

CITY OF HOSCHTON  
CITY COUNCIL  
**THURSDAY, MAY 9, 2024 AT 6:00PM**  
HOSCHTON COMMUNITY CENTER  
65 CITY SQUARE, HOSCHTON



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WORK SESSION  
AGENDA

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CALL TO ORDER

INVOCATION

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL

AWARD RECOGNITION

Recognition of the 2024 Hoschton Women's Civic Club Scholarship recipient,  
Takara Aguilar

REPORTS BY MAYOR, COUNCIL, AND STAFF

NEW BUSINESS

- 1. Resolution 2024-16:** A Resolution Accepting From Hoschton Town Center, LLC The Dedication Of Streets In Units 1 And 2 Of Cambridge At Towne Center Subdivision And For Other Purposes
- 2. Final Plat for Cresswind at Twin Lakes, Phase 5,** KH Twin Lakes, LLC, applicant and property owner, by Dustin Baker and Rochester and Associates, seeks final plat approval for 169 lots on 62.693 acres; including all or portions of Geneva Way, Conway Trail, Blackshear Court, Seneca Way, Peaks Court, Florence Lane, Bear Way, and Neely Way (private streets); includes dedication of 6,234 feet of water line, 5,904 feet of gravity flow sewer line, and \_\_\_ feet of sewer force main; plus the proposed dedication of a sewer pump station fronting on Blackshear Court (PUD Conditional Zoning, Z-2018-05) [*Consulting planner recommendation: Approval with conditions*]
- 3. Preliminary Plat for "Aberdeen" Planned Unit Development** (f.k.a. "East Jefferson Tract") and Application for Approval of Private Streets: TPG (The Providence Group) Development LLC, by Clint Walters, and Travis Pruitt & Associates, Inc. applicant, Shannon Sell, Paul T. Cheek, Jr. and Brenda Ann Cheek and West Jackson, LLC, Property Owners, request preliminary plat and private street approval for 334 lots on 109.72 acres fronting on the south side of West Jackson Road, both sides of East Jefferson Street, and the north side of Pendergrass Road (SR 332) (Map/Parcels 119/018; part of 119/019; 113/003A, and part of 113/004. Planned Unit Development (PUD) Conditional zoning (Ordinance Z-23-02)

*[Consulting planner recommendation: Denial of request for private streets; postpone action on preliminary plat pending requested redesign]*

4. **Preliminary Plat for “Tribute” Planned Unit Development:** Rocklyn Homes by Tim Jenkins and PEC+, Applicant, Mary Ann Kenerly, and Trustees of New Hope African, Methodist, and Episcopal Church, property owners, 284.634 acres (287.14 acres PUD) fronting on the north side of State Route 53 (1688 Highway 53) (Map/Parcels 114/001A, 114/002A, 114/001B and 114/001B1); Address of Record: 1688 Highway 53; 1,051 Lots (400 fee-simple townhouses/lots, 651 detached single-family dwellings/lots, 40,000 square feet of retail/restaurant/office; and 23.65+ acres of public land dedication; Planned Unit Development (PUD) Conditional zoning, Ordinance Z-23-03; (Development of Regional Impact #3960)  
*[Consulting planner recommendation: Approval, with conditions]*
5. **Resolution 2024-18:** Approval of Intergovernmental Agreement with the Downtown Development Authority regarding 29 West Broad Street (The Garden)
6. **Resolution 2024-19:** Approval of Intergovernmental Agreement with the Downtown Development Authority regarding 4162 Highway 53, Units 100 and 110 (Putter’s Golf Carts)
7. **Resolution 2024-20:** Approval of First Amendment to Intergovernmental Agreement with the Downtown Authority regarding 69 City Square (Pasta Masters)

CITIZEN INPUT

EXECUTIVE SESSION (IF NEEDED)

ADJOURN

**Announcements:**

May 22<sup>nd</sup> @ 6:00pm: Planning & Zoning Commission Meeting

May 23<sup>rd</sup> @ 6:30pm: Community Conversations

Topic: Planning & Zoning

Featuring Dr. Jerry Weitz

## **CIVILITY PLEDGE**

The way we govern ourselves is often as important as the positions we take. Our collective decisions will be better when differing views have had the opportunity to be fully vetted and considered. All people have the right to be treated with respect, courtesy, and openness. We value all input. We commit to conduct ourselves at all times with civility and courtesy to each other.

## **CITY OF HOSCHTON RULES OF DECORUM**

The purpose of the Rules of Decorum is to foster an atmosphere of civil and courteous discourse, even and especially when discussing contentious topics, at all meetings held by the City of Hoschton.

### **a. Rules applicable to the public**

1. Each speaker will be given 5 minutes during public comment.
2. Each speaker will direct his or her comments to the Mayor or presiding officers and not to any other individual present.
3. Each speaker will refrain from personal attacks, foul or abusive language, and will maintain a civil and courteous manner and tone.
4. Each speaker will speak only to the agenda item under consideration. This does not apply during the Public Comment agenda item.
5. Members of the audience will respect the rights of others and will not create noise or other disturbances that will disrupt the meeting.

### **b. Rules for Mayor and Members of Council, Committees, Boards, or Commissions**

1. Members will conduct themselves in a professional and respectful manner at all meetings.

# MONTHLY REPORTS

## CITY MANAGER MONTHLY REPORT

**APRIL 2024**

- Mayor Martin, City Manager and City Clerk attended the Mayor's Luncheon hosted by Jefferson and
- Also, dropped off donated goodies from the community for the upcoming special Olympics.
- Mayor Martin, City Manager and Chief Hill spoke with Mr. Jonathan Peavy from GDOT to discuss concerns with speed limit signs and
- How we can work together to reduce the speed. Mr. Peavy stated that he would help us with a study, but suggested that we wait until
- The redlight in front of Publix to see if this will naturally be able to slow traffic.
- Mayor Martin and City Manager enjoyed being a part of Georgia Academy and learning more about economic development.
- Met with developers to make sure their project is compliant.
- Mayor Martin and City Manager met at the ag center. Mayor Martin, along with other Mayor's sat on a panel to answer questions about government.
- The City Manager, City Engineer and Water Supervisor met for a pre-con meeting to continue the process with our South Tank build. The City Manager, City Engineer and Water Supervisor met for a pre-con meeting to continue the process with our second phase of our water line upgrade. This will take place at the corner of white street and West Broad and carry up Highway 53 to the North Tank on West Jackson Road.
- The city Manager met with Hoschton Women's Civic Center to discuss future vision for the Mulberry Property and home.
- Historic Preservation Committee met. Councilmember Davis Brown and Councilmember Christina Brown joined along with the City Manager to discuss the vision for the Darby Building.
- The City Manager and City Engineer met with Representatives for the Waterfirst Program from GEFA. There were a few more requests that they needed to proceed with. The City Team is working on this request. We hope to be in front of their panel, Summer 2024.
- The Police department is continuously looking to hire and interview for our fourth position that is open.
- Mayor Martin and City Manager met with representatives from Uline, to establish a relationship. We look forward to a long-term partnership.

Respectfully Submitted,  
Jennifer Harrison

**CITY OF HOSCHTON, GA  
CONSULTING CITY PLANNER'S REPORT  
ACTIVE, ONGOING AND FUTURE TASKS  
May 1, 2024**

<b>Category</b>	<b>Description of Task</b>	<b>Status</b>	<b>Notes</b>
Development Permit App.	Hoschton Animal Hospital	Received 4/15/24; distributed 4/23/24	
Development Permit App.	Cresswind at Twin Lakes Phases 6 & 8 341 lots on 180.06 acres (111.53 disturbed)	Planning 1 <sup>st</sup> review complete 4/20/24	
Development Permit App.	Heartland Dental	Planning 1 <sup>st</sup> review complete 3/25/24	
Development Permit App.	Cresswind Phase 7	Planning 1 <sup>st</sup> review complete 4/24/24	
Development Permit App.	West Jefferson Tract Land Development (Revision #1 to approved LDP) and development permit	Pending	
Development Permit App.	West Jefferson Tract Pump Station and Force Main	Rec. 4-12-24; Distributed to EMI 4/23/24	
Development Permit App.	Henry Street Townhomes (24 fee simple townhouses)	2 <sup>nd</sup> Submission 3-6- 24	
Development Permit App.	Kroger (Towne Center Marketplace) development plans	1 <sup>st</sup> review complete 3/25/24; discussed with applicant April; requires preliminary plat (submitted)	
Development Permit App.	Cresswind Lower Lake Dam Restoration	Approved by SWCC 4-15-24; LDP issued 4-23-24	
Preliminary Plat	Tribute (Rocklyn Homes PUD) (1,051 units)	May 9 <sup>th</sup> City Council work session	
Preliminary Plat	"Aberdeen" (Formerly East Jefferson Tract) Providence Group (334 units)	May 9 <sup>th</sup> City Council work session	
Preliminary Plat	Kroger (Towne Center Marketplace)	Received 4/23/24; distributed 4/23/24	June City Council
Final Plat Major	Cresswind Phase 5	May 9 <sup>th</sup> City Council work session	
Final Plat Minor	Swafford lot split (part unincorporated)	Does not comply – discussed withdrawal	
Final Plat Minor	Sell (administrative)	Revision received 4/30/24	
Ordinances	City Code Amendment – Planning & Zoning Commission	Adopted April 30, 2024	
Ordinances	O-2024-02 Subdivision and land development ordinance amendment (planning commission)	Adopted April 30, 2024	
Ordinances	TA 2024-01 Zoning ordinance amendment (planning commission)	Adopted April 30, 2024	
Ordinances	Revision of land use regulations (community work program item)	Periodic as needed or as identified	See details
Ordinances	Recodify zoning and subdivision ordinance to include adopted amendment	Complete in May and repost to website	

**Consulting City Planner's Report, 05/01/24**

<b>Category</b>	<b>Description of Task</b>	<b>Status</b>	<b>Notes</b>
Ordinances	TA 2024-02 Zoning ordinance amendment (PUD zoning district)	Council Initiated 4/30/24	May 22 Plan Comm.; June City Council
Ordinances	TA 2024-03 Zoning ordinance amendment (MU zoning district)	Council initiated 4/30/24	May 22 Plan Comm.; June City Council
Ordinances	TA 2024-04 Zoning Ordinance amendment (reversion of approval)	Council initiated 4/30/24	May 22 Plan Comm.; June City Council
Administration	Appointment of Planning Commission	Completed April 30 2024	
Administration	Rezoning, Variance, Conditional use Schedule of Submission Dates incorporating planning commission	Revise after commission appointment	Underway
Administration	Intergovernmental agreement with Jackson County for collection of county development impact fees (Z-23-03)	City manager initiated contact w/ county manager	No deadline established
Special Projects	10-year Study (Budget Projection based on Development Buildout)	Underway: Target June 2024 completion	
Special Projects	Planning Commission Training	TBD	Begin June 2024
Special Projects	Annual update of Capital Improvements Element and Community Work Program of Comprehensive Plan;	May Plan. Comm.; June City Council	Adoption by October 31 <sup>st</sup>
Special Projects	Amendment to comprehensive plan to update February 2021 future land use plan	May Plan. Comm.; June City Council	Adoption by October 31 <sup>st</sup>
Special Projects	5-Year update of comprehensive plan (requires steering committee)	Begin Nov. or Dec. 2024	October 2025 deadline

May 1, 2024

## **Building Department Activity Report for April 2024**

- ❖ Permit activity
  - 76 Total permits issued
    - 69 were for new single family residences
- ❖ Inspection Activity
  - 793 inspections were completed
    - Approximately 88% passed
- ❖ Code Enforcement Activity
  - Two complaints related to the Alma Farms development
    - Pouring concrete at 0430 (per complaint)
    - Muddy stormwater runoff
  - One in Cresswind
    - A resident had water collecting on her lot
- ❖ Looking ahead
  - There are two commercial permit applications in review
    - Kroger
    - Pasta Masters at 69 City Square
  - Publix projects a grand opening in November 2024



## **Police Department Report 05/02/2024**

1. **Reports and Citations**- The Police Department generated right at 820 incident numbers since Jan. 1 and wrote 50 citations in the month of April.
2. **Court**- We will have court again on June 20<sup>th</sup> at City Hall.
3. **Chief**-
  1. Attended District 9 Chief Training on April 16<sup>th</sup> in Winder. Topic of training was marijuana update taught by the GBI.
  2. Attended a county wide Chief breakfast on April 23<sup>rd</sup>
  3. Held a Touch-A-Truck event at the Depot on April 26<sup>th</sup> for Cities Week
  4. Met with First Responder Task Force on April 11th which is a life insurance company. Each employee received \$5000 of free coverage and several purchased additional coverage.
  5. Received four Panasonic Laptop Computers from Jefferson Police to be loaned to our department for future in-car use. (Thank you again for your support in this matter!)



## April 2024 Monthly Report

### Water

- Daily water route check of connections, water tank and random sample sites
- Daily checks and operations of both city wells
- Daily water sampling
- Weekly well cleanings
- Monthly Meter high usage and non-read meter reading
- Pulled monthly Reporting EPD Samples
- Pulled monthly Bacteriological samples throughout water system.
- Replenished Chemicals at both Wells
- Daily utility locates, 403 water/sewer locates for the month of April.
- Recorded all daily, weekly, and monthly Data.
- Completed and Submitted Monthly Water Reports to EPD
- Installed 48 New Water Meters
- Repaired 7 Water Service leaks.
- Repaired broken spigot valve on the North Water tank
- Ordered two new Chlorine meters for the water dept.
- Repaired 6 Water Leaks
- Ordered Well supplies and parts from USABlueBook
- Pulled April's monthly Microbiological samples and delivered to the laboratory
- Allsouth Construction performed tap on waterline for the Booster Pump Station.
- Started large project locate on HWY 53 at Jopena
- Adjusted Water mainline valves to add a section of the water system to the Northern Zone.
- Completed a Large Project Locate Along HWY 53 at Twin Lakes Entrance
- Fixed several Fire Hydrants that the fire Dept. called about stating that they did not work. Found that the shutoff valves were closed.
- Had Pre-Con meeting for the Phase 1B Water Main Project.
- Had Pre-Con Meeting for the new South Water Tank Project.
- Monthly Non-payment Water Meter lock-ups.
- Monthly Meter readings
- Called Templeton and Associates to get an update on the Booster Pump Station lead time. They feel very confident that the unit will now ship in mid-July. It was previously estimated for September.

- Replaced a check valve for chemical system at Cabin Drive Well.
- Installed new water meter box and line at 107 West Jefferson st.
- Repaired 2 more Fire hydrants that had no flow in Cresswinds Development. (valves were shutoff)
- Made a list of water main valves that were covered up by sod in the DR Horton Section of Twin Lakes. Sent the list to the area Superintendent to make repairs.

## Wastewater

- Daily Plant check of equipment and processes
- Daily sampling and testing of plant Effluent
- Daily Instrument calibrations
- Daily lab equipment temperature checks
- Weekly process control lab work
- Weekly Automatic samplers turned on and checked
- Pulled Weekly permit samples
- Performed weekly permit Lab testing
- Recorded all daily, weekly, and monthly Data
- Performed Maintenance on Dewatering Belt Press
- Performed Weekly and monthly Maintenance on Clarifiers
- Performed Weekly Sewer pump station and generator check
- Ran Belt Press weekly to remove excess solids in Plant
- Weekly Washdown and cleaning of tanks, troughs, and filter
- Daily utility locates, 403 water/sewer locates for the month of April.
- Finished Panter Court grinder system evaluations with EMI
- Repaired sump pump in RAS Vault at sewer plant
- Jeff Conley and UV company met onsite to see what parts are needed to repair UV system. Will be preparing quote
- Cleaned the back of the shop
- Replaced DO Sensor Cap in the Orbital
- Had Monumental come out and repair guide rail at Brook Glen Lift Station
- Process Worx came out and replaced a relay for the RAS Valve, found that the Actuator had a leaking seal. Called the manufacturer to send a tech out to repair. Waiting on scheduling.
- Videod Sewer line on West Jefferson Street at Walnut Ave.
- Installed 3 Sewer Taps for new houses on Bell Ave.
- Process Worx came out and performed our yearly Flow meter calibrations at the Wastewater Treatment Plant.
- Had a Sewer line backup on line that runs from the Meadows Apartments through woods to West Jefferson Street. Jetted and cleaned the sewer line.
- Jeff Conley with Oliver Electric come out and made the initial repairs to the UV system at the Sewer Plant.
- Installed sewer tap for new house being built at 107 West Jefferson st.
- MPE came out and replaced the filter clothes on the Disk Filter at Treatment Plant
- Repaired the waterline on the Orbal Tank at the Plant.
- Cary With Process Worx came out and performed yearly Calibrations on the flow meters at the Sewer Plant.
- Ordered Chemicals for the Wells and Wastewater Plant.

PW Department Activity Report-April 2024

- A. Week 1 (4.1.24)
  - a. Mowed grass
  - b. Brush cut
  - c. Clean cemetery
  - d. Weekly trash pick-up-City Hall/City Square
  - e. Weekly set-up at community center
  - f. Weekly check of all streets signs for damage and maintenance
  - g. Weekly check for illegal R-O-W signs
- B. Week 2 (4.8.24)
  - a. Started clean-up of Hwy 53 ROW in city limits
  - b. Installed area may flood signs on deer creek
  - c. Cleaned and replace signs
  - d. Cleaned ditches on west Jackson
  - e. Cleaning mulberry house
  - f. Cleaned up trucks
  - g. Finish PD window
  - h. Mover rock to Quail run storm easement
  - i. Installed meters
  - j. Mover Christmas items for women's club
  - k. Weekly trash pick-up-City Hall/City Square
  - l. Weekly set-up at community center
  - m. Weekly check of all streets signs for damage and maintenance
  - n. Weekly check for illegal R-O-W signs
- C. Week 3 (4.15.24)
  - a. Grass cutting- 4.15-Josh Pirkle/West Jefferson, White Street, Mulberry House, White Street well, sewer Easement, Brook Glen lift station.
  - b. Grass cutting-4.16-Peachtree road, Brush cut Pirkle road
  - c. Grass cutting-4.18-West Jackson, East Jefferson, Maddox rd., Brighton Park LS and sewer easement
  - d. Installed CC door knob
  - e. Installed CC clock
  - f. Moved picnic tables
  - g. Replaced board on depot deck
  - h. Repaired excavator
  - i. Spread rock @ Quail Run storm Easement
  - j. Weekly Truck checks (Maintenance and tools)
  - k. Weekly trash pick-up-City Hall/City Square
  - l. Weekly set-up at community center
  - m. Weekly check of all streets signs for damage and maintenance
  - n. Weekly check for illegal R-O-W signs
- D. Week 4 (4.22.24)
  - a. Cut grass Nancy, Amy, and Hwy 53
  - b. Brush cut wild flower
  - c. Installed pigeon proofing at sewer plant
  - d. Weekly Truck checks (Maintenance and tools)
  - e. Weekly trash pick-up-City Hall/City Square
  - f. Weekly set-up at community center
  - g. Weekly check of all streets signs for damage and maintenance
  - h. Weekly check for illegal R-O-W signs
  - i. Removed trash along Peachtree road
  - j. Monthly Safety and MS4 staff meeting

**City of Hoschton  
May Monthly Report – Community Alliance  
Dr Fredria Sterling**

**April was a busy month in the City of Hoschton. On April 24, 2024 the Women’s Civic Club scholarship committee interviewed six youth from Jackson County High School. We chose Takara Aquilar as our winner. She is in the top 10% of her class and has received other scholarships.**

**On April 30, 2024 I had the pleasure of attending the Honors Night at Jackson County High School to present Takara with a check from the Hoschton Women’s Civic Club for \$1000.00. She will be attending University of Georgia in the Fall.**

**I had the opportunity to tour Empower College and Career Center with Mr Usseler as my guide. I was greatly impressed with all of the innovative programs that were available to students. He told me that he would be available to talk with anyone who is interested in coming to visit. The majority of the students come from Jackson County High School and East Jackson Comprehensive High School to learn various skills that will help them in the world of work.**

**Looking forward to working on the Job Fair that we would like to host here in the city.**

Planning- Update from Councilmember David Brown:

Data collection continues. Currently, we are interviewing each City Department head to obtain 2025, 2030 & 2035 departmental data on

- TOTAL EMPLOYEE HEAD COUNT
- FUTURE EMPLOYEE EFFECT ON
  - ADMINISTRATION TO SUPPORT
  - OFFICE SIZE
  - ETC
- EQUIPMENT (police)
- VEHICLES

Create an Excel spreadsheet for each department to show cost

# NEW BUSINESS

## ITEM #1

Resolution 2024-16: Dedication of Streets within  
Cambridge at Towne Center Subdivision

CITY OF HOSCHTON  
STATE OF GEORGIA

**RESOLUTION 24-16**

**A RESOLUTION ACCEPTING FROM HOSCHTON TOWN CENTER, LLC  
THE DEDICATION OF STREETS IN UNITS 1 AND 2 OF CAMBRIDGE AT TOWNE  
CENTER SUBDIVISION AND FOR OTHER PURPOSES**

WHEREAS, Hoschton Town Center, LLC, is the owner and subdivider of property known as Units 1 and 2 of Cambridge at Towne Center, a fee simple townhouse community; and

WHEREAS, The Hoschton City Council has approved final plats for the subdivision; and

WHEREAS, Unit 1 of said subdivision includes streets to be dedicated to the city, including a portion of "Buckingham Lane," "Huntley Trace," and a portion of "Regent Park;" and

WHEREAS, Unit 2 of said subdivision includes streets to be dedicated to the city, including a portion of "Buckingham Lane," "Jaxton Street," "Buxton Road," and a portion of "Regent Park;" and

WHEREAS, All of the homes in Unit 1 have been constructed and 75% or more of the homes in Unit 2 have been constructed; and

WHEREAS, the city's public works director has inspected the streets proposed to be dedicated and recommends that the city accept them; and

WHEREAS, the dedication of said streets is not final until the owner submits and the City Council accepts the dedication via a warranty deed; and

WHEREAS, the owner has prepared and submitted a warranty deed for purposes of conveying the streets and rights of ways to the city; and

WHEREAS, said street have a value of \$ \_\_\_\_\_ according to information provided by the owner/ subdivider;

Now, therefore, IT IS RESOLVED by the City Council of Hoschton as follows:

**Section 1.**

The City Council hereby accepts the streets within Cambridge at Towne Center Units 1 and 2 as more fully described in Exhibit A and the streets shall hereafter become public streets maintained by the city.



**Resolution 24-16**

**Section 2.**

The city attorney is authorized to record the warranty deed transferring ownership of the subject property to be dedicated to the city.

**Section 3.**

The city is authorized to release the maintenance guarantee on file relative to the streets in the subdivision.

SO RESOLVED this \_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_

Debbie Martin, Mayor

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

Approved as to form:

\_\_\_\_\_

Abbott S. Hayes, Jr., City Attorney

\_\_\_\_\_

Jennifer Harrison, City Clerk

EXHIBIT "A"

LEGAL DESCRIPTION

ALL THAT TRACT OR PARCEL OF LAND lying and being in G.M. District 1407, City of Hoshton, Jackson County, Georgia, constituting the streets of Cambridge Towne Center community, being commonly known as "Buckingham Lane", "Huntley Trace", "Regent Park" each together with the respective fifty-foot (50') right-of-way attendant thereto, all as shown on that certain plat of survey titled Final Plat for Cambridge at Towne Center Unit 1 dated September 8, 2022 and recorded in Plat Book 85, Page 51, Jackson County, Georgia records.

TOGETHER WITH:

ALL THAT TRACT OR PARCEL OF LAND lying and being in G.M. District 1407, City of Hoshton, Jackson County, Georgia, constituting the streets of Cambridge Towne Center community, being commonly known as "Buckingham Lane", "Jaxton Street", "Buxton Road", "Regent Park" each together with the respective fifty-foot (50') right-of-way attendant thereto, all as shown on that certain plat of survey titled Final Plat for Cambridge at Towne Center Unit 2 dated December 24, 2022 and recorded in Plat Book 86, Page 59, Jackson County, Georgia records.

