



PLANNING & ZONING STAFF REPORT

To: Mayor and City Council

From: City Planner

Meeting Date: October 30, 2008

Subject: PUBLIC HEARINGS:

STERLING ON THE LAKE 2008
AMENDMENT OF THE CONCEPTUAL SITE PLAN AND
ORIGINAL CONDITIONS OF APPROVAL OF ORDINANCE NO.
239/240 FOR THE MASTER PLANNED COMMUNITY KNOWN
AS “STERLING ON THE LAKE”; AND

ANNEXATION AND REZONING OF A 77.71 ± ACRE SITE
KNOWN AS THE “HONEYCUTT TRACT” – THE
APPLICANT IS REQUESTING ANNEXATION AND A
ZONING DESIGNATION OF PUD (PLANNED UNIT
DEVELOPMENT) (INCLUSION WITHIN STERLING ON
THE LAKE DEVELOPMENT); AND

ANNEXATION AND REZONING OF A 26.97 ± ACRE SITE
KNOWN AS THE “KNUTSON TRACT” AND A ZONING
DESIGNATION OF PUD (PLANNED UNIT
DEVELOPMENT) (INCLUSION WITHIN STERLING ON
THE LAKE DEVELOPMENT); AND

APPLICATION SUMMARY AND PROJECT DATA

Project Location: Sterling on the Lake (east of I-985 on Spout Springs Road and Capitola Farm Road)

Acreage: 897± acres as rezoned November 16, 2001; plus the addition of the Honeycutt Tract (±77.71 acres) and Knutson Tract (±26.973), for a total of 1,001.68 ± Acres.

Applicant/Developer: Newland Communities, 3885 Crestwood Parkway Suite 250, Duluth, GA 30096, By Patrick Clark (VP, General Manager)

Existing Zoning: Sterling on the Lake is zoned PUD (Planned Unit Development), Conditional, and was approved as a part of Ordinance 240. The PUD zoning has been amended subsequently three times. The Honeycutt and Knutson Tracts are presently zoned AR-III (Agricultural Residential III) in unincorporated Hall County.

Application History: In 2007, the applicant filed an application with the City for annexation and rezoning of the Knutson Tract to PUD for inclusion in the Sterling on the Lake Development. At that time, the applicant also sought approval of a 4.2-acre additional commercial tract at Spout Springs Road and Lake Sterling Boulevard. Also in 2007, the applicant simultaneously sought rezoning approval of the 77-acre Honeycutt Tract through Hall County and inclusion within the Sterling development without annexation to Flowery Branch. All three of those applications were withdrawn. The Knutson and Honeycutt Tracts are now being resubmitted in the same (or much the same) form as that proposed in 2007. And the 4.2-acre commercial addition to the existing master plan is also a part of the applicant's current requests.

Proposed Zonings: PUD (Planned Unit Development), Conditional, to be consolidated as one revised, conditional zoning classification of PUD Conditional for the 1,001.49 ± acre development. There are three applications, annexation and rezoning of the Honeycutt Tract, annexation and rezoning of the Knutson Tract, and PUD master plan approval amending the original master plan approval granted under Ordinance 240 (as amended three times),

and incorporating the Honeycutt and Knutson Tracts into the overall master plan.

Prior Regional Review: The original PUD application was a “Development of Regional Impact” (DRI) and was reviewed according to state administrative rules for DRIs. Because the DRI application covered a project total of 2,300 residences, no additional DRI review or DRI amendment is required as a result of the filing of these applications.

Statistical Comparison: The table below provides summary statistics for the original development, the two proposed annexations, and the proposed new total for Sterling on the Lake with the two annexations.

**STATISTICAL COMPARISON
 STERLING ON THE LAKE – EXISTING APPROVAL AND PROPOSED**

	Original Approval (2001)	Honeycutt Tract (2008 Proposed)	Knutson Tract (2008 Proposed)	Total PUD (2008 Proposed)
Acreage	±897 acres	±77.71	±26.97	±1,001
Total Housing Units	1,788 units (reduced from 2,300 units)	153 plus 10 part lots	67 plus 10 part lots	1,964 units (letter of intent) (totals 2,000)
Gross Housing Unit Density	2.0 (reduced from 2.56 units per acre)	1.97 units per acre	2.48 units per acre	1.96 units per acre (totals 2.01)
% Open Space	Conditioned to provide at least 180 acres and at least 20%	±23.3 acres (30%)	±3.74 acres (13.9%)	±311.00 acres (31%)
Commercial Development	±8.70 acre commercial tract	None	None	Add ±4.2 and ± 1.1 acres of commercial, for a total of ± 14.0 acres

Note: Through a prior litigation process, the gross residential density of the total master planned development was reduced from 2.56 to 2.0 units per acre.
 Source: Original figures from Community Development Plan for Rolling Hills Lake Club, a New Village Community, by Looper Lake, LLC, Developer, dated June 28, 2001.

BACKGROUND

As the Council is aware, the master planned community generally known as Sterling on the Lake has evolved over the past seven years. Although the original intent of the development has not changed, several modifications have been made to help refine the project. Given the size and scale of the development, staff has taken the applicants latest requests as an opportunity to provide a comprehensive document that will improve administrative enforcement of the zoning conditions, eliminate now-obsolete conditions of approval and exhibits, and integrate the three prior amendments into one overall, coherent set of conditions and exhibits.

Accordingly, staff has prepared a report intended to provide the Council with a background of the project and a summary of the proposed changes. The report is organized in the following manner:

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| <i>1) Application History</i> | Describes the initial approval for Sterling on the Lake, including a summary of the original conditions of approval with their amendments. |
| <i>2) Current Application</i> | Describes several proposed changes in the PUD conditional zoning and master plan approval, including but not limited to an additional commercial component, proposed annexation and rezoning of the Honeycutt and Knutson Tracts, and the elimination and/or simplification of several conditions of approval. |
| <i>3) Procedures/ Requirements for PUD Zoning</i> | Describes permitted uses within the PUD district, dimensional requirements and design review procedures. |
| <i>4) Consistency with Rezoning Criteria</i> | Evaluates the application's consistency with applicable rezoning criteria. |
| <i>5) Issues With the Applications</i> | Identifies issues with the applications that need to be addressed from the planning staff's viewpoint, and suggests how conditions of zoning address those issues. |

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| <i>6) Application Materials and Exhibits</i> | Summarizes the various exhibits made a part of the application. |
| <i>7) Recommended Conditions of Approval</i> | Provides a list of draft conditions of approval that are recommended for the Sterling on the Lake PUD. |

APPLICATION HISTORY

Initial Approval

The Sterling on the Lake PUD received annexation, rezoning, and master plan approval under a different name, by a different developer, and under a different zoning ordinance than exists today. That approval was accomplished under Ordinances 239 and 240, approved November 16, 2001. The developer at the time of initial approval was Looper Lake, LLC. One of the ordinances is an annexation ordinance, and the other is a rezoning ordinance. The original master plan covered approximately 897± acres of land. The exhibits of the original annexation and rezoning ordinances have continued to apply, although with three amendments made (described below), some of them have been rendered obsolete. The development/property was later acquired by Newland Communities. Under the prior city administration, the PUD master plan approval also served as approval of a “preliminary plat” for the subdivided parts of the PUD.

Conditions of Initial Approval

Exhibit A to Ordinance Nos. 239 and 240, City of Flowery Branch, contains 12 pages of conditions of approval (November 16, 2001). They are paraphrased here (note: the numbering system utilized here is not the same as in Exhibit A, which used a dual lettering and numbering system). Some of these conditions have been rendered obsolete. For other conditions, the Flowery Branch Zoning Ordinance and Subdivision and Land Development Regulations, which were rewritten and adopted in 2006, can be referenced in lieu of the original conditions of zoning approval. Where appropriate, the original conditions of zoning approval have been incorporated into staff’s recommended conditions of this rezoning and master plan approval:

1. Buffers for streams were established with language regarding allowable disturbance. This condition has been retained but modified so that new code requirements apply to portions of the development built after this approval.

