

ST. JOHNS COUNTY
RESOLUTION NO. 2001-46

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, STATE OF FLORIDA, MODIFYING THE JULINGTON CREEK PLANTATION DEVELOPMENT OF REGIONAL IMPACT DEVELOPMENT ORDER (RESOLUTION NO. 93-159), AS AMENDED TO PROVIDE FOR A REVISED EAGLE MANAGEMENT PLAN; FINDING THE MODIFICATION DOES NOT CONSTITUTE A SUBSTANTIAL DEVIATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Julington Partners Limited Partnership (the Owners/Developers) have submitted a Notification of a Proposed Change to the Julington Creek Plantation Development of Regional Impact (DRI) by letter dated December 15, 2000 (Notification), requesting modification of the bald eagle habitat management plan for the DRI; and

WHEREAS, the Owners/Developers have provided information showing that the proposed modifications of the DRI development order do not constitute a substantial deviation under any provision of Section 380.06(19), Florida Statutes; and

WHEREAS, the Board of County Commissioners has reviewed the Notification and considered the evidence presented and whether the proposed modification constitutes a substantial deviation to the DRI requiring further DRI review at a public hearing held on March 13, 2001, after required notice.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

1. The following facts are determined in connection with this Resolution:
 - a. The proposed development, as modified herein, is consistent with the 1990-2005 St. Johns County Comprehensive Plan adopted September 14, 1990, in Ordinance No. 90-53.
 - b. The proposed development, as modified herein, is consistent with the Land Development Code of St. Johns County.
2. The Notification and other evidence received provides clear and convincing evidence that the requested modification does not constitute a substantial deviation to the DRI.
3. The 1993 Julington Creek Plantation Restated DRI Development Order (Resolution No. 93-159) is hereby modified, as follows:

The Amended and Restated Bald Eagle Habitat Management Plan attached hereto is substituted for former Development Order Exhibit G.

4. Except as modified by this Resolution, the existing St. Johns County Julington Creek Plantation DRI 1993 Restated Development Order, as previously amended, shall remain in full force and effect.
5. A certified copy of this Resolution, complete with all exhibits, shall be rendered by St. Johns County within 10 days of its adoption by certified mail, return receipt requested to the Developer, the Florida Department of Community Affairs and the Northeast Florida Regional Planning Council.
6. This Resolution shall take effect upon its adoption.

PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THIS 13th DAY OF March 2001.

BOARD OF COUNTY COMMISSIONER OF ST. JOHNS COUNTY, FLORIDA

By: Mery J. Kohne

ATTEST: Cheryl Strickland, Clerk

By: Patricia Alex Grande
Deputy Clerk

Adopted Regular Meeting 03-13-01

Effective: 03-13-01



1993 Restated DRI Development Order

Revised Exhibit G

Date: March 13, 2001

AMENDED AND RESTATED
BALD EAGLE HABITAT MANAGEMENT PLAN
JULINGTON CREEK PLANTATION

[Replaces Exhibits "G" of Resolution 93-159 Julington Creek Development of
Regional Impact Restated Development Order and
Exhibits "F" and "G" of Ordinance 93-43 Julington Creek Plantation PUD]

In connection with certain prior amendments to the Development Order and Planned Unit Development for Julington Creek Plantation, a revised Bald Eagle Habitat Plan ("Plan") was adopted to incorporate certain revisions of "Habitat Management Guidelines for the Bald Eagle in the Southeast Region" developed by the U.S. Fish and Wildlife Service ("FWS"). The revised plan was adopted in 1993 as a part of Ordinance 93-43 and Resolution 93-159.

Julington Partners Limited Partnership ("Developer"), the present developer of Julington Creek Plantation, has agreed to certain further modifications and amendments to the Plan and hereby amends and restates the Plan in its entirety as follows.

I. Introduction

A predecessor developer, General Development Corporation, observed an eagle nest within Julington Creek Plantation in February, 1986, and reported it to FWS. A management plan for bald eagles' nest was submitted to FWS on April 8, 1986, consistent with the 1982 Guidelines of FWS, Region 4. In July 1991, the plan was updated and the same plan was reconfirmed as a part of the adoption of Ordinance 93-43 on October 19, 1993 and Resolution 93-159 on September 28, 1993.

