



CITY OF DELAND
REGULAR MEETING OF THE PLANNING BOARD
FEBRUARY 16, 2022 AT 5:00 PM
CITY HALL, COMMISSION CHAMBERS
120 SOUTH FLORIDA AVENUE

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

VERBAL REPORT ON CITY COMMISSION MEETINGS

MINUTES

1. Approval of the minutes from the January 19, 2022 meeting.

VARIANCE OLD BUSINESS

VARIANCE NEW BUSINESS

PUBLIC PARTICIPATION PROCEEDINGS

PLANNING - OLD BUSINESS

1. Land Development Regulations Changes to Address Housing and Nonconforming Conditions, continued from January 19, 2022 meeting

PLANNING - NEW BUSINESS

1. Applicant Name: Michal Wojtuniak – Engineered Permits Inc.
Project Number: Z21-057 – PD Change of Zoning for DeLand Toyota
Project Location: 2.36 acres located at Plumosus Park Dr
Project Description: Amended and restated PD to add additional parcels
2. Applicant Name: Angel Rauber, HWH Law
Project Number: SE21-219 – Special Exception for Vehicle Sales
Project Location: 7.15 acres located at 2308 S Woodland Blvd
Project Description: Allow vehicle sales in C-2 and expand existing site
3. Applicant Name: Mark Watts – Cobb Cole
Project Name: PDC21-247 – PD Concept for Stonekirk
Project Location: 28.5 acres located at the SE corner of MLK and Cassadaga Rd
Project Description: Rezone property to PD for single unit multi-family development

4. Applicant Name: Lisa Mason - Florida Veterinary Rehabilitation
 Project Name: Z22-027, Land Development Regulation Amendment
 Project Description: Land Development Regulations Changes to Address Allowed Uses for P-1 in
 Commercial and Industrial Zoning Districts Table

OTHER BUSINESS

ADJOURNMENT



**CITY OF DELAND
PLANNING BOARD REGULAR MEETING
MINUTES
WEDNESDAY, JANUARY 19, 2022 -5:00 P.M.
CITY HALL**

CALL TO ORDER

The meeting began at 5:04 p.m.

PLEDGE OF ALLEGIANCE

Pledge of Allegiance – Mr. Owens, *Vice Chairperson*

ROLL CALL

Nora Lewis	Present
Don Liska	Present
Buz Nesbit	Absent (Emergency – out of state)
Jeremy Owens, <i>Vice Chairperson</i>	Present
Dan Reed	Present
Albert Neumann	Absent (Emergency – out of state)
Virginia Comella, <i>Chairperson</i>	Absent (Sick)

Quorum: Yes

Present – Mike Holmes, Planning Director; Darren Elkind, City Attorney; Caroline Turgeon, Senior Planner; Belinda Williams-Collins, Senior Planner; Danevsky Joseph, Planner I; MarLa Ivey, Community Development Coordinator; applicants; and members of the public.

VERBAL REPORT ON CITY COMMISSION MEETINGS

Mr. Holmes gave the report.

MINUTES

Ms. Lewis moved to approve the December 15, 2021 Meeting Minutes. Mr. Liska seconded the motion. The motion passed unanimously.

VARIANCE OLD BUSINESS

None.

VARIANCE NEW BUSINESS

1. Applicant Name: Michael Raney
Project Number: V21-244 - Variance
Project Location: 407 S Stone St
Project Description: Variance to: Reduce required side yard setback for accessory structures from 7.5' to 1.8' on the north side, reduce required rear yard setback for accessory structures from 7.5' to 2.8' and the current height of structure cannot be increased above 7' 4"

Public Participation: Applicant spoke and answered questions from the Board.

Mr. Liska moved to approve the request. Mr. Reed seconded the motion. The motion passed unanimously.

PUBLIC PARTICIPATION PROCEEDINGS

Mr. Owens read the Public Participation procedures.

PLANNING – OLD BUSINESS

None.

PLANNING – NEW BUSINESS

1. Applicant Name: Michael Woods – Cobb Cole
Project Number: AN21-197 – Annexation for Taylor Ridge
Project Location: +/-27 acres located at 1298 S Blue Lake Ave
Project Description: To annex +/-27 acres into the corporate limits of DeLand

Public Participation: Michael Woods, applicant, spoke and answered questions from the Board. Mr. Elkind and Mr. Holmes also answered questions. Members of the public spoke in favor and against.

Mr. Reed moved to approve the request to City Commission. Ms. Lewis seconded the motion. The motion passed unanimously.

2. Applicant Name: Michael Woods – Cobb Cole
Project Number: SMLU21-199 – Comprehensive Plan Amendment for Taylor Ridge
Project Location: +/-27 acres located 1298 S Blue Lake Ave
Project Description: Change of FLU from VC Rural to ULI for single family

Public Participation: Michael Woods, applicant, spoke and answered questions from the Board. Mr. Elkind and Mr. Holmes also answered questions. Members of the public spoke in favor and against.

Mr. Reed moved to approve the request to City Commission. Ms. Lewis seconded the motion. The motion passed unanimously.

3. Applicant Name: Michael Woods – Cobb Cole
Project Number: Z21-198 – PD Rezoning for Taylor Ridge
Project Location: +/-27 acres located 1298 S Blue Lake Ave
Project Description: Change of Zoning from A-2 to PD for single family

Public Participation: Michael Woods, applicant, spoke and answered questions from the Board. Mr. Elkind and Mr. Holmes also answered questions. Members of the public spoke in favor and against.

Ms. Lewis moved to approve the request to City Commission with the following recommendations. Mr. Reed seconded the motion. The motion passed unanimously.

Recommendations:

1. Address any remaining staff comments;
2. Increase easement to land locked parcel to 25 feet wide;
3. Clarify all buffer widths and state in PD agreement;
4. All curb adjacent to parallel parking shall be F type;
5. Coordinate cul-de-sac configuration with Fire Department; and
6. Clarify in the agreement how low impact development techniques will be utilized.

4. Applicant Name: Howard Lefkowitz – Manchester Communities, LLC
Project Name: PSB21-152 – Preliminary Plat for Manchester Neighborhood PH 1A
Project Location: 12.16 acres located at 801 Sol Y Sombra
Project Description: 95 Single Family Attached Units

Public Participation: Mark Watts, applicant, spoke and answered questions from the Board.

Mr. Liska moved to approve the request to City Commission with the following recommendations. Mr. Reed seconded the motion. The motion passed unanimously.

Recommendations:

1. Ensure lot dimensions are consistent with PD;
2. Provide sidewalk along access road; and
3. Verify utility connections are to be either private or public.

5. Applicant Name: Howard Lefkowitz – Manchester Communities, LLC
Project Name: PSB21-153 – Preliminary Plat for Manchester Neighborhood PH 1B
Project Location: 7.32 acres located at 801 Sol Y Sombra
Project Description: 61 Single Family Attached Units

Public Participation: Mark Watts, applicant, spoke and answered questions from the Board.

Mr. Reed moved to approve the request to City Commission with the following recommendations. Ms. Lewis seconded the motion. The motion passed unanimously.

Recommendations:

1. Ensure lot dimensions are consistent with PD;
 2. Provide sidewalk along access road; and
 3. Verify utility connections are to be either private or public.
-
6. Applicant Name: LAM Development
Project Name: Z21-202 – PD Change of Zoning for 425 Woodland
Project Location: 1.9 acres located at 425 S. Woodland Blvd
Project Description: Change of zoning from C-2/R-1 to PD and provide maximum FAR for project

Public Participation: Applicant spoke and answered questions from the Board.

Ms. Lewis moved to approve the request to City Commission. Mr. Liska seconded the motion. The motion passed unanimously.

7. Land Development Regulations Changes to Address Housing and Nonconforming Conditions

Ms. Lewis moved to continue the item to the February 16, 2022 Planning Board meeting. Mr. Reed seconded the motion. The motion passed unanimously.

OTHER BUSINESS

None.

ADJOURNMENT

The meeting ended at 7:03 p.m.

CITY OF DELAND
Request for Commission Action
February 16, 2022

SUBJECT: Land Development Regulations Changes to Address Housing and Nonconforming Conditions, continued from January 19, 2022 meeting

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Memo on LDR amendments - from January 19, 2022, Proposed Ordinance, Gateway Corridors Map, Latest Comments from Chairperson Comella

APPROVED BY: ,

SUMMARY/HIGHLIGHT:

Staff presented the proposed ordinance for the Planning Board to review at the January 19th meeting. After some discussion, the Board decided to continue the item to the February 16 meeting to allow for additional time to review and to hear from the members who were not present at the January meeting. Written comments from Chairperson Commella are attached for the Boards information. The attached ordinance has not been changed, but any changes requested by the Planning Board will be made prior to being submitted to the City Commission.

The Planning Board should provide comments on the proposed amendments and forward their recommendations to the City Commission.



Planning Department

Memorandum

TO: Planning Board

DATE: January 19, 2022

FROM: Mike Holmes, Planning Director

FILE: memo/2022/ldr housing

SUBJECT: Amendments to the Land Development Regulations to address nonconforming conditions and housing issues

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The City of DeLand, like other communities throughout Florida, have been experiencing increase demand for housing that is affordable to our residents. The City Commission, last year, held a working group that targeted these issues as a result of public input to the 2050 Vision update. Although there are many aspects that effect the housing situation, staff was directed to look at ways the City's Land Development Regulations could be revised to help address issues that may have been created by past regulations and development practices in an effort to increase the inventory of housing units in the community.

The attached ordinance proposes to update the LDR's by providing ways that some of the existing standards could be modified to incorporate flexibility into today's practices. The two broad areas that these proposed amendments are addressing: 1) lessening some requirements that may allow for the construction of more basic homes by developers and organizations to provide reasonably priced units and 2) to allow preexisting structures that currently don't comply with current regulations to be renovated or expanded by removing the stigma of properties or structures being labeled nonconforming. Owners may be hard pressed to obtain financing for properties if they are deemed nonconforming because of the potential inability to rebuild or to achieve a permit. Amending the City's hardship section may allow many of these structures to be upgraded without going through the variance process. However, if they cannot meet the standards, the properties could still go through the variance process for possible resolution to the situation.

Proposed Revisions

The following list describes the proposed changes:

1. Allowing accessory dwelling units (ADU) as a conditional use rather than a special exception in all single family zoning classifications. A conditional use allows the particular use out right subject to meeting the stated standards in the LDR's which are listed in Section 33-25. These standards are basically the same that were previously provided under the special exception process minus the building code requirements and the owner occupying one of the units.
2. Reduced minimum square footage for living area in all single family dwelling zoning districts to 900. Current range is between 1,000 sq. ft. to 1,800 sq. ft.; refer to individual single family districts for specific minimums. This will not change any standard contained in an approved PD agreement.

3. Eliminate minimum square footage requirement for multi-family units in the C-2A, Downtown Commercial district. The proposed change creates flexibility for downtown housing where one would expect smaller units. There are no proposed changes for other multi-family zoning categories. Section 33-17.17.
4. Allow single family dwellings in the C-2A, Downtown Commercial district that comply with the R-1 district standards. Use added to table 33-17.23. Currently all existing single family dwellings downtown are non-conforming. This allows the single family structures to be considered conforming until changed to another use by the owner.
5. Expanded when dwelling units can be on the first floor in the C-2A, Downtown Commercial district. This change will allow for them to be closer to either Woodland Blvd. or New York Av. but still emphasize the actual frontage for commercial and business uses. Sec. 33-19.13. The current code requires residential units to be at least 300 feet from either roadway. The proposed amendment reduces that distance to 50 feet.
6. Eliminate requirement for interior parking of 2 spaces in the Core Gateway overlay. This reduces the total number of spaces per single family unit from 4 spaces to 2, by requiring only the outside spaces. (Sec. 33-91 Parking Matrix) This eliminates the creation of nonconforming lots for many of the existing properties that only have two spaces.
7. Allow for a reduction in required parking for multi-family projects in the Core Gateway overlay. (Sec. 33-91 Parking Matrix) The reduction would be based on a parking study accepted by the City. The accepting body is dependent upon which body is approving the site plan application, staff, Planning Board, or City Commission.
8. Revised the entire Article IX, Hardship Relief. The revisions intended are to simplify when a variance is necessary and when the request can be approved administratively. Allows staff to approve existing situations such as existing setbacks or lot width but will not expand the current condition. Example, if the applicant needs to exceed the current setbacks, it then comes before the Planning Board as it does now; if the expansion can be accommodated by the current location of the building, staff can approve.

Comprehensive Plan Consistency

The Housing Element contains the following Objective and Policies that promote the need to review and amend the City's LDR's in order to provide appropriate housing for all in the community and in particular, the low to moderate income groups..

Objective h1.7: The City shall periodically review its regulations and continue to identify and implement measures which facilitate the provision of additional decent, safe, and sanitary affordable housing in the community to address the unmet housing needs of the lower-income segment of the population.

Policy h1.7.2: The City shall periodically review the regulatory and permitting process and will improve it as deemed necessary.

Policy h1.7.4: The City shall investigate and evaluate streamlining of permitting processes, unit/set asides, density bonuses and other such mechanisms for the provision of lower-income housing to determine which, if any, should be used by the City. The Land Development Regulations shall be revised to incorporate any such mechanisms determined to be appropriate and periodic reviews shall be performed to determine progress.

Recommendation: Staff recommends that the Planning Board review the attached ordinance and deem it is consistent with the Comprehensive Plan and forward it to the City Commission for their approval.

**01/06/2022 DRAFT
Affordable Housing
ORDINANCE NO. 2022-XXX**

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, AMENDING VARIOUS SECTIONS WITHIN THE *CODE OF ORDINANCES OF THE CITY OF DELAND/LAND DEVELOPMENT REGULATIONS (LDRS)* RELATING TO AFFORDABLE HOUSING, NONCONFORMING BUILDINGS, STRUCTURES, LOTS AND USES, AND OTHER LAND DEVELOPMENT MATTERS TO INCLUDE, BUT NOT BE LIMITED TO, SECTIONS 33-12, 33-17.23, 33-17.17, 33-19/33-19.01,33-19.13, 33-25/33-25.01/33-25.02/33-25.03, 33-91.03 (SUBSECTION (F)), 33-101/33-101.01/33-101.02, 33-102./33-102.01/33-102.02/33-102.03/33-102.04 AND 33-103/33-103.01/33-103.02/33-103.03/33-103.04/33-103.05; CREATING NEW PROVISIONS OF THE *LDRS*; REPEALING SECTIONS 33-33.01.(E)(10) AND SECTION 33-145.04 WHILE ALSO ELIMINATING AND REVISING THE TEXT OF NUMEROUS PROVISIONS; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR WAIVER OR DEFERRAL OF IMPACT FEES FOR AFFORDABLE HOUSING AS AUTHORIZED BY SECTION 163.31801(11), *FLORIDA STATUTES*; PROVIDING FOR DIVERSE IMPLEMENTING ADMINISTRATIVE ACTIONS AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR A SAVINGS PROVISION; PROVIDING FOR CODIFICATION ACTIONS OF A DIVERSE NATURE TO INCLUDE, BUT NOT BE LIMITED TO, MOVING SUBSECTION 33-102.04.(D) TO ARTICLE VI OF CHAPTER 33 WITH REGARD TO THE REGULATION OF SIGNS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Policy f2.3.6 of the City of DeLand’s *Comprehensive Plan* provides that the City shall “[e]xplore possible flexible development standards for affordable housing if mixed-use developments are located on areas served by transit”; and

WHEREAS, housing is generally considered Affordable when it is less than 30% of a family’s gross income and if a family is paying more than 30% its income for housing, it is considered a cost burdened household; and

WHEREAS, over 11 million Americans are considered extremely cost burdened because they are paying more than 50% of their income on housing and, in Florida, the issue of affordability has been one which has been grappled with for a long while; and

WHEREAS, affordable housing is not a subsidized public housing or low-income housing and “affordable” simply means rents have been set at a rate to allow families, seniors, and individuals to live within 30% of their gross income for all housing expense and there is a maximum household income requirement that excludes those with higher income and Section 420.9071(2), *Florida Statutes*, defines the term “affordable” to mean:

. . . that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the households as indicated in subsection (20), subsection (21), or subsection (30). However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark. The term also includes housing provided by a not-for-profit corporation that derives at least 75 percent of its annual revenues from contracts or services provided to a state or federal agency for low-income persons and low-income households; that provides supportive housing for persons who suffer from mental health issues, substance abuse, or domestic violence; and that provides on-premises social and community support services relating to job training, life skills training, alcohol and substance abuse disorders, child care, and client case management.

; and

WHEREAS, Section 166.04151, *Florida Statutes*, was enacted by the Florida Legislature relating to affordable housing and provides as follows:

(1) Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing or linkage fee ordinances.

(2) An inclusionary housing ordinance may require a developer to provide a specified number or percentage of affordable housing units to be included in a development or allow a developer to contribute to a housing fund or other alternatives in lieu of building the affordable housing units.

(3) An affordable housing linkage fee ordinance may require the payment of a flat or percentage-based fee, whether calculated on the basis of the number of approved dwelling units, the amount of approved square footage, or otherwise.

(4) In exchange for a developer fulfilling the requirements of subsection (2) or, for residential or mixed-use residential development, the requirements of subsection (3), a municipality must provide incentives to fully offset all costs to the developer of its affordable housing contribution or linkage fee. Such incentives may include, but are not limited to:

(a) Allowing the developer density or intensity bonus incentives or more floor space than allowed under the current or proposed future land use designation or zoning;

(b) Reducing or waiving fees, such as impact fees or water and sewer charges; or

(c) Granting other incentives.

(5) Subsection (2) does not apply in an area of critical state concern, as designated by s. 380.0552 or chapter 28-36, Florida Administrative Code.

(6) Notwithstanding any other law or local ordinance or regulation to the contrary, the governing body of a municipality may approve the development of housing that is affordable, as defined in s. 420.0004, on any parcel zoned for residential, commercial, or industrial use.

; and

WHEREAS, Section 163.31801(11), *Florida Statutes*, was enacted by the Florida Legislature pertaining to impact fees and provides as follows:

A county, municipality, or special district may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in s. 420.9071. If a county, municipality, or special district provides such an exception or waiver, it is not required to use any revenues to offset the impact.

; and

WHEREAS, a sampling of residents which are in need of affordable housing includes entry level teachers, essential workers such as those in the medical field, restaurant, office, and retail personnel and many of persons employed in law enforcement; and

WHEREAS, a variety of strategies affecting affordable housing include linkage fees; accessory dwelling units (ADUs); the State Housing Initiative Partnership (SHIP) program; approval of affordable housing developments on land zoned as residential, commercial, or industrial; and mobile homes/manufactured housing; and

WHEREAS, many benefits of affordable housing derive to the City such as, but not limited to:

(1). Economic benefits to the community. Affordable housing provides direct economic advantages to the immediate community.

(2). Provides a diverse workforce. The best thing about affordable housing is the fact that it accommodates individuals with different skills that are beneficial to the community.

(3). Promotes social and economic integration. Affordable housing ensures that the cost of housing is not very high such that families can afford to meet their respective health and education ...

(4). Stronger labor force. Through affordable housing, the employees are going to be able to live near their respective employment centers and this leads to a stronger labor force.

; and

WHEREAS, Policy f1.2.7 of the City of DeLand’s *Comprehensive Plan* provides, in pertinent part, that “[n]otwithstanding previous sections of this Element, College Arms Tower at 101 N. Amelia Ave., and Hugh Ash Manor at 740 N. Woodland Blvd., for purposes of density, shall be considered conforming uses.”; and

WHEREAS, Policy f3.2.6 of the City of DeLand’s *Comprehensive Plan* that “[t]he City may remove, at the owner’s expense, non-conforming obstructions that have been abandoned or have deteriorated (as described in §333.07(1)(b) F.S.) or deny a permit to rehabilitate the structure beyond what is currently permitted under the airport protection zoning regulations.”; and

WHEREAS, it is important for the City to establish reasonable regulations for the regulation and ultimate elimination of non-conforming uses; and

WHEREAS, Section 163.3202, *Florida Statutes*, provides that the City of DeLand shall adopt and enforce land development regulations for the purpose of implementing its *Comprehensive Plan* and protecting the public health, safety and general welfare; and

WHEREAS, the City of DeLand’s Planning Board, as the City’s local planning agency, held a public hearing to consider this Ordinance and recommended approval; and

WHEREAS, City staff has recommended approval of this Ordinance; and

WHEREAS, without limiting the generality of the foregoing in any respect, the City Commission has determined that this Ordinance is consistent with the *Comprehensive Plan* of the City of DeLand; and

WHEREAS, the City Commission of the City of DeLand has deemed approval of this Ordinance to be in the best interest of the residents and citizens of the City of DeLand and to further the public health, safety and welfare; and

WHEREAS, this Ordinance is enacted pursuant to the statutory and constitutional home rule powers of the City of DeLand as set forth at Article VIII, Section 2, of the *Constitution of the State of Florida*; and Chapter 166, *Florida Statutes*, and other applicable controlling law to include, but not be limited to, Chapter 163, *Florida Statutes*; and

WHEREAS, the City of DeLand has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance; and

WHEREAS, for purposes of this Ordinance, underlined type shall constitute additions to the original text, *** shall constitute ellipses to the original text, ~~striketrough~~ shall constitute deletions to the original text, and minor edits have been made without legislative coding.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. Legislative Findings And Intent.

(a). The City Commission of the City of DeLand hereby adopts and incorporates into this Ordinance the City staff report relating to this Ordinance.

(b). A nonconforming use is generally defined as a land use or structure that was legal when established but does not conform to the standards of the current zoning ordinance or land development regulations. The term “nonconforming use” covers several situations, including nonconforming uses, lots, buildings and structures. Preexisting land uses that do not conform to current zoning are not favored. The ultimate goal of zoning is to achieve a complimentary mix of property uses within each zoning district/classification. At the same time, landowners have made investments in their businesses and buildings, and it would be unfair and, perhaps, illegal in some circumstances, to require immediate termination or removal. Rather than require the immediate elimination of these preexisting uses, it is a common and generally accepted land use planning practice and principal to outline a set of conditions for the continued existence of nonconforming uses. The general rule is, however, that the expansion, enlargement or intensification of a nonconforming use in almost all cases can be regulated or prohibited. Similarly, the resumption of a nonconforming use or structure after it has been destroyed may be prohibited in some circumstances, but land development regulations traditionally set specific thresholds, such as a percentage of assessed value, for defining what constitutes destruction, and courts generally defer to the stated thresholds. Again, the principle is to allow landowners to continue to reasonably benefit from investments made in their properties. If those investments have been destroyed, however, the community may or may not have an obligation to allow a landowner to reinvest in a use prohibited by current zoning. To prevent nonconforming uses from becoming blighted properties, land development regulations generally allow for routine maintenance and repair, so long as such activities do not constitute expansion or enlargement. When a nonconforming use has been abandoned, its resumption can be prohibited.

Section 2. Amendment to Section 33-12, City Code/Land Development Regulations, Definitions. Section 33-12 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-12. - Definitions.

(a). As used in these Land Development Regulations ~~this chapter~~, the following words shall be defined as follows:

Nonconformities, building or ~~and~~ structure, means a building or structure, lawfully existing at the effective date of the enactment (effective date) of a provision or provisions of these Land Development Regulations, or any subsequent amendment thereto, which does not conform to one or more of the then enacted provision or provisions. Buildings or structures that are subject to a development order granting a variance shall not be considered nonconforming. which does not meet the city's requirements as to:

Minimum building or structure setback;

~~Minimum building dimensions;~~

~~Minimum lot dimensions;~~

~~Minimum landscape buffer requirements;~~

~~Maximum lot coverage or impervious area;~~

~~Maximum height for structures; or~~

~~Other similar building or structural requirements or limitations.;~~

~~Nonconformities, parking, loading, landscaping, and other means improvements that do not meet with such City requirements as to:~~

~~Required number or size of parking spaces;~~

~~Required number or size of loading dock spaces;~~

~~Required dumpster location or screening;~~

~~Required stacking spaces for drive-in services;~~

~~Required access and maneuvering area in vehicular areas;~~

~~Required landscaping and screening;~~

~~Required sidewalk and pedestrian circulation;~~

~~Limitations on amount and area of signs; or~~

~~Other similar site improvement requirements or limitations.~~

Nonconforming Lot means a lot (meaning a tract of land however lawfully created) which is lawfully existing at the effective date of the enactment (effective date) of a provision or provisions of these *Land Development Regulations*, or any subsequent amendment thereto, which does not conform to one or more of the then enacted provision or provisions. Lots that are subject to a development order granting a variance shall not be considered nonconforming.

Nonconforming Use means a use of land lawfully existing at the effective date of the enactment (effective date) of a provision or provisions of these *Land Development Regulations*, or any subsequent amendment thereto, which does not conform to one or more of the then enacted provision or provisions.

(b). In addition to the foregoing, the City may apply any definition set forth in the *Florida Statutes* that may be applicable to the development processes and procedures of the City as well as any definition that may be adopted in the *Florida Building Code* when applicable to such processes and procedures.

Section 3. Amendment to Section 37-17, City Code/Land Development Regulations, Allowed Uses In Residential, Commercial And Industrial Zoning Districts. Section 37-17 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-17. Zoning districts.

The following table insert contains an overview of uses allowed in the residential and the educational zoning districts. Information specific to each zoning district follows in individual tables. Uses allowed in other than residential districts appear in Table 33-17.23.

Use-specific data presented in the tables are identified as follows:

1. Primary uses and structures allowed in the following districts are indicated by the letter "P."
2. Conditional uses may be allowed in a district where compliance with restrictions related to that use are met. Conditional uses are indicated by the letter "C." The restrictions for conditional uses are either stated or discussed in section 33-19, as indicated by an asterisk (*) or superscript number. Blank spaces indicate the use is not permitted in that district.
3. Certain uses may be allowed in certain district by special exception only. Further details regarding these exceptions appear in section 33-18. Uses allowed by special exception are indicated by the letter "E," and, where applicable, the restriction detail is identified by superscript number.

USES	R-1	R-2	R-3	R-4	R-5	R-6	R-7	R-8	R-9	R-10	R-11	R-12	R-13	R-14
Single-family dwellings except mobile homes	P	P	P	P	P	P	P							P
Single-family dwellings compliant with R-1								P	C	C				
Two-family dwellings and duplexes								P						P
Two-family dwellings and duplexes, comply R-2									C	C				
Multiple-family dwellings									P	P	P			P
Accessory Dwelling Units	EC	EC	EC	EC	EC	EC	EC							
Dormitories														P
Mobile homes, tenant or lease residence													P	
Mobile home sales on site lots and housing units													P	
Recreation or laundry facilities													P	

Park management office buildings												P	
Bed and breakfast homestay, accessory	P	P	P	P	P	P	P	P					
Bed and breakfast inn, accessory									P	P	P		
Day care facilities													P
Family day care home	P	P	P	P	P	P	P	P	P	P	P		
Community residential homes, single-family*	C	C	C	C	C	C	C	P	C	C	C	C	C
Community residential homes, multifamily*									C	C			C
Nursing homes and adult congregate living									E	E	E		
Community and Market Gardens	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹	E ¹
Mini and neighborhood parks	P	P	P	P	P	P	P	P	P	P	P	P	P
Community and regional parks	E	E	E	E	E	E	E	E	E	E	E	E	E
Private parks	E	E	E	E	E	E	E	E	E	E	E		
Golf courses and their related structures	E	E	E	E	E	E	E	E	E	E	E	E	E
Private clubs and lodges	E	E									P		
Churches with accessory education and recreation	E	E	E	E	E	E	E	E	E	E	E	E	P
Government or public buildings and land uses	E	E	E	E	E	E	E	E	E	E	E	E	P
Cemeteries	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴	E ⁴		
Veterinary clinics, groom and outdoor boarding	E												
Colleges and universities						P	P						P
Public, private and parochial schools												P	P
Printing and lithography, not to exceed 2,000 square feet													C
Private clubs and lodges													P
Shade structure less than 800 square feet (accessory)													P
Shade structure over 800 square feet													E
Microwave, radio, phone, TV facilities and towers													E
Communication towers	See section 33-23												
Other uses approved by the city commission ¹	P	P	P	P	P	P	P	P	P	P	P	P	P

¹ Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.

