

1 PLANNED DEVELOPMENT AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: Z-03-09, Application of

5 CLOISTERS RHF HOUSING, L.L.C.

6 ORDINANCE # 2003-30

7 ORDER AND RESOLUTION

8 GRANTING A REQUEST FOR CHANGE OF ZONING FROM (*CURRENT ZONING*)

9 TO

10 **PD (PLANNED DEVELOPMENT)**

11  
12 The application *CLOISTERS RHF HOUSING, L.L.C.*, hereinafter, "Applicant", for  
13 rezoning was heard by and before the City Commission, DeLand Florida, on *August 4,*  
14 *2003.* Based upon the verified Application and other supporting documents, maps, charts,  
15 overlays, other evidence and instruments; the advice, report, and recommendations of the  
16 Community Development, and other Departments and agencies of DeLand, Florida; and  
17 the testimony adduced and evidence received at the Public Hearing on this Application by  
18 the Planning Board on *July 16, 2003,* and otherwise being fully advised, the City  
19 Commission does hereby find and determine as follows:

GENERAL FINDINGS

1  
2  
3       A.     That the application of *CLOISTERS RHF HOUSING, L.L.C.* was duly and  
4 properly filed herein on *June 19, 2003*, as required by law.

5  
6       B.     That all fees and costs which are by law, regulation, or Ordinance required to  
7 be borne and paid by the applicant have been paid.

8  
9       C.     That the applicant is the owner of a *13.37±* acre parcel of land which is  
10 situated in DeLand, Florida. This parcel of land is described more particularly in the survey  
11 and legal description, a true copy of which is attached hereto as Exhibit "A".

12  
13       D.     That the Applicant has complied with the concept plan provision as required  
14 by Land Development Regulations Ordinance # 2002-09, as amended.

15  
16       E.     That the Applicant has complied with the "Due Public Notice" requirements of  
17 the City Commission, Land Development Regulations Ordinance # 2002-09 , as amended.

18  
19       FINDINGS REGARDING REZONING

20  
21       A.     That the Applicant has applied for a change of zoning from the present  
22 zoning classification(s) of the parcel described in Exhibit "A" from R-16 Multi-Family to PD  
23 (Planned Development).

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

6  
7           NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF  
8 DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY  
9 COMMISSION CHAMBERS, 121 WEST RICH AVENUE, DELAND, FLORIDA, THIS 13<sup>TH</sup>  
10 DAY OF AUGUST, A.D., 2003, AS FOLLOWS:

11  
12           A.       That the Application of ***CLOISTERS RHF HOUSING, L.L.C.*** for the rezoning  
13 of the subject parcel is hereby granted.

14           B.       That the zoning classification of the subject parcel described in Exhibit "A"  
15 attached hereto is hereby amended from R-16 to PD as described in Article VII of the City  
16 of DeLand, Land Development Regulations Ordinance # 2002-09, as amended.

17  
18           C.       That the Official Zoning Map of the City of DeLand, is hereby amended to  
19 show the rezoning of said parcel to Cloisters Planned Development .

20  
21           D.       That the City of DeLand Land Development Regulations Ordinance # 2002-  
22 09, as amended, is consistent with the provisions of the "Development Agreement" as  
23 hereinafter set forth in this Ordinance and with respect to any conflict between Land  
24 Development Regulations Ordinance # 2002-09, as amended, and the "Development

1 Agreement", the provisions of the "Development Agreement" shall govern. Ordinance No.  
2 02-09, as amended, shall govern with respect to any matter not covered by the  
3 "Development Agreement." The City of DeLand, will ensure overall compliance with this  
4 Ordinance.

5

6 E. Unless otherwise provided for herein the City of DeLand, Land Development  
7 Regulations Ordinance # 2002-09, as amended, shall apply to the PD in the same manner  
8 as the R-16 zoning classification.

9

10 F. Nothing in this Ordinance shall abridge the requirements of any City of  
11 DeLand Ordinance other than Ordinance 2002-09, as amended. Timing and review  
12 procedures contained in this Order and Resolution may be modified to comply with the City  
13 of DeLand Land Development Regulations, Ordinance No. 2002-09, as amended. Further,  
14 nothing in the Development Agreement is intended to abridge the requirements of  
15 Ordinance No. 2002-09, as amended, and any other County Ordinances.

