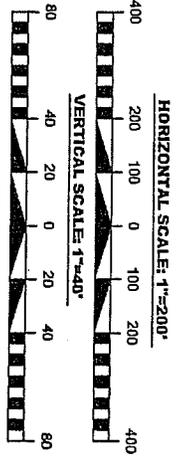
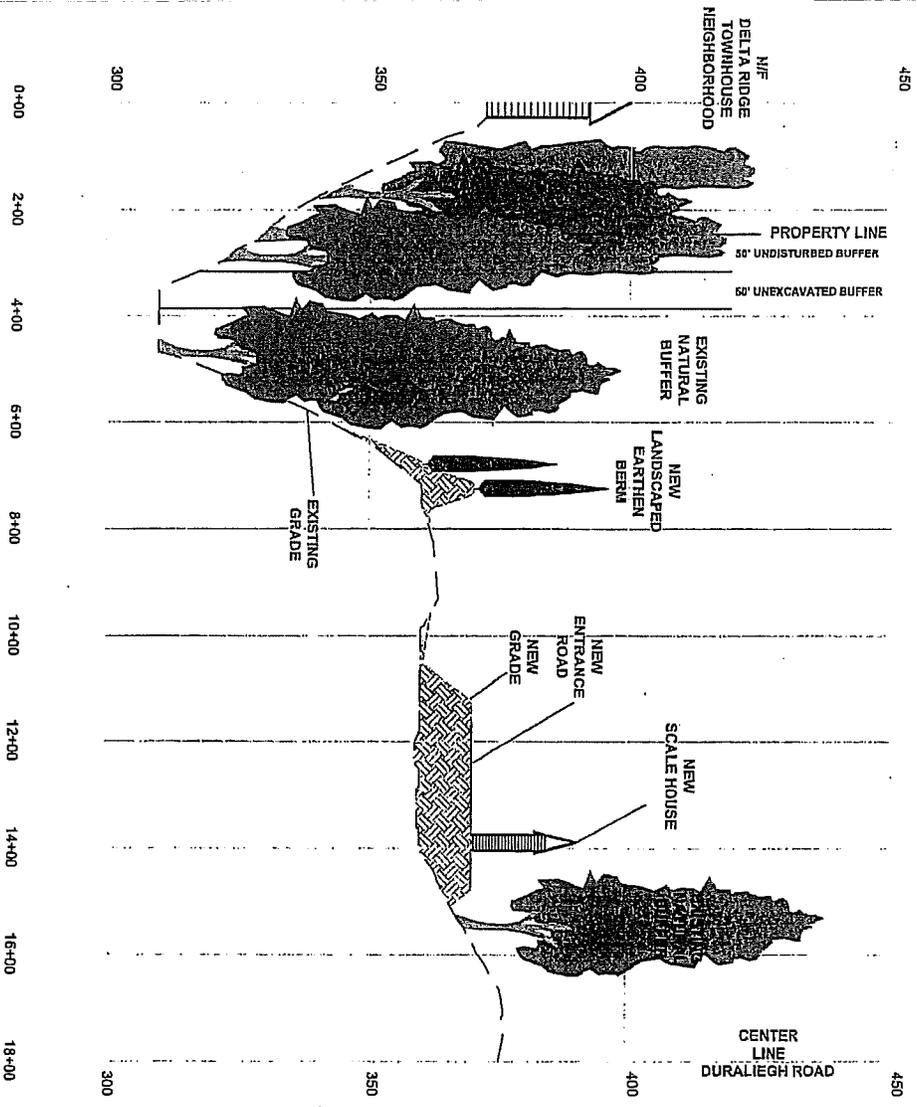


**SIGHT LINE - B**



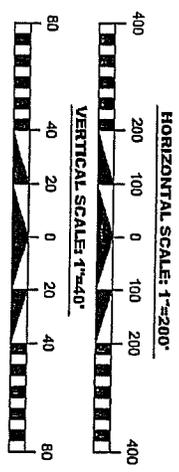
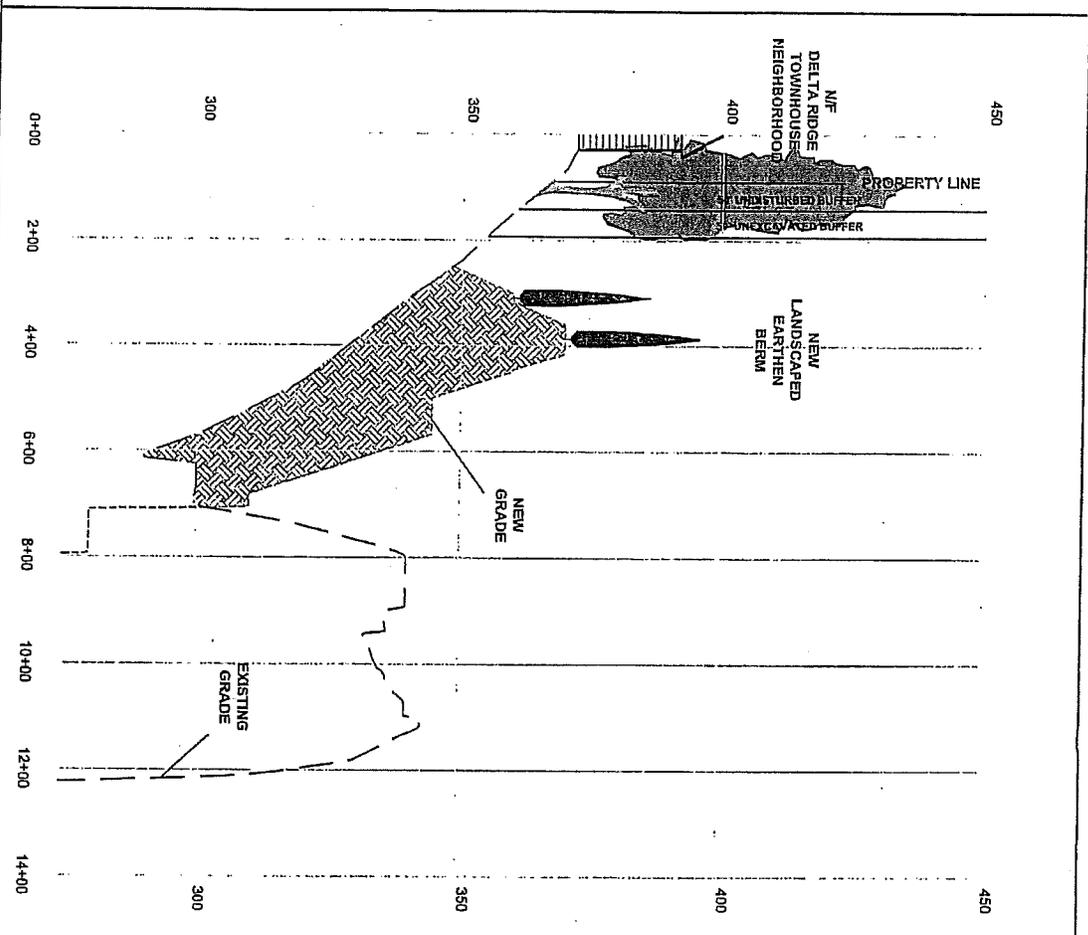
**EXHIBIT 4 NORTHERN BOUNDARY BERM - SECTIONS**

**SIGHT LINE - A**



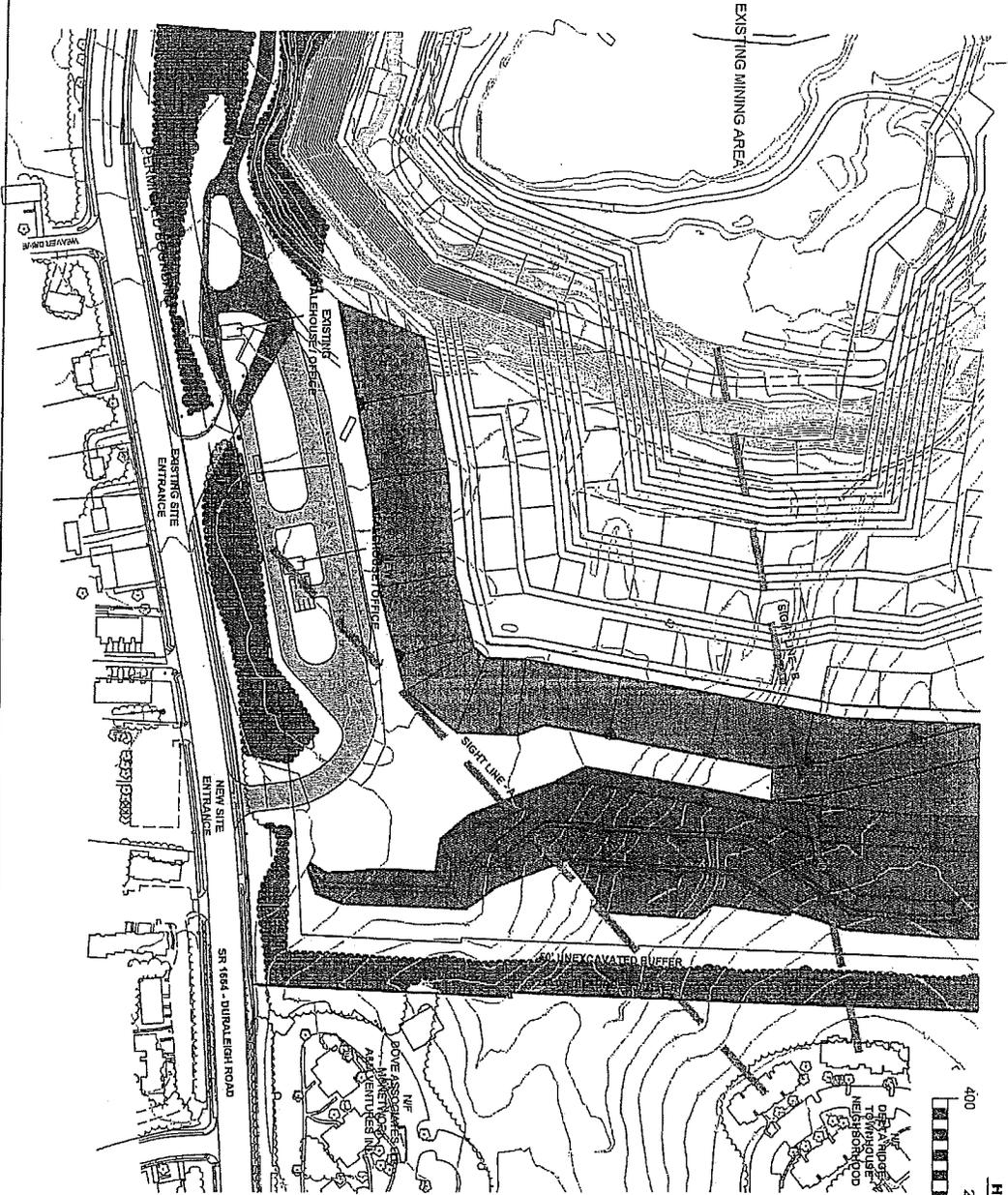
EITC  
 P.E.  
 EITC  
**Hanson**  
 HEIDELBERGCEMENT Group

**SIGHT LINE - B**



**Hanson**  
 HEIDELBERGCEMENT Group

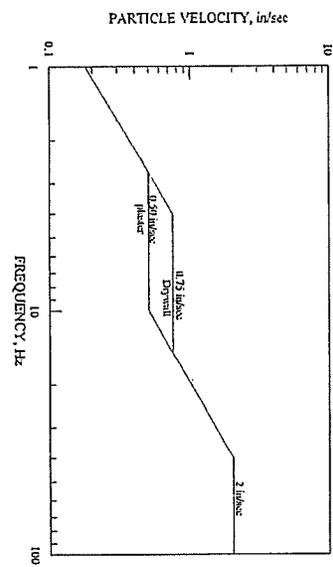
# PIT EXPANSION ENTRANCE PLAN



**Hanson**  
HEIDELBERGCEMENT Group

Exhibit 5 - Blasting Limits

U.S. BUREAU OF MINES CRITERIA RI-8307  
Safe Levels of Blasting Vibration for Houses



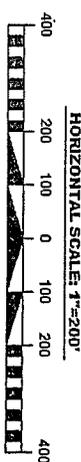
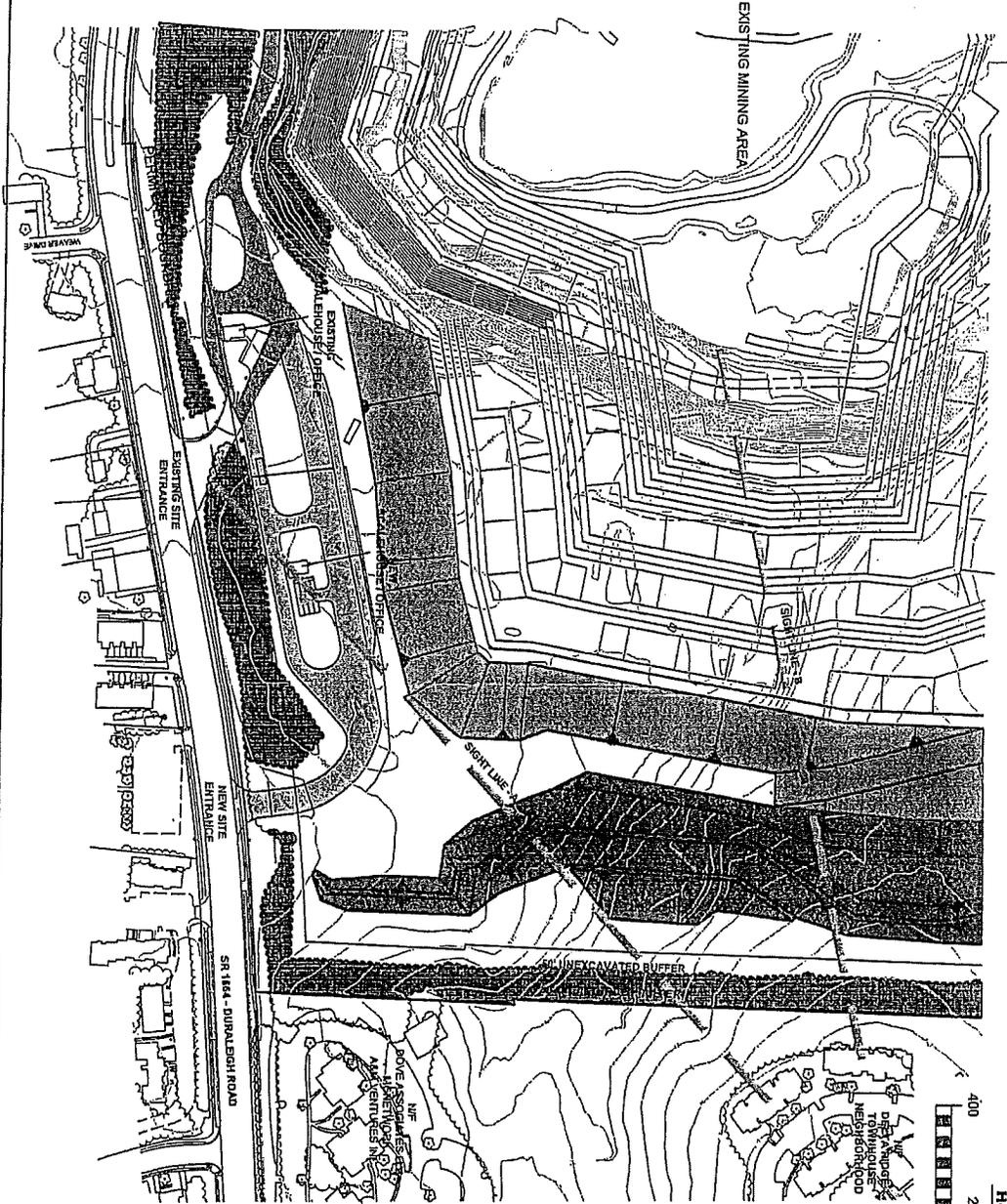
State of North Carolina Frequency vs. Velocity Vibration Criteria

