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re record to replace second page of "exhibit B".

**ORDINANCE NO. 2023 - 24**

**AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, AMENDING THE POINTE GRAND APARTMENTS PLANNED DEVELOPMENT (PD), ON PROPERTY LOCATED AT THE INTERSECTION OF CLEAR LAKE ROAD AND NORTH SPRING GARDEN AVENUE; APPROVING AN AMENDMENT TO A PLANNED DEVELOPMENT PLAN CONSISTING OF APPROXIMATELY 14.57 +/- ACRES OF PROPERTY; MAKING FINDINGS OF CONSISTENCY WITH THE COMPREHENSIVE LAND USE PLAN FOR THE CITY OF DELAND; DIRECTING CHANGE IN THE COMPREHENSIVE ZONING MAP; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the Applicant, Nick Everly, on behalf of the owners, has filed for an amendment to the Pointe Grand Apartments Planned Development (PD) of approximately 14.57 +/- acres of land located at the intersection of Clear Lake Road and North Spring Garden Avenue, which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

**WHEREAS**, the subject property received zoning approval to change from the Cascades PD, to the Pointe Grand Apartments PD, on December 19, 2022, City of DeLand's Ordinance No. 2022-34; and

**WHEREAS**, the applicant is proposing an amendment to the Pointe Grand Apartments PD for the purpose of reducing the number of guest parking spaces to convert into ±27 covered parking stalls; and

**WHEREAS**, said rezoning is consistent with both the Comprehensive Plan and the purpose and intent of Section 33-32 of the Code of Ordinances of the City of DeLand (the "Code"); and

**WHEREAS**, the Applicant has submitted an application for the approval of a development plan in order to change certain development standards for the property described in Exhibit "A" (hereinafter the "Property" or the "Project"); and

**WHEREAS**, the proposed development plan meets or exceeds the minimum conditions and standards for the PD District with respect to minimum development size, perimeter setbacks, comprehensive plan consistency, internal compatibility, external compatibility, open spaces, sidewalks, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control; and

**WHEREAS**, the proposed development plan is consistent with the High Density Residential future land use designation.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:**

**Section 1.** The City Commission has held a public hearing to approve the amendment to the Pointe Grand Apartments, Planned Development (PD) Agreement of approximately 14.57 +/- acres of land located at the intersection of Clear Lake Road and North Spring Garden Avenue.

**Section 2.** Pursuant to the determination made at public hearing, the City Commission hereby amends the Comprehensive Zoning Map of the City to include the land described in Exhibit "A" as Pointe Grand Apartments, PD, Planned Development District.

**Section 3.** The zoning of the Property as PD, Planned Development District, is made pursuant to Section 33-32 of the Code and the development of the Property shall take place in accordance with

that Section and in substantial compliance with the Development Plan Agreement, Maps and other supporting documentation which were previously submitted for the Pointe Grand Apartments PD, Planned Development District, as well as the documentation submitted along with the current application, all of which has been filed and will be retained for public inspection in the office of the City Planning Department and constitute a supplement to the official Zoning Map of the City.

**Section 4.** The approved Development Plan and Development Agreement for Pointe Grand Apartments PD, Planned Development District, shall be amended as per the attached Exhibit "B" which by this reference made a part hereof.

**Section 5.** The failure of the approved Development Plan to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with any law governing said permitting requirements, conditions, terms or restrictions, as same may be amended or enacted from time to time in the future. All current land development regulations of the City are applicable to the PD District except to the extent that they conflict with a specific provision of the approved Development Plan.

**Section 6.** At the time of development, the Applicant shall comply with all relevant building codes and development standards contained in the City's Code of Ordinances or in the Development Plan; provided, however, that the development standards contained in the adopted Development Plan shall supersede comparable standards contained in the Code of Ordinances.

