



**City of Flowery Branch
City Council Meeting
Thursday, April 21, 2022, 6:00 PM
City of Flowery Branch City Hall
5410 West Pine Street, Flowery Branch, GA 30542**



CALL WORK SESSION TO ORDER:

PLEDGE OF ALLEGIANCE:

PUBLIC HEARING:

- Consideration of Ordinance 662 - A rezoning request submitted by Mr. Chris Herrington.
[Staff Report Herrington.pdf](#)
[Herrington Rezoning Ordinance 662.pdf](#)
- Public Hearing for the Rezoning application submitted by NNP-Looper Lake, LLC. to rezone tax parcel 15047 000885 from Planned Unit Development (PUD) to Planned Unit Development (PUD) with modified conditions.
[Sterling - Townes at Capitola - Plans and Elevations April 21.pdf](#)

UNFINISHED BUSINESS - WORK SESSION:

NEW BUSINESS -WORK SESSION:

- Consideration of Lease for 5318 Railroad Avenue to Chattahoochee Child Psychology Services, LLC

DEPARTMENT REPORTS: - a. City Manager Report - Mitchell Street Update

- b. City Clerk Report
- c. Finance Director Report
- d. Planning Department Report
- e. Police Report
- f. Attorney Report
- g. Council Report

ADJOURNMENT WORK SESSION:

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

PUBLIC COMMENTS: - Please limit to two minutes

CONSENT AGENDA:

- Consider Mayor Asbridge March 2022 Pier Diem Pay

[Mayor Asbridge March 2022 Per Diem Pay.pdf](#)

- Consider April 7, 2022 Council Meeting Minutes
[April 7, 2022 City Council Minutes.pdf](#)

UNFINISHED BUSINESS - VOTING SESSION:

- Consideration of Second Reading of Ordinance 663: Amendment to the Alcoholic Beverage Ordinance to License and Regulate Microbreweries.
[Executive Summary Microbrewery Second Read.doc](#)
[Microbrewery_State_License_Requirements.pdf](#)
[663 - Microbrewery.pdf](#)

NEW BUSINESS - VOTING SESSION:

- Consideration of First Reading of Amending Alcoholic Beverage License Ordinance 504A to Ordinance 504B
[Executive Summary Amending Ordinance 504A to 504B.doc](#)
[Ordinance 504B City Clerk to Police Chief.pdf](#)
[504A- Alcohol Code.pdf](#)
- Consideration of Ordinance 660 - A request from Lights Ferry Partners, LLC. and Diego Fracasso to Rezone 5908 Lights Ferry Road, a 1.92+/- acre of land also known as Tax Parcel Identification Number 08112 027019 from Residential, Detached Single-Family, Low-Density District (R-1) to Traditional Neighborhood Development District (TND).
[Lights Ferry Rezoning Ordinance 660.pdf](#)
[Lights Ferry Staff Report with attachments.pdf](#)
- Consideration of Lease for 5318 Railroad Avenue to Chattahoochee Child Psychology Services, LLC

EXECUTIVE SESSION:

ADJOURNMENT:

If you have a disability or impairment and need special assistance please contact the City Clerk prior to the meeting at 770-967-6371 - Meeting agenda is subject to change



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consideration of Ordinance 662 - A rezoning request submitted by Mr. Chris Herrington.

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

FACTS AND ISSUES:

A request from Chris Herrington to rezone 5321 Gainesville Street, a .36+/- acre of land also known as tax parcel identification number 08112 013005 from Residential, Detached Single-Family, Low-Density District (R-1) to Residential, Detached Single-Family, Moderate-Density District (R-2) with the intent to combine this parcel with 5321 Gainesville Street (applicants' primary residence) to construct an attached structure (garage/office).

A garage/office cannot be the primary structure on a property zoned R-1 so in order to complete the project the applicant must combine the two lots. Combining the two lots without rezoning the garage/office lot would create a confusing split zoned parcel. Combining the lots, both zoned R-2, and connecting the garage/office with the home creates a conforming use on a legal lot.

Condensed schedule:

April 21, 2022 – Public Hearing

May 5, 2022 – First Read and Initial Vote

May 19, 2022 – Second Read and Final Vote

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

Public Hearing Only

SAMPLE MOTION:

No motion at this time.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Shelia Cooper

ATTACHMENTS

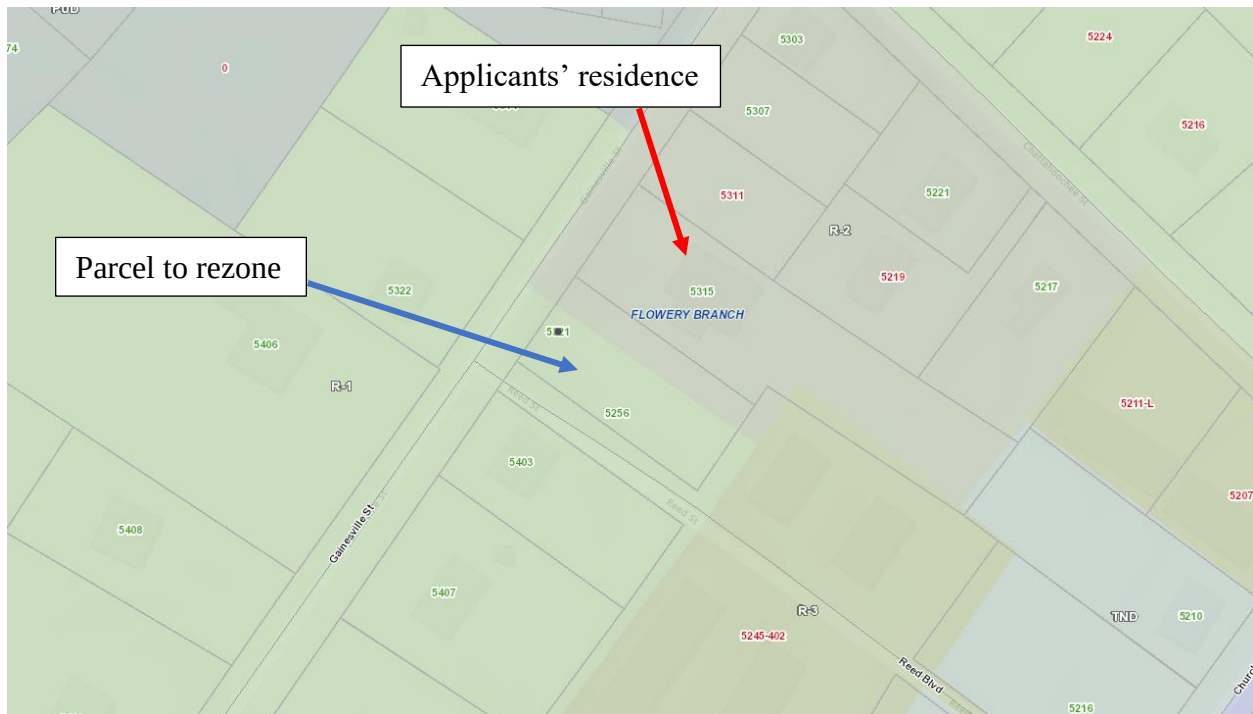
- [Staff Report Herrington.pdf](#)
- [Herrington Rezoning Ordinance 662.pdf](#)



**Staff Report
Herrington Rezoning Request
Ordinance 662**

Request

A request from Chris Herrington to rezone 5321 Gainesville Street, a .36+/- acre of land also known as tax parcel identification number 08112 013005 from Residential, Detached Single-Family, Low-Density District (R-1) to Residential, Detached Single-Family, Moderate-Density District (R-2) with the intent to combine this parcel with 5321 Gainesville Street (applicants' primary residence) to construct an attached structure (garage/office).





Proposed Schedule

April 21, 2022 – Public Hearing
May 5, 2022 – First Read and Initial Vote
May 19, 2022 – Second Read and Final Vote

Analysis

Flowery Branch Zoning Ordinance Article 37 Rezoning and Conditional Use Applications

Sec. 34.7. - Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the Governing Body in the decision-making process.



Staff Response:

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. **Yes, a personal garage and office are appropriate.**
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. **The development will not adversely affect the area.**
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned. **Yes, current zoning of R-1 is economically feasible.**
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. **It is staff's opinion that the use will not create any unnecessary burdens.**
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map. **Yes.**
- (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal. **Not to staff's knowledge, no.**
- (g) Existing use(s) and zoning of the subject property and nearby properties. **Currently vacant, the proposed use will fit in with the surrounding residential uses.**
- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification. **Staff does not have a specific number regarding property value.**
- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations. **Staff does not feel that the proposed will be a deterrent.**
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts. **N/A**
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district. **The proposed use will have no impact.**
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. **Little, to no, impact is expected.**



- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance. Does not impact the surrounding area.

Recommendation

Approve the request as submitted with the knowledge that it must meet the intent and requirements of the Flowery Branch zoning ordinance, development regulations, and all pertinent local laws, ordinances, and regulations.



ORDINANCE 662

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF FLOWERY BRANCH, GEORGIA, BY REZONING A .36 +/- ACRE PARCEL OF REAL PROPERTY OWNED BY CHRIS HERRINGTON. IDENTIFIED AS 5321 GAINESVILLE STREET, TAX PARCEL NO. 08112 013005, AS SHOWN ON EXHIBIT “A”, AND AS DESCRIBED ON EXHIBIT “B”, FROM RESIDENTIAL, DETACHED SINGLE-FAMILY, LOW DENSITY (R-1) TO RESIDENTIAL, DETACHED SINGLE FAMILY, MODERATE-DENSITY DISTRICT (R-2) SUBJECT TO THE CONDITIONS SET FORTH ON EXHIBIT “C”; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, Chris Herrington owns the .36+/- acre parcel of land known as 5321 Gainesville Street, identified as Parcel Tax Identification No. 08112 013005, as shown on Exhibit “A” and as described on Exhibit “B”; and

WHEREAS, Chris Herrington submitted to the City of Flowery Branch, Georgia, a written and signed application and affidavit showing consent to being rezoned; and

WHEREAS, a survey and complete description of the land to be rezoned is included in the application; and

WHEREAS, the City Council held a public hearing at the meeting of April 21, 2022, duly noticed as prescribed by law and published in the Gainesville Times, regarding said application, as shall be set forth in the minutes of said meeting.

NOW THEREFORE, THE COUNCIL OF THE CITY OF FLOWERY BRANCH HEREBY ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS.

The City Council finds that the proposed rezoning from Residential, Detached Single-Family, Low Density (R-1) to Residential, Detached Single-Family, Moderate Density (R-2) is consistent with the adopted standards for governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of the Zoning Ordinance as identified below.

1. The proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
2. The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property.
3. The property could be used in accordance with the existing regulations and has a reasonable economic use as currently zoned; however, an alternative use is appropriately considered.

4. The development if approved and constructed is not expected to result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
5. The proposal is generally in conformity with the policy and intent of the comprehensive plan including the character area map and future land use plan map.
6. The proposal is considered appropriate in view of existing use(s) and zoning of the subject property and nearby properties.
7. No determination has been made by staff with regard to the value differential between development under the current zoning as opposed to Residential, Detached Single-Family, Moderate Density (R-2)
8. A proposed development will not be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
9. There are no known adverse effects that would result from the change in zoning district map, or change in use, on the character of a zoning district.
10. Development as proposed is not expected to impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. Compliance with city subdivision and land development regulations will be required, which include but are not limited to soil erosion and sedimentation, stormwater, and flood damage prevention.

SECTION 2. REZONING.

The .36+/- acre parcel of land known as 5321 Gainesville Street, identified as Parcel Tax Identification No. 08112 013005, as shown on Exhibit “A”, and legally described in Exhibit “B”, is hereby rezoned from Residential, Detached Single-Family, Low Density (R-1) to Residential, Detached Single-Family, Moderate Density (R-2) subject to the conditions set forth on Exhibit “C”. Said Exhibits are incorporated by reference.

SECTION 3. AMENDMENT OF THE ZONING MAP.

This Ordinance is enacted as an amendment to the Zoning Map of Flowery Branch, Georgia. Accordingly, the Zoning Administrator is hereby authorized to update the Official Map consistent with Article 3 of the Zoning Ordinance.

SECTION 4. SEVERABILITY.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Public Hearing Published 03/16/22
Public Hearing 04/21/22

First Reading 05/05/22
Adopted 05/19/22

SECTION 5. EFFECTIVE DATE.

The effective date of this Ordinance shall be May 19th, 2022.

SECTION 6. REPEALER.

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Approved this 19th day of May 2022.

Edward R. Asbridge, Mayor

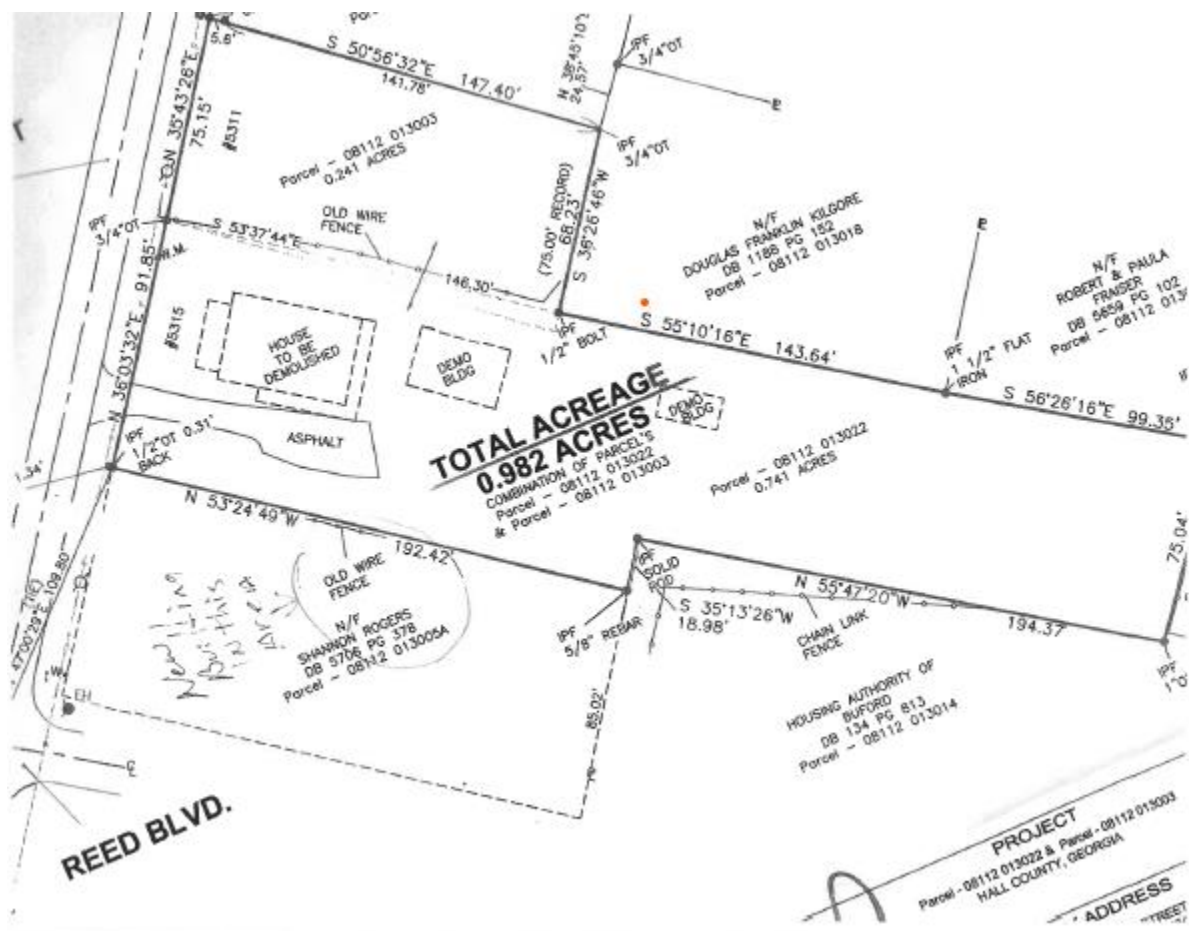
ATTEST:

Shelia R. Cooper, City Clerk

APPROVED AS TO FORM

E. Ronald Bennett, City Attorney

Exhibit "A"



Public Hearing Published 03/16/22
Public Hearing 04/21/22

First Reading 05/05/22
Adopted 05/19/22

Exhibit “B”

All that tract or parcel of land in the town of Flowery Branch, Hall County, Georgia and being shown on plat of survey for Carl N. Clark by Don William and Associated Land Surveyors dated September 17, 2002 and being more particularly described as follows: Commence at the intersection of the easterly right of way Reed Boulevard (formerly known as Lee Street) and the Southeasterly right of way of Gainesville Street, run thence North $34^{\circ}11'14''$ East a distance of 86.12 feet to iron pin set; run thence South $54^{\circ}56'55''$ East a distance of 205.99 feet to iron pin set; run thence South $34^{\circ}44'45''$ West a distance of 85.0 feet to an iron pin set; run thence North $55^{\circ}16'06''$ West a distance of 199.12 feet to an iron pit set and the True Point of Beginning.

Exhibit “C”

Approve the request as submitted with the knowledge that it must meet the intent and requirements of the Flowery Branch zoning ordinance, development regulations, and all pertinent local laws, ordinances, and regulations.



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Public Hearing for the Rezoning application submitted by NNP-Looper Lake, LLC. to rezone tax parcel 15047 000885 from Planned Unit Development (PUD) to Planned Unit Development (PUD) with modified conditions.

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

This is a proposal to alter an approved PUD zoned project (Sterling on the Lake) by rezoning said project from PUD to PUD with modified conditions of zoning. The ordinances were originally approved as 239 and 240. Each additional request to alter the original approval retains the original ordinance number adding letters alphabetically to ease in the tracking of this project and its many changes over the years. The ordinances will be 239-L & 240-L.

FACTS AND ISSUES:

This is a proposal to alter the approved Sterling on the Lake subdivision by rezoning said project from PUD to PUD with modified conditions of zoning. The proposed modification would decrease the size of the current commercial/retail portion from 12+/- acres to 4 +/- acres allowing for the construction of 65 townhomes on the approximate 8 acre tract.

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

No action at this time

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

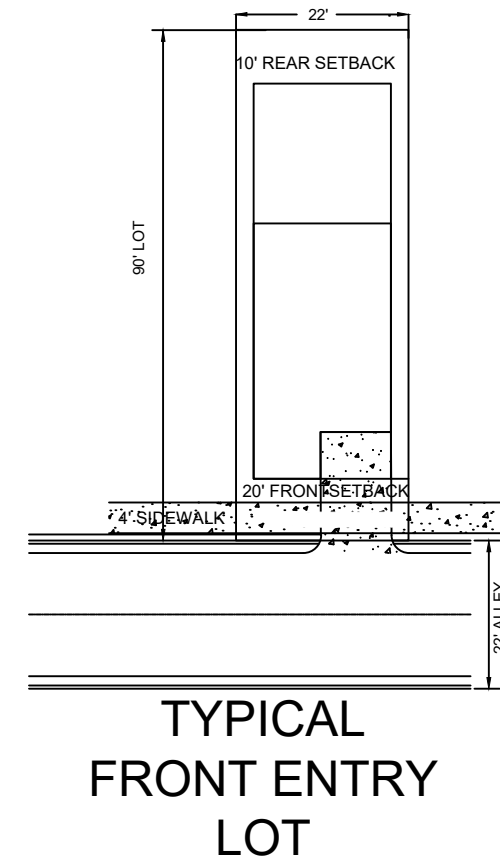
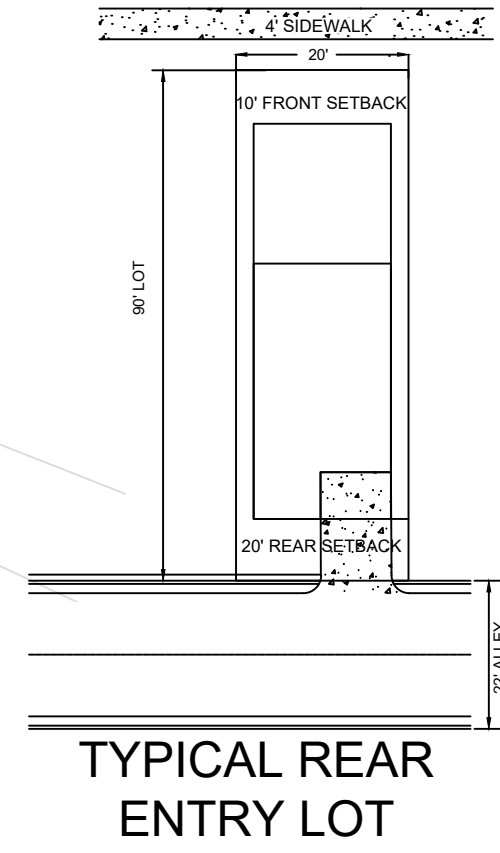
Prepared by: Shelia Cooper

ATTACHMENTS

- [Sterling - Townes at Capitola - Plans and Elevations April 21.pdf](#)

GENERAL NOTES:

- PARCEL SIZE - 8.15 AC.
- NUMBER OF LOTS - 65
- DENSITY 7.98 UNITS/AC.
- FRONT SETBACK - 10'
- ALLEY LOTS REAR SETBACK FROM BACK OF CURB - 20'
- SIDE SETBACK - 0'
- BUILDING SEPARATION - 20'



Rochester & Associates, Inc.

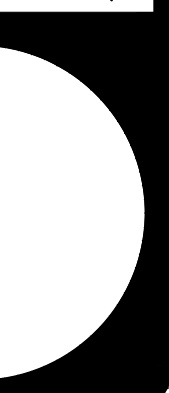
425 Oak Street N.W. • Gainesville, Georgia 30501
(770)718.0600 (770)718.9090 Fax • www.rochester-assoc.com

FOR:
STERLING ON THE LAKE
TOWNHOME SITE

LOCATED IN:
G.M.D. 1270
CITY OF FLOREY BRANCH
HALL COUNTY, GEORGIA

ANY CHANGES OR ALTERATIONS MADE TO THIS PLAN SHALL BE THE RESPONSIBILITY OF THE CLIENT. THE WRITTEN APPROVAL OF ROCHESTER & ASSOCIATES, INC. IS REQUIRED FOR ANY CHANGES TO THIS PLAN. ORIGINAL DRAWINGS SHALL BE FILED FOR VERIFICATION OF ANY CHANGES.

NO.	DATE	DESCRIPTION



SHEET
2
OF
2

DATE: 9/20/21
SCALE: 1"=30'
JOB NO.: 22033-PPQ
DRAWN BY: ARJ



BY
NEWLAND



DISCLAIMER: THESE DRAWINGS ARE CONCEPTUAL AND SUBJECT TO CHANGE, NOT INTENDED FOR CONSTRUCTION.





BY
NEWLAND

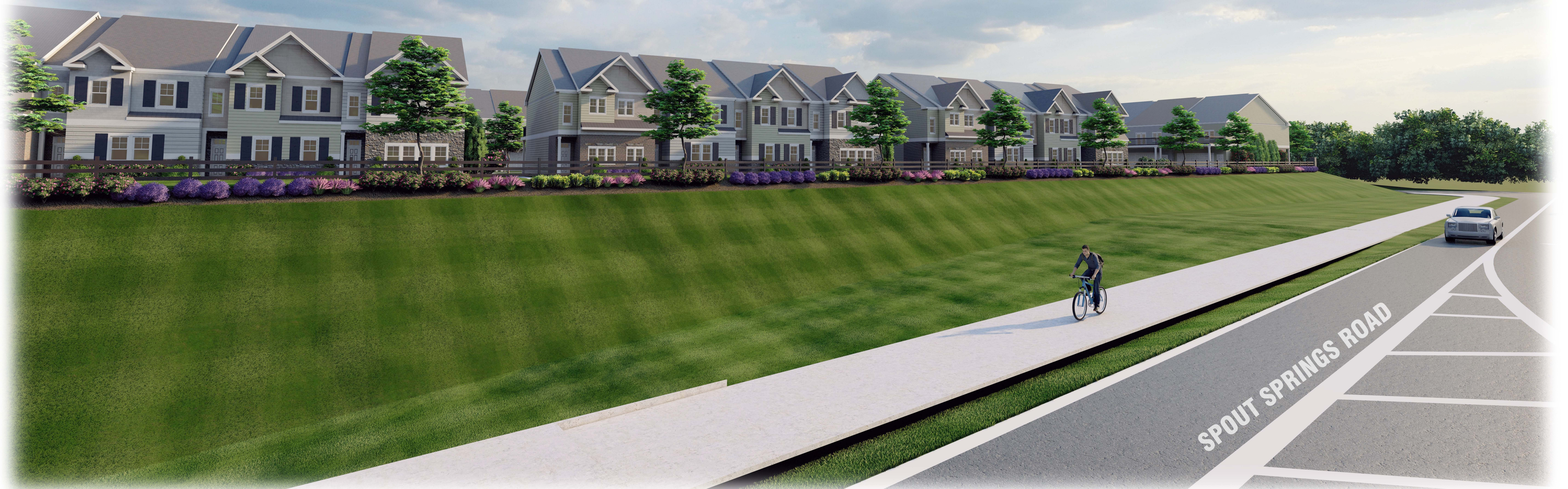


DISCLAIMER: THESE DRAWINGS ARE CONCEPTUAL AND SUBJECT TO CHANGE, NOT INTENDED FOR CONSTRUCTION.





BY
NEWLAND



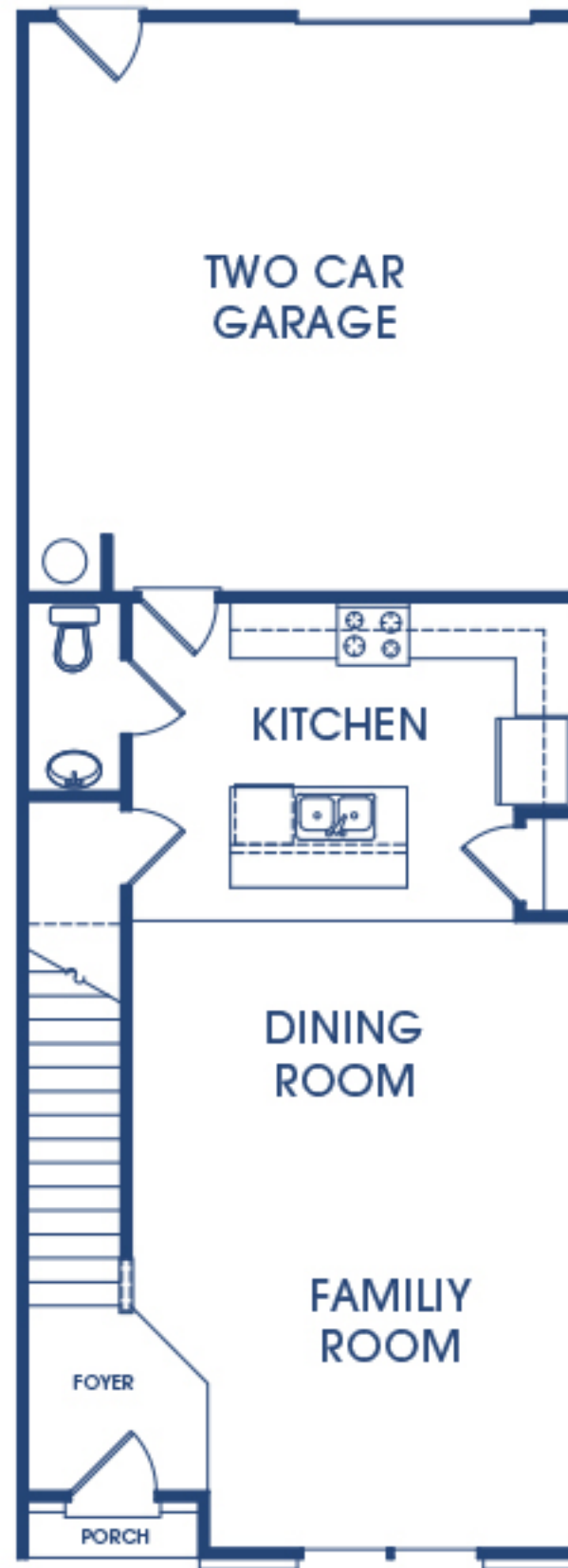
DISCLAIMER: THESE DRAWINGS ARE CONCEPTUAL AND SUBJECT TO CHANGE, NOT INTENDED FOR CONSTRUCTION.



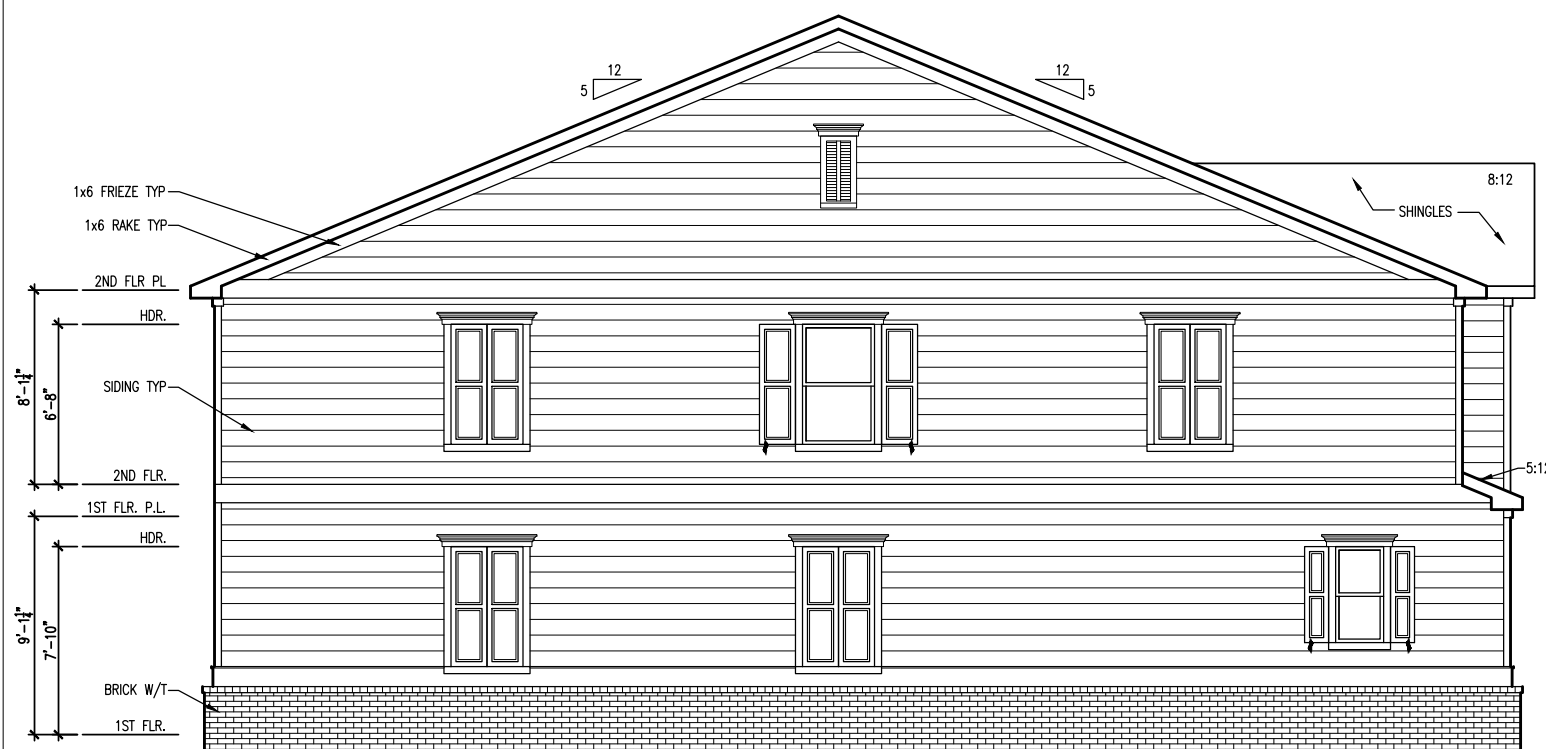


Ashley Floorplan

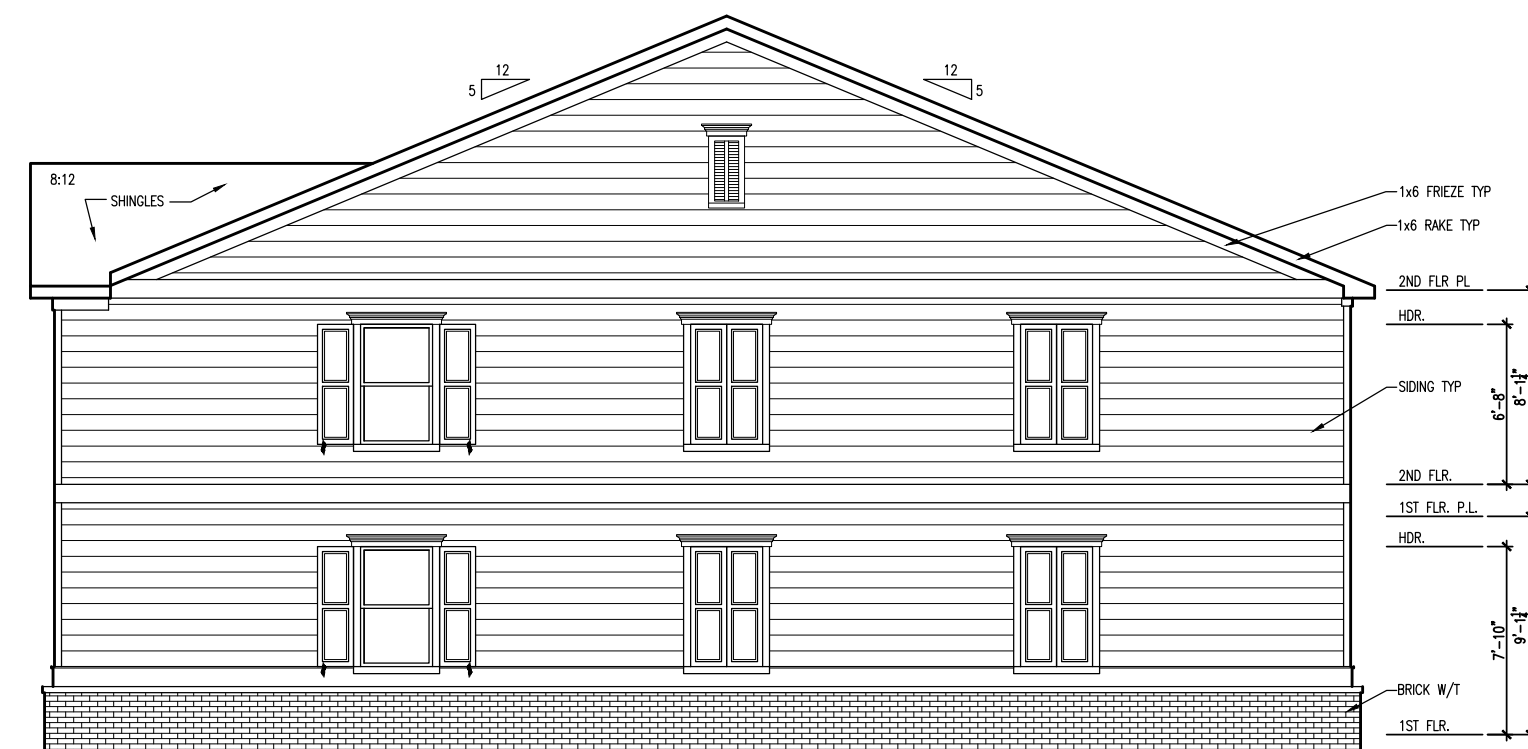
3 bedroom, 2.5 bath



Sterling On The Lakes
Rear Entry Town Home Series



LEFT SIDE ELEVATION A-G
(SCALE: 1/8"=1'-0")



