

1 RPD RESIDENTIAL PLANNED DEVELOPMENT AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: (Case #), Application of

5 INTOMM, INC., D/B/A FLORIDA RESIDENTIAL COMMUNITIES

6 ORDINANCE # 2004-59

7 ORDER AND RESOLUTION

8 GRANTING A REQUEST FOR CHANGE OF ZONING FROM (VOLUSIA

9 COUNTY) A-2 AND A-3 TO RPD (SADDLEBROOK RESIDENTIAL PLANNED

10 DEVELOPMENT)

11
12 The Application of Intomm, Inc., d/b/a Florida Residential Communities, hereinafter
13 "Applicant," for rezoning was heard by and before the City Commission, DeLand, Florida, on
14 October 4 and October 18, 2004. Based upon the verified Application and other supporting
15 documents, maps, charts, overlays, other evidence and instruments; the advice, report, and
16 recommendations of the Community Development, and other Departments and agencies of
17 DeLand, Florida; and the testimony adduced and evidence received at the Public Hearing on this
18 Application by the Planning Board on August 18 and September 15, 2004, and otherwise being
19 fully advised, the City Commission does hereby find and determine as follows:

20 GENERAL FINDINGS

21 A. That the application of Intomm, Inc., d/b/a Florida Residential Communities was
22 duly and properly filed herein on July 22, 2004, as required by law.

23 B. That all fees and costs which are by law, regulation, or Ordinance required to be

1 borne and paid by the Applicant have been paid.

2 C. That the Applicant is the contract purchaser of a 107 acre parcel of land which is
3 situated in DeLand, Florida. This parcel of land is described more particularly in the survey and
4 legal description, a true copy of which is attached hereto as Exhibit "A."

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

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

9 F. That the owner of the property, Intomm, Inc., agrees with the provisions of the
10 Development Agreement.

11 FINDINGS REGARDING REZONING

12 A. That the Applicant has applied for a change of zoning from the present zoning
13 classification(s) of the parcel described in Exhibit "A" from (Volusia County) A-2 and A-3 to
14 RPD (Saddlebrook Residential Planned Development).

15 B. That the current zoning of the parcel is inconsistent with the City of DeLand
16 Comprehensive Plan Ordinance #1990-04, as amended, said rezoning to an RPD is consistent
17 with both the City of DeLand Comprehensive Plan Ordinance #1990-04, as amended, and the
18 intent and purpose of the City of DeLand Land Development Regulations Ordinance #2002-09,
19 as amended, and does promote the public health, safety, morals, general welfare and orderly
20 growth of the area affected by the rezoning request.

21 NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF
22 DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY
23 COMMISSION CHAMBERS, 121 WEST RICH AVENUE, DELAND, FLORIDA, THIS 20

1 DAY OF DECEMBER, A.D., 2004, AS FOLLOWS:

2 A. That the Application of Intomm, Inc., d/b/a Florida Residential Communities for
3 the rezoning of the subject parcel is hereby granted.

4 B. That the zoning classification of the subject parcel described in Exhibit "A"
5 attached hereto is hereby amended from (Volusia County) A-2 and A-3 to RPD as described in
6 Article VII of the City of DeLand Land Development Regulations Ordinance #2002-09, as
7 amended.

8 C. That the Official Zoning Map of the City of DeLand is hereby amended to show
9 the rezoning of said parcel to Saddlebrook RPD.

10 D. That the City of DeLand Land Development Regulations Ordinance #2002-09, as
11 amended, is consistent with the provisions of the "Development Agreement" as hereinafter set
12 forth in this Ordinance and with respect to any conflict between Land Development Regulations
13 Ordinance #2002-09, as amended, and the "Development Agreement," the provisions of the
14 "Development Agreement" shall govern. Ordinance No. 2002-09, as amended, shall govern with
15 respect to any matter not covered by the "Development Agreement." The City of DeLand will
16 ensure overall compliance with this Ordinance.

17 E. Unless otherwise provided for herein, the City of DeLand Land Development
18 Regulations Ordinance #2002-09, as amended, shall apply to the RPD in the same manner as the
19 R-1 zoning classification.

20 F. Nothing in this Ordinance shall abridge the requirements of any City of DeLand
21 Ordinance other than Ordinance 2002-09, as amended. Timing and review procedures contained
22 in this Order and Resolution may be modified to comply with the City of DeLand Land
23 Development Regulations, Ordinance No. 2002-09, as amended. Further, nothing in the

1 Development Agreement is intended to abridge the requirements of Ordinance No. 2002-09, as
2 amended, and any other City Ordinances.

