



CITY OF DELAND
REGULAR MEETING OF THE CITY COMMISSION
APRIL 18, 2022 AT 7:00 PM
CITY HALL, COMMISSION CHAMBERS
120 SOUTH FLORIDA AVENUE

AGENDA

CALL TO ORDER

INVOCATION-Pastor Wendell Raulerson, Greater Bethlehem Baptist Church

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

1. Promotion for Division Chief Justin Desy.

CONSENT AGENDA

1. Resolution Approving the Support of the Alabama Greenway ECHO Application – FY 2022/2023.
Consideration of a Resolution in Support of Alabama Greenway Extension ECHO Grant Application - FY 2022/2023.
2. Resolution approving the Support of Melching Field ECHO Application – FY 2022/2023.
Consideration of a Resolution in Support of Melching Field ECHO Application – FY 2022/2023.
3. Resolution Approving the Support of Jackson Lane Playground ECHO Application – FY 2022/2023.
Consideration of a Resolution in Support of Jackson Lane Playground ECHO Application – FY 2022/2023.
4. Consideration re Amendment to Ground Lease Agreement, Daytona Airport Hangars, Inc.
Staff recommends that the City Commission approve the Ground Lease Amendment with Daytona Airport Hangars, Inc.
5. Consideration re Utility Service Agreement and Fair Share Agreement for Beresford Woods.
Staff recommends that the City Commission approve the Utility Service Agreement and Fair Share Agreement for Beresford Woods.
6. Recommendation re Public Service Department Complex Improvements 2022 RFP.

Staff recommends that the City Commission confirm the recommendation of Wharton-Smith, Inc. for the services related to those outlined in RFP-22-02 and for the City to enter into negotiations for pre-construction services related to the 2022 Public Service Department Improvements.

7. Resolution Approving Sidewalk Cafe for The Parched Oak Located at 145 North Woodland Boulevard.

The owner of an existing business known as The Parched Oak, a Florida corporation operating at 145 North Woodland Boulevard, has submitted an application to allow for an approximately 374 sq. ft. temporary sidewalk café.

8. Resolution Approving Temporary Sidewalk Cafe, El Taco Rico Mexican Kitchen LLC, at 210 North Woodland Boulevard.

The owner of an existing business, El Taco Rico Mexican Kitchen LLC, a Florida organization, at 210 North Woodland Boulevard, has submitted an application for an approximately 36 sq. ft. temporary sidewalk café. This is the same location as a previous sidewalk café, Santorini Greek Cuisine restaurant.

9. Resolution Authorizing Election of Standard Allowance for Revenue Loss (ARPA Funds).

Resolution authorizing the one-time election to utilize the standard allowance for revenue loss under the American Rescue Plan Act (ARPA) and allocating those funds toward public safety salaries and benefits.

PETITIONS AND REQUESTS FROM THE PUBLIC PRESENT

NEW BUSINESS

1. First Reading of Ordinance Amending Land Development Regulations Changes to Address Affordable Housing and Nonconforming Conditions.

The ordinance proposes to update the LDR's to eliminate regulatory impediments for new affordable housing units.

2. Resolution Approving Special Exception to Allow An Accessory Dwelling Unit, Located At 515 West Florence Avenue.

The applicant is seeking a Special Exception to permit the interior modification of an existing 777.7-sf structure at 515 West Florence Avenue to create an accessory dwelling unit. The proposed site meets the criteria for approval of the Special Exception.

3. Resolution Approving Final Plat, Canopy Terrace Subdivision.

The applicant, Chris Wren, for Pulte Group, has submitted an application for a final plat of the Canopy Terrace subdivision. The subdivision is located in the northeast quadrant of the intersection of Martin Luther King, Jr. Boulevard and Cassadaga Road. The development includes 140 lots on approximately 36 acres.

4. Consideration re Appointment of City Commission Member to Solid Waste Contract Selection Committee.

Staff recommends that the City Commission select a member to serve on the selection committee for the Solid Waste contract proposals.

CITY COMMISSION REPORTS

1. Report re Elected Officials Round Table.
2. Report re River-to-Sea TPO.
3. Report re River of Lakes Heritage Corridor.

CITY MANAGER REPORT

CITY ATTORNEY REPORT

CITY CLERK REPORT

CITY COMMISSION

ADJOURNMENT

The DeLand City Commission holds its regular meetings on the first and third Mondays of each month at 7:00 p.m. in the DeLand City Commission Chambers, 120 South Florida Avenue, DeLand. Notice of special meetings, workshops, changes in dates, times or locations are provided by separate Public Notices, which are posted at City Hall and on the City's web site.

The City of DeLand may take action on any matter during this meeting, including items that are not set forth within this agenda.

Public participation is encouraged on any matter on the agenda. If you desire to be recognized by the Mayor, please fill out a Speaker's Card and present it to the City Clerk.

Minutes of the DeLand City Commission meetings are not transcribed verbatim. If any person decides to appeal a decision made by the City Commission with respect to any matter considered at a public meeting or hearing, he/she will need a record of the proceedings including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made by a court reporter, at the person's own expense.

In accordance with the American Disabilities Act, persons needing a special accommodation in order to participate in the proceedings should notify the City Clerk's Office at least 48 hours in advance of the meeting: 626-7132.

Assisted Listening System receivers are available for the hearing impaired, and can be obtained from the City Clerk.

If you wish to obtain information regarding the City Commission's Agenda, please call the City Clerk's Office:

626-7132.

We respectfully request that all pagers and cell phones be turned OFF during City Commission meetings.

Electronic Information! City Commission agendas and short form minutes are now available on the City's web page: www.deland.org.

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Approving the Support of the Alabama Greenway ECHO Application – FY 2022/2023.

DEPARTMENT: Admin Services

PREPARED BY: Michael Grebosz, Asst. City Manager

ATTACHMENTS: Resolution

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

In 2020, the voters of Volusia County approved the Volusia ECHO initiative which provides grants to not-for-profits, municipalities and county departments. The program provides grant funds for projects that enhance the quality of life in Volusia County by ensuring the availability of Environmental, Cultural, Historical and Outdoor recreational opportunities. The program has funded projects since 2002, totaling over seventy-four million dollars.

City staff has reviewed and prepared an Exceptional ECHO Grant Application for the fiscal year 2022/23, which includes the Alabama Greenway Extension Project. This project will extend the Alabama Greenway from Minnesota Avenue to Highway 92 to complete the this phase and further the City's goal to have a trail network that extends to the North, South, East, and West sectors of the City through the center core, and finally "loop" the trails together around the perimeter of the City.

As part of the grant application, staff needs to incorporate a resolution confirming the match. The resolution is attached for the Commission's consideration.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government, Creating a Connected Community.

SUSTAINABILITY:

Efficient transportation.

FISCAL IMPACT:

The total cost of this project is approximately \$3,006,000 of which we are asking for \$1,500,000 in ECHO funds. The match is made up of previously spent cash totaling \$88,085 comprised of engineering and appraisal services, \$230,000 in land value of the right-of-way and a cash match of \$1,187,915 which will be budgeted in the City of DeLand's FY 22/23 Budget.

RECOMMENDATION:

Staff recommends that the City Commission adopt this Resolution.

BACKGROUND/DISCUSSION:

N/A

RESOLUTION NO. 2022 -

A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA, EXPRESSING SUPPORT OF THE ECHO GRANT APPLICATION FOR THE ALABAMA GREENWAY EXTENSION PROJECT LOCATED ON GARFIELD AVENUE FROM MINNESOTA AVENUE TO HIGHWAY 92; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, In 2020, the voters of Volusia County approved the Volusia ECHO initiative which provides grants to not-for-profits, municipalities and county departments; and

WHEREAS, the program provides grant funds for projects that enhance the quality of life in Volusia County by insuring the availability of environmental, cultural, historical and outdoor recreational opportunities; and

WHEREAS, City staff has reviewed and prepared the grant application for the fiscal year 2022-2023; and

WHEREAS, the City approved an Alabama Greenway Extension Project; and

WHEREAS, the proposed project for the ECHO Application is known as the Alabama Greenway Expansion Project will provide for an extension of the Alabama Greenway on Garfield Avenue from Minnesota Avenue to Highway 92; and

WHEREAS, the total cost of this project is approximately \$3,006,000 of which we are asking for \$1,500,000 in ECHO funds. The match is made up of previously spent cash totaling \$88,085 comprised of engineering and appraisal services, \$230,000 in land value of the right-of-way and a cash match of \$1,187,915 which will be budgeted from the City of DeLand's General Fund capital reserves; and

WHEREAS, should the total project costs exceed the budgeted amount, said funds shall be paid out of the existing contingency in the general fund.

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

Section 1. That the City Commission of the City of DeLand does hereby support the ECHO Grant Application for the Alabama Greenway Extension Project, located on Garfield Avenue from Minnesota Avenue to Hwy 92, DeLand, Florida.

Section 2. If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the remaining portions of this Resolution.

Section 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution approving the Support of Melching Field ECHO Application – FY 2022/2023.

DEPARTMENT: Admin Services

PREPARED BY: Michael Grebosz, Asst. City Manager

ATTACHMENTS: Resolution

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

In 2020, the voters of Volusia County approved the Volusia ECHO initiative which provides grants to not-for-profits, municipalities, and county departments. The program provides grant funds for projects that enhance the quality of life in Volusia County by ensuring the availability of Environmental, Cultural, Historical and Outdoor recreational opportunities. The program has funded projects since 2002, totaling over seventy-four million dollars.

City staff has reviewed and prepared a Standard ECHO Grant Application for the fiscal year 2022/23, which includes the Melching Field Improvements Project. The project will include upgrades to amenities, both on and off the field of play, including:

- Replacing the chain-link outfield fencing with padded safety fencing
- Replacing all chairback and bleacher seating within the facility with new chairback seats
- Installing a sunshade system to provide shading for an estimated 70% of the grandstand area
- Installation of a new video scoreboard
- Moving the bullpens to locations beyond the outfield fencing
- Replacing stadium lighting with LED lights
- Updating of concessions areas
- Replace stadium public address and speaker systems
- Renovation of public restroom facilities
- Renovation of the press box, including City of DeLand suite and operations areas
- Installation of three rows of additional seating at field level behind home plate
- Construction of new seating and pavilion area down the third-base line where the current bullpen is located
- Redesign ADA ramps into the seating areas
- Expand equipment maintenance storage area
- Renovate visiting team locker room and shower areas
- Renovate the entire playing surface to include new irrigation and drainage.
- Paint and seal the entire facility.

Staff has reviewed the overall project budget and, based upon the guidelines approved for the ECHO program, the ECHO grant project will consist of the shade structure, pavilion, and field lights.

As part of the grant application, staff needs to incorporate a resolution confirming the match. The resolution is attached for the Commission's consideration.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government.

SUSTAINABILITY:

Energy efficient buildings and infrastructure.

FISCAL IMPACT:

The total cost for the portion of the project under the ECHO grant is estimated at \$1,510,970, of which \$600,000 is being requested in ECHO funds. The City had budgeted to receive \$1,265,000 in ECHO funding for the project in FY 21/22; however, the project did not qualify for a super grant. Therefore, additional City funding of \$665,000 from General Fund capital reserves will be needed for this portion of the project.

RECOMMENDATION:

Staff recommends that the City Commission adopt this Resolution.

BACKGROUND/DISCUSSION:

N/A

RESOLUTION NO. 2022 –

A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA, EXPRESSING SUPPORT FOR THE ECHO GRANT APPLICATION FOR THE MELCHING FIELD IMPROVEMENTS PROJECT, LOCATED AT 555 SOUTH WOODLAND BOULEVARD; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, In 2000 and 2020, the voters of Volusia County approved the Volusia ECHO initiative which provides grants to not-for-profits, municipalities and county departments; and

WHEREAS, the program provides grant funds for projects that enhance the quality of life in Volusia County by insuring the availability of environmental, cultural, historical and outdoor recreational opportunities; and

WHEREAS, City staff has reviewed and prepared the grant application for the ECHO Spring 2022 Grant Cycle; and

WHEREAS, the City approved the Melching Field Improvements Project; and

WHEREAS, the proposed project for the ECHO Application known as the Melching Field Improvements Project will provide for an upgrade consisting of improving and updating amenities, increasing the use of the facility by opening Melching Field for other events and activities, and continuing the successful partnership with Stetson University. The project will include upgrades to amenities, both on and off the field of play; and

WHEREAS, the total cost of this project is approximately \$1,510,970 of which we are asking for \$600,000 in ECHO funds. The match of \$910,970 will be budgeted from the City of DeLand's General Fund capital reserves; and

WHEREAS, should the total project costs exceed the budgeted amount, said funds shall be paid out of the existing contingency in the general fund.

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

Section 1. That the City Commission of the City of DeLand does hereby support the ECHO Grant Application for the Melching Field Improvements Project, located at 555 South Woodland Boulevard, DeLand, Florida.

Section 2. If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the remaining portions of this Resolution.

Section 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Approving the Support of Jackson Lane Playground ECHO Application – FY 2022/2023.

DEPARTMENT: Admin Services

PREPARED BY: Michael Grebosz, Asst. City Manager

ATTACHMENTS: Resolution

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

In 2020, the voters of Volusia County approved the Volusia ECHO initiative which provides grants to not-for-profits, municipalities, and county departments. The program provides grant funds for projects that enhance the quality of life in Volusia County by ensuring the availability of Environmental, Cultural, Historical and Outdoor recreational opportunities. The program has funded projects since 2002, totaling over seventy-four million dollars.

City staff has reviewed and prepared a Standard ECHO Grant Application for the fiscal year 2022/23, which includes the Jackson Lane Memorial Park Playground Project. This project will include the replacement of the unsafe 24-year-old playground equipment that was removed to upgrade park amenities.

As part of the grant application, staff needs to incorporate a resolution confirming the match. The resolution is attached for the Commission's consideration.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government, Preserving "Sense of Community".

SUSTAINABILITY:

N/A

FISCAL IMPACT:

The estimated cost to replace the playground is \$300,000. The ECHO grant, if approved, would cover \$150,000 with the City matching \$150,000. Staff's original estimate for the playground was \$198,345 with ECHO covering \$99,172. Therefore, the budgeted match is \$99,173. The balance of \$50,828 can be covered by the Capital Reserve.

RECOMMENDATION:

Staff recommends that the City Commission adopt this Resolution.

BACKGROUND/DISCUSSION:

N/A

RESOLUTION NO. 2022 -

**A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA,
EXPRESSING SUPPORT FOR THE ECHO GRANT APPLICATION FOR
THE JACKSON LANE MEMORIAL PARK PLAYGROUND PROJECT,
LOCATED AT 720 NORTH FRANKFORT AVENUE; PROVIDING FOR
SEVERABILITY AND AN EFFECTIVE DATE.**

WHEREAS, In 2020, the voters of Volusia County approved the Volusia ECHO initiative which provides grants to not-for-profits, municipalities, and county departments; and

WHEREAS, the program provides grant funds for projects that enhance the quality of life in Volusia County by ensuring the availability of environmental, cultural, historical and outdoor recreational opportunities; and

WHEREAS, City staff has reviewed and prepared the grant application for the fiscal year 2022-2023; and

WHEREAS, the City approved the Jackson Lane Memorial Park Playground Project; and

WHEREAS, the proposed project for the ECHO Application is known as the Jackson Lane Memorial Park Playground Project will provide for an upgrade in youth playground equipment; and

WHEREAS, the total cost of this project is approximately \$300,000 of which we are asking for \$150,000 in ECHO funds. The match \$150,000 will be budgeted from the City of DeLand's General Fund capital reserves; and

WHEREAS, should the total project costs exceed the budgeted amount, said funds shall be paid out of the existing contingency in the general fund.

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

Section 1. That the City Commission of the City of DeLand does hereby support the ECHO Grant Application for the Jackson Lane Memorial Park Playground Project, located at 720 North Frankfort Avenue, DeLand, Florida.

Section 2. If any section, sentence, clause or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the remaining portions of this Resolution.

Section 3. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Consideration re Amendment to Ground Lease Agreement, Daytona Airport Hangars, Inc.

DEPARTMENT: Airport

PREPARED BY: John Eiff, Airport Manager

ATTACHMENTS: Lease Amendment - Daytona Airport Hangars, Exhibit A Lot 1

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

Daytona Airport Hangars, Inc., an established ground lease tenant at the DeLand Airport has been trying to build a hangar in the Sport Aviation Village, but because of COVID-19 and later supply chain problems, he was unable to build the hangar before a clause in this ground lease started charging for the ground lease after what would have been a normal time to build a hangar. Staff is requesting a yearlong extension of the "build by date" in his ground lease with the hope that lower construction cost in the next year will enable him to build the hangar.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Sustainability.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

The rent proposed under the lease is \$5,583 per year or \$465.25 per month, subject to payment of applicable taxes and annual cost of living adjustments.

RECOMMENDATION:

Staff recommends that the City Commission approve the Ground Lease Amendment with Daytona Airport Hangars, Inc.

BACKGROUND/DISCUSSION:

**CITY OF DELAND/DAYTONA AIRPORT HANGARS, INC., AMENDMENT TO
GROUND LEASE AGREEMENT (A 208)**

THIS AMENDMENT TO GROUND LEASE AGREEMENT (the "Amendment") is entered into as of March 1, 2021, the signature date(s) of the parties notwithstanding, *nunc pro tunc* to March 1, 2022, by and between DAYTONA AIRPORT HANGARS, INC., a Florida for-profit corporation, whose principal and mailing address is 2430 South Nova Road, South Daytona, Florida 32119, hereinafter referred to as the "DAYTONA AIRPORT HANGARS", and the CITY OF DELAND, a municipality of the State of Florida, whose mailing address is City Hall, 120 South Florida Avenue, DeLand, Florida 32720, hereinafter referred to as the "CITY".

WHEREAS, DAYTONA AIRPORT HANGARS and the CITY entered into that certain Ground Lease Agreement on February 10, 2021 and February 15, 2021, respectively (the "Ground Lease Agreement"), effective on March 1, 2021, relating to and for the premises (the "Premises") which is a parcel of real property approximately 0.43 acres in size, described in Exhibit "A" to the Ground Lease Agreement, which real property is generally located at 1565 Sport Aviation Way at the DeLand Municipal Airport in DeLand, Volusia County, Florida; and

WHEREAS, DAYTONA AIRPORT HANGARS and the CITY desire to provide for the amendment of the Ground Lease Agreement in accordance with the provisions of Section 41 of the Ground Lease Agreement; and

WHEREAS, DAYTONA AIRPORT HANGARS and the CITY desire to continue their mutually beneficial relationship relative to the Premises and to enhance the quality of life of all City of DeLand property owners, residents and citizens and the economic well-being of the CITY's business community Airport.

W I T N E S S E T H:

A. RATIFICATION OF GROUND LEASE AGREEMENT TERMS AND CONDITIONS:

All provisions of the Ground Lease Agreement, except as set forth in the following provisions of this Amendment shall remain in full force and effect.

B. AMENDMENT TO GROUND LEASE AGREEMENT:

The provisions of Section 5 and Section 45 the Ground Lease Agreement, are hereby amended to read as follows (strikethrough text is a deletion and underlined language is an addition):

Section 5. Rent. Lessee shall pay Lessor as base rent for the premises the sum of \$5,583.00 annually, payable in twelve (12) equal monthly installments of \$465.25, due in advance on the first day of each month. Rent will commence upon the earlier of March 1, 2023 2022 or receipt of a certificate of occupancy for development on the leased premises.

Section 45. Special terms and conditions. In the event that Lessee, for any reason whatsoever, shall fail to construct and obtain a certificate of occupancy for a hangar building with fully enclosed space of no less than 4,000 gross square feet by March 1, 2023 2022, then Lessor shall be entitled to terminate this Ground Lease Agreement without any liability to reimburse Lessee for rent theretofore paid for the leased premises, it being Lessor's intent to ensure that the leased premises is developed and put to economic use.

C. EFFECT OF AMENDMENT:

Aside from the foregoing, all other terms and conditions of the Ground Lease Agreement shall be, and remain, in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the days and year set forth herein.

CITY OF DELAND, FLORIDA

Robert F. Apgar
Mayor - Commissioner

ATTEST:

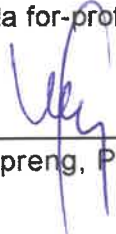
Julie A. Hennessy, MMC
City Clerk — Auditor

APPROVED AS TO FORM AND LEGALITY:

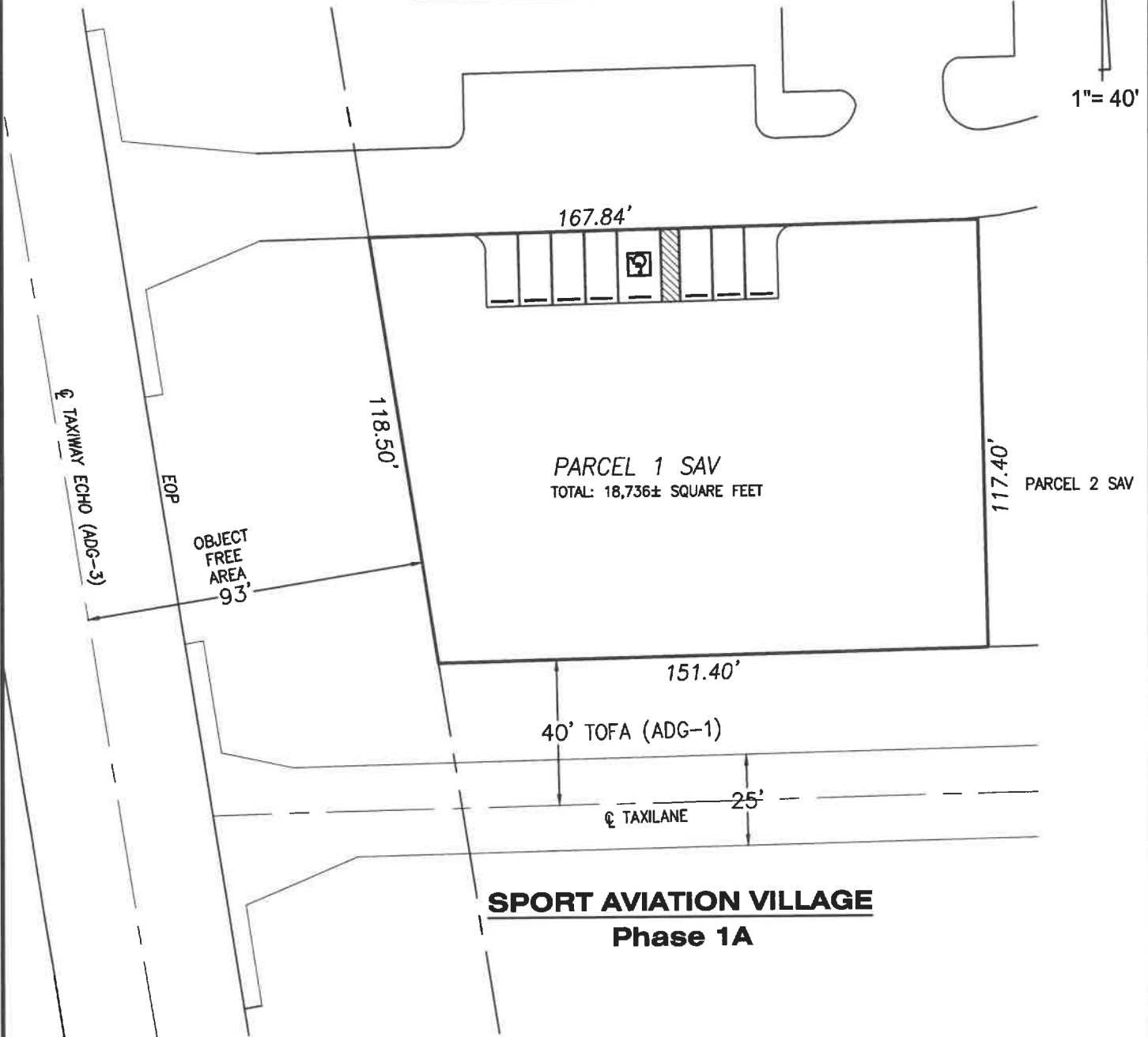
Darren J. Elkind, Esquire
City Attorney

ADDITIONAL SIGNATURE BLOCK FOLLOWS:

**DAYTONA AIRPORT
HANGARS, INC.,**
a Florida for-profit corporation.

By:  _____
Gustl Spreng, President

EAST HANGAR COMPLEX



SPORT AVIATION VILLAGE
Phase 1A

EXHIBIT "A"



**City of DeLand, Florida
ENGINEERING DEPARTMENT**

1102 S. Garfield Avenue
DeLand, Florida 32724

TEL: 386/626-7196 FAX: 386/736-5366

**Sketch of Lease for
AIRPORT LEASE - PARCEL 1 SAV
1565 SPORT AVIATION WAY
DeLAND, FLORIDA, 32724**

DATE: 2/10/21	PROJECT NO. EN 18-25
SCALE: 1" = 40'	Sheet 1 of 1
DRAWN BY: SC	

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Consideration re Utility Service Agreement and Fair Share Agreement for Beresford Woods.

