

THIS INSTRUMENT PREPARED BY:
Scott A. Glass
Assistant City Attorney
City of Orlando
400 S. Orange Avenue
Orlando, FL 32801
(407) 246-2295

ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT, made and entered into this 26
day of April, 1999, by and between **Albertson's Inc.**
and Coolidge-Clarcona Equities, Ltd. Partnership, hereinafter
called the "Owner" and the City of Orlando, a municipal
corporation organized and existing under the laws of the State of
Florida, hereinafter called the "City".

PREAMBLE

WHEREAS, the Owner has petitioned the City for annexation of
certain property into the City, more particularly described in
Exhibit "A", attached hereto and incorporated herein by this
reference, hereinafter referred to as the "Property"; and

WHEREAS, the Property to be annexed consists of approximately
±35.553 acres, a portion of which is currently developed with a
grocery store and a small shopping center with future development
planned to expand the shopping center; and

WHEREAS, annexation into the City is requested in order to
improve business opportunities and to allow package liquor sales
within the shopping center; and

WHEREAS, the City agrees to annex the Property and permit
development of the Project with an initial zoning of AC-1 with

City Council Meeting: 4-26-99
Item: DD Documentary: 32032

specific conditions.

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owner agree as follows.

1. Incorporation of Preamble. The preamble of this agreement is incorporated herein as if fully set out below.

2. Development Conditions. The City hereby accepts the annexation petition with the following conditions.

a. Development of the shopping center portion of the site (Lots 1, 2, 4, 5, 6, 7, and 8) as shown on the location map, attached hereto and incorporated herein by this reference as Exhibit "B", shall only be allowed under the following conditions:

(1) Prior to the effective date of the Growth Management Plan (GMP) amendment and rezoning, the City may approve development orders for uses and activities allowed under the Orange County Commercial future land use designation and C-2 zoning (see Section 171.062, Florida Statutes). For the purpose of issuing development approvals, development shall conform to the use and setback requirements of the Orange County C-2 zoning district, as well as all other applicable requirements of the Orlando City Code and this Agreement.

(2) After the effective date of the GMP amendment and rezoning, development shall conform to all applicable

provisions of the City's GMP, the City Code and this Agreement.

(3) For uses and activities allowed under the City's Community Activity Center future land use designation and AC-1 zoning, but not allowed under the Orange County Commercial future land use designation and C-2 zoning, development orders may only be issued after the effective date of the GMP amendment and rezoning.

b. Allowable land uses shall be as follows:

(1) For Lots 1, 2, 4, 5, 6, 7, 8 all uses allowed under the AC-1 zoning district, as provided in Figure 2, Chapter 58 of the City's Land Development Code (LDC) shall be allowed **except for the following uses** which shall be prohibited: billboards, commercial dwelling units, communication towers, hotels/motels, intensive retail (except that outdoor seasonal sales between October 1st and December 31st shall be allowed as a conditional use starting in 1999), mobile homes, **multi-family/residential**, recreational vehicle park, and vertiport.

(2) Lot 3 shall be used for storm water retention/detention purposes.

c. The Owner shall comply with the following traffic and site design requirements:

(1) Within thirty (30) days of annexation the following traffic control devices shall be installed: at site driveway exits onto public streets--one 30"

stop sign and one 12" wide white stop bar at each driveway exit; at internal driving aisle intersections--24" stop signs and 12" wide white stop bars at each driving aisle intersection.

(2) Driveways. Access to the property shall be designed to reduce the traffic impact of the Property on neighborhood streets. The design of existing and proposed driveways shall be evaluated during Master Plan review and shall be subject to approval by the City Transportation Engineer. Required improvements to existing driveways may include signage, pavement markings and striping, but shall not include the relocation of any existing driveways or require the Owner to construct off-site driveway-related improvements.

(3) Vehicular, pedestrian, transit and bicycle access and on-site parking/pedestrian, transit and bicycle facilities of future development shall meet the requirements of the LDC. So long as the Property is developed in accordance with this Agreement, the Owner of the Property shall not be required to construct off-site improvements in connection with meeting the requirements of the LDC and to connect to existing public sidewalks.

