

ORDINANCE NO. 6-2007

AN ORDINANCE OF THE CITY OF MULBERRY, FLORIDA; ESTABLISHING THE DONALDSON KNOLL COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING A TITLE; PROVIDING FINDINGS; CREATING AND NAMING THE DISTRICT; DESCRIBING THE EXTERNAL BOUNDARIES OF THE DISTRICT; DESCRIBING THE FUNCTIONS AND POWERS OF THE DISTRICT; CONSENTING TO THE USE OF SPECIAL POWERS BY THE DISTRICT; DESIGNATING FIVE PERSONS TO SERVE AS THE INITIAL MEMBERS OF THE DISTRICT'S BOARD OF SUPERVISORS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, LDC South Florida Ventures, LLC ("Petitioner"), as owner of or with consent of the owners of one hundred percent (100%) of the real property to be included in the District, has consented to the establishment of and petitioned the City Commission of the City of Mulberry (the "City") to adopt an ordinance establishing the Donaldson Knoll Community Development District (the "District") pursuant to Chapter 190, Florida Statutes; and

WHEREAS, Petitioner is a Florida limited liability company authorized to conduct business in the State of Florida and whose principal place of business is 550 Biltmore Way, Suite 1110, Coral Gables, Florida 33134; and

WHEREAS, all interested persons and affected units of general-purpose local government were afforded an opportunity to present oral and written comments on the Petition at a duly noticed public hearing conducted by the City on April 5, 2007; and

WHEREAS, upon consideration of the record established at that hearing duly noticed, the City finds as follows:

- (1) The statements within the Petition were true and correct; and
- (2) Establishment of the District by this Ordinance is subject to and not inconsistent with the local Comprehensive Plan of the City and with the State Comprehensive Plan; and,
- (3) The area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developed as one functional, interrelated community; and

(4) The District is the best alternative available for delivering community development services and facilities to the area proposed to be serviced by the District; and

(5) The services and facilities of the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

(6) The area to be served by the District is amenable to separate special district governance; and

WHEREAS, establishment of the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area described in the Petition; and,

WHEREAS, the Petitioner has requested the City for consent to exercise one or more of the special powers granted by charter in Section 190.012(2), Florida Statutes; and,

WHEREAS, the Petitioner and the City entered into the Donaldson Knoll Preceding Development Agreement dated May 10, 2006 (the "PDA"), subsection 5.6 of which contemplates the creation of this community development district.

NOW THEREFORE, be it enacted by the City Commission of the City of Mulberry, Florida:

Section 1. Title. This Ordinance shall be known and may be cited as the "Donaldson Knoll Community Development District Establishment Ordinance."

Section 2. Commission Findings. The Commission findings set forth in the recitals to this Ordinance are hereby incorporated in this Ordinance.

Section 3. Authority. This Ordinance is adopted in compliance with and pursuant to the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes (2005).

Section 4. Creation of District; District Name. There is hereby created a community development district situated entirely within the incorporated boundaries of the City of Mulberry, Florida, which District shall be known as the "Donaldson Knoll Community Development District."

Section 5. External Boundaries of the District. Encompassing approximately 70 acres, the external boundaries of the District are described in Exhibit "A" attached hereto.

Section 6. Functions and Powers. The District is limited to the performance of those powers and functions as described in Chapter 190, Florida Statutes. Consent is

also hereby given, as provided in Section 190.012(2), Florida Statutes (2006), to the District Board so long as it is in compliance with and subject to the City of Mulberry Comprehensive Plan and subject to the regulatory jurisdiction and permitting authority of all applicable other ordinances and regulations of the City, the power to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain additional systems and facilities for parks and facilities for indoor and outdoor recreational, cultural and educational uses, fire prevention and control, including related buildings and equipment, school buildings and related structures, security, including but not limited to personnel and equipment, mosquito and anthropods of public health importance control, and waste collection and disposal. In the exercise of its powers, the District shall comply with all applicable governmental laws, rules, regulations and policies including, but not limited to, all City ordinances and policies governing land planning and permitting of the development to be served by the District. The District shall not have any zoning or permitting powers governing land development or the use of land. No debt or obligation of the District shall constitute a burden on any local general purpose government. Nothing contained in this Ordinance is intended to affect the validity of the PDA, which is hereby ratified and confirmed. As a condition of the creation of the District, the District agrees and shall be bound by the terms of the PDA and shall execute an interlocal agreement with the City to that effect.

