

DEVELOPMENT AGREEMENT  
FOR "WATERFORD LAKES" A PLANNED DEVELOPMENT  
Revised December 1, 1999

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COMMUNITY DEVELOPMENT

NARRATIVE

This information is submitted in support of "Waterford Lakes" (a proposed Planned Development), i.e., Z-99-08-03. The information is being submitted by the Developer as Authorized Agent of the owners.

When specifically addressed in the Development Agreement, the development standards contained in the Development Agreement shall supersede the City of Deland Land Development Regulations. When not specifically addressed in the Agreement the development standards contained in the City of Deland Land Development Regulations shall supersede the standards contained in the Development Agreement.

**I. Legal Description of Site:**

See attached legal description and map containing 59 acres, more or less.

**II History:**

This 59-acre +/- tract of land consists of two tracts, one owned by Elizabeth Breyfogle and Mary Ann Meekins and one owned by Richard and Christine Reynolds. These two tracts comprise the 59 +/- acres Planned Development. The subject parcels are under contract for purchase by J. D. Collins, the developer.

The subject tracts historically were working orange groves. The Reynolds tract also contains a single-family residence which is the current home of the Reynolds.

Both groves were destroyed by the hard freezes in the 1980's and both have rejuvenated in a mix of native and non-native vegetation and trees.

**III. Existing Conditions:**

The property consists of 59 acres more or less, vacant land with one single-family home.

**IV. Development Conceptual Plan:**

The community will be developed in phases. The phases will be sized according to the market demand at the time each phase is developed. The phases may be developed in any sequence

or simultaneously. The anticipated total number of single-family home sites will not exceed 135 units.

“Waterford Lakes” is deemed to have met all concurrency requirements and shall be vested with all development rights and entitlements upon approval of the Planned Development by the City Commission of Deland, Florida provided however, if substantial horizontal construction has not commenced within five (5) years from the date of the Planned Development Approval by the City Commission, the development must be reviewed for compliance with concurrency at that time.

**V. Development Standards:**

The lots will be a minimum of 7,500 square feet. The lot criteria is as follows:

Minimum Lot Size	7,500 square foot lots
Front Set-Back	20 foot minimum
Side Set-Back	5 foot minimum
Rear Set-Back	15 foot minimum
Side Corner Set-Back	15 foot minimum
“Lake-front” Set-Back	25 foot minimum
Minimum Living Area	1,200 square feet
Parking	2 cars minimum
Maximum lot coverage	50%
Maximum Building Height	35 Feet
Minimum Lot Width at the BRL	75 Feet
Tree-scaping:	
Front Yard:	Two 1 ½" caliper trees (existing or planted)
Rear Yard	Two 1 ½" caliper trees (existing or planted)
Total Yard	Not less than total of 6" caliper of existing or planted trees.

All set-backs are measured from the property lines of each lot.

There shall be no trailers allowed within “Waterford Lakes” except sales and construction offices. Once all construction is complete, no trailers will be allowed.

**VI. Environmental Protection: “Findings of Fact”**

Lake Lindley is a non-landlocked lake as it discharges to the east during high water and storm events. Lake Lindley currently supports recreation and fosters maintenance of fish and aquatic wildlife and is entitled to stormwater treatment, wetland and shoreline protection.

A. “Shoreline Protection Zone”. Notwithstanding the provisions of 33-59.07 of the Land Development Regulations of the City of Deland, a “Shoreline protection Zone” is hereby established for “Waterford Lakes” Planned Development. The boundaries of the “shoreline protection zone” shall commence at the water’s edge as shown on the Clary & Associates map #R7-

5E dated June 10, 1999 and run to the most landward extent of the wetland jurisdictional line of the U.S. Army Corps of Engineers and the St. Johns River Water Management District as established on the Clary & Associates wetland map #R7-5E of June 10, 1999. In no case shall the size of the "shoreline protection zone" be less than 25 feet in depth.