**Section 7.** Pursuant to Article 5 of the City's Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

**Section 8.** The Planning Director is hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

**Section 9.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 10.** This Ordinance shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** this 20<sup>th</sup> day of November, 2023.



*Jillie A. Hennessy*  
Jillie A. Hennessy  
City Clerk - Auditor

*Christopher M. Cloudman*  
Christopher M. Cloudman  
Mayor - Commissioner

Passed on first reading: October 16, 2023  
Adopted on second reading: November 20, 2023

**APPROVED AS TO FORM AND LEGALITY:**

*Darren J. Elkind*  
Darren J. Elkind  
City Attorney

Deland, North Springs Garden Ave,  
First American Title Commitment Exhibit A – Legal Description  
File No: 2037-5766540

Commitment Date: November 12, 2021 @ 8:00 AM

The land referred to herein below is situated in the County of Volusia, State of Florida, and described as follows:

**PARCEL 1: AREA = 6.16 AC.**

That part of the SW 1/4 of Section 5, Township 17 South, Range 30 East, Volusia County, Florida, described as follows:

Commence at the SW corner of Section 5, Township 17 South, Range 30 East, thence N 01 Degrees 41'25" W along the West line of said Section 5 a distance of 661.77 feet to the intersection of the West line of said Section 5 and the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; thence N 89 Degrees 15' 51" E along said South line a distance of 50.01 feet to the intersection of said South line and the Easterly right-of-way line of State Road 15-A as shown on Florida Department of Transportation Right-of-Way Map, Section 79160-2511; thence N 01 Degrees 41' 25" W along said Easterly right-of-way line a distance of 253.71 feet; thence N 06 Degrees 50'26" E continuing along said Easterly right-of-way line a distance of 14.65 feet to the Point of Beginning; thence continue N 06 Degrees 50' 26" E along said Easterly right-of-way line a distance of 187.59 feet; thence N 01 Degrees 41' 25" W along said Easterly right-of-way line a distance of 154.51 feet to a point on the Southerly boundary of "The Cascades-Unit 1", a Subdivision recorded in Map Book 41, Page 166, Public Records of Volusia County, Florida; thence N 88 Degrees 18' 35" E along said boundary a distance of 298.18 feet; thence N 29 Degrees 48' 35" E along said boundary a distance of 170.36 feet; thence S 60 Degrees 11' 25" E along said boundary a distance of 170.00 feet to a point of curvature, said curve being concave to the North having a radius of 215.00 feet, a delta angel of 65 Degrees 00' 00" a chord bearing of N 87 Degrees 18' 35" E and a chord length of 231.04 feet; thence run along said curve and aforesaid Southerly boundary for an arc distance of 243.91 feet; thence S 35 Degrees 11' 25" E along said boundary a distance of 30.84 feet; thence N 88 Degrees 18' 35" E along said boundary a distance of 466.30 feet to the East line of the Northwest 1/4 of the Southwest 1/4 of aforesaid Section 5; thence S 01 Degrees 39' 44" E along the East line of the Northwest 1/4 of the Southwest 1/4 of said Section 5 and along the East line of the Southwest 1/4 of the Southwest 1/4 of said Section 5 a distance of 664.23 feet to the South line of the North 1/2 of said Southwest 1/4 of Southwest 1/4; thence S 89 Degrees 15' 51" W along said South line a distance of 505.56 feet; thence N 01 Degrees 41' 25" W a distance of 281.04 feet; thence S 88 Degrees 18' 35" W a distance of 768.48 feet to the Point of Beginning.

