

This instrument Prepared by
Ferikes, Bleynat, & Cannon PLLC

Return this Instrument to:
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**AMENDED AND RESTATED DECLARATION OF COVENANTS, EASEMENTS, AND
CONDITIONS FOR
BARKERS CREEK PRESERVE SUBDIVISION**

STATE OF NORTH CAROLINA
COUNTY OF JACKSON

THIS DECLARATION is approved by the Lot Owners in Barkers Creek Subdivision and is effective upon recording in the office of the Register of Deeds of Jackson County, North Carolina. The property subject to this Declaration is located in Jackson County, North Carolina and is more particularly described in the Declaration of Restrictive Covenants, Easements, and Conditions for Barkers Creek Preserve Subdivision recorded on July 21, 2005, at Deed Book 1516, Page 764 in the office of the Register of Deeds of Jackson County, North Carolina.

WITNESSETH:

WHEREAS, the Barkers Creek Preserve Community Association, Inc. (hereinafter referred to as the "Association") represents the Owners of Lots in Barkes Creek Preserve Subdivision and is the owner of all the common areas of the subdivision known as Barkers Creek Preserve Subdivision (hereinafter referred to as the "Subdivision");

WHEREAS, a Declaration of Restrictive Covenants, Easements, and Conditions were recorded on July 21, 2005, at Deed Book 1516, Page 764 (hereinafter the "2005 Declaration") in the office of the Register of Deeds of Jackson County, North Carolina;

submitted electronically by "Allen, Stahl, & Kilbourne, PLLC"
in compliance with North Carolina statutes governing recordable documents
and the terms of the submitter agreement with the Jackson County Register of Deeds.

WHEREAS, the First Amendment to Declaration of Restrictive Covenants, Easements, and Conditions for Barkers Creek Preserve Subdivision were recorded on August 12, 2005, at Deed Book 1522, Page 662 in the office of the Register of Deeds of Jackson County, North Carolina;

WHEREAS, the Second Amendment to Declaration of Restrictive Covenants, Easements, and Conditions for Barkers Creek Preserve Subdivision were recorded on September 16, 2005, at Deed Book 1531, Page 288 in the office of the Register of Deeds of Jackson County, North Carolina;

WHEREAS, Lot Owners within the Subdivision wish to amend and restate the 2005 Declaration; and,

WHEREAS, the owners of at least 67% of the Lots constituting the Subdivision Property have approved the application of the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes to this Planned Community and the following Restated Declaration of Covenants, Restrictions, and Easements for Barkers Creek Preserve Subdivision by ballot pursuant to N.C.G.S. § 55A-7-08 and N.C.G.S. § 47F-2-117.

NOW THEREFORE, it is agreed that the undersigned Lot Owners agree that the North Carolina Planned Community Act, Chapter 47F of the North Carolina General Statutes, is applicable to this Planned Community pursuant to N.C.G.S. § 47F-1-102(d).

FURTHERMORE, it is agreed that the 2005 Declaration, and any amendments thereto, is amended by repealing the 2005 Declaration in its entirety, and any amendments thereto, and substituting the following in its place and stead:

**RESTATED DECLARATION OF COVENANTS, EASEMENTS, AND CONDITIONS
FOR
BARKERS CREEK PRESERVE SUBDIVISION
ARTICLE 1
DEFINITIONS**

The following words, when used in this Declaration of Covenants, Easements, and Conditions, shall have the following meanings:

1.01 Association: "Association" means "Barkers Creek Preserve Community Association, Inc." (A nonprofit, non-stock, membership corporation organized under the North Carolina Nonprofit Corporation Code), its successors and assigns.

1.02 Board: "Board" means the Board of Directors of the Association.

1.03 By-Laws: "By-Laws" means the By-Laws of the Association.

1.04 Lot: "Lot" means any numbered lot designated on a plat of the Subdivision or any lot or property actually subdivided, platted, or otherwise identified as a portion of the Subdivision designated for separate ownership or occupancy by a property owner.

1.05 Member: "Member" means any member of the Association.

1.06 Membership: "Membership" means the collective total of all Members of the Association.

1.07 Occupant: "Occupant" means any person occupying all or any portion of a Dwelling located within the Subdivision for any period, regardless of whether such person is a tenant or the Owner of such property; or a guest of either.

1.08 Owner: "Owner" and "Lot Owner" means the record Owner, whether one or more persons or entities, of a fee simple title to any Lot; provided, however, that where fee simple title has been transferred and is being held merely as security for the repayment of a loan, the person or entity who would own the Lot in fee simple if such loan were paid in full shall be considered the Owner.

1.09 Plat: "Plat" means the plats of the Subdivision that are hereafter recorded.

1.10 Property: "Property" means the real property subject to this Declaration.

1.11 Dwelling: "Dwelling" means a structure and the Lot on which it is situated which is intended for independent use and occupancy as a Dwelling for a single family. A structure and the Lot upon which it is situated shall not become a Dwelling until a certificate of occupancy shall have been issued by the appropriate governmental authorities as a pre-requisite to the occupancy of such Dwelling. The Owner of a Dwelling shall notify the Association or its designee immediately upon issuance of a certificate of occupancy for the Dwelling.

1.12 Restrictions: "Restrictions" means all covenants, restrictions, easements, charges, liens, and other obligations created or imposed by this Declaration and any amendments hereafter adopted.

1.13 "Single family residential purposes" shall mean activities reasonably associated with and incidental to occupancy by one (1) or more persons functioning as an integrated family unit rather than independent persons who share only the place where they sleep and take their meals. Single family purposes shall not include any commercial use.

1.14 Structure: "Structure" means:

(a) Any thing or object the placement of which upon any Lot may affect the appearance of such Lot, including by way of illustration and not limitation, any building or part thereof, garage, porch, shed, greenhouse or bathhouse, coop or cage, covered or uncovered patio, deck, swimming pool, dock, fence, driveway, curbing, paving, wall, tree, shrub (and all other forms of landscaping), sign, signboard, temporary or permanent living quarters (including any house trailer), or any other temporary or permanent improvement to such Lot; and

(b) Any excavation, grading, fill, ditch, diversion dam or other thing or device which affects or alters the natural flow of surface waters from, upon, or across any Lot, or which affects or alters the flow of any waters in any natural or artificial creek, stream, wash, or drainage channel from, upon, or across any Lot.

