

IN THE COUNTY COUNCIL OF THE
COUNTY OF VOLUSIA, FLORIDA

IN RE: Application of Richard
A. McMahan For Project
known as "Glen Eagles"

ORDER AND RESOLUTION No. 192
GRANTING A REQUEST FOR CHANGE OF ZONING
TO PLANNED UNIT DEVELOPMENT

FILED FOR RECORD
RECORD VERIFIED

JAN 22 4 05 PM '85

CLERK OF CIRCUIT COURT
VOLUSIA COUNTY, FLORIDA

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The application of Richard A. McMahan, for rezoning came to be heard by and before the Volusia County Council, Volusia County, Florida, on the 10th day of October 1985, at the Volusia Council Building, DeLand, Florida. Based upon the verified Application and other supporting documents, maps, charts, overlays, and other instruments; the advice, report and recommendations of the Planning Department, Legal Department, and other departments and agencies of Volusia County; the testimony adduced and evidence received at public hearing on this application, by the West Volusia Zoning Commission on September 10, 1985, and otherwise being fully advised in the premises, the Volusia County Council does hereby find and determine as follows:

GENERAL FINDINGS

- (a) That the Application of Richard A. McMahan, was duly and properly filed herein on August 1, 1985, as required by law.
- (b) That all fees and costs which are by law or regulation or ordinance required to be borne and paid by the Applicant have been paid.
- (c) That the Applicant, Richard A. McMahan, is an individual who is duly authorized to transact business in the State of Florida and whose address is 920 Pine Tree Terrace, DeLand, Florida 32720.
- (d) That the Applicant is the owner of a certain parcel of land which is situated in Volusia County and which contains approximately 10.0 acres, more or less; this parcel is more particularly described in the survey and legal description and is attached hereto as Exhibit "A".
- (e) That the applicant has had a pre-application meeting as required by Ordinance 80-8, Section 813.05.
- (f) That the applicant has given due and proper notice to

surrounding property owners and has "posted" the Volusia Tract as required by Ordinance No. 80-8 and the regulations and policies of Volusia County, Florida.

FINDINGS REGARDING REZONING

(a) That the Applicant has applied for a change of zoning from the present zoning classification A-3, of the property described in Exhibit "A", to Planned Unit Development.

(b) That after a review of the comprehensive plan and the Official Zoning Map applicable to this property, the Council finds that the change in zoning of the subject tract to Planned Unit Development, as proposed by the Applicant, will not adversely affect properties adjacent to the subject property.

(c) That the said rezoning as a Planned Unit Development is consistent with DOT, the Volusia County Comprehensive Plan and the intent and purpose of the Zoning Regulations of Volusia County and does promote public health, safety, morals, general welfare, and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, in view of the above findings and being otherwise fully advised in the premises, the County Council, Volusia County, Florida, does hereby

RESOLVE AND ORDER as follows:

(1) That the Application of Richard A. McMahan, for the rezoning of the subject parcel is hereby granted.

(2) That the zoning classification of the real property described in Exhibit "A" attached hereto is hereby changed from A-3 to Planned Unit Development described in Article VII of the Zoning Ordinance of Volusia County, No. 80-8, as amended and the governmental land use controls applicable to the said property shall be set forth herein.

(3) That the Official Zoning Map of Volusia County is hereby amended to show the rezoning of the said property to Planned Unit Development.

(4) That Ordinance No. 80-8, as amended, is hereby amended to conform to the provisions of the "Development Agreement" as set forth in this Order and Resolution, it being the intent of the County Council that this Order and Resolution shall govern with respect to

any inconsistency between the Zoning Regulations and the "Development Agreement". Unless otherwise consistent with this Order and Resolution all applicable provisions of the zoning regulations shall govern the development of the property which is the subject of this Order and Resolution. The Volusia County Enforcement Official will ensure overall compliance with this Order and Resolution.

(5) The Development Agreement, as required by Section 813.05, paragraph B of the Zoning Regulations, is set forth below, and it shall govern the development of the aforesaid property.

DEVELOPMENT AGREEMENT

1. Development Concept: The property shall be developed as a Planned Unit Development in substantial accordance with the (a) Overall Development Plan, and (b) the Site Development Plan or Preliminary and Final Plat as required by the Subdivision Ordinance for each of the phases of the development which shall be submitted in the manner provided by Ordinance 80-8, Section 815.00.