2. Reference to National Pollutant Discharge Elimination System (NPDES) requirements and wetland laws. This condition has been deleted as it is not necessary to reference regulations in the conditions of zoning.
3. Compliance with an approved storm water management plan is required, and the lake is prevented from use for capture of sedimentation. Private associations are responsible for ownership and maintenance of storm water detention facilities, but the city has ownership of pipes, inlets, catch basins, etc. when located within the public right-of-way. This condition of zoning has been retained.
4. A maintenance bond is required for each phase of development (final plat); specific provisions are articulated in the zoning condition. This condition of zoning has been retained in modified form.
5. Infrastructure for onsite storage and use of treated effluent (re-use water) was required (20% of average monthly discharge). The city is entitled to provide treated effluent to the property at no cost, charge, fee or tax for 7 years (on the verge of expiration). This condition of zoning has been retained in modified form.
6. The sewer provider is responsible for maintenance and repair of the re-use water distribution system from the sewer treatment plant to the property and including all lines up to service points. A maintenance bond is required. This condition of zoning has been retained in modified form.
7. Water-saving fixtures are required in all residential dwellings. This condition of zoning is no longer needed as state law requires them.
8. At least 180 acres of the property is required to be designated for permanent open space. Open space includes lakes, buffer areas, and passive and active parks and recreational areas of the property. This condition of zoning has been retained in modified form.
9. A gross density of 8 units per acre is the maximum permitted for any separately platted phase of the development. This condition of zoning has been retained.
10. Unit type is limited to detached single-family only, when gross density is less than 6 units per acre. This condition of zoning is no longer considered necessary.
11. Setbacks are established for residential development less than 6 units per acre. This condition of zoning is no longer considered necessary.

12. A formula is established for additional open space (above the 180 acre minimum), if densities of more than 6 units per acre are approved. This condition of zoning is no longer considered necessary.
13. Gas-powered boats and vehicles are not permitted on the lake, except when needed for maintenance and repair activities. Electric motors are permitted if allowed by private covenants. This condition of zoning is retained.
14. Lake buffers (undisturbed) of 25 feet in width are established on all lots bordering a lake. An additional 25 feet is established as undisturbed buffer but which may be disturbed for purposes of installing sewer and storm water drainage lines. Interior to the two 25 foot strips described, a 15 foot wide landscape strip is required (which may be disturbed but cannot be impervious surface). This condition of zoning is retained but modified.
15. Amenities are required within 2 years of recording the final plat for the development's first phase. All residents are able to use the lower lake for recreation, through a common area administered by a homeowner's association. This condition of zoning is retained but modified.
16. Transportation conditions include an 8 foot wide sidewalk along the collector road and 4 foot sidewalks on other routes. A 5 foot wide sidewalk is required along Spout Springs Road. Intersection improvements at the project entrance and Spout Springs Road are required, as is 20 feet of additional right-of-way along Spout Springs Road. These conditions have been modified and updated.
17. Maintenance of street rights-of-ways in front of lots is the responsibility of individual lot owners. This condition of zoning has been retained.
18. There is reference to a Development Agreement for sewer service. This condition of zoning has been deleted.
19. Restrictions are placed on commercial use of the office/commercial parcel. This condition of zoning has been retained in part.
20. The owner agreed to cooperate with the city to facilitate locating a police sub-station within the office/commercial parcel if so requested by the city. This condition of zoning has been deleted.

21. Fencing of a cemetery and routine maintenance is required. This condition of zoning has been retained but modified.
22. The total development limitation, following a legal challenge by Hall County, was set at a maximum of 1,788 residential units on 897± acres, or an average density of 2.0 residential units per acre, and a maximum of 8 units per acre for any portion of the development. This condition has been retained in modified form given changes to the master plan (increases in residential land area).
23. If property is sold, the allocation of units to the property sold must be disclosed to the city and the condition of zoning applicable to the property would remain in force. This condition is not considered necessary and has been deleted.

Amendments to the Initial Approval

Three amendments to the original Planned Unit Development have been approved by the city since the initial PUD approval. The parts of the PUD that were amended are shown on the graphic “PUD Amendments, Sterling on the Lake” on the following page and are described below.

Amendment #1 (239A and 240A)

On February 1, 2006, City Council approved a modification to the original conditions of Ordinance 239 and 240. The amendment changed the original roadway classification for a portion of Lake Sterling Boulevard from a “collector” road to a “sub-collector” road, and it modified certain off-site improvements along Capitola Road between Bragg Road and Spout Springs Road. Conditions were imposed on the modification, and all prior conditions of initial master plan approval were still in effect.

Amendment #2 (239B and 240B)

In September 2006, City Council approved a second modification to the original conditions of Ordinance 239 and 240. The second amendment altered the original conditions of approval regarding development standards (setbacks, lot sizes, vehicular access, and roadway design) for a part of the Planned Unit Development – a 27.69± acre site north of Lake Sterling Boulevard, which was approved for 174 lots consisting of three types of residential products: 98 townhomes, 46 homes on lots with 50 feet widths, and 30 homes on 45 foot wide lots with alley access. Approval was given subject to nine conditions of approval which establish the development requirements for that portion of the development. The most important exhibits to that amendment are; a conceptual site plan showing 174 units on 27.69± acres and lot details for townhomes, alley entry homes, and front entry homes.

Amendment #3 (239C and 240C)

On August 15, 2007, City Council approved a third modification to the original conditions of Ordinance 239 and 240. This third amendment established development requirements for 19.56 ± acres located along the south side of Capitola Farm Road (see the area colored orange on the “PUD Amendments, Sterling on the Lake.” The site plan approved under this amendment provided for a maximum of 82 lots for single-family homes. The approved site plan is labeled “Active Adult Community Concept Plan.” Conditions (16 of them) were imposed on the modification, and all prior conditions of initial master plan approval were still in effect. Exhibits to that approval include: Active Adult Community Concept Plan and architectural elevations (3 sheets) of the front facades of the proposed dwellings.

Readoption of Official Zoning Map

The subject property was zoned PUD at the time the new zoning ordinance and official zoning map were adopted by City Council in 2006. That action did not change the conditions of approval for the PUD, as amended.

THE CURRENT APPLICATIONS

The applicant, Newland Communities, is seeking certain additional changes to the approved PUD zoning, as amended. These include the addition of approximately 26.97± acres (i.e., the Knutson Tract) and 77.71± acres (i.e., the Honeycutt Tract) of residential land to the master planned community, and additional commercial development consisting of approximately 4.2± acres and 1.1± acres, respectively. In addition, the original PUD approval and its amendments never reflected the fact that Hall County constructed a library within the PUD

boundaries, at the intersection of Lake Sterling Road and Spout Springs Road. Furthermore, the planning department has an interest, for purposes of administrative ease, in eliminating now-obsolete conditions of approval and exhibits, and integrating the three prior amendments into one overall, coherent set of conditions and exhibits of PUD approval. In summary, the proposed changes include:

1. A request to annex 77.71 ± acres (i.e., Honeycutt Tract) and rezone that parcel from AR-III (Agricultural Residential III) (Hall County) to PUD (Planned Unit Development), to become a part of the Sterling on the Lake PUD approval. The proposed use is detached single-family homes.
2. A request to annex 26.97± acres (i.e., Knutson Tract) at 6596 Capitola Farm Road (near Bragg Road) and rezone that parcel from AR-III (Agricultural Residential III) (Hall County) to PUD (Planned Unit Development), to become a part of the Sterling on the Lake PUD approval. The proposed use is detached single-family homes. This is the same application as was filed in 2007 but withdrawn.
3. A request to approve commercial development on a 4.17± acre site at the intersection of Lake Sterling Boulevard and Spout Springs Road. This land is a part of the original PUD approval (i.e., within the boundaries of the initial PUD). Because this is a request to change the use within an approved PUD development, it requires amendment of the PUD plan approved (as amended). As originally approved, the PUD master plan showed a smaller area for commercial development. This is the same application as was filed in 2007 but withdrawn.
4. As a part of the master plan revision request, the applicant is seeking to convert two lots within the development, now used as a 1.1± acre information center/sales office, for future neighborhood commercial uses.
5. Implied within the application for master plan revision is a request to incorporate the Hall County library site, which has been constructed within the development but which was never formally recognized in the PUD master plan approval.
6. A request to eliminate obsolete conditions of approval, and to consolidate, revise, and update all appropriate conditions of approval and all exhibits of the original approval and the three amendments, along with the changes proposed under this application into one consolidated revision of the PUD zoning.

