

ORDINANCE 2008 – 16

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, AMENDING ORDINANCE NO. 2007-33; WHICH APPROVED THE DEVELOPMENT PLAN FOR THE COLONIAL BANK PLANNED DEVELOPMENT BY AMENDING THE PLANNED DEVELOPMENT DOCUMENT BY INCREASING THE OFFICE BUILDING FROM 3,000 SQUARE FEET TO 5,000 SQUARE FEET, ALLOWING DIVISION OF PROPERTY INTO TWO INDEPENDENT PARCELS WITH SHARED UTILITY MAINS AND SITE ACCESS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2007-33, adopted on June 4, 2007, approved the Development for the Colonial Bank PD; and

WHEREAS, the applicant for the Colonial Bank Planned Development is requesting that the Planned Development document be modified to increase the office building from 3,000 square feet to 5,000 square feet, allowing the division of the property into two independent parcels with shared utility mains and site access and to facilitate the sale of the office building portion; and

WHEREAS, the proposed amendment will not have a detrimental effect on the surrounding properties, and it is in the best interests of the City to grant the requested modification to the Colonial Bank Planned Development.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. City of DeLand Ordinance No. 2007-33, approving the Development Plan Report for the Colonial Bank PD, is hereby amended by modifying the Planned Development Document to increase the office building from 3,000 square feet to 5,000 square feet, allowing the division of the property into two independent parcels with shared utility mains and site access, on the condition that:

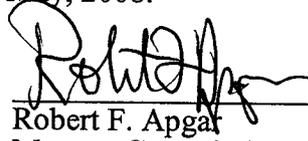
1. The applicant shall provide a Utility Service Agreement and a Fair Share Agreement.
2. The applicant shall add the following to page 10, F. Environmental Considerations: "The minimum requirements of the Land Development Regulations, Ordinance No. 2002-09, as amended, shall be met".

Section 2. At the time of development, the developer 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, as amended, shall supersede comparable standards contained in the Code of Ordinances.

Section 3. 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.

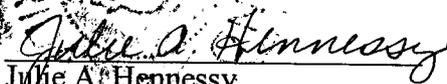
Section 4. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 5th day of May, 2008.



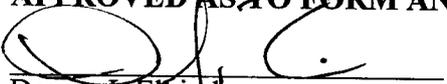
Robert F. Apgar
Mayor - Commissioner



ATTEST:

Julie A. Hennessy
City Clerk, Auditor

Passed on first reading: April 21, 2008
Adopted on second reading: May 5, 2008

APPROVED AS TO FORM AND LEGALITY:


Darren J. Elkind
City Attorney

PLANNED DEVELOPMENT AGREEMENT

IN THE CITY COMMISSION OF THE

CITY OF DELAND, FLORIDA

IN re: __Z- 08-18_____, Application of

Colonial Bank, N.A.

Ordinance #_2008-16_____

ORDER AND RESOLUTION

GRANTING A REQUEST FOR CHANGE OF ZONING FROM

(VOLUSIA COUNTY) R-3 & A-3C

TO

REVISED COLONIAL BANK PD PLANNED DEVELOPMENT

The application of Colonial Bank, N.A., hereinafter, "Applicant", for rezoning was heard by and before the City Commission, DeLand Florida, on ___May 5, 2008. Based upon the verified Application and other supporting documents, maps, charts, overlays, other evidence and instruments; the advice report, and recommendations of the Community Development, and other Departments and agencies of DeLand, Florida; and the testimony adduced and evidence received at the Public Hearing on this Application by the Planning Board on _March 19, 2008, and otherwise being fully advised, the City Commission does hereby find and determine as follows:

GENERAL FINDINGS

- A. That the application of Colonial Bank, N.A. was duly and properly filed herein on ___December 14, 2007 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 owner of a 1.92 acre parcel of land which is situated in DeLand, Florida. This parcel of land is described more particularly in the survey and legal descriptions, 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 #2002-09, as amended.

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

FINDINGS REGARDING REZONING

- A. That the Applicant has applied for a change of zoning from the present zoning classifications of the parcel described in Exhibit "A" from Colonial Bank PD to Revised Colonial Bank PD.

