

ORDINANCE 90-5

46.50

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM R1-A, SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE NORTH SIDE OF TAYLOR ROAD AT THE INTERSECTION OF BENT OAKS BLVD.; APPROVING A DEVELOPMENT PLAN FOR BENT OAKS, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 124.462 ACRES OF PROPERTY LOCATED AT TAYLOR ROAD, EAST OF U.S. 17-92; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Florida Residential Communities, Inc., Neal W. Harris, Stanley E. Venturini and Diane R. Venturini (hereinafter collectively referred to as the "Applicant") are the owners of a 26.073 acre parcel of land located on the north side of Taylor Road at the intersection with Bent Oaks Blvd., which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, the Applicant has applied for a change of zoning from the present zoning classification of the parcel described in Exhibit "A" from R1-A, Single Family Residential District, to Planned Development District ("PD"); and

WHEREAS, said rezoning as a PD District is consistent with both the City of DeLand Comprehensive Plan and the purpose and intent of Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant also owns a 98.389 acre parcel of land to the north and east of the property described in Exhibit "A," which is more particularly described in the legal description attached hereto as Exhibit "B" and by this reference made a part hereof; and

WHEREAS, the land described in Exhibit "B" was rezoned from R-1A and R-1AA, Single Family Residential District, and A-3, Agricultural District, to PD, Planned Development District, on April 3, 1989 pending the approval of a development plan pursuant to Section 33-24 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the Applicant has submitted an application for approval of a development plan for Bent Oaks, a residential planned development to encompass all of the property described in Exhibits "A" and "B" (hereinafter collectively referred to as "the property" or "the project"); and

WHEREAS, the proposed development plan meets or exceeds the minimum conditions and standards for a Planned Development District with respect to minimum development size, perimeter setbacks, comprehensive plan consistency, internal compatibility, external compatibility, intensity of

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VOLUSIA CO., FL

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development, open spaces, plazas and recreation, sidewalks, trails and bikeways, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DeLAND, FLORIDA:

**Section 1.** The City Commission has held a public hearing on the application for a change of zoning from R1-A, Single Family Residential District, to PD, Planned Development District, for the land described in Exhibit "A" and to confirm the initial zoning designation of the land described in Exhibit "B" as PD, Planned Development District, pending approval of a development plan for the property.

**Section 2.** Pursuant to the determination made at public hearing, the City Commission hereby amends the Comprehensive Zoning Map of the City to include the land described in Exhibit "A" as PD, Planned Development District, and confirms the initial zoning designation of the land described in Exhibit "B" as PD, Planned Development District.

**Section 3.** The zoning of the property as PD, Planned Development District, is made pursuant to Section 33-24 of the Code and the development of this property shall take place in accordance with that Section and in substantial compliance with the Development Plan Map and Report, as amended, submitted by the Applicant which shall be filed and retained for public inspection in the office of the City Planning Department and constitute a supplement to the official Zoning Map of the City.

**Section 4.** All building code, housing code and other land use regulations of the City (including, but not limited to, the tree protection and subdivision ordinances) are applicable to the PD District except to the extent that they conflict with a specific provision of the approved development plan which is set forth in Section 5 below. The failure of the approved development plan to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with the law governing said permitting requirements, or other conditions, terms and restrictions.

**Section 5.** The approved Development Plan for Bent Oaks PD is set forth below:

(a) Development Concept: The property shall be developed in substantial compliance with the Development Plan Map and Report, as amended, and the final subdivision plat for each phase of the development as required by Section 33-24(v) of the Code. The Applicant shall maintain unified ownership of the subject property until after the approval of the final plats for areas to be subdivided; provided, however, that the Applicant may sell 80% or more of the land area within any given tract to a single developer before

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final plat approval of the areas to be subdivided; and, provided further, that there shall never be more than two entities, including the Applicant, who own any portion of the unplatted land area within a given tract before final plat approval.

(b) Phases of Development: This project is projected to be developed over a five year period. As each phase is developed, the appropriate roadway and utility infrastructures including, but not limited to, water, sewer and stormwater facilities, shall be constructed in accordance with the master drainage, utility and roadway plans for the project, subject to approval of final engineering plans for each phase of development. The phases of development shall conform substantially with the tract boundaries shown on the Development Plan Map; provided, however, that the Applicant may elect to develop any given tract in more than one phase and may combine portions of tracts in a single phase for purposes of final plat approval so long as the Applicant owns 100% of the land areas to be combined in a single phase.

(c) Land Use and Density: The development of the property shall be consistent with the limits described below for each land use area within the proposed PD; provided, however, that the Applicant shall have the right to reduce the density of any given tract without having to amend the approved Development Plan for the project. The location and approximate size of the land use areas are shown on the Development Plan Map and Report, as amended, and identified as separate tracts.

(1) Land Use Description: the Bent Oaks PD shall be a residential community consisting entirely of single family detached homes and common drainage, passive recreation and natural open space areas.

(2) Density:

<u>Land Use</u>	<u>Area</u>	<u>% of Site</u>	<u>Total Lots</u>	<u>Net Density</u>
Tract One	22.70	18.24	44	1.94
Tract Two	16.95	13.62	34	2.01
Tract Three	21.08	16.94	77	3.65
Tract Four	25.69	20.64	91	3.54
Tract Five	21.44	17.23	112	5.22
Drainage, Recreation & Open Space	<u>16.60</u>	<u>13.34</u>	<u>N/A</u>	<u>N/A</u>
	124.46*	100.00	358	2.88

\*Includes 21.98 acres set aside as tree protection areas as described in subsection (f) below.

(d) Special Regulations: The uses permitted within the Bent Oaks PD shall be detached, single family dwellings with customary accessory uses. No accessory uses shall be placed any closer than ten (10) feet from the rear property lines or ten (10) feet from any landscape, wall or utility easement for those lots bordering same. No accessory uses, buildings or structures whatsoever shall be permitted within the front or side yard setback areas.

	<u>Minimum Lot Size</u>	<u>Number of Lots</u>	<u>Setbacks</u>			<u>Minimum Distance Between Dwellings</u>
			<u>Front</u>	<u>Side</u>	<u>Rear</u>	
Tract One	85'x110'	44	25	7.5	25	15
Tract Two	120'x140'	34	25	10	25	20
Tract Three	75'x110'	77	25	7.5	25	15
Tract Four	75'x110'	91	25	7.5	25	15
Tract Five	50'x110'	112	20	0	20	10

Where the minimum distance between buildings is less than fifteen (15) feet, exterior walls between such buildings must have a minimum one hour fire rating as required by the Standard Building Code. The maximum building coverage for lots less than 6,000 sq. ft. shall not exceed 50%. The maximum building coverage for lots between 6,000 to 11,000 sq. ft. shall not exceed 45%. The maximum building coverage for lots greater than 11,000 sq. ft. shall not exceed 40%.

(e) Common Areas: The Applicant shall create common drainage, passive recreation and natural open space areas and shall retain unified ownership and control of all tracts identified for such land uses; provided, however, that after the formation of a Homeowners' Association, said tracts may be transferred to, owned and maintained by the Homeowners' Association.

(f) Environmental Considerations: It is recognized that the development site has outstanding natural beauty and that mutual cooperation to preserve the natural amenities of the area is essential. Accordingly, the Applicant shall:

- (1) Ensure that each lot contains a minimum of one tree for every 2,500 square feet of lot area before final plat approval of areas to be subdivided;
- (2) Provide a plan showing the retention of at least eighty percent (80%) of all specimen trees in each tract before final plat approval of areas to be

subdivided (except for Tract One Volusia Co, FL grandfathered pursuant to Ordinance 89-42);

- (3) Replace fifty percent (50%) of the total number of inches DBH of specimen trees permitted to be removed by preserving an equivalent number of non-specimen trees on site, planting additional replacement trees or contributing to the City's "Replacement Tree Reserve Account";
- (4) Designate at least fifteen percent (15%) of the land area within the development for tree protection including approximately 5.75 acres within the common drainage, passive recreation and natural open space areas, 12.42 acres within the rear and side yard setback areas and 3.81 acres in the landscape and utility easement area along the Eastern boundary of the property.