II. Nest Location and Description

The nest is located approximately 350 feet south of the centerline of Davis Pond Boulevard, the entrance road to the community (see attached Exhibit "1"), which existed at the time the nest was built. In accord with the phased development of Julington Creek, the golf course has been developed in the area north of Davis Pond Boulevard and the Administration Building (Parcel 18), Plantation Recreational Facility (Parcel 19), Plantation Park (Parcel 11) and lots and homes within Parcel 10 and homes on Little Loop have all been developed in the Secondary Zone, as hereinafter defined, all in accordance with the existing management plan.

The nest tree is a tall slash pine located approximately 250 feet south of the mowed area adjacent to Davis Pond Boulevard. Vegetation south of the tree is mixed forested lowland and pine flatwoods. Surrounding the base of the nest tree is a wetland with saturated soils and a dense understory of palmetto and shrubs. The nest platform is located about one third of the way down from the top of the crown portion of the pine.

III. Habitat Management Plan

In accordance with the January 1987 revision of "Habitat Management Guidelines for the Bald Eagle in the Southeast Region," developed by FWS ("FWS Guidelines"), the Developer has reserved areas for protection zones around the nest as shown in Exhibit "1". While the Developer recognizes that these are only guidelines, the Developer will abide by the following habitat management plan in order to maintain an environment suitable for joint use by eagles and man.

References in this Plan to the "nesting period" generally refer to October 1 to May 15, when the eagles are expected to be actively occupying the nest and prior to the time when all eaglets hatched during the nesting period are independent of the nest, as defined below. This nesting period commences when the eagles are physically observed and verified at the nest engaged in courtship, breeding activity and nest building ("Nesting Commencement"). The nesting period ends when all eaglets hatched during the nesting period are independent of the nest, i.e., when the parent eagles have ceased feeding the eaglets in the nesting area, or on May 15, whichever comes first ("Nesting Termination"). An independent qualified biologist, jointly agreed upon by the FWS, Developer and the County ("Approved Monitor"), will verify Nesting Commencement and notify the County, FWS and Developer within two (2) business days that such nesting activities have commenced, and within two (2) business days after Nesting Termination to confirm Nesting Termination has occurred. Notwithstanding the dates that are used in various documents, all references to the "Nesting Period" shall be to the period of time between the Nesting Commencement and Nesting Termination as defined herein and as physically verified. The "Non-Nesting Period" shall be the remainder of the calendar year. It is understood that the eagles and eaglets may remain in the vicinity of the nest after Nesting Termination but for the purposes of this Plan, that period of time shall be deemed a part of the Non-Nesting Period.

IV. Primary Zone

The primary zone is defined as the area in a radius of 750 feet from the base of the eagle nest tree ("Primary Zone"). Protection of this 40-acre area is considered most important to prevent disturbance to nesting eagles. The Developer will implement the recommendations of FWS guidelines through the prohibition of the

following activities at all times unless the nest is declared inactive by the applicable governmental agency.

- A. Residential, commercial or industrial development, tree cutting, logging, construction and mining; and
- B. Use of chemicals toxic to wildlife.

There will be no expansion of authorized human activities in the Primary Zone. Traffic will continue to use Davis Pond Boulevard. The drainage swales and landscaping along the road will continue to be mowed, irrigated and maintained to allow the drainage system to function properly. The drainage detention ponds located adjacent to Davis Pond Boulevard will be maintained to preserve their function for stormwater management.

The following activities will be restricted in the Primary Zone (south of the mowed area of the south side of Davis Pond Boulevard) during the Nesting Period but not necessarily during the Non-Nesting Period:

- A. Human entry; and
- B. Helicopter or fixed-wing aircraft operation within 500 feet vertical distance or 1,000 feet horizontal distance from the nest, to the extent the Developer has control of such operation.
- C. Removal of underbrush for the purposes of fire protection.

The human activities already occurring, including vehicular traffic and the authorized uses listed above, will continue.

V. Secondary Zone

The secondary zone is defined as an area extending outward from the Primary Zone an additional 750 feet ("Secondary Zone") The Secondary Zone encompasses approximately 122 acres adjacent to the 40 acres of the Primary Zone.

The parcels contained within the Secondary Zone are portions of Parcels 10, 11, 16, 17, 18 and 19 as depicted on Exhibit "1".

