

ORDINANCE NO. 2002-48

AN ORDINANCE OF THE CITY OF VENICE, FLORIDA, ANNEXING CERTAIN LANDS LYING CONTIGUOUS TO THE CITY LIMITS, AS PETITIONED BY LLOYD P. MILLER, AS SUCCESSOR TRUSTEE OF TRUST NUMBER 1-A, AND 1-D AND OSPREY LAND TRUST, A FLORIDA GENERAL PARTNERSHIP, INTO THE CORPORATE LIMITS OF THE CITY OF VENICE, FLORIDA, AND REDEFINING THE BOUNDARY LINES OF THE CITY TO INCLUDE SAID ADDITIONS.

WHEREAS, The City Council of the city of Venice, Florida received a sworn Petition from Lloyd P. Miller, as Successor Trustee of Trust Number 1-a, and 1-d and Osprey Land Trust, a Florida General Partnership, dated September 24, 2002, requesting the city to annex a certain parcel of real estate herein described, owned by Lloyd P. Miller, as Successor Trustee of Trust Number 1-a, and 1-d and Osprey Land Trust, a Florida General Partnership, into the corporate limits of the city of Venice, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VENICE, FLORIDA:

SECTION 1. After its evaluation of all evidence presented, and in reliance upon representations made by Lloyd P. Miller, as Successor Trustee of Trust Number 1-a, and 1-d and Osprey Land Trust, a Florida General Partnership, in said petition, the city of Venice, acting by and through its City Council by the authority and under the provisions of the Municipal Charter of the city of Venice, and the laws of Florida, hereby annexes into the corporate limits of the city of Venice, Florida, and redefines the boundary lines of said city so as to include the following described parcel of real property in Sarasota County, Florida:

The North 1/2 of the Northwest 1/4 of Section 33, Township 38 South, Range 19 East, Sarasota County, Florida, LESS road right of way for Interstate Highway I-75 and Laurel Road as described in Official Records Book 1142, at Page 531, Official Records of Sarasota County, Florida, and being more particularly described as follows:

Begin at the Northwest corner of Section 33, Township 38 South, Range 19 East; thence South 89° 19' 54" East along the North line of said Section 33, a distance of 1128.45 feet; thence South 0° 40' 06" West a distance of 60.00 feet to the South right of way line for Laurel Road; thence along said South right of way line the following four courses, South 89° 19' 54" East a distance of 200.00 feet to a point 60.00 feet Southerly of the North line of said Section 33; South 83° 37' 16" East a distance of 201.00 feet to a point 80.00 feet Southerly of the North line of said Section 33, South 83° 37' 16" East a distance of 201.00 feet to a point 100.00 feet Southerly of the North line of said Section 33, and South 89° 19' 54" East a distance of 380.73 feet to a point on the Westerly right of way line of Interstate Highway I-75 lying 100.00 feet Southerly of the North line of said Section 33; thence South 35° 50' 00" East along the Westerly right of way line of said Highway I-75 a distance of 836.03 feet to a point on the East line of the Northwest 1/4 of said Section 33; thence South 00° 01' 32" East along the East line of the Northwest 1/4 of said Section 33 distance of 551.31 feet to the Southwest corner of the North 1/2 of the Northwest 1/4 of said Section 33, said Point also being the Northeast corner of Lot 7, Woodland Acres, a subdivision as recorded in Plat Book 20, page 3, public records of Sarasota County; thence North 89° 42' 16" West along the South line of the north 1/2 of the Northwest 1/4 of said Section 33, a distance of 2560.14 feet to the Southwest corner of the North 1/2 of the Northwest 1/4 of said Section 33, said point also being the Northwest corner of Lot 1, of said Woodland Acres Subdivision; thence North 01° 36' 01" West along the West line of said Section 33, a distance of 1,341.00 feet to the Point of Beginning.

ALSO: That part of the NW 1/4 of the NE 1/4 of Section 33, Township 38 South, Range 19 East, lying Southwesterly of I-75, lying and being in Sarasota County, Florida.

ALSO: The North 50 feet of the South 1/2 of the NE 1/4 of Section 33, Township 38 South, Range 19 East, lying West of I-75 right of way as described in C.A. 76-2047, located in Sarasota County, Florida, containing approximately 1/2 acre, more or less.

LESS AND EXCEPT any portion of said lands lying within the following Orders of Taking: (a) Official Records Book 2070, page 1021, recited as Parcel 190-LR; (b) Official Records Book 2432, page 338, recited as Parcel 101; and (c) Official Records Book 2890, page 2781, recited as Parcels 111 and 117A, all being recorded in the Public Records of Sarasota County, Florida.

