

ORDINANCE NO. 2005-57

02/21/2006 02:48 PM  
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AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM VOLUSIA COUNTY RR, RURAL RESIDENTIAL AND R-4, URBAN SINGLE-FAMILY RESIDENTIAL TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE SOUTH SIDE OF ORANGE CAMP ROAD, ADJACENT TO THE EAST OF GLENEAGLES SUBDIVISION; APPROVING A DEVELOPMENT PLAN FOR A 170 LOT SINGLE FAMILY SUBDIVISION, A RESIDENTIAL PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 84.59 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CONCURRENCY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Miller-Legg, Inc. c/o Robert A. Fraser, owner (hereinafter referred to as "Applicant"), owns a 84.59 acre parcel of land located on the south side of Orange Camp Road, adjacent to the east of Gleneagles Subdivision, which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, Applicant has applied for a change of zoning from the present zoning classification of Volusia County RR, Rural Residential and R-4, Urban Single-Family Residential to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District is consistent with both the Comprehensive Plan and the purpose and intent of Section 33-32 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, Applicant has submitted an application for approval of a development plan for the Wellington Woods PD to encompass all of the property described in Exhibit "A" (hereinafter the "Property" or the "Project"); and

WHEREAS, the proposed development plan meets or exceeds the minimum conditions and standards for the PD District with respect to minimum development size, perimeter setbacks, comprehensive plan consistency, internal compatibility, external compatibility, open spaces, sidewalks, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control; and

WHEREAS, the proposed development plan is consistent with the low density residential land use designation which: encourages intensified development in outlying or newly developed areas for a variety of commercial and office needs; encourages clustering of new development to promote shared facilities and access and to discourage linear development along collector and arterial level roadways; permits energy and cost effective delivery of services; and, requires properly designed ingress and egress to avoid undue traffic hazards or congestion;

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

**Section 1.** The City Commission has held a public hearing to approve the change of zoning from Volusia County RR, Rural Residential and R-4, Urban Single-Family Residential to PD, Planned Development District.

**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.

**Section 3.** The zoning of the Property as PD, Planned Development District, is made pursuant to Section 33-32 of the Code and the development of the Property shall take place in accordance with that Section and in substantial compliance with the Development Plan Report, Narrative, Maps and other supporting documentation submitted by Applicant which shall be filed and retained for public inspection in

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the office of the City Planning Department and constitute a supplement to the official Zoning Map of the City.

**Section 4.** The approved Development Plan for the Wellington Woods PD, including the Development Plan Agreement, Map and other supporting documentation (on file with the City Planning Department), are attached hereto as Exhibit "B" and by this reference made a part hereof.

**Section 5.** 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 any law governing said permitting requirements, conditions, terms or restrictions, as same may be amended or enacted from time to time in the future. All current land development regulations of the City are applicable to the PD District except to the extent that they conflict with a specific provision of the approved Development Plan.

**Section 6.** At the time of development, the Applicant shall comply with all relevant building codes and development standards contained in the City's Code of Ordinances or in the Development Plan; provided, however, that the development standards contained in the adopted Development Plan shall supersede comparable standards contained in the Code of Ordinances.

**Section 7.** Pursuant to Article 5 of the City's Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

**Section 8.** The City Commission may rezone any portion of the Project which has not obtained a certificate of occupancy within five years from the date of adoption of this Ordinance.

**Section 9.** Prior to the issuance of a building permit for any nonresidential development, Applicant shall submit an easement document, acceptable to the City of DeLand, permitting additions to shared access, parking, utilities and stormwater.

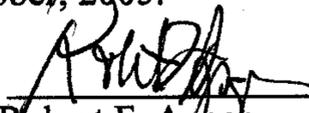
**Section 10.** The City Engineer, Planning Director and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

**Section 11.** No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

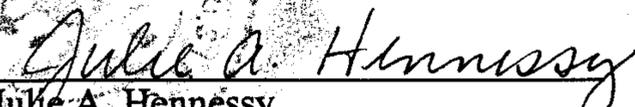
**Section 12.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 13.** This Ordinance shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** this 17<sup>th</sup> day of October, 2005.

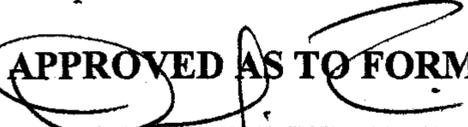
  
\_\_\_\_\_  
Robert F. Argar  
Mayor - Commissioner

**ATTEST:**

  
\_\_\_\_\_  
Julie A. Hennessy  
City Clerk - Auditor

Passed on first reading:           October 3, 2005  
Adopted on second reading:    October 17, 2005