3 DEVELOPMENT AGREEMENT

4 A. Development Concept. The property shall be developed as an RPD to be
5 known as Saddlebrook, substantially in accordance with the Planned Development Plan. The
6 Planned Development Plan shall govern the development of the property as an RPD and shall
7 regulate the future land use of this parcel.

8 1. Planned Development Plan. The Planned Development Plan shall consist
9 of the Development Plan Map prepared by Bowyer-Singleton & Associates, and dated December
10 2, 2004, and this Development Agreement. The Planned Development Plan is hereby approved
11 and incorporated in this Ordinance by reference as Exhibit "B." The Planned Development Plan
12 shall be filed and retained for public inspection in the Planning Department and it shall constitute
13 a supplement to the Official Zoning Map of the City of DeLand.

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

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

23 B. Unified Ownership. The Applicant or its successors shall maintain unified

1 ownership or control of the unplatted portions of the subject parcel until after issuance of the
2 Final Development Order Plat(s), and Final Site Plan approval if applicable.

3 C. Phases of Development. This project is projected to be developed over a 10
4 year period from and after the date of recording this document. The appropriate roadway and
5 utility infrastructure including, but not limited to, water, sewer, and stormwater facilities shall be
6 constructed substantially in accordance with the master utility, roadway and drainage plans for
7 the project approved as part of the preliminary platting process. In conformity with City
8 requirements, a secondary means of access for emergency ingress and egress shall be constructed
9 at the applicant's option to the northwest or southwest to the existing paved portion of Hill
10 Avenue as part of Phase I. The access shall be of sufficient width to accommodate emergency
11 vehicles and shall be stabilized so as to support said vehicles and maintained by the developer
12 until paved. During the infrastructure stage of Village 3, the road shall be constructed to full
13 City standards (within the available right of way, which shall never be less than 40 feet). Where
14 the then-available right of way width is less than 50 feet in width, the location of utilities and
15 sidewalks shall be adjusted to accommodate the available right of way, or the construction of
16 sidewalks may be deferred until sufficient additional right of way is available. The right of way
17 of all paved roads within the development, including that portion of Hill Avenue within the
18 development which is required to be paved during the infrastructure stage of Village 3, shall be
19 dedicated to the City of DeLand and to the public. Nothing in this paragraph prevents the
20 applicant from seeking compensation or transportation impact fee credits from Volusia County
21 for the provision of right of way or improvements for Hill Avenue.

22 D. Land Uses within the RPD. The location and approximate size of the land use
23 areas are shown on the Development Plan Map attached as Exhibit B and made a part of this

1 Development Plan. The development of the property shall be consistent with the limits
2 described below for each land area within the proposed RPD:

3 1. The cumulative number of lots shall be no more than 332, of which not
4 less than 142 shall have a width of 70 or more feet and the remainder shall
5 have a width of at least 50 feet.

6 *Minimum number @ ≥70 feet = 142*
7 *Maximum number @ ≥50 <70 feet = 190*
8 *Total allowable 332*
9

10 2. All lots adjoining the proposed right of way of Hill Avenue shall have a
11 minimum width of 70 feet.

12 3. The following land uses shall be allowed as permitted principal uses and
13 structures along with their customary accessory uses and structures:

14 (a) Detached single family dwellings.

15 E. Development Standards. Where not specifically provided in this paragraph,
16 development standards for detached single family dwellings shall be as shown in Table I.

17 1. Minimum area.

18 (a) Detached single family dwellings on lots of less than 70 feet in
19 width shall have a minimum heated/air conditioned living area of 1400 square feet.

20 (b) Detached single family dwellings on lots of 70 feet or greater in
21 width shall have a minimum heated/air conditioned living area of 1700 square feet.

22 2. Perimeter setbacks and buffers.

23 (a) There shall be a minimum of 25 feet of perimeter buffer along the
24 southern and northern exterior boundaries of the entire development (exclusive of roads and
25 utility easements). The buffer may consist in whole or in part of tree preservation area or

1 retained natural vegetation.

2 (b) The westerly 40 feet of the property will be reserved for right of
3 way for the construction of Hill Avenue. Any lot having a rear yard directly contiguous to the
4 area reserved for future right of way for Hill Avenue shall include a perimeter buffer of 10 feet
5 within said yard.

6 (c) As required by the PD district regulations, all rear construction
7 setback lines at the perimeter of the project shall be 40 feet, but shall be measured from the
8 project perimeter line and inclusive of any perimeter buffer.