16

#### DEVELOPMENT AGREEMENT

17

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

22

23 1. Planned Development Plan The Planned Development Plan shall  
24 consist of the Development Plan Map prepared Sliger & Associates, Inc. and dated June  
17, 2003 and this development agreement. The Planned Development Plan is hereby

1 approved and incorporated in this Ordinance by reference as Exhibit "B". The Planned  
2 Development Plan shall be filed and retained for public inspection in the Planning  
3 Department and it shall constitute a supplement to the Official Zoning Map of the City of  
4 DeLand.

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

10           3.     Subdivision Approval. Subdivision approval for the property has been  
11 obtained. No further subdivision or approval for implementation of the Planned  
12 Development Plan.

13           4.     Final Site Plan Approval. No further site plan approval is necessary for  
14 implementation of the Planned Development Plan.

15

16           B.     Unified Ownership. The Applicant or its successors shall maintain unified  
17 ownership of the separate parcels identified in their Planned Development Plan, however,  
18 shall not be required to maintain unified ownership of the parcels together.

19

20           C.     Phases of Development. Development of the project is completed. No  
21 further development is anticipated at this time.

22

23           D.     Land Uses Within the PD. The development of the parcel shall be consistent  
24 with the uses prescribed for each area within the proposed Cloisters PD. The location and

1 size of said land use areas are shown on the Development Plan Map, Exhibit "B". The  
2 following land uses shall be allowed as permitted principal uses and structures along with  
3 their customary accessory uses and structures:

4 Tract One- Residential Living Facilities, including assisted living, with associated  
5 offices, kitchen, dining and other associated facilities.

6 Tract Two - Single story residential units with associated pool and club house.

7  
8 **E. Development Standards.**

9 **Tract One - Mid-Rise Building**

- |    |  |                                     |
|----|--|-------------------------------------|
| 10 | 1. <i>Minimum lot area</i>                 | <i>2 acres</i>                      |
| 11 | 2. <i>Minimum lot width and/or depth</i>   | <i>200 ft. x 400 ft.</i>            |
| 12 | 3. <i>Minimum yard size (building)</i>     | <i>Per attached Plan, Exhibit B</i> |
| 13 | a. <i>Front yard:</i>                      | <i>Per attached Plan, Exhibit B</i> |
| 14 | b. <i>Rear yard:</i>                       | <i>Per attached Plan, Exhibit B</i> |
| 15 | c. <i>Side yard:</i>                       | <i>Per attached Plan, Exhibit B</i> |
| 16 | d. <i>Waterfront yard:</i>                 | <i>Per attached Plan, Exhibit B</i> |
| 17 | 4. <i>Minimum floor area:</i>              | <i>Per attached Plan, Exhibit B</i> |
| 18 | 5. <i>Maximum lot coverage</i>             | <i>Per attached Plan, Exhibit B</i> |
| 19 | 6. <i>Maximum building height</i>          | <i>8 stories</i>                    |
| 20 | 7. <i>Landscape buffer requirements</i>    | <i>Per attached Plan, Exhibit B</i> |
| 21 |  | <i>Perimeter 8 ft. security</i>     |
| 22 |  | <i>Fence is permitted.</i>          |
| 23 | 8. <i>Perimeter building setbacks</i>      | <i>Security Guard House</i>         |
| 24 |  | <i>10 ft.</i>                       |
| 25 |  | <i>Other Buildings 40 ft.</i>       |
| 26 | 9. <i>Minimum building separation</i>      | <i>Per attached Plan, Exhibit B</i> |
| 27 | 10. <i>Off-street parking requirements</i> | <i>96 spaces</i>                    |
| 28 | 11. <i>Signage requirements</i>            | <i>Per attached Plan, Exhibit B</i> |
| 29 |  |                                     |
| 30 | 12. <i>Open Space and/or Common</i>        |                                     |

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Area requirements:

Per attached Plan, Exhibit B

Tract Two - Single Story Villas

- 1. Minimum lot area 10 acres
- 2. Minimum lot width and/or depth 300 x 800
- 3. Minimum yard size (building) Per attached Plan, Exhibit B
  - a. Front yard: Per attached Plan, Exhibit B
  - b. Rear yard: Per attached Plan, Exhibit B
  - c. Side yard: Per attached Plan, Exhibit B
  - d. Waterfront yard: Per attached Plan, Exhibit B
- 4. Minimum floor area: 600 sq. ft.
- 5. Maximum lot coverage Per attached Plan, Exhibit B
- 6. Maximum building height 20 ft.
- 7. Landscape buffer requirements Per attached Plan, Exhibit B  
Perimeter 8 ft. security Fence is permitted.
- 8. Perimeter building setbacks Security Guard House 10 ft.  
Other Buildings 9 ft.
- 9. Minimum building separation Per attached Plan, Exhibit B
- 10. Off-street parking requirements 92 spaces
- 11. Signage requirements Per attached Plan, Exhibit B
- 12. Open Space and/or Common

Area requirements:

Per attached Plan, Exhibit B

F. Environmental Considerations. Not applicable for existing development.

Further development shall meet minimal requirements of Land Development Regulations Ordinance # 2000-09, as amended.

