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 Douglas Sorrells Clerk Superior Ct
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 William H. Dodson, II, LLC
 6000 Lake Forrest Drive, Ste. 300
 Atlanta, Georgia 30328

01-49356

**DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS
 FOR BRIDLE STATION**

**THIS DECLARATION OF EASEMENTS, COVENANTS AND RESTRICTIONS
 FOR BRIDLE STATION** is made and entered into as of the 26 day of October, 2007, by
POLO FIELDS II, LLC, a Georgia limited liability company ("**Declarant**").

Background Statement

Declarant is the owner of fee simple title to the Property. Declarant desires to provide for the separate ownership of portions of the Property. In connection therewith, Declarant desires to subject and impose upon the Property certain covenants, conditions, restrictions, reservations, easements, equitable servitudes, charges and liens as set forth in this Declaration for the purpose of insuring the proper use and appropriate development, maintenance and improvement of the Property.

NOW, THEREFORE, Declarant hereby declares that the Property and any fee simple, leasehold or other interest therein is and shall be owned, held, transferred, sold, conveyed, mortgaged, hypothecated, encumbered, leased, subleased, rented, used, occupied, developed, improved and maintained subject to the terms, provisions, covenants, conditions, restrictions, reservations, easements, equitable servitudes, charges and liens set forth in this Declaration.

**ARTICLE I
DEFINITIONS AND PURPOSES**

1.1. Definitions In addition to terms defined elsewhere in this Declaration, the following words, when used in this Declaration, shall have the following meanings (such meanings to be applicable to both the singular and plural forms of the terms defined):

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"Approve", "Approved" or "Approval" means an express prior approval in a written statement signed by the approving Person.

"Approved Parcel 2 Plans" means the plans and specifications for Improvements on Parcel 2 which are referenced in **Exhibit "F"** attached hereto.

"Association" means the property owners' association organized pursuant to Section 9.2.

"Attached hereto" means and has reference to the following: Attached hereto and for all purposes incorporated herein by reference.

"Building" means, but is not limited to, both the main portion of a structure built for permanent use on a Parcel, and all projections or extensions thereof, including, but not limited to, garages, outside platforms and docks, carports, canopies, enclosed malls, and porches.

"Business Day" means any Day excluding any Saturday, any Sunday, and any national holiday observed by the United States Government.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as the same may be amended from time to time, or any corresponding provisions of succeeding law.

"Common Expenses" means (i) the expenses specified as Common Expenses in this Declaration, (ii) any real property taxes, service payments in lieu of such taxes or fees, annual or periodic license or use fees, excises, transit and traffic charges, sewer fees, public infrastructure improvement assessments or any other assessments, levies, fees, exactions or charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen (including fees "in-lieu" of any such tax or assessment" which are assessed, levied, charged, conferred or imposed by any public authority, or governmental or quasi-governmental authority or other entity upon any of the Common Facilities (or any real property comprising any portion thereof), and (iii) any costs, assessments, expenses or charges imposed upon Declarant as owner of any portion of the Property under any easement, covenant, condition, or restriction now or hereafter affecting any of the Common Facilities, or portions thereof.

"Common Facilities" means those portions of, and facilities within, the Shopping Center which are intended for the common use of the occupants, their customers, agents and employees, including, without limitation, sidewalks, driveways and curb-cuts, common loading zones, if any, and the Common Utility Facilities (as herein defined), provided, however, that parking areas within Parcel 1 and within Parcel 2 shall not be deemed to be Common Facilities.

"Common Utility Facilities" means all Utility Facilities constructed or installed from time to time in, on, over, under, through or across the Property as part of the utility system serving more than one Parcel and as shown on the Utility Plans, provided that any

portion of the Utility Facilities located within a Parcel and serving only that Parcel shall not be deemed to be a part of the Common Utility Facilities.

"Day" means and has reference to any one calendar day, unless specifically noted to the contrary.

"Declarant" means **POLO FIELDS II, LLC**, a Georgia limited liability company, and its successors and assigns, and shall include any assignee of the Declarant Interest pursuant to **Section 9.1 or 9.2** hereof, and any successor to the Declarant Interest pursuant to **Section 9.1 or 9.2** hereof.

"Declarant Interest" means the Declarant Powers, together with all of the right, title, interest, privileges, benefits and options of the "Declarant" under this Declaration.

"Declarant Obligations" means all of the duties, obligations, liabilities and responsibilities of the "Declarant" under this Declaration.

"Declarant Powers" means all of the rights, reservations, power and authority of the Declarant pursuant to this Declaration.

"Declarant Resignation Event" means the occurrence of any of the following events:

(a) Declarant ceases to exist and has not made an assignment of the entire Declarant Interest pursuant to **Section 9.1**; or

(b) Declarant, or the assignee of Declarant Interest pursuant to **Section 9.1**, files a written notice in the recording office where this Declaration is recorded that it has relinquished the Declarant Interest.

"Declaration" means this Declaration of Easements, Covenants and Restrictions, as the same shall be supplemented or amended from time to time as provided herein; and references to this Declaration mean and include each of the terms and provisions hereof, and each of the covenants, conditions, restrictions, reservations, easements, equitable servitudes, charges and liens set forth herein.

"Drainage Facilities" means the pipes, conduits and other facilities for the drainage of storm water located on the Property (or on easement areas adjacent thereto serving the Property) and serving more than one Parcel as shown on the Drainage Plans.

"Drainage Plans" means the plans and specifications for the Drainage Facilities which are subject to prior approval by Declarant pursuant to this Declaration.

"Foreclosure" means, without limitation: (i) the judicial foreclosure of a Mortgage; (ii) the exercise of a power of sale contained in any Mortgage; (iii) conveyance of the property encumbered by a Mortgage in lieu of foreclosure thereof; or (iv) any action commenced or taken by a lessor to regain possession or control of property leased under a sale/leaseback.

"Governmental Authority" means the United States of America, the State of Georgia, Forsyth County, Georgia, any municipal entity or authority that may hereafter annex the Property into its jurisdiction, and any agency, authority, court, department, commission, board, bureau or instrumentality of any of them.

"Governmental Requirement" means any constitution, statute, ordinance, code, regulation, resolution, rule, requirement or directive, and any decision, judgment, writ, injunction, order, decree or demand of court, administrative body or other authority construing any of the foregoing, including, without limitation, zoning ordinances, regulations and conditions.

"Hazardous Substance" means any substance identified in Section 101(14) of CERCLA or petroleum (including crude oil or any fraction thereof).

"Herein", "hereunder", "hereby", "hereto", "hereof" and any similar term means and refers to this Declaration as a whole.

"Including" means "including without limitation."

"Incurring Owner" means the Incurring Owner as defined in Section 6.1(b).

"Improvement" means, with respect to any Parcel, any Building, structure or other improvement of any kind or nature whatsoever in, on, over, under, through or across such Parcel, whether permanent or temporary, stationary or moveable, or above, on or below ground level, including, without limitation, all land preparation or excavation, grading and topographic elevations, landscaping, buildings (whether fully or partially enclosed), parking structures, parking areas, paving, site improvements, fences, walls, exterior screening, poles, towers, antenna, aerials, lighting, driveways, ponds, lakes, fountains, decks, benches and other exterior furniture, walkways, jogging paths, Utility Facilities, the Drainage Facilities, signs, exterior communications equipment and facilities, and any construction, alteration or other activity that affects the exterior color or appearance of any Building or other structure.

"Maintenance and Operational Activity" means any activity or function that takes place on an ongoing basis or intermittently for the purpose of maintaining or operating any Improvement during construction, renovation or installation of the Improvement or after such construction, renovation or installation has been completed or substantially completed.

"Mortgage" means any encumbrance of an Owner's fee simple title, or any interest therein, or the rents, income, revenues, issues and profits of the Owner now or hereafter incident or belonging to said Parcel, as security for any indebtedness or other obligation of the Owner or the Owner's permitted successors and permitted assigns, whether by deed to secure debt, mortgage, deed of trust, sale/leaseback, pledge, financing statement, security agreement, or other security instrument.

"Mortgagee" means the holder of any Mortgage and the indebtedness or other

obligation secured thereby, together with the heirs, legal representatives, successors, transferees and assigns of the holder.

"Mortgagor" means the Owner of the property or property interest conveyed or encumbered by any Mortgage.

"Occupant" means, as the context requires, an Owner, a Space Tenant, a tenant, or any other lawful user or occupier of any portion of the Property or any Improvements, including, without limitation, agents, employees, customers, invitees and licensees.

"Owner" means the Person or Persons who own or hold the aggregate fee simple estate in and to a Parcel, as shown in the real property records of Forsyth County, Georgia. Notwithstanding the foregoing:

(a) any Mortgagee shall not be deemed an Owner unless such Mortgagee shall have excluded the Mortgagor from possession by appropriate legal proceedings following a default under such Mortgage, or has acquired the interest encumbered by such Mortgage through Foreclosure;

(b) a Space Tenant shall not be deemed an Owner, unless otherwise agreed by the landlord under the subject Space Lease and approved by the Declarant; and

(c) any Person holding or owning any easements, rights-of-way or licenses that pertain to or affect any such real property shall not be deemed an Owner.

In the event an Owner of any Parcel consists of more than one Person, such Person, within thirty (30) Days after the date of their acquisition of such Parcel, shall execute and deliver to Declarant a written instrument, including a power of attorney appointing and authorizing one Person as their agent to receive all notices and demands to be given pursuant to this Declaration. Such owning Persons may change their designated agent by written notice to Declarant, but such change shall be effective only after actual receipt of such notice by Declarant.

"Parcel" means Parcel 1 and any other parcel of the Property which is subdivided from the Property, either by recordation of subdivision plat, conveyance, or other method. Initially, the Property will be composed of two (2) Parcels, being sometimes individually identified herein as "Parcel 1" and "Parcel 2," respectively. The legal descriptions of Parcels 1 and 2 are set forth on **Exhibit "B"** attached hereto and made a part hereof.

"Parcel 1" means that portion of the Property described on **Exhibit "B"** attached hereto; and such term includes, as the context requires, all Improvements from time to time located on Parcel 1.

"Parcel 1 Owner" means the Owner of Parcel 1.

"Parcel 2" means that portion of the Property also described on **Exhibit "B"**

attached hereto; and such term includes, as the context requires, all Improvements from time to time located on Parcel 2.

"Parcel 2 Owner" means the Owner of Parcel 2.

"Person" means an individual, partnership, joint venture, cotenancy, association, corporation, limited liability company, business trust, real estate investment trust, trust, banking association, federal or state savings and loan institution, or any other legal entity, whether or not a party hereto.

"Plat" means the plat of survey of Bridle Station prepared for Polo Fields II, LLC by H. Tate Jones (G.R.L.S. #2339) of LandAir Surveying Company dated October 15, 2007, and last revised October 22, 2007, a copy of which is attached hereto as **Exhibit "C"** and made a part hereof, as it may be modified from time to time by Declarant.

"Prime Rate" means the prime rate or base rate of interest announced by SunTrust Bank, Atlanta, Georgia, or its successor(s), whether or not such rate has been actually charged by such bank. In the event such bank discontinues the practice of announcing such rate, the term Prime Rate means the highest rate charged by such bank on short term, unsecured loans to its most creditworthy large corporate borrowers for commercial loans of short term maturities.

"Pro Rata Share" means, with respect to each Parcel, the following as of the date of this Declaration:

Parcel 1	88%
Parcel 2	12%

provided, however, that, if in the future the Parcel 1 Owner shall elect to subdivide Parcel 1, then Parcel 1's Pro Rata Share, as set forth above, shall be allocated between the new Parcels that previously comprised all of the parts of Parcel 1.

"Property" means all that certain tract or parcel of land lying and being in Forsyth County, Georgia, as more particularly described on **Exhibit "A"** attached hereto.

"Release" shall have the meaning given to such term in Section 101(22) of CERCLA.

"Shopping Center" means the Improvements to be constructed on the entire Property from time to time as initially depicted on the site plan attached hereto as **Exhibit "D"**.

"Space Lease" means any tenancy, leasing, sub-tenancy, sub-leasing, concession, rental, occupancy or other possessory or space use agreement entered into by an Owner and providing for the use, occupancy and enjoyment of space within a Building or any other portion of a Parcel or the Improvements thereon. A Space Lease shall not convey an interest in real property and shall constitute solely a usufructary interest.

"Space Tenant" means the tenant under a Space Lease.

"Utility Facilities" means all privately or Owner owned utility lines, facilities, pipes, conduits, and systems for domestic water, sanitary sewer, storm water (including the Drainage Facilities), constructed and installed in accordance with the Utility Plans and which directly or indirectly serve the Property or any part thereof.

"Utility Plans" means the plans and specifications for the Utility Facilities which are subject to prior approval by Declarant pursuant to this Declaration.

All terms used in this Declaration with an initial capital letter which are not defined in this Section 1.1 shall have the meanings ascribed to them elsewhere in this Declaration.

1.2 **Exhibits.** The following Exhibits are attached to, and incorporated in, this Declaration:

- Exhibit "A"** - Legal Description of Property
- Exhibit "B"** - Legal Description of Parcel 1 and Parcel 2
- Exhibit "C"** - Plat of Survey
- Exhibit "D"** - Shopping Center Site Plan
- Exhibit "E"** - Forsyth County Board of Commissioners Regular Meeting/Public Hearings – November 17, 2003, and November 16, 2006
- Exhibit "F"** - Approved Parcel 2 Plans

1.3 **Purpose.** The purpose of this Declaration is to ensure the proper use and appropriate development and improvement of the Property so as to provide a harmonious development that will promote the general welfare of the Owners and Occupants thereof and will protect the present and future value of the Property and all parts thereof; to ensure the orderly and attractive development and use of the Property; to prevent the erection on the Property of any Improvements built of improper or unsuitable design and/or materials; to prevent any haphazard and inharmonious improvement of Parcels; to protect Owners against such improper use of surrounding Parcels as will depreciate the value of their Parcels; to encourage the erection of attractive Improvements; to provide for the orderly and effective maintenance of the Property; to provide for the construction, installation, and maintenance of Common Facilities; and in general to preserve the architectural integrity, aesthetic appearance, and economic value of the Property and Improvements constructed thereon from time to time.

