



CITY OF DELAND
REGULAR MEETING OF THE CITY COMMISSION
OCTOBER 17, 2022 AT 7:00 PM
CITY HALL, COMMISSION CHAMBERS
120 SOUTH FLORIDA AVENUE

AGENDA

CALL TO ORDER

INVOCATION-Pastor Kevin Caine, St Paul Community Baptist Church

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENTATIONS

1. Proclamation, The Hue Collective Day.
2. Proclamation, AVM Awareness Month
3. Proclamation, Red Ribbon Week.
4. Fire Department Promotion Ceremony: Kayla Bruce; Justin Bass; Chief Matt Dyer.
5. Employee Years of Service Awards.

CONSENT AGENDA

1. Consideration re Award of Bid, Miscellaneous Right of Way ADA Improvements.

Staff recommends that the City Commission award a Miscellaneous Right of Way ADA Improvements project to Sanderson Concrete of New Smyrna Beach, FL for an amount not to exceed \$59,576.00
2. Consideration re Authorization of Professional Services Agreement Task Order No.6 – 2024 Water Main Improvements Design.

Staff recommends the City Commission authorize Atkins North America, Inc. to perform professional services outlined in Task Order No. 6 for the total amount of \$204,543.
3. Consideration re Second Amendment to Property Access Agreement for Brownfield Program Groundwater Testing.

It is recommended that the City Commission approve the Second Amendment to Property Access Agreement to CR Florida Real Estate, LLC.
4. Resolution Approving "Apgar Sports Complex".

Name the area encompassing Spec Martin Memorial Stadium, Conrad Park, Chipper Jones Family Little League Complex, and Earl Brown Park as the "Apgar Sports Complex".

5. Consideration re MOU Between DeLand Police Department and DeLand Police Athletic League and Amendment to Funding and Operations Agreement.

It is recommended the City Commission approve and execute the MOU Regarding the Employment of a DPAL Director and the Funding and Operations Agreement.

PETITIONS AND REQUESTS FROM THE PUBLIC PRESENT

OLD BUSINESS

1. CONTINUATION of First Reading of Ordinance Amending Land Development Regulations to Address Density Bonus for Affordable Housing.

It is recommended that this item is continued.

NEW BUSINESS

1. First Reading of Ordinance Annexing 4.87 Acres of Property Located at the North East Corner of East Wisconsin Avenue and Miller Road.

This is a request for annexation of 4.87 acres of property on East Wisconsin Avenue for the purposes of developing the property into a residential subdivision which will receive city services.

2. First Reading of Ordinance Changing the Land Use of 4.87 Acres of Property, from Volusia County's Urban Low Intensity to City of DeLand Urban Low Intensity, for Property Located at the North East Corner of East Wisconsin Avenue and Miller Road.

The request is for a land use amendment from VC ULI to City of DeLand ULI for 4.87 acres of property, located on East Wisconsin Avenue.

3. First Reading of Ordinance Changing the Zoning for 4.87 Acres of Property, Located at the NE Corner of E. Wisconsin Ave. and Miller Rd., from Volusia County R-3A to City of DeLand Planned Development (The Canopy at Blue Lake PD).

First Reading of Ordinance rezoning 4.87 acres of property to The Canopy at Blue Lake PD which will set the development standards for a 12-lot single-family residential subdivision.

4. Consideration re Approval Of Disclaimer Of Interest In Right-Of-Way With Exhibit Relating To Property Located Proximate To The Intersection Of East International Speedway Boulevard And North Alabama Avenue.

Approval of Disclaimer of Interest in Right-of-Way.

5. Resolution Approving Demolition of a Building Located at 236 South Alabama Avenue.

This request is for approval to demolish a structure located at 236 S. Alabama Ave. The property owner plans also to demolish the former Save-A-Lot grocery/office building for the development of residential housing in the downtown.

6. Resolution Approving the Removal of One Historic Tree Located in the Right-of-Way at 1521 Wyngate Drive.

The Cheney family has requested approval of the removal of one historic tree located in the City ROW adjacent to their property.

7. Resolution Approving the Removal of One Historic Tree Located at the Proposed DeLand Greenway Trail North Extension Project Located at 610 North Garfield Avenue.

The City has requested approval of the removal of one historic tree located within the impact area of the proposed DeLand Greenway Trail North Extension project located at 610 North Garfield Avenue.

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.



The CITY OF DELAND

Volusia County, Florida

Proclamation

Whereas, The Hue Collective is a non-profit that was born out of the co-founders love for post-production. During A'sia Horne's career as an assistant editor and editor, she noticed the need for more diversity and inclusion in post-production. After teaching in the public-school system in South Florida for a year, she decided to create a non-profit to inspire youth of color to tap into this industry; and

Whereas, in 2019, co-founders A'sia Horne and Keisha Gordon launched the first The Hue Collective bootcamp to teach middle and high schoolers about editing in DeLand, Florida. The program was hosted at the DeLand High School's campus and students learned to use the professional editing software Adobe Premiere. Many of the students who participated in the bootcamp were members of the DeLand Boys and Girls Club; and

Whereas, due to COVID, in 2020, The Hue Collective provided online panels for students to learn about editing positions and successfully launched a six-week virtual camp in partnership with the Media Rhythm Institute in Baltimore allowing the opportunities for students in DeLand and across the nation to learn how to edit in Adobe Premiere; and

Whereas, The Hue Collective Camps teach students to organize their footage from production sets, familiarize them with the professional software called Adobe Premiere and then give them a space to get creative. The camps teach youth of color ages 13-17 and 60% of the students are girls.

Now, therefore, I, Robert F. Apgar, Mayor of the City of DeLand, do hereby proclaim, October 17, 2022 as:

The Hue Collective Day

in the City of DeLand and urge all citizens of DeLand to recognize the innovation and creativity in A'sia Horne and Keisha Gordon for creating and educating through The Hue Collective the youth of today.

Done and proclaimed this 17th day of October 2022.

Robert F. Apgar, Mayor

Attest:

Julie A. Hennessy, City Clerk - Auditor



The CITY OF DELAND

Volusia County, Florida

Proclamation

Whereas, an arteriovenous malformation (AVM) is a complex tangle of arteries and veins that bypasses normal brain tissue and directly diverts blood from the arteries to the veins, potentially resulting in devastating ruptures, seizures or death; and

Whereas, an estimated 18 in 100,000 people in the United States have an AVM in the brain; and

Whereas, after an AVM ruptures there is a 10-15% risk of death and a 20-30% chance of permanent brain damage after each bleed; and

Whereas, approximately 10-58% of AVM patients have various kinds of aneurysms, a weak area in a blood vessel that enlarges like a balloon, and is at risk for bleeding or rupture resulting in possible brain damage or long-term disability; and

Whereas, 50% of AVM patients present as sudden hemorrhage, bleeding in the brain, or a form of stroke; and

Whereas, access to accurate information, expertise, and community to support survivors, caregivers, families and friends, in making educated decisions about treatment and coping can make a critical difference in minimizing risks and increasing the quality of life for those affected; and

Whereas, more research is needed to determine the causes, discover better treatment options, and find a cure for AVM. Increased public awareness is necessary so that individuals are better able to recognize symptoms and understand available resources and options.

Now, therefore, I, Robert F. Apgar, Mayor of the City of DeLand, do hereby proclaim, October 2022 as:

AVM Awareness Month

in the City of DeLand and urge all citizens of DeLand to raise awareness of Aneurysms and AVMs and support efforts being made to help those affected by these brain conditions.

Done and proclaimed this 17th day of October 2022.

Robert F. Apgar, Mayor

Attest:

Julie A. Hennessy, City Clerk - Auditor



The CITY OF DELAND
Volusia County, Florida

Proclamation

Whereas, communities across America have been plagued by the numerous problems associated with illicit drug use and those that traffic in them; and

Whereas, there is hope in winning the war on drugs, and that hope lies in education and drug demand reduction, coupled with the hard work and determination of organizations such as the Young Marines of the Marine Corps League to foster healthy, drug-free lifestyle; and

Whereas, governments and community leaders know that citizen support is one of the most effective tools in the effort to reduce the use of illicit drugs in our communities; and

Whereas, the red ribbon has been chosen as a symbol commemorating the work of Enrique “Kiki” Camarena, a Drug Enforcement Administration agent who was murdered in the line of duty, and represents the belief that one person can make a difference; and

Whereas, the Red Ribbon Campaign was established by Congress in 1988 to encourage a drug-free lifestyle and involvement in drug prevention and reduction efforts; and

Whereas, October 23-31st has been designated National Red Ribbon Week, which encourages Americans to wear a red ribbon to show their support for a drug-free environment.

Now, therefore, I, Robert F. Apgar, Mayor of the City of DeLand, do hereby proclaim the week of October 23-31, 2022 as

National Red Ribbon Week

in the City of DeLand and encourage all citizens to wear a red ribbon to symbolize our commitment to establishing healthy and safe communities for our citizens, especially our children, and to participate in events throughout the week that support positive lifestyles.

Done and proclaimed this 17th day of October 2022.

Robert F. Apgar, Mayor

Attest

Julie A. Hennessy, City Clerk - Auditor

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Employee Years of Service Awards.

DEPARTMENT: Human Resources

PREPARED BY: Mark Hayward, HR Director

ATTACHMENTS:

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The City of DeLand is fortunate to have so many dedicated employees who have served the DeLand community for many years. To honor these outstanding employees, the City Commission presents them with a plaque.

20 Years of Service:

Chris Jusick, Police Department

Rober Walker, Fire Department

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

N/A

SUSTAINABILITY:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

It is recommended the City Commission present the service awards

BACKGROUND/DISCUSSION:

N/A

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Consideration re Award of Bid, Miscellaneous Right of Way ADA Improvements.

DEPARTMENT: Public Works

PREPARED BY: Ray Underwood, Public Works Director

ATTACHMENTS: BID TABULATION

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The Public Works Department has identified a number of sidewalk curb ramps and sidewalk segments throughout the City which need to be improved to meet requirements of the Americans with Disabilities Act (ADA). Ramps in these areas do not meet the current dimensional requirements or cross slope requirements and are considered non-compliant.

Staff formulated a list of priority improvements needed within the Community Development Block Grant (CDBG) target areas. Plans and specifications were prepared and the project was bid via the local news media and the internet-based DemandStar System. A total of four (4) bids were received as indicated on the attached bid tabulation.

Targeted areas will be in the following locations.

- Intersections along N Stone St from W Minnesota Ave to W Oakdale Ave.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Creating the Connected Community

SUSTAINABILITY:

Mobility

FISCAL IMPACT:

Award to the low bidder, Sancerson Concrete of New Smyrna Beach, FL, will result in an expenditure of \$59,576.00. Staff notes that this amount is based on the sum of extended unit prices with quantities which were estimated by Staff. Community Development Block Grant funds in the amount of \$120,000.00 are available for this project.

RECOMMENDATION:

Staff recommends that the City Commission award the Miscellaneous Right-of-Way ADA Improvements project to Sanderson Concrete of New Smyrna Beach, FL, for an amount not to exceed \$120,000.00

BACKGROUND/DISCUSSION:

N/A

B-22-18
Stone Street ADA Improvements
Bid Tabulation

FDOT ITEM NO.	ITEM DESCRIPTION	UNIT	QUANTITY	AJ General Construction Services Inc.		Garcia Civil Contractors		P&S Paving, Inc.		Sanderson Concrete Construction	
				UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE	UNIT PRICE	EXTENDED PRICE
102-99	CHANGEABLE VARIABLE MESSAGE SIGN (TEMPORARY) EACH DAY	ED	30	\$14.27	\$428.10	\$25.00	\$750.00	\$50.00	\$1,500.00	\$50.00	\$1,500.00
110-4-1	REMOVAL OF EXISTING CONCRETE SIDEWALK AND DRIVEWAY	SY	333	\$45.54	\$15,164.82	\$29.33	\$9,766.89	\$120.00	\$39,960.00	\$20.00	\$6,660.00
520-2-4	CONCRETE CURB, TYPE D	LF	20	\$263.88	\$5,277.60	\$88.85	\$1,777.00	\$180.00	\$3,600.00	\$35.00	\$700.00
522-1	CONCRETE SIDEWALK 4" THICK	SY	321	\$100.70	\$32,324.70	\$67.51	\$21,670.71	\$135.00	\$43,335.00	\$60.00	\$19,260.00
522-2	CONCRETE SIDEWALK 6" THICK	SY	12	\$374.10	\$4,489.20	\$100.39	\$1,204.68	\$284.50	\$3,414.00	\$63.00	\$756.00
527-2	DETECTABLE WARNINGS (PERFORMED THERMOPLASTIC)	SF	285	\$29.73	\$8,473.05	\$28.75	\$8,193.75	\$28.25	\$8,051.25	\$25.00	\$7,125.00
570-1-2	PERFORMANCE TURF, SOD	SY	35	\$12.61	\$441.35	\$127.41	\$4,459.35	\$62.25	\$2,178.75	\$5.00	\$175.00
700-1-50	SINGLE POST SIGN (RELOCATE)	EA	10	\$366.30	\$3,663.00	\$400.00	\$4,000.00	\$212.00	\$2,120.00	\$50.00	\$500.00
700-11-123	THERMOPLASTIC, STANDARD, WHITE, SOLID, 12" CROSSWALK	LF	635	\$3.66	\$2,324.10	\$5.00	\$3,175.00	\$6.00	\$3,810.00	\$8.00	\$5,080.00
700-11-125	THERMOPLASTIC, STANDARD, WHITE, SOLID, 24" STOP BAR	LF	110	\$6.11	\$672.10	\$8.00	\$880.00	\$11.00	\$1,210.00	\$12.00	\$1,320.00
101-1	MOBILIZATION (10%)	LS	1	\$7,326.00	\$7,326.00	\$5,300.00	\$5,300.00	\$16,750.00	\$16,750.00	\$7,500.00	\$7,500.00
102-1	MAINTENANCE OF TRAFFIC (20%)	LS	1	\$14,652.00	\$14,652.00	\$9,000.00	\$9,000.00	\$33,500.00	\$33,500.00	\$4,000.00	\$4,000.00
110-3-1	CLEARING AND GRUBBING (5%)	LS	1	\$3,662.00	\$3,662.00	\$2,500.00	\$2,500.00	\$8,250.00	\$8,250.00	\$5,000.00	\$5,000.00
				\$98,898.02		\$72,077.38		\$167,679.00		\$59,576.00	

*Note: All bids are subject to review and tabulation is not final.

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Consideration re Authorization of Professional Services Agreement Task Order No.6 – 2024 Water Main Improvements Design.

DEPARTMENT: Utilities

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

ATTACHMENTS: Task Order 6 - 2024 Water Mains Improvements

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The FY 22/23 budget includes several water pipeline construction projects which have been identified as necessary to loop existing water mains and replace undersized lines in order to provide better water circulation and pressure, or to extend lines to areas previously underserved. Once completed, these projects are expected to improve the water system's performance and increase customer satisfaction with the potable water product they receive.

In December 2017, the City Commission approved a continuing professional services contract with Atkins North America, Inc. who provided the attached proposal (Task Order No. 6) for survey and subsurface investigation to locate and identify underground piping, design, permitting, as well as bid phase, construction administration, and (limited) construction phase inspection services.

The proposed water main reinforcement projects include pipelines throughout our service area. They are identified by sketches in the attached Task Order No. 6.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Preparing for the future/Sustainability

SUSTAINABILITY:

N/A

FISCAL IMPACT:

A total of \$350,000 is included in the current fiscal year budget to design and permit these projects.

Proposed fees for professional services associated with this project, including project management, design, permitting, bid phase services, construction phase services, subsurface investigations, and surveying total \$204,543.

RECOMMENDATION:

Staff recommends the City Commission authorize Atkins North America, Inc. to perform professional services outlined in Task Order No. 6 for the total amount of \$204,543.

BACKGROUND/DISCUSSION:

Staff has reviewed and negotiated the proposed professional services fee for Task Order No. 6. Staff believes that the fees proposed are consistent with those paid in the past for similar projects to this and other utility consultants.

Task Order No. 6
To
Agreement For Professional Services
Between
The City of DeLand and Atkins North America, Inc.

2024 Water Main Improvements

THIS TASK ORDER, made and entered into this _____ day of _____ 2022, by and between **the City of DeLand**, Florida, hereinafter referred to as the “CITY” and Atkins North America, Inc. hereinafter referred to as “**ATKINS**”, is issued under the terms of the Agreement For Professional Services between the CITY and ATKINS dated December 18, 2017, hereinafter referred to as the “Agreement”.

WHEREAS, the Agreement provides for ATKINS to be authorized to perform Design and Construction Engineering Services, the CITY and ATKINS, for mutual consideration, agree as follows:

Project Description

The 2024 Water Main Improvements (PROJECT) consists of 4 separate water main improvements to be designed, permitted, bid, and constructed as one project at the following locations within the CITY:

1. Part A – Garfield Avenue and Clearview Avenue Water Main Reinforcement: There is an existing 12-inch water main along Garfield Avenue and an existing 6-inch water main on Clearview Avenue. The proposed potable water main is approximately 320 LF. The proposed 6-inch water main will be installed between Garfield Avenue and Clearview Avenue. The City will be designing this portion. Atkins will provide surveying services via subconsultant. The proposed potable water main improvements include the areas as shown on the project map (**Attachment A**).
2. Part B – West Palmetto/North Street/North Clara/North Florida Water Main Reinforcement: There is an existing 8-inch potable water main on Lake Gertle Road, an existing 12-inch potable water main on North Florida Avenue, and an existing 6-inch potable water main on Woodland Boulevard. This project includes providing approximately 4,000 LF of potable 6-inch along West Palmetto Avenue, North Street, North Clara Avenue, and North Florida Avenue. The proposed 6-inch potable water main would be installed via open trench construction and horizontal directional drill construction, including the connections to the existing 8-inch water main on Lake Gertle Road, the existing 12-inch water main on North Florida Avenue, and the existing 6-inch water main on Woodland Boulevard. New fire hydrants and isolation valves will be provided as part of this project. New water services will be installed. In areas where existing meters are located the City will disconnect the existing service from the existing water main and connect the new service from the new water main. In areas where are no existing meters, the new water services will be buried and marked for connection in the future by the City. The proposed potable water main improvements include the areas as shown on the project map (**Attachment B**).
3. Part C – Lake Ruby/Krinklewood Drive/Ridge Boulevard Water Main Reinforcements: There is an existing 12-inch potable water main along Lake Ruby Road which this project will connect to. This project includes providing proposed approximately 1,500 LF of 6-inch potable water main and 2,800 LF of 12-inch potable water main.. The proposed 6-inch and 12-inch potable water main would be installed via open trench and horizontal directional drill construction, including the connection to the existing 12-inch water main. New fire hydrants and isolation valves will be provided as part of this project. New water services will be installed. In areas where existing meters are located the City will disconnect the

existing service from the existing water main and connect the new service from the new water main. In areas where there are no existing meters, the new water services will be buried and marked for connection in the future by the City. The proposed potable water main improvements include the areas as shown on the project map (**Attachment C**).

4. Part D – Wilmhurst Road and Shane Drive Water Main Reinforcement: There is an existing 8-inch potable water main along Glenwood Road and Mercer’s Fernery Road which this project will connect to at two locations. This project includes providing proposed 6-inch potable water mains along Wilmhurst Road and Shane Drive. The proposed 6-inch potable water main is approximately 3,500 LF. The proposed potable water main would be installed via open trench and horizontal directional drill construction. New fire hydrants and isolation valves will be provided as part of this project. New water services will be installed. In areas where existing meters are located the City will disconnect the existing service from the existing water main and connect the new service from the new water main. In areas where there are no existing meters, the new water services will be buried and marked for connection in the future by the City. The proposed potable water main improvements include the areas as shown on the project map (**Attachment D**).
5. Part E – West Parkway/Oleander Road/W. Orange Road/W. Park Road Water Main Reinforcement: There is an existing 6-inch potable water main along Third Road which this project will connect to at three locations. This project includes providing proposed 6-inch potable water mains along West Parkway, Oleander Road, and W. Orange Road and a proposed 12-inch water main along W. Park Road. The proposed 6-inch potable water main is approximately 2,200 LF and the proposed 12-inch potable water main is approximately 800 LF. The proposed potable water main would be installed via open trench and horizontal directional drill construction. New fire hydrants and isolation valves will be provided as part of this project. New water services will be installed. In areas where existing meters are located the City will disconnect the existing service from the existing water main and connect the new service from the new water main. In areas where there are no existing meters, the new water services will be buried and marked for connection in the future by the City. The proposed potable water main improvements include the areas as shown on the project map (**Attachment E**).
6. Part F – Shell Road/Candy Lane/Fishing Lane Water Main Reinforcement - There is an existing 6-inch water main along Shell Road. The proposed potable water main is approximately 1,800 LF of 6-inch potable water main and 1,600 LF of 4-inch potable water main. The City will be designing this portion. Atkins will provide surveying services via subconsultant. The proposed potable water main improvements include the areas as shown on the project map (**Attachment F**).

ATKINS will provide design, permitting, bidding phase, and limited construction phase services. The CITY will advertise and award the construction contract as well as provide onsite RPR services.

Survey

The survey encompasses the following:

- Part A – Garfield Avenue and Clearview Avenue Water Main Reinforcement as shown on **Attachment A**. Survey to include full width right of way plus 10 feet on each side of the right of way.
- Part B – West Palmetto/North Street/North Clara/North Florida Water Main Reinforcement as shown on **Attachment B**. Survey to include full width right of way plus 10 feet on each side of the right of way.
- Part C – Lake Ruby/Krinklewood Drive/Ridge Boulevard Water Main Reinforcements as shown on **Attachment C**. Survey to include full width right of way plus 10 feet on each side of the right of way.
- Part D – Wilmhurst Road and Shane Drive Water Main Reinforcement as shown on **Attachment D**.

- Part E – West Parkway/Oleander Road/W. Orange Road/W. Park Road Water Main Reinforcement: as shown on **Attachment E**. Survey to include full width right of way plus 10 feet on each side of the right of way.
- Part F – Shell Road/Candy Lane/Fishing Lane Water Main Reinforcement as shown on **Attachment F**.
- Test Holes – Up to 32 test holes (26 in unpaved areas and 6 in paved areas) will be requested at located determined by the Engineer and Owner.

Survey will be completed by a subconsultant. See Task 4.0 for the Subconsultant's Scope of Work.

The specific tasks to be performed and the anticipated level of effort are presented in the attached Project Budget (**See Attachment G**) and are described below. Assumptions made in the preparation of the scope of work have been delineated in this document and the Project Budget, herein attached.

TASK GROUP 1.0 – PROJECT MANAGEMENT

1. Project Management – ATKINS's project manager will manage the efforts of the project team including subconsultants contracted by ATKINS, coordinating quality assurance and control reviews, and monthly progress reporting to the CITY. At each monthly period, the project manager will review progress and schedule as defined herein for reporting purposes.
2. Initial Site Assessment – The ATKINS team will conduct one initial site visit to familiarize team members with the project objectives and site constraints, including potential utility conflicts.
3. Coordinate Site Visits, Meetings & Teleconferences – ATKINS will coordinate with the CITY project site visits, meetings and teleconferences as described herein. Meeting summaries will be prepared by ATKINS.
4. Coordinate with subconsultants and review deliverables from subconsultants.

TASK GROUP 2.0 – FINAL DESIGN

1. Obtain and review available data from the CITY.
2. Coordinate with the utility companies (Progress Energy, Florida Public Utility, City of DeLand, Brighthouse Networks, and Southern Bell) to obtain their record location of underground utilities in the project area. ATKINS will rely on the information without an independent verification.
3. Incorporate CITY comments and prepare construction drawings to the 60% and 90% completion level. It is anticipated that forty (40) drawings will be prepared as follows:
 - a. Four (4) general drawings consisting of a Cover Sheet/Location Map/Drawing Index, General Notes, Standard Abbreviations, and Drafting Legend.
 - b. Thirty (30) plan drawings showing the existing and proposed water main improvements. The scale will be 1" = 20' horizontal. Profiles will not be provided. Areas of conflict and areas crossing Volusia County Roadways will be detailed in individual sections.
 - c. Eight (8) detail drawing sheets, including two (2) sheets for intersection crossings, two (2) sheet for maintenance of traffic (MOT) per Volusia County Developmental Engineering, and four (4) sheets for standard construction details.

4. Prepare specifications at the 60% and 90% completion level, including the Bid Form and Divisions 0 through 16 for the project. ATKINS will use General Conditions from the National Society of Professional Engineers for the Engineers' Joint Contract Documents Committee (EJCDC), 2007 edition.
5. Perform internal quality control (QC) review and incorporate QC comments prior to 60% and 90% submittal.
6. Submit 60% (drawings only) and 90% complete documents (drawings, specifications) to the CITY.
7. Meet with the CITY to review the 60% and 90% documents.
8. Receive final comments from CITY and prepare Bid Ready documents.
9. Perform internal quality control review of Bid Ready submittal.
10. Submit Bid Ready documents to CITY.

TASK GROUP 3.0 – PERMITTING

1. Prepare and submit four (4) Volusia County Health Department “Notice of Intent to Use the General Permit for Construction of Water Main Extensions for PWSs” permit applications and support data for CITY signature. It is anticipated that VCHD will require one permit for each section of this project. CITY will submit permit application and fees to Volusia County Health Department.
2. Provide additional data as requested by the Volusia County Health Department and resubmit.
3. Prepare four (4) permit application submittal package to Volusia County Developmental Engineering for Right of Way Use Permit for review and comment for work within the County Road right-of-way. CITY will submit permit application and fees to Volusia County Development Engineering after CITY signs permit application.
4. Provide additional data as requested by Volusia County and resubmit.
5. Prepare one (1) permit application submittal package to Florida Department of Transportation (FDOT) for Utilities Permit for review and comment for work within the FDOT right-of-way. CITY will submit permit application and fees to Volusia County Development Engineering after CITY signs permit application.
6. Provide additional data as requested by FDOT and resubmit.

TASK GROUP 4.0 –Topographic Survey

ATKINS will provide surveying services through the use of Blackwell and Associates Land Surveyors, Inc. as a subconsultant. See **Attachment G** for the surveyor’s proposal.

Provide a topographic survey and establish the apparent right of way line in accordance with Chapter 61G17-6 of the Florida Administrative Code pursuant to Chapter 472.027, Florida Statutes to include the following:

- a. Prepare a topographic survey with 1 foot contours for two areas lying within the DeLand service

area. Refer to the project area maps included in **Attachments A, B, C, D, E, and F**.

All work performed will be within the platted or prescriptive rights of way with the exception of where a utility may be located outside of said rights of way.

- b. Full right-of-way route survey plus 10 feet on each side of the right of way mentioned in the project description of this task order. Note all breaks in grade.
- c. Baseline for route will be prepared. A minimum of two (2) benchmarks every 1000 feet and one (1) at the beginning and end of each route, will be established and labeled for future construction.
- d. Horizontal and vertical control will be based on NAD 83 (1990 adjustment), State Plane Coordinates for the Florida East Zone and NAVD 1988 datums respectively.
- e. Identify and locate structures, utility features, equipment, centerline and edges of pavement, underground utility locations indicators and markers, driveways, signs, valve boxes, culverts, power poles, manholes, and all other existing equipment. Note any breaks in grade.
- f. Locate all manholes, including gravity sewer, stormwater, drainage, telephone, fiber, etc. as indicate top of rim elevations, pipe size, and inverts.
- g. Locate all electrical pull boxes/concrete vaults, electrical/fiber optic conduit, and concrete encasement for electrical or fiber optic conduits. Include top and bottom elevations for the concrete encasement, invert elevations of conduit that is not encased, rim elevation of pull boxes/concrete vaults.
- h. Locate and identify all underground utilities as marked by the designated utility owner's representative, to include the City of DeLand.
- i. Scale will be 1"=20' and will be provided in AutoCAD 2007.
- j. Three (3) signed and sealed sets of drawings and one (1) CD containing a drawing file and all electronic files associated with the project.

TASK GROUP 5.0 –Subconsultant Test Holes

ATKINS will provide test hole services through the use of Blood Hound Underground Utility Locates as a subconsultant to Blackwell and Associates. See **Attachment I** for the subconsultants test hole proposal.

Provide subsurface Utility Verification (Penetrating) as follows:

- a. Coordinate Sunshine 811 and utility locates to include supplemental calls to each locator to expedite the field marking of each subsurface utility as required by law.
- b. Expose the subject utilities by using non-destructive vacuum excavation methods at approximately **thirty two (32), twenty six (26) in grass and six (6)) in asphalt** specific locations to be determined by the Engineer of Record.

- c. Confirm/determine the vertical and horizontal position of the subject utilities and record the information, using the locate marks provided by the utility owners and/or their representatives unless otherwise specifically requested by the client.
- d. Any asphalt/concrete removed will be repaired using like materials.
- e. Tie each test hole location to a minimum of three visible physical features to enable this data to be added to your base map and also enable future recovery.
- f. Collect/survey the location of each Test Hole using GPS or conventional surveying equipment, with control furnished by the surveyor.
- g. One (1) test hole reports with sketches of each test hole performed in the project area reflecting all pertinent data for your use.

DELIVERABLES

ATKINS will provide to CITY the following deliverables:

- One (1) full-size and one (1) half size copies of the 60% submittal, drawings only.
- One (1) full-size and one (1) half size copies of the 90% submittal drawings and one (1) bound set of 90% specifications. The Consultant will provide electronic files containing the Bid Ready drawings and specifications in PDF format.
- One (1) full size and one (1) half size copies of Bid Ready drawings and one (1) bound set of bid ready specifications. The Consultant will provide electronic files containing the Bid Ready drawings and specifications in PDF format.
- Three (3) full size sets and three (3) half size sets of construction drawings as well as six (6) set of bound specifications marked "For Construction". All hard copies of the construction drawings and specifications will be distributed to CITY and CONTRACTOR. The Consultant will provide electronic files of the "For Construction" drawings and specifications in PDF format.

SPECIAL PROVISIONS

The following Special Provisions, if any, shall qualify or supplement any provision in this Task Order, and shall override and take precedence over any provisions with which they may be in conflict:

1. Bid Phase Services and Construction Phase Services will be provided under a separate task order
2. It is assumed that no additional users will be added to any of the proposed water main constructed during this project.
3. The size of the existing potable water mains and sanitary sewer mains will be provided by the CITY.
4. Based on our current understanding of the utility routes, we assume the site is environmentally clean and ecologically clear.
5. Utility easements, title review and title search work are not included. CITY will provide title search for right-of-way and/or easements for all areas of construction not covered by Volusia County recorded plat

records or Volusia County right-of-way maps. ATKINS can provide the services of a title company to research existing right-of-way or easements for the above mentioned streets upon written request from the CITY and upon agreement on an appropriate Scope and Fee.

