

PLANNED DEVELOPMENT REGULATORY AGREEMENT FOR PEGGY ROAD PLANNED DEVELOPMENT (PD-R) PROJECT

THIS PLANNED DEVELOPMENT REGULATORY AGREEMENT ("PD Agreement") is made as of _____, 2022 by and between the **CITY OF ALACHUA, FLORIDA** ("City"), a political subdivision of the State of Florida, and **WILLIAM AND MARGARET KIRKLAND**, their successors or assigns ("Owner/Developer"). The City and the Owner/Developer may jointly be referred to as the "Parties."

RECITALS

WHEREAS, the Owner/Developer desires to obtain approval for a **Planned Development ("PD")** in the City known as **Peggy Road Planned Development ("PD-R" or "Project")**, which is proposed to consist of ±51.7 acres;

WHEREAS, the Owner/Developer wishes to improve the land comprising the PD-R, the legal description for which is described hereto in Exhibit "A," which is incorporated herein by reference ("Property");

WHEREAS, as part of the approval process for the PD-R, required by the City of Alachua Land Development Regulation Section 2.4.3, an application to rezone the Property from Agricultural ("A") and Agricultural ("A")(Alachua County) to Planned Development – Residential ("PD-R") has been filed with the City;

WHEREAS, the Planning & Zoning Board, serving as the Local Planning Agency ("LPA"), recommended approval of the proposed rezoning from Agricultural ("A") to Planned Development – Residential ("PD-R") at a quasi-judicial public hearing held on July 12, 2022;

WHEREAS, the City Commission held the first of two required quasi-judicial public hearings on July 25, 2022, to consider the proposed rezoning of the Property pursuant to Ordinance Number 22-XX;

WHEREAS, the City and the Owner/Developer desire to proceed to the second and final reading on the proposed rezoning of the Property pursuant to Ordinance Number 22-XX;

WHEREAS, concurrent with the second and final reading of the proposed rezoning for the Property, a PD Agreement and a PD Master Plan are required to be approved;

NOW, THEREFORE, in consideration of the foregoing premises, the Parties hereby agree as follows:

1. The above RECITALS are true and correct and incorporated as material portions of this PD Agreement by reference.
2. The Owner/Developer shall plan and construct, at the Owner/Developer's sole expense, the Project according to the specifications set forth in the City's LDRs; Ordinance Number 22-XX, which is attached hereto as Exhibit "B" and agreed to by the Owner/Developer; and the PD Master Plan documents, which are attached hereto as Exhibit "C."
3. A **Final PD Plan** for the Project (known as a **Preliminary Plat** for single-family detached or attached residential development) must be submitted to the City within one (1) year from the City Commission's approval of this PD Agreement, Ordinance Number 22-XX, and the PD Master Plan, for any part or section of the plan for development shown in the PD Master Plan. If a **Final PD Plan** for the Project is not submitted within the required one (1) year period, it shall result in the expiration of the PD-R zone district classification of the Project. If the PD-R zoning expires, the City shall have the right, but not the obligation, in the City's sole discretion, to conduct any hearings necessary to rezone the lands included within the Project to the previous zoning districts of Agricultural ("A").
4. The Owner/Developer shall construct the Project in accordance with its approved PD Master Plan. Deviations from the PD Master Plan that constitute substantial changes as described in Section 2.4.3 of the City's LDRs must be approved in advance by the City Commission.
5. The approval and execution of this PD Agreement does not guarantee the approval of any development permits, including but not limited to a Preliminary Plat, Construction Plans, Final Plat, or a Site Plan for the Project, or for any part or section thereof, for the Owner/Developer or its successors or assigns.

6. Nothing contained in this PD Agreement shall relieve the Owner/Developer, or its successors, assigns, or anyone acting on the Owner/Developer's behalf, from obtaining all local, regional, state, or federal permits or complying with any applicable ordinance, law, rule, or regulation necessary for the development of the Project. In the event that the Owner/Developer, and its contractors, subcontractors, or anyone for whose acts the Owner/Developer or its contractors or subcontractors may be liable or responsible, fails to comply with any applicable ordinance, law, rule, or regulation and such failure tends to or does pose an imminent threat or danger to life or of great bodily injury to any person, the City, through its City Manager or designee, shall have the right to stop work until appropriate corrective measures are taken, in addition to any other remedies available to the City.
7. The Owner/Developer, or its successors and/or assigns, shall indemnify and hold harmless the City, and its officers, agents, employees, or anyone acting directly or indirectly on behalf of the City, from and against all claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of or resulting from a loss in the performance of work, down time of equipment, or any claim that may arise from bodily injury, sickness, disease or death, or the injury to or destruction of tangible property, including the loss of use resulting therefrom, caused in whole or in part by a negligent or wrongful act or omission on the part of the Owner/Developer, or its successors and/or assigns, and its contractor, subcontractors, or anyone directly or indirectly employed or working on behalf of the Owner/Developer for whose acts the Owner/Developer, or its contractors or subcontractors, may be liable or responsible. The Owner/Developer, or its successors and/or assigns, further agrees that the Owner/Developer, or its successors and/or assigns, shall not insulate itself from liability or responsibility to the City for a default in or failure to perform any of the terms of this PD Agreement, or from responsibility under the indemnification clause contained herein by employment of independent contractors or subcontractors or other entities. The Owner/Developer, or its successors and/or assigns, shall remain liable to the City notwithstanding any attempt by the Owner/Developer, or its successors and/or assigns, to pass any responsibility stated herein to its contractor, subcontractor, or other agent or employee at all times during the existence of this PD Agreement.
8. This PD Agreement shall be recorded in the Public Records of Alachua County, Florida and its terms shall run with the land set forth on attached Exhibit "A", the PD, or the Project. The Owner/Developer shall pay all costs for the recording of this PD Agreement, the PD Master Plan, and Ordinance Number 22-XX.
9. The City may, in its sole discretion, withhold any and all inspections, permits, certificates, or approvals for the Project if such action is deemed necessary by

