

1 PLANNED DEVELOPMENT AGREEMENT

2 IN THE CITY COMMISSION OF THE

3 CITY OF DELAND, FLORIDA

4 IN RE: Case #Z-18-109, Application of

5 LINCOLN OAKS PLANNED DEVELOPMENT

6 ORDINANCE # 2019-23

7  
8 ORDER AND RESOLUTION

9 GRANTING A REQUEST FOR CHANGE OF ZONING FROM R-3 (Volusia County) and

10 CITY R-3 & M TO PD (PLANNED DEVELOPMENT).

11 The application of VOLUSIA OAKS, LLC, a Florida limited liability company, by and  
12 through its counsel and authorized agent, Cobb Cole, P.A., hereinafter "Applicant", for rezoning was  
13 heard by and before the City Commission, DeLand Florida, on August 19, 2019. Based upon the  
14 verified Application and other supporting documents, maps, charts, overlays, other evidence and  
15 instruments; the advice, report, and recommendations of the Community Development, and other  
16 Departments and agencies of DeLand, Florida; and the testimony adduced, and evidence received at  
17 the Public Hearing on this Application by the Planning Board on January 16, 2019, and otherwise  
18 being fully advised, the City Commission does hereby find and determine as follows:

19 GENERAL FINDINGS

20 A. That the application of VOLUSIA OAKS, LLC was duly and properly filed herein on  
21 November 19, 2018 as required by law.

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

24 C. That the applicant is the CONTRACT PURCHASER of the 78.987+/- acres of

1 contiguous parcels of land which is situated in DeLand, Florida. These parcels of land are described  
2 more particularly in the survey and legal description, a true copy of which is attached hereto as  
3 Exhibit "A".

4 D. That the Applicant has complied with the concept plan provision as required by Land  
5 Development Regulations Ordinance No. 2013-11, as amended.

6 E. That the Applicant has complied with the "Due Public Notice" requirements of the  
7 City Commission, Land Development Regulations Ordinance No. 2013-11, as amended.

8 F. That the owners of the properties, CHARLES WILLARD FISHBURNE, MICHAEL  
9 SCARLETT DOUGHERTY, MARSHALL H. DOUGHERTY AND SHEILA A. SCARLETT agree  
10 with the provisions of the Development Agreement.

11 FINDINGS REGARDING REZONING

12 A. That the Applicant has applied for a change of zoning from the present zoning  
13 classifications of the parcel described in Exhibit "A" from R-3 (Volusia County) and City R-3 & M  
14 to PD (Planned Development).

15 B. That the said rezoning to a PD is consistent with the City of DeLand Comprehensive  
16 Plan Ordinance No. 1990-04, as amended, and the intent and purpose of the City of DeLand Land  
17 Development Regulations Ordinance No. 2013-11, as amended, the DeLand 2050 plan, and does  
18 promote the public health, safety, morals, general welfare and orderly growth of the area affected by  
19 the rezoning request.

20 NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF DELAND,  
21 FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY COMMISSION  
22 CHAMBERS, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA, THIS 19<sup>th</sup> DAY OF  
23 AUGUST, 2019, AS FOLLOWS:

24 A. That the Application of VOLUSIA OAKS, LLC for the rezoning of the subject parcel

1 is hereby granted.

2 B. That the zoning classification of the subject parcel described in Exhibit "A" attached  
3 hereto is hereby amended from R-3 (Volusia County) and City R-3 & M to PD as described in  
4 Article VII of the City of DeLand, Land Development Regulations Ordinance No. 2013-11, as  
5 amended.

6 C. That the Official Zoning Map of the City of DeLand, is hereby amended to show the  
7 rezoning of said parcel to LINCOLN OAKS PD.

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

15 E. Unless otherwise provided for herein the City of DeLand, Land Development  
16 Regulations Ordinance No. 2013-11, as amended, shall apply to the PD in the same manner as the  
17 zoning classifications as set forth herein.