RIGHT SIDE ELEVATION A-G
(SCALE: 1/8"=1'-0")



Sterling On The Lakes
Front Load Town Home Series
Salisbury, Stratford, & Sudbury

01-26-22

MATERIAL CALCULATIONS - SUDBURY LEFT	
FENESTRATION=	9.83% (90 SQ FT)
SIDING/ MASONRY=	90.17% (825.46 SQ FT)
TOTAL=	915.46 SQ FT



1

LEFT SIDE ELEVATION
SUDBURY "A" Scale: 1/8" = 1'-0"

MATERIAL CALCULATIONS - STRATFORD RIGHT	
FENESTRATION=	8.29% (76 SQ FT)
SIDING/ MASONRY=	91.71% (840.97 SQ FT)
TOTAL=	916.97 SQ FT

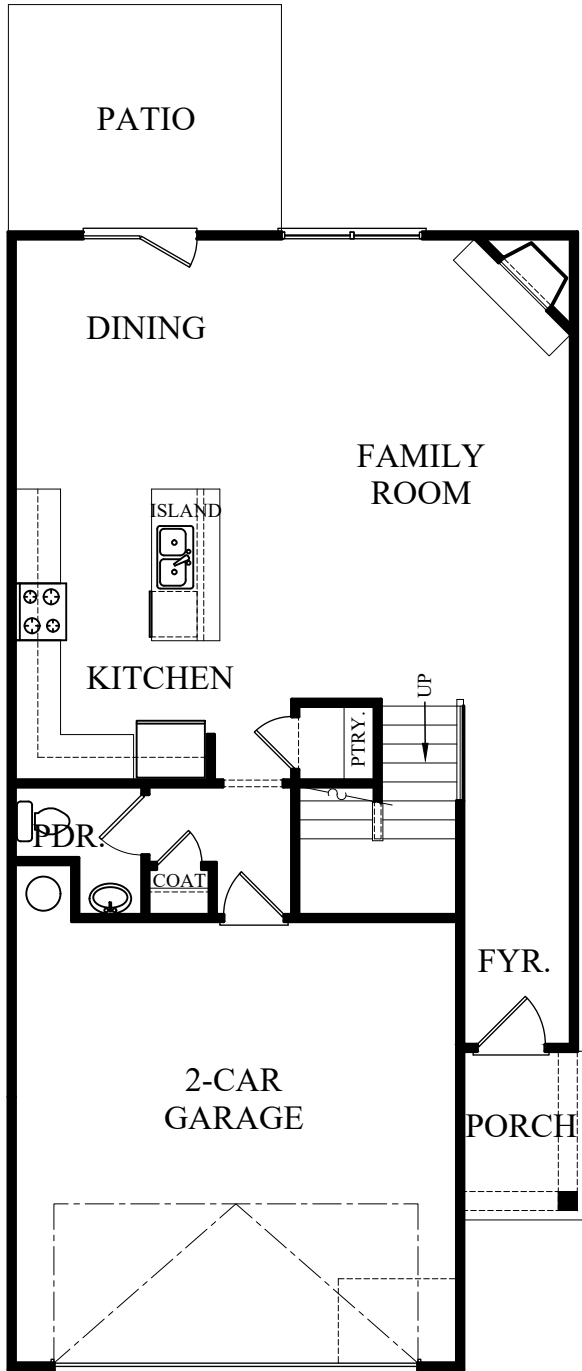


2

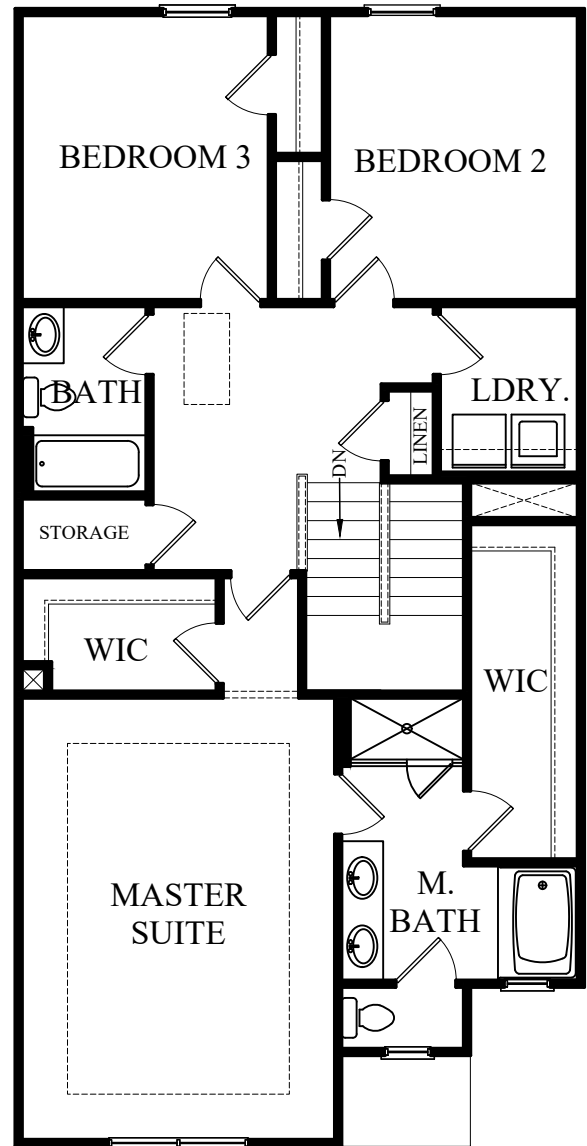
RIGHT SIDE ELEVATION
STRATFORD "B" Scale: 1/8" = 1'-0"

SALISBURY

2 STORY 3 BEDROOMS 2.5 BATHS

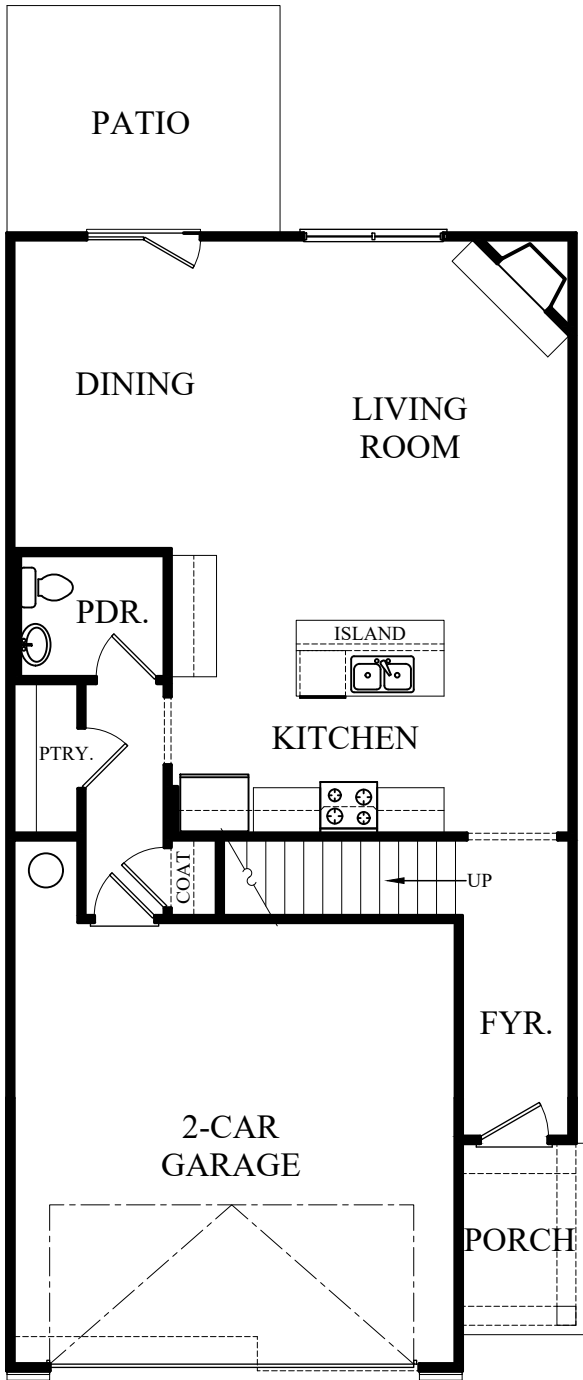


First Floor

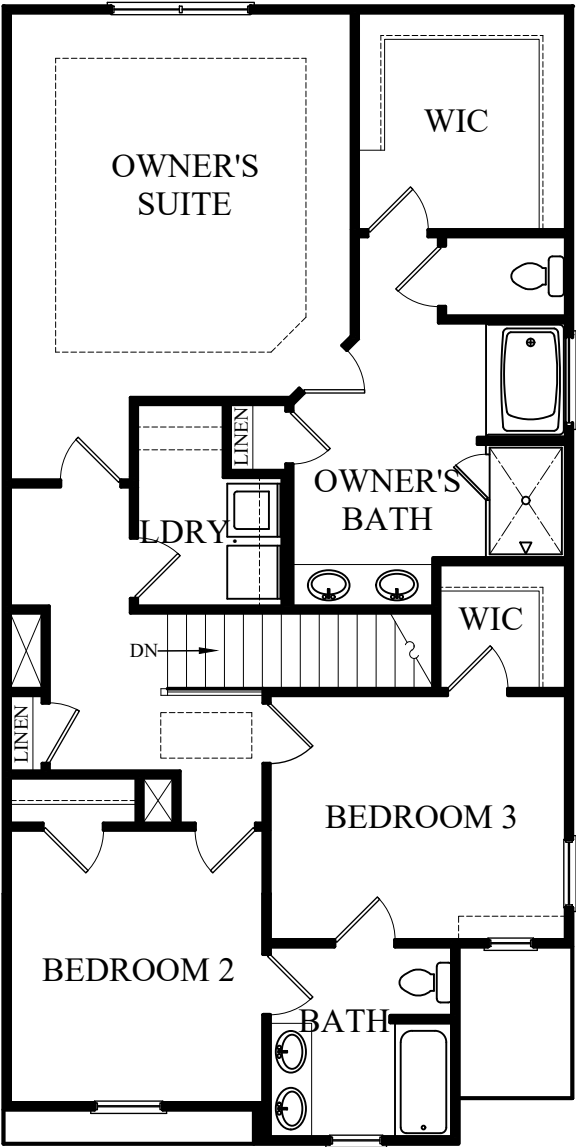


Second Floor

STRATFORD
2 STORY 3 BEDROOMS 2.5 BATHS



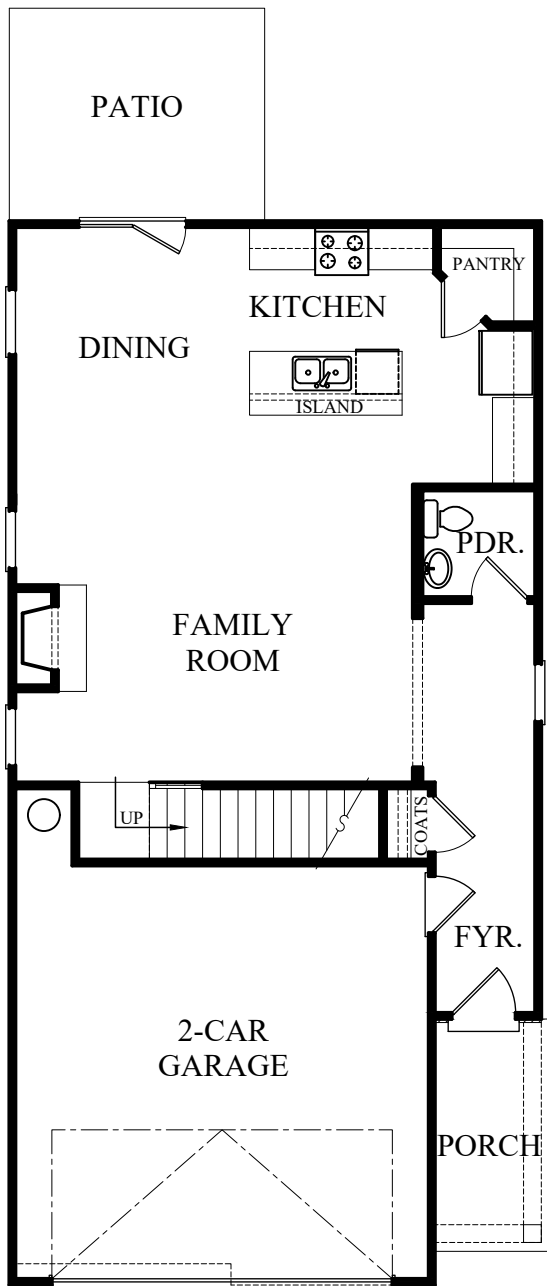
First Floor



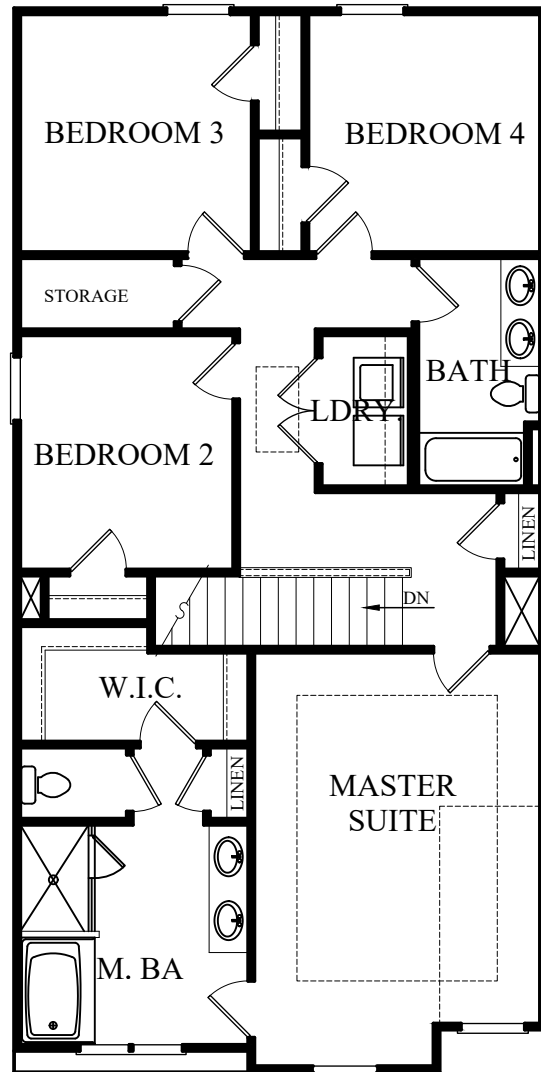
Second Floor

SUDBURY

2 STORY 4 BEDROOMS 2.5 BATHS

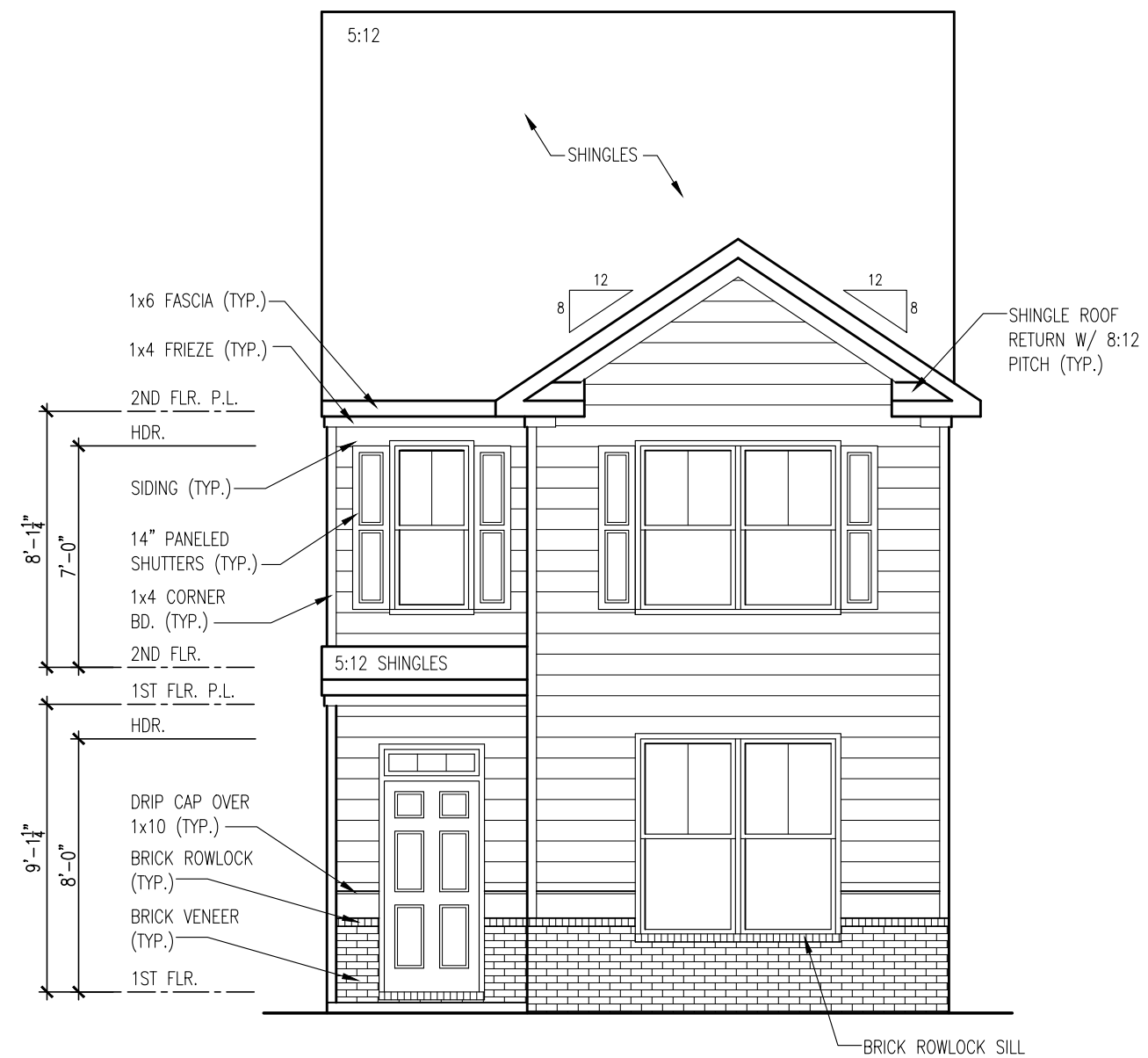


First Floor



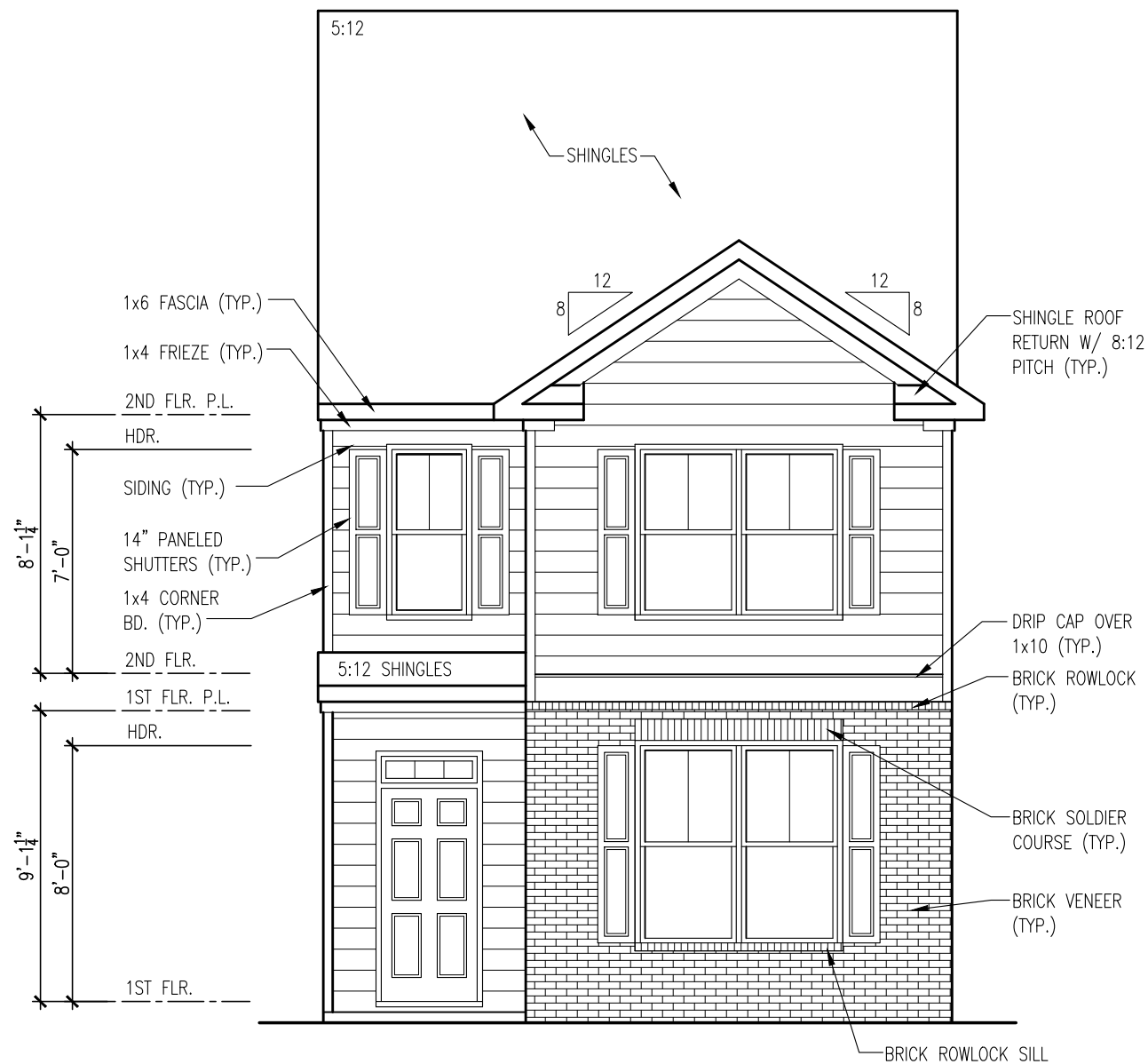
Second Floor

Sterling on the Lake
Capitola Townhomes
Alley Entry - Elevations



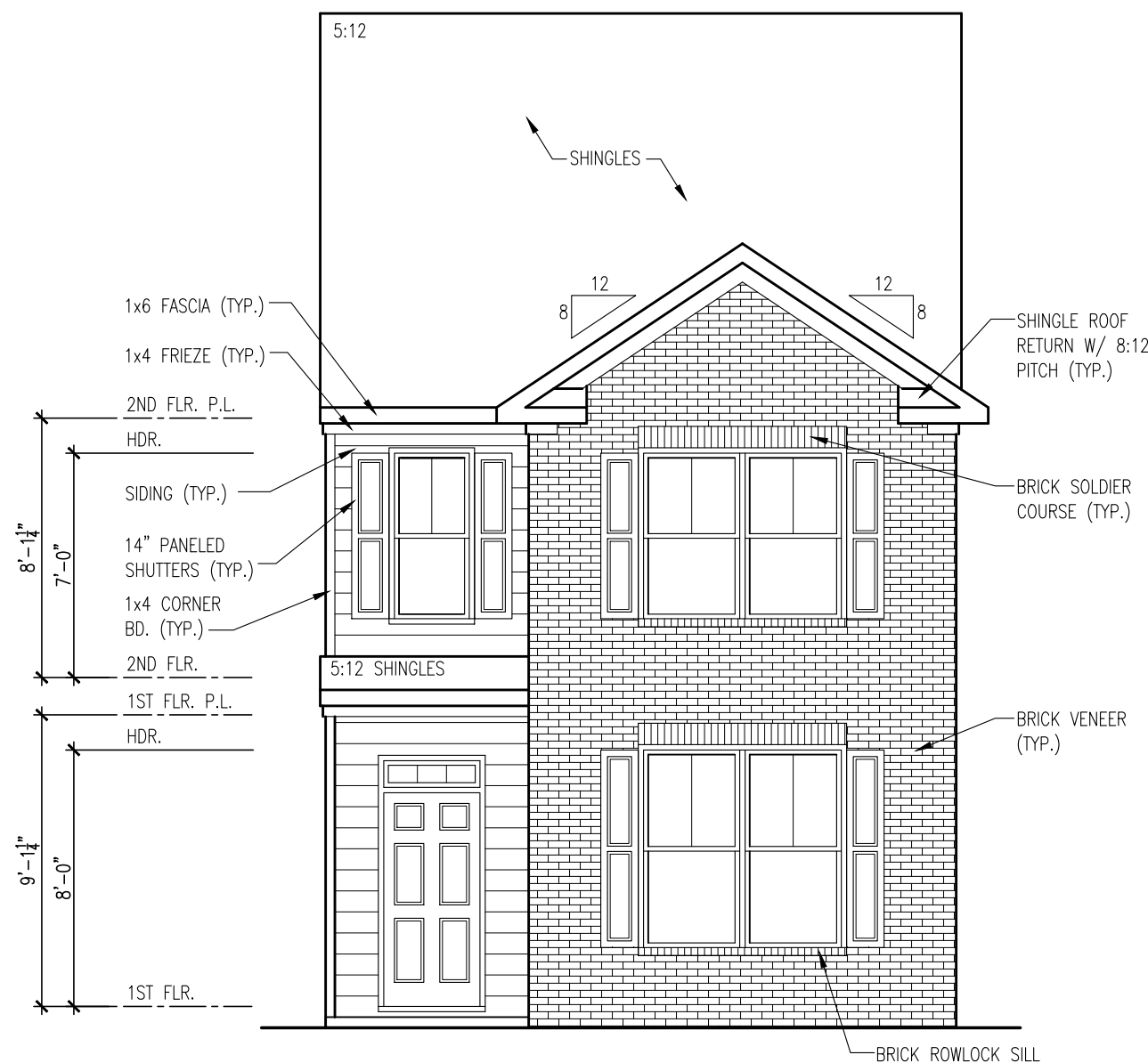
FRONT ELEVATION — A
(SCALE: 3/16"=1'-0")

Sterling on the Lake
Capitola Townhomes
Alley Entry - Elevations



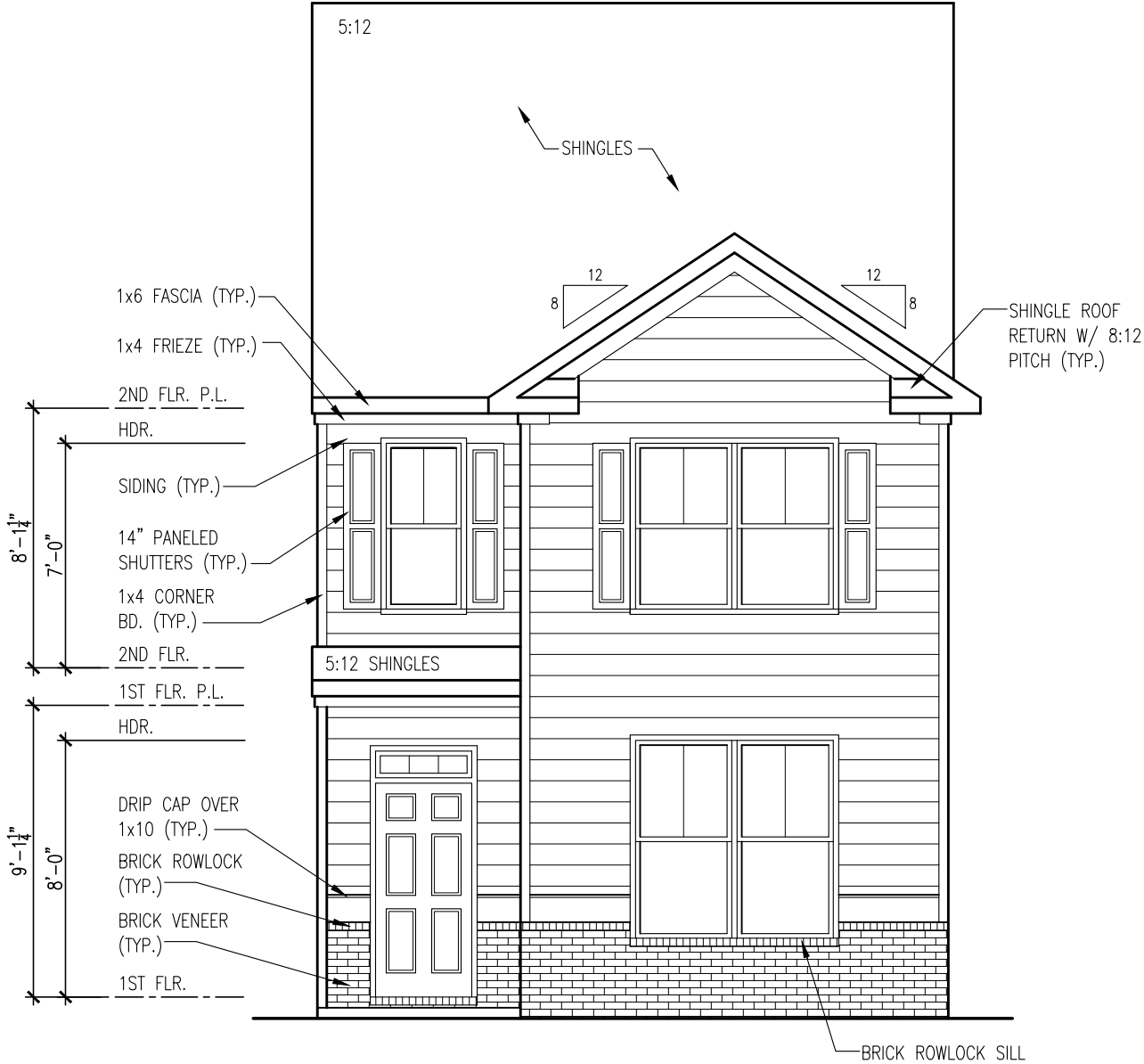
FRONT ELEVATION - B
(SCALE: 3/16"=1'-0")

Sterling on the Lake
Capitola Townhomes
Alley Entry - Elevations



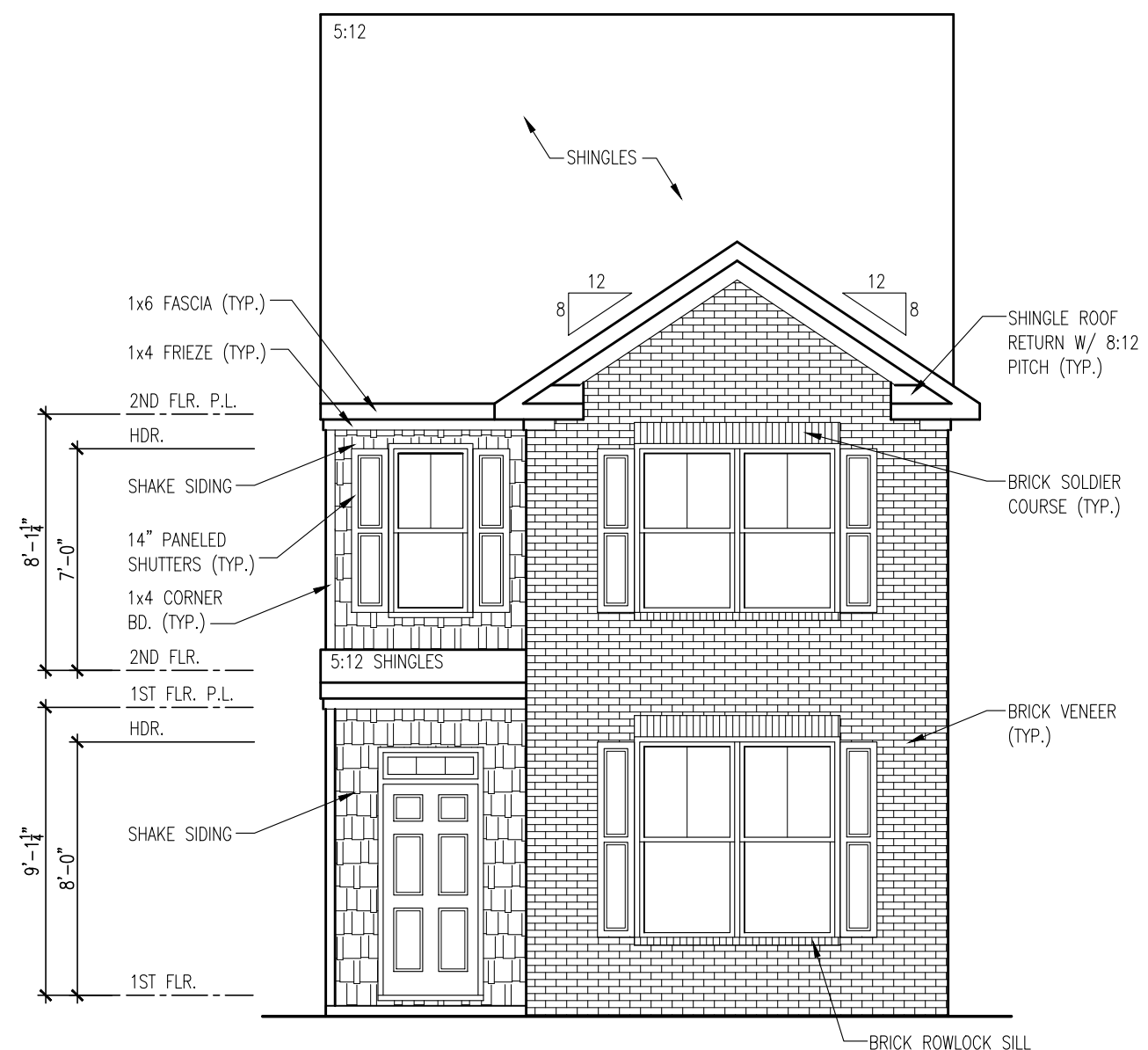
FRONT ELEVATION — C
(SCALE: 3/16"=1'-0")