(4) Facade orientation. (a) the front or side facade of all buildings shall face the street right-of-way. Service entrances or areas shall not be located along

the street right-of-way; (b) at least fifteen per cent (15%) of the facade that faces a street shall be transparent as required in the Section 62.19 of the LDC.

(5) Retention Area. The retention area along Long Road shall have a hedge five (5) to six (6) feet in height at maturity in order to screen the retention pond from the view of motorists, pedestrians, and residents.

(6) Pedestrian Circulation. At the time of substantial improvement or enlargement or new development on any lot within the subject property, the following improvements shall be made with respect to that lot: (a) sidewalks shall be provided to create an inter-connected pedestrian network within the site; (b) proposed buildings along Long Road and Clarcona Ocoee Road shall have sidewalks that connect the main entrances of buildings to public sidewalks. A building with multiple entrances facing the street shall have at least two (2) delineated walkways linking the building to the public sidewalk. If a parking lot is located between the public sidewalk and a building, then a pedestrian accessway is to be delineated through the parking lot. In no event shall this obligation require the construction of any public sidewalk, but instead such requirement shall only relate to the construction of sidewalks within the property.

- d. The LDC requirement for Master Plan approval in conjunction with a request for AC-1 zoning shall be fulfilled prior to the construction of any new structure.
- e. The Master Plan shall conform to the following principles:
- (1) New development shall recognize and respect the importance of the shopping center site as a focal point and entrance to the Rosemont area. New development on Lots 1, 5, 7 and 8 shall include buildings along Long Road and Clarcona Ocoee Road which generally conform with any of the building location diagrams set forth in Exhibit "C" attached hereto and by this reference made a part hereof.
 - (2) New development shall have a strong orientation and pedestrian connections to Long Road and Clarcona-Ocoee Road. However, the Owner of the Property will not be required to construct public sidewalks.
 - (3) The corner of Long Road and Clarcona-Ocoee Road shall have a strong definition accomplished through either building location or special features as determined appropriate during the required master plan process.
 - (4) New development shall be built close to the public rights-of-way with no more than one (1) driving aisle with parking on both sides between new buildings and the street.

(5) Loading areas, trash collection and other service functions shall not be oriented to Long Road or Clarcona-Ocoee Road. Landscaping or screening shall be used to minimize the conspicuousness of such facilities.

(6) On-site pedestrian links shall connect buildings to each other and to the any existing public sidewalk.

(7) Cross-access with the adjacent commercial parcel to the east shall be encouraged through the establishment of a cross-access easement which will be drafted by the City and consented to by the Owner, such consent not to be unreasonably withheld. The execution of the easement shall be coordinated by the City.

(8) New development shall recognize the importance of transit through "transit-friendly" design.

f. The Master Plan shall conform to the following minimum standards:

(1) Existing parking and landscaping areas shall be considered non-conforming upon annexation. Parking and landscaping shall be brought into conformance with LDC requirements on Lots 2, 4, or 6 at the time of substantial enlargement or improvement to each lot respectively. All new parking and landscaping shall conform to LDC requirements.

(2) Barbed wire shall be prohibited.

(3) For the purpose of signs, Lots 1, 2, 4, 5, 6, 7, and 8 shall be considered one building site. Signs

shall be permitted as follows:

(a) Signage shall be allowed pursuant to Section 64.256 of the LDC, Shopping Center Signs, as modified herein.

(b) Management control of signs shall be required.

(c) Center Identification Signs: Pursuant to Section 64.256 of the LDC, a total of 100 sq. ft. of signage is permitted for shopping center identification. The existing center identification signs exceed this allotment. Therefore, any existing center identification sign area over 100 sq. ft. will be counted against the maximum allowed sign area identified in (d) below. The size and shape of the existing individual tenant panels are non-conforming.

(d) Based on the existing development of the site, 1,696 sq. ft. of sign area is permitted in addition to the 100 sq. ft. of signage dedicated to center identification signs. At the time of annexation, 1,500 sq. ft. of sign area existed on-site.

