

ORDINANCE NO. 2019 - 38

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, CHANGING THE ZONING FROM ROYAL OAKS PLANNED DEVELOPMENT TO PARK LAKE ESTATES PLANNED DEVELOPMENT; ON PROPERTY LOCATED AT DR. MARTIN LUTHER KING, JR. PARKWAY AND COUNTY ROAD 4139; APPROVING A PLANNED DEVELOPMENT PLAN CONSISTING OF APPROXIMATELY 198.02 ACRES OF PROPERTY; MAKING FINDINGS OF CONSISTENCY WITH THE COMPREHENSIVE LAND USE PLAN FOR THE CITY OF DELAND; DIRECTING CHANGE IN THE COMPREHENSIVE ZONING MAP; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Applicant, Mark Watts, Esq., agent for owner, Lake Park Estates, LLC (hereinafter referred to as "Applicant"), the owners of approximately 198.02 acres of land located at Dr. Martin Luther King, Jr., Parkway and County Road 4139, which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, the Applicant has applied for a change of zoning designation from Royal Oaks PD, Planned Development to Park Lake Estates, PD, Planned Development; and

WHEREAS, the Applicant is requesting that the existing Planned Development document be amended to allow for 450 single-family residential development; and

WHEREAS, said rezoning 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, the Applicant has submitted an application for the approval of a development plan in order to amend the current PD so as to change certain development standards for 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.

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 Royal Oaks Planned Development to Park Lake Estates, PD, Planned Development District, on the property located at Dr. Martin Luther King, Jr., Parkway and County Road 4139.

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 Park Lake Estates, 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 Agreement, 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 Park Lake Estates, PD, Planned Development District, 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. The City Commission may rezone any portion of the Project which has not obtained a site plan approval within five years from the date of adoption of this Ordinance.

Section 8. Prior to the issuance of a building permit, Applicant shall submit an easement document, acceptable to the City of DeLand, permitting additions to shared access, parking, utilities, and stormwater.

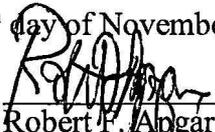
Section 9. Pursuant to Article 5 of the City's Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

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.

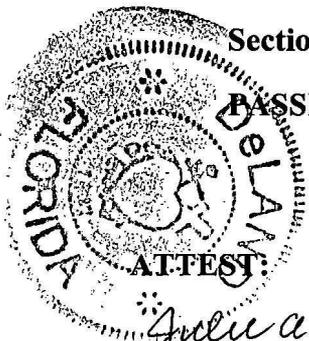
Section 11. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

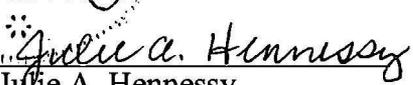
Section 12. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of November, 2019.



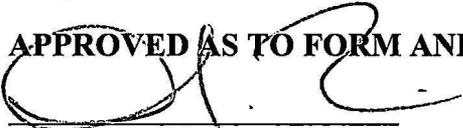
Robert F. Appgar
Mayor - Commissioner



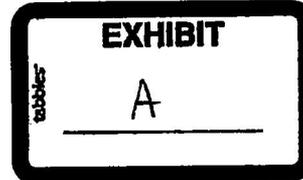
ATTEST:

Julie A. Hennessy
City Clerk - Auditor

Passed on first reading: October 21, 2019
Adopted on second reading: November 18, 2019

APPROVED AS TO FORM AND LEGALITY:



Darren J. Elkind
City Attorney



LEGAL DESCRIPTION

7024-00-00-0025, 7013-00-00-0011 & 7023-00-00-0015

PARCEL B:

LANDS SITUATED IN SECTION 13, 23 AND 24, TOWNSHIP 17 SOUTH, RANGE 30 EAST, DELAND, VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA AND THE SOUTHWEST CORNER OF SECTION 13, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE RUN NORTH 01 DEGREES 06 MINUTES 33 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 13, A DISTANCE OF 1338.66 FEET TO THE NORTHWEST CORNER OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SAID SECTION 13; THENCE RUN SOUTH 89 DEGREES 42 MINUTES 12 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTH ½ OF THE SOUTHWEST ¼, A DISTANCE OF 1018.28 FEET; THENCE RUN SOUTH 01 DEGREES 33 MINUTES 28 SECONDS EAST, A DISTANCE OF 264.14 FEET; THENCE RUN SOUTH 89 DEGREES 42 MINUTES 12 SECONDS EAST A DISTANCE OF 330.17 FEET TO A POINT ON THE WEST LINE OF LANDS DESCRIBED IN DEED BOOK 10, PAGE 616, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN SOUTH 01 DEGREE 31 MINUTES 59 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 434.18 FEET TO THE SOUTHWEST CORNER OF SAID LANDS; THENCE RUN SOUTH 89 DEGREES 46 MINUTES 06 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LANDS, A DISTANCE OF 725.24 FEET; THENCE RUN SOUTH 05 DEGREES 14 MINUTES 47 SECONDS WEST, A DISTANCE OF 337.14 FEET; THENCE RUN SOUTH 29 DEGREES 12 MINUTES 26 SECONDS WEST, A DISTANCE OF 1159.67 FEET; THENCE RUN SOUTH 60 DEGREES 47 MINUTES 53 SECONDS EAST, A DISTANCE OF 962.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 950.00 FEET AND A CENTRAL ANGLE OF 39 DEGREES 10 MINUTES 40 SECONDS; THENCE RUN SOUTHERLY AND EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 649.59 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 80 DEGREES 01 MINUTES 27 SECONDS EAST, A DISTANCE OF 1039.70 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 4139; THENCE RUN SOUTH 19 DEGREES 57 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 301.80 FEET; THENCE RUN SOUTH 89 DEGREES 00 MINUTES 51 SECONDS EAST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 16.06 FEET; THENCE RUN SOUTH 19 DEGREES 57 MINUTES 26 SECONDS EAST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 385.42 FEET; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE RUN SOUTH 65 DEGREES 29 MINUTES 38 SECONDS WEST, A DISTANCE OF 372.31 FEET; THENCE RUN NORTH 26 DEGREES 45 MINUTES 29 SECONDS WEST, A DISTANCE OF 216.76 FEET; THENCE RUN NORTH 47 DEGREES 20 MINUTES 56 SECONDS WEST, A DISTANCE OF 117.55 FEET; THENCE RUN SOUTH 73 DEGREES 54 MINUTES 21 SECONDS WEST, A DISTANCE OF 159.10 FEET; THENCE RUN NORTH 83 DEGREES 07 MINUTES 08 SECONDS WEST, A DISTANCE OF 228.92 FEET; THENCE RUN SOUTH 73 DEGREES 26 MINUTES 58 SECONDS WEST, DISTANCE OF 328.99 FEET; THENCE RUN SOUTH 39 DEGREES 30 MINUTES 34 SECONDS WEST, A DISTANCE OF 234.81 FEET; THENCE RUN SOUTH 89 DEGREES 34 MINUTES 48 SECONDS WEST, A DISTANCE OF 115.05 FEET TO THE EAST LINE OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF THE AFOREMENTIONED SECTION 24; THENCE RUN

NORTH 00 DEGREES 22 MINUTES 01 SECONDS WEST, A LONG SAID EAST LINE, A DISTANCE OF 97.23 FEET TO THE SOUTHEAST CORNER OF THE NORTH 7 CHAINS OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SAID SECTION 24; THENCE RUN NORTH 89 DEGREES 53 MINUTES 18 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTH 7 CHAINS, A DISTANCE OF 1341.77 FEET TO THE SOUTHWEST CORNER OF SAID NORTH 7 CHAINS; THENCE RUN SOUTH 00 DEGREES 52 MINUTES 56 SECONDS EAST, ALONG THE WEST LINE OF SAID SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$, A DISTANCE OF 906.78 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$; THENCE RUN NORTH 89 DEGREES 53 MINUTES 09 SECONDS WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$, A DISTANCE OF 666.80 FEET TO THE SOUTHWEST CORNER OF THE EAST $\frac{1}{2}$ OF SAID SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$; THENCE RUN NORTH 01 DEGREES 08 MINUTES 22 SECONDS WEST, ALONG THE WEST LINE OF SAID EAST $\frac{1}{2}$, A DISTANCE OF 1026.70 FEET TO THE SOUTHEAST CORNER OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SAID SECTION 24; THENCE RUN NORTH 89 DEGREES 53 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$, A DISTANCE OF 671.43 FEET TO THE SOUTHWEST CORNER OF SAID NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$; THENCE RUN SOUTH 01 DEGREES 23 MINUTES 54 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION 24 AND THE EAST LINE OF THE AFOREMENTIONED SECTION 23, A DISTANCE OF 726.73 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 300 FEET OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 23; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 37 SECONDS WEST, ALONG SAID NORTH LINE OF THE SOUTH 300 FEET, A DISTANCE OF 300.06 FEET TO A POINT ON THE WEST LINE OF THE EAST 300 FEET OF SAID SECTION 23; THENCE RUN SOUTH 01 DEGREES 23 MINUTES 51 SECONDS EAST, ALONG SAID WEST LINE OF THE EAST 300 FEET, A DISTANCE OF 300.06 FEET TO THE SOUTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 23; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 37 SECONDS WEST, ALONG SAID SOUTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 23, A DISTANCE OF 305.66 FEET TO THE EAST RIGHT-OF-WAY LINE OF WEST VOLUSIA BELTWAY, THENCE RUN NORTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 2314.28 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE RUN SOUTH 89 DEGREES 47 MINUTES 03 SECONDS EAST, A DISTANCE OF 330.02 FEET TO A POINT ON A LINE LYING 300 FEET EAST OF, WHEN MEASURED PERPENDICULARLY TO, SAID EAST RIGHT-OF-WAY LINE; THENCE RUN NORTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG SAID LINE A DISTANCE OF 330.02 FEET; THENCE RUN NORTH 89 DEGREES 47 MINUTES 03 SECONDS WEST, A DISTANCE OF 330.02 FEET TO A POINT ON THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE OF WEST VOLUSIA BELTWAY; THENCE RUN NORTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 91.60 FEET TO THE NORTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 23; THENCE RUN NORTH 89 DEGREES 21 MINUTES 14 SECONDS EAST, ALONG SAID NORTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 23, A DISTANCE OF 558.51 FEET TO THE POINT OF BEGINNING.