**LESS AND EXCEPT THE FOLLOWING DESCRIBED PARCEL:**

A parcel of land lying in the Northwest 1/4 of the Southwest 1/4 and the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 17 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of said Section 5, run thence N 01 Degrees 41' 25" W along the West line of said Section 5 a distance of 661.77 feet to the intersection of the West line of said Section 5, and the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; run thence N 89 Degrees 15' 51" E along said South line a distance of 820.77 feet to the Point of Beginning, run thence N 01 Degrees 41' 25" W a distance of 281.04 feet; run thence S 88 Degrees 18' 35" W a distance of 37.00 feet; run thence N 01 Degrees 41' 25" W a distance of 373.07 feet to a point on a curve on the Southerly right-of-way of Clear Lake Drive as shown on the Plat of "The Cascades-Unit 1", a Subdivision according to a map in Map Book 41, Page 166, Public Records of Volusia County, Florida, said curve being concave to the Northwest, having a radius of 215.00 feet, a delta of 17 Degrees 31' 31" and a chord bearing and distance of N 63 Degrees 34' 20" E and 65.51 feet, run thence Northeasterly along said curve and road right-of-way an arc distance of 65.76 feet; run thence S 35 Degrees 11' 25" E and along the Southerly boundary of said "The Cascades-Unit 1" a distance of 30.84 feet; run thence N 88 Degrees 18' 35" E and continuing along said boundary a distance of 466.30 feet to the Southeast corner of said "The Cascades-Unit 1", being a point on the East line of the West 1/2 of the Southwest 1/4 of said Section 5; run thence S 01 Degrees 39' 44" E along this East line a distance of 664.23 feet to the Southeast corner of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; run thence S 89 Degrees 15' 51" W along this South line a distance of 505.56 feet to the Point of Beginning.

**PARCEL 2: AREA = 8.00 AC.**

A parcel of land lying in the Northwest 1/4 of the Southwest 1/4 and the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of Section 5, Township 17 South, Range 30 East, Volusia County, Florida, being more particularly described as follows:

Commencing at the Southwest corner of said Section 5, run thence North 01° 41' 25" West along the West line of said Section 5 a distance of 661.77 feet to the intersection of the West line of said Section 5, and the South line of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; run thence North 89° 15' 51" East along said South line a distance of 820.77 feet to the Point of Beginning, run thence North 01° 41' 25" West a distance of 281.04 feet; run thence South 88° 18' 35" West a distance of 37.00 feet; run thence North 01° 41' 25" West a distance of 373.07 feet to a point on a curve on the Southerly right-of-way of Clear Lake Drive as shown on the Plat of "The Cascades-Unit 1", a Subdivision according to a map in Map Book

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41, Page 166, Public Records of Volusia County, Florida, said curve being concave to the Northwest, having a radius of 215.00 feet, a delta of  $17^{\circ} 31' 31''$  and a chord bearing and distance of North  $63^{\circ} 34' 20''$  East and 65.51 feet, run thence Northeasterly along said curve and road right-of-way an arc distance of 65.76 feet; run thence South  $35^{\circ} 11' 25''$  East and along the Southerly boundary of said "The Cascades-Unit 1" a distance of 30.84 feet; run thence North  $88^{\circ} 18' 35''$  East and continuing along said boundary a distance of 466.30 feet to the Southeast corner of said "The Cascades-Unit 1", being a point on the East line of the West 1/2 of the Southwest 1/4 of said Section 5; run thence South  $01^{\circ} 39' 44''$  East along this East line a distance of 664.23 feet to the Southeast corner of the North 1/2 of the Southwest 1/4 of the Southwest 1/4 of said Section 5; run thence South  $89^{\circ} 15' 51''$  West along this South line a distance of 505.56 feet to the Point of Beginning.

**FIRST AMENDMENT TO POINTE GRAND APARTMENTS****PLANNED DEVELOPMENT AGREEMENT**

This First Amendment to the Pointe Grand Apartments Planned Development Agreement (the "First Amendment") is made this 20<sup>th</sup> day of NOVEMBER 2023 between the CITY OF DELAND, a Florida municipal corporation (hereafter, the "City"), whose mailing address is 120 S. Florida Avenue, DeLand, FL 32720, and HP-212017 DeLand, LLC, a Florida limited liability company with a mailing address of 101 South New York Avenue, Suite 211, Winter Park, FL 32789 (hereafter, "HP DeLand").

