

ORDINANCE NO. 04-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, APPROVING A MAJOR AMENDMENT TO THE RIVERSIDE AT DEBARY RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ADOPTED BY ORDINANCE NO. 05-98 TO ANNEX INTO SUCH RPUD AND CHANGE THE ZONING CLASSIFICATION OF APPROXIMATELY 66.308 +/- ACRES OF LAND LOCATED ADJACENT TO AND ON THE EASTSIDE OF FORT FLORIDA ROAD IN THE CITY OF DEBARY FROM R-1 (URBAN SINGLE-FAMILY RESIDENTIAL) ZONING CLASSIFICATION TO RIVERSIDE AT DEBARY RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) ZONING CLASSIFICATION; PROVIDING FOR ADOPTION OF AN AMENDED MASTER DEVELOPMENT PLAN; PROVIDING FOR A DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, Traderscove Corporation (“applicant”), as applicant and fee simple owner, submitted a rezoning application to the City requesting the adoption of this Ordinance pertaining to that certain real property (the “Property”) being approximately 66.308 acres in size and legally described to wit:

Lot(s) 1 through 14, inclusive, of Block 35 and Lot 1 through 32, inclusive, of Block 36 and that portion of Thirteenth Avenue lying Southerly of Sixth Street, all as shown on the plat of ST. JOHNS RIVER ESTATES - UNIT TWO, as recorded in Map Book 27, Page 201, Public Records of Volusia County, Florida; together with Lots 29 through 31, inclusive, of Block 35 and Lots 33 through 38, inclusive, of Block 36 and Lots 1 through 42, inclusive, of Block 43 and Lots 1 through 21, inclusive, of Block 44 and that portion of Thirteenth Avenue lying Northerly of Fifteenth Street and that portion of Tenth Street lying Easterly of Fourteenth Avenue, all as shown on the plat of ST. JOHNS RIVER ESTATES - UNIT THREE, as recorded in Map Book 27, Page 22, of the Public Records of Volusia County, Florida.

TOGETHER WITH:

LOTS 6 AND 7, BLOCK 29 AND LOT 7, BLOCK 30 AND THE RIGHTS-OF-WAY OF SIXTH STREET AND THIRTEENTH AVENUE LYING ADJACENT TO SAID LOTS ALL LYING WITH THE PLAT OF ST. JOHNS RIVER ESTATES - UNIT TWO AS RECORDED MAP BOOK 27, PAGE 201, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA AND CONTAINING

; and

WHEREAS, the applicant is requesting that the Property be annexed (added) into the Riverside at DeBary Residential Planned Unit Development (RPUD) adopted by City of DeBary Ordinance No. 05-98 and to rezone the Property from R-1 (Urban Single-Family Residential) zoning classification to Riverside at DeBary Residential Planned Unit Development (RPUD) zoning classification; and

WHEREAS, the Property has a Comprehensive Plan Future Land Use Map designation of Residential/Low Density; and

WHEREAS, the applicant has represented it is in agreement with the provisions of the Development Agreement attached to this Ordinance and intends to execute the same and have join in and consented to by its mortgagee for the Property; and

WHEREAS, this Ordinance has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

WHEREAS, the City Council acting in its capacity as the City of DeBary Local Planning Agency and Governing Body has conducted the necessary public hearings on this Ordinance; and

WHEREAS, based upon competent, substantial evidence presented in the record, this Ordinance meets the requirements for rezoning pursuant to Section 1-6, City of DeBary Land Development Code and Comprehensive Plan Policy 5.505 and is consistent with the City of DeBary Comprehensive Plan.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that the above recitals are true and correct.

SECTION 2. Rezoning. The application of Traderscove Corporation, for a major amendment to the Riverside at DeBary Residential Planned Unit Development (RPUD) and rezoning of the Property is granted subject to the terms and conditions forth herein. The City of DeBary official zoning map is hereby amended from R-1 (Urban Single-Family Residential) zoning classification to Riverside at DeBary Residential Planned Unit Development (RPUD) zoning classification for the Property. The RPUD approved by this Ordinance shall be referred to as the “Riverside at DeBary RPUD – Riviera Bella East Annex.” The development of the Property shall be governed by the Development Agreement and Master Development Plan attached hereto as **Attachment “A”** and is incorporated herein by this reference, and the same are hereby approved. With respect to any conflict between the City of DeBary Land Development Code, as amended, and the Development Agreement, the provisions of the Development Agreement shall control to the extent of the conflict. The City of DeBary Land Development Code, as amended, shall govern the development of the Property with respect to any matter not addressed by this Ordinance or the Development Agreement. Except for the Property, the other property included within the Riverside at DeBary RPUD shall be continue to be governed by Ordinance No. 05-98 and the development agreement recorded in Official Records Book 4332, Pages 4388, et. seq., Public Records of Volusia County, Florida, except to the extent expressly stated otherwise in the Development Agreement and Master Development Plan attached hereto as Attachment “A”. The City of DeBary Zoning Enforcement Official will ensure overall compliance with this Ordinance and the attached Development Agreement and Master Development Plan. A violation of this Ordinance or any provision of the attached Development Agreement and Master Development Plan is considered a violation of the Land Development Code and zoning of the Property.

SECTION 3. Recording. The City Clerk is hereby directed to record this Ordinance and the attached Development Agreement and Master Development Plan in the Public Records of Volusia County, Florida. This Ordinance and attached Development Agreement and Master Development Plan affecting the Property shall run with the land and shall be applicable to and binding on the applicant and any and all successors and assigns in interest.

SECTION 4. Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance shall control to the extent such conflict exists.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

First reading and public hearing occurred on _____, 2016.

Second reading and public hearing, and adoption occurred on _____, 2016.

ADOPTED BY the City Council of the City of DeBary, Florida this ___ day of _____, 2016.

CITY COUNCIL
CITY OF DEBARY, FLORIDA

By: _____
Clint Johnson, Mayor

ATTEST:

By: _____
Dan Parrott, City Clerk

ATTACHMENT: Attachment "A" – Development Agreement and Master Development Plan