

MAIL TO: <sup>BK-2153 PG 1580</sup> STEVE BOWERS - TOWN SURVEYOR  
P.O. DRAWER 728  
KERNERSVILLE, NC 27284

Drafted by: Raymond D. Thomas

STATE OF NORTH CAROLINA

Permit No. 08-23-00

COUNTY OF FORSYTH

OPERATION AND MAINTENANCE AGREEMENT

THIS AGREEMENT made pursuant to the Town of Kernersville Watershed Protection Ordinance (hereinafter referred to as "Ordinance") and entered into this the 23 day of August, 2000, by and between the TOWN OF KERNERSVILLE, a North Carolina Municipal Corporation, Party of the First Part, hereinafter referred to as "TOWN", and KENSINGTON VILLAGE ASSOCIATION, INC., a North Carolina Non-Profit Corporation, hereinafter referred to as "OWNERS ASSOCIATION" and PENNSTON CORP., hereinafter referred to as "DEVELOPER."

WITNESSETH:

WHEREAS, the TOWN has enacted a Watershed Protection Ordinance pursuant to the requirements of North Carolina General Statute 160A-174, hereinafter referred to as ORDINANCE, wherein certain property located within the TOWN is subject to restrictions related to storm water control; and

WHEREAS, the DEVELOPER is developing approximately 35 acres into townhouse and individual homes and lots for the same are shown on a plats of Kensington Village as recorded in Plat Book 42 at pages 200 through -- in the Office of the Register of Deeds of Forsyth County, a copy of which plats are attached hereto as Exhibit A, and hereinafter referred to as Plat; and

WHEREAS, in order to abide by the ORDINANCE and other regulations of the TOWN in regard to the property set forth on the PLAT, it is necessary that a collections pond and other related facilities be constructed on Common Area F, hereinafter referred to as WATERSHED AREA, as shown on the PLAT; and

WHEREAS, the DEVELOPER intends to convey by deed to the OWNERS ASSOCIATION in fee simple ownership of the WATERSHED AREA for the operation, maintenance, and repair of collection ponds and other related facilities, hereinafter referred to as STORM WATER CONTROL STRUCTURES; that in connection with the development of Kensington Village, the DEVELOPER shall prepare a Declaration of Covenants, Conditions and Restrictions relating to the lots, including the rights and obligations of the owners thereof, and the same is to be recorded in the Office of the Register of Deeds of Forsyth County, North Carolina, and hereinafter referred to as DECLARATION; and pursuant to the provisions of the DECLARATION, and in accordance with the ORDINANCE, the OWNERS ASSOCIATION shall be responsible for the maintenance and operation of the STORM WATER CONTROL STRUCTURES; and

WHEREAS, the DEVELOPER has conveyed unto the TOWN, or its successors or assigns, a general easement establishing the right of ingress, egress and regress over the WATERSHED AREA and other adjoining property for the purpose of inspection, repair and maintenance of the STORM WATER CONTROL STRUCTURES; and

WHEREAS, the TOWN desires to assure that the STORM WATER CONTROL STRUCTURES are properly maintained and operated in accordance with the law, the ORDINANCE,

FORSYTH CO., NC 263 FEE: \$ 24.00  
PRESENTED & RECORDED: 01/31/2001 3:13PM  
DICKIE C. WOOD REGISTER OF DEEDS BY: BOLES  
BK2153 P1580 - P1588 *P. Bles*

and the High Density Watershed Permit (hereinafter "PERMIT") provisions in order to protect the quality of the waters of the State and the public interest therein.

NOW, THEREFORE, in consideration of the promises and the benefits to be derived by each of the parties hereto, the Town and Owner do hereby mutually agree as follows:

1. OPERATION AND MAINTENANCE.

The OWNERS ASSOCIATION and the DEVELOPER, so long as the DEVELOPER shall be responsible hereunder shall maintain and operate the STORM WATER CONTROL STRUCTURES in conformity with the ORDINANCE and the provisions of the PERMIT issued for the construction, operation, repair and maintenance of the STORM WATER CONTROL STRUCTURES. In addition and as a part of the foregoing, the OWNERS ASSOCIATION and DEVELOPER shall perform those duties as set forth on the Operation and Maintenance Plan attached hereto as Exhibit B.

