

EXHIBIT A

THIS FORM DEVELOPED BY:
Fred A. Morrison
McLin & Burnsed P.A.
FILLED IN BY:
Bill Wiley, AICP
Community Development Director
City of Leesburg

Annexation

(JIREH Investors, LLC)

RESERVED FOR RECORDING

THIS AGREEMENT entered into as of the 13th day of JUNE, 2011, between **THE CITY OF LEESBURG, FLORIDA**, P.O. Box 490630, Leesburg, Florida 34749-0630, hereafter referred to as the "City," and JIREH Investors, LLC (County Road 468 Site) whose address is 201 N. 2nd Street, Leesburg, Florida 34748 hereafter referred to as the "Developer,".

WITNESSETH:

That Developer owns the real property legally described on Exhibit "B" attached, and has applied to annex that property (hereafter referred to as the "Property") into the City. The parties have entered into this Agreement to set forth certain understandings between them regarding how the Property is to be developed, and which party will be responsible for various expenses connected to the use and development of the Property, if it is annexed into the City and subsequently developed.

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and of the consideration being given by the City to annexation of the Property into its municipal limits, as well as other good and valuable considerations, receipt whereof is hereby acknowledged, the parties do hereby agree as set forth below:

1. To incorporate Exhibit "A" JIREH Investors, LLC (County Road 468 Site (15 acres), the City PUD (Planned Unit Development) conditions dated May 19, 2011, or as maybe subsequently amended, in to this Annexation Agreement.

2. Developer shall bear all responsibility, financial and otherwise, for the construction and installation of the following utility infrastructure and other improvements related to the use and development of the Property, all of which shall be constructed to the applicable specifications imposed by the ordinances and regulations of the City in effect at the time of construction. Developer shall dedicate on the plat, or otherwise grant to the City, free of liens or encumbrances other than those which are duly subordinated, easements for water, reuse water, and sewer lines and all other utilities mentioned herein, and shall upon approval of the lines by the City, convey title to all utility lines and related infrastructure (such as, but not limited to lift stations) to the City by deed, bill of sale or other appropriate document. The City shall not be obligated to accept for maintenance any utility lines, roads or other items constructed by the Developer which do not meet the specifications and requirements pertaining thereto as set forth in applicable laws, rules and regulations in effect at the time of construction.

A. All interior roads, together with such turning lanes, acceleration and deceleration lanes, traffic signals, signs, striping, and other road improvements, on site or off site, as are necessary to the efficient handling of

the traffic to be generated by the proposed development of the Property, and to meet the concurrency requirements imposed by law. Roads and other public thoroughfares within the Property shall be dedicated to the public on the plat or in some other manner, unless Developer desires and intends that the roads remain private, in which case the plat, recorded restrictions or other appropriate documents shall contain notice to all purchasers of land within the Development that they, and not the City, will be responsible for maintenance of the roads.

- B. All supply lines for potable water service to each residential, commercial or industrial unit constructed on the Property. This shall include the responsibility to construct such off site lines as are necessary to hook the Property onto the City's potable water system at the nearest location where there is a supply line of sufficient size to serve the needs of the proposed development.
- C. Separate water supply lines to carry treated wastewater ("Reuse Water") to be utilized for irrigation and other purposes for which the use of Reuse Water is approved by applicable laws, rules and regulations. This shall include the responsibility to construct such off site lines as are necessary to hook the Property onto the City's reuse water system at the nearest location where there is a supply line of sufficient size to serve the needs of the proposed development.
- D. Natural gas lines to supply each structure constructed on the Property with natural gas. This shall include the responsibility to construct such off site lines as are necessary to hook the Property onto the City's natural gas supply system at the nearest location where there is a supply line of sufficient size to serve the needs of the proposed development. Developer shall be responsible for the installation of a natural gas water heater and natural gas furnace in eighty percent (80%) of all homes in the development.
- E. Wastewater lines and any necessary lift stations to convey wastewater from each structure on the Property to the City's wastewater treatment system. This shall include the responsibility to construct such off site lines as are necessary to hook the Property onto the City's wastewater treatment system at the nearest location where there is a collection line of sufficient size to serve the needs of the proposed development.
- F. Electrical transmission lines shall be placed underground to serve each structure on the Property. If the Property is not within the City's electrical service area, the requirement to convey the electrical supply lines to the City shall not apply, however Developer shall still be required to dedicate easements sufficient in size and location for the placement, maintenance, repair, upgrade and improvement of the electrical supply system by the utility in whose service area the Property is located.
- G. Fiber optic cables to serve each structure constructed on the Property with data and other services capable of transmission over such lines. Provided, however, this requirement is only applicable if the City's fiber optic cable system is available adjacent to the Property at the time of construction/improvement plan approval by the City.
- H. If in its discretion the City desires to have any of the foregoing utility lines oversized for any reason, such as but not limited to serving future

development, it may require Developer to install the oversized lines but the City shall pay the difference in cost between the lines which would have been adequate to serve the Property, and the cost of the oversized lines required by the City.