B. "Wetland Protection Zone". Notwithstanding the provisions of Section 33-58 of the Land Development Regulations of the City of Deland, a "wetland protection zone" is hereby created. The boundaries of the "wetland protection zone" shall be the most landward extent of the wetland jurisdictional line of the U.S. Army Corps of Engineers and the St. Johns River Water Management District as established on the Clary & Associates map #R7-5E dated 6/10/99.

C. "Wetland Transitional Zone". Notwithstanding the provisions of Section 33-58 of the Development Regulations for the City of Deland, a "wetland transitional zone" shall be established only if required by the environmental resource permit or equivalent issued for the development by the St. Johns River Water Management District. The boundaries of the "wetland transitional zone" would commence at the most landward extent of the "wetland protection zone" and continue landward for an average depth of 25 feet.

D. "Development Within the Protection Zones". The aforementioned protection and transitional zones shall not impede reasonable access to the lake water body. The following activities or construction do not have a significant adverse effect on the natural function of a wetland, a protection zone, or a transitional zone and shall be allowed within the zones. The activities of construction include, but are not limited to, pruning, planting of suitable native vegetation, the removal of exotic, nuisance, invasive native and non-native plants and trees, the creation and maintenance of walking trails, the planting and maintenance of grasses, the installation of docks and piers and timber catwalks for access to docks and piers.

Timber catwalks, docks and trail bridges that are less than or equal to four (4) feet wide are permitted within the protection and transitional zones, provided that no filling, flooding, dredging, draining, ditching, tiling or excavation is done. That filling and excavating necessary for the installation of pilings and the removal of exotic, nuisance, invasive, native and non-native plants and trees, and the establishment of grasses is allowed. Lawn maintenance mowing and underbrushing is permitted.

One (1) dock per pier is allowed on each single-family lake lot, provided they are larger than 18 feet by 18 feet excluding the timber walkway. The walkway may be no wider than four (4) feet and no longer than allowed by the appropriate permitting agencies and as may be allowed by the Architectural Review Committee of the Homeowners Association.

E. Dock Permits. Prior to commencing any dock or timber catwalk the lot owner shall apply to the appropriate agencies for a permit(s) to construct any such dock or timber catwalk. The agencies and/or government or quasi-government entities may include, but are not limited to, the City of Deland Building Department, the St. Johns River Water Management District, and the Department of Environmental Protection and the U.S. Army Corps of Engineers.

Notwithstanding the provisions of Section VI. Environmental Protection of this Development Agreement, any clearing, filling or dredging within the boundaries of the "Shoreline Protection Zone" and the "Wetland Protection Zone" shall be governed by the St. Johns River Water Management District, Florida Department of Environmental Protection, and the U.S. Army Corps of Engineers rules and regulations.

**VII. Internal and External Land Use Relationships and Compatibility.**

The proposed residential use is surrounded by single-family residential development, i.e., Lake Lindley Village on the south and Heather Glen to the west. The easterly buffer is Lake Lindley itself. The property to the north is commercial and abuts U.S. Highway 92 excepting a corner out-parcel which is a residential home.

**VIII. Statistical Information:      Project Summary:**

<u>Land Use</u>	<u>Acreage (+/-)</u>	<u>Units</u>	<u>Density</u>	<u>Percentage</u>
Residential Lots, Right-of-Ways,	38.19 +/-	135 Max		65% +/-
Right-of-Way (McDonald Ave)	0.9 +/-			
Lake (Water Body Surface)	12.8 +/-			20% +/-
Tree Preserve/Wetlands	6.45 +/-			15% +/- (15% x 42.99 Acres)
<b>Total</b>	<b>58.80 Acres</b>	<b>135 Max</b>	<b>2.55</b>	<b>100%</b>
Tree Conservation Area	6.45 Acres (15% x 42.99 Acres of land)			

**IX. Specific Acreage Each Use:**

Single-Family Lots and Right-of-Ways	38.19 Acres +/-
Right-of-Way (McDonald Avenue)	0.91 Acres +/-
Tree and Wetland Protection	6.45 Acres +/-
Lake (Water Body Surface)	12.8 Acres +/-
<b>Total</b>	<b>58.35 +/- Acres</b>

**X. Drainage Concept Plan:**

The drainage system shall be designed and built to meet the applicable requirements of the City of Deland and the St. Johns River Water Management District.

