City of Flowery Branch
City Council Meeting
Thursday, September 03, 2020, 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:

UNFINISHED BUSINESS - WORK SESSION:

- Second Read of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance
  Updated Ordinance 447B (Speed Zone).pdf
  Speed Zone Ord. Update 2020 GDOT.pdf
- Resolution 20-023 Consider a Stormwater Utility Feasibility Study
  EXECUTIVE SUMMARY -Storm Water Utility Feasibility Proposal.pdf
  Flowery Branch Storm Water Utility Proposal 7-22-2020.pdf
  Resolution 20-023 - Storm Water Utility Feasibility Study.pdf
- Ordinance 239-K & 240-K submitted by NNP-Looper Lake, LLC to rezone 85 +/- acres of land in Sterling on the Lake known as the Honeycutt Tract from PUD to modified PUD - changing the conditions of zoning to allow a gate and private roads.
  Honeycutt Rezoning Application.pdf
  Staff report.pdf
  Ordinance.pdf
  Retreat Covenants Bylaws.pdf
  Retreat Supplement to Charter.pdf
  1st Meeting Response - 08.27.20.pdf

NEW BUSINESS -WORK SESSION:

- Consider Beer and Wine License for Grocery Express at 6168 Gaines Ferry Road, Ste. 3
  Grocery Express Executive Summary.pdf

DEPARTMENT REPORTS: -

a. City Manager Report
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 July 2, 2020 Meeting Minutes
  July 2, 2020 Council Meeting Minutes.pdf
- Consider July 16, 2020 Meeting Minutes
  July 16, 2020 Council Meeting Minutes.pdf
- Consider Beer and Wine License for Grocery Express at 6168 Gaines Ferry Road, Ste. 3
  Grocery Express Executive Summary.pdf
- Mike Miller August 2020 Per Diem
  Mike Miller Per Diem August 2020.pdf

UNFINISHED BUSINESS - VOTING SESSION:

- Second Read of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance
  Updated Ordinance 447B (Speed Zone).pdf
  Speed Zone Ord. Update 2020 GDOT.pdf
- Resolution 20-023 Consider a Stormwater Utility Feasibility Study
  EXECUTIVE SUMMARY -Storm Water Utility Feasibility Proposal.pdf
  Flowery Branch Storm Water Utility Proposal 7-22-2020.pdf
  Resolution 20-023 - Storm Water Utility Feasibility Study.pdf

NEW BUSINESS - VOTING SESSION:

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: Second Read of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance

COUNCIL MEETING DATE: September 3, 2020

HISTORY:
GDOT requires re-certification of all of our radar enforced speed zones at least every 7 years. This listing of roads has not been modified from our 2013 list.

FACTS AND ISSUES:
The City may only use radar on the road sections listed within this Ordinance. Radar use is limited to where we have the proper sight distance and where a road is relatively level.

OPTIONS:

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

AMOUNT AND SOURCE OF FUNDS:
Not applicable

RECOMMENDATION:
GDOT is looking into an error on Highway 347/Friendship Road.

SAMPLE MOTION:
Motion to approve the second reading of Ordinance No. 447-B: The City of Flowery Branch Speed Zone Ordinance.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Vickie Short

ATTACHMENTS

- Updated Ordinance 447B (Speed Zone).pdf
- Speed Zone Ord. Update 2020 GDOT.pdf

First Reading: 7/16/20
Passed:

ORDINANCE NO: 447-B

AN ORDINANCE TO ESTABLISH SPEED ZONES WITHIN THE CITY OF FLOWERY BRANCH; TO INCORPORATE THE MODEL ORDINANCE AS SET FORTH BY THE GEORGIA DEPARTMENT OF TRANSPORTATION (GDOT); TO ALLOW USE OF SPEED DETECTION DEVICES; TO LIMIT THE USE OF SPEED DETECTION DEVICES; PROVIDING FOR SEVERABILITY, REPEALING CONFLICTING ORDINANCES, AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, pursuant to Section 40-6-183 of the Official Code of Georgia Annotated (O.C.G.A.) concerning local authorities' power to alter lawful speed limits, and to establish the areas in which speed detection devices may be properly used, the following ordinance regulating the speed limits and designating the sections of certain roads and streets within the City of Flowery Branch, Hall County, Georgia wherein speed detection devices may be used is hereby adopted as set forth herein; and.

WHEREAS, on October 17, 2013, the City Council had previously adopted a Speed Zone and Speed Detection Device Ordinance (Ordinance No. 447-A); and

WHEREAS, the Georgia Department of Transportation (GDOT) has completed a review of the City's Speed Zone and Speed Detection Device Ordinance and requested that it be updated.

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

SECTION 1. DESIGNATION OF ON SYSTEM SPEED LIMIT.

The following roadways shall be classified as on systems roadways:

State Route 13	From 1,461'south of Phil Niekro Blvd. (Mile Point 3.88 - South Flowery Branch City Limits) to 913' north of Hog Mountain Road (Mile Point 6.60 – North Flowery Branch City Limits) a distance of 2.72 miles, to be zoned 45 miles per hour.
State Route 13	From 1690' south of Hog Mountain Road (Mile Point 6.17 – South Flowery Branch City Limits) to 783' north of Martin Road (Mile Point 7.24 – North Flowery Branch City Limits) a distance of 1.07 miles, to be zoned 45 miles per hour. This section is also considered a SCHOOL ZONE and for SCHOOL DAYS ONLY.

State Route 347	From 1,238’ north of Ridge Road (Mile Point 5.19 – South Flowery Branch City Limits) to 3,340’ north of Ridge Road (Mile Point 5.59 – North Flowery Branch City Limits) a distance of .40 miles, to be zoned 45 miles per hour.
State Route 419/I-985	From 3,456’ south of Spout Springs Road (Mile Point 11.02 – South Flowery Branch City Limits) to 2,664’ north of Spout Springs Road (Mile Point 12.17 – North Flowery Branch City Limits) a distance of 1.15 miles, to be zoned 70 miles per hour.

SECTION 2. **<u>DESIGNATION OF OFF SYSTEM SPEED LIMIT</u>**

The following roadways shall be classified as off systems roadways:

Gainesville Street	From the City Limits to Main Street, a distance of 0.60 miles, to be zoned for 35 miles per hour.
Lights Ferry Road	From the City Limits to Mitchell Street, a distance of 0.66 miles, to be zoned for 45 miles per hour.
Spout Springs Road	From City Limits to State Route 13, a distance of 0.94 miles, to be zoned for 45 miles per hour.
Thurmon Tanner Parkway	From 2,460’ north of Spout Springs Road to 2,270’ north of State Route 13, a distance of 1.23 miles, to be zoned 45 miles per hour.

SECTION 3. **<u>DESIGNATION OF SCHOOL ZONE HOURS</u>**

The following hours shall be identified as “School Zone Hours”:

A.M. from 45 minutes prior to commencement time to 15 minutes after commencement time – SCHOOL DAYS ONLY.

P.M. from 15 minutes prior to dismissal time to 45 minutes after dismissal time – SCHOOL DAYS ONLY.

SECTION 4. **<u>USE OF RADAR</u>**

It shall be unlawful to use speed detection devices on any State Route, county road, or city street which is not listed in this Ordinance.

SECTION 5. <u>CONSTRUCTION/WORK ZONES</u>

The provisions of this Ordinance shall also apply to any construction or work zone on any State Route to the extent allowable by law.

SECTION 6. <u>ENFORCEMENT AND PUNISHMENT</u>

Any person convicted of a violation of this ordinance shall be punished as provided by Georgia Law as presently exists or as may hereafter be amended.

SECTION 7. <u>REPEAL OF CONFLICTING ORDIANCES</u>

Ordinance No. 307 and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 8. <u>EFFECTIVE DATE</u>

This ordinance shall become effective upon adoption by the City Council of the City of Flowery Branch, Georgia, and upon erection of appropriate signs to effectuate this ordinance in compliance with State law.

Approved this _____ day of July 2020.

____
James M. Miller, Mayor

ATTEST:

____
Vickie Short, City Clerk

APPROVED AS TO FORM:

____
E. Ronald Bennett, Jr., City Attorney

GDOT
Georgia Department of Transportation

Russell R. McMurry, P.E., Commissioner
One Georgia Center
600 West Peachtree Street, NW
Atlanta, GA 30308
(404) 631-1000 Main Office

June 22, 2020

Mike Miller, Mayor
City of Flowery Branch
P. O. Box 757
Flowery Branch, Georgia 30542

SUBJECT: Speed Zone Ordinance
City of Flowery Branch

Dear Mr. Miller,

The Georgia Department of Transportation has completed the update for the City of Flowery Branch Speed Zone Ordinance.

Two copies of the updated ordinance are enclosed for your review and approval. Once approved, please forward one signed notarized copy of the ordinance to the Gainesville office listed below for further processing. This copy will be maintained by our office and will be forwarded to the Department of Public Safety for their review and approval.

Georgia Department of Transportation
Jason Dykes, District Traffic Engineer
1475 Jesse Jewell Pkwy., Suite 100
Gainesville, Georgia 30501

It is the responsibility of the County to sign all off-system roadways. Speed limit signs and speed checked by detection device signs must be in place for thirty (30) days prior to radar use. The attached ordinance will go into effect upon approval from the Department of Public Safety. However, the County **cannot** use any speed detection device until the signing requirements are met. Should you have questions or require assistance, please contact Jonathan Peevy at (770) 533-8276.

Sincerely,

Jason Dykes, P.E.
District Traffic Engineer

JD/bn
Enclosures
c: Bill Andrew, City Manager
Rich Atkinson, City Planner

The Mayor of Flowery Branch is hereby requesting that the following roadways be approved for the use of speed detection devices:

LIST OF ROADWAYS
for
CITY OF FLOWERY BRANCH

ON-SYSTEM

STATE ROUTE	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR 13	**Flowery Branch**	1461'south of Phil Niekro Blvd (South Flowery Branch City Limits)	03.88	913' north of Hog Mountain Road (North Flowery Branch City Limits)	06.60	02.72	45
SR 13 *** **SCHOOL ZONE** ***	**Flowery Branch South Hall Middle School SCHOOL DAYS ONLY**	1690' south of Hog Mountain Road	06.17	783' north of Martin Road	07.24	01.07	45
SR 347	**Flowery Branch**	1238' north of Ridge Road (South Flowery Branch City Limits)	05.19	3340' north of Ridge Road (North Flowery Branch City Limits)	05.59	00.40	45
SR 419 /I-985	**Flowery Branch**	3456' south of Spout Springs Road (South Flowery Branch City Limits)	11.02	2664' north of Spout Springs Road (North Flowery Branch City Limits)	12.17	01.15	70

ROAD NAME	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Gainesville Street	**Flowery Branch**	City Limits	Main Street	00.60	35
Lights Ferry Road	**Flowery Branch**	City Limits	Mitchell Street	00.66	45
Spout Springs Road	**Flowery Branch**	City Limits	State Route 13	00.94	45
Thurmond Tanner Parkway	**Flowery Branch**	2640' north of Spout Springs Road	2270' north of State Route 13	01.23	45

******SCHOOL ZONE HOURS ARE EFFECTIVE******

A.M. *from 45 minutes prior to commencement time to 15 minutes after commencement time –* ***SCHOOL DAYS ONLY***

P.M. *from 15 minutes prior to dismissal time to 45 minutes after dismissal time –* ***SCHOOL DAYS ONLY***

ALL LISTS AND PARTS OF LISTS IN CONFLICT WITH THIS LIST ARE HEREBY REPEALED.

Signature of Governing Authority:

______________________________ ______________________________

Mayor City Council Members

Sworn and Subscribed before me
This ______ day of ____________________, ______.

____

NOTARY PUBLIC

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Resolution 20-023 Consider a Stormwater Utility Feasibility Study

COUNCIL MEETING DATE: September 3, 2020

HISTORY:
During the February 2020 Council Retreat, city management, staff, Mayor, and Council discussed the needs for stormwater improvements throughout the City and the costs associated with improvements along with routine maintenance. Council expressed an interest in a study to determine if the City would benefit from a stormwater utility to help cover these costs.

FACTS AND ISSUES:
Over the past three-four years, the City has had to repair two stormwater culverts and one was an emergency repair. This study will help us understand all of the City's stormwater needs and the timing of each project as well as associated costs. Performing this study and the possibility of a stormwater utility could assist the City to become more proactive with maintenance and repairs rather than reactive as mentioned above. Below is the detailed scope of work:

1. Convene a Storm Water Utility Feasibility Committee • With staff input and city council approval, appoint a Storm Water Utility Feasibility Committee to discuss ideas and help shape the direction of the feasibility study.
2. Quantify Costs of owning, managing and maintaining the City's Municipal Separate Storm Sewer System (MS4) •
- Quantify the annual regulatory cost of the Municipal Separate Storm Sewer System.
- Review, discuss, revise and/or develop an Extent of Service/Level of Service (EOS/LOS) policy for maintaining the City's MS4. The Extent of Service (EOS) policy describes the components of the storm drainage system maintained by the City. The Level of Service (LOS) policy establishes the strategic program goals for the stormwater program and the tactical service goals that guide the maintenance activities for the stormwater drainage system.
- Develop a capital program of storm water improvements with concept level budgets.
- Review historical budgets of storm water related activities.
- Review adjacent and sister cities' storm water utilities details

3. Prepare a Rate Study
- Discuss the concepts behind storm water impacts to city infrastructure expenses and how the percentage of impervious surface quantifies the impact a property has on storm water runoff.
- Using GIS, quantify average imperviousness of the typical residential lot, develop equivalent residential unit (ERU), recommend a rate per ERU.
- Connect revenue generation to expected annual cost of operating the utility.
- Discuss appropriate exemptions from the fee.
- Discuss collection methods (Utility bill, Tax bill, separate billing) and explore the cost of collection.

4. Prepare a Report on the Committee's finding and recommend the next steps.
5. Draft a Storm Water Utility Ordinance.
6. Present Report to the City Council.

CPL will perform the above referenced scope of work for a lump sum of $34,850.

There are two options to pay for this study.

- Local Resources Fund Balance (recommended)
- General Fund Balance

OPTIONS:
Approve the Feasibility Study or do not approve.

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:
$34,850 from the Local Resources Fund Balance

RECOMMENDATION:
Approve the Stormwater Utility Feasibility Study with Clark Patterson Lee.

SAMPLE MOTION:
I make a motion for the City Council to approve Resolution 20-023 for Storm Water Feasibility Study with Clark Patterson Lee and pay for this study through the Local Resources Fund Balance in the amount of $34,850.

COLLABORATING DEPARTMENT:
Administration

DEPARTMENT: Finance

Prepared by: Vickie Short

ATTACHMENTS

- EXECUTIVE SUMMARY -Storm Water Utility Feasibility Proposal.pdf
- Flowery Branch Storm Water Utility Proposal 7-22-2020.pdf
- Resolution 20-023 - Storm Water Utility Feasibility Study.pdf

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Storm Water Utility Feasibility Proposal

DATE: 8/1/2020

BUDGET INFORMATION:
ANNUAL-
CAPITAL-

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

COUNCIL ACTION REQUESTED ON September 3, 2020

PURPOSE: To authorize the approval of the Storm Water Utility Feasibility Study through Clark Patterson Lee for a total cost of $34,850.

HISTORY:
During the February 2020 Council Retreat, city management, staff, Mayor, and Council discussed the needs for stormwater improvements throughout the City and the costs associated with improvements along with routine maintenance. Council expressed an interest in a study to determine if the City would benefit from a stormwater utility to help cover these costs.

FACTS AND ISSUES:
Over the past three-four years, the City has had to repair two stormwater culverts, and one was an emergency repair. This study will help us understand all of the City's stormwater needs and the timing of each project as well as associated costs. Performing this study and the possibility of a stormwater utility could assist the City to become more proactive with maintenance and repairs rather than reactive, as mentioned above. Below is the detailed scope of work:

1. Convene a Storm Water Utility Feasibility Committee • With staff input and city council approval, appoint a Storm Water Utility Feasibility Committee to discuss ideas and help shape the direction of the feasibility study.
2. Quantify Costs of owning, managing and maintaining the City's Municipal Separate Storm Sewer System (MS4) •

- Quantify the annual regulatory cost of the Municipal Separate Storm Sewer System.
- Review, discuss, revise and/or develop an Extent of Service/Level of Service (EOS/LOS) policy for maintaining the City's MS4. The Extent of Service (EOS) policy describes the components of the storm drainage system maintained by the City. The Level of Service (LOS) policy establishes the strategic program goals for the stormwater program and the tactical service goals that guide the maintenance activities for the

stormwater drainage system.

- Develop a capital program of storm water improvements with concept level budgets.
- Review historical budgets of storm water related activities.
- Review adjacent and sister cities' storm water utilities details

3. Prepare a Rate Study

- Discuss the concepts behind storm water impacts to city infrastructure expenses and how the percentage of impervious surface quantifies the impact a property has on storm water runoff.
- Using GIS, quantify average imperviousness of the typical residential lot, develop equivalent residential unit (ERU), recommend a rate per ERU.
- Connect revenue generation to expected annual cost of operating the utility.
- Discuss appropriate exemptions from the fee.
- Discuss collection methods (Utility bill, Tax bill, separate billing) and explore the cost of collection.

4. Prepare a Report on the Committee's finding and recommend the next steps.

5. Draft a Storm Water Utility Ordinance.

6. Present Report to the City Council.

CPL will perform the above referenced scope of work for a lump sum of $34,850.

There are two options to pay for this study.

- Local Resources Fund Balance (recommended)
- General Fund Balance

OPTIONS: Approve the Feasibility Study or do not approve.

RECOMMENDED SAMPLE MOTION:
I make a motion for the City Council to approve the Storm Water Feasibility Study with Clark Patterson Lee and pay for this study through the Local Resources Fund Balance.

DEPARTMENT: Administration and Public Works

Prepared by: Alisha Gamble

CPL ARCHITECTURE ENGINEERING PLANNING CPLteam.com

July 22, 2020

Mr. Bill Andrew, City Manager
City of Flowery Branch
PO Box 757
5410 Pine Street
Flowery Branch, GA. 30542

VIA EMAIL

RE: City of Flowery Branch
Storm Water Utility Feasibility Proposal

Dear Mr. Andrew:

Clark Patterson Lee (CPL) is pleased to provide this proposal to study the feasibility of a storm water utility as a means of funding the storm water management regulatory and infrastructure challenges facing the city, as follows:

Scope of Work

1. **Convene a Storm Water Utility Feasibility Committee**
   - With staff input and city council approval, appoint a Storm Water Utility Feasibility Committee to discuss ideas and help shape the direction of the feasibility study.
2. **Quantify Costs of owning, managing and maintaining the City's Municipal Separate Storm Sewer System (MS4)**
   - Quantify the annual regulatory cost of the Municipal Separate Storm Sewer System.
   - Review, discuss, revise and/or develop an Extent of Service/Level of Service (EOS/LOS) policy for maintaining the city's MS4. The Extent of Service (EOS) policy describes the components of the storm drainage system maintained by the City. The Level of Service (LOS) policy establishes the strategic program goals for the stormwater program and the tactical service goals that guide the maintenance activities for the stormwater drainage system.
   - Develop a capital program of storm water improvements with concept level budgets.
   - Review historical budgets of storm water related activities.
   - Review adjacent and sister cities' storm water utilities details
3. **Prepare a Rate Study**

3011 Sutton Gate Dr.
Suite 130
Suwanee, GA 30024
770.831.9000 TEL
CPLTeam.com

- Discuss the concepts behind storm water impacts to city infrastructure expenses and how the percentage of impervious surface quantifies the impact a property has on storm water runoff.
- Using GIS, quantify average imperviousness of the typical residential lot, develop equivalent residential unit (ERU), recommend a rate per ERU.
- Connect revenue generation to expected annual cost of operating the utility.
- Discuss appropriate exemptions from the fee.
- Discuss collection methods (Utility bill, Tax bill, separate billing) and explore the cost of collection.

4. **Prepare a Report on the Committee's finding and recommend the next steps.**
5. **Draft a Storm Water Utility Ordinance.**
6. **Present Report to the City Council.**

Fee Proposal

CPL will perform the above referenced scope of work for a lump sum of $34,850.

We will not exceed the estimated budget without authorization from the City. Direct expenses will be billed at cost plus 10%. Direct expenses include, but are not limited to, reproduction cost, courier service, mileage, telephone/fax cost, etc.

TERMS AND CONDITIONS:

This agreement shall be administered in accordance with the Terms and Conditions listed in Appendix "A" and the hourly rates listed in Appendix "B" attached hereto.

This document together with the exhibits and/or appendices identified herein constitutes the entire understanding between Flowery Branch and CPL with respect to the work to be performed by CPL for the benefit of Flowery Branch and may only be modified in writing signed by both parties. Please sign and return the enclosed copy of this letter if this document satisfactorily sets forth the understanding of the arrangement between Flowery Branch and CPL. Receipt of the signed agreement will serve as our notice to proceed. This Contract will be open for acceptance for sixty days from the date of this letter.

We look forward to working with you on this project.

Sincerely,

CPL ARCHITECTURE ENGINEERING & PLANNING

Rich Edinger, P.E.
Vice President

cc: file

Accepted this ________________ day of ______________, 2020

By: _______________________________ Title: _________________________

APPENDIX "A"
TERMS AND CONDITIONS

1. Clark Patterson Lee (hereinafter called "CPL") shall perform the services defined in this Letter Agreement and Client agrees to pay CPL for said services as set forth below.

2. All documents including Drawings and Specifications prepared by CPL are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by CPL for the specific purpose intended will be at Clients sole risk and without liability or legal exposure to CPL; and Client shall indemnify and hold harmless CPL from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle CPL to further compensation at rates to be agreed upon by Client and CPL.

3. Client agrees to additionally compensate CPL for services resulting from significant changes in general scope of Project, for revising previously accepted reports, studies, design documents, or Contract Documents, or for delays caused by others rather than CPL.

4. Construction cost estimates prepared by CPL represents CPL's best judgment as professionals familiar with the construction industry. It is recognized, however, that CPL has no control over cost of labor, materials, or equipment, over contractors' methods of determining bid prices, or over competitive bidding or market conditions. CPL cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from cost estimates prepared by CPL.

5. If requested by Client or if required by the scope of services of the Agreement, CPL shall visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents. However, CPL shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. CPL shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the contractor, subcontractors, or any other persons performing any of the work, or for the failure of any of them to carry out the work in accordance with the Contract Documents.

6. Surveying will be provided as stated in the Agreement. Surveying provided on an hourly basis will be charged with a 4-hour minimum at the hourly rates in effect at the time the service is performed. Replacement of survey markers resulting from contractor disturbance or vandalism will be accomplished on an hourly basis.

7. The cost of permits, fees, toll telephone calls, courier service, reproduction of reports, Drawings, and Specifications, transportation in connection with the Project, and other out of pocket expenses will be reimbursed to CPL by Client at cost plus 15%.

8. CPL shall submit monthly statements for services rendered and for reimbursable expenses incurred. Statements will be based upon CPL's time of billing. Payment is due upon receipt of CPL's Statement. If Client fails to make any payment due CPL for services and expenses within 30 days after the date of CPL's statement therefore, the amounts due CPL shall include a charge at the rate of 1.5% per month (18% per annum), or portion thereof, from said 30th day, and, in addition, CPL may, after giving 7 days' written notice to Client, suspend services under this Agreement until CPL has been paid in full all amounts due CPL are collected through an attorney or collection agency, Client shall pay all fees and costs of collection.

9. This Agreement may be terminated by either party upon 7 days' written notice should the other party fail substantially to perform in accordance with its terms through no fault to the party initiating termination, or in the event Project is cancelled. In the event of termination, CPL shall be paid the compensation plus Reimbursable Expenses due for services performed to termination date.

10. This Agreement shall be governed by the laws of the State Georgia. Liability shall be limited to amount of the fees paid for professional services.

11. The services to be performed by CPL under this Agreement are intended solely for the benefit of the Client. Nothing contained herein shall confer any rights upon or create any duties on the part of CPL toward any persons not a party to this Agreement including, but not limited to, any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them.

12. Client and CPL each binds himself and his partners, successors, executors, administrators, and assigns to the other party to this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither Client nor CPL shall assign, sublet, or transfer his interest in this Agreement without the written consent of the other; however, CPL may employ others to assist in the carrying out of duties under this Agreement.

APPENDIX "B"
CPL HOURLY RATES

PRINCIPAL ENGINEER	**$210 - $240/HR**
PROJECT MANAGER	**$180 - $210/HR**
SR. STAFF ENGINEER / SR. ARCHITECT / SR. PLANNER	**$ 145 - $165/HR**
STAFF ENGINEER / ARCHITECT / PLANNER	**$ 125 - $150/HR**
JR. ENGINEER / JR. ARCHITECT / JR. PLANNER	**$ 85 - $125/HR**
DESIGNER / DRAFTPERSON	**$ 60 - $70/HR**
JR. DESIGNER / JR. DRAFTPERSON / JR. PLANNER	**$ 50 - $55/HR**
SECRETARIAL	**$ 45/HR**
AUTO MILEAGE	**IRS RATE + 15%**
MISCELLANEOUS	**COST PLUS 15%**

Last revised March 1, 2019

RESOLUTION NO.: 20-023

REAPPROPRIATION OF FISCAL YEAR 2021 FUNDS FOR STORMWATER FEASIBILITY STUDY WITH CLARK PATTERSON LEE.

WHEREAS, City Council approved the budget for fiscal year 2021 for the City of Flowery Branch on June 25, 2020; and

WHEREAS, the City of Flowery Branch is in need of a Storm Water Feasibility Study to determine the requirements for stormwater improvements throughout the City and the costs associated with improvements along with routine maintenance; and

WHEREAS, the City of Flowery Branch is requesting acceptance of the proposal submitted by Clark Patterson Lee in the amount of $34,850; and

WHEREAS, the administration is requesting allocation of $34,850, from the Local Resources Capital Fund Balance; and

NOW, THEREFORE, BE IT RESOLVED that the governing body for the City of Flowery Branch hereby authorizes said funding from the Local Resources Fund Balance in the amount of $34,850 and approve the proposal from Clark Patterson Lee.

BE IT FURTHER RESOLVED that the Mayor, City Manager, and City Attorney are authorized to sign documents that may be necessary to complete the Storm Water Utility Feasibility Study Project.

RESOLVED this 3rd day of September 2020.

James M. Miller, Mayor

ATTEST:

Vickie Short, City Clerk

APPROVED AS TO FORM:

E. Ronald Bennett, Jr., City Attorney

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Ordinance 239-K & 240-K submitted by NNP-Looper Lake, LLC to rezone 85 +/- acres of land in Sterling on the Lake known as the Honeycutt Tract from PUD to modified PUD - changing the conditions of zoning to allow a gate and private roads.

COUNCIL MEETING DATE: September 3, 2020

HISTORY:

.

FACTS AND ISSUES:

The request is to gate the Honeycutt Tract and privatize the roads.

OPTIONS:

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

No

AMOUNT AND SOURCE OF FUNDS:

0

RECOMMENDATION:

Work session only - no vote at this time.

SAMPLE MOTION:

.

COLLABORATING DEPARTMENT:

DEPARTMENT: Planning

Prepared by: Vickie Short

ATTACHMENTS

- Honeycutt Rezoning Application.pdf
- Staff report.pdf
- Ordinance.pdf
- Retreat Covenants Bylaws.pdf

- Retreat Supplement to Charter.pdf
- 1st Meeting Response - 08.27.20.pdf

Flowery Branch

REZONING APPLICATION

Date: June 24th, 2020

Address of Request:
6702 Welcome Road, Flowery Branch, Georgia 30542

Tax Map # 15047 000006 & 15047 000885 Current Zoning: PUD

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

Currently a conforming use? N/A

Any conditions of zoning, CUP's, etc.? N/A

Applicant Information

Name: NNP - Looper Lake, LLC (Leigh Anne Beaver / Alex McLeod)

Address: 7004 Lake Sterling Blvd. Flowery Branch, Georgia 30542

E-mail address: lbeaver@newlandco.com / amcleod@newlandco.com

Phone number: (678) 960-0234

Signature: Alex McLeod, Regional President

Notary: LA Beaver

L A BEAVER
NOTARY PUBLIC
MY COMMISSION EXPIRES SEPTEMBER 11, 2020
GWINNETT COUNTY, GEORGIA

Property owner information (if different than the applicant)

Property owner (please print): N/A

Signature of property owner:

Notary:

Property Information

Tax Map Number: 15047 000006 & 15047 000885

Current Zoning: PUD (City of Flowery Branch) Total Acres: 85.568

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

Proposed City of Flowery Branch Zoning: PUD

Current Use: Residential Subdivision

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

Flowery Branch

- 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 4M	N/A
none 4M	N/A

CITY STAFF ONLY

Application Received By: ____________________

Date: __________ Total Fee: ____________________

Flowery Branch

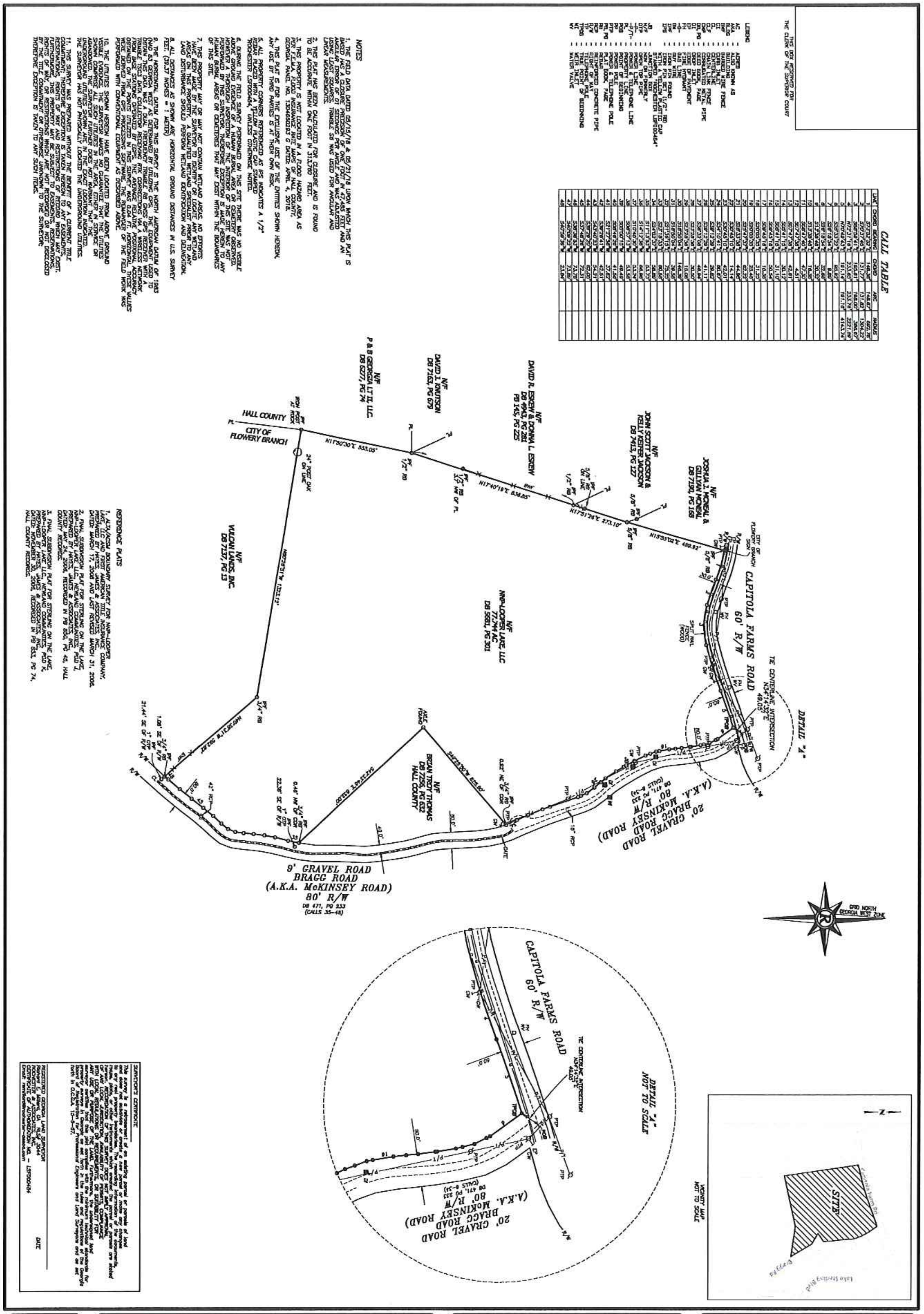
Honeycutt
Legal Description

All that tract or parcel of land lying and being in G.M.D. 1270, City of Flowery Branch, Hall County, Georgia and being more particularly described as follows:

Beginning at the centerline intersection of Capitola Farm Road (60' R/W) and Scarlet Oak Way (50' R/W); thence South 87°57'20" West, a distance of 102.62 feet to an iron pin found (5/8" rebar on the northern Right-of-Way of said Capitola Farm Road, being the ***True Point of Beginning***; thence along said Right-of-Way 148.67 feet along an arc of a curve to the right having a radius of 692.78 feet and a chord bearing and distance of South 73°52'52" East, 148.38 feet to a point; thence 131.82 feet along an arc of a curve to the left having a radius of 1304.22 feet and a chord bearing and distance of South 70°37'45" East, 131.77 feet to a point; thence 198.00 feet along an arc of a curve to the left having a radius of 366.67 feet and a chord bearing and distance of South 88°59'41" East, 195.61 feet to a point; thence 233.76 feet along an arc of a curve to the left having a radius of 2221.89 feet and chord bearing and distance of North 72°31'16" East, 233.65 feet to a point; thence 225.76 feet along an arc of a curve to the right having a radius of 4143.74 feet and a chord bearing and distance of North 71°04'04" East, 225.73 to a point on the northwestern Right-of-Way of a 20 foot Path; thence along the property now or formerly of the City of Flowery Branch (20' Path) the following courses and distances: South 35°50'46" East, a distance of 120.47 feet to a point; thence 31.78 feet along an arc of a curve to the right having a radius of 75.00 feet and a chord bearing and distance of South 23°42'26" East, 31.54 feet to a point; thence South 11°34'05" East, a distance of 36.01 feet to a point; thence 107.98 feet along an arc of a curve to the right having a radius of 1100.00 feet and a chord bearing and distance of South 08°45'21" East, 107.94 feet to a point; thence South 05°56'37" East, a distance of 69.67 feet to a point; thence 55.13 feet along an arc of a curve to the left having a radius of 225.00 feet and a chord bearing and distance of South 12°57'48" East, 54.99 feet to a point; thence South 19°58'58" East, a distance of 75.50 feet to a point; thence 19.93 feet along an arc of a curve to the left having a radius of 300.00 feet and a chord bearing and distance of South 21°53'10" East, 19.93 feet to a point; thence South 23°47'21" East, a distance of 123.61 feet to a point; thence 71.19 feet along an arc of a curve to the right having a radius of 190.00 feet and a chord bearing and distance of South 13°03'19" East, 70.77 feet to a point; thence South 02°19'18" East, a distance of 101.72 feet to a point; thence 154.16 feet along an arc of a curve to the left having a radius of 310.00 feet and a chord bearing and distance of South 16°34'05" East, 152.58 feet to a point; thence South 30°48'53" East, a distance of 68.95 feet to a point; thence 102.12 feet along an arc of a curve to the left having a radius of 310.00 feet and a chord bearing and distance of South 40°15'06" East, 101.66 feet to a point; thence South 49°41'19" East, a distance of 74.48 feet to a point; thence 136.61 feet along an arc of a curve to the right having a radius of 190.00 feet and a chord bearing and distance of South 29°05'29" East, 133.68 feet to a point; thence South 08°29'40" East, a distance of 45.64 feet to a point; thence 16.93 feet along an arc of a curve to the right having a radius of 190.00 feet and a chord bearing and distance of South 05°56'30" East, 16.93 feet to a point; thence South 03°23'20" East, a distance of 40.36 feet to a point; thence 42.54 feet along an arc of a curve to the right having a radius of 900.00 feet and a chord bearing and distance of South 02°02'05" East, 42.54 feet to a point; thence South 00°40'50" East, a distance of 50.97 feet to a point; thence 106.36 feet along an arc of a curve to the left having a radius of 460.00 feet and a chord bearing and distance of South 07°18'19" East, 106.12 feet to a point; thence South 13°55'45" East, a distance of 61.77 feet to a point; thence 122.71 feet along an arc of a curve to the right having a radius of 1500.00

feet and a chord bearing and distance of South 11°35'09" East, 122.67 feet to a point; thence South 09°14'32" East, a distance of 68.08 feet to a point; thence 108.53 feet along an arc of a curve to the right having a radius of 375.00 feet and a chord bearing and distance of South 00°57'04" East, 108.15 feet to a point; thence South 07°20'24" West, a distance of 23.94 feet to a point; thence 52.86 feet along an arc of a curve to the left having a radius of 325.00 feet and chord bearing and distance of South 02°40'48" West, 52.81 feet to a point; thence South 01°58'47" East, a distance of 79.68 feet to a point; thence 166.41 feet along an arc of a curve to the right having a radius of 575.00 feet and a chord bearing and distance of South 06°18'40" West, 165.83 feet to a point; thence South 14°36'08" West, a distance of 31.66 feet to a point; thence 166.63 feet along an arc of a curve to the left having a radius of 1100.00 feet and a chord bearing and distance of South 10°15'45" West, 166.47 feet to a point; thence South 05°55'23" West, a distance of 68.71 feet to a point; thence 103.04 feet along an arc of a curve to the right having a radius of 150.00 feet and a chord bearing and distance of South 25°36'08" West, 101.03 feet to a point; thence South 45°16'53" West, a distance of 40.77 feet to a point; thence 105.04 feet along an arc of a curve to the left having a radius of 600.00 feet and a chord bearing and distance of South 40°15'58" West, 104.91 feet to a point; thence South 35°15'02" West, a distance of 31.20 feet to a point; thence 114.02 feet along an arc of a curve to the right having a radius of 1000.00 feet and a chord bearing and distance of South 38°31'02" West, 113.96 feet to a point; thence South 41°47'01" West, a distance of 83.67 feet to a point; thence leaving said Right-of-Way and along the property now or formerly of Vulcan Lands, Inc North 40°38'31" West, a distance of 624.27 feet to an iron pin found (3/4" rebar); thence North 80°26'51" West, a distance of 1323.12 feet to an iron pin found (iron post at rock) on the Hall County/City of Flowery Branch Line; thence along said County/City Line and along the property now or formerly P & B Georgia LT II, LLC North 11°50'30" East, a distance of 555.05 feet to an iron pin found (1/2" rebar); thence along the property now or formerly of David R, Eskew & Donna L. Eskew North 17°40'19" East, a distance of 836.85 feet to an iron pin found (1/2" rebar); thence along the property now or formerly of John Scott Jackson & Kelly Keifer Jackson North 17°51'26" East, a distance of 273.10 feet to an iron pin found (5/8" rebar); thence along the property now or formerly of Joshua J. McNeal & Gillyan McNeal North 15°55'02" East, a distance of 499.92 feet to the ***True Point of Beginning***.

Said tract contains 85.568 Acres.



RETRACEMENT SURVEY
FOR :
NNP-LOOPER LAKE, LLC
LOCATED IN
G.M.D. 1270
CITY OF FLOWERY BRANCH
HALL COUNTY, GEORGIA

NO.	DATE	DESCRIPTION
		REVISIONS

GRAPHIC SCALE
100' 0' 200' 400'

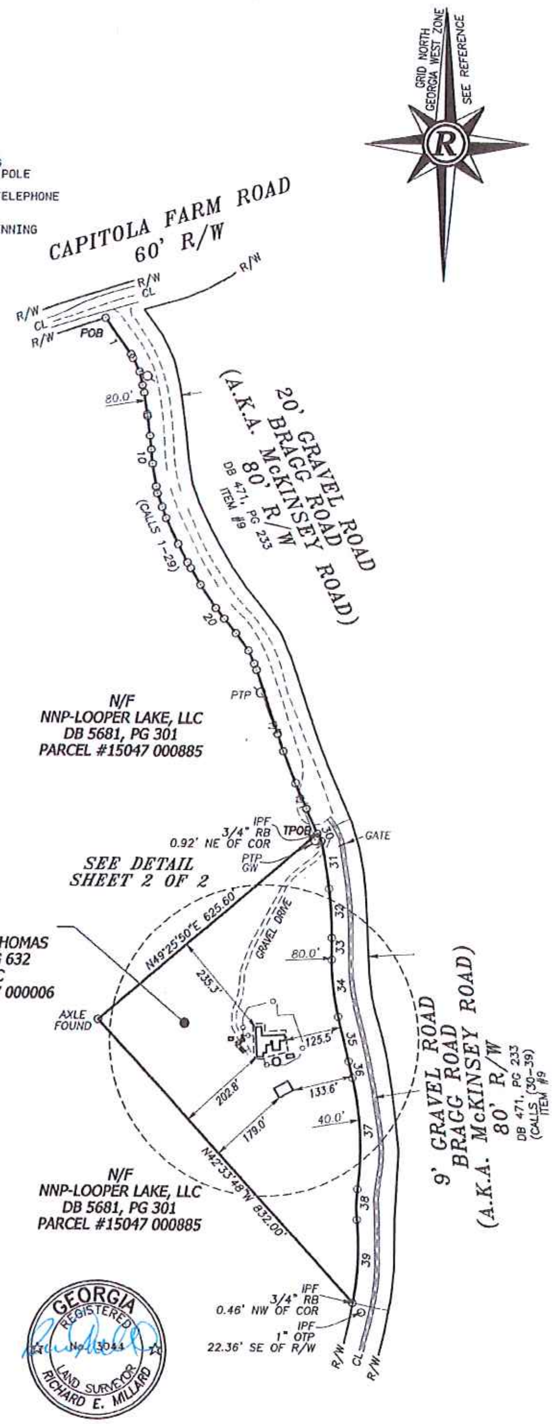
SHEET 1 OF 1
DATE : 8/31/18
SCALE : 1" = 200'
JOB NO : G208033.HON
FILE NO. BORYO1
DRAWN BY: WDC

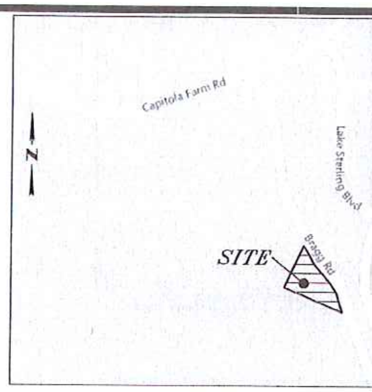
Rochester & Associates, Inc.
425 Oak Street N.W. • Gainesville, Georgia 30501
(770)718.0600 (770)718.9090 Fax • www.rochester-assoc.com

LEGEND

AC - ACRES
AKA - ALSO KNOWN AS
CL - CENTERLINE
CLF - CHAIN LINK FENCE
COR - CORNER
DB, PG - DEED BOOK, PAGE
GW - GUY WIRE
IPF - IRON PIN FOUND
LP - LIGHT POLE
N/F - NOW OR FORMERLY
OTP - OPEN TOP PIPE
PL - PROPERTY LINE
POB - POINT OF BEGINNING
PTP - POWER & TELEPHONE POLE
PB, PG - PLAT BOOK, PAGE
-P/T- - OVERHEAD POWER & TELEPHONE
RB - REBAR
R/W - RIGHT OF WAY
TPOB - TRUE POINT OF BEGINNING

THIS BOX RESERVED FOR
THE CLERK OF THE SUPERIOR COURT





VICINITY MAP
NOT TO SCALE

Notes Pertaining to First American Title Insurance Company
Title Commitment No. 1775-86, File No. 1775-86
Effective Date: February 5, 2019: Schedule B, Section II, Exceptions

9. Easements contained in that certain Right-of-Way Deed from Virginia Adams Bragg to Hall County, dated June 27, 2000, recorded in Deed Book 3599, Page 453, Hall County, Georgia records, affects subject property as shown hereon.

Legal Description

All that tract or parcel of land lying and being in G.M.D. 1270, City of Flowery Branch, Hall County, Georgia and being more particularly described as follows:

Beginning at the intersection of the southern Right-of-Way of Capitola Farm Road (60' R/W) and the southwestern Right-of-Way of Bragg Road, also known as McKinsey Road (80' R/W); thence continuing along the Right-of-Way of said Bragg Road South 35°33'22" East, a distance of 95.92 feet to a point; thence South 26°18'54" East, a distance of 9.89 feet to a point; thence South 26°18'54" East, a distance of 32.66 feet to a point; thence South 13°38'48" East, a distance of 30.32 feet to a point; thence South 13°38'48" East, a distance of 16.38 feet to a point; thence South 08°47'40" East, a distance of 47.30 feet to a point; thence South 07°47'38" East, a distance of 4.51 feet to a point; thence South 07°47'38" East, a distance of 42.61 feet to a point; thence South 05°41'15" East, a distance of 30.12 feet to a point; thence South 05°41'15" East, a distance of 31.10 feet to a point; thence South 09°45'18" East, a distance of 50.54 feet to a point; thence South 09°45'18" East, a distance of 15.38 feet to a point; thence South 20°05'35" East, a distance of 31.25 feet to a point; thence South 20°05'35" East, a distance of 25.48 feet to a point; thence South 25°47'37" East, a distance of 62.22 feet to a point; thence South 28°33'58" East, a distance of 44.98 feet to a point; thence South 30°45'10" East, a distance of 14.14 feet to a point; thence South 30°45'10" East, a distance of 42.01 feet to a point; thence South 34°10'41" East, a distance of 60.67 feet to a point; thence South 39°12'29" East, a distance of 29.82 feet to a point; thence South 39°12'29" East, a distance of 41.11 feet to a point; thence South 36°32'08" East, a distance of 46.94 feet to a point; thence South 23°28'56" East, a distance of 30.50 feet to a point; thence South 23°28'56" East, a distance of 15.08 feet to a point; thence South 18°50'04" East, a distance of 146.39 feet to a point; thence South 18°50'04" East, a distance of 39.58 feet to a point; thence South 21°36'15" East, a distance of 75.25 feet to a point; thence South 23°18'33" East, a distance of 60.58 feet to a point; thence South 24°02'37" East, a distance of 58.89 feet to a point, being the True Point of Beginning; thence continuing along said Right-of-Way 19.41 feet along an arc of a curve to the right having a radius of 28.20 feet and a chord bearing and distance of South 31°57'01" East, 19.02 feet to a point; thence 103.99 feet along an arc of a curve to the right having a radius of 1179.13 feet and a chord bearing and distance of South 09°42'41" East, 103.96 feet to a point; thence 108.17 feet along an arc of a curve to the right having a radius of 916.35 feet and a chord bearing and distance of South 03°48'11" East, 108.11 feet to a point; thence South 00°25'16" East, a distance of 47.42 feet to a point; thence 125.12 feet along an arc of a curve to the left having a radius of 540.28 feet and a chord bearing and distance of South 07°03'19" East, 124.84 feet to a point; thence South 13°41'23" East, a distance of 99.27 feet to a point; thence South 13°41'23" East, a distance of 37.34 feet to a point; thence 243.02 feet along an arc of a curve to the right having a radius of 660.34 feet and a chord bearing and distance of South 03°08'48" East, 241.65 feet to a point; thence 67.01 feet along an arc of a curve to the left having a radius of 288.62 feet and a chord bearing and distance of South 00°42'11" West, 66.86 feet to a point; thence 181.82 feet along an arc of a curve to the right having a radius of 618.60 feet and a chord bearing and distance of South 02°25'48" West, 181.17 feet to a point; thence leaving said Right-of-Way and along the property now or formerly of NNP-Looper Lake, LLC North 42°33'48" West, a distance of 832.00 feet to an axle found; thence North 49°25'50" East, a distance of 625.60 feet to the True Point of Beginning.