1.4 **Run With the Land.** This Declaration and all of the provisions hereof are and shall be real covenants running with the Property and shall burden and bind the Property for the duration hereof. To that end, this Declaration shall be deemed incorporated in all deeds and conveyances hereinafter made by Declarant and/or any Owner. Every Person, including a Mortgagee, acquiring or holding any interest or estate in any portion of the Property shall take or hold such interest or estate, or the security interest with respect thereto, with notice of the terms and provisions of this Declaration; and in accepting such interest or estate in, or an interest with respect to, any portion of the Property, such Person shall be deemed to have consented or assented to this Declaration and all of the terms and provisions hereof, whether or not such Person shall have executed any document or instrument evidencing the same.

ARTICLE II
PLAT

2.1 **Recordation or Amendments to the Plat.** From time to time, at any time and in its sole discretion, Declarant may record or later amend the Plat for any reasonable purpose whatsoever, including, without limitation, to (i) designate Parcels; or (ii) add to, subtract from or change the boundaries of any portion of the Property with respect to which Declarant is the Owner.

ARTICLE III
CONTROL AND LAND USE

3.1 **Restrictions.** To further the purpose of this Declaration as set forth in Article I hereof, the Property, or portions thereof as hereinbelow provided, shall be subject to the following restrictions:

(a) **Improvements on Parcels.** No Improvement shall be made on any parcel of land that is part of the Property unless Declarant has designated and approved that parcel as a Parcel hereunder. The architectural design of the Building and other Improvements to be constructed on Parcel 2 shall be harmonious with the architectural design of the Buildings and other Improvements to be constructed on Parcel 1.

(b) **Plan Approval.** Declarant shall have the sole right, power and authority to Approve and regulate the design and construction of all Improvements within the Property so as to assure compliance with the intent and purpose of this Declaration including, without limitation, for the purpose of the overall aesthetic coordination of the Property; provided, however, Declarant's Approval as set forth herein shall not be unreasonably withheld or delayed. No Improvement shall be made, constructed, erected, placed, modified, altered (by addition or deletion), demolished, rebuilt or reconstructed, maintained or permitted to remain on any Parcel unless and until the plans and specifications for such Improvement have been submitted to, and Approved by, Declarant pursuant to the provisions of this Declaration, and except in accordance with plans and specifications submitted to, and Approved by, Declarant pursuant to the provisions of this Declaration; provided, however, that alterations or remodeling, which (i) take place completely within a Building, (ii) do not change the exterior appearance in any material respect of such Building or alter the structural integrity of such Building, (iii) are not visible from the outside of the Building, (iv) do not increase the occupancy of the Building in any material respect beyond its theretofore intended capacity, and (v) do not create a demand for extraordinary sanitary sewer services, may be undertaken without the Approval of Declarant. For purposes of clause (ii) of this **Subsection 3.1(b)**, and only by way of example and not in limitation thereof, any change in the color or construction materials of the exterior of a Building shall be deemed "material".

(c) **No Subdivision.** No Parcel shall be split, divided or subdivided, nor shall the size, dimensions or boundaries of any Parcel be otherwise changed or altered, without the Approval of Declarant.

(d) **Temporary Structures.** No temporary Buildings or other temporary structure shall be permitted on any Parcel; provided, however, that, if Approved by Declarant, trailers, temporary buildings, barricades, and the like shall be permitted for construction purposes during the construction or reconstruction period of a permanent Building. Such structures shall be placed as inconspicuously as possible, shall cause no inconvenience to Owners or Occupants, and shall be removed not later than fourteen (14) Business Days after the date of substantial completion or occupancy of the Building(s), whichever is earlier, in connection with which the temporary structure was used, unless a variance is granted by Declarant.

(e) **Governmental Requirements.** All Parcels shall be developed, constructed, maintained, used, occupied and operated in compliance with all applicable Governmental Requirements, including, without limitation, restrictions on the activities and uses that may be conducted on the Property, as contained in Forsyth County zoning conditions applicable to the Shopping Center, as contained in Forsyth County Board of Commissioners Regular Meeting/Public Hearings – November 17, 2003, and November 16, 2006, a copy of which is attached hereto as **Exhibit “E”**.

(f) **Changes in Zoning.** Without the Approval of Declarant, which Approval will not be unreasonably withheld or delayed, no Owner or Occupant shall file with any Governmental Authority having jurisdiction over the Property or any part thereof any application or petition for zoning, rezoning, special use permit, or zoning variance, any subdivision plan, plat or application, any request for annexation, or any similar filing affecting the use of any portion of the Property.

(g) **Hazardous Substances.** Without the Approval of Declarant, no Owner, Occupant or other Person acting at the direction of or with the consent of an Owner or Occupant, shall in violation of any applicable environmental law or regulation manufacture, treat, use, store or dispose of any Hazardous Substance on, in, above or under the Property, or any part thereof. No Owner, Occupant or other Person acting at the direction or with the consent of an Owner or Occupant shall permit the Release of a Hazardous Substance on, from, in, above or under the Property or any part thereof so as to create an imminent and substantial endangerment to health, welfare or the environment.

In connection therewith, there shall be established prior to the date hereof, a baseline for the environmental condition of the Shopping Center (the “Baseline”), based on the results of a Phase I environmental audit of the Shopping Center obtained by Declarant. Each of Parcel 1 Owner and Parcel 2 Owner (or the Owners of any future Parcels created as a result of the subdivision of Parcel 1), for itself and its respective successors and assigns, indemnifies and agrees to hold the other party and its successors and assigns harmless from and against any and all loss, cost, damage or expense suffered or incurred by the other party or its successors or assigns because of any increase in the presence within the indemnitee’s property of any hazardous or toxic substances above the Baseline level and resulting from the presence of hazardous or toxic substances on or adjacent to the indemnitor’s property caused directly or indirectly by the actions or omissions of the indemnitor, its tenants, employees, agents, contractors, subcontractors, officers, customers or the successors or assigns of any of the foregoing.

(h) **Restriction on Height of Improvements on, and Use of, Parcel 2.** Parcel 2 of the Property may be used only as a retail banking facility for a period of five (5) years from and after the date hereof. Further, all Buildings and other Improvements constructed and maintained from time to time on Parcel 2 shall be subject to a height restriction of 1098 feet above mean sea level.

3.2 **Quality of Development.**

(a) **Construction and Maintenance of Improvements.** All Improvements shall be constructed and maintained in good quality and condition.

(b) **Use Restrictions.** Without the Approval of Declarant, no Owner shall use its Parcel or any portion of its Parcel for any of the following uses, nor enter into a lease or other occupancy agreement with any party which uses, or intends to use, any space in the Parcel for any of the following uses, and no such uses shall be permitted:

(i) dry cleaning establishment, provided, the foregoing restriction shall not include an establishment for dry cleaning drop-off and pick-up only, with no cleaning services being performed at the subject property;

(ii) a pool or billiard hall (unless operated as part of a large scale family recreation or entertainment facility);

(iii) a business selling alcoholic beverages for on-premises consumption except for a restaurant with sit down table service as its primary operation in which the sale of alcoholic beverages does not exceed 50% of its gross sales and for a bar operated in conjunction with an adjoining restaurant;

(iv) auto repair shop;

(v) adult book store;

(vi) bingo parlor;

(vii) a video game parlor or amusement arcade, unless part of a family entertainment facility or incidental to the operation of a bar;

(viii) a business which would emit or produce noxious fumes or gases or loud noises;

(ix) an assembly or manufacturing operation;

(x) a distillation, refining, smelting, industrial, agricultural, drilling or mining operation;

(xi) a junk yard, stock yard or animal raising operation;

- (xii) a dump or disposal, or any operation for the incineration or reduction of garbage or refuse;
- (xiii) a mortuary;
- (xiv) an establishment selling or exhibiting pornographic materials;
- (xv) a lot for the sale of motor vehicles; and
- (xvi) a use or operation which is generally considered to be an environmental risk to any portion of the Property or surrounding properties.

(c) **No Outdoor Vending.** Without the Approval of Declarant, no Owner or Occupant shall display, offer for sale or lease, or store outside, including underneath any overhangs, any merchandise, equipment or services including, without limitation, vending machines, promotional devices and similar items; provided, however, the foregoing shall not prohibit (i) automatic teller machines, (ii) drive-thru banking, (iii) outside restaurant seating, or (iv) sidewalk sales by an Owner or Occupant, but not more frequently than three (3) per calendar year and no longer in duration than three (3) days per sidewalk sale, provided the Owner or Occupant first obtains the Approval of Declarant.

(d) **Maintenance.** Each Owner and Occupant of the Property shall be responsible for keeping its Parcel in a safe, reasonably clean, neat, orderly and first class condition and shall prevent rubbish from accumulating on its Parcel, and shall use reasonable efforts to prevent any rubbish on its Parcel from being blown or carried by the wind or otherwise transported onto the surrounding Parcels. Landscaping of a Parcel shall be maintained in a neat, orderly and first class manner. Each Owner shall perform all maintenance, repair and replacements on its Parcel, including, without limitation driveways, parking areas, parking lot lighting, irrigation systems and signage serving its Parcel. Each Owner shall put, keep, replace, maintain and repair its Parcel so that at all times such Parcel shall be in good order and repair, and in a good, safe and substantial condition; including, but not limited to, painting and repairing Improvements, seeding, watering, and mowing lawns, planting, pruning, and cutting trees and shrubbery, and other appropriate external care of all landscaping and Improvements, all in a manner consistent with property management in other similar properties in Forsyth County, Georgia. No Owner shall cause or permit any waste or deterioration to its Parcel. An Owner's obligations hereunder shall include, without limitation, the obligation to maintain, repair and restore the Improvements and to make all needed restorations, renewals and repairs to, or replacements of, the Improvements. Each Owner shall make diligent efforts to prevent, and shall promptly correct, any unreasonably unclean or unsightly conditions or Improvements on its Parcel.

(e) **Declarant Authority as to Maintenance and Repair.** The authority of Declarant to enter upon a Parcel and cure violations or breaches of this Declaration pursuant to **Section 8.6** hereof shall specifically include, without limitation, the authority to enter and cure any failure to perform the maintenance and repair obligations set forth in **Subsection 3.2(d)**. Except in the event of emergency, prior to any such entry, Declarant shall provide written notice of such violation or breach to the Owner of such Parcel and give the Owner at least thirty (30)

days in which to cure such violation or breach, or in the event the nature of the cure is such that it would take longer to cure the violation or breach, provided Owner has taken steps to cure the violation or breach within such thirty (30) day period and in good faith thereafter continues working on the cure, then Owner shall have such amount of time as is necessary and reasonable to complete the cure.

3.3 **Insurance.**

(a) **Maintenance of Insurance Coverage.** Each Owner shall procure or cause to be procured, and shall maintain or cause to be maintained in full force and effect at all times, the following insurance, paying as the same become due all premiums therefor:

(i) insurance in an amount not less than full replacement cost of all Improvements (including all Common Facilities) located on such Owner's Parcel, against direct and indirect loss or damage by fire and all other casualties and risks covered under "All Risk" insurance ("Special Extended Coverage Endorsement");

(ii) insurance in an amount not less than full replacement cost of all personal property and fixtures from time to time located on such Owner's Parcel, against direct and indirect loss or damage by fire and all other casualties and risks covered under "All Risk" insurance ("Special Extended Coverage Endorsement"); and

(iii) commercial general public liability insurance insuring against all liability of such Owner and such Owner's Occupants, and their respective officers, employees, agents, tenants, licensees and invitees arising out of, by reason of or in connection with the condition, use, occupancy or possession of, or any conduct or activity on, such Owner's Parcel, with single limit of liability limit of not less than \$3,000,000, and a portion of which coverage may be provided by an umbrella policy.

(b) **Terms of Policies.** Each insurance policy required by this Declaration shall:

(i) be issued by insurance companies licensed to do business in the State of Georgia having general policyholder's ratings of at least A and a financial rating of at least XI in the most current Best's Insurance Reports available on the date such insurance policy is issued (if the Best's ratings are changed or discontinued, Declarant and Owner shall agree upon an equivalent method of rating insurance companies);

(ii) provide that the insurance not be canceled or materially changed in the scope or amount of coverage unless thirty (30) Days' advance notice is given to Declarant;

(iii) be primary policies, that is, not as contributing with, or in excess of, the coverage that the Owner may carry and, with respect to the policy providing liability coverage, shall name Declarant and the Owner of the other Parcel as additional insureds;

(iv) be permitted to be carried through a "blanket policy" or "umbrella" coverage;

(v) have deductibles not greater than \$10,000.00;

(vi) be maintained during the entire term of this Declaration; and

(vii) contain a provision to the effect that the policy shall not be invalidated, and shall remain in full force and effect, if any insured waives in writing prior to a loss any or all rights of recovery against any party for loss occurring to property covered by that policy, and a provision whereby the insurer itself waives any claims by way of subrogation against Declarant and the other Owners.

(c) **Increase In Insurance.** The amounts of coverage and deductibles required by this Declaration are subject to review by Declarant at the end of each five-year period following the date hereof. At each review, if necessary to maintain the same level of coverage that existed on the date hereof, Declarant may increase the amounts of coverage to the amounts of coverage carried by prudent owners of comparable property in Forsyth County, Georgia.

(d) **Evidence of Insurance.** Each Owner shall give reasonable satisfactory evidence of insurance to Declarant upon: (i) acquisition of its Parcel; (ii) each renewal of its insurance policies; and (iii) reasonable request of Declarant. The certificate shall specify amounts, types of coverage, the waiver of subrogation, and the insurance criteria listed in Subsection 3.3 (b) hereof. The policies shall be renewed or replaced and maintained by the Owner responsible for that policy. If an Owner fails to give the required evidence of insurance within thirty (30) Days after notice of demand therefor, Declarant may obtain and pay for that insurance and receive reimbursement from the Owner required to have the insurance.