9 (d) Required yards, setbacks, and maximum lot coverage for detached
10 dwellings shall otherwise be as set forth in Table 1:

TABLE 1

A- SINGLE-FAMILY STANDARD LOT CRITERIA MATRIX

LOT TYPE	APPROXIMATE LOT SIZE	RESIDENTIAL BUILDING SETBACKS						GARAGE SETBACKS						PORCHES		POOLS	
		FRONT	SIDE	SIDE CORNER	SIDE PORTICO	SIDE 1/2 (ZERO LOT)	REAR	FRONT	SIDE	SIDE (ZERO LOT)	SIDE CORNER	REAR 2/	REAR	SIDE CORNER	FRONT	SIDE	REAR
A	70X110' MIN.	20' MIN.	5' MIN.	10' MIN.	5' MIN.	N/A	20' MIN.	15' MIN.	3' MIN.	0'	10' MIN.	5' MIN.	3' MIN.	5' MIN.	0' MIN.	3' MIN.	5' MIN.

* INCLUDING SCREEN ENCLOSURE

B- SINGLE-FAMILY SMALL LOT CRITERIA MATRIX

LOT TYPE	APPROXIMATE LOT SIZE	RESIDENTIAL BUILDING SETBACKS						GARAGE SETBACKS						PORCHES		POOLS	
		FRONT	SIDE	SIDE CORNER	SIDE PORTICO	SIDE 1/2 (ZERO LOT)	REAR	FRONT	SIDE	SIDE (ZERO LOT)	SIDE CORNER	REAR 2/	REAR	SIDE CORNER	FRONT	SIDE	REAR
B	150'-65'X100' MIN.	20' MIN.	5' MIN.	10' MIN.	3' MIN.	0X10'	20' MIN.	15' MIN.	3' MIN.	0'	10' MIN.	5' MIN.	3' MIN.	3' MIN.	3' MIN.	3' MIN.	5' MIN.

* INCLUDING SCREEN ENCLOSURE

Notes to Table 1:

1
2 1. The required setback for any swimming pool shall also
3 apply to any screened enclosure. Swimming pools and enclosures shall not be placed inside a
4 landscaped buffer or tree protection area.

5 2. Maximum building height. The maximum height of any
6 dwelling shall be 35 feet, as measured from the first floor level, but excluding any chimney,
7 antenna or parapet.

8 3. Maximum building coverage. The maximum
9 building coverage for detached single family dwelling lots less than 6,000 sq. ft., shall not
10 exceed 60%. The maximum building coverage for lots between 6,000 to 11,000 sq. ft. shall not
11 exceed 45%. The maximum building coverage for lots greater than 11,000 sq. ft. shall not
12 exceed 40%. Stormwater calculations will be based upon impervious coverage. The impervious
13 coverage is calculated for the gross site in which cluster development or other site design
14 alternatives may result in individual lots within the development exceeding the impervious
15 coverage, while other lots may be devoted entirely to open space.

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

21 1. Obtain a tree removal permit from the City's Building Department for
22 each lot or group of lots to be cleared for construction. Consistent with City regulations, the
23 Applicant may be permitted to clear the right of way for roads, utilities and easements after the

1 preliminary plat has been approved. In order to maintain the integrity of drainage, the Applicant
2 may clear and grade portions of contiguous lots in accordance with the approved engineering
3 plans, leaving an uncleared area of ten feet abutting front lot utility easements. Final clearing
4 and any required tree replacement shall occur as part of the construction on each lot.

5 2. Ensure that each lot contains a minimum of one tree for every 2,500
6 square feet of lot area. All required trees, including required replacement trees, shall be a
7 minimum of 3 inches DBH.

8 No clearing of trees or any other development activities shall be permitted in the tracts
9 designated as tree protection areas except for the removal of trees damaged by fire, windstorm,
10 lightning or other acts of God, which pose imminent danger to life or property.

11 No deviation is permitted from the perimeter buffer shown in the Planned Development
12 Plan, without full amendment of this Agreement. The Applicant shall otherwise demonstrate
13 through a preliminary plat that the minimum acreage of tree protection area (including the
14 perimeter buffer) continues to be equal to or greater than 15% of the developable area. Tree
15 preservation calculations will be based on the statistical plot performed March 2004 and
16 approved by City staff. Nonetheless, the applicant shall survey and preserve specimen trees in
17 accordance with the standards now in force.

