

GOODING & BATSEL, PLLC

ATTORNEYS AT LAW

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December 12, 2022

City of Ocala
Attn: City Manager Peter A. Lee
201 SE 3rd Street, 2nd Floor
Ocala, FL 34471-2172

RE: Representation of Leon Ocala Holdings III LLC Concerning Development of Property Near
Intersection of SW 42nd Street and SW 27th Avenue

Dear Pete:

I have been requested by Leon Ocala Holdings III LLC ("Leon") to represent it in connection with the development of undeveloped property it owns near the above intersection and set forth on the tax map I have attached hereto as **Exhibit A**.

In order to do so, I believe I need the consent of the City Council for the following reasons:

1. The property in question was the subject to a number of land uses and rezonings which resulted in the negotiation and preparation of several agreements including the attached Development Agreement recorded in OR Book 5929, Page 1279, Public Records of Marion County, Florida (**Exhibit B**). While Tye Chighizola and other City staff did most of the substantive leg work, I was involved in the drafting of at least several of the documents that concerning this property; as
2. Rule 4-1.9 of the Rules of Professional Conduct, a copy of which I have attached as **Exhibit C**, reads as follows:

RULE 4-1.9 CONFLICT OF INTEREST; FORMER CLIENT

A lawyer who has formerly represented a client in a matter must not afterwards:

- (a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent;
- (b) use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client or when the information has become generally known; or
- (c) reveal information relating to the representation except as these rules would permit or require with respect to a client.

3. Subsections (b) and (c) essentially provide that the lawyer may not use information it gained through the representation of the former client adversely to the former client. As Tye will confirm, I have no such information¹ (and obviously would not use it if I had it).
4. The most important provision is subsection (a) which precludes me from representing a new client “in the same or a substantially related matter in which the person’s interest are materially adverse to the interests of the former client unless the former client gives informed consent.” This is the primary obstacle to my representing Leon.
 - 4.1. It is clear that dealing with the entitlements for this property would involve the “same or a substantially related matter,” in which I represented the City.
 - 4.2. While my new work for Leon would not be adversarial to the City, I believe that, under the intent of the Rule, it should be deemed “materially adverse” to the City. Therefore, in my opinion, I may not represent Leon unless the former client, the City in this case, gives informed consent.
5. Therefore, I am requesting the City to give informed consent to my representation of Leon. In that regard:
 - 5.1. I am working with Rob Batsel to try to develop a procedure less formal than the one I am outlining here so that the City staff (and perhaps City Council) does not have to spend a lot of time dealing with these issues. Until that policy is developed and approved by City Council, however, I believe that the consent may only be given by City Council.
 - 5.2. Further, I believe that it will be better for everyone concerned – including me and City staff – if it be scheduled on a part of the City Council agenda other than the Consent Agenda. That is, I do not want there to be any possibility that anyone could claim that City Council did not know what it was doing.
 - 5.3. Further, I would appreciate Tye presenting the case to City Council so that he could comment on any concern that I may have obtained confidential information that I could use adverse to the interest of the City. Of course, I will be at the hearing too and can answer any questions that Council may have.

¹ And given the lapse of time that has occurred between now and when these agreements were negotiated, I doubt if I would remember it if I did, but the Rules assume that I may have.

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Thank you for your consideration of this request. I am sorry to have to burden you with this but, until we can develop a more streamlined procedure, I propose handling these types of situations in this fashion.

Sincerely,

GOODING & BATSEL, PLLC

/s/ Jimmy Gooding /s/

W. James Gooding III

WJG/ban

Attachments: as stated

cc: Growth Services Director Tye Chighizola
City Attorney Will Sexton
Robert W. Batsel, Jr., Esq.
(All by email only with attachments)

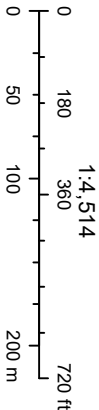
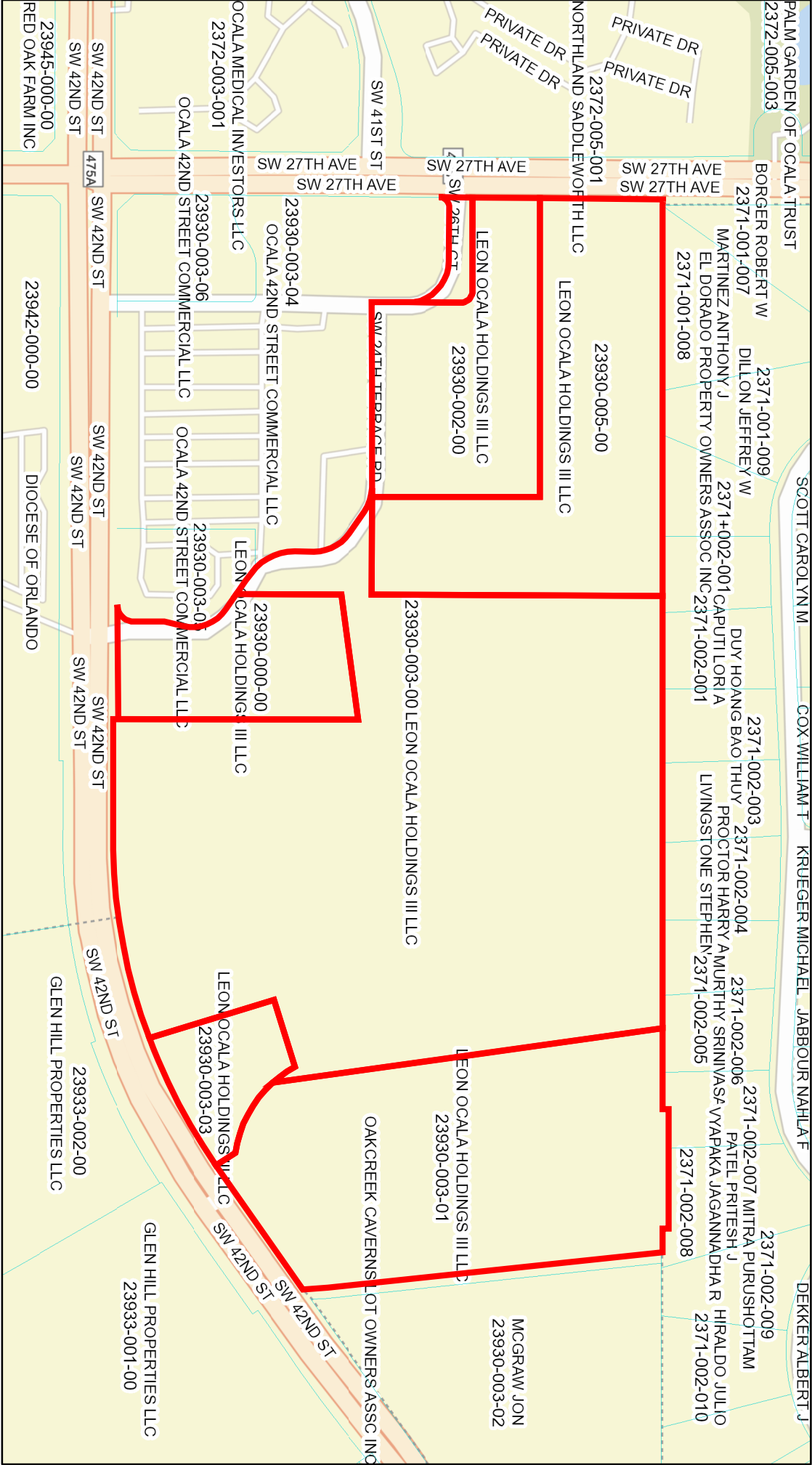
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EXHIBIT A
TAX MAP



Jimmy H. Cowan, Jr., CFA
Marion County Property Appraiser

Updated every 24 hours



[Map Title]

DISCLAIMER: This is a work in progress. This application was compiled by the Marion County Property Appraiser's Office solely for the governmental purpose of property assessment. These are NOT surveys. Our goal is to provide the most accurate data available, however, no warranties, expressed or implied are provided with this data, its use, or interpretation. All information subject to change without notice. Use at your own risk.

10/31/2022
Marion County, FL

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EXHIBIT B
PRIOR DEVELOPERS AGREEMENT

See attached.

City of Ocala



RECORD: \$ _____

DAVID R ELLSPERMANN CLERK OF COURT MARION COUNTY

DATE: 09/19/2013 04:06:12 PM

FILE #: 2013096897 OR BK 05929 PGS 1279-1303

Prepared by and Return to:

REC 214.00

Steven H. Gray, Esq.
Gray, Ackerman & Haines, P.A.
125 NE First Avenue, Suite 1
Ocala, FL 34470

Parcel Nos: _____

-----[SPACE ABOVE THIS LINE FOR RECORDING DATA]-----

**AMENDED AND RESTATED SITE AND CONCURRENCY
DEVELOPMENT AGREEMENT PURSUANT TO
CHAPTER 163, FLORIDA STATUTES
[GRAND OAKS TOWN CENTER PUD, F/K/A STOLEN HOURS PUD]**

**THIS AMENDED AND RESTATED SITE AND CONCURRENCY DEVELOPMENT
AGREEMENT**, dated this 2nd day of April, 2013, is entered into
by and between the undersigned Parties:

- **THE CITY OF OCALA**, a Florida municipal corporation (the "City");
- **OCALA 42ND STREET COMMERCIAL, LLC**, a Florida limited liability company (the "Developer"); and
- **LEON OCALA HOLDINGS III, LLC**, a Florida limited liability company ("Owner").

