



**City Council**  
7224 GA Highway 21  
Port Wentworth, GA 31407

**SUBMITTED**

Meeting: 01/26/23 07:00 PM  
Department: Development Services  
Category: Planning/Zoning Item  
Prepared By: Melanie Ellis  
Department Head: Brian Harvey

**AGENDA ITEM (ID # 2789)**

DOC ID: 2789

## **Site Plan Review Application submitted by Hillpointe, LLC., of behalf of Ameridevelopment Pooler, LLC., for PIN # 71017 01014 (Highway 30) for a General Development Site Plan to allow a multi-family development (Marion Village Apartments) in a P-R-M (Planned Residential Multifamily) Zoning District**

**Issue/Item:** Site Plan Review Application submitted by Hillpointe, LLC., of behalf of Ameridevelopment Pooler, LLC., for PIN # 71017 01014 (Highway 30) for a General Development Site Plan to allow a multi-family development (Marion Village Apartments) in a P-R-M (Planned Residential Multifamily) Zoning District

**Background:** The subject property is currently vacant woodland. There are no buildings or structures on the subject property.

**Facts and Findings:** Marion Village Apartments will consist of 12 apartment buildings (360 Units), clubhouse, pool, associated parking, utilities, drainage and infrastructure improvements. The entrance to the development will be from Highway 30. The developer also intends to extend water and sanitary sewer utilities down Highway 30.

**Funding:** N/A

**Recommendation:** The Planning Commission will hear this application on Monday, September 12, 2022 at 6:30 PM. / Update: The Planning Commission voted unanimously to approve this application.

### **ATTACHMENTS:**

- Marion Village Apartments 7-1017-01-014 G-Site Plan Sept 2022 - Site Plan Application (PDF)
- Marion Village Apartments 7-1017-01-014 G-Site Plan Sept 2022 - Adj Prop Owners (PDF)
- Marion Village Apartments 7-1017-01-014 G-Site Plan Sept 2022 - Timeline (DOCX)

**Site Plan Review Application**

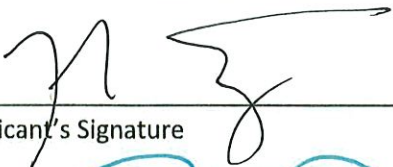
***Site Plan Application is required for all new construction in a "P" or "MPO" zone as defined in the Zoning Ordinance of the City of Port Wentworth.***

Site Plan Type (Check One): ☒ General / Concept ☐ Specific Development  
Site Plan Address: 1061 HWY 30  
PIN #(s): 71017 01014  
Zoning: P-R-M Estimated Cost of Construction: \$57-\$58 Million  
Type of Construction: Residential

Applicant's Name: Hillpointe, LLC  
Mailing Address: 8830 Macon HWY, BLDG 300  
Athens, GA 30606  
Phone #: 678-628-4678 Email: neverly@hillpointe.com

Owner's Name (If Different form Applicant): Ameridevelopment Pooler, LLC, ATTN: Roy Patel  
Mailing Address: 111 Greenview Dr, Savannah GA 31322  
Phone #: 912-663-7000 Email: roypatel111@gmail.com

I hereby acknowledge that the above information is true and correct.

  
Applicant's Signature

07/20/22  
Date

  
Owner's Signature (If Different form Applicant)

07/20/2022  
Date

**Please see page 2 for required submittal checklist**

**Site Plan Review Application Submittal Checklist**

**Documentation below is required for a complete submittal.**

- ☒ Signed and Completed Application
- ☒ 3 Full size sets of site plan civil drawings or concept plan (depending on type of site plan)
- ☒ 15 half size (11" X 17") sets of site plan civil drawings or concept plan (depending on type of site plan)
- ☐ 2 copies of hydrology reports (if applicable)
- ☒ Names, mailing address, and PIN number of all property owners within 250 feet of all property lines
- ☒ 1 8 ½" X 11" of site plan civil drawings or concept plan (depending on type of site plan)
- ☒ PDF of entire submittal (flash drive ONLY)
- ☐ Other Engineering details or reports may be required once submittal has been received
- ☒ Site plan review fee check
  - ☒ No Land Disturbance - \$206.00 Site Plan Fee + \$50.00 Admin Fee = Total \$256.00
  - ☐ With Land Disturbance - \$836.00 Site Plan Fee + \$50.00 Admin Fee = Total \$886.00

**Additional Fee Statement:** If engineer review cost to the City exceeds the site plan review fee that is paid at the time of initial application submittal, you may be required to pay additional review cost.

I have read and agree to the above additional fee statement

Applicant's Signature

Date

07/20/22

<b>Parcel Number</b>	<b>Owner Address</b>	<b>Owner</b>
71017 01007	PO Box 8053 Statesboro, GA 30460	Georgia Southern University Foundation Guyton
71017 02004	9987 HWY 23 N Metter, GA 30439	Hadden Simmons, Randy
71017 02003	1238 State Road 30 Port Wentworth, GA 31407	Coovert, Charles H. and Gwendoly
71017 02005	1222 HWY 30 Port Wentworth, GA 31407	Butler, Rosalyn R Griner
71017 02008	1220 HWY 30 Port Wentworth, GA 31407	Thomas, William S.
71017 02009	133 Hodgeville Rd Port Wentworth, GA 31407	Dotson, Andrew Jerald
71017 02010	101 Hodgeville Road Port Wentworth, GA 31407	NAV KAR LLC
71017 03001	1116 HWY 30 Port Wentworth, GA 31407	Shree Prabhu 2, LLC
71017 01004	133 Hodgeville Road Port Wentworth, GA 31407	Dotson, Andrew Jerald
436-20	405 S Skinner Ave Pooler GA, 31322	Strickland, Robert and Harley
436-22	Woods, Herman C.	2000 Old Augusta Road Clyo, GA 31303
419-1	PO Box 8053 Statesboro, GA 30460	Georgia Southern University Foundation Guyton



**Project Timeline**

Project Number: 220399

Project Name: MARION VILLAGE APARTMENTS

Applicant / Engineer: HILLPOINTE, LLC

Owner: AMERIDEVELOPMENT POOLER, LLC

City Review Engineer:

- 07/22/2022 – Application received: Complete
- 8/22/22 – Public hearing notice letters mailed, and public hearing notice sent to Savannah Morning News to be published on 8/24/22.
- 8/29/22 – sent email to applicant informing them to be present at the Planning Commission meeting on September 12, 2022.
- 9/12/22 – Planning Commission voted to approve the agenda item.
- 9/22/22 – City Council voted to table the application for 1 month.
- 10/14/22 – Email sent to Clerk of Council from Kennon Strowd requesting the item to be delayed.
- 1/3/23 -email received from Kennon Strowd requesting the item to be on the next available agenda.



GENERAL NOTES

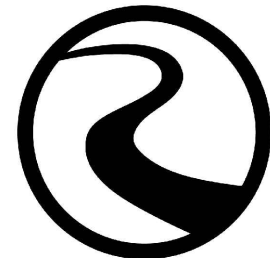
1. INTENDED USE:  
THE PROPOSED MARION VILLAGE APARTMENTS DEVELOPMENT LIES WITHIN PARCEL 7-1017-01-014. THE PROPOSED PROJECT WILL CONSIST OF (1) 3 STORY 12 UNIT - 2 BEDROOM APARTMENT BUILDINGS, (4) 3 STORY 24 UNIT - 2 BEDROOM APARTMENT BUILDINGS AND (7) 3 STORY 36 UNIT - 2 BEDROOM APARTMENT BUILDINGS, FOR A **TOTAL OF 360 UNITS**. THE DEVELOPMENT WILL INCLUDE A NEW PARKING LOT LAYOUT, CLUBHOUSE & RECREATION CENTER AND ASSOCIATED INFRASTRUCTURE TO BE CONSTRUCTED ON 77.7± AC.
2. OWNER/DEVELOPER:  
HILLPOINTE, LLC | 8830 MACON HWY, BLDG 300  
ATHENS, GA 30606 | (678) 628-4678
3. PARKING REQUIREMENTS FOR DEVELOPMENT ZONE: **PRM**  
1.75 SPACES PER 2 BEDROOM UNIT APARTMENT

TOTAL SPACES REQUIRED:  
1 BUILDINGS x 12 UNITS EACH = 12 UNITS  
4 BUILDINGS x 24 UNITS EACH = 96 UNITS  
7 BUILDINGS x 36 UNITS EACH = 252 UNITS  
360 UNITS x 1.75 SPACES/UNIT = **630 SPACES REQUIRED**

TOTAL SPACES PROVIDED:  
556 PARKING SPACES + 110 GARAGE SPACES + 32 ADA SPACES  
= **698 APARTMENT SPACES + 13 AMENITY SPACES PROPOSED**

ALL PARKING SPACES AND STRIPED H/C SPACES ARE 20' X 9' MIN  
ALL CURBING WILL BE 1.5' MOUNTED (ROLLED)  
ALL SIDEWALKS WILL BE 5' WIDE, CONCRETE

PREPARED BY:



**ROBERTS**  
CIVIL ENGINEERING

ST. SIMONS ISLAND | SAVANNAH | JACKSONVILLE  
WWW.ROBERTSCIVILENGINEERING.COM

PREPARED FOR:



HILLPOINTE, LLC  
8830 MACON HWY, BLDG 300  
ATHENS, GA 30606  
(678) 628-4678

PID: 04190001  
GEORGIA SOUTHERN  
UNIVERSITY FOUNDATION  
ZONING: AR-1  
(DB 2404, PAGE 482)

NE SUSTAINABLE FOREST LLC  
PIN# B1-183

WETLAND

WETLAND

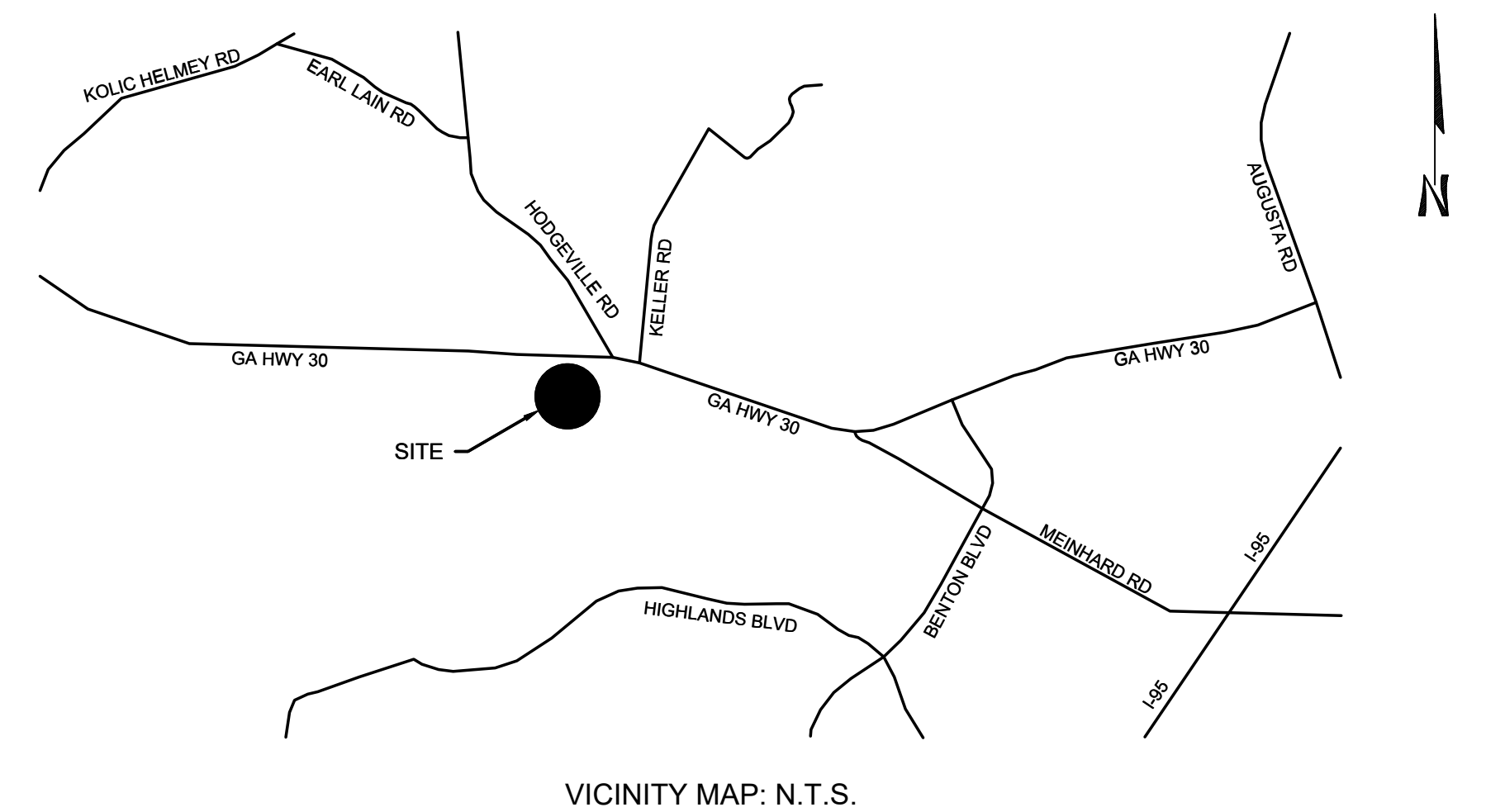
WETLAND

4. SITE COVERAGE:  
TOTAL PARCEL AREA: 77.8 AC  
UPLAND 29.2 AC  
WETLAND 48.6 AC  
TOTAL DISTURBED AREA: 27.3 AC  
TOTAL IMPERVIOUS:  
TOTAL BUILDING AREA: 3.70 AC  
TOTAL PAVEMENT: 6.71 AC  
TOTAL SIDEWALKS: 0.54 AC  
TOTAL WET POND: 6.56 AC  
TOTAL DISTURBED PERVIOUS: 9.79 AC  
GREENSPACE REQUIRED: 15.56 AC (20%)  
GREENSPACE PROVIDED: 60.39 AC (78%)

5. SITE DESCRIPTION: THIS PARCEL IS CURRENTLY UNDEVELOPED AND DISCHARGES INTO THE ADJACENT WETLAND SYSTEM. THE PROPOSED DEVELOPMENT CONTAINS 12 MULTI FAMILY APARTMENT BUILDINGS, WITH 360 UNITS TOTAL, A CLUBHOUSE AND AMENITY CENTER AND THE INFRASTRUCTURE TO SUPPORT IT.

6. DEVELOPMENT STANDARDS : R-M MULTIFAMILY RESIDENTIAL. THE NET DWELLING UNIT DENSITY FOR THIS ZONE SHALL BE ESTABLISHED AT THE TIME OF REZONING, BUT SHALL BE NOT MORE THAN EIGHTEEN (18) UNITS PER GROSS ACRE  
ZONING: P-R-M (PLANNED MULTIFAMILY RESIDENTIAL)  
DENSITY:  
ALLOWED: 18 UNITS PER ACRE X 77.8 ACRES = 1,400 UNITS  
PROPOSED: 4.9 DU/AC PROPOSED  
COVERAGE:  
MAXIMUM BUILDING COVERAGE ALLOWED: 35.01 AC (45%)  
BUILDING AREA PROPOSED: 3.70 AC (5%)  
MAXIMUM BUILDING HEIGHT: 50 FEET  
FRONT YARD SETBACKS (FROM CL OF STREET):  
MAJOR ARTERY: 70'  
CONNECTING ROUTE: 60'  
SIDE YARD SETBACKS: 10'  
REAR YARD SETBACK: 25'  
WETLAND SETBACKS: THERE ARE NO STATE REQUIRED BUFFERS OR SETBACKS ON THESE WETLANDS

7. PROPOSED UTILITIES:  
WATER: AN 8" (MINIMUM) WATER MAIN WILL TIE INTO THE EXISTING WATER METER STATION AT THE INTERSECTION OF MEINHARD RD AND GA HWY 30 (PIN 70978807030), AND EXTEND APPROXIMATELY 1.14 MILES ALONG THE RIGHT OF WAY OF GA HWY 30  
SEWER: AN 8" (MINIMUM) FORCE MAIN WILL TIE INTO THE EXISTING PUBLIC LIFT STATION LOCATED AT 47 LAKE SHORE BLVD (PIN 70978805035), AND EXTEND APPROXIMATELY 1.55 MILES ALONG THE RIGHT OF WAY OF GA HWY 30  
STORM WATER: A STORM PIPE SYSTEM WILL BE PROVIDED ONSITE AND ROUTED TO AN ON-SITE DETENTION SYSTEM, WHICH WILL DISCHARGE TO THE EXISTING WETLAND.  
8. ACCORDING TO FEMA FLOOD INSURANCE RATE MAP 13051C0030G, DATED 8-16-2018 AND 13051C009H DATED 7-7-2014, THE SITE IS LOCATED IN ZONE "X" WHICH IS NOT IN A SPECIAL FLOOD HAZARD AREA AND IN ZONE AE (ELEV. 15) WHICH IS IN A SPECIAL FLOOD HAZARD AREA.  
9. SIGNAGE FOR THIS SITE WILL BE COMPLIANT WITH THE PORT WENTWORTH ORDINANCES.



VICINITY MAP: N.T.S.

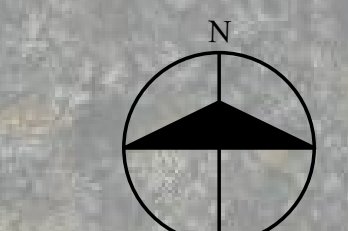
BUTLER, ROSALYN R  
GRINER  
ZONING: P-C-1

CENTERLINE INTERSECTION  
HODGEVILLE RD & GA HWY 30

S74°46'24"W 178.35'(C)  
S74°35'37"W 178'(R)

UPLAND AREA 1: 12.5 AC  
204 UNITS  
DENSITY: 16.32 UNITS PER ACRE  
PARKING SPACES: 354  
GARAGE SPACES: 60

PID: 71017 01004  
DOTSON, ANDREW JERALD  
ZONING: R-A  
(DB 166B, PAGE 41)



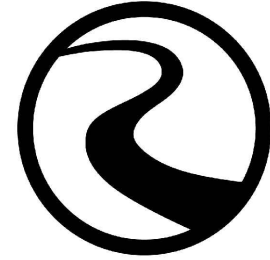
SCALE:  
1" = 100'

GENERAL DEVELOPMENT PLAN  
**MARION VILLAGE APARTMENTS**  
PORT WENTWORTH, GEORGIA

PID: 71017 01007  
GEORGIA SOUTHERN  
UNIVERSITY FOUNDATION  
ZONING: P-RP  
(DB 1082, PAGE 660)



PREPARED BY:



**ROBERTS**  
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PREPARED FOR:



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(678) 628-4678

PID: 04190001  
GEORGIA SOUTHERN  
UNIVERSITY FOUNDATION  
ZONING: AR-1  
(DB 2404, PAGE 482)

NE SUSTAINABLE FOREST LLC  
PIN# 81483

UPLAND AREA 3.90 AC  
DENSITY: 10.67 UNITS  
PER ACRE  
141 PARKING SPACES  
30 GARAGE SPACES

UPLAND AREA 0.3 AC  
UNDISTURBED

PID: 71017 02004  
HADDEN, SIMMONS RANDY  
ZONING: P-C-1

UPLAND AREA 2.51 AC  
60 UNITS + CLUBHOUSE AMENITY  
DENSITY: 11.78 UNITS PER ACRE  
APARTMENT PARKING SPACES: 101  
GARAGE SPACES: 20  
AMENITY PARKING SPACES: 13

PID: 71017 02003  
COOVERT, CHARLES  
& GWENDOLYN  
ZONING: R-A

VICINITY MAP: N.T.S.

FUTURE WIDENING  
OF GA HWY 30

BUTLER,  
ROSALYN R  
GRINER  
ZONING: P-C-1

CENTERLINE INTERSECTION  
HODGEVILLE RD & GA HWY 30  
FUTURE ROUNDABOUT AT INTERSECTION  
HODGEVILLE RD & GA HWY 30

S74°46'24"W 478.35'(C)  
S74°35'37"W 178'(R)

CONCEPTUAL R/W LINE

UPLAND AREA 1: 12.5 AC  
204 UNITS  
DENSITY: 16.32 UNITS PER ACRE  
PARKING SPACES: 354  
GARAGE SPACES: 60

PID: 71017 01004  
DOTSON, ANDREW JERALD  
ZONING: R-A  
(DB 1668, PAGE 41)

PID: 71017 01014  
AMERIDEVELOPEMENT, POOLER, LLC  
ZONING: P-C-1  
(DB 1673, PAGE 109)  
3,386,043 SQ. FT.  
77.733 ACRES±

UPLAND AREA 1.6 AC  
UNDISTURBED

PID: 71017 01007  
GEORGIA SOUTHERN  
UNIVERSITY FOUNDATION  
ZONING: P-RIP  
(DB 1082, PAGE 660)

EXHIBIT  
**MARION VILLAGE APARTMENTS**  
PORT WENTWORTH, GEORGIA









# CITY OF PORT WENTWORTH

## PLANNING COMMISSION

SEPTEMBER 12, 2022

Council Meeting Room

Regular Meeting

6:30 PM

7224 GA HIGHWAY 21  
PORT WENTWORTH, GA 31407

**1. CALL MEETING TO ORDER**

Vice-Chairman Lauree Morris called the meeting to order.

**2. PRAYER AND PLEDGE OF ALLEGIANCE**

Commissioner Herrin led the Prayer and Pledge of Allegiance.

**3. ROLL CALL - SECRETARY**

Attendee Name	Title	Status	Arrived
Bill Herrin	Planning Commissioner	Present	
Rosetta Franklin	Planning Commissioner	Present	
Lauree Morris	Planning Commissioner	Present	
CJ Neesmith	Planning Commissioner	Absent	
Janet Hester	Planning Commissioner	Absent	
Melanie Ellis	Building Inspector	Present	
Steve Davis	City Manager	Present	

**4. APPROVAL OF AGENDA**

**1. Approval of Agenda**

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Rosetta Franklin, Planning Commissioner  
**SECONDER:** Bill Herrin, Planning Commissioner  
**AYES:** Herrin, Franklin, Morris  
**ABSENT:** Neesmith, Hester

**5. ADOPTION OF MINUTES**

**A. Planning Commission - Regular Meeting - Jul 11, 2022 6:30 PM**

**RESULT:** ACCEPTED [UNANIMOUS]  
**MOVER:** Bill Herrin, Planning Commissioner  
**SECONDER:** Rosetta Franklin, Planning Commissioner  
**AYES:** Herrin, Franklin, Morris  
**ABSENT:** Neesmith, Hester

**6. ZONING MAP AMENDMENTS (REZONING)**

**7. ZONING TEXT AMENDMENTS (ORDINANCES)**

**8. SITE PLAN/SUBDIVISION APPROVAL**

- A. Alcoholic Beverage License Application submitted by An Lin Ruan, for a Pouring Beer / Wine / Liquor and Sunday Sales License for Milan Ruan Inc., DBA Milan Grill Bar (7202 Highway 21) located in a P-C-3 (Planned General Business) Zoning District

The applicant was not present at the meeting to represent the application. Vice-Chairman Morris asked Mr. Davis if the applicant had passed the background check done by the City of Port Wentworth Police Department. Mr. Davis responded yes.

There were no public comments.

Commissioner Herrin made a motion to approve the application. Commissioner Franklin seconded the motion to approve. The vote was unanimous.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bill Herrin, Planning Commissioner
<b>SECONDER:</b>	Rosetta Franklin, Planning Commissioner
<b>AYES:</b>	Herrin, Franklin, Morris
<b>ABSENT:</b>	Neesmith, Hester

- B. Site Plan Review Application submitted by Hillpointe, LLC., of behalf of Ameridevelopment Pooler, LLC., for PIN # 71017 01014 (Highway 30) for a General Development Site Plan to allow a multi-family development (Marion Village Apartments) in a P-R-M (Planned Residential Multifamily) Zoning District

Jessica Vick, Roberts Civil Engineering, was present on behalf of the developer and gave a brief overview of the project. Vice-Chairman Morris asked if the proposed road through the project would impact the wetlands. Mrs. Vick responded that there would be no additional impacts to the wetlands and there is a wetland disturbance permit already issued on the property several years ago. Mr. Davis asked if the second entrance (closest to Hodgeville Road) could be moved due to the impact it may have on the intersection of Hodgeville Road and Highway 30. Mrs. Vick stated they would look at moving the entrance location.

Public Hearing:

-Charles Covert, Highway 30, raised concerns about the intersection of Highway 30 and Hodgeville Road. Mr. Covert asked if once the water and sanitary sewer utilities are extended, would residents be able to connect. Mr. Davis responded yes, as long as they pay the applicable tap and connection fees.

-Avril Roy-Smith, Roseberry Cir, asked if there would be any impacts on the wetlands. Mrs. Vick responded that there would be no additional impacts on the wetlands.

