

1 PLANNED DEVELOPMENT AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: (Case #), Application of

5 TRAMELL WEBB PARTNERS, INC.

6 ORDINANCE # _____

7
8 ORDER AND RESOLUTION

9 GRANTING A REQUEST FOR CHANGE OF ZONING FROM

10 C-2A TO

11 ATHENS COMMONS PD (PLANNED DEVELOPMENT)

12
13 The application of Trammell Webb Partners, Inc., hereinafter, "Applicant", for rezoning
14 was heard by and before the City Commission, DeLand Florida, on _____, 2015.

15 Based upon the verified Application and other supporting documents, maps, charts,
16 overlays, other evidence and instruments; the advice, report, and recommendations of the
17 Community Development, and other Departments and agencies of DeLand, Florida; and
18 the testimony adduced and evidence received at the Public Hearing on this Application by
19 the Planning Board on _____, 2015, and otherwise being fully advised, the City
20 Commission does hereby find and determine as follows:

21
2-15-66

RECEIVED

AUG 17 2015

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PLANNING & ZONING

GENERAL FINDINGS

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A. That the application of Trammel Webb Partners, Inc. was duly and properly filed herein on August 14, 2015 as required by law.

B. That all fees and costs, which are by, law, regulation, or Ordinance required to be borne and paid by the applicant have been paid.

C. That the applicant is the owner of a 1.2 acre parcel of land which is situated in DeLand, Florida. This parcel of land is described more particularly in the survey and legal description, a true copy of which is attached hereto as Exhibit "A".

D. That the Applicant has complied with the concept plan provision as required by Land Development Regulations Ordinance # 2013-11, as amended.

E. That the Applicant has complied with the "Due Public Notice" requirements of the City Commission, Land Development Regulations Ordinance # 2013-11, as amended.

FINDINGS REGARDING REZONING

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A. That the Applicant has applied for a change of zoning from the present zoning classifications of the parcel described in Exhibit "A" from C-2A to Athens Commons PD (Planned Development).

B. That the said rezoning to a PD is consistent with both the City of DeLand Comprehensive Plan Ordinance # 1990-04, as amended, and the intent and purpose of the City of DeLand Land Development Regulations Ordinance # 2013-11, as amended, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY COMMISSION CHAMBERS, 121 WEST RICH AVENUE, DELAND, FLORIDA, THIS *(public hearing date)* DAY OF _____, A.D., _____, AS FOLLOWS:

A. That the Application of Tramell Webb Partners, Inc. for the rezoning of the subject parcel is hereby granted.

B. That the zoning classification of the subject parcel described in Exhibit "A" attached hereto is hereby amended from C-2A to Athens Commons PD as described in Article IV, Section 33-32 of the City of DeLand, Land Development Regulations Ordinance # 2013-11, as amended.

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C. That the Official Zoning Map of the City of DeLand, is hereby amended to show the rezoning of said parcel to Athens Commons PD.

D. That the City of DeLand Land Development Regulations Ordinance # 2013-11, as amended, is consistent with the provisions of the "Development Agreement" as hereinafter set forth in this Ordinance and with respect to any conflict between Land Development Regulations Ordinance # 2013-11, as amended, and the "Development Agreement", the provisions of the "Development Agreement" shall govern. Ordinance No. 02-09, as amended, shall govern with respect to any matter not covered by the "Development Agreement." The City of DeLand, will ensure overall compliance with this Ordinance.

E. Unless otherwise provided for herein the City of DeLand, Land Development Regulations Ordinance # 2013-11, as amended, shall apply to the PD in the same manner as the C-2A zoning classification.

F. Nothing in this Ordinance shall abridge the requirements of any City of DeLand Ordinance other than Ordinance 2013-11, as amended. Timing and review procedures contained in this Order and Resolution may be modified to comply with the City of DeLand Land Development Regulations, Ordinance No. 2013-11, as amended. Further, nothing in the Development Agreement is intended to abridge the requirements of Ordinance No. 2013-11, as amended, and any other City Ordinances.

1 not designed and permitted as part of the platting, a Final Site Plan shall be prepared and
2 submitted for review and approval in the manner required by Article 12 of the City of
3 DeLand, Land Development Regulations Ordinance # 2013-11, as amended.

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5 B. Unified Ownership. The Applicant or his successors shall maintain unified
6 ownership of the subject parcel until after the recording of the Final Plat.