3.4 **Casualty.** In the event of the damage to or destruction of the Improvements on any Parcel by fire, other casualty or sudden destructive event, the Owner of such Parcel shall either: (i) repair, restore and rebuild such Improvements to substantially their condition immediately prior to such event; (ii) repair and restore the undamaged portion of such Improvements to a complete architectural unit; or (iii) raze such improvements, in which event the surface of the Parcel shall either be left with the slab of the pre-existing Building in place in good condition and repair, or the slab demolished and the surface repaved. All repair, restoration and rebuilding pursuant to this Section 3.4 shall be subject to all of the terms and provisions of this Declaration, including, without limitation, Section 4.1 hereof; provided that any repair, restoration or rebuilding performed on any Parcel may be repaired, reconstructed or rebuilt in accordance with plans as previously approved without resubmission in accordance with Section 4.1 hereof.

ARTICLE IV APPROVAL OF PLANS

4.1 **Approval Required.** Declarant shall have the sole right, power and authority to Approve and regulate the design and construction of all Improvements within the Property so as to assure compliance with the intent and purpose of this Declaration, including, without limitation, for the purpose of the overall aesthetic coordination of the Property. Subject to the provisions of **Subsection 3.1(b)** hereof, no Improvement shall be made, constructed, erected, placed, modified, altered (by addition or deletion), demolished, rebuilt or reconstructed, maintained or permitted to remain on any Parcel unless and until the plans and specifications for such Improvement have been submitted to, and Approved by, Declarant, and except in

accordance with plans and specifications submitted to, and Approved by, Declarant Declarant shall determine whether plans and specifications submitted to it for Approval are acceptable to Declarant, and Declarant shall be entitled and empowered, in accordance with the provisions of **Article VIII** hereof, to enjoin or remove any Improvement undertaken pursuant to plans and specifications that have not been Approved by Declarant, if such Approval is required by **Article III** hereof. Any Approval or disapproval by Declarant of any plans and specifications for Improvements shall be made in Declarant's reasonable judgment and discretion and shall be final, conclusive and binding, which Approval by Declarant shall not be unreasonably withheld or delayed. Declarant shall have the right to employ professional consultants to assist it in exercising its power and authority under this Article IV.

Declarant hereby approves the Approved Parcel 2 Plans pursuant to and in accordance with Sections 3.1 and 4.1 hereof.

4.2 **Declarant Action**. Declarant shall act promptly to review and either Approve or disapprove any plans and specifications submitted to it.

(a) If Declarant disapproves any submission made by any Person, Declarant, on the request of such Person, shall provide a written statement of the reasons for rejection, shall suggest revisions that meet Declarant's requirements, and shall otherwise make reasonable efforts (at no cost to Declarant) to aid the submitting Person in preparing a proposal that would be acceptable to Declarant.

(b) Any subsequent re-submission by any Person shall be reviewed and acted upon by Declarant promptly.

(c) Without limiting the generality of Declarant's discretion to Approve or disapprove plans and specifications, Declarant may disapprove any plans and specifications submitted hereunder for any one or more of the following reasons, or other reasons as Declarant may specify:

(i) failure by the submitting Person to include in the plans and specifications such information as may have been reasonably requested by Declarant;

(ii) objection by Declarant to the exterior design, color scheme, finish, proportions, style or architecture, height, appearance, or materials of any proposed Improvement for the reason that such characteristic is not consistent with the harmonious development of the Shopping Center;

(iii) incompatibility of any proposed Improvement with any existing Improvements upon other Parcels;

(iv) objection by Declarant to the location of any proposed Improvement upon any Parcel or with reference to other Parcels;

(v) objection by Declarant to the grading plan for any Parcel;

(vi) objection by Declarant to parking areas proposed for any Parcel because of the insufficiency or location of the parking areas;

(vii) objection by Declarant to the density of proposed improvements or to the ratio of parking spaces on the Parcel to gross square footage of floor area in the Improvements or to the size of such parking spaces; or

(viii) failure of the plans and specifications or the submitting Person to comply with any applicable Governmental Requirements affecting development of the subject Building or Parcel, or any other restrictions limiting the percentage of the Parcel which may be covered by the Building or parking areas.

(d) Approval of any plans and specifications with regard to a Parcel: (i) shall not be deemed a waiver of Declarant's right, in its discretion, to disapprove similar plans and specifications, or any of the features or elements included therein, submitted for any other Parcel; and (ii) shall be final as to the Parcel for which they have been submitted, provided that the Improvements on such Parcel are constructed and maintained in substantial conformity with the Approved plans and specifications.

(e) Under no circumstances shall a Person submit its plans and specifications to the Governmental Authority having jurisdiction for review and approval unless and until it shall have received Declarant's Approval of such plans and specifications.

4.3 **Failure of Declarant to Act.** If Declarant fails to Approve or disapprove in writing any plans and specifications submitted to it in accordance with this **Article IV** within twenty (20) Days following such submission, such plans and specifications shall be deemed to have been approved.

4.4 **Post-Approval Inspections.** Following Approval of any plans and specifications by Declarant, representatives of Declarant, or its designees or permittees, shall have the right, during reasonable hours and with prior notice, giving the Owner the right to accompany Declarant, to enter upon and inspect any Parcel or Improvements then under construction thereon to determine whether the plans and specifications therefor have been Approved by Declarant and whether development and construction is proceeding substantially in accordance with such Approved plans and specifications. If Declarant shall reasonably determine that such plans and specifications have not been Approved or that plans and specifications which have been so Approved are not being substantially complied with in every material respect, Declarant may in its discretion give the Owner or Occupant of such Parcel and Improvements written notice to such effect, and, at any time thereafter, Declarant shall be entitled to seek to enjoin further construction until compliance and to require the removal or correction of any work in place that does not substantially comply with Approved plans and specifications. If any Improvements shall be altered or replaced or maintained on any Parcel otherwise than in substantial conformity with the Approved plans and specifications therefor, such action shall be deemed to have been undertaken without requisite Approval of Declarant and to be in violation of this Declaration, and Declarant shall be entitled to take action as permitted under this Declaration with respect thereto. A written statement executed by an architect Approved by Declarant for such purpose, which statement certifies the substantial conformity of the construction of the Improvements with the Approved plans and specifications therefor, shall

constitute conclusive evidence of such conformity.

4.5 **Time for Commencement of Construction After Approval.** Upon receipt of Approval from Declarant, the Owner or Occupant to whom the Approval is given shall, as soon as practicable, satisfy any conditions thereof and diligently proceed with the commencement and completion of all Approved construction. Except as provided in the immediately following sentence, if work on the Approved construction is not commenced within **six (6) months** after the date of such Approval and thereafter continuously prosecuted to completion, the Approval shall be revoked automatically unless Declarant has given written Approval for an extension of time for commencing work.

4.6 **Inspection and Reporting During Construction.** Following the completion of construction of any Improvement, and following a written request from Declarant, the Owner or Occupant performing such construction, or for whose benefit such construction is being performed, shall employ an architect or professional engineer licensed under the laws of the State of Georgia, who shall certify to Declarant that the Improvements have been completed substantially in accordance with the Approved plans and specifications for such work.

4.7 **Actions Binding.** Actions of Declarant through its Approval or disapproval of plans, specifications, and other information submitted pursuant to the provisions of this **Article IV** shall be conclusive and binding on all parties.

4.8 **No Liability.** Neither Declarant nor any consultant to Declarant shall be liable to any Owner or Occupant or to any other Person for any loss, damage or injury, or claim thereof, arising out of or in any way connected with the performance or nonperformance of the Declarant's duties under this Article IV. In no event shall Declarant be liable or responsible for damages or in any other manner whatsoever to any Owner or Occupant or to any other Person by reason of mistake of judgment, negligence or nonfeasance or any other reason whatsoever arising out of, by reason of, or in connection with Declarant's Approval, disapproval or deemed disapproval of, or inaction with respect to, any plans and specifications. Without limiting the generality of the foregoing, the construction of any Improvements on a Parcel shall be the sole responsibility of the Owner of such Parcel, and any requirements or recommendations made by Declarant or any consultant to Declarant, with respect to any plans or specifications or the means or methods of construction of any Improvements shall not alter the Owner's sole responsibility for the safe and proper design and construction of said Improvements, and shall not in any event impose liability or responsibility upon Declarant or any consultant to Declarant for any design or construction defects.

4.9 **Rights of Third Parties.** Approval by Declarant of any plans and specifications with regard to a Parcel shall not constitute any judgment or opinion on the part of Declarant as to the quality or soundness of the matters described in such plans and specifications or their fitness for any particular use or application. In particular, such Approval shall not be construed as a representation to third parties concerning the quality of the construction of any Improvements or the absence thereof of any defects.

ARTICLE V

COMMON FACILITIES: EASEMENTS

5.1 **Common Facilities.** The Common Facilities shall be used and enjoyed, for their intended purposes, in common by Declarant and all Owners, subject to this Declaration and the rules and regulations established in accordance with this Declaration.

5.2 **Maintenance.** Declarant shall perform all maintenance, repair and replacements to the Common Utility Facilities. Declarant shall put, keep, replace, maintain and repair the Common Utility Facilities so that the Common Utility Facilities shall be in good order and repair, and in a good, safe and substantial condition, all in a manner consistent with property management in other similar properties in Forsyth County, Georgia. Declarant's obligations hereunder shall include, without limitation, the obligation to make all needed restorations, renewals and repairs to, or replacements of, the Common Utility Facilities.

5.3 **Easements.**

There is hereby established, declared and reserved:

(a) a perpetual, non-exclusive easement over and across the access drives and drive aisles on the Property, as they may exist from time to time, for the benefit of each Parcel, for vehicular and pedestrian ingress, egress and access between each Parcel and the public roads that border the Shopping Center;

(b) a temporary construction easement for the benefit of Parcel 2 allowing the Owner of Parcel 2 to have access over, into and across the access drives and the drive aisles during the period of construction of the initial Improvements on Parcel 2, and with respect to this temporary construction easement, the Owner of Parcel 2 shall indemnify and hold harmless the Declarant, its successors and assigns for any damages to the access drives and/or the drive aisles or for any loss, cost, damage or expense suffered or incurred by Declarant or its successors or assigns resulting from the construction activities of the Parcel 2 Owner or its contractors, subcontractors, employees and agents taken pursuant to this Easement;

(c) a perpetual, non-exclusive easement(s) over and across the Property for the benefit of each Parcel (in locations reasonably acceptable to Declarant with regard to Parcel 1 and reasonably acceptable to the Parcel 2 Owner with regard to Parcel 2 and Approved in writing) for the purposes of installing, using, maintaining, repairing and replacing service lines, connections and related improvements to provide utility services to the Parcels or to a Parcel;

(d) a perpetual, non-exclusive easement(s) over and across the Property for the benefit of each Parcel (in locations reasonably acceptable to Declarant with regard to Parcel 1 and reasonably acceptable to the Parcel 2 Owner with regard to Parcel 2 and Approved in writing) for the purposes of installing, using, maintaining, repairing and replacing the Drainage Facilities, including, without limitation, storm water pipes, connections and related improvements to provide storm water drainage and detention for the Parcels, together with the right of inflow into and outflow out of the storm water detention facilities to be constructed on a portion of Parcel 1; and

(e) a perpetual, non-exclusive easement(s) over and across Parcel 1 for the benefit of the Parcels (in locations reasonably acceptable to Declarant) for the purposes of

installing, using, maintaining, repairing and replacing sanitary sewer pipes, connections and related improvements (the "Sanitary Sewer System") to discharge sanitary sewage from the Property into the "private sanitary sewer lines, related sanitary sewer facilities, and Treatment Plant," as described and provided for in that certain Treatment Plant Use Agreement between Big Creek Utility Company, Inc. and Seller dated January 9, 2004, a Memorandum of which is recorded in Deed Book 3184, Page 153, Forsyth County, Georgia Records; and title to the Property is subject to such agreement and memorandum. Notwithstanding anything to the contrary contained in this Declaration, if public sanitary sewer service becomes available to the Property within right-of-way adjacent thereto and prior to the construction of the Sanitary Sewer System, Declarant shall have the right (but not the obligation), as an alternative to the installation of the Sanitary Sewer System described above, to elect to obtain public sanitary sewer service for Parcel 1 by tying into said public sanitary sewer line, and in such event and upon such election by Declarant, Parcel 2 Owner, at its sole expense, shall obtain sanitary sewer service for Parcel 2 by tying into said public sanitary sewer line within the right-of-way adjacent to Parcel 2 (the "Public Sanitary Sewer Election"). If Declarant makes the Public Sanitary Sewer Election, then (i) Parcel 2 Owner shall be obligated to pay all tap fees, connection fees and the cost of any meter required in connection with water and sanitary sewer services provided to Parcel 2, and (ii) if boring or other construction to extend water and/or sanitary sewer lines under the adjoining public roadway is necessary, then either (x) Parcel 2 Owner shall perform, at its own expense, a boring for water and sanitary sewer lines to service Parcel 2 and Declarant shall perform, at its own expense, a separate boring for water and sanitary sewer lines to service Parcel 1, or (y) if Declarant and the Owner of Parcel 2 elect to perform a single boring for water and sanitary sewer lines to service both Parcel 1 and Parcel 2, then Declarant shall cause such work to be performed, and Parcel 2 Owner shall be obligated to reimburse Declarant for Parcel 2's Pro Rata Share of the total of all costs incurred by Declarant in connection therewith; and said payment shall be made by Parcel 2 Owner to Declarant within thirty (30) days after Parcel 2 Owner receives written notice from Declarant of such total cost thereof and Parcel 2 Owner's share thereof, together with written evidence supporting the total of all such costs incurred by Declarant.

