

**PD PLANNED DEVELOPMENT AGREEMENT  
IN THE CITY COMMISSION OF THE  
CITY OF DELAND, FLORIDA**

**IN RE: Application of  
J. DANIEL PETERSON, TRUSTEE  
ORDINANCE # 2005-21**

**ORDER AND RESOLUTION  
GRANTING A REQUEST FOR CHANGE OF ZONING FROM R-3 Urban Single Family  
TO  
PLANNED DEVELOPMENT**

The application of *J. Daniel Peterson, Trustee*, hereinafter, "Applicant", for rezoning was heard by and before the City Commission, DeLand Florida, on the 16th day of May, 2005. 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 the ~~20th~~<sup>16th</sup> day of January, 200<sup>5</sup>, and otherwise being fully advised, the City Commission does hereby find and determine as follows:

**GENERAL FINDINGS**

- A. That the application of J. Daniel Peterson, Trustee was duly and properly filed herein on May 22, 2003, 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 3.02 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 #2002-09, as amended.
- E. That the Applicant has complied with the "Due Public Notice" requirements of the

City Commission, Land Development Regulations Ordinance #2002-09, as amended.

F. That the owner of the property, J. Daniel Peterson, Trustee, agrees with the provisions of the Development Agreement.

**FINDINGS REGARDING REZONING**

A. That the Applicant has applied for a change of zoning from the present zoning classification(s) of the parcel described in Exhibit "A" from R-3 Urban Single Family (Volusia County) to 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 #2002-09, 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 16<sup>th</sup> DAY OF MAY, A.D., 2005, AS FOLLOWS:

A. That the Application of J. Daniel Peterson, Trustee 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 R-3 Urban Single Family to PD as described in Article VII of the City of DeLand, Land Development Regulations Ordinance #2002-09, as amended.

C. That the Official Zoning Map of the City of DeLand, is hereby amended to show the rezoning of said parcel to Planned Development.

D. That the City of DeLand Land Development Regulations Ordinance #2002-09, 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 #2002-09, 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 # 2002-09, as amended, shall apply to the PD in the same manner as the C-1 zoning classification.

F. Nothing in this Ordinance shall abridge the requirements of any City of DeLand Ordinance other than Ordinance 2002-09, 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. 2002-09, as amended. Agreement is intended to abridge the requirements of Ordinance No. 2002-09, as amended, and any other City Ordinances.

#### **DEVELOPMENT AGREEMENT**

A. Development Concept. The property shall be developed as a PD substantially in accordance with the Planned Development Plan. The Planned Development Plan shall govern the development of the property as a PD and shall regulate the future land use of this parcel.

1. Planned Development Plan. The Planned Development Plan shall consist of the Preliminary Site Plan prepared by John Stoudenmire Carter, Architect, P.A., and this development agreement. The Planned Development Plan is hereby approved and incorporated in this Ordinance by reference as Exhibit "B". The Planned Development Plan shall be filed and retained for public inspection in the Planning Department and it shall constitute a supplement to the Official Zoning Map of the City of DeLand.

2. Amendments. All amendments of the Planned Development Plan, other than those deemed by the Planning Department to be minor amendments as set out in Ordinance No. 2002-09, as amended, shall require the review and recommendation of the Planning Board and action by the City Commission in the same manner as a rezoning of the parcel.

3. Final Site Plan Approval. After the Planned Development Plan is recorded, and prior to issuance of any permits for construction, including clearing and landfill, a

Final Site Plan shall be prepared and submitted for review and approval in the manner required by Article 12 of the City of DeLand, Land Development Regulations Ordinance #2002-09, as amended.

B. Unified Ownership. The Applicant or his successors shall maintain unified ownership of the subject parcel until after issuance of the Final Site Plan Development Order.

C. Land Uses Within the PD. The development of the parcel shall be consistent with the uses prescribed for each area within the proposed PD. The location and size of said land use areas are shown on the Conceptual Development Plan Map, Exhibit "B". The following land uses shall be allowed as permitted principal uses and structures along with their customary accessory uses and structures: See Attached Exhibit "C".

D. Development Standards. The development standards shall be the same as those as described for the C-1 Zoning Classification, except as set forth on Exhibit "D". The Development Standards set forth on Exhibit "D" shall prevail over those described for the C-1 classification.