2. EASEMENT.

Simultaneous with the execution of this agreement, the DEVELOPER shall execute an easement to the TOWN granting such easements as required by the ORDINANCE.

3. RELEASE OF DEVELOPER.

The DEVELOPER shall be automatically released from the obligations herein set forth upon the occurrence of all of the following:

(a) Recordation in the Office of the Register of Deeds of Forsyth County, North Carolina of a proper deed of conveyance to the OWNERS ASSOCIATION in fee simple ownership for the maintenance and repair, if required, of STORM WATER CONTROL STRUCTURES in the WATERSHED AREA; and

(b) Recordation in the Office of the Register of Deeds of Forsyth County, North Carolina of a DECLARATION which is in compliance with the ORDINANCE and approved by the TOWN relating to the operation and maintenance of the STORM WATER CONTROL STRUCTURES by the OWNERS ASSOCIATION and which DECLARATION relates to all buildings and other improvements constructed and located on the real property shown on the PLAT; and

(c) Delivery to the TOWN of the originals or conformed copies of all the above plats and documents.

4. RECORDATION OF AGREEMENT.

The TOWN reserves the right to record this Agreement in Office of the Register of Deeds of Forsyth County, and a duplicate original hereof shall be kept in the office of the Watershed Administrator.

IN WITNESS WHEREOF, the TOWN, DEVELOPER and OWNERS ASSOCIATION have caused this instrument to be executed by their respective authorized representatives the day and year first above written.

TOWN OF KERNERSVILLE

By: Larry R. Brown  
Larry R. Brown, Mayor

ATTESTED TO:

Dale Martin  
Dale Martin, Town Clerk



KENSINGTON VILLAGE ASSOCIATION, INC.

By: Juan R. [Signature]  
President

ATTESTED TO:

Mary S. Hubbard  
Secretary



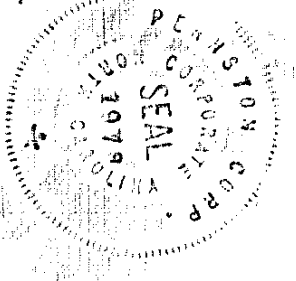
DEVELOPER.

PENNSTON CORP.

By: Mary S. Hubbard  
President

ATTESTED TO:

Juan R. [Signature]  
Secretary




NORTH CAROLINA  
FORSYTH COUNTY

I, Crystal D. Gray, a Notary Public of Forsyth County, North Carolina, hereby certify that Larry R. Brown, personally came before me this day and acknowledged that he is the Mayor of the Town of Kernersville, a municipal corporation in Forsyth County, North Carolina, organized under the laws of the State of North Carolina, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its named by its Mayor, sealed with its corporate seal and attested by her as its Town Clerk.

Witness my hand and notarial seal, this the 6<sup>th</sup> day of October, 2000.

Crystal D. Gray  
Notary Public



My commission expires: 5-25-03

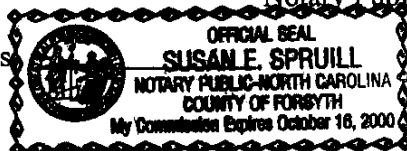
NORTH CAROLINA  
FORSYTH COUNTY

I, a Notary Public of Forsyth County and the State of North Carolina hereby certify that MARY S. HUBBARD personally came before me this day and acknowledged that she is the Secretary of KENSINGTON VILLAGE ASSOCIATION, INC., 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 her as its Secretary.

Witness my hand and official stamp or seal, this the 23<sup>rd</sup> day of August, 2000.