3. At the time of building permit approval, or other time as specified by City or Lake County ordinance, Developer shall pay all applicable impact fees, connection charges, or other legally adopted fees and costs required by the City or Lake County.

4. Nothing in this Annexation Agreement shall be construed to exempt the Developer or the Property from any requirements imposed by the City code or other applicable laws, rules and regulations regarding any permits or approvals necessary for the anticipated development of the Property, including but not limited to, platting, building permits, zoning or conditional use permits or amendments to the Future Land Use Element of the Comprehensive Plan as required for the uses to which Developer proposes to put the Property, site plan approvals, or other permitting requirements imposed by local, state or federal government, or any agency thereof.

5. Developer understands and acknowledges that by entering into this Annexation Agreement, the City is not committing to approve any aspect of the proposed development of the Property, or to do any other act which requires public hearings or approval by the City Commission or other agency or body of the City such as the Planning Commission. All decisions regarding zoning, land use, permitting, and other such approvals, must be made by the body having jurisdiction over such decision under applicable law, and in accordance with all public hearing and participation requirements now or hereafter in effect. This Annexation Agreement shall not be effective, nor shall it be binding on either party, until such time as the Property has been duly annexed into the municipal limits of the City in accordance with all applicable requirements including notice to surrounding property owners and public hearings which are in accordance with Florida Statutes, and the City's Code of Ordinances. The City does not, by negotiation of this Annexation Agreement with the Developer, intend to commit itself to annex the Property, and shall not be obligated to do so. However, if the City denies Developer's petition to annex the Property into its municipal limits, this Annexation Agreement shall become void and of no force or effect once the decision of the City Commission to deny the petition to annex has become final and is no longer subject to appeal.

6. Venue for any action or proceeding arising under this Annexation Agreement shall be in Lake County, Florida. This Annexation Agreement shall be construed in accordance with the laws of Florida. In the event of any litigation arising under this Annexation Agreement, the prevailing party shall be entitled to recover its reasonable court costs and attorneys' fees at both the trial and appellate levels, in addition to any other relief obtained.

IN WITNESS WHEREOF, the parties have caused their duly authorized officers to set their hands and seals to this Annexation Agreement.

WITNESSES:

Barbara J Croff

Type or print name of Witness # 1

Barbara J Croff
Signature of Witness # 1

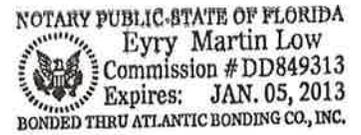
DEVELOPER:

BY: Tom Wiley

JIREH Investors, LLC
Tom Wiley, Managing Member

Lisa S. Wiley
Type or print name of Witness # 2

Lisa S. Wiley
Signature of Witness # 2



STATE OF FLORIDA
COUNTY OF LAKE

BEFORE ME, the undersigned Notary Public, JIREH Investors, LLC, Tom Wiley, Managing Member, personally appeared before me and acknowledged on the 13th day of JUNE, 2011, that he executed the foregoing instrument in said capacity. He is {CHECK ONE} personally known to me, or else who produced _____ as identification.

S. Martin Low
NOTARY PUBLIC

DD849313
Commission Number

EYRY MARTIN LOW
Type or print name of Notary

JAN 5, 2013
Commission Expiration Date

THE CITY OF LEESBURG, FLORIDA

BY: _____
MAYOR

Attest: _____
CITY CLERK

Approved as to form and content:

CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF LAKE

BEFORE ME, the undersigned Notary Public, personally appeared _____, as Mayor, and _____, as City Clerk, who appeared personally before me and acknowledged on the _____ day of _____, 2010, that they executed the foregoing instrument on behalf of the CITY OF LEESBURG, FLORIDA, and who were either {CHECK ONE} personally known to me, or else who produced _____ as identification.

NOTARY PUBLIC

Commission Number

Type or print name of Notary

Commission Expiration Date

**JIREH INVESTORS, LLC.
COUNTY ROAD 468 COMMERCE PARK
REZONING TO PUD (PLANNED UNIT DEVELOPMENT)
PLANNED DEVELOPMENT CONDITIONS
May 19, 2011**

These Planned Development Conditions for a PUD (Planned Unit Development) District are granted by the City of Leesburg Planning Commission, Lake County, Florida to JIREH Investors, LLC, "Permittee" for the purposes and terms and conditions as set forth herein pursuant to authority contained in Chapter 25 "Zoning", Section 25-278 "Planned Development Process" of the City of Leesburg Code of Ordinances, as amended.

BACKGROUND: The "Permittee" has submitted an application requesting a PUD (Planned Unit Development) zoning district to permit industrial and commercial uses on an approximately 14.7 acres site within the City of Leesburg in accordance with their Planned Development application and supplemental information.

1. PERMISSION

Permission is hereby granted to JIREH Investors, LLC to operate, and maintain a PUD (Planned Unit Development) development in and on real property in the City of Leesburg. The property is generally located on the west side of C.R. 468 and south of Lewis Road. The property is more particularly described as shown in the attached legal description below.

2. LEGAL DESCRIPTION:

See Exhibit B.

3. LAND USE

The above-described property, containing approximately 14.7 acres, shall be used for a commercial, warehouse and office park pursuant to City of Leesburg development codes and standards.

A. Uses

- 1) Uses shall be those listed as permitted uses in this document and shall occupy the approximate area as shown on the Conceptual Plan dated February 26, 2010.
- 2) Permitted Uses shall be as follows:
 - a. Commercial, warehouse, light industrial and office park development and associated uses.
- 3) Uses prohibited shall be as follows:
 - a. primary residential
 - b. group homes
 - c. crematoriums
 - d. gas station or convenience stores
 - e. car wash
 - f. transient accommodations
 - g. vehicle sales, service and repair
 - h. truck stops
 - i. animal hospitals and kennels
 - j. heavy industrial uses
 - k. stockpiling
 - l. all waste related services
 - m. Any other similar uses which are not considered office, commercial or light industrial in character or intensity which may adversely impact the adjoining properties do to traffic, noise, dust, etc.
- 4) The following uses shall be permitted only as accessory or interim uses:
 - a. residential (security/care taker)
 - b. day cares
 - c. open storage with screening
 - d. vehicle sales, service and repair
 - e. car wash

- f. Interim use as an recreational vehicle and boat storage facility on the approximate five acres of the southeast section of the property along CR468. For a time period not to exceed three (3) years and subject to conditions 5 Development Standards, and 10 Landscaping and Buffer Requirements including the PVC fencing, trees and landscaping. Maximum of 75 units.

B. Area

The Impervious surface coverage for this site shall not exceed eighty (80) percent of the gross site area.

C. Open Space

A minimum of twenty (20) percent of the site shall be developed as open space, including retention areas, buffer and landscaped areas. Parking areas and vehicle access areas shall not be considered in calculating open space.

4. SITE ACCESS

- A. Access to the property will be from C.R. 468. Any additional access shall be subject to the City of Leesburg PUD amendment and site plan application review process.

5. DEVELOPMENT STANDARDS

- A. The minimum development standards shall be those required for the PUD district except as amended by these conditions including the Conceptual Plan.

6. PARKING

- A. The permittee shall construct off-street parking spaces within the development per the conceptual site plan, pursuant to the City of Leesburg Code of Ordinances, as amended, which shall include the required number of handicapped parking spaces.

7. WETLANDS

- A. All wetlands on the project site shall be identified and the location and extent of each wetland shall be determined by the Department of Environmental Protection, St. Johns River Water Management District and/or U.S. Army Corp of Engineers. Each wetland shall be placed on a suitable map, signed and sealed by a surveyor registered to practice in Florida and shall be submitted as part of the preliminary plat application.
- B. Buildings or structures shall be a minimum of 50 feet from any wetland jurisdiction boundary.
- C. Wetlands shall have a minimum upland buffer of 30 feet or the upland buffer established by St. Johns River Water Management District and/or U.S. Army Corp of Engineers; whichever is more restrictive. All upland buffers shall be naturally vegetated and upland buffers that are devoid of natural vegetation shall be replanted with native vegetation or as required by St. Johns River Water Management District and/or U.S. Army Corp of Engineers.
- D. Land uses allowed within the upland buffers are limited to stormwater facilities as permitted by St. Johns River Water Management District.
- E. If wetland alteration is permitted by St. Johns River Water Management District and/or U.S. Army Corp of Engineers, wetland mitigation shall be required in accordance with permit approvals from St. Johns River Water Management District or U.S. Army Corp of Engineers, whichever is more restrictive.
- F. A wildlife management plan for the project site shall be prepared based on the results of an environmental assessment of the site and any environmental permit required from applicable governmental agencies. The wildlife management plan shall be submitted to the City as part of the preliminary plat application. The Permittee shall designate a responsible legal entity that shall implement and maintain the wildlife management plan.

8. DRAINAGE AND UTILITIES

- A. Prior to receiving Final Development Plan Approval, the "Permittee" shall submit, if applicable, a Master Site Drainage Plan and Utility Implementation Plan acceptable to the City of Leesburg. Prior to removal, renovation or demolition of any existing development on the site, the permittee shall provide:
 - 1) A detailed site plan demonstrating no direct discharge of stormwater runoff generated by the development into any natural surface waters or onto adjacent properties shall be required.

- 2) A detailed site plan indicating all provisions for electric, water, sewer, and natural gas in accordance with the site plan review process as required by the City of Leesburg Code of Ordinances.

9. TRANSPORTATION IMPROVEMENTS

- A. Any transportation improvements or right-of-way that may be required shall be based on projected needs and shall be contingent upon site plan approval by City staff during the development review and permitting process.
- B. Vehicular access to the project site shall be provided by County Road 468 for both primary and emergency access. The access off County Road 468 shall be a two lane divided boulevard type entrance road. Any other potential accesses such as to adjacent properties will be reviewed by the Development Review Committee during site plan process.
- C. The Permittee shall provide all necessary improvements/signalization within and adjacent to the development as required by Lake County, the MPO and City of Leesburg.
- D. All roads within the development shall be designed and constructed to meet the City of Leesburg requirements.
- E. The Permittee shall be responsible for obtaining all necessary Lake County permits and a copy of all permits shall be provided to the City of Leesburg prior to site plan approval.
- F. The City of Leesburg will not be responsible for the maintenance or repair of any of the roads or transportation improvements. The Permittee shall establish an appropriate legal entity that will be responsible to pay the cost and perform the services to maintain the roads and transportation improvements.
- G. A traffic/transportation study shall be submitted prior to site plan approval for review and determination of any necessary access improvements, including any off site improvements required by Lake County, the MPO or the City of Leesburg. Said improvements will be the responsibility of the Permittee.

10. LANDSCAPING AND BUFFER REQUIREMENTS

- A. All landscaping and buffering shall be in accordance with regulations contained within the City of Leesburg Code of Ordinances including;
 - 1) For each one hundred (100) linear feet, or fraction thereof, of boundary, the following plants shall be provided in accordance with the planting standards and requirements of the City of Leesburg Code of Ordinances, as amended.
 - a. Two (2) canopy trees
 - b. Two (2) ornamental trees
 - c. Thirty (30) shrubs
 - d. The remainder of the buffer area shall be landscaped with grass, groundcover, and/or other landscape treatment.
 - e. Existing vegetation in the required buffer shall be protected during construction.
- B. In addition, development of the required buffers as shown on the Conceptual Plan shall include an (8) foot high PVC fence with decorative posts and caps as seen on Exhibit D with landscape canopy trees installed along the property lines on the development as a visual buffer to adjacent residential properties.
- C. Variations to the landscape requirements of the code may be approved by the Community Development Director as long as the intent of the PUD and the Landscaping Code are maintained including consideration of existing fencing on adjacent properties and existing natural vegetative buffers.

11. MAINTENANCE

- A. With the exception of public utilities, maintenance of all site improvements, including but not limited to drives, internal sidewalks, landscaping and drainage shall be the responsibility of the owner.

12. OPERATIONAL REQUIREMENTS

- A. The applicant shall be subject to Section 12-19 Regulation of Public Nuisances of the City of Leesburg Code of Ordinances, as per attached Exhibit E.
- B. A noise/vibration/dust and/or traffic study by the applicant may be required to ensure compliance with this section if reoccurring formal written complaints from multiple complainants related to traffic, noise/vibration/dust are received by the City. The applicant

shall have the right to a hearing on the requirement for the referenced study before Planning Commission if they believe the complaints are not valid.

- C. The operation of machinery or equipment shall be restricted to the interior of buildings, except for the use of fork lifts etc. to receive and ship products.
- D. No activity including but not limited to loading and unloading, truck traffic, storage, fork lifts etc. shall occur in the buffer set back area, as described per Section 10 LANDSCAPING AND BUFFER REQUIREMENTS above.

13. MISCELLANEOUS CONDITIONS

- A. The uses of the proposed project shall only be those uses identified in the approved Planned Development Conditions. Any other proposed use must be specifically authorized in accordance with the Planned Development amendment process.
- B. No person, firm or corporation shall erect, construct, enlarge, alter, repair, remove, improve, move, convert, or demolish any building structure, or alter the land in any manner without first submitting the necessary plans and obtaining appropriate approvals in accordance with the City of Leesburg Codes.
- C. Construction and operation of the proposed use(s) shall at all times comply with City and other governmental agencies rules and regulations.
- D. The transfer of ownership or lease of any or all of the property described in this PUD Agreement shall include in the transfer or lease agreement, a provision that the purchaser or lessee is made good and aware of the conditions pertaining to the Planned Unit Development established and agrees to be bound by these conditions. The purchaser or lessee may request a change from the existing plans and conditions by following the procedures as described in the City of Leesburg Land Development Code, as amended.
- E. These PUD Conditions shall inure to the benefit of, and shall constitute a covenant running with the land and the terms, conditions, and provisions hereof, and shall be binding upon the present owner and any successor, and shall be subject to each and every condition herein set out.

14. CONCURRENCY

As submitted, the proposed zoning change does not appear to result in demands on public facilities which would exceed the current capacity of some public facilities, such as, but not limited to roads, sewage, water supply, drainage, solid waste, parks and recreation, schools and emergency medical facilities. However, no final development order (site plan and building permits) shall be granted for a proposed development until there is a finding that all public facilities and services required for the development have sufficient capacity at or above the adopted level of service (LOS) to accommodate the impacts of the development, or that improvements necessary to bring facilities up to their adopted LOS will be in place concurrent with the impacts of the development.