After recording, return to:

R. Lee Tucker, Jr., Esq.  
MAHAFFEY PICKENS TUCKER, LLP  
1550 North Brown Road – Suite 125  
Lawrenceville, GA 30043  
File No. 2492.1351 (RLT/GHS)

**CROSS REFERENCE TO:**

Plat Book 85, Page 51  
Plat Book 86, Page 59  
Jackson County, Georgia records.

Jackson Co. Parcel Nos. 120 013L, 120 017D

**WARRANTY DEED**

STATE OF GEORGIA

COUNTY OF JACKSON

THIS INDENTURE, made the \_\_\_\_ day of \_\_\_\_, in the year Two Thousand Twenty-Four, between

**HOSCHTON TOWN CENTER, LLC,  
a Georgia limited liability company,**

as party or parties of the first part, hereinafter called Grantor, and

**THE CITY OF HOSCHTON,  
a political subdivision of the State of Georgia,**

of the County of Jackson, State of Georgia, as party or parties of the second part, hereinafter called Grantee (the words "Grantor" and "Grantee" to include their respective heirs, successors and assigns where the context requires or permits).

WITNESSETH that: Grantor, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable considerations in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, aliened, conveyed and confirmed, and by these presents does grant, bargain, sell, alien, convey and confirm unto the said Grantee the following described real property:

ALL THAT TRACT or parcel of land lying and being in the City of Hoschton, Jackson County, Georgia, being more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

TO HAVE AND TO HOLD the Property and all parts, rights, members, and appurtenances thereof, to the use, benefit, and behoof of Grantee and the successors and assigns of Grantee, in FEE SIMPLE, forever.

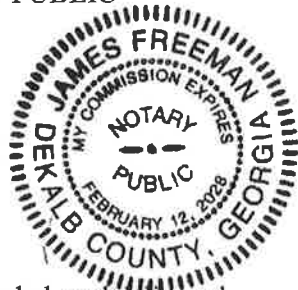
AND THE SAID Grantor will warrant and forever defend the right and title to the above described property unto the said Grantee against the claims of all persons whomsoever.

[SIGNATURES APPEAR ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the Grantor and Grantee have signed and sealed this deed, the day and year above written.

Signed, sealed, and delivered  
in the presence of:

*Ernie Gaddy*  
WITNESS *Ernie Gaddy*  
*Donna Freeman*  
*04/23/2024*  
NOTARY PUBLIC



Signed, sealed, and delivered  
in the presence of:

\_\_\_\_\_  
WITNESS  
  
\_\_\_\_\_  
NOTARY PUBLIC

**GRANTOR:**

HOSCHTON TOWN CENTER, LLC,  
a Georgia limited liability company

By: Atlanta Capital, LLC, its Manager

By: *Christopher L. Harris*  
Christopher L. Harris, Manager

**GRANTEE:**

CITY OF HOSCHTON,  
a political subdivision of the State of Georgia

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

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### **b. Rules for Mayor and Members of Council, Committees, Boards, or Commissions**

1. Members will conduct themselves in a professional and respectful manner at all meetings.

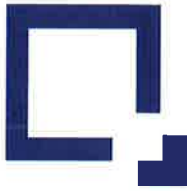
# NEW BUSINESS

## ITEM #2

Final Plat for Cresswind at Twin Lakes  
Phase 5

[Consulting planner recommendation: approval with conditions]





**Jerry Weitz & Associates, Inc.  
Planning & Development Consultants**

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Growth Management  
Comprehensive Planning  
Zoning & Land Use Regulations  
Land Development Applications  
Expert Testimony  
Zoning Administration

**MEMORANDUM**

TO: Honorable Mayor and City Council, City of Hoschton

C: Jeremy Frydrych, PE, Rochester & Associates, inc.  
Dustin Baker, KH Twin Lakes, LLC

FROM: Jerry Weitz, Consulting Planner

DATE: April 22, 2024

RE: City Council May 9<sup>th</sup> Work Session Agenda Item: **Final Plat for Cresswind at Twin Lakes, Phase 5**, KH Twin Lakes, LLC, applicant and property owner, by Dustin Baker and Rochester and Associates, seeks final plat approval for 169 lots on 62.693 acres; including all or portions of Geneva Way, Conway Trail, Blackshear Court, Seneca Way, Peaks Court, Florence Lane, Bear Way, and Neely Way (private streets); includes dedication of 6,234 feet of water line, 5,904 feet of gravity flow sewer line, and \_\_\_ feet of sewer force main; plus the proposed dedication of a sewer pump station (PUD Conditional Zoning)

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The above-referenced item has been approved for the above-referenced work session agenda, even though the applicant is still in the process of satisfying all comments from the city engineer with regard to the final plat and as built drawings.

**PROCESS OVERVIEW**

A final plat for a major subdivision is required to be approved by City Council (Reference: Sec. 303 subdivision and land development ordinance).

Requested/ recommended action: Approval of final plat.

A vote of approval authorizes the mayor to sign the plat and formally accepts the water lines, gravity sewer lines, sewer force main, and sewage lift station (physical plant not land underneath). A preliminary plat was previously approved by the City Council. Land disturbance and development plans were previously approved by the planning and zoning department.

**CRITERIA AND FINDINGS FOR FINAL PLAT APPROVAL**

Final plat approval shall be granted if the following criteria are met (Reference: Sec. 1004 Subdivision and Land Development Ordinance). Staff findings relative to these criteria follow.

***Criterion: A preliminary plat of the proposed subdivision, if required, has been previously approved by the Hoschton City Council.***

Finding: A preliminary plat was submitted and approved.

**Criteria: Where new improvements are involved in the subdivision, development plans have been approved by the Zoning Administrator, all improvements have been installed, improvements have been inspected by the Zoning Administrator and/or City Engineer, and subdivision improvement guarantees as required by this Ordinance have been submitted. A complete final plat application has been submitted, including all supporting materials required by this Ordinance for final plats.**

Finding: Development plans were previously reviewed and approved. These requirements have been met. See the table below for specific status and notes.

<b>Status/ disposition</b>	<b>Submission Required</b>	<b>Notes</b>
Complete	Application fee	\$6,584.26 paid 2/28/24
Pending	Copies of final plat; pdf copy	Submit 15 copies for distribution to Council/staff
Complete	City Engineer Review and approval including as-built drawings	Pending; approval is a condition of city engineer's signature
Pending	Field inspection by Land Development Inspector/ Public Works Director	Subject to verbal okay from public works director
n/a	External agency review obtained if required	Not applicable
In process	Submission to City Engineer of electronic files for as-builts	Subject to confirmation prior to release for recording
Confirm	Street signs, traffic signs, and pavement markings installed/completed	Subject to confirmation
Complete	Receipt for payment of street lights	Prepayment of \$158,000 to Georgia Power Company 8/21/2023
Complete	Homeowner's association created; documents reviewed	Previously completed for Twin Lakes as a whole
Not required	Subdivision improvement guarantee: Maintenance bond for public improvements	Private streets. Improvement guarantee not required
Received in part; confirm in full	Confirmation 3 <sup>rd</sup> party inspection of streets for asphalt thickness, density, compaction	Roadway subgrade evaluation by Fairbanks Engineering Company LLC dated 2/28/2024

***Criterion: The final plat meets all applicable requirements of this Ordinance.***

Finding: Review is pending; compliance is anticipated if approved subject to the recommended conditions of approval in this memo.

**CONCLUSION**

Having satisfied (or in the process of satisfying) applicable requirements and being consistent with criteria for the granting of final plats for major subdivisions, consulting city planner recommends approval of the final plat with conditions articulated in this memorandum.

*An additional utility easement is recommended along Peachtree Road, as may be determined necessary for future water and sewer line (force main) connections to Barrow County but is not included in the recommended conditions of final plat approval.*

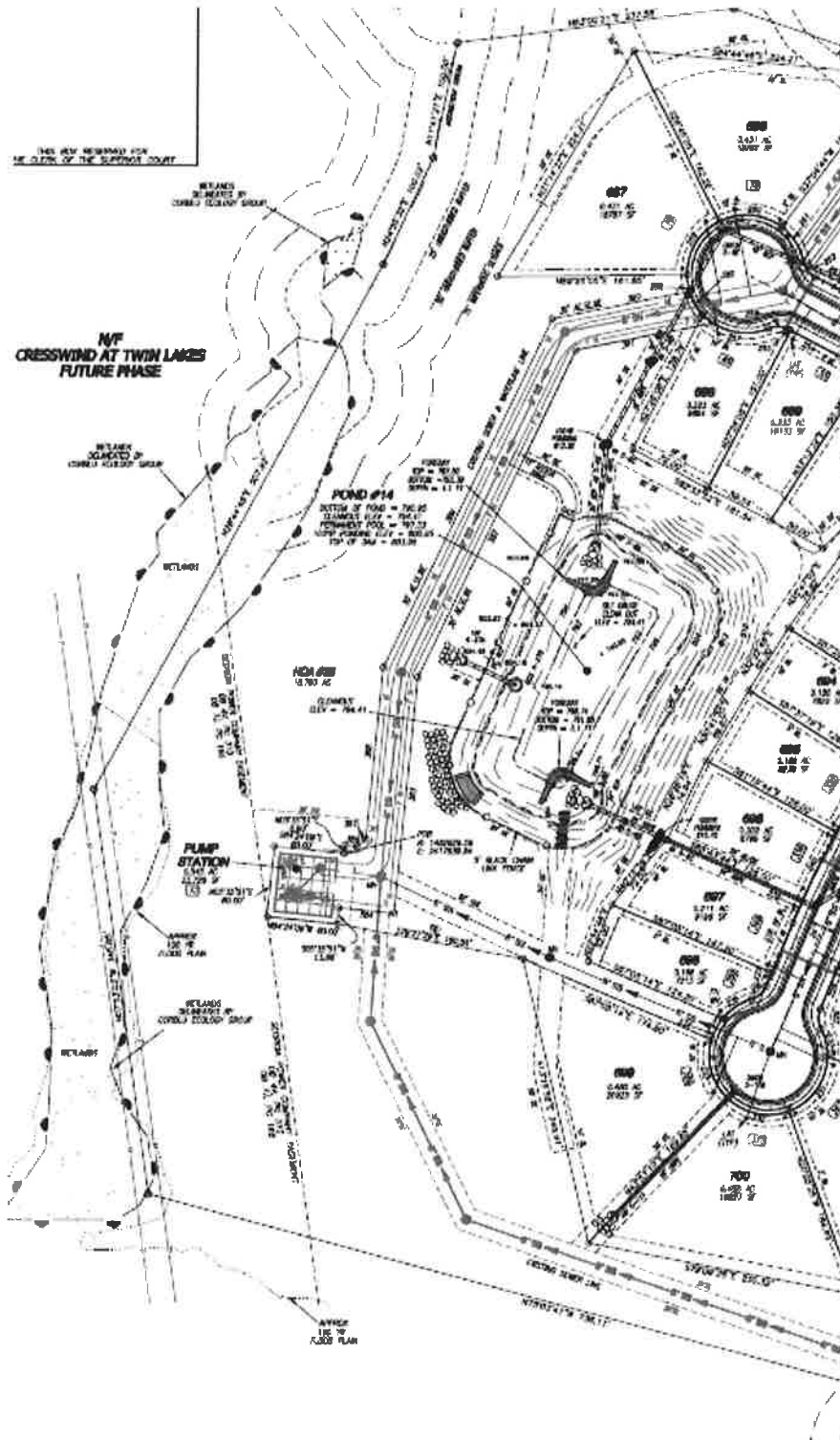
**SUGGESTED MOTION BY COUNCIL:**

I move to approve the final plat for Cresswind at Twin Lakes, Phase 5, subject to the conditions of approval recommended by the consulting planner in the memo dated April 22, 2024.

**RECOMMENDED CONDITIONS OF FINAL PLAT APPROVAL**

1. Revise utility dedication certificate on cover page to add linear footage of sewer force main dedicated and to reference the physical plant for the sewage lift station.
2. Sheet 2: Lot Requirements Table, "Dimensional Requirements, Cresswind," at the bottom of the table (note) remove the first quoted language "all side separations are foundation to foundation or foundation to fire rated wall" to "all side separations are measured at exterior wall to exterior wall."
3. The city requires a maintenance fee to be paid (approved in 2023) for sewage lift stations. The final plat will constitute acceptance of the sewage lift station (physical plant, not the land). Therefore, the sewage lift station fee (based on horsepower of the pump) must be submitted prior to providing city signatures on the final plat.
4. Provide estimate of value of the dedications by type (water, sewer, sewer force main, and sewer lift station) (based on contractor prices) prior to providing city signatures on the final plat.
5. Revise the final plat and as-built drawings and submit CAD files to the satisfaction of the City Engineer prior to signature of the final plat by the city engineer, including but not limited to comments per April 18<sup>th</sup>, 2024 memo from Engineering Management, Inc. and resubmission of three hard copies to planning staff of all as-built drawings.
6. Final plat approval is conditioned upon the applicant's submission of pavement thickness core samples by third party if required by public works director.
7. Final plat approval is conditioned upon the subdivider's completion of all physical improvement items found out of compliance by city staff via field inspection. Inspection will include street name signs, street traffic control signs and striping, condition of road pavement and curbs, etc.
8. The applicant shall be required to dedicate the 0.545-acre sewage lift station lot within six months of the date of final plat approval by City Council.





Excerpt of Final Plat Showing Sewage Pump Station Site

# NEW BUSINESS

## ITEM #3

Preliminary Plat for “Aberdeen” Planned  
Unit Development (formerly “East Jefferson Tract”)  
And Application for Approval of  
Private Streets

[Consulting planner recommendation: denial of request for  
private streets; postpone action on preliminary plat pending  
requested redesign]



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**MEMORANDUM**

TO: Honorable Mayor and City Council, City of Hoschton

FROM: Jerry Weitz, Consulting Planner

DATE: May 1, 2024

RE: City Council May 9<sup>th</sup> Work Session Agenda Item: **Preliminary Plat for “Aberdeen” Planned Unit Development (f.k.a. “East Jefferson Tract”) and Application for Approval of Private Streets:** TPG (The Providence Group) Development LLC, by Clint Walters, and Travis Pruitt & Associates, Inc. applicant, Shannon Sell, Paul T. Cheek, Jr. and Brenda Ann Cheek and West Jackson, LLC, Property Owners, request preliminary plat and private street approval for 334 lots on 109.72 acres fronting on the south side of West Jackson Road, both sides of East Jefferson Street, and the north side of Pendergrass Road (SR 332) (Map/Parcels 119/018; part of 119/019; 113/003A, and part of 113/004. Planned Unit Development (PUD) Conditional zoning (Ordinance Z-23-02) [*Consulting planner recommendation: denial of request for private streets; postpone action on preliminary plat pending requested redesign*]

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The platting process is a necessary step/function to ensure that the streets and highways serving the subdivision are of sufficient width, grade, and in suitable locations to accommodate regional traffic. Platting regulations since their inception in the 1920s have been adopted with the intent to ensure that streets and highways are coordinated to the official map or comprehensive plan, in order to compose a convenient system of streets.

**SUMMARY OF PRELIMINARY PLAT PROCESS**

The Zoning Administrator is responsible for administering the review and approval process for preliminary subdivision plats (Sec. 405 subdivision ordinance). The consulting planner serves as the city’s zoning administrator. The Hoschton City Council shall review and have decision making authority on applications for preliminary plat approval and final plat approval for major subdivisions (Sec. 303 subdivision ordinance).

Whenever a person proposes the subdivision of a tract of land, he is encouraged (but not required) to consult early and informally with the Zoning Administrator in the form of a pre-application conference (Section. 402 subdivision ordinance). In the subject case, no pre-application conference was held on the preliminary plat application, though many in-person meetings were held during the zoning process, and the initial application submitted was found to be incomplete. A pre-application conference is intended to permit an early evaluation of the subdivider’s or land developer’s intentions, **to ensure coordination with the comprehensive**

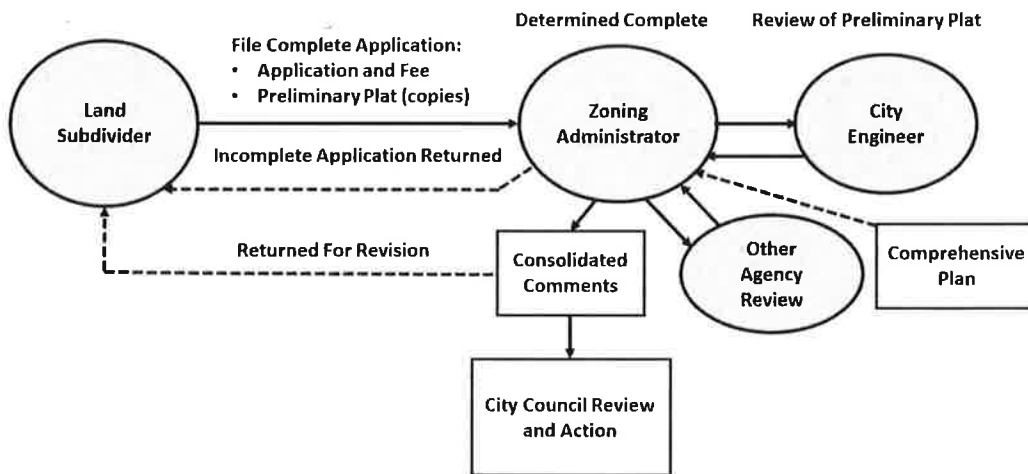
*plan*, and to provide the subdivider or land developer with the necessary laws, rules, and regulations in order to properly accomplish the proposed project (Sec. 402 subdivision ordinance) (emphasis added).

Agency review is a part of the process. In Hoschton, the only local review agents are the city engineer and the zoning administrator, although input from city public works and utilities staff is also possible. The fire district will also review plans for compliance with fire suppression access requirements. In the case of a subdivision abutting a state route, state and local regulations require opportunity for the Georgia Department of Transportation (GDOT) to review and comment on a subdivision plat. The applicant has been advised to ensure that that GDOT is aware of the proposal and that the proposal can incorporate requirements imposed by GDOT for access onto Pendergrass Road (SR 332). Currently there is no record of review or recommendation or action by GDOT made a part of the application file. However, planning consultant is confident the applicant is pursuing those permissions and designing the project with GDOT requirements in mind.

Upon completion of the agency review of a preliminary plat application, the Zoning Administrator shall schedule the application for the next regularly scheduled meeting of the Hoschton City Council and forward all pertinent materials in the application to the Hoschton City Council for review and action.

The applicant or his or her authorized representative shall attend the Hoschton City Council meeting at which preliminary plat approval is sought. The Hoschton City Council may elect to take no action on a preliminary plat application unless the subdivider or his or her authorized representative is present. Below is a flow chart of the preliminary plat process. This flow chart will change once the city integrates a newly appointed planning commission, which will be charged with providing recommendations on preliminary plats.

### **PRELIMINARY PLAT**



**Current Process Chart for Preliminary Plat  
(Excludes Planning Commission Pending)**



Meetings of the Hoschton City Council during which a preliminary plat is considered shall be open to the public, but the Hoschton City Council shall not be required to provide notice to adjacent or nearby property owners of the application and shall not be required to convene a public hearing on the matter. This shall not preclude the Hoschton City Council from recognizing and hearing from any member of the public, when in its judgment it may be advantageous to do so.

The Hoschton City Council shall approve, conditionally approve, or deny the preliminary plat application within thirty-five (35) calendar days from the date it first considers a preliminary plat application at one of its public meetings (Sec. 409 Subdivision Ordinance).

### **CRITERIA FOR ACTION ON A PRELIMINARY PLAT**

In Hoschton, with respect to preliminary plats, the subdivision and land development ordinance is clear on what the criteria are for approval of a preliminary plat:

***“The basis of the Hoschton City Council’s action on a preliminary plat shall be whether the preliminary plat meets the purposes and requirements of this Ordinance and other applicable laws and is consistent with the comprehensive plan” (Sec. 409(e) subdivision ordinance).***

In order to fully evaluate these criteria, in this report the consulting planner cites provisions of the subdivision ordinance and comprehensive plan and makes findings.

### **PLANNED UNIT DEVELOPMENT (PUD) ZONING**

After an arduous process with starts and stops, and changes over time including the withdrawal by the current applicant and re-assignment of application responsibility to the primary property owner, Shannon Sell, the annexation and rezoning of land to PUD (Planned Unit Development) was approved by the Hoschton City Council in 2023. To be consistent with the zoning ordinance of the City of Hoschton, the project is expected to be in compliance with all applicable regulations for PUD zoning districts (Sec. 408 zoning ordinance). One of the intended purposes of the PUD zoning district is to “provide development with greater benefits to the City than a development developed under a conventional zoning district.”

A minimum of 20 percent of the total site area of the district development shall be open space, greenspace, passive recreation, community recreation, or pervious landscaped areas or combination thereof. No more than one-half of open waterway and delineated wetlands shall count as the minimum required open space. Rights-of-way for streets, drainage easements, and detention ponds shall be excluded from land considered for open space. When the PUD is phased, the provision of open space should also be phased proportional to the phased development. (Sec. 408 zoning ordinance).

The original proposal did not involve anything but residential uses and open spaces. The applicant initially proposed 399 units (one less than the amount that triggers a development of regional impact (DRI) review and submission of a traffic impact study). The applicant proposed 90 townhouses on the portion of the PUD west of East Jefferson Street but has since determined it prefers to develop them for the same number of detached homes. The option

remains for the applicant to construct fee simple townhouses or detached dwellings on that part of the PUD west of East Jefferson Street.

The PUD application included a zoning plan or a site development plan. The Hoschton zoning ordinance requires that the development plan submitted with the application, unless specifically stated otherwise, shall be a condition of PUD zoning approval and must be followed (Sec. 408 zoning ordinance).

PUD zoning applications are required to include some additional submissions such as comparisons of improvement requirements, a community benefit statement, a list of land uses to be allowed in the PUD, and all dimensional requirements to be followed. Except for these unique requirements, the rezoning application is treated with the same sort of procedures as applicable to rezoning applications for other zoning districts.

*Site plans submitted with a rezoning application are not, as a matter of routine, exhaustively reviewed for compliance with all applicable regulations.* The submission of a site plan with a zoning application, even in the case of a PUD application where the site plan is binding, is not required to be exhaustively reviewed for conformity with all applicable regulations, nor is a concept plan submitted with a rezoning application required or expected to demonstrate compliance with all applicable regulations, but only that the project is feasible under the proposed zoning district.

The fact that a site plan is included in a PUD zoning district and approved by City Council and required to be followed, does not substitute for subsequent steps in the process such as and specifically including a preliminary plat. *It is only at the time of a preliminary plat that detailed review for compliance with applicable regulations is completed.* Prior submissions may have implied inconsistencies with regulations that were not noted by consulting planner in review of the rezoning application.

A lack of comment by the city's reviewers does not constitute approval to deviate from a particular regulation. To the contrary, there is nothing in the codes that says a zoning plan for a PUD zoning district is approved and allowed to deviate from code requirements *unless* they are specifically otherwise authorized during the applicable process. To the contrary, local government approval of a rezoning site plan cannot be construed as constituting a waiver of compliance with code requirements to the extent the plan doesn't demonstrate compliance therewith. Any permit issued or permission granted is null and void if it fails to follow applicable regulations.

Although not specified in the Hoschton zoning ordinance, it is instructive to consider what might be considered legally binding on the city as a result of approving a PUD zoning application. In consulting planner's viewpoint, the approval by the city of a PUD application should give the property owner rights to the permitted uses specified. Further, one would expect the project should be able to maintain without further restriction any maximum density or number of units authorized by the zoning approval such as lot size and units per acre (unless changed by the City Council through applicable procedures).

