

This instrument prepared by
and should be returned to:

Carolyn R. Haslam
Akerman LLP
420 S. Orange Avenue, Suite 1200
Orlando, Florida 32801

As approved by Town Council
for the Town of Howey-in-the-Hills, Florida

THE WATERMARK PUD DEVELOPER’S AGREEMENT

This WATERMARK PUD DEVELOPER’S AGREEMENT is made this ____ day of _____, 2022 (the “Effective Date”), between the **Town of Howey-in-the-Hills**, Florida, a Florida municipal corporation (the “Town”), and **CKG Development and Realty, LLC**, a Florida limited liability company (the “Owner”).

RECITALS

A. The Owner is the owner of approximately 99.19 acres of property more particularly described herein (“the Property”).

B. The Property is within the corporate limits of the Town. The Town has assigned the Property a future-land-use designation of Medium Density Residential and has concurrently herewith rezoned the Property to PUD - Planned Unit Development.

C. The Owner intends to develop the Property as a single-family residential development as more specifically set forth herein (“the Project”).

D. The Town and Owner desire to enter into this Agreement in order to set forth the negotiated terms and conditions of approval for the development of the Property.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and benefits herein contained and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Town and Owner agree as follows:

ORDINANCE 2022-_____

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF HOWEY IN THE HILLS, COUNTY OF LAKE, STATE OF FLORIDA, CLASSIFYING THE ZONING TO PUD TOWN OF HOWEY IN THE HILLS FOR THE HEREAFTER DESCRIBED LANDS WITHIN THE TOWN OF HOWEY IN THE HILLS, FLORIDA; OWNED BY ANITA K SIMPSON TRUSTEE ET AL, PROVIDING FOR DIRECTIONS TO THE TOWN MAYOR; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the town of Howey in the Hills, Florida, as follows:

Section 1: Purpose and Intent.

That the zoning classification of the following described property, being situated in the Town of Howey in the Hills, Florida, shall hereafter be designated as PUD as defined in the Town of Howey in the Hills Land Development Regulations.

LEGAL DESCRIPTION:

(35-20-25-0150-000-01200)

ORB 2732, PG 1039

LOT 12; ALSO BEGIN 99 FEET SOUTH 1°32' WEST OF THE NORTHWEST CORNER OF LOT 16, THENCE RUN EAST TO THE SOUTHEASTERN BOUNDARY OF LOT 16; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERN BOUNDARY OF LOT 16; THENCE NORTHERLY ALONG THE WESTERN BOUNDARY OF LOT 16 TO THE POINT OF BEGINNING; LOTS 26 AND 27, LESS THAT PART INCLUDED IN CLAY PIT, ALL ACCORDING TO THE PLAT OF FIRST SUBDIVISION OF HOWEY, RECORDED IN PLAT BOOK 5, PAGE 32, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

ORB 2732 PG 1041

PARCEL NO. 1 (35-20-25-0150-000-00100)

LOT 1 IN 1ST SUBDIVISION OF HOWEY, ACCORDING TO THE TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 32, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA.

PARCEL NO.2 (35-20-25-0150-000-00100)

THAT PART OF 1ST SUBDIVISION OF HOWEY, ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 5, PAGE 32, PUBLIC RECORDS OF LAKE COUNTY, FLORIDA, BOUNDED AND DESCRIBED AS FOLLOWS: BEGIN AT THE INTERSECTION OF THE NORTH LINE OF SECTION 1, TOWNSHIP 21 SOUTH, RANGE 25 EAST, IN LAKE COUNTY, FLORIDA, WITH THE EASTERLY LINE OF THE RIGHT OF WAY OF SUNSET DRIVE AS SHOWN UPON SAID PLAT AND RUN THENCE EAST ALONG SAID NORTH LINE TO A POINT ON THE WATERS-EDGE OF LAKE BERTHA, SAID POINT BEING HEREBY DESIGNATED AS POINT "A". BEGIN AGAIN AT THE POINT OF BEGINNING AND RUN SOUTHERLY AND SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID RIGHT OF WAY TO THE WESTERLY LINE OF LOT 4 AS SHOWN UPON SAID PLAT; THENCE NORTHEASTERLY ALONG THE WESTERLY LINE OF SAID LOT 4 TO THE WATERS OF LAKE BERTHA; THENCE WESTERLY AND NORTHERLY ALONG AND WITH THE WATERS OF LAKE BERTHA TO THE ABOVE-DESIGNATED POINT "A".