Common areas set aside for tree protection shall be separately identified as tracts on the final plats for areas to be subdivided. No clearing of trees or any other development activities shall be permitted in the tracts designated as tree protection areas on the Development Plan Map, except for the removal of trees damaged by fire, windstorm, lightening or other acts of God which pose imminent danger to life or property. In addition, the Applicant shall amend the Declaration of Protective Covenants, Conditions and Restrictions for Bent Oaks to prohibit the removal of any trees within 1) the landscape and utility easement area along the Eastern boundary of the property; 2) the side yard setback areas of all lots greater than fifty (50) feet wide except for the first ten (10) feet from the front property lines, or 3) the last five (5) feet of the rear yard setback areas adjacent to the rear property lines of all lots; provided, however, that the City may allow the Applicant to exempt certain areas as may be necessary for placing utility lines upon final plat approval of areas to be subdivided.

(g) Sewage: Sewer service will be provided to all lots by connection with the City of DeLand central sewage system. The City projects that each lot will generate approximately 266 gallons of sewage per day. Therefore, the projected maximum amount of sewage generated by the development will be approximately 95,228 gallons per day. Within 90 days from the effective date of this Ordinance, the Applicant shall enter into a Utility Service Agreement with the City in accordance with Chapter 30 of the Code to reserve sufficient capacity for the development.

(h) Water: Water service will be provided to each lot by connection with the City of DeLand central water system. The City projects that each lot will require approximately 266 gallons of water per day. Therefore, the projected maximum total amount of water required by the development will be approximately 95,228 gallons per day. Within 90 days

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from the effective date of this Ordinance, the Applicant shall enter into a Utility Service Agreement with the City in accordance with Chapter 30 of the Code to reserve sufficient capacity for the development.

(i) Stormwater Drainage: The development shall meet or exceed the requirements of the Stormwater Management and Conservation Ordinance, Chapter 25B of the Code. The proposed master drainage plan has been reviewed by the Acting City Engineer and appears adequate to meet the projected stormwater retention requirements for the project.

(j) Roadways:

- (1) All roadways shall be constructed in compliance with the Subdivision Ordinance, Chapter 26A of the Code, and the State's minimum Standards for Public Streets and Roads and will be dedicated to the City of DeLand.
- (2) As a condition of plat approval for the southeast portion of the development, or on or before February 5, 1995, whichever occurs first, the Applicant shall be required to develop the eastern entrance to the project off Taylor Road, and if the County has commenced construction of the Taylor Road extension by that time, the Applicant shall install a sidewalk along the project perimeter between Stratford and Hill Avenues.
- (3) If New Hampshire Avenue is extended east to the proposed northern entrance to the project and if the Applicant has secured preliminary plat approval for any portion of Tract Five on or before February 5, 1995, the Applicant will connect and pave Bent Oaks Blvd. to New Hampshire Avenue and install a sidewalk along the project perimeter for the length of the New Hampshire Avenue extension.
- (4) The Applicant shall install left turn lanes on Taylor Road into Bent Oaks Blvd. at the intersection of Bent Oaks Blvd. and Taylor Road at the time Taylor Road is extended east beyond the intersection of Bent Oaks Blvd. and Taylor Road by the County or the Applicant.
- (5) Access to lots will be limited to the internal road system. No lot shall have direct access to either Taylor Road, New Hampshire Avenue or Hill Avenue.
- (6) According to the Applicant's traffic engineer, the development will not cause the level of service on any roadway sections or intersections affected by the development to

decrease.

(k) Sidewalks: The Applicant shall construct sidewalks along both sides of all streets in the development and along Taylor Road and New Hampshire Avenue as described in subsection (j) above. The Applicant shall have the option of posting bond to guarantee completion of the sidewalks at the time of final plat submission.

(l) Screening: Where the rear or side yards of lots abut Taylor Road or New Hampshire Avenue, and where no natural vegetative screening presently exists, the Applicant will provide visual screening comprised of either vegetation, berms or masonry wall along any paved roadways.

(m) Homeowners' Association: A Homeowners' Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas, and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Homeowners' Association and any amendments thereto or related agreements, covenants, easements or restrictions which relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all of the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for Bent Oaks or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board: The Applicant shall create an Architectural Review Board. Prior to the construction of any dwelling unit, all plans and specifications must have had prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board.

(o) Binding Effect of Plans; Recording: The provisions of the foregoing Development Plan, as amended, including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and its heirs,

successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

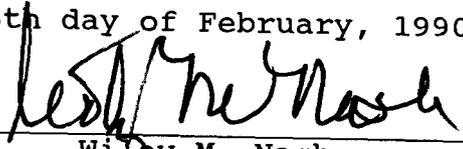
(p) Reverter Provision: The City Commission may rezone any portion of the project which has not secured final subdivision plat approval on or before five years from the effective date of this Ordinance as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in this paragraph.

**Section 6.** The City Engineer, Planning Director and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

**Section 7.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 8.** This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 5th day of February, 1990.



Wiley M. Nash  
Mayor-Commissioner

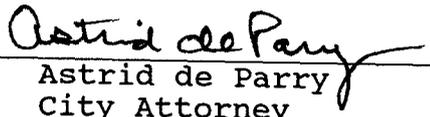
ATTEST:



Viola H. Ballentine  
City Clerk - Auditor

Passed on first reading: January 16, 1990  
Adopted on second reading: February 5, 1990

APPROVED AS TO FORM AND LEGALITY:



Astrid de Parry  
City Attorney

CA/ORDINANC/BENTOAKS



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VOLUSIA CO. FL

EXHIBIT "A"

Commencing at the Southwest corner of Section 22, Township 17 South, Range 30 East, run N00°00'00"E, along the West line of the Southwest 1/4 of said Section 22, a distance of 40.00 feet for a POINT OF BEGINNING; thence continue N00°00'00"E, a distance of 619.88 feet to the Northwest corner of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4; thence N89°59'25"E, a distance of 658.25 feet to the Northeast corner of said Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4; thence S00°01'36"E, along the East line of said Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4, a distance of 143.46 feet to a point on a curve, concave Southeasterly, having a central angle of 20°52'13" and a radius of 655.00 feet; thence from a tangent bearing of N50°52'22"E, run Northeasterly along the arc of said curve, a distance of 238.59 feet to the point of tangency; thence N71°44'35"E, a distance of 15.21 feet; thence N18°15'25"W, a distance of 120.00 feet; thence N71°44'35"E, a distance of 380.00 feet; thence N56°33'27"E, a distance of 71.02 feet; thence S41°59'20"E, a distance of 120.00 feet; thence S44°06'54"E, a distance of 60.04 feet; thence S42°18'29"E, a distance of 120.00 feet; thence N42°37'19"E, a distance of 110.73 feet; thence S44°06'51"E, a distance of 149.91 feet to the Northeast corner of the West 1/2 of the Southwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of said Section 22; thence S00°03'59"E, along the East line of said West 1/2, a distance of 648.96 feet; thence N89°49'59"W, a distance of 987.82 feet; thence N00°01'36"W, along the West line of the Southeast 1/4 of the Southwest 1/4 of the Southwest 1/4 of said Section 22, a distance of 24.00 feet; thence N89°49'59"W, a distance of 658.54 feet to the POINT OF BEGINNING.

Containing 26.073 acres, more or less.