DEPARTMENT: Utilities

PREPARED BY: Jim Ailes, Deputy Public Serv. Director/Utilities Director

ATTACHMENTS: Beresford Woods USA 2021, Beresford Woods FSA 2021, Exhibit A-to Agreement

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

Beresford Woods is located on the east and west side of the intersection of South Spring Garden Avenue and Gayle Drive in DeLand. The proposed subdivision will include two hundred eighty-nine (289) residential units. The attached Utility Service Agreement contains the usual terms and conditions required by the City for utility service. No reimbursement for oversizing of offsite utilities is provided.

As is consistent with City policy, the developer has executed a West Side Interceptor Force Main Concurrency and Fair Share Agreement which is intended to compensate the City for use of the West Side Interceptor Force Main in proportion to the capacity of that pipeline used by the developer.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Facilities and Infrastructure.

SUSTAINABILITY:

Natural Resource Limits.

FISCAL IMPACT:

At buildout, the City will receive water and impact fees and ongoing utility revenue from the two hundred eighty- nine residential units constructed at buildout. In addition, the City will receive payment for the West Side Interceptor Fair Share contribution in the amount of \$259,811.00 (\$899 per unit x 289 units).

RECOMMENDATION:

Staff recommends that the City Commission approve the attached Utility Service Agreement and Fair Share Agreement for Beresford Woods.

BACKGROUND/DISCUSSION:

N/A

**UTILITY SERVICE AGREEMENT
FOR
BERESFORD WOODS**

THIS AGREEMENT is entered into this ____ day of _____, 2021, between the City of DeLand (City) and HANOVER BERESFORD WOODS, LLC (Developer) regarding utility service for the Beresford Woods project. In consideration of the mutual covenants and conditions in this agreement, and subject to any necessary approval by any other governmental agency having jurisdiction, the parties agree as follows:

Section 1. City to furnish service. Upon the terms and conditions in this agreement, and in accordance with the City's rules and regulations, the City shall provide and shall have the exclusive right to furnish potable water, domestic sewer and reuse irrigation services to the real property located on the west and east side at the intersection of South Spring Garden Avenue and Gayle Drive in DeLand, FL and described as:

TAX PARCEL NUMBERS

701900000100

19 17 30 W 3/4 OF S 1/2 OF NE 1/4 EXC N 1/2 OF NW 1/4 OF SW 1/4 OF NE 1/4 PR OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

701900000090

19 17 30 E 1/2 OF SE 1/4 OF NE 1/4 PER OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

702000001020

20-17-30 N 1/2 OF SW 1/4 OF NW 1/4 EXC ST RD & EXC NEW R/W FOR ST RD 15A IN W 20 FT E OF SR RD 15A & EXC NEW R/W & RETENTION AREA IN S 453 FT OF N 503 FT ON W/L OF E 129.05 FT ON N/L W OF SR RD 15A & MEAS 23.29 FT ON GAYLE DR PER OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

Section 2. Service conditioned on construction and acceptance of systems. No water, wastewater or reuse service shall be provided to any part of the property, and no connections to such systems shall be allowed, until the Developer has installed system facilities and improvements in accordance with approved plans and specifications and the City has accepted the conveyance of the systems in writing. The Developer shall apply in writing to the City Engineer for acceptance of the systems. Upon acceptance of the systems, all construction guarantees in favor of the City shall be released.

Section 3. Installation of improvements. The Developer shall install, at its own initial cost and expense (including engineering costs), all lines, pipes, manholes, lift stations, generators, RTU, machinery and other facilities which may be required on and off Developer's property to provide the buildings and occupants with water, wastewater or reuse service and to connect the property to existing City facilities and systems. Upon completion, all off-site and onsite utility improvements shall be conveyed to the City. The improvements to be constructed by the Developer off the Developer's property (off-site improvements) shall include:

- One 16" x 6" wet tap with a 16" stainless steel tapping sleeves, 6" Gate Valve, and approximately 1500 +/- LF of 6" C900 PVC or HDPE piping.

- One 6" gate valve, approximately 200 +/- LF of 6" C900 PVC or HDPE piping. Six 10" gate valves, and approximately 1750 +/- LF of 10" C900 PVC or HDPE piping.

Reclaim mains and services shall remain as dry lines, pending connection to City reclaimed water system, when available.

The Developer may choose to install a small well to fill the reclaim dry lines. If the Developer or Successor does, the HOA would own and maintain the piping in perpetuity.

Should Developer or his successor elect to connect to City Reclaimed water, when reclaim becomes available, a master meter will be set and the City will take responsibility up to the master meter only.

Section 4. Approval of design and plans. The design and construction of all facilities to be transferred to and owned and operated by the City shall be subject to prior approval by the City Engineer. The Developer's engineer shall incorporate all applicable standards and specifications of the City into the Developer's engineering design, plans and specifications. The City shall provide assistance to the Developer's engineers as to design and construction requirements and must approve all construction plans and specifications in writing prior to any construction being commenced. The Developer shall obtain all necessary state, county and local permits required for construction, acceptance and operation of the improvements.

Section 5. Access to construction; approval of work and materials. The City may inspect the construction to ensure compliance with the approved plans and specifications and shall retain the power of final approval of work and materials.

Section 6. Testing during and after construction. The Developer's engineer shall properly supervise construction and shall certify to the City Engineer that the systems are installed in accordance with the approved design plans and specifications. The Developer shall conduct at its own expense whatever tests are deemed by the City Engineer to be necessary and reasonable to ensure that the systems are being constructed in accordance with the approved engineering plans and specifications.

Section 7. Conveyance of easements and improvements. The Developer shall at its expense grant to the City adequate transferable easements for water, sewer and reuse lines, for access to lift stations and water stations and related appurtenances as may be necessary.

Section 8. Evidence of conveyance of facilities. By this agreement Developer hereby transfers to the City the title to the water, wastewater and reuse systems, facilities and improvements to be installed pursuant to this agreement, effective without further action upon the completion and acceptance by the City of the installation of those systems. As further evidence of this transfer of title, the Developer shall provide to the City a copy of the recorded plat, if any; a bill of sale for the facilities; written easements; deeds to the land on which lift stations, water stations or similar facilities are located; and other evidences of conveyance required by the City.

Section 9. Additional documents to be provided before acceptance of facilities. In addition to the documents of title listed in the previous paragraph, the Developer shall provide to the City the following documents prior to acceptance of the facilities: As-built drawings of utility improvements, (one hard copy signed and sealed, one PDF and one AUTOCAD delivered on a USB drive) furnished one week prior to final inspection; an accounting of the actual costs (schedule of values) for on-site and off-site construction; letters of acceptance from the appropriate

regulatory agency for the systems; certification by the design engineer that the system was constructed as designed; and right-of-way use permits and other permits and licenses obtained from applicable government agencies.

Section 10. Uninterrupted supply not guaranteed. The City does not guarantee an uninterrupted supply of water or reuse at any particular pressure, nor does it assume any duty or obligation to furnish water for extinguishing fires. The City reserves the right to shut off the water in its mains temporarily for necessary purposes. The City shall not be responsible for any damage caused by low pressure, interruption of service or variations in water quality or content.

Section 11. Connections subject to rates and fees. All connections to the water, wastewater and reuse systems shall be subject to the continuing operating rules and regulations of the City including, without limitation, the periodic payment of water, wastewater and reuse charges and fees as provided in the City's rate schedule, and payment of all deposits, meter charges and other fees, rates and charges, including development fees. The rates charged by the City for water, sewer, or reuse service shall be in accordance with its rate schedule, which shall be subject to change from time to time.

Section 12. Reimbursement for oversizing of off-site improvements. This Section Not Used

Section 13. Surcharge for non-domestic waste. The terms wastewater or sanitary sewage used in this agreement are meant to include only human waste, including liquids and solid matter carried from plumbing fixtures normally carried off by drains and sewers, and, except where specifically excluded, bath and toilet wastes, laundry wastes, kitchen wastes and other similar wastes. This service agreement, and any charges contained in this agreement, is based on normal domestic sewage, defined herein as containing not more than two hundred (200) parts per million biochemical oxygen demand or two hundred (200) parts per million suspended solids. Whenever water which contains more than these amounts is to be admitted to the sewers the City and all other pollution control agencies must specifically agree to the connection and an additional charge shall be imposed in accordance with City regulations.

Section 14. Developer to obtain permits. The Developer shall obtain all governmental approvals, licenses and permits necessary for the design, routing, construction, connection and use of the water, wastewater and reuse systems to be installed under this agreement. The City shall render assistance to the Developer in obtaining these approvals, licenses and permits.

Section 15. Service of other properties. The City reserves the right to service other properties through the facilities conveyed by the Developer, and nothing in this agreement shall be deemed to prohibit or prevent the City from extending its water, wastewater or reuse facilities to any other area.

Section 16. Default by Developer. The Developer's failure to carry out any provision in this agreement shall relieve the City from its obligation to provide water, wastewater or reuse service to the property.

Section 17. Covenant to support annexation. As a condition of supplying potable water, sanitary sewer or reuse service to the proposed Beresford Woods, Developer agrees to sign a covenant to support annexation to the City of DeLand. This covenant shall be recorded and shall be binding upon all successors and assigns.

Section 18. Entire agreement; amendment. It is expressly agreed and understood that this is the entire agreement between the Developer and the City, and that there are no other written or verbal agreements applicable to the subject of this agreement between the Developer and the City. This agreement may be amended and modified from time to time by written agreement of the parties.

HANOVER BERESFORD WOODS, LLC

CITY OF DELAND

Name: _____
Title: _____

Robert F. Apgar
Mayor – Commissioner

ATTEST:

ATTEST:

Name: _____
Secretary

Julie A. Hennessy
City Clerk - Auditor

Witness

Witness

Witness

Witness

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me _____, by Robert F. Apgar, Mayor - Commissioner of the City of DeLand, Florida, this ____ day of _____, 2021.

Notary Public - State of Florida

Name: _____
My Commission expires: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by _____, _____ of _____ this _____ day of _____, 2021.

Notary Public - State of Florida

Name: _____
My Commission expires: _____

**WESTSIDE INTERCEPTOR FORCE MAIN
CONCURRENCY AND FAIR SHARE AGREEMENT
FOR
BERESFORD WOODS**

This Westside Interceptor Force Main Concurrency and Fair Share Agreement (the "Agreement") is made and entered into this ____ day of _____, 2021, by and between the City of DeLand, Florida, a Chartered Florida Municipality located in Volusia County, Florida, ("City") and HANOVER BERESFORD WOODS, LLC, a Florida developer with its principal office located at 605 COMMONWEALTH AVENUE ORLANDO, FL 32803 ("Developer").

Tax Parcel ID. Numbers:

701900000100

19 17 30 W 3/4 OF S 1/2 OF NE 1/4 EXC N 1/2 OF NW 1/4 OF SW 1/4 OF NE 1/4 PR OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

701900000090

19 17 30 E 1/2 OF SE 1/4 OF NE 1/4 PER OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

702000001020

20-17-30 N 1/2 OF SW 1/4 OF NW 1/4 EXC ST RD & EXC NEW R/W FOR ST RD 15A IN W 20 FT E OF SR RD 15A & EXC NEW R/W & RETENTION AREA IN S 453 FT OF N 503 FT ON W/L OF E 129.05 FT ON N/L W OF SR RD 15A & MEAS 23.29 FT ON GAYLE DR PER OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

RECITALS

WHEREAS, attached to this Concurrency and Fair Share Agreement ("Agreement"), are exhibits describing in greater detail the parties hereto, real property, Westside Force Main and Master Pump Station Impact Fee Surcharge Study and the sanitary sewer utility improvements which are referenced throughout this Agreement. The parties agree that all attached exhibits have been reviewed by the parties and their respective professional consultants, and all information set forth or otherwise referenced therein is deemed incorporated herein by reference; and

WHEREAS, unless otherwise stated, the Developer is the owner of the real property described in the attached Exhibit "A." Developer desires to permit, develop and, if appropriate, plat the real property for an approximately +/- 88.85-acre residential subdivision (BERESFORD WOODS); and, in addition to other requirements, is seeking to comply with the City's concurrency requirements for wastewater utilities; and

WHEREAS, the City would not have sufficient wastewater transmission lines in the vicinity of the Project without the installation of the Westside Interceptor Force Main such that the Project could not be built without the Westside Interceptor Force Main; and

WHEREAS, the Westside Interceptor Force Main, as more particularly described in the attached Exhibits, is required in order for the Project to meet minimum concurrency requirements for wastewater to support the proposed Project; and

WHEREAS, it would not be feasible for the Developer to install the entire Westside Interceptor Force Main at its sole expense; and

WHEREAS, the Westside Interceptor Force Main will provide sanitary sewer transmission capacity to other developments in the vicinity of the Project such that it is more practical and fair that the City install the Westside Interceptor Force Main and collect from the Developer only its fair share cost of the said Westside Interceptor Force Main; and

WHEREAS, the City is desirous of including the Concurrency Improvements described below in the City's Comprehensive Plan Capital Improvement Element in the next annual amendment; and

WHEREAS, the City and the Developer desire to enter into this Agreement in order to utilize the provisions of Section 163.3180(11) Florida Statutes (2005) to implement the "fair share" process.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City and Developer, hereby agree as follows:

1. **Incorporation of Recitals.** The presumptions and facts stated above in the recitals are incorporated by reference herein and deemed by the parties to be true, correct and constitute a material part of this Agreement.
2. **Construction.** The City agrees to construct, or to have constructed, the Westside Interceptor Force Main in accordance with the plans and specifications for the said project, which plans may be amended from time to time in the normal course of construction. Construction of the Westside Interceptor Force Main will commence and be complete to meet concurrency requirements, unless delay is caused for reasons outside of City's control, in which case construction will commence or recommence as soon as is reasonably practical. For purposes of this Agreement, "reasons outside of City's control" shall mean: delays or stoppage caused by acts of God, war, inability to obtain labor or materials or reasonable substitutes therefore, inability to receive governmental permits and approvals newly enacted governmental regulations or controls, the application of existing regulations or controls in a manner which City could not have foreseen or other similar matters or causes.
3. **Payment of Fair Share Assessment Amount.** In connection with the City's construction of the Westside Interceptor Force Main and as a requirement for receiving preliminary plat approval for the Project(s), Developer shall pay to the City a fair share assessment, ("Fair

Share Payment"). The Fair Share Payment shall be an amount determined by multiplying the number of lots/units in the subdivision or equivalent residential units for a non-residential project times \$899.00 which is the per residential dwelling unit determined by the Westside Force Main and Master Pump Impact Fee Surcharge Study attached hereto as Exhibit "B". For this project, the number of equivalent residential units is mutually agreed to be 289. The Developer shall be required to make payment for the total amount of its Fair Share Payment at the time of approval of the preliminary plat or site plan for the Project, and must be received by the City prior to issuance of any development permits by the City. The requirement to make the Fair Share Payment shall be deemed to be a condition of approval of the preliminary plat or site plan for the project, regardless of whether any resolution or other action of the City evidencing approval of the preliminary plat or site plan specifically references such condition. In the event that the actual number of lots approved by way of approval of the final plat exceeds those approved in preliminary plat, then Developer shall pay, as a condition of approval of the final plat, the additional fee for those lots, or be entitled to a refund, as the case may be.

4. **Vested Rights in Wastewater Concurrency.** The City agrees that by paying the City the Fair Share Payment, and by receiving a Development Order for the Project, Developer will be deemed to have satisfied the City's wastewater concurrency requirements for the Project and that the Project shall be fully vested with wastewater concurrency for purposes of development and related Project construction, subject only to the requirement to pay sewer impact fees which become due and payable in accordance with the City's wastewater impact fee ordinance, as the same may be amended from time to time.
5. **No Entitlement to Impact Fee Credits.** Nothing herein is intended to entitle the Developer to any credit toward, or to otherwise reduce its obligation to pay sewer impact fees pursuant to the City's sewer impact fee ordinance, as the same may be amended from time to time.
6. **Miscellaneous.**
 - A. **Attorney's Fees.** In the event of litigation to enforce the terms of this Agreement, the prevailing party shall be entitled to collect from the other party reasonable attorney's fees and costs of suit.
 - B. **Venue and Choice of Law.** In the event of litigation regarding the terms of this Agreement or documents executed as a result of this Agreement, venue of the action shall be in Volusia County and Florida law shall apply. Trial shall be non-jury for any issues subject to trial.
 - C. **Waiver.** The waiver by a party of any terms or conditions of this Agreement or any breach hereof shall not constitute a waiver of any other term or condition or any subsequent breach of this Agreement.

D. Successors. This Agreement shall be binding on the parties hereto, their heirs, administrators, executors, successors in interest and assigns.

E. Construction of Contract. The parties hereto agree that they have all participated in the drafting of this Agreement. Therefore, the presumption that any ambiguity or vagueness in the construction of this Agreement shall be construed against the drafter shall not apply. The terms and provisions of the Agreement shall be applied equally to each party and the interpretation of the Agreement shall be guided by the express intent of the parties as determined by the overall effect of the provisions herein.

G. Amendments. Amendment to this Agreement shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied (but excluding the record title property owners for land that is unaffected by the amendment), and the City. Before amending this Agreement, the City shall conduct at least one public hearing. At the City's option, one of these public hearings may be held by the City Planning Board.

i. Notice of intent to consider an amendment to this Agreement shall be published by the City at the Developer's expense in a newspaper of general circulation and readership in Volusia County, Florida.

ii. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes (2005), as amended from time to time.

iii. Notices of intent to consider an amendment shall specify the location of the Property subject to the proposed amendment, the nature of the proposed amendment and such other information as the City Staff shall reasonably deem pertinent and appropriate.

iv. All notices shall specify a place where a copy of the proposed amendment can be obtained.

H. Conflicts. Developer agrees to be bound by all City codes and ordinances that are not in conflict with the provisions of this Agreement.

I. Recording. This Agreement shall be recorded by the City in the Public Records of Volusia County, Florida.

J. Binding Nature and Covenants Running With the Land. The provisions of this Agreement shall be binding upon the parties hereto, and upon all successors in interest in the subject real property. And further, the provisions of this Agreement shall constitute covenants running with the land applicable to all of the subject real property comprising the Project.

K. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile of an executed copy of this Agreement shall be deemed valid as if an original signature was delivered.

IN WITNESS WHEREOF, the parties affix their signatures and seals on the dates set forth below:

WITNESSES:

CITY OF DELAND, a Florida
Municipal Corporation

Printed Name: _____

Printed Name: _____
Robert F. Apgar, Mayor

Printed Name: _____

Printed Name: _____

Attest: _____
Julie A. Hennessey, City Clerk

Printed Name: _____

Date: _____

(Corporate Seal)

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by Robert F. Apgar and Julie A. Hennessey, as Mayor and City Clerk, respectively, of the City of DeLand, a Florida municipality, on behalf of the City. They are personally known to me or have produced as _____ identification.

Notary Public, State of Florida at Large Commission Number

WITNESSES:

HANOVER BERESFORD WOODS, LLC:

Printed Name: _____

By: _____
Name/Title: _____

Printed Name: _____

Attest: _____
Name/Title: _____

Printed Name: _____

Date: _____

Printed Name: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by _____ and _____, in their respective official capacities as _____ and _____, respectively, on behalf of _____, a Florida _____. They are [] personally known to me, or [] have produced _____ as identification.