PARCEL NO. 3 (02-21-25-0001-000-03700)

THAT PART OF THE NORTH 1/2 OF GOVERNMENT LOTS 1 AND 2 IN SECTION 2, TOWNSHIP 21 SOUTH, RANGE 25 EAST, IN LAKE COUNTY, FLORIDA, BOUNDED AND DESCRIBED AS FOLLOWS: BEGIN AT THE NORTHEAST CORNER OF SAID SECTION 2, RUN THENCE SOUTH 00°06'05" EAST ALONG THE EAST LINE THERE OF, 1139.8

FEET; THENCE RUN NORTH 89°29'20" WEST 2668.76 FEET TO THE WEST LINE OF SAID GOVERNMENT LOT 2; THENCE RUN NORTH 00°09'00" WEST ALONG SAID WEST LINE 1125.96 FEET TO THE NORTHWEST CORNER OF SAID GOVERNMENT LOT 2; THENCE RUN SOUTH 89°46'40" EAST ALONG THE NORTH LINE OF SAID SECTION 2 FOR 2669.20 FEET TO THE POINT OF BEGINNING.

Total Acreage: 99.19

Section 2: Zoning Classification.

That the property being so designated as PUD is subject to the following terms and conditions:

General

Development of this Project shall be governed by the contents of this document, the comprehensive plan, and applicable sections of the Town of Howey in the Hills Land Development Regulations and Code of Ordinances and all other applicable rules, regulations and ordinances of the City.

Where in conflict, the terms of this document shall take precedence over the Town of Howey in the Hills Land Development Regulations and Code of Ordinances, and all other applicable rules, regulations and ordinances of the Town.

The term “conceptual” means the location of land uses on the site including areas for residential development, open space, stormwater management, parks and roads in relation to the site area and other uses on the site. Subsequent plan development is expected to result in a refinement of the details based on the application of more detailed engineering design. “Conceptual” does not mean the modification of proposed housing types or the relocation of land uses and roads other than minor adjustments dictated by engineering needs.

Unless otherwise noted, the definition of all terms shall be the same as the definitions set forth in the Town of Howey in the Hills Land Development Regulations.

Purpose

The purpose of the Watermark PUD is to:

1. Create an attractive and high-quality environment which is compatible with the scale and character of the local environment;
2. Develop a residential area that is safe, comfortable and attractive to pedestrians;
3. Create a community with direct visual and physical access to open land, with amenities in the form of community open space, and with a strong community identity;
4. Provide a network of open space provision; and
5. Provide for a diversity of lot sizes and housing choices to accommodate a variety of age and income groups, and residential preferences, so that the Town’s population diversity may be maintained.

Land Uses

The Concept Plan for the Project is attached hereto as Exhibit “B” and is an integral part of this PUD document. Elements in the Concept Plan include single-family detached homes and approximately 31.32 acres of recreation. The residential development shall be comprised of up to 275 single family detached homes.

Setbacks

The following setbacks shall be applied:

Front:	20 feet
Rear:	20 feet
Side:	5 feet
Wetland:	25 feet
Corner:	15 feet
Pool / Accessory	10 feet

Lot Size

A range of lot sizes shall be provided in order to create variety and offer opportunity for different income households. Minimum lot size will be 60’ x 120’.

Dwelling Size

The minimum dwelling size for all single-family residences shall be 1,600 square feet of heated/air-conditioned space under roof and a 2-car garage minimum of 400 square feet.

Lot Width

The minimum lot width at building line shall be 60 feet with a minimum street frontage of 30 feet.