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EXHIBIT "B"

Begin at the Southeast corner of the Southwest 1/4 of Section 22, Township 17 South, Range 30 East; thence run N89°49'59"W, a distance of 329.28 feet, to the Southwest corner of the East 1/2 of the Southeast 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run N00°05'34"W, a distance of 666.99 feet, to the Northwest corner of the East 1/2 of the Southeast 1/4 of the Southeast 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run S89°59'25"W, a distance of 658.25 feet, to the Southwest corner of the East 1/2 of the Northwest 1/4 of the Southeast 1/4 of the Southwest 1/4 of the aforementioned Section 22, thence run N44°06'51"W, a distance of 149.91 feet; thence run S42°37'19"W, a distance of 110.73 feet; thence run N42°18'29"W, a distance of 120.00 feet; thence run N44°06'54"W, a distance of 60.04 feet; thence run N41°59'20"W, a distance of 120.00 feet; thence run S56°33'27"W, a distance of 71.02 feet; thence run S71°44'35"W, a distance of 380.00 feet; thence run S18°15'25"E, a distance of 120.00 feet; thence run S71°44'35"W, a distance of 15.21 feet; to the point of curvature of a curve concave to the Southeast, having a central angle of 20°52'13", radius of 655.00 feet; thence run along the arc of said curve a distance of 238.59 feet, to a point on the East line of the Southwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence departing said curve run N00°01'36"W, a distance of 143.46 feet, to the Southeast corner of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run S89°59'25"W, a distance of 658.25 feet, to the Southwest corner of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run N00°00'00"E, a distance of 659.88 feet, to the Northwest corner of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run N89°48'47"E, a distance of 657.94 feet, to the Northeast corner of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run N00°01'36"W, a distance of 992.87 feet, to the Northwest corner of the East 1/2 of the South 3/4 of the Northwest 1/4 of the Southwest 1/4, of the aforementioned Section 22; thence run N89°32'50"E, a distance of 657.50 feet, to the Northeast corner of the East 1/2 of the South 3/4 of the Northwest 1/4 of the Southwest 1/4, of the aforementioned Section 22; thence run N00°03'12"W, a distance of 331.97, to the Northwest corner of the Northeast 1/4 of the Southwest 1/4, of the aforementioned Section 22; thence run N89°27'31"E 1314.70 feet, to the Northeast corner of the Northeast 1/4 of the Southwest 1/4 of the aforementioned Section 22; thence run S00°06'21"E, a distance of 2672.05 feet, to the POINT OF BEGINNING.

Containing 98.389 acres more or less.

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VOLUME 00.51

# The News-Journal

Published Daily and Sunday  
Daytona Beach, Volusia County, Florida

State of Florida,  
County of Volusia:

Before the undersigned authority personally appeared  
**C. Morgan Miller**

who, on oath says that he is.....  
**Classified Manager**

of The News-Journal, a daily and Sunday newspaper, published  
at Daytona Beach in Volusia County, Florida; that the  
attached copy of advertisement, being a.....

## Notice of Public Hearing

in the matter of.....  
**Ordinance 90-5**

in the ..... Court, was published

in said newspaper in the issues.....  
**January 26, 1990**

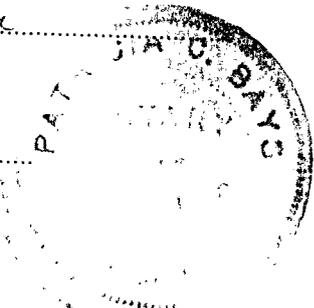
Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*C Morgan Miller*

Sworn to and subscribed before me  
this **26th** day of **January**

A.D. 19) **90**

*Patricia Bay*



NOTARY PUBLIC, State of Florida at Large  
My Commission expires Dec. 31, 1990  
Bonded by AMERICAN PUBLIC INSURANCE CO.

### LEGAL ADVERTISEMENT

#### NOTICE OF PUBLIC HEARING CITY COMMISSION

CITY OF DELAND, FLORIDA  
NOTICE IS HEREBY GIVEN that there will be a Public Hearing on the following ordinance on February 5, 1990, at the regular meeting of the DeLand City Commission. The meeting will take place at 7:00 P.M. in the City Commission Chambers, 120 South Florida Avenue. All interested parties are invited to attend and be heard on the matter.

Any person who appeals any decision made by the City Commission with respect to any matter considered at this meeting will need a record of the proceeding and, thus, may need to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which an appeal may be based.

The original of the ordinance is on file in the office of the City Clerk and may be inspected Monday through Friday from 8:00 A.M. to 4:30 P.M.

#### ORDINANCE 90-5

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA CHANGING THE ZONING FROM R1-A, SINGLE FAMILY RESIDENTIAL DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE NORTH SIDE OF TAYLOR ROAD AT THE INTERSECTION OF BENT OAKS BLVD.; APPROVING A DEVELOPMENT PLAN FOR BENT OAKS, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 124.462 ACRES OF PROPERTY LOCATED AT TAYLOR ROAD, EAST OF U.S. 17-92; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Legal 320, Jan. 26, 1990. 1t

ORDINANCE 90-12

VOLUSIA COUNTY

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA AMENDING THE APPROVED DEVELOPMENT PLAN FOR BENT OAKS, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 124.462 ACRES OF PROPERTY LOCATED AT TAYLOR ROAD, EAST OF U.S. 17-92; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Florida Residential Communities, Inc., The Neal W. Harris Company and Stanley E. Venturini and Diane R. Venturini (hereinafter collectively referred to as the "Applicant") have submitted an application to amend the approved Development Plan for Bent Oaks, a residential planned development consisting of approximately 124.462 acres of property located at Taylor Road, East of U.S. 17-92; and

WHEREAS, the approved Development Plan for Bent Oaks is set forth in Ordinance No. 90-5 and recorded February 9, 1990 in Official Records Book 3425, Page 0832, in the Public Records of Volusia County, Florida; and

WHEREAS, the proposed amendments to the approved Development Plan are consistent with the intent of the Planned Development District and meet or exceed the requirements of the Tree Protection Ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DeLAND, FLORIDA:

Section 1. The City Commission has held a public hearing on the application for an amendment to the approved Development Plan for Bent Oaks.

Section 2. Pursuant to the determination made at public hearing, the City Commission hereby amends Section 5(c)(2) of Ordinance 90-5 to read in full as follows:

(2) Density:

<u>Land Use</u>	<u>Area</u>	<u>% of Site</u>	<u>Total Lots</u>	<u>Net Density</u>
Tract One	22.70	18.24	44	1.94
Tract Two	16.95	13.62	34	2.01
Tract Three	21.08	16.94	77	3.65
Tract Four	25.69	20.64	91	3.54
Tract Five	21.44	17.23	112	5.22

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CLERK CIRCUIT COURT VOLUSIA CO. FL

*Uly. K...*

Drainage,  
Recreation &  
Open Space

16.60

VOLUSIA CO. FL.

13.34

N/A

N/A

124.46\*

100.00

358\*\*

2.88\*\*

\*Includes 18.67 acres to be set aside as tree protection areas as described in subsection (f) below.

\*\*The total number of lots and net density may be decreased if the Applicant is unable to designate sufficient common areas to be set aside for tree protection as described in subsection (f) below.

**Section 3.** Pursuant to the determination made at public hearing, the City Commission hereby amends Section 5(f) of Ordinance 90-5 to read in full as follows:

(f) Environmental Considerations: It is recognized that the development site has outstanding natural beauty and that mutual cooperation to preserve the natural amenities of the area is essential. Accordingly, the Applicant shall:

- (1) Ensure that each lot contains a minimum of one tree for every 2,500 square feet of lot area before final plat approval of areas to be subdivided;
- (2) Provide a plan showing the retention of at least eighty percent (80%) of all specimen trees in each tract before final plat approval of areas to be subdivided (except for Tract One which was grandfathered pursuant to Ordinance 89-42);
- (3) Replace fifty percent (50%) of the total number of inches DBH of specimen trees permitted to be removed by preserving an equivalent number of non-specimen trees on site, planting additional replacement trees or contributing to the City's "Replacement Tree Reserve Account";
- (4) Designate at least fifteen percent (15%) of the land area within the development (i.e., 18.67 acres minimum) for tree protection including approximately 3.08 acres within the rear yard setback areas of all lots; 1.84 acres within the side yard setback areas of certain lots in Tract Two only; 3.81 acres in the landscape and utility easement area along the Eastern boundary of the property; 8.15 acres within the common drainage, passive recreation and natural open space areas; plus, 1.79 acres of additional common areas to be designated in the future.

