

RESOLUTION NO. 23-25

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, APPROVING THE CERTIFIED SUBDIVISION PLAN (CSP) WITH CERTAIN CONDITIONS FOR THE LANDINGS AT LAKE TRASK PHASE 2 SUBDIVISION; MAKING FINDINGS; AND AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY FURTHER ACTION(S) RELATED TO ENTERING INTO A DEVELOPER'S AGREEMENT ON BEHALF OF THE TOWN OF DUNDEE WITH REGARD TO THE CONDITIONAL APPROVAL OF THE CSP FOR LANDINGS AT LAKE TRASK PHASE 2; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the proposed Landings at Lake Trask Phase 2 Subdivision (the "Subdivision") is to occur on approximately 49.94 +/- acres of land located on the northside of Weiberg Road, east of Detour Road, and west of Alford Road, in Dundee, Florida, further described as parcels 272822-000000-014020, 272822-000000-012040, 272822-000000-012030, and 272822-000000-014010. The property has a Future Land Use of Low Density Residential (LDR) and a Zoning of Moderate Density Single-Family Residential (RSF-3).

WHEREAS, the location map for the Property is attached hereto as **Exhibit "A"** and incorporated herein by reference; and

WHEREAS, on November 28, 2022, pursuant to Section 7.01.07 of the Town of Dundee Land Development Code ("LDC"), PHC I Property, LLC and NE Polk Land Investment, LLC (the "Applicant") submitted a Certified Subdivision Plan (the "CSP") for the Subdivision; and

WHEREAS, the CSP is attached hereto as **Exhibit "B"** and incorporated herein by reference; and

WHEREAS, on August 23, 2022, at a duly notice public meeting of the Town Commission of the Town of Dundee, the Town Commission approved 2.0 +/- acres of privately owned recreation space for the Subdivision; and

WHEREAS, the CSP includes 169 single-family units and 2.0 +/- acres of recreational land to be owned and maintained by a Home Owner's Association and/or Community Development District; and

WHEREAS, pursuant to Section 7.01.07 of the LDC, the purpose of the certified subdivision plan is to allow Town staff to perform a technical review of all proposed site improvements; and

WHEREAS, pursuant to the technical review performed by the Town and/or Town's consultants, the CSP has not satisfied the general requirements set forth by Section 7.01.07 of the LDC; and

WHEREAS, pursuant to Section 7.01.07 of the LDC, the certified subdivision plan forms the basis upon which a final plat will be prepared and consists complete working drawings and design specifications; and

WHEREAS, the Applicant has substantially complied with all the requirements set forth in Section 7.01.07 of the LDC regarding the preparation the CSP for the Subdivision; and

WHEREAS, pursuant to Section 7.02.03 of the LDC and applicable provision of the Code of Ordinances of the Town of Dundee, a development order and/or development permit will not be approved by the Town for a development unless a satisfactory concurrency evaluation is performed in accordance with Section 6.01.00 of the LDC; and

WHEREAS, on the effective date of this Resolution, the Town of Dundee is not able to provide allocable water capacity for the Subdivision; and

WHEREAS, pursuant to Section 54-9 of the Code and Section 6.01.07.03 of the LDC, a developer's agreement is required as a condition of approval for the CSP; and

WHEREAS, pursuant to Section 6.01.07.03 of the LDC and applicable Florida law, this Resolution does not create a reservation of capacity in the Town water plant or network capacity, or a commitment to provide such service to the Subdivision; and

WHEREAS, the Applicant requests that the Town Commission of the Town of Dundee conditionally approve the CSP for the Subdivision subject to the terms and conditions set forth by this Resolution; and Town Commission's approval for construction of streets, drainage facilities, and/or other subdivision improvements prior to final platting in accordance with applicable Town of Dundee Land Development Code and the conditions set forth by this Resolution.

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

1. The above factual recitals (WHEREAS clauses) are hereby adopted by the Town Commission of the Town of Dundee as the legislative findings and form a factual and material basis for this Resolution.
2. The Landings at Lake Trask Phase 2 Certified Subdivision Plan (the "CSP") is attached hereto as **Exhibit "B"** and incorporated herein by reference. The Landings at Lake Trask Phase 2 Subdivision (the "Subdivision") is located on the northside of Weiberg Road, east of Detour Road, and west of Alford Road, in Dundee, Florida, further described as parcels 272822-000000-014020, 272822-000000-012040, 272822-000000-012030, and 272822-000000-014010. The

property has a Future Land Use of Low Density Residential (LDR) and a Zoning of Moderate Density Single-Family Residential (RSF-3).