PROCEDURES AND REQUIREMENTS FOR PUD ZONING

According to the city's zoning ordinance, for PUD zoning districts, all prior conditions of zoning apply under the new code until modified. See the code excerpt below:

“In the case of a PUD zoning district that was already developed or partially developed on the effective date of this zoning ordinance, said development shall continue to be governed by the conditions of zoning, site or development plan approval, architectural elevations, approved mixes of uses, and any other development-specific stipulations of the original PUD approval, until or unless otherwise amended by the Governing Body...” (Sec. 8.4)

Permitted Uses

According to the zoning ordinance (PUD districts), permitted uses shall be proposed by an applicant for rezoning to PUD and shall be limited to those uses approved by the Governing Body. The applicant for PUD zoning shall include in the application a list of all land uses proposed to be included in the PUD, which shall be limiting on the application if approved, unless otherwise specifically provided by the Governing Body.

On the master site plan, the applicant provides a summary of the number of different residential types. These include detached single-family homes on individual lots with varying widths, townhomes, estate lots, and cluster homes. The site plan also shows open spaces, and the county library, in addition to an existing cemetery. There are essentially no changes to the proposed land uses in the development that have not already been approved. However, with respect to the commercial properties, the applicant has not specified which uses are proposed and so the recommended conditions of zoning approval specify the commercial uses which should (will if approved) be permitted on that tract. The use of the sales office site is also an issue – the applicant via follow up letter dated October 14, 2008 has indicated an intent to limit these to “soft” commercial uses.

Currently, the entire Sterling master plan as approved and as proposed for revision does not address the issue of accessory buildings and structures.

Dimensional Requirements

Lot sizes, maximum densities (units per acre), setbacks and yards, and other dimensional requirements shall be proposed by an applicant for rezoning to PUD and as may be approved by the Governing Body. The applicant for PUD zoning shall submit the dimensional requirements proposed to regulate development in the PUD. Standards proposed by the developer are legally binding on the development if approved, unless otherwise specified by the Governing Body.

The applicant has submitted “zoning specifications” for the “Honeycutt” and “Knutson” Tracts. These zoning specifications include minimum heated floor area per dwelling unit, lot types (labeled as “A” through “F”), typical lot widths and lot depths, building setbacks, and maximum building height. Incidentally, the “A” through “F” designations do not appear on the typical lot layouts provided at the end of the applicant’s graphic submittal, and the number of lots by type is not provided for the “Honeycutt” and “Knutson” site plans. However, the overall master plan provides numerical summaries of how many lots of each type (varying based on lot width) are provided within the entire master plan as proposed. What does not appear is a minimum or typical lot *size* (i.e., square footage or acreage) for each lot type, just the lot width and dimensions. This may be appropriate – considering that the overall density of the master plan is capped, and that the lot widths and lot depths are specified, there may be no real need to specify a minimum or typical lot size.

The graphic submissions also do not clearly address dimensional requirements for estate lots. The “cluster” lots may be included within the typical lot layout graphics, but that point is unclear. Also, the applicant has not provided dimensional specifications for the existing and the future (4.171-acre) commercial sites, and no site plan has been submitted for either of these sites at this time.

Design Review

Design review and approval for any new uses is required as a part of the PUD rezoning, except that “for uses that have been lawfully established on a lot of record that existed on the effective date of this zoning ordinance, no design review shall be required.” Through prior amendments to PUD master plan approval, architectural elevations were provided and made a condition of approval for the two residential tracts that were modified.

The zoning ordinance establishes a set of design guidelines for PUDs. While the original master plan preceded the city’s adoption of those guidelines, to the extent the developer proposes revisions, those revisions should be consistent with the design guidelines. Consistency with those guidelines, to the extent they are found applicable, are discussed in a later section of this report.

Design review has been accomplished, more or less, for all parts of the development with the exception of the commercial development components. The applicant has not submitted a site plan for the existing commercial site (undeveloped) or the proposed 4.2-acre additional commercial development site, nor have architectural elevations been submitted. However, staff does not view this as an issue, with respect to ensuring future design, since the applicant has submitted “Village Center Design Guidelines” dated October 1, 2008, prepared by A. Woodward Architecture, Inc., for Newland Communities. The recommendations established

in that document, as well as those general design guidelines and regulations contained within the Flowery Branch Zoning Ordinance, are considered sufficient at this point in the process. It is also realistic to take this approach, since the applicant may not develop the commercial sites and the exact nature of the uses and building needs are not known at this time. However, it is important to clarify at this point how future design review will be accomplished.

The Design Guidelines for Sterling on the Lake reference the Declaration of Protective Covenants, Restrictions and Easements for Sterling on the Lake, which has caused to be established a standing committee called the Architectural Control Committee. That committee has broad powers regarding the aesthetic impact of design, construction and development, including architectural style, colors, textures, materials, landscaping, and overall impact on surrounding property. The committee is tasked with reviewing, and approving or disapproving plans for any proposed new construction or for alternation of any existing structure or lot within the PUD. Because there is in essence a private in addition to public design review process, there are sufficient controls in place to ensure the applicant meets objectives of quality design for the commercial components. A recommended condition of approval addresses the particulars of design review.

The Flowery Branch Zoning Ordinance does not require architectural review for individual detached, single-family dwellings. However, the development's Architectural Control Committee as a private (non-public) matter is tasked with that authority and responsibility.

FINDINGS REGARDING REZONING CRITERIA

This section of the staff report evaluates the application for consistency with various criteria for rezoning decisions, specifically Sec. 8.9 (Rezoning Decision Criteria for Planned Unit Developments (PUDs), design guidelines for PUDs, and the general rezoning criteria specified in Sec. 34.7 of the Flowery Branch Zoning Ordinance.

Sec. 8.9. Rezoning Decision Criteria. (PUDs)

Consistency with the Flowery Branch Comprehensive Plan

The character area map of the Comprehensive Plan (Community Agenda) shows this property is suitable for suburban residential development. Parts of the PUD have been designed in accordance with character area guidelines for **Suburban Neighborhoods**. The overall PUD is consistent with the density recommendations of the comprehensive plan for suburban neighborhoods (1-3 units per acre). The proposed development is two units per acre maximum density.

In addition, parts of the PUD, through prior amendments to the zoning district, are consistent with principles of **Traditional Neighborhood Development** (TND) and that character area as described in the comprehensive plan. Parts of the PUD will be at densities generally suggested for TND developments, but still maintaining the overall density limit of 2 dwelling units per acre for the master-planned project.

Furthermore, the master plan is consistent with principles of the **Conservation Subdivision** character area, which requires design of development in a way that conserves green spaces. The green space network is generally considered to be consistent with recommendations of the **Conservation** character area, which calls for an interconnected system of environmentally sensitive lands and riparian corridors which protect the environment, enhance water quality, and provide passive recreational opportunities.

The PUD is also consistent with the **Neighborhood Commercial** character area in that it proposes two tracts of neighborhood-serving retail commercial uses at or near the intersection of Spout Springs Road and the PUD. By placing conditions on the uses permitted on the neighborhood commercial tracts, to prevent highway-oriented commercial establishments, the application as conditioned is consistent with the Neighborhood Commercial character area designation.

