

PD PLANNED DEVELOPMENT AGREEMENT

IN THE CITY COMMISSION OF THE

CITY OF DELAND, FLORIDA

IN RE: Z-19-05, Application of

AJP OF VOLUSIA, LLC

ORDINANCE # 2019-35

ORDER AND RESOLUTION

GRANTING A REQUEST FOR CHANGE OF ZONING FROM ROYAL OAKS PD

(PLANNED DEVELOPMENT) TO

THE RESERVE AT VICTORIA PD (PLANNED DEVELOPMENT)

The application of AJP of Volusia, LLC, a Florida limited liability company, hereinafter, "Applicant", for rezoning was heard by and before the City Commission, DeLand Florida, on November 4, 1019. Based upon the verified Application and other supporting documents, maps, charts, overlays, other evidence and instruments; the advice, report, and recommendations of the Community Development, and other Departments and agencies of DeLand, Florida; and the testimony adduced and evidence received at the Public Hearing on this Application by the Planning Board on *March 20, 2019*, and otherwise being fully advised, the City Commission does hereby find and determine as follows:

GENERAL FINDINGS

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A. That the application of AJP of Volusia, LLC, a Florida limited liability company, was duly and properly filed herein on December 17, 2018 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 Contract Purchaser of a 200.226 +/- 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 of DeLand, Land Development Regulations Ordinance #2013-11, as amended.

F. That the owner of the property, Lake Park Estate, LLC, a Florida limited liability company, agrees with the provisions of the Development Agreement.

FINDINGS REGARDING REZONING

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A. That the Applicant has applied for a change of zoning from the present zoning classification of the parcel described in Exhibit "A" from Royal Oaks PD (Planned Development) to The Reserve at Victoria 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, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA, THIS 4th DAY OF November, A.D., 2019, AS FOLLOWS:

A. That the Application of AJP of Volusia, LLC, a Florida limited liability company, 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 Royal Oak PD to The Reserve at Victoria PD as described in Article VII 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 The Reserve at Victoria 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. Land Development Regulations Ordinance #2013-11, 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 R-1 zoning classification for single-family dwellings and the R-16 zoning classification for two-family, duplexes and townhomes.

F. Further, except as otherwise stated herein, nothing in the Development Agreement is intended to abridge the requirements of Land Development Regulations Ordinance #2013-11, as amended, and any other City Ordinances.

DEVELOPMENT AGREEMENT

1 A. Development Concept. The property was originally part of the Royal Oaks
2 planned development. This Development Agreement has been drafted to sever the
3 property from the Royal Oaks planned development and amend and restate the
4 entitlements for the property with a new planned development agreement known as The
5 Reserve at Victoria PD. The property shall be developed as a PD substantially in
6 accordance with the Planned Development Plan. The Planned Development Plan shall
7 govern the development of the property as a PD and shall regulate the future land use of
8 this parcel.

9 1. Planned Development Plan. The Planned Development Plan shall
10 consist of the Development Plan Map prepared by Newkirk Engineering and dated
11 September 12, 2019 and this Development Agreement. The Planned Development Plan
12 is hereby approved and incorporated in this Ordinance by reference as Exhibit "B". The
13 Planned Development Plan shall be filed and retained for public inspection in the Planning
14 Department and it shall constitute a supplement to the Official Zoning Map of the City of
15 DeLand.

16 2. Amendments. All amendments of the Planned Development Plan,
17 other than those deemed by the Planning Department to be minor amendments as set
18 out in Land Development Regulations Ordinance #2013-11, as amended, shall require
19 the review and recommendation of the Planning Board and action by the City Commission
20 in the same manner as a rezoning of the parcel.

21 3. Subdivision Approval. After the Planned Development Plan is
22 recorded, and prior to any construction, including clearing and landfill, a final plat of the
23 area to be subdivided, whether one phase or multiple phases, shall be submitted for
24 review and approval in the manner required by Article 13 of the City of DeLand Land

1 Development Regulations Ordinance #2013-11, as amended.

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4 B. Unified Ownership. The Applicant or his successors shall maintain unified
5 ownership of the individual phases of the subject parcel until after issuance of the Final
6 Subdivision Plat Development Order for a particular phase.