Frequency (Hz)	2	3	4-11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-100
Peak Particle Velocity (in/sec)	0.38	0.56	0.75	0.82	0.88	0.95	1.01	1.08	1.15	1.21	1.28	1.34	1.41	1.48	1.54	1.61	1.67	1.74	1.81	1.87	1.92	2.00

75% of State of North Carolina Frequency vs. Velocity Vibration Criteria

Frequency (Hz)	2	3	4-11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-100
Peak Particle Velocity (in/sec)	0.28	0.42	0.56	0.61	0.66	0.71	0.76	0.81	0.86	0.91	0.96	1.01	1.06	1.11	1.16	1.21	1.26	1.30	1.35	1.40	1.45	1.50

# PIT EXPANSION ENTRANCE PLAN



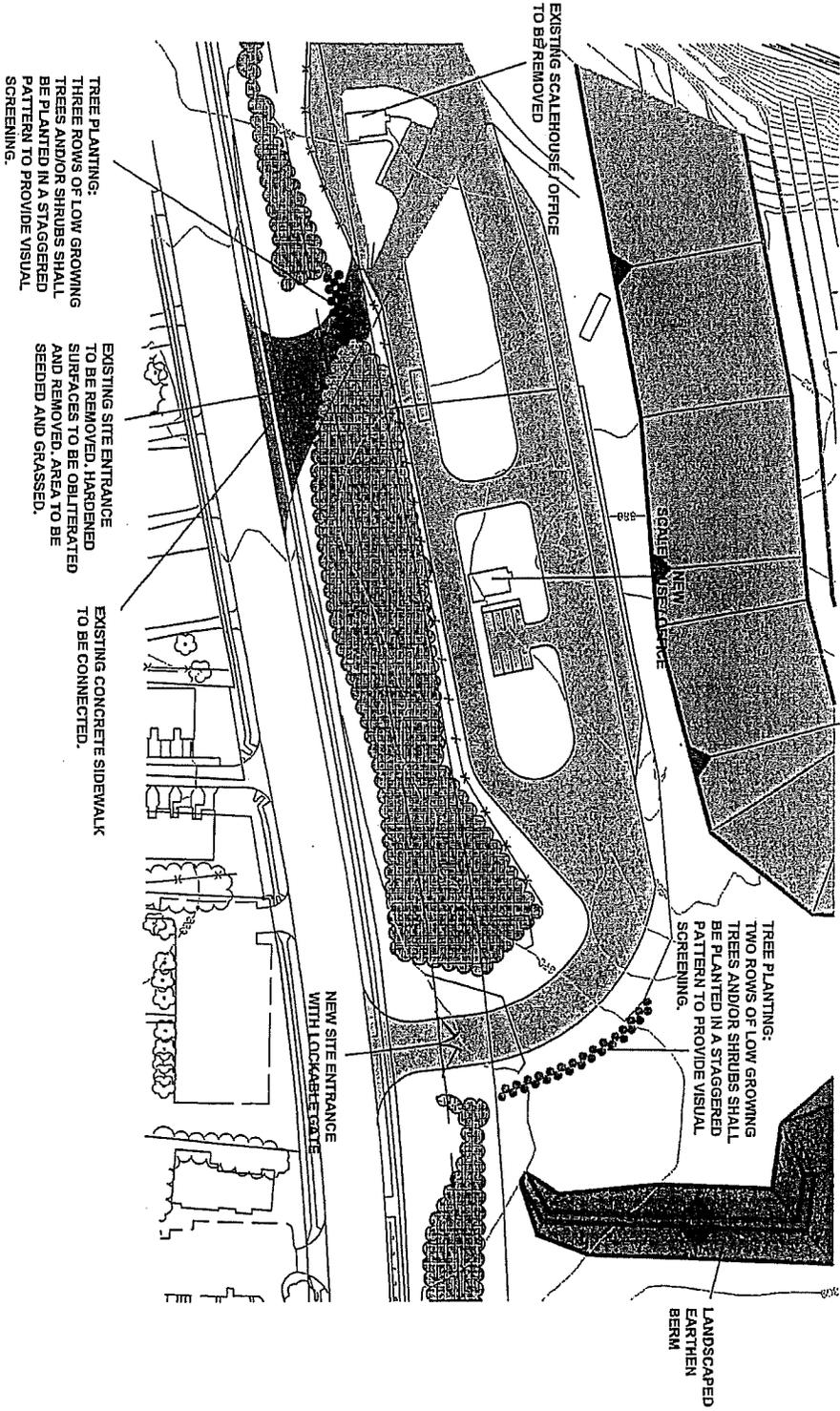
**Hanson**  
HEIDELBERGCEMENT Group

EXHIBIT 3

BEING that property and area located in Wake County, comprising 112.599 acres, more or less, bounded on the east by Duraleigh Road (SR# 1664); on the south by property of the State of North Carolina; on the west by that parcel owned now or formerly by the Hampton Development Co. LLC (DB 11903, Page 91, WCR); and on the north by that property owned now or formerly by CND Duraleigh Woods LLC (DB12929, P1482 WCR), being that property described in Exhibit 3 of the referenced Settlement Agreement, and as further located and described by the plat attached hereto as Exhibit 3-A

REID 69748, and REID 0039195

PIT EXPANSION ENTRANCE PLAN - 2



Originals provided by Hanson in ~2011

Exhibit 7

**BLASTING DAMAGE PROTECTION PROGRAM**

**This Blasting Damage Protection Program is for the benefit of and may be enforced by persons owning structures within parameters set forth herein.**

**Notice of Claim**

If the owner of any structure located within 2500 feet of any blasting at Crabtree Quarry by Hanson Aggregates Southeast, LLC ("Hanson") believes that such blasting has damaged such structure they shall be entitled to arbitration of such claim at their election. The arbitration program set forth herein shall be initiated by sending written notice of the claim to Hanson and demanding arbitration. All written notices required by the above shall be sent to: Hanson Aggregates Southeast, LLC, 2310 Parklake Drive, Suite 550, Atlanta GA 30345. Attention: Vice President.

**Protocol for Investigating Claims**

After an owner files a claim, the following protocol will be followed:

**1. On-site inspection of home**

An on-site interview between an independent structural or blasting engineer and the homeowner will take place to determine history of the structure and when problems first appeared. An initial walk through of the structure with owner to identify major areas of concern will take place. Video or digital image documentation of all observed structural and cosmetic cracks, separations and distortions will be made. Documentation will include the interior and exterior of the structure, including any attic, basement and crawl space. Crack widths, lengths and penetration depths will be measured as determined by the inspector. Doors and windows will be checked for functioning, floors checked for leveling and mitered corners checked for separations. A diagram will be made showing the layout of the structure, on which the location of cracks will be noted.

**2. On-site review of quarry blasting practices**

The independent structural or blasting engineer will conduct an on-site interview with the quarry manager to determine the quarry's blasting practices and procedures. A tour of the quarry with the manager will be undertaken to see active blast areas and evaluate field conditions and blasting practices. Blasting records for the past three years will be reviewed. All seismic records in the surrounding community for the past three years will be reviewed and particularly those from the time when the damage is alleged to have occurred. The validity of blasting permits will be checked with the Fire Marshall along with the history of any violations. The quarry manager shall make data requested by the blasting engineer with respect to blasting available.

**3. Analyze information obtained**

The independent structural or blasting engineer will conduct a review of the digital images, video and field notes pertaining to any pre-blast survey. The independent structural or blasting engineer will undertake a review of the blast design parameters to verify if they were in compliance with approved standards and will review all seismic data to assess whether they exceeded any local ordinances, state, or federal regulations pertaining to the maximum allowable legal limits. The distance from the structure to the blast zone as well as the distance from the monitoring location will also be determined. The independent structural or blasting engineer will review all seismic data to assess whether they exceeded the breaking strain of the weakest structural member in the construction of the structure. This analysis will include a comparison of the data against known governmental damage criteria for comparable structures. A final written report will be prepared and sent to both the structure owner and Hanson.

#### **4. Meeting with owner**

Following the issuance of the report, the independent structural or blasting engineer will meet with the owner of the structure to review the report. If it is determined that blasting is the cause of the damage to the structure, Hanson will be responsible for the necessary repairs to the structure. Once Hanson has had the opportunity to review the report it will contact the owner to initiate the repair process. First, the owner and Hanson shall agree to the necessary repairs to be made, based on the findings in the report. Then, the owner shall obtain three quotes from licensed contractors to complete the repairs. Hanson and the owner shall agree on the contractor to be hired. Hanson will be responsible for paying the repair bill, which shall not exceed the fair market value of the home or structure.

If it is determined that the damage is not attributable to the blasting, the independent structural or blasting engineer will explain to the owner the likely cause of the observed cracking. The independent structural or blasting engineer may also make repair recommendations, if any are necessary. In addition, the independent structural or blasting engineer will attempt to distinguish between cosmetic issues and structural issues.

#### **Arbitration Program**

If the parties are unable to agree on a resolution of the claim, they shall select a qualified engineering or blasting professional to arbitrate the claim. Neither Hanson nor the owner of the structure shall be represented by counsel during the arbitration, unless the owner elects to be represented by counsel, in which case Hanson may retain counsel, as well.

The arbitrator shall be entitled to award such damages to the owner as may be necessary to complete the necessary repairs and to cover any other costs incurred by the owner to repair any damage which the arbitrator attributes to blasting. If the arbitrator determines that the damages are attributable to blasting by Hanson, Hanson shall pay all costs of the arbitration. Otherwise, the cost of arbitration shall be split equally between the parties. In no event shall Hanson be responsible for paying more for repairs than the then current market value of the structure, assuming no blasting damage had occurred.

Nothing herein shall require an owner to use the arbitration program. However, should an owner initiate the arbitration program, the arbitrator's decision shall be final and legally binding.

## EXHIBIT 8

### Crabtree Quarry Dust Control Guidance Plan

**Facility Name:** Crabtree Quarry

**Facility Location:** 5001Duraleigh Road, Raleigh NC 26612

**Date:** January 2013

---

#### 1. INTRODUCTION

This document is intended to create and implement a written Dust Control Guidance Plan to minimize dust emissions from fugitive sources at Crabtree Quarry, including customer and plant haul roads and stockpiles.

Crabtree Quarry relied upon North Carolina Division of Air Quality's (NC DAQ) generalized air dispersion modeling for rock quarries which demonstrates compliance with the ambient air quality standards for total suspended particulate (TSP) and particulate matter with an aerodynamic diameter of less than 10 microns (PM-10). The Dust Control Guidance Plan provides control methods that will be used at the Crabtree Quarry to reduce fugitive dust emissions in a manner that is consistent with the modeling. The plan has three components: dust emissions control methods; application of dust emissions control methods at Crabtree Quarry; and staff training.

#### 2. DUST EMISSIONS CONTROL METHODS

Every reasonable action will be taken to prevent the occurrence of excess fugitive dust from any source that is likely to leave the property boundaries of Crabtree Quarry. Preventive actions may include dust control, such as wet suppression, the use of crusting agents, or the reduction or cessation of the activities creating the dust until meteorological conditions improve.

Wet suppression, using water to control the generation of dust, is the predominate method of suppressing dust emissions at Crabtree Quarry. By increasing the moisture content, finer materials agglomerate into larger particles. Increasing the moisture content enables the production of finer materials, naturally or mechanically. Rainfall serves the important function of naturally increasing the moisture content of unpaved road surfaces and stockpiles. Moisture content can also be increased through the mechanical application of water. The amount of water required to sufficiently control emissions is dependent primarily on the characteristics of materials, ambient conditions, and mining operation activities occurring in the area.

If stockpiles of fine aggregates generate dust emissions on a regular basis then the use of surface crusting agents may be employed. Crusting agents will create a solid surface on the stockpile reducing the likelihood of dust being generated by wind erosion. When used, crusting agents are re-applied every six months.

### 3 APPLICATION OF DUST EMISSIONS CONTROL METHODS AT CRABTREE QUARRY

Areas within the aggregate plant at Crabtree Quarry that have the potential to generate non-process fugitive emissions include: the pit, roads, and stockpiles.

#### 3.1. Pit

Fugitive emissions are generated in the pit during the loading of the raw materials into trucks. Generally, the material being excavated in the pit has high moisture content and fugitive dust emissions from these processes are inherently low. If fugitive emissions are generated during loading, the shot rock in the quarry will be wetted by the water truck.

#### 3.2. Haul Roads

The Dust Control Guidance Plan addresses the two types of haul roads at the Crabtree Quarry: Pit Haul Roads and Customer Haul Roads.

In general, haul roads are constructed of aggregate materials that have been processed at the plant. Haul road emissions are generated by the disturbance of dust caused by moving traffic.

3.2-1. **Pit Haul Roads** are constructed of aggregate materials that have been processed at the plant and are unpaved. Haul road emissions are generated by the disturbance of dust on the surface of the haul road caused by moving traffic. These haul roads are only used by internal plant traffic. Haul road emissions are controlled by regular use of the water truck to wet down the surface of the haul road. The frequency of wetting of the haul roads is determined by daily weather conditions and the volume of truck traffic. In hot, dry conditions, active roads will be watered approximately every four hours. The roads will be watered more frequently if fugitive dust emissions are visible.