Consistency with the objectives of the PUD Ordinance

Planned Unit Development (PUD) zoning districts are intended to serve a number of objectives. They allow and encourage more unique, flexible, creative, and imaginative arrangements and mixes of land uses in site planning and development than are permitted through conventional land use requirements. They encourage a broader mix of residential housing types, including detached and attached dwellings, than would normally be constructed in conventional subdivisions. They allow and encourage the development of tracts of land as single developments that are planned neighborhoods or communities, including civic and semi-public uses (e.g., schools, playgrounds, meeting halls, etc.) that help to make up a community. They help to preserve the natural amenities of the land through maintenance of conservation areas and open spaces within the development. They also provide for the more efficient use of land through clustering and other flexible, innovative development arrangements that will result in smaller networks of utilities and streets and thereby lower development and housing costs.

PUD zoning is different from other rezoning applications in that it combines the function of “design review” in one step which would otherwise be required following rezoning (i.e., at the time of development approval). For that reason, the PUD zoning district establishes

application requirements that are more rigorous than other rezoning applications. The intent of those requirements is to ensure that the design of building forms is interrelated and architecturally harmonious.

- (a) Allow and encourage more unique, flexible, creative, and imaginative arrangements and mixes of land uses in site planning and development than are permitted through conventional land use requirements – ***The application is consistent with this Criterion, in that it provides a mixture of housing types and incorporates institutional and commercial land use into the overall mix.***
- (b) Encourage a broader mix of residential housing types, including detached and attached dwellings, than would normally be constructed in conventional subdivisions. – ***The application is consistent with this Criterion, in that it provides for different types of housing units besides detached single-family.***
- (c) Allow and encourage the development of tracts of land as single developments that are planned neighborhoods or communities, including civic and semi-public uses (e.g., schools, playgrounds, meeting halls, etc.) that help to make up a community. – ***The application is consistent with this Criterion, in that it includes a library within the PUD boundary.***
- (d) Preserve the natural amenities of the land through maintenance of conservation areas and open spaces within developments. ***The application is consistent with this Criterion, in that the project has been designed around floodplains, streams, lakes, and open space.***
- (e) Provide for the more efficient use of land through clustering and other flexible, innovative development arrangements that will result in smaller networks of utilities and streets and thereby lower development and housing costs. ***The application is consistent with this Criterion, in that clustering of some housing units is proposed.***
- (f) Provide a more desirable living environment than would be possible through the strict application of conventional residential zoning requirements. ***The application is consistent with this Criterion, in that the PUD provides amenities and protected open spaces that are not necessarily provided in conventional subdivisions.***
- (g) Establish application requirements that are more rigorous than rezoning applications and conditional use permits but no more onerous than necessary to

enable thorough analyses. ***The application is consistent with this Criterion, in that the application meets more rigorous requirements established in the Flowery Branch Zoning Ordinance for PUDs.***

- (h) Ensure that the design of building forms is interrelated and architecturally harmonious. ***The application is consistent with this Criterion, in that the applicant has submitted architectural controls via design review and design guidelines.***

The character, location, and appropriateness of the proposed mix of land uses and residential dwelling types; ***The application is consistent with this Criterion, given the proposed land use mix and diversity of housing types.***

The extent to which the proposed architectural features of buildings within the planned unit development are harmonious; ***The proposed PUD is consistent with this criterion, in that the applicant has submitted architectural controls via design review and design guidelines, and because the development is subject to design review (administrative).***

The adequacy of open spaces and play areas and recreation facilities that are provided for the needs of the development occupants; ***The application is consistent with this Criterion, in that it provides a village center, tennis courts, amenity areas, a visitor center, resident access to Lake Sterling, and passive recreational opportunities throughout the green spaces of the PUD.***

Consistency with any design guidelines of this Article or otherwise determined to be applicable via character area designation. ***The proposed PUD is consistent with the open space and greenspace design guidelines articulated in Sec. 8.7 of the Flowery Branch Zoning Ordinance.***

Sec. 34.7. Analysis Requirements (General Rezoning Criteria)

- (a) **Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.**

The proposed PUD has a combination of uses but is predominantly detached, single-family residential. It is considered suitable given the adjacent and nearby land uses.

- (b) **Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.**

The proposed development is not expected to have any adverse effects on the use or usability of adjacent or nearby property.

- (c) **Whether the property to be affected by the proposal can be used in accordance with the existing regulations and has a reasonable economic use as currently zoned.**

As currently zoned, the subject property has a reasonable economic use; except for the two tracts proposed for annexation, which may not have a reasonable economic use as currently zoned by Hall County.

- (d) **Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.**

Revisions to the approved PUD master plan will result in some increase in traffic on the street system. A traffic study has been submitted with the application, and conditions of zoning have been recommended that will mitigate those impacts to roads (i.e., road and signalization improvements). Although the number of housing units will increase as a result of inclusion of two annexed parcels if the subject requests are approved, there are no significant additional impacts on schools that were not anticipated in the review of the initial PUD proposal.

- (e) **Whether the proposal is in conformity with the policy and intent of the comprehensive plan including but not limited to the character area map and future land use plan map.**

The subject application is consistent with this criterion (see discussion above).

- (f) **Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.**

The applicant seeks to add commercial acreage to the PUD, which may reflect changed conditions in favor of additional capacity to support retail development in the area. Staff is not aware of any other conditions that have changed, giving grounds for support or denial

of this request.

- (g) Existing use(s) and zoning of the subject property and nearby properties.**

The subject application is considered to be compatible with the use and zoning of adjacent and nearby properties.

- (h) Existing value of the property under the existing zoning district classification, the extent to which the property value of the subject property is diminished by the existing zoning district, and the value of the property under the proposed zoning district; if such information is provided by the applicant or can be discerned. This consideration may include the length of time the property has been vacant or unused as currently zoned and efforts taken by the property owner(s) to use the property or sell the property under the existing zoning district classification.**

Staff does not having any information that relates to this criterion.

- (i) Whether a proposed zoning map amendment or conditional use approval will be a deterrent to the value or improvement of development of adjacent property in accordance with existing regulations.**

No deterrent to value or improvement of adjacent property is anticipated if the rezoning requests and master plan revision are approved.

- (j) The possible creation of an isolated zoning district unrelated to adjacent and nearby districts.**

The PUD zoning, as approved, and as proposed to be amended, is not considered to be an isolated zoning district, since it already exists and it is reflected appropriately in the city's comprehensive plan.

- (k) Possible effects of the change in zoning district map, or change in use, on the character of a zoning district.**

The only significant change to the zoning is to add two residential tracts through annexation and additional commercial development, and the impacts of those changes are addressed in terms of a traffic study and mitigating conditions of approval.

- (l) **The possible impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.**

Protection of the environment was assured through the initial conditions of approval. Since then, some regulations protecting water quality have increased. With the application of conditions of zoning and applicable local and state environmental regulations, the proposed PUD is not expected to have adverse impacts on the environment.

- (m) **The relation that the proposed map amendment or conditional use bears to the purpose of the overall zoning scheme and the purposes of this Zoning Ordinance.**

As noted elsewhere in this report, the subject application is consistent with the purposes and intentions of the PUD zoning district, as articulated in the Flowery Branch Zoning Ordinance.

ISSUES WITH THE APPLICATIONS

1. **Sales Office/Information Center.** The applicant has expressed intent to get permission to authorize “soft” commercial uses for the building containing the information center, at some future point. Planning staff recommends that these uses be limited to those uses in the NS, Neighborhood Shopping Zoning District and that NS-permitted uses be further limited on that site due to its residential character. A condition of zoning has been included to this effect.
2. **Bragg Road and the “Bragg” site.** The master plan as submitted implies a relocation/abandonment of part of Bragg Road while still maintaining access to Mr. Bragg’s property. Staff has been informed by Hall County that they are unlikely to approve an abandonment of Bragg Road (or possibly its relocation) without that property owner’s approval and certain other improvements between the Bragg property and Blackjack Road.
3. **Reclassification/Impact on Lake Sterling Boulevard.** There will be 157 more homes served by Lake Sterling Boulevard than presently approved. The applicant sought and received an amendment to the master plan approval classifying that road to a lower volume level (see street hierarchies and the map of approved amendments). Now, that road may need to be reclassified to a higher order street based on the increase of traffic it will experience with additional residential subdivisions approved under this master plan revision.

