

ORDINANCE NO. 2024-O-22

AN ORDINANCE GRANTING A CHANGE IN ZONING CLASSIFICATION FROM COUNTY R-3 (URBAN SINGLE FAMILY) TO CITY RPUD (RESIDENTIAL PLANNED UNIT DEVELOPMENT) FOR 4.05± ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED AT INDIA PALM DRIVE AND 35TH STREET (PARCEL IDENTIFICATION NUMBER 8411-00-00-0011 and 8402-0108-25-90), EDGEWATER, FLORIDA; AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF EDGEWATER; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; PROVIDING FOR AN EFFECTIVE DATE, RECORDING AND ADOPTION.

WHEREAS, the City Council of the City of Edgewater, Florida, has made the following determinations:

1. Mark Karet, applicant, on behalf of Leon Alcantara, owner, of property generally located at India Palm Drive and 35th Street, within Volusia County, Florida. Subject property contains approximately 4.05± acres.
2. The owner has submitted an application for a change in zoning classification from County R-3 (Urban Single Family) to City RPUD (Residential Planned Unit Development) for the property described herein.
3. On May 8, 2024, the Local Planning Agency (Planning and Zoning Board) considered the application for change in zoning classification.
4. The proposed change in zoning classification is consistent with all elements of the Edgewater Comprehensive Plan.
5. The proposed change in zoning classification is not contrary to the established land use pattern.
6. The proposed change in zoning classification will not adversely impact public facilities.

7. The proposed change in zoning classification will not have an adverse effect on the natural environment.

8. The proposed change will not have a negative effect on the character of the surrounding area.

NOW, THEREFORE, BE IT ENACTED by the People of the City of Edgewater, Florida:

PART A. CHANGE IN ZONING CLASSIFICATION OF CERTAIN REAL PROPERTY WITHIN THE CITY OF EDGEWATER, FLORIDA.

The zoning classification is hereby changed from County R-3 (Urban Single Family) to City RPUD (Residential Planned Unit Development), for the property described in **Exhibits “A” & B”**.

PART B. AMENDMENT OF THE OFFICIAL ZONING MAP OF THE CITY OF EDGEWATER, FLORIDA.

The Development Services Director is hereby authorized and directed to amend the Official Zoning Map of the City of Edgewater, Florida, to reflect the change in zoning classification for the above described property.

PART C. CONFLICTING PROVISIONS.

All conflicting ordinances and resolutions, or parts thereof in conflict with this ordinance, are hereby superseded by this ordinance to the extent of such conflict.

PART D. SEVERABILITY AND APPLICABILITY.

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative, or void, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provisions thereof shall be held to be inapplicable to any person, property, or circumstances, such holding shall not affect its applicability to any other person, property, or circumstance.

PART E. RECORDING.

Upon approval and execution, this document shall be delivered to the Clerk of Court for recording into the public records of Volusia County, Florida.

PART F. EFFECTIVE DATE.

This Ordinance shall take place upon adoption.

PART G. ADOPTION.

PASSED AND DULY ADOPTED this ____ day of _____, 2024.

Diezel DePew, Mayor

ATTEST:

Bonnie Zlotnik, CMC, City Clerk

Passed on first reading on the ____ day of _____, 2024

REVIEWED AND APPROVED: _____
Aaron R. Wolfe, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

