



Legislation Text

File #: 170677., **Version:** 1

Approvals by City as property owner and developer of Heartwood Community (B)

The City of Gainesville owns property that is commonly referred to as Heartwood. The City is redeveloping the 15.1 acre property as a deed restricted subdivision with 34 lots for single family detached homes. The purpose of this agenda item is to request the City Commission, acting in its proprietary capacity as the property owner/developer, approve certain actions necessary to create the Heartwood Community. If this agenda item is approved, there is an item on this evening's agenda to request the City Commission, acting in its regulatory capacity, approve the Final Plat of the Heartwood Subdivision.

As owner/developer, there are several legal documents that must be approved and filed prior to the City commencing construction on the property or selling lots. The documents include:

- * Heartwood Subdivision - Final Plat
- * Declaration of Covenants, Conditions and Restrictions for Heartwood Community
- * Articles of Incorporation and Bylaws of Heartwood Community Homeowners' Association, Inc.

Final Plat

State law and the City's Land Development Regulations require that a subdivision be platted prior to commencement of construction or sale of lots. The Final Plat for Heartwood Subdivision establishes 34 lots, setback lines within the lots, conservation easements, drainage easements, public roads, private roads, alleys, utility easements and common areas. Because the City owns the property, the City must authorize the City Manager on behalf of the City to execute the plat and record the plat upon final approval by the City Commission, acting in its regulatory capacity.

Declaration of Covenants, Conditions and Restrictions for Heartwood Community

The Declaration of Covenants, Conditions and Restrictions ("Declaration") describes membership and voting rights in the homeowners' association, assessments on individual lots, and the duties of the homeowners' association to maintain the common areas. It also establishes architectural controls which are included in Article VI and in the Heartwood Design Guidelines, attached as Exhibit D. In addition, use restrictions are described in Article VII of the Declaration. Article VIII describes the easements listed on the plat.

Article XII explains that upon the sale of 90% of the lots within the subdivision, the City will be required to "turn over" control of the homeowners' association to the lot owners. Until that time, however, the City remains responsible for carrying out the terms of the declaration, including payment of homeowners association expenses during the "guaranty period," and appointing the board of directors of the homeowners' association. In addition, the City will pay ad valorem taxes assessed on any lots that it owns.

After "turnover", the City's financial obligations will be limited to payment of homeowner assessments and ad valorem taxes assessed for each lot owned by the City.

Articles of Incorporation and Bylaws of Heartwood Community Homeowners' Association, Inc.

The City's subdivision regulations require that if there are platted common areas, a homeowners' association must be created to maintain the common areas. In addition in a deed restricted community, the homeowners' association enforces restrictions, collects assessments and serves other functions described in the Declaration.

The Articles of Incorporation for the Heartwood Community Homeowners' Association, Inc., a Florida non-profit corporation ("HOA") must be filed with the Florida Department of State, Division of Corporations, in order to create a legal entity to serve as the association and appoint the initial Board of Directors and Officers of the HOA.

The Board members and Officers must be natural persons, not legal entities. The Articles of Incorporation have been drafted to appoint certain CRA staff members to serve as the initial HOA Board and Officers. Prior to the CRA staff commencing operation as the Board, the CRA staff will bring a separate item to the City Commission to establish guidelines for the CRA staff serving on the HOA Board. The CRA staff will also bring to the City Commission for approval a proposed budget to operate the HOA.

The bylaws describe the day-to-day operations of the HOA, its Members, Board of Directors and Officers. Until turnover, the meetings and the records of the HOA (because it is controlled by a municipal corporation, subject to Florida's Government in the Sunshine Laws) will be open to the public. Additionally, until turnover, there are restrictions on the HOA as to borrowing money.

Until "turnover," the City will have financial responsibility for homeowners' association expenses currently estimated to be \$13,600 per year, which will be reduced as lots are sold and the new lot owners begin to pay HOA assessments. In addition, the City will be responsible for ad valorem taxes assessed on lots owned by the City.

City Manager to City Commission: 1) Authorize the City Manager to execute the Heartwood Subdivision plat on behalf of the City of Gainesville, as owner of the property, and to record the plat in the Public Records of Alachua County, Florida, after receiving final plat approval; 2) authorize the persons listed in the Articles of Incorporation to serve as the Board of Directors and the Officers of the Heartwood Homeowners' Association, Inc., subject to the guidelines established by the City Commission; 3) authorize the Mayor to execute the Articles of Incorporation of the Heartwood Community Homeowners' Association, Inc. 4) authorize the City Attorney to file the Articles of Incorporation with the Secretary of State; 5) Authorize the Mayor to execute the Declaration of Covenants, Conditions and Restrictions for Heartwood Community; 6) Authorize the City Manager to record the Declaration of Covenants, Conditions and Restrictions in the Public Records of Alachua County; and 7) direct CRA staff to bring an item to the City Commission to establish guidelines and a budget for CRA staff to act within as the Board of Directors and Officers of the HOA.