3.2-2. **Customer Haul Roads** support higher daily traffic rates than Pit Haul Roads and consist of both paved and unpaved surfaces. The paved Customer Haul Roads generally have the higher traffic volumes and do not generate fugitive emissions. Both paved and unpaved Customer Haul Roads are wetted on a regular basis to control fugitive dust emissions. The frequency of wetting of the

haul roads is determined by daily weather and truck traffic conditions. In hot, dry conditions, active roads will be watered approximately every four hours. The roads will be watered more frequently if fugitive dust emissions are visible.

### 3.3 Processing Plant

The processing plant at Crabtree Quarry consists of a series of conveyors that feed stone into crushers and screens before final sized products are stockpiled

3.3.1 **Crushers** – crushers are fitted with high pressure fine mist wet suppression nozzles at the inlet and outlet to control the generation of dust. The use of high pressure fine mist nozzles ensure that the water is delivered in a fine spray to agglomerate the dust rather than soaking the crusher discharge. Spray nozzles are inspected on a regular basis to ensure they are operating correctly. Any nozzle not working correctly is replaced immediately upon discovery.

3.3.2 **Screens** – Dry screens and scalping screens can be fitted with high pressure fine mist wet suppression nozzles and the outlet to control the generation of dust if needed. These screens are generally not fitted with spray nozzles as they clog easily if the material is too wet. Carryover moisture from conveyor transfer points to control dust functions to control dust on the screens. The use of high pressure fine mist nozzles ensures that the water is delivered in a fine spray to agglomerate.

3.3.3 **Wash Screen** – The wash screen is fitted with several banks of spray nozzles designed to deliver a high volume of water to sufficiently wash the stone. Once the stone is discharged from the wash screen no further dust control is needed.

3.3.4 **Conveyor Transfer Points** – Several conveyor transfer points throughout the processing plant are fitted with high pressure fine mist wet suppression nozzles and the transfer point between two conveyors to control the generation of dust. The use of high pressure fine mist nozzles ensures that the water is delivered in a fine spray to agglomerate the dust. Spray nozzles are inspected on a regular basis to ensure they are operating correctly. Any nozzle not working correctly is replaced immediately upon discovery.

### 3.4 Stockpiles

Finished and partially processed stone products are stored in stockpiles throughout the Crabtree Quarry. For the purposes of this Dust Control Guidance Plan, stockpiles are split into two categories: washed stone and unwashed stone stockpiles.

3.4.1 **Washed Stone Stockpiles** – Dust emissions from washed stone stockpiles may result from both wind erosion and material loading (i.e., mechanical disturbance). Washed stone has been saturated with water prior to stockpiling, which reduces the dust on the material surface and provides high moisture content in the stockpiles. Thus, there is no need for additional dust control measures.

3.4-2. **Unwashed Stone Stockpiles** – Unwashed stone includes surge material from the primary crusher, rip rap, run of crusher, etc. Dust emissions from unwashed stone stockpiles may result from wind erosion. Little or no dust emissions are generated from material handling at these stockpiles as most material handling is by conveyor using an enclosed conveyor drop. If the need for additional controls arises the water truck is used to wet down the stockpiles.

#### 4 **STAFF TRAINING**

All employees at Crabtree Quarry are responsible for ensuring that dust suppression controls are in place and working at all times. As part of the routine safety and environmental training program implemented at Crabtree Quarry, every employee will be made aware of the Dust Control Guidance Plan. If it is found that the Dust Control Guidance Plan is not working as designed it will be modified and re-issued.

A copy of the Dust Control Guidance Plan shall be maintained in the main office.

Settlement Agreement Exhibit 2 will be the Memorandum of Opinion and the zoning interpretation/determination attached to it that are issued by the Planning and Zoning Administrator.

Instrument prepared by: Raleigh City Attorney's Office and Styers, Kemerait  
& Mitchell, PLLC  
Brief Description for Index: Duraleigh Road  
Parcel Identifier: REID# 0069748; 0039195  
Mail after Recording to: City Attorney's Office,  
PO Box 590, Raleigh, N.C. 27602

STATE OF NORTH CAROLINA

COUNTY OF WAKE

#### OPTION TO PURCHASE REAL ESTATE

This OPTION TO PURCHASE REAL ESTATE ("Option") is made and given this \_\_\_\_ day of \_\_\_\_, 2014, by and between HANSON AGGREGATES SOUTHEAST LLC, a Delaware limited liability company ("Hanson"), to the CITY OF RALEIGH, a North Carolina municipal corporation, hereinafter referred to as the "City", collectively referred to in this instrument as the "Parties".

#### BACKGROUND STATEMENT:

WHEREAS, Hanson owns certain real property situated in the vicinity of Crabtree and Richland Creeks, adjacent to Duraleigh Road in Raleigh, NC described as PIN 0786349208 (REID 0069748) and 786554037 (REID 0039195), and more particularly described in Exhibit 1 attached (the "Property");

WHEREAS, Hanson and the City have for an extended period been involved in a dispute over Hanson's right to engage in aggregate quarrying activities over portions of the Property; and

WHEREAS, Hanson and the City have, on \_\_\_\_\_, 2014 entered into a Settlement Agreement (the "Settlement Agreement" or "Agreement") providing for certain

activities on portions of the Property, the conveyance of greenway easements and other property rights to the City, and resolving other disputed matters; and

WHEREAS, provisions of the Agreement which touch and concern the Property have been incorporated into Covenants, Conditions and Restrictions ("Covenants") imposed upon the Property, which covenants have been recorded in Book \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry: and

WHEREAS, the Agreement and recorded Covenants further provide that, following a defined period of quarrying activities on the Property, the City shall have the option to purchase the Property from Hanson, upon terms set forth in the Agreement:

WHEREAS, the Parties desire to memorialize this Option by instrument to be recorded in the Wake County Registry.

NOW THEREFORE, in consideration of the Recitals, the mutual rights and obligations of the Parties as set forth in the Settlement Agreement, and the sum of ten dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, Hanson does hereby give and grant to the City the EXCLUSIVE OPTION to purchase all of the property, together with improvements, located in Wake County and more particularly described as follows:

See Exhibit 1, attached.

The Terms and Conditions of this Option are as follows:

1. Option Period. A period of time commencing upon the Release of Hanson's Reclamation Bond (as referenced and described in the Agreement and recorded Covenants) and ending ninety (90) days thereafter.
2. Exercise. At any time during the Option Period (or any extension of the Period as the Parties may agree), the City may exercise this Option by transmitting to Hanson written Notice of its Exercise of Option by hand delivery, or by certified mail, return receipt requested.
3. Purchase Price. If this Option is exercised by the City, the purchased price for the Property shall be ten dollars (\$10.00).
4. Access and Tests: Hanson hereby grants to the City and its agents, employees, and contractors a License during the Option Period to enter upon the Property for purpose of performing inspections, surveys, borings, and other investigations of the Property.
4. Title. The City shall be entitled to receive a good and marketable title to the Property, free and clear of all liens, encumbrances, leases, conditions or restrictions, excepting: (1)

ad valorem taxes for the current year, to be prorated between the Parties on a calendar year basis to the Settlement date; and (2) easements and rights of way of record which do not materially affect the value or usability of the Property; and (3) other title exceptions consented to by the City.

5. Settlement. Upon the City's exercise of its purchase option, settlement of the purchase shall be made at such place and time as the parties may agree.
6. Agents and Brokers. Hanson and the City represent to each other that neither have engaged the services of any real estate agent or broker in connection with this Option, nor taken any action giving rise to claims for fees or commissions by real estate agents or brokers in connection with this Option.
7. Notices: All notices required to be given hereunder shall be given and directed as follows:

To Hanson: Hanson Aggregates Southeast LLC  
2310 Parklake Drive, Suite 550  
Atlanta, Georgia 30345

To the City: City of Raleigh  
Office of the City Attorney  
One Exchange Plaza, Suite 1020  
Raleigh, NC 27601

8. Assignment: The Option to purchase the Property may be assigned by the City. This Option shall run with the Property, inure to the benefit of the Parties, and be binding upon their successors and assigns.
9. Termination. This Option shall terminate at the expiration of the Option Period (including any agreed upon extension) and shall in any event terminate on or by January 30, 2058.
10. Entire Agreement. This instrument contains the entire option agreement regarding the Property, and supersedes all prior and contemporaneous negotiations, communications, and understandings, written or oral, between the Parties. This Option shall not be amended or modified unless set forth in a written instrument executed by the parties and recorded in the land records of Wake County.

IN WITNESSETH WHEREOF, the Parties have duly executed this instrument by the signature of their respective officers, with property authority, as the act and deed of the respective entities, the day and year first above written.

HANSON AGGREGATES SOUTHEAST LLC

By: \_\_\_\_\_ (SEAL)

Its: \_\_\_\_\_

THE CITY OF RALEIGH

By: \_\_\_\_\_ (SEAL)

Its: \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

PROPERTY DESCRIPTION APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being be me duly sworn, says that (s) he is the \_\_\_\_\_ of Hanson Aggregates Southeast LLC, the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(notary's printed name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA  
COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, the municipal corporation described in and which executed the foregoing; that she knows the corporate seal of the municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal, and the name of the municipal corporation was subscribed thereto by the City Clerk and Treasurer and that the official corporate seal was affixed, all by order of the governing body of the municipal corporation, and that the said instrument is the act and deed of the municipal corporation.

WITNESS my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

(SEAL)

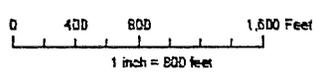
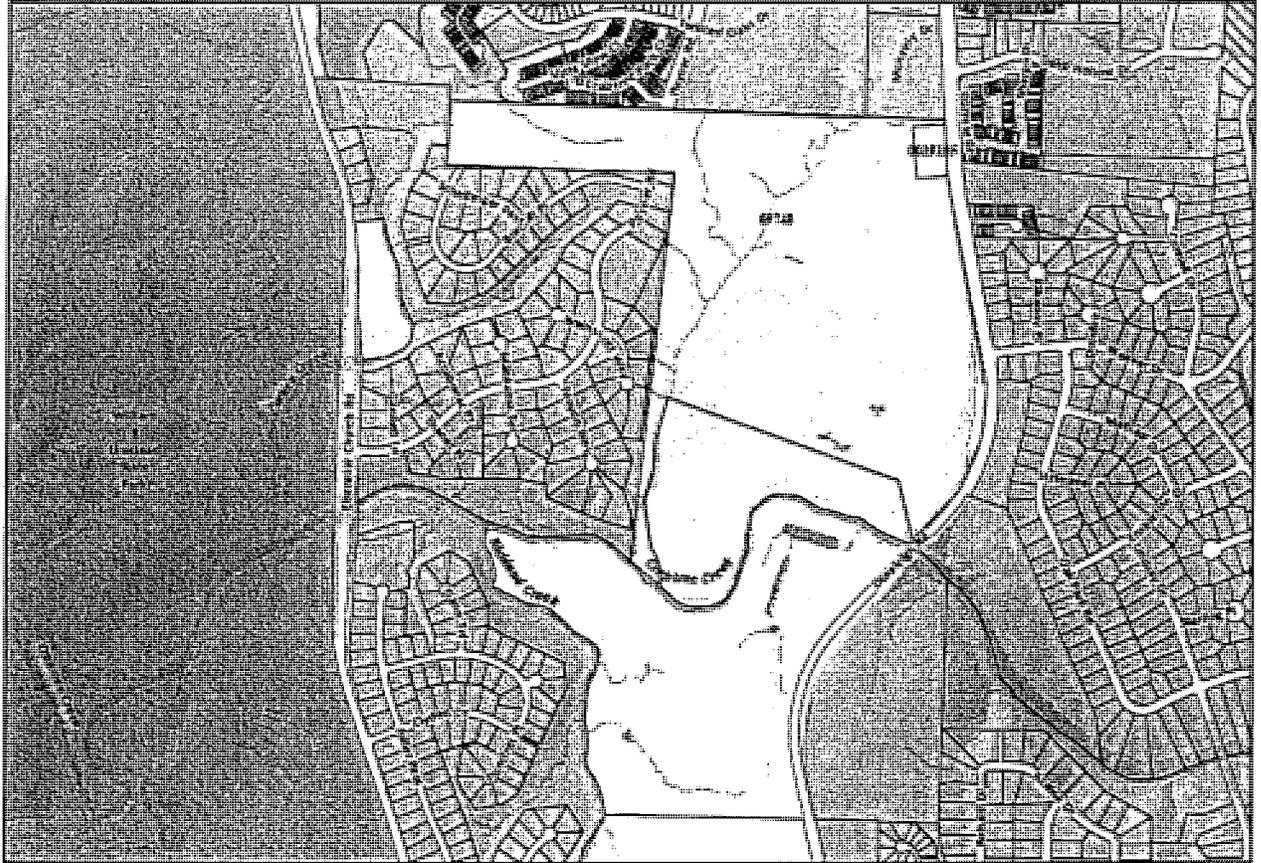
My Commission Expires: \_\_\_\_\_

