



WINTER GARDEN

CITY OF WINTER GARDEN DEVELOPMENT REVIEW COMMITTEE MINUTES April 1, 2015

The Development Review Committee (DRC) of the City of Winter Garden, Florida, met in session on Wednesday, April 1, 2015 in the City Hall Commission Chambers.

Agenda Item #1: CALL TO ORDER

Chairman/Community Development Director Ed Williams called the meeting to order at 10:02 a.m. The roll was called and a quorum was declared present.

PRESENT

Voting Members: Community Development Director Ed Williams, City Engineer Art Miller, Building Official Mark Jones, Economic Development Director Tanja Gerhartz and Assistant City Manager for Public Services Don Cochran

Others: City Attorney Kurt Ardaman, Manager of Community Development Steve Pash, Planner Kelly Carson, Planner Nadine Avola and Customer Service Representative Colene Rivera.

10:02 am Break in Meeting
10:05 am Meeting Resumed

APPROVAL OF MINUTES

Agenda Item #2:

Approval of minutes from regular meeting held on March 18, 2015.

Motion by City Engineer Miller to approve the above minutes. Seconded by Building Official Jones, the motion carried unanimously 4-0. (Economic Development Director Gerhartz was not present at meeting during vote.)

10:02 am Break in Meeting
10:05 am Meeting Resumed

DRC BUSINESS

Agenda Item #3: Black Lake Preserve – FP

Siplin Road – 14288

PEC Surveying & Mapping

Robert W. Bowser of Akerman LLP, Rick Perkinson of Royal Oak Homes and David White of 2100 Alafaya Trail; applicants for the project were in attendance for discussion. The following items were reviewed and discussed:

ENGINEERING

1. Final signed mylar, along with all other original executed documents, will be required prior to scheduling for the City Commission meeting, after Staff approval. Applicants stated that they would be providing the signed mylar once the plans are approved.
2. Transfer of all common areas, tracts, and rights-of-way to the HOA and the City shall take place prior to or with final plat recording (via deed). Draft quit claim deeds have been provided to the City Attorney and City's Reviewing Surveyor for review. City Attorney will check with staff on status of this transfer.
3. Attorney question: The boundary survey shows a 30' wide R/W easement along the north portion of the property. Does this automatically extinguish with the plat recording or does it need to be vacated more formally? Need City Attorney's opinion. This comment was discussed. Applicants stated that this is self-extinguishing. However, the City Attornies will confirm this status.
4. City Attorney shall review and approve the Dedication, HOA/CCR's, and Surveyors Notes for maintenance responsibilities and City's ability to lien individual lot owners if City performs maintenance, etc. City staff handed out revised comments to the applicants HOA/ CCR's for "DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BLACK LAKE PRESERVE". (See Exhibit A; 2015-04-01) Applicants were advised that this document is reviewed by all city departments that are represented at the DRC meeting as well as City Attorney to sign off on the document. Applicants will review and clean up this document for resubmittal.
5. A Right-of-Way maintenance agreement for landscaping, irrigation, medians, signs, etc. within City rights-of-way will be required if any of these improvements are within City R/W. This comment was discussed about the area within the right-of-way along Sun Ridge and the applicant will need to confirm.
6. Performance Bond: The improvements are not completed. A Performance bond or letter of credit in the amount of 120% of the cost of all incomplete improvements shall be provided to the City, based on the Design Engineer's certification and executed construction contract (final pay application). Performance Bond/LOC amount shall include cost of street lighting from Duke Energy (if not already installed); street and regulatory signs, required landscaping, walls, amenities, etc. City Attorney shall approve the form of the bond or letter of credit prior to final plat recording. Final plat will not be forwarded to the City Commission for approval without performance bond (unless C of C

has been issued). Applicants stated that they will provide a Performance Bond if needed but they are currently about 2 weeks away from completion. Discussed street lighting plan and applicants stated that they would have the info from Duke Energy on when the light fixtures will be replaced in the next week.

8. Maintenance Bond: A maintenance bond has been provided. The Design Engineer has provided certification of the total construction cost of \$2,050,967.89 with the maintenance bond amount to be \$410,193.58, representing 20% of the cost of the improvements and shall comply with the City's ordinance concerning duration (2years). Provide Contractor's final pay application for verification of cost. This item can be delayed until the improvements have been installed as a condition of issuing the Certificate of Completion. Applicants stated that this has been completed.
9. The Certificate of Completion has not been issued for this phase. Upon completion of all improvements, the Design Engineer shall provide signed and sealed as-built record drawings (2 sets), electronic copies of record drawings (pdf and CAD), all permitting clearances, and a certification letter stating that all improvements have been completed in substantial compliance with the approved plans and specifications. Copies of all clearances, certifications, etc. from other permitting agencies shall be provided to the City. Applicants are working on all the documentation needed to provide to the city. City Staff explained that this was a standard comment. Applicants understood.
13. Documentation that all outstanding fees owed the City for review by legal, surveying and engineering consultants shall be provided prior to final plat recording. City Staff will check with our finance department to get the final fee amount.
14. The Design Engineer has provided certification that he has reviewed the plat and that it provides all necessary easements for drainage, access and utilities. Easement widths shall comply with City Code and approved construction plans (30' minimum). Applicants stated that they were in compliance with easements and City Staff will verify.

LEGAL

17. Please see attached Memorandum from Dan Langley, City Attorney. Applicants stated that they would provide insurance information as requested and city staff advised that this is a condition of approval.

Discussed submittals and being able to schedule this project on City Commission meeting. Applicants will need to submit revised plat for staff to review and sign off on by April 15th, 2015 to be able to be placed on the April 23, 2015 City Commission meeting. Applicant understood.

Motion by City Engineer Miller to have the applicants revise and resubmit the Final Plat for staff review only and upon staff approval, recommend that this be placed on the next available City Commission meeting agenda. Building Official Jones, seconded; the motion carried unanimously 4-0. (Economic Development Director Gerhartz was not present at meeting during this vote.)

10:18 am Break in Meeting
10:20 am Meeting Resumed

Agenda Item #4: Trink Holdings, LLC - SPA

Garden Commerce Parkway – 640

Borrelli & Partners

Dan Trbovich of Borrelli & Partners and Richard Koon of Trink Holdings, LLC; applicants for the project were in attendance for discussion. The following items were reviewed and discussed:

ENGINEERING

1. Sheet C.100:

- **Provide turning radii (Autoturn, etc.) for trucks that will be using the truck dock; trucks shall make all turns on site, not in the public street.** Applicant inquired about clarification of this comment. City Staff explained details pertaining to what is required and applicants will revise plans accordingly. Staff will provide Applicant with City Code citations.

10:24 am Economic Development Director Gerhartz arrived late to meeting

PLANNING

- 14. There is not enough parking provided for the proposed use. Per code section 118-1386, you need 3 parking spaces for every 1,000 square feet of building square footage dedicated to office uses and 1 space per 1,000 square feet for warehousing. Given this, the plans indicate there will need to be a total of 19 spaces- only 12 are provided.** This comment was discussed and explained to the applicant that the space was designated office for a portion of the building, but the parking shown does not meet the requirements for that use. If the applicants wanted to reduce the amount of office space, then the parking requirement would be re-evaluated and somewhat reduced. Otherwise, three parking spaces per 1,000 square feet of office space need to be provided on site, in addition to the required parking for the warehouse space.
- 15. Outdoor storage of materials, which includes semi-trucks, are required to be screened from adjacent properties and the right-of-way. Please screen the proposed truck activities as well as camouflage/screen the loading dock area.** This comment was discussed at length regarding screening trucks and various options that were presented for applicants to consider. This requirement was explained in keeping with the high end industrial park project concept that was originally presented and approved at City Commission in the past. Applicants will consider the options and resubmit revised plans that incorporate these options- they will coordinate with City staff when the applicants devise a screening solution.

Motion by City Engineer Miller to have the applicants revise and resubmit the site plan addressing all city staff conditions for another full DRC review cycle. Building Official Jones, seconded; the motion carried unanimously 5-0.

10:34 am Break in Meeting
10:35 am Assistant City Manager for Public Services Cochran left the meeting
10:35 am Meeting Resumed

Agenda Item #5: 360 Plant Street Project - SPA

Plant Street W – 360

Blue House Development, LLC

Jared Czachorawski; applicant for the project was in attendance for discussion. The following items were reviewed and discussed:

Applicant stated that he had received and reviewed the staff report for this project. He did not have any specific comments that he wished to discuss at this time. He stated that they were working on the comments and will be submitting revised plans.