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

24

DEVELOPMENT AGREEMENT

1  
2           A.     Development Concept. The property shall be developed as a Planned Development  
3 (PD) substantially in accordance with the PD Plan. In accordance with the overall purpose and  
4 intent of the DeLand 2050 Plan and the City's Community Health Designation Overlay, the property  
5 will be developed as a mixed-use development with medical and related ancillary uses and single  
6 family residential uses that capitalize on the location of the property in the vicinity of the hospital.  
7 The overall intent of the PD shall be to provide a compact, pedestrian friendly neighborhood with  
8 diverse housing options adjacent to the existing hospital and related medical uses and designed to  
9 encourage the development of a compatible, walkable development that is consistent with the overall  
10 purpose and intent of the City's Community Health Designation Overlay while also providing for  
11 transitions to the existing, rural neighborhoods adjacent to the property to the north and east. The  
12 PD Plan shall govern the development of the property as a PD and shall regulate the future use of  
13 this parcel. Unless otherwise provided herein, all definitions, development standards or dimensional  
14 criteria shall be as set forth in the City of DeLand Land Development Regulations, Ordinance No.  
15 2013-11, as amended.

16                   1.     Planned Development Plan. The Mixed Use Planned Development Plan ("PD  
17 Plan") shall consist of the Development Plan Map prepared by Mitch Collins, PE, Inc. and dated  
18 August 1, 2019 and this Development Agreement. The Development Plan Map is hereby approved  
19 and incorporated herein by reference as Exhibit "B". Neighborhood Mitigation, as defined below,  
20 shall be completed prior to issuance of a certificate of occupancy on any part of the property describe  
21 in Exhibit A and, to the extent applicable, be included as a requirement under the initial subdivision  
22 approval as required in Paragraph H, below.

23                   2.     Amendments. All amendments of the PD Plan, other than those deemed by  
24 the Planning Department to be minor amendments as set out in Ordinance No. 2013-11, as amended,

1 shall require the review and recommendation of the Planning Board and action by the City  
2 Commission in the same manner as a rezoning of the parcel. See Section N for additional detail.

3 3. Subdivision Plan Approval. After the PD Plan is recorded, and prior to any  
4 construction, including clearing and landfill, an application for a preliminary and final plat of the  
5 area to be subdivided shall be submitted for review and approval in the manner required by Article  
6 13 of the City of DeLand Land Development Regulations, Ordinance No. 2013-11, as amended.  
7 Notwithstanding the previous sentence, the development of no more than ten (10) model homes as  
8 well as the infrastructure necessary to support said homes, said infrastructure including but not  
9 limited to roads for access and utilities to service the homes, shall be permitted prior to the  
10 approval/recording of a final plat of the area to be subdivided.

11 4. Final Site Plan Approval. For development activity that requires site plan  
12 review and approval in addition to subdivision, a Final Site Plan shall be prepared and submitted for  
13 review and approval in the manner required by Article 12 of the City of DeLand, Land Development  
14 Regulations Ordinance No. 2013-11, as amended prior to any construction, including clearing and  
15 grading.

16 B. Unified Ownership. The Applicant or his successors shall maintain unified  
17 ownership of the subject parcel until after recording of the Final Plat required by paragraph 3, above.  
18 Nothing herein shall be deemed to prevent the sale or transfer of tracts within any subdivision for  
19 subsequent re-subdivision. All Neighborhood Mitigation shall be included in the initial subdivision  
20 approval as required in paragraph H, below.

21 C. Phases of Development. The project shall consist of multiple phases, generally  
22 depicted on the PD Plan as Parcels 1, 2, and 3 (see Exhibit "B"). The timing of the phases shall be  
23 based on market demand and nothing shall prevent the concurrent development of any combination  
24 of these phases. However, the Neighborhood Mitigation shall be provided in the initial phase of

1 development, as provided in paragraph H, below.

2 **D. Land Uses Within the PD. The development of the property shall be consistent with**  
3 the uses prescribed for each area within the PD. The location **and** size of said land use areas are  
4 **shown on the Development Plan Map, Exhibit "B". The following land uses shall be allowed as**  
5 permitted principal uses and structures along with their customary accessory uses and structures:

6 1. Parcel 1: Standard Single Family Residential Area:  
7

8 Residential Areas, shall be developed with up to 182 single family lots that  
9 have a minimum lot width of 38 feet. The uses permitted on Parcel 1 are:

- 10 a) Detached Single Family Dwellings, not including mobile homes\*
- 11 b) Mini and Neighborhood Parks
- 12 c) Accessory Dwelling Units
- 13 d) Community Gardens
- 14 e) Private Parks
- 15 f) Home Occupations when conducted in accordance with Section 33-
- 16 27.01 of the DeLand Land Development Regulations

17  
18 \* All Single Family Dwellings shall have garages sized to  
19 accommodate two (2) full size vehicles.