**APPROVED AS TO FORM AND LEGALITY:**

  
\_\_\_\_\_  
Darren J. Elkind  
City Attorney

- DESCRIPTION -

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A PORTION OF THE NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 33; THENCE SOUTH 01°52'40" EAST ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 40.01 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF ORANGE CAMP ROAD, AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01°52'40" EAST ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 2593.73 FEET; THENCE DEPARTING SAID EAST LINE SOUTH 89°14'28" WEST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 2006.70 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 01°22'48" WEST ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 1217.35 FEET; THENCE DEPARTING SAID WEST LINE SOUTH 89°20'47" WEST, A DISTANCE OF 84.01 FEET; THENCE NORTH 01°22'48" WEST ALONG THE EAST LINE OF WEST VOLUSIA REGIONAL SHOPPING CENTER, AS RECORDED IN MAP BOOK 41, PAGE 191, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, A DISTANCE OF 103.01 FEET; THENCE DEPARTING SAID EAST LINE NORTH 89°20'47" EAST ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 749.11 FEET; THENCE DEPARTING SAID NORTH LINE, SOUTH 01°32'44" EAST ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 329.80 FEET; THENCE DEPARTING SAID EAST LINE NORTH 89°19'12" EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 666.05 FEET; THENCE DEPARTING SAID NORTH LINE NORTH 01°42'41" WEST ALONG THE WEST LINE OF THE EAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 988.52 FEET; THENCE DEPARTING SAID WEST LINE SOUTH 89°23'58" WEST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 663.20 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 01°32'44" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, ALSO BEING THE EAST LINE OF GLEN EAGLES GOLF VILLA, AS RECORDED IN MAP BOOK 41, PAGES 53 AND 54, A DISTANCE OF 619.59 FEET; THENCE DEPARTING SAID WEST LINE NORTH 89°27'10" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF ORANGE CAMP ROAD, A DISTANCE OF 1322.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 84.59 ACRES (3,684,645 SQUARE FEET) MORE OR LESS.

Received

JUL 15 2005

Planning & Zoning

2-05-12

1 PD (PLANNED DEVELOPMENT) AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: Z-05-12, Application of

5 MORRISON HOMES, INC.

6 ORDINANCE # 2005-57

7 ORDER AND RESOLUTION

8 GRANTING A REQUEST FOR CHANGE OF ZONING FROM

9 **RR/R-4 (Volusia County) TO RPD**

10 **(WELLINGTON WOODS RESIDENTIAL PLANNED DEVELOPMENT)**

11

12 The application of MORRISON HOMES, INC. hereinafter, "Applicant", for rezoning

13 was heard by and before the City Commission, DeLand Florida, on October 17, 2005.

14 Based upon the verified Application and other supporting documents, maps, charts,

15 overlays, other evidence and instruments; the advice, report, and recommendations of the

16 Community Development, and other Departments and agencies of DeLand, Florida; and

17 the testimony adduced and evidence received at the Public Hearing on this Application by

18 the Planning Board on August 17, 2005, and otherwise being fully advised, the City

19 Commission does hereby find and determine as follows:

GENERAL FINDINGS

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22 A. That the application of Morrison Homes, Inc. was duly and properly filed  
23 herein on July 15, 2005 as required by law.

24

25 B. That all fees and costs which are by law, regulation, or ordinance required to  
26 be borne and paid by the applicant have been paid.

27

28 C. That the applicant is the CONTRACT PURCHASER of an 84.59 +/- acre  
29 parcel of land which is situated in DeLand, Florida. This parcel of land is described more  
30 particularly in the survey and legal description, a true copy of which is attached hereto as  
31 Exhibit "A".

32

33 D. That the Applicant has complied with the concept plan provision as required  
34 by Land Development Regulations Ordinance # 2002-09, as amended.

35

36 E. That the Applicant has complied with the "Due Public Notice" requirements of  
37 the City Commission, Land Development Regulations Ordinance # 2002-09, as amended.

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39 F. That the owners of the property, Tom B. Stewart, Jr., Mary S. H. Jacobs,  
40 Betsy S. Osborne, E. Houston Hendricks, Jr., Betsy H. Copeland, C.T. Stewart Hendricks,  
41 and Howard Miller agree with the provisions of the Development Agreement.

FINDINGS REGARDING REZONING

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A. That the Applicant has applied for a change of zoning from the present zoning classification(s) of the parcel described in Exhibit "A" from R-4/RR (Volusia County) to RPD (Wellington Woods Residential Planned Development).

B. That the said rezoning to Wellington Woods RPD is consistent with both the City of DeLand Comprehensive Plan Ordinance # 1990-04, as amended, and the intent and purpose of the City of DeLand Land Development Regulations Ordinance # 2002-09, as amended, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY COMMISSION CHAMBERS, 121 WEST RICH AVENUE, DELAND, FLORIDA, THIS 17<sup>th</sup> DAY OF OCTOBER, A.D., 2005, AS FOLLOWS:

A. That the Application of Morrison Homes, Inc. for the rezoning of the subject parcel is hereby granted.

B. That the zoning classification of the subject parcel described in Exhibit "A" attached hereto is hereby amended from R-4/RR (Volusia County) to Wellington Woods RPD as described in Article VII of the City of DeLand, Land Development Regulations Ordinance # 2002-09, as amended.

67 C. That the Official Zoning Map of the City of DeLand, is hereby amended to  
68 show the rezoning of said parcel to Wellington Woods RPD.

69  
70 D. That the City of DeLand Land Development Regulations Ordinance # 2002-  
71 09, as amended, is consistent with the provisions of the "Development Agreement" as  
72 hereinafter set forth in this Ordinance and with respect to any conflict between Land  
73 Development Regulations Ordinance # 2002-09, as amended, and the "Development  
74 Agreement", the provisions of the "Development Agreement" shall govern. Ordinance No.  
75 02-09, as amended, shall govern with respect to any matter not covered by the  
76 "Development Agreement." The City of DeLand, will ensure overall compliance with this  
77 Ordinance.