Sterling on the Lake
Capitola Townhomes
Alley Entry - Elevations



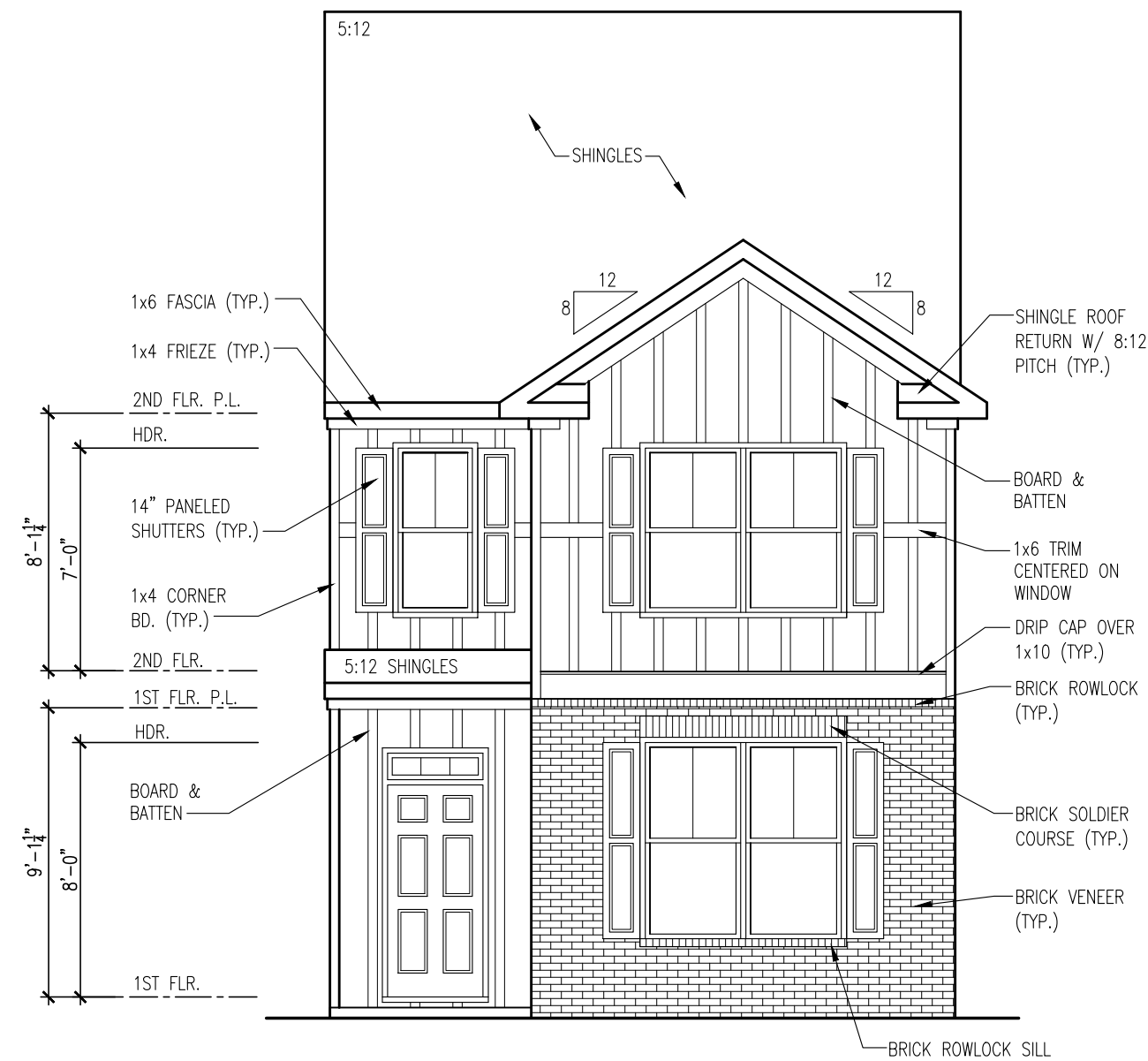
FRONT ELEVATION — A
(SCALE: 3/16"=1'-0")

Sterling on the Lake
Capitola Townhomes
Alley Entry - Elevations



FRONT ELEVATION — E
(SCALE: 3/16"=1'-0")

Sterling on the Lake
Capitola Townhomes
Alley Entry - Elevations



FRONT ELEVATION — F
(SCALE: 3/16"=1'-0")



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consideration of Lease for 5318 Railroad Avenue to Chattahoochee Child Psychology Services, LLC

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

Lease Proposal for 5318 Railroad Avenue, Flowery Branch, GA 30542

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

I make a motion to accept the contract as presented.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

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FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider Mayor Asbridge March 2022 Pier Diem Pay

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

Yes

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- [Mayor Asbridge March 2022 Per Diem Pay.pdf](#)



City of Flowery Branch
Mayor & Council Attendance Sheet Per Diem Pay

Name: Ed Asbridge Month/Year: March 2022

Meeting Date	Description of Meeting
March 8, 2022	Gainesville Hall Metro Planning Organization, Gainesville
March 11, 2022	Economic Development Meeting, Gainesville
March 15, 2022	Police Chief Interviews, Flowery Branch
March 16, 2022	Issues Committee Meeting – Sen. Butch Miller (Legislative Update), Gainesville
March 31, 2022	Chamber Small Business Coalition, Oakwood

My signature certifies that I am eligible to be paid for 5 meeting dates, maximum of 5 per month, in accordance with the Per Diem Pay as described in Ordinance Number 477. Total of **\$250.00** (\$50.00 per meeting).

Signature



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consider April 7, 2022 Council Meeting Minutes

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- [April 7, 2022 City Council Minutes.pdf](#)



**City of Flowery Branch
City Council Meeting Minutes
Thursday, April 7, 2022, 6:00 P.M.
City of Flowery Branch City Hall
5410 W. Pine Street, Flowery Branch, GA 30542**



CALL WORK SESSION TO ORDER:

Mayor Ed Asbridge called the council meeting to order at 6:01 p.m.

Present: Mayor Asbridge and Council Members Joe Anglin, Oliver McClellan, Joseph Mezzanotte and Chris Mundy

Also present were City Manager Tonya Parrish, City Clerk Shelia Cooper, Finance Director Alisha Gamble, Police Chief Chris Hulse, Public Works Director Bill Whidden and City Attorney Ron Bennett.

Absent: William McDaniel

PLEDGE OF ALLEGIANCE:

Mayor Asbridge led the pledge of allegiance.

ADMINISTER OATH:

City Clerk Cooper administered the Chief of Police oath to Christopher Hulse. Gerald Lanich pinned Chief Hulse during the ceremony.

NEW BUSINESS -WORK SESSION:

Consideration of amending Ordinance 504A, Alcoholic Beverages.

City Manager Parrish presented an amendment to Ordinance 504A which would have the application process removed from the City Clerk's office to the Police Department. The change proposed is for the new and renewal alcoholic beverage applications be processed and completed by the police department and for the Chief of Police to sign and oversee all aspects of the Alcoholic Beverage License and Compliance. Currently, the owner will apply and be fingerprinted and have a background check. The owner must have a registered agent that lives in Hall County and have a background check completed on the registered agent. All paperwork is processed and once in order, brought before Mayor and Council for approval. Once approved by Mayor and Council, we submit all the documents to the State of Georgia, Department of Revenue for approval or denial. If we get the approval from the State of Georgia, we release the alcohol license to the owner.

DEPARTMENT REPORTS:

Mayor's Report:

Mayor Asbridge invited all citizens to the Second Annual Flowery Branch Day of Prayer on May 5, 2022, on the City Hall Lawn at noon.

ADJOURNMENT WORK SESSION:

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

Mayor Asbridge called the voting session to order at 6:11 p.m.

PUBLIC COMMENTS:

There were no public comments.

CONSENT AGENDA:

Consider March 17, 2022 Council Meeting Minutes

Consider March 22, 2022 Council Meeting Minutes

Consideration of New Alcohol License for Moonies Texas BBQ for the sale of beer only.

There was a motion made to approve the consent agenda.

MOTION: Chris Mundy

SECOND: Joseph Mezzanotte

AYES: Joe Anglin, Oliver McClellan, Joseph Mezzanotte, Chris Mundy

NAYS: None

Motion carried

EXECUTIVE SESSION:

There was a motion made to enter executive session at 6:13 p.m. for matters related to the acquisition/disposition of real estate.

MOTION: Joe Anglin

SECOND: Oliver McClellan

AYES: Joe Anglin, Oliver McClellan, Joseph Mezzanotte, Chris Mundy

NAYS: None

Motion carried

There was a motion made to exit executive session at 7:36 p.m.

MOTION: Chris Mundy
SECOND: Joe Anglin
AYES: Joe Anglin, Oliver McClellan, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

ADJOURNMENT:

There was a motion made to adjourn at 7:36 p.m.

MOTION: Chris Mundy
SECOND: Oliver McClellan
AYES: Joe Anglin, Oliver McClellan, Joseph Mezzanotte, Chris Mundy
NAYS: None
Motion carried

Ed Asbridge, Mayor

Date

Shelia Cooper, City Clerk



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consideration of Second Reading of Ordinance 663: Amendment to the Alcoholic Beverage Ordinance to License and Regulate Microbreweries.

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

State law changed in 2017 and again in 2021 granting a limited exception to the three-tier system for the distribution and sale of malt beverages in Georgia which would allow for craft brewers of malt beverages to manufacture and sell for consumption both on and off premises.

FACTS AND ISSUES:

Although the City previously amended its zoning ordinance to allow for a microbrewery land use, it did not concurrently amend the alcoholic beverage ordinance to license and regulate such a business. The City has received interest from a microbrewery business to locate in the downtown dining district, but currently would not be able to license and regulate such a business. In order to allow microbreweries to operate in the City, an amendment to the alcoholic beverage ordinance would be required. If the alcoholic beverage ordinance is so amended, an updated fee resolution should also be considered establishing a fee for a microbrewery license. A draft ordinance and resolution are attached for your consideration.

OPTIONS:

Approve as presented, revised the ordinance and/or resolution, or deny as presented.

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

I make a motion to approve Ordinance No. 663 amending the City's alcoholic beverages ordinance to allow for the licensing and regulation of microbreweries. I make a motion to approve Resolution No. 22-006 establishing a microbrewery license fee in the amount of \$2,750.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- [Executive Summary Microbrewery Second Read.doc](#)
- [Microbrewery_State_License_Requirements.pdf](#)
- [663 - Microbrewery.pdf](#)

FLOWERY BRANCH CITY COUNCIL
EXECUTIVE SUMMARY

SUBJECT: CONSIDERATION OF AN AMENDMENT TO THE ALCOHOLIC BEVERAGE ORDINANCE TO LICENSE AND REGULATE MICROBREWERIES

DATE: March 11, 2022

(X) RECOMMENDATION
() POLICY DISCUSSION
() STATUS REPORT
() OTHER

BUDGET INFORMATION: N/A

COUNCIL ACTION REQUESTED ON: March 17, 2022

PURPOSE: To consider an amendment to the alcoholic beverage ordinance to license and regulate microbreweries in an effort to attract desirable businesses to locate within the City, especially the downtown dining district.

HISTORY: State law changed in 2017 and again in 2021 granting a limited exception to the three-tier system for the distribution and sale of malt beverages in Georgia which would allow for craft brewers of malt beverages to manufacture and sell for consumption both on and off premises.

FACTS AND ISSUES: Although the City previously amended its zoning ordinance to allow for a microbrewery land use, it did not concurrently amend the alcoholic beverage ordinance to license and regulate such a business. The City has received interest from a microbrewery business to locate in the downtown dining district, but currently would not be able to license and regulate such a business. In order to allow microbreweries to operate in the City, an amendment to the alcoholic beverage ordinance would be required. If the alcoholic beverage ordinance is so amended, an updated fee resolution should also be considered establishing a fee for a microbrewery license. A draft ordinance and resolution are attached for your consideration.

OPTIONS: Approve as presented, revised the ordinance and/or resolution, or deny as presented.

RECOMMENDED SAMPLE MOTIONS: I make a motion to approve Ordinance No. 663 amending the City's alcoholic beverages ordinance to allow for the licensing and regulation of microbreweries. I make a motion to approve Resolution No. 22-006 establishing a microbrewery license fee in the amount of \$2,750.

DEPARTMENT: Finance

Prepared by: E. Ronald Bennett, Jr., City Attorney

KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Code of Georgia Annotated
Title 3. Alcoholic Beverages
Chapter 5. Malt Beverages
Article 2. State License Requirements and Regulations for Manufacture, Distribution, and Sale

Ga. Code Ann., § 3-5-24.1

§ 3-5-24.1. Limited exception; sale of malt beverages on premises

Effective: May 5, 2021
Currentness

(a) As used in this Code section, the term:

(1) "Common ownership" means the same 100 percent common ownership interest including, but not limited to, ownership of the stock, limited liability company membership interest, limited liability partnership interest, other entity interest, or partnership interest, in whatever form such ownership interest may exist.

(2) "Licensed premises" means the physical premises where brewer is licensed by the state as a manufacturer of malt beverages.

(3) "Produces" means engaging in the material and essential aspects of the brewing process to manufacture malt beverage for human consumption; provided, however, when a brewer engages in the brewing process at multiple licensed premises, the malt beverage will be deemed to have been produced only at the licensed premises where such malt beverage first began fermentation through the chemical conversion of fermentable sugars into alcohol.

(b) A limited exception to the provisions of this title providing a three-tier system for the distribution and sale of malt beverages shall exist to the extent that the license to manufacture malt beverages in this state shall include the right to sell malt beverages to individuals on the brewer's licensed premises for personal use and not for resale, subject to the following terms and conditions:

(1) The brewer may only make sales of malt beverages to an individual while the individual is physically on the brewer's licensed premises where the brewer produces malt beverages;

(2) The brewer may make sales of malt beverages the brewer produces at the brewer's licensed premises where the individual is purchasing the malt beverages;

(3) As long as the brewer and all of the brewer's licensed premises are under common ownership, the brewer may make sales of malt beverages the brewer produces at any licensed premises of the brewer and subsequently transfers in compliance

with the limitations and reporting obligations of subsection (c) of this Code section to the brewer's licensed premises for sale where the individual is purchasing the malt beverages;

(4) The brewer may only make sales of malt beverages for which the brewer is the sole owner of the brand and brand label;

(5) Sales for consumption on the premises are not subject to a daily maximum amount;

(6) Sales for consumption off the premises shall not exceed a maximum of 288 ounces of malt beverages per individual per day; and

(7) The maximum amount of malt beverages the brewer may sell pursuant to subsection (b) of this Code section in each calendar year shall be 6,000 barrels in the aggregate among all brewer's licensed premises making such sales.

(c) Nothing in this Code section shall be interpreted to prohibit a brewer from transferring any liquid, regardless of whether such liquid would be deemed to be malt beverages or not, to or from any of the brewer's licensed premises; provided, however, with respect to any malt beverages a brewer produces at one of the brewer's licensed premises and transfers to be sold to individuals pursuant to subsection (b) of this Code section at another of the brewer's licensed premises, the maximum number of barrels of malt beverages permitted to be transferred from one licensed premises of the brewer to another licensed premises of the brewer shall not exceed the number of barrels of malt beverages the brewer produces under brands and brand labels for which the brewer is the sole owner at the licensed premises receiving the transferred malt beverages and the brewer shall file a report with the department every calendar quarter documenting all such transfers in such form as the department shall require.

(d) A brewer may sell malt beverages pursuant to subsection (b) of this Code section on all days and at all times that sales of malt beverages by retailers are lawful within the county or municipality in which the licensed premises of the brewer is located, including, but not limited to, Sundays.

(e) Any brewer engaging in sales of malt beverages pursuant to subsection (b) of this Code section shall remit all state and local sales, use, and excise taxes to the proper tax collecting authority.

(f) The commissioner shall promulgate and enforce such rules and regulations as he or she may deem reasonable and necessary to effectuate the provisions of this Code section.

(g) Upon a violation by a brewer of any provision of this Code section or this title or any rule or regulation promulgated thereunder, the commissioner shall have the power to place conditions or limitations on such brewer's license and to modify or amend such conditions or limitations.

Credits

Laws 2017, Act 178, § 8, eff. Sept. 1, 2017; Laws 2021, Act 226, § 2, eff. May 5, 2021.

Ga. Code Ann., § 3-5-24.1, GA ST § 3-5-24.1

§ 3-5-24.1. Limited exception; sale of malt beverages on premises, GA ST § 3-5-24.1

The statutes and Constitution are current through Act 310 of the 2022 Regular Session of the Georgia General Assembly. Some sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

End of Document

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ORDINANCE NO. 663

AN ORDINANCE AMENDING CHAPTER 8 (ALCOHOLIC BEVERAGES), ARTICLE III (LICENSING AND REGISTRATION) OF THE CODE OF THE CITY OF FLOWERY BRANCH, GEORGIA TO PROVIDE FOR THE LICENSING AND REGULATION OF MICROBREWERIES; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS the City of Flowery Branch, Georgia is authorized by O.C.G.A. § 36-31-7 and by Section 1.4 of its Charter to license and regulate alcoholic beverages within its corporate limits.

NOW THEREFORE the Council of the City of Flowery Branch hereby ordains as follows:

I. AMENDMENT OF SECTION 8-2. - DEFINITIONS.

The following is hereby added to Section 8.2. - Definitions:

“Microbrewery means a facility for the production and packaging of malt beverages for distribution, retail or wholesale, on or off the premises, and which has a capacity of no more than 15,000 barrels per year.”

II. AMENDMENT TO SECTION 8-142. – FOOD SALE REQUIREMENT.

Section 8.142(b) is hereby deleted in its entirety and replaced with the following:

“Section 8-142(a) shall not apply to bars, taverns or microbreweries located in the downtown dining district.”

III. ADDITION OF DIVISION 6. - MICROBREWERIES.

The following sections shall be added to the Code of the City of Flowery Branch, Georgia:

“DIVISION 6. – MICROBREWERIES.

Sec. 8-175. Microbreweries.

Notwithstanding any other provision of this chapter to the contrary, a limited exception to sections 8-131 and 8-163 shall exist for microbreweries provided that:

- (1) No individual shall be permitted to own or operate a microbrewery without first obtaining a proper license from the City of Flowery Branch, Georgia, and each microbrewery license holder shall comply with all other applicable state and local license requirements.

First Read:
Second Read:
Passed:

- (2) All state laws, rules and regulations relating to the manufacture, sale, and distribution of malt beverages applicable to microbreweries, as may be amended from time to time, are hereby incorporated into and made a part of this division as if fully set out in this section.
- (3) A microbrewery licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.
- (4) Except as set forth in this section, a microbrewery license holder shall be subject to all sections of this chapter.”

IV. REPEALER.

Any part of any prior ordinances, in conflict with the terms of this Ordinance, are hereby repealed to the extent of the conflict; but it is hereby provided, that any ordinance or law which may be applicable hereto and aid in carrying out and making effective the intent, purpose and provisions hereof, is hereby adopted as a part hereof and shall be legally construed to be in favor of upholding this Ordinance on behalf of the City of Flowery Branch, Georgia.

IV. SEVERABILITY.

If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of the Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Flowery Branch to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

SO ORDAINED this 7th day of April 2022.

Edward R. Asbridge, Mayor

ATTEST:

Shelia Cooper, City Clerk

Approved as to form by:

First Read:
Second Read:
Passed:

E. Ronald Bennett, Jr., City Attorney



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consideration of First Reading of Amending Alcoholic Beverage License Ordinance 504A to Ordinance 504B

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

The City has always had the owner of an establishment to submit all alcoholic beverage applications to the City Clerk for issuing any alcoholic beverage license per our Alcoholic Beverage Ordinance.

FACTS AND ISSUES:

The change proposed is for the new and renewal alcoholic beverage applications be processed and completed by the police department and for the Chief of Police to sign and oversee all aspects of the Alcoholic Beverage License and Compliance. The owner will now submit an application, be fingerprinted and have a background check. The owner must have a registered agent that lives in Hall County and have a background check completed on the registered agent. All paperwork is processed and once in order, we bring to Mayor and Council for approval. Once approved by Mayor and Council, we submit all

the documents to the State of Georgia Department of Revenue and they will approve or deny. Once we get the approval from the State of Georgia, we release the alcohol license to the owner.

OPTIONS:

Approve or Deny

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

I make a motion to approve the first reading of Alcoholic Beverage Ordinance 504B.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

- [Executive Summary Amending Ordinance 504A to 504B.doc](#)
- [Ordinance 504B City Clerk to Police Chief.pdf](#)
- [504A- Alcohol Code.pdf](#)

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider Amending Ordinance 504A

DATE: March 31, 2022

(X) RECOMMENDATION

() POLICY DISCUSSION

BUDGET INFORMATION:

() STATUS REPORT

ANNUAL-

() OTHER

CAPITAL-

COUNCIL ACTION REQUESTED ON:

PURPOSE: To amend Ordinance 504A to Ordinance 504B for the submittal, processing and completion of all Alcoholic Beverage License for new and renewal licenses.

HISTORY: The City has always had the owner of an establishment to submit all alcoholic beverage applications to the City Clerk for issuance of any alcoholic beverage license per Ordinance 504.

FACTS AND ISSUES: The change proposed is for the new and renewal alcoholic beverage applications be processed and completed by the police department and for the Chief of Police to sign and oversee all aspects of the Alcoholic Beverage License and Compliance. The owner will now submit an application to the police department, be fingerprinted and have a background check. The owner must have a registered agent that lives in Hall County and have a background check completed on the registered agent. All paperwork is processed and once in order, we bring to Mayor and Council for approval. Once approved by Mayor and Council, we submit all the documents to the State of Georgia Department of Revenue and they will approve or deny. Once we get the approval from the State of Georgia, we release the alcohol license to the owner.

OPTIONS: Approve or Deny

RECOMMENDED SAMPLE MOTION: I make a motion to approve the first reading of Alcoholic Beverage Ordinance 504B.

DEPARTMENT: Administration Prepared by: Shelia Cooper

First Reading: 4/21/2022
Second Reading: 5/19/2022

ORDINANCE NO. 504B

AN ORDINANCE TO AMENDING CHAPTER 8 – ALCOHOLIC BEVERAGES – OF THE CODE OF ORDINANCES FOR THE CITY OF FLOWERY BRANCH, GEORGIA FOR THE PURPOSE OF TRANSFERRING RESPONSIBILITY FOR LICENSING, REGULATION AND ENFORCEMENT FROM THE CITY CLERK TO THE POLICE CHIEF, PROVIDING FOR SEVERABILITY, REPEALING CONFLICTING ORDINANCES, ESTABLISHING AN EFFECTIVE DATE, AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS the City of Flowery Branch is authorized by O.C.G.A. § 36-31-7 and by Section 1.4 of its Charter to license and regulate alcoholic beverages within its corporate limits.

NOW THEREFORE the Council of the City of Flowery Branch hereby ordains as follows:

Section 1. All references to “city clerk” in Chapter 8 – Alcoholic Beverages – of the Code of Ordinances for the City of Flowery Branch, Georgia are hereby deleted and replaced with “police chief.”

Section 2. If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of the Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Flowery Branch to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 3. All ordinances in conflict with the terms of this Ordinance are hereby repealed to the extent of the conflict.

Section 4. This Ordinance shall be effective upon adoption by the City Council of the City of Flowery Branch, Georgia.

SO ORDAINED this 19th day of May 2022.

Edward R. Asbridge, Mayor

ATTEST:

Shelia Cooper, City Clerk

APPROVED AS TO FORM:

E. Ronald Bennett, Jr., City Attorney

First Reading: 03/01/2018
Second Reading: 03/15/18

ORDINANCE NO. 504A

AN ORDINANCE TO AMEND ORDINANCE NUMBER 504. THIS ORDINANCE IS INTENDED TO REPLACE ALL PRIOR ORDINANCES CONCERNING ALCOHOLIC BEVERAGE LICENSING AND REGULATION WITHIN THE CORPORATE LIMITS OF THE CITY OF FLOWERY BRANCH BY SETTING FORTH THE PURPOSE OF ALCOHOLIC BEVERAGE REGULATION, LEVYING TAXES, ESTABLISHING REQUIREMENTS FOR LICENSING AND REGULATION, IMPOSING PENALTIES FOR VIOLATIONS, BEING SEVERABLE, REPEALING CONFLICTING ORDINANCES AND/OR RESOLUTIONS, ESTABLISHING AN EFFECTIVE DATE, AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS the City of Flowery Branch is authorized by O.C.G.A. § 36-31-7 and by Section 1.4 of its Charter to license and regulate alcoholic beverages within its corporate limits.

NOW THEREFORE the Council of the City of Flowery Branch hereby ordains as follows:

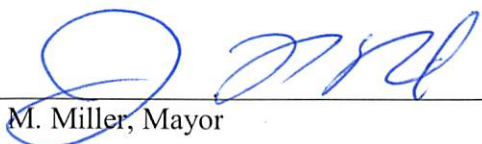
Section 1. Ordinance number 504 is hereby repealed in its entirety and is replaced by Exhibit "A", which is attached hereto and incorporated by reference as if fully set forth herein.

Section 2. If any paragraph, subparagraph, sentence, clause, phrase or any portion of this Ordinance shall be declared invalid or unconstitutional by any court of competent jurisdiction or if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of the Ordinance to other circumstances not so held to be invalid. It is hereby declared to be the intent of the City Council of the City of Flowery Branch to provide for separate and divisible parts, and it does hereby adopt any and all parts hereof as may not be held invalid for any reason.

Section 3. Ordinances numbered 54, 54-9, Amendment to Ordinance #54 dated 10-15-90, An Amendment to Ordinance No. 54 dated 8-1-94, 54-A, 54-D, 54-E, 54-f, 170, 170-A, 170-B, 170-C, 170-D, 287, 287-A, 314, 424, 424A, 470 and 504 are hereby repealed in their entirety. Moreover, any other ordinances and/or resolutions in conflict with the terms of this Ordinance are hereby repealed to the extent of the conflict.

Section 4. This Ordinance shall be effective upon adoption by the City Council of the City of Flowery Branch, Georgia.

SO ORDAINED this 15th day of March 2018.


James M. Miller, Mayor

ATTEST:


Melissa McCain, City Clerk

APPROVED AS TO FORM:

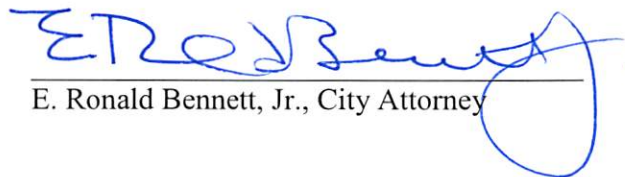

E. Ronald Bennett, Jr., City Attorney



EXHIBIT "A" TO ORDINANCE NO. 504A

Chapter 8

ALCOHOLIC BEVERAGES

ARTICLE I. GENERALLY

Sec. 8-1. – Sale of alcoholic beverages.

- (a) Alcoholic beverages may be manufactured or sold within the incorporated areas of the City of Flowery Branch under a license granted by the city council as governed by the terms and conditions hereafter provided.
- (b) All licenses issued hereunder shall be a mere grant or privilege to carry on the business during the term of the license subject to all terms and conditions imposed by the City of Flowery Branch and State of Georgia law.
- (c) All licenses hereunder shall have printed on the front these words: "THIS LICENSE IS A MERE PRIVILEGE SUBJECT TO BEING REVOKED AND ANNULLED AND IS SUBJECT TO ANY FUTURE ORDINANCES WHICH MAY BE ENACTED."
- (d) Any holder of a license issued hereunder shall apply for and obtain any necessary alcoholic beverage license from the State of Georgia before any manufacture or sales commence.
- (e) In addition to the rules and regulations set out in this chapter, each licensee under this chapter shall comply with all statutory laws of the State of Georgia, all federal statutory laws, and all rules and regulations of the State Revenue Commissioner relating to the manufacture and sale of malt beverages, distilled spirits and/or wine in Georgia; and any violation of same shall subject said licensee to suspension or revocation of his license and also may subject said licensee to criminal prosecution by the proper authority as provided by law and the ordinances of The City of Flowery Branch, Georgia.

(Ord. No. 54, § 5, 10-22-1987; Ord. No. 170, § 2, 5-18-1999; Ord. No. 287, § 2, 10-22-2002; Ord. No. 424, Ex. A, 8-19-2009)

Sec. 8-2. - Definitions

The definitions set forth in O.C.G.A. § 3-1-2 ("Alcoholic Beverages- General Provisions- Definitions"), shall be effective as definitions of the words, terms and phrases used in this chapter. All words, terms and phrases used herein, other than those specifically defined elsewhere in this chapter, shall have the respective meanings ascribed to them in O.C.G.A. § 3-1-2, and shall have the same scope and effect that the same words, terms and phrases have where used in O.C.G.A. § 3-1-2.

Agent means the person designated by the licensee in his application for permit to sell alcoholic beverages by the drink.

Alcohol means ethyl alcohol, hydrated oxide of ethyl or spirits of wine, from whatever source or by whatever process produced.

Alcoholic beverage means and includes all alcohol, distilled spirits, beer, malt beverage, wine or fortified wine.

Amenity permit means an authorization granted by the City for a non-eating establishment to offer alcoholic beverages as an act of hospitality, where it is clearly a secondary function of the business.

Authorized catered function means an event at a location not otherwise licensed for consumption of alcoholic beverages by the drink at which alcoholic beverages are furnished, for consideration, and sold, dispensed or provided free of charge to persons present at the event, by the drink, pursuant to a permit obtained under this section.

Beer or malt beverage means any alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt, hops or any other similar product, or any combination of such products in water, containing not more than fourteen percent (14%) alcohol by volume and including ale, porter, brown, stout, lager beer, small beer and strong beer. The term does not include sake, known as Japanese rice wine.

Brew pub means an eating establishment in which beer or malt beverages are manufactured or brewed for retail consumption on the premises and solely in draft form.

Building code means and includes all building, plumbing and electrical codes and any other similar technical code of the city.

City Clerk means the clerk of the City of Flowery Branch, Georgia or his designee.

Church means any permanent, primary building set apart for the regular assembly of religious worship.

College means only such state, county, city, church or other colleges that teach the subjects commonly taught in the common colleges of this state and shall not include private colleges where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Distance means the measurement in linear feet from the front entrance of the proposed structure to the nearest structural wall of the private residence, church, school college classroom or alcohol treatment center along the nearest practical street route.

Distilled spirits or spirituous liquor means any alcoholic beverage obtained by distillation or containing more than twenty-one percent (21%) alcohol by

volume including, but not limited to, all fortified wine and including all porter, brown, stout, lager beer, shall beer and strong beer.

Eating establishment means any public place, including a place available for rental by the public selling prepared food for consumption by the public on the premises with a full-service kitchen, prepared to serve food every hour they are open and deriving at least as much gross receipts annually from the sale of prepared meals or food as it derives from the sale of distilled spirits.

Election day means that period of time beginning with the opening of polls and ending with the closing of polls.

Fortified wine means any alcoholic beverage containing more than twenty-one percent (21%) alcohol by volume made from fruits, berries or grapes, either by natural fermentation or by natural fermentation with brandy added.

Gender – for convenience in construction, the masculine pronouns “he” or “his” may be sometimes used; however, such usage shall, where appropriate, imply the feminine gender and may be construed as “she”, “here” or any other feminine usage as may be necessary.

Governing authority means the city council of the City of Flowery Branch.

Growler means a bottle made of glass or other material customary to the industry provided that the bottle is capable of being sealed with a screw cap and then sealed with a plastic collar over the screw for the purpose of complying with open container laws,

Hotel or motel means a building or other structure kept, used, maintained, advertised and held out to the public to be a place where sleeping accommodations are offered for adequate pay to travelers and guest whether transient permanent or residential. Hotels and motels shall have the privilege of granting franchises for the operation of a lounge or restaurant in their premises and the holder of such franchise shall be included in the definition of hotel thereunder.

Indoor commercial recreational establishment is limited to an establishment regularly serving prepared food, with a full-service kitchen, prepared to serve food every hour they are open and deriving at least seventy percent (70%) of its total annual gross sales from the sale of prepared meals or food and recreation activities; and wherein the sale of food and alcoholic beverages is incidental to its primary enterprise and activity on the premises. The primary activity on the premises of the indoor commercial recreational establishment shall be family-oriented in nature, generally meaning a use that attracts a range of individuals from all age groups. Uses may specifically include, but are not limited to, dinner theaters, bowling centers, and other similar uses. Outdoor commercial recreation is not included, nor shall concession sales of alcoholic beverages be permitted in an outdoor commercial recreational establishment. Bingo parlors, dance halls, nightclubs, taverns, billiard parlors, video arcades, adult entertainment and/or sexually related entertainment activities, and similar uses are specifically excluded from this definition of indoor commercial recreational establishments.