10:38 am Assistant City Manager for Public Services Cochran returned to the meeting

City staff inquired if applicant understood the impact fee comments and then further explained that if applicant wanted to provide a breakdown of use of building, this will help to reduce the overall impact fee amount.

Motion by City Engineer Miller to have the applicant revise and resubmit the site plan addressing all City Staff conditions for another full DRC review cycle. Economic Development Director Gerhartz seconded; the motion carried unanimously 5-0.

10:39 am Break in Meeting
10:40 am Meeting Resumed

Agenda Item #6: CVC Hospitality Office Building - SPA

East Crown Point Road – 330

Spectra Engineering & Research, Inc.

Peter Okonkurd of Spectra Engineering & Research, Inc., Chris Kersey of CVC, Chris Callahan of CVC and DC Know of CVC; applicants for the project were in attendance for discussion. The following items were reviewed and discussed:

ENGINEERING

3. Sheet C3.0 – Site & Geometry Plan:

b. Utility and drainage easements will also be required if the future development parcel is divided or sold. If sold, the requirements for lot splits as contained in Section 110-96 of the City Code, and all zoning requirements per Section 118 of the City Code shall be met. Applicants inquired and City Staff confirmed that yes, the applicants can call this easement a cross connection / utility easement.

e. In lieu of having a southbound right turn lane, a northbound left turn lane will

be required. This will be discussed at DRC in terms of prior commitments on having this section of East Crown Point Road 3-laned with a center turn lane.

This comment was discussed in detail. City Staff will provide applicants the detailed costs, so they can account for these expenses in the overall project evaluation.

7. **Sheet C8.0 – Details:**

- b. **The City does not recommend the use of limerock base due to the possibility of high groundwater conditions. It is the responsibility of the Owner and Design Engineer to ensure that privately owned and maintained systems are constructed to the intended specifications. The City is not responsible for the operation and maintenance of privately owned systems, to include, but not be limited to, roadways, parking lots, drainage, stormwater ponds or on-site utilities.** Applicants discussed the limerock base for the project and why they would like to use this. City staff explained that this is private property and applicants can use this but it is not recommended. However, ultimately, it is the applicant's choice and they will have to maintain the property. It was clarified that any area in the right-of-way or easements will need to meet city requirements of soil cement or crushed concrete base.

PLANNING

19. **Lighting Plan:**

- a. **Please provide a photometric plan for parking lot lighting, signed and sealed by a licensed engineer.** Applicants understood this comment and will comply.

PUBLIC SERVICES

24. **Streetlighting shall be installed internal to the development and along all adjacent rights of way pursuant to City Code, meeting dark skies requirements (Code Section 118-1536(k)).** This comment was clarified that street lighting will need to be provided along the frontage road of property through Duke Energy per City specs and details. Also explained that the applicants will be required to pay for this lighting for the first year.
26. **All irrigation on the site shall be designed to be supplied by reclaimed water. Please show the meter size for the irrigation meter.** Applicants understood that city requires meter size to be in whole inch increments. Applicants plan to use 1" meter. Applicants discussed a dry line. City staff did not recommend this but advised if they are planning to do this, how best to proceed.
29. **It appears that the existing fire hydrant is in conflict with the turn lane and will need to be relocated. Since you are installing a new fire hydrant, is it possible to use the existing hydrant connection as your connection for your proposed 6" water line on the north property line?** This comment was clarified and applicants plan to eliminate the proposed hydrant and use the existing one.

BUILDING

37. **The FFE does not allow for grading required by FBC 1804.3.** This comment was clarified by city staff that the plan did not meet the building code requirement that grading needs to have a 2% fall for the first 10 feet around the building. Applicants will need to raise the grade to meet this requirement. Applicants understood and will revise.

FIRE

39. **Fire Lanes shall be established around Fire Dept. Connections.** Applicants inquired about this comment. Applicants were directed to contact the Fire Inspector Vicki Rutherford for clarification on this comment.

Applicants discussed to help with finances for this project; they would like to not asphalt along the west and south ends of the property but just stabilize these areas. City Staff asked that applicants submit the plan for review and this will be evaluated.

Motion by City Engineer Miller to revise and resubmit the site plan addressing all city staff conditions for another full DRC review cycle. Building Official Jones, seconded; the motion carried unanimously 5-0.

11:00 am Break in Meeting
11:01 am Meeting Resumed

Agenda Item #7: 84 Lumber - SPA

Pineloch Industrial Park – 1011 & 1099
84 Lumber Company

Steve Coning of 84 Lumber, Ron Kowalski of PDA, Bob Cantu of PDA and Paul Caruso of PMC; applicants for the project were in attendance for discussion. The following items were reviewed and discussed:

ENGINEERING

3. Utilities:

- b. **All on-site utilities shall be privately owned and maintained (note on plans). 100% of all required water, reuse, and sewer impact fees shall be paid prior to City execution of FDEP permits or issuance of site or building permits. Meter sizes shall be provided for review by the Utilities Department for verification of impact fees at time of Building Permit application. Final plans will not be approved for construction until utility impact fees have been paid and FDEP permits or exemptions have been issued.** Applicants stated that there is a note on plans for this on page 3 of plans for review.
5. **No trees may be planted over or within 5 feet of any utility lines. Only sod or shrubs may be planted over utility lines.** Applicants stated that these are on page 9 of plans for review.

PUBLIC SERVICES

8. **Please be aware that the city does not support 1.5 inch water meters. For the irrigation meter, please use a 1 inch or a 2 inch meter. The irrigation impact fee for a 1 inch meter is \$2,715.00 and the impact fee for a 2 inch is \$8,688.00.** This comment was discussed and applicants stated that they plan to use the 1” meter size. They inquired about estimated costs. This was discussed with approximate numbers but city staff will provide the exact costs to applicants so this can get paid. They would like to pay this and apply for their DEP permit. City will sign off on DEP permit, once these fees are paid.

Applicants discussed the possibility of tying into existing irrigation and city staff will review this.

Discussed scheduling and dates of upcoming City Commission meeting. If applicants can submit revised plans next week, then they probably can be scheduled for the April 23, 2015 meeting.

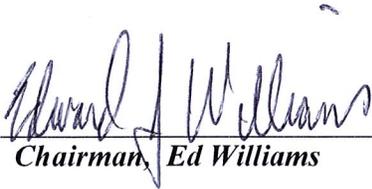
Motion by City Engineer Miller to have the applicant revise and resubmit the site plan addressing all city staff conditions for staff review only. Once submitted and reviewed by staff and they have approved, this project can then be placed on the next available City Commission meeting agenda. Building Official Jones, seconded; the motion carried unanimously 5-0.

ADJOURNMENT

There being no more business to discuss, the meeting was adjourned at 11:08 a.m. by Chairman/Community Development Director Ed Williams

APPROVED:

ATTEST:



Chairman, Ed Williams



DRC Recording Secretary, Colene Rivera

ISSUED
APRIL 1, 2015
AT DRC
MEETING
" EXHIBIT A "

CITY OF WINTER GARDEN

Development Review Committee

300 West Plant Street - Winter Garden, Florida 34787-3011
(407) 656-4111 - FAX (407) 877-2363

MEMORANDUM

TO: ED WILLIAMS, COMMUNITY DEVELOPMENT DIRECTOR
FROM: DEVELOPMENT REVIEW COMMITTEE
DATE: APRIL 1, 2015
SUBJECT: BLACK LAKE PRESERVE – 1st REVIEW OF FINAL PLAT ****REVISED****
AVATAR PROPERTIES, INC.

Pursuant to your request, we have reviewed the revised final plat information received 3/09/15 for compliance with the City's subdivision requirements. Our review has been limited to the overall engineering issues and does not include review for compliance with F.S. Chapter 177 that is being performed by the City's Reviewing Surveyor and City Attorney. This was submitted in response to our rezoning comments of 10/14/13, preliminary plat review of 12/31/13, final construction plan review of 5/20/14, and final plat sufficiency review of 10/23/14.