After the public hearing was closed, Vice-Chairman Morris asked if there would be an environmental study done. Mrs. Vick responded that a DRI was underway. Commissioner Herrin made a motion to approve the application. Commissioner Franklin seconded the motion to approve. The vote was unanimous.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bill Herrin, Planning Commissioner
<b>SECONDER:</b>	Rosetta Franklin, Planning Commissioner
<b>AYES:</b>	Herrin, Franklin, Morris
<b>ABSENT:</b>	Neesmith, Hester

- C. Subdivision Application submitted by Jason Bryant, P.E., Pittman Engineering, Co., on behalf of Forestar (USA) Real Estate Group Inc., for PIN # 70906 04042 (Lakeside Blvd) located in a M-P-O (Master Plan Overlay) Zoning District for a Preliminary Plat of a Major Subdivision (Lakeside at Rice Hope Phase 24) for the purpose of Single-Family Homes

The applicant, Jason Bryant, was present and gave a brief overview of the project. Mr. Davis asked if the berm would from neighboring phases along I-95 would be extended to the project. Mr. Bryant responded yes.

Public Hearing:

-Ralph Duxbury, Lakeside Drive, asked if these would be rentals. Mr. Bryant responded that he was not sure.

-Richard Gilardi, Lakeside Drive, asked in what order the phases would be built. Mr. Bryant stated that phase 20 would be built prior to phase 24, because phase 24 would be an extension of the previous phase.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Bill Herrin, Planning Commissioner
<b>SECONDER:</b>	Rosetta Franklin, Planning Commissioner
<b>AYES:</b>	Herrin, Franklin, Morris
<b>ABSENT:</b>	Neesmith, Hester

9. NEW BUSINESS

10. ADJOURNMENT

A. Adjournment

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Rosetta Franklin, Planning Commissioner
<b>AYES:</b>	Herrin, Franklin, Morris
<b>ABSENT:</b>	Neesmith, Hester

  
Chairman

The foregoing minutes are true and correct and approved by me on this 14 day of November, 2022.

  
Secretary





**City Council**  
7224 GA Highway 21  
Port Wentworth, GA 31407

Meeting: 01/26/23 07:00 PM  
Department: Development Services  
Category: Planning/Zoning Item  
Prepared By: Melanie Ellis  
Department Head: Brian Harvey

**SUBMITTED**

**AGENDA ITEM (ID # 2787)**

DOC ID: 2787

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**Subdivision Application submitted by Neil Sharma, PW Hotel, LLC., PIN # 70037 02016 (Magellan Blvd and Highway 30) located in a P-C-3 (Planned General Business) Zoning District for a Final Plat of a Minor Subdivision (Lot 1, Lot 2, & Lot 3 Formerly Parcel 1, Former Broadman Tract) for the purpose of a Hotel Development**

**Issue/Item:** Subdivision Application submitted by Neil Sharma, PW Hotel, LLC., PIN # 70037 02016 (Magellan Blvd and Highway 30) located in a P-C-3 (Planned General Business) Zoning District for a Final Plat of a Minor Subdivision (Lot 1, Lot 2, & Lot 3 Formerly Parcel 1, Former Broadman Tract) for the purpose of a Hotel Development.

**Background:** The owner is requesting to subdivide a single 11 acre tract into three (3) parcels (Lot 1, 4.80 acres / Lot 2, 2.86 acres / Lot 3, 3.34 acres) for the purpose of a Hotel development and other future development.

**Facts and Findings:** The application and submitted plat appears to meet the City requirements. The parcel will be served by City water and sewer utilities.

**Funding:** N/A

**Recommendation:** The Planning Commission will hear this application on Monday, January 9, 2023 at 3:30 PM. / Update: The Planning Commission voted unanimously to approve the application.

**ATTACHMENTS:**

- Lot 1, 2, 3 70037 02016 Sharma Final Plat- Application (PDF)
- Lot 1, 2, 3 70037 02016 Sharma Final Plat- Timeline (DOCX)
- Lot 1, 2, 3 70037 02016 Sharma Final Plat- Plat (PDF)



## SUBDIVISION APPLICATION FORM FOR THE CITY OF PORT WENTWORTH

### Application Form Required

This application form is to accompany all subdivisions submitted for Port Wentworth Planning Commission review and is to be filled out in its entirety. Plats/subdivisions not accompanied by this application will not be accepted for processing. All subdivisions with their completed applications must be received by the City of Port Wentworth at least 45 business days prior to the Planning Commission meeting at which they are to be considered. Revisions to a subdivision under review by the Port Wentworth Planning Commission must be received 10 business days prior to the Port Wentworth Planning Commission at which each subdivision is scheduled to be heard.

Subdivision Name: <i>LOT 1, LOT 2, LOT 3 formerly Parcel 1, Former Boardman Tract</i>	
Location: <i>Magellan Blvd &amp; Hwy 30, Port Wentworth, GA 31407</i>	
Number of Lots: <i>3</i>	Number of Acres: <i>11.00</i>
PIN #(s): <i>70037 02016</i>	Current Zoning: <i>P-C-3</i>

### Type of Subdivision: (Check applicable blanks from each column)

- |  |   |
|--|---|
| A. <input type="checkbox"/> Sketch Plan              | B. <input type="checkbox"/> Major Subdivision<br>(4 or more lots or a new road)         |
| <input type="checkbox"/> Master Plan                 |   |
| <input type="checkbox"/> Preliminary Plat            |   |
| <input checked="" type="checkbox"/> Final Plat       | <input checked="" type="checkbox"/> Minor Subdivision<br>(3 or less lots & no new road) |
| <input type="checkbox"/> Revision to a Recorded Plat |   |

### Purpose of Subdivision:

- |  |  |
|--|--|
| <input type="checkbox"/> Single Family             | <input type="checkbox"/> Industrial    |
| <input type="checkbox"/> Multi-Family              | <input type="checkbox"/> Institutional |
| <input type="checkbox"/> Retail                    | <input type="checkbox"/> Other         |
| <input checked="" type="checkbox"/> Other Business | <input type="checkbox"/> Sign          |

### Variances: (List all variances being requested)

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**Georgia DOT Review**

In all applications in which property being subdivided lies along a State Highway or access is needed from a State Highway, all applicants are required to submit a plat to the Georgia Department of Transportation for review. The subdivision application will not be considered by the Port Wentworth Planning Commission until the Georgia Department of Transportation has commented on the subdivision. The comments must accompany the application.

**Previous Submittal**

Has this tract of land being proposed for subdividing been submitted to the Port Wentworth Planning Commission under a different subdivision name?

Yes \_\_\_\_\_

No  \_\_\_\_\_

If yes, what name? \_\_\_\_\_

Date Submitted: \_\_\_\_\_

PWPC File No: \_\_\_\_\_

**Number of Required Prints**

**All submittals**, regardless of type, shall include **three (3) full size prints and fifteen (15) half size (11" x 17") prints**. Stamp must be in contrasting ink. Also, a PDF of the entire submittal is required on a flash drive or digital download link (**NO CD's**).

**Statements as to Covenants / Deed Restrictions: (Check One)**

A copy of all existing deed restrictions or subdivision covenants applicable to this property are attached.



There are no added restrictions or subdivision covenants on this property.

**Contact Person (s): (Type or Print Legibly)**

**Engineer/Surveyor:** Surveying Consultants / Butch Lewis

**Address:** 17 Sherington Dr, Suite C **City, State Zip:** Bluffton, SC 29910

**Phone #:** 912-826-2775 / 912-675-5556 **Email:** rlewis@surveyingconsultants.com

**Owner:** PW Hotel, LLC / Neil Sharma

**Address:** 117 Post House Trail **City, State Zip:** Pooler, GA 31322

**Phone #** 912-604-7540 **Email:** nsharma@arya-hospitality.com

**Date:** 12/2/2022

70037 02017 Shayanam, LLC 3758 US 17, Richmond Hill, GA 31324

70037 02018 Double Reverse, LLC  
250 N. Orange Ave, Suite 1500, Orlando, FL 32801

3

Please list all property owners that are within 250 feet of the parcel to be subdivided including those across the public right-of-way. Please include name, mailing address and PIN #.

70037 02006 & 70037 02007 - Port City Car Wash  
5821 Fairview Rd, Charlotte, NC 28209

70037 02008 - Advance Auto Parts  
5008 Airport Rd, Roanoke, VA 24012

70037 02009 - Murphy Oil USA  
200 East Peach St, El Dorado, AR 71730

70037 02010 - Bradley Creek Properties, LLC  
PO Box 637, Statesboro, GA 30459

70037 02011 - Double Reverse, LLC  
250 N. Orange Ave, Suite 1500, Orlando, FL 32801

70037 02012 - 3681 Fifth Avenue LLC & 3687 Fifth Avenue, LLC  
1018 Guildford Ct, Encinitas, CA 92024

**Certifications:**

1. I hereby certify that this proposed subdivision/plan does not violate any covenants or deed restrictions currently in effect for the property being subdivided.
2. I hereby certify that all taxes applicable to this property have been paid and that there are no delinquent taxes outstanding.
3. I hereby certify that I am the owner of the property being proposed for subdivision.
4. I hereby certify that all the information pertained in this application is true and correct.



Signature of Owner

**Comments:** Place any pertinent comments you wish to make in the following space:

This subdivision is for the initial development of a premier branded hotel and other parcels for future development. We developed and own the Fairfield by Marriott on the opposite side of the exit. This is a value add development to the city, local community and visitors to the area. We appreciate your assistance on this for Arya Hospitality.

Submit this form with the proposed subdivision and any accompanying information to:

**CITY OF PORT WENTWORTH**

**7306 HIGHWAY 21, SUITE 301**

**PORT WENTWORTH, GEORGIA 31407**

**CITY OF PORT WENTWORTH**  
(912) 964-4379

REC#: 00381355 12/15/2022 9:10 AM  
OPER: KS TERM: 055  
REF#: 161

TRAN: 112.0000 BLDG PERMIT  
220650 521.00CR  
PW HOTEL GROUP LLC  
MAGELLAN BLVD  
DEV-MINSUB 521.00CR

TENDERED: 521.00 CHECK  
APPLIED: 521.00-

CHANGE: 0.00

[WWW.CITYOFPORTWENTWORTH.COM](http://WWW.CITYOFPORTWENTWORTH.COM)

---

**Project Timeline**

Project Number: 220650

Project Name: Lot 1, 2, 3 70037 02016 Sharma Final Plat

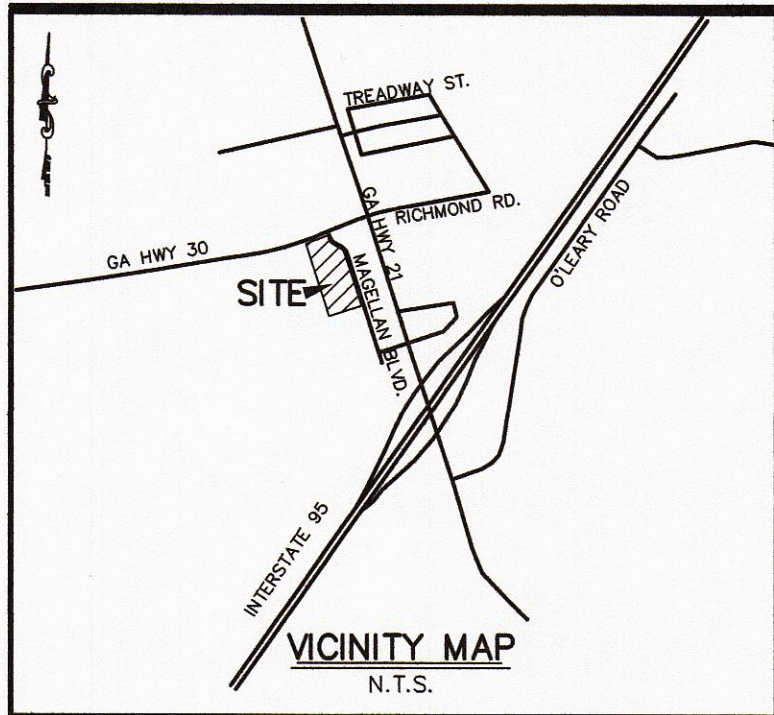
Applicant / Engineer: Neil Sharma

Owner: Neil Sharma

City Review Engineer: City Staff

- 12/2/2022 – application received; complete
- 12/22/2022 – Public hearing notice letters mailed.
- 12/23/2022 – Public hearing notice posted in Savannah Morning News
- 1/3/2023 – sent email to Neil Sharma stating that someone will need to be present at the Planning Commission meeting and City Council meeting to represent the application.
- 1/9/2022 – Planning Commission heard the application and voted unanimously to approve the application.





CURVE TABLE					
CURVE	LENGTH	RADIUS	TANGENT	CHORD	DELTA
C1	178.23'	230.00'	93.86'	173.80'	S43°34'13"E 44°23'54"
C2	140.25'	170.00'	74.39'	136.31'	S41°54'29"E 47°16'09"
C3	227.44'	5794.27'	113.74'	227.43'	N69°24'57"E 2°14'57"

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S21°22'16"E	27.02'
L2	S65°46'10"E	32.64'

APPROVED FOR RECORDING BY:

MAYOR	DATE
CITY COUNCIL MEMBER	DATE
CITY COUNCIL MEMBER	DATE
CITY COUNCIL MEMBER	DATE
CITY COUNCIL MEMBER	DATE
CITY COUNCIL MEMBER	DATE

I, the undersigned, as the Owner(s) of Record of Parcel 70037 02018 agree to the recording of this plat.

SIGNATURE DATE

AREA TABLE:

LOT 1	4.80
LOT 2	2.86
LOT 3	3.34
TOTAL SURVEYED AREA	11.00

NOTES

- THIS SURVEY COMPLIES WITH BOTH THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND THE OFFICIAL CODE OF GEORGIA ANNOTATED (O.C.G.A.) 15-6-67 AS AMENDED BY HB1004 (2016), IN THAT WHERE A CONFLICT EXISTS BETWEEN THOSE TWO SETS OF SPECIFICATIONS, THE REQUIREMENTS OF LAW PREVAIL.
- THE HORIZONTAL DATUM SHOWN IS GEORGIA STATE PLANE EAST ZONE NAD 83.
- DATUM WAS ESTABLISHED BY GPS UTILIZING OPUS.
- AREA WAS DETERMINED BY THE COORDINATE METHOD.
- THIS PROPERTY IS ZONED P-C-3.
- ACCORDING TO FEMA FLOOD ZONE MAP 13051C0030G, COMMUNITY 135162, DATED: AUGUST 16, 2018 THIS PROPERTY LIES WITHIN ZONE "X". AREAS OUTSIDE THE 500 YEAR FLOOD PLAIN, FLOOD HAZARD ZONE AND BASE ELEVATION SHOULD BE VERIFIED BY PROPER TOWN OR COUNTY BUILDING INSPECTIONS DEPARTMENT.
- BUILDING SETBACKS WHICH EXIST FOR THIS LOT, SHOWN OR NOT SHOWN ON THIS SURVEY, ARE EXPLAINED IN THE MUNICIPAL CODE. EASEMENTS & SETBACKS SHOWN SHOULD BE VERIFIED THRU THE APPROPRIATE ARCHITECTURAL REVIEW BOARD OR BUILDING AGENCY.
- NO SUBSURFACE OR ENVIRONMENTAL INVESTIGATION OR SURVEYS WERE PERFORMED FOR THIS PLAT. THEREFORE THIS PLAT DOES NOT REFLECT THE EXISTENCE OR NONEXISTENCE OF WETLANDS, CONTAMINATION, OR OTHER CONDITIONS WHICH MAY AFFECT THIS PROPERTY.
- THIS SURVEY WAS CONDUCTED WITHOUT THE BENEFIT OF AN ABSTRACT OF TITLE, THEREFORE THERE MAY BE OTHER EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, AGREEMENTS, RESERVATIONS, RESTRICTIONS, OR OTHER SIMILAR MATTERS OF PUBLIC RECORD, NOT DEPICTED ON THIS SURVEY.

REFERENCE PLAT:

- MINOR SUBDIVISION SURVEY, FORMER BOARDMAN TRACT DATED: 12/18/2017, LAST REVISED: 01/23/2018, BY: BY: MICHAEL HUSSEY, G.A.P.L.S. NO. 2509 SUNDIAL LAND SURVEYING, PC RECORDED: P.B. 52, PG. 233, DATE: 11/25/2019
- MINOR SUBDIVISION SURVEY, FORMER BOARDMAN TRACT, BEING A DIVISION OF PARCEL 2, A 77.32 ACRE PORTION OF THE FORMER BOARDMAN TRACT, DATED: 01/28/2020, BY: MICHAEL HUSSEY, G.A.P.L.S. NO. 2509 SUNDIAL LAND SURVEYING, PC RECORDED: P.B. 52, PG. 353, DATE: 02/20/2020
- MINOR SUBDIVISION SURVEY, FORMER BOARDMAN TRACT, BEING A DIVISION OF PARCEL 2, A 77.32 ACRE PORTION OF THE FORMER BOARDMAN TRACT, DATED: 01/28/2020, LAST REVISED: 05/12/2020 BY: MICHAEL HUSSEY, G.A.P.L.S. NO. 2509 SUNDIAL LAND SURVEYING, PC RECORDED: P.B. 52, PG. 428, DATE: 05/12/2020

CLOSURE:

Error of Closure Plat: 475,985  
Error of Closure Field: N/A  
Angular Error: N/A  
Adjusted by: Least Squares  
The calculated positional tolerance is less than 0.07' per point.

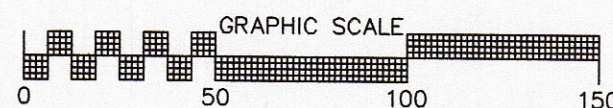
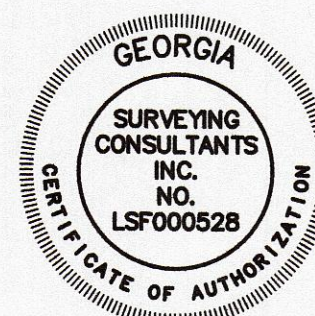
EQUIPMENT:

GPS - Ashtech Z-extreme L1 & L2 Static  
Gedimeter 610  
TDS Data Collector

SURVEYOR CERTIFICATION

AS REQUIRED BY SUBSECTION (4) OF O.C.G.A. SECTION 15-6-67, THIS PLAT HAS BEEN PREPARED BY A LAND SURVEYOR AND APPROVED BY APPLICABLE LOCAL JURISDICTIONS FOR RECORDING AS EVIDENCED BY APPROVAL SIGNATURE HEREON. SUCH APPROVAL SHOULD BE CONFIRMED WITH THE APPROPRIATE GOVERNMENTAL BODIES BY ANY PURCHASER OR USER OF THIS PLAT TO INTENDED USE OF ANY PARCEL. FURTHERMORE, THE UNDERSIGNED LAND SURVEYOR CERTIFIES THAT THIS PLAT COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN THE RULES AND REGULATIONS OF THE GEORGIA BOARD OF REGISTRATION FOR LAND SURVEYORS AND AS SET FORTH IN O.C.G.A. SECTION 15-6-67.

TERRY G. HATCHELL, G.A.R.L.S. NO. 2663 DATE 12/02/22



A  
SUBDIVISION  
PLAT OF  
LOT 1, LOT 2 & LOT 3

FORMERLY  
PARCEL 1  
FORMER BOARDMAN TRACT

8th G.M. DISTRICT, CITY OF PORT WENTWORTH, CHATHAM COUNTY, GEORGIA

SCALE: 1" = 50' DATE: 11/02/2022 JOB NO: GA220001A

SC SURVEYING CONSULTANTS

17 Sherington Drive, Suite C, Bluffton, SC 29910  
SC Telephone: (843) 815-3304 FAX: (843) 815-3305  
GA Telephone: (912) 826-2775  
www.SurveyingConsultants.com  
Email: SC@SurveyingConsultants.com  
CREW: N/A  
CADD: RCL



Clock#: 1154348  
FILED FOR RECORD  
4/30/2009 03:53pm  
PAID: 114.00  
Daniel W. Massey, Clerk  
Superior Court of Chatham County  
Chatham County, Georgia

350 U 687

~~THIS DOCUMENT PREPARED BY  
AND SHOULD BE RETURNED TO:  
Vicki L. Berman, Esq.  
Dean Mead  
800 N. Magnolia Avenue, Suite 1500  
Orlando, FL 32824~~

**WEINER, SHEAROUSE, WEITZ  
GREENBERG & SHAW  
14 E. STATE STREET  
P.O. BOX 10105  
SAVANNAH, GEORGIA 31412-0305**

*William G. Glass  
File NO. 12332.4.6*

**MASTER DECLARATION**  
**OF**  
**EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR SAVANNAH GATEWAY WEST**

NOTE: THIS INSTRUMENT IS BEING EXECUTED FOR RECORDING IN CHATHAM COUNTY, GEORGIA. THE PROPERTY DESCRIBED IN EXHIBIT A IS LOCATED IN CHATHAM COUNTY, GEORGIA.

## TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I DEFINITIONS .....	1
Section 1. Definitions .....	1
Section 2. Interpretation and Flexibility .....	4
ARTICLE II PROPERTY SUBJECT TO THIS MASTER DECLARATION; ADDITIONS THERE TO .....	5
Section 1. Legal Description.....	5
Section 2. Supplements.....	5
Section 3. Withdrawal .....	5
ARTICLE III MEMBERSHIP AND VOTING RIGHTS IN THE MASTER ASSOCIATION ....	6
Section 1. Membership .....	6
Section 2. Voting Rights.....	6
Section 3. General Matters .....	7
ARTICLE IV COMMON AREAS; EASEMENTS .....	7
Section 1. Members Easements .....	7
Section 2. Easements Appurtenant .....	8
Section 3. Maintenance and Rent .....	8
Section 4. Utility Easements.....	9
Section 5. Public Easements .....	9
Section 6. Ownership.....	9
Section 7. Storm Water Management System .....	10
Section 8. Wetlands and Mitigation Areas .....	11
Section 9. Access, Ingress and Egress; Roadways .....	11
Section 10. Roadways within the Properties .....	11
Section 11. Platted Easements and Restrictions .....	12
Section 12. Reciprocal Access between Parcels.....	12
ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS.....	13
Section 1. Creation of the Lien and Personal Obligation for Assessments .....	13
Section 2. Rates of Assessments.....	14
Section 3. Special Assessments .....	14
Section 4. Capital Improvements.....	14
Section 5. Date of Commencement of Annual Assessments; Due Dates.....	15
Section 6. Duties of the Board of Directors.....	15
Section 7. Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Master Association .....	16
Section 8. Subordination of the Lien .....	17
Section 9. Developer's Assessments.....	17
Section 10. Master Association Funds.....	17
Section 11. Exempt Property .....	17
Section 12. Subsidies .....	18

ARTICLE VI MAINTENANCE OF UNITS AND PARCELS BEFORE, DURING AND AFTER CONSTRUCTION .....	18
Section 1. Exteriors of Units.....	18
Section 2. Parcels.....	18
Section 3. Damage to Improvements.....	19
Section 4. Maintenance Before Construction .....	19
Section 5. Road Clearance.....	20
Section 6. Maintenance During Construction.....	20
Section 7. Commencement and Completion of Construction .....	20
Section 8. Remedies for Noncompliance.....	21
Section 9. Costs of Remedial Work; Surcharges.....	21
Section 10. Right of Entry .....	21
Section 11. Maintenance Schedule .....	22
Section 12. Stormwater Discharge System.....	22
ARTICLE VII ARCHITECTURAL CONTROL.....	22
Section 1. Architectural Control .....	22
Section 2. Procedures.....	23
ARTICLE VIII CERTAIN RULES AND REGULATIONS .....	28
Section 1. Applicability .....	28
Section 2. Uses of Parcels and Units .....	28
Section 3. Temporary Structures .....	30
Section 4. Signage and Advertising.....	30
Section 5. Service Areas and Mechanical Equipment.....	31
Section 6. Refuse .....	31
Section 7. Lighting.....	31
Section 8. Oil and Mining Operation.....	31
Section 9. Commercial Trucks, Trailers, Campers and Boats; Construction Equipment.....	31
Section 10. Parking Areas.....	32
Section 11. Storm Water Management System .....	32
Section 12. Platting of Parcels .....	32
Section 13. Rezoning.....	32
Section 14. Use of Name .....	32
Section 15. Compliance and Consistency.....	33
Section 16. Hazardous Substances .....	34
ARTICLE IX ENFORCEMENT.....	34
Section 1. Compliance by Owners and Tenants .....	34
Section 2. Enforcement.....	35
Section 3. Fines.....	35
ARTICLE X INSURANCE REQUIREMENTS .....	36
Section 1. Common Areas .....	36
Section 2. Parcels.....	38
Section 3. Waiver of Right of Recovery.....	38

ARTICLE XI GENERAL PROVISIONS .....	38
Section 1. Duration .....	38
Section 2. Notice.....	39
Section 3. Enforcement.....	39
Section 4. Severability.....	39
Section 5. Amendment or Modification .....	39
Section 6. Effective Date .....	39
Section 7. Conflict .....	39
Section 8. Standards for Consent, Approval, Completion, Other Action and Interpretation.....	40
Section 9. Easements .....	40
Section 10. Administration by Developer .....	40
Section 11. Good Faith and Uniform Administration of Master Declaration .....	41
Section 12. Covenants Running With The Land .....	41
Section 13. Liability.....	41
Section 14. Attorneys' Fees.....	42
Section 15. No Waiver.....	42
Section 16. No Agency .....	43
Section 17. Grantee's Acceptance .....	43
Section 18. Time of Essence.....	43
Section 19. Governing Law .....	43
Section 20. Estoppel Certificates.....	43
Section 21. Bankruptcy.....	43
Section 22. Force Majeure Delays.....	43

**MASTER DECLARATION OF EASEMENTS,  
COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
SAVANNAH GATEWAY WEST**

**THIS MASTER DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS AND RESTRICTIONS FOR SAVANNAH GATEWAY WEST** (the "Master Declaration") is made as of the 16th day of April, 2009, by Savannah Gateway West, LLC, a Florida limited liability company, formerly known as Savannah West, LLC ("Developer"), which declares hereby that the "Properties" described in Article II of this Master Declaration are and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

**INTRODUCTION**

It is the intent of Developer that each Parcel (defined below) within the Properties (defined below, and sometimes referred to herein as Savannah Gateway West) shall be subject to, and shall be developed in accordance with, the covenants, conditions and restrictions set forth in the Master Declaration, and the Developer, for its benefit and the benefit of each owner of a Parcel within Savannah Gateway West, does hereby establish a general plan for the improvement, protection, development, maintenance and use of the Properties as a commercial shopping center, together with out parcels. Further, Developer does hereby establish easements, covenants, conditions and restrictions as set forth hereinbelow under which the various components of Savannah Gateway West shall be improved, held, exchanged, leased, sold and/or conveyed.