The Applicant shall amend or supplement the Declaration

of Protective Covenants, Conditions and Restrictions for Bent Oaks to prohibit the removal of any trees within 1) the last five (5) feet of the rear yard setback areas adjacent to the rear property lines of all lots throughout the development; 2) the side yard setback areas of all lots in Tract Two only, but not including those portions of Lots 10-13, inclusive, which have been dedicated as public utility easements, and not including those portions of the side yard setback areas lying within ten (10) feet of the front property lines; or 3) the landscape and utility easement area along the Eastern boundary of the property; provided, however, that the City may allow the Applicant to exempt certain areas as may be necessary for placing utility lines upon final plat approval of areas to be subdivided. In addition, the Applicant shall secure the consent of all public utility companies providing service to the project to abandon and vacate the five (5) foot utility easement dedicated along the rear property lines of all lots in Tract One.

The Applicant shall set aside sufficient common areas for tree protection such that the total number of acres designated for tree protection throughout the development (including the side and rear yard setback areas and the landscape and utility easement area along the Eastern boundary of the property) shall in no event be less than 18.67 acres. Common areas to be set aside for tree protection shall be separately identified as tracts on the final plats for areas to be subdivided or by separate legal instrument for areas already platted before the effective date of Ordinance No. 90-5. No clearing of trees or any other development activities shall be permitted in the tracts designated as tree protection areas on the Development Plan Map, except for the removal of trees damaged by fire, windstorm, lightening or other acts of God which pose imminent danger to life or property.

If the Applicant fails to designate sufficient areas for tree protection before the last phase of development is presented for preliminary plat approval, the Applicant shall be required to reduce the number of lots and increase the amount of common areas to be set aside for tree protection in the last phase of the development to make up for the remaining deficiency; provided, however, it is not the intent hereof that the required reduction in permitted density shall exceed the tree protection deficit remaining at the time of platting the last phase of the development unless the Applicant cannot configure the lots on such plat to limit the required reduction in permitted density to equal only the remaining tree protection deficit. At the time a preliminary plat of each additional phase of the project is submitted, the Planning Department of the City shall issue to the Applicant a certification as to the amount of property on such plat to be credited toward the area tree protection requirement. In the event there is any dispute as to the

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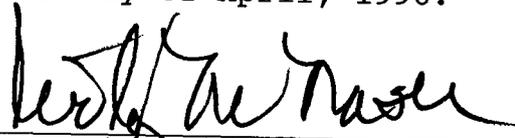
acreage to be so certified, the Applicant shall have the right to appeal the decision of the Planning Department to the City Manager.

**Section 4.** Except as provided above, the terms and conditions of the approved Development Plan for Bent Oaks set forth in Ordinance No. 90-5 shall remain in full force and effect. This approved Development Plan, as amended, supercedes the terms and conditions of the Development Agreement between the parties which was recorded April 3, 1990, in Official Records Book 3448, Page 0047, in the Public Records of Volusia County.

**Section 5.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

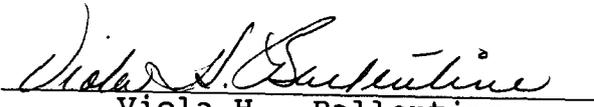
**Section 6.** This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 16th day of April, 1990.



Wiley M. Nash  
Mayor-Commissioner

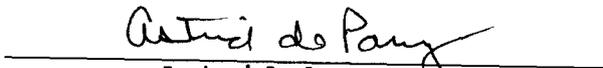
ATTEST:



Viola H. Ballentine  
City Clerk - Auditor

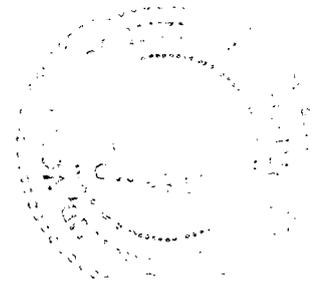
Passed on first reading: April 2, 1990  
Adopted on second reading: April 16, 1990

APPROVED AS TO FORM AND LEGALITY:



Astrid de Parry  
City Attorney

BOOK PAGE  
0584 0655  
VOLUME 00.71



# The News-Journal

Published Daily and Sunday  
Daytona Beach, Volusia County, Florida

State of Florida,  
County of Volusia:

Before the undersigned authority personally appeared  
.....  
C. Morgan Miller

who, on oath says that he is.....  
.....  
Classified Manager

of The News-Journal, a daily and Sunday newspaper, published  
at Daytona Beach in Volusia County, Florida; that the  
attached copy of advertisement, being a .....

.....  
Notice of Public Hearing  
.....

in the matter of .....

Ordinance 90-12

in the ..... Court, was published

in said newspaper in the issues.....

April 6, 1990

Affiant further says that The News-Journal is a newspaper published at Daytona Beach, in said Volusia County, Florida, and that the said newspaper has heretofore been continuously published in said Volusia County, Florida, each day and Sunday and has been entered as second-class mail matter at the post office in Daytona Beach, in said Volusia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

.....  
*C. Morgan Miller*

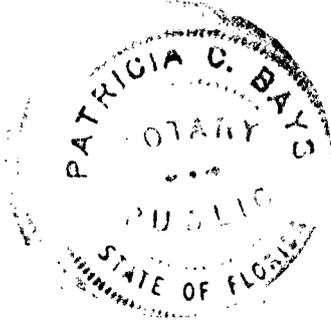
Sworn to and subscribed before me

this 6th day of April

A.D. 19..90..

.....  
*Patricia C. Bays*

NOTARY PUBLIC, State of Florida at Large  
My Commission Expires December 30, 1990  
49 Bonded by AMERICAN PIONEER CASUALTY INS. CO.



**LEGAL ADVERTISEMENT**  
**NOTICE OF PUBLIC HEARING**  
CITY COMMISSION  
CITY OF DELAND, FLORIDA  
NOTICE IS HEREBY GIVEN that there will be a Public Hearing on the following ordinance on April 16, 1990, at the regular meeting of the DeLand City Commission. The meeting will take place at 7:00 P.M. in the City Commission Chambers, 120 South Florida Avenue. All interested parties are invited to attend and be heard on the matter.  
Any person who appeals any decision made by the City Commission with respect to any matter considered at this meeting will need a record of the proceeding and, thus, may need to ensure that a verbatim record of the proceeding is made, including the testimony and evidence upon which an

appeal may be based.  
The original of the ordinance is on file in the office of the City Clerk and may be inspected Monday through Friday from 8:00 A.M. to 4:30 P.M.  
ORDINANCE 90-12  
AN ORDINANCE OF THE CITY OF DELAND, FLORIDA AMENDING THE APPROVED DEVELOPMENT PLAN FOR BENT OAKS, A PLANNED DEVELOPMENT

CONSISTING OF APPROXIMATELY 124.462 ACRES OF PROPERTY LOCATED AT TAYLOR ROAD, EAST OF U.S. 17-92; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.  
Legal 364. April 6, 1990 1t

CITY OF DELAND, DELAND, FLORIDA

DATE		VENDOR'S NAME			VENDOR NUMBER	
4-6-90		News Journal Corp			N 18250	
INVOICE NUMBER		DATE DUE	PURCHASE ORDER NO	WORK ORDER NO	CHECK NO	
354						
APPROPRIATION NO	AMOUNT		REMARKS			
102.512.49	16.25		Ord 90-12 amending the approval Development Plan for Port Oaks  I hereby certify that all merchandise represented by this invoice has been received complete and undamaged and has been used for a legally authorized municipal purpose.			
APPROPRIATION NO	AMOUNT					
APPROPRIATION NO	AMOUNT					
APPROPRIATION NO	AMOUNT		APPROVED BY			
			[Signature]			