ENGINEERING

Please have the Applicant address the following comments in future submittals:

1. Final signed mylar, along with all other original executed documents, will be required prior to scheduling for the City Commission meeting, after Staff approval.
2. Transfer of all common areas, tracts, and rights-of-way to the HOA and the City shall take place prior to or with final plat recording (via deed). Draft quit claim deeds have been provided to the City Attorney and City's Reviewing Surveyor for review.
3. Attorney question: The boundary survey shows a 30' wide R/W easement along the north portion of the property. Does this automatically extinguish with the plat recording or does it need to be vacated more formally? **Need City Attorney's opinion.**
4. City Attorney shall review and approve the Dedication, HOA/CCR's, and Surveyors Notes for maintenance responsibilities and City's ability to lien individual lot owners if City performs maintenance, etc.
5. A Right-of-Way maintenance agreement for landscaping, irrigation, medians, signs, etc. within City rights-of-way will be required if any of these improvements are within City R/W.
6. Performance Bond: The improvements are not completed. A Performance bond or letter of credit in the amount of **120%** of the cost of all incomplete improvements shall be provided to the City, based on the Design Engineer's certification and executed construction contract (final pay application). Performance Bond/LOC amount **shall include cost of street lighting from Duke Energy (if not already installed); street and regulatory signs, required landscaping, walls, amenities, etc.** City Attorney shall approve the form of the bond or letter of credit prior to final plat recording. **Final plat will not be forwarded to the City Commission for approval without performance bond (unless C of C has been issued).**
7. The Design Engineer has provided a certified breakdown of construction cost for this phase, with the Contractor's latest pay application for determination of the performance bond amount, that includes any incomplete items (streetlighting, street and regulatory signage, landscaping, irrigation, wall, amenities, etc.). Based on the certified cost to complete of \$947,877.39, the performance bond shall be in the amount of **\$1,137,452.87**, representing **120%** of the cost to complete.

8. Maintenance Bond: A maintenance bond has been provided. The Design Engineer has provided certification of the total construction cost of \$2,050,967.89 with the maintenance bond amount to be **\$410,193.58**, representing **20%** of the cost of the improvements and shall comply with the City's ordinance concerning duration (2years). Provide Contractor's final pay application for verification of cost. This item can be delayed until the improvements have been installed as a condition of issuing the Certificate of Completion.
9. The Certificate of Completion has not been issued for this phase. Upon completion of all improvements, the Design Engineer shall provide signed and sealed as-built record drawings (2 sets), electronic copies of record drawings (pdf and CAD), all permitting clearances, and a certification letter stating that all improvements have been completed in substantial compliance with the approved plans and specifications. Copies of all clearances, certifications, etc. from other permitting agencies shall be provided to the City.
10. Approval of Certificate of Completion will be contingent upon having all improvements, fire protection, street lighting, street signs and regulatory signage and striping installed, approved and accepted by the City of Winter Garden. Other than for model homes as specified in Code, no additional building permits and no certificates of occupancy will be issued for any structure until the Certificate of Completion for the infrastructure has been issued.
11. Sidewalks internal to the development shall be constructed adjacent to all lands not containing building lots prior to final acceptance. This shall include all stormwater, conservation, lift station, or recreation tracts, abutting roadways, pedestrian walkways, etc. Sidewalks external to the development shall be constructed upon final completion.
12. Streetlighting must be installed and operating as a condition of issuing the Certificate of Completion. Other than for model homes as specified in Code, no building permits or certificates of occupancy will be granted on any house until all of the above have been completed and accepted by the City and the Certificate of Completion has been issued.
13. Documentation that all outstanding fees owed the City for review by legal, surveying and engineering consultants shall be provided prior to final plat recording.
14. The Design Engineer has provided certification that he has reviewed the plat and that it provides all necessary easements for drainage, access and utilities. Easement widths shall comply with City Code and approved construction plans (30' minimum).

PLANNING

15. ****Revised Planning Comments****
 - a. Please provide Orange County 911 approval of the street names.
 - b. Declaration of Covenants, Conditions, and Restrictions and Easements for Black Lake Preserve: Please see attached redlines.

SURVEYING

16. Please see attached Memorandum from Gerald M. Johnston, City Surveyor.

LEGAL

17. Please see attached Memorandum from Dan Langley, City Attorney.

Additional comments may be generated at subsequent reviews.

Please review this information and contact our office if you have any questions. Thank you.

END OF MEMORANDUM

**THIS INSTRUMENT WAS PREPARED BY
AND SHOULD BE RETURNED TO:**

James H. McNeil, Jr., Esquire
Akerman LLP
420 South Orange Avenue
Suite 1200
Orlando, Florida 32801

**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS
AND EASEMENTS FOR BLACK LAKE PRESERVE**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR BLACK LAKE PRESERVE (the "Declaration") is made as of the _____ day of _____, 2015, by **ROYAL OAK HOMES, LLC**, a Florida limited liability company ("Declarant") whose address is 5323 Millenia Lakes Boulevard, Suite 200, Orlando, FL 32839.

WITNESSETH:

WHEREAS, Declarant (as hereinafter defined) is the owner of all of the land in Orange County, Florida, described in Section 2.1 of this Declaration; and

WHEREAS, Declarant desires to subject said land to the covenants, restrictions, conditions and easements hereinafter set forth, each and all of which are hereby declared to be for the benefit of each and every present and future Owner of any and all parts thereof.

NOW, THEREFORE, Declarant, for itself, its successors and assigns, hereby declares and imposes the covenants, conditions, restrictions and easements hereafter described on the lands owned by Declarant described above, which covenants, conditions, restrictions and easements shall run with the title to said lands and shall be binding upon all parties having any rights, title or interest in said lands or any part thereof, their heirs, personal representatives and assigns, and shall inure to the benefit of each Owner thereof, and their respective mortgagees:

**ARTICLE I.
DEFINITIONS**

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meanings:

1.1 "**Articles of Incorporation**" means and refers to the Articles of Incorporation of Black Lake Preserve Homeowners Association, Inc., a Florida not-for-profit corporation, a copy of which are attached hereto as **Exhibit B** and are incorporated herein by reference.

1.2 "**Assessment**" means and refers to the assessments described in Article IV herein.

1.3 "**Association**" means and refers to Black Lake Preserve Homeowners Association, Inc., a Florida not-for-profit corporation.

1.13 “**Member**” means and refers to all those Owners who are Members of the Association as provided in Article III hereof.

1.14 “**Owner**” means and refers to the record Owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon the Property. Each Owner shall be a member of the Association.

1.15 “**Plat**” means and refers to the plat of Black Lake Preserve, as recorded in the Public Records of Orange County, Florida, and any other Plat of land hereafter made subject to the terms and conditions of this Declaration in accordance with the terms of this Declaration.

1.16 “**Property**” means and refers to the property as described in Section 2.1 of this Declaration, and additions thereto, as are now or hereafter made subject to this Declaration, except such as are withdrawn from the provisions hereof in accordance with the procedures hereinafter set forth.

1.17 “**Residence**” means and refers to a single family home located on a Lot intended for use and occupancy as a residential dwelling for which a certificate of occupancy has been duly issued.

1.18 “**Rules and Regulations**” means and refers to the rules and regulations promulgated by the Association’s board of directors from time-to-time.

1.19 “**Surface or Stormwater Management System**” means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system, as permitted pursuant to Chapters 40C-4, 40C-40, or 40C-42, Florida Administrative Code.

ARTICLE II.
PROPERTY SUBJECT TO THIS DECLARATION;
ADDITIONS THERETO

2.1 Legal Description. The real property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration is located in Orange County, Florida, and is more particularly described on Exhibit A attached hereto and incorporated herein by reference.

ARTICLE III.
MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

3.1 Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any Lot shall be a Member of the Association. Notwithstanding anything else to the contrary set forth in this Section 3.1, 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 Association. Membership in the Association shall be appurtenant to each Lot and may not be separated from ownership of said Lot. The record title holder to each Lot shall automatically become a Member of the Association and shall be assured of all rights and privileges thereof upon presentation of a photostatically or otherwise reproduced copy of said Owner’s deed to the Association Secretary for placement in the records of the Association. To the extent that said deed shall pass title to a new Lot Owner from an existing Lot Owner, membership in the Association shall be transferred from the existing Lot Owner to the new Lot Owner. In no event shall any mortgagee or other party holding any type of security interest in a Lot or the Residence constructed thereon be a Member of the Association unless said party obtains or receives fee simple title to such Lot.

herein with respect to the Declarant and with respect to individual Assessments which may be imposed on one or more Lots and Owners to the exclusion of others, all Assessments imposed by the Association shall be imposed against all Lots subject to its jurisdiction equally. Reference herein to Assessments shall be understood to include reference to any and all of said charges whether or not specifically mentioned.