Susan E. Spruill  
Notary Public

My commission expires:

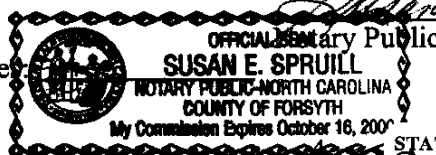
NORTH CAROLINA  
FORSYTH COUNTY

I, a Notary Public of Forsyth County and the State of North Carolina hereby certify that BRUCE R. HUBBARD personally came before me this day and acknowledged that ~~she~~ he is the Secretary of PENNSTON CORP., 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 ~~her~~ him as its Secretary.

Witness my hand and official stamp or seal, this the 23<sup>rd</sup> day of August, 2000.

Susan E. Spruill  
Notary Public

My commission expires:



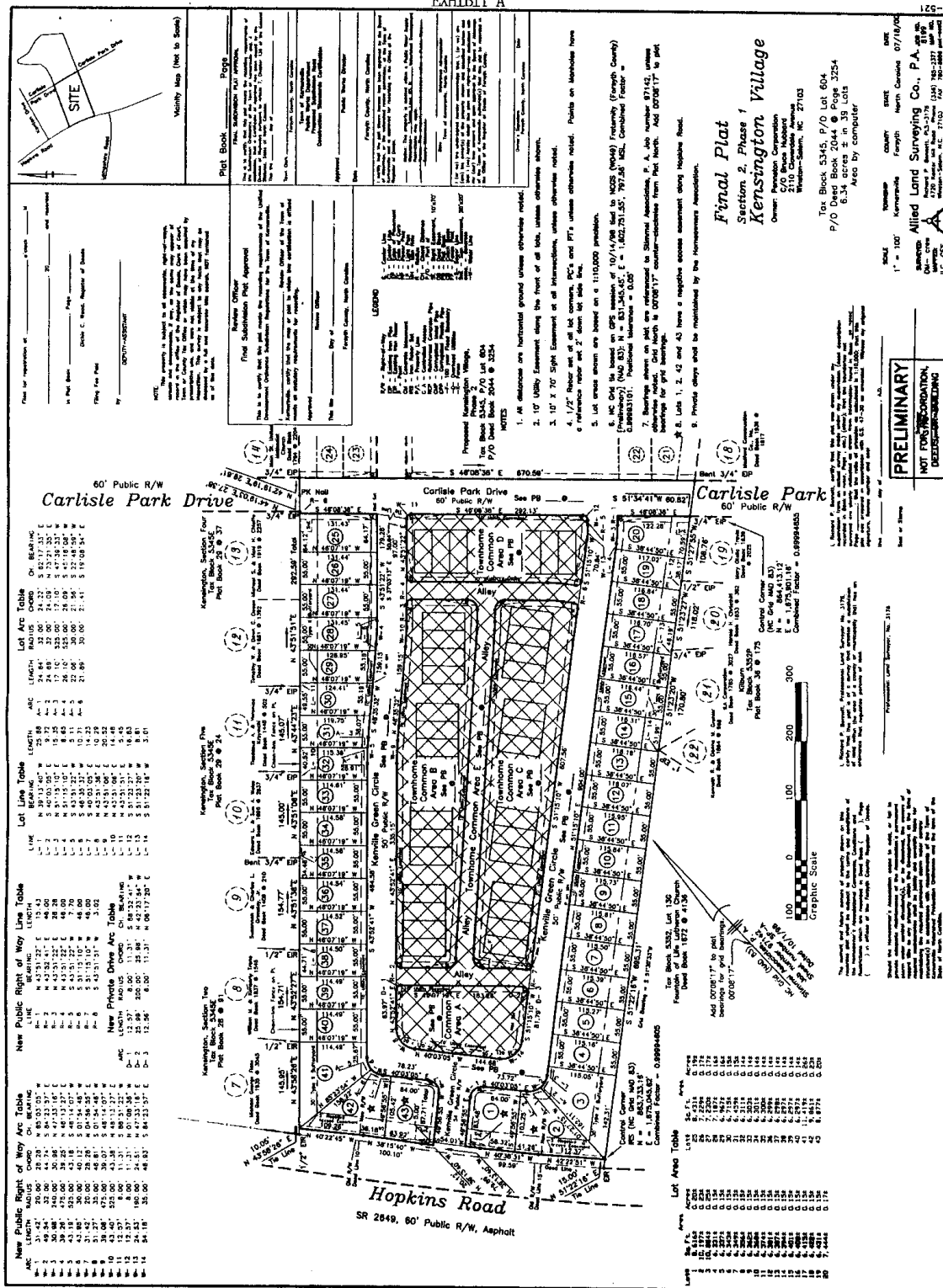
STATE OF NC - FORSYTH CO

The foregoing certificate(s) of:  
Crystal D. Gray and Susan E. Spruill

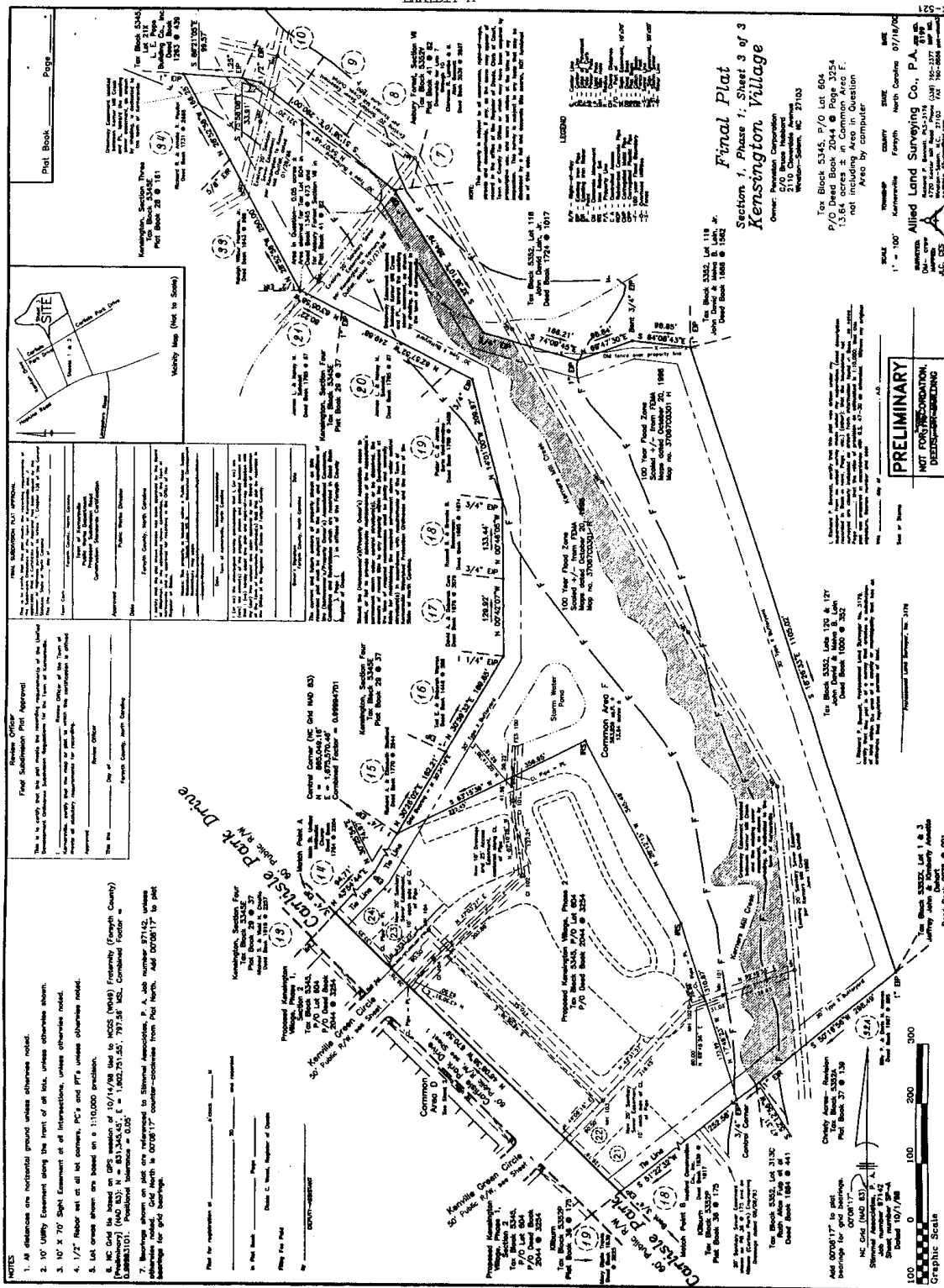
is/are certified to be correct at the date of recordation shown on the first page thereof.