- B. That the said rezoning to a PD is consistent with both the City of DeLand Comprehensive Plan Ordinance #1990-04, as amended, and the intent and purpose of the City of DeLand Land Development Regulations Ordinance #2002-09, as amended, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY COMMISSION CHAMBERS, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA,

THIS ____ 5th DAY OF ____ May_, A.D., _2008_, AS FOLLOWS:

- A. That the Application of Colonial Bank, N. A. for the rezoning of the subject parcel is hereby granted.

- B. That the zoning classification of the subject parcel described in Exhibit "A" attached hereto is hereby amended from Colonial Bank PD to Revised Colonial Bank PD as described in Article VII of the City of DeLand Land Development Regulations Ordinance #2002-09, as amended.
- C. That the Official Zoning Map of the City of DeLand is hereby amended to show the rezoning of said parcel to Revised Colonial Bank PD.
- D. That the City of DeLand Development Regulations Ordinance #2002-09, as amended, is consistent with the provisions of the "Development Agreement" as hereinafter set forth in this Ordinance and with respect to any conflict between Land Development Regulations Ordinance #2002-09, as amended, and the "Development Agreement", the provisions of the "Development Agreement" shall govern. Ordinance #2002-09, as amended, shall govern with respect to any matter not covered by the "Development Agreement." The City of DeLand will ensure overall compliance with this Ordinance.
- E. Unless otherwise provided for herein, the City of DeLand Land Development Regulations Ordinance #2002-09, as amended, shall apply to the Revised PD in the same manner as the C-2 zoning classification.

F. Nothing in this Ordinance shall abridge the requirements of the City of DeLand Ordinance other than Ordinance #2002-09, as amended. Timing and review procedures contained in the Order and Resolution may be modified to comply with the City of DeLand Development Regulations, Ordinance #2002-09, as amended. Further, nothing in the Development Agreements is intended to abridge the requirements of Ordinance #2002-09, as amended, and any other City Ordinance.

DEVELOPMENT AGREEMENT

A. **Development Concept:** The property shall be developed as a PD substantially in accordance with Planned Development Plan. The Planned Development Plan shall govern the development of the property as a PD and shall regulate the future land use of this parcel.

1. **Planned Development Plan:** The Planned Development Plan shall consist of the Development Plan map prepared by Ghyabi & Associates and dated December, 2007 and this Development Agreement. The Planned Development Plan is hereby approved and incorporated in this Ordinance by reference as "Exhibit B". The Planned Development Plan shall be filed and retained for public inspection in the Planning Department and it shall constitute a supplement to the Official Zoning Map of the City of DeLand.
2. **Amendments:** All amendments of the Planned Development Plan, other than those deemed by the Planning Department to be minor amendments as set out in Ordinance #2002-09, as amended, shall require the review and recommendation of the Planning Board and action by the City Commission in the same manner as a rezoning of the parcel.
3. **Final Site Plan Approval:** After the Planned Development Plan is recorded, and prior to issuance of any permits for construction, including clearing and landfill, a Final Site Plan shall be prepared

and submitted for review and approval in the manner required by Article 12 of the City of DeLand, Land Development Regulations Ordinance #2002-09, as amended.

B. Unified Ownership. The Applicant or his successor shall maintain ownership of the subject parcel until after issuance of the Final Site Plan Development Order.

C. Phases of Development. The proposed development will be constructed in two (2) phases. The first phase will be the 2,500 SF bank building with drive through, and the second phase will be the approximate 5,000 SF building.

D. Land Uses within the PD. The development of the parcel shall be consistent with the uses prescribed for each area within the proposed PD. The location and size of said use areas are shown on the Development Plan map, Exhibit "B". The following land uses shall be allowed as permitted principal uses and structures along with their customary accessory uses and structures:

- Abstractors, accountants, bookkeeping and other business services
- Art, antique, china, confectionary, florists, flower, gift, glassware, jewelry, luggage shop, and tobacco shop
- Bakeries (retail), pastry, and gourmet shops

- Beauty salons and barber shops
- Bed and Breakfast inn
- Book and stationery stores, newsstands
- Clinics, laboratories, medical, and dental offices
- Drive through banking / Financial Institution
- Interior decorators
- Investment, insurance, and real estate and bank offices
- Men's, women's and children's clothing
- Mini and neighborhood parks
- Offices: general, professional, architectural, engineering, surveying, legal, and other professional services
- Photographic supplies, studios, art supplies, and music shops
- Public or governmental buildings and land uses (not to exceed 3,000 SF in the aggregate)
- Travel agencies
- Other uses approved by the City Commission after review and recommendation by the Planning Board, which are unquestionably similar to those uses permitted herein.