PARCEL B CONTAINING 198.02 ACRES MORE OR LESS.

1 PLANNED DEVELOPMENT AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: Z-19-62, Application of

5 CAP 5 DEVELOPMENT, LLC

6 ORDINANCE # 2019-38

7
8 ORDER AND RESOLUTION

9
10 GRANTING A REQUEST FOR CHANGE OF ZONING FROM ROYAL OAKS PD TO

11 PARK LAKE ESTATES PD

12
13 The application of Cap 5 Development, LLC, hereinafter, "Applicant", for rezoning
14 was heard by and before the City Commission, DeLand Florida, on November 18, 2019.
15 Based upon the verified Application and other supporting documents, maps, charts,
16 overlays, other evidence and instruments; the advice, report, and recommendations of
17 the Community Development, and other Departments and agencies of DeLand, Florida;
18 and the testimony adduced and evidence received at the Public Hearing on this
19 Application by the Planning Board on September 18, 2019, and otherwise being fully
20 advised, the City Commission does hereby find and determine as follows:
21

GENERAL FINDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

A. That the application of Cap 5 Development, LLC was duly and properly filed herein on April 15, 2019 as required by law.

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

C. That the applicant is the contract purchaser of a 198.02 +/- acre parcel of land which is situated in DeLand, Florida. This parcel of land is described more particularly in the survey and legal description, a true copy of which is attached hereto as Exhibit "A".

D. That the Applicant has complied with the concept plan provision as required by Land Development Regulations Ordinance No. 2013-11, as amended.

E. That the Applicant has complied with the "Due Public Notice" requirements of the City Commission, Land Development Regulations Ordinance No. 2013-11, as amended.

F. That the owner of the property, Lake Park Estate, LLC, agrees with the provisions of the Development Agreement.

FINDINGS REGARDING REZONING

1
2
3 A. That the Applicant has applied for a change of zoning from the present
4 zoning classification of the parcel described in Exhibit "A" from Royal Oaks PD to Park
5 Lake Estates PD.

6
7 B. That the said rezoning to a PD is consistent with both the City of DeLand
8 Comprehensive Plan Ordinance No. 1990-04, as amended, and the intent and purpose
9 of the City of DeLand Land Development Regulations Ordinance No. 2013-11, as
10 amended, and does promote the public health, safety, morals, general welfare and orderly
11 growth of the area affected by the rezoning request.

12
13 NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF
14 DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY
15 COMMISSION CHAMBERS, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA,
16 THIS 18th DAY OF November, A.D., 2019, AS FOLLOWS:

17 A. That the Application of Cap 5 Development, LLC for the rezoning of the
18 subject parcel is hereby granted.

19 B. That the zoning classification of the subject parcel described in Exhibit "A"
20 attached hereto is hereby amended from Royal Oaks PD to Park Lake Estates PD as
21 described in Article VII of the City of DeLand, Land Development Regulations Ordinance
22 No. 2013-11, as amended.

23 C. That the Official Zoning Map of the City of DeLand, is hereby amended to
24 show the rezoning of said parcel to Park Lake Estates PD.

1 D. That the City of DeLand Land Development Regulations Ordinance No.
2 2013-11, as amended, is consistent with the provisions of the Park Lake Estates PD,
3 hereinafter "Development Agreement" as hereinafter set forth in this Ordinance and with
4 respect to any conflict between Land Development Regulations Ordinance No. 2013-11,
5 as amended, and the "Development Agreement", the provisions of the "Development
6 Agreement" shall govern. Ordinance No. 2013-11, as amended, shall govern with respect
7 to any matter not covered by the "Development Agreement." The City of DeLand will
8 ensure overall compliance with this Ordinance.

9 E. Unless otherwise provided for herein the City of DeLand, Land
10 Development Regulations Ordinance No. 2013-11, as amended, shall apply to the PD in
11 the same manner as the R-1, Single-Family Dwelling zoning classification.

12 F. Nothing in this Ordinance shall abridge the requirements of any City of
13 DeLand Ordinance other than Ordinance No. 2013-11, as amended. Timing and review
14 procedures contained in this Order and Resolution may be modified to comply with the
15 City of DeLand Land Development Regulations, Ordinance No. 2013-11, as amended.
16 Further, nothing in the Development Agreement is intended to abridge the requirements
17 of Ordinance No. 2013-11, as amended, and any other City Ordinances.

18
19
20

DEVELOPMENT AGREEMENT

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

7 1. Planned Development Plan. The Planned Development Plan for
8 Park Lake Estates shall consist of the PD Concept Plan prepared by Madden, Moorhead
9 & Stokes, Inc. and AGMCi, dated August 16, 2019 and this development agreement. The
10 PD Concept Plan includes the following: Existing Conditions Plan prepared by Madden,
11 Moorhead & Stokes, Inc. and AGMCi, dated August 16, 2019, PD Concept Parking Plan
12 prepared by Madden, Moorhead & Stokes, Inc. and AGMCi, dated August 16, 2019, and
13 the Generalized Landscape Plan prepared by Madden, Moorhead & Stokes, Inc. and
14 AGMCi, dated August 16, 2019. The PD Concept Plan is hereby approved and
15 incorporated in this Ordinance by reference as Exhibit "B". The Planned Development
16 Plan shall be filed and retained for public inspection in the Planning Department and it
17 shall constitute a supplement to the Official Zoning Map of the City of DeLand.

