

1 IN THE COUNTY COUNCIL OF THE  
2 COUNTY OF VOLUSIA, FLORIDA

3 IN RE: PUD-01-175

4 Application of SHADY MEADOWS, LC.

5  
6 RESOLUTION # 2002-49

7 ORDER AND RESOLUTION

8 GRANTING A REQUEST FOR CHANGE OF ZONING FROM RA (Rural Residential) TO  
9 RPUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT)

10  
11 The application of Shady Meadow Estates, LC., hereinafter, "Applicant", for re-  
12 zoning was heard by and before the Volusia County Council, Volusia County, Florida, on  
13 March 14, 2002. Based upon the verified Application and other supporting documents,  
14 maps, charts, overlays, other evidence and instruments; the advice, report, and  
15 recommendations of the Growth and Resource Management Department, Legal  
16 Department, and other Departments and agencies of Volusia County; and the testimony  
17 adduced and evidence received at the Public Hearing on this Application by the Planning  
18 and Land Development Regulation Commission on February 12, 2002, and otherwise  
19 being fully advised, the Volusia County Council does hereby find and determine as follows:

20  
21 GENERAL FINDINGS

22 A. That the application of Shady Meadow Estates, LC., was duly and properly  
23 filed herein on October 26, 2001, as required by law.

24  
25 B. That all fees and costs which are by law, regulation, or Ordinance required

1 to be borne and paid by the applicant have been paid.

2  
3 C. That the applicant is the owner of a 30.4 acre parcel of land which is situated  
4 in Volusia County. This parcel of land is described more particularly in the survey and legal  
5 description, a true copy of which is attached hereto as Exhibit "A".

6  
7 D. That the Applicant has held a pre-application meeting as required by the  
8 Volusia County Zoning Ordinance No. 80-8, as amended.

9  
10 E. That the Applicant has complied with the "Due Public Notice" requirements  
11 of the Volusia County Zoning Ordinance No. 80-8, as amended.

12  
13 F. That the owner of the property, Shady Meadow Estates, L.C. , agrees with the  
14 provisions of the Development Agreement.

15  
16 FINDINGS REGARDING RE-ZONING

17 A. That the applicant has applied for a change of zoning from the present zoning  
18 classification of the parcel described in Exhibit "A" from RA to RPUD.

19  
20 B. That the said re-zoning to a RPUD is consistent with both the Volusia County  
21 Comprehensive Plan, Ordinance No. 90-10, as amended, and the intent and purpose of  
22 the Volusia County Zoning Ordinance No. 80-8, as amended, and does promote the public  
23 health, safety, morals, general welfare and orderly growth of the area affected by the re-  
24 zoning request.

1 NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE COUNTY  
2 COUNCIL OF VOLUSIA COUNTY, FLORIDA, IN OPEN MEETING DULY ASSEMBLED  
3 IN THE THOMAS C. KELLY COUNTY ADMINISTRATION BUILDING, COUNTY COUNCIL  
4 MEETING ROOM, DELAND, FLORIDA, THIS 14th DAY OF March, A.D., 2002, AS  
5 FOLLOWS:

6  
7 A. That the Application of Shady Meadow Estates, LC, for the re-zoning of the  
8 subject parcel is hereby granted.

9  
10 B. That the zoning classification of the subject parcel described in Exhibit "A"  
11 attached hereto is hereby amended from RA to RPUD as described in Article VII of the  
12 Volusia County Zoning Ordinance No. 80-8, as amended.

13  
14 C. That the Official Zoning Map of Volusia County is hereby amended to show  
15 the re-zoning of said parcel to RPUD.

16  
17 D. That Volusia County Zoning Ordinance No. 80-8, as amended, is consistent  
18 with the provisions of the "Development Agreement" as hereinafter set forth in this Order  
19 and Resolution and with respect to any conflict between Ordinance No. 80-8, as amended,  
20 and the "Development Agreement", the provisions of the "Development Agreement" shall  
21 govern. Ordinance No. 80-8, as amended, shall govern with respect to any matter not  
22 covered by the "Development Agreement." The Volusia County Zoning Enforcement  
23 Official will ensure overall compliance with this Order and Resolution.