AND LESS AND EXCEPT the portions thereof described in the Order of Taking recorded in Official Records Book 1142, page 529, Public Records of Sarasota County, Florida. (Parcels 108 and 115)

Commonly known as Shopping Center at Laurel and Pinebrook Roads, Venice, Florida, containing 65.428 acres, more or less.

SECTION 2. The City Council hereby formally and according to law accepts the dedication of all easements, streets, parks, plazas, rights-of-way and other dedications to the public which have heretofore been made by plat, deed or user within the area so annexed.

SECTION 3. That the proper city officials of said city of Venice be, and they hereby are, authorized and directed to file with the Clerk of the Circuit Court of Sarasota County, Florida, a certified copy of this Ordinance, and to do and perform such other acts and things as may be necessary and proper to effectuate the true intent of this Ordinance. The pre-annexation agreement is incorporated into this Ordinance and is made a part thereof.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SECTION 5. This Ordinance shall take effect immediately upon its adoption as provided by law.

PASSED BY THE COUNCIL OF THE CITY OF VENICE, FLORIDA, THIS 26TH DAY OF NOVEMBER, 2002.

First Reading: November 12, 2002
Final Reading: November 26, 2002

ADOPTION: November 26, 2002



Dean Calamaras, Mayor

ATTEST:

Lori Stelzer
City Clerk

I, LORI STELZER, City Clerk, of the city of Venice, Florida, a municipal corporation in Sarasota County, Florida, do hereby certify that the foregoing is a full and complete, true and correct copy of an Ordinance duly adopted by the Venice City Council, at a meeting thereof duly convened and held on the 26th day of November, 2002, a quorum being present.

WITNESS my hand and the official seal of said City this 27th day of November, 2002.

Lori Stelzer
Lori Stelzer, CMC, City Clerk

Approved as to form:

[Signature]
City Attorney



PRE-ANNEXATION AGREEMENT

This agreement is made this 12th day of November, 2002, by and between the CITY OF VENICE, FLORIDA, a municipal corporation (hereinafter referred to as "City") and LLOYD P. MILLER, as Successor Trustee of Trust Number 1-A and 1-D, and OSPREY LAND TRUST, a Florida General Partnership (hereinafter referred to as "Owner").

WHEREAS, the Owner owns three parcels of land comprising approximately 65 acres (hereinafter referred to as the "Subject Property") located in Sarasota County, Florida which is more particularly described by the legal description attached hereto as Exhibit "A"; and

WHEREAS, the Owner has filed an annexation petition pursuant to Section 171.044, Florida Statutes, seeking to voluntarily annex and include the Subject Property within the corporate limits of the City; and

WHEREAS, the Owner has agreed to certain terms and conditions required by the City in order to gain approval of said petition and to adopt an ordinance annexing the Subject Property into the City; and

WHEREAS, the City has determined that in the event the Subject Property is annexed into the City, it would best serve the public interest to be annexed subject to the terms and conditions contained herein.

NOW, THEREFORE, for and in consideration of the terms, conditions, and mutual covenants contained herein, the City, and Owner agree as follows:

1. CONDITION PRECEDENT. This agreement shall not be binding or enforceable by either party unless and until the City duly adopts an ordinance annexing the Subject Property into the corporate limits of the City.

2. ZONING. The Subject Property is currently zoned by Sarasota County as OUA and OUE-1. The Owner shall petition the City to rezone the Subject Property to a district or districts under the Venice Zoning Code within one (1) year of the City's adoption of an ordinance annexing the property into the corporate limits of the City. Pursuant to the City's land use policies, designation of the Subject Property as subject to the Venetian Gateway Overlay signage and architectural standards is required. No development orders shall be granted until the Subject Property is so rezoned. Following annexation, the Subject Property shall be subject to all codes, laws, ordinances, and regulations in force within the City.

3. CONCURRENCY EVALUATION NOT MADE; NO RELIANCE OR VESTED RIGHT. Nothing contained in this agreement and no review of the impacts of the proposed development of the Subject Property upon public facilities and services which has occurred in the process of reviewing this annexation or in negotiating this pre-annexation agreement shall be considered a determination that adequate public facilities will be available concurrent with the impacts of development of the Subject Property. The Owner acknowledges and agrees that any such review of the impacts of development of the Subject Property shall offer no basis upon which the Owner may rely or upon which the Owner can assert that a vested property right has been created. It is specifically understood and agreed that a determination that adequate public facilities and services are available concurrent with the impacts of any proposed development must be made before any development order is granted in connection with the Subject Property.

