

ORDINANCE NO. 2018 - 10

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, CHANGING THE ZONING FROM WARNER PLANNED DEVELOPMENT TO RIVER CHASE PLANNED DEVELOPMENT; BY AMENDING THE PLANNED DEVELOPMENT DOCUMENT TO ALLOW EIGHTY-THREE (83) SINGLE FAMILY LOTS, ON PROPERTY LOCATED AT 335 NORTH RIDGEWOOD AVENUE; APPROVING A PLANNED DEVELOPMENT PLAN CONSISTING OF APPROXIMATELY +/- 26.30 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, John Schultheis, on behalf of James and Scarlet Warner, (hereinafter referred to as "Applicant"), the owners of +/- 26.30 acres of land located at 335 N. Ridgewood 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 Applicant has applied for a change of zoning designation from Warner Planned Development (PD) to River Chase PD, Planned Development District; and

WHEREAS, the Applicant is requesting that the existing Planned Development document be amended to allow for 83 single family lots instead of 70; 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 amend the current PD so as 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 Low Density Residential 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 change of zoning from Warner Planned Development to River Chase Planned Development, Planned Development District, on the property located at 335 North Ridgewood 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 River Chase 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 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 River Chase PD, Planned Development District, including the Development Plan Agreement, Map and other supporting documentation (on file with the City Planning Department), are attached hereto as Exhibit "B" and 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.

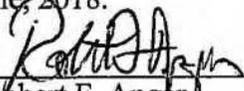
Section 7. Pursuant to Article 5 of the City's Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

Section 8. The 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 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.

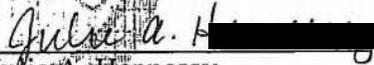
Section 10. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 4th day of June, 2018.



Robert F. Apgar
Mayor - Commissioner



ATTEST:

Julie A. Hennessy
City Clerk - Auditor

Passed on first reading: May 7, 2018
Adopted on second reading: June 4, 2018

APPROVED AS TO FORM AND LEGALITY:


Darren J. Elkind
City Attorney

EXHIBIT "A"LEGAL DESCRIPTION: (OR 7229 PG 294)

PARCEL 1

The Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 2

The Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida. Being subject to an easement for egress and ingress over the South 12.5 feet of the West 12.5 feet thereof.

The Southeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida. Being subject to an easement for egress and ingress over the North 12.5 feet of the West 12.5 feet thereof.

The Southwest 1/4 of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida, the West 25 feet being reserved for existing Ridgewood Avenue and being subject to any easement for egress and ingress over the North 12.5 feet of the East 306.40 feet.

PARCEL 3

The East 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, and the North 7/10 of the West 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida.

EXHIBIT B

1 PD PLANNED DEVELOPMENT AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: Z-18-05 Application of

5 JAMES AND SCARLET WARNER

6 ORDINANCE # 2018-10

7
8
9 GRANTING A REQUEST FOR CHANGE OF ZONING FROM Warner PD (Planned
10 Development)

11 TO

12 RIVER CHASE PD (PLANNED DEVELOPMENT)

13
14 The application of *JAMES AND SCARLET WARNER*, hereinafter, "Applicant", for
15 rezoning was heard by and before the City Commission, DeLand Florida, on March 19, May
16 7 and June 04 of 2018. Based upon the verified Application and other supporting
17 documents, maps, charts, overlays, other evidence and instruments; the advice, report, and
18 recommendations of the Community Development, and other Departments and agencies of
19 DeLand, Florida; and the testimony adduced and evidence received at the Public Hearing
20 on this Application by the Planning Board on February 21, 2018, and otherwise being fully
21 advised, the City Commission does hereby find and determine as follows:

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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 *Warner PD (Planned Development)*, to River Chase PD (Planned Development).

B. That the said rezoning to a PD is consistent with both the City of DeLand Comprehensive Plan Ordinance No. 1990-04, as amended, and the intent and purpose of the City of DeLand Land Development Regulations Ordinance No. 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, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA, THIS 04th DAY OF June, A.D., 2018, AS FOLLOWS:

A. That the Application of *JAMES AND SCARLET WARNER* 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 Warner PD to RIVER CHASE PD as described in Article VII of the City of DeLand, Land Development Regulations Ordinance No. 2013-11, as amended.