**ARTICLE I**

**DEFINITIONS**

Section 1. Definitions. The following words when used in this Master Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Articles" or "Articles of Incorporation" shall mean and refer to the Articles of Incorporation of the Master Association, as amended or modified from time to time.
- (b) "Board" or "Board of Directors" shall mean and refer to the Board of Directors of the Master Association.
- (c) "By-Laws" shall mean and refer to the By-Laws of the Master Association as amended or modified from time to time.
- (d) "Common Areas" shall mean those portions of the Properties dedicated under this Declaration or under any amendment or supplement to this Declaration for the non-exclusive, joint and several use, in common, by the Developer and the Owners of all Parcels that may from time to time constitute part of the Properties and their tenants, agents and invitees and the Developer's tenants, guests and invitees, all as provided and regulated herein or otherwise by

the Master Association, including, without limitation, all additions thereto made pursuant to Article II, Section 2 hereof, the Roadways (as hereinafter defined), the Signage Areas (as hereinafter defined), and the Storm Water Management System (as hereinafter defined); together with the landscaping and any improvements thereon, including, without limitation, all structures, landscaped areas, street lights and irrigation systems, if any; but excluding any public utility installations thereon and/or any pedestrian areas located on privately held Parcels.

Developer will endeavor to specifically identify (by recorded legal description, signage, physical boundaries, site plans or other means, or through the recordation of sub-declarations, amendments or supplements) the Common Areas of the Properties, but such identification shall not be required in order for a portion of the Properties to be Common Areas hereunder. Without limiting the generality of Section 2 of this Article, in the event that Developer determines that a particular portion of the Properties is or is not Common Areas hereunder (in the manner provided in said Section 2), such determination shall be binding and conclusive.

In the event that the Master Association accepts an easement or similar grant over, under or through any portion of the Properties or any property adjacent thereto or in the vicinity thereof, the area subject to such easement shall be deemed Common Areas for the purposes of, but only for the purposes of, the Master Association performing whatever duties or obligations are stated in, or implied by law with respect to, such easement or other grant.

(e) "City" shall mean and refer to the City of Port Wentworth, Georgia.

(f) "County" shall mean and refer to Chatham County, Georgia.

(g) "Developer" shall mean and refer to Savannah Gateway West, LLC, its successors, such of its assigns as to which the rights of Developer hereunder are specifically assigned, and any Mortgagee of Savannah Gateway West, LLC which succeeds to the rights of Savannah Gateway West, LLC in the Properties pursuant to foreclosure or conveyance of the Properties to such mortgagee in lieu thereof. Developer may assign all or a portion of its rights hereunder, or all or a portion of such rights in connection with appropriate portions of the Properties. In the event of such a partial assignment, the assignee shall not be deemed the Developer, but may exercise such rights of Developer specifically assigned to it. Any such assignment may be made on a non-exclusive basis.

(h) "Gross Acreage" in reference to a Parcel shall mean the total acreage of a Parcel. With respect to the Parcels within the Phase I Plat, the gross acreage of each Parcel shall be shown on the Phase I Plat. The gross acreage of all Parcels within the Phase I Plat shall be as shown on the Phase I Plat, in the amount of 10.453 Gross Acres.

(i) "Master Association" shall mean and refer to the Savannah Gateway West Owners Association, Inc., a Georgia corporation, formed or to be formed. References herein to the Master Association shall be subject to the provisions of Article XI, Section 10 of this Master Declaration.

(j) "Member" shall mean and refer to all those Owners who are Members of the Master Association as provided in Article III hereof.

350 0 693

(k) "Mortgagee" or "Mortgagees" shall mean and refer to any mortgagee of Savannah Gateway West, LLC under a recorded Deed to Secure Debt or which succeeds to the rights of Savannah Gateway West, LLC in the Properties pursuant to foreclosure or conveyance of the Properties to such mortgagee in lieu thereof. The initial Mortgagees are RBC Bank USA, N.A., a national banking association, formerly known as RBC Centura Bank, successor by merger to Flag Bank, a State Banking Corporation chartered under the laws of the State of Georgia, under that certain Deed to Secure Debt dated January 30, 2006, and recorded February 7, 2006, in Deed Record Book 301-O, Page 604, in the Superior Court of Chatham County, Georgia; Gulfstream Capital Corporation, a Delaware corporation, under that certain Deed to Secure Debt dated September 24, 2008, and recorded September 26, 2008, in Deed Record Book 345-C, Page 024, in the Superior Court of Chatham County, Georgia, as modified by that certain First Modification Agreement dated November 1, 2008, recorded November 7, 2008, in Deed Record Book 346-F, Page 063, aforesaid records; and Richard D. Stoner, Trustee, under that certain Mortgage Deed dated January 30, 2007, and recorded February 15, 2007, in Deed Record Book 321-B, Page 759, in the Superior Court of Chatham County, Georgia, which mortgage is subordinated to the Gulfstream Capital Corporation Deed to Secure Debt under that certain Subordination of Mortgage dated September 3, 2008, and recorded September 26, 2008, in Deed Record Book 345-C, Page 022, in the Superior Court of Chatham County, Georgia.

(l) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Parcel situated within the Properties.

(m) "Parcel" shall mean and refer to a portion of the Properties which is subdivided as a distinct parcel and on which a commercial (generally office, office/warehouse, retail, hotel, restaurant or any combination thereof) structure is or may be built under applicable plat, zoning and other land use restrictions and requirements. A "Parcel" also shall mean any specific parcel, tract, lot or portion of land within the Properties designated as such on a Plat or in this Master Declaration or in a supplemental declaration or an amendment to the declaration executed and recorded by the Developer (and joined into by the Owner of such parcel, if different from the Developer). Nothing herein shall preclude the subdivision of any Parcel into one or more Parcels or the combination of any Parcels into a single Parcel, provided that such Parcel(s) independently satisfy all of the requirements of the applicable governmental authorities, including, without limitation, parking, and such subdivision does not have a material or adverse impact on the Properties in the reasonable judgment of Developer and does not change any "No-Build Area" or "Protected Area", as may be designated herein or from time to time by Developer hereinafter defined. In the event of any modification to any of the initial Parcels, the number of votes and assessments attributable to such Parcel(s) shall be proportionately and equitably reallocated, as provided herein.

(n) "Plat" shall mean and refer to any and all recorded plats of the Properties from time to time including, without limitation, that certain Plat of Phase I Savannah Gateway West, recorded in Plat Book 41-S, Page 11, Public Records of Chatham County, Georgia (the "Phase I Plat").

(o) "Properties" or "Property" shall mean and refer to all that certain property described in Exhibit A, attached hereto and made a part hereof, and additions thereto, as are now



or hereafter made subject to this Master Declaration, except such as are withdrawn from the provisions hereof in accordance with the procedures hereinafter set forth.

(p) "Roadways" shall mean and refer to those certain areas of the Properties which may be designated by Developer for roads and roadways and associated improvements, including, without limitation, all roads and roadways depicted on or created by any Plat.

(q) "Signage Areas" shall mean and refer to those certain areas of the Properties which may be designated by Developer for the placement of a general signage improvement, which signage improvement shall provide general and unspecified signage to all or a portion of the commercial uses to be developed upon the Properties (as hereinafter defined), subject to this Master Declaration. Notwithstanding anything contained in this Master Declaration to the contrary, the Developer reserves the right, in its sole discretion, to have signage anywhere on the perimeter of the Properties and at any of the entrances or exits. Notwithstanding anything contained in this Master Declaration to the contrary, the determination of the configuration and location of the Signage Areas, if any, and of the parties who shall be entitled to place signs within or sign faces upon such Signage Areas, by Developer shall be binding and conclusive.

(r) "Storm Water Management System" shall mean and refer to all underground drainage pipes, drainage canals, swales, inlets, culverts, storm drains, outfalls, lakes, drainage retention/detention ponds and related systems located or to be located within the Properties, and which serve the stormwater and surface drainage, control and retention needs of the Parcels. The Storm Water Management System shall be deemed Common Areas for the purposes of (i) the Owners' reasonable use thereof for their intended purposes, and (ii) the maintenance, repair and replacement thereof by the Master Association, or, at Developer's election, by a Special Purpose Taxing District, if permitted by the City or the County, as applicable.

(s) "Unit" shall mean and refer to the individual office, office/warehouse, retail, hotel, restaurant, or other structure constructed on the Parcel and all appurtenant improvements, which for the purpose of this Declaration shall include any Unit appurtenances such as stairs leading to or from a door, transformers, trash containers or compactors, canopies, supports, loading docks, drive-thru lanes, truck ramps, and other outward extensions of such structure.

(t) "Unit Building Zones" are those areas of the Parcels so designated from time to time by Developer on which in the future there may be located Units, sidewalks and canopies in front of the Units.

Section 2. Interpretation and Flexibility. In the event of any ambiguity or question as to whether any person, entity, property or improvement falls within any of the definitions set forth in this Article I, the determination made by Developer in such regard (as evidenced by a recorded supplemental declaration or an amendment to the Declaration stating same) shall be binding and conclusive. Moreover, Developer may, also by way of supplemental declaration, alter or amend the application of any portion of this Master Declaration as to any specified portion(s) of the Properties in order to reflect any unique characteristics thereof; provided that

such altered or amended application may not go so far as to be unequivocally contrary to the overall, uniform scheme of development for the Properties contemplated in this Master Declaration.

All references in this instrument to recording data refer to the Public Records of Chatham County, Georgia.

## **ARTICLE II**

### **PROPERTY SUBJECT TO THIS MASTER DECLARATION; ADDITIONS THERETO**

Section 1. Legal Description. The real property which, initially, is and shall be held, transferred, sold, conveyed and occupied subject to this Master Declaration is located in Chatham County, Georgia, and is more particularly described in Exhibit A attached hereto, all of which real property (and all improvements thereto), together with additions thereto, but less any withdrawals therefrom, is herein referred to collectively as the "Properties" or "Property".

Section 2. Supplements. Developer may from time to time bring other land in the general vicinity of the Properties (even though not then contiguous thereto) under the provisions hereof by recorded supplemental declarations (which shall not require the consent of then existing Owners, the Master Association or any mortgagee) and thereby add to the Properties, provided, however, that no such supplement shall materially diminish the voting rights of, or materially increase the percentage of responsibility for Common Expenses allocable to, any Parcel without the consent of the affected Parcel Owner. To the extent that such additional real property shall be made a part of the Properties as a common scheme, reference herein to the Properties shall be deemed to be reference also to all of such additional property where such reference is intended to include property other than that legally described above. Nothing herein, however, shall obligate the Developer to add to the initial portion of the Properties, to develop any such future portions under such common scheme, nor to prohibit Developer (or the applicable Developer-affiliated Owner) from rezoning and changing the development plans with respect to such future portions. All Owners, by acceptance and recordation of a deed to or other conveyance of their Parcels, thereby automatically consent to any such rezoning, change, addition or deletion thereafter made by the Developer (or the applicable Developer-affiliated Owner thereof) and shall evidence such consent in writing if requested to do so by the Developer at any time (provided, however, that the refusal to give such written consent shall not obviate the general effect of this provision).

Section 3. Withdrawal. Developer reserves the right to amend this Master Declaration at any time, without prior notice and without the consent of any person or entity except as provided below, for the purpose of removing certain portions of the Properties then owned by the Developer or its affiliates or the Master Association from the provisions of this Master Declaration to the extent included originally in error or as a result of any changes whatsoever in the plans for the Properties desired to be effected by the Developer; provided, however, that such withdrawal is not unequivocally contrary to the overall, uniform scheme of development of the Properties, and provided further, that such withdrawal does not materially diminish the voting rights of, or materially increase the percentage of responsibility for Common Expenses allocable to, any Parcel without the consent of the affected Parcel Owner. Any

withdrawal of land not owned by Developer shall not be effective without the written consent or joinder of the then Owner(s) of such land.

### **ARTICLE III**

#### **MEMBERSHIP AND VOTING RIGHTS IN THE MASTER ASSOCIATION**

Section 1. Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Parcel shall be a Member of the Master Association. Notwithstanding anything else to the contrary set forth in this Section 1, any such person or entity who holds such interest merely as security for the performance of an obligation shall not be a Member of the Master Association.

Section 2. Voting Rights. The Master Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all those Owners with the exception of the Developer (as long as the Class B Membership shall exist, and thereafter, the Developer shall be a Class A Member to the extent it would otherwise qualify). Each Class A Member shall be entitled to a number of votes equal to the Gross Acreage of that Member's Parcel. When any Parcel entitling the Owner to Membership in the Master Association is owned of record in the name of two or more persons or entities, or if two or more persons or entities have the same fiduciary relationship respecting the same Parcel, then unless the instrument or order appointing them or creating the tenancy otherwise directs and such instrument or copy thereof is filed with the Secretary of the Master Association, such Owner shall elect one official representative to qualify for voting in the Master Association and shall notify in writing the Secretary of the Master Association of the name of such individual. The vote of such individual shall be considered to represent the will of all Owners of the Parcel. In the circumstance of such common ownership if the Owners fail to designate their voting representative, then the Master Association may accept the person exercising the right to vote as the voting Owner until notified to the contrary by the other Member(s). Upon such notification, the Owner may not vote until the Owners appoint their representative pursuant to this paragraph. All fractional votes shall be rounded off to the nearest whole number. For purposes of determining voting rights hereunder, the Membership roster shall be set as of sixty (60) days prior to the commencement of the Master Association's fiscal year.

Class B. The Class B Member shall be the Developer, the Developer's specifically designated successor-in-interest or a person who shall have specifically received such status by instrument executed by the Developer and recorded in the public records as an amendment to the Master Declaration. The Class B Member shall be entitled to one (1) vote, plus three (3) votes for each vote entitled to be cast in the aggregate at any time and from time to time by the Class A Members. The Class B membership shall cease and terminate upon the earlier to occur of the following: (i) one (1) year after the last Parcel within the Properties has been sold and conveyed by the Developer (or its affiliates); (ii) the next annual meeting of the Members of the Master Association following the date upon which the last Parcel within the Properties has been

sold and conveyed by the Developer; or (iii) the written election of the Developer (whereupon the Class A Members shall be obligated to convene to elect the Board and assume control of the Master Association).

Section 3. General Matters. When reference is made herein, or in the Articles, By-Laws, rules and regulations, management contracts or otherwise, to a majority or specific percentage of Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of Members present at a duly constituted meeting thereof (i.e., one for which proper notice has been given and at which a quorum exists) and not of the Members themselves or of their Parcels.

#### **ARTICLE IV**

#### **COMMON AREAS; EASEMENTS**

Section 1. Members Easements. Each Member, and each tenant, agent and invitee of each Member, shall have a non-exclusive permanent and perpetual easement over and upon the Common Areas for the intended use thereof in common with all other such Members, tenants, agents and invitees, in such manner as may be regulated by the Master Association.

Without limiting the generality of the foregoing, such rights of use are hereby made subject to the following:

(a) The right and duty of the Master Association to levy assessments against each Parcel for the purpose of maintaining the Common Areas and facilities in compliance with the provisions of this Master Declaration and with the restrictions on any Plats of portions of the Properties from time to time recorded with, as applicable, the prior consent of Developer or the Master Association in accordance with this Master Declaration.

(b) The right of the Master Association to adopt at any time and from time to time and enforce rules and regulations governing the use of the Common Areas and all facilities at any time situated thereon, including the right to fine Members as hereinafter provided. Any rule and/or regulation so adopted by the Master Association shall apply until rescinded or modified as if originally set forth at length in this Master Declaration.

(c) The right to the use of the Common Areas and facilities thereon for their intended purposes shall extend to all agents, employees, guests and invitees of the Owners, subject to reasonable regulation from time to time by the Master Association in its lawfully adopted and published rules and regulations; provided, however, that neither such rules and regulations nor any amendment to this Master Declaration shall deprive Owners and the other aforesaid parties from access to their respective Parcels.

(d) The right of Developer to permit such persons as Developer shall designate to use the Common Areas and all facilities located thereon (if any).

(e) The right of Developer and the Master Association to have, grant and use general ("blanket") and specific easements over, under and through the Common Areas.

350 U 698

(f) The right of the Master Association, by a two-thirds (2/3rds) affirmative vote of the entire membership, to dedicate or convey portions of the Common Areas to any public or quasi-public agency, water management district, community development district or other entity under such terms as the Master Association deems appropriate and to create or contract with community development districts and water management districts as deemed appropriate by the Master Association (to which such dedication or contract all Owners, by the acceptance and recordation of the deeds to, or leasehold interests in, their Parcels, shall be deemed to have consented, no consent of any other party, except the Developer, being necessary).

(g) Each Owner having rights with respect to an easement granted hereunder shall indemnify and hold the Master Association and each Owner whose Parcel is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the exercise of such rights by such Owner, its contractors, employees, agents, or others acting on behalf of such Owner.

Section 2. Easements Appurtenant. The easements provided in Section 1 shall be appurtenant to and shall pass with the title to each Parcel, but shall not be deemed to grant or convey any ownership interest in the Common Areas subject thereto.

Section 3. Maintenance and Rent. The Master Association shall at all times maintain in good repair and manage, operate and insure, and shall replace as often as necessary, the Common Areas and to the extent not otherwise provided for, the paving, drainage structures, landscaping, irrigation systems, storm water management systems, improvements and other structures (except public utilities, to the extent same have not been made Common Areas) situated on the Common Areas, if any, all such work to be done as ordered by the Board of Directors of the Master Association. Maintenance of any applicable street lighting fixtures or irrigation systems shall include and extend to payment for all electricity or water consumed in their operation, unless same is separately metered to a specific Parcel(s). Without limiting the generality of the foregoing, the Master Association shall assume all of Developer's and its affiliates' responsibility to the City of Port Wentworth and its governmental and quasi-governmental subdivisions of any kind with respect to the Common Areas or other utilities or amenities serving or enhancing the Properties (including, without limitation, any obligations arising in connection with any ongoing use or maintenance requirements under any agreement or similar instrument) and shall fully indemnify and hold the City of Port Wentworth, the Developer and its affiliates and the parties joining herein harmless with respect thereto.

All expenses incurred by the Master Association pursuant to this Section and this Master Declaration generally shall be paid for by the Master Association through assessments (either general or special) imposed in accordance herewith. Without limiting the generality of the foregoing, all expenses of the Master Association incurred in connection with the maintenance of the Signage Areas and the Storm Water Management System shall be paid for through assessments.

No Owner may waive or otherwise escape liability for assessments by non-use (whether voluntary or involuntary) of the Common Areas or abandonment of the right to use the Common

Areas. Notwithstanding the foregoing, no assessment shall be made against a Parcel for expenses incurred under any developer's agreement(s) with the City as appropriate, if, and only if, (i) the expenses (or failure of the Master Association to have paid the expenses) resulted in the City imposing a lien on the Parcels for non-payment; and (ii) the owner of the Parcel has paid to the City as appropriate the prorata portion of the applicable expenses in order to have the Owner's Parcel released from the City's lien in accordance with such developer's agreement.

Section 4. Utility Easements. Use of the Common Areas for utilities, as well as use of the other utility easements as shown on or described in relevant Plats or in recorded instruments, shall be in accordance with the applicable provisions of this Master Declaration and said Plats and instruments. Public utilities in the Common Areas for the service of the Properties shall be installed underground, except as may be otherwise permitted by the Developer. The Developer and its affiliates and their designees shall have a perpetual easement over, upon and under the Common Areas and the unimproved portions of the Parcels for the installation, operation, maintenance, repair, replacement, alteration and expansion of utilities.

Section 5. Public Easements. Fire, police, health and sanitation, park maintenance and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Common Areas in the performance of their respective duties and all members and the general public shall have permanent, perpetual, non-exclusive easements for ingress and egress over and across all Roadways (private or otherwise) located within the Properties (subject to the reasonable rules and regulations of the Master Association).

Section 6. Ownership. The Common Areas are hereby dedicated non-exclusively to the joint and several use, in common, of the Developer and the Owners of all Parcels that may from time to time constitute part of the Properties and their tenants, agents and invitees and the Developer's tenants, guests and invitees, all as provided and regulated herein or otherwise by the Master Association. The Common Areas (or appropriate portions thereof, but not the landscaping and pedestrian areas described above) shall, upon the later of completion of the improvements thereon or the date when the last Parcel within the Properties has been conveyed to each Owner (or at any time and from time to time sooner at the sole election of the Developer), be conveyed by quit claim deed to the Master Association (without warranty), which shall be deemed to have automatically accepted such conveyance upon recordation of the deed. Except as provided in Article XI, Section 10 hereof, and except to the extent that certain obligations and responsibilities may be delegated to any community development and/or water management districts in accordance with this Master Declaration, the Master Association is and shall remain responsible for the maintenance, insurance and administration of such Common Areas (whether or not then conveyed or to be conveyed to the Master Association), all of which shall be performed in a continuous and satisfactory manner without cost to the general taxpayers of the County or the City, as applicable.

It is intended that all real estate taxes assessed against those portions of the Common Areas owned or to be owned, or leased or to be leased, by the Master Association shall be (or have been, because the purchase prices of the Parcels and/or Units have already taken into account their proportionate shares of the values of the Common Areas), proportionally assessed against and payable as part of the taxes of the applicable Parcels within the Properties. However, in the event that, notwithstanding the foregoing, any such taxes are assessed directly against the

Common Areas, the Master Association shall be responsible for the payment (subject to protest or appeal before or after payment) of same, including taxes on any improvements and any personal property located thereon, which taxes accrue from and after the date these covenants are recorded, and such taxes shall be prorated between Developer and the Master Association as of the date of such recordation.

Developer and its affiliates shall have the right from time to time to enter upon the Common Areas and other portions of the Properties (including, without limitation, Parcels and Units) for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion and/or alteration of any improvements or facilities on the Common Areas or elsewhere on the undeveloped portions of the Properties that Developer and its affiliates or designees elect to effect, and to use, without charge, the Common Areas and other portions of the Properties for sales, displays and signs or for any other purpose during the period of construction, development and sale of any undeveloped portion of the Properties. Without limiting the generality of the foregoing, the Developer and its affiliates shall have the specific right to maintain upon any undeveloped portion of the Properties sales, administration, construction or other offices and appropriate exclusive and non-exclusive easements of access and use are expressly reserved unto the Developer and its affiliates, and its and their successors, assigns, employees and contractors, for this purpose. Any obligation (which shall not be deemed to be created hereby) to complete portions of the Common Areas shall, at all times, be subject and subordinate to these rights and easements and to the above-referenced activities. Accordingly, the Developer shall not be liable for delays in such completion to the extent resulting from the need to finish the above-referenced activities prior to such completion.