(a) The "Overall Development Plan" shall consist of the Development Agreement" and a map dated August 22, 1985, and entitled "Preliminary Plan." The Preliminary Plan is hereby approved by this Council as part of the Overall Development Plan, and said map is incorporated in this Order and Resolution by reference as Exhibit "B". The Overall Development Plan shall be filed and retained for public inspection in the office of the County Zoning Division, and it shall constitute a supplement to the Official Zoning Map of Volusia County. All Overall Development Plan Amendments other than those deemed by the Enforcement Official to be minor amendments as set out by Ordinance No. 80-8, as amended, Section 813.06, shall require review and recommendation of the West Volusia Zoning Commission and of the Volusia County Council in the same manner as the original rezoning.

(b) Site Development Plan: After the Overall Development Plan has been recorded and prior to the issuance of building permits, a site development plan relative to individual phases or areas of development shall be prepared and submitted in the manner required by Volusia County Zoning Ordinance 80-8, Section 815.00. A preliminary and final plat for areas to be subdivided shall be

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submitted for review and approval under the subdivision regulations. BOOK under the RACE VOLusia COUNTY FLORIDA

2. Phase of Development: The Applicant represents that it intends to develop the project basically in one phase over a period of approximately two (2) years. Utilities will be developed at the same rate as residential dwelling units.

3. Land Use and Density: The Preliminary Plan as indicated by Exhibit "B" contemplates a residential community composed of a series of single family attached homes, and natural open space. Thirty six (36) residential units are planned for the site. The total or gross residential density shall not exceed 3.6 units per acre for the development.

Land Uses - Glen Eagles

Net Acreage for each Use

Percent of Total Acreage

	<u>Approximate Acreage for each Use</u>	<u>Approximate Percent of Total Acreage</u>
Single Family Attached	10.0	100%
Common Open Space	6.7 acres	67%

4. Permitted Uses: The use permitted within this P.U.D. shall be attached single family dwellings with customary accessory uses.

- Maximum Number of Buildings: 18 each
- Maximum Number of Dwelling Units: 36
- Maximum Length of Buildings: 84 feet
- Maximum Building Height: 35 feet
- Minimum Living Floor Area: 1200 Square feet per dwelling unit

Building Setbacks: ^{32 ft from driveway} 40 feet between sides of buildings

No building shall be located closer than 25 feet to the edge of the pavement of any street.

Minimum Project Perimeter Setback: 20 feet

Parking Requirements: An attached two (2) car garage per unit.

Ownership: Each unit will be under individual ownership. Each unit will be 1/2 the building and Lot, 2 feet from building on all sides except 0 Lot line. All other areas will be under common ownership.

5. Open Space Areas: Open space areas shall be created by the retention of the ownership and control of such property by the

Applicant or its successor in interest and the conveyance to affected property owners of said open space areas. The common areas shall be retained by the Applicant and by the Successor homeowners' association. If these non-dedicated areas are improved or changed from their natural state, they shall be maintained by the Applicant or by a non-profit corporation, homeowners' association or other legal entity created or empowered to do so.

6. Environmental Consideration: It is recognized that the site governed by the Preliminary Plan has outstanding natural beauty and that mutual cooperation to preserve the natural amenities of the area is essential. Towards that end, it is agreed that:

(a) Throughout the site no trees of any size over four (4) inches in diameter will be removed, if there is any reasonable and economic way to save them. The Applicant specifically states that he will comply with the Volusia County Tree Protection Ordinance No. 85-13, and incorporate it into the considerations of the Final Plan.

(b) Final landscape plans will utilize natural vegetation in an attempt to retain the natural characteristics of the site wherever possible.

7. Sewage: Sewage treatment for the single family attached area will be handled by individual septic tanks. Connection will be made to a central sewage system when it becomes available to the project and will be paid for by the Applicant or the homeowners' association, if one has been established.

8. Water: The water system will be connected to the system in Long Leaf Plantation which is owned and operated by West Volusia Utilities, Inc.