ACCOUNTS PAYABLE SLIP

9c

ORDINANCE 93-71

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, AMENDING THE APPROVED DEVELOPMENT PLAN FOR BENT OAKS, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 120.85 ACRES OF PROPERTY LOCATED AT TAYLOR ROAD, EAST OF U.S. 17-92, BY: DECREASING THE ACREAGE OF THE DEVELOPMENT TO ACCOUNT FOR THE DEDICATION FOR THE NEW HAMPSHIRE AND HILL AVENUE RIGHT-OF-WAY; REVISING THE PROVISIONS FOR THE PLACEMENT OF ACCESSORY STRUCTURES; REDUCING THE FRONT YARD SETBACK FOR THE LOTS ADJACENT TO THE HILL AVENUE RIGHT-OF-WAY; ALLOWING FOR THE ADJUSTMENT OF DENSITY WITHIN TRACTS; AMENDING TREE PROTECTION REQUIREMENTS; REQUIRING A NEW TRAFFIC STUDY IF DEVELOPMENT EXCEEDS THAT APPROVED BY THE DEVELOPMENT PLAN; PROVIDING FOR ALTERNATE ACCESS POINTS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

30862 4591  
RECORDED IN VOL. 100, P. 1

WHEREAS, Intomm, Inc., a Delaware corporation (hereinafter referred to as the "Applicant") is the successor developer of Bent Oaks, a residential planned development consisting of approximately 120.85 acres of property located at Taylor Road, East of U.S. 17-92 (hereinafter referred to as "Bent Oaks"), to Florida Residential Communities, Inc., the Neal W. Harris Company and Stanley E. Venturini and Diane R. Venturini. The Applicant has submitted an application to amend the approved Development Plan for Bent Oaks; and

WHEREAS, a Development Plan for Bent Oaks was approved pursuant to Ordinance No. 90-5, recorded on February 9, 1990 in Official Records Book 3425, Page 0832 and amended by Developer's Agreement, recorded on April 3, 1990 in Official Records Book 3448, Page 0047 and further amended by Ordinance No. 90-12, recorded on February 4, 1991 in Official Records Book 3584, Page 0652, in the Public Records of Volusia County, Florida; and

WHEREAS, the Applicant has submitted an application to further amend the development plan for Bent Oaks; and

WHEREAS, the proposed amendments to the approved Development Plan are consistent with the intent of the City's Planned Development District and the Comprehensive Land Use Plan for the area and meet or exceed the requirements of the City's tree protection requirements; and

WHEREAS, the applicant has granted a total of 2.47 acres of right-of-way for Hill Avenue and New Hampshire Avenue, thus reducing the required tree protection area in accordance with the terms of Ordinance 90-12; and

WHEREAS, the Applicant has provided an excess of tree protection area as denoted on the Development Plan Map;

FILED FOR RECORD  
RECORD VERIFIED

93OCT-4 AM 10:12

140677

CLERK OF THE CIRCUIT  
CITY OF DELAND VOLUSIA COUNTY, FL

NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. The City Commission has held a public hearing on the application for an amendment to the Development Plan for Bent Oaks. Pursuant to the determination made at public hearing, Section 5 of the City's Ordinance 90-5 (as previously amended) is hereby amended to refer to the Development Plan Map approved by the City on September 20, 1993, and attached hereto as Exhibit A (hereinafter referred to as the Development Plan Map).

Section 2. Pursuant to the determination made at public hearing, Section 5 of the City's Ordinance 90-5 is hereby amended and restated as follows:

The approved Development Plan for Bent Oaks PD is set forth below:

(a) Development Concept. The property shall be developed in substantial compliance with the Development Plan Map, as amended, and the final subdivision plat for each phase of the development as required by Section 33-145 of the Code. The Applicant shall maintain unified ownership of the subject property until after the approval of the final plats for areas to be subdivided; provided, however, that the Applicant may sell 80% or more of the land area within any given tract to a single developer before final plat approval.

(b) Phases of Development. This project is projected to be developed over a five year period from and after the date of recording this document. As each phase is developed, the appropriate roadway and utility infrastructure including, but not limited to, water, sewer and stormwater facilities, shall be constructed substantially in accordance with the master utility, roadway and drainage plans for the project, subject to approval of final engineering plans for each phase of development. The phases of development shall conform substantially with the tract boundaries shown on the Development Plan Map; provided, however, that the Applicant may elect to develop any given tract in one (1) or two (2) phases and may combine portions of tracts in a single phase for purposes of final plat approval so long as the Applicant owns 100% of the land areas to be combined in a single phase.

(c) Land Use and Density. The development of the property shall be consistent with the limits described below for each land area within the proposed PD; provided, however, that the Applicant shall have the right to adjust the density of any given tract without having to amend the approved Development Plan for the project so long as the net density for the entire project remains below that originally approved for the PD and so long as the 50 foot wide patio lots are not shifted from Phase 5 to Phase 4. The location and approximate size of the land use areas are shown on the Development Plan Map, as amended, and identified as separate tracts.

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RECORDS SECTION  
CITY OF DELAND, FL

(1) Land Use Description. The Bent Oaks PD shall be a residential community consisting entirely of single family detached homes and common drainage, passive recreation and natural open space areas as presented below and in greater detail as Exhibit B which is attached hereto.

(2) Density. The approximate densities shall be as follows:

<u>Land Use</u>	<u>Area</u>	<u>% of Site</u>	<u>Ttl. Lots</u>	<u>Net Dens.</u>
Tract One	22.66	18.75	44	1.94
Tract Two	16.88	13.97	34	2.01
Tract Three	21.54	17.82	73	3.39
Tract Four A	11.45	9.45	45	3.93
Tract Four B	12.25	10.24	42	3.43
Tract Five	18.85	15.60	96	5.09
Drainage, Recreation & Open Space	17.22	14.15	N/A	N/A
	120.85	100.00	334	2.76

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(d) Special Regulations. The uses permitted within the Bent Oaks PD shall be detached, single family dwellings with customary accessory uses. No accessory uses, buildings or structures shall be placed any closer than: (i) ten (10) feet from any rear property line, landscape, wall or utility easement, in Tracts One and Two; or (ii) five (5) feet from any rear property line, landscape, wall or utility easement for those lots in Tracts Three, Four A, Four B and Five described on Exhibit C; or (iii) ten (10) feet from any rear property line, landscape wall or utility easement for those lots in Tracts Three, Four A, Four B and Five described on Exhibit D (except that for the lots in Exhibit D, pools without screen enclosures may be located five (5) feet from a rear property line, landscape wall or utility easement). No accessory uses, buildings or structures whatsoever shall be permitted within the front or side yard setback areas described below:

	<u>Minimum Lot Size</u>	<u>Number of Lots</u>	<u>Front</u>	<u>Side</u>	<u>Rear</u>	<u>Minimum Distance Between Dwellings</u>
Tract One	85'x110'	44	25	7.5	25	15
Tract Two	120'x140	34	25	10	25	20
Tract Three	75'x110'	73	25	7.5	25	15
Tract Four A	75'x110'	45	25*	7.5	25	15
Tract Four B	75'x110'	42	25*	7.5	25	15
Tract Five	50'x110'	96	20	0	20	10

\*22.5' front yard setback allowed for all lots abutting Hill Avenue for Lots in Tracts Four A and Four B.

Where the minimum distance between buildings is less than fifteen (15) feet, exterior walls between such buildings must have a minimum one hour fire rating as

required by the Standard Building Code. The maximum building coverage for lots less than 6,000 sq. ft. shall not exceed 50%. The maximum building coverage for lots between 6,000 to 11,000 sq. ft. shall not exceed 45%. The maximum building coverage for lots greater than 11,000 sq. ft. shall not exceed 40%.

(e) Common Areas. The Applicant shall create common drainage, passive recreation and natural open space areas and shall retain unified ownership and control of all tracts identified for such land uses; provided, however, that after the formation of a homeowner's association, said tracts may be transferred to, owned and maintained by said homeowner's association.

(f) Environmental Considerations. It is recognized that the development site has outstanding natural beauty and that mutual cooperation to preserve the natural amenities of the area is essential. Accordingly, the Applicant or his successors or assigns shall:

(1) Obtain a tree removal permit from the City's Building Department for each lot or group of lots to be cleared for construction.