E. Development Standards. The minimum site design standards for this PD are as follows:

1. Minimum Lot Area: 27,000 SF
2. Minimum Yard Size:
 - a) Front Yard: 40ft
 - b) Rear Yard: 20ft
 - c) Exterior Side Yard: 20ft
 - d) Interior Side Yard: 7.5ft

**NOTE: Mechanical equipment shall be allowed
within the interior side yard.**

3. Maximum Lot Coverage: 70%
4. Maximum Building Height: 35ft
5. Landscape Buffer Requirements:
 - a) Front: 40ft
 - b) Rear: 20ft
 - c) Side (Exterior): 20ft
 - d) Side (Interior): None
6. Perimeter Building Setback:
 - a) Front Yard: 40ft
 - b) Rear Yard: 20ft
 - c) Exterior Side Yard: 20ft
 - d) Interior Side Yard: 7.5ft

**NOTE: Mechanical equipment shall be allowed
within the interior side yard.**

7. Minimum Building Separation: 15ft
8. Off Street Parking Requirements: 1 space per 250 SF for all uses
9. Signage requirements: Two signs shall be allowed, a primary sign along main SR 15-A and a secondary sign along Grantham Way, near the entrance drive.

The maximum sign sizes shall be as follows:

- a) Primary Sign: 48 sf
- b) Secondary Sign: 24 sf

F. Environmental Considerations. The proposed PD site is approximately four (4) feet lower than the surrounding streets, and therefore will require significant fill in order to provide the proposed buildings with the required minimum floor elevations. With this in mind, the site plan aims to protect as many trees on site as possible however the fill dirt requirements make it nearly impossible to protect trees within the interior of the site. The site plan shall preserve vegetation and trees in the landscape buffers as much as possible. The minimum requirements of the Land Development Regulations Ordinance #2002-09, as amended, shall be met.

G. Sewage Disposal and Potable Water. Provision for sewage disposal and potable water needs of the PD will be provided in accordance with the Comprehensive Plan, Ordinance #1990-04, as amended, the Land

Development Regulations Ordinance #1990-04, as amended, and the State of Florida Administrative Code 64E-6.

- H. Stormwater Drainage. Provisions for stormwater retention shall be in accordance with the Land Development Regulations Ordinance #2002-09, as amended.
- I. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the Land Development Regulations Ordinance #2002-09, as amended. The parcel shall be developed in substantial accordance with the following access and transportation system improvements:
1. Access. One access shall be provided on Grantham Way as per the Site Development Plan. An access easement shall be provided on portions of Lot 1 to provide ingress/egress for Lot 2.
 2. Transportation System Improvements. There shall be no road or signal improvements required for this PD.
- J. Building or Property Owners Association. A Property Owners Association will be established for this PD to provide shared rights and responsibilities for landscaping, irrigation and trash facilities. The charter and by-laws of said association and any other agreements, covenants, easements or restrictions shall be furnished to the City of DeLand at the time of creation.

The applicant shall be responsible for recording said information in the Public Records of Volusia County, Florida. Also, the applicant shall bear and pay all costs for recording all of the aforementioned documents.

With respect to the enforcement of said agreements, covenants, easements or restrictions entered into between the applicant and the owners or occupiers of property within the _PD, the City of DeLand shall only enforce the provisions of the "Development Agreement" and City of DeLand Land Development Regulations Ordinance # 2002-09, as amended, whichever is applicable, and not the private agreements entered into between the aforementioned parties.

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

L. Binding Effect of Plans; Recording; and Effective Date. The Planned Development Plan, including any and all amendments shall bind and inure to the benefit of the Applicant and his successors in title or interest. The PD zoning, provisions of the "Development Agreement", and all approved plans

shall run with land and shall be administered in a manner consistent with Article 12 of the City of DeLand Land Development Regulations Ordinance #2002-09, as amended. This Ordinance and all subsequent amendments shall be filed with the Clerk of the Court and recorded within forty-five (45) days following execution of the document by the City Commission, in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and page number of the Official record in which the document was recorded, shall be submitted to the Planning Department for placement in the public file. The date of recording of this document shall constitute the effective date of the PD or its subsequent amendments. The applicant shall pay all filing costs for recording documents.