Said tract contains 6.510 Acres.

CALL TABLE

LINE	CHORD BEARING	CHORD	ARC	RADIUS
1	S35°33'22"E	95.92'		
2	S26°18'54"E	9.89'		
3	S26°18'54"E	32.66'		
4	S13°38'48"E	30.32'		
5	S13°38'48"E	16.38'		
6	S08°47'40"E	47.30'		
7	S07°47'38"E	4.51'		
8	S07°47'38"E	42.61'		
9	S05°41'15"E	30.12'		
10	S05°41'15"E	31.10'		
11	S09°45'18"E	50.54'		
12	S09°45'18"E	15.38'		
13	S20°05'35"E	31.25'		
14	S20°05'35"E	25.48'		
15	S25°47'37"E	62.22'		
16	S28°33'58"E	44.98'		
17	S30°45'10"E	14.14'		
18	S30°45'10"E	42.01'		
19	S34°10'41"E	60.67'		
20	S39°12'29"E	29.82'		
21	S39°12'29"E	41.11'		
22	S36°32'08"E	46.94'		
23	S23°28'56"E	30.50'		
24	S23°28'56"E	15.08'		
25	S18°50'04"E	146.39'		
26	S18°50'04"E	39.58'		
27	S21°36'15"E	75.25'		
28	S23°18'33"E	60.58'		
29	S24°02'37"E	58.89'		
30	S31°57'01"E	19.02'	19.41'	28.20'
31	S09°42'41"E	103.96'	103.99'	1179.13'
32	S03°48'11"E	108.11'	108.17'	916.35'
33	S00°25'16"E	47.42'		
34	S07°03'19"E	124.84'	125.12'	540.28'
35	S13°41'23"E	99.27'		
36	S13°41'23"E	37.34'		
37	S03°08'48"E	241.65'	243.02'	660.34'
38	S00°42'11"W	66.86'	67.01'	286.82'
39	S02°25'48"W	181.17'	181.82'	618.60'

NOTES

1. THE FIELD DATA DATED 05/15/18, 05/21/18 & 5/10/19 UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 47,485 FEET AND AN ANGULAR ERROR OF 01 SECONDS PER ANGLE AND WAS ADJUSTED USING LEAST SQUARES. TRIMBLE S6 WAS USED FOR ANGULAR AND LINEAR MEASUREMENTS.

2. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 313,853 FEET.

3. THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS PER F.E.M.A. FLOOD INSURANCE RATE MAPS OF HALL COUNTY, GEORGIA. PANEL NO. 13046C0293 G DATED: APRIL 4, 2018.

4. THIS PLAT IS FOR THE EXCLUSIVE USE OF THE ENTITIES SHOWN HEREON. ANY USE BY THIRD PARTIES IS AT THEIR OWN RISK.

5. ALL PROPERTY CORNERS REFERENCED AS IPS INDICATES A 1/2" REBAR PLACED WITH A YELLOW PLASTIC CAP STAMPED "ROCHESTER LSF000484," UNLESS OTHERWISE NOTED.

6. DURING THE FIELD SURVEY PERFORMED ON THIS SITE THERE WAS NO VISIBLE ABOVE GROUND EVIDENCE OF A HUMAN BURIAL AREA OR CEMETERY OBSERVED. HOWEVER A THOROUGH INSPECTION OF THE INTERIOR OF THIS SITE WAS NOT PERFORMED BY THIS SURVEYOR. THEREFORE EXCEPTION IS MADE HEREIN TO ANY HUMAN BURIAL AREAS OR CEMETERIES THAT MAY EXIST WITHIN THE BOUNDARIES OF THIS SITE.

7. THIS PROPERTY MAY OR MAY NOT CONTAIN WETLAND AREAS. NO EFFORTS HAVE BEEN MADE BY THE SURVEYOR TO IDENTIFY OR LOCATE ANY WETLAND AREAS ON THIS PROPERTY. A QUALIFIED WETLAND SPECIALIST PRIOR TO ANY LAND DISTURBANCE SHOULD PERFORM WETLAND IDENTIFICATION AND DELINEATION.

8. ALL DISTANCES AS SHOWN ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET. (39.37 INCHES = 1 METER)

9. THE HORIZONTAL DATUM FOR THIS SURVEY IS THE NORTH AMERICAN DATUM OF 1983 (NAD 83 GEORGIA WEST AS DETERMINED BY UTILIZING GPS. THE EQUIPMENT USED TO OBTAIN THIS DATA WAS A DUAL FREQUENCY TRIMBLE R8 GNSS GPS RECEIVER WITH A TRIMBLE TSC3 DATA COLLECTOR RECEIVING RTK CORRECTIONS VIA A WIRELESS NETWORK FROM BASE STATIONS OPERATED BY EGPS. THE AVERAGE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS UTILIZED IN THIS SURVEY WAS 0.04 FT. HORIZONTAL. THESE VALUES WERE DERIVED FROM GPS PROCESSING SOFTWARE. THE REMAINDER OF THE FIELD WORK WAS PERFORMED WITH CONVENTIONAL EQUIPMENT AS DESCRIBED ABOVE.

10. THE UTILITIES SHOWN HEREON HAVE BEEN LOCATED FROM ABOVE GROUND VISIBLE EVIDENCE. THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED. THE SURVEYOR HAS NOT PHYSICALLY LOCATED THE UNDERGROUND UTILITIES.

11. THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, RESERVATIONS, RIGHTS OF WAY, OR RESTRICTIONS WHICH ARE NOT RECORDED OR NOT DISCLOSED BY THE TITLE COMMITMENT OR OTHERWISE UNKNOWN TO THE SURVEYOR; THEREFORE EXCEPTION IS TAKEN TO ANY SUCH ITEMS.

12. THIS SURVEY COMPLIES WITH BOTH THE RULES OF GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THE OFFICIAL CODE OF GEORGIA ANNOTATED (OCGA) 15-6-67 AS AMENDED BY HB 76 (2017), IN THAT WHERE A CONFLICT EXISTS BETWEEN THOSE TWO SETS OF SPECIFICATIONS, THE REQUIREMENTS OF LAW PREVAIL.

13. SITE ADDRESS: 6712 BRAGG ROAD PER HALL COUNTY GIS WEBSITE.

GEORGIA REGISTERED No. 3044 LAND SURVEYOR RICHARD E. MILLARD

SURVEY CERTIFICATION

TO: NNP-LOOPER LAKE, LLC &
FIRST AMERICAN TITLE INSURANCE COMPANY

THIS IS TO CERTIFY THAT THIS PLAT AND THE SURVEY ON WHICH IT IS BASED WAS MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/NSPS LAND TITLE SURVEYS JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 7(b)(1), 11, 13 & 18 OF TABLE A THEREOF. THE FIELDWORK WAS COMPLETED ON 5/10/19

6/21/19

Richard E. Millard, RLS #3044 DATE
remillard@rochester-assoc.com

REFERENCE PLATS

1. RETRACEMENT SURVEY FOR NNP-LOOPER LAKE, LLC., PREPARED BY ROCHESTER & ASSOCIATES, INC., DATED 5/31/19

SURVEYOR'S CERTIFICATE

This survey is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. **RECORDATION OF THIS SURVEY DOES NOT IMPLY APPROVAL OF ANY LOCAL JURISDICTION, AVAILABILITY OF PERMITS, COMPLIANCE WITH LOCAL REGULATIONS OR REQUIREMENTS, OR SUITABILITY FOR ANY USE OR PURPOSE OF THE LAND.** Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. 15-6-67.

6/21/19

REGISTERED GEORGIA LAND SURVEYOR DATE
Richard E. Millard, GA RLS# 3044
ROCHESTER & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION NO. - LSF000484
Email: remillard@rochester-assoc.com

SHEET	OF
1	2

DATE: 5/13/19
SCALE: 1" = 200'
FILE# *BDRY01
JOB# G208033.BRG
DRAWN BY WDC

GRAPHIC SCALE
0' 100' 200' 400'

NO.	DATE	DESCRIPTION

REVISIONS

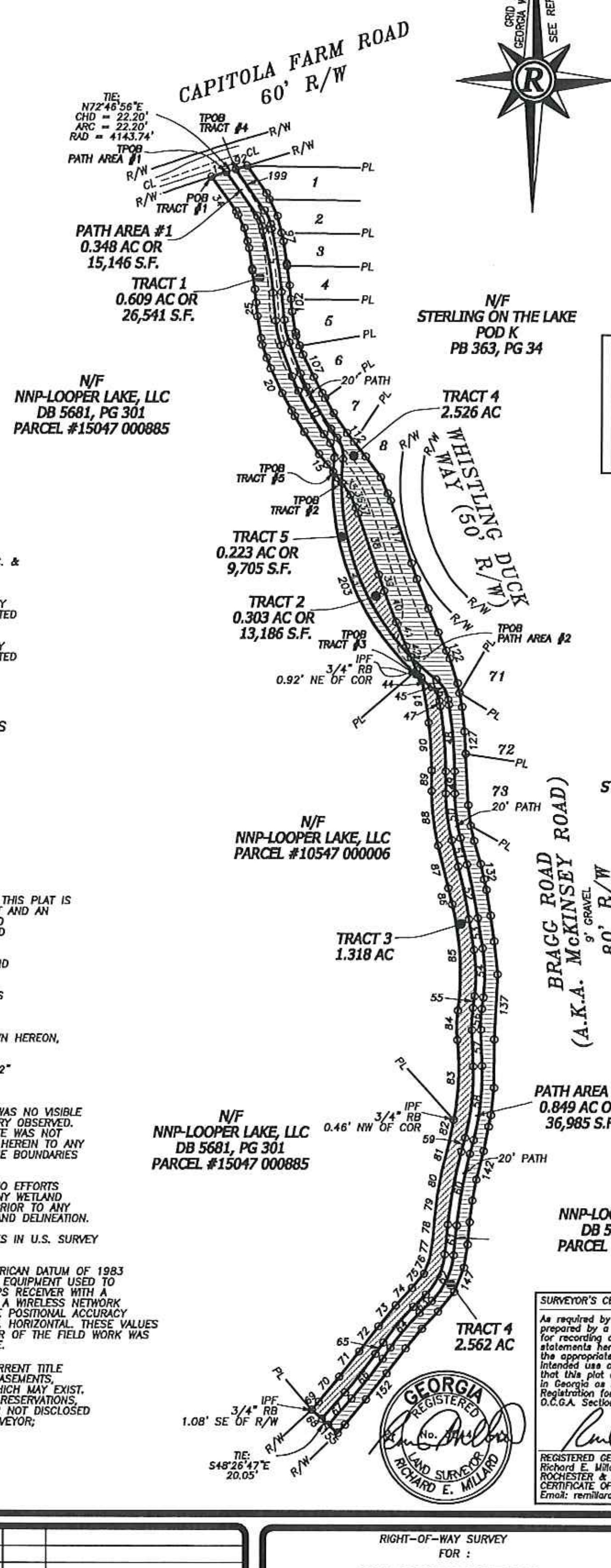
ALTA/NSPS LAND TITLE SURVEY
FOR :
NNP-LOOPER LAKE, LLC. &
FIRST AMERICAN TITLE INSURANCE COMPANY
LOCATED IN
G.M.D. 1270
CITY OF FLOWERY BRANCH
HALL COUNTY, GEORGIA

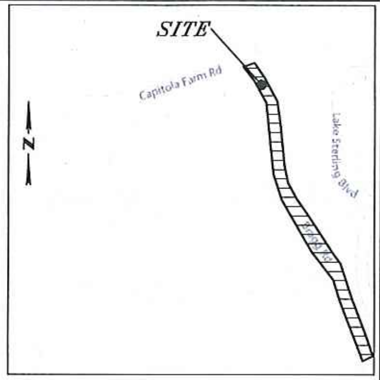
Rochester & Associates, Inc.
425 Oak Street N.W. • Gainesville, Georgia 30501
(770)718.0600 (770)718.9090 Fax • www.rochester-assoc.com

THIS BOX RESERVED FOR
THE CLERK OF THE SUPERIOR COURT

LEGEND

AC	-	ACRES
CL	-	CENTERLINE
DB, PG	-	DEED BOOK, PAGE
IPF	-	IRON PIN FOUND
N/F	-	NOW OR FORMERLY
PL	-	PROPERTY LINE
POB	-	POINT OF BEGINNING
PB, PG	-	PLAT BOOK, PAGE
-P/T-	-	OVERHEAD POWER & TELEPHONE
RB	-	REBAR
R/W	-	RIGHT OF WAY
S.F.	-	SQUARE FEET
TPOB	-	TRUE POINT OF BEGINNING





VICINITY MAP
NOT TO SCALE

PATH AREA #1	=	0.348 AC
PATH AREA #2	=	0.849 AC
TRACT AREA #1	=	0.609 AC
TRACT AREA #2	=	0.303 AC
TRACT AREA #3	=	1.318 AC
TRACT AREA #4	=	2.526 AC
TRACT AREA #5	=	0.223 AC

REFERENCE PLATS

1. ALTA/NSPS LAND TITLE SURVEY FOR NNP-LOOPER LAKE, LLC. & FIRST AMERICAN TITLE INSURANCE COMPANY, PREPARED BY ROCHESTER & ASSOCIATES, INC., DATED 5/13/19

2. FINAL PLAT FOR STERLING ON THE LAKE POD K, PREPARED BY HAYES, JAMES & ASSOCIATES, RECORDED IN PB 363, PG 34, DATED 11/30/06.

3. FINAL PLAT FOR STERLING ON THE LAKE POD J, PREPARED BY HAYES, JAMES & ASSOCIATES, RECORDED IN PB 850, PG 45, DATED 5/24/06

SEE SHEETS #2 & #3 FOR CALLS AND DIMENSIONS

NOTES

1. THE FIELD DATA DATED 05/15/18 & 05/21/18 UPON WHICH THIS PLAT IS BASED HAS A CLOSURE PRECISION OF ONE FOOT IN 47,485 FEET AND AN ANGULAR ERROR OF 01 SECONDS PER ANGLE AND WAS ADJUSTED USING LEAST SQUARES. TRIMBLE S6 WAS USED FOR ANGULAR AND LINEAR MEASUREMENTS.

2. THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND IS FOUND TO BE ACCURATE WITHIN ONE FOOT IN 313,760 FEET.

3. THIS PROPERTY IS NOT LOCATED IN A FLOOD HAZARD AREA AS PER F.E.M.A. FLOOD INSURANCE RATE MAPS OF HALL COUNTY, GEORGIA. PANEL NO. 1304660293 G DATED: APRIL 4, 2018.

4. THIS PLAT IS FOR THE EXCLUSIVE USE OF THE ENTITIES SHOWN HEREON, ANY USE BY THIRD PARTIES IS AT THEIR OWN RISK.

5. ALL PROPERTY CORNERS REFERENCED AS IPS INDICATES A 1/2" REBAR PLACED WITH A YELLOW PLASTIC CAP STAMPED "ROCHESTER LSF000484," UNLESS OTHERWISE NOTED.

6. DURING THE FIELD SURVEY PERFORMED ON THIS SITE THERE WAS NO VISIBLE ABOVE GROUND EVIDENCE OF A HUMAN BURIAL AREA OR CEMETERY OBSERVED. HOWEVER A THOROUGH INSPECTION OF THE INTERIOR OF THIS SITE WAS NOT PERFORMED BY THIS SURVEYOR. THEREFORE EXCEPTION IS MADE HEREIN TO ANY HUMAN BURIAL AREAS OR CEMETERIES THAT MAY EXIST WITHIN THE BOUNDARIES OF THIS SITE.

7. THIS PROPERTY MAY OR MAY NOT CONTAIN WETLAND AREAS. NO EFFORTS HAVE BEEN MADE BY THE SURVEYOR TO IDENTIFY OR LOCATE ANY WETLAND AREAS ON THIS PROPERTY. A QUALIFIED WETLAND SPECIALIST PRIOR TO ANY LAND DISTURBANCE SHOULD PERFORM WETLAND IDENTIFICATION AND DELINEATION.

8. ALL DISTANCES AS SHOWN ARE HORIZONTAL GROUND DISTANCES IN U.S. SURVEY FEET. (39.37 INCHES = 1 METER)

9. THE HORIZONTAL DATUM FOR THIS SURVEY IS THE NORTH AMERICAN DATUM OF 1983 (NAD 83 GEORGIA WEST AS DETERMINED BY UTILIZING GPS. THE EQUIPMENT USED TO OBTAIN THIS DATA WAS A DUAL FREQUENCY TRIMBLE R8 GNSS GPS RECEIVER WITH A TRIMBLE TSC3 DATA COLLECTOR RECEIVING RTK CORRECTIONS VIA A WIRELESS NETWORK FROM BASE STATIONS OPERATED BY EGPS. THE AVERAGE RELATIVE POSITIONAL ACCURACY OBTAINED ON THE POINTS UTILIZED IN THIS SURVEY WAS 0.04 FT. HORIZONTAL. THESE VALUES WERE DERIVED FROM GPS PROCESSING SOFTWARE. THE REMAINDER OF THE FIELD WORK WAS PERFORMED WITH CONVENTIONAL EQUIPMENT AS DESCRIBED ABOVE.

10. THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT; THEREFORE EXCEPTION IS TAKEN HEREON TO ANY EASEMENTS, RESERVATIONS, RIGHTS OF WAY AND RESTRICTIONS OF RECORD WHICH MAY EXIST. FURTHERMORE, THIS PROPERTY MAY BE SUBJECT TO EASEMENTS, RESERVATIONS, RIGHTS OF WAY, OR RESTRICTIONS WHICH ARE NOT RECORDED OR NOT DISCLOSED BY THE TITLE COMMITMENT OR OTHERWISE UNKNOWN TO THE SURVEYOR; THEREFORE EXCEPTION IS TAKEN TO ANY SUCH ITEMS.

GEORGIA
REGISTERED
No. 3044
LAND SURVEYOR
RICHARD E. MILLARD

SURVEYOR'S CERTIFICATE

As required by subsection (d) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land surveyor and approved by all applicable local jurisdictions for recording as evidenced by approval certificates, signatures, stamps, or statements hereon. Such approvals or affirmations should be confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended use of any parcel. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67.

7/19/19

REGISTERED GEORGIA LAND SURVEYOR
Richard E. Millard, GA RLS# 3044
ROCHESTER & ASSOCIATES, INC.
CERTIFICATE OF AUTHORIZATION NO. - LSF000484
Email: remillard@rochester-assoc.com

DATE

SHEET 1 OF 3

DATE: 7/12/19
SCALE: 1" = 200'
FILE# *RW01
JOB# G208033.HON
DRAWN BY WDC

GRAPHIC SCALE
0' 100' 200' 400'

NO.	DATE	DESCRIPTION

REVISIONS

RIGHT-OF-WAY SURVEY
FOR :

NNP-LOOPER LAKE, LLC.

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

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

THIS BOX RESERVED FOR
THE CLERK OF THE SUPERIOR COURT

TRACT 1 CALL TABLE (CALLS 1–34)

LINE	CHORD BEARING	CHORD	ARC	RADIUS
1	N72°23'22"E	34.60'	34.60'	4143.74'
2	S35°50'46"E		121.66'	
3	S24°18'22"E	26.01'	26.18'	65.00'
4	S12°45'57"E		10.75'	
5	S09°20'09"E	142.39'	142.47'	1190.00'
6	S05°54'22"E		63.49'	
7	S12°56'58"E	57.63'	57.78'	235.00'
8	S19°59'35"E		74.56'	
9	S23°17'10"E	35.61'	35.63'	310.00'
10	S31°12'15"E	114.50'	114.63'	710.00'
11	S35°49'45"E		24.81'	
12	S15°03'34"E	35.46'	36.25'	50.00'
13	S04°10'06"W	31.22'	31.22'	580.00'
14	N39°12'29"W		22.12'	
15	N39°12'29"W		29.82'	
16	N34°10'41"W		60.67'	
17	N30°45'10"W		42.01'	
18	N30°45'10"W		14.14'	
19	N28°33'58"W		44.98'	
20	N25°47'37"W		62.22'	
21	N20°05'35"W		25.48'	
22	N20°05'35"W		31.25'	
23	N09°45'18"W		15.38'	
24	N09°45'18"W		50.54'	
25	N05°41'15"W		31.10'	
26	N05°41'15"W		30.12'	
27	N07°47'38"W		42.61'	
28	N07°47'38"W		4.51'	
29	N08°47'40"W		47.30'	
30	N13°38'48"W		16.38'	
31	N13°38'48"W		30.32'	
32	N26°18'54"W		32.66'	
33	N26°18'54"W		9.89'	
34	N35°33'22"W		95.92'	

TRACT 2 CALL TABLE (CALLS 35–43)

LINE	CHORD BEARING	CHORD	ARC	RADIUS
35	S36°32'08"E	34.53'		
36	S23°28'56"E	30.50'		
37	S23°28'56"E	15.08'		
38	S18°50'04"E	146.39'		
39	S18°50'04"E	39.58'		
40	S21°36'15"E	75.25'		
41	S23°18'33"E	60.58'		
42	S24°02'37"E	25.91'		
43	N22°11'00"W	426.38'	437.41'	560.00'

TRACT 3 CALL TABLE (CALLS 44–91)

LINE	CHORD BEARING	CHORD	ARC	RADIUS
44	S51°07'26"E	27.82'	27.83'	580.00'
45	S52°29'54"E	1.36'		
46	S30°53'06"E	36.83'	37.72'	50.00'
47	S09°16'19"E	12.12'		
48	S04°58'34"E	148.31'	148.45'	990.00'
49	S00°40'50"E	50.62'		
50	S07°18'24"E	106.16'	106.40'	460.00'
51	S13°55'59"E	62.02'		
52	S11°35'16"E	121.95'	121.99'	1490.00'
53	S09°14'32"E	69.97'		
54	S00°57'04"E	105.27'	105.64'	365.00'
55	S07°20'24"W	26.62'		
56	S02°40'48"W	50.37'	50.42'	310.00'
57	S01°58'47"E	82.36'		
58	S06°18'40"W	162.95'	163.52'	565.00'
59	S14°36'08"W	32.36'		
60	S10°15'45"W	167.98'	168.14'	1110.00'
61	S05°55'23"W	67.95'		
62	S25°36'08"W	101.03'	103.04'	150.00'
63	S45°16'53"W	39.89'		
64	S40°15'58"W	106.66'	106.79'	610.00'
65	S35°15'02"W	30.90'		
66	S38°31'02"W	112.82'	112.88'	990.00'
67	S41°47'01"W	79.97'		
68	N48°26'47"W	31.18'		
69	N40°59'39"E	23.84'		
70	N40°09'22"E	73.89'		
71	N38°36'53"E	73.78'		
72	N37°48'26"E	72.31'		
73	N39°29'20"E	62.05'		
74	N43°40'23"E	54.21'		
75	N39°26'41"E	42.51'		
76	N21°27'56"E	37.62'		
77	N08°46'26"E	41.56'		
78	N05°00'15"E	49.49'		
79	N06°57'13"E	53.58'		
80	N10°45'30"E	53.24'		
81	N14°12'38"E	66.98'		
82	N11°13'53"E	53.73'		
83	N02°25'48"E	181.17'	181.82'	618.60'
84	N00°42'11"E	66.86'	67.01'	286.82'
85	N03°08'48"W	241.65'	243.02'	660.34'
86	N13°41'23"W	37.34'		
87	N13°41'23"W	99.27'		
88	N07°03'19"W	124.84'	125.12'	540.28'
89	N00°25'16"W	47.42'		
90	N03°48'11"W	108.11'	108.17'	916.35'
91	N09°37'29"W	100.39'	100.42'	1179.13'

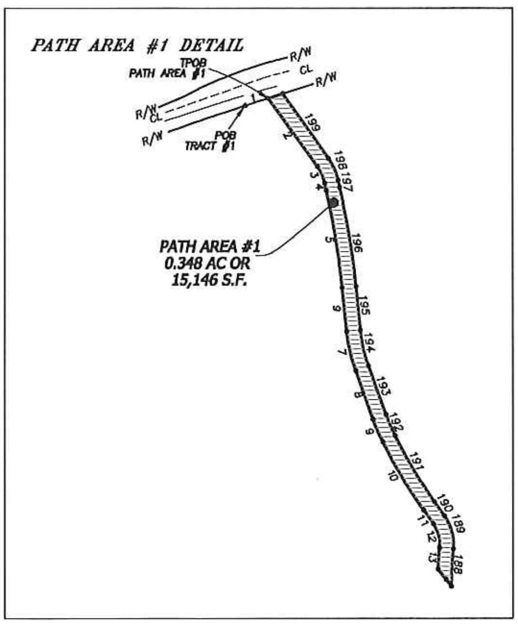
TRACT 4 CALL TABLE (CALLS 92–199)

LINE	CHORD BEARING	CHORD	ARC	RADIUS
92	N73°07'35"E	27.60'	27.60'	4143.74'
93	S35°27'04"E	75.83'		
94	S26°18'54"E	16.36'		
95	S26°18'54"E	41.54'		
96	S13°38'48"E	39.20'		
97	S13°38'48"E	19.77'		
98	S08°47'40"E	51.39'		
99	S07°47'38"E	5.21'		
100	S07°47'38"E	44.08'		
101	S05°41'15"E	31.59'		
102	S05°41'15"E	28.26'		
103	S09°45'18"E	47.70'		
104	S09°45'18"E	8.14'		
105	S20°05'35"E	24.01'		
106	S20°05'35"E	21.49'		
107	S25°47'37"E	56.30'		
108	S28°33'58"E	41.52'		
109	S30°45'10"E	12.62'		
110	S30°45'10"E	39.61'		
111	S34°10'41"E	54.77'		
112	S39°12'29"E	26.30'		
113	S39°12'29"E	42.98'		
114	S36°32'08"E	57.96'		
115	S23°28'56"E	39.65'		
116	S23°28'56"E	18.32'		
117	S18°50'04"E	149.63'		
118	S18°50'04"E	37.65'		
119	S21°36'15"E	72.13'		
120	S23°18'33"E	58.88'		
121	S24°02'37"E	45.27'		
122	S24°02'37"E	19.08'		
123	S17°34'27"E	59.19'		
124	S10°54'12"E	22.55'		
125	S10°54'12"E	31.93'		
126	S05°47'19"E	56.27'		
127	S03°06'43"E	50.62'		
128	S03°06'43"E	116.60'		
129	S06°39'53"E	46.80'		
130	S13°13'12"E	35.55'		
131	S15°59'45"E	54.41'		
132	S12°41'08"E	35.65'		
133	S12°41'08"E	24.65'		
134	S09°15'30"E	59.43'		
135	S07°48'25"E	58.48'		
136	S05°53'54"E	75.57'		
137	S02°46'31"W	147.61'		
138	S00°09'31"W	109.70'		
139	S06°15'54"W	62.58'		
140	S11°14'07"W	26.15'		
141	S11°13'47"W	56.34'		
142	S14°12'38"W	66.65'		
143	S10°45'30"W	48.17'		
144	S06°57'13"W	49.56'		
145	S05°00'15"W	50.76'		
146	S08°46'26"W	53.09'		
147	S21°27'56"W	59.17'		
148	S39°26'41"W	58.11'		
149	S43°40'23"W	54.24'		
150	S39°29'20"W	57.96'		
151	S37°48'26"W	71.70'		
152	S38°36'53"W	75.42'		
153	S40°09'22"W	75.56'		
154	S41°10'35"W	25.21'		
155	N48°26'47"W	28.70'		
156	N41°45'01"E	79.89'		
157	N38°31'02"E	115.10'	115.16'	1010.00'
158	N35°15'02"E	30.90'		
159	N40°15'58"E	103.16'	103.29'	590.00'
160	N45°16'53"E	39.89'		
161	N25°36'08"E	114.50'	116.78'	170.00'
162	N05°55'23"E	67.95'		
163	N10°15'45"E	164.95'	165.11'	1090.00'
164	N14°36'08"E	32.36'		
165	N06°18'40"E	168.71'	169.30'	585.00'
166	N01°58'47"W	82.36'		
167	N02°40'48"E	47.12'	47.17'	290.00'
168	N07°20'24"E	26.62'		
169	N00°57'04"W	111.04'	111.42'	385.00'
170	N09°14'32"W	69.97'		
171	N11°35'16"W	123.59'	123.62'	1510.00'
172	N13°55'59"W	62.02'		
173	N07°18'24"W	101.55'	101.77'	440.00'
174	N00°40'50"W	50.62'		
175	N04°58'34"W	151.31'	151.45'	1010.00'
176	N09°16'19"W	12.12'		
177	N30°53'06"W	51.57'	52.81'	70.00'
178	N52°29'54"W	1.36'		
179	N48°31'45"W	77.53'	77.59'	560.00'
180	N24°02'37"W	25.91'		
181	N23°18'33"W	60.58'		
182	N21°36'15"W	75.25'		
183	N18°50'04"W	39.58'		
184	N18°50'04"W	146.39'		
185	N23°28'56"W	15.08'		
186	N23°28'56"W	30.50'		
187	N36°32'08"W	34.53'		
188	N02°57'07"E	53.90'	53.92'	560.00'
189	N15°03'34"W	49.65'	50.75'	70.00'
190	N35°49'45"W	24.81'		
191	N31°12'15"W	111.28'	111.40'	690.00'
192	N23°17'10"W	33.32'	33.34'	290.00'
193	N19°59'35"W	74.56'		
194	N12°56'58"W	52.73'	52.86'	215.00'
195	N05°54'22"W	63.49'		
196	N09°20'09"W	144.78'	144.87'	1210.00'
197	N12°45'57"W	10.75'		
198	N24°18'22"W	34.01'	34.24'	85.00'
199	N35°19'31"W	114.57'		

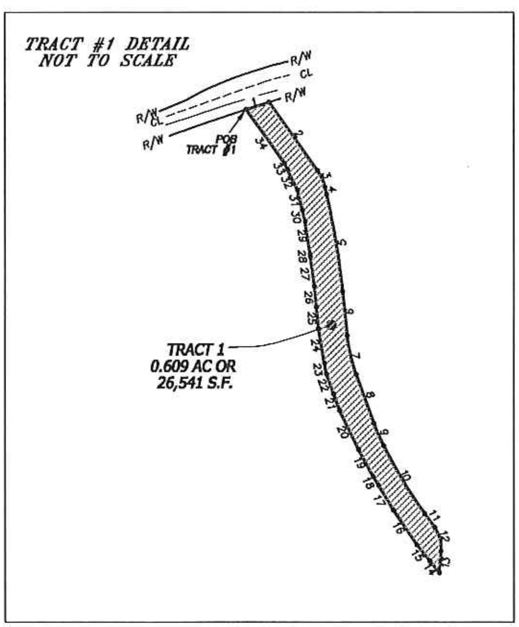
TRACT 5 CALL TABLE (CALLS 191–196)

LINE	CHORD BEARING	CHORD	ARC	RADIUS
200	S24°02'37"E	32.98'		
201	S31°57'01"E	19.02'	19.41'	28.20'
202	S12°09'04"E	3.57'	3.57'	1179.13'
203	N23°33'41"W	511.93'	530.20'	580.00'
204	S39°12'29"E	18.99'		
205	S36°32'08"E	12.41'		

PATH AREA #1 DETAIL



TRACT #1 DETAIL NOT TO SCALE



SHEET	OF
2	3

DATE: 7/12/19
SCALE: N/A
FILE# RW01
JOB# G208033.HON
DRAWN BY WDC

NO.	DATE	DESCRIPTION

REVISIONS

RIGHT-OF-WAY SURVEY
FOR :
NNP-LOOPER LAKE, LLC.
LOCATED IN
G.M.D. 1270
CITY OF FLOWERY BRANCH
HALL COUNTY, GEORGIA

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

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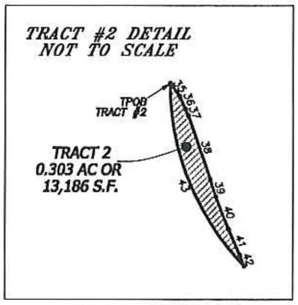

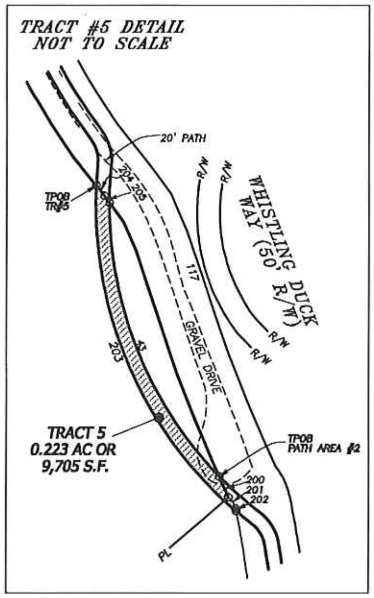

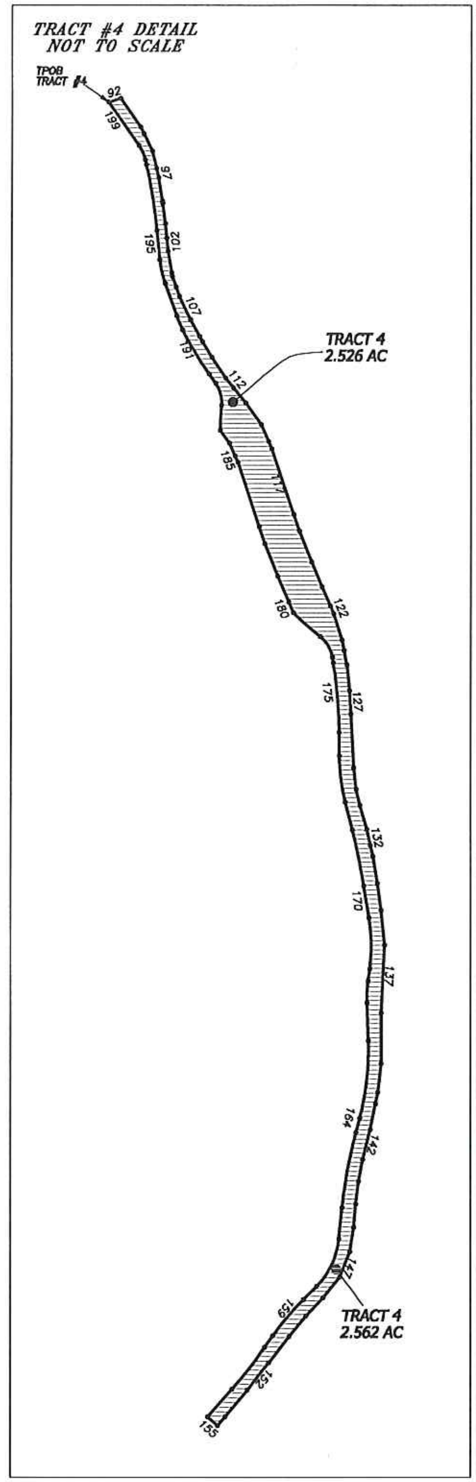

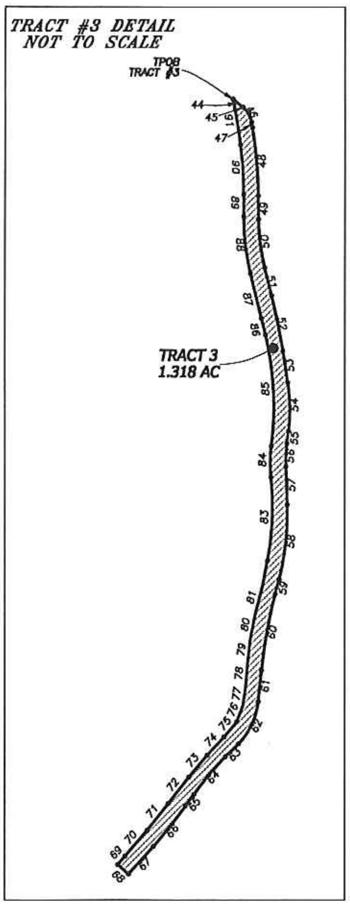

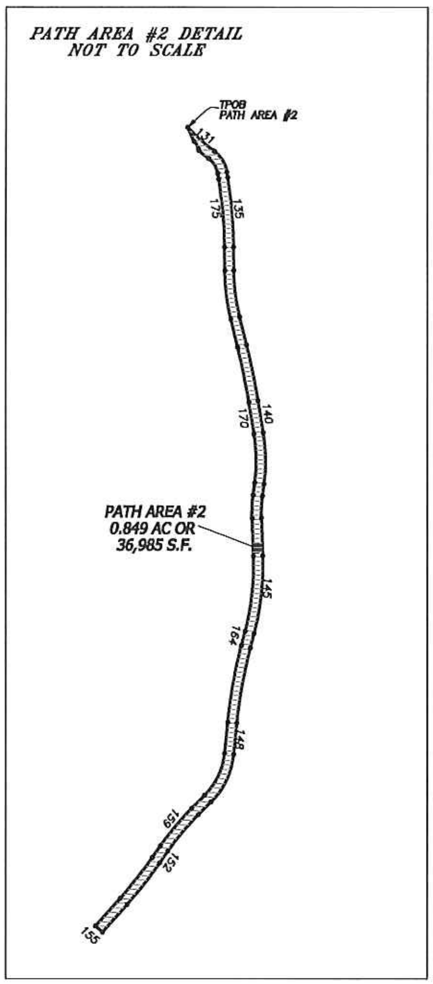

SHEET 3 OF 3

DATE: 7/12/19
SCALE: N/A
FILE# *RW01
JOB# G208033.HON
DRAWN BY WDC

NO.	DATE	DESCRIPTION

REVISIONS

RIGHT-OF-WAY SURVEY
FOR :
NNP-LOOPER LAKE, LLC.
LOCATED IN
G.M.D. 1270
CITY OF FLOWERY BRANCH
HALL COUNTY, GEORGIA

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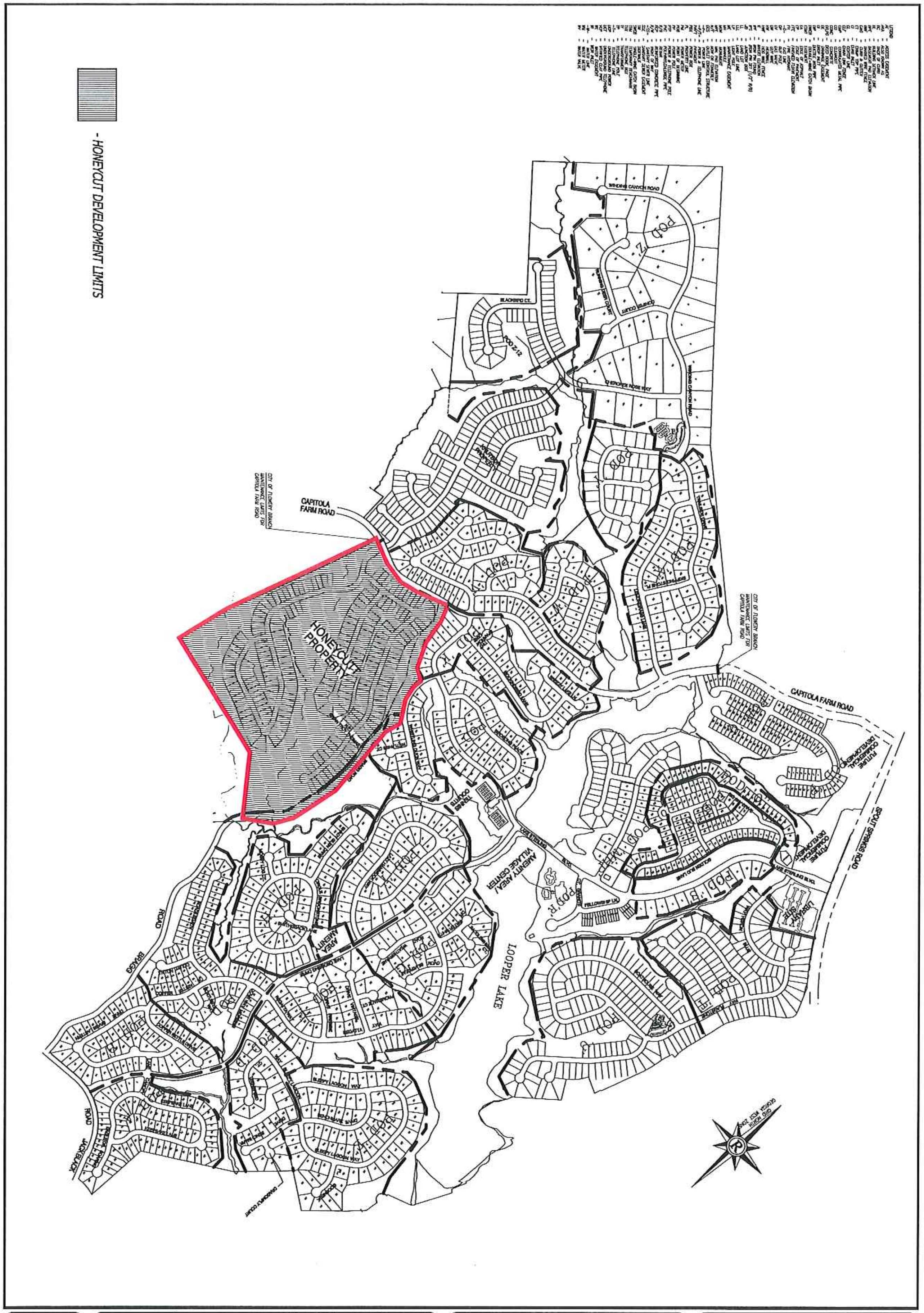


SHEET 5 OF 111

DATE : 04/17/2020
SCALE : 1"= 400'
JOB NO : G206033.HON.03
FILE NO. *.CNST.PRO
DRAWN BY: MEH

GEORGIA REGISTERED PROFESSIONAL ENGINEER KENDRICK C. SCOTT 04/17/2020

ANY CHANGES OR ALTERATIONS MADE TO THESE CONSTRUCTION DRAWINGS WITHOUT THE WRITTEN APPROVAL OF ROCHESTER & ASSOCIATES INC. VOIDS THE SEAL SHOWN HEREON AND ANY LIABILITY ASSOCIATED WITH THIS PROJECT. THE ORIGINAL DRAWINGS ARE KEPT ON FILE FOR VERIFICATION OF ANY CHANGES.

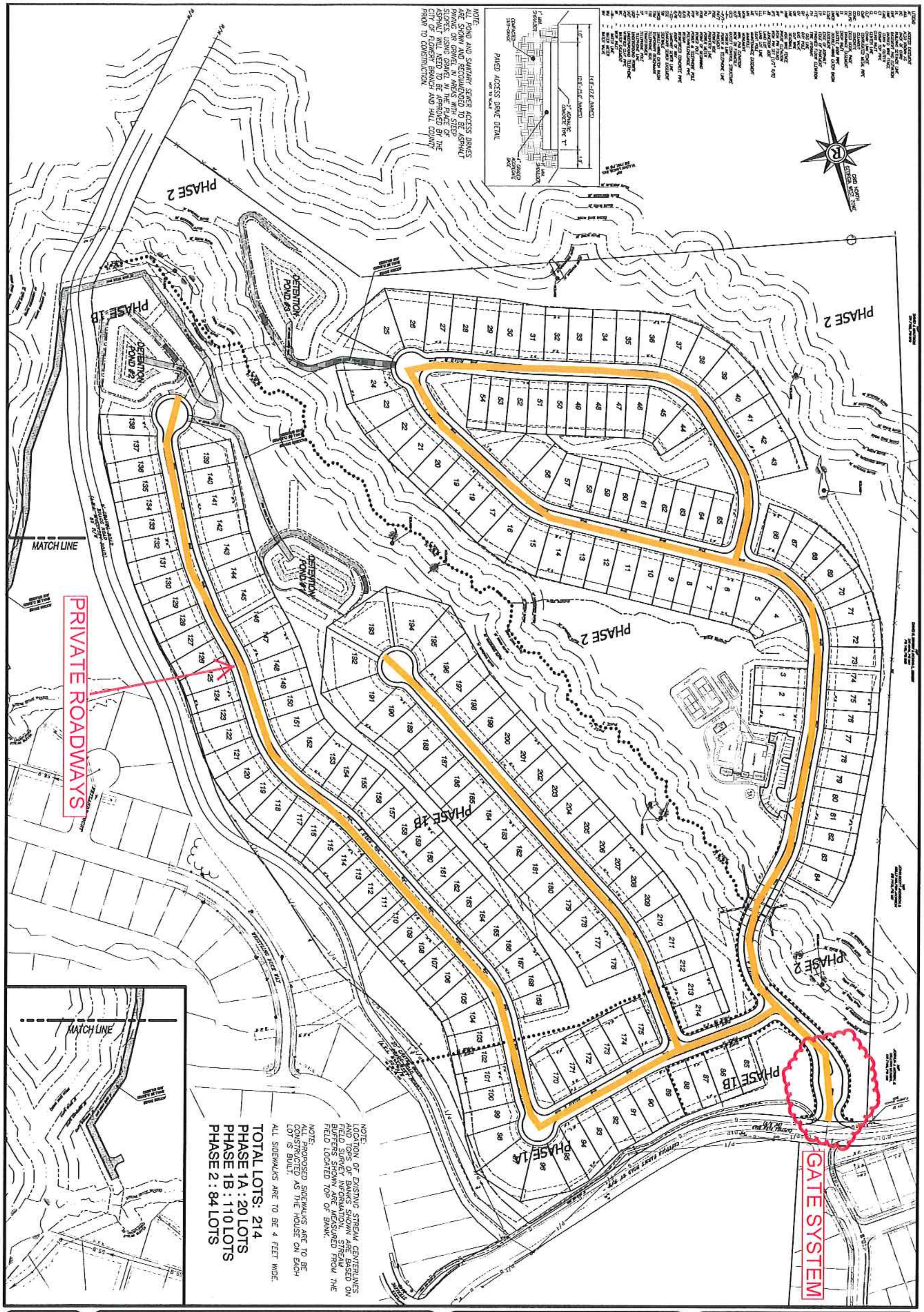
GRAPHIC SCALE
200' 0' 400' 800'

NO.	DATE	DESCRIPTION
1	04/17/20	SEE SHEET #4 FOR REVISION DETAILS
	02/14/20	PERMIT APPROVED BY THE CITY OF FLOWERY BRANCH

REVISIONS

MASTER PLAN
FOR :
STERLING ON THE LAKE
HONEYCUTT TRACT
LOCATED IN
G.M.D.1270
CITY OF FLOWERY BRANCH
HALL COUNTY, GEORGIA

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



SHEET 8 OF 111

DATE : 04/17/2020
SCALE : 1"= 100'
JOB NO : G206033.HON.03
FILE NO. *.CNST.PRO
DRAWN BY: MEH

GEORGIA REGISTERED PROFESSIONAL ENGINEER KEDRICK C. SCOTT 04/17/2020

ANY CHANGES OR ALTERATIONS MADE TO THESE CONSTRUCTION DRAWINGS WITHOUT THE WRITTEN APPROVAL OF ROCHESTER & ASSOCIATES INC. VOIDS THE SEAL SHOWN HEREON AND ANY LIABILITY ASSOCIATED WITH THIS PROJECT. THE ORIGINAL DRAWINGS ARE KEPT ON FILE FOR VERIFICATION OF ANY CHANGES.