Lot Coverage

Lots shall have a maximum lot coverage of 60% to include principal dwelling, all paved areas and swimming pools.

Height of Structures

No residential structure shall not exceed 35 feet in height.

Building Design

Building design shall be in accordance with the Architectural Requirements of the Town’s Land Development Regulations and will comply with the design requirements of Section 4.06.02 B and 4.06.03.

The following principles seek to promote a high quality development that will create a sense of place and community through the development of the site.

- A diversity of housing styles, shapes and materials shall meet the Towns Land Development Regulations.
- The different housing types shall be integrated architecturally in order to give the development a harmonious appearance.

- The creation of visual richness shall be considered when choosing materials and details. Local characteristics are encouraged.
- Side entrances for garages are encouraged.
- A variety of roof heights, pitches and materials will be encouraged.
- Landscaping shall be incorporated into the overall design as a means of linking the development areas with the open spaces.
- An exterior wall for a single-family home must be a minimum of two materials and a minimum of two colors. Primary facades shall have one base color and a complementary wall material may be used to meet the second color requirement.
- Block face restrictions may be reduced to 300 linear feet. The same house model may not be used more than three times within a single block face. For purposes of this requirement, a different house model is a different floor plan, not the same floor plan flipped in a different direction and not the same floor plan with a different exterior treatment.

Wetlands Buffer Requirement

No development shall be allowed within jurisdictional wetlands on the property. An minimum upland buffer of 25 feet shall be in a tract and shall be maintained by the HOA. No development except passive recreation shall be permitted in wetland areas.

Public Facilities

Potable Water and Wastewater

The Project shall be connected to the Town's Potable Water and Sanitary Sewer system, prior to any Certificate of Occupancy being issued for any structure (except temporary construction uses) on the Project. Should the Town require extensions of the City Potable Water and Sanitary Sewer systems for future development a developer's agreement shall be negotiated between the Town and the Owner/Developer. Such Utility Agreement may include prepayment of impact fees to aid expansion of facilities, reimbursement of offsite costs paid by the Owner/Developer by impact fee credits and/or cash reimbursement at the time of interconnections, if any and the installation of reuse lines for irrigation.

Solid Waste

Solid Waste collection shall be pursuant to Town regulations, as amended.

Drainage

The maintenance of the drainage system shall be the responsibility of the Homeowners Association(s).

Transportation

There shall be a two (2) ingress and egress points (to Revels Road) and one (1) emergency only (access to Lake County-A) for the Project. These shall be in the approximate location shown on the Concept Plan. All streets shall have a fifty foot (50') right-of-way with a minimum 24 foot pavement and curb width. Provision shall be made for underground utilities.

All portions of the development shall be accessible by a direct, convenient, attractive, safe, and comfortable system of pedestrian facilities, and the development should provide appropriate pedestrian amenities.

Transportation Concurrency and Proportionate Fair Share Mitigation

The Project will undergo a concurrency review, as required by the Town of Howey in the Hills Land Development Regulations and Code of Ordinances. The Owner agrees to complete a traffic impact analysis and if required based on that traffic study, the Owner agrees to fund its proportionate fair share of traffic improvements along SR-19 and other key roads as concluded by the traffic study's analysis of project traffic contributing to the needed improvements, in compliance with applicable Florida Statutes.

Street and Sidewalks

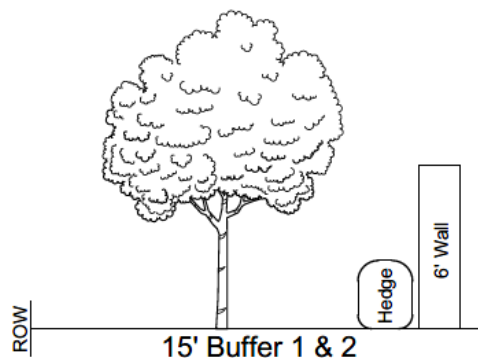
The development shall have a connected street system that serves vehicles, pedestrians and bicycles which connects to recreation facilities and adjacent residential/community areas. All streets shall be public and shall be dedicated to and maintained by the Town. No streets in the Project may be gated or otherwise restricted or obstructed by the Owner, by a homeowners' or property owners' association, or by any other person or entity.