RECITALS:

- A.** The Florida Local Government Development Agreement Act, Chapter 86-191, Laws of Florida, now codified at Sections 163.3220 through 163.3243, Florida Statutes, authorized local governments to enter into development agreements with developers subject to the procedures and requirements of the Act.
- B.** Developer and Owner own, in aggregate, the parcel of real property described on attached Exhibit "A" (the "Property"). Developer is the fee owner of the sub-Parcel of the Property described on attached Exhibit "B" (the "Commercial PUD Parcel"), and Owner is the fee owner of the remainder of the Property. All of the Property is located within the jurisdictional boundaries of the City.
- C.** All of the Property has been assigned a land use classification of Low Intensity on the Future Land Use Map of City's Comprehensive Plan, and is zoned under the City's Zoning Code as a Mixed-Use Residential Planned Unit Development ("PUD").
- D.** Developer and Owner have previously submitted to City a Conceptual PUD Master Plan (the "Conceptual PUD Plan" or "Plan") for development of the Property (the "Project") (which contains 71.39 acres) into the mixed-use project containing a 13.47acre commercial site (Phase 1 shown on the Plan), a multi-family residential site (Phase 2 shown on the Plan), a future development site (Phase 3 shown on the Plan) private roads, and stormwater management facilities, which City approved on August 7, 2012, a copy of which is shown on attached Exhibit "C".
- E.** All of the Property is located within the jurisdictional boundaries of the City, but the Parties acknowledge that the traffic impact of development of the Property will extend to certain traffic facilities which are owned by, or located in, both the City and Marion County, Florida (the "County"), and Developer and Owner have submitted to City and County a Traffic Analysis (defined below) for the Project.

- F. Developer has pending before the City a valid Application for a Concurrency Determination as to the Property, under the provisions of Chapter 86 of City's Code of Ordinances.
- G. Chapter 86 of the City's Code of Ordinances provides that in the case of inadequate traffic facility capacity, a developer may enter into a Concurrency Development Agreement with the City to provide or fund transportation system improvements, and Developer has agreed that it will provide funds to City for the Project's proportionate fair share of the costs of construction of certain off-site traffic facility improvements to provide required traffic capacity for the proposed Project, as set forth below.
- H. Developer's proposed development of the Commercial Parcel requires that the criteria and specifications for such development comply with the provisions of City's Shopping Center Ordinance (Section 122 of the City Code). City's review and approval process of development plans for the Commercial Parcel will be under the approval procedures for a Planned Unit Development, the development criteria and specifications for the Parcel's development of the Commercial Parcel shall comply with the provisions of City's Shopping Center Ordinance.
- I. Developer and Owner have requested City approve the Commercial Parcel as an approved location for the limited sale of alcoholic beverages (for on-premises and off-premises consumption, and on-premises consumption outside an enclosed building) under the provisions of Chapter 6 of the City Code, with the limitation that the sale of alcoholic beverages be limited to sale by grocery stores, package stores and restaurants. In addition to the Notice published to provide notice to the public of City's consideration of this Agreement (see Recital L below), City has, in accordance with the provisions of Section 6-33 of the City Code, provided notice of the Application to approve the Commercial Parcel as an approved site for the limited sale of alcoholic beverages, and such notice has been provided to all persons owning real property within five hundred feet (500') of the boundaries of the Commercial Parcel, in compliance with the provisions of Section 6-33(b) of the City Code.
- J. City has held public hearings to accept and encourage public input with respect to the proposals of Developer and Owner contained in this Agreement, and has considered such public input.
- K. City has determined that the provisions of this Agreement and the contemplated vesting of the development rights contemplated by this Agreement are consistent with, and not in contravention of, the provisions of the City's Concurrency Management System.
- L. City has provided its Notice of Intent to consider entering into this Amended and Restated Site and Concurrency Development Agreement by advertisements published in the *Ocala Star-Banner*, a newspaper of general circulation and readership in Marion County, Florida, on March 11, 2013 and on March 22, 2013, and by mailing a copy of the Notice of Intent to the Owner and Developer, and to the persons and entities shown on the most recent Marion County Tax Roll to be the owners of property lying within 300 feet of the boundaries of the Property which is the subject of this Agreement, and by announcing the date, time, and place of the second hearing during the first hearing.
- M. The City Council of the City has held public hearings on March 19, 2013 and on April 2, 2013 to consider this Agreement, has found and determined that its execution of this Agreement will further the objectives of the Local Government Comprehensive Planning and Land Development Regulation Act, and that the development contemplated and permitted by this Agreement is consistent with City's Comprehensive Plan and existing Land Development Regulations.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the County, City and Owners agree (as applicable) as follows, which agreements shall be binding upon the parties and their respective successors and assigns, as applicable:

1. **Incorporation of Recitals and Exhibits.** The parties acknowledge that the above Recitals are true and correct, and their terms and provisions are incorporate herein for all purposes. The contents of all Exhibits referenced in, and attached to, this Agreement are incorporated herein for all purposes.
2. **Amendment and Restatement.** This Agreement is an Amended and Restated Site and Concurrency Development Agreement with respect to the Property, amending and restating in total the following prior Development Agreements previously in effect with respect to the Property:
 - 2.1 Site and Concurrency Development Agreement recorded December 20, 2003 between the City of Ocala, Bahia Honda Real Estate Investments IV, L.L.C., and Sandy Lynn Price, dated November 4, 2003, and recorded in OR Book 3586, at Page 1080 of the Public Records of Marion County, Florida.
 - 2.2 First Amendment to Development Agreement dated August 10, 2004 between the City of Ocala, Bahia Honda Real Estate Investments IV, L.L.C., and Sandy Lynn Price, recorded in OR Book 3810, at Page 0581, Public Records of Marion County, Florida.

This Agreement amends and restates, in total, the provisions of these prior Development Agreements. In the event of any appeal of this Agreement resulting in the termination or partial termination of this Agreement the corresponding provisions of the prior Developer Agreements shall remain in effect, including but not limited to any Reservations of Capacity contained in the prior Development Agreements.

3. **Definitions.** For the purposes of this Agreement, other than with respect to terms that are specifically defined elsewhere in this Agreement the following terms shall have the following meanings:
 - 3.1 ***“Agreement”*** – This Amended and Restated Development Agreement, as the same may be subsequently amended, modified or supplemented pursuant to its terms and provisions and pursuant to the provisions of Sections 163.3161 through 163.3215, inclusive, of the Florida Statutes.
 - 3.2 ***“City Code”*** – The Code of Ordinances of the City.
 - 3.3 ***“Commercial PUD Parcel”*** – The Parcel of the Property which is located in the SW corner of the Property, containing 13.47 acres, the legal description which is shown on attached Exhibit “B”.
 - 3.4 ***“Commercial PUD Site Plan”*** – The preliminary PUD development plan for the development of the Commercial Parcel, reviewed and approved by City as compliant with the criteria and specifications of City’s Shopping Center Ordinance, a copy of which is shown on attached Exhibit “D”.
 - 3.5 ***“CMS”*** – The City’s Concurrency Management System, codified in Chapter 86 of the City Code.
 - 3.6 ***“County”*** – Marion County, Florida, a political subdivision of the State of Florida.
 - 3.7 ***“Development”*** – The development of the Property as a mixed-use planned development containing residential, commercial and office uses.
 - 3.8 ***“District”*** – The St. Johns River Water Management District, an agency of the State of Florida.
 - 3.9 ***“DRA 1”*** – The primary stormwater drainage retention facility to be constructed provide stormwater retention capacity for development of the Property, depicted on the Conceptual Master Plan shown on attached Exhibit “C” as “DRA 1”, the legal description which is shown on attached Exhibit “E”.

- 3.10 ***“Duration of Agreement”*** – This Agreement shall have a duration of thirty (30) years, commencing on the Effective Date of the Agreement. The term of this Agreement will not correspond to the duration of reservation of Trip capacity for the Property, which shall be as set forth specifically in Section 12.
- 3.11 ***“Effective Date”*** – The date the terms of this Agreement become effective, as set forth in Section 15.12.
- 3.12 ***“Improvements”*** – Collectively, to those traffic facility improvements described in Section 12, including all design, permitting and construction activities related thereto.
- 3.13 ***“Land Development Regulations”*** – The Land Development Regulations or standards of the City, as applicable at the time of development of the Project or any portion thereof.
- 3.14 ***“Master Plan” or “Conceptual Master Plan”*** – The Conceptual Master Plan for the PUD which was approved by the City on August 7, 2012. A copy of the approved Conceptual Master Plan is shown on attached Exhibit “C”.
- 3.15 ***“Phase 3 Parcel”*** – The parcel of the Property located in the NW corner of the Property intended for future development, identified as Phase 3 on the Master Plan, the legal description which is shown on attached Exhibit “F”.
- 3.16 ***“Project”*** – Construction of site improvements to be constructed on the Property as shown on the Conceptual PUD Master Plan attached as Exhibit “C”.
- 3.17 ***“Public Facilities”*** – Those public facilities which are specifically described in Section 163.3221 of the Florida Statutes.
- 3.18 ***“Residential Parcel”*** – That portion of the Property approved on the Conceptual Master Plan for residential uses, described on attached Exhibit “G”.
- 3.19 ***“Shopping Center Ordinance”*** – Division 29 of City’s Code of Ordinances, governing the development and operation of certain defined shopping centers and single retail store developments, codified in Sections 122-901 through 122-980, inclusive, of the City Code.
- 3.20 ***“Traffic Analysis”*** – The Traffic Analysis provided by Developer to the City and County, prepared by Kimley-Horn and Associates, Inc., dated September 2011 and revised March 2012, also referenced in Section 12.
- 3.21 ***“Trip”*** – A vehicular trip into or departing the Property as a result of the development of the Property or a portion thereof.

