

## AGREEMENT

This Agreement is made and entered into on this \_\_\_\_ day of December, 2011 (“Execution Date”), by, between and among the CITY OF DUNWOODY, GEORGIA (the “City”) on the one hand, and on the other hand, the undersigned owners of real property located in and adjacent to Leisure Ridge (“Property Owners”) which is more particularly described in the Final Plat with the Superior Court Clerk of Dekalb County, Georgia at plat book 206, pages 39 - \_\_\_, (“Final Plat”) incorporated herein.

## W I T N E S S E T H:

**WHEREAS**, on June 12, 2008, Leisure Ridge, LLC, the developer of Leisure Ridge dedicated to Dekalb County all streets and right-of-ways, water mains and sewer lines in fee simple;

**WHEREAS**, the City came into existence during December 2008;

**WHEREAS**, Leisure Ridge, LLC is out of business and no developer of Leisure Ridge exists;

**WHEREAS**, the City has denied building permits to some Property Owners and development of Lot 16 identified on the Final Plat because of alleged deficient street construction, road design, and water flow issues as identified in the August 9, 2011 letter from the City of Dunwoody to Leisure at Dunwoody LLC, a copy of which is attached hereto as Exhibit “A” (collectively the “Deficiencies”);

**WHEREAS**, the parties hereto have agreed to fully and finally settle, and forever resolve all of the claims and disputes among them.

**NOW THEREFORE**, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

**1.     Acknowledgment.**     The City acknowledges, agrees and affirms that the Final Plat is true and correct and that the City, as the successor in interest to Dekalb County, Georgia has accepted the property dedicated in the Final Plat, including the dedication of any and all streets and rights of way, water mains and sewer lines roads, and any other property dedicated therein (“Accepted Property”).

**2.     Payment.**     The Property Owners, as separately apportioned among them, agree to pay to the City, Eighty Five Thousand and 00/100 Dollars (\$85,000.00) subject to the terms of this Agreement. Within five (5) days after work commences on the Repairs, Property Owners will deliver funds to the City Attorney made payable to the City in the amount of EightyFive Thousand and 00/100 Dollars (\$85,000.00. The City shall not seek any further payment from

Property Owners or their successors and assigns relating to the repair of the Deficiencies or the repair, maintenance, and upkeep of the Accepted Property through special assessment, legal or administrative proceedings, demands against Property Owners or otherwise. To the extent allowed by law, the City shall indemnify, defend and hold harmless Property Owners, their agents, principals, successors and assigns against all liability, claims, attorneys fees, demands, causes of action, or judgments for damages arising from injury to persons or property, due to any action, inaction, negligent act, willful act or omission by the City or its agents, contractors, subcontractors, their employees, servants, or agents relating to or resulting from the performance of the work on the Repairs.

**3. Repairs.** The City shall commence working on the Repairs with one hundred twenty (120) days from the Execution Date. The City shall complete the work on the Repairs in a good and workmanlike manner by September 30, 2012 ("Construction Period"). During the Construction Period, the Property Owners may use the access road from North Peachtree Road to Leisure Valley Drive located between lots 16 and 17 for ingress and egress to the Leisure Ridge Subdivision. Upon the issuance of a certificate of occupation for the last housing unit, all vehicular and pedestrian access from the access road from North Peachtree Road to Leisure Valley Drive located between lots 16 and 17 will be permanently closed and no such access shall be provided thereafter. The City is aware that the Property Owners plan to commence construction and marketing of the lots in the Leisure Ridge Subdivision during the Construction Period. The City shall use reasonable efforts to ensure that the property owners along Leisure Valley Drive shall have reasonable access for ingress and egress to the lots during the Construction Period.

**4. Lien Waiver.** The City shall ensure that no liens or encumbrances shall be placed on any of the property of the Property Owners located at the Leisure Ridge Subdivision relating to the work on the Repairs under this Agreement provided that the payments specified in section 2 are made. In a timely manner.

**5. Lot 16.** Upon obtaining all necessary variances or having obtained all necessary variances previously from DeKalb County, the City approves and accepts the Leisure Ridge Subdivision Replat dated July 12, 2011 to include Lot 16 as previously submitted to the City as described in the attached Exhibit "B" hereto. Furthermore, the City agrees that the approval of Lot 16 shall maintain the same stream buffer as previously approved by Dekalb County.