24  
25 E. Unless otherwise provided for herein, Article VIII, Supplementary Regulations

1 of Volusia County Zoning Ordinance No. 80-8, as amended, shall apply to the RPUD in the  
2 same manner as the RR (Rural Residential) zoning classification.

3  
4 F. Nothing in this Order and Resolution shall abridge the requirements of any  
5 Volusia County Ordinance other than Zoning Ordinance 80-8, as amended. Timing and  
6 review procedures contained in this Order and Resolution may be modified to comply with  
7 the Volusia County Land Development Code, Ordinance No. 88-3, as amended. Further,  
8 nothing in the Development Agreement is intended to abridge the requirements of  
9 Ordinance No. 88-3, as amended, and any other County Ordinances.

10

11

DEVELOPMENT AGREEMENT

1  
2  
3       A.    Development Concept:  The property shall be developed as a RPUD  
4 substantially in accordance with the Master Development Plan.  The Master Development  
5 Plan shall govern the development of the property as a RPUD and shall regulate the future  
6 land use of this parcel.

7           1.    Master Development Plan:  The Master Development Plan shall  
8 consist of the Preliminary Plan prepared by Professional Engineering Consultants, Inc. and  
9 dated January 14, 2002, and this Development Agreement.  The Preliminary Plan is hereby  
10 approved and incorporated in this Order and Resolution by reference as Exhibit "B".  The  
11 Master Development Plan shall be filed and retained for public inspection in the Building  
12 and Zoning Division and it shall constitute a supplement to the Official Zoning Map of  
13 Volusia County.

14           2.    Amendments:  All amendments of the Master Development Plan,  
15 other than those deemed by the Zoning Enforcement Official to be minor amendments as  
16 set out by Section 813.06 of Volusia County Zoning Ordinance No. 80-8, as amended,  
17 shall require the review and recommendation of the Planning and Land Development  
18 Regulation Commission and action by the Volusia County Council in the same manner as  
19 a re-zoning of the parcel.

20           3.    Subdivision Approval:  After the Master Development Plan is  
21 recorded, and prior to any construction, including clearing and landfill, an overall  
22 development plan of the area to be subdivided shall be submitted for review and approval  
23 in the manner required by Article II of the Volusia County Land Development Code,  
24 Ordinance No. 88-3, as amended.

1           4.    Final Site Plan Approval: After the Master Development Plan is  
2 recorded, and prior to issuance of any permits for construction, including clearing and  
3 landfill, a Final Site Plan shall be prepared and submitted for review and approval in the  
4 manner required by Article III of the Volusia County Land Development Code, Ordinance  
5 No. 88-3, as amended for those areas of the development requiring a site plan (i.e., the  
6 recreation areas.

7  
8           B.    Unified Ownership: The Applicant or his successors shall maintain unified  
9 ownership of the subject parcel until after issuance of the Final Development Order Plat(s).

10  
11           C.   Phases of Development: The attached Preliminary Plan, Exhibit "B",  
12 illustrates that the project will developed in one phase.

13  
14           D.   Land Uses Within the RPUD: The development of the parcel shall be  
15 consistent with the uses prescribed for each area within the proposed RPUD. The location  
16 and size of said land use areas are shown on the Preliminary Plan, Exhibit "B". The  
17 following land uses shall be allowed as permitted principal uses and structures along with  
18 their customary accessory uses and structures:

- 19           •    Sixteen (16) standard single family dwellings  
20           •    Neighborhood Park  
21           •    Class A Home Occupations

22  
23           E.    Development Standards:

- 24           1.    Minimum lot area:                   1 Acre  
25           2.    Minimum lot width:                   100 feet, the neighborhood park site

1 may meet the minimum lot width requirement at a point beyond the minimum setback line.  
2 All structures shall be located beyond this point.