78  
79 E. Unless otherwise provided for herein the City of DeLand, Land Development  
80 Regulations Ordinance # 2002-09, as amended, shall apply to the Wellington Woods RPD  
81 in the same manner as the R-1 zoning classification.

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83 F. Nothing in this Ordinance shall abridge the requirements of any City of  
84 DeLand Ordinance other than Ordinance 2002-09, as amended. Timing and review  
85 procedures contained in this Order and Resolution may be modified to comply with the City  
86 of DeLand Land Development Regulations, Ordinance No. 2002-09, as amended. Further,  
87 nothing in the Development Agreement is intended to abridge the requirements of  
88 Ordinance No. 2002-09, as amended, and any other City Ordinances.

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DEVELOPMENT AGREEMENT

92           A.     Development Concept The property shall be developed as Wellington Woods  
93 RPD substantially in accordance with the Planned Development Plan. The Planned  
94 Development Plan shall govern the development of the property as an RPD and shall  
95 regulate the future land use of this parcel.

96                 1.     Planned Development Plan The Planned Development Plan shall  
97 consist of the Development Plan Map prepared by Miller Legg and dated September 1,  
98 2005, and this development agreement. The Planned Development Plan is hereby  
99 approved and incorporated in this Ordinance by reference as Exhibit "B". The Planned  
100 Development Plan shall be filed and retained for public inspection in the Planning  
101 Department and it shall constitute a supplement to the Official Zoning Map of the City of  
102 DeLand.

103                 2.     Amendments. All amendments of the Planned Development Plan,  
104 other than those deemed by the Planning Department to be minor amendments as set out  
105 in Ordinance No. 2002-09, as amended, shall require the review and recommendation of  
106 the Planning Board and action by the City Commission in the same manner as a rezoning  
107 of the parcel.

108                 3.     Subdivision Approval After the Planned Development Plan is  
109 recorded, and prior to any construction, including clearing and landfill, a preliminary and  
110 one or more final plats of the area to be subdivided shall be submitted for review and  
111 approval in the manner required by Article 13 of the City of DeLand Land Development  
112 Regulations, Ordinance No. 2002-09, as amended.

113                 4.     Final Site Plan Approval. After the Planned Development Plan is  
114 recorded, and prior to issuance of any permits for construction, including clearing and  
115 landfill, a Final Site Plan shall be prepared and submitted for review and approval in the  
116 manner required by Article 12 of the City of DeLand, Land Development Regulations

117 Ordinance # 2002-09, as amended

118

119 B. Unified Ownership. The Applicant or his successors shall maintain unified  
120 ownership of the subject parcel until after issuance of the Final Development Order Plat(s)  
121 and Final Site Plan approval if applicable.

122

123 C. Phases of Development. The Applicant may chose to construct the  
124 Wellington Woods RPD in phases if it facilitates access into the site, or for other reasons  
125 deemed advantageous to neighborhood inter-connectivity. The appropriate roadway and  
126 utility infrastructure including, but not limited to, water, sewer and stormwater facilities shall  
127 be constructed substantially in accordance with the master utility, roadway and drainage  
128 plans for the project approved as part of the preliminary platting process.

129

130 D. Land Uses Within the PD. The development of the parcel shall be consistent  
131 with the uses prescribed for each area within the proposed RPD. The location and size of  
132 said land use areas are shown on the Development Plan Map, Exhibit "B". The following  
133 land uses shall be allowed as permitted principal uses and structures along with their  
134 customary accessory uses and structures: Single Family Residential lots

135

136 E. Development Standards.

- |     |   |                   |
|-----|---|-------------------|
| 137 | 1. <i>Maximum number of lots</i>          | <i>170 units</i>  |
| 138 | 2. <i>Minimum lot area:</i>               | <i>7475 sf</i>    |
| 139 | 3. <i>Minimum lot width and/or depth:</i> | <i>65' x 115'</i> |
| 140 | 4. <i>Minimum setbacks</i>                |                   |
| 141 | a. <i>Front yard:</i>                     | <i>20 ft.</i>     |
| 142 | b. <i>Rear yard:</i>                      | <i>20 ft.</i>     |

- 143 c. Side yard: 7.5 ft.  
144 d Corner lot 10 ft.  
145 5. Minimum living area: 1700 sq. ft.  
146 6. Maximum impervious lot coverage 70%  
147 7. Maximum building height 35 ft.  
148 8. Off-street parking requirements 2 per unit  
149 9. Open Space and/or Common Area requirements meeting the Land  
150 Development Regulations Ordinance # 2002-09: 15.0 % of total site -  
151 (approx. 12.80 Ac.).  
152 10. Pool setbacks: 5' side yard, 5' rear yard, (including pool screen  
153 enclosures).  
154 11. As required by the PD district regulations, all rear construction  
155 setbacks lines at the perimeter of the project shall be measured from  
156 the project perimeter line and inclusive of any perimeter buffer.  
157 12. Minimum lot width on street curves to be 50' at front building.  
158