License shall mean the authorization by the city to engage in the service or sale of alcoholic beverages as described in this chapter.

Licensee shall mean the individual to whom a license is issued or in the case of a partnership, corporation or limited liability company, all partners, officers, directors and members of said partnership, corporation or company.

Liter means a metric measurement currently used by the United States.

Lounge means a separate room connected with a part of and adjacent to a restaurant as defined herein with all booths, stools and tables being unobstructed and open to view. All lounges shall be air conditioned and have a seating capacity of at least twenty (20).

Manufacturer means any maker, producer, or bottler of an alcoholic beverage. Manufacturer also means:

- (1) in the case of distilled spirits, any person engaged in distilling, rectifying or blending any distilled spirits; and
- (2) in the case of malt beverages, any brewer.

Minor means any person below the age at which alcoholic beverages may be legally purchased in Georgia.

Package means any bottle, can, keg, barrel or other original consumer container. Retail package alcoholic beverages shall include all alcoholic beverages in their original container, sold at retail to the final consumer, and not for resale.

Person means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, company, corporation, agency, syndicate, estate, trust, business trust, receiver, fiduciary or other group or combination acting as a unit, body politic, or political subdivision, whether public, private or quasi-public.

Pouring permit means an authorization granted by the City to dispense, sell, serve, take orders, or mix alcoholic beverages in establishments licensed as a retail consumption dealer.

Premises means the space or area owned, leased and/or controlled by the licensee and used by him for the purposes of operating under the license; except that in the case of hotels and motels, "premises" shall include only the portion of the property where alcoholic beverages are sold; except further, that in the case of private clubs, "premises" shall include any swimming pool which is in the immediate vicinity of the main building of the private club and which is open to members only and their guests and not the general public. Said swimming pool must have a minimum of two thousand five hundred (2,500) square feet of water surface and with required lifeguards. Premises is further defined as one physically identifiable place of business consisting of one room, or two (2) or more contiguous rooms operating under the same trade name,

ownership, or management; provided nothing herein shall require additional licenses for service bars, or portable bars used exclusively for the purpose of mixing or preparing drinks when such bars are accessible only to employees of the licensed establishment and from which drinks are prepared to be served in the licensed premises.

Private club means any non-profit association organized under the laws of the State of Georgia complying with Internal Revenue Code Section 501; and

- (1) has been in existence at least one year prior to its filing of an application for a license to be issued according to this ordinance;
- (2) has a least 75 regular dues paying members;
- (3) owns, hires or leases a building or space within a building for the reasonable use of its members, which building is equipped with suitable kitchen and dining room space and equipment and is staffed with a sufficient number of employees for cooking, preparing and serving meals for its members and guest; and
- (4) has no member, officer, agent or employee directly or indirectly receiving, in the form of salary or other compensation any profits from the sale of alcoholic beverages beyond a fixed salary.

Private residence means a house or dwelling wherein not less than one (1) nor more than three (3) families customarily reside and shall not include a mobile home, a boarding house where there are five (5) or more boarders or roomers, or any residence which has been unoccupied for a period of six (6) consecutive months immediately prior to the filing of an application.

Registered Agent shall mean a natural person residing in the City of Flowery Branch or Hall County who is empowered to act for and represent the licensee in all matters with the City of Flowery Branch relating to an establishment licensed or making application for a license to sell alcohol upon whom any process, notice or demand required or permitted by law or under this ordinance may be served. The Registered Agent may be the licensee if the qualifications set forth in this chapter are met.

Residence means the act or fact of living or regularly staying at or in some place for the discharge of a duty or the enjoyment of a benefit or the place where one actually lives as distinguished from his domicile or place of temporary sojourn.

Resident means a person whose primary residence is within the territorial limits of Hall County, Georgia.

Restaurant shall mean any public place kept, used, maintained, advertised and held out to the public as a place where meals are served and where meals are actually and regularly served, such place being provided with adequate and sanitary kitchen and dining room equipment, air conditioned, with employees there in a sufficient number and kind to prepare, cook and serve suitable food for its guests. At least one meal per day shall be served at least six days per

week, with the exception of holidays, vacations and periods of remodeling and the serving of meals shall be the principal business conducted (deriving at least forty percent (40%) of its annual gross food and beverage sales from the sale of prepared meals or food), with the serving of alcoholic beverages to be consumed on the premises as only incidental thereto. A restaurant shall provide at least fifty-five (55) seats for customers.

Retail means retail sales packaged to go and not for consumption on the premises.

School means only such state, county, city, church or other schools that teach the subjects commonly taught in the common schools of this state and shall not include private schools providing primarily daycare or where only specialized subjects such as law, stenography, business, music, art, medicine, dentistry, vocational occupations and other special subjects are taught.

Wine means any alcoholic beverage containing not more than twenty-one percent (21%) alcohol made from fruits, berries or grapes either by natural fermentation or by natural fermentation with brandy added. The term "wine" includes, but is not limited to, all sparkling wines, champagnes, combinations of such beverage, vermouths, special natural wines, rectified wines and like products. The term "wine" does not include cooking wine mixed with salt or other ingredients so as to render it unfit for human consumption as a beverage. A liquid shall first be deemed to be a wine at that point in the manufacturing process when it conforms to the definition of wine contained in this section.

(Ord. No. 47, § 2, 9-11-1986; Ord. No. 54, § 2, 10-22-1987; Ord. No. 54-A, § 1, 4-6-1998; Ord. No. 170, § 1, 5-18-1999; Ord. No. 287, §§ 3, 6, 10-22-2002)

Sec. 8-3. - Penalties.

Any person who violates any provisions of this chapter, may upon conviction, be punished as set forth in section 1-12, unless a different penalty is set forth in this chapter. No such penalty shall prevent the city from suspending or revoking any license issued under this chapter, and any person violating any of the provisions of this chapter may, in addition to the other penalties and liabilities provided for herein, have his license or permit revoked as provided for herein.

(Ord. No. 424, Ex. A(2), 8-19-2009)

Sec. 8-4 --- 8-20. - Reserved.

ARTICLE II. LICENSING

DIVISION 1. GENERALLY

Sec. 8-21. - Unauthorized sale or delivery prohibited.

It is unlawful for any person to serve, manufacture, sell or possess for the purpose of sale any alcoholic beverages where the person does not have a license or permit from the City to serve, manufacture, sell or possess for sale alcoholic beverages, or to manufacture, sell or make deliveries beyond the

boundaries of the premises covered by the license.

(Ord. No. 287, § 4, 10-22-2002; Ord. No. 424, Ex. A(21), 8-19-2009)

Sec. 8-22. - Distance requirements.

- (a) No person, knowingly and intentionally, may sell or offer to sell:
 - (1) Any distilled spirits in or within 100 yards of any church building or within 200 yards of any school building, educational building, school grounds or college campus;
 - (2) Any wine or malt beverages within 100 yards of any school building, school grounds, or college campus or college campus;
 - (3) Any alcoholic beverages within 100 yards of an alcoholic treatment center owned and operated by the state of Georgia or any county or municipal government therein;
 - (4) Any alcoholic beverages within 100 yards of any housing authority property.
- (b) As used in this section, the term "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of the state of Georgia and which are public schools or private schools as defined in O.C.G.A. § 20-2-690(b).
- (c) As used in this section, the term "housing authority property" means any property containing 300 housing units or fewer owned or operated by a housing authority created by the Housing Authorities Law of the state of Georgia.
- (d) No person, knowingly and intentionally, may sell or offer to sell any packaged distilled spirits within a distance of two thousand six hundred (2600) feet of any business licensed to sell package distilled spirits unless other such business is a hotel.
- (e) For purposes of this section, distance shall be measured by the most direct route of travel on the ground and shall be measured in the following manner:
 - (1) From the front door of the structure from which alcoholic beverages are sold or offered for sale;
 - (2) In a straight line to the nearest public sidewalk, walkway, street, road or highway;
 - (3) Along such public sidewalk, walkway, street, road or highway by the nearest route;
 - (4) To the front door of the church building, or to the nearest

portion of the school grounds, whichever is applicable.

- (f) No location which is licensed to sell alcoholic beverages on the effective date of the ordinance codified in this chapter shall be denied continued operation under an existing license, or denied any renewal of such license, nor shall any new owner of said location be denied a new license based upon the measurements set forth in this section.
- (g) As to any location licensed in the future, if the distance requirements herein are met at the time of issuance of any license, the subsequent opening and operation of a church or school within the distance prohibited herein shall not prevent the continuance of an existing license or the renewal thereof or the issuance of a new license to any subsequent owner of such property. However, notwithstanding any other provisions of this section and chapter, said use shall not be reestablished after discontinuance of 12 months, unless it shall meet the requirements of subsection (a).

(Ord. No. 170, § 7, 5-18-1999; (Ord. No. 54, § 2, 10-22-1987; Ord. No. 54-A, § 1, 4-6-1998; Ord. No. 170, § 7, 5-18-1999; Ord. No. 287, § 14, 10-22-2002; Ord. No. 424, Ex. A(36), 8-19-2009)

Sec. 8-23. - Separate license.

A separate application must be made for each license location sought by the applicant.

(Ord. No. 287, § 21, 10-22-2002; Ord. No. 424, Ex. A(22), 8-19-2009)

Sec. 8-24. - Application for new license in existing license location.

An application for a new license in an existing license location shall meet and qualify under all requirements of this chapter for granting of a new license.

(Ord. No. 287, § 28, 10-22-2002; Ord. No. 424, Ex. A(23), 8-19-2009)

Sec. 8-25. ---- 8.40. - Reserved.

DIVISION 2. APPLICATION

Sec. 8-41. - Contents; guidelines.

- (a) All persons desiring to serve, manufacture or sell alcoholic beverages shall make application on a form prescribed by the City Clerk.
- (b) In the case of a limited liability company, the applicant(s) shall be the member(s) who own(s) at least twenty percent (20%) of the company or if no member owns twenty percent (20%) of the company, then the managing member or the member with the greatest ownership shall be the applicant.

- (c) In the case of a partnership, the applicant(s) shall be the partner(s) who own at least twenty percent (20%) of the partnership or if no partner owns twenty percent (20%) of the partnership, then the general partner, managing partner or the partner with the greatest ownership shall be the applicant.
- (d) In the case of a corporation, the manager of the proposed licensed premises shall be the applicant.
- (e) The application shall include, but not be limited to:
 - (1) the name, address and length of residency of the applicant;
 - (2) the proposed business to be carried on;
 - (3) if a limited liability company, the name and address of the member(s) and the name and address of any person owning twenty percent (20%) of the company; if no member of the company owns twenty percent (20%), the name and address of the member with the greatest ownership;
 - (4) if a partnership, the name and address of the partners and the name and address of any person owning twenty percent (20%) of the partnership; if no partner owns twenty percent (20%), then the partner with the greatest ownership;
 - (5) if a corporation, the name and address of the manager(s), and the name of all shareholders holding more than twenty percent (20%) of any class of corporate stock;
 - (6) the name and address of the registered agent;
 - (7) the name and address of the manager;
 - (8) a statement of the applicant's financial condition;
 - (9) evidence of ownership of the building, a copy of the lease if the applicant is leasing the building, a copy of a purchase contract if the applicant is in the process of purchasing the building, or a copy of a contract demonstrating the applicant has exclusive control over the premises from which the alcoholic beverages will be manufactured or sold; and
 - (10) detailed plans of the building and outside premises where the business will be located.

- (f) All applicants shall furnish such additional data, fingerprints, financial responsibility, survey, survey affidavit, scaled drawings, business records and other information as required by the City Clerk or his designee, to ensure compliance with the provisions of this chapter and any other provisions of state or local law. Fingerprinting required hereunder shall be by a participating Georgia Application Processing Service, which shall forward said fingerprints to the GBI/GCIC or any other designated agent of the City for a background check to be performed. Surveys or survey affidavits must be prepared by a registered land surveyor. Failure to furnish any of the information as requested hereunder shall automatically serve to dismiss the application with prejudice.
- (g) All applications shall be sworn to by the applicant before a notary public or other officer authorized to administer oaths. The making of any untrue or misleading statement in the application for a license hereunder shall be cause for the denial, suspension or revocation of such license.
- (h) All applications shall be accompanied either by lawful money of the U.S., or by a certified check or cashier's check, payable to the City of Flowery Branch, Georgia, for the proper amount of the license fee.

(Ord. No. 54, §§ 3, 5, 8, 10-22-1987; Ord. No. 54-D, § 1, 9-20-2006; Ord. No. 170, §§ 3, 6, 5-18-1999; Ord. No. 287, §§ 17, 19, 20, 10-22-2002; Ord. of 8-1-1994, §§ 1(8-15)(8-16), 8-1-1994; Ord. No. 54E, § 1, 5-16-2007; Ord. No. 424, Ex. A(24), 8-19-2009; Ord. No. 424a § II, 4-1-2010)

Sec. 8-42. - Notice of intention to secure a retail dealer license.

- (a) No application for a retail dealer license for the sale of distilled spirits shall be acted upon until after the applicant has published in the newspaper which publishes the legal advertisements for the City a notice of his intention to secure a retail dealer license. Such notice shall be published at least once during the thirty (30) days immediately preceding the application for a license. Such notice shall be in large bold face type and state:
 - (1) the type of license for which application has been filed;
 - (2) the exact location of the place of business for which a license is sought;
 - (3) the names and addresses of each owner of the business;
 - (4) if the applicant is a company, the names and titles of all members;
 - (5) if the applicant is a partnership, the names and titles of all partners; and

- (6) if the applicant, member or partner is a corporation, the names and titles of all corporate officers.
- (b) Proof of publication of the notice required by this section shall be attached to an application for a license for a retail dealer license.
- (c) An applicant for a renewal license shall not be subject to the notice requirements of this section.

(Ord. No. 170, § 4, 5-18-1999; Ord. No. 287, § 18, 10-22-2002)

Sec. 8-43. - Withdrawal of application; partial refund.

Any application made pursuant to this chapter may be withdrawn by the applicant at any time. If the applicant withdraws the application before a license is issued, ninety five percent (95%) of the license fees deposited will be refunded.

Sec. 8-44. - Denial.

- (a) The City Clerk shall provide written notice to any applicant whose application is denied under the provisions of this chapter. Such written notification shall set forth in reasonable detail the reasons for such denial and shall advise the applicant of the right to appeal under the provisions of this chapter.
- (b) In all instances in which an application has been denied, the applicant will be refunded ninety five percent (95%) of the license fees deposited.
- (c) Any applicant denied a license shall be prohibited from applying for another license for a period of one (1) year from the filing date set forth on the application. Any partnership, limited liability company, corporation, trust or other entity in which an individual applicant is a member, shareholder, director or officer, or in which such entity acts as a surrogate for such applicant, shall also be subject to the prohibition contained in this subsection.

(Ord. No. 170, § 2, 5-18-1999)

Sec. 8-45 ---- 8.50. - Reserved.

DIVISION 3. LICENSING QUALIFICATIONS

Sec. 8-51. – Age, citizenship and residency requirements.

No license to serve, manufacture or sell alcoholic beverages shall be granted to any person, partnership or limited liability company unless the person or all partners or members shall be at least 21 years of age, a resident of the United States or an alien lawfully admitted for permanent residence, and a resident of the state of Georgia. In the event a corporation should be an applicant, said corporation shall be a Georgia corporation or registered to do business in the state of Georgia

(Ord. No. 54, § 3, 10-22-1987; Ord. No. 170, § 2, 5-18-1999; Ord. No. 54-D, § 1, 9-20-2006; Ord. No. 424, Ex. A(27), 8-19-2009; Ord. No. 424a, § III, 4-1-2010)

Sec. 8-52. - Limited liability company, partnership or corporation.

- (a) If the applicant is a limited liability company, partnership or corporation, the provisions of this division shall be applicable to all its members, partners, officers, and majority stockholders. The City Clerk may decline to issue a business license when any person having any ownership interest in the operation of the place of business or control over the place of business does not meet the same character requirements set forth in this article.
- (b) In the case of a limited liability company, the license will be issued to all members owning at least 20 percent of the company or if no member owns twenty percent (20%) of the company, then the managing member or the member with the greatest ownership will be licensed.
- (c) In the case of a partnership, the license will be issued to all partners owning at least twenty percent (20%) of the partnership or if no partner owns twenty percent (20%) of the partnership, then the general partner, managing partner or the partner with the greatest ownership will be licensed.
- (d) In the case of a corporation, the manager of the proposed licensed premises must be qualified to obtain a license and must make a sworn statement of these qualifications.
(Ord. No. 54, § 3, 10-22-1987; Ord. No. 54-D, § 1, 9-20-2006)

Sec. 8-53. - Prohibited interests.

It shall be unlawful for any person to hold an alcoholic beverage license who also has any direct financial interest in any wholesale alcoholic beverage business. It shall be unlawful for the holder of any alcoholic beverage license to accept or receive financial aid or assistance from the holder of any alcoholic beverage manufacturer's or wholesale dealer's license.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 54-D, § 1, 9-20-2006; Ord. 424, Ex. A(28), 8-19-2009)

Sec. 8-54. - Prior criminal record.

- (a) No person, limited liability company, partnership or corporation shall be granted any alcoholic beverage license unless it shall appear to the satisfaction of the city clerk that such person, members, partners, or officers and directors of the corporation have not been convicted or plead guilty or entered a plea of nolo contendere, and have been released from parole or probation, to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, driving while under the influence of alcohol and/or drugs within a period of five years immediately prior to such application, any tax law violation, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten (10) years immediately prior to the filing of such application. At the time an application is submitted for any alcoholic beverage license, the applicant shall, by a duly sworn affidavit, certify that the applicant, nor any of the other owners of the establishment, have been convicted or has pleaded guilty or entered a plea of nolo contendere and have been released from parole or probation to any crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, driving while under the influence of alcohol and/or drugs within a period of five years immediately prior to such application, any tax law violation, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of ten (10) years immediately prior to the filing of such application. Should any applicant, member, partner, or officer instrumental in the sale or dispensing of any alcoholic beverage, after a license has been granted, be convicted or plead guilty or nolo contendere to a crime involving moral turpitude, illegal gambling or illegal possession or sale of controlled substances or the illegal possession or sale of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, driving while under the influence of alcohol and/or drugs within a period of five years immediately prior to such application, any tax law violation, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime, the license shall be immediately revoked and cancelled.
- (a) No license for the sale of alcoholic beverages shall be granted to any person convicted under any federal, state or local law of any felony, within ten (10) years prior to the filing of application for such license.

(Ord. No. 54, § 3, 10-22-1987; Ord. No. 170, § 6, 5-18-1999; Ord. No. 287, § 25, 10-22-2002; Ord. No.

Sec. 8-55. - Previous revocation or denial.

Each applicant shall not have had a license to sell alcoholic beverages revoked by any jurisdiction for violation of its laws or its rules within a period of five (5) years immediately preceding the filing of such application.

(Ordinance No. 170, § 2, 5-18-1999; Ord. No. 424, Ex. A(30), 8-19-2010)

Sec. 8-56. - Adequate participation.

A license may be denied to any applicant where it appears that the applicant would not have adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended to be a mere surrogate for a person who would not otherwise qualify for a license for any reason whatsoever.

(Ord. No. 54, § 3, 10-22-1987; Ord. No. 170, § 6, 5-18-1999; Ord. No. 54-D, § 1, 9-20-2006; Ord. No. 424, Ex. A(31), 8-19-2009)

Sec. 8-57. - Character; reputation.

All applicants for any alcoholic beverage license must be of good character, and all operators, managers, clerks or other employees shall be of like character. Limited liability company, partnership or corporate applicants shall be of good business reputation.

Sec. 8-58. - Full disclosure of participation.

- (a) No person shall have, own or enjoy any ownership, interest in, share in the profits from, or otherwise participate in the business of any alcoholic beverage licensee in the city unless a full description of such interest shall have been furnished the City Clerk at the time such interest arose. It shall be the duty of the licensee to report to the City Clerk, within five (5) days, any change in any interest in such licensee's business including but not limited to:
 - (1) Any division of the profits;
 - (2) Any division of net or gross sales for any purpose whatsoever;
 - (3) Any change in the payment of rents or leases;
 - (4) Any change in the ownership of any lease of building or land used in such business;
 - (5) Any change in the ownership of any limited liability company, partnership, or corporation that has any interest in such business or the change of management of such limited liability company, partnership or corporation.
- (b) After receipt of such notice, the City Clerk shall notify such person

within a reasonable time of any objection to the ownership or interest set forth therein, and it shall then be incumbent upon such person to dispose of such interest within thirty (30) days after the mailing of the notice to do so by the city clerk to such person at his address as shown on such notice of interest.

- (c) The report required by this section shall be in a form required by the city and shall be an amendment to the licensee's permanent license application on file with the city and as such shall be under oath and verified as otherwise required of license applications.

(Ord. No. 54, § 3, 10-22-1987; Ord. No. 170, § 2, 5-18-1999; Ord. No. 54-D, § 1, 9-20-2006; Ord. 424, Ex. A(32), (33) 8-19-2009)

Sec. 8-59. – Payment of taxes and other debts to the city.

No license shall be issued to any person, limited liability company, partnership or corporation that owes any tax, fee, assessment, charge or other such monies to the City until all such monies are paid in full.

(Ord. No. 287, § 29, 10-22-2002; Ord. No. 424, Ex. A(35), 8-19-2009)

Sec. 8-60. – Completed building.

No alcoholic beverage license shall be issued to any person unless the building in which the business will be located is completed and an occupancy permit for this premise to be licensed has been issued by the City. The completed building and land use shall comply with the Code of the City of Flowery Branch, the Flowery Branch Zoning Ordinance and the Flowery Branch Subdivision Ordinance, and the regulations of the State of Georgia.

(Ord. No. 54, § 5, 10-22-1987; Ord. No. 170, § 2, 5-18-1999; Ord. No. 170-C, § 3, 5-2-2007; Ord. No. 54E, § 1, 5-16-2007; Ord. No. 424, Ex. A(64), 8-19-2009)

Sec. 8-61. - Completion of proposed licensed premises.

If the building in which an applicant for a license proposes to operate under the provisions of this chapter is not, at the time of application for the license, in existence, or not yet completed, a license may be issued for the location provided the plans and specifications for the proposed building are filed with the city clerk, and show clearly a compliance with the provisions of this ordinance and other applicable provisions of this code. No sales of alcoholic beverages shall be allowed in the establishment until the building has been completed in accordance with the plans and specifications and in conformity with all other provisions of this code, as well as appropriate building codes, and a certificate of occupancy has been issued for the building.

(Ord. No. 287, § 30, 10-22-2002; Ord. No. 424, Ex. A(65), 8-19-2009)

Sec. 8-62. - License fees.

- (a) Before a license shall be issued, each applicant shall pay a license fee in accordance with the scale fixed by resolution of the city council.
- (b) Any person who is doing business or begins to do business at any time after the first day of January and before the first day of April shall pay the full license fee. Any person who begins to do business on or after the first day of April and before the first day of July will pay three quarters (3/4) of the license fee. Any person who begins business on or after the first day of July and before the first day of October shall pay one-half (1/2) the license fee. Any person who begins doing business the first day of October and before the first day of the year shall pay one quarter (1/4) of the license fee.
- (c) No license fee or any portion thereof will be refunded after a license has been issued.

(Ord. No. 287, § 32, 10-22-2002; Ord. No. 314, § 2, 9-23-2004; Ord. No. 424, Ex. A(39), 8-19-2009)

Sec. 8-63. ----- 8-80. - Reserved.

DIVISION 4. LICENSE

Sec. 8-81. - License to be exhibited.

The city issued alcoholic beverage license shall at all times be kept plainly exposed to view, to the public, at the place of business for which the same was issued.

(Ord. No. 287, § 34, 10-22-2002; Ord. No. 424, Ex. A(40), 8-19-2009)

Sec. 8-82. - Posting of signs.

All holders of a city issued alcoholic beverage license shall post signs in a conspicuous location in their place of business which read as follows:

"It is against the law for a person under the age of 21 to have in his or her possession or under his or her control any alcoholic beverage. It is also a violation of the law for such a person to misrepresent his or her age in any manner for the purpose of obtaining any alcoholic beverages. Any person who conspires, aids, abets or assists any other person under the age of 21 to obtain an alcoholic beverage shall be guilty of violating these provisions." (O.C.G.A., § 3-3-24.2)

"Warning: Drinking alcoholic beverages during pregnancy can cause birth defects."

(Ord. No. 287, § 13, 10-22-2002; Ord. No. 424, Ex. A(41), 8-19-2009)

Sec. 8-83. - Transferability.

- (a) No alcoholic beverage license may be transferred from one person to another or from one location to another except as otherwise provided in this section.
- (b) In case of the death of any person owning a license, the license may be transferred to the administrator, executor or personal representative of the deceased person, or the lawful heirs of the deceased person, if such heirs make application and meet all of the other qualifications contained in this chapter. The license of such deceased person shall be held by the administrator, executor or personal representative of such deceased person only for the time necessary to complete execution of the estate and dispose of the license or interest therein, but in no event beyond the expiration of the license, unless renewed in accordance with this chapter.
- (c) In the event of the bankruptcy or in the event that any applicant shall have a receiver appointed by any court of competent jurisdiction, such license shall be transferable to such receiver or trustee in bankruptcy for such period of time as may be granted by the city clerk for the proper liquidation of such assets and stock and goods of alcoholic beverages.
- (d) Nothing in this section, however, shall prohibit one (1) or more of the members of a limited liability company or the partners of a partnership holding a license to withdraw from the limited liability company or partnership and to assign his interest in such limited liability company or partnership to one (1) or more of the members or partners who were members or partners at the time of the issuance of the license. Such a withdrawal shall not, however, serve to bring any new ownership into the limited liability company or partnership.
- (e) This section shall not prohibit transfer of stock to persons who held more than ten percent (10%) of any class of stock in the corporate ownership at the time of issuance of the license.
- (d) A change of location with no change in ownership shall be allowed for any license under this ordinance provided the licensee files with the city clerk the following information on the new location:
 - (1) proof of planning and zoning compliance;
 - (2) proof of building code compliance;
 - (3) a legal description of the property upon which the new premises is located;
 - (4) an affidavit from a registered surveyor stating that the establishment complies with any distance or location requirements contained in this chapter; and

- (5) proof or ownership, or control, of the premises of the new location in accordance with this chapter.
- (f) Should a transfer of location be approved the license fee paid for the old location shall be applied to the new location.
- (g) Any change of location allowed under this section may be denied or revoked on the same basis as for an application for license.
- (h) In the event of the total sale of a business which holds a valid license pursuant to this chapter, the purchaser of said business may continue to operate said business pursuant to this ordinance so long as the purchaser completes the application process described herein prior to assuming responsibility for operating said business. No additional licensing fee shall be due from purchaser until the expiration of the license in existence at the time of the sale of said business.
- (i) At the time a transfer application is filed, a transfer fee shall be paid in an amount as established by resolution of the city council.

(Ord. No. 54, § 3, 10-22-1987; Ord. No. 170, § 5, 5-18-1999; Ord. No. 54-D, § 1, 9-20-2006; Ord. No. 287, § 27, 10-22-2002; Ord. No. 424, Ex. A (42), (78), 8-19-2009)

Sec. 8-84. – Term; renewal.

- (a) All alcoholic beverage licenses shall be valid only for the calendar year indicated thereon and shall expire at midnight on December 31st of the year in which issued.
- (b) No licensee shall have any vested right to renewal of any city issued license. A licensee that desires to continue in business during the next or subsequent calendar year must submit to the city clerk a complete renewal application for such year on or before December 1st of the preceding year.
- (c) All applications for the renewal of licenses shall be treated as applications for new licenses, except that applicants for a retail dealer license for the sale of distilled spirits need not publish notice of intent.
- (d) All applicants who fail to submit an application for renewal as required by this section must pay a penalty equal to ten percent (10%) of all license fees prior to the issuance of a renewed license.

(Ord. No. 54, §§ 3,5, 10-22-1987; Ord. No. 170, § 5, 5-18-1999; Ord. No. 287, §§ 17, 32, 10-22-2002; Ord. No. 54-D, § 1, 9-20-2006; Ord. No. Ex. A(45), 8-19-2009)

Sec. 8-85. - Automatic license forfeiture for nonuse.

- (a) Failure to open for business within six (6) months immediately following the issuance of an alcoholic beverage license shall result in the automatic forfeiture of the license without the necessity of any further action.
- (b) Failure to operate the business authorized by a license under this chapter for a period of three (3) consecutive months after the business has begun operating, shall result in the automatic forfeiture of the license without the necessity of any further action.

(Ord. No. 170, § 5, 5-18-1999; Ord. No. 287, § 15, 10-22-2002; Ord. No. 424, Ex. A(43), 8-19-2009)

Sec. 8-86. - Suspension or revocation of license.

- (a) Whenever the state revokes any permit or license to manufacture or sell alcoholic beverages, the city issued license shall thereupon be immediately revoked.
- (b) The city clerk shall revoke any license where:
 - (1) any licensed establishment is in violation of section 8-115 of this code;
 - (2) the license of any licensee has been suspended three (3) or more times in any consecutive twelve (12) month period;
 - (3) alcoholic beverages have been manufactured, sold or distributed during a period of suspension;
- (c) The city clerk may suspend or revoke any license where:
 - (1) the licensee furnishes fraudulent or untruthful information on the license application;
 - (2) the licensee fails to pay all fees, taxes or other charges imposed under the provisions of this chapter;
 - (3) the city clerk learns the licensee did not meet or no longer meets the licensing qualifications;
 - (4) Any act or omission of a licensee, owner of more than twenty percent (20%) interest in the licensed establishment, agent or employee of the licensee or licensed establishment which constitutes a violation of federal or state law or any provision of this chapter regardless of whether any criminal prosecution or conviction ensues;

- (5) The licensee no longer maintains adequate financial responsibility upon which issuance of the license was conditioned;
- (6) The licensee has defaulted in any obligation of any kind whatsoever, lawfully owing to the city;
- (d) Whenever the city clerk is granted discretion to suspend or revoke a city issued license, he shall exercise such discretion within the following guidelines:
 - (1) No suspension shall be for a period of time longer than the time remaining on such license.
 - (2) The following factors shall be considered regarding any suspension or revocation:
 - (a) consistency of penalties;
 - (b) likelihood of deterring future wrongdoing;
 - (c) impact of the offense on the public welfare, safety, health;
 - (d) any mitigating circumstances or remedial or corrective steps taken by the licensee; and
 - (e) Any aggravating circumstances or failure by the licensee to take remedial or corrective steps.
- (e) When a license is suspended or revoked, the city shall not be required to refund any portion of any business tax or license fee to the holder of such suspended or revoked license.
- (f) When a license is revoked, the former licensee is not permitted to make application for a new license under this chapter for one (1) year after the date of revocation.

(Ord. No. 54, § 7, 10-22-1987; Ord. No. 170, § 11, 5-18-1999; Ord. No. 287, § 38, 10-22-2002; Ord. No. 424, Ex. A(46), (47), 8-19-2009)

Sec. 8-87. - Hearing.

- (a) No license shall be denied, suspended or revoked without the opportunity for a hearing as hereinafter provided. This section does not apply to employee pouring permits.
- (b) The City Clerk shall provide written notice to any applicant or licensee of his decision to deny, suspend or revoke the license. Such written notification shall set forth in reasonable detail the reasons for such denial, suspension or revocation, and shall advise the applicant of the right to appeal under the provisions of this chapter. Any applicant or licensee who is aggrieved or

adversely affected by the decision of the city clerk may have a review thereof by appeal to the city council. Such appeal shall be by written petition, filed in the office of the city clerk within fifteen (15) days after the decision of the city clerk.

- (c) A hearing shall be conducted on each appeal within thirty (30) days of the date of filing with the city clerk unless a continuance of such date is agreed to by the appellant and the city clerk. The appellant at such hearing shall have the right to be represented by an attorney, and to present evidence and cross-examine witnesses.
- (d) Within fifteen (15) days after the conclusion of the hearing, the city clerk shall notify the appellant in writing of the city council's decision with the reasons therefore stated.
- (e) The decision of the city council shall be final unless appealed within thirty (30) days of the date of said decision by certiorari the Hall County Superior Court.

(Ord. No. 424, Ex. A(48), (49) 8-19-2009)

Sec. 8-88. ---- 8-100. - Reserved.

ARTICLE III. REGULATION

Division No. 1 Generally

Sec. 8-101. - Copy of ordinance.

The holder of every alcoholic beverage license hereunder shall have available in his place of business at all times a copy of this ordinance and shall be responsible for compliance herewith by persons on the premises.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 12, 5-18-1999)

Sec. 8-102. - Registered agent.

All licensed establishments must have and continuously maintain in Hall County a registered agent upon whom any process, notice or demand required or permitted by law or under this chapter may be served. This person must be a resident of Hall County. The licensee shall file such forms as required by the City Clerk to provide the name and address of the registered agent and consent of such agent to serve in said capacity. The registered agent shall submit a release permitting the Flowery Branch Police Department to perform an investigation to verify his residency.

(Ord. No. 54, § 3, 10-22-1987; Ord. No. 54-D, § 1, 9-20-2006; Ord. No. 170, § 6, 5-18-1999; Ord. No. 287, § 24, 10-22-2002; Ord. No. 424, Ex. A(35), 8-19-2009)

Sec. 8-103. - Service of notice generally.

For the purpose of this chapter, notice shall be deemed delivered three days after the date of deposit to the United States Post Office by certified mail.

(Ord. No. 424, Ex. A(49) 8-19-2009)

Sec. 8-104. - Lighting

Each building in which the business is to be located shall contain sufficient lighting so that the building itself and the premises on all sides of the building are readily visible at all time from the front on the street on which the building is located so as to reveal the inside retail area of the building and so as to reveal all of the outside of the premises of the building.

(Ord. No. 424, Ex. A(65), 8-19-2009)

Sec. 8-105. - Management and operation.

The licensee shall be responsible for the management and operation of the business for which the license is granted and shall be responsible for all violations of this chapter by the licensee's agents and employees.

(Ord. No. 54, § 8, 10-22-1987)

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 12, 5-18-1999; Ord. No. 424, Ex. A(82), 8-19-2009)

Sec. 8-106. Advertising.