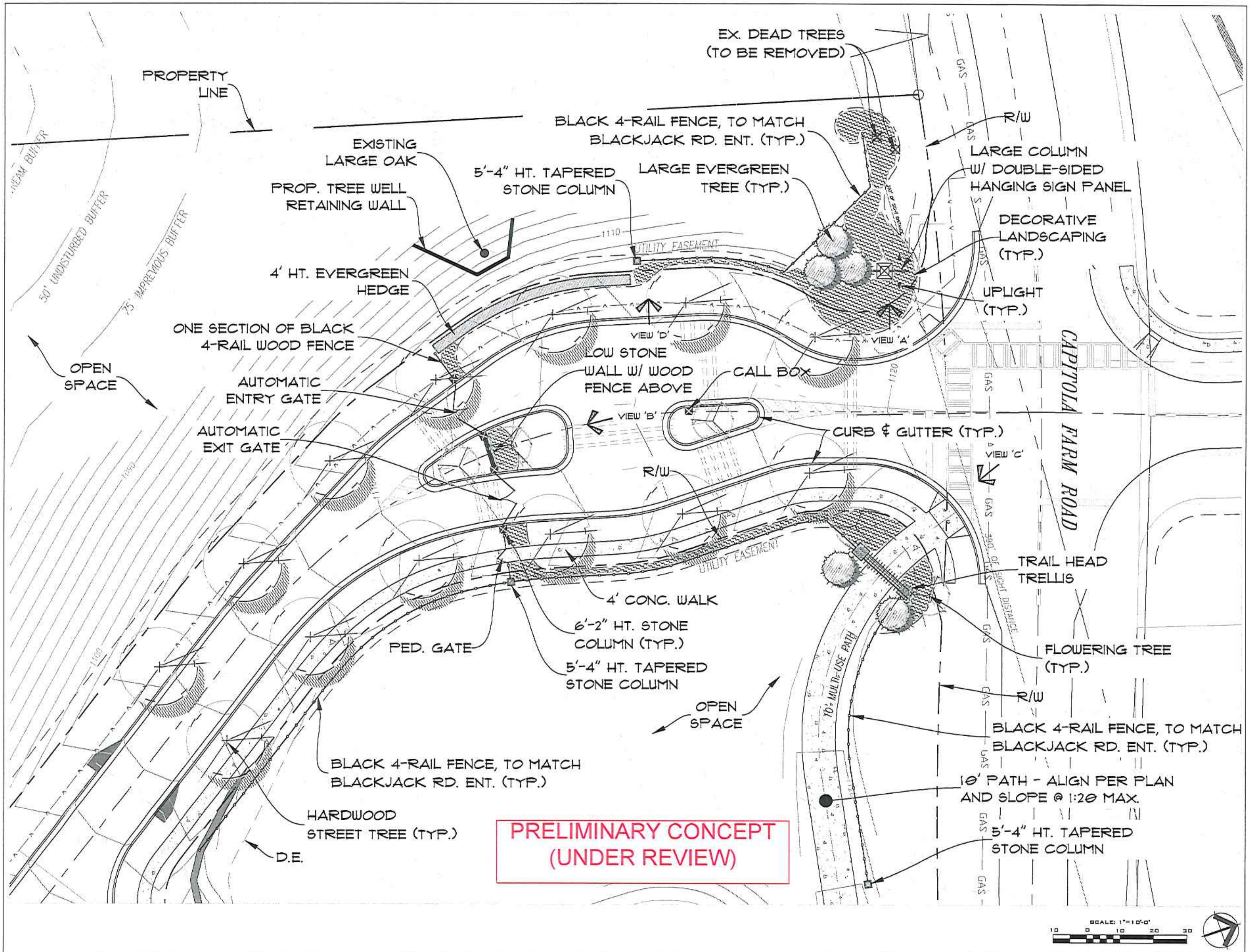
GRAPHIC SCALE
50' 0' 100' 200'

NO.	DATE	DESCRIPTION
1	04/17/20	SEE SHEET #1 FOR REVISION DETAILS
X	12/14/20	PERMIT APPROVED BY THE CITY OF FLOWERY BRANCH

REVISIONS

OVERALL SITE AND PHASING PLAN
FOR :
STERLING ON THE LAKE
HONEYCUTT TRACT
LOCATED IN
G.M.D.1270
CITY OF FLOWERY BRANCH
HALL COUNTY, GEORGIA

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



BLD

BAKER LAND DESIGN

LANDSCAPE ARCHITECTURE
LAND PLANNING
CERTIFIED ARBORIST

3471 DONAVILLE ST.
SUITE 200
DULUTH, GA 30096
PHONE: (404) 787-3973
WWW.BAKERLANDDESIGN.COM

ENTRANCE CONCEPT

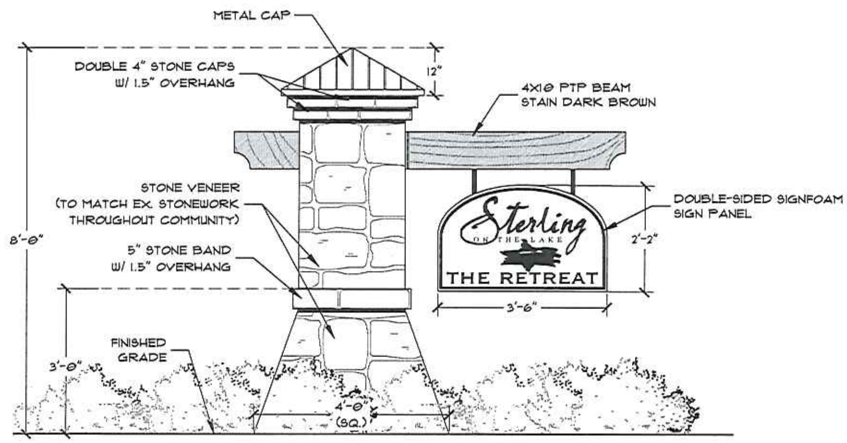
FOR

THE RETREAT AT STERLING ON THE LAKE

REVISIONS
6-8-20
6-11-20

DRAWN BY: BH
CHECKED BY: TB
SCALE: 1"=10'-0"
DATE: 6-5-20
JOB NO.
SHEET 1 OF 2

PRELIMINARY CONCEPT
(UNDER REVIEW)



VIEW 'A'
SIGN MONUMENT ELEVATION
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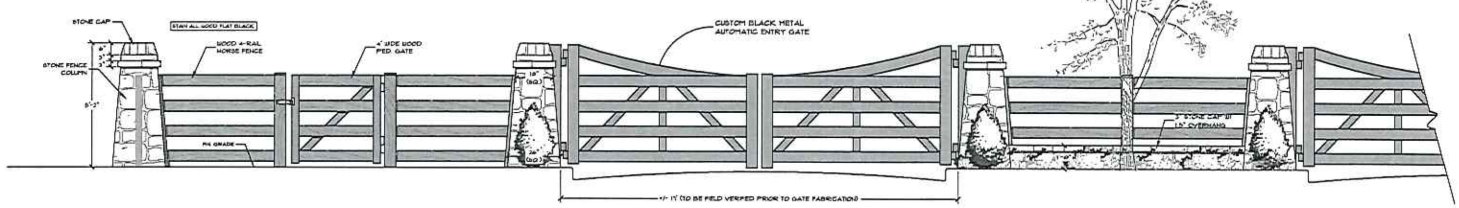

VIEW 'B'
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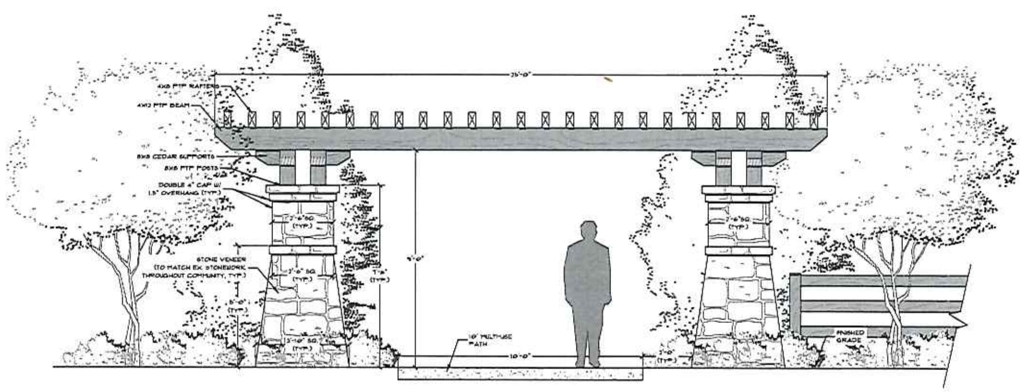

VIEW 'C'
TRAIL HEAD TRELLIS ELEVATION
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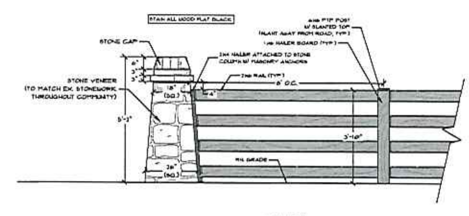

VIEW "D"
FENCE/COLUMN ELEVATION
1/2"=1'-0"

BLD

BAKER LAND
DESIGN

LANDSCAPE ARCHITECTURE
LAND PLANNING
CERTIFIED ARBORIST

3471 DONAVILLE ST.
SUITE 200
DULUTH, GA 30096
PHONE: (404) 787-3073
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ENTRANCE
CONCEPT

FOR

THE
RETREAT
AT
STERLING
ON THE
LAKE

REVISIONS
6-8-20
6-11-20

DRAWN BY: BH
CHECKED BY: TB
SCALE: AS SHOWN
DATE: 6-5-20
JOB NO.
SHEET 2 OF 2

Sterling on the Lake (Honeycutt)
Letter of Intent / Project Narrative

Applicant seeks to amend the conceptual site plan and conditions of approval relating to ordinance no. 239J & 240J, for the master planned community on 1007± acres generally known as "Sterling on the Lake" located in the PUD (Planned Unit Development) zoned district. The development is located adjacent to the intersection of Capitola Farm Road and Spout Springs Road. The amended property is described as: (**Honeycutt Tract**) - a 85.568 acres parcel of real property owned by NNP Looper Lake LLC, being known as the "Honeycutt Tract" identified as tax identification number 15047 000006 & 15047 000885 located in GMD 1270 Flowery Branch District, Hall County, Georgia.

- The Sterling on the Lake Master Planned Development was originally approved (annexed and rezoned) by the Flowery Branch City Council on November 16, 2001, per Ordinances 239 and 240.
- On February 1, 2006, City Council approved a modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-A and 240-A.
- On September 9, 2006, City Council approved a second modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-B and 240-B.
- On August 15, 2007, City Council approved a third modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-C and 240-C.
- On November 25, 2008, City Council approved a fourth modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-D and 240-D.
- On March 26, 2011, City Council approved a fifth modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-E and 240-E.
- On March 15, 2012, City Council approved a sixth modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-F and 240-F.
- On February 18, 2016, City Council approved a seventh modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-G and 240-G.
- On May 4, 2017, City Council approved a eight modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-H and 240-H.
- On March 15, 2018, City Council approved a ninth modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-I and 240-I.

- On June 6, 2019, City Council approved a tenth modification to the original conditions of Ordinance 239 and 240, per Ordinances 239-J and 240-J.

- Per Article 8, Section 8.4 and Section 8.10 of the Flowery Branch Zoning Ordinance, the original PUD approval must be amended by the Governing Body in order to incorporate changes to the master plan approval and PUD conditional zoning.

APPLICANT'S REQUEST

Honeycutt Tract – The Applicant is requesting that the Honeycutt Tract (85.568 acres) consisting of 214 Lots and 1 Amenity Area be allowed to install a gate system at the entrance drive of Welcome Road, at its intersection with Capitola Farm Road and make all streets within the development private. The Honeycutt Tract is located within the Sterling on The Lake Master Planned Development. The Homeowners Association for Honeycutt shall own and maintain the gate system and the private roadways within the development.

- The development shall be substantially in accordance with the "Master Plan for Sterling on the Lake," submitted as a part of the application.
- Any roadways, previously dedicated to the City of Flowery Branch, is subject to abandonment per the orange highlighted plan submitted as part of the application.
- All requirements imposed under this Ordinance shall be the standards of the development regardless of any change in ownership.
- The residential development within the overall PUD shall be limited to a maximum of 2,000 housing units for the entire 1,007 ± acre PUD, within the City of Flowery Branch at the time of this approval, as approved under this ordinance. If additional land is approved for inclusion as residential development within the PUD, the number of housing units to be permitted and the gross density of residential development portions of the site (excluding commercial, institutional, recreational, and open space uses) shall be established in the subsequent approval as an amendment to the Sterling on the Lake Conceptual Master Plan.
- The PUD shall designate and maintain at least 302 acres of permanent open space, or thirty percent (30%) of the total land area contained within the PUD, whichever is greater. For purposes of this zoning condition, permanent open space shall include lakes,

buffers, and passive or active parks and recreation of the property, including those lands administered by a homeowners association; provided, however, that any buffer area counted as open space shall not be used for active recreational facilities. The open space shall be substantially in accordance with the areas colored green on the "Master Plan for Sterling on the Lake" (i.e., binding site plan) as determined by the Zoning Administrator.

STATEMENTS OF FACT

Pursuant to Article 34 of the Flowery Branch Zoning Ordinance this amendment to the conceptual master site plan and conditions of approval relating to Ordinance No. 239 and 240 (as amended most recently dated June 6, 2019), to gate the entrance and declare that all roadways within the development shall be deemed private, submit the following Statements of Fact:

A. The addition of gates at the entrance of Honeycutt and the declaration that all roadways within the development shall be deemed private will not change the overall character of the community and the overall density will remain within the previously approved limits.

B. The proposed zoning amendment will not adversely affect adjacent property or the overall community as the Honeycutt Tract will be developed with access directly from Capitola Road. The Honeycutt Tract does not have a access to any roadways within the Sterling on the Lake development.

C. The property is currently zoned PUD (City of Flowery Branch, Hall County) is being developed consistent with the existing areas of Sterling on The Lake. There are no adverse impacts anticipated.

D. The proposed zoning amendment will not impact the overall density of the approved master site plan. No additional lots are proposed with this zoning amendment. There are no anticipated negative impacts on existing streets, utilities, or schools.

E. The request to gate the entrance and declare that all roadways within the development shall be deemed private conforms to the 2016 Flowery Branch Comprehensive Plan for a "single family residential" use.

F. The request to gate the entrance and declare that all roadways within the Honeycutt Tract be deemed private will not have an adverse effect on the Sterling on the Lake Development.

G. The property is currently zoned PUD (City of Flowery Branch, Hall County) the development is consistent with the existing areas of Sterling on the Lake.

H. The proposed zoning amendment is consistent with the spirit and intent of the Community Agenda (Comprehensive Plan), Character Area Map and Future Land Use Map as these documents identify the subject property as "Suburban Residential" and "Planned Unit Development" (PUD). The proposed zoning is consistent with these designations.

I. The proposed zoning amendment will not significantly impact the value of the property. It is the owners desire to convert the Honeycutt Tract into a gated community with private roadways.

J. The proposed amendment to convert the Honeycutt Tract into a gated community with private roadways will not confer upon the property owner any special privileges that are denied to other properties within the surrounding district. The proposed amendment will not impact adjoining properties as they are all part of the existing PUD.

K. The proposed rezoning amendment will not create an isolated zoning district as the Honeycutt Tract is already a part of the existing Sterling on the Lake PUD. Further, the granting of the requested zoning amendment will be in harmony with the purpose and intent of the City's regulations and will not be injurious to the neighborhood and general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. To assure that the proposed modifications do not negatively impact the surrounding neighborhood or general public, specific implementation language will be required. The applicant agrees to comply with all previous conditions of approval unless modified by this grant.

L. The proposed zoning amendment is consistent with the zoning of the surrounding property.

M. The proposed rezoning amendment will not create an appreciable impact on the environment as it relates to soil and erosion, flooding, drainage or water quality. The Applicant will comply with all local and state requirements pertaining to soil and erosion as well as water quality when developing this tract.

N. The granting of the proposed zoning amendment is consistent with the overall zoning scheme and the purpose of the Zoning Ordinance. Specifically, the Applicant is asking to be retain ownership of the roadways within the Honeycutt Tract which removes the burden of maintenance from the City of Flowery Branch. The Homeowners Association for Honeycutt shall own and maintain the gate system and the private roadways with the development.

LEGAL DESCRIPTION

The modification of Ordinance No. 239 & 240 for 85.568 ± acres portion (Honeycutt Tract) of the master planned development generally known as "Sterling on the Lake", described on Exhibit A attached hereto.

Legal Description: (See Exhibit A)

The overall development is approximately 1007 +/- acres located adjacent to the intersection of Capitola Farm Road and Spout Springs Road. The property is described as: (**Honeycutt Tract**), approximately 85.568 ± acres known as the "Honeycutt" tract, identified as tax identification number 15047-000006 & 15047-000885, located in GMD 1270 Flowery Branch District, Hall County, Georgia.

NAMES AND ADDRESSES OF ADJOINING PROPERTY OWNERS:

Owner **Joshua J. Mcneal & Gillyan Mcneal**
Parcel Number **15047 000009B**
Location Address **6707 CAPITOLA FARM RD**
Legal Description **CAPITOLA FARM ROAD**

Owner **John Scott Jackson, Kelly Keifer Jackson**
Parcel Number **15047 000026**
Location Address **6721 CAPITOLA FARM RD**
Legal Description **CAPITOLA FARM ROAD**

Owner **David R. Eskew, Donna L. Eskew**
Parcel Number **15047 000039**
Location Address **6727 CAPITOLA FARM RD**
Legal Description **CAPITOLA FARM ROAD**

Owner **Jeffrey's Trust For The Benefit Of Larry**
Parcel Number **15047 000009**
Location Address **6791 CAPITOLA FARM RD**
Legal Description **CAPITOLA FARM ROAD**

Owner **P & B Group Ventures, LLC**
Parcel Number **15047 000012**
Location Address **5725 BLACKJACK RD**
Legal Description **BLACK JACK ROAD**

Owner **Vulcan Lands, Inc.**
Parcel Number **15047 000005**
Location Address **5977 BLACKJACK RD**
Legal Description **5877 BLACK JACK ROAD**

REASONS FOR REQUESTING THE ZONING AMENDMENT

The Applicant is requesting that the Honeycutt Tract (85.568 acres) consisting of 214 Lots and 1 Amenity Area be allowed to install a gate system at the entrance drive of Welcome Road, at its intersection with Capitola Farm Road and make all streets within the development private. The Honeycutt development and the Building Group constructing homes plans to market / sale this community as a gated active adult community. Market studies show that the active adult community desires privacy and the security provided by a community with a security gate. Any roadways that have been previously dedicated to the City of Flowery Branch through the approval and recording of a final plat will have to been abandoned and ownership transferred to the homeowners associations for Honeycutt.

RIGHT TO INSPECT THE SUBJECT PROPERTY

With the execution of this zoning amendment application the Applicant (NNP – Looper Lake, LLC) authorizes the City of Flowery Branch staff and / or City Council the right to inspect the subject property for the purpose of seeking information pertaining to the zoning amendment request.

City of Flowery Branch Rezoning Application
REQUEST FOR STATISTICAL INFORMATION
Sterling on the Lake – Honeycutt Tract

1. **Value of improvements at buildout:**
   - **Development cost - $ 55,000 per lot**
   - **Vertical construction cost - $ 120 per sf**

2. **Property tax revenue at buildout:**
   - **Hall County - $ 1,466,093.00**
   - **City of Flowery Branch - $ 186,700.00**

3. **Schedule of construction;**
   - **See below:**

Item	Start	Finish
Design & Permitting	4/1/2019	7/15/2019
Land Development	8/15/2019	5/15/2020
Final Plat	5/15/2020	6/1/2020
Lot Sales	6/1/2020	6/15/2020
Residential CO's	10/15/2020	2/15/2021

4. **Anticipated total square footage per unit:**
   - **1400 sf minimum**

5. **Total acreage to be developed:**
   - **84.25 acres in total**

6. **Honeycutt Tract will contain approximately 9.13 acres in private rights-of-way.**

7. **Honeycutt Tract will contain approximately 33.7 acres of open space/common area to be maintained by the existing HOA.**

8. **Honeycutt Tract will contain approximately 7.9 acres of buffer and watershed protection.**
   A) The impervious buffer is applicable to the Honeycutt Tract.
   B) A limited number of property lines may extend into the stream buffer.
   C) The developer intends to dedicate street rights-of-way and storm sewer easements to the City of Flowery Branch.

9. **Transportation alternatives:**
   - **Honeycutt Tract will have a pedestrian link through the Honeycutt Tract to the remainder of the community.**

10. Amenities for Sterling on the Lake total more than 15 acres and (at buildout) will include the following:
    - Lakes and Trails
    - 2 Clubhouses
    - 4 Pools
    - 3 Children's Playgrounds
    - Multiple pocket parks
    - Children's Treehouse
    - 12 Tennis Courts
    - 2 Fire pits
    - Lakeside pavilion with grill
    - Boat dock and launch
    - ¾ Basketball Court
    - Picnic Island
    - The above items are inclusive of the Honeycutt/Bragg Tract which will contain 2 tennis courts/pickle ball courts, fire pit and bathrooms.

11. A minimum of 52 street lights are planned for Honeycutt Tract with a maximum spacing of 150 feet.

12. Honeycutt Tract will include approximately 7,940 linear feet of sidewalk containing approximately 485 cubic yards of concrete.

13. Homes in the Honeycutt Tract will have access to high speed internet to the extent available from the service provider.

14. The Honeycutt Tract will contain areas for providing detention, water quality and stream protection. These requirements will be incorporated in the adjacent Honeycutt tract or other developable land with Sterling on The Lake.

15. An updated traffic study has not been completed for the Honeycutt Tract as the overall density will remain within previously studied and approved maximums.

16. There are no provisions for utilization and storage of reuse water in this plan.

17. Honeycutt Tract, as proposed, will generate approximately 85,600 gallons per day of wastewater flow.

18. The maximum daily water consumption is approximately 85,600 gallons per day. Low flow fixtures are required by the development.

19. A complete set of construction drawings has been completed in order to evaluate the proposed density.

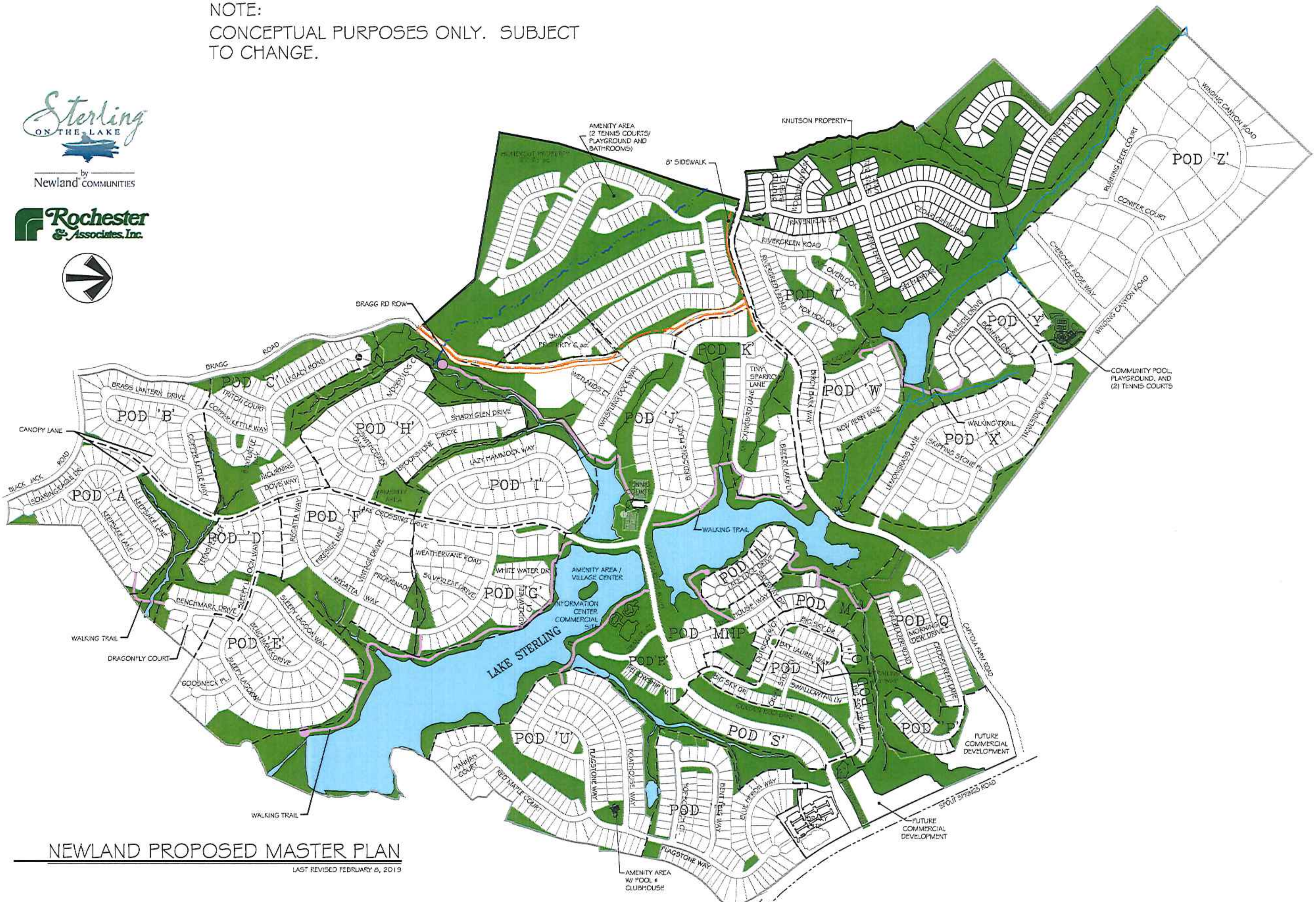
20. Public safety requirements related to life safety codes have been considered in the concept design.

21. The Hall County school system has been provided density and build out projections for the entirety of the community.

22. Copies of master covenants and guidelines have been previously filed and recorded.

23. Ordinance No. 349 has been used to develop the preliminary plat for Honeycutt Tract.

NOTE:
CONCEPTUAL PURPOSES ONLY. SUBJECT TO CHANGE.

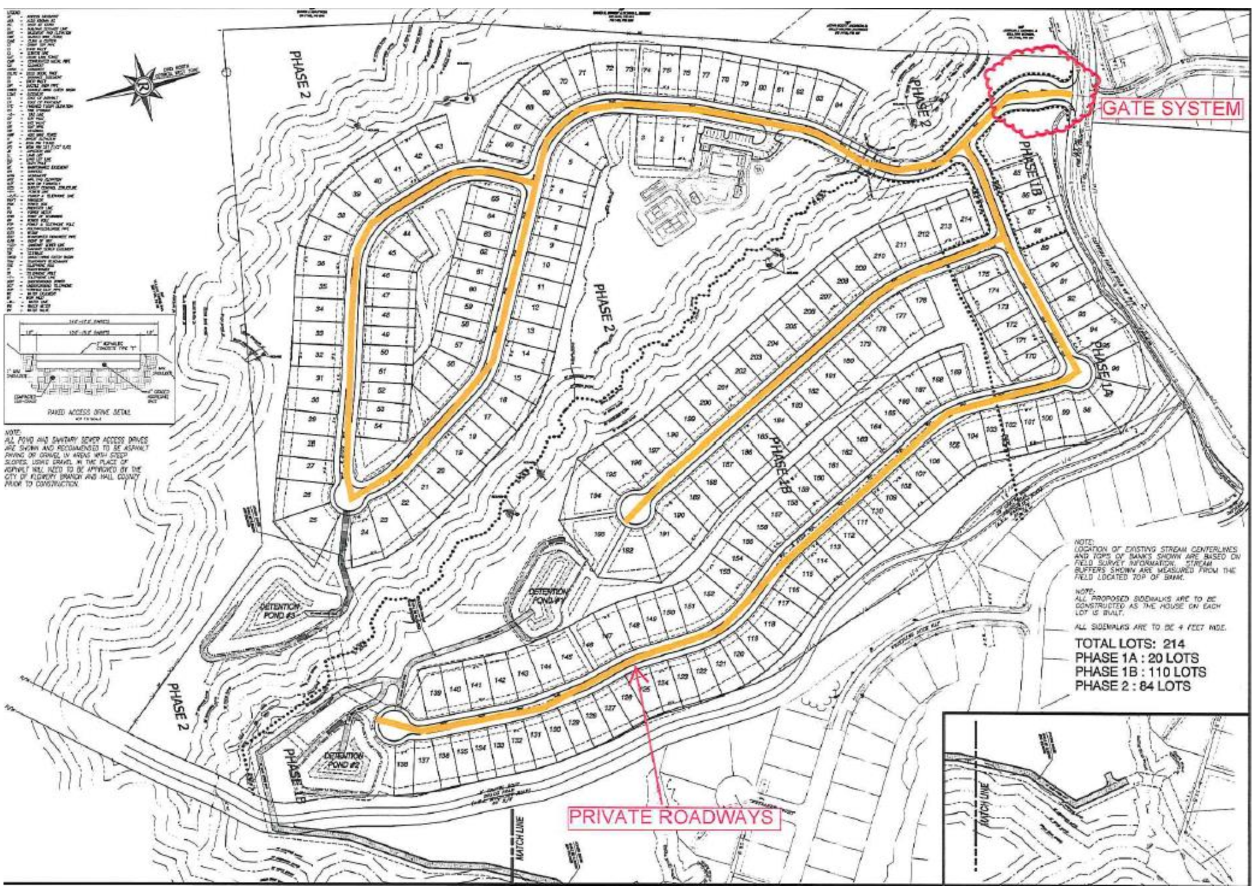


NEWLAND PROPOSED MASTER PLAN

LAST REVISED FEBRUARY 8, 2019

Ordinance 239-K & 240-K is a rezoning request submitted by NNP – Looper Lake, LLC to rezone a portion of the Sterling on the Lake residential subdivision from Planned Unit Development (PUD) to Planned Unit Development (PUD) with modified conditions. The proposed change to the conditions calls for a gate to be installed making the 85 +/- acre area known as the “Honeycutt Tract” private. This would mean all roads inside this 214 lot section of Sterling on the Lake would have private roads.

Flowery Branch



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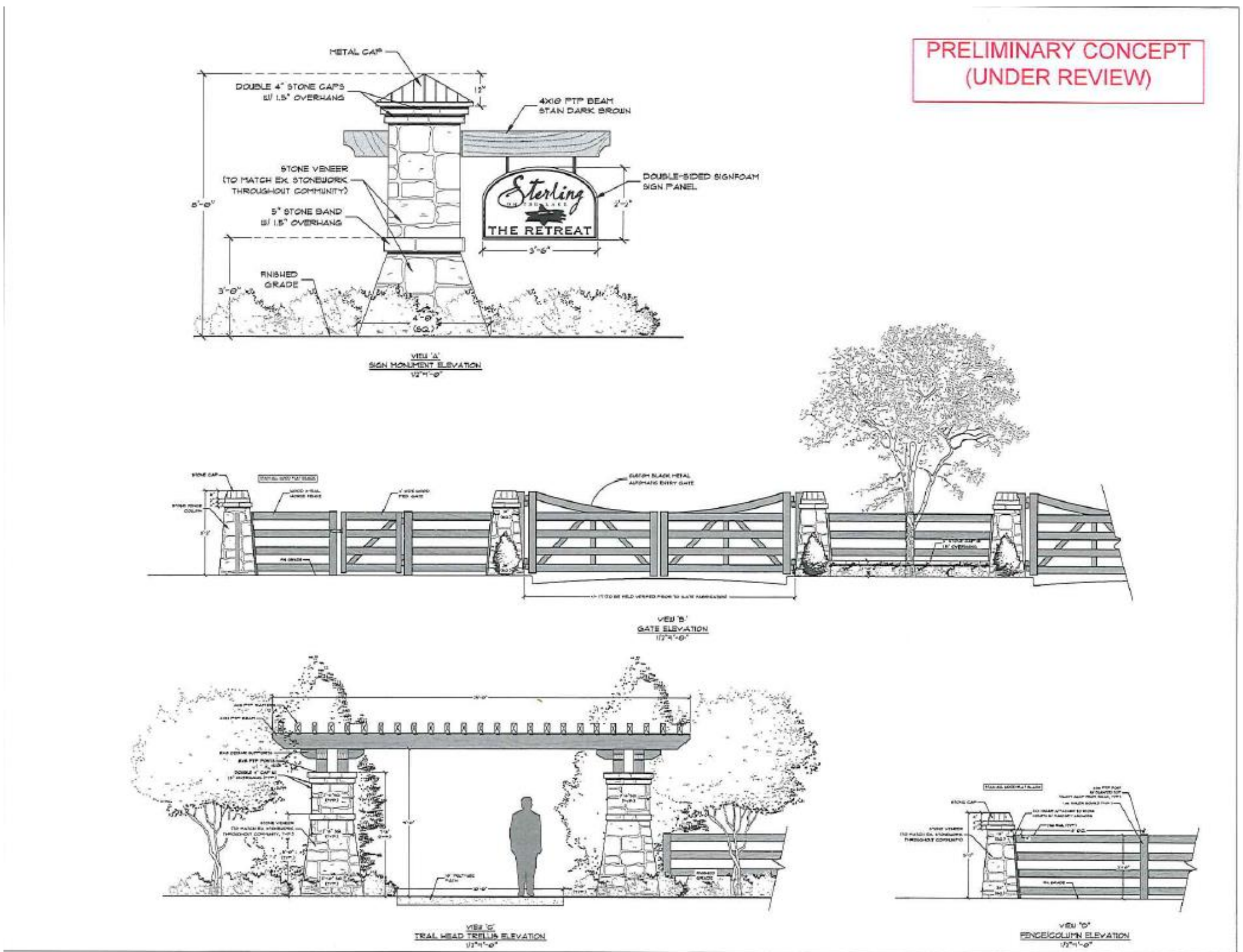


Below is the applicant response to Article 34 of the Zoning Ordinance.

STATEMENTS OF FACT

Pursuant to Article 34 of the Flowery Branch Zoning Ordinance this amendment to the conceptual master site plan and conditions of approval relating to Ordinance No. 239 and 240 (as amended most recently dated June 6, 2019), to gate the entrance and declare that all roadways within the development shall be deemed private, submit the following Statements of Fact:

A. The addition of gates at the entrance of Honeycutt and the declaration that all roadways within the development shall be deemed private will not change the overall character of the community and the overall density will remain within the previously approved limits.

B. The proposed zoning amendment will not adversely affect adjacent property or the overall community as the Honeycutt Tract will be developed with access directly from Capitola Road. The Honeycutt Tract does not have a access to any roadways within the Sterling on the Lake development.

C. The property is currently zoned PUD (City of Flowery Branch, Hall County) is being developed consistent with the existing areas of Sterling on The Lake. There are no adverse impacts anticipated.

D. The proposed zoning amendment will not impact the overall density of the approved master site plan. No additional lots are proposed with this zoning amendment. There are no anticipated negative impacts on existing streets, utilities, or schools.

E. The request to gate the entrance and declare that all roadways within the development shall be deemed private conforms to the 2016 Flowery Branch Comprehensive Plan for a "single family residential" use.

F. The request to gate the entrance and declare that all roadways within the Honeycutt Tract be deemed private will not have an adverse effect on the Sterling on the Lake Development.

G. The property is currently zoned PUD (City of Flowery Branch, Hall County) the development is consistent with the existing areas of Sterling on the Lake.

H. The proposed zoning amendment is consistent with the spirit and intent of the Community Agenda (Comprehensive Plan), Character Area Map and Future Land Use Map as these documents identify the subject property as "Suburban Residential" and "Planned Unit Development" (PUD). The proposed zoning is consistent with these designations.

I. The proposed zoning amendment will not significantly impact the value of the property. It is the owners desire to convert the Honeycutt Tract into a gated community with private roadways.

J. The proposed amendment to convert the Honeycutt Tract into a gated community with private roadways will not confer upon the property owner any special privileges that are denied to other properties within the surrounding district. The proposed amendment will not impact adjoining properties as they are all part of the existing PUD.

K. The proposed rezoning amendment will not create an isolated zoning district as the Honeycutt Tract is already a part of the existing Sterling on the Lake PUD. Further, the granting of the requested zoning amendment will be in harmony with the purpose and intent of the City's regulations and will not be injurious to the neighborhood and general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. To assure that the proposed modifications do not negatively impact the surrounding neighborhood or general public, specific implementation language will be required. The applicant agrees to comply with all previous conditions of approval unless modified by this grant.

L. The proposed zoning amendment is consistent with the zoning of the surrounding property.

M. The proposed rezoning amendment will not create an appreciable impact on the environment as it relates to soil and erosion, flooding, drainage or water quality. The Applicant will comply with all local and state requirements pertaining to soil and erosion as well as water quality when developing this tract.

N. The granting of the proposed zoning amendment is consistent with the overall zoning scheme and the purpose of the Zoning Ordinance. Specifically, the Applicant is asking to be retain ownership of the roadways within the Honeycutt Tract which removes the burden of maintenance from the City of Flowery Branch. The Homeowners Association for Honeycutt shall own and maintain the gate system and the private roadways with the development.

Staff recommends approval with conditions as stated in Ordinance #239K and 240K.

- Ad was run in the Gainesville Times on 7/11/2020
- Signs posted on 7/21/2020

Public Hearing Published	07/08/20	First Reading	09/17/20
Public Hearing	08/06/20	Adopted	10/15/20

ORDINANCE NO. 239-K & 240-K

AN ORDINANCE AMENDING THE CONCEPTUAL SITE PLAN AND CONDITIONS OF APPROVAL RELATING TO ORDINANCE NUMBERS 239H AND 240H, FOR THE MASTER PLANNED COMMUNITY KNOWN AS "STERLING ON THE LAKE". THE REQUEST IS TO AMMEND THE PUD ZONING OF THE PORTION OF THE COMMUNITY KNOWN AS THE HONEYCUTT TRACT 85.57 +/- ACRE PROPERTY IDENTIFIED AS TAX PARCELS 15047 000006 AND 115047 000885. THE REQUEST IS TO ALTER THE APPROVED CONDITIONS BY ADDING A GATE AND PRIVITIZING THE SUBJECT PROPERTY. SUBJECT PROPERTY IS SHOWN ON ATTACHED EXHIBIT "A" AND LEGALLY DESCRBED ON ATTACHED EXHIBIT "B" AND SHALL BE SUBJECT TO ALL CONDITIONS SET FORTH AND SHOWN ON ATTACHED EXHIBIT "C"; PROVIDING FOR FINDINGS, SEVERABILITY, REPEALING CONFLICTING ORDINANCES, AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, NNP-Looper Lake, LLC owns all that tracts or parcels of land totaling 85.57+/- acres identified as Parcel Tax Identification Nos. 15047 000006 and 15047 000085. Parcels are shown on Exhibit "A", and as legally described on Exhibit "B"; and

WHEREAS, specific conditions shall be placed on subject parcels as shown on attached exhibit "C"; and

WHEREAS, the City Council of the City of Flowery Branch has considered the application of NNP-Looper Lake, LLC in conjunction with the standards set forth in Article 34 - Section 34.7 of Zoning Ordinance No. 348 of the City of Flowery Branch, Georgia; and

WHEREAS, the City Council held a public hearing at the meeting of August 6, 2020 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 DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. FINDINGS.

The City Council finds that the proposed modified rezoning of the current PUD (Planned Unit Development) 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 PUD.

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 in conformity with the policy and intent of the comprehensive plan and 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 the modified PUD.

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. LEGAL DESCRIPTION AND CONDITIONS.

The rezoning of the subject parcel, as shown on Exhibit "A" and as legally described in Exhibit "B", to a modified PUD (Planned Unit Development). Conditions as set forth in Exhibit "C". Said Exhibits are incorporated by reference as if fully set forth herein.

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.

SECTION 5. EFFECTIVE DATE.

The effective date of this Ordinance shall be upon adoption by the City Council of the City of Flowery Branch, Georgia.

SECTION 6. REPEALER.

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

Adopted this 15th day of October 2020.

____
James M. Miller, Mayor

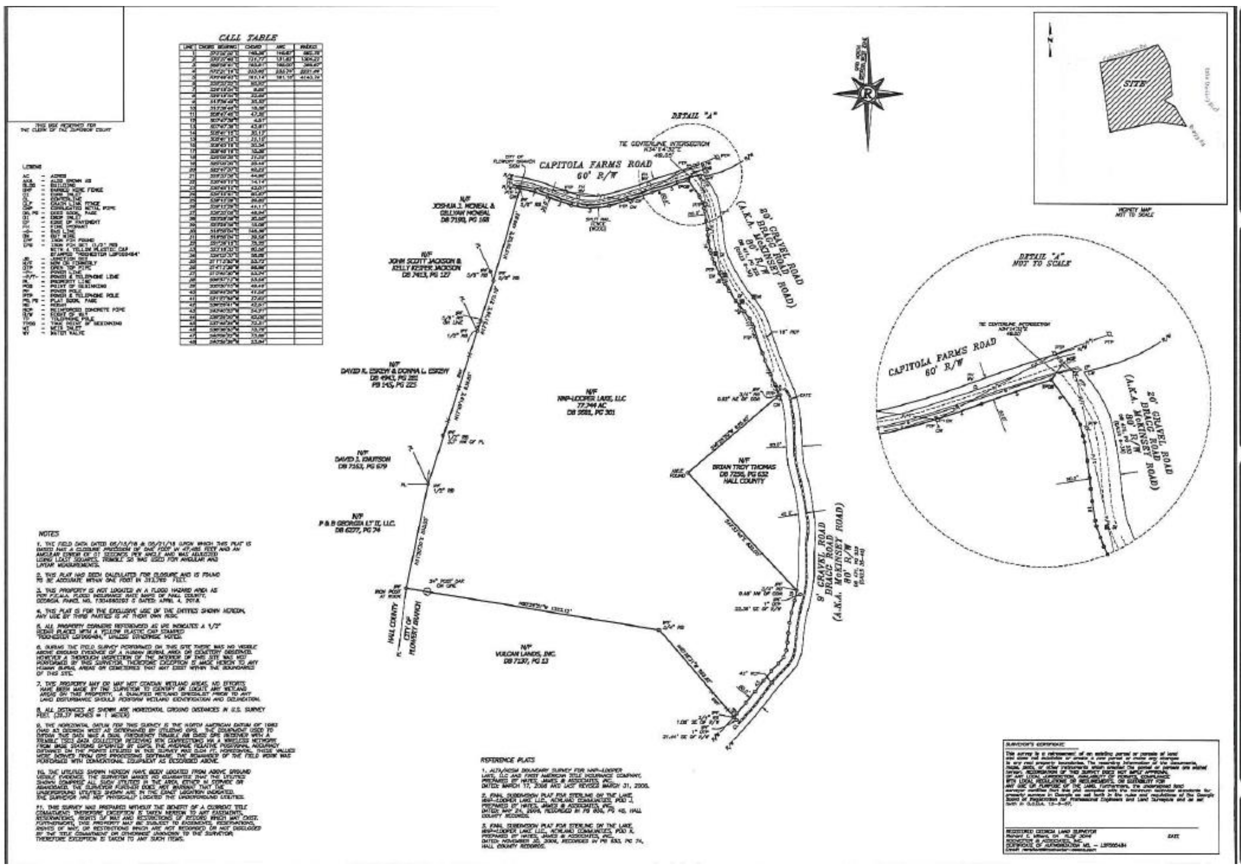
ATTEST

____
Vickie Short, City Clerk

APPROVED AS TO FORM

____
E. Ronald Bennett, Jr., City Attorney

Attachment "A"



Attachment "B"

Honeycutt
Legal Description

All that tract or parcel of land lying and being in G.M.D. 1270, City of Flowery Branch, Hall County, Georgia and being more particularly described as follows:

Beginning at the centerline intersection of Capitola Farm Road (60' R/W) and Scarlet Oak Way (50' R/W); thence South 87°57'20" West, a distance of 102.62 feet to an iron pin found (5/8" rebar on the northern Right-of-Way of said Capitola Farm Road, being the ***True Point of Beginning***; thence along said Right-of-Way 148.67 feet along an arc of a curve to the right having a radius of 692.78 feet and a chord bearing and distance of South 73°52'52" East, 148.38 feet to a point; thence 131.82 feet along an arc of a curve to the left having a radius of 1304.22 feet and a chord bearing and distance of South 70°37'45" East, 131.77 feet to a point; thence 198.00 feet along an arc of a curve to the left having a radius of 366.67 feet and a chord bearing and distance of South 88°59'41" East, 195.61 feet to a point; thence 233.76 feet along an arc of a curve to the left having a radius of 2221.89 feet and chord bearing and distance of North 72°31'16" East, 233.65 feet to a point; thence 225.76 feet along an arc of a curve to the right having a radius of 4143.74 feet and a chord bearing and distance of North 71°04'04" East, 225.73 to a point on the northwestern Right-of-Way of a 20 foot Path; thence along the property now or formerly of the City of Flowery Branch (20' Path) the following courses and distances: South 35°50'46" East, a distance of 120.47 feet to a point; thence 31.78 feet along an arc of a curve to the right having a radius of 75.00 feet and a chord bearing and distance of South 23°42'26" East, 31.54 feet to a point; thence South 11°34'05" East, a distance of 36.01 feet to a point; thence 107.98 feet along an arc of a curve to the right having a radius of 1100.00 feet and a chord bearing and distance of South 08°45'21" East, 107.94 feet to a point; thence South 05°56'37" East, a distance of 69.67 feet to a point; thence 55.13 feet along an arc of a curve to the left having a radius of 225.00 feet and a chord bearing and distance of South 12°57'48" East, 54.99 feet to a point; thence South 19°58'58" East, a distance of 75.50 feet to a point; thence 19.93 feet along an arc of a curve to the left having a radius of 300.00 feet and a chord bearing and distance of South 21°53'10" East, 19.93 feet to a point; thence South 23°47'21" East, a distance of 123.61 feet to a point; thence 71.19 feet along an arc of a curve to the right having a radius of 190.00 feet and a chord bearing and distance of South 13°03'19" East, 70.77 feet to a point; thence South 02°19'18" East, a distance of 101.72 feet to a point; thence 154.16 feet along an arc of a curve to the left having a radius of 310.00 feet and a chord bearing and distance of South 16°34'05" East, 152.58 feet to a point; thence South 30°48'53" East, a distance of 68.95 feet to a point; thence 102.12 feet along an arc of a curve to the left having a radius of 310.00 feet and a chord bearing and distance of South 40°15'06" East, 101.66 feet to a point; thence South 49°41'19" East, a distance of 74.48 feet to a point; thence 136.61 feet along an arc of a curve to the right having a radius of 190.00 feet and a chord bearing and distance of South 29°05'29" East, 133.68 feet to a point; thence South 08°29'40" East, a distance of 45.64 feet to a point; thence 16.93 feet along an arc of a curve to the right having a radius of 190.00 feet and a chord bearing and distance of South 05°56'30" East, 16.93 feet to a point; thence South 03°23'20" East, a distance of 40.36 feet to a point; thence 42.54 feet along an arc of a curve to the right having a radius of 900.00 feet and a chord bearing and distance of South 02°02'05" East, 42.54 feet to a point; thence South 00°40'50" East, a distance of 50.97 feet to a point; thence 106.36 feet along an arc of a curve to the left having a radius of 460.00 feet and a chord bearing and distance of South 07°18'19" East, 106.12 feet to a point; thence South 13°55'45" East, a distance of 61.77 feet to a point; thence 122.71 feet along an arc of a curve to the right having a radius of 1500.00

feet and a chord bearing and distance of South 11°35'09" East, 122.67 feet to a point; thence South 09°14'32" East, a distance of 68.08 feet to a point; thence 108.53 feet along an arc of a curve to the right having a radius of 375.00 feet and a chord bearing and distance of South 00°57'04" East, 108.15 feet to a point; thence South 07°20'24" West, a distance of 23.94 feet to a point; thence 52.86 feet along an arc of a curve to the left having a radius of 325.00 feet and chord bearing and distance of South 02°40'48" West, 52.81 feet to a point; thence South 01°58'47" East, a distance of 79.68 feet to a point; thence 166.41 feet along an arc of a curve to the right having a radius of 575.00 feet and a chord bearing and distance of South 06°18'40" West, 165.83 feet to a point; thence South 14°36'08" West, a distance of 31.66 feet to a point; thence 166.63 feet along an arc of a curve to the left having a radius of 1100.00 feet and a chord bearing and distance of South 10°15'45" West, 166.47 feet to a point; thence South 05°55'23" West, a distance of 68.71 feet to a point; thence 103.04 feet along an arc of a curve to the right having a radius of 150.00 feet and a chord bearing and distance of South 25°36'08" West, 101.03 feet to a point; thence South 45°16'53" West, a distance of 40.77 feet to a point; thence 105.04 feet along an arc of a curve to the left having a radius of 600.00 feet and a chord bearing and distance of South 40°15'58" West, 104.91 feet to a point; thence South 35°15'02" West, a distance of 31.20 feet to a point; thence 114.02 feet along an arc of a curve to the right having a radius of 1000.00 feet and a chord bearing and distance of South 38°31'02" West, 113.96 feet to a point; thence South 41°47'01" West, a distance of 83.67 feet to a point; thence leaving said Right-of-Way and along the property now or formerly of Vulcan Lands, Inc North 40°38'31" West, a distance of 624.27 feet to an iron pin found (3/4" rebar); thence North 80°26'51" West, a distance of 1323.12 feet to an iron pin found (iron post at rock) on the Hall County/City of Flowery Branch Line; thence along said County/City Line and along the property now or formerly P & B Georgia LT II, LLC North 11°50'30" East, a distance of 555.05 feet to an iron pin found (1/2" rebar); thence along the property now or formerly of David R, Eskew & Donna L. Eskew North 17°40'19" East, a distance of 836.85 feet to an iron pin found (1/2" rebar); thence along the property now or formerly of John Scott Jackson & Kelly Keifer Jackson North 17°51'26" East, a distance of 273.10 feet to an iron pin found (5/8" rebar); thence along the property now or formerly of Joshua J. McNeal & Gillyan McNeal North 15°55'02" East, a distance of 499.92 feet to the ***True Point of Beginning***.