4.2 Purpose of Assessments. The regular Assessments levied by the Association shall be used exclusively for maintenance, repair, renovation, and construction of such properties as may be used for the benefit of the Property, as provided or suggested herein, for capital improvements, for reserves, to pay for the cost of insurance from time-to-time obtained by the Association, to pay for the cost of operating and maintaining all recreation facilities and all other improvements for which the Association is responsible for maintaining, repairing and/or replacing, including but not limited to all Common Areas, all easements, culverts, retention ponds, landscaping, irrigation, and maintaining all amenities provided for the use and comfort of the Members of the Association, for the cost of any and all insurance with the Association is required or otherwise elects to obtain, together with all utility charges and other taxes on Association-owned property, to pay for the cost of the Association's performance of all obligations imposed upon the Association by this Declaration, the Association's Articles of Incorporation, the Association's By-laws or otherwise, to pay for operating and administrative costs of the Association and to promote the health, safety, welfare and aesthetics of the Members of the Association and their families residing with them, their guests and tenants, all as provided for herein.

4.3 Reserves for Replacement. The Association shall be required to establish and maintain an adequate reserve fund for the periodic maintenance, repair, and replacement of improvements for which the Association is responsible for maintaining, repairing and/or replacing. The reserve fund shall be maintained from annual Assessments. ~~Notwithstanding the foregoing, if the Declarant elects to pay the amount of any deficits incurred by the Association for expenses in excess of the amounts collected as Assessments, in lieu of paying Assessments, in accordance with the provisions of Section 4.14 of this Declaration, then Declarant shall not be required to contribute to a reserve fund during the period that Declarant is paying such deficits in lieu of paying such Assessments.~~

Not necessarily.

4.4 Working Capital. Upon the initial closing of the sale or the occupation of a Residence, the buyer of such Residence shall pay to the Association an initiation fee in an amount equal to SIX HUNDRED AND NO/100 DOLLARS (\$600.00) for such Lot, which amount shall be maintained in an account by the Association as working capital for the use and benefit of the Association. Said amount shall not be considered as advance payment of Assessments payable hereunder.

4.5 Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual Assessment shall be paid in equal quarterly installments of TWO HUNDRED THIRTY-FOUR AND 00/100 DOLLARS (\$234.00), with each of such quarterly payments being due and payable on the first day of the first month of each calendar quarter, for a cumulative initial annual Assessment of NINE HUNDRED THIRTY-SIX AND 00/100 DOLLARS (\$936.00). The foregoing annual Assessment are in addition to any and all assessments and other financial obligations which an Owner may have to the Master Association.

A. From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum annual Assessment may be increased each year, upon approval by a majority of the Association's board of directors without a vote of the Members, by an amount not greater than fifteen percent (15%) above the maximum annual Assessment for the previous year.

4.10 Certain Duties of the Board of Directors. Subject to other provisions hereof, the 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 Association, setting forth whether such Assessment has been paid as to any particular Lot. Such certificate shall be conclusive evidence of payment of any Assessment to the Association therein stated to have been paid. The Association may charge a reasonable fee for such certificate. The 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 affiliates of Declarant) for management services or for other services beneficial to the Association or the proper operation and maintenance of the Property. The Association shall have all powers provided or implied elsewhere herein, in its Articles of Incorporation and its By-Laws.

4.11 Effect of Non-Payment of Assessment; the Personal Obligation; the Lien; Remedies of the Association. If any Assessment (or installment thereof), whether annual, general, individual or special, is not paid on the date(s) when due, then such Assessment (or installment thereof) shall become delinquent and, at the option of the Association, all Assessments attributable to the Lot for the existing fiscal year shall be accelerated and shall become immediately due and payable and shall, together with late charges, interest and the cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the Lot which shall bind such property. Each Assessment against a Lot shall also be the personal obligation of the Owner at the time the Assessment fell due.

If any installment of an Assessment is not paid within fifteen (15) days after the due date (or if no due date is established herein, then within fifteen (15) days after the date established by the Association for payment of any such Assessment or installment thereof), at the option of the Association, a late charge not greater than FIFTY AND NO/100 DOLLARS (\$50.00) per installment may be imposed and all such sums shall bear interest from the dates when due until paid at the highest lawful rate and the Association may bring an action at law against the Owner(s) personally obligated to pay the same or may record a claim of lien against the Lot on which the assessments and late charges are unpaid and may foreclose the lien against the Lot on which the assessments and late charges are unpaid, or may pursue one or more of such remedies at the same time or successively. The Association shall also have the right to recover its attorneys' fees (including paralegal fees) and costs, including without limitation costs and expenses for consultation with an attorney because any such sums have not been paid, and costs and expenses charged by such attorney for services related in any way to the failure by an Owner to pay such sums (such as without limitation fees for telephone calls, preparation of correspondence, attendance at meetings, etc.), whether or not suit is filed. Further, in addition to the foregoing, in the event suit is filed, the Association shall have the right to recover all attorneys' fees, paralegals' fees and costs incurred before trial, at trial and upon all appellate levels.

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 Lot 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 enjoyment of the Common Areas until such time as all unpaid and delinquent Assessments due and owing from the selling Owner have been fully paid and no sale or other disposition of Lots shall be permitted until an estoppel letter is received from the Association acknowledging payment in full of all Assessments and other sums due; provided, however, that the provisions of this sentence shall not be applicable to Institutional Lenders and purchasers contemplated by Section 4.12 of this Article.

It shall be the legal right of the Association to enforce payment of the Assessments hereunder. Failure of the Association to send or deliver bills shall not, however, relieve Owners from their obligations hereunder.

5.3 Maintenance of Tracts and Easements.

- A. Tracts B and N (Stormwater Management Areas) shall be owned and maintained by the Association.
- B. Tract K (Future Access Tract) shall be owned and maintained by the Association.
- C. Tracts F, G, H, I, J, L and M (Landscape Buffer Tract) shall be owned and maintained by the Association.
- D. Tract A (Private Roadway Tract) shall be owned and maintained by the Association.
- E. Tract O (Recreation Tract) shall be owned and maintained by the Association.
- F. Tract E (Passive Recreation Tract) shall be owned and maintained by the Association.
- G. Tracts C and D (Wetland Conservation Tract) are to be owned and maintained by the Association as further described herein.
- H. Tracts C-1, C-2, and D-1 (Upland Buffers) are to be owned and maintained by the Association.

ARTICLE VI.
PROPERTY RIGHTS IN COMMON AREAS; OTHER EASEMENTS

6.1 Members Easements. Each Member, and each tenant, and every agent and invitee of such Member or tenant, shall have a nonexclusive permanent and perpetual easement over and upon the Common Area for the intended use and enjoyment thereof in common with all other such Members, their tenants, agents and invitees, in such manner as may be regulated by the Association.

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

- A. The right and duty of the Association to levy Assessments against each Lot for the purpose of maintaining the Common Area and facilities in compliance with the provisions of this Declaration and the governing documents of the Association;
- B. The right of the Association to suspend the Member's and/or Owner's voting rights for any period during which any Assessment against his Lot remains unpaid, and for any infraction of the Association's rules and regulations; and
- C. The right of the Association to adopt at any time and from time-to-time and enforce Rules and Regulations governing the use of the Common Area and all facilities at any time situated thereon. Any Rule and/or Regulation so adopted shall apply until rescinded or modified as if originally set forth at length in this Declaration.

Not without City approval.

6.2 Utility Easements. The Association shall have the right to grant permits, licenses, and easements over the Common Area within the Property for utilities, roads, and other purposes reasonably necessary or useful for the proper maintenance or operation of the Property. In addition, easements over, upon, under, through and across the Common Area within the Property are reserved to the Association and the Declarant, and may be declared or granted from time-to-time by the Declarant during any period that

replacing any improvements from time-to-time located on or to be constructed on any Lot abutting such Owner's Lot. In addition, each Owner hereby grants to the Association and the Association's successors, assigns, employees, agents, contractors and subcontractors, a non-exclusive easement on the granting Owner's Lot and within such granting Owner's Residence to the extent reasonably necessary for the purpose of allowing the Association to perform any and all of the Association's rights and/or obligations arising under this Declaration or elsewhere.