Dickie C. Wood, Register of Deeds by: MD

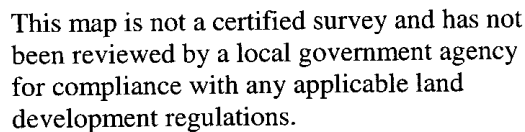
Deputy/

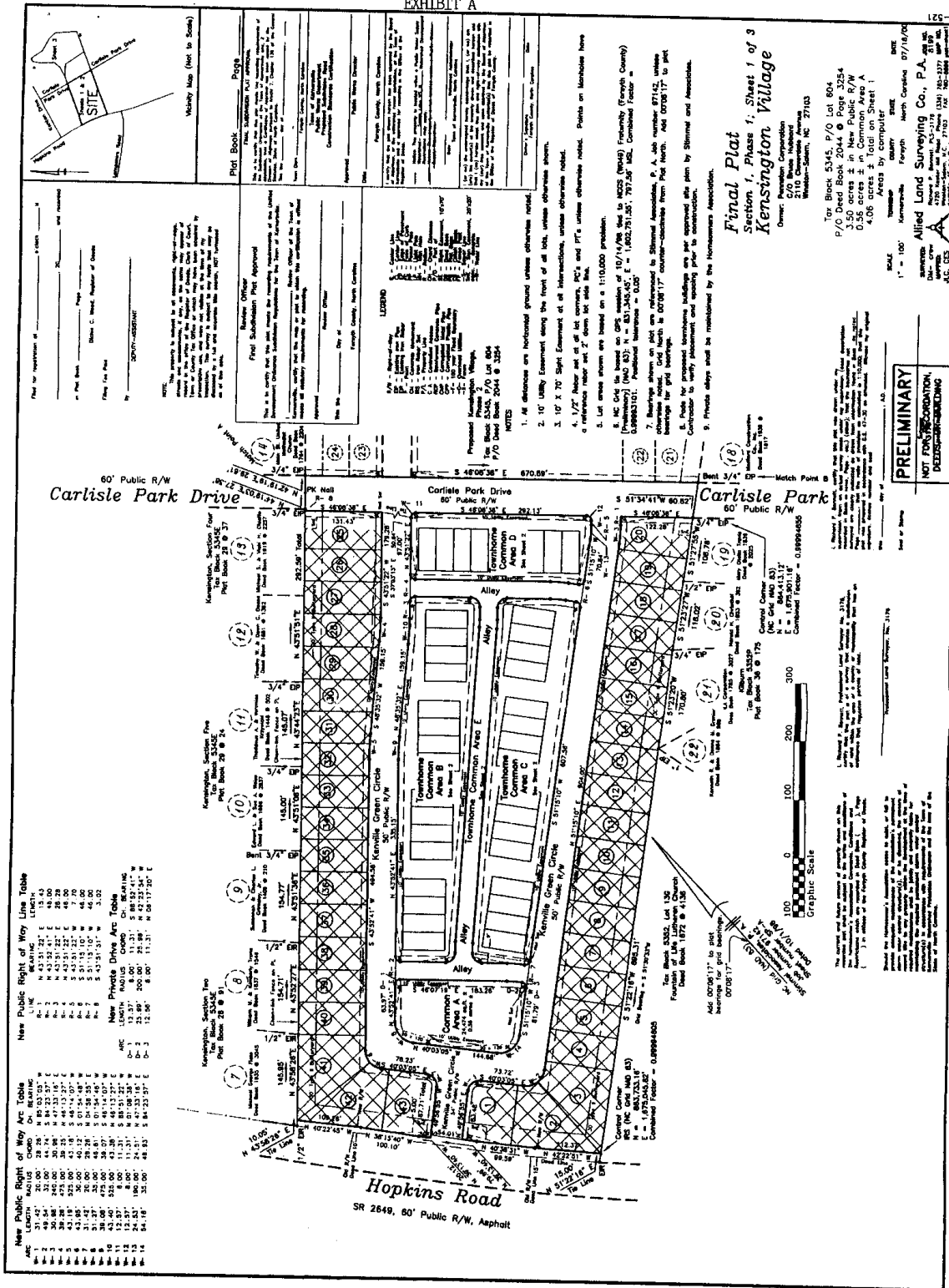


This map is not a certified survey and has not been reviewed by a local government agency for compliance with any applicable land development regulations.



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**EXHIBIT B**

**Re: Operation and Maintenance Plan**

**MONTHLY OR AFTER RUNOFF PRODUCING RAINFALL EVENTS, WHICHEVER COMES FIRST:**

1. INSPECT AND CLEAR ANY DEBRIS FROM THE PVC WATER QUALITY ORIFICE.
2. INSPECT AND REPAIR ANY EROSION ON POND SIDE SLOPES, DAM EMBANKMENTS, SPILLWAY AND INFLOW CHANNELS.
3. INSPECT AND REMOVE ANY DEBRIS FROM POND POOL AREA.

**QUARTERLY:**

1. INSPECT AND REMOVE ANY TREES AND BRUSH GROWING IN THE SPILLWAY AND EMBANKMENT AREAS THAT ARE NOT ACCESSIBLE DURING ROUTINE MOWING OPERATIONS.