3  
4 3. Minimum yard size (building): Minimum yards shall be measured from the right-of-  
5 way and/or property lines of each lot with the exception of Lot 9. On this lot, the minimum  
6 yards shall be measured from the twenty foot Driveway Easement where applicable as  
7 depicted on Exhibit "B"

- 8 a. Front yard: 40 feet
- 9 b. Rear yard: 40 feet
- 10 c. Side yard: 15 feet
- 11 d. Waterfront yard: 40 feet
- 12 4. Minimum floor area: 2,700 square feet
- 13 5. Maximum lot coverage: 30%
- 14 6. Maximum building height: 35 feet
- 15 7. Landscape buffer requirement
  - 16 a. Perimeter buffer 15 feet
  - 17 b. Adjacent to Blue Lake Avenue 20 feet
- 18 8. Off-Street parking requirement: The project shall comply with  
19 Section 810.00 of the Zoning Ordinance, No. 80-8, as amended.
- 20 9. Signage requirements: The project shall comply with Section 822.00  
21 of the Zoning Ordinance, No. 80-8, as amended.
- 22 10. Open Space and/or Common Area Requirement: The project shall  
23 comply with Section 813.04 of the Zoning Ordinance, which specifies  
24 that 20% of a RPUD must be common open space. Per the  
25 Preliminary Plan, 7.76 acres (25%) of the site is to be retained for

1 open space, with common area consisting of a 1.50 acre  
2 neighborhood park and perimeter recreation trail, further described  
3 under Section L of this Agreement.  
4

5 F. Environmental Considerations: The site shall be developed in such a  
6 manner as to preserve any Historic trees, as defined by the Land Development Code,  
7 Ordinance No. 88-3, as amended, or other large caliper trees. Additionally, the site  
8 contains two potential wetland areas. Both wetland areas shall be preserved in their  
9 existing state through a permanent conservation easement as shown on the Preliminary  
10 Plan attached as Exhibit "B".  
11

12 G. Sewage Disposal and Potable Water: Provision for sewage disposal and  
13 potable water needs of the RPUD will be provided in accordance with the Comprehensive  
14 Plan, Ordinance No. 90-10, as amended, the Land Development Code Ordinance No. 88-  
15 3, as amended, and the State of Florida Administrative Code 64E-6. Water service to the  
16 RPUD shall be provided by individual wells, and sewer shall be individual septic tanks.  
17

18 H. Stormwater Drainage: Provision for stormwater retention shall be in  
19 accordance with the Land Development Code, Article VIII, Ordinance No. 88-3, as  
20 amended.  
21

22 I. Access and Transportation System Improvements: All access and  
23 transportation system improvements shall be provided in accordance with the Land  
24 Development Code, Ordinance No. 88-3, as amended. The parcel shall be developed in  
25 substantial accordance with the following access and transportation system improvements:

1           1.     Access: The project shall be developed with a privately maintained  
2 thoroughfare as identified by the Preliminary Plan. This shall consist of the main access  
3 road with a cul-de-sac. Access to the privately maintained entry road will be limited via a  
4 guard gate system. Access to individual parcels shall be provided through private drives  
5 that connect to the main road within the RPUD. Internally, there shall be a 20-foot  
6 easement designed for ingress/egress to Lot #10 through the east side of Lot #9.

7           2.     Transportation System Improvements: The project shall be developed  
8 with a privately maintained thoroughfare as identified by the Preliminary Plan. Access to  
9 the main road will be limited via a guard gate system from Blue Lake Avenue. The gate  
10 system will be located internally to provide a minimum 125 feet of vehicular reservoir area  
11 from the right-of-way line of Blue Lake Avenue to allow sufficient stacking of cars.  
12 Additionally, the gate shall be situated as such to allow for the exodus of any vehicle that  
13 turns into the said development accidentally via a curb cut in the entry boulevard.  
14 Applicant must provide 40 foot pavement radius returns at the intersection of the private  
15 thoroughfare with Blue Lake Avenue. Such improvements shall be constructed prior to the  
16 Certificates of Occupancy of any new homes constructed in the said RPUD.

17  
18           J.     Internal Roadways: Internal traffic shall be controlled via a two (2) lane  
19 privately maintained road with a minimum 50 feet of right-of-way and a cul-de-sac for  
20 turning large vehicles around, such as fire trucks or other life safety vehicles. A knox box  
21 shall be provided at the entry to allow life safety vehicles access to the property.

22  
23           K.     Building or Property Owners Association: The RPUD shall contain common  
24 property, which shall be maintained by the Homeowners Association. The charter and by-  
25 laws of said association and any other agreements, covenants, easements or restrictions

1 shall be furnished to the County of Volusia at the time of their creation. The applicant shall  
2 be responsible for recording said information in the Public Records of Volusia County,  
3 Florida. Also, the applicant shall bear and pay all costs for recording all of the  
4 aforementioned documents.