the City to secure the Owner/Developer's compliance with the terms of this PD Agreement, including all documents attached hereto or referenced herein.

10. Except as otherwise provided in this PD Agreement, any notice, request, or approval from either party to the other party must be in writing and sent by certified mail, return receipt requested; overnight delivery with proof of delivery; or by personal delivery. Such notice shall be deemed to have been received when either deposited in the United States Postal Service mailbox, delivered by the United States Postal Service, delivered to the courier, or personally delivered with a signed proof of delivery. For purposes of notice, the Parties and their respective representatives and addresses are:

City:

City of Alachua
ATTN: Department of Planning & Community Development
P.O. Box 9
Alachua, Florida 32616

Owner/Developers:

William and Margaret Kirkland
PO BOX 1360
Alachua, FL 32616

11. This PD Agreement shall be binding on the Owner/Developer and its successors, assigns and anyone acting on behalf of the Owner/Developer or its successors or assigns. The Parties each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this PD Agreement.
12. If any section, sentence, clause, phrase, or provision of this PD Agreement is for any reason held or declared to be unconstitutional, void, or inoperative by any court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this PD Agreement, and the remainder of the PD Agreement after the exclusions of such part or parts shall be deemed to be valid.
13. The failure of any of the Parties to exercise any right in this PD Agreement shall not constitute a waiver of such right in the event of any future default or noncompliance with it.
14. This PD Agreement is entered into by the City pursuant to the City's home rule powers, including police powers, as set forth in the Florida Constitution and the laws of the State of Florida to regulate the development of land. The City

and the Owner/Developer expressly acknowledge and agree that this PD Agreement constitutes a regulatory document, and nothing herein, expressed or implied, is intended or shall be construed as establishing a contract upon which a cause of action for breach, monetary damages, or otherwise may be based. Further, no term or condition of this PD Agreement shall be construed as to proscribe, limit, or affect the ability of the City to enforce its Comprehensive Plan, its Land Development Regulations, or any other authority granted by law with respect to The Project, and nothing herein, expressed or implied, contracts away any of the City's police powers, regulatory authority, and/or immunities.

15. The Parties may amend this PD Agreement only by mutual written agreement of the Parties and including the City Commission.
16. This PD Agreement shall not be construed more strictly against one party than against the other party merely by virtue of the fact that it may have been prepared by one of the Parties. It is recognized that all Parties have contributed to the preparation of this PD Agreement and have had the opportunity to consult with legal counsel before signing it.
17. The Owner/Developer agrees that the terms and requirements of this PD Agreement, PD Master Plan, and Ordinance Number 22-XX do not inordinately burden the Property described in Exhibit "A", the PD, or the Project.
18. This PD Agreement constitutes the entire agreement of the Parties and supersedes all prior written or oral agreements, understandings, or representations.
19. In the event of any question or dispute arising out of or related to this PD Agreement or action to interpret this PD Agreement, the Owner/Developer shall exhaust any and all administrative remedies under the City's Land Development Regulations. Thereafter, Owner/Developer's remedies in filing a lawsuit shall be limited solely to an action for declaratory judgment. In no event shall Owner/Developer have any cause of action for monetary damages against the City for any question or dispute arising out of or related to this PD Agreement or any action to interpret this PD Agreement, and nothing herein, expressed or implied, waives or should be construed as a waiver or attempted waiver by the City of its sovereign immunity under the Florida Constitution and the laws of the State of Florida.
20. This PD Agreement is governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this PD Agreement shall be in the Circuit Court of Alachua County, Florida.

IN WITNESS WHEREOF, the Parties have hereunto set their hands and seals the day and year first above written.

Witnesses:

OWNER/DEVELOPER:

William Kirkland

By:_____

(NAME)

State of Florida
County of Alachua

The foregoing instrument was acknowledged before me this ____ day of _____
20__, by _____, who is personally known to me or who has produced
_____ as identification, and who took an oath.

(SEAL)

Notary Public, State of Florida at large
Commission No.:
Commission Expiration:

SIGNATURES CONTINUE ON NEXT PAGE

Attest:

CITY OF ALACHUA

Mike DaRoza
City Manager/Clerk

By:_____
Gib Coerper, Mayor

Approved as to Form:

Marian B. Rush, City Attorney

State of Florida
County of Alachua

The foregoing instrument was acknowledged before me this ____ day of _____
20__, by _____, who is personally known to me or who has produced
_____ as identification, and who took an oath.