Said tract contains 85.568 Acres.

Attachment “C”

Conditions of Zoning

1. All conditions of zoning as set forth in Ordinances 239 and 240 and all subsequent and relevant modifications shall apply to the Honeycutt Tract except for the following changes:
   A. The Developer shall install a privacy gate at the entrance to said tract. Gate shall be subject to Flowery Branch Community development approval prior to installation.
   B. All roads shall be constructed to Flowery Branch standards.
   C. All roads shall be private.

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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

FOR

THE RETREAT AT STERLING ON THE LAKE

Prepared by / upon recording, please return to:

Jo Anne P. Stubblefield
HYATT & STUBBLEFIELD, P.C.
1979 Lakeside Parkway, Suite 250
Atlanta, Georgia 30084

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DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS

FOR

THE RETREAT AT STERLING ON THE LAKE

THIS DECLARATION OF COVENANTS, RESTRICTIONS AND EASEMENTS is made this 24th day of June, 2020, by NNP-Looper Lake, LLC, a Delaware limited liability company (with its successors and assigns, the "**Declarant**").

ARTICLE I CREATION OF THE RETREAT AT STERLING ON THE LAKE

1.1. Purpose and Intent.

Declarant, as the owner of the real property described in Exhibit "A," intends by this Declaration to establish a governance structure and a flexible system of standards and procedures for the development, expansion, administration, maintenance and preservation of The Retreat at Sterling on the Lake, a residential neighborhood within the master planned community known as Sterling on the Lake located in the City of Flowery Branch, Hall County, Georgia. An integral part of such governance structure is The Retreat at Sterling on the Lake Association, Inc., a Georgia nonprofit corporation ("**Association**"), whose membership is comprised of all owners of real property made subject to this Declaration, which has been established to own, operate and/or maintain certain property and improvements as described in this Declaration and to administer and enforce this Declaration and the other The Retreat Documents referenced in Section 1.3 of this Declaration.

This document provides for automatic and mandatory membership in a homeowners association.

1.2. Binding Effect.

All property described in Exhibit "A," and any additional property which is made a part of The Retreat at Sterling on the Lake in the future by recording an amendment to this Declaration or a Supplemental Declaration in accordance with Article IX (collectively, the "**Properties**" or "**The Retreat at Sterling on the Lake**"), shall be owned, conveyed and used subject to all of the provisions of this Declaration, which shall run with the title to such property. This Declaration shall be binding upon all Persons having any right, title, or interest in any portion of the Properties, their heirs, successors, successors-in-title, and assigns.

This Declaration, as it may be amended, is intended to have perpetual duration, subject to the right of the Owners to terminate this Declaration as provided in Article XVIII.

1.3. Governing Documents.

All property now or hereafter comprising The Retreat at Sterling on the Lake is part of the planned unit development known as Sterling on the Lake and, as such, is subject to the Community Charter (as defined in Section 2.1), as supplemented and amended, the Architectural Guidelines referenced in the Community Charter, and the articles of incorporation, by-laws, and rules of Sterling on the Lake Community Association, Inc., a Georgia nonprofit corporation ("**Master Association**"), all as they may be amended (collectively, the "**Community Documents**").

In addition, The Retreat at Sterling on the Lake is governed by:

- this Declaration and such Supplemental Declarations as may be recorded from time to time pursuant to Article IX; and
- the Association's Articles of Incorporation and By-Laws; and
- the Rules described in Article III; and
- such resolutions as the Association's Board of Directors may adopt;

all as they may be amended (collectively, the "**Retreat Documents**").

The Community Documents and the Retreat Documents are collectively referred to in this Declaration as the "**Governing Documents**").

In the event of a conflict between or among any of the Retreat Documents, the documents shall be given priority in the order listed above. In the event of a conflict between the Retreat Documents and the Community Documents as they relate to The Retreat at Sterling on the Lake, the Community Documents shall control except that, where one is simply more restrictive than the other, the more restrictive shall control. For purposes of this paragraph, a "conflict" shall exist when requirements of two or more documents or laws are inconsistent and mutually exclusive, making compliance with all such requirements impossible. If two or more of the foregoing impose requirements that address the same matter, but are not inconsistent or mutually exclusive, both shall be complied with, it being the intent that the Retreat Documents shall supplement, and may be more restrictive or expansive than, applicable law to the extent permitted by applicable law, and that one The Retreat Document may be more restrictive or detailed than another so long as not in conflict with the document that would control under this paragraph in the event of a conflict.

The Governing Documents apply to all Owners and Occupants of Units within The Retreat at Sterling on the Lake, as well as to their respective tenants, guests and invitees. If a Unit is leased, the tenant and all Occupants of the leased Unit are bound by and obligated to comply with the Governing Documents, whether or not the lease so provides.

The Association, the Declarant, and every Owner shall have the right to take legal action to enforce the Retreat Documents. The Association shall have the specific enforcement powers and remedies described in Section 7.4 and elsewhere in the Retreat Documents.

If any court should determine that any provision of this Declaration is invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of other provisions or applications of such provision.

Throughout the Retreat Documents there are diagrams to illustrate the concepts discussed and aid in the reader's comprehension. Such diagrams are for illustrative purposes only. In the event of a conflict between any diagram and the text of the Retreat Documents, the text shall control.

Diagram 1.1 identifies the various The Retreat Documents and their functions.

THE RETREAT DOCUMENTS

Articles of Incorporation → (filed with the Secretary of State)	establishes the Association as a nonprofit corporation under Georgia law
By-Laws → (Board of Directors adopts; attached as Exhibit "D")	governs the Association's internal affairs, such as voting, elections, meetings, etc.
Declaration → (recorded)	creates obligations which are binding upon the Association and all present and future owners of property comprising The Retreat at Sterling on the Lake
Supplemental Declaration → (recorded)	expands The Retreat at Sterling on the Lake and/or creates additional obligations, restrictions and easements on property within The Retreat at Sterling on the Lake
Rules → (Board or members may adopt; initial set attached as Exhibit "C")	govern use of property, activities, and conduct within The Retreat at Sterling on the Lake
Board Resolutions → (Board adopts)	establish rules, policies and procedures for internal governance, interpret The Retreat Documents, regulate operation and use of Common Area, among other things

Diagram 1.1 - The Retreat Documents

ARTICLE II CONCEPTS AND DEFINITIONS

2.1. Defined Terms.

The terms used in the Retreat Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below or as described in the paragraph where they first appear in bold print.

"Area of Common Responsibility": The Common Area, together with such other areas, if any, for which the Association has or assumes responsibility pursuant to the terms of this Declaration, any Supplemental Declaration, or other applicable covenants, contracts, or agreements.

"Architectural Guidelines": The guidelines and standards for design, construction, landscaping, and exterior items placed on Units established and administered pursuant to the Community Charter, as they may be amended.

"Articles of Incorporation": the Articles of Incorporation of The Retreat at Sterling on the Lake Association, Inc., filed with the Office of the Secretary of State, State of Georgia, as they may be amended.

"Association": The Retreat at Sterling on the Lake Association, Inc., a Georgia nonprofit corporation, its successors or assigns.

"Board of Directors" or "Board": The body responsible for administration of the Association, selected as provided in the By-Laws and generally serving the same role as the board of directors under Georgia corporate law.

"Builder": Any Person who purchases one or more Units for the purpose of constructing a dwelling thereon for later sale to consumers, or who purchases one or more parcels of land within The Retreat at Sterling on the Lake for further subdivision, development, and/or resale in the ordinary course of its business, and either purchases such Units directly from the Declarant or is designated a "Builder" hereunder in a written instrument executed by the Declarant.

"By-Laws": The By-Laws of The Retreat at Sterling on the Lake Association, Inc., as they may be amended. A copy of the initial By-Laws is attached to this Declaration as Exhibit "D."

"Class "B" Control Period": The period of time during which the Declarant, as the Class "B" Member, is entitled to appoint a majority of the members of the Board, as provided in Article III of the By-Laws. The Class "B" Control Period begins on the date of the Association's incorporation and terminates upon the first of the following to occur:

(a) the first annual meeting following the date on which 80% of the Permitted Units have been conveyed to Persons other than the Declarant, a Declarant Affiliate, or a Builder;

(b) December 31, 2030; or

(c) when, in its discretion, the Declarant so determines and declares in a recorded instrument; provided, Declarant shall not voluntary terminate the Class "B" Control Period earlier than the first to occur of (a), (b), or (c) above without prior written notice to any Builder who then owns or has a contract to acquire one or more Units.

"Common Area": All real and personal property, including easements, which the Association owns, leases or otherwise holds possessory or use rights in for the common use and benefit of the Owners. The term shall include the Limited Common Area, as defined below, if any.

"Common Expenses": The actual and estimated expenses which the Association incurs, or expects to incur, for the general benefit of all Owners, including any reasonable reserve, as the Board may find necessary or appropriate pursuant to the Retreat Documents. Common Expenses shall not include any expenses incurred during the Class "B" Control Period for initial development or other original construction costs unless approved by Members representing a majority of the total Class "A" votes in the Association. Payments due under leases of capital improvements such as streetlights shall not be considered an initial development expense or original construction cost.

"Community": the residential portion of that master planned community located in the City of Flowery Branch, Hall County, Georgia known as Sterling on the Lake, being more specifically described in and made subject to the Community Charter for Sterling on the Lake referenced below.

"Community Charter": The Community Charter for Sterling on the Lake recorded in the Public Records (defined below) on December 15, 2003 at Deed Book 4828, Page 136, *et seq.*, as it has been and may be further amended and supplemented, which instrument applies to the Properties as well as to other real property described therein or in amendments or supplements to the Community Charter filed from time to time in the Public Records.

"Community Documents": The Community Charter, the Architectural Guidelines established pursuant to the Community Charter, and the articles of incorporation, by-laws and rules of Sterling on the Lake Community Association, Inc., and resolutions adopted by its board of directors.

"Community-Wide Standard": The standard of conduct, maintenance, or other activity generally prevailing in the Community and The Retreat at Sterling on the Lake, or the minimum standards established pursuant to the Community Documents and the Retreat Documents, whichever is the highest standard. Declarant initially shall establish such standard and it may contain both objective and subjective elements. The Community-Wide Standard may evolve as development progresses and as the needs and desires within the Community and The Retreat at Sterling on the Lake change over time.

"Declarant": NNP-Looper Lake, LLC, a Delaware limited liability company, its successors, or any successor-in-title or assign who takes title to any portion of the property described in Exhibits "A" or "B" of this Declaration for the purpose of development and/or sale and who the immediately preceding Declarant designates as the "Declarant" in a recorded instrument.

"Declarant Affiliate": Any Person that controls, is controlled by, or is under common control with the Declarant, and any Person that is an owner, a member, a partner, or a shareholder of the Declarant.

"Development and Sale Period": The period of time between the recording of this Declaration and the date as of which all of the following have occurred: (i) neither the Declarant, any Declarant Affiliate, or any Builder owns any property subject to this Declaration; (ii) Declarant's right to expand The Retreat at Sterling on the Lake pursuant to Section 9.1 has expired; and (iii) each Unit has become an Improved Unit, as define herein.

"The Retreat at Sterling on the Lake": The age-restricted neighborhood within Sterling on the Lake which is comprised of the real property now or hereafter made subject to this Declaration, also referred to herein as the "Properties."

"Eligible Mortgage Holder": a holder, insurer or guarantor of a first priority Mortgage on a Unit who has submitted a written request to the Association to notify it of certain events pursuant to Article XIII. The term "**Eligible Mortgage**" shall refer to the Mortgage held by an Eligible Mortgage Holder.

"Expansion Property": the real property described on Exhibit "B" to this Declaration, which may be made subject to this Declaration as provided in Article IX.

"Founder": the Person which holds the rights and status of the Founder under the Community Charter, as such rights and status have been and may hereafter be transferred or assigned pursuant to the Community Charter.

"General Assessment": Assessments levied on all Units subject to assessment under Section 8.5 to fund Common Expenses for the general benefit of all Units, as determined in accordance with Section 8.2.

"Improved Unit": A Unit improved with a dwelling that either (i) has been issued a certificate of occupancy by the applicable governmental authority and is owned by a Person other than Declarant, Declarant Affiliate, or Builder, or (ii) is or has been occupied for residential purposes. For purposes of this definition, use of a dwelling by Declarant or a Builder as a sales office, business office, and/or model home shall not constitute occupancy for residential purposes.

"Master Association": Sterling on the Lake Community Association, Inc., a Georgia nonprofit corporation, its successors and assigns, being the owners association referenced in and responsible for administering the Community Charter.

"Member": A Person subject to membership in the Association pursuant to Section 6.2.

"Mortgage": A mortgage, a security deed, a deed of trust, or any other form of security instrument affecting title to any Unit. The term "**Mortgagee**" shall refer to a beneficiary or holder of a Mortgage.

"Occupant" Any Person occupying all or any portion of a Unit for any period of time, regardless of whether such Person is an Owner, a tenant, or a household member or guest, except as otherwise provided in Section 3.2.

"Owner": One or more Persons who hold the record title to any Unit, but excluding in all cases any party holding an interest merely as security for the performance of an obligation. If a Unit is sold under a recorded contract of sale, and the contract specifically so provides, the purchaser (rather than the fee owner) will be considered the Owner.

"Permitted Units": the maximum number of Units which the Declarant proposes to develop within The Retreat at Sterling on the Lake, as indicated by the Site Plan.

"Person": A natural person, a corporation, a partnership, a limited liability company, trust, or any other legal entity.

"Properties": The real property described on Exhibit "A" together with such additional property as is submitted to this Declaration pursuant to Article IX.

"Public Records": The office of the Clerk of the Superior Court of Hall County, Georgia, or such other place designated as the official location for filing documents affecting title to real estate in Hall County, Georgia in order to make them a matter of public record.

"Retreat Documents": This Declaration and any applicable Supplemental Declaration, the Articles of Incorporation, By-Laws, the Rules, and Board resolutions, all as they may be amended.

"Reviewer": The entity with architectural review authority over a particular matter pursuant to the Community Charter.

"Rules": The initial rules set forth in Exhibit "C," as they may be supplemented, modified and repealed pursuant to Article III.

"Site Plan": The site plan for the development of The Retreat at Sterling on the Lake established by the Declarant, as it may be supplemented or amended. Inclusion of property on the Site Plan shall not, under any circumstances, obligate Declarant to subject such property to this Declaration, nor shall the omission of property from the Site Plan bar its later submission to this Declaration pursuant to Article IX.

"Special Assessment": Assessments levied in accordance with Section 8.3.

"Specific Assessment": Assessments levied in accordance with Section 8.4.

"Supplemental Declaration": An instrument recorded pursuant to Article IX which subjects additional property to this Declaration and/ or creates or imposes additional easements, restrictions and obligations on the land described in such instrument.

"Unit": A numbered lot shown on a recorded plat of any portion of The Retreat at Sterling on the Lake, which lot may be independently owned and conveyed and is intended for development, use, and occupancy as a residence for a single family, whether or not such residence has been constructed. The term shall refer to the land, if any, which is part of the Unit as well as any improvements thereon. In the event that a Unit is improved with a main dwelling and an accessory dwelling, each dwelling shall constitute a separate "Unit" hereunder; however, nothing herein shall authorize the creation of an accessory dwelling without the prior approval of the Declarant during the Development and Sale Period and the Board thereafter, in addition to such approval as is required under the Community Charter.

In the case of a parcel of land submitted to this Declaration prior to recordation of a subdivision plat subdividing it into lots for single family dwellings, the parcel shall be deemed to be a single Unit until such time as a subdivision plat is recorded subdividing all or a portion of the parcel. Thereafter, the portion encompassed by such plat shall contain the number of Units determined as set forth in the preceding paragraph and any remaining portion shall constitute a single Unit. Units may be combined or further subdivided, and boundary lines of Units may be changed, only by recording of a plat or other legal instrument approved by the Declarant reflecting such change. In the absence of recording such a plat or other legal instrument, ownership of adjacent Units by the same Owner shall not permit such Units to be treated as a single Unit for purposes of voting and assessment, notwithstanding that such Units may be improved with a single dwelling.

"Sterling on the Lake": that master planned community located in the City of Flowery Branch, Hall County, Georgia known as "Sterling on the Lake."

"Weekley": Weekley Homes, LLC, a Delaware limited liability company, its successors and assigns.

2.2. Interpretation of Certain References.

(a) Recording. All references in the Retreat Documents to a "recorded" legal instrument, or to recordation or the recording of a legal instrument, shall refer to an instrument filed, or the filing of a legal instrument, in the Public Records.

(b) Consent or Approval. All references in the Retreat Documents to "consent" or "approval" shall refer to permission or approval that, unless otherwise expressly qualified in the specific provision, may be granted or withheld in the discretion of the Person whose consent or approval is required.

(c) Discretion and Determinations. All references in the Retreat Documents to "discretion" or to the right to "determine" any matter shall refer to the sole and absolute power or right to decide or act and, unless otherwise expressly limited in the Retreat Documents, a Person entitled to exercise discretion or make a determination may do so without regard to the reasonableness of, and without the necessity of justifying, the decision, determination, action or inaction.

ARTICLE III RESTRICTIONS ON USE, OCCUPANCY AND CONDUCT; LEASING

3.1. Residential Use.

Except as the Declarant may otherwise authorize with respect to construction, marketing, and sale activities of the Declarant and Builders it designates, Units may be used for residential purposes only, and no trade or business of any kind may be conducted in or from a Unit, including business uses ancillary to a primary residential use, except that an Owner or Occupant residing in a Unit may conduct business activities ancillary to a primary residential use of the Unit if the business activity:

(a) is not apparent or detectable by sight, sound, or smell from outside of a permitted structure;

(b) complies with applicable zoning requirements;

(c) does not involve overnight lodging or regular visitation of the Unit by employees clients, customers, suppliers, business invitees, or other persons who do not reside in the Unit, or door-to-door solicitation within The Retreat at Sterling on the Lake; and

(d) complies with all provisions of the Governing Documents, is consistent with the residential character of The Retreat at Sterling on the Lake, and does not constitute a nuisance or a hazardous or offensive use, or threaten the security or safety of others, as the Board determines in its discretion.

The terms "trade" and "business" shall have their ordinary, generally accepted meanings and shall include, without limitation, any occupation, work, or activity undertaken on an ongoing basis that involves providing goods or services to Persons other than the family of the producer and for which the producer receives a fee, compensation, or other form of consideration, regardless of whether (i) such activity is engaged in full or part time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required.

3.2. Occupancy of Units.

(a) General. The Retreat at Sterling on the Lake is established as a senior housing community designed and intended to provide housing for persons 55 years of age or older, although younger persons are not restricted from occupying a Unit along with a person 55 years of age or older or so long as such occupancy is otherwise in compliance with this Section 3.2. In addition, certain exceptions may be made pursuant to subparagraph (b)(i). The provisions of this Section 3.2 are intended to be consistent with, and are set forth in order to comply with, the "housing for older persons" exemption ("**HOPA Exemption**") from prohibitions on discrimination based on familial status under the federal Fair Housing Act, 42 U.S.C. § 3601, *et seq*., as now and hereafter amended, and the Georgia Fair Housing Law, O.C.G.A. 8-3-200, *et seq*., as now and hereafter amended (collectively, the "**Fair Housing Acts**"). Declarant, during the Development and Sale Period, and the Board thereafter, shall have the power to amend this Section 3.2, without the consent of the members of the Association or any other Person except the Founder, as necessary to make this Section 3.2 compliant with the HOPA Exemption under the Fair Housing Acts, the regulations adopted pursuant thereto, as they may be amended, other provisions of Georgia law, and any judicial decisions arising thereunder or otherwise relating to any of the foregoing.

(b) Requirements for Occupied Units.

(i) Each occupied Unit shall at all times have as a "Permanent Resident" (as defined herein) at least one person who is 55 years of age or older (the "**Qualifying Occupant**"), except as otherwise provided in this subsection (b).

(A) In the event of the death of a person who was the sole Qualifying Occupant of a Unit, or the illness or disability of the sole Qualifying Occupant requiring their transfer to a health care facility, nursing home, or assisted living, personal care, continuing care, or similar facility providing assistance with daily personal needs and/ or health care, the spouse of such Qualifying Occupant residing in the Unit immediately prior to such event and any other person then occupying the Unit in compliance with this Section 3.2 may continue to occupy the Unit, provided that they notify the Board in writing within 10 days after the death or relocation of the Qualifying Occupant and such continued occupancy would not cause The Retreat at Sterling on the Lake to be in noncompliance with the requirements of the HOPA Exemption under the Fair Housing Acts or the requirements of applicable zoning as of the date of the Board's receipt of such notice;

(B) During the Development and Sale Period, Declarant may grant an exception to this requirement, provided the requirements for the HOPA Exemption under the Fair Housing Acts and the requirements of applicable zoning would still be met, to permit occupancy of a specific Unit by the particular individuals for whom the exception is made. Any such exception shall be made only in a writing signed by the Declarant, and shall identify the specific individuals and Unit which they are authorized to occupy, and shall apply only to occupancy by the specific individuals so named; and

(C) In addition to the above, Declarant and any other Owner may request in writing that the Board make an exception to the requirements of this Section 3.2(b)(i) with respect to such Owner's Unit. The Board may adopt and publish rules and policies for considering and granting such requests, including policies regarding the form of such request and the information that must be provided with such request. The Board shall respond to any such request within 10 calendar days after receipt of such request and all information required to accompany such request, as specified by Board rules and policies. The Board may, but shall not be obligated to, grant exceptions under this subparagraph (C). In considering any such request, the Board shall use good faith efforts to maintain eligibility for the requirements for the HOPA Exemption under the Fair Housing Acts consistent with applicable law.

For purposes of this Section 3.2(b)(i), an occupant shall not be considered a "**Permanent Resident**" unless such occupant considers the Unit to be his or her legal residence and actually resides in the Unit for at least six months during every calendar year or such shorter period as the Unit is actually occupied by any person.

(ii) Nothing in this Section 3.2(b) is intended to restrict the ownership of or transfer of title to any Unit nor prohibit occupancy of a Unit by a person of any age, provided that the requirements of this Section 3.2(b) are met.

(c) Restriction on Number of Persons Occupying Each Unit. Occupancy of each Unit shall be limited to that number of persons equal to the number of bedrooms in the Unit (i.e., described as a bedroom in the plans approved pursuant to Article 5 of the Community Charter), plus two additional persons. For purposes of this subsection (c), "occupancy" means staying overnight in a Unit for a total of more than 28 nights, either consecutive or nonconsecutive, in any calendar year.

(d) Change in Occupancy; Sales and Leases.

(i) Any lease or other occupancy agreement or contract of sale relating to a Unit shall be in writing, shall be signed by the tenant or purchaser, and shall include a statement in conspicuous type that the Units in The Retreat at Sterling on the Lake are intended for the housing of persons 55 years of age or older, as set forth in Section 3.2(a). Owners shall clearly disclose such intent to any prospective tenant, purchaser, or other prospective resident of the Unit. Every lease of a Unit shall provide that failure to comply with the requirements and restrictions of this Section 3.2 shall constitute a default under the lease.

(ii) In the event of any change in occupancy of any Unit as a result of a transfer of title, a lease, a birth or death, a change in marital status, vacancy, change in location of permanent residence, or otherwise, the Owner of the Unit shall immediately notify the Board in writing and provide to the Board the names of each person occupying the Unit and such information as the Board may require to verify compliance with the requirements of Section 3.2(b) and Section 3.2(c). In the event that an Owner fails to notify the Board and provide all required information within 10 days after a change in occupancy occurs, the Association shall be authorized to levy monetary fines against the Owner and the Unit for each day after the change in occupancy occurs until the Association receives the required notice and information, regardless of whether the Unit continues to meet the requirements of Section 3.2(b), in addition to all other remedies available to the Association under this Declaration and Georgia law, which may include dispossessory or eviction proceedings, subject to any limitations of Georgia law.

(iii) Within 30 days after the Qualifying Occupant of a Unit or any other person granted an exemption pursuant to Section 3.2(b)(i), ceases to be a Permanent Resident of the Unit, the remaining occupants shall vacate the Unit unless there is another Qualifying

Occupant residing in the Unit or the Board has granted an exception for the remaining occupants pursuant to Section 3.2(b)(i).

(e) Monitoring Compliance; Appointment of Attorney-in-Fact.

(i) The Association shall maintain a record identifying all persons residing in each Unit. The Board shall adopt and publish policies, procedures, and rules to monitor and maintain compliance with this Section 3.2, including policies regarding visitors, updating of occupancy records, the granting of exceptions pursuant to Section 3.2(b)(i), and enforcement. The Association shall periodically distribute such policies, procedures, and rules to Owners and make copies available to Owners, their tenants, and holders of security interests in any Unit upon reasonable request.

(ii) The Association shall have the power and authority to enforce this Section 3.2 in any legal manner available, as the Board deems appropriate consistent with federal and state law, including, without limitation, conducting a census of the persons occupying each Unit, requiring copies of birth certificates or other proof of age for each person occupying the Unit to be provided to the Board on a periodic basis, and taking action to evict the occupants of any Unit which is not in compliance with the requirements of this Section 3.2. EACH OWNER HEREBY APPOINTS THE ASSOCIATION AS ITS ATTORNEY-IN-FACT FOR THE PURPOSE OF TAKING LEGAL ACTION TO DISPOSSESS, EVICT, OR OTHERWISE REMOVE THE OCCUPANTS OF HIS OR HER UNIT AS THE BOARD DEEMS APPROPRIATE TO ENFORCE COMPLIANCE WITH THIS SECTION 3.2. Each Owner shall fully and truthfully respond to any and all requests by the Association for information regarding the occupancy of his or her Unit that, in the judgment of the Board, are reasonably necessary to monitor compliance with this Section 3.2.

(iii) Each Owner shall be responsible for ensuring compliance of its Unit with the requirements of this Section 3.2 and the rules of the Association adopted hereunder. EACH OWNER, BY ACCEPTANCE OF TITLE TO A UNIT, AGREES TO INDEMNIFY, DEFEND, AND HOLD THE ASSOCIATION HARMLESS FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, AND CAUSES OF ACTION THAT MAY ARISE FROM FAILURE OF SUCH OWNER'S UNIT TO SO COMPLY. In addition, the Association shall be entitled to recover all attorneys' fees and costs actually incurred in enforcing this Section 3.2 from the Owner of the non-compliant Unit, whether or not suit is filed.

(f) Association Action. Notwithstanding anything to the contrary herein, the Association shall not take any action that would cause The Retreat at Sterling on the Lake to lose eligibility for the HOPA Exemption described in this Section 3.2 without prior written notice to any Builder which owns or is under contract to acquire from the Declarant one or more Units in The Retreat at Sterling on the Lake at the time of such action.

3.3. Leasing of Units.

(a) Definition. "Leasing," as used in this Declaration, shall mean the regular, exclusive occupancy of a Unit by any person other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

(b) Conditions. All leasing of Units shall comply with the leasing conditions set forth in the Community Charter and with the following:

(i) No signs advertising the Unit for rent or lease or otherwise indicating that the Unit is available for rent or lease shall be posted on the Unit, elsewhere in the Community, or on any right-of-way adjacent to the Community, except as may specifically be authorized by the Architectural Guidelines.

(ii) **Any lease of a Unit shall be in writing and shall be subject to and shall specifically reference the occupancy requirements and restrictions set forth in Section 3.2.**

(iii) All leases shall have an initial term which complies with the minimum lease term set forth in the Community Charter. If the lease is terminated or the lessee occupying the Unit under the lease vacates the Unit prior to expiration of such minimum initial term, the Unit may not be leased or subleased to another lessee until expiration of such minimum initial term, unless otherwise approved in advance by the board of directors of the Master Association.

(iv) Units may be leased only in their entirety; no fraction, portion, or rooms constituting less than the entire Unit may be leased and no Unit shall be subject to more than one lease at a time (*i.e.*, concurrent leases with multiple parties shall not be permitted). This subsection (b)(iv) shall not prohibit unrelated persons from sharing occupancy of a Unit as part of a common household and sharing expenses in such manner as they determine among themselves, provided that such occupancy complies with Section 3.2.

(v) The Owner of a leased Unit shall provide to the lessee copies of the Declaration, By-Laws, and the Rules prior to the lessee entering into any agreement to lease a Unit.

(vi) Prior to the lessee taking occupancy of the Unit, the Owner shall give notice to the Association as required under Section 3.2(d). Nothing herein shall be construed as giving the Association the right to approve or disapprove a proposed lessee. The notice of any lease shall provide an alternate mailing address for the Owner, a copy of the lease, and any additional information the Board may reasonably require, and shall be accompanied by a fee ("**Administrative Lease Fee**") in such reasonable amount as the Board may establish from time to time to help fund costs of processing lease applications, updating resident records, and other administrative burdens associated with leasing.

(vii) Each Owner of a leased Unit and each lessee, by occupancy of a Unit, agrees to the following provisions and further agrees that, if such provisions are not expressly contained in the lease, then such provisions shall be incorporated into the lease by existence of this covenant on the Unit:

Compliance With Governing Documents. The lessee acknowledges receipt of a copy of the Community Charter for Sterling on the Lake and the other governing documents referenced therein as well as the Declaration of Covenants, Restrictions and Easements for The Retreat at Sterling on the Lake and the other governing documents referenced therein (collectively, the "Governing Documents") and agrees to comply with the Governing Documents and to control the conduct of all other occupants and guests of the leased premises in order to ensure their compliance. Any violation of the Governing Documents by the lessee, any person residing in the Unit, or any guest of the lessee or other members of the lessee's household shall constitute a default under the terms of the lease and shall authorize the lessor to terminate the lease without liability and to evict the lessee in accordance with Georgia law. The lessor hereby delegates and assigns to The Retreat at Sterling on the Lake Association, Inc., acting through its board of directors, the power and authority to enforce this provision against the lessee, including the power and authority to evict the lessee as attorney-in-fact on behalf and for the benefit of the lessor, in accordance with the terms hereof.

Liability for Assessments. If the lessor fails to pay any monetary obligation due to The Retreat at Sterling on the Lake Association, Inc. (the "Association") for a period of more than 30 days after it is due and payable, then upon the Association's demand, the lessee shall pay to the Association the rental payments due under the lease as of the date of such demand and thereafter continue to pay all rent due under the lease to the Association as it comes due until all the monetary obligations of the Owner related to the Unit have been paid in full to the Association and the Association releases the tenant or until the termination of the lease, whichever occurs first. All such payments made by lessee shall reduce, by the same amount, lessee's obligation to make monthly rental payments to lessor. If lessee fails to comply with the Board's request to pay assessments or other charges, lessee shall pay to the Association all amounts authorized under the Governing Documents as if lessee were an Owner. The above provision shall not be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she would otherwise be responsible.

(viii) In the event the Association proceeds to evict a lessee pursuant to the language in subsection (b)(vii) above, any costs, including attorney's fees and court costs, associated with the eviction shall be an assessment against the Unit, secured by the Association's lien under Section 8.6 of this Declaration.

(ix) Any demand for payment of rents due under the lease pursuant to the language in subsection (b)(vii) above shall be in writing and shall be delivered to the lessee by hand or by United States mail. Any Owner hereby consents to the assignment of any rent due from the lessee during the period of any delinquency. The Association may, but shall have no duty to, take legal action to collect rents from any lessee pursuant to subsection (b)(vii), and nothing in that subsection (b)(vii) shall be construed to release the Owner from any obligation, including the obligation for assessments, for which he or she is otherwise responsible.

(x) The Owner of a leased Unit shall be responsible for any violations of the Governing Documents by the lessee or other Occupants of the Unit, notwithstanding that the lessee and Occupants are fully liable and may be sanctioned for their violations. In the event that the Association imposes a fine for violation of the Governing Documents by the lessee or Occupants of the leased Unit, the Association shall give notice to the Owner and the lessee and the Owner shall be responsible for payment if the lessee fails to pay the fine. Unpaid fines shall constitute a lien against the Unit.

(xi) An Owner and any other Owners to whom such Owner is related by blood, adoption, or marriage, or with whom such Owner is affiliated through a common ownership interest, shall not individually or collectively lease or offer for lease more than one Unit at the same time, except that this prohibition shall not apply to restrict:

(A) leasing of Units to Declarant or any Builder authorized by Declarant for use as model homes or sales offices, or to the continued leasing of such Units by the same Owner after expiration of any such lease if Declarant or Builder does not offer to renew or extend the lease on substantially similar terms; or

(B) the leasing of Units by an institutional lender following foreclosure on any Unit(s).

3.4. Rule Making Authority.

The Retreat Documents establish a framework of covenants and conditions that govern The Retreat at Sterling on the Lake. The initial Rules attached as Exhibit "C" are a part of that framework. However, within that framework, the Association must be able to respond to unforeseen issues and changes affecting the Properties. Therefore, the Rules may be modified in accordance with the following procedures, subject to the limitations set forth in Section 3.6.

(a) Declarant Authority. So long as the Declarant has the right unilaterally to amend this Declaration pursuant to Section 17.1, the Declarant may unilaterally amend the Rules to add new Rules or to modify or rescind existing Rules.

(b) Board Authority. Subject to the terms of this Article and the Board's duty to exercise its powers in a reasonable, fair and nondiscriminatory manner, the Board may modify, cancel, limit, create exceptions to, or expand the Rules by majority vote of the directors and, during the Development and Sale Period, the written consent of Declarant. The Board shall send notice to all Owners concerning any proposed action that would affect use of Units at least 14 days prior to the Board meeting at which such action is to be considered and Members shall have a reasonable opportunity to be heard at a Board meeting prior to such action being taken.

(c) Member Authority. Subject to the terms of this Article, the Members may, at an Association meeting duly called for such purpose, modify, cancel, limit, create exceptions to, or expand the Rules then in effect. Any such action shall require approval of Members entitled to cast more than 50% of the total Class "A" votes in the Association and, during the Development and Sale Period, the written consent of Declarant.

(d) Notice of Proposed Rule Change. Prior to any action taken under this Section becoming effective, the Board shall send a copy of the new Rule or explanation of any changes to the Rules to each Owner. The effective date shall be not less than 10 days following distribution to Owners. The Association shall provide, without cost, a copy of the Rules then in effect to any requesting Member or Mortgagee.

(e) Limitation. No action taken under this Article shall have the effect of modifying, repealing or expanding the Architectural Guidelines or any provision of this Declaration other than the initial Rules set forth in Exhibit "C." In the event of a conflict between the Architectural Guidelines and the Rules, the Architectural Guidelines shall control.

(e) This Section 3.4 shall not apply rules or operating policies relating to the Common Area, which the Board may establish by resolution without prior notice.

3.5. Owners' Acknowledgment and Notice to Purchasers.

ALL OWNERS ARE GIVEN NOTICE THAT USE OF THEIR UNITS AND THE COMMON AREA IS LIMITED BY THE RULES AS AMENDED, EXPANDED AND OTHERWISE MODIFIED FROM TIME TO TIME. Each Owner, by acceptance of a deed, acknowledges and agrees that the use and enjoyment and marketability of his or her Unit can be affected by this provision and that the Rules may change from time to time. All purchasers of Units are on notice that the Association may have adopted changes. Copies of the current Rules may be obtained from the Association.

3.6. Protection of Owners and Others.

Except as may be set forth in this Declaration (either initially or by amendment) or in the initial Rules set forth in Exhibit "C," the exercise of rulemaking authority under Section 3.4 shall be subject to the following:

(a) Similar Treatment. Similarly situated Owners shall be treated similarly.

(b) Religious and Holiday Displays; Political Signs. Rules shall not prohibit an Owner's right to display other religious or holiday symbols and decorations on such Owner's Unit of the kinds normally displayed in single-family residential neighborhoods, nor shall any Rule regulate the content of political signs, except that the Association may adopt time, place, and manner restrictions with respect to such symbols, decorations, and signs as are visible from outside structures on the Unit, including reasonable limitations on size, number, and time period within which they may be displayed, consistent with any applicable provisions of Georgia law.

(c) Flags. Rules shall not regulate the content of political signs or prohibit the display of the official flag of the United States of America in accordance with 4 U.S.C. Sections 5-10, the flag of the State of Georgia, or an official or replica flag of any branch of the United States armed forces, on the Unit owned or occupied by such Owner, except that Architectural Guidelines and the Reviewer under the Community Charter may regulate the location, size, use and manner of display of such flags and flagpoles and associated lighting to the extent such regulations are not inconsistent with federal and state laws.

(d) Allocation of Burdens and Benefits. No Rule shall alter the allocation of financial burdens among the various Units or rights to use the Common Area to the detriment of any Owner over that Owner's objection expressed in writing to the Association within 10 days after receipt of the notice required by Section 3.4(c). Nothing in this provision shall prevent the Association from changing the Common Area available, adopting generally applicable Rules for use of Common Area, limiting the number of Occupants of each Unit that may use the Common Area without additional charge, or from denying use privileges to those who are delinquent in paying assessments, abuse the Common Area, or violate the Retreat Documents. This provision does not affect the right to increase the amount of assessments as provided in Article VIII.

(e) Alienation. No Rule shall prohibit leasing or transfer of any Unit or require consent of the Association or Board for leasing or transfer of any Unit; however, the Rules may prohibit entering into multiple leases of a Unit with concurrent terms and restrict the number of Units that a single Owner or group of related or affiliated Owners may collectively lease, may require a minimum lease term consistent with Section 3.3(b), and may require that Owners use lease forms or lease addenda or otherwise include in their leases various provisions specified by the Board for the benefit of the Association. Occupancy of the Unit pursuant to any lease must comply with Section 3.2.

(f) Abridging Existing Rights. No Rule shall be applied to require an Owner or Occupant to dispose of personal property kept in or on a Unit by such Owner or Occupant in compliance with all Rules in effect immediately prior to the adoption of such Rule; however, the Association may adopt Rules permitting current Owners and Occupants to keep such personal property during their period of ownership or occupancy while prohibiting the keeping of similar items by subsequent Owners of the same Unit.

(g) Interference with Easements. No Rule or action shall unreasonably interfere with the exercise of any easement affecting the Properties.

(h) Reasonable Rights to Develop and Sell. No Rule or action by the Association or Board shall impede Declarant's right to develop the Properties, nor restrict Declarant or such Builders as Declarant may so authorize from maintaining upon Common Areas and Units which they own any facilities necessary or incidental to construction or sale of Units. By way of example and not limitation, no Rule shall prohibit the Declarant or such Builders as Declarant may so authorize from maintaining temporary structures for use during construction of a Unit or from using any home as a sales office.

The limitations in subsections (a) through (h) of this Section 3.6 shall only limit rulemaking authority exercised by the Board and the Members under Section 3.4; they shall not invalidate any provision of this Declaration or apply to Rules set forth on Exhibit "C" initially or amendments to this Declaration adopted in accordance with Article XVII.

ARTICLE IV CONSTRUCTION; ARCHITECTURE AND LANDSCAPING

4.1. Required Approvals and Compliance.

(a) Builder Approval. During the Development and Sale Period and so long as the Declarant owns any property subject to the Community Charter or has the right to submit additional property to the Community Charter or this Declaration, the construction of a dwelling and related improvements on a Unit may be performed only by a Builder who has been approved by the Declarant in accordance with such criteria as the Declarant may establish. The Declarant's approval of a Builder shall be for the protection of Declarant only and shall not be construed as an endorsement of the Builder. **The Declarant and its affiliates do not warrant or guarantee any Builder's capabilities, nor do they warrant or guarantee the design, engineering, construction, use, benefits, or value of any improvements constructed by a Builder on any Unit.** The Declarant and its affiliate shall not be liable for any loss, damage, or injury to any Person arising out of use of any Builder, regardless of any approval granted by Declarant. The approved Builder shall be responsible for supervising all construction activities on the Unit until such time as a certificate of occupancy has been issued for the dwelling on the Unit.

(b) Architectural Approval. All site work, landscaping, structures, improvements, and other items (including sports, play, and maintenance equipment, outdoor furniture and storage, and decorative items) placed or stored on any property in The Retreat at Sterling on the Lake in a manner or location visible from outside of any existing structure ("**Improvements**") are subject to the Architectural Guidelines and construction rules adopted pursuant to the Community Charter and the approval procedures set forth therein. The Association shall have no jurisdiction over architectural or design matters.

(c) Compliance. The Owner of each Unit shall be responsible for obtaining all necessary approvals and permits prior to commencement of construction activity on the Unit and for ensuring that all construction activity and Improvements on the Unit comply with the Community Charter and Design Guidelines adopted pursuant thereto and all applicable building codes, ordinances, and other governmental requirements.

4.2. Limitation of Liability.

The Declarant, the Association, its officers, the Board, and members of any of the foregoing shall not be liable for (a) soil conditions, drainage, or other general site work on any

Unit; (b) any defects in design or construction of improvements on any Unit; (c) any loss or damage arising out of the action, inaction, integrity, financial condition, or quality of work of any Builder, architect or contractor, or their respective subcontractors, employees, or agents; (d) view preservation; (e) construction delays or schedule modifications; or (f) any injury, damages, or loss arising out of the manner or quality or other circumstances of construction or modifications. In all such matters, the Association shall defend and indemnify the Board, the Reviewer, and the members of each, as provided in the By-Laws.

ARTICLE V MAINTENANCE AND REPAIR OF UNITS

5.1. Maintenance of Units.

(a) Each Owner shall be responsible for maintaining such Owner's Units and all improvements on the Unit, except to the extent that such responsibility is specifically assigned to or assumed by the Association hereunder. The Association shall be responsible for the following on the Units and, to the extent that the Owners would otherwise be responsible for such maintenance pursuant to Section 6.1 of the Community Charter, on property adjacent to the Units:

(i) mowing of lawns (including both front and rear yards of the Units) during the growing season and application of fertilizer to lawns two times per year;

(ii) installation of mulch and seasonal flowers in planting beds twice per year;

(iii) pruning of shrubbery and weeding and edging of curbs, walks, and planting beds with such frequency as the Board deems appropriate consistent with the budget adopted pursuant to Article VIII;

(iv) removal of fallen leaves from lawns, planting beds, and sidewalks at least twice per year; and

(v) such other maintenance as the Board may expressly elect to undertake consistent with the budget adopted from time to time in accordance with Article VIII;

all on such schedule as the Board determines appropriate consistent with the Community-Wide Standard, except as otherwise specified above.

If an Owner undertakes to perform maintenance which would otherwise be performed by the Association under Section 5.1(a), there shall be no reduction or abatement in the assessments levied on such Unit hereunder by reason of the Owner providing such maintenance.

Notwithstanding the above, each Owner shall be responsible for any landscaping and improvements installed by the Owners or occupants of any Unit after issuance of a certificate of occupancy for the dwelling on the Unit, unless the Association agrees in writing to accept such maintenance responsibility.

(b) The Association's responsibilities under Section 5.1(a) shall commence as to each Unit at such time as:

(i) all construction and landscaping on the Unit has been completed in accordance with the approved plans and the Reviewer under the Community Charter has issued a letter so stating; and

(ii) the Builder has either (A) delivered written notice to the Association that the final inspection of the dwelling on the Unit has been performed as required by the City of Flowery Branch, Georgia and a certificate of occupancy has been issued; or (B) has conveyed the Unit for residential occupancy.

Until the Association's maintenance responsibilities commence hereunder, the Owner/ Builder shall be responsible for all maintenance on the Unit.

(c) The Association shall have a perpetual, nonexclusive easement for entry upon each Unit to perform maintenance pursuant to Section 5.1(a) , which easement may be exercised by the Association, its officers, directors, employees, agents and contractors, and entry upon any Unit for such purpose shall not be deemed a trespass. Each Owner shall clear yards and sidewalks on such Owner's Unit and adjacent rights-of-way of personal property and obstructions, remove pets, and leave any gates unlocked to permit unfettered access to any fenced areas, in order to enable maintenance personnel to perform the services to be provided by the Association hereunder. An Owner's failure to comply with this section shall relieve the Association of its responsibility hereunder with respect to such Owner's Unit to the extent that the Association or maintenance personnel determine that such noncompliance interferes with their ability to provide the required services, in which case the Owner shall perform such maintenance and repairs, at such Owner's expense, in a timely manner and in accordance with the Community-Wide Standard, without deduction from or offset against assessments due hereunder.

(d) Each Owner shall be responsible for all maintenance of the Unit other than that which the Association is specifically obligated to provide pursuant to Section 5.1(a). Without limiting the generality of the preceding sentence, each Owner shall be responsible for (i) irrigation of the lawn and plant material and maintenance of any irrigation equipment on such Owner's Unit, (ii) treatment of insects and fungus on trees and other plant material and removal and replacement of dead or dying trees and other plant material on the Unit; (iii) maintenance and repair of any retaining walls on the Unit; and prevention and correction of any erosion or drainage issues on the Unit. All maintenance on Units shall be performed in a manner and on a schedule consistent with the Community-Wide Standard. No Person shall remove or modify existing landscaping on a Unit without prior approval of the Association and such approval as required under Article 5 of the Community Charter.

5.2. Insurance by Owners.

Each Owner shall carry property insurance for the full replacement cost of all insurable improvements on his or her Unit, less a reasonable deductible. In the event of damage to or destruction of structures on or comprising a Unit, the Owner shall, within 180 days thereafter, complete the repair or reconstruction of the damaged structures in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with the Community Charter. Alternatively, the Owner shall clear the Unit and maintain it in a neat and attractive, landscaped condition consistent with the Community-Wide Standard. The Owner shall pay any costs not covered by insurance proceeds. Each Owner shall submit to the Association, within 7 days of any written request from the Board of Directors, a certificate evidencing that such insurance coverage is in effect. The Association shall have no responsibility to ensure compliance with this Section, and no liability arising out of any Owner's noncompliance.