159 F. Environmental Considerations. It is recognized that the development site has  
160 outstanding natural beauty and that mutual cooperation to preserve the natural amenities of  
161 the area is important. Accordingly, the Applicant or his successors or assigns shall comply  
162 with the City's ordinances providing for tree protection, and specifically (without limiting any  
163 other provision of said ordinances) shall:

- 164 • Obtain a tree removal permit from the City's Building Department for each lot  
165 or group of lots to be cleared for construction. Consistent with City  
166 regulations, the Applicant may be permitted to clear the right of way for  
167 roads, utilities and easements after the preliminary plat has been approved.  
168 In order to maintain the integrity of drainage, the Applicant may clear and  
169 grade portions of contiguous lots in accordance with the approved  
170 engineering plans, leaving an uncleared area of ten feet abutting front lot  
171 utility easements. Final clearing and any required tree replacement shall

172 occur as part of the construction on each lot.

173 • Ensure that each lot contains a minimum of one tree for every 2,500 square  
174 feet of lot area. All required trees, including replacement trees, shall be a  
175 minimum of 3" DBH. No clearing of trees or any other development activities  
176 shall be permitted in the tracts designated as tree protection areas except for  
177 the removal of trees damaged by fire, windstorm, lightning, or other acts of  
178 God, which pose imminent danger to life or property. Live oak trees 6" DBH  
179 and greater have been surveyed and every effort has been made to minimize  
180 the loss of live oaks greater than 6" DBH.

181 • Meet or exceed the minimum requirements of the Land Development  
182 Regulations Ordinance # 2002-09, as amended.

183 The plan retains approximately 95% of the existing wetland areas. Approximately 5% may  
184 be impacted by development of roads, retention ponds and other features. The actual  
185 wetland delineation limits will be determined by the St. Johns River Water Management  
186 District. All existing wetlands will have a minimum 15', and 25' average, upland buffer per  
187 City of Deland ordinances. The minimum requirements of the Land Development  
188 Regulations Ordinance # 2002-09, as amended, shall be met.

189

190 G. Sewage Disposal and Potable Water. Provision for sewage disposal and  
191 potable water needs of the PD will be provided in accordance with the Comprehensive  
192 Plan, Ordinance No.1990-04, as amended, the Land Development Regulations Ordinance  
193 No. 2009-09, as amended, and State of Florida Administrative Code 64E-6. The specific  
194 engineering plan for connections to City facilities shall be provided at preliminary plat. The  
195 Applicant shall enter into a Utility Service Agreement with the City in accordance with

196 Chapter 30 of the Code of Ordinances to reserve sufficient capacity for the development.

197

198 H. Stormwater Drainage. It is recognized that the entire subject property is  
199 situated within land locked basins and that the northwest portion of the property currently  
200 experiences drainage flooding issues such that stormwater runoff presently stages over  
201 portions of Orange Camp Road and the entrance to Glen Eagles subdivision. In an effort to  
202 address the existing stormwater conditions, the Applicant agrees to the following  
203 stipulations:

204 1. The Applicant shall provide stormwater management in accordance with the  
205 City of DeLand Land Development Regulations and the St. John's River Water district  
206 Management ("SJRWMD") for projects located within a land-locked basin such that the  
207 development of this project shall not cause an increase in the total pre-development flood  
208 stage for the 25-year/96-hour design storm both on and offsite. Stormwater calculations  
209 shall be based on a seasonal high water table elevation as determined by Applicant's  
210 geotechnical engineer. In estimating the seasonal high water table elevation, the engineer  
211 shall consider actual water levels experienced during the years 2004 and 2005.

212 2. In accordance with the City of DeLand Land Development Regulations  
213 Ordinance 2002-09, as amended (the "Regulations"), and the regulations of the  
214 SJRWMD, the Applicant will perform a watershed analysis of the contributing drainage  
215 basin areas to determine stormwater runoff volumes and pre-development flood stages as  
216 necessary to determine the required stormwater management volumes in an effort to  
217 accommodate post development drainage conditions.

218 3. The Applicant will perform a geotechnical exploration, including without  
219 limitation soil borings (2 of which shall be at a depth of 40' in the northwest corner), of the  
220 entire project site to ascertain the characteristics of the existing soils and will determine the

221 estimated seasonal high ground water levels; specifically within the depression located  
222 within the northwest corner of the subject site. In addition, the Applicant shall prepare a  
223 groundwater modeling and mounding analysis to determine the estimated seasonal high  
224 water table in compliance with Section 1 above; said analysis is to be prepared by  
225 Applicant's geotechnical engineer.

