

Prepared by and return to:
William G. Burgin, III
Tuggle Duggins P.A.
P. O. Box 2888
Greensboro, NC 27402

NORTH CAROLINA

CUMBERLAND COUNTY

ABANDONMENT AND RELEASE OF
EASEMENTS

THIS ABANDONMENT AND RELEASE OF EASEMENTS, made this ____ day of _____, 2021, by THE CITY OF FAYETTEVILLE, a municipal corporation of Cumberland County and State of North Carolina (the "City"), to HOKE LOOP COMMONS ASSOCIATES LIMITED PARTNERSHIP, a North Carolina limited partnership ("Hoke Loop"),

WITNESSETH:

WHEREAS, Hoke Loop holds fee simple title to that certain parcel of land located in Fayetteville, Cumberland County, North Carolina, more particularly described as follows (the "Hoke Loop Property"):

BEING ALL of that certain 6.46 acres, more or less, per plat of survey entitled "Recombination Survey for HOKE LOOP COMMONS, Harold Kidd Tract" prepared by Leland D. Strother, P.L.S., duly recorded in Plat Book 142, page 114 of the Cumberland County, NC, Registry.

WHEREAS, there are certain water and sanitary sewer utility easements running through the Hoke Loop Property recorded in the Cumberland County Registry and more particularly described as follows (collectively, the "Utility Easements"):

Deed Book 9582, page 863 (being a revision and replacement of Deed Book 9573, page 66); and
Deed Book 9582, page 873 (being a revision and replacement of Deed Book 9573, page 70).

WHEREAS, Hoke Loop has requested that the City abandon and release the above utility easements as the existing sewer line has now been relocated to accommodate the multi-family apartment complex constructed on the Property;

WHEREAS, Hoke Loop has granted the City a blanket Water and Sanitary Sewer Utility Easement over the Hoke Loop Property as recorded in Book 11061, Page 520, Cumberland County Registry.

WHEREAS, on the ____ day of _____, 2021, the City Council, upon the recommendation of the Fayetteville Public Works Commission, adopted a resolution authorizing the abandonment and release of certain sections of the Utility Easements;

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other valuables, the receipt of which is hereby acknowledged, the City does hereby abandon and terminate the Utility Easements; provided, however, that no easement is abandoned except and to the extent specifically referenced on Exhibit "A" and Exhibit "B."

TO HAVE AND TO HOLD unto Hoke Loop, its heirs, assigns, and successors in title, the aforesaid lot free and clear of the above-described Utility Easements, forever.

FURTHER, Hoke Loop, its heirs, assigns, and successors in title, agree to hold PWC, its officers, and agents and employees harmless from any and all claims concerning the Utility Easements, all as set forth in the Release and Agreement to Hold Harmless between PWC and Hoke Loop dated _____, 2021(the "Release Agreement"), to be delivered by Hoke Loop contemporaneously with this Abandonment and Release of Easements. Notwithstanding the foregoing, if the United States Department of Housing and Urban Development ("HUD") is ever deemed the "Owner" of all or part of the property described on Exhibit "A," HUD shall not be subject to the indemnification provisions contained in the Release Agreement. HUD prohibits and does not authorize any expenditure which would violate 31 USC 1341 (the "Anti-Deficiency Act"). Any provision of the Release Agreement which violate(s)(d) the Anti-Deficiency Act, in the past, present or future, will not be enforced against HUD. Notwithstanding any other provision of the Release Agreement, HUD whether in the capacity of subsidy provider, loan insurer, lender, owner, lessee or mortgagee in possession, shall have no obligation of reimbursement, indemnity, or holding harmless, of any nature whatsoever, to any governmental entity, private entity, person or party, either now or in the future.

(The remainder of this page is left blank intentionally)

IN WITNESS WHEREOF, the undersigned have executed this Abandonment and Release of Easements as of the respective dates set forth in the below notary acknowledgements, with the latter of said dates to comprise the effective date hereof.

CITY OF FAYETTEVILLE

By: _____
Douglas J. Hewett, City Manager, ICMA-CM

ATTEST:

Pamela Megill, City Clerk

***STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND***

I, _____, a Notary Public for _____ County, North Carolina, certify that ***Pamela Megill*** personally came before me this day and acknowledged that she is the ***City Clerk*** of ***City of Fayetteville***, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the Corporation, the foregoing instrument was signed in its name by its City Manager, sealed with its corporate seal and attested by herself as its ***City Clerk***.