4. **Accessory Buildings and Structures.** There is no reference in the original application or in any of the amendments about accessory buildings and structures. There needs to be some provision to address questions about accessory buildings, structures, and uses on residential as well as nonresidential properties within the development.
5. **Street Lighting.** Staff has included a condition that the developer and/or home owners associations shall be responsible for the installation, maintenance, and utility payments for all street lighting within the development. This condition is intended to memorialize current practice, given that the developer is responsible for this issue.
6. **Documentation for the Public.** Because the Sterling master plan has gone through extensive changes, it is complex and a number of documents are referred to in these conditions of approval. Staff has recommended a condition of approval requiring the developer to consolidate all documents relating to the conditions of zoning approval, including but not limited to the master plan, typical lot layout, design guidelines, and all ordinances of approval including prior conditions on Amendments 240 A, B, and C, into one document that can be printed and available to the public.

EXHIBITS SUBMITTED WITH THE APPLICATION

1. Graphic Application Package by Reece, Hoopes and Fincher and Rochester and Associates, titled “Sterling on the Lake Submittal to the City of Flowery Branch for Rezoning & Annexation” dated October 1, 2008, which includes overall master plan, and dimensional requirements for the residential program (Exhibit D).
2. Sterling on the Lake “Village Center Design Standards,” dated October 1, 2008, by A. Woodward Architecture, Inc., for Newland Communities (Exhibit E).
3. Design Guidelines for Sterling on the Lake, dated February 28, 2003 (Exhibit F).
4. Traffic Impact Study for Sterling on the Lake, prepared by Street Smarts, October 2005, Revised September 2007, Revised October 2008 (Exhibit G).

RECOMMENDED CONDITIONS OF ZONING APPROVAL

If this request for rezoning and PUD plan approval is granted, it should be approved **CONDITIONAL**, subject to the following conditions:

SITE PLAN, DENSITY AND DEVELOPMENT LAYOUT

1. **Binding Site Plan.** The development shall be substantially in accordance with the “Master Plan for Sterling on the Lake,” submitted as a part of the application and on file with the Flowery Branch Planning Department as noted on the following: Exhibit D “Sterling on the Lake Submittal to the City of Flowery Branch for Rezoning & Annexation” dated October 1, 2008, Exhibit E Sterling on the Lake “Village Center Design Standards,” dated October 1, 2008, Exhibit F “Design Guidelines for Sterling on the Lake,” dated February 28, 2003.

Layout of the Honeycutt Tract (77.71± acres) is subject to abandonment and/or realignment of Bragg Road. In the event that Bragg Road is not abandoned or realigned, applicant shall be required to provide a revised development plan and file a rezoning amendment for conceptual approval of this area (*see also condition Nos. 29-32 for transportation improvements relating to Bragg Road*).

2. **Binding Site Plan and Conditions for Amendment 239B and 240B.** That area shown as “Amendment 239B and 240B,” shown on the colored map, “PUD Amendments, Sterling on the Lake,” shall be governed by this condition of approval. In addition, the lots shall be governed by the standards (lot width, depth, setback, building coverage, and floor area) shown on the “Typical Lot Layout for Sterling on the Lake,” for “Typical Alley,” “Typical 45’ Alley Entry,” and “Typical 50’ Front Entry” Lots.
 - (a) Property contained in Amendment 239B and 240 B shall be permitted for a maximum of 174 lots for construction of stick built single family homes and townhomes only.
 - (b) Each dwelling unit is required to provide a two car garage.
 - (c) All requirements imposed under this Ordinance shall be the standards of the development regardless of any change in ownership.
 - (d) No fencing is permitted within the front setback areas.
 - (e) The elevations will be consistent with the American Craftsman (also referred to as ‘Arts and Crafts’) theme evident throughout Sterling on the Lake. A minimum of two exterior materials and a maximum of three exterior materials will be required. Usable front porches will be encouraged. All elevations shall be reviewed and approved by the development architect prior to submittal to the City.
 - (f) Applicant shall construct the roadways in accordance with

the “Typical Roadway Layouts.” Maintenance and ownership of all alleys areas shall be the responsibility of the developer and/or Home Owners Association (HOA).

3. **Binding Site Plan and Conditions for Amendment 239C and 240C.** That area shown as “Amendment 239C and 240C,” shown on the colored map, “PUD Amendments, Sterling on the Lake,” shall be governed by this condition of approval, and shall be substantially in accordance with the Conceptual Master Plan for Sterling on the Lake. In addition, the lots shall be governed by the standards (lot width, depth, setback, building coverage, and floor area) shown on the “Typical Lot Layout for Sterling on the Lake,” for “Typical Single Family Cluster Lot Layout Pod Q.”
 - (a) Property shown as Amendment 239C and 240 C, shall be permitted for a maximum of 82 lots for construction of stick built single family homes only. Applicant shall be permitted to allow the creation of fee-simple single family home lots. Lot design shall be classified as fee simple ownership with no minimum lot width or depth required. All lots shall be designed to have garage access from an alley with a functional width of 30’-0”.
 - (b) The elevations will be consistent with the “Arts and Craft”, “Craftsman”, and “Traditional” architectural theme evident throughout the Sterling on the Lake development. All elevations shall be reviewed and approved by the development architect prior to submittal to the City.
 - (c) Applicant shall provide designed open spaces as conceptually illustrated on the binding site plan. There must be maintained a minimum 10’-0” common landscape area along Capitola Farm Road, regardless of any necessary right-of-way dedication. Landscaping shall incorporate the use of “evergreen” trees and a shrub line to create a continuous screen. Applicant shall submit a complete landscape and irrigation plan as part of the construction drawings for this portion of the development
 - (d) Applicant shall install a pilaster fence the length of development of property fronting Capitola Farm Road. The fence shall be the same height and design as the remainder of the Sterling on the Lake development.

- (e) Fencing or walls for the private yard area shall not exceed 6'-0" in height.
- (f) All roadways (including service alleys) and storm water facilities shall be the responsibility of the developer and/or Home Owners Association (HOA). Roadway designs (on and off-site) shall be reviewed and approved by the City Engineer and Hall County Fire Department. All road improvements within the property including curbs and gutters shall be constructed to City standards. Applicant shall construct the roadways in accordance with the "Typical Roadway Layouts." Maintenance and ownership of all roadways within Pod Q shall be the responsibility of the developer and/or Home Owners Association (HOA).
- (g) Applicant shall provide an improved pedestrian trail and/or sidewalk connections to property in this Amendment and the future commercial component. Applicant shall provide a minimum of 22 on-street (parallel) parking spaces and 36 off-street parking spaces.
- (h) Applicant to utilize Home Owners Association (HOA) or equivalent to provide for all common area maintenance.
- (i) Applicant shall obtain all necessary access permits from the Hall County Traffic Engineering Division, prior to LDP issuance. Applicant shall be required, unless otherwise determined by Hall County staff, to construct the following off-site improvements along Capitola Farm Road. Applicant shall be required to install an eastbound left turn lane and westbound right turn lane on Capitola Farm Road into Pod Q. Applicant may be required to dedicate an additional 10'-0" along Capitola Farm Road to accomplish a 40'-0" r-o-w from the existing centerline.
- (j) Applicant shall obtain approval from Hall County Fire Department for proposed roadway and access layout, prior to LDP issuance.
- (k) All requirements imposed under this Ordinance shall be the standards of the development regardless of any change in ownership.

4. **Total Housing Units.** The residential development within the PUD shall be limited to a maximum of 2,000 housing units for the entire 1,001 ± acre PUD, within the City of Flowery Branch at the time of this approval, as approved under

this ordinance. If additional land is approved for inclusion as residential development within the PUD, the number of housing units to be permitted and the gross density of residential development portions of the site (excluding commercial, institutional, recreational, and open space uses) shall be established in the subsequent approval as an amendment to the Sterling on the Lake Conceptual Master Plan.