DONE and ORDERED by the City Commission, City of DeLand, Florida, this
__5th__ day of __May, 2008__.

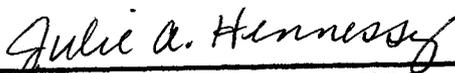
ATTEST:

City Commission of DeLand, Florida


~~Mike Abels~~ **MICHAEL PLEUS**
City Manager


Robert Apgar
Mayor

ATTEST:


Julie A. Hennessy, MMC
City Clerk - Auditor

STATE OF FLORIDA

CITY OF DELAND

The foregoing instrument was acknowledged before me this 10th day of DECEMBER 2008 (mo/yr), by Michael Pleus and Robert Apgar, as City Manager and Mayor, City of DeLand, respectively, on behalf of the City of DeLand, and who are personally know to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Suellen Pope

Commission No.:



My Commission Expires:

WITNESSES:

[Signature]
Rolmary Jerez

[Signature]
Owner's Name, Title & Corporation
Julio Zaldivar Jr.
VP, Corporate Real Estate

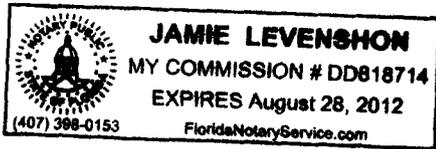
STATE OF FLORIDA

COUNTY OF Dade

The foregoing instrument was acknowledged before me this 1 day of December, 08 (mo/yr), by Julio Zaldivar Jr., who is personally known to me or have produced as identification.