20  
21 With respect to any matter not covered by this Development  
22 Agreement, the R-1 zoning provisions and all other applicable  
23 provisions of the Land Development Regulations Ordinance No.  
24 2013-11, as amended, shall apply to development in Parcel 1.  
25

26 2. Parcel 2: Medical and Related Support Uses:  
27

28 a) Primary medical uses including hospitals, outpatient clinics,  
29 continuing/long-term care services, hospice services, laboratories,  
30 medical research facilities, urgent or emergency. medical services,  
31 offices of doctors, physical therapists, dentists and other health care  
32 providers, short-term residential uses dependent upon or directly  
33 related to medical care, convalescent care facilities, assisted living  
34 facilities, skilled nursing facilities, group homes for the disabled and  
35 overnight accommodations, child and adult care services, including  
36 respite care, educational and meeting facilities and staff sleeping  
37 quarters, massage therapy and other health and personal service uses.

38  
39 b) Secondary medical uses that support the facilities described in  
40 paragraph 2(a), above, including medical support facilities and  
41 similar uses, including but not limited to administrative offices, social

1 service providers including counseling centers, fitness and  
2 rehabilitation centers including sports medicine and training facilities,  
3 health care related retail (i.e., pharmacy, medical supplies, medical  
4 apparel and equipment, miscellaneous retail trade including gift  
5 stores, bookstores, newsstands, florist, jewelry, video sales/rentals,  
6 and other retail ancillary to and located within a medical services  
7 facility, cafeterias, food and laundry and services located within,  
8 dependent on and directly related to a medical services facility.

9 With respect to any matter not covered by this Development  
10 Agreement, the C-1 zoning provisions and all other applicable  
11 provisions of the Land Development Regulations Ordinance No.  
12 2013-11, as amended, shall apply to development in Parcel 2.

13 3. Parcel 3: Standard Single Family Residential Area:

14 Residential Areas, shall be developed with up to 84 single family residential lots  
15 that have a minimum lot width of 50 feet, except as otherwise provided herein.  
16 The uses permitted in the single family residential area on Parcel 3 are:

- 17 a) Detached Single Family Dwellings, not including mobile homes\*
- 18 b) Mini and Neighborhood Parks
- 19 c) Accessory Dwelling Units
- 20 d) Community Gardens
- 21 e) Private Parks
- 22 f) Home Occupations when conducted in accordance with Section 33-  
23 27.01 of the DeLand Land Development Regulations

24  
25 \* All Single Family Dwellings shall have garages sized to accommodate two  
26 (2) full size vehicles.

27  
28 With respect to any matter not covered by this Development Agreement, the  
29 R-1 zoning provisions and all other applicable provisions of the Land  
30 Development Regulations Ordinance No. 2013-11, as amended, shall apply  
31 to development in Parcel 3.  
32

33 **E. 1. Development Standards.**

34 a. Parcel 1: Standard Single Family Residential Standards

35 Development standards for single family residential lots on Parcel 1

36 shall be:

- 37
- 38 1. Minimum Lot Area 4,180 sq. feet
- 39 2. Minimum Lot Width 38 feet
- 40 3. Minimum Yard Size

- 1 a. Front Yard Setback 20 feet; 25 feet for  
2 garage face to provide  
3 increased driveway  
4 depth.  
5  
6 b. Rear Yard Setback 15 feet  
7  
8 c. Side Yard Setback 5 feet; 15 feet side  
9 corner  
10  
11 4. Accessory Structure Setback Per LDRs; fences on street side  
12 of corner lots shall be set back a minimum of 5 feet and be no higher  
13 than 4 feet.  
14  
15 5. Minimum Floor Area 1,400 sq. feet, including  
16 garage area.  
17  
18 6. Maximum Lot Coverage 75 percent  
19  
20 7. Maximum Building Height 35 feet  
21  
22 8. Minimum Driveway Width 18 feet  
23  
24 9. Off Street Parking Requirements Per LDRs; Sidewalks shall  
25 remain unobstructed by parked vehicles; Owners shall be required by  
26 the project's covenants and restrictions to maintain parking in each  
27 residential unit's garage for the number of vehicles for which the  
28 garage was designed, which shall, at a minimum, be two (2) full  
29 vehicles. Copies of such recorded covenants and restrictions shall be  
30 provided to the City at the time of final plat approval. On street  
31 parking shall be provided in designated areas only and shall not be  
32 permitted along the new access road connecting existing  
33 neighborhood on Westoak Drive to Orange Avenue. On street or  
34 street adjacent visitor parking shall be provided at a rate of .25 spaces  
35 per residential unit for all lots less than 50 feet in width. Parking  
36 spaces shall include screening as appropriate to prevent headlights  
37 from shining into adjacent homes.  
38  
39 10. Architectural Plan Diversity  
40  
41 a. Homes with identical front architecture shall only be  
42 permitted when they are located where 3 full lots shall  
43 separate identical houses on the same side of the street.  
44  
45  
46 b. A minimum of 1 full lot separation is required between  
47 identical houses located across the street from each other on  
48 the same block.

1 c. All home designs shall include the use of fiber-cement lap  
2 or board and batten siding, contrasting window trim, shutters  
3 or other accent features, natural or cultured stone accents and  
4 other architectural details as appropriate to provide for an  
5 aesthetically pleasing community.  
6

7 11. Signage Per LDRs  
8

9 b. Parcel 2: Medically and Related Support Uses:  
10

11 Development standards for single family residential lots on Parcel 3

12 shall be:

13 1. Minimum Lot Area 10,000 square feet  
14

15 2. Minimum Lot Width 100 feet  
16

17 3. Minimum Yard Size

18 a. Front Yard 30 feet  
19

20 b. Rear Yard 15 feet  
21

22 c. Side Yard 15 feet  
23

24 4. Accessory Structure Setback Per LDR  
25

26 5. Minimum Floor Area N/A  
27

28 6. Maximum Building Coverage 35 percent  
29

30 7. Maximum Building Height 45 feet  
31

32 8. Off Street Parking Requirements Per LDRs, Sidewalks shall  
33 remain unobstructed by  
34 parked vehicles  
35

36 9. Signage Per LDRs  
37

38  
39 d. Parcel 3: Single Family Residential Standards  
40

41 Development standards for single family residential lots on Parcel 3  
42

43 shall be:

44 1. Minimum Lot Area 6,000 sq. feet

1	2. Minimum Lot Width	50 feet; except where a
2		lot is adjacent to an
3		external landscape
4		buffer with a width of
5		30 feet or less, then 60
6		feet. Lots adjacent to
7		the northern boundary
8		of Parcel 3 shall also
9		have a minimum width
10		of 60 feet and shall be
11		limited to 4 total lots
12		as shown on the PD
13		Plan.
14		
15	3. Minimum Yard Size	
16	a. Front Yard Setback	20 feet; 25 feet for
17		garage face to provide
18		increased driveway
19		depth.
20		
21	b. Rear Yard Setback	15 feet (20 feet if on
22		lots adjacent to the
23		northern boundary of
24		Parcel 3
25		
26	c. Side Yard Setback	5 feet; 15 feet side
27		corner
28		
29	4. Accessory Structure Setback	Per LDRs; fences on street side
30		of corner lots shall be set back a minimum of 5 feet and be no higher
31		than 4 feet.
32		
33	5. Minimum Floor Area	1,600 sq feet, including garage
34		area.
35		
36	6. Maximum Lot Coverage	60 percent
37	7. Maximum Building Height	35 feet
38	8. Minimum Driveway Width	18 feet
39	9. Off Street Parking Requirements	Per LDRs; Sidewalks shall
40		remain unobstructed by parked vehicles; Owners shall be required by
41		the project's covenants and restrictions to maintain parking in each
42		residential unit's garage for the number of vehicles for which the
43		garage was designed. Copies of such recorded covenants and
44		restrictions shall be provided to the City at the time of final plat

1 approval. On street parking shall be provided in designated areas  
2 only and shall not be permitted along the new access road connecting  
3 existing neighborhood on Westoak Drive to Orange Avenue. On  
4 street or street adjacent visitor parking shall be provided at a rate of  
5 .25 spaces per residential unit for all lots less than 50 feet in width.  
6 Parking spaces shall include screening as appropriate to prevent  
7 headlights from shining into adjacent homes.  
8