## EXHIBIT 1

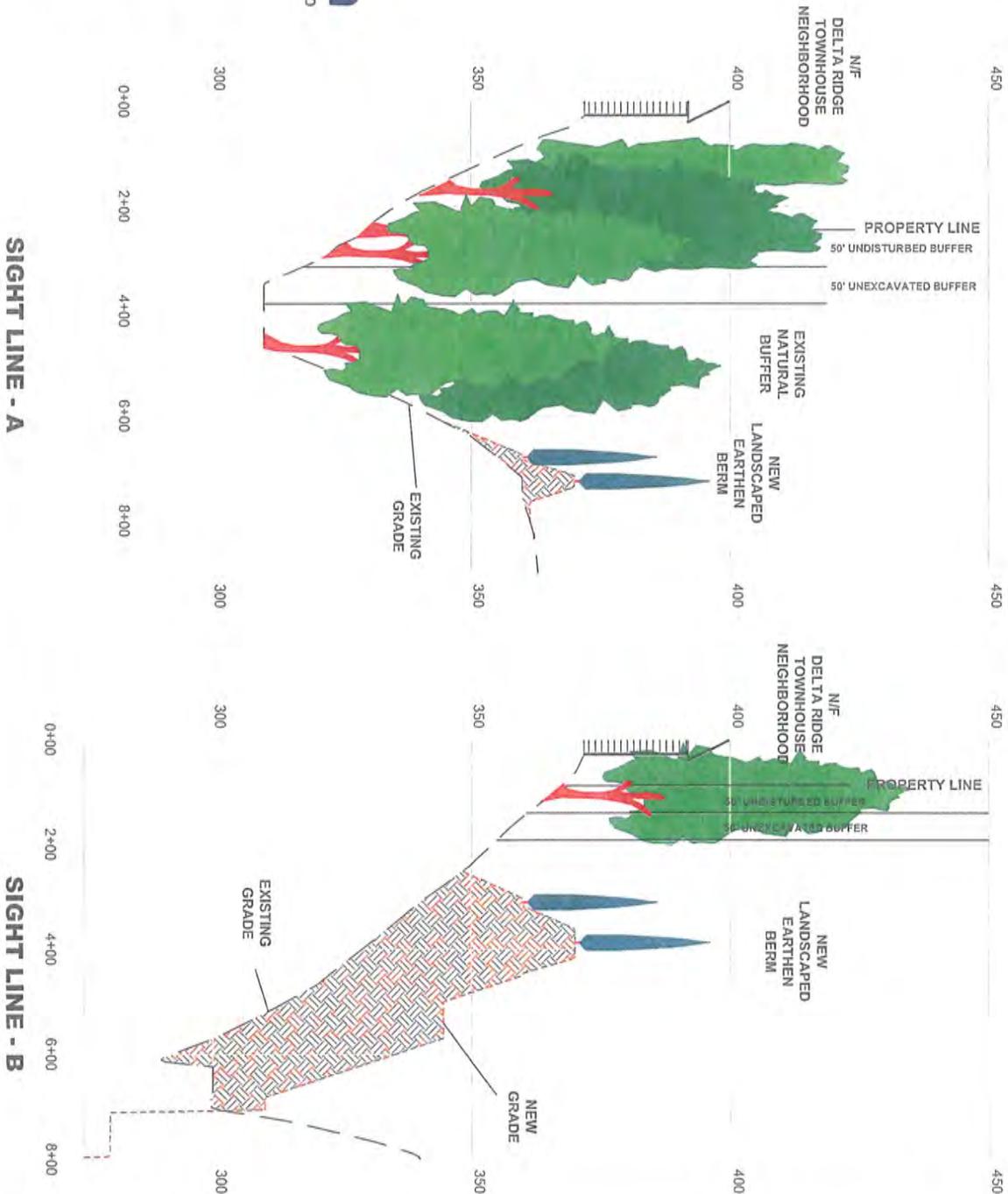
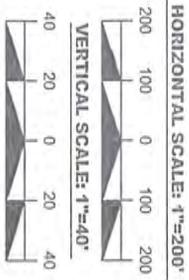
BEING that property and area located in Wake County, comprising 112.599 acres, more or less, bounded on the east by Duraleigh Road (SR# 1664); on the south by property of the State of North Carolina; on the west by that parcel owned now or formerly by the Hampton Development Co. LLC (DB 11903, Page 91, WCR); and on the north by that property owned now or formerly by CND Duraleigh Woods LLC (DB12929, P1482 WCR), being that property described in Exhibit 3 of the referenced Settlement Agreement, and as further located and described by the plat attached hereto as Exhibit 1-A.

REID 69748, and REID 0039195

Exhibit 1A

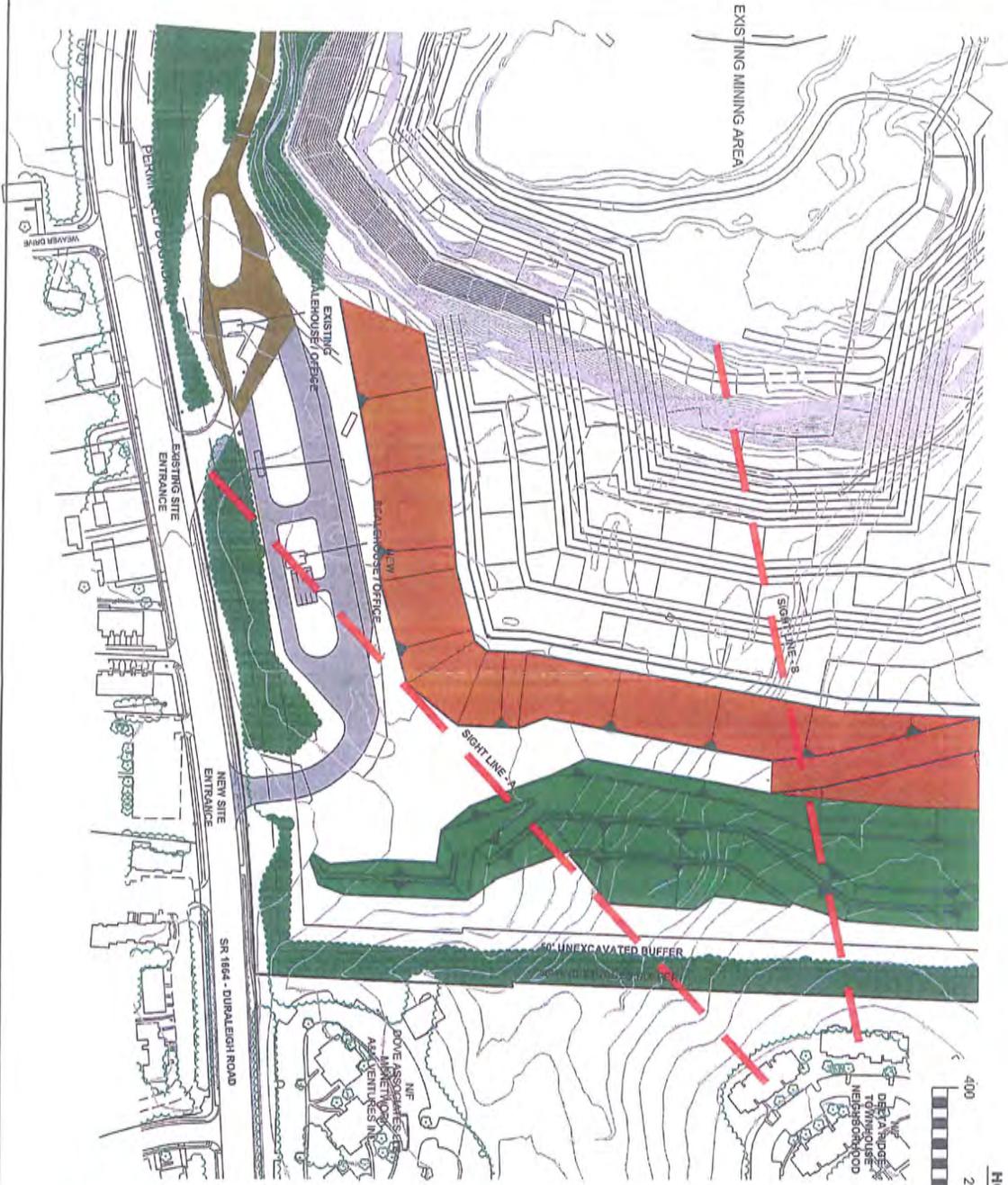


**Disclaimer**  
M&Z makes every effort to provide the most current and accurate information possible. However, the maps are produced for information purposes, and are NOT surveys. No warranties, expressed or implied, are provided for the data herein, its use, or its interpretation.

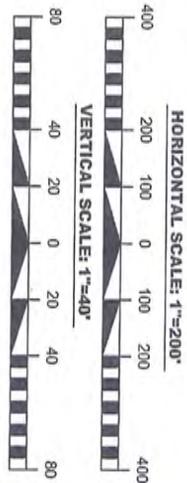
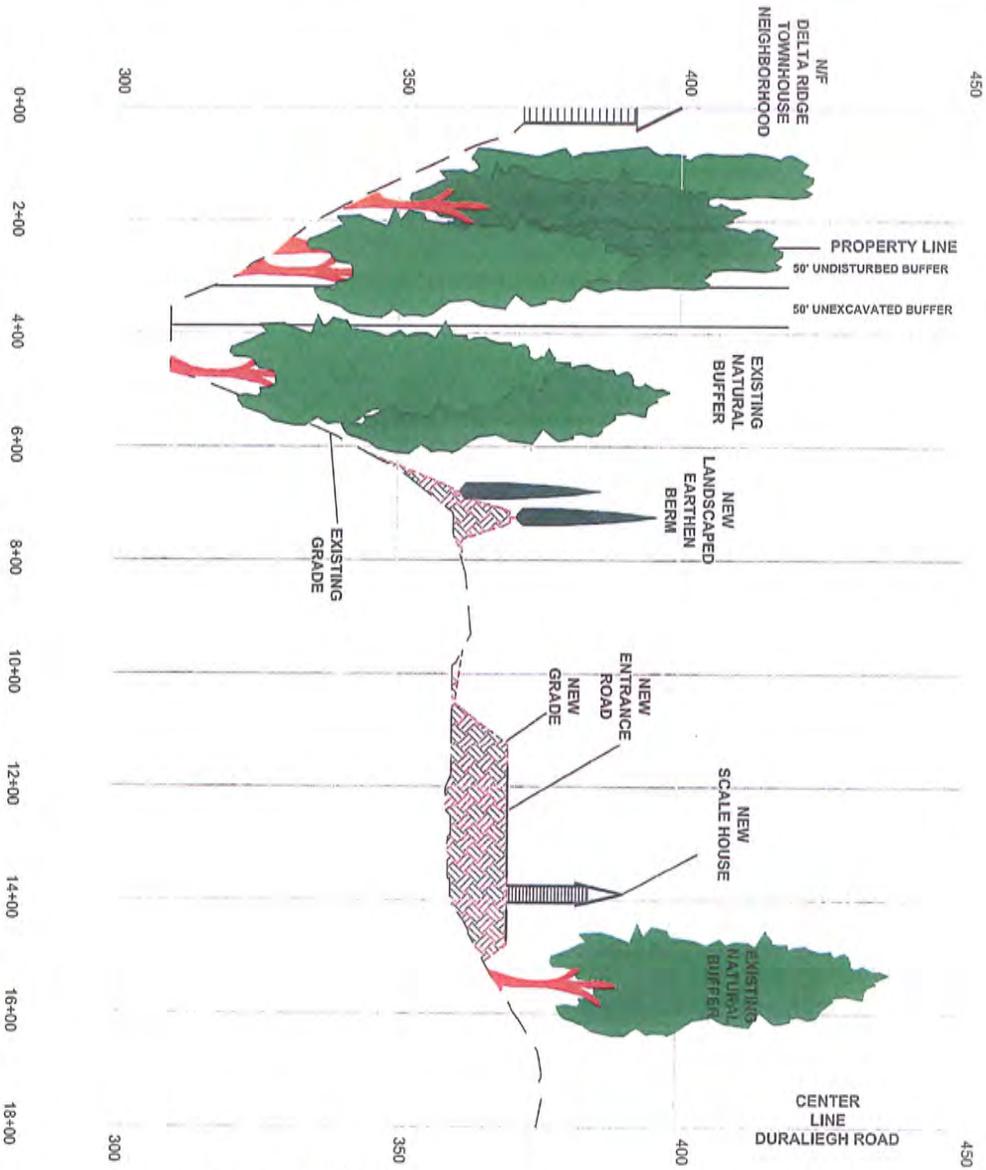


**EXHIBIT 4 NORTHERN BOUNDARY BERM - SECTIONS**

# PIT EXPANSION ENTRANCE PLAN



# SIGHT LINE - A



# SIGHT LINE - B

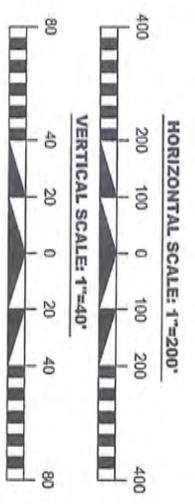
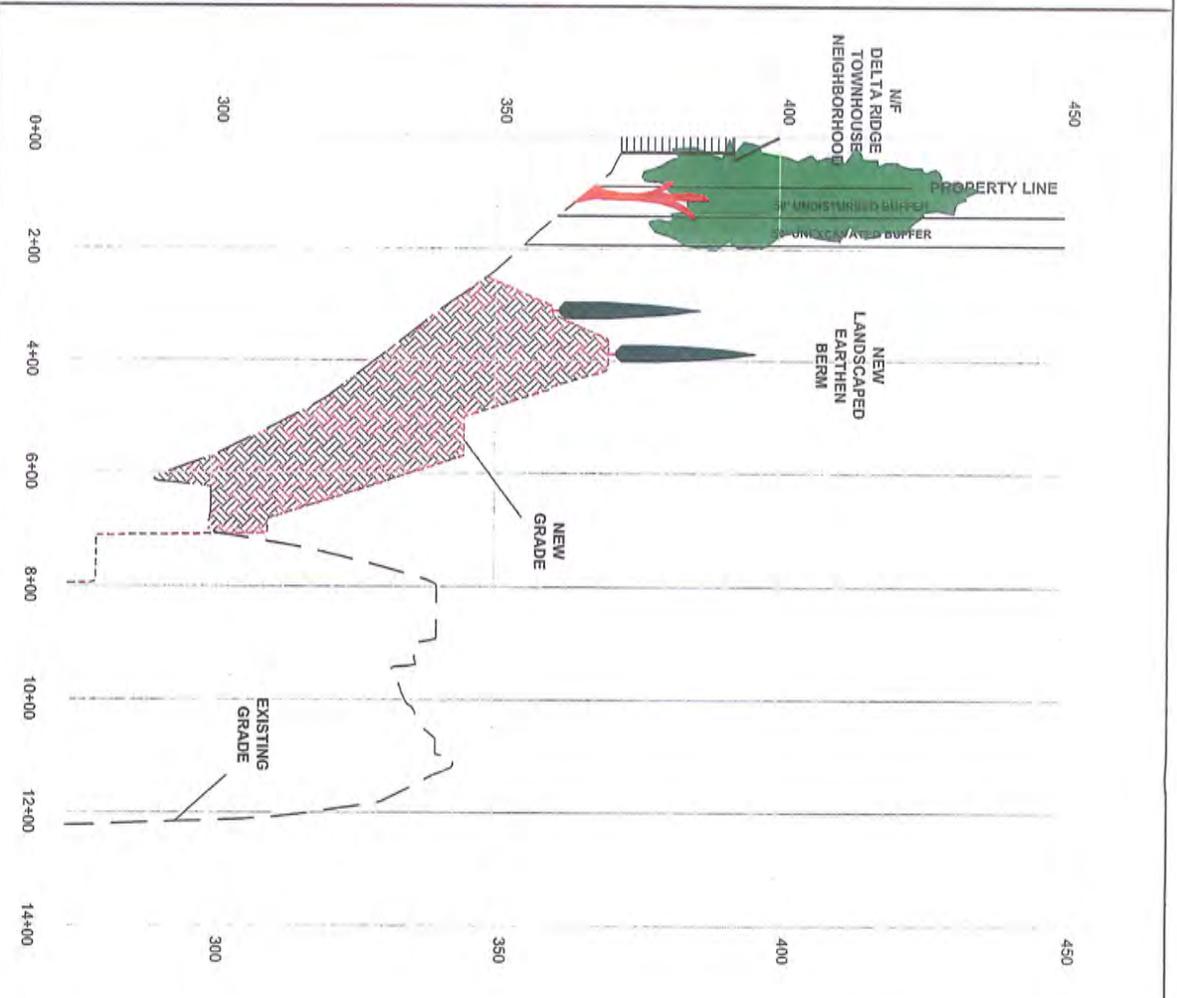
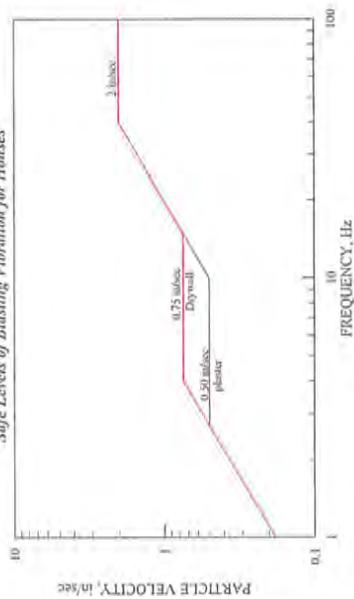