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2 C. That the Official Zoning Map of the City of DeLand, is hereby amended to
3 show the rezoning of said parcel to RIVER CHASE PD.
4

5 D. That the City of DeLand Land Development Regulations Ordinance No. 2013-
6 11, as amended, is consistent with the provisions of the "Development Agreement" as
7 hereinafter set forth in this Ordinance and with respect to any conflict between Land
8 Development Regulations Ordinance No. 2013-11, as amended, and the "Development
9 Agreement", the provisions of the "Development Agreement" shall govern. Ordinance No.
10 2013-11, as amended, shall govern with respect to any matter not covered by the
11 "Development Agreement." The City of DeLand, will ensure overall compliance with this
12 Ordinance.
13

14 E. Unless otherwise provided for herein the City of DeLand, Land Development
15 Regulations Ordinance No. 2013-11, as amended, shall apply to the PD in the same
16 manner as the *R-1, Single Family Dwelling District*, zoning classification.
17

18 F. Timing and review procedures contained in this Ordinance may be modified to
19 comply with the City of DeLand Land Development Regulations, Ordinance No. 2013-11,
20 as amended. Further, nothing in the Development Agreement is intended to abridge the
21 requirements of Ordinance No. 2013-11, as amended, and any other City Ordinances.
22

DEVELOPMENT AGREEMENT

23

24 A. Development Concept The property shall be developed as a PD



1 substantially in accordance with the Planned Development Plan. The Planned Development
2 Plan shall govern the development of the property as a PD and shall regulate the future
3 land use of this parcel.

4 1. Planned Development Plan The Planned Development Plan shall
5 consist of the Development Plan Map prepared by *Dewberry Engineers, Inc.* and dated
6 May 09, 2018 and this development agreement. The Planned Development Plan is hereby
7 approved and incorporated in this Ordinance by reference as Exhibit "B". The Planned
8 Development Plan shall be filed and retained for public inspection in the Planning
9 Department and it shall constitute a supplement to the Official Zoning Map of the City of
10 DeLand.

11 2. Amendments. All amendments of the Planned Development Plan,
12 other than those deemed by the Planning Department to be minor amendments as set out
13 in Ordinance No. 2013-11, as amended, shall require the review and recommendation of
14 the Planning Board and action by the City Commission in the same manner as a rezoning
15 of the parcel.

16 3. Subdivision Approval. After the Planned Development Plan is
17 recorded, and prior to selling of individual parcels, a preliminary and/or a final plat of the
18 area to be subdivided shall be submitted for review and approval in the manner required by
19 Article 13 of the City of DeLand Land Development Regulations, Ordinance No. 2013-11,
20 as amended.

21
22 B. Unified Ownership. The Applicant or his successors shall maintain unified
23 ownership of the subject parcel until after issuance of the Final Plat.

24

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1 C. Phases of Development. The project may be developed in one or more than
2 one phase, and mass-grading of the site may occur over the entire development area as
3 part of any phase, as depicted on concept plan. Mass-graded areas will be stabilized with
4 vegetative cover.

5
6 D. Land Uses Within the PD. The development of the parcel shall be consistent
7 with the uses within the proposed PD. The location and size of said land use areas are
8 shown on the Development Plan Map, Exhibit "B". The following land use shall be allowed
9 as permitted principal uses and structures along with their customary accessory uses and
10 structures: Single Family Residential.

11
12 E. Development Standards. The design standards for the proposed River Chase
13 PD established herein are based on the current R-1, Single Family Dwelling District zoning
14 designation and the Low Density Residential future land use designation, except where
15 specifically noted otherwise herein.

16 Site

- 17 1. Landscape buffer requirements: as shown on Exhibit "B".
18 (If right-of-way dedications are required by Volusia County, the
19 landscape buffers will be measured from the new right-of-way line.)
20 Existing vegetation within the buffers will be preserved to the extent
21 possible, however changing the grade within the proposed
22 landscape buffer will be permitted, provided that the graded area will
23 be replanted using native or low-water landscape material. Planting
24 of the buffers will be at a minimum according to Table 33-92.02 of

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1 the City of DeLand Land Development Regulations, and may use a
2 combination of saved and planted material to meet this standard.