**6. No Admission.** Nothing herein shall be construed as an admission by any party of any breach of any duty, obligation, or contract, a violation of any right of other parties or any other individual, or a violation of any federal, state, or local statute, regulation, judicial doctrine, or other law. The parties are entering into this Agreement to avoid the expense and inconvenience of litigation, and the parties specifically disclaim any liability to, any breach of any duty to, or any unlawful action to the other parties or any other individual or entity.

**7. Advice of Counsel.** Each party has had the option to seek advice of counsel of its own choice in the negotiating, drafting, and execution of this Agreement, and the language in all parts of this Agreement is a product of the efforts of all of the parties. Accordingly, neither the entire Agreement nor any provision contained herein shall be deemed to have been proposed

or drafted by any party or construed against any party. This Agreement shall be construed as a whole according to its plain meaning. This Agreement shall be governed by and construed in accordance with the laws of the state of Georgia, without regard to the application to conflicts of law principles.

**8. Voluntary Agreement.** The parties have read this Agreement and fully understand its terms. The parties hereby voluntarily accept the consideration set forth herein for the purpose of making a full and final compromise and settlement of all claims, demands, causes of action, and rights arising from the dispute addressed in this Agreement. All agreements and understandings between the parties are embodied and expressed herein. The terms of this Agreement are contractual and not mere recitals.

**9. Severability.** The provisions of this Agreement are severable, and the invalidity of any part or portion of this Agreement shall not affect the validity of any other provision of this Agreement.

**10. Time is of the Essence.** Time is of the essence as to each and every provision of this Agreement where specific time periods for performance are identified. Time is of the essence is not a mere recital. The City agrees, understands and represents that this time is of the essence provision is critical regarding the paragraph 3 which sets the Repair timetable. In the event that legal action is taken related to this Agreement and/or a breach of this Agreement, the prevailing party shall be entitled to recover from the other party all attorney's fees and expenses of litigation incurred related to such suit or other proceeding, in addition to all other compensatory damages and further relief as the court or other tribunal may deem appropriate.

**11. Authority.** By their respective signatures below, each person executing this Agreement represents that they have due authority to bind the party on whose behalf they have signed to the terms and conditions of this Agreement.

**12. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement, and the signatures of either party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.

CITY OF DUNWOODY, GEORGIA

By: \_\_\_\_\_

Title: \_\_\_\_\_

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

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney  
Dunwoody, Georgia

SIGNATURES CONTINUE ON FOLLOWING PAGES

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

THIS IS TO CERTIFY THAT THIS FINAL PLAT COMPLIES WITH ALL COUNTY ZONING, ENVIRONMENTAL AND SUBDIVISION ORDINANCE AND REGULATIONS AND ALL APPLICABLE STATE AND FEDERAL LAWS

DATED THIS DAY OF 2011,

DIRECTOR, PLANNING DEPARTMENT

### WATER & SEWER AVAILABILITY ACKNOWLEDGMENT

WE, THE UNDERSIGNED, HEREBY STATE THAT LOT SHOWN ON THE PLAN FOR PROJECT KNOWN AS LEISURE RIDGE

LYING IN LAND LOT 359 OF THE 18TH DISTRICT,

DEKALB COUNTY, GEORGIA ARE PROVIDED WITH SERVICES FOR CONNECTION TO THE PUBLIC WATER AND SANITARY SEWER SYSTEMS,

THIS THE DAY OF 2011,

OWNER

RLS NO. 1263

SURVEYOR

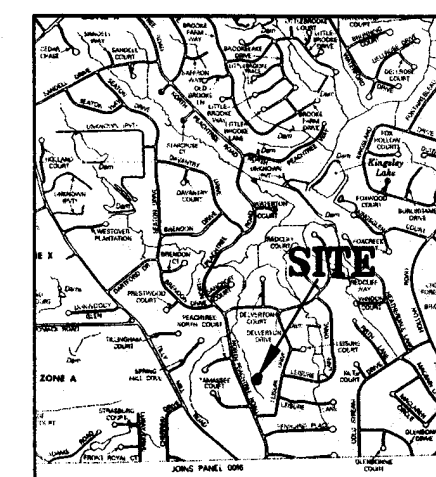
### SURVEYOR'S ACKNOWLEDGEMENT

IN MY OPINION THIS PLAT DRAWN BY ME OR UNDER MY SUPERVISION. WAS MAID FROM AN ACTUAL SURVEY AND IS A CORRECT REPRESENTATION OF THE LAND PLOTTED AND HAS BEEN PREPARED IN CONFORMITY WITH THE MINIMUM STANDARDS AND REQUIREMENTS OF LAW.