Exhibit 5 - Blasting Limits

U.S. BUREAU OF MINES CRITERIA RI-8507  
Safe Levels of Blasting Vibration for Houses



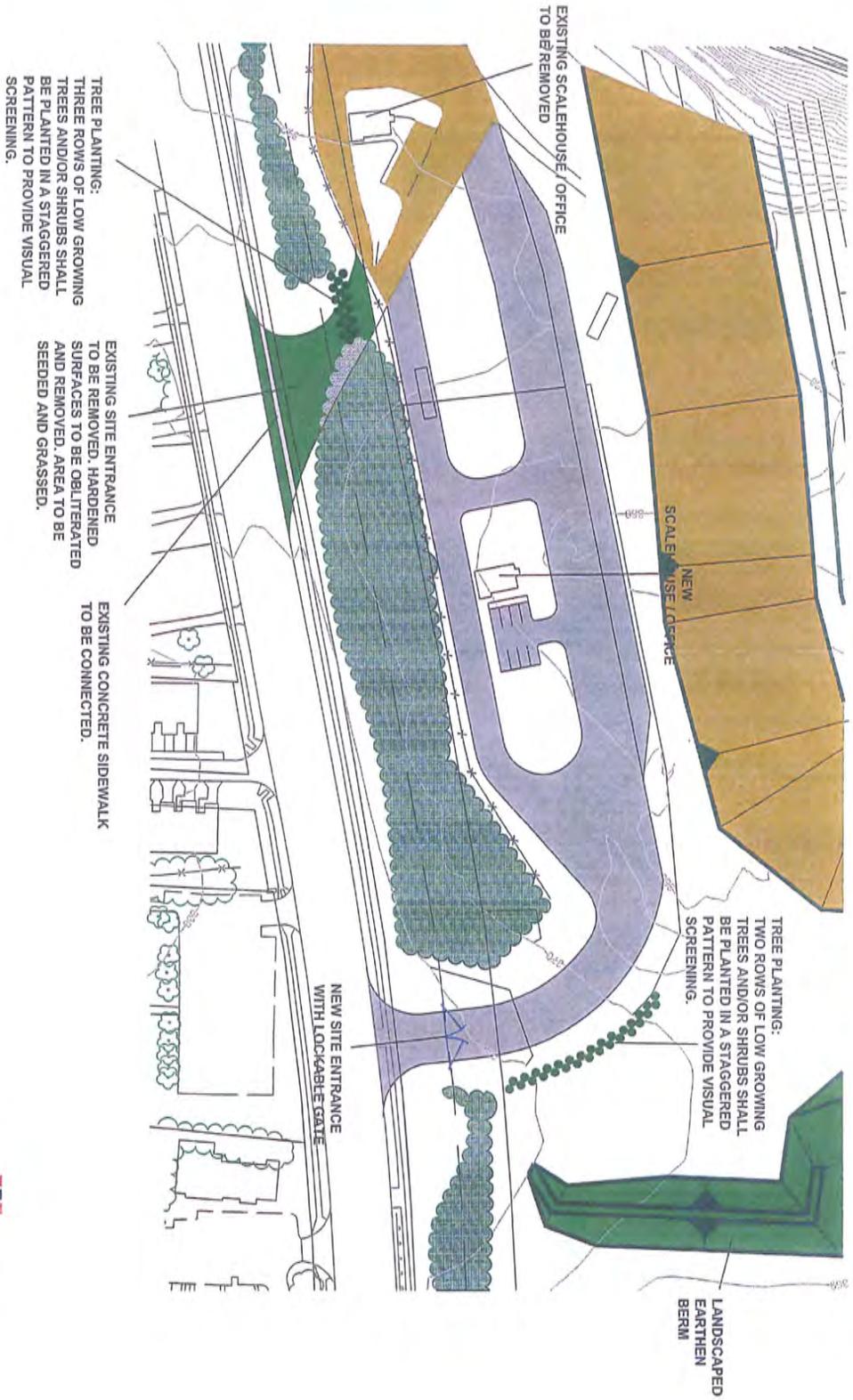
State of North Carolina Frequency vs. Velocity Vibration Criteria

Frequency (Hz)	2	3	4-11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-100
Peak Particle Velocity (in/sec)	0.38	0.56	0.75	0.82	0.88	0.95	1.01	1.08	1.15	1.21	1.28	1.34	1.41	1.48	1.54	1.61	1.67	1.74	1.81	1.87	1.92	2.00

75% of State of North Carolina Frequency vs. Velocity Vibration Criteria

Frequency (Hz)	2	3	4-11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30-100
Peak Particle Velocity (in/sec)	0.28	0.42	0.56	0.61	0.66	0.71	0.76	0.81	0.86	0.91	0.96	1.01	1.06	1.11	1.16	1.21	1.26	1.30	1.35	1.40	1.45	1.50

## PIT EXPANSION ENTRANCE PLAN - 2



## **BLASTING DAMAGE PROTECTION PROGRAM**

**This Blasting Damage Protection Program is for the benefit of and may be enforced by persons owning structures within parameters set forth herein.**

### **Notice of Claim**

If the owner of any structure located within 2500 feet of any blasting at Crabtree Quarry by Hanson Aggregates Southeast, LLC (“Hanson”) believes that such blasting has damaged such structure they shall be entitled to arbitration of such claim at their election. The arbitration program set forth herein shall be initiated by sending written notice of the claim to Hanson and demanding arbitration. All written notices required by the above shall be sent to: Hanson Aggregates Southeast, LLC, 2310 Parklake Drive, Suite 550, Atlanta GA 30345. Attention: Vice President.

### **Protocol for Investigating Claims**

After an owner files a claim, the following protocol will be followed:

#### **1. On-site inspection of home**

An on-site interview between an independent structural or blasting engineer and the homeowner will take place to determine history of the structure and when problems first appeared. An initial walk through of the structure with owner to identify major areas of concern will take place. Video or digital image documentation of all observed structural and cosmetic cracks, separations and distortions will be made. Documentation will include the interior and exterior of the structure, including any attic, basement and crawl space. Crack widths, lengths and penetration depths will be measured as determined by the inspector. Doors and windows will be checked for functioning, floors checked for leveling and mitered corners checked for separations. A diagram will be made showing the layout of the structure, on which the location of cracks will be noted.

#### **2. On-site review of quarry blasting practices**

The independent structural or blasting engineer will conduct an on-site interview with the quarry manager to determine the quarry’s blasting practices and procedures. A tour of the quarry with the manager will be undertaken to see active blast areas and evaluate field conditions and blasting practices. Blasting records for the past three years will be reviewed. All seismic records in the surrounding community for the past three years will be reviewed and particularly those from the time when the damage is alleged to have occurred. The validity of blasting permits will be checked with the Fire Marshall along with the history of any violations. The quarry manager shall make data requested by the blasting engineer with respect to blasting available.

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The arbitrator shall be entitled to award such damages to the owner as may be necessary to complete the necessary repairs and to cover any other costs incurred by the owner to repair any damage which the arbitrator attributes to blasting. If the arbitrator determines that the damages are attributable to blasting by Hanson, Hanson shall pay all costs of the arbitration. Otherwise, the cost of arbitration shall be split equally between the parties. In no event shall Hanson be responsible for paying more for repairs than the then current market value of the structure, assuming no blasting damage had occurred.

Nothing herein shall require an owner to use the arbitration program. However, should an owner initiate the arbitration program, the arbitrator's decision shall be final and legally binding.

## **EXHIBIT 8**

### **Crabtree Quarry Dust Control Guidance Plan**

**Facility Name: Crabtree Quarry**

**Facility Location: 5001Duraleigh Road, Raleigh NC 26612**

**Date: January 2013**

---

#### **1. INTRODUCTION**

This document is intended to create and implement a written Dust Control Guidance Plan to minimize dust emissions from fugitive sources at Crabtree Quarry, including customer and plant haul roads and stockpiles.

Crabtree Quarry relied upon North Carolina Division of Air Quality's (NC DAQ) generalized air dispersion modeling for rock quarries which demonstrates compliance with the ambient air quality standards for total suspended particulate (TSP) and particulate matter with an aerodynamic diameter of less than 10 microns (PM-10). The Dust Control Guidance Plan provides control methods that will be used at the Crabtree Quarry to reduce fugitive dust emissions in a manner that is consistent with the modeling. The plan has three components: dust emissions control methods; application of dust emissions control methods at Crabtree Quarry; and staff training.

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Every reasonable action will be taken to prevent the occurrence of excess fugitive dust from any source that is likely to leave the property boundaries of Crabtree Quarry. Preventive actions may include dust control, such as wet suppression, the use of crusting agents, or the reduction or cessation of the activities creating the dust until meteorological conditions improve.

Wet suppression, using water to control the generation of dust, is the predominate method of suppressing dust emissions at Crabtree Quarry. By increasing the moisture content, finer materials agglomerate into larger particles. Increasing the moisture content enables the production of finer materials, naturally or mechanically. Rainfall serves the important function of naturally increasing the moisture content of unpaved road surfaces and stockpiles. Moisture content can also be increased through the mechanical application of water. The amount of water required to sufficiently control emissions is dependent primarily on the characteristics of materials, ambient conditions, and mining operation activities occurring in the area.

If stockpiles of fine aggregates generate dust emissions on a regular basis then the use of surface crusting agents may be employed. Crusting agents will create a solid surface on the stockpile reducing the likelihood of dust being generated by wind erosion. When used, crusting agents are re-applied every six months.

### 3 APPLICATION OF DUST EMISSIONS CONTROL METHODS AT CRABTREE QUARRY

Areas within the aggregate plant at Crabtree Quarry that have the potential to generate non-process fugitive emissions include: the pit, roads, and stockpiles.

#### 3.1. Pit

Fugitive emissions are generated in the pit during the loading of the raw materials into trucks. Generally, the material being excavated in the pit has high moisture content and fugitive dust emissions from these processes are inherently low. If fugitive emissions are generated during loading, the shot rock in the quarry will be wetted by the water truck.

#### 3.2. Haul Roads

The Dust Control Guidance Plan addresses the two types of haul roads at the Crabtree Quarry: Pit Haul Roads and Customer Haul Roads.

In general, haul roads are constructed of aggregate materials that have been processed at the plant. Haul road emissions are generated by the disturbance of dust caused by moving traffic.

3.2-1. **Pit Haul Roads** are constructed of aggregate materials that have been processed at the plant and are unpaved. Haul road emissions are generated by the disturbance of dust on the surface of the haul road caused by moving traffic. These haul roads are only used by internal plant traffic. Haul road emissions are controlled by regular use of the water truck to wet down the surface of the haul road. The frequency of wetting of the haul roads is determined by daily weather conditions and the volume of truck traffic. In hot, dry conditions, active roads will be watered approximately every four hours. The roads will be watered more frequently if fugitive dust emissions are visible.

3.2-2. **Customer Haul Roads** support higher daily traffic rates than Pit Haul Roads and consist of both paved and unpaved surfaces. The paved Customer Haul Roads generally have the higher traffic volumes and do not generate fugitive emissions. Both paved and unpaved Customer Haul Roads are wetted on a regular basis to control fugitive dust emissions. The frequency of wetting of the

haul roads is determined by daily weather and truck traffic conditions. In hot, dry conditions, active roads will be watered approximately every four hours. The roads will be watered more frequently if fugitive dust emissions are visible.

### 3.3 **Processing Plant**

The processing plant at Crabtree Quarry consists of a series of conveyors that feed stone into crushers and screens before final sized products are stockpiled

3.3.1 **Crushers** – crushers are fitted with high pressure fine mist wet suppression nozzles at the inlet and outlet to control the generation of dust. The use of high pressure fine mist nozzles ensure that the water is delivered in a fine spray to agglomerate the dust rather than soaking the crusher discharge. Spray nozzles are inspected on a regular basis to ensure they are operating correctly. Any nozzle not working correctly is replaced immediately upon discovery.

3.3.2 **Screens** – Dry screens and scalping screens can be fitted with high pressure fine mist wet suppression nozzles and the outlet to control the generation of dust if needed. These screens are generally not fitted with spray nozzles as they clog easily if the material is too wet. Carryover moisture from conveyor transfer points to control dust functions to control dust on the screens. The use of high pressure fine mist nozzles ensures that the water is delivered in a fine spray to agglomerate.

3.3.3 **Wash Screen** – The wash screen is fitted with several banks of spray nozzles designed to deliver a high volume of water to sufficiently wash the stone. Once the stone is discharged from the wash screen no further dust control is needed.

3.3.4 **Conveyor Transfer Points** – Several conveyor transfer points throughout the processing plant are fitted with high pressure fine mist wet suppression nozzles and the transfer point between two conveyors to control the generation of dust. The use of high pressure fine mist nozzles ensures that the water is delivered in a fine spray to agglomerate the dust. Spray nozzles are inspected on a regular basis to ensure they are operating correctly. Any nozzle not working correctly is replaced immediately upon discovery.