Within the Secondary Zone the following activities shall be restricted as follows:

- A. Prohibited Activities in the Secondary Zone
 - 1. Construction of multi-story buildings exceeding thirty (35') feet in height and high density housing.

2. Use of chemicals toxic to wildlife, such as herbicides and pesticides. The Developer shall record a restrictive covenant binding the owners of the undeveloped property within the Secondary Zone to this prohibition.

B. Restrictions on Infrastructure Construction in the Secondary Zone

1. Parcel 10: All infrastructure for the subdivision is completed.
2. Parcels 16 and 17: These are the remaining undeveloped single family subdivisions located within the Secondary Zone. The "Infrastructure Construction", which has been determined by FWS in its correspondence with St. Johns County to include (a) all land and lot clearing and filling and (b) construction of roads, drainage, sewer, water, electrical and other utility construction, must be started and completed during the Non-Nesting Periods. Infrastructure in Parcel 17 will be developed and completed prior to starting the infrastructure on Parcel 16. It is understood that development and building permits may be applied for and obtained during the Nesting Period in order that work can commence immediately upon verification of Nesting Termination.
3. Parcels 11, 18 and 19: These are recreational and/or commercial areas within the Secondary Zone. Any Infrastructure Construction in these zones must be started and completed during the Non-Nesting Periods. It is understood that development and building permits maybe applied for and obtained during the Nesting Period in order that work can commence immediately upon verification of Nesting Termination.

C. Restrictions on Construction in the Secondary Zone

1. All tasks of home construction shall be specifically allowed in the Secondary Zone during the Non-Nesting Period for Parcels 10, 16, and 17.
2. All vertical construction of recreational or commercial improvements, including without limitation, parking areas, gazebos and buildings, on Parcels 11, 18 and 19 shall likewise be allowed during the Non-Nesting Period.

3. With respect to each Parcel, the construction tasks described in subparagraph "a" below must be completed during the Non-Nesting Period and the construction tasks described in subparagraph "b" below may be completed during the Nesting Period or Non-Nesting Period.
 - a. Tasks that must be completed during the Non-Nesting Period and are strictly prohibited during the Nesting Period:
 - i. Tree clearing
 - ii. House and building pad filling and compaction
 - iii. Slab forming and pouring
 - iv. Structural wood, concrete block or concrete framing
 - v. Exterior structural wall sub-sheathing
 - vi. Roof truss erection or roof framing
 - vii. Roof sheathing
 - viii. Roof dry-in
 - ix. Final roof shingles or tiles
 - x. Building paper on exterior walls
 - xi. Well digging
 - xii. Pool digging and construction of pool shell
 - xiii. Installation of exterior siding which is installed using impact tools.
 - xiv. Installation of fencing or decks which are installed using impact tools.
 - b. Tasks that are authorized for completion during the Nesting Period:

All remaining exterior and interior construction tasks that are not specifically mentioned in "a" above that are required to properly complete the home or improvement, obtain a certificate of occupancy, allow for occupancy and use of the property.

4. The Developer agrees to limit the removal of large trees suitable for perching and roosting to the greatest extent practicable.

VI. Monitoring Procedure

- A. Developer agrees that an Approved Monitor shall observe the eagles and the nest during the Nesting Period, when there is exterior

construction taking place in the Secondary Zone in the manner set forth herein.

- B. From Nesting Commencement through four weeks post-hatching of the eaglet(s), monitoring shall be conducted from sunrise until 12 noon on all days when exterior construction takes place in the Secondary Zone. Commencing four weeks post-hatching of the eaglet(s), monitoring may be reduced to a minimum of two hours per day for the remainder of the Nesting Period. Monitoring shall be conducted from an appropriate vantage point immediately north of Davis Pond Boulevard, as shown on Exhibit "1". Monitoring reports shall include written descriptions of observations at a minimum of fifteen (15) minute intervals during the daily observation period.
- C. The reports of the Approved Monitor shall be delivered to the FWS or the applicable governmental agency once a week.
- D. Approved Monitors shall promptly report any changes in the eagles' behavior to FWS or the applicable governmental agency, so that FWS or the applicable governmental agency may make a determination as whether the monitoring process or construction schedule needs to be modified or adjusted.
- E. Monitoring shall be required during the Nesting Period, only if initial exterior construction of residential dwellings is taking place in the Secondary Zone. If initial construction of residential dwellings is taking place inside the residential dwellings, then no monitoring shall be required.