9. Drainage: Stormwater drainage will be controlled and governed by the Volusia County Stormwater Management Ordinance.

10. Roadways: Glen Eagles is planned to be developed around a system of private streets and built to County Standards. They shall be constructed so as to blend in with the aesthetic character of the area and to serve with the functional purpose for which they were designed. The developer intends to have medians and landscapes islands in all the roadways and desires to leave as many trees within the right-of-way as possible. All private streets shall be maintained

by the Applicant or by its successor in interest. The Applicant will furnish to the Volusia County Zoning Department a copy of the Covenants and Restrictions which will govern the control and maintenance of the private streets and they shall be recorded in the Public Records of Volusia County, Florida. The Applicant shall bear and pay all costs for recording all of the aforesaid documents.

11. Covenants: Applicant will comply with all ordinances and regulations required; specifically Applicant will submit to the Volusia County Zoning Department the proposed language of restrictive covenants and agreements, easements and instructions after receiving input from potential owners.

12. Binding Effect of Plans; Recording: The provisions of the foregoing "Development Agreement", including any and all supplementary orders and resolutions, and all Site Development Plans shall bind and inure to the benefit of the Applicant or its successor in title or interest. The zoning and land use controls and restrictions shall run with the land and may be enforced by the appropriate agency of Volusia County. This Order and Resolution and all subsequent orders and resolutions shall be filed for record in the Official Records of Volusia County, Florida. In the event that a homeowners' association is created, a copy of the charter and by-laws of such association shall be filed, for the information of the public, in the said official records. The Applicant shall bear and pay all costs of recording all of the aforesaid documents.

13. Guarantees: Applicant agrees to 1) proceed with the proposed development according to all regulations; 2) provide appropriate performance and maintenance guarantees; 3) follow all other provisions of this ordinance to the extent not expressly inconsistent with the written Development Agreement, and bind the applicant's successors in title to his commitments.

14. Reverter Provision: Within 12 calendar months from the effective date of this Order and Resolution, the Applicant shall submit a Site Development Plan or Preliminary Plat as required by Ordinance 80-8, Section 813.06 covering the development of the proposed project. In the event that the aforesaid plans are not submitted on or before the date indicated, the property shall revert

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to the prior zoning classification, unless the County Council, or its successor agency, for good cause shown, shall extend the time period indicated in this paragraph.

Said resolution and order adopted this 10th day of October A.D., 1985.

COUNTY COUNCIL
VOLUSIA COUNTY, FLORIDA

By: Jack Ascherl
Chairman

ATTEST:

Thomas C. Kelly
County Manager

Richard A. McMahon
RICHARD A. McMAHAN, Applicant

STATE OF FLORIDA
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared JACK ASCHERL AND THOMAS C. KELLY, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me the execution of same.

WITNESS my hand and official seal in the County and State last aforesaid this 7th day of November A.D., 1985.

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The East 1/4 of the NW 1/4 of the NE
1/4 of Section 33, Township 17 South,
Range 30 East, Public Records of Volusia
County, Florida.

EXHIBIT "A"

FEB 24 1986

IN THE COUNTY COUNCIL
COUNTY OF VOLUSIA, FLORIDA

IN RE: Application of Richard
A. McMahan for Project
known as "Glen Eagles"

MINOR AMENDMENT TO
ORDER AND RESOLUTION No. 85-192
GRANTING A REQUEST FOR CHANGE OF ZONING
TO PLANNED UNIT DEVELOPMENT

WHEREAS, on the 10th day of October, 1985, the Volusia County Council approved the Order and Resolution for Planned Unit Development upon the application of Richard A. McMahan; and

WHEREAS, the said resolution incorporates a Development Agreement controlling the development of the property under planned unit development; and

WHEREAS, paragraph 4 of said Development Agreement provides for building set backs of 40 feet between sides of buildings; and

WHEREAS, in Memorandum #PL-86-03, dated January 28, 1986, the Director of Planning and Zoning approved a minor change in said paragraph 4 to amend the said set back from 40 feet to read 32 feet; and

WHEREAS, pursuant to the provisions of 813.06(d), the enforcement official for the County, after departmental comment, has authority to amend the development agreement for minor amendments.

NOW, THEREFORE, the enforcement officer hereby and herewith amends paragraph of the Development Agreement previously referred to by changing "Building Setbacks:" to read "32 feet between sides of buildings."

This amendment approved and executed the 20 day of

February, 1986.


DON SIKORSKI, Volusia County Director
of Planning and Zoning

STATE OF FLORIDA
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day before me, an officer duly

qualified to take acknowledgments, personally appeared DON SIKORSKI, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me the execution of same.