3 2. Signage requirements shall meet the Land Development
4 Regulations.

5 3. Open Space and/or Common area requirements shall meet the
6 Land Development Regulations. An open space tract, designated on
7 Exhibit "B" as Tract G, shall provide a minimum of 7,500 square feet
8 of open space to be granted to the HOA. The following are permitted
9 but not required uses for Tract G: community garden, picnic area,
10 playground, community fire pit, pavilion, BBQ area, sports court:
11 basketball, volleyball, pickleball, shuffleboard and similar activities.

12 Single Family Residences

- | | | | |
|----|----|---|-----------|
| 13 | 1. | Minimum lot area: | 5,500 sf |
| 14 | 2. | Minimum lot width: | 50 ft. |
| 15 | 3. | Minimum building setbacks: | |
| 16 | | a. Front (front facing garage): | 20 ft. |
| 17 | | b. Front (side facing garage): | 15 ft. |
| 18 | | c. Rear: | 20 ft. |
| 19 | | d. Side: | 5 ft. |
| 20 | | e. Side Street: | 10 ft. |
| 21 | 4. | Minimum living area (heated): | 1,200 ft. |
| 22 | 5. | Maximum lot coverage: | 60% |
| 23 | 6. | Maximum building height: | 35 ft. |
| 24 | 7. | Maximum number of lots: | 83 |
| 25 | 8. | At least twenty (20) lots shall be a minimum sixty (60) feet in width | |
| 26 | | as measured at the building setback line. All remaining lots shall be | |
| 27 | | at least fifty (50) feet in width as measured at the building setback | |
| 28 | | line. It is expressly required herein that all lots located along the | |

1 northern boundary of the project (Lots 42-53 inclusive and Lots 20-
2 24 inclusive, as shown on Exhibit B and referred to herein as the
3 "17 Northern Boundary Lots"), shall be a minimum of sixty (60) feet
4 wide. These 17 Northern Boundary Lots shall be counted towards
5 the cumulative requirement to provide twenty (20) sixty (60) foot
6 wide lots. The balance of the sixty (60) foot wide lots are not
7 restricted in their location. Nothing provided for herein shall prevent
8 a phase from developing with a uniform lot size so long as the final
9 buildout of the project provides at least (20) lots that are at least
10 sixty (60) feet wide.

- 11 9. On-Street Parking. As illustrated on Exhibit "B", on-street parking shall
12 be provided in various locations within the Property. No less than
13 twenty-one (21) on-street parking spaces, with dimensions of 8.5' x
14 22', shall be provided within the property. Said parking shall only be
15 provided in locations where the right of way measures at least 55 feet
16 in width. Additional on-street parking may be provided so long as the
17 dimension standards referred to within this paragraph are met.
18

19 F. Environmental Considerations. The development shall comply with the
20 requirements for preservation of environmental resources as set forth in the Land
21 Development Regulations Ordinance No. 2013-11, as amended. Tree Protection Areas
22 preserving a minimum of 15% of the overall site, excluding any required right-of-way
23 dedication areas, shall be required and maintained as shown on Exhibit B.
24

25 G. Sewage Disposal and Potable Water. Provision for sewage disposal and
26 potable water needs of the PD will be provided in accordance with the Comprehensive
27 Plan, Ordinance N [REDACTED] as amended, the Land Development Regulations Ordinance
28 No. 2013-11, as amended, and State of Florida Administrative Code 64E-6. In addition, the
29 Applicant and Owners shall execute a Westside Interceptor Forcemain Concurrency and

1 Fair Share Agreement. Reclaimed water lines (dry lines) shall be installed within the site
2 per the city's requirements for future connection to the city's reclaimed water system, at
3 such time that reclaimed water is made available to the site.

4
5 H. Stormwater Drainage. Provision for stormwater retention shall be in
6 accordance with the Land Development Regulations Ordinance No. 2013-11, as amended.

7
8 I. Access and Transportation System Improvements. All access and
9 transportation system improvements shall be provided in accordance with the Land
10 Development Regulations Ordinance No. 2013-11, as amended. The parcel shall be
11 developed in substantial accordance with the following access and transportation system
12 improvements:

13 1. Access. Access to the site will be from Hazen Road and North
14 Ridgewood Avenue. The Concept Plan indicates the anticipated connection locations,
15 however the final locations may vary due to final engineering design and permitting
16 considerations.