Subject to the Public Sanitary Sewer Election as contemplated in the first paragraph of subparagraph (d) above, any and all expenses applicable to the Shopping Center and associated with the construction, maintenance and operation of the Drainage Facilities and/or the Sanitary Sewer System, shall be shared proportionally between Parcel 2 Owner and the Parcel 1 Owner (equitably based on facilities constructed and installed on the acreage of Parcel 2 and acreage of Parcel 1, and maintenance and operation of storm water detention facilities, and on relative volume use, as to sanitary sewer use, all as reasonably agreed upon between Parcel 2 Owner and Parcel 1 Owner) and each shall be obligated for the monthly service charge for sanitary sewer service for Parcel 2 and Parcel 1, as the case may be. Declarant or its successors or assigns shall be obligated to maintain in good condition and repair those portions of the Drainage Facilities and the Sanitary Sewer System that are located upon Parcel 1. Parcel 2 Owner shall be obligated to maintain in good condition and repair those portions (as extended) of the Drainage Facilities and the Sanitary Sewer System that are located upon Parcel 2. Notwithstanding the foregoing, Parcel 2 Owner and its successors and assigns shall indemnify and agree to hold Declarant and its successors and assigns harmless from and against any and all loss, cost, damage or expense directly relating to the maintenance or repair of those portions of the Drainage Facilities or Sanitary Sewer System that are located upon Parcel 1 that are suffered or incurred by Declarant or its successors or assigns as a result of any direct or indirect

actions or omissions on the part of Parcel 2 Owner, its tenants, employees, agents, contractors, subcontractors, officers, customers or the successors or assigns of any of the foregoing. Likewise, the Declarant, its successors and assigns, shall indemnify and agree to hold Parcel 2 Owner and its successors and assigns harmless from and against and all loss, cost, damage or expense directly relating to the maintenance or repair of those portions of the Drainage Facilities or Sanitary Sewer System that are located upon Parcel 2 that are suffered or incurred by Parcel 2 Owner or its successors or assigns as a result of any direct or indirect actions or omissions on the part of Declarant, its tenants, employees, agents, contractors, subcontractors, officers, customers or the successors or assigns of any of the foregoing.

5.4 **Terms of Exercise of Easements.** Declarant, each and every Owner and any other Person exercising their respective rights under the easements provided herein agree to, with and for the benefit of Declarant and the other Owners as follows:

(a) Any and all work performed by any Person pursuant to this Declaration: (i) except as otherwise expressly provided herein shall be done by, and at the sole cost and expense of, the Person so exercising its rights; (ii) shall be done only upon reasonable prior notice to the Owner of any Parcel to be affected thereby; (iii) shall be done in a manner so as not to unreasonably interrupt or interfere with the Owners in the normal operation of their Parcels and the Improvements thereon; (iv) shall be performed pursuant to all necessary licenses and permits required for the work, which licenses and permits shall be obtained prior to the commencement thereof; (v) shall be done in a good and workmanlike manner; and (vi) and shall be completed free and clear of all liens of contractors, subcontractors, laborers and materialmen and all other liens. In the event any lien or claim of lien is levied, the Owner of the Parcel for whom the work was performed shall, within thirty (30) days following receipt of written notice from the Owner against whose Parcel such lien or claim of lien was levied, bond or discharge such lien or claim of lien. After the completion of any such work, the Parcel on, over, under or through which such work was done shall be left in a clean and good condition, with all debris removed therefrom, with trenches and cuts properly filled, with any Improvements and any plants, shrubbery or other landscaping which may have been disturbed by such work restored to their former condition and with all areas within which dirt has been exposed, reseeded.

(b) Each Owner shall, and does hereby agree to, indemnify, defend and hold harmless Declarant and the other Owners, from, against and in respect of any and all claims, demands, actions, causes of action, suits, liabilities, damages, losses, costs and expenses of any kind or nature whatsoever (including, without limitation, reasonable attorneys' fees and court costs actually incurred in enforcing this indemnity and otherwise) which any such Person may suffer or incur, or which may be asserted against such Person, whether meritorious or not, and which arise out of, by reason of or in connection with the exercise by or on behalf of such Owner, or its Space Tenants or other Occupants, of its rights and privileges under the easements provided herein.

(c) Declarant shall service, maintain, repair and replace the Common Utility Facilities. The cost thereof shall be a Common Expense. Each Owner shall be responsible for paying its Pro Rata Share of such Common Expense within thirty (30) Days following receipt of an invoice from the Declarant.

(g) Notwithstanding the foregoing, any Utility Facilities which exclusively

service a Parcel and which cross another Owner's Parcel shall be serviced, maintained, repaired and replaced by the Owner whose Parcel is served by the Utility Facilities at its sole cost and expense.

5.5 **Limitation on Use of Driveway, Roadway and Utility Facilities.** Except as expressly permitted by this Declaration or as Approved by Declarant in its sole judgment and discretion: (i) no Owner, Space Tenant, or other Occupant shall construct Improvements in, on or to, or alter, modify, or relocate the Utility Facilities; and (ii) no Owner, Space Tenant, or other Occupant shall at any time erect or permit to be erected any barrier to interfere in any way with parking or the access, ingress and egress by Declarant or any other Owner, Space Tenant, or other Occupant, or their respective permitted tenants, occupants, agents, employees, customers, invitees and licensees, in, on, over, under, through or across any portion of the driveways or paved areas of the Shopping Center, except in connection with reasonable temporary closure in connection with maintenance, repair or replacement of such driveways or paved areas. Nothing herein shall prohibit the paving of areas adjacent to the driveways to create a "free-flowing" paved surface area, either for access or parking or related purposes.

5.6 **Dedication and Transfer of Common Utility Facilities.** Declarant powers shall include the right, power and authority, at all times, to do the following, at any time and from time to time, in Declarant's sole, but reasonable, judgment and discretion, or as Declarant shall deem necessary, desirable or proper: (i) to convey or dedicate all or any part of the Common Utility Facilities, ingress and egress easements, utility easements, drainage easements and sewer easements to public use and benefit (with any fees or expenses in connection with the dedication of the Common Utility Facilities and/or the easements associated therewith to be a Common Expense with each Owner being responsible for paying its Pro Rata Share thereof); and (ii) to permit any Governmental Authority or quasi-Governmental Authority, or any public or private utility provider, to exercise any of the foregoing easements.

5.7 **Additional Declarant Powers.** Declarant Powers shall further include the right, power and authority, at all times, to do the following, at any time and from time to time, in Declarant's sole, but reasonable, judgment and discretion, or as Declarant shall deem necessary, desirable or proper:

- (a) subject to the terms of Section 3.2 (e), without being liable to any Owner, to enter upon any portion of the Parcels to enforce the provisions of this Declaration;
- (b) to construct, operate, repair, maintain and replace Common Facilities; and
- (c) to take such other reasonable actions as are in keeping with the purpose and intent of this Declaration.

5.8 **No Assignment of Declarant's Rights Powers or Authority.** The granting or conveyance of title to, or a leasehold estate in or to, any portion of the Common Facilities by Declarant to any Owner, Space Tenant or other Occupant shall not be deemed or construed to grant or assign to such Owner, Space Tenant or other Occupant any of the Declarant Powers with respect thereto as set forth in this Article V or elsewhere in this Declaration, such Declarant Powers being hereby expressly retained by Declarant. Each such Owner, Space Tenant or other Occupant of any portion of the Property, by acceptance of a deed, lease, sublease, or other

instrument granting or conveying title to, or a leasehold estate, usufructuary interest or other possessory interest in or to, any portion of the Property, whether or not it shall be so expressed in any such deed, lease, sublease, or other instrument, shall take such title or estate subject to the Declarant Powers with respect thereto, and the portion of the Property that is Common Facilities or easements shall remain Common Facilities or easements pursuant to this Declaration.

ARTICLE VI **COMMON EXPENSES**

6.1 Common Expenses.

(a) **Obligation.** Declarant, for all of the Property, covenants, and each subsequent Owner of a Parcel (including any purchaser at Foreclosure), by acceptance of a deed, lease, sublease or other instrument granting or conveying title to such Parcel, whether or not it shall be so expressed in any such deed, lease, sublease or other instrument, covenants and agrees, and shall be deemed to covenant and agree, to pay (i) its Pro Rata Share of all Common Expenses, and (ii) all other amounts owed hereunder by such Owner, within thirty (30) Days following receipt of an invoice from the Owner who or which incurred the Common Expense or other charge.

(b) **Priority of Lien.** Each Owner's Pro Rata Share of Common Expenses incurred pursuant to this Declaration, as well as amounts owed by any Owner pursuant to Section 8.6 below, together with court costs, reasonable attorneys' fees actually incurred, late charges, and interest as provided herein, shall be secured by an equitable charge and continuing lien on such Parcel in favor of the party which incurred the Common Expense (the "Incurring Owner") or the Non-Breaching Owners (as defined in Section 8.6(a) below). Such lien shall be superior to all other liens and encumbrances on such Parcel except only for: (i) liens of ad valorem taxes; and (ii) a lien for all sums unpaid on a first priority Mortgage, on any secondary purchase money Mortgage, and all amounts advanced pursuant to any such Mortgage and secured thereby in accordance with the terms of such instrument. The subordination of the lien for Common Expenses and other amounts to the foregoing Mortgages shall apply only to Common Expenses and other amounts that have become due and payable prior to a sale or transfer of the mortgaged interest in and to such Parcel pursuant to a Foreclosure. From and after the date the holder of a Mortgage, or its successor, assignee or designee, or the acquirer upon Foreclosure, takes possession of the Parcel or succeeds to the Owner's interest in the Parcel, whether by Foreclosure or otherwise, such holder or its successor, assignee or designee, or the acquirer upon Foreclosure, shall be deemed an Owner of the Parcel and liable for all Common Expenses and other amounts on that Parcel accruing after, or allocable to periods of time after that date. All Persons acquiring Mortgages, liens or encumbrances on any Parcel after the effective date of this Declaration shall be deemed to have subordinated such Mortgages, liens or encumbrances to such future liens for Common Expenses and other amounts as provided herein, whether or not such subordination shall be specifically set forth in such Mortgages or other instruments creating such liens or encumbrances. The Incurring Owner or the Non-Breaching Owners, as the case may be, shall have the power and authority, in its sole judgment and discretion, to release the lien or to subordinate it to any other lien. Upon the written request of any Mortgagee, each Owner shall report to said Mortgagee any Common Expenses and other amounts remaining unpaid on that Parcel for longer than thirty (30) Days after the same are due. Any Mortgagee affected by the lien may, but shall not be required to, pay any unpaid Common Expenses and other amounts

and, upon such payment, such Mortgagee shall be assigned the debt and lien securing same, said assignment to be without recourse or warranty.

(c) **Nonpayment.** Any Owner's Pro Rata Share of Common Expenses or other amounts due hereunder that are not paid when due shall be delinquent. Any Common Expenses or other amounts delinquent for a period of more than five (5) Days shall incur a late charge in an amount equal to five percent (5%) thereof and interest on the principal amount due, from the date due until paid at the lesser of the Prime Rate, as it may change from time to time, plus two (2) percentage points, or the maximum rate allowable under the laws of the State of Georgia. The Incurring Owner or Non-Breaching Owners, as the case may be, shall cause a notice of delinquency to be given to any Owner not paying within five (5) Days following the due date. The continuing lien and equitable charge of such amounts shall include the late charge and interest described above, all reasonable costs of collection (including reasonable attorneys' fees actually incurred and court costs), and any other amounts provided or permitted hereunder or by law. If the amounts due remain unpaid for thirty (30) Days after their original due date, the Incurring Owner or Non-Breaching Owners, as the case may be, may, as any such Owner shall determine, institute suit to collect such amounts and to foreclose its lien. The equitable charge and lien provided for in this Section 6.1 shall be in favor of the Incurring Owner or Non-Breaching Owners, as the case may be, and each Owner of a Parcel (including any purchaser at Foreclosure), by acceptance of a deed, lease, sublease or other instrument granting or conveying title to such Parcel, whether or not it shall be so expressed in any such deed, lease, sublease or other instrument, vests in each Incurring Owner or Non-Breaching Owner or its agents the right and power to sue or otherwise proceed against such Owner for the collection of such charges and/or to foreclose such liens. The Incurring Owner or Non-Breaching Owners shall have the power to bid on the Parcel at any foreclosure sale and to acquire, hold, lease, mortgage, and convey the same.

(d) **Personal Liability for Charges.** Each Owner's Pro Rata Share of Common Expenses together with the other amounts due hereunder by such Owner shall be the personal and individual indebtedness of such Owner. Upon any transfer, conveyance or assignment of the interest of the Owner in and to such Parcel, any then unpaid amounts shall become the joint and several obligation of such Owner and of such Owner's successors-in-title whether or not expressly assumed by them. The Incurring Owner or Non-Breaching Owners shall have the right to bring suit against the Owner to recover a money judgment for all such amounts without foreclosing or waiving the liens securing same.

(e) **Waiver of Use.** No Owner may exempt itself from liability for any Common Expenses or other amounts due hereunder, nor release the Parcel or other property owned by it from the liens and charges hereof, including by non-use or waiver of the use and enjoyment of the Common Facilities or by abandonment of its Parcel.

6.2 **Damage, Destruction or Condemnation.** In the event of damage to, destruction of or condemnation of all or any portion of the Common Facilities, the Owner or Owners on whose Parcel(s) the affected Common Facilities are located (the "Affected Owner(s)") shall cause the Common Facilities to be so repaired, reconstructed and/or replaced substantially as they previously existed. If the insurance proceeds with respect to any Common Facilities are insufficient to pay the cost of such work, then the excess cost shall be paid by the Owner of the Parcel upon which such Common Facilities are located. If the condemnation

award with respect to any Common Facilities are insufficient to pay the cost of such work, then the excess cost shall be a Common Expense and each Owner shall be responsible for paying its Pro Rata Share of such Common Expense; provided, however, no Owner shall be required to pay such Pro Rata Share until it commences the construction of Improvements on its Parcel. Subject to the next preceding sentence, each Owner shall pay its Pro Rata Share within thirty (30) Days following receipt of an invoice from the Owner who or which performed the work.

ARTICLE VII
DURATION MODIFICATION TERMINATION AND ESTOPPEL

7.1 Duration.

(a) The provisions of this Declaration shall run with and bind title to the Property, shall be binding upon and inure to the benefit of Declarant and all Owners, and Mortgagees, and their respective heirs, executors, legal representatives, successors, and assigns, and shall be and remain in effect until the twentieth (20th) anniversary of the effective date of this Declaration, after which time this Declaration shall be automatically extended and renewed for successive periods of (10) years each unless an instrument in writing signed by Declarant and Owners whose Parcels contain not less than sixty percent (60%) of the total acreage of the Property has been recorded agreeing to terminate this Declaration; provided, however, that no such agreement to terminate shall be effective unless made and recorded six (6) months in advance of the effective date of such termination.

