



FLOWERS PLANTATION

July 21, 2020

Re: July 15, 2020 letter (Pineville West, Inc.)

Dear Mr. Edlin:

This communication is in response to your letter dated July 15, 2020.

In reference to the second paragraph of your letter in regard to the possibility of The Club being dedicated as a Limited Common Area, the original Village Declaration was recorded November 9, 2006. Section 12.4 of the Village Declaration retains to the Declarant the sole discretionary authority to designate the Pineville Club as either a Limited Common Element or a privately operated members-only club. It further states the presumption that the Pineville Club will be deemed a private club unless and until the Declarant takes specific action to designate it as a Limited Common Element.

Thereafter the First Amendment, recorded June 15, 2007, made two further clarifications: it explicitly designated the Pineville Club as private and it made membership mandatory for all lot owners subject to the Village Declaration.

When the First Amendment was deleted by the Sixth Amendment, this was done solely to delete the provision making club membership mandatory. With the First Amendment deleted, the original language in the Village Declaration controls: the Pineville Club is private unless the Declarant specifically designates it as a Limited Common Element by some later action. Never has the Declarant deeded the Club to the Village HOA or otherwise taken any action to indicate that the Pineville Club is a Limited Common Element and never has the Village HOA paid any money for Club maintenance, in clear contrast to those common areas that have been dedicated.

There was (prior to construction) the hope that the Village would experience development in home sales quickly enough to support the Club as an exclusive common element. However, by the year 2008 and by the time Club was opened in 2009, the economic recession had eliminated any possibility of the few communities started in the Village being financially able to carry the expenses of the Club.

The Declarant opened the Club with outside memberships being allowed, continuing to anticipate a community that could carry the expenses. The expenses now outweigh the ability to even break even and the Declarant has subsidized over \$9 million. The Club is indeed privately held by the Declarant, Rebecca D. Flowers, and she issued the 60-day notice required in the Club documents.

The dissolution of the Village and the ownership of the Pineville Club are in no way related. However, obviously since 2008 the privately maintained NW Flowers Parkway carried the resident and non-resident members to the Club. The word “private” in this particular case simply explains that this Parkway is not maintained by the NC Dept of Transportation. It is maintained by the Village Association. This is one of the reasons, the Declarant – owner of the Pineville Club decided to pay dues from the Club to the Village, based on 37 equivalent units.

The Declarant of the Village has offered at Declarant’s expense to install gates at the entrance of each Village subdivision solely to provide the privacy the members of the Village have not realized with the NW Flowers Parkway.

The 2020 conceptual planning of development is indicating 3 other such Parkways as the Parkway maintained by the Village. Please refer to the attached conceptual site plan. You will see 4 corners of the Flowers Crossroads surrounded by a Parkway. These Parkways have been divided into: NW Flowers Parkway (Village maintenance), SW Flowers Parkway (to be annexed into the Foundation), NE Flowers Parkway (planned for Flowers Plantation Foundation, Inc. maintenance) and this same plan is planned for the SE Flowers Parkway.

Twelve years after history changed the initial plan for the NW Flowers Parkway, the Declarant deems it to be in the best interest of the Village financially to stop carrying the load of one of the four parkways and in the future additionally carry through the Foundation annual dues its prorata share of the other 3 parkways. It seems more fair and equitable to dissolve the monthly financial burden to each of the Village homeowners of \$45/month equating to \$540/annually. Reality has changed the original conceptual plan, however, the gift to the YMCA is not dependent on who maintains the NW Flowers Parkway.

If the main gates remain operational, they will open and close as they have for the last 12 years. The opening hours are typically 5am to 9pm and these gates have never been closed except during the night. Another evidence of non-private exclusivity.

The vote to dissolve the Village is not urgent other than saving the Village residents money if they so decide. The plan for the Village Association after conveyance to the YMCA will remain as is, UNLESS the members of the Village decide it is in their best interest to dissolve.

Please refer the Village and FP Resident Club Membership Agreement which were created after the Village Declaration, article “Membership privileges at the Pineville Club”; “No ownership interest in the Club or the Club facilities”.

