

Excise Tax: \$10.00

Prepared by and return to:

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Lincoln at Belle Grove
3315 Springbank Lane, Suite 308
Charlotte, NC 28226

STATE OF NORTH CAROLINA

**TEMPORARY CONSTRUCTION
EASEMENT AGREEMENT**

COUNTY OF DURHAM

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT (this "**Agreement**") is made and is effective as of the ____ day of _____, 2021 (the "**Effective Date**") by **JOHN STEVENS and spouse, EMILY BLAKE DOWNING** (collectively, "**Grantor**"), and **LENNAR CAROLINAS, LLC**, a Delaware limited liability company ("**Grantee**"); each a "party" and together, the "parties" hereto.

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.

RECITALS

A. Grantor is the owner of that certain parcel of land located in Durham County, North Carolina identified as Parcel ID# 193736 and more particularly described on **Exhibit A** attached hereto and incorporated by reference herein (the "**Grantor Property**").

B. Grantee is the owner of those certain parcels of land located in Durham County, North Carolina identified as Parcel ID#s 193726, 193744 193746 and 228305, located near the Grantor Property and more particularly described on **Exhibit B**, attached hereto and incorporated by reference herein (the "**Grantee Property**").

C. Grantor and Grantee desire that Grantee shall have certain easements and other rights over Grantor Property in furtherance of the development of the Grantee Property, as more particularly described herein.

NOW, THEREFORE, in consideration of FIVE THOUSAND AND NO/100 DOLLARS (\$5,000.00) and other consideration, the receipt of which is hereby acknowledged and confessed, Grantor and Grantee do hereby grant, convey, covenant and agree (as the case may be) as follows:

1. Incorporation. The above recitals are incorporated herein by this reference as representations of the respective parties.
2. Grant of Construction Easement by Grantor. Subject to the terms hereof, Grantor hereby grants, sells, bargains, assigns and conveys to Grantee and its successors, assigns, employees, agents, consultants and contractors for their benefit a temporary non-exclusive easement (the "**Construction Easement**") over, through, under, above and across that portion of the Grantor Property shown on **Exhibit C** as "**TEMPORARY CONSTRUCTION EASEMENT (619 SF +/-)**" (the "**Easement Area**") for the installation and construction of road improvements, drainage improvements and/or related improvements to Weatherly Road (collectively, the "**Improvements**"). The Construction Easement herein granted is temporary and shall terminate without need for action of either party hereto upon the earlier of: (a) the date of final acceptance of the Improvements contemplated herein for maintenance by the applicable governmental or utility authority; and (b) the date which is five (5) years following the date of the recordation of this Agreement. Grantee shall give notice to Grantor prior to Grantee commencing construction of the Improvements (the "**Commencement Notice**") and the construction of the Improvements shall be completed within one hundred eighty (180) days following delivery of the Commencement Notice, subject to force majeure events (the "**Construction Period**"). Notwithstanding the foregoing, if the construction of the Improvements is to extend beyond the Construction Period, Grantee shall, for each thirty (30) day period beyond the Construction Period (each, an "**Extension Period**"), make a payment to Grantor of Three Hundred Fifty and No/100 Dollars (\$350.00) for each Extension Period.
3. Dedication of Road Improvements. Upon completion of the installation of the Improvements, Grantee is hereby authorized by Grantor to assign, dedicate and/or convey the Improvements to the applicable governmental or utility authority, as Grantee may desire or as may otherwise be required of Grantee by the applicable governmental or utility authority. Grantor will provide reasonable assistance to Grantee in connection with such public dedication, including without limitation, executing all such documents, instruments, applications or plats as are reasonably required by the applicable governmental or utility authority within five (5) business days after Grantor's receipt of Grantee's written request therefor. In addition, in the event the applicable governmental authority requires an additional or replacement easement on a form required by such applicable governmental authority, then Grantor and Grantee agree to cooperate in connection with same and execute and deliver such easement to the applicable governmental authority.
4. Repairs. In the event Grantee causes any material damage to the Grantor Property in connection with its exercise of the easement rights herein granted, Grantee shall restore Grantor Property to substantially the same condition which existed prior to Grantee's entry onto Grantor Property, exclusive of the Improvements. Any entry by Grantee onto

Grantor Property and any work done thereon shall be subject to, and conducted in accordance with, all applicable laws. Grantee agrees to pay before delinquency all costs for work, services or materials furnished to Grantee with respect to Grantor Property, the nonpayment of which could result in any lien against Grantor Property. Grantee shall promptly (within 30 days following its receipt of the notice of the filing) satisfy or remove by bond any lien against the Grantor Property arising from or resulting from Grantee's exercise of its easement rights hereunder.