4. **Compliance – Shopping Center Ordinance.** The planned development of the Commercial PUD Parcel would constitute a “Shopping Center” under the provisions of the Shopping Center Ordinance. With respect to all improvements to be constructed on the Commercial PUD Parcel Owner, Developer and City agree that:

- 4.1 All improvements to be constructed on the Commercial PUD Parcel shall be designed, permitted, and constructed in accordance with the provisions of the design criteria and specifications of the Shopping Center Ordinance.
- 4.2 The process for approval of the Commercial PUD Site Plan and improvements to be constructed on the Commercial Parcel, and for subsequent approval of any Site Plan and improvements to be constructed on Phase 2 and Phase 3 of the Project, shall be the process for a final PUD approval for a Mixed-Use Residential PUD under the applicable provisions of the City Code. City approval of an additional Site Plan and improvements for the remainder of the Property or a Parcel thereof shall, under the City PUD approval

process, be evidenced by adoption of a Resolution by the City. At the time of City adoption of a Resolution approving the Site Plan for a Parcel, or improvements to be constructed thereon, the adopted Resolution shall be considered appended to, and a part of, this Agreement.

5. Prior Approvals.

5.1 City has previously approved the rezoning of the Property to the zoning classification of Mixed Use Plan Unit Development (PUD). The approved Mixed Use PUD uses of the Property shall be those uses permitted under City's prior Medium Density Residential, Retail Services and Professional Services land use classifications (all of which are now allowed under the current land use classification of the Property of "Low Intensity"). Residential uses of the Property shall be limited to multi-family residential usages (which may include individually owned units or rental units and may include condominiums; townhouses; or attached single family residential units).

5.2 City previously approved development of the Property in accordance with the Conceptual PUD Master Plan shown on attached Exhibit "C", on August 7, 2012.

6. Permitted Uses and Development Restrictions. Permitted uses of the Property or portions thereof, development restrictions with respect to the property, and amendments of permitted uses and development restrictions, shall be in accordance with the provisions of this Section and Section 7.

6.1 Initial Permitted Uses. As to the following Parcels of property the uses referenced in this Section will be as defined in the City Code as of the Effective Date of this Agreement. The following are the current permitted uses and permitted development intensities of Parcels constituting, in aggregate, all of the Property:

TABLE 1 – CURRENT PERMITTED USES		
PARCEL	DEVELOPMENT INTENSITY	MAXIMUM HEIGHT
Commercial Parcel (<u>Exhibit "B"</u>)	As per final approved Commercial Site Plan	50 feet ¹
Phase 3 Parcel (<u>Exhibit "F"</u>) (Phase 3 Shown on the Plan)	The current approved Conceptual PUD Plan for the Property does not delineate an approved usage for the Phase 3 Parcel. Usage and intensity of development of the Phase 3 Parcel shall be subject to a future revision of the approved PUD for the Property. If Owner desires to develop the Phase 3 Parcel for office uses, and obtains a rezoning of the Phase 3 Parcel to an office zoning district, inclusion of Phase 3 in the PUD with office uses shall not be subject to the limitations on acreage of non-residential uses applicable to mixed-use Residential PUD developments, and such usage shall be in compliance with the City Residential PUD regulations.	50 feet ¹
Residential Parcel (<u>Exhibit "G"</u>) – Multi-Family Residential (Phase 2 shown on the Plan)	474 Units	Three Stories
¹ <u>Note:</u> Maximum height limitations for individual Parcels may be modified by approval of City in the Planned Unit Development (PUD) approval process for each separate Parcel, or a portion thereof.		

- 6.2 Uses May Change.** These uses, intensities and heights represent the Owners' currently proposed uses of the Parcels and may be changes by Owners pursuant to, or as required by Owners' compliance with, local laws pursuant to the following Section.
- 6.3 Relationship to Land Use Classification and Zoning Classification.** Restrictions on or provisions herein, concerning development of the Property or any portion thereof do not operate to supercede any applicable land use classification or zoning classification of the Parcels, subject to the following provisions:
- 6.3.1** All of the Property currently has a land use classification of Low Intensity under the City's Comprehensive Plan, and a zoning classification of Mixed Use Planned Unit Development (PUD) under City's Zoning Code.
- 6.3.2** The Property or portions thereof may only be development in accordance with the applicable land use classifications and zoning classifications of the Property that may exist, or be amended from time to time, under the City Comprehensive Plan, the City Code, or the City's Land Development Regulations. If a use for a Parcel or a portion thereof which is not scheduled above is desired by an owner, an owner must seek and procure the modification, as applicable, of the land use classification or zoning classification, or both, of the Parcel, and modification of this Agreement.
- 6.4 Construction of DRA 1.** Developer shall construct all of DRA 1 concurrent with development of the Commercial Parcel. Concurrent with the construction of DRA 1 all required, and approved, landscaping for the northern boundary of DRA 1 shall be installed by Developer, and thereafter maintained by Developer or Owner.
- 6.5 Access to Property & Commercial Parcel.** Access to the Property, and to the Commercial Parcel, shall be limited to those access connections to SW 42nd Street and SW 27th Avenue which are shown on the Commercial Site Plan (Exhibit "G"). Any modification of the access to the Property, on additional access may be allowed concurrent with development of the Office Parcel or Residential Parcel, in which event approval of additional access shall occur as a part of the approval process for development plans for the Residential Parcel or Office Parcel, as applicable.
- 7. Site Approval – Sale of Alcoholic Beverage.** Developer has requested approval by City for the sale of alcoholic beverages by business establishments which transact business on the Commercial Parcel, subject to the limitations that: (i) the approved sale of alcoholic beverages (for on-premises and off-premises consumption, and on-premises consumption outside an enclosed building) would be limited to grocery stores, package stores, and restaurants; and (ii) although the Commercial Parcel would be an approved location for the sale of alcoholic beverages, limited in scope as previously stated, and although the location (the Commercial Parcel) has been approved for the sale of alcoholic beverages, each business establishment which desires to obtain its City vendor permit would be required to comply fully with the provisions of Chapter 6 of City's Code of Ordinances, including the provisions of Article 2 of Chapter of the City's Code of Ordinances, other than the requirement for a Public Hearing before City Council for approval of the location, which has been handled by City under the procedures referenced below. City approves the Commercial Parcel as an approved location for the sale of alcoholic beverages by licensed vendors to obtain vendor licenses from the City of Ocala under the provisions of Chapter 6 of the City Code. The approval of the Commercial Parcel as a location approved for the sale of alcoholic beverages, and the issuance of individual vendor licenses to prospective vendors of alcoholic beverages from grocery store, package store, and restaurant business establishments (as defined in the City Code) on the Commercial Parcel, has occurred and shall proceed in accordance with the following provisions:
- 7.1 Location Approval.** Approval of the Commercial Parcel has an approved location for the sale of alcoholic beverages (for on-premises and off-premises consumption, and on-premises consumption outside an enclosed building) (subject to the previously-stated

limitations that the sale would be limited to sales by grocery stores, package stores, and restaurants) has occurred in accordance with the following provisions:

- 7.1.1** Developer has filed with City an Application for issuance of a location permit in compliance with the provisions of Article 2 of Chapter 6 of City's Code of Ordinances. Notice of the Public Hearing for the approval of the location permit has been included in both the published Notice of Public Hearing which was published in the Ocala Star Banner and identified in Recital M of this Agreement, and City provided written notice of the filing of the Application to all persons owning real property located within five hundred feet (500') of the Commercial Parcel, and by placement of a sign on the Commercial Parcel stating that the Application has been filed, and in the general purpose thereof.
- 7.1.2** The approval of the Commercial Parcel as an approved location for the sale of alcoholic beverages, as set forth in this Agreement, does not constitute the approval of an individual vendor on the Commercial Parcel. Individual vendors seeking a permit from the City of Ocala to sell alcoholic beverages at business establishments located on the Parcel, subject to the limitations set forth above, shall comply fully with all requirements of Article 2 of Chapter 6 of the City Code regarding a location permit.
- 7.1.3** As to any individual vendor Application for approval of a business establishment on the Commercial Property, the requirement of a public hearing for the location shall not be required (unless the location approval of the Commercial Parcel for the sale of alcoholic beverages, as approved by City with approval of this Agreement, has been terminated or revoked). City retains the right to deny a vendor Application in the event an applicant fails to comply with any other requirements of Chapter 6 of the City Code regarding vendor Applications.
- 7.1.4** The processing of a vendor application for a qualifying business establishment on the Commercial Parcel shall, unless the location approval of the Commercial Parcel for the sale of alcoholic beverages has been terminated or revoked, not require a public hearing, but shall be handled by City staff.
- 7.2** **Limitation on Sales.** The sale of alcoholic beverages by business establishments located on the Commercial Parcel, as approved under this Section, shall be limited to sales by grocery stores, package stores, and restaurants for on-premises and off-premises consumption, and on-premises consumption outside an enclosed building.
- 7.3** **Limiting Conditions.** Notwithstanding any other provision of this Agreement or this Section 7:

 - 7.3.1** In connection with any individual vendor application for a location permit under Section 6-33(c) of the City Code pursuant to Section 7.1.3 or 7.1.4 of this Agreement, if the City Building Director determines that there has been, since the Effective Date of this Agreement, a material change in the factors set forth in Section 6-33(c) of the City Code (that govern application for location permits), the City Building Director shall nonetheless schedule a public hearing before City Council. City Council shall not, however, deny the application unless it determines that there has been such a material change in such factors since the Effective Date, and that, as a result of such change, the application should be denied.
 - 7.3.2** In connection with an individual vendor application for on-premises consumption outside an enclosed building, the provisions of Section 7.1.3 or 7.1.4 of this Agreement providing for no public hearing by City Council shall not apply but the public hearing shall consider only the factors in Subsections 6-33(e) (1), (2), (5), and (6).