6.6 Declarant Offices. Notwithstanding anything in this Declaration to the contrary, the Declarant shall have the specific right to maintain (or have its designees maintain) upon any portion of the Property sales, administrative, construction or other offices without charge, and appropriate easements of access and use are expressly reserved unto the Declarant and its successors, assigns, employees and contractors, for this purpose.

6.7 Additional Easements. Each Lot shall be subject to all easements as shown on the Plat, and all other easements, encumbrances, and restrictions impacting the Lots as may be recorded in the Public Records of Orange County, Florida, from time to time.

ARTICLE VII. CERTAIN RULES AND REGULATIONS

7.1 Rules and Regulations. The Property shall be subject to the following Rules and Regulations as well as such other Rules and Regulations promulgated by the Associations' Board of Directors from time-to-time:

A. Land Use and Building Type. No Lot nor any building constructed thereon shall be used except for residential purposes. No business, commercial, industrial, trade, professional or other non-residential activity or use of any nature or kind shall be conducted on any Lot. No building shall be erected, altered, placed or permitted to remain on any Lot other than one Residence, each Residence consisting of a minimum of one thousand five hundred (1,500) square feet of air conditioned space. Notwithstanding the foregoing, uses by Declarant (and its designees) for model homes, sales displays, parking lots, sales offices, construction offices ~~and other offices,~~ or any one or combination of such uses, shall be permitted. No changes may be made in buildings erected by the Declarant (except if such changes are made by the Declarant) without the consent of the Architectural Review Board as provided herein.

No- Sales
or const.
offices
only.

& City permits

B. Opening Walls; Removing Fences or Landscaping. No Owner shall make or permit any opening to be made in any Declarant or Association erected wall, except as such opening is installed by Declarant or the Association. No building wall or masonry wall or fence, or any associated landscaping or buffer improvements, shall be demolished or removed without the prior written consent of the Declarant and the Architectural Review Board. Declarant shall have the right but shall not be obligated to assign all or any portion of its rights and privileges under this Section to the Association.

C. Easements. Easements for installation, replacement, connection to, disconnection from, and maintenance of utilities are reserved as shown on the recorded Plat covering the Property and as provided herein. Within these easements, no structure, planting or other material may be placed or permitted to remain that will interfere with or prevent the maintenance of utilities, unless said structure, planting or other material has been so placed by the Declarant or the Association or has been so placed with the permission of the Architectural Review Board. The area of each Lot covered by an easement and all improvements in the area shall be maintained continuously by the Owner of the Lot, except as provided herein to the contrary and except for installations for which a

(v) No other signs, or other sources of information, including circulars, posters, billboards, receptacles for flyers or the like, except those required by law, may be posted on any Residence or Lot so as to be visible from outside the Residence; provided, however, Declarant shall be entitled to post signs within or upon unsold portions of the Property without Board approval, including, advertising and marketing signs for the Declarant, any builder constructing Residences within the Property, and any broker advertising Residences for sale within the Property. Nothing herein or in the Articles or Bylaws shall be construed to prevent any Owner from displaying one portable, removable United States flag in a respectful manner consistent with Title 35 U.S.C. Chapter 10.

G. 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 Property, nor on dedicated areas, nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted upon or in the Property. 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 these restrictions.

H. Animals and Pets. Except for dogs, cats and aquarium kept fish which may be kept, raised and maintained on the Property, no reptiles, livestock, poultry, pets or animals of any kind, nature or description shall be kept, raised or maintained on the Property. In addition, in no event may any animal be bred or otherwise maintained on the Property for business or commercial purposes. Dogs, cats and aquarium kept fish kept, raised maintained on any Lot or within any Residence may only be so kept, raised and maintained in numbers deemed reasonable by the Declarant or the Association, in the exercise of their sole discretion. More than two (2) dogs and/or cats kept, raised or maintained on any Lot and/or within any Residence shall prima facie be considered unreasonable. Notwithstanding the foregoing, no such dogs, cats or aquarium kept fish may be kept, raised or maintained on the Property under circumstances, which, in the sole judgment of the Declarant or the Association, shall constitute an unreasonable annoyance, hazard, or nuisance to residents in the vicinity or an unreasonable interference with the comfortable and quiet use, occupation and enjoyment of other Lots or portions of the Property. All dogs must be on leashes when they are not in a Residence. In addition, any person walking a pet within the Property shall not allow any such pet to trespass on any other Owner's Lot and shall remove and properly dispose of any pet waste deposited on any portion of the Property by such Owner's pet.

I. Architectural Control. No building, addition or other structure or improvement of any nature or kind (including without limitation mailboxes and/or cluster mailboxes, landscaping and exterior paint and finish) shall be erected, placed or altered on any Lot until the construction plans and specifications and a plan showing the location of the structure and landscaping, or composition of the materials used therefor, as may be required by the Architectural Review Board (sometimes referred to herein as the "ARB") have been approved in writing by the Architectural Review Board named below and all necessary governmental permits are obtained. Each building, addition, mailbox, cluster mailbox, or other structure or improvement of any nature, together with the landscaping, shall be erected, placed or altered upon the premises only in accordance with the plans and specifications and plot plan so approved and applicable governmental permits and requirements. The Architectural Review Board shall have the right, in its sole and absolute discretion, to refuse approval of plans, specifications and plot plans, or any of them, based on any ground, including purely aesthetic grounds. Any change in the exterior appearance of any building, mailbox, cluster mailbox, or other structure or improvements, and any change in the appearance of the landscaping, shall be deemed an alteration requiring approval. The Architectural Review

J. Exterior Appearances. The paint, coating, stain and other exterior finishing colors on all Residences shall be maintained by the Association. The color of such paint, coating, stain or other exterior finishing, and the frequency of painting the exterior of the Residences, shall be determined by the Board of Directors in such Board of Directors' reasonable discretion.

???

K. Commercial Trucks, Trailers, Campers, Boats and Jet Skis. No trucks [except trucks which (1) have one ton capacity or less, (2) have no lettering, (3) have no roof racks or similar racks, and (4) do not appear to be commercial trucks (the determination about appearance shall be made by the ARB in its sole discretion)], commercial vehicles, campers, mobile homes, recreational vehicles, motor homes, house trailers or trailers of every other description, boats, jet skis (or any other watercraft) boat and other watercraft trailers, horse trailers or vans, shall be permitted to be parked or to be stored at any place on the Property. This prohibition of parking shall not apply to temporary parking of trucks and commercial vehicles, such as for pick-up and delivery and other commercial services, nor to non-commercial vans for personal use which are in acceptable condition in the sole opinion of the Board of Directors (which favorable opinion may be changed at any time), nor to any vehicles of the Declarant or those required by any builder during construction on any Lot. In no event may any vehicle of any sort be repaired on any portion of the Property nor may any unlicensed, unregistered or inoperable vehicle of any sort be permitted on the Property (including, but not limited to, any vehicle with a flat tire for more than forty eight (48) hours). In the event any provision of this covenant is breached, the Declarant or the Association may have said truck, commercial vehicle, camper, mobile home, motorhome, house trailer, other trailer, recreational vehicle, boat, jet ski (or any other watercraft), boat and other trailer, or horse trailer towed from the Property at the Lot Owner's sole cost and expense, and an Individual Assessment may be levied therefore against such Owner. For the purposes of this Declaration, the term "commercial vehicle" shall mean any car, van, truck or any other motorized vehicle which lettering on the exterior of such vehicle providing information regarding a business or product.

L. Garbage and Trash Disposal. No garbage, refuse, trash or rubbish shall be deposited except as permitted by the Association. The requirements from time-to-time of the applicable governmental authority for disposal or collection of waste shall be complied with. ~~All garbage and trash containers shall be kept within the Residences until disposed of within the dumpster(s) to be provided by the Association.~~

? Not having dumpsters.