5. Binding Effect; Assignment. The provisions of this Agreement are binding upon and inure to the benefit of Grantor and Grantee and the Grantor Property and Grantee Property and shall run with the title to the Grantor Property and Grantee Property and burdening and benefiting the respective real properties as provided herein, and their owners of the same, as the case may be.

6. Entire Agreement; Modifications; Headings; Governing Law. This Agreement contains the entire agreement between the parties and no promise, representation, warranty, covenant, agreement, or other undertaking not specifically contained in this Agreement is binding upon or inures to the benefit of Grantor or Grantee. The parties hereto may not alter, change, or modify or terminate this Agreement except by a written instrument signed and notarized by both parties and recorded in the Office of the Register of Deeds for Durham County. Headings used herein are for ease of reference only and shall have no substantive meaning. This Agreement shall be interpreted in accordance with North Carolina law except to the extent preempted by the laws of the United States of America.

7. Severability. If any court determines that any provision of this Agreement is invalid or unenforceable, any invalidity or unenforceability will affect only that provision and will not make any other provision of this Agreement invalid or unenforceable.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Grantor and Grantee have signed this Agreement effective as of the Effective Date herein defined.

GRANTOR:

JOHN STEVENS

EMILY BLAKE DOWNING

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person(s) personally appeared before me this day, acknowledging to me that s/he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: John Stevens and Emily Blake Downing.

Date: _____

Official Signature of Notary Public

Notary printed or typed name

[OFFICIAL SEAL]

My commission expires: _____

IN WITNESS WHEREOF, Grantee has signed this Agreement effective as of the Effective Date herein defined.

GRANTEE:

LENNAR CAROLINAS, LLC,
a Delaware limited liability company

By: _____ (SEAL)
Name: _____
Title: _____

STATE OF NORTH CAROLINA

COUNTY OF _____

I certify that the following person personally appeared before me this day, acknowledging to me that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: _____.

Date: _____

Official Signature of Notary Public

Notary printed or typed name

[OFFICIAL SEAL]

My commission expires: _____

EXHIBIT A

BEING located in Durham County, North Carolina, and described as follows:

Beginning at a stake, said stake being located in the East line of Weatherly Drive at a point South 17° 34 minutes 37 seconds East 589.65 feet from the point of intersection of the South line of Hester Road (if Extended) and the East line of Weatherly Drive (if extended) and running thence North 72° 25 minutes 27 seconds East 220.0 feet to a stake, thence South 17° 34 minutes 37 seconds East 170 feet to a stake, thence South 72° 25 minutes 27 seconds West 220.0 feet to a stake in the East line of Weatherly Drive, thence along and with the East line of Weatherly Drive North 17° 34 minutes 37 seconds West 170.0 feet to the point and place of Beginning and being two small tracks adjacent to Lot 4 and all of Lot 4, Mineral Springs Farm, Section 2, Plat Book 79, Page 73, Durham County Registry. Being the same property described in Book 1523, Page 18, Durham County Registry.

See also Deed recorded at Deed Book 9341, page 783, Office of the Register of Deeds for Durham County, North Carolina.

EXHIBIT B

TRACT I:

BEING All of Durham County and being more particularly described as follows:

BEGINNING at a stake in the western property of unnamed road, which said stake is 36' 16' west 223.38 feet; thence 346.71 feet along a curve in a southerly direction; thence south 2' 13' east 155.21 feet from a point where the western property line of said unnamed road intersects the southern property line of Wake Forest Road, said stake being the southeast corner of Clarence B. Weatherly, Jr.'s property; thence with the western property line of said unnamed road south 2' 13' east 150 feet to a stake; thence south 87' 47' west 300 feet to a stake; thence north 2' 13' west 150 feet to a stake; thence north 87' 47' east 300 feet to a stake in the western property line of said unnamed road to the point and place of beginning, and being shown on plat of PROPERTY OF CLARENCE B. WEATHERLY, JR., as per plat and survey thereof by J. Watts Copley, L.S., February 26, 1973 and now on file in the Office of Deeds of Durham County in Plat Book 76, at page 13, to which plat reference is hereby made for a more particular description of same.