5. **Maximum Density of any Residential Phase.** The gross residential density of any phase of residential development shall not exceed eight (8) units per acre [*reference: Ord. 239 and 240, Condition A.8*].
6. **Residential Dimensional Requirements.** The “Typical Lot Layout specifications submitted for Sterling on the Lake,” as a part of the application and on file in the Flowery Branch Planning Department identified within Exhibit “D”, shall be controlling for the residential portions of the PUD, as determined applicable by the Zoning Administrator. Applicant shall provide a revised “Typical Lot Layout Specifications” to include dimensions for the typical flag lots. Flag lots shall abide by the same dimensional requirements as Lot Type A.
7. **Preliminary Plat Requirements.** The “Master Plan for Sterling on the Lake,” submitted as a part of the application and on file with the Flowery Branch Planning Department as noted on Exhibit “D” shall satisfy the requirement for submittal of a separate preliminary plat map application.
8. **Minimum Required Open Space.** The PUD shall designate and maintain at least 300 acres of permanent open space, or thirty percent (30%) of the total land area contained within the PUD, whichever is greater. For purposes of this zoning condition, permanent open space shall include lakes, buffers, and passive or active parks and recreation of the property, including those lands administered by a homeowners association; provided, however, that any buffer area counted as open space shall not be used for active recreational facilities. The open space shall be substantially in accordance with the areas colored green on the “Master Plan for Sterling on the Lake” (i.e., binding site plan) as determined by the Zoning Administrator.

ENVIRONMENTAL CONDITIONS

9. **Stream Buffers.** For those portions of the PUD that have been final platted or approved for development, there shall be established and maintained a fifty (50') foot undisturbed buffer measured from the centerline of perennial streams within

the PUD. The owner shall have the limited right to disturb the undisturbed buffer to install, construct and thereafter maintain sidewalk and road crossings, sewer and storm water runoff lines and re-use water lines, provided that the lines are installed in a direction generally perpendicular to the direction of the stream and are constructed with applicable city and state regulations for disturbance of buffers pursuant to the State Soil Erosion and Sedimentation Control Act of 1975, as amended. In addition, the owner and any homeowners association and/or associations created to administer some portion or all of the property shall have the right, with respect to that portion of the undisturbed buffer which they own, administer or otherwise control to remove dead or diseased trees, shrubs and plants, install erosion control devices, and remove any thing or control any condition which represents a potential safety or health hazard [*reference: Ord. 239 and 240, Condition A.1*]. For streams not subject to this condition, and for parts not final platted or approved for development, the buffer requirements of Article 26 of the Flowery Branch Zoning Ordinance shall apply, along with all of those provisions regarding disturbance.

10. **Lake Buffers.** For those portions of the PUD that have been final platted or developed, there shall be established and maintained a minimum 25-foot wide undisturbed buffer adjacent to the lakes on all lots bordering a lake. The undisturbed buffer shall be measured from the normal pool elevation of the lake. Notwithstanding this condition, the buffer may be disturbed in compliance with soil erosion and sedimentation control laws to perform lake maintenance and repair, to remove dead or diseased trees, shrubs, and plants, and to control any condition or remove anything that constitutes a potential health or safety hazard. In addition, there shall be established and maintained a minimum 25-foot wide undisturbed buffer immediately to the interior of the undisturbed buffer already described in this paragraph on all lots bordering a lake; such buffer may be disturbed in compliance with soil erosion and sedimentation control laws to perform lake maintenance and repair, to remove dead or diseased trees, shrubs, and plants, and to control any condition or remove anything that constitutes a potential health or safety hazard, and for the additional purpose of installing, maintaining and repairing sewer and storm water drainage lines. In addition to the undisturbed buffers, there shall be an additional 15 foot wide landscape strip immediately to the interior of the fifty foot undisturbed buffers required in this paragraph on all lots adjacent to a lake which landscape strip may be disturbed but not improved with impervious materials. For the purposes of these conditions, an “impervious material” shall mean any material that substantially reduces or prevents the infiltration of storm water, including but not limited to buildings, paved roads, paved parking lots and paved driveways, swimming pools and patios.

Posts, supports, or foundations for decks, and any deck or similar structure constructed above the grade of the property, are not included in the definition of “impervious material” [*reference: Ord. 239 and 240, Condition 10(a)*]. For parts of the PUD subject to this condition but not final platted or approved for development, the buffer requirements of Article 26 of the Flowery Branch Zoning Ordinance shall apply, along with all of those provisions regarding disturbance.

11. **Use of Boats on Lakes.** Gasoline-powered boats and vehicles shall not be permitted on any lake within the PUD; provided, however, that a Homeowners Association and/or associations created to administer some portion or all of the property may use or allow to be used gasoline-powered boats for construction, maintenance and repair of the lakes, dams, or docks in the PUD. Electric-powered boats or vehicles may be permitted on the lakes to the extent, if at all, permitted under the private covenants, conditions and restrictions governing the PUD [*reference: Ord. 239 and 240, Condition A.9*]

STORM WATER, WASTEWATER & WATER

12. **Master Storm Water Management Plan.** The applicant shall submit an updated master storm water management plan for review and approval by the City Engineer, prior to any LDP issuance for the Honeycutt or Knutson Tracts. All construction and development activities within the PUD shall be performed in accordance with an approved master storm water management plan. The plan shall employ sound management practices for both onsite storm water detention and sedimentation and erosion control. Sedimentation and erosion control shall be accomplished through the use of construction siltation fences, temporary, or permanent, settlement ponds and/or check dams which shall be installed, as necessary, prior to an during land disturbance to minimize the potential for sedimentation runoff into the lakes and streams. Storm water detention will be provided in both the existing lakes and through additional detention facilities constructed on the property [*reference: Ord. 239 and 240, Condition A.3*].
13. **Ownership and Maintenance of Storm Water Detention Facilities.** Except as provided in this condition, the ownership and maintenance responsibility for the storm water detention facilities on the property shall be that of owner or a homeowners association and/or associations created to administer some portion or all of the property. Open drainage swales and detention facilities shall be maintained by either the owner, lot owner and/or a homeowners association or associations created to administer some portion or all of the property as set forth in a recorded declaration of covenants for the property and as shown on the recorded

final plat for the property. Notwithstanding this responsibility, the City of Flowery Branch shall own all of those portions of the storm water system within the property (including but not limited to storm water pipes, inlets, junctions boxes, headwalls and catch basins) that are located within public rights-of-way within the property upon their construction by owner and inspection and acceptance by the City of Flowery Branch [*reference: Ord. 239 and 240, Condition A.3*]. Within 120 days of this approval, the applicant shall execute a storm water maintenance agreement with corresponding inspection schedule. Agreement to be maintained on file in the City Planning Department.

14. **Storm Water Maintenance Bond.** The applicant shall post a maintenance bond for each phase of the development for which a final plat has been recorded covering those parts of the storm water drainage system located within such phase [*reference: Ord. 239 and 240, Condition A.3*]. The maintenance bond shall meet requirements of Sec. 1215 of the Flowery Branch Subdivision and Land Development Regulations. For those existing storm water bonds, the applicant may submit a master storm water bond in a form and amount approved by the city planner, city engineer, and city attorney, for all or a portion of existing facilities required to be bonded.
15. **Re-use Water.** If applicable, the applicant shall construct infrastructure on the property designed to allow for the onsite storage and use of treated effluent (“re-use water”) for irrigation purposes by owner, lot owners and/or a homeowners association and/or associations created to administer some portion or all of the property. [*reference: Ord. 239 and 240, part of Condition A.4*].
16. **Maintenance of Re-use Water System.** If applicable, the applicant and/or wastewater treatment plant provider shall be responsible for the maintenance, repair, and replacement of all parts of the re-use water distribution system commencing from the sewer treatment plant up to an including the point where the main distribution lines are connected to service stub outs (and to which feeder lines are then connected). [*reference: Ord. 239 and 240, part of Condition A.5*].
17. **Water System.** The applicant shall design and construct the water system to all applicable standards as specified by the City of Gainesville.
18. **Sewer System.** The applicant shall design and construct the sanitary sewer system to all standards as specified by Hall County Government.

