

BOXLEY, BOLTON, GARBER & HAYWOOD, L.L.P.

ATTORNEYS AT LAW

THE NASH SQUARE BUILDING

227 WEST MARTIN STREET

POST OFFICE DRAWER 1429

RALEIGH, NORTH CAROLINA 27602

TELEPHONE (919) 832-3915

FAX (919) 832-3918

J. MAC BOXLEY (RETIRED)

LAWRENCE E. BOLTON

RONALD H. GARBER

KENNETH C. HAYWOOD

EVERETT M. BOLTON

December 28, 2016

Jeremiah Smith

VIA ELECTRONIC MAIL ONLY

Re: 2304 Milburnie Road, Raleigh, North Carolina

Dear Jeremiah:

You have asked that we provide a letter to you regarding questions you have raised as to who has the legal right to use the existing driveway located on Lot 5. In particular, what rights, if any, do the owners of Lot 4 and their guests, invitees and tenants have to use the driveway to the house located on Lot 4 and the attached garage at the end of the driveway.

In May 13, 2011, a Cross Access Agreement was created by Forest Hill Development, LLC, the owner at that time, of Lot 4 and 5 and shown in Book of Maps 2008, Page 728, Wake County Registry. With the creation of the Cross Access Agreement, the present and future owners of Lots 4 and 5 and their respective tenants, occupants, licensees, invitees, grantees, heirs, successors and assigns shall have a perpetual non-exclusive right of access over, upon and across the driveway for the purposes of ingress, egress, regress and passage by vehicles and pedestrians to and from and between Lot 4 and 5 in the public street.

Along with this right, the lot owners are equally responsible for the maintenance and repair of the driveway. If a party does not maintain the driveway, then there are specific provisions within the Cross Access Agreement to deal with the situation. Please see Paragraph 4 of the Cross Access Agreement for more specific details. The Cross Access Agreement also sets forth the requirement that there can be no obstructions in the driveway to the free flow of traffic for the use of the improvements on Lots 4 or 5.

So in summary, the present owner of Lot 4 and any subsequent owner, any tenant, invitee or guest has the right to use the driveway without obstruction.

Enclosed is your copy of the Cross Access Easement recorded with the Wake County Register of Deeds on May 13, 2011.

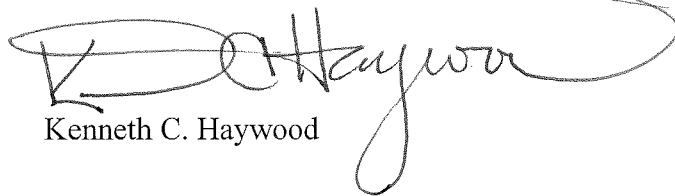
Jeremiah Smith
December 28, 2016
Page 2

Please let us know if there is any other information we may provide to you.

With best regards, I am

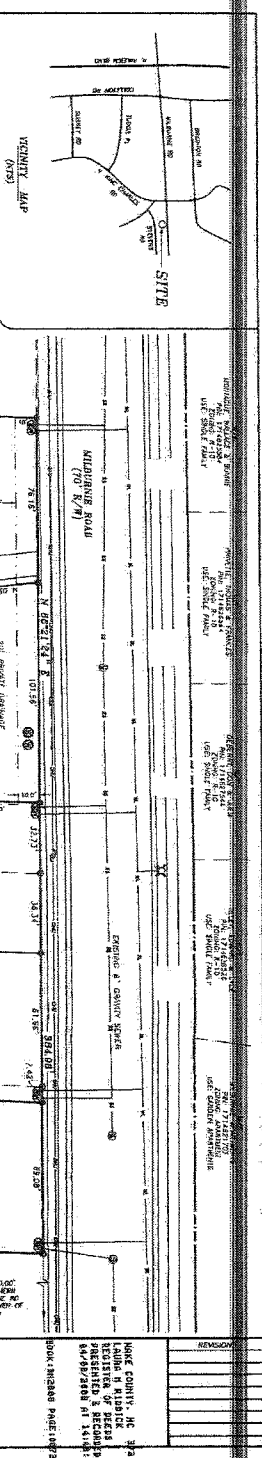
Sincerely yours,

BOXLEY, BOLTON, GARBER & HAYWOOD, L.L.P.

A handwritten signature in black ink, appearing to read "K Haywood", is written over a horizontal line. The signature is fluid and cursive, with the first letter "K" being large and prominent. The name "Haywood" is written in a cursive script.

Kenneth C. Haywood

KCH/lbf
Enclosure

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RECORDED IN BOOK OF MAPS 2008

PAGE 728 WAKE COUNTY

1 inch x 20 ft.

BA-0377a

5-20-6

1 of 1 13745

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REVISION

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WAKE COUNTY, NC 327
LAURA M RIBBICK
REGISTER OF DEEDS
PRESENTED & RECORDED ON
05/13/2011 AT 15:15:41

BOOK:014349 PAGE:00315 - 00320

CROSS ACCESS AGREEMENT

PREPARED BY
Murphy Law, PLLC (Without Title Examination)

AFTER RECORDING, PLEASE MAIL TO:
Murphy Law, PLLC
7101 Creedmoor Road, Suite 142
Raleigh, North Carolina 27613

STATE OF NORTH CAROLINA
COUNTY OF CARTERET

THIS CROSS ACCESS AGREEMENT (the "Agreement") is made this 13th day of May, 2011, by and among FOREST HILL DEVELOPMENT, LLC, a North Carolina limited liability company ("FOREST HILL").

WITNESSETH:

WHEREAS, Forest Hill is the owner of Lot 4 and Lot 5 ("Forest Hill Lots"), as shown on that certain plat recorded in Book of Maps 2008, Page 728, Wake County Registry (the "Record Plat"); and

WHEREAS, Forest Hill agrees that it is in their best interest to establish cross access between the Lots over and across the joint driveway situated thereon (the "Driveway") in the area shown on the recorded plat which is referred to for further reference as (the "Driveway Easement Area").

NOW, THEREFORE, in consideration of the premises and the benefits to the present owner and the future owners of the Lots (collectively, the "Owners", and individually an "Owner"), the receipt and legal sufficiency of which are hereby acknowledged, the Owner agree as follows:

1. INCORPORATION OF RECITALS. The foregoing recitals shall constitute an integral part of this Agreement, and this Agreement shall be construed in light thereof.
2. CROSS ACCESS EASEMENTS. The present and future Owners of the Lots and their respective tenants, occupants, licensees, invitees, grantees, heirs, successors and assigns (collectively, the "Beneficiaries"), shall have a perpetual, non-exclusive right of access over,

upon and across the Driveway for the purposes of ingress, egress, regress, and passage by vehicles and pedestrians to, from and between the Lots and the public streets located adjacent thereto.

3. **MAINTENANCE AND REPAIR OF DRIVEWAY.** The Owners shall be equally responsible for the maintenance and repair of the Driveway. If an Owner (the "Non-Performing Owner") fails to fulfill its maintenance and repair obligations under this Paragraph 3, the other Owners may, at their own cost, perform the necessary maintenance and repair work. In such event, the Non-Performing Owner shall reimburse the other Owners for the reasonable actual cost of such maintenance and repairs within ten (10) days after receipt of a written demand therefore along with copies of paid invoices. If the Non-Performing Owner fails to reimburse the other Owners as required hereunder, the other Owners shall have the right to pursue all legal and equitable remedies available to them for the breach of the Non-Performing Owner. Notwithstanding anything to the contrary herein provided, no Owner(s) shall cause the Driveway to be paved with asphalt or concrete without the prior unanimous written consent of all Owners.

4. **RESTRICTIONS.** The Lots shall be subject to the following restrictions, which restrictions shall be binding upon the Owners and their respective Beneficiaries:

A. **Traffic.** Within the Driveway, no obstruction to the free flow of traffic or the use of improvements situated on the Lots shall be permitted.

B. **Construction.** Any construction on an Owner's Lot shall be conducted in a manner which will minimize to the maximum extent practicable any interference with the use of the other Owners' respective Lots.

C. **Other Use.** The Owners shall make no other uses of the Driveway except those expressly authorized herein.

D. **Remedies.** The remedies for breach of any of the restrictions set forth in this Paragraph 4 shall be cumulative, not exclusive, and shall include injunctive relief.