18 2. Amendments. All amendments of the Planned Development Plan,
19 other than those deemed by the Planning Department to be minor amendments as set
20 out in Ordinance No. 2013-11, as amended, shall require the review and recommendation
21 of the Planning Board and action by the City Commission in the same manner as a
22 rezoning of the parcel.

23 3. Subdivision Approval. After the Planned Development Plan is
24 recorded, and prior to any construction, including clearing and landfill, a preliminary
25 and/or a final plat of the area to be subdivided shall be submitted for review and approval

1 in the manner required by Article 13 of the City of DeLand Land Development
2 Regulations, Ordinance No. 2013-11, as amended.

3
4 B. Unified Ownership. The Applicant or his successors shall maintain unified
5 ownership of the subject parcel until after issuance of the first Final Plat.

6
7 C. Phases of Development. The project may be developed in one or more
8 than one phase. Mass-grading of the site may occur over the entire development area
9 included in a particular phase, as approved by the City during the subdivision review
10 process, but not over the Tree Preservation Areas or any portion of the parcel not included
11 within an approved phase. Mass-graded areas will be stabilized with vegetative cover.

12
13 D. Land Uses Within the PD. The development of the parcel shall be
14 consistent with the uses prescribed for each area within the proposed PARK LAKE
15 ESTATES PD. The approximate location and size of said land use areas are shown on
16 the PD Concept Plan, Exhibit "B", subject to minor revisions during preliminary and final
17 site design. The following land uses shall be allowed as permitted principal uses and
18 structures along with their customary accessory uses and structures: Single-Family
19 Residential

20
21 E. Development Standards. Unless specifically listed herein, the development
22 standards applicable to R-1 zoning classification shall apply.

1

1. Single-Family Residences:

	40' Lots	50' Lots	65' Lots
1. Minimum lot area:	4,800 sq. ft	6,000 sq. ft.	7,800 sq. ft.
2. Minimum lot width:	40 ft.	50 ft.	65 ft.
3. Minimum lot length:	120 ft.	120 ft.	120 ft.
4. Minimum building setbacks:			
a. Front yard to garage face/door:	25 ft.	25 ft.	25 ft.
b. Front yard to structure:	15 ft.	15 ft.	15 ft.
c. Rear yard:	20 ft.	20 ft.	20 ft.
d. Rear yard screen enclosure	3 ft.	3 ft.	3 ft.
e. Side yard screen enclosure	5 ft.	5 ft.	5 ft.
f. Side yard:	5 ft.	5 ft.	5 ft.
g. Side street:	15 ft.	15 ft.	15 ft.
h. Waterfront rear yard:	25 ft.	25 ft.	25 ft.
i. Side setback for pools and accessory structures	Per Land Development Regulations	Per Land Development Regulations	Per Land Development Regulations
j. Rear setback for pools and accessory structures	Per Land Development Regulations	Per Land Development Regulations	Per Land Development Regulations
5. Minimum floor area:	1,000 sq. ft.	1,000 sq. ft.	1,000 sq. ft.
6. Maximum lot coverage:	73%	73%	73%
7. Maximum building height:	35 ft.	35 ft.	35 ft.

2

3

2. Maximum number of lots: 450

- 1 3. Off-Street Parking: Each parcel shall be designed to accommodate no less
2 than two (2) parking spaces via use of on-parcel driveway and two (2)
3 spaces in an internal garage. All driveway parking spaces shall be a
4 minimum of nine (9) feet wide by twenty (20) feet long (per each vehicle).
- 5 4. On-Street Parking: In order to accommodate visitors and any demand for
6 parking beyond 4 spaces per residential lot, on-street parking, as illustrated
7 on Exhibit "B", shall be provided in various locations within the Property. No
8 less than 0.5 spaces per lot of on-street parking spaces shall be provided,
9 with the on-street bump out measuring no less than 8.5 ft. in width and 20
10 ft. in length. Based on the Planned Development Plan, the current layout
11 provides a minimum of 226 on-street parking spaces. Said parking shall
12 not encroach into the travel lanes and said travel lanes shall be no less than
13 a combined 24 ft. wide. A cross section of the on-street parking is attached
14 as "Exhibit "C".
- 15 5. Signage: Signage for the subdivision shall be provided per the Land
16 Development Regulations.
- 17 6. Open Space and/or Common Area requirements shall meet the Land
18 Development Regulations Ordinance No. 2013-11. A community center,
19 provided on a tract of land no less than 1.0 acre, is provided as depicted on
20 Planned Development Plan. The Community Center shall be provided for
21 the private use of the community residents and shall include a pool, pool
22 cabana and playground equipment. Additional pocket parks and walking
23 trails shall be provided on multiple tracts of land totaling no less than 1.0
24 acre, as depicted on the PD Concept Plan, Exhibit "B". Monument signs
25 identifying the subdivision shall be placed at the entrances within Open

1 Space/or Common Area tracts along Dr. Martin Luther King, Jr. Beltway,
2 the future Beresford Avenue extension and CR 4139.