TRACT II

BEING all of Durham County and being more particularly described as follows:

BEGINNING at a point, said point being North 01 degrees, 43 minutes, 17 seconds west, 328.04 feet from the southwestern corner of now or formerly Gerald H. Camp; thence North 87 degrees, 56 minutes, 31 seconds west, 468.61 feet to a point; thence South 00 degrees, 17 minutes, 37 seconds west, 465 feet to a point; thence South 81 degrees, 56 minutes, 31 seconds west 68.61 feet to a point; thence North 00 degrees, 17 minutes, 37 seconds West, 465 feet to the point and place of beginning and being all of Tract B according to a plat entitled the Golf Group prepared by Ernest B. Wood, Registered Land Surveyor dated December 14, 1993.

TRACT III

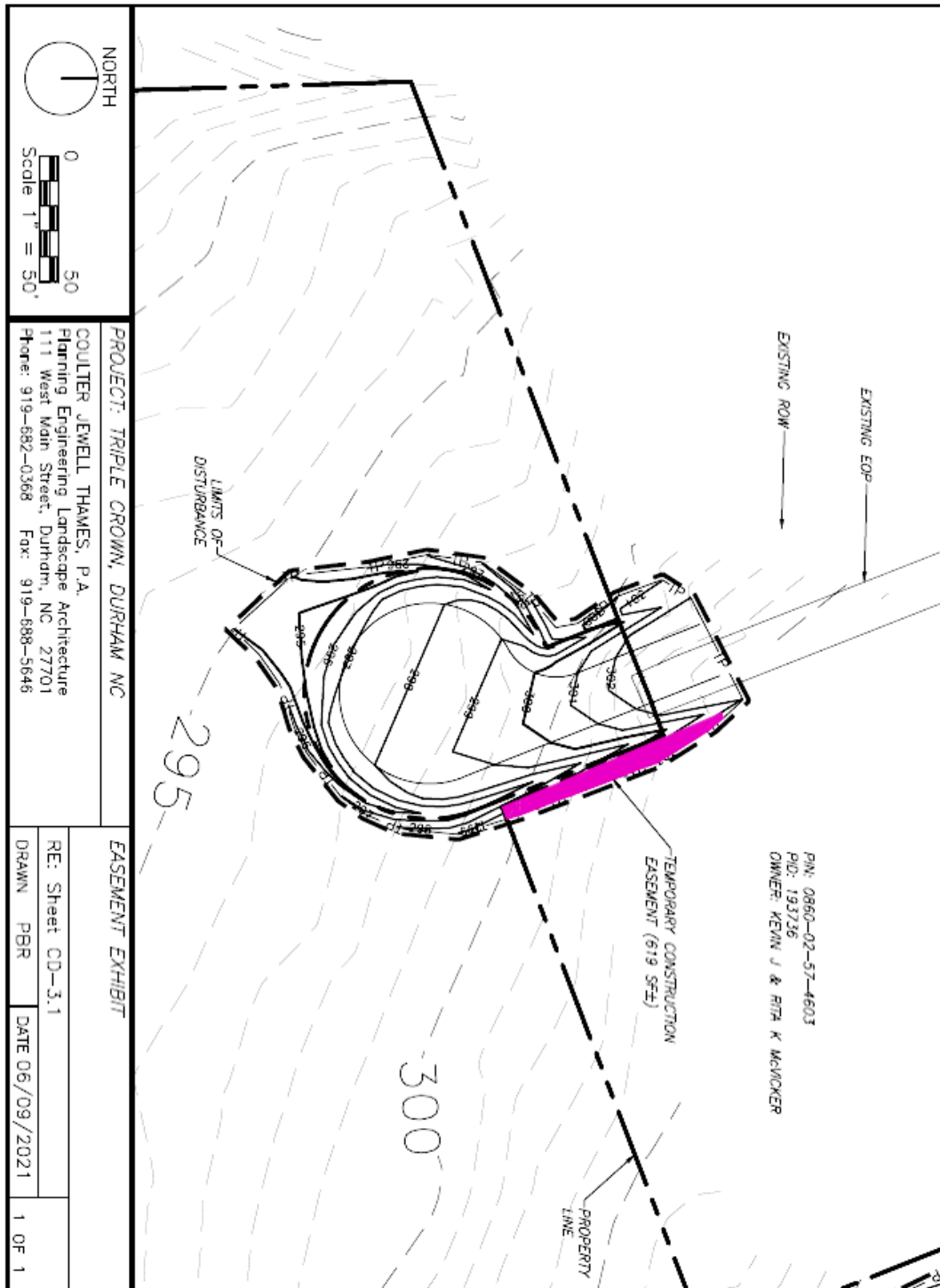
Being all of the one hundred eighty and 926 thousandths acres, more or less as shown in Book of Maps 117, Page 69, Durham county registry, save and except the following:

BEGINNING at a point, said point being North 01 degrees, 43 minutes, 17 seconds west, 328.04 feet from the southwestern corner of now or formerly Gerald H. Camp; thence North 87 degrees, 56 minutes, 31 seconds East, 468.61 feet to a point; thence south 00 degrees, 17 minutes, 37 seconds East, 465.00 feet to a point; thence south 87 degrees, 56 minutes, 31 seconds West, 468.61 feet to a point; thence North 00 degrees, 17 minutes, 37 seconds West, 465 feet to the point and place of beginning and being all of Tract B according to a plat entitled The Golf Group prepared by Ernest B. Wood, Registered Land surveyor dated December 14, 1993.

ALSO less and excepting the following:

BEGINNING at an iron stake in the southern right-of-way line of Wake Forest Highway at the northeast corner of the property of Triple Crown Farm (Deed Book 1954, Page 149, Durham County Registry) and running thence in a northeasterly direction North 83° 05' 45" East 20.09 feet to an iron stake; thence in a southwesterly direction the following courses and distances: South 21° 43' 13" West 146.16 feet; South 29° 36' 49" West 195.61 feet; and South 03° 20' 57" West 107.60 feet to a point thence in a northwesterly direction North 63° 62' 50" West 40.18 feet; thence in a northeasterly direction the following courses and distances: North 10° 28' 35" East 89.72 feet; North 31° 23' 53" East 192.54 feet; and North 21° 64' 39" East 151.62 feet to the point and place of BEGINNING, containing 0.216 acres as shown on the plat and survey entitled "Recombination Map for Howard P. Thome and wife Margaret W. Thome" dated March 28, 1996, prepared by Southeastern Surveys, Inc., recorded in Plat Book 135, Page 195, Durham County Registry, to which plat reference is hereby made for a more particular description of same.

Exhibit C



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.

CONSENT AND SUBORDINATION

CAPITAL CENTER, L.L.C. ("**Lienholder**") hereby gives its consent to the execution and recording (whether herewith or prior to the date hereof) of that certain Temporary Construction Easement to which this Consent and Subordination is attached (the "**Easement**"). Such consent is given solely as Lienholder and as beneficiary under that certain Deed of Trust recorded in the Office of the Register of Deeds for Durham County in Book 9341 at page 786 (the "**Deed of Trust**"). Lienholder does hereby subordinate the lien of the Deed of Trust to said Easement and agrees that in the event of any foreclosure sale instituted pursuant to the terms of the Deed of Trust, or other sale of the property described in said Deed of Trust under judicial or non-judicial proceedings, the same shall be sold and the same is hereby deemed to be subject and subordinate to said Easement.

LIENHOLDER:

CAPITAL CENTER, L.L.C.

By: _____ (SEAL)
Name: _____
Title: _____

STATE OF _____

COUNTY OF _____

I, a Notary Public for _____, do hereby certify that the following person personally appeared before me this day and acknowledged the due execution of the foregoing instrument in the capacity above indicated: _____.

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

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

[NOTARY SEAL]