All advertising for consumption of alcoholic beverages on the premises is hereby prohibited except as provided for in the following:

- (1) Licensees shall not advertise, directly or indirectly, the sale of alcoholic beverages other than in the principal building for which the license is issued, on a website owned by the licensee or on a social media account owned by the licensee. Advertising displayed within the principal buildings shall not be displayed within view of the general public from the doors or windows of such principal building.
- (2) Wholesale and consumption on the premises licensees shall be permitted to advertise by means of radio, T.V. or newspaper provided that prices and brand names of alcoholic beverages shall not be used.
- (3) Notwithstanding the foregoing, no trade name, corporate name, or name of a business shall be allowed to use the words "Beer", "Wine", or "Beer and Wine" in such name.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 12, 5-18-1999; Ord. No. 424, Ex. A(69), 8-19-2009)

Sec. 8-107. - Retailer to purchase from licensed wholesaler.

- (a) No retailer shall purchase alcoholic beverages from any person, firm or corporation other than a wholesaler licensed under this chapter.
- (b) The city clerk or his designee may request, from time to time, information concerning purchases and sales of alcoholic beverages from retailers and wholesalers.
- (c) Amenity Permits are exempt from section 8-107.

(Ord. No. 54, § 7, 10-22-1987; Ord. No. 170, § 10, 5-18-1999; Ord. No. 287, § 12, 10-22-2002; Ord. No. 424 Ex. A(51), 8-19-2009)

Sec. 8-108. - Inventory of alcoholic beverages.

- (a) All alcoholic beverages shall be stored only on the premises for which the license is issued.
- (b) It shall be unlawful for any person or corporation not holding an alcoholic beverage license granted by the City to store any alcoholic beverages on the grounds of any retail establishment excluding alcoholic beverages for personal consumption in accordance with all applicable provisions of law.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 12, 5-18-1999; Ord. No. 287, § 16, 10-22-2002; Ord. No. 424, Ex. A(52), 8-19-2009)

Sec. 8-109. Adding to containers prohibited.

No one shall add to or permit the adding to any alcoholic beverage or refill any alcoholic beverage container or in any other manner to misrepresent the quantity, quality or brand name of any alcoholic beverage.

(Ord. No. 54, § 7, 10-22-1987; Ord. No. 170, § 10, 5-18-1999; Ord. No. 424, Ex. A(53), 8-19-2009)

Sec. 8-110. - Malt beverage and wine tastings.

- (a) An ancillary license is required for any malt beverage or wine tasting where samples are offered to the public as a promotion for the sale of malt beverage or wine at retail for consumption on the premises or in closed packages for consumption off the premises.
- (b) A request by a licensee to conduct a malt beverage or wine tasting may be approved by the city manager when such request is made in writing on an application furnished by city clerk at least ten (10) days prior to the event and under the following conditions:
 - (1) A malt beverage or wine tasting must comply with all local and state laws and regulations pertaining to the sale and distribution of alcoholic beverages in the state and the city;

- (2) All malt beverages or wines secured for a wine tasting must be obtained through a wholesale dealer or brew pub possessing a valid current license to distribute malt beverage or wine issued by the city;
- (3) Samples shall not exceed six (6) ounces nor shall any individual be offered more than four (4) samples within a calendar day.
- (4) A bona fide nonprofit charitable or civic organization that seeks to conduct a wine tasting shall comply with all requirements set forth in O.C.G.A. §§ 3-9-3, 3-9-4, and 3-9-5 and must make application at least ten (10) business days prior to the proposed event on forms supplied by the city clerk; the city manager may waive a portion of such waiting period and/or permit fee upon good cause being shown.
- (5) A for-profit organization that seeks to conduct a malt beverage tasting and is not licensed shall comply with all requirements set forth in O.C.G.A. §3-5-20 and must make application 10 business days prior to the proposed event on forms supplied by the city clerk;
- (6) A for-profit organization that seeks to conduct a wine tasting and is not licensed shall comply with all requirements set forth in O.C.G.A. § 3-6-20 and must make application 10 business days prior to the proposed event on forms supplied by the city clerk;
- (7) A nonrefundable fee in an amount established by resolution of the city council will be charged for the processing of an application for a malt beverage or wine tasting."

Sec. 8-111. – Minors; exemptions.

- (a) It is unlawful for any person to knowingly, directly or through another person, furnish, cause to be furnished, or permit any person in such person's employ to furnish any alcoholic beverage to any minor.
- (b) It is unlawful for any minor to purchase or knowingly possess any alcoholic beverage.
- (c) It is unlawful for any person to knowingly or intentionally act as an agent to purchase or acquire any alcoholic beverage for or on behalf of a person under 21 years of age.
- (d) It is unlawful for any minor to misrepresent his age in any manner whatever for the purpose of obtaining illegally any alcoholic beverage.

- (e) The prohibition contained in paragraph (a) of this section shall not apply with respect to the sale of alcoholic beverages by a person when such person has been furnished with proper identification showing that the person to whom the alcoholic beverages is sold is 21 years of age or older. For purposes of this subsection, the term "proper identification" means any document issued by a governmental agency containing a description of the person, such person's photograph, or both, and giving such person's date of birth and includes, without being limited to, a passport, military identification card, or driver's license. "Proper identification" shall not include any traffic citation, complaint form, birth certificate, or social security card.
- (f) In any case where a reasonable or prudent person could reasonably be in doubt as to whether or not the person to whom an alcoholic beverage is to be sold or otherwise furnished is actually 21 years of age or older, it shall be the duty of the person selling or otherwise furnishing such alcoholic beverage to request to see and to be furnished with proper identification as provided for in paragraph (e) of this section in order to verify the age of such person; and the failure to make such request and verification in any case where the person to whom the alcoholic beverage is sold or otherwise furnished is less than 21 years of age may be considered by the trier of fact in determining whether the person selling or otherwise furnishing such alcoholic beverage did so knowingly.
- (g) Any attempt to commit any act made unlawful by this section shall be itself unlawful and subject to punishment in the municipal court.
- (h) Violation of any provisions of this section shall constitute an offense hereunder and shall be punishable in the municipal court; provided, violation of this section by persons who have not yet reached the age of 17 years shall be handled as provided by the juvenile court system.
- (i) The sale, purchase or possession of alcoholic beverages for consumption to minors shall be allowed under the following circumstances:
 - (1) For medical purposes pursuant to a prescription of a physician duly authorized to practice medicine in this state.
 - (2) At a religious ceremony.
 - (3) In the home with parental consent.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 10, 13, 5-18-1999; Ord. No. 287, § 6, 10-22-2002; Ord. No. 424, Ex A(56), 8-19-299)

Sec. 8-112. - Employment of minors.

- (a) Nothing contained in this article shall be construed to prohibit any minor from:
 - (1) Dispensing, serving, selling or handling alcoholic beverages as a part of employment in any licensed establishment.
 - (2) Being employed in any establishment in which alcoholic beverages are distilled or manufactured.
 - (3) Taking orders for and having possession of alcoholic beverages as a part of employment in a licensed establishment.
 - (4) Purchasing, drinking or possessing any alcoholic or malt beverage or wine if such person is at the time acting for and on behalf of law enforcement agencies conducting bona fide investigations of license holders and/or their employees.
- (b) Except, no person shall allow or require a person in their employment under 18 years of age to dispense, serve, sell, or take orders for any alcoholic beverage.
- (c) The provisions of this section shall not prohibit persons under 18 years of age who are employed in supermarkets, convenient stores, breweries, manufacturing facilities or drug stores from selling or handling alcoholic beverages which are sold for consumption off premises.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 13, 5-18-1999; Ord. No. 424, Ex. A(57), 8-19-2009)

Sec. 8-113. - Prohibited sales.

- (a) No licensee nor any agent or employee of a licensee shall furnish, sell or offer to sell any malt beverage and/or wine to any person who is confined in any jail, penal institution, correctional facility, prison camp, penitentiary or other lawful place of confinement, or to any person who is a patient or inmate of the Central State Hospital, or to any person who is noticeably intoxicated, or is of unsound mind, or is a habitual drunkard whose intemperate habits are known to the licensee or the agent or employee.
- (b) No licensee nor any agent or employee of a licensee shall sell any alcoholic beverage through or by means of a drive-in window.
- (c) No licensee nor any agent or employee of a licensee shall sell or offer for sale alcoholic beverages by use of vending machines.
- (d) No licensee nor any agent or employee of a licensee shall sell, offer for sale possess or permit the consumption on the licensed

premises of any kind of alcoholic beverages the sale, possession or consumption of which is not authorized under his license.

- (e) It shall be unlawful for any licensee hereunder to make deliveries of any alcoholic beverages by the drink beyond the boundaries of the premises covered by the license. The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to general public use is prohibited, except that private parties or conventions, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms and provided further that this prohibition shall not apply to the consumption hereunder by the registered guests of any hotel or motel in their designated rooms.

(Ord. No. 54, §§ 7, 8, 10-22-1987; Ord. No. 170, §§ 10, 12, 5-18-1999; Ord. No. 287, § 9, 10-22-2002; Ord. No. 424, Ex. A(50), (60), 8-19-2009)

Sec. 8-114. - Consumption in public; possession or consumption on city property; exemption.

- (a) No person shall consume any alcoholic beverage from any open container while in or upon any area open to the public, whether public or private.
- (b) This section shall not apply in the following instances:
 - 1. The city manager, or his designee, may allow consumption of alcoholic beverages during special events that are open to the public or are on city property by approval of a written application made to the city manager or his designee upon forms provided by the city under the following conditions:
 - i. *One drink limit.* No person shall hold in his possession more than one alcoholic beverage in a paper or plastic cup.
 - ii. *Size limited to 16 fluid ounces.* No container in which an alcoholic beverage is dispensed shall exceed 16 fluid ounces in size. No person shall hold in his possession any open alcoholic beverage container which exceeds 16 fluid ounces in size.
 - iii. *Drinking from a can, bottle or glass is prohibited.* It shall be unlawful for any person to drink or attempt to drink any alcoholic beverage from a can, bottle or glass vessel or to possess in an open can, bottle or glass vessel any alcoholic beverage.
 - iv. *All alcoholic beverages shall only be served by a licensed caterer or eating establishment.*

2. For a Downtown Dining District as defined by this chapter.

- i. For the purposes of this chapter only, a Downtown Dining District is defined as follows: A specifically authorized and pedestrian oriented area of the City as established by resolution of Mayor and Council that allows those establishments located in the Downtown Dining District with valid consumption on the premises licenses, growler licenses, or amenity permits to dispense and/or serve an alcoholic beverage for carry out purposes, provided all other laws, rules and ordinances are followed.
- ii. Within a Downtown Dining District, any establishment licensed to sell alcoholic beverages by the drink for consumption on the premises is authorized to dispense an alcoholic beverage in a plastic cup; provided, however, that no person shall remove more than one such alcoholic beverage from the licensed premises at a time.
- iii. Within a Downtown Dining District, no unsealed container in which an alcoholic beverage is dispensed shall not exceed sixteen (16) fluid ounces in size. No person shall hold in their possession on the streets and sidewalks, in parks and squares, or in other public places within a Downtown Dining District any open alcoholic beverage container which exceeds sixteen (16) fluid ounces in size.
- iv. It shall be unlawful within a Downtown Dining District for any person to drink or attempt to drink any alcoholic beverage from a can, bottle, or glass, or to possess in an open can, bottle, or glass any alcoholic beverage on the streets, sidewalks, rights-of-way, and/or parking lots, whether public or private.
- v. No alcoholic beverage may be consumed outside of the Downtown Dining District, or upon any private property, without the express consent of the private property owners.

Sec. 8-115. - Restrictions on entertainment and attire.

The following types of entertainment, attire and conduct are not permitted upon any premises licensed to sell, serve or dispense alcoholic beverages or upon any premises licensed under the business ordinances of the city in which alcoholic beverages are consumed, allowed or dispensed on the premises:

- (1) The employment or use of any person, in any capacity, in the sale or service of alcoholic beverages while such person is unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola or of any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva or genitals; or
- (2) Live entertainment where any person appears in the manner described in this section, or where any person performs acts of or acts which simulate:
 - a. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law; or
 - b. The touching, caressing or fondling of the breast, buttock, anus or genitals; or
 - c. the displaying of the pubic hair, anus, vulva or genitals; or
- (3) The showing of any film, still pictures, electronic reproduction or other visual reproductions depicting any of other acts described in this section; or
- (4) The holding, promotion or allowance of any conduct, promotion, special night or any other activity where patrons of the licensed establishment are encouraged or allowed to engage in any of the above-prohibited conduct.
- (5) Nothing contained in this section shall apply to the premises of any mainstream performance house, museum or theater that derives less than 20 percent of its gross annual income from the sale of alcoholic beverages.
- (6) The findings and statement of purpose from the Flowery Branch Adult Entertainment Ordinance are hereby incorporated by reference as if fully set forth herein as the purpose for this section and all amendments hereto.

(Ord. No. 424, Ex. A(66), 8-19-2009)

Sec. 8-116. – Gambling prohibited.

There shall be no gambling, betting, games of chance of any kind, punch-boards, slot machines, or the operation of any scheme for hazarding money or any other thing of value in any place, or any room adjoining the same, leased or controlled by a licensee.

Sec. 8-117. - Inspections.

Any establishment holding a license issued under this ordinance shall at all times, during the period allowable by law for operation of the business, be open to inspection by any officer of the Police Department, any license inspector of the city, or to any person designated by the Chief of Police or the City Manager. In addition, if the premises are being used after hours by employees or the owners or their agents, the premises may be inspected at this time by the designated persons in this section.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 170, § 12, 5-18-1999; Ord. No. 287, § 33, 10-22-2002; Ord. 424, Ex. A(67), 8-19-2009)

Sec. 8-118. - Emergency closure of licensed premises.

The city clerk or the Flowery Branch Police Department may immediately close an establishment licensed under this chapter in case of an emergency, for the safety of the public or to investigate a crime, for a period of time not to exceed 24 hours.

(Ord. 424, Ex. A(68), 8-19-2009)

Sec. 8-119. – Audits; records.

- (a) In the event the city clerk deems it necessary to conduct an audit of the records and books of the licensee, he shall so notify the licensee of the date, time and place of the audit. The city clerk or his designee shall perform any audit authorized in this chapter. The licensee shall cooperate with the audit or forfeit any license(s) issued hereunder.
- (b) All licensees must maintain the following records for a three(3) year period and make them available for audit at the licensed premises:
 - (1) Monthly income or operating statements;
 - (2) Invoices showing the quantity of alcoholic beverages purchased from or sold to a wholesaler;
 - (3) Daily sales receipts showing distilled spirits, beer, wine and food sales separately (this subsection does not apply to wholesalers or retail package licensees);
 - (4) Daily cash register receipts such as Z tapes or guest tickets (this subsection does not apply to wholesalers);

- (5) Monthly Georgia sales and use tax reports; and
- (6) Federal income tax return with all Form 1099s.

(Ord. No. 287, §§ 5, 36, 10-22-2002; Ord. No. 424, Ex. A(80), (81), 8-19-2009)

Sec. 8-120. ---- 8-130. – Reserved.

**DIVISION 2. RETAIL SALE OF ALCOHOLIC BEVERAGES
FOR CONSUMPTION ON THE PREMISES.**

Sec. 8-131. - Consumption license exclusive of wholesale business.

It shall be unlawful for any person to hold an alcoholic license for consumption who also has any direct financial interest in any wholesale alcoholic beverage business. It shall be unlawful for the holder of any alcoholic beverage license for consumption to accept or receive financial aid or assistance from the holder of any alcoholic beverage manufacturer's or wholesale dealer's license.

(Ord. No. 170, § 12, 5-18-1999; Ord. No. 424, Ex. A(72), (83), 8-19-2009)

Sec. 8-132. - Consumption-only sales.

Persons holding a license to sell alcoholic beverages for consumption on the premises shall not be permitted to sell any alcoholic beverage by the package or bottle for consumption off premises.

(Ord. No. 424, Ex. A(71), 8-19-2009)

Sec. 8-133. - Sales off premises for catered functions.

- (a) Licensed malt beverage, wine or distilled spirits consumption on the premises locations eligible for off premise catering licenses shall meet the following requirements:
 - (1) Any licensed alcoholic beverage locations that possess a valid license from the city or another jurisdiction which authorizes the licensee to sell malt beverages, wine or distilled spirits by the drink for consumption on the premises may be issued an off-premise catering license which authorizes such licensed alcoholic beverage caterer to sell malt beverages, wine or distilled spirits by the drink off the premises and in connection with an authorized catered function within the city limits of Flowery Branch;
 - (2) Any licensed alcoholic beverage locations that possess a valid license from another jurisdiction which authorizes the licensee to sell malt beverages, wine or distilled spirits by the drink for consumption on the premises shall make

application for an off-premise catering license in accordance with this chapter, and shall pay to the city an annual license fee for operation for one calendar year in an amount as established by resolution of the city council.

- (b) Event permits will be issued for all catered functions located within the city limits of Flowery Branch. In order to distribute or sell malt beverages, wine or distilled spirits for consumption off the premises at an authorized catered function, a licensed alcoholic beverage caterer shall be required to:
 - (1) Possess a valid current malt beverage, wine or distilled spirits consumption off the premises catering license from the city which authorizes the licensee to sell malt beverages, wine or distilled spirits by the drink;
 - (2) Provide satisfactory reports to the city clerk on forms provided by the city stating the quantity of any and all alcoholic beverages transported from the licensee's primary premises to the location of the authorized catered function and such other information as required by the city clerk; and maintain original local event permits and documents required by the city in the vehicle transporting the alcoholic beverages to the catered function at all times;
 - (3) Pay a nonrefundable fee in an amount established by resolution of the city council for the processing of an application for an event permit.
- (c) It shall be unlawful for an alcoholic beverage caterer to employ any person under 21 years of age who, in the course of employment, would dispense serve, sell or handle alcoholic beverages.
- (d) There is hereby levied excise taxes on the total quantity of alcoholic beverages brought into the corporate limits of the city from another jurisdiction by an alcoholic beverage caterer in accordance with article II of this chapter. Said excise taxes shall be paid within 30 days of the event.

(Ord. No. 446, § I, 3-17-2011)

Sec. 8-134. - Hours and days of sale.

- (a) It shall be unlawful to sell malt beverages, wine and distilled spirits for consumption on the premises on any day or at any time

when such sale or consumption is prohibited by law.

- (b) The hours of sale of malt beverages, wine and distilled spirits for consumption on the premises are:
 - (1) On election days, whether primary or general election, the hours of legal sale shall be the same as any other such day of the week, except that no such alcoholic beverages shall be sold for consumption on the premises in City within two hundred fifty (250) feet of any polling place or within two hundred fifty (250) feet of the outer edge of any building within which such polling place is established.
 - (2) On Monday through Saturday between the hours of 7:00 a.m. and 2:00 a.m.
 - (2) On Sunday between the hours of 12:30 p.m. and 12:00 midnight so long as the establishment derives at least fifty percent (50%) of its total annual gross sales from the sale of prepared meals.

(Ord. No. 54-F, 5-2-2007; Ord. No. 170-D, 5-2-2007; Ord. No. 287-A, 5-2-2007; Ord. No. 424, Ex. A(70), 8-19-2009; Ord. No. 459, § I, 10-20-2011)

Sec. 8-135. - Clearing service areas.

All licensees for the sale of alcoholic beverages for consumption on the premises shall remove, or cause to be removed, from the area of the premises utilized by customers or patrons all alcoholic beverages within forty-five (45) minutes after the closing time for the sale of said alcoholic beverages.

(Ord. No. 54, § 7, 10-22-1987; Ord. No. 170, § 10, 5-18-1999; Ord. No. 424, Ex. A(73), 8-19-2009; Ord. No. 424, Ex. A973), 8-19-2009)

Sec. 8-136. - Poured alcohol to be transported by employees.

Poured alcoholic beverages will be transported from point of dispensing to the customer by permitted employees only.

Sec. 8-137. - Delivery.

The sale of alcoholic beverages for consumption by persons in any back room or side room which is not open to general public use is prohibited, except that private parties or conventions, which have been scheduled in advance, may be served in public or private dining rooms or meeting rooms, and provided further that this prohibition shall not apply to private clubs hereunder, nor to the sale for consumption hereunder to the registered guests of any hotel or motel in their designated rooms.

(Ord. No. 54, § 8, 10-22-1987; Ord. No. 424, Ex. A(74), 8-19-2009)

Sec. 8-138. - Brown bagging prohibited; exemption.

- (a) It is prohibited for any person to bring in his own alcoholic beverage in any establishment either licensed or unlicensed.
- (b) Notwithstanding subsection (a) above, eating establishments that possess corkage licenses may permit customers to bring, possess and consume bottles of wine or malt beverage growler that are owned by the customers pursuant to the conditions set forth in this division.
- (c) As used in this subsection, the term "art shop" means a retail business devoted exclusively to providing art education that is limited to instruction in painting, sculpture and similar crafts; or selling and displaying portraits, paintings, sculptures, art supplies and similar art work and crafts. An art shop shall not allow activities that would cause the business to be an "adult entertainment establishment" as defined in the Zoning Ordinance.
- (d) The prohibition in subsection (a) shall not apply to an art shop as defined in subsection (c). Licensed art shops are subject to the specific provisions governing the operation of an art shop:
 - 1) An art shop established under this section may allow customers to bring in a bottle or bottles of wine and/or beer to be consumed on the premises between the hours of 3:00 p.m. and 10:00 p.m.
 - 2) Any wine and/or beer served on the premises shall only be served by an employee of the art shop holding a valid pouring permit.
 - 3) The customer must remove any unconsumed wine and/or beer from the premises before leaving the premises.
 - 4) The brown bagging of wine and/or beer in an art shop shall be subject to this section, the City of Flowery Branch's Alcoholic Beverage Ordinance and to state law; including but not limited to, the prohibition of consumption by anyone who is under 21 years of age or intoxicated.
 - 5) An art shop may serve food provided it meets all federal, state and local requirements.

Sec. 8-139. – Corkage services.

- (a) An eating establishment that possesses a license for the retail sale of wine or malt beverage growler for consumption on the premises and a corkage license may permit customers to bring, possess and consume bottles of wine or malt beverage growler that are owned by the customer and brought onto the premises under the following conditions:

- (1) Licensee has made application as provided in this chapter for a corkage license, has been granted a corkage license by the city clerk, and has paid the corkage license fee as established by resolution of the city council.
 - (2) No more than 750 milliliters of wine, per customer over the age of 21 per meal, shall be permitted to be uncorked.
 - (3) No more than thirty-two (32) ounces of malt beverage, per customer over the age of 21 per meal, shall be permitted to be opened.
 - (4) Only customers seated at tables or booths shall be permitted to consume wine or malt beverages that have been provided by the customer.
 - (5) Wine and malt beverages may only be consumed by individuals who order and are served a meal by the licensee.
 - (6) Every bottle of wine or malt beverage growler brought onto the premises by a customer must be opened by permitted employees only.
 - (7) A customer may remove an uncorked bottle of wine or malt beverage growler from the premises only if the requirements of section 8-140 are met.
- (b) An eating establishment may at its discretion charge corkage fees.

Sec. 8-140. - Removal of a partially consumed bottle of wine or malt beverage growler.

- (a) Any eating establishment which is licensed to sell wine or malt beverages for consumption on the premises may permit a patron to remove one unsealed bottle of wine or malt beverage growler per customer for consumption off premises under the following conditions:
 - (1) The customer has purchased a meal from the eating establishment and consumed a portion of the bottle of wine which has been purchased on the premises or has been brought onto the premises by the customer pursuant to section 8 -139 or malt beverage growler that has been brought onto the premises pursuant to section 8-139.
 - (2) The partially consumed bottle of wine or malt beverage growler that is to be removed from the premises must be securely resealed by the licensee or its permitted employees before removal from the premises.
 - (3) The partially consumed bottle of wine or malt beverage

growler shall be placed in a bag or other container that is secured in such a manner that it is visibly apparent if the container has been subsequently tampered with or opened.

(4) A dated receipt for the meal and the purchase of the bottle of wine or corkage fee shall be provided by the licensee and attached to the container.

(b) If transported in a motor vehicle, the container with the resealed bottle of wine or malt beverage growler shall be placed in a locked glove compartment, a locked trunk or the area behind the last upright seat of a motor vehicle that is not equipped with a trunk.

Sec. 8-141. Amenity license.

A non-eating establishment that offers alcoholic beverages as an act of hospitality, where it is clearly a secondary function of the business, shall be eligible to apply for an alcoholic beverage amenity license. Eating establishments shall not be eligible for an alcoholic beverage amenity permit.

(a) An amenity license shall allow the license holder to offer alcoholic beverages as an act of hospitality and shall not be part of the core operations of such establishments.

(b) Any alcoholic beverage served on the premises shall only be served by an employee of the business holding a valid pouring permit.

(c) The amenity license will be renewed annually on the calendar year and the City may revoke or suspend such amenity license and/or impose such conditions on its operation at the City's discretion for violations of this chapter or in furtherance of the health, safety, and welfare of the City's inhabitants.

(d) The amenity license application shall include an annual background check. A \$100.00 administrative fee shall be charged to cover this administrative process.

Sec. 8-142. - Food sale requirement.

(a) Consumption on the premises licensees shall maintain more than forty percent (40%) of their gross sales from the sale of food; and for the purposes of this section, food shall be defined as any product intended for human consumption, except those containing alcohol, or those sold as over the counter medicines. The forty percent (40%) percent ratio shall be determined on a calendar quarter basis on the monthly reports submitted by each licensee. In the event food sales fall below forty percent (40%) of the gross sales for any quarter, then the licensee shall be placed on probation for the next succeeding quarter. At the end of the next succeeding quarter, if food sales have not attained more than forty percent (40%) of gross sales then the city clerk may suspend or revoke such license in accordance with this chapter.

(b) Section 8-142(a) shall not apply to bars or taverns located in the Downtown Dining district.

Sec. 8-143. - Employee regulations.

- (a) The following regulations shall apply to all establishments holding a license for consumption of alcoholic beverages on the premises:
 - (1) No person shall be employed to dispense, sell, serve, take orders, mix alcoholic beverages, or in any managerial position, by an establishment holding a license hereunder until such person:
 - a. demonstrates he is a certified alcohol awareness server having completed Servsafe, "Training for Intervention Procedures for Servers of Alcohol" (TIPS) or any other comparable program as approved by the city clerk; and
 - b. such person has been fingerprinted or cleared by the Flowery Branch Police Department, indicating that the person is eligible for such permit.
 - (2) No person shall be granted a pouring permit unless it appears to the satisfaction of the Flowery Branch Police Department that such person has not been convicted or plead guilty or entered a plea of nolo contendere to any crime involving moral turpitude, illegal gambling, or illegal possession or sale of controlled substances or the illegal sale or possession of alcoholic beverages, including the sale or transfer of alcoholic beverages to minors in a manner contrary to law, driving under the influence of alcohol and/or drugs within a period of five years immediately prior to such application, keeping a place of prostitution, pandering, pimping, public indecency, prostitution, solicitation of sodomy, or any sexual related crime within a period of five years of the date of conviction and has been released from parole or probation. A person's first time conviction for illegal possession of alcohol as a misdemeanor or violation of a city ordinance shall not, by itself, make a person ineligible for an alcohol pouring permit.
 - (3) No person shall be granted a pouring permit who has been convicted, plead guilty or entered a plea of nolo contendere to any federal, state, or local law for any felony within five years of the date of conviction and has not been released from parole or probation prior to the filing for application for such permit.
 - (4) For purposes of this section, a conviction or plea of guilt or nolo contendere shall be ignored as to any offense for

which defendants were allowed to avail themselves of the Georgia First Offender Act (O.C.G.A. title 42, ch. 8, art. 3, O.C.G.A. § 42-8-60 et seq.). Except; however, that any such offense shall not be ignored where the defendant violated any term of probation imposed by the court granting first offender treatment or committed another crime and the sentence in court entered an adjudication of guilt as to the crime for which the defendant had previously been sentenced as a first offender.

- (b) No permit shall be issued until such time as a signed application has been filed with the Flowery Branch Police Department and upon paying a fee which shall be established by resolution of the city council and a search of the criminal record of the applicant completed. Said application shall include, but shall not be limited to, the name, date of birth, and prior arrest record of the applicant, though the fact of an arrest record shall be used for investigative purposes only, and shall give rise to no presumption or inference of guilt. Due to the inclusion of arrest information, these applications shall not be produced for public inspection without a court order.
- (c) The Flowery Branch Police Department shall have a complete and exhaustive search made relative to any police record of the person fingerprinted or cleared. In the event there is no record of a violation of this chapter, the Flowery Branch Police Department shall issue a permit to the employee, stating that the person is eligible for employment. If it is found that the person fingerprinted or cleared is not eligible for employment, the Flowery Branch Police Department shall notify the employer that this person is not eligible for employment, the cause of such denial and their right to appeal.
- (d) It shall be the duty of all persons holding any license to serve or sell alcoholic beverages to file with the city clerk the name of the establishment, the license number and a list of all employees, with their home addresses and home telephone numbers quarterly, on or before April 1st, on or before July 1st, on or before October 1st and with the December 1st annual renewal.
- (e) All permits issued through administrative error or through an error in completion of a background investigation can be terminated by the Flowery Branch Police Department.
- (f) This section shall not be construed to include employees whose duties are limited solely to those of busboy, cook or dishwasher.
- (g) No licensee shall allow any employee required to hold a permit to work on the licensed premises unless the licensee has on file, on the premises, the current, valid permit of each such employee.
- (h) In the event that any permit holder leaves the employ of a

licensed establishment, the licensee shall immediately surrender the permit to the Flowery Branch Police Department.

- (i) All permits issued hereunder remain the property of the city and shall be produced for inspection upon the demand of the city clerk or Flowery Branch Police Department.
- (j) Separate permits shall be required by the city clerk for each employee working in more than one establishment serving alcoholic beverages.
- (k) No person shall be issued a permit if it is determined that the person knowingly and willfully falsified, concealed or covered up any material fact by any device, trick, or scheme while making application for an alcoholic beverage pouring permit under this section.
- (l) This applies only to establishments holding a consumption on the premises license as outlined in this chapter:
 - (1) Each licensed establishment is required to have all servers be certified as "alcohol awareness servers." Each server's certificate will be kept on site for review by any police officer, code enforcement officer or city clerk posted in plain view to the public along with the license to operate the establishment.
 - (2) Each establishment will provide the city clerk of the city a list of all servers that are employed and the certificate number of each "alcohol awareness server." This list is to be received no later than 60 days from receipt of license to operate and in conjunction with the renewal application.
- (m) An alcohol pouring permit shall be issued for a period of one calendar year from the date of the original application. Once received the alcohol awareness server certification is valid for three (3) years from the date listed on the certificate. The alcohol pouring permit must be in the possession of the employee while the employee is working at the licensed establishment. This permit must be in the possession of the employee while the pouring permit holder is working and available for inspection by the city clerk or his designee.

(Ord. No. 424 Ex. A(62), 8-19-2009; Ord. No. 470, §§ I.A.-- I.D, 8-16-2012)

Sec. 8-144. - Underage loitering.

No person who holds an alcoholic beverage license for consumption on the premises shall allow any person less than eighteen (18) years of age to be in, frequent, or loiter in any lounge located within the licensed premises unless such person is accompanied by a parent or legal guardian.

(Ord. No. 54, § 7, 10-22-1987; Ord. No. 424, Ex. A(58), 8-19-2009)

Sec. 8-145. ---- 8-160. – Reserved.

DIVISION 4. RETAIL PACKAGE SALES.

Sec. 8-161. – Hours and days of sale for malt beverages and wine.

- (a) It shall be unlawful to sell malt beverages and wine for consumption off the premises on any day or at any time when such sale or consumption is prohibited by law.
- (b) The hours of sale of malt beverages and wine for consumption off the premises are between 7:00 a.m. and 12:30 p.m., Monday through Saturday, and between 12:30 p.m. and 11:30 p.m. on Sunday

(Ord. No. 54-F, 5-2-2007; Ord. No. 170-D, 5-2-2007; Ord. No. 287-A, 5-2-2007; Ord. No. 459, § I, 10-20-2011)

Sec. 8-162. – Hours and days of sale for distilled spirits.

- (a) It shall be unlawful to sell distilled spirits for consumption off the premises on any day or at any time when such sale or consumption is prohibited by law.
- (b) The exterior entrances of package stores must be locked not later than 12:00 midnight, Monday through Saturday, and not later than 11:30 p.m. on Sunday. Package stores shall not engage in the sale of distilled spirits except on Monday through Saturday between the hours of 7:00 a.m. and 12:00 midnight and on Sunday between the hours of 12:30 p.m. and 11:30 p.m.”

(Ord. No. 54-F, 5-2-2007; Ord. No. 170-D, 5-2-2007; Ord. No. 287-A, 5-2-2007; Ord. No. 459, § I, 10-20-2011)

Sec. 8-163. – On-premises consumption unlawful.

It shall be unlawful for any person to consume any alcoholic beverage on premises licensed for the sale of alcoholic beverages by the package. It shall be unlawful for any retail package licensee to open or break the package of any alcoholic beverages for a purchaser or to permit the consumption of alcoholic beverages on the licensed premises. This section shall not apply with respect to:

- (1) Tastings pursuant to a malt beverage or wine tasting license;
- (2) Malt beverage tastings pursuant to section 8-164(5);
- (3) Sales pursuant to a license for consumption.

Sec. 8-164. – Growlers.

Package malt beverage licensees, who are not also licensed to sell distilled spirits by the package, may fill growlers with draft beer at the licensed location subject to the following requirements:

- (1) Either at least ninety percent (90%) of the licensee's total gross sales are from the packaged sale of malt beverages and/or wine or the licensee's premises have a minimum of four hundred (400) square feet of floor space dedicated to the display of malt beverages offered for sale.
- (2) A growler shall not exceed sixty-four (64) ounces.
- (3) Growlers may only be filled from kegs procured by the licensee from a duly licensed wholesaler.
- (4) Only professionally sanitized and sealed growlers may be filled and made available for retail sale.
- (5) Each growler must be securely sealed and removed from the premises in its original sealed condition.
- (6) Consumption on the premises is strictly prohibited. However, samples of tap beers may be made available without a malt beverage tasting license, but shall not exceed six (6) ounces nor shall any one individual be offered more than four (4) samples within a calendar day. Any samples served on the premises shall only be served by an employee holding a valid pouring permit.