17 2. Transportation System Improvements. Transportation system
18 improvements will be provided as required by permitting agencies.

19
20 J. Internal Roadways. Road rights-of-way will be a minimum of fifty (50) feet
21 wide, with an additional five (5) feet provided for road sections of where there is dedicated
22 on-street parking. All internal roads will be dedicated to the city.

23
24 K. Building or Property Owners Association. The applicant shall create a

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

6 The property owner's association shall implement architectural review to prevent
7 redundancy of elevations of adjacent homes in the project.

8 With respect to the enforcement of said agreements, covenants, easements
9 or restrictions entered into between the applicant and the owners or occupiers of property
10 within the River Chase PD, the City of DeLand shall only enforce the provisions of the
11 "Development Agreement" and City of DeLand Land Development Regulations Ordinance
12 No. 2013-11, as amended, whichever is applicable, and not the private agreements entered
13 into between the aforementioned parties.

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

19
20 M. Binding Effect of Plans; Recording; and Effective Date. The Planned
21 Development Plan, including any and all amendments shall bind and inure to the benefit of
22 the Applicant and his successor in title or interest. The RIVER CHASE PD zoning,
23 provisions of the "Development Agreement," and all approved plans shall run with the land
24 and shall be administered in a manner consistent with Article 12 of the City of DeLand Land

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1 Development Regulations Ordinance No. 2013-11, as amended.

2
3 This Ordinance and all subsequent amendments shall be filed with the Clerk of the
4 Court and recorded within forty-five (45) days following execution of the document by the
5 City Commission, in the Official Records of Volusia County, Florida. One copy of the
6 document, bearing the book and page number of the Official Record in which the document
7 was recorded, shall be submitted to the Planning Department for placement in the public
8 file. The date of recording of this document shall constitute the effective date of the PD or
9 its subsequent amendments. The applicant shall pay all filing costs for recording
10 documents.

11 DONE and ORDERED by the City Commission, City of DeLand, Florida, this
12 04th day of June, 2018.

13
14 ATTEST:

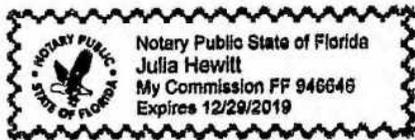
15 Michael P. Pleus
16 Michael P. Pleus
17 City Manager
18

City Commission of DeLand Florida

19 Robert F. Apgar
20 ATTEST: Robert F. Apgar
21 Mayor
22 Julie A. Hennessy
23 Julie A. Hennessy, MMC
24 City Clerk - Auditor 6.4.2018
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19 STATE OF FLORIDA
20 CITY OF DELAND

21 The foregoing instrument was acknowledged before me this 18th day of
22 June 2018, by Michael P. Pleus and Robert F. Apgar, as City
23 Manager and Mayor, City of DeLand, respectively, on behalf of the City of
24 DeLand, and who are personally known to me.



NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:
Julia Hewitt

Commission No.: FF946646

My Commission Expires: 12/29/2019

1 WITNESSES:

2
3 Heather Jones

[Signature]
James Warner

5
6 [Signature]

Scarlet Warner
Scarlet Warner

9
10 The foregoing instrument was acknowledged before me this 14 day of
11 JUNE 2018, by JAMES WARNER AND SCARLET
12 WARNER, who are personally known to me or who have produced
13 _____ as identification.



14
15
16 [Signature]
NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:
REGINA R. EPPLE
Commission No.: GG 061598
My Commission Expires: JAN 10, 2021

22
23

EXHIBIT "A"

LEGAL DESCRIPTION:

PARCEL 1

The Southeast 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida.

PARCEL 2

The Northeast 1/4 of the Southwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, Volusia County, Florida. Being subject to an easement for egress and ingress over the South 12.5 feet of the West 12.5 feet thereof.

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PARCEL 3

The East 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 of Section 7, Township 17 South, Range 30 East, and the North 7/10 of the West 1/2 of the Northwest 1/4 of the Southwest 1/4 of the Southwest 1/4 Section 7, Township 17 South, Range 30 East, Volusia County, Florida.

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