1.15 Subdivision: "Subdivision" means the Lots created with the real property described in said deeds recorded in Book 1503 at pages 473-475, Jackson County Register of Deeds, Book 1503 at pages 698-700, Jackson County Register of Deeds, and Book 1503 at pages 705-706, Jackson County Register of Deeds, and any and all real property added thereto, pursuant to an amendment, that is subjected to this Declaration.

ARTICLE II BARKERS CREEK PRESERVE COMMUNITY ASSOCIATION, INC.

2.01 *Barkers Creek Preserve Community Association, Inc.* The name of the Property Owners Association for the Subdivision shall be Barkers Creek Preserve Community Association, Inc., Inc. (hereafter "the Association").

2.02 *Association Powers and Duties.* The Association (a) shall have all the powers of a corporation organized under the North Carolina Non-Profit Corporation Code and the North Carolina Planned Community Act (N.C. Gen. Stat Chapter 47F), and (b) shall have the power and duty to exercise all the rights, powers, and privileges and to perform all of the duties and obligations of the Association as set forth in this Declaration. Except as otherwise provided in the Declaration, the Corporation shall maintain and repair the roadways up to a standard at least as good as the same are in at the time the Association commences having responsibility for the same and to assess the Lot Owners as necessary to recover the costs of such maintenance, repair, or replacement, together with the costs of carrying out the responsibilities of the Board of Directors, except that the costs of maintenance, repair, or replacement of a limited common element shall be assessed as provided in N.C.G.S. § 47F-3-115(c)(1).

2.03 *Membership in the Association.* Every Lot Owner shall automatically be a Member of the Association. Membership shall be appurtenant to and may not be separated from Ownership of any Lot. Each new member shall provide actual notice to the Association of his ownership within the subdivision qualifying him for membership in the Association. Membership will cease only when a person ceases to be an Owner.

2.04 *Voting Rights.* Each Lot is entitled to one vote unless the Board has suspended membership rights of the Lot Owners due to unpaid assessments and/or fines owed to the Association. Notwithstanding the foregoing, where Lots have been subdivided or combined, votes shall be allocated to the resulting lots in accordance with Section 4.11 of this Declaration. A proxy or ballot signed by one or more of the Owners of a Lot is presumed to be signed at the direction of a majority of the Owners of such Lot.

2.05 *Board of Directors.* The affairs of the Association shall be managed by a Board of Directors. The number of directors and the method of election of directors shall be as set forth in the By-Laws of the Association.

2.06 *Suspension of Membership.* The Board may suspend the voting right of any person who shall be delinquent in the payment of any assessment or fine levied by the Association pursuant to the provisions of Article III. Such suspension shall be for the balance of the period in which said Member or person shall remain delinquent in the payment of any assessment or fine. No such suspension shall prevent an Owner's ingress to or egress from his Lot, excuse payments of assessments or compliance with this Declaration during the suspension or obviate the obligation of such Member or person to cure such default.

2.07 *Voting Procedures.* The procedures for the election of Directors of the Association and the resolution of such other issues as may be brought before the Membership of the Association shall be governed by this Declaration, the North Carolina Non-Profit Corporation Code, The North Carolina Planned Community Act, the Articles of Incorporation of the Association, and the By-Laws of the Association, as each shall, from time to time, be in force and effect.

ARTICLE III ASSESSMENTS AND FINES

3.01 *Duty to Pay Assessments.*

(a) Each Owner of any Lot, for said Owner, the Owner's heirs, devisees, legal representatives, personal representatives, successors and assigns, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, or by affirmative approval of this Declaration, is deemed to covenant and agree to pay to the Association annual and special assessments or charges for common expenses for maintenance and improvement of the common areas, existing roads and road rights of way located within the Subdivision and all other common expenses of the Association as the same are approved and levied by the Board of Directors of the Association, including but not limited to, assessments for capital improvements, reasonable reserves and administrative expenses.

3.02 *Accumulation of Funds Permitted.* The Association shall not be obligated to spend in any calendar year all the sums collected in such year by way of annual assessments or otherwise, and may carry forward, as surplus, any balances remaining; nor shall the Association be obligated to apply such surplus to the reduction of the amount of the annual assessments in any succeeding year, but may carry forward from year to year such surplus as the Board may deem to be desirable for the greater financial security of the Association and the effectuation of its purpose.

3.03 *Annual Assessments.* An annual budget, including a proposed annual assessment, shall be presented by the Board to the Members in accordance with N. C. Gen. Stat. § 47F-3-104(c). The due date for annual assessments shall be set by the Board.

3.04 *Special Assessments.* In addition to the annual assessments authorized by this Article III, the Association may levy, in any Assessment Year and with such annual frequency as the Association shall deem necessary, special assessments for the purpose of paying, in whole or in part, any unanticipated operating expenses or capital project. Such special assessments may be levied by the Board upon approval of the Members. The due date for any Special Assessment shall be set by the Board. Approval by the Members shall require approval by the owners of a majority of the Lots subject to the Declaration.

3.05 *Effect of Non-Payment of Dues and/or Assessments/Fees; Lien.*

(a) Any assessment which is not paid on or before the Due Date shall be subject to late fees, interest and reasonable attorneys' fees as permitted by Chapter 47F of the North Carolina General Statutes. In the event that an Owner shall fail to pay fully any portion of any assessment prior to the date on which payment is due, the Board may declare any remaining balance and installment immediately due and such unpaid balance, together with late fees, interest and costs of collection as determined by the Board, including reasonable attorneys' fees, shall be a binding personal obligation of each such Owner at the time such assessment was due. The personal obligation for delinquent assessments shall not pass to the Owner's successors in title unless expressly assumed by the successors.

(b) The unpaid annual and special assessments, together with interest and late charges as determined by the Board, costs, and reasonable attorneys' fees, shall be a charge on each Lot, and shall be a continuing lien upon the property against which each such assessment is made and may be foreclosed upon pursuant to N.C. Gen. Stat. §47F-3-116.

