

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO: 5891 ORDINANCE COUNCIL SERIES NO: _____

COUNCIL SPONSOR: STEFANCIK/BRISTER PROVIDED BY: PLANNING DEVELOPMENT

INTRODUCED BY: _____ SECONDED BY: _____

ON THE 5 DAY OF OCTOBER , 2017

(ZC08-01-007) AN ORDINANCE TO AMEND ORD. C.S. NO. 08-1850, ADOPTED JUNE 5, 2008 REGARDING A MAJOR AMENDMENT TO THE PUD PLANNED UNIT DEVELOPMENT OVERLAY FOR A 92.61 ACRE PARCEL LOCATED ON THE NORTH OF I-12, WEST OF HOLIDAY SQUARE BOULEVARD, SOUTH OF VERSAILLES SUBDIVISION, WARD 3, DISTRICT 5 (ZC08-01-007)

Whereas, the St. Tammany Parish Zoning Commission approved an application to rezone 92.61 acres of land located on the north of I-12, west of Holiday Square Boulevard, south of Versailles Subdivision to a PUD; and

Whereas, an application for a major amendment to the original PUD plan was filed and the St. Tammany Parish Zoning Commission approved the major amendment at another public hearing February 7, 2017; and

THE PARISH OF ST. TAMMANY HEREBY ORDAINS, in regular session convened that the Parish Council amends Ordinance C. S. No. 08-1850, adopted June 5, 2008, regarding a major amendment to the PUD entitled "Agreement to Support Governmental Approvals and the attached "Conceptual Plan for Rezoning " labeled PUD-11 as per attached Exhibit "A".

REPEAL: All ordinances or parts of Ordinances in conflict herewith are hereby repealed.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinance are hereby declared to be severable.

EFFECTIVE DATE: This Ordinance shall become effective fifteen (15) days after adoption.

MOVED FOR ADOPTION BY: _____ SECONDED BY: _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE 1 DAY OF JANUARY , 2017 ; AND BECOMES ORDINANCE COUNCIL SERIES NO _____.

STEVE STEFANCIK, COUNCIL CHAIRMAN

ATTEST:

THERESA L. FORD, COUNCIL CLERK

PATRICIA P. BRISTER, PARISH PRESIDENT

Published Introduction: _____, 2017

Published Adoption: _____, 2017

Delivered to Parish President: _____, 2017 at _____

Returned to Council Clerk: _____, 2017 at _____

EXHIBIT "A"

SEE ATTACHED

AGREEMENT TO SUPPORT GOVERNMENTAL APPROVALS

This Agreement to Support Governmental Approvals (this "Agreement") is made this ____ day of October, 2017, between the Versailles Property Owners Association, Inc., a Louisiana Non-Profit Corporation (the "HOA"), and TDG Covington, LLC, a Delaware limited liability company (or its assigns) (the "Developer").

EXPLANATORY STATEMENT:

Developer has entered into that certain Real Estate Purchase and Sale Agreement (as may be amended and assigned from time, the "Purchase Agreement") with Versailles Land & Development Co., L.L.C., a Louisiana limited liability company (the "Seller"), for the purchase of that certain tract of land located in Covington, Louisiana containing twenty (20) acres more or less (the "Property"). Developer desires to develop the Property into a multifamily apartment community (the "Proposed Project"). The Proposed Project will require numerous zoning, site plan and subdivision approvals (the "Governmental Approvals") from various governmental authorities including, but not limited to, St. Tammany Parish (the "Governmental Authorities").

Developer has requested the HOA to consider recommending approval of the various submittals provided to the Governmental Authorities such that the Developer may lawfully construct the Proposed Project.

The residents of the Versailles subdivision are owners of land adjacent to the Property and through the HOA have expressed certain concerns regarding the Proposed Project.

The HOA and Developer recognize and agree that certain items are required of the Developer and HOA in order to alleviate the HOA's concerns regarding the Proposed Project as set forth herein.

In exchange for the Developer's agreements as set forth in this Agreement, the HOA has agreed to recommend that the Governmental Approvals be approved by the Governmental Authorities and generally support the Developer's development of the Proposed Project as provided for herein.

NOW, THEREFORE, in consideration of the foregoing Explanatory Statement, which is a material part of this Agreement, and the mutual benefits and promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **GREEN AREA:** It is agreed by the Developer and the HOA that the Developer shall convey at the time of the closing of Developer's acquisition of the Property, the parcel designated on Exhibit A as the "No Cut/No Clear Buffer Area" (the "Green Area"). The Parties agree that this area shall additionally include that portion of land adjacent to lots 9, 10, and 11 which shall be acquired from the Kramer Family and transferred to the HOA. The HOA shall pay to the Seller \$2,500.00 as the purchase price for the Green Area. Additionally, ownership of the section of land bordering the recreational area of the Proposed Project generally shown on

Exhibit A shall be conveyed to the HOA for an additional payment of \$2,500.00. Further, the HOA shall pay \$2,500.00 as its contribution to the legal costs incurred in making the conveyance as detailed in this Paragraph One. It is understood that the total financial commitment by the HOA is \$7,500.