18 G. Sewage Disposal and Potable Water.

19 1. Sewer service will be provided to all lots by connection with the City of
20 DeLand central sewage system, via a force main or gravity connection. The specific engineering
21 plan for such connection shall be provided at preliminary plat. The Applicant shall enter into a
22 Utility Service Agreement with the City in accordance with Chapter 30 of the Code of
23 Ordinances to reserve sufficient capacity for the development.

1 2. Water service will be provided to each lot by connection with the City of
2 DeLand central water system. The specific engineering plan for such connections shall be
3 provided at preliminary plat. The Applicant shall enter into a Utility Service Agreement with the
4 City in accordance with Chapter 30 of the Code of Ordinances to reserve sufficient capacity for
5 the development.

6 3. The Applicant shall provide distribution lines for reclaimed water to each
7 lot, through specific engineering plans to be provided at preliminary plat. The Applicant may
8 also at its discretion, at or before preliminary plat, identify an area, which shall be set aside for
9 the potential future storage of reclaimed water for distribution within the PD. The Applicant
10 may, by subsequent agreement with the City, provide for the extension of transmission lines for
11 reclaimed water to any such storage area, and for the ownership and maintenance thereof.

12 H. Stormwater Drainage. Provision for stormwater retention shall be in accordance
13 with the Land Development Regulations Ordinance #2002-09, as amended. The development
14 shall meet or exceed the requirements of the stormwater management and conservation
15 provisions of the Code of Ordinances. Areas identified as retention areas on the Planned
16 Development Plan may be shifted or altered for stormwater management purposes without the
17 necessity of amendment of this Development Agreement or its Exhibits. If permitted under the
18 terms of the easement, dry storage basins for stormwater detention or retention may be
19 developed within the electric transmission in the eastern portion of the development.

20 I. Access and Transportation System Improvements (Access, Transportation System
21 Improvements, Internal Roadways and Sidewalks). All access and transportation system
22 improvements shall be provided in accordance with the Land Development Regulations, Ord. 02-
23 09, as amended. The parcel shall be developed in substantial accordance with the following

1 access and transportation system improvements:

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

6 2. Access to lots will be limited to the internal road system. No lot shall
7 have direct driveway access to either Blue Lake Avenue or Hill Avenue. This condition will be
8 enforced through establishment of a non-vehicular easement in favor of the City, on the eastern
9 and western boundaries of the development, excepting only the points of access generally shown
10 in the Planned Development Plan and approved in subsequent plats.

11 3. According to the Applicant's traffic engineer, the development will not
12 cause the level of service on any roadway sections or intersections affected by the development
13 to decrease below that prescribed in the City or County Comprehensive Plan.

14 4. Applicant shall construct sidewalks at least five feet in width along both
15 sides of all streets in the development, and along the contiguous portion (one side) of Blue Lake
16 Avenue if required by the County. The Applicant shall have the option of posting a bond to
17 guarantee completion of the sidewalks at the time of final plat submission.

18 5. The Developer shall take reasonable steps to ensure that during
19 development of the property, no construction truck traffic shall utilize any unpaved portion of
20 Hill Avenue for access.

21 J. Parks and Recreation. The development shall provide recreational amenities such
22 as 8-foot wide sidewalks/bikepath combinations in the approximate areas shown in the Planned
23 Development Plan map attached as Exhibit B, or passive play areas, which may be located

1 wholly or partly within utility easements, rights of way or stormwater retention areas. The 100-
2 foot utility easement along or near the eastern perimeter of the development may be used for any
3 activity or use not inconsistent with the terms of the easement, including recreational trails,
4 landscaping, other passive recreational uses or dry retention areas.

5 Nothing in this Agreement prevents the developer or Homeowners' Association from
6 placing active recreational facilities or areas within the development, (so long as sufficient tree
7 preservation is maintained).

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

17 The charter and bylaws of said Homeowner's Association and any amendments
18 thereto or related agreements, covenants, easements or restrictions which relate to the terms and
19 conditions of this Development Agreement shall be furnished to the City of review and approval
20 at least thirty (30) days before proposed execution and filing in the Official Records of Volusia
21 County, Florida. The Applicant shall bear and pay the costs of recording all of the aforesaid
22 documents. The City shall not be responsible for enforcing the Declaration of Protective
23 Covenants, Conditions and Restrictions for Saddlebrook PD or the Articles of Incorporation or

1 By-Laws of the Association.

2 The Homeowner's Association shall be responsible for the maintenance of all
3 common areas and the enforcement of covenants against all private lands, to insure that weeds,
4 trees, shrubbery and construction, maintenance and utility materials and equipment do not
5 obscure the face of any traffic control device, as viewed from the traveled way.