WITNESS my hand and official seal in the State and County last aforesaid this 20 day of February, A. D. 1986.

Quincy Knock
Notary Public, State of Florida at Large
My Commission Expires Notary Public, State of Florida at Large.
My Commission Expires Oct. 20, 1989.
Bonded thru Notary Public Underwriters.

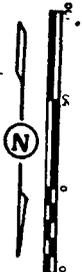
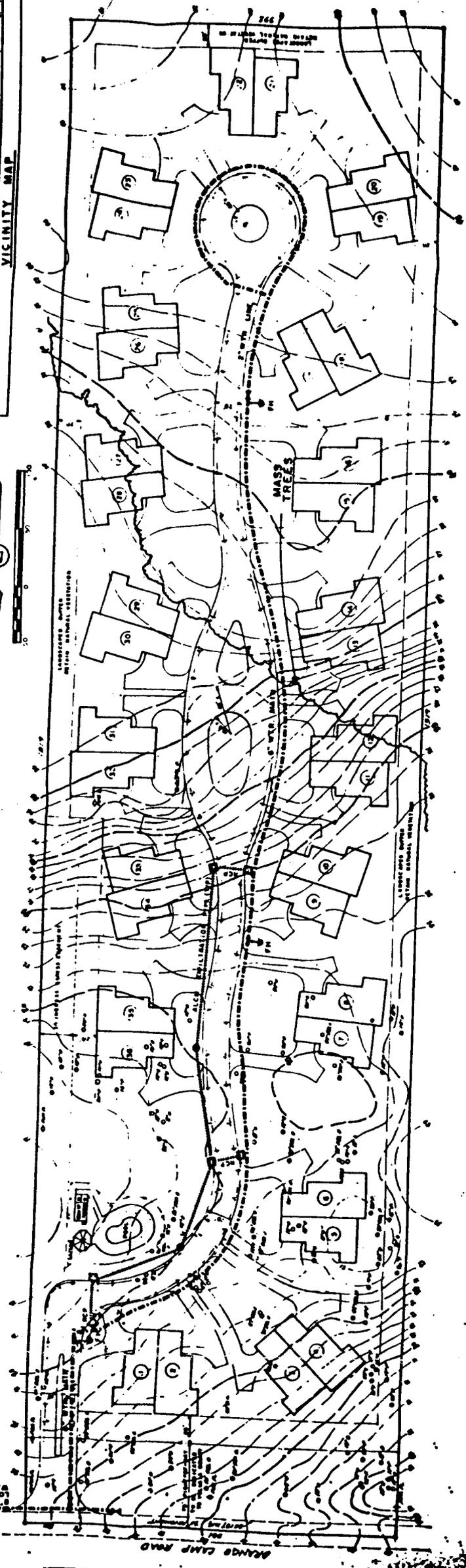
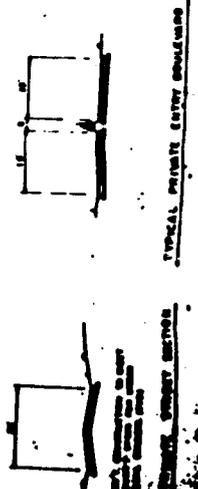
REVISED 8/22/00

PRELIMINARY PLAN
EXHIBIT "B"
SENEAGLES
 PUD

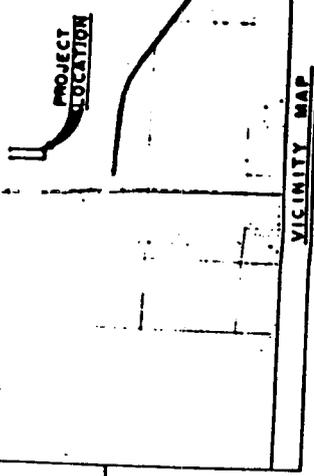
VOLUSIA COUNTY, FLORIDA
 PLANNING AND ZONING DEPARTMENT
 1000 W. WASHINGTON AVENUE
 PALM BAY, FLORIDA 32909

ALL HOUSE SERVICES TO BE INDIVIDUALLY SERVICED
 UNITS TO BE SERVICED BY INDIVIDUAL METRIC TANKS
 NET AREA - 11,111.11 SQ FT / NET TANK
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