Section 7. Storm Water Management System. Notwithstanding anything else contained in this Master Declaration, including, without, limitation, any and all rights of direction and control afforded the Master Association provided under Article IV, Section 1(f) of this Master Declaration (including any ability to delegate maintenance responsibilities to any community development district and/or water management district), the Master Association shall be ultimately responsible to the Owner of each Parcel on or under which the Storm Water Management System is located for: (i) performing any maintenance, repair or replacement activities to be conducted upon the Storm Water Management System pursuant to this Section, (ii) performing said activities in a manner so as to reasonably minimize any interference with the normal and customary use of the Parcel, and (iii) promptly repairing and restoring any portion of a Parcel which is unreasonably damaged as a result of such maintenance, repair or replacement activities conducted upon the Storm Water Management System. No Member or Owner shall cause or permit any interference with such access and maintenance by the Master Association. No Owner shall utilize, in any way, any of the Storm Water Management System, or incorporate any portion of the Storm Water Management System, into the Owner's development plans, without the express prior written consent of the Master Association. Further, where an Owner's Parcel is contiguous to the Storm Water Management System, the Owner shall prepare its site plan so that the utilization of its Parcel will not adversely affect the Storm Water Management System and so as to be aesthetically compatible with the Storm Water Management System and in compliance with the Storm Water Permits (as described below). The Master Association is authorized to delegate any of the Storm Water Management System repair and maintenance responsibilities provided herein to any sub-association of the Master Association or to any Owner; provided, however, that the Master Association shall be ultimately responsible for the



performance of said repair and maintenance responsibilities and, in the event any such sub-association of the Master Association shall fail to perform any of the repair and maintenance responsibilities delegated to it by the Master Association, the Master Association shall suffer no interference with its right to access, repair, operate and maintain the Storm Water Management System in accordance herewith.

Any proposed amendment to this Master Declaration which would affect the Storm Water Management System must be submitted to the appropriate regulatory authority for a determination as to whether the same is consistent with any and all permits which regulate the Storm Water Management System ("Storm Water Permits"), any requirements and conditions provided in such Storm Water Permits, and all applicable rules. If any such amendment is necessary, the requesting party will so advise the Master Association. To the extent that any wetland mitigation monitoring is required in connection with any Storm Water Permits, the Master Association shall remain the person or entity ultimately responsible for such monitoring, and shall ensure full and complete compliance with all conditions contained in Storm Water Permits associated with monitoring, maintenance and mitigation of the wetlands comprising the Storm Water Management System. The Storm Water Permits issued in connection with the development of the Properties may not be modified except upon application by the Master Association after approval of a majority of the Members.

Section 8. Wetlands and Mitigation Areas. Developer may convey by quit-claim deed all or any portion of the wetland property, upland buffers and upland mitigation areas owned by it in the Properties ("Wetlands") to the Master Association at any time prior to Developer relinquishing its control of the Master Association and for a period of one (1) year after Developer relinquishes its control. The Master Association shall be deemed to have automatically accepted such conveyances and the transfer of any permits related to the Wetlands upon recordation of the deed. Thereafter, the Master Association shall be solely responsible for all obligations of the Developer with respect to the Wetlands, and the Developer shall be completely relieved of such obligations, including but not limited to, those imposed by any local, state or federal water, wetlands or wildlife agency, including without limitation the United States Army Corp of Engineers ("ACOE") and/or Georgia Fish and Wildlife Conservation Commission ("GFWCC") Permits or any applicable easements.

Section 9. Access, Ingress and Egress; Roadways. All Owners, by accepting title to property conveyed subject to this Master Declaration, waive all rights of uncontrolled and unlimited access, ingress and egress to and from such property and adjacent public rights-of-way, and acknowledge and agree that such access, ingress, and egress shall be limited to Roadways, sidewalks and walkways located within the Properties from time to time, provided that pedestrian and vehicular access to and from all Units and the Properties shall be provided at all times in accordance with the terms of this Declaration.

Section 10. Roadways within the Properties. Initially, all Roadways located within the Properties shall be private; however, Developer reserves the right, but not the obligation, and in its sole discretion, to convey any portion of the Roadways to the Master Association, or to dedicate or otherwise convey any portion of the Roadways within the Properties to the State of Georgia, any political subdivision thereof, the City of Port Wentworth, Chatham County, any special taxing district or a community development district or other local unit of special

government purpose established pursuant to Georgia Statutes, for the purpose of granting public access thereto and over said roadways. Each Owner hereby agrees, upon the request of Developer, to cooperate with Developer in effectuating a conveyance or dedication of the Roadways within the Properties. Unless and until the Roadways within the Properties are dedicated or otherwise conveyed as set forth herein for public access, the Roadways shall be maintained by the Master Association and all such expenses incurred by the Master Association shall be paid for by the Master Association through assessments imposed by this Master Declaration.

Section 11. Platted Easements and Restrictions. The Properties, Owners and Mortgagees are subject to such easements, rights-of-way, setbacks, restrictions and other matters as are shown on the Phase I Plat and any other recorded Plats with respect to the Properties that are approved by the Master Association. Developer and the initial Mortgagees hereby approve the Phase I Plat as recorded in Plat Book 41-S, Page 11, Public Records of Chatham County, Georgia. In the event of any conflict or inconsistency between a Plat and this Master Declaration, the Plat(s) shall take precedence over conflicting provisions in the Master Declaration.

Section 12. Reciprocal Access between Parcels. In addition to the non-exclusive easements granted pursuant to Section 1 hereinabove, each Owner, and each tenant, agent and invitee of each Owner, shall have a non-exclusive permanent and perpetual easement over and upon the areas within the Parcel immediately adjacent and contiguous to such Owner's Parcel upon which are situated from time to time any driveways or driveway areas or other areas designated for vehicular traffic. The easement created hereby shall be subject to the following conditions:

- (a) The easement created hereby is limited to the Parcel immediately adjacent and contiguous to the Parcel benefiting from such easement.
- (b) The easement created hereby is for vehicular and pedestrian ingress and egress only, and not for parking or any other rights.
- (c) Each Owner shall insure its Parcel in accordance with the provisions of this Master Declaration, but shall not be required to insure the easement areas affected by the appurtenant easements created hereby.
- (d) Except as otherwise provided herein, each Owner shall maintain any driveway improvements installed or constructed by such Owner on its Parcel in good order condition and repair. Notwithstanding the foregoing, in the event that either Owner, or any tenant, agent or invitee of such Owner, or the employees, agents or independent contractors of same, causes any damage to any driveway improvements constructed or installed on or about the Parcel burdened by such easement, or any portion thereof, then such Owner causing such damage shall be obligated to repair such damage at its expense.

In the event either party fails to discharge its obligations of repair and maintenance described in this Master Declaration, then the other party shall have the right, but not the obligation, to do so, after not less than fifteen (15) days prior written notice to the party

350 U 703

failing to make such required repairs or maintenance (or such longer period of time (not to exceed 90 ninety days) as may reasonably required if such repairs or maintenance commenced within such fifteen (15) day period and the party making such repair is proceeding diligently to complete such repair or maintenance) and, in connection with such repairs or maintenance, the repairing party is hereby granted the right of entry for that purpose, and the party failing to discharge its repair or maintenance obligation shall reimburse the repairing party for all costs and expenses incurred by the repairing party in performing such repairs or maintenance, on demand, together with interest thereon at the highest rate allowed by law from the date demanded until the date paid.

(e) Each party shall use the rights granted and reserved by this instrument with due regard to the rights of others to use and enjoy the easement area and shall not make any use of the easement area which would impair or obstruct the right to the other party to use and enjoy the easement area and the rights granted hereunder.

(f) Except as otherwise provided herein, neither party shall have any right of entry upon the adjacent Parcel or the right to construct or install any improvements thereon.

## **ARTICLE V**

### **COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 1. Creation of the Lien and Personal Obligation for Assessments. Except as provided elsewhere herein, the Developer (and each party joining in any supplemental declaration), for all Parcels within the Properties, hereby covenants and agrees, and each Owner of any Parcel by acceptance and recordation of a deed for such Parcel or other conveyance thereof, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to covenant and agree to pay to the Master Association annual assessments and charges for the operation of, and for payment of expenses and/or taxes allocated or assessed to or through, the Master Association, the maintenance, management, operation and insurance of the Wetlands and the Common Areas as provided elsewhere herein, including such reasonable reserves as the Master Association may deem necessary, special assessments as provided in Section 3 hereof, capital improvement assessments as provided in Section 4 hereof, and all other charges and assessments hereinafter referred to or lawfully imposed by or on the Master Association, all such assessments to be fixed, established and collected from time to time as herein provided. The costs of preparing and filing annual reports and other monitoring reports, if any, or development permits shall be part of the Master Association's annual assessments. Notwithstanding the foregoing, the initial costs of installing the Common Areas shall be an expense borne solely by the Developer and shall not be collected through assessments. The annual, special and other assessments, together with such late charges and interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the Parcel against which each such assessment is made. Each such assessment, together with such late charges and interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of the person who is the Owner of such property at the time when the assessment fell due and all subsequent Owners until paid. Except as provided herein with respect to special assessments which may be imposed on one or more Parcels and Owners to the exclusion of others and as provided in Section 8 below, all

assessments imposed by the Master Association shall be imposed against all Parcels subject to its jurisdiction by application of the formula set forth in Section 2, below.

Reference herein to assessments shall be understood to include any and all interest (not to exceed legal limits), late charges and costs of collection relating thereto (including, without limitation, attorneys fees), whether or not specifically mentioned.

Section 2. Rates of Assessments. Subject to the provisions below and those set forth in Section 10 hereof, each Parcel shall be assessed an equitable percentage of the total estimated operating expenses of the Master Association. For each Parcel subject to this Master Declaration, such percentage shall be calculated by dividing the Gross Acreage of such Parcel by the combined Gross Acreage of all of the Parcels lying within the Properties. The Master Association shall be responsible to determine the amount of assessments which shall be assessed against any Parcel pursuant hereto, and shall perform any necessary calculations in accordance herewith to ascertain the same. Any such determinations and/or calculations made or performed by the Master Association shall be conclusive and binding upon such Parcel. Assessments may be calculated and made on a phase-by-basis by the Master Association, as appropriate. By way of example and not by way of limitation, for so long as the only plat recorded is the Phase I Plat, the equitable percentages calculated in accordance with this Section 2 shall be calculated by dividing the gross acreage of each Parcel within the Phase I Plat by the combined gross acreage of the Parcels lying within the Phase I Plat.

Section 3. Special Assessments. In addition to the regular and capital improvement assessments which are or may be levied hereunder, the Master Association (through a majority vote of the Board of Directors) shall have the right to levy special assessments against an Owner(s) to the exclusion of other Owners for (i) the repair or replacement of damage to any portion of the Common Areas (including, without limitation, improvements and landscaping thereon) or the Wetlands caused by the misuse, negligence or other action or inaction of an Owner or his tenant(s) or invitees; or (ii) the costs of work performed by the Master Association in accordance with Article VI of this Master Declaration (together with any surcharges collectible thereunder). Any such special assessment shall be subject to all of the applicable provisions of this Article including, without limitation, lien filing and foreclosure procedures and late charges and interest. Any special assessment levied hereunder shall be due within the time specified by the Board of Directors in the action imposing such assessment.

Section 4. Capital Improvements. Funds which in the aggregate are in excess of the lesser of One Hundred Thousand Dollars (\$100,000) or 10% of the then current operating budget of the Master Association in any one fiscal year which are necessary for the addition of capital improvements (as distinguished from repairs and maintenance) relating to the Common Areas under the jurisdiction of the Master Association and which have not previously been collected as reserves or are otherwise available to the Master Association (other than by borrowing) shall be levied by the Master Association as assessments only upon approval of a majority of the Board of Directors of the Master Association and upon approval by two-thirds (2/3rds) favorable vote of the Members of the Master Association voting at a meeting or by ballot as may be provided in the By-Laws of the Master Association. It is the intent of this Section that any capital improvements having a cost of less than the amount set forth above be paid for by regular assessments, with an appropriate adjustment to the budget of the Master Association and the

assessment levied in accordance therewith to be made, if necessary. Any capital improvement assessment shall be levied against all Parcels in an equitable manner as may be determined by the Board of Directors.

Section 5. Date of Commencement of Annual Assessments; Due Dates. The annual regular assessments provided for in this Article shall commence upon the installation or construction of improvements to the Common Areas, and shall be applicable through December 31 of such year. Each subsequent annual assessment shall be imposed for the year beginning January 1 and ending December 31.

The annual assessments shall be payable in advance in monthly installments, or in annual, semi-annual or quarter-annual installments if so determined by the Board of Directors of the Master Association (absent which determination they shall be payable quarterly).

The assessment amount (and applicable installments) may be changed at any time by said Board from that originally stipulated or from any other assessment that is in the future adopted. The original assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, every six (6) months), but the amount of any revised assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year.

The due date of any special assessment or capital improvement assessment shall be fixed in the Board resolution authorizing such assessment (absent which, they shall be due in conjunction with payment of the next annual assessment amount).

Section 6. Duties of the Board of Directors. The Board of Directors of the Master Association shall fix the date of commencement and the amount of the assessment against each Parcel subject to the Master Association's jurisdiction for each assessment period, to the extent practicable, at least thirty (30) days in advance of such date or period, and shall, at that time, prepare a roster of the Parcels and assessments applicable thereto which shall be kept in the office of the Master Association and shall be open to inspection by any Owner.

Written notice of the assessment shall be sent to every Owner thirty (30) days prior to payment of the first installment thereof, except as to special assessments. In the event no such notice of the assessments for a new assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein. A delay in providing notice of a new assessment amount shall not affect the Owner's obligation to pay same (or any shortfall in the amount paid to date).

The Master Association shall upon demand at any time furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Master Association, setting forth whether such assessment has been paid as to any particular Parcel. Such certificate shall be conclusive evidence of payment of any assessment to the Master Association therein stated to have been paid.

The Master Association, through the action of its Board of Directors, shall have the power, but not the obligation, to enter into an agreement or agreements from time to time with one or more persons, firms or corporations (including the Developer and affiliates of the

Developer) for management services. The Master Association shall have all other powers provided in its Articles of Incorporation and By-Laws.

Section 7. Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Master Association. If the assessments (or installments) provided for herein are not paid on the date(s) when due (being the date(s) specified herein or pursuant hereto), then such assessments (or installments) shall become delinquent and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, become a continuing lien on the Parcel which shall bind such property in the hands of the then Owner, and the Owner's heirs, personal representatives, successors and assigns. Except as provided in Section 10 of this Article to the contrary, the personal obligation of the then Owner to pay such assessment shall pass to his successors in title and recourse may be had against either or both.

If any installment of an assessment is not paid within fifteen (15) days after the due date, at the option of the Master Association a late charge of five percent (5%) of the amount of such unpaid installment may be imposed (provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges, provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid) and/or the next twelve (12) months' worth of installments may be accelerated and become immediately due and payable in full and all such sums shall bear interest from the dates when due until paid at the highest lawful rate (or, if there is no highest lawful rate, 18% per annum) and the Master Association may bring an action at law against the Owner(s) personally obligated to pay the same, may record a claim of lien (as evidence of its lien rights as hereinabove provided for) against the Parcel on which the assessments and late charges are unpaid, may foreclose the lien against the Parcel on which the assessments and late charges are unpaid, or may pursue one or more of such remedies or any other remedies available to it at law or in equity, at the same time or successively, and attorneys' fees and costs actually incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same in such action shall be added to the amount of such assessments, late charges and interest, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees actually incurred together with the costs of the action, through all applicable appellate levels.

In the case of an acceleration of the next twelve (12) months' of installments, each installment so accelerated shall be deemed, initially, equal to the amount of the then most current delinquent installment, provided that if any such installment so accelerated would have been greater in amount by reason of a subsequent increase in the applicable budget, the Owner of the Parcel whose installments were so accelerated shall continue to be liable for the balance due by reason of such increase and special assessments against such Parcel shall be levied by the Master Association for such purpose.

In addition to the rights of collection of assessments stated in this Section, any and all persons acquiring title to or an interest in a Parcel as to which the assessment is delinquent, including without limitation persons acquiring title by operation of law and by judicial sales, shall not be entitled to the occupancy of such Parcel or the enjoyment of the Common Areas (except for access over Common Area accessways) until such time as all unpaid and delinquent

assessments due and owing from the selling Owner have been fully paid; provided, however, that the provisions of this sentence shall not be applicable to the mortgagees and purchasers contemplated by Section 9 of this Article.

The failure of the Master Association to send or deliver bills or notices of assessments shall not relieve Owners from their obligations to promptly pay same when due.

All assessments, late charges, interest, penalties, fines, attorney's fees and other sums provided for herein shall accrue to the benefit of the Master Association.

Section 8. Subordination of the Lien. The lien of the assessments provided for in this Article shall be subordinate to real property tax liens and the lien of any mortgage (recorded prior to recordation by the Master Association of a claim of lien) held by a mortgage lender and which is now or hereafter placed upon any property subject to assessment; provided, however, that any such mortgage lender when in possession or any receiver, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such mortgage lender acquiring a deed in lieu of foreclosure or otherwise in satisfaction of a debt secured by a mortgage as aforesaid, and all persons claiming by, through or under such purchaser or mortgage lender, shall hold title subject to the liability and lien of any assessment coming due after such foreclosure (or conveyance in lieu of foreclosure or in satisfaction of debt). Any unpaid assessment which cannot be collected as a lien against any Parcel by reason of the provisions of this Section shall be deemed to be an assessment divided equally among, payable by and a lien against all Parcels subject to assessment by the Master Association, including the Parcels as to which the foreclosure (or conveyance in lieu of foreclosure or in satisfaction of debt) took place.

Section 9. Developer's Assessments. When all Parcels within the Properties are sold and conveyed to purchasers, neither the Developer nor its affiliates shall have further liability of any kind to the Master Association for the payment of assessments, deficits or contributions.

Section 10. Master Association Funds. The portion of all regular assessments collected by the Master Association for reserves for future expenses, and the entire amount of all special and capital assessments, shall be held by the Master Association and may be invested in interest bearing accounts or in certificates of deposit or other like instruments or accounts available at banks or savings and loan institutions, the deposits of which are insured by an agency of the United States. The Owners and Mortgagees hereby agree to hold the Master Association harmless from any losses sustained by virtue of said investments or deposits undertaken in accordance with this section.

Section 11. Exempt Property. The following property subject to this Master Declaration shall be exempt from assessments, charges and liens created herein: (i) all property not within a Parcel to the extent of any easement or other interest therein dedicated and accepted by local public authority and devoted to public use; (ii) all Common Areas not within a Parcel; (iii) all property exempt from taxation by the laws of the State of Georgia, upon the terms and to the extent of such legal exemptions; (iv) all property owned by the Master Association or sub-association, if applicable, including, without limitation, Approved Upland Mitigation Areas (per Georgia Department of Environmental Protection ("GDEP") and ACOE), Jurisdictional Wetlands (per GDEP and ACOE Approvals), Stormwater Management Facilities (per the U.S.

Army Corps of Engineers, and ACOE), open space and master stormwater facilities, all as delineated on the Savannah Gateway West master plan ("Master Plan"); and (v) all property owned by the Developer, which is not already exempt from assessments pursuant to other provisions of this Master Declaration, during the time Developer subsidizes its share of budget deficits in accordance with Section 12 below.

Section 12. Subsidies. Developer shall be exempt from the payment of any assessments with respect to the Properties subject to this Master Declaration that are owned by Developer. Developer covenants and agrees that, until not later than when the Class "B" Membership ceases to exist, Developer shall pay to the Association, as incurred, the portion of the operating deficits of the Association (exclusive of reserves for replacement of improvements and extraordinary losses or expenses) attributable to the Common Areas, as determined from time to time by the Board. The foregoing notwithstanding, Developer shall not pay more than the assessments that Developer would have been required to pay if the exempted portions of the Properties were not exempt. At any time, by written notice to the Association, Developer shall be entitled to terminate Developer's obligation to pay the portion of the operating deficits of the Association allocable to the Common Areas. Following such termination or expiration of Developer's subsidy obligations under this Section 12, Developer shall pay the applicable per-Parcel assessment for each assessable Parcel then owned by Developer, prorated for the year in which such payment commences.

## **ARTICLE VI**

### **MAINTENANCE OF UNITS AND PARCELS BEFORE, DURING AND AFTER CONSTRUCTION**

Section 1. Exteriors of Units. Each Owner shall maintain all structures (including the Unit) located on its Parcel in a neat, orderly and attractive manner and consistent with the general appearance of the Properties as a whole (taking into account the varying uses of the Properties, Parcels and Units). The minimum (though not sole) standard for the foregoing shall be consistent with the general appearance of the Properties as initially constructed and otherwise improved by Developer or by any other builders who build in accordance with plans approved by the Developer (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness, in the judgment of the Architectural Control Board, as hereinafter defined). Each Owner shall repaint, re-stain or refinish, as appropriate, the exterior portions of its Unit (with the same colors or finishes as initially used on the Unit) as often as is necessary to comply with the foregoing standards. The foregoing maintenance requirements shall not apply to the extent that a Unit is under construction; provided, however, that during such construction period the applicable Parcel shall nevertheless be kept reasonably free of accumulations of scrap, debris and refuse.

Section 2. Parcels. Each Owner shall maintain the trees, shrubbery, grass and other landscaping on its Parcel, if any, and all driveways, sidewalks, plazas, parking lots and similar areas, in a neat, clean, orderly and attractive manner and consistent with the general appearance of the Properties as a whole. Each Owner shall also maintain wetlands and wetland buffers within its Parcel. All irrigation systems shall be underground, automatic, kept in good repair and shall not stain or discolor any wall, sign surface, curb, sidewalk or other improvement. The



minimum (though not sole) standard for the foregoing shall be the general appearance of the Properties as initially landscaped (such standard being subject to being raised by virtue of the natural and orderly growth and maturation of applicable landscaping, as properly trimmed and maintained).

Without limiting the generality of the following, the obligation of an Owner to maintain its Parcel shall extend to and include the obligation to regularly sweep, clean, maintain, re-stripe, repair and replace the parking areas located on its Parcel and all improvements thereto.

Section 3. Damage to Improvements.

(a) Each Owner shall be responsible for, and shall pay to the Master Association within five (5) days following written demand therefor, the cost of:

(i) relocating and replacing, or repairing damage to any site improvements made to the Properties by Developer, if any, including, without limitation, any water lines, storm sewers, sanitary sewers, grade stakes, surveyors' markers, curbs, sidewalks, hydrants, valves and water meter boxes, storm and/or sanitary sewer connections, electric cables, transformers, telephone and cable television lines and appurtenances, sidewalks, drainage structures, landscaping and sodding, and any other part of the Properties, and any improvements made thereto, after the same have been installed, where any such relocation, replacement, or repair is required by the location of such Owner's improvements on its or any negligent action or omission of Owner, or any of its agents, employees, workmen, or contractors; and

(ii) relocating and replacing or repairing any improvements located outside the Parcel, whether owned by Developer, others, or designated as Common Areas for Savannah Gateway West, including all roads and paths where such relocation, replacement or repair is required by the location of such Owner's intended improvements on its Parcel, or any negligent action or omission of such Owner, or any of its agents, employees, workmen, or contractors. In the event that any such cost is incurred, or such Owner fails at any time after reasonable notice and demand to carry out its obligations hereunder, Master Association is authorized to relocate, replace or repair, and to otherwise carry out the obligations of such Owner as aforesaid, as Master Association in its reasonable discretion may deem necessary, and such Owner shall thereupon immediately upon demand reimburse Master Association in full for all such costs.

(b) No Owner shall, during the course of construction, interrupt or cause to be interrupted, temporarily or otherwise, any service (i.e. water, sewer, electricity, drainage, telephone, gas) to any other property in Savannah Gateway West without the prior approval of Developer and the Owner whose service will be interrupted.

Section 4. Maintenance Before Construction. Subsequent to Closing, each Owner shall regularly mow its Parcel prior to commencement of construction. No Owner shall allow an accumulation of trash or construction materials on its Parcel, and each Owner agrees that all unused construction material and trash will be removed from its Parcel expeditiously at such Owner's expense.

Section 5. Road Clearance. Each Owner agrees to keep all road rights-of-way in Savannah Gateway West (including roadways internally located in its Parcel) clear of its (and its agents, contractors or subcontractors) machinery, equipment, building materials, debris, and earth so that the employees, agents, or contractors of Developer, and all other persons, may proceed without interruption. If it shall be necessary for any Owner to clear such rights-of-way by reason of noncompliance of any Owner with this covenant, such Owner shall provide notice of same to the other Owner and in the event such Owner does not cure same with all due diligence and expediency, the other Owner may undertake such clearing and cleaning, and the cost of same shall be borne by such Owner and paid to the other Owner within five (5) days following written demand therefor. Each Owner further agrees not to obstruct any granted utility or right-of-way easement to any Parcel, nor to impede access by governmental authorities, utility companies or Developer, or their respective contractors.