LEGAL DESCRIPTION: LOTS 8259, 8260, 8261, 8262, AND 8263, BLOCK 241, FLORIDA SHORES UNIT NO. 9, ACCORDING TO THE MAP OR PLAT THEREOF, AS OTS 8259, 8260, 8261, 8262, AND 8263, BLOCK 241, FLORIDA SHORES UNIT NO. 9, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 23, PAGE 134, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND A PORTION OF GOVERNMENT LOT 1, SECTION 11, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA LYING WEST OF FLORIDA EAST COAST RAILWAY RIGHT OF WAY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF REFERENCE, COMMENCE AT THE SOUTHEAST CORNER OF SAID GOVERNMENT LOT 1; THENCE, SOUTH 68°33'30" WEST ALONG THE NORTH LINE OF THE JANE MURRAY GRANT, SECTION 48, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA, A DISTANCE OF 955.40 FEET TO THE INTERSECTION OF SAID LINE AND THE EASTERLY RIGHT OF WAY OF THE FLORIDA EAST COAST RAILWAY; THENCE, SOUTH 68°33'30" WEST ALONG SAID NORTH LINE A DISTANCE OF 100.03 FEET TO THE INTERSECTION OF SAID LINE AND THE WESTERLY RIGHT OF WAY OF SAID FLORIDA EAST COAST RAILWAY AND THE POINT OF BEGINNING OF THE LANDS HEREIN DESCRIBED; THENCE, SOUTH 68°33'30" WEST ALONG SAID NORTH LINE, A DISTANCE OF 239.77 FEET TO THE INTERSECTION OF SAID LINE AND THE SOUTH LINE OF GOVERNMENT LOT 1; THENCE, SOUTH 88°57'20" WEST ALONG SAID SOUTH LINE, A DISTANCE OF 115.88 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE, NORTH 00°33'40" WEST ALONG THE WEST LINE OF GOVERNMENT LOT 1, A DISTANCE OF 550.65 FEET TO THE SOUTHERLY CORNER OF SAID LOT 8259; THENCE, NORTH 21°12'05" WEST, A DISTANCE OF 284.63 FEET TO THE NORTHWEST CORNER OF SAID LOT 8263; THENCE, NORTH 68°46'07" EAST ALONG THE NORTH LINE OF LOT 8263, A DISTANCE OF 107.23 FEET TO THE NORTHEAST CORNER THEREOF, SAID CORNER LYING ON THE WEST LINE OF GOVERNMENT LOT 1; THENCE, NORTH 00°33'40" WEST ALONG SAID WEST LINE, A DISTANCE OF 65.15 FEET TO THE INTERSECTION OF SAID LINE AND THE WESTERLY RIGHT OF WAY OF FLORIDA EAST COAST RAILWAY; THENCE, SOUTH 22°44'40" EAST ALONG SAID WESTERLY RIGHT OF WAY, A DISTANCE OF 900.21 FEET TO THE POINT OF BEGINNING AND CLOSE. SAID PARCEL CONTAINING 176,452 SQ.FT. OR 4.05 ACRES, MORE OR LESS.

EXHIBIT "B"
PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT
INDIA PALM PLACE

THIS AGREEMENT is made and entered into this 13th day of June, 2024 by and between, the CITY OF EDGEWATER, FLORIDA, a municipal corporation, whose mailing address is P.O. Box 100, 104 N. Riverside Drive, Edgewater Florida 32132, (hereinafter referred to as "City") and, Leon N. Alcantara, individually (herein after referred to as "Owner"). The purpose of this Agreement is to define the terms and conditions granting the development approval of the subject property.

NOW, THEREFORE, in consideration of the agreements, premises, and covenants set forth herein and other good and valuable consideration, the parties agree as follows:

1. LEGAL DESCRIPTION AND OWNER

The land subject to this Agreement is approximately 4.05± acres located at India Palm Drive, in Edgewater, Volusia County, Florida. The legal description of the property is attached hereto as **Exhibit "A" - Legal Description**. The record owner of the subject property is Leon N. Alcantara.

2. DURATION OF AGREEMENT

The duration of this Agreement shall be twenty (20) years and run with the land. The terms of this Agreement shall only apply in the event the Owner, or its successors and/or assigns, develops the Property. In the event Owner commences development of the property, construction as defined by the Master Plan, dated May 8th, 2024, (**Exhibit "B"**) shall commence within thirty-six (36) months of the effective date of this Agreement. If Owner shall not commence development of the property within such thirty-six (36) month period, this Agreement shall lapse, and the parties shall be released from all further obligation. The Agreement may be extended by mutual consent of the governing body and the Owner, subject to a public hearing. Commencement of construction

means to begin performing construction of the initial dwelling unit, onsite modification, fabrication, erection or installation of a treatment facility or a conveyance system for the discharge of wastes and on-site modification, fabrication, erection or installation of a treatment facility or a transmission system for the conveyance of potable water. Land clearing and site preparation activities related to this construction are not included herein; however, before undertaking land clearing activities, other permits for stormwater discharges from the site may be required. Final approval shall include, but not be limited to utilities, stormwater, traffic, fire rescue, hydrants, law enforcement, environmental, solid waste containment, and planning elements.