5. **INDEMNIFICATION.** Each Owner shall indemnify and hold the other Owners and their respective Beneficiaries harmless (except for loss or damage resulting from the acts or omissions of such indemnified persons and/or entities) from and against any damage, claim, loss,

liability and expense (including reasonable attorneys' fees) in connection with the loss of life, bodily injury and property damage arising out of any occurrence in or upon the other Owner's Lot or occasioned by any negligent or intentional act or omission of the indemnifying Owner or its Beneficiaries.

6. **RESERVATION BY RECORD OWNER.** All rights of ownership in and to the Lots which are not inconsistent with the easement hereby granted, including, without limitation, the right to grant further easements on, over or across the Lots, and the right to construct additional improvements on the Lots, are hereby reserved by the Owners.

7. **NON-TERMINABLE AGREEMENT.** No breach of the provisions of this Agreement shall entitle any Party to cancel, rescind or otherwise terminate this Agreement; but such limitation shall not affect, in any manner, any other rights or remedies at law or in equity, including, without limitation, the right to seek specific performance or injunctive relief, which a Party may have hereunder by reason of any breach of the terms hereof.

8. **TERM.** Effective as of the date hereof, the provisions of this Agreement shall be deemed to be covenants running with the land, however reconfigured or resubdivided, and shall inure to the benefit of and be binding upon the Owners, and their respective successors, assigns, and other legal representatives; and the rights and obligations created herein shall not terminate in the event of merger of title.

9. **NOTICES.** All notices and other communications given pursuant to this Agreement shall be in writing, addressed to the Parties at the addresses listed for the Parties in the Carteret County tax office or at such other addresses as the Parties shall from time to time designate to the other by notice in writing as herein provided, and shall either be: (a) mailed by first class mail, postage prepaid, registered or certified with return receipt requested, or (b) delivered in person to the intended addressee, or (c) sent by overnight mail, or (d) received during normal business hours by confirmed facsimile or electronic transmission. Notice by mail shall be effective upon the expiration of three (3) business days after its deposit. Notice given in any other manner authorized hereunder shall be effective only if and when received by the addressee.

10. **ARBITRATION.** Any controversy or claim between the Parties shall be determined by binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. Any such arbitration shall be conducted in Raleigh, North Carolina. Judgment upon any arbitration award may be entered in any court having jurisdiction.

Any Party may bring an action, including a summary or expedited proceeding, to compel arbitration of any controversy or claim under this Agreement in any court having jurisdiction over such action.

11. MISCELLANEOUS.

A. Governing Law. This Agreement is executed in and shall be governed by the laws of the State of North Carolina.

B. Amendment. This Agreement may only be amended by written agreement executed by the Owners.

C. Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective grantees, heirs, successors, assigns, and other legal representatives; and the rights and obligations created herein shall not terminate in the event of merger of title.

D. Captions. All captions contained herein are for convenience only, shall not be deemed a part of this Agreement, and shall not affect the meaning or interpretation of this Agreement.

E. Severability. If any provision of this Agreement, or portion thereof, or the application thereof to any person or circumstances shall, to any extent, be held invalid, inoperative or unenforceable, the remainder of this Agreement, or the application of such provisions or portion thereof to any other persons or circumstances, shall not be affected thereby.

F. Prevailing Party. If any litigation is initiated or defended by any Party to this Agreement relating to this Agreement or the subject matter hereof, the Party prevailing in such litigation shall be entitled to recover, in addition to all damages allowed by law and other relief, all court costs, and reasonable attorney's fees incurred in connection therewith.

IN WITNESS WHEREOF, the Parties have executed this Agreement under seal as of the day and year first above written.

FOREST HILL:

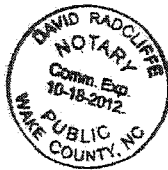
FOREST HILL DEVELOPMENT, LLC

By: *Paul R. Murphy, Jr.* (SEAL)
Paul R. Murphy, Jr. Member/Manager

STATE OF NORTH CAROLINA
COUNTY OF WAKE

I *David Radcliffe* certify that the following person(s) personally appeared before me this day, each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Paul R. Murphy, Member/Manager of Forest Hill Development, LLC

Witness my hand and official seal or stamp, this 19 day of May, 2011



David Radcliffe
Notary Public

My Commission Expires: _____