226 4. Subject to the conditions hereafter stated, the development of the subject  
227 site shall at a minimum reduce the existing pre-development flood stages which occur on  
228 Orange Camp Road and the Glen Eagles subdivision entrance road. Accordingly, the  
229 Applicant shall construct a retention pond in the northwest corner of the site that is no  
230 smaller than 4.53 acres in size (including berming and sloping) and substantially  
231 conforming to the depiction thereof on the Development Plan Map. In addition to the  
232 SJRWMD criteria to accommodate post development runoff to the northwest pond site, the  
233 Applicant shall provide for storage capacity of an additional 30% of such post development  
234 contributing area. Applicant shall provide at least 10% of the said additional capacity within  
235 the Northwest pond site. Applicant may provide the remaining capacity elsewhere on site  
236 at locations which are connected to the Northwest pond site by way of underground piping  
237 and pumping facilities. Further, Applicant shall provide one (1) emergency overflow  
238 connection including on-site piping with a minimum diameter of 8" to the project's  
239 secondary stormwater system in a location to be determined by Applicant and approved by  
240 the City to benefit the Glen Eagles and/or Carriage Homes development(s). The Applicant  
241 shall also stub an 8" diameter line to the northerly property line of the project for a future  
242 connection across Orange Camp Road. The Applicant shall not be required to construct  
243 piping or pumps off their property, but in addition to the 30% storage capacity referenced  
244 above the Applicant shall be required to oversize the ponds to provide an additional 5 acre  
245 feet of capacity in the ponds receiving the emergency overflow from the Northwest pond

246 site.

247           5.       The Applicant shall provide the City of DeLand with \$75,000.00 to be placed  
248 in an escrow account. Said money is to be used for the installation of a stormwater system  
249 which, in substantial part, is designed to ameliorate the flooding situation which presently  
250 occurs at the northwest corner of the project site and the Glen Eagles entrance road. The  
251 \$75,000.00 may be provided to the City of DeLand by way of an irrevocable letter of credit  
252 from a FDIC insured lending institution, on a form to be approved by the City Attorney.  
253 Prior to drawing upon the letter of credit, the City of DeLand shall first give the Applicant ten  
254 (10) days written notice, thereby giving the Applicant the opportunity to fund the payment  
255 itself. If said funds are not expended for the purposes aforesaid within five (5) years of  
256 the date of the adoption of this Planned Development Ordinance, then the money shall be  
257 returned to the Applicant or the irrevocable letter of credit shall be terminated, as the case  
258 may be.

259           6.       The requirement herein for the increase in storage capacity of the northwest  
260 pond site above the standard requirements set forth in the Regulations and the regulations  
261 of SJRWMD is expressly conditioned on the issuance of permits for the project site as  
262 shown on the Development Plan Map from SJRWMD, the City of DeLand, Volusia County,  
263 and, if applicable, any other government agency having jurisdiction, and further, the  
264 granting and recording of appropriate reciprocal drainage and retention easements  
265 between the subject parcel and adjoining land owners, if required, without any obligation  
266 on the part of the Applicant or the property owners to expend money to obtain such offsite  
267 easements.

268           7.       It is recognized that no development of this property may occur that  
269 contributes to the increase of the pre-development flood staging that occurs on Orange  
270 Camp Road and/or Glen Eagles subdivision and that the Applicant acknowledges that any

271 preliminary plat proposing to contribute to these existing stormwater problems may not be  
272 approved by the City of DeLand.

273 8. In the event upsizing the pond and stormwater system on the subject site b  
274 accomplish the requirements of this Section H results in a loss of density as set forth in  
275 Section E above, then the Applicant may decrease the minimums set forth in Section E as  
276 needed on up to 60 units to maintain a density of 170 units, provided that such decreases  
277 do not violate the following guidelines:

|     |                                 |            |
|-----|---------------------------------|------------|
| 278 | Minimum lot area:               | 5000 sf    |
| 279 | Minimum lot width and/or depth: | 50' x 100' |
| 280 | Minimum setbacks                |            |
| 281 | a. Front yard:                  | 20 ft      |
| 282 | b. Rear yard:                   | 20 ft      |
| 283 | c. Side yard:                   | 5 ft       |
| 284 | d. Corner lot:                  | 10 ft      |
| 285 | Minimum living area:            | 1200 ft    |

286  
287 All other provisions of Section E above shall be deemed amended as  
288 needed to accomplish the foregoing without the necessity of amending this Ordinance, and  
289 the maximum impervious area restriction set forth in the Regulations shall be waived to  
290 accomplish the purposes of this Subsection H.8.

291 Anything in this Planned Development Agreement to the contrary  
292 notwithstanding, the 15% tree preservation requirement may be decreased if necessary to  
293 accommodate the increase in the pond sizes required by this Planned Development  
294 Agreement, but in no event shall the tree preservation requirement be reduced below 12%.

295 9. The Applicant shall install a separate non-potable water irrigation system  
Page 12 of 18

296 throughout the development. The Applicant may use any other source of water to run the  
297 irrigation system until such time as the City brings a reclaimed water line to the  
298 development, at which time the Applicant shall connect its irrigation system to the said  
299 reclaimed water line.

300  
301 I. Access and Transportation System Improvements. All access and  
302 transportation system improvements shall be provided in accordance with the Land  
303 Development Regulations, Ord. 02-09, as amended. The parcel shall be developed in  
304 substantial accordance with the following access and transportation system improvements:

305 1. Access. Access to the PD is off Orange Camp Road. Prior to the 13<sup>th</sup>  
306 Certificate of Occupancy being granted, one stabilized emergency access point shall be  
307 constructed to either Carriage Homes subdivision or along Orange Camp Road as shown  
308 on the Development Plan Map. A future access point shall be provided in the south and  
309 east part of the site for interconnectivity with future development as shown on the  
310 Development Map. At such time as development adjacent to the south or east part of the  
311 site is completed, thereby providing a full secondary access point, the foregoing  
312 requirement for a secondary stabilized emergency access point shall terminate. The right-  
313 of-way of all paved roads within the development shall be dedicated to the City of DeLand  
314 and to the public.