However, such an approval of a PUD site plan does not entitle an applicant to develop according to the rezoning site plan with specific regard to the physical layout of the development proposal, especially when there are subsequent steps in the process (i.e., preliminary plat and development plan approval) that must be completed.

**PROPERTY TO BE SUBDIVIDED/TRACT PLAN FOR FUTURE ROADS/CORRIDOR MAP**

The subject property includes multiple current property owners. The boundary of the PUD includes some but not all of tract(s) of land owned by Shannon Sell. The city's review of the application for preliminary plat approval by The Providence Group is challenged some by the fact that the application includes part but not all of the Shannon Sell property. This was not necessarily an issue at the time of zoning, because zoning boundaries are not required to conform to existing property lines.

However, because the application contains only part of the Shannon Sell property, it is not just a practical problem but may be a legal issue in light of general provisions of the Hoschton subdivision ordinance which call for land to not be sold or offered for sale unless a preliminary plat and final plat is approved.

Further, due to exclusion of the full property owned by Shannon Sell, the city is unable to examine the following provision of the subdivision ordinance:

**"Sec. 604. Tract Plan for Future Roads and Phases.**

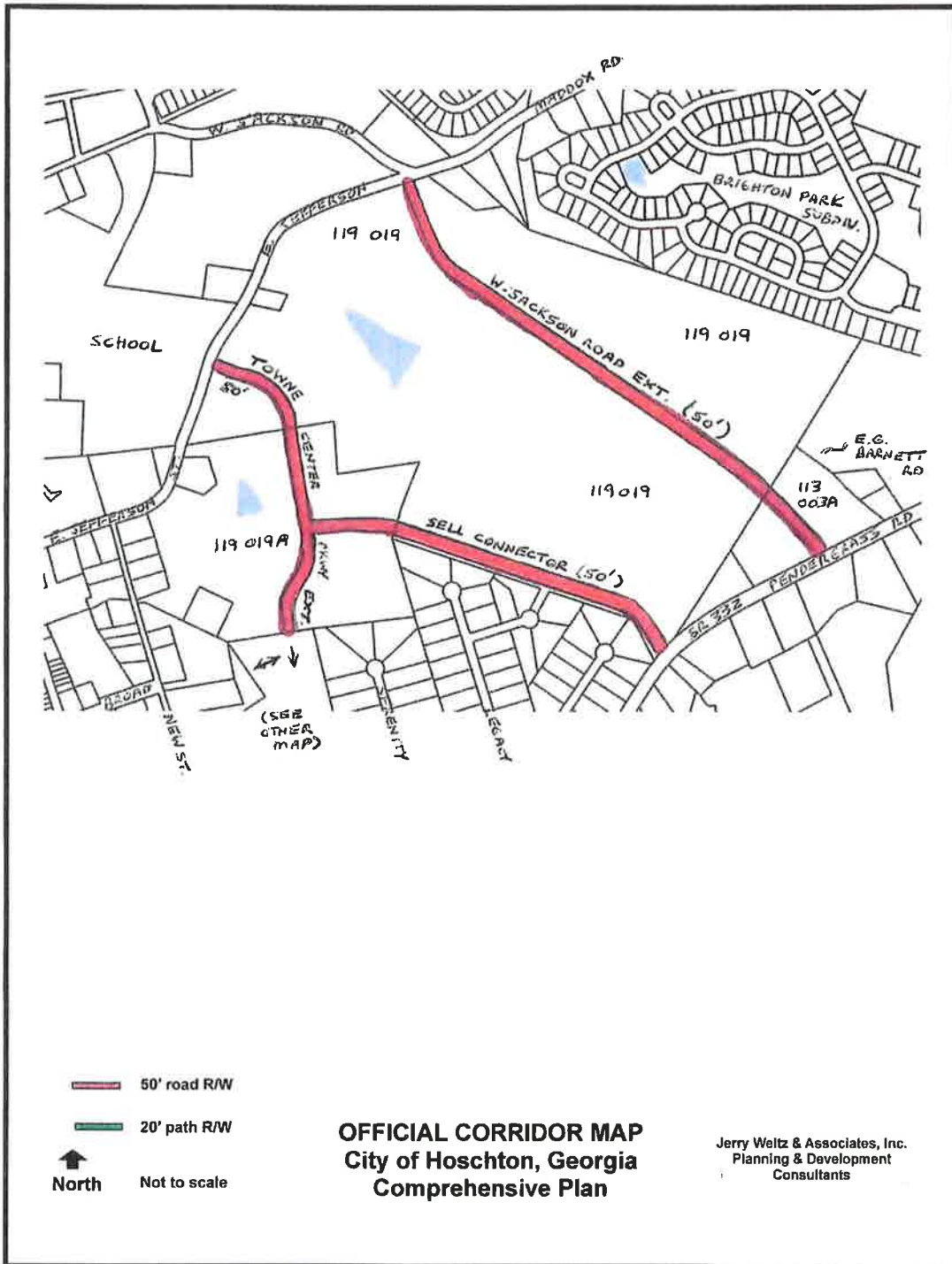
Where the land proposed to be subdivided or developed includes only part of the tract owned or intended for subdivision or development by the subdivider or land developer, a tentative plan of a future road system for the portion not slated for immediate subdivision or land development consideration shall be required by the Zoning Administrator. When such tentative plan is required, it shall be prepared and submitted by the subdivider or land developer at the time of submission of an application for preliminary plat or development plan approval, whichever occurs first."

This code provision could be, but has not been, interpreted to require a "tentative plan for a future road system" that shows the remainder of the Sell tract. Yet, the intent of this section, read in the context of overall purposes of the subdivision regulations relative to access, cannot be met without additional information. It would be appropriate to require further information with regard to the remainder of the Sell tract.

The current applicant, The Providence Group, in a recent meeting has indicated that it is interested in and may consider developing other portions of the Sell tract (which would require rezoning). A full and complete picture of future development on all of the Sell property is not currently available. Without it, however, the city is challenged in trying to make the wisest decision possible relative to the future road network of the city.

Months ago, in an effort to address overall needs for the road network in view of pending development proposals, the consulting planner requested and council initiated code amendments to provide for a "corridor" map (also referred to as an "official" map in subdivision enabling legislation). Importantly, that effort was undertaken simultaneously, more or less, with consideration of The Providence Group's PUD proposal and other annexation and rezoning proposals in 2023. This was a proactive approach by the consulting planner to try and get ahead of preliminary plat applications and decisions (including the subject property but also others) and provide guidance about local street network planning and to provide a tool in the form of a "corridor map" to implement appropriate road access policies during the process of rezoning approval, subdivision platting, and development permitting.

Ultimately, via Ordinance O-2023-05, the city adopted corridor map regulations as an amendment to the subdivision ordinance. The city considered but did not include proposals referred to here as the "West Jackson Road extension" and a "Sell Connector" (the latter was initially suggested by Shannon Sell as a potential alternative to the West Jackson Road Extension from East Jefferson Street to Pendergrass Road (SR 332)). These proposed roads are shown on the map below. These maps were voted down by a split decision of a city council that included one outgoing and one temporary, appointed city council member. During discussion of those maps by Council, it was noted that there was nothing to prevent the city from re-initiating one or both of the road proposals, and there was some suggestion by one or more city council members that the map showing suggested future right of way reservations could be reinitiated at a later date.



Corridor Map Proposed but not Adopted

Separate from, and in addition to consideration of a corridor map regulation, consulting planner recommended in early versions of recommended conditions of zoning approval for the PUD (Z-23-02) in July 2023 that the subject PUD incorporate a public through street. This included the following detailed recommended condition (this was not included in final ordinance):

**“5. Interconnecting public street.** The owner shall construct a public, non-gated street within the PUD that connects Pendergrass Road (SR 332) with East Jefferson Street which shall include/conform to the following:

- (a) **Location and design.** The location and design of the interconnecting public street shall be as proposed during preliminary plat approval and as approved by the Hoschton City Council.
- (b) **Phasing.** Construction of the required interconnecting public street may be phased, if the PUD is proposed to be phased, subject to the approval of the Hoschton City Council at the time of preliminary plat approval.
- (c) **Permissive options for design.** A landscaped median may be incorporated into the design. The interconnecting street may incorporate traffic calming measures. The street design may include 90-degree turns, or stop sign-controlled intersections, and/or traffic circles (roundabouts) at intersections with internal subdivision streets or at recreational amenity entrance(s).
- (d) **Right of way width.** The minimum right of way width of the street shall be 80 feet in accordance with the city’s collector street standards; provided, however, that said minimum right of way may be reduced to 60 feet with approval of the Hoschton City Council based on specific design proposed, if other components of this condition are met.
- (e) **Pavement width.** The minimum pavement width shall be 28 feet from back of curb to back of curb for two-lane sections of the required street. The street may be required at the time of preliminary plat approval to incorporate turn lanes into other internal subdivision streets or recreational amenity entrance(s) within the PUD east of East Jefferson Street.
- (f) **Access restriction.** Individual lots may front on but shall not have individual lot driveway access to this required interconnecting public street.
- (g) **Curb and gutter and sidewalks or paths.** Curb and gutter (vertical curbs required) and minimum five-foot wide sidewalks shall be required to be constructed on both sides of the required street; provided however that with Hoschton City Council approval one multi-use path meeting city specifications may be substituted for sidewalks on both sides of the street.
- (h) **No on-street parking.** On-street parking shall not be permitted on this required interconnecting public street.”

The applicant, The Providence Group, did not agree to this condition when it was proposed. Recognizing that lack of acceptance, an effort was made to negotiate, including the active participation of the principal property owner, Shannon Sell. This is where the lower road proposal, referred to here as the "Sell Connector" came from. A later iteration of staff recommended conditions of approval for Z-23-02 excluded this condition #5 above in favor of a negotiated alternative.

Importantly, during the process of finalizing the Providence Group's PUD annexation and rezoning, a recommended staff report suggested that the lower road proposal, referred to here as the "Sell Connector," would become a part of the PUD proposal. Indeed, the applicant revised the PUD concept plan to show a reservation of future right of way corresponding more or less to the Sell Connector proposed on the map considered for adoption as part of the corridor map. Further, a condition of zoning regarding that road reservation was written into the draft ordinance for Z-23-02 but was ultimately removed prior to bringing it up for adoption. A condition that planning staff recommended, that reflected the compromise position, was removed by the city from the adoption ordinance. Although the condition was removed from the ordinance, the site plan continued to show the reservation, and by virtue of other conditions of zoning approval, the road reservation was and is still made a requirement of zoning approval.

Finding: Because there is not information on how the remainder of the Sell Tract is likely to be developed, the spirit and intent of Sec. 604 of the subdivision ordinance cannot be met. There is no provision for determining how the reserved land on the subject preliminary plat will relate to and connect with abutting property owned by Sell and which may per the applicant become a future phase of the PUD (if rezoned). Accordingly, Sec. 604 of the subdivision ordinance is not met with the application as submitted. This finding justifies denial of the subdivision plat or a request that the applicant provide additional information to evaluate compliance with its provisions. Also, the city is unable to determine that the overall purposes of the Hoschton subdivision ordinance with regard to access (cited elsewhere in this report) will be met, unless such information is provided. That is because the reserved right of way dead-ends into part of the Sell tract that is still zoned agricultural and for which no development plan or zoning proposal has been submitted.

## **PURPOSES AND INTENTIONS OF THE SUBDIVISION ORDINANCE**

The consulting planner's recommendations in this report serve the following purposes and intentions, among others (Section 102, Purpose and Intent, subdivision ordinance):

- To assure the provision of required roads, utilities, and other facilities and services to new land developments in conformance with public improvement standards of the City;
- To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.
- To assure, in general, the wise development of new land areas, in harmony with the comprehensive plan of the community.
- To help eliminate the costly maintenance problems which develop when roads and lots are laid out without proper consideration given to various public purposes.

“Convenience” of the public in terms of vehicular access is clearly within the purposes and intentions of regulation. “Circulation” of traffic also is an important consideration and goes beyond considerations of merely reviewing the adequacy of the road proposals within the subdivision. “Wise” development of new land areas should include consideration of whether the subdivision proposal helps or hinders overall vehicular circulation within the community. A purpose of the subdivision ordinance is to “eliminate costly maintenance problems which develop when roads are laid out without proper consideration to various public purposes.”

In the subject case, the applicants brought a development proposal through the annexation and zoning process. Prior to filing the annexation and zoning application for the subject properties, the applicants were advised by the consulting planner of the need or desirability to provide a connection for the proposed development with Pendergrass Road (SR 332), in addition to the proposal to utilize East Jefferson Street as (then) the only entrance to that part of the Planned Unit Development (PUD). The applicant followed this advice and supplemented the development proposal with an additional tract of land with frontage on Pendergrass Road (SR 332). This is known as the “Cheek” property. This was an important step in ensuring that the PUD had more than one principal means of access to the surrounding road network.

Providing a connection to both East Jefferson Street and Pendergrass Road (SR 332) furthers the purposes and intentions of the subdivision regulations, i.e., to provide convenient vehicle access to and through the community. The design of this part of the PUD (subdivision) with two major access points ensures that the residents living within the subdivision have two ways in and out of the development. However, *unless the route is public*, it does not ensure the residents outside the project can share in the convenient access provided by such a through street.

#### **CITY REGULATION OF PRIVATE STREETS**

The applicant’s proposed preliminary plat shows an intent to put up gates at the two entrances to the subdivision. Section 624 of the subdivision ordinance addresses what is required for private streets to be approved.

“Private streets may, *upon application*, be permitted by the City Council. ***Approval shall be sought and obtained as a part of preliminary plat approval*** (Sec. 624 subdivision ordinance). (emphasis added). Clearly, per the letter of the law, the applicant does not have and is unable to obtain approval for private streets, until it is sought and obtained as a part of preliminary plat approval.

The applicant’s expression of intent and references to private streets in its PUD zoning application, and any references to private streets in the conditions of zoning approval for the subject property (Ordinance Z-23-02) cannot be interpreted as providing City Council approval of private streets within the development, since by local regulation as cited above, approval to construct private streets shall be sought and obtained as a part of preliminary plat approval. Were the specific provisions of Sec. 624 acknowledged at the time, the language of the zoning conditions would not have been drafted such that they provide implicit approval of private streets outside the proper process.



## THE PROPOSAL FOR PRIVATE STREETS

The purposes of the subdivision regulations cited above are frustrated or not fully met if the streets are proposed to be private and the subdivision is gated, thus restricting through access by nonresidents. Indeed, the applicant desires to have the PUD served only by private streets (gated) rather than have any public streets.

The proposal to have private streets may have merit with regard to reducing city expenditures for street maintenance. However, if the effect is to exclude public through traffic, and that is what the applicant's proposal would do, those private streets by definition would not serve or satisfy all of the public purposes, including as just one example, the street connectivity policy of the comprehensive plan (discussed in another section of this report).

There is broad interest and sufficient public benefit to provide for public through traffic within large developments (residential subdivisions). These benefits were articulated back in 2016 on behalf of the Hoschton City Council to the Jackson County Board of Commissioners with regard to Shannon Sell's proposed abandonment of E.G. Barnett Road (see later section of this report for additional discussion).

Private streets are not always in the public interest. They are not in the public interest in the case of this preliminary plat, in the consulting planner's opinion.

Safe and adequate vehicular circulation is a public purpose that applies not only to the residents or occupants of the subdivision or development (i.e., within the development itself). It also applies to the surrounding area and the larger community. Purposes of the subdivision regulations clearly recognize and promote the laying out of roads in a manner that gives proper consideration of public purposes. By extension, it is a substantial and compelling public interest to ensure that the preliminary plat meets these public purposes.

The use of private streets requires approval by the City Council. They were not approved via the rezoning process, because the code assigns the approval process to the preliminary plat stage of development consideration. Construction of private streets proposed in a PUD application is not a right or entitlement.

The expectation or assumption is that streets will be public. The approval of private streets is an exception, not a rule. In the subject case, the applicant has indicated in meeting with consulting planner that residential lots within the proposed PUD will command a premium of \$7,000 per lot if gated (compared to lots in non-gated communities). This serves the private interests of the subdivider, but not necessarily the city or the public. The applicant does not have a right to have all private streets in the proposed development.

To illustrate the conditional nature of getting approval for private streets, consider the definition of "road" in the subdivision ordinance which reads as follows:

"A state highway, a county road, a road adopted as a county-owned right of way approved for county maintenance, a street owned and/or maintained by a municipality, **or where permitted, a private road**" [emphasis added]

Any contention by the applicant that private streets were approved as a part of the annexation and zoning/rezoning application is unsupported by, and conflicts with, the city's subdivision regulations. That is despite reference to possible (tacit) approval of private streets in conditions of zoning approval. As noted above, tacit approval of private streets in the conditions of zoning approval was inconsistent with Sec. 624 of the subdivision ordinance.

### **COMPREHENSIVE PLAN**

"Comprehensive plan" is defined in the subdivision ordinance as "Those coordinated plans or portions thereof which have been prepared by or for the Hoschton City Council for the physical development of the jurisdiction; or any plans that designate plans or programs to encourage the most appropriate use of the land in the interest of public health, safety and welfare." This includes the city's own comprehensive plan, but also, the county's 2019 transportation plan. Further, to some extent the Jackson County comprehensive plan and unified development code come into play in Hoschton, because of the references to county level of service standards in the comprehensive plan and references to county standard drawings in the city subdivision ordinance. In addition, the Metropolitan Planning Organization's (MPO's) regional transportation plan is relevant to the discussion. A thorough review can and should consider all policies and findings in all of these documents.

When a local subdivision ordinance requires subdivision plats to comply with the local comprehensive plan, as does Hoschton's regulations (see citation above), it is appropriate to deny approval if the proposed preliminary plat fails to conform to recommendations of the comprehensive plan. A local comprehensive plan is not normally considered to be a legally binding document in Georgia. In the context of references to implementation of the comprehensive plan in the city's subdivision ordinance, however, the comprehensive plan holds considerable sway. The fact that the comprehensive plan is to be considered in the plat approval process is suggestive enough of the need to evaluate the plat's consistency with the comprehensive plan. It is also reasonable and acceptable to deny a preliminary plat that is found to be inconsistent with the comprehensive plan.

Incidentally, the evaluation of the proposal's consistency with the comprehensive plan could also include weighing the consistency of proposed uses in the PUD with the recommendations of the future land use plan. That type of evaluation is not done here, because the subject property has been approved for residential development at approximate three units per acre, and the time to be concerned with land use consistency has now passed with adoption of the PUD zoning.

Finding: A primary purpose of subdivision regulations is to assure that subdivision streets will be adequate, appropriate, and well designed. Also, a purpose of requiring subdivision approval is to prevent a subdivider from laying out streets to his or her own liking without official approval. In consulting planner's view, it is appropriate to withhold or deny approval for one or more private streets in the subject subdivision, at least to the extent that such proposal will not facilitate general public access through the property.

The PUD's condition of zoning approval requires that there be a street interconnecting East Jefferson Street/ Maddox Road and Pendergrass Road (SR 332). At issue, of course, is whether that street should be allowed to be gated, as proposed by the applicant, or whether the street should be required to be a public through street as recommended by the consulting planner (i.e., not allowed to be private and gated).

As noted elsewhere, the subdivider is not entitled to approval of private streets, and per code, approval of private streets is an authorization that must be granted by City Council during preliminary plat approval (See Sec. 624 Hoschton subdivision ordinance) (not at the time of PUD rezoning, regardless of any implications to the contrary).

Finding: The comprehensive plan is highly supportive of the city playing a leadership role in helping to solve problems of congestion along SR 53. The comprehensive plan, under the needs and opportunities element, has this to say about transportation and the SR 53 corridor:

“State Route 53 as the main corridor through the city is expected to need widening, improvement, or an alternative route. State and regional solutions proposed to solve problems of congestion on SR 53 have shifted over time, from widening the existing route, to providing a bypass route, to providing roundabouts. *A locally supported solution should be made* with Hoschton taking a leadership role (with the Town of Braselton) as opposed to regional and state solutions dictating final design outcomes.” (emphasis added)

The recommendation that the preliminary plat incorporate a public through route is highly consistent with this identified need of the comprehensive plan. To the contrary, the absence of a public through street in the project is considered inconsistent with the comprehensive plan.

The proposed through street would allow for some percentage of traffic to get back and forth from East Jefferson Street/ Maddox Road to SR 332 east of Town Center Parkway without using SR 53 or New Street, thereby providing some significant relief to travelers who would otherwise utilize SR 53 in Hoschton or cut through the city on New Street, which is substandard and not designed to handle significant additional traffic without improvement.

Finding: The comprehensive plan has a policy titled “infrastructure readiness” which reads as follows:

“**Infrastructure Readiness.** Provide and maintain sanitary sewer capacity and road capacity in order to attract new industry and manufacturing and commercial activities. Reserve such capacity for the types of industries and businesses that need the infrastructure.”

Road capacity along SR 53 is freed up or reserved for commercial and industrial development to the extent that the road system creates additional opportunities for residential development and other travelers to utilize routes other than SR 53. Traffic generated by residential development that utilizes some route other than SR 53 frees up capacity on the highway for commercial development (such as the proposed Kroger/ Towne Center Marketplace). The proposal to provide a public collector through street within the preliminary plat boundaries is therefore consistent with, and would implement, this comprehensive plan policy.

Finding: The comprehensive plan, under community facilities and services, articulates the following policy:

**“Level of service standards.** Establish and maintain level-of-service and/or performance standards for the major community facilities and services provided by the county. Unless specified by facility-specific master plans and adopted as superseding policy, such as a capital improvements element for impact fees, the city should strive to maintain the minimum level of service standards adopted by Jackson County in its 2015 Comprehensive Plan, adopted and as may be amended.”

The proposed public through road would meet this policy by helping to divert additional traffic as the city grows onto portions of the road network other than SR 53, including the intended minor collector street named East Jefferson Street and Maddox Road. Without an interconnecting public road within the proposed project, traffic will further degrade the existing road network, including SR 53 and New Street. Additional traffic, including that from the subject development if approved, will likely result in the need for public expenditures to improve New Street, which is currently substandard in terms of right of way and pavement width.

Finding: The comprehensive plan has a “connectivity” policy which reads as follows:

**“Connectivity.** Promote regional and countywide connectivity in the local road network, including intercity travel. All new roadways except low volume, local residential subdivision streets, should connect at both termini with the existing road network. Local streets should be planned where possible with more than one connection to the existing public road network. Street stubs should be provided to ensure connectivity with future subdivisions on abutting lands.”

Approval of the proposed preliminary plat without a public, interconnecting street as recommended by the consulting planner, would be inconsistent with this plan policy and would be a basis for denial of the preliminary plat. The road segment(s) required to connect East Jefferson Street/Maddox Road and Pendergrass Road (SR 332) are not low volume, given they could carry 3,150 vehicle trips per day or a substantial portion thereof. The proposed PUD will generate 3,150 vehicle trips per day. This policy supports requiring a connecting road through the PUD.

This policy must be interpreted in terms of public, rather than just private access, given that the policy also refers to “inner city travel.” Further, it is not realistic to interpret plan policies as allowing outright private streets, because private streets do not serve all public purposes. A private-only through street would not meet this policy and would a basis for denial of the preliminary plat.

Finding: The comprehensive plan also includes the following transportation policy:

**“Context Sensitivity.** Design planned roadway improvements in a way that is context sensitive, preserves, or creates a sense of place for the areas in vicinity of the improvements, and that enhances community aesthetics.”

This plan policy suggests that a collector street, carefully designed with multiple objectives in addition to through travel, such as a tree-lined parkway appearance, multi-modal facilities like wide sidewalks or a multi-use path, and meandering curves, could be designed in a way that was an asset to the neighborhood, not a liability, in the consulting planner’s viewpoint. The applicant has disagreed with the consulting planner on this point and appears to disagree that a parkway or divided collector road (however well designed) would be a benefit to the project.

Traffic calming techniques can also be utilized to slow travel. Stop signs can be placed to slow down traffic, and truck traffic (except local deliveries) can also be prohibited, all with the intent of making any public through street compatible and sensitive to the context of the proposed neighborhood. Take, for example, the Twin Lakes PUD, which has a central parkway (divided by a median in places and constructed with a multi-use path) that serves as a center point for funneling traffic from the various neighborhoods in Twin Lakes PUD (public and private) to SR 53.

Finding: The comprehensive plan also includes the following policy:

**“Adequate Public Facilities.** Development should not occur or be approved which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, public safety facilities, parks and recreation facilities, libraries, schools, or other publicly-provided facilities and services. As a condition of approval, major subdivisions (6 or more lots) and major land developments should be required to demonstrate availability of public water, fire protection, law enforcement, roads, stormwater management, parks and recreation, and public school facilities. Major subdivisions and major land developments that cannot demonstrate all such facilities are available or planned at the time of development or within a reasonable period of time thereafter may gain approval only if they mitigate the lack of such facilities, through the dedication of land in the subdivision or off-site, on-site and/or off-site improvements, payment of impact fees if imposed by the city, or payment of in-lieu fees or other acceptable arrangements via development agreements.”

Without a public through street, the development is likely to result in excessive or burdensome use of existing streets, especially SR 53, New Street, and East Jefferson Street. The subject request is a major subdivision that should demonstrate availability of roads. Much will be done by the project developer to improve the intersection of West Jackson Road/East Jefferson Street/ Maddox Road, with proposed road improvements including a roundabout, as well as improvements along Pendergrass Road (SR 332).

However, there will still be burdensome impacts on the road system as a result of this subdivision. A public through road, advocated by the consulting planner, is one way of partially mitigate the traffic impacts with an on-site improvement. Without the proposed on-site road improvement that is a public road connecting to both ends of the existing road network, the proposed preliminary plat is considered inconsistent with this policy for adequate public facilities. That inconsistency is a basis for denial of the preliminary plat application and denial of the request to have private streets.

Finding: The regional transportation plan is a document that is interpreted as being within the definition of “comprehensive plan” in the city’s subdivision ordinance. Therefore, it is appropriate to consider the plat application’s consistency with that document. The regional transportation plan includes among others the following policies:

- “Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight” and
- “Emphasize the preservation of the existing transportation system” and
- “Improve the resiliency and reliability of the transportation system...” and
- “Improve the efficiency of the surface transportation system” (p. 11)

“Integration” and “connectivity” are interpreted here to support requirement of a road hierarchy and system within a private development that enhances integration with the surrounding road network and connects to it with the appropriate functional classification. Emphasizing preservation of the existing transportation system suggests that road proposals in subdivisions should be evaluated for the extent to which they help preserve the capacity of the system or would tend to overburden it. As noted elsewhere in this report, without a public through street connecting SR 332 and East Jefferson Street, the project will not preserve the existing transportation system and it certainly will not improve the resiliency and reliability of the transportation system. These inconsistencies support denial of the application for private streets, or at least denial to the extent that a public through street through the Sell Property is not provided.

Finding: The regional transportation plan includes the following goal:

“Identify and implement appropriate programs intended to reduce or shift vehicular travel patterns, and the need to expand roadway capacity” (p. 13, Table 4).

Having a public through street in the proposed PUD would allow for some shift of vehicle travel patterns away from current routes (that now emphasize use of SR 53) and would be a step toward expanding roadway system capacity and providing for alternative routes. The requirement to provide a public interconnecting road through the project is therefore consistent with this regional plan goal. Excluding a requirement for a public road would be inconsistent with this regional plan policy and would serve as a basis for denial of the proposal for private streets.

Finding: The regional transportation plan includes the following goal:

“Provide adequate access for emergency service vehicles throughout the system” (p. 13).

Having a public through street in the proposed PUD would allow emergency service vehicles to quickly access the residents of the subdivision itself but also reach other destinations within the city more quickly and efficiently than they would if the through street was gated as proposed by the applicant. The requirement to provide a public interconnecting road through the project is therefore consistent with this regional plan goal. Excluding a requirement for a public road would be inconsistent with this regional plan policy and would serve as a basis for denial of the preliminary plat and/or the proposal for private streets.

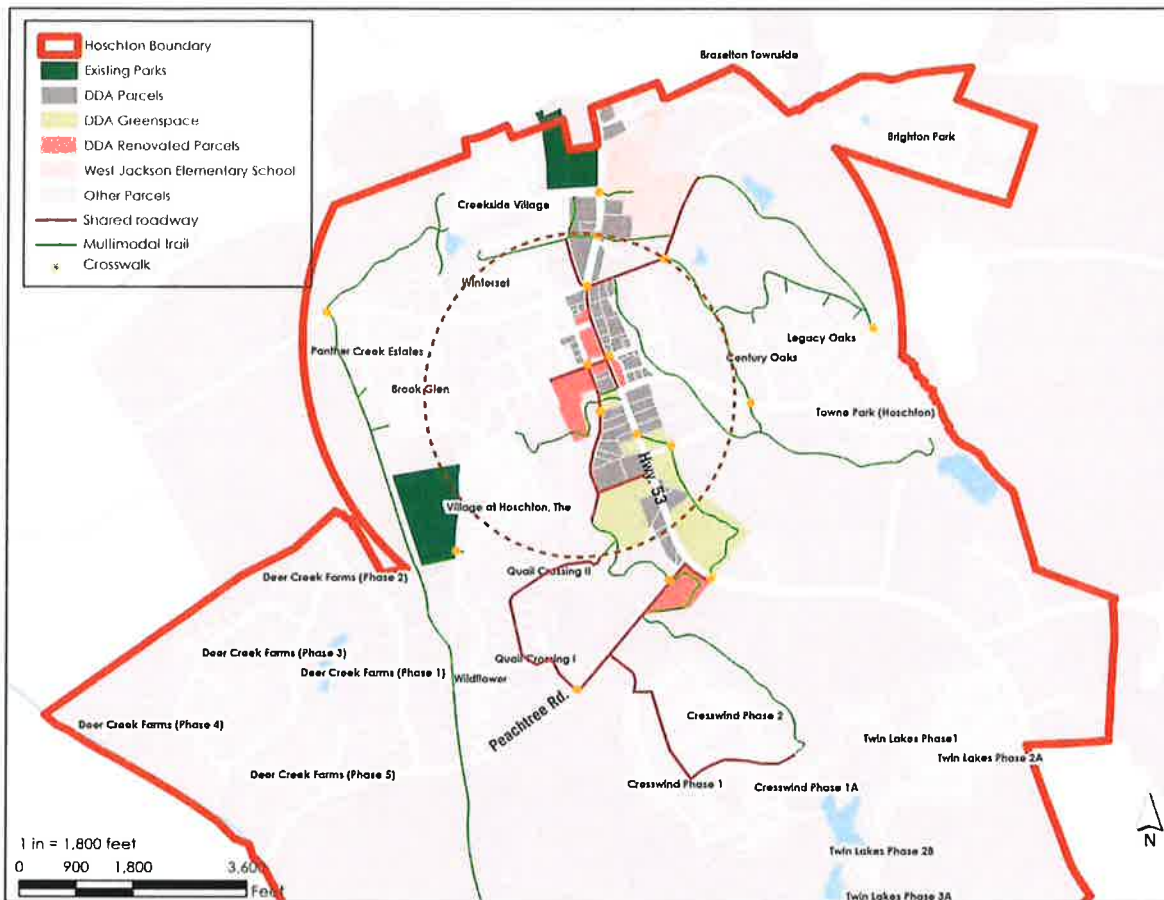
## **HOSCHTON DESIGN CHARRETTE**

Finding: In the final report for the UGA charette report for Hoschton, it finds as follows:

“Hoschton subdivisions are fragmented with no internal connection. All residential roads lead back to Highway 53 (p. 61).

A questionnaire supportive of that document indicates that 44% of people believed that North-South travel via SR 53 was a problem. Also, the report specifically recommended multi-modal trails through the Sell property, including a route much the same as the through street recommended by the consulting planner for the preliminary plat (see image excerpted below):

## Preliminary Plat for Aberdeen Planned Unit Development (The Providence Group)



Source: UGA College of Environmental Design, Center for Community Design and Preservation, Hoschton, Georgia, Design Charette, May 2022, p. 66.

The report also provides the following recommendation: “create a multi-modal trail network using secondary roadways that provide alternative north-south routes other than SR 53” (p. 71). The proposal for a public through street is generally consistent with these recommendations.

### E.G. BARNETT ROAD ABANDONMENT IN 2016

A right of way known as E.G. Barnett Road once connected SR 332 (Pendergrass Road) to Maddox Road through the Sell farm (i.e., the major part of the subject property). Due to unlawful dumping and other nuisances, the owner (Shannon Sell) sought and obtained approval of the Jackson County Board of Commissioners in 2016 to abandon E.G. Barnett Road through the subject property.

The Hoschton City Council at that time opposed the abandonment and voted unanimously to adopt a resolution urging the Board of Commissioners of Jackson County not to abandon E.G. Barnett Road because of the through-travel function that it could provide in the future. The reasoning for the city council’s opposition is still relevant today and is excerpted below, from a letter prepared by the consulting planner Jerry Weitz and sent on behalf of the city:

“...please consider the impact to the traveling public if E.G. Barnett Road was abandoned. With E.G. Barnett Road open to the public, it is only about 0.6 mile from Maddox Road to Pendergrass Road (SR 332). The Board should anticipate the need for Barnett Road to remain as part of the road network serving future suburban and urban development in the area. If E.G. Barnett Road was abandoned, any person (including county emergency service providers) would have to travel approximately three times that distance, or 1.8 miles, from Maddox Road to Pendergrass Road through the City of Hoschton, using East Jefferson Street, New Street and Pendergrass Road. There are no other public roads in the vicinity to connect Maddox Road and Pendergrass Road. Abandonment would result in a circuitous route through the city with longer response/travel times, further congesting the city’s central street system.”

This forewarning in 2016 is even more true today, now that the property owner (Sell) has an opportunity to sell the land, and the buyers have proposed to develop the land for housing. It is appropriate that, at minimum, public through street access through the property be restored to more or less replace the opportunity that was lost due to the abandonment of E.G. Barnett Road. The city probably get only one chance (this preliminary plat application and the application for private streets) to get this right in terms of providing a public through street. Preliminary plat approval without a public through street would mean that opportunity is probably gone forever, leaving an indelible negative mark on the city’s street network design.

#### **PROPORTIONALITY OF THE THROUGH STREET DESIGN; FUNCTIONAL CLASSIFICATION OF THE PROPOSED THROUGH STREET**

In considering a requirement to provide a public through street in the project, the planning staff and City Council must be sensitive to exactly what type and scale of a public through street should be provided or is requested. The city must address issues of fairness and proportionality in deciding upon imposing conditions of preliminary plat or private street approval. The city cannot assign, and the applicant cannot be burdened with, responsibilities for provision of a road that serves more than just the needs of the subdivision (project) itself. Simply put, it might raise significant questions of constitutional validity if the city were to require the connecting public through street to be designed at a level of service (right of way width, pavement width, etc.) beyond that which is attributable to the needs generated by the development itself. The city could call for an upsizing of such a road (i.e., higher functional classification than justified), but if it did, it would need to consider contributions of public funds to pay for the difference between the project costs and a “system” improvement.

Findings: With 334 lots in the PUD, all of which may be detached single-family homes, the full PUD will generate an estimated 3,150 vehicle trips per day and 315 vehicle trips during a peak hour (per traffic study by W & A Engineering). A local street is generally considered to have volumes of less than 1,500 vehicles a day. The vast majority of traffic generated by the PUD will utilize local streets within the primary part of the PUD (between East Jefferson Street and Pendergrass Road/SR 332); hence the connecting street is expected to carry the vast majority of the total trip generation of 3,150 vehicles per day. Such a trip generation is more than a local street is expected to carry. This means that it is appropriate to design the primary access road(s) connecting to the streets outside the subdivision to a “collector” street standard.



Findings: For one definitive source, see the Federal Highway Administration's *Highway Functional Classification Concepts, Criteria and Procedures 2023 edition*. Per this source, an urban arterial may carry as few as 3,000 vehicle trips per day or annual average daily traffic (AADT) (p. 23). Major and minor collectors in urban areas have AADT of 1,100 to 6,300, while a local street will reportedly carry 80 to 700 vehicle trips per day. "Major" collectors distribute and channel trips between local streets and arterials, usually over a distance of greater than three-quarters of a mile. For "minor" collectors, it is usually a distance of less than three quarters of a mile (p. 24).

Findings: Per the FHA functional classification document, it is justifiable to classify the public connecting road within the proposed PUD as an "arterial," but at minimum it should be considered a "collector" road based on the traffic it will handle. Also of note is that the roads connect to two other major roads in the city's network: SR 332 (Pendergrass Road) (light blue) is shown in the functional classification map excerpt below from the metropolitan transportation plan as a "major collector." East Jefferson Street/ Maddox Road (dark blue) is shown as a "minor collector." Again, based on the amount of traffic it will handle, the interior street required to connect East Jefferson Street with SR 332 (Pendergrass Road) would be at minimum a "collector" functional classification based on the traffic that it will carry. This justifies requiring construction to more than a local street standard.



Excerpt, Functional Classification Map, Gainesville-Hall MPO

Findings: Based on the foregoing identification of the function of the through street as a minor collector, the city's subdivision ordinance establishes the specifications for collector street: an 80 foot wide right of way and 36 feet of pavement width (reference: Sec. 613 Hoschton subdivision ordinance). While an 80-foot-wide right of way and a 36-foot-wide pavement width would be justified, consulting planner initially recommended right of way and pavement widths that were

less than that. As noted above, in the recommended condition that did not get included in the final ordinance adopting Z-23-02, planning consultant suggested an 80 foot right of way but with potential for reduction of right of way to 60 feet.

### **OTHER STREET DESIGN ISSUES**

Consulting planner does not favor dead-end streets as proposed in that portion of the PUD west of East Jefferson Street. These dead-end streets appear to comply with an appendix of the International Fire Code with regard to the distance of less than 150 feet, but not necessarily with the city's subdivision ordinance. They were shown this way on the applicant's rezoning site plan. The dead-end "T" designs do nothing to advance public purposes.

### **ALLEYS**

The preliminary plat shows alleys. Alleys provide certain benefits, consulting planner acknowledges. Sec. 612 of the Hoschton subdivision and land development ordinance states that alleys may be provided in residential subdivisions. The code does not specify that the alleys must be public or private. Staff supports all alleys being private (as also proposed by the applicant).

The minimum width of a residential alley is required to be 30 feet per code, but alley easements are shown as only 20 feet. Condition of PUD zoning approval 6(c) also specifies that a 30 foot wide alley right of way be provided. But, the condition also allows for a potential reduction of alley right of way to 20 feet *if approved during the preliminary plat process*. Consulting planner does not see any reason why a reduction of alley right of way width (easement) should be reduced to 20 feet. The applicant should be afforded an opportunity to defend and advocate for such a reduction, despite consulting planner's recommendation.

Consulting planner does not favor the proposed design that involves dead-end alleys. There is not any code prohibition against dead-end alleys, but they are still not recommended. Alleys are required to be approved by the City Council. Consulting planner recommends a condition prohibiting dead-end alleys.

### **ROUNDAABOUT**

At the request of the applicant, in lieu of a four-way improved intersection at East Jefferson Street, West Jackson Road, Maddox Road, and the proposed subdivision entrance, conditions of zoning approval were modified to allow for an alternative (a roundabout) if a traffic study was done that warranted or justified the design.

A traffic study was prepared under the management of the city and paid for by the applicant, which provides support for the proposal to install a roundabout. The City Council in a previous meeting was asked to consent to this design decision, and council affirmed the roundabout alternative in lieu of an improved, four-way intersection.

## **EAST JEFFERSON STREET FUNCTIONAL CLASSIFICATION AND IMPROVEMENTS**

Finding: According to the traffic impact study by W & A Engineering, East Jefferson Street is classified as a minor collector street. The regional transportation plan also shows East Jefferson Street and Maddox Road as a minor collector street (see excerpted map above).

Finding: Conditions of zoning approval address requirements for the subdivider/ developer to make certain improvements to East Jefferson Street. This report adds new material and findings relative to the functional classification of East Jefferson Street as a minor collector street. Were it made evident at the time of preparing a rezoning staff report (through a traffic study or through more detailed staff research) that East Jefferson Street is functionally classified as a "minor collector" rather than "local" road, consulting planner would have substituted in the language of zoning conditions that a "collector" street standard be applied rather than a local street standard.

Finding: The proposed preliminary plat does not comply with the conditions of zoning approval as it pertains to the improvement of East Jefferson Street. The dedication of additional right of way is required. The preliminary plat shows a pavement width that does not match the 36 feet specified in zoning condition 9(b). No alternative pavement width has been specified by a third party engineer and approved by the city.

Finding: The 36 foot pavement width required in the conditions of zoning approval is the same as that required for a minor collector functional classification of East Jefferson Street (i.e., a minimum of 36 feet for a collector street per Hoschton's subdivision ordinance, Sec. 613).

Sidewalk is required along both sides of East Jefferson Street, and sidewalks are shown along both property frontages as required by conditions of zoning.

Finding: A 36-foot-wide pavement width along that portion of East Jefferson Street before entering the proposed roundabout appears to be highly justified in terms of actual local traffic conditions involving the adjacent public school. There is reason to believe that pavement width constructed to a collector street standard of the subdivision code (i.e., 36 feet in width) would help East Jefferson Street to better facilitate traffic queues into the public school. Specifically, a 36-foot-wide pavement width is enough for one through lane in each direction plus a turning or additional lane. In this case, a long stacking lane into the school entrance could be provided. For that reason, the 36 foot (full collector) pavement width for East Jefferson Street south of the approach to the roundabout is justified.

## **ROAD RESERVATION (SELL CONNECTOR); INCLUSION OF ABUTTING TRACTS**

During discussions with consulting planner, the applicant, and property owner at the time of rezoning, there were discussions about providing public road connectivity. The applicant does not want to provide a public through street. The current owner of part of the PUD, Shannon Sell, during a meeting, proposed part of an alternative public through street along the lower part of the subject property, which would conceivably (eventually) be made to connect to the remainder tract controlled by Sell (hence the name given to that project, "Sell Connector"). A condition of zoning approval was crafted by consulting planner to that effect, but then it was removed from the ordinance text (zoning conditions). Nonetheless, the reservation of right of way remained shown on the revised conceptual master plan which itself is a condition of zoning approval.

The initial preliminary plat submitted did not include this reservation of future road right of way. However, the draft preliminary plat was revised to show the right of way after comments to that effect were made by the consulting planner.

The road reservation goes outside the boundary of the PUD onto property owned by Mr. Swafford. The preliminary plat indicates that the proposed right of way for the road reservation at SR 332 (Pendergrass Road) is to be "obtained by the city." Consulting planner's understanding from discussions with the applicant is that the applicant controls, or is under contract to purchase, the Swafford Tract. This is also evident from the applicant filing a division plat with the city and county for the Swafford Tract (recommended for withdrawal by consulting planner since it does not meet county minimum lot size for the current zoning); a prior recommendation of consulting planner was that the Swafford Tract be annexed and rezoned as part of the PUD.

The land needed to facilitate the Sell Connector future road right of way as shown on the preliminary plat and made a condition of zoning approval should be provided by the applicant, not the city, especially since it was the owner's suggestion and the applicant has the opportunity to acquire the land. A condition of preliminary plat approval is recommended, that the applicant (prior to final plat approval) be required to acquire (and reserve for future public road use) that portion of the road reservation falling on the Swafford Tract, and that the applicant be required to apply for annexation and zoning of the entire Swafford Tract by the City of Hoschton.

#### **ALTERNATIVES/RECOMMENDATIONS REGARDING PUBLIC STREET ACCESS**

The following alternatives are evaluated with regard to the issue of providing a public through street issue, specifically, the connection of Pendergrass Road (SR 332) and East Jefferson Street.

##### ***Alternative 1: Approve the proposed design and approve the request for private streets (i.e., approve as submitted/proposed).***

Analysis: For the multitude of reasons presented in this report, consulting planner recommends against this alternative.

##### ***Alternative 2: Approve the proposed design but disapprove the request for private streets.***

Analysis: The applicant has designed the road to be a through street as required by conditions of zoning approval. Removing the gates and requiring that all roads will be public will satisfy the essential minimum concern of consulting planner (that there be a public through street). As proposed, there are multiple routes through the subdivision from Pendergrass Road (SR 332) to East Jefferson Street. To simply disapprove private streets satisfies the objective of having a public through street. To address concerns about the speed of travel through the subdivision (which can occur whether public or private), the principal public route through the subdivision could be designed to slow speeds by utilizing stop signs and (as proposed) street intersections with 90 degree turns. In addition, traffic calming measures could be employed.

Consulting planner does not have a strong reason to recommend against some of the streets in the PUD being private. However, the foregoing analysis supports the recommendation that, at minimum, there be a public through street connecting East Jefferson Street and Pendergrass Road. A chief limitation of this alternative is that the through street function would be constructed

only to a local residential street standard, whereas the analysis in this report shows that a collector or even arterial street standard should apply to roads that will potentially carry the volumes anticipated. It does not seem appropriate, moreover, to designate one of the roads (the through route) as public and then have the rest of the roads be private while maintaining the current proposed design (because, for one, they are interconnected and private streets could then be utilized for through access).

***Alternative 3: Redesign the subdivision to have one public through street built to collector street standards and have private streets come off of the main spine (public) road.***

During the course of meetings about this project, it was suggested by the consulting planner that the PUD could have a public through street and that gated (private) streets could be run off of the main through road. The applicant does not favor this, or at least has not expressed willingness so far to consider this alternative. Consulting planner favors an alternative of this sort, because (for one) it is believed (per prior discussion) that a divided parkway with a multi-use trail on one side (similar to Twin Lakes' entry road) could make for an attractive and functional project and add to the quality of life of the residents and the city as a whole, while meeting city objectives for public street access. Lots could front on such a public road, although direct access would be discouraged and should be minimized (but yet could be provided if necessary). Second, such a road could be designed in a location chosen by the applicant, in the place most advantageous to the project, in a way that minimizes any loss of buildable lots and impacts on individual homeowners. Third, the principal road connecting East Jefferson Street and Pendergrass Road (SR 332) would serve as a collector street function, per the analysis provided in this report, and this alternative would result in a road design that better serves the collector street function than allowing the current road design (alternatives 1 and 2). Fourth, this alternative would still allow the applicant to have some private streets and gates, but they would not inhibit the public through street function of a collector road connecting East Jefferson Street and Pendergrass Road.

Another advantage of this alternative, in the consulting planner's view, is that it could lead to the removal of the "Sell Connector" reservation (that would take a change of zoning conditions that could be initiated by the city if the applicant accepted this alternative and redesigned the subdivision with a public through road serving a collector street function and designed as such). It should be remembered that the Sell Connector idea was proposed by Shannon Sell as an alternative to the public through street. If the public through street were provided, there would ultimately not be any need to have the Sell Connector. Consulting planner would support the city initiating a zoning condition change that would remove the Sell Connector reservation requirement, *if* an acceptable collector through street were provided in the preliminary plat design.

## **CONCLUSIONS**

Consulting planner recommends against approving alternative 1 (as submitted) for reasons provided in this report. Consulting planner recommends further consideration by the applicant of alternative #3 above. Alternative #2 is the minimum that should be approved, if council decides that alternative #3 cannot be pursued, but consulting planner does not support that alternative. Recommended conditions of approval are provided below.

*Note: This review is completed for compliance with city zoning and subdivision and land development regulations only. All other requirements for other review agents (GDOT, fire district, city engineer, etc.) are the responsibility of the developer. While every effort has been made to be comprehensive in this conformance/ compliance review, any omission or other failure of this reviewer to articulate a lack of compliance with a given code requirement does not exonerate in any way the responsibility of the designer/ design engineer from complying with all development standards. Issues of noncompliance after this review, if discovered, must still be addressed by the designer or design engineer because administrative personnel are not authorized to sign plats and issue land disturbance and development permits that do not comply with applicable regulations.*

**RECOMMENDED CONDITIONS IF APPROVED:**

1. Satisfy all requirements and recommendations of the city engineer (anticipated to be provided under separate cover).
2. Cover sheet, site note 1 (and other sheets and notes): Remove all references to private streets. Remove proposed gates.
3. Site notes generally are duplicative of conditions of zoning approval. Those notes that duplicate conditions of zoning approval are not necessary and should be removed in favor of the actual list of conditions as provided.
4. Cover Sheet, Site Note 11: Delete (duplicates note 8).
5. Cover Sheet, Site Note 10: Delete (duplicates note 7).
6. Cover Sheet, Site Note 12: Delete (duplicates note 9).
7. Cover Sheet Plan Note "D" Regarding Sidewalks: delete (inconsistent with regulation).
8. Cover Sheet, General Site note 3, delete (reference to speed limit).
9. Cover Sheet, Legend map, change "future right of way" to "reserved for future right of way."
10. Sheet PP-3: Delineate/ label proposed pavement width from centerline of West Jackson Road at or about Lot 311. Also, clarify and/or correct road pavement width labels for West Jackson Road at or about Lots 247 and 248 (unclear whether this meets condition of zoning approval).
11. Sheet PP-3: East Jefferson Street: remove label "23 feet from edge of pavement to edge of pavement"; change label 26 feet face of curb to face of curb to 26 feet back of curb to back of curb.
12. Sheet PP-3: site note 4, remove duplicated wording.
13. Covenants, conditions and restrictions for the subdivision shall require that the homeowner's association be responsible for the maintenance of pavement for any on-street parking spaces.
14. Increase all alley easements shown from 20 feet to 30 feet per Sec. 613 subdivision regulations and condition of zoning approval; unless applicant requests and city council specifically authorizes a reduction to 20 feet (such a reduction is not necessarily recommended by consulting planner).
15. No dead-end alleys shall be permitted (redesign to provide connection to public street at both ends of the alley).
16. Show all road improvements including 36 foot pavement width for that portion of East Jefferson Street outside of the roundabout.
17. Add sidewalk/pedestrian ramps and striping across all streets approaching/ entering roundabout.
18. Incorporate minimum base and paving specifications, as provided in Jackson County Standard Details for the street type proposed, per Sec. 614 Hoschton subdivision and

- land development ordinance. (remove any language to the contrary). Remove repetitive reference to pavement specifications on multiple sheets.
19. Lot details shall incorporate street tree planting requirements of the subdivision ordinance, showing typical location and if needed root barriers.
  20. Change (update) the date for all plan drawings to April 2024.
  21. The proposed sewage pump station shall be shown as being located on its own lot with a minimum of 30 feet of frontage on a street (also must meet condition of zoning approval with regard to size).
  22. Sheet PP-7, remove that part of the note pointing to the road reservation “future right of way to be obtained by the city.” (Remove similar note on Sheet PP-6 about future right of way being obtained by the city). Preliminary plat approval is subject to the following condition: “The applicant (prior to final plat approval) shall be required to acquire and reserve for future public road use that portion of the road reservation shown on the preliminary plat but falling on the Swafford Tract, plus the applicant shall be required to apply to the City of Hoschton for annexation and PUD zoning of the entire Swafford Tract. If annexed and zoned by the city, the Swafford Tract shall be incorporated into the preliminary plat.”
  23. Prior to issuance of a land disturbance permit, the applicant/owner shall be required to file an application to rezone two lots of record now owned by Shannon Sell (0.15 acre connected to Penny Lane and 0.5 acre fronting SR 332 (Pendergrass Road) but outside the PUD boundary to PUD. If rezoned these parcels shall be incorporated into the preliminary plat.
  24. The improvements to West Jackson Road and East Jefferson Street, road widenings, construction of a roundabout and additional right of way dedications, shall be included in the first land disturbance and development permit applications and shall be constructed concurrent with the first phase of land development.

### **SELECTED REFERENCES**

Final Report Jackson County Transportation Plan August 2019. (83 pages)

Gainesville-Hall Metropolitan Planning Organization 2020 Regional Transportation Plan Report (May 2020).

Letter from Jerry Weitz and Associates, Inc. to Jackson County Board of Commissioners dated June 1, 2016, regarding June 20<sup>th</sup> agenda item – request to abandon E. G. Barnett Road (written on behalf of Hoschton City Council)

UGA College of Environmental Design, Center for Community Design and Preservation, Hoschton, Georgia, Design Charette, May 2022.

Traffic Impact Study by W & A Engineering, February 1, 2024 (191 pages).

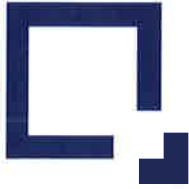
# NEW BUSINESS

## ITEM #4

Preliminary Plat for "Tribute" Planned  
Unit Development

[Consulting planner recommendation: approval, with conditions]





**Jerry Weitz & Associates, Inc.**  
**Planning & Development Consultants**

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Growth Management  
Comprehensive Planning  
Zoning & Land Use Regulations  
Land Development Applications  
Expert Testimony  
Zoning Administration

**MEMORANDUM**

TO: Honorable Mayor and City Council, City of Hoschton

FROM: Jerry Weitz, Consulting Planner

DATE: May 1, 2024

RE: City Council May 9<sup>th</sup> Work Session Agenda Item: **Preliminary Plat for "Tribute" Planned Unit Development:** Rocklyn Homes by Tim Jenkins and PEC+, Applicant, Mary Ann Kenerly, and Trustees of New Hope African, Methodist, and Episcopal Church, property owners, 284.634 acres (287.14 acres PUD) fronting on the north side of State Route 53 (1688 Highway 53) (Map/Parcels 114/001A, 114/002A, 114/001B and 114/001B1); Address of Record: 1688 Highway 53; 1,051 Lots (400 fee-simple townhouses/lots, 651 detached single-family dwellings/lots, 40,000 square feet of retail/restaurant/office; and 23.65+ acres of public land dedication; Planned Unit Development (PUD) Conditional zoning, Ordinance Z-23-03; (Development of Regional Impact #3960)

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MEMO SECTION OUTLINE

APPLICATION REVIEW HISTORY  
SUMMARY OF PRELIMINARY PLAT PROCESS  
CRITERIA FOR ACTION ON A PRELIMINARY PLAT  
PLANNED UNIT DEVELOPMENT (PUD) ZONING GENERALLY  
PROPERTY DESCRIPTION  
ANALYSIS OF PRELIMINARY PLAT AND REVIEW FOR COMPLIANCE WITH CONDITIONS OF ZONING  
PURPOSES AND INTENTIONS OF THE SUBDIVISION ORDINANCE  
PROJECT PHASING  
COMPREHENSIVE PLAN  
CONCLUSIONS  
RECOMMENDED CONDITIONS OF PRELIMINARY PLAT APPROVAL

**APPLICATION REVIEW HISTORY**

After planning staff review for completeness on October 18, 2023, the preliminary plat application was determined to be incomplete and additions and corrections were required. The applicant's civil engineer subsequently attended a pre-application conference with planning and engineering staff and then resubmitted the preliminary plat based on comments received. Upon resubmission consulting planner provided an interim memo dated 2/20/24 on this application to

Mayor and City Council showing the application required revisions before it would be scheduled for consideration by City Council.

The applicant's resubmitted application for final plat approval was reviewed by the consulting planner. There were a total of 84 comments made, which were articulated in the February 20<sup>th</sup> memo from Weitz to Council. The applicant worked to address these comments and resubmitted the preliminary plat with changes. The 84 comments, the engineer's reply as to how they were addressed, and consulting planner's re-check notes are all attached (8 pages) to this memorandum. In addition, consulting planner participated in a 1.5-hour long "Zoom" meeting to discuss and clarify the comments and to indicate how the engineer was to address them. All in all, virtually all if not all of the comments have been satisfactorily addressed (that statement does not necessarily apply to the city engineer's comments which are to be provided under separate cover). Those matters that may still be an issue or require reconciliation are noted in recommended conditions of preliminary plat approval.

The actual preliminary plat under consideration is dated April 10, 2024. A hard copy of the entire preliminary plat is being provided to each City Council member.

### **SUMMARY OF PRELIMINARY PLAT PROCESS**

The Zoning Administrator is responsible for administering the review and approval process for preliminary subdivision plats (Sec. 405 subdivision ordinance). The consulting planner serves as the city's zoning administrator. The Hoschton City Council shall review and have decision making authority on applications for preliminary plat approval and final plat approval for major subdivisions (Sec. 303 subdivision ordinance).

Whenever a person proposes the subdivision of a tract of land, he is encouraged (but not required) to consult early and informally with the Zoning Administrator in the form of a pre-application conference (Section. 402 subdivision ordinance). In the subject case, no pre-application conference was held on the preliminary plat application, though many in-person meetings were held during the zoning process, and the initial application submitted was found to be incomplete. A pre-application conference is intended to permit an early evaluation of the subdivider's or land developer's intentions, **to ensure coordination with the comprehensive plan**, and to provide the subdivider or land developer with the necessary laws, rules, and regulations in order to properly accomplish the proposed project (Sec. 402 subdivision ordinance) (emphasis added).

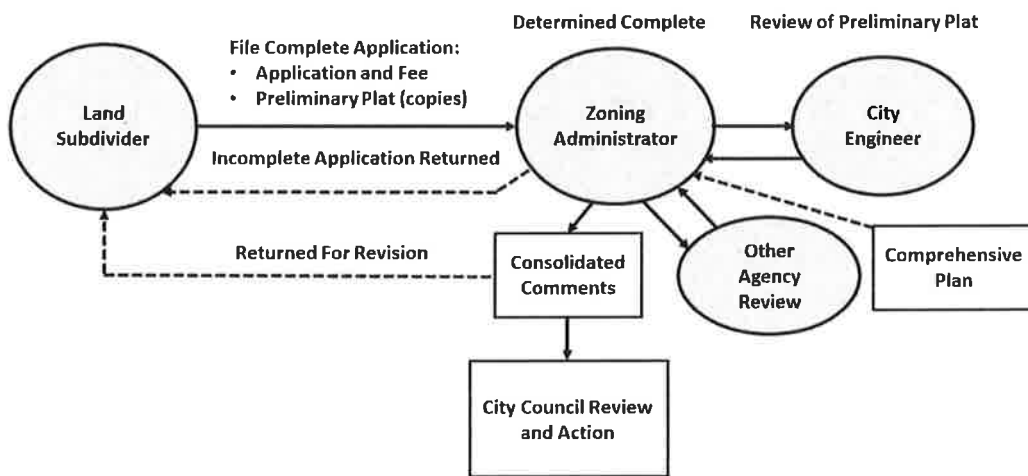
Agency review is a part of the process. In Hoschton, the only local review agents are the city engineer and the zoning administrator, although input from city public works and utilities staff is also possible. The fire district will also review plans for compliance with fire suppression access requirements. In the case of a subdivision abutting a state route, state and local regulations require opportunity for the Georgia Department of Transportation (GDOT) to review and comment on a subdivision plat. The applicant has been advised to ensure that that GDOT is aware of the proposal and that the proposal can incorporate requirements imposed by GDOT for access onto Pendergrass Road (SR 332). Currently there is no record of review or recommendation or action by GDOT made a part of the application file. However, planning consultant is confident the applicant is pursuing those permissions and designing the project with GDOT requirements in mind.

Upon completion of the agency review of a preliminary plat application, the Zoning Administrator shall schedule the application for the next regularly scheduled meeting of the Hoschton City

Council and forward all pertinent materials in the application to the Hoschton City Council for review and action.

The applicant or his or her authorized representative shall attend the Hoschton City Council meeting at which preliminary plat approval is sought. The Hoschton City Council may elect to take no action on a preliminary plat application unless the subdivider or his or her authorized representative is present. Below is a flow chart of the preliminary plat process. This flow chart will change once the city integrates a newly appointed planning commission, which will be charged with providing recommendations on preliminary plats.

### **PRELIMINARY PLAT**



### **Current Process Chart for Preliminary Plat (Excludes Planning Commission Pending)**

Meetings of the Hoschton City Council during which a preliminary plat is considered shall be open to the public, but the Hoschton City Council shall not be required to provide notice to adjacent or nearby property owners of the application and shall not be required to convene a public hearing on the matter. This shall not preclude the Hoschton City Council from recognizing and hearing from any member of the public, when in its judgment it may be advantageous to do so.

The Hoschton City Council shall approve, conditionally approve, or deny the preliminary plat application within thirty-five (35) calendar days from the date it first considers a preliminary plat application at one of its public meetings (Sec. 409 Subdivision Ordinance).

### **CRITERIA FOR ACTION ON A PRELIMINARY PLAT**

In Hoschton, with respect to preliminary plats, the subdivision and land development ordinance is clear on what the criteria are for approval of a preliminary plat:

***“The basis of the Hoschton City Council’s action on a preliminary plat shall be whether the preliminary plat meets the purposes and requirements of this Ordinance and other applicable laws and is consistent with the comprehensive plan” (Sec. 409(e) subdivision ordinance).***

In order to fully evaluate these criteria, in this report the consulting planner cites provisions of the subdivision ordinance and comprehensive plan and makes findings.

## **PLANNED UNIT DEVELOPMENT (PUD) ZONING GENERALLY**

One of the intended purposes of the PUD zoning district is to “provide development with greater benefits to the City than a development developed under a conventional zoning district.”

A minimum of 20 percent of the total site area of the district development shall be open space, greenspace, passive recreation, community recreation, or pervious landscaped areas or combination thereof. No more than one-half of open waterway and delineated wetlands shall count as the minimum required open space. Rights-of-way for streets, drainage easements, and detention ponds shall be excluded from land considered for open space. When the PUD is phased, the provision of open space should also be phased proportional to the phased development. (Sec. 408 zoning ordinance).

The PUD application included a zoning plan or a site development plan. The Hoschton zoning ordinance requires that the development plan submitted with the application, unless specifically stated otherwise, shall be a condition of PUD zoning approval and must be followed (Sec. 408 zoning ordinance).

PUD zoning applications are required to include some additional submissions such as comparisons of improvement requirements, a community benefit statement, a list of land uses to be allowed in the PUD, and all dimensional requirements to be followed. Except for these unique requirements, the rezoning application is treated with the same sort of procedures as applicable to rezoning applications for other zoning districts.

*Site plans submitted with a rezoning application are not, as a matter of routine, exhaustively reviewed for compliance with all applicable regulations.* The submission of a site plan with a zoning application, even in the case of a PUD application where the site plan is binding, is not required to be exhaustively reviewed for conformity with all applicable regulations, nor is a concept plan submitted with a rezoning application required or expected to demonstrate compliance with all applicable regulations, but only that the project is feasible under the proposed zoning district.

The fact that a site plan is included in a PUD zoning district and approved by City Council and required to be followed, does not substitute for subsequent steps in the process such as and specifically including a preliminary plat. *It is only at the time of a preliminary plat that detailed review for compliance with applicable regulations is completed.*

Any lack of comment by the city’s reviewers does not constitute approval to deviate from a particular regulation. To the contrary, there is nothing in the codes that says a zoning plan for a PUD zoning district is approved and allowed to deviate from code requirements *unless* they are specifically otherwise authorized during the applicable process. To the contrary, local government approval of a rezoning site plan cannot be construed as constituting a waiver of compliance with code requirements to the extent the plan doesn’t demonstrate compliance

therewith. Any permit issued or permission granted is null and void if it fails to follow applicable regulations.

Although not specified in the Hoschton zoning ordinance, it is instructive to consider what might be considered legally binding on the city as a result of approving a PUD zoning application. In consulting planner's viewpoint, the approval by the city of a PUD application should give the property owner rights to the permitted uses specified. Further, one would expect the project should be able to maintain without further restriction any maximum density or number of units authorized by the zoning approval such as lot size and units per acre (unless changed by the City Council through applicable procedures).

However, such an approval of a PUD site plan does not entitle an applicant to develop according to the rezoning site plan with specific regard to the physical layout of the development proposal, especially when there are subsequent steps in the process (i.e., preliminary plat and development plan approval) that must be completed.

### **PROPERTY DESCRIPTION**

The project site does not have frontage on any other street except SR 53. Indian Creek forms the eastern boundary of the property. The northern part of the property is developed as a church and cemetery. The improvements on the Kenerly property are all or mostly contained within proposed Tract 3 (24.90 acres). On that tract, which has been confirmed to be a lot of record, there are four single-family detached homes plus a wood/ concrete block building and wood/metal shed along with a pool house. All of these structures are marked for demolition. However, they are still usable in the interim, although this is a condition of nonconformity in that multiple dwellings exists on a single lot which is not in accordance with the "one house one lot" regulation of the zoning ordinance. There are three driveways serving Tract 3, and it is unknown the length of time they will remain to serve the existing homes. This is not a point of immediate concern, so long as these structures are eventually demolished and the property integrated into the PUD as proposed.

The subject property (four tracts) was annexed into the city of Hoschton per Ordinance Z-23-03 on September 18, 2023, subject to 21 conditions of approval. Planning staff's recommendation was to deny the annexation and PUD zoning. Prior to annexation, Jackson County formally objected to the annexation and zoning, and an annexation arbitration panel was appointed and deliberated with regard to the county's objection. A condition of approval was imposed by the annexation panel requiring the payment of county development impact fees (in addition to city impact fees which will apply).<sup>1</sup> The project also underwent a development of regional impact review (#3960) by the Northeast Georgia Regional Commission.

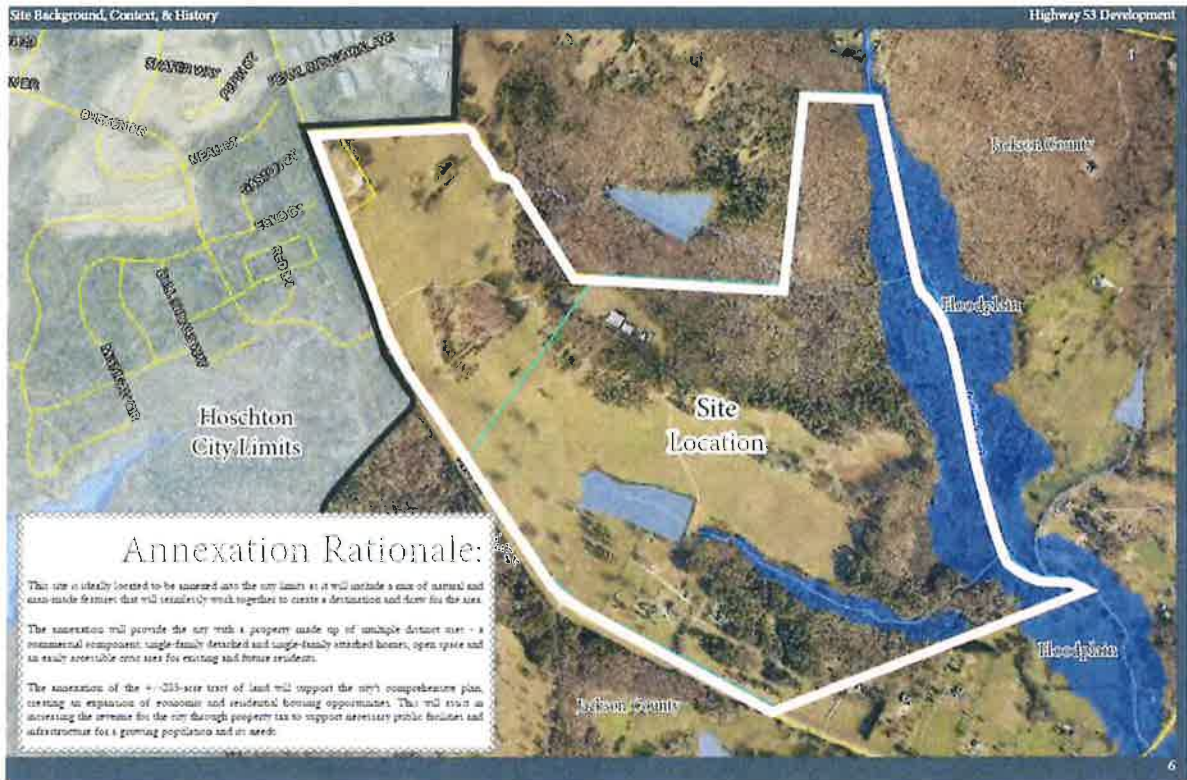
The PUD was approved for 1,055 dwelling units (404 townhome units and 651 detached, single-family lots), as well as the existing church and cemetery, 5.5 acres of church expansion, commercial outparcels, and the proposed dedication of parcels to the city, as well as open spaces.

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<sup>1</sup> Arbitration Panel for Jackson County v City of Hoschton Annexation Dispute, "Hwy 53" Appointed May 24, 2023.



# Preliminary Plat for Tribute Planned Unit Development (Rocklyn Homes)



## ANALYSIS OF PRELIMINARY PLAT AND REVIEW FOR COMPLIANCE WITH CONDITIONS OF ZONING

**Maximum number of units.** The PUD zoning established a maximum number of units of 1,055. The preliminary plat shows 1,051 units (four less than permitted).

**Units by type of unit.** Conditions of zoning approval cap the townhouse portion of the PUD at 422. The preliminary plat shows 400 units, or 22 less than the maximum. The number of single-family detached units is increased from the PUD approval of 651 to 655; that increase is authorized because the maximum of 1,055 units is not exceeded and the proposal does not exceed the overall requirement that no more than 40 percent of the homes be townhomes. The PUD application initially proposed 40-, 50- and 60-foot wide lots ranging in size from 4,400 square feet (0.10 acre) to 6,600 square feet (0.15 acre). These were subsequently revised slightly prior to approval.

**Townhouse lot size and width.** The plan book shows that lots for fee-simple townhouses are required to be 22 feet x 50 feet, for a minimum lot size of 1,300 square feet and a minimum lot width of 22 feet. It appears that the smallest townhouse lot is 1,650 square feet. The minimum lot size for townhouses of 1,300 square feet

The fee simple townhouse pod is laid out in fairly large rectangular blocks and is well connected but with two cul-de-sacs. The bulk of the proposed single-family residential lots are also laid out in fairly large rectangular blocks, but there are five cul-de-sacs serving the residential area. Staff made recommendations for the addition of pedestrian right of way strips or pedestrian easements about mid-block in several locations to increase pedestrian interconnectivity. The applicant's revised preliminary plat incorporates these recommendations and shows pedestrian easements in multiple place to access the open space along Indian Creek.

### Access and interconnectivity.

The applicant has been working with Georgia Department of Transportation and is expected to provide a letter from GDOT regarding conditions of approval (not available at the time of this writing). All six access points would connect to SR 53. During the annexation and zoning review, planning staff indicated that the project should be required to provide a connection to Jackson Trail Road with a through street at an arterial functional classification, but such a condition was not included in the adopted ordinance. A condition of zoning (#21) was imposed to require that one of the streets stub to the abutting property, and the preliminary plat shows this street.

Another option for access and interconnectivity raised by planning staff during the zoning process was a potential connection to Bill Watkins Road. However, no such recommendation was made, because that road is very rural in character, and the PUD would unload unacceptable amounts of traffic on that road if connected to it, which would further exacerbate the failing LOS at Bill Watkins Road and SR 53.<sup>2</sup>

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<sup>2</sup> The traffic impact study submitted with the development of regional impact application evaluated two intersections of SR 53 (i.e., with Jackson Trail Road and Bill Watkins Road). SR 53 south of Jackson Trail Road had a 2021 traffic count of 9,240 vehicles per day. In terms of existing level of service the westbound approach (Bill Watkins Road) at SR 53 already operates at an unacceptable level of service (LOS) of "F" in the p.m. peak hour. A LOS "F" for unsignalized intersections means a vehicle delay of greater than 50 seconds (Table 1, p. 5 of traffic study). The westbound approach of SR 53 at Bill Watkins Road will remain LOS "F" with the building of the PUD. Delays for the westbound approach will exceed 300 seconds during a.m. and p.m. peak hours. Further, four of the PUD's

Even with the possibility of a future local or collector or arterial public street connection to the northeast, once that property is developed, staff remains concerned that the subject property only has one principal means of access, i.e., to/from State Route 53. As noted in the planning staff's report on the annexation and PUD zoning, the Twin Lakes Planned Unit Development (2,600 units) has Peachtree Road in addition to SR 53 and is therefore better able to distribute the traffic, whereas all trips for the Tribute PUD will be to and from SR 53.

**Mobility study; potential SR 53 bypass.** A mobility study is still underway for SR 53 and SR 60 (with an approved interchange at I-85) by the Georgia Department of Transportation (GDOT). The \$1,000,000 study will evaluate potential alternatives, including but not limited to, a SR 53 bypass and road widening alternatives. The subject property is quite possibly a "path of least resistance" in terms of a SR 53 bypass route, if it is decided a bypass will be pursued as state policy.

## **PURPOSES AND INTENTIONS OF THE SUBDIVISION ORDINANCE**

The consulting planner's recommendations in this report serve the following purposes and intentions, among others (Section 102, Purpose and Intent, subdivision ordinance):

- To assure the provision of required roads, utilities, and other facilities and services to new land developments in conformance with public improvement standards of the City;
- To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.
- To assure, in general, the wise development of new land areas, in harmony with the comprehensive plan of the community.
- To help eliminate the costly maintenance problems which develop when roads and lots are laid out without proper consideration given to various public purposes.

"Convenience" of the public in terms of vehicular access is clearly within the purposes and intentions of regulation. "Circulation" of traffic also is an important consideration and goes beyond considerations of merely reviewing the adequacy of the road proposals within the subdivision. "Wise" development of new land areas should include consideration of whether the subdivision proposal helps or hinders overall vehicular circulation within the community. A purpose of the subdivision ordinance is to "eliminate costly maintenance problems which develop when roads are laid out without proper consideration to various public purposes."

## **PROJECT PHASING**

The first submission did not include any information on phasing of development in the PUD. The revised application provided a proposed project phasing plan. Staff had several substantial concerns about the first proposed phasing plan. The applicant proposes to construct all of the fee-simple townhouse components, as well as the civic spaces (public use dedications), plus an access road leading to the sewage pump station near the southeast property line and the pump station itself, as a part of phase 1.

A project of this magnitude (1,051 units plus other development) is likely to take many years to build, and the city council must consider what might happen if the economy goes into a

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intersections will operate at unacceptable LOS of "E" or "F" if the PUD is constructed. A traffic signal is recommended by the traffic study for the intersection of Bill Watkins Road and SR 53.



recession and/or the project development schedule sputters or stalls. Project phasing is also critically important in the subject case, because sanitary sewer capacity is being planned per an approved water and sewer agreement. Facility expansion is required to progress along with the development.

Consulting planner remains concerned that the townhouse portion could get developed in its entirety, and then the detached single-family homes get delayed or do not even get developed and constructed at all in the case of an economic downturn (if that were to occur). Also of concern is the potential for the owner/developer to sell off the entire townhouse portion of the Tribute PUD to a build-to-rent institutional investor.<sup>3</sup>

Consulting planner initially raised concern that the townhouse portion of the PUD would be developed without access whatsoever to the central civic space and passive recreation (riparian bottomland) that makes up the open space and amenities for the whole PUD. However, the conditions of zoning approval require that there be an amenity area developed for the townhouse portion of the PUD, plus the applicant proposes to include the central civic space in Phase 1. Therefore, those initial concerns regarding access to amenities are remedied with conditions pertaining to phasing.

City Council should consider whether it is comfortable with the proposal to develop all the detached units in a second phase. If there is concern the phasing strategy that allows for all of the townhouse units to be constructed before any detached units, a condition of plat approval could be imposed such that a certain number of single-family detached dwellings would have to be included in the phase 1 mix.

## **COMPREHENSIVE PLAN**

“Comprehensive plan” is defined in the subdivision ordinance as “Those coordinated plans or portions thereof which have been prepared by or for the Hoschton City Council for the physical development of the jurisdiction; or any plans that designate plans or programs to encourage the most appropriate use of the land in the interest of public health, safety and welfare.” This includes the city’s own comprehensive plan, but also, the county’s 2019 transportation plan. Further, to some extent the Jackson County comprehensive plan and unified development code come into play in Hoschton, because of the references to county level of service standards in the comprehensive plan and references to county standard drawings in the city subdivision ordinance. In addition, the Metropolitan Planning Organization’s (MPO’s) regional transportation plan is relevant to the discussion. A thorough review can and should consider all policies and findings in all of these documents.

When a local subdivision ordinance requires subdivision plats to comply with the local comprehensive plan, as does Hoschton’s regulations (see citation above), it is appropriate to deny approval if the proposed preliminary plat fails to conform to recommendations of the comprehensive plan. A local comprehensive plan is not normally considered to be a legally binding document in Georgia. In the context of references to implementation of the comprehensive plan in the city’s subdivision ordinance, however, the comprehensive plan holds

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<sup>3</sup> The issue of the sale of a subdivision or part thereof to one or more institutional investors for purposes of 100% rental, as opposed to allowing some homeownership opportunities, has been raised as a concern on the part of the city council and has been discussed in public meetings. Indeed, a sizable share of the Twin Lakes PUD dwellings have reportedly been sold by Kolter to an investor of this type, for the purpose of 100% rental units rather than homeownership.

considerable sway. The fact that the comprehensive plan is to be considered in the plat approval process is suggestive enough of the need to evaluate the plat's consistency with the comprehensive plan. It is also reasonable and acceptable to deny a preliminary plat that is found to be inconsistent with the comprehensive plan.

Incidentally, the evaluation of the proposal's consistency with the comprehensive plan could also include weighing the consistency of proposed uses in the PUD with the recommendations of the future land use plan. That type of evaluation is not done here, because the subject property has been approved for residential and other development through the rezoning process.

Finding: A primary purpose of subdivision regulations is to assure that subdivision streets will be adequate, appropriate, and well designed. Also, a purpose of requiring subdivision approval is to prevent a subdivider from laying out streets to his or her own liking without official approval.

Finding: The comprehensive plan is highly supportive of the city playing a leadership role in helping to solve problems of congestion along SR 53. The comprehensive plan, under the needs and opportunities element, has this to say about transportation and the SR 53 corridor:

“State Route 53 as the main corridor through the city is expected to need widening, improvement, or an alternative route. State and regional solutions proposed to solve problems of congestion on SR 53 have shifted over time, from widening the existing route, to providing a bypass route, to providing roundabouts. *A locally supported solution should be made* with Hoschton taking a leadership role (with the Town of Braselton) as opposed to regional and state solutions dictating final design outcomes.” (emphasis added)

A recommendation that the preliminary plat incorporate a public through route is highly consistent with this identified need of the comprehensive plan. To the contrary, the absence of a public through street in the project is considered inconsistent with the comprehensive plan.

Finding: The comprehensive plan, under community facilities and services, articulates the following policy:

“**Level of service standards.** Establish and maintain level-of-service and/or performance standards for the major community facilities and services provided by the county. Unless specified by facility-specific master plans and adopted as superseding policy, such as a capital improvements element for impact fees, the city should strive to maintain the minimum level of service standards adopted by Jackson County in its 2015 Comprehensive Plan, adopted and as may be amended.”

Finding: The comprehensive plan has a “connectivity” policy which reads as follows:

“**Connectivity.** Promote regional and countywide connectivity in the local road network, including intercity travel. All new roadways except low volume, local residential subdivision streets, should connect at both termini with the existing road network. Local streets should be planned where possible with more than one connection to the existing public road network. Street stubs should be provided to ensure connectivity with future subdivisions on abutting lands.”

Approval of the proposed preliminary plat without a public, interconnecting street as recommended by the consulting planner, would be inconsistent with this plan policy and would

be a basis for denial of the preliminary plat. The proposed plat provides for a road which can be extended onto the abutting site if proposed for development. This road facilitates a future road with higher than just a local street functional classification, with an 80 foot wide right of way recommended by the consulting planner.

Finding: The comprehensive plan also includes the following transportation policy:

**“Context Sensitivity.** Design planned roadway improvements in a way that is context sensitive, preserves, or creates a sense of place for the areas in vicinity of the improvements, and that enhances community aesthetics.”

Finding: The comprehensive plan also includes the following policy:

**“Adequate Public Facilities.** Development should not occur or be approved which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, public safety facilities, parks and recreation facilities, libraries, schools, or other publicly-provided facilities and services. As a condition of approval, major subdivisions (6 or more lots) and major land developments should be required to demonstrate availability of public water, fire protection, law enforcement, roads, stormwater management, parks and recreation, and public school facilities. Major subdivisions and major land developments that cannot demonstrate all such facilities are available or planned at the time of development or within a reasonable period of time thereafter may gain approval only if they mitigate the lack of such facilities, through the dedication of land in the subdivision or off-site, on-site and/or off-site improvements, payment of impact fees if imposed by the city, or payment of in-lieu fees or other acceptable arrangements via development agreements.”

There will be burdensome impacts on the road system as a result of this subdivision. A public through road, advocated by the consulting planner, is one way of partially mitigate the traffic impacts with an on-site improvement. Any inconsistency with the city's level of service standards would be a basis for denial of the preliminary plat application.

Finding: The regional transportation plan is a document that is interpreted as being within the definition of “comprehensive plan” in the city's subdivision ordinance. Therefore, it is appropriate to consider the plat application's consistency with that document. The regional transportation plan includes among others the following policies:

- “Enhance the integration and connectivity of the transportation system, across and between modes, for people and freight” and
- “Emphasize the preservation of the existing transportation system” and
- “Improve the resiliency and reliability of the transportation system...” and
- “Improve the efficiency of the surface transportation system” (p. 11)

“Integration” and “connectivity” are interpreted here to support requirement of a road hierarchy and system within a private development that enhances integration with the surrounding road network and connects to it with the appropriate functional classification. Emphasizing preservation of the existing transportation system suggests that road proposals in subdivisions should be evaluated for the extent to which they help preserve the capacity of the system or would tend to overburden it.

Finding: The regional transportation plan includes the following goal:

”Identify and implement appropriate programs intended to reduce or shift vehicular travel patterns, and the need to expand roadway capacity” (p. 13, Table 4).

Having a public through street in the proposed PUD would potentially allow for some shift of vehicle travel patterns away from SR 53 through Hoschton (that use SR 53) and would be a step toward expanding roadway system capacity and providing for alternative routes. Any requirement to provide a public interconnecting road through the project is therefore consistent with this regional plan goal. Excluding a requirement for a public road would be inconsistent with this regional plan policy and would serve as a basis for denial of the proposal for private streets.

### **Facilities and Services Generally**

The most pressing concerns with annexation and PUD zoning proposal raised by the planning staff at the time the PUD and annexation applications were considered were the project’s impacts on public facilities and services. The project will add 1,055 (1,051 with the revised preliminary plat) housing units and an estimated 2,650 persons, plus a sizable employment increase. Specific impacts are described further in the following sections. These are required to be evaluated by the city because the preliminary plat application needs to be evaluated with regard to consistency with comprehensive plan policies.

### **Water and Sewer**

At the time of consideration for annexation and PUD zoning, the subject properties were not adequately served by water and sewer facilities. Water and sewer capacity is still not available, and has only recently begun to be programmed after negotiation and acceptance of a water and sewer agreement between the city and the PUD project developer. The city does not have capacity to serve the development, but has agreed in exchange for payment of \$6.3 million to program improvements to the city’s sewage treatment plant for the PUD.

The city engineer’s recommendations have not yet been integrated into this staff report. However, a number of facts are provided based on prior correspondence.

On April 12, 2023, the City Engineer provided a written opinion regarding water and sewer availability for the proposed project and others that were proposed at that time. The estimated sewage flow from the Rocklyn Home proposed development was 251,000 gallons.<sup>4</sup>

Currently there is no major water main in the area to serve the PUD. The only water line currently existing in the area is a 2-inch water main serving the church that crosses SR 53 and runs south to serve the Hudgens residence. Substantial upgrades to the water system will be needed to serve the development (reference: per 4/12/23 city engineer).

On November 14, 2023, the City Engineer and Public Utilities Director indicated by memo that they did not foresee sewage treatment capacity being available until the project expansion to 2.0 MGD was completed (2028-2029 projected). See also the separate water and sewer agreement approved by City Council.

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<sup>4</sup> This estimate may not be accurate given the applicant subsequently changed the PUD site plan to remove some 200,000 square feet of commercial space and adding a school site.

On December 1, 2023, in response to a request to review the first submission of this preliminary plat, the City Engineer indicated that the proposed water and sewer lines should be located within private easements rather than public right of way (SR 53). The first draft showed the sewer force main and trunk water line proposed to be constructed in the SR 53 right of way. In the resubmission, the applicant has proposed a path for a force-main sewer along private properties. However, the preliminary plat application proposes still to utilize the SR 53 right of way for the water line extension. Consulting planner defers to the city engineer on this issue. Further, use of the SR 53 right of way as a location for water lines may be permitted under the water and sewer agreement, provided that the applicant provide a method of bonding for relocation of the water line in the event it must be moved for road construction.

It was subsequently determined that there are the following problems with locating any public utilities in the state route right of way:

- It precludes other uses in the right of way.
- The city would be responsible for the costs, perhaps in the millions of dollars, if the utilities had to be relocated.<sup>5</sup>
- Permitting for utilities in a state right of way has to be done by the city rather than the applicant. This produces an additional burden on the city.

See also the water and sewer agreement approved by City Council on January 4, 2024, which has language about this issue.

### **Water and Sewer Agreement**

- Via condition of zoning approval Rocklyn Homes will pay a sewer connection fee in the amount of \$6,330,000 at the rate of \$6,000 per home for 1,055 homes.
- The amount of \$6,330,000 is due prior to issuance of the first residential permit for the project.
- The city agrees to reserve 250,000 gallons per day of sewage capacity (the necessary capacity to serve the 1055-home development) within the phase one expansion to 0.95 mgd expansion and 805 connections within the second phase expansion to 2.0 mgd.

### **School Impacts**

The school impact policy in the Hoschton comprehensive plan reads as follows: "Evaluate impacts of residential development on the public school systems. Where impacts are evident, seek a development agreement to provide school site(s) or otherwise mitigate the impact of residential development on the public school system." At the time of annexation and zoning, staff found that the impact on county public schools would be approximately 558 additional students, and with an average desirable class size of 20 students, this would mean an impact of 28 additional classrooms (28,000 square feet of school building space). Further, the planning staff report indicated that the estimated cost impact on the county school system is \$7,000,000 (just for additional facility space and not including land, and not including operational and maintenance costs for staffing, etc.). The applicant consented to the dedication of land,

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<sup>5</sup> At this point in time, the city should not rule out the possibility that SR 53 could be widened at this location.

including a 16.5-acre site that is for dedicated for whatever use the city determines is appropriate, but which was proposed by the applicant with the intent that the site be used for a public school.

### **Traffic Impacts**

Traffic from existing development, without even considering the impact of the Tribute PUD (preliminary plat), already results in unacceptable delays in terms of level of service. SR 53 and its intersections with Bill Watkins Road and Jackson Trail Road will be further degraded in terms of capacity, causing the need for intersection improvements that may or may not be attributed entirely to the subject project.

### **Street Connectivity**

Though well interconnected in many respects, as proposed, the project is inconsistent with the comprehensive plan policy for interconnectivity which provides: "All new roadways except low volume, local residential subdivision streets, should connect at both termini with the existing road network, and local streets should be planned where possible with more than one connection to the existing public road network." The proposal for streets in the PUD does not meet the intent of this plan policy, in staff's view, because it does not provide any collector or arterial through-street from SR 53 to another major arterial such as Jackson Trail Road. Staff had previously recommended consideration of denial of the annexation and PUD zoning, unless it was expanded to provide an arterial through street connection to Jackson Trail Road.

### **Land Development and Transportation Policy**

A comprehensive plan policy provides as follows: "When development occurs it should be the responsibility of developer to improve facilities along the public street frontages and internal to the development." The traffic study recommends intersection improvements including two traffic signals, but these impacts are not mitigated outright by the project. Conditions of zoning approval require the owner/developer to improve intersections of the proposed development with SR 53, which will partially satisfy this plan policy. Another condition of zoning approval requires the owner/developer to install a multi-use trail along the property frontage.<sup>6</sup> The PUD application may be inconsistent with this overall policy, however, to the extent that it is not required to provide curb and gutter along the SR 53 street frontages.

It is noteworthy that the applicant's required payment of county road impact fees should also be considered partial mitigation for traffic impacts. However, the city should ensure that the intergovernmental agreement regarding the collection and disposition of county development impact fees by Tribute Planned Unit Development is earmarked for traffic improvements that will benefit the project and the city of Hoschton, namely, contributions toward traffic signals at SR 53 and its intersections with Jackson Trail Road and Bill Watkins Road.

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<sup>6</sup> The city is currently considering a grant for multi-use trails within the right of way of SR 53 further north on SR 53. The proposal for a multi-use path in the right of way of SR 53 along the subject PUD's frontage, is made a condition of zoning approval. However, as planning staff noted at the time of annexation and PUD zoning consideration, the multi-use path if constructed will not connect to other multi-use paths that may be planned or provided north of the PUD. In particular, on the east side of SR 53, there would be a sizable "gap" in the trail connection through the light industrial area of the city around Jackson Trail Road and north.

### **Public Safety (Fire, EMS, Law Enforcement)**

From a public safety perspective, and considering just the residential development, the project will result in the need for a small fire station and one fire vehicle, along with additional space to house 1 or 2 EMS vehicles. The proposed development at buildout (now 1,051 units) would have a population of about 889 people in the townhouse component and about 1,758 people in the detached subdivision, creating an additional population of 2,647 people and hence a demand for more than five additional police officers.

### **Park and Open Space Land**

A per residential unit impact fee (city) will be required and assessed for park and open space land. In addition, the project is proposed to include on site open spaces and active and passive recreation. All open spaces (except for public dedications) will be controlled by the homeowner's association (there is significant land proposed to be dedicated to the city for parks and recreation). Further, county impact fees for park and open space land also apply via conditions of PUD zoning approval.<sup>7</sup> Thus, the impact of the Tribute PUD on park and open space land and recreational facilities is expected to be mostly if not entirely mitigated.

### **LAND DEDICATIONS**

The dedication of open and civic space to the city, proposed in the Tribute Preliminary Plat, appears appropriate, but the city also needs to consider its plans and intentions for these tracts (i.e., future land use). The conditions of zoning approval require the dedications to take place no later than one year after issuance of any land disturbance permit. The largest of these sites, 16.05 acres, has been offered to the city (and is required to be dedicated to the city via conditions of zoning approval) but was proposed to be dedicated on the basis of trying to mitigate some of the PUD's impact on the county school system. The expectation is that the city council will elect to deed this property to the Jackson County Board of Education (or the most likely use being an elementary school), with or without conditions, though that is not a requirement. The future use of the 16.05-acre parcel should be carefully considered and the future use determined, since the use may have a bearing on what land uses are compatible around it and what the immediate street network should be. It is not essential that the City Council know the exact use of this parcel at the time of preliminary plat approval. However, access, boundaries and tract configuration, lot size, easements, utilities, and other considerations must reasonably be anticipated and planned for regardless of the ultimate land use or owner.

It is important to underscore the extensive city time involved in the processes of these land dedications over time. The transfers of ownership from private property owner to the city, and any subsequent transfers by the city to another agency, take time and involve legal review, passage of resolutions of acceptance by city council, preparation and administrative approval of combination plats or minor final plats, and the review and recording of deeds. The city has not as a matter of routine required title reports or title insurance for land dedications, but there is certainly an argument to be made to do so.

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<sup>7</sup> Another important issue to be resolved is the condition of zoning approval which requires the city and county to adopt an intergovernmental agreement for the collection and disposition of impact fee funds required by the city to be collected for the county made a condition of zoning approval and made a deed restriction by the annexation arbitration panel. While the particulars of such an intergovernmental agreement do not necessarily have to be fully negotiated and approved prior to preliminary plat approval for Tribute, the complexity of such a negotiation task suggests that the city will need to begin those negotiations sooner than later.

## **CONCLUSIONS**

Consulting planner recommends approval, subject to conditions.

*Note: This review is completed for compliance with city zoning and subdivision and land development regulations only. All other requirements for other review agents (GDOT, fire district, city engineer, etc.) are the responsibility of the developer. While every effort has been made to be comprehensive in this conformance/ compliance review, any omission or other failure of this reviewer to articulate a lack of compliance with a given code requirement does not exonerate in any way the responsibility of the designer/ design engineer from complying with all development standards. Issues of noncompliance after this review, if discovered, must still be addressed by the designer or design engineer because administrative personnel are not authorized to sign plats and issue land disturbance and development permits that do not comply with applicable regulations.*

### **Reference Documents:**

- Ordinance Z-23-03 annexation and conditional PUD zoning.
- Water and sewer service agreement between Rocklyn Homes and City of Hoschton.
- Development of Regional Impact (DRI) #3960 final report.
- Traffic impact study, April 28, 2023, by A & R Engineering, Inc.
- Aquatic Resource Delineation by PEC+ received April 11, 2024.
- United States Department of Interior, Fish and Wildlife Service, Georgia Ecological Field Services Office, List of Threatened and Endangered Species that may occur in the project, October 31, 2023

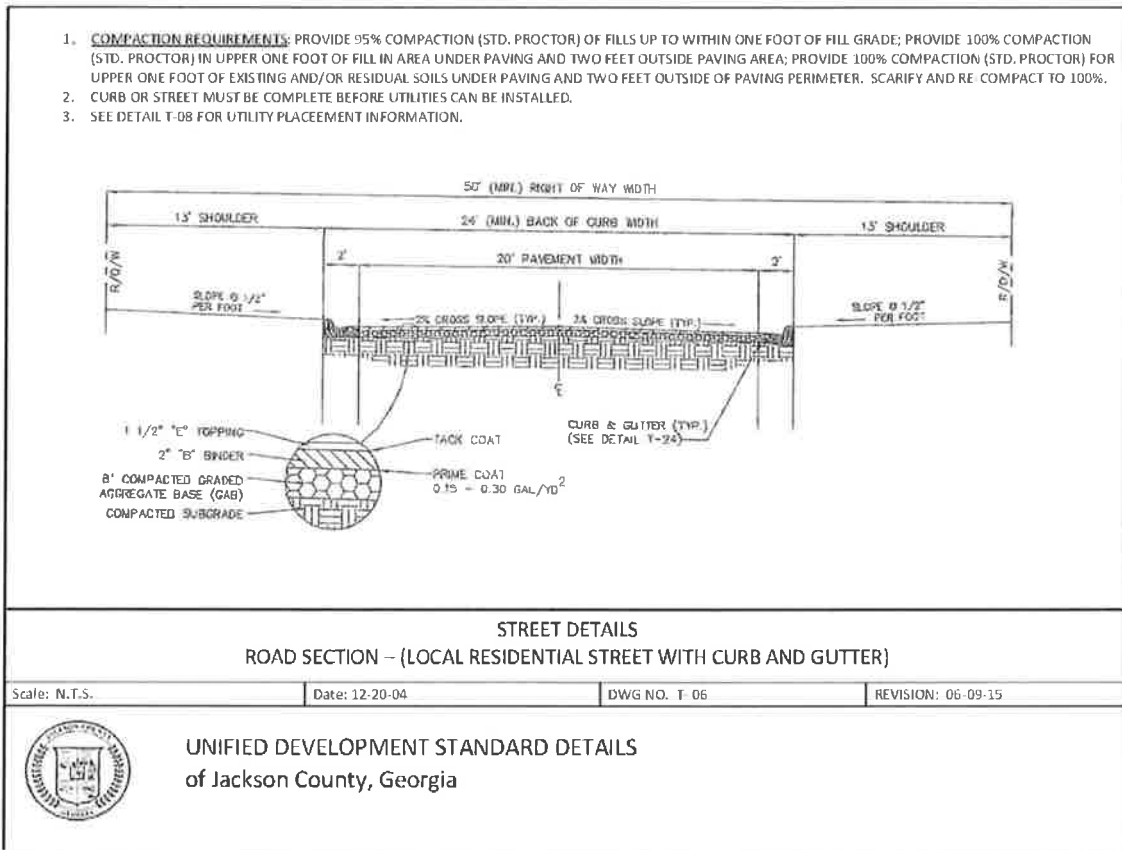
### **RECOMMENDED CONDITIONS OF PRELIMINARY PLAT APPROVAL:**

1. Satisfy all requirements and recommendations of the city engineer (anticipated to be provided under separate cover).
2. Preliminary plat approval is conditioned upon the applicant paying \$6,330,000 to the City of Hoschton as required by condition of zoning approval #18(a), prior to preliminary plat approval.
3. Sheet P0.00 (Cover Sheet): Remove block titled "Development Services Permitting Disclaimer." This does not pertain directly to the preliminary plat.
4. Sheet P0.00 (Cover Sheet): Preliminary Plat Note 1: Correct this statement since the 24.90 acre tract (tract 3 shown on survey) is indeed a lot of record.
5. Sheet P0.50 Zoning Conditions. Split page content into two pages to increase font size and enhance readability.
6. Sheet P2.00 Master Preliminary Plat: The block of text titled "Site Access Notes" which contains recommendations of the DRI traffic study, shall be conditions of preliminary plat approval and must be followed.



7. Sheet P2.00 Master Preliminary Plat: The block of text titled "Street Tree Plan, Tree Protection, and Landscaping Notes," item "e" delete "~~not required where deemed infeasible for townhouse lots.~~" Zoning conditions require 1 street tree per lot. Insert the following statement in its place: "The applicant may propose and the zoning administrator may approve a modification of street tree plans such that one tree is not required to be planted on every townhouse lot, so long as the total number of street trees required (i.e., one per lot) for the townhouse portion of the PUD is not reduced. Alternative locations may be approved, or an escrow of funds may be established for planting of street trees at other locations in the Tribute PUD, subject to the zoning administrator's approval."
8. Sheet P2.00 Master Preliminary Plat: Under "Townhouse Residential Standards," add the following (required condition of zoning): "Minimum separation between townhouse buildings: 20 feet."
9. Sheet P2.00 Master Preliminary Plat: Under "Commercial & Civic Standards," add the following (required conditions of zoning): Frontage landscape strip width: 10 feet; Minimum tree canopy and minimum landscaped open space (% of lot): 20 percent."
10. Sheet P2.00 Master Preliminary Plat: For townhome residential standards, it indicates that there will be 73 "rear loaded" townhomes, but there are no alleys. Clarify or amend or delete this statement as appropriate.
11. Sheet (new): Add sheet with all Internal subdivision street standards as required by Condition #12 of Ordinance Z-23-03. In addition, incorporate Jackson County Standard Detail "Street Details: Road Section—Local Residential Street with Curb and Gutter" and other details that pertain to streets. Add note that pavement width is 26 feet from back of curb to back of curb, as required by Condition of zoning approval #12(b), rather than the 24 foot shown in the standard detail. Also on this page, prepare and show a detail indicating curb radii for curbed medians within Road "A" and for any other locations where landscaped median/island appears.

**Preliminary Plat for Tribute Planned Unit Development (Rocklyn Homes)**



12. Sheet P2.01 Detail Preliminary Plat: For lots 912 through 939, please reposition the square footage / acreage labels for each lot so they are fully outside the shaded water line easement along front of lots.

13. Sheet P2.01 Detail Preliminary Plat: For the parking lot shown on Open Space #4 north of Road "DD," (i.e., on the master amenity area), incorporate parking lot landscaping islands as required by Hoschton subdivision ordinance Sec. 817(a) which provides: "No more than 10 contiguous parking spaces shall be allowed without a minimum of one landscape island or peninsula containing trees."

14. Sheet P2.01 Detail Preliminary Plat: The water line shown within the right of way of SR 53 may or may not be approved (defer to city engineer final recommendations and determinations).

15. Sheet P2.01 Detail Preliminary Plat: add pedestrian crosswalk marking crossing Road "DD" at Road "GG."

16. Sheet P2.02 Detail Preliminary Plat: For that portion of Road "AA" east of Road "BB," change the right of way from 50 feet to 80 feet, and remove note that refers to a 50-foot right of way. This change will affect the area of lots 1013 and 1014. Also remove same note as it appears on Sheet P2.08, top left.

17. Sheet P2.02 Detail Preliminary Plat: for the pocket park (Open Space 7), repeat the note found on Sheet P2.08 pertaining to Homeowner's association responsibility for maintenance of pocket park and on-street parallel parking.
18. Sheet P2.02 Detail Preliminary Plat: Label road pavement lane widths around pocket park.
19. Sheet P2.02 Detail Preliminary Plat: add pedestrian crosswalk marking crossing Road "BB" at Road "AA."
20. Sheet P2.02 Detail Preliminary Plat: show sidewalk along the entire south side of Road "KK" (sidewalk required along both sides of all streets).
21. Sheet P2.02 Detail Preliminary Plat: estimate and show the anticipated finished pad elevation for Civic Donation Area #3 and Civic Donation Area #1.
22. Sheet P2.02 Detail Preliminary Plat: on Outparcel #1, change "10 foot landscape buffer" to "10 foot landscape strip."
23. Sheet P2.02 Detail Preliminary Plat: For the note pertaining to the 50-foot wide access easement serving outparcel and Civic Donation Area #1, change language "to be finalized once outparcel uses have been finalized and designed" to "to be finalized prior to approval of a dedication plat or minor final plat for outparcel #1, Civic Donation Area #1, and Civic Donation Area #3."
24. Sheet P2.03 Detail Preliminary Plat: Label pavement width of entering and exiting lanes on Road "A" at or near its intersection with SR 53.
25. Sheet P2.03 and P2.06. Remove the 5 foot high vinyl coated chain link fence proposed to surround the lake. The lake was previously referred to as part of the amenity feature, and a fence would prohibit that. Ideally slopes will be 3:1 and the lake designed as an amenity feature even if it is used as a stormwater facility. See the excerpts from the pattern book below:



## Master Amenity Area Concept

A portion of the site (to the east of the civic area, depicted above) would be developed to create a master amenity area made up of a pool and clubhouse, pickleball courts, a dog park, fire pit and trail pathways. The pathways will create a more internal walking network to connect the provided amenities and give access to natural features, in this case, the existing lake. A dock will allow residents to access for the lake for kayaking and paddleboarding.



26. Sheet P2.03 Detail Preliminary Plat: Clarify location of proposed property line for Open Space #10 at Roads "A" and "H." It is not self-evident.
27. Sheet P2.10. For the inset photograph showing walking trail connection to Sell's Mill Park, please add property lines as appropriate to better identify proposed location.

28. All detail preliminary plat sheets as appropriate: show 20 foot wide drainage easement surrounding all stormwater facilities (in addition to pipe easements entering each).
29. A comprehensive flood study will be prepared and submitted to the city prior to issuance of a land disturbance permit as noted on Sheet P2.07.
30. Sheet P2.50. This sheet shows a rear load townhouse lot detail. However, there are not lots shown that will have alley access. Therefore, this lot detail should be removed.
31. Sheet P2.50. Revise as necessary the typical lot details to be consistent with the minimum street standard of 26 feet from back of curb to back of curb. It is acceptable to exceed the minimum but it should be noted in multiple places if that is the intent.
32. Applicant will be required to notify the City of Hoschton zoning administrator of any written correspondence after preliminary plat approval and prior to final plat approval to or from the U.S. Fish and Wildlife Service, if it occurs, as it pertains to federally listed species and impacts of the development on such protected, threatened or endangered species.

# NEW BUSINESS

## ITEM #5

Resolution 2024-18: Approval of IGA with DDA  
regarding 29 West Broad St. (The Garden)

**RESOLUTION 2024-18**

**Approval of Intergovernmental Agreement with the Hoschton Downtown Development Authority Regarding Property Located at 29 West Broad Street Located in the Downtown Development Area of the City of Hoschton**

**WHEREAS**, the revitalization and redevelopment of the central business district of the City of Hoschton ("City") develops and promotes for the public good and general welfare trade, commerce, industry, and employment opportunities and promotes the general welfare of the City by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City; and

**WHEREAS**, it is in the public interest and vital to the public welfare of the citizens of the City to revitalize and redevelop the central business district of the City; and

**WHEREAS**, the City desires to convey the City's interest in marketing and leasing real property to the Hoschton Downtown Development Authority ("Authority"), such that the Authority may market and lease real property in furtherance of the Authority's mission and purpose.

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City does hereby approve and adopt the Intergovernmental Agreement with the Authority attached hereto and does hereby authorize the Mayor, City Manager, and City Attorney to execute the Intergovernmental Agreement attached hereto, as well as such other documents and agreements that may be necessary to effectuate the provisions of the Intergovernmental Agreement.

**Adopted this** \_\_\_\_ **day of** \_\_\_\_\_, **2024.**

\_\_\_\_\_  
**Debbie Martin, Mayor**

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN  
CITY OF HOSCHTON, GEORGIA AND HOSCHTON DOWNTOWN DEVELOPMENT  
AUTHORITY REGARDING PROPERTY LOCATED AT  
29 WEST BROAD STREET, HOSCHTON**

This Agreement is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Hoschton, Georgia, hereinafter called "Hoschton" and the Hoschton Downtown Development Authority (hereinafter called "the Authority") for the purpose of conveyance of Hoschton's interest in leasing real property to the Authority, such that the Authority may lease real property in furtherance of the Authority's mission and purpose.

**WHEREAS**, Hoschton owns real property identified as 29 West Broad Street (hereafter called "the Premises"); and

**WHEREAS**, Hoschton put out a request for proposals relating to the leasing of the Premises, to which "Tenant," as defined in the Lease responded; and

**WHEREAS**, the Premises is located in the Downtown Development Area of Hoschton; and

**WHEREAS**, pursuant to O.C.G.A. § 36-42-2, the purpose of the Authority is to revitalize and redevelop the Downtown Development Area of Hoschton, so as to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and promote the general welfare of Hoschton and surrounding communities; and

**WHEREAS**, pursuant to Section 6.33 of the Hoschton Charter, Article IX, Section III, Par. I of the Georgia Constitution, and O.C.G.A. § 36-42-8, Hoschton and the Authority have the power to enter into this Intergovernmental Agreement for the purpose of Hoschton granting the Authority the power to lease the Premises to fulfill the purpose of the Authority as set forth herein; and

**WHEREAS**, Hoschton and the Authority desire to enter into an agreement to provide for the conveyance of such rights to the Premises to the Authority to enable the Authority to lease the Premises to fulfill the purpose of the Authority as set forth herein.

**NOW THEREFORE**, Hoschton and the Authority agree to the following:

- A. Hoschton shall execute such documents as are necessary to convey Hoschton's rights to the Authority to lease the Premises to Tenant, in substantially the same form and on the same terms as set forth in the Lease attached hereto.
- B. The Authority shall work diligently to lease the Premises in substantially the same form and on the same terms as set forth in the Lease to revitalize and redevelop the Downtown Development Area of Hoschton, so as to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and promote the general welfare of Hoschton and surrounding communities.
- C. Upon the leasing of the Premises, the net proceeds of rental income, after deduction of reasonable and customary costs associated with the leasing of the Premises, shall be paid to Hoschton.



- D. The power of the Authority to lease the Premises shall terminate either upon the termination of a lease in in substantially the same form and on the same terms as set forth in the Lease or within 60 days of the date of this Agreement without a lease being executed by the Authority and Tenant in in substantially the same form and on the same terms as set forth in the Lease, such that the Authority shall not have the power to lease the Premises thereafter unless extensions are negotiated and agreed to between Hoschton and the Authority.
- E. The Authority agrees to hypothecate its interest in the Premises to any lender as collateral for any loans related to the Premises.
- F. All notices under this Agreement shall be in writing and shall be deemed to have been given by delivering it to person or by certified mail:

As to the Authority:

Hoschton Downton Development Authority  
Attn: Chairperson  
61 City Square  
Hoschton, GA 30548

As to Hoschton:

City of Hoschton  
Attn: City Manager  
61 City Square  
Hoschton, GA 30548

- G. The failure of any party to exercise any right given hereunder or to insist upon strict compliance with any term, condition or covenant specified herein shall not constitute a waiver of such party's right to exercise such right or to demand strict compliance with any such term, condition or covenant under this Agreement.
- H. This Agreement contains the sole and entire agreement of the parties with respect to the subject matter contemplated hereunder and no representation, inducement, promise or agreement, parole or written, between the parties and not incorporated herein shall be of any force of effect. Any amendment to this Agreement shall be in writing and executed by the parties.
- I. This Agreement may not be assigned or transferred by either party without the written consent of the other party. The provisions of this Agreement shall inure to the benefit or and be binding upon the parties hereto and the respective success and assigns.
- J. Time is of the essence with respect to this Agreement.
- K. This Agreement and all amendments hereto shall be governed and construed under the laws of the State of Georgia.
- L. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, such

provision, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall be deemed severable, and the remainder hereof shall not be affected thereby, and each term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

M. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The Mayor, Clerk, City Manager, and City Attorney of Hoschton are hereby authorized to sign such documents as are necessary to effectuate the provisions of this Agreement. The Chairperson and Secretary of the Authority are hereby authorized to sign such documents as are necessary to effectuate the provisions of this Agreement.

IN WITNESS THEREOF, the parties have set their hand and seal as of the day and year first above written.

**HOSCHTON DOWNTOWN DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
Secretary

**CITY OF HOSCHTON**

By: \_\_\_\_\_  
Debbie Martin, Mayor

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney  
4865-8312-9019, v. 1

## COMMERCIAL LEASE

This lease is made between the **Hoschton Downtown Development Authority**, (herein called "Landlord") and **Atlanta Development Company, LLC**, (herein called "Tenant").

Tenant leases from Landlord the premises situated in the City of Hoschton, County of Jackson, State of Georgia, described as 29 West Broad Street, Hoschton, GA 30548 (hereinafter the "Premises"), according to the following terms and conditions:

### TERMS AND CONDITIONS:

**TERM.** The Term will extend through December 31, 2024.

**RENT.** During the Term, Tenant will at Tenant's sole cost and expense, conduct an in-depth investigation of the building located on the Premises, including but not limited to any structural evaluation and environmental assessment necessary, and produce a written report on the condition of the building, a plan for rehabilitation and redevelopment, and a preliminary cost estimate for the rehabilitation and redevelopment. The services will be performed in lieu of rent.<sup>1</sup>

**SECURITY DEPOSIT.** A security deposit in the amount of One Thousand and no/100 (\$1,000.00) Dollars is due at the time of the signing of this Lease. The Security Deposit may not be used for the advance payment of Rent. The Security Deposit **will** be returned at the expiration of the Term, providing that the Premises are returned in the current condition.

**USE.** Tenant shall use and occupy the premises solely for the due diligence and planning purpose outlined above. The premises shall be used for no other purpose. Landlord represents that the premises may lawfully be used for such purposes.

**CARE AND MAINTENANCE OF PREMISES.** Tenant acknowledges that he is accepting the Premises in "AS IS" condition in lieu of other stipulations, as outlined in this Lease. Tenant shall at his own expenses and at all times, maintain the Premises in good and safe condition, and shall surrender the same at termination hereof, in as good condition as received, normal wear and tear expected. Landlord consents to limited demolition necessary to conduct a full assessment of the building and any such demolition necessary for due diligence will be considered normal wear and tear for the purposes of this Agreement.

**ORDINANCES AND STATUTES.** Tenant shall comply with all statute's ordinances, permits, codes, and all requirements of all Municipal, County, State and

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<sup>1</sup> Attached hereto as Exhibit A is breakdown of the Rehabilitation and Expense Budget including costs incurred to date by Tenant

Federal authorities now in force or which, may hereafter be in force, pertaining to the premises, occasioned by or affecting the use thereof by Tenant.

**ALTERATIONS.** All/any alterations, upgrades, repairs or changes must be not be started or done before an agreement made between tenant and landlord in writing. At the conclusion of the lease, any improvements to the property by Tenant will remain with the property and belong to the Landlord.

**NO LIENS PERMITTED, DISCHARGE.** The Landlord's property shall not be subject to liens for work done or materials used on the Premises made at the request of, or on order of or to discharge an obligation of, Tenant. This paragraph shall be construed so as to prohibit, in accordance with the provisions of State law, the interest of Landlord in the Premises or any part thereof from being subject to any lien for any improvements made by Tenant or any third-party on Tenant's behalf (except Landlord) to the Premises. If any lien or notice of lien on account of an alleged debt of Tenant or any notice of lien by a party engaged by Tenant or Tenant's contractor to work on the Premises shall be filed against the Premises, the Project or any part thereof, Tenant, within ten (10) days after notice of the filing thereof, will cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or otherwise. If Tenant shall fail to cause such lien or notice of lien to be discharged within the period aforesaid, then, in addition to any other right or remedy, Landlord may discharge the same either by paying the amounts claimed to be due or by procuring the discharge of such lien by deposit or by bonding procedures. Any amount so paid by Landlord and all costs and expenses, including reasonable attorneys' fees, incurred by Landlord in connection therewith, and including interest at the Default Rate, shall constitute Additional Rent and shall be paid by Tenant to Landlord on demand. Nothing herein shall obligate Tenant to pay or discharge any lien created by Landlord. The obligations of Tenant under this Section shall survive the termination or expiration of this Lease.

**ASSIGNMENT AND SUBLETTING.** This lease is not assignable without the express written permission of the Landlord. Such approval will not be unreasonably withheld.

**ENTRY AND INSPECTION.** Tenant shall permit Landlord to enter upon the premises at reasonable times and upon reasonable notice, for the purpose of inspecting the building and premises. In the event there is not an agreeable new lease Tenant will permit Landlord at any time within thirty (30) days prior to the expiration of this Lease, to place upon the premises any usual "For Lease" signs and permit persons desiring to lease the same to inspect the premises thereafter.

**POSSESSION.** Tenant will surrender possession at the end of the Term.

**INDEMNIFICATION OF LANDLORD.** Tenant agrees to indemnify, defend, and hold harmless Landlord, its agents and representatives, from and against all claims,

damages, liability and expense (including all costs and attorney's fees actually incurred), in connection with loss of life, bodily injury, personal injury, and/or damage to property arising from or out of any occurrence in, on, or about the Leased Premises, or in the use, occupancy, maintenance, or repair of the Leased Premises, or occasioned wholly or in part by any act or omission of Tenant, its agents, contractors, employees, invitees, or subtenants, or any violation, or alleged violation, by Tenant of this Lease or of any legal requirements. The obligations of Tenant under this subsection shall survive any termination of this Lease. All payments required to be made pursuant to this subsection shall be made directly to, or as otherwise requested by, Landlord.

**INSURANCE.** Tenant, at his expense, shall maintain plate glass and public liability insurance including bodily injury and property damage insuring Tenant and Landlord with minimum coverage copies of insurance as follows:

\* Two Million Dollars (\$2,000,000) Liability

\* Two Hundred Thousand Dollars (\$20,000) Contents Coverage

\* Tenant contents/products coverage by loss of theft, damage, act of nature etc. Tenant shall provide Landlord with a Certificate of Insurance showing Landlord as Payee. The Certificate shall provide for a ten day (10) written notice to Landlord in the event of cancellation or material change of coverage. To the maximum extent permitted by insurance policies which, may be owned by Landlord or Tenant and Landlord, for the benefit of each other the parties waive any and all rights of subrogation which, might otherwise exist. Tenant has agreed to pay for insurance coverage on the building up to limit of Fifty Thousand Dollars (\$50,000) during this Lease including options.

**LANDLORD'S REMEDIES ON DEFAULT.** If Tenant defaults in the payment of rent or any additional rent, or defaults in the performance of any of the other covenants or conditions hereof, Landlord, in addition to any and all other rights or remedies it may have at law or in equity, may give Tenant notice of such default and if Lessee does not cure any such default within thirty days (30), after the giving of such notice (or if such other default is of such nature that it cannot be completely cured within such period, if Tenant does not commence such curing within such thirty days (30) and thereafter proceed with reasonable diligence and in good faith to cure such default, the Landlord may terminate this lease. On the date specified in such notice the term of this Lease shall terminate and Tenant shall then quit and surrender the premises to Landlord but early termination will not affect Landlord's right to collect all rent due under this agreement. If this Lease shall have been so terminated by Landlord, Landlord may at any time thereafter resume possession of the premises by any lawful means and remove Tenant or other occupants and their effect.

**DESTRUCTION OF PREMISES.** In the event of a partial destruction of the premises during the term hereof, from any cause, Landlord shall forthwith repair the same, provided that such repairs can be made within sixty days (60) under existing governmental laws and regulations. Partial destruction shall not terminate this Lease except, that Tenant shall be entitled to a proportionate reduction of rent while such repairs are being made based upon the extent to which, the making of such repairs shall interfere with the business of Tenant on the premises. If such repairs cannot be made within said sixty days (60), this Lease may

be terminated at the option of either party. In the event that the building in which the demised premises may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Landlord may elect to terminate this Lease whether the demised premises be injured or not. A total destruction of the building in which the premises may be situated shall terminate this Lease.

**UTILITIES.** All applications and connections for necessary utility services on the demised premises shall be made in the name of Tenant only, and Tenant shall be solely liable for utility charges as they become due including those for sewer, water, gas, electricity and telephone services.

**WAIVER.** No failure of Landlord to enforce any term hereof shall be deemed to be a waiver.

**TIME.** Time is of the essence of this agreement.

**NOTICES.** Any notice which, either party may, or is required to give, shall be given by mailing the same, postage prepaid, to Tenant at the premises or Landlord at the address first written or at such other places as may be designated by the parties from time to time.

**EXCLUSIVITY.** Landlord agrees during the Term of the Lease not to negotiate or enter into any contract or other agreement to sell, renovate, remodel or to lease all or any portion of the Premises with any third party. Notwithstanding anything contained herein to the contrary, in the event that Landlord wishes to terminate this Lease in order to pursue a different prospect, Landlord my upon thirty (30) days written notice to Tenant, terminate this lease. In order to terminate the Lease, Landlord must additionally, within ten (10) days of receipt of evidence of expenses from Tenant, reimburse Tenant for all out-of-pocket expense incurred to date.

**INTENT TO ENTER LONG TERM LEASE.** It is the express intent of the parties to this Lease, that after competition of the plan for rehabilitation and redevelopment, and determination of the preliminary cost estimate for the rehabilitation and redevelopment that Landlord and Tenant will enter into a further long-term lease for the Premises which will allocate the estimated costs and expenses and establish a reasonable rental rate between the parties.

**HEIRS, ASSIGNS, SUCCESSORS.** This lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

**ENTIRE AGREEMENT.** The foregoing constitutes the entire agreement between the parties and may be modified only by a writing signed by both parties.

Signatures on following page

AGREED TO THIS \_\_\_\_\_ day of \_\_\_\_\_, 2024.