VII. General Activities

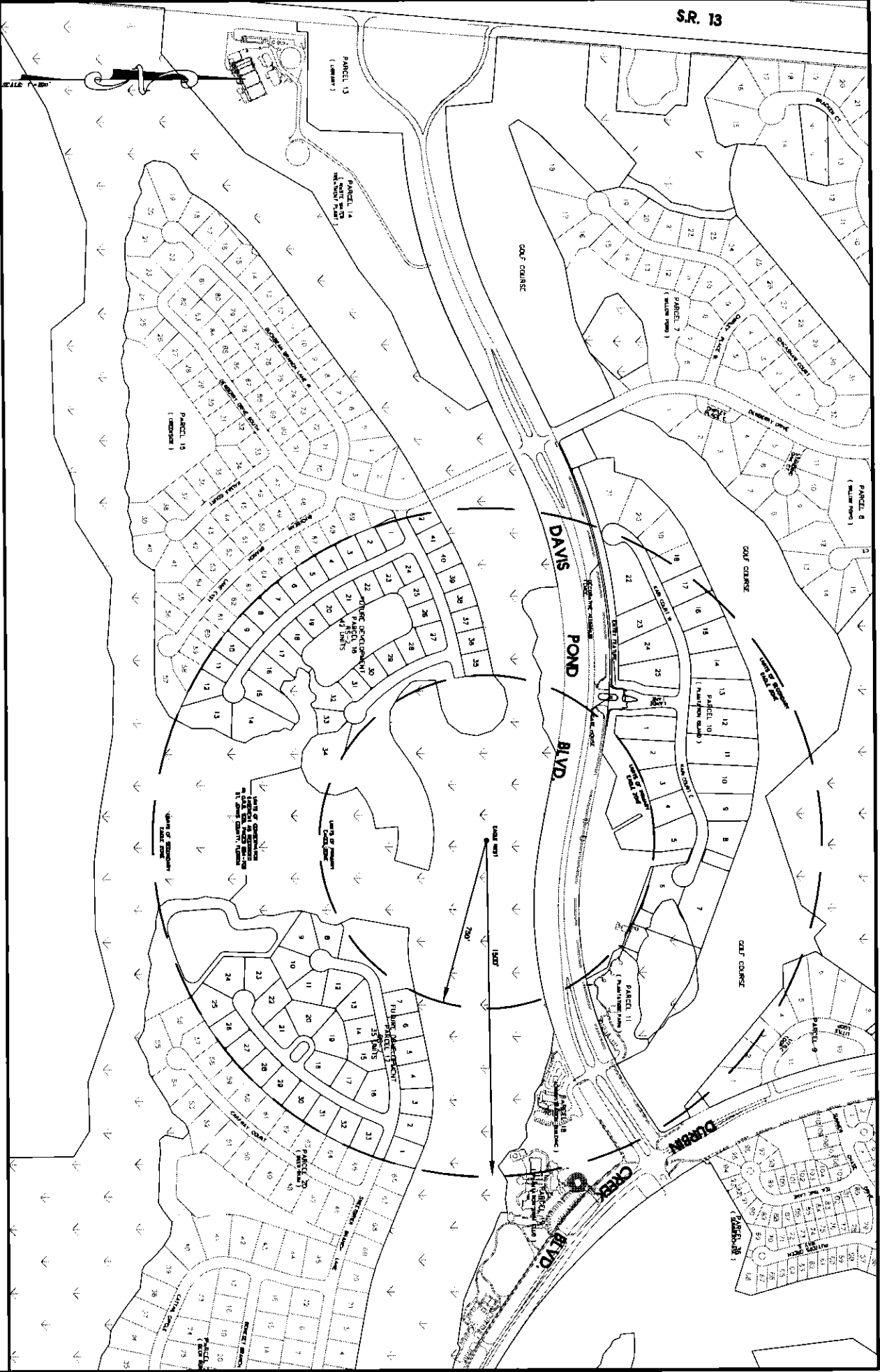
- A. It is understood that Lot owners and the Developer may seek and obtain building and development permits during the Nesting Period so that they will be ready to start construction immediately upon verification of the Nesting Termination. Such permits shall be issued subject to the nesting and non-nesting restrictions set forth herein.
- B. All normal and necessary maintenance and repair of existing improvements on lots in the secondary zone may be done irrespective of the time of year and are not restricted under this Agreement. Normal maintenance and repair of Davis Pond Boulevard, which is the only improvement in the Primary Zone, is addressed in Paragraph IV. Other repair or maintenance of Davis Pond Boulevard or other publicly dedicated rights of way will be coordinated by St. Johns County with FWS.