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8 C. Phases of Development. This site will be developed as a single phase.

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10 D. Land Uses Within the PD. The development of the parcel shall be consistent
11 with the uses prescribed within the proposed Athens Commons PD Planned Development
12 Plan. The location and size of said land use areas are shown on the Development Plan
13 Map, Exhibit "B". The land uses allowed as permitted principal uses and structures along
14 with their customary accessory uses and structures shall be consistent with those allowed
15 under the C-2A Downtown Commercial zoning classification with the exception that multi-
16 family residential units shall be allowed on the first floor with covered parking without any
17 requirement of having a commercial, professional or office use on the first floor. These
18 multi-family units may be used as student housing and as such they may be occupied by
19 up to four unrelated students. The owners and/or operators of the housing development
20 located on the parcel shall ensure that the residents are enrolled full time in a four (4) year
21 accredited college or university. The owner of the property shall have the option of
22 converting the multi-family units to traditional apartments which are not intended for
23 student housing. However, if the owner chooses to convert from student housing to
24 traditional multi-family housing, then none of the units may be occupied by more than two

1- unrelated persons. In no event shall any children under eighteen (18) years old who attend
2 primary or secondary schools within Volusia County reside within any dwelling unit
3 within the Planned Development as a permanent resident.

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5 E. Development Standards.

6 1. Minimum lot area: None

7 2. Minimum lot width and/or depth: None

8 3. Minimum building setback:

9 Perimeter: None

10 4. Maximum floor area ratio (FAR): None

11 5. Maximum lot coverage: None

12 6. Maximum building height: 80 ft.

13 7. Landscape buffer requirements:

14 Perimeter:

15 Planting types, sizes and quantity shall meet or exceed the
16 minimum requirements of City of DeLand, Land Development
17 Regulations Ordinance # 2013-11, as amended.

18 8. Minimum building separation: 25 ft.

19 9. Off-street parking requirements:

20 With the exception of meeting the vehicle use separation and
21 drive aisle width requirement, the site shall meet or exceed the
22 minimum requirements of Section 33-91, of the City of
23 DeLand, Land Development Regulations Ordinance # 2013-
24 11, as amended.

25 10. Signage requirements:

26 Shall meet or exceed the minimum requirements of Article VII
27 of the City of DeLand, Land Development Regulations
28 Ordinance # 2013-11, as amended.

29 11. Open Space and/or Common Area requirements:

30 Shall meet or exceed the minimum requirements applied to C-
31 2A zoning of City of DeLand, Land Development Regulations

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F. Environmental Considerations. The Applicant or his successors or assigns shall comply with the City's ordinances providing for tree protection, and shall meet or exceed the minimum requirements of the City of DeLand, Land Development Regulations Ordinance # 2013-11, as amended.

G. Sewage Disposal and Potable Water. Provision for sewage disposal and potable water needs of the Athens Commons PD will be provided in accordance with the Comprehensive Plan, Ordinance No.1990-04, as amended, the City of DeLand, Land Development Regulations Ordinance # 2013-11, as amended, and State of Florida Administrative Code 64E-6. The specific engineering plan for connections of water and sewer service to City facilities shall be provided at preliminary plat. The Applicant shall enter into a Utility Service Agreement with the City in accordance with Chapter 30 of the Code of Ordinances to reserve sufficient capacity for the development.

H. Stormwater Drainage. Provision for stormwater retention shall be in accordance with the City of DeLand, Land Development Regulations Ordinance # 2013-11, as amended. The development shall meet or exceed the requirements for the stormwater management and conservation provision of the Code of Ordinances. Areas identified as retention areas on the Planned Development Plan may be shifted or altered for stormwater management purposes without the necessity of amendment of this Development Agreement and its exhibits.

I. Access and Transportation System Improvements. All access and

1 transportation system improvements shall be provided in accordance with the City of
2 DeLand, Land Development Regulations Ordinance # 2013-11, as amended. The parcel
3 shall be developed in substantial accordance with the following access and transportation
4 system improvements:

5 1. Access. Access to the site will be from Ohio Avenue and Wisconsin
6 Avenues.

7 2. Transportation System Improvements. Improvements will be dictated
8 by a City approved Traffic Impact Analysis performed at the time of development, if traffic
9 volumes indicate the need for an analysis.