5  
6 With respect to the enforcement of said agreements, covenants, easements or  
7 restrictions entered into between the applicant and the owners or occupiers of property  
8 within the RPUD, the County of Volusia shall only enforce the provisions of the  
9 "Development Agreement" and Volusia County Zoning Ordinance No. 80-8, as amended,  
10 whichever is applicable, and not the private agreements entered into between the  
11 aforementioned parties.

12  
13 L. Recreation: The RPUD shall provide neighborhood recreation areas as  
14 depicted on the Preliminary Plan and as described herein. The areas depicted as "Entry  
15 Park/Pond" shall be connected to the 1.50 acre "Neighborhood Park" via fifteen (15) foot  
16 wide Recreation Trail Easements as shown on the Preliminary Plan. Specific recreation  
17 components to be incorporated in the final design of these areas will be detailed on the  
18 Preliminary Plat but may, in general, consist of such items as playground equipment,  
19 benches, picnic tables, exercise stations, etc.

20  
21 M. Reverter Provision: Within five (5) years from the effective date of this Order  
22 and Resolution, the applicant shall have submitted an Overall Development Plan as  
23 described in Section A, 3. of this "Development Agreement". In the event that the Overall  
24 Development Plan is not submitted on or before the date indicated, the parcel shall revert  
25 to the prior zoning classification(s), unless the Zoning Enforcement Official, for good cause

1 shown, shall approve a minor amendment to extend the time period indicated in this  
2 paragraph.

3  
4 N. Binding Effect of Plans; Recording; and Effective Date: The Master  
5 Development Plan, including any and all supplementary orders and resolutions, and the  
6 Preliminary Plan shall bind and inure to the benefit of the Applicant and his successor in  
7 title or interest. The RPUD zoning, provisions of the "Development Agreement," and all  
8  
9 approved plans shall run with the land and shall be administered in a manner consistent  
10 with Article IX of the Volusia County Zoning Ordinance No. 80-8, as amended.

11  
12 The applicant shall complete this document, subsequent to County Council action,  
13 by making all corrections and incorporating all conditions into the document in preparation  
14 for execution. This Order and Resolution and all subsequent Orders and Resolutions shall  
15 be filed with the Clerk of the Court and recorded within sixty (60) days following execution  
16 of the document by the Volusia County Council, in the Official Records of Volusia County,  
17 Florida. One copy of the document, bearing the book and page number of the Official  
18 Record in which the document was recorded, shall be submitted to the Building and Zoning  
19 Division. The date of receipt of this document by the Building and Zoning Division shall  
20 constitute the effective date of the RPUD or its subsequent amendments. The applicant  
21 shall pay all filing costs for recording docum documents.

22  
23 O. Conceptual Approval: The parties hereto acknowledge that reductions in  
24 density and/or intensity may and do occur; and that minor changes to roadway design,  
25 location and size of structures, actual location of parking spaces, specific locations for land

1 uses, and locations and design of stormwater storage, landscape buffers and upland  
2 buffers may result to comply with the Volusia County Land Development Code, Ordinance  
3 No. 88-3, as amended. Upon determination of the Zoning Enforcement Official, these  
4 revisions may be processed as minor amendments as set forth in Section 813.06 of the  
5 Volusia County Zoning Ordinance No. 80-8, as amended. The Applicant agrees to revise  
6 and record the Revised Preliminary Plan, which reflects any such changes with the Clerk  
7 of the Court immediately following the expiration of the 30 day period for appealing  
8 Development Review Committee (DRC) decisions to the County Council. A copy of the  
9 Revised Preliminary Plan, bearing the book and page number of the Official Record in  
10 which the document was recorded, shall be submitted to the Building and Zoning Division.

11

BOOK : 4937  
PAGE : 1160

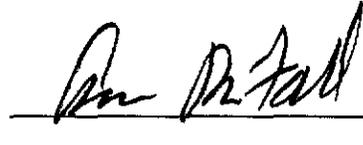
DONE and ORDERED by the County Council of Volusia County, Florida, this  
18th day of April, 2002.