(2) Ensure that each lot contains a minimum of one tree for every 2,500 square feet of lot area before final plat approval of areas to be subdivided;

(3) Provide a plan showing the retention of eighty (80%) percent of all specimen trees in each tract before final plat approval of the area to be subdivided; provided, however, the Applicant may remove additional specimen trees (and therefore retain less than eighty (80%) percent of the specimen trees in a tract) which are within or near a building envelope or road right-of-way, in which event Applicant shall pay to the City's "Replacement Tree Reserve Account" a sum equal to Three Hundred and No/100 Dollars (\$300.00) for each one and one-half (1-1/2) inches at DBH of any specimen tree so removed.

(4) Replace fifty (50%) percent of the total number of inches DBH of specimen trees permitted to be removed (and actually removed) by preserving an equivalent number of nonspecimen trees on site, planting additional replacement trees or contributing to the City's "Replacement Tree Reserve Account";

(5) Designate at least 18.13 acres of tree protection area within the Development, of which .66 acres are credited for right-of-way, leaving a minimum of 17.47 acres of actual required tree protection to be provided as follows and described in detail on Exhibit E attached hereto:

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VOLVOGA CO., FL

5 ft. Rearyard setbacks all lots	2.90 ac
10 ft. Rearyard strip along Hill Ave.	.54 ac
Remaining Areas Within Common Drainage and Natural Open Space Areas	<u>12.19 ac</u>
Total	17.47 ac

The Applicant shall amend or supplement the Declaration of Protective Covenants, Conditions and Restrictions for Bent Oaks to prohibit the removal of any trees within: (1) the last five (5) feet of the rear yard setback areas adjacent to the rear property lines of all lots throughout the development and; (2) the rear twenty (20) feet of all lots abutting the western right-of-way line of Hill Avenue in addition to the five (5) foot rear yard setback; provided, however, that the City may allow the Applicant to exempt certain areas as may be necessary for placing utility lines upon final plat approval of areas to be subdivided.

The applicant has designated certain common areas as tree protection in the Development Plan Map which together with certain side and rearyard setback areas and the ten foot rearyard strip along the western right-of-way line of Hill Avenue are of sufficient acreage as required by the City's tree protection provisions of the Code of Ordinances. Common areas to be set aside for tree protection shall be separately identified as tracts on the final plats for areas to be subdivided or by separate legal instrument for areas already platted before the effective date of Ordinance 90-5. No clearing of trees or any other development activities shall be permitted in the tracts designated as tree protection areas except for the removal of trees damaged by fire, windstorm, lightning or other acts of God which pose imminent danger to life or property.

If the Applicant submits a preliminary plat which deviates from the tree protection areas denoted on the Development Plan Map, no revision to the Development Plan Map will be required, provided the Applicant indicates that at buildout the minimum acreage of tree protection area will be provided. If the Applicant has not designated the required minimum area for tree protection (17.47 acres) at the time the last phase of development is presented for preliminary plat approval, the Applicant shall be required to reduce the number of lots and/or configure or reconfigure the remaining lots in order to ensure that there is no deficiency in tree protection area at buildout (it is not the intent of this provision that the Applicant shall be required to exceed the tree protection deficit remaining at the time of platting the last phase of the development).

Nothing contained in this amendment to the development plan shall be interpreted to supercede that certain Agreement for restoration of trees in Bent Oaks Phase III entered into between Intomm, Inc. and the City of DeLand on March 19, 1993, and Applicant and its successors shall continue to be bound by said Agreement.

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(g) Sewage. Sewer service will be provided to all lots by connection with the City of DeLand central sewage system. The City projects that each lot will generate approximately 350 gallons of sewage per day. Therefore, the projected maximum amount of sewage generated by the development will be 117,000 gallons per day. Within 90 days from the effective date of this Ordinance, the Applicant shall enter into a Utility Service Agreement with the City in accordance with Chapter 30 of the Code of Ordinances to reserve sufficient capacity for the development.

(h) Water. Water service will be provided to each lot by connection with the City of DeLand central water system. The City projects that each lot will require approximately 350 gallons of water per day. Therefore, the projected maximum total amount of water required by the development will be approximately 117,000 gallons per day. Within 90 days from the effective date of this Ordinance, the Applicant shall enter into a Utility Service Agreement with the City in accordance with Chapter 30 of the Code of Ordinances to reserve sufficient capacity for the development.

(i) Stormwater Drainage. The development shall meet or exceed the requirements of the stormwater management and conservation provisions of the Code of Ordinances. The proposed master drainage plan has been reviewed by the City Engineer and appears adequate to meet the projected stormwater retention requirements for the project.

(j) Roadways:

(1) All roadways shall be constructed in compliance with the subdivision provisions of the Code of Ordinances, and the State's minimum Standards for Public Streets and Roads and will be dedicated to the City of DeLand, except for County arterials or major collectors which may be dedicated to Volusia County.

(2) At the time the Applicant submits to the City its preliminary plat for Tract Four B, the City shall advise the Applicant as to whether the City will require the Applicant to develop (a) the eastern entrance to the project off Taylor Road and sidewalks along Taylor Road, or (b) in lieu of said eastern entrance and sidewalks, an entrance to the project from Hill Avenue, generally as depicted on Exhibit A; provided, however, no amendment to the Development Plan Map will be required, and credit for lost tree protection areas will be given in accordance with Ordinance 90-12 and the Applicant shall be exempted from the requirements of section (f) (4) above regarding lost specimen trees should the City designate the entrance from Hill Avenue for development.

(3) As a condition of final plat approval for any portion of Tract Five and if the County or City has included in its funded five-year Capital Improvements Program the extension of New Hampshire Avenue eastward to

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the proposed north entrance to the project, the Applicant shall connect and pave Bent Oaks Boulevard to New Hampshire Avenue. Further, if the County has commenced construction of the New Hampshire Avenue extension by that time, the Applicant shall install a sidewalk along the project perimeter for the length of the New Hampshire Avenue extension concurrently with construction in Tract Five.

(4) Access to lots will be limited to the internal road system. No lot shall have direct access to either Taylor Road, New Hampshire Avenue or Hill Avenue.

(5) According to the Applicant's traffic engineer, the development will not cause the level of service on any roadway sections or intersections affected by the development to decrease.

The City Commission may require the Applicant to conduct a traffic study for any portion of the project which has not secured final subdivision plat approval on or before five (5) years from the effective date of this Ordinance.

The project is vested for 334 single family residential dwelling units until the end of said five (5) year period.

(k) Sidewalks. The Applicant shall construct sidewalks along both sides of all streets in the development and along Taylor Road and New Hampshire Avenue as described in subsection (j) above. The Applicant shall have the option of posting a bond to guarantee completion of the sidewalks at the time of final plat submission.

(l) Screening. Where the rear or side yards of lots abut Taylor Road, Hill Avenue or New Hampshire Avenue, and where no natural vegetative screening presently exists, the Applicant will provide visual screening comprised of either vegetation, berms or masonry wall along any paved roadways.

(m) Homeowner's Association. A Homeowner's Association shall be created by the Applicant to own, manage and maintain the common areas. The owner of each lot shall be a member of the Association and shall be liable for, with a lien securing payment of, annual and special assessments collected by the Association for the improvement, maintenance, enhancement, enlargement and operation of common areas and for payment of taxes, governmental assessments, insurance, costs of materials, equipment, labor, professional services, management and supervision necessary to carry out the authorized functions of the Association, and for payment of principal, interest and other charges connected with loans made to or assumed by the Association.

The charter and bylaws of said Homeowner's Association and any amendments thereto or related agreements, covenants, easements or restrictions which

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relate to the terms and conditions of this Ordinance shall be furnished to the City for review and approval at least thirty (30) days before proposed execution and filing in the Official Records of Volusia County, Florida. The Applicant shall bear and pay the costs of recording all of the aforesaid documents. The City shall not be responsible for enforcing the Declaration of Protective Covenants, Conditions and Restrictions for Bent Oaks or the Articles of Incorporation or By-Laws of the Association.