33-17.01. *R-R—Rural Residential.*

- (a) *Statement of intent.* The purpose and intent of this R-R Rural Residential District is to provide a gradual transition between agricultural and urban and single-family development plans.

R-R RURAL RESIDENTIAL
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only (See also section 33-27.03.)
Family day care home.
Mini and neighborhood parks.
Single-family dwellings, except mobile homes.
<u>Accessory dwelling units.</u>
Colleges and universities—Colleges and universities, including class rooms, libraries, art centers, laboratories, offices, administration building and other university uses of a similar nature.
Other uses—Other uses must be approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted therein.
CONDITIONAL USES (See also Chapter 33, Section 33-19)
Community residential homes, single-family.
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)
Accessory dwelling units.
Cemeteries.
Churches, houses of worship—Churches, houses of worship and religious institutions with their customary accessory educational and recreational uses and buildings.
Community and regional parks.
Community gardens.
Golf courses—Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.
Government and public buildings and land uses.
Private clubs and lodges.
Private parks.
Veterinary clinics/hospitals and pet grooming—Veterinary clinics, animal hospitals and pet grooming with outdoor boarding facilities and runs.
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.
MAXIMUM DENSITY ALLOWED

Dwelling units per gross acre.	1.09
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	100 feet
MINIMUM SIZE	40,000 square feet
Lots fronting on a curve must have a minimum 50-foot width at the street line.	
Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots.	
Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	30 percent
Front setback	40 feet
Rear setback	40 feet
Interior side setback	15 feet
Street side setback	40 feet
BUILDING DIMENSIONS	
Maximum height	35 feet
Minimum floor area under heat and air	900 1,200-square feet
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two off-street parking spaces compliant with Figure 33-91.06(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved or improved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Areas paved with impervious material must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	

MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1-acre per unit
Septic tank with public water supply	½-acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area.	
Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
AGRICULTURE	
Low intensity agriculture is permitted, provided the use is consistent with the Comprehensive Plan and the requirements of section 33-27.05.	
ACCESSORY STRUCTURES	
Permits are required for the placement and installation of accessory structures such as pools, storage sheds fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.	

33-17.02. *R-R1—Suburban Single-Family Residential District.*

- (a) *Statement of intent.* The purpose of the R-R1 Suburban Single-Family Residential District is to provide a transitional area between rural residential and urban development patterns. The intent of the district is to allow and encourage future single-family development in these transitional areas and to preserve the character of existing suburban residential developments of a similar nature.

R-R1 SUBURBAN SINGLE-FAMILY RESIDENTIAL DISTRICT
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only (See also section 33-27.03.)
Family day care home.
Mini and neighborhood parks.
Single-family dwellings, except mobile homes.
<u>Accessory dwelling units.</u>
Other uses—Other uses must be approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted therein.
CONDITIONAL USES (See also chapter 33, section 33-19)
Community residential homes, single-family.
SPECIAL EXCEPTIONS (See also chapter 33, section 33-18)

Accessory dwelling units.	
Bed and Breakfast homestay, as allowed for in Section 33-27.03	
Cemeteries.	
Churches, houses of worship—Churches, houses of worship and religious institutions with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses—Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Government and public buildings and land uses.	
Private clubs and lodges.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre.	2.18
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	100 feet
MINIMUM SIZE	20,000 square feet
Lots fronting on a curve must have a minimum 50-foot width at the street line.	
Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots.	
Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	35 percent
Front setback	30 feet
Rear setback	20 percent of lot depth, but not less than 20 feet. For residences, where 60% of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Interior side setback	12 feet
Street side setback	30 feet
BUILDING DIMENSIONS	
Maximum height	35 feet
Minimum floor area under heat and air	900 1,200 square feet
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and 10 feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved or improved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Areas paved with impervious material must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	

Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1-acre per unit
Septic tank with public water supply	½-acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area.	
Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
AGRICULTURE	
Low intensity agriculture is permitted, provided the use is consistent with the Comprehensive Plan and the requirements of section 33-27.05.	
ACCESSORY STRUCTURES	
Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.	

33-17.03. *R-1AA—Single-Family Dwelling District.*

- (a) *Statement of intent.* The purpose and intent of the R-1AA Single-Family Residential District is to provide and encourage low-density residential neighborhoods in an urban setting for both existing and proposed developments.

R-1AA SINGLE-FAMILY DWELLING
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)
Family day care home.
Mini and neighborhood parks.
Single-family dwellings, except mobile homes.
<u>Accessory dwelling units.</u>
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.
CONDITIONAL USES (See also chapter 33, section 33-19)
Community residential homes, single-family.
Garden community (section 33-19.14).
SPECIAL EXCEPTIONS (See also chapter 33, section 33-18)
<u>Accessory dwelling units.</u>
Bed and Breakfast homestay, as allowed for in Section 33-27.03
Cemeteries.

Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre	4.36
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	100 feet
MINIMUM SIZE	10,000 square feet
Lots fronting on a curve must have a minimum 50-foot width at the street line.	
Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots.	
Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	40 percent
Front setback	30 feet
Rear setback	25 feet. For residences, where 60 percent of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Side setback	15 feet
Street side setback	20 feet, provided the corner lot faces the same as all other lots on the street.
BUILDING DIMENSIONS	
Maximum height	35 feet
Minimum floor area under heat and air	9001,400 square feet
	Two story: Ground floor: 6001,200 square feet
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	

The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.06(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved or improved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Areas paved with impervious material must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1 acre per unit
Septic tank with public water supply	½ acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
AGRICULTURE	
Low intensity agriculture is permitted only as an accessory to single-family dwellings, provided the use is consistent with the Comprehensive Plan and the requirements of section 33-27.05.	
ACCESSORY STRUCTURES	

Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.

33-17.031. *R-1A—Single-Family Dwelling District.*

- (a) *Statement of intent.* The purpose and intent of the R-1A Single-Family Residential District is to provide low density residential neighborhoods in an urban setting with less stringent development standards than the R-1AA district.

R-1A SINGLE-FAMILY DWELLING	
ALLOWED USES	
PRIMARY USES AND STRUCTURES	
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)	
Family day care home.	
Mini and neighborhood parks.	
Single-family dwellings, except mobile homes.	
<u>Accessory dwelling units.</u>	
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.	
CONDITIONAL USES (See also chapter 33, section 33-19)	
Community residential homes, single-family.	
Garden community (section 33-19.14).	
SPECIAL EXCEPTIONS (See also chapter 33, section 33-18)	
Accessory dwelling units.	
Bed and Breakfast homestay, as allowed for in Section 33-27.03	
Cemeteries.	
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre	5.28
MINIMUM LOT DIMENSIONS	

MINIMUM WIDTH	75 feet corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a curve must have a minimum 50-foot width at the street line.
MINIMUM SIZE	8,250 square feet
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	40 percent
Front setback	30 feet
Rear setback	25 feet. For residences, where 60 percent of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Side setback	12.5 feet
Corner lot: Street side setback	20 feet, provided the corner lot faces the same as all other lots on the street.
BUILDING DIMENSIONS	
Maximum height	35 feet
Minimum floor area under heat and air	9001,400-square feet.
	Two story: Ground floor: 9600 square feet
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.06(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	

Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1 acre per unit
Septic tank with public water supply	½ acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
AGRICULTURE	
Low intensity agriculture is permitted only as an accessory to single-family dwellings, provided the use is consistent with the Comprehensive Plan and the requirements of section 33-27.05.	
ACCESSORY STRUCTURES	
Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.	

33-17.04. *R-1B—Single-Family Dwelling District.*

- (a) *Statement of intent.* The purpose and intent of the R-1B Single-Family Residential District is to provide affordable, low density residential neighborhoods in an urban setting with less stringent development standards and minimum floor area requirements than the R-1A district.

R-1B SINGLE-FAMILY DWELLING
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)
Family day care home.
Mini and neighborhood parks.
Single-family dwellings, except mobile homes.
<u>Accessory dwelling units.</u>

Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.	
CONDITIONAL USES (See also chapter 33, section 33-19)	
Community residential homes, single-family.	
Garden community (section 33-19.14).	
SPECIAL EXCEPTIONS (See also chapter 33, section 33-18)	
Accessory dwelling units.	
Bed and Breakfast homestay, as allowed for in Section 33-27.03	
Cemeteries.	
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including, but not limited to, the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre	5.81
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	75 feet. Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.
MINIMUM SIZE	7,500 square feet
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	45 percent
Front setback	30 feet
Rear setback	25 feet. For residences, where 60 percent of neighboring residential structures within 500 feet have an existing lesser

	setback staff may approve a matching setback.
Side setback	10 feet
Corner lot: Street side setback	20 feet, provided the corner lot faces the same as all other lots on street.
BUILDING DIMENSIONS	
Maximum height	35 feet
Minimum floor area under heat and air	9001,200-square feet
	Two story: Ground floor: 9600 square feet.
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.06(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved or improved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Areas paved with impervious material must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1 acre per unit
Septic tank with public water supply	½ acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as	

defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.
LANDSCAPING
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).
AGRICULTURE
Low intensity agriculture is permitted only as an accessory to single-family dwellings, provided the use is consistent with the Comprehensive Plan and the requirements of section 33-27.05.
ACCESSORY STRUCTURES
Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, Section 33-28, accessory structures.

33-17.05. *R-1—Single-Family Dwelling District.*

- (a) *Statement of intent.* The purpose and intent of the R-1 Single-Family Residential District is to provide medium density residential neighborhoods in an urban setting along with other limited nonresidential uses.

R-1 SINGLE-FAMILY DWELLING
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)
Colleges and universities, including classrooms, libraries, art centers, laboratories, offices, administrative buildings and other university uses of a similar nature.
Family day care home.
Mini and neighborhood parks.
Single-family dwellings, except mobile homes.
<u>Accessory dwelling units.</u>
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.
CONDITIONAL USES (See also Chapter 33, Section 33-19)
Community residential homes, single-family.
Garden community (section 33-19.14).
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)
<u>Accessory dwelling units.</u>
Bed and Breakfast homestay, as allowed for in Section 33-27.03
Cemeteries, churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.

Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre	6.7
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	60 feet
MINIMUM SIZE	6,500 square feet. Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	50 percent
Front setback	30 feet
Rear setback	25 feet. For residences, where 60 percent of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Side setback	7.5 10 feet
Corner lot: Street side setback	20 feet— Provided the corner lot faces the same as all other lots on street.
BUILDING DIMENSIONS	
Maximum height	35 feet
Minimum floor area under heat and air	1,9000 square feet
	Two story: Ground floor: 8600 square feet
ADDITIONAL REQUIREMENTS	

MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.06(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved or improved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Areas paved with impervious material must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1 acre per unit
Septic tank with public water supply	½ acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
AGRICULTURE	

Low intensity agriculture is permitted only as an accessory to single-family dwellings, provided the use is consistent with the Comprehensive Plan and the requirements of section 33-27.05.

ACCESSORY STRUCTURES

Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article II, section 33-28, accessory structures.

33-17.06. *Reserved.*

Editor's note(s)—Ord. No. 2019-10, § 3, adopted May 6, 2019, deleted § 33-17.06 entitled "R-1C—Single-Family Dwelling District."

33-17.07. *R-2—Two-Family Dwelling District.*

- (a) *Statement of intent.* The purpose and intent of the R-2 Two-Family Residential District is to provide medium density multifamily residential neighborhoods in an urban setting with a mixture of single-family, two-family, and limited nonresidential development.

R-2 TWO-FAMILY DWELLING
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)
Family day care home.
Mini and neighborhood parks.
Two-family dwellings and duplexes.
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.
CONDITIONAL USES (See also Chapter 33, Section 33-19)
Community residential homes, single-family. Single-family dwellings, development must comply with R-1 standards.
Garden community (section 33-19.14).
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)
Cemeteries, churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.
Community and regional parks.
Community gardens.
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.
Governmental and public building and land uses.
Private parks.

Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre	11.62
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building setback line.	Single-family dwelling: 60 feet. Duplex: 75 feet. Where the duplex is subdivided for individual ownership; each unit in the duplex shall have a minimum lot width of 37.5 feet.
MINIMUM SIZE	Single-family dwelling: 6,500 square feet.
	Duplex: 7,500 square feet.
	Where the duplex is subdivided for individual ownership, each unit in the duplex shall have a minimum lot area of 3,750 square feet.
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	50 percent
Front setback	30 feet
Rear setback	25 feet. For residences, where 60 percent of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Side setback	7.5 feet
	In instances where the duplex is being subdivided for individual ownership, the interior side setback shall be reduced to 0 feet.
Corner lot: Street side setback	15 feet, provided the corner lot faces the same as all other lots on street.
BUILDING DIMENSIONS	
Maximum height	35 feet

Minimum floor area under heat and air: single-family	1,0900 square feet
	Single-family—Ground floor: 8600 square feet
Minimum floor area under heat and air: Duplex	One story: 1,2000 square feet
	Ground floor: 9600 square feet
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1 acre per unit
Septic tank with public water supply	½ acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	

ACCESSORY STRUCTURES
Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.
COMMUNITY DESIGN STANDARDS
Site and building aesthetics need to comply with the Community Design Standards (article VIII, section 33-94).

33-17.08. *R-8—Multiple-Family Dwelling District.*

- (a) *Statement of intent.* The purpose and intent of this district is to provide for a variety of multiple-family residential developments in an urban, medium density residential setting.

R-8 MULTIPLE-FAMILY DWELLING
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)
Family day care home.
Mini and neighborhood parks.
Multiple-family dwellings and duplexes.
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.
CONDITIONAL USES (See also CHAPTER 33, section 33-19)
Community residential homes, single-family.
Community residential homes, multifamily.
Single-family dwellings, development must comply with R-1 standards.
Two-family dwellings and duplexes, development must comply with R-2 standards.
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)
Cemeteries.
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.
Community and regional parks.
Community gardens.

Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Nursing (convalescent) homes, adult congregate-living facilities.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre.	
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	Single-family dwelling: 60 feet Duplex: 75 feet In instances where the duplex is being subdivided for individual ownership, each unit in the duplex shall have a minimum lot width of 37.5 feet.
MINIMUM SIZE	Single-family dwelling: 6,500 square feet Duplex: 7,500
	In instances where the duplex is being subdivided for individual ownership, each unit in the duplex shall have a minimum lot area of 3,750 square feet.
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface: Single-family/Duplex	50 percent
Maximum impervious surface: Multifamily	One-, two-, three-story: 50 percent.
	Four-story: 45 percent
	Five-story: 40 percent

	Six-story: 35 percent
SETBACKS: MULTIFAMILY	
Front	30 feet from project perimeter lot line.
Rear and side	20 feet from project perimeter lot line.
	40 feet from the project perimeter lot line when adjacent to single-family residential district. May be reduced to 20 feet if an eight-foot wall is used for visual screening.
Interior	All buildings shall be set back at least ten feet from all interior private roads and parking areas. An additional set back from private roads of one foot shall be required for every two feet of height for structures exceeding 35 feet.
Spacing between buildings	The following minimum spacing shall be maintained between buildings: 25 feet between sides of buildings; 25 feet between sides and rear of adjacent buildings and 50 feet between any combination of fronts or rears of adjacent buildings.
SETBACKS: SINGLE-FAMILY AND DUPLEX	
Front	30 feet
Rear	25 feet. For residences, where 60% of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback
Side	7.5 feet. In instances where the duplex is being subdivided for individual ownership, the interior side setback shall be reduced to 0 feet.
Corner lot: Side street	15 feet, provided the corner lot faces the same as all other lots on the street.
BUILDING DIMENSIONS	
Maximum height	65 feet

Maximum length	150 feet
Minimum floor area under heat and air: Single-family	1,090 square feet Ground floor: 860 square feet
Minimum floor area under heat and air: Duplex	1,000 square feet Ground floor: 960 square feet
Minimum floor area multifamily	Efficiency, no separate bedroom: 425 square feet
	One bedroom: 575 square feet
	Two + bedroom: 725 square feet plus 150 square feet per each additional bedroom
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and 10 feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved with concrete, asphalt, concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
Visitor parking shall be provided at 0.5 spaces per unit.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1-acre per unit
Septic tank with public water supply	½-acre per unit

MINIMUM REQUIREMENTS FOR TREE COVERAGE
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.
LANDSCAPING
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).
TRAFFIC IMPACT ANALYSIS
Calculation and submittal of average annual daily trips is required for all developments. The developer of any development which will generate 1,000 or more average annual daily trip (AADT) ends per day, as determined by reference to the Institute of Traffic Engineers Trip Generation Manual or to locally derived trip generation rates accepted by the city as accurate, shall provide the city with a traffic impact analysis prepared by a qualified traffic engineer at the time application is made for approval of a site plan or preliminary plat. See also section [33-41.04(a)1.].
ACCESSORY STRUCTURES
Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.
COMMUNITY DESIGN STANDARDS
Site and building aesthetics need to comply with the Community Design Standards (article VIII, section 33-94).

33-17.09. R-12—Multiple-Family Dwelling District.

- (a) *Statement of intent.* The purpose and intent of this district is to provide for a variety of multiple-family residential developments in an urban, medium density residential setting.

R-12 MULTIPLE-FAMILY DWELLING
ALLOWED USES
PRIMARY USES AND STRUCTURES
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)
Family day care home.

Mini and neighborhood parks.	
Multiple-family dwellings and duplexes.	
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.	
CONDITIONAL USES (See also Chapter 33, Section 33-19)	
Community residential homes, single-family.	
Community residential homes, multifamily.	
Single-family dwellings, development must comply with R-1 standards.	
Two-family dwellings and duplexes, development must comply with R-2 standards.	
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)	
Cemeteries.	
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Nursing (convalescent) homes, adult congregate-living facilities.	
Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre.	12
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	
Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area	Single-family dwelling: 60 feet
	Duplex: 75 feet

than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	In instances where the duplex is being subdivided for individual ownership; each unit in the duplex shall have a minimum lot width of 37.5 feet.
MINIMUM SIZE	Single-family dwelling: 6,500 square feet
	Duplex: 7,500
	In instances where the duplex is being subdivided for individual ownership; each unit in the duplex shall have a minimum lot area of 3,750 square feet.
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface: Single-family and duplex	50 percent
Maximum impervious surface: Multifamily	One-, two-, three-story: 50 percent
	Four-story: 45 percent
	Five-story: 40 percent
	Six-story: 35 percent
SETBACKS: MULTIFAMILY	
Front	30 feet from project perimeter lot line
Rear and side	20 feet from project perimeter lot line
	40 feet from the project perimeter lot line when adjacent to single-family residential district. May be reduced to 20 feet if an eight-foot wall is used for visual screening.
	In instances where the duplex is being subdivided for individual ownership, the interior side setback shall be reduced to 0 feet.
Interior	All buildings shall be set back at least ten feet from all interior private roads and parking areas. An additional set back from private roads of one foot shall be required for every

	two feet of height for structures exceeding 35 feet.
Spacing between buildings	The following minimum spacing shall be maintained between buildings: 25 feet between sides of buildings; 25 feet between sides and rear of adjacent buildings and 50 feet between any combination of fronts or rears of adjacent buildings.
SETBACKS: SINGLE-FAMILY AND DUPLEX	
Front	30 feet
Rear	25 feet. For residences, where 60% of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback
Side	7.5 feet
Corner lot: Side street	15 feet, provided the corner lot faces the same as all other lots on street.
BUILDING DIMENSIONS	
Maximum height	65 feet
Maximum length	150 feet
Minimum floor area under heat and air: Single-family	1,090 0 square feet Ground floor: 860 0 square feet
Minimum floor area under heat and air: Duplex	1,000 square feet Ground floor: 960 0 square feet
Minimum floor area under heat and air: Multifamily	Efficiency, no separate bedroom: 425 square feet One bedroom: 575 square feet Two + bedroom: 725 square feet plus 150 square feet per each additional bedroom
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and 10 feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	

A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
Visitor parking shall be provided at 0.5 spaces per unit.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1-acre per unit
Septic tank with public water supply	½-acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
TRAFFIC IMPACT ANALYSIS	
Calculation and submittal of average annual daily trips is required for all developments. The developer of any development which will generate 1,000 or more average annual daily trip (AADT) ends per day, as determined by reference to the Institute of Traffic Engineers Trip Generation Manual or to locally derived trip generation rates accepted by the city as accurate, shall provide the city with a traffic impact analysis by a qualified traffic engineer at the time	

application is made for approval of a site plan or preliminary plat. See also section [33-41.04(a)1.].

ACCESSORY STRUCTURES

Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, section 33-28, accessory structures.

COMMUNITY DESIGN STANDARDS

Site and building aesthetics need to comply with the Community Design Standards (article VIII, section 33-94).

33-17.10. R-16—Multiple-Family Dwelling District.

- (a) *Statement of intent.* The purpose and intent of this district is to provide for high-density multifamily residential living within the city in the older developed sections of DeLand, catering to the needs of those citizens desiring a spacious, well maintained and natural on-site environment near the city's downtown shopping area.

R-16 MULTIPLE-FAMILY DWELLING	
ALLOWED USES	
PRIMARY USES AND STRUCTURES	
Bed and breakfast homestay, accessory use only. (See also section 33-27.03.)	
Family day care home.	
Mini and neighborhood parks.	
Multiple-family dwellings.	
Private clubs and lodges.	
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.	
CONDITIONAL USES (See also Chapter 33, Section 33-19)	
Community residential homes, single-family.	
Community residential homes, multifamily.	
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)	
Cemeteries.	
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
Nursing (convalescent) homes, adult congregate-living facilities. Private parks.	
Home occupations are permitted in structures used as a residence without a development permit when conducted in accordance with section 33-27.01. Regulations governing other accessory uses appear in article III.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre.	16
MINIMUM LOT DIMENSIONS	

MINIMUM WIDTH	
Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	Single family dwelling: 60 feet
	Duplex: 75 feet
	In instances where the duplex is being subdivided for individual ownership; each unit in the duplex shall have a minimum lot width of 37.5 feet. <u>100 feet</u>
MINIMUM SIZE	Single family dwelling: 6,500 square feet
	Duplex: 7,500 square feet
	In instances where the duplex is being subdivided for individual ownership; each unit in the duplex shall have a minimum lot area of 3,750 square feet. <u>2,722.5 square feet per dwelling unit</u>
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface: Single family and duplex	50 percent
Maximum impervious surface: Multifamily	One-, two-, three-story: 50 percent
	Four-story: 45 percent
	Five-story: 40 percent
	Six-story: 35 percent
SETBACKS: MULTIFAMILY	
Front	30 feet from project perimeter lot line
Rear and side	20 feet from project perimeter lot line
	40 feet from the project perimeter lot line when adjacent to single-family residential district. May be reduced to 20 feet if an eight-foot wall is used for visual screening.
	In instances where the duplex is being subdivided for individual ownership, the interior side setback shall be reduced to 0 feet.
Interior	All buildings shall be set back at least ten feet from all interior private roads and parking areas. An additional set back from private roads of one foot shall be required for every two feet of height for structures exceeding 35 feet.
Spacing between buildings	The following minimum spacing shall be maintained between buildings: 25 feet between sides of buildings; 25 feet between sides and rear of adjacent buildings and 50 feet between any combination of fronts or rears of adjacent buildings.
SETBACKS: SINGLE FAMILY AND DUPLEX	
Front	30 feet
Rear	25 feet. For residences, where 60% of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Side	7.5 feet
Corner lot: Side street	15 feet. If the corner lot faces the same as all other lots on street.
BUILDING DIMENSIONS	

Maximum height	65 feet
Maximum length	150 feet
Minimum floor area under heat and air: Single family	1,000 square feet Ground floor: 800 square feet
Minimum floor area under heat and air: Duplex	1,000 square feet Ground floor: 900 square feet
Minimum floor area under heat and air: Multifamily	Efficiency, no separate bedroom: 425 square feet
	One bedroom: 575 square feet
	Two + bedroom: 725 square feet plus 150 square feet per each additional bedroom
ADDITIONAL REQUIREMENTS	
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and 10 feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single-family dwellings in accordance with section 33-91.06(d)3.f.	
Visitor parking shall be provided at 0.5 spaces per unit.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1-acre per unit
Septic tank with public water supply	½-acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
TRAFFIC IMPACT ANALYSIS	
Calculation and submittal of average annual daily trips is required for all developments. The developer of any development which will generate 1,000 or more average annual daily trip (AADT) ends per day, as determined by reference to the Institute of Traffic Engineers Trip Generation Manual or to locally derived trip generation rates accepted by the city as accurate, shall provide the city with a traffic impact analysis prepared by a qualified traffic engineer at the time application is made for approval of a site plan or preliminary plat. See also section [33-41.04(a)1.].	
ACCESSORY STRUCTURES	

Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article III, Section 33-28 Accessory Structures.

COMMUNITY DESIGN STANDARDS

Site and building aesthetics need to comply with the Community Design Standards (article VIII, section 33-94).

33-17.11. R-M—Residential Mobile Home District.

- (a) *Statement of intent.* The mobile home is recognized as a specific form of housing for which accommodations should be provided. The R-M Mobile Home Park District is intended to apply to areas to be used for mobile home parks and provides appropriate standards as to density, spacing, and use. No building, structure or part thereof shall be erected, altered, used on land or water, or used in whole or in part for other than mobile home parks unless and until the requirements of this district are met.

R-M RESIDENTIAL MOBILE HOME DISTRICT	
ALLOWED USES	
PRIMARY USES AND STRUCTURES	
Mobile homes for tenant residence, lease or rental. Mobile home sales of on-site lots or units. Buildings containing recreation or laundry facilities. Park management office buildings.	
Mini and neighborhood parks.	
Public, private or parochial schools.	
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.	
CONDITIONAL USES (See also Chapter 33, Section 33-19)	
Community residential homes, single-family.	
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)	
Cemeteries.	
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.	
Community and regional parks.	
Community gardens.	
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.	
Governmental and public building and land uses.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre.	6
MINIMUM LOT DIMENSIONS FOR INDIVIDUAL LOTS, SUBDIVISIONS	
MINIMUM WIDTH	50 feet
MINIMUM DEPTH	75 feet
MINIMUM SIZE	5,000 square feet
IF IRREGULAR LOT SHAPE	A minimum width of 25 feet shall apply, provided a minimum building line width of 50 feet is met at the required front yard setback line. Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.