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8 C. Phases of Development. Development of the Property can be accomplished
9 in multiple phases and the ordering of specific phases are depicted on the Planned
10 Development Plan, with required easements for development and infrastructure servicing
11 the phases, including shared facilities such as stormwater systems and internal
12 driveways, being constructed as required for each phase. Individual phases may be
13 developed and constructed simultaneously and/or in any order, however, Final
14 Subdivision Plat Development Order shall be required for each phase and the restrictions
15 of this Development Agreement shall apply to each phase of development.

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17 D. Land Uses Within the PD. The development of the parcel shall be
18 consistent with the uses prescribed for each area within the proposed The Reserve at
19 Victoria PD. The location and size of said land use areas are shown on the Development
20 Plan Map, Exhibit "B". The following land uses shall be allowed as permitted principal
21 uses and structures along with their customary accessory uses and structures:

22

1. Phase 1, 2 and 3

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a. Single-family dwellings

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b. Other uses and structures of an accessory nature, including a

Exhibit B

clubhouse and/or park, customary to the Permitted Uses
listed above

2. Phase 4

- a. Two-family
- b. Duplexes
- c. Townhomes
- d. Other uses and structures of an accessory nature, including a clubhouse and/or park, customary to the Permitted Uses listed above.

E. Development Standards. All development for the property shall rely upon the standards set forth below for each phase of development as identified on the Planned Development Plan. The maximum number of units permitted for all Phases shall not exceed 3.5 units per acre.

1. Classification Requirements.

a. Phases 1, 2 and 3: Single Family

- 1. Minimum Lot Area: 6,000 sq. ft.
- 2. Minimum Lot Width: 50 ft.
- 3. Minimum Setbacks (Dwelling building)
 - a. Front: 20 ft.
17.5 ft. (Front porch)
 - b. Rear: 20 ft.
 - c. Side: 5 ft.
15 ft. for Corner Lot
 - d. Garage

Exhibit B

- 1 9. Minimum Floor Area: 1,100 sq. ft.
- 2 10. No side yard setback shall be required for those unit
- 3 side yards that shares a common wall with another unit within a building,
- 4 regardless of subdivision.

5 2. Accessory Structures. Unless otherwise stated herein, all accessory

6 structures shall meet the development standards of Section 33-28 of the Land

7 Development Regulations Ordinance #2013-11, as amended.

8 a. Permitted Accessory Uses for Phase 1, 2 and 3

9 1. Setbacks for swimming pools, screened porch and

10 enclosures, hot tubs, cabanas and similar structures.

11 a. Front: n/a

12 b. Side: 5 ft.

13 c. Rear: 5 ft.

14 2. Setbacks for storage sheds

15 a. Front: n/a

16 b. Side: 5 ft.

17 c. Rear: 5 ft.

18 3. Setbacks for fences

19 a. Front: n/a

20 b. Side: 0 ft.

21 c. Rear: 0 ft.

22 d. Maximum Height: 6 ft.

23 Fences are not permitted within the front yard setback.

24 b. Permitted Accessory Uses for Phase 4

Exhibit B

1 1. Setbacks for swimming pools, screened porch and
2 enclosures, hot tubs, cabanas and similar structures

3 a. Front: n/a

4 b. Side: 5 ft.

5 c. Rear: 5 ft.

6 2. Setbacks for storage buildings, utility buildings and
7 greenhouses

8 a. Front: n/a

9 b. Side: 5 ft.

10 c. Rear: 5 ft.

11 3. Setbacks for fences and walls

12 a. Front: n/a

13 b. Side: 0 ft.

14 c. Rear: 0 ft.

15 d. Maximum Height: 6 ft.