M. Fences and Walls. No fence, wall or other similar structure shall be erected on any Lot unless the materials and color are in accordance with such standards as may be adopted by the ARB and the location and dimensions thereof are approved by the ARB. The ARB shall have the right to adopt such standards as it deems advisable in regard to the location and height of and colors and materials for any fences installed within the Properties. In no event shall any wall or fence exceed six (6) feet in height. Should a wooden type privacy fence be approved by the ARB for installation, it is agreed and understood that such fence will be six (6) foot cypress fencing with a dog-ear style top and a self-closing gate. After installation and a ninety (90) day cure/drying period the fence is to be treated, by and at the expense of the homeowner, with a staining sealant on all exterior surfaces of the fence and this will be maintained for appearances but no less frequently than once every two (2) years. The brand, type and color specified for this sealant shall be approved by the ARB. No chain link or barb-wire fences shall be installed on any Lot under any circumstances.

Fences & walls require City approval.

N. Mailboxes. No mailboxes (including without limitation cluster mailboxes) or similar improvement shall be installed on any Lot unless the location thereof has been approved by

permitted, except to replace any dead sod. Weed control and replacement of sod will be maintained.

V. Irrigation Systems. All landscaped and grassed open areas on each Lot shall be irrigated by means of an automatic underground irrigation or sprinkling system capable of regularly and sufficiently watering all lawns and plantings within such open areas. The plans and specifications for each such irrigation or sprinkling system shall be included in and submitted with and reviewed and approved by the ARB as part of the landscape plan for such Lot. Declarant has prepared master plans, attached, rather than individualized Lot plans, for all landscaping, grass and irrigation systems to be installed by Declarant and to be maintained by the Lot Owner.

Please change all references to Orange County to the City of Winter Garden.

W. Precedence Over Less Stringent Governmental Regulations. In those instances where the covenants, conditions and restrictions set forth in this Article set or establish minimum standards in excess of the ordinances, regulations and requirements of ~~Orange County, Florida~~ and other applicable government authorities, including without limitation, building and zoning regulations, the covenants, conditions and restrictions set forth in this Article shall take precedence and prevail over any such less stringent ordinances, regulations and requirements.

X. Solar Panels. Solar panels may only be constructed on the roof of a Residence so as not to be visible from the adjacent street (or configured so as to minimize visibly in the case of corner Lots) and only after review and approval by the ARB, in its sole and absolute discretion. The ARB reserves the right to promulgate such performance standards and requirements as it may deem desirable in regard to the installation of solar panels. To the extent applicable laws require otherwise, then the terms and conditions of applicable laws shall control.

Y. Destruction. In the event of the destruction of all or any portion of a Residence on any Lot, the Owner of the Lot shall, within ninety (90) days, restore the single family dwelling unit to its former condition. The Association's board of directors, in the exercise of its sole and absolute discretion, may extend the time frame within which such restoration work must be completed. The Association shall make available to such Owner any insurance proceeds received by the Association related to such damage for such reconstruction under such conditions as the Association may determine to be appropriate.

Z. Increase in Insurance; Nuisance. No Owner shall permit or suffer anything to be done or kept on his Lot (or single family residential dwelling unit thereon) which could increase the rate of insurance on any Common Area or payable by the Association or any other Owner, or which could prevent the Association or any other Owner from obtaining such insurance, or which could annoy any other Owner by unreasonable noises or otherwise. Further, no Lot Owner shall commit or permit any nuisance, or immoral or illegal acts in or on any portion of the Property.

AA. Additional Rules and Regulations. In addition to the foregoing, the Association shall have the right, power and authority, subject to the prior written consent and approval of Declarant, to promulgate and impose rules and regulations governing and/or restricting the use of all the Property and Lots in its jurisdiction including without limitation rules and regulations relating to the placement or installation of any type of improvement on any Lot, and to thereafter change, modify, alter, amend, rescind and augment any of the same; provided, however, that no rules and regulations so promulgated shall be in conflict with the provisions of this Declaration. Any such rules and regulations so promulgated by the Association shall be applicable to and binding upon all the Property and the Owners thereof and their successors and assigns, as well as all guests and invitees of and all parties claiming by, through or under such Owners.

Properties, including without limitation operation and maintenance of all retention ponds and drainage improvements as may be situated throughout the Common Areas. The Association shall maintain the surface water management system in accordance with all Permit requirements and maintenance of the surface water or Surface or Stormwater Management System(s) shall further mean the exercise of practices which allow the systems to provide drainage, water storage, conveyance or other surface water or stormwater management capabilities as permitted by the SJRWMD. The Permit is attached hereto as **Exhibit D**. Any repair or reconstruction of the surface water or Surface or Stormwater Management System shall be as permitted, or if modified as approved by the SJRWMD. The registered agent of the Association shall maintain copies of all further surface water management system permitting documents.

Upon termination of this Declaration or the termination, dissolution or liquidation of the Association, if ever, the responsibility for the operation and maintenance of the surface or Surface or Stormwater Management System shall be transferred to and accepted by an entity which would comply with Section 40C-42.027, Florida Administrative Code, and be approved by the SJRWMD prior to such termination, dissolution or liquidation.

ARTICLE X. **GENERAL PROVISIONS**

10.1 **Easements and Encumbrances.** By accepting title to a Lot, the Owner thereof acknowledges that it has reviewed the Plat and all recorded encumbrances to title, and covenants to abide by the terms, conditions and restrictions set forth therein. In no event shall the Owner of any Lot construct improvements in any easement area as depicted on the Plat, or otherwise act in contravention of any encumbrances to title set forth in the Public Records of Orange County, Florida to the extent effecting the Lot or the Property.

10.2 **Insurance and Fidelity Bonds.** The Association shall obtain and maintain in effect casualty and liability insurance and fidelity bond coverage in form and amounts as may be deemed advisable by the Board of Directors of the Association. Additionally, the Association may obtain and maintain in effect "directors and officers insurance" in form and amounts as may be deemed advisable by the Board of Directors of the Association.

10.3 **Duration; Amendment.** The covenants and restrictions of this Declaration shall run with and bind the Properties for a term of thirty (30) years from the date this Declaration is recorded, after which they shall be automatically extended for successive periods of ten (10) years; unless during the last year of its applicability during the initial term or any extension period no less than seventy-five percent (75%) of each class of Members at a duly noticed meeting of the Association vote in person or by proxy to terminate this Declaration. Provided, however, no such termination shall void the duty of the Association to maintain the surface water management system unless specifically allowed by SJRWMD. Further, no such termination shall have the effect of terminating any easements herein provided or reserved. Except as otherwise provided herein, this Declaration may be amended by the affirmative vote of two-thirds (2/3) of the cumulative percentage interests of the Members Entitled to Vote; provided, however, this Declaration may be amended by Declarant to clarify ambiguities and scrivener's errors. In addition to the foregoing, so long as Declarant owns any Lots within the Properties, all amendments to this Declaration must be approved and joined in by Declarant. ~~If not so joined by Declarant, the amendment shall be null and void.~~ Any amendment to this Declaration must be recorded in the Public Records of Orange County, Florida. Any amendment to the Declaration which alter the surface water or Surface or Stormwater Management System beyond maintenance in its original condition, including the water management portions of the common areas, must have the prior approval of the SJRWMD.

Amendments will be approved by the City if they affect conditions of approval.

10.11 Covenants Running With The Land. ANYTHING TO THE CONTRARY HEREIN NOTWITHSTANDING AND WITHOUT LIMITING THE GENERALITY 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 PROPERTY. IF ANY PROVISION OR APPLICATION OF THIS DECLARATION WOULD PREVENT THIS 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 AFFECTED HEREBY (THAT THESE COVENANTS AND RESTRICTIONS RUN WITH THE LAND AS AFORESAID) BE ACHIEVED.

10.12 Dissolution of Association. In the event of a permanent dissolution of the Association, (i) all assets of the Association shall be conveyed to a non-profit organization with similar purposes and acceptable to the SJRWMD or (ii) all Association assets may be dedicated to Orange County, Florida, or any applicable municipal or other governmental authority to the extent such governmental entity is willing to accept such assets and is willing to assume the Association's obligations arising hereunder. Said successor non-profit organization or governmental entity shall pursuant to this Declaration provide for the continued maintenance and upkeep of the Common Area, including without limitation the surface water management system, the Property and such other property as may be contemplated herein. (ii) all Association assets may be dedicated to Orange County, Florida, or any applicable municipal or other governmental authority,

10.13 Turnover. The turnover of the Association by the Declarant shall occur at the times specified in the documents which govern the Association. The turnover meeting shall be conducted in accordance with the most recent revision of Robert's Rules of Order. Notwithstanding the foregoing, however, for as long as the Declarant shall own any portion of the Property, it shall have the right to appoint one member of the Board of Directors.

Not consistent with City Code.

10.14 FHA/VA. For so long as there is a Class B membership, the following actions will require the approval of either the FHA or the VA if any mortgage encumbering a Lot within the Property is guaranteed or insured by either such agency: (a) annexation of additional properties; (b) mergers and consolidations; (c) mortgaging or dedication of Common Area to other than the Association and (d) dissolution or amendment of this Declaration or the Articles of Incorporation and By-Laws of the Association. Such approval, however, shall not be required where the amendment is made to correct errors, omissions or conflicts or is required by any institutional lender so that such lender will make, insure or guarantee mortgage loans encumbering the Lots, or is required by any governmental authority. Such approval shall be deemed given if either agency fails to deliver written notice of its disapproval of any amendment to Developer or to the Association within thirty (30) days after a request for such approval is delivered to the agency by certified mail, return receipt requested, or equivalent delivery, and such approval shall be conclusively evidenced by a certificate of Developer or the Association that the approval was given or deemed given.

10.15 Annexation of Additional Land. Additional residential property and common area may be annexed to the Properties with the consent of two-thirds (2/3) of the Members present at any meeting of the Association therefor if a quorum has been established.

Association may pay such cost from the routine-community subdivision infrastructure-maintenance account. The report must be signed and sealed by the engineer, certified to the Association and provided to all owners of Lots, blocks, and tracts, within the Property and the City engineer within fifteen (15) days after its completion. In the event turnover occurs more than one (1) year after the initial community subdivision infrastructure report is prepared, then before the occurrence of the turnover an update of the initial community subdivision infrastructure report shall be obtained and provided in the same manner as the initial community subdivision infrastructure report. Any needed repairs or replacements identified by the report shall be completed by the Declarant, at the Declarant's sole expense, prior to turnover. Prior to turnover, the Declarant shall fund or cause the funding of the routine-community subdivision infrastructure-maintenance account and capital-community subdivision infrastructure reserve account to cover any deficiencies in account balances. Not sooner than fifteen (15) days and not more than forty-five (45) days prior to turnover, the Declarant shall submit a sworn affidavit along with supporting documentation to the Association and the City evidencing Declarant's compliance with the turnover related requirements of this Article and Chapter 110 of the Code.

B. Prior to turnover, Declarant shall fund or cause the funding of the routine-community subdivision infrastructure-maintenance account and capital-community subdivision infrastructure reserve account required by Section 11.4 of this Article XI to cover any deficiencies in account balances. Not sooner than fifteen (15) days and not more than forty-five (45) days prior to turnover, the Declarant shall submit a sworn affidavit along with supporting documentation to the Association and the City evidencing Declarant's compliance with the requirements of this subsection B..

C. Prior to turnover and prior to the issuance of certificates of occupancy for ninety percent (90%) of the platted lots within the project, Declarant shall execute and deliver to the City a two (2) year warranty guarantee agreement with the City along with security in the form of a bond, irrevocable letter of credit or cash deposit covering the private community subdivision infrastructure improvements, in a form approved by the City attorney, and naming the City as primary beneficiary and the Association as a third-party beneficiary. The warranty guarantee shall provide for Declarant's guarantee of all such improvements, including its materials, workmanship, structural integrity, and functionality, and require Declarant's repair, replacement and correction of damage and defects to such improvements found within the warranty period. The warranty guarantee period shall commence from the estimated date of turnover and end two (2) years thereafter. The maintenance bond or irrevocable letter of credit shall be in an amount equal to twenty (20) percent of the then current estimated costs to construct the community subdivision infrastructure improvements, which amount shall be subject to City engineer review and approval.

D. If turnover occurs and the foregoing requirements of subsections A., B., and C., directly above, have not been fulfilled, the rights of the City, the Association, any of the Association's Members, and any and all owners of land within the Property to enforce said requirements against Declarant shall survive the turnover, with the prevailing party to be entitled to attorneys' fees and costs against the non-prevailing party. Notwithstanding the foregoing and without limiting the City's remedies, the City shall be entitled to withhold the issuances of certificates of occupancy and building permits for improvements within the Property until such time as the provisions of this subsection D. are met.

11.3 Subsequent Community Subdivision Infrastructure Reports and Maintenance. Pursuant to Section 110-156 of the Code, the Association shall obtain an inspection and written report of the community subdivision infrastructure (which community subdivision infrastructure includes the Common Area), by a Florida registered engineer experienced in subdivision construction at least once every five (5) years after the initial engineer's inspection. Using good engineering practice, and in accordance with standards that may be established and revised from time to time by the Association, or in accordance with such standards as the Association's engineer may determine to be appropriate, the inspection shall

B. Required Assessments. The obligation to collect and pay assessments to fund the foregoing required accounts shall commence as of the date on which the city issues its certificate of completion for the infrastructure improvements for the Property. However, if no plat has been recorded for the Property as of that date, the obligation to collect and pay said assessments shall commence as of the date the plat is recorded in the Public Records of Orange County, Florida. The Association shall impose and collect said assessments against each platted Lot, including Lots owned or controlled by the Declarant and by any builder, without exception. Said assessments must be uniform and equitable and must be imposed and collected in amounts sufficient, when added to investment earnings and other available revenues of the Association, if any, to make all required deposits to each of the required accounts. Notwithstanding the foregoing, if in the opinion of the City engineer the community subdivision infrastructure has substantially deteriorated at the time a plat is approved, the City may require an additional payment of assessments by the Declarant to address the loss of useful life of the deteriorated community subdivision infrastructure.

C. Initial Account Funding and Declarant obligations. From the recording of the first plat for the Property and up to the point in time when turnover of the Association occurs, Declarant and its successors in interest, shall remain personally obligated to ensure that adequate funding of the Association accounts required by this section are provided, that the financial reporting requirements of this Article XI are met and that the community subdivision infrastructure is being properly maintained. Prior to the issuance of a certificate of completion for the community subdivision infrastructure, Declarant shall be required to fund the capital-community subdivision infrastructure reserve account in an amount sufficient cover two-year's estimated deposits for such account and fund the routine-community subdivision infrastructure-maintenance account in an amount sufficient to cover one-year's estimated deposits for such account. For purposes of establishing deposits by the Declarant required under this subsection, deposit amounts shall be supported by a Florida-licensed engineer's evaluation of the community subdivision infrastructure's economic life and cost estimate for maintenance and replacement of such infrastructure provided to the City at the Declarant's expense and such is subject to the review and approval by the City engineer. Prior to turnover, Declarant shall fund or cause the funding of the routine-community subdivision infrastructure-maintenance account and capital-community subdivision infrastructure reserve account to cover any deficiencies in account balances as specified in section 11.2.

D. Maintenance of Accounts. Each of the foregoing required accounts must be a separate asset account maintained separate and apart from all other funds and accounts of the Association, and for accounting purposes the Association may not commingle these accounts either with each other or with other funds and accounts of the Association. However, notwithstanding anything in the foregoing to the contrary, the monies in the foregoing required accounts may be commingled with monies in other Association accounts for banking and investment purposes, and may be pooled with other Association monies in a common investment program, so long as the financial books and records of the Association account for the monies within the foregoing required accounts separately and apart from all other Association monies and keep the monies within the foregoing required accounts earmarked for the purposes required by the Code and set forth herein. All earnings from the investment of monies held in the foregoing required accounts shall remain in and form a part of the principal of the respective foregoing required account.