7.3.3 Notwithstanding the duration of this Agreement, the provisions of Section 7 of this Agreement shall only be effective for a term of ten (10) years from the Effective Date.

8. **Stormwater Management System Design and Maintenance.** Developer shall construct the stormwater management system for the Commercial Parcel, including all stormwater retention areas, according to state and local regulations, including, without limitation, District design requirements. In addition, Developer shall comply with the following design requirements:

- 8.1 Maximum storage depth not to exceed sixteen feet (16').
- 8.2 A minimum distance of three feet (3') shall be maintained from the bottom of any dry stormwater retention basin to any potential limerock, or karst connection. During excavation, developer shall visually inspect the material excavated to detect limerock. Excavation and backfill with suitable material may be used to meet the minimum distance criteria of this subparagraph.
- 8.3 All swales shall be fully vegetated and operational.
- 8.4 Dry stormwater retention areas, including side slopes and bottoms, shall be fully vegetated. Wet stormwater retention areas shall be sodded to a level two feet (2') below the liner/control elevation.
- 8.5 Developer shall maintain all stormwater management system improvements in accordance with any applicable state or local regulations, law or rule. Developer's maintenance obligations with respect to the stormwater management system may be assigned by Developer to a Homeowners' Association, subject to compliance with any applicable state or local regulations, rules or laws.

9. **Landscape and Maintenance.** Landscape design and maintenance in the residential areas of the Project shall follow the guidelines for lawn and landscape maintenance as set forth in the Florida Yards and Neighborhoods Program published by the University of Florida, except:

- 9.1 In the event of any common maintenance provided with respect to the residential areas of the Project, Owner shall hire qualified landscape maintenance companies to maintain such residential areas of the Project.
- 9.2 Owner shall insure that, prior to undertaking maintenance activities, the employees of such companies who are responsible for maintenance in any common areas of the Project have been trained in the practices mandated by the Florida Yards and Neighborhoods Program by appropriate agencies.
- 9.3 Owner shall promote the use of native vegetation. Developer shall strive to create a mosaic of trees, shrubs, ground cover natural grasses, and wildflowers, and further strive to avoid monocultures.
- 9.4 Invasive species, such as Brazilian pepper, Australian pine, Cogon grass, and melaleuca, are prohibited.

10. **Non-Plat Improvements.** With respect to any common areas or amenities improvements to be constructed within the Project by Developer or Owner, or a successor-in-title, which are not improvements for which the City's plat and subdivision regulations will be applicable (as to design, layout and construction standards) and which are not approved as a part of the City's approvals of a plat of a Subdivision, the following provisions shall apply:

- 10.1 Improvements to be constructed which are subject to the provisions of this Section, which shall include but may not be limited to any clubhouse, other amenities improvements, and

portions of the stormwater management system for the Project which are not located within the boundaries of the plats of individual Subdivisions, are subject to approval by City in accordance with the provisions of this Section.

- 10.2 All improvements subject to the provisions of this Section shall satisfy the design criteria of the City, and any applicable building code or building ordinances of the City. All buildings and structures shall comply fully with the City's building code.
 - 10.3 Any plans for a clubhouse, park amenities, or other amenities features within the Project shall require site plan approval by the City prior to the initiation of construction. Site plan approval shall be handled under the City's normal site plan approval process.
 - 10.4 After approval of a site plan for improvements subject to the terms of this Section, any modification or alteration of the approved site plan which is determined to be a material modification by City's designated Building Official shall be subject to the City's normal procedures for approval of modifications to approved site plans.
11. **Tree Preservation.** Tree preservation criteria and requirements regarding all of the Property will be determined, and included with, the final PUD approval for the Commercial PUD Parcel Site Plan.
12. **Concurrency Management System Compliance.**
- 12.1 This Agreement shall constitute a Concurrency Development Agreement pursuant to the provisions of City's CMS.
 - 12.2 At the time of the approval of the original Development Agreement on November 4, 2003 the development of the Property was approved as a Planned Unit Development (PUD), approved for fifty one (51) single-family dwelling units and four hundred and forty (440) multi-family dwelling units. Developer and Owner plan to develop this revised PUD in Phases:
 - 12.2.1 Phase 1 is expected to consist of 84,000 sf of commercial use on the Commercial Parcel (not including out parcels located on the Commercial Parcel), with up to an additional 39,000 sf of commercial development on the out parcels.
 - 12.2.2 Phase 2 is expected to consist of 474 multi-family dwelling units on the Residential Parcel.
 - 12.2.3 Phase 3 is expected to consist of 30,000 sf of office development on the Office Parcel (subject to Owner obtaining rezoning of the Phase 3 Parcel to an office zoning district, as set forth in Section 6.1).
 - 12.2.4 The sequencing of Phases 2 and 3 may be revised.
- The Traffic Analysis for the Project provided to, reviewed by, and approved by City included the proposed development noted above. The Traffic Analysis, accepted and approved by City, includes a finding that the development of this proposed project satisfies the transportation requirements for the City at the proposed build-out date (five (5) years from initiation of construction), and recommends construction of two additional exclusive left turn lanes, and payment of a proportionate share of the costs of such improvements, as set forth below.
- 12.3 The Traffic Analysis recommends construction of two exclusive left turn lanes, a southbound left turn lane on SW 27th Avenue at the intersection with the north Project driveway, and an eastbound left turn lane on SW 42nd Street at the intersection with the central Project driveway (being the eastern driveway for the Commercial Parcel, shown on the Commercial Site Plan depicted on attached Exhibit "D". The Analysis also

recommends a second northbound left turn lane at the intersection of SR 200 at SW 42nd Street, and calculates a proportionate fair share cost for the Project's share (based on the formula in City's Traffic Impact Analysis guidelines) of the costs of such left turn lanes of \$15,030.00. At the time of the issuance of construction permits for the construction of vertical improvements on the Commercial Parcel Developer agrees to pay to City the proportionate fair share cost of \$15,030.00 with respect to the left-turn lane to be constructed at the intersection of SR 200 and SW 40th Avenue.

- 12.4 The Traffic Analysis projects the number of net new Trips projected to enter and exit the project at buildout as 6,999 daily Trips daily, 384 AM Peak hour Trips and 643 PM Peak hour Trips. The prior approved PUD, and the original Development Agreement, reserved 317 PM Peak Hour Trips for concurrency for the prior development. It is agreed that the number of Reserved Trips for the project, approved by this Agreement, is increased to 643 PM Peak Hour Trips. The term of this reservation of Trip capacity shall be for a period of ten (10) years from the Effective Date of this Agreement.
13. **Public Facilities.** The Public Facilities that will service the developments of the Parcels owned by the Owners and described in this Agreement, the person or entity who shall provide such Public Facilities, and the date of any new Public Facilities which must be constructed as follows:
- 13.1 **Transportation Facilities.** All of the Property is located within the jurisdictional boundaries of the City. This Agreement and the obligations of Developer and the Owner hereunder constitute a Concurrency Development Agreement under the CMS of the City to mitigate the traffic facilities impacts of the development of the Property.
- 13.2 **Potable Water.** Potable water services for the Project will be provided by the City. The City presently has sufficient permitted and constructed capacity, unreserved, for the development of all of the Property.
- 13.3 **Sanitary Sewer.** Sanitary sewer services for the development of the Property are available from the City. The City presently has sufficient permitted and constructed capacity, unreserved, for the development of all of the Property.
- 13.4 **Solid Waste Collection.** Solid waste services for the Project will be provided by the City. The City presently has sufficient permitting and construction capacity, unreserved, for the development of all of the Property.
- 13.5 **Fire Services.** Fire services for the Project will be provided by the City. City presently has sufficient permitted and developed capacity, unreserved, for provision of fire services for all of the Property.
- 13.6 **Educational Facilities.** The Property is currently served by the following schools, operated by the Marion County Board of Public Education:
- 13.6.1 Saddlewood Elementary School
13.6.2 Liberty Middle School
13.6.3 West Port High School
- 13.7 **Recreational Facilities.** The Property is served by recreational facilities owned by County and the City, including Scott Springs Park located within one (1) mile of the Project. The Property is also served by the recreational facilities of the Florida Greenway, which is located approximately five (5) miles south of the Property.
- 13.8 **Health Systems and Facilities.** West Marion Community Hospital is located within one (1) mile of the Property. Ocala Regional Medical Center and Munroe Regional Medical Center operate general community hospitals located approximately one and one half (1 ½) miles from the Property.

14. Disclaimer of Benefits of Section 163.3233, Florida Statutes.

14.1 Owners disclaim the benefits of Section 163.3233, Florida Statutes. Specifically, and without limitation, Owners agree that notwithstanding such statute:

14.1.1 Existing and subsequently enacted (for the purposes of this Section the term “enacted” shall require formal action by the City Council) laws and policies of City governing the development of the Property in effect at the time of their application shall govern the development of the Property for the duration of this Agreement.

14.1.2 The City may apply subsequently enacted laws and policies to the Parcels without the public hearing and determinations required by Subsection 163.3233(b), Florida Statutes.