2. **DEVELOPER TASKS:** Developer covenants and agrees to perform the following:

(a) Developer shall install a six foot chain-link fence along the northern boundary of the Property (approximately 2,140 LF) prior to the issuance of final certificate of occupancy ; approximately as shown on Exhibit A

(b) Developer shall have the ability to clear an additional 8'-10' of land within the Green Area for the purpose of planting bamboo (the "Bamboo Strip") at a time selected by the Developer, it being the understanding of the Parties that all bamboo installation costs shall be borne by the HOA;

(c) Developer shall engineer its irrigation system for the Proposed Project in such a manner as to water the bamboo planted by the HOA pursuant to the terms of this Agreement; the bamboo will be planted after the Developer has completed its irrigation work;

(d) Acadia Surveying shall continue to have access to the Green Area in order to perform services for the Developer in connection with the Proposed Project. Provided, however, Developer shall cause Acadia Surveying to remove all debris from the cleared area in the Green Area prior to the closing of Developer's acquisition of the Property;

(e) Developer agrees to plant five (5) trees per damaged area (30 trees total) within the Green Area prior to the issuance of final certificate of occupancy ; The timing of the planting will be at the Developer's discretion. Provided, however, it is the intention of the Parties that the required trees shall be planted between the months of November and April to allow the trees the greatest chance for survival. Developer agrees to replace any damaged trees so planted for a period of one year from the installation of the trees;

(f) Developer shall plant one Truja Green Giant (per area) in the northern portion of the cleared areas created by Acadia Surveying in its work to date in the Green Area within such areas where the neighbors of the Versailles subdivision do not have privacy fences. Developer agrees to replace any damaged trees for a period of one year from the installation of the trees. These plantings will take place after the Governmental Approvals are in place from the Governmental Authorities and at the time year estimated to be either October or November but at such time as its determined survival of such trees shall be most likely to occur and no later than the issuance of final certificate of occupancy ;

(g) Developer shall plant fifteen (15) trees at the end of St. Albert Street. The timing of the planting will be at the Developer's discretion. Provided, however, it is the intention of the Parties that the required trees shall be planted between the months of November

and April to allow the trees the greatest chance for survival and no later than the issuance of final certificate of occupancy ;

(h) Developer shall cause Acadia Surveying to mark the boundary of the Green Area with plaques on trees located within the Green Area prior to starting any site work on the property ; and

(i) The Parties agree that the Developer shall be allowed to remove pines trees located within the required Green Area, that are not in a cluster, and within planting buffers that will be impacted by grading of the Property.

(j) Developer will work in conjunction with Utilities, Inc. of Louisiana and preserves its right to identify the placement location of utilities located within the green space.

3. **KRAMER FAMILY PARCELS/BAMBOO HEDGE:** The Parties agree that except as specifically stated herein to the contrary, in lieu of Developer's obligation to plant the bamboo hedge along the northern boundary of the Property required as part of Purchaser's Governmental Approvals, Developer will pay its one-third share (\$33,333.33) as well as the one-third share required as part the HOA's contribution (\$33,333.33) of the \$100,000.00 total purchase price for the acquisition of those certain adjacent parcels of property from the Kramer family (such parcels being more particularly identified as being in close proximity to the swimming pool). The obligation to plant the bamboo hedge shall instead be borne by the HOA. Provided, however, Developer shall make a monetary contribution in the amount \$15,500.00 towards the costs of planting the bamboo hedge. The HOA is required to install a bamboo hedge after Developer installs its irrigation.

4. **HOA RECOMMENDATION OF GOVERNMENTAL APPROVALS:** The HOA agrees to recommend approval of and, at no additional cost to the HOA, to support the Developer's requests regarding the Governmental Approvals from the Governmental Authorities. The HOA agrees to actively support and endorse the Developer's efforts before the various Governmental Authorities as to the Governmental Approvals and voice, either at a public hearing or otherwise, only support for the Proposed Project.

5. **RIGHT OF WAY:** It is acknowledged and agreed that the Developer shall retain an approximate 60' ROW along the southern boundary of the Property. The Developer retains the right, but not the obligation, to maintain this right of way area.

6. **DETENTION POND DISCHARGE:** It is acknowledged and agreed that the Developer shall have the right to install and maintain, at a location within the Green Area to be determined by the Developer (but generally as anticipated as shown on Exhibit A), two 20 foot wide drainage ditches connecting into Bayou Monga allowing for the discharge of runoff from a detention pond to be constructed by Developer on the Property. The Parties agree to make, execute and deliver all further instruments and documents reasonably necessary or proper to fully effectuate the intent of this Paragraph 6.