NOTARY PUBLIC:

Notary Public, State of _____ at Large
Seal, Term Expiration and Commission Number

BERESFORD WOODS EXHIBIT A

TAX PARCEL NUMBERS

701900000100

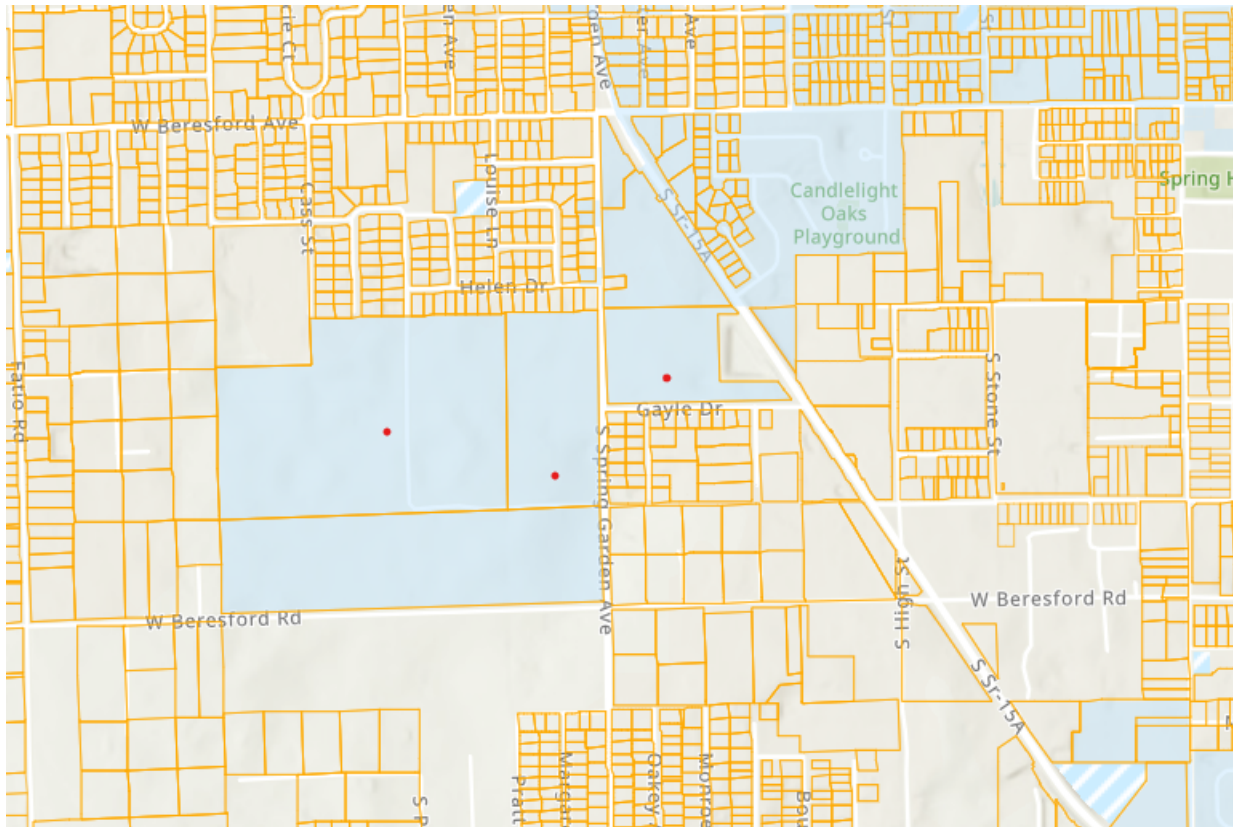
19 17 30 W 3/4 OF S 1/2 OF NE 1/4 EXC N 1/2 OF NW 1/4 OF SW 1/4 OF NE 1/4 PR OR 7677 PG 1914 PER OR 7707 PG 4683 PER OR 7924 PG 4771

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CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Recommendation re Public Service Department Complex Improvements 2022 RFP.

DEPARTMENT: Public Service

PREPARED BY: Chad Gamble, Public Services Director

ATTACHMENTS: Score Sheet

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

The City issued RFP-22-02 and on March 17, 2022 received proposals for Construction Management Services – 2022 Public Service Department Campus Improvements. This request for proposal was seeking a construction management at risk (CMAR) procurement project delivery method to coordinate over \$45 million in campus improvements set to begin this year and run for the next three years.

Of the proposals received Wharton-Smith received a unanimous 1st ranking amongst the review committee members. Therefore, the Department wishes to receive approval of the committee's recommendation to permit staff to begin negotiations with Wharton-Smith, Inc. for the cost of pre-construction services for the campus improvements. After the terms are agreed to at the administration level, the CMAR – pre-construction services contract will be brought before the City Commission for approval.

Funds are budgeted and available in the utility fund for the eventual services that will be provided under the contract for CMAR-preconstruction services.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Increase investment in Infrastructure, High Value Government.

SUSTAINABILITY:

Energy efficient buildings and infrastructure, Natural resource protection and optimization.

FISCAL IMPACT:

The cost for pre-construction services related to the CMAR delivery will be negotiated pending approval of this recommendation.

RECOMMENDATION:

Staff recommends that the City Commission confirm the recommendation of Wharton-Smith, Inc. for the services related to those outlined in RFP-22-02 and for the City to enter into negotiations for pre-construction services related to the 2022 Public Service Department Improvements.

BACKGROUND/DISCUSSION:

The Public Service Department (PSD) is set to begin one of the most challenging years to manage the

procurement of the largest construction projects in the last 50 years. The \$35 million Water Reclamation Plant Expansion Project (EP) and the \$10 Million Utilities Administration Building (UAB) are both set to begin construction in the next few month to 1 year. With the high probability of overlapping construction schedules, limited construction support space at the PSD campus, supply chain challenges, and person power challenges looming, it places additional pressures and coordination on the construction crews and operational staff working on the same campus.

We continually look to streamline the procurement process and leverage the very best contractors with the most cost-effective high-quality final product that we can. Being the stewards of the Utility fund, we decided to combine the EP and the UAB projects together under one master contract. This contract will be a combined construction management at risk project (CMAR) using the utility construction division and commercial construction division of a construction management company.

The joining of these two impactful, important and transformational projects provides many positive opportunities. Some of these are; the utilization of sub-contractors to perform work on both projects (electrical, flat work, skill trades), the sharing of equipment and person power, the unified orchestration of space management at the PSD campus, significant reduction of the overall construction timelines, eliminate the duplication of bond, insurance, mobilization, and mobile office costs etc. The elimination of these duplicative costs would save upward of 5%+/- of the \$45 Million combined project cost.

The CMAR process is a construction delivery method that has been around and generally used for commercial build projects consistently for 20+ years. Over the past 10 years this procurement process has also seen predominate use in the delivery of utility/waste/reclaim facilities. Additional benefits of the CMAR process is that the construction costs are calculated at 30%, 60% and 90% of design. Thus, allowing a calibration to project scope and budget before design is finalized. This is especially critical now noting the massive fluctuations in construction costs and material availability. The CMAR process also avails the purchase of critical equipment and early performance of long lead construction items ahead of the final design of the overall construction package.

SELECTION COMMITTEE CONSOLIDATED EVALUATION SCORESHEET

MEETING DATE: March 28, 2022 @ 11:30 A.M.

POSTING DATE: March 29, 2022 POSTED BY: Corey McMillen

	Wharton-Smith, Inc.	C.C. Borden Construction, Inc.
▼ Committee Member ▼		
Chad Gamble	1	2
Chris Cloudman	1	2
Ray Bahrami	1	2
Jim Ailes	1	2
Scott Zender	1	2
TOTAL POINTS	5	10
RANKING	1	2

*** Motion by Jim Ailes, Second by Scott Zender to enter into negotiations with the top ranked firm [Unanimous vote]:
Wharton-Smith, Inc.

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Approving Sidewalk Cafe for The Parched Oak Located at 145 North Woodland Boulevard.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Resolution, Exhibit A- License Agreement, Exhibit A- to Agreement, Exhibit B- to Agreement, LA22-045 Staff Memo

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

The owner of an existing business known as The Parched Oak, a Florida corporation operating at 145 N Woodland Blvd., has submitted an application to allow for an approximately 374 sq. ft. temporary sidewalk café. This location had a license agreement with a previous owner, with the new owner asking for a similar agreement using the same areas previously approved. The proposed eating area complies with the minimum criteria for a temporary sidewalk café per Section 26-9.5 of the City of DeLand Code of Ordinances as discussed in the attached staff memo. The site plan shows compliance with the required minimum 7-foot pedestrian clearance for all sidewalk cafes located on N Woodland Blvd.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Preserving "Sense of Community" as a key asset.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

New agreements will allow new restaurants to have outdoor seating, which helps with attracting people to the downtown, in keeping with its unique atmosphere.

RECOMMENDATION:

Staff recommends the City Commission approve the sidewalk license agreement as presented.

BACKGROUND/DISCUSSION:

Refer to attached staff memo for discussion on compliance with sidewalk cafe regulations.

RESOLUTION NO. 2022 –

A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA, GRANTING A LIMITED LICENSE AGREEMENT FOR A TEMPORARY SIDEWALK CAFÉ TO CD & K UNLIMITED, LLC, FOR ITS BUSINESS, “THE PARCHED OAK” LOCATED AT 145 NORTH WOODLAND BOULEVARD; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the applicant, CD & K Unlimited, LLC, a Florida Limited Liability Company, has submitted a proper and complete application under Section 26-9.5 of the City of DeLand Code of Ordinances (hereinafter the “Code”) for a license agreement for a temporary sidewalk café; and

WHEREAS, the applicant is proposing outdoor seating during normal business operating hours for the establishment doing business as The Parched Oak; and

WHEREAS, the City Commission finds that the proposed application for a limited license agreement is consistent with the criteria of the Code.

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

Section 1. The City Commission hereby grants the Limited License Agreement attached hereto as Exhibit A for a temporary sidewalk café to CD & K Unlimited, LLC, a Florida Limited Liability Company for its establishment doing business under the name of “The Parched Oak” located at 145 North Woodland Boulevard.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

LIMITED LICENSE AGREEMENT

This Agreement is made and entered into at DeLand, Volusia County, Florida, by and between the City of DeLand, a municipal corporation located at 120 South Florida Avenue, DeLand, Florida (the "City") and CD& K Unlimited, LLC, a Florida Limited Liability Company, d/b/a The Parched Oak, located at 145 N. Woodland Boulevard, DeLand, Florida (the "Licensee").

WITNESSETH:

WHEREAS, the City recognizes that traditional commercial areas which exhibit high amounts of pedestrian activity can support the vitality of the commercial district by incorporating the sidewalk area into selected commercial activities, and that granting the privilege of using the sidewalk for commercial activity is consistent with the City's comprehensive plan and Land Development Regulations; and

WHEREAS, Licensee acknowledges that, notwithstanding any legal ownership which it may or may not hold to a portion of the sidewalk, the general public and the City of DeLand have a prescriptive easement over the full width of the sidewalk as it now exists by virtue of the public's use of the sidewalk as a walking thoroughfare and the City's maintenance of the sidewalk in years past. Licensee further acknowledges that use of the sidewalk under the terms of this Agreement shall not, in any way, alter the prescriptive easement rights of the general public and the City of DeLand, as use of the subject property under this Agreement is a privilege and not a right and may be revoked at any time; and

WHEREAS, the parties hereto acknowledge that the City possesses right of ownership and/or a prescriptive easement over that portion of the sidewalk located in front of and immediately adjacent to Licensee's business establishment located at 145 North Woodland Boulevard, commonly known as "The Parched Oak" and being more particularly described in the attached Exhibit A (hereinafter the "Sidewalk"); and

WHEREAS, Licensee has made proper application to the City under Section 26-9.5 of the Code of Ordinances of the City of DeLand for use of the Sidewalk for the purposes set forth herein, and the prescribed procedures for approval and minimum criteria as set forth in Section 26-9.5 of the Code have been met; and

WHEREAS, it is the desire of the City of DeLand to grant unto Licensee a nonexclusive, limited license to use the Sidewalk for the purposes set forth herein;

NOW, THEREFORE, in consideration of the foregoing and the covenants hereinafter set forth, it is agreed as follows:

Section 1. Grant of nonexclusive, limited license. The City hereby grants unto Licensee nonexclusive, limited license and access to the Sidewalk for use as a "temporary sidewalk cafe" pursuant to the provisions of Section 26-9.5 of the Code of Ordinances of the City of DeLand (hereinafter the "Code"). This Agreement and the license granted by this Agreement is non-

transferable, non-assignable, and considered temporary in nature. If the Licensee is a business entity, this Agreement and the license granted by this Agreement shall immediately terminate upon any change in the majority ownership or control of such business entity.

Section 2. Term of agreement; renewals; termination. This Agreement shall begin upon the date executed by the City as indicated at the end of this Agreement and shall continue until and unless otherwise terminated as set forth herein. So long as Licensee is in full compliance with all of the terms, covenants and conditions of this Agreement and Section 26-9.5 of the Code, this Agreement shall renew annually thereafter with the renewal of the Licensee's Business Tax Receipt under the same terms and conditions as the initial term of this Agreement, except as those terms and conditions may be modified in accordance with this Agreement. If the Licensee is a business entity, a new license agreement must be applied for and approved by the City whenever there is a change of ownership or control of business entity, even if the new owner acquires all of the stock or other interest of the Licensee.

Any other provision of this Agreement notwithstanding, the City may terminate this Agreement for any violation by Licensee of this Agreement or of Section 26-9.5 of the Code, or for the City's convenience. The City will provide written notice of termination to Licensee by certified mail, return receipt requested. The City reserves the right to remove from the Sidewalk any of the Licensee's personal property at any time.

Section 3. Design criteria. Licensee shall observe the following design criteria:

- (a) The design of the sidewalk cafe shall provide for a free flow of pedestrian traffic around the sidewalk cafe area. A minimum clear pedestrian area of seven feet (7') shall be maintained.
- (b) The sidewalk cafe area is limited to the sidewalk area directly adjacent to the restaurant frontage, as shown on the sketch plan attached hereto as Exhibit B.
- (c) The sidewalk cafe area must be clearly delineated from the area to remain open for pedestrian traffic.
- (d) Umbrellas shall be allowed provided that the umbrellas are contained within the sidewalk cafe area and do not impede pedestrian traffic or vision at intersections.
- (e) Additional signs are limited to one (1) additional sign on an outdoor menu board and the restaurant name or advertising on any umbrellas. The outdoor menu board may be two-sided, not to exceed four (4) square feet per side.
- (f) Outdoor lighting, if provided, must be permanently installed in accordance with the City code and be approved as part of the application. Licensee shall take necessary precautions, including illumination, for protection of the public with particular emphasis on the period from sunset to sunrise.

Section 4. Operating standards. Licensee shall observe the following operating standards:

(a) Alcoholic beverages may be temporarily served within the Sidewalk consistent with any alcoholic beverage license in effect for Licensee's restaurant; provided, however, that the sale and consumption of alcoholic beverages shall be in compliance with all state and local laws as related to such use. The provisions of this subsection are a privilege, not a right, and the City Commission of the City of DeLand reserves the right to revoke the privilege of serving alcohol on the Sidewalk.

(b) The hours of operation for the sidewalk cafe may not exceed the operating hours of the restaurant.

(c) Tables, chairs and other furniture shall be brought inside when the sidewalk cafe is not in operation.

(d) The sidewalk café area shall be kept in a clean condition (including regular removal of trash and debris) and the sidewalk area shall be periodically cleaned to remove any stains or other dirt resulting from the sidewalk café operation by the license holder.

(e) The Licensee shall not allow its table and chairs, or any other item within Licensee's control, to protrude into the clear area of the sidewalk adjacent to the sidewalk cafe, it being of the utmost importance that a clear and unencumbered path of travel be maintained on the sidewalk at all times.

Section 5. Public's right of use. The sidewalk cafe shall be open for use by the public and such use shall not be restricted to patrons of Licensee. Neither the use of Licensee's seating area nor the tables and chairs the Licensee places on the Sidewalk shall be limited to the exclusive use of Licensee's patrons. All members of the public shall have the right to use the sidewalk cafe's seating area and the tables and chairs which Licensee places on Sidewalk without charge.

Section 6. Right of inspection. The City Manager or his designee shall have the right to inquire, from time to time, into the conduct of the operations, activities and services of Licensee in order to ensure that the services being provided by Licensee are in conformity with the purpose and intent of this Agreement and the Code of Ordinances.

Section 7. Liability insurance, indemnity and hold harmless. Licensee shall defend, indemnify and hold harmless the City from and against any and all liability, losses, damages, claims, demands, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions (including attorneys' fees), of whatsoever kind or nature arising out of or in any way related to the use, occupancy, management or control of the premises, or any act or omission of Licensee or its agents, servants, employees, customers, patrons or invitees, whether on the premises or elsewhere.

Contemporaneously with the beginning date of this Agreement, Licensee shall, at its own cost and expense, procure and maintain general liability coverage with per occurrence and an aggregate limit of not less than \$1,000,000.00 from an insurer licensed in the State of Florida

which names the City of DeLand as an additional insured, which insurance shall cover the operations of the Licensee which take place within the sidewalk cafe area. Licensee shall, within ten (10) days of the commencement date of this Agreement, and prior to placing any tables or chairs in the Sidewalk, provide the City's Risk Manager, or her designee a certificate of insurance evidencing the foregoing coverage. Thereafter, Licensee shall provide a new certificate of insurance to the Risk Manager or her designee within five (5) days of the expiration of the prior certificate.

Section 8. Nonliability of the City to Licensee. The City shall not be liable to Licensee or its agents, representatives, invitees, employees, or any other person, for any injury to or death of any of them, or for any damage to any of Licensee's property or loss of revenue, caused by any third persons connected with Licensee's use and access to the Sidewalk, whether the injury, death or damage is due to negligence or not. Third persons, as used in this section, shall include the United States of America and the State of Florida, or any of their agencies, and all persons other than the City of DeLand.

Section 9. Permits and licenses. Licensee shall at all times hold any and all permits or licenses required by any proper licensing authority to conduct its business.

Section 10. Compliance with zoning regulations. Licensee shall at all times be in compliance with all applicable zoning regulations as set forth in the City of DeLand Land Development Regulations, and with all other relevant state and local regulations.

Section 11. Non-assignability. Licensee shall not assign this Agreement and any attempted assignment in contravention hereof shall be void.

Section 12. Abandonment of use. Should Licensee voluntarily abandon its use of the subject premises for any reason whatsoever for a period of sixty (60) consecutive days this Agreement shall automatically terminate.

Section 13. Notices. Any notices required by this Agreement shall be made in writing and sent by certified mail, return receipt requested, addressed to the parties as follows:

City Manager
City of DeLand
120 S. Florida Avenue
DeLand, FL 32720

Kyle Vaughn, Manager
CD&K Unlimited, LLC d/b/a
The Parched Oak
145 N. Woodland Boulevard
DeLand, FL 32720

Section 14. Construction of agreement. This Agreement shall be construed under the laws of the State of Florida and the Code of Ordinances of the City of DeLand.

Section 15. Amendments to agreement. This Agreement may be amended only in a writing signed by both parties.

Section 16. Complete agreement. This Agreement constitutes the complete and exclusive understanding and agreement between the parties with respect to the subject matter hereof and may only be amended in a writing signed by both parties hereto. This Agreement shall be binding upon and shall inure to the benefit of the parties' heirs, personal representatives, successors and permitted assigns.

EXECUTED BY THE CITY this ____ day of _____, 2022.

EXECUTED BY LICENSEE this 12 day of April, 2022.

CITY OF DELAND

CD&K UNLIMITED, LLC d/b/a
THE PARCHED OAK

By: _____
Michael Pleus, City Manager

By: _____
Kyle Vaughn, Manager

Address: City of DeLand
120 S. Florida Avenue
DeLand, FL 32720

Address:
145 N. Woodland Blvd
Deland, FL, 32720

WITNESSES AS TO THE CITY:

(Witness' Signature)

(Print Name)

(Witness' Signature)

(Print Name)

WITNESSES AS TO LICENSEE:

(Witness' Signature)

(Print Name)

(Witness' Signature)

(Print Name)

This Instrument Prepared By:

City of DeLand
120 S. Florida Avenue
DeLand, Florida 32720

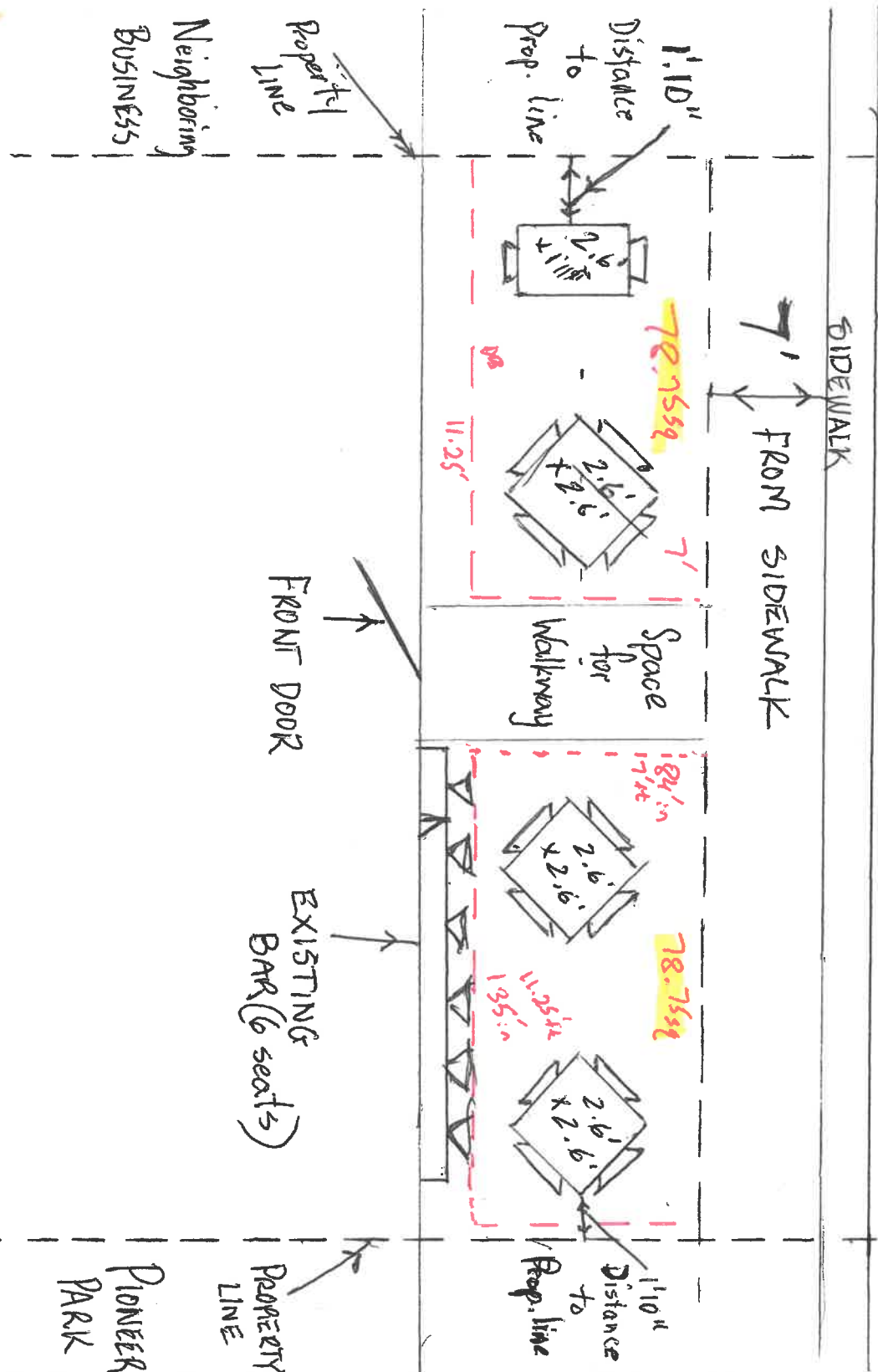
EXHIBIT A

A PART OF PARCEL # 700901050051, MORE PARTICULARLY DESCRIBED AS:

S 26 1/2 FT OF N 54 FT OF LOT 5 BLK 5 DELAND MB 1 PG 201 PER OR 3818
PG 0086 PER OR 5381 PG 0321 PER OR 5992 PG 3849 PER OR 6168 PGS
3005-3006 PER OR 6697 PG 4955.

