

ORDINANCE 98 - 18
Approving a Rezoning A-1 to R-2, Special Use Planned Development
and Final Plat of Subdivision
DEER RIDGE

WHEREAS, Beverly Anderson, known as the beneficiary of the Beverly I. Anderson Trust, owner, and intended developer, did petition Kendall County for a zoning map amendment from A-1 to R-2 and a Special Use for a residential planned development and a subdivision for 10 single family lots with a common area for floodplain management and conservation easement; and

WHEREAS, said petitions did pertain to one tract of land approximately 34 acres with existing homes and accessory buildings, many of which shall remain, located along Little Rock Creek and Burr Oak Road in Little Rock Township; and


WHEREAS, all procedures required by the Kendall County Zoning Ordinance were followed including notice for public hearing, findings of fact, and recommendation by the Zoning Board of Appeals; and

WHEREAS, the Kendall County Board finds that said petitions do comply with all Kendall County ordinances and are in the best interest of Kendall County.


NOW, THEREFORE, BE IT ORDAINED, that the Kendall County Board hereby grants approval of the following:

1. A zoning map amendment from A-1 to R-2 on the tract of land commonly known as the Anderson parcel at 15953 Burr Oak Road and legally described on Exhibit A.
2. A Special Use Permit for a residential planned development on said tract of land as provided in Exhibit B.
3. A final plat of subdivision for said tract of land entitled "Final Plat of Subdivision - Deer Ridge P.U.D.," prepared by R.B. & Associates, Plano, identified as drawings #97-8525-001 C (S) and #97-8525-002 C (S), dated revision August 11, 1998.

IN WITNESS OF, this ordinance has been enacted on August 18, 1998.



John A. Church
Kendall County Board Chairman



Paul Anderson
Kendall County Clerk

EXHIBIT A
LEGAL DESCRIPTION

That part of the Northwest Quarter of Section 32 and the Northwest Quarter of Section 33, Township 37 North, Range 6 East of the Third Principle Meridian being described as follows; commencing at the Northwest corner of said Northeast Quarter of Section 32; thence South $00^{\circ}05'$ East along the west line of said Northeast Quarter section 1,322.77 feet to the north line of the South Half of said Northeast Quarter section; thence South $89^{\circ}34'46''$ East along said north line, 1,871.23 feet for the point of beginning; thence South $00^{\circ}16'50''$ West, 656.62 feet to the center line of Burr Oak Road; thence South $89^{\circ}16'03''$ East along said center line, 1,399.27 feet to a point of curvature in said center line having a curve to the right a radius of 314.50 feet; thence easterly along said curve to the right a distance of 174.43 feet to the point of tangency of said center line; thence South $57^{\circ}29'17''$ East along said center line, 273.38 feet; thence North $38^{\circ}32'23''$ East, 1,072.82 feet; thence North $89^{\circ}46'28''$ West, 1,650.97 feet to the Northeast corner of the Southeast Quarter of the Northeast Quarter of said Section 32; thence North $89^{\circ}34'46''$ West along the north line of the Southeast Quarter of said Northeast Quarter, 778.62 feet to the point of beginning in the Township of Little Rock, Kendall County, Illinois.

STATE OF ILLINOIS)
) ss
COUNTY OF KENDALL)

July 7, 1998

PLANNED UNIT DEVELOPMENT AGREEMENT
DEER RIDGE SUBDIVISION
(BEVERLY I. ANDERSON, TRUST)

This Planned Unit Agreement (hereinafter referred to as "AGREEMENT"), is made and entered into this 18 day of August, 1998, by and between the COUNTY OF KENDAL (hereinafter referred to as "KENDALL") a body politic, and the BEVERLY I. ANDERSON, TRUST (hereinafter referred to as "OWNER"),

WITNESSETH

WHEREAS, OWNER owns fee simple title to the real property which is legally described in Exhibit "A" attached hereto, consisting of approximately 33.8243 acres, more or less (hereinafter referred to as "PROPERTY"); and

WHEREAS, it is the desire of OWNER to develop the subject PROPERTY in KENDALL in accordance with the terms of this AGREEMENT and the ordinances of KENDALL; and

WHEREAS, KENDALL through its Building and Zoning Committee of the County Board previously recommended the Property be zoned R-2 Single Family Residence District P.U.D.; and it is the desire of all parties to facilitate its development pursuant to the terms and conditions of this AGREEMENT and the Ordinances of KENDALL; and

WHEREAS, OWNER and KENDALL have or will perform and execute all acts required by law to effectuate such development; and

WHEREAS, the parties to this AGREEMENT wish to amend the zoning classification pursuant to the R-2 Single Family Residence District P.U.D., and have held the required Public Hearing for approval of its zoning classification, Concept Plan, Preliminary Plan and Engineering pursuant to the procedures set out in the R-2 General Residence District - Planned

t Development (Special Use) as contained in the County of Kendall Zoning Ordinance; and