NOTARY PUBLIC, STATE OF FLORIDA

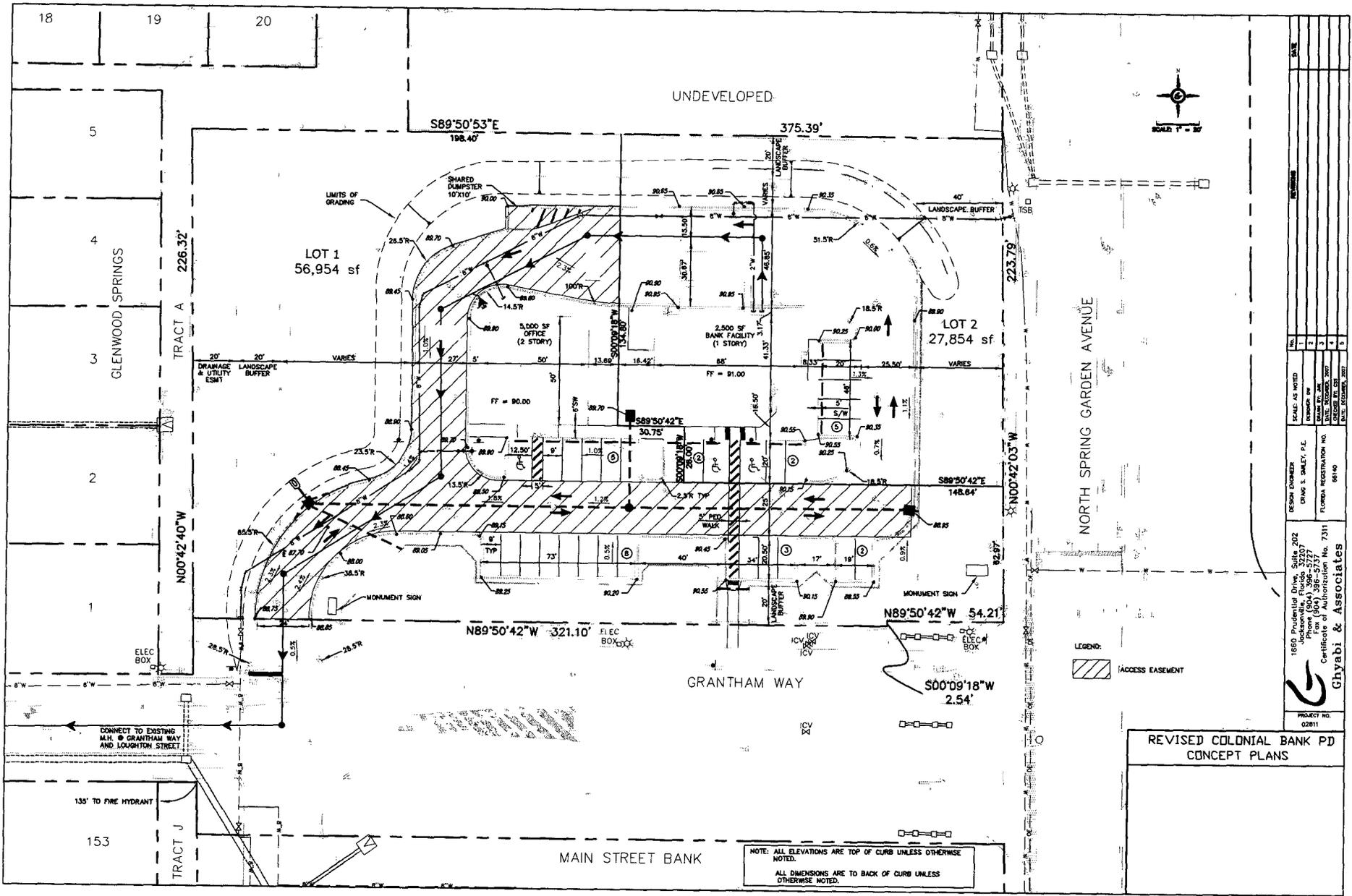
Type or Print Name: Jamie Levenshon



Jamie Levenshon

Commission No.: DD818714

My Commission Expires: August 28, 2012



UNDEVELOPED



NORTH SPRING GARDEN AVENUE

GRANTHAM WAY

MAIN STREET BANK

LEGEND:
 ACCESS EASEMENT

NOTE: ALL ELEVATIONS ARE TOP OF CURB UNLESS OTHERWISE NOTED.
 ALL DIMENSIONS ARE TO BACK OF CURB UNLESS OTHERWISE NOTED.

DATE	
REVISION	
NO.	
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10	
SCALE AS NOTED	
DESIGN ENGINEER	ORANGE S. SWEET, P.L.
FLORIDA REGISTRATION NO.	96140
1650 Penderlin Drive, Suite 202	
Jacksonville, FL 32217	
Phone (904) 396-5727	
Fax (904) 396-5737	
Certificate of Authorization No. 7311	
Chyabi & Associates	
PROJECT NO.	02811
REVISED COLONIAL BANK PD CONCEPT PLANS	

LEGAL DESCRIPTION:

A parcel of land lying in the NE $\frac{1}{4}$ of Section 6, Township 17 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

Commencing at the Northeast corner of said Section 6, run thence S 00°42'38" E along the East line of said NE $\frac{1}{4}$ a distance of 661.73 feet; run thence N 89°50'53" W a distance of 55.00 feet to the Westerly Right-of-Way of State Road 15-A and the Point of Beginning; run thence S 00°42'38" E along Right-of-Way a distance of 226.25 feet; run thence N 89°50'53" W a distance of 375.33 feet; run thence N 00°42'40" W a distance of 226.25 feet; run thence S 89°50'53" E a distance of 375.33 feet to the Point of Beginning. Parcel contains 1.95 Acres more or less. Being subject to an easement for drainage over the Westerly 20.00 feet thereof. Being subject to any other Easements of Records.

And

An easement for Ingress, Egress, and Utilities, over under and through the following described lands:

A Parcel of land lying in the Northeast $\frac{1}{4}$ of Section 6, Township 17 South, Range 30 East, Volusia County, Florida. Being more particularly described as follows:

Commencing at the North east corner of said Section 6, run thence S00° 42' 38" E along the East line of said Northeast $\frac{1}{4}$ a distance of 661.73 feet; run thence N 89° 50' 53" W a distance of 55.00 feet to the Westerly Right-of-Way of State Road 15-A; run thence S 00° 42' 38" E along said Right-of-Way a distance of 226.25 feet to the Point of Beginning; continue thence S 00° 42' 38" E along said Right-of-Way a distance of 100.00 feet; run thence N 89° 50' 53" W a distance of 375.33 feet; run thence N 00° 42' 40" W a distance of 100.00 feet; run thence S 89° 50' 53" E a distance of 375.33 feet to the Point of Beginning. Together with the Non-exclusive Easement as described in O.R. Book 4291, Page 275, Public Records of Volusia County, Florida.

Received

DEC 14 2007

Planning & Zoning

2-08-18