- A. Utilities
 - 1) Projected Capacities
 - a. The City's utility planning efforts draw upon phasing, capacity and service requirements, based upon information provided by the applicant. The City develops its plans consistent with sound engineering principles, prudent fiscal practices and due regard for regulatory compliance.
 - b. The development will require construction of new distribution mains, since existing facilities in the service area are not adequate. Should the developer wish to accelerate the construction of such facilities to provide service, the developer will bear the cost of design, permitting and construction. Any such facilities must be constructed in a fashion consistent with the City's master plans and to the City standards and specifications.
 - c. The City is in the process of Consumptive Use Permit renewal. The application provides for anticipated demands due to this and other potential development.
- B. Commitment of Capacity
 - There are no previous commitments of any existing or planned excess capacity.
- C. Ability to Provide Services

- 1) The City intends to provide water, wastewater and reclaimed water services within its service area for the foreseeable future.
- 2) The City updates its Ten-Year Capital Improvement Plan (CIP) as part of our annual budgetary process. Included within the CIP are water, wastewater, and reclaimed water improvements necessary to provide service to proposed development.
- 3) The City has completed an impact fee study, based in part on the CIP in order to assure adequate and appropriate funding for required improvements. The combination of master planning and CIP planning has allowed the City to issue bonds to fund new potable water facilities and substantial reuse facilities, among other infrastructure improvements.

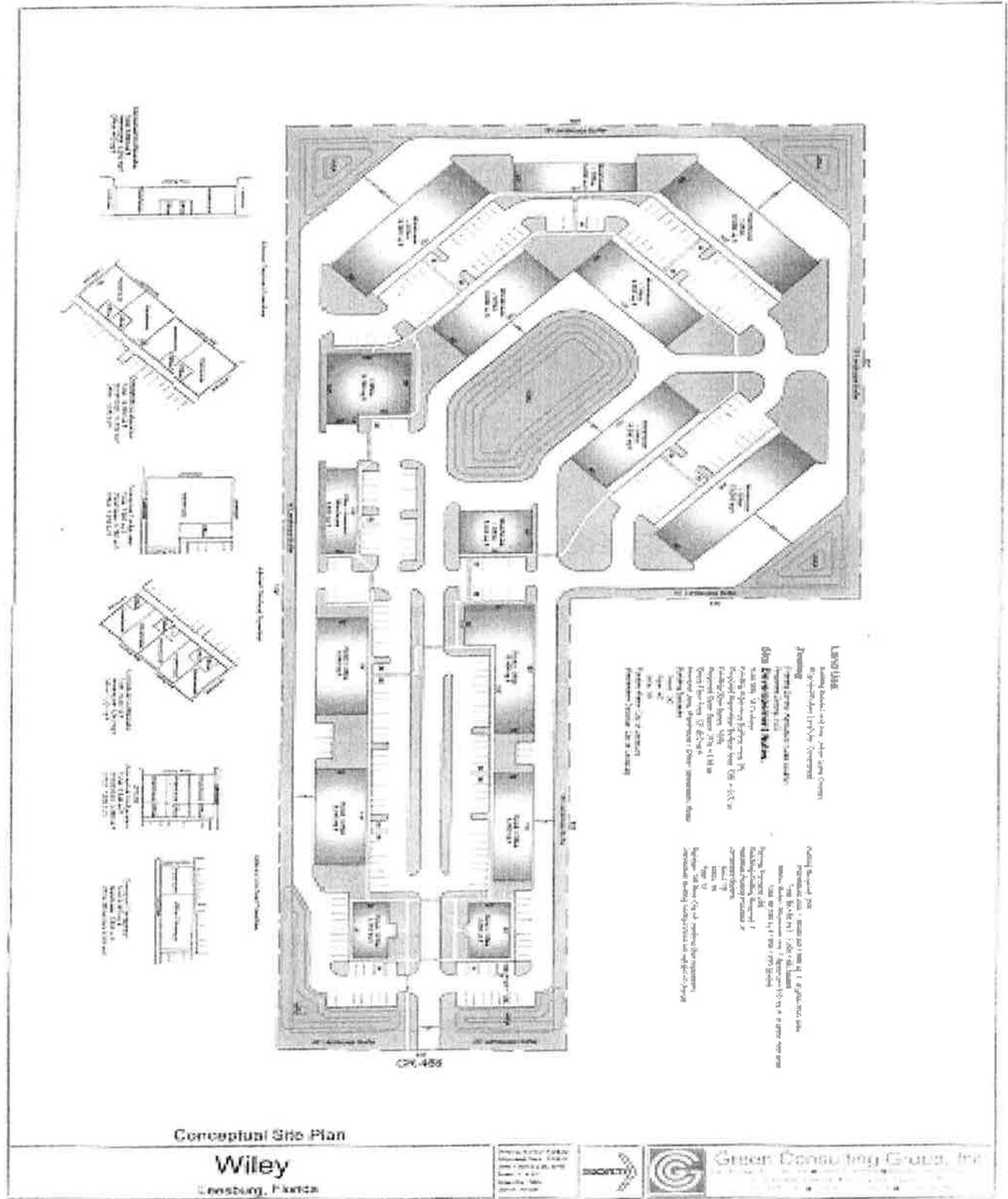
Parcel A:

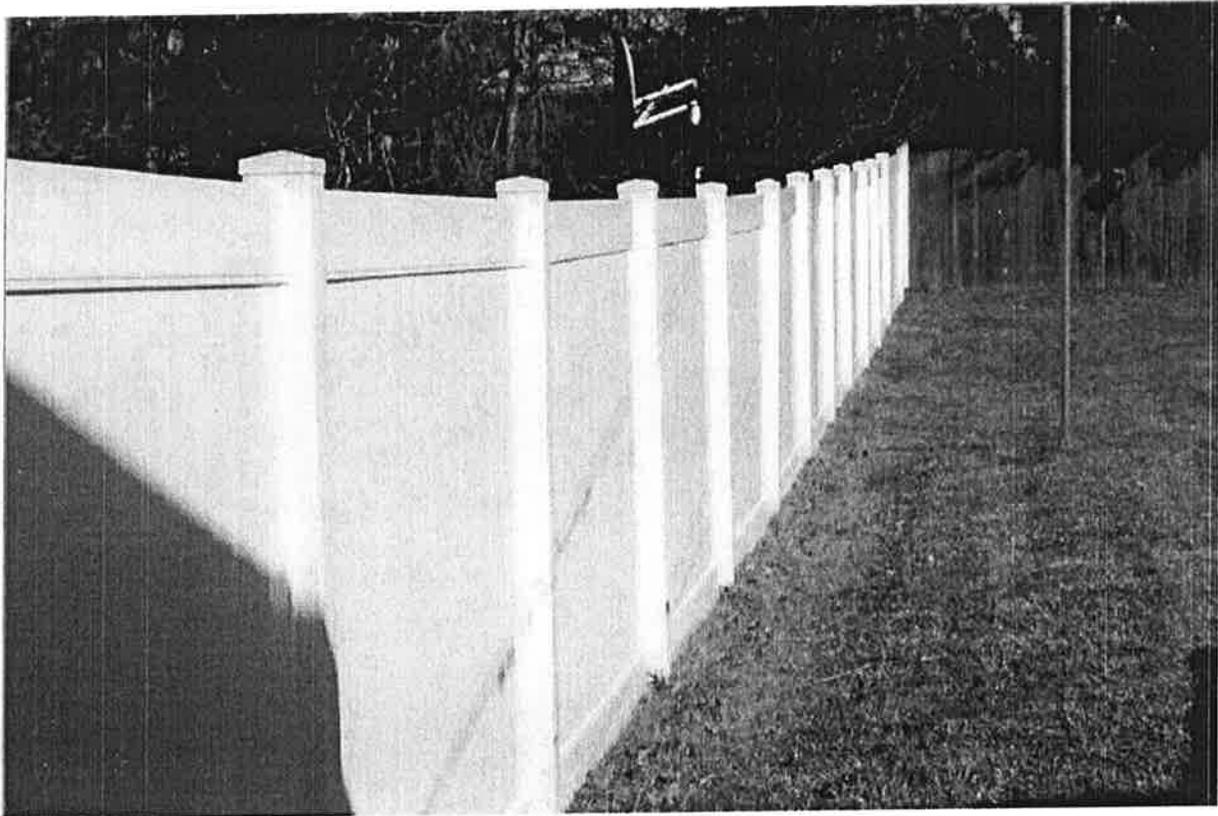
Begin at a concrete monument (no number), at the Southwest corner of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 16, Township 19 South, Range 24 East, in Lake County, Florida, and run North 00°18'22" East, along the West line of the Southwest 1/4 of said Section 16, a distance of 658.24 feet to an iron pin labeled LB707 at the Northwest corner of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 16; thence North 89°51'12" East, along the North line of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 16, a distance of 657.34 feet to a concrete monument (no number), at the Northeast corner of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 16; thence South 00°16'41" West, along the East line of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4, a distance of 330.37 feet to a concrete monument (no number), said point being at the Northwest corner of the South 1/2 of the Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 16; thence North 89°57'28" East, along the North line of the South 1/2 of the Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4, a distance of 634.49 feet to an iron pin labeled LB707, said point being on the West right of way line of County Road No. 468 (Montclair Road); thence South 00°25'46" West, along the West right of way line of County Road No. 468, a distance of 159.34 feet to an iron pin labeled LB707; thence leaving said West right of way line, run North 87°35'44" West, 225.31 feet to an iron pin labeled LB707; thence South 04°35'19" West, 182.00 feet to an iron pin labeled LB707, said point being on the South line of the Northwest 1/4 of the Southwest 1/4 of the aforementioned Section 16; thence North 89°55'48" West along the South line of the Northwest 1/4 of the Southwest 1/4, a distance of 1,052.88 feet to the point of beginning. Subject to all easements, rights of way and restrictions of record, if any.