- C. Surveying work may be undertaken in the Secondary Zone during the Nesting or Non-Nesting Period. Any survey work required in the primary zone may only be done during the Non-Nesting Period.
- D. Minor activities including hiking, bird watching, fishing and golfing will be allowed at anytime in the secondary zone.

VIII. General Conditions

- A. The County shall be given written notification from the FWS when and if the nest is declared abandoned, with copies to the Northeast Florida Regional Planning Council, Department of Community Affairs.
- B. Unless the eagle's nest is declared abandoned for five (5) consecutive breeding seasons or, in the event of destruction of the nest by natural causes, two (2) consecutive breeding seasons, the County shall require approval by a notification of proposed change submitted pursuant to Section 380.06 (19)(f) Florida Statutes for any activities which are not specifically provided for herein.
- C. All building permits issued by the County for the construction of improvements within the Secondary Zone shall include a copy of this Plan, as amended and restated herein.
- D. This Plan as modified herein shall be binding upon the County and Developer and their successors and assigns, including without limitation any assignee of the Developer's rights and obligations under the Development Order.
- E. Any further amendments to this Plan shall be subject to the approval of the Board of County Commissioners.

S.R. 13



England-Thims & Miller, Inc.
 ENGINEERS - PLANNERS
 SURVEYORS - LANDSCAPE ARCHITECTS
 14775 St. Augustine Road
 Jacksonville, Florida 32258
 Certificate of Authorization No.:2584
 Phone No. (904) 842-8890
 Fax No. (904) 848-9485

**EAGLE MANAGEMENT
 FOR NEST SJ-07**
 JULINGTON CREEK PLANTATION
 EXHIBIT 1
 ST JOHN'S COUNTY, FLORIDA

ETM. NO. E 00-65
DATE: MARCH 14, 2001
DRAWN BY: R.B.P.
DRAWING NO.:

THE ST. AUGUSTINE RECORD

PUBLISHED EVERY MORNING MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **LINDA Y MURRAY**

who on oath says that she is an Accounting Clerk of the St. Augustine Record

a daily newspaper published at St. Augustine in St. Johns County, Florida:

that the attached copy of advertisement, being a

NOTICE OF PROPOSED CHANGE

in the matter of **DEVELOPMENT OF REGIONAL IMPACT**

JULINGTON CREEK PLANTATION

in the Court, was published in said newspaper in the issues of

FEBRUARY 14, 2001

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, for a period of one year preceding the first publication of the copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement publication in the said newspaper.

Sworn to and subscribed before me this **15TH** day of **FEBRUARY** 2001,

by *Linda Y Murray* who is personally known to me
or who has produced **PERSONALLY KNOWN** as identification.

Zoe Ann Moss
(Signature of Notary Public)



Zoe Ann Moss
MY COMMISSION # 00641814 EXPIRES
August 22, 2001
BONDED THROUGH FIDELITY AND SURETY INSURANCE, INC.

Zoe Ann Moss

COPY OF ADVE

16-A and US1 North, St. Augustine, Florida. Interested parties shall be granted an opportunity to be heard at said public hearing.

NOTICE TO PERSONS WITH DISABILITIES
NEED TO REQUEST ACCOMMODATIONS TO ATTEND PUBLIC HEARING
FOR ALL NEARBY IMPAIRED PERSONS
IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS HAVING SPECIAL ACCOMMODATIONS OR NEED TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT DAVID WATSTEAD, ADA COORDINATOR, AT (904) 823-2800 OR AT THE COUNTY ADMINISTRATION BUILDING, 4020 LEWIS SPEEDWAY, ST. AUGUSTINE, FLORIDA, 32095.
FOR HEARING IMPAIRED INDIVIDUALS: FLORIDA RELAY SERVICE: 1-800-955-8770. NO LATER THAN 3 DAYS PRIOR TO THE DATE OF THIS MEETING.
IF A PERSON DECIDES TO APPEAL ANY DECISION MADE WITH RESPECT TO ANY MATTER CONSIDERED AT THE MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDING, AND FOR SUCH PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH A DECISION IS TO BE BASED.
THIS MATTER IS SUBJECT TO COURT IMPOSED QUASI-JUDICIAL RULES OF PROCEDURES. INTERESTED PARTIES SHOULD LIMIT CONTACT WITH THE COUNTY COMMISSIONERS AND PLANNING & ZONING AGENCY MEMBERS ON THIS TOPIC, EXCEPT WITH COMPLIANCE WITH RESOLUTION 95-124, TO PROPERLY NOTICED PUBLIC HEARINGS OR IN WRITTEN COMMUNICATION CARE OF ST. JOHNS COUNTY PLANNING DIVISION, P.O. DRAWER 347, ST. AUGUSTINE, FLORIDA, 32095.