4. EXTENSION OF WATER AND SEWER UTILITY LINES. The Owner shall construct and pay the cost of extending and sizing all offsite and onsite water and sewer utility lines adequate to serve the Subject Property as determined by the Director of Utilities and the City Engineer. All such work shall be performed in accordance with plans and specifications approved by the Director of Utilities and the City Engineer. Fire flows shall be determined by the Fire Chief with the joint cooperation of the Utilities Director and City Engineer. Owner shall convey all such utility lines to the City together with such easements as may be required for access to and maintenance of said lines and appurtenances. Utilities conveyed to the City shall be accepted for maintenance in accordance with all applicable City codes and policies which shall be applied to both onsite and offsite utility improvements.

5. WATER AND SEWER UTILITY CHARGES. The Owner shall pay all water and sewer utility rates, fees, and charges, including any capital charges such as water plant capacity charges and sewer plant capacity charges, as determined by the City Code of Ordinances in effect at the time a building permit is issued for improvements that will be connected to the City's water and sewer utility systems.

6. EXTRAORDINARY MITIGATION FEE EXTRACTION. In order to mitigate the impacts of the proposed development upon the City, the Owner shall pay at the time of issuance of a Certificate of Occupancy an extraordinary mitigation fee, in addition to the standard rates, fees and charges, including any capital charges for utility plant capacity charges, in an amount of \$1,598.00 per equivalent dwelling unit ("EDU"). The extraordinary mitigation fee shall be adjusted every five (5) years by an amount based on the fluctuations of the Consumer Price Index, subject to certain limitations and requirements set forth in Exhibit "B" to this agreement. For purposes of this agreement, the definition of equivalent dwelling unit is the same as the definition currently contained in the City Comprehensive Plan.

7. SARASOTA COUNTY IMPACT FEES. The City has permitted Sarasota County to collect library, park, and road impact fees within the City. Development of the Subject Property shall be subject to such impact fees and may also become subject to additional impact fees adopted by Sarasota County or the City in the future.

8. TRAFFIC STUDY. The Owner agrees to provide the City with a traffic study in accordance with the City's concurrency management regulations. The Owner shall pay the cost of any needed improvements identified by the traffic study or as determined by the City.

9. ATTORNEY FEE REIMBURSEMENT. The Owner shall reimburse the City all monies paid by the City to the City Attorney for services rendered concerning this annexation and all related matters.

10. INDEMNITY. It is agreed that if the City shall accept and include the Owner's lands for inclusion within its corporate limits pursuant to the petition for annexation, the Owner shall and will indemnify and save the City harmless from all costs, including reasonable attorneys' fees, that may be incurred by it in defending any and all litigation involving the validity of such annexation proceedings.

The Owner further covenants and agrees to and with the City that if the contemplated annexation shall ultimately be held invalid by court proceedings or excluded from the City limits by future legislation, then if and to the extent that the City shall continue to supply water, sewer and other utility services to the Subject Property, it shall be entitled to charge at such rates as may be prescribed from time to time by the City Council for comparable services outside the corporate limits. The Owner further covenants and agrees, jointly and severally, to waive any claim for a refund of ad valorem taxes levied by and paid to the City of Venice on the Subject Property for any periods subsequent to the acceptance by the City of the Owner's petition for annexation and prior to the establishment of the invalidity thereof in the manner aforesaid.

11. DEFAULT. Upon the breach by either party of any term or condition of this Agreement, and upon the failure to cure same after thirty (30) days written notice from either party, then the non-defaulting party shall have the right to enforce same or to perform any such term or condition and recover the costs of same from the defaulting party.

12. ATTORNEY'S FEES. In the event of any default pursuant to the terms of this agreement, the prevailing party shall be entitled to recover all attorney's fees and costs from the other party, whether the same be incurred for negotiation, trial or appellate proceedings.

13. BINDING ON SUCCESSORS. The covenants contained herein shall run with the Subject Property and shall inure to the benefit of and be binding upon the respective successors, heirs, legal representatives and assigns of the parties to this agreement.

14. ENTIRE AGREEMENT. This document constitutes the entire agreement of the parties and cannot be changed or modified except by instrument in writing duly approved by both parties.

15. INCORPORATION INTO ORDINANCE. This agreement shall be incorporated into and shall become a part of the ordinance annexing the Subject Property into the City of Venice.