3
4 F. Environmental Considerations. The development shall comply with the
5 requirements for preservation of environmental resources as set forth in the Land
6 Development Regulations Ordinance No. 2013-11, as amended. Tree Protection Areas
7 preserving a minimum of 15% of the net developable area, which excludes required right-
8 of-way dedication areas and on-site easements, shall be required and maintained as
9 shown on the PD Concept Plan, Exhibit "B" - Generalized Landscape Plan. Tree
10 Protection Areas are proposed as shown on PD Concept Plan, Exhibit "B" - Generalized
11 Landscape Plan, and said locations shall be finalized at preliminary plat. Nothing shall
12 prevent the grading of Tree Protection Areas prior to creation of said areas, but any
13 portion of the property with grading shall require replanting as provided for in the Land
14 Development Code. Tree Protection Areas' minimum width may be reduced to 20 feet
15 which the total areas of said TPA is at least 5,000 square feet and replacement trees, as
16 necessary, may be platted with said TPA. Moreover, portions of Tree Protection Areas
17 may be less than 30 feet in width when connected to larger Tree Protection Areas that
18 are 30 feet in width or greater. A tree survey is required as part of the review process for
19 the project and prior to the issuance of the first plat. The survey shall be conducted based
20 on the following standards:

- 21 1. The Applicant will survey all specimen and historic trees.
- 22 2. For non-specimen or historic trees, the Applicant will engage an arborist to
23 identify each distinct biome present on the property. The land area of each distinct biome
24 will be calculated and submitted to the City Arborist for review and approval. The
25 proportionate area of each biome will be calculated as a percentage of the overall property

1 area.

2 3. Upon approval of the identified biomes and land area calculations for each,
3 the Applicant will identify a 1-acre sample area in each biome, subject to the approval of
4 the City Arborist. Upon approval of the sample area, the Applicant will cause all trees in
5 excess of 6 inches DBH to be identified and surveyed in the selected sample area.

6 4. The tree density determined by the survey of the sample area for each
7 biome will be used to determine tree replacement or mitigation requirements. The tree
8 mitigation requirements will be weighted based on the proportionate area represented by
9 each respective biome.

10

11 G. Sewage Disposal, Potable Water and Reclaimed Water. Provision for
12 sewage disposal, potable and reclaimed water needs of the PD will be provided in
13 accordance with the Comprehensive Plan, Ordinance No. 1990-04, as amended, the
14 Land Development Regulations Ordinance No. 2013-11, as amended, and State of
15 Florida Administrative Code 64E-6. In the event reclaimed water is not available in the
16 vicinity at the time the Property is developed, dry reclaimed water lines shall be installed
17 so that they can be connected once the City's reclaimed distribution lines are extended.

18

19 H. Stormwater Drainage. Provision for stormwater retention shall be in
20 accordance with the Land Development Regulations Ordinance No. 2013-11, as
21 amended. All stormwater retention systems will be designed to meet all required
22 governmental regulations, including all water quality regulations designed to protect
23 natural water bodies and will include, at a minimum:

24 1. Deed restrictions as part of the homeowners' association documents
25 that specify that the only permitted activities in the upland buffers are pruning, planting of

1 suitable native vegetation, removal of exotic and nuisance pioneer plant species, and the
2 creation and maintenance of catwalks, boardwalks, and walkways leading to permitted
3 docks. Any landscaping or alterations adjacent to natural water bodies will be subject to
4 approval of the homeowner's association.

5 2. Upland buffers will be shown on the site plan, preliminary plat or
6 other appropriate construction documents, and will be affirmatively protected during
7 construction. Grading of lakeside lots will provide for swales, which prevent or intercept
8 stormwater runoff into the lake and are maintained by the homeowner's association.

9

10 I. Access and Transportation System Improvements. All access and
11 transportation system improvements shall be provided in accordance with the Land
12 Development Regulations, Ordinance No. 2013-11, as amended. The parcel shall be
13 developed in substantial accordance with the following access and transportation system
14 improvements:

15 1. Access. Access to the site will be from Dr. Martin Luther King, Jr.
16 Beltway, the future Beresford Avenue extension and CR 4139. The Development Plan
17 indicates the anticipated connection locations; however, the final locations may vary due
18 to final engineering design and permitting considerations. The primary subdivision spine
19 road that connects from Dr. Martin Luther King, Jr. Beltway to County Road 4139 shall be
20 completed no more than five (5) years after completion of subdivision infrastructure for
21 the first platted phase.

22 2. Transportation System Improvements. Transportation system
23 improvements will be provided as required by permitting agencies.

24 3. Beresford Extension. The extension of Beresford Avenue from Blue
25 Lake Avenue to State Road 44 is a key infrastructure improvement for the eastern portion

1 of the City. As part of the development, the following improvements associated with the
2 Beresford Avenue extension will be made as part of the platting for the initial phase of the
3 project:

4 a. Dedication of right of way for the Beresford Avenue extension
5 from Dr. Martin Luther King, Jr. Beltway/Kepler Road to the eastern terminus of the
6 property as shown on the PD Concept Plan, Exhibit "B" will be made to the City of DeLand
7 in connection with the first phase of development; and

8 b. Construction of a portion of the Beresford Avenue Extension
9 from Dr. Martin Luther King, Jr. Beltway/Kepler Road to the access road for the northern
10 phase of the project and all associated intersection improvements related thereto at its
11 intersection with Dr. Martin Luther King, Jr. Beltway/Kepler Road will be completed with
12 the northern phase of the project, as further determined by the use permit issued by the
13 County of Volusia.