Section 6. Maintenance During Construction. Each Owner agrees to keep its Parcel in a neat and orderly condition during construction of all improvements thereon and will comply with all reasonable requests made by Developer or any governmental agency with respect to the appearance of the Property during construction. Each Owner further agrees that the quantity of and manner of storing all supplies, blocks, lumber, and other building materials to be used for construction of improvements to its Parcel shall be stored only in such areas as may be approved by Developer, and each Owner will regularly remove unused construction debris around the construction area and will remove all such debris upon completion of construction. Each Owner also agrees that its vehicles and the vehicles of any of its contractors, agents, or suppliers will follow only such routes of egress and ingress to the Parcel as may be reasonably designated by Developer, and that at all times the Roadways of Savannah Gateway West shall be kept free of waste and debris caused by each Owner's construction. No weeds, underbrush or other unsightly growths shall be permitted to remain upon the Property, and no waste, trash, refuse or unsightly objects shall be allowed to remain anywhere on the Property, adjacent property or Common Areas. All garbage and trash must be placed in sealed containers so that it shall not be visible from the adjoining properties or from any street. Developer shall at all times make reasonable access to the Property available to each Owner. Developer shall have the right, but not the obligation, to enforce the provisions of this paragraph, it being understood that Developer has assumed no duty to third parties by reason of the Developer's enforcement rights hereunder. Each Owner agrees to not remove any soil, sand or dirt ("Fill") from its Parcel unless necessary for the construction of its improvements and then only as provided herein. If the construction of intended improvements requires that any Fill be removed from the Parcel, each Owner shall notify Developer and Developer may designate a location within Savannah Gateway West to receive the Fill to be removed from the Parcel. If Developer does not designate a location within Savannah Gateway West to receive the Fill then each Owner shall remove the Fill, at each Owner's sole cost and expense, to a site outside Savannah Gateway West as determined by each Owner. Each Owner shall remove the Fill and dump it at the location designated by Developer or if Developer doesn't designate a location, at a location outside of Savannah Gateway West at each Owner's sole cost and expense. Under no circumstance shall each Owner sell any Fill nor receive any compensation from Developer for delivering the Fill to the Developer specified location.

Section 7. Commencement and Completion of Construction. Each Owner agrees that once it commences construction of its improvements, it shall thereafter continue construction in a

350 U 711

good and workmanlike manner and with reasonable diligence. The term "commence construction" as used throughout this Agreement shall mean construction effort at least to the level of completely pouring the first footers, foundations and slabs as approved by the Architectural Control Board and inspected and approved by Port Wentworth or Chatham County, as applicable, for the first buildings to be constructed and "completion of construction" shall mean the obtaining of a certificate of occupancy for the intended improvements. Each Owner further acknowledges and agrees that it shall complete construction of its intended improvements not later than twelve months after the date of acquisition of its Parcel, subject only to Force Majeure Delays in accordance with Article XI, Section 23 below. After commencement of construction of any improvements or alterations the Owner shall diligently prosecute the work thereon to the end that the improvements or alterations shall not remain in a partially finished condition any longer than is reasonably necessary for completion thereof. The Owner of any Parcel on which improvements are being constructed shall at all times keep the Parcel and public and private streets contiguous to the Parcel free from any dirt, mud, garbage, scrap construction materials, trash or other debris which might be occasioned by construction of the improvements.

Section 8. Remedies for Noncompliance. In the event of the failure of an Owner to timely commence construction, timely complete construction, or otherwise maintain its Unit or Parcel in accordance with this Article, the Master Association shall have the right, upon five (5) days' prior written notice to the Owner at the address last appearing in the records of the Master Association, to enter upon the Owner's Parcel and perform such work as is necessary to bring the Parcel or Unit, as applicable, into compliance with the standards set forth in this Article. Such work may include, but shall not necessarily be limited to, the cutting/trimming of grass, trees and shrubs; the repainting, re-staining or refinishing of exterior surfaces of a Unit; the repair of walls, fences, roofs, doors, windows and other portions of a Unit or other structures on a Parcel; and such other remedial work as is judged necessary by the Master Association. The remedies provided for herein shall be cumulative with all other remedies available under this Master Declaration or otherwise under applicable law (including, without limitation, the imposition of fines or special assessments or the bringing of legal or equitable actions) or in equity.

Section 9. Costs of Remedial Work; Surcharges. In the event that the Master Association performs any remedial work on a Unit or Parcel pursuant to this Article or any other applicable section of this Master Declaration, the costs and expenses thereof shall be deemed a special assessment under Article V, Section 3 of this Master Declaration and may be immediately imposed by the Board of Directors. In order to reimburse the Master Association for administrative expenses incurred, the Master Association may impose a surcharge of not more than thirty-five percent (35%) of the cost of the applicable remedial work, such surcharge to be a part of the aforesaid special assessment. No bids need be obtained for any of the work performed pursuant to this Article and the person(s) or company performing such work may be selected by the Master Association in its sole discretion.

Section 10. Right of Entry. There is hereby created an easement in favor of the Master Association, and its applicable designees over each Parcel for the purpose of entering onto the Parcel in the performance of the work herein described, provided that the notice requirements of this Article are complied with.

Section 11. Maintenance Schedule. In order to coordinate the maintenance and overall appearance of the Properties, each Owner agrees to submit to the Master Association a synopsis of all scheduled maintenance for its Unit(s), and further agrees to make such reasonable modifications to said maintenance schedule if requested by the Master Association.

Section 12. Stormwater Discharge System. The Developer is subject to strict requirements relative to stormwater discharge quality standards, particularly the discharge of toxic or hazardous materials or the turbidity of the stormwater. During and after commencement of construction, each Owner shall exercise all reasonable measures to ensure that unnecessary erosion does not occur on the Property and that silt, other soil materials, debris, paints, solvents and other material that might contaminate or add turbidity to the stormwater does not enter the stormwater system. After construction commences, each Owner must at all times maintain its Parcel (except for areas under construction) in a grassed condition to minimize erosion. Paved areas must be routinely cleaned by each Owner in order to prevent wash off of materials into the stormwater drainage system. Construction traffic and all other vehicles must be kept off areas not under construction. For areas under construction, each Owner must take measures to prevent soil and other materials from leaving its Parcel. If these obligations are not met, Developer has the right, but not the obligation, after written notice and reasonable opportunity to cure, to take corrective action and to charge such Owner for the actual costs thereof plus ten percent (10%) of such costs for administrative expense.

## **ARTICLE VII**

### **ARCHITECTURAL CONTROL**

Section 1. Architectural Control. No building, wall, fence or other structure or improvement of any nature (including, but not limited to, lighting fixtures, antennae, satellite dishes, landscaping, exterior paint or finish, hurricane protection, auxiliary buildings, additions to existing buildings, enclosures around "dumpsters", loading docks, awnings, canopies, domes, decorative features, swales, asphaltting, site grading or other improvements or changes of any kind) shall be erected, placed or altered on, or removed from, any Parcel or Unit without the prior written approval of Developer of all aspects of the contemplated improvements, including, without limitation, the configuration, exterior color and composition and the exterior lighting of the improvements, the architectural style thereof, exterior signage associated therewith, the points of ingress/egress to and from the Parcel, the location, composition and configuration of irrigation and drainage pipes, structures and apparatus, landscaping and other aesthetic considerations as well as the site plan therefor ("Site Development Plan/Package"). Such approval should be administered by the Architectural Control Board (which shall be a committee appointed by the Board of Directors of the Master Association, or absence such appointment, the Board will serve as such capacity. The Site Development Plan/Package must be approved in writing by the Architectural Control Board and all necessary governmental permits must be obtained. All such buildings, walls, fences or other structures and improvements must conform to the "Design Guidelines" established from time to time by the Architectural Control Board, and no plans shall be approved if they are not in conformity with same. The Design Guidelines are available for review at the offices of the Developer.

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Each building, wall, fence or other structure or improvement of any nature, together with any applicable landscaping, shall be erected, placed or altered upon the Properties only in accordance with the plans and specifications (and plot plan if required) so approved and applicable governmental permits and requirements. Refusal of approval of plans, specifications and plot plans, or any of them, may be based on any ground, including purely aesthetic grounds, which in the sole and uncontrolled discretion of said Architectural Control Board seem sufficient. Any change in the exterior appearance of any building, wall, fence or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Control Board shall have the power to promulgate such rules and regulations as it deems necessary to carry out the provisions and intent of this paragraph. A majority of the members of the Architectural Control Board may take any action the Architectural Control Board is empowered to take, may designate a representative to act for the Architectural Control Board and may employ personnel and consultants to act for it. In the event of death, disability or resignation of any member of the Architectural Control Board, the remaining members shall have full authority to designate a successor. The members of the Architectural Control Board shall not be entitled to any compensation for services performed pursuant to this Master Declaration. The Architectural Control Board shall act on submissions to it within thirty (30) days after receipt of the same (and all further documentation required by it) or else the applicable request shall be deemed approved.

The approval of any proposed improvements or alterations by the Architectural Control Board shall not constitute a warranty or approval as to, and no member or representative of the Architectural Control Board or the Board of Directors shall be liable for, the safety, soundness, workmanship, materials or usefulness for any purpose of any such improvement or alteration nor as to its compliance with governmental or industry codes or standards. By submitting a request for the approval of any improvement or alteration, the requesting Owner shall be deemed to have automatically agreed to hold harmless and indemnify the aforesaid members and representatives, and the Master Association, generally, from and for any losses, claims or damages connected with the aforesaid aspects of the improvements or alterations.

No approval of the Architectural Control Board shall be required for the maintenance (including repainting and re-staining of Unit exteriors) required by Article VI of this Master Declaration.

Each building, fence, wall, structure, sign or other improvement of any nature and all landscaping shall be erected, placed, or altered upon the Properties only in substantial accordance with the plans and specifications therefor as approved by the Architectural Control Board, and the Architectural Control Board shall have the right, in the event of any breach of the foregoing, to cause the improper improvement to be removed. Upon commencing construction of any approved improvement, the Owner shall proceed diligently without stopping until Owner has completed the improvement.

## Section 2. Procedures.

Documentation and Submittal Requirements. Prior to the initiation of any construction or clearing of any site within Savannah Gateway West, the Owner must

receive Site Development Plan/Package approval from the Developer. Site Development Plan/Package approval for construction will constitute six (6) steps:

- (1) Pre-design conference.
- (2) Submittal of schematic drawings for site plan and all building elevations.
- (3) Review/approval of schematic drawings.
- (4) Submittal of final construction documents.
- (5) Review/approval of final construction documents.
- (6) Inspection/approval of as-builts.

Approval submissions are to be submitted in duplicate to as specified by the Developer.

The Developer will attempt to review the submittal and advise the Owner of its decisions and comments within thirty (30) days of receipt of a complete submittal package (consisting of items (2) through (5) enumerated above). It is recommended that the Owner use an express mail type of service to ensure prompt delivery of the documents and to help reduce the turn-around time required for the review process.

Approval by the Developer does not imply or warrant approval of design by any entity other than the Developer, or compliance with any applicable laws, ordinances, codes, requirements, restrictions or similar impositions regarding site approval, permitting or construction. Approval by the Developer does not release the Owner from any liability associated with design flaws, alleged design flaws, or any defect of construction or installation.

The Owner shall not be permitted to submit and/or acquire a City of Port Wentworth development approval, plat approval or modification, a rezoning or PUD amendment, comprehensive plan amendment, building and/or land clearing permit, or infrastructure/utility permit until final Site Development Plan/Package approval has been granted in writing by the Developer. If changes to the approved plans are required by the City of Port Wentworth or any other regulatory agency for any reason, the Owner must notify the Developer in writing of such changes for a re-evaluation of the required changes. The Owner need resubmit only those items affected by the changes. The Developer must approve said changes before the Owner may submit the changes for final agency action, and the Owner may not submit the change for final agency action unless said changes are expressly approved by the Developer.

Upon Developer approval of agency mandated plan modification, Owner shall resubmit plans to corresponding regulatory agencies for construction permit(s) issuance.

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It is the responsibility and obligation of the Owner to ensure that all development plans are consistent with existing approvals previously obtained for Savannah Gateway West and to ensure that all necessary permits and approvals have been obtained from the appropriate Federal, State, County and Municipal governments and/or agencies.

The documents required for schematic and final submittals shall be submitted by the Owner or an authorized agent. The agent must verify in writing that he/she has obtained the Owner's authorization to apply for the Developer approval. The Owner shall submit two (2) sets of plans as referenced in Section 1(a) to the Developer for review. Upon completion of the review by the Developer, one (1) set of plans inclusive of written comments will be returned to the Owner, only if approved. The Developer is not obligated to return rejected plans.

The plans, where required by law or as herein specified, shall be prepared, signed and sealed by a registered professional architect, engineer, and/or landscape architect licensed to practice in the State of Georgia, where applicable.

During the pre-design conference, the general concepts for the following items will be discussed and be reviewed: buffers, setbacks, storm water management, access points, signage, exterior lighting, walls, fences, screening, trash facilities, landscaping, berming, opacity, utilities, building materials, parking, loading and allocation of land use entitlements, trip generation, wetland impact and annual report requirements.

### ***Schematic Phase***

The following schematic drawings, with a statement affirming compliance with the comprehensive development plan, PUD, and all other applicable permits and approvals, must be submitted to the Developer for review and approval:

Site plan(s) (at a scale no smaller than 1"=30') indicating building dimensions, building location, any accessory improvements, building colors and finishes, internal site circulation, parking, loading areas, refuse areas, grading, setbacks, buffers, easements, drainage, utility locations, landscaping, berming, opacity, site lighting, site furniture, signage, typical curb & gutter details and development phasing. A chart shall be shown on the site plan indicating impervious surface coverage (building and parking); gross leasable area; projected number of employees and guests (where applicable); evaluation of total signage requirements; total parking lot area, number of parking spaces required and handicapped spaces; and total area of landscaping.

All elevations of the exterior of the building with color samples, schematic floor plans, and existing and proposed grade lines shall be shown.

Topographic and tree survey at the same size as the site plan. The survey shall indicate areas of trees and vegetation to be retained. Trees measuring six-inches in caliper at breast height or more, shall be identified and marked in the field.

350 U 716

A site signage plan indicating the location, size and design of signs.

A site lighting plan indicating the location, type and size of all exterior lighting fixtures.

Proposed location of garbage dumpsters.

Perspective rendering(s) or sketches of the building(s) sufficient to illustrate the general design characteristics of materials, massing, architectural treatments and roof lines. This may include photographs of existing buildings where a similar building is being proposed.

A traffic circulation plan indicating road widths and access points.

Locations and descriptions of any temporary construction buildings, material storage areas, and dirt stockpile areas.

### ***Final Construction Phase***

In addition to items provided in the schematic phase, the following must be included:

Complete sealed architectural, engineering, lighting, signage, landscape and irrigation plans and specifications required to construct the improvements.

A report on the proposed start of construction, completion of construction, and occupancy timetable by phases, if any; updated utility requirements and copies of final joint agreements with other owners relative to common improvements, if any.

The Developer will also review plans for conformance with the overall master drainage plan for Savannah Gateway West. Drainage easements, in addition to other necessary property easements, will be reviewed by the Developer to determine that they are adequately shown on proposed plans.

An executed agreement providing maximum land use / allocation of square footage and trip allocations, if applicable.

(b) **Basis of Approval.** Approvals or denials of submittals will be at the total and absolute discretion of the Developer and may be made on any basis including completeness of submittal, aesthetics, and compatibility with the balance of Savannah Gateway West. The Developer will evaluate proposed development plans for consistency with prior approvals and corresponding permits, especially in regard to square footage and/or trip allocations, and approved stormwater flows and capacity.

Within thirty (30) days after completion, the Developer will inspect the improvements. If it is found that such work is incomplete or has not been done in strict compliance with the final plans submitted or required to be submitted for its prior



approval, the Developer shall notify the Owner in writing of such non-compliance, specifying in reasonable detail the particulars of non-compliance and shall require the Owner to remedy the same.

If upon the expiration of thirty (30) days from the date of such notification by the Developer, the Owner shall have failed to remedy such non-compliance, the Developer shall notify the Owner and may at the Owner's expense take such action to remove the non-complying improvements or complete the installation of the incomplete improvements and bill the Owner.

The Developer reserves the right to demand from the Owner "as-builts" of completed improvements within all areas of the development wherein the Master Owners' Association will be ultimately responsible for maintenance. Following such demand, Owner shall provide said "as-builts" to Developer within a reasonable period of time.

(c) Interpretation, Waivers and Alterations. When questions of judgment or interpretation arise, the decision of the Developer in its sole discretion shall be final and binding on all parties.

All revisions, alterations, or additions to any portion of an approved plan shall be subject to review and approval (and if need be, correction) by the Developer at the time said revisions are noted.

If the Owner is required to resubmit any materials, due to disapproval by the Developer or a change in plans, etc., he/she shall do so in accordance with the procedures called for herein, and at his/her expense.

The Developer may, but is not obligated to, inspect all site work in progress and give notice of non-compliance. Absence of such inspection or notification during the construction period does not constitute approval by the Developer of work in progress or compliance with the provisions of these guidelines or any applicable governmental requirements.

The Developer may adopt written rules which modify, cancel, limit, create exceptions to, or expand the initial guidelines presented herein which rules shall contain the date of their adoption.

(d) Public Approvals. It is the responsibility and obligation of the Owner to ensure that all development plans are consistent with existing approvals previously obtained for Savannah Gateway West and any requirements or regulations that might be in effect locally. In addition, the Owner must ensure that all necessary permits and approvals have been obtained from the appropriate Federal, State, County and Municipal governments and/or agencies.

Review and approval by the Developer does not release the Owner from its obligation to comply with prior approvals or with any permitting requirements of the Federal, State, County and Municipal governments and/or agencies.

No agreement affecting existing approvals can be made between the Owner and any government agencies without the knowledge and written consent of the Developer.

(e) **Compliance with Laws.** Owner shall comply with all applicable laws, ordinances, requirements, orders, directions, rules and regulations of the Federal, State, County and Municipal governments and agencies (including, without limitation, the Americans With Disabilities Act of 1990 and any related implementing regulations, codes, rules and accessibility guidelines, as such acts and related regulations, codes, rules and guidelines may be amended from time to time (collectively, the "ADA")) and of all other governmental authorities having or claiming jurisdiction of or over the Properties, or any portion thereof.

## **ARTICLE VIII**

### **CERTAIN RULES AND REGULATIONS**

Section 1. **Applicability.** The provisions of this Article VIII shall be applicable to all of the Properties. Further, if a Parcel is under construction, the provisions of this Article which presume the completion of construction shall not apply until the construction on the Parcel is complete and a certificate of occupancy or certificate of completion, as applicable, has been issued by the applicable governmental authority.

Section 2. **Uses of Parcels and Units.** So long as Developer or any of Developer's affiliate or related entities owns or is doing business on any of the Properties all proposed uses of any portion of Savannah Gateway West shall require Developer's prior approval. The only uses permitted within the Properties shall be hotels, restaurants, retail commercial, themed commercial, office/warehouse or other uses permitted under the Savannah Gateway West Master Plan as permitted by the PUD zoning classification as now or hereafter in effect and other restrictions applicable to the Properties, or any Parcel thereof, which uses have received the prior written approval of Developer, and which uses are incidental to, and compatible with, the uses expressly herein permitted. All Parcels and Units (and appurtenant Common Areas) shall be used for the general purposes for which they are designed and intended and at all times used, operated and maintained in accordance with applicable zoning and other requirements, conditions and restrictions applicable to same (including, without limitation, any contained in a deed or lease of the Parcel/Unit from the Developer, as same may be amended from time to time). In no event shall any portion of the Properties be used for any purpose or activity which, in the sole and absolute discretion of the Board, disturbs the peace, quiet, safety, comfort or serenity of any Owner, or tends to cause embarrassment, discomfort, annoyance or nuisance to any person using any Parcel /Unit or the Common Areas, or used for any unlawful purposes or in a manner which is or becomes noxious, offensive, unhealthy or harmful to the Owners, tenants, occupants, invitees or public at large. Without limiting the foregoing, each Parcel shall be further restricted as follows:

(a) The following uses shall be prohibited on all Parcels: adult entertainment including but not limited to adult bookstore, adult booths, adult dancing establishments, adult motel or adult theater, churches or religious worship/functions, trailer, mobile home or recreational vehicle parks or storage, junk, salvage or wrecking yards including storage of motor

350 U 719

vehicles, appliances or similar used equipment, animal slaughtering, or the confinement of animals for feeding, finishing and preparation for slaughtering including stockyards and feeding pens, asphalt manufacturing or refining or any similar petroleum or petrochemical refining or manufacturing process, asphalt or concrete paving, mixing or batching plant, corrosive acid manufacturer or bulk storage including but not limited to hydrochloric, nitric, sulfuric or similar acids, bone distillation or the reduction, rendering, incineration or storage of garbage, offal, animals or animal waste fats, fish or similar materials or products, blast furnace or similar heat or glare generating operations, cement, limes, gypsum or plaster of paris manufacture or the open storage of raw materials or finished products related to such manufacture, glue, size or gelatine manufacturer, aloe, grease, lard or vegetable oil refining, bio-medical waste, storage or transfer, wholesale meat and produce distribution, welding, milk bottling distribution plants, machine or trade shop, heavy equipment rental and sales, furniture stripping, garment manufacturing, contractor storage and equipment yards, confectionery manufacture, bus, cab, truck, repair, storage or terminals, bulk paint mixing, auctions, soft drink bottling or billboard manufacturing.

(b) No activity or use shall be permitted which is or may tend to be offensive, unpleasant, unsightly, noxious or illegal by reason of light emissions, vibrations, odor, fumes or gas, dust, dirt or flying ash, smoke, noise or sound frequency or shrillness or pollution, or which is hazardous by reason of excessive danger of fire or explosion, or which violates any law or ordinance.

(c) No activity or use, which terms include anything capable of being discerned by the human senses, shall be permitted which is pornographic, obscene, lewd or lascivious, as such terms are defined from time to time by the Supreme Court of the United States. Adult entertainment shall not be permitted even if the conduct of the business is not pornographic, lewd, obscene or lascivious as defined by the Supreme Court of the United States.

(d) No activity or use shall be permitted on, or with respect to, any part of any Parcel which is obnoxious to, or out of harmony with, other developments surrounding the Parcel or which may be, or tend to become or cause, an unreasonable annoyance or nuisance, whether public or private, or which may be, or tend to become, an interference with the comfortable and quiet use, occupation or enjoyment of any property within 500 feet of any boundary of any Parcel.

(e) No use, manufacture, transportation, storage, disposal, handling, generation or treatment of "toxic waste", "hazardous waste", "hazardous substances" or "hazardous materials" as defined in or under any federal, state or local statute or ordinance or any rules or regulations of any agency charged with the regulation of said materials shall be permitted on any Parcel unless the Owner has complied with all applicable federal, state and local laws, rules, regulations and has obtained all necessary permits and approvals.

(f) No activity or use shall be permitted for which there is not adequate automobile parking spaces on any Parcel, including spaces for employees and customers/visitors.

(g) No waterwells, for either potable or non-potable water, shall be allowed on any Parcel except with the prior written consent of the Developer.

(h) No storage tanks, including, but not limited to, those used for storage of water, propane gas or other fuels or chemicals, shall be permitted on any Parcel unless first consented to in writing by the Developer. In addition, Developer hereby gives its prior written consent to the use of underground fuel storage tanks on Lot 3 of the Phase I Plat and hereby expressly agrees that a fueling station/convenience store on Lot 3 shall be hereby deemed a permitted use thereof.

(i) No structure or structures shall be constructed on any Parcel within the Phase I Plat in excess of 5,000 square feet without the prior written consent of Developer.

(j) In addition to the foregoing, no portion of the Property, excluding Lot 1 of the Phase I Plat, shall be developed, utilized or operated as and for a free standing bank or credit union, but only for a period expiring on the earlier of (A) the expiration of a 20-year period commencing on the date upon which Lot 1 is conveyed by Developer to High Trust Bank, or (B) the date upon which Lot 1 ceases to be used as a free standing bank or credit union, although a temporary suspension in such use for remodeling or reconstruction shall not cause such restriction to expire. Notwithstanding the foregoing, in no event shall this use restriction preclude the provision of any financial services elsewhere or anywhere on the Property, including, without limitation, check cashing, money order sales, deferred deposit transactions, internet services, pay day advances, income tax preparation, electronic income tax return filing, wire transfers, store value cards, prepaid phone cards, cellular sales and rental, refund services, refund anticipated loans, all banking and financial related services as may be permitted from time to time by federal and state laws and regulations, including, but not limited to, small consumer loans and accepting deposits, automated teller machines and U.S. postal contract mail services, brokerage services, insurance services and the like.

(k) In addition to the foregoing, no portion of Lot 1 or Lot 3 of the Phase I Plat shall be developed, utilized or operated as and for the sale of hot prepared fried chicken, pizza or tacos or the operation of a café or coffee bar which sells, as its primary product, coffee and coffee related products; provided, however, the Owner of Lot 3 shall be permitted to sell frozen meals and hot and cold coffee beverages in such manner and quantity as are customary and incidental to a fueling station/convenience store.

Section 3. Temporary Structures. Except as may be used or permitted by the Developer during periods of construction or renovation, no structure, building, improvement or other facility of a temporary nature (including, without limitation, trailers, tents, shacks or mobile offices) shall be permitted, located or used within the Properties.

Section 4. Signage and Advertising. Only signs as initially installed or approved by the Developer, in accordance with the Design Guidelines (copies of which are available at the offices of Developer) shall be placed on the Parcel or exteriors of Units, except that additional or replacement signs may be installed with the approval of the Architectural Control Board pursuant to the review procedure set forth in Article VII. Billboards (as defined by the City) may not be installed by any Owner other than Developer.