Each Owner and Occupant of a Unit shall also be responsible for insuring their personal property to the extent that they deem necessary or appropriate. Neither the Association nor Declarant shall bear any responsibility for the maintenance or safekeeping of personal property of any Owner or Occupant of a Unit, their family, guests or invitees, nor shall the Association or Declarant be held liable for the condition of, or any loss or damage to, any such personal property except to the extent directly attributable to the reckless acts or willful misconduct of the Association, Declarant or their respective agents or employees.

ARTICLE VI THE ASSOCIATION AND ITS MEMBERS

6.1. Function of Association.

The Association has been established to administer The Retreat at Sterling on the Lake in accordance with the Retreat Documents. Its responsibilities include, but are not limited to:

(a) management, maintenance, operation and control of the Area of Common Responsibility;

(b) maintenance of Units, to the extent provided in Section 5.1; and

(b) interpretation and enforcement of the Retreat Documents; and

(c) establishing and upholding the Community-Wide Standard.

6.2. Membership.

(a) Classes of Membership. The Association initially shall have two classes of membership, Class "A" and Class "B". Class "A" Members shall be all Owners, including the Declarant and Builders as to any Units which they own. The sole Class "B" Member shall be the Declarant. The Class "B" membership shall terminate two years after termination of the Class "B" Control Period.

(b) Automatic Membership; Exercise of Privileges. Every Owner automatically becomes a Member of the Association upon taking title to a Unit and remains a Member as long as the Owner holds title to such Unit. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-Owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3 and in the By-Laws, and all such co-Owners shall be jointly and severally obligated to perform the responsibilities of Owners. The membership rights of an Owner that is not a natural person may be exercised by any officer, director, partner or trustee, or by the individual designated from time to time by the Owner in a written instrument provided to the Secretary of the Association.

6.3. Voting.

The voting rights of each class of membership shall be as follows:

(a) Class "A". Each Unit owned by a Class "A" Member, including the Declarant, is assigned one vote equal to that of every other Unit owned by a Class "A" Member. If title to a Unit is held by more than one Person as co-Owners, any one of the co-Owners of such Unit may cast the vote for the Unit; provided, no more than one vote shall be cast for any Unit. If more than one co-Owner of a Unit attempts to casts the vote allocated to such Unit, the act of a majority of the co-Owners attempting to cast the vote for such Unit shall bind all co-Owners of the Unit. If the co-Owners attempting to vote are evenly split on a particular matter, each co-Owner may cast a proportional fractional vote with respect to such matter. No Class "A" vote shall be exercised for any property that is exempt from assessment under Section 8.7. The Declarant shall not exercise the Class "A" votes for Units it owns during the Class "B" Control Period.

(b) Class "B". The Class "B" Member shall not have a specific number of Class "B" votes; rather, the consent of the Class "B" Member shall be required for various actions of the Board, the membership, and committees, as specifically provided elsewhere in the Retreat Documents. In addition, the Class "B" Member may appoint a majority of the members of the Board of Directors during the Class "B" Control Period, as specified in Article III of the By-Laws, and one additional director thereafter until termination of the Class "B" Membership. Additional rights of the Class "B" Member are specified in the relevant sections of the Retreat Documents. In addition, the Class "B" Member shall have a right to disapprove actions of the Board and committees as provided in the By-Laws.

ARTICLE VII ASSOCIATION POWERS AND RESPONSIBILITIES

7.1. Acceptance and Control of Association Property.

(a) The Association, through action of its Board, may acquire, hold, lease (as lessor or lessee), operate and dispose of tangible and intangible personal property and real property, subject to the provisions of Article XVI. The Association may enter into leases, licenses or operating agreements for portions of the Common Area, for such consideration or no consideration as the Board deems appropriate, to permit use of such portions of the Common Area by community organizations and by others, whether nonprofit or for profit, for the provision of goods or services for the general benefit or convenience of Owners and Occupants of Units. The Association may borrow money to make improvements to the Common Area and pledge or assign specified assessment income for repayment of such loan, subject to the limitations on borrowing set forth in the By-Laws.

(b) Declarant, any Declarant Affiliate, and their respective designees may convey to the Association, and the Association shall accept, personal property and fee title, leasehold or other property interests in any real property, improved or unimproved, described in Exhibits "A" or "B." Upon Declarant's written request, the Association shall reconvey to Declarant any unimproved portions of the Common Area which Declarant originally conveyed to the Association for no consideration, to the extent conveyed by Declarant in error or needed by Declarant to make minor adjustments in property lines.

(c) The Association shall be responsible for management, operation and control of the Common Area, if any, subject to any covenants and restrictions set forth in the deed or other instrument transferring such property to the Association. The Board may adopt such reasonable rules regulating use of the Common Area as it deems appropriate.

(d) The Declarant may convey or dedicate any property it owns to the Master Association or the City of Flowery Branch. Nothing herein shall be construed to require conveyance of any property to the Association.

7.2. Maintenance of Area of Common Responsibility.

The Association shall maintain the Area of Common Responsibility in accordance with the Community-Wide Standard. The Area of Common Responsibility shall include, but need not be limited to:

(a) all portions of and structures situated on the Common Area; and

(b) all streets and any alleys within The Retreat at Sterling on the Lake, unless dedicated to and maintained by the Master Association or a governmental body; and

(c) any landscaping, entry monumentation, signage, decorative or perimeter walls, fencing and columns, vehicular and pedestrian gates, lighting, landscaping, and irrigation systems installed by the Declarant or the Association within the Common Area, public rights-of-way, or landscape/ wall easements on Units within The Retreat at Sterling on the Lake, and replacements thereof;

(d) any landscaping, signage, street lights and sidewalks within public rights-of-way or sidewalk easements lying within or abutting The Retreat at Sterling on the Lake, except to the extent such responsibility is assigned to or assumed by the Master Association or a governmental body or utility provider pursuant to recorded plats or written agreement;

(e) such other property, if any, as may be dictated by this Declaration, any Supplemental Declaration, or any contract or agreement for maintenance thereof entered into by the Association;

(f) any pipes, lines, pumps, or other apparatus comprising the irrigation system, if any, serving the Common Area, to the extent located within Common Area, rights-of-way, or easements granted to the Association;

(g) any wetlands located on Common Area or on property designated to be owned or maintained by the Association on a recorded plat of any portion of The Retreat at Sterling on the Lake, including ongoing monitoring and maintenance of the same to the extent required by and in accordance with applicable laws and ordinances; and

(h) any property and facilities Declarant owns and makes available, on a temporary or permanent basis, for the primary use and enjoyment of the Association and its Members. Such property and facilities shall be identified by written notice from Declarant to the Association and will remain part of the Area of Common Responsibility maintained by the Association until such time as Declarant revokes such privilege of use and enjoyment by written notice to the Association.

The Association may maintain other property that it does not own, including, without limitation, property dedicated to the public, if the Board of Directors determines that such maintenance is necessary or desirable to maintain the Community-Wide Standard.

The Association shall not be liable for any damage or injury occurring on or arising out of the condition of property that it does not own except to the extent that it has been negligent in the performance of its maintenance responsibilities.

Some portions of the Area of Common Responsibility may consist of open space, wetlands, or conservancy or buffer areas intentionally left in a natural or relatively undisturbed state. The level of maintenance that the Association provides to the Area of Common Responsibility may vary from a high level of landscaping and regular, weekly maintenance to intermittent or no maintenance, depending on the nature and intended use of the particular open space area. Open space, wetlands, and other natural areas may serve as habitats for a variety of native plant, animal, and insect species, and may contain creeks, fallen trees and other naturally occurring conditions, some of which may pose hazards to persons or pets coming in contact with them. Neither the Association, the Declarant, or any Builder shall have any responsibility for providing maintenance in such areas or taking action to abate such conditions.

The Association shall maintain the facilities within the Common Area in continuous operation, except for any periods necessary, as determined in the Board's sole discretion, to perform required maintenance or repairs, unless Members entitled to cast 80% of the total Class "A" votes in the Association and, during the Development and Sale Period, the Declarant, agree in writing to discontinue such operation.

At any time, and from time to time, the Declarant or the Association may transfer ownership and/ or maintenance responsibility for properties within The Retreat at Sterling on the Lake to the Master Association or the City of Flowery Branch. As a result of any such transfer, the scope of the Association's maintenance responsibilities under this Declaration may be reduced. Except as provided above, the Area of Common Responsibility shall not be reduced during the Development and Sale Period without Declarant's prior written approval.

Except as otherwise specifically provided in this Declaration or any applicable Supplemental Declaration, the costs associated with maintenance, repair and replacement of the Area of Common Responsibility shall be a Common Expense, subject to the right of the Association to seek reimbursement from the owner(s) of, or other Persons responsible for, certain portions of the Area of Common Responsibility pursuant to this Declaration, other recorded covenants, or agreements with the owner(s) thereof.

7.3. Insurance.

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all insurable improvements on the Common Area, if any, protecting against loss or damage due to fire, lightning, wind, smoke, hail, civil commotion (including riots), aircraft, vehicle, explosion, water, vandalism, and malicious mischief, among other things. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement cost of the insured improvements under current building ordinances and codes, excluding foundation and excavation costs; and

(ii) Commercial general liability insurance, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf. If generally available at reasonable cost, such coverage (including primary and any umbrella coverage) shall have a limit of at least $2,000,000.00 per occurrence with respect to bodily injury, personal injury, and property damage; provided, should additional coverage and higher limits be available at reasonable cost which a reasonably prudent person would obtain, the Association shall obtain such additional coverages or limits; and

(iii) Workers compensation insurance and employers liability insurance, if and to the extent required by law; and

(iv) Directors and officers liability coverage; and

(v) Commercial crime insurance, including fidelity insurance covering the Association's officers and all other Persons responsible for handling Association funds, in an amount determined in the Board's business judgment but not less than the maximum amount that will be in the custody of the Association or its managing agent at any point in time. Fidelity insurance policies shall contain a waiver of all defenses based upon the exclusion of Persons serving without compensation; and

(vi) Such additional insurance as the Board, in the exercise of its business judgment, determines advisable.

Premiums for all insurance on the Common Area shall be a Common Expense.

(b) Policy Requirements. The Association shall arrange for a periodic review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in Hall County, Georgia. All Association policies shall provide for a certificate of insurance to be furnished to the Association and, upon request, to each Member.

Association policies may contain a reasonable deductible and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be allocated in the same manner as the premiums for the applicable insurance coverage. However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with the By-Laws, that the loss is the result of the negligence or willful misconduct of one or more Owners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Owner(s) and their Units as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) be written with a company authorized to do business in Georgia which satisfies the requirements of the Federal National Mortgage Association, or such other secondary mortgage market agencies or federal agencies as the Board deems appropriate; and

(ii) identify the Association as the named insured, as trustee for the benefit of the Association and its Members; and

(iii) be primary and not be brought into contribution with insurance separately purchased by Owners, Occupants, or Mortgagees; and

(iv) contain a building ordinance or law endorsement, if enforcement of any building, zoning, or land use law could increase the cost of demolition, repairs or reconstruction in the event of a casualty; and

(v) contain an inflation guard endorsement, if available, and include an agreed amount endorsement, if the policy contains a co-insurance clause; and

(vi) provide that each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area as a Member in the Association (provided, this provision shall not be construed as giving an Owner any interest in the Common Area other than that of a Member); and

(vii) provide a waiver of subrogation under the policy against any Owner or Occupant of any Unit; and

(viii) include an endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure; and

(ix) include an endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Owners or members of their households, unless such Owner is acting within the scope of its authority on behalf of the Association.

In addition, the Board shall use reasonable efforts to secure insurance policies that list the Owners as additional insureds and provide:

(i) a waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, the Owners and their tenants, servants, agents, and guests; and

(ii) a waiver of the insurer's rights to repair and reconstruct instead of paying cash; and

(iii) an endorsement requiring at least 30 days' prior written notice to the Association of any cancellation, substantial modification, or non-renewal; and

(iv) a cross liability provision; and

(v) a provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of Common Area or other property which the Association is obligated to insure, the Board or its duly authorized agent shall file and adjust all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

The Association shall cause damaged improvements on the Common Area to be repaired or reconstructed unless a decision not to repair or reconstruct is approved within 60 days after the loss or damage by Owners of at least 80% of the Units, and during the Development and Sale Period, by the Declarant. If either the insurance proceeds or estimates of the loss, or both, are not available to the Association within such 60-day period, then the period shall be extended until such funds or information are available. However, such extension shall not exceed 60 additional days. No Mortgagee shall have the right to participate in the determination of whether the damage or destruction to the Common Area shall be repaired or reconstructed.

If a decision is made not to restore the damaged improvements and no alternative improvements are authorized, the affected property shall be cleared of all debris and ruins and thereafter shall be maintained by the Association in a neat and attractive, landscaped condition consistent with the Community-Wide Standard.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be distributed to all of the Owners or their Mortgagees, as their interests may appear, at an equal rate per Unit.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall.

7.4. Compliance and Enforcement.

(a) Every Owner and Occupant of a Unit shall comply with the Retreat Documents and shall be responsible for ensuring that their guests and invitees comply with the Retreat Documents. The Association, the Declarant during the Development and Sale Period, and every affected Owner shall have the right to file suit at law or in equity to enforce the Retreat Documents, subject to the dispute resolution procedures set forth in Article XII and the Community Charter. In addition, the Board may impose sanctions for violation of the Retreat Documents as set forth in this Section 7.4 and elsewhere in the Retreat Documents.

(b) Except as otherwise specifically provided herein, the Board may impose the following sanctions only after notice and a hearing in accordance with the procedures set forth in Article VIII of the By-Laws:

(i) reasonable monetary fines, not to exceed $100.00 for a single violation or $100 per day in the case of a continuing violation, with no limit on the aggregate amount of any fine for a continuing violation. In the case of a continuing violation, only a single notice and opportunity for hearing is required. The Board may adopt a schedule of fines establishing a range of fines for particular types of violations, which range may vary depending on the nature of the violation. In the event that any Occupant, guest or invitee of a Unit violates the Retreat Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, if the fine is not paid by the violator within the time period set by the Board, the Owner shall pay the fine upon notice from the Board;

(ii) suspension of the right of the Owner and Occupants of any Unit to use any Common Area facilities (other than portions of the Common Area required to provide access and utilities to the Unit which they own or occupy) and/or suspension of any services which the Association provides to a Unit (other than essential utilities, e.g., electricity, water, natural gas) if the Owner of the Unit is more than 90 days delinquent in paying any assessments or other charges owed to the Association, which suspension may continue until such assessments or other charges have been paid in full, except that the Association may temporarily suspend a Person's right to use Common Area for a violation that occurred in the Common Area and involved a significant and immediate risk of harm to others pending compliance with, and a final determination of sanctions pursuant to, the notice and hearing procedures in Article VIII of the By-Laws.

(iii) levying Specific Assessments pursuant to Section 8.4 to cover costs which the Association incurs to bring a Unit into compliance with the Retreat Documents, or costs incurred as a consequence of the conduct of an Owner or Occupant of a Unit, their guests or invitees;

(iv) recording a notice of violation with respect to any Unit on which a physical violation exists; and

(v) bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both, subject to the dispute resolution procedures set forth in Article 12, if applicable, except that notice and a hearing pursuant to Article VIII of the By-Laws shall not be required prior to filing suit seeking temporary injunctive relief or to collect any assessment or foreclose the Association's lien.

(c) In addition, the Association, acting through the Board or its designee, may take the following action to enforce the Retreat Documents without the necessity of compliance with the procedures set forth in Article VIII of the By-Laws:

(i) requiring an Owner, at such Owner's expense, to perform maintenance on such Owner's Unit, or to remove any structure, item or improvement on such Owner's Unit in violation of the Retreat Documents and to restore the Unit to its previous condition; or

(ii) entering the property and exercising self-help to remove or cure a violating condition upon failure of an Owner to take action as required pursuant to subsection (i) above within 14 days after receipt of written notice to do so, and any such entry shall not be deemed a trespass; or

(iii) exercising self-help in any situation which requires prompt action to avoid potential injury or damage or unreasonable inconvenience to other persons or their property (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and/ or

(d) All remedies set forth in the Retreat Documents shall be cumulative of any remedies available at law or in equity. In any action to enforce the Retreat Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys' fees and court costs, reasonably incurred in such action, in addition to such other amounts as may be authorized by Georgia law.

(e) The decision to pursue enforcement action in any particular case shall be left to the Board's discretion, except that the Board shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing sentence, the Board may determine that, under the circumstances of a particular case:

(i) the Association's position is not strong enough to justify taking any or further action; or

(ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; or

(iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or

(iv) it is not in the Association's best interests, based upon hardship, expense, or other reasonable criteria, to pursue enforcement action.

Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or preclude the Association from enforcing any other covenant, restriction or rule.

(f) The Association, by contract or other agreement, may enforce applicable county ordinances and permit the City of Flowery Branch to enforce ordinances within The Retreat at Sterling on the Lake for the benefit of the Association and its Members.

7.5. Implied Rights; Board Authority.

The Association may exercise any right or privilege given to it expressly by the Retreat Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. The Board may exercise all rights and powers of the Association without a vote of the membership except to the extent that the Retreat Documents or Georgia law specifically requires a vote of the membership.

The Board may institute, defend, settle, or intervene on behalf of the Association in mediation, binding or non-binding arbitration, litigation, or administrative proceedings in matters pertaining to the Area of Common Responsibility, interpretation or enforcement of the Retreat Documents, or any other civil claim or action affecting the rights, powers, and responsibilities of the Association under the Retreat Documents. However, the Retreat Documents shall not be construed as creating any independent legal duty to institute litigation on behalf of or in the name of the Association or its Members.

In exercising the rights and powers of the Association, making decisions on behalf of the Association, and conducting the Association's affairs, Board members shall be subject to, and their actions shall be judged in accordance with, the standards set forth in Article VI of the By-Laws.

7.6. Provision of Services to Units.

The Association may provide, or provide for, services and facilities for the Owners and their Units, and shall be authorized to enter into and terminate contracts or agreements with other entities, including Declarant, to provide such services and facilities. By way of example, such services and facilities might include exterior maintenance; pest control service; cable, digital, satellite or similar television service; telecommunication and internet connection services; security monitoring; utilities; and other services and facilities. The Association may enter into bulk service agreements by which a particular service is provided (a) to all Units, with the charges allocated among all Units as part of the General Assessment, or (b) to all Improved Units, with the charges allocated only among Improved Units, as a Specific Assessment. Alternatively, the Association may arrange for or offer various services at the option of each Owner and assess the cost thereof against such Owner's Unit as a Specific Assessment.

Any contract entered into by the Association for services may provide the option for individual Owners or Occupants to contract directly with the Persons providing components or services in order to gain access to or obtain specified services. Such individual contracts may contain terms and conditions that, if violated by the Owner or Occupant of a Unit, may result in termination of services provided to such Unit. Any such termination shall not relieve the Owner of the continuing obligation to pay assessments for any portion of the charges for such service that are assessed against the Unit pursuant to this Article.

Nothing in this Section shall be construed as a representation by Declarant or the Association as to what, if any, services shall be provided. In addition, the Board shall be permitted to modify or cancel existing contracts for services in its discretion, unless the provision of such services is otherwise required by the Retreat Documents. Non-use of services provided to all Owners or Units as a Common Expense shall not exempt any Owner from the obligation to pay assessments for such services.

7.7. Safety and Security.

The Association may, but shall not be obligated to, maintain or support certain activities designed to enhance the level of safety or security that each person provides for himself and his property within The Retreat at Sterling on the Lake. However, no representation or warranty is made that any systems or measures, including any mechanism or system for limiting access to

The Retreat at Sterling on the Lake or any portion thereof, cannot be compromised or circumvented, nor that any such systems or security measures undertaken will in all cases prevent loss or provide the detection or protection for which the system is designed or intended. Neither the Association, the Declarant, any Builder, nor the members, partners, affiliates, officers, directors, agents or employees of any of the foregoing, shall in any way be considered insurers or guarantors of safety or security within The Retreat at Sterling on the Lake, nor shall either be held liable for any loss or damage by reason of failure to provide adequate security or ineffectiveness of security measures undertaken.

Each Owner and Occupant of a Unit, and their respective guests and invitees, shall be responsible for their own personal safety and the security of their property in The Retreat at Sterling on the Lake and each of them assumes all risks of personal injury and loss or damage to their property, including Units and their contents, resulting from acts of third parties.

ARTICLE VIII ASSOCIATION FINANCES

8.1. Authority to Levy Assessments for Association Expenses.

(a) Purposes and Types. There are hereby created, and the Association is hereby authorized to levy, assessments for expenses incurred or anticipated to be incurred by the Association in performing its responsibilities and exercising its rights and powers under the Retreat Documents, specifically including but not limited to: any amounts charged to the Association by the Master Association pursuant to the Community Charter; the cost of water and sewer service provided to the Area of Common Responsibility by any public utility and billed to the Association; expenses of maintaining, repairing, replacing, improving, operating, and insuring the Area of Common Responsibility, to the extent the Association is responsible therefor; expenses of monitoring and enforcing compliance with the provisions of the Retreat Documents; expenses arising out of the Association's indemnification obligations; expenses of managing the Association, including compensation of management personnel, maintaining books and records, handling Association funds, providing financial reports, and corresponding with Members; administrative expenses such as postage, copying expense, office supplies and equipment; legal, accounting, and other professional fees; expenses associated with borrowing and debt service; hard and soft costs associated with improvements to the Common Area, and such other expenses as the Board deems necessary or desirable to maintain the Community-Wide Standard, protect property values and enhance marketability of Units.

There shall be four (4) types of assessments: (a) General Assessments; (b) Special Assessments as described in Section 8.3; (c) Specific Assessments as described in Section 8.4; and (d) an assessment for the working capital contribution described in Section 8.8. Each Owner, by accepting a deed or entering into a recorded contract of sale for any Unit, is deemed to covenant and agree to pay these assessments. Such assessments shall commence at the time and in the manner set forth in Section 8.5.

(b) Personal Obligation and Lien. By accepting title to a Unit or entering into a recorded contract to purchase any Unit, each Owner covenants and agrees to pay all assessments authorized in the Retreat Documents. All assessments, together with interest (computed from its due date at a rate of 10% per annum or such rate as the Board may establish by resolution (subject to the limitations of Georgia law), late charges in the amount of $20 per month or such amount as the Board may establish by resolution (subject to the limitations of Georgia law), costs, and reasonable attorneys' fees, shall be the personal obligation of each Owner and a lien upon each Unit until paid in full.

Upon a transfer of title to a Unit, the new Owner shall be jointly and severally liable with the previous Owner for any assessments and other charges due at the time of conveyance, except as otherwise provided in Section 8.6; however, for purposes of this provision, the term "previous Owner" shall not include the Association if the Association acquired title to the Unit through foreclosure or deed in lieu of foreclosure of its lien on the Unit.

Failure of the Board to fix assessment amounts or rates or to deliver or mail each Owner an assessment notice shall not be deemed a waiver, modification, or a release of any Owner from the obligation to pay assessments. In such event, each Owner shall continue to pay General Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfall.

No Owner may exempt himself from liability for assessments by non-use of Common Area, abandonment of his or her Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Owner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

(c) Declarant's Obligations; Builder Funding of Shortfalls. Notwithstanding anything to the contrary herein, the Declarant shall not be liable for assessments on any Units it owns that are not Improved Units. If and to the extent that the sum of general operating expenses incurred by the Association plus budgeted contributions to reserves exceeds (i) the General Assessments and Special Assessments receivable from other Owners, plus (ii) other income of the Association (exclusive of any loans or cash advances by the Declarant), such excess ("**Excess Operating Expenses**") shall be allocated among all Builders who own Units during the year in which such Excess Operating Expenses are incurred, as provided herein. If there is more than one Builder, each such Builder's share of any Excess Operating Expenses for a fiscal year shall be based on the total number of "Exempt Months" enjoyed by each Builder during such fiscal year relative to the total number of "Exempt Months" enjoyed by all Builders during such fiscal year. A Builder's "Exempt Months" shall be the determined by counting the number of months that each Unit owned by the Builder was not subject to assessment under Section 8.5 during such fiscal year and totaling such number for all Units owned by the Builder during such fiscal year.

Within 10 days after receipt of notice from the Association of insufficient funds to meet its obligations in a timely manner, each Builder shall advance to the Association the amount requested to allow the Association to cover its obligations coming due within the next 60 days, to be credited against the amounts due from such Builder for such fiscal year under the preceding paragraph. Within 60 days after the close of the Association's fiscal year, the Association shall calculate the actual Excess Operating Expenses, if any, for such year and provide such calculation to the Builder(s). If a Builder's share of the actual Excess Operating Expenses exceeds the total amount advanced by the Builder during such fiscal year, the Builder shall pay the difference to the Association within 30 days after receipt of notice of the amount thereof. If a Builder's share of the actual Excess Operating Expenses is less than the total advanced by the Builder during such fiscal year, the Association shall refund the difference to the Builder to the extent that surplus funds are available to do so. For purposes of this paragraph, reserve funds, amounts advanced by the Declarant to the Association, and amounts prepaid by Owners for periods after the end of the fiscal year for which such refund is due, shall not be considered "surplus funds."

Each Builder's obligation hereunder shall be a personal obligation of the Builder and any amounts allocated by the Association to such Builder pursuant to this Section shall constitute an assessment secured by the Association's lien under subsection (b) on each Unit owned by such Builder at the time the Association gives the Builder notice of the Builder's share of any Excess Operating Expenses.

The Declarant may, but shall have no obligation to, advance funds to the Association to cover shortfalls in cash flow as they arise during the year, subject to the right to be repaid by the Association upon payment by each Builder of its Excess Operating Expenses for such fiscal year, and/ or out of any cash surplus in the current or future fiscal years.

(d) Assessment Statement. Within five business days after receipt of a written request from any Owner, Mortgagee, prospective Mortgagee, or contract purchaser of a Unit, delivered personally or sent by certified mail, first-class postage prepaid, return receipt requested to the Association's registered office specifying the address to which a response is to be directed, the Association shall mail or otherwise furnish a written statement setting forth the amount of any unpaid assessments with respect to such Unit, any late charges and interest applicable thereto, the amount of current periodic assessments, and the date on which such assessment becomes or became due, and any credit for advanced payments or prepaid items. The Association may require the payment of a fee for issuance of each such assessment statement and any update thereto, provided such fee shall not exceed the maximum amount authorized in O.C.G.A. 44-3-232(d), as it may be amended. Such statement shall be binding upon the Association as to Persons who rely thereon in good faith.

8.2. Budgeting and Allocating Association Expenses.

(a) Preparation of Budget. At least 60 days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses for the coming year. The estimated expenses in the budget shall include, in addition to any operating reserves, a contribution to a reserve fund for deferred maintenance and repair and replacement of any capital improvements to be maintained by the Association as a Common Expense, in such amount as the Board deems appropriate pursuant to a separate reserve budget established by the Board. In establishing such reserve budget and determining the amount of the reserve contribution, the

Board shall take into account the number and nature of replaceable assets, the expected useful life of each, the expected repair or replacement cost or deferred maintenance expense, and the contribution required to fund the projected need by annual contributions over the useful life of the asset. So long as the Board exercises business judgment, which may include relying in good faith on the advice of its accountants or other professional advisers in determining the amount or necessity of the reserve fund, the Board members shall have no liability if the reserve funding proves insufficient to fully fund necessary repairs and replacements.

The budget shall reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of assessments. The budget shall also reflect the estimated surplus or deficit as of the end of the current year.

(b) Calculation of General Assessments. Upon determining the total amount of income required to be generated through the levy of General Assessments, the Board shall establish the General Assessment at an equal rate per Unit subject to assessment under Section 8.5, subject to the provisions of subsection (c) below.

Declarant may, but shall not be obligated to, reduce the General Assessment for any fiscal year by payment of a subsidy (in addition to any amounts paid by the Declarant under Section 8.1(c). Any such subsidy may be treated as a contribution or an advance against future assessments due from Declarant, in Declarant's discretion. Any such subsidy and the characterization thereof shall be conspicuously disclosed as a line item in the income portion of the budget. Payment of such subsidy in any year shall not obligate Declarant to continue payment of such subsidy in future years, unless otherwise provided in a written agreement between the Association and Declarant.

In addition, Declarant may loan funds to the Association to cover any budget shortfall or Common Expenses; provided, any such loans and the debt service shall also be disclosed in the budget each year thereafter as long as the loan remains outstanding. The Declarant may charge and collect interest on the outstanding principal balance of any loan at a rate not to exceed the greater of 10% per annum or two percentage points over the prime rate published by the Wall Street Journal on the date of such loan, such interest rate to be set forth in a promissory note executed on behalf of the Association.

(c) Notice of Budget and Assessment; Right to Disapprove. The Board shall send a copy or summary of the budget, together with notice of the amount of the General Assessment to be levied pursuant to such budget, to each Owner to be assessed thereunder at least 30 days prior to the due date of the General Assessment to be levied pursuant to such budget. Such General Assessment shall automatically take effect unless disapproved at a meeting by Members entitled to cast at least 67% of the votes allocated to Units subject to such assessment under Section 8.5.

There shall be no obligation to call a meeting for the purpose of considering any budget except on petition of Members as provided for special meetings in the By-Laws. Any such petition must be presented to the Board within 10 days after delivery of the budget and notice of any assessment.

If any proposed budget is rejected or the Board fails for any reason to determine the budget for any year, then the budget most recently in effect shall continue in effect until a new budget is determined.

(d) Budget Revisions. The Board may revise the budget and adjust the General Assessment from time to time during the year, subject to the same notice requirements and rights to disapprove set forth above.

8.3. Special Assessments.

In addition to other authorized assessments, the Association may levy Special Assessments from time to time to cover unbudgeted expenses or expenses in excess of those budgeted under Section 8.2. A Special Assessment shall require the affirmative vote or written consent of Members entitled to cast more than 50% of the votes attributable to Units subject to assessment under Section 8.5 and shall be allocated equally among all such Units. In addition, during the Development and Sale Period, any Special Assessment shall also be subject to the Declarant's written consent.

8.4. Specific Assessments.

The Association shall have the power to levy Specific Assessments against a particular Unit as follows:

(a) to cover the costs, including overhead and administrative costs, of providing services to such Unit upon request of the Owner pursuant to any menu of special services which the Association may offer pursuant to Section 7.6. Specific Assessments for special services may be levied in advance of the provision of the requested service;

(b) for monetary fines assessed pursuant to Section 7.4 and to cover costs incurred in bringing the Unit into compliance with the Retreat Documents, or costs incurred as a consequence of the conduct of the Owner or Occupants of the Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the Unit Owner prior written notice and an opportunity for a hearing in accordance with the By-Laws, before levying any Specific Assessment under this subsection (b); and

(c) to cover any insurance deductible levied against a Unit pursuant to Section 5.2 or Section 7.3(b);

(d) to cover the charges for services provided to less than all Units pursuant to Section 5.1(b) or any bulk service or similar agreement entered into by the Association pursuant to Section 7.6; and

(e) for capitalization of the Association as provided in Section 8.8.

8.5. Payment of Assessments.

(a) Commencement. Except as otherwise provided herein and in Section 8.1(c) with respect to Units owned by the Declarant, the obligation to pay General Assessments and any Special Assessments and Specific Assessments levied hereunder shall commence as to each Unit on the first day of the month following the date as of which the Unit becomes an Improved Unit. Assessments due under Sections 8.8 and 8.9 shall be due and payable as stated in those sections. If a Unit is made subject to this Declaration after the Board has adopted a budget and levied assessments, the first General Assessment levied on such Unit shall be adjusted according to the number of months remaining in the fiscal year at the time assessments commence on the Unit.

(b) Payment Schedule. Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of up to one year of assessments at closing of the transfer of title to a Unit and impose special requirements for Owners with a history of delinquent payment. The Board may permit assessments to be paid in two or more installments.

(c) Delinquencies. If any Owner is delinquent in paying any assessments or other charges levied on his Unit, prior to taking any collection action the Board shall give written notice to the Owner by certified mail which:

(i) specifies each delinquent amount and the total amount of the payment required to make the account current;

(ii) describes the options the Owner has to avoid having the account turned over to a collection agent, including information regarding availability of a payment plan through the Association;

(iii) provides a period of at least 30 days for the owner to cure the delinquency before further collection action is taken; and

(iv) states that, if the Owner fails to cure the delinquency within the Cure Period provided under clause (iii) ("**Cure Period**"), the Association shall be entitled to reimbursement of reasonable attorneys' fees and other reasonable costs which the Association incurs to collect the amounts due.

If the Owner fails to cure the delinquency and bring such Owner's account current within the Cure Period, the Association may revoke the privilege of paying assessments in installments and require the outstanding balance on all assessments to be paid in full immediately and may proceed with collection action unless, within such Cure Period, the Owner submits a written request to the Board to establish a payment plan, the Owner is eligible for a payment plan hereunder or the Board otherwise agrees to provide one, and within 10 days after receipt of a documentation from the Association setting forth a proposed payment plan, the Owner executes such documentation agreeing to such payment plan and delivers it to the Association.

The Board may adopt and amend from time to time reasonable guidelines for establishing an alternative payment schedule by which an Owner may make partial payments to the Association to satisfy the delinquency over a period of time, not to exceed 18 months from the date of such Owner's request, without accruing additional monetary penalties (reasonable costs associated with administering the payment plan and interest on delinquent amounts are not considered monetary penalties hereunder). The Association shall not be required to enter into a payment plan with the same Owner more than once in any 12-month period, or with any Owner who has defaulted under the terms of a previous payment plan entered into within the preceding two years, or with any Owner who fails to request a payment plan within the Cure Period or sign and deliver documentation establishing a payment plan within 10 days after receipt thereof. It shall be a condition of any alternative payment plan that the Owner remains current on all assessments accruing after the effective date of the alternative payment plan. If the Owner requests and enters into an alternative payment plan within the time periods required hereunder, then so long as the Owner is not in default under the terms thereof and remains current in payment of all assessments and other charges accruing after the effective date of the alternative payment plan, the Association shall not impose additional late charges after the effective date of the payment plan for any amounts which are the subject of such payment plan, nor sue to collect any amounts which are the subject of such payment plan or to foreclose its lien under Section 8.6.

(d) Application of Payments. Payments received from an Owner by the Association shall be applied to the amounts owed by such Owner in the following order of priority:

(i) first to delinquent assessments;

(ii) then to any current assessment;

(iii) then to any attorneys' fees or third party collection costs incurred by the Association associated solely with assessments or any other charge that could provide the basis for foreclosure;

(iv) then to any other attorneys' fees incurred by the Association which the Association is entitled to charge to such Owner's account;

(v) then to any fines assessed by the Association against such Owner or the occupants of such Owner's Unit; and

(vi) then to any other amount owed by such Owner to the Association.

Notwithstanding the above, if the Owner is in default under a payment plan entered into pursuant to subsection (c) at the time the Association receives a payment from an Owner, the Association shall not be required to apply the payment in the order of priority specified herein. However, in applying the payment, a fine assessed by the Association may not be given priority over any other amount due.

8.6. Lien for Assessments.

(a) Existence of Lien. The Association shall have a lien against each Unit to secure payment of assessments due hereunder, as well as interest, late charges and costs of collection (including attorneys' fees and expenses), subject to the limitations of Georgia law. Such lien shall be superior to all other liens except (i) the liens of all taxes, bonds, assessments, and other levies which by law would be superior; (ii) the lien or charge of any recorded Mortgage made in good faith and for value having first priority over any other Mortgages on the Unit; and (iii) the lien of the Master Association under the Community Charter.

Although no further action is required to create or perfect the lien, the Association may, as further evidence and notice of the lien, execute and record a document setting forth as to any Unit the amount of the delinquent sums due the Association at the time such document is executed and the fact that a lien exists to secure the repayment thereof. However, the failure of the Association to execute and record any such document shall not affect the validity, enforceability, or priority of the lien.

(b) Enforcement of Lien. Subject to Section 12.5 and this subsection (b), the Association's lien may be foreclosed through judicial or non-judicial foreclosure proceedings in accordance with Georgia law, in like manner of any deed to secure debt, mortgage or similar instrument given to secure a debt and encumbering title to real property. Each Owner hereby grants to the Association, whether or not it is so expressed in the deed or other instrument conveying such Unit to the Owner, a power of sale to be exercised in accordance with Georgia law and this Declaration.

The Association may bid for the Unit at the foreclosure sale and acquire, hold, lease, mortgage, and convey the Unit. While a Unit is owned by the Association following foreclosure: (i) no right to vote shall be exercised on its behalf; (ii) no assessment shall be levied on it; and (iii) each other Unit shall be charged, in addition to its usual assessment, its pro rata share of the assessment that would have been charged such Unit had it not been acquired by the Association.

Subject to Section 8.5, the Association may sue for unpaid assessments and other charges authorized hereunder without foreclosing or waiving the lien securing the same, in addition to pursuing any and all remedies allowed by law to enforce the lien.

(c) Effect of Sale or Transfer. Sale or transfer of any Unit shall not affect the assessment lien or relieve such Unit from the lien for any subsequent assessments, except that a sale or transfer pursuant to a foreclosure of a first mortgage shall extinguish the Association's lien for assessments which became payable prior to such sale or transfer. A purchaser at a foreclosure sale or subsequent Owner of the foreclosed Unit shall not be personally liable for assessments on such Unit due prior to such foreclosure. Such unpaid assessments shall be deemed to be Common Expenses collectible from Owners of all Units subject to assessment under Section 8.5, including such acquirer, its successors and assigns.

Any such sale or transfer pursuant to foreclosure shall not relieve the purchaser or transferee of the Unit from liability for, nor the Unit so sold or transferred from the lien of, any assessments thereafter becoming due.

8.7. Exempt Property.

The following property shall be exempt from payment of General Assessments and Special Assessments:

(a) All Common Area and such portions of the property owned by Declarant as are included in the Area of Common Responsibility;

(b) Any property dedicated to and accepted by any governmental authority or public utility for public purposes; and

(c) Property owned by the Master Association.

8.8. Capitalization of Association.

(a) Except as otherwise exempted in subsection (b) of this Section, upon conveyance of an Improved Unit by the Builder or upon first occupancy of the dwelling on an Improved Unit for residential purposes, whichever first occurs, and thereafter upon each transfer of title to the Improved Unit, the Owner thereof shall make a contribution to the working capital of the Association in such amount as the Board may establish by resolution, not to exceed $500 per transfer. This amount shall be in addition to, not in lieu of, the annual General Assessment and shall not be considered an advance payment of such assessments, but rather shall be considered a Specific Assessment secured by the Association's lien for assessments under Section 8.6. This amount may be used by the Association for operating expenses and other expenses incurred by the Association pursuant to this Declaration and the By-Laws, or for funding of reserves as the Board may determine in its discretion.

(b) The following transfers shall be exempt from payment of the working capital contribution hereunder: (i) transfer by a co-Owner to any Person who was a co-Owner immediately prior to such transfer; (ii) transfer to the Owner's estate, surviving spouse, or heirs at law upon the death of the Owner; (iii) transfer to an entity wholly owned by the grantor or to a family trust created by the grantor for the benefit of grantor, his or her spouse, and/or heirs at law (provided, upon any subsequent transfer of an ownership or beneficial interest in such entity, such contribution shall be required); (iv) transfer to an institutional lender pursuant to a Mortgage or upon foreclosure of a Mortgage; or (v) transfer under other circumstances which the Board, in its discretion, deems to warrant classification as an exempt transfer (e.g., a transfer made solely for estate planning purposes may be, but is not required to be, exempt from this provision.

8.9. Use and Consumption Fees.

The Board may charge use, consumption, or activity fees for optional Association services or facilities or in order to participate in optional Association-sponsored activities. The Board may determine the amount and method of determining such fees. Different fees may be charged to different classes of users (*e.g.*, Owners and non-Owners).

ARTICLE IX EXPANSION OF THE RETREAT AT STERLING ON THE LAKE

9.1. Expansion by Declarant.

Declarant may from time to time expand The Retreat at Sterling on the Lake to include all or any portion of the property described in Exhibit "B" by recording a Supplemental Declaration describing the additional property and stating the intent to submit it to the provisions of this Declaration. A Supplemental Declaration recorded pursuant to this Section shall not require the consent of any Person except (i) the owner of such property (if not owned by the Declarant), and (ii) Weekley, if at the time of such annexation Weekley owns any Unit (such consent by Weekley not to unreasonably be withheld, conditioned or delayed).

Declarant's right to expand The Retreat at Sterling on the Lake pursuant to this Section shall expire when all of the Expansion Property has been subjected to this Declaration or 20 years after this Declaration is recorded, whichever is earlier. Until then, Declarant may transfer, assign, or otherwise permit this right to be exercised by any Person or Persons who are the developers of at least a portion of the real property described in Exhibits "A" or "B." Any such transfer, assignment or permission shall be memorialized in a written, recorded instrument executed by Declarant and the Person to whom it is assigned.

Nothing in this Declaration shall be construed to require Declarant or any successor to subject additional property to this Declaration or to develop any of the Expansion Property in any manner whatsoever.

9.2. Expansion by the Association.

The Association may also expand The Retreat at Sterling on the Lake to include additional property by recording a Supplemental Declaration describing the additional property and the intent to submit it to the provisions of this Declaration. Any such Supplemental Declaration shall require the affirmative vote of persons entitled to cast more than 50% of the Class "A" votes in the Association represented at a meeting duly called for such purpose and the consent of the owner of the property. In addition, so long as Declarant owns property subject to this Declaration or which may become subject to this Declaration in accordance with Section 9.1, Declarant's consent shall be necessary. The Supplemental Declaration shall be signed by the President and Secretary of the Association, by the owner of the property and by Declarant, if Declarant's consent is necessary.

9.3. Additional Covenants and Easements.

Declarant may subject any property within The Retreat at Sterling on the Lake to additional covenants and easements, with the consent of the Owner(s) of such property. Such additional covenants and easements may be set forth either in a Supplemental Declaration subjecting such property to this Declaration or in a separate Supplemental Declaration referencing property previously subjected to this Declaration. If the property is owned by someone other than Declarant, then the consent of the Owner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Declaration. Any such Supplemental Declaration may supplement, create exceptions to, or otherwise modify the terms of this Declaration as it applies to the subject property in order to reflect the different character and intended use of such property, but shall not except any Unit from the applicability of Section 3.2.

9.4. Effect of Filing Supplemental Declaration.

A Supplemental Declaration shall be effective upon recording unless otherwise specified in such Supplemental Declaration. On the effective date of the Supplemental Declaration, any additional property subjected to this Declaration shall be assigned voting rights in the Association and assessment liability in accordance with the provisions of this Declaration.

ARTICLE X ADDITIONAL RIGHTS RESERVED TO DECLARANT

10.1. Special Development Rights.

In addition to the rights specifically reserved to the Declarant under Article IX with respect to expanding The Retreat at Sterling on the Lake, the Declarant reserves the right:

(a) during the Development and Sale Period, to replat any portion of the Properties which it owns to subdivide or combine Units, change boundaries of Units and Common Areas, convert Common Areas to Units and vice versa, and to create roadways and provide for utilities;

(b) during the Class "B" Control Period, to amend this Declaration or any Supplemental Declaration to withdraw any portion of the Properties from the coverage of this Declaration, provided that such property has not been improved with a dwelling. Any such amendment shall not require the consent of any Person other than (i) the Owner(s) of the property to be withdrawn (if not owned by the Declarant), and (ii) Weekley, if at the time of such annexation Weekley owns any Unit (such consent by Weekley not to unreasonably be withheld, conditioned or delayed). If the property is Common Area, the Association shall consent to such withdrawal.

10.2. Development and Sales Activities.

Notwithstanding anything in the Governance Documents to the contrary, during the Development and Sale Period:

(a) Declarant and any Builder whom the Declarant so authorizes may construct and maintain such facilities on the Common Area and conduct such activities and sales and marketing events on the Common Area and Units that they own as, in Declarant's sole opinion, may be reasonably required, convenient, desirable, or incidental to the construction, marketing, or sale of Units, subject to any limitations imposed by applicable zoning or the Community Charter. Such facilities may include, but need not limited to, business offices, signs, model homes, sales offices, parking facilities, and exterior lighting features or displays. Declarant and authorized Builders and their invitees shall have easements for access to and use of such facilities at no charge. There shall be no limit on the number or location of such facilities, except as otherwise restricted by the Community Charter, state law or local ordinance or regulations.

(b) Declarant and its employees, agents and designees shall have a right of access and use and an easement over and upon all of the Common Area, roads within The Retreat at Sterling on the Lake, and those portions of each Unit outside of a dwelling, for the purpose of

(i) exercising any rights reserved to the Declarant pursuant to this Declaration; and

(ii) making, constructing, and installing any improvements indicated on recorded subdivision plats of The Retreat at Sterling on the Lake and such other improvements to the Common Area as it deems appropriate; and

(iii) making repairs or correcting any condition on the Common Area or any Unit.

10.3. Right to Transfer or Assign Declarant Rights.

Any or all of Declarant's special rights and obligations set forth in this Declaration or the By-Laws may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation nor enlarge a right beyond that which Declarant has under this Declaration or the By-Laws. Declarant shall give written notice to any Builder who then owns any Unit or has a contract to acquire any Unit from Declarant prior to assignment of all of Declarant's rights and status to a third party. No such transfer or assignment shall be effective unless it is in a written instrument signed by Declarant and the transferee and recorded. The foregoing sentence shall not preclude Declarant from permitting other Persons to exercise, on a one time or limited basis, any right reserved to Declarant in this Declaration where Declarant does not intend to transfer such right in its entirety, and in such case it shall not be necessary to record any written assignment unless necessary to evidence Declarant's consent to such exercise.

10.4. Exclusive Rights To Use Name of Development.

The names "The Retreat" and "Sterling on the Lake," along with all logos and service marks associated with such names, are proprietary trade names and/or service marks. No Person shall use such names, or any associated service mark or logo, for advertising or any other purpose in any promotional material, whether printed, audio, video, or otherwise, in any signage, on any Internet website, or in any logo or depiction, without the prior written consent of the Person who owns such name or mark. In addition, due to the nature of Sterling on the Lake as a planned community and the public identification of the Units with Sterling on the Lake, any other name or logo to be used in connection with, or displayed on any signage or in any sales or other materials or documentation related to, any Unit shall be subject to the Founder's prior written consent. Such approval may be given or withheld in the Founder's discretion and may be subject to such terms and conditions as the Founder deems appropriate.

The owner of any mark or trademark may condition the Association's or any Owner's use of protected trade names or marks upon the signing of one or more license agreement(s), which are intended to protect the trade names and service marks from unauthorized use by others. Such license agreement(s) shall be non-exclusive, non-transferable, and in form and substance acceptable to the owner of the mark.

Subject to such licensing agreements, the Association may use the words "The Retreat at Sterling on the Lake" in its name and Owners may use the name "The Retreat at Sterling on the Lake" solely to specify that particular property is located within The Retreat at Sterling on the Lake (subject, however, to such terms and conditions as the owner of associated tradenames and service marks may impose in order to protect its registered trade names and service marks). Other use by the Association or any Owner is subject to the restrictions set out in this Section or otherwise imposed by the owner of the mark.

10.5. Right to Notice of Design or Construction Claims.

No Person shall retain an expert for the purpose of inspecting the design or construction of any structures or improvements within The Retreat at Sterling on the Lake in connection with or in anticipation of any potential or pending claim, demand or litigation involving such design or construction unless Declarant and any builder involved in the design or construction have been first notified in writing and given an opportunity to meet with the owner of the property to discuss the owner's concerns and conduct their own inspection pursuant to the rights reserved in Section 11.6.