**XI. Utilities:**

Water and sewer service will be provided by the City of Deland. All utilities including fire hydrants will be installed consistent with the City of Deland Land Development Regulations.

**XII. Generalized Landscape Plan:**

The development will set aside 15% of the total land area exclusive of lake for tree preservation and shall establish the tree preservation acreage as a "tree conservation area". Within the "Tree Conservation Area" no historic or specimen trees will be removed unless the tree is a safety hazard, diseased, or that it is not economically feasible to develop the property without removing the tree. However, within the "shoreline protection zone" located along the lake frontage, the removal of exotic, nuisance, invasive native and non-native plants and trees and the establishment and maintenance of grasses shall be allowed. Mowing and under-brushing shall be allowed within the "shoreline protection zone". The permissible activities stated above must be consistent with the rules and regulations of the St. Johns River Water Management District, Florida Department of Environmental Protection and the U.S. Army Corps of Engineers.

**XIII. Street and Off-Street Parking:**

All roadways will be developed to the City of Deland standards in effect at the time of the submission of the site plan for the development.

**XIV. Proposed Sign Standards:**

Street signs as required by the City of Deland.

**XV. Entry Signage and/or Perimeter Fencing.**

Entrance signs:The project entrance signs will be located at the entrance of the development. The entrance sign will be either one two-faced island sign with no greater than 24 square feet on each side or one (1) sign on each side of the entrance road consisting of no greater than 24 square feet each. These entrance signs may be free standing or mounted on a wood, brick or stucco wall and may include entrance walls, planters, columns, fencing, landscaping, lighting and automatic irrigation systems.

Interior Signs: Interior/phase signage, if utilized, shall not exceed four (4) locations.

These interior signs will be either one two-faced island sign with no greater than 20 square feet on each side or one sign on each side of the interior/phase entrance roads, each with no greater than 20 square feet each. These interior/phase signs may be free-standing or mounted on a wood, brick or stucco wall and may include entrance walls, planters, columns, fencing, landscaping, lighting and automatic irrigation systems.

**Perimeter Fencing:** Perimeter fencing may be installed by the developer along the perimeter boundaries of the development. Said fencing shall be no higher than eight (8) feet. The fencing may consist of wood, brick, stucco, stone or vinyl. However, no chain link perimeter fencing is allowed

Provided the signage and/or fencing is consistent with the above-stated requirements, no permits shall be required for their installation and operation.

**XVI Tree Protection:** Initially, the developer will set aside 15% of the site as a "Tree Conservation Area" (excluding lake area). This is a heavily treed site and the developer recognizes the benefit of tree protection for enhancement of a quality residential community.

This section is established to minimize the destruction of historic and specimen trees located on each residential lot. It is in the best interest of public health, safety and welfare to protect, preserve and enhance tree coverage in the community.

In furtherance of this objective, the developer agrees to the following measures.

Notwithstanding the provisions of 33.57 of the Land Development Regulations of the City of Deland, during the horizontal development process, the developer agrees to remove only those trees which are located within the required right-of-ways and utility easements where removal is required to install the developments infra-structure (i.e., streets, storm sewers, water distribution facilities, electrical lines, stormwater ponds, fences, etc.). The developer will provide a map depicting the road right-of-ways, utility easements, and stormwater lakes prior to initiating clearing. A tree map will be supplied for the aforementioned rights-of-ways and utility easements. The tree map will identify those specimen trees to be removed.. The desired affect will be to insure heavy tree dominance in this Planned Development.