Witness my hand and notarial seal, this the _____ day of _____, 2021.

Place seal here ↓



Notary Public

My commission expires: _____

(See Additional Signature/Notary Page)

IN WITNESS WHEREOF, the undersigned have executed this Abandonment and Release of Easements as of the respective dates set forth in the below notary acknowledgements, with the latter of said dates to comprise the effective date hereof.

HOKE LOOP COMMONS ASSOCIATES
LIMITED PARTNERSHIP
a NC limited partnership

By: Hoke Loop Commons/Duggins, LLC,
a NC limited liability company
Its: General Partner

By: _____
Name: James B. Smith
Title: Manager

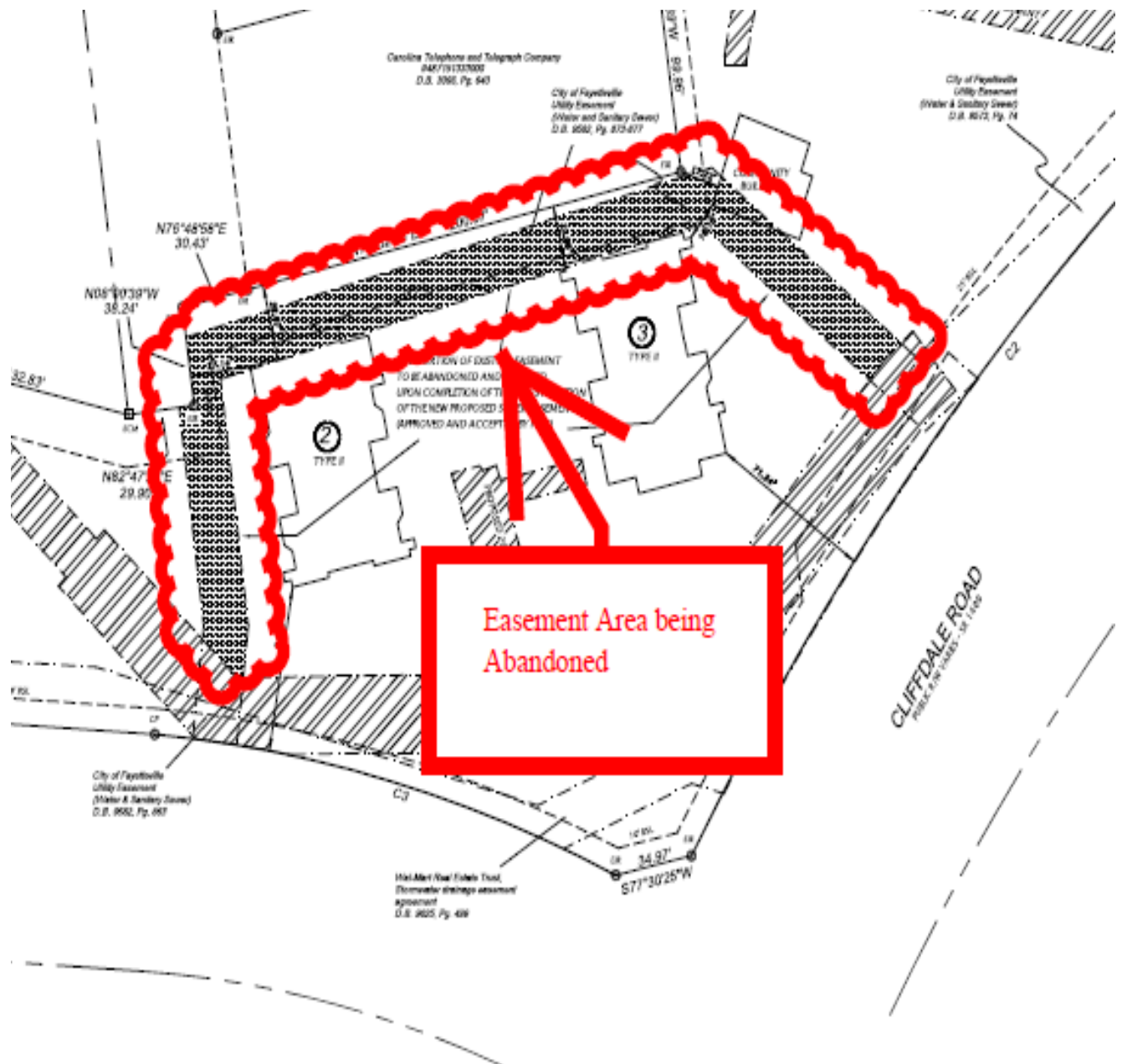
NORTH CAROLINA
_____ COUNTY

I, the undersigned Notary Public of the County and State aforesaid, certify that James B. Smith personally appeared before me this day and acknowledged that he is the Manager of Hoke Loop Commons/Duggins, LLC, a North Carolina limited liability company, General Partner of Hoke Loop Commons Associates Limited Partnership, a North Carolina limited partnership, and that by authority duly given and as the act of such entity, he signed the foregoing in its name on its behalf as its act and deed. Witness my hand and official stamp or seal, this the _____ day of _____, 2021.

Notary Public
Notary Printed Name: _____
My Commission Expires: _____

[Notary Seal/Stamp]

Exhibit "A"



This map may not be a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations and has not been reviewed for compliance with recording requirements for plats.

Exhibit "B"

LYING in Seventy First Township, Cumberland County, in the city limits of Fayetteville, North Carolina, this subject property being bounded on the north, east, south, and west by property deeded and conveyed to Hoke Loop Commons Associates LP in Deed Book 10491, Page 672 and also shown on Plat Book 142, Page 114. Also bounded on the north by the southern right of way margin of Hooper Road (SR 1401-having a 60 foot public right of way). All referenced materials located in the Cumberland County Registry.

