

BK012574PG00597

WAKE COUNTY, NC 830  
LAURA M RIDDICK  
REGISTER OF DEEDS  
PRESENTED & RECORDED ON  
05/30/2007 AT 16:05:48

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**TRANSIT EASEMENT**

Instrument prepared by: Raleigh City Attorneys Office (3)  
Brief Description for Index: Transit Easement City Project # S-72-05  
Property: BOM 2007, Pages 1195-1200  
Mail After Recording to: City of Raleigh  
Transit Administrator  
P.O. Box 590  
Raleigh, NC 27602

**STATE OF NORTH CAROLINA**

**COUNTY OF WAKE**

**THIS TRANSIT EASEMENT AGREEMENT** (this Transit Easement) is made this 24th day of May, 2007, by and between Beazer Homes Corp., a Tennessee corporation (the Grantor), and **THE CITY OF RALEIGH** (the City):

**WITNESSETH:**

**THAT WHEREAS**, pursuant to that deed recorded in Book 11406, Page 1743, in the Office of the Register of Deeds of Wake County, North Carolina Grantor is the owner of that certain real property located adjacent to Millbrook Road (the Property), said real property being more particularly described as all of that real property as shown on plat recorded in Book of Maps 2007, Pages 1195-1200, in the Office of the Register of Deeds of Wake County, North Carolina (the Plat); and

**WHEREAS**, the City of Raleigh, through its Transportation Division, desires to erect and maintain a bus shelter on a portion of the Property for the benefit of the public.

**NOW, THEREFORE**, for valuable consideration, the receipt of which is hereby acknowledged, and in further consideration of the mutual covenants and terms, conditions and

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restriction hereinafter set forth, the Grantor hereby gives, grants, bargains and conveys unto the City, its successors and assigns, in perpetuity, an easement for erecting and maintaining a bus shelter, including related facilities as hereinafter described, and an easement for members of the public to wait, board and de-board buses at the shelter in and over that portion of the Property described as follows (the Transit Easement Area):

That area fifteen feet wide and extending twenty feet along and parallel to the northern right-of-way line of W. Millbrook Road and labeled City of Raleigh Transit Easement, Transit Easement or similar designation as shown on the Plat.

The terms, conditions, and restrictions of this Transit Easement are as follows:

1. That the City shall have the right to erect a bus shelter and related facilities within the Transit Easement Area. Members of the public may wait, board and de-board buses at the bus shelter. The term bus shelter may include: (i) fifteen (15) foot long by ten (10) foot wide cement foundation with Americans With Disabilities Act (ADA) required curb cut; (ii) six (6) foot wide by ten (10) foot long shelter with a trash container mounted therein; (iii) a six (6) foot long passenger bench located within the shelter; (iv) a six (6) foot long passenger bench located outside the shelter; and (v) a six (6) foot high channel post with route and schedule signs, and a trash container mounted thereon adjacent to the shelter;
2. That the City shall be and remain responsible for any and all expenditures of labor and materials or other costs or expense in the installation, erection, repair and maintenance of said bus shelter and related facilities;
3. That the City shall be responsible for any and all labor or other costs or expense which results from any and all future repair, relocation, or dismantling of said bus shelter and related facilities;
4. That the City agrees, to the extent allowed by North Carolina law, to hold Grantor harmless from any and all liability arising out of the installation and maintenance of said bus shelter and not caused by the negligence of Grantor. The parties agree that this is an indemnity agreement and nothing herein shall be construed to be a contract of insurance waiving the defense of governmental immunity;
5. The Grantor shall be responsible for the cutting or trimming of any vegetation and cleanliness of the grounds at or around the Transit Easement Area and the removal of trash from trash receptacles and litter from the Transit Easement Area;
6. This Transit Easement shall not divest the Grantor of any rights or interests in its Property not herein mentioned;
7. All notices given under this Transit Easement must be in writing and must be given by U.S. certified mail (written receipt) addressed as follows:

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To Grantor: Beazer Homes Corp.  
5811 Glenwood Avenue, Suite 200  
Raleigh, NC 27612