COMMERCIAL LAND USES

19. **Commercial Development.** Commercial development on the 4.17± acre site within the PUD shall be subject to discretionary site plan review by the Zoning Administrator and the architecture shall be in substantial accordance with the Village Center Design Guidelines (Exhibit “E”) which are submitted as a part of the application and on file in the Flowery Branch Planning Department. Proposed commercial development on the other site shown as commercial on the Conceptual Master Plan for Sterling on the Lake shall also be subject to Exhibit “E” and site plan approval by the Zoning Administrator. For all commercial development, the applicant shall be required to meet all dimensional requirements (setbacks, height, building coverage, etc.) for the Neighborhood Shopping Zoning District as specified in Table 9.2 and parking and loading requirements specified in Article 21 and Article 22 of the Flowery Branch Zoning Ordinance, unless otherwise specifically approved by the Flowery Branch City Council as an amendment to the conditional PUD zoning district applicable to said properties.

20. **Design Review of Commercial Developments.** Prior to the issuance of a building permit for any commercial building or structure on the 4.17± acre commercial development site within the PUD, or for any commercial development on the property marked “existing commercial” on the master plan, the applicant shall submit a design plan application for each building or phase of the commercial development, via a process of design review (as required by the Flowery Branch Zoning Ordinance) established and effectuated by the Flowery Branch Zoning Administrator. Upon approval of design plans by the Zoning Administrator, that process will serve as the required approval of design plans under the Flowery Branch Zoning Ordinance. This review process shall be undertaken and is independent of any private requirements or covenants established by the applicant for those commercial tracts to be reviewed by the project’s private Architectural Control Committee. At the discretion of the Zoning Administrator, the private review process may be completed before or after the required public design review process required per the Flowery Branch Zoning Ordinance.

21. **Permitted Uses on the Commercial Development Sites.** The commercial development sites (both the 4.17 ± acre site and the “existing” commercial site) shown on the Master Plan for Sterling on the Lake shall be limited to those uses allowed in the Neighborhood Shopping (NS) Zoning District with the exception of the following uses that are prohibited:
 - a. Bed and breakfast inn.

- b. Institutional residential living and care facility, serving no more than 17 persons.
 - c. Laboratory.
 - d. Live/work unit.
 - e. The following personal service establishments; tattoo or massage parlor and body piercing business.
 - f. Utility company substation.
22. **Permitted Uses for the Information Center/Sales Office Site.** The Information Center/Sales Office (1.1 ± acre site) may be utilized for other non-residential uses, upon its discontinuance as an information center, but such uses shall be limited to the following:
- a. Office.
 - b. Day care center (serving no more than 17 persons).
 - c. Art gallery.
 - d. Business service establishment, not exceeding 3,500 square feet of gross floor area (including; finance, insurance, and real estate establishment and not including bank).
 - e. Museum.
 - f. School for the arts.
 - g. None of the above facilities may have drive-through facilities.

Hours of operation for any business utilizing the Information Center/Sales Office site shall be limited to between 6:00 a.m. and 10:00 p.m.

23. **Sign Permits for the Commercial Development.** Prior to issuance of a sign permit or building permit for any sign on the commercial development part of the PUD, the applicant there for shall submit detailed plans and evidence of approval by Newland Communities there of for all signs on said property, including details regarding design, location, placement, colors, lettering, size/area, materials used, and other construction details of all signs. The sign plans are subject to the approval of the Flowery Branch Zoning Administrator. For purposes of the Flowery Branch Zoning Ordinance, approval of commercial signage in the design review or sign permitting process shall satisfy the requirements for a master sign plan. Unless otherwise administratively approved by the Zoning Administrator, signage in the PUD including the commercial development site(s) shall be subject to the provisions of Sec. 24.28 of the Flowery Branch Zoning Ordinance. This means that in the absence of more specific standards proposed by the applicant and approved by the Zoning Administrator, signs shall not exceed the sign

permissions for the NS zoning district which is most comparable to the commercial portions of the PUD.

TRANSPORTATION

24. **Roadway Dimensions and Requirements.** The “Typical Roadway Layouts for Sterling on the Lake,” as a part of the application and on file in the Flowery Branch Planning Department, shall be controlling for the residential portions of the PUD, as determined applicable by the Zoning Administrator and City Engineer.
25. **Road Dedications.** Within 120 days of this approval the applicant shall provide the City a warranty deed conveying fee simple title of all previously platted roads and rights-of-way which have had bond maintenance release. The warranty deed shall be accompanied by a certificate of title and a tax transfer form addressed to the Governing Body, certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so. All future roadway dedications shall be made in a manner as required by Sec. 812 of the Subdivision and Land Development Regulations of the City of Flowery Branch.
26. **Road Maintenance Bonds.** The owner shall post a maintenance bond for each phase of the development for which a final plat has been recorded covering those public roads located within such phase or final plat as required by Sec. 619 and Sec. 620 of the Subdivision and Land Development Regulations of the City of Flowery Branch. For those existing road bonds, the applicant may submit a master road bond in a form and amount approved by the city planner, city engineer, and city attorney, for all or a portion of existing roadways required to be bonded.
27. **Maintenance of Street Rights-of-way and Landscaping.** Maintenance of street rights-of-ways in front of lots is the responsibility of individual lot owners. The landscaping in the street rights-of-way not otherwise maintained by individual lot owners shall be maintained by a homeowners association and/or associations created to administer some portion or all of the property [*reference: Ord. 239 and 240, Condition C5*]

28. **Specific Transportation Conditions.** The development shall be subject to the following conditions related to improvements of streets and the installation of sidewalks, in addition to those specific conditions of zoning already stated above:
- (a) The “Road Hierarchy for Sterling on the Lake,” is hereby included within these conditions of zoning and shall be controlling, with the exception of conditions identified in *Condition Nos. 29 -31*.
 - (b) There shall be installed a minimum five-foot wide sidewalk constructed by the owner along the collector road, as shown on the “Road Hierarchy for Sterling on the Lake.”
 - (c) A minimum five-foot wide sidewalk shall be installed by the owner along Spout Springs Road. Intersection improvements at the project entrance (Lake Sterling Boulevard) and Spout Springs Road are required and shall be installed by the owner. A minimum of 20 feet of additional right-of-way along Spout Springs Road shall be dedicated to the City of Flowery Branch, prior to development approval of the commercial component. In addition, the owner shall submit a signal warrant analysis study within 120 days of a written request by the Flowery Branch Zoning Administrator to determine whether a traffic signal is justified at this intersection. Upon completion of that study, if warranted, the owner shall be required to contribute a proportionate share of the cost of a traffic signal and intersection improvements, as determined by Hall County Traffic Engineer and/or City Engineer. The applicant shall also dedicate all necessary right-of-way and miters area to allow for installation of the signal.
 - (d) Applicant shall submit a plan indicating the location of the proposed walking/trail system for the entire development. Plan shall show those portions of the system already installed. The trail system shall be installed by the owner and maintained by a Homeowners Association and/or associations created to administer some portion or all of the property, as approved by the Zoning Administrator. The timing of the installation of trail system shall be as approved by the Zoning Administrator but portions shall be installed by the time final plats are approval for development adjacent to the open space within which the trail system is shown to be constructed, unless otherwise determined by the Zoning Administrator.