RLS NO. 1263

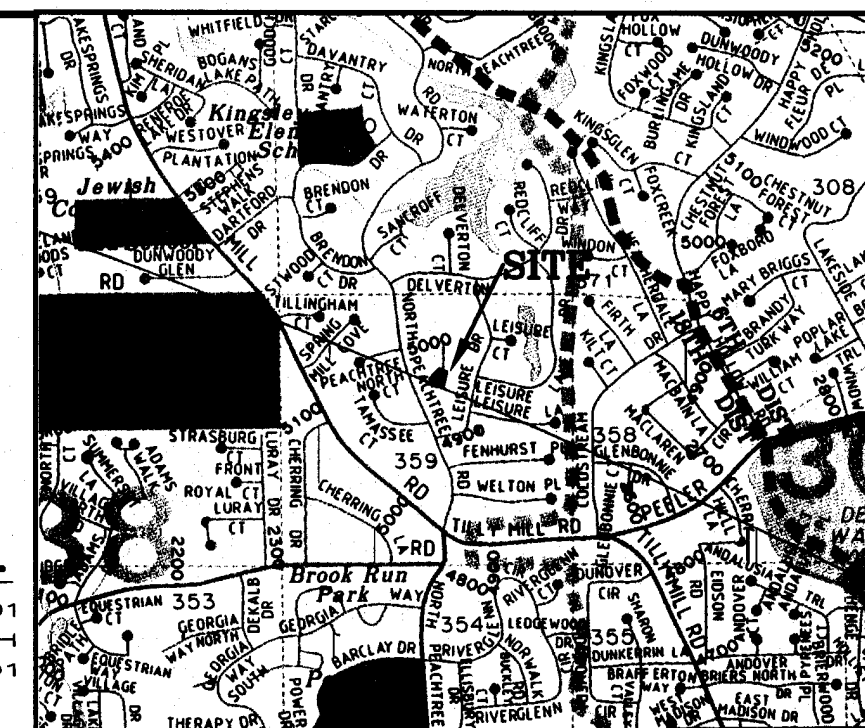
REGISTERED GA. LAND SURVEYOR NO.

