



Gaston County

Gaston County
Board of Commissioners
www.gastongov.com

Parks & Recreation

Board Action

File #: 24-339

Commissioners Cloninger & Johnson - Parks and Recreation - To Authorize the County Manager or Her Designee to Negotiate, Finalize, Execute, and Record Easement Documents and any Other Related Necessary Agreements Between Gaston County and Lennar Carolinas, LLC for the Purpose of Providing a Utility and Temporary Construction Easement to Serve a Proposed Development at Poston Park

STAFF CONTACT

Cathy Hart - Parks and Recreation - 704-922-2162

BUDGET IMPACT

N/A

BUDGET ORDINANCE IMPACT

N/A

BACKGROUND

Lennar Carolinas, LLC is planning a residential development on properties adjacent to Spencer Mountain and Poston Park. The intended development will be built in four phases on PID's #136564, #202774, #210660, #202166, #202167, and #135144. Water and sewer service will be provided along Lowell-Spencer Mountain Road for the initial phases of the development. Lennar is required to loop the water line through the development and back to Lowell-Spencer Mountain Road at a second location of reliability and redundancy in the event of a water line break.

Lennar proposes to extend municipal water from the City of Lowell's system through Poston Park, connect the park to municipal service, disconnect the existing well, install multiple fire hydrants, and provide an irrigation tap for future use in exchange for Gaston County granting an easement for the water line. In addition to the water line easement, temporary construction easement and Sight Triangle Easements were approved via Board Action #2024-199. Lennar now needs a second utility easement to complete the loop. This permanent easement will extend along the property border.

(Continued on Page 2)

DO NOT TYPE BELOW THIS LINE

I, Donna S. Buff, Clerk to the County Commission, do hereby certify that the above is a true and correct copy of action taken by the Board of Commissioners as follows:

| NO. | DATE | M1 | M2 | CBrown | CCloninger | AFraley | BHovis | KJohnson | TKeigher | RWorley | Vote |
|----------|------------|----|----|--------|------------|---------|--------|----------|----------|---------|------|
| 2024-255 | 07/23/2024 | BH | TK | A | AB | A | A | A | A | A | U |

DISTRIBUTION:

Laserfiche Users

A=AYE, N=NAY, AB=ABSENT, ABS=ABSTAIN, U=UNANIMOUS

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Approval of this Board Action authorizes the County Attorney to draft any necessary documents for recording purposes, authorizes the County Manager to negotiate the final terms and conditions of the easements and execute any necessary documents, and authorizes the final recording of said easements. Approval of this Board Action does not require additional funding.

POLICY IMPACT

N/A

ATTACHMENTS

Letter of Intent - Easement



June 25, 2024

Gaston County
ATTN: Ray Maxwell, PE
128 W. Main Ave.
Gastonia, NC 28052

Re: Easements located in the City of Lowell, Gaston County, North Carolina as further described and depicted on the attached Exhibit "A", near that certain proposed development known as "**Spencer Mountain**" and being Gaston County PIDs #136564, #202774, #210660, #202166, #202167, and #135144 (the "**Intended Development**").

Dear Ray,

This Letter of Intent ("LOI") sets forth the basic terms and conditions for the grant, acquisition and conveyance of a proposed easements between Gaston County ("**County**") and Lennar Carolinas, LLC, a Delaware limited liability company ("**Lennar**"). Lennar and the County are sometimes individually referred to as a "**Party**" and collectively as the "**Parties**."

The proposed easements are:

- A 30' utility easement ("**Utility Easement**"), see Exhibit A; and
- A 20' Temporary Construction Easement ("**TCE**"), see Exhibit A.

Collectively, the above easements may be referred to as the ("**Easements**") over, through and upon that certain property of the County identified as Gaston County PID #148012. The Utility Easement and the TCE are intended to be fully negotiated, drafted, and granted as soon as possible following approval by the Gaston County Board of Commissioners ("**BOC**").

Development Agreement: Lennar and the City of Lowell ("**Lowell**"), are party to a certain Development Agreement (the "**Development Agreement**"), which provides for, among other things, conditions for provision of water and sewer services to the Intended Development. In order to facilitate the Development Agreement and the Intended Development coming to fruition, the Parties desire to enter into an agreement to facilitate the conveyance of the Easements.

Agreement Governing Conveyance of Easements: This Letter is agreed to with the purpose of developing a mutually acceptable definitive agreement for the grant and conveyance of the Easements (the "**Agreement**"), as the same is required of Lennar in accordance with the Development Agreement. The Agreement will be drafted by counsel for Lennar and submitted to County after Lennar's receipt of an executed copy of this Letter from County. Thereafter, Lennar and County will negotiate diligently and in good faith to finalize, execute, and deliver the Agreement.

Grant of Easements: Parties acknowledge that the granting of the easements may only be done with the approval of the BOC. As soon as is reasonably possible after the execution of this LOI, the County will submit an agenda item to the BOC seeking authority to proceed forward with the negotiation and execution of the Agreement, and the appropriate granting of the Easements. The Parties intend to accomplish the granting of the Utility Easement and the TCE within six (6) months of the effective date of the Development Agreement, provided however, the Parties acknowledge the recording of any Easement contemplated herein shall not occur until after Lennar acquires record title to the Intended Development.