(e) A complete inventory of signs shall be submitted to the City's Office of Permitting Services (OPS) prior to approval of the first sign permit request.

(f) The existing 35 ft. pole sign is non-

conforming in height. The pole sign shall be considered a legally non-conforming structure and shall be allowed to remain. At the time of improvements to the sign valued at fifty per cent (50%) or more of the assessed value of the sign, the sign shall be brought into conformance with the requirements of Chapter 64 of the LDC, as it may from time to time be amended.

(g) At such time as a substantial enlargement or improvement is proposed, any existing non-conformities shall be brought into compliance with City Code.

3. Pursuant to the City's Transportation Element Policies 1.8.8 and 1.8.10, the Transportation Planning Bureau has conducted a preliminary neighborhood impact analysis. The analysis indicated a need to mitigate impacts of future development on Long Road. At the time of future development, Owner and representatives of the City's Transportation Planning Bureau shall meet to discuss such development's impact and to determine what, if any mitigation shall be required of the Owner. So long as the Property is developed in accordance with this Agreement, Any such mitigation shall be limited only to impacts attributable to the new development and shall not require any driveways to be relocated or any improvements to be constructed off-site.
4. This Agreement shall be approved by the Orlando City

- Council and executed by all parties prior to the second reading of the annexation ordinance.
5. The annexation shall become effective fourteen (14) days after the second reading of the annexation ordinance.
 6. All elements and components of development on the Property shall be subject to Chapter 59, the Concurrency Management Ordinance of the City of Orlando.
 7. All development on the Property shall be subject to all codes and ordinances of the State of Florida, City of Orlando, and all other applicable regulatory agencies.
3. Force Majeure. The parties shall use reasonable diligence to ultimately fulfill the intent of this agreement but shall not be liable to each other, or their successors or assigns, for damages, costs, attorney's fees (including costs or attorney's fees on appeal) for breach of contract, or otherwise for failure, suspension, diminution, or other variations of services occasioned by any cause beyond the control and without the fault of the parties. Such causes may include but shall not be limited to, Acts of God, or of the public enemy, acts of other government (including regulatory entities or court) in its sovereign or prior contractual capacity, fires, floods, epidemics, quarantines, restrictions, strikes, or failure or breakdown of transmission or other facilities.
4. Indemnification. To the extent permitted by law, the Owner

shall indemnify and hold harmless the City, its agents, employees, and elected and appointed officials, from and against all claims, damages, losses, and expenses (including all attorney's costs and fees, and all attorney's costs and fees on appeal) arising out of or resulting from the Owner's performance of the services or activities as provided herein, and which are caused in whole or in part by the Owner or any of its subcontractors, any one directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, regardless of whether they are caused in whole or in part by a party indemnified hereunder.

5. Third-party Beneficiary. This Agreement is solely for the benefit of the parties signing hereto and their successors and assigns, and no right, nor any cause of action, shall accrue to or for the benefit of any third party.

6. Binding Nature of Agreement. This Agreement shall be binding, and shall inure to the benefit of the successors or assigns of the parties, and shall run with the Property and be binding upon and inure to the benefit of any person, firm or corporation that may become the successor in interest, directly or indirectly, to the Property, or any portion thereof.

7. Controlling Laws.

a. This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida, and all duly adopted ordinances, regulations, and policies of

the City now in effect and those hereinafter adopted.

- b. The location for settlement of any and all claims, controversies, or disputes, arising out of or relating to any part of this Agreement, or any breach hereof, shall be Orange County, Florida.