15. General Provisions.

15.1 Notices. With respect to any Notices required to be given under the terms of this Contract, such Notices shall be deemed given and effective:

15.1.1 Five (5) calendar days after the date they are deposited in the United States Mail, postage prepaid, return receipt requested, addressed to the parties at the following respective addresses or such other address as provided by a party pursuant to this Section; or

15.1.2 The date of actual delivery by hand or by a recognized national overnight delivery service such as Federal Express, UPS, or Express Mail, addressed to the parties at the following respective addresses or such other address as provided by a party pursuant to this Section:

AS TO THE CITY: City of Ocala, Florida
Attn: City Manager
151 SE Osceola Avenue
Ocala, FL 34471
(352) 629-8401

With Copy To: Growth Management Services Director
Attn: Tye Chighizola
201 SE 3rd Street, 2nd Flr.
Ocala, FL 34471
(352) 629-8490

With Copy To: City of Ocala Engineering Department
201 SE 3rd Street, 2nd Flr.
Ocala, Florida 34471

AS TO DEVELOPER: Ocala 42nd Street Commercial, LLC
Attn: Benjamin Leon, III
11501 SW 40th Street
Miami, FL 33165

With Copy To: Leon Medical Centers
Attn: Michael Shealy
11501 SW 40th Street
Miami, FL 33165

With Copy To: Gray, Ackerman & Haines, P.A.

Attn: Steven H. Gray, Esq.
125 NE 1st Avenue, Suite 1
Ocala, FL 34470
E-mail: sgray@gahlaw.com

AS TO OWNER:

Leon Ocala Holdings III, LLC
Attn: Benjamin Leon, III
11501 SW 40th Street
Miami, FL 33165

With Copy To:

Leon Medical Centers
Attn: Michael Shealy
11501 SW 40th Street
Miami, FL 33165

With Copy To:

Gray, Ackerman & Haines, P.A.
Attn: Steven H. Gray, Esq.
125 NE 1st Avenue, Suite 1
Ocala, FL 34470
E-mail: sgray@gahlaw.com

Any Party may modify the address for notices set forth above by providing notice of the change of address to all parties to this Agreement, which notice is to be provided in accordance with the requirements of this Section.

- 15.2 Litigation.** In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover all reasonable costs incurred with respect to such litigation, including reasonable attorneys' fees, and including reimbursement for such reasonable attorneys' fees and costs incurred with respect to any bankruptcy, appellate or post-judgment proceeding related thereto.
- 15.3 Binding Effect.** The parties to this Agreement represent to each other that each party fully understands the facts surrounding this Agreement and each is signing this Agreement fully and voluntarily, intending to be bound by it. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective spouses, heirs, executors, administrators and assigns. There are no representations or warranties other than those set forth herein.
- 15.4 Headings.** The headings contained within this Agreement are for identification purposes only, and shall not be construed to amend, modify, or alter the terms of the Agreement.
- 15.5 Severability.** Except as otherwise set forth herein, in the event any provision or section of this Agreement is determined to be invalid or unenforceable, such determination shall not affect the enforceability or the validity of the remaining provisions of this Agreement.
- 15.6 Survival of Representations and Warranties.** All representations and warranties contained herein are made in writing by the parties in connection herewith shall survive the execution and delivery of this Agreement.
- 15.7 Successors and Assigns.**
- 15.7.1** All covenants and agreements in this Agreement made by or on behalf of any parties hereto shall bind and inure to the benefit of the respective successors and assigns of the parties hereto, whether so expressed or not.
- 15.7.2** Upon a sale or other transfer of a Parcel or a portion thereof, the terms and provisions of this Agreement, as applicable, shall remain in full force and effect as to the Parcel or a portion of the Parcel.

15.8 **Applicable Law.** This Agreement is being delivered in the State of Florida, and shall be construed and enforced in accordance with the laws of the State of Florida. The venue for any legal proceeding arising out of this Agreement shall be Marion County, Florida.

15.9 **Counterparts.** This Agreement may be executed simultaneously in several counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

15.10 **Amendment of Agreement.** This Agreement cannot be changed, modified or released orally, but only by an agreement in writing signed by the parties against whom enforcement of said change, modification or discharge is sought.

15.11 **Gender.** As used in this Agreement, the masculine shall include the feminine and neuter, the singular shall include the plural, and the plural shall include the singular as the context may require.

15.12 **Effective Date.**

15.12.1 This Agreement shall become effective upon the recording of this Agreement in the Public records of Marion County, Florida, after its execution by all Parties hereto. To become effective this Agreement must be recorded in the Marion County Public Records within fourteen (14) days of the date of its execution by City.

15.12.2 Notwithstanding the foregoing:

15.12.2.1 The parties shall be obligated to perform any obligations hereunder that are required before such Effective Date; and

15.12.2.2 In the event this Agreement is appealed, including appeals pursuant to Section 163.3243, Florida Statutes, the obligations of the Parties shall be suspended hereunder, except to the extent such suspension would be inconsistent with requirements of Chapter 163 of the Florida Statutes.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

SEE ATTACHED SEPARATE SIGNATURE PAGES OF
CITY OF OCALA, FLORIDA; OCALA 42ND STREET COMMERCIAL, LLC; AND
LEON OCALA HOLDINGS III, LLC

SIGNATURE PAGE OF THE CITY OF OCALA, FLORIDA
TO CONCURRENCY DEVELOPMENT AGREEMENT BETWEEN CITY OF OCALA;
OCALA 42ND STREET COMMERCIAL, LLC; AND LEON OCALA HOLDINGS III, LLC

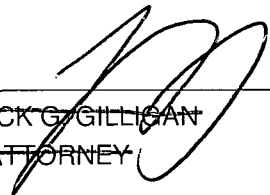
THE CITY OF OCALA , FLORIDA

By: Mary S. Rich
MARY S. RICH

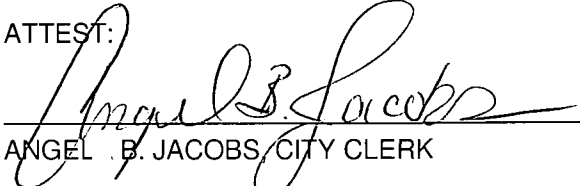
Title: President, Ocala City Council

Date: _____

APPROVED AS TO FORM AND LEGALITY:


~~PATRICK G. GILLIGAN~~
CITY ATTORNEY

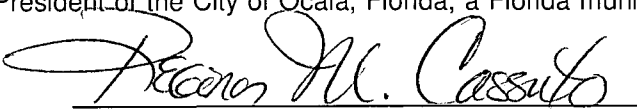
W. James Gooding III
Assistant City Attorney

ATTEST: 
ANGEL B. JACOBS, CITY CLERK

APPROVED BY THE OCALA CITY COUNCIL ON: APRIL 2, _____, 2013.

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 1TH day of SEPTEMBER, 2013,
by Mary S. Rich, as City Council President of the City of Ocala, Florida, a Florida municipal corporation,
on behalf of the City.


Notary Public, State of Florida
Name: REGINA M. CASSUTO
(Please print or type)

Commission Number:
Commission Expires:



REGINA M. CASSUTO
MY COMMISSION # DD 945332
EXPIRES: December 9, 2013
Bonded Thru Budget Notary Services

Notary: Check one of the following:

☒ Personally known OR
☐ Produced Identification (if this box is checked, fill in blank below).

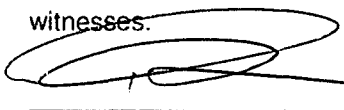
Type of Identification Produced: _____

ACCEPTED BY CITY COUNCIL
April 2, 2013

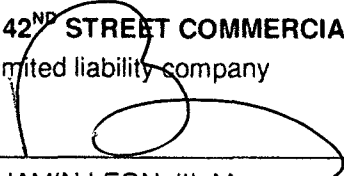
OFFICE OF THE CITY CLERK

**SIGNATURE PAGE OF OCALA 42ND STREET COMMERCIAL, LLC
TO CONCURRENCY DEVELOPMENT AGREEMENT BETWEEN CITY OF OCALA;
OCALA 42ND STREET COMMERCIAL, LLC; AND LEON OCALA HOLDINGS III, LLC**

Signed, sealed and delivered in our presence as witnesses.


Print Name: PATRICIA E. ROCHA

OCALA 42ND STREET COMMERCIAL, LLC, a
Florida limited liability company

By: 
BENJAMIN LEON, III Manager
Date: _____

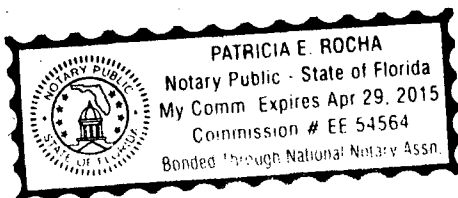
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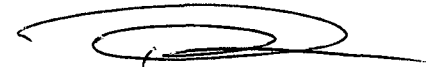
STATE OF FLORIDA
COUNTY OF MIAMI DADE

The foregoing AMENDED AND RESTATED SITE AND CONCURRENCY DEVELOPMENT AGREEMENT pursuant to Chapter 163, Florida Statutes was acknowledged before me by BENJAMIN LEON, III, as Manager of OCALA 42ND STREET COMMERCIAL, LLC, a Florida limited liability company, who is:

☒ Personally known by me, OR
☐ Produced a driver's license as identification.

Dated: this 6 day of AUGUST, 2013.