WHEREAS, all notices required by law relating to the re-zoning and Planned Unit Development process pursuant to the R-2 General Residence District have been given for the Property to the persons or entities entitled thereto, pursuant to the applicable provisions of the Illinois Compiled Statutes and County Ordinances, and

WHEREAS, the County Board of Kendall has duly affixed the time for consideration of this AGREEMENT; and

WHEREAS, in reliance upon the development of the PROPERTY in the manner proposed, OWNER, and KENDALL have executed all Petitions and other documents that are necessary to accomplish the re-zoning and platting of the PROPERTY in KENDALL; and

WHEREAS, it is the desire of KENDALL and OWNER that the development of the PROPERTY proceed, subject to the ordinances, codes and regulations of KENDALL as amended; and

WHEREAS, in accordance with the powers granted to KENDALL by the provisions of the County Zoning Ordinance, inclusive and relating to its acts and the Kendall County Zoning Ordinance for Planned Unit Developments, and the parties hereto wish to enter into a binding agreement with respect to the PROPERTY and to provide for various other matters related directly or indirectly to the zoning and development of the PROPERTY, as authorized by, the provisions of said statutes; and

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions herein contained, and by authority of and in accordance with the aforesaid statutes of the State of Illinois, the parties agree as follows:

1. ZONING.
 - A. Contemporaneously with the approval of this AGREEMENT, KENDALL shall adopt an Ordinance amending the Zoning Map of the County to Zone the subject PROPERTY which shall be classified to zone the subject property R-2 Single Family District P.U.D. in terms of performance standards and as a Planned Unit Development. This will be a Zoning Map change only and not a text amendment.
 - B. Further the County of Kendall agrees to approve the Concept Plan and Final Plat of Subdivision of Development which is made a part hereof; and which shall be developed with a maximum of 11 Single Family Lots in general conformance with Exhibit "B" incorporated herein by reference; dated February 4, 1998.
 - C. KENDALL and OWNER agree that the PROPERTY shall be developed in

- C. KENDALL and OWNER agree that the PROPERTY shall be developed in substantial compliance with the ordinances of KENDALL, and this AGREEMENT, together with the Drawings and Exhibits attached hereto.
- D. KENDALL agrees to allow OWNER/DEVELOPER to release storm water directly from the development to Little Rock Creek, due to the unique nature of the site, and the location of the improved areas contiguous with the Little Rock Creek and adjacent flood plain on the subject site.

2. FEES.

OWNER, upon submission of a request for approval of a Final Plat for each Phase or Unit of the Subdivision, agrees to pay all fees as required by County Ordinances. The County School and Park Land-Cash Fees shall be payable in accordance with the ordinances existing in KENDALL at the time of approval of this AGREEMENT; except to the extent that Plano School Land-Cash Contributions shall be paid at the higher of the City of Plano or Kendall County formula as contained in their respective Ordinances.

3. DONATIONS AND CONTRIBUTIONS.

- A. OWNER agrees to dedicate 40 feet of right-of-way on the north side of Burr Oak Road from the existing centerline of Burr Oak Road across the adjoining boundary to provide for the future expansion of said road by the Township of Little Rock.
- B. OWNER shall execute and record a "Conservation Easement" as to the creek area on the north side of the subject property in a format acceptable to the Kendall County Plat Officer, Kendall County States Attorney, and OWNER, providing the terms and conditions of said Conservation Easement; as well as naming the Kendall County Forest Preserve Commission as the enforcement agency, pursuant to Illinois Compiled Statutes.

4. SUBDIVISION IMPROVEMENTS.

- A. Set back requirements shall be in conformance with the R-2 Zoning Classification of the Kendall County Zoning Ordinance, except as provided in paragraph 3A hereof.
- B. Due to the unique nature and configuration of the subject parcel of real property, as well as in consideration of the desire to preserve the maximum conservation area, OWNER shall be permitted to plat four (4) lots containing less than 90,000 square feet within the subject R-2 Single Family Residence District, P.U.D.
- C. OWNER shall be permitted a waiver of the width to depth meets requirements in relation to lots 5, 6, and 9, and the configuration of all lots as shown on the Final Plat of Subdivision are hereby approved.