- (e) After review of a traffic engineering study provided by the applicant, the developer shall contribute to Hall County Government a proportionate share of the cost of improving the intersections and or signalization of Spout Springs Road/Capitola Farm Road, Blackjack Road/Hog Mountain Road, Capitola Farm Road/Hog Mountain Road, and Lake Sterling Boulevard/Capitola Farm Road as determined by the Hall County Traffic Engineer and/or the City Engineer. Said contribution shall be made within 90 days upon notice from Hall County Transportation Department and/or City of Flowery Branch. In addition, the owner may be required to submit a detailed traffic engineering study including these intersections within 120 days upon request by Hall County Government and/or City of Flowery Branch to determine whether traffic signals are warranted and/or other improvements to these intersections will be necessary. As applicable, the applicant shall dedicate all necessary right-of-ways and/or miters areas to allow for identified improvements.
- (f) Within 120 days of this approval, the applicant must submit a traffic engineering study to evaluate the roadway design and right-if-way needs for Lake Sterling Boulevard between Pod K and Capitola Farm Road (*see also Condition No. 32*). Following review by the Zoning Administrator and City Engineer, the applicant may be required to widen and/or improve portions of Lake Sterling Boulevard to comply with the “Collector Road” designation as identified within the “Road Hierarchy for Sterling on the Lake” (Exhibit “E”).
- (g) For purposes of the above conditions, “proportionate share” shall mean an amount equal to the cost of mitigating that portion of a traffic impact directly caused by the development, at a given intersection or roadway.

29. **Bragg Road Transportation Improvements (Blackjack Road to Honeycutt Tract).** The applicant shall be responsible for improving that portion of Bragg Road from its intersection of Blackjack Road to the southern boundary of the Honeycutt Tract to “Local Street” standards as specified in Sec. 1014 of the Subdivision and Land Development Regulations of the City of Flowery Branch. Improvements may include but not be limited to: paving, curb, gutter, sidewalk and appropriate drainage facilities as determined by the City Engineer. A roadway improvement plan shall be submitted as a part of the development permit

application for the Honeycutt Tract and such improvements shall be completed prior to final platting for any Pod within the Honeycutt Tract.

30. **Bragg Road Transportation Improvements (Honeycutt Tract to end of Bragg Property).** The master plan shall be revised to maintain the existing alignment and configuration of Bragg Road from the southern property line of the Honeycutt Tract through the entire property frontage of the Bragg property. A cul-de-sac shall be installed adjacent to the northern property line of the Bragg property, to allow for complete roadway frontage of the Bragg property. Applicant shall remove the proposed connection of Whistling Duck Way to Bragg Road as shown on the proposed master plan. This portion of Bragg Road shall be shall be constructed to “Local Street” standards as specified in Sec. 1014 of the Subdivision and Land Development Regulations of the City of Flowery Branch and all applicable Hall County standards. Improvements may include but not be limited to: paving, curb, gutter, sidewalk and appropriate drainage facilities as determined by the City Engineer and/or County Engineer. A roadway improvement plan shall be submitted as a part of the development permit application for the Honeycutt Tract and such improvements shall be completed prior to final platting for any Pod within the Honeycutt Tract.
31. **Bragg Road Abandonment (from Bragg property to Capitola Farm Road).** The abandonment of Bragg Road from the cul-de-sac required in *Condition No. 30* to Capitola Farm Road shall require separate approval from the City of Flowery Branch and if applicable, Hall County Government.

In the event that Bragg Road is not abandoned and/or relocated, the applicant shall be required to provide a revised development plan and file a rezoning amendment for development approval of the Honeycutt Tract (77.71± acre), as identified in *Condition No. 1* above. A resubmission will require an additional transportation study as determined by the Zoning Administrator and/or City Engineer.

32. **Roadway Improvement/Reclassification (from Bragg Road through the Honeycutt Tract to Lake Sterling Boulevard).** The proposed roadway extending from Bragg Road through the Honeycutt Tract to Lake Sterling Boulevard shall be designated as a “sub collector” roadway as identified within the “Road Hierarchy for Sterling on the Lake” (Exhibit “E”).

GENERAL CONDITIONS

33. **Design Guidelines.** The Design Guidelines for Sterling on the Lake, dated February 28, 2003 (Exhibit “F”), shall be used as a guideline for the architecture and site planning of the PUD. In the event that the design guidelines for Sterling on the Lake dated February 28, 2003, conflict with the provisions of the Flowery Branch Zoning Ordinance or other development regulation of the city, the provisions of city ordinances and code shall prevail, including but limited to minimum dwelling sizes, street tree planting requirements, and fences.
34. **Design Review Generally.** Upon the request of the Zoning Administrator, the applicant shall submit minutes or notes of the Architectural Control Committee, created by the Declaration of Protective Covenants, Restrictions and Easements for Sterling on the Lake, prior to a building permit being issued for the proposed building or structure. Approvals of the Architectural Control Committee shall not be binding or limiting on the Flowery Branch Zoning Administrator; however, it is the intent that much deference be given to the approval by the Architectural Control Committee by the Zoning Administrator in approving design plans for particular buildings, structures, and site developments. At the discretion of the Zoning Administrator, plans approved by the Architectural Control Committee may serve as and substitute for the design review requirements of the Flowery Branch Zoning Ordinance. For purposes of this zoning condition, the Zoning Administrator’s approval of design plans shall not extend to detached, single-family dwellings and their accessory structures. To the extent that the Zoning Administrator has specifically approved the plans approved by the Architectural Control Committee as meeting the design plan requirements of the Flowery Branch Zoning Ordinance, such architectural and design approval shall become enforceable by the City of Flowery Branch. Approvals by the Architectural Control Committee not specifically recognized by the Flowery Branch Zoning Administrator shall not be enforceable by the City of Flowery Branch.
35. **Accessory Buildings and Structures.** Accessory buildings shall observe principal building setbacks established for the type of lot on which the accessory building is located; provided, however, that the city may authorize the erection of buildings and structures accessory to a residential dwelling within a required side or rear yard, provided that such buildings or structures are placed no close than 7 feet to a property line, and provided further, that approval has been granted by the development’s architectural control committee. For nonresidential uses on non-residential sites, accessory buildings and structures shall be permitted according to specifications applicable to the NS, Neighborhood Shopping District. Home occupations shall be permitted under the city’s zoning code within all dwellings.

- The Zoning Administrator is authorized to approve temporary buildings, structures, and uses within the development.
36. **Street Lighting.** The developer and/or home owners associations shall be responsible for the installation, maintenance, and utility payments for all street lighting within the development. The city shall assume no responsibility for any of the costs of installing, repairing, maintaining, or operating street lighting within the development, including payment of monthly electric bills.
 37. **New Amenities.** Applicant shall be required to construct at a minimum the following additional amenities: community pool, playground and two tennis courts for the amenity area identified adjacent to Pod X, no later than one year from the final platting of either Pod W or Pod V. Applicant shall be required to construct at a minimum the following additional amenities: playground and two tennis courts for the Honeycutt parcel no later than one year from the final platting for this area.
 38. **General Amenities.** All recreational amenities built in the PUD shall be maintained and repaired as necessary by a homeowners association and/or associations created to administer some portion or all of the property. Consistent with the intent of the original conditions of approval of the PUD, the lower lake shall be available for the recreational use of all of the residents within the PUD, including boating and fishing, subject to such restrictions as may be contained in recorded declaration of covenants for the PUD and rules and regulations adopted pursuant to said declaration. Access to the lower lake through a common area administered by a homeowners association and/or associations shall be provided to the residents of the property by the owner [*reference: Ord. 239 and 240, Condition B*].
 39. **Cemetery.** The homeowners association and/or associations created to administer some portion or all of the property shall be responsible for maintaining a fence around the perimeter of the cemetery located within the PUD. Said association or association shall also be responsible for removing any trash or debris from the cemetery, removing any dead or diseased trees and shrubs within the cemetery, and trimming, pruning and shaping all trees and shrubs, as needed, within the cemetery [*reference: Ord. 239 and 240, Condition F*].
 40. **Documentation for the Public.** The developer shall consolidate all documents relating to the conditions of zoning approval, including but not limited to the master plan, typical lot layout, design guidelines, and all ordinances of approval into one document that can be printed and available to the public, and submit to

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the Flowery Branch Planning Department no later than 120 days following approval.

Recommendation:

Approval of the subject applications, subject to the conditions in this staff report.

James A. Riker
City Planner

Attachments: