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FILE #: 2006012127 OR BK 04316 PGS 1738-1742

This Instrument Prepared by and Return To:  
David L. MacKay  
David L. MacKay Attorney, P.A.  
P.O. Box 206  
Ocala, FL. 34478

RECORDING FEES 44.00

Record and Return To:  
City of Ocala  
PO Box 1270  
Ocala, FL 34478  
Attention: Planning Director

Recording costs - \$ 44<sup>00</sup>

### AGREEMENT LIMITING DEVELOPMENT

THIS AGREEMENT made this 21<sup>st</sup> day of December, 2005 by and between Westwood Partnership, LLP hereinafter called the "Owner", and the City of Ocala, a Florida municipal corporation ("City").

WITNESSETH:

WHEREAS:

- A. Owner is the owner of record of the Property described in Exhibit "A" (the "Property"), being a portion of the land that is the subject of City of Ocala Ordinance #5464 (the "Ordinance") authorizing the change of a portion of the Property's designated land use to Medium Density Residential and the remainder of the Property's designated land use to Low Density Residential;
- B. Owner has represented that no more than 96 residential units will be developed on the Property, and that Owner will develop the Property as a Planned Unit Development under the City's Code of Ordinances (the "City Code").
- C. Owner has agreed, prior to commencing development, to perform a traffic study and comply with the Concurrency Management System provisions of the City Code.
- D. The parties desire that said representations be formalized by instrument in recordable form.

**NOW THEREFORE**, in consideration of the matters set forth above (which are incorporated herein by reference), the exchange of the mutual promises set forth herein, and other good and valuable consideration, the parties hereto agree as follows:

- 1. **Limitation on Development.** Owner for itself and any heirs, successors or assigns, agrees by and with the City that:
  - 1.1. The total number of residential units to be developed on the Property will not exceed 96. Such number is the maximum number of units and the City may approve a lower number as part of an approved Planned Unit Development; and

- 1.2. Owner will develop the Property only as a Planned Unit Development approved by City under the City's Code of Ordinances.
  - 1.3. Prior to commencing development, Owner will perform a traffic study and comply with the Concurrency Management System provisions of the City Code.
2. **Amendment to Limitations.** Any amendment, change or modification in the limitations provided in this Agreement purporting to permit an increase in the number of residential units permitted to be developed on the Property beyond those set forth in, or to otherwise develop the Property contrary to the provisions of, paragraph 1 above, shall be effective only if adopted by further amendment to the City of Ocala Comprehensive Plan in accordance with the formalities then required for amendments to the Comprehensive Plan.
3. **Effectiveness of Agreement.**
  - 3.1 This Agreement has been recommended to the parties by the Florida Department of Community Affairs as an effective method of limiting density of real property that is the subject of a proposed comprehensive plan amendment.
  - 3.2 The parties agree not to contend, in any dispute or litigation between them, that this Agreement is invalid or unenforceable as "contract zoning" or otherwise.
  - 3.3 Owner acknowledges and agrees that:
    - 3.3.1 City is relying upon the effectiveness of this Agreement in adopting the Ordinance.
    - 3.3.2 City's approval of the ordinance is conditioned upon the effectiveness of this Agreement.
    - 3.3.3 If this agreement is found, by a Court of competent jurisdiction, to be contrary to, prohibited by or invalid under applicable laws or regulations, Owner's use of the Property shall be limited to uses permitted under the Property's land use classification prior to the adoption of the Ordinance, and Owner shall not develop the Property:
      - (a) until the City adopts another amendment to the City's Comprehensive Plan further changing the Property's land use classification under the City's Comprehensive Plan; or
      - (b) Unless the owner voluntarily complies with this agreement.
- 4 **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.
- 5 **Construction of Agreement.** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's

length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than another.

IN WITNESS WHEREOF, the parties have executed this agreement on the day and year first written above.

ATTEST:

Valerie J. Forster  
Valerie J. Forster  
City Clerk

Approved as to form and legality

Patrick C. Gilligan W. James Gooding III  
City Attorney Assistant City Attorney

David L. Mackay  
Witness

DAVID L. MACKAY  
Print Witness Name

Jeanette Frantz  
Witness  
Jeanette Frantz  
Print Witness Name

CITY OF OCALA, a Florida municipal corporation

By: Daniel Owen  
Daniel Owen, President  
Ocala City Council

ACCEPTED BY CITY COUNCIL  
December 21, 2005  
DATE

OFFICE OF THE CITY CLERK

WESTWOOD PARTNERSHIP, LLP, a Florida limited liability partnership

By: Fox Pointe Properties, Ltd. Co., a Partner

By: Greg Lawroski  
Greg Lawroski (print name)  
Manager (print title)

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of December, 2005 by Daniel Owen as President of the City Council of the City of Ocala, a Florida municipal corporation, on behalf of the City of Ocala.

Vicky L. Ramsey  
Notary Public, State of Florida  
Name: Vicky L. Ramsey  
(Please print or type)

Commission Number:  
Commission Expires:



Vicky L. Ramsey  
My Commission DD282307  
Expires January 20, 2008

Notary: Check one of the following:

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

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of January, 2006, by Greg Lawroski, Manager of Fox Pointe Properties Ltd. Co., a partner of Westwood Partnership, LLP, a Florida limited liability partnership.

David L. Mackay  
Notary Public, State of Florida  
Name: DAVID L. MACKAY  
(Please print or type)

Commission Number:  
Commission Expires:



David L. Mackay  
Commission # DD351010  
Expires October 24, 2008  
Bonded Troy Pain - Insurance, Inc. 800-366-7019

Notary: Check one of the following:

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

**EXHIBIT "A"**

**Tract A and Tract B, THE HUNT CLUB AT FOX POINT, as per plat thereof recorded in Plat Book 7, Pages 139 and 140, Public Records of Marion County, Florida,**

**TOGETHER WITH Easement for ingress, egress and utilities over portion of Tract F of The Hunt Club at Fox Point, as follows:**

A portion of Tract "F" of Hunt Club at Fox Point, a subdivision, as per plat thereof recorded in Plat Book 7, Pages 139 and 140, of the Public Records of Marion County, Florida; thence S. 89°23'35" E. along the North line of said subdivision, 399.99'; thence S. 00°37'02" W., along the East line of Tract "A" of said subdivision, 510.17' to the Point of Beginning (POP), said point being on the arc of a curve concave Southerly and having a radius of 400.00' and central angle of 07°19'33" and a chord bearing and distance of N. 85°43'12" W., 51.11'; thence Northwesterly along the arc of said curve, 51.14' to the point of tangency of said curve; thence N. 89°22'58", 318.98' to the point of curvature of a curve concave Northeasterly and having a radius of 30.00' and central angle of 90°00'00" and a chord bearing and distance of N. 44°22'58" W. 42.43'; thence Northwesterly along the arc of said curve 47.12' to the Easterly right-of-way line of SW 60<sup>th</sup> Avenue (100' R/W); thence S.00°37'02" W. along the said Easterly right-of-way line 140.00' to the point of curvature of a curve concave Southeasterly and having a radius of 30.00' and central angle of 90°00'00" and a chord bearing and distance of N. 45°37'52" E. 42.43'; thence Northeasterly along the arc of said curve, 47.12' to the point of tangency of said curve; thence S. 89°22'58" E. 312.41' to the point of curvature of a curve concave Southerly and having a radius of 390.00' and central angle of 08°29'23" and a chord bearing and distance of N. 85°08'17" E. 57.73'; thence Northeasterly along the arc of said curve, 57.79'; thence N. 00°37'02" E., 81.01' to the Point of Beginning (POB).