EXHIBIT B

WOODLAND BLVD.





Planning Department

Memorandum

TO: Mike Holmes, Planning Director

DATE: March 30, 2022

FROM: Danevsky Joseph, Planner I

SUBJECT: Sidewalk Café Application, 145 N Woodland Blvd. (LA22-045)

The owner for an existing business at 145 N Woodland Blvd., The Parched Oak, has submitted an application for an approximately 374 sq. ft. temporary sidewalk café. Below are the minimum criteria for a temporary sidewalk café per Section 26-9.5 of the City of DeLand Code of Ordinances. Per the site plan and supporting documentation submitted by the applicant, the following has been determined:

1. The zoning of the subject property permits the operation of a sidewalk café.
The property is zoned C-2A&H, Downtown Commercial, which permits sidewalk cafés.
2. The sidewalk café is adjacent to the front of the building with which it is associated.
Proposed outdoor seating is located adjacent to the building's frontage on North Woodland Boulevard.
3. The sidewalk café is an extension of a permanent restaurant or other establishment lawfully selling food and/or beverage.
Yes The Parched Oak.
4. The sidewalk café is auxiliary and will not operate outside the operating hours of the restaurant.
Per applicant, operating hours will be the same as the business.
5. The sidewalk café is temporary in nature; and all tables, chairs, umbrellas, outdoor menu boards, and other such items will be secured indoors during non-operational hours.
Per submitted application, applicant acknowledges this requirement.
6. As it is a temporary sidewalk café, no permanent structures, except for lighting, will be constructed.
No permanent structures are proposed.

7. If proposed, additional permanent outdoor lighting has been indicated on the site plan.

No additional outdoor lighting is proposed.

8. The sidewalk café will not impede pedestrian traffic; meets the minimum clearance requirements for its district.

Site plan shows compliance with the minimum 7-foot pedestrian clearance for all sidewalk cafés located on Woodland Blvd.

9. Alcoholic beverages will only be served or consumed within the proposed sidewalk café area boundary to be approved and only after the appropriate beverage license has been obtained from the Department of Business and Professional Regulation.

The applicant does maintain a 4COP alcohol license, which includes areas outside to be licensed.

10. Outdoor food preparation, if proposed, is restricted to the area to be licensed; and meets all applicable city, fire, safety, and health codes and all other relevant local and state regulations regarding outdoor food preparation.

No outdoor food preparation has been proposed.

11. The outside seating will not exceed 30% of the establishment's gross floor area, unless additional parking has been approved.

True; proposed outside seating constitutes less than 30% of the indoor restaurant gross floor area.

As the applicant appears to meet all criteria for a temporary sidewalk café; and as the café will not adversely affect public health, safety, or welfare; staff recommends **approval** of said application.

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Approving Temporary Sidewalk Cafe, El Taco Rico Mexican Kitchen LLC, at 210 North Woodland Boulevard.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Resolution, Exhibit A-Sidewalk Café License Agreement, Exhibit A- to Agreement, Exhibit B- to Agreement, Staff Memo - LA21-252

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

The owner of an existing business, El Taco Rico Mexican Kitchen LLC, a Florida organization, at 210 N. Woodland Blvd., has submitted an application for an approximately 36 sq. ft. temporary sidewalk café. This is the same location as a previous sidewalk café, Santorini Greek Cuisine, and the proposed configuration is the same as the one approved by City Commission in 2012 for said restaurant.

The proposed eating area complies with the minimum criteria for a temporary sidewalk café per Section 26-9.5 of the City of DeLand Code of Ordinances as discussed in the attached staff memo. The site plan shows compliance with the required minimum 7-foot pedestrian clearance for all sidewalk cafes located on Woodland Boulevard.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Preserving "Sense of Community".

SUSTAINABILITY:

N/A

FISCAL IMPACT:

There are no municipal finance impacts. New outdoor seating areas will have a positive financial impact for the business by attracting people to the downtown, in keeping with its unique atmosphere.

RECOMMENDATION:

Staff recommends the City Commission approve the sidewalk license agreement as presented at 210 N. Woodland Boulevard.

BACKGROUND/DISCUSSION:

Refer to attached memo for discussion on compliance with sidewalk cafe regulations.

RESOLUTION NO. 2022 –

A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA, GRANTING A LIMITED LICENSE AGREEMENT FOR A TEMPORARY SIDEWALK CAFÉ TO EL TACO RICO MEXICAN KITCHEN, LLC, FOR ITS BUSINESS, “EL TACO RICO MEXICAN KITCHEN” LOCATED AT 210 NORTH WOODLAND BOULEVARD; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the applicant, El Taco Rico Mexican Kitchen, LLC, a Florida limited liability company, has submitted a proper and complete application under Section 26-9.5 of the City of DeLand Code of Ordinances (hereinafter the “Code”) for a license agreement for a temporary sidewalk café; and

WHEREAS, the applicant is proposing outdoor seating during normal business operating hours for the establishment doing business as El Taco Rico Mexican Kitchen; and

WHEREAS, the City Commission finds that the proposed application for a limited license agreement is consistent with the criteria of the Code.

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

Section 1. The City Commission hereby grants the Limited License Agreement attached hereto as Exhibit A for a temporary sidewalk café to El Taco Rico Mexican, Kitchen, LLC, a Florida limited liability company for its establishment doing business under the name of “El Taco Rico Mexican Kitchen” located at 210 North Woodland Boulevard.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

LIMITED LICENSE AGREEMENT

This Agreement is made and entered into at DeLand, Volusia County, Florida, by and between the City of DeLand, a municipal corporation located at 120 South Florida Avenue, DeLand, Florida (the "City") and El Taco Rico Mexican Kitchen, LLC, a Florida corporation, for their restaurant "El Taco Rico Mexican Kitchen" located at 210 North Woodland Boulevard, DeLand, Florida (the "Licensee"), this _____ day of March, 2022.

WITNESSETH:

WHEREAS, the City recognizes that traditional commercial areas which exhibit high amounts of pedestrian activity can support the vitality of the commercial district by incorporating the sidewalk area into selected commercial activities, and that granting the privilege of using the sidewalk for commercial activity is consistent with the City's comprehensive plan and Land Development Regulations; and

WHEREAS, Licensee acknowledges that, notwithstanding any legal ownership which it may or may not hold to a portion of the sidewalk, the general public and the City of DeLand have a prescriptive easement over the full width of the sidewalk as it now exists by virtue of the public's use of the sidewalk as a walking thoroughfare and the City's maintenance of the sidewalk in years past. Licensee further acknowledges that use of the sidewalk under the terms of this Agreement shall not, in any way, alter the prescriptive easement rights of the general public and the City of DeLand, as use of the subject property under this Agreement is a privilege and not a right and may be revoked at any time; and

WHEREAS, the parties hereto acknowledge that the City possesses right of ownership and/or a prescriptive easement over that portion of the sidewalk located in front of and immediately adjacent to Licensee's business establishment located at 210 North Woodland Boulevard, commonly known as "El Taco Rico Mexican Kitchen" and being more particularly described in the attached Exhibit A (hereinafter the "Sidewalk"); and

WHEREAS, Licensee has made proper application to the City under Section 26-9.5 of the Code of Ordinances of the City of DeLand for use of the Sidewalk for the purposes set forth herein, and the prescribed procedures for approval and minimum criteria as set forth in Section 26-9.5 of the Code have been met; and

WHEREAS, it is the desire of the City of DeLand to grant unto Licensee a nonexclusive, limited license to use the Sidewalk for the purposes set forth herein;

NOW, THEREFORE, in consideration of the foregoing and the covenants hereinafter set forth, it is agreed as follows:

Section 1. Grant of nonexclusive, limited license. The City hereby grants unto Licensee nonexclusive, limited license and access to the Sidewalk for use as a "temporary sidewalk cafe" pursuant to the provisions of Section 26-9.5 of the Code of Ordinances of the City of DeLand

(hereinafter the "Code"). This License is non-transferable, non-assignable, and considered temporary in nature.

Section 2. Term of agreement; renewals; termination. This Agreement shall begin upon all parties completing the signature page, and shall continue until and unless otherwise terminated as set forth herein. So long as Licensee is in full compliance with all of the terms, covenants and conditions of this Agreement and Section 26-9.5 of the Code, this Agreement shall renew annually thereafter with the renewal of the Licensee's Business Tax Receipt under the same terms and conditions as the initial term of this Agreement, except as those terms and conditions may be modified in accordance with this Agreement. A new license agreement must be applied for and approved by the City whenever there is a change of ownership of the business, even if the new owner acquires all of the stock or other interest of the Licensee.

Notwithstanding the foregoing, the City may terminate this Agreement for any violation by Licensee of this Agreement or of Section 26-9.5 of the Code, the City will provide written notice of termination to Licensee by certified mail, return receipt requested. The City reserves the right to remove from the Sidewalk any of the Licensee's personal property.

Section 3. Design criteria. Licensee shall observe the following design criteria:

- (a) The design of the sidewalk cafe shall provide for a free flow of pedestrian traffic around the sidewalk cafe area. A minimum clear pedestrian area of seven feet (7') shall be maintained.
- (b) The sidewalk cafe area is limited to the sidewalk area directly adjacent to the restaurant frontage, as shown on the sketch plan attached hereto as Exhibit B.
- (c) The sidewalk cafe area must be clearly delineated from the area to remain open for pedestrian traffic.
- (d) Umbrellas shall be allowed provided that the umbrellas are contained within the sidewalk cafe area and do not impede pedestrian traffic or vision at intersections.
- (e) Additional signs are limited to one (1) additional sign on an outdoor menu board and the restaurant name or advertising on any umbrellas. The outdoor menu board may be two-sided, not to exceed four (4) square feet per side.
- (f) Outdoor lighting, if provided, must be permanently installed in accordance with the City code and be approved as part of the application. Licensee shall take necessary precautions, including illumination, for protection of the public with particular emphasis on the period from sunset to sunrise.

Section 4. Operating standards. Licensee shall observe the following operating standards:

(a) Alcoholic beverages may be temporarily served within the Sidewalk consistent with any alcoholic beverage license in effect for Licensee's restaurant; provided, however, that the sale and consumption of alcoholic beverages shall be in compliance with all state and local laws as related to such use. The provisions of this subsection are a privilege, not a right, and the City Commission of the City of DeLand reserves the right to revoke the privilege of serving alcohol on the Sidewalk.

(b) The hours of operation for the sidewalk cafe may not exceed the operating hours of the restaurant.

(c) Tables, chairs and other furniture shall be brought inside when the sidewalk cafe is not in operation.

(d) The sidewalk café area shall be kept in a clean condition (including regular removal of trash and debris) and the sidewalk area shall be periodically cleaned to remove any stains or other dirt resulting from the sidewalk café operation by the license holder.

Section 5. Public's right of use. The sidewalk cafe shall be open for use by the public and such use shall not be restricted to patrons of Licensee. Neither the use of Licensee's seating area nor the tables and chairs the Licensee places on the Sidewalk shall be limited to the exclusive use of Licensee's patrons. All members of the public shall have the right to use the sidewalk cafe's seating area and the tables and chairs which Licensee places on Sidewalk without charge.

Section 6. Right of inspection. The City Manager or his designee shall have the right to inquire, from time to time, into the conduct of the operations, activities and services of Licensee in order to ensure that the services being provided by Licensee are in conformity with the purpose and intent of this Agreement and the Code of Ordinances.

Section 7. Liability insurance, indemnity and hold harmless. Licensee shall defend, indemnify and hold harmless the City from and against any and all liability, losses, damages, claims, demands, expenses, fees, fines, penalties, suits, proceedings, actions and costs of actions (including attorneys' fees), of whatsoever kind or nature arising out of or in any way related to the use, occupancy, management or control of the premises, or any act or omission of Licensee or its agents, servants, employees, customers, patrons or invitees, whether on the premises or elsewhere.

Contemporaneously with the beginning date of this Agreement, Licensee shall, at its own cost and expense, procure and maintain general liability coverage with an aggregate limit of not less than \$1,000,000.00 from an insurer licensed in the State of Florida which names the City of DeLand as an additional insured, which insurance shall cover the operations of the Licensee which take place within the sidewalk café area.

Section 8. Nonliability of the City to Licensee. The City shall not be liable to Licensee or its agents, representatives, invitees, employees, or any other person, for any injury to or death

of any of them, or for any damage to any of Licensee's property or loss of revenue, caused by any third persons connected with Licensee's use and access to the Sidewalk, whether the injury, death or damage is due to negligence or not. Third persons, as used in this section, shall include the United States of America and the State of Florida, or any of their agencies, and all persons other than the City of DeLand.

Section 9. Permits and licenses. Licensee shall at all times hold any and all permits or licenses required by any proper licensing authority to conduct its business.

Section 10. Compliance with zoning regulations. Licensee shall at all times be in compliance with all applicable zoning regulations as set forth in the City of DeLand Land Development Regulations, and with all other relevant state and local regulations.

Section 11. Non-assignability. Licensee shall not assign this Agreement and any attempted assignment in contravention hereof shall be void.

Section 12. Abandonment of use. Should Licensee voluntarily abandon its use of the subject premises for any reason whatsoever for a period of sixty (60) consecutive days this Agreement shall automatically terminate.

Section 13. Notices. Any notices required by this Agreement shall be made in writing and sent by certified mail, return receipt requested, addressed to the parties as follows:

City Manager
City of DeLand
120 S. Florida Avenue
DeLand, FL 32720

Gilberto Felix
EL TACO RICO MEXICAN KITCHEN, LLC
251 Arthur Street
DeLeon Springs, FL 32130

Section 14. Construction of agreement. This Agreement shall be construed under the laws of the State of Florida and the Code of Ordinances of the City of DeLand.

Section 15. Amendments to agreement. This Agreement may be amended only in a writing signed by both parties.

Section 16. Complete agreement. This Agreement constitutes the complete and exclusive understanding and agreement between the parties with respect to the subject matter hereof and may only be amended in a writing signed by both parties hereto. This Agreement shall be binding upon and shall inure to the benefit of the parties' heirs, personal representatives, successors and permitted assigns.

*** Signatures on following page ***

EXECUTED BY THE CITY this ____ day of _____, 2022.

EXECUTED BY LICENSEE this 12 day of April, 2022.

CITY OF DELAND

EL RICO TACO MEXICAN KITCHEN, LLC

By: _____
Michael Pleus, City Manager

By: [Signature]
MA De Nova
Manager

Address: City of DeLand
120 S. Florida Avenue
DeLand, FL 32720

Address:
251 Arthur Street
DeLeon Springs, FL 32130

WITNESSES AS TO THE CITY:

(Witness' Signature)

(Print Name)

(Witness' Signature)

(Print Name)

WITNESSES AS TO LICENSEE:

[Signature]
(Witness' Signature)

Yocelin Agustin Becal
(Print Name)

[Signature]
(Witness' Signature)

Gilberto Felix
(Print Name)

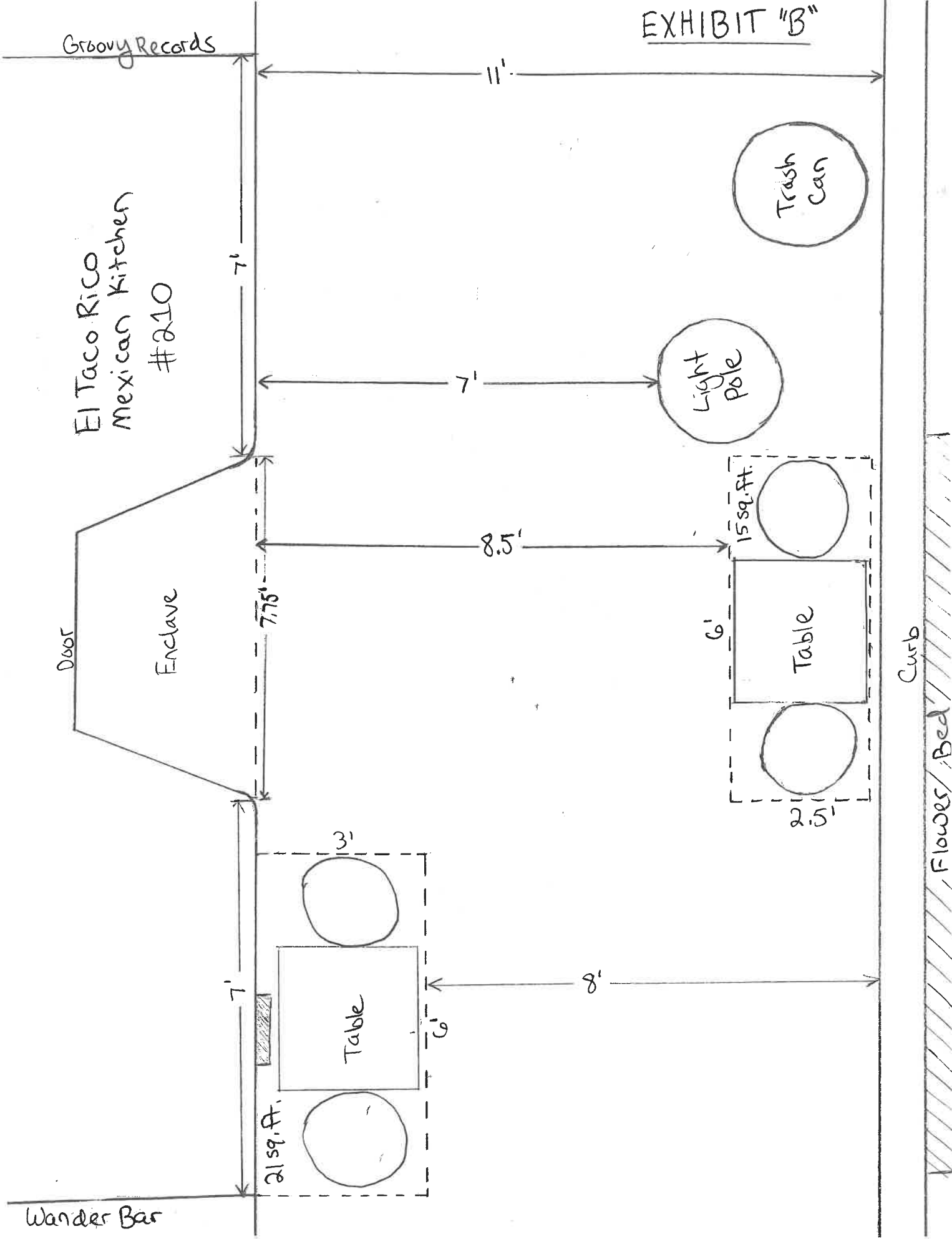
This Instrument Prepared By:

City of DeLand
120 S. Florida Avenue
DeLand, Florida 32720

EXHIBIT A

A PART OF PARCEL # 7009-66-00-2100, MORE PARTICULARLY DESCRIBED AS:

THE SOUTH 19.57 FEET OF THE NORTH 180.24 FEET OF LOT 4, BLOCK 9, ROGERS
SURVEY OF DELAND, AS PER THE MAP THEREOF RECORDED IN MAP BOOK 14,
PAGES 15 TO 17 , INCLUSIVE, PUBLIC RECORDS OF VOLUSIA COUNTY FLORIDA.





Planning Department

Memorandum

TO: Mike Holmes, Planning Director

FROM: Caroline Turgeon, Senior Planner

DATE: February 28, 2022

SUBJECT: Sidewalk Café Application, 210 N. Woodland Blvd. (LA21-252)

The owner for an existing business at 210 N. Woodland Blvd., El Taco Rico Mexican Kitchen, has submitted an application for an approximately 36 sq. ft. temporary sidewalk café. Below are the minimum criteria for a temporary sidewalk café per Section 26-9.5 of the City of DeLand Code of Ordinances. Per the site plan and supporting documentation submitted by the applicant, the following has been determined:

1. The zoning of the subject property permits the operation of a sidewalk café.
The property is zoned C-2A&H, Downtown Commercial, which permits sidewalk cafés.
2. The sidewalk café is adjacent to the front of the building with which it is associated.
Proposed outdoor seating is located adjacent to the building's frontage on North Woodland Boulevard.
3. The sidewalk café is an extension of a permanent restaurant or other establishment lawfully selling food and/or beverage.
Yes, El Taco Rico Mexican Kitchen.
4. The sidewalk café is auxiliary and will not operate outside the operating hours of the restaurant.
Per applicant, operating hours will be the same as the business.
5. The sidewalk café is temporary in nature; and all tables, chairs, umbrellas, outdoor menu boards, and other such items will be secured indoors during non-operational hours.
Per submitted application, applicant acknowledges this requirement.
6. As it is a temporary sidewalk café, no permanent structures, except for lighting, will be constructed.
No permanent structures are proposed.
7. If proposed, additional permanent outdoor lighting has been indicated on the site plan.
No additional outdoor lighting is proposed.

8. The sidewalk café will not impede pedestrian traffic; meets the minimum clearance requirements for its district.

Site plan shows compliance with the minimum 7-foot pedestrian clearance for all sidewalk cafés located on Woodland Blvd.

9. Alcoholic beverages will only be served or consumed within the proposed sidewalk café area boundary to be approved and only after the appropriate beverage license has been obtained from the Department of Business and Professional Regulation.

The applicant does maintain a 2COP alcohol license, which includes areas outside to be licensed.

10. Outdoor food preparation, if proposed, is restricted to the area to be licensed; and meets all applicable city, fire, safety, and health codes and all other relevant local and state regulations regarding outdoor food preparation.

No outdoor food preparation has been proposed.

11. The outside seating will not exceed 30% of the establishment's gross floor area, unless additional parking has been approved.

True; proposed outside seating constitutes less than 30% of the indoor restaurant gross floor area.

As the applicant appears to meet all criteria for a temporary sidewalk café; and as the café will not adversely affect public health, safety, or welfare; staff recommends **approval** of said application.

\\PLANNING\MEMOS\2021\LA21-252 210NWoodlandBlvd.docx

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Authorizing Election of Standard Allowance for Revenue Loss (ARPA Funds).

DEPARTMENT: Finance

PREPARED BY: Daniel Stauffer, Finance Director

ATTACHMENTS: Resolution, DeLand ARPA CSLFRF Grant Accounting Policy

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

In Treasury's Final Rule, local governments can choose a standard allowance of up to \$10 million in revenue loss regardless of their actual loss of revenue. However, the standard allowance cannot exceed a local government's grant allocation under the Coronavirus State and Local Fiscal Recovery Fund (SLFRF). A local government can spend these funds on government services, which includes services ranging from road construction to public safety.

The City's allocation is \$5,883,695 and the City has already received the first distribution of \$2,941,847.50 in May 2021. The second distribution is expected in May 2022. The City seeks to make the one-time election of standard allowance and use the entire amount of the ARPA funding on public safety salaries and benefits.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

Based off the Final Rule, with the election of the standard allowance, the City is eligible to claim all \$5,883,695 it is to receive as revenue loss. The City can claim it spent the ARPA funds on eligible public safety salaries, thus creating the economic benefit of freeing other funds previously spent on public safety salaries to be spent on other purposes. As part of the FY 21/22 Budget, the City has already budgeted to use \$50,000 for the Homeless Shelter, \$100,000 for Business Improvement Grants and \$96,800 for VDI licenses. This leaves \$5,636,895 of economic benefit available.

RECOMMENDATION:

Staff recommends the City Commission approve the Resolution authorizing the one-time election to utilize the standard allowance for revenue loss under ARPA and allocate the funds toward public safety salaries and benefits.

BACKGROUND/DISCUSSION:

On March 11, 2021, the American Rescue Plan Act (ARPA) was signed into law creating the Coronavirus State and Local Fiscal Recovery Funds (SLFRF) program. The SLFRF program provides \$350 billion to state, local and tribal governments across the country to support their response to and recovery from the COVID-19 public health emergency.

The funding objectives of the program were to: 1) Support urgent COVID-19 response efforts to continue to decrease the spread of the virus and bring the pandemic under control; 2) Replace lost public sector revenue to strengthen support for vital public services and help retain jobs; 3) Support immediate economic stabilization for households and businesses; and 4) Address systemic public health and economic challenges that have contributed to the unequal impact of the pandemic.

The City of DeLand was allocated \$5,883,695 of the \$350 billion. The amount is to be paid in two tranches, with the second tranche being paid twelve months after the first payment. The City received its first payment on May 20, 2021 in the amount of \$2,941,847.50.

In May 2021, the US Treasury published the Interim Final Rule (IFR) describing eligible and ineligible uses of the funds. Eligible uses were broken down into four categories: Public Health and Economic Impacts, Premium Pay, Revenue Loss and Investments in Infrastructure. More specifically, eligible uses included:

- Supporting Public Health Response – Funding COVID-19 mitigation efforts, medical expenses, behavioral healthcare and certain public health and safety staff.
- Addressing Negative Economic Impacts – Responding to economic harms to workers, families, small businesses, impacted industries and the public sector.
- Premium Pay for Essential Workers – Offering additional support to those who have and will bear the greatest health risks because of their service in critical infrastructure sectors.
- Replace Public Sector Revenue Loss – Using funds to provide government service to the extent of the reduction in revenue experienced due to the pandemic.
- Water and Sewer Infrastructure – Making necessary investments to improve access to clean drinking water and invest in wastewater and stormwater infrastructure.
- Broadband Infrastructure – Making necessary investments to provide unserved or underserved locations with new or expanded broadband access.

Under the Interim Final Rule, revenue loss was calculated by a very complex formula. Based on that calculated formula, the City's revenue loss for the calendar year 2020 was \$2,402,929.

On January 6, 2022, after seeking feedback from the public on the program rules, the US Treasury issued the Final Rule regarding spending guidelines. The Final Rule will replace the existing Interim Final Rule on April 1, 2022. The Final Rule broadens the eligible uses and provides state and local governments more flexibility in administering the funds. (See attached Statement from the U.S Department of the Treasury for a list of some of the more significant uses.)

The main update of note to the City is in regard to revenue loss. As detailed in the Statement:

Government Services to the Extent of Revenue Loss. The interim final rule and final rule both permit recipients to use SLFRF funds for government services in an amount equal to revenue lost due to the pandemic. As discussed in the final rule, Treasury is permitting recipients to determine the amount of revenue lost due to the pandemic either according to a formula or by claiming a standard allowance of up to \$10 million, not to exceed their total award allocation. A recipient that plans to use the standard allowance will make a one-time election and report it to Treasury through regular programmatic reporting. In advance of making this election, a recipient may begin to use up to \$10 million of SLFRF funds for government services.

RESOLUTION NO. 2022 -

A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA, AUTHORIZING THE ELECTION OF THE STANDARD ALLOWANCE AVAILABLE UNDER THE REVENUE LOSS PROVISION OF THE CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND ESTABLISHED UNDER THE AMERICAN RESCUE PLAN ACT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the United States Congress passed the American Rescue Plan Act of 2021 (“ARPA”) creating the Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) program, effective March 11, 2021; and

WHEREAS, the SLFRF program provides \$350 billion to state, local and tribal governments across the country to support their response to and recovery from the Coronavirus Disease (“COVID-19”) public health emergency; and

WHEREAS, the funding objectives of the program were to: 1) Support urgent COVID-19 response efforts to continue to decrease the spread of the virus and bring the pandemic under control; 2) Replace lost public sector revenue to strengthen support for vital public services and help retain jobs; 3) Support immediate economic stabilization for households and businesses; and 4) Address systemic public health and economic challenges that have contributed to the inequal impact of the pandemic; and

WHEREAS, the City of DeLand is considered to be a “metropolitan city”; and

WHEREAS, \$5,883,695.00 has been allocated to the City of DeLand of which the initial distribution of \$2,941,847.50 has already been received pursuant to the ARPA through the SLFRF; and

WHEREAS, in May 2021, the US Department of Treasury (“Treasury”) published the Interim Final Rule describing eligible and ineligible uses of the funds. Eligible uses were broken down into four categories: Public Health and Economic Impacts, Premium Pay, revenue Loss and Investment in Infrastructure; and

WHEREAS, on January 6, 2022, the Treasury published the Final Rule, replacing the Interim Final Rule effective April 1, 2022; and

WHEREAS, the Final Rule broadens the eligible uses and provides state and local governments more flexibility in administering the funds; and

WHEREAS, the Final Rule permits recipients to determine the amount of revenue lost due to the pandemic either according to a formula or by claiming a standard allowance of up to \$10 million, not to exceed their total award allocation; and

WHEREAS, recipients that select the standard allowance may use that amount, in many cases their full award, for government services, with streamlines reporting requirements; and

WHEREAS, government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise. The Final Rule and other guidance provides that “government services” expressly recognized by Treasury include, but are not limited to, (a) road building and maintenance, and other infrastructure; (b) health services; (c) general government administration, staff and administrative facilities; environmental remediation; (e) provision of police, fire and other public safety services (including purchase of fire trucks and police vehicles); (f) maintenance or pay-go funded building infrastructure; and (g) modernization of cybersecurity, including hardware, software and protection of critical infrastructure; and

WHEREAS, the City of Deland desires to acknowledge and memorialize its election of the standard allowance, up to the amount of its wards, for the provision of government services.

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

Section 1. The City of DeLand elects to use the standard allowance and its presumption of revenue loss due to the public health emergency.

Section 2. The City elects to use up to the amount of the City's ARPA award to fund government services, including police and fire salaries and benefits.

Section 3. The City adopts the attached American Rescue Plan (ARPA) Coronavirus State and Local Fiscal Recovery Fund (CSLFRF) Grant Accounting Policy.

Section 4. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk-Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

City of DeLand, Florida
American Rescue Plan Act (ARPA) Coronavirus State and Local Fiscal Recovery Fund (CSLFRF)
Grant Accounting Policy

Background

On March 11, 2021, the United States government enacted the American Rescue Plan Act of 2021, herein referred to as ARPA, which included provisions to provide federal funding to all local units of government in response to the COVID-19 pandemic in the form of Coronavirus State and Local Fiscal Recovery Funds (CSLFRF).

On May 17, 2021, the United State Treasury (the Treasury) published the interim final rule to provide implementation and practical guidance surrounding the eligible uses of CSLFRF funds, which included 1) supporting public health expenditures and addressing negative economic impacts caused by the COVID-19 pandemic; 2) providing premium pay for essential workers; 3) replacing lost public sector revenue based upon a formula outlined in the interim finale rule; and 4) investing in water, sewer, and broadband infrastructure.

On January 6, 2022, the Treasury issued the Final Rule related to the CSLFRF guidance with an effective date of April 1, 2022. The Final Rule expanded the interim guidance surrounding the eligible direct uses of CSLFRF funds, while also expanding the guidance related to the criteria for replacing lost public sector revenue, which included the provision for a standard allowance of assumed revenue replacement for

Based on the allocations established by the Federal government for metro cities and counties, the City was awarded a total share of CSLFRF grant funds in the amount of \$5,883,695.

Based on the Federal guidance and the terms of ARPA, the first tranche (50%) of the funds was received in 2021. The second half of the funds is to be paid one year later.

Revenue Recognition

CSLFRF revenues shall be recognized in accordance with generally accepted accounting principles. Namely, for Category 1, 2, and 4 usage, revenues will be recognized when the underlying expenditure for reimbursement has occurred.

Based on the award amount of less than \$10 million, the City is eligible under the Final Rule to claim the full award amount in conjunction with the rules for revenue replacement, which presumes that up to \$10 million in revenue has been lost due to the public health emergency and recipients are permitted to use that amount (not to exceed the award amount) to fund "government services."

The Treasury has indicated that the standard allowance provides an estimate of revenue loss that is based on an extensive analysis of average revenue loss across states and localities, and offers a simple, convenient way to determine revenue loss.

With respect to revenue loss, the Treasury has also clarified that recipients can use CSLFRF funds on government services up to the revenue loss amount, which in this case will be under the standard allowance for the full award amount. Government services generally include any service traditionally provided by a government, unless Treasury has stated otherwise. The Treasury's guidance has indicated the following common examples of eligible uses and explicitly prohibited uses related to the provision of government services as follows:

Common Examples	Prohibited Uses
Construction of schools and hospitals Road building and maintenance, and other infrastructure Health services General government administration, staff, and administrative facilities Environmental remediation Provision of police, fire, and other public safety services (including purchase of fire trucks and police vehicles)	Offset a reduction in net tax revenue Deposit into pension funds (“extraordinary” deposits; routine annual contributions are identified to be a permitted use) Debt service and replenishing financial reserves Settlements and judgments

Under these rules, revenue will be recognized (to the extent of eligible expenditures) once the eligible expenditures are identified and reported to the Treasury as the applicable use of the funds.

Expenditure Authorization

For revenues earned and recognized through the revenue replacement criteria, such funds shall be identified for reporting purposes to comply with the standard allowance to use the funds on government services in the following priority order:

- Regular salary and benefits of public safety employees, and/or other costs to provide public safety services.
- Regular salary and benefits of other City employees.
- Other eligible government services expenditures.

Economic Impact of ARPA CSLFRF Funding

Because the use of the CSLFRF funds made available through revenue replacement for planned expenditures will effectively create an unplanned surplus of unrestricted reserves, it has been identified as a priority to still track the City’s usage of the “economic impact” of the CSLFRF funds.

To provide for additional accountability and transparency over the use of the CSLFRF funds and to clearly demonstrate that the funds are not being used to offset a net reduction in tax revenue, the following steps are being taken:

- Internal commitment to track usage and disposition of the net revenue, or “ARPA Economic Impact”, of the CSLFRF funds. Any expenditures deemed to be made out of ARPA transition funds shall be approved by the City Commission.

CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: First Reading of Ordinance Amending Land Development Regulations Changes to Address Affordable Housing and Nonconforming Conditions.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Affordable Housing Ordinance, Updated Staff Memo, Gateway Corridors Map

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

The City of DeLand, like other communities throughout Florida, has been experiencing an increased demand for housing that is affordable for our residents. As a result of public input to the 2050 Vision update, the City Commission held a working group meeting focused on affordable housing issues. Although there are many aspects that affect the housing situation, staff was directed to look at ways the City's Land Development Regulations could be revised to eliminate regulatory impediments to new affordable housing units. This amendment package looks into ways that infill development can be encouraged in the core section of the city. This will be one measure to assist the City's effort to increase the inventory of housing units in the community.

The attached ordinance proposes to update the LDR's by providing amendments to existing regulations to remove impediments and provide greater flexibility for the creation of affordable housing units. The two broad areas that these proposed amendments address are: 1) lessening/relaxing onerous LDR requirements to promote the construction of dwellings by developers and organizations to provide reasonably priced units and 2) to allow existing structures or lots that currently don't comply with current regulations to be renovated or expanded by removing the stigma of properties or structures being labeled nonconforming. One of the key components to these revisions is to reduce the minimum size of living units. Currently, the minimum size of single family dwellings ranges from 1,000 to 1,800 square feet. Staff originally recommended that the minimum for all single family dwellings be reduced to 900 sq ft for all categories, which could be reduced further if directed by the Commission. At the Planning Board's hearing, testimony was received by a representative of Habitat for Humanity requesting that the minimum house size (minimum floor area under heat and air) be further reduced to 600 feet to mirror the size of the existing houses within the neighborhoods that they are creating new housing and to also provide greater affordability for new housing units. The Planning Board, as a whole, was not opposed to a further reduction in house size, but ultimately decided to go along with the staff's recommendation and revisit it at a later date, if necessary. Community Development staff is supportive of incorporating this further reduction for Commission second reading. Also, the minimum living area for housing units in the downtown is being proposed to be removed entirely to create greater flexibility.

The Planning Board held a special meeting on March 9, 2022 to hear and act upon the proposed amendments. Refer to the attached staff memo for a summary of the Planning Board comments related to their recommendation for approval. Their comments have been incorporated into the attached ordinance. Two additional revisions have been proposed by staff to further address affordable housing:

1. Change the definition of multifamily dwelling to include the entire site of a project and not just the buildings. This will allow small developments that may contain 3 or more units on the same parcel, but not in the same building. This will allow existing multifamily in single family zoning districts to be addressed with the changes

in the nonconforming section of the LDR's. It will also accommodate a new trend in multifamily projects that utilize single-family style structures in the rental arena.

2. Simplifying the ADU definition to state the maximum size of the ADU's is 800 square feet rather than basing the size of the ADU on the lot size. The number of parking spaces and the amount of impervious will be the limiting factors of the ultimate size of the unit.

These text changes are shown in the background section of this RCA.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Priority for 2021-22: Development and/or support of workforce housing for our community.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends the City Commission review and approve on first reading. Staff will revise the ordinance to address any comments from the Commission prior to second reading.

BACKGROUND/DISCUSSION:

As noted in the Summary/Highlight section of this RCA, the additional staff-recommended revised portions of the ordinance are shown below:

Sec.33-12. - Definitions

Dwelling, multiple-family, means a building or site designed for or occupied exclusively by three or more families living independently of each other with independent cooking and bathroom facilities.

33-25.02 General regulations and restrictions.

(a) ~~No one shall establish or operate an ADU~~ is permitted 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 7,500 square feet. If a lot exceeds 7,500 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.~~

ORDINANCE NO. 2022 -

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; SECTION 33-17; SECTIONS 33-17.01 THROUGH SECTIONS 33-17.05; SECTIONS 33-17.07 THROUGH SECTION 33-17.12; SECTION 33-17.17; SECTION 33-17.23; SECTION 33-19; SECTION 33-19.13; SECTION 33-25; SECTION 33-91.03; SUBSECTION (F); SECTION 33-101; SECTION 33-101.01; SECTION 33-102; SECTION 33-102.02; SECTION 33-102.02; SECTION 33-102.03; SECTION 33-102.04; SECTION 33-102.05; SECTION 33-103; SECTION 33-103.01; SECTION 33-103.02; SECTION 33-103.03; SECTION 33-103.04; SECTION 33-103.05; BY 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 VII 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, 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, it is important for the City to establish reasonable regulations for the regulation and ultimate elimination of non-conforming uses; and

WHEREAS, the City desires to revise its Land Development Code to, amongst other elements, allow for the construction of smaller homes with reduced parking requirements on existing, “in-fill” lots and provide for an easier process to obtain approval for accessory dwelling units (ADU’s); 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, ~~strike through~~ 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. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-12, “Definitions” by adding the new underlined language alphabetically and by deleting the ~~strike through language~~, to be read in full as follows:

Sec. 33-12. - Definitions.

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

Dwelling, multiple-family, means a building or site designed for or occupied exclusively by three or more families living independently of each other with independent cooking and bathroom facilities.

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. ~~means 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. Existing active uses not meeting the allowed use criteria of the site's zoning district, but maintaining an active business tax receipt issued by the city, or issued by the city upon annexation, may continue so long as the use is compliant with the regulations governing such use. However, should either the use become dormant or the business tax receipt lapse for one year, then the use shall be terminated and shall not thereafter be reestablished.~~

(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. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending the chart for Section 33-17 “Zoning districts.”, by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

USES	<u>R-R</u>	<u>R-R1</u>	<u>R-1A</u>	<u>R-1A</u>	<u>R-1B</u>	<u>R-1</u>	<u>R-1C</u>	<u>R-2</u>	<u>R-8</u>	<u>R-12</u>	<u>R-16</u>	<u>R-M</u>	<u>E-1</u>
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	<u>EC</u>	<u>EC</u>	<u>EC</u>	<u>EC</u>	<u>EC</u>	<u>EC</u>	<u>EC</u>						<u>C</u>
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		<u>P</u>
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 up to 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.

Section 4. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.01 “R-R-Rural Residential.”, by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.	
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.	
Accessory dwelling units.	
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	9001,200-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.

Section 5. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.02 “R-R1-Suburban Single-Family Residential District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.
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.
<u>Accessory dwelling units.</u>
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	9001,200 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.

Section 6. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.03 “R-1AA-Single-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.
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).
<u>Accessory dwelling units.</u>
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	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.	

Section 7. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.031 “R-1A-Single-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.
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).
<u>Accessory dwelling units.</u>
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	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.	

Section 8. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.04 “R-1B-Single-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.
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).
Accessory dwelling units.
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.	

Section 9. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.05 “R-1-Single-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.

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).	
Accessory dwelling units.	
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	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	<u>7.5</u> 10 feet
Corner lot: Street side setback	<u>20</u> <u>15</u> 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	<u>1,900</u> square feet
	Two story: Ground floor: <u>860</u> 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.	

Section 10. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.07 “R-2 Two-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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	1,090 square feet Single-family—Ground floor: 860 square feet
Minimum floor area under heat and air: Duplex	One story: 1,290 square feet Ground floor: 960 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).	

Section 11. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.08 “R-8 Multiple-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.	<u>8</u>
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	1,000 900 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).

Section 12. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.09 “R-12 Multiple-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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 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 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 square feet Ground floor: 860 square feet
Minimum floor area under heat and air: Duplex	1,000-900 square feet Ground floor: 960 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).

Section 13. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.10 “R-16 Multiple-Family Dwelling District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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).	

Section 14. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.11 “R-M-Residential Mobile Home District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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	40 7½ 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).

Section 15. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.12 “E-1-Educational District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

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.
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.
Accessory dwelling units to single or two-family dwelling.
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, two family	50 percent
Maximum impervious surface: Multifamily	One-, two-, three-story: 50 percent
	Four-story: 45 percent
	Five-story: 40 percent
	Six-story: 30 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	
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 <u>900</u> 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).	

Section 16. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-17.17 “C-2A-Downtown Commercial District.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full 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 33-17.23
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)	No Minimum 425 square feet
One bedroom	No Minimum 525 square feet
Two + bedroom	No Minimum 725 square feet plus 150 square feet for each additional bedroom

Section 17. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending the chart for Section 33-17.23 “Allowed uses in commercial and industrial zoning districts” by adding the new underlined language to be inserted into the existing chart and by deleting the ~~strike-through language~~, to be read in full as follows:

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

USES IN COMMERCIAL ZONING DISTRICTS

	P-1	BR	C-1	C-2	C-2A	C-2AC	C-3	C-4	M-1
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 Ssection 33-19.02	C*					C*			
Community residential homes—Single-family Per Ssection 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						
Residential dwelling units on the first floor Per Section 33-19.13					C*				
Residential dwelling units above the first floor <u>or one residential unit on the first-floor accessory to an office or commercial use</u>			C	C	C	<u>C</u>			
Single-family dwellings, except mobile homes	P				<u>C</u> ²⁶				
Single-family dwelling complaint with R-1 standards not located within the highway commercial land use areas			C		<u>C</u> ²⁶	<u>C</u>			
Two-family dwelling and duplexes compliant with R-2 standards			C		<u>C</u> ²⁶	<u>C</u>			

Section 18. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-19 “Special requirements applicable to conditional uses.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full 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 33-17.23 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 19. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-19.13 "*Multiple-family dwellings on first floor.*" by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full 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 dwelling 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 dwellings 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. Parking requirement shall be one and one-half spaces for one-bedroom unit; all others shall be two spaces per unit.~~
 - 4.5. Sidewalk or trail width shall be the same as adjacent sidewalk or trail up to a maximum of 12 feet, with a minimum of five feet.
 - 5 6. 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. Parking requirement shall be one and one-half spaces for one-bedroom unit; all others shall be two spaces per unit.~~
 - 23. Exterior renovations must comply with Community Design Standards.

Section 20. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-25 “Standards for Accessory dwelling units” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full 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)~~ (d) 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 permitted 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.~~
- ~~(e)~~ (b) The floor area under heat and air for ADUs shall not exceed ~~500 square feet for lots between 5,000 and 7,500 square feet. If a lot exceeds 7,500 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.~~
- (c) Maximum impervious surface may be increased by 10% from the underlying zoning requirements.
- ~~(d) 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.~~
- ~~(e) 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.~~
- ~~(f) 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.~~
- ~~(g) 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.~~
- ~~(h) 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.~~
- ~~(i)~~ (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.
- ~~(j)~~ (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).
- ~~(k) 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.~~
- ~~(l) An ADU may be developed in either an existing or a new residence.~~
- ~~(m) The ADU shall not result in excessive noise, traffic or parking congestion.~~

- ~~(f)~~ (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 21. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-91.03 “Number and type of parking spaces required” subsection (f) “Matrix.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

33-91.03 Number and type of parking spaces required.

(f) Matrix.

Residential Uses	Minimum Off-Street Parking Requirement	Notes
Conventional <u>Single-family detached</u> and duplex	1, 2, 3 bedrooms: 2 interior spaces/unit, or 4 or more bedrooms: 3 spaces/unit	Single-family <u>or duplex</u> residential parking spaces may be tandem. Minimum 2 outdoor spaces to also be provided per lot. <u>Interior parking spaces per unit requirement is waived within the Core Gateway District.</u> 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. The visitor space shall be located not more than 250 feet from the unit's street frontage.
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 22. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-101 “General intent.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full 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 23. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-102 “Nonconforming development.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full as follows:

Sec. 33-102. - Nonconforming development.

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

Sec. 33-102.01 - 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, including accessory structures, 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, including accessory structures, 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.

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 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 one 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 feet and someone built a structure 20 feet 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 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 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 percent 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.

Sec. 33-102.02 - Alteration or change of nonconforming multifamily and nonresidential structures and uses. ~~Regulations pertaining to nonconforming uses.~~

- (a). *Multifamily and nonresidential structures.* Alteration to a nonconforming multifamily or nonresidential structure, including accessory structures, 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.

- (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.~~

(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.

Sec. 33-102.03 - Restoration and reconstruction of damaged nonconforming multifamily and nonresidential structures. 33-102.03. Special provision[s] relating to the central business district.

- (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, including accessory structures, which has been damaged or destroyed by adverse weather or other natural disaster, 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.
- (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). *Restoration and reconstruction subject to Planning Board review and approval.* The reconstruction or substantial restoration of a damaged nonconforming multifamily or nonresidential structure, including accessory structures, 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.~~

~~(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) 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.

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

Sec. 33-102.04 - Discontinuance and re-establishment of nonconforming uses.
Special provisions for specific nonconformities.

- (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.

(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). 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.

- (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.~~

~~(c) (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. and become Sec. 33-71.06 Nonconforming signs.]~~

1.(a) 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 signs made nonconforming by original adoption of this chapter and its subsequent amendment shall be eliminated 20 years after May 17, 1999. Not less than 90 days before the expiration of the 20-year period, May 17, 2019, the building official shall give written notice that nonconforming signs shall be removed. Upon failure to comply within the time specified, the building official is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the person owning the building

~~or structure to which such sign is attached. Creation of a nonconforming sign through approval of a new plat that reduces lot area or width shall be given five years from the date of plat approval to bring the sign(s) into conformance unless there are safety issues that require earlier compliance.~~

- (b)3. 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.
- (c)4. 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.
- (d)5. 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.

Sec. 33-102.05 - 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 is generally consistent with the height, bulk and character of the surrounding structures and neighborhood. 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, is 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 achieve a minimum of 50 feet in width.
- (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.

Section 24. Chapter 33 of the Code of Ordinances of the City of DeLand is hereby amended by amending Section 33-103 “Variances and appeals.” by inserting the new underlined language and by deleting the ~~strike-through language~~, to be read in full 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~~ shall 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~~ will 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~~ A 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~~ 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 24. 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 25. 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 26. 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 27. 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

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.

establishments), Section 33-23.02.(k)² (relating to communication towers), Section 33-27.03.(f)³ (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 28. 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,

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:

(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.

word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 29. 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 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 30. 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



Planning Department

Memorandum

TO: Planning Board

DATE: March 11, 2022

FROM: Mike Holmes, Planning Director

FILE: memo/2022/update sp mtg/ldr
amendments - housing

SUBJECT: Amendments to the Land Development Regulations to address nonconforming conditions and housing issues - *updated memo, with Planning Board summary at the end*

Purpose of the Amendments

The City of DeLand, like other communities throughout Florida, has been experiencing increased 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 affect 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. This amendment package is to look into ways that infill development can be encouraged in the core section of the city. This will be one measure to help in the City's effort to increase the inventory of housing units in the community. On the attached map, the Core Gateway is the primary area under discussion.

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 address are: 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 proposed 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 (The paragraphs are rearranged to reflect their order in the ordinance and the page numbers in the ordinance for easier reference):

1. Pages 10 to 23 - Reduced minimum square footage for living area in all single-family dwelling zoning districts to 900 sq. ft. 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 or future agreements. Living area does not include garages.

2. Pages 43 & 45 - Allow new 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 also allows the existing single-family structures in C-2A to be considered conforming until changed to another use by the owner. Section 33-19.01.
3. Page 43 - 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. Page 45 – For mixed use buildings, 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 prioritize 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.
5. Pages 7 & 46 to 48 - 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. Although the subsections referencing the Health Department and the Building Code are proposed for deletion, it does not allow an ADU to not comply with any State requirements or local codes.
6. Page 49 - 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 and no garage.
7. Page 49 - 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, either staff, Planning Board, or City Commission.
8. Pages 50 to 64 - 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.
9. Page 65 – a section is provided that allows for an affordable housing program to be established for the waiver or deferment of impact fees by creating a Local Housing Assistance Plan, per Section 420.9071, Florida Statutes. This program is not part of the LDR's but a separate program that could be created to help assist with providing affordable housing.

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.

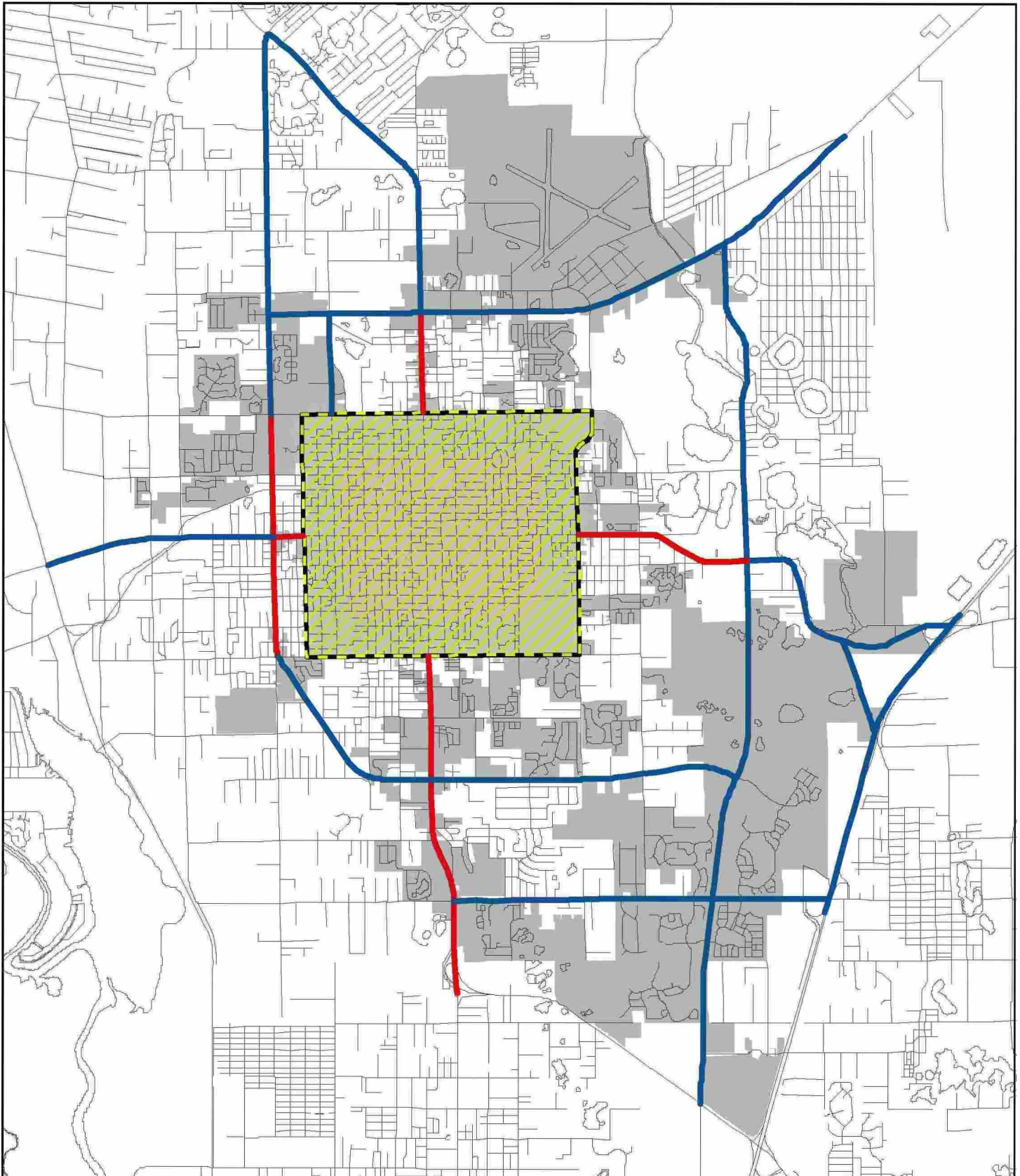
Policy h1.7.4: The City shall investigate and evaluate streamlining of permitting processes, unit/set asides, density bonuses and other such mechanisms for the provision of lower-income housing to determine which, if any, should be used by the City. The Land Development Regulations shall be revised to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

Update: The Planning Board reviewed the proposed ordinance and stated that the purpose was to help remove impediments to build reasonably priced, and hopefully, affordable housing for our residents. This ordinance was not to address all housing issues, as that could be addressed later on when staff brings back subsequent Land Development Regulation amendments. The Planning Board recommended approval of the proposed ordinance as presented at a special meeting held March 9, 2022. The vote was 5 to 1, with one member absent. Below is a brief summary of their discussion during the meeting.

1. Several members of the public spoke at the meeting and provided their comments to the Board, with overall support of the effort as a good first step.
2. There was basic consensus to not require owner occupancy for a home to have an Accessory Dwelling Unit's (ADU). Several members were hesitant due to possible disruptions of nearby residents, but did agree that owner occupancy may not actually solve compliance issues.
3. All agreed that Accessory Dwelling Unit's should not be a special exception and that it is a good step towards providing more rental units.
4. All were not in favor with lowering the minimum house size to 900 sq. ft., although some would consider even further reduction at a later date, after there was time to review if this change impacted the neighborhoods.
5. The two changes to C-2A, Downtown Commercial received support from the majority of the Board. The two changes were 1) no minimum unit size for multi-family and 2) to allow a parking study if developer desired a reduction in parking. The majority were in favor of removing the minimum unit size for multi-family in the downtown. The option for the possibility of reducing parking downtown was backed by the majority as long as there was a good justification but some had concerns and that the city should keep some requirements for parking.
6. The Board requested that the comments from the Chair's written statement (that were not discussed during the meeting) be incorporated into the ordinance. Primarily, they were grammatical in nature. Those changes have been made and are shown in the redline version of the ordinance.

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 | Streets |
| Emerging Gateway | |
| Core Gateway | |



CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Approving Special Exception to Allow An Accessory Dwelling Unit, Located At 515 West Florence Avenue.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Resolution, Staff Report (SE22-024), SE22-024 Aerial, SE22-024 Zoning and Location Map

APPROVED BY: Michael Pleus, City Manager, April 13, 2022

SUMMARY/HIGHLIGHT:

The applicant and property owner, Kelly C Kazmierczak, is seeking a Special Exception to permit the interior modification of an existing 777.7-square foot structure to establish an accessory dwelling unit (ADU) on the lot which also contains their primary residence. The maximum allowable size of the ADU has been determined based on the overall size of the lot which is 21,344 square feet (for lots in excess of 10,000 square feet, an ADU may be up to 800 square feet). The structure is an existing open work area with a car port. The applicant seeks to remodel this open area to create the Accessory Dwelling Unit.

The Planning Board, at their March 16, 2022 meeting, recommended that the request be approved.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Strategic Focus Area: Institute Smart Growth Principles: Community consistent growth

Action Steps:

Implement smart growth policies relating to increasing urban densities and protecting conservation areas.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

Staff recommends approval of the Special Exception to allow an Accessory Dwelling Unit at 515 W. Florence Avenue.

BACKGROUND/DISCUSSION:

The subject property meets all the requirements of the special exception as stated under Sec. 33-18(1) of the Land Development Regulations. The land development regulations also permit the ADU in this zoning district as a special exception subject to a number of “General regulations and restrictions” and “Design standards” that

must be met by the property. The majority of those standards deal with the physical parameters that must exist for the ADU. However, the ADU must initially be permitted for the site as stated below:

33-25.02 General regulations and restrictions.

(a) No one shall establish or operate an ADU without a special exception that specifically identifies the ADU. Granting a special exception for an ADU does not constitute the granting or creation of a zoning designation other than the existing underlying zoning.

RESOLUTION NO. 2022 –

**A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA,
APPROVING A SPECIAL EXCEPTION TO ALLOW FOR AN
ACCESORY DWELLING UNIT LOCATED AT 515 WEST FLORENCE
AVENUE; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, the applicant, Kelly C. Kazmierczak, has submitted a proper and complete application under Section 33-134 of the City of DeLand Code of Ordinances (hereinafter the “Code”) for a special exception; and

WHEREAS, the applicant seeks a special existing to allow an accessory dwelling on a parcel with an existing single family dwelling; and

WHEREAS, the subject property is zoned R-1B, Single Family Dwelling; and

WHEREAS, the City Commission finds that the proposed special exception is consistent with all elements of the Comprehensive Plan and Chapter 33 of the Code and is compatible with the predominant use of the surrounding property, and that it will not adversely affect the public interest, natural environment, natural resources or scenic beauty, nor cause excessive pollution, create a hazard or public nuisance, or be dangerous to individuals or the public.

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

Section 1. The City Commission hereby grants to the applicant the special exception requested for the property located at 515 West Florence Avenue, to allow for an accessory dwelling unit.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

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

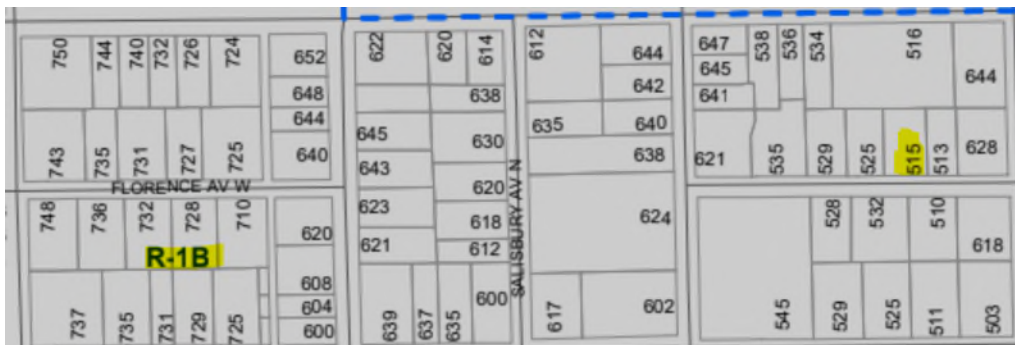
March 16, 2022

- A. APPLICATION #:** SE22-024
- B. APPLICANT:** Kelly C Kazmierczak ,
- ADDRESS:** 515 W Florence AV, DeLand, FL 32720
- REQUEST:** Special Exception to approve the existing accessory dwelling unit (ADU) to a lot with an existing primary residence.

APPLICABLE ORDINANCE: Article 2 - Section 33-18 1 Special exceptions – ADU, Sec. 33-25. - Standards for accessory dwelling units (ADU), Article 12 - Sec. 33-134 Procedures for special exceptions

C. SITE FACTORS

Zoning of the site is R-1B (Single-family)



SURROUNDING USE: **SURROUNDING ZONING:**

North	Single-family residential	R-1A (Single-family residential)
South	Single-family residential	R-1B (Single-family residential)
East	Single-family residential	R-1B (Single-family residential)
West	Single-family residential	R-1B (Single-family residential)

D. ANALYSIS:

The applicant is seeking a Special Exception to permit the interior modification of an existing 777.7-sf structure on the lot containing their primary residence in a residential neighborhood. The size of the unit has been determined based on the overall size of the lot (*for lots in excess of 10,000 square feet, an ADU may be up to 800 square feet*). Nothing will change on the outside; the structure is an existing open work area with a car port. The applicant seeks to remodel this open area to create an Accessory Dwelling Unit.

The land development regulations permit ADUs for a number of different reasons as outlined below:

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

33-25.01 Purpose and intent.

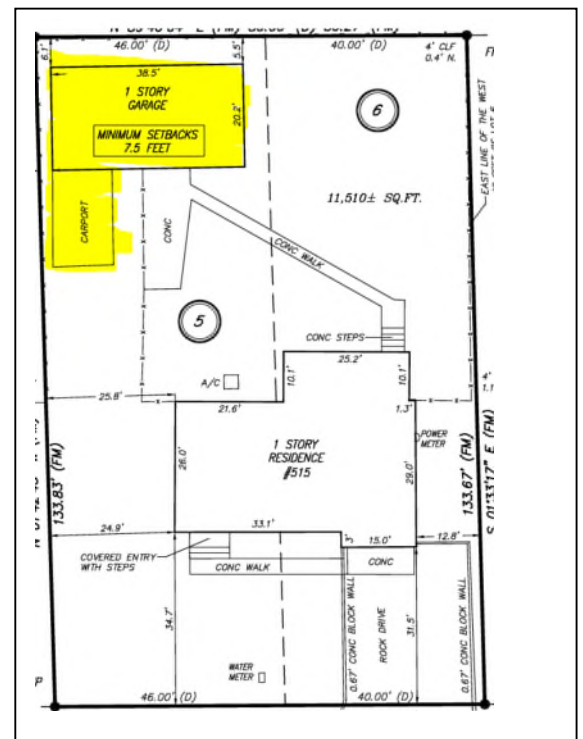
- (a) To provide homeowners with a means of obtaining, through tenants in the ADU or the principal unit, **rental income**, companionship, security, and services.
- (b) Add affordable units to existing housing.
- (c) Develop housing units in single-family neighborhoods that are appropriate for extended family living.
- (d) 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.

The land development regulations also permit the ADU in this zoning district as a special exception subject to a number “General regulations and restrictions” and “Design standards” that must be met by the property. The majority of those standards deal with the physical parameters that must exist for the ADU, however, the ADU must initially be permitted for the site as stated below:

33-25.02 General regulations and restrictions.

- (a) No one shall establish or operate an ADU without a special exception that specifically identifies the ADU. Granting of a special exception for an ADU does not constitute the granting or creation of a zoning designation other than the existing underlying zoning.

The intent of this review is for the board to determine if this use is acceptable at this location. This area is a single-family neighborhood comprised of similarly sized homes located on local and collector roads and as such the proposed use is compatible with the area. The proposed structure is located at the extreme northwest quadrant of the primary residence (built in 1949).



SE22-024 (DJ)

2 of 5



The general regulations for this use are as follows:

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

33-25.02 General regulations and restrictions.

- (a) No one shall establish or operate an ADU without a special exception that specifically identifies the ADU. Granting of a special exception for an ADU does not constitute the granting or creation of a zoning designation other than the existing underlying zoning.
- (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 for ADUs shall not exceed five hundred square feet for lots between 5,000 and 7,500 square feet. If a lot exceeds 7,500 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) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) 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.

- (i) The ADU may be attached to, or detached from, the principal unit; however, the ADU must be allocated or constructed in a manner which maintains the single-family appearance and architectural style of the primary structure and lot.
- (j) Only one ADU shall be allowed per each parcel and shall remain within the parcel (not subdivided).
- (k) 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.
- (l) An ADU may be developed in either an existing or a new residence.
- (m) The ADU shall not result in excessive noise, traffic or parking congestion.
- (n) 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 adjacent to the ADU, on the side or behind 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.
- (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.

33.25.04 *Deed restrictions.* Before obtaining a building permit for an ADU, the property owner shall file with the county recorder a declaration of restrictions containing a reference to the deed under which the property was acquired by the present owner and stating that:

- (a) The accessory unit shall not be sold separately.
- (b) The unit is restricted to the approved size.
- (c) The use permit for the accessory unit shall be in effect only so long as either the main residence, or the accessory unit, is occupied by the owner of record as the principal residence.
- (d) The above declarations are binding upon any successor in ownership of the property; lack of compliance shall be cause for code enforcement and/or revoking the conditional use permit.

STAFF RECOMMENDATION:

The proposed site meets the criteria for approval of the Special Exception. An ADU at this site does not appear to be in conflict with the intent of the regulations for this use at this site.

Staff recommends approval of the Special Exception.

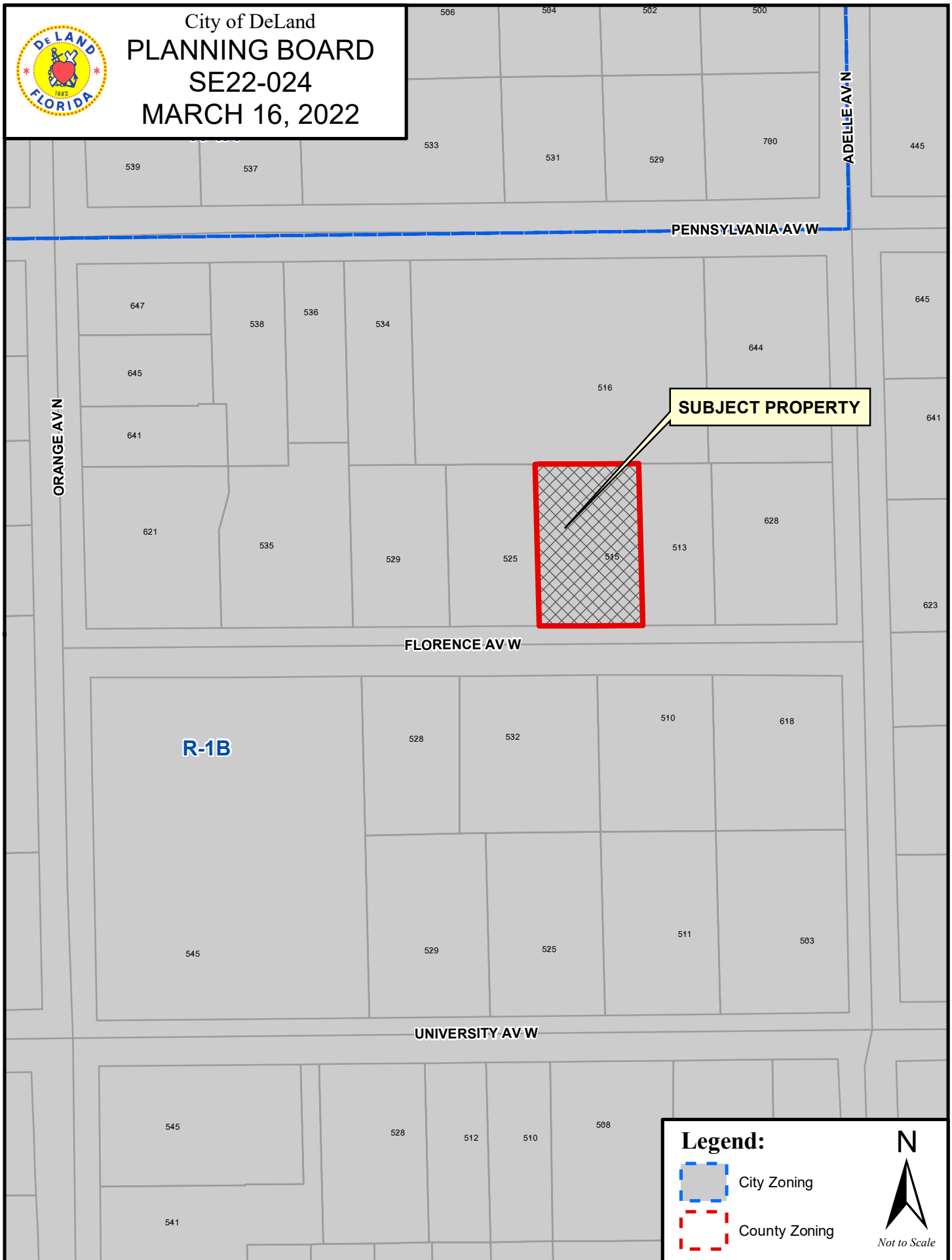


City of DeLand
PLANNING BOARD
SE22-024
MARCH 16, 2022





City of DeLand
PLANNING BOARD
SE22-024
MARCH 16, 2022



CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Resolution Approving Final Plat, Canopy Terrace Subdivision.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Resolution, Final Plat Canopy Terrace Subdivision, Location Map

APPROVED BY: Michael Pleus, City Manager, April 14, 2022

SUMMARY/HIGHLIGHT:

The applicant, Chris Wren, for Pulte Group, has submitted an application for a final plat of the Canopy Terrace subdivision. The subdivision is located in the northeast quadrant of the intersection of Martin Luther King, Jr. Boulevard and Cassadaga Road. The development includes 140 single family lots on approximately 36 acres. The preliminary plat was approved in July of 2021 which allowed for construction to begin.

The Technical Review Committee reviewed the final plat at its November 18, 2021 meeting. The applicant has addressed all of city staff comments. Remaining comments from City Surveyor have now been addressed.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

N/A

SUSTAINABILITY:

N/A

FISCAL IMPACT:

Allows the developer to begin the construction and sale of lots in the subdivision.

RECOMMENDATION:

It is recommended that the City Commission approve the final plat subject to addressing remaining staff comments.

BACKGROUND/DISCUSSION:

The final plat is consistent with the plans submitted during the preliminary plat stage. The Technical Review Committee reviewed the final plat at its November 18, 2021 meeting and provided the applicant with comments to be addressed prior to being placed on the City Commission agenda.

RESOLUTION NO. 2022 –

A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA, APPROVING THE FINAL SUBDIVISION PLAT FOR CANOPY TERRACE, LOCATED IN THE NORTHEAST QUADRANT OF THE INTERSECTION OF DR. MARTIN LUTHER KING, JR., BOULEVARD AND CASSADAGA ROAD; PROVIDING FOR A CONDITION AND AN EFFECTIVE DATE.

WHEREAS, the applicant, Chris Wren, on behalf of Pulte Group, has submitted a proper and complete application under Chapter 33, Article 13, of the City of DeLand Code of Ordinances (hereinafter the “Code”) for the final plat approval for Canopy Terrace; and

WHEREAS, the development includes 140 single family lots on approximately 36 acres; and

WHEREAS, on November 18, 2021, the Technical Review Committee (TRC) approved the final plat.

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

Section 1. The City Commission hereby approves the final subdivision plat for Canopy Terrace on the condition that the applicant shall comply with any and all comments and or revisions from the City Surveyor, City Engineer, and City Attorney.

Section 2. This Resolution shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 18th day of April, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk – Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

CANOPY TERRACE

LYING IN SECTION 6, TOWNSHIP 18 SOUTH, RANGE 31 EAST,
CITY OF DELAND, VOLUSIA COUNTY, FLORIDA

SHEET 1 OF 5

MAP BOOK _____ PAGE _____

LEGAL DESCRIPTION:

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 18 SOUTH, RANGE 31 EAST VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

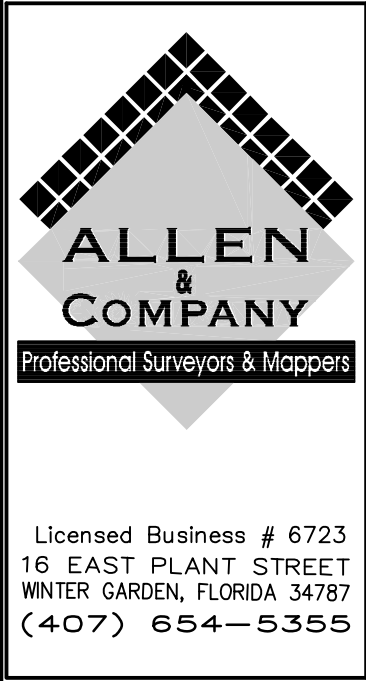
COMMENCE AT THE NORTHWEST CORNER OF GOVERNMENT LOT 4, ALSO BEING THE NORTHWEST CORNER OF SAID SECTION 6; THENCE RUN NORTH 89°53'19" EAST ALONG THE NORTH LINE OF GOVERNMENT LOT 4, FOR A DISTANCE OF 200.00 FEET TO THE INTERSECTION WITH THE EAST RIGHT-OF-WAY LINE OF DR. LUTHER KING JR. AND SAID NORTH LINE OF GOVERNMENT LOT 4 ALSO BEING THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH LINE OF GOVERNMENT LOT 4 RUN NORTH 89°53'19" EAST, FOR A DISTANCE OF 113.05 FEET TO THE SOUTH 1/4 CORNER OF SECTION 35, TOWNSHIP 17 SOUTH, RANGE 30 EAST; THENCE RUN NORTH 89°54'49" EAST ALONG SAID NORTHERLY LINE OF GOVERNMENT LOT 4, FOR A DISTANCE OF 1088.28 FEET TO THE NORTHEAST CORNER OF GOVERNMENT LOT 4; THENCE DEPARTING SAID NORTH LINE OF GOVERNMENT LOT 4 RUN SOUTH 00°14'44" EAST ALONG THE EASTERLY LINE OF GOVERNMENT LOT 4, FOR A DISTANCE OF 1300.63 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF CASSADAGA ROAD PER OFFICIAL RECORDS BOOK 3779, PAGE 3818 AS RECORDED IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE RUN SOUTH 89°31'20" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY LINE OF CASSADAGA ROAD, FOR A DISTANCE OF 1217.57 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF MARTIN LUTHER KING JR. BOULEVARD PER OFFICIAL RECORDS BOOK 3779, PAGE 3820 AS RECORDED IN THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA ALSO BEING A POINT ON A CURVE, CONCAVE WESTERLY HAVING A RADIUS OF 5829.58 FEET AND A CENTRAL ANGLE OF 02°23'35" WITH A CHORD BEARING OF NORTH 01°26'19" EAST, AND A CHORD LENGTH OF 243.45 FEET; THENCE RUN NORTHERLY ALONG THE ARC OF SAID CURVE FOR A DISTANCE OF 243.47 FEET TO A POINT OF TANGENCY; THENCE CONTINUING ALONG SAID EASTERLY RIGHT-OF-WAY OF MARTIN LUTHER KING JR. BOULEVARD RUN NORTH 00°14'32" EAST, FOR A DISTANCE OF 1065.55 FEET TO THE POINT OF BEGINNING.

LEGEND AND ABBREVIATIONS:

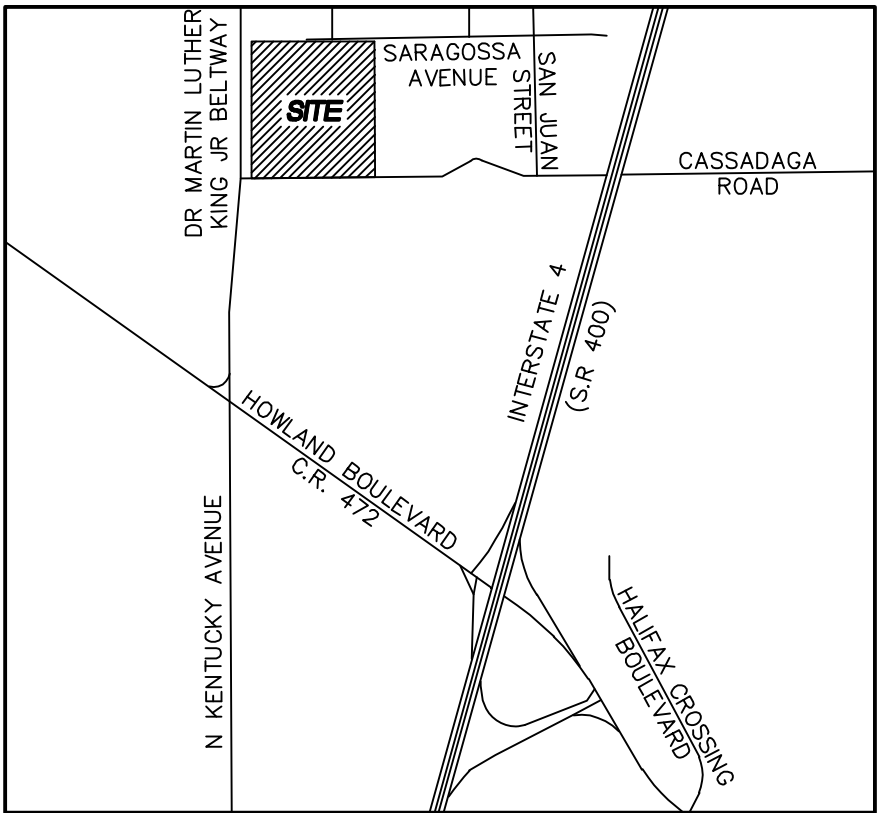
- | | | | |
|--------|--|--------|--|
| ● | DENOTES SET PERMANENT CONTROL POINT STAMPED P.C.P. L.B. # 6723 | C.H. | DENOTES CHANNEL |
| □ | DENOTES SET PERMANENT REFERENCE MONUMENT STAMPED P.R.M. L.B. # 6723 UNLESS OTHERWISE NOTED | R.P. | DENOTES RADIUS POINT |
| R/W | DENOTES RIGHT OF WAY | CCR | DENOTES CERTIFIED CORNER RECORD |
| Ⓢ | DENOTES CENTER LINE | P.I. | DENOTES POINT OF INTERSECTION |
| O.R. | DENOTES OFFICIAL RECORDS BOOK | L.B. | DENOTES LICENSED BUSINESS |
| P.G. | DENOTES PAGE | P.C.P. | DENOTES PERMANENT CONTROL POINT |
| P.C. | DENOTES POINT OF CURVATURE | P.R.M. | DENOTES PERMANENT REFERENCE MONUMENT |
| ROW | DENOTES RIGHT OF WAY | △ | DENOTES CENTRAL ANGLE |
| O.R.B. | DENOTES OFFICIAL RECORDS BOOK | R | DENOTES RADIUS |
| HOA | DENOTES HOME OWNERS ASSOCIATION | L | DENOTES LENGTH |
| N.R. | DENOTES NON-RADIAL | U.E. | DENOTES UTILITY EASEMENT |
| N.T. | DENOTES NON-TANGENT | P.T. | DENOTES POINT OF TANGENCY |
| C.B. | DENOTES CHORD BEARING | D.E. | DENOTES DRAINAGE EASEMENT |
| ● | DENOTES CHANGE IN DIRECTION | PSM | DENOTES PROFESSIONAL SURVEYOR AND MAPPER |
| ○ | DENOTES AXLE UNLESS OTHERWISE NOTED | M.B. | DENOTES MAP BOOK |

SURVEYOR’S NOTES:

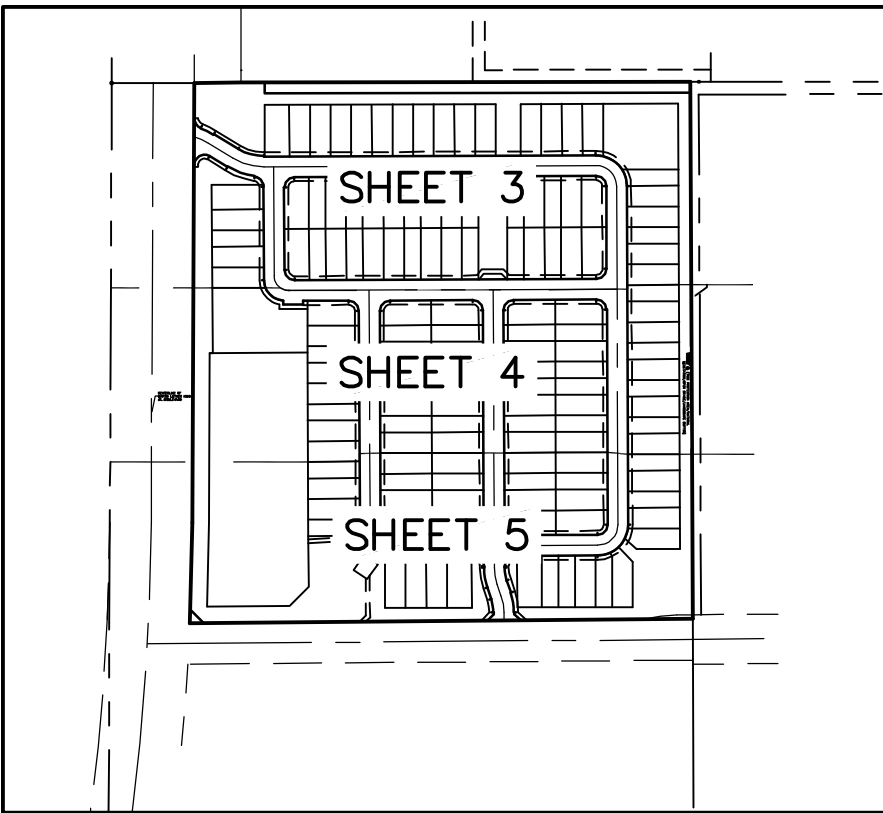
- BEARINGS SHOWN HEREON ARE BASED ON THE NORTHERLY LINE OF GOVERNMENT LOT 4 AS BEING AN ASSUMED BEARING OF NORTH 89°54'49" EAST.
- UTILITY FACILITIES SHALL BE PLACED UNDERGROUND WITHIN DEDICATED UTILITY EASEMENTS.
- ALL PLATTED UTILITY EASEMENTS SHALL PROVIDE THAT SUCH EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE AND OPERATION OF CABLE TELEVISION SERVICES; PROVIDED, HOWEVER, NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES SHALL INTERFERE WITH THE FACILITIES AND SERVICES OF AN ELECTRIC, TELEPHONE, GAS OR OTHER PUBLIC UTILITY. IN THE EVENT A CABLE TELEVISION COMPANY DAMAGES THE FACILITIES OF A PUBLIC UTILITY, IT SHALL BE SOLELY RESPONSIBLE FOR THE DAMAGES. THIS DOES NOT APPLY TO THOSE PRIVATE EASEMENTS GRANTED TO OR OBTAINED BY A PARTICULAR ELECTRIC, TELEPHONE, GAS OR OTHER PUBLIC UTILITY. SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION SHALL COMPLY WITH THE NATIONAL ELECTRICAL SAFETY CODE AS ADOPTED BY THE FLORIDA PUBLIC SERVICE COMMISSION.
- ALL LOT LINES INTERSECTING CURVES ARE RADIAL UNLESS INDICATED (N.R.) FOR NON RADIAL LOT LINES.
- ALL LOT CORNERS SHALL BE SET WHEN CONSTRUCTION OF IMPROVEMENTS ARE COMPLETED.
- THERE IS A NEW CITY REQUIREMENT THAT REQUIRES THAT THE BLANKS IN THE NOTES BELOW WILL NEED TO BE FILLED IN BEFORE RECORDING.
- COVENANTS AND RESTRICTIONS FOR _____ ARE RECORDED IN OFFICIAL RECORDS BOOK _____, PAGE _____, PUBLIC RECORDS OF VOLUSIA COUNTY ("DECLARATION"), AS AMENDED BY THAT CERTAIN FIRST SUPPLEMENTAL DECLARATION OF COVENANTS. CONDITIONS AND RESTRICTIONS OF _____ IN OFFICIAL RECORDS BOOK _____ PAGE _____.
- TRACTS A AND B (TREE PROTECTION AREA/NATURAL VEGETATION/OPEN SPACE/LANDSCAPE BUFFER) TO BE OWNED AND MAINTAINED BY THE CANOPY TERRACE HOMEOWNER'S ASSOCIATION INC.
- TRACTS A AND B ARE HEREBY SUBJECT TO A NATURAL VEGETATION EASEMENT HEREBY GRANTED TO THE CITY OF DELAND FOR THE PURPOSES DESCRIBED IN THE NATURAL VEGETATION ORDINANCE SET FORTH IN SECTION 33-57 OF THE CITY OF DELAND MUNICIPAL CODE.
- TRACTS C AND D (PARK/AMENITY AREA) TO BE OWNED AND MAINTAINED BY THE CANOPY TERRACE HOMEOWNER'S ASSOCIATION INC.
- TRACT H (RIGHT OF WAY) SHALL BE DEDICATED TO THE PUBLIC FOR RIGHT OF WAY PURPOSES.
- TRACT G (LIFT STATION TRACT) TO BE CONVEYED IN FEE TO THE COUNTY OF VOLUSIA.
- TRACTS E AND F (STORMWATER MANAGEMENT) TO BE OWNED AND MAINTAINED BY THE CANOPY TERRACE HOMEOWNER'S ASSOCIATION INC.
- NO SIGN SHOULD SHALL BE LOCATED CLOSER THAN FIVE FEET FROM ANY LOT LINE.



VICINITY MAP:
(NOT TO SCALE)



KEY MAP:
(NOT TO SCALE)



NOTICE:

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CANOPY TERRACE
DEDICATION

KNOW ALL MEN BY THESE PRESENTS, THAT PULTE HOME COMPANY, LLC, A MICHIGAN LIMITED LIABILITY COMPANY BEING THE OWNER IN FEE SIMPLE OF THE LANDS DESCRIBED IN THE ATTACHED PLAT, ENTITLED CANOPY TERRACE, HEREBY DEDICATES SAID LANDS AND PLAT FOR THE PURPOSES AND USES THEREIN EXPRESSED AND DEDICATES THE STREETS, DRAINAGE EASEMENTS AND UTILITY EASEMENTS TO THE PERPETUAL USE OF THE PUBLIC.

TRACTS A, B (TREE PROTECTION AREA/NATURAL VEGETATION/OPEN SPACE/LANDSCAPE BUFFER), TRACTS C, D (PARK/AMENITY AREA) AND TRACTS E, F (STORMWATER MANAGEMENT) ARE HEREBY CONVEYED IN FEE TO THE CANOPY TERRACE HOMEOWNERS ASSOCIATION, INC.

TRACT G (LIFT STATION) AND TRACT I (ACCESS RESERVATION) ARE HEREBY CONVEYED IN FEE TO VOLUSIA COUNTY.

SARAGOSSA AVENUE IS HEREBY DEDICATED TO THE PUBLIC FOR RIGHT-OF-WAY PURPOSES.

IN WITNESS WHEREOF, HAS CAUSED THESE PRESENTS TO BE SIGNED BY THE OWNER NAMED BELOW ON _____, 2022.

_____, A MICHIGAN LIMITED LIABILITY

COMPANY

BY: _____

PRINTED NAME: AARON STRUCKMEYER

TITLE: LAND DEVELOPMENT DIRECTOR

SIGNATURE OF WITNESS _____

PRINTED NAME OF WITNESS _____

SIGNATURE OF WITNESS _____

PRINTED NAME OF WITNESS _____

ACKNOWLEDGEMENT

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, on _____, 2022, by _____, , on behalf of the Company. Said person [] is personally known to me or [] produced a driver's license as identification.

BY: _____

PRINTED NAME: _____

NOTARY PUBLIC STATE OF FLORIDA

COMMISSION NUMBER _____

MY COMMISSION EXPIRES _____

CITY OF DELAND PLANNING AND
DEVELOPMENT SERVICES DEPARTMENT

THIS IS TO CERTIFY, THAT ON _____ THIS PLAT WAS APPROVED.

BY: _____

CERTIFICATE OF APPROVAL BY CITY COMMISSION OF THE
CITY OF DELAND, VOLUSIA COUNTY, FLORIDA

THIS IS TO CERTIFY, THAT ON _____, THE FOREGOING PLAT WAS APPROVED BY THE CITY COMMISSION OF THE CITY OF DELAND, VOLUSIA COUNTY, FLORIDA.

MAYOR OF THE CITY OF DELAND, FLORIDA SEAL

ATTEST: _____
CITY CLERK OF THE CITY OF DELAND, FLORIDA.

QUALIFICATION STATEMENT OF SURVEYOR AND MAPPER

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED, BEING A PROFESSIONAL SURVEYOR AND MAPPER THAT HAS PREPARED THE FOREGOING PLAT WAS MADE UNDER MY DIRECTION AND SUPERVISION AND THAT THE PLAT COMPLIES WITH ALL THE SURVEY REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES; AND THAT SAID LAND IS LOCATED WITHIN VOLUSIA COUNTY, FLORIDA.

DATED: _____ SIGNED: _____
ALLEN & COMPANY, INC. JAMES L. RICKMAN
16 EAST PLANT STREET REGISTRATION
WINTER GARDEN, FLORIDA 34787 NUMBER 5633
AUTHORIZATION NUMBER LB 6723

CERTIFICATE OF APPROVAL BY CITY REGISTERED SURVEYOR

THIS IS TO CERTIFY THAT ON _____ 2022, THE FOREGOING PLAT WAS REVIEWED FOR CONFORMITY WITH CHAPTER 177, FLORIDA STATUTES AND THAT I HAVE PROVIDED BOTH THE COUNTY AND THE SURVEYOR AND MAPPER OF RECORD A LIST OF DEVIATIONS, IF AND, FROM SUCH REQUIREMENTS.