6 K. Signage, Entrance Features, and Walls. The Applicant may construct
7 entrance signage for the Saddlebrook PD community at one or both sides of the entrance to Blue
8 Lake Avenue, which may be incorporated in a landscaped fence or masonry wall not to exceed
9 six feet in height along all or part of the perimeter of the development. The Applicant may also
10 erect a temporary sales sign at the entrance. If an entrance is hereafter developed at Hill Avenue,
11 the Applicant may construct similar entrance and temporary sales signage at the Hill Avenue
12 entrance. Within the interior of the development, the Applicant may construct similar
13 identification signage and landscaping at the entrance of each "village" to identify the village.
14 Such village identification signage may be incorporated in a landscaped fence or masonry wall
15 (consistent with any height or length limitations provided by city codes) or be free-standing and
16 constructed of masonry. If free-standing, such a sign may be double-sided if it is to be viewed
17 from two different approaches to that village. The copy area of any entrance, temporary sales, or
18 village identification sign shall otherwise be subject to the City's sign regulations. Any such
19 signage and landscaping, and any mail kiosks required or permitted by the Postal Service, shall
20 be located outside of the required public right of way and shall be within a common area or
21 easement to be maintained by the Homeowners Association. In addition, the Applicant may
22 provide a divided landscaped median at any entrance to the PD and may, subject to the design
23 and safety regulations of the City, provide therein a gazebo, kiosk or other similar feature as part

1 of or in addition to the entrance signage.

2 L. Architectural Review Board. The Applicant shall create an Architectural Review
3 Board. Prior to construction of any dwelling unit, all plans and specifications must have had
4 prior approval of this Board. All regulations pertaining to the Architectural Review Board shall
5 be at the sole discretion of the Applicant; provided, however, that the regulations shall be
6 completely consistent with the requirements of this Ordinance. The City shall not be responsible
7 for enforcing the regulations of the Architectural Review Board. However, if future revisions to
8 City codes allow variances within approved PD's, individual lot owners may apply to the city for
9 variances which may be approved subject to written confirmation of approval by the
10 Architectural Review Board.

11 M. Temporary Offices and Models. The Applicant may place a temporary
12 construction and/or sales office trailer at an approved location, and erect model homes and
13 connect such office and model homes to City utilities prior to the final completion of subdivision
14 improvements for the first phase, so long as: (1) paved access has been completed from Blue
15 Lake Avenue to any such model home area; and (2) occupancy of any such model is limited to
16 construction management and sales activity only, and no permanent certificate of occupancy
17 approving the use of the home as a residence shall be issued by the City until the final plat is
18 approved and the relevant subdivision improvements have been completed.

19 N. Reverter Provision. The City Commission may rezone any portion of the
20 project which has not secured a Final Development Order on or before 10 years from the
21 effective date of this Ordinance as may be necessary or appropriate to protect adjoining
22 properties or the public health, safety and welfare, unless the City Commission, for good cause
23 shown, shall extend the time period indicated in this paragraph.

1 O. Binding Effect of Plans; Recording; and Effective Date. The Planned
2 Development Plan, including any and all amendments shall bind and inure to the benefit of the
3 Applicant and its successor in title or interest. The RPD zoning, provisions of the "Development
4 Agreement" and all approved plans shall run with the land and shall be administered in a manner
5 consistent with Article 12 of the City of DeLand Land Development Regulations Ordinance
6 #2002-09, as amended. This Ordinance and all subsequent amendments shall be filed with the
7 Clerk of the Court and recorded within forty-five (45) days following execution of the document
8 by the City Commission, in the Official Records of Volusia County, Florida. One copy of the
9 document, bearing the book and page number of the Official Record in which the document was
10 recorded, shall be submitted to the Planning Department for placement in the public files. The
11 date of recording of this document shall constitute the effective date of the RPD or its subsequent
12 amendments. The Applicant shall pay all filing costs for recording documents.

13 DONE and ORDERED by the City Commission, City of DeLand, Florida, this 20th day
14 of Dec., 2004.

17 ATTEST:
18 Mike Abels
19 Mike Abels
20 City Manager
21
22

City Commission of DeLand, Florida
Robert Apgar
Robert Apgar
Mayor

ATTEST:
Julie A. Hennessy
Julie A. Hennessy, CMC
City Clerk - Auditor

1 STATE OF FLORIDA
2 COUNTY OF VOLUSIA

3
4 The foregoing instrument was acknowledged before me this 20TH day of
5 Dec., 2004, by MIKE ABELS AND ROBERT APGAR, as City Manager and
6 Mayor, City of DeLand, respectively, on behalf of the City of DeLand, who are personally
7 known to me or have produced _____ as identification.