3.06 *Impact Fees.* Recognizing that certain activity requires an increase in heavy equipment traffic on subdivision roads contributing to the need for increased maintenance of roads, within thirty (30) days of issuance of a building permit for construction of a dwelling upon a lot and prior to any activity that results in use of the subdivision roads by heavy equipment, which shall not exceed 70,000 lbs, the owner of such lot upon which the building or other activity is taking place shall pay to the Association an impact fee with an initial deposit of \$1,000.00 and additional fees that are commensurate with the repairs required after the construction is completed. If clearing of the house site activity and/or construction activity continues for more than one 12-month period, the fee shall be due for each 12-month period or part of any 12-month period thereafter that such activity continues. If there is damage done to the road, culverts, or the drainage ditches that is attributable to any lot, that lot shall be solely liable for returning the damaged area to the condition it was in prior to the damage occurring.

3.07 *Fines.* Fines may be imposed for violations of this Declaration in accordance with N.C. Gen. Stat. § 47F-3-107.1.

ARTICLE IV
GENERAL COVENANTS AND RESTRICTIONS

4.01 *Quality of Construction.* All dwellings and outbuildings erected upon any Lot shall be constructed of material of good grade, quality, and appearance and shall be constructed in a good and workmanlike manner. The Board reserves the right to inspect the property for compliance with the approved plans during construction and at completion.

4.02 *Appearance.* All garages and outbuildings shall be similar in exterior appearance to the dwelling located on such Lot.

4.03 *Minimum Size of Lots.* No lot shall be less than 1.5 acres in size.

4.04 *Use of Lots.* No Lot shall be used for purposes other than single family residential purposes. "Single family residential purposes" shall mean activities reasonably associated with and incidental to occupancy by one (1) or more persons functioning as an integrated family unit rather than independent persons who share only the place where they sleep and take their meals. Single family purposes shall not include any commercial use.

4.05 *Residential Buildings.* Only one (1) single family residential dwelling and permitted outbuildings shall be erected, placed or permitted to remain on any Lot. Permitted outbuildings shall be limited to the following outbuildings incidental to the residential use of the Lot: a one, two or three car garage and one small storage building may be constructed, which are incidental to the residential use of the Lot, provided prior written permission is obtained from the Architectural Review Committee. "Single family residential dwelling" shall mean a building designed for and constructed for occupancy for only residential purposes by one (1) or more persons functioning as an integrated family unit rather than independent persons who share only the place where they sleep and take their meals. A single-family dwelling may include an attached room or set of rooms designed to be a separate dwelling unit for one (1) or more members of the integrated family unit.

4.06 *Manufactured Homes.* No manufactured home shall be located within the Subdivision. A "manufactured home" is a structure, transportable in one or more sections, which, in the traveling mode, is eight (8) feet or more in width or is forty (40) feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. A "manufactured home" does not include a modular home which is designed to meet the North Carolina State Building Code and to be assembled and placed on a permanent foundation. No camper trailer, motor home, tent, or other recreational vehicle shall be used as a permanent residence upon any lot; except that one may be used during the construction of a principal residence as a temporary residence for the lot owner, but not for a period of time to exceed twelve (12) months.

4.07 *Minimum Size of Dwellings.* No main dwelling shall be erected with an enclosed, heated floor area of less than 1,200 square feet of enclosed, heated floor space that is a living area exclusive of carports, screened areas, porches, patios, terraces, and decks. No building constructed on any lot may exceed two (2) stories in height.

4.08 *Setbacks.* No residence, building, or any other structure shall be built or maintained within thirty (30) feet from any property line or the edge of any roadway easement, unless a variance is first obtained in writing from the Architectural Review Committee. This restriction shall not apply with respect to the interior boundaries between Lots being improved as a unit.

4.09 *Completion of Construction.* The exterior of all houses and other structures shall be completed within one (1) year after the construction of the same shall have commenced, except where fire or other natural calamity or national emergency makes completion impossible within the one-year period. No dwelling shall be occupied before completion of the exterior construction, including final painting, unless written approval of such occupancy is first obtained by the Board. The landscaping and grassing of each Lot shall be completed within one (1) year from the time any construction begins on any Lot.

4.10 *Location of Building and Septic Tanks.* No building or structure, and no septic tank or septic tank drain field shall in any event be placed, or erected and maintained so that any part thereof lies within twenty-five (25) feet of either boundary line of the lot, and the septic tank drainage areas are to be approved by local health departments or grantors. All water systems and septic disposal systems shall be constructed and installed in accordance with the rules and regulations of authorities with jurisdiction, as from time to time amended, and no outside toilets shall be built upon any Lot.

4.11 *Combination of Lots.* Lots may be resubdivided, provided all resulting lots or parcels are one and a half (1.5) acres or more in size. Only one Single Family Dwelling may be constructed per Lot. No outbuildings of any kind may be constructed, except that for each Single Family Dwelling constructed, a one, two or three car garage may be constructed, which may be detached from the Single Family Dwelling, and one small storage building may be constructed, provided prior written permission is obtained from the Architectural Review Committee.

4.12 *No Business Activity.* No business activity, including but not limited to, a rooming house, boarding house, gift shop, antique shop, landscape business, professional office or beauty shop, or the like, or any trade of any kind whatsoever (in which clients or members of the public regularly come to any Lot or any significant business traffic is generated in the Subdivision) shall be carried on upon any Lot or Lots. Provided, however, that nothing contained herein shall be construed to prohibit use of any portion of a residence as a home office or art studio, so long as no clients or members of the public regularly come to any Lot and no significant business traffic is generated in the Subdivision on account of such use. Provided further, however, that nothing contained herein shall be construed to prohibit the construction of houses to be sold on Lots or the showing of said houses for the purpose of selling houses in the Subdivision.

4.13 *Vehicles.* No unlicensed or inoperable vehicles may be maintained or kept on any Lot in the Subdivision. No Owner or Owners of any Lot shall operate motorcycles, 4x4, side-by-sides, or similar vehicles or permit motorcycles or similar vehicles to be operated by those under their control or those who ought to be under their control within the boundaries of the Subdivision, except for legitimate purposes of transportation to and from work into and out of the Subdivision. It is the intention of this restriction to prohibit sport riding or joy riding upon motorcycles and similar vehicles within the boundaries of the Subdivision.

4.14 *Personal Gardens.* The owner of each lot shall be allowed to maintain a vegetable garden of sufficient size to provide for the needs of the family occupying the home on said premises and no part of the said garden shall be located within thirty (30) feet of the edge of the right of way of the roads passing said property.