9 10. Architectural Plan Diversity

10 a. Homes with identical front architecture shall only be  
11 permitted when they are located where 3 full lots shall  
12 separate identical houses on the same side of the street.  
13

14 b. A minimum of 1 full lot separation is required between  
15 identical houses located across the street from each other on  
16 the same block.  
17

18 c. All home designs shall include the use of fiber-cement lap  
19 or board and batten siding, contrasting window trim, shutters  
20 or other accent features, natural or cultured stone accents and  
21 other architectural details as appropriate to provide for an  
22 aesthetically pleasing community.  
23

24 11. Signage

Per LDRs

25 **2. Buffering.**  
26

27 Exhibit "B" identifies the location and size of all required perimeter buffers along the  
28 exterior boundary of the project and project entry ways. The density of all landscape buffers  
29 shall be as set forth in Section 33-92 of the City of DeLand Land Development Regulations.  
30 If no specific buffer density is required under Section 33-92, then the minimum density  
31 required for class "B" landscape buffers shall be provided. Exhibit "B" also provides for a  
32 transitional buffer between the residential development and the commercial development.  
33 Clustering of planted materials shall be permitted within the buffers.

34 **F. Environmental Considerations.** The development shall comply with the  
35 requirements for preservation of environmental resources as set forth in the Land Development  
36 Regulations Ordinance No 2013-11, as amended. The development has been laid out in a manner to  
37 best accommodate the existing topography and drainage. However, the actual location and layout of

1 the developed areas within the PD Plan shall be determined during subdivision review. Tree  
2 Protection Areas are identified in Exhibit "B" and must satisfy the requirement to preserve at least  
3 15% of the total area within the Tree Protection Areas. The Tree Protection Areas are located so that  
4 they will not be included within any of the individual residential lots and will therefore remain under  
5 the control and maintenance of the Homeowner or Property Owners Association servicing the  
6 development. Mulched pathways may be permitted in the Tree Protection Areas. In the event that  
7 passive pathways or other limited amenities are provided with the Tree Protection Area with the  
8 approval of City Staff during subdivision, it is understood that said pathways shall not count toward  
9 the total Tree Protection Area calculations. Gaps of sufficient width shall be provided through the  
10 Tree Protection Areas to allow for access between public rights of way and the various stormwater  
11 retention areas in order to service and maintain said areas. Clearance of underbrush within the Tree  
12 Protection Areas shall be permitted as necessary to protect the public health, safety and welfare.

13 **G. Recreational Areas/Open Space.** Recreational Areas and Open Space serving the  
14 residents within Parcel 1 and Parcel 3 are depicted on the Development Plan Map. At final plat, the  
15 Developer may choose to include additional amenities servicing the recreational areas, including  
16 gardens, playgrounds/play areas, paved or mulch walkways, fountains, benches, pavilions, gazebos,  
17 pools and clubhouses. Activity-based facilities, such as basketball/tennis/volleyball courts may also  
18 be permitted.

19 **H. Neighborhood Mitigation Requirements.** The Developer has coordinated with  
20 neighboring property owners that reside in the neighborhoods accessed by Westoak Drive and  
21 Washington Oaks Drive (the "Neighboring Owners") to mitigate the potential impacts associated  
22 with the development of the property described in Exhibit "A" adjacent to their larger lot  
23 subdivisions. The following conditions are set forth herein to memorialize the specifications, terms  
24 and conditions intended to mitigate those potential impacts ("Neighborhood Mitigation"):

1           1.       All buffer areas and tree protection areas shown on the Planned Development Plan  
2 adjacent to the existing residential neighborhoods to the north and east of Parcels 1 and 3 shall be  
3 maintained in their existing, natural condition and not cleared in connection with the development of  
4 the Property except as required to provide compensating storage on the northern portions of Parcel 1,  
5 as identified on the PD Plan. If necessary, supplementary plantings will be added to the buffers to  
6 ensure they meet the minimum standards set forth in Section 33-92 of the Land Development  
7 Regulations for class "B" landscape buffers. No pedestrian trails or walkways will be allowed in  
8 buffer or tree preservation areas within 50 feet of the common boundary with the Neighboring  
9 Owners. A minimum average buffer width of 75 feet and minimum actual width of 72 feet shall be  
10 maintained parallel to the northern boundary of Parcel 3. No more than four (4) lots, each with a  
11 minimum width of sixty (60') feet shall be platted parallel to the northern boundary of Parcel 3 (as  
12 shown in the Development Plan Map).