BY: _____
JEFFERY W. CORY
PSM No. 4139

CERTIFICATE OF CLERK

I HEREBY CERTIFY THAT I HAVE EXAMINED THE FOREGOING PLAT AND FIND THAT IT COMPLIES IN FORM WITH ALL THE REQUIREMENTS OF CHAPTER 177, FLORIDA STATUTES AND WAS FILED FOR RECORD

ON _____ AT _____ FILE NO. _____

SIGNED: _____ DATE: _____

LAURA ROTH, CLERK OF THE CIRCUIT COURT

MAP BOOK _____ PAGE _____

— — — — —

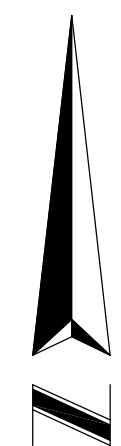
1" = 100'
GRAPHIC SCALE

0 50 100 200

9 SHEET 5

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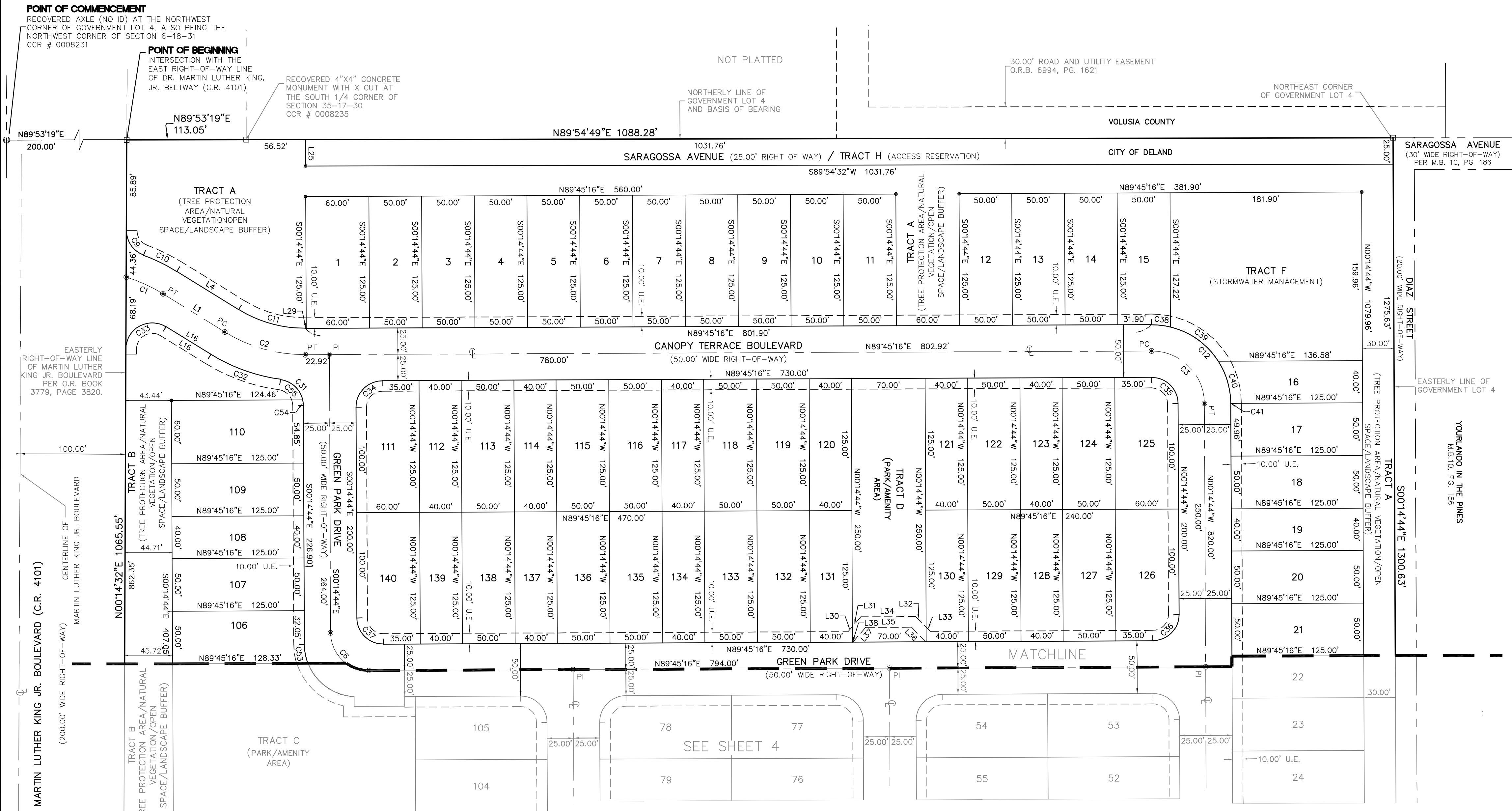


CANOPY TERRACE

LYING IN SECTION 6, TOWNSHIP 18 SOUTH, RANGE 31 EAST,
CITY OF DELAND, VOLUSIA COUNTY, FLORIDA

SHEET 3 OF 5

MAP BOOK PAGE

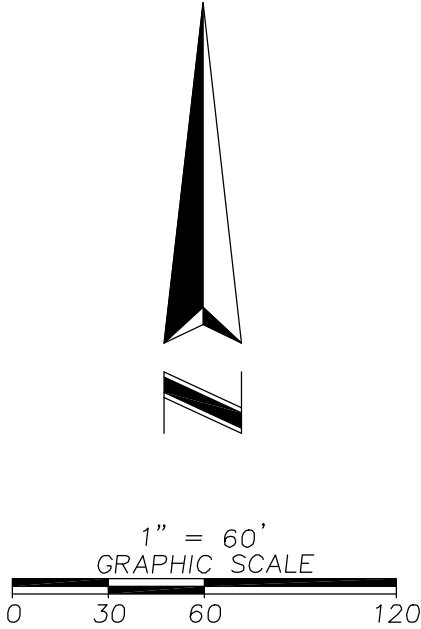


CURVE TABLE					
CURVE	RADIUS	CHORD BEARING	CHORD	DELTA	LENGTH
C1	150.00'	N65°37'29"W	38.34'	14°41'10"	38.45'
C2	144.00'	S74°15'49"E	79.30'	31°57'50"	80.33'
C3	50.00'	N45°14'44"W	70.71'	90°00'00"	78.54'
C6	36.00'	S45°14'44"E	50.91'	90°00'00"	56.55'
C9	25.00'	S34°46'09"E	28.69'	70°01'21"	30.55'
C10	175.00'	N64°01'52"W	35.06'	11°29'55"	35.12'
C11	119.00'	S74°15'49"E	65.53'	31°57'50"	66.39'
C12	75.00'	N45°14'44"W	106.07'	90°00'00"	117.81'
C31	25.00'	N41°14'00"W	32.79'	81°58'31"	35.77'
C32	169.00'	S70°15'05"E	70.10'	23°56'21"	70.61'
C33	25.00'	S60°58'49"W	43.62'	121°28'34"	53.00'
C34	25.00'	S44°45'16"W	35.36'	90°00'00"	39.27'
C35	25.00'	N45°14'44"W	35.36'	90°00'00"	39.27'
C54	25.00'	N06°09'01"W	5.14'	11°48'34"	5.15'

CURVE TABLE					
CURVE	RADIUS	CHORD BEARING	CHORD	DELTA	LENGTH
C36	25.00'	N44°45'16"E	35.36'	90°00'00"	39.27'
C37	25.00'	S45°14'44"E	35.36'	90°00'00"	39.27'
C38	75.00'	N83°15'51"W	18.23'	13°57'46"	18.28'
C39	75.00'	N54°23'52"W	55.91'	43°46'12"	57.29'
C40	75.00'	N16°23'41"W	41.64'	32°14'12"	42.20'
C41	75.00'	N00°15'40"W	0.04'	0°01'50"	0.04'
C42	75.00'	N03°34'12"E	9.98'	7°37'53"	9.99'
C43	75.00'	N17°02'54"E	25.18'	19°19'31"	25.30'
C55	25.00'	N47°08'17"W	28.74'	70°09'57"	30.62'
C56	75.00'	S25°02'30"E	10.78'	8°14'25"	10.79'
C57	75.00'	S20°19'09"E	1.58'	1°12'16"	1.58'

LINE TABLE		
LINE	BEARING	LENGTH
L1	S58°16'54"E	68.88'
L4	S58°16'54"E	68.88'
L16	S58°16'54"E	49.98'
L25	N00°05'11"W	25.00'
L29	N89°45'16"E	1.01'

LINE TABLE		
LINE	BEARING	LENGTH
L30	N40°55'09"E	6.26'
L31	N40°55'09"E	12.33'
L32	S45°14'44"E	13.94'
L33	S45°14'44"E	5.86'
L34	N89°45'16"E	52.02'
L35	S89°45'16"W	43.34'
L36	N45°14'44"W	19.80'
L37	S40°55'09"W	18.60'
L38	S89°45'16"W	0.42'



ALLEN & COMPANY
Professional Surveyors & Mappers

Licensed Business # 6723
16 EAST PLANT STREET
WINTER GARDEN, FLORIDA 34787
(407) 654-5355

SHEET INDEX:
SHEET 1 OF 5: LOGICAL DESCRIPTION, DEDICATIONS,
 AND SURVEYOR'S NOTES
SHEET 2 OF 5: OVERALL BOUNDARY AND KEY/INDEX
SHEET 3-5 OF 5: BOUNDARY INFORMATION, CENTERLINE, LOT,
 AND TRACT GEOMETRY (SEE SHEETS 3, 4 & 5)

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CANOPY TERRACE

LYING IN SECTION 6, TOWNSHIP 18 SOUTH, RANGE 31 EAST,
CITY OF DELAND, VOLUSIA COUNTY, FLORIDA

SHEET 4 OF 5

MAP BOOK _____ PAGE _____



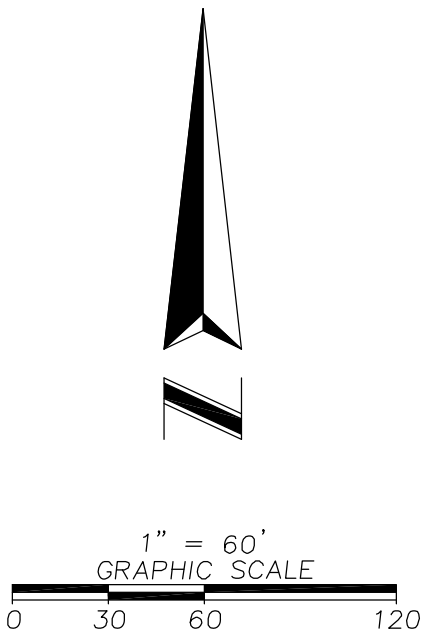
CURVE TABLE					
CURVE	RADIUS	CHORD BEARING	CHORD	DELTA	LENGTH
C18	25.00'	N45°14'44"W	35.36'	90°00'00"	39.27'
C19	25.00'	S44°45'16"W	35.36'	90°00'00"	39.27'
C20	25.00'	S45°14'44"E	35.36'	90°00'00"	39.27'
C22	25.00'	N45°14'44"W	35.36'	90°00'00"	39.27'
C23	25.00'	S44°45'16"W	35.36'	90°00'00"	39.27'
C24	25.00'	S45°14'44"E	35.36'	90°00'00"	39.27'
C29	25.00'	N45°14'44"W	35.36'	90°00'00"	39.27'
C30	50.00'	S43°31'33"E	68.56'	86°33'37"	75.54'
C31	25.00'	N41°14'00"W	32.79'	81°58'31"	35.77'
C32	169.00'	S70°15'05"E	70.10'	23°56'21"	70.61'
C52	50.00'	S54°02'52"E	54.11'	65°30'57"	57.17'
C53	50.00'	S10°46'04"E	18.26'	21°02'39"	18.36'
C54	25.00'	N06°09'01"W	5.14'	11°48'34"	5.15'

LINE TABLE		
LINE	BEARING	LENGTH
L13	N00°14'44"W	9.00'
L14	N89°45'16"E	48.00'
L15	S00°14'44"E	9.09'



Licensed Business # 6723
16 EAST PLANT STREET
WINTER GARDEN, FLORIDA 34787
(407) 654-5355

SHEET INDEX:
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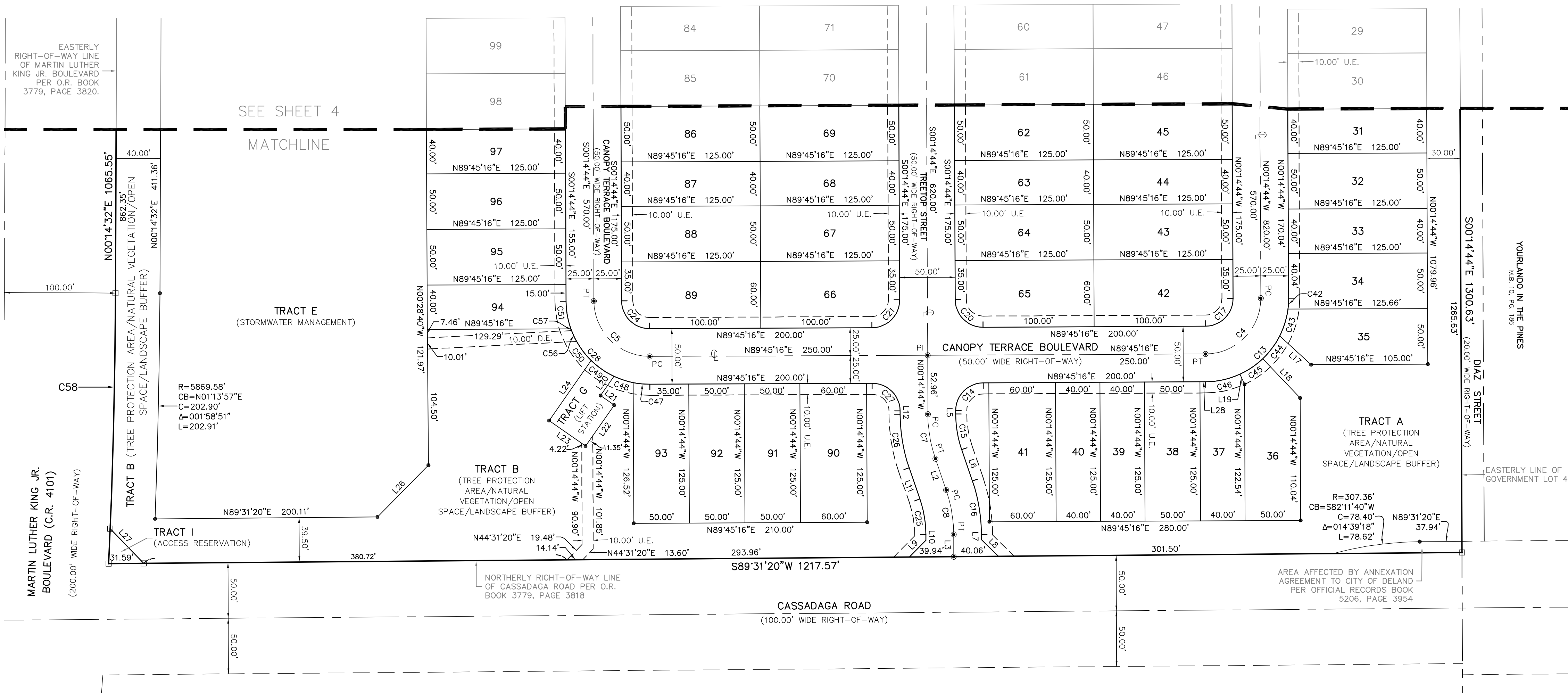
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CANOPY TERRACE

LYING IN SECTION 6, TOWNSHIP 18 SOUTH, RANGE 31 EAST,
CITY OF DELAND, VOLUSIA COUNTY, FLORIDA

SHEET 5 OF 5

MAP BOOK _____ PAGE _____



LINE TABLE		
LINE	BEARING	LENGTH
L2	N18°58'07"W	29.75'
L3	N00°14'44"W	19.87'
L5	N00°14'44"W	2.96'
L6	N18°58'07"W	29.75'
L7	N00°14'44"W	4.71'
L8	S45°21'43"E	21.26'
L9	S44°38'18"W	21.17'
L10	N00°14'44"W	5.04'
L11	N18°58'07"W	29.75'
L12	N00°14'44"W	2.96'

LINE TABLE		
LINE	BEARING	LENGTH
L17	S47°33'38"E	38.29'
L18	S43°37'19"E	48.76'
L19	S24°33'41"E	10.00'
L20	N35°00'24"E	21.10'
L21	N54°59'36"W	15.00'
L22	N35°00'24"E	45.00'
L23	S54°59'36"E	40.00'
L24	S35°00'24"W	66.00'
L26	N44°31'20"E	65.36'
L27	S44°04'35"E	43.45'
L28	N89°45'16"E	5.00'

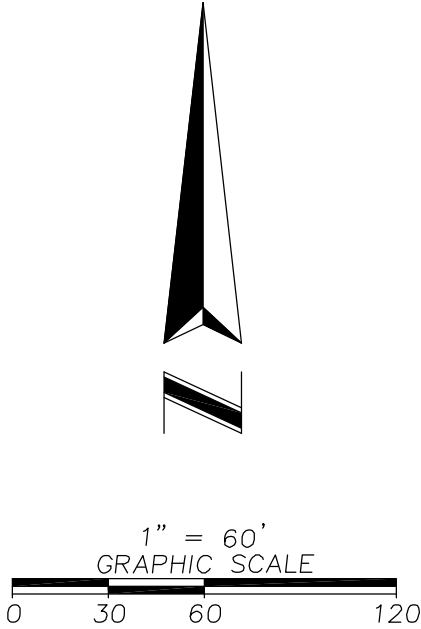
CURVE TABLE				
CURVE	RADIUS	CHORD BEARING	CHORD	DELTA
C4	50.00'	N44°45'16"E	70.71'	90°00'00"
C5	50.00'	S45°14'44"E	70.71'	90°00'00"
C7	125.00'	S09°36'26"E	40.67'	18°43'23"
C8	125.00'	N09°36'26"W	40.67'	18°43'23"
C13	75.00'	N44°45'16"E	106.07'	90°00'00"
C14	25.00'	S44°45'16"W	35.36'	90°00'00"
C15	100.00'	S09°36'26"E	32.53'	18°43'23"
C16	150.00'	N09°36'26"W	48.80'	18°43'23"
C17	25.00'	N44°45'16"E	35.36'	90°00'00"
C20	25.00'	S45°14'44"E	35.36'	90°00'00"
C21	25.00'	N44°45'16"E	35.36'	90°00'00"
C24	25.00'	S45°14'44"E	35.36'	90°00'00"
C25	100.00'	N09°36'26"W	32.53'	18°43'23"
C26	150.00'	S09°36'26"E	48.80'	18°43'23"
C27	25.00'	N45°14'44"W	35.36'	90°00'00"
C28	75.00'	S45°14'44"E	106.07'	90°00'00"
C42	75.00'	N03°34'12"E	9.98'	7°37'53"
C43	75.00'	N17°02'54"E	25.18'	19°19'31"
C44	75.00'	N36°32'40"E	25.62'	19°40'02"
C45	75.00'	N55°54'30"E	24.84'	19°03'38"

CURVE TABLE				
CURVE	RADIUS	CHORD BEARING	CHORD	DELTA
C46	75.00'	N77°35'47"E	31.59'	24°18'57"
C47	75.00'	S84°28'38"E	15.08'	11°32'13"
C48	75.00'	S71°46'19"E	18.12'	13°52'25"
C49	75.00'	S55°14'27"E	25.00'	19°11'18"
C50	75.00'	S37°24'15"E	21.50'	16°29'06"
C51	75.00'	S09°58'53"E	25.37'	19°28'16"
C56	75.00'	S25°02'30"E	10.78'	8°14'25"
C57	75.00'	S20°19'09"E	1.58'	1°12'16"
C58	5829.58'	N01°26'19"E	243.45'	2°23'35"



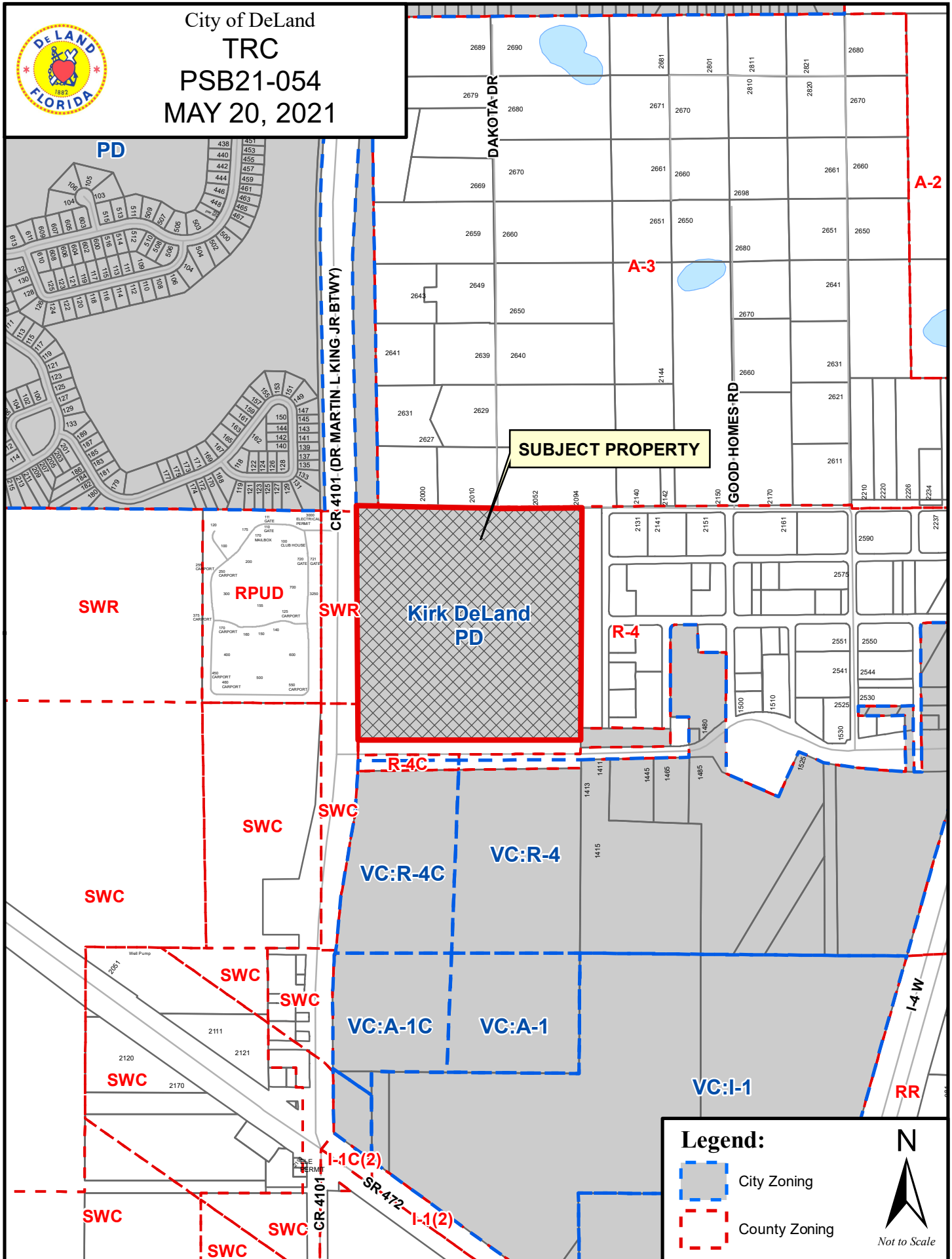
SHEET INDEX:
SHEET 1 OF 5: LEGAL DESCRIPTION, DEDICATIONS,
AND SURVEYOR'S NOTES
SHEET 2 OF 5: OVERALL BOUNDARY AND KEY/INDEX
SHEET 3-5 OF 5: BOUNDARY INFORMATION, CENTERLINE, LOT,
AND TRACT GEOMETRY (SEE SHEETS 3, 4 & 5)

NOTICE:
THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF
THE SUBDIVIDED LANDS DESCRIBED HEREIN AND WILL IN NO CIRCUMSTANCES
BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF
THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED
ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.





City of DeLand
TRC
PSB21-054
MAY 20, 2021



CITY OF DELAND
Request for Commission Action
April 18, 2022

SUBJECT: Consideration re Appointment of City Commission Member to Solid Waste Contract Selection Committee.

DEPARTMENT: Public Works

PREPARED BY: Ray Underwood, Public Works Director

ATTACHMENTS:

APPROVED BY: Michael Pleus, City Manager, April 13, 2022

SUMMARY/HIGHLIGHT:

The current solid waste contract is due to expire in September of 2022.

Staff developed a request for proposal (RFP) for solid waste and recycling services. According to State requirements for expressions of interest, when received, it will need to be reviewed by a selection committee, interviews of a short list of contractors (if deemed necessary), and a final ranking recommended to and approved by the Commission prior to beginning negotiations of a contract.

In the past, the Commission has expressed its desire to appoint a member to serve on a selection committee with members of City staff. The purpose of this RCA is to request the Commission appointment of a board member to serve on the Selection Committee.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

The appointment of a Commission member to serve on selection committee for Solid Waste contract proposals has no immediate fiscal impact.

RECOMMENDATION:

Staff recommends that the City Commission select a member to serve on the selection committee for the Solid Waste contract proposals.

BACKGROUND/DISCUSSION:

N/A