4.15 *Debris, Scrap Material, Garbage and Rubbish.* Lot Owners shall keep their Lots free of debris (i.e., construction material remaining after construction is complete, broken or crumbled material or mass, debris from pruning or processing plant material or the remains of something broken down or destroyed), garbage, presently useless or superfluous old or discarded articles, wasted or spoiled food and other refuse, as from a kitchen or household, and one or more small pieces or amounts of something no longer regularly used, especially pieces or amounts of material left over after the greater part has been used. Yard trimmings, cuttings, diseased trees, and waste shall not be disposed of on nearby or adjacent Lots or properties. Such waste or cuttings shall be disposed of in a legal manner that does not become a nuisance or hazard. Waste piles shall not accumulate to become a fire hazard. All trash, garbage, and waste shall be kept in sanitary, closed receptacles. All garbage cans and similar receptacles shall be kept in an enclosed or screened area, so that the same will not be visible from other Lots in the Subdivision or roads in the Subdivision. No burning of garbage shall be done or permitted on any Lot in the Subdivision.

4.16 *Drainage Tiles and Culverts.* Owners of lots are required to install their own drainage culvert under new driveways constructed over drainage ditches if necessary for continuance of proper subdivision drainage patterns. Said drainage culvert shall be a minimum of twelve (12) inches in diameter and shall be maintained by the owner and kept free of debris. Drainage culverts that connect to the main road should be fifteen (15) inches in diameter or larger. Each Owner shall: keep the drainage ditches, swales, and culverts located on their Lot free and unobstructed and in good repair and shall provide for the installation of such culverts upon their Lot as may be reasonably required for proper drainage. If not so maintained, the Association shall have the right, but not the obligation, through its agents and/or employees, to rectify the failure to keep the aforementioned in good repair and any damage resulting from failure to maintain and the cost of such undertakings shall be added to and become a part of the annual assessment to which a lot is subject. Neither the Association nor any of its agents, employees, or contractors shall be liable for any damage which may result from the performance of any services herein authorized.

4.17 *Animals.* No animal of any kind shall be maintained or bred for commercial purposes. No animals shall be kept or maintained on any Lot except for three of any combination of the following: dogs, cats, birds, rodents, rabbits, fish or turtles, provided the same shall be kept reasonably confined on said Lot so as not to become a nuisance. Upon approval of placement, up to two beehives may be maintained on any Lot in the Subdivision.

4.18 *Signs.* The following signs shall be the only permitted signs in the Subdivision: family name and address signs. Nothing in this provision shall be construed to regulate or prohibit the display of the flag of the United States or North Carolina, nor does it regulate or prohibit the indoor or outdoor display of a political sign. All other signs are prohibited.

4.19 *Trees.* The Association has an easement, which may be assigned to the Architectural Review Committee, for the purpose of going upon each Lot for the cutting and maintaining of views and vistas in the interest of shared enjoyment of distant scenes by adjacent and nearby Lot Owners. It is understood, however, that the Association, or its assigns, shall only maintain and cut views and vistas to enhance the enjoyment of Owners and occupants of dwellings located upon adjacent or nearby Lots, and that said cutting and maintaining of views and vistas will be done selectively with the purpose of attaining an artistic result with every effort being made to preserve specimen trees and plants. Nothing herein shall be construed to affirmatively require the Association, or its assigns, to cut or maintain views and vistas. The costs incurred by the Association, or its assigns, in cutting and maintaining views and vistas pursuant to this paragraph shall be borne by the Lot Owners who are benefitted thereby, provided that no such Lot Owner shall be required to pay for the cutting and maintaining of views and vistas unless he requests that the same be done or consents to the same.

4.20 *Prohibited Yard Fixtures.* No outdoor clotheslines will be permitted on any Lot. No swingsets, sculptures, statues or other artificial yard toys or adornments will be permitted on any Lot without the express prior written permission of the Architectural Review Committee.

4.21 *Fuel Tanks.* No fuel tanks or similar storage receptacles may be maintained on any Lot unless the same are installed within a building, are buried under ground, or are otherwise installed so that they are not visible from any place outside the Lot.

4.22 *Antennae.* No permanent or temporary antennae of any kind for television, radio, short-wave, or any other use may be erected, placed, maintained, or located upon any Lot without the express prior written permission of the Architectural Review Committee, and any antennae approved by the Architectural Review Committee must be installed, painted and maintained in such a way as may be from time to time provided by the Architectural Review Committee. The provisions of this restriction specifically include dish and saucer type antennae larger than eighteen (18) inches diameter.

4.23 *Building Materials.* No building constructed on any Lot shall have tar paper, asbestos, unfinished plywood, exposed sheet goods, or rough hewn irregular edged type siding.

No building constructed on any Lot shall have a mansard type roof or flat roof. No building constructed on any Lot shall have an exposed metal chimney. No residence constructed on any Lot shall have visible concrete blocks, and any and all concrete blocks used in construction on any Lot shall be covered with stone, brick, stucco, wood, or similar siding. All construction must be performed using new materials only, or using antique architectural materials.

4.24 *Fencing.* No fencing may be constructed without the prior written approval of the Architectural Review Committee.

4.25 *Nuisances.* No activity or condition that constitutes a public or private nuisance under North Carolina law is permitted upon any Lot.

4.26 *Maintenance.* Each Owner shall keep and maintain each Lot and Structure owned by them, as well as all landscaping located thereon, in good condition and repair, including, but not limited to (is) the repairing and painting (or other appropriate external care) of all Structures, and (ii) the pruning and trimming of all trees, hedges, and shrubbery so that the same are not obstructive of a view by motorists or pedestrians of street traffic.

4.27 *Easement Area.* The words "Easement Area" as used herein shall mean those areas on any Lot or any other portion of the Property with respect to which easements are shown on a recorded deed, easement agreement, or any filed or recorded map or plat or relating thereto. Easements for the installation and maintenance of utilities, to include but not limited to electric, cable, water, septic, and telephone service and drainage facilities, are expressly reserved over all roadway easements within the Subdivision and within the ten (10) foot wide strip immediately inside the boundary of each Lot; provided, in the event of the improvement of one (1) or more Lots as a unit, such easement shall not exist with respect to interior Lot lines unless use of such easement for such purposes has already begun. The owner of each Lot shall maintain that portion of the Lot lying within the easement areas. By reservation of said easements, the Association is not obligated to provide any utility service to any Lot. All utility lines, including electrical, telephone, cable television, water and sewer lines, installed in the Subdivision shall be installed underground.