8. Miscellaneous.

- a. This Agreement constitutes the entire agreement between the parties with respect to the specific matters contained herein and supersedes all previous discussions, understandings, and agreements. Amendment to or waivers of the provisions herein shall be made by the parties in writing.
- b. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed an independent provision and such holding shall not affect the validity of the remaining portion hereto.
- c. The Owner, upon the execution of this Agreement, shall pay to the City the cost of recording this Agreement in the Public Records of Orange County, Florida.
- d. Any notice required or allowed to be delivered hereunder shall be in writing and be deemed to be delivered when (i) hand delivered to the person hereinafter designated, or (ii) upon receipt of such notice when deposited in the United States Mail, postage prepaid, certified mail, return receipt

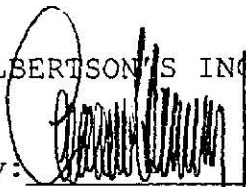
requested, addressed to a party at the address set forth opposite the party's name below, or at such other address as the applicable party shall have specified, from time to time, by written notice to the other party delivered in accordance herewith:

City: Director, Planning & Development
City of Orlando
400 S. Orange Avenue
Orlando, Florida 32801

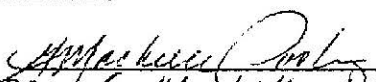
Owner: Albertson's Inc.
Post Office Box 20
Boise ID 83706

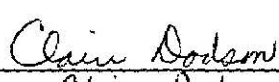
Coolidge-Clarcona Equities Ltd. Partnership
455 Central Park Avenue
Scarsdale, NY 10583
ATTN: Theodore Sannella

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in a manner and form sufficient to bind them as of the day and year first above written.

ALBERTSON'S INC.

By: _____
Name: LINCOLN V. SHARP, JR.
Title: Vice President, Real Estate Law

WITNESSES

(1) 
Name: G. Madeline Poole

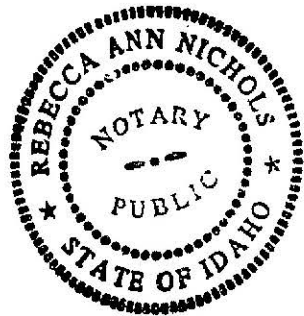
(2) 
Name: Claire Dodson

BMM/ NFM

STATE OF Idaho
COUNTY OF Ada

The foregoing instrument was acknowledged before me this 5th
day of August, 1999, by (Name) Lincoln V. Sharp, Jr., who is
the (Title) Vice President, Real Estate Law of Albertson's Inc. on behalf
of the corporation. He/she is personally known to me ~~ex~~ has
produced _____ as identification.

Rebecca Ann Nichols
Notary Public
My Commission Expires: 09-29-00



* * * *

COOLIDGE-CLARCONA EQUITIES LIMITED
PARTNERSHIP

By: Coolidge-Clarcona Realty Corp.,
General Partner

Name: _____
Title: _____

WITNESSES

(1) _____
Name: _____

(2) _____
Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____
day of _____, 199____, by (Name) _____, who is
the (Title) _____ of Coolidge-Clarcona Realty
Corp. on behalf of the corporation. He/she is personally known to
me or has produced _____ as identification.

Notary Public
My Commission Expires:

* * * *

By: Coolidge-Clarcona Realty Corp.,
General Partner

Name: THEODORE SANVELLA
Title: PRESIDENT

WITNESSES

(1) [Signature]
Name: FATIMA MUSCATI

(2) [Signature]
Name: JACK SUBERMAN

STATE OF Rockland
COUNTY OF New York

The foregoing instrument was acknowledged before me this 26
day of April, 1999, by (Name) T. Sanvela who is
the (Title) President of Coolidge-Clarcona Realty
Corp. on behalf of the corporation. He/she is personally known to
me or has produced drivers license as identification.

[Signature]
Notary Public **MARY ANN HICKEY**
My Commission Expires [Signature]
NOTARY PUBLIC, STATE OF NEW YORK
NO. 4716020
QUALIFIED IN ROCKLAND COUNTY
COMMISSION EXPIRES NOV. 30, 20 01

* * * *

CITY OF ORLANDO
[Signature]
Mayor/Pro Tem

ATTEST:

[Signature]
Grace A. Chewning, City Clerk

STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this _____
day of _____, 19____, by _____ and
GRACE A. CHEWNING, to me known as the Mayor/Pro Tem and City Clerk,

