

ORDINANCE NO. 5-2007

AN ORDINANCE OF THE CITY OF MULBERRY, FLORIDA; ESTABLISHING THE ALAFIA PRESERVE 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 Alafia Preserve 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 Alafia Preserve 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 "Alafia Preserve 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 "Alafia Preserve Community Development District."

Section 5. External Boundaries of the District. Encompassing approximately 570 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

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  
ALAFIA PRESERVE COMMUNITY DEVELOPMENT DISTRICT

ALAFIA PRESERVE

Legal Description

PARCEL 1

That part of Section 9, Township 30 South, Range 23 East, Polk County, Florida, described as:

Begin at the Northeast corner of said Section 9, and run along the East line thereof, and along a Non-Radial line South00°12'46"West, 470.13 feet to a point on the North Right-of-Way line of State Road Number 676 - Nichols Road, said point also being a point on a curve concaved to the northwesterly having a Radius of 34,327.48 feet, a Central Angle of 01°35'56", a Chord Bearing of S65°26'20"W and a Chord Distance of 957.86 feet, thence along said curve and said North Right-of-Way line 957.89 feet, thence S69°13'36"W, still along said North Right-of-Way line, 1,312.30 feet, thence N25°38'42"W, still along said North Right-of-Way line 45.35 feet to a point on that certain Conservation Easement recorded in Official Records Book 2731, Page 840, of the Public Records of Polk County, Florida; thence along the Easterly line of said Conservation Easement the following five (5) courses: thence N01°40'12"W 174.36 feet, thence N75°44'19"W 179.94 feet, thence N04°13'25"W 339.81 feet, thence N01°05'42"E 386.91 feet, thence N33°51'36"W 397.98 feet to a point on the North line of said Section 9, thence N89°35'39"E along said North line of Section 9 a distance of 2,538.62 feet to the POINT OF BEGINNING.

PARCEL 2

That part of Sections 3 and 10 Township 30 South, Range 23 East, Polk County, Florida, as described as:

Begin at the Southwest corner of said Section 3, also being the Northwest corner of said Section 10, and run along the West line of said Section 3, North 00°16'55" West, 2876.21 feet to a point on the Southwesterly Right-of-Way line of State Road Number 60; thence along said Southwesterly Right-of-Way line the following six (6) courses: South58°25'47"East, 1107.76 feet; thence South30°57'48"West, 16.89 feet; thence South58°23'59"East, 211.00 feet to a Point of Curve to the Right; thence Southeasterly along said curve having a radius of 9084.00 feet, a Central Angle/Delta of 01°29'34", a Cord Distance of 236.67 feet, a Chord Bearing of South57°45'14"East, thence along said curve 236.68 feet; thence North33°07'26"East, 16.98 feet to a point on a curve concaved Southwesterly having a Radius of 9101.00 feet, a Central Angle/Delta of 00°10'00", a Cord Distance of 26.45 feet, a Chord Bearing of South56°15'24"East, thence along said curve 26.45 feet; thence South00°41'37"East, 1863.37 feet to a point on the Northerly Right-of-Way line of State Road Number 676 - Nichols Road, said point also being a point on a curve concaved to the Northwesterly having a Radius of 3769.71 feet, a Central Angle/Delta of 04°13'39", a Chord Distance of 278.08 feet, a Chord Bearing of South63°33'08"West, thence along said curve and Northerly Right-of-Way line 278.15

feet; thence continue along the said Northerly Right-of-Way line the following two (2) courses, thence South64°32'22"West, 1156.50 feet to a point on a curve to the left; thence Southwesterly along said curve having a Radius of 34,327.48 feet, a Central Angle/Delta of 00°07'02", a Chord Distance of 70.27 feet, a Chord Bearing of South64°28'51"West, thence along said curve 70.61 feet to a point on the West line of said Section 10; thence along said West line of Section 10, North00°13'51"East, 470.12 feet to the Point of Beginning.

PARCEL 5

That part of Section 4, Township 30 South, Range 23 East, Polk County, Florida described as follows:

Begin at the Southeast corner of said Section 4, and run along the East line thereof North00°17'39"West, 1154.64 feet; thence South89°44'06"West, 1547.27 feet; thence North00°16'24"West, 494.27 feet; thence South89°46'56"West, 495.02 feet; thence North00°19'15"West, 329.91 feet; thence South89°43'40"West, 1484.55 feet; thence North00°16'09"West, 2718.69 feet to a point on the Southerly Boundary of "SHADY HAMMOCK", according to the Plat thereof as recorded in Plat Book 86, Pages 15 and 16, of the Public Records of Polk County, Florida; thence along said Southerly boundary the following four (4) courses; South85°54'12"West, 334.16 feet; thence South73°47'00"West, 428.00 feet; thence South69°45'25"West, 490.42 feet; thence South77°53'43"West, 504.64 feet to a point on the West line of said Section 4, said point also lies on the Easterly line of that certain Conservation Easement recorded in Official Records Book 2731, Page 840, of the Public Records of Polk County, Florida; thence along said Easterly line of said Conservation Easement the following nine (9) courses; along the West line of said Section 4, South00°00'58"West, 1268.12 feet; thence South14°37'54"East, 726.34 feet; thence South25°52'26"East, 693.23 feet; thence South35°47'09"East, 921.33 feet; thence South81°17'50"East, 660.70 feet; thence North88°06'01"East, 388.44 feet; thence South37°07'07"East, 251.88 feet; thence South02°33'22"West, 95.57 feet; thence South41°50'08"East, 737.16 feet, thence South33°51'36"West 6.94 feet to a point on the South line of said Section 4; thence along said South line of Section 4, North89°35'39"East, 2538.62 feet to the Point of Beginning.