315 All roadways shall be constructed in compliance with the subdivision  
316 provisions of the Code of Ordinances, and the State's minimum Standards for Public  
317 Streets and Roads.

318 Access to lots will be via internal road system only. No direct access to lots  
319 will be permitted off Orange Camp Road.

320 2. Transportation System Improvements. According to the Applicant's  
Page 13 of 18

321 traffic engineer, the development will not cause the level of service on any roadway  
322 sections or intersections to be affected by the development to decrease below that  
323 prescribed in the City or County Comprehensive Plan.

324 Applicant shall construct minimum 5 foot wide concrete sidewalks along both  
325 sides of all streets in the development and along the contiguous portion (south side) of  
326 Orange Camp Road.

327 All internal roadways will have a 50 foot wide right of way.

328

329 J. Parks and Recreation. The development shall provide passive recreation  
330 opportunities in open space, within utility easements, rights of way, or stormwater retention  
331 areas.

332

333 K. Building or Property Owners Association. A homeowners Association will be  
334 established to govern the development. The charter and by-laws of said association and  
335 any other agreements, covenants, easements or restrictions shall be furnished to the City  
336 of DeLand at the time of creation. The applicant shall be responsible for recording said  
337 information in the Public Records of Volusia County, Florida. Also, the applicant shall bear  
338 and pay all costs for recording all of the aforementioned documents.

339 With respect to the enforcement of said agreements, covenants, easements or  
340 restrictions entered into between the applicant and the owners or occupiers of property  
341 within the Wellington Woods RPD, the City of DeLand shall only enforce the provisions of  
342 the "Development Agreement" and City of DeLand Land Development Regulations  
343 Ordinance # 2002-09, as amended, whichever is applicable, and not the private  
344 agreements entered into between the aforementioned parties.

345

346 L. Signage, Entrances, and Walls: The Applicant may construct entrance  
347 signage for the Wellington Woods community at the Orange Camp Road entrance(s), which  
348 may be incorporated into a landscaped fence or wall not to exceed six feet in height. The  
349 Applicant may also erect a temporary sales sign at the entrance. The copy area of any  
350 entrance or temporary sales signs shall be subject to the City's sign regulations.

351  
352 M. Temporary Offices and Models: The applicant may place a temporary  
353 construction and/or sales office trailer at an approved location, and erect model homes and  
354 connect such office and model homes to City utilities prior to the final completion of  
355 subdivision improvements elsewhere, so long as: (1) stabilized base access has been  
356 completed from Orange Camp Road to any such model area; and (2) occupancy of any  
357 such model is limited to construction management and sales activity only, and no  
358 permanent certificate of occupancy approving the use of the home as a residence shall be  
359 issued by the City until the final plat is approved and the relevant subdivision improvements  
360 have been completed.

361  
362 N. Reverter Provision: The City Commission may rezone any portion of the  
363 project which has not secured a final development order on or before 10 years from the  
364 effective date of this ordinance as may be necessary or appropriate to protect adjoining  
365 properties or the public health, safety and welfare, unless the City Commission, for good  
366 cause shown, shall extend the time period indicated in this paragraph.

367  
368 O. Binding Effect of Plans; Recording; and Effective Date. The Planned  
369 Development Plan, including any and all amendments shall bind and inure to the benefit of  
370 the Applicant and his successor in title or interest. The PD zoning, provisions of the

371 "Development Agreement," and all approved plans shall run with the land and shall be  
372 administered in a manner consistent with Article 12 of the City of DeLand Land  
373 Development Regulations Ordinance # 2002-09, as amended.

374 This Ordinance and all subsequent amendments shall be filed with the Clerk of the  
375 Court and recorded within forty-five (45) days following execution of the document by the  
376 City Commission, in the Official Records of Volusia County, Florida. One copy of the  
377 document, bearing the book and page number of the Official Record in which the document  
378 was recorded, shall be submitted to the Planning Department for placement in the public  
379 file. The date of recording of this document shall constitute the effective date of the PD or  
380 its subsequent amendments. The applicant shall pay all filing costs for recording  
381 documents.

382

383 P. Conceptual Approval: The parties hereto acknowledge that reductions in  
384 density and/or intensity may and do occur; and that minor changes to roadway design,  
385 location and size of structures, actual location of parking spaces, specific locations for land  
386 uses, and locations and design of stormwater storage, landscape buffers and upland  
387 buffers may result to comply with the City of DeLand Land Development Regulations  
388 Ordinance # 2002-09, as amended. Upon determination of the Planning Department, these  
389 revisions may be processed as minor amendments as set forth in the City of DeLand Land  
390 Development Regulations Ordinance # 2002-09, as amended. The Applicant agrees to  
391 revise and record the Revised Preliminary Plan which reflects any such changes with the  
392 City Clerk immediately following the expiration of the 30 day period for appealing  
393 Development Review Committee (DRC) decisions to the County Council. A copy of the  
394 Revised Preliminary Plan, bearing the book and page number of the Official Record in  
395 which the document was recorded, shall be submitted to the Planning Department.