Additionally, the developer utilizing Deed Restrictions and Covenants and Restrictions, will require architectural approval by the Waterford Lakes Homeowners Association's Architectural Review Committee (ARC) of each house to be constructed prior to commencement of construction.

The deed restrictions will require a minimum total of 6" caliper DBH on every lot and require at least (2) 1 ½" caliper trees to be located in each front yard and (2) 1 ½" caliper trees in the rear yard. This provision shall apply not only to the builder but continues to apply to the homeowner upon issuance of the certificate of occupancy. This provision will insure the perpetual existence of the tree cover on each residential lot and provide for replacement of the trees if destroyed or removed by storm or disease or for reasons of public safety and welfare. Removal of aforementioned trees will require approval of a variance from the Board of Adjustment, City of Deland.

The current tree ordinance provides an exemption from the requirements of the tree ordinance for homes once they are owner occupied.

These provisions are unique to "Waterford Lakes" planned development and intended to insure a well treed, aesthetically pleasing community in which tree preservation is required on each lot.

The site plan designates the tree protection and preservation area and is depicted by cross-hatching.

The developer will encourage all builders to preserve as many trees as practical while constructing the homes in "Waterford Lakes".

**ORDINANCE NO. 99-40**

02/11/2003 09:31  
Instrument # 2003-030688  
Book: 5014  
Page: 2880

**AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM R-4, VOLUSIA COUNTY URBAN SINGLE FAMILY RESIDENTIAL DISTRICT, TO THE CITY'S PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE EAST SIDE OF MCDONALD AVENUE, 300 FEET SOUTH OF U.S. 92; APPROVING A DEVELOPMENT PLAN FOR WATERFORD LAKES, A RESIDENTIAL PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 59 ACRES OF PROPERTY (46 ACRES EXCLUDING WATER); DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CONCURRENCY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, J.D. Collins, Applicant, (hereinafter referred to as "Applicant"), owns a 59 acre parcel of land (46 acres excluding water) located on the east side of McDonald Avenue, 300 feet south of U.S. 92, which is more particularly described in the legal description attached hereto as "Composite Exhibit A" and by this reference made a part hereof; and

**WHEREAS**, Applicant has applied for a change of zoning from the present zoning classification of R-4, Volusia County Urban Single Family Residential District, to the City's PD, Planned Development District; and

**WHEREAS**, said rezoning as a PD District 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**, Applicant has submitted an application for approval of a development plan for the Waterford Lakes Planned Development to encompass all of the property described in "Composite 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 Urban Medium Intensity land use designation which: encourages intensified development in outlying or newly developed areas for a variety of commercial and/or residential needs; encourages clustering of new development to promote shared facilities and access and to discourage linear development along collector and arterial level roadways; permits energy and cost effective delivery of services; and, requires properly designed ingress and egress to avoid undue traffic hazards or congestion;

**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 change of zoning from R-4, Volusia County Urban Single Family Residential District, to the City's PD, Planned Development District.

**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 the attached "Composite Exhibit A" as 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 Agreement, Narrative, Maps and other supporting documentation submitted by Applicant which shall be filed and 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 for the Waterford Lakes Planned Development, including the Development Agreement, Narrative, Maps and other supporting documentation (on file with the City Planning Department), are incorporated herein by reference and shall be 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 City Commission may rezone any portion of the Project which has not obtained a certificate of occupancy within five years from the date of adoption of this Ordinance.

**Section 9.** The City Engineer, Planning Director and Building Department are 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 10.** No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

**Section 11.** 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.

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City Clerk of Court

**Section 12.** This Ordinance shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** this 20th day of December, 1999.

  
Willie L. Bright  
Mayor Pro Tem

ATTEST

  
Julie A. Hennessy  
City Clerk - Auditor

Passed on first reading: December 6, 1999  
Adopted on second reading: December 20, 1999

**APPROVED AS TO FORM AND LEGALITY:**

  
Mark A. Zimmerman  
City Attorney