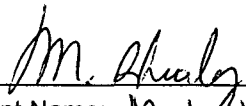



Print Name: PATRICIA ROCHA
Notary Public, State of Florida
Commission number EE 54564
Commission expires 04.29.15

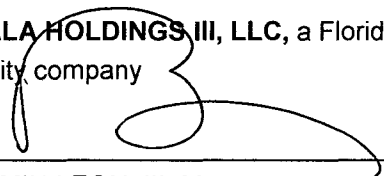
**SIGNATURE PAGE OF LEON OCALA HOLDINGS III, LLC
TO CONCURRENCY DEVELOPMENT AGREEMENT BETWEEN CITY OF OCALA;
OCALA 42ND STREET COMMERCIAL, LLC; AND LEON OCALA HOLDINGS III, LLC**

Signed, sealed and delivered in our presence as witnesses:


Print Name: PATRICIA ROCHA


Print Name: Michael Shealy

LEON OCALA HOLDINGS III, LLC, a Florida limited liability company

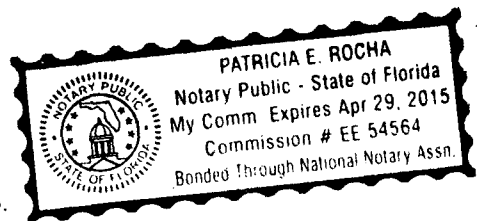
By: 
BENJAMIN LEON, III, Manager
Date: 07/27/2013

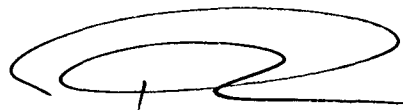
STATE OF FLORIDA
COUNTY OF MIAMI DADE

The foregoing AMENDED AND RESTATED SITE AND CONCURRENCY DEVELOPMENT AGREEMENT pursuant to Chapter 163, Florida Statutes was acknowledged before me by BENJAMIN LEON, III, as Manager of LEON OCALA HOLDINGS III, LLC, a Florida limited liability company, who is:

☒ Personally known by me, OR
☐ Produced a driver's license as identification.

Dated: this 26 day of JULY, 2013.




Print Name: PATRICIA ROCHA
Notary Public, State of Florida
Commission number EE 54564
Commission expires 4.29.15

SCHEDULE OF EXHIBITS

EXHIBIT	REFERENCE	DESCRIPTION
A	Recital B	Legal - "Property"
B	Recital B	Legal – "Commercial Parcel"
C	Recital D	Approved Conceptual PUD Master Plan
D	§ 3.4	Approved Commercial Site Plan
E	§ 3.10	Legal – DRA 1
F	§ 3.17	Legal – Office Parcel
G	§6.1	Legal – Residential Parcel

EXHIBIT "A"
(PROPERTY)

A PORTION OF THE NORTH ½ OF SECTION 36 AND G.G. PERPALL GRANT, TOWNSHIP 15 SOUTH, RANGE 21 EAST AND A PORTION OF LOTS 7 AND 8, BLOCK "B" OF EL DORADO SUBDIVISION RECORDED IN PLAT BOOK "R" AT PAGES 47, 48 AND 49 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING 100 FOOT RIGHT OF WAY) AND THE POINT OF BEGINNING. THENCE CONTINUE ALONG SAID NORTH BOUNDARY ALSO BEING THE SOUTH BOUNDARY OF SAID EL DORADO SUBDIVISION, S89°38'57"E, A DISTANCE OF 2144.75 FEET TO THE S.W. CORNER OF AN EXCEPTION TO THE WARRANTY DEED FOR LOT 7, BLOCK "B" OF SAID EL DORADO SUBDIVISION, SAID WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2802, PAGE 1283 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH BOUNDARY OF EL DORADO SUBDIVISION, ALONG THE WEST BOUNDARY OF SAID EXCEPTION, N00°17'15"E, A DISTANCE OF 14.03 FEET TO THE N.W. CORNER OF SAID EXCEPTION; THENCE ALONG THE NORTH BOUNDARY OF SAID EXCEPTION, S89°37'25"E, A DISTANCE OF 281.57 FEET TO THE N.E. CORNER OF SAID EXCEPTION; THENCE ALONG THE EAST BOUNDARY OF SAID EXCEPTION, S00°00'01"E, A DISTANCE OF 13.99 FEET TO THE S.E. CORNER OF SAID EXCEPTION, SAID POINT ALSO BEING ON THE AFOREMENTIONED SOUTH BOUNDARY OF EL DORADO SUBDIVISION; THENCE ALONG SAID SOUTH BOUNDARY, S89°41'38"E, A DISTANCE OF 57.92 FEET TO A POINT ON THE WESTERLY BOUNDARY OF A 20 FEET WIDE DRAINAGE RIGHT OF WAY AS RECORDED IN ROAD PLAT BOOK III, PAGES 119 AND 121 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH BOUNDARY OF EL DORADO SUBDIVISION, ALONG SAID WESTERLY BOUNDARY OF DRAINAGE RIGHT OF WAY, S05°43'36"E, A DISTANCE OF 793.79 FEET; THENCE CONTINUE ALONG SAID WESTERLY BOUNDARY S03°29'21"E, A DISTANCE OF 50.45 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 475C (S.W. 42ND STREET) (RIGHT OF WAY WIDTH VARIES); THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE, S55°13'51"W, A DISTANCE OF 351.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1350.00, A CENTRAL ANGLE OF 28°04'01", AND A CHORD OF 654.72 FEET BEARING S69°14'22"W; THENCE SOUTHWESTERLY ALONG SAID ARC AND RIGHT OF WAY LINE, A DISTANCE OF 661.31 FEET TO THE END OF SAID CURVE; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY LINE N89°44'45"W, A DISTANCE OF 1641.91 FEET; THENCE N44°29'49"W, A DISTANCE OF 56.42 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE); THENCE ALONG SAID RIGHT OF WAY LINE, N00°43'50"E, A DISTANCE OF 1240.50 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 71.39 ACRES, MORE OR LESS.

EXHIBIT "B"
(RETAIL PARCEL)

A PORTION OF THE NORTH 1/2 OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING A 100 FOOT RIGHT OF WAY); THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, S.00°43'50"W., A DISTANCE OF 529.24 FEET TO THE POINT OF BEGINNING. SAID POINT ALSO BEING THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 89°55'38", AND A CHORD BEARING AND DISTANCE OF N.45°41'39"E., 35.33 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 39.24 FEET TO A POINT OF TANGENCY; THENCE S.89°20'33"E., A DISTANCE OF 126.30 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 89°36'28", AND A CHORD BEARING AND DISTANCE OF S.44°32'19"E., 140.94 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 156.40 FEET TO A POINT OF TANGENCY; THENCE S.00°15'56"W., A DISTANCE OF 79.87 FEET; THENCE S.89°44'04"E., A DISTANCE OF 435.52 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 34°14'54", AND A CHORD BEARING AND DISTANCE OF S.72°36'37"E., 58.89 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 59.77 FEET TO A POINT OF TANGENCY; THENCE S.55°29'10"E., A DISTANCE OF 61.26 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 55°45'06", AND A CHORD BEARING AND DISTANCE OF S.27°36'37"E., 93.51 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 97.30 FEET TO A POINT OF TANGENCY; THENCE S.00°15'56"W., A DISTANCE OF 44.58 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 130.00 FEET, A CENTRAL ANGLE OF 56°03'09", AND A CHORD BEARING AND DISTANCE OF S.27°45'38"E., 122.17 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 127.18 FEET TO A POINT OF TANGENCY; THENCE S.55°47'13"E., A DISTANCE OF 95.99 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 95.00 FEET, A CENTRAL ANGLE OF 68°54'45", AND A CHORD BEARING AND DISTANCE OF S.21°19'50"E., 107.50 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 114.26 FEET TO A POINT OF TANGENCY; THENCE S.13°07'32"W., A DISTANCE OF 45.48 FEET; THENCE S.00°00'40"W., A DISTANCE OF 70.21 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 90°14'35", AND A CHORD BEARING AND DISTANCE OF S.45°07'57"W., 56.69 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 63.00 FEET TO A POINT OF TANGENCY AND A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 475C (S.W. 42ND STREET) (RIGHT OF WAY WIDTH VARIES); THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE, N.89°44'45"W., A DISTANCE OF 929.78 FEET; THENCE N.44°29'49"W., A DISTANCE OF 56.42 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE); THENCE ALONG SAID RIGHT OF WAY LINE, N.00°43'50"E., A DISTANCE OF 711.26 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 13.47 ACRES, MORE OR LESS.

