

ORDINANCE NO. 12-16

AN ORDINANCE OF THE CITY OF DEBARY, FLORIDA, AMENDING ORDINANCE NO. 11-03 AS FURTHER AMENDED BY RESOLUTION NO. 04-12 AND ORDINANCE NO. 25-06, APPROVING A MAJOR AMENDMENT TO THE CROSSINGS ON ENTERPRISE BUSINESS PLANNED UNIT DEVELOPMENT FOR THE REAL PROPERTY HAVING VOLUSIA COUNTY PROPERTY TAX IDENTIFICATION NUMBER 23-18-30-00-00-0100; AMENDING AND RESTATING THE DEVELOPMENT AGREEMENT, ADDING THE ADDITIONAL PERMITTED USE OF ASSISTED LIVING FACILITY AND AMENDING THE MASTER DEVELOPMENT PLAN; PROVIDING FOR SEVERABILITY, AN EFFECTIVE DATE AND RECORDING.

WHEREAS, DHANVANTARI, LLC, (herein "Applicant"), is the fee simple owner of that certain parcel of land consisting of approximately 4.6 +/- acres located in DeBary, Volusia County, Florida having a Volusia County Tax Parcel Identification Number 23-18-30-00-00-0100 and is more particularly legally described to wit:

THE SOUTH ¼ OF THE EAST ½ OF THE SOUTHEAST ¼ OF THE SOUTHWEST ¼ OF SECTION 23, TOWNSHIP 18 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE EAST 50 FEET THEREOF.

(herein the "Property"); and

WHEREAS, the City of DeBary City Council previously rezoned the Property to The Crossings on Enterprise BPUD pursuant to Ordinance No. 11-03 and further amended the BPUD by of Resolution No. 04-12, Ordinance No. 25-06 and the Developer's Agreement recorded at Official Records Book 5957, Page 1076, et. seq. of the Public Records of Volusia County, Florida (collectively the "The Crossings on Enterprise BPUD"); and

WHEREAS, the Applicant is requesting a major amendment to The Crossings on Enterprise BPUD to modify the BPUD as set forth in the Amended and Restated Development Agreement and incorporated Master Development Plan attached hereto as **Attachment "A"**; and

WHEREAS, the Applicant desires to substantially change the Master Development Plan and add the permitted use of assisted living facility; 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 finds that this Ordinance and the major amendment to the The Crossings on Enterprise BPUD approved herein is consistent with the City of DeBary Comprehensive Plan and Land Development Code and promotes the public health, safety and welfare; and

WHEREAS, the City of DeBary City Council acting as both the Land Planning Agency and the Governing Body has conducted the necessary public hearings on this Ordinance.

IT IS HEREBY ORDAINED BY THE CITY OF DeBARY AS FOLLOWS:

SECTION 1. Recitals. The above recitals are true and accurate and are incorporated herein as findings of the City Council.

SECTION 2. Major Amendment Granted. The Applicant’s request for a major amendment of The Crossings on Enterprise BPUD is hereby granted. The Crossings on Enterprise BPUD is hereby amended with respect to the Property as described in the Amended and Restated Development Agreement and incorporated Master Development Plan attached hereto as **Attachment “A”**. The Mayor and City Clerk are authorized to execute the Amended and Restated Development Agreement. The Amended and Restated Development and incorporated Master Development Plan approved by this Ordinance shall supersede and replace prior development agreements and master development plans and shall control and govern the development of the Property.

SECTION 3. Recording. The City Clerk is hereby directed to record this Ordinance and the Amended and Restated Development Agreement – The Crossings on Enterprise BPUD and its exhibits in the Public Records of Volusia County, Florida. The Crossings on Enterprise BPUD as amended by this Ordinance and attached Amended and Restated 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. Effective Date. This Ordinance shall take effect immediately upon adoption.

FIRST READING HELD on _____, 2016

ADOPTED AFTER SECOND READING on this ___ day of _____, 2016.

CITY COUNCIL

CITY OF DEBARY, FLORIDA

Lita Handy-Peters, Interim Mayor

ATTEST:

City Clerk

Attachments – **Attachment “A”** - Amended and Restated Development Agreement and incorporated Master Development Plan.