COMMENCING from a concrete monument, said concrete monument being a common property corner between the Hoke Loop Commons Associates LP property and Lot 1 of the Woodmark Subdivision as recorded in Plat Book 56, Page 5, said concrete monument also being located on the western right of way margin of Hooper Road, and runs thence with the southern right of way margin of Hooper Road, North 82 degrees 47 minutes 20 seconds East for a distance of 23.06 to a point, said point being on the margin of an existing 20' utility easement; said point being the true point and place of beginning.

THENCE continuing with the right of way margin of Hooper Road, **North 82 degrees 47 minutes 20 seconds East** for a distance of **6.84 feet** to a point;

THENCE continuing with the right of way margin of Hooper Road, **North 08 degrees 00 minutes 39 seconds West** for a distance of **26.83 feet** to a point;

THENCE leaving the right of way margin of Hooper Road the following courses and distances:

- North 74 degrees 32 minutes 26 seconds East** for a distance of **245.93 feet** to a point;
- South 51 degrees 32 minutes 01 seconds East** for a distance of **109.32 feet** to a point;
- South 49 degrees 07 minutes 41 seconds West** for a distance of **9.31 feet** to a point;
- South 40 degrees 26 minutes 23 seconds West** for a distance of **10.86 feet** to a point;
- North 51 degrees 32 minutes 01 seconds West** for a distance of **97.05 feet** to a point;
- South 74 degrees 32 minutes 26 seconds West** for a distance of **225.06 feet** to a point;
- South 07 degrees 29 minutes 00 seconds East** for a distance of **96.19 feet** to a point;
- South 06 degrees 26 minutes 34 seconds West** for a distance of **20.30 feet** to a point;
- South 89 degrees 10 minutes 29 seconds West** for a distance of **2.79 feet** to a point;
- North 46 degrees 18 minutes 20 seconds West** for a distance of **21.65 feet** to a point;
- North 06 degrees 26 minutes 34 seconds East** for a distance of **5.25 feet** to a point;
- North 07 degrees 29 minutes 00 seconds West** for a distance of **85.14 feet** to a point, being the true point and place of beginning and being a portion of that utility easement recorded in Deed Book 9582, Pages 873-877, Cumberland County Registry.

.Subject property contains **9,001 square feet / 0.21 acres**

Together with and subject to any easements, restrictions, and covenants of record.

This description was prepared this 10th day of March, 2021 under the direct supervision of Michael J. Adams, PLS L-4491/CFS NC-075 and is based on a physical survey performed by M.A.P.S. Surveying, Inc (C-2589).