3. The Property is depicted by the location map which is attached hereto as **Exhibit “A”** and incorporated herein by reference.
4. The Town Commission of the Town of Dundee having reviewed the CSP and having been otherwise fully advised in the premises hereby conditionally approves the CSP for construction of utility systems and other required infrastructure in accordance with Section 7.01.07 of the Town of Dundee Land Development Code and the conditions set forth in this Resolution, as follows:
 - a. No building permits for any structures will be issued until all required infrastructure systems and improvements required by the Town of Dundee Land Development Code, Code of Ordinances, this Resolution, and applicable Florida law are fully operational and have been accepted by the Town and/or appropriate entity with jurisdiction.
 - b. Pursuant to Section 54-9 of the Code of Ordinances of the Town of Dundee (the “Code”) and Section 6.01.07.03 of the LDC, a developer’s agreement is required as a condition of approval for the CSP in order to provide, at a minimum, as follows: (1) detail the Town’s inability to currently provide allocable water capacity for the Subdivision; (2) detail the necessary expansion of the Town’s water treatment facilities to serve the Subdivision; and (3) detail the terms and conditions under which the Town will provide potable water utility service for the Subdivision.
 - c. Pursuant to Section 7.01.07 of the LDC and applicable provisions of the Code and LDC, the technical review comments which include but are not limited to, the comments included here as composite Exhibit C (the “Comments”) provided by the Town’s consultants related to the CSP and Subdivision shall be satisfied and accepted by the Town and/or Town’s consultants.
5. In the event the Town has performed a satisfactory concurrency evaluation related to the Town’s ability to provide allocable potable water capacity for the Subdivision, the construction of the required infrastructure systems and/or improvements for the Subdivision shall also be complete and accepted by the Town prior to Final Subdivision Plat approval.
6. In the event the construction of the required infrastructure systems and/or improvements for the Subdivision are not complete and accepted by the Town, Final Subdivision Plat approval for the Subdivision shall be conditioned upon the following: (a) a developer’s agreement or development agreement shall be approved by the Town Commission, executed by the parties, and recorded in the public records in and for Polk County, Florida; and (b) when approved by the Town, the applicant shall provide the Town with *adequate performance security* and *adequate defect security* pursuant to the terms and provisions of a developer’s agreement or development agreement.

For purposes of this Resolution, “*adequate performance security*” and “*adequate defect security*” shall mean, at a minimum, as follows:

- (a) *Adequate performance security* shall be satisfactory in form to the Town Attorney and the Town Engineer and the Town’s planning staff and be in an amount equal to one hundred and twenty-five (125%) percent of the developer’s contract for the work that remains uncompleted and not accepted at the time of final plat or final site development plan approval, as certified in writing by the engineer of record, subject to the approval by the Town’s planning staff and the Town Engineer. No more than fifty percent (50%) of the value of the total required improvements for each phase of the Development shall be considered for bonding and/or letter of credit given hereunder. Subject to the terms of the applicable agreement, the performance security shall be released by the Town when all private improvements are installed, inspected and approved and when all public improvements are installed, inspected and accepted. When providing a bond for performance security, the bonding company shall have a B+ or better rating in accordance with "Best Bond Book." In the case of a letter of credit, provisions for drawdowns from the letter of credit as improvements are completed and accepted shall accompany the surety. The letter of credit shall have a duration of twenty-four (24) months; and
 - (b) *Adequate defect security* shall warrant and guarantee the materials and workmanship of all infrastructure and infrastructure improvements within the Subdivision that are dedicated to the public, including streets, curb and gutter, sidewalks, potable water distribution system, sanitary sewer collection and transmission system, reclaimed water system and stormwater management system. This guarantee shall be for an amount equal to ten (10) percent (%) of the actual construction costs of improvements and/or other adequate written assurances which are set forth in an applicable developer’s agreement or development agreement for the purpose of correcting any construction, design or material defects or failures within public rights-of-way or easements in the development or required off-site improvements. The form and manner of execution of such securities shall be subject to the approval of the Town Attorney. The effective period for such security shall be one (1) year and thirty (30) days following the Town's acceptance of the installed improvements. Upon default, the Town may exercise its rights under the security instrument, upon ten (10) days' written notice by certified mail to the parties to the instrument or as otherwise set forth in an applicable agreement.
7. The Town Commission of the Town of Dundee authorizes the Town Manager to take all necessary further actions related to entering into a Developer’s Agreement with the Applicant and/or Applicant’s authorized designee with regard to the terms and conditions set forth by this Resolution and the Town’s conditional approval of the Landings at Lake Trask Phase 2 Certified Subdivision Plan.

8. The provisions of this Resolution are severable. If any word, sentence, clause, phrase or provision of this Resolution for any reason is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions or portions of this Resolution shall remain in full force and effect.
9. The correction of typographical and/or scrivener's errors in this Resolution which do not affect the intent of this Resolution may be authorized by the Town Manager or her/his designee, without need of consideration by the Town Commission, by filing a corrected or recodified copy of same with the Town Clerk.
10. This Resolution shall take effect immediately upon passage.

INTRODUCED AND PASSED by the Town Commission of the Town of Dundee, Florida, this 26th day of August, 2023.

TOWN OF DUNDEE

Mayor – Sam Pennant

ATTEST:

Town Clerk – Trevor Douthat

Approved as to form:

Town Attorney - Frederick J. Murphy, Jr.

RESOLUTION 23-25 EXHIBIT A
LOCATION MAP