### 3.4 **Stockpiles**

Finished and partially processed stone products are stored in stockpiles throughout the Crabtree Quarry. For the purposes of this Dust Control Guidance Plan, stockpiles are split into two categories: washed stone and unwashed stone stockpiles.

3.4.1 **Washed Stone Stockpiles** – Dust emissions from washed stone stockpiles may result from both wind erosion and material loading (i.e., mechanical disturbance). Washed stone has been saturated with water prior to stockpiling, which reduces the dust on the material surface and provides high moisture content in the stockpiles. Thus, there is no need for additional dust control measures.

3.4-2. **Unwashed Stone Stockpiles** – Unwashed stone includes surge material from the primary crusher, rip rap, run of crusher, etc. Dust emissions from unwashed stone stockpiles may result from wind erosion. Little or no dust emissions are generated from material handling at these stockpiles as most material handling is by conveyor using an enclosed conveyor drop. If the need for additional controls arises the water truck is used to wet down the stockpiles.

#### 4 **STAFF TRAINING**

All employees at Crabtree Quarry are responsible for ensuring that dust suppression controls are in place and working at all times. As part of the routine safety and environmental training program implemented at Crabtree Quarry, every employee will be made aware of the Dust Control Guidance Plan. If it is found that the Dust Control Guidance Plan is not working as designed it will be modified and re-issued.

A copy of the Dust Control Guidance Plan shall be maintained in the main office.

Instrument prepared by: Raleigh City Attorney's Office and Styers, Kemerait & Mitchell, PLLC  
Brief Description for Index: Crabtree Creek  
Parcel Identifier: PIN #0786-51-2559; PIN#0786-62-0033  
Project Name: Crabtree Creek Greenway  
Mail after Recording to: City Attorney's Office  
P.O. Box 590  
Raleigh, NC 27602

**STATE OF NORTH CAROLINA  
WAKE COUNTY**

**DEED OF EASEMENT TO THE CITY OF  
RALEIGH FOR CONSERVATION AND  
GREENWAY PURPOSES AND  
RESERVATION OF RIGHTS**

**THIS DEED OF EASEMENT** is made this \_\_\_ day of \_\_\_\_\_, 2014, (the "Effective Date") by HANSON AGGREGATES SOUTHEAST LLC, a Delaware limited liability company with an address of 2310 Parklake Drive, Suite 550 Atlanta, Georgia 30345, hereinafter referred to as "Hanson" or the "Grantor", to the CITY OF RALEIGH, a North Carolina municipal corporation with an address of P.O. Box 590, Raleigh, NC 27602, hereinafter referred to as the "City." The Grantor and the City are at times referred to herein as "Party" or "Parties."

**WITNESSETH:**

**WHEREAS**, the City of Raleigh has established and presently operates the Capital Area Greenway Program, which has as its purposes the conservation of natural, scenic, or ecologically valuable properties (generally known as "greenways"), and the development and provision for public use of paved or unpaved trails ("greenway trails") within such properties; and

**WHEREAS**, the Grantor is the owner in fee simple of certain real property, more particularly identified as PIN 0786-34-9208, 0786-51-2559 and 0786-62-0033 (the "Property"); and

**WHEREAS**, the Property is subject to that certain permit number 92-03 for the operation of a crushed stone quarry issued by the North Carolina Department of Environment and Natural Resources (the "Mining Permit"); and

**WHEREAS**, certain areas of the Property have conservation, ecological, and recreational values in their present state, which values should be preserved and maintained for use as a public greenway and greenway trail; and

**WHEREAS**, the City has planned to construct, and intends to make available for public use, the Crabtree Greenway Trail (the "Project" or "Greenway Project"), portions of which are to be located on areas of the Property; and

**WHEREAS**, the Grantor and the City have entered into a Settlement Agreement dated \_\_\_\_\_, 2014 ("Settlement Agreement") in order to resolve a longstanding legal dispute concerning quarrying activities permitted on the Property, the resolution of such matters having implications for the location of greenway trails and easements to accommodate such trails; and

**WHEREAS**, pertinent provisions of the Settlement Agreement are incorporated into that Declaration of Covenants, Conditions, and Restrictions ("Declaration of Covenants") dated \_\_\_\_\_, and recorded in Deed Book \_\_\_\_\_, Page \_\_\_\_\_, Wake County Registry; and

**WHEREAS**, in furtherance of the above-stated environmental and conservation objectives and the Greenway Project; in accordance with terms of the referenced Settlement Agreement; and subject to the conditions, terms and restrictions hereof, Hanson has agreed to convey to the City this non-exclusive conservation and greenway easement (the "Easement") over portions of the Property, (the "Easement Area") and the City has agreed to accept such Easement; and

**NOW, THEREFORE**, in consideration of the Recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in further consideration of the mutual covenants, terms, conditions, and restrictions hereinafter set forth, the Grantor has bargained and sold, and hereby sells, grants and conveys to the City, its successors and assigns forever, a Conservation and Greenway Easement of the nature and to the extent hereinafter set forth, in and over the lands of the Grantor described as follows:

**See Exhibit 1, attached.**

The terms, conditions and restrictions of this Easement are as follows:

## ARTICLE I. PURPOSE AND USES

1. The purpose of the Easement is to preserve, protect, and maintain the Easement Area as an undeveloped and natural area, while allowing certain recreational uses.
2. The qualities of the Easement Area intended to be protected under this Easement include conservation of the natural heritage of the area; water pollution control and abatement, ecological preservation; wildlife habitat management; preservation of the visual amenities of the Easement Area; preservation of a natural ecosystem; and provision of a recreation resource to members of the public.
3. Subject expressly to those terms, conditions, and restrictions set forth herein, the Easement Area shall remain in its present, natural, and undeveloped state as a conservation and recreation use area.
4. The City shall incorporate the Easement Area as a component of the Capital Area Greenway System of the City. Members of the general public shall have free access to and use of the Greenway Easement, subject to the laws and ordinances of the City of Raleigh, and for the purposes allowed under the official Greenway Program of the City, including walking, educational tours, scientific study of the Easement Area and its natural ecosystems, hiking, bike riding, jogging and picnicking. Such uses of the Easement shall all be in accord with the Capital Area Greenway Plan and Program.
5. The City may construct paved or unpaved greenway trails within the Easement Area, and facilities incidental to and for the convenience of users of the greenway trail, such as observation platforms, boardwalks, bridges, ramps, litter receptacles, canoe accesses, benches and similar convenience facilities.
6. The City shall have the right and duty to maintain the Easement Area in a clean, natural and undisturbed state, consistent with the Capital Area Greenway Plan and Program.
7. There shall be no access by the City, the State, or the public at large granted by this Easement to any other property of the Grantor, save that described and conveyed herein.
8. The Grantor shall remain the fee owner of the property subject to this Easement and as such, may use and enjoy the Easement Area for purposes not inconsistent with terms of this Easement. More specifically (by way of illustration and not limitation), the Grantor shall enjoy rights and entitlements of fee ownership for purposes of applicable land use regulations (including measurement of building setback distances, density credit transfers, and similar regulations); the payment of taxes on the property; and other applicable laws and ordinances.

## **ARTICLE II. PROHIBITED AND RESTRICTED ACTIVITIES; EXCEPTED AND RESERVED RIGHTS**

### Activities Prohibited.

Any activity on, or use of, the Easement Area inconsistent with the purposes of this Greenway Easement is prohibited. (By way of illustration and not limitation) the following activities and uses of the Easement Area are expressly prohibited:

1. Industrial and Commercial Use. Industrial and commercial activities of any type, and ingress and/or egress for such purposes are prohibited.
2. Agricultural, Timber Harvesting, Grazing and Horticultural Use. Agricultural, timber harvesting, grazing, horticultural and animal husbandry operations are prohibited.
3. Disturbance of Natural Features, Plants and Animals. There shall be no cutting or removal of trees, or disturbance of other natural features, including plant and animal life, except for the following: (1) as incidental to boundary marking, fencing, signage, construction and maintenance of greenway trails and related convenience facilities, and public accesses allowed hereunder; (2) selective cutting and prescribed burning or clearing of vegetation, and the application of approved pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants; and (3) hunting and fishing, (otherwise permitted by law or ordinance) pursuant to applicable rules and regulations.
4. Construction of Buildings; Structures; Signage. There shall be no constructing or placing of any building, mobile home, asphalt or concrete pavement, billboard or other advertising display antenna, utility pole, tower, conduit, line, pier landing, dock or any other temporary or permanent structure or facility on or above the Easement area, except for the following: Placing and display of no trespassing signs; state or federal traffic or similar signs; greenway trail signs; for sale or lease signs; signs identifying the conservation values of the Easement Area, and/or signs identifying the Grantor as the owner of the property and the City as holder of this Easement; educational and interpretive signs; identification labels or any other similar temporary or permanent signs, as approved by the City; and installation and maintenance by the City of perimeter fencing along the Greenway, in accordance with terms of the Settlement Agreement and recorded Declaration of Covenants.
5. Mineral Use, Excavation, Dredging. There shall be no filling, excavation, dredging, mining or drilling; no removal of topsoil, sand, gravel, rock, peat, or other minerals; and no change in the topography of the land in any manner except as necessary to prevent erosion or incidental to Greenway Trail construction and management, or conservation management activities otherwise permitted by this Easement.
6. Wetlands and Water Quality. There shall be no pollution or alteration of water bodies and no activities that would be detrimental to water purity or that would alter natural water

levels, drainage, sedimentation and/or flow in or over the Easement Area or into any surface waters, or cause soil degradation or erosion, nor diking, dredging, alteration, draining, filling or removal of wetlands, except activities to restore natural hydrology or wetlands enhancement as permitted by the State and any other appropriate authorities.

7. Dumping. Dumping of soil, trash, garbage, waste, abandoned vehicles, appliances, machinery, or other materials on the Easement Area is prohibited.

8. Noise, Dust and Vibration Exception. The Grantor expressly excepts from the provisions of the Greenway Easement and, for its successors and assigns, expressly reserves the right to cause vibrations, noise, dust, particulates, debris, and other similar materials and odors to be in the air above, descend upon, go across, or go through the Easement Area, and in general to subject the Easement Area to all similar consequences arising from the location and operation in the vicinity of the Easement Area of any the Crabtree Quarry and related activities, including without limitation equipment operation and truck traffic at, to and from Crabtree Quarry. By accepting this grant of Greenway Easement, the City hereby subordinates its rights under the Greenway Easement to those of the Grantor relating to noise, dust, and vibration as enumerated above ("Noise, Dust, and Vibration Exception"). Notwithstanding the foregoing, nothing contained herein shall be construed to allow Grantor's vehicles, equipment, employees or customers to physically enter the Easement Area or to conduct mining operations thereon. This Noise, Dust and Vibration Exception shall terminate upon the expiration of the Reclamation Period, as defined in the Settlement Agreement and recorded Declaration of Covenants.

### **ARTICLE III. ENFORCEMENT AND REMEDIES**

1. The City shall have authority and responsibility for enforcement of the terms of this Easement. Any forbearance by the City to exercise rights hereunder in the event of breach of any term, condition, or restriction shall not be deemed or construed to be a waiver of any right of enforcement. No delay or omission by the City in the exercise of any right or remedy shall impair such right or remedy, or be construed as a waiver.

2. No provision of this Easement shall be construed or applied to limit the rights of, or remedies available to, the Parties under terms of the referenced Settlement Agreement and Declaration of Covenants. In the event of ambiguity or inconsistency between provision of this Easement and the Settlement Agreement, the latter shall prevail.

3. The City may provide for the day-to-day inspection, oversight, and enforcement on the Easement Area of its rules governing activities and uses of City-owned parks, including property comprising a part of the City's Greenway system. Such inspection, oversight, and enforcement will be the responsibility of the City Police personnel. In addition to such control and oversight over the Easement by City Police, other officers of the City, their employees, agents and successors and assigns, shall have the right to enter the Easement Area for the purpose of inspecting such area to assess compliance with the various terms, conditions, and restrictions of the Greenway Easement.

4. Upon breach of any of the terms and conditions of this Easement by the Grantor, or anyone acting for or under authority of the Grantor, the City shall, except as provided below, notify the Grantor in writing of such breach. The Grantor shall have 30 days after receipt of such notice to correct any conditions constituting such breach. If the breach remains uncorrected after 30 days, the City may enforce the terms of this Easement by any appropriate legal proceedings, including actions for damages, injunctive, and other relief. In addition, the City shall also have the further power and authority to:

- (a) immediately abate or prevent any impairment or degradation of the property subject to the Easement by acts which may be unlawful or otherwise in violation of this Easement; and
- (b) otherwise preserve or protect its interest in the Easement Area; and
- (c) seek damages from any appropriate person or entity.

#### ARTICLE IV. MISCELLANEOUS

1. General Reservation of Rights. The Grantor expressly reserves the right to continue the use of the property subject to the Easement for all purposes not inconsistent with terms of the Easement.

2. Fencing E. of Duraleigh Road. The City shall secure any portion of the Easement Area in which greenway trails are constructed with fencing acceptable to Grantor. The minimum standard shall be a six (6) foot high chain link fence.

3. West of Duraleigh Rd.; Security, Safety; Design Elements. The parties acknowledge that, prior to the City's Access Date under terms of the Settlement Agreement, those portions of the Easement Area located west of Duraleigh Road are in proximity to active mining operations, including periodic blasting events, and are immediately adjacent to other quarry-related activities. Accordingly, in the design and construction of any greenway trail improvements in the Easement Area west of Duraleigh Road, the following further conditions shall apply:

- a. In the design and construction of the greenway trail in this area (which will consist of a series of trail switchbacks), the paved greenway trail will be located as far from the quarry-related activities (southerly and eastward) as practicable. The City's proposed design for this trail section shall be subject to review by and consultation with Hanson prior to its final adoption.
- b. Fencing and/or enclosures in this area and west of the paved trail shall be located as close as possible to the paved trail, consistent with the City's standard greenway design and construction practices.