OVERALL FINAL PLAT FOR LEISURE RIDGE SUBDIVISION HAS BEEN RECORDED IN PLAT BOOK 206, PAGES 39-44 DATED 8/1/2008



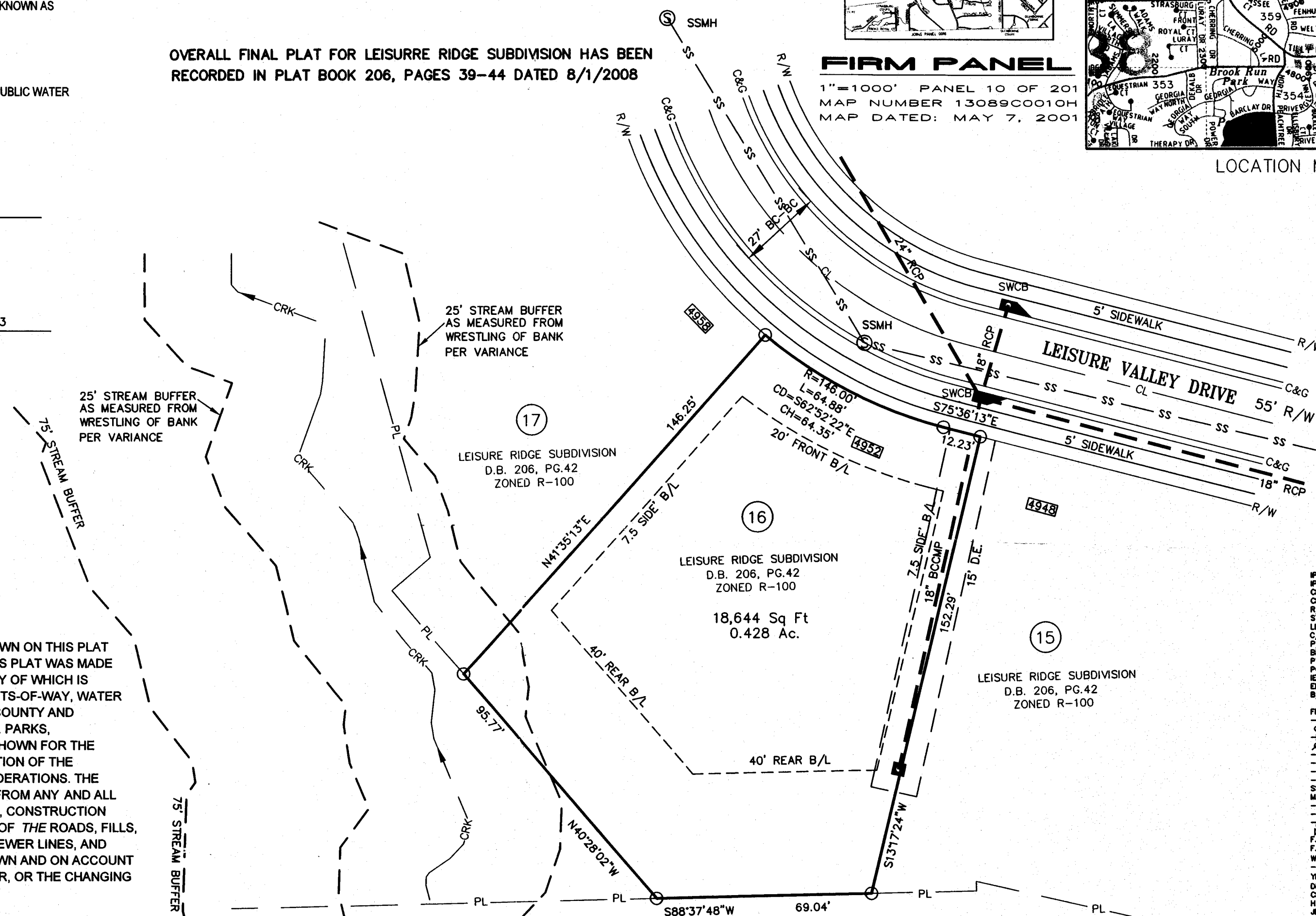
### FIRM PANEL

1"=1000' PANEL 10 OF 201  
MAP NUMBER 13089C0010H  
MAP DATED: MAY 7, 2001



LOCATION MAP

SCALE: 1"=2000'



### OWNER'S ACKNOWLEDGMENT

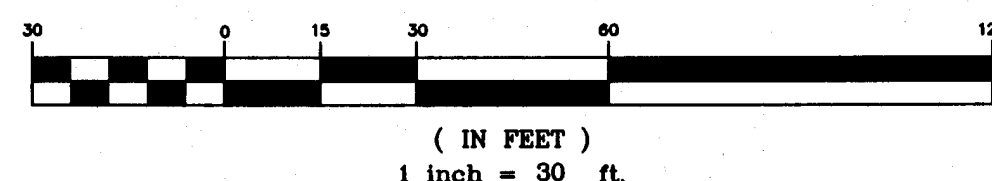
I, THE OWNER OF THE LAND SHOWN ON THIS PLAT AND WHOSE NAME IS SUBSCRIBED HERETO, ACKNOWLEDGED THAT THIS PLAT WAS MADE FROM AN ACTUAL SURVEY. AND FOR VALUE RECEIVED THE SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED DO HEREBY CONVEY ALL STREETS AND RIGHTS-OF-WAY, WATER MAINS AND SEWER LINES SHOWN HERE ON IN FEE SIMPLE TO DEKALB COUNTY AND FURTHER DEDICATE TO THE USE OF THE PUBLIC FOR EVER ALL ALLEYS, PARKS, WATERCOURSES, DRAINS, EASEMENTS AND PUBLIC PLACES HEREON SHOWN FOR THE PURPOSES AND CONSIDERATIONS HEREIN EXPRESSED. IN CONSIDERATION OF THE APPROVAL OF THIS DEVELOPMENT PLAN AND OTHER VALUABLE CONSIDERATIONS. THE OWNER FURTHER RELEASES AND HOLDS HARMLESS DEKALB COUNTY FROM ANY AND ALL CLAIMS, DAMAGES OR DEMANDS ARISING ON ACCOUNT OF THE DESIGN, CONSTRUCTION AND MAINTENANCE OF THE PROPERTY SHOWN HEREON: ON ACCOUNT OF THE ROADS, FILLS, EMBANKMENTS, DITCHES, CROSS-DRAINS, CULVERTS, WATER MAINS, SEWER LINES, AND BRIDGES WITHIN THE PROPOSED RIGHT-OF-WAY AND EASEMENTS SHOWN AND ON ACCOUNT OF BACKWATER, THE COLLECTION AND DISCHARGE OF SURFACE WATER, OR THE CHANGING OF COURSES OF STREAMS.

