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CLERK OF COURT  
LANCASTER, SC

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STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF LANCASTER )

ORDINANCE NO. 2020 - 1668

AN ORDINANCE

**TO APPROVE AN EASEMENT GRANT TO GREENWAY SQUARE RETIREMENT COMMUNITY, LLC UPON REAL PROPERTY OWNED BY LANCASTER COUNTY BEARING TAX PARCEL NUMBER 0016-00-017.00 AND TO AUTHORIZE COUNTY OFFICIALS TO TAKE SUCH ACTIONS AS ARE NECESSARY TO EFFECTUATE THE GRANT OF THE EASEMENT AND TO EFFECTUATE THE PURPOSES OF THIS ORDINANCE.**

Be it ordained by the Council of Lancaster County, South Carolina:

**Section 1. Findings and determinations.**

Council finds and determines that:

(1) Lancaster County (the "County") owns land at tax parcel number 0016-00-017.00 and containing a county library;

(2) Greenway Square Retirement Community, LLC ("Greenway Square") owns adjacent real property that is being developed as a retirement community;

(3) Greenway Square and County (collectively the "Parties") believe that connectivity between the respective properties will be mutually beneficial and sound land use planning principles advocate for connectivity between the properties;

(3) The Parties desire to grant each other certain easement rights for fire/emergency services access and pedestrian and golf cart ingress and egress over a portion of the respective parcels of real property upon which a pedestrian/golf cart path and fire/emergency services access may be constructed;

(4) County desires to grant certain easement rights over a portion of the County property so Greenway Square may construct the pathway and emergency/fire vehicle access surface on the parcels, so as to benefit the Greenway Square property and the County property; and

(5) It is the purpose of this ordinance to approve an easement grant from County to Greenway Square.

**Section 2. Approval of right-of-way easement.**

Council authorizes and approves the grant of an easement (the “Easement”) to Greenway Square for the construction of a pedestrian and golf cart path and fire/emergency vehicle ingress and egress over and upon Tax Map No. 0016-00-017.00 as described in Section 1. The form of the Easement is attached to this ordinance as Exhibit A and all terms, provisions and conditions of the Easement are incorporated herein by reference as if the Easement were set out in this ordinance in its entirety. The County Administrator is authorized to execute and deliver the Easement on behalf of the County. By adoption of this ordinance, Council approves the Easement and all of its terms, provisions and conditions. The Easement is to be in substantially the form as attached to this ordinance and hereby approved, or with such minor changes therein as shall be approved by the officials of the County executing the Easement, their execution thereof to constitute conclusive evidence of their approval of any and all changes or revisions therein from the form of the Easement attached to this ordinance.

**Section 3. Authority to act.**

The Council Chair, the Clerk to Council, the County Administrator, the Deputy County Administrator, and County Attorney each are authorized to take such actions and to execute such documents as may be necessary to effectuate the purposes of this ordinance.

**Section 4. Severability.**

If any section, subsection or clause of this ordinance is held to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected.

**Section 5. Conflicting provisions.**

To the extent this ordinance contains provisions that conflict with provisions contained elsewhere in the Lancaster County Code or other County ordinances, resolutions or orders, the provisions contained in this ordinance supersede all other provisions and this ordinance is controlling.

**Section 6. Effective date.**

This ordinance is effective upon Third Reading.

SIGNATURES FOLLOW ON NEXT PAGE.

**AND IT IS SO ORDAINED**

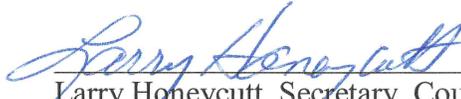
Dated this 20<sup>th</sup> day of JULY, 2020.

**LANCASTER COUNTY, SOUTH CAROLINA**



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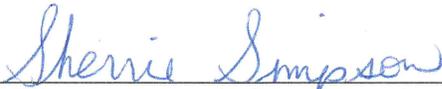
Steve Harper, Chair, County Council



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Larry Honeycutt, Secretary, County Council

ATTEST:

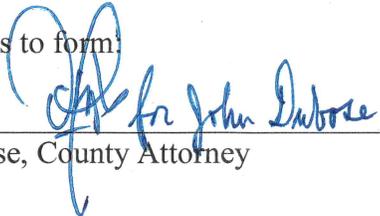


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Sherrie Simpson, Clerk to Council

First Reading: May 26, 2020  
Second Reading: June 8, 2020  
Public Hearing: June 22, 2020  
Third Reading: July 20, 2020

Approved as to form:



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John DuBose, County Attorney

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**Exhibit A to Ordinance No. 2020 - 1668**

**Form of Driveway Access Easement Agreement  
Lancaster County to Greenway Square Retirement Community, LLC**

Tax Map No. 0016-00-017.00

See attached.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

## ACCESS EASEMENT AGREEMENT

This ACCESS EASEMENT AGREEMENT (“**Agreement**”) is made effective, as of the \_\_\_\_\_ day of July, 2020 (the “**Effective Date**”), by and between Lancaster County, South Carolina, a political subdivision of the State of South Carolina (“**Lancaster**”), and Greenway Square Retirement Community LLC, a Nebraska limited liability company (“**Greenway Square**”) (Lancaster and Greenway Square are collectively referred to hereafter as the “**Parties**” and individually as a “**Party**”).

### Recitals

WHEREAS, Lancaster is the fee owner of certain real property located in Lancaster County, South Carolina, known as Lancaster County tax parcel number 0016-00-017.00 and more particularly described on **Exhibit A** attached hereto (the “**Lancaster Property**”);

WHEREAS, Greenway Square is the fee owner of certain real property located in Lancaster County, South Carolina, known as Lancaster County tax parcel number 0016-00-011.00 and more particularly described on **Exhibit B** attached hereto (the “**Greenway Square Property**”) (the Lancaster Property and the Greenway Square Property are collectively referred to hereafter as the “**Parcels**” and individually as a “**Parcel**”);

WHEREAS, the Lancaster Property and the Greenway Square Property are adjacent;

WHEREAS, the Parties desire to grant to each other certain easement rights for emergency vehicular ingress and egress and pedestrian/golf cart ingress and egress over a portion of the Parcels upon which a pedestrian/golf cart path and emergency vehicle access area may be constructed (as contemplated herein, the “**Improved Easement Area**”); and

WHEREAS, Lancaster desires to grant certain easement rights over a portion of the

Lancaster Parcel so Greenway Square may construct the Access Area on the Parcels, so as to benefit the Greenway Square Property and the Lancaster Property.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Grant of Temporary Construction Easement. As of the Effective Date, Lancaster grants in favor of the Greenway Square Property an exclusive temporary easement and right-of-way over, under, across and through the portions of the Lancaster Property that are within five (5) feet on any side of the Permanent Easement Area, or such greater area as may be reasonably necessary for Greenway Square to construct the Easement Area, decorative fencing, and retaining walls within the Permanent Easement Area (the “**Temporary Easement Area**”) (the Permanent Easement Area and the Temporary Easement Area are collectively referred to hereafter as the “**Easement Areas**”) to be used for the purposes of constructing and installing a pedestrian/ golf cart path and emergency vehicle access surface, decorative fencing, and retaining walls (the “**Temporary Easement**”). The Temporary Easement shall be for the exclusive use and benefit of Greenway Square and its Affiliates and shall terminate upon the completion of construction of the Improved Easement Area and any associated fencing or retaining walls. Greenway Square shall be responsible for the effectuation of and costs associated with, the relocation of any utility easements necessary for construction of the Improved Easement Area.

2. Grant of Permanent Easement. As of the Effective Date, Lancaster grants in favor of the Greenway Square Property, and Greenway Square grants in favor of the Lancaster Property, a non-exclusive permanent easement and right-of-way over, under, across and through the portion of the Parcels that is described on the attached **Exhibit C** and depicted on the attached **Exhibit D** (the “**Permanent Easement Area**”) for purposes of (i) maintaining, repairing and replacing the Improved Easement Area, decorative fencing, and retaining walls within the Permanent Easement Area, and (ii) ingress and egress for emergency vehicular access and pedestrian/golf cart traffic between the Parcels and the public roadway adjacent to the Parcels (collectively, the “**Access Easement**”). The Improved Easement Area shall be for the non-exclusive use and benefit of the Parties and their respective successors, assigns, employees, agents, contractors, licensees, invitees and visitors (collectively, “**Affiliates**”).

3. No Obstructions or Modification to Permanent Easement Area. The Parties covenant and agree that removable bollards or other access restricting devices will be installed to restrict vehicular access to emergency vehicles only. Other than devices restricting access to emergency vehicles only, no portion of the Permanent Easement Area, including the pedestrian/golf cart path and emergency vehicle access surface, shall be used at any time for vehicular parking or for the placement of any gates, fences (excluding the decorative fencing and retaining walls to be installed pursuant to Section 6 herein), other barriers, or other obstructions

that would prevent, restrict or otherwise interfere with the flow or passage of pedestrians/ golf carts and emergency vehicles along any portion of the Improved Easement Area.

4. No Cross-Parking on Permanent Easement Area. This Agreement does not confer or grant to either Party a right to park vehicles, other than emergency vehicles, on another Party's Property. Greenway Square shall cause its employees, lessees, contractors, agents, licensees and invitees to park only in the parking areas on the Greenway Square Property. Lancaster shall cause its employees, lessees, contractors, agents, licensees and invitees to park only in the parking areas on the Lancaster Property. The Parties agree to develop and operate their respective Parcels so as to be self-sufficient for parking.

5. No Construction Traffic on Permanent Easement Area. Upon completion of construction of the senior facility on the Greenway Square Property, no construction traffic shall be permitted to use the Improved Easement Area.

6. Retaining Wall and Decorative Fencing. In connection with its construction of the Improved Easement Area, Greenway Square shall install a retaining wall and decorative fencing within the Permanent Easement Area, which retaining wall and decorative fencing are depicted on **Exhibit D**. Greenway Square shall construct the decorative fencing within the Permanent Easement Area using aluminum fencing or other comparable material. The fencing material shall not be chain link.

7. Interference with Landscaping Features in Permanent Easement Area. Greenway Square and Lancaster acknowledge that a sidewalk and other certain landscaping features exist within the Permanent Easement Area. Lancaster and Greenway Square acknowledge that some of these features may be damaged or disturbed during Greenway Square's use of the Temporary Easement or Permanent Easement Area. Greenway Square hereby agrees to cooperate with Lancaster if its use of the aforementioned easements will interfere with such features. Greenway Square further agrees to repair or restore, at its sole cost and expense, any features which have been disturbed or damaged as a result of Greenway Square's use of the easements granted herein.

8. Maintenance and Repairs of the Permanent Easement Area. Each party shall maintain in good condition and repair and in compliance with all laws, the portion of the Permanent Easement Area which is located on their respective Parcel. The Parties shall endeavor to cooperate with each other in regularly scheduling any maintenance, repair, or replacement of the Improved Easement Area, including, but not limited to utilizing a single contractor for the maintenance, replacement or repair of the Permanent Easement Area.

9. Damage. Notwithstanding the terms of Section 8 above, in the event that either Party or its Affiliates cause any extraordinary damage (i.e., other than ordinary wear and tear or due to construction traffic) to the Improved Easement Area, then such Party shall be responsible for curing such extraordinary damage at its sole cost and expense, including, but not limited to,

returning the Improved Easement Area to a condition substantially similar to the condition existing immediately prior to such damage.

10. Default and Remedies. If either Party fails to perform any other obligation under this Agreement, then the other Party may deliver written notice thereof to the defaulting Party, declaring that if the defaulting Party fails to perform its obligation within thirty (30) days after the delivery of the default notice, or within forty-eight (48) hours of such notice in the event of an emergency, then the non-defaulting Party may, but shall not be obligated to, cure such default, in which event the defaulting Party shall reimburse the non-defaulting Party for any reasonable expenses incurred by the non-defaulting Party in curing such default within ten (10) days upon receipt of written demand therefor. In the event any action is brought by a Party to enforce any provision of this Agreement, the prevailing Party shall be entitled to an award of its costs and reasonable attorneys' fees in connection with such action. Any forbearance, delay or omission by a Party hereto in exercising its rights or remedies under this Agreement in the event of a default of any term hereof by the other Party shall not impair such right or remedy or be deemed or construed to be a waiver by the non-defaulting Party of such default or of any of the non-defaulting Party's rights or remedies hereunder. Notwithstanding anything contained herein to the contrary, no Party may seek injunctive relief or other equitable relief that would inhibit, preclude, impair, or prevent the use of the Easement Area for pedestrian/golf cart access and emergency vehicular uses, following completion of construction of the Greenway Square Retirement Community.

11. Insurance. Each Party shall procure and maintain, at its sole expense, Commercial General Liability Insurance insuring the portion of the Easement Area located upon its Parcel, against all claims arising out of use of the Permanent Easement Area in an amount not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate. From time to time upon request, the Parties shall provide each other with their respective certificates of insurance showing the other Party as a certificate holder on the portion of the policy relating to the Permanent Easement Area. All policies of insurance shall be issued in form reasonably acceptable to the other Party and by insurance companies qualified to do business in South Carolina.

12. Notice. All notices, approvals or other communications required or permitted to be given under this Agreement shall be in writing and shall be considered as properly given after (a) being mailed via U.S. mail by certified mail, return receipt requested, postage prepaid and addressed to the person or entity to whom it is intended at the address of said person as set forth below; (b) being sent via overnight commercial courier, courier fee prepaid and addressed to the person or entity to whom it is intended at the address of said person or entity as set forth below; or (c) delivered by hand to the intended recipient. Notices shall be deemed to have been delivered as of the date of actual receipt. Rejection or other refusal to accept delivery or the inability to deliver because of a changed address of which no notice was given shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver. For purposes of notice, the addresses of the Parties as of the date of this Agreement are as follows:

GREENWAY SQUARE: c/o Cameron General Contractors  
7101 S. 82<sup>nd</sup> St.  
Lincoln, Nebraska 68516  
Attn: Derek Zimmerman

With copy to: Dinsmore & Shohl LLP  
Attn: Charles E. Baverman III. Esq.  
255 E. Fifth St., Suite 1900  
Cincinnati, Ohio 45202

LANCASTER: Steve Willis, County Administrator  
PO Box 1809  
Lancaster, SC 29720

With copy to: Development Services  
Lancaster County Government  
PO Box 1809  
Lancaster, SC 29720

13. Covenants Running with the Land; Successors and Assigns. The covenants, rights and obligations in this Agreement shall: (a) run with the land, (b) apply to and be binding upon the Parties and their respective successors and assigns, and subsequent owners of any portion of the Parcels, (c) not be affected by a conveyance of all or any part of a Parcel, and (d) be for the benefit of the subsequent owners of any portion of the Parcels.

14. Amendments; Termination. This Agreement may be amended, modified or terminated at any time, but only by a written instrument executed by the Parties or their successors and recorded in the real estate records of the Lancaster County, South Carolina, Recorder's Office.

15. No Rights in Public; No Implied Easements. Nothing in this Agreement shall be construed to create any rights in the general public or as a dedication for public use. No easements, except those expressly set forth in this Agreement, shall be implied by this Agreement.

16. Authority. Each Party covenants and warrants to the other that it has full power and authority and the legal right to execute and perform this Agreement.

17. Severability. The invalidity or unenforceability of any covenant, condition, term or provision in this Agreement shall not affect the validity and enforceability of any other covenant, condition, term or provision.

18. Relationship to Parties. Nothing in this Agreement shall be deemed or construed to create the relationship of principal and agent, partnership, or joint venture between the Parties.

19. Counterparts. This Agreement may be executed in one or more counterparts which, when taken together, shall constitute one and the same original document.

20. Exhibits. This Agreement includes and incorporates all of the following exhibits:

- Exhibit A: Legal Description of the Lancaster Property
- Exhibit B: Legal Description of the Greenway Square Property
- Exhibit C: Legal Description of the Permanent Easement Area
- Exhibit D: Depiction of the Permanent Easement Area

Approved as to Form:

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John K. DuBose, III, County Attorney

[Remainder of page intentionally left blank, signature pages to follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement.

LANCASTER:

Lancaster County, South Carolina,  
a political subdivision of the State of South  
Carolina

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
Witness #1

\_\_\_\_\_  
Witness #2

STATE OF SOUTH CAROLINA    )     ACKNOWLEDGMENT  
  )  
COUNTY OF \_\_\_\_\_     )

I \_\_\_\_\_, a Notary Public for the State of South Carolina, do hereby certify that Lancaster County, by \_\_\_\_\_, its \_\_\_\_\_, personally appeared before me this day and acknowledged the due execution of the forgoing instrument.

WITNESS my hand and seal this \_\_\_\_\_ day of July 2020.

\_\_\_\_\_(SEAL)  
Notary Public for the State of South Carolina  
My Commission Expires: \_\_\_\_\_

**GREENWAY SQUARE:**

GREENWAY SQUARE RETIREMENT  
COMMUNITY LLC,  
a Nebraska limited liability company

By: Collingsworth Management LLC,  
a Nebraska limited liability company  
Its: Manager

By: Breck C Collingsworth  
Name: Breck C. Collingsworth  
Its: Manager

Clay Burr  
Witness #1

James DeCypri  
Witness #2

~~STATE OF SOUTH CAROLINA~~ )  
~~COUNTY OF~~ LANCASTER )  
ACKNOWLEDGMENT

I CHRISTINE K MIDDLETON, a Notary Public for the State of ~~South Carolina~~ NEBRASKA, do hereby certify that Greenway Square, by Breck C. Collingsworth, its Manager, personally appeared before me this day and acknowledged the due execution of the forgoing instrument.

WITNESS my hand and seal this 24 day of ~~July~~ AUGUST 2020.

Christine K Middleton (SEAL)  
Notary Public for the State of ~~South Carolina~~ NEBRASKA  
My Commission Expires:

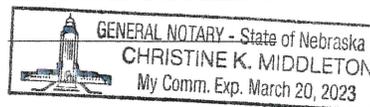


Exhibit A

**Legal Description of the Lancaster Property**

ALL that certain piece, parcel, or tract of land lying and being situate in or near the Township of Indian Land, County of Lancaster, State of South Carolina, containing 2.679 acres, more or less, and being shown as "Parcel 3 Library Tract" on that certain plat of survey prepared for Pulte Homes by David A. Weirich, SCPLS No. L-20193, of ESP Associates, PA, dated May 12, 2005 and revised August 14, 2005, entitled "Boundary of Carolina Lakes," such plat being recorded in the Lancaster County, South Carolina Clerk of Court's Office in Plat Book 2005, Page 466, to which plat reference is made for a more particular description as to the courses and distances of the within described property.

**DERIVATION:** Being a portion of the property conveyed to the Grantor in the within instrument by all or a portion of the following deeds, each recorded in the Office of the Clerk of Court for Lancaster County, South Carolina: Deed Book 290, Page 240, Deed Book 290, Page 243, Deed Book 290, Page 257, Deed Book 290, Page 254, Deed Book 290, Page 267, Deed Book 290, Page 262, Deed Book 290, Page 270, Deed Book 290, Page 162, Deed Book 290, Page 165, Deed Book 289, Page 312, and Deed Book 289, Page 323.

Exhibit B

**Legal Description of the Greenway Square Property**

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A 21.59-acre tract of land known as Parcel A and more particularly described as plat prepared for Greenway Square Retirement Community LLC, entitled "Recombination Plat of the Properties of Jerry Wayne Griffin Parcel ID Numbers 0016-00-011.00 and 0016-00-011.05; Mary Helen Gates Parcel ID Number 0016-00-011.02; Brenda Susan Griffin Halloran Parcel ID Number 0016-00-011.01; Joseph L. Griffin Parcel ID Numbers 0016-00-011.03 and 0016-00-011.06 and Joseph L. Griffin and Jamie B. Griffin Parcel ID Number 0016-00-011.04" dated February 20, 2019 and recorded in Plat Book 2019 at Page 559 in the Register of Deeds Office for Lancaster County, South Carolina. *and Page 558*

**Exhibit C**

**Legal Description of the Permanent Easement Area**

[see attached]

Exhibit C

Metes and bounds description of a  
New Variable Width Permanent Offsite Easement Area

Commencing at a 3/4" iron pipe found located at the northeast corner of the lands of Greenway Square Retirement Community, LLC and along the western right-of-way of US Highway 521 (Charlotte Highway); thence departing the right-of-way of US Highway 521 and continuing along the line of Greenway Square Retirement Community, LLC the following course:

S 76°58'32" W, 110.04' to a point;

Said point being located along the southern line of the lands of Lancaster County and being known as the True Point of Beginning; thence departing the lands of Greenway Square Retirement Community, LLC and continuing into and through the lands of Lancaster County the following (4) courses:

S 76°58'32" W, 39.80 feet to a point; thence  
N 13°33'44" W, 99.47 feet to a point; thence  
N 76°51'55" E, 40.64 feet to a point; thence  
S 13°04'57" E, 99.54 feet to the Point of Beginning, containing 4,002 square feet or 0.09 acres of land more or less.

**Exhibit D**

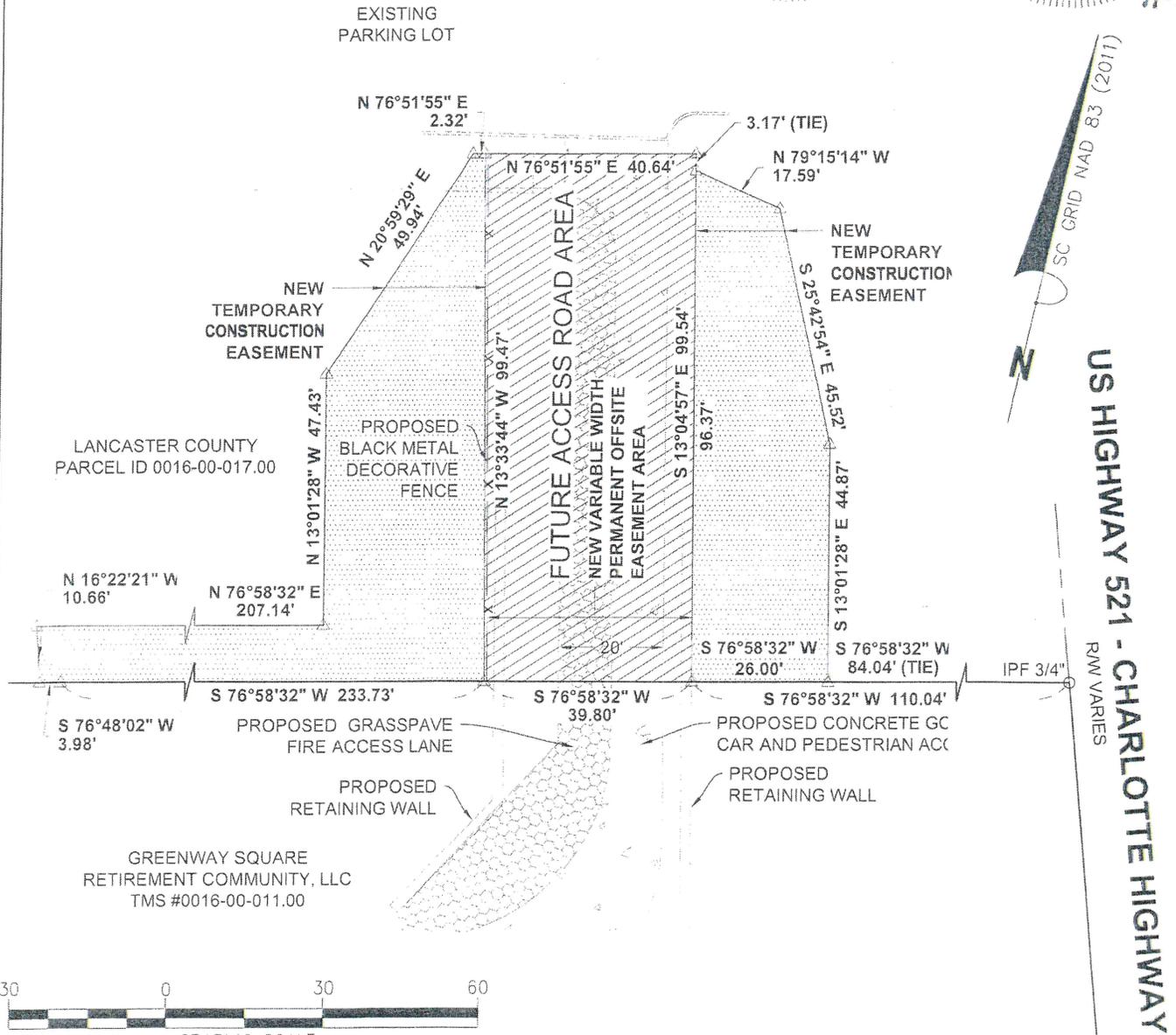
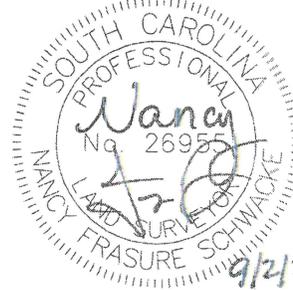
**Depiction of the Permanent Easement Area**

[see attached]

Exhibit D

LEGEND

-  CALCULATED POINT (NO MONUMENT SET)
-  PERMANENT OFFSITE DRIVEWAY EASEMENT
-  TEMPORARY CONSTRUCTION EASEMENT



**Bowman**  
CONSULTING

EXHIBIT SHOWING  
PERMANENT OFFSITE EASEMENT AREA  
AND  
TEMPORARY CONSTRUCTION EASEMENTS  
GREENWAY SQUARE  
RETIREMENT COMMUNITY  
LANCASTER COUNTY, SC

Bowman Consulting Group, Ltd. Phone: (843) 501-0333  
1210 Seven Farms Drive, Suite 101  
Charleston, SC 29492 www.bowmanconsulting.com

SCALE: 1" = 30  
DATE: AUGUST 27, 2020