16 Fences and walls are not permitted within the front yard
17 setback.

18 3. Fences. Only open rail fencing may be permitted along rear property
19 lines to encourage visibility of water features and open spaces; however, this requirement
20 shall not apply to those lots that share a common rear property boundary with another lot,
21 a conservation area or other areas not otherwise considered open space. The property
22 owners association for the development shall be responsible for enforcing fencing
23 requirements within the development. Fences or walls surrounding the subdivision (ie.
24 subdivision fences and not individual lot fences) shall be located outside of the project

1 perimeter buffer on the side away from the project exterior. For the sake of clarity, on the
2 north, south and east sides of the subdivision shall be at least 40 feet from the project
3 perimeter and on the west side any fence or wall shall be at least 60 feet from the project
4 perimeter. This restriction shall not apply to the 40 foot natural buffer in Phase 4 adjoining
5 Phases 1 and 2. Any such fence or wall may not be higher than six (6) feet.

6 4. Open Space. Open Space and/or Common Area shall meet the
7 requirements of the Land Development Regulations Ordinance #2013-11.

8 5. Entry Features. Development entry features may be up to 16 feet in
9 height as measured vertically from the finished grade at the base of the supporting
10 structure, however, any proposed entry features shall incorporate architectural variations
11 between 8 feet to 16 feet. The design for all entry features shall be substantially similar
12 to the elevations attached as Exhibit "C".

13 6. Parking. Parking shall be provided in accordance with the Land
14 Development Regulations Ordinance #2013-11, as amended. No on-street parking shall
15 be permitted and, notwithstanding that such parking may also be a violation of the City of
16 DeLand Code of Ordinances, the homeowners association for the subdivision shall adopt
17 rules prohibiting on-street parking and shall institute a process within its governing
18 documents to allow the homeowners association to fine residents for on-street parking.

19 A minimum of 50% of single-family lots within Phases 1, 2 and 3 shall have
20 driveways to accommodate four parked cars outside of the garage and such driveways
21 shall contain no less than 725 square feet between the home/garage and the sidewalk.
22 All single-family garages shall be designed with adequate space to park at least two
23 standard size vehicles. The homeowners association for the subdivision shall ensure that
24 individual lot owners seeking building permits shall demonstrate compliance with this

1 paragraph as part of the construction permit submittal for a lot. The homeowners
2 association shall also be responsible to ensure that the number of building permits for
3 driveways that are smaller than 725 square feet in any one phase shall not exceed by
4 more than ten (10) the number of building permits for driveways that are 725 square feet
5 or greater within that same phase. There shall be a minimum of two thousand forty (2040)
6 parking spaces, including spaces within garages, in phases 1, 2 and 3 combined.

7 7. Garages. Individual single-family homes may utilize a side or front
8 garage access design concept to reduce the physical prominence of garages within the
9 development. Garages for single-family homes that face the front yards must setback a
10 minimum of 15 feet from the front façade or porch of the home, as the case may be.
11 Garages for single-family homes must incorporate architectural treatments at the same
12 level of detail and quality as the primary façade.

13 8. Design. The City shall encourage a mixture of design facades within
14 the single-family homes phases of the development, and the Developer shall avoid a
15 repeating sequence of designs and shall not utilize the same design on lots within 3
16 single-family lots of each other on the same side of the street. The property owners
17 association shall ensure that an individual lot owner seeking building permits shall
18 demonstrate compliance with this Section as part of the construction permit submittal for
19 a lot.

20 9. Model Homes and Temporary Sales Offices. The Developer may
21 designate and construct up to 8 lots as Model Homes and 2 lots as Temporary Sales
22 Offices for each phase of development identified on the Planned Development Plan.
23 Construction of a Model Home and/or Temporary Sales Office for a particular phase may
24 commence in conjunction with the construction of infrastructure improvements for said

1 phase, however, a final certificate of occupancy for said Model Home and/or Temporary
2 Sales Office shall not be issued until final plat approval for said phase.

3 10. Compliance. In the event that future development cannot comply
4 with the standards set forth herein, then said entitlements shall be processed through an
5 amendment to this Development Agreement.