6. Horizontal control will be based on Florida State Plane coordinates.
7. Vertical control will be relative to the National American Vertical Datum (NAVD) of 1988, based on published benchmarks.
8. Right-of-way lines will be per recorded subdivision plat(s).
9. Services by ATKINS, to satisfy Volusia County requirements regarding Maintenance of Traffic plans prepared by the Contractor shall be considered additional services to this agreement and an appropriate scope and fee commensurate to the tasks, if required, shall be provided to the CITY at that time for authorization.
10. Once the Scope of Work is initiated, any changes requested by the CITY will be handled through a Change of Scope with an appropriate fee commensurate with the Task.
11. Permit application fees shall be paid by the CITY.

INFORMATION AND SERVICES TO BE PROVIDED BY THE CITY

- CITY will provide ATKINS with the following information and services at the time of notice to proceed and ATKINS may reasonably rely on this information for use on the project:
- Access to CITY facilities and properties.
- All existing permits and regulatory correspondence related to the project.
- Copies of existing drawings and plans for the areas of the proposed improvements.
- Water lines and water service connections to be marked by the CITY prior to the survey. Sanitary sewers, service connections and force mains to be marked by the CITY prior to the survey.
- Provide contact name and phone numbers, if available, for the utility systems located within the PROJECT area, including telecommunications and electric power systems.
- Provide ATKINS copies of easements, rights-of-way, and agreements related to the site.
- Review and approve submittals made by ATKINS to CITY as set forth herein in a timely manner. All comments shall be provided to ATKINS in written form by the CITY.
- Pay all required permit application fees for the PROJECT.
- Provide assistance and/or services for activities not defined herein but related to the Project.
- CITY agrees to incorporate language requiring that Contractor indemnify CITY and ATKINS in Contractor's liability policy, naming both CITY and ATKINS as additional insureds as part of the Construction Contract Documents.

SCHEDULE

The services described above are anticipated to be completed in accordance with the following summary. Unless noted otherwise, all time durations listed below are calendar days measured from the date upon which ATKINS receives the authorization to proceed for each phase of work. Surveyor expected to begin within 30 days after ATKINS receives the authorization to proceed.

- The 60% documents will be submitted to CITY for review within 90 days after the receipt of Notice to Proceed (NTP) from the CITY or 60 days after the receipt of the survey, whichever occurs later.
- The 90% documents will be submitted to CITY for review within 45 days after the receipt of CITY's comments on the 30% documents.
- The Final Contract Documents (Bid Ready submittal of plans and specifications), will be submitted to CITY for use in Bidding Phase within 30 days after the receipt of CITY's 90% review comments.
- All permit applications will be submitted to the respective regulatory agencies after the 90% review meeting and prior to the submittal of the Bid Ready Contract Documents to the CITY.

SUBCONSULTANTS

ATKINS will use the services of specialized Subconsultant(s).

- Blackwell and Associates Land Surveyors, Inc. – Topo Survey
- Blood Hound Underground Utility Locates – Test Holes

COMPENSATION

ATKINS will be paid a lump sum fee of \$ **204,542.50** for the services described herein. Monthly progress payments will be utilized, based on the percent complete as established by ATKINS. The attached Project Budget (**Attachment G**) represents the basis for this fixed price lump sum fee.

Other Provisions

All exclusions and additional provisions agreed to in the original Agreement are to remain in full effect during the implementation of Project activities. Certain assumptions have been made in preparing this Scope of Services. To the extent possible, they are stated herein and are reflected in the budget for services.

Agreed to by:

Atkins North America

City Of DeLand



Matthew Taylor, PE
Senior Division Manager

Robert F. Apgar
Mayor

10-5-2022

Date

Date

Attest

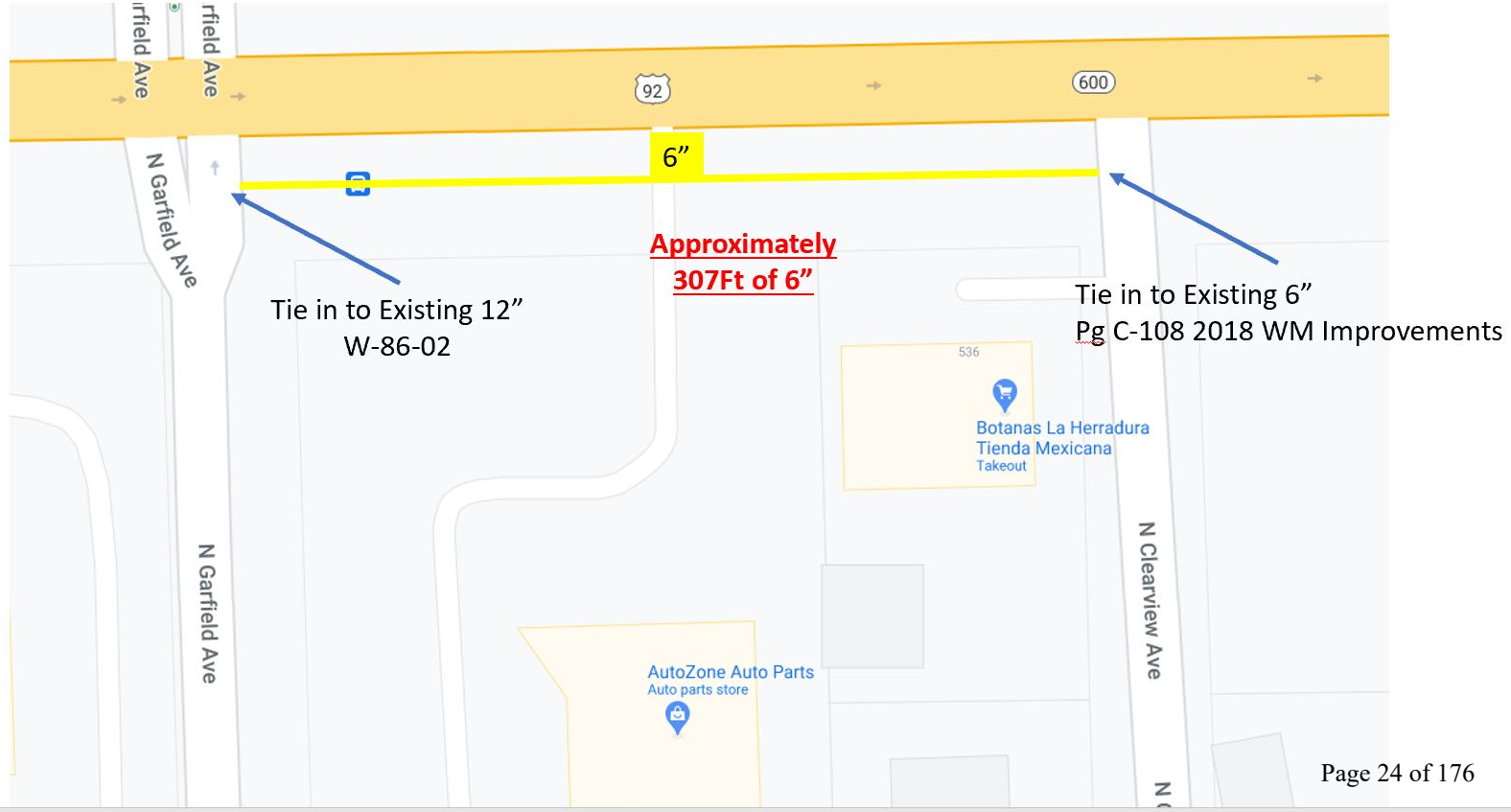
Julie Hennessy
City Clerk

Date

Attachment A – Project Map – Part A – Garfield Avenue and Clearview Avenue WM Reinforcement
Attachment B – Project Map – Part B – W. Palmetto/North Street/N. Clara/N. Florida WM Reinforcement
Attachment C – Project Map – Part C – Lake Ruby/Krinklewood Drive/Ridge Blvd WM Reinforcement
Attachment D – Project Map – Part D – Wilmhurst Road and Shane Drive WM Reinforcement
Attachment E – Project Map – Part E – West Parkway/Oleander Rd/Orange Rd/ Park Road WM Reinforcement
Attachment F – Project Map – Part F – Shell Road/Candy Lane/Fishing Lane Water Main Reinforcement
Attachment G – Project Budget
Attachment H – Subconsultant Topo Survey
Attachment I – Subconsultant Survey Test Holes

Attachment A
Project Map – Part A
Garfield Avenue and Clearview Avenue WM Reinforcement

Garfield Ave & Clearview Ave 6" Reinforcement Part A



Attachment B
Project Map – Part B
W. Palmetto/North Street/N. Clara/N. Florida WM Reinforcement

West Palmetto Ave / North Street / North Clara / North Florida 6" Reinforcement
Part B

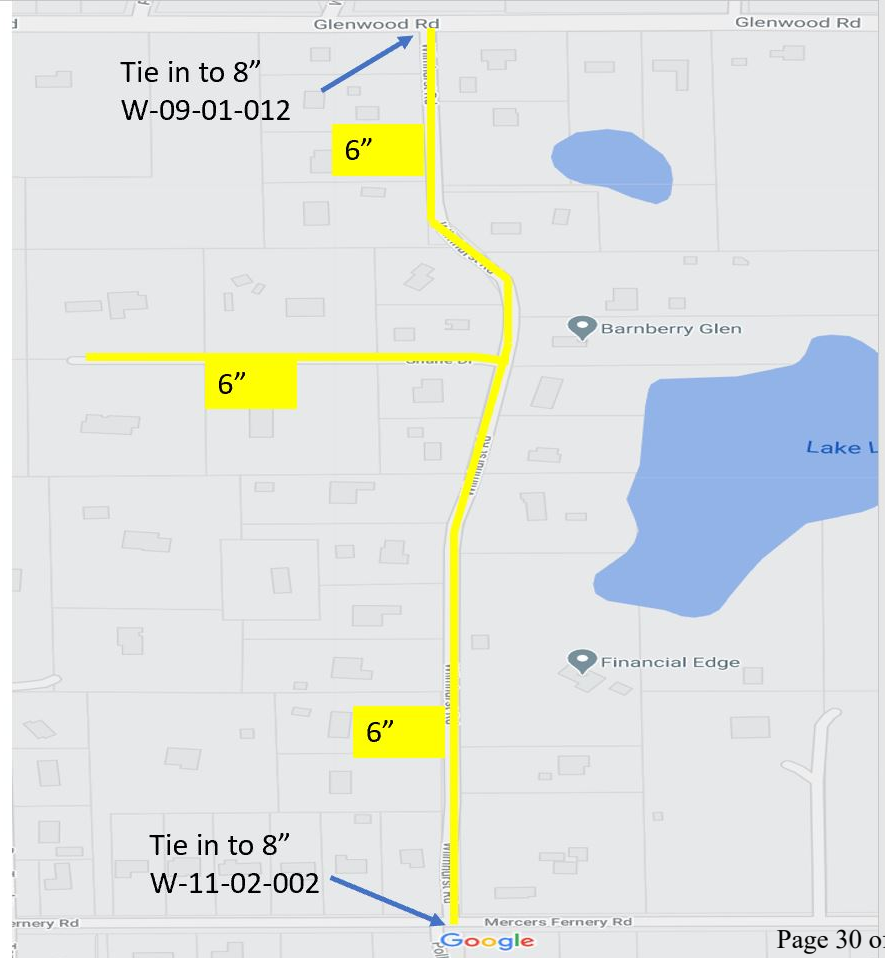


Attachment C
Project Map – Part C
Lake Ruby/Krinklewood Drive/Ridge Blvd WM Reinforcement

Attachment D
Project Map – Part D
Wilmhurst Road and Shane Drive WM Reinforcement

Wilmhurst Rd & Shane Dr 6" Reinforcement
Part D

Approximately
3,453Ft of 6"



Attachment E
Project Map – Part E
West Parkway/Oleander Road/W. Orange Road/W. Park Road WM
Reinforcement

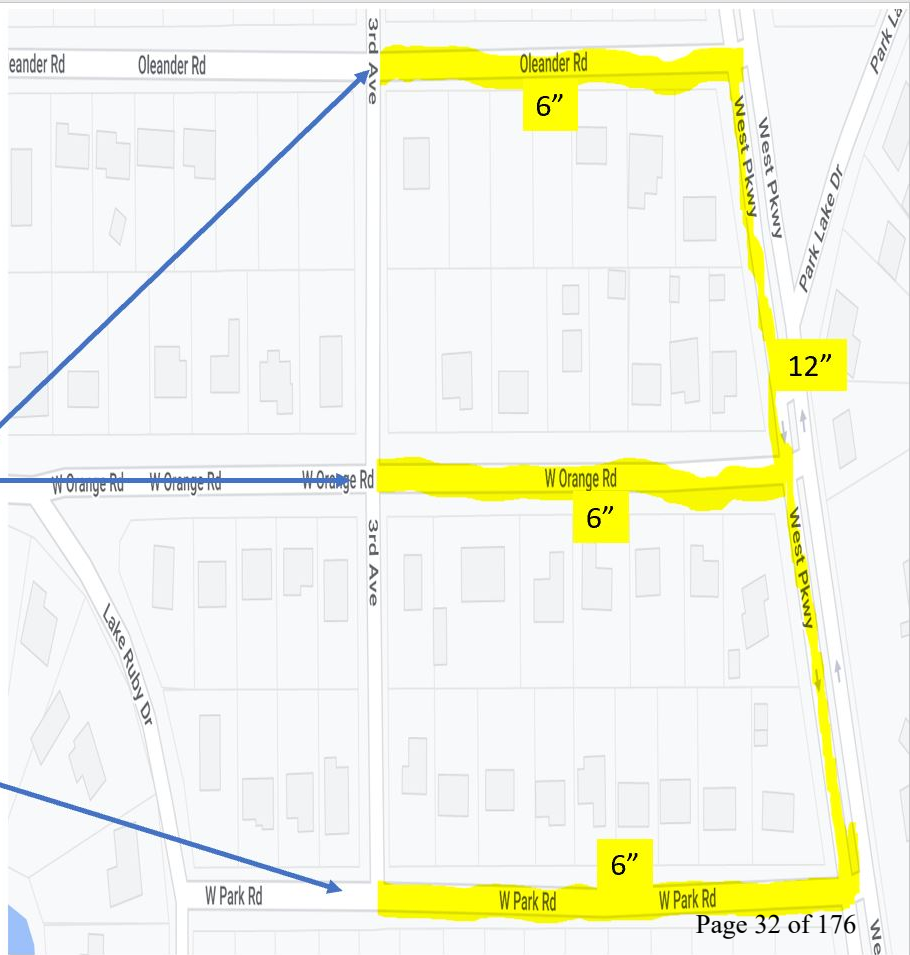
W Parkway / Oleander Rd / W Orange / W Park Rd/
12" & 6" Reinforcement
Part E

Approximately
2,177Ft of 6"

Approximately
800Ft of 12"

Tie in to Existing 6"
2019 WM
Improvement

Tie in to Existing 6"
2021 WM
Improvement



Attachment F
Project Map – Part F
Shell Road/Candy Lane/Fishing Lane Water Main Reinforcement

N She
N Shell Rd/ Fishing Ln / Candy Ln
6" & 4" Reinforcement
Part F

Approximately
1,758Ft of 6"

Approximately
1,562Ft of 4"



Attachment G Project Budget



Member of the SNC-Lavalin Group

Cost Proposal - Detail

2024 WM Improvements

City of DeLand

(Contract #)

Submittal Date: Jan-00-1900

Task#	Resource Category	Description	O/H Pool	Rate	Unit	Qty	Extended Price
1	Project Management						

Labor

Project Manager - PM	Home	200.00	Hr	72.0	14,400.00
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Labor Total	72	14,400.00
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ODCs	200.0	200.00
------	-------	--------

Copies & Prints	1.0	LS	200.0	200.00
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Subcontract and Expenses Total	200.00
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1	Project Management Total	14,600.00
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2 Final Design

Labor

Sr Engineer IV	Home	230.00	Hr	32.0	7,360.00
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Project Manager - ENG	Home	200.00	Hr	68.0	13,600.00
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Engineer III	Home	125.00	Hr	236.0	29,500.00
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Sr Designer I	Home	125.00	Hr	320.0	40,000.00
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Admin Coordinator	Home	80.00	Hr	34.0	2,720.00
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Labor Total	690	93,180.00
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ODCs	1,100.0	1,100.00
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Copies & Prints	1.0	LS	1,100.0	1,100.00
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Subcontract and Expenses Total	1,100.00
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2	Final Design Total	94,280.00
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3 Permitting Services

Labor



Member of the SNC-Lavalin Group

Cost Proposal - Detail

2024 WM Improvements

City of DeLand

(Contract #)

Submittal Date: Jan-00-1900

Task#	Resource Category	Description	O/H Pool	Rate	Unit	Qty	Extended Price
		Project Manager - ENG	Home	200.00	Hr	46.0	9,200.00
		Engineer III	Home	125.00	Hr	56.0	7,000.00
		Sr Designer I	Home	125.00	Hr	24.0	3,000.00
Labor Total						126	19,200.00
ODCs							900.00
		Copies & Prints		1.0	LS	900.0	900.00
Subcontract and Expenses Total							900.00
3	Permitting Services Total						20,100.00
4	Support Services - Topo Survey						
Subcontract & Consultants							52,537.50
		Survey		1.0	LS	52,537.5	52,537.50
Subcontract and Expenses Total							52,537.50
4	Support Services - Topo Survey Total						52,537.50
5	Support Services - Test Holes						
Subcontract & Consultants							23,025.00
		Survey		1.0	LS	23,025.0	23,025.00
Subcontract and Expenses Total							23,025.00
5	Support Services - Test Holes Total						23,025.00
Total Extended Price							204,542.50

Attachment H

Subconsultant Topo Survey

Blackwell & Associates
LAND SURVEYORS, INC

Phone: (386) 734-8050
Fax: (386) 734-7660
Website: blackwellsurveying.com

Office Address
995 West Volusia Avenue
DeLand, Florida 32720

Surveying Central Florida since 1979

September 13, 2022

Chad Seltzer, P.E.
Atkins
482 S. Keller Road
Orlando, FL 32810

**Proposal for Specific Purpose Survey for the City of Deland - Water Main 2024 Part A-F
(18,258 LF +/-)**

Dear Chad,

Blackwell & Associates is pleased to submit this proposal of professional land surveying services to you for the above-referenced project.

This firm will provide a Specific Purpose Survey for Right of Way, Utility Location and Topographical Survey in the specific areas described in the email as Part A. The survey will be done in accordance with the scope of services provided in Exhibit "A."

Part A = \$2,075.00
Part B= \$10,917.50
Part C = \$11,635.25
Part D = \$9,495.75
Part E = \$9,286.75
Part F = \$9,130.00
Total = \$52,540.25

All work performed will be in accordance with Chapter 5J-17.05.1 FAC and under the direct supervision of a Florida Registered Professional Surveyor and Mapper. If you have any questions concerning this proposal or require additional information, please contact Megan at this office.

Sincerely,

Robert R. Evers

Robert R. Evers
PLS
Project Manager

Proposal Accepted By:

Signature of Responsible Party

Printed Name of Responsible Party

Title

Date

Exhibit "A"

Task 1

- a) Prepare a topographic survey with 1-foot contours for two areas lying within the DeLand service area. Refer to the project area maps included in **Attachments A, B, C, D, E, and F.**

All work performed will be within the platted or prescriptive rights of way with the exception of where a utility may be located outside of said rights of way.

- b) Full right-of-way route survey plus 10 feet on each side of the right-of-way mentioned in the project description of this task order. Note all breaks in grade. At intersections with roads, **please include the entire intersection of said roadways.**
- c) Baseline for the route will be prepared. A minimum of two (2) benchmarks every 1000 feet and one (1) at the beginning and end of each route, will be established and labeled for future construction.
- d) Horizontal and vertical control will be based on NAD 83 (1990 adjustment), State Plane Coordinates for the Florida East Zone, and NAVD 1988 datums respectively.
- e) Identify and locate structures, utility features, equipment, centerline and edges of pavement, underground utility locations indicators and markers, driveways, signs, valve boxes, culverts, power poles, manholes, and all other existing equipment. Note any breaks in grade.
- f) Locate all manholes, including gravity sewer, stormwater, drainage, telephone, fiber, etc. as indicated top of rim elevations, pipe size, and inverts.
- g) Locate all electrical pull boxes/concrete vaults, electrical/fiber optic conduit, and concrete encasement for electrical or fiber optic conduits. Include top and bottom elevations for the concrete encasement, invert elevations of conduit that is not encased, and rim elevation of pull boxes/concrete vaults.
- h) Locate and identify all underground utilities as marked by the designated utility owner' representative, including the City of DeLand. We will notify the City prior to starting the survey. Typically, they mark one area at a time.
- i) Scale will be 1"=20' and will be provided in AutoCAD.
- j) Three (3) signed and sealed sets of drawings and one (1) CD containing a drawing file and all electronic files associated with the project.

Task 2

- a. Coordinate Sunshine 811 and utility locates to include supplemental calls to each locator to expedite the field marking of each subsurface utility as required by law.
- b. Expose the subject utilities by using non-destructive vacuum excavation methods at approximately twenty (20) locations in grass areas and five (5) locations in paved areas. The specific locations to be determined by the Engineer of Record.
- c. Confirm/determine the vertical and horizontal position of the subject utilities and record the information, using the locate marks provided by the utility owners and/or their representatives unless otherwise specifically requested by the client.
- d. Any asphalt/concrete removed will be repaired using like materials. Cores in Volusia County roads shall be circular cores.
- e. Tie each test hole location to a minimum of three visible physical features to enable this data to be added to your base map and also enable future recovery.
- f. Collect/survey the location of each Test Hole using GPS or conventional surveying equipment, with control furnished by the surveyor.
- g. One (1) test hole reports with sketches of each test hole performed in the project area reflecting all pertinent data for our use.

Attachment I
Subconsultant Survey Test Holes

Blackwell & Associates
LAND SURVEYORS, INC

Phone: (386) 734-8050
Fax: (386) 734-7660
Website: blackwellsurveying.com

Office Address
995 West Volusia Avenue
DeLand, Florida 32720

Surveying Central Florida since 1979

September 20, 2022

Chad Setzer, P.E.
Atkins
482 S. Keller Road
Orlando, FL 32810

Re: Proposal for Locates Task # 2 for the City of Deland Part A-F

Dear Mr. Setzer,

Blackwell & Associates is pleased to submit this proposal of professional land surveying services to you for the referenced project.

This firm will subcontract with Bloodhound LLC to complete Task # 2 Parts A to F. The survey will be done in accordance with the scope of services provided in Exhibit "A".

The price to complete Task #2 services will be \$23,025. (see Bloodhound Estimate Attachment) We estimate it will take 4 weeks to complete from the "Notice to Proceed" date. (weather permitting)

All work performed will be in accordance with Chapter 5J-17.05.1 FAC and under the direct supervision of a Florida Registered Professional Surveyor and Mapper. If you have any questions concerning this proposal or require additional information, please contact Megan at this office.

Sincerely,

Robert R. Evers

Robert R. Evers
PLS Project Manager

Proposal Accepted By:

Signature of Responsible Party

Printed Name of Responsible Party

Title

Date

Blood Hound
6500 Technology Center Dr.
Suite 200
Indianapolis, IN 46278



ESTIMATE

Created Date 9/16/2022
Expiration Date 12/15/2022
Estimate Number 75333

Customer	Blackwell and Associates	Name	Megan Blackwell
Billing Phone	(386) 734-8050	Phone	407-806-4124
Billing Address	995 Volusia Ave Deland, FL 32730 US	Email	megan@blackwellsurveying.com
Job Site Location	Multiple sites, Deland, FL, 32724		

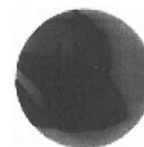
Product	Invoice Description	Quantity	Sales Price	Total Price
Advantage Locate (hourly)	Advantage Locate (hourly rate)	16.00	\$200.00	\$3,200.00
Fuel Surcharge	Fuel Surcharge	1.00	\$25.00	\$25.00
Vacuum Excavation (Hourly)	Vacuum Excavation (Hourly rate)	72.00	\$275.00	\$19,800.00
Grand Total				\$23,025.00

Scope of Work

Customer SOW survey
BHUG SOW

Customer has requested an estimate for the following scope of work:

- The following work is being performed to Quality Level B standards in accordance with CI/ASCE 38-02.
- Client has requested an estimate to horizontally locate specific private or *public detectable underground utilities in areas to be determined by the Engineer of Record (EOR), but tentatively assumed to be thirty-two (32) separate locations.
- A print or image was provided to review to assist with the estimate. However, pre-marking or a meet on site will be required to confirm the locate area and assist with access.
- Customer is advised the horizontal portion of this estimate is based on a 2-hour minimum, with a not to exceed limit. Any additional time required on site to complete the task beyond the 2-hour minimum will be invoiced in 15-minute increments @ \$50 per increment, not to exceed 16 hours.
- Note: A nominal per hour fee is included in this estimate for QL-B. To provide the best service possible it will be necessary to horizontally locate the target lines if A) Sunshine 811 locators do not respond to the locate request and B) the locate marks and / or the provided plans are inaccurate.
- EM and Real-Time GPR Locating equipment will both be utilized to locate and mark the target lines.
- Customer is advised that Blood Hound utilizes water-based paint and flags to identify any discoveries onsite. If this is an issue, Blood Hound must be made aware of this when scheduling. All discoveries will be painted and flagged for surveying and documentation purposes.
- *BHUG will attempt to locate Public utilities to the best of our ability when requested, with the information provided. However, not having access to utility records, plans or maps may be cause for some utilities to be unaccounted for, therefor it is always the customer responsibility to call 811 and dig responsibly. Any available as-builts, engineered or other record drawings, if available, should be supplied to BHUG prior to providing an estimate and commencement of any field work.
- Any available as-builts, engineered or other record drawings, if available, should be supplied to BHUG prior to commencement of field work.
- Estimate does not include any camera or surveying services.



ESTIMATE

Created Date 9/16/2022
Expiration Date 12/15/2022
Estimate Number 75333

- BHUG is not responsible for, moved, altered, obliterated or maintaining marks. BHUG will impose an additional fee to relocate/remark facilities.
- The performance of BHUG's services is limited to full and unobstructed access to include but not limited to: mechanical rooms, manholes, hand holes, vaults, meter rooms, telecom rooms, fixtures (plumbing, electrical, communication), dispensers, fenced compounds, tanks and structures. Full cooperation from the on site personnel is necessary to perform a complete scan.
- Results are dependent upon field conditions at the time of locating services.
- Estimate DOES NOT include the use of Robotic or Push/Pull Cameras for assistance in locating Sewer Lines or Laterals. These lines would attempt to be marked by EM / Rodder if possible or GPR. If lines are not able to be completely located, Blood Hound will arrow the direction of each line leaving a manhole.
- CUSTOMER IS ADVISED THAT LIMITATIONS EXIST IN LOCATING PLASTIC MATERIALS WITHOUT TRACEABLE WIRES ATTACHED.
- The following work is being performed to Quality Level A standards in accordance with CI/ASCE 38-02.
- Vacuum Excavation will be utilized to provide the precise vertical position of the conflict or connection point utilities within the specific areas to be determined by the EOR. Based on this request it is assumed that up to six (6) hard surface and twenty-six (26) soft surface excavations may be required.
- Customer is advised the vertical portion of this estimate is based on a 4-hour minimum. Any additional time required on site to complete the task beyond the 4-hour minimum will be invoiced in 15-minute increments @ \$68.75 per increment, upon customer approval.
- Test hole data forms will be provided with pertinent information to include size, function, depth, material (of pipes if known) and provide the precise horizontal and vertical position of any discoveries. Offsets will be provided to existing above ground features as well and all discoveries will be painted and flagged with all verification's staked with a semi-permanent marker for surveying purposes. A digital field sketch will be provided along with pictures of the areas in question.
- Cavities will be refilled with dry, native spoils (compacted in 6" lifts).
- Estimate does not include any final restoration such as hot mix asphalt, milling / resurfacing or special back fill requirements (flowable fill.) If final restoration is required by end client, city, state, or any other entity, that restoration will be the responsibility of the client. Blood Hound does not perform final concrete or asphalt surfacing. BHUG will not perform any excavations thru sidewalk without prior permission. Test holes performed under the roadway will be repaired with an asphalt cold patch and any concrete surfaces will be repaired with a Quikrete type product.
- Customer understands any fees required for permits and MOT services are not provided and included in this estimate. These fees are indeterminable until test hole locations have been provided.
- If the Scope of Work should change, or is different than listed on the estimate, please call our office for a revised estimate.

The scheduling of the work must go through the Blood Hound Call Center. Upon acceptance of this estimate please sign and return via email a signed copy of the estimate. Then, you must call 1-888-858-9830 select option one (1) for scheduling and reference your estimate number to schedule your work request.

•If PO# is not available during the estimating phase please provide the PO# prior to scheduling this work. Payment terms must be arranged prior to scheduling any work with Blood Hound. Services can be paid for via credit card or granting of payment terms with invoicing however the Credit Application must be completed and on file to grant payment terms. Blood Hound does not accept checks or cash as payment on site.

•Please refer all COI requests, Change Orders, PO Numbers, Prequalification Forms, Sub Consultant Agreements or MSA's to BHUGContracts@bhug.com

Blood Hound
6500 Technology Center Dr.
Suite 200
Indianapolis, IN 46278

ESTIMATE

Created Date 9/16/2022
Expiration Date 12/15/2022
Estimate Number 75333

Quoted rates are exclusive to this estimate only. Rates quoted by Call Center Representatives are in effect unless otherwise stipulated within a formal estimate.

Please note estimate is valid for 90 days from the quote created date.

Blood Hound will use electromagnetic (EM) and ground-penetrating-radar (GPR) equipment to locate private underground utilities at site indicated by client. All findings will be marked according to APWA standard. Customer is responsible for calling 811 for locates of any public utilities. If the scope of work should change or is different than that listed on estimate, please call our office for a revised estimate. Unless expressly noted, Vacuum Excavation estimates do not include any of the following services: Permitting, Traffic Control, Restoration, Special Restoration, Special Backfill or Waste Disposal. If you need any of those services please call our office for a revised estimate. Blood Hound is not responsible for the condition of the pipes or structures before or after jetting/clearing service is performed. Unsatisfactory conditions could be present within the structure and any services may bring those deficiencies to light. In the event of inclement weather, if the client still requests for crew to arrive on site, then the client will be responsible for minimum charges even if no work is performed.

Payment is due at the time of service, unless you already have an account with us. If you do have an account with us, payment terms are Net 30 days, unless otherwise stated in a pre-approved contract. To learn more, please call the office at 888-858-9830.

PRICE MAY VARY BASED ON ACTUAL TIME ON SITE. The above pricing is based only on the information supplied by the customer. If a site walk through has not been conducted, this may affect the price.