All signs shall be lighted, if at all, in the manner initially approved by the Developer or, after (but only after) the Developer no longer holds any interest in, or mortgage on, any portions

of the Properties, by the Architectural Control Board. No loudspeakers or other sound-emitting equipment shall be used for advertising, promotional or other purposes (other than for supplying reasonably low-volume background music to common spaces within or adjacent to Units), nor shall lighting fixtures or equipment designed or used to project beyond the boundaries of a Unit be used for such purposes. Subject to Section 14 below, all signage and advertising shall refer to the Properties by its name, "Savannah Gateway West" and any descriptions or tradenames for a Unit greater than 5,000 square feet in gross floor area shall refer to it as "...at Savannah Gateway West".

Section 5. Service Areas and Mechanical Equipment. Without limiting the generality of other applicable provisions of this Master Declaration, all service areas such as loading docks shall be kept in a neat, clean and sanitary condition and in no event shall any outdoor area be used for the storage of equipment, inventory, supplies or other material. All such service areas shall be reasonably screened from public view in the manner originally required by the Developer and shall be used only for their intended purposes. All rooftop and other mechanical equipment (e.g., air conditioning compressors and elevator equipment) and telecommunications equipment (e.g. satellite dishes or receivers) shall be enclosed or screened so as to be an integral part of the architectural design of the applicable Unit.

Section 6. Refuse. All trash, garbage and other refuse shall be placed only in designated areas and containers in accordance with the General Development Guidelines.

Section 7. Lighting. Levels of lighting in all exterior areas of Parcels shall be maintained at safe levels (although in no event shall the Master Association be deemed to be a guarantor or insurer of such safety) and bulbs shall be replaced with bulbs of the same wattage as expeditiously as possible after the failure thereof occurs. Exterior lighting fixtures of Units shall be in compliance with Article VII, shall be maintained in good repair, and shall be kept functioning during non-daylight hours.

Section 8. Oil and Mining Operation. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in the Properties, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in the Properties. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any portion of the land subject to this Master Declaration. This Section 8 shall be applicable to all Parcels, including undeveloped Parcels, Parcels under construction and improved Parcels.

Section 9. Commercial Trucks, Trailers, Campers and Boats; Construction Equipment. No trucks or commercial vehicles, or campers, mobile homes, motorhomes, house trailers or trailers of every other description, recreational vehicles, boats, boat trailers, horse trailers or vans, shall be permitted to be regularly parked or stored at any place on the Properties, nor in dedicated areas, except in enclosed garages, if any. For purposes of this Section, "commercial vehicles" shall mean those which are not designed and used for customary, personal/family purposes. The absence of commercial-type lettering or graphics on a vehicle shall not be dispositive as to whether it is a commercial vehicle. The prohibitions on parking contained in this Section shall not apply to (i) temporary parking of trucks and commercial vehicles, such as for pick-up and delivery and other commercial services (even if same are

parked on a regular basis) or (ii) any vehicles of the Developer or its affiliates. No on-street parking or parking on landscaped areas shall be permitted.

The storage (beyond the construction phase of a Unit), leasing and sale of any type of construction equipment including, without limitation, tractors, front-end loaders, backhoes, bulldozers, graders, scrapers, earthmovers, cranes, cherry pickers, augers, pile drivers, trenchers and similar off-road equipment, shall be strictly prohibited on the Properties.

Subject to applicable laws and ordinances, any vehicle parked in violation of these or other restrictions contained herein or in the rules and regulations now or hereafter adopted may be towed by the Master Association at the sole expense of the owner of such vehicle if such vehicle remains in violation for a period of twenty-four (24) hours from the time a notice of violation is placed on the vehicle. The Master Association shall not be liable to the owner of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act, by reason of such towing and once the notice is posted, neither its removal, nor failure of the owner to receive it for any reason, shall be grounds for relief of any kind. An affidavit of the person posting the aforesaid notice stating that it was properly posted shall be conclusive evidence of proper posting.

Section 10. Parking Areas. No Owner or tenant shall cause or permit anything to be done on or about its Parcel which interferes with the normal flow of traffic and parking of vehicle thereon or interferes with the Master Association's maintenance of applicable Common Areas. No parking shall be permitted on any street, lawn, median strip, public walkway, swale, berm or other unpaved place or at any place other than paved parking areas.

Section 11. Storm Water Management System. Notwithstanding the requirements of Section 9 hereof, every Parcel and Unit must conform to the requirements of the Storm Water Management System for the Properties as approved from time to time by applicable regulatory authorities.

Section 12. Platting of Parcels. No Owner shall plat or re-plat (or cause to be platted or re-platted) any portion of the Properties, any Parcel(s), or any portion thereof, without the prior written consent and approval of the Developer. Such plat or re-plat, if permitted by Developer, shall be identified as "Savannah Gateway West . . ." together with appropriately identifying words or numbers to distinguish the plat or re-plat from other plats recorded by the Developer or recorded (with Developer's consent and approval as required herein) by another Owner. Any recordation of a plat or re-plat of any portion of the Properties without the prior written consent and approval of Developer shall be void and without legal effect.

Section 13. Rezoning. No Owner shall apply for, or enter into a petition, consent to, or request for re-zoning, or a special exception or variance from applicable zoning without the prior written consent of Developer.

Section 14. Use of Name. No person shall use the phrase "Savannah Gateway West" or any derivative thereof in the name of any building or any business or enterprise or in any printed or promotional material without the Developer's prior written consent. However, Owners may use the term "Savannah Gateway West" in printed or promotional materials solely

to specify that particular parcel is located within Savannah Gateway West, and the Master Association shall be entitled to use the words "Savannah Gateway West" in its name.

Section 15. Compliance and Consistency. The Owner recognizes the Developer has obtained numerous governmental approvals and permits. It is the responsibility of the Owner to obtain copies of such approvals and permits and comply with all provisions thereto unless specifically waived by the Developer. The Owner further agrees that no applications will be made to any governmental agencies which would affect or impair any of the rights and/or obligations of the balance of the Properties. Such impairment includes, but is not limited to:

- (a) modification of points of egress/ingress from/to State Road 21 and Georgia Highway 30;
- (b) varying impacts to wetlands, or established wetland buffers, unless specifically permitted by the Developer and authorized in writing by the Developer;
- (c) modifying the types and/or quantity of development other than those approved in the Savannah Gateway West development approvals;
- (d) reserving sewer or water capacity in addition to existing agreements;
- (e) exceeding the number of trips allocated for the subject property as stipulated by the Developer.

The Owner agrees that no applications for amendments to or new issuances of the following documents will be made without the Developer's written consent:

- Zoning Regulations - PUD District
- City of Port Wentworth Comprehensive Plan
- City of Port Wentworth Code of Ordinances
- City of Port Wentworth Minimum Land Subdivision Regulations
- City of Port Wentworth Land Development Regulations
- Chatham County Minimum Land Subdivision Regulations
- Chatham County Code of Ordinances
- Other Ordinances of Chatham County not contained within the Code of Ordinances
- U.S. Army Corps of Engineers Nationwide Permit
- Georgia Department of Environmental Protection Permit
- PUD Approval
- Plat
- Wetland Resource Permit
- Georgia Fish and Wildlife Conservation Commission Permits
- Comprehensive Development Plans (CDPs)

Should the Owner or its agents cause directly or indirectly a violation, or a finding of non-compliance of any permits and/or approvals, then the Developer may elect to remedy said violation or non-compliance finding. All costs of said remedy will be borne by the

Owner. Alternatively, the Developer, at its sole discretion, may allow the Owner to perform the necessary remedy.

Section 16. Hazardous Substances. Each Owner agrees not to cause, suffer or permit the releasing, spilling, leaking, pumping, pouring, emitting, emptying or dumping of Hazardous Substance resulting and contamination of any portion of the Property (including the Master Stormwater Drainage System). Each Owner agrees to indemnify, defend and hold Declarant and all other Owners, and each of them, harmless from any and against all claim, loss, damage, expense, including, without limitation, reasonably attorneys fees and other legal expenses, whether incurred at or before the trial level or any appellate, bankruptcy or administrative proceeding, incurred as a result of the breach of violation of the foregoing covenant.

As used herein, the terms "Hazardous Substance" or "Hazardous Substances" mean and refer to such materials or substances as give rise to remediation requirements, duties or obligations under the below specified statutes and is defined or classified under federal, state or local laws as: (i) a "hazardous substance" pursuant to Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601(14), Section 311 of the Federal Water Pollution Control Act, 33 U.S.C. § 1321; (ii) a "hazardous waste" pursuant to Section 1004 or Section 3001 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6903, 42 U.S.C. § 6921; (iii) a toxic pollutant under Section 307(1)(a) of the Federal Water Pollution Control Act, 33 U.S.C. § 1317(1)(a); (iv) a "hazardous air pollutant" under Section 112 of the Clean Air Act, 42 U.S.C. § 7412; (v) a "hazardous material" under the Hazardous Material Transportation Act, 49 U.S.C. § 1802(2); the Clean Air Act, the Clean Water Act, the Federal Water Pollution Control Act of 1976, the Comprehensive Environmental Response, Compensation Liability Act of 1980, the Toxic Substances Control Act, or any amendments or extensions of any of the foregoing; or (vi) as a "hazardous" substance, material, pollutant or waste under the Georgia Air Quality Act, O.G.G.A §12-9-1 *et. seq.*, the Georgia Ground-Water Use Act, O.G.G.A §12-5-90 *et. seq.*, the Georgia Safe Drinking Water Act, O.G.G.A §12-5-170 *et. seq.*, the Georgia Water Quality Act, O.G.G.A §12-5-20 *et. seq.*, the Georgia Hazardous Waste Management Act, O.G.G.A §12-8-60 and O.C.G.A. §12-14-1 *et. seq.*, or the Georgia Asbestos Safety Act, O.G.G.A §12-12-1 *et. seq.*

## **ARTICLE IX**

### **ENFORCEMENT**

Section 1. Compliance by Owners and Tenants. Every Owner shall comply with the restrictions and covenants set forth herein and any and all rules and regulations which from time to time may be adopted by the Board of Directors of the Master Association. Inasmuch as it is contemplated that a substantial portion of the Parcels and Units within the Properties may be leased by the Owners thereof to others, but in light of the direct relationship of the Master Association with its Members (consisting of such Owners) and the nature of this Master Declaration as running with the land, the Master Association shall at all times be entitled to look solely to the Owner of a Parcel/Unit with respect to the enforcement of this Master Declaration and shall not be required (but shall always have the option) to do so as to a tenant. Each lease of any Parcel/Unit or portion thereof shall provide (or, in the absence of such provision, shall be deemed to provide) that the tenant shall at all times comply with the covenants, conditions,



restrictions and requirements of this Master Declaration (except as to the payment of assessments and fines) and such provision shall be enforceable by the Master Association in its own name (but at its sole option). As used herein, "lease" shall also mean a sublease, license or other use agreement and "tenant" shall also mean a sub-tenant, licensee, or other similar user of the Parcel.

Section 2. Enforcement. Failure of an Owner or tenant to comply (or to cause compliance) with such restrictions, covenants or rules and regulations shall be grounds for immediate action which may include, without limitation, an action to recover sums due for damages, injunctive relief, or any combination thereof. The offending Parcel Owner (even if only a landlord) shall be responsible for all costs of enforcement including, without limitation, attorneys' fees and costs actually incurred, including any fees and costs incurred in any appellate or bankruptcy proceeding.

Section 3. Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Board of Directors of the Master Association, a fine or fines may be imposed upon an Owner for failure of an Owner or its tenants, guests, invitees or employees, to comply with any covenant, restriction, rule or regulation, provided the following procedures are adhered to:

(a) Notice: The Master Association shall notify the Owner of the alleged infraction or infractions. Included in the notice shall be the date and time of a special meeting of the Board of Directors at which time the Owner may present reasons why a fine(s) should not be imposed. At least six (6) days' prior notice of such meeting shall be given.

(b) Hearing: The alleged non-compliance shall be presented to the Board of Directors after which the Board of Directors shall hear reasons why a fine(s) should not be imposed. A written decision of the Board of Directors shall be submitted to the Owner by not later than twenty-one (21) days after the Board's meeting. The Owner shall have a right to be represented by counsel and to cross-examine witnesses.

(c) Amounts: The Board of Directors (if its findings are made against the Owner) may impose special assessments against the Parcel owned by the Owner as follows:

(i) First non-compliance or violation: a fine not in excess of One Hundred Dollars (\$100.00).

(ii) Second non-compliance or violation: a fine not in excess of Five Hundred Dollars (\$500.00).

(iii) Third and subsequent non-compliance, or a violation or violations which are of a continuing nature: a fine not in excess of One Thousand Dollars (\$1,000.00).

(d) Collection of Fines: Fines shall be treated as an assessment subject to the provisions for the collection of assessments as set forth herein.

(e) Application of Proceeds: All monies received from fines shall be allocated as directed by the Board of Directors.

(f) Non-exclusive Remedy: These fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Master Association may be otherwise legally entitled; provided, however, any penalty paid by the offending Owner shall be deducted from or offset against any damages which the Master Association may otherwise be entitled to recover by law or in equity from such Owner.

## **ARTICLE X**

### **INSURANCE REQUIREMENTS**

#### **Section 1. Common Areas**

(a) All insurance policies covering the Common Areas shall be purchased by the Master Association and shall be issued by an insurance company authorized to do business in Georgia.

#### **(b) Coverages.**

(i) Casualty. All improvements upon the Common Areas and all personal property of the Master Association are to be insured in an amount equal to one hundred (100%) percent of the then current replacement cost, excluding foundation and excavating costs and other items normally excluded from coverage, as determined annually by the Master Association. Prior to obtaining any casualty insurance or renewal thereof, the Master Association shall obtain an appraisal from a fire insurance company or otherwise of the full replacement cost of the improvements upon the Common Areas and all personal property of the Association, without deduction for depreciation, for the purposes of determining the amount of casualty insurance to be obtained pursuant to this Paragraph. Such coverage shall afford protection against:

(1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

(2) Such other risks as from time to time shall be customarily insured against with respect to buildings and improvements similar in construction, location and use, including, but not limited to vandalism and malicious mischief, and all other risks normally covered by a standard "All Risks" endorsement, where available.

(ii) Liability. Comprehensive general public liability insurance insuring the Master Association against loss or damage resulting from accidents or occurrence on or about or in connection with the Common Areas, or any work, matters or things related to the Common Areas or this Declaration and its exhibits, with such coverage as shall be required by the Master Association but with a combined single limit liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury, death or property damage, arising out of a single occurrence, and with a cross liability endorsement to cover liabilities of the Owners as a group to an Owner.

(iii) Workers Compensation. As shall be required to meet the requirements of the law.

(iv) Other Insurance. Such other insurance as the Master Association shall determine from time to time to be desirable or as is customarily obtained with respect to improvements similar in construction, location and use to those contained within the Common Areas, such as, where applicable, contractual and all written contract insurance, employer's liability insurance and comprehensive automobile liability insurance, as well as directors and officers liability insurance and/or fidelity or fiduciary coverage, covering persons responsible for Master Association funds.

When appropriate and obtainable, each of the foregoing policies shall waive the co insurer's right to: (i) subrogation against the Master Association and against the Owners individually and as a group; (ii) any pro rata clause that reserves to the insurer the right to pay only a fraction of any loss if other insurance carriers have issued coverage upon the same risk; (iii) avoid liability for a loss that is caused by an act of one or more directors of the Master Association or by one or more Owners; and (iv) shall provide that such policies may not be canceled or substantially modified (except for increases in coverage for limits of liability) without at least ten (10) days prior written notice to the Master Association and to the holder of a first mortgage which is listed as a scheduled holder a first mortgage in the insurance policy.

(c) Premiums. Premiums for insurance policies purchased by the Master Association shall be paid by the Master Association out of assessments.

(d) Insurance Trustee. All casualty insurance policies purchased by the Master Association shall provide that all proceeds covering casualty losses in excess of \$25,000.00 shall, if designated in writing by the Board, be paid to any national bank or trust company having trust powers with a branch located in the vicinity of the Properties as may be designated by the Master Association, as trustee, which trustee is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums or for the renewal or sufficiency of the policies or for the failure to collect any insurance proceeds. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated herein and for the benefit of the Master Association. Notwithstanding the foregoing, unless the Board so determines, no Insurance Trustee will be required, and all references in this Declaration to an Insurance Trustee shall refer to the Master Association.

(e) Distribution of Proceeds. Proceeds of the insurance policies received by the Board or the Insurance Trustee shall be distributed to, or for the benefit of, the beneficial owners in the following manner:

(i) Expense of the Trust. All expenses of the Insurance Trustee shall be first paid or provisions made therefor.

(ii) Reconstruction or Repair. The remaining proceeds shall be used to pay the cost of repair or reconstruction, as elsewhere provided. Any proceeds remaining after paying such costs shall be distributed to the Master Association.

(iii) Inspection of Insurance Policies. A copy of each insurance policy purchased by the Master Association shall be made available for inspection by any Owner.

Section 2. Parcels. Each Owner shall carry commercial general liability insurance covering its Parcel with a limit of at least \$1,000,000 (combined single limit for bodily injury or property damage, with limit subject to review and increase by the Master Association every three (3) years) and including contractual liability coverage, or such other amount as reasonably approved by the Developer. The liability insurance policy with respect to each Owner's Parcel shall be primary to any other liability policy carried by any other party and each Owner's liability insurance policy shall name the Developer as an additional insured. Each Owner also shall carry or cause to be carried property insurance on its Unit providing "all risk" coverage on a replacement cost basis. The Owners may use blanket policies and property insurance deductibles shall be reasonably acceptable to Developer. The insurers must be licensed in Georgia and have an acceptable AM Best Rating as reasonably determined by Developer. Notwithstanding the foregoing, if a tenant occupying all or any portion of the Parcel is carrying property insurance on its Unit, the amount and terms of such insurance shall be governed by the terms of its lease and any such property insurance so carried by a tenant on its Unit shall fully satisfy the obligations of the Owner for that Parcel to maintain property insurance as to such Unit. Each Owner's insurers must provide the other Owner with thirty (30) days' notice of cancellation of a policy or policies, and upon written request provide the other Owner with certificates of coverage.

Section 3. Waiver of Right of Recovery. No Owner shall be liable to the other or to any insurance company (by way of subrogation or otherwise) insuring the other party for any loss or damage to any building or structure or other tangible property, losses under worker's compensation laws and benefits, or loss in connection with injury to or death of a person, even though such loss, damage, injury or death might have been occasioned by the negligence of such party, its agents or employees.

## **ARTICLE XI**

### **GENERAL PROVISIONS**

Section 1. Duration. The covenants and restrictions of this Master Declaration shall run with and bind the Properties, and shall inure to the benefit of and be enforceable by the Master Association, the Architectural Control Board, the Developer (at all times) and the Owner of any land subject to this Master Declaration, and their respective legal representatives, heirs, tenants, sub-tenants, successors and assigns, for a term of ninety-nine (99) years from the date this Master Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by the then Owners of 75% of all the Parcels subject hereto and 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions. Provided, however, that no such agreement to revoke shall be effective unless made and recorded three (3) years in advance of the effective date of such revocation, and unless written notice of the proposed agreement is sent to every Owner at least ninety (90) days in advance of any signatures being obtained. Provided, that so long as the Developer or its affiliate or related entity is the Owner of, or doing business at, Savannah Gateway West or any other Parcel affected by this Master Declaration, the prior, written consent of the Developer or its designee must be obtained for any revocation of this Master Declaration.

Section 2. Notice. Any notice required to be sent to any Member or Owner under the provisions of this Master Declaration shall be deemed to have been properly sent when personally delivered, sent by overnight courier, or mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Master Association at the time of such mailing. Notice to the Developer must be sent to the following address:

Savannah Gateway West, LLC  
2404 N. Rio Grande Avenue  
Orlando, FL 32804

Section 3. Enforcement. Enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Parcels to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 4. Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

Section 5. Amendment or Modification. In addition to any other manner herein provided for the amendment of this Master Declaration, the covenants, restrictions, easements, charges and liens of this Master Declaration may be amended, changed, deleted or added to at any time and from time to time upon the execution and recordation of an instrument executed by the Developer alone, for so long as it or its affiliates holds title to any Parcel affected by this Master Declaration, provided, however, that no such amendment shall diminish the voting rights of, or materially increase the percentage of responsibility for Common Area Expenses allocable to, any Parcel without the consent of the affected Parcel Owner; or alternatively by approval at a meeting of Owners holding not less than two-thirds (2/3<sup>rds</sup>) vote of the membership in the Master Association. Provided, that so long as the Developer or its affiliate or related entity is the Owner of, or doing business at, Savannah Gateway West or any other Parcel affected by this Master Declaration, the prior, written consent of the Developer or its designee must be obtained for any amendment or modification of this Master Declaration, whether made pursuant to this Section 5 or any other provision of this Master Declaration. Notwithstanding the foregoing, no amendment shall adversely affect the rights of any Mortgagee unless such Mortgagee joins in and consents to such amendment.

Section 6. Effective Date. This Master Declaration shall become effective upon its recordation in the Public Records of Chatham County, Georgia.

Section 7. Conflict. This Master Declaration shall take precedence over conflicting provisions in the Articles of Incorporation and By-Laws of the Master Association and said Articles shall take precedence over the By-Laws.

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Section 8. Standards for Consent, Approval, Completion, Other Action and Interpretation. Wherever in this Agreement the consent or approval of any Owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. Whenever this Master Declaration shall require the consent, approval, completion, substantial completion, or other action by the Developer or its affiliates, the Master Association or the Architectural Control Board, such consent, approval or action may be withheld in the sole, absolute and unfettered discretion of the party requested to give such consent or approval or take such action, and all matters required to be completed or substantially completed by the Developer or its affiliates or the Master Association shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of the Developer or Master Association, as appropriate. This Master Declaration shall be interpreted by the Board of Directors and an opinion of counsel to the Master Association rendered in good faith that a particular interpretation is not unreasonable shall establish the validity of such interpretation.

Section 9. Easements. Should the intended creation of any easement provided for in this Master Declaration fail by reason of the fact that at the time of creation there may be no grantee in being having the capacity to take and hold such easement, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Master Association as agent for such intended Owners for the purpose of allowing the original party or parties to whom the easements were originally intended to have been granted the benefit of such easement and the Unit Owners designate hereby the Developer and the Master Association (or either of them) as their lawful attorney-in-fact to execute any instrument on such grantees behalf as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Formal language of grant or reservation with respect to such easements, as appropriate, is hereby incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

Section 10. Administration by Developer. Inasmuch as the Developer contemplates that it will initially improve, manage, operate, maintain and insure the Common Areas and generally administer the Properties in the manner provided in this Master Declaration, the Developer shall be vested with all of the rights and powers of the Master Association to do so until such time as the Developer records a notice to the contrary in the Public Records of Chatham County, Georgia, (at which time the Master Association shall commence the exercise and performance of its rights, powers and duties hereunder). Accordingly, until the aforesaid notice is recorded, all references herein to the Master Association (including, without limitation, as to the levying and collection of assessments, architectural review and approval, maintenance of Common Areas and enforcement of covenants, conditions and restrictions) shall be deemed to refer to the Developer. Notwithstanding any of the foregoing, however: (i) the recording of the notice described above shall not in any manner be deemed an abrogation, waiver or impairment of any rights, benefits, powers or privileges of the Developer in its own right (as opposed to the Developer acting in the place of the Master Association), (ii) the Developer's acting in the place of the Master Association shall in no manner be deemed to create or suggest any fiduciary

relationship between the Developer and any Owner (or any tenant, agent, guest or invitee of the Developer or of any Owner), Developer being free to act in the aforesaid capacity in its sole discretion (albeit as provided in this Master Declaration), and (iii) upon the recording of the notice described above, the Owners shall look to the Master Association, and not to the Developer, for the performance of any rights duties and obligations of the Master Association and the Owners hereby release and discharge Developer from any such rights, duties and obligations effective upon the recording of such notice.

Section 11. Good Faith and Uniform Administration of Master Declaration. Developer shall, during the time that it is in control of the Master Association, in good faith, administer and apply all provisions of this Master Declaration, as amended from time to time, in a non-discriminatory manner with respect to the Properties.