Parcel B:

Commence at a concrete monument (no number), at the Southwest corner of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 16, Township 19 South, Range 24 East, in Lake County, Florida, and run South 89°55'48" East, along the South line of the Northwest 1/4 of the Southwest 1/4 of said Section 16, a distance of 1,052.88 feet to an iron pin labeled LB707 and the point of beginning of this description; from said point of beginning, run North 04°35'19" East, 182.00 feet to an iron pin labeled LB707, thence South 87°35'44" East, 225.31 feet to an iron pin labeled LB707, said point being on the West right of way line of County Road No. 468 (Montclair Road); thence South 00°25'46" West, along said West right of way line of County Road No. 468, a distance of 172.26 feet to an iron pin labeled LB707, said point being on the South line of the Northwest 1/4 of the Southwest 1/4 of the aforementioned Section 16; thence leaving said West right of way line, run North 89°55'48" West, along the South line of the Northwest 1/4 of the Southwest 1/4, a distance of 238.38 feet to the point of beginning.

Alternate Keys #:1171555 & 3847533





Section 12 – 19. Regulation of Public Nuisances.

- (a) As used in this Section, the term "public nuisance" shall mean any residential building, place of commercial business or other property that has been used as or has been the location of:
1. On more than two occasions within a 6 month period as the site of a violation of Chapter 796, Fla. Stat. (prohibiting acts of prostitution);
 2. On more than two occasions within a 6 month period as the site of the unlawful sale, delivery, manufacture or cultivation of any controlled substance;
 3. On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and the same premises have been adjudicated under this Ordinances as having been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;
 4. On more than two occasions within a 6 month period as the site of a violation of §812.019, Fla. Stat. related to dealing in stolen property;
 5. On more than two occasions within a 6 month period as the location of a public altercation including but not limited to any physical or sexual assault, battery, non – accidental gunshot injury or stabbing injury, or any fight involving a criminal gang, criminal gang member or criminal gang associate, or hate group, all as defined in §874.03, Fla. Stat.
 6. On more than four occasions within a 6 month period as the subject of citizen complaints regarding excessive noise, including music or musical instruments producing sufficient volume to be heard inside any residential structure more than 100 feet away from the site, with the windows closed; and raucous outdoor gatherings such as crowds assembled in a public or private parking lot (excluding any music or outdoor gatherings for which a special events permit has been issued under this Code).
- (b) Any residential building, commercial business or other property determined in the enforcement process set forth below to have met any of the conditions enumerated in subsection (1) of this Ordinance may be declared to be a public nuisance, and the owner or tenant thereof, or both when evidence so justifies, may be subjected to the penalties specified in this Ordinance.
- (c) This Ordinance shall be enforced by the Special Magistrate designated by the City to hear Code Enforcement cases, utilizing the procedures set forth below.
- (d) A complaint against an alleged public nuisance may be initiated by any Code Enforcement Officer or Police Officer of the City of Leesburg, by the Building Official, by the Community Development Department, or by any citizen. The procedure for the filing and processing of a complaint is as follows:

1. All complaints shall be in writing and under oath, and shall contain the name and mailing address of the complainant (for complaints initiated by any City employee that shall be the address of the City); the name and address of the commercial business or the address of the residential structure which is the subject of the complaint; the name and address of the property owner (and if not owner -- occupied, the name and address of the tenant) of the premises which are the subject of the complaint, if known; and a detailed description of the facts which the complainant believes justify a determination that the premises constitute a public nuisance under this Ordinance.
2. Once a complaint is filed, the City Manager or his designee shall review the complaint to determine that it is sufficient on its face to allege properly the existence of a public nuisance under this Ordinance. If the complaint is deemed sufficient on its face, the City shall investigate the premises to determine the name and address of the property owner and tenant. For the property owner, the information on the Lake County Property Appraiser's records shall be considered prima facie evidence of the name and mailing address of the owner. For the tenant, where applicable, the records of the Customer Service Department of the City reflecting the name and address of the utility customer at the location shall be deemed prima facie evidence of the identity and address of the tenant.
3. After the complaint is deemed sufficient on its face and the name and address of the property owner and tenant, if any, have been determined, the complaint shall be set for hearing before the Special Magistrate. The property owner and tenant, if any, shall be given written notice by both certified mail, return receipt requested, and regular first class mail, and by posting at the premises, not less than 15 calendar days prior to the scheduled hearing date, informing them of the filing of the complaint, the facts alleged as a basis for the allegation that the premises constitute a public nuisance, and of the date, time and location of the public hearing. The notice shall also inform the tenant and property owner that to prosecute any appeal of the Special Magistrate's decision will require a verbatim record of the hearing which the City does not provide and that it will be the responsibility of the property owner or tenant to provide for that verbatim record of the proceedings. A copy of this Ordinance shall be included in each notice. Due to the serious nature of the penalties which may be imposed hereunder, constructive notice by publication or posting alone may not be the basis for a public hearing under this Ordinance. However, the City may in its sole discretion serve a tenant or property owner personally by hand delivery, PROVIDED that service by hand delivery shall not eliminate the need to serve the notice by certified mail, regular mail and posting at the premises.