8
9 NOTARY PUBLIC: Suellen Pope
10 State of Florida At Large

(Seal)

11 My Commission Expires: _____
12 Title/Rank: _____
13 Commission Number: _____
14
15
16
17



18 APPLICANT:

19 INTOMM, INC., a Delaware Corporation
20 D/B/A Florida Residential Communities

21 By: Mark Bines
22 Mark Bines, Vice President

23 WITNESSES:

24 Michelle Clancy
25 Print Name: Michelle Clancy
26 Tina Murray
27 Print Name: Tina F. Murray

28 STATE OF FLORIDA
29 COUNTY OF VOLUSIA

30
31 The foregoing instrument was acknowledged before me this 26 day of
32 January, 2005, by Mark Bines, as Vice President of
33 Intomm, Inc d/b/a on behalf of the corporation, who is personally known to me or has
34 produced Florida Residential Communities as identification.

35
36 NOTARY PUBLIC: Michelle Clancy
37 Sign: _____

38 Print: _____

39 State of Florida At Large

(Seal)

40 My Commission Expires: _____
41 Title/Rank: _____
42 Commission Number: _____
43



LEGAL DESCRIPTION:

A PORTION OF LAND LYING IN THE EAST 1/2 OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA:

BEING DESCRIBED AS:

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 LESS THE EAST 30 FEET.

TOGETHER WITH:

THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4.

TOGETHER WITH:

THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4.

BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 30 EAST; THENCE RUN S88°29'51"W, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 30.00 FEET TO A POINT OF BEGINNING; SAID POINT ALSO BEING ON THIS WEST RIGHT OF WAY LINE OF BLUE LAKE AVENUE, THENCE DEPARTING SAID NORTH LINE, RUN S01°09'54"E, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 678.82 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SOUTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN S88°44'02"W, ALONG SAID NORTH LINE A DISTANCE OF 631.75 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID NORTH LINE, RUN S01°08'47"E ALONG THE WEST LINE OF THE EAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 1014.33 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID WEST LINE, RUN S89°05'18"W, ALONG THE SOUTH LINE OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 662.09 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID SOUTH LINE, RUN N01°07'40"W, ALONG THE WEST LINE OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 336.74 FEET TO THE NORTHWEST CORNER OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID WEST LINE, RUN S88°58'13"W, ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 1323.95 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID SOUTH LINE, RUN N01°05'24"W, ALONG THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 2018.38 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID WEST LINE, RUN N88°35'40"E, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 1984.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID NORTH LINE, RUN S01°04'43"E, ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4, A DISTANCE OF 678.96 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE DEPARTING SAID WEST LINE, RUN N88°29'51"E, ALONG THE AFOREMENTIONED NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 631.55 FEET TO THE POINT OF BEGINNING.

CONTAINING 107.228 ACRES MORE OR LESS

ORDINANCE NO. 2004 - 59

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM A-2, RURAL AGRICULTURE AND A-3, TRANSITIONAL AGRICULTURE TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE ACREAGE FRONTING ON HILL AVENUE AND BLUE LAKE AVENUE, NORTH OF TAYLOR ROAD; APPROVING A DEVELOPMENT PLAN FOR DETACHED SINGLE FAMILY RESIDENTIAL AND TOWNHOMES, A RESIDENTIAL PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 107.28 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, Florida Residential Communities, represented by Allen Watts (hereinafter referred to as "Applicant"), owns a 107.28 acre parcel of land located on the acreage fronting Hill Avenue and Blue Lake Avenue, 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 A-2, Rural Agriculture and Volusia County A-3, Transitional Agriculture, 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 Saddlebrook 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 A-2, Rural Agriculture and Volusia County A-3, Transitional Agriculture, 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

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 Saddlebrook PD, including the Development Plan Report, Narrative, Maps and other supporting documentation (on file with the City Planning Department), are incorporated herein by reference and shall be amended to include the conditions as set forth in the document entitled "Conditions for the Approval of the Saddlebrook PD," which is 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.