11.5 Financial Reporting. Each year the Association shall cause a financial report of the required Association accounts to be performed and prepared, and a copy of the report shall be submitted to each owner of property in the Property and the City within the time frame required under the "financial reporting" requirements of Chapter 720, Florida Statutes. At a minimum, the report shall confirm the existence of each of the required Association accounts and report the amounts of deposits into and expenditures from the account during the period year, along with an itemization of the expenditures from

Association shall have the responsibility for maintaining and repairing, including the community subdivision infrastructure, Declarant shall remain jointly and severally liable, to the Association and to the City, for the maintenance and repair of the community subdivision infrastructure, Common Area and private amenities within the subdivision, for the adequate funding of the routine-community subdivision infrastructure-maintenance account and capital-community subdivision infrastructure reserve account, and for otherwise ensuring compliance with the provisions of the Code. If turnover occurs and the obligations of the Declarant have not been met, the rights of the City, the Association, any of the Association's Members, and any and all Owners of land within the Property to enforce such obligations against the Declarant shall survive the turnover, with the prevailing party being entitled to attorneys' fees and costs against the non-prevailing party. Venue for any such enforcement action shall be in the Ninth Judicial Circuit of Florida, in Orange County, Florida.

11.9 Indemnification. In the event the community subdivision infrastructure, or any component thereof, including, but not limited to, any and all private areas, drainage systems (including without limitation, the retention/detention areas and underdrains), Common Area, private roadways, screening walls, and such other subdivision infrastructure not otherwise dedicated to the public use or the City, are not maintained, repaired, replaced, or cared for in accordance with the standards of the Code, good engineering practices, such become a nuisance, or Association accounts relating to the community subdivision infrastructure and Common Area are not properly funded, Declarant (so long as the Declarant retains control of the Board of Directors of the Association and the provisions of Section 11.2 of this Declaration and Section 110-155 of the Code are not completely satisfied), the Association, and the individual Lot Owners, jointly and severally, shall release, defend, indemnify, and hold the City and its officers, contractors, consultants and employees harmless from any and all costs, expenses, suits, demands, liabilities, damages, injuries (including death), tort liability, or award of damages or otherwise, including attorneys' fees and costs, in connection with, related to, or arising out of the maintenance, repair, replacement, reconstruction, or care of the community subdivision infrastructure, or any component thereof, by or on behalf of the City.

11.10 Turnover. Declarant shall turn over control of the Association to the Owners within the time periods required under the Code and Chapter 720, Florida Statutes (2014); provided, however, that notwithstanding anything to the contrary set forth in Article III of the Declaration, elsewhere herein, or otherwise, Declarant, pursuant to and in accordance with Section 110-56 of the Code, may turnover control of the Association no sooner than the point in time at which certificates of occupancy have issued for at least seventy percent (70%) of the platted Lots within the Property.

11.11 Dissolution. In the event that the Association, is dissolved, in bankruptcy, or otherwise unable to fulfill its obligations as provided in the Declaration, the individual Lot Owners shall be liable for the costs, on a pro-rata (per Lot) basis, for the maintenance, upkeep, repair, and/or replacement of any and all private easements, Common Area, rights of way and/or improvements in the event the City provides such services. This provision shall run with the land of the Property and survive the termination of the Association.

11.12 Transfer to Governmental Entity. Any transfer of any portion or component of the community subdivision infrastructure (including the property on which the said community subdivision infrastructure is located) to the City or other governmental entity is prohibited without the concurrence of the City or applicable governmental entity and the owners of two-thirds of the platted Lots.

11.13 No Drainage Alternation. It is prohibited to alter the grade of or original drainage plan for any parcel, Lot or tract, or change in the direction of, obstruct, or retard the flow of surface water drainage, or alter or remove of any berm, pipe, ditch, weir, manhole, swale, and stormwater collection,

supporting private security and traffic enforcement services within the Property, provided that same are not inconsistent with the Code or any Traffic Agreement.

11.19 Private Streets and Roads Disclosure. The Property has been approved by the City and will be developed by Declarant and its successors and assigns as a community with private streets and roads. In connection with the foregoing, Declarant provides the following disclosure to each prospective Member, Owner, and other interested parties:

A. By law, the City cannot pay to maintain the roads, street lights, sidewalks, drainage, and other improvements in the community because these things are or will become private property.

B. Although the cost of properly maintaining and repairing roads, street lighting, sidewalks, drainage systems, and other improvements can be very high, only the owners of homes and Lots within this community will share these expenses. Tax dollars will not be used. The Members must also pay for the cost of liability insurance and traffic enforcement on the community's roads.

C. Under Florida law, no reduction in your tax burden will result based upon the community's private roads, street lights, sidewalks, drainage, and other improvements in the community.

D. Members of the community, through the Association, must set aside adequate reserves to properly maintain, repair and replace the roads, sidewalks, drainage systems and other improvements, and have a professional engineer regularly inspect the roads, sidewalks, drainage systems, and other improvements and report what work is necessary to maintain and/or repair them. The Association is obligated to do the necessary work reported and the Members of the Association will pay for the work through Association assessments.

E. The expenses you incur as a result of the community's private roads, street lights, sidewalks, drainage, and other improvements, are in addition to other expenses charged by the Association to pay for private recreational, security and other amenities and services the community may offer.

F. As with any assessment, the failure or inability to pay may lead to a lien being placed on your home. If a lien is placed and foreclosed, you could lose your home.

G. The Association is required to maintain liability insurance adequate to pay claims for injuries and property damage arising on the private roadway, sidewalks, drainage ponds, and other common areas in the neighborhood

11.20 Amendments to this Article. The foregoing restrictions in this Article XI and any other provision of this Declaration referencing or affecting the City shall not be removed or amended without the written agreement of the City. Further, no amendments to this Declaration which are inconsistent with the Code or this Article XI shall be made without the prior written consent of the City Manager or his/her designee. Any platted tracts owned by the City ("Tracts") are exempt from the covenants, restrictions, and conditions of this Declaration. The City shall not be subject to enforcement, regulation, or assessment under this Declaration or by the Association or any Owner by virtue of the City's ownership of Tracts or easements conveyed or dedicated to the City, or for any other basis. Board interpretations of this Article XI, or any part thereof, are not binding upon the City. The provisions of this Article XI and its subparts shall be considered a restrictive covenant in favor of and enforceable by the City. Notwithstanding anything in this Declaration to the contrary, no provision of this Declaration shall restrict or prohibit the City or any other applicable government authorities from enforcement of their

EXHIBIT "A"

REAL PROPERTY DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 22 SOUTH, RANGE 27 EAST BEING DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTH QUARTER CORNER OF SAID SECTION 34 FOR A POINT OF REFERENCE; THENCE RUN SOUTH 01°18'35" EAST, ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 34, A DISTANCE OF 285.28 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01°18'35" EAST, ALONG SAID EAST LINE, 1038.00 FEET TO A POINT LYING ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY; THENCE DEPARTING SAID EAST LINE, RUN SOUTHWESTERLY, ALONG SAID NON-TANGENT CURVE, HAVING A RADIUS OF 180.00 FEET, A CENTRAL ANGLE OF 32°20'30", AN ARC LENGTH OF 101.60 FEET, A CHORD LENGTH OF 100.26 FEET AND A CHORD BEARING OF SOUTH 14°33'54" WEST TO A POINT LYING ON THE SOUTH LINE OF SAID NORTHEAST QUARTER, OF THE NORTHWEST QUARTER OF SECTION 34; THENCE RUN SOUTH 87°28'30" WEST, ALONG SAID SOUTH LINE OF THE NORTHEAST QUARTER, OF THE NORTHWEST QUARTER OF SAID SECTION 34, A DISTANCE OF 1243.36 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 34; THENCE RUN NORTH 00°43'13" WEST, ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER, A DISTANCE OF 1249.27 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SUNRIDGE BOULEVARD, AS DESCRIBED IN THAT CERTAIN SPECIAL WARRANTY DEED, AS RECORDED IN OFFICIAL RECORDS BOOK 10117, PAGE 3626, OF THE PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA; THENCE DEPARTING SAID WEST LINE, RUN SOUTH 89°42'58" EAST, ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1149.68 FEET TO A POINT LYING ON A NON-TANGENT CURVE CONCAVE SOUTHWESTERLY; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE, RUN SOUTHEASTERLY, ALONG SAID NON-TANGENT CURVE, HAVING A RADIUS OF 475.00 FEET, A CENTRAL ANGLE OF 14°47'04", AN ARC LENGTH OF 122.57 FEET, A CHORD LENGTH OF 122.23 FEET AND A CHORD BEARING OF SOUTH 63°49'08" EAST TO THE POINT OF BEGINNING.

EXHIBIT "C"

BY-LAWS OF BLACK LAKE PRESERVE HOMEOWNERS ASSOCIATION, INC.

[See Attached Document]