(n) Architectural Review Board. The Applicant shall create an Architectural Review Board. Prior to construction of any dwelling unit, all plans and specifications must have had prior approval of this Board. All regulations pertaining to the Architectural Review Board shall be at the sole discretion of the Applicant; provided, however, that the regulations shall be completely consistent with the requirements of this Ordinance. The City shall not be responsible for enforcing the regulations of the Architectural Review Board. However, if future revisions to City codes allow variances within approved PDS, individual lot owners may apply to the City for variances which may be approved subject to written confirmation of approval by the Architectural Review Board.

(o) Binding Effect of Plans, Recording. The provisions of the foregoing Development Plan, as amended, including any and all supplementary orders and resolutions, shall bind and inure to the benefit of the Applicant and its heirs, successors and assigns. A copy of this Ordinance and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida.

(p) Reverter Provision. The City Commission may rezone any portion of the project which has not secured final subdivision plat approval on or before 5 years from the effective date of this Ordinance as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in this paragraph.

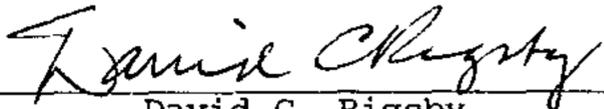
**Section 3.** The approved Development Plan Map and development requirements for Bent Oaks set forth in this Ordinance supersedes and replaces inconsistent terms and conditions of Ordinance No. 90-5, as previously amended by Ordinance No. 90-12, and the Developer's Agreement. Those terms and conditions not inconsistent with this Ordinance shall remain in full force and effect.

**Section 4.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

RECORDED  
INDEXED  
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Section 5. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 20th day of September, 1993.

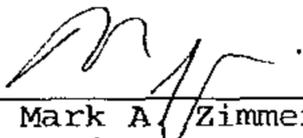
  
David C. Rigsby  
Mayor - Commissioner

ATTEST:

  
for Viola H. Hallentine  
City Clerk - Auditor

Passed on first reading: September 7, 1993  
Adopted on second reading: September 20, 1993

APPROVED AS TO FORM AND LEGALITY:

  
Mark A. Zimmerman  
City Attorney

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VOLusia CO., FL



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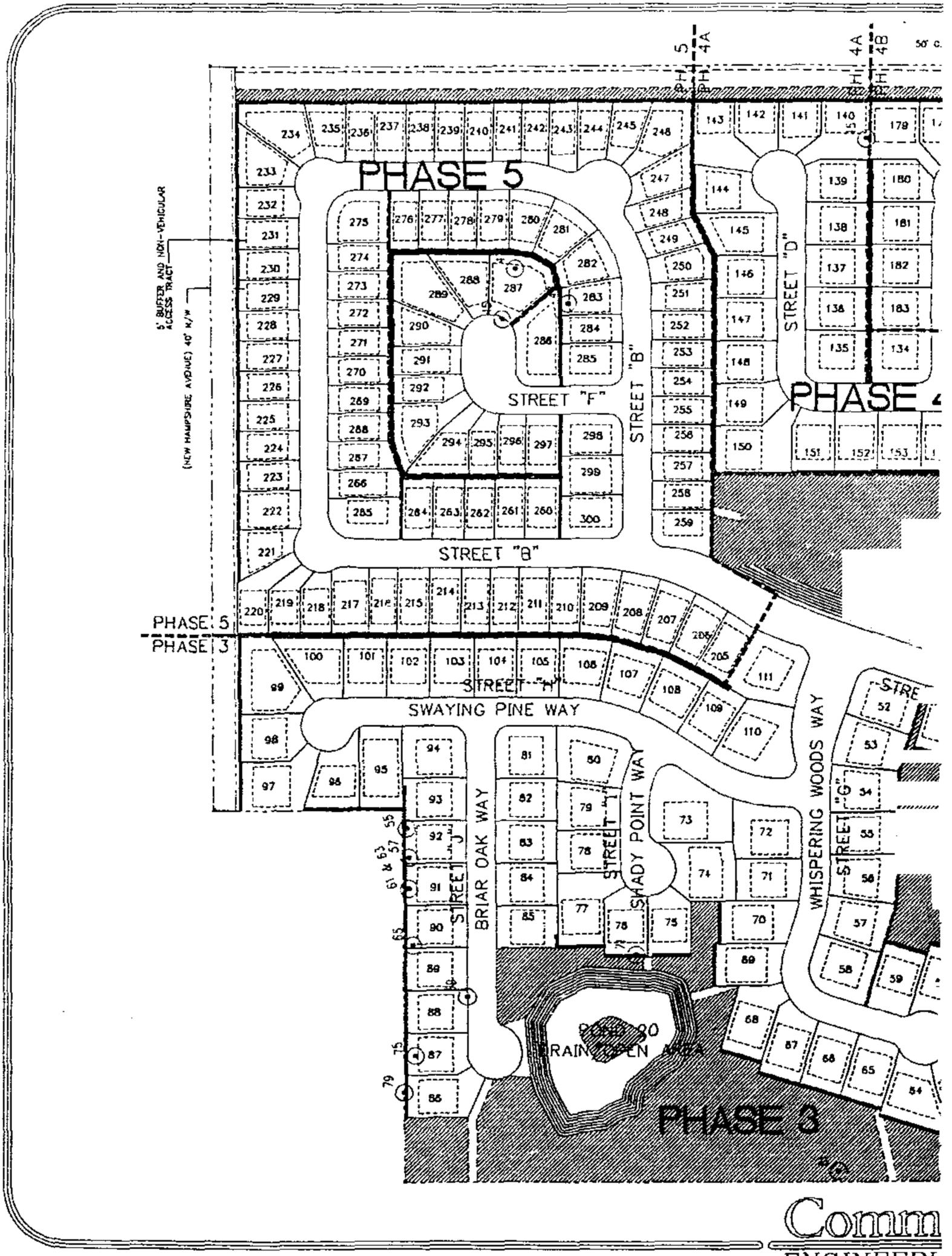
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NG ASSOCIATES

**BENT OAKS P.U.D  
EXHIBIT "A"**

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WILSON, D.D., P.E.



Comm  
ENGINEER

## EXHIBIT B

May 26, 1993

DRAINAGE, AND REC & OPEN SPACE  
CALCULATIONS

<u>Tract</u>	<u>Area</u>	<u>Approved</u>	<u>Proposed</u>	<u>Difference</u>
T-1	D-1	3.29	3.29	0.00
	Tract A	0.11	0.11	0.00
	Tract B	<u>0.01</u>	<u>0.01</u>	<u>0.00</u>
	Subtotal	3.41	3.41	0.00
T-2	D-2 (Tract D)	0.56	0.56	0.00
	D-3 (Tract B)	0.66	0.66	0.00
	T-A	0.064	0.064	0.00
	T-C	<u>0.072</u>	<u>0.072</u>	<u>0.00</u>
	Subtotal	1.36	1.36	0.00
*T-3	D-4 (Pond 20)	2.18	5.65	+3.47
	D-5/D-6 (Pond 10)	5.00	4.34	-0.66
	Rec Area (Open area)	<u>0.00</u>	<u>1.19</u>	<u>+1.19</u>
	Subtotal	7.18	11.18	+4.00
*T-4	D-7 (Pond 30)	0.36	0.51	+0.15
	D-8 (Pond 40)	<u>0.48</u>	<u>0.76</u>	<u>+0.28</u>
	Subtotal	0.84	1.27	+0.43
*T-5		0.00	0.00	0.00
	TOTALS	12.79 AC	17.22AC	+4.43

\* Less Hill Ave. R/W (2.41 AC) + New Hampshire Ave. R/W (Portion Previously Within 50' Utility Easement - 0.06 AC)  
Total Reduction 2.47 AC

dea7/bent4.tab/clo/cif

001  
3862  
VOLUNTEER CO., FL  
4602

EXHIBIT "C"

Sant Oaks PD Revision - Lot Numbers (Perimeter Lots)

- 45-57
- 59-70
- 75-77
- 88-90
- 95-99
- 112-114
- 117-124
- 140-143
- 151-159
- 161, 162
- 163-179
- 195-197
- 199-204
- 221-246
- 258, 259

(as shown on Exhibit C-1 attached hereto).