Section 7. Board of Supervisors. The five persons designated to serve as initial members of the District's Board of Supervisors are as follows:

- (1) Manuel M. Mato
Waterstone Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (2) E. Daniel Lopez
Waterstone Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (3) Peter Jeremy Barna
Landstar Development Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (4) Virginia Cepero
Landstar Development Group
550 Biltmore Way, Suite 1110
Coral Gables, FL 33134
- (5) Eduardo Stern
Landstar Development Group
550 Biltmore Way, Suite 1110

Coral Gables, FL 33134

All of the above-listed persons are residents of the state of Florida and citizens of the United States of America.

Section 8. Severability. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof other than the part declared to be invalid.

Section 9. Conflict. That all ordinances or parts of ordinances in conflict herewith are to the extent of said conflict, hereby repealed.

Section 10. Purpose. The provisions of this Ordinance shall be liberally construed to effect its purpose.

Section 11. Effective Date. This Ordinance shall be effective immediately upon receipt of acknowledgement that a copy of this Ordinance has been filed with the Secretary of State.

This Ordinance was read for the first time at the Regular Meeting of the City Commission on the 6th day of March, 2007, where it was voted on by members of the City Commission as follows:

Yeas 5 Nays 0 Absent 0

This Ordinance was authorized to be read for a second and final time at the Regular Meeting of the City Commission on the 5th day of April, 2007, where it was voted on by members of the City Commission as follows:

Yeas 5 Nays 0 Absent 0

(Seal)

ATTEST:

CITY OF MULBERRY, FLORIDA

By: *Vanessa Baker*
Vanessa Baker, City Clerk

By: *Mark Seigler*
Mark Seigler, Mayor

APPROVED AS TO FORM:

Gerald Buhr
Gerald Buhr, City Attorney

EXHIBIT "A"

**LEGAL DESCRIPTION OF LANDS ENCOMPASSED WITH THE
DONALDSON KNOLL COMMUNITY DEVELOPMENT DISTRICT**

543760 v5

DONALDSON KNOLL**Legal Description**

PARCEL 4

That part of Sections 9 and 10, Township 30 South, Range 23 East, Polk County, Florida, described as follows:

Commence at the Northwest corner of Section 10, Township 30 South, Range 23 East, and run North89°35'47"East, along the North boundary of Section 10 a distance of 1333.90 feet to the Northeast corner of the Northwest 1/4 of the Northwest 1/4 of said Section 10, thence South00°24'47"West, along the East boundary of the West 1/4 of said Section 10 a distance of 201.47 feet to the Point of Beginning, thence South00°24'31"West, along the East Boundary of the West 1/4 of said Section 10 a distance of 2214.14 feet to a point, said point being the approximate 25 year flood line of the Alafia River; thence Northwesterly along said 25 year flood line the following four (4) courses: (1) North76°33'47"West, 300.22 feet; (2) South66°16'06"West, 280.00 feet; (3) North80°33'52"West, 300.00 feet; (4) North51°38'00"West, 612.47 feet to a point on the West Boundary of Section 10; thence North00°13'51"East, along said West Boundary of Section 10 a distance of 613.01 feet to the Southeast corner of the Northeast 1/4 of the Northeast 1/4 of Section 9; thence South89°40'10"West, along the South Boundary of the Northeast 1/4 of the Northeast 1/4, 1285.77 feet; thence South43°09'26"West, 158.50 feet to a point on the North Boundary of a Conservation Easement, as recorded in Official Records Book 2731, Page 840, of the Public Records of Polk County, Florida; thence Northwesterly along said North Boundary of Conservation Easement North65°40'03"West, 160.70 feet to the South Right-of-Way line of the CSX Transportation Railroad as per Deed Book 922, Page 181, of the Public Records of Polk County, Florida, thence N64°06'22"E along said railroad Right-of-Way line 1718.20 feet to the Point of Curvature of a curve to the right having a Radius of 5613.24 feet and a Central Angle of 14°23'55", thence along said curve and said South Right-of Way line 1410.62 feet to the Point of Beginning.