If this is a prevailing wage job, please contact our office for a revised quote as this pricing does not reflect prevailing wage rates. If at some later date a project is determined to be a prevailing wage job, then any extra expense incurred by Blood Hound will be billed to the client.

The project estimate outlined in this specific proposal is valid for 90 days from the date of the proposal. Blood Hound reserves the right to review and adjust this estimate if client does not approve of the proposal within 90 days.

Please send all POs / Contracts to BHUGContracts@bhug.com.

We look forward to working with you.

By signing this Estimate the client acknowledges that they accept the scope of work listed on the estimate, as well as the service rates provided and are providing Blood Hound with a Notice To Proceed (NTP) for the listed Project. If the scope of work should change while the work is in progress, any changes will be documented on the technician's field notes and signed off on by the client. Signing this estimate also acknowledges that the client agrees to the terms and conditions as they relate to payment for services rendered.

Signature: _____

Printed Name: _____

Date Signed: _____



Equipment Report

Equipment Operations and Limitations

Corporate Location:
750 Patrick's Place
Brownsburg, IN 46112

Office # 888-858-9830
Fax # 888-858-9829

<http://www.BHUG.com>

Equipment Description –

Blood Hound uses a variety of equipment to identify and locate subsurface structures, such as direct connect and inductive utility location transmitters and receivers with multi-frequency broadcasts and reception capabilities, ground penetrating radar, sewer cameras (both robotic and fiber optic push/pull), and other equipment, to locate the lateral position of buried structures, as well as to provide estimates on the depths of subsurface structures.

Traditional EM equipment is used as the primary tool to determine the location of all conductive subsurface structures, as well as any utilities that have locating wires (i.e. gas lines) buried with the non-conductive utility to facilitate location. This equipment operates using frequencies ranging from 512 Hz up to and including 480 kHz. The frequency that is selected is dependent on the type of utility to be located, operator preference, estimated depth of the target utility, and distance for which the target utility must be marked. Frequencies are often changed during operations to improve the quality of the signal, decrease interference, and/or increase the range for the transmitted signal.

EM locating operates by conducting an AC electric current through the target utility at a specific frequency. This causes the target utility to radiate a radio signal at the desired frequency. This radiated radio signal is then detected using the receiver, which is tuned to detect radio fields at the desired frequency. By measuring peak or null signal measurements, the lateral line location can be determined.

Blood Hound uses a variety of Ground Penetrating Radar (GPR) units from multiple manufacturers. Blood Hound employs antenna frequencies ranging from 250 MHz up to 1.6 GHz, depending on the specific needs of the survey. Data can be analyzed in real-time, or collected for post-processing analysis, including the development of subsurface response maps.

The most commonly used antennae operate in a frequency range of 250 to 350 MHz., which provides the greatest balance of resolution and effective depth penetration. Frequency ranges higher than this provide greater resolution and better penetration through more conductive or signal absorbing materials (i.e. clay soils, concrete, etc). However, this increased resolution comes at the cost of significantly reduced depth penetration.

GPR operates by radiating a radio band frequency into the soil from the transmitter contained within the antenna assembly. This signal is reflected to the receiver contained in the antenna unit, and this received signal is then converted into visual patterns based on the intensity of the reflected signal. The depth of the target reflection pattern is determined based on the time elapsed from the transmission until the reception of the reflected signal, and is then projected by making assumptions regarding the transmission rate of the signal through the medium. If the signal velocity assumptions are not accurate, then the depth estimates will not be accurate.

Blood Hound also performs Electromagnetic soil conductivity analysis (EM Induction Survey). This method uses a Fisher TW-6 "Split Box" locator mounted on an inductive sweep bar. The bar places the transmitter and receiver four feet apart, with the inductive transmitted field oriented in an opposing orientation from the receiving antenna. This opposing orientation allows for the receiver to not register the presence of the transmitting field. When the transmitting field encounters a conductive object (metal), the field is bent, which results in the detection of the field by the receiving antenna. This equipment allows for the detection of conductive objects, and is not limited to the detection of ferrous metals as is the case with many magnetometers.

Factors Effecting Performance of Equipment –

There are several factors that can impact the effectiveness of the EM Locating equipment:

- **Target Utility Composition** – EM locating is only effective if the target utility is composed of continuous conductive material. Plastic, concrete, clay, or other non-conductive materials cannot be located using EM locating techniques. In addition, some metals are not highly conductive, which makes locating using EM techniques difficult. For example, cast iron is a poor conductor and cast iron lines can often be difficult to locate using standard EM techniques. Additionally, many pipes are composed of individual sections which may be gasketed. This can impede the current at each pipe joint.
- **Shielding of Target Utility**– Since EM locating uses an electronic signal, unshielded lines that are directly buried in the soil (i.e. water lines) can be difficult to locate for significant distances. This is due to the continuous loss of transmitted signal directly to the ground. As the signal travels along the utility, a significant portion of the signal is lost to ground, resulting in decreased signal quality. The greater the distance between the transmitter and the location point on an unshielded line, the more degraded the signal will be.
- **Conductive Pathway to Ground** – Locating is accomplished by creating a complete circuit, and the transmitted signal must be able to return to the ground in some form. An open circuit is generally much more difficult to locate since the circuit is not complete, and the emitted signal cannot return to ground. Thus, the signal may not travel along the desired pathway. Additionally, soil conditions can affect the pathway to ground. For example, in highly conductive soils, a signal can inductively find a pathway to ground even in an open circuit.
- **Depth** – The signal induced onto the target path must have sufficient strength to be detectable at the surface. Utility lines deeper than 15 feet are often difficult to locate due to the inability of the radio frequency being radiated from the target line to effectively radiate through the soil to the receiver at the surface. Similarly, shielding between the target utility and the receiver can affect the signal reception and create a loss of signal.



Equipment Report

Equipment Operations and Limitations

Corporate Location:
750 Patrick's Place
Brownsburg, IN 46112

Office # 888-858-9830
Fax # 888-858-9829

<http://www.BHUG.com>

Similarly there are several factors that can impact the effectiveness of GPR surveys:

- **Subsurface Material / Soil Composition** – Soil composition and subsurface material is the most important factor impacting the effectiveness of GPR. The more conductive the subsurface material, the less effective the GPR survey will be. GPR works best in sandy soils, and is least effective in heavy clay soils or where the subsurface material contains a large volume of highly conductive backfilled debris or material (i.e. metal scraps or slag sand). Midwestern soils generally have a high clay content and create significant challenges to completing an effective GPR survey. As a general rule, the smaller the particulate matter that the subsurface material is composed of, the greater the inhibiting effect on the GPR signal.
- **Composition of the Subsurface Target** – The inherent electrostatic reflectivity of a target will impact the effective identification of the target. Lightweight subsurface material, such as PVC, are generally more transparent to radio waves and will reflect a substantially smaller percentage of the radiated signal. This will result in a smaller and more minor reflection signature, making effective interpretation more difficult. Some materials are completely transparent to radio waves and can only be identified if a reflective material (i.e. water) is contained within the target pipe.
- **Moisture Content of the Subsurface Material** – Water, when combined with dissolved ions (salt) has an inhibiting effect on GPR signals, and signals can often not effectively penetrate saturated soil material, when the soil is slightly conductive. The addition of more water increases the conductivity of the soil and more significantly inhibits the effective signal penetration.
- **Depth** – The GPR signals have a finite effective penetration depth. The deeper the target, the less likely it will be effectively identified. As the signal penetrates the subsurface material it loses strength as the depth increases. Effective signal penetration can be defined as the depth at which the reflected signal no longer has sufficient power to reach the receiver antenna of the GPR. In other words, the effective survey depth is the depth at which the penetrating signal reaches a maximum of 50% of its emitted strength, although it should be noted that at this range only a 100% reflective target (i.e. metal) would have the potential to be detectable.
- **Target Size** – The smaller the diameter of the target structure, the lower the probability of successful identification of the target during a GPR survey. The smaller the target, the less of a signal that will be reflected, decreasing the probability of a positive identification of the subsurface target. As a general (but not absolute) rule of thumb, for every 1 foot of depth you must have 1 inch in diameter in order to be observable. For example, a 3" diameter pipe must be less than 3 feet below grade in order to be observable during a GPR survey.

EM Inductive Surveys can also be impacted by environmental factors.

- **Surface and Subsurface Material / Soil Composition** – Highly conductive soils can prevent the identification of other conductive structures with this methodology. The presence of surface metal, including vehicles, fences, and debris, can swamp other readings and prevent the identification of subsurface targets. In addition, the presence of rebar reinforcement within concrete can have a similar effect and prevent identification of other structures.
- **Target Size** – Small metallic targets may not be detected, since the mass of the target object must be large enough to impact the shape of the transmission field. Small objects may not have sufficient mass to cause a field distortion significant enough to be detected.
- **Target Depth** – Deeper targets may not sufficiently distort the transmitted signal to allow for detection by the receiver. However, large high-mass targets are more likely to be detectable at significantly deeper depths, than lower mass targets.

Summary of Equipment and Survey Effectiveness –

EM locating is generally very effective in locating most subsurface utility lines. Electric, Telephone, and Cable TV can almost always be located using standard EM locating techniques. Also, many water lines can also be located. However, due to the continuous contact with the soil, and the common use of cast and ductile iron in water line construction, water lines can often prove difficult to locate. Additionally, water lines constructed of plastic are becoming more common and cannot be located using standard locating methodologies. Sewer lines (storm and sanitary) are very rarely locatable with standard techniques, unless a conductive tool can be introduced into the line (i.e. locating a sanitary lateral by running a rod containing metal through the line from a clean-out access point). All Blood Hound technicians carry a Jameson rodder for this specific purpose.

GPR surveys are an effective way of locating and identifying subsurface obstructions prior to drilling or excavating activity. However, these surveys cannot and will not identify all subsurface utilities or other obstructions, in all circumstances. Midwestern soils in particular, present significant challenges to an effective GPR survey, and should not be relied upon as the only means of protecting underground utilities. EM Induction surveys provide another level of investigation, which when combined with traditional EM locating and GPR provide the most complete non-destructive process available for the protection of subsurface utilities and other structures. When Vacuum Excavation is employed, the possibility of a damaged utility is further minimized.

In general, private utility locating surveys conducted by Blood Hound technicians are highly accurate and effective. However, there are numerous factors that can result in a line being mis-marked or left unmarked by our technicians, that are beyond the control of Blood Hound or its technicians. This includes, but is not limited to, a lack of adequate prints or available site knowledge, a lack of access to utilities (i.e. cleanouts, interior communications rooms, vaults, etc), a lack of visual indications of the utility's presence, a disruption of a conductive pathway (i.e. repair in a metal water line made with plastic), and commonly bonded lines creating undesired signal conduction pathways. While Blood Hound provides its employees with extensive training on ways to mitigate these and other issues, there are unfortunately occasions where these factors cannot be effectively eliminated.

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Consideration re Second Amendment to Property Access Agreement for Brownfield Program Groundwater Testing.

DEPARTMENT: Public Service

PREPARED BY: Chad Gamble, Public Services Director

ATTACHMENTS: Second Amendment to Property Access Agreement, Fig 1 Proposed Offsite Well Location Map Sept 2022 v1

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

Amendment No. 1 to the Property Access Agreement for the Brownfield Program Groundwater Testing was the subject of a Commission Agenda item on April 4th, 2022. Amendment No. 1 allowed for additional groundwater testing on City Right-of-Way adjacent to the former Brunswick property. Amendment No. 2, if approved, will allow for two more groundwater monitoring wells at the site.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Sustainability, Preserving Natural Resources

SUSTAINABILITY:

N/A

FISCAL IMPACT:

There is no cost to the City as a result of granting this access. This testing is part of the State Brownfield Program that the property owner is participating in and anything that is done to remediate the property only serves to increase the property's value and thereby increase ad valorem revenues to the City.

RECOMMENDATION:

It is recommended that the City Commission approve the second Amendment to Property Access Agreement to CR Florida Real Estate, LLC.

BACKGROUND/DISCUSSION:

N/A

**SECOND AMENDMENT TO
PROPERTY ACCESS AGREEMENT**

THIS SECOND AMENDMENT TO PROPERTY ACCESS AGREEMENT (the "Second Amendment") is made this ____ day of October, 2022, by and between the CITY OF DELAND ("City") and CR FLORIDA REAL ESTATE, LLC ("CR Florida").

RECITALS

WHEREAS, on November 15, 2021, City and CR Florida entered into that certain Property Access Agreement (the "Property Access Agreement") concerning access to an unpaved, grassy right of way adjacent to the road named Eidson Drive at the DeLand Municipal Airport to install a groundwater monitoring well; and

WHEREAS, pursuant to the Property Access Agreement, CR Florida installed and sampled a groundwater monitoring well on the Property; and

WHEREAS, on April 7, 2022, City and CR Florida entered into that certain First Amendment to Property Access Agreement to install an additional groundwater monitoring well ("First Amendment"); and

WHEREAS, CR Florida would like to install two (2) additional groundwater monitoring wells at the Property as part of the assessment process under the Florida Brownfields Redevelopment Program; and

WHEREAS, pursuant to Paragraph 7.i. of the Property Access Agreement, the Property Access Agreement may be modified if approved in writing by an authorized representative of City and CR Florida; and

WHEREAS, the City wants to continue to support CR Florida's environmental site rehabilitation efforts and to continue to grant such access to the Property for the purposes set forth herein, under the terms and conditions provided herein.

NOW, THEREFORE, pursuant to Paragraph 7.i. of the Property Access Agreement, City and CR Florida hereby amend the First Amendment to Property Access Agreement as follows:

1. Paragraph 1 is deleted in its entirety and replaced by the following:
 1. **Grant of Access.** City hereby conditionally grants to CR Florida, its agents, consultants, contractors, and subcontractors a limited right of access to enter upon the Property for the sole purpose of installing four (4) groundwater monitoring wells at the locations depicted on the figure attached hereto and incorporated herein as Exhibit A and periodically collecting groundwater samples from such wells (the "Work"). Prior to installing the additional wells identified on Exhibit A as "Proposed Monitoring Well Locations," CR Florida shall stake the location for the wells, and contact Sunshine 811 to locate any underground utilities. Following the identification of any underground

utilities and prior to installing the wells, CR Florida shall contact the City's Director of Public Services to obtain approval of the specific location for the additional wells. As part of the initial installation of the wells and to clear any shallow utilities, CR Florida shall hand auger the wells to a minimum depth of approximately 4 feet below land surface.

2. Capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Property Access Agreement.
3. All terms of this Second Amendment supersede any inconsistent terms contained in the Property Access Agreement and in the event of a conflict between the terms of this Second Amendment and the Property Access Agreement, the provisions of this Second Amendment shall control.
4. Except as changed by this amendment, the parties hereby ratify and confirm in all respects the provisions of the Property Access Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Property Access Agreement under the seal of the date first above written.

CITY OF DELAND

By: _____
Name: Michael P. Pleus
As its: City Manger
Date: _____

Witness: _____
Name: _____
Date: _____

CR FLORIDA REAL ESTATE, LLC

By: 
Name: BRANDON JOHNSON
As its: MANAGER
Date: 9/22/22

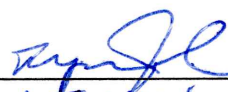
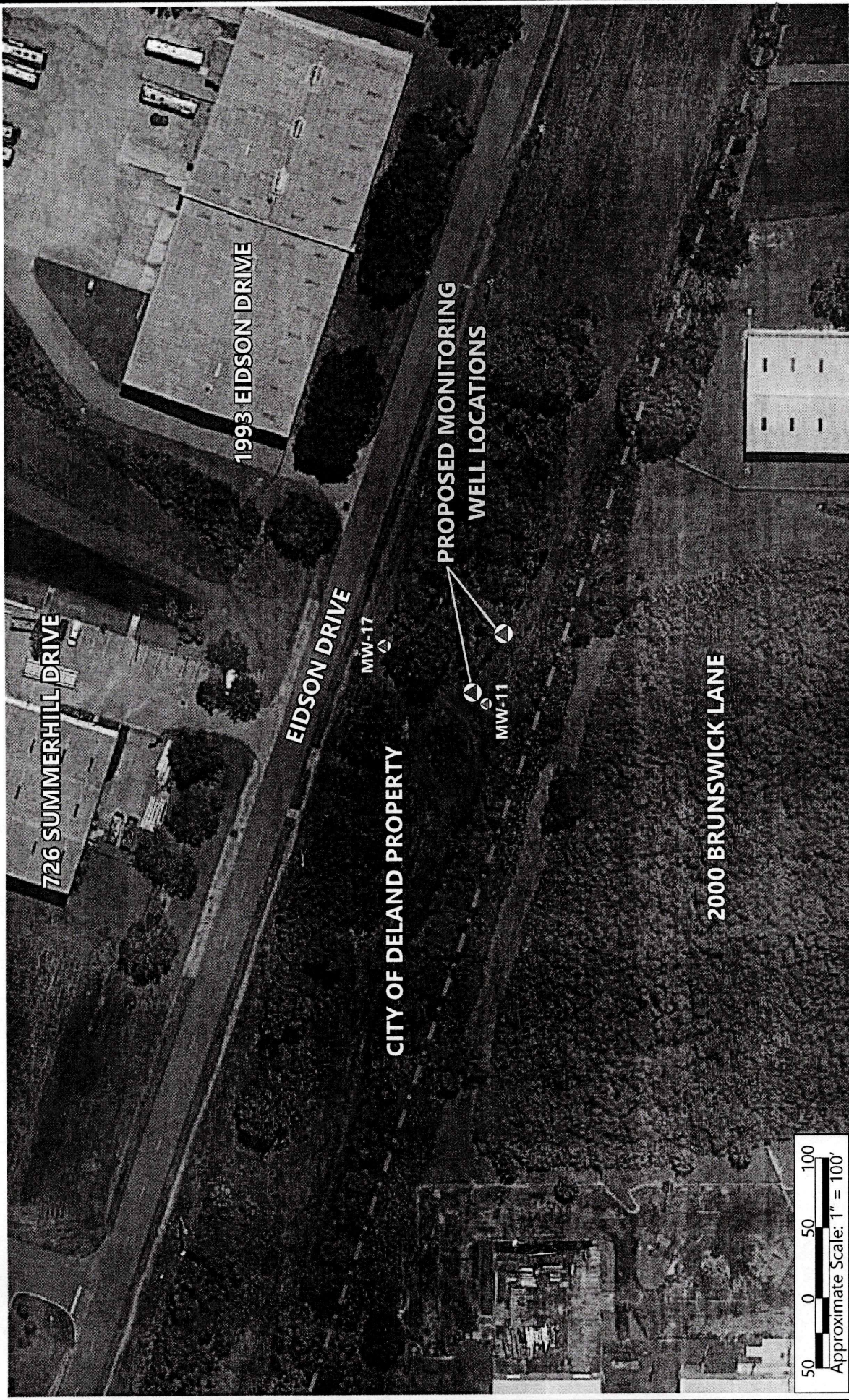
Witness: 
Name: RYAN JOHNSON
Date: 9/22/22

EXHIBIT A



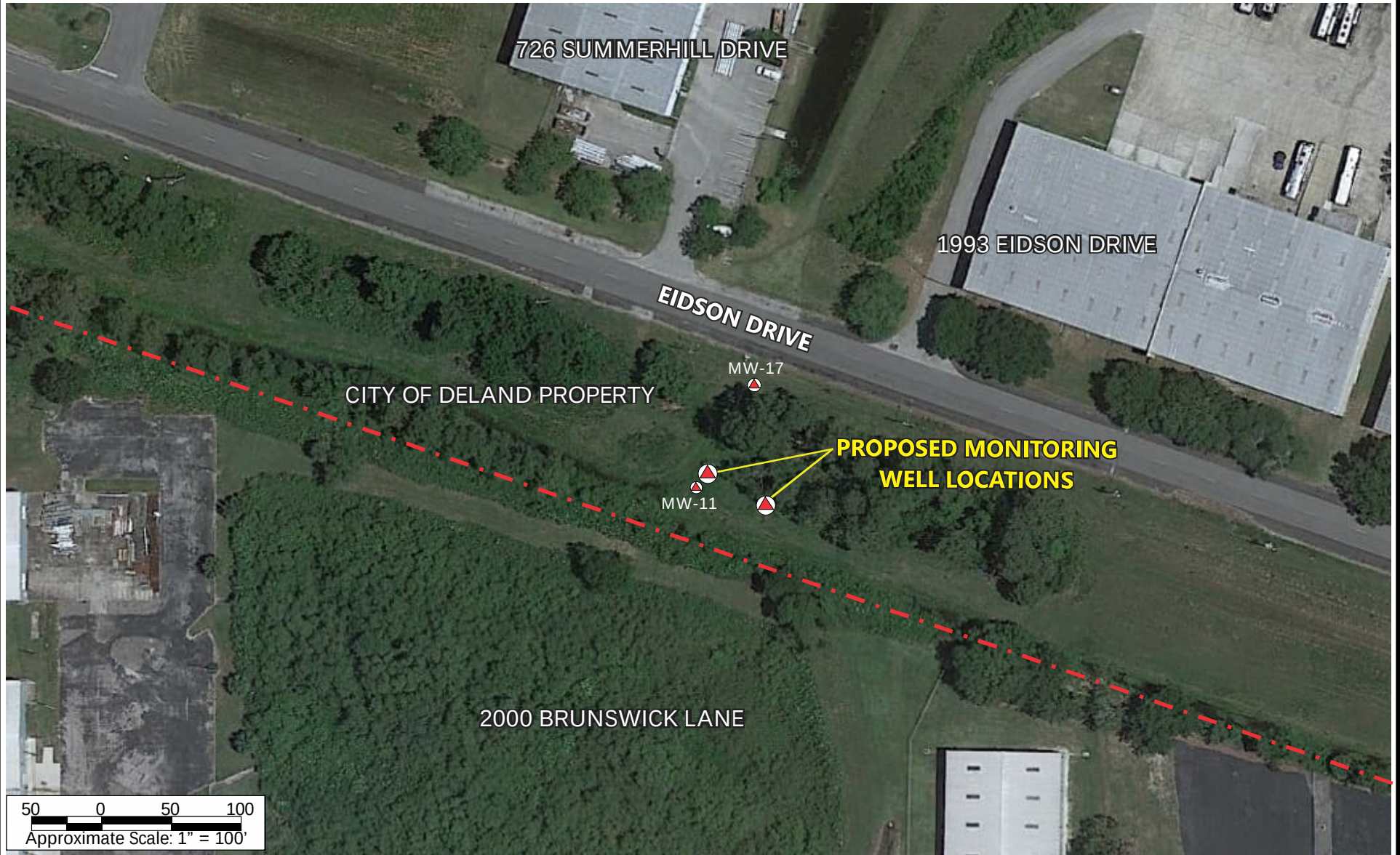
Proposed Offsite Well Location Map		
Figure	Prepared By	Date
1	J. Romeo	Sept. 2022
2000 Brunswick Lane Deland, Florida 32724		

Legend

Subject Property Boundary

Groundwater Monitoring Well Location

PARTNER
Engineering and Science, Inc.
 307 Cranes Roost Blvd., Ste. 2050
 Altamonte Springs, Florida 32701
 Project Number: 20-295105.15



PARTNER
 Engineering and Science, Inc.
 307 Cranes Roost Blvd., Ste. 2050
 Altamonte Springs, Florida 32701
 Project Number: 20-295105.15



Legend

- Subject Property Boundary 
- Groundwater Monitoring Well Location 

Proposed Offsite Well Location Map

Figure	Prepared By	Date
1	J. Romeo	Sept. 2022
2000 Brunswick Lane Deland, Florida 32724		

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Resolution Approving "Apgar Sports Complex".

DEPARTMENT: City Manager

PREPARED BY: Michael Pleus, City Manager

ATTACHMENTS: Resolution

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

In honor of Mayor Apgar's contributions to the City of DeLand, the City desires to name the area encompassing Spec Martin Memorial Stadium, Conrad Park, Chipper Jones Family Little League Complex, and Earl Brown Park as the "Apgar Sports Complex".

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

N/A

SUSTAINABILITY:

N/A

FISCAL IMPACT:

N/A

RECOMMENDATION:

It is recommended that the City Commission adopt the Resolution naming the area encompassing Spec Martin Memorial Stadium, Conrad Park, and Earl Brown Park as the "Apgar Sports Complex".

BACKGROUND/DISCUSSION:

Robert F. Apgar has been a resident of the City of DeLand since 1959 and has served 34 years on the City Commission of the City of DeLand with the last 21 years as Mayor. upon his retirement in November, Mayor Apgar will be the longest serving elected official in Volusia County's history.

During his tenure as Mayor, the City of DeLand has undertaken numerous projects to improve the City of DeLand's recreational facilities, including the multimillion dollar renovations of Earl Brown Park, Conrad Park, Spec Martin Memorial Stadium, and construction of the Sanborn Activity and Events Center.

The City Commission of the City of DeLand desires to name the area encompassing Spec Martin Memorial Stadium, Conrad Park, Chipper Jones Family Little League Complex, and Earl Brown Park as the "Apgar Sports Complex" in honor of Mayor Apgar's contributions to the City; however, the City Commission will maintain the names of those individual facilities as Mayor Apgar.

RESOLUTION NO. 2022-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELAND, FLORIDA NAMING THE AREA ENCOMPASSING SPEC MARTIN MEMORIAL STADIUM, CONRAD PARK, CHIPPER JONES FAMILY LITTLE LEAGUE COMPLEX, AND EARL BROWN PARK AS THE “APGAR SPORTS COMPLEX”; PROVIDING FOR FINDINGS; PROVIDING FOR IMPLEMENTING ADMINISTRATIVE ACTIONS; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Spec Martin Memorial Stadium, Conrad Park, Chipper Jones Family Little League Complex, and Earl Brown Park are located within the City of DeLand, which offers an array of recreational opportunities to the citizens of the City of DeLand; and

WHEREAS, Robert F. Apgar has been a resident of the City of DeLand since 1959; and

WHEREAS, Robert F. Apgar has spent 34 years serving on the City Commission of the City of DeLand, first as Commissioner and the last 21 years as Mayor; and

WHEREAS, upon his retirement in November, Mayor Apgar will be the longest serving elected official in Volusia County’s history; and

WHEREAS, during his tenure as Mayor, the City of DeLand has undertaken numerous projects to improve the City of DeLand’s recreational facilities including multimillion dollar renovations of Earl Brown Park, Conrad Park and Spec Martin Memorial Stadium, and construction of the Sanborn Activity and Events Center; and

WHEREAS, the efforts of Mayor Apgar resulted in the advancement of sports and recreational activities at facilities to be enjoyed by the people of the City of DeLand for years to come; and

WHEREAS, the City Commission of the City of DeLand desires to name the area encompassing Spec Martin Memorial Stadium, Conrad Park, Chipper Jones Family Little League Complex, and Earl Brown Park as the “Apgar Sports Complex” in honor of Mayor Apgar’s contributions to the City, but the City Commission will maintain the names of those individual facilities; and

WHEREAS, the City Commission of the City of DeLand has the power and authority to adopt this Resolution under the controlling provisions of State law such as, by way of example only, the provisions of Article VIII, Section 2 of the *Constitution of the*

State of Florida; the provisions of Chapter 166, *Florida Statutes*; and other controlling law; and

WHEREAS, the City of DeLand has complied with all requirements and procedures of Florida law in processing and adopting this Resolution.

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

Section 1. Recitals.

The above recitals are hereby adopted as findings and incorporated into the text of this Resolution as legislative and administrative findings of the City Commission of the City of DeLand.

Section 2. Naming of the Apgar Sports Complex.

The City Commission of the City of DeLand hereby names the area within which the Spec Martin Memorial Stadium, Conrad Park, Chipper Jones Family Little League Complex, and Earl Brown Park are located as the “Apgar Sports Complex” and the City Commission is honored to do so at this time.

Section 3. Implementing administrative actions.

(a). The City Manager shall implement, and have the full power to implement, the provisions of this Resolution in such manner as he deems appropriate.

(b). Certified copies of this Resolution shall be presented to Mayor Robert F. Apgar.

Section 4. Conflicts.

All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

Section 5. Severability.

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

Section 6. Effective Date.

This Resolution shall become effective immediately upon adoption.

PASSED AND DULY ADOPTED this 17th day of October, 2022.

Robert F. Apgar
Mayor - Commissioner

ATTEST:

Julie A. Hennessy, MMC
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Consideration re MOU Between DeLand Police Department and DeLand Police Athletic League and Amendment to Funding and Operations Agreement.

DEPARTMENT: Police

PREPARED BY: Jason Umberger, Police Chief

ATTACHMENTS: MOU DPAL Employment of a DPAL Director 2022-2023, DPAL Funding and Operations Amendment

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The DeLand Police Athletic League (DPAL) would like to continue to employ a full-time DPAL Director. The Board has agreed to budget and expend the sum of \$57,761.64 annually for this purpose and to reimburse the City for the cost of the full-time PAL Director.

The City Commission approved the initial Memorandum of Understanding on January 7, 2019 agreeing to employ a professional that shall be responsible for administering the day-to-day operations of DPAL and other tasks as assigned by the Board of Directors. The DPAL Director is an employee of the City of DeLand and is subject to DeLand personnel rules and regulations to include hiring, supervision, and termination of employment.

The terms for both the MOU Regarding the Employment of a DPAL Director and the Funding and Operations Agreement are from October 1, 2022 to September 30, 2023.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government

SUSTAINABILITY:

N/A

FISCAL IMPACT:

DPAL will reimburse the City the sum of \$4,813.47 monthly as reimbursement for the City's salary paid to the DPAL Director to include pay, payroll taxes, and facilitating full-time benefits with the exclusion of health care. (The current employee is waiving health benefits.) Additionally, the City will pay to the DPAL the sum of \$40,000.00 that was approved in the FY 22/23 budget.

RECOMMENDATION:

It is recommended the City Commission approve and execute the MOU Regarding the Employment of a DPAL Director and the Funding and Operations Agreement.

BACKGROUND/DISCUSSION:

DPAL and DPD have forged a relationship pursuant to which DPD is the primary law enforcement agency with which DPAL is officially affiliated.

**MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF DELAND AND DELAND POLICE ATHLETIC LEAGUE, INC.
REGARDING THE EMPLOYMENT OF A DPAL DIRECTOR & ANNUAL GRANT**

THIS MEMORANDUM OF UNDERSTANDING (this “MOU”) is made and entered into this 10th day of October, 2022, by and between the CITY OF DELAND, a Florida municipal corporation (the “City”), whose mailing address is City Hall, 120 South Florida Avenue DeLand, Florida 32720, and the DELAND POLICE ATHLETIC LEAGUE, INC., a Florida non-profit/IRS 501(c)(3) corporation (the “DPAL”), whose principal address is 1706 South Woodland Boulevard, DeLand, Florida 32720 and whose mailing address is Post Office Box 3642, DeLand, Florida 32721-0569, (the City and DPAL are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, the City has entered into a separate Funding and Operations Agreement with the DPAL in order that affordable youth crime prevention programs will create trust and understanding between police officers and youth and to provide a safe and secure environment for residents in its community; and

WHEREAS, the Funding and Operations Agreement provides, amongst other things, that the City will employ a director to run the day to day operations of DPAL; and

WHEREAS, the City is authorized by law to make available to DPAL grant funds derived from confiscated funds in the possession of the City, and the Funding and Operations Agreement provides for an annual grant by the City to the DPAL; and

WHEREAS, the DPAL will reimburse the City the amounts set forth herein to defray the City’s expense with respect to the employment of the DPAL Director; and

NOW, THEREFORE, in consideration of the mutual understandings contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the DPAL understand as follows:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated in this MOU by reference.

Section 2. Intent. The intent of this MOU is to provide the terms and conditions by which the DPAL will continue to provide funding for the City’s employment of a DPAL Director position in order to implement, in part, the joint goals of the City and the DPAL.

Section 3. Supplement to City Salary; Reimbursement.

(a). The City shall be responsible for engaging the appropriate staff person to serve as the PAL Director in order to implement the joint goals of the City and the DPAL. The PAL Director may be a sworn or unsworn law enforcement officer of the City.

(b). DPAL shall reimburse the City the sum of \$4,813.47 as a monthly reimbursement for the City's salary paid to the PAL Director.

Section 4. Grant to DPAL. The City hereby awards to and will pay to the DPAL a grant in the sum of \$40,000.00 for the term of this MOU (Fiscal Year 2022-2023).

Section 5. Ratification of Acts; Term.

(a). The prior actions of the City and the DPAL in the implementation of the aforescribed programs, and funding matters relating thereto, are hereby ratified and affirmed.

(b). The term of this MOU shall begin on October 1, 2022, notwithstanding the date of the execution hereof, and shall terminate at the end of the City's Fiscal Year 2022-2023 which is September 30, 2023.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum to be executed by their undersigned officials as duly authorized.

SIGNATURE BLOCKS FOLLOW:

ATTEST:

**DELAND POLICE ATHLETIC
LEAGUE, INC.**

Charlaine Free
Secretary

Fred H. Kaiser
President

CITY OF DELAND

Robert F. Apgar
Mayor - Commissioner
Dated: _____

ATTEST:

Julie A. Hennessy, MMC
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind, City Attorney

**AMENDMENT TO CITY OF DELAND AND
DELAND POLICE ATHLETIC LEAGUE, INC.
FUNDING AND OPERATIONS AGREEMENT**

THIS AMENDMENT TO THE DELAND POLICE ATHLETIC LEAGUE AGREEMENT dated December 6, 2021 is made and entered into this 10th day of October, 2022, by and between the CITY OF DELAND, a Florida municipal corporation (the “City”), whose mailing address is City Hall, 120 South Florida Avenue DeLand, Florida 32720, and the DELAND POLICE ATHLETIC LEAGUE, INC., a Florida non-profit/IRS 501(c)(3) corporation (the “DPAL”), whose principal address is 1706 South Woodland Boulevard, DeLand, Florida 32720 and whose mailing address is Post Office Box 3642, DeLand, Florida 32721-0569, (the City and DPAL are sometimes hereinafter referred to individually as a “Party” and collectively as the “Parties”).

RECITALS

WHEREAS, the City and the DPAL entered into that certain Agreement (the “Agreement”); and

WHEREAS, the City and the DPAL desire to extend the term of the Agreement for the 2022-2023 fiscal year; and

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

1. The foregoing preamble is incorporated herein and forms a material part of this Agreement.

2. Section 5 “Term; Termination” of the Agreement is amended to extend the term of the Agreement from October 1, 2022, to September 30, 2023.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum to be executed by their undersigned officials as duly authorized.

SIGNATURE BLOCKS FOLLOW:

ATTEST:

**DELAND POLICE ATHLETIC
LEAGUE, INC.**

Charlaine Free
Secretary

Fred H. Kaiser
President

CITY OF DELAND

Robert F. Apgar
Mayor - Commissioner
Dated: _____

ATTEST:

Julie A. Hennessy, MMC
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind, City Attorney

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: CONTINUATION of First Reading of Ordinance Amending Land Development Regulations to Address Density Bonus for Affordable Housing.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Ordinance , Memorandum re Proposed Density Bonus Ordinance, Housing Policies for Affordable Housing

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

This application was continued at first reading to allow the applicant and staff additional time to review the ordinance to ensure there are appropriate enforcement provisions to maintain the affordability aspect of the program. The applicant, Carolyn Haslam for Volusia Initiative for Church and Community, Inc., requested that the first reading of the ordinance be continued to allow this additional time to work with staff to ensure all issues are addressed. The ordinance will be brought back to the Commission upon the revisions being made and the ordinance is properly noticed.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

Strategic Focus Area: Preparing for the Future/Sustainability; Strategies: Increase opportunities for affordable housing.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

None

RECOMMENDATION:

Planning Staff recommends that the City Commission continue the ordinance on first reading as requested.

BACKGROUND/DISCUSSION:

The applicant has submitted a proposed ordinance to amend the Land Development Regulations to create an affordable housing density bonus program intended to promote the creation of new affordable housing units. The ordinance provides for an increase in density in the city's multi-family zoning districts for any project that qualifies as an affordable housing project. The ordinance will allow a developer to request an increase of up to 50% of the maximum density allowed in each of our three multi-family zoning districts if the developer provides deed-restricted affordable housing units for residents earning 120% of the area median income or less.

Through the past several years, the City Commission has asked staff to develop tools that would promote and

facilitate the creation of new affordable housing units in DeLand. Previously, the minimum size of dwelling units was reduced and regulatory barriers were eliminated for developing nonconforming lots and accessory dwelling units. The City is now being requested by the private sector to create a density bonus program to further the city's efforts in achieving affordable housing.

The Planning Board recommended approval with the following comments to revise the ordinance:

- The assignment of the density bonus will be at the city's determination and discretion (Section 33-152.1).
- The removal of the phrase "to a greater degree than other projects" at the end of section 33-151.2.

These changes have been made to the ordinance along with the new enforcement section.

DRAFT
Affordable Housing
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 AND OTHER LAND DEVELOPMENT MATTERS; CREATING NEW PROVISIONS OF THE *LDRS*; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR IMPACT FEE WAIVERS AS AUTHORIZED BY SECTION 163.31801(11), *FLORIDA STATUTES*; PROVIDING FOR DIVERSE IMPLEMENTING ADMINISTRATIVE ACTIONS AND ENFORCEMENT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Policy h1.1.4 of the City of DeLand’ s *Comprehensive Plan* provides that the City “shall identify such practices as streamlining the City’s permitting process, waiving development application fees, implementing density bonuses, implementing unit/set asides, donating excess City land to private and nonprofit housing providers, promulgating less restrictive development standards, amending development regulations as necessary and other similar measures to achieve this goal” for the purpose of promoting affordable housing; and

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

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

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

. . . that monthly rents or monthly mortgage payments including taxes and insurance do not exceed 30 percent of that amount which represents the percentage of the median annual gross income for the households as indicated in subsection (20), subsection (21), or subsection (30). However, it is not the intent to limit an individual household’s ability to devote more than 30 percent of its income for housing, and housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark. The term also includes housing provided by a not-for-profit corporation that derives at least 75 percent of its annual revenues from contracts or services provided to a state

or federal agency for low-income persons and low-income households; that provides supportive housing for persons who suffer from mental health issues, substance abuse, or domestic violence; and that provides on-premises social and community support services relating to job training, life skills training, alcohol and substance abuse disorders, child care, and client case management.; and

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

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

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

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

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

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

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

(c) Granting other incentives.

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

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

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

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

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

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

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

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

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

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

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

Section 1. Legislative Findings and Intent.

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

Section 2. Amendment to Section 33-12, *City Code/Land Development Regulations*,

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

Sec. 33-12. - Definitions.

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

* * *

Adjusted median annual income. The median income for the local area, adjusted for family size, as determined by the U.S. Department of Housing and Development and the Florida Housing Finance Corporation.

Affordability period. The period during which a dwelling unit is reserved for use in accordance with this section. The minimum affordability period will be thirty years from the issuance of the certificate of occupancy, unless waived or modified by the City Commission.

Affordable housing means housing which is available to a household earning one hundred and twenty percent (120%) or less of area median income (adjusted for family size), which can be rented or purchased in the market without spending more than thirty percent (30%) of gross household income.

Affordable housing deed restriction. A deed covenant, running with the land for the affordability period, requiring one or more dwelling units to be used as affordable housing.

Affordable housing development application. An application for a development permit or development order for a project that includes one or more affordable housing units.

Affordable housing unit. A dwelling unit that is reserved for use as affordable housing for the affordability period, through recordation of an affordable housing deed restriction.

Qualifying household. Must qualify as one of the following:

1. A moderate income person or moderate income family as defined in F.S. § 420.9071.
2. A low income person or low income family as defined in F.S. § 420.9071.
2. A very low income person or very low income family as defined in F.S. § 420.9071.

Qualifying household's income level. The maximum amount of annual income, adjusted for family size, that allows a person or family to meet the definition of moderate-income person or moderate-income household, low-income person or low-income household, or very-low income person or very low-income household, as those terms are used in F.S. § 420.9071, and as determined for the local area by the U.S. Department of Housing and Development and the Florida Housing Finance Corporation.

Section 3. Amendment to Chapter 33, *City Code/Land Development Regulations*, creating Article XIV Affordable Housing, Section 33-151 through of the *Code of Ordinances of the City of DeLand/Land Development Regulations* is hereby amended to read as follows:

33-151. *Expediting of review for affordable housing development applications.*

1. All affordable housing development applications shall be reviewed in accordance with the applicable development standards of this Code, as modified by this section.

2. All affordable housing development applications shall be reviewed in accordance with the applicable procedures of this Code; provided, however, that the city shall expedite and prioritize the review and permitting of such applications to a greater degree than other projects.

33-152. *Administratively-approved development incentives for affordable housing.* The development of any proposed multiple-family housing unit or units located within the City shall be eligible for incentives established below, which shall be approved administratively; provided that prior to issuance of a building permit, such units are reserved as affordable housing units for an affordability period of thirty years or more, through the property owner's execution and recordation of an affordable housing deed restriction, in a form provided by or acceptable to the City.

1. *Multiple-family density bonus.* As provided below, the maximum residential density permitted by this Code for the development of new multiple-family affordable housing units shall be allowed within any R-8, R-12 or R-16 zoning district and shall allow increased density in order to encourage construction of such units pursuant to the following conditions:
 - a. *Density bonus cap.* The maximum density resulting from the bonus shall not exceed 150% of the density otherwise permitted for the project by the applicable zoning district.
 - b. *Designation of affordable dwelling units.* A minimum of 80% of the total number of dwelling units of a project subject to the provisions of this section shall be designated as affordable housing units.
2. *Development fee waivers.* The city may consider full or partial waiver of permit fees for developers providing affordable housing, including but not limited to the following:

Rezoning application

Lot changes and adjustments

Preliminary and/or final plat

Site plan

Plan modification

Tree removal

Building permit

Electrical permit

Plumbing permit

Mechanical permit

Stormwater management

Any permit fee waivers granted shall be pro-rated based on the percentage of multiple-family dwelling units that are designated as affordable housing units.

3. *Recordation of affordable housing deed restriction.* The affordable housing deed restriction required by this section shall be recorded at the property owner's sole cost. The property

owner must provide the City proof of recordation in an acceptable form prior to issuance of building permits.

- E. *Development incentives requiring City Commission approval.* On an individual project basis, the City Commission may, in its sole discretion, provide additional development incentives for affordable housing in addition to, or in lieu of, those specified in section 33-151 and 33-152. Incentives may include reduction, delay or waiver of any and all applicable City impact fees, as specified in sections 33-42 to 33-45.

Section 4. 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 5. Conflicts. All Ordinances or parts of Ordinances and other actions of the City Commission in conflict with this Ordinance are hereby repealed.

Section 6. Severability. If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

Section 7. Codification; Direction to Code Codifier and City Staff; Correction of Scrivener's Errors.

(a). The provisions Sections 2 and 3 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.

(b). 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.

(c). 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 8. 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: August 17, 2022

FROM: Mike Holmes, Planning Director

FILE: Memo/22/affordable program

SUBJECT: Proposed Density Bonus Ordinance

The City has received an application to amend our Land Development Regulations (LDR) to create a density bonus for affordable housing projects. Attached is the proposed ordinance and the policies in the Comprehensive Plan that allows for a density bonus program to be established. As referenced in policy h1.1.2 the city may pursue several options to help with the affordability of housing for our residents. Through the past several years, the City Commission has asked staff to develop ways of reducing the potential cost of new residential projects in DeLand. Previously, the minimum size of dwelling units was reduced, as well as encouraging accessory dwelling units were modified in the LDR's. And now we are being asked to create a density bonus program by the private sector to further the city's efforts in achieving affordable housing.

The attached ordinance will allow a developer to submit for an increase of 50% of the maximum density allowed in each of our three multi-family zoning districts if they are to provide units for residents earning 120% of the area median income or less. The final project must designate at least 80% of the units to qualify for the affordable program. The 120% of median income term falls into the moderate-income category as defined by HUD. This percentage is to help identify the renters that may need assistance to avoid spending more than 30% of their income on rent. The affordable housing restriction must be recorded in a deed and provided to city staff for verification.

The proposed ordinance also allows for the full or partial waiver of city permit fees by action of the City Commission in addition to the density bonus. The density bonus is proposed to be done administratively as part of the site plan approval process. The final approval will be based on the size of the project as to which class the site plan falls under; Class II site plan is less than 40 units approved by TRC; Class III site plan is less than 80 units approved by Planning Board and Class IV site plan is more than 81 units approved by City Commission.

Although the ordinance allows for the waiving of permit and impact fees, the ordinance does not provide relief from any of the current regulations, just the increase in density. Such standards as tree protection, parking, unit size, and landscaping are the same as for all multi-family developments.

Recommendation

Please provide comments for City Commission consideration, especially if the Board desires to see the ordinance expanded to help further address affordability.

HOUSING ELEMENT

GOALS, OBJECTIVES AND POLICIES

GOAL h-1: Ensure that a range of safe, sanitary, energy efficient and affordable housing is available to all the residents of the City of DeLand.

Objective h1.1: Periodically review Census housing data for the City of DeLand, projections from the Affordable Housing Needs Assessment and other appropriate data sources to help determine the city's housing needs and if the Housing Element accurately reflects the City's supply of affordable housing units.

Policy h1.1.1: Based upon the results of reviewing the housing data in the Affordable Housing Needs Assessment, revise the existing Housing Element to accurately reflect and address the City's affordable housing situation.

Policy h1.1.2: Seek options and alternatives to be made available to private developers that will serve as incentives for the provision of low and moderate income housing (i.e., density bonuses for low and moderate income units/set asides within new developments, reduce minimum unit size etc.).

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: First Reading of Ordinance Annexing 4.87 Acres of Property Located at the North East Corner of East Wisconsin Avenue and Miller Road.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Ordinance, Exhibit A, Exhibit B, AN22-100 Staff Report - E Wisconsin (The Canopy at Blue Lake), AN22-100 Aerial, Survey

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

This request is being made by the applicant, Slava Yedlin, for approval to annex 4.87 acres of property into the City of DeLand to develop a single-family residential project. The subject property is located on the north side of E. Wisconsin Avenue, approximately 200 feet east of Miller Road.

At the September 21, 2022 meeting ,the Planning Board recommended approval of the annexation.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

As outlined in the city's strategic plan: "To manage growth, the City will need to institute a number of smart growth principles. For reasons of both community identity and governmental efficiency, an annexation strategy is required which will "square off" the City's boundaries." Approval of this request will further the city's goals to annex contiguous properties in order to ensure quality growth within the city limits.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

Inclusion of this property onto the city's tax rolls will increase funds towards city services.

RECOMMENDATION:

It is recommended that the City Commission approve annexation of the subject property into the city limits and delay the adoption of the ordinance until the associated land use application is approved by the Volusia Growth Management Commission and brought back to the City Commission.

BACKGROUND/DISCUSSION:

The applicant intends to construct a single-family residential project. The property to be annexed is sufficiently contiguous to existing property that is already within the city limits and does not create an enclave. The applicant has applied for a land use amendment (SMLU22-142) as well as a PD rezoning to The Canopy at Blue Lake PD (Z22-143).

A feasibility analysis was done as part of the review, which determined that public services are available if the property were to be annexed into the city.

ORDINANCE NO. 2022 -

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, ANNEXING A PARCEL OF LAND TOTALING APPROXIMATELY +/- 4.8 ACRES OF PROPERTY LOCATED ON THE NORTH SIDE OF EAST WISCONSIN AVENUE AND WEST OF NORTH BLUE LAKE AVENUE; AMENDING CITY BOUNDARIES TO INCLUDE THE ANNEXED PROPERTIES; AFFIRMING COMPLIANCE WITH STATUTORY PROCEDURE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Petitioner, Viatcheslav Yedlin, on behalf of the owner, Yedlin & Co., LLC, submitted a petition for annexation of approximately +/- 4.8 acres of land located on the north side of east Wisconsin Avenue and west of north Blue Lake Avenue; and

WHEREAS, the parcel to be annexed is undeveloped and heavily wooded; and

WHEREAS, the area to be annexed is contiguous to the boundaries of the City of DeLand, on the north, and west, will not create an enclave if annexed, is reasonably compact, is not circuitous, and otherwise meets the requirements of *Chapter 171, Florida Statutes*.

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

Section 1. The following described land in Volusia County, Florida, for which a petition for annexation has been received from the Petitioner, Viatcheslav Yedlin, totaling approximately +/- 4.8 acres, located on the north side of east Wisconsin Avenue and west of north Blue Lake Avenue, is hereby annexed and made part of the City of DeLand, subject to the jurisdiction, obligations, benefits and privileges of property within the municipality:

See legal description(s) attached hereto as Exhibit "A"

Parcel Identification No. 7010-00-00-0300

Section 2. The boundary lines of the City of DeLand are hereby changed and redefined to include the lands described in Section 1 above and depicted on the map attached hereto as Exhibit "B" and by this reference made a part hereof.

Section 3. The City Commission finds that a public hearing has been held on this Ordinance prior to adoption in the Commission Chambers, City Hall, 120 S. Florida Avenue, DeLand, Florida, at 7:00 P.M., on _____, after notice published in accordance with Florida Statutes Section 171.044.

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

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

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

Passed on first reading:
Adopted on second reading:

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

EXHIBIT "A"

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA AND THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, SAID POINT BEING A 4-INCH BY 4-INCH CONCRETE MONUMENT STAMPED PRM 3282.

THENCE BEARING SOUTH 1 DEGREE 47 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 647.78 FEET TO THE INTERSECTION OF THE NORTH BOUNDARY OF THE EAST WISCONSIN AVE. R/W, SAID POINT BEING A 5/8" IRC (NO ID);

THENCE BEARING SOUTH 89 DEGREES 39 MINUTES 36 SECONDS WEST A DISTANCE OF 328.89 FEET TO THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, SAID POINT BEING A $\frac{1}{2}$ " IRC (ILLEGIBLE);

THENCE BEARING NORTH 1 DEGREE 39 MINUTES 6 SECOND WEST ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 646.97 FEET TO THE INTERSECTION OF THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, SAID POINT BEING A $\frac{1}{2}$ " IR (NO ID)

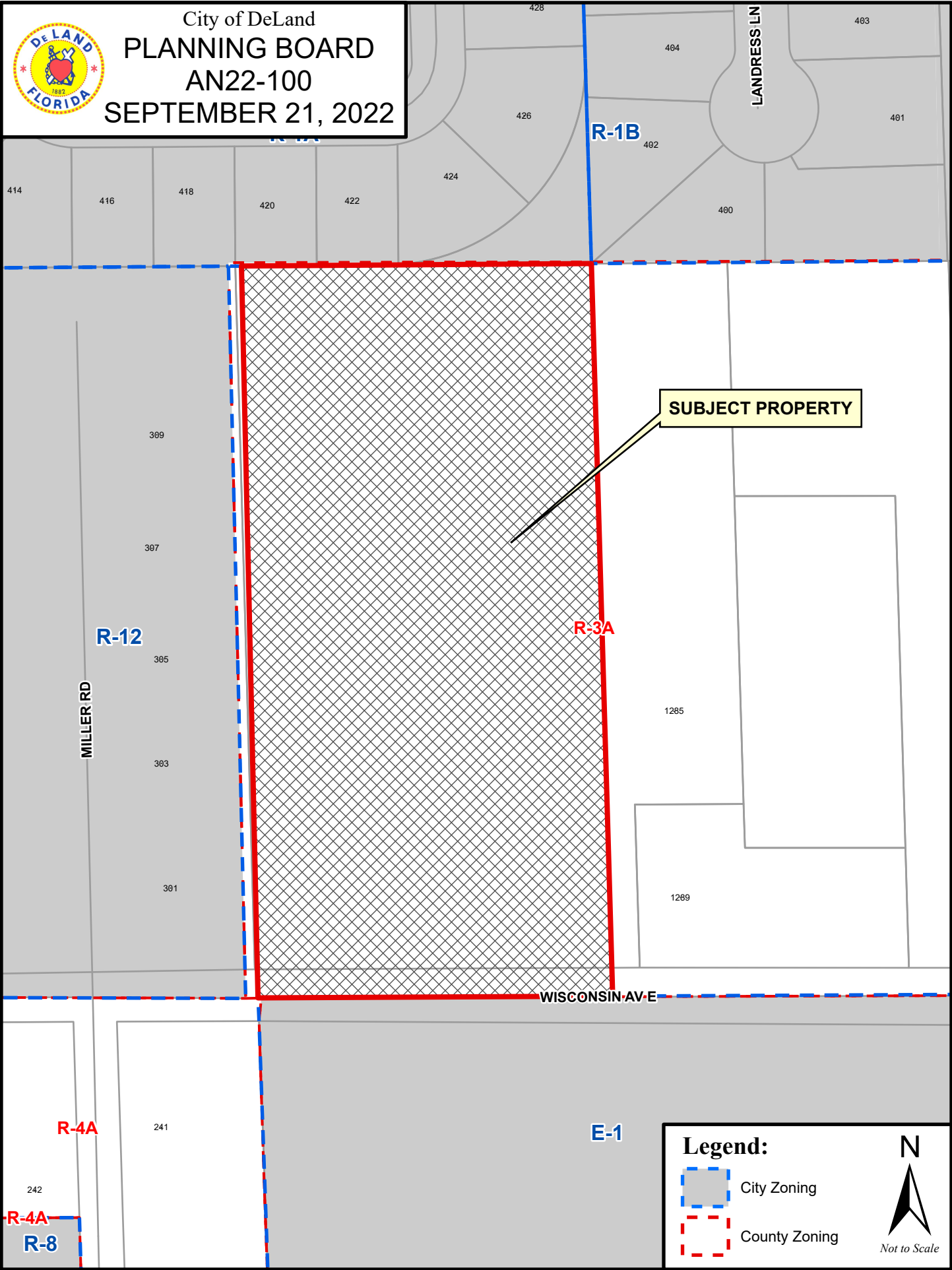
THENCE BEARING NORTH 89 DEGREES 31 MINUTES 34 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 327.28 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 4.875 ACRES MORE OR LESS.

Exhibit "B"



City of DeLand
PLANNING BOARD
AN22-100
SEPTEMBER 21, 2022



**PLANNING DEPARTMENT STAFF REPORT
TO
PLANNING BOARD**

September 21, 2022

APPLICATION: AN22-100

1. **Requested Action:** Annexation of property located in unincorporated Volusia County into the City limits of DeLand
2. **Location:** Located on the north side of E. Wisconsin Ave., west of N Blue Lake Ave.
3. **Petitioner:** Viatcheslav Yedlin
4. **Owner:** Stetson University
5. **Size of parcel(s):** ± 4.8 acres
6. **Parcel ID:** 7010-00-00-0300
7. **Land Use Designation & Zoning of Subject Property:**

Future Land Use: Volusia County: Urban Low Intensity

Existing Zoning: Volusia County: R-3A Urban Single Family Residential

Existing Use: Undeveloped

8. **Surrounding Land Use & Zoning:**

	LAND USE	ZONING
North:	LDR	R-1A
South:	Educational	E-1
East:	VC: ULI	VC: R-3A
West:	MDR	R-12

9. **Physical Characteristics:** The proposed annexation consists of ± 4.8 acres, and will also include the northern half of the E Wisconsin Ave. right-of-way. The subject property does not appear to contain wetlands and does not lie within the 100-year flood zone. The parcel is undeveloped and heavily wooded.

10. Public Services & Utilities: The City's Utilities Department will determine the closest City water and sewer mains. The Police Department will determine the appropriate Patrol Zone, and the Fire Department will confirm that there is adequate fire protection. Furthermore, the County of Volusia will confirm that there are no code enforcement actions or liens associated with this property.

11. Growth Management Plan Consistency: An application for a change in land use will be required to amend the future land use from Volusia County Urban Low Intensity (ULI) to the appropriate City land use designation. Additionally, an application for a zoning change from Volusia County R-3A (Urban Single Family Residential) to the appropriate City zoning designation will also be required. To the north of the subject property is the Victoria Place residential which consists of 75-100-ft. wide parcels. To the south of the subject property is Blue Lake Elementary School. To the east are residential properties approximately .5 to 1.5 acres in size. To the west are the Ashton Place apartments.



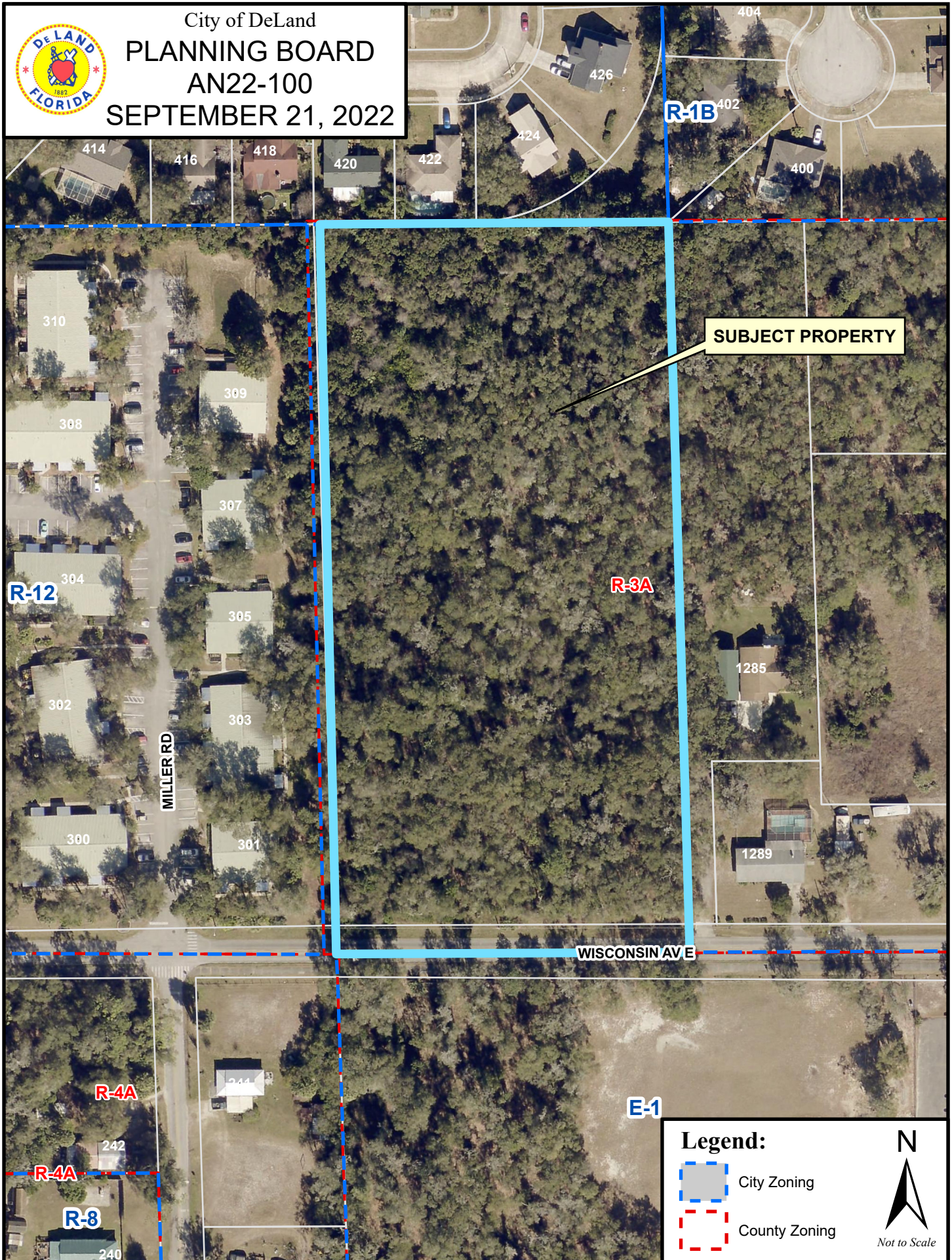
12. Analysis: The City's guidelines for annexation require a property be sufficiently contiguous to property already within the city limits and to be accessible to public services provided. In addition, the State requires the property be reasonably compact, not circuitous, and does not create an enclave. The subject property does not create an enclave, is contiguous to the City of DeLand, is reasonably compact and is not circuitous. The parcel is contiguous to the north by $\pm$ 327 ft., and to the west by $\pm$ 646 ft.

Recommendation: Staff recommends that the Planning Board forward this annexation petition to the City Commission, with a recommendation for approval.

Based upon the concurrency requirements of the State of Florida and the City's concurrency management plan, as adopted in Article 5, Sec. 33-41 of the Land Development Regulations, approval of the proposed annexation does not automatically provide vested development rights. At the time the developer applies for a development permit, adequate infrastructure must exist to support the proposed development. If such infrastructure does not exist, the developer may be required to incur additional expense to ensure that the necessary infrastructure is provided.



City of DeLand
PLANNING BOARD
AN22-100
SEPTEMBER 21, 2022



CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: First Reading of Ordinance Changing the Land Use of 4.87 Acres of Property, from Volusia County's Urban Low Intensity to City of DeLand Urban Low Intensity, for Property Located at the North East Corner of East Wisconsin Avenue and Miller Road.