G. Sewage Disposal and Potable Water. Not applicable for existing

development. Further development shall be provided in accordance with the Comprehensive Plan, Ordinance N [REDACTED] as amended, the Land Development

1 Regulations Ordinance No. 2009-09, as amended, and State of Florida Administrative  
2 Code 64E-6.

3

4 H. Stormwater Drainage. Not applicable for existing development. Further  
5 development shall be in accordance with the Land Development Regulations Ordinance #  
6 2002-09, as amended.

7

8 I. Access and Transportation System Improvements. All access and  
9 transportation system improvements shall be provided in accordance with the Land  
10 Development Regulations, Ord. 02-09, as amended. The parcel shall be developed in  
11 substantial accordance with the following access and transportation system improvements:

12

13 1. Access. Per existing development as depicted on the Planned  
14 Development Plan.

15

16 2. Transportation System Improvements. Not applicable. No further  
17 road improvements are anticipated at this time.

18

19 J. Internal Roadways. Per attached Planned Development Plan. All streets and  
20 utilities shall remain private and shall not be dedicated to the City.

21

22 K. Building or Property Owners Association. There shall be no building or  
23 property owner's association, however, the owner of Tract One shall have the responsibility  
24 for the maintenance of the roadways and utilities in both Tracts One and Two, and shall the

1 right to levy assessments against the owner of Tract Two to pay the respective costs  
2 associated therewith. The deeds with the appropriate restrictions shall be furnished to the  
3 City of DeLand at the time of creation. The applicant shall be responsible for recording  
4 said information in the Public Records of Volusia County, Florida. Also, the applicant shall  
5 bear and pay all costs for recording all of the aforementioned documents.

6 With respect to the enforcement of said agreements, covenants, easements or  
7 restrictions entered into between the applicant and the owners or occupiers of property  
8 within the Cloisters PD, the City of DeLand shall only enforce the provisions of the  
9 "Development Agreement" and City of DeLand Land Development Regulations Ordinance  
10 # 2002-09, as amended, whichever is applicable, and not the private agreements entered  
11 into between the aforementioned parties.

12

13 L. (Other). Not applicable.

14

15 M. Reverter Provision: The Property as described in the Planned Development  
16 Plan has been fully developed and the City may not rezone any portion of the Property  
17 without the consent of the owner thereof.

18

19 N. Binding Effect of Plans; Recording; and Effective Date. The Planned  
20 Development Plan, including any and all amendments shall bind and inure to the benefit of  
21 the Applicant and his successor in title or interest. The Cloisters PD zoning, provisions of  
22 the "Development Agreement," and all approved plans shall run with the land and shall be  
23 administered in a manner consistent with Article 12 of the City of DeLand Land  
24 Development Regulations Ordinance # 2002-09, as amended.

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

9

10           O.     Conceptual Approval: The parties hereto acknowledge that reductions in  
11 density and/or intensity may and do occur; and that minor changes to roadway design,  
12 location and size of structures, actual location of parking spaces, specific locations for land  
13 uses, and locations and design of stormwater storage, landscape buffers and upland  
14 buffers may result to comply with the City of DeLand Land Development Land  
15 Development Regulations Ordinance # 2002-09, as amended. Upon determination of the  
16 Planning Department, these revisions may be processed as minor amendments as set  
17 forth in the City of DeLand Land Development Regulations Ordinance # 2002-09, as  
18 amended. The Applicant agrees to revise and record the Revised Preliminary Plan which  
19 reflects any such changes with the City Clerk immediately following the expiration of the 30  
20 day period for appealing Technical Review Committee (TRC) decisions to the City  
21 Commission. A copy of the Revised Preliminary Plan, bearing the book and page number  
22 of the Official Record in which the document was recorded, shall be submitted to the  
23 Planning Department. (This section should also be written on the Preliminary Plan as a  
24 note.)

DONE and ORDERED by the City Commission, City of DeLand, Florida, this  
\_\_\_\_ day of \_\_\_\_\_ 2003.