CITY OF ORLANDO

Bill Bagley
Mayor/Pro Tem

ATTEST:

Grace A. Chewning
Grace A. Chewning, City Clerk

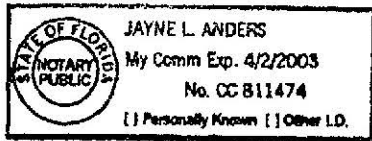
STATE OF FLORIDA
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me this 24 day of August, 1999, by Bill Bagley, and GRACE A. CHEWNING, to me known as the Mayor/Pro Tem and City Clerk, respectively, of the City of Orlando, who acknowledged before me that they have executed the foregoing instrument for the purposes therein expressed, and that they were duly authorized to do so.

WITNESS my hand and official seal this 24 day of August 1999.

JAYNE L. ANDERS

Jayne L. Anders
Notary Public CC 811474
Commission Expires: 4/2/2003



* * * *

APPROVED AS TO FORM AND LEGALITY
for the use and reliance of the
City of Orlando, Florida, only.

August 24, 1999.
James Keith Burnett
City Attorney
Orlando, Florida

4/19/99



CITY OF ORLANDO
MUNICIPAL PLANNING BOARD
VERIFIED LEGAL DESCRIPTION

The following legal description has been prepared by JIM BARTOE and submitted to the City Planning Bureau for verification.

Jim Bartoe
Signature
Aug 5, 1998
Date

"This description has been reviewed by the Bureau of Engineering and is acceptable based on a comparison with:

Recorded Plat

By S. Yumans Date 8-7-98

APPLICATION REQUEST (OFFICE USE ONLY):

FILE NO. 98-105

ANNEXATION, CLARCONA CROSSINGS, JIM BARTOE, PROPERTY LOCATED AT THE SOUTHEAST CORNER OF CLARCONA OCOEE ROAD AND LONG ROAD, WEST OF ORANGE BLOSSOM TRAIL

LEGAL DESCRIPTION (TO BE TYPED BY APPLICANT):

LOTS 1, 2, 3, 4, 5, 6, 7 AND 8, CLARCONA CROSSINGS, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 24, PAGE 54, PUBLIC RECORDS OF ORANGE COUNTY, FLORIDA SAID LANDS SITUATE LYING AND BEING IN ORANGE COUNTY, FLORIDA.

SAID PROPERTY CONTAINING 35.553 ACRES MORE OR LESS.

