

## Exhibit 1

Prepared by and return to: Brian Gulden, Van Winkle Law Firm, PO Box 7376, Asheville, NC 28802-7376

### DEVELOPMENT AGREEMENT

**THIS DEVELOPMENT AGREEMENT** is made and entered into this the 20 day of March, 2024 by and between the undersigned, Lakewood Hendersonville, LLC (“Owner”) and the City of Hendersonville (“City”).

#### WITNESSETH:

**WHEREAS**, Owner is the owner of that property known as described in Deed Book 4044, Page 374, Henderson County Registry (the “Property”); and

**WHEREAS**, the parties have agreed to certain terms with respect to development of the Property.

**NOW THEREFORE**, the Owner and the City, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby agree as follows:

1. **Streambank Easement Encroachment Agreement.** City shall execute and record contemporaneous with the deeds described below the Streambank Easement Encroachment Agreement attached hereto as Exhibit A (the “Streambank Easement Encroachment Agreement”). The purpose of this Streambank Encroachment Easement Agreement is to permit Owner to make certain improvements within that a streambank easement held by the City pursuant to that document recorded in Deed Book 3268 at Page 121, with the location of the streambank easement being shown on that plat recorded in Plat Book 2018 at Page (slide) 11458, both of the Henderson County Registry, said streambank easement hereinafter being referred to as “Streambank Easement.”
2. **Transfer to City.** Owner shall convey to the City that certain parcel of land described as Subject Parcel 1 consisting of 27.291 acres as shown on Plat Slide 15475, Henderson County Registry on the deed form attached hereto as Exhibit B (the “Deed”). Said Deed will reserve an easement to Owner, as further described in the Streambank Easement Encroachment Agreement, to build and use a footbridge over the stream in the area described therein and City hereby agrees to pave a path to said footbridge once the greenway is installed on the City’s property if the footbridge is installed by Owner prior to the completion of the construction of the greenway on the Property. If, however, the footbridge is installed after the completion of the construction of the greenway on the Property, then Owner shall also have a temporary construction easement to construct and install a paved path in a reasonable location to the greenway from the footbridge. Upon completion of all permitted work within the Streambank Easement, the Streambank Easement shall be restored using the means and methods, and to the condition described in and shown on (1) those construction plans entitled Multi-Area Streambank Restoration Project, SFR Project No. CS370444-10, dated 10.04.2018, bearing job number 004-20252, consisting of 7 pages (said construction plans being attached hereto and incorporated herein by reference); (2) those construction specifications prepared by Wildlands Engineering consisting of 44 pages (said construction specifications being attached hereto and incorporated herein by reference), and (3) the

as-built plans prepared by Kee Mapping & Surveying, entitled "AN AS-BUILT SURVEY FOR: WILDLANDS ENGINEERING, INC., ALLEN BRANCH A LAKEWOOD ROAD SITE (SITE Q2C-19 AC)(SRF PROJECT # CS370444-10) HENDERSON COUNTY, NORTH CAROLINA," bearing a survey date of 6/9/22 and a job # 2006-040-AB (said as built surveying being attached hereto and incorporated herein by reference.

3. **Payment in lieu of tree planting.** In lieu of certain tree plantings on the property to be conveyed to the City as described in paragraph 2 above, Owner shall, contemporaneously with the recording of the Deed and Streambank Easement Encroachment Agreement pay to the City the sum of \$50,000.00 to be used by the City to fulfill Owner's obligation to plant 140 trees on the Subject Parcel 1, imposed by the City through that conditional zoning approved as ordinance O-23-21.

4. **Runs with the Land.** This agreement shall run with and be appurtenant to the land and shall be binding upon the heirs, successors and assigns of each party.

5. **Miscellaneous.** This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. The parties acknowledge that they have not relied on any representation, communication, or statement, written or oral, not set forth in this Agreement and that this Agreement supersedes and/or modifies any and all prior agreements, correspondence, or other communications between them. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. The parties agree that jurisdiction and venue shall lie exclusively in State courts in Henderson County, North Carolina. The parties shall be responsible for their own attorney's fees and costs. This Agreement may be executed in multiple counterparts, all of which taken together shall collectively constitute one agreement binding the parties. This Agreement may not be amended, changed, modified, or altered except by written agreement signed by the parties. This Agreement shall be binding upon the parties and their respective heirs, administrators, representatives, executors, successors, attorneys, agents, and assigns, and shall inure to the benefit of each of the parties and their respective heirs, administrators, representatives, executors, successors, attorneys, agents, and assigns. Each provision of this Agreement is intended to be severable. If any provision or any part of any provision of this Agreement shall for any reason be held invalid, unenforceable, or contrary to public policy or law, then the remainder of this Agreement shall not be affected thereby.

IN WITNESS WHEREOF, the undersigned have caused this instrument to be signed on the day and year above written.

**OWNER:**

Lakewood Hendersonville, LLC

By:  (SEAL)  
Travis Fowler, member/manager

STATE OF NC  
COUNTY OF Transylvania

I, Catherine J Sexton, a Notary Public for said County and State, do hereby certify that Travis Fowler, as member-manager of Lakewood Hendersonville, LLC personally appeared before me this day and acknowledged the due execution of the foregoing instrument on behalf of the company.

Witness my hand and official stamp or seal, this 20 day of March, 2024.

 (SEAL)  
Notary Public



EXHIBIT A

[attach Stream Buffer Encroachment Agreement]

**EXHIBIT B**

[insert the Deed]