A minimum of a five-foot (5') sidewalk shall be constructed along both sides of all interior streets. All sidewalks within rights-of-way shall be dedicated to and maintained by the Town.

Landscaping Requirements

All landscaping and buffer requirements shall be in accordance with the Town's Land Development Regulations as illustrated on the Concept Plan with the exception of the following: All buffer, street, and canopy trees planted at the Project will be a minimum of a 2" caliper. The Owner shall require homebuilders to plant at least one canopy tree for each single-family lot of at least 3" DBH. Developer will replace 30 percent of total inches removed. All trees planted at the Project shall adhere to the current guidelines established by the Florida Grades and Standards for nursery-grown trees and must be Florida grade #1 or better.

Developer shall be responsible for the installation of street trees along the roadway where common areas abuts the road per Town of Howey in the Hills LDR'S.



Cross-Section of Buffers 1 and 2

Tree Protection

Under no circumstances shall any tree, regardless of size or species, be removed from any designated wetland or Conversation Easement.

Trees proposed to be maintained on site shall meet the Town of Howey in the Hills LDR'S. No construction activity, equipment or material shall be permitted inside the tree protection barrier.

Lighting

Decorative street lighting (Sanibel fixture, a Duke Energy standard fixture) shall be installed at every intersection, at the end of each cul-de-sac and at intervals of 300 feet, or as approved by the Town Staff. Street lighting shall be installed by the Owner/Developer. All lighting shall be directional, shielded lighting designed to minimize light pollution. All lighting shall be maintained by the HOA.

Utilities

All utilities shall be underground.

Signage

Entrance signs and informational signage may be located in buffers, setbacks/and or signage easements as approved by the Planning and Zoning Board. Before any marketing signs are erected on the property, the Owner and/or builder(s) shall present a sign plan for review and approval by the Planning and Zoning Board. It is noted that The Town Council has previously approved the Owner's and/or builder(s) use of banner signs. Specifically Builders will be allowed the standard vertical Marketing Flags and the signage as previously approved in the Venezia South community by the Town. All additional signage not previously approved must be in compliance with the requirements in the Town's Land Development Code.

Maintenance of Common Areas

Maintenance of all common areas within the residential component of the Project shall be the responsibility of the Homeowner's Association(s) formed to govern such subdivision.

Amendments

Any substantial deviation from the PUD Concept Plan, or deviation from the terms of this Ordinance, shall be approved by the Town Council in accordance with the legal procedures to amend zoning ordinances.

Any minor amendments that may be needed once final engineering is completed shall be reviewed and approved by staff without referring to the Planning and Zoning Board or Town Council.

Prohibited Uses

No manufactured or modular homes are allowed.

Section 3: Notices

All notices or payments required to be made hereunder shall be made at the following addresses:

- To Town: Hon. Martha MacFarlane, Mayor
Town of Howey-in-the-Hills
101 North Palm Avenue
Howey-in-the-Hills, FL 34737
mmacfarlane@howey.org
- With copies to: Sean O’Keefe, Town Administrator
Town of Howey-in-the-Hills
101 North Palm Avenue
Howey-in-the-Hills, FL 34737
sokeefe@howey.org
- Thomas J. Wilkes
Gray Robinson, P.A.
301 East Pine Street, Suite 1400
Orlando, FL 32801
twilkes@gray-robinson.com
- To Owner: Anita K. Simpson, Trustee of the Anita K. Simpson Trust
445 Limit Avenue
Mount Dora, Florida 32757
- With copies to: Chris Gardner, Manager
CKG Development and Realty, LLC
1482 Granville Drive
Winter Park, FL 32789
chrisg@condevfl.com
- With copies to: James H. McNeil, Jr.
Akerman LLP
420 S. Orange Avenue, Suite 1200
Orlando, Florida 32801
Jim.mcneil@akerman.com

Section 4: Consistent with Comprehensive Plan

The zoning classification is consistent with the Comprehensive Plan of the Town of Howey in the Hills, Florida.

