

RESOLUTION NO. 25-14

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, APPROVING THE CYPRESS CREEK VILLAGE PHASE V SITE DEVELOPMENT PLAN WITH CERTAIN CONDITIONS ON AND/OR FOR REAL PROPERTY TOTALING APPROXIMATELY 35.09 +/- ACRES AND FURTHER IDENTIFIED AS POLK COUNTY PROPERTY APPRAISER PARCEL IDENTIFICATION NUMBER 272820-000000-044020; AND AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY FURTHER ACTION(S) TO EFFECTUATE THE INTENT OF THIS RESOLUTION; PROVIDING FOR THE INCORPORATION OF FACTUAL RECITALS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR RECORDATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, Baxter Groves (the "Owner"), a Florida general partnership, is the fee simple owner of the land(s) identified by the Polk County Property Appraiser as Parcel Identification Number 272820-000000-044020 (the "Property"); and

WHEREAS, Owner was conveyed fee simple ownership of and/or for the Property by virtue of that certain Warranty Deed dated February 19, 1992, and recorded in Official Records Book 3068, Page 0278, Public Records of Polk County, Florida (the "Deed"); and

WHEREAS, copies of the Deed, Polk County Property Appraiser Parcel Details for the Property, and Polk County Property Appraiser Aerial Depiction of the Property are attached hereto as **Composite Exhibit “A”** and made a part hereof by reference; and

WHEREAS, the Property (see **Composite Exhibit “A”**) has a Town of Dundee zoning designation of *Mobile Home Park (RMH2)*; and

WHEREAS, on August 12, 2024, pursuant to *Section 163.01, Florida Statutes (2024)*, the *Florida Interlocal Cooperation Act*, the Town Commission of the Town of Dundee (the “Town Commission”), at a duly noticed public meeting, approved that certain *Interlocal Agreement For Potable Water and Wastewater Utility Services* (the “Interlocal Agreement”) with the City of Winter Haven to provide potable water, wastewater, and reclaimed utility services to and/or for the *Cypress Creek Village Phase V*; and

WHEREAS, a copy of the Interlocal Agreement is attached hereto as **Exhibit “B”** and made a part hereof by reference; and

WHEREAS, pursuant to applicable Florida law, the Interlocal Agreement (see **Exhibit “B”**) is a *development order* and/or *development permit*; and

WHEREAS, pursuant to applicable Florida law, the term(s) *development order* and *development permit* have the same meaning as set forth in §163.3164, *Florida Statutes (2024)*. See also *Preserve Palm Beach Political Action Committee v. Town of Palm Beach*, 50 So. 3d 1176, 1179 (Fla. 5th DCA 2010) (reasoning that an agreement defined as a contract between local government and developer providing vested rights applicable to property in exchange for public benefit meets definition for development order); and

WHEREAS, on September 10, 2024, at a duly noticed public meeting, the Town Commission passed and adopted *Town of Dundee Ordinance No. 24-09* (the “Moratorium”) establishing a moratorium on and/or for the acceptance and processing of applications for annexations, rezonings, building permits, planned developments, master planned communities, development order(s), and development permit(s); and

WHEREAS, WHEREAS, pursuant to the Interlocal Agreement (see **Exhibit “B”**) and the terms and conditions of the and Moratorium, the *Cypress Creek Village Phase V Mobile Home Park* (the “Development”) was specifically exempt from the Moratorium; and

WHEREAS, on August 13, 2024, pursuant to *Section 7.02.00 of the Town of Dundee Land Development Code* (the “LDC”), the Owner submitted a *Town of Dundee Site Development Plan Application* (the “Application”) for approval of the plans set entitled *Cypress Creek Village Phase V Mobile Home Park Expansion* (the “Cypress MHP Site Development Plan”); and

WHEREAS, a copy of the Cypress MHP Site Development Plan is attached hereto as **Exhibit “C”** and made a part hereof by reference; and

WHEREAS, pursuant to *Section 7.02.04 of the LDC*, the Development Director may determine that a *site development plan* is inappropriate for administrative approval; and, in such cases, the Town Commission will review and evaluate the *site development plan* with specific regard to the *Town of Dundee 2030 Comprehensive Plan*, applicable Town code(s), and the *advisory recommendations of Town staff*, if any, and approve, approve with conditions, or deny the *site development plan*; and

WHEREAS, pursuant to *Section 7.02.01 of the LDC*, the *site development plan* procedures and requirements ensure that site-specific developments meet the requirements of the LDC prior to the issuance of building permits; and

WHEREAS, pursuant to *Section 7.02.01 of the LDC*, the *site development plan* is the instrument by which improvements to the site will be constructed and inspected and by which *certificate(s) of occupancy* are issued for the Development; and

WHEREAS, pursuant to *Section 7.02.08(A) of the LDC*, the Development is a *development built in phases*; and

WHEREAS, Section 7.02.11 of the LDC sets forth the content requirements for reviewing and evaluating a *site development plan*; and