ATTEST:

VOLUSIA COUNTY COUNCIL



Cynthia A. Coto, County Manager



Ann McFall, Chair

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 22nd day of  
April, 2002, by Ann McFall and  
Ray W. Pennebaker, as County Manager and  
Chair, Volusia County Council, respectively, on behalf of the County of  
Volusia, and who are personally known to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

 Susan M. Whittaker  
My Commission CC754321  
Expires August 8, 2002



Susan M. Whittaker  
Commission No.: CC754321

My Commission Expires: 8/8/02

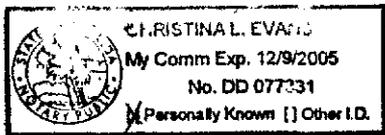
1 WITNESSES:

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Jennifer Cartwright  
Signature

Michael E. Murray Mgr  
Michael E. Murray, Manager  
Shady Meadow Estates, LC

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of  
April, 2002, by Michael E. Murray, who  
is personally known to me ~~or whose identity I proved on the basis of~~  
n/a.



Christina L. Evans  
NOTARY PUBLIC, STATE OF FLORIDA  
Type or Print Name:  
CHRISTINA L. EVANS  
Commission No.: DD077331  
My Commission Expires: 12/9/05

## EXHIBIT 'A'

### LEGAL DESCRIPTION

AS PROVIDED BY OWNER

PARCEL A - (O.R. BOOK 4021, PAGE 4987)  
(PARCEL NO. 7023-00-00-0160)

BEGINNING AT THE SOUTHEAST CORNER OF THE NORTH 495 FEET OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, RUN THENCE S 01 DEGREES 15'06" E ALONG THE EAST LINE OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SAID SECTION 23 A DISTANCE OF 309.95 FEET; THENCE S 88 DEGREES 29'42" W A DISTANCE OF 356.54 FEET TO AN IRON PIPE, THENCE N 72 DEGREES 20'55" W A DISTANCE OF 333.23 FEET TO AN IRON PIPE; THENCE CONTINUE N 72 DEGREES 20'55" W 80 FEET TO THE SOUTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST; THENCE S 89 DEGREES 21'04" W ALONG THE SAID SOUTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4, SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, A DISTANCE OF 530 FEET TO THE EAST RIGHT-OF-WAY LINE OF SOUTH BLUE LAKE AVENUE; THENCE N 01 DEGREES 39'47" W A DISTANCE OF 182.79 FEET TO THE SOUTH LINE OF THE NORTH 495 FEET OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, THENCE N 89 DEGREES 15'14" E ALONG SAID SOUTH LINE A DISTANCE OF 1276.72 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

PARCEL B - (O.R. BOOK 4032, PAGE 3937)  
(PARCEL NO. 7023-00-00-0120)

THAT PART OF THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: POINT OF COMMENCEMENT BEING THE SOUTHEAST CORNER OF THE NORTH 495.0 FEET OF THE S 1/2 OF THE NW 1/4 OF THE NW 1/4 OF SECTION 23, RUN THENCE S 01 DEGREES 15 MINUTES 06 SECONDS E ALONG THE EAST LINE OF THE W 1/2 OF THE NW 1/4 OF SAID SECTION 23, A DISTANCE OF 309.95 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE S 01 DEGREES 15 MINUTES 06 SECONDS E ALONG SAID EAST LINE A DISTANCE OF 555.11 FEET TO THE SOUTH LINE OF THE N 1/2 OF THE SW 1/4 OF THE NW 1/4; THENCE RUN S 89 DEGREES 26 MINUTES 43 SECONDS W ALONG SAID SOUTH LINE A DISTANCE OF 671.57 FEET; THENCE RUN N 01 DEGREES 16 MINUTES 33 SECONDS W A DISTANCE OF 653.32 FEET; THENCE RUN S 72 DEGREES 20 MINUTES 55 SECONDS E A DISTANCE OF 333.23 FEET; THENCE RUN N 88 DEGREES 29 MINUTES 42 SECONDS E A DISTANCE OF 356.54 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

PARCEL C  
(PARCEL NO. 7023-00-00-0161)

THE NORTH 495 FEET OF THE SOUTH 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, AS PER ORB 2891, PAGE 52, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT A PORTION OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA IN BLUE LAKE AVENUE AS DESCRIBED IN ORB 3807, PAGE 472-473, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

ALL THE ABOVE CONTAINING THEREIN 30.4165 ACRES.