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Ordinance, Exhibit A, SMLU22-142 Staff Report - E Wisconsin (The Canopy at Blue Lake), SMLU22-142 Aerial, SMLU22-142 Current Land Use, SMLU22-142 Proposed Land Use, SMLU22-142 Zoning Map, Metes and Bounds, Survey

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The applicant, Slava Yedlin, is requesting to amend the land use designation for property from being annexed into the city, from Volusia County Urban Low Intensity (ULI) to City of DeLand - Urban Low Intensity (ULI) for 4.87 acres. The subject property is located along the north side of E. Wisconsin Ave., east of N. Blue Lake Ave. At the September 21, 2022 meeting, the Planning Board recommended approval of the land use amendment.

The applicant applied for concurrent review of a request to annex into the city limits of DeLand (AN22-100) and for a zoning change to PD (Z22-143, The Canopy at Blue Lake PD).

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

N/A

SUSTAINABILITY:

N/A

FISCAL IMPACT:

Residential development of this property onto the city's tax rolls will increase funds toward city services.

RECOMMENDATION:

It is recommended that the City Commission approve the land use change to City of DeLand Urban Low Intensity on First Reading, and direct staff to transmit the amendment to the Volusia Growth Management Commission (VGMC). The second reading should be delayed until the application is reviewed by the VGMC.

BACKGROUND/DISCUSSION:

Volusia County's Urban Low Intensity designation allows for residential density ranging from 0.2 to 4 dwelling units per acre. If annexed into the City, and the requested land use change is approved, the maximum

residential density would not change, as the City's Urban Low Intensity land use category maintains the same range of 0.2 to 4 dwelling units per acre.

With a maximum density of 4 units per acre, the 4.87-acre property could yield up to 19 residential lots, the same as if it were to remain in unincorporated Volusia County. However, the applicant is proposing 12 single-family lots with a density of 2.46 dwelling units per acre, well within the parameters of the ULI land use designation.

Per the City's Comprehensive Plan, the ULI land use designation is intended for suburban residential density. It often acts as a buffer between lower density uses and nonresidential uses. Developments with higher densities should be located in proximity to major transportation facilities and utility lines.

ORDINANCE NO. 2022 -

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, AMENDING THE COMPREHENSIVE PLAN FOR THE CITY OF DELAND, BY CHANGING THE LAND USE DESIGNATION OF CERTAIN PROPERTY LOCATED ON THE NORTH SIDE OF EAST WISCONSIN AVENUE, WEST OF NORTH BLUE LAKE AVENUE AND EAST OF NORTH HILL AVENUE; FROM VOLUSIA COUNTY'S URBAN LOW INTENSITY FUTURE LAND USE DESIGNATION TO CITY OF DELAND'S URBAN LOW INTENSITY FUTURE LAND USE DESIGNATION; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, F.S. §163.3161, et seq., creates the Community Planning Act (hereinafter the "Act"); and

WHEREAS, the Act allows each local government to approve comprehensive plan amendments related to small scale development activities at any time during the year under certain conditions; and

WHEREAS, the Act permits small area amendments to be approved without regard to statutory limits on the frequency of comprehensive plan amendments as long as:

1. The proposed amendment is a land use of 50 acres or less; and
2. The cumulative effect of the above condition does not exceed 120 acres annually; and

WHEREAS, the City Commission adopted a comprehensive plan for the future growth and development of the City pursuant to Ordinance No. 90-4, as amended, (hereinafter the "Comprehensive Plan"); and

WHEREAS, the City Commission has received a request to amend the Comprehensive Plan by changing the land use designation of approximately 4.87 +/- acres of land located on the north side of East Wisconsin Avenue, west of North Blue Lake Avenue and east of North Hill Avenue; from Volusia County's Urban Low Intensity land use designation to City of DeLand's Urban Low Intensity future land use designation; and

WHEREAS, the Planning Board held a public hearing, after due public notice, for the purpose of recommending the adoption of the proposed Comprehensive Plan amendment; and

WHEREAS, the City Commission held a public hearing after due public notice, in accordance with F.S. §163.3184(11), for the purpose of transmitting the proposed Comprehensive Plan amendment to the Volusia Growth Management Commission and the Florida Department of Economic Opportunity.

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

Section 1. The City Commission hereby amends the Future Land Use Map for the incorporated area by changing the land use designation of that certain parcel of land located on the north side of East Wisconsin Avenue, west of North Blue Lake Avenue, and east of North Hill Avenue; consisting of approximately 4.87 +/- acres of land from Volusia County's Urban

Low Intensity Future Land Use designation to City of DeLand's Urban Low Intensity Future Land Use designation, as more particularly described in the Exhibit "A" attached hereto and by this reference made a part hereof.

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

Section 3. The effective date of this Ordinance shall be the later date of the following events: (1) the date of issuance of a certificate of consistency or conditional certificate of consistency with regard to the land use designation of the subject property by the Volusia Growth Management Commission; (2) thirty-one (31) days after its adoption by the City Commission; or (3) if properly challenged by an affected person, after the state land planning agency or the Administration Commission, respectively, issues a final order determining this adopted small scale development amendment to be in compliance. No development orders, development permits or land uses dependent on this Ordinance may be issued or commence before it has become effective.

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

Robert F. Apgar
Mayor - Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

Passed on first reading:
Adopted on second reading:

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

EXHIBIT "A"

EAST ONE-HALF (E 1/2) OF SOUTHEAST ONE-QUARTER (SE 1/4) OF NORTHWEST ONE-QUARTER (NW 1/4) OF SOUTHEAST ONE-QUARTER (SE 1/4) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE SOUTH 25 FEET THEREOF

Land Size; 4.87+/- Acres

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

September 21, 2022

A. APPLICATION NO.: SMLU22-142

APPLICANT: Viatcheslav Yedlin, Yedlin & Co. LLC

REQUEST: To amend the future land use designation of a parcel, approximately 4.87 acres in size, located on the north side of E. Wisconsin Ave., west of N. Blue Lake Ave. and east of N. Hill Ave., from Volusia County Urban Low Intensity (VC ULI) to City of DeLand Urban Low Intensity (ULI).

B. SITE FACTORS:

Location: On the north side of E. Wisconsin Ave., west of N. Blue Lake Ave.
Parcel ID #: 7010-00-00-0300
Parcel Size: ± 4.87 acres
Land Use: VC ULI – Residential
Existing Use: vacant land

	SURROUNDING LAND USE:
North:	Low Density Residential
South:	Educational
East:	VC Urban Low Intensity
West:	Medium Density Residential

C. REQUESTED ACTION & HISTORY:

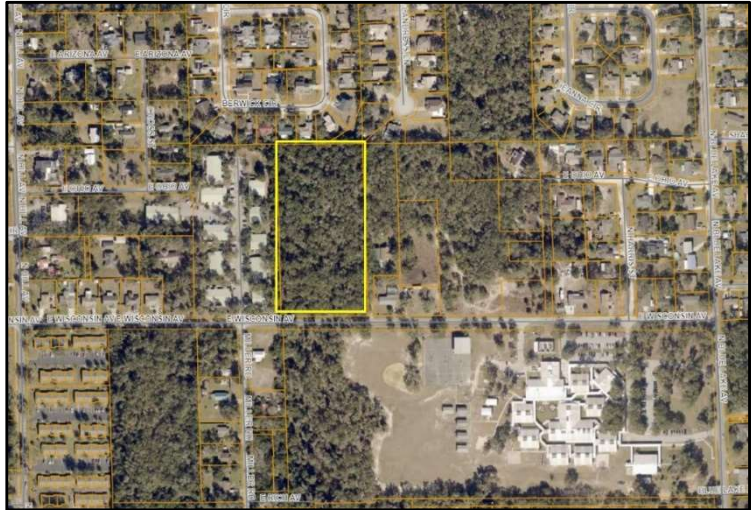
1. REQUEST: The applicant is requesting the future land use designation be amended from Volusia County Urban Low Intensity (VC ULI), to City of DeLand Urban Low Intensity (ULI), for a parcel located on the north side of E. Wisconsin Ave., west of N. Blue Lake Ave., and east of N. Hill Ave. The subject property is currently vacant and heavily wooded. The applicant is proposing a 12-lot single-family residential subdivision and desires to connect to city utilities, which are available.

Volusia County's Urban Low Intensity designation allows for residential density ranging from 0.2 to 4 dwelling units per acre. The uses are primarily residential but may also include neighborhood convenience uses, or mixed uses, if criteria from the County's Comprehensive Plan are satisfied and use is determined to be compatible based on location, size and traffic. As part of the County, the commercial intensity is limited to .50 FAR.

If annexed into the City, and the requested land use change is approved, the maximum residential density would not change, as the City's Urban Low Intensity land use category maintains the same range of 0.2 to 4 dwelling units per acre.

However, under the City's ULI designation, the intensity of non-residential uses would be more restrictive, limiting the FAR to only .18, for applicable properties.

Whether the property remains in the County or is annexed into the City, with a maximum density of 4 units per acre, the 4.87-acre property could yield up to 19 residential lots, the same as if it were to remain in unincorporated Volusia County. However, the applicant is proposing 12 single-family lots and a residential density of 2.46 dwelling units per acre, well within the parameters of the ULI land use designation.



Per the City's Comprehensive Plan, the Urban Low Intensity land use is intended for suburban residential density. It also acts as a buffer between lower density uses and nonresidential uses. Developments with higher densities should be located in proximity to major transportation facilities and utility lines.

The adjacent land uses surrounding the subject property include County Urban Low Intensity, Medium Density Residential (max. density of 12 du/acre), Low Density Residential (max. density of 5.8 du/acre) and Educational (max. 4.3 du/acre for single-family development)

2. CHRONOLOGY OF PAST EVENTS: The applicant has submitted concurrent applications to annex the property into the City of DeLand (AN22-100), and rezone the property to Planned Development (Z22-143). The rezoning application for The Canopy at Blue Lake Planned Development was reviewed by the Technical Review Committee (TRC) at the August 18th, 2022 meeting, where it was recommended that the application be forwarded onto the Planning Board, pending revisions.

D. ALTERNATIVES & ANALYSIS:

The purpose of this section is to analyze the reasonableness of the applicant's request for an amendment of the land use designation for the subject property. This analysis will include a description of the current and future land uses of the site and the surrounding area, potential impacts on the transportation system, and any significant adverse environmental impacts.

1. Availability of Public Facilities (water, sewer, solid waste, drainage, traffic, recreation, and schools if residential):

The City's Utilities Department states that there is an 8" water main located 150 LF to the west of the property; an 18" sewer main is located approximately 300 LF to the west of the property. Water and sewer adequacy will depend on future use/demand.

A Projected Trip Generation Report submitted by the applicant shows an average daily trip count of **115** trips; because the trips do not exceed the 1,000-trip threshold, the applicant will not be required to submit a full Traffic Impact Analysis.

The change in designation will not generate a new demand for recreation.

Volusia County provides a sanitary landfill for the disposal of solid waste. The landfill has adequate capacity at this time.

The City can provide an adequate LOS of Fire/Rescue service.

The City can provide an adequate LOS of Police service.

Prior to construction, the applicant must receive their Reservation Certificate from the VCSB.

- 2. Compatibility with Land Use and Other Elements:** The Future Land Use element requires that the subject property be consistent with surrounding development. The general area consists of mostly single-family residential neighborhoods as well as areas that are more rural. A project of this type would be compatible with other developments in the surrounding area as it maintains its residential character and establishes development standards that exceed general code requirements, such as wider lots and larger parcel sizes. Additionally, the impacts on public services, such as City utilities and roads, will be low because of the development's size and density.
- 3. Future Land Use Map:** The change in land use designation to City Urban Low Intensity (ULI) will be shown on the revised Future Land Use Map, if approved.
- 4. Location of Lakes, Floodplains, and Wetlands:** The property is generally flat with a slight slope towards the northeast corner. The highest area is in the southwest corner, closest to the roadway. According to Volusia County's interactive map, the property is located outside of the 100-year floodplain and does not contain any wetlands.
- 5. Analysis of Natural Resources:**
 - a. Soil types:*
 - Astatula-Fine Sand, 0-8% slope
 - Orsino Fine Sand, 0-5% slope
 - b. Presence of Endangered Species:*
 - None known of at this time; the applicant will not be required to submit an environmental report prior to construction because it is less than 5 acres in size.
- 6. Existing and Future Impact upon Infrastructure Capacity:**
 - a. Water* – The City's Utility Department indicates sufficient water supply is available for the proposed use.
 - b. Sewer* – The City's Utility Department has indicated sufficient existing capacity.

- c. *Drainage* – The City adheres to the County’s 100-year frequency, 24-hour storm event standard for landlocked basins. Stormwater capture will be addressed on-site.
- d. *Solid Waste* – Solid waste services are available for the property.
- e. *Transportation* – In order to estimate traffic generation by development on the subject property, Staff must make theoretical projections based on the **most intense** uses that are allowed under the existing future land use designation versus the proposed future land use designation.

Staff estimates that development of the 4.87 acres of property under the existing land use designation (VC ULI), at its **maximum residential density** of 4 dwelling units per acre, would generate **132** calculated trips per day at build-out.

Alternatively, at its **maximum non-residential intensity** under the existing land use (VC ULI), which has a FAR limit of .50 (50%), could yield up to 106,000 sq. ft. of Neighborhood Commercial space, and would generate **1,167** calculated trips per day at build-out, according to Trip Generation by the Institute of Transportation Engineers.

However, the proposed land use designation (City ULI) mirrors the County’s **maximum residential density** of 4 dwelling units per acre, and therefore no additional trips would be generated if developed for residential uses.

Alternatively, the proposed land use designation (City ULI) allows a **maximum commercial intensity** and limits the FAR to .18 (18%); in this case, the property could yield up to 38,184 sq. ft. of **neighborhood commercial space**. The commercial space could potentially generate **418** calculated trips per day at build-out.

Therefore, if developed for non-residential uses, the requested land use amendment could result in *less* trips, generating a net loss of **-749** trips per day. If developed for residential use, as proposed, the daily trips per day remain the same.

- f. *Fire/Rescue Service* - The Fire Department states that adequate fire protection can be provided and response time is under 7 minutes (non-emergency).
- g. *Police Service* - The Police Department states that the property is located within what is known as Zone 3. Adequate police protection can be provided with a response time of approximately 5 minutes.

7. **Impact upon Recreation and Open Space:** Per the City’s Capital Improvement Element, park facilities shall be provided at a rate of 7 acres per 1,000 residents. If approved for a land use amendment to Urban Low Intensity, with a **maximum** of 19 new dwelling units (with the most intense scenario), anticipated population would be no more than **46** additional citizens; therefore, a need for new recreation areas is not expected.

8. **New Public Facilities Needed to Serve Land Use:** No need for new public facilities is anticipated.

9. **Impact Upon Existing Deficiencies:** As identified in the City's Comprehensive Plan, drainage is the only existing deficiency within the City. Any development on this site will be required to manage its own stormwater.
 10. **Impact upon Ability of the City to Fund Capital Improvements:** The development should not create an additional impact upon the City's ability to fund the projects listed in the adopted Five-Year Capital Improvement Program.
 11. **Impact upon Adopted Five-Year Schedule in Capital Improvements Element:** The proposed land use amendment will not require revision to the City's adopted Five-Year Capital Improvement Program.
 12. **Compatibility with Existing Zoning Classification:** The existing zoning classification will be amended upon approval of the land use amendment to a classification permitted by the new land use designation.
 13. **Will the proposed land use change impact schools?** The Volusia County School Board must review the applicant's concurrency application and issue a finding of adequate school capacity for this project.
 14. **How does this proposal fit with the guidelines developed for DeLand 2050 and the City's Strategic Plan?**
 - a. Located in Urban Core (Category 2) – i.e. “where the majority of the new, higher intensity growth will take place.” – *Consistent*
 - b. DeLand 2050 Land Use Guidelines – “Concentrate development at the core of the city or at transit-oriented sites and corridors. The urban core is the key area to focus development, maintaining a strong job base and taking advantage of existing infrastructure. Locating higher intensity along select corridors or major centers will encourage transit and lessen traffic congestion.” – *Somewhat Consistent*
- E. **CONCLUSION:** The Applicant is proposing an amendment to the future land use designation, with the intention of developing the subject property as a single-family residential subdivision. The proposed designation is acceptable as presented and is consistent with the development pattern of the surrounding area.
- F. **STAFF RECOMMENDATION:** Staff recommends approval to amending the subject property's future land use designation to City of DeLand Urban Low Intensity (ULI).
- G. **VGMC INFRASTRUCTURE IMPACT ASSESSMENT**
In accordance with standard practice from the Florida Department of Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the currently adopted future land use designation versus the proposed designation.

The following seven public facilities and services were examined: (Table 4)

1. Transportation
2. Sanitary Sewer
3. Potable Water
4. Solid Waste
5. Stormwater Drainage
6. Recreation
7. Schools

Table 4. Impact Analysis (Theoretical Max.)

Development Variable	Future Land Use	Proposed Future Land Use	Net Change
	(Theoretical Maximum)		
	VC ULI (Existing)	City ULI (Proposed)	
Residential Density	0.2-4 du/ac	0.2-4 du/ac	N/A
Dwelling Units	19	19	0
Non-residential (commercial)	106,068 SF (FAR .5)	38,184 SF (FAR .18)	-67,883 SF
1. Population	46	46	0
2. P.M. Peak Hour Trips/Daily Trips (residential peak/average) (commercial peak/average)	(18/132) res. (156/1,167) com.	(18/132) res. (57/418) com.	(0/0) res. (-99/-749) com.
3. Sanitary Sewer (gallons per day)	3,800/10,606	3,800 /3,818	0/-6,788
4. Potable Water (gallons per day)	5,700 /10,606	5,700/3,818	0/-6,778
5. Solid Waste (pounds per person)	148/1,060	148/380	0/-680
6. Stormwater Drainage	TBD	TBD	TBD
7. Rec. & Open Space (per person)	.32	.32	0

Notes:

1. Population: 2.44 persons per household (per 2020 Census)
2. Transportation: ITE Trip Generation Manual, 8th Edition:
0.97 PM peak hour trips/DU; and 6.97 daily trips/DU;
1.49 PM peak hour trips/1,000 SF office space; and 11.01 daily trips/1,000 SF office.
3. Sanitary Sewer: 200 GPD per Equivalent Residential Unit; 0.10 GPD per sq. ft. commercial use
4. Potable Water: 300 GPD per Equivalent Residential Unit; 0.10 GPD per sq. ft. commercial use
5. Solid Waste: 3.21 pounds per person per day; 10 lbs. per 1,000 sq. ft. non-residential development per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event. Drainage system is required to be designed to meet the requirements of the Land Development Code during subdivision or site plan review.
7. Rec. & Open Space: 7 acres per 1,000 persons (0.007 acres/person)

The proposed amendment results in decreased impacts to all public infrastructure and services based on the theoretical maximum impact analysis.

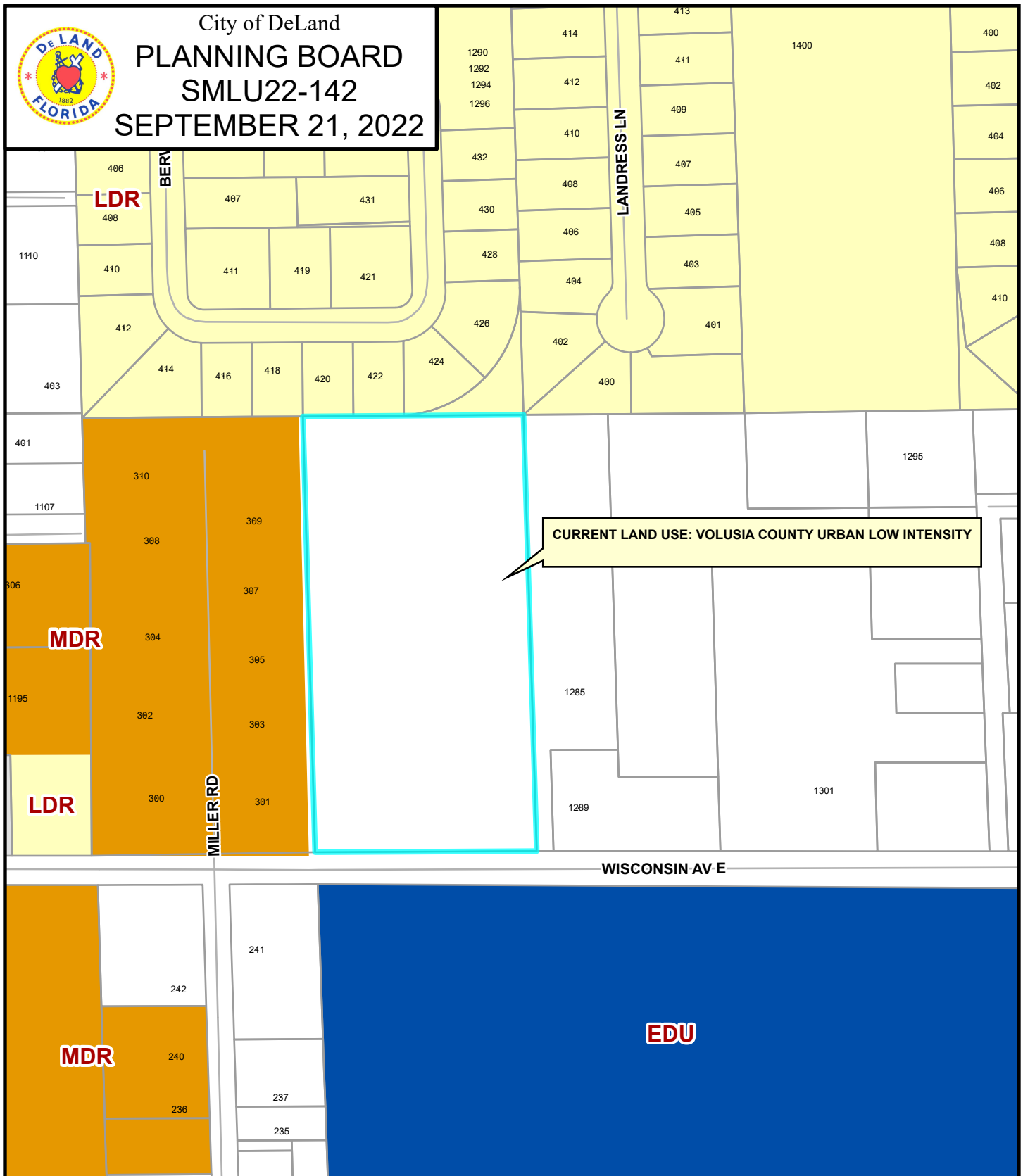


City of DeLand
PLANNING BOARD
SMLU22-142
SEPTEMBER 21, 2022





City of DeLand
PLANNING BOARD
SMLU22-142
SEPTEMBER 21, 2022



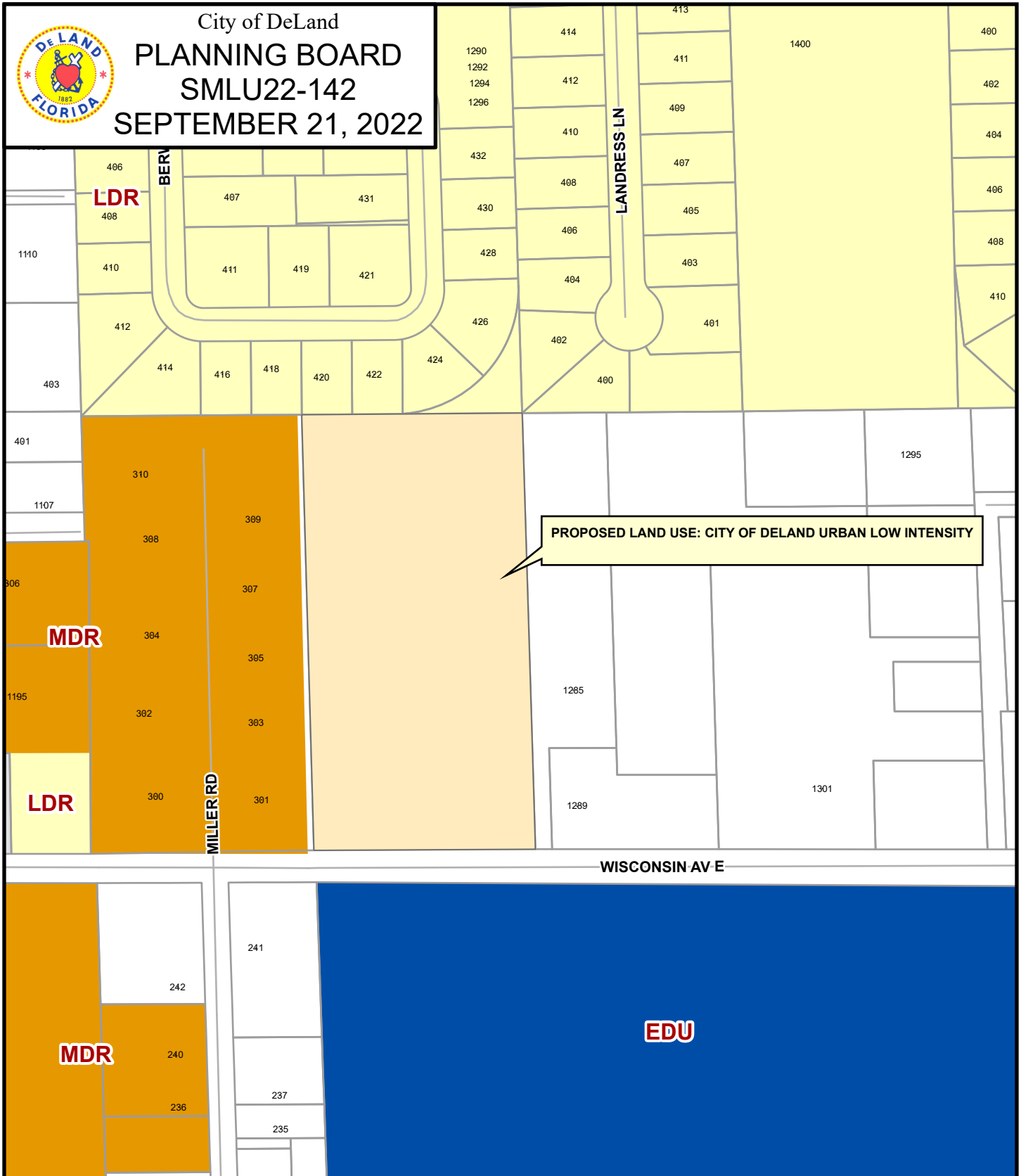
DeLand Future Land Use:

Agricultural Conservation	Educational	Downtown Commercial	New Community Development
Urban Low Intensity	Mixed Office - Residential	Redevelopment	Community
Low Density Residential	Mixed Commercial	Gateway	Commerce
Medium Density Residential	Business Retail	Rail Spur	West Central District
High Density Residential	Highway Commercial	Industrial	County





City of DeLand
PLANNING BOARD
SMLU22-142
SEPTEMBER 21, 2022



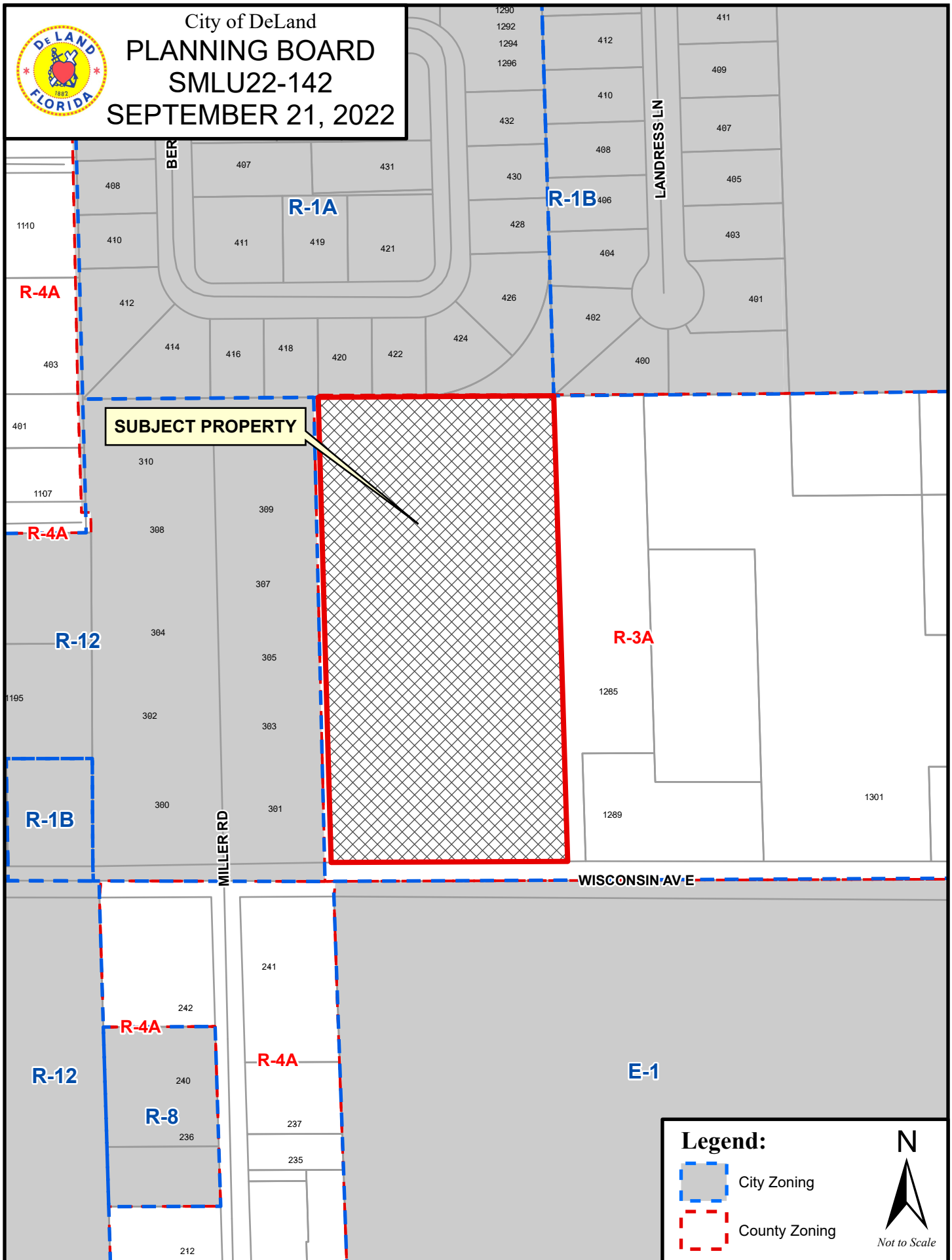
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City of DeLand
PLANNING BOARD
SMLU22-142
SEPTEMBER 21, 2022



EAST ONE-HALF (E 1/2) OF SOUTHEAST ONE-QUARTER (SE 1/4) OF NORTHWEST ONE-QUARTER (NW 1/4) OF SOUTHEAST ONE-QUARTER (SE 1/4) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, LESS AND EXCEPT THE SOUTH 25 FEET THEREOF

Land Size; 4.87+/- Acres

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: First Reading of Ordinance Changing the Zoning for 4.87 Acres of Property, Located at the NE Corner of E. Wisconsin Ave. and Miller Rd., from Volusia County R-3A to City of DeLand Planned Development (The Canopy at Blue Lake PD).