14
15 J. Internal Roadways. All rights-of-way will be a minimum of fifty (50) feet wide
16 and any rights-of-way with on-street parking will be a minimum of fifty-two (52) feet wide.
17 All internal roads will be dedicated to the city. The permitted centerline radius may be
18 reduced from the standard requirement of 100 feet down to the provided 50 feet, subject
19 to engineering approval by the City during the subdivision approval process.

20
21 K. Home or Property Owners Association. The application shall create a
22 property owners' association. The charter and by-laws of said association and any other
23 agreements, covenants, easements or restrictions shall be furnished to the City of
24 DeLand at the time of creation. The applicant shall be responsible for recording said
25 information in the Public Records of Volusia County, Florida. Also, the applicant shall

1 bear and pay all costs for recording all of the aforementioned documents.

2 The City shall encourage a mixture of design facades within the development, and
3 the Developer shall avoid a repeating sequence of designs and shall not utilize the same
4 design on lots within 3 single-family lots of each other on the same side of the street. The
5 property owner's association shall ensure that an individual lot owner seeking building
6 permits shall demonstrate compliance with this Section as part of the construction permit
7 submittal for the lot.

8 With respect to the enforcement of said agreements, covenants, easements or
9 restrictions entered into between the applicant and the owners or occupiers of property
10 within the PARK LAKE ESTATES PD, the City of DeLand shall only enforce the provisions
11 of the "Development Agreement" and City of DeLand Land Development Regulations
12 Ordinance No. 2013-11, as amended, whichever is applicable, and not the private
13 agreements entered into between the aforementioned parties.

14

15 L. Reverter Provision: The City Commission may rezone any portion of the
16 project which has not secured a final development order on or before five (5) years from
17 the effective date of this ordinance as may be necessary or appropriate to protect
18 adjoining properties or the public health, safety and welfare, unless the City Commission,
19 for good cause shown, shall extend the time period indicated in this paragraph.

20

21 M. Binding Effect of Plans; Recording; and Effective Date. The Planned
22 Development Plan, including any and all amendments shall bind and inure to the benefit
23 of the Applicant and his successor in title or interest. The PARK LAKE ESTATES PD
24 zoning, provisions of the "Development Agreement," and all approved plans shall run with
25 the land and shall be administered in a manner consistent with Article 12 of the City of

1 DeLand Land Development Regulations Ordinance No. 2013-11, as amended.

2 This Ordinance and all subsequent amendments shall be filed with the Clerk of the
3 Court and recorded within forty-five (45) days following execution of the document by the
4 City Commission, in the Official Records of Volusia County, Florida. One copy of the
5 document, bearing the book and page number of the Official Record in which the
6 document was recorded, shall be submitted to the Planning Department for placement in
7 the public file. The date of recording of this document shall constitute the effective date
8 of the PARK LAKE ESTATES PD or its subsequent amendments. The applicant shall
9 pay all filing costs for recording documents.

10

11 DONE and ORDERED by the City Commission, City of DeLand, Florida,
12 this ____ day of _____ (mo/yr).

13

14

1 ATTEST:

City Commission of DeLand Florida

2 Michael Pleus

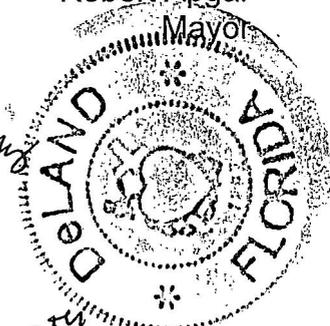
3 Robert Apgar

4 Michael Pleus
5 City Manager

6 Robert Apgar
7 Mayor

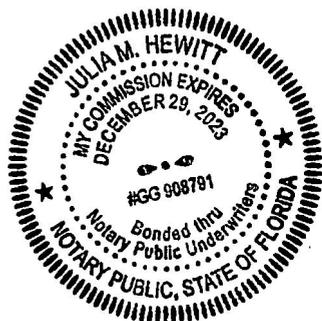
8 ATTEST:

9 Julie A. Hennessy
10 Julie A. Hennessy, MMC
11 City Clerk - Auditor



12 STATE OF FLORIDA
13 CITY OF DELAND

14 The foregoing instrument was acknowledged before me this 18th day
15 of Nov, 2020 (mo/yr), by Michael Pleus and Robert Apgar, as City
16 Manager and Mayor, City of DeLand, respectively, on behalf of the City of
17 DeLand, and who are personally known to me.