(b) Notwithstanding the foregoing, the easements granted in **Article V** hereof are and shall be perpetual, except that dedication to and acceptance by an appropriate Governmental Authority or conveyance or grant to an appropriate public utility of the facilities that are the subject of any such easements shall terminate those easements if such dedication, conveyance, or grant so provides.

7.2 Amendment.

(a) Provided the same shall not (i) adversely affect the title to any Parcel, (ii) change the Pro Rata Share appertaining to a Parcel, (iii) materially alter or change any Owner's right to the use and enjoyment of its Parcel and the Common Facilities, or (iv) otherwise make any material change in this Declaration, each Owner agrees that this Declaration may be amended solely by Declarant by an instrument in writing executed by Declarant and placed of record in the real property records of Forsyth County, Georgia, if: (A) such amendment is necessary to bring any provision hereof into compliance or conformity with, or remove any conflict or inconsistency with, the provisions of any applicable Governmental Requirement; (B) such amendment is required by any Governmental Requirement applicable to or promulgated by a governmental lender or purchaser of mortgage loans, to enable such lender or purchaser to make or purchase mortgage loans on any portion of the Property; or (C) any such amendment is necessary to enable any Governmental Authority to insure mortgage loans on any portion of the Property based on any Governmental Requirement.

(b) Other than allowed in (a) above, this Declaration may not be amended except by an instrument in writing signed by Declarant and the Owners, which amendment shall then be recorded in the real property records of Forsyth County, Georgia.

(c) Notwithstanding anything to the contrary contained in this Declaration, any amendment to this Declaration which would change, alter, modify or rescind any right, title, interest or privilege herein expressly granted to a Mortgagee, shall require the prior written approval of such Mortgagee.

(d) Amendments made pursuant to the provisions of this Section 7.2 shall inure to the benefit of and be binding upon Declarant, all Owners and Occupants and their respective Mortgagees.

7.3 **Binding Effect.** Each Owner of a Parcel (including any purchaser at Foreclosure), by acceptance of a deed, lease, sublease or other instrument granting or conveying title to such Parcel, whether or not it shall be so expressed in any such deed, lease, sublease or other instrument, thereby agrees that the conditions, covenants, restrictions, easements, and reservations of this Declaration may be amended, terminated or extended as provided above.

7.4 **Effective Date of Declaration.** The effective date of this Declaration shall be the date of its filing for record in the real property records of Forsyth County, Georgia.

7.5 **Rights of Third Persons.** This Declaration shall be recorded for the benefit of Declarant, the Owners and their respective Mortgagees as herein provided, and by such recording, no adjoining property owner or other Person shall have any right, title or interest whatsoever in the Property, this Declaration, the operation or continuation of this Declaration or the enforcement of any of the provisions hereof, and this Declaration may be amended, modified or otherwise changed in accordance with its terms without the consent, permission or approval of any adjoining owner or third Person.

ARTICLE VIII **ENFORCEMENT**

8.1 **Responsibility of Owner.** Each Owner shall be responsible for compliance with the terms, provisions, and conditions of this Declaration by its Space Tenants, Occupants, employees, agents, independent contractors, tenants, customers, and visitors.

8.2 **Failure to Pay Charges.** If any Common Expense or other amount due hereunder is not paid when due, the Owner and the Parcel shall be subject to the provisions of Section 6.1 hereof.

8.3 **Nonmonetary Violations.** Violation or breach of any term, provision, or condition contained herein or of any rules or regulations promulgated pursuant hereto or in any other document promulgated pursuant hereto (other than a failure to pay when due a Common Expense or other amount due hereunder) shall give to Declarant the right to prosecute a proceeding at law or in equity against the Owner who has violated, is attempting to violate, or is permitting (or is allowing to exist) the violation or breach on its Parcel of any term, provision, or condition contained herein or in any other document promulgated pursuant hereto. The right to prosecute such proceeding shall include, without limitation, the right to bring actions to enjoin or prevent such Owner from committing such violation or breach or to cause said violation or breach to be remedied, each Owner of a Parcel (including any purchaser at Foreclosure), by

acceptance of a deed, lease, sublease or other instrument granting or conveying title to such Parcel, whether or not it shall be so expressed in any such deed, lease, sublease or other instrument, thereby acknowledging that no adequate remedy exists at law to cure such violations or breaches.

8.4 **Failure to Enforce Not a Waiver.** The failure of Declarant to enforce any provision herein contained shall in no event be deemed to be a waiver of the right to do so, nor of the right to enforce any other restriction. No suit shall lie against Declarant for any failure, refusal, or omission to institute or join in any action or proceeding for the enforcement hereof or to restrain the violation of any of the provisions hereof.

8.5 **Inspection.** Declarant and its authorized representatives may from time to time during regular business hours, but only upon at least 48 hours prior written notice to an Owner or Occupant, enter and inspect any Building or Parcel to ascertain compliance with this Declaration and any other documents promulgated pursuant hereto.

8.6 **Right to Enter and Cure.**

(a) In the event of any violation or breach of this Declaration or any other document promulgated pursuant hereto, Declarant shall have the right, after notice of such violation or breach and a reasonable opportunity to cure the same shall have been given to the Owner of any Parcel as to which a breach or violation exists (as provided for in Section 3.2 (e) hereof), to institute appropriate legal proceedings seeking to obtain an order allowing it to enter upon said Parcel and summarily abate and remove, at the expense of the Owner or Occupant thereof, any structure, thing, or condition that may be or exist thereon contrary to the intent and meaning of the provisions hereof or any documents promulgated pursuant hereto, or do anything that should have been done by an Owner hereunder or under any other document promulgated pursuant hereto, or perform the obligation of the breaching Owner, without any liability for damages for wrongful entry, trespass or otherwise to any Person, except as a result of the negligent acts or omissions of Declarant or its employees, agents or contractors.

(b) Each Owner of a Parcel (including any purchaser at Foreclosure), by acceptance of a deed, lease, sublease or other instrument granting or conveying title to such Parcel, whether or not it shall be so expressed in any such deed, lease, sublease or other instrument, and each Occupant, by acceptance of its occupancy interest, binds itself, its successors and assigns, to pay to Declarant the actual cost to cure any violation hereunder, together with liquidated damages of five (5%) percent of such cost. In addition, the amounts so expended by Declarant in accordance with this Subsection 8.6(b) shall constitute a lien against the Parcel on which the violation occurred in favor of Declarant in accordance with Section 6.1 above.

8.7 **Attorneys' Fees.** Every Owner or Occupant shall be obligated to pay the actual attorneys' fees (which shall be reasonable in amount) of the Person bringing an action against such Owner or Occupant for the enforcement of the provisions of this Declaration, provided such Person bringing said action has obtained a judgment in its favor by a court of record and such judgment has become final.

8.8 **Common Expenses and Charges.** All sums reasonably expended by

Declarant or any Owner in enforcing this Declaration, including, without limitation, sums expended pursuant to Subsection 8.6 hereof, shall be immediately due and payable by the Owner in violation *within ten (10) days of receipt of an invoice therefor*, together with reasonable documentation supporting the amounts due.

8.9 **Remedies Cumulative.** The remedies provided herein shall be in addition to and not in substitution for any rights and remedies now or hereafter existing at law or in equity. The remedies provided herein or otherwise available shall be cumulative and may be exercised concurrently. The failure to exercise any one of the remedies provided herein shall not constitute a waiver thereof, nor shall use of any of the remedies provided herein prevent the subsequent or concurrent resort to any other remedy or remedies.

8.10 **Nuisance.** Any action or omission whereby any term contained in this Declaration or in any other document promulgated pursuant hereto is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner, either public or private, shall be applicable against every such action or omission and may be exercised by Declarant or any other Owner.

ARTICLE IX **DECLARANT INTEREST**

9.1 **Assignment of Declarant Interest.**

(a) The Declarant interest may be assigned by Declarant, in whole or in part, to any Person that agrees, to the extent of such assignment, to assume the Declarant Obligations arising from and after the date of such assignment. To be effective, such assignment must be in writing and in recordable form and specifically refer to the Declarant Interest, or portion thereof, which is being assigned. Upon acceptance of such assignment, such assignee shall, to the extent of such assignment, assume the Declarant Obligations arising from and after the date of such assignment and shall have the Declarant Powers, but shall have no liability for the acts or omissions of any prior Declarant. Upon such assignment, and to the extent thereof, the assigning Declarant shall be relieved from all Declarant Obligations arising from and after the date of such assignment, but not Declarant Obligations that have not been fulfilled that arose prior to the date of the assignment. The term "Declarant", as used herein, includes all such assignees and their heirs, successors and assigns. Notwithstanding anything to the contrary set forth herein, the mere conveyance or transfer of ownership of or any other interest or estate in land within the Property by Declarant to any Person, whether by deed, lease, sublease or other instrument, shall in no way convey all or any portion of the Declarant Interest, and the transfer and conveyance of the Declarant Interest shall only occur by instrument recorded in the public records of Forsyth County, Georgia expressly transferring and conveying the Declarant Interest.

(b) The Declarant Interest may be collaterally assigned by Declarant to any first priority Mortgagee of any portion of any Parcel owned by Declarant. In the event of and such collateral assignment and the Foreclosure of the Mortgage in respect of which the Declarant interest has been collaterally assigned, the successor-in-title, upon such Foreclosure, to the portion of Declarant's Parcel encumbered by such Mortgage shall be the successor Declarant hereunder.

9.2 **Declarant Resignation Event.** Upon the occurrence of any Declarant Resignation Event, (i) Declarant shall be relieved of all Declarant Powers and of all Declarant Obligations; and (ii) Declarant (or, if Declarant fails to do so or is unable to do so, any Owner or group of Owners) shall immediately organize the Association, and, upon the organization of the Association, the Declarant interest shall automatically vest in the Association and the Association shall be deemed to have assumed the Declarant Obligations arising after the organization of the Association. The Association shall have as its members all of the Owners. Each Owner shall have the number of votes in such Association equal to the number of gross acres contained within the Parcel with respect to which such Owner is the Owner.

ARTICLE X MISCELLANEOUS

10.1 **Certificate of Compliance.** Upon written request of any Owner, Space Tenant or Mortgagee, or any prospective Owner, Space Tenant or Mortgagee, Declarant and each Owner shall issue and acknowledge a certificate in recordable form setting forth the amounts of any unpaid charges due hereunder, if any, against such Parcel and setting forth generally whether or not, to Declarant's or such Owner's actual knowledge, there is any subsisting violation or breach of this Declaration in respect of such Parcel. Said written statement shall be conclusive upon Declarant and each Owner in favor of the Persons who rely thereon in good faith. Any statement from Declarant that the approvals pursuant to the architectural covenants have been granted shall be conclusive.

10.2 **Parties Bound.** This Declaration shall run with the Property and each and every part thereof, shall bind Declarant, the Owners and all Persons having or acquiring any interest in the Property or any part thereof, and their respective heirs, successors, personal representatives and assigns, and shall inure to the benefit of and be enforceable by, Declarant and its successors and assigns, and each Owner and its successors and assigns. Every Person, including a Mortgagee, acquiring or holding any interest or estate in any portion of the Property shall take or hold such interest or estate, or the security interest with respect thereto, with notice of the terms and provisions of this Declaration; and in accepting such interest or estate in, or a security interest with respect to, any portion of the Property, such Person shall be deemed to have consented or assented to this Declaration and all of the terms and provisions hereof, whether or not such Person shall have executed any document or instrument evidencing the same.

Notwithstanding the foregoing, upon an Owner's sale, transfer or conveyance of all of its right, title and interest in and to its Parcel, the selling, transferring or conveying Owner shall not have any liability for any duty, obligation, liability or responsibility which shall first accrue under this Declaration in respect of such Parcel after the date that (i) evidence of such sale, transfer or conveyance is recorded in the real property records of Forsyth County, Georgia, and (ii) the Owner has given Declarant written notice of such sale, transfer or conveyance which sets forth the name and address of the transferee and a copy of the instrument of sale, transfer or conveyance; provided, however, that nothing herein shall be deemed or construed so as to relieve any such Owner from any duty, obligation, liability or responsibility that accrued under this Declaration in respect of such Parcel prior to such sale, transfer or conveyance.

10.3 **Applicable Law, Venue and Jury Trial Waiver.** This Declaration concerns real property located in the State of Georgia and shall be governed by and interpreted in

accordance with the laws of the State of Georgia. The venue for any action or suit brought against any Owner relating to this Declaration or the enforcement of any provisions hereof shall be exclusively in either Fulton County, Georgia or Forsyth County, Georgia. Any Person affected hereby submits to the jurisdiction of the state and Federal courts sitting in Fulton County, Georgia or Forsyth County, Georgia, and waives the right to sue or be sued elsewhere.

10.4 **Severability**. If any Article, Section, Subsection, term or provision of this Declaration shall be or become illegal, null, void or unenforceable for any reason or shall be held by any court of competent jurisdiction to be illegal, null, void or unenforceable, the remaining Articles, Sections, Subsections, terms and provisions will continue to remain in full force and effect irrespective of the fact that any one or more of the other Articles, Sections, Subsections terms or provisions shall become or be illegal, null, void or unenforceable.

10.5 **Conflicts**. All applicable building and inspection codes and regulations and any and all other Governmental Requirements shall be observed. In the event of any conflict between this Declaration and such Governmental Requirements, the provisions which require more restrictive standards shall apply.

10.6 **No Reverter**. No covenant or restriction set forth in this Declaration is intended to be or shall be construed as a condition subsequent, a conditional limitation, or as creating a possibility of reverter.

10.7 **Grants and Agreements**. The grants, reservations, creation and establishment of the easements, rights and privileges in this Declaration are independent of any contractual agreements or undertakings hereunder and a breach by Declarant, any Owner or any Occupant of any such contractual agreements or undertakings shall not cause or result in a forfeiture, termination or reversion of the easements, rights and privileges created by this Declaration.

