

**MEMORANDUM OF AGREEMENT
BETWEEN
THE UNITED STATES ARMY CORPS OF ENGINEERS,
THE NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER
ALEXANDER FARMS MU, LLC,
AND
PRESERVE MECKLENBURG, INC.
REGARDING
CONSTRUCTION OF THE ALEXANDER FARMS MIXED USE DEVELOPMENT
MECKLENBURG COUNTY, NORTH CAROLINA
SAW-2019-00824 | ER 19-1985**

WHEREAS, Alexander Farms MU, LLC (Developer) proposes to construct a mixed-use development consisting of approximately 55 acres at the Northeast corner of *Catawba* Avenue and Westmoreland Road, Town of Cornelius, Mecklenburg County, North Carolina. The development will consist of single-family lots, age restricted senior housing, retail, office, and medical facilities along with all associated access roads, parking, utilities, and stormwater management facilities (the Undertaking); and

WHEREAS, infrastructure development on the site (grading, roads, stormwater management) will need to satisfy the watershed permit requirements of 33 CFR 325.1 as the Undertaking proposes impacts to 0.18-acre of jurisdictional wetlands and 347 linear feet (LF) of jurisdictional streams; and

WHEREAS, the proposed activities will require a U.S. Army Corps of Engineers (USACE) permit pursuant to Nationwide Permits 29 and 39 and General 401 Water Quality Certification approval DWR # 20211268, Individual Certification # WQCOO4518; and

WHEREAS, USACE has been designated the lead federal agency for this Undertaking with regard to compliance with Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108); and

WHEREAS, USACE, has determined that this Undertaking's Area of Potential Effects (APE) is the approximately 55 acres shown in Appendix A; and

WHEREAS, USACE has determined that the Undertaking will have an adverse effect on the J. Wilson Alexander Tenant House located at 18324 W. Catawba Avenue (MK2293), a property determined eligible for listing in the National Register of Historic Places in 2019, and has consulted with the North Carolina State Historic Preservation Office (SHPO) pursuant to 36 CFR § 800, the regulations implementing Section 106 of the National Historic Preservation Act (54 U.S.C. § 300101); and

WHEREAS, in accordance with 36 CFR § 800.6(a)(1), USACE has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

WHEREAS, Developer is a consulting party as an applicant for a federal permit and/or assistance and is therefore an invited signatory, pursuant to 36 CFR § 800.2(c)(4); and

WHEREAS, Preserve Mecklenburg, Inc. (PMI) has participated in the consultation regarding the resolution of adverse effects to the historic property, has responsibilities under the Agreement, and has been invited to the Agreement as an invited signatory;

NOW, THEREFORE, USACE, SHPO, Developer, and PMI agree that the Undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the Undertaking on the historic property.

STIPULATIONS

USACE shall ensure that the following measures are carried out:

I. PUBLIC EDUCATION/INTERPRETIVE EXHIBIT

For the purposes of the continued public engagement and interpretation of the J. Wilson Alexander Farm Tenant House (Tenant House) and the history of tenant farming in Mecklenburg County, the Developer will create and install an interpretive exhibit (Exhibit) and Commemorative Monument (Monument) on-site as outlined below.

- A. Developer will consult with PMI and local interested parties to create the content and design for the Exhibit. The Exhibit will detail the history of the Alexander Farm, Tenant House and tenant farming in Mecklenburg County. Development strategies should include, but are not limited to, the use of resources such as the 2019 Architectural Evaluation report, historic photographs, and local written or oral histories.
- B. The Exhibit will be integrated into the design of the Alexander Farms Food Court Pavilion as shown in Appendix B and will include interpretive signage or panels and a “ghost foundation” that replicates the Tenant House footprint.
- C. A stand-alone commemorative monument will be erected at the current site of the Tenant House to indicate its historic location.
 1. The monument may take the form of a sign, plaque or pedestal.
 2. The monument should provide a clear representation of the front elevation of the Tenant House, a brief description of its significance, and encourage viewers to visit the Exhibit located at the food court.