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7 F. Environmental Considerations. All landscape buffers noted on the Planned
8 Development Plan as “natural” must contain an amount of visual screening equal to the
9 landscape buffer type noted per Table 33-92.02(b) of the Land Development Regulations
10 Ordinance #2013-11 as amended. If landscape buffers in their natural condition contain
11 insufficient plant material to meet the visual screening standard, appropriate plantings
12 and berming will be utilized. Perimeter landscape buffers shall be in place for all areas in
13 which any clearing, grading or other site work has taken place prior to the first certificate
14 of occupancy being issued in any phase.

15 The Planned Development Plan clusters lots to encourage environmental
16 preservation and sustainable development through substantial perimeter buffers and
17 natural areas, conservation easements and open space. The proposed buffers will add
18 vegetation to existing buffers and screen passive recreational trails on adjoining
19 residential properties. The Planned Development Plan depicts a forty (40) foot perimeter
20 buffer to the north, south and east and a sixty (60) foot perimeter buffer to the west, and
21 natural area tracts to the south, which shall be preserved through conservation
22 easements. Passive parks shall be placed at the corners of the roundabouts depicted on
23 the Planned Development Plan, an example of which is illustrated on the elevations
24 attached as Exhibit “D”. The Planned Development Plan shall meet the minimum

1 environmental standards of the Land Development Regulations Ordinance #2013-11, as
2 amended.

3 The Developer shall incorporate Florida friendly plantings as part of any tree
4 replacement required for development of the Property. A tree survey shall be conducted
5 for the Property based on the following standards:

6 1. The Applicant will survey all specimen and historic trees.

7 2. For non-specimen or non-historic trees, the Applicant will engage an
8 arborist to identify each distinct biome present on the Property. The land area of each
9 distinct biome will be calculated and submitted to the City Arborist for review and approval.
10 The proportionate area of each biome will be calculated as a percentage of the overall
11 property area.

12 3. Upon approval of the identified biomes and land area calculations for
13 each, the Applicant will identify a 1-acre sample area in each biome, subject to the
14 approval of the City Arborist. Upon approval of the sample area, the Applicant will cause
15 all trees in excess of 6 inches DBH to be identified and surveyed in the selected sample
16 area.

17 4. The tree density determined by the survey of the sample area for
18 each biome will be used to determine tree replacement or mitigation requirements. The
19 tree mitigation requirements will be weighted based on the proportionate area
20 represented by each respective biome.

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22 G. Sewage Disposal and Potable and Reclaimed Water. Provision for sewage
23 disposal and potable and reclaimed water needs of the PD will be provided in accordance
24 with the Comprehensive Plan, Ordinance No.1990-04, as amended, the Land

1 Development Regulations Ordinance No. 2013-11, as amended, and State of Florida
2 Administrative Code 64E-6.

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4 H. Stormwater Drainage. Provision for stormwater retention shall be in
5 accordance with the Land Development Regulations Ordinance #2013-11, as amended.

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7 I. Access and Transportation System Improvements. Unless otherwise
8 stated in this Agreement, all access and transportation system improvements shall be
9 provided in accordance with the Land Development Regulations Ordinance #2013-11, as
10 amended. The parcel shall be developed in substantial accordance with the following
11 access and transportation system improvements: A 130-foot right-of-way for the
12 Beresford Avenue Extension shall be provided along the northerly property boundary to
13 connect with County right-of-way to the west, as shown on the Planned Development
14 Plan or as County right-of-way design requires, and shall be dedicated to the City of
15 DeLand at the time of issuance of the first preliminary plat / construction permits for any
16 portion of the subdivision property described in Exhibit "A." The then property owner shall
17 construct that portion of the Beresford Avenue Extension to connect the eastern most
18 development road access for the subdivision along said Extension to the Dr. Martin Luther
19 King Jr. Beltway, together with all associated intersection improvements, stormwater
20 infrastructure and sidewalks for the length of road it is building, prior to the earlier of 1)
21 the issuance of a development order for the third phase of development for the project,
22 or 2) the County completing construction on that portion of the Beresford Avenue
23 Extension westerly of the eastern most development road access for the project to Blue
24 Lake Avenue.. No development orders for any portion of the property described in Exhibit