ARTICLE XI EASEMENTS

11.1. Easements in Common Area.

Declarant grants to each Owner of a Unit within The Retreat at Sterling on the Lake (but not owners of other properties in Sterling on the Lake) a nonexclusive right and easement of use, access, and enjoyment in and to the Common Area, subject to:

(a) the Retreat Documents and any other applicable covenants;

(b) any restrictions, limitations, and easements contained in any deed conveying such property to the Association;

(c) the Board's right to:

(i) adopt rules regulating use and enjoyment of the Common Area, including, without limitation, rules limiting the number of guests who may use the Common Area facilities, rules restricting who may use the Common Area facilities as a guest, and rules requiring guests to be registered or accompanied by their host when using the Common Area facilities; and

(ii) suspend the right of an Owner to use facilities within the Common Area pursuant to Section 7.4; and

(iii) dedicate or transfer all or any part of the Common Area, subject to Section 16.3; and

(iv) mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the approval requirements set forth in Section 16.3; and

Any Owner may extend his or her right of use and enjoyment to the members of his or her family, lessees, and social invitees, as applicable, subject to reasonable regulation by the Board. An Owner who leases his or her Unit shall be deemed to have assigned all such rights to the lessee of such Unit for the period of the lease.

No person residing outside of The Retreat at Sterling on the Lake shall have any right to use or access the Common Area within The Retreat at Sterling on the Lake. Except as the Board may otherwise specifically provide by resolution, residents of The Retreat at Sterling on the Lake must accompany their guests when using the clubhouse, pool, fitness center or other facilities within the Common Area.

11.2. Easements of Encroachment.

(a) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed, or altered thereon (in accordance with the terms of these restrictions), to a distance of not more than two feet, as measured from any point on the common boundary along a line perpendicular to such boundary. However, in no event shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct on the part of, or with the knowledge and consent of, the Person claiming the benefit of such easement.

(b) Declarant grants reciprocal appurtenant easements of encroachment, and for maintenance and use of any permitted encroachment, between each Unit and any adjacent Common Area or right-of-way and between adjacent Units as reasonably necessary to install, maintain, repair and replace any fence constructed on or within one foot of the boundary line of any Unit.

11.3. Easements for Access Over Any Private Streets.

(a) Declarant hereby reserves for itself and its agents, employees, successors, and assigns, and their respective invitees, a perpetual, non-exclusive easement of access, ingress, and egress over any private streets within The Retreat at Sterling on the Lake ("**Private Streets**") and through any gate limiting vehicular or pedestrian access to The Retreat at Sterling on the Lake, for the purpose of:

(i) constructing, installing, maintaining, repairing, and rebuilding subdivision improvements and performing any other work that the Declarant deems reasonably necessary, in its discretion, or that the Declarant is required to perform pursuant to any development agreement or order, contract, court order, or requirements of any government agency having jurisdiction over the Properties; and

(i) development, marketing and sale of property in The Retreat at Sterling on the Lake, the Expansion Property, and other properties being developed, marketed, or sold by the Declarant, its affiliates, agents, or designees;

(b) Declarant hereby grants a perpetual, nonexclusive easement for access, ingress, and egress over the Private Streets to the Owners, for themselves and their invitees, which may include persons providing construction services and materials to their Units, subject to such Rules as the Association may adopt, which may include, without limitation, Rules limiting construction traffic during specified hours, Rules requiring construction traffic to enter and exit through a designated construction entrance.

(c) Declarant hereby creates a perpetual, nonexclusive easement for access, ingress, and egress over the Private Streets for law enforcement, fire fighting, paramedic, rescue, and other emergency vehicles, equipment, and personnel; for school buses; for U.S. Postal Service delivery vehicles and personnel; and for vehicles, equipment, and personnel providing garbage collection service to The Retreat at Sterling on the Lake, provided that such easement shall not authorize any such Persons to enter The Retreat at Sterling on the Lake except while acting in their official capacities.

The existence of the foregoing easements shall not preclude the Association from maintaining gates or other devices or systems designed to limit vehicular or pedestrian access to any portion of The Retreat at Sterling on the Lake served by private streets, provided that the Association at all times maintains systems and/ or procedures to permit the entry of Persons authorized to exercise the easements granted in this subsection without unreasonable interference or delay.

Nothing herein shall be construed as a representation that the streets within The Reserve at Sterling on the Lake will be maintained as private streets or that The Reserve at Sterling on the Lake will be gated to limit vehicular access by unauthorized persons. The Declarant reserves the right to dedicate any or all streets within The Reserve at Sterling on the Lake to the public, either on the recorded plat or thereafter at any time during the Development and Sale Period.

11.4. Easements to Serve Additional Property.

Declarant hereby reserves for itself and its duly authorized agents, successors, assigns, and mortgagees, an easement over the Common Area for the purposes of enjoyment, use, access, and development of the Expansion Property, whether or not such Expansion Property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Area for construction of roads and for connecting and installing utilities on such property.

Declarant agrees that it and its successors or assigns shall be responsible for any damage caused to the Common Area as a result of their respective actions in connection with development of such property. Declarant further agrees that if the easement is exercised for permanent access to such property and such property or any portion thereof benefiting from such easement is not made subject to this Declaration, Declarant, its successors or assigns shall enter into a reasonable agreement with the Association to share the cost of any maintenance which the Association provides to or along any roadway providing access to such property.

11.5. Easements for Maintenance, Emergency and Enforcement.

Declarant grants to the Association easements over the Properties as necessary to enable the Association to fulfill its maintenance responsibilities under Section 7.2 and otherwise exercise its authority and fulfill its duties under the Retreat Documents. The Association shall also have the right, but not the obligation, to enter upon any Unit for emergency, security, and safety reasons, to perform other maintenance, to inspect for the purpose of ensuring compliance with and enforce the Retreat Documents, and to exercise self-help under Section 7.4. Any member of the Board and its duly authorized agents and designees, and all emergency personnel in the performance of their duties, may exercise such right of entry. Except in an emergency situation, entry onto an occupied Unit for any purpose other than performing, during daylight hours, any exterior maintenance that is the Association's responsibility under this Declaration or any Supplemental Declaration, shall only be during reasonable hours and after notice to the Owner.

11.6. Easement to Inspect and Right to Correct.

Declarant reserves for itself, the Builders, and others it may designate the right to inspect, monitor, test, redesign, and correct any structure, improvement, or condition which may exist on any portion of the Properties, including Units, and a perpetual, nonexclusive easement of access throughout the Properties to the extent reasonably necessary to exercise such right; however, except in an emergency, entry onto a Unit shall be only after reasonable notice to the Owner and no entry into a dwelling shall be permitted without the consent of the Owner. The person exercising this easement shall promptly repair, at such person's own expense, any damage resulting from such exercise.

11.7. Landscaping, Wall, and Signage Easements.

Declarant and its designees and the Association shall have perpetual, nonexclusive easements exercisable by their respective employees, agents, and contractors:

(a) over areas within five feet of the rights-of-way of streets within The Retreat at Sterling on the Lake and over any easement designated on recorded plats of any portion of The Retreat at Sterling on the Lake for the purpose of installation, maintenance, repair, and replacement of lot bollards, neighborhood entrance monuments, signs, fences, lighting, irrigation systems, decorative walls or fencing, and landscaping within the easement area; and

(b) over portions of Units lying within five feet of the perimeter boundary of any Unit or Common Area parcel for the purpose of installation, maintenance, repair, and replacement of decorative or privacy walls and/ or fencing.

Nothing herein shall obligate Declarant or the Association to exercise such easements or to construct or install any of the foregoing. No fences, structures, driveways, plantings, or any other objects, temporary or permanent, shall be permitted in such easement areas which would interfere with the exercise of this easement without the Association's prior written approval, other than those installed by Declarant or its designees or the Association.

No person shall interfere with the exercise of this easement by Declarant, its designees, or the Association, by removing, defacing, or otherwise vandalizing any signs (temporary or permanent) or other improvements placed within such easement area by Declarant, its designees, or the Association, or otherwise. The Declarant, its designees and the Association, respectively, may remove signs or other improvements which they have placed on the easement area.

ARTICLE XII DISPUTE RESOLUTION AND LIMITATION ON LITIGATION

12.1. Agreement to Encourage Resolution of Disputes Without Litigation.

(a) Declarant, the Association and its officers, directors, and committee members, all Owners and other Persons subject to this Declaration, and any Person not otherwise subject to this Declaration who agrees to submit to this Article (each a "**Bound Party**" and collectively, "**Bound Parties**"), agree that it is in the best interest of all concerned to encourage the amicable resolution of disputes involving The Retreat at Sterling on the Lake without the emotional and financial costs of litigation. Accordingly, each Bound Party agrees not to file suit in any court with respect to:

(i) any "Claim" as described in Article 18 of the Community Charter, without first submitting such Claim to the alternative dispute resolution procedures set forth in Article 18 of the Community Charter;

(ii) any Claim described in Section 12.1(b), without first submitting such Claim to the alternative dispute resolution procedures set forth in Section 12.2, and then subject to the provisions of Section 12.3 and 12.4, if applicable;

all in a good faith effort to resolve such Claim. Nothing herein shall be construed to require any dispute to be submitted to more than one of the processes described in clauses (i) and (ii) of this Section 12.1(a).

(b) The term "**Claim**" as used in this Article shall refer to any claim, grievance or dispute, other than a claim subject to Section 12.1(a)(i), arising out of or relating to:

(i) the interpretation, application, or enforcement of the Retreat Documents; or

(ii) the rights, obligations, and duties of any Bound Party under the Retreat Documents; or

(iii) the design or construction of improvements within the Properties, other than matters of aesthetic judgment exercised by the Reviewer under the Community Charter, which shall not be subject to review;

e that the following shall not be considered "Claims" unless all parties to the matter otherwise agree to submit the matter to the procedures set forth in Section 12.2:

(i) any suit by the Association to collect assessments or other amounts due from any Owner; and

(ii) any suit by the Association to obtain a temporary restraining order (or emergency equitable relief) and such ancillary relief as the court may deem necessary in order to maintain the status quo and preserve the Association's ability to enforce the provisions of Articles III, IV or V of this Declaration (relating to creation and maintenance of community standards); and

(iii) any suit which does not include Declarant or the Association as a party, if such suit asserts a Claim which would constitute a cause of action independent of the Retreat Documents; and

(iv) any suit in which any indispensable party is not a Bound Party;

(v) any suit which affects the material rights or obligations of a party who is not a Bound Party and has not agreed to submit to the procedures set forth in Section 12.2;

(vi) any suit by the Association to enforce the Governing Documents where the Association has given the violator notice and either a hearing or an opportunity to cure the violation, or both, prior to the Association filing suit;

(vii) any suit by the holder of a Mortgage recorded prior to this Declaration and encumbering any portion of the Community to enforce the terms of such Mortgage or such holder's rights under this Declaration; and

(viii) any suit as to which any applicable statute of limitations would expire within 180 days of giving the Notice required by Section 12.2(a), unless the party or parties against whom the Claim is made agree to toll the statute of limitations as to such Claim for such period as may reasonably be necessary to comply with this Article.

12.2. Dispute Resolution Procedures.

(a) Notice. The Bound Party asserting a Claim ("**Claimant**") against another Bound Party ("**Respondent**") shall give written notice by U.S. Mail or personal delivery to each Respondent and to the Board stating plainly and concisely:

(i) the nature of the Claim, including the Persons involved and the Respondent's role in the Claim; and

(ii) the legal basis of the Claim (i.e., the specific authority out of which the Claim arises); and

(iii) the Claimant's proposed resolution or remedy; and

(iv) the Claimant's desire to meet with the Respondent to discuss in good faith ways to resolve the Claim.

(b) Negotiation. The Claimant and Respondent shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation. If requested in writing, accompanied by a copy of the Notice, the Board may appoint a representative to assist the parties in negotiating a resolution of the Claim.

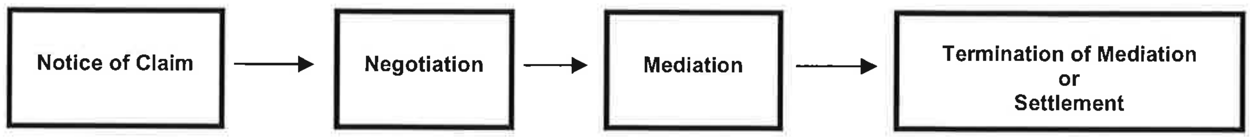
(c) Mediation. If the parties have not resolved the Claim through negotiation within 30 days of the date of the notice described in Section 12.2(a) (or within such other period as the parties may agree upon), the Claimant shall have 30 additional days to submit the Claim to mediation with an entity designated by the Association (if the Association is not a party to the Claim) or to an independent agency providing dispute resolution services in the metropolitan Atlanta, Georgia area.

If the Claimant does not submit the Claim to mediation within such time, or does not appear for the mediation when scheduled, the Claimant shall be deemed to have waived the Claim, and the Respondent shall be relieved of any and all liability to the Claimant (but not third parties) on account of such Claim.

Each Bound Party shall present the mediator with a written summary of the Claim. If the Parties do not settle the Claim within 30 days after submission of the matter to mediation, or within such time as determined reasonable by the mediator, the mediator shall issue a notice of termination of the mediation proceedings indicating that the parties are at an impasse and the date that mediation was terminated. The Claimant shall thereafter be entitled to file suit or to initiate administrative proceedings on the Claim, as appropriate, subject to the approval requirements set forth in Section 12.3, if applicable, and subject to the terms of any written agreement entered into between the Owner and a Builder or other Bound Party requiring the Claim to be submitted to binding arbitration..

Each Party shall bear its own costs of the mediation, including attorneys' fees, and each Party shall share equally all fees charged by the mediator.

Alternative Dispute Resolution Process



(d) Settlement. Any settlement of the Claim through negotiation or mediation shall be documented in writing and signed by the parties. If any party thereafter fails to abide by the terms of such agreement, then any other party may file suit or initiate administrative proceedings to enforce such agreement without the need to again comply with the procedures set forth in this Section 12.2, but subject to the provisions of Section 12.3 and 12.4, if applicable. In such event, the party taking action to enforce the agreement or award shall, upon prevailing, be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties in equal proportions) all costs incurred in enforcing such agreement or award, including, without limitation, attorneys' fees and court costs.

(e) Satisfaction of Requirements. In the event that any Claim would be subject to the dispute resolution procedures set forth in this Section 12.2 and also to the dispute resolution procedures set forth in the Community Charter, compliance with the procedures set forth in the Community Charter shall constitute compliance with the procedures set forth in this Section 12.2.

12.3. Initiation of Actions by Association.

Litigation involving the Association can create a significant financial burden and exposure for the Association and its Members in terms of legal fees and costs as well as potential liability to third parties, interfere with the resale and refinancing of Units, and create uncertainty and tension within the Properties, all of which can negatively impact property values and marketability of Units and impose financial burdens on Owners for their share of the costs. Litigation of certain types of disputes may be quite protracted, causing such impacts to continue for an extended period of time. Therefore, this Section imposes the following requirements that must be met prior to the Association initiating litigation or arbitration (with certain exceptions as specified in subsection (a) below), in order to ensure that the membership is fully informed and supports the initiation of such proceedings:

(a) Membership Approval. In addition to compliance with the foregoing alternative dispute resolution procedures, if applicable, neither the Association nor any claimant or group of claimants acting on behalf of or in the name of the Association shall initiate any judicial, arbitration, or administrative proceeding unless first approved by a vote of persons entitled to cast at least 75% of the total Class "A" votes in the Association, except that no such approval shall be required to defend claims filed against the Association or to assert counterclaims in proceedings instituted against the Association, or for actions or proceedings where the amount in controversy is $100,000 or less, if initiated:

(i) during the Class "B" Control Period, unless the Declarant, by written notice to the Association, elects to have the proposal to initiate judicial or administrative proceedings be approved by the Members hereunder, in which case such approval shall be required; or

(ii) to collect assessments, foreclose the Association's liens, or otherwise enforce the provisions of the Retreat Documents; or

(iii) to challenge ad valorem taxation or condemnation proceedings; or

(iv) against any contractor, vendor, or supplier of goods or services arising out of a contract with the Association for services or supplies;

or if otherwise prohibited by Georgia law.

This Section shall not be amended unless such amendment is approved by the same percentage of votes necessary to institute proceedings.

(b) Information to be Provided to Members. Prior to any vote required under Section 12.3(a):

(i) the Board shall comply with Section 10.5, if applicable; and

(ii) if the Association's claim involves alleged defects in the design or construction of improvements in the Properties, the Board shall engage an independent professional engineer licensed by the State of Georgia to conduct an inspection and provide a report detailing the condition of such improvements, describing and providing photographs of the alleged defects in design or construction, providing the engineer's recommendations for remediation and/or repair, and providing estimated costs of such remediation and repairs, which estimates shall be obtained from qualified, independent third-party contractors holding all necessary licenses to perform the recommended work; and

(iii) the Board shall provide written notice to each Member of the meeting at which the vote is to be conducted, which notice shall be accompanied by: (A) a copy of any report required under clause (i); (B) a description of the claim, the relief sought, the anticipated duration of the proceedings, and the estimated likelihood of success; (C) a copy of a proposed engagement letter between the Association and the law firm and/or attorney selected by the Association to assert or provide assistance with the claim setting forth the proposed financial arrangements between the Association and such lawyer or law firm; (D) a description and estimate of the legal fees, consultant fees, expert witness fees, and court costs, which the Association may incur directly or indirectly, or for which it may be liable, as a result of pursuing the claim; (E) a description of the manner in which the Association proposes to fund such costs; (F) a summary of the steps previously taken by the Association to resolve the claim; and (G) a statement that initiating the lawsuit or arbitration proceeding to resolve the claim may affect the market value, marketability, or refinancing of a Unit while the claim is being pursued.

ARTICLE XIII MORTGAGEE PROVISIONS

The following provisions are for the benefit of holders, insurers and guarantors of first Mortgages on Units.

13.1. Notices of Action.

Upon written request of an institutional holder, insurer, or guarantor of a first Mortgage stating the name and address of such holder, insurer, or guarantor and the street address of the Unit to which its Mortgage relates, the requesting holder, insurer, or guarantor ("**Eligible Mortgage Holder**"), will be entitled to timely written notice of any of the following which occurs within 12 months of the date of such request:

(a) Any condemnation loss or any casualty loss which affects a material portion of the Properties or which affects any Unit on which there is an Eligible Mortgage held, insured, or guaranteed by such Eligible Mortgage Holder; or

(b) Any delinquency in the payment of assessments or charges owed for a Unit subject to the Eligible Mortgage of such Eligible Mortgage Holder, where such delinquency has continued for a period of 60 days, or any other known violation of the Retreat Documents relating to such Unit or the Owner or Occupant which has not been cured within 60 days after notice from the Association; or

(c) Any lapse, cancellation, or material modification of any insurance policy maintained by the Association.

13.2. Right to Examine Books and Records.

Upon written request of any Mortgagee stating the name and address of such Mortgagee and the street address of the Unit to which its Mortgage relates, the Association shall provide the Mortgagee with a copy of the Association's most recent financial statement and shall permit such Mortgagee or its agent to inspect the books and records of the Association during normal business hours, subject to the terms of the By-Laws.

13.3. No Priority.

No provision of this Declaration or the By-Laws gives or shall be construed as giving any Owner or other party priority over any rights of the first Mortgagee of any Unit in the case of distribution to such Owner of insurance proceeds or condemnation awards for losses to or a taking of the Common Area.

13.4. Notice to Association.

Upon request, each Owner shall be obligated to furnish to the Association the name and address of the holder of any Mortgage encumbering such Owner's Unit.

ARTICLE XIV MASTER ASSOCIATION

14.1. Membership in Master Association.

The Master Association has been established as a unifying entity for the residential portions of Sterling on the Lake, of which The Retreat at Sterling on the Lake is a part. Each Owner shall be a member of the Master Association and shall fulfill the responsibilities and be entitled to exercise the privileges of membership under the Community Documents. The Association shall cooperate with the Master Association and its other members in upholding a community-wide standard within Sterling on the Lake. Each Owner shall be subject to and pay assessments and fees levied by the Master Association pursuant to the Community Charter in addition to assessments levied by the Association under this Declaration.

14.2. Management and Operating Agreements.

The Association may enter into agreements with the Master Association delegating to the Master Association such management, maintenance, operational or other duties of the Association as the Board deems appropriate, or assuming any such duties of the Master Association, on such terms and conditions and for such consideration as the Board deems appropriate.

ARTICLE XV CHANGES IN OWNERSHIP OF UNITS

15.1. Notice of Lease or Transfer of Unit.

Any Owner desiring to lease, sell or otherwise transfer title to his or her Unit shall give the Board at least seven days' prior written notice of the name and address of the lessee, purchaser or transferee, the date of such transfer of title, and such other information as the Board may reasonably require. In the case of a transfer of title, the Person transferring title shall continue to be jointly and severally responsible with the Person accepting title for all obligations of the Owner, including assessment obligations, until the date upon which the Board receives such notice, notwithstanding the transfer of title.

ARTICLE XVI CHANGES IN COMMON AREA

16.1. Condemnation.

If any part of the Common Area shall be taken by any authority having the power of condemnation or eminent domain, each Owner shall be entitled to written notice of such taking or conveyance prior to disbursement of any condemnation award. Any condemnation award shall be payable to the Association and shall be disbursed as follows:

If the taking or conveyance involves a portion of the Common Area on which improvements have been constructed, the Association shall restore or replace such improvements on the remaining land included in the Common Area to the extent available, unless within 60 days after such taking Declarant, during the Development and Sale Period, and Members entitled to cast at least 75% of the total Class "A" votes in the Association shall otherwise agree. Any such construction shall be in accordance with plans approved by the Board. The provisions of Section 7.3(c) regarding funds for restoring improvements shall apply as if the condemnation proceeds were insurance proceeds.

If the taking or conveyance does not involve any improvements on the Common Area, or if a decision is made not to repair or restore, or if net funds remain after any such restoration or replacement is complete, then such award or net funds shall be treated in the same manner as if proceeds from the sale of Common Area pursuant to Section 16.3.

16.2. Partition.

Except as permitted in this Declaration, the Common Area shall remain undivided, and no Person shall bring any action seeking the partition of any portion of the Common Area without the written consent of all Owners and Mortgagees. This Section shall not prohibit the Board from acquiring and disposing of tangible personal property nor from acquiring and disposing of real property which may or may not be subject to this Declaration, subject to such approval as may be required under Section 16.3.

16.3. Transfer, Dedication or Conveyance of Common Area.

The Association may dedicate portions of the Common Area to any local, state, or federal governmental or quasi-governmental entity or utility company, may subject Common Area to a security interest, or may transfer or convey Common Area, as follows:

(a) upon request of the Declarant pursuant to Section 7.1;

(b) if Limited Common Area, upon written approval of Owners of the Units to which such Limited Common Area is assigned;

(c) if Common Area other than Limited Common Area, upon the written direction of Members entitled to cast at least 67% of the total Class "A" votes in the Association and the Declarant during the Development and Sale Period, except that no Class "A" approval shall be required for the Board to grant easements over the Common Area for access, utilities, or other purposes not inconsistent with the intended use of such Common Area by the Owners.

No dedication or conveyance of Common Area may deprive any Unit of rights of access.

The proceeds from the sale or mortgaging of Common Area other than Limited Common Area shall be an asset of the Association to be used as the Board determines, unless otherwise directed by the Class "A" Members at the time such sale or mortgage is authorized pursuant to subsection (c) above. The proceeds from the sale or mortgaging of Limited Common Area shall be disbursed in the manner approved by the Owners of Units to which the Limited Common Area is assigned at the time such sale or mortgage is authorized.

ARTICLE XVII AMENDMENT OF DECLARATION

17.1. By Declarant.

In addition to specific amendment rights granted elsewhere in this Declaration, until termination of the Class "B" Control Period, the Declarant may unilaterally amend this Declaration for any purpose, except that any amendment shall be subject to the approval requirements set forth in Section 17.3, if applicable.

17.2. By Members.

Except as otherwise specifically provided above and elsewhere in this Declaration, this Declaration may be amended only by the affirmative vote or written consent, or any combination thereof, of Persons entitled to cast at least 67% of the total Class "A" votes in the Association, and during the Development and Sale Period, the Declarant's written consent. In addition, any amendment shall be subject to the approval requirements set forth in Section 17.3, if applicable.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

Any amendment pursuant to this Section 17.2 shall be prepared, executed, certified, and recorded on behalf of the Association by any officer designated for such purpose or, in the absence of such designation, by the Association's President.

17.3. Limitations on Amendments; Validity and Effective Date.

No amendment to this Declaration may:

(a) remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant or the Class "B" Member, respectively (or the assignee of such right or privilege);

(b) alter the rights or responsibilities of the Association or the Owners with respect to the Master Association without the prior written consent of the Master Association; or

(c) impose greater restrictions on use of a Unit than previously set forth herein without the written consent of the Person who is the Owner of the Unit at the time the amendment is recorded.

Any amendment to this Declaration which would be inconsistent with, or cause The Retreat at Sterling on the Lake to become ineligible for, the HOPA Exemption described in Section 3.2(a), shall require the prior written consent of any Builder who then owns Units in The Retreat at Sterling on the Lake or is under contract to purchase Units in The Retreat at Sterling on the Lake from the Declarant.

If an Owner consents to any amendment to this Declaration or the By-Laws, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within 6 months of its recordation or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of this Declaration. The Association shall provide a copy of any Declaration amendment to each Member within 30 days after recordation of the amendment.

17.4. Exhibits.

Exhibits "A" and "B" attached to this Declaration are incorporated by this reference and amendment of such exhibits shall be governed by this Article. Exhibit "C" is incorporated by this reference and may be amended pursuant to Section 3.3 or this Article. All other exhibits are attached for informational purposes and may be amended as provided therein or in the provisions of this Declaration which refer to such exhibits.

ARTICLE XVIII TERMINATION OF DECLARATION

Subject to the rights to amend set forth in Article XVII and elsewhere in this Declaration, this Declaration shall remain in effect for 20 years from the date of recording and thereafter shall be extended automatically for successive 20-year periods unless the then Owners of at least 51% of the Units each sign a document verifying that such Owner is the record Owner of a Unit subject to this Declaration, which document (i) contains a legal description of the Properties and a list of the names of all Owners of Units subject to this Declaration, and (ii) references this Declaration and states the date upon which this Declaration shall terminate; and (iii) is recorded within the 2-year period immediately preceding the expiration of the initial 20-year term or any subsequent 20-year extension, in which case this Declaration shall terminate on the date specified in such termination document. Nothing in this Section shall be construed to permit termination of any easement created in this Declaration without the consent of the holder of such easement.

If any provision of this Charter would be unlawful, void, or voidable by reason of any rule restricting the period of time that covenants can affect title to property, that provision shall expire 21 years after the death of the last survivor of the now living descendants of Elizabeth II, Queen of England.

[continued on next page]

IN WITNESS WHEREOF, the undersigned Declarant has executed this Declaration the date and year first written above.

DECLARANT: **NNP - LOOPER LAKE LLC**, a Delaware limited liability company

By: ____________________

Name: Alex McLeod

Its: REGIONAL PRESIDENT

Signed, sealed and delivered this 24th day of June, 2020, in the physical presence of:

____

Unofficial Witness

(Print Name) Hanna McLeod

____

Notary Public, State of Florida

(Print Name) Lisa Budronis

Commission No. GG 143593

[Notary Seal/Stamp]

LISA BUDRONIS
Notary Public - State of Florida
Commission # GG 143593
My Comm. Expires Sep 17, 2021
Bonded through National Notary Assn.

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

The foregoing instrument was acknowledged before me by means of physical presence, this 24th day of June, 2020, by Alex McLeod, as Regional President of NNP-Looper Lake, LLC, a Delaware limited liability company, on behalf of such limited liability company. He is personally known to me and did not take an oath.

Given under my hand and official seal this 24th day of June, 2020.

LISA BUDRONIS
Notary Public - State of Florida
Commission # GG 143593
My Comm. Expires Sep 17, 2021
Bonded through National Notary Assn.

____

Notary Public, State of Florida

(Print Name) Lisa Budronis

Commission No. GG143593

My commission expires: 9/17/21

[Notary Seal/Stamp]

5510.02/Resid/AQ/CCR /062220/jps

EXHIBIT "A"

Land Initially Submitted

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in G.M.D. 1270, Flowery Branch District, City of Flowery Branch, Hall County, Georgia, and being more particularly described on that certain final subdivision plat for STERLING ON THE LAKE - HONEYCUTT, PHASE 1, recorded in Plat Book 878, Pages 442 through 451, in the Office of the Clerk of the Superior Court of Hall County, Georgia, as such plat may be revised and amended;

LESS AND EXCEPT that parcel identified as "Open Space #1 - 0.809 AC".

EXHIBIT "B"

Expansion Property

Any real property located in G.M.D. 1270, Flowery Branch District, the City of Flowery Branch, Hall County, Georgia, which has first or simultaneously been submitted to the Community Charter for Sterling on the Lake in accordance with the terms thereof.

Note to clerk and title examiners:

This Declaration is not intended to create an encumbrance on title to the property described on this Exhibit "B." Such title may be encumbered only with the consent of the owner by filing a Supplemental Declaration in accordance with Article IX.

EXHIBIT "C"

Initial Rules

In addition to the use and occupancy restrictions contained in Article III of this Declaration, the use restrictions contained in the Community Charter and the rules of the Master Association, the following rules shall apply within The Retreat at Sterling on the Lake until such time as they are amended, modified, repealed or limited pursuant to Article III of the Declaration:

1. Qualification for Occupancy; Verification

(a) In order to monitor compliance with the occupancy requirements set forth in Article III of the Declaration, the Association shall conduct surveys at least every two years and maintain a data base to verify compliance with the requirements of Article III as required by law. The occupants of Units must participate in surveys and comply with all requests from the Association to verify compliance with such occupancy requirements, including signing and returning in a timely manner any certification or affidavit which the Association may request for such purpose. Proof of occupancy by at least one Qualifying Occupant (as defined in Article III of the Declaration) must be provided in response to the survey. Any of the following documents will be acceptable evidence of the age of the Qualifying Occupant, provided that it contains specific information about current age or date of birth:

- Driver's license
- Birth certificate
- Passport
- Immigration card
- Military identification
- Any other state, local, national or international official documents containing a birth date of comparable reliability

If the occupants of a Unit refuse to comply with such verification procedures, the Association may, in its discretion, rely upon other forms of verification to determine whether the Unit is occupied by at least one Qualifying Occupant, including:

- Government records or documents such as a local household census
- Prior forms or applications; or
- A statement from an individual who has personal knowledge of the age of the occupants, setting forth the basis for such knowledge and signed under penalty of perjury.

A summary of occupancy surveys shall be available for inspection upon reasonable notice and request by any person.

2. Disclosure of 55+ Occupancy Policies

(a) Any Owner or real estate broker or agent who sells, leases, or assists in selling or leasing real property in The Retreat at Sterling on the Lake shall disclose in any advertisements and in the purchase or lease documents that The Retreat at Sterling on the Lake is a 55+ age restricted community, intended and operated to provide housing for persons age 55 and older. The purchase contract or lease shall contain a disclosure in substantially the following form, to be initialed by the purchaser or lessee:

> OCCUPANCY OF UNIT. Purchaser acknowledges that The Retreat at Sterling on the Lake is designed and intended to provide housing for persons age 55 and older. Purchaser has reviewed the Declaration of Covenants, Restrictions and Easements for The Retreat at Sterling on the Lake ("Declaration") and understands that the Declaration requires, with limited exceptions, that each occupied Unit have, as a permanent resident, at least one occupant who is age 55 or older.
>
> Purchaser agrees to provide, at closing of the purchase hereunder, evidence acceptable to Seller of the names and ages of the intended occupants of the Unit and to execute at such closing an affidavit, in such form as The Retreat at Sterling on the Lake Association, Inc. (the "Association") may require, affirming that occupancy of the Unit will be in compliance with the occupancy requirements set forth in the Declaration. Purchaser acknowledges and understands that the Declaration requires the Purchaser to report changes in occupancy of the Unit to the Association and to cooperate with the Association in responding to surveys and providing such information as the Association may request to monitor compliance with the occupancy requirements of the Declaration.
>
> ________________
>
> Purchaser's Initials

(b) Any "For Sale" or "For Rent/ Lease" signs permitted in The Retreat at Sterling on the Lake, whether erected by the Owner or by a real estate agent, shall follow the sign guidelines established pursuant to the Community Charter and shall prominently display that the Unit is part of a "55+ AGE-QUALIFIED" community.

(c) Any sales contract or lease of real property in The Retreat at Sterling on the Lake shall include the certification of the buyer or lessee, in such form as the Board shall make available, certifying that at all times after taking occupancy of the Unit, at least one permanent resident of the Unit will be 55 years of age or older and specifying the current age or date of birth of such person. The Owner shall provide a copy of such certification to the Association prior to the buyer taking title to, or the lessee taking occupancy of, the Unit.

(d) The Board shall prepare and make available to Owners a disclosure statement setting forth the occupancy policies applicable to The Retreat at Sterling on the Lake consistent with Article III of the Declaration and these Rules and a form of certification to be executed by the buyer or lessee, acknowledging the same. Each Owner shall attach a copy of such disclosure statement to any contract for the sale or lease of a Unit in The Retreat at Sterling on the Lake.

EXHIBIT "D"

By-Laws of The Retreat at Sterling on the Lake Association, Inc.

[see attached]

BY-LAWS

OF

THE RETREAT AT STERLING ON THE LAKE ASSOCIATION, INC.

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By-Laws
of
The Retreat at Sterling on the Lake Association, Inc.

Article 1
Name, Principal Office, and Definitions

1.1. Name.

The name of the corporation is The Retreat at Sterling on the Lake Association, Inc. (the "**Association**").

1.2. Principal Office.

The Association may have such offices in the State of Georgia as the Board may determine or as the Association's affairs may require.

1.3. Definitions.

The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the meaning ascribed to them in the Declaration of Covenants, Restrictions and Easements for The Retreat at Sterling on the Lake executed and recorded by NNP-Looper Lake, LLC, a Delaware limited liability company (the "**Declarant**"), in the Office of the Clerk of the Superior Court for Hall County, Georgia, as it may be amended (the "**Declaration**"). The term "**majority**," as used in these By-Laws, means those votes, Members, or other group, as the context may indicate, totaling more than 50% of the total eligible number.

Article 2
Membership: Meetings, Quorum, Voting, Proxies

2.1. Membership.

The Association shall have two classes of membership: Class "A" Membership and Class "B" Membership, as more fully described in the Declaration. The Owner of each Unit, by accepting record title to such Unit, is deemed to consent to membership in the Association and such membership shall be resigned or transferred only upon transfer of title to the Unit giving rise to such membership. The provisions of the Declaration pertaining to membership and the designations, qualifications, rights, privileges and obligations of each class of membership set forth in the Declaration are incorporated in these By-Laws by this reference.

2.2. Place of Meetings.

The Association shall hold meetings at the Association's principal office or at such other suitable place the Board may designate.

2.3. Membership Meetings.

(a) ***General.*** The first Association meeting, whether an annual or special meeting, shall be held within one year after the conveyance of the first Unit to a Class "A" Member other than the Declarant.

(b) ***Annual Meetings.*** The Board shall schedule regular annual meetings of the Members to occur within 90 days before the close of the Association's fiscal year, on such date and at such time and place as the Board shall determine.

(c) ***Special Meetings.*** The President may call special meetings of the Members. In addition, the President or the Secretary shall call a special meeting if so directed by Board resolution or within 30 days after receipt of a petition stating the purpose of the meeting and signed by Members holding at least 20% of the total votes in the Association. No business may be transacted at a special meeting except as described in the meeting notice pursuant to Section 2.4.

2.4. Notice of Meetings; Membership List.

(a) ***Timing of Notice; Content.*** At least 10 but not more than 60 days before any meeting of the membership, the President, the Secretary, or the officers or other persons calling the meeting shall deliver or cause to be delivered to each Member a written notice stating the place, day, and hour of the meeting and the items on the agenda for such meeting, including (i) the general nature of any matters to be considered at such meeting that require approval of the members under the Governing Documents or the Georgia Nonprofit Corporation Code, O.C.G.A. Section 14-3-101, *et seq.* (the "**Act**"); and (ii) any matter that a Member intends to raise at the meeting, if at least 10 days prior to the date the Association gives notice of the meeting the President or Secretary of the Association receives a request in writing or by email from any person or group of persons entitled to call the meeting to include such matter in the notice of the meeting. If proxies are permitted, the notice shall also state the procedures for appointing proxies. If the meeting is to be held solely by electronic communications or if participation in the meeting is permitted by remote communications, as described in Section 2.6 below, the notice shall state the form of communications system to be used for the meeting and the means of accessing the communications system. Such notice shall be delivered by such means as permitted under Section 9.5.

(b) ***Record Dates for Notice and Voting.*** The Board may set a record date for determining who is entitled to receive notice of a meeting or any action proposed to be taken without a meeting, which shall not be earlier than the 60th day before the date of the meeting or close of balloting for any action to be taken without a meeting. Subject to the foregoing, and unless the Board fixes an alternative record date for mailing of notices, the date upon which the Association or its agent prepares the mailing list for the notice shall be the record date for purposes of receiving notice. The record date for notice of a meeting shall also be effective for any adjournment of such meeting to a date within 120 days after the date scheduled for the original meeting, unless the Board fixes a new record date.

Notwithstanding the record date set for notices, any Owner who is shown as a Member in the records of the Association as of the last business day prior to either the date of the meeting or close of balloting for any action to be taken without a meeting, as applicable, shall be eligible to cast the vote for its Unit at such meeting or on such action, unless the Board fixes an alternative record date for voting and announces the same in the notice.

(c) ***Membership List.*** The Board shall prepare an alphabetical list of the names of all Members entitled to notice of a meeting or other action requiring approval of the Members, identifying all

Members entitled to vote at the meeting as of the date the list is prepared, indicating the address of each Member and the number of votes each Member is entitled to cast. The list need not include email addresses or other information for delivery of electronic transmissions. Not later than the second business day after the date notice is given, and continuing through the meeting or balloting, the list shall be made available for inspection and copying by Members entitled to vote on any matter for which notice was given, or their agents, for the purpose of communication with other Members concerning such meeting or action. The list shall be made available either: (i) on a reasonably accessible electronic network, with the information needed to gain electronic access to such list provided with the notice or upon request; or (ii) during ordinary business hours at the Association's principal office or at a reasonable place in the municipality in which the meeting will be held, as identified in the notice of the meeting. If a meeting is to be held solely by means of remote communication, the list shall be made available as described in clause (i) above. The Association shall also make the list available at the meeting for inspection at any time during the meeting or any adjournment of the meeting.

2.5. Waiver of Notice.

Waiver of notice of an Association meeting shall be deemed the equivalent of proper notice. Any Member may waive, in writing or by electronic transmission, notice of any Association meeting, either before or after such meeting. Attendance (in person or remotely) at a meeting by a Member or the Member's duly-appointed proxy shall be deemed a waiver by such Member of notice of the time, date, and place thereof, unless the Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order. Attendance (in person or remotely) at a special meeting by a Member or the Member's duly-appointed proxy also shall be deemed a waiver of notice of (a) the time, date, and place thereof, unless the Member or proxy specifically objects to lack of proper notice at the time the meeting is called to order; and (b) consideration of any matter raised at the meeting that was required to be, but was not, described in the meeting notice, unless the member objects to consideration of such matter on the basis of lack of proper notice before the matter is put to a vote.

2.6. Remote Participation in Meetings.

The Association may hold Association meetings and/ or allow Members to participate in any Association meeting by conference telephone or similar communications equipment or another suitable electronic communications system, including videoconferencing technology or the Internet, if each person entitled to participate in the meeting consents to the meeting being held by means of that system and system permits each person participating in the meeting to communicate concurrently with all other persons participating in the meeting. If voting is to take place at the meeting, the Association must implement measures to verify that every Member voting at the meeting by means of remote communication is sufficiently identified.

2.7. Voting.

(a) ***Voting Rights***. Members shall have such voting rights as are set forth in the Declaration, which provisions are specifically incorporated by this reference. In any situation where a Member's voting rights have been suspended, the suspended vote shall not be considered for any purpose, including, but not limited to, calculating the total number of votes in the Association, determining the number of votes necessary to constitute a quorum, or the number of votes or required to approve an action.

(b) *Notice of Vote.* Not later than the 10 days or earlier than 60 days before the date of any election or vote, the Association shall give written notice of the election or vote to each Member entitled to vote.

(c) *Method of Voting.* A membership vote on any matter may be conducted by ballots cast in person or by proxy at a meeting, or if such method is authorized by the Board, by ballots cast by mail, by electronic transmission (including facsimile transmission, electronic mail, or an internet-based voting system), or by any combination of those methods. All proxies must comply with Section 2.8. Any membership vote in which ballots may be cast by mail or electronic transmission must comply with Section 2.11.

(d) *Tabulation of Votes.* A ballot cast at a meeting shall revoke and supersede any ballot casting the same vote submitted by other means. A ballot cast prior to a meeting (i) may be counted as a Member present and voting for the purpose of establishing a quorum only for items appearing on the ballot; (ii) may not be counted if the Member attends the meeting to vote in person; and (iii) may not be counted if the motion was amended at the meeting so as to deviate from the exact language on the ballot previously cast.

The person who tabulates votes on any matter shall not disclose to any other person how any particular Member's votes were cast. No person who is a candidate for election or is the subject of any other Association vote, nor any spouse, parent or child of any such candidate or subject, may tabulate ballots cast in any election or vote hereunder. No person other than a person designated by the Board to tabulate the votes shall be given access to the ballots cast other than as part of a recount process authorized by law.

2.8. Proxies.

Any Member may vote in person or by proxy, subject to the limitations of Georgia law and subject to any specific provision to the contrary in the Declaration or these By-Laws. A Member or the Member's attorney in fact may appoint a proxy to vote or otherwise act for the Member by signing, dating and delivering to the Secretary of the Association or other person designated by the Board to tabulate votes, either personally or by an electronic transmission, an appointment form naming the person appointed to vote on behalf of the Member and identifying the Unit for which it is given. An electronic transmission must contain or be accompanied by information from which it can be determined that the member, the member's authorized agent, or the member's attorney in fact authorized the electronic transmission. A proxy for a meeting must be received by the Association's Secretary or other officer or agent authorized to tabulate votes prior to the start of the meeting for which it is to be effective, or by such earlier date as may be specified in the notice. Unless the proxy specifically provides otherwise, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid.

Every proxy shall be revocable by signing and delivering to the Secretary or other person designated by the Board to tabulate proxy votes either a writing stating that the appointment of the proxy is revoked or a later dated appointment form, and shall automatically be revoked: (a) if the Member attends the meeting and votes in person, (b) upon conveyance of any Unit for which it was given, or (c) 11 months from the date of the proxy, unless a different period is specified in the proxy. The death or incapacity of the Member appointing a proxy does not affect the Association's right to accept the proxy's authority unless notice of the death or incapacity is received by the Association's Secretary or other person authorized to tabulate votes before the proxy exercises his or her authority under the appointment.

2.9. Quorum.

(a) Except as these By-Laws or the Declaration otherwise provide(s), the presence of Members or their proxies entitled to cast at least 20% of the total votes in the Association shall constitute a quorum at any membership meeting, and the casting of ballots representing at least 20% of the total votes in the Association shall constitute a quorum for any membership vote conducted by means other than at a meeting; provided, if a quorum is not established at any meeting when initially called or for any membership vote when initially conducted, then the quorum for any subsequent attempt to convene such meeting or conduct such membership vote shall be reduced to 10%. A ballot cast by mail or electronically may be counted for purposes of establishing a quorum only as to those action items appearing on the ballot.

(b) If a quorum is not represented at a meeting when originally called, the Board may:

(i) adjourn the meeting to a later time within 120 days of the original date and no notice shall be required other than announcement at the time of adjournment of the date, time and place for reconvening. Upon reconvening, if a quorum is represented, any business may be transacted that might have been transacted on the original date of such meeting or vote. If the date, time and place for reconvening is not announced at the time of adjournment, or is more than 120 days after the original date, or if for any reason a new date is fixed for reconvening after adjournment, the Board shall provide notice of the time and place for reconvening in the same manner prescribed for the original meeting or balloting on any action to be taken without a meeting; or

(ii) call another meeting or vote for the same purpose to be held within 60 days of the date originally scheduled and provide notice in accordance with Section 2.4, in which event the required quorum for such meeting or vote shall be one-half (1/2) of the required quorum for the original meeting or vote; provided, at any regular or annual meeting, unless at least 20% of the voting power is represented in person or by proxy, only those matters described in the meeting notice may be voted upon.

(c) If the quorum requirement is not met for any proposed action in which votes are cast by means other than at a meeting, the Board may extend the deadline for voting to a date within 30 days of the original deadline by written notice to the Members setting forth the new deadline.

(d) Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the departure of enough Members to leave less than a quorum; however, at least a majority of the votes required to constitute a quorum, or such larger percentage as may be required under the Declaration or applicable law for specific actions, must approve any action taken.

2.10. Conduct of Meetings.

The President or a Board-approved designee shall preside over all Association meetings. The Secretary shall ensure that minutes of the meetings are prepared, reflecting all resolutions adopted and all other transactions occurring at such meetings. The minutes shall be kept with the Association's books and records.

2.11. Action Without a Meeting.

Any action that is required or that may be taken at a meeting of the Members may be taken without a meeting if:

(a) the Association mails, personally delivers, or electronically transmits to every Member entitled to vote on such action:

(i) a ballot describing each proposed action and providing an opportunity to vote for or against each proposed action, along with instructions for delivery of the completed ballot, including the delivery location; or

(ii) notice of the posting of such a ballot on an Internet website, with instructions for obtaining access to such website and casting the ballot; and

(b) the number of votes cast equals or exceeds the quorum required for a meeting to consider such action; and

(c) the number of votes cast in favor of the proposed action equals or exceeds the number of votes required to approve such action if the vote were conducted at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

Voting instructions or solicitations of votes to be cast by written or electronic ballot pursuant to this Section must indicate the number of responses needed to satisfy the quorum requirement, the percentage of votes necessary to approve any action other than election of directors, and the deadline for receiving the ballot in order to be counted. In addition, if the Act requires membership approval for the proposed action, any materials which the Act requires to be included in the notice of a meeting to consider such action must be furnished to the Member.

Any ballot cast by electronic transmission must set forth or be delivered with information from which the Association can determine (i) that the Member, the Member's authorized agent, or the Member's attorney in fact authorized the electronic transmission; and (ii) the date on which such Member, the Member's authorized agent, or the Member's attorney in fact transmitted such ballot by electronic transmission, which shall be deemed to be the date on which such ballot was signed. A ballot cast by electronic transmission in compliance with this paragraph shall be deemed to be written, signed and dated by the Member.

A written or electronic ballot, once cast, may not be revoked unless otherwise expressly authorized in the solicitation materials.

The Board shall notify the Members of the results of the vote within 30 days after the expiration of the voting period.

Article 3
Board of Directors: Selection, Meetings, Powers

A. <u>Composition and Selection</u>.

3.1. Governing Body; Qualifications.

The Board shall govern the Association's affairs. Each director shall have one vote. Except as otherwise provided in this Section 3.1, directors shall be Owners or residents. However, no Owner and resident of the same Unit may serve on the Board at the same time. A "**resident**" shall be any natural person 18 years of age or older whose principal residence is a Unit within The Retreat at Sterling on the Lake.