AND FURTHER THE OWNER WARRANTS THAT HE OWNS FEE SIMPLE TITLE TO THE PROPERTY SHOWN HEREON AND AGREES THAT DEKALB COUNTY SHALL NOT BE LIABLE TO HIM/HER, HIS/HER HEIRS. SUCCESSORS OR ASSIGNS FOR ANY CLAIMS OR DAMAGES RESULTING FROM THE CONSTRUCTION OR MAINTENANCE OF CROSS DRAIN EXTENSIONS, DRIVES, STRUCTURES, STREETS, CULVERTS, CURBS OR SIDEWALKS. THE CHANGING OF COURSES OF STREAMS AND RIVERS, FLOODING FROM NATURAL CREEKS AND RIVERS. SURFACE WATERS AND ANY OTHER MATTER WHATSOEVER. I FURTHER WARRANT THAT HAVE THE RIGHT TO SELL AND CONVEY THE LAND ACCORDING TO THIS PLAT AND DO HEREBY BIND MYSELF AND OWNERS SUBSEQUENT INTITLED TO DEFEND BY VIRTUE OF THE BE PRESENT.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND THIS OF 2011

THIS PLAT IS SUBJECT TO THE COVENANTS SET IN THE SEPARATE DOCUMENTS DATED 8/11/08, RECORDED IN D.B. 20972, PG. 325-338

### GRAPHIC SCALE



R-100 ZONING REGULATIONS:  
FRONT BUILDING SETBACK = 20'  
SIDE BUILDING SETBACK = 7.5'  
REAR BUILDING SETBACK = 40'  
MINIMUM LOT WIDTH = 80'  
MINIMUM LOT AREA = 8,000 SQ. FT.  
MINIMUM LOT COVERAGE = 35%  
MAXIMUM BUILDING HEIGHT = 35'

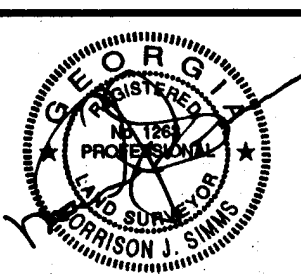
THIS PLAT IS PREPARED FROM A FIELD SURVEY USING A FIVE SECOND DIGITAL THEODOLITE AND ELECTRONIC DISTANCE METER:  
LINEAR PRECISION OF TRAVERSE: 1/10000+; ANGULAR ERROR: 3" PER POINT. THE TRAVERSE WAS ADJUSTED USING THE COMPASS RULE.  
LINEAR PRECISION OF THIS PLAT: 1/36,500. MATTERS OF TITLE ARE EXCEPTED.

### LEGEND

- IPF = IRON PIN FOUND (P)
- IPS = IRON PIN SET (P)
- CMF = CONCRETE MONUMENT FOUND (M)
- CMS = CONCRETE MONUMENT SET (M)
- R/W = RIGHT OF WAY
- STA = STATION NUMBER
- LL = LAND LOT LINE
- C/L = CENTERLINE
- P/L = PROPERTY LINE
- BM = BENCHMARK
- PT = POINT OF TANGENCY
- PC = POINT OF CURVATURE
- IE = INVERT ELEVATION
- EL = ELEVATION (ELEV.)
- B/L = BUILDING LINE
- R = RADIUS
- F.F.E. = FINISHED FLOOR ELEVATION
- F = FLOW
- P = PROPERTY CORNER
- F = FENCE
- P = POLE
- T = TELEPHONE LINE
- TV = TELEVISION LINE
- P = POWER LINE
- S = SANITARY SEWER LINE
- SSE = SANITARY SEWER EASEMENT
- MH = MANHOLE
- W = WATER LINE
- W = WATER LINE
- W = PLUGGED STUB
- W = GATE VALVE
- F.H. = EXIST. FIRE HYDRANT
- F.H. = PROP. FIRE HYDRANT
- W.M. = WATER METER
- ST = STORM SEWER LINE
- YI = YARD INLET
- DI = DRAIN INLET
- CB = CATCH BASIN
- HW = HEAD WALL
- JB = JUNCTION BOX
- DE = DRAINAGE EASEMENT
- FM = SEWER FORCE MAIN
- DS = DOWNSPOUT
- CO = CLEAN OUT
- CMP = CORRUGATED METAL PIPE
- RCP = REINFORCED CONCRETE PIPE
- VCP = VITRIFIED CLAY PIPE
- DIP = DUCTILE IRON PIPE
- PVC = POLYVINYL CHLORIDE PIPE
- C & G = CURB AND GUTTER
- F.I.R.M. = FEDERAL INSURANCE RATE MAP
- T.P.O.B. = TRUE POINT OF BEGINNING
- P.O.B. = POINT OF BEGINNING
- GA. MULTI DISTRICT
- TL = TREE LINE
- REB = REBAR
- BR = BRANCH
- EX = EXISTING CONTOURS (DASHED)
- 012- = PROPOSED CONTOURS (SOLID)
- TC = TOP OF CURB ELEVATION
- TP = TRAVERSE POINT
- L.P. = LIGHT POLE
- P = PLANTED TREE
- M = MARKED TREE