DEPARTMENT: Planning

PREPARED BY: Mike Holmes, Planning Director

ATTACHMENTS: Ordinance, Exhibit A , Exhibit B-The Canopy at Blue Lake PD Agreement , Exhibit A - Metes and Bounds Legal, Exhibit B - Concept Plan, Z22-143 Staff Report - The Canopy at Blue Lake PD, Map, Survey, Z22-143 Aerial

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The applicant, Slava Yedlin, is requesting to amend the zoning designation for the subject property from Volusia County – R-3A to City of DeLand - Planned Development (The Canopy at Blue Lake PD). The subject property contains approximately 4.87 acres and is located along the north side of E. Wisconsin Ave., west of N. Blue Lake Ave.

The requested PD zoning would allow the property to be developed as a single-family residential subdivision containing a total of 12 lots.

Each of the 12 homes will have a minimum of 4 parking spaces (2 garage spaces and 2 driveway spaces). The PD requires a minimum Tree Protection Area of 15% as well as the reservation of existing trees along the site's entire perimeter. On September 21, 2022, the Planning Board recommended approval with the following revisions: 1. PD Agreement (Development Standards, pg. 7) - Increase the maximum lot coverage to 50-55% to allow for accessory structures such as pools, sheds, etc. 2. PD Agreement (Transportation System Improvements, pg. 9) - Stipulate that a crosswalk across Wisconsin Avenue is installed if approved by the County.

Both recommended revisions from the Planning Board have been addressed by the applicant and are reflected in the attached PD Agreement dated 10/4/2022.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

As outlined in the city's strategic plan under Strategic Focus Area: Preparing for the Future/Sustainability Strategic Context: Recognizing that the City itself is dynamic and that extensive changes will occur in the region in the near- and long-term future, it is important that there be a strategic focus on the future.

The need for additional housing units throughout our region as well as nationally has become evident within the city. This action is a step toward the city trying to meet the housing needs of citizens in this region.

SUSTAINABILITY:

Amending the zoning designation of this property and outlining the development parameters will permit its development for residential purposes that align with the city's development requirements and will enable the city to continue active pursuit of its vision and strategic plan.

FISCAL IMPACT:

Residential development of this property, and inclusion of the residential units onto the city's tax roll will increase funds for city services.

RECOMMENDATION:

It is recommended that the City Commission approve the zoning designation of this property on First Reading from Volusia County – R-3A to The Canopy at Blue Lake PD. Second Reading should be delayed until the corresponding land use amendment is adopted.

BACKGROUND/DISCUSSION:

The applicant has applied for annexation of the property, as well as a land use amendment to create the residential development (AN22-100, SMLU22-142). The subdivision will be accessed from E. Wisconsin Ave. using a new internal road, terminating with a cul-de-sac. Per the PD, the entrance may have two flanking monument signs on either side of the subdivision entrance. The development includes a small common area located next to the mail kiosk, and 5' wide sidewalks will be provided on both sides of the internal roadway.

The development standards in the PD generally follow the standards of the R-1A zoning district.

Lot Requirements:

Min. Lot Width - 85'

Min. Lot Depth - 90'

Min. Lot Size - 9,500 sq. ft,

Min. House Size - 1,200 sq. ft.

Yard Requirements:

Front Setback - 30'

Rear Setback - 25'

Side Setback - 12.5'

2-car garage & driveways size to accommodate 2 full-sized vehicles

ORDINANCE NO. 2022 -

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, CHANGING THE ZONING FROM VOLUSIA COUNTY'S, R-3A, URBAN SINGLE-FAMILY TO CITY'S PLANNED DEVELOPMENT, THE CANOPY AT BLUE LAKE PD, ON PROPERTY LOCATED ON THE NORTH SIDE OF EAST WISCONSIN AVENUE AND WEST NORTH BLUE LAKE AVENUE; APPROVING A PLANNED DEVELOPMENT PLAN CONSISTING OF APPROXIMATELY 4.8 +/- ACRES OF PROPERTY MAKING FINDINGS OF CONSISTENCY WITH THE COMPREHENSIVE LAND USE PLAN FOR THE CITY OF DELAND; DIRECTING CHANGE IN THE COMPREHENSIVE ZONING MAP; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Petitioner, Viatcheslav Yedlin, on behalf of the owner, Yedlin & Co LLC, owns approximately 4.8 +/- acres of land located on the north side of east Wisconsin Avenue and west of north Blue Lake Avenue, which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, the Applicant has applied for a change of zoning designations from Volusia County's R-3A, Urban Single-Family to The Canopy at Blue Lake PD, Planned Development; and

WHEREAS, said rezoning is consistent with both the Comprehensive Plan and the purpose and intent of Section 33-32 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the applicant has submitted an application for the approval of a development plan in order to amend the property zoning designation so as to change certain development standards for the property described in Exhibit "A" (hereinafter the "Property" or the "Project"); and

WHEREAS, the proposed development plan meets or exceeds the minimum conditions and standards for the PD District with respect to minimum development size, perimeter setbacks, comprehensive plan consistency, internal compatibility, external compatibility, open spaces, sidewalks, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control; and

WHEREAS, the proposed development plan is consistent with the Urban Low Intensity future land use designation.

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

Section 1. The City Commission has held a public hearing to approve the change of zoning from Volusia County's R-3A, Urban Single Family to The Canopy at Blue Lake Planned Development (PD), on property located on the north side of east Wisconsin Avenue and west of north Blue Lake Avenue consisting of approximately 4.8 +/- acres of property.

Section 2. Pursuant to the determination made at public hearing, the City Commission hereby amends the Comprehensive Zoning Map of the City to include the land described in Exhibit "A" as The Canopy at Blue Lake PD, Planned Development District.

Section 3. The zoning of the Property as PD, Planned Development District, is made pursuant to Section 33-32 of the Code and the development of the Property shall take place in accordance with that Section and in substantial compliance with the Development Plan Agreement, Maps and other supporting documentation submitted by Applicant which shall be filed and retained for public inspection in the office of the City Planning Department and constitute a supplement to the official Zoning Map of the City.

Section 4. The approved Development Plan for The Canopy at Blue Lake PD, Planned Development District, including the Development Plan Agreement, Map and other supporting documentation (on file with the City Planning Department), are attached hereto as Exhibit "B" and by this reference made a part hereof.

Section 5. The failure of the approved Development Plan to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with any law governing said permitting requirements, conditions, terms or restrictions, as same may be amended or enacted from time to time in the future. All current land development regulations of the City are applicable to the PD District except to the extent that they conflict with a specific provision of the approved Development Plan.

Section 6. At the time of development, the Applicant shall comply with all relevant building codes and development standards contained in the City’s Code of Ordinances or in the Development Plan; provided, however, that the development standards contained in the adopted Development Plan shall supersede comparable standards contained in the Code of Ordinances.

Section 7. The City Commission may rezone any portion of the Project which has not obtained a site plan approval within five years from the date of adoption of this Ordinance.

Section 8. Prior to the issuance of a building permit, Applicant shall submit an easement document, acceptable to the City of DeLand, permitting additions to shared access, parking, utilities, and stormwater.

Section 9. Pursuant to Article 5 of the City’s Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

Section 10. The City Engineer, Planning Director, and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

Section 11. No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

Section 12. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 13. This Ordinance shall become effective immediately upon its adoption.

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

Robert F. Apgar
Mayor - Commissioner

ATTEST:

Julie A. Hennessy
City Clerk - Auditor

Passed on first reading:
Adopted on second reading:

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

EXHIBIT "A"

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA AND THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, SAID POINT BEING A 4-INCH BY 4-INCH CONCRETE MONUMENT STAMPED PRM 3282.

THENCE BEARING SOUTH 1 DEGREE 47 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 647.78 FEET TO THE INTERSECTION OF THE NORTH BOUNDARY OF THE EAST WISCONSIN AVE. R/W, SAID POINT BEING A $\frac{5}{8}$ " IRC (NO ID);

THENCE BEARING SOUTH 89 DEGREES 39 MINUTES 36 SECONDS WEST A DISTANCE OF 328.89 FEET TO THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, SAID POINT BEING A $\frac{1}{2}$ " IRC (ILLEGIBLE);

THENCE BEARING NORTH 1 DEGREE 39 MINUTES 6 SECOND WEST ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 646.97 FEET TO THE INTERSECTION OF THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, SAID POINT BEING A $\frac{1}{2}$ " IR (NO ID)

THENCE BEARING NORTH 89 DEGREES 31 MINUTES 34 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 327.28 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 4.875 ACRES MORE OR LESS.

1 "EXHIBIT B"

2 PLANNED DEVELOPMENT AGREEMENT

3 IN THE CITY COMMISSION OF THE

4 CITY OF DELAND, FLORIDA

5 IN RE: (**Case #**), Application of

6 ***Yedlin & Co, LLC***

7 ORDINANCE # _____

8 ***(# to be Provided After Commission Approval)***

9 ORDER AND RESOLUTION

10 GRANTING A REQUEST FOR CHANGE OF ZONING FROM ***(VCR-3A)*** TO

11 ***(The Canopy at Blue Lake PD)*** PD (PLANNED DEVELOPMENT) *(see below)*

12
13 The application of (*Yedlin & Co, LLC*), hereinafter, "Applicant", for rezoning was
14 heard by and before the City Commission, DeLand Florida, on ***(public hearing date)***.
15 Based upon the verified Application and other supporting documents, maps, charts,
16 overlays, other evidence and instruments; the advice, report, and recommendations of
17 the Community Development, and other Departments and agencies of DeLand, Florida;
18 and the testimony adduced and evidence received at the Public Hearing on this
19 Application by the Planning Board on ***(public hearing date)***, and otherwise being fully
20 advised, the City Commission does hereby find and determine as follows:

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E. That the Applicant has complied with the "Due Public Notice" requirements of the City Commission, Land Development Regulations Ordinance #2013-11, as amended.

1 FINDINGS REGARDING REZONING

2

3 A. That the Applicant has applied for a change of zoning from the present

4 zoning classification(s) of the parcel described in Exhibit "A" from (**VCR-3A**) to (**The**

5 **Canopy at Blue Lake PD**) (Planned Development).

6

7 B. That the said rezoning to a PD is consistent with both the City of DeLand

8 Comprehensive Plan Ordinance # 1990-04, as amended, and the intent and purpose of

9 the City of DeLand Land Development Regulations Ordinance #2013-11, as amended,

10 and does promote the public health, safety, morals, general welfare and orderly growth

11 of the area affected by the rezoning request.

12

13 NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF

14 DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY

15 COMMISSION CHAMBERS, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA,

16 THIS (**public hearing date**) DAY OF _____, A.D., _____, AS

17 FOLLOWS:

18

19 A. That the Application of (**Yedlin & Co, LLC**) for the rezoning of the subject

20 parcel is hereby granted.

21

22 B. That the zoning classification of the subject parcel described in Exhibit "A"

23 attached hereto is hereby amended from (**VCR-3A**) to (**The Canopy at Blue Lake PD**)

24 PD as described in Article VII of the City of DeLand, Land Development Regulations

1 Ordinance #2013-11, as amended.

2
3 C. That the Official Zoning Map of the City of DeLand, is hereby amended to
4 show the rezoning of said parcel to (***The Canopy at Blue Lake PD***) PD.
5

6 D. That the City of DeLand Land Development Regulations Ordinance
7 #2013-11, as amended, is consistent with the provisions of the "Development
8 Agreement" as hereinafter set forth in this Ordinance and with respect to any conflict
9 between Land Development Regulations Ordinance #2013-11, as amended, and the
10 "Development Agreement", the provisions of the "Development Agreement" shall
11 govern. Ordinance #2013-11, as amended, shall govern with respect to any matter not
12 covered by the "Development Agreement." The City of DeLand, will ensure overall
13 compliance with this Ordinance.
14

15 E. Unless otherwise provided for herein the City of DeLand, Land
16 Development Regulations Ordinance #2013-11, as amended, shall apply to the PD in
17 the same manner as the (***R-1A***) zoning classification.
18

19 F. Nothing in this Ordinance shall abridge the requirements of any City of
20 DeLand Ordinance other than Ordinance #2013-11, as amended. Timing and review
21 procedures contained in this Order and Resolution may be modified to comply with the
22 City of DeLand Land Development Regulations, Ordinance #2013-11, as amended.
23 Further, nothing in the Development Agreement is intended to abridge the requirements
24 of Ordinance #2013-11, as amended, and any other City Ordinances.

1
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4 DEVELOPMENT AGREEMENT
5

6 A. Development Concept The property shall be developed as a PD
7 substantially in accordance with the Planned Development Plan. The Planned
8 Development Plan shall govern the development of the property as a PD and shall
9 regulate the future land use of this parcel. The subdivision improvements shall all be
10 constructed in a single phase.

11 1. Planned Development Plan The Planned Development Plan shall
12 consist of the Development Plan Map prepared by (***Newkirk Engineering, Inc.***) and
13 dated (***7-18-2022***) and this Development Agreement. The Planned Development Plan is
14 hereby approved and incorporated in this Ordinance by reference as Exhibit "B". The
15 Planned Development Plan shall be filed and retained for public inspection in the
16 Planning Department and it shall constitute a supplement to the Official Zoning Map of
17 the City of DeLand.

18 2. Amendments. All amendments of the Planned Development Plan,
19 other than those deemed by the Planning Department to be minor amendments as set
20 out in Ordinance #2013-11, as amended, shall require the review and recommendation
21 of the Planning Board and action by the City Commission in the same manner as a
22 rezoning of the parcel. The plan shall also require review of Fire for changes.

23 3. Subdivision Approval. After the Planned Development Plan is
24 recorded, and prior to any construction, including clearing and landfill, ***a preliminary***

plat of the area to be subdivided shall be submitted for review and approval in the manner required by Article XIII of the City of DeLand Land Development Regulations, Ordinance #2013-11, as amended.

B. Unified Ownership. The Applicant or his successors shall maintain unified ownership of the subject parcel until after issuance of the Final Site Plan Development Order.

C. Phases of Development. *The development will be constructed in a single phase.*

D. Land Uses Within the PD. The development of the parcel shall be consistent with the uses prescribed for each area within the proposed (***The Canopy at Blue Lake PD***) PD. The location and size of said land use areas are shown on the Development Plan Map, Exhibit "B". The following land uses shall be allowed as permitted principal uses and structures along with their customary accessory uses and structures: ***Single Family Residential and accessory uses and structures, utility lift station, stormwater management area, common open space and mail kiosk.***

E. Development Standards.

<i>Maximum Density</i>	<i>4 DU / Acre</i>
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<i>Maximum Number of Lots</i>	<i>12 Lots</i>
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<i>Minimum Lot Requirements</i>	
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<i>1. Minimum lot area</i>	<i>9,500 SF</i>
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2. *Minimum lot width and/or depth* 85-ft Minimum Width
90-ft Minimum Depth
 3. *Minimum yard size (building)*
 - a. *Front yard:* 30-ft.
 - b. *Rear yard:* 25-ft.
 - c. *Side yard:* 12.5-ft.
 - d. *Waterfront yard:* N/A
 4. *Minimum floor area:* 1,200 sq. ft.
 5. *Maximum lot coverage* 50%
 6. *Maximum building height* 35'
 7. *Landscape buffer requirements* Per 33-92; #1013-
- 11
- North 25-ft Type B
 - South 30-ft Type D
 - East 15-ft Type B
 - West 20-ft Type C
 8. *Off-street parking requirements* Per 33-91; #2013-11
Per LDRs; all single-family dwellings shall have garages sized to accommodate two (2) full size vehicles and driveways sized to accommodate two (2) full size vehicles.
 9. *Signage requirements* Two single-faced signs with a maximum of 16 square feet each and maximum heights of 12-ft.
 10. *Open Space and/or Common Area requirements* meeting the Land Development Regulations Ordinance #2013-11.
 11. *Accessory Structures* per the requirements of Land Development Regulations Ordinance #2013-11.
 12. *Pools and Screen Enclosures* per the requirements of Land Development Regulations Ordinance #2013-11.

F. Environmental Considerations. **A minimum Tree Protection Area of fifteen percent (15%) shall be provided per the Land Development Regulations.**

1 ***The PD will abide by and require compliance with the requirement of Land***
2 ***Development Regulation Ordinance #2013-11, as amended. Existing trees will be***
3 ***preserved along the site's entire perimeter, the retention area landscape buffer***
4 ***areas will also include natural vegetation retention with plantings along the pond***
5 ***site perimeter to enhance the existing vegetations diversity and screening ability.***
6 ***The site will be graded to minimum cut and fill requirements allowing for***
7 ***retention of as much of the existing soil bacteria and mycelium as possible, as***
8 ***well as minimizing impacts of dust and other construction nuisance activities to***
9 ***neighboring properties. No on-site burning of cleared vegetation will be allowed***
10 ***during construction.***

11
12 G. Sewage Disposal and Potable Water. Provision for sewage disposal and
13 potable water needs of the PD will be provided in accordance with the Comprehensive
14 Plan, Ordinance No.1990-04, as amended, the Land Development Regulations
15 Ordinance #2013-11, as amended, and State of Florida Administrative Code 64E-6.
16 Sewer is anticipated to be provided extension of existing City of Deland gravity sewer,
17 and city water for potable and fire protection.

18
19 H. Stormwater Drainage. Provision for stormwater retention shall be in
20 accordance with the Land Development Regulations Ordinance #2013-11, as amended.

21
22 I. Access and Transportation System Improvements. All access and
23 transportation system improvements shall be provided in accordance with the Land
24 Development Regulations, Ordinance #2013-11, as amended. The parcel shall be

developed in substantial accordance with the following access and transportation system improvements:

1. Access. ***The proposed site access consists of a single cul-de-sac roadway connecting to East Wisconsin Ave.***

2. Transportation System Improvements. ***5-ft concrete sidewalks may be included on both sides of the proposed cul-de-sac roadway, as well as along the frontage of Wisconsin Ave. Also, if permitted by Volusia County, a marked crosswalk will be provided at the site's Eastern property line to provide a safe route to Blue Lake Ave. Elementary School.***

J. Internal Roadways. ***The proposed roadway consists of a 50-ft R/W width and includes 5-ft concrete sidewalks on both sides, as well as 12-ft travel lanes and 2-ft Miami curb. The roadway will be dedicated to the City of Deland.***

K. Building or Property Owners Association. The subdivision will be developed with a home-owners association responsible for the maintenance of the proposed stormwater facilities and sanitary sewer lift station. The charter and by-laws of said association and any other agreements, covenants, easements or restrictions shall be furnished to the City of DeLand at the time of creation. The applicant shall be responsible for recording said information in the Public Records of Volusia County, Florida. Also, the applicant shall bear and pay all costs for recording all of the aforementioned documents.

With respect to the enforcement of said agreements, covenants, easements or restrictions entered into between the applicant and the owners or occupiers of property

1 within the (***The Canopy at Blue Lake PD***) PD, the City of DeLand shall only enforce the
2 provisions of the "Development Agreement" and City of DeLand Land Development
3 Regulations Ordinance #2013-11, as amended, whichever is applicable, and not the
4 private agreements entered into between the aforementioned parties.

5
6 **L. *Electrical Service and franchise utilities shall be installed***
7 ***underground in 10-ft easements dedicated along the home site frontage of all***
8 ***lots. Municipal utilities (water and sewer) shall be installed within the roadway***
9 ***R/W.***

10 Model Homes and Temporary Sales Offices. Construction of a Model Home and/or
11 Temporary Sales Office for a particular phase may commence after final site plan
12 development order, **and** all the infrastructure improvements for said phase have been
13 approved and accepted by the City of DeLand. The City Engineer shall make the final
14 determination on the acceptance and approval.

15
16 **M. Reverter Provision:** The City Commission may rezone any portion of the
17 project which has not secured a (***final development order***) on or before 5 years from
18 the effective date of this ordinance as may be necessary or appropriate to protect
19 adjoining properties or the public health, safety and welfare, unless the City
20 Commission, for good cause shown, shall extend the time period indicated in this
21 paragraph.

22
23 **N. Binding Effect of Plans; Recording; and Effective Date.** The Planned
24 Development Plan, including any and all amendments shall bind and inure to the benefit

1 of the Applicant and his successor in title or interest. The **(The Canopy at Blue Lake**
2 **PD)** PD zoning, provisions of the "Development Agreement," and all approved plans
3 shall run with the land and shall be administered in a manner consistent with Article XII
4 of the City of DeLand Land Development Regulations Ordinance #2013-11, as
5 amended.

6
7 This Ordinance and all subsequent amendments shall be filed with the Clerk of
8 the Court and recorded within forty-five (45) days following execution of the document
9 by the City Commission, in the Official Records of Volusia County, Florida. One copy of
10 the document, bearing the book and page number of the Official Record in which the
11 document was recorded, shall be submitted to the Planning Department for placement
12 in the public file. The date of recording of this document shall constitute the effective
13 date of the **(The Canopy at Blue Lake PD)** PD or its subsequent amendments. The
14 applicant shall pay all filing costs for recording documents.

DONE and ORDERED by the City Commission, City of DeLand, Florida,
this ____ day of _____ (mo/yr).

ATTEST:

City Commission of DeLand Florida

Michael Pleus
City Manager

Robert Apgar
Mayor

STATE OF FLORIDA

CITY OF DELAND

The foregoing instrument was acknowledged before me this _____ day
of _____ (mo/yr), by Michael Pleus and Robert Apgar, as City
Manager and Mayor, City of DeLand, respectively, on behalf of the City of
DeLand, and who are personally known to me.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Commission No.: _____

My Commission Expires: _____

1
2 WITNESSES:
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5 _____
6 *Applicant's Name, Title & Corporation*
7

8
9 _____
10 *Applicant's Name, Title & Corporation*
11

12
13 _____
14 *Owner of Property (if other than applicant)*
15
16
17

18 The foregoing instrument was acknowledged before me this _____ day
19 of _____ (mo/yr), by (N A M E), who is personally
20 known to me or who has produced _____
21 as identification.
22
23
24
25

26 NOTARY PUBLIC, STATE OF FLORIDA

27 Type or Print Name:

28 _____
29 Commission No.: _____

30 My Commission Expires: _____
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“EXHIBIT A”

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA AND THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) OF THE NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, SAID POINT BEING A 4-INCH BY 4-INCH CONCRETE MONUMENT STAMPED PRM 3282.

THENCE BEARING SOUTH 1 DEGREE 47 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER (NW $\frac{1}{4}$) OF THE SOUTHEAST ONE-QUARTER (SE $\frac{1}{4}$) SECTION 10, A DISTANCE OF 647.78 FEET TO THE INTERSECTION OF THE NORTH BOUNDARY OF THE EAST WISCONSIN AVE. R/W, SAID POINT BEING A $\frac{5}{8}$ " IRC (NO ID);

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THE ABOVE DESCRIBED PARCEL CONTAINS 4.875 ACRES MORE OR LESS.

REVISIONS	DATE	DESCRIPTION
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122 East Indiana Ave., Suite A
 Deland, Florida 32724
 Phone: (386) 377-7374
 www.newkirk.com



Civil Engineering
 Transportation, EIR &
 L.C. # 36080044
 C.A.# 30209

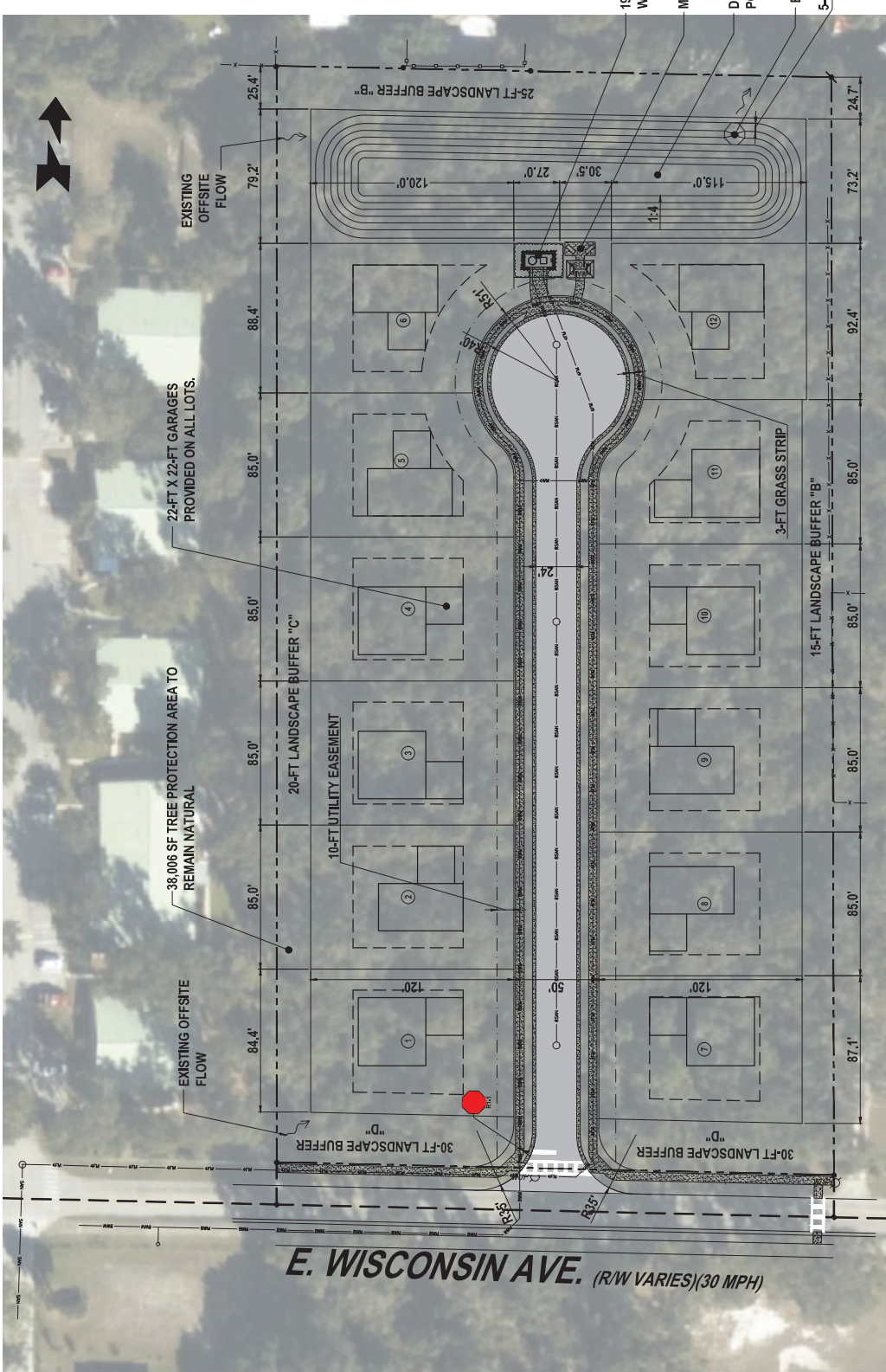
PLANNED DEVELOPMENT PLAN
 THE CANOPY AT BLUE LAKE
 E. WISCONSIN AVE.
 DELAND, FL 32724



PROJECT NO: TSD
 DATE: JUNE 2022
 DESIGN BY: TJM
 DRAWN BY: TJM
 CHECKED BY: TJM
 SCALE: 1" = 30'

DRAWING NUMBER
1

LOT TABLE		
LOT #	SF	ACRE
1	10,296	0.2364
2	10,200	0.2342
3	10,200	0.2342
4	10,200	0.2342
5	9,579	0.2199
6	9,661	0.2222
7	10,282	0.2360
8	10,200	0.2342
9	10,200	0.2342
10	10,200	0.2342
11	9,581	0.2199
12	9,866	0.2265



COMMON AREAS

THE COMMON AREAS TRACTS WILL BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

EASEMENT NOTE

ALL UTILITY AND DRAINAGE EASEMENTS SHALL BE MAINTAINED BY THE HOME OWNERS ASSOCIATION.

LANDSCAPE NOTE

ALL TREE PROTECTION, BUFFERS, TREE REMOVAL AND PLANTING SHALL COMPLY WITH THE REQUIREMENTS OF CITY OF DELAND LAND DEVELOPMENT CODE AS AMENDED.

UTILITY NOTE

ALL POTABLE WATER, WASTEWATER AND RECLAIM SHALL COMPLY WITH THE CITY OF DELAND LAND DEVELOPMENT CODE AS AMENDED AND FLORIDA ADMINISTRATIVE CODE 64A.

STORMWATER SYSTEM NOTE

- THE PROPOSED STORMWATER SYSTEM SHALL COMPLY WITH THE CITY OF DELAND LAND DEVELOPMENT CODE AS AMENDED AND ST. JOHNS RIVER WATER MANAGEMENT DISTRICT REQUIREMENTS.
- GUTTER FOR DECHARGE TO THE RETENTION POND.

SINGLE-FAMILY DIMENSIONAL REQUIREMENTS:

BUILDING SETBACKS:	
A. FRONT	30'-FT
B. REAR	25'-FT
C. SIDE	15'-FT
D. POOL AND ACCESSORY STRUCTURES	5'-FT
E. MINIMUM LOT WIDTH	65'-FT (AT SETBACK LINES)
F. MINIMUM LOT DEPTH	90'-FT (AT SETBACK LINES)
G. MINIMUM LOT SIZE	9,500 SF
H. MAXIMUM BUILDING HEIGHT	35'-FT
I. MAXIMUM IMPERVIOUS COVERAGE	40%
J. MINIMUM FLOOR AREA	1,200 SF

ROADWAY TYPICAL SECTION 50' RIGHT-OF-WAY

EXHIBIT "B"

**PLANNING DEPARTMENT STAFF REPORT
TO
PLANNING BOARD**

September 21, 2022

APPLICATION NO.: Z22-143

APPLICANT: Slava Yedlin, Yedlin & Co. LLC

REQUEST: Amend the existing zoning designation from VC R-3A to The Canopy at Blue Lake PD

APPLICABLE REGULATIONS:

Article IV	OVERLAY AND FLOATING ZONES
	Sec. 33-32 – Planned Development District.
Article XII	ADMINISTRATION AND ENFORCEMENT
	Sec. 33-135 – Procedure for text amendments & rezoning.