3. DEVELOPMENT STANDARDS

Development of this Property is subject to the terms of this Agreement and in accordance with the City of Edgewater's current Land Development Code (LDC). Final project approval may be subject to change based upon final environmental, permitting, and planning considerations and/or Federal and State regulatory agencies permit requirements.

a. Unit Count

Based on Final Subdivision Plan approval, the total number of units may vary, but the maximum residential units permitted shall not exceed six (6) dwelling units per net acre or 20 dwelling units. The Master Plan depicts 18 total duplex lots. The Master Plan may be revised to reconfigure the location and adjust the number of duplex lots and/or units, as the case may be, without amendment to this Agreement so long as the maximum number of residential units stated above is not exceeded and such changes comply with the standards set forth in this Agreement.

b. Minimum Lot Size for a Duplex Unit

Area: 4,687.5 square feet.

Width: 37.5 per subdivided unit

Depth: 125 feet

c. Minimum House Square Footage

The minimum gross house square footage for duplex units shall be at least 1,000 square feet living area under air, with a minimum of a one-car garage. The minimum driveway width is 16 feet. Carports will not be permitted for any units.

d. Minimum Yard Size and Setbacks

Front: 30 feet

Rear: 25 feet

Side: 10 feet

Side Corner: 25 feet

Max Height: 35 feet

Max Building Coverage: 40%

Max Impervious Coverage: 70%

Patios are allowed in the rear yard and may extend to the rear building setback, but shall not be located in any access or drainage easement and shall not exceed the maximum impervious coverage.

A 6 foot tall vinyl or wooden privacy fence is allowed at the front plane of the structure, the side yard, and rear yard. Fences shall not be permitted in the front yard.

Pools must be set back 5 feet from the principal structure and 5 feet from the rear building setback as long as the maximum impervious coverage is not exceeded.

A trash receptacle concrete pad at four feet wide and four feet in length may be located on the side yard immediately adjacent to the air conditioning pad. A four

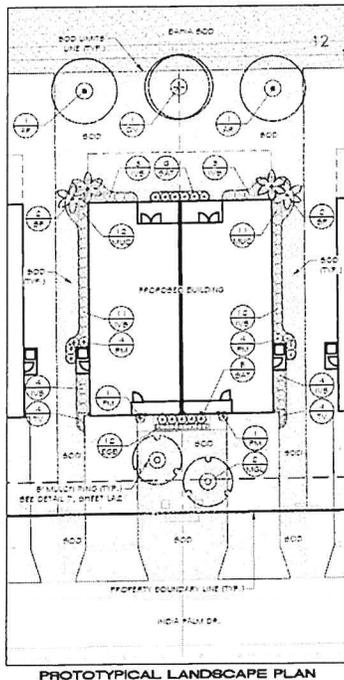
foot wide concrete path may be installed from the trash receptacle pad adjacent to the air conditioning pad to 4 feet beyond the front plane of the building. The trash receptacle pad and path shall not exceed the maximum impervious coverage. In addition, the concrete pad and path may not encroach in any drainage or utility easement.

e. Trees

Minimum Tree Protection Requirements shall be as depicted on the tree preservation plan within the Master Development Plan.

f. Landscaping and Irrigation

Landscaping and irrigation plans for common areas must be submitted with final construction plans. Irrigation shall comply with the LDC. Landscaping shall adhere to the following as found in the construction plans:



PROTOTYPICAL PLANT SCHEDULE

TREE	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	REMARKS
TR	2	FRAXINUS VIRGINIANA	RED BARK OAK	12\"/>		

PLANT SCHEDULE ONLY ACCOUNTS FOR ONE (1) BUILDING. CONTRACTOR RESPONSIBLE FOR QUANTIFYING ALL PROPOSED LANDSCAPING, SOIL AND ASSOCIATED MATERIALS FOR REMAINING BLDG.

SITE PLANT SCHEDULE

TREE	QTY	BOTANICAL NAME	COMMON NAME	SIZE	CONTAINER	REMARKS
TR	1	FRAXINUS VIRGINIANA	RED BARK OAK	12\"/>		



Common areas shall be irrigated. All irrigation must comply with all Volusia County Water Wise Landscape Irrigation Standards.

g. Air Conditioning

All lots shall have air conditioning units and pads located adjacent to the neighboring garage or located behind each house/dwelling unit.

h. Easements

Easements for rear yard construction purposes shall be located between every other lot and shall have a width of ten feet (10'), being five feet (5') on each side of the lot lines for the benefit of the adjoining lots in the event that access to the rear of the lot is required and the individual lot owners side yard width is not adequate to accommodate the access. Easements for public utilities shall be dedicated to the City and any other public utility provider.

Owner agrees to provide, at no cost to the City, all required utility easements (on and off-site) for drainage and utility service consistent with this Agreement.

4. HOMEOWNERS ASSOCIATION

The Owner shall establish a mandatory Homeowners Association (HOA) for the purpose of maintaining the property and enforcing applicable covenants and restrictions, and said documents shall include a prohibition against short term rentals. The HOA documents, including applicable Articles of Incorporation; Covenants and Restrictions; and By-Laws shall be reviewed and approved by the City prior to final plat approval.

The Declaration of Covenants, Conditions and Restrictions, Articles of Incorporation and By-Laws for the HOA will be recorded in the public records of Volusia County at the time the Final Plat is recorded.

5. FUTURE LAND USE AND ZONING DESIGNATION

The Future Land Use designation is Medium Density Residential and the zoning designation is RPUD (Residential Planned Unit Development) as defined in the City Land Development Code. The City of Edgewater's permitted uses for RPUD (Residential Planned Unit Development) are applicable to the development of the property and consistent with the adopted Comprehensive Plan/Future Land Use Map.

6. PUBLIC FACILITIES

- a. All utility services shall be underground.
- b. Off-site improvements are the Owner's responsibility and shall be required at the time of Final Plat approval and City inspection approval and shall meet all City, County and/or State requirements and approval. However, the Owner shall only be required to construct that portion of the sewer lines necessary to service proposed dwelling units as part of the construction of individual dwelling units.
- c. All infrastructure facilities and improvements shall be constructed in compliance with applicable federal, state, and local standards.
- d. A concurrency review shall be conducted to ensure that all required public facilities are available concurrent with the impacts of the development.
- e. Owner, at the time of development, shall provide all public facilities to support this project including the following:
- f. Water Distribution System including fire hydrants. Owner agrees to connect to and utilize the City's water distribution system. Owner agrees to connect to the City's potable water system at nearest point of connection. All water distribution systems shall be "looped" wherever possible in order to prevent any future stagnation of water supply. All water main distribution system improvements will be installed by

the Owner and conveyed to the City by Bill of Sale in a form acceptable to the City and dedicated to the City prior to or at time of platting or in accordance with the requirements contained in the Land Development Code as it relates to performance bonds unless otherwise modified by this Agreement.

- g. Sewage Collection and Transmission System. Owner agrees to connect to and utilize the City's wastewater transmission and collection system. All wastewater collection and transmission system improvements will be installed by the Owner and conveyed to the City by Bill of Sale in a form acceptable to the City and dedicated to the City prior to or at the time of platting unless otherwise modified by this Agreement.
- h. Stormwater collection/treatment system, including outfall system. The retention and detention pond(s) shall meet the requirements for the St. Johns River Water Management District and the City of Edgewater LDC. The pond(s) will be owned and maintained by the Homeowners Association (HOA). Owner is required to provide an outfall to a publicly owned or controlled drainage conveyance system, and obtain an off-site drainage easement space if necessary. The on-site 100-year flood elevation shall be established to the satisfaction of the Flood Plain Manager or FEMA. Compensatory Storage shall be provided for per the requirements set forth in Article IV (Resource Protection Standards) of the LDC, as may be amended from time to time.
- i. Reclaimed Water Distribution System. The City has determined that reclaimed water is available. Therefore, the Owner shall install irrigation using reclaimed water for each unit.

- j. Streetlights shall be installed by the Owner at the intersection of 35th Street and India Palm Drive and between the last two duplexes at the northern end of the subdivision and shall meet the requirements set forth in the LDC prior to issuance of the Certificate of Occupancy on the first dwelling unit. The HOA will be responsible for the streetlights; including payment to Florida Power and Light for maintenance and power consumption.
- k. 35th Street Right-of-way. The owner shall convey title to the 35th Street right-of-way, the dimensions of which are illustrated on the Master Plan, as part of Preliminary Plat Approval. The form of the conveyance instrument shall be a quit claim deed which shall include a provision requiring return of the conveyed property to the owner upon construction of an additional public vehicular access from 35th Street to Volco Road, or the City abandons the public use of the conveyed property.

7. **IMPACT FEES**

Impact fees will be paid in accordance with the following schedule:

- a. Impact Fees shall be paid at the time of building permit issuance for each dwelling unit at the rate in effect at that time.
- b. Volusia County Road and School Impact fees (if deemed applicable by the Volusia County School District) - Paid to County by applicant with proof of payment provided to the City prior to a Building Certificate of Occupancy.

8. **BONDS**

A Maintenance Bond equal to 10% of the cost of the infrastructure improvements shall be provided to the City prior to recording the Final Plat. The Maintenance Bond shall be in effect for a two (2) year period from the date of completion of the public facilities.

A Performance Bond, or other acceptable financial instrument such as a Letter of Credit, may be accepted by the City and shall be 130% of the costs of all remaining required improvements.

9. CONSISTENCY OF DEVELOPMENT

The City agrees to issue the required permits for the development in the manner defined in the Agreement after having determined it is not contrary to the City of Edgewater Comprehensive Plan and Land Development Code and is compliant with all concurrency requirements set forth in said documents.

10. PERMITS REQUIRED

The Owner will obtain required development permits or letters of exemption. Permits may include but not be limited to the following:

1. Department of Environmental Protection, St. Johns River Water Management District, Army Corps of Engineers and Florida Fish and Wildlife Conservation Commission.
2. City of Edgewater - Subdivision Preliminary and Final Plat Approval, Subdivision Construction Plan Approval, all applicable clearing, removal, construction and building permits.

Owner agrees to reimburse the City of Edgewater for direct costs associated with the legal review, engineering review, construction inspections, construction of required infrastructure

improvements, and the review and approval of the final plat related to the development, including recording fees.

11. DEDICATION OF LAND FOR PUBLIC PURPOSES

The Owner shall convey to the City, by warranty deed and title insurance free and clear of all liens and encumbrances at plat dedication, all roadway right-of-way and utility easements as required. All utilities shall be dedicated to the City of Edgewater.

12. DEVELOPMENT REQUIREMENTS

Failure of this Agreement to address a particular permit, condition, term or restriction shall not relieve the Owner of the necessity of complying with those permitting requirements, conditions, terms or restrictions and any matter or thing required to be done under the existing ordinances of the City. Existing ordinances shall not be otherwise amended, modified, or waived unless such modification, amendment or waiver is expressly provided for in this Agreement with specific reference to the ordinance provisions so waived.

13. HEALTH SAFETY AND WELFARE REQUIREMENTS

The Owner shall comply with such conditions, terms, restrictions or other requirements determined to be necessary by the City for the public health, safety or welfare of its citizens.

14. APPEAL

If the Owner is aggrieved by any City official interpreting the terms of this Agreement, the Owner shall file a written appeal to the City Manager. After receiving the written appeal, the appeal will be reviewed by the City Manager and City Attorney. If the City Manager cannot resolve the dispute, the issue shall be scheduled for the City Council agenda. The action of the City Council is the final authority concerning this Agreement.

15. PERFORMANCE GUARANTEES

During the term of this Agreement, regardless of the ownership of the Property, the Property shall be developed in compliance with the terms of this Agreement and applicable regulations of the City not inconsistent with, or contrary to, this Agreement.

16. BINDING AFFECT

The provisions of this Agreement, including any and all supplementing amendments, and all final site plans, shall bind and inure to the benefit of the Owner or its successors in interest and assigns and any person, firm, corporation, or entity who may become the successor in interest to the land subject to this Agreement or any portion thereof and shall run with the land and shall be administered in a manner consistent with the laws of the State of Florida.

17. RECORDING

Upon execution by all parties, the City shall record the Agreement with the Clerk of the Court in Volusia County. The cost of recording shall be paid by the Owner.

18. PERIODIC REVIEW

The City shall review the development subject to this Agreement every 12 months, commencing 12 months after the date of this Agreement to determine if there has been good faith compliance with the terms of this Agreement. If the City finds on the basis of competent substantial evidence that there has been a failure to materially comply with the terms of this Agreement, the Agreement may be revoked or modified by the City. Any such revocation or modification shall only occur after the City has notified the Owner in writing of Owner's failure to materially comply with the terms of this Agreement and Owner fails to cure such breach after receiving written notice and a reasonable opportunity to cure such breach from the City.

19. APPLICABLE LAW

This Agreement and provisions contained herein shall be construed, controlled and interpreted according to the laws of the State of Florida.

20. TIME OF THE ESSENCE

Time is hereby declared of the essence of the lawful performance of the duties and obligations contained in the Agreement.

21. AGREEMENT/AMENDMENT

This Agreement constitutes the entire agreement between the parties, and supersedes all previous discussions, understandings, and agreements, with respect to the subject matter hereof. Amendments to and waivers of the provisions of this Agreement shall be made by the parties only in writing by formal amendment. Substantial changes, as determined by the City Manager, shall require City Council approval.

22. FURTHER DOCUMENTATION

The parties agree that at any time following a request therefore by the other party, each shall execute and deliver to the other party such further documents and instruments, in form and substance reasonably necessary to confirm and/or effectuate the obligations of either party hereunder.

23. SPECIFIC PERFORMANCE

Both the City and the Owner shall have the right to enforce the terms and conditions of this Agreement by an action for specific performance.

24. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

25. CAPTIONS

Captions of the sections of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, amplify or aid in the interpretation, construction, or meaning of the provisions of this Agreement.

26. SEVERABILITY

If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of the competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be made and entered into the date and year first written above.

ATTEST:

**CITY COUNCIL OF THE
CITY OF EDGEWATER, FLORIDA**

**Bonnie Zlotnik
City Clerk**

By: _____
**Diezel Depew
Mayor**

Witnessed by:

Kristen Fry

Kristen Fry

OWNER

[Signature]

Leon Alcantara Owner
Printed Name, Title

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

Subscribed and sworn before me this 13th day of June, 2024 by means of
 physical presence or online notarization, and who is personally known to me or
produced the following identification FL Drivers License.

Kristen Fry

NOTARY PUBLIC

SEAL



EXHIBIT "A"
LEGAL DESCRIPTION

LEGAL DESCRIPTION: LOTS 8259, 8260, 8261, 8262, AND 8263, BLOCK 241, FLORIDA SHORES UNIT NO. 9, ACCORDING TO THE MAP OR PLAT THEREOF, AS OTS 8259, 8260, 8261, 8262, AND 8263, BLOCK 241, FLORIDA SHORES UNIT NO. 9, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 23, PAGE 134, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND A PORTION OF GOVERNMENT LOT 1, SECTION 11, TOWNSHIP 18 SOUTH, RANGE 34 EAST, VOLUSIA COUNTY, FLORIDA LYING WEST OF FLORIDA EAST COAST RAILWAY RIGHT OF WAY AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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