18 NOTARY PUBLIC, STATE OF FLORIDA

19 Type or Print Name:

20 Julia M. Hewitt

21 Commission No.: AM-908791

My Commission Expires: 12/29/23

1 WITNESSES:
2
3

4 
5
6

7 Aaron Matson Principal
8 Name, Title, Cap 5 Development, LLC, Applicant
9

10
11
12
13
14 The foregoing instrument was acknowledged before me this 17 day
15 of January, 2020 (mo/yr), by (Aaron Matson), applicant,
16 who is personally known to me or who has produced
17 _____ as identification ~~and by (_____),~~
18 ~~property owner~~, who is personally known to me or who has produced
19 _____ as identification
20
21
22

23 NOTARY PUBLIC, STATE OF ^{Ohio}FLORIDA

24 Type or Print Name: Mandy LeBeau

25 Mandy Le Beau

26 Commission No.: _____

27 My Commission Expires: _____
28



**MANDY LeBEAU, Notary Public
In and for the State of Ohio
My Commission Expires August 29, 2020**

1 WITNESSES:

2
3 Summer D. Meents

Elizabeth F. Williams Elizabeth F. Williams, Manager
EARL W. COLVARD Manager
Lake Park Estate, LLC, Property Owner

4
5
6
7
8
9
10
11
12
13
14 The foregoing instrument was acknowledged before me this 21 day
15 of April 2020 (mo/yr), by (_____), applicant,
16 who is personally known to me or who has produced
17 _____ as identification and by Earl W. Colvard & Elizabeth F. Williams
18 property owner, who is personally known to me or who has produced
19 _____ as identification

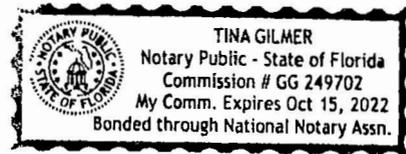
20
21
22
23 NOTARY PUBLIC, STATE OF FLORIDA

24 Type or Print Name:

25 Tina Gilmer

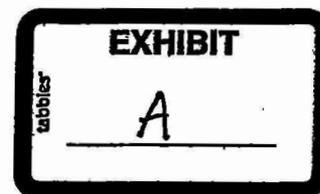
26 Commission No.: GG 249702

27 My Commission Expires: Oct. 15, 2022



LEGAL DESCRIPTION

7024-00-00-0025, 7013-00-00-0011 & 7023-00-00-0015



PARCEL B:

LANDS SITUATED IN SECTION 13, 23 AND 24, TOWNSHIP 17 SOUTH, RANGE 30 EAST, DELAND, VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE NORTHEAST CORNER OF SECTION 23, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA AND THE SOUTHWEST CORNER OF SECTION 13, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE RUN NORTH 01 DEGREES 06 MINUTES 33 SECONDS WEST, ALONG THE WEST LINE OF SAID SECTION 13, A DISTANCE OF 1338.66 FEET TO THE NORTHWEST CORNER OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SAID SECTION 13; THENCE RUN SOUTH 89 DEGREES 42 MINUTES 12 SECONDS EAST, ALONG THE NORTH LINE OF SAID SOUTH ½ OF THE SOUTHWEST ¼, A DISTANCE OF 1018.28 FEET; THENCE RUN SOUTH 01 DEGREES 33 MINUTES 28 SECONDS EAST, A DISTANCE OF 264.14 FEET; THENCE RUN SOUTH 89 DEGREES 42 MINUTES 12 SECONDS EAST A DISTANCE OF 330.17 FEET TO A POINT ON THE WEST LINE OF LANDS DESCRIBED IN DEED BOOK 10, PAGE 616, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN SOUTH 01 DEGREE 31 MINUTES 59 SECONDS EAST, ALONG SAID WEST LINE, A DISTANCE OF 434.18 FEET TO THE SOUTHWEST CORNER OF SAID LANDS; THENCE RUN SOUTH 89 DEGREES 46 MINUTES 06 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LANDS, A DISTANCE OF 725.24 FEET; THENCE RUN SOUTH 05 DEGREES 14 MINUTES 47 SECONDS WEST, A DISTANCE OF 337.14 FEET; THENCE RUN SOUTH 29 DEGREES 12 MINUTES 26 SECONDS WEST, A DISTANCE OF 1159.67 FEET; THENCE RUN SOUTH 60 DEGREES 47 MINUTES 53 SECONDS EAST, A DISTANCE OF 962.00 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 950.00 FEET AND A CENTRAL ANGLE OF 39 DEGREES 10 MINUTES 40 SECONDS; THENCE RUN SOUTHERLY AND EASTERLY ALONG THE ARC OF SAID CURVE A DISTANCE OF 649.59 FEET TO THE POINT OF TANGENCY; THENCE RUN NORTH 80 DEGREES 01 MINUTES 27 SECONDS EAST, A DISTANCE OF 1039.70 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF COUNTY ROAD NO. 4139; THENCE RUN SOUTH 19 DEGREES 57 MINUTES 26 SECONDS EAST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 301.80 FEET; THENCE RUN SOUTH 89 DEGREES 00 MINUTES 51 SECONDS EAST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY, A DISTANCE OF 16.06 FEET; THENCE RUN SOUTH 19 DEGREES 57 MINUTES 26 SECONDS EAST, CONTINUING ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 385.42 FEET; THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE RUN SOUTH 65 DEGREES 29 MINUTES 38 SECONDS WEST, A DISTANCE OF 372.31 FEET; THENCE RUN NORTH 26 DEGREES 45 MINUTES 29 SECONDS WEST, A DISTANCE OF 216.76 FEET; THENCE RUN NORTH 47 DEGREES 20 MINUTES 56 SECONDS WEST, A DISTANCE OF 117.55 FEET; THENCE RUN SOUTH 73 DEGREES 54 MINUTES 21 SECONDS WEST, A DISTANCE OF 159.10 FEET; THENCE RUN NORTH 83 DEGREES 07 MINUTES 08 SECONDS WEST, A DISTANCE OF 228.92 FEET; THENCE RUN SOUTH 73 DEGREES 26 MINUTES 58 SECONDS WEST, DISTANCE OF 328.99 FEET; THENCE RUN SOUTH 39 DEGREES 30 MINUTES 34 SECONDS WEST, A DISTANCE OF 234.81 FEET; THENCE RUN SOUTH 89 DEGREES 34 MINUTES 48 SECONDS WEST, A DISTANCE OF 115.05 FEET TO THE EAST LINE OF THE SOUTHEAST ¼ OF THE NORTHWEST ¼ OF THE AFOREMENTIONED SECTION 24; THENCE RUN