13           2.       The Developer has agreed to seek the abandonment of North Adelle Avenue and,  
14 whether the abandonment is approved or not, will provide for a new road connection between  
15 Orange Avenue and the existing neighborhood located on Westoak Drive in the location as generally  
16 shown on the PD Plan. Construction of the new road to applicable City standards up to the  
17 connecting point with Westoak Drive shall be a condition precedent to the closure of the existing  
18 North Adelle Avenue right of way. Developer will coordinate with the residents on Westoak Drive  
19 to ensure their existing street addresses remain unchanged. No on-street parking and no designated  
20 areas for common parking will be allowed adjacent to the new access road connecting existing  
21 neighborhood on Westoak Drive to Orange Avenue. A 5-8' area of landscaping, including live oak  
22 street trees planted 35 feet on center, shall be installed adjacent to the new access road. In addition,  
23 a double swing, powder coated aluminum electric gate with twenty (20) feet of total width, as  
24 manufactured by Lift Master, Elite, or equal and equipped with keypad access will be installed at the

1 termination of the public right of way and beginning of Westoak Drive. The residents of the  
2 Westoak Drive neighborhood will be responsible for ongoing maintenance and repair of the  
3 electronic gate after it is installed and inspected.

4 3. The Developer shall install individual or group mailboxes meeting the approval of the  
5 post office in the vicinity of the electronic gate to serve the residents of the Westoak Drive  
6 neighborhood.

7 4. In connection with the installation of electrical utilities to serve the Property, the  
8 Developer will extend underground electrical service to the existing transformer that provides  
9 electrical service to the Westoak Drive residents.

10 5. The Developer, its successors or assigns, at the time Parcel 3 is developed, will install  
11 a minimum 6' vinyl fence along the rear lot lines of all lots shown on the Development Plan Map  
12 along the eastern and northern boundary of Parcel 3 from the northern terminus of Delaware Avenue  
13 (an unopened right of way) to the western end of the last lot along the northern boundary of Parcel 3  
14 to provide additional screening for the Neighboring Owners.

15 **I. Sewage Disposal, Potable Water and Reclaimed Water.** Provision for sewage  
16 disposal and potable water needs of the PD will be provided in accordance with the Comprehensive  
17 Plan, Ordinance No. 1990-04, as amended, the Land Development Regulations Ordinance No. 2013-  
18 11, as amended, and State of Florida Administrative Code 64E-6. Reclaimed water will be provided  
19 in coordination with the City.

20 **J. Stormwater Drainage.** Provision for stormwater retention shall be in accordance  
21 with the Land Development Regulations Ordinance No. 2013-11, as amended. A joint use  
22 stormwater pond in partnership with the County of Volusia is proposed and the design of such pond  
23 will be subject to review and approval by the County of Volusia, in addition to the City of DeLand  
24 and all other applicable agencies.

1           **K.     Access and Transportation System Improvements.** All access and transportation

2 system improvements shall be provided in accordance with the Land Development Regulations,  
3 Ordinance No. 2013-11, as amended. Where appropriate, permitting will be required by Volusia  
4 County and the Florida Department of Transportation ("FDOT"). The parcel shall be developed in  
5 substantial accordance with the following access and transportation system improvements:

6           1.     Planned Access Points.

7           a.     *Orange Avenue* — Two access point for Parcel 1 are proposed to  
8 connect to Orange Avenue, which is a Volusia County facility. A full access connection will align  
9 with Peachwood Drive, west of Orange Avenue and a second will be located north of the Peachwood  
10 Drive connection, as shown on the Development Plan Map, and will connect with the existing,  
11 private Westoak Drive roadway in the initial phase of the project. A full access drive serving Parcel  
12 2 is also proposed on Orange Avenue.

13           b.     *Plymouth Avenue* — Primary access to Parcel 2 and Parcel 3 are  
14 proposed along Plymouth Avenue, as shown on the Development Plan Map.

15           2.     Transportation System Improvements. Transportation System Improvements  
16 will be provided as required by the permitting agencies.