Sec. 8-165. - Restrictions on other mercantile establishments.

A licensee of a retail establishment permitted to sell spirituous liquors under this chapter shall not operate such business in connection with any other mercantile establishment, except a retail store selling package malt beverages and wine and then only if such package malt beverages and wine store sells only malt beverages, wine and items of convenience normally associated with the retail sale of package malt beverages, and then only if such package malt beverages and wine is sold only for carry out purposes. No such retailer shall sell, offer for sale, display or keep stocked in his or her place of business where package spirituous liquors are offered for sale any other product or commodity except:

- (1) Wine (if licensed);
- (2) Beverages containing no alcohol and commonly used to dilute distilled spirits.
- (3) Tobacco products;
- (4) Malt beverages and beer (if licensed); and

- (5) Package ice, snacks, supplies, and accessories (including but not limited to containers and/or serving devices) as permitted by law.

(Ord. No. 287, § 10, 10-22-2002; Ord. No. 424, Ex. A(76), 8-19-2009)

Sec. 8-166. - Applicability of article to those businesses operating both the retail sale of spirituous liquors and package malt beverages and wine.

For licensees who wish to operate a business which conducts both the retail sale of spirituous liquors and package malt beverages and wine, in the case of conflict, the provisions of this article regulating the sale of spirituous liquors shall prevail, and compliance with these provisions, rather than those provisions applicable to the license permitting the sale of package malt beverages and wine, is required. The applicant shall be required to meet all licensee qualifications and requirements under both this article and the article governing the licensing and sales of package malt beverages and wine.

(Ord. No. 287, § 23, 10-22-2002; Ord. No. 424, Ex. A(77), 8-19-2009)

Sec. 8-167. ---- 8-180. – Reserved.

DIVISION 5. WHOLESALERS

Sec. 8-168. - Hours and days of sale.

Wholesalers shall not engage in the sale of alcoholic beverages except between 7:00 a.m. and 6:00 p.m. Monday through Saturday. There shall be no sales of alcoholic beverages on Sunday.

Sec. 8-169. - Prohibited sales.

No wholesaler shall sell any alcoholic beverage to anyone other than a retailer licensed under this chapter.

(Ord. No. 287, § 5, 10-22-2002)

DIVISION 6. BREW PUBS

Sec. 8-170. Brew pubs.

- (a) Notwithstanding any other provision of this chapter to the contrary, a limited exception to section 8-131 shall exist for owners and operators of brew pubs provided that:
 - (1) No individual shall be permitted to own or operate a brew pub without first obtaining a proper brew pub license from the city council. Each brew pub license holder shall comply with all other applicable state and local license requirements. A brew pub license authorizes the holder of such license to (i) manufacture on the licensed premises not

more than five thousand (5000) barrels of beer in a calendar year solely for retail consumption on the premises and solely in draft form; and (ii) operate a restaurant that shall be the sole retail outlet for such beer and may offer for sale any other alcoholic beverages produced by other manufacturers which are authorized for retail sale under this chapter, provided that such alcoholic beverages are purchased from a licensed wholesale dealer for consumption on the premises only and, provided further, in addition to draft beer manufactured on the premises, each brew pub licensee shall offer for sale commercially available canned or bottled malt beverages purchased from a licensed wholesale dealer.

- (2) Possession of a brew pub license shall not prevent the holder of such license from obtaining any other license available under this chapter for the same premises.
- (3) A brew pub license does not authorize the holder of such license to sell alcoholic beverages by the package for consumption off the premises.
- (4) A brew pub licensee shall pay all state and local license fees and excise taxes applicable to individuals licensed under this chapter as manufacturers, retailers and, where applicable, wholesale dealers.
- (5) Except as set forth in this section, a brew pub license holder shall be subject to all sections of this chapter.

(Ord. 424a, § 1, 4-1-2010)

Sec. 8-171. ---- 8-180. Reserved.

ARTICLE IV. EXCISE TAXES

DIVISION 1. GENERALLY

Sec. 8-181. - Unlawful retail sales.

It shall be a violation of this chapter for any person to sell at retail within the city alcoholic beverages on which the taxes provided for in this article have not been paid.

(Ord. No. 424, Ex. A(8), 8-19-2009)

Sec. 8-182. - Reports.

In administration of the provisions of this article, the city may require the filing of reports by any person having in such person's possession or custody information relating to alcoholic beverage sales which are subject to the tax. Reports shall be filed with the city clerk when required by the city and shall set

forth the purchase price for each purchase, the date or dates of purchase and such other information as the city may require.

(Ord. No. 424, Ex. A(15), 8-19-2009)

Sec. 8-183. – Misstatements or concealment of facts in reports.

Any misstatement or concealment of fact in reports required by this article shall be grounds for suspension or revocation of the license issued and shall make the licensee liable to prosecution for perjury under the laws of the state.

Sec. 8-184. – Failure to timely pay taxes; penalties and interest.

In the event the tax due hereunder is not paid within the time required, the licensee shall pay a penalty of fifteen percent (15%) of the unpaid tax plus interest at a rate of one percent (1%) per month on the unpaid tax.

(Ord. 424, Ex. A(16), 8-19-2009)

Sec. 8-185. – Deficiency determination; penalties and interest.

- (a) If the city has cause to believe that the return or returns of the tax or the amount of the tax required to be paid to the city by any person is not proper, it may compute and determine the amount required to be paid upon the basis of any information that is within or may come into its possession. One or more deficiency determinations may be made of the amount due for any monthly period.
- (b) The city or its designated representatives shall give to the licensee written notice of its determination by certified mail. Notice shall be deemed delivered three days after the date of deposit to the United States Post Office by certified mail.
- (c) Deficiencies must be paid to the city no later than five (5) days after delivery of the deficiency notice. Any licensee who fails to pay such deficiency within the time required shall pay a penalty of fifteen percent (15%) of the deficiency amount plus interest at a rate of one percent (1%) per month non the unpaid deficiency.

(Ord. No. 424, Ex. A(13), 8-19-2009)

Sec. 8-186. – Failure to make a return; penalties and interest.

- (a) If any licensee fails to make a return for the tax levied under this article, the city clerk shall make an estimate of the amount of the gross receipts of the licensee or as the case may be; of the amount of the total sales in the city which are subject to the tax. The estimate shall be made for the period in respect to which the licensee failed to make the return and shall be based upon any information which is or may come into the possession of the city clerk. Upon the basis of this estimate, the city clerk shall compute and determine the amount required to be paid the city, adding to

the sum thus determined a penalty equal to 15 percent thereof. One or more determinations maybe made for one or for more than one period.

- (b) In making a determination, the City Clerk may offset overpayments for a period or penalties and against the interest on the underpayments. The interest on underpayments shall be computed in the manner set forth in subsection (c) of this section.
- (c) The amount of the determination, exclusive of penalties, shall bear interest at the rate of one percent per month or any fraction of a month from the 20th day after the close of the monthly period for which the amount or any portion thereof should have been returned, until the date of payment.
- (d) If the failure of any person to file a return is due to fraud or an intent to evade this subdivision or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the 15 percent penalty.

(Ord. No. 424, Ex. A(14), 8-19-2009)

Sec. 8-187. – Collection.

At any time within three years after any tax or any amount of tax required to be collected becomes due and payable and at any time within three years after the delinquency of any tax or any amount of tax required to be collected, the city may bring an action in the courts of this state, any other state or of the United States in the name of the city to collect the amount delinquent together with penalties and interest, court fees, filing fees, attorneys' fees and other legal fees incident thereto.

(Ord. No. 170, § 14, § 15, 5-18-1999; Ord. No. 424, Ex. A(17), 8-19-2009)

Sec. 8-188. – Successors and assigns liable.

- (a) If any licensee liable for any amount under this article sells or terminates the business, the licensee's successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the City Clerk, showing that the amount has been paid or a certificate stating that no amount is due.
- (b) If the purchaser of a business fails to withhold purchase price as required, the purchaser becomes personally liable for the payment of the amount required to be withheld by the purchaser to the extent of the purchase price, valued in money. Within 30 days after receiving a written request from the purchaser for a certificate, the City Clerk shall either issue the certificate or mail notice to the purchaser at the purchaser's address as it appears on the records of the amount that must be paid as a condition of issuing the certificate. The time within which the obligation of a successor may be enforced shall start to run at the time the operator sells the business or at the time that the determination against the operator becomes final, whichever event shall last occur.

Sec. 8-189. – Taxes paid more than once or erroneously collected.

Whenever the amount of any tax, penalty or interest has been paid more than once or has been erroneously collected or received by the City under this article, it may be offset. If the licensee believes it has overpaid or paid more than once, then it will have three years from date of payment to file claim in writing stating the specific ground upon which claim is founded. The claim shall be audited. If the claim is approved, the excess amount paid to the city may be credited on any amounts due and payable from the licensee by whom it was paid or such person's successors or assigns.

(Ord. No. 170, § 14, § 15, 5-18-1999; Ord. No. 424, Ex. A(17), 8-19-2009)

Sec. 8-190. ---- 8-200. – Reserved.

DIVISION 2. WHOLESALERS AND BREW PUBS

Sec. 8-201. – Levy of malt beverage excise tax.

There is hereby levied and imposed upon each wholesale dealer and brew pub selling malt beverages and wine within the City of Flowery Branch an excise tax in the following amounts:

- (1) Where malt beverages, commonly known as tap or draft beer, are sold in or from a barrel or bulk container, a tax of Six Dollars (\$6.00) on each container sold containing not more than fifteen and one half (15 1/2) gallons and a proportionate tax at the same rate on all fractional parts of fifteen and one-half (15 1/2) gallons.
- (2) Where malt beverages are sold in bottles, cans or other containers, except barrel or bulk containers, a tax of five cents (\$.05) per twelve (12) ounces and a proportionate tax at the same rate on all fractional parts of twelve (12) ounces.

(Ord. No. 424, Ex. A(3), 8-19-2009)

Sec. 8-202. – Levy of wine and distilled spirits excise tax; exemptions.

- (a) There is hereby levied and imposed upon each wholesale dealer selling wine and distilled spirits within the City of Flowery Branch, Georgia, an excise tax in the amount of twenty-two cents (\$.22) per liter and a proportionate tax at the same rate on all fractional parts of a liter.
- (b) Pursuant to O.C.G.A. § 3-6-70 and O.C.G.A. § 3-6-71, no tax shall be levied under this section with respect to:
 - (1) Wine sold to and used by established and recognized churches and synagogues for use in sacramental services only;
 - (2) Any sale of wine which is exempt from taxation by the state or under the Constitution of the United States;
 - (3) Wine sold to persons outside this state for resale or consumption outside this state; or
 - (4) Wines which contain less than one-half of one percent alcohol by volume.

(Ord. No. 54, § 4, 10-22-1987; Ord. No. 424, Ex. A(3), 8-19-2009)

Sec. 8-203. – Collection.

The taxes levied in this division are hereby levied upon the retailer licensed to do business in the city and it is the intent of this division to so levy this tax but require the payment of the tax at the time of delivery by the retailer to the wholesaler, who shall have the responsibility of remitting the tax to the city on behalf of the retailer.

Sec. 8-204. - Unlawful deliveries.

It shall be unlawful and a violation of this chapter for any wholesale dealer or distributor to deliver any alcoholic beverages spirits to any retail dealer in the city without at the time of such delivery collecting the excise taxes provided for in this division.

(Ord. No. 424, Ex. A(9), 8-19-2009)

Sec. 8-205. - Reports and remittance.

On or before the twentieth (20th) day of each calendar month, each wholesaler shall make a verified and comprehensive report to the city, which shall correctly show and reflect all sales and deliveries of all alcoholic beverages to or for retail dealers in the city for the calendar month immediately preceding the date of the report. The report shall show the name and address of each retail dealer, the quantities delivered to each retail dealer, the amount of excise tax collected under the terms of this division, and such other reasonable information as may be requested by the city. The report shall be accompanied by remittance payable to the city for all taxes collected or due, as shown on the report.

(Ord. No. 54, § 4, 10-22-1987; Ord. No. 424, Ex. A(4), 8-19-2009)

Sec. 8-206. - Noncompliance by wholesale dealer; distributor.

If any wholesale dealer or distributor fails or refuses to make the reports required herein, the city shall notify such dealer or distributor in writing and if the reports are not made and the taxes, penalties and interest are not remitted within five (5) days from the date of delivery of such notice, such wholesale dealer or distributor shall be prohibited from making any further deliveries in the city.

(Ord. No. 170, § 15, 5-18-1999; Ord. No. 287, § 35, 10-22-2002; Ord. no. 424, Ex. A(7), 8-19-2009)

Sec. 8-207. ---- 8-220. – Reserved.

DIVISION 3. PER DRINK

Sec. 8-221. - Levy and collection of excise tax.

- (a) There is hereby imposed and levied upon every purchaser of alcoholic beverages by the drink within this city a tax in an amount equal to three percent (3%) of the purchase price charged to the purchaser for such drink.

- (b) Every licensee or his agent is hereby authorized and directed to collect the tax imposed herein from purchasers of alcoholic beverages by the drink within the licensed premises. Such licensee or agent shall furnish such information as may be required by the city to facilitate the collection of the tax.
- (c) In all cases where the collection of food and drinks is by deferred payment or credit, the licensee is liable at the time of and to the extent that such credits are incurred in accordance with the rate of tax owing on the amount thereof. The city shall have authority to adopt rules and regulations prescribing methods and schedules for collection and payment of the tax.

(Ord. No. 424, Ex. A(11), 8-19-2009)

Sec. 8-222. - Reports and remittance.

- (a) The tax imposed by this division shall become due and payable from the purchaser at the time of purchase of any mixed drink in this city. All amounts of such taxes collected by the licensees shall be due and payable to the city monthly on or before the 20th day of every month next succeeding each respective monthly period for which the tax is imposed; provided, however, that upon a proper showing that the tax imposed will not be collected until after a regular billing period of the collecting agent then the collection of the tax may be deferred by the city for an additional period not exceeding 30 days.
- (b) On or before the 20th day of the month following each monthly period, a return for the preceding monthly period shall be filed with the city in such form as the city may prescribe by every licensee liable for the payment of tax hereunder. All returns shall show the gross receipt of the sale of distilled spirits by the drink and the amount of tax collected on such drinks.
- (c) Copies of the "summary of sales" showing delivery by each supplier to consumption on the premises licensees shall be furnished to the city clerk with each monthly payment.
- (d) Licensees collecting the tax shall be allowed a percentage of the tax due and accounted for and shall be reimbursed in the form of a deduction in submitting, reporting and paying the amount due, if such amount is not delinquent at the time of payment. The rate of the deduction shall be the same rate authorized for deductions from state tax under the "Georgia Retailers' and Consumers' Sales and Use Tax Act," approved February 20, 1951, as now or hereafter amended (O.C.G.A. Section 48-8-1, et seq.).



FLOWERY BRANCH CITY COUNCIL



EXECUTIVE SUMMARY

SUBJECT: Consideration of Ordinance 660 - A request from Lights Ferry Partners, LLC. and Diego Fracasso to Rezone 5908 Lights Ferry Road, a 1.92+/- acre of land also known as Tax Parcel Identification Number 08112 027019 from Residential, Detached Single-Family, Low-Density District (R-1) to Traditional Neighborhood Development District (TND).

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

The applicant is working on site and design changes but did not have the updated information completed prior to the submittal deadline for the April 21 meeting. Staff recommends approval of the first read with the knowledge there will be changes prior to the second and final vote.

FACTS AND ISSUES:

A request from Lights Ferry Partners, LLC. and Diego Fracasso to rezone 5908 Lights Ferry Road a 1.92+/- acre of land also known as tax parcel identification number 08112 027019 from Residential, Detached Single-Family, Low-Density District (R-1) to Traditional Neighborhood Development District (TND) with the intent to subdivide, develop, and construct seven (7) detached single family homes.

This request is in compliance with the Flowery Branch Comprehensive Plan. The request, if approved, shall meet the requirements set forth in the Flowery Branch Zoning Ordinance including, but not limited to, Articles 7 and 12. Article 7 is the "Traditional Neighborhood Development District" and Article 12 is the newly updated "Requirements for Specific Residential Principal Buildings and Uses".

Staff recommends approval.

Proposed Schedule

March 3, 2022 – Public Hearing

April 21, 2022 – First Read and Vote

May 5, 2022 - Work Session (if requested)

May 19, 2022 – Second Read and Final Vote

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

Approve the First Reading of Ordinance 660.

SAMPLE MOTION:

I make a motion to approve the first read of ordinance number 660.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Shelia Cooper

ATTACHMENTS

- [Lights Ferry Rezoning Ordinance 660.pdf](#)
- [Lights Ferry Staff Report with attachments.pdf](#)

ORDINANCE 660

AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF FLOWERY BRANCH, GEORGIA, BY REZONING A 1.92 +/- ACRE PARCEL OF REAL PROPERTY OWNED BY LIGHTS FERRY PARTNERS, LLC. IDENTIFIED AS 5908 LIGHTS FERRY ROAD, TAX PARCEL NO. 08112 027019, AS SHOWN ON EXHIBIT “A”, AND AS DESCRIBED ON EXHIBIT “B”, FROM RESIDENTIAL, DETACHED SINGLE-FAMILY, LOW DENSITY (R-1) TO TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT (TND) SUBJECT TO THE CONDITIONS SET FORTH ON EXHIBIT “C”; PROVIDING FOR SEVERABILITY; REPEALING CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, Lights Ferry Partners, LLC. owns the 1.92 +/- acre parcel of land known as 5908 Lights Ferry Road, identified as Parcel Tax Identification No. 08112 027019, as shown on Exhibit “A” and as described on Exhibit “B”; and

WHEREAS, Lights Ferry Partners, LLC. submitted to the City of Flowery Branch, Georgia, a written and signed application and affidavit showing consent to being rezoned; and

WHEREAS, a survey and complete description of the land to be rezoned is included in the application; and

WHEREAS, the City Council held a public hearing at the meeting of March 3, 2022, duly noticed as prescribed by law and published in the Gainesville Times, regarding said application, as shall be set forth in the minutes of said meeting.

NOW THEREFORE, THE COUNCIL OF THE CITY OF FLOWERY BRANCH HEREBY ORDAINS AS FOLLOWS:

SECTION 1. FINDINGS.

The City Council finds that the proposed rezoning from Residential, Detached Single-Family, Low Density (R-1) to Traditional Neighborhood Development District (TND) is consistent with the adopted standards for governing the exercise of the zoning power consistent with O.C.G.A. § 36-66-5 and requirements of the Zoning Ordinance as identified below.

1. The proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
2. The proposal is not expected to adversely affect the existing use or usability of adjacent or nearby property.
3. The property could be used in accordance with the existing regulations and has a reasonable economic use as currently zoned; however, an alternative use is appropriately considered.

4. The development if approved and constructed is not expected to result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
5. The proposal is generally in conformity with the policy and intent of the comprehensive plan including the character area map and future land use plan map.
6. The proposal is considered appropriate in view of existing use(s) and zoning of the subject property and nearby properties.
7. No determination has been made by staff with regard to the value differential between development under the current zoning as opposed to TND (Traditional Neighborhood Development District).
8. A proposed development will not be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
9. There are no known adverse effects that would result from the change in zoning district map, or change in use, on the character of a zoning district.
10. Development as proposed is not expected to impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. Compliance with city subdivision and land development regulations will be required, which include but are not limited to soil erosion and sedimentation, stormwater, and flood damage prevention.

SECTION 2. REZONING.

The .1.92 +/- acre parcel of land known as 5908 Lights Ferry Road, identified as Parcel Tax Identification No.08112 027019 as shown on Exhibit “A”, and legally described in Exhibit “B”, is hereby rezoned from Residential, Detached Single-Family, Low Density (R-1) to Traditional Neighborhood Development District (TND) subject to the conditions set forth on Exhibit “C”. Said Exhibits are incorporated by reference.

ss

SECTION 3. AMENDMENT OF THE ZONING MAP.

This Ordinance is enacted as an amendment to the Zoning Map of Flowery Branch, Georgia. Accordingly, the Zoning Administrator is hereby authorized to update the Official Map consistent with Article 3 of the Zoning Ordinance.

SECTION 4. SEVERABILITY.

Should any section or provision of this Ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this Ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Public Hearing Published 02/02/22
Public Hearing 03/03/22

First Reading 04/21/22
Adopted 05/19/22

SECTION 5. EFFECTIVE DATE.

The effective date of this Ordinance shall be May 19th, 2022.

SECTION 6. REPEALER.

All ordinances and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

Approved this 19th day of May 2022.

Edward R. Asbridge, Mayor

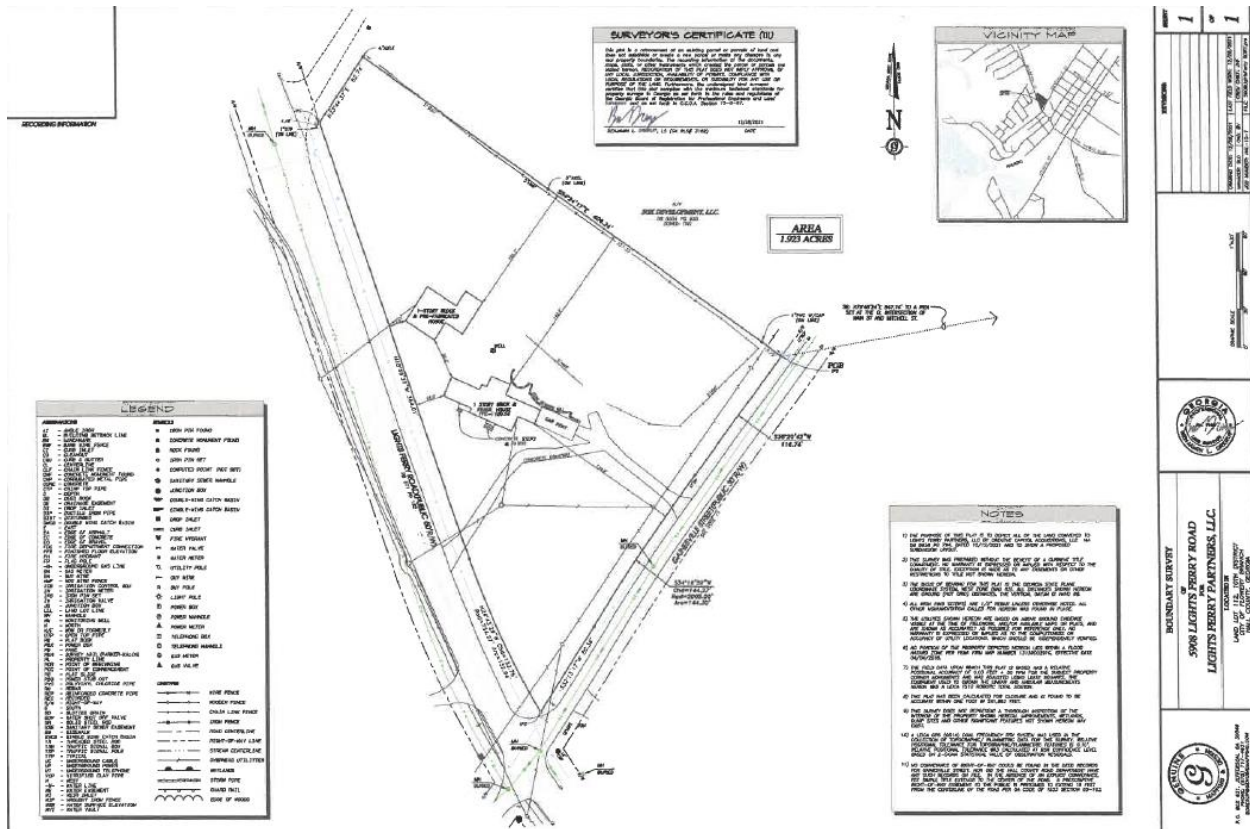
ATTEST:

Shelia R. Cooper, City Clerk

APPROVED AS TO FORM

E. Ronald Bennett, City Attorney

Exhibit “A”



Public Hearing Published 02/02/22
Public Hearing 03/03/22

First Reading 04/21/22
Adopted 05/19/22

Exhibit "B"

5908 Lights Ferry Rd Legal Description

Description of Property

TRACT ONE

All that tract or parcel of land lying and being in the Town of Flowery Branch, Hall County, Georgia, being part of the land described in a deed recorded in Deed Book 284, Page 15, Hall County, Georgia Deed Records, adjoining the present homeplace of Clarence J. Fenn, and more particularly described as follows:

Beginning at the northeast corner of the Clarence J. Fenn homeplace on the Old Gainesville-Buford Road, and running thence 123 feet northward along said road to an iron pin corner; thence westward parallel with the Fenn line 400 feet, more or less, to an iron pin corner fixed by the parties hereto at a point 35 feet east of the rear line of the F.C. Orr property, as described in the deed recorded in Book 284, Page 515, thence southward parallel with Orr's said rear line 123 feet to the C.J. Fenn line at a point just across part of the pavement of the new road running along there; thence eastward 400 feet, more or less, to the beginning corner. The last mentioned new road cuts across the southwest corner of the lot herein conveyed, and of course this corner as cut off in the new road is not included in this deed.

TOGETHER WITH TRACT TWO

All that tract and parcel of land situate, lying and being in Hall County, Georgia, and being more particularly described as follows:

A part of Lot 112, being in Land Lot District No. 8, City of Flowery Branch, Hall County, Georgia, and being in the 1270th District G.M., Hall County, Georgia, containing one and one-tenth (1.1) acres, more or less, and being more particularly described as follows:

Beginning on the north side of Broad Street and west side of Old Gainesville Road; thence running northeast 264 feet to corner of what was formerly A.M. Orr line; thence west along A. M. Orr line 360 feet to the new highway; thence along the New Highway 450 feet to the Old Gainesville Road and the beginning corner. Said property is in a V-shape.

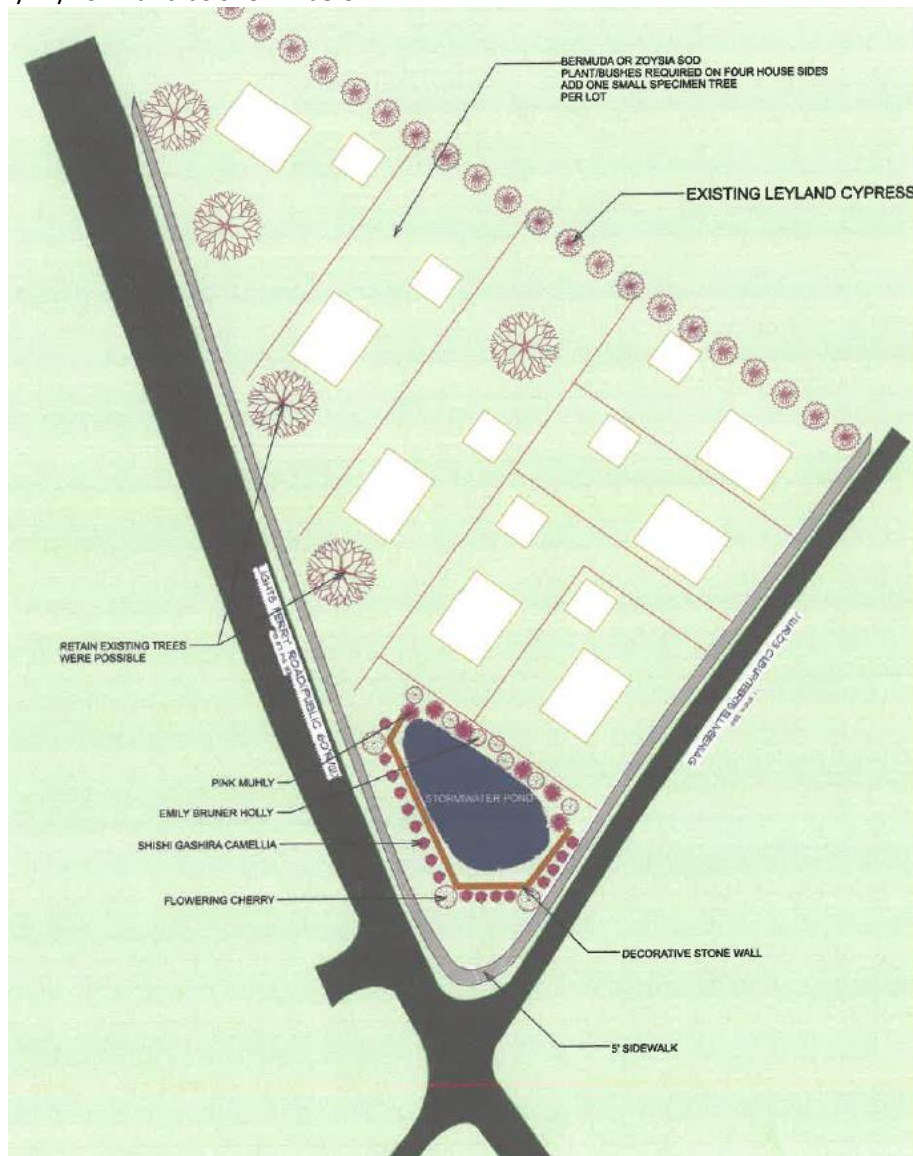
These two tracts being the same property conveyed in a Warranty Deed from Roy E. Clark and Janice Lee Clark Bryans to Allen J. Bryans dated August 24, 1996, recorded in Deed Book 2700, Page 278, Hall County, Georgia Deed Records, being improved property known as **5908 Lights Ferry Road** according to the present system of numbering properties by the Hall County, Georgia Tax Assessor's office. Said property is conveyed together with and subject to all easements, covenants, and restrictions of record, if any.

Exhibit "C"

Approve the request as submitted with the knowledge that it must meet the intent and requirements of the Flowery Branch zoning ordinance, development regulations, and all pertinent local laws, ordinances and regulations.

Additionally, the following conditions shall apply:

1. The site shall significantly adhere to the plan submitted as part of the rezoning application dated 1/11/2022 and as shown below:



Public Hearing Published 02/02/22
Public Hearing 03/03/22

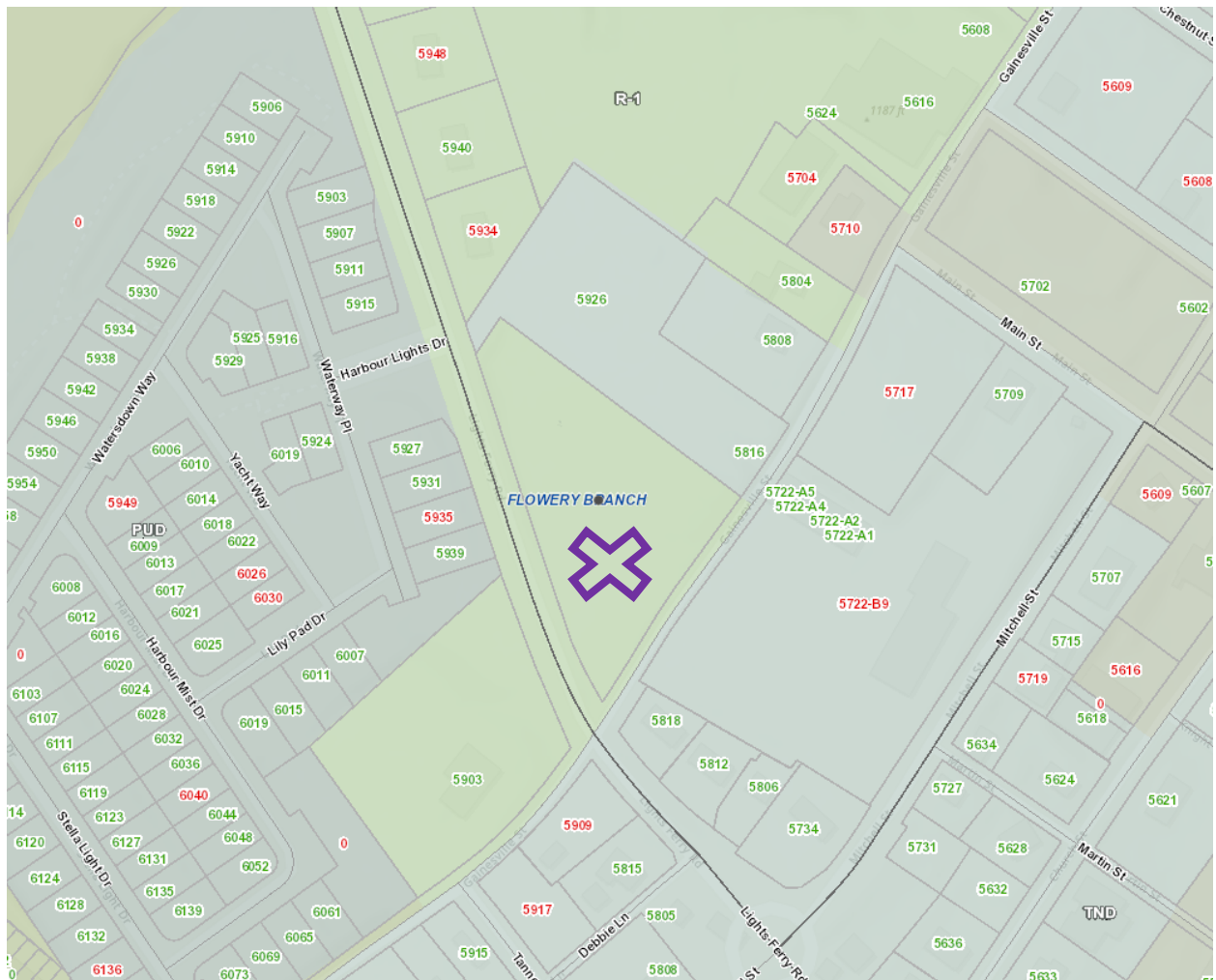
First Reading 04/21/22
Adopted 05/19/22

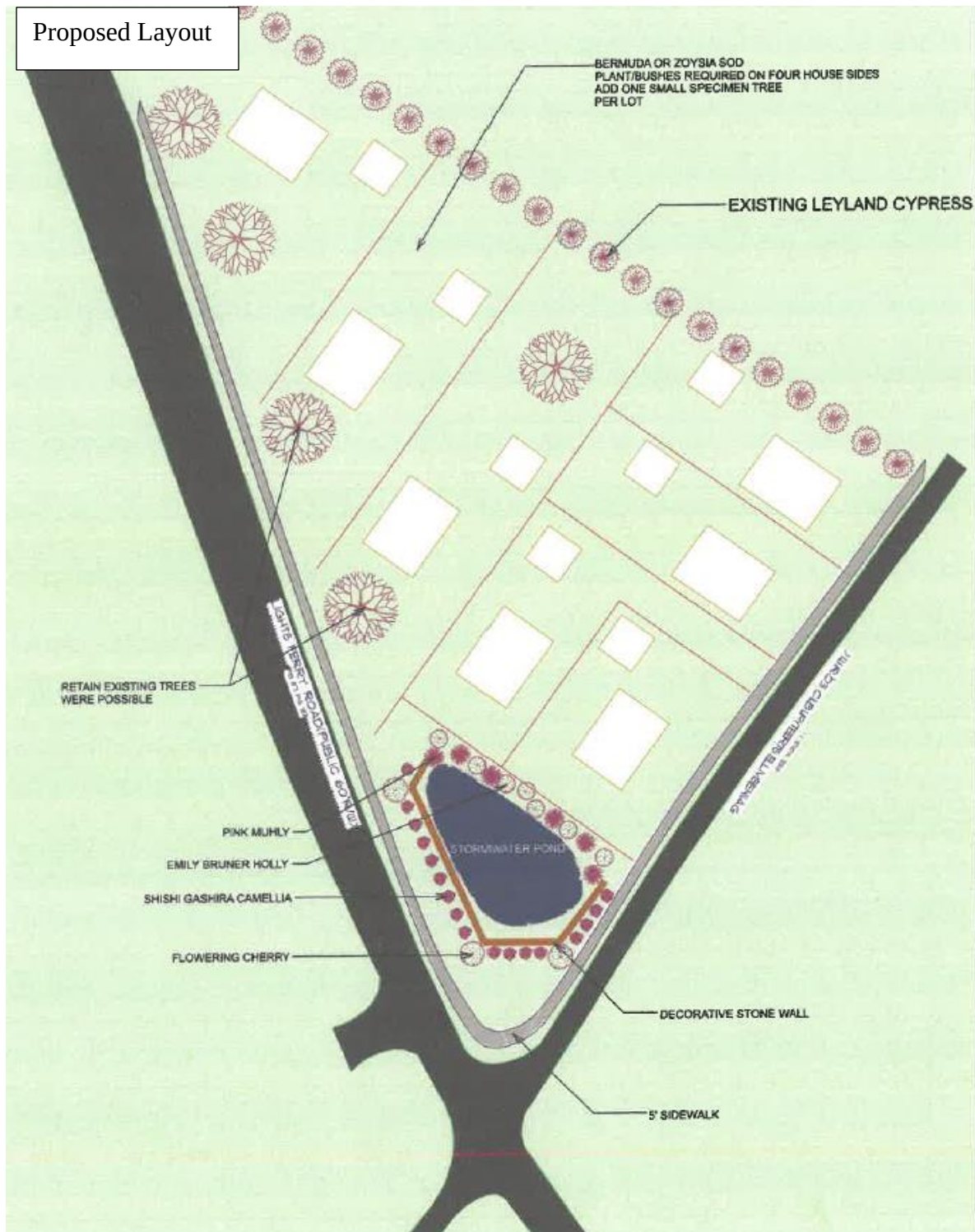
2. Rendering of detention pond including depiction of decorative wall and all landscaping shall be submitted and approved the City of Flowery Branch prior to the issuance of a land disturbance plan.
3. Elevations shall be submitted and approved by the City of Flowery Branch prior to the issuance of a land disturbance permit. Said elevations shall meet all requirements of the City of Flowery Branch zoning ordinance.
4. A homeowner's association shall be created for the project and said organization shall be responsible for the maintenance and upkeep of any on site detention facilities.