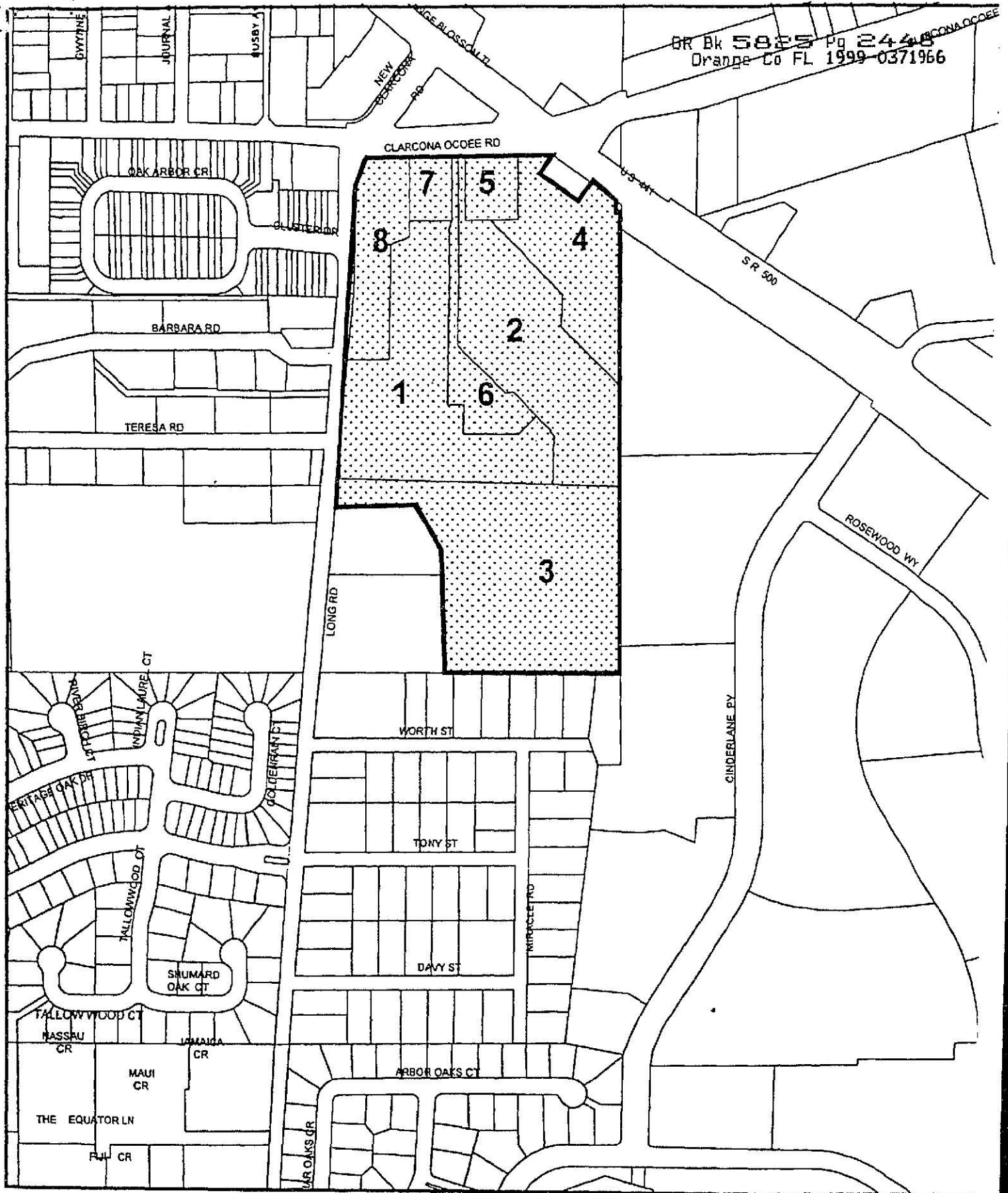


Exhibit B - Parcel Identification Map



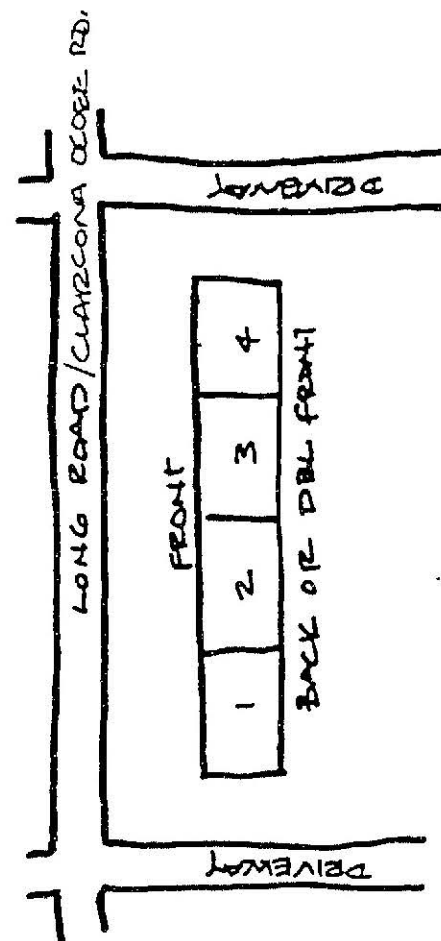


DIAGRAM 1.