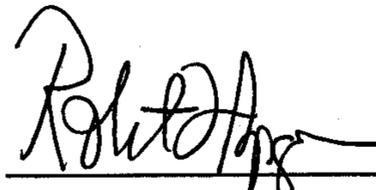
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DONE and ORDERED by the City Commission, City of DeLand, Florida, this  
17 day of October, 2005 (mo/yr).

ATTEST:

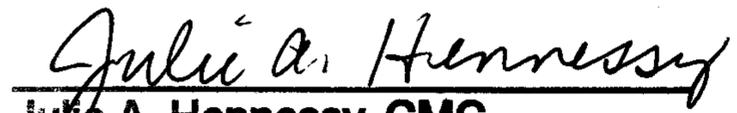
City Commission of DeLand Florida

  
Mike Abels  
City Manager

  
Robert Apgar  
Mayor

ATTEST:

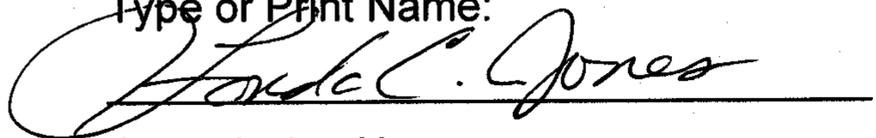
STATE OF FLORIDA  
CITY OF DELAND

  
Julie A. Hennessy, CMC  
City Clerk - Auditor

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of  
November 2005, by Mike Abels and Robert Apgar, as City Manager  
and Mayor, City of DeLand, respectively, on behalf of the City of DeLand,  
and who are personally known to me.

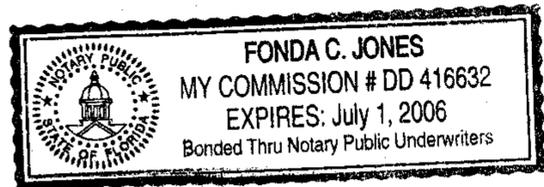
NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:



Commission No.: \_\_\_\_\_

My Commission Expires: \_\_\_\_\_



Instrument# 2006-043376 # 20  
Book: 5770  
Page: 4252

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WITNESSES:

[Signature]  
JONATHAN WHITE

Leslie G. Peters, Division President, Morrison  
Applicant's Name, Title & Corporation, Home

[Signature]  
ARTHUR KOZAK

Leslie G. Peters, Division President, Morrison  
Applicant's Name, Title & Corporation, Home

[Signature]  
Laura M. Wade

Owner of Property (if other than applicant)

The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of  
October 2005, by Leslie G. Peters, who is  
personally known to me or who has produced \_\_\_\_\_  
as identification.

NOTARY PUBLIC, STATE OF FLORIDA  
Type or Print Name: Laura M. Wade  
[Signature]  
Commission No.: DD342145  
Commission Expires: 0728.05

Revised October 17, 2005 u/p/zone/pd\_doc

— DESCRIPTION —

A PORTION OF THE NORTHEAST 1/4 OF SECTION 33, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 33; THENCE SOUTH 01'52'40" EAST ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 40.01 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF ORANGE CAMP ROAD, AND THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01'52'40" EAST ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 2593.73 FEET; THENCE DEPARTING SAID EAST LINE SOUTH 89°14'28" WEST ALONG THE SOUTH LINE OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 2006.70 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 01°22'48" WEST ALONG THE WEST LINE OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 1217.35 FEET; THENCE DEPARTING SAID WEST LINE SOUTH 89°20'47" WEST, A DISTANCE OF 84.01 FEET; THENCE NORTH 01°22'48" WEST ALONG THE EAST LINE OF WEST VOLUSIA REGIONAL SHOPPING CENTER, AS RECORDED IN MAP BOOK 41, PAGE 191, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, A DISTANCE OF 103.01 FEET; THENCE DEPARTING SAID EAST LINE NORTH 89°20'47" EAST ALONG THE NORTH LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 749.11 FEET; THENCE DEPARTING SAID NORTH LINE, SOUTH 01°32'44" EAST ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 329.80 FEET; THENCE DEPARTING SAID EAST LINE NORTH 89°19'12" EAST ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 666.05 FEET; THENCE DEPARTING SAID NORTH LINE NORTH 01°42'41" WEST ALONG THE WEST LINE OF THE EAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 988.52 FEET; THENCE DEPARTING SAID WEST LINE SOUTH 89°23'58" WEST ALONG THE SOUTH LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, A DISTANCE OF 663.20 FEET; THENCE DEPARTING SAID SOUTH LINE NORTH 01°32'44" WEST ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 33, ALSO BEING THE EAST LINE OF GLEN EAGLES GOLF VILLA, AS RECORDED IN MAP BOOK 41, PAGES 53 AND 54, A DISTANCE OF 619.59 FEET; THENCE DEPARTING SAID WEST LINE NORTH 89°27'10" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF ORANGE CAMP ROAD, A DISTANCE OF 1322.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 84.59 ACRES (3,684,645 SQUARE FEET) MORE OR LESS.