Sheet	DRAWING: 11023S	LAND LOT(S): 359
1	SNAPSHOT:	DISTRICT: 18th
		CITY: CITY OF DUNWOODY
		COUNTY: DEKALB STATE: GEORGIA
or	DATE: 07/12/11	SURVEYED: J. DRAWN:
1	SCALE: H: 1"=30' V: N/A	

Revision/Issue	By	Date
CITY OF DUNWOODY SUBMITTAL	IP	07/12/11



LEISURE RIDGE SUBDIVISION REPLAT  
LOT 16  
4952 LEISURE VALLEY DRIVE  
LAND LOT 359, 18th DISTRICT  
DEKALB COUNTY, GEORGIA

**ENGINEERING, INC.**  
ATLANTA COMMERCIAL & RESIDENTIAL ENGINEERING  
3040 HOLCOMB BRIDGE ROAD  
SUITE G-2  
NORCROSS, GA 30071  
TEL: (678) 291-0000  
FAX: (678) 291-6887



41 Perimeter Center East, Suite 250  
Dunwoody, Georgia 30346  
P (678) 382-6700 F (678) 382-6701  
dunwoodyga.gov

August 9, 2011

Mr. Al Livnat  
Leisure at Dunwoody LLC  
4828 Ash Dun Rd #300  
Dunwoody, GA 30338

VIA EMAIL @ abbas@acengineering.com

RE: Final Plat for Lot 16, Leisure Ridge Subdivision  
First Review

Dear Mr. Livnat:

We have reviewed the above referenced plat and have the following comments:

1. Per code sections 16-374(b), 16-743(b), our consultant's engineering report and our meeting of August 8, 2011, the entire length of Leisure Valley Road must be repaired using full depth reclamation. Provide a mix design for the Public Works Department's review and approval.
2. Submit the approved preliminary plat and an application and plans for a land disturbance permit showing the work that you are proposing, including grading and erosion control. The Erosion Control Plan must comply with the NPDES permit for Storm Water Construction and the City of Dunwoody's Erosion and Sediment Control Ordinance.
3. Submit copies of the original storm water management report and construction documents as part of the Land Disturbance Permit application.
4. Submit a copy of the BMP Maintenance Agreement for review and approval.
5. Submit the plat to the DeKalb County GIS Department for review and approval.
6. Submit the plat to the DeKalb County Fire Department for review and approval.
7. Show 75 foot stream buffer on subject property.
8. Water utility location.
9. Accurate location, material and description of monuments and markers; within each subdivision set one monument on two front corners of the property adjacent to existing rights-of-way on interior streets, or as otherwise approved by the development director; each monument shall be a minimum four-inch diameter disk by twenty-four-inch high concrete monument with brass caps set flush with finished grade
10. Note on the plat that the Lot may not be built upon until detailed plans for grading and drainage have been approved by the director of community development.
11. Before any final plat for any residential subdivision and any multiphase residential development may be submitted for review by the city, a disclosure statement, sworn to by the applicant under penalty of perjury before a notary public or other officer authorized to



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administer oaths, must be filed with the director of community development. See Code section 16-386(b) for the required contents of the disclosure statement.

12. Submit new Notice of Intent to EPD with copy to City.

13. We are coring the sewer and storm line trenches to determine the compaction. When we get the results, we will share them with you and determine the extent to which the sewer and storm line trenches need additional compaction.

Please call us if you have any questions.

Sincerely,

Rich Edinger, P.E.  
City Engineer

cc: Michael Smith, P.E.  
Carl Carver, P.E.  
File