Section 12. Covenants Running With The Land. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY (AND SUBJECT TO THE LIMITATIONS) OF SECTION 1 OF THIS ARTICLE XI, IT IS THE INTENTION OF ALL PARTIES AFFECTED HEREBY (AND THEIR RESPECTIVE HEIRS, PERSONAL REPRESENTATIVES, SUCCESSORS AND ASSIGNS) THAT THESE COVENANTS AND RESTRICTIONS SHALL RUN WITH THE LAND AND WITH TITLE TO THE PROPERTIES, AND SHALL INURE TO THE BENEFIT OF, BE BINDING UPON, AND ENFORCEABLE BY, THE DEVELOPER, THE MASTER ASSOCIATION AND ANY OWNER. WITHOUT LIMITING THE GENERALITY OF SECTION 4 OF THIS ARTICLE XI, IF ANY PROVISION OR APPLICATION OF THIS MASTER DECLARATION WOULD PREVENT THIS MASTER DECLARATION FROM RUNNING WITH THE LAND AS AFORESAID, SUCH PROVISION AND/OR APPLICATION SHALL BE JUDICIALLY MODIFIED, IF AT ALL POSSIBLE, TO COME AS CLOSE AS POSSIBLE TO THE INTENT OF SUCH PROVISION OR APPLICATION AND THEN BE ENFORCED IN A MANNER WHICH WILL ALLOW THESE COVENANTS AND RESTRICTIONS TO SO RUN WITH THE LAND; BUT IF SUCH PROVISION AND/OR APPLICATION CANNOT BE SO MODIFIED, SUCH PROVISION AND/OR APPLICATION SHALL BE UNENFORCEABLE AND CONSIDERED NULL AND VOID IN ORDER THAT THE PARAMOUNT GOAL OF THE PARTIES (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

Section 13. Liability. NOTWITHSTANDING ANYTHING CONTAINED HEREIN OR IN THE ARTICLES OF INCORPORATION, BY-LAWS, ANY RULES OR REGULATIONS OF THE MASTER ASSOCIATION OR ANY OTHER DOCUMENT GOVERNING OR BINDING THE MASTER ASSOCIATION (COLLECTIVELY, THE "MASTER ASSOCIATION DOCUMENTS"), THE MASTER ASSOCIATION, EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED TO THE CONTRARY HEREIN, SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER, OCCUPANT OR USER OF ANY PORTION OF THE PROPERTIES INCLUDING, WITHOUT LIMITATION, OWNERS AND THEIR GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

350 U 732  
PAGE

(a) IT IS THE EXPRESS INTENT OF THE MASTER ASSOCIATION DOCUMENTS THAT THE VARIOUS PROVISIONS THEREOF WHICH ARE ENFORCEABLE BY THE MASTER ASSOCIATION AND WHICH GOVERN OR REGULATE THE USES OF THE PROPERTIES HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROPERTIES AND THE VALUE THEREOF;

(b) THE MASTER ASSOCIATION IS NOT EMPOWERED, AND HAS NOT BEEN CREATED, TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LAWS OF THE UNITED STATES, STATE OF GEORGIA, CHATHAM COUNTY AND/OR ANY OTHER JURISDICTION OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

(c) THE PROVISIONS OF THE MASTER ASSOCIATION DOCUMENTS SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE MASTER ASSOCIATION TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH OWNER (BY VIRTUE OF ITS ACCEPTANCE OF TITLE TO ITS PARCEL, AS EVIDENCED BY THE RECORDING OF A DEED FOR SUCH PARCEL) AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROPERTIES (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USE) SHALL BE BOUND BY THIS ARTICLE AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST THE MASTER ASSOCIATION ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE MASTER ASSOCIATION HAS BEEN DISCLAIMED IN THIS ARTICLE.

AS USED IN THIS ARTICLE, "MASTER ASSOCIATION" SHALL INCLUDE WITHIN ITS MEANING ALL OF MASTER ASSOCIATION'S DIRECTORS, OFFICERS, COMMITTEE AND BOARD MEMBERS, EMPLOYEES, AGENTS, CONTRACTORS (INCLUDING MANAGEMENT COMPANIES), SUBCONTRACTORS, SUCCESSORS AND ASSIGNS. THE PROVISIONS OF THIS ARTICLE SHALL ALSO INURE TO THE BENEFIT OF DEVELOPER, WHICH SHALL BE FULLY PROTECTED HEREBY.

Section 14. Attorneys' Fees. In the event any Owner institutes any legal action or proceeding for the enforcement of any right or obligation herein contained, the prevailing party after a final adjudication shall be entitled to recover its costs and reasonable attorneys' fees incurred in the preparation and prosecution of such action or proceeding.

Section 15. No Waiver. No waiver of any default of any obligation by any Owner shall be implied from any omission by any other Owner to take any action with respect to such default.



350 U 733

Section 16. No Agency. Nothing in this Agreement shall be deemed or construed by any Owner or by any third person to create the relationship of principal and agent or of limited or general partners or of joint venturers or of any other association.

Section 17. Grantee's Acceptance. The grantee of any Parcel or any portion thereof, by acceptance of a deed conveying title thereto or the execution of a contract for the purchase thereof, whether from an original party or from a subsequent owner of such Parcel, shall accept such deed or contract upon and subject to each and all of the easements, covenants, conditions, restrictions and obligations contained herein. By such acceptance, any such grantee shall for himself and his successors, assigns, heirs, and personal representatives, covenant, consent, and agree to and with the other party, to keep, observe, comply with, and perform the obligations and agreements set forth herein with respect to the property so acquired by such grantee.

Section 18. Time of Essence. Time is of the essence of this Agreement.

Section 19. Governing Law. The laws of the State of Georgia shall govern the interpretation, validity, performance, and enforcement of this Agreement.

Section 20. Estoppel Certificates. Each Owner, within twenty (20) day of its receipt of a written request from the other Owner(s), shall provide the requesting Owner, a certificate binding upon such Owner stating: (a) to the best of such Owner's knowledge, whether any Owner is in default or in violation of this Agreement and if so identifying such default or violation; and (b) that this Agreement is in full force and effect and identifying any amendments to the Agreement as of the date of such certificate.

Section 21. Bankruptcy. In the event of any bankruptcy affecting any Owner or occupant of any Parcel, the parties agree that this Agreement shall, to the maximum extent permitted by law, be considered an agreement that runs with the land and that is not rejectable, in whole or in part, by the bankrupt person or entity.

Section 22. Force Majeure Delays. Whether or not specifically stated elsewhere in this Declaration, an Owner shall be excused from performing any of its obligations or undertakings provided in this Agreement (except any of its obligations to pay any sums of money under the applicable provisions hereof) for so long as the performance of such obligation is prevented or delayed by a *force majeure* event that is beyond the control of such Owner (and was not caused by such Owner's or any of such Owner's members, partners, shareholders, principals, employees, contractors, agents or representatives), including, but not limited to, such of the following as may be beyond the control of such Owner: acts of God; earthquake; flood; explosion; action of the elements; war; invasion; insurrection; riot; mob violence; sabotage; malicious mischief; inability to procure or general shortage or rationing or regulation of labor, equipment, facilities, sources of energy (including, without limitation, electricity or gasoline), materials or supplies in the open market; failure of transportation; strikes; lockouts; actions of labor unions; condemnation; litigation involving an Owner or Owners relating to zoning or other governmental action or inaction pertaining to the Property or any part thereof; inability to obtain government permits or approvals; or any other cause, whether similar or dissimilar to the foregoing, not within the control of such Owner; provided, however, that no Owner shall be entitled to relief under this Section 23 by reason of any event unless such Owner shall have given

the Developer and any other affected Owner or Owners written notice of the occurrence of such event within five (5) business days following such occurrence, which written notice shall specify in reasonable detail the circumstances giving rise to an unavoidable delay in performance together with a reasonable estimate of the probable length of such delay, and such delay is not the fault of the responsible Owner. Performance is excused only for such period as the unavoidable delay persists, based on the Master Association's reasonable discretion.

**IN WITNESS WHEREOF**, the Developer has caused this Master Declaration to be executed for the purposes herein expressed on the date and year first above written.

Signed, sealed and delivered  
in the presence of:

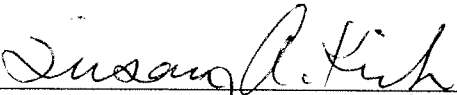
DEVELOPER:

Savannah Gateway West, LLC, a Florida  
limited liability company

By: Greatland Savannah, LLC, a Florida  
limited liability company, as Managing  
Member

By: Jupiter USA, Inc., a Florida  
corporation, as Manager

By: \_\_\_\_\_  
Name: Carl Christian Thier  
Title: President

  
Print Name: Susan A. Kirk

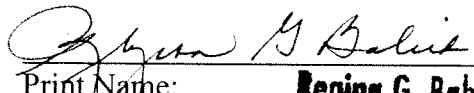
  
Print Name: Vicki L. Berman

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March, 2009, by Carl Christian Thier, as President of Jupiter USA, Inc., a Florida corporation, on behalf of the corporation in its capacity as Manager of Greatland Savannah, LLC, a Florida limited liability company, on behalf of the limited liability company in its capacity as Managing Member of Savannah Gateway West, LLC, a Florida limited liability company. Said person (check one) ☒ is personally known to me, ☐ produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or ☐ produced other identification, to wit:

(NOTARY'S SEAL)

REGINA G. BABIAK  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # DD647186  
EXPIRES 3/14/2011  
BONDED THRU 1-888-NOTARY1

  
Print Name: Regina G. Babiak  
Notary Public, State of Florida  
My Commission Expires: DD647186  
Commission Number: 3/14/2011

350 U 734

CONSENT AND SUBORDINATION OF MORTGAGEE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, RBC Bank USA, N.A., a national banking association, formerly known as RBC Centura Bank, successor by merger to Flag Bank, a State Banking Corporation chartered under the laws of the State of Georgia, hereby approves and consents to the foregoing Master Declaration of Easements, Covenants, Conditions and Restrictions (the "Declaration"), and further acknowledges and agrees that the Deed to Secure Debt between Savannah West, LLC, and Flag Bank, dated January 30, 2006, and recorded February 7, 2006, in Deed Record Book 301-O, Page 604, in the Superior Court of Chatham County, Georgia, is subject and subordinate to the Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Consent and Subordination of Mortgagee to be executed and delivered as of the 13<sup>th</sup> day of March, 2009.

Debra V. Wingo  
Unofficial Witness

RBC Bank USA, N.A.

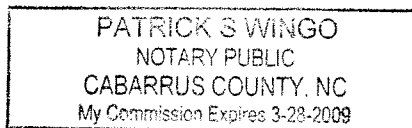
Patrick S. Wingo  
Notary Public

By: Oscar L. Overcash

Name: Oscar L. Overcash

My Commission Expires: 03/28/2009

Title: Banking Officer



350 0 735

CONSENT AND SUBORDINATION OF MORTGAGEE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Gulfstream Capital Corporation, a Delaware corporation, hereby approves and consents to the foregoing Master Declaration of Easements, Covenants, Conditions and Restrictions (the "Declaration"), and further acknowledges and agrees that the Deed to Secure Debt between Savannah West, LLC, and Gulfstream Capital Corporation, dated September 24, 2008, and recorded September 26, 2008, in Deed Record Book 345-C, Page 024, in the Superior Court of Chatham County, Georgia, as modified by that certain First Modification Agreement dated November 1, 2008, recorded November 7, 2008, in Deed Record Book 346-F, Page 063, aforesaid records,, is subject and subordinate to the Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Consent and Subordination of Mortgagee to be executed and delivered as of the 16th day of April, 2009.

Carl C. Thier  
Print Name: Thier

Gulfstream Capital Corporation

Valery Santoro  
Print Name: Valery Santoro

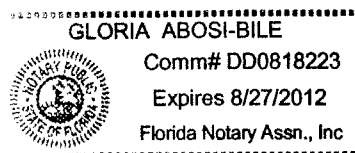
By: [Signature]  
Name: DAVID C. HENNESSY  
Title: Pres.

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 16<sup>TH</sup> day of April, 2009, by David Hennessy, as President of Gulfstream Capital Corporation. Said person (check one) ☐ is personally known to me, ☒ produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or ☐ produced other identification, to wit: \_\_\_\_\_.

Gloria A. Bile  
Print Name: Gloria Abosi-Bile  
Notary Public, State of Florida  
Commission No.: DD0818223  
My Commission Expires: 8/27/2012





CONSENT AND SUBORDINATION OF MORTGAGEE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Richard D. Stoner, Trustee, hereby approves and consents to the foregoing Master Declaration of Easements, Covenants, Conditions and Restrictions (the "Declaration"), and further acknowledges and agrees that the Mortgage Deed between Savannah West, LLC, and Richard D. Stoner, Trustee, dated January 30, 2007, and recorded February 15, 2007, in Deed Record Book 321-B, Page 759, in the Superior Court of Chatham County, Georgia, which mortgage is subordinated to the Gulfstream Capital Corporation Deed to Secure Debt under that certain Subordination of Mortgage dated September 3, 2008, and recorded September 26, 2008, in Deed Record Book 345-C, Page 022, aforesaid records, is subject and subordinate to the Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Consent and Subordination of Mortgagee to be executed and delivered as of the 26 day of March, 2009.

Brooksie O. Bothwell  
Print Name: Brooksie O. Bothwell II

[Signature]  
RICHARD D. STONER, TRUSTEE

[Signature]  
Print Name: Mary Ellen Carmack

STATE OF FLORIDA

COUNTY OF Orange

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March, 2009, by RICHARD D. STONER, TRUSTEE. Said person (check one) ☒ is personally known to me, ☐ produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or ☐ produced other identification, to wit: \_\_\_\_\_.

[Signature]  
Print Name: Mary Ellen Carmack

Notary Public, State of Florida

Commission No.: \_\_\_\_\_

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



350 U 737

**JOINDER OF MASTER ASSOCIATION**

Savannah Gateway West Owners Association, Inc., a Georgia corporation, hereby agrees to accept all of the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Master Declaration.

IN WITNESS WHEREOF, Savannah Gateway West Owners Association, Inc., a Georgia corporation, has caused these presents to be signed in its name by its proper officer and its corporate seal to be affixed this 26 day of March, 2009.

Signed, sealed and delivered  
in the presence of:

Susan A. Kirk  
Print Name: Susan A. Kirk

Vicki L. Berman  
Print Name: Vicki L. Berman

Savannah Gateway West Owners  
Association, Inc., a Georgia corporation

By: [Signature]  
Name: Carl Christian Thier  
Title: President

(Corporate Seal)

STATE OF FLORIDA

COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of March, 2009, by Carl Christian Thier, as President of Savannah Gateway West Owners Association, Inc., a Georgia corporation, on behalf of the corporation. Said person (check one) ☒ is personally known to me, ☐ produced a driver's license (issued by a state of the United States within the last five (5) years) as identification, or ☐ produced other identification, to wit:

REGINA G. BABIAK  
NOTARY PUBLIC - STATE OF FLORIDA  
COMMISSION # DD647186  
EXPIRES 3/14/2011  
BONDED THRU 1-888-NOTARY1

[Signature]  
Print Name: Regina G. Babiak  
Notary Public, State of Florida  
Commission No.: DD647186  
My Commission Expires: 3/14/2011

350 U 738

## EXHIBIT A

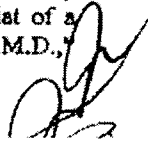
### PROPERTY

All that certain lot, tract or parcel of land situate, lying and being in the Eight G.M. District, City of Port Wentworth, Chatham County, Georgia, and know as a 102.894 acre portion of lands of the Stephanie Page Boardman Trust, et. al.

BEGINNING at a concrete monument at the point of intersection of the West right of way line of Georgia Highway 21 and the North right of way line of Interstate Highway 95 (Ramp "D"); thence extend South 00 degrees 44 minutes 04 seconds West along the North right of way line of Interstate Highway 95 (Ramp "D") a distance of 60.70 feet to a point marked by a concrete monument on the East line of a City of Port Wentworth well site; thence extend North 54 degrees 50 minutes 24 seconds West along the East line of said well site a distance of 66.15 feet to a point marked by an iron pin on the North line of said well site; thence extend South 35 degrees 09 minutes 36 seconds West along the North line of said well site a distance of 66.15 feet to point marked by an iron pin on the West line of said well site; thence extend South 54 degrees 50 minutes 24 seconds East along the West line of said well site a distance of 66.15 feet to a point marked by a concrete monument on the North right of way line of Interstate Highway 95 (Ramp "D"); thence extend along said North right of way line along a curve to the left having a radius of 1976.16 feet, a central angle of 10 degrees 59 minutes 38 seconds, a chord direction of South 29 degrees 39 minutes 47 seconds West and a chord length of 378.60 feet for an arc distance of 379.18 feet to a point marked by a concrete monument; thence continue along said North right of way line South 24 degrees 09 minutes 58 seconds West a distance of 617.84 feet to a point marked by a concrete monument; thence continue along said North right of way line South 32 degrees 28 minutes 17 seconds West a distance of 374.60 feet to a point marked by a concrete monument; thence continue along said North right of way line South 32 degrees 46 minutes 39 seconds West a distance of 497.00 feet to a point marked by an iron pin on the West line of a 245 foot Savannah Electric and Power Company easement; thence extend North 18 degrees 54 minutes 33 seconds West along said West line a distance of 3709.38 feet to a point marked by an iron pin on the South right of way line of Georgia Highway 30; thence extend along said South right of way line along a curve to the left having a radius of 5794.27 feet, a central angle of 09 degrees 13 minutes 30 seconds, a chord direction of North 73 degrees 04 minutes 41 seconds East and a chord length of 931.91 feet for an arc distance of 932.92 feet to a point marked by a concrete monument; thence continue along said South right of way line North 68 degrees 27 minutes 43 seconds East a distance of 157.95 feet to point marked by an iron pin; thence continue along said South right of way line South 22 degrees 10 minutes 00 seconds East a distance of 24.21 feet to a point marked by an iron pin; thence continue along said South right of way line North 67 degrees 50 minutes 00 seconds East a distance of 384.00 feet to a point marked by an iron pin; thence continue along said South right of way line South 47 Degrees 40 minutes 26 seconds East a distance of 34.41 feet to a point marked by an iron pin on the West right of way line of Georgia Highway 21; thence extend South 17 degrees 48 minutes 13 seconds East along said West right of way line a distance of 359.98 feet to a point marked by a concrete monument; thence continue along said West right of way line South 18 degrees 17 minutes 28 seconds East a distance of 1952.27 feet to the point of beginning.

The above described property contains 102.894 acres more or less.

The above-described property is a portion of that certain tract or parcel of land measuring 269.942 acres which was conveyed by Inez Keller Works and Gertrude Keller Henderson to Clayton P. Boardman, Jr., Ward S. Claussen, and Barney D. Boardman, by a warranty deed, dated June 24, 1969, filed for record and recorded on July 3, 1969, in the Office of the Clerk of the Superior Court of Chatham County, Georgia, in Deed Record Book 96-B, Folio 379, and which is more particularly shown on a plat of survey prepared by Dan E. Sewell, Georgia Registered Land Surveyor No. 1116, dated April 24, 1964, entitled "Plat of a Portion of The Former Herbert Keller Tract Located West of Georgia Highway No. 21 in the 8<sup>th</sup> G.M.D.," and recorded in the aforesaid Clerk's Office in Plat Record Book P, Page 111.



350 U 739

Clock#: 1448099  
FILED FOR RECORD  
9/12/2012 10:18am  
PAID: 38.00  
Daniel W. Massey, Clerk  
Superior Court of Chatham County  
Chatham County, Georgia

BOOK  
380  
PAGE  
363

STATE OF GEORGIA

Prepared by and return to:

Hunter, Maclean, Exley & Dunn, P.C.  
Post Office Box 9848  
Savannah, Georgia 31412-0048

COUNTY OF CHATHAM

### DECLARATION OF USE RESTRICTIONS

THIS DECLARATION OF USE RESTRICTIONS is made this 19<sup>th</sup> day of August, 2012, by SAVANNAH INTERESTS, LLC, a Georgia limited liability company (hereinafter referred to as "Declarant").

#### WITNESSETH:

**WHEREAS**, Declarant is the Owner of that certain property located in the Eighth G.M. District, City of Port Wentworth, Chatham County, Georgia being more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Property"), said Property being acquired by virtue of that certain Deed Under Power of Sale from Savannah Gateway West, LLC, acting by and through Gulfstream Capital Corporation in favor of Declarant dated September 6, 2011 and recorded in Deed Book 372-E, Page 709, Chatham County, Georgia records; and

**WHEREAS**, Declarant desires to subject the Property to the use restrictions stated in this Declaration;

**NOW, THEREFORE**, for and in consideration of Ten and No/100 Dollars (\$10.00) and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged and intending to be legally bound, Declarant does hereby subject the Property the use restrictions hereinafter stated:

1. Restrictive Use Covenants.

A. Declarant covenants that as long as Andrews Commercial Real Estate, LLC, a Georgia limited liability company, or its partners, principals or subsidiaries as approved by



Declarant in its reasonable discretion, is the fee simple title owner of Lot 6, Phase I, Savannah Gateway West, as more particularly described in Exhibit B attached hereto and incorporated herein by reference, no space in or portion of the Property shall be used, leased or occupied by or conveyed to any other party for use as a quick service and/or fast food doughnut shop or restaurant focusing on coffee and predominately serving and featuring doughnuts, pastries, bagels and other related bakery products. "Doughnut shop or restaurant" as the term is used herein shall mean a stand- alone food service facility or restaurant building containing less than 3,000 square feet of gross leasable area for the purpose of selling the above described food items for consumption on or off premises. Notwithstanding anything contained herein to the contrary, Declarant intends that so long as Lot 6, Phase I, Savannah Gateway West is used and operated exclusively as a doughnut shop or restaurant as that term is described above, then this restriction shall apply to the Property, subject, however to the twenty (20) year term limit described in Paragraph E, herein.

B. Declarant covenants that as long as Sav-Bo RE, LLC, a Georgia limited liability company, or its partners, principals or subsidiaries as approved by Declarant in its reasonable discretion, is the fee simple title owner of Lot 8, Phase I, Savannah Gateway West, as more particularly described in Exhibit C attached hereto and incorporated herein by reference, no space in or portion of the Property shall be used, leased or occupied by or conveyed to any other party for use as a quick service and/or fast food chicken and a biscuit style restaurant predominately serving and featuring fried chicken, biscuits and other related food items or products. "Chicken and a biscuit restaurant" as the term is used herein shall mean a stand- alone food service facility or restaurant building containing less than 2,000 square feet of gross leasable area for the purpose of selling the above described food items for consumption on or off premises. Notwithstanding anything contained herein to the contrary, Declarant intends that so long as Lot 8, Phase I, Savannah Gateway West is used and operated exclusively as a chicken and a biscuit restaurant as that term is described above, then this restriction shall apply to the Property, subject, however to the twenty (20) year term limit described in Paragraph E, herein.

C. Except for uses which are specifically prohibited by these use restrictions the Declarant and subsequent purchasers, lessees/tenants, subtenants and users of Lots and portions of the Property may utilize their respective Lots and portions of the Property for any uses which are allowed under the Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West dated April 16, 2009 and recorded in Deed Book 350-U, Page 687, Chatham County, Georgia Deed Records, and by the zoning ordinance of the City of Port Wentworth, which is in effect at the time of such utilization.

D. Notwithstanding anything contained herein to the contrary the restrictive use covenants described and contained herein shall not be applicable to Lot 3, Phase I, Savannah Gateway West, being more particularly described in Exhibit D attached hereto and incorporated herein by reference, as such Lot 3, Phase I was conveyed prior to the acquisition of the Property by Declarant.

E. Covenant running with the land. Declarant acknowledges and agrees that the restrictive use covenants stated herein are appurtenant to and shall run with the land for a

period of twenty (20) years from the date this Declaration is filed in the records of Chatham County, Georgia, and the Declarant specifically acknowledges and intends that the provisions contained herein shall not be automatically extended. Declarant further acknowledges that the restrictive use covenants contained herein shall be binding and enforceable against all future owners of the described property including Declarant, its successors and assigns, except that should Sav-Bo RE, LLC or Andrews Commercial Real Estate, LLC sell their respective Lots to a third party not using or operating the respective Lots under the uses described in Paragraphs A and B above, the restrictive use covenants set forth herein shall terminate as to their applicable Lots upon such complete transfer of interest.

2. Severability. In the event that any of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect in a final ruling or judgment of a court of competent jurisdiction from which no appeal has been or can be taken, the remainder of the Restrictive Use Covenant shall not be affected thereby and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

3. General Provisions.

(a) Headings. The use of headings, captions and numbers in this Declaration is solely for the convenience of identifying and indexing the various provisions in this Declaration and shall in no event be considered otherwise in construing or interpreting any provision in this Declaration.

(b) Non-Waiver. Failure by any party to complain of any action, non-action or breach of any other party shall not constitute a waiver of any aggrieved party's rights hereunder. Waiver by any party of any right arising from any breach of any other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future.

(c) Time of Essence. Time is of the essence of this Declaration.

(d) Applicable Law. This Declaration shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

[Signatures Contained on Following Page]

IN WITNESS WHEREOF, Declarant has signed and sealed this Declaration, on the day, month, and year first above written.

SAVANNAH INTERESTS, LLC

By: Gulfstream Capital Corporation  
Its: Managing Member

By: K. Michael Harkey  
Name: K. Michael HARKEY  
Title: C.F.O.

