

ORDINANCE 2012 - 1
Application 2374 - Rezoning for Neoga Lakes DRI

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP AS ESTABLISHED IN SECTIONS 2.05 and 2.06 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE; AMENDING THE OFFICIAL ZONING MAP FOR A PROJECT KNOWN AS NEOGA LAKES DRI AS DESCRIBED IN EXHIBIT "A", CONTAINING 6,378+/- ACRES FROM AGRICULTURE (FLAGLER COUNTY DESIGNATION) TO MASTER PLANNED DEVELOPMENT ZONING DISTRICT (MPD); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Neoga Lakes, LLC, a Delaware limited liability company is the owner of fee simple title to certain real property consisting of approximately 6,378 acres located generally to the west of U.S. 1 and north of Espanola in the City of Palm Coast, Florida, described in the legal description attached to **Exhibit "A"** with those Tax Parcel Identification Numbers set forth on **Exhibit "B"** (the "Property") and intends to classify and develop the Property as a Master Planned Development ("MPD") as set forth in a MPD Development Agreement ("MPD DA") that contains a legal description and other supporting documents attached hereto as **Exhibit "C"** (the "Development Agreement"); and

WHEREAS, the Planning and Land Development Regulation Board and City Staff of the City of Palm Coast have recommended approval of this Ordinance and the Planning and Land Development Regulation Board has found this requested change consistent with the City of Palm Coast Comprehensive Plan; and

WHEREAS, the City Council has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of City staff, and the recommendation of the Planning and Land Development Regulation Board which recommended approval at the regularly scheduled meeting conducted on January 18, 2012;

and

WHEREAS, the City Council of the City of Palm Coast held duly noticed public hearings on February 7, 2012 and February 21, 2012, on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and after complete deliberation, hereby finds the requested change consistent with the City of Palm Coast Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder, and

WHEREAS, the City Council of the City of Palm Coast hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Palm Coast, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The foregoing recitals are true and correct and are fully incorporated herein by this reference.

SECTION 2. ZONING MAP AMENDMENT. That the Official Zoning Map of the City of Palm Coast as described in City of Palm Coast Unified Land Development Code Section 3.01.02. is hereby amended to include a change of classification from Agriculture (Flagler County designation) to MPD for the Property legally described in **Exhibit “A,”** with Tax Parcel Identification Numbers as set forth in **Exhibit “B,”** which Exhibits are attached and incorporated herein by this reference, and that the Development Agreement attached as **Exhibit “C”** is hereby approved. City Staff is hereby directed to promptly amend the Official Zoning Map upon the effective date of this Ordinance.

SECTION 3. REZONING ACTION CONDITIONED ON DEVELOPMENT AGREEMENT. This rezoning action is subject to the conditions provided for and agreed to in the Development Agreement attached hereto as **Exhibit “C”** and incorporated herein.

SECTION 4. CONFLICTS. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be

declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 6. EFFECTIVE DATE. This Ordinance shall take effect immediately upon passage and adoption.

APPROVED on first reading the 7th day of February 2012 at a public hearing.

ADOPTED on the second reading the 21st day of February 2012 at a public hearing.

CITY OF PALM COAST, FLORIDA

JON NETTS, MAYOR

ATTEST:

VIRGINIA A. SMITH, CITY CLERK

Approved as to form and legality

William E. Reischmann, Jr., City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION

FLAGLER COUNTY, FLORIDA

Lands in Township 11 South, Range 29 East

All of Sections 12 and 13, less and except right-of-way of Highway 13, a/k/a Brick Road;

All of Section 14, lying and being East of the western boundary of the abandoned F.E.C. Railway right-of-way (100 foot right-of-way); The Southwest ¼ of the Northeast ¼; Southeast ¼ of the Northeast ¼; the South ½ of the Northwest ¼; and the South ½ of Section 15, lying and being East of the western boundary of the abandoned F. E. C. Railway right-of-way (100 foot right-of-way); LESS AND EXCEPT any part thereof lying within lands conveyed to Florida Power and Light Company set forth in Special Warranty Deed recorded in O. R. Book 213, page 795, Public Records of Flagler County, Florida;

All of Section 23, lying and being East of the western boundary of the abandoned F.E.C. Railway right-of-way (100 foot right-of-way);

All of Section 24, lying and being East of the western boundary of the abandoned F.E.C. Railway right-of-way (100 foot right-of-way);

All of Section 25, lying and being East of the western boundary of the abandoned F.E.C. Railway right-of-way (100 foot right-of-way);

Lands in Township 11 South, Range 30 East

All of Section 18 and 19, less and except right-of-way of Highway 13, a/k/a Brick Road;

That portion of Section 20, lying and being West of Hargrove Grade; less and except road right-of-way reserved in TIF Deed recorded in Deed Book 30, page 381;

That portion of Section 29, lying and being West of Hargrove Grade; together with that portion of the Southeast ¼ lying and being West of a 410 feet established power line right-of-way located in said section; less and except Hargrove Grade and Otis Hunter Grade road right-of-ways;

All of Section 30, Township 11 South, Range 30 East, Flagler County, Florida; Less and except the following: Begin at the Southwest corner of Section 30, Township 11 South, Range 30 East;

EXHIBIT "A" (CONTINUED)
LEGAL DESCRIPTION

thence North 00°00'00" East, a distance of 1126.73 feet to the Southwesterly Right of Way line of an abandoned railroad having a 100 foot Right of Way; thence South 47°31'54" East on the Right of Way line thereof, a distance of 770.97 feet; thence North 45°00'00" East, a distance of 2876.25 feet to the Northwest corner of lands described in Official Records 535, page 1327 of the public records of said Flagler County; thence North 90°00'00" East, on the North line of said Official Records and the North line of Official Records 404, page 281, a distance of 487.17 feet to the East Right of Way line of Old Brick Yard Road having a 50 foot Right of Way; thence South 10°52'58" East, on the East Right of way line thereof, a distance of 415.68 feet to the Northwest corner of Official Records Book 1600, page 275; thence South 90°00'00" East on the North line of last said Official Records Book, a distance of 776.18 feet to the Northeast corner of last said Official Records Book; thence South 30°53'57" East, a distance of 2600.95 feet to the Southeast corner of said Section; thence North 90°00'00" West on the South line of said Section, a distance of 5,280.00 feet to the point of beginning.

Section 32:

The East ½ of the East ½; together with the following parcel of land in the Southwest ¼ of the Southeast ¼ described as follows:

Commence at the Northeast corner of the Southwest ¼ of the Southeast ¼ at a 4" x 4" concrete monument; thence along the East line of the Southwest ¼ of the Southeast ¼ South 00 degrees 05 minutes 02 seconds East a distance of 718.15 feet to an iron pipe and cap (LB 6888) located on the northerly maintained right of way of an existing dirt road, said point marking the point of beginning of the herein described parcel; thence South 73 degrees 42 minutes 15 seconds West along said Northerly maintained right of way line 446.36 feet to the point of curvature of a curve to the left, concave Southeast, having a radius of 574.60 feet; thence Southwesterly along said Northerly maintained right of way line and the arc of said curve 181.18 feet, through a central angle of 18 degrees 04 minutes 00 seconds and being subtended by a chord bearing and distance of South 64 degrees 40 minutes 15 seconds West 180.43 feet to the point of tangency; thence South 55 degrees 38 minutes 16 seconds West continuing along said Northerly maintained right of way line 173.18 feet to a point on the Northeasterly right of way line of State Road No. 13 (a variable width right of way); thence Southeast 48 degrees 54 minutes 41 seconds East to a point where the Northeasterly right of way line of S. R. 13 (a variable width right of way) intersects the southern boundary line of Section 32, Township 11 South, Range 30 East; thence South 89 degrees 03 minutes 16 seconds East along said southern boundary of Section 32 to a concrete monument (LS 2615); thence North 00 degrees 05 minutes 02 seconds West 598.69 feet to the Point of Beginning.

Section 33:

All lying and being West of the right-of-way of the Florida East Coast Railway, (150 foot right-of-way).

EXHIBIT "B"
TAX PARCEL IDENTIFICATION NUMBERS

12-11-29-0000-01010-0000
13-11-29-0000-01010-0000
14-11-29-0000-01010-0010
15-11-29-0000-01010-0010
15-11-29-0000-01020-0010
18-11-30-0000-01010-0000
19-11-30-0000-01010-0000
20-11-30-0000-01010-0010
23-11-29-0000-01010-0010
24-11-29-0000-01010-0010
25-11-29-0000-01010-0010
29-11-30-0000-01010-0010
30-11-30-0000-01010-0010
30-11-30-0000-01020-0000
32-11-30-0000-01010-0010
33-11-30-0000-01010-0000

EXHIBIT "C"
DEVELOPMENT AGREEMENT

Development Agreement begins on following page.