WHEREAS, the City and HP DeLand previously entered into that certain Planned Development Agreement (the "PD Agreement") dated on or about February 20, 2023 and recorded in Official Records Book 8372, Page 858 of the Public Records of Volusia County, Florida in connection with the rezoning of ±14.16 acres known as the "Pointe Grand Apartments" PD; and

WHEREAS, HP DeLand desires to modify the parking requirement in order to permit the construction of covered parking areas; and

WHEREAS, the application of HP DeLand to amend the Pointe Grand Apartments PD was duly and properly filed with the City on July 31, 2023 and the application was reviewed by the City's Community Development Department and determined to be consistent with the City's Comprehensive Plan; and

WHEREAS, Public Hearings on this First Amendment to the Pointe Grand Apartments PD Agreement were held by the Planning Board on September 13, 2023 and the City Commission <sup>on</sup> October 16, 2023 and November 20, 2023 after due public notice was provided in accordance with the City's Land Development Regulations Ordinance No. 2013-11, as amended.

**"EXHIBIT B"**

**NOW THEREFORE**, the City and HP DeLand acknowledge and agree that the Pointe Grand Apartments PD is hereby amended to reflect the following changes, revisions and amendments to the Pointe Grand Apartments PD Agreement and amended Planned Development Plan:

**1. Paragraph E. 8. of the Development Agreement for the Pointe Grand Apartments PD is amended as follows (changes shown in ~~striketrough~~/underline format):**

E. Development Standards for Multifamily.

8. Off-street parking requirements. 510 At least 490 parking spaces shall be provided and shall conform to the parking table as depicted on the PD Concept Plan detail. Parking space numbers may be substituted during site plan review with an equal number of bike parking spaces of up to 1% of the total parking spaces, or a reduction of up to five (5) vehicle parking spaces. HP DeLand will also investigate the feasibility of adding electric vehicle charging locations within the proposed development.

**3. Exhibit B is amended to incorporate Attachment A herein as the amended Planned Development Plan for the Pointe Grand Apartments PD.**

**IN WITNESS WHEREOF**, the City and HP DeLand have caused this First Amendment to the Pointe Grand Apartments Planned Development Agreement to be duly executed by their authorized representatives as of the last date entered below.

**(Signatures on Following Pages)**

ATTEST:

City Commission of DeLand Florida

*Michael Pleus*  
Michael Pleus  
City Manager

*Christopher M. Cloudman*  
Christopher M. Cloudman  
Mayor

ATTEST:

*Julie A. Hennessy*  
Julie A. Hennessy, MA  
City Clerk - Auditor



STATE OF FLORIDA  
CITY OF DELAND

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 30<sup>th</sup> day of November <sup>2023</sup> (mo/yr), by Michael Pleus and Christopher M. Cloudman, as City Manager and Mayor, City of DeLand, respectively, on behalf of the City of DeLand, and who are personally known to me.



NOTARY PUBLIC, STATE OF FLORIDA  
Type on Print Name: *Julia M. Hewitt*  
Commission No.: 67908791  
My Commission Expires: 12/28/2023

WITNESSES

HP-212017 DeLand, LLC, a Florida limited liability company

Lindsay Owens  
Print Name

[Signature]  
Sign Name

Michelle Jaroe  
Print Name

[Signature]  
Sign Name

By: [Signature]  
Steven Campisi  
Authorized Representative

Date: 11/28/2023

STATE OF FLORIDA  
COUNTY OF ORANGE

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this 28 day of November, 2023, by Steven Campisi, as Authorized Representative for and on behalf of **HP-212017 DeLand, LLC**. He/She is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public

Seal

Type or Print Name: Michelle Jaroe  
Commission No. 14H 322924  
My Commission Expires: 10/17/2026



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**Attachment A**  
**Amended Planned Development Plan**