E. Sewage Disposal and Potable Water. Provision for sewage disposal and potable water needs of the PD will be provided in accordance with the Comprehensive Plan, Ordinance No. 1990-04, as amended, the Land Development Regulations Ordinance No. 2009-09, as amended, and State of Florida Administrative Code 64E-6. City sewer and water are available to the site.

F. Stormwater Drainage. Provision for stormwater retention shall be in accordance with the Land Development Regulations, Ord. 02-09, as amended.

G. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the Land Development Regulations, Ord. 02-09, as amended. The access to the parcel shall be developed in accordance with Exhibit "B"

H. Internal Roadways. INTENTIONALLY OMITTED.

I. Reverter Provision. The City Commission may rezone any portion of the project which has not secured a final development order on or before 5 years from the effective date of

this ordinance as may be necessary or appropriate to protect adjoining properties or the public health, safety and welfare, unless the City Commission, for good cause shown, shall extend the time period indicated in this paragraph.

J. Binding Effect of Plans; Recording; and Effective Date. The Planned Development Plan, including any and all amendments shall bind and inure to the benefit of the Applicant and his successor in title or interest. The PD zoning, provisions of the "Development Agreement," and all approved plans shall run with the land and shall be administered in a manner consistent with Article 12 of the City of DeLand Land Development Regulations Ordinance # 2002-09, as amended.

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

K. Conceptual Approval. The parties hereto acknowledge that reductions in density and/or intensity may and do occur; and that minor changes to roadway design, location, number, and size of structures, actual location of parking spaces, specific locations for land uses, and locations and design of stormwater storage, landscape buffers and other items may result. Upon determination of the Planning Department, these revisions may be processed as minor amendments as set forth in the City of DeLand Land Development Regulations Ordinance # 2002-09, as amended. The Applicant agrees to revise and record the Revised Preliminary Plan which reflects any such changes with the City Clerk immediately following the expiration of the 30-day period for appealing Development Review Committee (DRC) decisions to the City Commission. The Revised Preliminary Plan shall be submitted to the Planning Department, and referred to in the Ordinance adopting the Planned Development Agreement.

L. The owner shall have the right to immediately clear the access road as shown on the

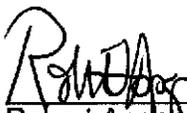
Conceptual Development Plan Map.

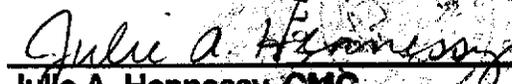
DONE AND ORDERED by the City Commission, City of DeLand, Florida, this 16<sup>th</sup> day of May, 2005.

ATTEST:

City Commission of DeLand, Florida

  
Mike Abels  
City Manager

  
Robert Apgar  
Mayor

  
Julie A. Hennessy, CMC  
City Clerk - Auditor

STATE OF FLORIDA  
CITY OF DELAND

The foregoing instrument was acknowledged before me this 19 day of OCTOBER, 2005, by Mike Abels 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  
Type or Print Name:

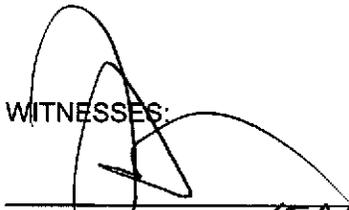
Commission No. \_\_\_\_\_  
My commission expires: \_\_\_\_\_



Suellen Pope

MY COMMISSION # DD275341 EXPIRES  
January 20, 2008  
BONDED THRU TROY FAIN INSURANCE, INC.

WITNESSES:

  
F.A. Alex Ford, Jr.  
  
TERI L. Hansen

  
J. Daniel Peterson, Trustee

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 5<sup>TH</sup> day of Oct., 2005, by J. Daniel Peterson, Trustee, 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: \_\_\_\_\_



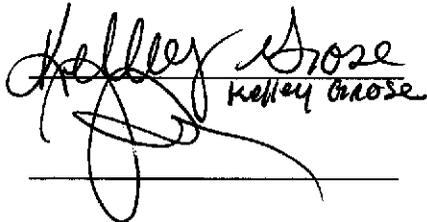
Teri L. Hansen  
Commission # DD315327  
Expires May 3, 2008  
Banded Troy Fain - Insurance, Inc. 800-385-7019

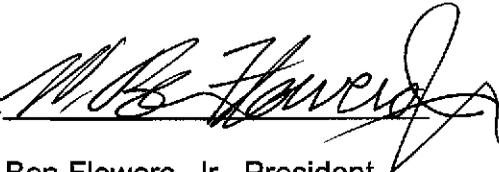
JOINDER

MAINSTREET COMMUNITY BANK OF FLORIDA the new owner of the subject lands, joins in this agreement, and agrees to be bound hereto.