MINIMUM SPACE DIMENSIONS FOR PARKS	
MINIMUM WIDTH	30 feet
MINIMUM DEPTH	80 feet
Separation between units	15 feet
Separation from accessory units	10 feet from mobile homes
SETBACKS FROM BOUNDARIES/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface:	50 percent
Perimeter setback	All mobile homes or accessory structures shall be located at least 40 feet from any project perimeter property line.
Other setbacks	All mobile homes shall be located at least 15 feet from any other property line.
Accessory structure setbacks	No mobile home accessory structure shall be closer than 7½ feet to any rear or side mobile home lot line, provided that when mobile homes are placed end to end and the opposing rear wall are staggered, there shall be a minimum clearance of ten feet.
Setbacks from internal streets	A minimum distance of ten feet. Permits are required for the placement and installation of accessory structures such as pools, storage sheds, fences and similar structures. Additional information is contained within article II, section 33-28, accessory structures.
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
Parking on grass and sidewalks is prohibited. The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and 10 feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Vehicle use areas must be paved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation.	
Visitor parking shall be provided at 0.5 spaces per unit.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1-acre per unit
Septic tank with public water supply	½-acre per unit
MINIMUM REQUIREMENT FOR TREE COVERAGE	
Each lot must have at a minimum one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
TRAFFIC IMPACT ANALYSIS	

Calculation and submittal of average annual daily trips is required for all developments. The developer of any development which will generate 1,000 or more average annual daily trip (AADT) ends per day, as determined by reference to the Institute of Traffic Engineers Trip Generation Manual or to locally derived trip generation rates accepted by the city as accurate, shall provide the city with a traffic impact analysis prepared by a qualified traffic engineer at the time application is made for approval of a site plan or preliminary plat. See also section [33-41.04(a)1.].

COMMUNITY DESIGN STANDARDS

Site and building aesthetics need to comply with the Community Design Standards (article VIII, section 33-94).

33-17.12. E-1—Educational District.

- (a) *Statement of intent.* The purpose and intent of this district is to provide the varied land uses associated with public and private primary and secondary schools and institutions of higher learning.

E-1 EDUCATIONAL DISTRICT
ALLOWED USES
PRIMARY USES AND STRUCTURES
Dormitories.
Single-family dwelling, except mobile homes.
Two-family dwellings.
<u>Accessory dwelling units to single or two-family dwelling.</u>
Multifamily residential dwellings.
College and university land uses, including sorority and fraternity houses, recreational, athletic and other normal accessory uses of such colleges and universities.
Government facilities and land uses normally associated with the provision of government services, including city, county and state parks and recreation areas.
Public, private or parochial primary and secondary schools.
Day care facilities.
Private clubs and lodges.
Mini and neighborhood parks.
Communication towers per section 33-23.
Churches, houses of worship, and religious institutions, with their customary accessory educational and recreational uses and buildings.
Other uses approved by the city commission after review and recommendation by the planning board, which are unquestionably similar to those uses permitted herein.
CONDITIONAL USES (See also Chapter 33, Section 33-19)
Communication towers per section 32-24.
Community residential homes, single-family.
Community residential homes, multifamily.
Garden community (section 33-19.14).
Printing and lithography establishments, not to exceed 2,000 square feet of floor area.
SPECIAL EXCEPTIONS (See also Chapter 33, Section 33-18)
Communication towers per section 32-24.
Community and regional parks.
Community gardens.
Golf courses and appurtenant structures connected thereto, including but not limited to the clubhouse, storage rooms and locker rooms.
Microwave, radio, telephone and television facilities and transmission towers.
Regulations governing other accessory uses appear in article III.

Shade structures over 800 square feet.	
MAXIMUM DENSITY ALLOWED	
Dwelling units per gross acre.	Single-family development, 4.3 duplex developments, 4.8 triplexes, 5.4 multi-family dwellings, 8.0.
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH Lots fronting on a curve must have a minimum 50-foot width at the street line. Corner lots must be 15 percent greater in width and area than the minimum requirement for interior lots. Lots fronting on a cul-de-sac must have a minimum 25-foot lot width at the street line and must meet the minimum lot width at the building set back line.	Single-family dwelling: 75 feet Nonresidential: No standards
MINIMUM SIZE	Single-family dwelling: 7,500 square feet
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface: Educational	50 percent
Maximum impervious surface: Single-family	50 percent
SETBACKS: EDUCATIONAL	
Front yard (building)	30 feet
Front yard (parking, slabs, courts and wall or fence not in excess of 6 feet in height)	20 feet
Side yard	0 feet
Side yard (abutting residentially zoned property)	15 feet
Rear yard	30 feet
SETBACKS: MULTIFAMILY	
Maximum impervious surface: Multifamily	One-, two-, three-story: 50 percent
	Four-story: 45 percent
	Five-story: 40 percent
	Six-story: 30 percent
Front	30 feet from project perimeter lot line
Rear and side	20 feet from project perimeter lot line
Interior	All buildings shall be set back at least ten feet from all interior private roads and parking areas. An additional set back from private roads of one foot shall be required for every two feet of height for structures exceeding 35 feet.
Spacing between buildings	The following minimum spacing shall be maintained between buildings: 25 feet between sides of buildings; 25 feet between sides and rear of adjacent buildings and 50 feet between any combination of fronts or rears of adjacent buildings.
SETBACKS: SINGLE-FAMILY	
Front	30 feet
Rear	25 feet. For residences, where 60 percent of neighboring residential structures within 500 feet have an existing lesser setback staff may approve a matching setback.
Side	15 feet

Corner lot: Side street	15 feet, provided the corner lot faces the same as all other lots on street.
BUILDING DIMENSIONS	
Maximum height	65 feet
Minimum floor area under heat and air: Single-family	One story: 1,200 square feet
	Two story: Ground floor: 900 square feet
	Second floor: 500 square feet
MINIMUM REQUIREMENTS FOR DRIVEWAYS AND PARKING	
The minimum separation required between vehicle use areas and the property line is one foot for one- and two-family residences and ten feet for all other uses. Staff may adjust in conjunction with redevelopment or change in use where the separation is less or absent.	
A minimum of two, off-street parking spaces compliant with Figure 33-91.05(b) are required per unit.	
Parking on grass and sidewalks is prohibited. Vehicle use areas must be paved with concrete, asphalt concrete or industry recognized porous paving approved by the city's engineer. Paved areas must be included in the site's impervious surface calculation. Compacted gravel or milled asphalt may be proposed for single family dwellings in accordance with section 33-91.06(d)3.f.	
Visitor parking shall be provided at 0.5 spaces per unit.	
MINIMUM REQUIREMENT FOR STORMWATER MANAGEMENT	
Stormwater generated by, during and after construction or improvement must be contained on-site or within a communal stormwater collection and management system permitted by the state.	
MINIMUM REQUIREMENTS FOR WATER AND SEWER	
Application for and connection to municipal water and sewer is required within areas served by the city.	
MINIMUM REQUIREMENTS FOR LOTS WHERE SEPTIC TANKS ARE USED	
SEWER/WATER SYSTEM	LOT AREA
Septic or aerobic tank with individual well	1 acre per unit
Septic tank with public water supply	½ acre per unit
MINIMUM REQUIREMENTS FOR TREE COVERAGE—RESIDENTIAL	
Each lot must have at a minimum one front yard tree and one tree for every 2,500 square feet of lot area. Historic trees and trees utilized to meet the minimum tree protection requirement or trees located inside a designated tree protection area, as defined in article VI of chapter 33, may not be removed without application and approval of a permit by the city. In a campus setting, the overall 15 percent tree preservation area must be maintained and may be used to meet this requirement.	
LANDSCAPING	
Landscaped buffers are required along street frontages where developments are proposed (article VIII of chapter 33). Additional buffer and sign requirements apply to developments within and/or along special overlay districts (article IV of chapter 33).	
OUTDOOR STORAGE AND DISPLAY PROHIBITED	
No outdoor storage or display of equipment, supplies, merchandise, or personal property is permitted regardless of the nature of the principal development. (See also section 33-27.04.)	
TRAFFIC IMPACT ANALYSIS	
Calculation and submittal of average annual daily trips is required for all non-private residence developments. The developer of any development which will generate 1,000 or more average annual daily trip (AADT) ends per day, as determined by reference to the Institute of Traffic Engineers Trip Generation Manual or to locally derived trip generation rates accepted by the city as accurate, shall provide the city with a traffic impact analysis prepared by a qualified traffic engineer at the time application is made for approval of a site plan or preliminary plat. See also section [33-41.04(a)1.].	
COMMUNITY DESIGN STANDARDS	
Site and building aesthetics need to comply with the Community Design Standards (article VIII, section 33-94).	

33-17.23. Allowed uses in commercial and industrial zoning districts.

The following table insert contains an overview of uses allowed in the commercial and industrial zoning districts. Information specific to each zoning district follows in individual tables.

Use specific data presented in the tables are identified as follows:

- 1.Primary uses and structures allowed in the following districts are indicated by the letter "P."
- 2.Conditional uses may be allowed in a district where compliance with restrictions related to that use are met. Conditional uses are indicated by the letter "C." The restrictions for conditional uses are either stated in the table or discussed in Section 33-19, as identified by footnote.
- 3.Certain uses may be allowed in certain districts by special exception only. Further details regarding these exceptions appear in Section 33-20. Uses allowed by special exception only are indicated by the letter "E" and further described by footnote.
- 4.Uses with situational requirements which allow the use to fall into more than one use category are indicated by both categories, such as P/E. Development under this classification depends upon meeting the requirements of the category applicable to the site's specific conditions.

USES IN COMMERCIAL ZONING DISTRICTS

	P-1	BR	C-1	C-2	C-2A	C-2AC	C-3	C-4	M-1
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PROFESSIONAL									
General/Professional Offices	P	P	P	P	P	P	P / E ¹⁹	P	P
Financial Institutions	P	P	P	P	C ²⁰	P			P
MEDICAL SUPPORT - See also Section 33-19.11									
Medical Office	P	P	P	P	P	P			
Apothecary shops	P		C ¹⁵						
Drugstores and pharmacies	P	P		P	P	P			
Hospitals				P					
Laboratories, hospitals and clinics	E ¹⁵		P	P	P	P			
Medical clinics over 5,000 square feet	E ¹⁵	E ¹⁵		P	P	P			

Nursing homes and adult congregate living facilities			P	P	P	P			
Veterinary clinics allowing inside overnight boarding for clinical care, no outside runs or kennels		C		C		C			
Veterinary clinics and pet grooming shops with overnight and/or outdoor boarding facilities and runs				E ³⁰	€				P

RESIDENTIAL - See also Section 33-20									
Boarding houses				P					
Community residential homes Multiple-family Per Section 33-19.02	C*					C*			
Community residential homes—Single-family Per Section 33-19.02	C*								
Convalescent, rest and nursing homes; institutions and homes for children, the aged and the disabled	P	E ¹⁶		P					
Garden communities			C						
Multiple-family dwellings compliant with R-16 standards				C		C			
Multiple-family dwellings and duplexes complaint with R-12 standards			C						
<u>Residential dwelling units on the first floor Per Section 33-19.13</u>					<u>C*</u>				
<u>Residential dwelling units above the first floor or one residential unit on the first-floor accessory to an office or commercial use</u>		€	€	€	P				
Single-family dwellings, except mobile homes	P				<u>C²⁶</u>				
Single-family dwelling complaint with R-1 standards not located within the highway commercial land use areas			C		<u>C²⁶</u>	<u>C²⁶</u>			
Two-family dwelling and duplexes compliant with R-2 standards			C		<u>C²⁶</u>	<u>C²⁶</u>			

Section 4. Amendment to Section 33-17.17, City Code/Land Development Regulations, Downtown Commercial District. Section 33-17.17 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

33-17.17. C-2A—Downtown Commercial District.

(a) *Statement of Intent.* The purpose of this zoning district is to provide for residential, retail, and service needs of the Central Business District (CBD). The list of permitted uses contains those land uses that are oriented to the downtown area.

C-2A DOWNTOWN COMMERCIAL DISTRICT	
ALLOWED USES: Uses allowed in this district appear in Table 33-17.21	
MAXIMUM DENSITY ALLOWED	
The maximum density allowed in this district is 20 dwelling units per gross acre.	
DIMENSIONAL REQUIREMENTS	
MINIMUM LOT DIMENSIONS	
MINIMUM WIDTH	None
MINIMUM SIZE	None
SETBACKS/BUILDING SEPARATION/IMPERVIOUS SURFACE LIMITATIONS	
Maximum impervious surface	None
Setbacks	None
BUILDING DIMENSIONS	
Maximum height	80 feet
MINIMUM FLOOR AREA UNDER HEAT AND AIR: RESIDENTIAL	
Efficiency (no separate bedroom)	<u>No Minimum</u> 425 square feet
One bedroom	<u>No Minimum</u> 525 square feet
Two + bedroom	<u>No Minimum</u> 725 square feet plus 150 square feet for each additional bedroom

Section 5. Amendment to Section 33-19, *City Code/Land Development Regulations, Special Requirements Applicable To Conditional Uses.* Section 33-19 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-19. - Special requirements applicable to conditional uses.

33-19.01. *Statement of Intent.* Certain uses have unique characteristics that require the imposition of development standards in addition to those minimum standards contained in this chapter. These uses are listed under each specific zoning district as conditional uses identified with the letter "C". These uses are listed in this Section with the specific standards that apply to the development and use of land for the specified activity. Whenever this chapter allows these conditional uses, the following standards shall be met in addition to all other standards of the chapter, unless specifically exempted.

Conditional uses with minimal requirements have been assigned numbers in Section 33-17.21 Table insert Uses in Commercial Zoning Districts. The criteria for numbered conditions follow.

Conditional uses with extended criteria, as identified by an asterisk (*) are represented as sections following the numbered criteria.

- (1) Daycare facilities in non-residential structures
- (2) Accessory to a primary use and licensed by DCF; freestanding operations requires a Special Exception.
- (3) Dry Cleaning and laundry pickup stations where no such work is done on the premises
- (4) Wholesale operations permitted
- (5) Not to exceed 100 rooms
- (6) On airport land not located in the primary height zone
- (7) No overnight storage or outside display
- (8) Accessory use only
- (9) Private clubs and lodges requiring a class C landscape buffer between itself and adjacent residential land uses
- (10) Retail prohibited
- (11) Outdoor storage prohibited
- (12) Compliant with Section 33-27.04, all equip./goods within a roofed structure
- (13) Excluding propane
- (14) Light manufacturing involving the assembly of parts manufactured off-site, not objectionable due to excessive dust, dirt, gas, odors, fumes, noise or vibrations
- (15) But not general drug store
- (16) Bed and breakfast homestay only, accessory use only (See also Section 33-27.03)
- (17) Not compatible with the intent of C-1, C-2, C-2A, C-2AC and C-3 zoning not exceeding 30 percent of the total acreage of the M-1 zoning, not including the retail and service uses already listed in the M-1 conditional uses.
- (18) Paint/body shop, stored wrecked, dismantled or inoperable vehicles screened from public view
- (19) Approved by the building official and fire marshal.
- (20) Drive through access directly on Woodland Boulevard and New York Avenue is prohibited.
- (21) No storage of vehicles.
- (22) No other use located on property.
- (23) All operations are contained within a building with no outside storage allowed. Low emission of dust, gas, odors, fumes, noise, or vibrations.
- (24) includes personal storage facilities (mini-warehouse) with landscape buffers compliant with Section 33-92.02.b.3., General Commercial.
- (25) Parking must be provided for employees and at least 2 spaces for delivery vehicles, including for existing structures.
- (26) Inside Downtown Commercial District existing single-family may remain and be considered conforming until such time it is converted to a non-single-family conforming use.

Section 6. Amendment to Section 33-19.13, *City Code/Land Development Regulations, Residential Dwelling Units On First Floor.* Section 33-19.13 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

33-19.13. Residential Dwelling ~~Multiple-family dwellings~~ units on first floor.

(a) *Intent.* It is the intent of this Section to provide standards for the location and development for residential dwelling units, which included single-, two- and multiple-family units, on the first floor in the downtown commercial area either as a primary use to an accessory commercial use or as an accessory use to a primary commercial use.

(b) *Where allowed.* First floor residential dwelling units will not be permitted within ~~on properties abutting~~ 50 feet of Woodland Boulevard or New York Avenue ~~or within 300 feet of either roadway.~~

(c) *Development standards for new development.*

1. Street side of development shall include amenities that encourages pedestrian activities and will be of the same design as the rest of downtown.

2. Building should be located adjacent to street or slight setback (less than 20 feet) to allow for a small landscaped area.

3. For town home style units, parking should be located in the rear or inside the structure. If outside parking is utilized in the front of the building, it shall be screened by a three-foot wall. If individual garages are to be used the entry must be located at rear to prevent the garage door from being the focal point of the building.

4. Sidewalk width shall be the same as adjacent sidewalk up to a maximum of 12 feet, with a minimum of five feet.

5. Parking garages for multifamily structures will be permitted on the first floor with entrance preferably parallel to street. The garage will be designed to resemble a residential building or commercial store frontage in order to maintain the character of downtown.

(d) *Development standards for conversion of existing building.*

1. Conversion to residential uses on a first floor will not be permitted for a building if part of a row or line of existing buildings.

2. Exterior renovations must comply with Community Design Standards.

Section 7. Amendment to Section 33-25, City Code/Land Development Regulations, Definitions. Section 33-25 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-25. - Standards for accessory dwelling units (ADU).

33-25.01 Purpose and intent.

(a) To provide property owners ~~homeowners~~ with a means of obtaining, through tenants in an ~~the~~ ADU and/or ~~a~~ the principal unit, rental income, companionship, security, and supportive services.

(b) Add affordable units to the City's existing housing stock.

(c) Develop housing units in single-family neighborhoods that are appropriate for extended family living as determined by applying sound and generally accepted land use practices and principles.

(d) Reduce the need to expand infrastructure by using an area's existing facilities in a sound and generally accepted manner based upon the sound application of land use and engineering practices and principles.

(e) Protect neighborhood stability, property values, and the single-family residential appearance of the neighborhood by ensuring that ADUs are installed under the conditions of these regulations.

33-25.02 General regulations and restrictions.

(a) ~~No one shall establish or operate an ADU is~~ permissible except where ~~without~~ a principal single-family residential dwelling (hereafter principal unit) exists on the lot or will be constructed in conjunction with the ADU.

(b) ~~No ADU shall be permitted except where a principal single-family residential dwelling (hereafter principal unit) exists on the lot or will be constructed in conjunction with the ADU.~~

(c) ~~The floor area under heat and air for ADUs shall not exceed 500 square feet for lots between 5,000 and less than 7,500 square feet. If a lot is between exceeds 7,500 square feet and 10,000 square feet, an ADU may be up to 640 square feet and, for lots in excess of 10,000 square feet, an ADU may be up to 800 square feet. In no case may any combination of buildings occupy more than 35 percent of the required rear yard for the zoning district in which it is located.~~

(d) Maximum impervious surface may be increased by 10% from the underlying zoning requirements.

(e) ~~ADUs utilizing alternative green construction methods causing the exterior wall thickness to be greater than normal shall have the unit square footage size measured similar to the interior square footage of a traditional frame house.~~

(f) ~~The design and size of the ADU shall conform to all applicable standards in the building, plumbing, electrical, mechanical, fire, health, stormwater and any other applicable codes.~~

(g) ~~Certification by the City of DeLand Utilities Department, or the County of Volusia Health Department where city utilities are not available, confirming water supply and sewage disposal facilities are adequate for the projected number of overall residents must be provided at the time of application, and must be recertified annually for each year the unit is operational.~~

(h) ~~The ADU shall incorporate water conservation features where possible, including in the design of types of landscaping and in the design of water-using fixtures. In addition, water restricting shower heads and faucets shall be used, as well as water saving toilets utilizing less than three gallons per flush.~~

(i) ~~Any additions to an existing building or separate construction or existing structure modification to create an ADU shall be conforming, and shall not exceed the lot impervious surface allocation or encroach into existing setbacks, buffers, tree preservation, conservation, stormwater management or other designated limited or restricted land use area.~~

(j) (d) ~~The ADU may be attached to, or detached from, the principal unit; however, the ADU. ADUs must be allocated or constructed in a manner which maintains the single-family appearance and architectural style of the primary structure and lot.~~

(k) (e) ~~Only one ADU shall be allowed per each parcel and shall remain within the parcel and accessory to the principal single-family residential structure (not subdivided).~~

(l) ~~The property owner, which shall include title holders and contract purchasers, must occupy either the principal unit or the ADU as their permanent residence, but not both, and at no time receive rent for the owner-occupied unit.~~

(m) ~~An ADU may be developed in either an existing or a new residence.~~

(n) ~~The ADU shall not result in excessive noise, traffic or parking congestion.~~

~~(n)~~ (f) One parking space shall be provided on-site for each studio and one-bedroom ADU. Two parking spaces shall be provided on site for each two-bedroom ADU. Parking for the accessory unit must be a detached ADU shall be located either adjacent to or under the ADU, on the side or behind and not in front of the principal unit and be constructed in addition to the required parking for the principal unit.

33.25.03 Design standards.

(a) The exterior design of the ADU shall be compatible with the principal unit on the lot through architectural use of building forms, height, construction materials, similar exterior wall materials, window types, door and window trims, roofing materials and roof pitch colors, landscaping, and other methods that conform to acceptable construction practices.

(b) The exterior design of the ADU shall be in harmony with, and maintains the scale of, the neighborhood.

~~(c) The site plan provides adequate open space and landscaping for both the ADU and the principal unit. Open space and landscaping provide for privacy and screening of adjacent properties.~~

~~(d) The location and design of the ADU shall maintain a compatible relationship with adjacent properties and shall not significantly impact the privacy, light, air, solar access or parking of adjacent properties.~~

(d) If applicable, based upon sound and generally accepted planning practices and principles, detached ADUs shall: (1). limit access stairs, decks, entry doors and windows to the walls facing the principal unit, or to the alley or side-street on second floors; (2). minimize the installation of windows that impact the privacy of the neighboring side or rear yard; and (3) be designed such that the accessory unit relates to the design of the principal unit and does not visually dominate it or the surrounding properties with such determination being made consistent with controlling State law.

(e) A detached ADU shall not exceed 25 feet in height. If the design of the principal structure has special roof features that should be matched on a detached ADU, the maximum building height of the ADU may be exceeded by up to 5 feet to include such similar special roof features, subject to review and approval of the Planning Director by issuance of a development order consistent with the provisions of Section 166.033, *Florida Statutes*. An attached ADU may occupy a first or second story of the principal unit if it is designed as an integral part of the principal unit and it meets the setbacks required for the principal unit.

~~(e) The orientation and location of buildings, structures, open spaces and other features of the site plan shall maintain natural resources including historic and specimen trees and shrubs to the extent feasible and minimize alteration of natural land forms. The ACU building profiles, location and orientation shall relate to natural land forms.~~

~~(f) One and one-half to two-story structures shall limit major access stairs, decks, entry doors, and major windows to the walls facing the principal unit, or to the alley if applicable. Windows that impact the privacy of the neighboring side or rear yard shall be minimized. The design of the accessory unit shall relate to the design of the principal unit and shall not visually dominate it or the surrounding properties.~~

~~(g) The site plan shall be consistent with physical development policies of the City of DeLand Design Standards, zoning district overlay standards or any area plan or specific plan or other city policy for physical development.~~

~~(h)The site plan shall be situated to protect views along scenic areas and, where feasible shall restore and enhance the visual quality of visually degraded areas.~~

~~(i)Single-story ADUs shall not exceed 12 feet in height. One and one-half to two-story ADUs shall comply with the height restrictions of the underlying zoning. An attached ADU may occupy a first or second story of the principal unit if it is designed as an integral part of the principal unit and it meets the setbacks required for the principal unit. If the design of the principal unit has special roof features that should be matched on a detached ADU, the maximum building height of the ADU may be exceeded to include such similar special roof features subject to review and approval of the city.~~

~~(j)When an ADU is adjacent to an alley, every effort shall be made to orient the ADU toward the alley with the front access door and windows facing the alley. Parking provided off the alley shall maintain a 24 foot back out which includes the alley. Fences shall not exceed three feet, six inches along the alley; however, fencing up to six feet may be considered in unusual design circumstances, subject to review and approval of the city.~~

Section 8. Amendment to Subsection 33-91.03(f), *City Code/Land Development Regulations*, Number And Type Of Parking Spaces Required, “Matrix”. Section 33-19.13 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

33-91.03 *Number and type of parking spaces required*

(f) Matrix.

Residential Uses	Minimum Off-Street Parking Requirement	Notes
Conventional single-family detached and duplex	1, 2, 3 bedrooms: 2 spaces/unit; or 4 or more bedrooms: 3 spaces/unit 1, 2, 3, and 4 bedrooms: 2 spaces/unit	Single-family or duplex residential parking spaces may be tandem. Minimum 2 outdoor spaces to also be provided per lot. Interior parking spaces per unit requirement is waived within the Core Gateway District. Parking is prohibited on front lawns. If on street parking is not permitted or is restricted on the unit's street frontage, then visitor parking at .25 space/unit shall be required. Single family residential parking spaces may be tandem. Parking is prohibited on front lawns

Cluster/multifamily development	Resident parking: Studio: 1 space/unit, 1 bedroom: 1.5 spaces/unit, 2, 3, or more bedrooms: 2 spaces/unit, visitor parking: .5 space/unit	<u>Reduction within the Core Gateway District may be proposed through submittal of a parking study.</u> Resident parking spaces may be tandem. On-street parking provided in accordance with the dimensions required for parallel spaces may count toward visitor parking requirements. These spaces must be located within the minimum distance specified in Section 33-91.05. Parking is prohibited on front lawns.
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*** Matrix ***

*** Text ***

Section 9. Amendment to Section 33-101, City Code/Land Development Regulations, General Intent. Section 33-101 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-101. - General intent.

These Land Development Regulations establish ~~This Land Development Code establishes~~ separate zoning districts, each of which is an appropriate area for the location of a specific group of uses. Within each of the zoning districts established by these Land Development Regulations ~~this Code~~ or its later amendments, there exist lots, structures, and uses of land which were lawful before these Land Development Regulations were ~~this Code was~~ adopted, but which would be prohibited, restricted, or regulated under the terms of these Land Development Regulations ~~this Code~~.

Uses which are not permitted in a zoning district as outlined in these Land Development Regulations ~~this Code~~ shall be deemed "nonconforming uses." Such nonconforming uses are declared incompatible with the intent and purpose of the districts. It is consistent with these Land Development Regulations ~~this Code~~ that such nonconforming uses not be permitted to continue without restriction.

These Land Development Regulations ~~This Code~~ also establishes appropriate dimensional requirements, building setbacks, minimum lot dimensions, building dimensions, lot coverage, minimum landscape buffer requirements, and other requirements for each zoning district. Buildings which do not comply with these dimensional requirements are deemed "nonconforming structures." The distinction between nonconforming uses and nonconforming structures is that nonconforming uses may ~~shall~~ eventually be phased out or eliminated whereas nonconforming structures are regulated.

~~It is necessary that nonconformities not be perpetuated or increased.~~ The intent of this article is to provide for the regulation of nonconformities and to specify those circumstances under which nonconformities shall be permitted to continue (i.e., variances granted). It is also the intent of this Section to allow for a reduction in the nonconformity when the condition cannot be corrected or eliminated altogether. However, this reduction does not waive the City's desire to eventually have the property come into compliance.

33-101.01. Purpose and Interpretation.