7. **CONDITONS PRECEDENT:** Notwithstanding anything contained herein to the contrary, the Parties' obligations under this Agreement are specifically conditioned upon the Developer consummating the closing of the acquisition of the Property within the time frame allotted under the Purchase Agreement (as may be extended from time to time). In the event that the Developer fails to obtain title to the Property pursuant to the terms of the Purchase Agreement, in such event either Party may terminate this Agreement by notice to the other, in which event neither party shall have any further duties, obligations or rights hereunder.

8. **NOTICES:** All notices required or desired to be given hereunder shall be in writing, shall be sent by (i) personal delivery (provided written receipt is obtained), (ii) nationally recognized air courier or other independent messenger service (e.g. Federal Express) for next business day delivery, (iii) registered or certified mail, return receipt requested, deposited at a post office or branch post office and addressed to the party for whom intended, and shall be deemed received upon the earlier of receipt or five (5) days after such mailing or sending, or (iv) by electronic transmission (i.e., email), provided that notice is also sent pursuant to clauses (i), (ii) or (iii) within one (1) day following. The notices shall be addressed as follows:

(a) To HOA: _____

With a copy to: _____

(b) Developer: TDG Covington, LLC
c/o The Dobbins Group, LLC
Attn: Mr. William D. Dobbins
2914 Linden Avenue
Birmingham, AL 35209
Telephone: (205) 503-4000
E Mail: bill@dobbinsgroup.net

And

TDG Covington, LLC

c/o The Dobbins Group, LLC
Attn: Mr. Thornton Ratliff
2914 Linden Avenue
Birmingham, AL 35209
Telephone: (205) 503-4000
E Mail: thornton@dobbinsgroup.net

with a copy to: Aaron B. Thomas, Esq.
Spain & Gillon, LLC
2117 2nd Avenue North
Birmingham, Alabama 35203
Telephone: (205) 328-4100
Facsimile: (205) 324-8866
Email: abt@spain-gillon.com

or such other address as shall be furnished in writing by any party to the other party.

9. **MISCELLANEOUS PROVISIONS:**

(a) **Modifications.** This Agreement shall not be modified or supplemented, except by an amendment to this Agreement in writing signed by both parties.

(b) **No Waiver.** No waiver by either party of any failure or refusal by the other party to comply with its obligations hereunder shall be deemed a waiver of any other or subsequent failure or refusal to so comply.

(c) **Further Assurances.** The parties hereto agree to make, execute and deliver all further instruments and documents reasonably necessary or proper to fully effectuate the terms, covenants and provisions of this Agreement.

(d) **Entire Agreement.** All prior understandings, agreements and negotiations by and between the parties hereto are merged in this Agreement, which, together with the Escrow Agreement, also constitutes the entire agreement of the parties, and shall inure to and bind the successors and assigns of the respective parties hereto.

(e) **Partial Invalidity.** If any term or provision of this Agreement or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

(f) Headings. The headings of the paragraphs of this Agreement have been inserted for convenience of reference only and shall not constitute a part hereof.

(g) Counterparts; Transmission. This Agreement may be signed by the parties in counterparts, all of which when taken together shall be deemed an original Agreement, and such signatures may be sent by facsimile or electronic transmission, which will be deemed to have the same force and effect as original signatures.

(h) Cumulative Remedies. Each and every of the rights, benefits, and remedies provided by this Agreement, or any instrument, or documents executed pursuant to this Agreement, are cumulative, and shall not be exclusive of any other of said rights, remedies and benefits allowed by law or equity to the parties.

(i) Attorneys' Fees. Developer and HOA agree that in the event of any litigation arising between the parties in connection with this Agreement, the losing party shall be responsible for payment of the reasonable attorney's fees of the successful party.

(j) Assignment; Binding Effect. Developer may assign this Agreement to an entity affiliated with the Developer without the HOA's consent. This Agreement, and the provisions hereof, shall apply to and bind the respective successors and assigns of the respective parties, except, however, that this binding effect shall not be deemed to modify the preceding sentence.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands and seals on the date first above written.

HOA:

**VERSAILLES PROPERTY OWNERS
ASSOCIATION, INC.**

By: 

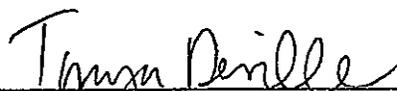
Name: Ross Chaisson

Its: Board Member

By: _____

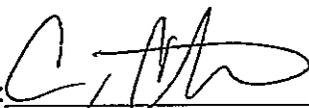
Name: Kevin Ridge

Its: Board Member

By: 

Name: Tonya Deville

Its: Board Member

By: 

Name: Craig Cabiro

Its: Board Member

By: 

Name: Jeremy Graham

Its: Board Member

DEVELOPER:

TDG COVINGTON, LLC

By: TDG Development Company, LLC
Its Company Manager

By: THE DOBBINS GROUP, LLC
Its Company Manager

By: 

Name: William D. Dobbins, IV

Title: Sole Member