WITNESSES:

MAINSTREET COMMUNITY BANK OF FLORIDA

  
\_\_\_\_\_  
KELLEY GROSE

By:   
\_\_\_\_\_  
W. Ben Flowers, Jr., President

STATE OF FLORIDA  
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of October, 2005, by W. Ben Flowers, Jr., President of Mainstreet Community Bank of Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.



  
\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA  
Type or Print Name:  
Kelley Grose  
Commission No. DD 355298  
My commission expires: 9/25/08

## EXHIBIT "A"

A parcel of land lying in the NE 1/4 of Section 6, Township 17 South, Range 30 East, Volusia County, Florida, being more particularly described as follows: Commencing at the Northeast corner of said Section 6, run thence S 00°42'38" E along the East line of said NE 1/4 a distance of 661.73 feet; run thence N 89°50'53" W a distance of 55.00 feet to the Westerly Right-of-Way of State Road 15-A; run thence S 00°42'38" E along said Right-of-Way a distance of 326.25 feet to the Point of Beginning; continue thence S 00°42'38" E along said Right-of-Way a distance of 350.67 feet; run thence N 89°47'31" W a distance of 375.33 feet; run thence N 00°42'40" W a distance of 350.30 feet; run thence S 89°50'53" E a distance of 375.33 feet to the Point of Beginning. Parcel contains 3.02 Acres more or less. Being subject to an easement for drainage over the Westerly 20.00 feet thereof and being subject to an easement for utilities over the Southerly 40.00 feet thereof. Being subject to any other Easements of Records.



Exhibit C

SCHEDULE OF PERMITTED USES

Abstractors, accountants, bookkeeping, and other business services

Art, antique, china, confectionary, florists, flower, gift, glassware, jewelry, luggage shop, and tobacco shop

Bakeries (retail), pastry, and gourmet shops

Beauty salons and barber shops

Bed and Breakfast inn

Book and stationery stores, newsstands

Clinics, laboratories, medical, and dental offices

Interior decorators

Investment, insurance, and real estate and bank offices

Men's, women's and children's clothing

Mini and neighborhood parks

Offices: general, professional, architectural, engineering, surveying, legal, and other professional services

Photographic supplies, studios, art supplies, and music shops

Public or governmental buildings and land uses (not to exceed 3,000 sq. ft. in the aggregate)

Travel agencies

Other uses approved by the City Commission after review and recommendation by the Planning Board, which are unquestionably similar to those uses permitted herein.

**EXHIBIT "D"**

**ADDITIONAL DEVELOPMENT STANDARDS**

Nothing in this agreement shall be deemed to relieve the developer from complying with gateway, architectural, or any other standards with respect to any issue not specifically addressed herein. Except as provided below, the development standards for the C-1 zoning category shall apply:

- Lighting on the site shall be constructed so as to minimize off-site illumination.
- Maximum building height - 35 feet.
- A six-foot high masonry/stucco wall which is architecturally compatible with the development to the south shall be located and permanently maintained not less than 20 feet north of the south property line of the overall parcel. The said south wall can be located further south than as provided above, as a minor amendment hereto, if the City's Planning staff determines it can be accomplished in a manner that protects the development to the south.. Construction of the south wall shall be completed before a certificate of occupancy will be issued for any permanent building on the property.
- A vegetative buffer which is designed to be opaque to a height of at least six (6) feet within three years of being planted, or a combination of such a vegetative buffer and the general screening requirement as set forth in the land development code, shall be permitted along the west property line in lieu of the general screening requirement between commercial and residential properties as set forth in the land development code.
- No opaque screen shall be required along the north or east property lines.
- The parcel may be developed with up to five principal structures and up to five separate lots, with a maximum floor area of 15,000 square feet, in the aggregate. By way of example, the parcel could be developed with 5 buildings of 3,000 square feet apiece.
- Minimum setbacks:
  - From south line of the parcel - 40 feet.
  - From north line of the parcel - 15 feet.
  - From east line of the parcel - 30 feet.
  - From west line of the parcel - 20 feet.
  - Internal setbacks - 20 feet from adjacent buildings/10 feet from internal lot lines (if any).
- Minimum landscape buffers:
  - Adjoining north and south lines of the parcel - 20 feet.
  - Adjoining east line of the parcel - 30 feet.
- All principal buildings within the overall parcel shall be separated by at least 20 feet.
- No entrance shall be allowed on SR 15-A without approval from the Florida Department of Transportation and the city engineer for the City of DeLand.
- The required minimum number of off-street automobile parking spaces shall be the lesser of the