Exhibit B

1 "A" shall be issued until such time as Applicant enters into a proportionate fair share
2 agreement with Volusia County which provides for Road Impact Fee Credits and which
3 provides that Volusia County will construct that portion of the Beresford Avenue Extension
4 as described above. An interlocal agreement between the County and the City which
5 provides that Volusia County will build its portion of the Beresford Avenue Extension
6 described herein shall satisfy this requirement in lieu of such commitment from the County
7 being in the aforementioned proportionate fair share agreement.

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9 J. Internal Roadways. Internal roadways for the property shall be provided in
10 accordance with the Land Development Regulations Ordinance #2013-11, as amended.
11 Unless otherwise specified herein, all local streets within the property shall be public and
12 dedicated to the City of DeLand as part of Final Subdivision Plat Development Order.
13 Internals roadways for Phase 4 may be private and may include an entrance along the
14 Dr. Martin Luther King Jr. Beltway as along as said roadways and access meet the
15 requirements of Land Development Regulations Ordinance #2013-11. All raised
16 intersections, including the crosswalks for same, depicted on the concept plan shall be
17 maintained by the homeowners association for the development.

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19 K. Building or Property Owners Association. The applicant shall form a
20 homeowners association(s), and property owners association(s) if appropriate, for the
21 property, and the charter and by-laws of said association(s) and any other agreements,
22 covenants, easements or restrictions shall be furnished to the City of DeLand at the time
23 of creation. The applicant shall be responsible for recording said information in the Public
24 Records of Volusia County, Florida. Also, the applicant shall bear and pay all costs for

1 recording all of the aforementioned documents.

2 With respect to the enforcement of said agreements, covenants, easements or
3 restrictions entered into between the applicant and the owners or occupiers of property
4 within The Reserve at Victoria PD, the City of DeLand shall only enforce the provisions
5 of the "Development Agreement" and City of DeLand Land Development Regulations
6 Ordinance #2013-11, as amended, whichever is applicable, and not the private
7 agreements entered into between the aforementioned parties.

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9 L. Reverter Provision: The City Commission may rezone the project in the
10 event a Final Subdivision Plat Development Order is not obtained for the first phase of
11 development on or before 5 years from the effective date of this Development Agreement
12 if necessary or appropriate to protect adjoining properties or the public health, safety and
13 welfare, unless the City Commission, for good cause shown, extends the time period
14 indicated in this paragraph.

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16 M. Binding Effect of Plans; Recording; and Effective Date. The Planned
17 Development Plan, including any and all amendments shall bind and inure to the benefit
18 of the Applicant and his successor in title or interest. The Reserve at Victoria PD zoning,
19 provisions of the "Development Agreement," and all approved plans shall run with the
20 land and shall be administered in a manner consistent with Article 12 of the City of DeLand
21 Land Development Regulations Ordinance #2013-11, as amended.

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23 This Ordinance and all subsequent amendments shall be filed with the Clerk of the
24 Court and recorded within forty-five (45) days following execution of the document by the

Exhibit B

1 City Commission, in the Official Records of Volusia County, Florida. One copy of the
2 document, bearing the book and page number of the Official Record in which the
3 document was recorded, shall be submitted to the Planning Department for placement in
4 the public file. The date of recording of this document shall constitute the effective date
5 of The Reserve at Victoria PD or its subsequent amendments. The applicant shall pay
6 all filing costs for recording documents.

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8 DONE and ORDERED by the City Commission, City of DeLand, Florida,
9 this ____ day of November, 2019.

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ATTEST:

City Commission of DeLand Florida

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Michael Pleus
City Manager

Robert Apgar
Mayor

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STATE OF FLORIDA
CITY OF DELAND

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

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Type or Print Name:

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Commission No.: _____

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My Commission Expires: _____

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Exhibit B

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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 _____, 20__, by _____, as the _____ of _____, 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: _____