17           3.     On-Street Parking. On-street parking will be provided outside of the travel  
18 lanes. These parking areas will be located in separate tracts outside of the public right-of-way and  
19 will be owned and maintained by the applicable homeowners or property owners associations.  
20 Separate parking will also be provided outside of the right of way for recreational amenity areas and  
21 will be owned and maintained by the applicable homeowners or property owners associations. In  
22 addition to the on-street parking spaces depicted on the Development Plan Map attached hereto as  
23 Exhibit "B", there shall be a total of nine (9) additional parking spaces located proximate to the mail  
24 kiosk area in Parcel 3 and the tree preservation areas in Blocks 1 through 4 in Parcel 1. The

1 applicable homeowners or property owners associations shall, to the extent it is legally able to do so,  
2 provide in its covenants and restrictions prohibitions against on-street parking within the public  
3 right-of-way and a mechanism by which said homeowners or property owners associations can  
4 enforce such restrictions. The applicable homeowners or property owners associations shall have a  
5 continuing obligation to maintain and enforce such restrictions.

6 4. Sidewalks and Trails. Sidewalks and other pedestrian facilities shall be  
7 provided as required by the City Land Development Regulations.  
8

9  
10 5. Street Lighting. Lighting standards for the residential development shall be  
11 established to meet the City's minimum standards for distance between lighting standards and the  
12 amount of light emitted. A detailed street lighting plan will be submitted as part of the platting  
13 process. The street lights servicing the various neighborhoods shall be paid and maintained by the  
14 Homeowner(s) or Property Owners Association servicing the Property or as part of a street lighting  
15 district.

16 6. Transit Service. Access to transit services will be coordinated with  
17 VOTRAN.

18 7. Bicycle Parking. To facilitate the lessening of car-related congestion and to  
19 promote the use of alternative modes of transportation, to provide for general health and fitness and  
20 to promote air quality and reduce pollution, the accommodation of bicycle parking may be permitted  
21 in accordance with City standards.

22 8. Compliance with Neighborhood Mitigation Requirements. The Developer  
23 shall install all improvements specified under paragraph H, above, as a condition of the first phase of  
24 the development of the Property.

25 **L. Internal Roadways.** The final internal roadway network will be determined through  
26 the subdivision process required by paragraph A(3), above. A general layout of the street system

1 connection points are shown on the Development Plan Map, but is subject to revision during the  
2 subdivision approval process to account for topography, drainage, remediation, environmental  
3 resources or other considerations. General standards for construction of the internal road network  
4 shall conform with the requirements of Section 33-90, City of DeLand Land Development  
5 Regulations Ordinance No. 2013-11, as amended.

6 **M. Homeowners Association.** A homeowners or property owners association will be  
7 established to manage and maintain common elements of the proposed PD Plan and to enforce  
8 private agreements, covenants, easements or restrictions established as a part of the proposed  
9 development. A separate property owners association may be created for Parcel 2 given that it is  
10 designed for non-residential use. This includes a duty to maintain internal landscaping within the  
11 rights of way and cul-du-sacs. The structure of said association(s) shall be such that they are of  
12 adequate size and with sufficient funding to pay for the ongoing maintenance of all improvements  
13 which they are obligated to control and maintain. The charter and by-laws of said association and  
14 any such agreements, covenants, easements or restrictions shall be furnished to the City of DeLand  
15 at the time of creation. The applicant shall be responsible for recording said information in the  
16 Public Records of Volusia County, Florida. Also, the applicant shall bear and pay all costs for  
17 recording **all** of the aforementioned documents.

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

23 **N. Modifications and Amendments.** This section was enacted by the City Commission  
24 to provide for modifications and amendments of this PD Plan as follows: Minor modifications to

1 this PD Plan may be approved by the City Staff to accommodate issues that arise during the platting  
2 or site plan process so long as the modification does not add a new use nor increases the density or  
3 intensity permitted by the PD Plan or change any of the provisions of paragraph H, regarding  
4 Neighborhood Mitigation Requirements. This includes allowing the lot layout and design of the  
5 residential neighborhoods to be modified to accommodate grade and soil issues. Any proposed  
6 increase to the allowable density, intensity or uses authorized by this PD Plan, revisions to the  
7 Neighborhood Mitigation Requirements set forth in paragraph H, or other amendments which the  
8 City's Planning Director determines to be a major amendment shall require a major amendment to  
9 the PD Plan, which shall be processed by the City in the same manner as this initial rezoning.