10.8 **Interpretations**. In all cases, the provisions set forth or provided for in this Declaration shall be construed together and given that interpretation or construction which will best effect the intent of the purpose set forth in Article I hereof. No provision of this Declaration shall be construed against or interpreted to the disadvantage of any Owner, including, without limitation, Declarant, by any court or other Governmental Authority by reason of such Owner's having or being deemed to have structured or dictated such provision.

10.9 **Captions**. The captions of each Article, Section and Subsection hereof are inserted only for convenience and are in no way to be construed as defining, limiting, extending or otherwise modifying or adding to the particular Article, Section or Subsection to which they refer.

10.10 **Gender and Grammar**. The singular wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or to other entities or to individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

10.11 **Rights of First Mortgagees**. Each first priority Mortgagee shall be entitled to written notice from Declarant and each Owner of any default by the Owner of the Parcel

encumbered by its Mortgage in the performance of its obligations under this Declaration which is not cured within sixty (60) Days; provided, however, that each such first priority Mortgagee shall have first filed with Declarant and each Owner a written request that notices of default, notices of meetings and copies of financial reports be sent to a named agent or representative of such Mortgagee at an address stated in such notice.

10.12 **Time is of Essence.** Time is of the essence of this Declaration and every provision hereof.

10.13 **Force Majeure.** Notwithstanding anything herein to the contrary, Declarant and each Owner shall have an extension with respect to all time periods within which Declarant and such Owner must act or react equal to the number of Days of delay caused by adverse weather conditions, labor disputes, fire, casualty, acts of God or any other similar event beyond the direct control of Declarant or such Owner, as the case may be (excluding the failure or inability to pay money).

10.14 **Not a Public Dedication.** Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property or of any Parcel or portion thereof to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no third-party Person shall be deemed to be a beneficiary of any of the terms and provisions of this Declaration.

10.15 **Notices.** All notices, Approvals or other communications required or permitted to be given under this Declaration shall be in writing and shall be delivered via: (a) U.S. mail by certified mail, return receipt requested, postage prepaid and addressed to the Person to whom it is intended at the address of said Person as set forth below; (b) overnight commercial courier or delivery service, fee prepaid and addressed to the Person to whom it is intended at the address of said Person as set forth below; or (c) personal delivery to the Person to whom it is intended if given in any other manner. Notices, Approvals or other communications shall be deemed delivered upon actual delivery. The failure or refusal to accept delivery of, or the inability to deliver, any notice, Approval or other communication because of a changed address of which no notice has been given as provided above, shall constitute delivery. The address for an Owner shall be the most recent address of said Owner designated in writing to Declarant and given in accordance with this **Section 10.15**, or if not so designated, as shown on the tax rolls of Forsyth County, Georgia. The address for Declarant shall be:

Polo Fields II, LLC
c/o Noro Management, Inc.
Paran Place
2060 Mount Paran Road, Suite 205
Atlanta, Georgia 30327
Attn: Paul Grove, President

Declarant may change its address by filing a written instrument in the recording office where this Declaration is filed stating its new address.

ARTICLE XI
VARIANCES

Notwithstanding anything to the contrary contained herein, Declarant shall be authorized to grant individual variances from any of the provisions of this Declaration and any rule, regulation or use restriction promulgated pursuant hereto (which variance would take precedence over any conflicting provision of this Declaration or any conflicting rule, regulation or use restriction promulgated pursuant hereto) if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for the Property.

IN WITNESS WHEREOF, Declarant has executed, Declaration, as of the 26 day of OCTOBER, 2007.

DECLARANT:

POLO FIELDS II, LLC, a Georgia limited liability company:

By: [Signature] (SEAL)
Manager
PAUL M. GROVE

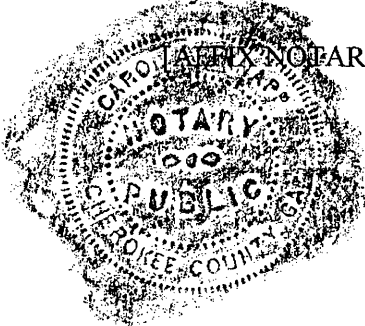
Signed, sealed and delivered in the presence of:

[Signature]
Witness

[Signature]
Notary Public

Notary Public, Cherokee County, Georgia
My Commission Expires Feb. 17, 2008

My commission expires: _____



[NOTARIAL SEAL OR STAMP]

EXHIBIT "A"

LEGAL DESCRIPTION OF PROPERTY

Original Tract 1 = 12.97 Acres
(Includes Outparcel #1, Post Road R/W Dedication Area, and Majors Road R/W Dedication Area.)

A parcel of land lying and being a part of Land Lot 243, of the 2nd District, 1st Section, of Forsyth County, Georgia, said tract of land being more particularly described as follows:

BEGINNING at an iron pin set at the Southerly mitered intersection of the Southwesterly right-of-way line Majors Road (60' R/W) and State Route #371 (a.k.a. Post Road 80' R/W);

THENCE North 77 degrees 01 minutes 36 seconds East for a distance of 36.60 feet to a right-of-way monument found;

THENCE proceed along the southwesterly right-of-way line of Majors Road South 58 degrees 32 minutes 47 seconds East for a distance of 65.10 feet to a right-of-way monument found;

THENCE South 63 degrees 05 minutes 33 seconds East for a distance of 124.86 feet to a right-of-way monument found;

THENCE South 58 degrees 30 minutes 38 seconds East for a distance of 182.23 feet to a right-of-way monument found;

THENCE along a curve to the right having a radius of 411.81 feet and an arc length of 104.08 feet, being subtended by a chord of South 51 degrees 54 minutes 21 seconds East for a distance of 103.80 feet to a right-of-way monument found;

THENCE North 47 degrees 13 minutes 34 seconds East for a distance of 18.07 feet to an iron pin set; THENCE South 42 degrees 49 minutes 07 seconds East for a distance of 196.36 feet to a point;

THENCE South 45 degrees 11 minutes 18 seconds East for a distance of 106.20 feet to an iron pin set;

THENCE South 46 degrees 28 minutes 45 seconds West for a distance of 205.96 feet to an ½"rebar found disturbed;

THENCE South 60 degrees 54 minutes 11 seconds West for a distance of 935.07 feet to ½"rebar found;

THENCE North 00 degrees 27 minutes 48 seconds East for a distance of 660.04 feet to an ½"rebar found lying on the southeasterly right-of-way line of State Route #371;

THENCE proceed along said southeasterly right-of-way line the following courses and distances: North 36 degrees 38 minutes 42 seconds East for a distance of 68.03 feet to a right-of-way monument found; North 40 degrees 35 minutes 39 seconds East for a distance of 180.33 feet to a right-of-way monument; North 37 degrees 18 minutes 39 seconds East for a distance of 106.35 feet to a right-of-way monument found; along a curve to the left having a radius of 1959.86 feet and an arc length of 133.07 feet, being subtended by a chord of North 35 degrees 21 minutes 00 seconds East for a distance of 133.04 feet to a point, said point being the TRUE POINT OF BEGINNING.

Said property contains 12.97 Acres more or less.

The above described property is shown on a Boundary Survey of Bridle Crossing Site for Polo Fields II, LLC and M. J. Lant Development, by LandAir Surveying Company, dated October 15, 2007, last revised October 22, 2007.

EXHIBIT "B"

LEGAL DESCRIPTIONS OF PARCELS 1 AND 2

Parcel 1

(Original TRACT 1 Minus Outparcel 1, Post Road R/W Dedication,
& Major Road R/W Dedication)

All that tract or parcel of land lying and being in Land Lot 243, 2nd District, 1st Section, Forsyth County, Georgia and being more particularly described as follows:

To find the True Point of Beginning commence at a right of way monument at the intersection of the existing southwesterly right of way line of Majors Road (right of way width varies) and the existing southeasterly right of way line of Post Road (right of way width varies); THENCE proceed South 77 degrees 01 minutes 36 seconds West along the existing said right of way a distance of 0.56 feet to a point; THENCE leaving said existing right of way and proceed along the proposed right of way line of Majors Road South 58 degrees 15 minutes 38 seconds East for a distance of 249.92 feet to a point, said point being the TRUE POINT OF BEGINNING;

From the TRUE POINT OF BEGINNING as thus established, THENCE along said proposed right of way of Majors Road the following courses and distances: South 58 degrees 58 minutes 36 seconds East for a distance of 122.27 feet to a point; along a curve to the right having a radius of 451.58 feet and an arc length of 102.78 feet, being subtended by a chord of South 49 degrees 39 minutes 53 seconds East for a distance of 102.56 feet to a point; along said right of way South 44 degrees 07 minutes 03 seconds East for a distance of 300.75 feet to a point;

THENCE leaving said proposed right of way line of Majors Road and proceed South 46 degrees 28 minutes 45 seconds West for a distance of 176.03 feet to an Iron Pin Found (1/2" rebar);

THENCE South 60 degrees 54 minutes 11 seconds West for a distance of 935.07 feet to an Iron Pin Found (1/2" rebar);

THENCE North 00 degrees 27 minutes 48 seconds East for a distance of 631.57 feet to a point on the proposed southeasterly right of way of Post Road (right of way width varies);

THENCE along said proposed right of way line the following courses and distances: North 36 degrees 50 minutes 33 seconds East for a distance of 118.93 feet to a point; along a curve to the left having a radius of 8457.19 feet and an arc length of 191.90 feet, being subtended by a chord of North 37 degrees 14 minutes 08 seconds East for a distance of 191.90 feet to a point;

THENCE leaving said proposed right of way line and proceed South 58 degrees 32 minutes 47 seconds East for a distance of 283.94 feet to a point;

THENCE North 31 degrees 46 minutes 35 seconds East for a distance of 223.37 feet to a point on the proposed southwesterly right of way line of Majors Road and the TRUE POINT OF BEGINNING.

Said property contains 11.14 acres more or less.

The above described property is shown on a Boundary Survey of Bridle Crossing Site for Polo Fields II, LLC and M. J. Lant Development, by LandAir Surveying Company, dated October 15, 2007, last revised October 22, 2007.

Parcel 2

EXHIBIT "B"
(Survey Legal Description)

All that tract or parcel of land lying and being in Land Lot 243, 2nd District, 1st Section, Forsyth County, Georgia being Tract 2 (1.415 acres) as shown on that Minor Plat for Bridle Station recorded at Plat Book 120, Page 220, Forsyth County, Georgia Records, being more fully described as follows:

TO FIND THE TRUE POINT OF BEGINNING, BEGIN at a concrete monument found at the eastern end of the mitered intersection of the former southeastern right-of-way of State Route 371 (aka Post Road) (right-of-way varies) and the former southwestern right-of-way of Majors Road (right-of-way varies), thence South 77 degrees 01 minutes 36 seconds West along said miter a distance of 0.56 feet to a point located at the eastern end of the mitered intersection of the proposed southeastern right-of-way of State Route 371 (aka Post Road) (right-of-way varies) and the proposed southwestern right-of-way of Majors Road (right-of-way varies), said point being the TRUE POINT OF BEGINNING;

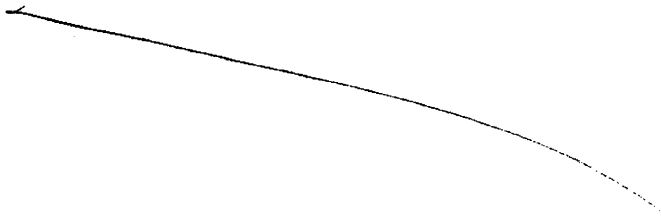
FROM SAID TRUE POINT OF BEGINNING, thence South 58 degrees 15 minutes 38 seconds East along the proposed southwestern right-of-way of said Majors Road, a distance of 249.92 feet to a one-half inch rebar set; leaving the proposed right of way of said Majors Road, thence South 31 degrees 46 minutes 35 seconds West, a distance of 223.37 feet to a one-half inch rebar set; thence North 58 degrees 32 minutes 47 seconds West, a distance of 283.94 feet to a one-half inch rebar set on the proposed southeastern right-of-way of said State Route 371 (aka Post Road); thence along the proposed southeastern right-of-way of said State Route 371 (aka Post Road) the following courses and distances: northeasterly along the arc of a curve to the left an arc distance of 92.64 feet (said arc having a radius of 8457.19 feet, a chord of bearing North 36 degrees 16 minutes 18 seconds East and a chord distance of 92.64 feet) to a point; North 34 degrees 42 minutes 47 seconds East, a distance of 111.76 feet to a point; and North 77 degrees 01 minutes 36 seconds East, a distance of 29.60 feet to a point located at the eastern end of the mitered intersection of the proposed southeastern right-of-way of State Route 371 (aka Post Road) (right-of-way varies) and the proposed southwestern right-of-way of Majors Road (right-of-way varies), said point being the TRUE POINT OF BEGINNING; said described tract containing 1.42 acres, more or less.

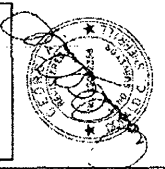
As more fully shown on that ALTA/ACSM Land Title Survey prepared for SunTrust Bank and Chicago Title Insurance Company, prepared by Travis Pruitt and Associates, Inc., certified by Jon G. Adams, Georgia Registered Land Surveyor No. 2768, dated March 14, 2007, last revised February 22, 2008, (should there be any discrepancy between the recorded plat and the legal description set forth above, the recorded plat metes and bounds shall prevail).

TOGETHER WITH those easements benefiting the above-described tract as described in that certain Declaration of Easements, Covenants and Restrictions for Bridle Station by Polo Fields II, LLC, a Georgia limited liability company, dated _____, 2008, recorded in Deed Book _____, Page _____, Forsyth County, Georgia Records.

whd,ii
Revised 04/16/08

EXHIBIT "C"
PLAT OF SURVEY





MINOR PLAT FOR BRIDE STATION

FORSEYTH COUNTY, GEORGIA

NORO MANAGEMENT, INC.