Section 5: Official Zoning Map

That the Town Mayor, or designee, is hereby authorized to amend, alter, and implement the official zoning maps of the Town of Howey in the Hills, Florida, to include said designation.

Section 6: Severability.

That if any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 7: Binding Effect.

This Agreement is binding upon and enforceable by and against the parties hereto and their successors in interest. This Agreement runs with the land and is binding on and enforceable by and against all successors in interest. However, no Lot Owner shall have the rights or obligations of the Owner under this Agreement. For that purpose, a “Lot Owner” means an end-user of a lot created within the Property with a completed residential unit constructed thereon, for which a certificate of occupancy has been issued. Each party covenants to each other party that this Agreement is a legal, valid, and binding agreement, enforceable against the party in accordance with its terms. Finally, no persons or entities other than the Owner and the Town and their respective successors in interest have any rights under this Agreement. To that end, the parties declare there are no third-party beneficiaries.

Section 8: Conflict.

That all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 9: Negotiated Agreement.

The land use, density, and all of the conditions of approval of the Project have been negotiated and agreed to by the Owner and the Town. The Concept Plan constitutes an agreement among the parties with the knowledge that the Owner’s successors in title, the future homeowners and other landowners within the Property, as well as the Town all will rely justifiably on the agreed-to land use and density, being authorized hereby for the Property. For that reason, the Owner and the Owner’s successors in interest have the contract right to develop the PUD with the uses and density approved by the Town, subject to the restrictions and requirements in the conditions of approval. Neither the Owner (or its successors in interest) nor the Town shall have the right in the future to rezone or downzone the property, or otherwise alter the uses, densities and intensities, or delete, waive or amend any conditions of approval except through an amendment to the Plan (i) negotiated and approved by the Town and the Owner of the then-subject parcel or (ii) as set forth in Section 2 above. This section shall survive the termination and expiration of this Agreement.

Section 10: Governing Law.

This Agreement shall be governed by the law of the State of Florida. Venue for any judicial proceeding pertaining to the Agreement shall be in the Fifth Judicial Circuit of Florida, in Lake County, Florida.

Section 11: Effective Date.

This Ordinance shall become effective immediately upon its approval and adoption by the Town Council.

Section 12: Recording.

This Agreement shall be recorded by the Town, at the Owner’s expense, in the Public Records of Lake County, Florida, and shall constitute a covenant running with the land.

IN WITNESS WHEREOF, the parties are signing this Agreement on the Effective Date.

TOWN OF HOWEY-IN-THE HILLS,
FLORIDA

By: _____
The Honorable Martha McFarlane, Mayor

Attest:

By: _____
John Brock, CMC Town Clerk

Approved as to form and correctness:

By: _____
Thomas J. Wilkes, Town Attorney

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was executed, sworn to and acknowledged before me this ____ day of _____, 2022, by Martha McFarlane, as Mayor of the Town of Howey-in-the-Hills.

(SEAL)

Signature of Notary Public

Name of Notary Public
(Typed, Printed or stamped)

Personally Known ____ OR Produced Identification ____
Type of Identification Produced: _____

Witnesses:

“CKG DEVELOPMENT AND REALTY, LLC”

CKG Development and Realty, LLC, a Florida limited liability company

Printed Name: _____

By: _____

Printed Name: Christopher J. Gardner

As its: Authorized Member

Printed Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was executed, sworn to and acknowledged before me this ____ day of _____, 2022, by Christopher J. Gardner, as Authorized Member of CKG DEVELOPMENT AND REALTY , LLC, a Florida limited liability company, on their behalf.

(SEAL)

Signature of Notary Public

Name of Notary Public
(Typed, Printed or stamped)

Personally Known ____ OR Produced Identification ____

Type of Identification Produced: _____