Staff Report
Lights Ferry Partners, LLC. Rezoning Request
Ordinance 660

Request

A request from Lights Ferry Partners, LLC. and Diego Fracasso to rezone 5908 Lights Ferry Road, a 1.92+/- acre of land also known as tax parcel identification number 08112 027019 from Residential, Detached Single-Family, Low-Density District (R-1) to Traditional Neighborhood Development District (TND) with the intent to subdivide, develop, and construct seven (7) detached single family homes.





Applicant did not supply elevations prior to the public hearing scheduled for March 3, 2022. Applicant must meet the architectural and design requirements set forth in Article 7, "Traditional Neighborhood Development District" (see attached Exhibit "A"), and of Article 12, "Requirements for Specific Residential Principal Buildings and Uses" (see attached Exhibit "B"), of the Flowery Branch zoning

ordinance. Additionally, the applicant has supplied examples of proposed housing styles (shown below and as part of attached Exhibit “C”).





Proposed Schedule

March 3, 2022 – Public Hearing
April 7, 2022 – Work Session (if requested)
April 21, 2022 – First Read and Vote
May 5, 2022 - Work Session (if requested)
May 19, 2022 – Second Read and Final Vote

Comprehensive Plan



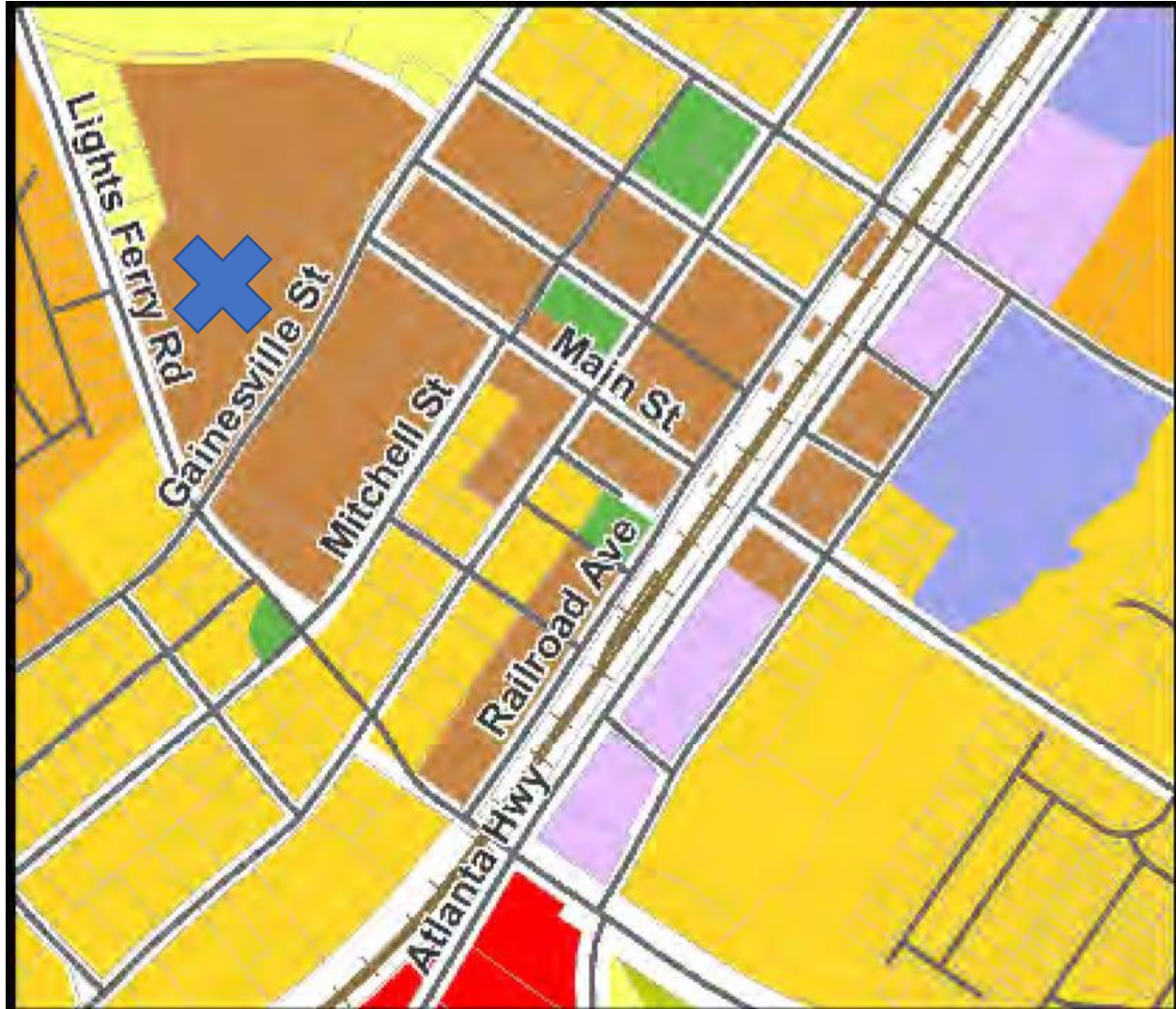
Purpose of the Comprehensive Plan

The *Flowery Branch Comprehensive Plan* is the City's policy guide for growth and development, as expressed by a vision statement, Future Development Map, character area policies, and supporting implementation strategies. The plan is most commonly used in the review and decision-making process by staff and City Council for rezoning requests, when proposals are evaluated for consistency with the Future Development Map and supporting text in this document.

The Comprehensive Plan also outlines the overall strategy for achieving the City's vision for future development by identifying a 5-year Community Work Program (CWP) with a prioritized 'to-do' list. The CWP should be consulted by staff and City Council on an annual basis when developing annual department-level work programs and the City budget.

In addition, this plan serves the purpose of meeting the intent and requirements of the Georgia Department of Community Affairs' (DCA) "Standards and Procedures for Local Comprehensive Planning," as amended on October 1, 2018. Preparation of a comprehensive plan in accordance with these standards is an essential requirement for maintaining status as a Qualified Local Government (QLG). QLG status allows Georgia cities and counties to be eligible for financial incentives from DCA, the Department of Natural Resources (DNR), the Georgia Environmental Finance Authority (GEFA), and the OneGeorgia Authority. This plan update allows the City of Flowery Branch to retain its QLG status.

Old Town Character Area



Old Town

Old Town encompasses the historic central business district and includes a significant portion of the Old Town Redevelopment Plan (2014) boundary and the Flowery Branch Historic District.

Vision

Protect and enhance downtown, making it a vibrant, pedestrian-friendly focal point of the City that integrates new development in a historic framework with a mix of uses, increased density at a comfortable scale, and open spaces and high quality buildings that enhance the public realm.

Design Principles

- Small blocks; lots on narrow streets
- Pocket parks or greenspace as a part of mixed-use developments
- Architectural style and building materials that complement the historic fabric of the area (design review is required)
- Typically greater lot coverages, building heights, and building intensities and little or no front and side building setbacks when compared with other character areas
- Redevelopment must be consistent with principles and recommendations of the Old Town Redevelopment Plan

Land Uses

"Main Street"-style commercial and vertical mixed use with retail and restaurants. Residential uses include upper floor dwelling units in mixed use buildings, single-family dwellings, and limited townhome development.

Zoning

- CBD, Central Business District
- TND, Traditional Neighborhood Development



Implementation Strategies

Update the 2014 Old Town Redevelopment Plan to identify additional development/redevelopment opportunities (and their acceptable use types and densities) to facilitate administration of the CBD zoning district.

Illustrative Photos

The Crest mixed-use buildings on Main Street will be constructed of traditional brick



Historic brick commercial buildings opposite The Crest



Brick used as a residential accent material, consistent with existing dwellings in the area



The proposed rezoning and project meet the intent of the Comprehensive Plan.

Analysis

Flowery Branch Zoning Ordinance Article 37 Rezoning and Conditional Use Applications

Sec. 34.7. - Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the Governing Body in the decision-making process.

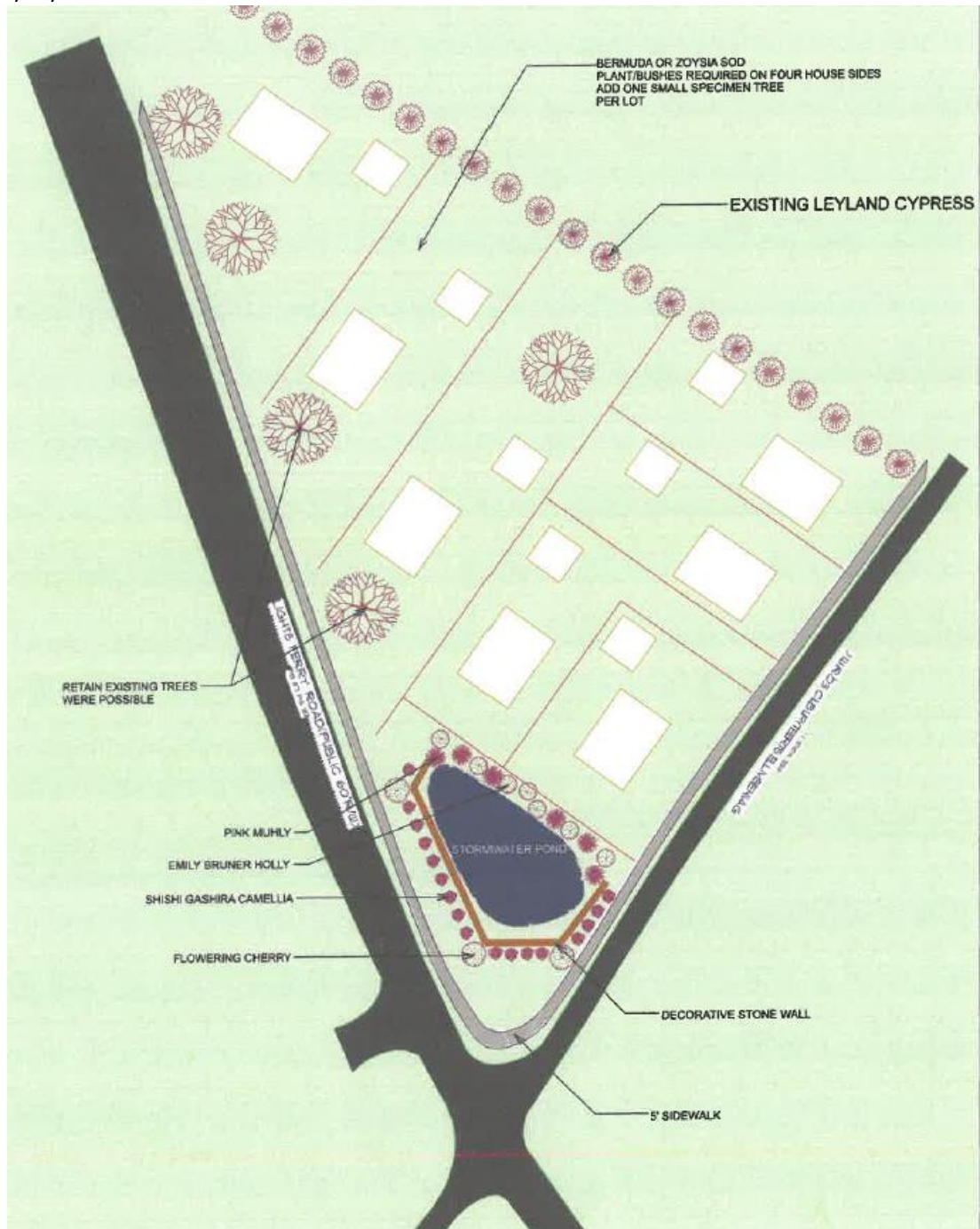
Staff Response:

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property. **Yes, a residential use is appropriate for this site and the surrounding area. It will help serve the downtown commercial/retail area.**
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property. **The development will not adversely affect the area.**
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned. **Yes, current zoning of R-1 is economically feasible.**
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools. **It is staff's opinion that the use will not create any unnecessary burdens.**
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map. **Yes.**
- (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal. **Not to staff's knowledge, no.**
- (g) Existing use(s) and zoning of the subject property and nearby properties. **Currently vacant, the proposed use will fit in with the surrounding residential uses.**
- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification. **Staff does not have a specific number regarding property value but please review applicant's response as part of attached "Exhibit "C".**

- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations. Staff does not feel that the proposed will be a deterrent but rather an enhancement to the surrounding area and a positive impact for downtown.
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts. N/A
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district. The proposed use will enhance the character of the existing district and surrounding area in staff's opinion.
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality. The development, if approved, will need to go through all the required development reviews to ensure all applicable codes and requirements are met.
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance. The proposed development will enhance the surrounding area and meet the intent of the Zoning Ordinance. The overall layout of the project is not consistent with TND standards however, the homes themselves will be in compliance.

Approve the request as submitted with the knowledge that it must meet the intent and requirements of the Flowery Branch zoning ordinance, development regulations, and all pertinent local laws, ordinances, and regulations.

1. The site shall significantly adhere to the plan submitted as part of the rezoning application dated 1/11/2022 and as shown below:



2. Rendering of detention pond including depiction of decorative wall and all landscaping shall be submitted and approved the City of Flowery Branch prior to the issuance of a land disturbance plan.
3. Elevations shall be submitted and approved by the City of Flowery Branch prior to the issuance of a land disturbance permit. Said elevations shall meet all requirements of the City of Flowery Branch zoning ordinance.
4. A homeowner's association shall be created for the project and said organization shall be responsible for the maintenance and upkeep of any on site detention facilities.

Exhibit "A"

ARTICLE 7

TND, TRADITIONAL NEIGHBORHOOD DEVELOPMENT DISTRICT

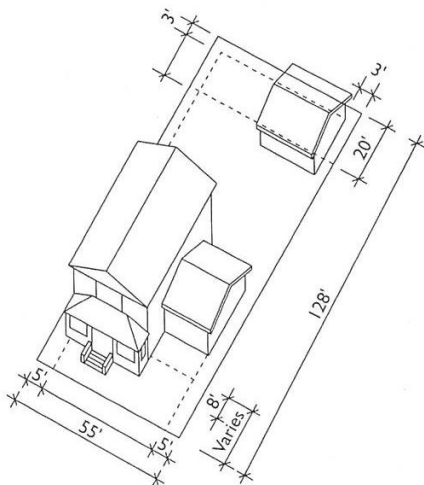
- Sec. 7.1. Purpose and Description.
- Sec. 7.2. Character.
- Sec. 7.3. Permitted and Conditional Uses.
- Sec. 7.4. Dimensional Requirements.
- Sec. 7.5. Additional Development Requirements.

Sec. 7.1. Purpose and Description.

This zoning district is intended to provide for neighborhoods that are designed according to the principles of "new urbanism" with a grid or modified-grid street network, pedestrian scale and orientation, shallow front yards, relatively narrow local streets planted with shade trees and provided with wide sidewalks, and with automobile garages located to the rear or side of residential lots. TND districts are further distinguished from conventional suburban subdivision developments in their provision of public greens or common areas, when new neighborhoods are created.

Sec. 7.2. Character.

Development within this district consists mostly of residential neighborhoods in a rectangular or square block, lot, and street pattern.



Source: Kindell, Peter J., "Building Types," p. 189 in *Planning and Urban Design Standards*. Hoboken, NJ: John Wiley & Sons, 2006)



Source: Hill, John, W. Design Characteristics of Maryland's Traditional Communities, Figure 4, p. 5.1-2 in *Time Saver Standards for Urban Design* (New York: McGraw-Hill, 2003)

Consistent: Dwelling contains front porch and is located close to street. Minimal side yard setbacks. Garage is detached and located at rear of lot.

Consistent: TND Street View – the original settlement pattern sets the character and establishes building themes that should be continued, including location of buildings close to the street and porches on the front of dwellings.



Source: Nashville, Tennessee, Metro Planning Department. 31st Avenue/Long Boulevard Urban Design Overlay. Adopted 3/16/04. Attachment to Ordinance No. BL 2004-151.

Sec. 7.3. Permitted and Conditional Uses.

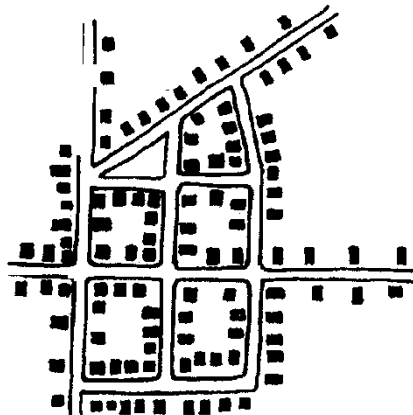
Permitted and conditional uses shall be as provided in Table 7.1, “Permitted and Special Uses in Traditional Neighborhood Development Districts.”

Sec. 7.4. Dimensional Requirements.

Dimensional requirements shall be as provided in Table 7.2, “Dimensional Requirements in Traditional Neighborhood Development Districts.”

Sec. 7.5. Additional Development Requirements.

- (a) Maximum Block Width and Block Length. When a new subdivision is created within this district, the lots shall be designed in a grid-like pattern of blocks and interconnecting streets, where no new block created shall have a length or width exceeding 800 feet in length without an alley or intervening (mid-block) pedestrian footpaths.



Source: Arendt, Randall. 1999. *Crossroads, Hamlet, Village, Town: Design Characteristics of Traditional Neighborhoods, Old and New*. PAS Report No. 487/488, Figure 90, p. 58. Chicago: American Planning Association.

- (b) Front Porches. Any new, detached dwelling shall have a front porch no less than sixteen feet in width as measured along the street frontage and no less than six feet in depth.
- (c) On-site Parking. A two-car garage or carport located in the rear or side yard is required.

Table 7.1
Permitted and Conditional Uses in
Traditional Neighborhood Development Districts
(P = Permitted Use C = Conditional Use X = Prohibited)

Use	TND
Accessory apartment, attached	C
Accessory apartment, detached, above a garage in rear yard	P
Accessory building, structure, or use	P
Church, temple, synagogue, or place of worship, including specified accessory uses (see Sect. 14.3) (Ord. 348-11)	X
Adaptive reuse of a detached single-family dwelling for a club or lodge, nonprofit, sponsored by a civic or similar organization	C
Club or lodge, nonprofit, sponsored by a civic or similar organization, other than adaptive reuse of a detached single-family dwelling (Ord. 348-11)	C
Community recreation	P
Conservation areas and passive recreational facilities	P
Dwelling, single-family detached, fee-simple	P
Dwellings, single-family detached, condominium	P
Dwelling, townhouse (single-family attached, fee-simple)	P
Dwelling, two-family (duplex)	X
Dwelling, multi-family (apartment, attached residential condominium)	X
Dwelling, located within a building containing a nonresidential principal use	C
Garden, non-commercial, accessory to single-family detached dwelling	P
Greenhouse, non-commercial, accessory to single-family detached dwelling	P
Guest house (accessory building/use)	P
Home occupation, including family day care home	P
Institutional residential living and care facility, serving no more than 17 persons	X
Live/work unit	C
Mixed use development, within a detached single-family dwelling (adaptive reuse)	C
Office, within a detached single-family dwelling (adaptive reuse)	P
Office, other than adaptive reuse of a detached single-family dwelling	C
Personal service establishment, within a detached single-family dwelling only (adaptive reuse)	C
Retail trade establishment, enclosed within a detached single-family dwelling only (adaptive reuse)	C
Public or semi-public use	P
School, private, elementary, middle, or high	C
School, public	P
School, special	C
Temporary use	P
Zero lot line housing	P

Table 7.2
Dimensional Requirements for Traditional Neighborhood Development Districts

Requirement (measurement unit)	TND
Maximum height (feet)	30
Maximum height (number of stories)	3
Maximum density (units per acre)	6.5
Minimum lot size for detached single-family dwelling (square feet)	6,700
Minimum lot size for other uses (square feet)	5,000
Minimum lot width (feet)	40
Minimum lot depth (feet)	80
Minimum heated floor area per dwelling unit (square feet)	1,200
Minimum front yard setback from lot line (feet)	0
Minimum side setback, interior lot line or corner lot, all principal buildings (feet)	5
Minimum rear setback, all principal buildings (feet)	25
Rear setback for an accessory building when abutting an alley	None
Minimum landscape strip required along rights-of-way for any nonresidential use if permitted (width in feet)	15
Maximum coverage of impervious surface (percent of lot)	35
Minimum landscaped open space, all principal uses except detached, single-family residential lots and townhomes (percent)	20

Exhibit “B”

ARTICLE 12. - REQUIREMENTS FOR SPECIFIC RESIDENTIAL PRINCIPAL BUILDINGS AND USES

Sec. 12.1. - Commercial Recreation Facility.

Within a residential subdivision or multiple-family residential development, community recreation facilities as defined by this Zoning Ordinance must be platted when a part of a subdivision or part of the site plan approval for a multiple-family residential development. Community recreation facilities shall be subject to the following requirements:

- (a) *Exterior lighting.* If lighted, exterior lighting shall require a lighting plan to be submitted and approved prior to installation. See Article 23 of this Zoning Ordinance.
- (b) *Swimming Pools and Tennis Courts.* Swimming pools and tennis courts shall be setback a minimum of twenty-five (25) feet from all property lines of the tract of land devoted to community recreation, with a minimum ten (10) foot wide landscape strip along all property lines of said tract. See Article 19 of this Zoning Ordinance for landscape strip specifications.
- (c) *Buildings.* Buildings (excluding accessory structures) shall be setback a minimum of twenty-five (25) feet from the property line of the tract. If outdoor patios or decks are provided, they shall be located no closer than twenty-five (25) feet from the property line of the tract and a minimum ten (10) foot wide landscape strip shall be provided between said outdoor patio or deck and the property line or boundary of said tract. See Article 19 of this Zoning Ordinance for landscape strip specifications.
- (d) *Parking.* Parking shall be provided per the requirements of Article 21 of this Zoning Ordinance.



Sec. 12.2. - Model Home.

A dwelling unit may be constructed and used as a model home or temporary office for the sale of lots under the following conditions:

- (a) *Time of Construction.* The model home is typically constructed before approval of a final plat, and hence the model home is the principal use of the entire unsubdivided parcel until the final plat is approved.
- (b) *Location on a Lot.* The model home shall be placed on a lot designated on the approved preliminary plat and shall be placed in a manner that meets the applicable zoning district dimensional requirements so that it complies at the time it is erected and when it is sold and/or converted for single-family residential use.
- (c) *Sales.* Sales shall be limited to the lots and buildings within the subdivision where the model home is located.
- (d) *Certain Buildings Prohibited.* A manufactured home or portable building shall not be used as a model home or temporary sales office.
- (e) *Duration and Discontinuance.* The use of the model home for a sales office shall be discontinued within 30 days after Certificates of Occupancy have been issued on 90 percent of the lots in the subdivision.
- (f) *Parking and Accessibility.* The model home shall comply with off-street parking and applicable accessibility standards.

Sec. 12.3. - Multi-family Development.

- (a) *Condominiums.* If a condominium form of ownership is proposed, the development shall meet all current applicable state laws including the Georgia Condominium Act (O.C.G.A. § 44-3-70 et seq.). Proposed bylaws and the articles of incorporation for the condominium association shall be submitted with the application for development approval.
- (b) *Laundry facilities.* On-site accessory laundry facilities are permitted accessory uses for developments with 25 or more units.
- (c) *Setbacks.* Buildings within multi-family developments shall be subject to the setbacks for the entire lot as established in applicable zoning district dimensional requirements. There shall be no requirements for setbacks from private driveways within the multi-family development, except as may be determined by the Zoning Administrator to be essential to meet building or accessibility codes, to meet sight accessibility requirements for motorists and pedestrians, or other essential public safety considerations during the site plan review process.
- (d) *Site Plan Approval.* Site plan approval by the Zoning Administrator shall be required. The Zoning Administrator may place conditions of development approval on any multiple-family site plan approval, which such conditions are specifically related to compliance with a requirement of this Zoning Ordinance or other applicable regulation. Furthermore, reasonable conditions may be placed on the development through site plan approval by the Zoning Administrator in order to (1) ensure compliance with design and development standards specified in this Zoning Ordinance for said use or (2) ensure consistency with development guidelines or policies of the comprehensive plan.
- (e) *Design Standards.* See Section 10.7 of this Zoning Ordinance.



Sec. 12.4. - Relocated Residence.

A relocation permit is required to relocate a residential structure, whether it is to be moved out of or into the city limits. The relocation permit is not a building permit for the placement of the structure at a new location. The applicant shall include the following with the application for the relocation permit:

- (a) *Picture.* A photograph of the structure at its present location.
- (b) *Existing Location.* The current location (address and tax parcel number) where the structure is now located.
- (c) *Proposed Location in City.* If the structure is to be relocated inside the city limits, the proposed location (address and tax parcel number) of the structure. To ensure compliance with the applicable zoning district dimensional requirements, when the relocated residential structure is proposed to be located within the city limits, the Zoning Administrator shall require submission of the proposed location (address and tax parcel number) and a copy of the recorded plat of the lot on which the structure will be placed (if none exists the applicant shall be required to comply with subdivision requirements of the city's Subdivision and Land Development Ordinance).
- (d) *Floor Area.* The total heated floor area of the existing structure and, if to be located within the city, the renovated structure.
- (e) *Building Permit.* A building permit shall be required.
- (f) *Exterior Improvements.* All exterior improvements to the structure once relocated shall be completed within six months of relocation.
- (g) *Historic Preservation.* If located or proposed to be located within a historic district as recognized in this Zoning Ordinance or other historic preservation ordinance of the city, there must be a copy of the approved Certificate of Appropriateness from the Historic Preservation Commission prior to relocating the residential structure.
- (h) *Inspection.* The Zoning Administrator shall inspect or arrange for the inspection of the structure for compliance with the minimum standards of the zoning district proposed for location and other applicable regulations and codes.

Sec. 12.5. - Subdivision Entrance Monuments.

No subdivision entrance monument shall be permitted to be erected unless it meets the following requirements:

- (a) *Design.* The subdivision entrance monument and the landscape surrounding the monument shall be designed by a registered landscape architect.
- (b) *Design Review.* Design plan review and approval is required. See Article 40 of this zoning ordinance.

Sec. 12.6. - Townhouses.

In zoning districts where permitted, fee-simple townhouses shall meet the following requirements:

- (a) *Lot Frontage and Lot Width.* Each platted lot shall have a minimum of twenty (20) feet of frontage on a public street or private road that meets public street standards, and each lot shall have a minimum lot width of twenty (20) feet.
- (b) *Lot Size.* The minimum size of a lot for each fee-simple townhouse lot (i.e., the extent of land owned by the owner of the unit) shall be 2,000 square feet in lot area.



- (c) *Front Building Setbacks.* There shall be a minimum twenty (20) foot front setback from any perimeter boundary of the fee-simple townhouse subdivision and a 30-foot front setback from any public or private street exterior to or within the subdivision.
- (d) *Side Setbacks and Zero Lot Line.* Zero lot line between units within the same building shall be permitted, subject to applicable fire and building codes.
- (e) *Rear Setbacks.* There shall be a minimum twenty (20) foot rear setback from townhouse lot boundaries for all buildings and structures, except when the rear property line abuts an alley, in which case no setback shall be required.
- (f) *Building Separation.* There shall be a minimum building separation of twenty (20) feet between townhouse buildings.
- (g) *Building Unit Offsets.* To avoid a monotonous appearance, for any given building, no more than six (6) units may have common walls. Any building containing more than three (3) units with common walls must have the front façade, rear façade, and the roof of each attached unit distinct from the other through separation, staggering, or offsets in design. A minimum of two (2) exterior colors shall be used on buildings containing up to four (4) units, and a minimum of three (3) exterior colors shall be used on buildings containing five (5) or six (6) units; however, when all exteriors are unpainted brick, they shall not be required to vary in color. See also Sec. 12.6.(k)1.
- (h) *Rear Access.* Townhouse developments shall be designed to provide proper access to all dwelling units for firefighting purposes, as may be determined by applicable codes. Rear access, if required for firefighting purposes or by Subsection (n) below, shall be accomplished by alleys.
- (i) *Parking.* Two enclosed parking spaces minimum per unit shall be provided.
- (j) *Subdivision Plat Approval.* Each townhouse development or phase thereof shall require preliminary and final subdivision plat approval in accordance the City of Flowery Branch Subdivision and Land Development Ordinance.
- (k) *Wall Finishes.*

1. Exterior wall finish materials (excluding foundations, trim, windows and doors) shall be limited to: real brick (full-depth or thin brick), unpainted natural stone, unpainted cast stone, true three-coat cement stucco, natural wood or cementitious siding including lap siding and board and batten; and wood or cementitious shakes and shingles. A horizontal accent strip (i.e., band board or belly board / band) shall be used when there is a change in material. Each dwelling unit is limited to two of the allowed wall finishes listed in this subsection and one paint color. Adjoining or adjacent units shall not be the same exterior color.

The following are illustrative examples of wall finishes that **DO NOT** meet the requirements of this section:





b. False windows may count toward the transparency requirement where they are similar in size, shape, and materials to other windows on that building and consist of trim with closed shutters that have the appearance of a shuttered window or windows. A single louvered panel with trim may also count toward this requirement. False windows shall not be allowed to count toward this requirement unless shutters adjacent to a true window or windows are also provided on another exterior wall.

- (l) *Foundation Walls.* Exposed foundation walls must be faced in real brick or real stone to the level of the first finished floor when there is a basement or at least 24 inches above grade for the entire perimeter wall when the building has a slab on grade. Faux brick or stone foundation panels are prohibited.

The following are illustrative examples of foundation walls that **DO NOT** meet the requirements of this section:



Foundation wall missing / insufficient height on the side



Foundation wall is only located on the front façade

- (m) *Roof Materials.* Pitched roofs shall be finished in either architectural shingles or standing seam metal roofs.

- (n) *Garage Placement and Materials.*

1. Where townhouse developments abut public streets, lots fronting onto these streets shall address garage placement as follows: the front façade of the townhouse shall face the public street, and garages shall be rear loaded.