LANDLORD:

TENANT:

Hoshton Downton Development Authority

Atlanta Development Company, LLC

By: \_\_\_\_\_

By: \_\_\_\_\_





# NEW BUSINESS

## ITEM #6

Resolution 2024-19: Approval of IGA with DDA  
regarding 4162 Hwy 53, Units 100 and 110  
(Putter's Golf Carts)

**RESOLUTION 2024-19**

**Approval of Intergovernmental Agreement with the Hoschton Downtown Development Authority Regarding Property Located at 4162 Highway 53, Units 100 and 110 Located in the Downtown Development Area of the City of Hoschton**

**WHEREAS**, the revitalization and redevelopment of the central business district of the City of Hoschton ("City") develops and promotes for the public good and general welfare trade, commerce, industry, and employment opportunities and promotes the general welfare of the City by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City; and

**WHEREAS**, it is in the public interest and vital to the public welfare of the citizens of the City to revitalize and redevelop the central business district of the City; and

**WHEREAS**, the City desires to convey the City's interest in marketing and leasing real property to the Hoschton Downtown Development Authority ("Authority"), such that the Authority may market and lease real property in furtherance of the Authority's mission and purpose.

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City does hereby approve and adopt the Intergovernmental Agreement with the Authority attached hereto and does hereby authorize the Mayor, City Manager, and City Attorney to execute the Intergovernmental Agreement attached hereto, as well as such other documents and agreements that may be necessary to effectuate the provisions of the Intergovernmental Agreement.

**Adopted this** \_\_\_\_ **day of** \_\_\_\_\_, **2024.**

\_\_\_\_\_  
**Debbie Martin, Mayor**

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN  
CITY OF HOSCHTON, GEORGIA AND HOSCHTON DOWNTOWN DEVELOPMENT  
AUTHORITY REGARDING 4162 HIGHWAY 53, UNITS 100 AND 110 LOCATED IN  
THE DOWNTOWN DEVELOPMENT AREA OF THE CITY OF HOSCHTON**

This Agreement is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Hoschton, Georgia, hereinafter called "Hoschton" and the Hoschton Downtown Development Authority (hereinafter called "the Authority") for the purpose of conveyance of Hoschton's rights in real property to the Authority, such that the Authority may market and lease the real property in furtherance of the Authority's mission and purpose.

**WHEREAS**, Hoschton owns real property identified as 4162 Highway 53, Units 100 and 110, Hoschton, Georgia 30548 (said real property hereinafter collectively called "the Property"); and

**WHEREAS**, the Property is located in the Downtown Development Area of Hoschton; and

**WHEREAS**, pursuant to O.C.G.A. § 36-42-2, the purpose of the Authority is to revitalize and redevelop the Downtown Development Area of Hoschton, so as to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and promote the general welfare of Hoschton and surrounding communities; and

**WHEREAS**, pursuant to Section 6.33 of the Hoschton Charter, Article IX, Section III, Par. I of the Georgia Constitution, and O.C.G.A. § 36-42-8, Hoschton and the Authority have the power to enter into this Intergovernmental Agreement for the purpose of Hoschton granting the Authority the power to market and lease the Property to fulfill the purpose of the Authority as set forth herein; and

**WHEREAS**, Hoschton and the Authority desire to enter into an agreement to provide for the conveyance of such rights to the Property to the Authority to enable the Authority to market and lease the Property to fulfill the purpose of the Authority as set forth herein.

**NOW THEREFORE**, Hoschton and the Authority agree to the following:

- A. Hoschton shall execute such documents as are necessary to convey Hoschton's rights to the Authority to market and lease the Property with such substantially similar terms and conditions as set forth in the Lease Agreement attached hereto as Exhibit "A."
- B. The Authority shall work diligently to develop and lease the Property for fair market value to such persons and/or entities that will help to revitalize and redevelop the Downtown Development Area of Hoschton, so as to develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and promote the general welfare of Hoschton and surrounding communities.
- C. Upon the development and leasing of the Property, the net proceeds of rental income, after deduction of reasonable and customary costs associated with the leasing of the Property, shall be paid to Hoschton.
- D. The power of the Authority to lease the Property shall terminate on May 31, 2027, such that the Authority shall not have the power to lease the Property for any term

past May 31, 2027 unless extensions are negotiated and agreed to between Hoschton and the Authority. If the Authority fails to lease the Property or any portion of the Property on or before June 30, 2024, Hoschton, in Hoschton's sole discretion, may terminate this Agreement as to the Property or any portion of the Property.

- E. The Authority agrees to hypothecate its interest in the Property to any lender as collateral for any loans related to the Property.
- F. All notices under this Agreement shall be in writing and shall be deemed to have been given by delivering it to person or by certified mail:

As to the Authority:

Hoschton Downton Development Authority  
Attn: Chairperson  
61 City Square  
Hoschton, GA 30548

As to Hoschton

City of Hoschton  
Attn: City Manager  
61 City Square  
Hoschton, GA 30548

- G. The failure of any party to exercise any right given hereunder or to insist upon strict compliance with any term, condition or covenant specified herein shall not constitute a waiver of such party's right to exercise such right or to demand strict compliance with any such term, condition or covenant under this Agreement.
- H. This Agreement contains the sole and entire agreement of the parties with respect to the subject matter contemplated hereunder and no representation, inducement, promise or agreement, parole or written, between the parties and not incorporated herein shall be of any force of effect. Any amendment to this Agreement shall be in writing and executed by the parties.
- I. This Agreement may not be assigned or transferred by either party without the written consent of the other party. The provisions of this Agreement shall inure to the benefit or and be binding upon the parties hereto and the respective success and assigns.
- J. Time is of the essence with respect to this Agreement.
- K. This Agreement and all amendments hereto shall be governed and construed under the laws of the State of Georgia.
- L. If any term, covenant or condition of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, such provision, or the application of such term, covenant or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall be deemed severable, and the remainder hereof shall not be affected thereby, and each

term, covenant, or condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

M. This Agreement may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The Mayor, Clerk, City Manager, and City Attorney of Hoschton are hereby authorized to sign such documents as are necessary to effectuate the provisions of this Agreement. The Chairperson and Secretary of the Authority are hereby authorized to sign such documents as are necessary to effectuate the provisions of this Agreement.

IN WITNESS THEREOF, the parties have set their hand and seal as of the day and year first above written.

**HOSCHTON DOWNTOWN DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
Secretary

**CITY OF HOSCHTON**

By: \_\_\_\_\_  
Debbie Martin, Mayor

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney  
4890-7518-2521, v. 3

## LEASE AGREEMENT

GEORGIA, JACKSON COUNTY

**THIS AGREEMENT** made the \_\_\_\_\_ day of \_\_\_\_\_, 2024 between the HOSCHTON DOWNTOWN DEVELOPMENT AUTHORITY, Georgia, hereinafter known as Lessor, and Putter's Golf Carts LLC, hereinafter known as Lessee.

**WITNESSETH:** That said Lessor has this day rented to Lessee the offices located at 4162 Highway 53, Unit 100 and Unit 110, Hoschton, Georgia 30548 that are collectively hereinafter known as Premises.

1. The Premises are to be used only for purposes of conducting services offered by RETAIL to be known as PUTTER'S GOLF CARTS, LLC. The said lease shall be for a period of THREE years, to commence on the 1<sup>ST</sup> day of JUNE 2024 and ending on the 31<sup>th</sup> day of MAY 2027.
2. For the rental of said Premises, Lessee shall pay to Lessor the sum of \$3,833.33. per month, payable in advance on the first day of each month, beginning on JUNE 1, 2024, and continuing on or before the first day of each month thereafter, through the termination of this Lease. In the event that Lessee fails to pay the full amount of rent by the first day of each month, Lessee shall owe the Lessor a late fee of \$100.00.
3. Should Lessee fail to pay said rent promptly when due, or if Lessee shall be in default in performing any of the terms or provisions of this lease, then Lessor may at its option, terminate this contract, cancel same and take immediate possession of the Premises, without waiving any rent that may have accrued at the time of cancellation, or any claim for damages or breach of contract on the part of the Lessee. Lessor may also remove Lessee's personal effects and property from the premises without being guilty of forcible entry, detained, trespass, tort, or responsibility for the storage and safekeeping of said property. All rent payments shall be mailed or delivered to Lessor at its address, 61 City Square, Hoschton Georgia 30548 on or before said due date.
4. Lessee hereby certifies that the premises have been examined by Lessee and Lessee agrees to accept the premises in its present condition. The Lessor reserves the right to enter upon said premises for the purpose of reasonable inspection along with the right to make repairs or improvements upon same or upon adjoining property of Lessor.
5. Lessee agrees that no alterations, improvements or additions shall be made to the Premises or other portions of said Premises without first having obtained written consent of the Lessor and without proof of insurance as required by the Lessor. Tenant may not make alterations, improvements, or additions to common areas and areas outside of the Premises, including to the exterior walls of the building, without first having obtained written consent of the Lessor. Upon termination of the lease, Lessee agrees to return the Premises to the prior condition of the Premises when Lessee entered into the lease, unless otherwise agreed to by Lessor. Lessor agrees that if Lessee alters the Premises to add

restroom facilities, Lessee will not be required to remove the restroom facilities at the end of this Agreement. Any other improvements made to the Premises, other than those specifically set forth, shall remain on the Premises and shall be property of Lessor after the expiration of this Lease.

6. Lessee shall bear all reasonable charges for utilities used in the Premises.
7. Lessee shall comply with all governmental laws and ordinances in the conduct of its business and shall not conduct its business in such a manner that it interferes with the other occupants or tenants located in the building.
8. If the whole of the leased premises, or such portion thereof as will make the premises unusable for the purposes herein leased, be condemned by any legally constituted authority for any public use or purpose, then in either of said events the term hereby granted shall cease from the date when possession thereof is taken by public authorities, and rental shall be accounted for as between Lessor and Lessee as of said date. Such termination, however, shall be without prejudice to the rights of either Landlord or Tenant to recover compensation and damage caused by condemnation and damage caused by condemnation from the condemnor. It is further understood and agreed that neither the Lessee nor Lessor shall have any rights in any award made to the other by any condemnation authority notwithstanding the termination of the lease as herein provided. If the premises are totally destroyed by storm, fire, lightning, earthquake or other casualty, this lease shall terminate as of the date of such destruction, and rental shall be accounted for as between Lessor and Lessee as of that date. If premises are damaged but not wholly destroyed by any such casualties, rental shall abate in such proportion as use of premises has been destroyed, and Landlord shall restore premises to substantially the same condition as before damage as speedily as practicable, whereupon full rental shall recommence.
9. This Lease Agreement and the rights of Lessee hereunder shall not be an asset of said Lessee to be sold either by its representatives, assigns, successors, receivers or trustees in bankruptcy, or receiver in insolvency proceedings, but in the event of dissolution, bankruptcy, or insolvency of Lessee, Lessor may, if it so desires, immediately terminate this Agreement and resume possession of the premises. If through oversight or otherwise said Lessee should hold premises beyond the term of this Agreement, then Lessee shall become a Tenant at will and shall surrender said property on sixty (60) days notice from the Lessor. It is expressly agreed that there shall be no extension or renewal of this lease or continued occupancy of said premises beyond the term of this lease unless there is an agreement in writing to that effect signed by the parties hereto.
10. Any notices pursuant to this Lease to Lessor may be sent via hand delivery or certified mail to Lessor at the address set forth in Paragraph 3. Any notices pursuant to this Lease to Lessee may be sent via hand delivery or certified mail to Lessee at the Premises.
11. Before occupying the Premises, Lessee shall deliver to City a certificate with signed declaration pages, or written proof that the attached declaration pages are a copy of the original declaration page, and attached riders and endorsements which show (i) that the City is listed as an Additional Insured on the policy (ii) which shows a waiver of subrogation in favor of the City (iii) which shows to the satisfaction of the City, that the

required insurance is in force. The Insurance Carrier(s) shall provide to the City at least thirty (30) days' written notice before canceling, materially changing, or discontinuing coverage. Notice shall be sent via certified mail, return receipt requested to 61 City Square, Hoschton Georgia 30548. Lessee shall deliver written notice of any such cancellation, modification or termination within twenty-four (24) hours of receiving any notice thereof. Failure by the Lessee to deliver proof of insurance as provided in this Paragraph, or notice as required in this paragraph, shall constitute a material substantial breach of this Contract. All such documents shall be delivered directly to the City Manager. Each of these documents which show the required insurance coverage shall be attached to each set of the original Lease Agreement when the documents are transmitted to the City for final execution and approval. If desired, the insurance carrier may redact the premium amount from the declaration page.

Insurance is to be placed with duly licensed or approved non-admitted insurer in the state of Georgia with an "A.M. Best" rating of no less than A-VI. The City in no way warrants that the above-required minimum insurer rating is sufficient to protect the Lessee from potential insurer insolvency.

Commercial General Liability: The Lessee shall procure and shall maintain during the life of this Agreement, General Liability Insurance to protect the Lessee, any subcontractor performing work covered by this Agreement, and the City as an additional insured on a primary and noncontributory basis, from claims for damages for bodily injury, including accidental death, as well as from claims for property damages, which may arise from operations under this Agreement, whether such operations are by the Lessee or by any anyone directly or indirectly employed or hired by Lessee. A waiver of subrogation in favor of the City is to be in place. The amount of insurance shall not be less than the following:

- Each Occurrence \$1,000,000
- Personal & Advertising Injury \$1,000,000
- Medical Expense Any One Person \$5,000
- Damage to Rented Premises \$50,000
- General Aggregate \$2,000,000
- Products (Completed/Operations Aggregate) \$2,000,000

Automobile Liability: The Lessee shall procure and shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance for bodily injury and property damage. The insurance shall include coverage for owned, non-owned and hired vehicles. The City shall be named as an Additional Insured on a Primary and Noncontributory basis with a waiver of subrogation in favor of the City. Amounts shall not be less than the following:

- Combined Single Limit Per Accident \$1,000,000

Excess/Umbrella Liability: The Lessee shall procure and shall maintain during the life of this Contract Excess or Umbrella Liability Insurance over General Liability, Auto Liability and Employers Liability. Umbrella or excess liability policies shall provide coverage at least as broad as specified for underlying coverages and covering those



insured in the underlying policies. Coverage shall be “pay on behalf”, with defense cost payable in addition to policy limits. There shall be no cross liability exclusion of claims or suits by one insured against another. The City shall be named as an Additional Insured on a Primary and Noncontributory basis with a waiver of subrogation in favor of the City. The amounts of coverage shall not be less than the following:

- Each Occurrence           \$1,000,000
- Aggregate                   \$1,000,000

Worker’s Compensation and Employer’s Liability: The Lessee shall procure and shall maintain during the life of this Contract, Worker’s Compensation and Employer’s Liability Insurance for all of Lessee’s employees to be engaged in work on and in the Premises, and in case any such work is sublet, the Lessee shall require the subcontractor similarly to provide Worker’s Compensation Insurance for all of the subcontractor’s employees to be engaged in such work unless such employees are covered by the protection afforded by the Lessee’s Worker’s Compensation Insurance. A Waiver of Subrogation in favor of the City shall be included.

- Workers’ Compensation – Each Employee           Statutory Limits
- Employer’s Liability – Each Employee             \$1,000,000
- Employer’s Liability – Each Accident             \$1,000,000

If self-insured, proof of filing with the State of Georgia and secured, set aside funds shall be required.

Additional Insured: The insurance policies required by this Agreement shall be endorsed to include “Hoschton Downtown Development Authority and City of Hoschton, Georgia, its officers, elected or appointed officials, agents, employees, volunteers, and representatives” as Additional Insured with respect to work performed on and in the Premises. (This requirement does not apply to Worker’s Compensation, Employer’s Liability, or Professional Liability coverage). A copy of the endorsement shall be provided.

Waiver of Subrogation: The insurance policies required by this Agreement shall be endorsed to include a Waiver of Subrogation on all policies in favor of “Hoschton Downtown Development Authority and City of Hoschton, Georgia, its officers, elected or appointed officials, agents, employees, volunteers, and representatives.

Renewal certificates shall be provided to the City prior to the expiration date of existing coverage and shall be provided continuously for a period of one year after the completion of the work. All documents shall reference the contract name.

12. It is agreed between the parties to this Agreement that neither shall be bound by any verbal statement or agreement or any subsequent contract relating to the Premises during the term of this contract unless endorsed hereon and signed by the parties thereto and the foregoing constitutes the entire agreement between the parties.
13. Tenant shall deposit a Security Deposit in the amount of \$7,666.66 with Landlord on or before prior to the execution of this Lease, which shall be held by Landlord, without

liability to Tenant for any interest thereon, as security for the full and faithful performance by Tenant of each term, covenant and condition of the Lease. If the rent shall be unpaid or should Landlord make payments on behalf of Tenant, or should Tenant fail to perform any of the terms of this Lease, then Landlord may, at its option, appropriate and apply the Security Deposit, or so much thereof as may be necessary to compensate Landlord toward the payment of rent, charges or other sums due from tenant, or towards any loss, damage or expense sustained by Landlord resulting from such default on the part of the Tenant: and in such event tenant shall upon demand restore the Security Deposit to the original sum deposited. In the event Tenant furnishes Landlord with proof of all utility bills have been paid through the date of Lease termination and performs all of Tenant's other obligations under the Lease, the Security Deposit shall be returned in full to the Tenant within thirty (30) days after the termination of the Lease, and the surrender of the Premises by Tenant in compliance with the provisions of this lease. In the Event of a sale of the Premises, subject to this Lease and transfer of the Security Deposit to the new landlord, Landlord shall be released from all liability for the return of the Security Deposit and Tenant shall look solely to the new Landlord for the return of the Security Deposit. This provision shall apply to every transfer or assignment made of the Security Deposit to the new Landlord.

**IN WITNESS WHEREOF:** Said Lessor and Lessee have hereunto set their hands and affixed their seals in duplicate the day and year first above written.

**Signed, sealed, and delivered**

**in the presence of:**

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

Commission Expires: \_\_\_\_\_

**HOSCHTON DOWNTOWN  
DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Tracy Jordan, DDA Chair

ATTEST: \_\_\_\_\_  
Marsha Hunter, Secretary

CITY SEAL

Approved as to Form:

\_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney

**Signed, sealed, and delivered  
in the presence of:**

\_\_\_\_\_  
Unofficial Witness

\_\_\_\_\_  
Notary Public

Commission Expires: \_\_\_\_\_

**PUTTERS GOLF CARTS LLC**

By: \_\_\_\_\_

# NEW BUSINESS

## ITEM #7

Resolution 2024-20: Approval of First Amendment to  
IGA with DDA regarding 69 City Square  
(Pasta Masters)

**RESOLUTION 2024-20**

**Approval of First Amendment to Intergovernmental Agreement with the Hoschton Downtown Development Authority Regarding Property Located Outside the Back Entry Door to 69 City Square Located in the Downtown Development Area of the City of Hoschton**

**WHEREAS**, the revitalization and redevelopment of the central business district of the City of Hoschton ("City") develops and promotes for the public good and general welfare trade, commerce, industry, and employment opportunities and promotes the general welfare of the City by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City; and

**WHEREAS**, it is in the public interest and vital to the public welfare of the citizens of the City to revitalize and redevelop the central business district of the City; and

**WHEREAS**, the City desires to convey the City's interest in marketing and leasing real property to the Hoschton Downtown Development Authority ("Authority"), such that the Authority may market and lease real property in furtherance of the Authority's mission and purpose.

**NOW, THEREFORE, BE IT RESOLVED THAT** the governing body for the City does hereby approve and adopt the First Amendment to Intergovernmental Agreement with the Authority attached hereto and does hereby authorize the Mayor, City Manager, and City Attorney to execute the Intergovernmental Agreement attached hereto, as well as such other documents and agreements that may be necessary to effectuate the provisions of the First Amendment to Intergovernmental Agreement.

**Adopted this** \_\_\_\_ **day of** \_\_\_\_\_, **2024.**

\_\_\_\_\_  
**Debbie Martin, Mayor**

This is to certify that I am City Clerk of the City of Hoschton. As such, I keep its official records, including its minutes. In that capacity, my signature below certifies this resolution was adopted as stated and will be recorded in the official minutes.

**ATTEST:**

\_\_\_\_\_  
**City Clerk**

4894-4058-6426, v. 2

**FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BY AND  
BETWEEN CITY OF HOSCHTON, GEORGIA AND HOSCHTON DOWNTOWN  
DEVELOPMENT AUTHORITY REGARDING PROPERTY LOCATED IN THE  
DOWNTOWN DEVELOPMENT AREA OF THE CITY OF HOSCHTON**

This First Amendment to Agreement is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 2024, by and between the City of Hoschton, Georgia, hereinafter called “Hoschton” and the Hoschton Downtown Development Authority (hereinafter called “the Authority”) for the purpose of conveyance of Hoschton’s interest in leasing real property to the Authority, such that the Authority may lease real property in furtherance of the Authority’s mission and purpose.

**WHEREAS**, Hoschton and the Authority entered into an Intergovernmental Agreement with an effective date of January 17, 2024 (hereinafter called “the IGA”) relating to the “Premises” as defined in the IGA.

**NOW THEREFORE**, Hoschton and the Authority agree that Hoschton shall execute such documents as are necessary to convey Hoschton’s rights to the Authority to lease real property in substantially the same form and on the same terms as set forth in the First Amendment to Retail Lease Agreement attached hereto. This First Amendment may be executed in several counterparts, each of which shall constitute an original and all of which together shall constitute one and the same instrument. The Mayor, Clerk, City Manager, and City Attorney of Hoschton are hereby authorized to sign such documents as are necessary to effectuate the provisions of this First Amendment. The Chairperson and Secretary of the Authority are hereby authorized to sign such documents as are necessary to effectuate the provisions of this First Amendment.

IN WITNESS THEREOF, the parties have set their hand and seal as of the day and year first above written.

**HOSCHTON DOWNTOWN DEVELOPMENT AUTHORITY**

By: \_\_\_\_\_  
Chairperson

ATTEST: \_\_\_\_\_  
Secretary

**CITY OF HOSCHTON**

By: \_\_\_\_\_  
Debbie Martin, Mayor

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM

\_\_\_\_\_  
Abbott S. Hayes, Jr., City Attorney  
4860-0040-5178, v. 3

**FIRST AMENDMENT TO RETAIL LEASE AGREEMENT**

THIS FIRST AMENDMENT TO RETAIL LEASE AGREEMENT (this "Lease") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2024, by and between **HOSCHTON DOWNTOWN DEVELOPMENT AUTHORITY** ("Landlord") and **ATLANTA DEVELOPMENT COMPANY, LLC** ("Tenant").

By a Retail Lease Agreement dated January 8, 2023 ("Lease"), Landlord leased to Tenant the "Premises" as defined in the Lease.

In the process of planning and developing the restaurant to be operated within the Premises, Tenant has identified a need to locate HVAC equipment necessary to heat and cool the interior of the Premises upon real property located outside the back entry door to the interior of the Premises. Furthermore, space will need to be reserved outside the back entry door to the interior of the Premises to allow for efficient delivery of food products and related items needed within the interior of the Premises.

Attached as Exhibit A-1 is a depiction of real property, currently marked as two parking spaces. Landlord and Tenant hereby agree that the Lease shall be amended to include the two parking spaces, shown on Exhibit A-1, as part of the Premises leased from Landlord and Tenant pursuant to the Lease. The parking space shown on the left side of Exhibit A-1 shall be utilized by Tenant to locate HVAC equipment necessary to heat and cool the interior of the Premises. The parking space shown on the right side of Exhibit A-1 shall be reserved by both Tenant and Landlord to allow for efficient delivery of food products and related items needed within the interior of the Premises.

**IN WITNESS WHEREOF**, Landlord and Tenant have duly executed this First Amendment to Retail Lease Agreement as of the day and year first above written.

**LANDLORD:**

HOSCHTON DOWNTOWN DEVELOPMENT

\_\_\_\_\_  
AUTHORITY  
Witness

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

\_\_\_\_\_  
Notary Public  
My Commission expires:

[Notary Seal]

**TENANT:**

ATLANTA DEVELOPMENT COMPANY, LLC

\_\_\_\_\_  
Witness

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

\_\_\_\_\_  
Notary Public  
My Commission expires:

[Notary Seal]

Exhibit A-1