The purpose of this Article is to promote the public health, safety and general welfare of the City and its citizens, promote the re-use of land and structures that contribute to the character, diversity and sustainability of a neighborhood and to promote economic redevelopment and the re-use of developed land by regulating structures and uses that do not conform to one or more provisions of the *Land Development Regulations*, but were lawfully established and in compliance with all applicable ordinances, regulations, codes and laws at the time the structure was constructed and/or the use begun.

Nothing contained within these *Land Development Regulations* shall be construed, nor shall it be implied, so as to allow for the continuation or alteration of structures or uses that were not in compliance with all applicable ordinances, regulations, codes and laws at the time the structure was constructed or the use begun.

This Article is intended to regulate:

(a) The change of use of nonconforming land, a nonconforming building or nonconforming structure.

(b) The reconstruction of a nonconforming building or structure or to any alteration of a nonconforming building or structure when the alteration would increase the footprint, height or volume of the building or structure or any other exterior structural change (hereinafter to be known collectively as "alteration").

(c) The alteration of land, building or structure to provide for use for a purpose or in a manner different from the use to which it was put before the alteration or for its use for the same purpose to a greater extent (hereinafter to be known collectively as "change of use") of a lawfully established nonconforming use of land, a building or structure by establishing the standards by which the use, a building or structure may be altered or changed.

(d). The alteration of the use of land to ensure that a building or structure conducted under a lawfully issued land development permit shall conform to any subsequent amendment of the *Land Development Regulations* unless the structural or land alteration or use of the property is commenced within a period of not more than 180 days after the issuance of the land development permit and, in cases involving construction, unless such construction is continued to completion in a continuous and reasonably expeditious manner, which shall not exceed 2 years from the date of issuance of the land development order.

The provisions of Article VI of Chapter 33 of the *Land Development Regulations* shall regulate signs in every respect [Note: Section 16(b) of this Ordinance provides that the provisions of Subsection 33-102.04.(d) shall be moved to Article VII].

~~The purpose of this chapter is to provide mechanisms for obtaining relief from the provisions of this section where hardship would otherwise occur. Three forms of hardship are addressed:~~

~~(a) — Hardship that would be caused if nonconforming development were required to immediately come into compliance with this Code as addressed in section 33-102;~~

~~(b) — Hardship caused in particular cases by the imposition of the development standards as addressed in section 33-103; and~~

~~(c) — Hardship caused in particular cases by the City's resource protection standards.~~

It is not, however, the purpose of this article to encourage or otherwise allow development to occur which does not meet the minimum standards or achieve the intent of the regulations set forth in these *Land Development Regulations* ~~this Code~~. Further, the City does not consider the cost of compliance with these regulations an unnecessary hardship since the regulations apply equally to all development within the City.

~~33-101.02. Types of nonconformities.~~

~~(a) — *Building and structure nonconformities.* A building or structure nonconformity is hereby defined as a building which does not meet the City's requirements as to:~~

- ~~1. — Minimum building or structure setback;~~
- ~~2. — Minimum building dimensions;~~
- ~~3. — Minimum lot dimensions;~~
- ~~4. — Minimum landscape buffer requirements;~~
- ~~5. — Maximum lot coverage or impervious area;~~
- ~~6. — Maximum height for structures; or~~
- ~~7. — Other similar building or structural requirements or limitations.~~

~~(b) — *Nonconforming use.* Use nonconformities are hereby defined as the presence on a lot of a use not permitted on said lot by this Code. The presence on a lot of more dwelling units than this development code permits shall be deemed a nonconforming use.~~

~~(c) — *Parking, loading, landscaping, and other nonconformities.* Parking, loading, and other site improvement nonconformities are hereby defined to be noncompliance with such City requirements as:~~

- ~~1. — Required number or size of parking spaces;~~
- ~~2. — Required number or size of loading dock spaces;~~
- ~~3. — Required dumpster location or screening;~~
- ~~4. — Required stacking spaces for drive-in services;~~

5. ~~Required access and maneuvering area in vehicular areas;~~
6. ~~Required landscaping and screening;~~
7. ~~Required sidewalk and pedestrian circulation;~~
8. ~~Limitations on amount and area of signs; or~~
9. ~~Other similar site improvement requirements or limitations.~~

~~(d) — Structures. Structures are hereby defined to be any building or other structure which is part of the ground, attached to the ground, or attached to another structure which has size or other characteristics which restrict mobility. Such structures shall include:~~

1. ~~Earth;~~
2. ~~Buildings;~~
3. ~~Signs of all types except portable signs;~~
4. ~~Fences;~~
5. ~~Mechanical equipment;~~
6. ~~Utility equipment; or~~
7. ~~Paving.~~

Section 10. Amendment to Section 33-102, *City Code/Land Development Regulations, Nonconforming Development.* Section 33-102 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-102. - Nonconforming development.

Alteration and reconstruction of nonconforming single-family and two-family uses and structures.

(a). Alteration or reconstruction by-right. Alteration or reconstruction of a nonconforming single-family or two-family residential use or structure shall not be considered an increase in the nonconforming nature of the structure and shall be permitted by right, provided that all of the following standards are met:

(1). Alteration or reconstruction of a structure which is nonconforming due to setback requirements will not result in additional encroachment by the nonconforming setback(s); and

(2). Alteration or reconstruction of a structure which is nonconforming due to insufficient lot area will not result in the expansion of the structure into the minimum front, side and rear yard requirements; and

(3). Alteration or reconstruction of a structure which is nonconforming due to height requirements will not result in an increase in the height of the structure; and

(4). The proposed alteration or reconstruction will not result in any additional violation of any other zoning requirements; and

(5). The proposed alteration or reconstruction will not result in more than a 20% increase in the gross floor area of the existing structure.

(b). *Alteration or reconstruction subject to Planning Board review and approval.* Alteration or reconstruction of a nonconforming single-family or two-family use or structure that does not comply with the provisions of Subsection (a) may be allowed only upon approval by the Planning Board with all of the following specific findings being made in a development order that such alteration or reconstruction:

(1). Will not create a new nonconformity or violation; and

(2). Will enhance the general character and quality of the neighborhood as determined by sound and generally accepted land use planning practices and principles; and

(3). Will be consistent with the architectural design and style of the abutting properties and surrounding neighborhood; and

(4). Will provide adequate off-street parking for the use of the property; and

(5). Will not be more detrimental to the neighborhood than the existing nonconforming use and/or structure as determined by sound and generally accepted land use planning practices and principles.

Alteration or change of nonconforming multifamily and nonresidential structures and uses.

(a). *Multifamily and nonresidential structures.* Alteration to a nonconforming multifamily or nonresidential structure may be allowed only upon approval of the Planning Board with all of the following specific findings being made in a development order that such alteration:

(1). Will not create a new nonconformity or violation; and

(2). Will enhance the general character and quality of the neighborhood as determined by sound and generally accepted land use planning practices and principles; and

(3). Will be consistent with the architectural design and style of the abutting properties and surrounding neighborhood; and

(4). Will provide adequate off-street parking for the use of the property; and

(b). *Multifamily and nonresidential uses.* Alteration or change in use to an existing nonconforming multifamily use or nonresidential use may be allowed only upon approval of the Planning Board with all of the following specific findings being made in a development order that such alteration:

(1). Will enhance the general character and quality of the neighborhood as determined by sound and generally accepted land use planning practices and principles; and

(2). Will provide adequate off-street parking for the use of the property; and

(3). Will not be more detrimental to the neighborhood than the existing nonconforming use and/or structure as determined by sound and generally accepted land use planning practices and principles.

Restoration and reconstruction of damaged nonconforming multifamily and nonresidential structures.

(a). *Restoration and reconstruction by-right.* Nothing in these *Land Development Regulations* prevent the reconstruction or substantial restoration and the continuance of use of a nonconforming multifamily or nonresidential structure which has been damaged or destroyed by fire, explosion, flood, riot, act of the public enemy or accident of any kind if the estimated replacement cost of such restorations does not exceed 50% of the most recent appraised building value of the structure in effect at the time of the damage that is on record with the Volusia County Property Appraiser; provided, however, that the structure, as restored, shall be constructed within the existing footprint and shall not be greater in volume, height or area than the original nonconforming structure and provided, further, however, that said restoration must commence within 12 months of the initial damage and be completed within 24 months of said damage. The estimated cost of such restoration shall be determined by the Building Official. If the property owner disputes the determination of the Building Official, the property owner may request that the Building Official base the determination upon receipt of an estimate from an independent contractor approved by the Building Official with all costs of obtaining said estimate being borne by the property owner with proof of payment being provided to the City at the time that the building permit application is filed. Said restoration costs shall also include the costs of all improvements or upgrades required by the *Florida Building Code*. The City shall not require the submission of any contract for the construction as a condition of issuing a building permit.

(b). *Restoration and reconstruction subject to Planning Board review and approval.* The reconstruction or substantial restoration of a damaged nonconforming multifamily or nonresidential structure where said restoration exceeds 50% of the most recent appraised building value of the structure in effect at the time of the damage that is on record with the Volusia County Property Appraiser may be allowed only upon approval of a development order by the Planning Board, if the application for review and approval for said reconstruction or substantial restoration is filed with the Community Development Department within 12 months of the damage to the structure, and with all of the following specific written findings being made in the development order:

(1). The structure as restored will be constructed within the existing footprint and not be greater in volume, height or area than the original nonconforming structure; and

(2). The structure as restored will enhance the general character and qualities of the neighborhood as determined by sound and generally accepted land use planning practices and principles; and

(3). The structure will be consistent with the architectural design and style of the abutting properties and surrounding neighborhood; and

(4). Adequate off-street parking is available for the use of the structure; and

(5). The nonconforming nature of the structure is lessened to the greatest extent reasonably practicable as determined by sound and generally accepted land use planning practices and principles; and

(6). The reconstruction or substantial restoration is completed within 24 months of the issuance of the building permit allowing for said reconstruction or substantial restoration; and

(7). The property owner is in full compliance with all orders issued by the City with respect to securing and maintaining the structure and the premises.

(c) The reconstruction or substantial restoration of a damaged nonconforming multifamily or nonresidential structure where said restoration exceeds 50% of the most recent appraised building value of the structure in effect at the time of the damage that is on record with the Volusia County Property Appraiser where said damage is the result of neglect shall be prohibited and any reconstruction or substantial restoration shall conform to the requirements of these Land Development Regulations.

Discontinuance and re-establishment of nonconforming uses.

(a). *Re-establishment of a nonconforming use.* It is prohibited and unlawful to re-establish a nonconforming use when there has been a change to the permitted uses allowed with regard to a building or structure or land under the zoning district which is applicable to the land which the building or structure is located.

(b). *Discontinuance of a nonconforming use.* If the nonconforming use of any building, structure or land has been discontinued for a period of 180 days, it shall not be re-established and all future uses thereof shall be in conformity with the then applicable provisions of these *Land Development Regulations*.

Development of established vacant nonconforming single-family residential lots.

A vacant preexisting nonconforming lot located in a single-family residential zoning district may be developed as a legal building lot for single-family use, subject to a finding by the Planning Director in a development order of all of the following development standards:

(1). The development of the property and the structures located thereon meet the building construction standards of the *Florida Building Code* and be generally consistent with the height, bulk and character of the surrounding structures and neighborhood; provided, however, the Director shall not require specific building design elements unless the dwelling is a historic property or a contributing property to a historic district, necessary to implement the National Flood Insurance Program, is located in a community redevelopment area or is located in a pre-existing planned unit development or master planned community.

(2). The development of the property will not, by reason of air, water, light, noise, obstruction of views, traffic safety or traffic congestion, negatively affect the character and quality of life of the neighborhood as determined by sound and generally accepted land use planning practices and principles; and

(3). The development of the property will provide adequate off-street parking for the use of the property; and

(4). If the vacant nonconforming lot is held in common ownership with an adjoining vacant lot, it shall be deemed “merged” with the adjoining lot to the extent necessary to reduce or eliminate the nonconformity.

(5). The lot will conform to the width and lot size standards of the neighborhood within which its located; and

(6). The front yard building setback requirement will conform to the average front setback of the surrounding properties.

(7). The side and rear yard building setback requirements will not be less than the average of that of the surrounding properties or a minimum side yard setback of 5’ and rear yard setback of 20’, whichever is greater.

Defined. Nonconforming development is development that does not comply to either the permitted use or development design standards outlined in this Code.

~~33-102.01. Continuation of nonconforming development.~~

~~(a) — *Generally.* Subject to the provisions of this article, the lawful use of any building, structure, or land existing at the time of the adoption of this article may continue although such use does not conform to the provisions of this Code. However, the nonconformities, which would be prohibited, restricted, or regulated under the terms of this Code, shall not continue without limitation. Further, such nonconformities shall not be enlarged upon, extended, expanded, or reconstructed to continue the nonconformity after major damage, or used as grounds for adding other structures or uses prohibited by this Code. Any nonconforming building or structure may be altered to decrease its nonconformity.~~

~~(b) — *Unsafe structures or buildings.* Any structure or building or portion thereof declared unsafe may be restored to a safe condition.~~

~~(c) — Construction approved prior to enactment of article chapter. Nothing in this article shall require any change in any City approved plans, construction details, or designated use of a building or structure for which a building permit has been issued and the construction of which has been diligently pursued within 1 year of the site plan approval date.~~

~~(d) — Alteration. A building housing a nonconforming use may be maintained and repairs and alterations may be made, except that no building which is nonconforming as to use regulations, no structural alterations shall be made except those required by law, including eminent domain proceedings. Repairs such as plumbing or changing of partitions or other interior alterations are permitted.~~

~~(e) — Extension. Buildings or structures or uses of land which are nonconforming shall not be extended or enlarged in a manner that extends, enlarges, or increases the degree of nonconformity.~~

~~For example, if the front yard setback required in the P-1 zoning district used to be 20' and someone built a structure 20' from the property line under those regulations, then it was a conforming structure. Ten years later, the City adopts new zoning laws, which require a larger 30-foot setback in the P-1 zoning district. After those laws are adopted, the building is a nonconforming structure. If the owner decides to build an addition, then the building addition must meet the new 30-foot front yard setback requirement or obtain a variance.~~

~~(f) — Abandonment. A nonconforming use of land or of a building which has been vacated or abandoned for 365 days shall not thereafter be occupied by any nonconforming use.~~

~~(g) — Change to another use. A nonconforming use now existing may not be changed to another nonconforming use.~~

~~(h) — Destruction by fire or other act. Nothing in this article shall be taken to prevent the restoration of a building destroyed to the extent of not more than 50% of its assessed value by fire, explosion or other casualty, or act of God, or the public enemy, nor the continued occupancy of such building or part thereof which existed at the time of such partial destruction, provided that such restoration is made within 180 days for residentially zoned property and 365 days for commercially zoned property.~~

~~(i) — Nonconforming due to maximum building size. Any building made nonconforming by the enactment of this chapter with respect to maximum building size restrictions may be reconstructed in the event of destruction or damage by fire, collapse, explosion, casualty, acts of God or the public enemy, regardless of cost or assessed valuation, provided that said building and the use of said building shall conform in all other respects with all current zoning and other *Land Development Regulations*.~~

~~(j) — Platted subdivision lots. Where a lot was a subdivided lot of record and the lot was useable as a conforming single family residential building site, the lot may be used and occupied by a single family dwelling and its accessory buildings provided the minimum yard regulations of the district are complied with.~~

~~33-102.02. Regulations pertaining to nonconforming uses.~~

~~(a) — Alteration, maintenance, repair of structures housing nonconforming uses. Any alterations which increase conformance with the parking, loading, landscaping, and other site improvement requirements that would apply to the use if it were located in a district where it would be a conforming use will be allowed but not encouraged by the City. In such cases, the owner would have to submit a letter to the Planning Division department acknowledging the following:~~

- ~~1. — That the owner understands that it is the City's long term goal to relocate the use to an appropriate zoning district;~~
- ~~2. — That if the owner sells the property that after 365 days of vacancy the nonconforming use would no longer be permitted; and~~
- ~~3. — That if the structure shall be destroyed or require repairs exceeding 50% of the assessed value of the structure, then the nonconforming use shall not be continued.~~

~~33-102.03. Special provision[s] relating to the central business district.~~

~~(a) — Applicability of requirements. The provisions and requirement of Section 33-91 (parking regulations) and Section 33-92 (landscaping regulations) of these Land Development Regulations this chapter shall not apply to the C-2AH zoning district, and shall not apply, except as otherwise hereinafter provided, to those businesses and buildings that are in existence and situated, by March 31, 1993, within the C-2A zoning district.~~

~~(b) — Renovation. A building in the C-2A zoning district may be remodeled, renovated, restored, should it be more than 50% destroyed by fire or other occurrence as set out in Section 33-102.01, provided:~~

- ~~1. — That the use is a permitted use in the C-2A zoning district;~~
- ~~2. — That there is no increase or extension of the usable square footage of floor area.~~

~~— (c) — New development. New development, which rebuilds and expansions must meet the provisions and requirement of Section 33-91 (parking regulations).~~

~~33-102.04. Special provisions for specific nonconformities.~~

~~(a) — Nonconformity with the stormwater management requirements of these Land Development Regulations this chapter. In addition to the limitations in Section 33-102.01, an existing development that does not comply with the stormwater management requirements of these Land Development Regulations this chapter shall address the stormwater runoff created by the intensification of development.~~

~~(b) — Nonconformity with the parking and loading requirements of these Land Development Regulations this chapter. Full compliance with the parking and loading requirements of these Land Development Regulations this chapter shall be required where the seating capacity or other factor controlling the number parking or loading spaces required by these Land Development Regulations this chapter is increased by 25% or more.~~

~~(c) — Nonconforming vehicle use areas.~~

~~1. — A vehicle use area is any portion of a development site used for circulation, parking, and/or display of motorized vehicles, except junk or automobile salvage yards.~~

~~2. — When the square footage of a vehicle use area is increased, compliance with these Land Development Regulations this chapter is required as follows:~~

~~a. — Expansion by less than 25%. When a vehicle use area expands less than 25 percent, only the expansion area must be brought into compliance with these Land Development Regulations this Code.~~

~~b. — Expansion by more than 25%. When a vehicle use area expands 25% or more, the entire vehicle use area shall be brought into compliance with these Land Development Regulations this chapter.~~

~~c. — Repeated expansions. Repeated expansions of paving of a vehicle use area over a 5-year period commencing with the effective date of these Land Development Regulations this Code shall be combined in determining whether the threshold has been reached.~~

~~3. — Any vehicle use area in existence on the date of enactment of these Land Development Regulations this chapter which must be brought into conformity with these Land Development Regulations this chapter, and which has more than the number of parking spaces required by these Land Development Regulations this chapter, shall be treated as follows:~~

~~a. — The area shall be reconfigured to comply with requirements in these Land Development Regulations this chapter.~~

~~b. — If, after the reconfiguration, a paved area or areas that are not needed to comply with the requirements of these Land Development Regulations this chapter remain, the developer may do any one or combination of the following:~~

~~(1) — Improve the area(s) to comply with these Land Development Regulations this chapter and continue to use them for parking; or~~

~~(2) — Remove the paving and use as grassed overflow parking, as additional landscaped transitional zone, or for any other purpose consistent with the land use plan and approved by the City Commission.~~

~~(d)~~—*Nonconforming signs. [Note: Section 16(b) of this Ordinance provides that the provisions of Subsection 33-102.04.(d) shall be moved to Article VII].*

1. Any sign made nonconforming by the enactment of this chapter, and which has a replacement cost of less than \$300.00, and all signs prohibited by Section 33-73 (prohibited signs) of this chapter, shall be removed or made to conform within 90 days of the enactment of this chapter.

2. All nonconforming signs shall be made to conform with these *Land Development Regulations* ~~this Code~~ when structurally altered, new copy is added, or when said signs are destroyed or damaged by wind, fire or other means to the extent of 60% or more of the replacement value.

3. Maintenance to a nonconforming sign shall be allowed as long as no wording is changed on the sign copy. If the name of the business changes or the new language is added to the sign, a sign maintenance permit will be required. If a nonconforming sign is removed from the base or disassembled without a sign permit, the sign shall not be allowed to be replaced without complying with article VII, Signs.

4. If a building is vacant and/or a sign is not in use for a period of 365 days, then the sign shall be required to be removed or come into compliance. A sign cannot be considered in use if the building is vacant.

Section 11. Amendment to Section 33-103, *City Code/Land Development Regulations, Variances and Appeals*. Section 33-103 of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

Sec. 33-103. - Variances and appeals.

33-103.01. *Generally*. Where there are hardships in the way of carrying out the strict letter of these *Land Development Regulations* ~~this chapter~~, appeals to the Planning Board may be taken by any person aggrieved or by any department of the ~~governing body of the City~~, with approval of the City Manager, affected by any decision of the ~~Planning Director~~ Administrative Official.

33-103.02. *Exceptions*. The Planning Board may grant a variance from the strict application of any provision of these *Land Development Regulations* ~~this chapter~~ except as follows:

(a) No variance shall be granted to the concurrency management provisions or other provisions such that the variance would be inconsistent with State law or the City's *Comprehensive Plan*.

(b) The Planning Board shall not vary the type or density of uses allowed in zoning districts. The authority to determine the types and densities of uses allowed in zoning districts is specifically reserved to the legislative action of the City Commission.

33-103.03. Review criteria. In considering all proposed variations to these Land Development Regulations ~~this chapter~~, the Board shall, before making any findings in a specific case, ~~will~~ consider the following criteria:

- (a) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings in the same zoning district;
- (b) Will literal interpretation and enforcement of these Land Development Regulations ~~the development code regulations~~ would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these Land Development Regulations ~~the development code~~, and ~~would~~ work unnecessary and undue hardship on the applicant such as natural site conditions, size or shape of lot or existing structure(s);
- (c) Granting of the variance request will not confer on the applicant any special privilege that is denied by these Land Development Regulations ~~the development code~~ to other lands, buildings or structures in the same zoning district;
- (d) The granting of the variance will be in harmony with the general intent and purpose of these Land Development Regulations ~~this Code~~ and the Comprehensive Plan, as amended, and will not be injurious to the surrounding properties or detrimental to the public welfare;
- (e) The variance, if granted, is the minimum variance necessary to make possible the reasonable use of the land, building or structure; and
- (f) The special conditions or circumstances are not the result of actions of the applicant or owner.

33-103.04. Procedure.

(a) *Application.* All requests for variances shall be submitted in writing, using the form provided, to the Planning Division ~~department~~, together with all applicable fees as set by resolution of the City Commission. The Planning Division ~~department~~ shall have 5 working days to review the application to determine if the contents are complete. If the application is found to be lacking information requested by the Planning Division ~~department~~ or if the data and exhibits are inaccurate, the application will not be considered filed for the purpose of processing and shall not be placed on the Planning Board agenda. An application for a variance shall include the following:

- 1. A ~~Two~~ current surveys (no older than 2 years) of the subject property, signed and sealed by a Florida-licensed and registered surveyor.
- 2. A ~~Nine copies of a~~ scaled site plan clearly illustrating the requested variances.
- 3. Legal description of the property, if not contained on submitted survey.

4. Typed mailing labels addressed to all property owners within the described distance under as required by Subsection (d).

5. A written petition demonstrating compliance with the conditions listed under Section 33-103.03.

(b) *Report to Planning Board*. The Planning ~~Division~~ department shall submit a written report containing a description of the request and the facts of the case to the Planning Board. A copy of the report shall be made available to the applicant prior to the Planning Board meeting.

(c) *Hearing*. In considering all proposed variations to these Land Development Regulations ~~this chapter~~ the Planning Board shall, before making any finding in a specific case, or granting any variance, conduct a public hearing which will take place no sooner than seven days after the publishing of a notice of such proposed or requested variance. The notice shall be published one time in a newspaper of general circulation in the City. At the hearing, any party may appear in person or be represented by agent or attorney.

(d) *Notice*. The Planning Board shall not hold any hearing or grant any variance without having first notified, by certificate of mail, within at least 7 days prior to the date of the hearing, all parties to the hearing, all property owners within 300' on all sides of the subject property. Except, however, when a hearing under this Section concerns a single-story single-family dwelling or duplex, notification by certificate of mail need only be given to property owners within 100' on all sides of the subject property.

(e) *Contents of notice*. The notice shall contain the time and date of the hearing before the Planning Board, and the proposed variance to be considered. Service of the notice to said property owners shall be deemed complete upon the date of mailing.

(f) *Approval*.

1. In granting any variance, appropriate conditions and safeguards may be prescribed to ensure compliance with the requirements of these Land Development Regulations ~~this chapter and the Code in general~~. Such conditions may include time limits for the initiation of the variance, specific minimum or maximum limits to ~~regular code~~ requirements of these Land Development Regulations, or any other conditions reasonably related to the requirements and criteria of these Land Development Regulations ~~this chapter~~.

2. Variances run with the property and the use of a variance shall not be restricted to the applicant but also to subsequent parties for use on the same property.

(g) *Appeal from Planning Board* ~~board of adjustment~~. Any person or persons jointly or severally, aggrieved by any decision of the Planning Board ~~board of adjustment~~, or any taxpayer, or any officer, department or the City Commission may present to a court of competent jurisdiction a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the

filing of the decision ~~in the Planning Division to the office of the Board~~, otherwise the decision of the Board will be final.

(h) *Administrative variance.*

1. The Planning ~~Division department~~ may grant administrative variances from the height and setback requirements of ~~these Land Development Regulations this chapter~~ when ~~found deemed~~ appropriate by the Planning Director based upon sound and generally accepted land use planning practices and principles.

2. The review criteria for the variance request shall be the same as described in Section 33-103.03, but in no case shall an administrative variance be granted when such request exceeds 1' of the required dimension. In such case, the applicant shall be required to make an application in accordance with the variance procedure established in ~~these Land Development Regulations this chapter.~~

3. If a structure was built prior to 1960, lot size, rear or side building setback requirements may be reduced by 30%, if deemed appropriate by the Planning Director.

33-103.05. *Special provisions where variance is sought from requirements of flood damage prevention regulations.*

(a) *Additional finding.* In addition to the findings required above, the Planning Board shall find that the requested variance will not result in an increase in the elevation of the Base Flood, additional threats to public safety, additional public expense, the creation of nuisances, fraud or victimization of the public, or conflicts with other local ordinances.

(b) *Considerations.* Before granting a variance, the Planning Board shall consider:

1. The danger that materials may be swept from the site onto other lands.
2. The danger to life and property from flooding erosion.
3. The potential of the proposed facility and its contents to cause flood damage and the effect of that damage on the owner and the public.

Section 12. Waiver or Deferral of Impact Fees for Affordable Housing.

(a). This Section is enacted to implement the provisions of Section 163.31801(11), *Florida Statutes*, which provides that the City may provide an exception or waiver for an impact fee for the development or construction of housing that is affordable, as defined in Section 420.9071, *Florida Statutes*, and which, further, provides that the City is not required to use any revenues to offset the impact.

(b). When the time arises for impact fees to be paid for a development which is eligible for an impact fee exception or waiver under Section 163.31801(11), *Florida Statutes*, the City

Manager, or designee, may grant a waiver of the impact fees required if the City Manager, or designee, finds, in a written order, that the proposed development will provide housing that is affordable, as defined in Section 420.9071, *Florida Statutes*. Pursuant to Section 163.31801(11), *Florida Statutes*, other revenues are not required to offset the impact for a waiver granted under this subsection.