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11 J. Internal Roadways. The internal road network is shown on the Planned
12 Development Plan, include layout and right-of-way widths. The road design shall meet or
13 exceed the City of DeLand, Land Development Regulations Ordinance # 2013-11, as
14 amended.

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16 K. Building or Property Owners Association. If the property is subdivided a
17 Property Owner's Association shall be created by the Applicant to own, manage and
18 maintain the common areas. The owner of each lot shall be a member of the Association
19 and shall be liable for, with a lien securing payment of, annual and special assessments
20 collected by the Association for the improvement, maintenance, enhancement,
21 enlargement and operation of common areas and for payment of taxes, governmental
22 assessments, insurance, costs of material, equipment, labor, professional services,
23 management and supervision necessary to carry out the authorized functions of the
24 Association, and for payment of principal, interest and other charges connected with loans

1 made to or assumed by the Association.

2 The charter and by-laws of said association and any other agreements, covenants,
3 easements or restrictions shall be furnished to the City of DeLand at the time of creation.
4 The applicant shall be responsible for recording said information in the Public Records of
5 Volusia County, Florida. Also, the applicant shall bear and pay all costs for recording all of
6 the aforementioned documents.

7 With respect to the enforcement of said agreements, covenants, easements or
8 restrictions entered into between the applicant and the owners or occupiers of property
9 within the PD, the City of DeLand shall only enforce the provisions of the "Development
10 Agreement" and City of DeLand Land Development Regulations Ordinance # 2013-11, as
11 amended, whichever is applicable, and not the private agreements entered into between
12 the aforementioned parties.

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14 L. Reverter Provision: The City Commission may rezone any portion of the
15 project which has not secured a final development order on or before 5 years from the
16 effective date of this ordinance as may be necessary or appropriate to protect adjoining
17 properties or the public health, safety and welfare. At the request of the Applicant, the City
18 Commission, for good cause shown, may extend the time period indicated in this
19 paragraph.

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21 M. Binding Effect of Plans; Recording; and Effective Date. The Planned
22 Development Plan, including any and all amendments shall bind and inure to the benefit of
23 the Applicant and his successor in title or interest. The Athens Commons PD zoning,
24 provisions of the "Development Agreement," and all approved plans shall run with the land

1 and shall be administered in a manner consistent with Article 12 of the City of DeLand
2 Land Development Regulations Ordinance # 2013-11, as amended.

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4 This Ordinance and all subsequent amendments shall be filed with the Clerk of the
5 Court and recorded within forty-five (45) days following execution of the document by the
6 City Commission, in the Official Records of Volusia County, Florida. One copy of the
7 document, bearing the book and page number of the Official Record in which the
8 document was recorded, shall be submitted to the Planning Department for placement in
9 the public file. The date of recording of this document shall constitute the effective date of
10 the Athens Commons PD or its subsequent amendments. The applicant shall pay all filing
11 costs for recording documents.

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14 DONE and ORDERED by the City Commission, City of DeLand, Florida, this
15 ____ day of _____ (mo/yr).

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18 ATTEST: City Commission of DeLand Florida
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21 _____
22 Michael Pleus Robert Apgar
23 City Manager Mayor
24

25
26 STATE OF FLORIDA
27 CITY OF DELAND

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29 The foregoing instrument was acknowledged before me this ____ day of
30 _____ (mo/yr), by Michael Pleus and Robert Apgar, as City

1 Manager and Mayor, City of DeLand, respectively, on behalf of the City of
2 DeLand, and who are personally known to me.

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NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Commission No.: _____

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WITNESSES:

Applicant's Name, Title & Corporation

Applicant's Name, Title & Corporation

Owner of Property (if other than applicant)

The foregoing instrument was acknowledged before me this _____ day of _____ (mo/yr), by (NAME), who is personally known to me or who has produced _____ as identification.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Commission No.: _____

My Commission Expires: _____

Revised August 14, 2015 u/p/zone/pd_doc

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Exhibit A

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LEGAL DESCRIPTION

LOTS 1 AND 2 AND THAT PORTION OF LOT 14 NORTH OF THE CENTER OF WISCONSIN AVENUE AND WEST OF THE EAST LINE OF LOT 2 EXTENDED IN A SOUTHERLY DIRECTION, PARCES'S SUBDIVISION, ACCORDING TO MAP IN MAP BOOK 2, PAGE 61, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

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Exhibit B