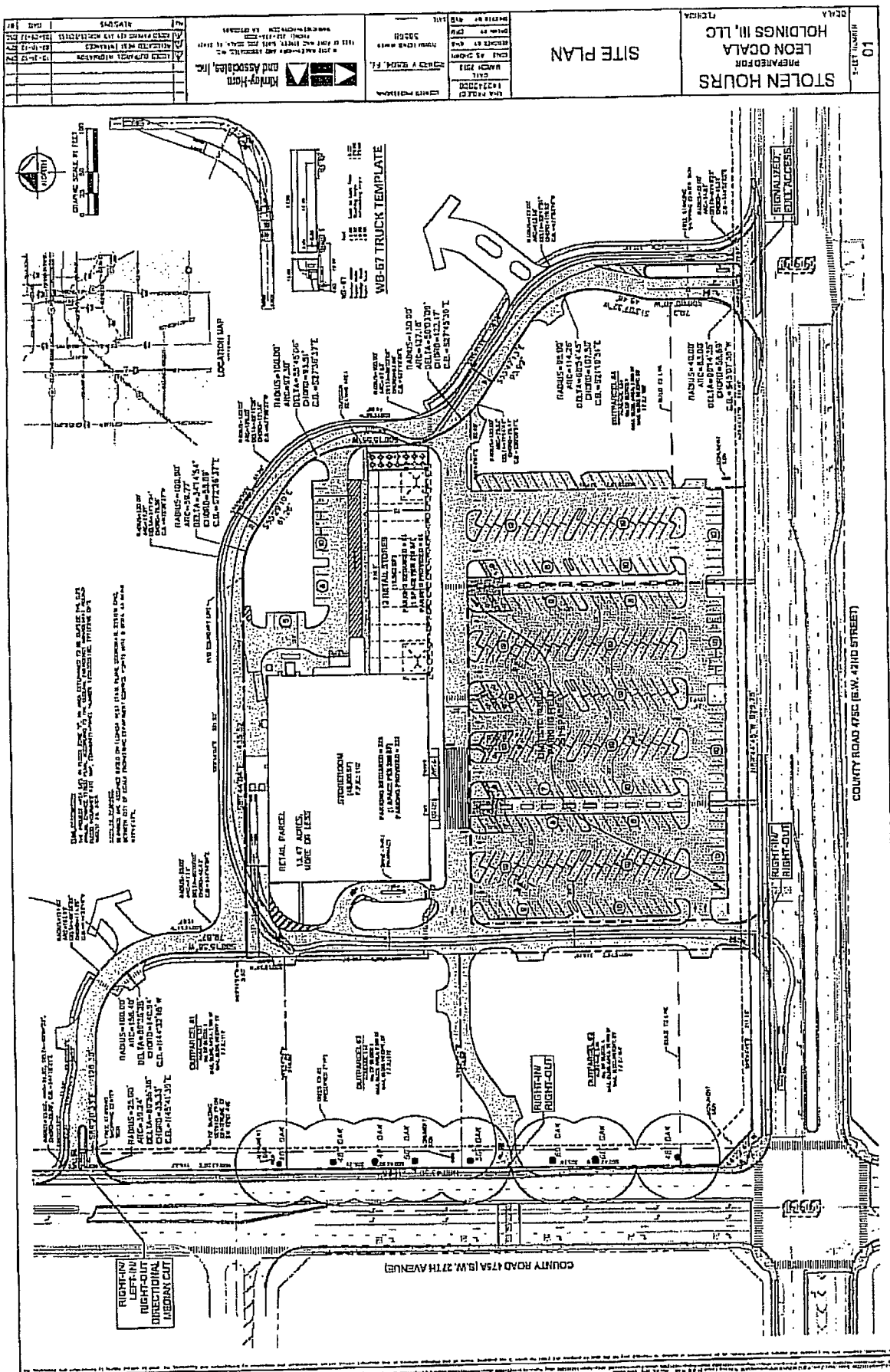


EXHIBIT "D"
(SITE PLAN)

EXHIBIT "E"
(LEGAL DRA -1)

A PORTION OF THE NORTH 1/2 OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING A 100 FOOT RIGHT OF WAY); THENCE CONTINUE ALONG SAID NORTH BOUNDARY, S89°38'57"E., A DISTANCE OF 1967.04 FEET; THENCE DEPARTING SAID NORTH BOUNDARY, S00°21'03"W., A DISTANCE OF 48.32 FEET TO THE POINT OF BEGINNING. SAID POINT BEING THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 495.00 FEET, A CENTRAL ANGLE OF 31°33'24", AND A CHORD BEARING AND DISTANCE OF N.88°55'23"E., 269.20 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 272.63 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 202.00 FEET, A CENTRAL ANGLE OF 69°11'31", AND A CHORD BEARING AND DISTANCE OF S.72°15'34"E., 229.39 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 243.94 FEET TO A POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 112.00 FEET, A CENTRAL ANGLE OF 65°44'24", AND A CHORD BEARING AND DISTANCE OF S.04°47'36"E., 121.57 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 128.51 FEET TO A POINT OF COMPOUND CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 60.00 FEET, A CENTRAL ANGLE OF 101°05'41", AND A CHORD BEARING AND DISTANCE OF S.78°37'27"W., 92.66 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 105.87 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 120.00 FEET, A CENTRAL ANGLE OF 122°54'33", AND A CHORD BEARING AND DISTANCE OF S.67°43'01"W., 210.83 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 257.42 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHERLY, HAVING A RADIUS OF 116.00 FEET, A CENTRAL ANGLE OF 151°00'47", AND A CHORD BEARING AND DISTANCE OF S.81°46'08"W., 224.62 FEET; THENCE WESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 305.74 FEET TO A POINT OF TANGENCY; THENCE N.22°43'28"W., A DISTANCE OF 222.65 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 82.00 FEET, A CENTRAL ANGLE OF 127°25'33", AND A CHORD BEARING AND DISTANCE OF N.40°59'18"E., 147.04 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 182.37 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 3.51 ACRES, MORE OR LESS.

EXHIBIT "F"
(OFFICE PARCEL)

A PORTION OF THE NORTH 1/2 OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING A 100 FOOT RIGHT OF WAY) SAID POINT ALSO BEING THE POINT OF BEGINNING.

THENCE CONTINUE ALONG SAID NORTH BOUNDARY, S.89°38'57"E., A DISTANCE OF 297.68 FEET; THENCE S.00°15'56"W., A DISTANCE OF 352.96 FEET; THENCE S.69°02'37"E., A DISTANCE OF 40.15 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 202.00 FEET, A CENTRAL ANGLE OF 19°21'35", AND A CHORD BEARING AND DISTANCE OF S.19°30'24"W., 67.93 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 68.25 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 140.00 FEET, A CENTRAL ANGLE OF 39°28'05", AND A CHORD BEARING AND DISTANCE OF S.29°33'39"W., 94.54 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 96.44 FEET TO A POINT OF TANGENCY; THENCE S.49°17'42"W., A DISTANCE OF 26.83 FEET TO A POINT OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 124.00 FEET, A CENTRAL ANGLE OF 53°14'29", AND A CHORD BEARING AND DISTANCE OF N.62°43'18"W., 111.12 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 115.23 FEET TO A POINT OF TANGENCY; THENCE N.89°20'33"W., A DISTANCE OF 33.23 FEET; THENCE N.78°09'40"W., A DISTANCE OF 51.58 FEET; THENCE N.89°20'33"W., A DISTANCE OF 42.37 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°04'22", AND A CHORD BEARING AND DISTANCE OF N.44°18'21"W., 35.38 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 39.30 FEET TO A POINT OF TANGENCY, SAID POINT BEING ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE); THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, N.00°43'50"E., A DISTANCE OF 445.24 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 3.40 ACRES, MORE OR LESS.

EXHIBIT "G"
(RESIDENTIAL PARCEL)

A PORTION OF THE NORTH ½ OF SECTION 36 AND G.G. PERPALL GRANT, TOWNSHIP 15 SOUTH, RANGE 21 EAST AND A PORTION OF LOTS 7 AND 8, BLOCK "B" OF EL DORADO SUBDIVISION RECORDED IN PLAT BOOK "R" AT PAGES 47, 48 AND 49 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOW:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING 100 FOOT RIGHT OF WAY) AND THE POINT OF BEGINNING. THENCE CONTINUE ALONG SAID NORTH BOUNDARY ALSO BEING THE SOUTH BOUNDARY OF SAID EL DORADO SUBDIVISION, S89°38'57"E, A DISTANCE OF 2144.75 FEET TO THE S.W. CORNER OF AN EXCEPTION TO THE WARRANTY DEED FOR LOT 7, BLOCK "B" OF SAID EL DORADO SUBDIVISION, SAID WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2802, PAGE 1283 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH BOUNDARY OF EL DORADO SUBDIVISION, ALONG THE WEST BOUNDARY OF SAID EXCEPTION, N00°17'15"E, A DISTANCE OF 14.03 FEET TO THE N.W. CORNER OF SAID EXCEPTION; THENCE ALONG THE NORTH BOUNDARY OF SAID EXCEPTION, S89°37'25"E, A DISTANCE OF 281.57 FEET TO THE N.E. CORNER OF SAID EXCEPTION; THENCE ALONG THE EAST BOUNDARY OF SAID EXCEPTION, S00°00'01"E, A DISTANCE OF 13.99 FEET TO THE S.E. CORNER OF SAID EXCEPTION, SAID POINT ALSO BEING ON THE AFOREMENTIONED SOUTH BOUNDARY OF EL DORADO SUBDIVISION; THENCE ALONG SAID SOUTH BOUNDARY, S89°41'38"E, A DISTANCE OF 57.92 FEET TO A POINT ON THE WESTERLY BOUNDARY OF A 20 FEET WIDE DRAINAGE RIGHT OF WAY AS RECORDED IN ROAD PLAT BOOK III, PAGES 119 AND 121 OF THE PUBLIC RECORDS OF MARION COUNTY, FLORIDA; THENCE DEPARTING SAID SOUTH BOUNDARY OF EL DORADO SUBDIVISION, ALONG SAID WESTERLY BOUNDARY OF DRAINAGE RIGHT OF WAY, S05°43'36"E, A DISTANCE OF 793.79 FEET; THENCE CONTINUE ALONG SAID WESTERLY BOUNDARY S03°29'21"E, A DISTANCE OF 50.45 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 475C (S.W. 42ND STREET) (RIGHT OF WAY WIDTH VARIES); THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE, S55°13'51"W, A DISTANCE OF 351.47 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 1350.00, A CENTRAL ANGLE OF 28°04'01", AND A CHORD OF 654.72 FEET BEARING S69°14'22"W; THENCE SOUTHWESTERLY ALONG SAID ARC AND RIGHT OF WAY LINE, A DISTANCE OF 661.31 FEET TO THE END OF SAID CURVE; THENCE CONTINUE ALONG SAID NORTHERLY RIGHT OF WAY LINE N89°44'45"W, A DISTANCE OF 1641.91 FEET; THENCE N44°29'49"W, A DISTANCE OF 56.42 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE); THENCE ALONG SAID RIGHT OF WAY LINE, N00°43'50"E, A DISTANCE OF 1240.50 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 71.39 ACRES, MORE OR LESS.