2. INSPECT ONSITE AREAS DRAINING FROM THE POND, REPAIR ERODED AREAS IMMEDIATELY, RESEED ALL GRASSED AREAS AS NECESSARY TO MAINTAIN A GOOD GRASS COVER. REMOVE ANY TRASH AND DEBRIS THAT COULD END UP IN THE POND.

**SEMI-ANNUALLY:**

1. CHECK THE POND DEPTH AT VARIOUS POINTS IN THE POND. IF THE DEPTH IS REDUCED TO 75% OF THE ORIGINAL DESIGN DEPTH, REMOVE SEDIMENT TO DESIGN DEPTH.

**GENERAL:**

1. MOW POND GRASS SLOPES AND DAM EMBANKMENTS AS NEEDED ACCORDING TO SEASON TO MAINTAIN A GRASS HEIGHT OF NOT MORE THAN 6".
2. CATTAILS AND OTHER INDIGENOUS WETLAND PLANTS ARE ENCOURAGED ALONG THE NORMAL POOL PERIMETER (EXCEPT AT DAM AND SPILLWAY); HOWEVER, THEY MUST BE REMOVED WHEN THEY COVER THE ENTIRE SURFACE AREA OF THE POND.
3. THE PVC ORIFICE IS DESIGNED TO DRAW DOWN THE POND IN 2-5 DAYS. IF DRAW DOWN IS NOT ACCOMPLISHED IN THAT TIME, THE SYSTEM MAY BE CLOGGED. THE SOURCE OF CLOGGING MUST BE FOUND AND ELIMINATED.
4. ALL COMPONENTS OF THE DETENTION POND SYSTEM MUST BE KEPT IN GOOD WORKING ORDER.