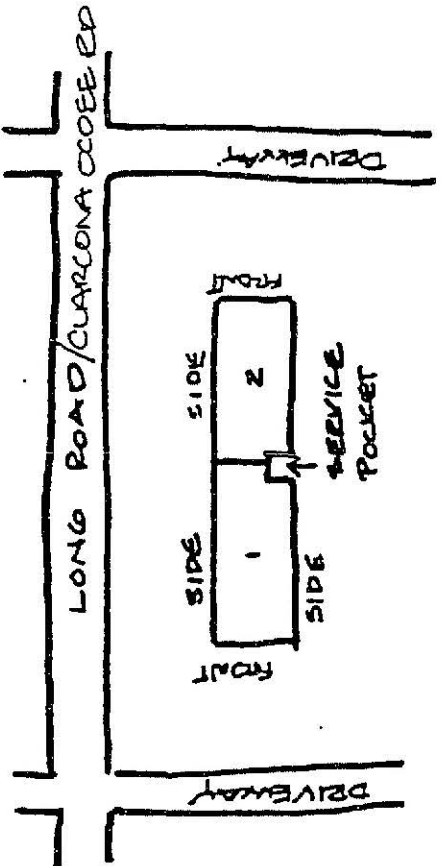


DIAGRAM 2.

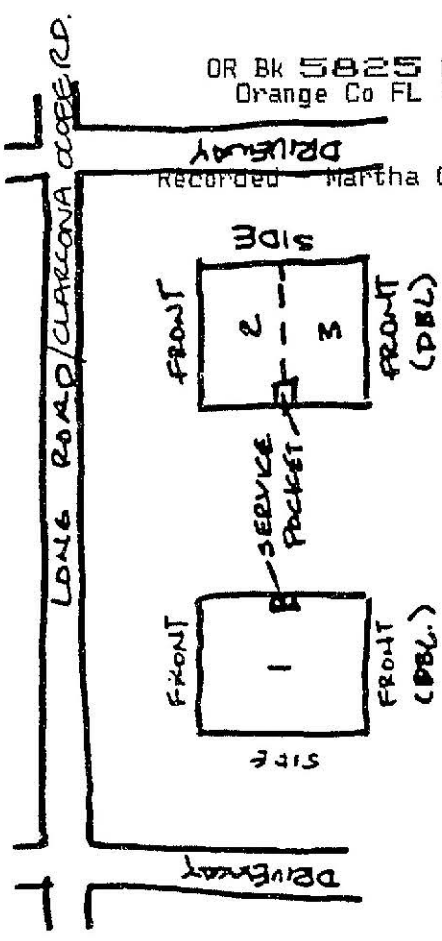


DIAGRAM 3.

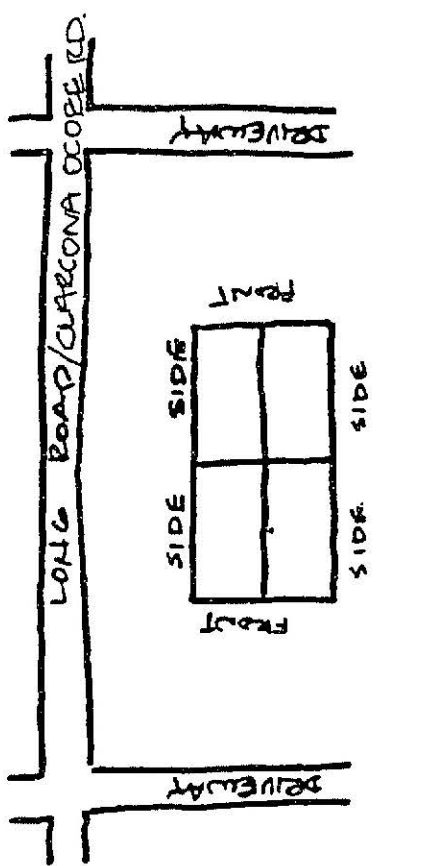


DIAGRAM 4.

Recorded Martha O. Haynie

VOID

Instr # 1999 0371967

OR Book 5825 Page 2450

V O I D

Instr # 1999 0371968

OR Book 5825 Page 2451

V O I D

Instr # 1999 0371969

OR Book 5825 Page 2452

To

OR Book 5825 Page 2461

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