If an Owner is not an individual, any officer, director, partner, trustee of such Owner or other individual authorized in a writing signed by the Owner and filed with the Secretary of the Association shall be eligible to serve as a director, unless and until the Association receives written notice of revocation of such authority signed by the Owner. In addition, any employee of the Class "B" Member shall be eligible to serve as a director. However, no Owner may have more than one such representative serving on the Board at a time, except in the case of directors that the Class "B" Member appoints.

3.2. Number of Directors.

The Board shall consist of three to five directors, as provided in Section 3.3.

3.3. Selection of Directors; Term of Office.

(a) ***Initial Board.*** The initial Board shall consist of the three directors identified in the Articles of Incorporation, who shall serve until their successors are appointed or elected as provided in this section.

(b) ***Directors During Class "B" Control Period.*** Except as otherwise provided in this subsection (b) and in Section 3.5, the Class "B" Member may appoint, remove, and replace Board members until termination of the Class "B" Control Period. During such period, the Class "A" Members other than the Declarant shall be entitled to elect a minority of the total number of directors according to the following schedule (directors elected by the Class "A" Members other than Declarant are referred to as "**Owner Directors**"):

(i) Not later than 60 days after the time that Owners other than the Declarant, Declarant Affiliates, or Builders own 40% of the Permitted Units, the President shall call for an election by which the Class "A" Members other than the Declarant shall be entitled to elect one of the three directors. The remaining directors shall be appointees of the Declarant. The Owner Director shall be elected for a term of two years or until the happening of the event described in subsection (b)(ii) below, whichever is shorter. If such Owner Director's term expires prior to the happening of the event described in subsection (b)(ii), a successor shall be elected for a like term.

(ii) Not later than 60 days after the time that Owners other than the Declarant, Declarant Affiliates, or Builders own 60% of the Permitted Units, the Board shall be increased to five directors and the President shall call for an election by which the Class "A" Members other than the Declarant shall be entitled to elect two of the five directors. The Declarant shall appoint the remaining three directors. The Owner Directors shall be elected for a term of two years or until the happening of the event described in subsection (c) below, whichever is shorter. If such Owner Directors' terms expire prior to the happening of the event described in subsection (c) below, successors shall be elected for a like term.

(c) ***Directors After the Class "B" Control Period.*** Not later than termination of the Class "B" Control Period, the President shall call for an election by which the Class "A" Members other than Declarant shall be entitled to elect four of the five directors. Two Owner Directors shall be elected to serve until the second annual meeting following their election and two Owner Directors shall be elected to serve until the third annual meeting following their election, as such Owner Directors determine among themselves. The Declarant shall be entitled to continue to appoint one director to serve until the third annual meeting following such election unless it earlier relinquishes such right in a written instrument signed by the Declarant.

Upon expiration of the term of office of each director elected or appointed pursuant to this subsection (c), the Class "A" Members (including the Declarant in its capacity as the Class "A" Member for Units which it owns) shall be entitled to elect a successor to serve a term of two years. Owner Directors shall hold office until their respective successors have been elected. Directors may serve any number of consecutive terms.

The diagram below illustrates the concept of transition of control of the Board during and after the Class "B" Control Period.

TRANSITION OF CONTROL OF BOARD OF DIRECTORS				
Initial Board	**40% of Total Units Conveyed**	**60% of Total Units Conveyed**	**Termination of Class "B" Control Period**	**3rd Annual Meeting After Election in 3.3(c)**
Declarant	Owner	Owner	Owner	Owner
Declarant	Declarant	Owner	Owner	Owner
Declarant	Declarant	Declarant	Owner	Owner
		Declarant	Owner	Owner
		Declarant	Declarant	Owner

3.4. Nomination and Election Procedures.

(a) ***Nomination of Candidates***. At least 30 days prior to any election of directors by the Class "A" Members, the Board shall appoint a Nominating Committee consisting of a chairman, who shall be a Board member, and three or more Owners or representatives of Owners. The Nominating Committee shall serve until the close of the election for which they were appointed. The names of the Nominating Committee members shall be announced in the notice of each election.

In preparation for each election, the Nominating Committee shall meet and make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled by the Class "A" Members at such election. In making its nominations, the Nominating Committee shall use reasonable efforts to nominate candidates representing the diversity that exists within the pool of potential candidates. Nominations shall also be permitted from the floor at the meeting at which any election is held or, if the election is to be held without a meeting pursuant to Section 2.12, the Board shall establish a reasonable procedure by which any Owner may declare his or her candidacy for election to the Board prior to the solicitation of ballots under that Section. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes.

In addition to or in lieu of appointing a Nominating Committee, the Board may give notice to the Members for the purpose of soliciting candidates interested in running for any position on the Board to be filled by such election. Such notice shall be given at least 10 days prior to disseminating any ballots for purposes of voting in an election of directors and must contain instructions for an eligible candidate to notify the Association of the candidate's request to be placed on the ballot and the deadline to submit the candidate's request, which deadline may not be earlier than the 10th day after the date of such notice. The notice shall either be: (i) mailed to each Member; or (ii) provided by e-mail to each Member who has registered an e-mail address with the Association and posted (A) in a conspicuous manner reasonably designed to provide notice to the Members, either on the Common Area or on other property within The Retreat at Sterling on the Lake, with the permission of the owner of such property, or (B) on an Internet website maintained by the Association or on other Internet media. The Association shall include on the ballot for such election the name of each eligible candidate from whom the Association received a request to be placed on the ballot in accordance with this section.

(b) *Election Procedures.* At each election, voting shall be by ballot, which may be cast in any manner authorized by the Board consistent with Section 2.7(c). Notwithstanding this, if the number of candidates equals the number of positions to be filled and there are no nominations from the floor, any Member may move to accept the slate of candidates nominated by the Nominating Committee, and, if approved, no balloting shall be required. Otherwise, the candidates receiving the most votes shall be elected.

Except as otherwise provided in Section 2.7, a Member may cast the vote allocated to its Unit for each position to be filled by such election. Alternatively, a Member that owns more than one Unit may cumulate the votes allocated to its Unit by multiplying the number of votes the Members is entitled to cast by the number of directors for whom the Member is entitled to vote and casting the product for a single candidate or distributing the product among two or more candidates; provided, cumulate voting shall be permitted in a particular election only (i) if so stated in the notice of the election or in a statement accompanying the notice, or (ii) if a Member gives notice of intent to cumulate the Member's votes at the meeting at which the election is to be held, in which case all Members shall be entitled to cumulate their votes without giving further notice.

In the event of a tie vote, the Members shall be informed of the tie vote and given the opportunity to discuss the candidates among themselves in an effort to resolve the tie before another vote is taken. If the second vote again results in a tie, then the Board shall flip a coin to determine the winner. Such election shall be held by mail, with ballots to be sent by first class mail to each Member entitled to vote within 10 days after the meeting at which the original election was held.

3.5. Removal of Directors and Vacancies.

Any Owner Director may be removed, with or without cause, by the vote of Class "A" Members holding a majority of the votes entitled to be cast for the election of such director. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director by the Class "A" Members, the Class "A" Members shall elect a successor for the remainder of the term of such director.

If the Board is presented with written, documented evidence from a database or other record maintained by a governmental law enforcement authority that a director was convicted of a felony or crime involving moral turpitude not more than 20 years before the date the Board is presented with such evidence, the director shall be automatically considered removed from the Board and ineligible for future service on the Board.

In the event of a vacancy in any position on the Board previously filled by an Owner Director, the Board may appoint a successor to fill the vacancy for the remainder of the unexpired term.

The Declarant shall have no unilateral right to remove or replace Owner Directors, and during any period that the Declarant is entitled to appoint a director to fill a position on the Board: (i) neither the Class "A" Members nor the Board shall have any right to remove or replace a director appointed by the Declarant to fill such position; and (ii) the Declarant may appoint a successor to fill any vacancy on the Board resulting from the death, disability, or resignation of a director appointed by the Declarant to fill such position.

B. Meetings.

3.6. Organizational Meetings.

The Board shall hold an organizational meeting within 10 days following each annual meeting of the membership, at such time and place (subject to Section 3.10) as the Board shall fix, for the purpose of electing officers.

3.7. Regular Meetings.

The Board shall hold regular meetings at such time and place (subject to Section 3.10) as a majority of the directors shall determine, but the Board shall meet at least four times during each fiscal year with at least one meeting per quarter.

3.8. Special Meetings.

The President, Vice President, or any two directors may call a special meeting of the Board.

3.9. Notice; Waiver of Notice.

(a) Notices of Board meetings shall specify the date and time of the meeting and, unless the meeting is being held solely by use of a conference telephone or other remote communications system in accordance with Section 3.10, the location of the meeting. Notice of any meeting which is conducted or which may be attended by conference telephone or other remote communications system in accordance with Section 3.10 shall specify the form of communications system to be used for the meeting and the means of accessing the communications system.

(b) The Board shall notify each director of Board meetings by: (i) personal delivery; (ii) first class mail, postage prepaid; (iii) telephone communication, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director; or (iv) facsimile, electronic mail, or other electronic communication device, with confirmation of transmission. All such notices shall be given at or sent to the director's telephone number, fax number, electronic mail address, or sent to the director's address as shown on the Association's records. Notices sent by first class mail shall be deposited into a United States mailbox at least five business days before the day of the meeting. Notices sent by personal delivery, telephone, or electronic communication shall be delivered at least 48 hours before the time set for the meeting. No notice shall be required for regular meetings conducted in accordance with a published schedule, provided notice of the schedule was delivered to each director in accordance with this subsection (b).

(c) Except as provided in Sections 3.14 and 3.15, notice of all Board meetings shall be posted at least 48 hours prior to the Board meeting:

(i) in a conspicuous manner reasonably designed to provide notice to the Members, either on the Common Area or at another location within The Retreat at Sterling on the Lake reasonably accessible to the Members that the Board has previously designated by resolution and communicated to the membership for the posting of such notices (with the permission of the owner of the property on which it is posted); and

(ii) via email to all Members who have provided email addresses for the purpose of receiving communications from the Association.

If the Board recesses a Board meeting for a period of less than 48 hours, the Board is not required to post notice of the continued meeting, provided the recess is taken in good faith and not to circumvent the requirements of this Section. Otherwise, the Board shall give notice of the continuation in at least one manner prescribed in this Section.

(d) Transactions of any Board meeting, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting each director not present signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. Notice of a meeting also shall be deemed given to any director who attends the meeting without protesting before or at its commencement about the lack of adequate notice.

3.10. Place of Meetings; Participation by Telephonic or Electronic Means.

(a) All Board meetings shall be held within Hall County or an adjacent county, except for meetings held by telephone or other communications system pursuant to subsection (b).

(b) A meeting of the Board, or of any committee the Board appoints, may be held using a conference or speaker telephone or similar communications equipment, or another suitable electronic communications system, including videoconferencing technology or Internet-based conference system, or any combination thereof, provided that:

(i) the electronic or telephonic system used allows each director or committee member, as applicable, to communicate concurrently with every other director or committee member;

(ii) except for any portion of the meeting conducted in executive session as described in Section 3.13, all Members in attendance may hear all directors or committee members;

(iii) Members are allowed to listen using any electronic or telephonic communication method used or expected to be used by any director or committee member; and

(iv) notice of the meeting includes instructions for accessing the meeting using any such communication method.

Participation in a meeting pursuant to this section shall constitute presence at such meeting, unless the participation is for the express purpose of objecting to the transaction of business at the meeting on the ground that the meeting has not been lawfully called or convened.

3.11. Quorum of Board; Voting.

(a) At all Board meetings, a majority of the directors shall constitute a quorum for the transaction of business, and the votes of a majority of the directors present at a meeting at which a quorum is present shall constitute the Board's decision, unless Georgia law, these By-Laws, or the Declaration specifically provide otherwise. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the departure of directors, if at least a majority of the required quorum for that meeting approves any action taken.

(b) Board members may not vote by proxy. Voting may be conducted at a meeting, or without a meeting in accordance with Section 3.14.

3.12. Conduct of Meetings.

The President or any designee the Board approves by resolution shall preside over all Board meetings. The Secretary shall ensure that written minutes of the meetings are kept and that all resolutions and all transactions occurring at such meetings are included in the Association's records.

3.13. Open Meetings; Executive Session.

(a) Subject to the provisions of Section 3.13(b) and Section 3.14, all Board meetings shall be open to attendance by all Members or their representatives, but only directors may participate in any discussion or deliberation unless a director requests that attendees be granted permission to speak. In such case, the President may limit the time any such individual may speak. The Board shall make agendas for its meetings reasonably available for examination by all Members or their representatives prior to the meeting.

(b) Notwithstanding the above, any Board meeting may be adjourned and reconvened in executive session, and attendance at such meeting restricted to directors and such other persons as the Board may specifically invite and announce during the open portion of the Board meeting, to discuss pending or threatened litigation, personnel matters, contract negotiations, enforcement actions, confidential communications with the Association's attorney, delinquencies in assessments or other charges owed to the Association, or matters that are to remain confidential by request of the affected parties and agreement of the Board. Following an executive session, any decision made in the executive session must be summarized orally and placed in the minutes, in general terms, using good faith efforts to avoid breaching the privacy of any Members, violating any privilege, or disclosing information that was to remain confidential at the request of the affected parties. The oral summary must include a general explanation of expenditures approved in executive session.

3.14. Action Without a Formal Meeting.

(a) Except as provided in subsection (b), the Board may take action outside of a meeting, by written consent to such action in the manner authorized in the Articles of Incorporation, or by voting by electronic or telephonic means, without prior notice to the Members, if each Board member is given a reasonable opportunity to express his or her opinion to all other board members and to vote or execute a consent to such action. Except as provided in Section 3.15, any action taken without notice to Members under Section 3.9 must be summarized orally at, and documented in the minutes of, the next Board meeting, including an explanation of any known actual or estimated expenditures approved at the meeting.

(b) Except as provided in Section 3.15, the Board may not consider or vote on any of the following matters except in an open meeting for which prior notice was given to the Members pursuant to Section 3.9: levying of special assessments; lending or borrowing money; the adoption or amendment of any of the Retreat Documents; the approval of an annual budget or revised budget reflecting an increase of more than 10 percent over the prior budget; the sale or purchase of real property; the filling of a vacancy on the Board; or the construction of capital improvements other than the repair, replacement, or enhancement of existing capital improvements.

3.15. Board Action During Development and Sale Period.

The requirements and limitations set forth in Sections 3.9(c), 3.10(a), 3.13, and 3.14 shall not apply to meetings of the Board conducted during the Class "B" Control Period unless conducted for the purpose of:

(a) adopting or amending the Retreat Documents;

(b) increasing the amount of the Base Assessment or adopting or increasing a Special Assessment;

(c) electing Owner Directors or establishing or modifying the process for their election; or

(d) changing the voting rights of Members.

Nothing in this Section 3.15 shall be construed to authorize the Board to take action on any matter listed in clauses (a) through (d) of this Section in contravention of the approval that would otherwise be required under the Retreat Documents or Georgia law.

C. Powers and Duties.

3.16. Powers.

The Board shall have the power to administer the Association's affairs, perform the Association's responsibilities, and exercise the Association's rights as set forth in the Retreat Documents and as provided by law. The Board may do, or cause to be done on the Association's behalf, all acts and things except those which the Retreat Documents or Georgia law require(s) to be done and exercised exclusively by the Owners or the membership generally.

3.17. Duties.

The Board's duties shall include, without limitation:

(a) preparing and adopting, in accordance with the Declaration, an annual budget establishing each Owner's share of the Common Expenses;

(b) levying and collecting assessments from the Owners;

(c) providing for the operation, care, upkeep, and maintenance of the Area of Common Responsibility consistent with the Community-Wide Standard;

(d) designating, hiring, and dismissing personnel necessary to carry out the Association's rights and responsibilities and, where appropriate, providing for compensation of such personnel and for the purchase of equipment, supplies, and materials to be used by such personnel in the performance of their duties;

(e) opening bank accounts on the Association's behalf and designating the signatories required;

(f) depositing all funds received on the Association's behalf in a bank depository which it shall approve and using such funds to operate the Association; however, in the Board's business judgment any reserve funds may be deposited in depositories other than banks;

(g) making or contracting for the making of repairs, additions, and improvements to or alterations of the Common Area in accordance with the Retreat Documents;

(h) determining when action to enforce the Retreat Documents is appropriate and the nature of any sanctions to be imposed, and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association; however, the Association's obligation in this regard shall be conditioned in the manner provided in the Declaration;

(i) obtaining and carrying property and liability insurance and fidelity bonds, as provided in the Declaration, paying the cost thereof, and filing and adjusting claims, as appropriate;

(j) paying the cost of all services rendered to the Association;

(k) keeping a detailed accounting of the Association's receipts and expenditures;

(l) making available to any prospective purchaser of a Unit, any Member, and the holders, insurers, and guarantors of any Mortgage on any Unit, current copies of the Retreat Documents and all other books, records, and financial statements of the Association as provided in Section 9.4; and

(m) indemnifying a director, officer or committee member, or former director, officer or committee member of the Association to the extent such indemnity is required by Georgia law, the Articles of Incorporation, or these By-Laws.

Article 4
Officers

4.1. Officers.

The Association's officers shall be a President, Secretary, and Treasurer. The President and Secretary shall be elected from among the Board members; other officers may, but need not, be Board members. The Board may appoint such other officers, including one or more Vice-Presidents, Assistant Secretaries and Assistant Treasurers, as it shall deem desirable, such officers to have such authority and perform such duties as the Board prescribes. Any two or more offices may be held by the same person, except the offices of President and Secretary.

4.2. Election and Term of Office.

The Board shall elect the Association's officers at the first Board meeting following each annual meeting of the membership, to serve until their successors are elected.

4.3. Removal and Vacancies.

The Board may remove any officer whenever in its judgment the Association's best interests will be served, and may fill any vacancy in any office arising because of death, resignation, removal, or otherwise, for the unexpired portion of the term.

4.4. Powers and Duties.

The Association's officers shall have such powers and duties as generally pertain to their respective offices, as well as such powers and duties as the Board may specifically confer or impose. The President shall be the Association's chief executive officer. The Treasurer shall have primary responsibility for preparing the Association's budgets as provided for in the Declaration, and may delegate all or part of the preparation and notification duties to a finance committee, management agent, or both.

4.5. Resignation.

Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary. Such resignation shall take effect on the date of the receipt of such notice or at a later time specified therein. Unless the resignation specifies, acceptance of such resignation shall not be necessary to make it effective.

Article 5
Committees

5.1. General.

In addition to such committees as the Declarant or Board may appoint pursuant to the Declaration, the Board may appoint such other committees as it deems appropriate to perform such tasks and to serve for such periods as the Board may designate by resolution. Each committee shall operate in accordance with the terms of such resolution.

5.2. Covenants Committee.

In addition to any other committees that the Board may establish pursuant to Section 5.1, the Board may appoint a Covenants Committee consisting of at least three and no more than seven Owners. Acting in accordance with the provisions of the Declaration, these By-Laws, and resolutions the Board may adopt, the Covenants Committee, if established, shall be the hearing tribunal of the Association and shall conduct all hearings held pursuant to Article 8 of these By-Laws. The Covenants Committee shall have no responsibility for seeking out violations of the Retreat Documents.

Article 6
Standards of Conduct; Liability and Indemnification; Conflicts

6.1. Standards for Directors and Officers.

The Board shall exercise its powers in a reasonable, fair, nondiscriminatory manner and shall adhere to the procedures established in the Retreat Documents.

Directors and officers shall discharge their duties as directors or officers, and as members of any committee to which they are appointed, in a manner that the director or officer believes in good faith to be in the best interest of the corporation and with the care that an ordinarily prudent person in a like position would exercise under similar circumstances. A director is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by others to the extent authorized under Georgia law.

6.2. Liability.

In performing their duties, directors and officers shall be insulated from liability as provided for directors of corporations under Georgia law and as otherwise provided by the Retreat Documents. The Association's officers, directors, and committee members shall not be liable for any mistake of judgment, negligent or otherwise, or for any action taken or omitted in such capacities, except for their own individual willful misfeasance, malfeasance, misconduct, or bad faith. The officers and directors shall have no personal liability with respect to any contract or other commitment made or action taken in good faith on the Association's behalf (except to the extent that such officers or directors may also be Members).

6.3. Indemnification.

Subject to the limitations of Georgia law, the Association shall indemnify every present and former officer, director, and committee member against all damages and expenses, including counsel fees and expenses, reasonably incurred in connection with any action, suit, or other proceeding (including settlement of any suit or proceeding, if approved by the then Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that the Association shall have no obligation to indemnify any individual against liability or expenses incurred in connection with a proceeding:

(a) brought by or in the right of the Association, although it may reimburse the individual for reasonable expenses incurred in connection with the proceeding if it is determined, by the court or in the manner provided above, that the individual met the relevant standard of conduct under Georgia law; or

(b) to the extent that the individual is adjudged liable for conduct that constitutes:

(i) appropriation, in violation of his or her duties, of any business opportunity of the Association; or

(ii) intentional misconduct or knowing violation of the law; or

(iii) an unlawful distribution to members, directors or officers; or

(iv) receipt of an improper personal benefit.

This right to indemnification shall not be exclusive of any other rights to which any present or former officer, director, or committee member may be entitled. The Association shall, as a Common Expense, maintain adequate general liability and officers' and directors' liability insurance to fund this obligation, if such insurance is reasonably available.

6.4. Advancement of Expenses.

In accordance with the procedures and subject to the conditions and limitations set forth in Georgia law, the Board may authorize the Association to advance funds to pay for or reimburse the reasonable expenses incurred by a present or former officer, director or committee member in any proceeding to which he or she may be a party by reason of being or having been an officer, director, or committee member of the Association.

6.5. Conflicts of Interest.

(a) A director shall promptly disclose to the Board any actual or potential conflict of interest affecting the director relative to his or her performance as a director. Notwithstanding this, the fact that a director appointed by the Declarant may be employed by or otherwise transact business with the Declarant or a Declarant Affiliate, and that the Declarant may transact business with the Association or its contractors, shall not require disclosure as a potential conflict of interest hereunder.

(b) Except as provided herein and in subsection (c), the Association shall not enter into a contract with a current Board member, a person related to a current Board member within the third degree by consanguinity or affinity (a "**Board Relative**"), a company in which a current Board member has a financial interest in at least 51% of profits, or a company in which a Board Relative has a financial interest in at least 51% of profits, unless all of the following conditions are satisfied:

(i) the Board member, Board Relative, or company bids on the proposed contract and the Association has received at least two other bids for the contract from persons not associated with the Board member, Board Relative, or company, if reasonably available in the community;

(ii) the Board member is not given access to the other bids, does not participate in any Board discussion regarding the contract, and does not vote on the award of the contract;

(iii) the material facts regarding the relationship or interest with respect to the proposed contract are disclosed to or known by the Board and the Board, in good faith and with ordinary care, authorizes the contract by an affirmative vote of a majority of the directors who do not have an interest governed by this Section; and

(iv) the Board certifies that the other requirements of this Section 6.5 have been satisfied by a resolution approved by an affirmative vote of the majority of the Board members who do not have an interest governed by this Section.

(c) This Section does not apply to any contract entered into by the Association during the Development and Sale Period with the Declarant or any Declarant Affiliate.

6.6. Board and Officer Training.

The Board may, as a Common Expense, conduct or provide for seminars (live or recorded) and continuing educational opportunities designed to educate and inform its officers and directors of their responsibilities as officers and directors. The Board may retain industry professionals, which may include property managers, attorneys, and accountants, as appropriate or necessary for such purpose. However, the Board shall not incur or reimburse travel expenses for long distance or overnight travel for such purposes unless approved by 100% of the Board at a Board meeting open to and noticed to the members.

The Board may also provide, or provide for, Owner and resident education designed to foster a better understanding of the Association's governance and operations, and leadership training classes designed to educate Members and Owners as to the nomination, election, and voting processes and the duties and responsibilities of directors and officers.

The Board may apply for and maintain, as a Common Expense, membership for the Association, its officers and directors, in the Community Associations Institute or any similar nonprofit organization that provides educational opportunities for Association directors, officers and managers in operation and management of Associations.

Article 7
Management and Accounting

7.1. Compensation of Directors and Officers.

The Association shall not compensate directors and officers for acting as such unless Members representing a majority of the total votes in the Association approve such compensation at an Association meeting. The Association may reimburse any director or officer for expenses he or she incurs on the Association's behalf upon approval of a majority of the other directors. Nothing herein shall prohibit the Association from compensating a director or officer, or any entity with which a director or officer is affiliated, for services or supplies he or she furnishes to the Association in a capacity other than as a director or officer pursuant to a contract or agreement with the Association. However, such director must make known his or her interest to the Board prior to entering into such contract, and a majority of the Board, excluding any interested director, must approve such contract.

7.2. Right of Class "B" Member to Disapprove Actions.

So long as there is a Class "B" Membership, the Class "B" Member shall have a right to disapprove any action, policy, or program of the Association, the Board and any committee which, in the Class "B" Member's sole judgment, would tend to impair rights of the Declarant or Builders under the Declaration or these By-Laws, interfere with development or construction of any portion of the Community, or diminish the level of services the Association provides. The Board shall not implement any action, policy, or program subject to the right of disapproval set forth herein until and unless the requirements of this Section have been met.

(a) ***Notice***. The Association shall give the Class "B" Member written notice of all meetings of the membership, the Board, and committees, and any actions proposed to be taken by any of them by written consent in lieu of a meeting. Such notice shall comply, as to Board meetings, with Section 3.9, and shall, except in the case of regular Board meetings pursuant to these By-Laws, set forth with reasonable particularity the agenda to be followed at such meeting.

(b) ***Opportunity to be Heard***. At any such meeting, the Association shall give the Class "B" Member the opportunity to join in or to have its representatives or agents join in discussion from the floor of any prospective action, policy, or program which would be subject to the right of disapproval set forth herein. The Class "B" Member, its representatives, or its agents shall make its concerns, thoughts, and suggestions known to the Board and/ or the members of the subject committee.

The Class "B" Member, acting through any officer or director, agent, or authorized representative, may exercise its right to disapprove at any time within 10 days following the meeting at which such action was proposed or, in the case of any action taken by written consent in lieu of a meeting, at any time within 10 days following receipt of written notice of the proposed action.

The Class "B" Member may use this right to disapprove to block proposed actions but shall not use it to require any action or counteraction of any committee, the Board, or the Association. The Class "B" Member shall not use its right to disapprove to reduce the level of services the Association is obligated to provide or to prevent capital repairs or any expenditure required to comply with applicable laws and regulations.

7.3. Managing Agent.

(a) The Board may employ for the Association professional management agents at such compensation as the Board may establish, to perform such duties and services as the Board shall authorize. The Board may delegate such powers as are necessary to perform the manager's assigned duties but shall not delegate policy-making authority or ultimate responsibility for those duties set forth in Section 3.17. The Board may employ the Declarant or its affiliate as managing agent or manager. The Board may delegate to one of its members the authority to act on its behalf on all matters relating to the duties of the managing agent or manager which might arise between Board meetings.

(b) The managing agent shall not accept remuneration from vendors, independent contractors, or others providing goods or services to the Association, whether in the form of commissions, finder's fees, service fees, prizes, gifts, or otherwise; anything of value received shall benefit the Association. The managing agent shall promptly disclose to the Board any financial or other interest which it may have in any firm providing goods or services to the Association.

7.4. Accounts and Reports.

(a) The Board shall follow the following accounting standards unless the Board by resolution specifically determines otherwise:

(i) accounting and controls should conform to generally accepted accounting principles; and

(ii) the Association's cash accounts shall not be commingled with any other accounts.

(b) Commencing at the end of the quarter in which the first Unit is sold and closed, financial reports shall be prepared for the Association at least quarterly containing:

(i) an income statement reflecting all income and expense activity for the preceding period;

(ii) a statement reflecting all cash receipts and disbursements for the preceding period;

(iii) a variance report reflecting the status of all accounts in an "actual" versus "approved" budget format;

(iv) a balance sheet as of the last day of the preceding period; and

(v) a delinquency report listing all Owners who are delinquent in paying any assessments at the time of the report (any assessment or installment thereof shall be considered to be delinquent on the 15th day following the due date unless the Board specifies otherwise by resolution).

(c) An annual report consisting of at least the following shall be made available for Members' review within 180 days after the close of the fiscal year: (i) a balance sheet; (ii) an operating (income) statement; and (iii) a statement of changes in financial position for the fiscal year. Such annual report shall be prepared on an audited, reviewed, or compiled basis, as the Board determines. If prepared by a public accountant, the accountant's report shall be included. If not prepared by a public accountant, the report shall include a statement of the President or Treasurer or other person responsible for the Association's financial accounting records, stating his or her reasonable belief as to (A) whether the report was prepared on the basis of generally accepted accounting principles and, if not, describing the basis on which it was prepared; and (B) describing any respects in which the report was not prepared on a basis of accounting consistent with the statement prepared for the preceding year.

(d) The Board shall report in writing to the Members any indemnification of or advancement of legal expenses to any officer, director, or committee member.

7.5. Borrowing.

The Association shall have the power to borrow money for any legal purpose. However, the Board shall obtain membership approval in the same manner provided in the Declaration for Special Assessments if the proposed borrowing is for the purpose of making discretionary capital improvements and the total amount of such borrowing, together with all other debt incurred within the previous 12-month period, exceeds or would exceed 20% of the Association's budgeted gross expenses for that fiscal year.

7.6. Right to Contract.

The Association shall have the right to contract with any Person for the performance of various duties and functions, subject to the provisions of Section 6.5, if applicable. This right shall include, without limitation, the right to enter into common management, operational, or other agreements with the Master Association or other owners or residents associations, if any, within and outside the Community.

7.7. Agreements, Contracts, Deeds, Leases, Checks, Etc.

All Association agreements, contracts, deeds, leases, checks, and other instruments shall be executed by at least two officers or by such other person or persons as the Board may designate by resolution.

Article 8
Enforcement Procedures

The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Retreat Documents. To the extent specifically required by the Declaration or Georgia law, the Board shall comply with the following procedures prior to imposition of sanctions:

8.1. Notice and Response.

The Board or its delegate shall serve the alleged violator and the responsible Owner, if the alleged violator is not an Owner, with written notice, by certified mail, return receipt requested, to the Owner's last known address as shown in the Association's records:

(a) describing the alleged violation or property damage which is the basis of the proposed sanction or amount due to the Association, as applicable;

(b) describing the proposed sanction to be imposed; and

(c) informing the alleged violator and/ or Owner that:

(i) he or she has 21 days after receipt of the notice to present a written request for a hearing to the Board or the Covenants Committee, if one has been appointed pursuant to Article 5, and if the hearing is to be held before a Covenants Committee, that the alleged violator has the right to appeal the decision of the Covenants Committee to the Board;

(ii) he or she may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if serving on active military duty; and

(iii) the Association may recover from the Owner reasonable attorneys' fees and other reasonable costs incurred by the Association in enforcing the Retreat Documents after the date of the hearing pursuant to subsection (c)(i), or if no hearing is requested, after the deadline for requesting a hearing, including such fees and costs incurred in collecting amounts, including damages, due to the Association if not paid by a date specified in such notice.

If the alleged violation is continuing, the Board or its delegate may, but shall not be obligated to, provide the alleged violator with a reasonable cure period during which the proposed sanction may be avoided by curing the violation.

If the alleged violator fails to request a hearing within the allotted 21-day period, the Board may impose the sanction as stated in the notice without a hearing, except that no sanction shall be imposed if the alleged violator has been offered an opportunity to cure the violation and cures the alleged violation within the period provided in such notice.

Prior to the effectiveness of sanctions imposed pursuant to this Article, proof of proper notice shall be placed in the minutes of the Board or Covenants Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. Regardless, the notice requirement shall be deemed satisfied if the alleged violator or its representative requests and appears at a hearing.

8.2. Hearing.

If a hearing is requested within the allotted 21-day period, the hearing shall be held before the Covenants Committee, or if one has not been appointed, then before the Board in executive session within 30 days after receipt of the alleged violator's request. Either the Board or the alleged violator may request a postponement of up to 10 days, and such postponement shall be granted. Additional postponements may be granted upon agreement of both the Association and the alleged violator. The Board shall notify the alleged violator at least 10 days prior to the hearing of the time, date, and place of the hearing. At the hearing, the alleged violator shall be afforded a reasonable opportunity to be heard and shall be entitled to make an audio recording of the hearing. If the alleged violator fails to appear, the hearing may be held in his or her absence. The minutes of the meetings of the Board or Covenants Committee, as applicable, shall contain a written statement of the results of the hearing (*i.e.*, the Board's or Committee's decision) and the sanction, if any, to be imposed. Written notice of the decision shall be mailed to the violator within three business days after the hearing.

8.3. Appeal.

If a hearing is held before the Covenants Committee and a sanction is imposed, the violator shall have the right to appeal the Covenant's Committee's decision to the Board. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President, or Secretary within 10 days after the hearing date.

Article 9
Miscellaneous

9.1. Fiscal Year.

The Association's fiscal year shall be the calendar year unless the Board establishes a different fiscal year by resolution.

9.2. Parliamentary Rules.

Except as may be modified by Board resolution, *Robert's Rules of Order* (current edition) shall govern the conduct of Association proceedings when not in conflict with Georgia law or the Retreat Documents.

9.3. Conflicts.

If there are conflicts among the provisions of Georgia law, the Articles of Incorporation, the Declaration, and these By-Laws, the provisions of Georgia law, the Declaration, the Articles of Incorporation, and these By-Laws (in that order) shall prevail.

9.4. Books and Records.

(a) ***Document Retention.*** The Association shall keep originals or copies of the following records:

(i) the Articles of Incorporation, By-Laws, Declaration, and all amendments thereto;

(ii) minutes of meetings of the Members and the Board, executed consents evidencing all actions taken by the Members or Board without a meeting, records of all actions taken by a committee of the Board on behalf of the Association, and all waivers of notice of meetings of the Members, the Board, and its committees (whether delivered in writing or by electronic transmission);

(iii) all communications in writing or by electronic transmission to the membership generally within the past three years;

(iv) a list of the names and home addresses of the Association's current directors and officers;

(v) a copy of the Association's most recent annual registration with the Secretary of State;

(vi) a membership list, in alphabetical order or in a form capable of being sorted alphabetically and printed, including the names and addresses of the Members and the number of votes each is entitled to cast (provided, such list may be compiled using information provided by the Members and the Association shall have no duty to conduct research or obtain title searches to verify the same);

(vii) financial books and records, including annual reports prepared pursuant to Section 7.4(c), audit records, and tax returns, which books and records shall be retained for at least seven years;

(viii) contracts with a term of one year or more, which shall be retained for four years after the expiration of the contract term.

(b) ***Inspection by Members and Mortgagees.*** Upon not less than five business days' notice to the Association specifying the records it wishes to inspect and copy, a Member is entitled to inspect and copy, at a reasonable time and location specified by the Board:

(i) any of the records described in clauses (i) through (v) of subsection (a) above, except the Board may limit inspection of the records described in subsection (a)(ii) to only those required to be made available for inspection under Georgia law; and

(ii) any of the records described in clauses (vi) through (viii) of subsection (a) above, but only if the Member's request is made in good faith and for a proper purpose that is reasonably relevant to the Member's legitimate interest as a Member, the Member describes with reasonable particularity the purpose and the records the Member desires to inspect, the records are directly connected with such purpose; and the Member agrees in writing that the records will be used only for the stated purpose.

A Member's right to inspect and copy hereunder shall extend to the Member's duly appointed agent or attorney; and the holder, insurer or guarantor of a first Mortgage on the Member's Unit, or its duly appointed agent or attorney. Nothing in this Section shall affect the right of a Member who is a party in litigation with the Association to inspect the Association's records to the same extent as any other litigant, nor shall it affect the power of a court to compel the production of corporate records for examination.

(c) ***Inspection by Directors.*** Every Association director shall have the absolute right at any reasonable time to inspect all Association books, records, and documents and the physical properties owned or controlled by the Association, for purposes related to such director's role as a member of the Board. A director's right of inspection includes the right to make a copy of relevant documents at the Association's expense.

(d) ***Use of Membership List.*** Except or with the prior written consent of the Board, neither a membership list nor any part thereof may be: (i) purchased or sold; (ii) obtained or used by any person for any commercial purpose; (iii) obtained or used for any purpose unrelated to a Member's interest as a Member, or (iv) used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election of directors to the Board.

(e) ***Rules for Inspection.*** A written request for access to inspect or copies of books and records under subsection (b) or (c) shall be mailed by certified mail to the Association's mailing address or that of its authorized representative as reflected in the current records of the Secretary of State. The request shall identify the specific books and records or information desired and shall specify whether the requestor desires to inspect the books and records before obtaining copies or to have the Association forward copies of the requested books and records. If the request is to inspect, then the Association shall notify the requestor of the location at the Association's office or within the Community and time during normal business hours that the person making such request may inspect the requested books and records, to the extent such person is entitled to do so under subsection (b). If the request is for copies of identified books and records, then within five (5) business days after the date the Association receives the request, the Association shall produce copies of the requested books and records, to the extent required under subsection (b) or (c) and Georgia law.

The Association may require advance payment of the estimated costs of labor and materials to compile and produce or reproduce the requested information ("**Authorized Charges**"). If the Authorized Charges vary from the estimate, the Association shall submit a final invoice to the Member on or before the 30th business day after the date the information is delivered reflecting the variance and any balance or refund due. Any balance due which is not reimbursed to the Association before the 30th business day after the date the invoice is sent to the Member may be added to the Member's account as an assessment. Any amount paid in excess of Authorized Charges shall be refunded to the Member not later than the 30th business day after the date the invoice is sent to the Member.

(f) ***Turnover of Books and Records.*** Within 60 days after termination of the Class "B" Control Period, the Declarant shall deliver to the Association or its manager all property, books and records of the Association in the Declarant's possession.

9.5. Notices.

(a) ***Form of Notice and Method of Delivery.*** Except as otherwise provided in the Declaration or these By-Laws or by Georgia law, all notices, demands, bills, statements, or other communications to be given under the Declaration or these By-Laws shall be in writing and may be delivered in person, by United States mail, by private carrier, or if the intended recipient has provided a telephone facsimile number or an email address for use by the Association, by facsimile or electronic mail with written confirmation of transmission. It is the responsibility of each Member to give notice to the Association of any change in the Member's address, facsimile number, or email address. Where the Retreat Documents or applicable law require notice to an Owner or Member, notice given to any co-Owner of a Unit shall be deemed notice to all co-Owners of such Unit.

(b) ***Delivery Address.*** Notices shall be delivered or sent to the intended recipient as follows:

(i) if to a Member, at the mailing address, telephone facsimile number, or e-mail address which the Member has designated by notice to the Secretary in accordance with this Section 9.5 or, if no such address or number has been designated, at the address of the Unit owned by such Member;

(ii) if to the Association, the Board, or a committee of either, at the mailing address, facsimile number, or e-mail address of the principal office of the Association or its managing agent, or at such other address as the Association has designated by notice to the Members in accordance with this Section 9.5; or

(iii) if to the Declarant, at the Declarant's principal address as it appears on the Secretary of State's records, or at such other address as the Declarant has designated by notice to the Association in accordance with this Section 9.5.

(c) ***Effective Date.*** Notice sent in accordance with subsections (a) and (b) shall be deemed to have been duly given and effective:

(i) if sent by United States mail, when deposited with the U. S. Postal Service, correctly addressed, with first class or higher priority postage prepaid;

(ii) if delivered personally or by private carrier, when actually delivered to the address of the intended recipient, as evidenced by the signature of the person at such address who accepts such delivery; or

(iii) if sent by telephone facsimile or electronic mail, upon transmission, as evidenced by a printed confirmation of transmission.

9.6. Amendment.

Until termination of the Class "B" Control Period, the Class "B" Member may amend these By-Laws for any purpose. Thereafter, these By-Laws may be amended only by the affirmative vote or written consent, or any combination thereof, of Members representing at least a majority of the total Class "A" votes in the Association, and the consent of the Class "B" Member, if such exists. Notwithstanding the above, no amendment to these By-Laws may conflict with the Declaration and the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment by the membership shall be prepared and signed by the President or Vice President and by the Secretary or Treasurer of the Association certifying that the requisite approval was obtained.

Amendments to these By-Laws shall become effective upon recordation unless a later effective date is specified therein. Any procedural challenge to an amendment must be made within one year of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these By-Laws.

No amendment may remove, revoke, or modify any right or privilege of Declarant or the Class "B" Member without the written consent of Declarant, the Class "B" Member, or the assignee of such right or privilege.

Certification

I, the undersigned, do hereby certify:

That I am the duly elected and acting Secretary of The Retreat at Sterling on the Lake Association, Inc., a Georgia nonprofit corporation;

That the foregoing By-Laws constitute the original By-Laws of The Retreat at Sterling on the Lake Association, Inc. as duly adopted by resolution of the Board of Directors thereof on the 15th day of June, 2020.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 23 day of June, 2020.

[SEAL]

____
Secretary Cara Choat

5510.02/CA Docs/AQ/ByLaws-The Retreat/061520/jps

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Cross-Reference to: Book 4828
Page 136

STATE OF GEORGIA

COUNTY OF HALL

SUPPLEMENT TO THE COMMUNITY CHARTER
FOR
STERLING ON THE LAKE
(POD HONEYCUTT, PH. 1A)

This Supplement to the Community Charter for Sterling on the Lake ("**Supplement**") is made this 15 day of June, 2020, by NNP-Looper Lake, LLC, a Delaware limited liability company, (the "**Founder**").

Background Statement

The Founder is the developer of the planned community located in Hall County, Georgia, known as Sterling on the Lake. The Founder executed and filed that Community Charter for Sterling on the Lake recorded on December 15, 2003, in Deed Book 4828, Page 136, *et seq.*, in the Office of the Clerk of the Superior Court for Hall County, Georgia, which has subsequently been amended by instruments recorded on November 8, 2006 at Deed Book 5868, Page 280, *et seq.*, on October 30, 2007 at Deed Book 6197, Page 132, *et seq.*, on April 2, 2008 at Deed Book 6306, Page 86, *et seq.*, and on October 29, 2012 at Deed Book 7082, Page 643, *et seq.* (such Community Charter, as it may now and hereafter be amended and supplemented from time to time, is referred to in this Supplement as the "**Charter**"). The By-Laws of Sterling on the Lake Community Association, Inc., attached as Exhibit "D" to the Charter, have been amended by instruments recorded on February 26, 2008 at Deed Book 6278, page 342, *et seq.*, on March 9, 2012 at Deed Book 6968, page 167 (re-recorded on March 18, 2013 at Deed Book 7156, Page 108, *et seq.*, to modify the title), and on February 6, 2013 at Deed Book 7136, page 688, *et seq.*

Pursuant to Section 16.1 and Section 16.3 of the Charter, the Founder reserved the right to expand the Sterling on the Lake community by recording one or more Supplements submitting to the terms of the Charter all or any portion of the additional property described on Exhibit "B" of the Charter (the "**Expansion Property**"). Section 16.3 of the Charter authorizes the Founder to impose additional covenants and easements on property described in any Supplement. Any such Supplement requires the consent of the owner of the property being submitted, if not the Founder.

The property described on Exhibit "A" to this Supplement (the "**Additional Property**") is a portion of the Expansion Property. The Founder, as the owner of the Additional Property, desires to submit the Additional Property to the terms of the Charter and this Supplement.

NOW, THEREFORE, the Founder hereby submits the real property described on Exhibit "A" of this Supplement to the provisions of the Charter and this Supplement, which shall hereafter encumber the title to such property and shall be binding upon and inure to the benefit of all persons having any right, title, or any interest in such property, their respective heirs, legal representatives, successors, successors-in-title, and assigns. The provisions of this Supplement shall also be binding upon and inure to the benefit of Sterling on the Lake Community Association, Inc., a Georgia nonprofit corporation (the "**Association**") in accordance with the terms of the Charter.

ARTICLE I
Definitions

The definitions set forth in Article 1 of the Charter are incorporated by reference in this Supplement.

ARTICLE II
Designation of Neighborhoods and Service Areas

Pursuant to Article 3 of the Charter, the Additional Property shall be assigned to the Neighborhood(s) and Service Area(s), if any, designated on Exhibit "A" to this Supplement.

ARTICLE III
Additional Covenants, Restrictions and Easements

The additional covenants, restrictions and easements, if any, set forth in Exhibit "B" of this Supplement shall apply to the Additional Property and shall be binding upon the owners and occupants of Units within the Additional Property, their guests and invitees, in addition to the terms of the Charter.

ARTICLE IV
Amendment

4.1 By the Founder.

During the Development and Sale Period, the Founder may unilaterally amend this Supplement to submit additional property to the terms hereof, to reflect any revisions or amendments to any plats referenced on Exhibit "A," and, provided the amendment has no material adverse effect upon any right of any Owner without such Owner's consent in writing, for any other purpose.

Notwithstanding this reserved right, a revision or amendment to a plat shall not require an amendment to this Supplement so long as no property is added or excluded from the plat by the revision or amendment thereto. The Founder reserves the right to replat any lots that it owns and record revised, amended, or additional plats that only affect internal boundaries between lots, combine lots, or subdivide lots shown on the original plat and, so long as they do not add or remove property submitted to the Charter by this Supplement, such replat or revised, amended or additional plats shall not necessitate an amendment to this Supplement.

4.2. By Owners.

Except as otherwise specifically provided above, this Supplement may be amended only by the affirmative vote or written consent, or any combination thereof, of Owners of at least 67% of the Units within the Additional Property and the written consent of the Association, acting through its board of directors. In addition, so long as the Founder owns any Unit within the Additional Property, the consent of the Founder shall be required.

Notwithstanding the above, the percentage of votes necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause.

4.3. Validity and Effective Date.

No amendment may remove, revoke, or modify any right or privilege of the Founder or without the written consent of the Founder (or the assignee of such right or privilege).

If an Owner consents to any amendment to this Supplement, it will be conclusively presumed that such Owner has the authority to consent, and no contrary provision in any Mortgage or contract between the Owner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording, unless a later effective date is specified in the amendment. No action to challenge the validity of an amendment may be brought more than two years after its recordation. In no event shall a change of conditions or circumstances operate to amend any provisions of this Supplement.

[continued on next page]

In witness of the foregoing, the Founder has executed this Supplement on the date set forth below.

FOUNDER: NNP-LOOPER LAKE, LLC, a Delaware limited liability company

By: ______________________

Name: Jennifer Landers

Its: Vice President

Address: 7004 Lake Sterling Boulevard
Flowery Branch, GA 30542

Signed, sealed and delivered this 15 day of June, 2020, in the presence of:

____
Unofficial Witness
Print Name: Michael Paul McDaniel

____
L.A. Beaver, Notary Public
My commission expires: 9-11-2020

[Notary Seal]

L A BEAVER
NOTARY PUBLIC
MY COMMISSION EXPIRES SEPTEMBER 11, 2020
GWINNETT COUNTY, GEORGIA

5510.02/cadocs/supp to charter – Honeycutt/061520/jps

EXHIBIT "A"

Additional Property

ALL THOSE TRACTS OR PARCELS OF LAND lying and being in G.M.D. 1270, Flowery Branch District, City of Flowery Branch, Hall County, Georgia, and being more particularly described on that certain final subdivision plat for STERLING ON THE LAKE - HONEYCUTT, PHASE 1, recorded in Plat Book 878, Pages 442 through 451, in the Office of the Clerk of the Superior Court of Hall County, Georgia, as such plat may be revised (the **"Ph. 1A Plat"**).

Neighborhood Designation:
The Units within the Additional Property are hereby assigned to the following Neighborhood or Neighborhoods for purposes of representative voting under the Charter:

Phase	Lot Numbers	Neighborhood
Phase 1A	Lots 89-102	Neighborhood No. 23

The above Neighborhood(s) are subject to expansion by amendments to this Supplement or separate Supplements.

