

ORDINANCE NO. 97-20

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM R-12, MULTIPLE-FAMILY DWELLING DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE WEST SIDE OF NORTH BOUNDARY AVENUE, APPROXIMATELY 800 FEET NORTH OF THE INTERSECTION OF NORTH BOUNDARY AND WEST MINNESOTA AVENUES; APPROVING A DEVELOPMENT PLAN FOR LAUREL OAKS DEVELOPMENT (F/K/A GROVE HAMLET APARTMENTS), A RESIDENTIAL PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 6.212 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, Lawrence E. Bennett, applicant for the owner, Baron Capital, Inc. (hereinafter referred to as "Applicant"), owns a 6.212 acre parcel of land located on the west side of North Boundary Avenue, approximately 800 feet north of the intersection of North Boundary and West Minnesota Avenues, 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 R-12, Multiple-Family Dwelling District, 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 Laurel Oaks Development (f/k/a Grove Hamlet Apartments) Planned Development 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 Medium Density Residential land use designation which: encourages intensified development in outlying or newly developed areas for a variety of residential 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 R-12, Multiple-Family Dwelling District, 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 Laurel Oaks Development (f/k/a Grove Hamlet Apartments) Planned Development, 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 Laurel Oaks Development (formerly Grove Hamlet Apartments)," 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.

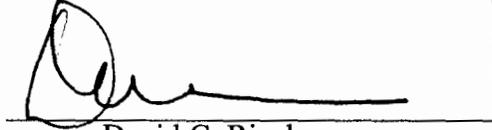
Section 8. The City Engineer, Planning Director and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

Section 9. 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 10. 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.

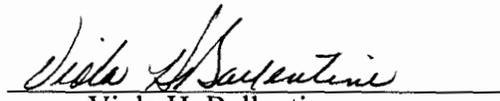
Section 11. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 19th day of May, 1997.



David C. Rigsby
Mayor-Commissioner

ATTEST:

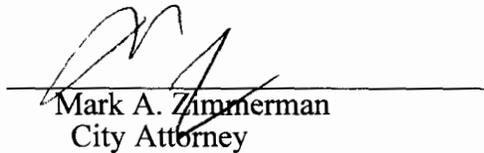


Viola H. Ballentine
City Clerk - Auditor

Passed on first reading: May 5, 1997
Adopted on second reading: May 19, 1997



APPROVED AS TO FORM AND LEGALITY:



Mark A. Zimmerman
City Attorney

EXHIBIT A
LAUREL OAKS DEVELOPMENT - LEGAL DESCRIPTION

THE SOUTH 337.00 FEET OF THE NORTH 347.00 FEET OF THE EAST
833.00 FEET OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF
SECTION 8, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY,
FLORIDA.

Exhibit B

LIST OF CONDITIONS FOR THE APPROVAL OF Z970303
PROPOSED PLANNED DEVELOPMENT FOR
THE LAUREL OAKS DEVELOPMENT
(FORMERLY GROVE HAMLET APARTMENTS)

1. Prior to the recording of the PD, the applicant shall revise the second sentence of the second paragraph on page one to read, "The existing one and two bedroom units shall be lotted to the center of common walls and there shall be a minimum 10'1" projection from the front wall and a 3'1" projection for all other walls."
2. Prior to the recording of the PD , the applicant shall revise the PD report by adding the word "proposed" before the wording preliminary plat in the first sentence of the fourth paragraph on page one.
3. Prior to the recording of the PD , the applicant shall revise the PD report, providing the minimum lot sizes of 27.18' x 37.18'; 49.18' x 27.18' and 49.28' x 27.18'.
4. Under Section 6, Existing Building Construction, delete the last sentence stating that the fire walls shall be grandfathered.
5. Prior to the recording of the PD, the owner or applicant shall provide a report from a Florida registered engineer certifying that the existing construction of each dwelling unit complies with all relevant minimum fire separation standards.
6. If the existing dwellings do not comply with the minimum fire separation requirements, prior to the recording of the subdivision plat, all relevant renovations to the individual dwelling units must be completed.
7. Revise the language of Section 7, Utility and Drainage, to read, "The proposed Planned Development and/or subsequent subdivision of the property will not require the City to own or maintain any portion of the existing potable water, wastewater and/or drainage systems".
8. Revise the first sentence of Section 11a, to read , "Exhibit A provides a layout of the existing development...".
9. Delete the existing second sentence of Section 11c and replace as follows: "For all existing development, the existing parking and driveways shall be grandfathered. All new development, which results in an increase in the number of dwelling units, shall provide additional parking, per the relevant City regulations.
10. Delete the existing language of Section 11d and replace as follows: "For all existing development, the existing setbacks shall be grandfathered. All new development, shall comply with the minimum setbacks, as required by the City's R-12 zoning regulations."
11. Revise the language of Section 11e. as follows: " For the existing development, maximum impervious lot coverage shall be grandfathered. New development shall comply with the relevant maximum impervious coverage requirements."

12. Prior to the approval of the plat for this development, the City must approve the PD, the PD report must be revised to address the conditions upon which it was approved and the PD document must be recorded into the public record.
13. Prior to the approval of the final plat for the subdivision of the subject property, the applicant shall provide a set of covenants and deed restrictions, acceptable to the City, which establishes a property owners association, which shall own and maintain all common areas.
14. Prior to the approval of final plat, the applicant shall submit covenants and deed restrictions, acceptable to the City, which fully discloses that there the existing development may have nonconformities, such as parking, drainage, landscaping, tree protection and other related development standards.
15. As required by the City Attorney, the covenants and deed restrictions shall also include a Party Wall Agreement.

The News-Journal

Published Daily and Sunday
Daytona Beach, Volusia County, Florida

State of Florida,
County of Volusia:

Before the undersigned authority personally appeared
Bryan P. Stephens

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

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

Public Hearing

in the matter of Ordinance No. 97-20

in the Court, was published

in said newspaper in the issues.....

May 9, 1997

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

Sworn to and subscribed before me

this 9th day of May

A.D. 19 97

LEGAL ADVERTISEMENT

NOTICE OF PUBLIC HEARING CITY COMMISSION CITY OF DELAND, FLORIDA

NOTICE IS HEREBY GIVEN that there will be a Public Hearing on the following ordinance on May 19, 1997, at the regular meeting of the DeLand City Commission. The meeting will take place at 7:00 P.M. in the City Commission Chambers, 121 West Rich Avenue, City Hall Annex. All interested parties are invited to attend

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

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

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PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 6.212 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CONCURRENTLY PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Legal L26362, May 9, 1997 1t.

PROOF OF PUBLICATION

IN RE

NEWS-JOURNAL CORPORATION

Daytona Beach, Florida

Publication Fee, \$