PARCEL 6

Commence at the Southeast corner of Section 4, Township 30 South, Range 23 East, Polk County, Florida, run thence North00°17'39"West along the East boundary of said Section 4 a distance of 1154.64 feet, thence South89°44'19"West, 722.33 feet to the Point of Beginning, thence South89°43'54"West, 824.94 feet, thence North00°16'24"West, 494.27 feet, thence South89°46'56"West, 495.02 feet, thence North00°19'15"West, 329.91 feet, thence South89°43'40"West, 1485.55 feet, thence North00°16'27"West, 2144.88 feet, thence North73°20'49"East, 1477.83 feet to a point on the Southwesterly Right-of-Way of State Road 60, said Point being the P.C. of a curve concave to the Northeast having a Radius of 9681.32 feet, thence Southeasterly along said curve through a Central Angle of 06°29'20", an Arc Distance of 1096.46 feet, a Chord Distance of 1095.87 feet, a Chord

Bearing of South47°18'54"East, thence South89°43'24"West leaving said Right-of-Way, 900.66 feet, thence South00°17'41"East, 6659.65 feet, thence South89°40'04"West, 330.04 feet, thence South00°18'13"East, 660.07 feet, thence North89°42'18"East, 1815.33 feet, thence South00°15'40"East, 1320.18 feet to the Point of Beginning.

PARCEL 7

Commence at the Southeast corner of Section 4, Township 30 South, Range 23 East, Polk County, Florida, run thence North00°17'39"West along the East boundary of said Section 4, 1154.64 feet to the Point of Beginning, Thence North00°16'26"West along said East Boundary 1721.57 feet to a point on the Southwesterly Right-of-Way of State Road 60, thence North58°27'10"West along said Right-of-Way 268.66 feet to the Point of Curvature of a curve to the right having a Radius of 9681.75 feet, thence Northwesterly along said curve through a Central Angle of 07°52'25", an Arc distance of 1330.40 feet, a Chord distance of 1329.36 feet, a Chord bearing of North54°31'53"West, thence South89°43'24"West leaving said Right-of-Way, 900.66 feet, thence South00°17'41"East, 659.65 feet, thence South89°40'04"West, 330.04 feet, thence South00°18'13"East, 660.07 feet, thence North89°42'18"East, 1815.33 feet, thence South00°15'40"East, 1320.18 feet, thence North89°44'19"East, 722.33 feet to the Point of Beginning.

PARCEL 8

Commence at the Southeast corner of Section 4, Township 30 South, Range 23 East, Polk County, Florida, run thence North00°17'39"West along the East boundary of said Section 4, 1154.64 feet, thence South89°44'06"West, 1547.27 feet, thence North00°16'24"West, 494.27 feet, thence South89°43'56"West, 495.02 feet, thence North00°19'15"West, 329.91 feet, thence South89°43'40"West, 1484.55 feet, thence North00°16'27"West, 2144.88 feet to the Point of Beginning. Thence continue North00°15'02"West, 573.81 feet to a point on the Southerly boundary of SHADY HAMMOCK SUBDIVISION as recorded in Plat Book 86, Pages 15 and 16 of the Public Records of Polk County, Florida, run thence North85°48'04"East along said Southerly boundary, 617.48 feet, thence continue along said Southerly boundary and its Easterly extension, South88°58'07"East, 624.54 feet to a point on the Southwesterly Right-of-Way of State Road 60, thence South44°01'30"East along said Right-of-Way, 256.26 feet, thence South73°20'49"West leaving said Right-of-Way, 1477.83 feet to the Point of Beginning.

LESS AND EXCEPT:

Cell Tower Site:

A parcel of land in Section 4, Township 30 South, Range 23 East, Polk County, Florida being more particularly described as follows:

Commencing at the Southeast corner of said Section 4, thence along the East boundary of said Section 4, North0°17'39"West, a distance of 1154.64 feet; thence



South89°44'06"West, a distance of 1547.27 feet; thence North0°16'24"West, a distance of 494.27 feet; thence South89°46'56"West, a distance of 495.02 feet; thence North0°19'15"West, a distance of 329.91 feet; thence South89°43'40"West, a distance of 1484.55 feet; thence North0°16'27"West, a distance of 2144.88 feet; thence North73°20'49"East, a distance of 1347.40 feet; thence North16°39'11"West, a distance of 2.00 feet to the POINT OF BEGINNING; thence continuing North16°39'11"West along said line, a distance of 50.00 feet; thence North73°20'49"East, a distance of 50.00 feet; thence South16°39'11"East, a distance of 50.00 feet, thence South73°20'49"West, a distance of 50.00 feet to the POINT OF BEGINNING; said described tract containing 0.05474 acre, MORE OR LESS.