

**ORDINANCE NO. 11-14**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, AMENDING ORDINANCE NO. 07-06, AS AMENDED BY ORDINANCE NO. 01-11 AND ORDINANCE NO. 07-11, THE GLEN ABBEY PUD (ALSO KNOWN AS THE SWALLOWS PUD) AND ITS CORRESPONDING DEVELOPMENT AGREEMENT AND MASTER DEVELOPMENT PLAN GOVERNING APPROXIMATELY 5.7 +/- ACRES OF LAND LOCATED ON THE EAST SIDE OF U.S. HIGHWAY 17/92 NORTH OF Highbanks Road ON THE NORTH SIDE OF PINE MEADOW DRIVE OWNED BY T.J. O'NEIL, INC. TO CHANGE THE DEVELOPMENT FROM A TOWNHOME AND CELLULAR COMMUNICATIONS TOWER DEVELOPMENT TO A SINGLE FAMILY RESIDENTIAL AND CELLULAR COMMUNICATIONS TOWER DEVELOPMENT; PROVIDING FOR CERTAIN DEVELOPMENT CONDITIONS AND REQUIREMENTS AND DESCRIBING THE DEVELOPMENT AS THE GLEN ABBEY GARDENS PLANNED UNIT DEVELOPMENT; PROVIDING FOR RECORDING, SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, T.J. O'neil, Inc. (hereinafter referred to as the "Applicant"), petitioned for an amendment to the Glen Abbey PUD (formerly known as the Swallows) Development Agreement (hereinafter referred to as the "Development Agreement") on March 26, 2014; and

**WHEREAS**, the Applicant is the owner of +/- 5.7 acres of land also known as Tracts "A" and "B", Glen Abbey Club, according to the plat recorded at Plat Book 48, Pages 60-63 inclusive, as more particularly described in the attached Exhibit "A" (hereinafter referred to as the "Property"); and

**WHEREAS**, the Property was originally designated in the Development Agreement for a tennis complex; and

**WHEREAS**, the Development Agreement for the Property was amended on June 07, 2006 by Ordinance Number 07-06 to change the use of the Property from a tennis complex to a single family residential townhome development; and

**WHEREAS**, the Development Agreement for the Property was amended on February 02, 2011 by Ordinance Number 01-11 to add a communication tower as an additional permitted use on the Property; and

**WHEREAS**, the Development Agreement for the Property was amended on September 07, 2011 by Ordinance Number 07-11 to allow overhead utility lines and a gravel driveway with a paved apron for a portion of the Property; and

**WHEREAS**, the Applicant has applied to amend the Development Agreement to change that portion of the Property which is designated for residential townhomes to allow for no more than 16 detached single family homes, and to otherwise provide for certain specific changes to the development requirements for the Property; and

**WHEREAS**, the proposed change is consistent with the City of DeBary Comprehensive Plan, Future Land Use Element, Residential/Low Density designation of this +/-5.7 acre site; and

**WHEREAS**, the City Council held the requisite public hearings on the proposed ordinance after being duly advertised; and

**WHEREAS**, the City Council finds that based on competent, substantial evidence in the record, the major amendment to PUD Development Agreement and Master Development Plan approved by this Ordinance is consistent with the Comprehensive Plan and the Land Development Code and meets all applicable criteria for approval of such application.

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

**SECTION 1:** Recitals. The City Council finds that the above recitals are true and correct and that such constitute findings of the City Council.

**SECTION 2:** Major Amendment. A major amendment to the Planned Unit Development (PUD) for the Property and its corresponding Development Agreement and Master Development Plan adopted by Ordinance 07-06, as amended by Ordinance 01-11 and Ordinance 07-11, is hereby approved to change the dwelling unit and lot types from townhomes to up to sixteen (16) detached single-family homes as further described and conditioned in the Amended and Restated Development Agreement attached hereto as **Exhibit "B"** and incorporated herein and the Master Development Plan attached hereto as **Exhibit "C"** and incorporated herein. The Amended and Restated Development Agreement attached hereto as Exhibit "B" is hereby approved and such shall supersede and replace all previously approved Development Agreements for the Property. The Master Development Plan attached hereto as Exhibit "C" is hereby approved and such shall supersede and replace all previously approved Master Development Plans for the Property. Unless otherwise provided for in the Amended and Restated Development Agreement attached hereto as Exhibit "B", Article 3, Section 301.2 of the City of DeBary Land Development Code, as amended, shall apply to that portion of the Property designated for residential development in the same manner as the R-4 zoning classification. The development of the Property shall comply with the City of DeBary Land Development Code and all other applicable City regulations concerning matters not specifically addressed by the PUD and its corresponding Development Agreement (as amended) and the Master Development Plan. The development project on the Property will hence forth be referred to as the "Glen Abbey Gardens Planned Unit Development."

**SECTION 3: Recording.** The City Clerk is hereby directed to record this Ordinance and its exhibits in the Public Records of Volusia County, Florida. This Ordinance and the attached Development Agreement Fourth Amendment and the Master Development Plan shall run with the land and shall be applicable to and binding on any and all successors and assigns in interest.

**SECTION 4: SEVERABILITY.** If any portion of this Ordinance is 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 become effective immediately upon its adoption.

First Reading and Public Hearing held on December 3, 2014.

Second Reading and Public Hearing held on January 7, 2015.

**CITY COUNCIL  
CITY OF DeBARY, FLORIDA**

By: \_\_\_\_\_  
Clint Johnson, Mayor

**ATTEST:**

\_\_\_\_\_  
Stacy Tebo, City Clerk

Attachments:

Exhibit "A" Property - legal description

Exhibit "B" Development Agreement Fourth Amendment

Exhibit "C" Master Development Plan

**EXHIBIT "A"**

Tracts "A" and "B", Glen Abbey Club, according to the map or plat thereof as recorded in Plat Book 48, Pages 60 through 63 inclusive, public Records of Volusia County, Florida.