4.28 *Entry.* The Association and its employees, agents, successors and assigns, shall have the right at all reasonable times to enter upon all parts of each Easement Area for any of the purposes for which such Easement Area is reserved, without being deemed to have committed a trespass or wrongful act solely by reason of such entry and the carrying out of such purposes, provided the same are done in accordance with the provisions of this Section. The Association and its employees, agents, successors and assigns shall be responsible for leaving each Lot in good condition and repair following any work or activity undertaken in an Easement Area.

4.29 *Pollution of Water.* In the interest of public health and sanitation, and so that the subdivision and all other land in the same locality may be benefitted by a decrease in the hazards of stream pollution and by the protection of water supplies, recreation, wildlife, and other uses thereof, lot owners will not use the lot within the subdivision for any purpose that would result in

the pollution of any waterway that flows through or adjacent to the subdivision by refuse, sewage, or other material that might tend to pollute the waters of any such stream or streams.

4.30 *Driveways.* Driveways shall be graveled with proper drainage, culverts, and riprap.

ARTICLE V ARCHITECTURAL REVIEW COMMITTEE

5.01 *Architectural Review Committee.* There is hereby established for the Subdivision an Architectural Review Committee (hereinafter "ARC") to insure the development of the Subdivision and the improvement of the Lots therein in accordance with this Declaration, and to control the type, nature, and design of all building, structures, and other improvements constructed within the Subdivision.

5.02 *ARC Review.* No principal residence, garage or storage building shall be erected, placed, or altered on any lot within the Subdivision until the proposed building and plot plans showing detailed specifications, elevations, dimensions, exterior color and finish, location of improvements, drives and parking areas shall have been specifically approved in writing by the ARC. In addition, no swimming pool, wall, fence, hedge used as a wall, or other structure or man-made improvement whatsoever shall be erected, placed or altered on any Lot within the Subdivision until the same shall have been specifically approved in writing by the ARC. No additions shall be made to an existing structure, including, but not limited to, room enclosures, roof extensions, nor decks or porches, shall be commenced on any Lot within the Subdivision until the plans for the same shall have been specifically approved in writing by the ARC.

No land clearing, filling, or grading shall be done on any Lot within the Subdivision until the plans for the same shall have been specifically approved in writing by the ARC, except as set forth in paragraph 4.19 herein above. Trees having a diameter of twelve (12) inches or greater, one (1) foot above ground level, shall not be cut without prior written consent of the ARC unless such trees are diseased, a danger to any structure located on the Lot or such removal as necessary to affect the implementation of plans already approved by the ARC. Failure to obtain the requisite approval may result in fines and, at the ARC's discretion, the requirement that the Lot owner replace the fallen tree with trees totaling an equal number of inches of diameter to the fallen tree. No lot owner shall plant any species that is considered invasive on their lot. Lot owners shall try to keep any invasive species that is currently on their lot maintained and trimmed.

The ARC shall review all plans and specifications and requests to it, taking into consideration harmony of exterior design, color, and location in relation to other structures and Lots in the Subdivision. The ARC shall have the authority to grant variances to the setback requirements contained hereinabove. Every Lot Owner agrees for himself, his heirs, successors and assigns, by the acceptance of his deed, that the ARC shall have total authority to accept or reject any plans or requests submitted to it and that refusal or approval of plans, locations, specifications, or other

requests may be based by the ARC upon any grounds including purely aesthetic considerations. Provided, however, the ARC may not act arbitrarily or unreasonably.

The Board of Directors shall constitute, or have the right to appoint, the members of the ARC, which shall be made up of three (3) members. At all meetings of the ARC, two-thirds (2/3) of its members shall constitute a quorum, and shall act by majority vote and keep proper records and minutes.

5.03 *Submission to the ARC and Decision Time Frames.* All plans, specifications, and other requests submitted to the ARC must be submitted at least twenty (20) days prior to the anticipated commencement of the proposed work. All submissions to the ARC shall contain the name, address, email address, and telephone number of the Lot Owner, and the name, address, email address and telephone number of any contractor or architect involved. The ARC shall transmit its decision to the effected Lot Owner within fifteen (15) days of receipt by the ARC of all information required or needed to make their decision.

ARTICLE VI ENFORCEMENT

6.01 *Right of Enforcement.* This Declaration and the Restrictions contained herein shall inure to the benefit of and shall be enforceable by the Association and each Owner, their, heirs, devisees, legal representatives, successors and assigns. Any remedy available at law or in equity may be used and the Court in such action may award the successful party reasonable expenses in prosecuting such action, including attorneys' fees.

6.02 *Specific Performance.* Nothing contained in this Declaration shall be deemed to affect or limit the rights of the Association or any Owner to enforce the Restrictions by appropriate judicial proceedings or to recover damages. However, it is hereby declared that it may be impossible to measure accurately in money the damages which will accrue to a beneficiary thereof, its transferees, successors or assigns, by reason of a violation of, or failure to perform, any of the obligations provided by this Declaration, and therefore, any beneficiary hereof shall be entitled to relief by way of injunction or specific performance, as well as any other relief available at law or in equity, to enforce the provisions hereof. Nothing contained in this Section shall prohibit the Association from imposing fines for failure to comply with this Declaration in addition to all other legal remedies.

6.03 *No Waiver.* The failure of the Association or any Owner to enforce any Restriction herein contained shall in no event be considered a waiver of the right to do so thereafter, as to the same violation or breach, or as to any violation or breach occurring prior or subsequent thereto, or as to the same violation or breach by the Owner of any other Lot.

ARTICLE VII
DURATION AND AMENDMENT

7.01 *Duration.* This Declaration and the Restrictions contained herein shall run with and bind the Property for a period of ten (10) years from the date of recording this Declaration and shall automatically renew for successive ten (10) year periods unless terminated or amended in accordance with this Declaration and North Carolina law.

7.02 *Amendments.* Amendments to this Declaration shall be proposed and adopted in accordance with N. C. Gen. Stat. § 47F-2-117 as the same may be amended from time to time.

ARTICLE VIII
MISCELLANEOUS

8.01 *Severability.* A determination by a court that any provision hereof is invalid for any reason shall not affect the validity of any other provision hereof.

8.02 *Headings.* The headings of the Articles and Sections hereof are for convenience only and shall not affect the meaning or interpretation of the contents of this Declaration.

8.03 *Covenants to Run With the Land.* This Declaration agreement shall be binding upon the parties hereto, their respective heirs, personal representatives, successors and assigns, and shall run with the titles to the lands of the undersigned and all other lands subject to the aforesaid Declarations in the Barkers Creek Preserve Subdivision.

8.04 *Invalidation of Any Section.* Invalidation of any Section or provision of this Declaration by judgment or court order shall in no way affect any other Sections or provisions which shall remain in full force and effect.

This the 7th day of April, 2025.

Owners of Lot(s): 1

Robert Marion Roberson (SEAL)
ROBERT MARION ROBERSON

Amy Jo Roberson (SEAL)
AMY JO ROBERSON

State of Florida County of Gilchrist

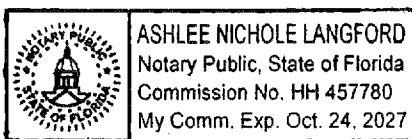
I, Ashlee Langford a Notary Public of the County and State aforesaid, certify that ROBERT MARION ROBERSON and AMY JO ROBERSON personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 7th day of April, 2025.

10-24-2027
My Commission Expires

Ashlee Langford
Notary Public

(SEAL)



Owner signatures above confirm receipt and review of the Amended And Restated Declaration of Covenants, Easements, And, Conditions For Barkers Creek Preserve Subdivision. Document # 2023.4026, 15 pages.

This the 8 day of April, 2025.

Owners of Lot(s): 5

[Signature] (SEAL)
RAYMOND L. STOLTZFUS

[Signature] (SEAL)
F. CAROLINE STOLTZFUS

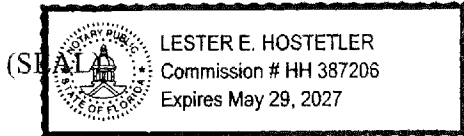
State of Florida County of Sarasota

I, Lester E Hostetler a Notary Public of the County and State aforesaid, certify that RAYMOND L. STOLTZFUS and F. CAROLINE STOLTZFUS personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 8 day of Apr 2025.

My Commission Expires

[Signature]
Notary Public



This the 2nd day of April, 2025.

Owners of Lot(s): 7, 16

[Signature] (SEAL)
RICHARD MOLSKI

[Signature] (SEAL)
DOROTHY MOLSKI

State of Florida County of Pravend

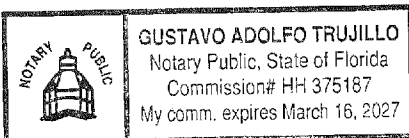
I, Gustavo Adolfo Trujillo Notary Public of the County and State aforesaid, certify that RICHARD MOLSKI and DOROTHY MOLSKI personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 2nd day of April, 2025.

03.16.2027
My Commission Expires

[Signature]
Notary Public

(SEAL)



This the 2nd day of April, 2025.

Owners of Lot(s): 10

Richard M. Molski (SEAL)
RICHARD MICHAEL MOLSKI

Dorothy Marshall Molski (SEAL)
DOROTHY MARSHALL MOLSKI

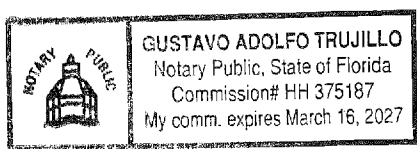
State of Florida County of Broward

I, Gustavo Adolfo Trujillo a Notary Public of the County and State aforesaid, certify that RICHARD MICHAEL MOLSKI and DOROTHY MARSHALL MOLSKI personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 2nd day of April, 2025.

03.16.2027 My Commission Expires Gustavo Adolfo Trujillo Notary Public

(SEAL)



This the 7th day of April, 2025.

Owners of Lot(s): 12, 40, 41

Ted J. Sugarman (SEAL)
TED J. SUGARMAN

Leslie G. Sugarman (SEAL)
LESLIE G. SUGARMAN

State of Florida County of Hillsborough

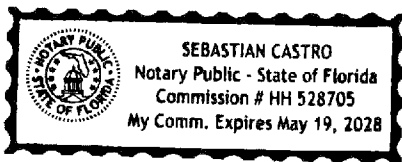
I, ~~Ted Jerome Sugarman~~ ^{SC} Sebastian ^{Castro} a Notary Public of the County and State aforesaid, certify that TED J. SUGARMAN and LESLIE G. SUGARMAN personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 7th day of April, 2025.

May 19th, 2028
My Commission Expires

Sebastian Castro
Notary Public

(SEAL)



This the 14 day of April, 2025.

Owners of Lot(s): 15

Mr Newell

(SEAL)

MAC GOTHARD NEWELL

Renée H. Newell
Renée H. Newell

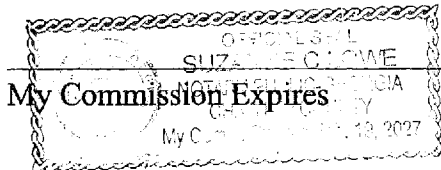
(SEAL)

RENEE HADWIN NEWELL

State of Georgia County of Chatham

I, Suzanne C. Lowe a Notary Public of the County and State aforesaid, certify that MAC GOTHARD NEWELL and RENEE HADWIN NEWELL personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 14 day of April, 2025.



(SEAL)

Suzanne C. Lowe
Notary Public

This the 4th day of April, 2025.

Owners of Lot(s): 17

Michael Chisholm (SEAL)
MICHAEL CHISHOLM

Loriann Chisholm (SEAL)
LORIANN CHISHOLM

State of Massachusetts County of Bristol

I, Tammy Baillargeon a Notary Public of the County and State aforesaid, certify that MICHAEL CHISHOLM and LORIANN CHISHOLM personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 4th day of April,

2025



Tammy L. Baillargeon
NOTARY PUBLIC
Commonwealth of
Massachusetts
My Commission Expires
6/30/2028


My Commission Expires

Tammy Baillargeon
Notary Public

(SEAL)

This the 23 day of April, 2025.

Owners of Lot(s): 21

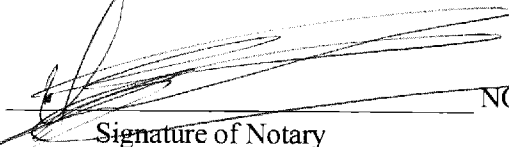


JOHN DERRICK JONES

With the United States Armed Forces

On this the day of April 23, 2025 before the undersigned officer or other person authorized to serve as a federal notary under 10 U.S.C. § 1044a, personally appeared JOHN DERRICK JONES, satisfactorily proven to be (a) serving in or retired from the Armed Forces of the United States, or (b) a lawful dependent of a person serving in or retired from the Armed Forces of the United States, or (c) a person serving with, employed by, or accompanying the Armed Forces of the United States outside the United States and outside the Canal Zone, Puerto Rico, Guam, and the Virgin Islands, and to be the person whose name is subscribed to the foregoing instrument prepared by Ferikes, Bleynt, & Cannon PLLC, titled AMENDED AND RESTATED DECLARATION OF COVENANTS, EASEMENTS, AND CONDITIONS FOR BARKERS CREEK PRESERVE SUBDIVISION and acknowledged that he or she executed the same. And the undersigned does further certify that he or she is at the date of this certificate an officer or other person of the Armed Forces of the United States having the general powers of a notary public under the provisions of Section 936 or 1044a of Title 10 of the United States Code (Public Law 90-632; 101-510; and 114-328).

AUTHORIZED TO ACT AS A NOTARY PUBLIC UNDER THE PROVISIONS OF SECTION 1044a OF TITLE 10 OF THE UNITED STATES CODE.



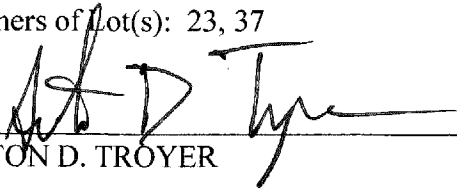
Signature of Notary

NO SEAL REQUIRED BY LAW

Name of Officer/Notary and Position: Izac E. Ossiander
Grade and Branch of Service: Major, USMC
Command or Organization: Joint Staff, J7, Suffolk, Virginia

This the 8th day of April, 2025.

Owners of Lot(s): 23, 37

 (SEAL)
SETON D. TROYER

State of Ohio County of Wayne

I, Allen Miller a Notary Public of the County and State
aforesaid, certify that SETON D. TROYER personally appeared before me this day and
acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 8 day of April,
2025.

ALLEN L MILLER
NOTARY PUBLIC STATE OF OHIO
Comm. No. 2019-RE-801655
~~My commission expires Sept. 15, 2029~~
(SEAL)


Notary Public

This the 4 day of October, 2025.

Owners of Lot(s): 24

MARK H. LARSEN AND RAYANN L. LARSEN

[Signature]

(SEAL)

MARK H. LARSEN

[Signature]

(SEAL)

RAYANN L. LARSEN

State of Georgia County of Fulton

I, KeyAuna Woods, a Notary Public of the County and State, so hereby certify that MARK H. LARSEN and RAYANN L. LARSEN personally appeared before me this day and acknowledged they execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 4 day of October, 2025.

[Signature]
Notary Public

NOTARY SEAL

My Commission Expires: 03-26-2028

(SEAL)



Amended and Restated Declaration of Covenants Barkers Creek Preserve Subdivision HOA Lot 25

This the 31 day of March, 2025.

Owners of Lot(s): 25

[Signature] (SEAL)
TIMOTHY GRUBBS

[Signature] (SEAL)
ELIZABETH GRUBBS

State of Georgia County of Hall

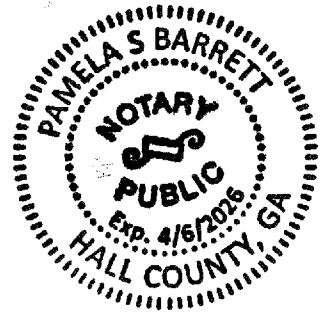
I, Pamela S. Barrett a Notary Public of the County and State
aforesaid, certify that TIMOTHY GRUBBS and ELIZABETH GRUBBS personally appeared
before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 31st day of MARCH,
2025.

4-6-2026
My Commission Expires

[Signature]
Notary Public

(SEAL)



This the 31 day of March, 2025.

Owners of Lot(s): 26

Laura A. Lebeau (SEAL)
LAURA A. LEBEAU

Judith A. Parow (SEAL)
JUDITH A. PAROW

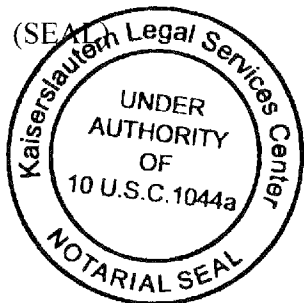
State of Armed Forces Europe County of Kleber Kasern, Germany

I, SGT Mykeil Mercer, U.S. Army a Notary Public of the County and State
aforesaid, certify that LAURA A. LEBEAU and JUDITH A. PAROW personally appeared
before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 31 day of March,
2005.

Indefinite
My Commission Expires

[Signature]
Notary Public



This the 12th day of April, 2025.

Owners of Lot(s): 27, 28

Francisco R. Junco (SEAL)
FRANCISCO R. JUNCO

Arlene D. Smith-Junco (SEAL)
ARLENE D. SMITH-JUNCO

State of North Carolina County of Jackson

I, Kadie M Birchfield a Notary Public of the County and State aforesaid, certify that FRANCISCO R. JUNCO and ARLENE D. SMITH-JUNCO personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 12th day of April, 2025.

June 26, 2028
My Commission Expires

Kadie M Birchfield
Notary Public



This the 2nd day of May, 2025.

Owners of Lot(s): 30, 31

Mark Vassar (SEAL)
MARK VASSAR

Robyn Vassar (SEAL)
ROBYN VASSAR

State of GA County of Gwinnett

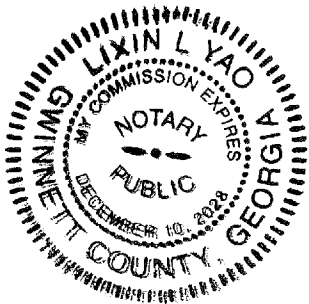
I, Lixin L. Yao a Notary Public of the County and State aforesaid, certify that MARK VASSAR and ROBYN VASSAR personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 2 day of May, 2025

DP - 10, 2028
My Commission Expires

Lixin L. Yao
Notary Public

(SEAL)



This the 31st day of MARCH, 2025.