LESS AND EXCEPT: (RETAIL PARCEL)

A PORTION OF THE NORTH 1/2 OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING A 100 FOOT RIGHT OF WAY); THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, S00°43'50"W, A DISTANCE OF 529.24 FEET TO THE POINT OF BEGINNING. SAID POINT ALSO BEING THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 25.00, A CENTRAL ANGLE OF 89°55'38", AND A CHORD BEARING AND DISTANCE OF N.45°41'39"E., 35.33 FEET; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 39.24 FEET TO A POINT OF TANGENCY; THENCE S.89°20'33"E., A DISTANCE OF 126.30 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 89°36'28", AND A CHORD BEARING AND DISTANCE OF S.44°32'19"E., 140.94 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 156.40 FEET TO A POINT OF TANGENCY; THENCE S.00°15'56"W., A DISTANCE OF 79.87 FEET; THENCE S.89°44'04"E., A DISTANCE OF 435.52 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHERLY, HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 34°14'54", AND A CHORD BEARING AND DISTANCE OF S.72°36'37"E., 58.89 FEET; THENCE EASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 59.77 FEET TO A POINT OF TANGENCY; THENCE S.55°29'10"E., A DISTANCE OF 61.26 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 100.00 FEET, A CENTRAL ANGLE OF 55°45'06", AND A CHORD BEARING AND DISTANCE OF S.27°36'37"E., 93.51 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 97.30 FEET TO A POINT OF TANGENCY; THENCE S.00°15'56"W., A DISTANCE OF 44.58 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 130.00 FEET, A CENTRAL ANGLE OF 56°03'09", AND A CHORD BEARING AND DISTANCE OF S.27°45'38"E., 122.17 FEET; THENCE SOUTHEASTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 127.18 FEET TO A POINT OF TANGENCY; THENCE S.55°47'13"E., A DISTANCE OF 95.99 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE WESTERLY, HAVING A RADIUS OF 95.00 FEET, A CENTRAL ANGLE OF 68°54'45", AND A CHORD BEARING AND DISTANCE OF S.21°19'50"E., 107.50 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 114.26 FEET TO A POINT OF TANGENCY; THENCE S.13°07'32"W., A DISTANCE OF 45.48 FEET; THENCE S.00°00'40"W., A DISTANCE OF 70.21 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 40.00 FEET, A CENTRAL ANGLE OF 90°14'35", AND A CHORD BEARING AND DISTANCE OF S.45°07'57"W., 56.69 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 63.00 FEET TO A POINT OF TANGENCY AND A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF COUNTY ROAD 475C (S.W. 42ND STREET) (RIGHT OF WAY WIDTH VARIES); THENCE ALONG SAID NORTHERLY RIGHT OF WAY LINE, N.89°44'45"W., A DISTANCE OF 929.78 FEET; THENCE N.44°29'49"W., A DISTANCE OF 56.42 FEET TO A POINT ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE); THENCE ALONG SAID RIGHT OF WAY LINE, N.00°43'50"E., A DISTANCE OF 711.26 FEET TO THE POINT OF BEGINNING. SAID LANDS CONTAINING 13.47 ACRES, MORE OR LESS.

LESS AND EXCEPT: (OFFICE PARCEL)

CONTINUED NEXT PAGE:

EXHIBIT "G"
(RESIDENTIAL PARCEL)
(CONTINUED)

LESS AND EXCEPT: (OFFICE PARCEL)

A PORTION OF THE NORTH 1/2 OF SECTION 36, TOWNSHIP 15 SOUTH, RANGE 21 EAST, MARION COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 36; THENCE ALONG THE NORTH BOUNDARY OF SAID SECTION 36, S89°38'59"E, A DISTANCE OF 33.00 FEET TO THE EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE) (BEING A 100 FOOT RIGHT OF WAY) SAID POINT ALSO BEING THE POINT OF BEGINNING. THENCE CONTINUE ALONG SAID NORTH BOUNDARY, S.89°38'57"E., A DISTANCE OF 297.68 FEET; THENCE S.00°15'56"W., A DISTANCE OF 352.96 FEET; THENCE S.69°02'37"E., A DISTANCE OF 40.15 FEET TO THE BEGINNING OF A NON-TANGENT CURVE CONCAVE EASTERLY, HAVING A RADIUS OF 202.00 FEET, A CENTRAL ANGLE OF 19°21'35", AND A CHORD BEARING AND DISTANCE OF S.19°30'24"W., 67.93 FEET; THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 68.25 FEET TO A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 140.00 FEET, A CENTRAL ANGLE OF 39°28'05", AND A CHORD BEARING AND DISTANCE OF S.29°33'39"W., 94.54 FEET; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 96.44 FEET TO A POINT OF TANGENCY; THENCE S.49°17'42"W., A DISTANCE OF 26.83 FEET TO A POINT OF A CURVE CONCAVE SOUTHWESTERLY, HAVING A RADIUS OF 124.00 FEET, A CENTRAL ANGLE OF 53°14'29", AND A CHORD BEARING AND DISTANCE OF N.62°43'18"W., 111.12 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 115.23 FEET TO A POINT OF TANGENCY; THENCE N.89°20'33"W., A DISTANCE OF 33.23 FEET; THENCE N.78°09'40"W., A DISTANCE OF 51.58 FEET; THENCE N.89°20'33"W., A DISTANCE OF 42.37 FEET TO A POINT OF CURVATURE OF A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 25.00 FEET, A CENTRAL ANGLE OF 90°04'22", AND A CHORD BEARING AND DISTANCE OF N.44°18'21"W., 35.38 FEET; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, A DISTANCE OF 39.30 FEET TO A POINT OF TANGENCY, SAID POINT BEING ON THE AFOREMENTIONED EASTERLY RIGHT OF WAY LINE OF COUNTY ROAD 475A (S.W. 27TH AVENUE); THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, N.00°43'50"E., A DISTANCE OF 445.24 FEET TO THE POINT OF BEGINNING, SAID LANDS CONTAINING 3.40 ACRES, MORE OR LESS.

Letter to Pete Lee
December 12, 2022
Page 6

EXHIBIT C
RULE 4-1.9 CONFLICT OF INTEREST; FORMER CLIENT

See attached

RULE 4-1.9 CONFLICT OF INTEREST; FORMER CLIENT

A lawyer who has formerly represented a client in a matter must not afterwards:

(a) represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent;

(b) use information relating to the representation to the disadvantage of the former client except as these rules would permit or require with respect to a client or when the information has become generally known; or

(c) reveal information relating to the representation except as these rules would permit or require with respect to a client.

Comment

After termination of a client-lawyer relationship, a lawyer may not represent another client except in conformity with this rule. The principles in rule 4-1.7 determine whether the interests of the present and former client are adverse. Thus, a lawyer could not properly seek to rescind on behalf of a new client a contract drafted on behalf of the former client. So also a lawyer who has prosecuted an accused person could not properly represent the accused in a subsequent civil action against the government concerning the same transaction.

The scope of a "matter" for purposes of rule 4-1.9(a) may depend on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interests clearly is prohibited. On the other hand, a lawyer who recurrently handled a type of problem for a former client is not precluded from later representing another client in a wholly distinct problem of that type even though the subsequent representation involves a position adverse to the prior client. Similar considerations can apply to the reassignment of military lawyers between defense and prosecution functions within the same military jurisdiction. The underlying question is whether the lawyer was so involved in the matter that the subsequent representation can be justly regarded as a changing of sides in the matter in question.

Matters are “substantially related” for purposes of this rule if they involve the same transaction or legal dispute, or if the current matter would involve the lawyer attacking work that the lawyer performed for the former client. For example, a lawyer who has previously represented a client in securing environmental permits to build a shopping center would be precluded from representing neighbors seeking to oppose rezoning of the property on the basis of environmental considerations; however, the lawyer would not be precluded, on the grounds of substantial relationship, from defending a tenant of the completed shopping center in resisting eviction for nonpayment of rent.

Lawyers owe confidentiality obligations to former clients, and thus information acquired by the lawyer in the course of representing a client may not subsequently be used by the lawyer to the disadvantage of the client without the former client’s consent. However, the fact that a lawyer has once served a client does not preclude the lawyer from using generally known information about that client when later representing another client. Information that has been widely disseminated by the media to the public, or that typically would be obtained by any reasonably prudent lawyer who had never represented the former client, should be considered generally known and ordinarily will not be disqualifying. The essential question is whether, but for having represented the former client, the lawyer would know or discover the information.

Information acquired in a prior representation may have been rendered obsolete by the passage of time. In the case of an organizational client, general knowledge of the client’s policies and practices ordinarily will not preclude a subsequent representation; on the other hand, knowledge of specific facts gained in a prior representation that are relevant to the matter in question ordinarily will preclude such a representation. A former client is not required to reveal the confidential information learned by the lawyer in order to establish a substantial risk that the lawyer has confidential information to use in the subsequent matter. A conclusion about the possession of such information may be based on the nature of the services the lawyer provided the former client and information that would in ordinary practice be learned by a lawyer providing such services.

The provisions of this rule are for the protection of clients and can be waived if the former client gives informed consent. See terminology.

With regard to an opposing party's raising a question of conflict of interest, see comment to rule 4-1.7. With regard to disqualification of a firm with which a lawyer is associated, see rule 4-1.10.

Amended July 23, 1992, effective January 1, 1993 (605 So.2d 252); amended April 25, 2002 (820 So.2d 210); amended March 23, 2006, effective May 22, 2006 (933 So.2d 417); amended November 19, 2009, effective February 1, 2010 (24 So.3d 63); amended May 29, 2014, effective June 1, 2014 (140 So.3d 541).

RRTFB August 1, 2022