A. SITE FACTORS:

Location:	On the north side of E. Wisconsin Ave. and west of N. Blue Lake Ave.
Parcel Size:	±4.8 ac.
Land Use:	Urban Low Intensity
Existing Zoning:	Volusia County R-3 (Urban Single-Family)
Existing Use:	Vacant, heavily wooded

	SURROUNDING USE:	SURROUNDING ZONING:
North:	Low Density Residential	R-1A
South:	Education	E-1
East:	VC Urban Low Intensity	VC: R-3A
West:	Medium Density Residential	R-12

B. ANALYSIS:

The applicant is requesting the zoning be amended for a parcel that is approximately 4.8 acres in size, located on the north side of E. Wisconsin Ave. and west of N. Blue Lake Ave. The subject property is currently unincorporated; however, the applicant has submitted an application to annex into the city (AN22-100) and an application to amend the future land use (SMLU22-142).

As part of the PD rezoning request, the applicant has provided a Development Agreement and Concept Plan outlining the zoning standards proposed. The proposed minimum lot size for each home in The Canopy at Blue Lake PD is 9,500 sq. ft. This is slightly smaller than the existing Volusia County R-3A zoning district, which requires a minimum of 10,000 sq. ft. per lot. The subdivision will be divided into 12 single-family residential parcels, each parcel being at least 85' in width.

The setbacks mirror the R-1A zoning district and requires a 30' front yard setback, a 25' rear yard setback and a 12.5' side yard setback. Each home must contain a minimum of 1,200 sq. ft. of livable space, a 2-car garage, as well as a driveway large enough to accommodate 2 full-size vehicles.

The perimeter landscape buffers adhere to Sec. 33-92 of the code, providing a 25' wide buffer to the north, a 20' wide buffer to the south along E. Wisconsin Ave., a 15' wide buffer to the east and a 20' wide buffer to the west.

C. TECHNICAL REVIEW COMMITTEE:

The Technical Review Committee, at their August 18, 2022 meeting, recommended that the proposed Planned Development rezone application be forwarded on to the Planning Board subject to addressing remaining Staff comments.

The following TRC comments remain:

Fire:

1. All amendments shall require review of Fire for changes.

Forestry:

1. The City no longer allows tree protection area in the back yards of single family residences. These areas must be platted separately and maintained by a homeowners' association. Please remove the lot lines if the area designated as Tree Protection Area is one separate parcel.

Utilities:

1. Subdivision needs to be connected by a gravity sewer system extension and not a private lift station.
-

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

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

The proposed development abuts single-family residential to the north and the single-story apartment units, known as Ashton Place, to the west. To the east is sparsely developed with larger residential acre lots.

The proposed PD zoning is considered compatible with the ULI (Urban Low Intensity) land use designation. Per the Comprehensive Plan, when reviewing a rezoning request, “the specific density will depend on locational factors, in particular, compatibility with adjacent uses and availability of public services”. The applicant is proposing a density of 2.5 du/acre, which falls within the parameters of the ULI category, which allows as much as 4 du/acre. The proposed development is consistent with adjacent single-family and multi-family developments.

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

The site is currently vacant and wooded land. The subject property is not affected by any environmentally-sensitive land, nor is it in the floodplain.

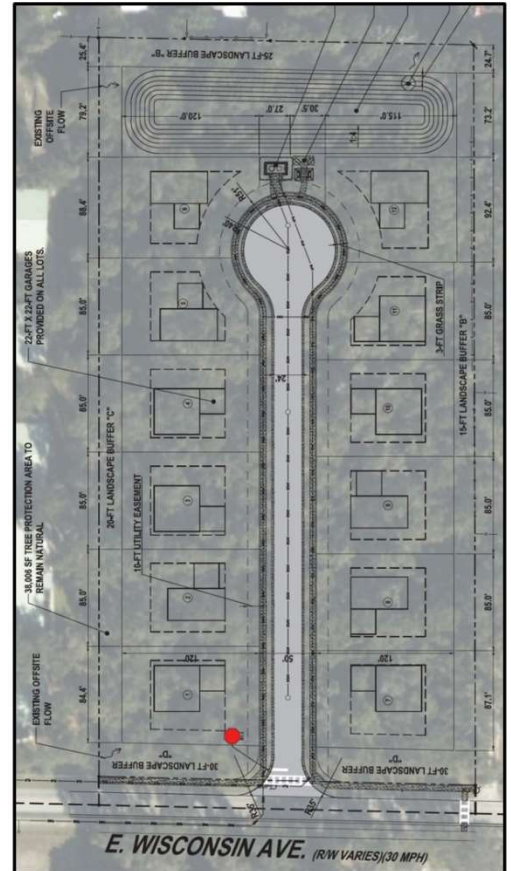
3. Will the proposed rezoning have an impact upon the economy of the affected area?

The site will be developed in accordance with the City’s Land Development Code at the time of subdivision review. Development under City standards will ensure continuity with the surrounding properties.

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

Governmental services such as potable water, sewer, code enforcement, police, and fire are available for the subject property and will be provided by the City.

Due to the size of the proposed development, a Traffic Impact Analysis is not required. According to a signed and sealed traffic statement from the engineer of record, dated July 18, 2022, the average daily trip count is 115 trips, 12 of which are peak hour trips.



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

New residential growth, as well as existing residential development patterns, make the proposed residential PD zoning standards compatible with the surrounding area, as noted above, and support the proposed zoning.

6. Was there a mistake in the original classification?

There was no mistake in the original zoning classification.

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

The proposed development, at a maximum of 12 units, has a proposed density of approximately 2.5 du/ac., below the 4 du/ac. maximum allowed under both the existing Volusia County Urban Low Intensity land use category, as well as the proposed City Urban Low Intensity category, which could yield a maximum of 19 units.

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

The proposed rezoning is not anticipated to negatively impact public health, safety, and welfare.

D. CONCLUSION:

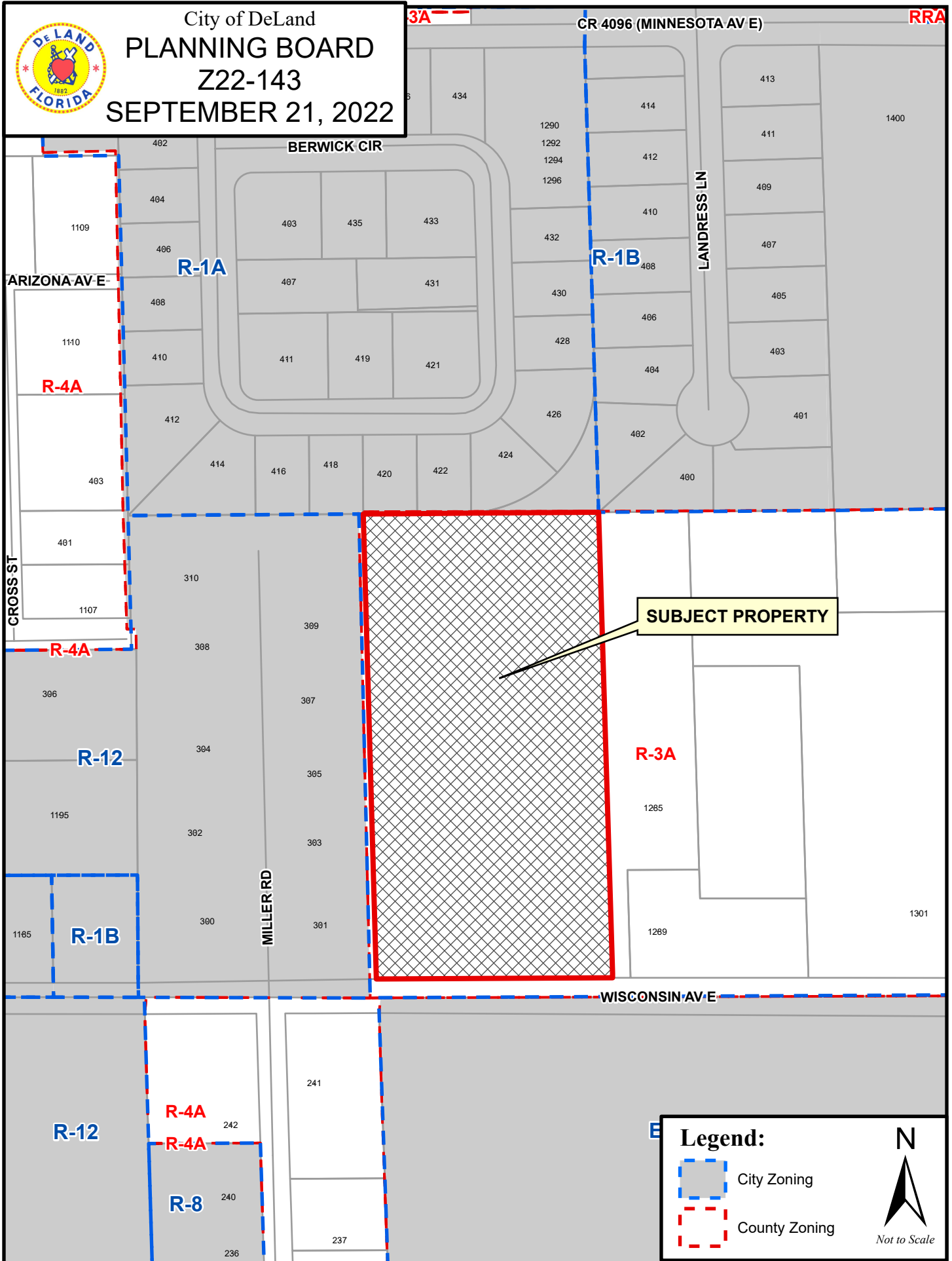
The Applicant is proposing a rezoning from VC R-3A to (PD) Planned Development in order to develop the subject property for into a 12-lot, single-family residential subdivision. Submittal of a plat will be required to ensure the provisions of the Planned Development Agreement are satisfied, as determined by TRC Staff.

E. STAFF RECOMMENDATION:

Staff recommends that the Planning Board forward the application to the City Commission with a recommendation of approval of The Canopy at Blue Lake PD (Planned Development) zoning, subject to the applicant addressing the outstanding Technical Review Committee comments.



City of DeLand
PLANNING BOARD
Z22-143
SEPTEMBER 21, 2022





City of DeLand
PLANNING BOARD
Z22-143
SEPTEMBER 21, 2022



CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Consideration re Approval Of Disclaimer Of Interest In Right-Of-Way With Exhibit Relating To Property Located Proximate To The Intersection Of East International Speedway Boulevard And North Alabama Avenue.

DEPARTMENT: Legal

PREPARED BY: Darren Elkind, City Attorney

ATTACHMENTS: Packwood ROW Release

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The approval of a Disclaimer of Interest in Right-Of-Way relating to property located proximate to the intersection of East International Speedway Boulevard and North Alabama Avenue is proposed.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

High Value Government.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

There is no fiscal impact to the City but will facilitate the economic use of the subject area.

RECOMMENDATION:

City staff recommends that the City Commission approve the Disclaimer of Interest in Right-Of-Way.

BACKGROUND/DISCUSSION:

The City has been requested to disclaim its interest in a portion of the right-of-way pertaining to real property located proximate to the intersection of East International Speedway Boulevard and North Alabama Avenue. The property is assigned Volusia County Tax Parcel Identification Number 7000-02-02-0050 (Alternate Key: 2184507). The property is subject to ownership interests held by Steven H. Packwood and Linda Waitkus of Lilburn, Georgia.

Right of way had been reserved years ago for a 50' wide right-of-way over a parcel of property, but it does not go anywhere and is outside of and parallel to the International Speedway Boulevard right of way and the City has no utilities in the area being released.

This Instrument Prepared By And Return To:

Darren J. Elkind, Esquire
142 E. New York Avenue
DeLand, Florida 32724
Phone: 386.734.3020

Tax Parcel Identification Number: 7000-02-02-0050

DISCLAIMER OF INTEREST IN RIGHT-OF-WAY

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF DELAND, a Florida municipal corporation, whose address is City Hall, 120 South Florida Avenue, DeLand, Florida 32720, hereby releases and disclaims any interest in the right of way as reserved in Official Records Book 286, Pages 367-368; Official Records Book 1511, Page 266; Official Records Book 2409, Page 1212; and Official Records Book 7395, Page 3118, of the Public Records of Volusia County, Florida and more particularly described as follows:

SEE EXHIBIT "A" ATTACHED

The City of DeLand makes no warranties whatsoever regarding title to the afore-described property and executes this Disclaimer for the sole purpose of releasing and disclaiming any interest it may have by virtue of the afore-described right of way.

DATED this 17th day of October by the City of DeLand.

ATTEST:

CITY OF DELAND

Robert F. Apgar
Mayor - Commissioner

Julie A. Hennessy, MMC
City Clerk - Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind, City Attorney

EXHIBIT "A"

The North 50 feet of the North 234.37 feet of Block "B", lying South of U.S. Highway #92, DEANBURG, a subdivision in Section 4, Township 17 South, Range 30 East, as recorded in Deed Book "P" at page 530 in the Public Records of Volusia County, Florida, Except the East 302.00 feet thereof.

The above-described property also being described as follows:

Begin at the intersection of the East Right-of Way line of Alabama Avenue with the South Right-of-Way line of U.S. Highway #92 and run South $89^{\circ} 19' 35''$ East along the said Right-of-Way line of U.S. Highway #92 a distance of 309.80 feet; thence run South $00^{\circ} 03' 58''$ East a distance of 234.37 feet; thence North $89^{\circ} 19' 35''$ West a distance of 310.07 Feet; thence run North along the East Right-of-Way line of Alabama Avenue a distance of 234.37 feet to the Point of Beginning.

Owner: Linda Waitkus, Steven H. Packwood, and Linda Waitkus and Seven H. Packwood as Trustees of the Trust Created for the benefit of Catherine Ramsey

Tax Parcel No.: 7004-02-02-0050

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Resolution Approving Demolition of a Building Located at 236 South Alabama Avenue.

DEPARTMENT: Planning

PREPARED BY: Belinda Collins, Senior Planner

ATTACHMENTS: Reso demolition 236 S Alabama Ave, COA22-115 Demo - 236 S. Alabama Ave. (DeLand Commons)

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

Request to demolish a building located at 236 S. Alabama Ave. to clear property to develop residential multi-family units.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

None

SUSTAINABILITY:

This will result in the removal of a structures in order to develop the property in the future for residential purposes.

FISCAL IMPACT:

No fiscal impact at this time. The plans for the property are to demolish this building and another former grocery store and office to use in conjunction with the development of this property and property located on the south side of Voorhis Ave.

RECOMMENDATION:

It is recommended that the City Commission approve the demolition request.

BACKGROUND/DISCUSSION:

This request is for approval to demolish a structure located at 236 S. Alabama Ave. The property owner plans also to demolish the former Save-A-Lot grocery/office building for the development of residential housing in the downtown. At their August 4, 2022 meeting the Historic Preservation Board recommended approval of demolition of the structure and to salvage any historic materials from the building.

RESOLUTION NO. 2022 -

**A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA,
AUTHORIZING THE DEMOLITION OF A BUILDING OLDER THAN
FIFTY (50) YEARS, LOCATED AT 236 SOUTH ALABAMA AVENUE;
PROVIDING FOR SEVERABILITY; AND AN EFFECTIVE DATE.**

WHEREAS, The applicant, Mark Watts of Cobb Cole, submitted a building permit application for the demolition of a building older than fifty (50) years located at 236 South Alabama Avenue; and

WHEREAS, the structure is not historically significant, is not located in an historic district, and is not considered a contributing structure; and

WHEREAS, on August 4, 2022, the Historic Preservation Board recommended approval of the demolition.

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

Section 1. That the City Commission of the City of DeLand hereby authorizes the demolition of a building older than fifty (50) years located at 236 South Alabama Avenue.

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 17th day of October, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk – Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

Staff Report
City of DeLand
HISTORIC PRESERVATION BOARD
August 4, 2022

Application #: COA22-115

Applicant name: Mark Watts, Cobb Cole- Applicant

Request: To demo buildings on four (4) parcels for residential multi-family units.

Factors:

Historic district	Downtown Support District
Location	236 S. Alabama Ave.
Year built	c.1923
Land use	Downtown Commercial
Zoning	C-2A Downtown Commercial
Existing use	Warehouse (9825 sq. ft.)

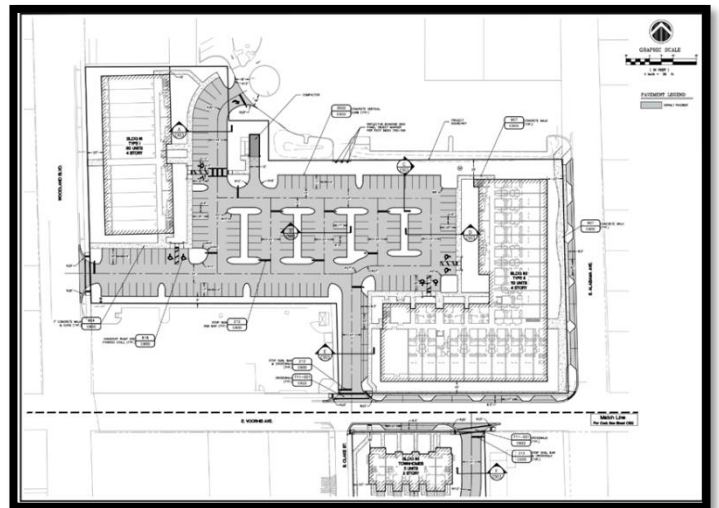
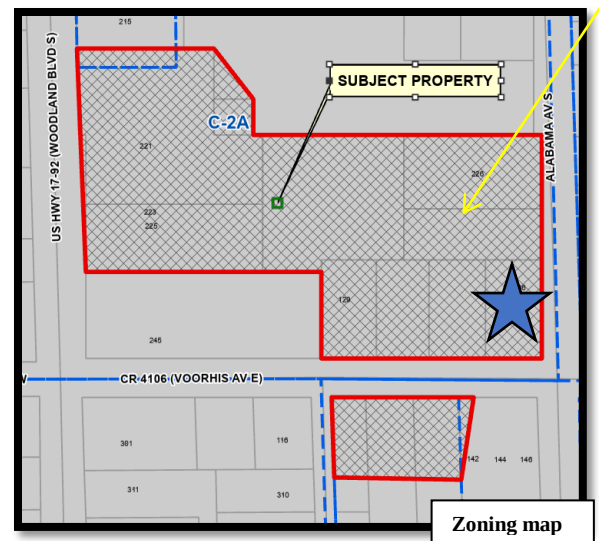
Applicable regulations: 33-35.01. Demolition

Analysis

The applicant, wishes to demolish 2 structures including the commercial building that formerly housed a grocery store and attorney's office and a smaller structure at 236 S. Alabama Ave. that is in use which offers various items for sale and listed as a warehouse use. Only the smaller structure is a concern to the HPB as it was built prior to 1950 in 1923.

The property will be reused to build multi-family residential apartment units with retail on the 1st floor of the building facing Woodland Blvd. Redevelopment for residential purposes requires demolition as the existing buildings cannot provide for residential purposes. Property redevelopment is being designed to blend in with downtown DeLand and will be coordinated with City staff. (A review of the architecture of the new structure relative to the Support District will also be conducted.) The building in its

STRUCTURE BUILT
BEFORE 1950



current state does not contribute significantly to the historic character of downtown DeLand
neither is it listed as a contributing structure.





The following review criteria, outlined in the land development regulations, may be used in evaluating the decision on how to move forward with this request:

Review criteria: Sec. 33-35. -

Demolition.

33-35.01. *Generally.*

- (a) *Purpose and intent.* The purpose of this section is to ensure that historic properties are protected from neglect or premature demolition by providing the following procedure for review.



No demolition permit affecting a building or structure in a designated Historic District, a designated historic building or structure, or a **building or structure constructed prior to 1950** shall be issued until the applicant has demonstrated that no other feasible alternative to demolition can be found. The responses to the review criteria are shown below:

1. Issuance of demolition permit shall be guided by the following factors:
 - a. The historic or architectural significance of the building, structure, or object;
The structure is not included on the Florida Master Site File (which is only an inventory and has no special significance).
 - b. The importance of the building, structure, or object to the ambiance of a district;
This property is located adjacent to Alabama Avenue which is located across the street from the city's historic Garden District. The corridor that has a mixture of uses including numerous residential and a few office uses.
 - c. The difficulty or the impossibility of reproducing such a building, structure or object because of its design, texture, material, detail, or unique location;

The structure is constructed of are readily available materials such as concrete block, pine or soft wood, plaster with asphalt shingles. Given that these are standard building materials, it appears that the structure could easily be replicated. There are no unique features about any of the buildings.

- d. Whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood, the county, or the region;
This structure has no particularly distinguishing historic features that can be identified.
- e. Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and the effect of those plans on the character of the surrounding properties; **There are plans to redevelop the site for residential purposes**
- f. Whether reasonable measures can be taken to save the building, structure, or object from collapse;
The exterior of the structure appears to be fairly sound and shows no particular signs of physical deterioration such as termite or structural damage. The condition of the interior is unknown.
- g. Whether the building, structure, or object is capable of earning reasonable economic return on its value.
The building currently has an improvement value of \$73,814 and a land value of \$130,680 for a total Just/Market valuation of \$207,240 and the property is listed as Commercial (Warehousing, distribution terminals, trucking terminals, van and storage warehousing). The property in use as residential in the current market will yield a greater economic return than its current use.

Conclusion:

This structure is not a contributing building, neither is it located in a local historic district. The applicant anticipates using the property, and others on the block that have been purchased, for residential use in the near future. The potential to salvage any historical materials and the option to move the structure are issues that should be considered. The property has been the subject of numerous review processes including rezoning and site plan review in order to permit the development of the residential use. The City Commission will grant final approval of the demolition.

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Resolution Approving the Removal of One Historic Tree Located in the Right-of-Way at 1521 Wyngate Drive.

DEPARTMENT: Public Works

PREPARED BY: Ray Underwood, Public Works Director

ATTACHMENTS: Resolution , Tree Advisory Committee Meeting Minutes, Arborist Tech Inspector Photos and Location Map, Cheney Photo Presentation

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

Mr. Jon Cheney and Mrs. Dianne Cheney have requested permission to remove one 30" DBH historic tree located on the right-of-way (ROW) adjacent to their property. The tree is lifting their driveway and causing issues with insurance coverage. The tree is on the City ROW, but the Cheney family has offered to remove the tree at their expense and provide replacement by planting two Shumard Oak trees. The Land Development Regulations require that, before the removal of any historic trees should occur, it must be approved by the City Commission. Section 33-57.05(d) states that there must be a finding that the tree is a hazard (due to health or natural damage) or that it is not economically or practically feasible to develop the parcel without removing the tree.

The City Forester has determined that the tree proposed for removal is a 30" DBH historic Live Oak in Good condition.

At their September 20, 2022 meeting, the Tree Advisory Committee recommended that the application for removal be approved because the tree is causing damage to the Cheney's property. Because the Cheney family has offered to pay for the removal, they further recommended that their offer of providing replacement via planting two 45-gallon Shumard Oaks be approved.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

The removal of this tree supports the City's strategic focus areas by preserving a sense of community by enhancing right-of-way maintenance.

SUSTAINABILITY:

n/a

FISCAL IMPACT:

There will be no fiscal impact to the City because the Cheney family has offered to pay for the removal and replacement of the trees.

RECOMMENDATION:

At their September 20, 2022 meeting, the Tree Advisory Committee recommended that the application for the removal of the 30" DBH tree be removed with the applicant providing replacement via planting two 45-gallon Shumard Oaks on their property outside of the City ROW.

BACKGROUND/DISCUSSION:

Attached is a copy of the project PowerPoint Presentation which includes a Location Map and the Arborist Inspector's Photo Log. The Minutes from the September 20th Tree Advisory Committee meeting are also attached.

RESOLUTION NO. 2022 –

**A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA,
APPROVING THE REMOVAL OF ONE HISTORIC TREE LOCATED
ADJACENT TO 1521 WYNGATE DRIVE; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, The Cheney family is requesting permission to remove one 30” DBH historic tree located in the right-of-way adjacent to their property at 1521 Wyngate Dr.; and

WHEREAS, the City’s Forester has determined that the tree is historic and in good condition; and

WHEREAS, on September 20, 2022, the Tree Advisory Committee recommended removal of the tree, as the tree is causing damage to the Cheney’s property; and

WHEREAS, the Cheney family has offered to remove the tree at their expense and the Tree Advisory Committee recommended a replacement requirement of two 45-gallon Shumard Oaks.

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

Section 1. The City Commission hereby approves the request for removal of one 30” DBH historic tree located on the City right-of-way adjacent to 1521 Wyngate Dr., with the replacement requirement of planting two 45-gallon Shumard Oaks on the property adjacent to the tree removed.

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

PASSED AND ADOPTED this 17th day of October, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk-Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

Tree Advisory Committee Minutes

September 20, 2022

Call to Order: Steve Edgar called the meeting to order at 5:22pm.

Roll Call: Members present were Steve Edgar, Howard Jeffries, Barbara Stockhausen, and Suze Peace. Dana Venrick, and Charles Gay were absent.
City staff members present were Melissa Miller, Chris Jackson, and Mariellen Calabro was present via Zoom.
Non-members who were present were Jon Cheney, Dianne Cheney, Dani Keller, Cathy Lowenstein and Steve Tonjes

Approval of the Minutes of the Previous Meeting: Suze Peace made a motion to approve the minutes from the previous meeting. Howard Jeffries seconded the motion. The motion carried.

Old Business:

City Nursery: Mariellen gave an update that the city is expanding the Utility Dept., and we will be losing the nursery at this location. Steve Tonjes inquired if anyone had updated the DeLand Rotary Club. Mariellen explained that this was a recent development, and they had not been notified yet.

Code of Ordinance Update: No report.

Adopt-a-Tree: Steve Tonjes reported that there is no update to the program and that he will be busy for the next few months with the election.

2023 Tree Give Away: Chris Jackson gave an update that we are still in the process of trying to buy trees for the giveaway, but we are running into issues with availability, getting three quotes, and growers that will e-verify. Howard Jeffery suggested using Plant Ant online nursery, and Chris Jackson explained that the city has utilized their services for years.

Tree Work Now Ads in Beacon: No update from Dani Keller. Suze Peace brought in this week's copy of the ad giving information on the weeping willow.

Historic Tree Removal: Greenway Trail Project: At the last meeting, the members requested that the City Engineer check and see if they could acquire additional right-of-way to save the tree. Chris Jackson reported that Ray Bahrami had contacted the owner, and that Dr. Anthony Visconti, who lives at 621 N Arlington Ave, is not willing to give us an easement in order to save this 40" Live Oak historic tree. Steve Edgar suggested having the county move the road over to allow for the tree to be saved. Mariellen explained that it was a county road and that the ECHO grant was already granted, and the project is under a time constraint. Steve Tonjes explained that it would cost a lot of money for the county to shift the road. Suze Peace said that the property owner is her personal dentist, and she was going to reach out to him to see if she could convince him to do a good deed for DeLand. She was also meeting with ECHO about a different project, so she was going to talk to them as well to see if they could give an extension on the project. Howard Jeffries made a motion to approve the removal, which was seconded by Steve Edgar. The committee was split with Howard Jeffries and Steve Edgar in favor of approving the removal and Barbara Stockhausen and Suze Peace denying. Mariellen will forward this to the City Commission with a split decision.

New Business:

Insurance Companies vs. Trees: Steve Edgar informed the committee that insurance companies are trying to deny homeowners insurance if there are trees hanging too close or onto roofs. He wrote a letter to the ISA fighting this enforcement. He informed us that pruning against ANSI standards weakens the tree and is counterproductive. He also informed that if you get a letter from the homeowners' insurance requiring tree removal, it can be fought.

Historic Tree Removal: 1521 Wyngate Dr – Mr. Jon Cheney and Mrs. Dianne Cheney presented their PowerPoint and informed the committee that they would like to remove a historic 30" DBH Live Oak that is located on the right-of-way adjacent to their property. It is lifting their driveway and has caused several cracks. They claimed that they have lost insurance coverage because of the tree. They are worried about their elderly mother, who is partially

blind, tripping. The Cheney's said that they would be paying for the removal of the city tree and replacing it with two new Shumard Oaks. Chris Jackson confirmed that the tree is a 30" DBH Live Oak in good condition. Dani Keller looked at the pictures of the trees and commented that the tree was a good tree with twin leaders and a good union, but he would recommend its removal. Because the property owners are willing to remove the tree at their expense rather than requiring the City to remove the tree, they requested that replacement be reduced to planting two 45-gallon Shumard Oaks on their property to provide fall color. This species has done well in other locations on their property. Howard Jeffries made a motion to recommend approval of the removal with the requirement that the tree would be removed by the owner and replacement would be reduced to two 45-gallon Shumard Oaks. Barbara Stockhausen seconded the motion. The motion carried.

Comments from Members:

Suze Peace would like to see the committee look at other trees to add to the historic tree list. She would like to see other trees need the committee's approval before being allowed to be cut down. Mariellen explained that an ordinance would have to be revised for that to happen.

Steve Edgar would like to see another member added since Charles Gay has not attended the meeting for over a year. At the July 8, 2022 meeting, Tadd Kasbeer made a motion that he be removed from the Committee. Barbara seconded the motion, and the motion passed unanimously. Because our bylaws require two votes, this issue was brought up again at our August meeting. Howard Jeffries made the motion to have Charles Gay removed from the Committee. Barbara Stockhausen seconded the motion. The motion carried. Mariellen contacted the City Clerk in regard to this. The Clerk would like Charles Gay to have the opportunity to resign. Mariellen has reached out to Charles Gay but has not heard back yet.