To City: ATTN: Mr. Carl Dawson  
Director of Public Works  
City of Raleigh  
P.O. Box 590  
222 W. Hargett Street  
Raleigh, NC 27602

Notices shall be deemed delivered three days from the date sent if addressed as set forth herein. Either party may notify the other of a change of address, which will only be effective by written notice. As necessary, day to day communication may occur between the management company for the Tennyson Place Community Association, Inc. for the Grantor and Transit Planning Technician for the City, concerning the administration of this Transit Easement. All issues of concern discussed by either party must be resolved within ten (10) business days or in a mutually agreed time frame in writing;

8. Within forty-five (45) days following termination of this Transit Easement, the City agrees to remove the bus shelter and related facilities from the Transit Easement Area and to return the property to the reasonably same condition it was in on the date hereof; and

9. This Transit Easement shall be binding upon Grantor and City and their respective successors and assigns.

TO HAVE AND TO HOLD the rights, privileges and easement herein granted to the City of Raleigh, its successors and assigns forever. The covenants agreed to and the terms, conditions, and restrictions imposed herein shall be binding upon the Grantor, its agents, tenants, successors and assigns and shall continue as a servitude running in perpetuity with the above described easement.

AND the Grantor covenants that it is vested of the premises in fee, has the right to convey the same in fee simple, and that the same are free from encumbrances except as hereinafter stated.

[The rest of this page is left blank. Signatures are on the following pages.]

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IN WITNESS WHEREOF, this Transit Easement is executed as of the day and year first above written.

**BEAZER HOMES CORP.**

Name of Grantor all caps in bold type

By: [Signature]  
Thomas F. Sewitsky III, Raleigh Division  
President



**CITY OF RALEIGH**

By: [Signature]  
Russell Allen, City Manager

ATTEST:

By: [Signature]  
Gail G. Smith, City Clerk

(Affix Seal)

NORTH CAROLINA  
COUNTY OF WAKE

CITY ACKNOWLEDGEMENT

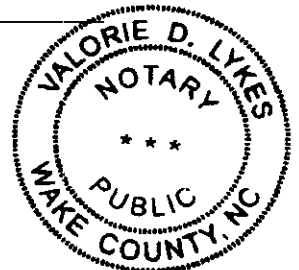
This is to certify that on the 24 day of May, 2007, before me personally came Gail G. Smith, with whom I am personally acquainted, who, being by me duly sworn, says that she is the City Clerk and Treasurer and J. Russell Allen is the City Manager of the City of Raleigh, the municipal corporation described in and which voluntarily executed the foregoing; that she knows the corporate seal of said municipal corporation; that the seal affixed to the foregoing instrument is said corporate seal, and the name of the municipal corporation was subscribed thereto by the said City Clerk and Treasurer and that the said seal was affixed, all by order of the governing body of said municipal corporation, and that the said instrument is the act and deed of said municipal corporation.

WITNESS my hand and official seal, this the 24 day of May, 2007.

(SEAL-STAMP)

Notary Public: [Signature]  
Name: Valorie D. Lykes

My Commission expires: 6/26/2010



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NORTH CAROLINA

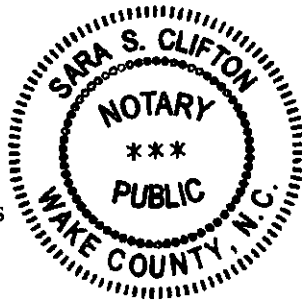
WAKE COUNTY

GRANTOR  
ACKNOWLEDGMENT

I, the undersigned Notary Public, certify that Thomas F. Sewitsky, III personally came before me this day and acknowledged that he is the President, Raleigh Division, of Beazer Homes Corp., a Tennessee corporation, and that he, as such officer, being authorized to do so voluntarily executed the foregoing instrument on behalf of said entity.

WITNESS my hand and official stamp seal this the 21 day of May, 2007.

(SEAL)



Sara S. Clifton

Notary Public

Printed Name: Sara S. Clifton

My Commission Expires

1-10-2010

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**Yellow probate sheet is a vital part of your recorded document.  
Please retain with original document and submit for rerecording.**

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**Wake County Register of Deeds  
Laura M. Riddick  
Register of Deeds**

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