Received

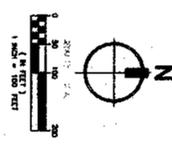
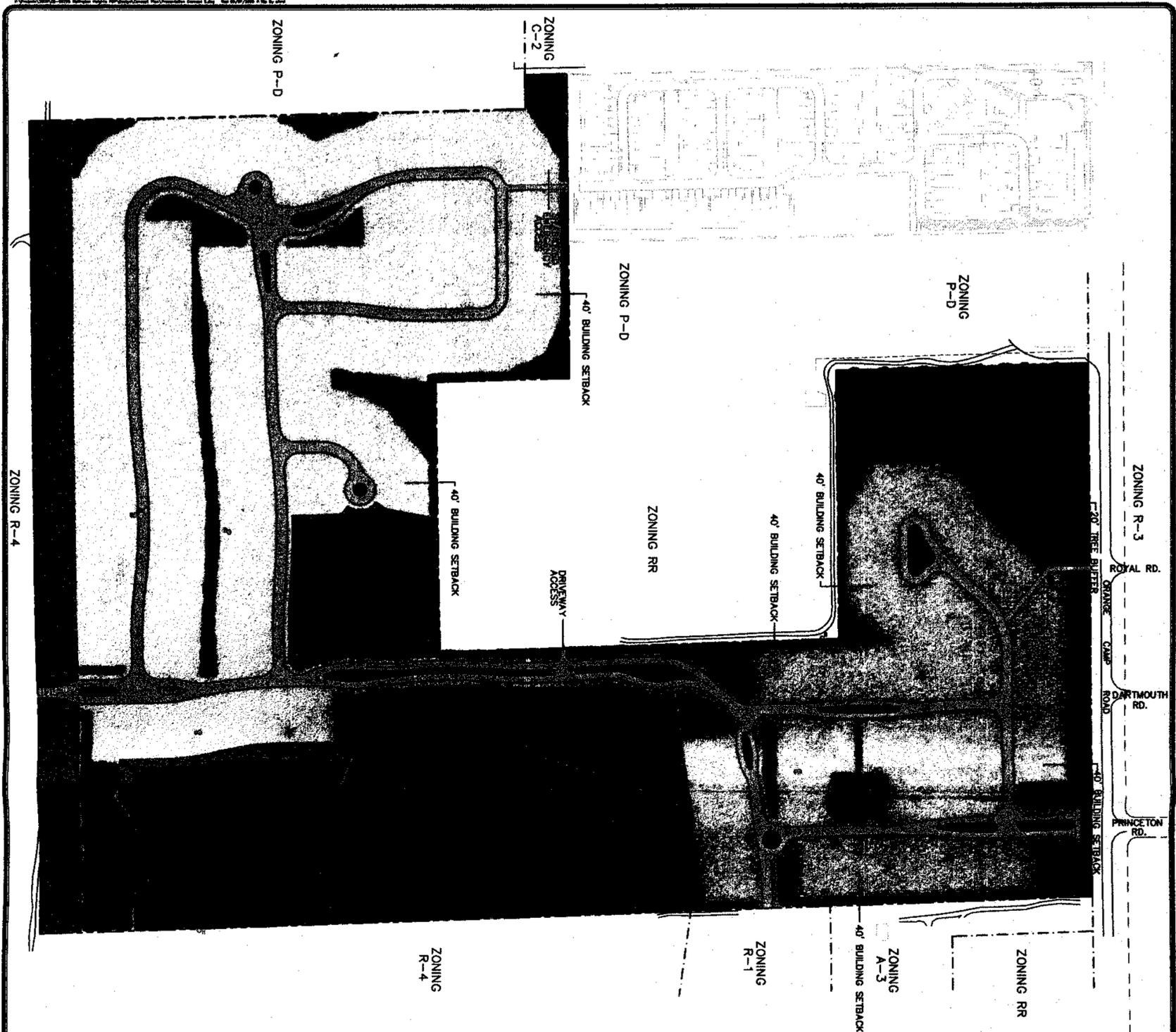
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Planning & Zoning

2-05-12

Instrument# 2006-043376 # 22  
 Book: 5770  
 Page: 4254  
 Diane M. Matousek  
 Volusia County, Clerk of Court

EXHIBIT "B"-DEVELOPMENT PLAN MAP



**SITE DATA**

|                        |                   |
|------------------------|-------------------|
| Site Area              | ±84.59 Acres      |
| Tree Preservation Area | 15% Min. Required |
| Max. Total Units       | 170               |
| Typical Lot Size       | 65' x 115'        |
| Lot Setbacks           |                   |
| Front                  | 20'               |
| Side                   | 7.5'              |
| Rear                   | 20'               |
| Side Corner            | 10'               |

**LEGEND**

|  |                                     |
|--|-------------------------------------|
|  | Trees/Open Space/Buffer/Landscaping |
|  | Proposed Lot Area                   |
|  | Retention Pond Area                 |
|  | Non-Buildable Area                  |
|  | Historic Tree to be Saved           |
|  | Historic Tree to be Removed         |