- D. Developer will provide a draft of the Exhibit and Monument plans to SHPO and PMI within six (6) months of the execution of this Agreement.
 - 1. SHPO will have thirty (30) days to comment on the draft plans.
 - 2. If SHPO does not comment within thirty (30) days, Developer may move forward with the development of final Exhibit and Monument plans.
- E. Developer will provide a final draft of the Exhibit and Monument plans to SHPO and PMI within twelve (12) months of the execution of this Agreement.
 - 1. SHPO will have thirty (30) days to comment on the draft plans.
 - 2. If SHPO does not comment within thirty (30) days, Developer may consider the plans to be final and move forward with construction of the Exhibit and Monument as proposed.
- F. The Exhibit and Monument should be completed and installed within two (2) years of the execution of this agreement.
- G. Developer will include provisions for the maintenance and upkeep of the Exhibit and the Monument for no less than ten (10) years as part of the Alexander Farms development Homeowners Associations fees and responsibilities.

II. RELOCATION

Developer will provide a \$15,000 donation to PMI for the purpose of aiding in the relocation of the Tenant House. PMI will ensure that the Tenant House is used to continue the story of tenant farming in Mecklenburg County through adaptive reuse or other educational opportunities.

- A. Donation should be made within three (3) months of execution of this Agreement.
- B. PMI will have forty-five days (45) from the execution of this Agreement to remove the structure.
- C. Developer will offer a grace period of no less than fifteen (15) days beyond the deadline listed in Stipulation II.B, if PMI provides reasonable assurance prior to that deadline of their intent and ability to relocate the structure.
- D. If the structure has not been relocated by PMI within sixty (60) days from the execution of this Agreement, and the Developer does not have an existing agreement with PMI as cause to delay further, then the Developer may remove the structure as they see fit.
- E. To ensure that no other historic properties are adversely affected by the relocation, PMI will provide the SHPO with details of the proposed new location for review and comment. SHPO will have fifteen (15) days to provide comment. If SHPO does not

provide comment regarding affects to historic properties within fifteen (15) days then PMI and the developer may move forward with the proposed relocation plans.

III. POST-REVIEW DISCOVERIES AND HUMAN REMAINS

If additional properties are discovered that may be historically significant or unanticipated effects on historic properties found, USACE shall be immediately notified and all work in the vicinity of the discovered materials shall cease until an evaluation can be made in consultation with SHPO.

Cemeteries are protected under North Carolina General Statute section 14-148 and 14-149 and abandoned and neglected cemeteries are afforded consideration under Chapter 65. If any marked or unmarked human remains are discovered during construction, they shall be treated in accordance with the Unmarked Human Burial and Human Skeletal Remains Protection Act, North Carolina General Statute, Chapter 70 Article 3.

IV. DURATION

This Agreement will expire if its terms are not carried out within three (3) years from the date of its execution. Prior to such time, USACE may consult with the other signatories to reconsider the terms of the Agreement and amend it in accordance with Stipulation VII below.

V. MONITORING AND REPORTING

Following the execution of this Agreement, until it expires or is terminated, the Developer shall provide a summary report every six (6) months detailing the work undertaken to all parties to this agreement. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received related to carrying out the terms of this Agreement.

VII. DISPUTE RESOLUTION

Should any signatory to this Agreement object at any time to any actions proposed or the manner in which the terms of this Agreement are implemented, USACE shall consult with such party to resolve the objection. If USACE determines that such objection cannot be resolved, USACE will:

- A. Forward all documentation relevant to the dispute, including USACE's proposed resolution, to the ACHP. The ACHP shall provide USACE with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation.
- B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period, USACE may make a final decision on the dispute and proceed accordingly.

- C. Prior to reaching a final decision on the dispute, USACE shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. USACE will then proceed according to its final decision.
- D. The parties' respective responsibility to carry out all other actions subject to the terms of this Agreement that are not the subject of the dispute remain unchanged.

VIII. AMENDMENTS

This Agreement may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

IX. TERMINATION

If any signatory to this Agreement determines that its terms will not, or cannot be carried out, that party shall immediately consult with the other signatories to attempt to develop an amendment per Stipulation VIII, above.

If within thirty (30) days an amendment cannot be reached, any signatory may terminate the Agreement upon written notification to the other signatories.

Once the Agreement is terminated, and prior to work continuing on the Undertaking, USACE will either (a) execute another agreement pursuant to 36 CFR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. USACE shall notify the signatories as to the course of action it will pursue.

X. IMPLEMENTATION

Execution of this Agreement by USACE, SHPO, Alexander Farms MU, LLC, and Preserve Mecklenburg, Inc., and implementation of its terms are evidence that USACE has taken into account the effects of this Undertaking on the historic property and afforded the ACHP an opportunity to comment.