2. Where front-loaded garages are allowed, garage doors shall be carriage-style (both the door style/paneling as well as the hardware) and may either:

a. Recess at least one foot behind the front wall plane of the dwelling unit and the front entrance. When the garage door is recessed less than one foot, there shall be required a garage eyebrow treatment (trellis, pergola, roof, or a second-story architectural feature) that extends at least one foot beyond the garage face.

b. Project beyond the front wall plane and the front entrance upon providing a garage eyebrow treatment (trellis, pergola, roof, or second-story architectural feature) that extends at least one foot beyond the garage face, as well as decorative lighting that is mounted above or to the sides of the garage door.



3, All front-loaded garages shall be finished in real brick or real stone. The finish shall cover the entire façade of a projecting garage. When garage doors are recessed in accordance with Sec.(n) 2.a. above, the façade of the ground floor shall be finished in the required material(s).

4. Single-story detached garages that meet the requirements of subsections (k), (l) and (m) above and are placed to the rear of the building(s) are allowed in lieu of attached garages.

The following are illustrative examples of garage treatments that **DO NOT** meet the requirements of this section:



Brick or stone is only partially used or is not used at all as the required exterior finish, and carriage-style garage doors are not used. In addition, required elements over the projecting garages (left and middle examples) are missing.

(o) *Private Open Space.* Private, usable open space, such as balconies, patios, decks, etc. shall be provided contiguous to each dwelling unit. The area of such open space for each dwelling unit shall not be less than 10% of the floor area of the unit served.

1. Each dwelling unit with a rear-loaded garage shall provide a usable covered porch that runs the entire width of the front façade. The porch shall be at least 6 feet deep (not including steps, if applicable).

2. Rear patios, decks and porches shall be covered with a roof, pergola, or projecting architectural feature that is designed with materials to match the façade and/or trim of the building.

(p) *Residential Driveway Length.* Townhouses are required to have a minimum driveway length of twenty-three (23) feet as measured from the back of sidewalk or back of curb, as applicable.

(p) *Design Review.* See Article 40.

Sec. 12.7. – Single-Family Detached Dwellings.

Detached single-family dwellings shall meet the following requirements.

(a) *Wall Finishes.*

1. See Sec. 12.6.(k)1.

2. Facades facing a side yard shall meet the following requirements:

a. Each applicable façade shall have: a minimum of 5% transparency (defined as the minimum percentage of windows and doors that must cover a ground or upper story façade) of the total wall area; and, a maximum of 20 feet of blank wall area (defined as the portion of the exterior façade of a building that does not include windows or doors;



pilasters or other articulation greater than 12 inches in depth; or a substantial change in material) in either a vertical or horizontal direction.

- b. False windows may count toward the transparency requirement where they are similar in size, shape, and materials to other windows on that building and consist of trim with closed shutters that have the appearance of a shuttered window or windows. A single louvered panel with trim may also count toward this requirement. False windows shall not be allowed to count toward this requirement unless shutters adjacent to a true window or windows are also provided on another exterior wall.
 - c. Walls that are fully finished in brick shall be exempt from the transparency requirement in Subsection a. above.
3. Facades facing a rear yard shall meet the following requirements:
- a. Sec. 12.7.(a) 2. shall apply to rear facades that are visible from a public street.
 - b. Rear patios, decks and porches shall be covered with a roof, pergola, or projecting architectural feature that is designed with materials to match the façade and/or trim of the building.
- (b) *Entrance Features.*
- 1. The primary entrance to a residence must be emphasized through the use of an unenclosed roofed porch, veranda or terrace that is a minimum of: six (6) feet deep (not including the steps); and 40% of the width of the front façade or 11 feet, whichever is greater.
 - 2. A stoop or gable may be used in lieu of a porch, veranda or terrace when the front façade finish is brick. A stoop shall not be more than six (6) feet deep (not including the steps) and cannot be fully enclosed.
 - 3. Entry steps shall have enclosed risers.
 - 4. Columns shall be a minimum width of eight (8) inches and shall be wood or durable material that resembles wood from top to bottom or atop stone or masonry bases.
- (c) *Foundation and Roof materials.* See Sections 12.6 (l) and (m).
- (d) *Garage Placement and Materials.*
- 1. Where detached single-family developments abut public streets, lots fronting onto these streets shall address garage placement as follows: the front façade of the dwelling shall face the public street, and garages shall be rear loaded. This requirement shall not apply when homes are oriented such that the side yards front the public street.
 - 2. For single-family detached dwellings with attached front-loaded garages, garage doors shall not project more than eight (8) feet from the front wall plane and front entrance. Any projecting garage shall not prevent the requirement of Sec. 12.7.(b)1 being met.
 - 3. Projecting front-loaded garages shall have a garage eyebrow treatment (trellis, pergola, roof, or second-story architectural feature) that extends at least one foot beyond the garage face, as well as decorative lighting above or to the sides of the garage. The gable (if applicable) above the garage door shall not be blank and shall include window(s) and decorative lighting. Additional gable treatments options include a gable vent and a change in material.
 - 4. All front-loaded garages shall be finished in real brick or real stone. The finish shall cover the façade of the projecting garage wall but is not required to be used on the gable (if applicable)



above the required garage eyebrow treatment. When a garage does not project, the façade of the ground floor garage shall be finished in the required material(s).

5. Garage doors shall be carriage-style (both the door style/paneling and hardware).

The following are illustrative examples of garage treatments that **DO NOT** meet the requirements of this section:



Missing elements: full required extent of brick or stone finish, “eyebrow” treatment above the garage, and gable features (left and middle photos); brick or stone finish, carriage style door and front porch (photo at right). A carriage-style garage door is also not used in the photo at left.

(e) Residential Driveway Length. See Sec. 20.11.(c).

(f) Design Review. See Article 40.



REZONING APPLICATION

Date: 01-11-2022

Address of Request:
5908 Lights Ferry Road

Tax Map # 08112 027019 **Current Zoning:** R1

Is this site located within the boundaries of the historic district? No

Currently a conforming use? Yes

Any conditions of zoning, CUP's, etc.? No

Applicant Information

Name: Diego Fracasso

Address: 1525 Broadmoore Blvd Buford, Ga 30518

E-mail address: Diegoff@icloud.com

Phone number: 678-358-1900

Signature: [Signature]

Notary: [Signature]

01/11/2022



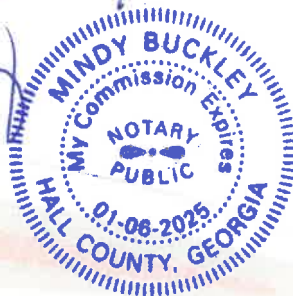


Property owner information (if different than the applicant)

Property owner (please print): Lights Ferry Partners, LLC

Signature of property owner: [Signature] CEO

Notary: [Signature]



Property Information

Tax Map Number: 08112 027019

Current Zoning: R1 Total Acres: 1.92

Is this property located within the city-limits of Flowery Branch? Yes

Proposed City of Flowery Branch Zoning: TND

Current Use: Residential - Vacant

Please review the Flowery Branch Code of Ordinances, Appendix C, "Zoning Ordinance", Article 34, for complete requirements.

Please provide the following at time of submittal in (one hard copy and digitally):

- Legal description
- Current survey of property



- Site plan shall meet the requirements of the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.5
- Development statistics per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.6
- Analysis requirements per the Flowery Branch Code of Ordinances; Appendix C, "Zoning Ordinance", Article 34 sections 34.7
- Detailed description of request
- Conflict of interest disclosure (attached)
- Disclosure of campaign contributions (attached)
- Names and addresses of adjoining property owners
- Reasons for requesting rezoning
- Signed statement authorizing City of Flowery Branch staff and/or City Council to inspect the subject property

Conflict of Interest Disclosure

Identify all members of the City Council of the City of Flowery Branch and Employees of the City of Flowery Branch Community Development Department who

Have a property interest in the real property affected by this request

None

Have a financial interest (direct ownership interest) of the total assets or capital stock of a business entity where such ownership interest is more than 10% in any business entity which has a property interest in the real property affected by this request

None

Have a member of the family (spouse, mother, father, brother, sister, son or daughter) having a property financial interest as herein defined, in the real property affected by this request

None



Disclosure of Campaign Contributions

List below the names of local government officials of the City of Flowery Branch to whom campaign contributions were made, within two (2) years immediately preceding the filing of this application, which campaign contributions total \$250.00 or more or to whom gifts were made having a total value of \$250.00 or more.

Elected Officials Name

Amount of Description of Gift

None

None

CITY STAFF ONLY

Application Received By: Ryan

Date: 1-26-2022 Total Fee: _____



5908 Lights Ferry Rd Legal Description

Description of Property

TRACT ONE

All that tract or parcel of land lying and being in the Town of Flowery Branch, Hall County, Georgia, being part of the land described in a deed recorded in Deed Book 284, Page 15, Hall County, Georgia Deed Records, adjoining the present homeplace of Clarence J. Fenn, and more particularly described as follows:

Beginning at the northeast corner of the Clarence J. Fenn homeplace on the Old Gainesville-Buford Road, and running thence 123 feet northward along said road to an iron pin corner; thence westward parallel with the Fenn line 400 feet, more or less, to an iron pin corner fixed by the parties hereto at a point 35 feet east of the rear line of the F.C. Orr property, as described in the deed recorded in Book 284, Page 515, thence southward parallel with Orr's said rear line 123 feet to the C.J. Fenn line at a point just across part of the pavement of the new road running along there; thence eastward 400 feet, more or less, to the beginning corner. The last mentioned new road cuts across the southwest corner of the lot herein conveyed, and of course this corner as cut off in the new road is not included in this deed.

TOGETHER WITH TRACT TWO

All that tract and parcel of land situate, lying and being in Hall County, Georgia, and being more particularly described as follows:

A part of Lot 112, being in Land Lot District No. 8, City of Flowery Branch, Hall County, Georgia, and being in the 1270th District G.M., Hall County, Georgia, containing one and one-tenth (1.1) acres, more or less, and being more particularly described as follows:

Beginning on the north side of Broad Street and west side of Old Gainesville Road; thence running northeast 264 feet to corner of what was formerly A.M. Orr line; thence west along A. M. Orr line 360 feet to the new highway; thence along the New Highway 450 feet to the Old Gainesville Road and the beginning corner. Said property is in a V-shape.

These two tracts being the same property conveyed in a Warranty Deed from Roy E. Clark and Janice Lee Clark Bryans to Allen J. Bryans dated August 24, 1996, recorded in Deed Book 2700, Page 278, Hall County, Georgia Deed Records, being improved property known as **5908 Lights Ferry Road** according to the present system of numbering properties by the Hall County, Georgia Tax Assessor's office. Said property is conveyed together with and subject to all easements, covenants, and restrictions of record, if any.

83754 Description

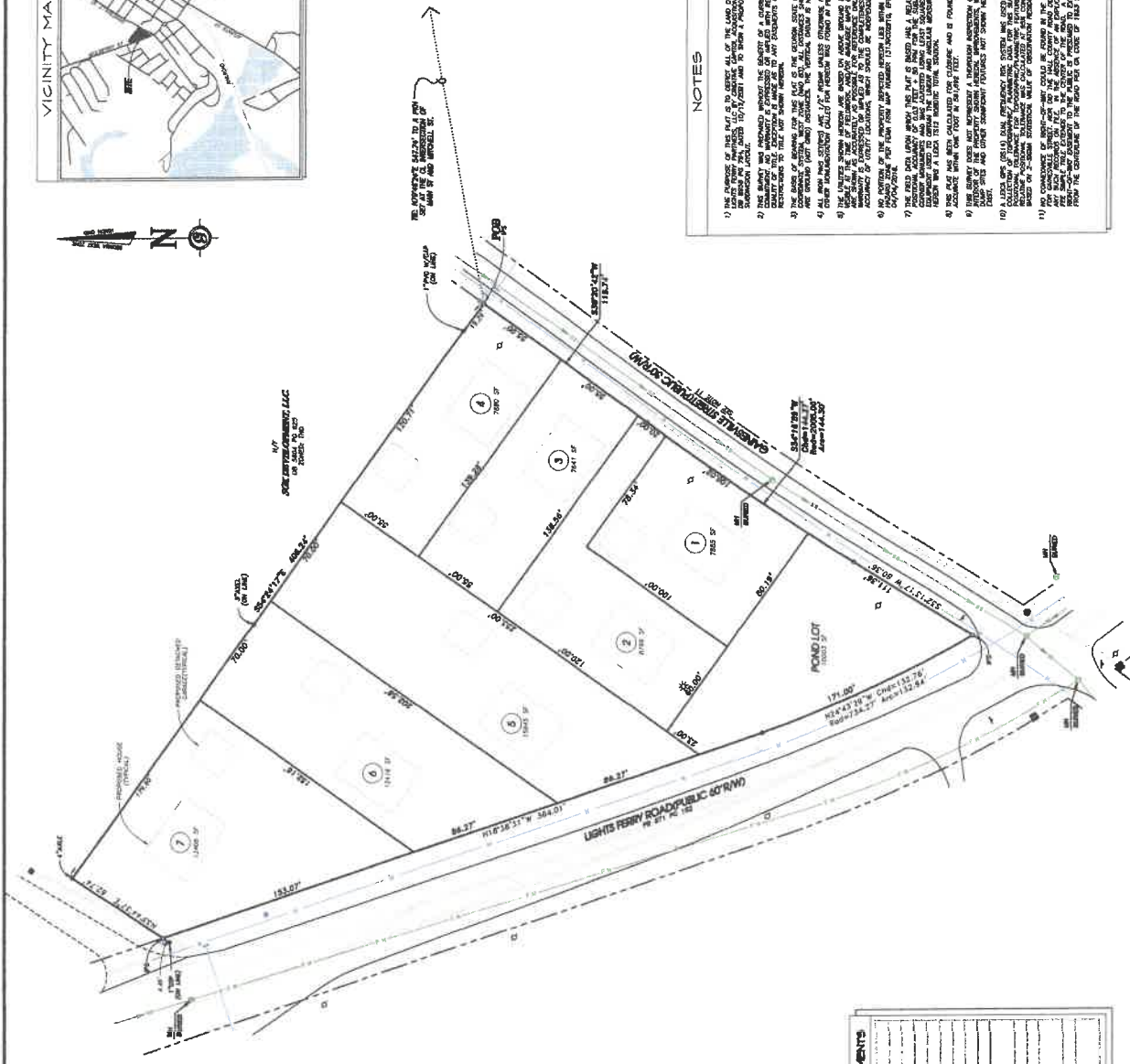


PRELIMINARY SUBDIVISION MAP
OF
5908 LIGHTS FERRY ROAD
NOR
LIGHTS FERRY PARTNERS, LLC.



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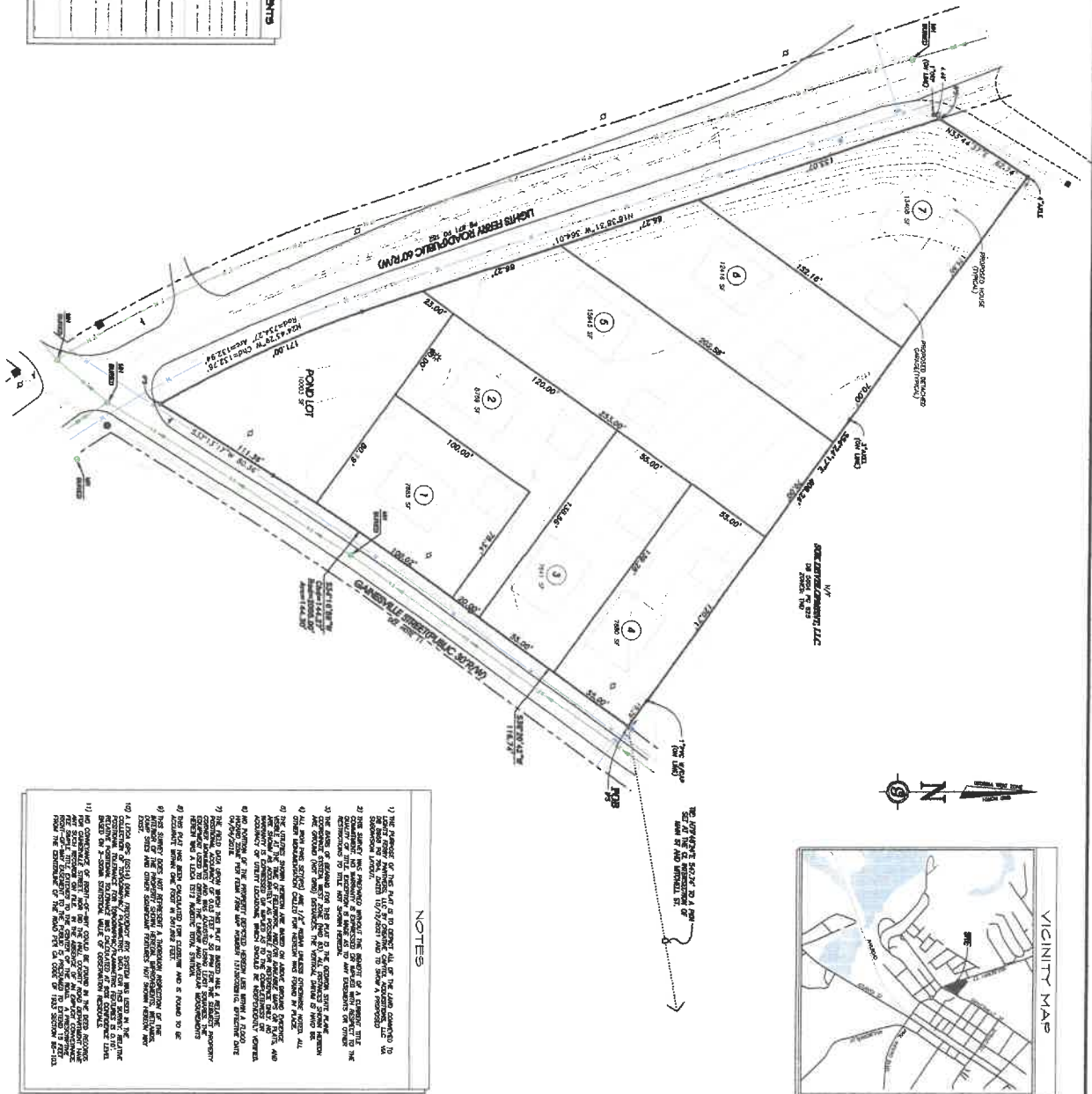
NOTES

[illegible]

TRADITIONAL NEIGHBORHOOD DEVELOPMENT REQUIREMENTS	
Maximum height (feet)	30
Maximum height (number of stories)	_____
Maximum density (units per acre)	6.5
Minimum lot size for detached single-family dwelling (square feet)	6,000
Minimum lot size for townhouse (square feet)	2,000
Minimum lot width (feet)	30
Minimum lot depth (feet)	80
Minimum lot area (square feet)	1,200
Minimum front yard setback from lot line (feet)	0
Minimum side setback, rearward for lot or corner lot, at principal buildings	5
Minimum rear setback, at principal buildings (feet)	25
Front setback for an accessory building when abutting an alley	None
Minimum landscape strip required along right-of-ways for any residential use	15
Nonresidential use if permitted (width in feet)	_____
Minimum coverage of impervious surface (percent of lot)	20
Minimum coverage of impervious surface for all uses except detached, single-family residential use and townhomes (percent)	20

[illegible]

	max height (feet)
max height (number of stories)	30
min density (units per acre)	6-7
min lot size for detached single-family dwelling (square feet)	5,000
min lot size for other uses (square feet)	6,000
min bc width (feet)	80
min bc depth (feet)	100
min setback from rear yard line (square feet)	1,200
min front yard setback from abutment line (feet)	b
min side setback, minor lot line or corner lot, at principal buildings	d
nursery school, all-inclusive buildings (feet)	25
residential use, all-inclusive buildings (feet)	35
residential use, for accessory building when abutting to only min lotsize strip required along right-of-ways for any individual use as permitted (width in feet)	15
min coverage of impervious surfaces (percent of lot)	45
min coverage of open space, all principal uses except detached, single- family detached lots and townhouse (percent)	20

[illegible]

P.O. BOX 831, JEFFERSON, CA 90648
PHONE: (878) 717-4831
BORNUP@GEEKNETMAPPING.COM

PRELIMINARY SUBDIVISION PLAT

OF
5908 LIGHTS FERRY ROAD
FOR
LIGHTS FERRY PARTNERS, LLC.

LOCATED IN
T 112, 10TH DISTRICT
OF FLOWERY BRANCH
COUNTY, GEORGIA



GRAPHIC SCALE 1"=30'

A horizontal scale bar with tick marks at 0, 30, 60, and 90 feet. The text "GRAPHIC SCALE" is on the left and "1"=30'" is on the right.

[illegible]

Sec. 34.7. - Analysis Requirements.

Applications to amend the official zoning map and applications for conditional uses shall provide a written analysis comparing the proposed action with the criteria in this Section. A zoning map amendment or conditional use application may be justified only if it bears a reasonable relationship to the public health, safety, morality, or general welfare, and after consideration of the analysis requirements which may in individual cases be considered criteria relevant to Zoning Administrator in making recommendations and by the Governing Body in the decision-making process.

- (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
 - a. Yes, this proposal will be suitable to adjacent and nearby property. The goal is for this complement existing and newly constructed houses in the Downtown Flowery Branch area.
- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.
 - a. No, currently the property is blighted, vacant and potentially hazardous. Our proposal would bring the property up to par with the surrounding properties.
- (c) Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned.
 - a. Yes, the property could be used under the existing zoning. We do not believe that it has a reasonable economic use as currently zoned.
- (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
 - a. No
- (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map.
 - a. The proposal conforms to the comprehensive plan, the character area map and the future land use plan map. The current zoning of the property does not conform to any of those plans/maps.
- (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.
 - a. No
- (g) Existing use(s) and zoning of the subject property and nearby properties.
 - a. TND to the North, East and South. PUD to the West. R-1 to the South.



- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification.
 - a. The value cannot be discerned. However, the structures have been vacant for a number of years.
- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.
 - a. The proposed zoning map amendment will not be a deterrent to the value or improvement of development to the adjacent properties. The property would conform and create consistency with the surrounding properties and coincide with other similar developments in the downtown area.
- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.
 - a. The property is currently surrounded by the proposed zoning of TND.
- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district.
 - a. The proposed zoning will reinforce the character of the zoning district and character area
- (l) The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.
 - a. The proposed development will not have a negative impact on the environment.
- (m) The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance.
 - a. The overall zoning scheme and Zoning Ordinance protects the value and use of property and those that of surrounding property. It also can provide a guide for the future land use and the vision the City has for a particular area. This proposal will protect and appreciate the value of nearby property while following the vision that the city has for this particular district.

([Ord. No. 348-18, § 1 \(Exh. A\), 9-6-2018](#))

12/28/2021

5908 Lights Ferry Rd

Detailed description of request:

We are requesting a zoning map amendment for our property from R1 to TND. Our goal is to build a similar single family product as what is currently being built in the surrounding area. Our request will create seven new single family lots on 1.92 acres of land. Each lot will have one single family residence with a detached garage. The approximate square footage of each house will be 3,000 square feet.

The reason for requesting this zoning is for the continuation of the redevelopment already occurring in the downtown area. The current use and zoning district does not conform to the City's future land use and character map.

Adjoining Property Owners:

North:

SGK Development LLC
PO Box 846
Carnesville, Ga 30521

Other sides of property are City ROW

Authorization to Inspect Property

Lights Ferry Partners, LLC hereby authorizes the City of Flowery Branch staff and/or City Council to inspect the property located at 5908 Lights Ferry Rd in Flowery Branch, Ga for the purpose of a requested zoning map amendment.


Member

5908 Lights Ferry Rd

Proposed Finish and Housing Style Examples

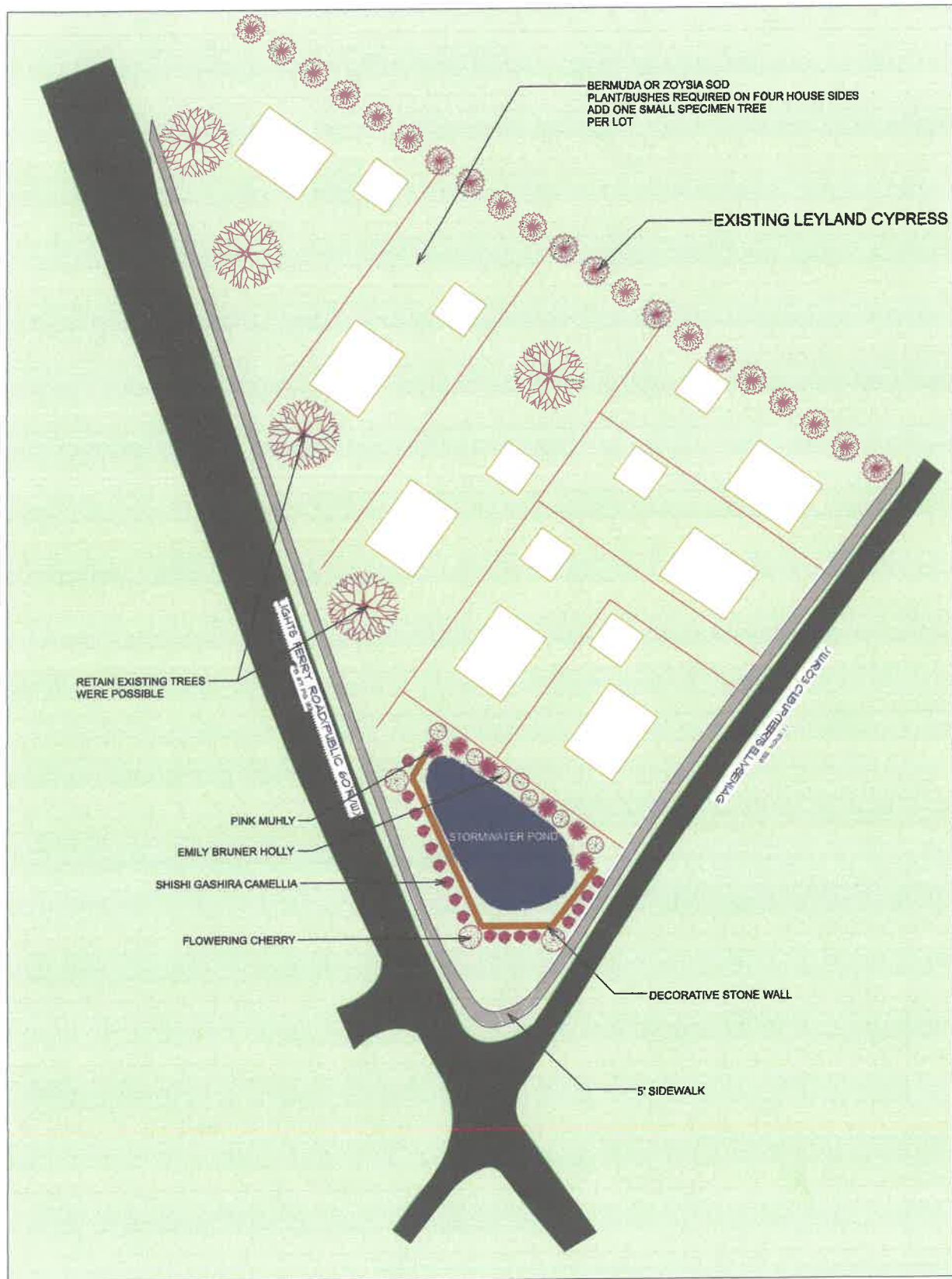
Exterior Features:

- Brick or Stone Water Table and Accents
- Wooden Timber or Decorative Columns
- 5" Reveal on any lap siding
- Large Porches with Metal Roofs
- Detached Garages
- Predominately Gabled Roofs
- Greater than 8/12 Roof Pitches
- Exterior Fireplaces
- Cohesive fencing around yards





5908 LIGHTS FERRY LANDSCAPE PROPOSAL FOR ZONING MAP AMENDMENT
 ASSUMES REQUIREMENT FOR STORMWATER POND AND OTHER ROW
 REQUIREMENTS





REZONING ADDITIONAL INFORMATION REQUIREMENT

Date: 01-11-2022

Address of Request:

5908 Lights Ferry Road

Tax Map # 08112 027019 **Current Zoning:** R1

Please submit an analysis of the proposed project including:

SEE PAGE 4 AND 5 FOR ANALYSIS

1. Value of improvements upon complete build out.
2. Property tax valuation based upon existing millage rate (indicate total tax expectation if project is phased).
3. Schedule of the total build out (showing a timeline of construction in months/years if project is phased).
4. Anticipated total square footage (heated) to be built in the requested number of units.
5. Total acreage developed with units.
6. Total acreage for right of way and roads.
7. Total acreage of open space/common area (include plan for maintenance of open space/common area).
8. Acreage required for buffer and watershed protection.
 - Does the buffer comply with the current City ordinance?
 - Do individual property lines for lots extend into the buffer?
 - Does the Developer intend to dedicate any of the site area to the City? If so, for what purpose?



9. Does your proposal consider Multi Transportation alternatives? (Please describe in detail)
10. Please identify all amenities and total number of acres they incorporate by complete description.
11. Number of street lights and separation table as proposed on your site plan.
12. Will Technology Development be included in this development?
13. List the total linear feet and cubic yards for sidewalks.
14. Are appropriate storm water controls provided in your proposal? Are these controls completely and accurately reflected on all drawings and plans?
15. Has a transportation/traffic study been done to predict the impact of anticipated traffic? Has the project been reviewed by all appropriate County and State agencies relating to transportation issues?
16. Does the proposal provide for utilization of “reuse” water? Is this depicted on the plans? Do the plans provide for storage of “reuse” water?
17. What is the total capacity for daily Wastewater Management?
18. What is the anticipated maximum daily water consumption? Are low flow fixtures required by the development?
19. Has a slope and grade study been done on this development? Does the study reflect density placement?
20. Please identify what public safety needs are being considered for the project?
21. Has the Hall County School System been notified of the proposed density for this project?
22. Please provide a copy of all private covenants and/or architectural guidelines to be filed regarding this development.



23. Information as required under Ordinance No. 349 for preliminary plat approval if rezoning involves subdivision. Ordinance No. 349 can be found at www.flowerybranchga.org

CITY STAFF ONLY

Permit Issued By: _____

Date: _____ Total Fee: _____

REZONING ADDITIONAL INFORMATION REQUIREMENT

**5908 Lights Ferry Rd
Flowery Branch, Ga 30542**

- 1. Value of improvements upon complete build out**
 - a. There will be 7 single family detached houses each valued at approximately \$650,000.
Total value of all improvements is estimated at \$4,550,000.**
- 2. Property tax valuation based upon existing millage rate**
 - a. Existing millage rate for the City is 3.264**
 - b. Existing millage rate for the County is 27.24**
 - c. Calculated at 40% of value, City property taxes would be estimated at \$5,940.48**
 - d. Calculated at 40% of value, County property taxes would be estimated at \$49,576.80**
- 3. Schedule of the total build out**

	MONTH 1	MONTH 2	MONTH 3	MONTH 4	MONTH 5	MONTH 6	MONTH 7	MONTH 8	MONTH 9	MONTH 10	MONTH 11	MONTH 12	MONTH 13	MONTH 14	MONTH 15	MONTH 16
EROSION CONTROL AND STABILIZATION																
DEMOLITION																
GRADING																
STORMWATER INFRASTRUCTURE																
SEWER INFRASTRUCTURE																
POWER INFRASTRUCTURE																
ROW IMPROVEMENTS																
HOUSE CONSTRUCTION																

- 4. Anticipated total heated square footage to be built in the requested number of units**
 - a. Average housing unit will have 3000 heated square feet**
 - b. Total square footage of all units will be approximately 21,000 square feet**
- 5. Total acreage developed with units**
 - a. 1.923 Acres**
- 6. Total acreage for right of way and roads**
 - a. 0**
- 7. Total acreage of open space/common area**
 - a. 0**
- 8. Acreage required for buffer and watershed protection**
 - a. Does the buffer comply with current City ordinance?**
 - i. There are no proposed buffers**
 - b. Does the Developer intend to dedicate any of the site area to the City? If so, for what purpose?**
 - i. There is an area that is proposed as a "Pond Lot". This lot has been set aside to potentially handle the water quantity and quality requirements set forth in the City Development Code and may ultimately serve the surrounding community. This parcel could be managed by covenants placed on the new lots or dedicated and then managed by the City. We would like clarification on this.**
- 9. Does your proposal consider Multi Transportation alternatives?**
 - a. No**

10. Please identify all amenities and total number of acres they incorporate by complete description.
 - a. No amenities
11. Number of street lights and separation table as proposed on your site plan
 - a. We have no plans for street lights
12. Will Technology Development be included in the development?
 - a. No
13. List the total linear feet and cubic yards for sidewalks
 - a. Approximately 840 linear feet of sidewalks
14. Are appropriate storm water controls provided in your proposal? Are these controls completely and accurately reflected on all drawings and plans?
 - a. A portion of the Development has been set aside for storm water controls. A full hydrology report and engineered drawings will be needed to determine all appropriate controls.
15. Has a transportation/traffic study been done to predict the impact of anticipated traffic? Has the project been reviewed by all appropriate County and State agencies relating to transportation issues?
 - a. No, we do not believe this projects meets the threshold to warrant a traffic study
16. Does the proposal provide for utilization of "reuse" water?
 - a. No
17. What is the total capacity for daily Wastewater Management?
 - a. Unknown
18. What is the anticipated maximum daily water consumption? Are low flow fixtures required by the development?
 - a. Unknown
 - b. All water fixtures will comply with Federal, State and Local ordinances
19. Has a slope and grade study been done on this development? Does the study reflect density placement?
 - a. No
20. Please identify what public safety needs are being considered for the project?
 - a. None
21. Has the Hall County School System been notified of the proposed density for this project?
 - a. No
22. Please provide a copy of all private covenants and/or architectural guidelines to be filed regarding this development
 - a. Private covenants will only be filed if necessary. Architectural guidelines will be follow all City Ordinances



FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY



SUBJECT: Consideration of Lease for 5318 Railroad Avenue to Chattahoochee Child Psychology Services, LLC

COUNCIL MEETING DATE: April 21, 2022

HISTORY:

Lease Proposal for 5318 Railroad Avenue, Flowery Branch, GA 30542

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:

No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:

SAMPLE MOTION:

I make a motion to accept the contract as presented.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Shelia Cooper

ATTACHMENTS

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