Additional questions sent by the Attorney of Mr. Garry Cortis who says he represents Pineville West, Inc:

1. What is currently maintained by the Village HOA?

Response: The areas dedicated to the Village that are maintained by the Village are the streets of NW Flowers Parkway, Flowers Village Boulevard, Beckwith Avenue and Savannah Lane. This includes landscaping, street lights, mowing maintenance, maintenance of the asphalt, maintenance of the concrete pedestrian trails in the buffer, operation of the gates at Hwy 42 East and the operation of the gates at Buffalo Rd. Savannah Lane also has a gate maintained by the Village. These areas have been dedicated to the Village. The Declarant notes that the issue of Village dissolution is separate and distinct from the gift of the Club to the YMCA.

2. If the Village HOA is dissolved does that remove the Developer or Village HOA from any future liability or risk of litigation?

Response: The Foundation will assume all the above areas the Village now maintains. In the future this financial expense will be carried by close to 8,000 families, instead of less than 1,000 in the Village. The Foundation currently maintains the East Neuse River Parkway which is similar to the NW Flowers Parkway in that it is traveled by non-members of the Village.

3. Upon dissolving the Village HOA, the Developer has offered to refund capital funds to the Pineville West HOA as well as install gates at the expense of the Developer. The neighborhood would like this guarantee in writing from the Developer.

Response: The Declarant, Developer has previously stated this in writing.

4. Pineville West homeowners would like absolute control over gates once installed to determine times of operation per neighborhood vote; operation times not to be controlled by the Declarant.

Response: Each neighborhood will choose the individual hours of operation of their gates.

5. Pineville West homeowners are requesting in ground pools be allowed due to no current Club pool availability and the gifting of the Club to the YMCA.

Response: The Declarant does not believe the entire community of Pineville West (each individual homeowner) is requesting an in-ground pool on their property. The Declarant believes this request is by a few homeowners at most (possibly only one) that is attempting to achieve a personal goal, therefore, using this as leverage and not for the benefit of Pineville or The Village. The Declarant has no control over the dangers of COVID 19 pandemic, therefore the Club pool will remain closed at this time. The Declarant may in the future permit in-ground pools. Each request for an in-ground pool must be submitted for architectural approval and pools will only be approved if they are in compliance with architectural guidelines for the community. The decision whether or not to allow pools is a distinct issue and not connected with the gift to the YMCA.

6. Would dissolving the Village return responsibility for the roads to Pineville West? As you know, Pineville West has problems with roads which are still owned by DWF.

Response: Dissolving the Village has no relationship with the responsibility of the roads in Pineville West. Pineville West streets should be dedicated to Pineville West on the plat recorded.

The Declarant under no obligations gifted \$500 per new home sale by requiring it of the new home buyer in Pineville West to assist in street capital funds for repairs. In addition, the Declarant has stated the willingness to refund to the HOAs the additional \$500 paid to The Village street capital fund for further assistance with HOA street maintenance dependent on the Village dissolution.

Also, Pineville West HOA through their attorney, requested answers to the following conveyance of the Club to the YMCA.

1. Why is gifting the Club to a not for profit LLC controlled by homeowners off the table?
Response: The YMCA is a nationally renowned and proven community asset which is funded by charitable contributions.

2. What are the plans for the Club/YMCA in regard to expansion, parking, lighting, etc.
Response: No additions or plans are needed at this time. All facilities are adequate to handle anticipated use.

3. Neighbors are very concerned about traffic flow; we are requesting access to the Club be discontinued from the Parkway and a new access and road be installed from Harris Teeter entrance leading to the Club. This will cut down bus and car traffic on the 42 and Buffalo Road gates.
Response: The YMCA and Declarant may consider this in the future if needed, however, if the Village remains adding another entrance is adding another expense to the Village.

4. Neighbors want written documents from Developer that YMCA, the Village, or the Foundation cannot use HOA dues or request funds to support the Club once gifted to the YMCA.
Response: The YMCA functions solely on their own financial merit. No Village funds have been used to support the Club previously and this will not change with the gift to the YMCA.

Sincerely,



Rebecca D. Flowers

Cc: Mr. Lamar Armstrong, Mr. Randy Herman