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AGREED:

**U.S. ARMY CORPS OF ENGINEERS
FOR THE COMMANDER**

MCLENDON.C.SCOTT.1229682071
9682071

Digitally signed by
MCLENDON.C.SCOTT.1229682071
Date: 2022.02.11 08:53:45 -05'00'

Scott McLendon
Chief, Regulatory Division
Wilmington District

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AGREED:

NORTH CAROLINA STATE HISTORIC PRESERVATION OFFICER



Dr. Darin J. Waters
State Historic Preservation Officer

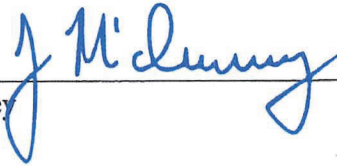
Date: 2/1/22

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AGREED:

ALEXANDER FARMS MU, LLC

Jesse McInerney
Manager



Date: JANUARY 21, 2022

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AGREED:

PRESERVE MECKLENBURG, INC

7LDDL Date: 1-24-22
Tommy Lee
Executive Committee Chair

FILED:

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Name/Title Date: _____

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APPENDIX A

Area of Potential Effects Map

W Catawba Ave and Westmoreland Rd, Cornelius, Mecklenburg County, North Carolina

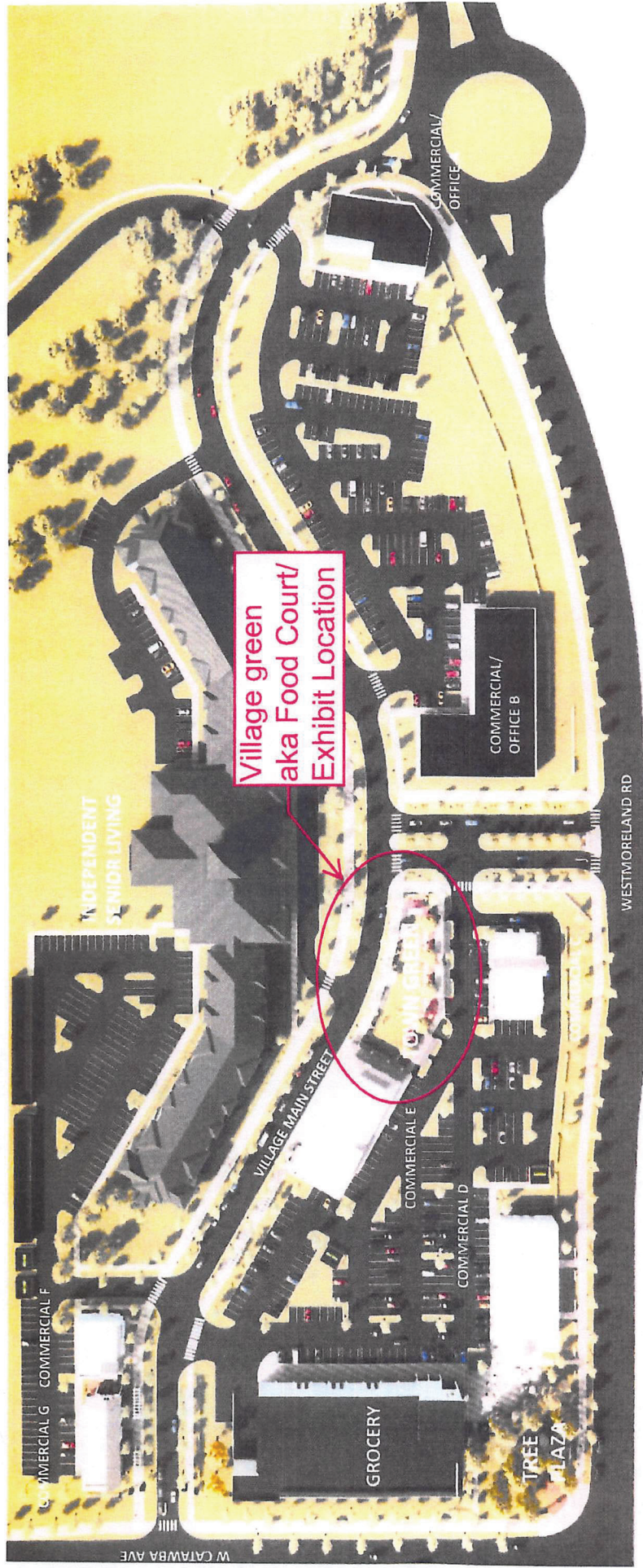


APE is outlined in RED.

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APPENDIX B

**Alexander Farms Site Map
with Food Court and Exhibit Location**



Commercial Area Site Plan



Birdseye of Village Green Looking towards W Catawba