16. SEVERABILITY. The invalidity or unenforceability of any particular provision of this agreement shall not affect the other provisions hereof, and the agreement shall be construed in all respects as if such invalid or unenforceable provisions are omitted.

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IN WITNESS WHEREOF, the City and the Owner set their hands and seals hereto on the day and year first above written.

CITY OF VENICE, FLORIDA

By: Dean Calamaras

DEAN CALAMARAS, MAYOR

ATTEST:

Lori Stelzer

LORI STELZER, CITY CLERK

Approved By City Council

Date: 11-12-02

APPROVED AS TO FORM:

Robert C. Anderson

ROBERT C. ANDERSON, CITY ATTORNEY

OWNER:

WITNESSES

Lloyd P. Miller
Gabe Krueger

By:

Lloyd P. Miller
Lloyd P. Miller, as Successor Trustee of
Trust Nos. 1-A and 1-D

WITNESSES

Kathryn Bullock
[Signature]

By:

[Signature]
Osprey Land Trust General Partner

EXHIBIT A

SUBJECT PROPERTY LEGAL DESCRIPTION

The North 1/2 of the Northwest 1/4 of Section 33, Township 38 South, Range 19 East, Sarasota County, Florida, LESS road right of way for Interstate Highway I-75 and Laurel Road as described in Official Records Book 1142, at Page 531, Official Records of Sarasota County, Florida, and being more particularly described as follows:

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ALSO: The North 50 feet of the South 1/2 of the NE 1/4 of Section 33, Township 38 South, Range 19 East, lying West of I-75 right of way as described in C.A. 76-2047, located in Sarasota County, Florida, containing approximately 1/2 acre, more or less.

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AND LESS AND EXCEPT the portions thereof described in the Order of Taking recorded in Official Records Book 1142, page 529, Public Records of Sarasota County, Florida. (Parcels 108 and 115)

16 PGS
EXHIBIT B
0000077007

EXHIBIT B

EXTRAORDINARY MITIGATION FEE

The extraordinary mitigation fee payments provided for in paragraph 6 above, shall be subject to adjustment at the end of every five (5) years based on fluctuations in the revised Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-U) issued by the Bureau of Labor Statistics of the United States Department of Labor, effective November 1, 1978, said Index having a value of 100 for the year 1967, hereinafter referred to as the "Index."

The first adjustment shall be made on the date which is five (5) years from the commencement of the first extraordinary mitigation fee payment and shall be effective for the ensuing five (5) years. Additional adjustment dates shall be made following the tenth, fifteenth, and twentieth years from the commencement of the first extraordinary mitigation fee payment and shall be effective for the ensuing five (5) years.

Each extraordinary mitigation fee adjustment shall be the result obtained by multiplying the then existing extraordinary mitigation fee amount by a fraction, the numerator of which shall be the Index for the month preceding the month in which the adjustment is made and the denominator of which shall be the Index figure for the month five (5) years preceding the month from which the Index used in the numerator was chosen.

It is the intent of the parties that the extraordinary mitigation fee shall be increased by the same percentage amount as the percentage increase in the Index during the five (5) years preceding the adjustment. The adjustment for any single year shall be the CPI as calculated above or 2% whichever is more. In no event shall the extraordinary mitigation fee decrease based upon fluctuations in the Index.

Should the Bureau of Labor Statistics change the manner of computing such Index, the Bureau shall be requested to furnish a conversion factor designed to adjust the new Index to the one previously in use, and adjustment to the new Index shall be made on the basis of such conversion factor. Should publication of such Index be discontinued by the Bureau of Labor Statistics, then such Index as may be published by the United States Government most nearly approximating such discontinued Index shall be used in making the adjustments herein provided for. If the United States Government discontinues the publication of any such Index, then the parties shall agree upon the fee adjustments for the ensuing five-year term.

Pinebrook Road

Laurel Road

Interstate 75 - Southbound



Existing Powerlines

- ① Inpatient (Hospital)
- ② Outpatient (MOB)
- ③ Emergency Department
- ④ Parking Garage
- ⑤ Ambulance Canopy
- ⑥ Central Energy Plant
- ⑦ Hospital Expansion Zone
- ⑧ Pedestrian Bridge
- ⑨ Service Area
- ⑩ Central Water Feature
- ⑪ Hurricane Shelter
- *Pending Approval and Funding from
City of Venice and Sarasota County
- ⑫ Future Expansion based
on Community Needs