Signed, sealed and delivered in  
the presence of:

Joann May  
Witness JOANN MAY

Peggy J. Ramsey  
Notary Public

(SEAL)

[Notary Seal]

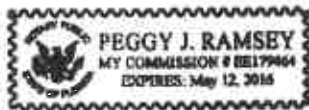


EXHIBIT A  
Declarant Property

BOOK  
380 S 367  
PAGE

All that certain lot, tract or parcel of land situate, lying and being in the Eight G.M. District, City of Port Wentworth, Chatham County, Georgia and known as a 102.394 acre portion of lands of the Stephanie Page Boardman Trust, et al.

BEGINNING at a concrete monument at the point of intersection of the West right of way line of Georgia Highway 21 and the North right of way line of Interstate Highway 95 (Ramp "D"); thence extend South 00 degrees 44 minutes 04 seconds West along the North right of way line of Interstate Highway 95 (Ramp "D") a distance of 60.70 feet to a point marked by a concrete monument on the East line of a City of Port Wentworth well site; thence extend North 54 degrees 50 minutes 24 seconds West along the East line of said well site a distance of 66.15 feet to a point marked by an iron pin on the North line of said well site; thence extend South 35 degrees 09 minutes 36 seconds West along the North line of said well site a distance of 66.15 feet to a point marked by an iron pin on the West line of said well site; thence extend South 54 degrees 50 minutes 24 seconds East along the West line of said well site a distance of 66.15 feet to a point marked by a concrete monument on the North right of way line of Interstate Highway 95 (Ramp "D"); thence extend along said North right of way line along a curve to the left having a radius of 1976.16 feet, a central angle of 10 degrees 59 minutes 38 seconds, a chord direction of South 29 degrees 39 minutes 47 seconds West and a chord length of 378.60 feet for an arc distance of 379.18 feet to a point marked by a concrete monument; thence continue along said North right of way line South 24 degrees 09 minutes 58 seconds West a distance of 617.84 feet to a point marked by a concrete monument; thence continue along said North right of way line South 32 degrees 28 minutes 17 seconds West a distance of 374.60 feet to a point marked by a concrete monument; thence continue along said North right of way line South 32 degrees 46 minutes 39 seconds West a distance of 497.00 feet to a point marked by an iron pin on the West line of a 245 foot Savannah Electric and Power Company easement; thence extend North 18 degrees 54 minutes 39 seconds West along said West line a distance of 3709.38 feet to a point marked by an iron pin on the South right of way line of Georgia Highway 30; thence extend along said South right of way line along a curve to the left having a radius of 5794.27 feet, a central angle of 09 degrees 13 minutes 30 seconds, a chord direction of North 73 degrees 04 minutes 41 seconds East and a chord length of 931.91 feet for an arc distance of 932.92 feet to a point marked by a concrete monument; thence continue along said South right of way line North 68 degrees 27 minutes 43 seconds East a distance of 157.95 feet to a point marked by an iron pin; thence continue along said South right of way line South 22 degrees 10 minutes 00 seconds East a distance of 24.21 feet to a point marked by an iron pin; thence continue along said South right of way line North 67 degrees 50 minutes 00 seconds East a distance of 384.00 feet to a point marked by an iron pin; thence continue along said South right of way line South 47 degrees 40 minutes 26 seconds East a distance of 34.41 feet to a point marked by an iron pin on the West right of way line of Georgia Highway 21; thence extend South 17 degrees 48 minutes 13 seconds East along said West right of way line a distance of 359.98 feet to a point marked by a concrete monument; thence continue along said West right of way line



South 18 degrees 17 minutes 28 seconds East a distance of 1952.27 feet to the point of beginning.

The above described property contains 102.894 acres more or less.

**LESS AND EXCEPT**

All that certain lot, tract or parcel of land lying situate and being in the Eighth G. M. District, City of Port Wentworth, Chatham County, Georgia and known as Lot 3, Phase I, as depicted on that certain plat (the "Plat") dated July 31, 2008, prepared by James M. Sims, G.R.L.S. No. 2280, for Savannah Gateway West, LLC, titled "Phase I, Savannah Gateway West," as recorded in Subdivision Map Book 41-S, Page 11, Chatham County records. TOGETHER with all rights and easements of record appurtenant to such property, including without limitation, that certain Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West, recorded in Deed Book 350-U, Page 687, Chatham County records, to which instrument this conveyance is expressly subject.

BOOK  
380  
PAGE  
368

EXHIBIT B  
Andrews Commercial Real Estate, LLC Property

BOOK  
380  
PAGE  
369

All that certain lot, tract or parcel of land lying situate and being in the Eighth G. M. District, City of Port Wentworth, Chatham County, Georgia and known as Lot 6, Phase I, as depicted on that certain plat (the "Plat") dated July 31, 2008, prepared by James M. Sims, G.R.L.S. No. 2280, for Savannah Gateway West, LLC, titled "Phase I, Savannah Gateway West," as recorded in Subdivision Map Book 41-S, Page 11, Chatham County records. TOGETHER with all rights and easements of record appurtenant to such property, including without limitation, that certain Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West, recorded in Deed Book 350-U, Page 687, Chatham County records, to which instrument this conveyance is expressly subject.

EXHIBIT C  
Sav-Bo RE, LLC Property

All that certain lot, tract or parcel of land lying situate and being in the Eighth G. M. District, City of Port Wentworth, Chatham County, Georgia and known as Lot 8, Phase I, as depicted on that certain plat (the "Plat") dated July 31, 2008, prepared by James M. Sims, G.R.L.S. No. 2280, for Savannah Gateway West, LLC, titled "Phase I, Savannah Gateway West," as recorded in Subdivision Map Book 41-S, Page 11, Chatham County records. TOGETHER with all rights and easements of record appurtenant to such property, including without limitation, that certain Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West, recorded in Deed Book 350-U, Page 687, Chatham County records, to which instrument this conveyance is expressly subject.

EXHIBIT D

Property not subject to Restrictive Use Covenants

All that certain lot, tract or parcel of land lying situate and being in the Eighth G. M. District, City of Port Wentworth, Chatham County, Georgia and known as Lot 3, Phase I, as depicted on that certain plat (the "Plat") dated July 31, 2008, prepared by James M. Sims, G.R.L.S. No. 2280, for Savannah Gateway West, LLC, titled "Phase I, Savannah Gateway West," as recorded in Subdivision Map Book 41-S, Page 11, Chatham County records: TOGETHER with all rights and easements of record appurtenant to such property, including without limitation, that certain Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West, recorded in Deed Book 350-U, Page 687, Chatham County records, to which instrument this conveyance is expressly subject.



CONSENT AND SUBORDINATION OF MORTGAGEE

BOOK PAGE  
380 S 372

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, PNC Bank, National Association, successor in interest to RBC Bank USA, N.A., successor by merger to Flag Bank, a State Banking Corporation chartered under the Law of the State of Georgia, hereby approves and consents to the foregoing Declaration of Use Restrictions (the "Declaration"), and further acknowledges and agrees that the Deed to Secure Debt between Savannah West, LLC and Flag Bank, dated January 30, 2006, and recorded February 7, 2006, in Deed Record Book 301-O, Page 604, in the Superior Court of Chatham County, Georgia, is subject and subordinate to the Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Consent and Subordination of Mortgagee to be executed under seal by its duly authorized officer on this 9<sup>th</sup> day of August, 2012.

PNC Bank, National Association

By: [Signature]  
Name: Christopher Guyer  
Title: Vice President

(SEAL)

Signed, sealed and delivered  
in the presence of:

[Signature] Kristina Sanders  
Witness

[Signature]  
Notary Public



Clock#: 1565859  
FILED FOR RECORD  
11/25/2013 04:08pm  
FID: 22,00  
Daniel W. Massey, Clerk  
Superior Court of Chatham County  
Chatham County, Georgia

BOOK  
392 U 820  
PAGE

Prepared by and return to: Jennifer Mafera  
Hunter, Maclean, Exley & Dunn, P.C.  
Post Office Box 9848  
Savannah, Georgia 31412-0048

Please cross-reference to: Declaration of Use Restrictions  
dated August 19, 2012 and recorded at Deed  
Book 380-S, page 363, Chatham County  
Records

**AMENDMENT TO  
DECLARATION OF USE RESTRICTIONS**

This AMENDMENT TO DECLARATION OF USE RESTRICTION, made this 19<sup>th</sup> day of November, 2013 by **SAVANNAH INTERESTS, LLC**, a Georgia limited liability company (hereinafter referred to as the "Declarant").

WHEREAS, Declarant is the fee simple owner of all that certain property located in the Eighth G.M. District, City of Port Wentworth, Chatham County, Georgia (the "Property") which Declarant has previously submitted to the obligations and restrictions of that certain Declaration of Use Restrictions, dated August 19, 2012 and recorded at Deed Book 380-S, page 363, Chatham County Records ("Declaration"); and

WHEREAS, Declarant desires to amend the Declaration and to reflect such amendment in a written instrument.

NOW, THEREFORE, Declarant does hereby amend the Declaration as follows:

Section 1. Article 1, Restrictive Use Covenants, Subsection B, of the Declaration is hereby deleted in its entirety and replaced in lieu thereof with the following:

B. Declarant hereby covenants that no space in or portion of the Property shall be used, leased or occupied by or conveyed to any other party for use as a quick service and/or fast food restaurant that is a chicken and/or biscuit competitor to Bojangles', including but not limited to McDonalds, Kentucky Fried Chicken, Zaxby's, Church's Chicken, Popeye's Chicken, and/or Chick-fil-A restaurant.

Section 2. Article 1, Restrictive Use Covenants. Subsection E, of the Declaration is hereby deleted in its entirety and replaced in lieu thereof with the following:

E. - Covenant Running With The Land. Declarant acknowledges and agrees that the restrictive use covenants stated herein are appurtenant to and shall run with the land for a period of twenty (20) years from the date this Declaration is filed in the records of Chatham County, Georgia, and the Declarant specifically acknowledges and intends that the provisions contained herein shall not be automatically extended. Declarant further acknowledges that the restrictive use covenants contained herein shall be binding and enforceable against all future owners of the described property including Declarant, its successors and assigns, except that should Andrews Commercial Real Estate, LLC sell its Lot to a third party not using or operating the Lot under the uses described in Paragraphs A above, the restrictive use covenants set forth herein shall terminate as to such Lot upon such complete transfer of interest.

Section 3. Assurances Of Property Affected Hereby. Declarant hereby represents, warrants and covenants to Sav-Bo that the schedule of real property attached hereto as Exhibit A fully and completely sets forth and describes all real property which is located within 1 mile of Lot 8, Phase I, Savannah Gateway West and which was owned at any time on or after April 17, 2012 by any of (i) Declarant and/or (ii) any entity controlled by Declarant or any member, partner or principal of Declarant.

Section 4. In all other respects, the terms and conditions of the Declaration shall control and shall be in full force and effect.

[The remainder of this page intentionally left blank]

BOOK  
PAGE  
392 U 821

IN WITNESS WHEREOF, the undersigned has caused this Amendment to Declaration of Use Restrictions to be executed by its duly authorized officers on the day and year first above written.

SAVANNAH INTERESTS, LLC

By: Gulfstream Capital Corporation  
Its: Managing Member

By: *K. Michael Harkey*  
Name: *K. Michael Harkey*  
Title: *CEO*

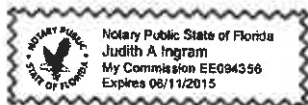
Signed, sealed and delivered in  
the presence of:

*Jane May*  
Witness

*Judith A. Ingram*  
Notary Public

(SEAL)

[Notary Seal]



BOOK  
392 U 822  
PAGE

CONSENT AND SUBORDINATION OF MORTGAGEE

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, PNC Bank, National Association, successor in interest to RBC Bank USA, N.A., successor by merger to Flag Bank, a State Banking Corporation chartered under the Law of the State of Georgia, hereby approves and consents to the foregoing Amendment to Declaration of Use Restrictions (the "Declaration"), and further acknowledges and agrees that the Deed to Secure Debt between Savannah West, LLC and Flag Bank, dated January 30, 2006, and recorded February 7, 2006, in Deed Record Book 301-O, Page 604, in the Superior Court of Chatham County, Georgia, is subject and subordinate to the Declaration.

IN WITNESS WHEREOF, the undersigned has caused this Consent and Subordination of Mortgagee to be executed under seal by its duly authorized officer on this 1<sup>st</sup> day of November, 2013.

PNC Bank, National Association

By: [Signature]  
Name: Christopher Guyer  
Title: Vice President

(SEAL)

Signed, sealed and delivered  
in the presence of:

[Signature]  
Witness

[Signature]  
Notary Public



BOOK PAGE  
392 U 823



EXHIBIT A  
Declarant Property

All that certain lot, tract or parcel of land situate, lying and being in the Eight G.M. District, City of Port Wentworth, Chatham County, Georgia and known as a 102.394 acre portion of lands of the Stephanie Page Boardman Trust, et al.

BEGINNING at a concrete monument at the point of intersection of the West right of way line of Georgia Highway 21 and the North right of way line of Interstate Highway 95 (Ramp "D"); thence extend South 00 degrees 44 minutes 04 seconds West along the North right of way line of Interstate Highway 95 (Ramp "D") a distance of 60.70 feet to a point marked by a concrete monument on the East line of a City of Port Wentworth well site; thence extend North 54 degrees 50 minutes 24 seconds West along the East line of said well site a distance of 66.15 feet to a point marked by an iron pin on the North line of said well site; thence extend South 35 degrees 09 minutes 36 seconds West along the North line of said well site a distance of 66.15 feet to a point marked by an iron pin on the West line of said well site; thence extend South 54 degrees 50 minutes 24 seconds East along the West line of said well site a distance of 66.15 feet to a point marked by a concrete monument on the North right of way line of Interstate Highway 95 (Ramp "D"); thence extend along said North right of way line along a curve to the left having a radius of 1976.16 feet, a central angle of 10 degrees 59 minutes 38 seconds, a chord direction of South 29 degrees 39 minutes 47 seconds West and a chord length of 378.60 feet for an arc distance of 379.18 feet to a point marked by a concrete monument; thence continue along said North right of way line South 24 degrees 09 minutes 58 seconds West a distance of 617.84 feet to a point marked by a concrete monument; thence continue along said North right of way line South 32 degrees 28 minutes 17 seconds West a distance of 374.60 feet to a point marked by a concrete monument; thence continue along said North right of way line South 32 degrees 46 minutes 39 seconds West a distance of 497.00 feet to a point marked by an iron pin on the West line of a 245 foot Savannah Electric and Power Company easement; thence extend North 18 degrees 54 minutes 39 seconds West along said West line a distance of 3709.38 feet to a point marked by an iron pin on the South right of way line of Georgia Highway 30; thence extend along said South right of way line along a curve to the left having a radius of 5794.27 feet, a central angle of 09 degrees 13 minutes 30 seconds, a chord direction of North 73 degrees 04 minutes 41 seconds East and a chord length of 931.91 feet for an arc distance of 932.92 feet to a point marked by a concrete monument; thence continue along said South right of way line North 68 degrees 27 minutes 43 seconds East a distance of 157.95 feet to a point marked by an iron pin; thence continue along said South right of way line South 22 degrees 10 minutes 00 seconds East a distance of 24.21 feet to a point marked by an iron pin; thence continue along said South right of way line North 67 degrees 50 minutes 00 seconds East a distance of 384.00 feet to a point marked by an iron pin; thence continue along said South right of way line South 47 degrees 40 minutes 26 seconds East a distance of 34.41 feet to a point marked by an iron pin on the West right of way line of Georgia Highway 21; thence extend South 17 degrees 48 minutes 13 seconds East along said West right of way line a distance of 359.98 feet to a point marked by a concrete monument; thence continue along said West right of way line

BOOK  
392 U  
PAGE  
824

South 18 degrees 17 minutes 28 seconds East a distance of 1952.27 feet to the point of beginning.

The above described property contains 102.894 acres more or less.

LESS AND EXCEPT

All that certain lot, tract or parcel of land lying situate and being in the Eighth G. M. District, City of Port Wentworth, Chatham County, Georgia and known as Lot 3, Phase I, as depicted on that certain plat (the "Plat") dated July 31, 2008, prepared by James M. Sims, G.R.L.S. No. 2280, for Savannah Gateway West, LLC, titled "Phase I, Savannah Gateway West," as recorded in Subdivision Map Book 41-S, Page 11, Chatham County records. TOGETHER with all rights and easements of record appurtenant to such property, including without limitation, that certain Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West, recorded in Deed Book 350-U, Page 687, Chatham County records, to which instrument this conveyance is expressly subject.

LESS AND EXCEPT

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LESS AND EXCEPT

All that certain lot, tract or parcel of land lying situate and being in the Eighth G. M. District, City of Port Wentworth, Chatham County, Georgia and known as Lot 8, Phase I, as depicted on that certain plat (the "Plat") dated July 31, 2008, prepared by James M. Sims, G.R.L.S. No. 2280, for Savannah Gateway West, LLC, titled "Phase I, Savannah Gateway West," as recorded in Subdivision Map Book 41-S, Page 11, Chatham County records. TOGETHER with all rights and easements of record appurtenant to such property, including without limitation, that certain Master Declaration of Easements, Covenants, Conditions and Restrictions for Savannah Gateway West, recorded in Deed Book 350-U, Page 687, Chatham County records, to which instrument this conveyance is expressly subject.

BOOK  
392 U  
PAGE  
825

Clock#: 1565862  
FILED FOR RECORD

11/25/2013 04:14pm

PAID: 10.00

Daniel W. Massey, Clerk  
Superior Court of Chatham County  
Chatham County, Georgia

Real Estate Transfer Tax

PAID \$32.90

*M. Gindal*  
For Clerk of Superior Court

BOOK  
392 U  
PAGE  
826

**Return Recorded Document to:**

WEINER, SHEAROUSE, WEITZ, GREENBERG & SHAW, LLP  
Attn: William W. Shearouse, Jr.  
14 E. State Street  
Savannah, Georgia 31401

STATE OF GEORGIA

**WARRANTY DEED**

COUNTY OF CHATHAM

THIS INDENTURE, made this 22nd day of November, 2013, between REGAL BUILDERS OF THE COASTAL EMPIRE, LLC, as party or parties of the first part, hereinafter called Grantor, and JERRY C. WARDLAW CONSTRUCTION, INC., 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:**

WHEREAS, that Grantor, for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars and other good and valuable consideration in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, has granted, bargained, sold, conveyed and confirmed, and by these presents does grant, bargain, sell, convey and confirm unto Grantee, the following described property, to-wit:

All that certain lot, tract or parcel of land situate, lying and being known as LOT 76, CUMBERLAND POINT, PHASE 1A, as shown on "A major subdivision of Cumberland Point, Phase 1A, formerly Tract K, The Highlands Subdivision, 8th G.M. District, City of Savannah, Chatham County, state of Georgia", prepared for North Godley Developers, LLC, by Kern-Coleman & Co., LLC, dated December 15, 2005, and being recorded in Subdivision Map Book 35-S, Pages 5A-C; revised in Subdivision Map Book 37-S, Page 85A-C, in the Office of the Clerk of the Superior Court of Chatham County, Georgia, said map being incorporated herein by specific reference.

Subject, however, all valid restrictions, easements and rights of way of record, including, but not limited to that certain Declaration of Protective Covenants, Conditions and Restrictions for Cumberland Point Subdivision, dated Feb. 24, 2006, filed for record on March 9, 2006 at 3:48 p.m., recorded in Deed Record Book 302-Z, Page 712; re-recorded on April 6, 2006 at 3:54 p.m., in Deed Record Book 304-J, Page 557, in the Office of the Clerk of the Superior Court of Chatham County, Georgia.

This being a portion of the same property conveyed to REGAL BUILDERS OF THE COASTAL EMPIRE, LLC under instrument recorded in Deed Record Book 304F, Page 387, aforesaid records and having Property I.D. No.: 21016G05013.

TO HAVE AND TO HOLD the said tract or parcel of land with all and singular the rights, members and appurtenances thereof, to the same being, belonging, or in anywise appertaining, to the only proper use, benefit and behoove of the said Grantee forever in FEE SIMPLE. Grantor expressly covenants that Grantor is seized of said property in good fee simple title and that Grantor has the full right, power and authority to convey the same; that the said property and the Grantor thereof are free and clear of any liens, claims or encumbrances whatever whereby the title to said property may in anywise be charged, changed, impaired or defeated and that the Grantor will forever WARRANT and DEFEND the said premises against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, Grantor has executed this instrument by and through its duly authorized Corporate Officers with the Corporate Seal affixed thereto on the day and year first above written.

Signed, sealed and delivered in the presence of:

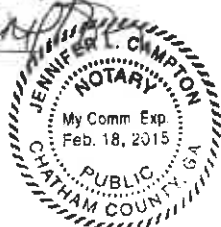
By: *M. Young*  
REGAL BUILDERS OF THE COASTAL EMPIRE, LLC  
MATTHEW A. YOUNG, MEMBER

Witness

Notary Public

My commission expires:

File No: 13174105 -





# CITY OF PORT WENTWORTH

## PLANNING COMMISSION

JANUARY 9, 2023

Council Meeting Room

Regular Meeting

3:30 PM

7224 GA HIGHWAY 21  
PORT WENTWORTH, GA 31407

### 1. CALL MEETING TO ORDER

Chairman Stewart called the meeting to order.

### 2. PRAYER AND PLEDGE OF ALLEGIANCE

Commissioner Holland led the Prayer and Pledge of Allegiance.

### 3. ROLL CALL - SECRETARY

Attendee Name	Title	Status	Arrived
Lance Moore	Planning Commissioner	Present	
Omar Senati-Martinez	Planning Commissioner	Present	
Abby Brown	Planning Commissioner	Present	
Jason Stewart	Chairman	Present	
John Holland	Planning Commissioner	Present	
Christopher Gray	Planning Commissioner	Absent	
Nishant Randerwala	Planning Commissioner	Present	
Charlene Middleton	Planning Commissioner	Present	
Sean Register	Planning Commissioner	Present	
Brian Harvey	Director of Development Services	Present	
Melanie Ellis	Building Inspector	Present	
Steve Davis	City Manager	Present	

### 4. APPROVAL OF AGENDA

#### 1. Approval of Agenda

**RESULT:** ADOPTED [UNANIMOUS]  
**MOVER:** Lance Moore, Planning Commissioner  
**SECONDER:** John Holland, Planning Commissioner  
**AYES:** Moore, Senati-Martinez, Brown, Holland, Randerwala, Middleton, Register  
**ABSENT:** Gray

### 5. ADOPTION OF MINUTES

#### A. Planning Commission - Regular Meeting - Dec 12, 2022 3:30 PM

<b>RESULT:</b>	<b>ACCEPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Abby Brown, Planning Commissioner
<b>SECONDER:</b>	Sean Register, Planning Commissioner
<b>AYES:</b>	Moore, Senati-Martinez, Brown, Holland, Randerwala, Middleton, Register
<b>ABSENT:</b>	Gray

**6. ZONING MAP AMENDMENTS (REZONING)**

**7. ZONING TEXT AMENDMENTS (ORDINANCES)**

**8. SITE PLAN/SUBDIVISION APPROVAL**

- A. Subdivision Application submitted by Neil Sharma, PW Hotel, LLC., PIN # 70037 02016 (Magellan Blvd and Highway 30) located in a P-C-3 (Planned General Business) Zoning District for a Final Plat of a Minor Subdivision (Lot 1, Lot 2, & Lot 3 Formerly Parcel 1, Former Broadman Tract) for the purpose of a Hotel Development

Ben McKay, Maupin Engineering, was present on behalf of the applicant.

Public Hearing:

- Avril Roy-Smith - Roseberry Cir - stated that she has spoken with several of her neighbors and they are not in favor of the hotel development. Ms. Smith also stated that hotels create high traffic and would cause traffic problems.

- Ben McKay responded that the lot is being subdivided for future development of a hotel and possible retail developments. Commissioner Senati asked if the existing drainage would be reduced. Mr. McKay responded that the area has a master drainage plan and cannot be changed. Commissioner Holland asked how many parking spots would be at the hotel. Mr. McKay responded that it would meet the City requirements. Commissioner Senati asked about access to the lots. Mr. McKay responded they would use the existing curb cuts off Magellan Blvd. Chairman Stewart asked Mr. Harvey if the plat meets the City requirements for a subdivision plat. Mr. Harvey responded yes.

After the public hearing was closed, Commissioner Randerwala made a motion to approve the application. Commissioner Register seconded the motion to approve. The vote was unanimous.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Nishant Randerwala, Planning Commissioner
<b>SECONDER:</b>	Sean Register, Planning Commissioner
<b>AYES:</b>	Moore, Senati-Martinez, Brown, Holland, Randerwala, Middleton, Register
<b>ABSENT:</b>	Gray

**9. NEW BUSINESS**

**10. ADJOURNMENT**

- A. Adjournment



<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Sean Register, Planning Commissioner
<b>AYES:</b>	Moore, Senati-Martinez, Brown, Holland, Randerwala, Middleton, Register
<b>ABSENT:</b>	Gray

\_\_\_\_\_  
Chairman

The foregoing minutes are true and correct and approved by me on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Secretary