Utility Easements: The County shall grant Lennar a utility easement to construct, install, and maintain, along with the necessary WTCE, as necessary for Lennar to build and construct the waterline facilities to serve the Intended Development and to tie into the existing adjacent waterline that is owned and operated by Lowell. The Utility Easement shall include without limitation those easements shown and depicted as "Proposed 30' Utility Easement with 20' Temp. Const. Easement" on **Exhibit "A,"** attached hereto and incorporated herein by reference. The Parties acknowledge the location for the Utility Easement is approximate and subject to change and approval, but expect the same to be located in the area depicted on **Exhibit "A."** It is acknowledged that the Development Agreement contemplates that in time, Lennar will dedicate the waterline infrastructure it constructs, including the Utility Easement, to Lowell. This Easement is fully assignable to Lowell or entities under common control or ownership with Lennar, including entities acting as a landbank for Lennar. Construction of the waterline improvements shall begin within six (months) of the recording of the Utility Easement and the TCE shall be for a reasonable duration from the date on which construction timely begins.

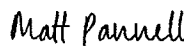
Consideration: The grant of the Easements herein shall be for conditions set forth in the Development Agreement, and Lennar's installation of the infrastructure related thereto. In exchange for the County granting said easements, Lennar agrees to construct any and all water line improvements necessary to serve the Intended Development. In addition, Lennar agrees to connect the existing Poston Park water facilities to the water line in order to provide municipal water service to the park, disconnect and cap the existing water lines that connect the existing Poston Park water facilities to the existing well that currently serves the concession/restroom buildings, provide one irrigation tap for future use, and install at least 2 fire hydrants within the park along the water line for fire protection purposes. All work shall be completed at the sole expense of Lennar. Lennar shall restore all County Property to the same condition, or better, than when it begins any and all of the work and improvements set forth above.

Letter of Intent: It is understood by the Parties that this instrument constitutes only a non-binding letter of intent, meant to satisfy the requirements of the County, and that the terms and provisions the Agreement, once finalized, shall control.

Expenses: Each Party shall be responsible for its own costs and expenses, including attorneys' fees, incurred in connection with the negotiation, documentation and grant of the Easements contemplated by this Letter.

Very truly yours,

DocuSigned by:



C81263CCA39F4B6...

Matt C. Pannell

Vice President of Land Acquisition
Lennar Carolinas, LLC

Accepted and approved this _____ day of _____, 2024:

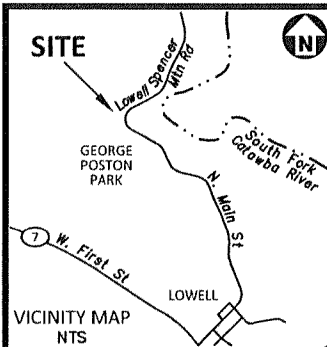
GASTON COUNTY

By: _____

By: _____

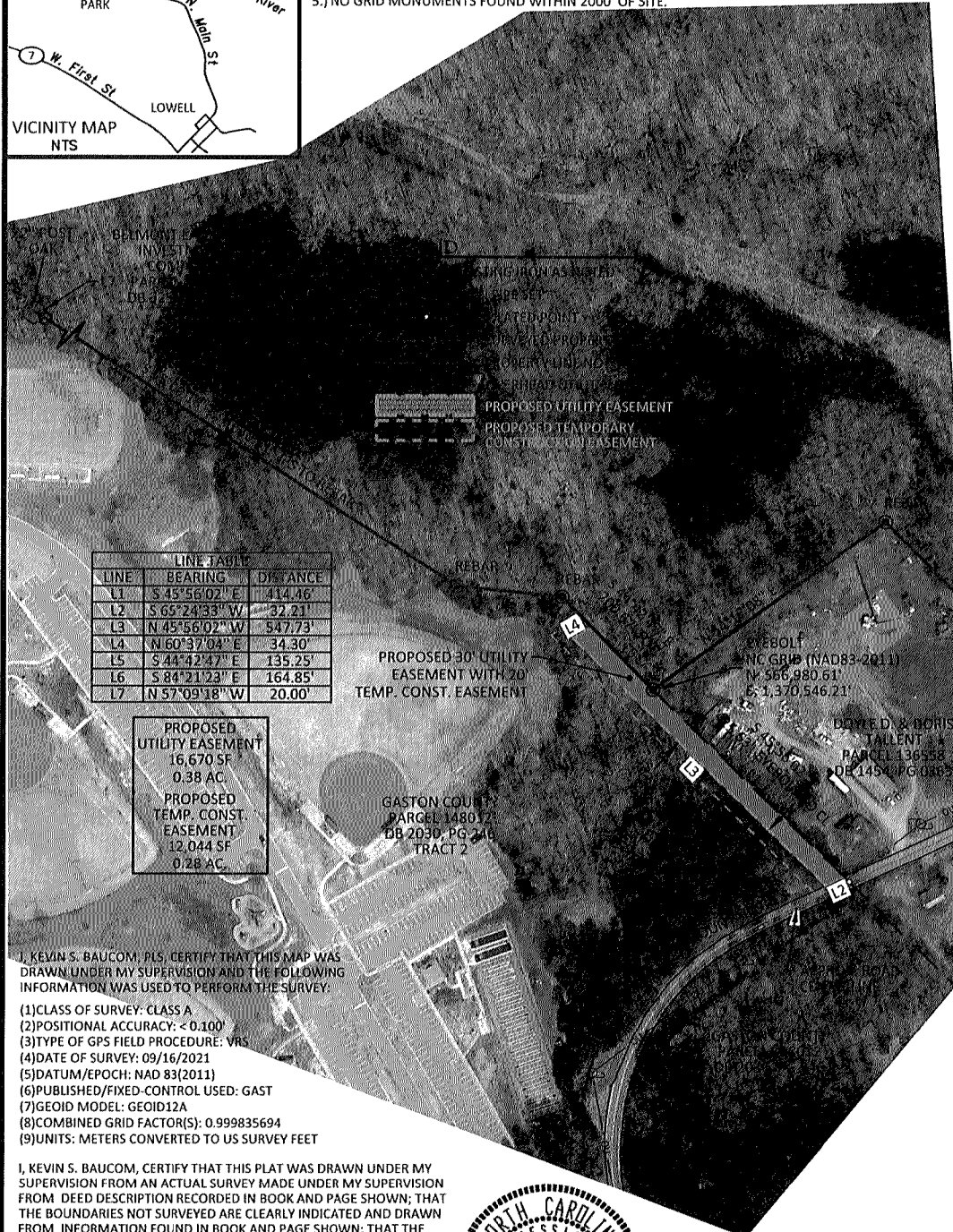
Title: _____

Title: _____



GENERAL NOTES

- 1.) BEARINGS BASED ON NC GRID NAD-83(2011).
- 2.) ALL DISTANCES ARE HORIZONTAL GROUND DISTANCES.
- 3.) FLOOD NOTE: THIS PROPERTY IS NOT LOCATED IN A SPECIAL FLOOD HAZARD ZONE AS DEFINED BY FEMA F.I.R.M. MAP NUMBER 3710357600J DATED SEPTEMBER 28, 2007.
- 4.) REFERENCES: DB 2030, PG 246 OF THE GASTON COUNTY REGISTRY. PARCEL NO. 148012
- 5.) NO GRID MONUMENTS FOUND WITHIN 2000' OF SITE.



I, KEVIN S. BAUCOM, PLS, CERTIFY THAT THIS MAP WAS DRAWN UNDER MY SUPERVISION AND THE FOLLOWING INFORMATION WAS USED TO PERFORM THE SURVEY:

- (1) CLASS OF SURVEY: CLASS A
- (2) POSITIONAL ACCURACY: < 0.100'
- (3) TYPE OF GPS FIELD PROCEDURE: VRS
- (4) DATE OF SURVEY: 09/16/2021
- (5) DATUM/EPOCH: NAD 83(2011)
- (6) PUBLISHED/FIXED-CONTROL USED: GAST
- (7) GEOID MODEL: GEOID12A
- (8) COMBINED GRID FACTOR(S): 0.999835694
- (9) UNITS: METERS CONVERTED TO US SURVEY FEET

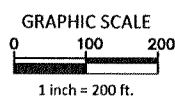
I, KEVIN S. BAUCOM, CERTIFY THAT THIS PLAT WAS DRAWN UNDER MY SUPERVISION FROM AN ACTUAL SURVEY MADE UNDER MY SUPERVISION FROM DEED DESCRIPTION RECORDED IN BOOK AND PAGE SHOWN; THAT THE BOUNDARIES NOT SURVEYED ARE CLEARLY INDICATED AND DRAWN FROM INFORMATION FOUND IN BOOK AND PAGE SHOWN; THAT THE RATIO OF PRECISION AS CALCULATED IS 1:10,000+; AND THAT THIS PLAT WAS PREPARED IN ACCORDANCE WITH G.S. 47-30 AS AMENDED. WITNESS MY ORIGINAL SIGNATURE, LICENSE NUMBER, AND SEAL THIS

____ DAY OF _____, A.D. 2024.

PRELIMINARY

KEVIN S. BAUCOM, PLS L-4275

NOT FOR RECORDATION,
CONVEYANCES OR SALES



The John R. McAdams Company, Inc.
2100 South Tryon Street
Suite 400
Charlotte, NC 28203
phone 704.527.0800
fax 919.361.2269
license number: C-0293
www.mcadamsco.com

**PROPOSED UTILITY EASEMENT
AND TEMPORARY
CONSTRUCTION EASEMENT**
PROPERTY OF GASTON COUNTY
1101 LOWELL-SPENCER MOUNTAIN ROAD
GASTONIA TWP., GASTON CO., NORTH CAROLINA

PLAN INFORMATION
PROJECT NO. LEN23006
FILENAME LEN23006-Q8
CHECKED BY KSB
DRAWN BY JC
SCALE 1"=200'
DATE 4.2.2024