3862 4603  
VOLUSA CO., FL

ON PAGE  
3862 4604  
VOLUME 30, FL

EXHIBIT "D"

All Lots not listed on Exhibit C.

Best Available Copy

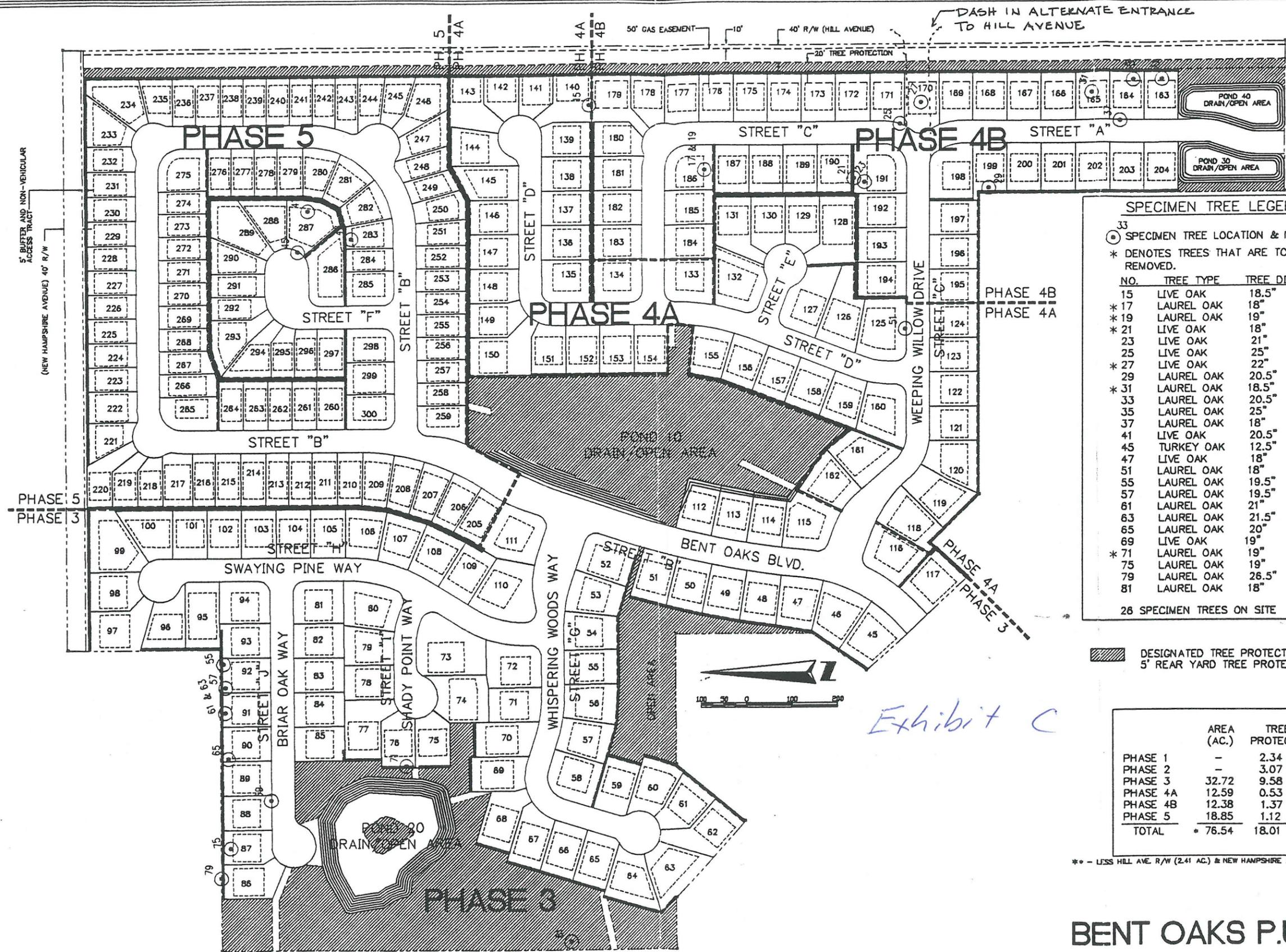
EXHIBIT "E"

Exhibit E  
Tree Protection Area

3062 4605  
 VOLUBEN 00.FL  
 PAGE

Category	Tract	Description	Acres	Totals	
Rear Yards	One	38 rear lots 85 x 110	0.37		
	Two	34 rear lots 120 x 140	0.47		
	Three	73 rear lots 75 x 110	0.49		
	Four	87 rear lots 75 x 110	0.82		
	Five	36 rear lots 50 x 110	<u>0.75</u>		
		<b>Total Rear Yards</b>		<b>2.90</b>	
Sideyards	Two	34 side lots 120 x 140		1.84	
Hill Avenue	Four/Five	10 foot rear yard strip		0.54	
Drainage/Natural Open Space	One	3 irreg lots	0.15		
		D-1 Drainage/Open	1.65		
		Tract A	0.11		
		Tract B	<u>0.06</u>		
			<b>Sub-Total Tract One</b>		<b>1.97</b>
	Two	D-2 Drainage/Open	0.28		
		D-3 Drainage/Open	0.35		
		Tract A	0.06		
		Tract C	<u>0.07</u>		
			<b>Sub-Total Tract Two</b>		<b>0.76</b>
	Three	D-4 (Pond 20)	4.00		
		D-5 & D-6 (Pond 10)	3.90		
		Open Area	1.19		
		<b>Sub-Total Tract Three</b>		<b>9.09</b>	
Four	D-7 (Pond 30)	0.07			
	D-8 (Pond 40)	<u>0.30</u>			
		<b>Sub-Total Tract Four</b>		<b>0.37</b>	
		<b>Total Drainage/Open Space</b>		<b>12.19</b>	
Credit for New Hampshire Right Of Way				<u>0.68</u>	
		<b>Total Tree Protection</b>		<b><u>18.13</u></b>	

140677



**SPECIMEN TREE LEGEND**

33  
 ○ SPECIMEN TREE LOCATION & NUMBER  
 \* DENOTES TREES THAT ARE TO BE REMOVED.

NO.	TREE TYPE	TREE DIA.
15	LIVE OAK	18.5"
* 17	LAUREL OAK	18"
* 19	LAUREL OAK	19"
* 21	LIVE OAK	18"
23	LIVE OAK	21"
25	LIVE OAK	25"
* 27	LIVE OAK	22"
29	LAUREL OAK	20.5"
* 31	LAUREL OAK	18.5"
33	LAUREL OAK	20.5"
35	LAUREL OAK	25"
37	LAUREL OAK	18"
41	LIVE OAK	20.5"
45	TURKEY OAK	12.5"
47	LIVE OAK	18"
51	LAUREL OAK	18"
55	LAUREL OAK	19.5"
57	LAUREL OAK	19.5"
61	LAUREL OAK	21"
63	LAUREL OAK	21.5"
65	LAUREL OAK	20"
69	LIVE OAK	19"
* 71	LAUREL OAK	19"
75	LAUREL OAK	19"
79	LAUREL OAK	26.5"
81	LAUREL OAK	18"

28 SPECIMEN TREES ON SITE

DESIGNATED TREE PROTECTION AREA  
 5' REAR YARD TREE PROTECTION

	AREA (AC.)	TREE PROTECTION
PHASE 1	-	2.34 AC
PHASE 2	-	3.07 AC
PHASE 3	32.72	9.58 AC
PHASE 4A	12.59	0.53 AC
PHASE 4B	12.38	1.37 AC
PHASE 5	18.85	1.12 AC
<b>TOTAL</b>	<b>* 76.54</b>	<b>18.01 AC</b>

\*\* - LESS HILL AVE. R/W (2.41 AC.) & NEW HAMPSHIRE AVE. R/W (1.21 AC.)

*Exhibit C*