number of spaces as required under the City's land development code for the type of use or one space per 250 net square feet of floor area.

- The development of the property shall be designed so as to keep dumpsters away from and shielded from the residential area to the south of the property.

**AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM R-3, URBAN SINGLE FAMILY DISTRICT, TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED ON THE ACREAGE WEST OF THE INTERSECTION OF STATE ROAD 15A AND COUNTY ROAD 92; APPROVING A DEVELOPMENT PLAN FOR PETERSON PD, A MIXED COMMERCIAL PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 3.02 ACRES OF PROPERTY; 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. Daniel Peterson, applicant (hereinafter referred to as "Applicant"), owns a 3.02 acre parcel of land located on the acreage west of the intersection of State Road 15A and County Road 92, which is more particularly described in the legal description attached hereto as 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 Volusia County R■, Urban Single Family, to 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 Peterson PD to encompass all of 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 Mixed Commercial land use designation which: encourages intensified development in outlying or newly developed areas for a variety of commercial and office 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 Volusia County R■, Urban Single Family, to 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 Exhibit "A" as Peterson 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 Report, 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 Peterson PD, including the Development Plan Report, Narrative, Maps and other supporting documentation (on file with the City Planning Department), are incorporated herein by reference and shall be amended to include the conditions as set forth in the document entitled "Conditions for the Approval of the Peterson PD," which is 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 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.** Prior to the issuance of a building permit for any nonresidential development, Applicant shall submit an easement document, acceptable to the City of DeLand, permitting additions to shared access, parking, utilities and stormwater.

**Section 10.** 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.

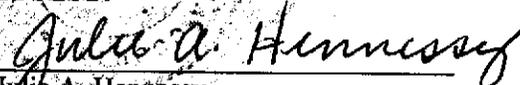
**Section 11.** No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

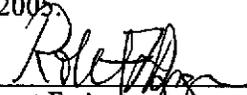
**Section 12.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Section 13.** This Ordinance shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** this 16th day of May, 2005.

**ATTEST:**

  
Julie A. Hennessy  
City Clerk - Auditor

  
Robert F. Apgar  
Mayor - Commissioner

Passed on first reading: February 7, 2005  
Adopted on second reading: May 16, 2005

**APPROVED AS TO FORM AND LEGALITY:**

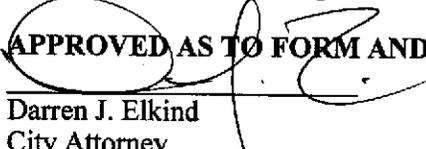
  
Darren J. Elkind  
City Attorney

EXHIBIT "A"

A parcel of land lying in the NE 1/4 of Section 6, Township 17 South, Range 30 East, Volusia County, Florida, being more particularly described as follows: Commencing at the Northeast corner of said Section 6, run thence S 00°42'38" E along the East line of said NE 1/4 a distance of 661.73 feet; run thence N 89°50'53" W a distance of 55.00 feet to the Westerly Right-of-Way of State Road 15-A; run thence S 00°42'38" E along said Right-of-Way a distance of 326.25 feet to the Point of Beginning; continue thence S 00°42'38" E along said Right-of-Way a distance of 350.67 feet; run thence N 89°47'31" W a distance of 375.33 feet; run thence N 00°42'40" W a distance of 350.30 feet; run thence S 89°50'53" E a distance of 375.33 feet to the Point of Beginning. Parcel contains 3.02 Acres more or less. Being subject to an easement for drainage over the Westerly 20.00 feet thereof and being subject to an easement for utilities over the Southerly 40.00 feet thereof. Being subject to any other Easements of Records.