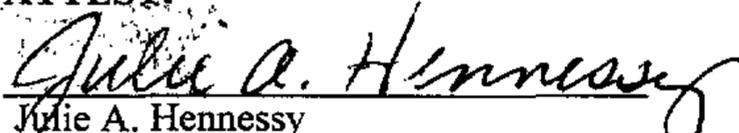
Section 11. No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

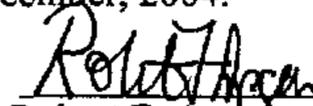
Section 12. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

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

PASSED AND DULY ADOPTED this 20th day of December, 2004.

ATTEST:


Julie A. Hennessy
City Clerk - Auditor


Robert F. Apgab
Mayor - Commissioner

Passed on first reading: November 15, 2004

Adopted on second reading: December 20, 2004

APPROVED AS TO FORM AND LEGALITY:

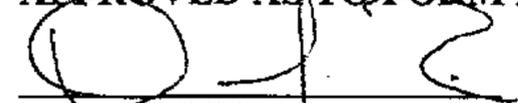

Darren J. Elkind
City Attorney

EXHIBIT A

LEGAL DESCRIPTION:

A PORTION OF LAND LYING IN THE EAST 1/2 OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOULSIA COUNTY, FLORIDA:

BEING DESCRIBED AS:

THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 LESS THE EAST 30 FEET.

TOGETHER WITH;

THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 AND THE NORTH 1/2 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4.

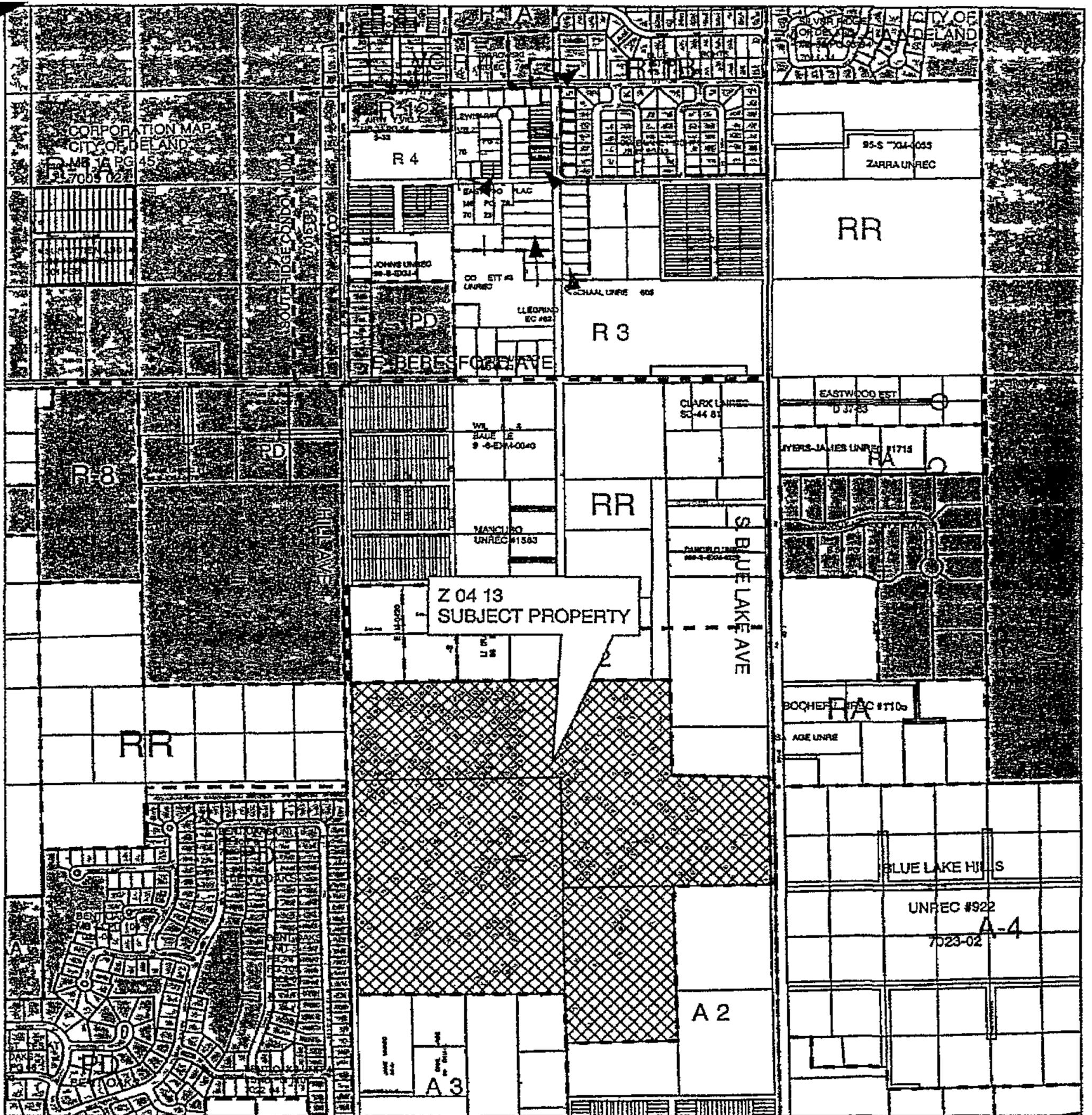
TOGETHER WITH;

THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4.

BEING MORE PARTICULARLY DESCRIBED AS:

COMMENCE AT THE NORTHEAST CORNER OF THE SOUTHEAST OF SECTION 22, TOWNSHIP 17 SOUTH, RANGE 30 EAST; THENCE RUN S88°29'51"W, ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 30.00 FEET TO A POINT OF BEGINNING; SAID POINT ALSO BEING ON THIS WEST RIGHT OF WAY LINE OF BLUE LAKE AVENUE, THENCE DEPARTING SAID NORTH LINE, RUN S01°09'54"E, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 678.82 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID WEST RIGHT OF WAY LINE, RUN S88°44'02"W, ALONG SAID NORTH LINE A DISTANCE OF 631.75 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID NORTH LINE, RUN S01°08'47"E ALONG THE WEST LINE OF THE EAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 1014.33 FEET TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID WEST LINE, RUN S89°05'18"W, ALONG THE SOUTH LINE OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 662.09 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID SOUTH LINE, RUN N01°07'40"W, ALONG THE WEST LINE OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 336.74 FEET TO THE NORTHWEST CORNER OF SAID NORTHWEST 1/2 OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID WEST LINE, RUN S88°58'13"W, ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 1323.95 FEET TO THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4; THENCE DEPARTING SAID SOUTH LINE, RUN N01°05'24"W, ALONG THE WEST LINE OF SAID NORTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 2018.38 FEET TO THE NORTHWEST CORNER OF THE SOUTH 1/2 OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID WEST LINE, RUN N88°35'40"E, ALONG THE NORTH LINE OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 1984.75 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION 22; THENCE DEPARTING SAID NORTH LINE, RUN S01°04'43"E, ALONG THE EAST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4, A DISTANCE OF 678.96 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE DEPARTING SAID WEST LINE, RUN N88°29'51"E, ALONG THE AFOREMENTIONED NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 22, A DISTANCE OF 631.55 FEET TO THE POINT OF BEGINNING.

CONTAINING 107.228 ACRES MORE OR LESS



CHANGE OF ZONING
FROM (VC) RR
TO
PD



PLANNING BOARD

Z-04-13

9/15/04

- Legend
- city or arc
 - CITYNAME
 - DELAND
 - zon arc
 - dzon arc



EXHIBIT B
CONDITIONS FOR THE APPROVAL OF THE SADDLEBROOK PD

The following are comments that need to be changed in the development agreement:

1. Page 5, line 20 – add “and maintained by the developer until paved.” after the word “vehicles”.
2. Page 6 – select option a; 332 single family lots with 142 70’ lots and 190 50’ lots;
3. Page 7, line 5 and line 13 – delete reference to attached homes (town homes).
4. Page 10, line 3 – add phrase that states swimming pools and enclosures shall not be placed inside a landscape buffer or tree protection area.
5. ~~Page 10 – clearing and grading provision needs to be reviewed by staff for compliance with City regulations.~~
6. ~~Page 11, lines 16 to 17 – contains new language that tree calculations will be based on March 2004 survey and applicant will not have to meet new City regulations of surveying and preserving specimen trees. Planning staff recommends an accurate survey needs to be submitted with the plat and that the tree Resolution adopted on October 18, 2004 should apply to this project. Staff will update Commission at the meeting. Delete last sentence, applicant will preserve trees in accordance with ord. 2004-39.~~
7. Page 13, line 19 – add 8’ sidewalk in place of enhanced.
8. HOA documents will require that any perimeter fencing or wall will be uniform in appearance/materials.
9. Construction entrance will be off of Blue Lake Road.
10. Emergency access road to be stabilized and maintained by applicant until road is paved and dedicated to the City of DeLand.