LAND LOT 243, 2ND DISTRICT, 1ST SECTION

#120

DATE	12/15/2010
COMPILED BY	JAMES W. MOORE
APPROVED BY	JAMES W. MOORE

MINOR PLAT

DRAWING TITLE

SCALE: 1" = 100'

GENERAL NOTES

THIS PROPERTY IS NOT SHOWN TO BE LOCATED WITHIN THE UNINCORPORATED TOWN OF BRIDGE STATION, GEORGIA, ACCORDING TO POSSIBLE COUNTY PLAT RECORDS. INSURANCE RATE MAP No. 1111703187E AND No. 1111703187D, DATED 12/15/2010, SHOWS THIS PROPERTY AS BEING LOCATED GEographically WITHIN THE TOWN OF BRIDGE STATION. NO ADDITIONAL FIELD WORK HAS BEEN PERFORMED TO MAKE OR VERIFY THIS DETERMINATION.

PERMIT TO RULE 310-6-009 OF THE GEORGIA STATE BOARD OF SURVEYORS. THE HIGH "CERTIFIED" OR "CERTIFICATION" LAND SURVEYING SERVICES SHALL MEAN A WARRANTY TO THE LAND SURVEYOR AND IS NOT A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED.

THE FIELD CLOSURE UPON WHICH THIS PLAT IS BASED HAS A CLOSURE MEASUREMENT OF 0.0000 FEET. A WADSWORTH ANGLE ELECTRONIC TOTAL STATION WAS USED TO MEASURE ANGLES AND DISTANCES.

WEST BOUND LINES ADJACENT TO THE VERTICAL PLAIN SURVEY ARE HORIZONTAL AND VERTICAL CONTROL FOR THIS SURVEY WAS ESTABLISHED USING A STATION HERE AND GPS RECEIVER AND LOCAL GPS AIR RECEIVER.

ALL DISTANCES ARE IN FEET AND DECIMALS THEREOF. ALL DISTANCES ARE TO BE ACCURATE WITHIN ONE (1) FOOT UNLESS OTHERWISE NOTED.

ALL U.S. ARE TO BE REAR #4 UNLESS OTHERWISE NOTED.

THE UNDEVELOPED WADSWORTH VERTICAL PLAIN SURVEY OF 1887, AS OWNED BY THE STATE OF GEORGIA, IS SUPERSEDED BY THIS SUBDIVISION. IT IS HEREBY ACKNOWLEDGED THAT THE EASEMENT SHALL NOT BE ACCEPTED BY FORSEYTH COUNTY, GEORGIA, BUT SHALL REMAIN PRIVATELY OWNED AND BETWEEN THE PARTIES.

OWNER'S CERTIFICATE A CERTIFICATE BY A SURVEYOR DIRECTLY ON THE MINOR PLAT SIGNED IN AN APPROPRIATE MANNER AS FOLLOWS:

THE OWNER OF THE LAND SHOWN ON THIS PLAT AND THROUGH A QUALIFIED AGENT, CERTIFIED THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY AND THAT ALL THE LAND SHOWN HAS BEEN PAID FOR BY OWNER. THE PLAT IS ACCURATE AND THE PUBLIC FOR USE FOR THE STREET AND FOR THE PURPOSES OF THIS PLAT.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

WITNESSES: JAMES W. MOORE, Surveyor, Forsyth County, Georgia, License No. 12345

POWER POLE WITH GUY WIRE
1/2" REBAR SET

SURVEYOR'S CERTIFICATE A CERTIFICATE BY A SURVEYOR DIRECTLY ON THE MINOR PLAT SIGNED IN AN APPROPRIATE MANNER AS FOLLOWS:

THE PROPERTY SHOWN ON THIS PLAT IS TRUE AND CORRECT AND WAS PREPARED FROM AN ACTUAL SURVEY OF THE PROPERTY BY ME OR PERSONS UNDER MY SUPERVISION. THE PLAT IS ACCURATE AND THE PUBLIC FOR USE FOR THE STREET AND FOR THE PURPOSES OF THIS PLAT.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF:

WITNESSES: JAMES W. MOORE, Surveyor, Forsyth County, Georgia, License No. 12345

SURVEY LEGEND

POWER POLE WITH GUY WIRE - 1/2" REBAR SET

1/2" REBAR SET

1" = 100'

CIVIL ENGINEERS • LAND PLANNERS
LANDSCAPE ARCHITECTS • SURVEYORS

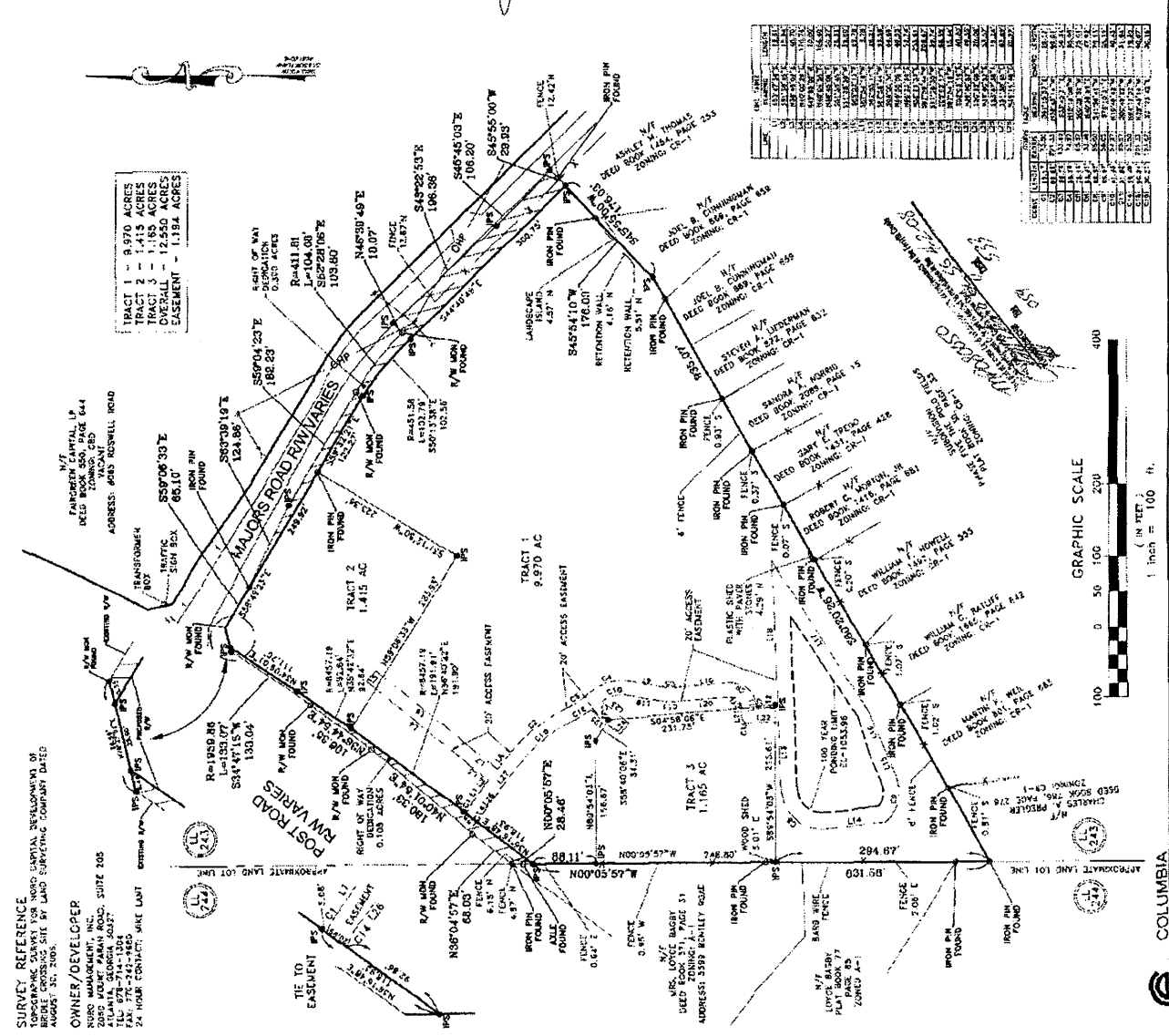


EXHIBIT "D"

SHOPPING CENTER SITE PLAN



EXHIBIT "E"

**FORSYTH COUNTY BOARD OF COMMISSIONERS REGULAR
MEETING/PUBLIC HEARINGS
NOVEMBER 17, 2003, AND NOVEMBER 16, 2006**

Forsyth County Government

Serving Our Citizens Since December 3, 1852

Tuesday, November 14, 2006

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11/16/2006 - BOC Regular Meeting/Public Hearings More Information, contact:
Forsyth County Administration
Phone:(770) 781-2101
Fax: (770) 781-2199

**FORSYTH COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING/PUBLIC HEARINGS
NOVEMBER 16, 2006**

On Thursday, November 16, 2006 at 5:11 p.m., in the Commissioners' Meeting Room of the Forsyth County Administration Building, the Forsyth County Board of Commissioners held a Regular Meeting/Public Hearings with the following persons present: Jack Conway -- Chairman, Brian R. Tam - Vice Chairman, Dr. Linda K. Ledbetter -- Secretary, Charles Laughinghouse -- Member, David W. Richard -- Member, Rhonda O'Connor -- Interim County Manager, Ken Jarard -- County Attorney, Jodi Gardner -- Director of Communications, Carol Haag -- Aide to Chairman, Shawn Scott -- Aide to Vice Chairman, Jeanne Marie Cowdrey -- Aide to Secretary and Sonya Bush -- Clerk

**AGENDA
FORSYTH COUNTY BOARD OF COMMISSIONERS
THURSDAY, NOVEMBER 16, 2006 @ 5:00 P.M
FORSYTH COUNTY ADMINISTRATION BUILDING
110 EAST MAIN STREET - SUITE 220
CUMMING, GEORGIA 30040**

- I. Call Meeting to Order
- II. Invocation and Pledge of Allegiance
- III Adoption of Agenda
- IV Announcements and Reports:
 - (1) Presentation of Host Fee Check from Eagle Point Landfill -- Chairman Conway
- V. Public Comments
- VI. Adoption of Minutes:

Motion carried with four members in favor (Conway, Tam, Ledbetter and Richard) and one member in opposition (Laughinghouse).

Request by Ed Yebra regarding the condition placed on a variance by the Appeals Board on September 5, 2006 - AB# VA060069 - District #5

There was a motion by Commissioner Ledbetter and a second by Commissioner Tam to approve the variance and refund the \$5,000 fine if it has been paid. Motion carried with four members in favor (Conway, Tam, Ledbetter and Laughinghouse) and one member in opposition (Richard).

Request by Tim Amerson on behalf of Forsyth County Schools to amend zoning conditions placed on ZA# 3006 (Beazer Homes Corp) -- District #2

There was a motion by Commissioner Tam and a second by Commissioner Ledbetter to approve the request by Tim Amerson on behalf of Forsyth County Schools to amend zoning conditions placed on ZA# 3006 (Beazer Homes Corp) as displayed which read as follows:

Amend Condition #24 to reduce a portion of the 50 foot buffer along Mr. Brenton Bagley's property line to allow the schools field layout to encroach on this buffer.

Delete Condition #18 which reads: Exterior lighting fixtures shall be of a type and situated so that light is directed only downward. Fixtures shall be no more than 15 feet high and shall be designed so as to minimize light spillage to no more than 1-foot candle along the boundary of the property.

There was a motion by Commissioner Laughinghouse and a second by Commissioner Richard to amend the original motion to not delete Condition #18 but to modify it to read as follows:

18. Exterior lighting fixtures shall be of a type and situated so that light is directed only downward. Fixtures shall be designed so as to minimize light spillage to no more than 1-foot candle along the boundary of the property.

Motion to amend carried unanimously

Original motion, as amended, carried unanimously

Request by M.J. Lant Developments, Inc to amend zoning conditions placed on ZA# 1316 (Atlanta Polo Limited) -- District #3

There was a motion by Commissioner Conway and a second by Commissioner Richard to approve the request by M.J. Lant Developments, Inc to amend zoning conditions placed on ZA# 1316 (Atlanta Polo Limited) as displayed which read as follows:

Modify Condition #17 to read: If pedestrian traffic occurs from the development into the yards of the Polo Fields neighborhood, upon the request

of the Polo Fields Neighborhood Association, the developer shall construct a 6' - 8' security fence along the rear boundary (property lines) of the shopping center. Said fence shall be a chain link type fence painted black or hunter green in color.

Modify Condition #22(b) to read: Oil change facilities or car washes and no sale of diesel fuel for tractor-trailer trucks. Should the developer propose a service station on the Outparcel, the developer shall work with the Polo Fields neighborhood to minimize visual impact and present the plans to the Polo Fields neighborhood for input and discussion.

Add Condition #25 to read: The developer will replace and maintain any Leyland Cypress trees in the existing berm adjacent to the Polo Fields neighborhood at the time landscaping is installed for the first phase of the project.

Add Condition #26 to read: If requested by the adjacent Polo Fields property owners, Bridle Station will maintain the area between the Leyland Cypress trees and the owners of Polo Fields which back up to the property. This includes mowing and controlling weeds, bushes, etc.

Delete Condition #22(f) which reads: Vending machines are required to be placed in the vestibule area of the store.

Modify Condition #5(c)(1) to read as follows: One monument sign, for each Outparcel, which shall not be taller than twelve feet in height from the elevation of Post Road but in compliance with the Forsyth County Sign Ordinance. If a taller sign is required, Noro Capital Development will come back to the Forsyth County Board of Commissioners for approval. In the event that any portion of this condition conflicts with the Forsyth County Sign Code, the Sign Code shall control.

Motion carried unanimously.

The Board took a recess.

The Board came out of recess and reconvened the Regular Meeting.

UNDER NEW BUSINESS & PUBLIC HEARING THE FOLLOWING ACTIONS WERE TAKEN:

T. Mobile South, LLC, C# 06-0006, issuance of a Conditional Use Permit for the purpose of a telecommunications facility on property currently zoned A1 - District #5.