ATTEST:

City Commission of DeLand Florida

*Mike Abels*

Mike Abels  
City Manager

*Robert Apgar*

Robert Apgar  
Mayor

ATTEST:

*Julie A. Hennessee*  
Julie A. Hennessee, City Clerk

STATE OF FLORIDA  
CITY OF DELAND

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of  
December, 2003 (mo/yr), by Mike Abels and Robert Apgar, as City Manager  
and Mayor, City of DeLand, respectively, on behalf of the City of DeLand,  
and who are personally known to me.



Kimberly K Cline  
My Commission CC993859  
Expires January 15, 2005

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

*Kimberly K Cline*

Commission No. \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

WITNESSES:

CLOISTERS RHF HOUSING, LLC

Cheryl J. Howell  
Tronine Marlenee

By: RETIREMENT HOUSING  
FOUNDATION  
It's Sole Member

By: Lavern R. Joseph  
Lavern R. Joseph, President

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by **Lavern R. Joseph**, as President of Cloisters RHF Housing, LLC, on behalf of Cloisters RHF Housing, LLC. (notary must check applicable box)

{Notary Seal must be affixed}

*See Attached Acknowledgment 11-3-03*

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Name of Name of notary (Typed, Printed or Stamped)  
Commission Number (if not legible on seal):  
My Commission expires (if not legible on seal):

- Personally Known.
- Produced a current Florida driver's license as identification.
- Type of Identification Produced \_\_\_\_\_

ATTEST:

Linda Listoe  
Linda Listoe, Secretary

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2003, by **Linda Listoe**, as Secretary of Cloisters RHF Housing, LLC, on behalf of Cloisters RHF Housing, LLC. (notary must check applicable box)

{Notary Seal must be affixed}

*See Attached Acknowledgment 11-3-03*

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Name of Name of notary (Typed, Printed or Stamped)  
Commission Number (if not legible on seal):  
My Commission expires (if not legible on seal):

- Personally Known.
- Produced a current Florida driver's license as identification.
- Type of Identification Produced \_\_\_\_\_

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

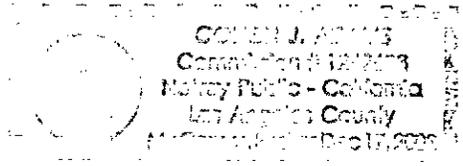
County of Los Angeles } ss.

On Nov. 3, 03 before me, Callan J. Adams  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Lawrence Joseph  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.  
Callan J. Adams  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document** planned development agreement in the City Commission of the City of Oakland, Florida District PH  
**Title or Type of Document:** Planning  
**Document Date:** \_\_\_\_\_ **Number of Pages:** \_\_\_\_\_

**Signer(s) Other Than Named Above:** \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

- Signer's Name: \_\_\_\_\_
- Individual
  - Corporate Officer — Title(s): \_\_\_\_\_
  - Partner —  Limited  General
  - Attorney-in-Fact
  - Trustee
  - Guardian or Conservator
  - Other: \_\_\_\_\_

**Signer Is Representing:** \_\_\_\_\_



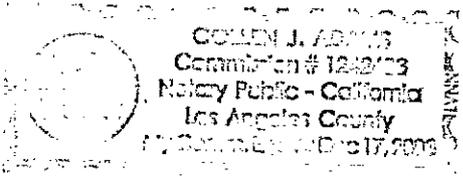
**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California }  
County of Los Angeles } ss.

On Nov, 3, 03 before me, Colleen J. Adams  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")  
personally appeared Linda Lister  
Name(s) of Signer(s)

- personally known to me
- proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Colleen J. Adams  
Signature of Notary Public

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document Planned Development  
Title or Type of Document: Agreement in the city commission of  
the city of Deland, Florida, Districts #1 & 2  
Document Date: \_\_\_\_\_ Number of Pages: \_\_\_\_\_

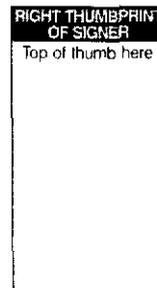
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer**

Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Book: 5234  
Page: 105

EXHIBIT "A"

LEGAL DESCRIPTION

1  
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6 Lots 9A, 9B, 10, 11, 12, 13, 14A, and all of Lot 14B, Revised Plat of  
7 Assessor's Subdivision of the West 1/2 of the Northeast 1/4 of Section 16,  
8 Township 17 South, Range 30 East, according to the map or plat thereof as  
9 recorded in Plat Book 3, Page(s) 145, Public Records of Volusia County,  
10 Florida.

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12