10  
11 **O. Reverter Provision.** The City Commission may rezone any portion of the project  
12 which has not secured a final development order on or before 5 years from the effective date of this  
13 ordinance as may be necessary or appropriate to protect adjoining properties or the public health,  
14 safety and welfare, unless the City Commission, for good cause shown, shall extend the time period  
15 indicated in this paragraph.

16 **P. Binding Effect of Plans; Recording; and Effective Date.** The PD Plan, including  
17 any and all amendments shall bind and inure to the benefit of the Applicant and his successor in title  
18 or interest. The PD zoning, provisions of the "Development Agreement," and all approved plans  
19 shall run with the land and shall be administered in a manner consistent with Article 12 of the City of  
20 DeLand Land Development Regulations Ordinance No. 2013-11, as amended.

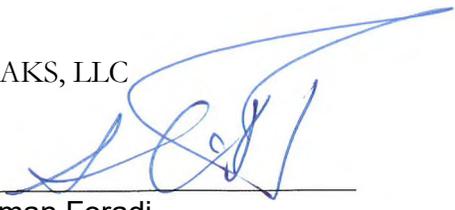
21 This Ordinance and all subsequent amendments shall be filed with the Clerk of the Court and  
22 recorded within forty-five (45) days following execution of the document by the City Commission,  
23 in the Official Records of Volusia County, Florida. One copy of the document, bearing the book and  
24 page number of the Official Record in which the document was recorded, shall be submitted to the

1 Planning Department for placement in the public file. The date of recording of this document shall  
2 constitute the effective date of the PD or its subsequent amendments. The applicant shall pay all  
3 filing costs for recording documents.

4



1 WITNESSES:  
2  
3 \_\_\_\_\_  
4 Name  
5 Mehrafrouz Foradi  
6 Print Name  
7  
8 a. (7tr, 17A4  
9 e  
10 puda  
11 Print Name

VOLUSIA OAKS, LLC  
By:   
Name: Shaman Foradi  
Its: Manager

12  
13 STATE OF FLORIDA  
14 COUNTY OF VOLUSIA

15  
16 The foregoing instrument was acknowledged before me this 27 day of November, 2019  
17 by Shaman Foradi as Manager of VOLUSIA OAKS, LLC, who is  
18 personally known to me or who has produced \_\_\_\_\_ as identification.

20  
21 e %: KAITLYN DUDA  
22 MY COMMISSION # GG42429  
23 EXPIRES: October 26, 2020

NOTARY PUBLIC, STATE OF FLORIDA  
  
The or Print Name:  
Commission No.: C9 Ser 212'  
My Commission Expires: 0/2(a/20

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

**PARCEL A:**

The WEST 'A OF THE SOUTHEAST 1/4, EXCEPT THAT PORTION THEREOF LYING WEST OF NORTH ORANGE AVENUE AS PRESENTLY LAID OUT, AND EXCEPT THE NORTH 5 CHAINS OF THE WEST 9 CHAINS, OF SECTION 5, TOWNSHIP 17 SOUTH, RANGE 30 EAST VOLUSIA COUNTY, FLORIDA.

ACREAGE: 48.256 +/-

TOGETHER WITH

**PARCEL B:**

THE SOUTH % OF THE WEST 10.25 CHAINS OF THE EAST 'A OF THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA. BEING DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA; THENCE N 01°31'37" W, ALONG THE WEST LINE OF SAID EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 5, A DISTANCE OF 1980.13 FEET TO THE NORTH LINE OF THE SOUTH % OF THE WEST 10.25 CHAINS OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 5; THENCE N 89°19'53" E, ALONG SAID NORTH LINE, 676.58 FEET TO THE EAST LINE OF THE WEST 10.25 CHAINS OF THE EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 5; THENCE S 01°31'37" E, ALONG SAID EAST LINE, 1977.36 FEET TO A POINT ON THE SOUTH LINE OF SAID EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 5, THENCE S 89°05'50" W, ALONG SAID SOUTH LINE, 676.54 FEET TO THE POINT OF BEGINNING.

CONTAINING 30.731 ACRES, MORE OR LESS.