WHEREAS, pursuant to the applicable provisions of the LDC and Code of Ordinances of the Town of Dundee, Town staff and consultants have reviewed and evaluated the Cypress MHP Site Development Plan (see **Exhibit “C”**); and, pursuant to such review and evaluation, Town staff and consultants do not have any advisory recommendations related to the Cypress MHP Site Development Plan; and

WHEREAS, the comments and/or advisory recommendation(s) of Town staff and consultants are attached hereto as **Composite Exhibit “D”** and made a part hereof by reference; and

WHEREAS, the Town of Dundee, Florida, has complied with all requirements and procedures in processing and adopting this **Resolution No. 25-14**; and

WHEREAS, Owner requests that the Town Commission *conditionally approve* the Cypress MHP Site Development Plan (see **Composite Exhibit “D”**) for the Development subject to the terms and conditions set forth by this **Resolution No. 25-14**; and

WHEREAS, the Town Commission finds that the approval of this **Resolution No. 25-14** preserves, enhances, and encourages the most appropriate use of land consistent

with applicable Florida law, the public interest, and the *Town of Dundee 2030 Comprehensive Plan* policies, goals, and objectives; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval of this **Resolution No. 25-14** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest and this **Resolution No. 25-14** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the passage of this **Resolution No. 25-14**, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the passage of this **Resolution No. 25-14**. The above factual recitals are hereby incorporated herein and serve as a factual and material basis for the passage of this **Resolution No. 25-14**.

Section 2. Conditional Approval.

Baxter Groves (hereafter referred to as the "Applicant" and/or "Owner"), a Florida general partnership, is the fee simple owner of the real property which is identified by the Polk County Property Appraiser as Parcel Identification Number 272820-000000-044020 (hereafter the "Property").

The Owner of the Property (see **Composite Exhibit "A"**) submitted that certain *Town of Dundee Site Development Plan Application* (the "Application") for approval of the plans set entitled *Cypress Creek Village Phase V Mobile Home Park Expansion* (hereafter the "Cypress MHP Site Development Plan") (see **Exhibit "C"**).

The Town Commission of the Town of Dundee (hereafter the "Town Commission") having reviewed the Cypress MHP Site Development Plan (see **Exhibit "C"**) and having been otherwise fully advised in the premises by Town staff and consultants (see **Composite Exhibit "D"**) hereby conditionally approves the Cypress MHP Site Development Plan, as follows:

1. The Development shall strictly adhere to and comply with the conditions, covenants, terms, and requirements set forth in that certain *Interlocal Agreement For Potable Water and Wastewater Utility Services* (the "Interlocal Agreement") (see **Exhibit "B"**).

2. Pursuant to *Section 7.02.00 the LDC*, under no circumstances shall the Development be approved and/or create an inconsistency with any term contained in the LDC and/or the *Code of Ordinances of the Town of Dundee* (hereafter collectively referred to as the "Town Code") unless authorized and approved ***in strict accordance*** with applicable provision(s) of the Town Code ; and, for purposes of this condition, Section 7.02.00 of the LDC provides, in pertinent part, that Town staff is without authority to waive applicable provision(s) of the Town Code.

(Hereafter referred to as the "Cypress MHP Site Plan Conditions").

Section 3. Authorization.

The Town Manager, or his/her designee, is hereby authorized to take any and all necessary further action(s) to effectuate the intent of this **Resolution No. 25-14** which includes, but shall not be limited to, directing and authorizing a certified copy of this **Resolution No. 25-14** to be recorded in the public records of Polk County, Florida.

Section 4. Conflicts.

All resolutions in conflict with this **Resolution No. 25-14** are repealed to the extent necessary to give this **Resolution No. 25-14** full force and effect.

Section 5. Severability.

The provisions of this **Resolution No. 25-14** are severable. If any section, subsection, sentence, clause, phrase of this **Resolution No. 25-14**, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this **Resolution No. 25-14**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this **Resolution No. 25-14** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this **Resolution No. 25-14** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-14** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-14**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-14**, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6. Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission that sections of this **Resolution No. 25-14** may be renumbered or re-lettered and the word "resolution" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and sections of this **Resolution No. 25-14** may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 7. Recordation.

The Town Clerk shall be responsible for recording this **Resolution No. 25-14**, as adopted, with the Clerk of the Circuit Court in and for the Tenth Judicial Circuit of Polk County, Florida, for inclusion in the public records of Polk County, Florida.

Section 8. Effective Date.

This **Resolution No. 25-14** shall take effect immediately upon passage.

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READ, PASSED AND ADOPTED at a duly called meeting of the Town Commission of the Town of Dundee, Florida, assembled on the 13th day of May, 2025.

TOWN OF DUNDEE

Samuel Pennant, Mayor

ATTEST WITH SEAL:

Erica Anderson, Town Clerk

Approved as to form:

Frederick J. Murphy, Jr., Town Attorney