(c). Any waiver granted under this Ordinance shall be only for that portion of the development that meets the definition of affordable as set forth in Section 420.9071, *Florida Statutes*. The City shall not increase the amount of the impact fees payable to replace any revenue utilized from another revenue source because of the waiver granted under this Section.

(d) Any such waiver shall be conditioned upon the applicant entering into a recapture agreement or covenant in favor of the City of Deland, in a form approved by the City Attorney, which shall provide for the recapture of the waived impact fees upon the sale or other transfer of the property to a person or entity who does not meet income and asset criterion establish by the City if the sale or other transfer is made within 7 years from the date the waiver was granted. Such recapture agreement or covenant shall be recorded in the public records of Volusia County and must have priority status as a lien holder subject only to the lien of a first mortgage. The City Manager, or designee, may consent to subordination of the recapture agreement or covenant in the case that the first mortgage is being refinanced, but only if the principal amount of the first mortgage is not increased.

Section 13. Implementing Administrative Actions; Enforcement.

(a). The City Manager, or designee, is hereby authorized and directed to implement the provisions of this Ordinance and to take any and all necessary administrative actions including, but not limited to, the adoption of administrative rules.

(b). The approvals and denials relating to applications, as set forth herein, shall be in a form approved City Attorney which shall be consistent with the provisions of Section 166.033, *Florida Statutes*.

(c). Enforcement of the City's *Land Development Regulations* shall be in accordance with the normative code enforcement processes and procedures of the City.

Section 14. Savings. The prior actions of the City of DeLand relating to non-conforming uses and affordable housing issues and land development matters, as those terms are used in their broadest sense to include, but not be limited to, the development and use of buildings, structures and lots, and the implementation of the provisions of the City's *Land Development Regulations* relating thereto, as well as any and all related matters, are hereby ratified and affirmed.

Section 15. Conflicts; No Effect on Section 2C-34, Section 33-23.02(k), Section 33-27.03.(f) and Section 33-94.06.(a)(5); Repeal of Section 33-33.01.(e)(10) and Section 33-145.04.

(a). All Ordinances or parts of Ordinances and other actions of the City Commission in conflict with this Ordinance are hereby repealed; provided, however, that this Ordinance shall not affect the provisions of Section 2C-34 of Chapter 2C¹ (relating to adult entertainment establishments), Section 33-23.02.(k)² (relating to communication towers), Section 33-27.03.(f)³

¹ The cited provision reads as follows:

Sec. 2C-34. - Nonconforming uses.

(a) An adult entertainment establishment which, on May 16, 1994, the date the ordinance is first published, was located on a site which is prohibited by section 2C-32 of this Code, shall cease operations by October 1, 1994.

(b) When a nonconforming use of an adult entertainment establishment has been discontinued for 90 consecutive days or more, the nonconforming use shall be deemed abandoned and the future use of the premises or site shall revert to only those uses permitted on the site on which the establishment is located. See also, article 9, section 33-102.01(F) of the City of DeLand land development regulations.

² The cited provision reads as follows:

(k) **Nonconforming structures.** An antenna mounted on a nonconforming communication tower or nonconforming alternative support structure shall not be deemed to increase its degree of nonconformity as determined by Article 9 of this chapter.

³ The cited provision reads as follows:

(relating to bed and breakfast homestays and inns), and Section 33-94.04.(a)(5)⁴ (design criteria for Historic Design and Downtown Support District) of the *Code of Ordinances of the City of DeLand*. Similarly, the provisions of this Ordinance shall not affect the requirements of the City, howsoever imposed, relating to the utility systems of the City.

(b). Subsection 33-33.01.(e)(10)⁵ (relating to DeLand Municipal Airport zoning) and Section 33-145.04 (relating to the protection for prior platted subdivision lots) of the *Code of Ordinances of the City of DeLand* is hereby specifically repealed.

Section 16. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 17. Codification; Direction to Code Codifier and City Staff; Correction of Scrivener's Errors.

(a). The provisions Sections 1 through Section 12 of this Ordinance shall become and be made a part of the *Code of Ordinances of the City of DeLand*, with all other sections not being

(f) Nonconforming uses. Property which does not meet the minimum required lot size or minimum setback requirements of the specific zoning district in which the structure is located may not be considered for review as a bed and breakfast homestay or bed and breakfast inn unless a variance is obtained per section 33-103.

⁴ The cited provision reads as follows:

33-94.06. Administration.

(a) *Application process.*

1. Design review shall be conducted by the City of DeLand for the purpose of determining compliance with this section.
2. A predesign conference with the City is recommended, prior to the beginning of design work on any project subject to regulation by this ordinance.
3. No building permits shall be issued without prior approval of the building design by the City.
4. Whichever is applicable, required submittals for design review shall be submitted at the time of an application for:
 - a. Final Development Plan review. Architectural designs shall be submitted with the site plan application for review by the TRC; or
 - b. Building permit. Architectural designs shall be submitted with building permit applications if a site plan is not required.
5. Applications shall be approved, approved with specific conditions or modifications, or denied, based upon their conformance or nonconformance with the requirements of this section as reviewed by the City. The review will include the oversight of an architect. Upon denial of an application, the City shall provide the applicant with specific objections to the design.

⁵ The cited provision reads as follows:

10. *Nonconforming use* means any preexisting structure, object of natural growth or use of lands which is inconsistent with the provisions of this section, or amendments thereto.

codified, and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention and the word "Ordinance", or similar words, may be changed to "Section," "Article", or other appropriate word; provided, however, that all other ss shall not be codified. Further, the words "*Land Development Regulations*" shall be substituted for the words "*Land Development Code*" (or similar words and phrases) by the Code Codifier.

(b). The provisions of Subsection 33-102.04.(d) shall be moved to Article VII of Chapter 33 of the *Land Development Regulations* with regard to the regulation of signs.

(c). The Code codifier shall instruct the Municipal Code Corporation to make all changes necessary in the *Code of Ordinances of the City of DeLand* to implement the provisions of this Ordinance and is granted liberal authority to codify the provisions of this Ordinance in such manner and in such places as deemed advisable.

(d). In accordance with the City's ongoing codification program; the City Clerk, in conjunction with the City Attorney, may make corrections to the provisions of this Ordinance relative to Scrivener's errors of whatever type or nature.

Section 18. Effective Date. This Ordinance shall become effective immediately upon adoption.

PASSED AND DULY ADOPTED this __ day of _____, 2022.

Robert F. Apgar
Mayor - Commissioner

ATTEST:

Julie A. Hennessy, MMC, City Clerk - Auditor

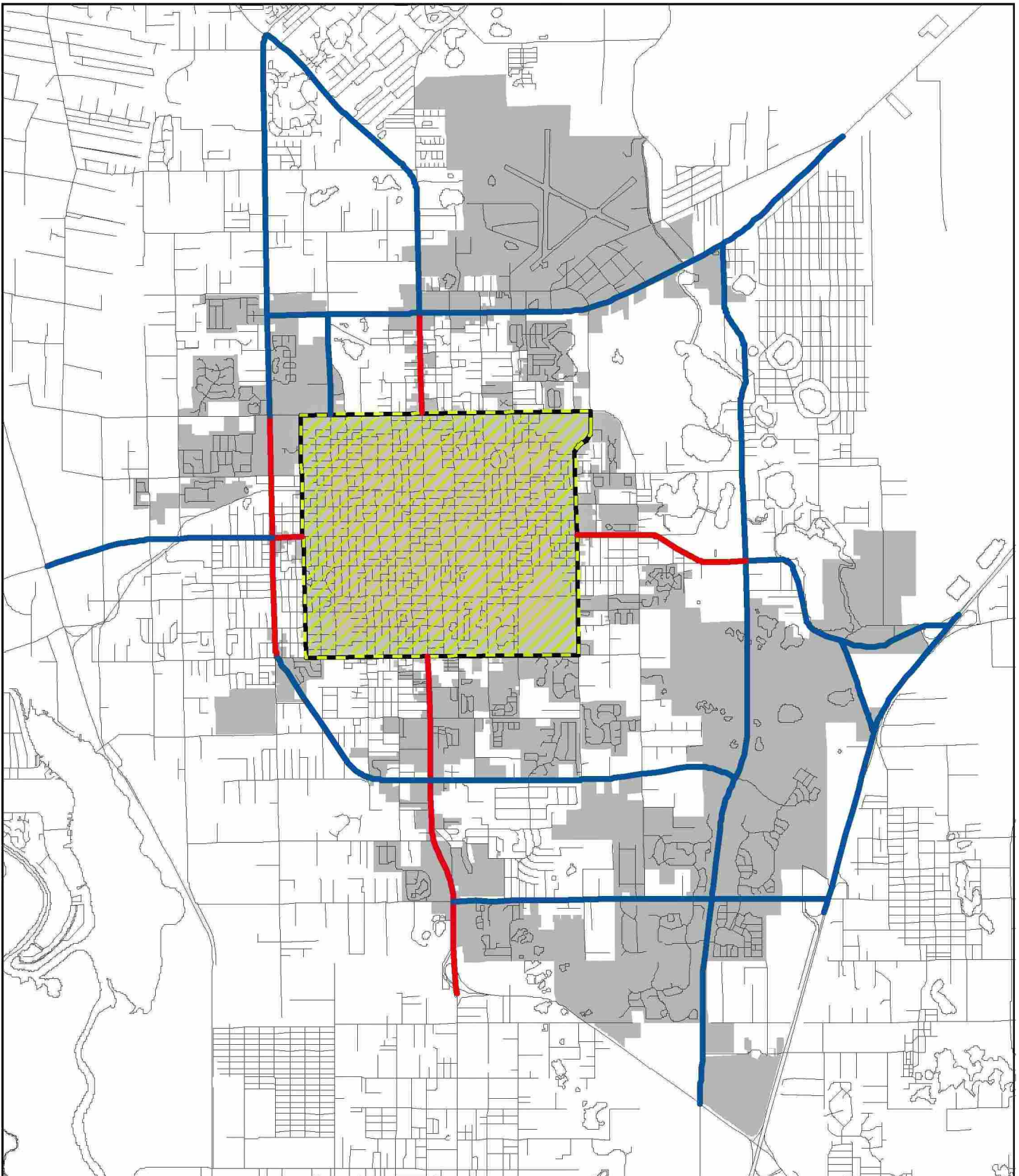
Passed on first reading: _____, 2022.

Adopted on second reading: _____, 2022.

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind, City Attorney

City of DeLand Gateway Overlay Districts



Source: County of Volusia GIS
City of DeLand Planning Department

This map is a graphic representation and is not intended to be used for any engineering or surveying purposes. The City of DeLand is not liable for any decisions made on the basis of this map or on the information contained within the map.

Current as of February 1, 2010

Gateway Corridors

Corridor Name		DeLand City Limits
Redevelopment Gateway		
Emerging Gateway		
Core Gateway		
		Streets



Comments from B. Virginia Comella

Land Development Regulations Changes to Address Housing and Nonconforming Conditions

Finding ways to encourage the building and renovations of existing buildings to make affordable housing for the average working person is essential. Development needs to provide housing for the workforce needed to provide the necessary services for the community. The LDR changes are a first step, but more is needed.

Planning Department Memorandum:

1) I agree ADU's that meet criteria should be a conditional use approved by staff. I am not sure I agree that the owner occupancy of one unit should be eliminated. I am concerned that this would lead to the proliferation of Air B & B's and absentee landlords, who fail to maintain properties.

2) I agree the minimum square footage of single family homes be reduced to 900 sq ft.

3) I do not agree that there should be no minimum square footage requirements for C-2A. I cannot see that a unit of less than 225 sq. ft. would meet the needs of anyone.

4) I agree that single family dwellings can be in the C-2A zone.

5) I agree that dwelling units can be on the first floor and in reducing the required distance between residences and Major highways from 300' to 50'

6) I agree that the requirement for indoor parking be eliminated in the Core Gateway area. Many homes built in the last century have just driveways and carports. They should not be out of compliance if they met the standard practices when built.

7) The analysis would be critical for multi-family parking in the Core Gateway, with consideration of the target demographic. My experience is that there are usually more cars than parking spots. We cannot assume that just because people are low income they don't have cars. Frequently, they have a work truck, a family vehicle and a spousal vehicle. It is important that all vehicles be in the designated parking area not in the street. I have seen too many vehicles spilling out into the streets in the Core Gateway area, to the point that it was difficult to get around them. This section should not be read as an excuse to eliminate needed parking just to cut costs.

8) I agree that staff should be able to approve out-of-compliance lots and buildings so long as the footprint is not expanded. This is especially important in the older sections of town.

Comprehensive Plan Consistency: I agree in periodic review of regulations and that the impact of rules in providing lower-income housing must be considered..

Comments on Draft Affordable Housing Ordinance.

P. 1 Opening paragraph: This is a much too-long run-on sentence. It is hard to read. I suggest sentences be broken up for readability as follows. End first sentence on line 6 after “OTHER LAND DEVELOPMENT Matters.” Next sentence should read. “THESE INCLUDE and then add the existing langua, Ge through line 13 ending in “33-103.05.” Create a space after each section rather than running them all together.

Create a new paragraph: THIS ORDNANCE ALSO:

- 1) CREATES NEW PROVISIONS OF THE *LDRS*;
- 2) REPEALS SECTIONS 33.33.01(E)(10) AND Section 33—145.04;
- 3) ELIMINATES OR REVISES THE TEXT OF NUMEROUS PROVISIONS;
- 4) PROVIDES FOR LEGISLATIVE FINDINGS AND INTENT;
- 5) PROVIDES FOR WAIVER OR DEFERRAL OF IMPACT FESS FOR AFFORDABLE HOUSING AS AUTHORIZED BY SECTION 163.31801(11), *FLORIDA STATUTES*;
- 6) PROVIDES FOR DIVERSE IMPLEMENTING ADMINISTRATIVE ACTIONS AND ENFORCEMENT;
- 7) PROVIDES FOR CONFLICT *RESOLUTION (NEW WORD ADDED)*
- 8) PROVIDES A SAVINGS PROVISION
- 9) PROVIDES FOR CODIFICATION ACTIONS OF A DIVERSE NATURE TO INCLUDE BUT NOT BE LIMITED TO, MOVING SUBSECTION 33-102.04(D) TO ARTICLE VI OF CHAPTER 33 WITH REGARD TO THE REGULATION OF SIGNS
- 10) PROVIDES FOR SERABILITY; AND
- 11) PROVIDES FOR AN EFFECTIVE DATE

WHEREAS Paragraph 3 rather than site statistics for U.S. generally or Florida, Why not include a local analysis?

WHEREAS Paragraph 4: Rewrite as follows: “Affordable housing means rents or mortgages have been set at a rate to allow families, seniors and individuals to live within 30% of their gross income for all housing expenses and there is a maximum household income requirement that excludes those with higher income. It is not subsidized public housing or low income housing. Affordable housing is defined in Section 420.907(2). *(Do not include the full definition from the law that is confusing and poorly written.)*.”

P. 2: WHEREAS Paragraph 5: Why are we including this when many of the provisions are not in the implementing LDR’s I would include only the sections that we will be implementing. i.e. waiver of Impact fees.

P. 3 WHEREAS: Paragraph 6: Delete “was enacted by Florida Legislature” as redundant.

3.

P. 3:WHEREAS Paragraph 9 (3) Rewrite 2nd sentence as follows: “Affordable housing ensures that the cost of housing *is low enough that families can afford to meet their respective basic expenses including health and education needs.* (*Italics reflect changed language.*)
(4)*I am not sure that this creates a stronger work force. It may make a happier workforce, but not necessarily a “stronger” one.*

P. 4 (7th on page)**WHEREAS:** “ without limiting the generality of the foregoing in any respect”
What does this mean? Delete this language as unnecessary.

P. 5(b) Can Section 1 b be simplified? What are we trying to say?

P.7 Chart in Sec. 33-17: The top of the chart needs to fully include the full zoning for each column. i.e. R-R, R-R1, R-1AA (*etc.*)
The continuation of the chart on pages 8 and 9 should contain the corrected header for ease of use by the reader.

P. 10. 33-17.01: R-R zoning district. Why was the section on compacted gravel or milled asphalt deleted? It seems as if this would discourage affordable housing rather than increasing it. Other forms of drives are more appropriate in a rural residential zoning district then other zones.

P. 12. 33-17.02: R-R 1: This appears to be in an area where more parking spaces should be provided for homes of 4 bedrooms or more. Again I am concerned that the prohibition of asphalt and gravel drives would make homes less affordable. This also is a concern in other zonings where this change is proposed including R-1AA (p-15), R-1A (p-17), R-1B (P. 20), & R-1(P-23).

P. 15. 33-17.03: R-1AA: I originally objected to the apparent elimination of requirement for a minimum of two spaces. However, I realized after getting to page 51, that there are requirements that I do agree with located in Section 33-91.03 that applies to multiple zonings.

P. 28. 33-1708: R-8: Why are their minimum lot dimensions for single family and duplex under a zoning which by definition is for multi-family? Delete these references here. This also applies to other sections referring to Single Family or Duplexes under a multi-family zoning, including setbacks and, building dimensions. I have the same concern for similar provisions in 33-17 for R-12 under Section 33-17.09. I note that under the R-16 zoning (33-17.10) all references to single family and duplexes were deleted as they should be.

Parking Requirements for all multi-family is addressed on Page 51 33.91.03 Matrix (f) for R-8, R-9, and R.10 and are appropriate.

P. 40. 33-11 R-M. I am concerned that parking for mobile homes was deleted here and was not addressed in matrix (f) on page 51-52. I suggest that a third category: “mobile homes” with the same numbers as for multi-family be added to the matrix I do have the same objection to the prohibition of asphalt and gravel driveways for reasons stated earlier. Also should “mobile homes” be changed to “manufactured homes.”

4.

P.41. 33-17.12. E-1: Since there is such a diversity of possible uses here, setting a minimum # of parking spots is not practical. Minimum parking should be established based on the intended use. I.E. dormitories will need enough units to handle residential students who have cars on campus. Elementary and Middle Schools will need adequate parking for staff and some visitors. High Schools in addition, will need parking for about half of their Jr/Sr. class. Colleges and technical schools will need adequate parking for commuters. A study is the way to handle this.

p.45. 33-17.23: Uses in Commercial Zoning Districts. For readability, put header chart from p. 44 at top of page for its continuation on p.45.

P.46. 33-17. C-2A: I think that these minimums are still appropriate. Eliminating some kind of minimum is needed to prevent closet-size living units. Affordable should not mean unliveable.

P. 49. 33.25.02. ADU's: change "permissible" to "permitted".

I am concerned that eliminating many of the standards in old (d –h) there needs to be a minimum standard and not a "free-for- all" that could lead to sub-standard ADU's that are sub-standard, dangerous and unliveable (slums). While meeting all other standards may not be necessary, there needs to be some minimum construction and utility standards.

Old (k) I am concerned that this could lead to many absentee landlords buying up in-fill properties and not maintaining them. I also am concerned that it could lead to a proliferation of Air B & B's or similar properties being built that drive out working families, because the rent they get is so much higher.

Old (m): Retain. See above.

P.54: I am supportive of eliminating the "hardship" provisions since it's a hard term to pin down. A hardship to the land owner is different than that of staff and individual board members.

P. 57: Under **restoration and reconstruction of damaged nonconforming multifamily and nonresidential structures.** In line 4 expand the casualty events to include all losses caused by adverse weather or other natural events (to include but not be limited to: wind-damage, lightning damage, fallen trees, sink-holes, wildfires etc.)

My review of pages 59 to 70.

P. 59 (1) at top of page 2nd sentence replace "be" with "is. Line 3: put period after neighborhood. Delete "provided." Start next sentence with "However, the Director shall not requires specific building design elements unless the dwelling is a historic property, or located in one of the following: a historic district, a community redevelopment area, or a pre-existing planned unit development or master planned community. Design elements can be required if necessary to implement the National Flood Insurance Program.

5.

P. 59 (4) Is this a new requirement or a revision of an old one?

P. 63 “Nonconforming Signs. I agree with the content and moving it to Article VII. At 33.71 - 85. What number will it be in this Article?

P63: 33-103. Divide into three sentences as follows: Appeals to the Planning Board may be taken where a decision of the Planning Director creates hardships in the implementation of the strict letter of these *Land Development Regulations*. Appeals can be brought by any person hurt by the decision. With approval of the City Manager, any Department of the City may also appeal.” ***I am not sure that the last sentence is required since I can’t imagine when matters of this nature would not be resolved internally by the City Manager.***

P 64: 33-103.03 second line. Delete the “shall” after “Board” put the “shall” where the “will” used to be.

33-103.03 (b) Delete the “Will” in first sentence. Start sentence with “Literal...”. To be consistent with the other sections.

33-103.04 (a) 1. Delete “s” at end of “survey”

PP. 65-70 I have no suggestions for these pages.

B. Virginia Comella
Chair, DeLand Planning Board

**PLANNING DEPARTMENT STAFF REPORT
TO
PLANNING BOARD**

February 16, 2022

A. APPLICATION NO.: Z21-057

APPLICANT: Michael Wojtuniak, P.E.

REQUEST: Amend the existing zoning designation from Volusia County R-4 to Park's DeLand Toyota PD

APPLICABLE REGULATIONS:

Article IV OVERLAY AND FLOATING ZONES

Sec. 33-32 – Planned Development District.

Article XII ADMINISTRATION AND ENFORCEMENT

Sec. 33-135 – Procedure for text amendments & rezoning.

B. SITE FACTORS:

Location: In the vicinity of Plumosus Park Drive, south of S. Taylor Road
Parcel Size: ±2.36 acres
Land Use: Volusia County UMI (Urban Medium Intensity)
Existing Zoning: Volusia County R-4 (Urban Single-Family)
Existing Use: Mostly undeveloped

	SURROUNDING USE:	SURROUNDING ZONING:
North:	Highway Commercial; Low Density Residential	R-1B
South:	VC: Urban Medium Intensity; Low Density Residential	VC: R-4
East:	VC: Urban Medium Intensity	VC: R-4
West:	VC: Commercial	DeLand Toyota PD; VC: B-5

B. ANALYSIS:

The subject property consists of two newly-created lots (“New Lot 1” & “New Lot 2” on the concept plan) which were carved from a larger parcel to the east, previously owned by Mr. Vincent Gould, and addressed as 230 E. Taylor Rd. The applicant is requesting the zoning be amended for the new parcels from Volusia County R-4 (Urban Single-Family) to Parks DeLand Toyota PD (Planned Development).

On January 17, 2012, the property located at 1701 S. Woodland Blvd. received zoning approval to rezone to Parks DeLand Toyota PD, Planned Development. The development was originally approved for 5.25 acres in size. Later, the owner of the dealership purchased additional property from the neighbor to the east, Mr. Vincent Gould. In order to incorporate the new land, the PD was amended on November 16, 2015 (1st Amendment to the PD), to include an additional 2.82 acres of property into the development plan and PD agreement, with a grand total of ±8.07 acres.

The owner of Parks Toyota of DeLand recently purchased another 2.36 acres of property from Mr. Gould, with the goal of combining the two newly-created lots with the existing dealership property. The owner of said car dealership initiated this rezoning request with the intentions of developing the purchased land to be used for additional parking/storage of vehicles. In order to include the two new lots into the Toyota PD, the PD must once again be amended (2nd amendment to the PD).

The newly-created lots were annexed into the city via approval by the City Commission at their regularly scheduled meeting on November 1, 2021 (AN21-058). At that same meeting, the annexed parcels received approval to amend the future land use designation to City of DeLand HC, Highway Commercial (SMLU21-075).

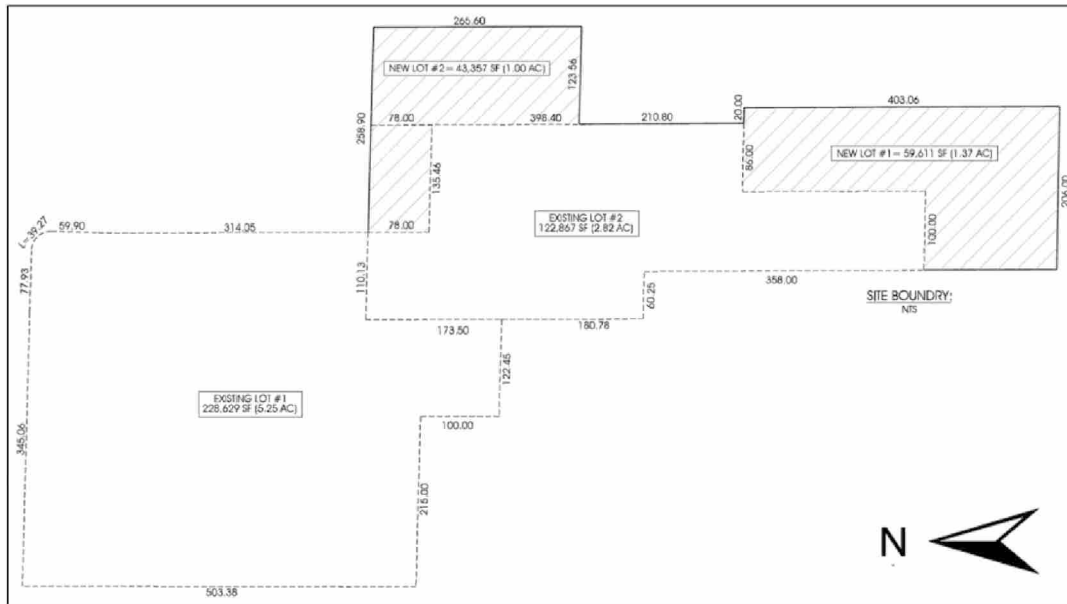
The applicant has proposed the 2nd amendment to the Park’s DeLand Toyota PD Agreement and Development Plan to reflect the additional property, and to identify the permitted uses and development standards to be applied.

Newly created Lot 1 is 1.36 acres in size; newly created Lot 2 is 1 acre in size. As part of the requested PD amendment, the applicant proposes a development program that includes the following:

BUFFER	LANDSCAPE BUFFER LOCATION	BUFFER WIDTH
East:	Area east of parking spaces	30’
	Area adjacent to on site retention	5’
South:	Area adjacent to the south parking spaces	15’
West:	Area adjacent to the retention pond & parking	5’
North:	Area south of Plumosus Park Dr.	30’

Prior to any development occurring, the applicant must first combine the new lots with the main dealership parcel; the applicant must submit a site plan for the city’s review and approval, prior to any development occurring.

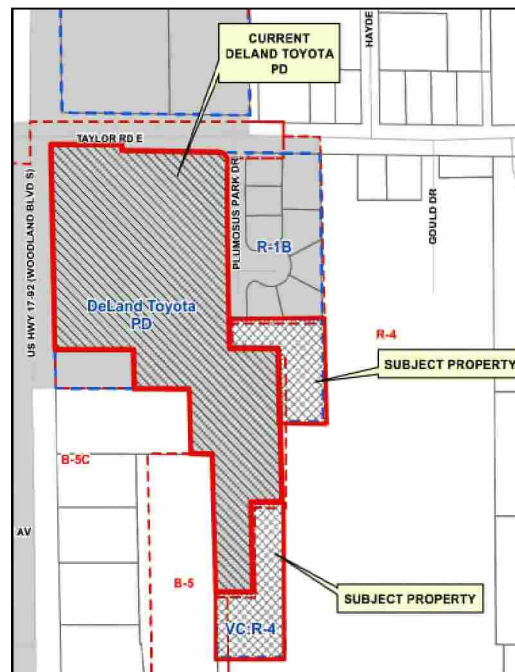
CONCEPT PLAN:



AERIAL MAP:



ZONING MAP:



The Technical Review Committee recommended at their June 17, 2021 meeting that the proposed Planned Development Agreement be forwarded on to the Planning Board, subject to addressing all remaining Staff comments.

The following TRC comments remain:

Planning Revised Comments:

1. Swap the directional names for Lot 1 vs. Lot 2 (change to: Lot 1 = South East; Lot 2 = North East) CONCEPT PLAN
2. Revise to be to be consistent (change to: Lot 1 = South East; Lot 2 = North East) CONCEPT PLAN
3. Can the lines be darkened more around new lots 1 & 2 on the conceptual site plan? We want to make it clear that the existing site is not under review.
4. Please confirm if any of the new parking lot areas will be used for employee parking?
5. Will any new fencing be added? If yes, please show on the concept plan and/or the PD agreement, and specify the type and height.
6. Add requirements for north buffer adjacent to Plumosus Park. Dr.
7. Typo: add a space
8. Insert book & page number
9. Typo: Change where to were
10. Update year to 2022
11. Typo: change know to known
12. Update year to 2022

Fire Dept. Revised Comments:

12. Depiction shows that apparatus would not make it to the new area. Modifications will need to be made of the existing to allow access to the new project area. Modifications would also be needed in the new project area.
13. Due to remote access and change of use for the property a Fire Hydrant(s) will need to be installed. Over 1000FT from the closest hydrant.

Section 33-135 of the Land Development Regulations provides the following criteria, which the City Commission shall utilize in reviewing a rezoning request:

1. Is the proposed rezoning consistent with the Comprehensive Land Use Plan, the land use, zoning pattern and character of the surrounding area?

The proposed project is an extension of the existing DeLand Toyota PD. In conjunction with this application, the applicant also submitted applications for an annexation and a small scale comprehensive land use amendment to change the land use to a category for which the proposed use is compatible. Both the annexation and the land use amendment were approved by the City Commission on November 1, 2021.

The property to the west of both newly-created Lot 1 and Lot 2 is the current DeLand Toyota dealership, the majority of which have car-related services as their primary use. Newly-created Lot 2 directly abuts residential homes to the north. Because of that, the concept plan situates a retention pond, plus a 30' wide landscape buffer, between the residential properties and the dealership. To the east is the subject property's parent parcel; and a 30' wide landscape buffer will also be provided to protect its residential character from the proposed use.

The development is consistent with the Comprehensive Plan in that the underlying land use designation is HC, Highway Commercial. The HC land use designation is consistent with land uses for adjacent City and County properties along the US Highway 17-92 corridor.

The proposed development program is consistent with the existing Toyota PD and maintains the same general character and pattern of the surrounding area.

2. Will the proposed rezoning have an impact upon the environment or natural resources?

The rezoning of this property should not impact any environment or natural resources. Impacts on any specific species will be determined at time of development.

3. Will the proposed rezoning have an impact upon the economy of the affected area?

Subsequent commercial development of the vacant parcel will increase the taxable value of the subject property and allow for expansion of the car dealership business to the west.

4. Will the proposed rezoning have an impact upon governmental services?

The proposed use of the property is anticipated to have little to no impact on governmental services.

5. Are there changes in the circumstances or conditions affecting the area since the original assignment of zoning that will support the proposed zoning?

This property is located east of US 17-92, and is adjacent to the limits of the City of DeLand. The proposed zoning change will facilitate site improvements, and it is consistent with the pattern of nearby land uses and zoning.

6. Was there a mistake in the original classification?

There was no known mistake.

7. Will the proposed rezoning have any effect upon the use or value of the affected area?

The parcels to the west of the subject properties are commercial in nature, the majority of which have car-related services as their primary use. The subject property is being divided from and sold by the adjacent residential property to the east; along with appropriate buffers installed between incompatible uses, there should be little unintended impact to neighboring properties.

8. Will the proposed rezoning have an impact upon public health, safety and welfare?

It is not anticipated that there will be any adverse impacts upon public health, safety or welfare as a result of this rezoning.

C. CONCLUSION:

The Applicant is proposing to rezone the subject property and amend the current DeLand Toyota PD Agreement to include an additional 2.36 acres of property to be used for the parking/storage of dealership vehicles. The proposed use will not create additional traffic. Only the original owner of the subject property should be affected by its development, and any impacts to said property should be alleviated by the 30' wide landscape buffers between the dissimilar uses.

D. STAFF RECOMMENDATION:

Staff recommends that the Planning Board forward the application to the City Commission with a recommendation of approval for the 2nd Amendment to the DeLand Toyota PD Agreement and development plan, subject to the applicant addressing the outstanding Technical Review Committee comments.

L:\COMMDEV\PLANNING\SR\2021\SR-Z21-057 PARKS DELAND TOYOTA PD AMENDMENT

SECOND AMENDMENT TO DELAND TOYOTA

PLANNED DEVELOPMENT AGREEMENT

This First Amendment to the Planned Development Agreement (the "First Amendment") is made this ____ day of _____, 2022 between the **CITY OF DELAND**, a Florida municipal corporation (hereafter, the "City"), whose mailing address is 120 S. Florida Avenue, Deland, FL 32720 and **Parks Automotive Group, LLC**, a Florida limited liability company, whose mailing address is 1701 S. Woodland Boulevard, Deland, FL 32720 (hereafter, "Parks Automotive") and who is the successor in interest to **Parks Automotive Group, LLC**, a Florida limited liability company (hereafter "Deland Toyota").

WHEREAS, the City and Deland Toyota previously entered into that certain Planned Development (the "PD Agreement") dated on or about January 17, 2015 and recorded in Official Records Book _____ of the Public Records of Volusia County, Florida in connection with the rezoning of 8.07 acres as the "Deland Toyota PD" and

WHEREAS, since the Deland Toyota PD was approved, additional property adjacent to the Deland Toyota PD consisting of 2.36 acres and legally described on the attached Exhibit "A" (a portion of Vincent Goulds' Parcel) was acquired by Parks Automotive Group, and

WHEREAS, Parks Automotive Group desires to annex the portion of Vincent Goulds' parcel into the Deland Toyota PD, to amend the Commercial Planned Development ("CPD") Plan to reflect the addition of the portion of Vincent Goulds' parcel and to identify the permitted uses and development standards to be applied to the portion of Vincent Goulds' parcel and

WHEREAS, Parks Automotive Group further wishes to amend the Deland Toyota PD to utilize the same uses as the list of permitted uses within limited portions of the CPD plan, and

WHEREAS, the application of Parks Automotive Group to amend the Deland Toyota PD was duly and properly filed with the City on April 8, 2021 and the application was reviewed by the City's Community Development Department and determined to be consistent with the City's Comprehensive Plan, and

WHEREAS, Public Hearings on this First Amendment to the Deland Toyota Planned Development Agreement where held by the Planning Board on _____ and the City Commission on _____ and _____, after due public notice was provided in accordance with the City's Land Development Regulations Ordinance No. 2013-11, as amended,

NOW THEREFORE, the City and Parks Automotive acknowledge and agree that the Deland Toyota PD is hereby amended to reflect the following changes, revisions and amendments to the Deland Toyota Planned Development Agreement and CPD plan,

1. The Development Agreement for the Deland Toyota PD is hereby amended to include the property described as "Exhibit A" attached hereto, and said property shall be subject to the benefits and burdens of the Deland Toyota Planned Development Agreement, as well as the provisions of Ordinance No. 2013-11.

2. Paragraph D(7) of the Development Agreement for the Deland Toyota PD is amended as follows (changes shown in ~~striketrough~~ and underline format) is amended by adding with the following text, so that it reads, in full, as follows:

Landscape Buffer Requirements

East	<u>And Area east of parking spaces</u>	<u>30 ft.</u>
------	--	---------------

	<u>And Area adjacent to on site retention pond</u>	<u>5 ft.</u>
--	--	--------------

South	<u>Area adjacent to the south parking spaces</u>	<u>15 ft.</u>
-------	--	---------------

West Area adjacent to on site retention pond and parking spaces 5 ft.

3. Paragraph G (9) is amended by adding the following text, so that it reads, in full:

Sewage Disposal, Potable Water, and Reclaimed Water. Provision for sewage disposal, potable water, and reclaimed water needs of the property will be provided in accordance with the Comprehensive Plan, Ordinance No. __2021-37____ as amended, the Land Development Regulations, Ordinance No. 2002-09, as amended, and State of Florida Administrative Code 64E-6, and any other applicable regulations.

4. Except as expressly modified herein, the provisions of the Deland Toyota Planned Development Agreement remain in Full Force and effect.

IN WITNESS WHEREOF, the City and Parks Automotive have caused this First Amendment to the Deland Toyota Planned Development Agreement to be duly executed by their authorized representatives as of the last date entered below.

(SIGNATURES ON FOLLOWING PAGE)

DONE and ORDERED by the City Commission, City of Deland, Florida this _____ day of _____, 2021.

ATTEST:

CITY COMMISSION OF DELAND, FLORIDA

Michael P. Pleus
City Manager

By: _____
Robert F. Apgar
Mayor

STATE OF FLORIDA
COUNTY OF FLORIDA

The foregoing instrument was acknowledged before me this _____ day of _____ 2021 by Michael P. Pleus and Robert F. Apgar as City Manager and Mayor, City of Deland, FL , respectively, on behalf of the City of Deland, and who are personally known to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name: _____
Commission No.: _____
My Commission Expires: _____

WITNESSES:

PARKS AUTOMOTIVE GROUP, LLC, a Florida
limited liability company

Print Name

By: _____

Print: Stephen R. Parks

Title: **Owner**

Sign Name

Print Name

Sign Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

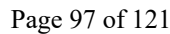
The foregoing instrument was acknowledged before me this _____ day of _____,
2021 by Stephen R. Parks, as **Owner** for and on behalf of Parks Automotive Group, LLC, a Florida
limited liability company. He is personally know to me or has produced
_____ as identification.

Notary Public, State of Florida

Type or Print Name: _____

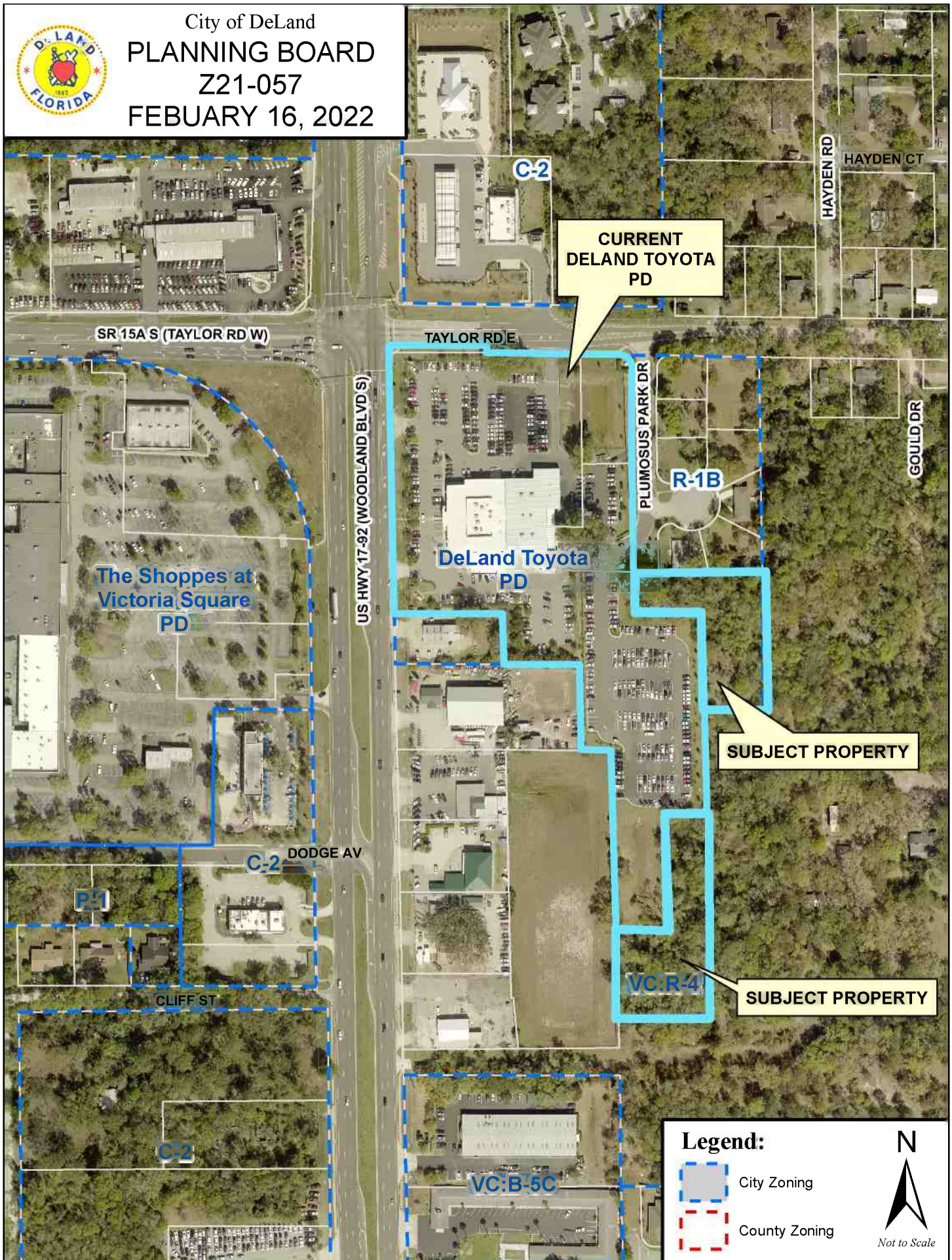
Commission No.: _____

My Commission Expires: _____



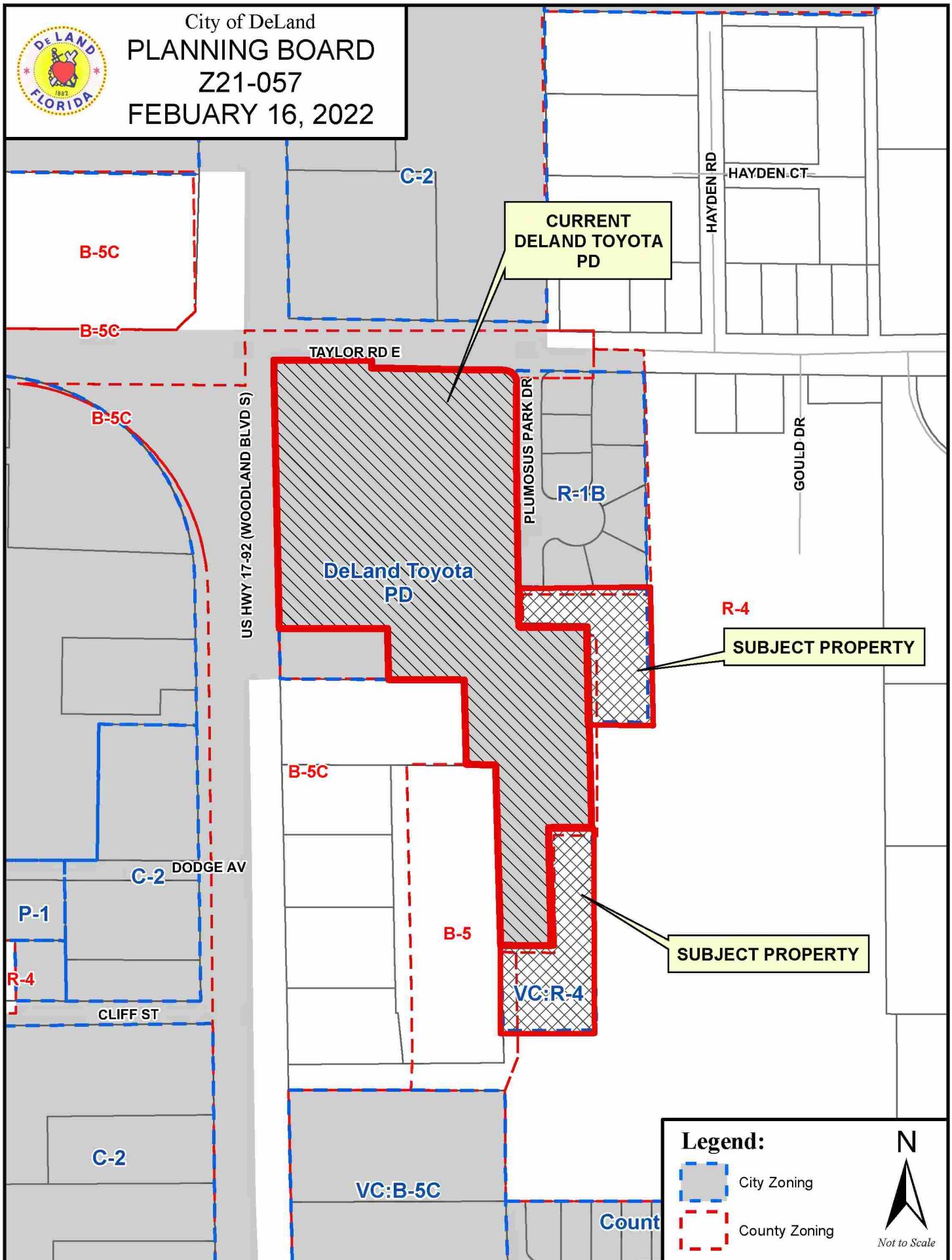


City of DeLand
PLANNING BOARD
Z21-057
FEBUARY 16, 2022





City of DeLand
PLANNING BOARD
Z21-057
FEBUARY 16, 2022



**PLANNING DEPARTMENT STAFF REPORT
TO
PLANNING BOARD**

February 16, 2022

APPLICATION NO: SE21-219

APPLICANT: Angela Rauber, HWH Law (for Asbury DeLand Hund LLC, owner)

REQUEST: Special Exception to bring an existing car dealership into compliance and in order to expand said dealership.

APPLICABLE REGULATIONS: *Section 33-17.23. Allowed uses in commercial and industrial zoning districts. Section 33-18(29). Special exceptions. Section 33-134. Procedure for obtaining a special exception.*

A. SITE FACTORS

Location:	2308 S. Woodland Blvd.
Parcel ID:	7028-00-00-0220 & 7028-00-00-0320
Parcel Size:	+/- 7.15 ac.
Land Use:	Highway Commercial
Existing Zoning:	C-2, General Commercial (Redevelopment Gateway)
Existing Use:	Hyundai car dealership; vacant commercial

SURROUNDING USE:

North: Auto uses; bridge club
South: Single-Family, auto sales
East: Commercial
West: Single-Family Residential

SURROUNDING ZONING:

North: C-2
South: C-2, Crystal Cove PD
East: C-2, Country Club Crossing PD
West: R-4 (VC)

B. ANALYSIS:

Coggin Hyundai is requesting a special exception for vehicle sales within the C-2 (General Commercial) zoning district, to bring their existing car dealership into compliance and in order to expand their operations. The owner of the subject parcel is in the process of splitting off land directly adjacent to the west from the RaceTrac's parcel and combining it with their dealership, in order to create more storage area for their vehicle inventory. The applicant also has also submitted a minor subdivision application (#MS21-220), which has been conditionally approved by the Technical Review Committee at their



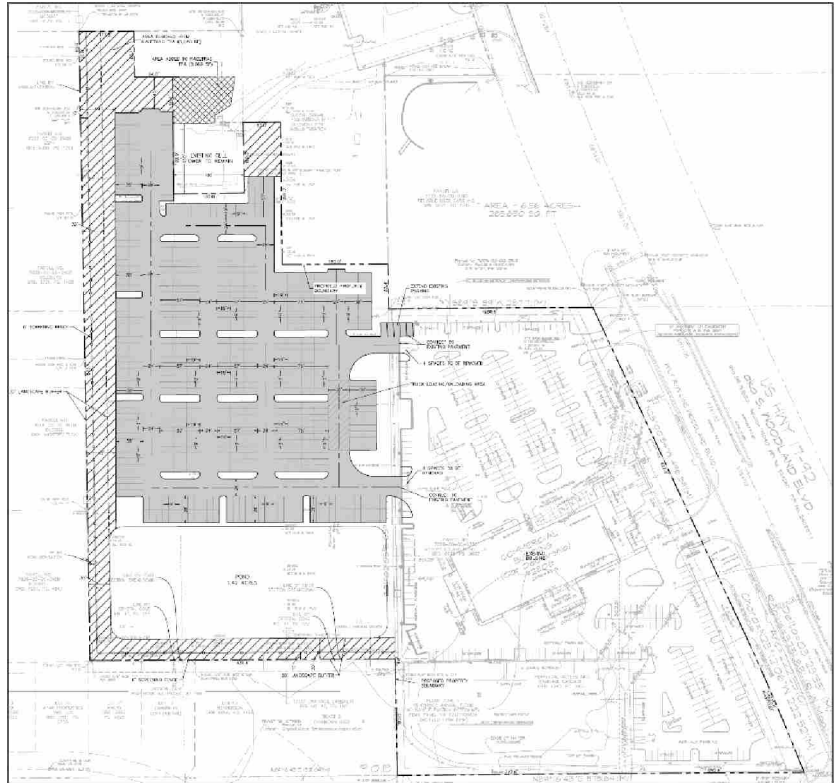
January 20, 2022 meeting. The special exception request was also reviewed at this meeting, and the TRC recommended it be forwarded on to the Planning Board, subject to the addressing of remaining Staff comments. All Staff comments have been addressed, with only a notice remaining, which will be addressed at time of the site plan.

The following was generated by the Fire Department:

1. Note: What is being done to provide water supply due to the limited access, potential for fire load and remote access to existing fire hydrants?

In the C-2 zoning district, “vehicle sales” are considered a special exception, subject to the following regulations below. The purpose of the special exception requirement is to ensure that these regulations have been met. (Due to the age of the existing dealership [c. 2007], a special exception was not required for vehicle sales at that time; therefore, the request also includes the original parcel.)

Per Section 33-18 (29) of the Land Development Regulations, vehicles sales and rentals must meet the following requirements:



- (a) All vehicle use areas must be paved and landscaped per article VIII and, where applicable, per article IV.

The proposed addition is to be paved and will provide storage area for an additional 578 (net) vehicles. The applicant has provided buffers meeting requirements of the Land Development Regulations and has also submitted a preliminary landscaping plan. A site plan application will be required before a development order can be issued, and the details of said landscaping plan will be reviewed at that time.

- (b) Landscape buffers and interior landscaping must be provided consistent with Gateway Overlay.

The proposed addition does not front along the thoroughfare, and therefore this does not apply. The existing Hyundai dealership parcel does, however, already meet the front buffer width requirement of the Redevelopment Gateway. (30 ft. min.)

- (c) Parking must be provided for employees and customers in addition to display area.

Parking for both employees and sales display area has already been provided within the original dealership development. The proposed area is for storage of vehicle inventory only, and will be off-limits to customers, as well as not used for employee parking.

(d) Site must be at least one-half acre in size.

Yes, the subject property is +/- 7.15 acres.

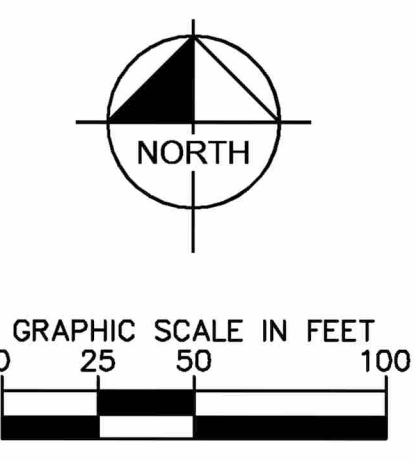
C. CONCLUSION:

The applicant is seeking a special exception to bring their current use of vehicle sales into compliance, along with the addition of a storage lot for vehicle inventory, containing 590 spaces. The subject properties meet all the requirements of the special exception as stated under Sec. 33-18(29) of the Land Development Regulations, as described above.

D. STAFF RECOMMENDATION:

Staff recommends the Planning Board forward the Special Exception to the City Commission with a recommendation of approval. *(The City Commission will hold a public hearing on this item at their March 21, 2022 meeting.)*

U\P\SR\2021\SR-SE21-219 2308SWoodlandBlvd.docx



 PROPERTY BOUNDARY
 TREE PROTECTION AREA
 PARKING ASPHALT

PARCEL I.D.'s. 70-280-00-00-03-20 (8.98 AC),
70-280-00-00-03-80 (1.8 AC), &
70-280-00-00-02-20 (6.58 AC)

ZONING. C-2

PROPOSED USE: COMMERCIAL

MAX. IMPERVIOUS AREA. 5.00 AC (7.15 AC X 70%)

TREE PROTECTION AREA REQUIRED . . .1.07 AC (7.15 AC X 15%)

REQUIRED LANDSCAPE BUFFERS:

NORTH (C-2). 0-FT
EAST (C-2). 0-FT
SOUTH (RESIDENTIAL). 20-FT
WEST (RESIDENTIAL). 20-FT

NORTH (C-2). 0-FT
EAST (C-2). 0-FT
SOUTH (RESIDENTIAL). 30-FT
WEST (RESIDENTIAL). 30-FT TO 50-FT

PARKING TO BE REMOVED. 12 SPACES
PROPOSED PARKING (9'x19'). 590 SPACES

1. "DARK SKY" STANDARDS WILL BE UTILIZED FOR ANY LIGHTING.
2. NO EXTERNAL PA SYSTEM SHALL BE USED IN THE PARKING EXPANSION AREA.

[illegible]

© 2022 KIMLEY-HORN AND ASSOCIATES, INC.
189 SOUTH ORANGE AVENUE, SUITE 1000, ORLANDO, FL 32801
PHONE: 407-898-1511
WWW.KIMLEY-HORN.COM CA 00000696

CORY SITLER

DATE	01-03-2022
SCALE	AS SHOWN

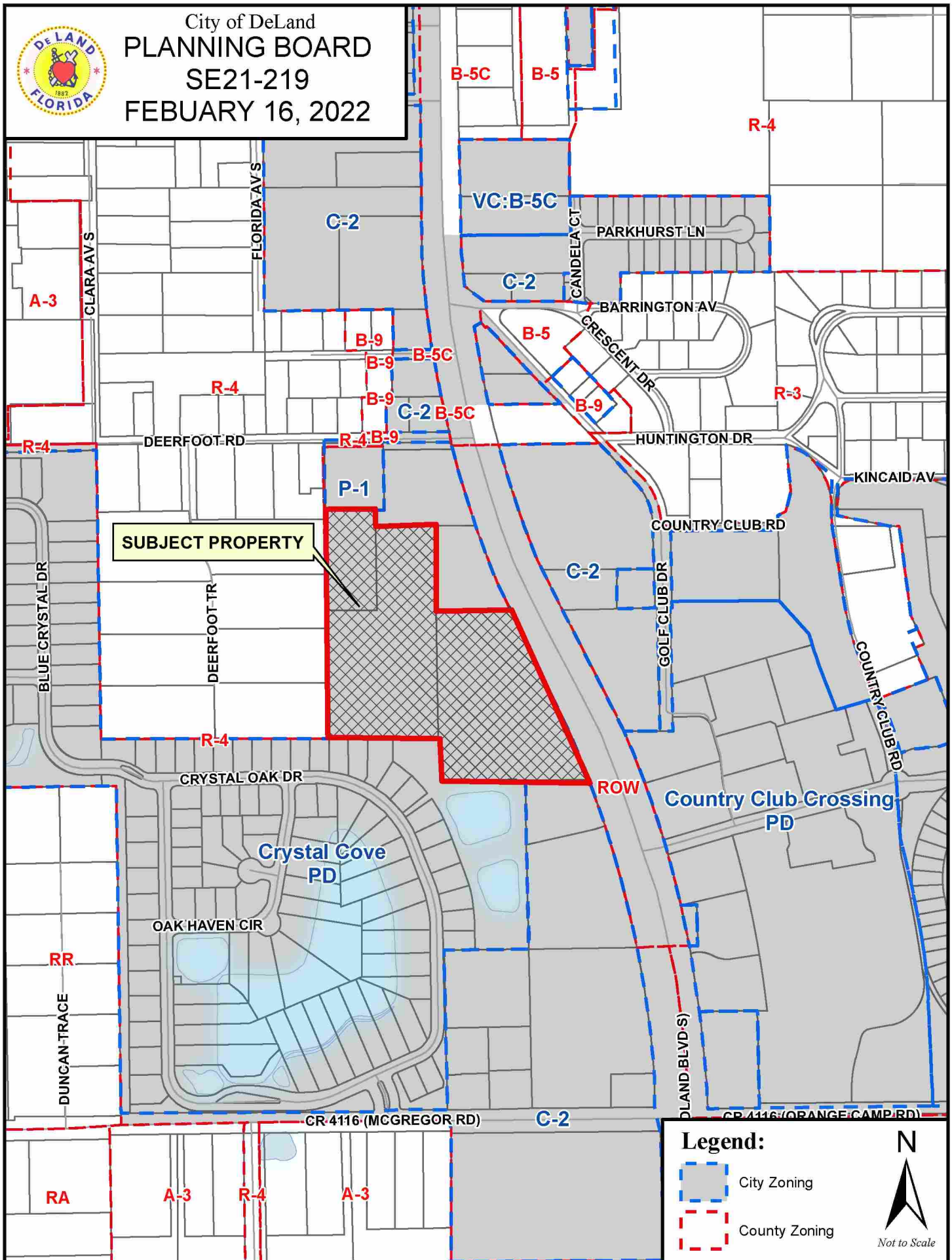
73

DELAND

NUMBER

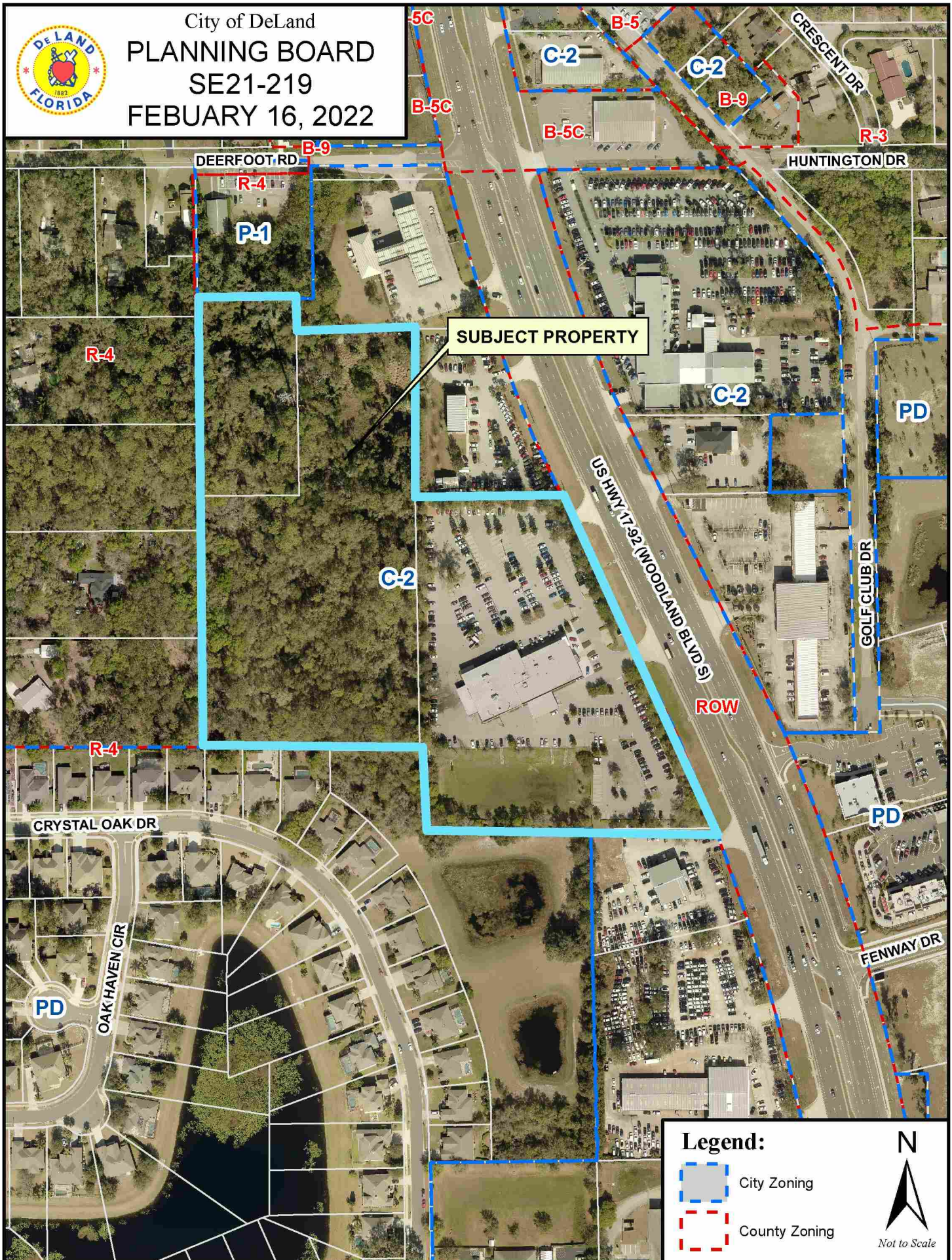


City of DeLand
PLANNING BOARD
SE21-219
FEBRUARY 16, 2022





City of DeLand
PLANNING BOARD
SE21-219
FEBRUARY 16, 2022



**PLANNING DEPARTMENT STAFF REPORT
TO
THE CITY OF DELAND PLANNING BOARD**

February 16, 2022

- A. APPLICATION:** PDC21-247, Planned Development Concept
APPLICANT: Mark Watts, Cobb Cole
REQUEST: Concept plan for rezoning to a single unit Multi-family development project with 240± detached multi-family units
LOCATION: 28.5 acres at the southeast corner of Dr. Martin Luther King Beltway (CR 4101) and Cassadaga Road (CR4139).

APPLICABLE ORDINANCE: Article XII - Section 33-133.02 (a) Review of Planned Development plans, Procedure - Concept review

B. SITE FACTORS

SIZE: 28.5± acres

ZONING: VC-R-4 (Urban Single-Family Residential), VC R-4C (Urban Single-Family Residential/Conservation)

LAND USE: West Central District/Commerce

SURROUNDING USE:

North Residential (*undeveloped*)
South Grazing
East Residential, Agricultural
West Vacant, undeveloped

SURROUNDING ZONING:

North Kirk DeLand PD
South VC: A-1 Prime Agriculture
East VC: R-4 Urban Single-Family Residential
West SWC – Southwest Activity Center

C. DESCRIPTION OF DEVELOPMENT:

Unlike traditional multi-family, each unit in this development will be single story and include a private backyard similar to a single-family home. This development is to be branded as a “luxury rental community” comprised of single-story, one- and two-bedroom smart homes with pet-friendly private backyards. The community is planned to have resort-style amenities and professional on-site management.

Subsequent stages of development cannot rely upon any comment expressed during the concept review indicating that the proposal will be approved by the City Commission in any form.

The Technical Review Committee reviewed the concept plan on Thursday, January 22, 2022 and the following comments are offered:

TRC Comments:

Planning Preliminary Comments

1. In order to implement a sustainable development using low impact development standards it is suggested to:
 - Assess the existing topography, hydrology, soils and vegetation for the benefit of the development and to minimize impacts to the existing environment.
 - Preserve valuable open space and vegetation to the benefit of the development.
 - Utilize the existing vegetation for the 40-foot buffer.
 - Include GSI (green stormwater infrastructure) elements throughout the project in order to protect the environmental features.
 - Utilize clustering of buildings in order to maximize the space and preserve the existing natural features.
2. The city architect will use the Community Design Standards to evaluate the buildings. Please provide 4-sided elevations for review.
3. A traffic impact analysis should be provided for projects generating in excess of 1000 additional trips per day.
4. The site plan should address the need for stormwater retention. It is recommended that a more naturally oriented solution be implemented.
5. Impact to trees, shrubs and habitat on the property will require a site and near site proximity ecological/environmental survey for listed, threatened and/or endangered species including, but not limited to, impact to gopher tortoise and threatened, endangered and protected plant species on and in the vicinity of the site. As the site is wooded, numerous trees of potential historic significance and/or of specimen quality may be present. A tree survey will, and a tree removal permit may be required prior to initiating land clearing and/or construction. Removal of any historic tree requires the review of the City Forester, recommendation by the City Planning Board and approval by City Commission. Preservation of historical and specimen trees is required.
6. At least 15% of the site needs to be dedicated to tree protection. Identify the tree protection area(s).
7. This site is located in the Emerging Gateway and the following standards apply:
 - a. Minimum 40-foot buffer along MLK
 - b. Buffer standard D (for landscaping)
 1. Canopy 7.2 trees /100 l.f. of frontage
 2. Understory 4 trees /100 l.f. of frontage
 3. Shrubs 30 shrubs /100 l.f. of frontage
8. It appears that the applicant also owns acreage south of this parcel. Describe the plans for that property.

9. Show how this project connects into the rest of the activity center.

Engineering Department Preliminary Comments

1. No comment.

Fire Department Preliminary Comments

1. Florida Fire Prevention Code 7th edition 18.2.3.2.1 More than 50 FT. Will building be sprinklered?
2. LDR requires a secondary means of access to the project.
3. Blocking access to buildings.
4. Will need confirmation from Volusia County Utilities that the project can be supported and meet the required fire flow.

Forestry Department Preliminary Comments

1. No tree survey information has been provided. We recommend that you survey the property to identify trees that can be preserved. At least 1/3 diameter of protected trees removed would need to be replaced and 1/2 diameter of specimen trees removed would need to be replaced. Any historic trees proposed for removal would need to be reviewed by the Tree Advisory Committee and approved by the City Commission.
2. Please change Tree Preservation Area to Tree Protection Area for consistency with Code language.

Police Department Preliminary Comments

- No comment.

The next step in the process is rezoning of the property including the submittal of a Planned Development agreement.

RECOMMENDATION:

The applicant has is taking steps to address all TRC staff comments and it is recommended that the applicant address the concerns to the greatest extent possible before submitting the rezoning application for a PD.



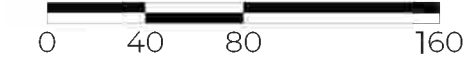
UNIT COUNT PROVIDED	
	UNITS
2 BEDROOM DETACHED 	140
1 BEDROOM ATTACHED 	98
TOTAL	238

RESIDENTIAL PARKING CALCULATIONS		
RESIDENTIAL & GUEST	RATIO	SPACES PROVIDED
1 BEDROOM	1.5x / UNIT	147
2 BEDROOM	2x / UNIT	280
GUEST	0.25 / UNIT	60

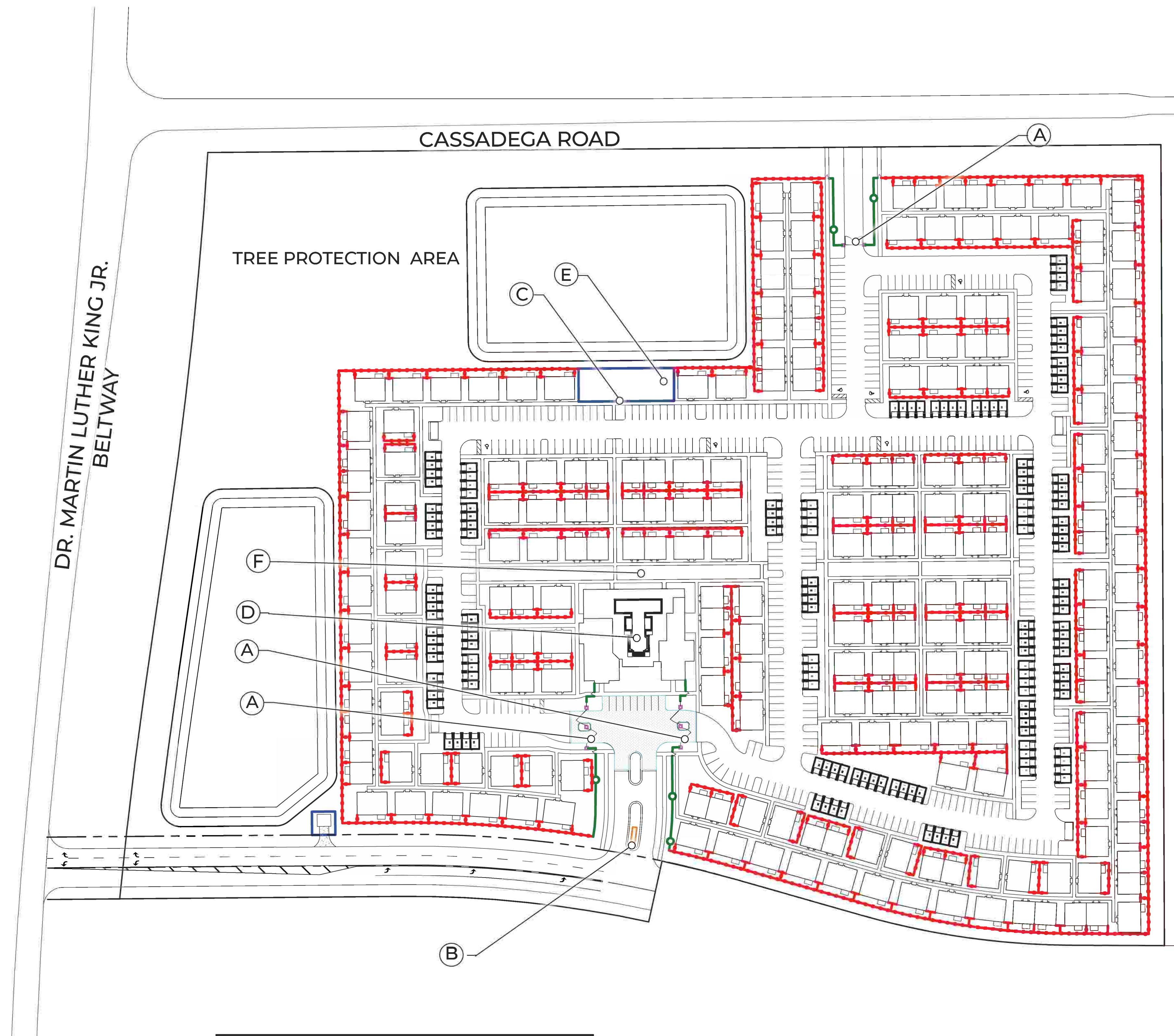


CTC WEST CENTER VILLAGE

Rendered Master Plan


 PREPARED FOR:
 17 NOVEMBER 2021
 1"=80'






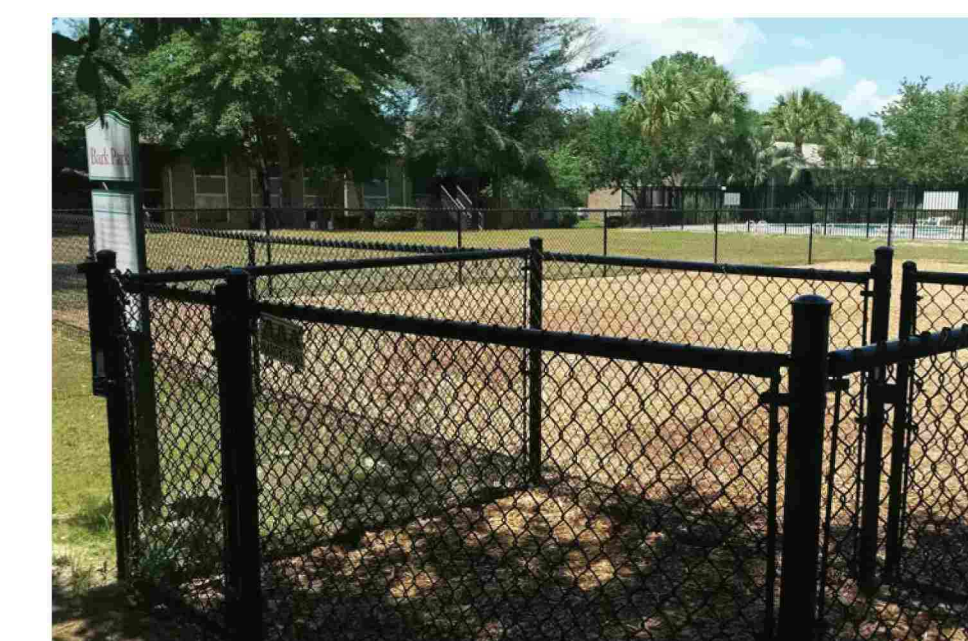
HARDSCAPE ELEMENTS	
	6' PVC FENCE (12,663 LF)
	4' DECORATIVE METAL FENCE (569 LF)
	4' CHAIN LINK FENCE (450 LF)
	ARCHITECTURAL COLUMNS
	ENTRY MONUMENT
	STAMPED ASPHALT



(A) COMMUNITY GATES



(B) COMMUNITY MONUMENT



(C) BARK PARK FENCE



① AMENITY



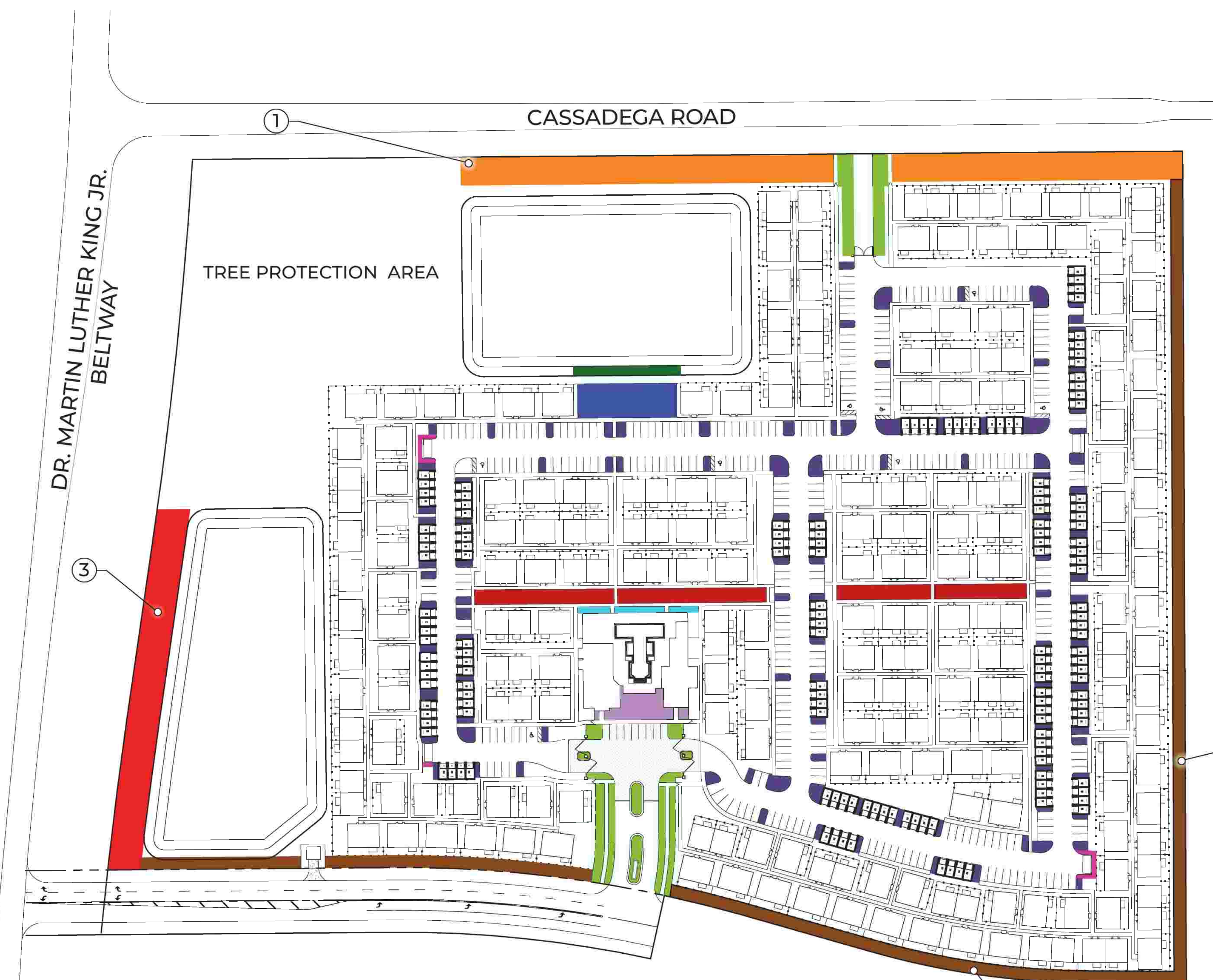
② BARK PARK



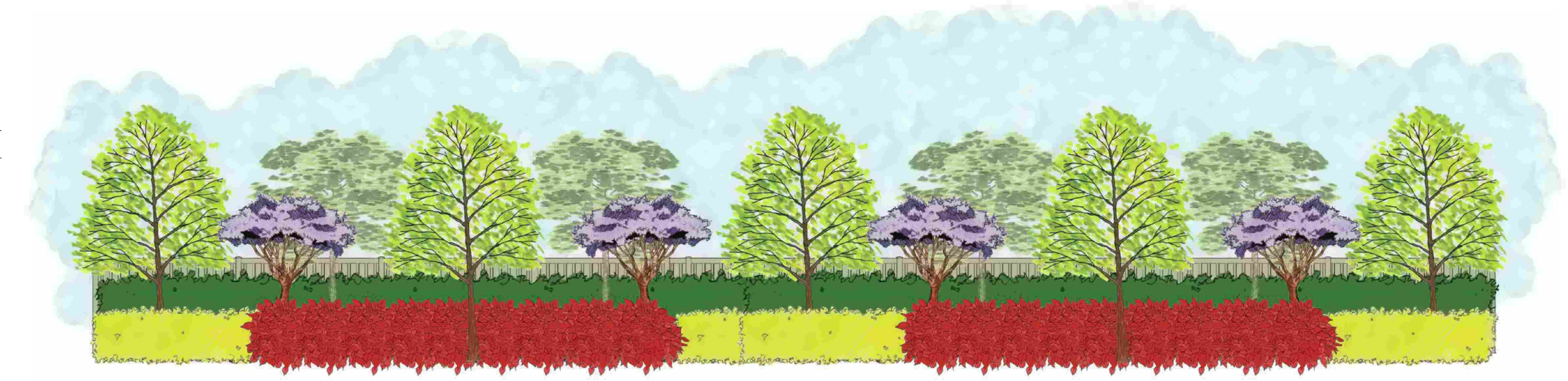
③ LINEAR PARK

CTC WEST CENTER VILLAGE

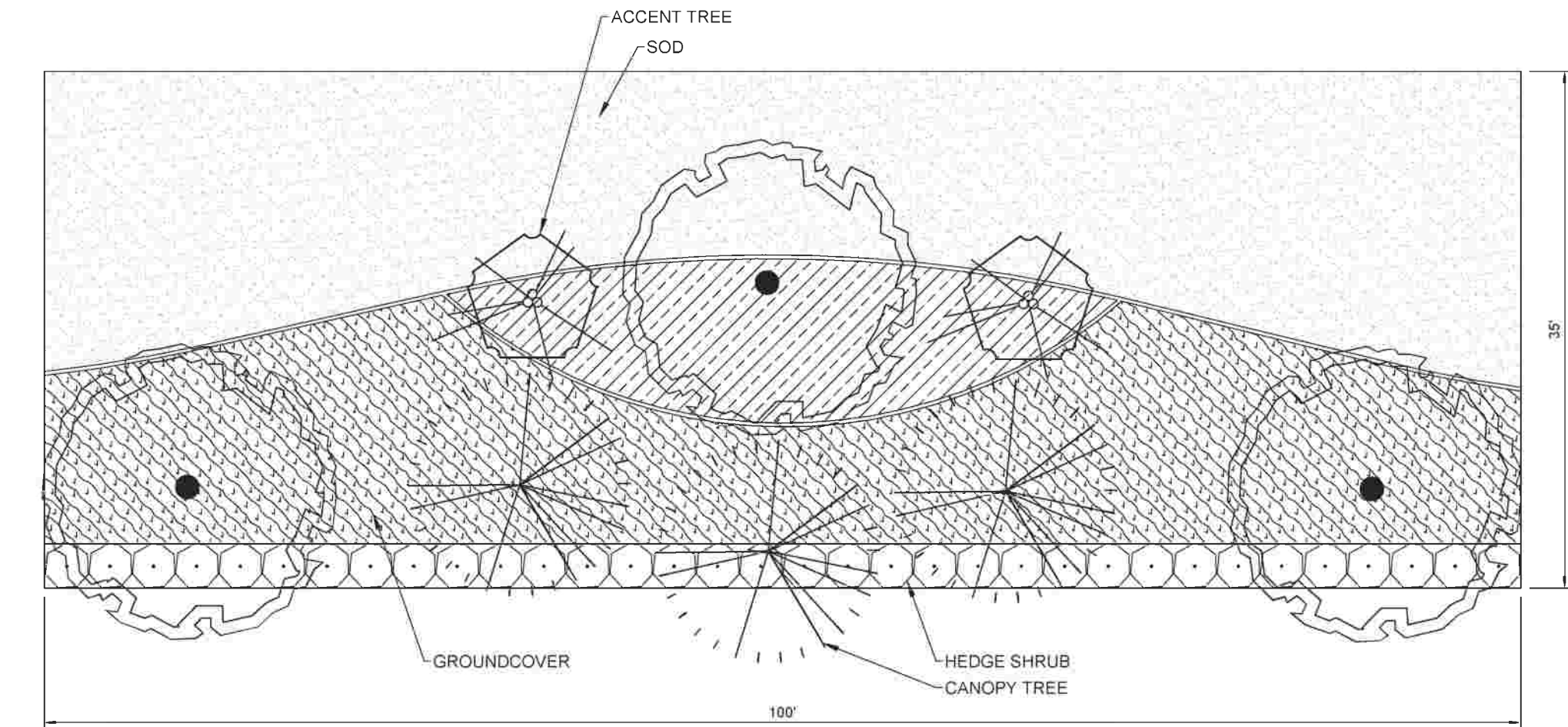
Shared Amenity Elements



- LANDSCAPE ELEMENTS**
- 35' LANDSCAPE BUFFER
 - 15' LANDSCAPE BUFFER
 - 40' LANDSCAPE BUFFER
 - ENTRY LANDSCAPE AREA
 - POND LANDSCAPING
 - DUMPSTER SCREENING
 - PARKING ISLAND PLANTING
 - DOG PARK PLANTING
 - BUTTERFLY GARDEN
 - ENHANCED AMENITY PLANTING
 - LINEAR PARK PLANTING