NORTH 00 DEGREES 22 MINUTES 01 SECONDS WEST, A LONG SAID EAST LINE, A DISTANCE OF 97.23 FEET TO THE SOUTHEAST CORNER OF THE NORTH 7 CHAINS OF THE SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SAID SECTION 24; THENCE RUN NORTH 89 DEGREES 53 MINUTES 18 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTH 7 CHAINS, A DISTANCE OF 1341.77 FEET TO THE SOUTHWEST CORNER OF SAID NORTH 7 CHAINS; THENCE RUN SOUTH 00 DEGREES 52 MINUTES 56 SECONDS EAST, ALONG THE WEST LINE OF SAID SOUTHEAST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$, A DISTANCE OF 906.78 FEET TO THE SOUTHEAST CORNER OF SAID SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$; THENCE RUN NORTH 89 DEGREES 53 MINUTES 09 SECONDS WEST, ALONG THE SOUTH LINE OF SAID SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$, A DISTANCE OF 666.80 FEET TO THE SOUTHWEST CORNER OF THE EAST $\frac{1}{2}$ OF SAID SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$; THENCE RUN NORTH 01 DEGREES 08 MINUTES 22 SECONDS WEST, ALONG THE WEST LINE OF SAID EAST $\frac{1}{2}$, A DISTANCE OF 1026.70 FEET TO THE SOUTHEAST CORNER OF THE NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$ OF SAID SECTION 24; THENCE RUN NORTH 89 DEGREES 53 MINUTES 16 SECONDS WEST, ALONG THE SOUTH LINE OF SAID NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$, A DISTANCE OF 671.43 FEET TO THE SOUTHWEST CORNER OF SAID NORTH $\frac{1}{2}$ OF THE NORTHWEST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF THE NORTHWEST $\frac{1}{4}$; THENCE RUN SOUTH 01 DEGREES 23 MINUTES 54 SECONDS EAST, ALONG THE WEST LINE OF SAID SECTION 24 AND THE EAST LINE OF THE AFOREMENTIONED SECTION 23, A DISTANCE OF 726.73 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 300 FEET OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 23; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 37 SECONDS WEST, ALONG SAID NORTH LINE OF THE SOUTH 300 FEET, A DISTANCE OF 300.06 FEET TO A POINT ON THE WEST LINE OF THE EAST 300 FEET OF SAID SECTION 23; THENCE RUN SOUTH 01 DEGREES 23 MINUTES 51 SECONDS EAST, ALONG SAID WEST LINE OF THE EAST 300 FEET, A DISTANCE OF 300.06 FEET TO THE SOUTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 23; THENCE RUN SOUTH 89 DEGREES 32 MINUTES 37 SECONDS WEST, ALONG SAID SOUTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 23, A DISTANCE OF 305.66 FEET TO THE EAST RIGHT-OF-WAY LINE OF WEST VOLUSIA BELTWAY, THENCE RUN NORTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 2314.28 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE RUN SOUTH 89 DEGREES 47 MINUTES 03 SECONDS EAST, A DISTANCE OF 330.02 FEET TO A POINT ON A LINE LYING 300 FEET EAST OF, WHEN MEASURED PERPENDICULARLY TO, SAID EAST RIGHT-OF-WAY LINE; THENCE RUN NORTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG SAID LINE A DISTANCE OF 330.02 FEET; THENCE RUN NORTH 89 DEGREES 47 MINUTES 03 SECONDS WEST, A DISTANCE OF 330.02 FEET TO A POINT ON THE AFOREMENTIONED EAST RIGHT-OF-WAY LINE OF WEST VOLUSIA BELTWAY; THENCE RUN NORTH 00 DEGREES 24 MINUTES 37 SECONDS WEST, ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 91.60 FEET TO THE NORTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SAID SECTION 23; THENCE RUN NORTH 89 DEGREES 21 MINUTES 14 SECONDS EAST, ALONG SAID NORTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF SECTION 23, A DISTANCE OF 558.51 FEET TO THE POINT OF BEGINNING.

PARCEL B CONTAINING 198.02 ACRES MORE OR LESS.