- c. In that portion of the easement area west of the fencing and /or enclosures, Hanson shall be permitted to plant landscape screening material.
- d. Within the easement area, the City may install trees, shrubs, and other landscape materials and improvements as a vegetative buffer between the trail and Duraleigh Road and for the visual enhancement of the greenway trail.
- e. The City shall incorporate vertical and horizontal barriers and/or enclosures (“security and safety improvements”) sufficient to contain within, and assure the safety of, all users of the greenway trail in this portion of the Easement Area. Such security and safety improvements shall be subject to prior approval as to design by Hanson (such approval not to be unreasonably withheld), and the City shall cooperate and consult with Hanson in the design of such security and safety improvements. The minimum standard for the fencing shall be eight (8) foot high chain link fencing with three (3) foot high top guards that curve to the inside of the greenway area.
- f. With respect to the greenway easement and trail improvements west of Duraleigh Road, Hanson shall have the right to: (i) remove and prosecute persons on the greenway during periods when the greenway is not open to the public and at times when the greenway is open to the public if such persons are creating a safety or security risk for Grantor; and (ii) implement such other reasonable security measures as it deems necessary and appropriate or as may be required by its insurance carrier; provided, however, Grantor will provide a minimum of thirty (30) days prior written notice to the City prior to installing or implementing additional security measures.

4. City’s Covenant and Indemnity. To the extent authorized by law, the City agrees to hold the Grantor harmless from liability for personal injury or property damage arising out of the use of the Easement for Greenway purposes; provided, the Grantor shall not be held harmless from liability caused by the active fault or negligence of the Grantor, or instrumentalities of the Grantor, its agents, invitees, or contractors; or by acts of the Grantor, its agents, invitees, or contractors which violate the terms and conditions of this Easement. The parties acknowledge that the authority of a municipality to indemnify against claims has not been established by any N.C. statute or court decision.

5. Jurisdiction and Venue. In the event of any dispute arising under terms of this Easement, jurisdiction shall be in the courts of North Carolina, and venue shall be in Wake County.

6. Severability. If any provision of this Easement is declared void, invalid or otherwise unenforceable for any reason by a court of competent jurisdiction, the remaining provisions shall continue to be fully effective and enforceable, it being the express intent of the Parties that the provisions hereof be Severable.

**THE EASEMENT** interest herein described and conveyed does not include a primary residence of the Grantor.

**TO HAVE AND TO HOLD** the right, privileges, and easements herein granted to the City, its successors and assigns forever. The Easement shall run with the land as a perpetual servitude, and shall be binding upon the Grantor and its agents, successors, and assigns forever.

**AND THE GRANTOR COVENANTS** that it is vested of the Easement, and has the right to convey the same; that the same is free from encumbrances except as hereinafter stated, and that the Grantor will warrant and defend title to the same against the claims of all persons whomsoever.

Subject to easements, restrictions, and encumbrances of record.

**IN WITNESSETH WHEREOF**, the Grantor has duly executed the foregoing instrument in the name of the limited liability company, by the signature of its \_\_\_\_\_ as the act and deed of the limited liability company, and the City has executed the instrument in its corporate name, by the signature of its City Manager, attested by its City Clerk-Treasurer, for the purpose of giving and memorializing its consent thereto, all on the day and year first above written.

HANSON AGGREGATES SOUTHEAST LLC

By: \_\_\_\_\_ (SEAL)

Its: \_\_\_\_\_

Consented to:

CITY OF RALEIGH

By: \_\_\_\_\_ (SEAL)

Its: \_\_\_\_\_

ATTEST: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

PROPERTY DESCRIPTION APPROVED:

APPROVED AS TO FORM:

\_\_\_\_\_  
Public Works Director

\_\_\_\_\_  
City Attorney

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 2013, before me personally came \_\_\_\_\_, with whom I am personally acquainted, who, being be me duly sworn, says that (s) he is the

\_\_\_\_\_ of  
Hanson Aggregates Southeast, LLC , the limited liability company and principal named in the foregoing instrument; that the name of the company was subscribed thereto by the said \_\_\_\_\_, and that the instrument is the act and deed of the limited liability company.

Witness my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
(notary's printed name)

My Commission Expires: \_\_\_\_\_

NORTH CAROLINA

COUNTY OF WAKE

CITY/MANAGER  
ACKNOWLEDGEMENT

This is to certify that on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and Ruffin L. Hall is the City Manager of the City of Raleigh, 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 City Clerk and Treasurer and that the official 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 the municipal corporation.

WITNESS my hand and official seal this the \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary's Printed Name

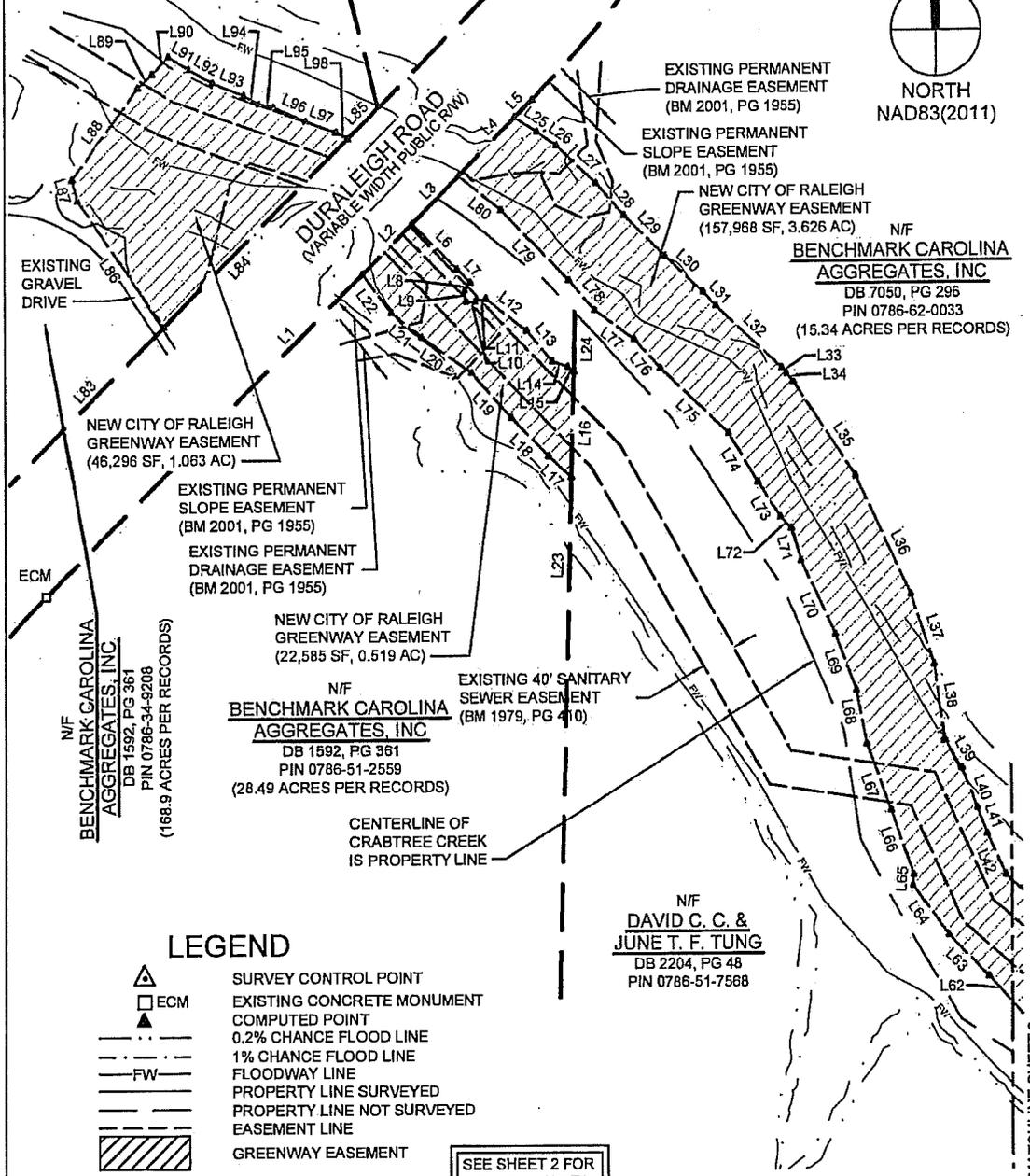
(SEAL)

My Commission Expires: \_\_\_\_\_

## EXHIBIT 1

Being those easement areas identified as "NEW CITY OF RALEIGH GREENWAY EASEMENT", comprising 226,849 sq. ft. (5.21 acres) as shown and described on that exhibit plat entitled, "EASEMENT ACQUISITION MAP FOR CRABTREE CREEK GREENWAY", sheet 1 of 3, 2 of 3, and 3 of 3, respectively, prepared by Stewart engineering company, and attached as EXHIBIT 1-A.

EXHIBIT 1-A

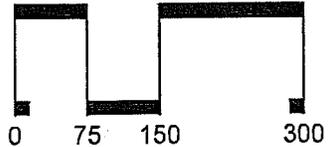


LEGEND

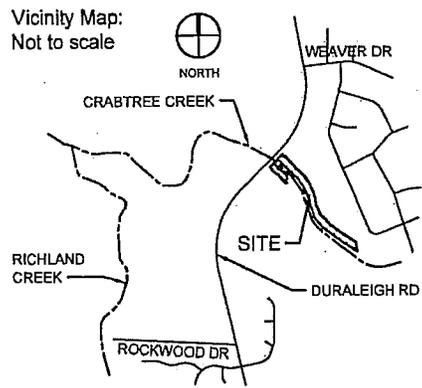
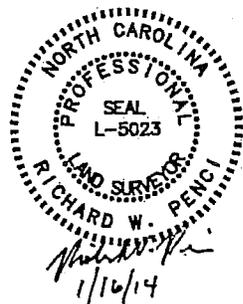
- SURVEY CONTROL POINT
- EXISTING CONCRETE MONUMENT
- COMPUTED POINT
- 0.2% CHANCE FLOOD LINE
- 1% CHANCE FLOOD LINE
- FLOODWAY LINE
- PROPERTY LINE SURVEYED
- PROPERTY LINE NOT SURVEYED
- EASEMENT LINE
- GREENWAY EASEMENT

SEE SHEET 2 FOR GENERAL NOTES AND SHEET 3 FOR LINE TABLES

THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

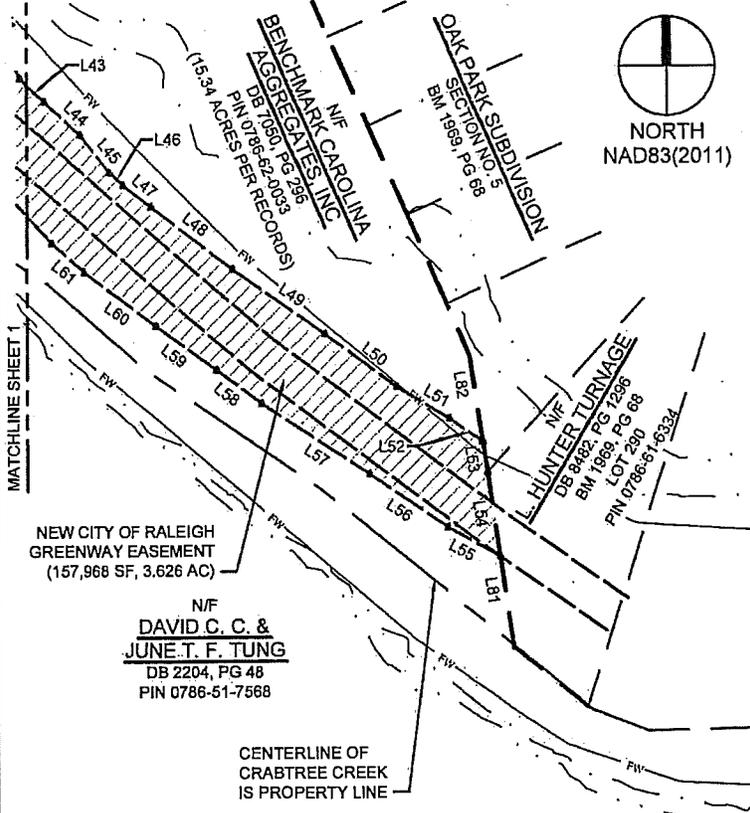


SCALE: 1" = 150'

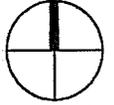


EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

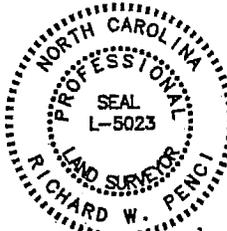
Project No: G13026	Revised: 1/16/14
Scale: 1"=150'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	1 OF 3



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.

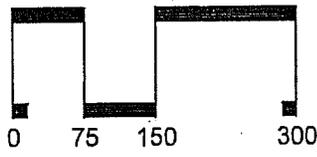


NORTH  
NAD83(2011)



*Richard W. Pencel*  
1/16/14

SEE SHEET 3 FOR LINE TABLES



SCALE: 1" = 150'

**GENERAL NOTES**

- THIS PLAT IS INTENDED TO REPRESENT CITY OF RALEIGH GREENWAY EASEMENTS ON A PORTION OF THE PROPERTY OF BENCHMARK CAROLINA AGGREGATES, INC., PIN 0786-34-9208, AND IS NOT A BOUNDARY SURVEY. THIS SURVEY WAS PERFORMED WITHOUT THE BENEFIT OF A TITLE REPORT AND THEREFORE ALL ENCUMBRANCES UPON THE PROPERTY MAY NOT BE SHOWN.
- REFERENCES:  
DEED BOOK 1592, PAGE 361  
DEED BOOK 14831, PAGE 744  
BOOK OF MAPS 1990, PAGE 765  
BOOK OF MAPS 2001, PAGES 1953-1955
- HORIZONTAL DATUM IS NAD 83 (2011) AND VERTICAL DATUM IS NAVD88. BASED ON GPS METHODS USING REAL-TIME KINEMATIC SOLUTIONS FOR THE SURVEY CONTROL POINTS SHOWN HEREON AND TIED TO NORTH CAROLINA GEODETIC SURVEY MONUMENTS "ANNE LAKE 3" AND "PATROL 2".  
  