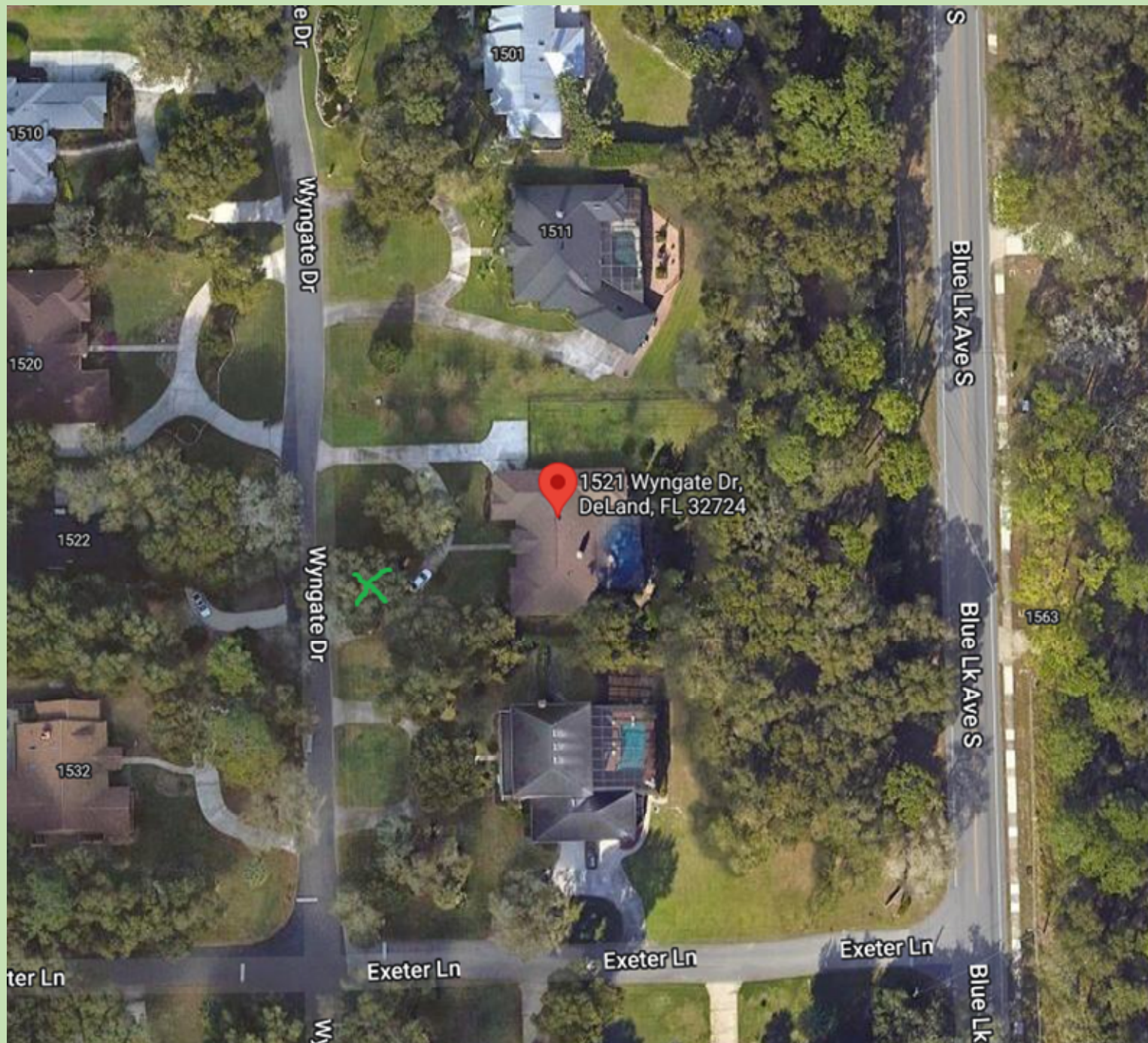
Howard Jeffries brought up planting the right trees in the right place. He has seen the wrong types of trees planted in the right-of-way that cause issues for homeowners and the city.

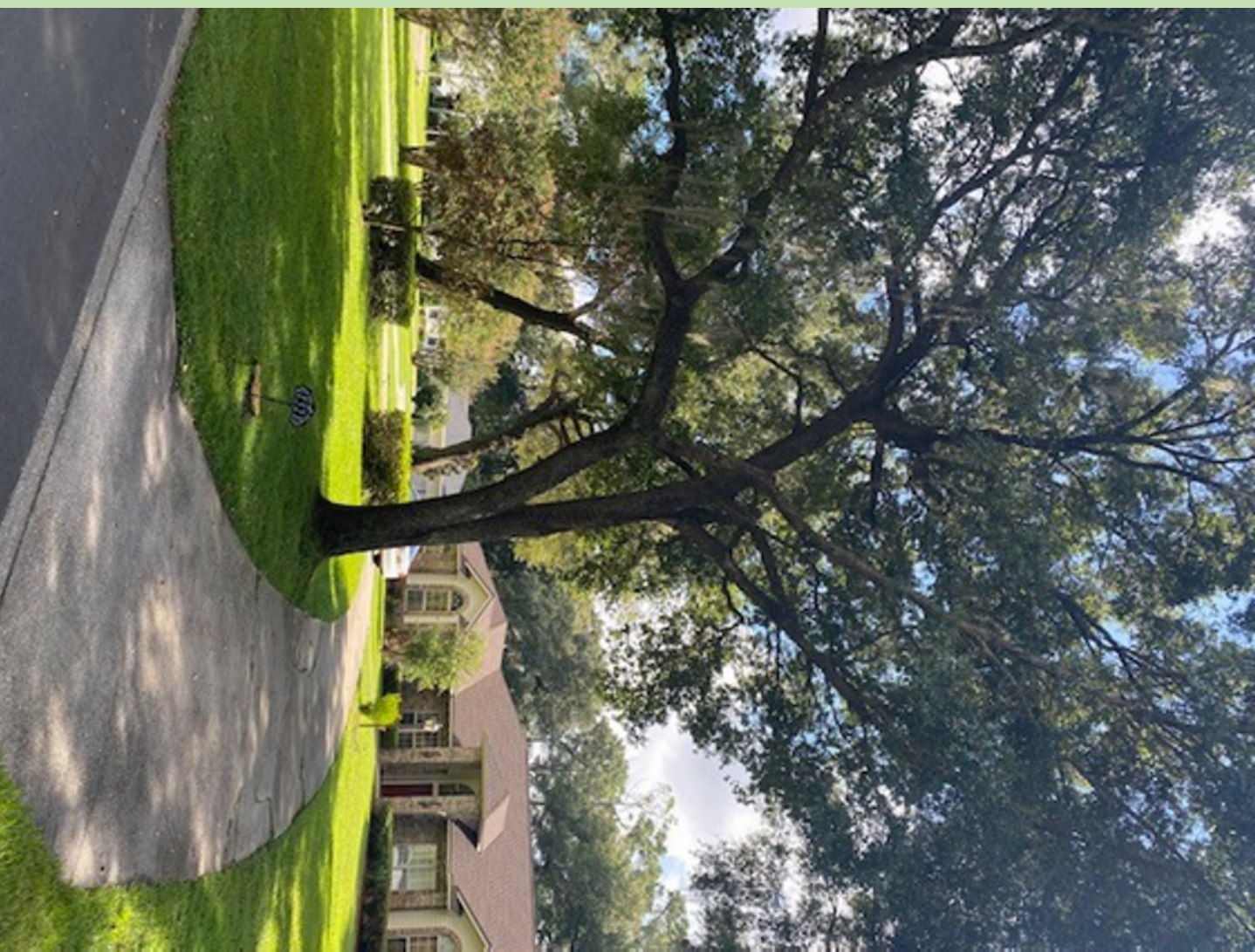
Adjourn: The meeting adjourned at 6:33pm.

Next Meeting: October 10, 2022

1521 Wyngate

30" DBH Live Oak















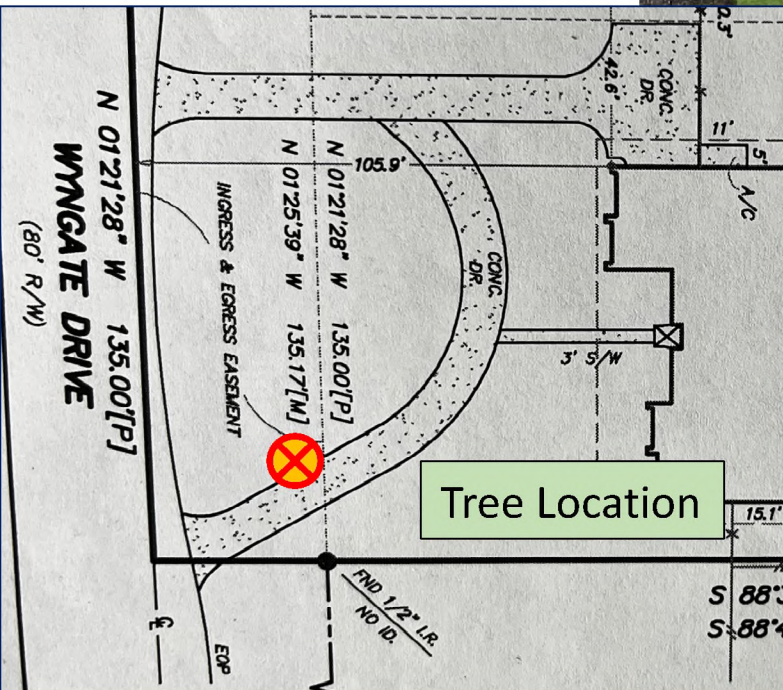
Oak Tree Roots Damaging Concrete Driveway: Tree Located in Public Road Right-of-Way

Tree requested to be removed



Damage to Concrete Driveway

Approximate Public Road Right-of-Way



Tree Roots Damaging Concrete Driveway: Located 2 feet 3 inches from Driveway



Tree requested to be removed



Damage to Concrete Driveway



Tree Roots Damaging Concrete Driveway: Trip Hazard

Tree requested to be removed



3 ³/₈ inch Concrete Driveway
Trip Hazard



The Americans with Disabilities Act (ADA) of 1990 defines a 'trip hazard' as **any vertical change of over 1/4 inch or more at any joint or crack**. Since the ADA demands strict compliance, trip hazards represent a legal liability.

Why Request to Remove Tree?

1. Homeowner's Insurance: We have previously lost coverage from one insurance company citing this problem and are being strongly urged to repair/replace the driveway by our current insurance agent.
2. Halloween - We had one visiting child trip due to the drive-way conditions despite lighting.
3. In addition, my partially blind elderly mother-in-law lives with us, we have frequent home deliveries as well as senior visitors, all of whom are at risk.
4. Near underground utilities (power service, telephone/internet).

The Americans with Disabilities Act (ADA) of 1990 defines a 'trip hazard' as **any vertical change of over 1/4 inch or more at any joint or crack**. Since the ADA demands strict compliance, trip hazards represent a legal liability.



Need to Repair Concrete Driveway:

No ability to shift closer to property line.

We did check into protecting the driveway with Tree Root System.

Volusia County Property
Appraiser's website map

135.00

WYNGATE DR

Approximate
Property Line



Current Tree Inventory

During the 3 years we have lived here we have planted the following 9 trees:

- One 45 gal Shumard Oak tree (recently)
- One Shumard Oak tree (1.5 inch caliper)
- One 65 gal Live Oak
- Three 30 gal “Bracken’s Brown Beauty” Southern Magnolia
- One 45 gal “Teddy Bear” Southern Magnolia
- One 2 inch caliper Florida Flame Red Maple
- One 4 inch caliper Bottlebrush Tree

Our property is also covered with other mature trees:

- 13 Laurel Oaks
- 5 Slash Pines
- 2 Live Oak
- 3 Crepe Myrtles
- 2 American Holly trees
- 1 “Little Gem” Southern Magnolia (struggling to survive near the problem oak)
- 1 Dogwood tree
- Numerous Ligustrum the size of small trees.

Tree Replacement Plan: Front Yard

Tree requested to be removed.
Already have HOA ARB Approval

~12 ft fm Driveway

~20 ft fm Roadway

Tree Replacement: Location of two New Shumard Oaks
- Native tree that lives for over 200 years

Tree Replacement Plan: Backyard

We will commit to planting two additional trees in our backyard.



Thank you for Consideration of Our Request to Remove the Tree

CITY OF DELAND
Request for Commission Action
October 17, 2022

SUBJECT: Resolution Approving the Removal of One Historic Tree Located at the Proposed DeLand Greenway Trail North Extension Project Located at 610 North Garfield Avenue.

DEPARTMENT: Public Works

PREPARED BY: Ray Underwood, Public Works Director

ATTACHMENTS: Resolution , Tree Advisory Committee Meeting Minutes, Tree/Urban Superintendent Photos and Location Map

APPROVED BY: Michael Pleus, City Manager, October 12, 2022

SUMMARY/HIGHLIGHT:

The City of DeLand has requested permission to remove one 40” DBH historic tree within the impact area of the proposed DeLand Greenway Trail North Extension project located at 610 N Garfield Ave. The Land Development Regulations require that, before the removal of any historic trees should occur, it must be approved by the City Commission. Section 33-57.05(d) states that there must be a finding that the tree is a hazard (due to health or natural damage) or that it is not economically or practically feasible to develop the parcel without removing the tree.

The City Forester has determined that the tree proposed for removal is a 40” DBH historic Live Oak in Good condition, located approximately 250’ north of the intersection of E. University Ave. and N Garfield Ave. The closest street address is 610 N Garfield Ave. The applicant was able to successfully reroute the project to save one 45” DBH historic tree located at the intersection of Oakdale Ave. and Garfield Ave., but they did not have sufficient right-of-way to avoid the second 40” DBH Live Oak.

At their August 9, 2022 meeting, the Tree Advisory Committee recommended that the application be continued so that the City could contact the adjacent property owner to try to obtain additional right-of-way to be able to save the tree. After that meeting, Ray Bahrami contacted the adjacent property owner, who was unwilling to provide additional right-of-way.

At their September 20, 2022 meeting, the Tree Advisory Committee was split on their decision whether to recommend approval of the removal of the 40” DBH Live Oak tree, with two members voting for the removal and two members voting against the removal.

STRATEGIC PLAN FOCUS AREA/ACTION STEP:

The DeLand Greenway Trail North Extension project supports the City’s strategic focus areas by preserving a sense of community by enhancing right-of-way maintenance and promoting bicycle/pedestrian friendly resources. It also helps create a connected community.

SUSTAINABILITY:

N/A

FISCAL IMPACT:

The cost of the tree removal has been included in the overall project budget. ECHO grant funding has been provided to complete this project.

RECOMMENDATION:

At their August 9, 2022 meeting, the Tree Advisory Committee recommended that the application be continued so that the City could contact the adjacent property owner to try to obtain additional right-of-way to be able to save the tree. After that meeting, Ray Bahrami contacted the adjacent property owner, who was unwilling to provide additional right-of-way.

At their September 20, 2022 meeting, the Tree Advisory Committee was split on their decision whether to recommend approval of the removal of the 40" DBH Live Oak tree, with two members voting for the removal and two members voting against the removal.

Staff recommends that the City Commission approve the removal of the 40" DBH historic tree because the applicant was able to demonstrate that they had taken measures to preserve one historic tree within the project impact area, and because the removal meets the requirements of Section 33-57.05(d) that it is not economically or practically feasible to complete the project without removing the tree.

BACKGROUND/DISCUSSION:

Attached is a copy of the project PowerPoint Presentation which includes a Location Map and the Tree/Urban Superintendent's Photo Log. The Minutes from the August 9th and September 20th Tree Advisory Committee meeting are also attached.

RESOLUTION NO. 2022 –

**A RESOLUTION OF THE CITY COMMISSION OF DELAND, FLORIDA,
APPROVING THE REMOVAL OF ONE HISTORIC TREE LOCATED AT
THE PROPOSED DELAND GREENWAY TRAIL NORTH EXTENSION
AT 610 NORTH GARFIELD AVENUE; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, The City of DeLand is requesting permission to remove one 40” DBH historic tree located at the proposed DeLand Greenway Trail North Extension at 610 N. Garfield Ave.; and

WHEREAS, the City’s Forester has determined that the tree is historic and in good condition; and

WHEREAS, on September 20, 2022, the Tree Advisory Committee was split on their decision recommending removal of the historic tree based on the finding that the project cannot be completed without the removal of two trees; and

WHEREAS, the City Forester has determined that the applicant has met the requirements of Section 33-57.05(d) by preserving one existing 45” DBH historic tree and demonstration that the project cannot be completed without removing the other 40” DBH historic tree in the project impact area.

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

Section 1. The City Commission hereby approves the request for removal of one 40” DBH historic tree located at the proposed DeLand Greenway Trail North Extension at 610 North Garfield Avenue.

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

PASSED AND ADOPTED this 17th day of October, 2022.

Robert F. Apgar
Mayor-Commissioner

ATTEST:

Julie A. Hennessy
City Clerk-Auditor

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
City Attorney

Tree Advisory Committee Minutes

September 20, 2022

Call to Order: Steve Edgar called the meeting to order at 5:22pm.

Roll Call: Members present were Steve Edgar, Howard Jeffries, Barbara Stockhausen, and Suze Peace. Dana Venrick, and Charles Gay were absent.
City staff members present were Melissa Miller, Chris Jackson, and Mariellen Calabro was present via Zoom.
Non-members who were present were Jon Cheney, Dianne Cheney, Dani Keller, Cathy Lowenstein and Steve Tonjes

Approval of the Minutes of the Previous Meeting: Suze Peace made a motion to approve the minutes from the previous meeting. Howard Jeffries seconded the motion. The motion carried.

Old Business:

City Nursery: Mariellen gave an update that the city is expanding the Utility Dept., and we will be losing the nursery at this location. Steve Tonjes inquired if anyone had updated the DeLand Rotary Club. Mariellen explained that this was a recent development, and they had not been notified yet.

Code of Ordinance Update: No report.

Adopt-a-Tree: Steve Tonjes reported that there is no update to the program and that he will be busy for the next few months with the election.

2023 Tree Give Away: Chris Jackson gave an update that we are still in the process of trying to buy trees for the giveaway, but we are running into issues with availability, getting three quotes, and growers that will e-verify. Howard Jeffery suggested using Plant Ant online nursery, and Chris Jackson explained that the city has utilized their services for years.

Tree Work Now Ads in Beacon: No update from Dani Keller. Suze Peace brought in this week's copy of the ad giving information on the weeping willow.

Historic Tree Removal: Greenway Trail Project: At the last meeting, the members requested that the City Engineer check and see if they could acquire additional right-of-way to save the tree. Chris Jackson reported that Ray Bahrami had contacted the owner, and that Dr. Anthony Visconti, who lives at 621 N Arlington Ave, is not willing to give us an easement in order to save this 40" Live Oak historic tree. Steve Edgar suggested having the county move the road over to allow for the tree to be saved. Mariellen explained that it was a county road and that the ECHO grant was already granted, and the project is under a time constraint. Steve Tonjes explained that it would cost a lot of money for the county to shift the road. Suze Peace said that the property owner is her personal dentist, and she was going to reach out to him to see if she could convince him to do a good deed for DeLand. She was also meeting with ECHO about a different project, so she was going to talk to them as well to see if they could give an extension on the project. Howard Jeffries made a motion to approve the removal, which was seconded by Steve Edgar. The committee was split with Howard Jeffries and Steve Edgar in favor of approving the removal and Barbara Stockhausen and Suze Peace denying. Mariellen will forward this to the City Commission with a split decision.

New Business:

Insurance Companies vs. Trees: Steve Edgar informed the committee that insurance companies are trying to deny homeowners insurance if there are trees hanging too close or onto roofs. He wrote a letter to the ISA fighting this enforcement. He informed us that pruning against ANSI standards weakens the tree and is counterproductive. He also informed that if you get a letter from the homeowners' insurance requiring tree removal, it can be fought.

Historic Tree Removal: 1521 Wyngate Dr – Mr. Jon Cheney and Mrs. Dianne Cheney presented their PowerPoint and informed the committee that they would like to remove a historic 30" DBH Live Oak that is located on the right-of-way adjacent to their property. It is lifting their driveway and has caused several cracks. They claimed that they have lost insurance coverage because of the tree. They are worried about their elderly mother, who is partially

blind, tripping. The Cheney's said that they would be paying for the removal of the city tree and replacing it with two new Shumard Oaks. Chris Jackson confirmed that the tree is a 30" DBH Live Oak in good condition. Dani Keller looked at the pictures of the trees and commented that the tree was a good tree with twin leaders and a good union, but he would recommend its removal. Because the property owners are willing to remove the tree at their expense rather than requiring the City to remove the tree, they requested that replacement be reduced to planting two 45-gallon Shumard Oaks on their property to provide fall color. This species has done well in other locations on their property. Howard Jeffries made a motion to recommend approval of the removal with the requirement that the tree would be removed by the owner and replacement would be reduced to two 45-gallon Shumard Oaks. Barbara Stockhausen seconded the motion. The motion carried.

Comments from Members:

Suze Peace would like to see the committee look at other trees to add to the historic tree list. She would like to see other trees need the committee's approval before being allowed to be cut down. Mariellen explained that an ordinance would have to be revised for that to happen.

Steve Edgar would like to see another member added since Charles Gay has not attended the meeting for over a year. At the July 8, 2022 meeting, Tadd Kasbeer made a motion that he be removed from the Committee. Barbara seconded the motion, and the motion passed unanimously. Because our bylaws require two votes, this issue was brought up again at our August meeting. Howard Jeffries made the motion to have Charles Gay removed from the Committee. Barbara Stockhausen seconded the motion. The motion carried. Mariellen contacted the City Clerk in regard to this. The Clerk would like Charles Gay to have the opportunity to resign. Mariellen has reached out to Charles Gay but has not heard back yet.

Howard Jeffries brought up planting the right trees in the right place. He has seen the wrong types of trees planted in the right-of-way that cause issues for homeowners and the city.

Adjourn: The meeting adjourned at 6:33pm.

Next Meeting: October 10, 2022

HISTORIC TREE REMOVAL REQUEST

40” DBH LIVE OAK

CITY ROW ~ 610 N GARFIELD AVE

250’ N OF INTERSECTION OF E UNIVERSITY AVE AND N GARFIELD AVE

40" DBH LIVE OAK REMOVAL REQUEST

PROJECT LOCATION MAP



40" DBH LIVE OAK REMOVAL REQUEST

GREENWAY TRAIL PROJECT OVERVIEW

COMPONENTS OF CONTRACT PLANS SET
MULTI-USE PATH PLANS

MULTI-USE PATH CONSTRUCTION PLANS FOR

CITY OF DELAND

DELAND GREENWAY TRAIL NORTH EXTENSION

(FROM INTERSECTION OF MINNESOTA & GARFIELD AVENUES TO INTERNATIONAL SPEEDWAY BOULEVARD)

CPH PROJECT No. D0918.1

PROJECT LOCATION

INDEX OF MULTI-PURPOSE TRAIL PLANS

SHEET NO.	DESCRIPTION
1	KEY SHEET
2	SUMMARY OF PAY ITEMS
3	SUMMARY OF QUANTITIES
4-6	SUMMARY OF DRAINAGE STRUCTURES
7	GENERAL NOTES
8	TYPICAL SECTIONS
9	GENERAL DETAILS
10	PROJECT LAYOUT
11	LINE & CURVE DATA
12-35	PLAN & PROFILE
36-39	INTERSECTION DETAILS
40-43	CROSS SECTIONS
64-65	SWPPP NOTES
66-78	TRAFFIC CONTROL PLAN
51+5-14	SIGNING & PAVEMENT MARKINGS PLANS

END PROJECT
INTERNATIONAL SPEEDWAY BLVD.
STA. 570+52.78 (± CONST.)

SHOP DRAWINGS (FOR THIS COMPONENT SET) TO BE SUBMITTED TO:

CPH INC.
366 W. FLORIDA STREET
SANFORD, FLORIDA 32777
PHONE: 407-332-0481
FAX: 407-332-0629

PLANS PREPARED BY:

Engineers
Architects
Surveyors
Landscape Arch.
Planners
Environmental Scientists
Construction Management
Traffic / Transportation

C.E. No. 12323
S.E. No. 44399404
S.E. No. 48744
S.E. No. 12388520

W 30 W - C P H CORP - C O A
588 W. FLORIDA STREET, SANFORD, FLORIDA 32777
P.O. BOX 2088, SANFORD, FLORIDA 32777-2088
PHONE: 407-332-0481 FAX: 407-332-0629

BEGIN PROJECT
MINNESOTA AVENUE
STA. 500+64.80 (± CONST.)

PLANS PREPARED FOR:
CITY OF DELAND

MAJOR:
ROBERT F. APOAR

CITY COMMISSIONERS:
CHARLES PARVA - SEAT 2
JESSICA DAVIS - SEAT 3
CHRISTOPHER CLOUDMAN - SEAT 4
KEVIN REID - SEAT 5

CITY ENGINEER:
RAT BATHURAI, P.E.

LOCATION MAP
N.T.S.

GOVERNING DESIGN STANDARDS:
FLORIDA DEPARTMENT OF TRANSPORTATION, FY 2022-23 STANDARD PLANS FOR ROAD AND BRIDGE CONSTRUCTION AND APPLICABLE INTERMEDIATE REVISIONS (IMS).
STANDARD PLANS FOR ROAD CONSTRUCTION AND ASSOCIATED IRIS ARE AVAILABLE AT THE FOLLOWING WEBSITE:
<http://www.fdot.gov/design/standardsplans>
APPLICABLE IRIS: NONE

GOVERNING STANDARD SPECIFICATIONS:
FLORIDA DEPARTMENT OF TRANSPORTATION, JANUARY 2022 STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION AT THE FOLLOWING WEBSITE:
<http://www.fdot.gov/programmanagement/implemented/specbooks>

ATTENTION IS DIRECTED TO THE FACT THAT THESE PLANS MAY HAVE BEEN REVISED IN SIZE BY REPRODUCTION. THIS MUST BE CONSIDERED WHEN OBTAINING SCALED DATA.

ALL CONSTRUCTION ACTIVITIES SHALL COMPLY WITH LATEST AMERICANS WITH DISABILITIES ACT (ADA) STANDARDS FOR ACCESSIBLE DESIGN.

LENGTH OF PROJECT

ROADWAY	MULTI-PURPOSE PATH	LINEAR FEET	MILES
BRIDGES		6987.98	1.323
NET LENGTH OF PROJECT		6987.98	1.323
EXCEPTIONS		N/A	N/A
GROSS LENGTH OF PROJECT		6987.98	1.323

REVISIONS

No.	DATE	DESCRIPTION

ROADWAY PLANS
ENGINEER OF RECORD:

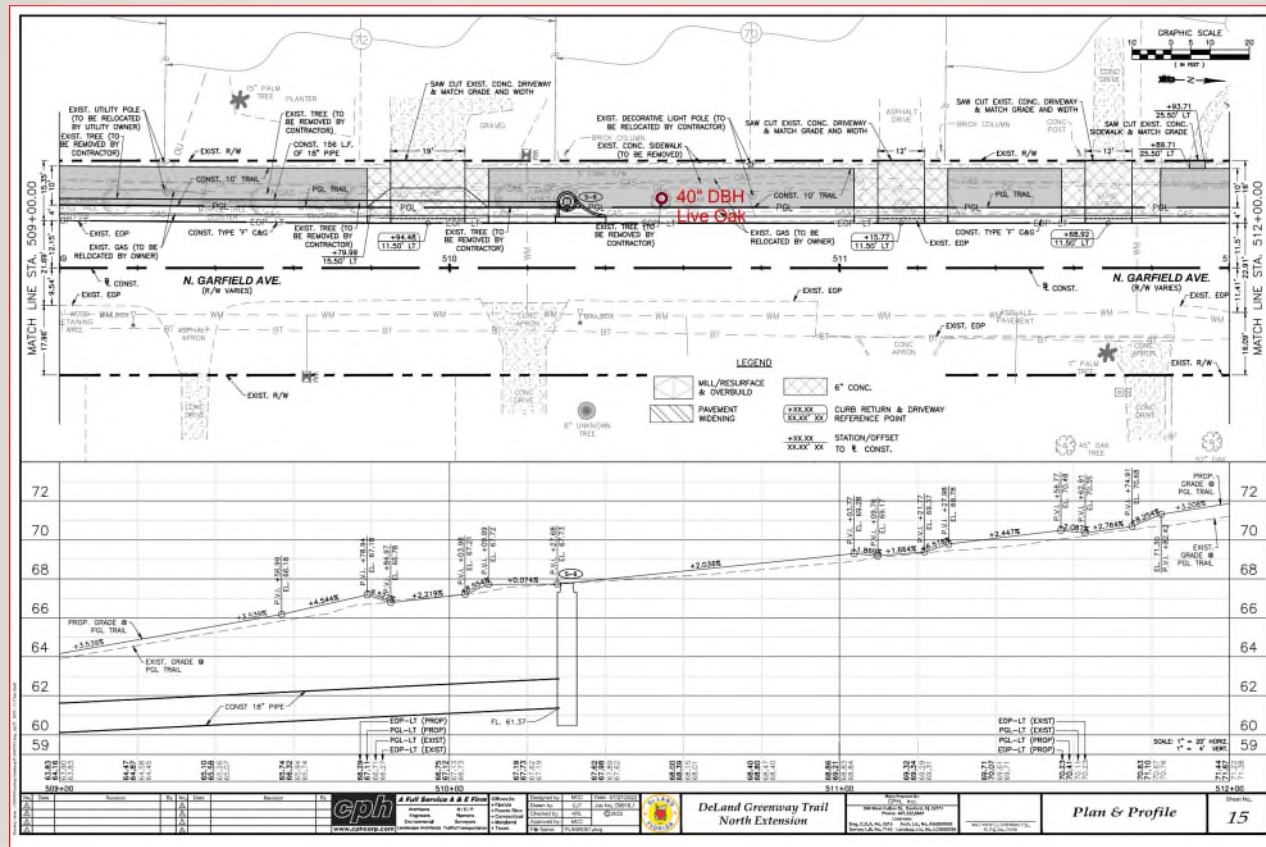
MATTHEW C. CUSHMAN, P.E.
FL P.E. No. 73150

Volusia County Permit Set
July 27, 2022

SHEET
NO.

1

40" DBH LIVE OAK REMOVAL REQUEST GREENWAY TRAIL PROJECT TREE LOCATION



40" DBH LIVE OAK REMOVAL REQUEST

2019 STREET VIEW OF TREE



TREE/URBAN SUPERINTENDENT PHOTOS

8/5/2022



TREE/URBAN SUPERINTENDENT PHOTOS

8/5/2022



40" DBH LIVE OAK REMOVAL REQUEST

DBH MEASUREMENT 8/5/2022



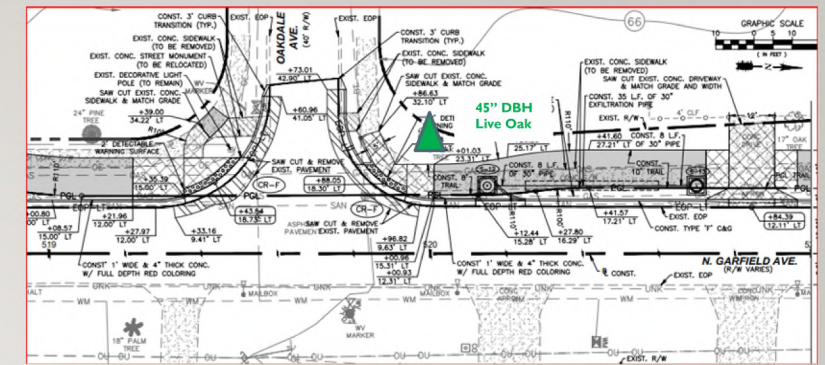
40" DBH LIVE OAK REMOVAL REQUEST

CURRENT ROADWAY DAMAGE CAUSED BY TREE



HISTORIC TREE SAVED

45" DBH LIVE OAK



40" DBH LIVE OAK REMOVAL REQUEST

VIEW OF TREE FROM NORTH FACING SOUTH