- (e) A public hearing on the complaint shall be held at the date and time set forth in the notice to the property owner and tenant. A property owner or tenant may request one postponement of the public hearing for not more than 30 days, for good cause, which request shall be granted by the Special Magistrate in the absence of a showing by the City or the complainant that the postponement will prejudice them in any way.
- (f) At the public hearing, all testimony shall be given under oath. Strict rules of evidence shall not apply but the Special Magistrate may take into account the persuasive value of evidence such as hearsay which would be inadmissible in a court of law. The City or citizen complainant shall proceed first, to present the evidence in support of the assertion that the property in question constitutes a public nuisance. The property owner, and tenant if any, shall then be entitled to present evidence in defense of the proposition that the property does not constitute a public nuisance. Each party may cross examine the witnesses of the other. Documentary evidence may be presented, however the Special Magistrate shall have discretion to reject or give lesser weight to any documentary evidence which is inadmissible in a court of law, such as hearsay or documents which are not properly authenticated. Following the presentations by the City or citizen complainant, the property owner and tenant, members of the general public in attendance may be allowed to speak under oath at the discretion of the Special Magistrate, provided that anyone speaking shall be subject to cross examination by the City or citizen complainant, the property owner and the tenant.
- (g) At the conclusion of the public hearing, the Special Magistrate shall announce a determination whether, based on the testimony and evidence presented, the property constitutes a public nuisance under this Ordinance. If a nuisance is determined to exist, and the property is occupied by a tenant, the order shall specify whether the nuisance is attributable solely to the acts or failure to act of the tenant, or whether the property owner is also complicit in the nuisance.
- (h) If the property is found to be a public nuisance, the Special Magistrate may impose any of the following penalties and sanctions:
- (1) Fines of up to \$250.00 per day for each day the property is determined to have been operated as a public nuisance; provided that if the property has been determined to be a public nuisance in an earlier proceeding under this Ordinance then the fine may be up to \$500.00 per day for a recurring public nuisance, and provided further that the total fines imposed under this Ordinance on any parcel shall not exceed \$15,000.00;
 - (2) Entry of an order requiring the property owner to adopt such rules and procedures as may be appropriate under the circumstances to abate the nuisance;
 - (3) Entry of an order with a duration determined by the Special Magistrate, not to exceed one year, prohibiting the conduct which is found to have constituted a public nuisance and reserving jurisdiction over the property to the Special Magistrate for a period up to one year;

- (4) Imposition of an additional monetary penalty equal to the reasonable costs and reasonable attorneys' fees incurred by the City in the investigation of the public nuisance and the prosecution of the proceedings under this Ordinance leading to the determination of public nuisance;
- (5) For the third determination of public nuisance under this Ordinance on the same property within any one year period, the Special Magistrate may issue an order with a duration not to exceed one year, prohibiting the operation of the premises including closure of the place or premises or any part thereof, and the conduct, operation or maintenance of any business or activity on the premises which is conducive to the activities found to constitute a public nuisance;
- (6) Requiring the recordation in the Public Records of Lake County, Florida of the order finding the existence of a public nuisance in order to provide notice to subsequent purchasers, successors in interest, or assigns of the real property that it is subject to the order;
- (7) Requiring the recordation of the order imposing any fines or monetary penalties as a lien against the real property in question, and providing for the foreclosure of such lien and recovery of all costs, including reasonable attorneys' fees, incurred in the foreclosure process.

Copies of all orders entered under this Ordinance shall be served on the parties in the same manner provided herein for service of notice of the public hearing. Notwithstanding anything to the contrary in this Ordinance, the penalties provided for under subsections (1), (4), (5), and (7) above shall not be levied against an owner of real property if the nuisance found to exist is due solely to the acts of a tenant in the property in which the property owner is found not to have been complicit, and the property owner evicts the tenant within 90 days after notification of entry of an order finding the existence of a public nuisance attributable solely to the acts or failure to act of the tenant.

- (i) Any party aggrieved by the decision of the Special Magistrate may initiate an appeal of the decision to the Circuit Court in Lake County, Florida, by filing a notice of appeal with the City Manager which is received by the City Manager no later than 30 days after entry of the order being appealed. The appeal shall be governed by the Florida Rules of Appellate Procedure in all respects. No appeal shall act as a stay of the order under appeal unless the appellant seeks a stay of the order from the Circuit Court and files a supersedeas bond in the amount determined by the Circuit Court.

- (j) This Ordinance is intended to be a supplemental and non – exclusive method of adjudicating and penalizing public nuisances. Its enactment shall not be construed to limit the rights of the City of Leesburg or any citizen to proceed against an alleged public nuisance in any other manner permitted by law or in equity including seeking declaratory or injunctive relief, including but not limited to proceeding under §60.05, Fla. Stat.