Owners of Lot(s): 32

[Signature] (SEAL)
WILLIAM R. ROSS

Astrid K. Ross (SEAL)
ASTRID K. ROSS

State of North Carolina County of Haywood

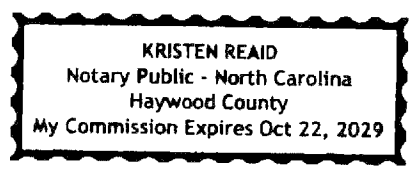
I, Kristen Reaid a Notary Public of the County and State aforesaid, certify that WILLIAM R. ROSS and ASTRID K. ROSS personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 31st day of March, 2025.

October 22, 2029
My Commission Expires

[Signature]
Notary Public

(SEAL)



This the 31 day of March, 2025.

Owners of Lot(s): 33

Ruth Gurley (SEAL)
RUTH GURLEY

State of FLORIDA County of SEMINOLE

I, Jessica Suarez a Notary Public of the County and State aforesaid, certify that RUTH GURLEY personally appeared before me this day and acknowledged the execution of the foregoing instrument.

X Witness my hand and official stamp or seal, this 31 day of March 2025

My Commission Expires

Notary Public

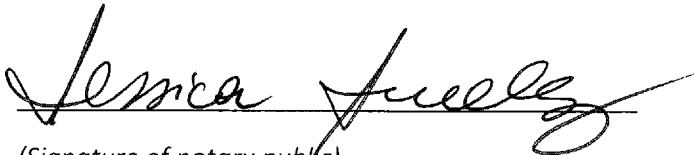
(SEAL) See attachment.

State of Florida Acknowledgement Notary Certificate

**STATE OF FLORIDA
COUNTY OF SEMINOLE**

On March 31, 2025, before me, Jessica Suarez , a notary public, personally appeared by physical presence, Ruth Gurley who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the attached Amended and Restated Declaration of Covenants, Easements, and Conditions For Barkers Creek Preserve Subdivision [name of document] instrument and acknowledged to me that that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or entity upon behalf of which the person(s) acted executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State listed above that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Personally known OR
Produced identification X Type of identification produced: FL DRIVER LICENSE


(Signature of notary public)

My commission expires: Feb 28, 2028



Official Seal

I, Jessica Suarez a Notary Public of the County and State
aforesaid, certify that RUTH GURLEY personally appeared before me this day and
acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this day of, 31 March 2025

My Commission Expires Notary Public

(SEAL)



2023.4026 Page 15

The undersigned confirms approval of the amended and
restated declaration of the covenants, easements and conditions
for Barkers Creek Preserve Subdivision as set forth this 31st
day of March, 2025.

This the 2nd day of May, 2025.

Owners of Lot(s): 34

Mark Alan Vassar (SEAL)
MARK ALAN VASSAR

Robyn Dana Vassar (SEAL)
ROBYN DANA VASSAR

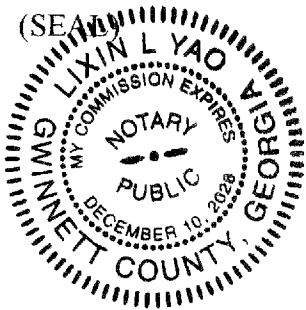
State of GA County of Gwinnett

I, Lixin L. Yao a Notary Public of the County and State aforesaid, certify that MARK ALAN VASSAR and ROBYN DANA VASSAR personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 2 day of May, 2025

Dec 10, 2028
My Commission Expires

Lixin L. Yao
Notary Public



This the 14th day of April, 2025.

Owners of Lot(s): 35

[Signature] (SEAL)
MOULTON PRICE LEBLANC

State of Tennessee County of Williamson

I, Tamara H Ashker a Notary Public of the County and State aforesaid, certify that MOULTON PRICE LEBLANC personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 14th day of April, 2025.

01-22-2029
My Commission Expires

[Signature]
Notary Public

(SEAL)



This the 27th day of March, 2025.

Owners of Lot(s): 36

[Signature] (SEAL)
GLEN A. BLYER

State of Montana County of Ravalli

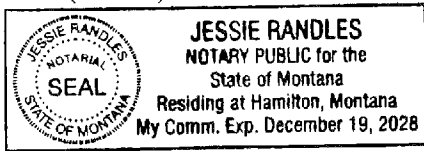
I, Jessie Randles a Notary Public of the County and State aforesaid, certify that GLEN A. BLYER personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 27th day of March, 2025.

Dec. 19, 2028
My Commission Expires

Jessie Randles
Notary Public

(SEAL)



This the 23 day of April, 2025.

Owners of Lot(s): 38

Dennis S. Mitrano (SEAL)
DENNIS S. MITRANO

State of Georgia County of Fulton

I, Kathleen F. Driscoll a Notary Public of the County and State
aforesaid, certify that DENNIS S. MITRANO personally appeared before me this day and
acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 23 day of April,
2025.

6/7/2027
My Commission Expires

[Signature]
Notary Public

(SEAL)

Kathleen F Driscoll
NOTARY PUBLIC
Forsyth County, GEORGIA
My Commission Expires 06/07/2027

This the 14 day of April, 2025.

Owners of Lot(s): 39

Brett Hannum (SEAL)
BRETT C. HANNUM

State of Ohio County of Wood

I, Amy M. Siler a Notary Public of the County and State aforesaid, certify that BRETT C. HANNUM personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 14th day of April, 2025.

May 12, 2028
My Commission Expires

Amy M. Siler
Notary Public



AMY M SILER
Notary Public
State of Ohio
My Comm. Expires
May 12, 2028

(SEAL)

This the 7 day of April, 2025.

Owners of Lot(s): 42

Walter R. Hilles, III (SEAL)
WALTER R. HILLES, III

Annette Diaz Hilles (SEAL)
ANNETTE DIAZ HILLES

State of Florida County of St. Lucie

I, Charleen Brabham a Notary Public of the County and State aforesaid, certify that WALTER R. HILLES, III and ANNETTE DIAZ personally appeared before me this day and acknowledged the execution of the foregoing instrument.

Witness my hand and official stamp or seal, this 7 day of April, 2025.

04/18/2026
My Commission Expires

Charleen Brabham
Notary Public

(SEAL)