BOARD OF COUNTY COMMISSIONERS
ST. JOHNS COUNTY, FLORIDA
CHERYL STRICKLAND,
CLERK
PLANNING AND ZONING AGENCY
OF ST. JOHNS COUNTY, FLORIDA
By **ROBERT TAYLOR,**
CHAIRMAN
L30-1 Feb. 14, 2001

NOTICE OF PROPOSED CHANGE (NORC) TO THE JULINGTON CREEK PLANTATION DEVELOPMENT OF REGIONAL IMPACT (DRI) RESTATED DEVELOPMENT ORDER AND A MAJOR MODIFICATION TO THE JULINGTON CREEK PLANTATION PLANNED UNIT DEVELOPMENT (PUD)

NOTICE IS HEREBY GIVEN that the St. Johns County Planning and Zoning Agency and the Board of County Commissioners of St. Johns County will consider a Notice of Proposed Change to the previously approved Julington Creek Plantation DRI (Development of Regional Impact) Restated Development Order, and a Major Modification to the Julington Creek Plantation Planned Unit Development (PUD).

THE PLANNING AND ZONING AGENCY PUBLIC HEARING will be held on Thursday, March 01, 2001, at 1:30 p.m. to consider and make recommendations to the Board of County Commissioners on whether the proposed change(s) constitutes a Substantial Deviation to the Restated Development Order, thus requiring further review. The Planning and Zoning Agency will, at the same meeting, consider and make recommendations to the Board of County Commissioners on a related Major Modification to the Julington Creek Plantation Planned Unit Development (PUD), Ordinance 93-43, as amended. It is anticipated that one or more members of the Board of County Commissioners of St. Johns County may attend and participate in this meeting.

THE BOARD OF COUNTY COMMISSIONERS PUBLIC HEARING will be held on Tuesday, March 13, 2001, at 1:30 p.m. to consider and take action on a Resolution of the County of St. Johns, State of Florida, modifying the Julington Creek Plantation DRI Restated Development Order as previously approved by Resolution 93-159, and on an Ordinance approving the Major Modification to the Julington Creek Plantation Planned Unit Development (PUD), Ordinance 93-43, as amended, finding the modifications are consistent with 2035 St. Johns County Comprehensive Plan, Ordinance 2000-34, as amended and consistent with the St. Johns County Land Development Code, Ordinance 99-51, as amended, finding that the modification do not constitute a substantial deviation and providing for effective dates.

Said hearing will be held in the County Auditorium, County Administration Building, 4020 Lewis Speedway (County Road 16-A) and US1 North, St. Augustine, Florida.

The Julington Creek Plantation DRI is an existing development located at State Route 13 and Racetrack Road within Sections 2, 3, 10, 11, 14, 15, 18, 19, 31, 38, 43 and 44, Township 4 South, Range 28 East; Sections 26, 27, 28, 29, 31, 33, 34, 35, 36, 40, 49 and 54, Township 4 South, Range 27 East; and all or portions of Sections 2, 4, 5, 38, 39 and 42, Township 5 South, Range 27 East (See General Location Map Exhibit A).

The proposed changes seek to amend the Restated Development Order and the Major Modification to the Julington Creek Plantation DRI Restated Development Order and the Julington Creek Plantation PUD, as amended.

The Julington Creek Plantation DRI Notice of Proposed Change and the Major Modification to the Julington Creek Plantation Planned Unit Development are available for review by the public in the Planning Division located at the St. Johns County Administrative complex, 4020 Lewis Speedway (County Road