(SEAL)

Notary Public, State of Florida at large
Commission No.:
Commission Expiration:

EXHIBIT "A"

Tax Parcel Numbers 03924-000-000, 03865-000-000 and 03917-200-002

LEGAL DESCRIPTION:

Legal Description

Commence at a point South of the Seaboard Air Line Railroad in Lot One (1) of Section Twenty-two (22) Township Eight (8) South Range Eighteen (18) East, where the East line of the William Garvin Grant intersects the Right-of-way, run Southwest along the Grant line to where Subdivision line intersects the Right-of-way of the Atlantic Coast Line Railroad, thence Northeast along the Right-of-way 1109 feet; thence North 1074 feet to beginning. Lying and being in Section Twenty-two (22), Township Eight (8) South, Range Eighteen (18) East; and containing 9 acres, more or less.

Also, all that part of Lots Ten (10) and Eleven (11) South of the Seaboard Air Line Railroad in the William Garvin Grant, containing 40 acres, more or less. According to the plat of J.C. Sheffield's Subdivision of the South 600 acres of the said Garvin Grant, as recorded in Plat Book "A", Page 60 of the Public Records of Alachua County, Florida.

Also, Lots One (1) and Two (2) of Block Two (2); and Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6) and Seven (7) of Block Three (3) of Alachua Realty Company's Subdivision of a part of Lot One (1) of Section Twenty-two (22) Township Eight (8) South, Range Eighteen (18) East, according to a survey made by A.W. Taylor and recorded in Plat Book "A" page 106 of the public Records of Alachua County, Florida.

Together with:

A parcel of land lying in Section 22, Township 8 South, Range 18 East, Alachua County, Florida, being that portion of the lands described in Official Records Book 1895, page 2500 of the Public Records of said Alachua County, Florida, lying West of the northerly extension of the West line of a 40 foot wide platted right-of-way as shown on the plat of "Alachua Realty Company Subdivision" as per plat thereof recorded in Plat Book "A", Page 106 of said Public Records, Less an portion lying within the Maintained Right of Way of County Road No. 2054 (Peggy Road) and being more particularly describes as follows:

Commence at a 5/8" rebar and cap (LB 2903) at the northwest corner of Lot 1, Block 2 of said "Alachua Realty Company Subdivision" and the southwest corner of said lands described in Official Records Book 1895, page 2500 for the Point of Beginning; thence run North 02°08'31" West, along the West line of said lands, a distance of 83.27 feet to a 5/8" rebar (no identification) on the southerly Maintained Right of Way Line of said Peggy Road; thence run North 59°29'24" East, along said southerly Maintained Right of Way Line, a distance of 234.80 feet to a 5/8" rebar and cap (PSM 6602) at the intersection with said northerly extension of the West line of a platted 40 foot Right of Way as shown on said "Alachua Realty Company Subdivision"; thence run South 02°08'31" East, along said northerly extension, a distance of 78.43 feet to a 3/4" iron pipe (no identification) at the northeast corner of said Lot 1, Block 2, lying on the South line of the former CSX Transportation, Inc.'s Operating Property, and on the South line of said lands described in Official Records Book 1895, page 2500; thence run South 58°27'44" West, along the North line of said Lot 1, Block 2, and the South lines of said former CSX Property and said lands, a distance of 237.13 feet to the Point of Beginning.

Together with:

A portion of a 40' Road Right-of-Way as shown on the plat of "Alachua Realty Co Subdivision of a Part of Lot 1 of Sec' 22, Tp 8 S, R 18 E", recorded in Plat Book "A", page 106 of the Public Records of Alachua County, Florida; being more particularly described as follows:

Begin at the northeast corner of Lot 1, Block 3 of "Alachua Realty Co Subdivision of a Part of Lot 1 of Sec' 22, Tp 8 S, R 18 E", recorded in Plat Book "A", page 106 of the Public Records of Alachua County, Florida and run thence West, along the north line of Lots 1 and 2 of said Block 3 and along the south Right-of-Way line of a 40 foot wide road Right-of-Way, 415 feet to the northwest corner of said Lot 2 of Block 3; thence North, 40 feet to the southwest corner of Lot 2 of Block 2 of said "Alachua Realty Co Subdivision of a Part of Lot 1 of Sec' 22, Tp 8 S, R 18 E"; thence East, along the south line of Lots 2 and 1 of said Block 2 and along the north Right-of-Way line of said 40 foot wide road Right-of-Way, 415 feet to the southeast corner of said Lot 1 of Block 2; thence South, 40 feet to the Point of Beginning.

PLANNED DEVELOPMENT AGREEMENT
FOR PEGGY ROAD PLANNED DEVELOPMENT PD-R PROJECT

EXHIBIT “B”

[EXECUTED/SIGNED ORDINANCE 22-XX]

EXHIBIT “C”

PD MASTER PLAN TO BE INSERTED