Service Area Designation:
All Units within the Additional Property are hereby assigned to **Service Area K** for the purposes set forth in Exhibit B.

EXHIBIT "B"

Additional Covenants, Restrictions and Easements

1. **Additional Association; Service Area K.**

(a) All Units within the Additional Property shall be subject to that Declaration of Covenants, Restrictions and Easements for The Retreat at Sterling on the Lake, recorded or to be recorded by the Founder in the Office of the Clerk of the Superior Court for Hall County, Georgia (the "**Retreat Declaration**"), in addition to being subject to the Charter and this Supplement. Pursuant to the Retreat Declaration, all Owners of Units within the Additional Property shall automatically be members of The Retreat at Sterling on the Lake Association, Inc., a Georgia nonprofit corporation, or any successor association (the "**Retreat HOA**"), in addition to being members of Sterling on the Lake Community Association, Inc. (the "**Master Association**") pursuant to the Charter.

(b) The Retreat HOA shall be an "Additional Association" as defined in the Charter and shall be responsible for maintaining, insuring, and operating the following, unless and until the Master Association assumes such responsibility (which it has no obligation to do):

(i) all portions of the Additional Property which the Retreat HOA owns, leases or holds easements or use rights in;

(ii) any private streets, entry features, entry gate, mailbox kiosk, and recreational facilities within the Additional Property;

(iii) such portions of Units as described in the Retreat Declaration; and

(iv) other portions of the "Area of Common Responsibility" as defined in the Retreat Declaration;

all such maintenance to be performed in accordance with the requirements of applicable law and the Community-Wide Standard established pursuant to the Charter.

(c) If the Retreat HOA is dissolved or fails to perform its responsibilities under the Retreat Declaration, the Master Association shall have the right, without obligation, to undertake (itself or through its designees) any or all the Retreat HOA's responsibilities under the Charter, this Supplement, and the Retreat Declaration and allocate all costs incurred equally among the Units within the Additional Property and assess each such Unit for its share of such costs as a Service Area Assessment in accordance with the Charter; provided, if the Retreat HOA is then in existence, the Master Association shall give it at least 14 days prior written notice of any deficiency in maintenance which is the Retreat HOA's responsibility and shall give the Retreat HOA a reasonable opportunity (not less than 14 days) to cure such deficiency prior to the Master Association undertaking such maintenance itself.

(d) The Master Association shall have the right to enforce the provisions of this Exhibit "B" and the Retreat Declaration and allocate and assess all costs incurred equally among the Units within the Additional Property as Service Area Assessment.

EXHIBIT "B"

Additional Covenants, Restrictions and Easements
(continued)

(e) Notwithstanding the designation of the Units within the Additional Property as a Service Area, the provisions of the Charter relating to budgets and assessments for Service Areas shall not apply to Service Area K unless and until the Master Association exercises its rights hereunder.

Mr. Rich Atkinson
Director of Planning
City of Flowery Branch
5410 Pine Street
Flowery Branch, Georgia 30542

RE: Responses to City Council questions – Ordinance 239-K & 240-K

Mr. Atkinson,

Thank you, for the opportunity to provide responses for the City Council's review during the September 3rd Work Session.

I believe the below list represents a summary of questions remaining to be answered after the August 6th meeting.

Questions from the August 6th City Council presentation:

1. What happens if the Sub-association fails?
2. How is the master association for Sterling on the Lake protected from the cost to maintain the roads and gate, if the Sub-association fails?
3. What is the cost to maintain the road, including basis for cost?
4. How much are the dues for the Retreat?
5. How will the Sub-association generate the funds for the maintenance?

Responses are detailed below, referenced supporting documents are included as attachments.

Item 1. What happens if the Sub-association fails?
The Retreat is located within the planned unit development Sterling on the Lake and subject to the Community Charter, recorded December 15, 2003, as supplemented and amended, the Architectural Guidelines referenced in the Community Charter, and the articles of incorporation, by-laws, and rules of Sterling on the Lake Community Association, Inc., a Georgia nonprofit corporation.

> EX. B, PAR. 1(c) OF SUPPLEMENT TO CHARTER ANNEXING POD HONEYCUTT GIVES MASTER ASSOCIATION THE RIGHT TO ASSESS ALL COSTS INCURRED IN PERFORMING RESPONSIBILITIES OF SUBASSOCIATION SOLELY AGAINST LOTS IN THE RETREAT AS A SERVICE AREA ASSESSMENT.

Item 2. How is the master association for Sterling on the Lake protected from the cost to maintain the roads and gate, if the Sub-association fails?

> EX. B, PAR. 1(c) OF SUPPLEMENT TO CHARTER ANNEXING POD HONEYCUTT GIVES MASTER ASSOCIATION THE RIGHT TO ASSESS ALL COSTS INCURRED IN PERFORMING RESPONSIBILITIES OF SUBASSOCIATION SOLELY AGAINST LOTS IN THE RETREAT AS A SERVICE AREA ASSESSMENT.

Item 3. What is the cost to maintain the road and what is the basis?
The roads within The Retreat will have Base and Binder (6" GAB; 2.5" 19mm asphaltic concrete Type B) installed by the developer during site development. The final topping (Tack coat, 1.5" 12.mm asphaltic concrete Type "E") is typically installed when 80% of homes are completed.

- FINAL PAVING SCHEDULE (*subject to site conditions*)
  - Projected topping schedule: 2024
  - Projected road patching: 5-10 years after topping – 2029 to 2034
  - Projected re-topping: 15 years after topping – 2039

- BUDGETING
  - Total Paved Streets –The Retreat – 20,100 square yards paving
  - Projected road patching: $2500 / year – 2029 to 2039
  - Projected road re-topping: $8-$10/sy x 20,100 = $201,000 *if needed*

Item 4. How much are the dues for the Retreat?

- Sub-Association Reserve Funds
  - Sterling on the Lake collects "Initiation Fees" at each New & Resale closing. The Retreat collects the Master Association Initiation Fee; currently $1,200 and Sub-Association Initiation Fee $750

Item 5. How will the Sub-association generate the funds for the maintenance?

- The Initiation Fee is collected at home closing
  - Proceeds being booked to Reserve Fund.
  - The Reserve Fund is created to set aside funds for future repairs and maintenance, typically beginning after the fifth year of full occupancy or five years after building and equipment warranty periods expire

Exhibit: Reserve Fund Projected Annual Balances

		NEW HOME SALES					RESALES 5% annual	
		2021	2022	2023	2024	2025	2026	
		TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	TOTAL	
Projected	Closings	36	48	48	48	34	11	
Fees	Total		84	132	180	214	214.00	
	% Occupancy	17%	39%	62%	84%	100%	100%	
Monthly								
$ 175.00	HOA Dues	40,950.00	130,200.00	231,000.00	331,800.00	427,000.00	449,400.00	
								Projected Reserves at end of Year 5
Ea. Close								
$ 750.00	Initiation Fees	27,000.00	36,000.00	36,000.00	36,000.00	25,500.00	8,250.00	168,750.00

Total Homes	214	
Closings 2021	36	NEW HOMES
Closings 2022	48	NEW HOMES
Closings 2023	48	NEW HOMES
Closings 2024	48	NEW HOMES
Closings 2025	34	NEW HOMES
Closings 2026	11	RESALES
Total Closings	225	

PROJECTED RESERVES	
YEAR	RESERVES
5	168,750.00
10	210,000.00
15	251,250.00
20	292,500.00

Please contact me or Brian Rochester with any additional questions.

Sincerely,

Chris Whittaker
Vice President
NNP-Looper Lake LLC
678-960-0242

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider Beer and Wine License for Grocery Express at 6168 Gaines Ferry Road, Ste. 3

COUNCIL MEETING DATE: September 3, 2020

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:
Approve

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Vickie Short

ATTACHMENTS

- Grocery Express Executive Summary.pdf

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: New Alcoholic Beverage License

DATE: 08/25/2020

BUDGET INFORMATION:
ANNUAL-No expenditure-Revenue Only

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

COMMISSION ACTION REQUESTED ON: September 3, 2020

PURPOSE: To allow the new of owner of the Grocery Express to sell packaged beer and wine.

HISTORY: Grocery Express has records of a beer & wine license beginning 2018. The business was leased to SM Promila Enterprise, Inc. in 2018.

FACTS AND ISSUES: SM Rashmi Enterprises, Inc. dba Grocery Express is the new lessee for Grocery Express located at 6168 Gaines Ferry Road, Ste. 3.

The applicant, Siraj Ali is applying for beer and wine packages sales with a Registered Agent from Flowery Branch Ga and a manager out of Duluth, GA.

The application has been processed and reviewed and everything is in order for the council's approval.

OPTIONS: Approve or deny

RECOMMENDED SAMPLE MOTION: No motion required-on the Consent Agenda.

DEPARTMENT: Administration
Prepared by: Vickie Short

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider July 2, 2020 Meeting Minutes

COUNCIL MEETING DATE: September 3, 2020

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: Vickie Short

ATTACHMENTS

- July 2, 2020 Council Meeting Minutes.pdf

City of Flowery Branch
City Council Meeting Minutes
Thursday, July 2, 2020 6:00 p.m.
City of Flowery Branch City Hall
5410 Pine Street, Flowery Branch GA, 30542

CALL WORK SESSION TO ORDER:

Mayor Mike Miller called the work session to order at 6:06 pm.

Present: Mayor Mike Miller and Council Members Chris Mundy, Ed Asbridge, Joe Anglin, and Amy Farah.

Absent: Council Member Leslie Jarchow and Vickie Short, City Clerk.

Also present were Bill Andrew, City Manager, Rich Atkinson, City Planner, Alisha Gamble, Finance Director, Ron Bennett, City Attorney.

PLEDGE OF ALLEGIANCE: Mayor Mike Miller led the Pledge of Allegiance.

NEW BUSINESS -WORK SESSION:

Resolution 20 - 019 Authorizing the renaming of Jim Crow Road to G.C. Crow Road Within the City Limits of Flowery Branch

Mr. Andrew presented Resolution 20-19 authorization of Jim Crow Road renaming. The City is considering changing the name of Jim Crow Road only where it is wholly within the city limits of Flowery Branch, which is the 400 feet from its intersection with McEver Road to where it crosses Radford Road. At that point, the rest of the road is in unincorporated Hall County. Approximately 3.26% (400 feet) is in the City of Flowery Branch and 96.74% (11,869 feet) is in the County.

Staff is recommending replacing the illuminated overhead signs at the McEver Road Intersection only.

First reading Ordinance 595 to Establish a Speed Limit of 25 MPH for the Entirety of East Main Street

East Main Street has approximately 149 homes currently under construction. The Residential Group has 325 apartments under construction at the corner of Phil Niekro Blvd and Thurmon Tanner Pkwy.

Lowering the speed limit will allow the City to amend our Personal Transportation Vehicles Plan to eventually allow for PTVs to use East Main to Mulberry Street and to Spring Street to cross Atlanta Highway. In addition to allowing for the expansion of our PTV route, a lower speed limit will foster a safer driving environment for this corridor.

Staff recommends the change of speed limit to foster connectivity within these population centers.

DEPARTMENT REPORTS:

Downtown Redevelopment Public Input Survey Presentation by Rebecca Keefer of Clark Patterson Lee

Ms. Keefer of Clark, Patterson and Lee presented the results of the Downtown Redevelopment Survey. The survey objective was to target the 7,151 residents that reside within City limits. An online survey was developed and delivered via Facebook. The overall survey response was 3,440.

Key Results:

- 60% of respondents visiting downtown do so no more than once a month or solely for special events.
- Only 5.8% of the respondents go downtown daily.
- Based on this data, downtown does not appear to be attracting a large volume of visitors on a daily basis.

Recommendations:

- Develop Downtown District – incentivize housing mix, design standards, pedestrian enhancements
- Alternative parking solutions; non-motorized transportation
- Open space standards – town green bank
- Economic Development strategies
- Sidewalk gap analysis and implementation

ADJOURNMENT WORK SESSION:

Mayor Miller adjourned the work session at 6:47pm

VOTING SESSION AGENDA

CALL VOTING SESSION TO ORDER:

Mayor Miller called the voting session to order at 6:47 pm.

PUBLIC COMMENTS:

Diana Murphy – 5701 Conner Road, Flowery Branch, GA 30542

Ms. Murphy shared that she is in support of changing the name of Jim Crow Road.

Robert Sabbath, 5707 Mitchell Street, Flowery Branch, GA 30542

Mr. Sabbath stated that he is in support of the Jim Crow Road name change.

Michael Hammond, 7309 Coral Lake Drive, Flowery Branch, GA

Mr. Hammond shared his support of the Jim Crow Road name change.

Diane O'Connell, 7217 Tascoca Drive, Flowery Branch, GA 30542

Ms. O'Connell believes Jim Crow Road should be renamed.

Jeneen Hammond, no address provided

Ms. Hammond would like Jim Crow Road renamed.

Leigh Miller, no address provided

Ms. Miller expressed the need for the Jim Crow Road name change.

CONSENT AGENDA:

There were no consent agenda items.

UNFINISHED BUSINESS - VOTING SESSION:

There was no unfinished business.

NEW BUSINESS - VOTING SESSION:

Resolution 20 - 019 Authorizing the renaming of Jim Crow Road to G.C. Crow Road Within the City Limits of Flowery Branch

There was a motion made to approve Resolution 20-019 renaming of Jim Crow Road to G. C. Road.

MOTION: Amy Farah
SECOND: Ed Asbridge
AYES: Joe Anglin, Amy Farah, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

First reading Ordinance 595 to Establish a Speed Limit of 25 MPH for the Entirety of East Main Street

Mr. Bennett read the caption to Ordinance 595.

There was a motion made to approve the first reading of Ordinance 595 to Establish a Speed Limit of 25 MPH for the entirety of East Main Street.

MOTION: Joe Anglin
SECOND: Ed Asbridge
AYES: Joe Anglin, Amy Farah, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

EXECUTIVE SESSION:

There was no executive session.

ADJOURNMENT:

There was a motion made to adjourn at 7:01pm.

MOTION: Joe Anglin
SECOND: Chris Mundy
AYES: Joe Anglin, Amy Farah, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

Mayor – Mike Miller	Date	City Clerk – Vickie Short

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider July 16, 2020 Meeting Minutes

COUNCIL MEETING DATE: September 3, 2020

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: Vickie Short

ATTACHMENTS

- July 16, 2020 Council Meeting Minutes.pdf

City of Flowery Branch
City Council Meeting Minutes
Thursday, July 16, 2020 6:00 pm
City of Flowery Branch City Hall
5410 Pine Street, Flowery Branch GA, 30542

CALL PUBLIC MEETING TO ORDER:

Mayor Mike Miller called the meeting to order at 6:06 pm.

Present: Mayor Mike Miller and Council Members Chris Mundy, Ed Asbridge, Joe Anglin and Leslie Jarchow.

Absent: Council Member Amy Farah

Also present were Bill Andrew, City Manager, Vickie Short, City Clerk, Ron Bennett, City Attorney, and Alisha Gamble, Finance Director.

PLEDGE OF ALLEGIANCE:

Mayor Mike Miller led the Pledge of Allegiance.

PUBLIC MEETING:

Public Meeting: Wastewater Plant Expansion and Water System Improvements Projects

Bob Troxler with Infratec Consultants, Inc. presented the Water and Sewer System Expansion Project details. The projects were outlined below.

Near-term Water Projects

- Debbie Lane Water Line
- Continue Water System Hydraulic Model Effect
- West Side Replacement Water Tank
- Acquisition of Railroad Avenue Wells
- Improve Reliability of Roberts Drive Pump Station

Water Projects (2021 – 2025)

- Railroad Avenue Well House
- Gainesville St. Water Line
- Lights Ferry Water Line – Gainesville St. to McEver Rd.

- Hog Mountain Rd. Water Line
- Third Railroad Water Line Crossing

Wastewater Projects

- Doubling current plant capacity to 2.2 MGD
- This will include, but not limited to building new:
    - Clarifiers (qty-2)
    - Carrousels (qty-2)
    - Influent Pump Station
    - New screening and grit removal
    - Pre-equalization Basin
    - Ultraviolet Light Disinfection
    - Effluent Pump Station and Reuse Storage Tanks

Geotechnical Issues

- Additional effluent pipe
- Redundant and Emergency Operation equipment
- Ground Water at Approximately 10 feet
- Settlement of Major Structures is a Concern
- Possibly Preload Site to Consolidate Soils

Robert Sills with Nelsnick Enterprises presented the Waste System Improvements Project. This presentation highlighted the need for Rate Structure and Rate Revenue Requirements. The main components for increase in revenue are the increase of sludge expenses as well as an increase in Georgia Power utility rates.

FY 21 Rate Requirement Recommendations

- Removing the minimum bill
- The simplifications of rate structure tiers
- Generate 5% Water and 7% Wastewater additional income

PUBLIC COMMENTS: There were no public comments.

ADJOURNMENT PUBLIC MEETING: Mayor Miller adjourned the public meeting at 6:42 pm.

UNFINISHED BUSINESS - WORK SESSION:

Second Reading Ordinance 595 to Establish a Speed Limit of 25 MPH for the Entirety of East Main Street

Mr. Andrew presented Ordinance 595 to establish a Speed Limit of 25 MPH for all of East Main Street. East Main Street has approximately 149 homes under construction. The Residential Group has 325 apartments under construction at the corner of Phil Niekro Blvd and Thurmon Tanner Pkwy. The City desires to foster connectivity with these population centers. Lowering the speed limit will allow the City to amend our Personal Transportation Vehicles Plan to eventually allow for PTVs to use East Main to Mulberry Street and to Spring Street to cross Atlanta Highway. In addition to allowing for the expansion of our PTV route, a lower speed limit will foster a safer driving environment for this corridor.

Mr. Anglin asked whether there would be a warning period of time before tickets would be issued. Mr. Andrew said the City will be placing signage and flags prior to change in speed limit.

NEW BUSINESS -WORK SESSION:

First Read of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance

Mr. Andrew presented Ordinance 447-B. GDOT requires re-certification of all of our radar enforced speed zones at least every 7 years. This listing of roads has not been modified from our 2013 list. The City may only use radar on the road sections listed within this Ordinance. Radar use is limited to the proper sight distance and where a road is relatively level. Mr. Andrew pointed out that there are some discrepancies in the mapping information. He has reached out to GDOT.

DEPARTMENT REPORTS:

City Manager Report

Mr. Andrew briefed the Council on a potential rezoning application to be presented. The applicant is asking for a quicker response than the normal 90 day review for approval. It was determined the process could be altered for this potential rezoning.

Finance Director Report

Ms. Gamble said the City's budget books are available to Council as well as to the public for review at City Hall. She also pointed out the plans for the Wastewater Plant Expansion and Water System Improvements Projects are available for review this evening.

Mayor Report

Mayor Miller pointed out the Governor's Emergency Orders for COVID-19 cannot be less or more restrictive. This point was a concern regarding the requirement of wearing face masks.

ADJOURNMENT WORK SESSION: Mayor Miller adjourned the working session at 7:07 pm.

VOTING SESSION AGENDA:

CALL VOTING SESSION TO ORDER: Mayor Miller called the voting session to order at 7:07 pm.

PUBLIC COMMENTS: There were no public comments.

CONSENT AGENDA:

- Consider April 16, 2020 Meeting Minutes
- Consider May 21, 2020 Meeting Minutes
- Consider Per Diem-Mike Miller

There was a motion made to approve the consent agenda.

MOTION: Chris Mundy
SECOND: Ed Asbridge
AYES: Joe Anglin, Leslie Jarchow, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

UNFINISHED BUSINESS - VOTING SESSION:

Second Reading Ordinance 595 to Establish a Speed Limit of 25 MPH for the Entirety of East Main Street

Mr. Bennett read the caption to Ordinance 595.

There was a motion made to approve Ordinance 595 to Establish a Speed Limit of 25 MPH for East Main Street.

MOTION: Joe Anglin
SECOND: Chris Mundy
AYES: Joe Anglin, Leslie Jarchow, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

NEW BUSINESS - VOTING SESSION:

First Read of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance

Mr. Bennett read the caption to Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance.

There was a motion made to approve the first reading of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance.

MOTION: Ed Asbridge
SECOND: Chris Mundy
AYES: Joe Anglin, Leslie Jarchow, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

EXECUTIVE SESSION: There was no executive session.

ADJOURNMENT:

There was a motion made to adjourn.

MOTION: Chris Mundy
SECOND: Ed Asbridge
AYES: Joe Anglin, Leslie Jarchow, Ed Asbridge, Chris Mundy
NAYS: None
Motion carried

Mayor – Mike Miller	Date	City Clerk – Vickie Short

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Consider Beer and Wine License for Grocery Express at 6168 Gaines Ferry Road, Ste. 3

COUNCIL MEETING DATE: September 3, 2020

HISTORY:

FACTS AND ISSUES:

OPTIONS:

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:

RECOMMENDATION:
Approve

SAMPLE MOTION:

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Vickie Short

ATTACHMENTS

- Grocery Express Executive Summary.pdf

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: New Alcoholic Beverage License

DATE: 08/25/2020

BUDGET INFORMATION:
ANNUAL-No expenditure-Revenue Only

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

COMMISSION ACTION REQUESTED ON: September 3, 2020

PURPOSE: To allow the new of owner of the Grocery Express to sell packaged beer and wine.

HISTORY: Grocery Express has records of a beer & wine license beginning 2018. The business was leased to SM Promila Enterprise, Inc. in 2018.

FACTS AND ISSUES: SM Rashmi Enterprises, Inc. dba Grocery Express is the new lessee for Grocery Express located at 6168 Gaines Ferry Road, Ste. 3.

The applicant, Siraj Ali is applying for beer and wine packages sales with a Registered Agent from Flowery Branch Ga and a manager out of Duluth, GA.

The application has been processed and reviewed and everything is in order for the council's approval.

OPTIONS: Approve or deny

RECOMMENDED SAMPLE MOTION: No motion required-on the Consent Agenda.

DEPARTMENT: Administration
Prepared by: Vickie Short

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Mike Miller August 2020 Per Diem

COUNCIL MEETING DATE: September 3, 2020

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: Vickie Short

ATTACHMENTS

- Mike Miller Per Diem August 2020.pdf

CITY OF FLOWERY BRANCH
MAYOR & COUNCIL ATTENDANCE SHEET
PER DIEM PAY

Flowery Branch

NAME Mike Miller MONTH/YEAR August 2020

	MEETING DATE	DESCRIPTION OF MEETING
1	8/24/2020	Chamber COVID-19 Community Update
2	8/25/2020	Chamber South Hall Business Coalition
3	8/27/2020	Chamber Board of Directors Meeting
4		
5		

My signature certifies that I am eligible to be paid for 5 meeting dates, maximum 5 per month, in accordance with per diem pay as described in Ordinance No. 477. Total $150.00($50.00 per mtg)

Signature

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Second Read of Ordinance 447-B: The City of Flowery Branch Speed Zone Ordinance

COUNCIL MEETING DATE: September 3, 2020

HISTORY:
GDOT requires re-certification of all of our radar enforced speed zones at least every 7 years. This listing of roads has not been modified from our 2013 list.

FACTS AND ISSUES:
The City may only use radar on the road sections listed within this Ordinance. Radar use is limited to where we have the proper sight distance and where a road is relatively level.

OPTIONS:

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

AMOUNT AND SOURCE OF FUNDS:
Not applicable

RECOMMENDATION:
GDOT is looking into an error on Highway 347/Friendship Road.

SAMPLE MOTION:
Motion to approve the second reading of Ordinance No. 447-B: The City of Flowery Branch Speed Zone Ordinance.

COLLABORATING DEPARTMENT:

DEPARTMENT: Administration

Prepared by: Vickie Short

ATTACHMENTS

- Updated Ordinance 447B (Speed Zone).pdf
- Speed Zone Ord. Update 2020 GDOT.pdf

First Reading: <u>7/16/20</u>
Passed:

ORDINANCE NO: <u>447-B</u>

AN ORDINANCE TO ESTABLISH SPEED ZONES WITHIN THE CITY OF FLOWERY BRANCH; TO INCORPORATE THE MODEL ORDINANCE AS SET FORTH BY THE GEORGIA DEPARTMENT OF TRANSPORTATION (GDOT); TO ALLOW USE OF SPEED DETECTION DEVICES; TO LIMIT THE USE OF SPEED DETECTION DEVICES; PROVIDING FOR SEVERABILITY, REPEALING CONFLICTING ORDINANCES, AND FOR ALL OTHER LAWFUL PURPOSES.

WHEREAS, pursuant to Section 40-6-183 of the Official Code of Georgia Annotated (O.C.G.A.) concerning local authorities' power to alter lawful speed limits, and to establish the areas in which speed detection devices may be properly used, the following ordinance regulating the speed limits and designating the sections of certain roads and streets within the City of Flowery Branch, Hall County, Georgia wherein speed detection devices may be used is hereby adopted as set forth herein; and.

WHEREAS, on October 17, 2013, the City Council had previously adopted a Speed Zone and Speed Detection Device Ordinance (Ordinance No. 447-A); and

WHEREAS, the Georgia Department of Transportation (GDOT) has completed a review of the City's Speed Zone and Speed Detection Device Ordinance and requested that it be updated.

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

SECTION 1. <u>DESIGNATION OF ON SYSTEM SPEED LIMIT</u>.

The following roadways shall be classified as on systems roadways:

State Route 13	From 1,461'south of Phil Niekro Blvd. (Mile Point 3.88 - South Flowery Branch City Limits) to 913' north of Hog Mountain Road (Mile Point 6.60 – North Flowery Branch City Limits) a distance of 2.72 miles, to be zoned 45 miles per hour.
State Route 13	From 1690' south of Hog Mountain Road (Mile Point 6.17 – South Flowery Branch City Limits) to 783' north of Martin Road (Mile Point 7.24 – North Flowery Branch City Limits) a distance of 1.07 miles, to be zoned 45 miles per hour. This section is also considered a SCHOOL ZONE and for SCHOOL DAYS ONLY.

State Route 347	From 1,238’ north of Ridge Road (Mile Point 5.19 – South Flowery Branch City Limits) to 3,340’ north of Ridge Road (Mile Point 5.59 – North Flowery Branch City Limits) a distance of .40 miles, to be zoned 45 miles per hour.
State Route 419/I-985	From 3,456’ south of Spout Springs Road (Mile Point 11.02 – South Flowery Branch City Limits) to 2,664’ north of Spout Springs Road (Mile Point 12.17 – North Flowery Branch City Limits) a distance of 1.15 miles, to be zoned 70 miles per hour.

SECTION 2. <u>DESIGNATION OF OFF SYSTEM SPEED LIMIT</u>

The following roadways shall be classified as off systems roadways:

Gainesville Street	From the City Limits to Main Street, a distance of 0.60 miles, to be zoned for 35 miles per hour.
Lights Ferry Road	From the City Limits to Mitchell Street, a distance of 0.66 miles, to be zoned for 45 miles per hour.
Spout Springs Road	From City Limits to State Route 13, a distance of 0.94 miles, to be zoned for 45 miles per hour.
Thurmon Tanner Parkway	From 2,460’ north of Spout Springs Road to 2,270’ north of State Route 13, a distance of 1.23 miles, to be zoned 45 miles per hour.

SECTION 3. <u>DESIGNATION OF SCHOOL ZONE HOURS</u>

The following hours shall be identified as “School Zone Hours”:

A.M. from 45 minutes prior to commencement time to 15 minutes after commencement time – SCHOOL DAYS ONLY.

P.M. from 15 minutes prior to dismissal time to 45 minutes after dismissal time – SCHOOL DAYS ONLY.

SECTION 4. <u>USE OF RADAR</u>

It shall be unlawful to use speed detection devices on any State Route, county road, or city street which is not listed in this Ordinance.

SECTION 5. <u>CONSTRUCTION/WORK ZONES</u>

The provisions of this Ordinance shall also apply to any construction or work zone on any State Route to the extent allowable by law.

SECTION 6. <u>ENFORCEMENT AND PUNISHMENT</u>

Any person convicted of a violation of this ordinance shall be punished as provided by Georgia Law as presently exists or as may hereafter be amended.

SECTION 7. <u>REPEAL OF CONFLICTING ORDIANCES</u>

Ordinance No. 307 and parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 8. <u>EFFECTIVE DATE</u>

This ordinance shall become effective upon adoption by the City Council of the City of Flowery Branch, Georgia, and upon erection of appropriate signs to effectuate this ordinance in compliance with State law.

Approved this _____ day of July 2020.

____
James M. Miller, Mayor

ATTEST:

____
Vickie Short, City Clerk

APPROVED AS TO FORM:

____
E. Ronald Bennett, Jr., City Attorney

Georgia Department of Transportation

Russell R. McMurry, P.E., Commissioner
One Georgia Center
600 West Peachtree Street, NW
Atlanta, GA 30308
(404) 631-1000 Main Office

June 22, 2020

Mike Miller, Mayor
City of Flowery Branch
P. O. Box 757
Flowery Branch, Georgia 30542

SUBJECT: Speed Zone Ordinance
City of Flowery Branch

Dear Mr. Miller,

The Georgia Department of Transportation has completed the update for the City of Flowery Branch Speed Zone Ordinance.

Two copies of the updated ordinance are enclosed for your review and approval. Once approved, please forward one signed notarized copy of the ordinance to the Gainesville office listed below for further processing. This copy will be maintained by our office and will be forwarded to the Department of Public Safety for their review and approval.

Georgia Department of Transportation
Jason Dykes, District Traffic Engineer
1475 Jesse Jewell Pkwy., Suite 100
Gainesville, Georgia 30501

It is the responsibility of the County to sign all off-system roadways. Speed limit signs and speed checked by detection device signs must be in place for thirty (30) days prior to radar use. The attached ordinance will go into effect upon approval from the Department of Public Safety. However, the County **cannot** use any speed detection device until the signing requirements are met. Should you have questions or require assistance, please contact Jonathan Peevy at (770) 533-8276.

Sincerely,

Jason Dykes, P.E.
District Traffic Engineer

JD/bn
Enclosures
c: Bill Andrew, City Manager
Rich Atkinson, City Planner

The Mayor of Flowery Branch is hereby requesting that the following roadways be approved for the use of speed detection devices:

LIST OF ROADWAYS
for
CITY OF FLOWERY BRANCH

ON-SYSTEM

STATE ROUTE	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	MILE POINT	TO	MILE POINT	LENGTH IN MILES	SPEED LIMIT
SR 13	**Flowery Branch**	1461'south of Phil Niekro Blvd (South Flowery Branch City Limits)	03.88	913' north of Hog Mountain Road (North Flowery Branch City Limits)	06.60	02.72	45
SR 13 *** **SCHOOL ZONE** ***	**Flowery Branch South Hall Middle School SCHOOL DAYS ONLY**	1690' south of Hog Mountain Road	06.17	783' north of Martin Road	07.24	01.07	45
SR 347	**Flowery Branch**	1238' north of Ridge Road (South Flowery Branch City Limits)	05.19	3340' north of Ridge Road (North Flowery Branch City Limits)	05.59	00.40	45
SR 419 /I-985	**Flowery Branch**	3456' south of Spout Springs Road (South Flowery Branch City Limits)	11.02	2664' north of Spout Springs Road (North Flowery Branch City Limits)	12.17	01.15	70

ROAD NAME	WITHIN THE CITY/TOWN LIMITS OF and/or *School Name*	FROM	TO	LENGTH IN MILES	SPEED LIMIT
Gainesville Street	**Flowery Branch**	City Limits	Main Street	00.60	35
Lights Ferry Road	**Flowery Branch**	City Limits	Mitchell Street	00.66	45
Spout Springs Road	**Flowery Branch**	City Limits	State Route 13	00.94	45
Thurmond Tanner Parkway	**Flowery Branch**	2640' north of Spout Springs Road	2270' north of State Route 13	01.23	45

******SCHOOL ZONE HOURS ARE EFFECTIVE******

A.M. *from 45 minutes prior to commencement time to 15 minutes after commencement time –*
SCHOOL DAYS ONLY

P.M. *from 15 minutes prior to dismissal time to 45 minutes after dismissal time –*
SCHOOL DAYS ONLY

ALL LISTS AND PARTS OF LISTS IN CONFLICT WITH THIS LIST ARE HEREBY REPEALED.

Signature of Governing Authority:

____
Mayor

____
City Council Members

Sworn and Subscribed before me
This ______ day of ___________________, ______.

____
NOTARY PUBLIC

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Resolution 20-023 Consider a Stormwater Utility Feasibility Study

COUNCIL MEETING DATE: September 3, 2020

HISTORY:
During the February 2020 Council Retreat, city management, staff, Mayor, and Council discussed the needs for stormwater improvements throughout the City and the costs associated with improvements along with routine maintenance. Council expressed an interest in a study to determine if the City would benefit from a stormwater utility to help cover these costs.

FACTS AND ISSUES:
Over the past three-four years, the City has had to repair two stormwater culverts and one was an emergency repair. This study will help us understand all of the City's stormwater needs and the timing of each project as well as associated costs. Performing this study and the possibility of a stormwater utility could assist the City to become more proactive with maintenance and repairs rather than reactive as mentioned above. Below is the detailed scope of work:

1. Convene a Storm Water Utility Feasibility Committee • With staff input and city council approval, appoint a Storm Water Utility Feasibility Committee to discuss ideas and help shape the direction of the feasibility study.
2. Quantify Costs of owning, managing and maintaining the City's Municipal Separate Storm Sewer System (MS4) •
- Quantify the annual regulatory cost of the Municipal Separate Storm Sewer System.
- Review, discuss, revise and/or develop an Extent of Service/Level of Service (EOS/LOS) policy for maintaining the City's MS4. The Extent of Service (EOS) policy describes the components of the storm drainage system maintained by the City. The Level of Service (LOS) policy establishes the strategic program goals for the stormwater program and the tactical service goals that guide the maintenance activities for the stormwater drainage system.
- Develop a capital program of storm water improvements with concept level budgets.
- Review historical budgets of storm water related activities.
- Review adjacent and sister cities' storm water utilities details

3. Prepare a Rate Study
- Discuss the concepts behind storm water impacts to city infrastructure expenses and how the percentage of impervious surface quantifies the impact a property has on storm water runoff.
- Using GIS, quantify average imperviousness of the typical residential lot, develop equivalent residential unit (ERU), recommend a rate per ERU.
- Connect revenue generation to expected annual cost of operating the utility.
- Discuss appropriate exemptions from the fee.
- Discuss collection methods (Utility bill, Tax bill, separate billing) and explore the cost of collection.

4. Prepare a Report on the Committee's finding and recommend the next steps.
5. Draft a Storm Water Utility Ordinance.
6. Present Report to the City Council.

CPL will perform the above referenced scope of work for a lump sum of $34,850.

There are two options to pay for this study.

- Local Resources Fund Balance (recommended)
- General Fund Balance

OPTIONS:
Approve the Feasibility Study or do not approve.

IF FUNDING IS INVOLVED, ARE FUNDS APPROVED IN THE CURRENT BUDGET:
No

AMOUNT AND SOURCE OF FUNDS:
$34,850 from the Local Resources Fund Balance

RECOMMENDATION:
Approve the Stormwater Utility Feasibility Study with Clark Patterson Lee.

SAMPLE MOTION:
I make a motion for the City Council to approve Resolution 20-023 for Storm Water Feasibility Study with Clark Patterson Lee and pay for this study through the Local Resources Fund Balance in the amount of $34,850.

COLLABORATING DEPARTMENT:
Administration

DEPARTMENT: Finance

Prepared by: Vickie Short

ATTACHMENTS

- EXECUTIVE SUMMARY -Storm Water Utility Feasibility Proposal.pdf
- Flowery Branch Storm Water Utility Proposal 7-22-2020.pdf
- Resolution 20-023 - Storm Water Utility Feasibility Study.pdf

FLOWERY BRANCH CITY COUNCIL

EXECUTIVE SUMMARY

SUBJECT: Storm Water Utility Feasibility Proposal

DATE: 8/1/2020

BUDGET INFORMATION:
ANNUAL-
CAPITAL-

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

COUNCIL ACTION REQUESTED ON September 3, 2020

PURPOSE: To authorize the approval of the Storm Water Utility Feasibility Study through Clark Patterson Lee for a total cost of $34,850.

HISTORY:
During the February 2020 Council Retreat, city management, staff, Mayor, and Council discussed the needs for stormwater improvements throughout the City and the costs associated with improvements along with routine maintenance. Council expressed an interest in a study to determine if the City would benefit from a stormwater utility to help cover these costs.

FACTS AND ISSUES:
Over the past three-four years, the City has had to repair two stormwater culverts, and one was an emergency repair. This study will help us understand all of the City's stormwater needs and the timing of each project as well as associated costs. Performing this study and the possibility of a stormwater utility could assist the City to become more proactive with maintenance and repairs rather than reactive, as mentioned above. Below is the detailed scope of work:

1. Convene a Storm Water Utility Feasibility Committee • With staff input and city council approval, appoint a Storm Water Utility Feasibility Committee to discuss ideas and help shape the direction of the feasibility study.
2. Quantify Costs of owning, managing and maintaining the City's Municipal Separate Storm Sewer System (MS4) •

- Quantify the annual regulatory cost of the Municipal Separate Storm Sewer System.
- Review, discuss, revise and/or develop an Extent of Service/Level of Service (EOS/LOS) policy for maintaining the City's MS4. The Extent of Service (EOS) policy describes the components of the storm drainage system maintained by the City. The Level of Service (LOS) policy establishes the strategic program goals for the stormwater program and the tactical service goals that guide the maintenance activities for the

stormwater drainage system.

- Develop a capital program of storm water improvements with concept level budgets.
- Review historical budgets of storm water related activities.
- Review adjacent and sister cities' storm water utilities details

3. Prepare a Rate Study

- Discuss the concepts behind storm water impacts to city infrastructure expenses and how the percentage of impervious surface quantifies the impact a property has on storm water runoff.
- Using GIS, quantify average imperviousness of the typical residential lot, develop equivalent residential unit (ERU), recommend a rate per ERU.
- Connect revenue generation to expected annual cost of operating the utility.
- Discuss appropriate exemptions from the fee.
- Discuss collection methods (Utility bill, Tax bill, separate billing) and explore the cost of collection.

4. Prepare a Report on the Committee's finding and recommend the next steps.
5. Draft a Storm Water Utility Ordinance.
6. Present Report to the City Council.

CPL will perform the above referenced scope of work for a lump sum of $34,850.

There are two options to pay for this study.

- Local Resources Fund Balance (recommended)
- General Fund Balance

OPTIONS: Approve the Feasibility Study or do not approve.

RECOMMENDED SAMPLE MOTION:
I make a motion for the City Council to approve the Storm Water Feasibility Study with Clark Patterson Lee and pay for this study through the Local Resources Fund Balance.

DEPARTMENT: Administration and Public Works

Prepared by: Alisha Gamble

ARCHITECTURE
ENGINEERING
PLANNING
CPLteam.com

July 22, 2020

Mr. Bill Andrew, City Manager
City of Flowery Branch
PO Box 757
5410 Pine Street
Flowery Branch, GA. 30542

VIA EMAIL

RE: City of Flowery Branch
Storm Water Utility Feasibility Proposal

Dear Mr. Andrew:

Clark Patterson Lee (CPL) is pleased to provide this proposal to study the feasibility of a storm water utility as a means of funding the storm water management regulatory and infrastructure challenges facing the city, as follows:

Scope of Work

1. **Convene a Storm Water Utility Feasibility Committee**
   - With staff input and city council approval, appoint a Storm Water Utility Feasibility Committee to discuss ideas and help shape the direction of the feasibility study.
2. **Quantify Costs of owning, managing and maintaining the City's Municipal Separate Storm Sewer System (MS4)**
   - Quantify the annual regulatory cost of the Municipal Separate Storm Sewer System.
   - Review, discuss, revise and/or develop an Extent of Service/Level of Service (EOS/LOS) policy for maintaining the city's MS4. The Extent of Service (EOS) policy describes the components of the storm drainage system maintained by the City. The Level of Service (LOS) policy establishes the strategic program goals for the stormwater program and the tactical service goals that guide the maintenance activities for the stormwater drainage system.
   - Develop a capital program of storm water improvements with concept level budgets.
   - Review historical budgets of storm water related activities.
   - Review adjacent and sister cities' storm water utilities details
3. **Prepare a Rate Study**

3011 Sutton Gate Dr.
Suite 130
Suwanee, GA 30024
770.831.9000 TEL
CPLTeam.com

- Discuss the concepts behind storm water impacts to city infrastructure expenses and how the percentage of impervious surface quantifies the impact a property has on storm water runoff.
- Using GIS, quantify average imperviousness of the typical residential lot, develop equivalent residential unit (ERU), recommend a rate per ERU.
- Connect revenue generation to expected annual cost of operating the utility.
- Discuss appropriate exemptions from the fee.
- Discuss collection methods (Utility bill, Tax bill, separate billing) and explore the cost of collection.

4. **Prepare a Report on the Committee's finding and recommend the next steps.**
5. **Draft a Storm Water Utility Ordinance.**
6. **Present Report to the City Council.**

Fee Proposal

CPL will perform the above referenced scope of work for a lump sum of $34,850.

We will not exceed the estimated budget without authorization from the City. Direct expenses will be billed at cost plus 10%. Direct expenses include, but are not limited to, reproduction cost, courier service, mileage, telephone/fax cost, etc.

TERMS AND CONDITIONS:

This agreement shall be administered in accordance with the Terms and Conditions listed in Appendix "A" and the hourly rates listed in Appendix "B" attached hereto.

This document together with the exhibits and/or appendices identified herein constitutes the entire understanding between Flowery Branch and CPL with respect to the work to be performed by CPL for the benefit of Flowery Branch and may only be modified in writing signed by both parties. Please sign and return the enclosed copy of this letter if this document satisfactorily sets forth the understanding of the arrangement between Flowery Branch and CPL. Receipt of the signed agreement will serve as our notice to proceed. This Contract will be open for acceptance for sixty days from the date of this letter.

We look forward to working with you on this project.

Sincerely,

CPL ARCHITECTURE ENGINEERING & PLANNING

Rich Edinger, P.E.
Vice President

cc: file

Accepted this ________________ day of ______________, 2020

By: _______________________________ Title: ________________________

APPENDIX "A"
TERMS AND CONDITIONS

1. Clark Patterson Lee (hereinafter called "CPL") shall perform the services defined in this Letter Agreement and Client agrees to pay CPL for said services as set forth below.

2. All documents including Drawings and Specifications prepared by CPL are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other project. Any reuse without written verification or adaptation by CPL for the specific purpose intended will be at Clients sole risk and without liability or legal exposure to CPL; and Client shall indemnify and hold harmless CPL from all claims, damages, losses, and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation will entitle CPL to further compensation at rates to be agreed upon by Client and CPL.

3. Client agrees to additionally compensate CPL for services resulting from significant changes in general scope of Project, for revising previously accepted reports, studies, design documents, or Contract Documents, or for delays caused by others rather than CPL.

4. Construction cost estimates prepared by CPL represents CPL's best judgment as professionals familiar with the construction industry. It is recognized, however, that CPL has no control over cost of labor, materials, or equipment, over contractors' methods of determining bid prices, or over competitive bidding or market conditions. CPL cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from cost estimates prepared by CPL.

5. If requested by Client or if required by the scope of services of the Agreement, CPL shall visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the Contract Documents. However, CPL shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the work. CPL shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the contractor, subcontractors, or any other persons performing any of the work, or for the failure of any of them to carry out the work in accordance with the Contract Documents.

6. Surveying will be provided as stated in the Agreement. Surveying provided on an hourly basis will be charged with a 4-hour minimum at the hourly rates in effect at the time the service is performed. Replacement of survey markers resulting from contractor disturbance or vandalism will be accomplished on an hourly basis.

7. The cost of permits, fees, toll telephone calls, courier service, reproduction of reports, Drawings, and Specifications, transportation in connection with the Project, and other out of pocket expenses will be reimbursed to CPL by Client at cost plus 15%.

8. CPL shall submit monthly statements for services rendered and for reimbursable expenses incurred. Statements will be based upon CPL's time of billing. Payment is due upon receipt of CPL's Statement. If Client fails to make any payment due CPL for services and expenses within 30 days after the date of CPL's statement therefore, the amounts due CPL shall include a charge at the rate of 1.5% per month (18% per annum), or portion thereof, from said 30th day, and, in addition, CPL may, after giving 7 days' written notice to Client, suspend services under this Agreement until CPL has been paid in full all amounts due CPL are collected through an attorney or collection agency, Client shall pay all fees and costs of collection.

9. This Agreement may be terminated by either party upon 7 days' written notice should the other party fail substantially to perform in accordance with its terms through no fault to the party initiating termination, or in the event Project is cancelled. In the event of termination, CPL shall be paid the compensation plus Reimbursable Expenses due for services performed to termination date.

10. This Agreement shall be governed by the laws of the State Georgia. Liability shall be limited to amount of the fees paid for professional services.

11. The services to be performed by CPL under this Agreement are intended solely for the benefit of the Client. Nothing contained herein shall confer any rights upon or create any duties on the part of CPL toward any persons not a party to this Agreement including, but not limited to, any contractor, subcontractor, supplier, or the agents, officers, employees, insurers, or sureties of any of them.

12. Client and CPL each binds himself and his partners, successors, executors, administrators, and assigns to the other party to this Agreement and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of this Agreement. Neither Client nor CPL shall assign, sublet, or transfer his interest in this Agreement without the written consent of the other; however, CPL may employ others to assist in the carrying out of duties under this Agreement.

APPENDIX "B"
CPL HOURLY RATES

PRINCIPAL ENGINEER	**$210 - $240/HR**
PROJECT MANAGER	**$180 - $210/HR**
SR. STAFF ENGINEER / SR. ARCHITECT / SR. PLANNER	**$ 145 - $165/HR**
STAFF ENGINEER / ARCHITECT / PLANNER	**$ 125 - $150/HR**
JR. ENGINEER / JR. ARCHITECT / JR. PLANNER	**$ 85 - $125/HR**
DESIGNER / DRAFTPERSON	**$ 60 - $70/HR**
JR. DESIGNER / JR. DRAFTPERSON / JR. PLANNER	**$ 50 - $55/HR**
SECRETARIAL	**$ 45/HR**
AUTO MILEAGE	**IRS RATE + 15%**
MISCELLANEOUS	**COST PLUS 15%**

Last revised March 1, 2019

RESOLUTION NO.: 20-023

REAPPROPRIATION OF FISCAL YEAR 2021 FUNDS FOR STORMWATER FEASIBILITY STUDY WITH CLARK PATTERSON LEE.

WHEREAS, City Council approved the budget for fiscal year 2021 for the City of Flowery Branch on June 25, 2020; and

WHEREAS, the City of Flowery Branch is in need of a Storm Water Feasibility Study to determine the requirements for stormwater improvements throughout the City and the costs associated with improvements along with routine maintenance; and

WHEREAS, the City of Flowery Branch is requesting acceptance of the proposal submitted by Clark Patterson Lee in the amount of $34,850; and

WHEREAS, the administration is requesting allocation of $34,850, from the Local Resources Capital Fund Balance; and

NOW, THEREFORE, BE IT RESOLVED that the governing body for the City of Flowery Branch hereby authorizes said funding from the Local Resources Fund Balance in the amount of $34,850 and approve the proposal from Clark Patterson Lee.

BE IT FURTHER RESOLVED that the Mayor, City Manager, and City Attorney are authorized to sign documents that may be necessary to complete the Storm Water Utility Feasibility Study Project.

RESOLVED this 3rd day of September 2020.

____
James M. Miller, Mayor

ATTEST:

____
Vickie Short, City Clerk

APPROVED AS TO FORM:

____
E. Ronald Bennett, Jr., City Attorney