- D. The North area designated for the Conservation Easement of Lots 1-9 shall remain as a common open space to be managed by a Not-For-Profit Homeowners Association, which shall be incorporated by OWNER, and shall consist of 11 voting members, one vote being allowed for each lot of the subject development. Lot 1 shall retain sole ownership on each side of the creek by OWNER's daughter and son-in-law, but the creek area likewise shall be subject to the Conservation Easement.
- E. Each lot shall be served by an individual well and septic system, or mechanical waste treatment system, with a service maintenance agreement in writing being a mandatory requirement of OWNER, KENDALL, and the Homeowners Association.
- F. Maximum effort shall be given to preservation of all living trees having a greater than 6" circumference at a measurement of 3 feet above the ground.
- G. With respect to lots 7, 8, 9, and 10 the front building setback line on the cul-de-sac street shall be permitted to be 35 feet in order to allow tree preservation toward the rear of each lot and to provide minimal amount of disturbance to the hill area from excavation.
- H. Due to the sensitive nature of development on the subject site, OWNER/DEVELOPER and KENDALL agree that prior to commencement of construction on each respective lot in said subdivision, accompanying an application for building permit shall be a proposed site drainage, and soil erosion control plan which shall first be approved in writing by OWNER/DEVELOPER and reviewed by the County Zoning Director and/or consultants of the County and approved together with the building permit application.
- I. No lot shall be permitted to be re-subdivided so long as the subject real property remains in unincorporated Kendall County.
- J. OWNER/DEVELOPER and KENDALL have agreed that due to the unique nature of the subject site, and the extensive flood plain area existing in the Conservation Easement on the subject site, that storm water should be permitted to have immediate release to the flood plain and Conservation Easement area and Little Rock Creek, as a variance from the Kendall County Storm Water Runoff Ordinance.
5. TIME IS OF THE ESSENCE.

It is understood and agreed by the parties hereto that time is of the essence in this

AGREEMENT, and that all parties will make every reasonable effort, to expedite the subject matter hereof. It is further understood and agreed by the parties that the successful consummation of this AGREEMENT requires their continued cooperation.

6. BINDING EFFECT.

This Planned Unit Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns including, but not limited to, successor owners of record, successor developers, and upon any successor County authority of KENDALL. In the event any portion of this AGREEMENT is deemed unenforceable by a Court of competent jurisdiction the remaining portion shall be binding upon all parties.

7. NOTICES AND REMEDIES.

Upon a breach of this AGREEMENT, any of the parties in any Court of competent jurisdiction, by any action or proceeding at law or in equity, may exercise any remedy available at law or equity.

Before any failure of any party of this AGREEMENT to perform its obligations under this AGREEMENT shall be deemed to be a breach of this AGREEMENT, the party claiming such failure shall notify in writing, certified mail/return receipt requested, the party alleged to have failed to perform, state the obligation allegedly not performed and the performance demanded.

Notice shall be provided at the following addresses:

KENDALL: Kendall County Plat Office
c/o Kendall County Zoning Office
111 W. Fox St.
Yorkville, Illinois 60560

Copy to Kendall County
States Attorney: Kendall County States Attorney
807 W. John St.
Yorkville, Illinois 60560

OWNER: Beverly I. Anderson, Trust
P.O. Box 253
Somonauk, Illinois 60552

Attorney for OWNER: Law Offices of Daniel J. Kramer
1107A S. Bridge Street
Yorkville, Illinois 60560

8. AGREEMENT TO PREVAIL OVER ORDINANCES.

In the event of any conflict between this AGREEMENT and any ordinances of KENDALL in force at the time of execution of this AGREEMENT or enacted during the pendency of this AGREEMENT, the provision of this AGREEMENT shall prevail to the extent of any such conflict or inconsistency.

9. PARTIAL INVALIDITY OF AGREEMENT.

If any provision of this AGREEMENT (except those provisions relating to the requested rezoning of the Property identified herein and the ordinances adopted in connection herewith), or its application to any person, entity, or property is held invalid, such provision shall be deemed to be excised herefrom and the invalidity thereof shall not affect the application or validity of any, other terms, conditions and provisions of this AGREEMENT and, to that end, any terms, conditions and provisions of this AGREEMENT are declared to be severable.

If, for any reason during the term of this AGREEMENT, any approval or permission granted hereunder regarding plans or plats of subdivision or zoning is declared invalid, KENDALL agrees to take whatever action is necessary to reconfirm such plans and zoning ordinances effectuating the zoning, variations and plat approvals proposed herein.

10. USE OF PROPERTY FOR FARMING.

Any portion of the PROPERTY, which is not conveyed or under development as provided herein, may be used for farming purposes, regardless of the underlying zoning, until developed.

11. BEVERLY ANDERSON hereby discloses that she is the sole OWNER of the subject real property under the terms of a self-declaration Living Trust.

12. OWNER/DEVELOPER shall cause the removal of any on-site debris prior to the application for any building permit on a lot where debris is present.

13. OWNER/DEVELOPER acknowledges that it intends to preserve the main original farmstead barn of the Denmen Family Homestead on Lot 4. Any plans to convert said barn for residential use in the future shall be subject to review by the Kendall County Zoning office.

14. Driveways for lots 7-10 of said subdivision will be restricted to be off of Oak Meadow Court and no access for driveway purposes shall be permitted to Burr Oak as to those lots.

IN WITNESS WHEREOF, the parties have executed this Planned Unit Agreement the day and year first above written.

KENDALL:

COUNTY OF KENDALL

By: _____
County Board Chairman

Dated: 8/18/98

Attest: Paul Anderson
County Clerk

OWNER:

BEVERLY I. ANDERSON, TRUST

Dated: _____

Law Offices of Daniel J. Kramer
1107A S. Bridge Street
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630.553.9500