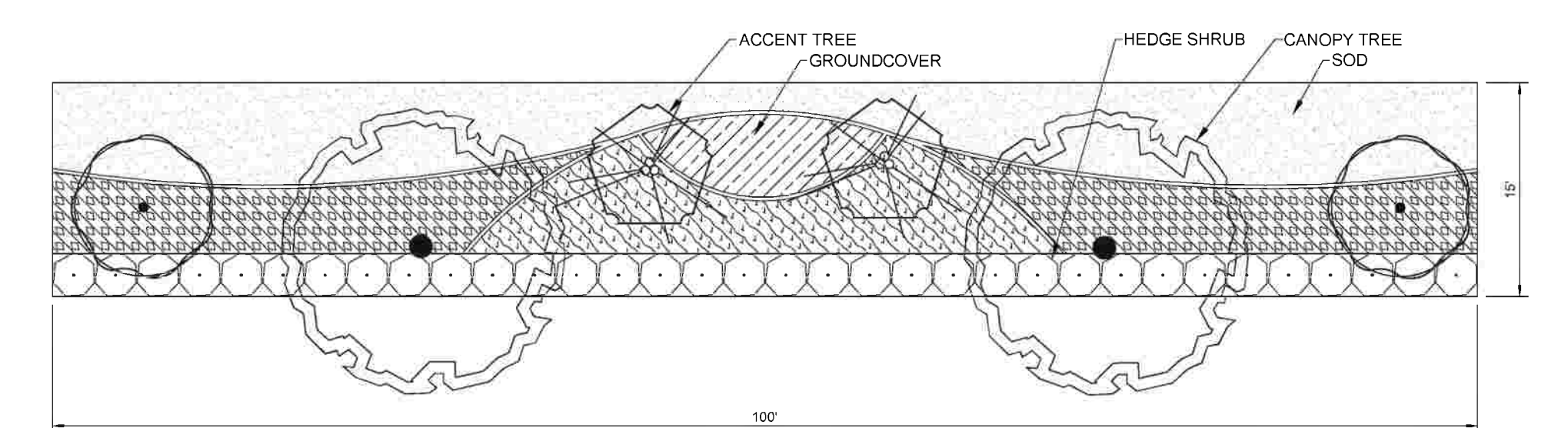
① 35' LANDSCAPE BUFFER



① 35' NORTHERN PROPERTY BOUNDARY BUFFER
SCALE: 1" = 10'



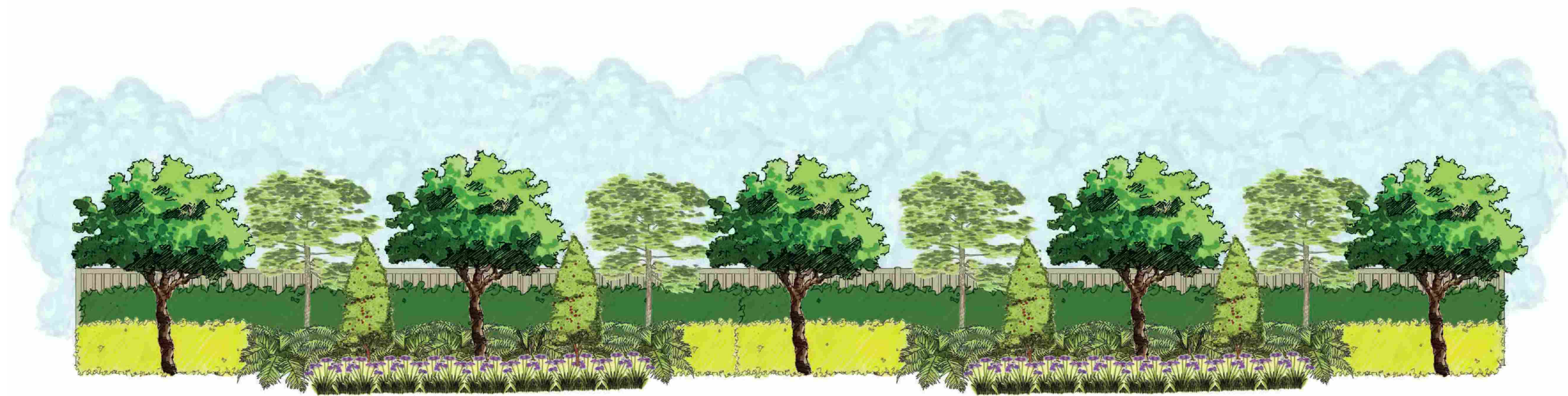
② 15' LANDSCAPE BUFFER



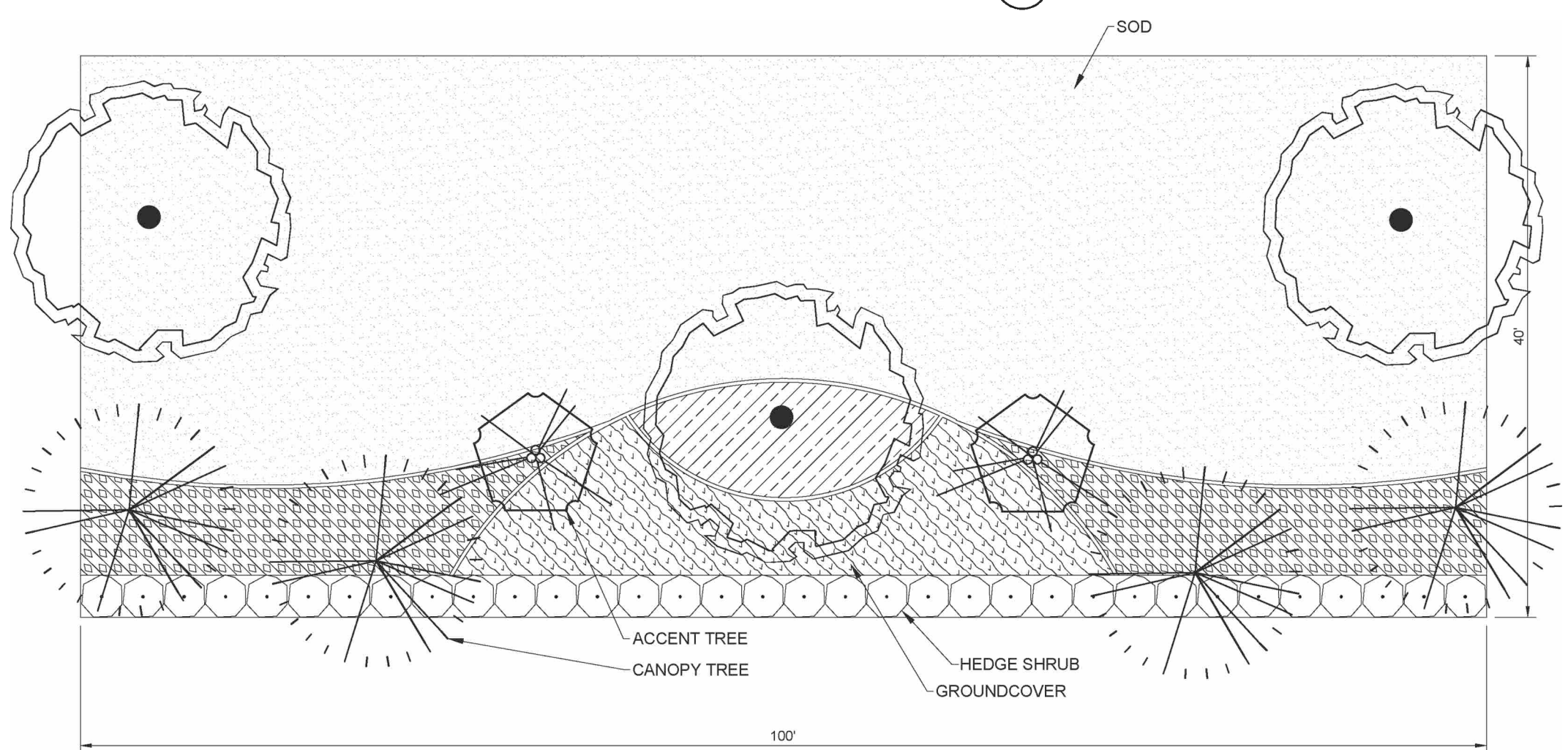
② 15' EASTERN & SOUTHERN PROPERTY BOUNDARY BUFFER
SCALE: 1" = 10'



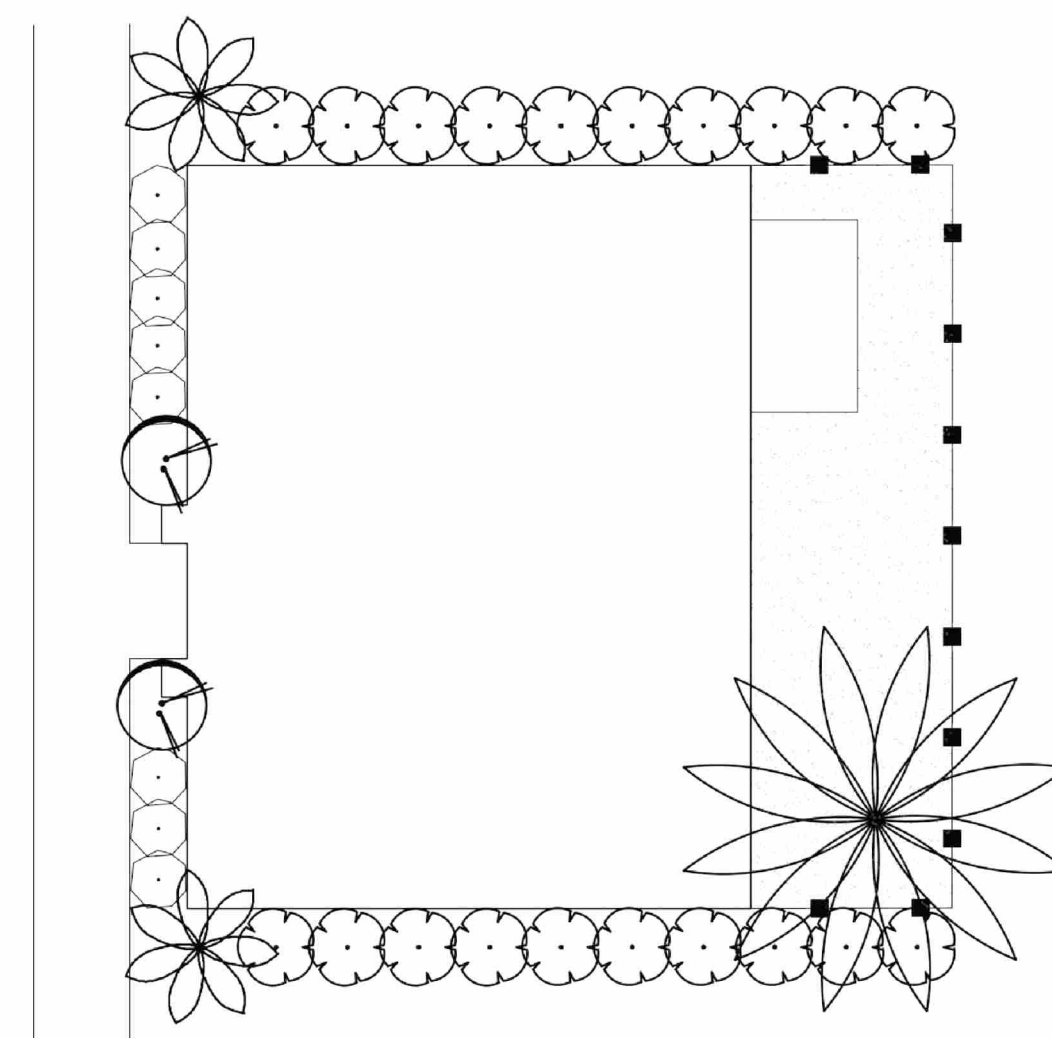
CTC WEST CENTER VILLAGE
Conceptual Landscape Plan



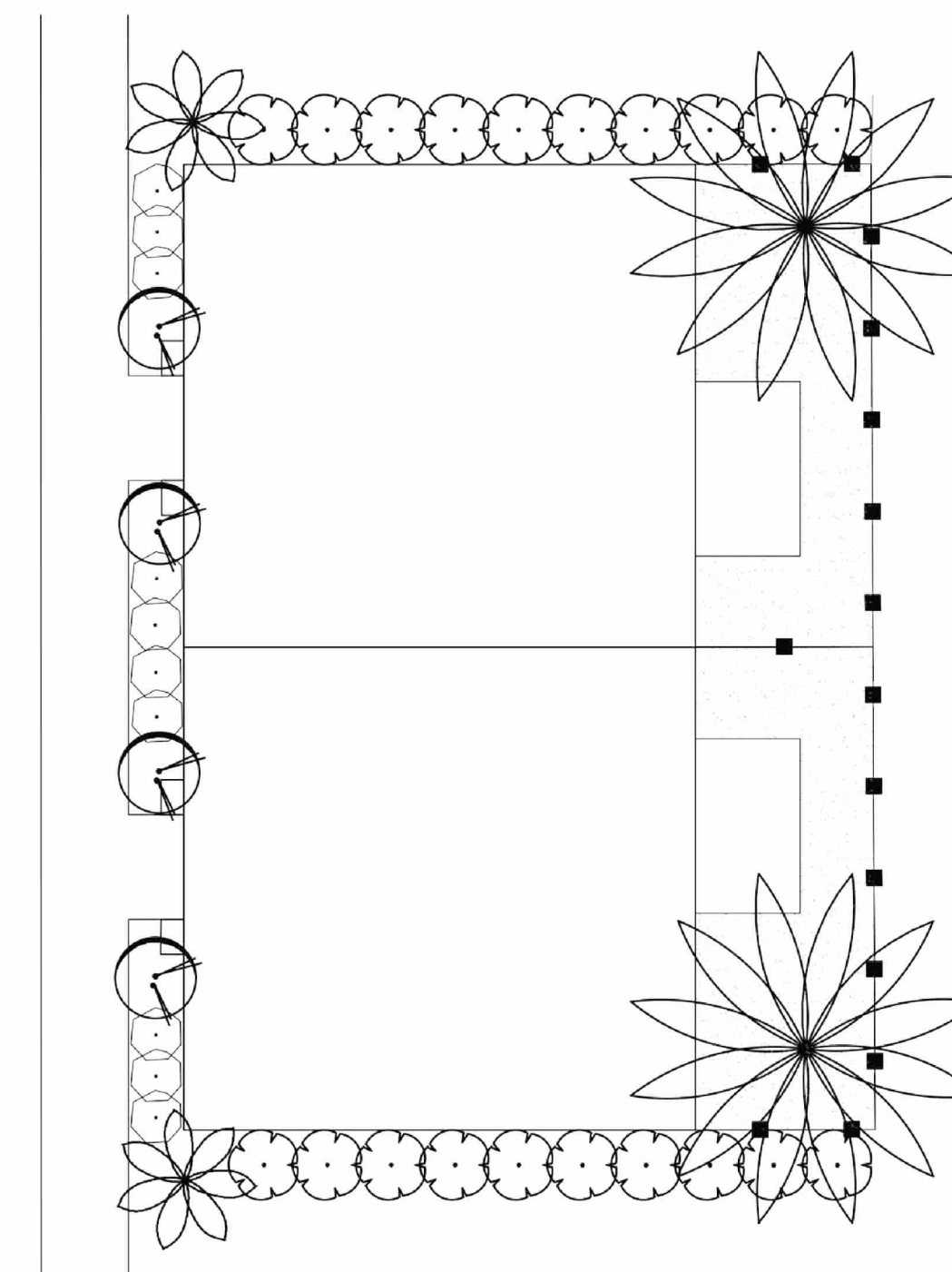
③ 40' LANDSCAPE BUFFER



③ 40' WESTERN PROPERTY BOUNDARY BUFFER
SCALE: 1" = 10'



④ DETACHED UNIT TYPICAL LANDSCAPE
SCALE: 1" = 10'



⑤ ATTACHED UNIT TYPICAL LANDSCAPE
SCALE: 1" = 10'



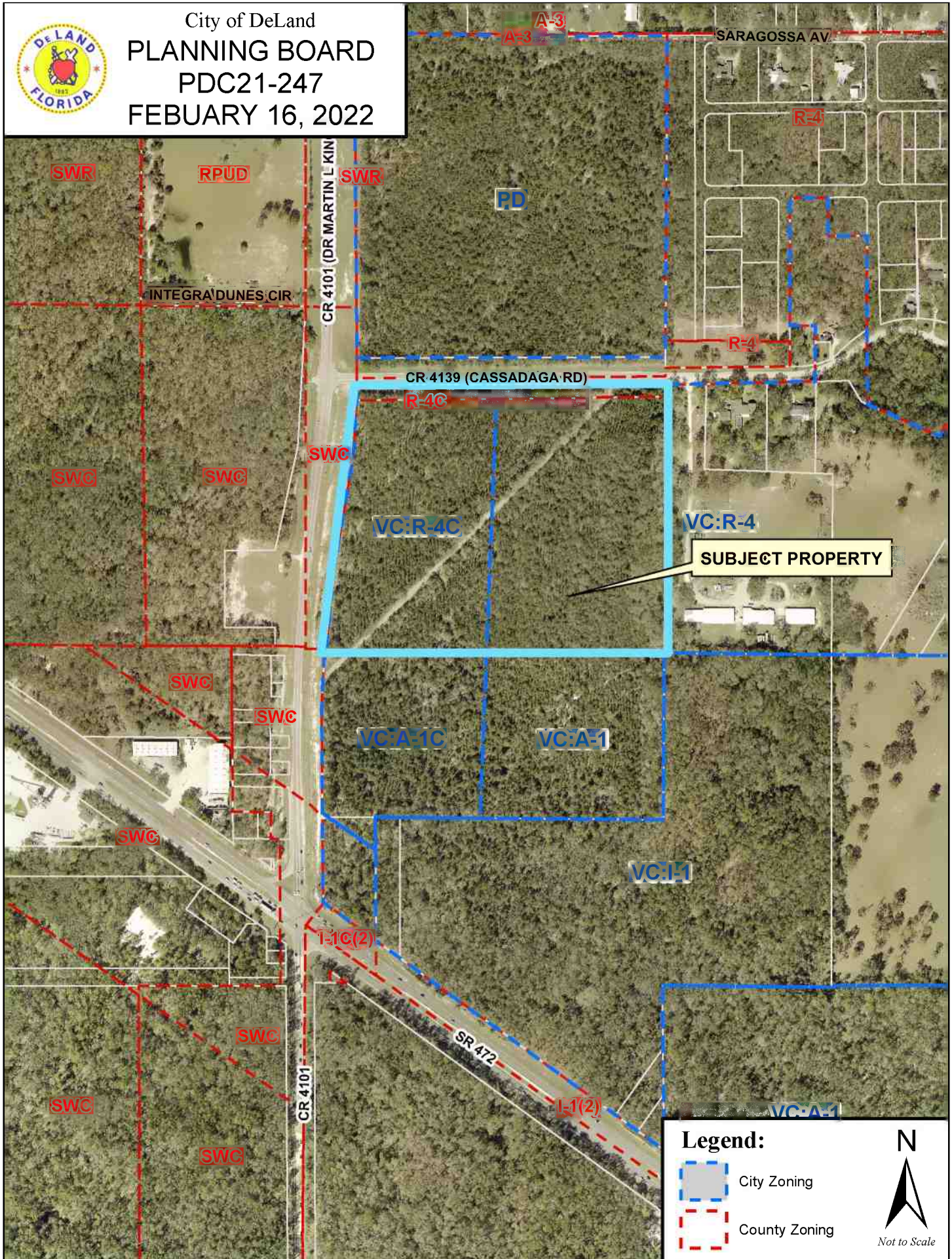
6 ENTRY LANDSCAPE
SCALE: N.T.S.

CTC WEST CENTER VILLAGE

Main Entrance Concept



City of DeLand
PLANNING BOARD
PDC21-247
FEBUARY 16, 2022



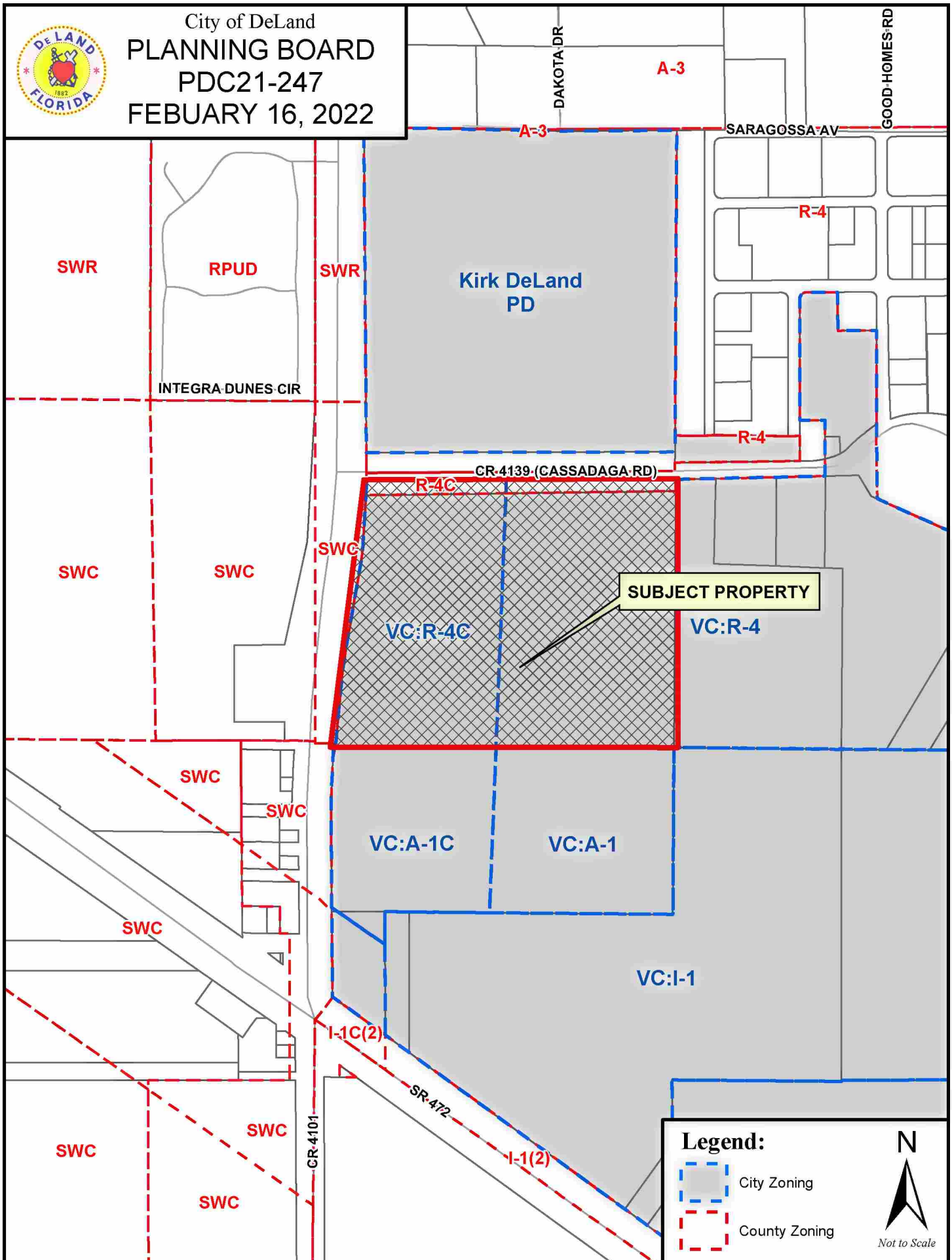
Legend:

- City Zoning
- County Zoning

N
Not to Scale



City of DeLand
PLANNING BOARD
PDC21-247
FEBUARY 16, 2022





Planning Department

Memorandum

TO: Planning Board

DATE: February 16, 2022

FROM: Mike Holmes, Planning Director

FILE: Memo/2022/Z22-027

SUBJECT: Request to Amend LDR's to Allow Veterinary Services in P-1 Classification

The applicant, Lisa Mason of Florida Veterinary Rehabilitation is requesting that the Land Development Regulations (LDR) be amended to allow veterinary services to be a permitted use in the P-1, Profession-Residential District. Currently, P-1 permits office and medical uses which are separate uses in the LDR's. There are two different veterinary use categories allowed per the LDR's; one allows for outdoor kennels and one that does not for overnight boarding. The applicant is requesting that the use that does not allow for outdoor runs or kennels be allowed in the P-1 category. Refer to attached excerpt of the LDR's pertaining to the P-1 district.

The Comprehensive Plan's Future Land Use element contains a land use category, Mixed Office/Residential that was developed for the designation of P-1. The description is attached to this memo which lists uses such as professional and medical offices as preferred uses.

Because any nuisance issue that may be caused by the outdoor activities will not be applicable, staff is in agreement that the LDR's should be amended to allow for veterinary offices under P-1 as long as there are no outside kennels.

Recommendation

Staff recommends that the Planning Board forward this request to allow veterinary services with indoor overnight boarding to the City Commission for their review and approval.

Purpose of the P-1 zoning district:

33-17.13. *P-1—Professional-Residential District.*

(a) *Statement of intent.*

1. It is the intent of this section to provide a zoning district wherein certain types of residential and professional uses are permitted such residential and other permitted uses are to be harmonious in appearance and have ample open space, which is extensively landscaped.

2. Further, this district is formulated to: (1) permit the conversion of certain older residential areas to combination of residences and restricted services; (2) provide a transition between existing commercial uses and adjacent residential areas but yet not adversely affected areas; and (3) encourage comprehensively planned professional residential office developments.

Excerpt from use table:

33-17.23. *Allowed uses in commercial and industrial zoning districts.*

MEDICAL SUPPORT

Veterinary clinics allowing inside overnight boarding for clinical care, no outside runs or kennels

P-1 will be added to this category as a conditional use to ensure that overnight boarding is only permitted in doors.

Veterinary clinics and pet grooming shops with overnight and/or outdoor boarding facilities and runs

This use will not be allowed in P-1.

MIXED OFFICE/RESIDENTIAL DESIGNATION

Description: The intent of this designation is to promote a mix of residential, office, and personal service uses. Primarily, this designation is assigned to existing areas of residential and office use adjacent to commercial area.

General Type

of Development:

- o Residential
- o Professional/general office
- o Medical/dental offices and clinics
- o Professional services
- o Institutional uses

Policy

Guidelines: Mixed-use districts shall service existing and proposed residential and office land use areas. Large mixed use projects of a local nature should be encouraged, as should cross access, shared access, and shared parking facilities. Developments shall be required to have land use buffers, landscape buffers, and open space areas to minimize visual impacts where the designation is adjacent to noncommercial uses. Maximum building coverage is limited to 60% of the site. The maximum residential density shall be 5.8 du/a. The maximum nonresidential intensity of use shall be limited to 10,000 sq. ft. of building per acre. Convenient pedestrian access and bikeway facilities shall be encouraged within this designation. Mixed office residential designation developments shall require land use buffering and open space areas to minimize the visual impacts when located adjacent to existing residential areas.