There was a motion by Commissioner Ledbetter and a second by Commissioner Tam to approve the request by T. Mobile South, LLC, C# 06-0006, issuance of a Conditional Use Permit for the purpose of a telecommunications facility on property currently zoned A1. Motion carried with four members in favor (Conway, Tam, Ledbetter and Richard) and one

Adoption of Resolution for transmittal of Comprehensive Plan and supporting documents to the Department of Community Affairs

This item was postponed to a future meeting

Request by Noro Capital Development, Inc. for approval of Site Plan (Atlanta Polo, Ltd., ZA# 1316) - District #3

There was a motion by Commissioner Conway and a second by Commissioner Taylor that the site plan be approved as submitted with the following conditions:

Dependable Acreage/Material change to Site Plan

- 1 The total acreage to be acquired by Noro Development shall be approximately 13 +/- acres.
- 2 In order to ensure complete planning and compliance with these limitations regarding developable acreage, before any land disturbance and subsequent permits may be issued, a detailed site plan with calculations clearly delineating building and landscaped areas footprints square footage calculations and landscaped buffer areas will be submitted and approved by the Forsyth County Planning & Zoning Department.
- 3 Noro agrees that any materially significant site plan changes to the Project site plan shall be furnished to the Polo Homeowners Association and shall be reviewed and approved by the District 3 County Commissioner.

Road Improvements

- 4 Noro shall improve Post Road and Majors Road by adding any deceleration or turning lanes as required by the Georgia State DOT and Forsyth County

Architectural Treatments

- 5 The development shall strive to adopt an architectural theme similar and in common with the surrounding environment/development (Polo Golf & Country Club). The developer has cooperated with the community affairs committee of the Polo Golf & Country Club HOA to reach a consensus regarding an appropriate theme. The developer and the Polo HOA have agreed to an "Equestrian Theme". Noro shall design an equestrian architectural theme, which shall include, at a minimum, the following:

- (a) All building facades visible from Post Road or Majors Road shall consist predominately of brick, pre-cast concrete, split block, natural stone or glass. Stucco and painted dimensioned wood may be used as accent material only (not to exceed approximately 25% of surface area). Excluding the rear of the main group of buildings, the exterior building materials shall not be exposed concrete block, aluminum siding, vinyl siding or corrugated steel. Architectural elements shall include a sufficient mix of: Columns, arcades, covered entry walkway, arches, façade offsets, windows, and undulating walls. Rooftops will have a special equestrian theme parapet
- (b) All primary building materials and building components shall be earth tones in color, such as darker and cooler shades of Hunter green, Savannah brick, Beige and lighter shades of brown. The rear of the building shall be painted an earth tone color
- (c) The front façade of the main building shall not have a continuous parapet height but shall attempt to vary the roofline to create a pleasing architectural element. Façade of buildings should be esthetically appealing with gables and other interesting architectural features. Building entry areas of single business buildings and the principal entry of multi-business building shall be articulated and express greater architectural detail than other portions of the building. Painted block is acceptable for the rear portion of buildings. Flat roofs and roof-mounted equipment shall not be visible from Post Road. Sloped roofs shall be constructed of architectural shingles.
- (d) Building components, if visible from Public Street such as steel gates, burglar bars, chain link fence, steel roof down curtains, and metal awnings are strictly prohibited
- (e) Stone, brick, or other masonry type wall, iron fencing or dark wood "ranch style" or "Kentucky 4 Board" fencing is permitted along Post Road and Majors Road
- (f) Internal sidewalks shall be created leading from the public sidewalk to the main entrance of the principle use of the property. Pedestrian sidewalks shall be either a combination of colored textured walkways or poured/paved concrete mix. Paths are encouraged to be built alongside interesting and inviting features such as (fountains). Side walks shall be built along both Post Road and Majors Road and leading to the retail areas from both Majors and Post Roads

- (g) Project shall provide sidewalks on the site plan at the time an application is filed for a land disturbance permit.
- (h) Public sidewalks shall be provided within the rights-of-way adjoining the development at the corner of Post & Majors and along Post and Majors for future development
- (i) All sides of outlots should not have any utilities or dumpsters openly visible. They should be concealed with plant material of an evergreen mature type

Signage

- 6 All project signage shall conform to the new Forsyth County Sign Ordinance with the following limitations:
 - (a) Development Wide Restrictions:
 - (1) There shall be a minimum 35-foot separation between monument signs, including out parcel monument signs
 - (2) All monument signage and all sign structures, not necessarily the face of the signs shall be architecturally integrated to the equestrian theme of the development. Franchise Tenants and National Tenants are allowed flexibility to put up their standard signs as long as they are considered in good taste and appropriate in size.
 - (3) The development shall not allow temporary signs that exceed twenty percent (20%) of any wall area.
 - (b) Single Tenant Signs – Out Parcel Signs
 - (1) Wall signs shall be flush against the wall (or mounted as a raceway), not cover architectural features or details, and not extend beyond roofline or outer edges of the building or exterior walls facing public street(s), and pedestrian-parking areas, and other non commercial development
 - (2) Primary wall signs shall be internally illuminated.

- (3) Individual Tenant signs (excluding Kroger) shall comprise no more than 80% of the width of Tenant's space (example: 20' space shall permit a 16' maximum wide sign)

(c) Monument Signs

- (1) One monument sign, for the Kroger Fuel Center parcel, which shall not be taller than twelve feet in height from the elevation of Post Road. If a taller sign is required Noro Capital Development will come back to the Forsyth County Board of Commissioners for approval.
- (2) The monument sign shall not exceed the height or width restrictions set forth in the Forsyth County Sign Ordinance
- (3) Monument must be at least 5 feet but not greater than 25 feet from public right of way, taking into account any proposed expansion of Post Road
- (4) Two monuments one on Post Road and one on Majors Road Each one shall adhere to the Forsyth County Sign Ordinance

(d) Multi-business Development

- (1) Two identification monuments shall be allowed for the overall development
- (2) Two development monuments (one located on Post Road and another located on Majors Road) shall not exceed the restrictions set forth in the Forsyth County Sign Ordinance.
- (3) Monument must be at least 5 feet but not greater than 25 feet from public right of way.

(e) One wall sign at front of each place of business

- (1) Wall signs shall be flush against wall, not cover architectural features or details, and not extend beyond on exterior walls facing public street(s), and/or pedestrian-parking areas, and other non commercial development

- (2) Under canopy signs, canvas awnings are allowed but must be consistent
 - (3) Wall signs shall be Internally illuminated
 - (4) Wall signs shall not exceed those requirements and restrictions as set forth under Forsyth County sign regulations.
- (f) The following types of signs shall be prohibited:
- (1) Interior neon signs if openly visible from a residence, or church, and other non-commercial development
 - (2) Vehicle marketing signs
 - (3) For sale signs on cars (cars should not be left in parking lot).
 - (4) Any type of plastic sign designating subdivisions or garage/estate sales.
 - (5) Billboard signs of any type or sign or design

Setbacks/Undisturbed Buffers/Landscape

- 7. The Project shall provide landscape materials common to professionally landscaped areas in the front and along side-yard setbacks. All planted trees should be 6-8 feet initial height and of the hardwood variety and have a minimum 3" caliper along Post Road and 2.5" caliper along the side-yards, planted no greater than along 25 foot centers. Exceptions may be allowed to provide proper sight lines for ingress and egress to the development. A landscape strip/buffer shall be maintained along all adjacent property lines as shown on the submitted site plan. One tree for every 10 parking spaces will be allotted. Plantings and specification shall be subject to the approval of the Forsyth County Arborist.
- 8. The developer will employ a landscaping professional who will provide a landscape plan to be submitted to the Forsyth County Arborist for approval.
- 9. All landscape material within the parking areas and front and side-yards shall be irrigated, and all lawn areas shall be covered with zoysia sod grass at the time of completion of the project.

Sewer/Storm Water

10. The project shall be connected to Sanitary sewer
11. Any open retention pond shall satisfy Forsyth County water quality and clean water requirements. All planted trees should be of the hardwood variety and have a minimum 2" caliper, planted 25 feet on centers and used to block view of all retention ponds.
12. If the project relies on an underground storm water management system, Noro and/or owner of development will maintain a maintenance contract on the system in perpetuity.

Parking Lot Lighting

13. All parking lot lighting (including out parcel lots) will be designed to be compatible with the overall development architecture, such as "period lighting". All such lighting shall be limited in height not to exceed 30' in height.
14. Hooded floodlights around the rear are acceptable as long as they face the building and are pole-mounted
15. All overhead light may be located only in developed areas. Overhead lights shall be designed to avoid issues of light pollution. Light fixtures shall be no taller than 30' in height. Perimeter lighting shall not emit more than 5-6 average foot lumens within the main parking field and 1 foot lumens in perimeter areas.
16. Illuminated holiday decorations are to be white lights only
17. Developer shall construct a 6 - 8' security fence along the rear boundary (property lines) of the shopping center. Said fence shall be a chain link type fence painted Black or Hunter Green in color
18. Developer shall construct and maintain green landscape area as illustrated on the site plan submitted to the Forsyth County Board of Commissioners.

Parking

19. The project shall meet Forsyth County parking requirements. In addition, there shall be areas for the collection of shopping carts. The following are prohibited from the parking areas:

- (a) *Carnival or circus shows.*
- (b) *Christmas tree sales except that main anchor tenant may sell them within their "seasonal sales area".*
- (c) *Loud demonstrations or events (excluding Kroger grand opening or Kroger planned events).*
- (d) *Car shows.*
- (e) *Any unapproved events or gatherings of unauthorized personnel*

Other

- 20. *Underground utilities are mandatory*
- 21. *No residential uses shall be allowed as part of the project*
- 22. *The following uses shall be prohibited:*
 - (a) *Lodging.*
 - (b) *Service stations, oil-change facilities or car washes, main anchor gas only is ok, however, Kroger shall not sell diesel fuel for tractor-trailer trucks at or from the Fuel Station*
 - (c) *Liquor stores are limited to 2,000 square feet and should be specialty high-end alcohol vendor.*
 - (d) *Trash pick-up is prohibited from 11 p.m. — 6 a.m.*
 - (e) *Frequent Forklift operations that produce loud warning signals during operation, especially backing up, will not be allowed, if the sound extends beyond the perimeter of "The Village at Polo".*
 - (f) *No pawn type retail shops*
 - (g) *No promotional balloons or searchlights are allowed on the property following the grand opening of "The Village at Polo".*
 - (h) *Neither the parking lots nor areas immediately adjacent to all building shall be used for storage of sale of goods (excluding seasonal Kroger sales area)*

- (i) Vending machines are required to be placed in the vestibule area of the store.
- (j) Developer agrees not to sell or lease to any Tenants whose use is considered as "Fast Food". Fast Food should mean McDonalds, Krystal, Burger King, or Wendy's. Tenants or Users which are permissible include, but are not limited to, Blimpie, Subways, Atlanta Bread, Moe's Southwestern Grill, Philly Cheese Steak, or any like type in-line Tenants generally found within upper end Kroger Grocery anchored centers

Screening Accessory Site Features

- 23 Dumpsters shall be placed in the rear of the commercial space that it is designed to serve and shall be enclosed on 3 sides with masonry walls covered with materials consistent with other aspects of the development. The height of the enclosure shall be 12 inches higher than the trash receptacle.
- 24 Anticipating that changes or amendments of these conditions will be required, no change or amendment of these conditions shall be made unless prior written notice, shall have been given to the Forsyth County Department of Planning and Development, 110 East Main Street, Suite 100, Cumming, GA 30040 and require public hearing if deemed material by District #3 Commissioner. Once agreement has been finalized attach restriction to Parcel Deed Restrictions so this survives subsequent owner's not just original developer.

There was a motion by Commissioner Laughinghouse and a second by Commissioner Pritchett to amend the original motion as follows:

Condition #5(i) be modified to read: All sides of outlots shall not have any utilities or dumpsters openly visible. They shall be concealed with plant material of an evergreen mature type

Condition #15 be modified to read: All overhead light may be located only in developed areas. Overhead lights shall be designed to avoid issues of light pollution. Light fixtures shall be no taller than 30' in height. Perimeter lighting shall not emit more than 5-6 average foot candle within the main parking field and 1 foot candle in perimeter areas

Condition #22(c) be modified to read: Liquor stores are limited to 2,000 square feet and shall be specialty high-end alcohol vendor

Motion to amend carried unanimously

Original motion, as amended, carried unanimously

Authorization to renew Inmate Medical Healthcare Contract for 2004

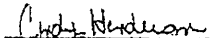
There was a motion by Commissioner Kreager and a second by Commissioner Pritchett to postpone this item to the December 8, 2003 meeting. Motion carried unanimously

Approval of Franchise Agreement with Comcast Cable, Inc.

There was a motion by Commissioner Pritchett and a second by Commissioner Laughinghouse to approve the Franchise Agreement with Comcast Cable, Inc. with a modification to require \$0.25 per customer per month PEG Fee instead of \$0.15. Motion and second were withdrawn.

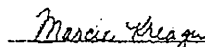
There was a motion by Commissioner Pritchett and a second by Commissioner Laughinghouse to approve the Franchise Agreement with Comcast Cable, Inc. as presented. Motion carried unanimously.

There was a motion by Commissioner Kreager and a second by Commissioner Pritchett to adjourn. Motion carried unanimously.

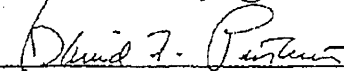

Cindy Hudson
Clerk/Deputy Clerk of Commission

The above and foregoing Minutes are hereby certified as being correct and ordered recorded


JACK CONWAY, CHAIRMAN


MARCIE KREAGER, VICE CHAIRMAN


CHARLES LAUGHINGHOUSE, SECRETARY


DAVID F PRITCHETT, MEMBER

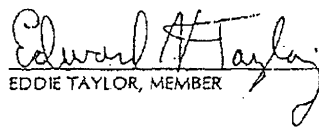

EDDIE TAYLOR, MEMBER

EXHIBIT "F"

APPROVED PARCEL 2 PLANS

Elevations and exterior construction materials prepared for SunTrust Bank by The Samuel Group and dated 10/12/2007 (Project Number 0619231).