"ANNE LAKE 3"	"PATROL 2"
N 772886.53'	N 747347.08'
E 2080781.95'	E 2086727.63'
EL 376.98'	EL 493.99'
- THE INITIAL STATE PLANE POSTIONS FOR THIS SURVEY WERE SCALED FROM GRID TO GROUND FROM A PROJECT LOCATION OF N:760851.569' E:2084641.372', AN ELEVATION OF 361.55', USING A COMBINED FACTOR OF 0.99991836.
- THE SUBJECT PROPERTY IS ZONED PIN 0786-34-9208 "R-4" (RESIDENTIAL) AND PIN 0786-30-8569 "R-6" (RESIDENTIAL) PER THE WAKE COUNTY GEOGRAPHIC INFORMATION SYSTEM.
- THE SUBJECT PROPERTY LIES IN ZONES X (AREA DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE AND FUTURE CONDITIONS 1% ANNUAL CHANCE FLOODPLAIN), X (SHADED) (AREA OF 0.2% ANNUAL CHANCE FLOOD; AREAS OF FUTURE CONDITIONS 1% ANNUAL CHANCE FLOOD; AREAS OF 1% ANNUAL CHANCE FLOOD WITH AVERAGE DEPTHS OF LESS THAN 1 FOOT OR WITH DRAINAGE AREAS OF LESS THAN 1 SQUARE MILE; AND AREAS PROTECTED BY LEVEES FROM 1% ANNUAL CHANCE FLOOD), AE (AREA DETERMINED TO BE INSIDE THE 1% ANNUAL CHANCE FLOOD, BASE FLOOD ELEVATIONS DETERMINED), AND FLOODWAY (DELINEATED FLOODWAY OF A STREAM). BASED ON THE FLOOD INSURANCE RATE MAP COMMUNITY MAP NUMBER 3720078600J DATED MAY 2, 2006. FLOOD HAZARD LINES SHOWN HEREON ARE FROM NCFLOODMAPS.COM.
- ADDRESS: 5209 DURALEIGH ROAD



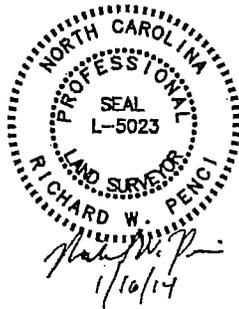
EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
MEREDITH TOWNSHIP, CITY OF RALEIGH  
WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Revised: 1/16/14
Scale: 1"=150'	Date: 10/25/13
Drawn By: RWP	Drawing No:
Checked By: RWP	2 OF 3

LINE TABLE		
LINE	BEARING	DISTANCE
L1	N45°16'54"E	500.31'
L2	N45°16'54"E	78.54'
L3	N45°16'54"E	74.00'
L4	N45°16'54"E	91.24'
L5	N45°16'54"E	27.20'
L6	S45°03'27"E	70.90'
L7	S45°29'31"E	20.94'
L8	S36°00'44"W	11.40'
L9	S09°54'11"E	11.97'
L10	S89°30'40"E	9.92'
L11	N77°07'42"E	13.48'
L12	S52°08'44"E	57.90'
L13	S39°56'15"E	44.09'
L14	S70°08'57"E	17.99'
L15	S48°29'02"E	8.68'
L16	S01°33'58"W	115.51'
L17	N47°11'49"W	33.88'
L18	N44°10'06"W	59.20'
L19	N42°34'32"W	67.50'
L20	N54°42'58"W	68.74'
L21	N51°11'32"W	43.24'
L22	N37°10'13"W	53.04'
L23	S01°33'58"W	573.37'
L24	S01°33'58"W	65.54'
L25	S56°26'21"E	29.27'
L26	S55°14'55"E	26.56'
L27	S46°22'54"E	60.36'
L28	S41°16'05"E	47.57'
L29	S45°18'47"E	63.71'
L30	S47°21'50"E	58.29'
L31	S42°52'33"E	21.76'
L32	S47°02'57"E	100.69'
L33	S43°57'54"E	8.82'

LINE TABLE		
LINE	BEARING	DISTANCE
L34	S38°02'31"E	11.85'
L35	S33°34'30"E	124.59'
L36	S25°21'21"E	144.53'
L37	S18°27'42"E	81.36'
L38	S08°05'24"E	84.64'
L39	S31°49'16"E	35.92'
L40	S21°14'11"E	47.29'
L41	S20°56'07"E	30.87'
L42	S24°23'23"E	49.55'
L43	S47°43'14"E	35.10'
L44	S47°43'14"E	50.26'
L45	S39°21'27"E	50.08'
L46	S46°09'19"E	18.88'
L47	S53°36'07"E	37.70'
L48	S52°38'11"E	106.07'
L49	S55°12'57"E	116.73'
L50	S53°35'09"E	92.22'
L51	S59°29'38"E	63.61'
L52	S55°36'26"E	42.00'
L53	N08°32'00"W	32.15'
L54	N08°32'00"W	87.87'
L55	N60°52'04"W	62.49'
L56	N55°42'20"W	98.31'
L57	N56°56'40"W	133.40'
L58	N53°27'03"W	57.69'
L59	N54°12'04"W	77.83'
L60	N53°52'23"W	94.24'
L61	N49°02'07"W	45.36'
L62	N42°37'42"W	77.09'
L63	N44°32'01"W	64.31'
L64	N36°26'46"W	67.93'
L65	N03°46'49"E	11.80'
L66	N19°35'40"W	75.25'

LINE TABLE		
LINE	BEARING	DISTANCE
L67	N20°22'44"W	78.51'
L68	N10°40'51"W	60.14'
L69	N20°44'45"W	65.93'
L70	N25°06'12"W	90.18'
L71	N15°46'42"W	36.66'
L72	N44°52'45"W	18.19'
L73	N33°02'29"W	45.60'
L74	N31°19'08"W	63.40'
L75	N46°52'05"W	105.49'
L76	N42°00'43"W	43.11'
L77	N53°55'47"W	54.85'
L78	N40°23'24"W	43.70'
L79	N44°13'38"W	108.28'
L80	N52°18'38"W	61.18'
L81	N08°32'00"W	95.18'
L82	N08°32'00"W	88.35'
L83	N45°16'54"E	363.37'
L84	N45°16'54"E	291.77'
L85	N45°16'54"E	47.97'
L86	N34°27'59"W	169.88'
L87	N15°17'37"W	23.32'
L88	N36°37'22"E	124.83'
L89	N46°31'40"E	21.62'
L90	N43°42'07"E	26.45'
L91	S58°25'08"E	26.77'
L92	S61°17'12"E	31.01'
L93	S68°13'30"E	37.78'
L94	S61°12'56"E	20.02'
L95	S77°29'51"E	16.17'
L96	S66°19'45"E	39.28'
L97	S69°48'06"E	35.51'
L98	S61°24'57"E	15.33'



THIS MAP IS NOT A CERTIFIED SURVEY AND HAS NOT BEEN REVIEWED BY A LOCAL GOVERNMENT AGENCY FOR COMPLIANCE WITH ANY APPLICABLE LAND DEVELOPMENT REGULATIONS.



EASEMENT ACQUISITION MAP FOR:  
**CRABTREE CREEK GREENWAY**  
 MEREDITH TOWNSHIP, CITY OF RALEIGH  
 WAKE COUNTY, NORTH CAROLINA

Project No: G13026	Revised: 1/16/14
Scale: NA	Date: 10/25/13
Drawn By: RWP	Drawing No: 3 OF 3
Checked By: RWP	

## AFFIDAVIT OF NIGEL F. WILLS

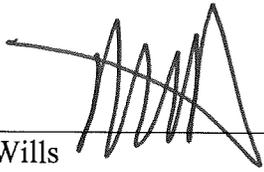
The undersigned, Nigel F. Wills having been duly sworn, deposes and says as follows:

1. I am a resident of the State of Texas and am Director of Mineral Resources for Lehigh Hanson, Inc. (hereinafter "Hanson"). My professional curriculum vitae is attached hereto as Appendix 1. I am providing this information at the request of the City of Raleigh.
2. Hanson has made significant investments to purchase for mining purposes the assembled parcels comprising the Crabtree Quarry Property north of Crabtree Quarry. I have reviewed the real estate records regarding the assemblage of that property, and, upon information and belief, Appendix 2 attached hereto is an accurate list of the acquisition of those parcel and the use and acquisition date of each parcel. In addition, Hanson has made significant investments in grading, berming, and excavation in order to comply with the North Carolina Mining Act. In addition, Hanson has made significant investments to purchase and/or install the equipment and structures required for operations. Altogether, these investments include not only the acquisition of contiguous parcels, but also the excavation of the pit; the construction of berms, settling ponds and stockpile areas; landscaping and buffering; and the installation and maintenance of the primary crusher, processing facility, entrance driveway, weigh station and other accessory structures and equipment on the mining property. All totaled, Hanson has made a tremendous amount of capital investments in the quarry.
3. The investments described in paragraph 2 above are long-term investments. It is not unusual for the projected life of a modern quarry to be 100 years or more at the same location, and a quarry owner, such as Hanson, expects to be able to continue mining the areas purchased for reserves for that entire period.

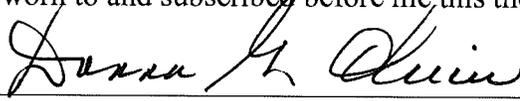
4. Part of the investment needed to operate a quarry is the maintenance, renovation, improvements, and repair of equipment, such as the primary crusher and processing plant, to correct deterioration and to keep the equipment operating safely. Many of the mechanical parts of this type of equipment are exposed to the elements and must be regularly inspected and repaired. Employees of Hanson and/or its contractors routinely work around, or actually on, this equipment, which is subject to regularly inspection by the North Carolina Division Energy, Mineral and Land Resources, as well as the Department of Labor, Mine and Quarry Bureau, which is charged with ensuring compliance with the 1975 Mine Safety and Health Act of North Carolina and U.S. Department of Labor Mine Safety and Health Administration regulations (30 CFR Part 46-48 inclusive).
5. Likewise, settling ponds and temporary stockpiles are essential parts of aggregate quarry operations and required by Hanson's North Carolina Mining Permit and by North Carolina environmental protection regulations. These components of the quarry, by their very nature, will deteriorate if they are not properly maintained, and Hanson must, does, and will maintain them on a regular basis in compliance with its legal obligations.
6. Another necessary component of a quarry operation is a weigh station that weighs every vehicle hauling aggregate before it leaves the quarry and enters public roadways in order to ensure compliance with North Carolina Department of Transportation regulations. In basic terms, the weigh station is simply an impervious vehicular surface area that has a weigh scale beneath it.
7. All of these components discussed above, as well as others, are essential for the continued safe operations of Crabtree Quarry

FURTHER THE AFFIANT SAYTH NOT.

This the 19 day of November, 2013.

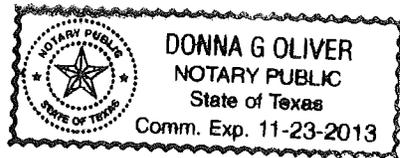
  
\_\_\_\_\_  
Nigel F. Wills

Sworn to and subscribed before me this the 19<sup>th</sup> day of November, 2013.

  
\_\_\_\_\_  
Notary Public

My commission expires: 11-23-13

(SEAL)



Nigel F. Wills  
409 Waterside Drive  
Irving, Texas 75063  
[nfwills@aol.com](mailto:nfwills@aol.com)

**Objective:** To

**Career Highlights:**

2006-Present:

Director of Mineral Resources – Hanson Aggregates – Irving, Texas

2003-2006

Regional Land Manager – Hanson Aggregates – Atlanta, Georgia

1999-2003

Environmental Director – Hanson Aggregates – Atlanta, Georgia

1998- 1999

Environmental Manager – Hanson Aggregates – Cheraw, South Carolina

1986-1998

Vice President – Becker Minerals, Inc – Cheraw, South Carolina

1979 to 1986

Various positions within Mc Alpine group of companies in USA & South Africa.

1974-1979

Geologist – National Coal Board – Durham, England

**Education:**

Ashridge Management School

Batchelor of Science from University of Newcastle upon Tyne

**References:**

Available upon request

## APPENDIX 2

### NORTHERN ASSEMBLAGE — USE AND ACQUISITION DATES BY PARCEL

#### **Parcel 1 (25 acres)**

- Spikes to American Marietta Company
  - July 21, 1961 – DB&P 1463/96
- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

#### **Parcel 2 (9.14 acres)**

- From King to Nello L. Teer Company
  - October 12, 1984 – DB&P 3366/856

#### **Parcel 3 (18 acres)**

- From Ashburn to Martin Marietta Corporation
  - October 24, 1962 – DB&P 1533/577
- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

#### **Parcel 4 (3.8 acres)**

- From Blake to American Marietta Company
  - March 31, 1961 – DB&P 1447/602
- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

#### **Parcel 5 (5.4 acres)**

- From Blake to American Marietta Company
  - February 28, 1961 – DB&P 1443/372
- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

#### **Parcel 6 (0.9 acres)**

- From Smith to Nello L. Teer Company

- December 9, 1985 – DB&P 3620/549

**Parcel 7 (21.35 acres)**

- From Rogers to Bryan Sand & Rock Company
  - February 4, 1954 - DB&P 1142/411
- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

**Parcel 8 (Parcel 8 and Parcel 11 30.0 acres)**

- Contract and Agreement-Lease J. Frank Davidson and Elizabeth Cahoon Howell to Bryan Rock & Sand
  - January 5, 1947 - DB&P 986/552
- Assignment Bryan Rock and Sand Company and America-Marietta Company
  - July 31, 1959 – DB&P 1377/605
- Contract and Agreement-Lease J. Frank Davidson and Elizabeth Cahoon Howell to America Marietta
  - January 3, 1961 - DB&P 1438/737
- From Mary Elizabeth Davidson to Henry Clarence Howell and Elizabeth Howell Derreth
  - August 11, 1965 - DB&P 1665/46
- From Beazer East to Benchmark Carolina Aggregates
  - June 27, 1996 - DB&P 7050/296

**Parcel 9 (22.5 acres)**

- From Faucette to State Highway and Public Works Commission
  - February 21, 1941- DB&P 857/443
- From North Carolina Department of Transportation to Nello L. Teer
  - November 20, 1979 - DB&P 2789/696

**Parcel 10 (10.8 acres)**

- From Davidson to American Marietta Company
  - January 3, 1961 – DB&P 1437/382

- From American Marietta Company to Nello L. Teer
  - March 31, 1964 - DB&P 1592/361

**Parcel 11 (Parcel 8 and Parcel 11 30.0 acres)**

- Contract and Agreement-Lease J. Frank Davidson and Elizabeth Cahoon Howell to Bryan Rock & Sand
  - January 5, 1947 - DB&P 986/552
- Assignment Bryan Rock and Sand Company and America-Marietta Company
  - July 31, 1959 – DB&P 1377/605
- Contract and Agreement-Lease J. Frank Davidson and Elizabeth Cahoon Howell to America Marietta
  - January 3, 1961 - DB&P 1438/737
- From Mary Elizabeth Davidson to Henry Clarence Howell and Elizabeth Howell Derreth
  - August 11, 1965 - DB&P 1665/46
- From Beazer East to Benchmark Carolina Aggregates
  - June 27, 1996 - DB&P 7050/296