



City of Deltona

**REGULAR CITY COMMISSION MEETING
TUESDAY, JANUARY 21, 2014
6:30 P.M.**

Mayor
John Masiarczyk

Vice Mayor
Heidi Herzberg
District 3

Commissioners:

Zenaida Denizac
District 1

Webster Barnaby
District 2

Nancy Schleicher
District 4

Fred Lowry
District 5

Chris Nabicht
District 6

City Manager
William D. Denny

**DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA**

AGENDA

- 1. CALL TO ORDER:**
- 2. ROLL CALL – CITY CLERK:**
- 3. INVOCATION AND PLEDGE TO THE FLAG:**
 - A. Invocation Presented by Commissioner Nabicht.**
- 4. APPROVAL OF MINUTES & AGENDA:**
 - A. Approval of Minutes - Regular City Commission Meeting of January 6, 2014.**
 - B. Additions or Deletions to Agenda.**
- 5. PRESENTATIONS/AWARDS/REPORT:**
 - A. Presentation - Providing Autism Links & Support Inc. (PALS). Presented by the Deltona Dunkin Donuts/Baskin Robbins franchisee and property owners Gary and Peggy Heckel.**

- B. **Presentation - Certificate of Recognition - 4th Annual Holiday Parade of Homes winner.**
- C. **Presentation - Quarterly Reports of City Advisory Boards/Committees.**

6. **PUBLIC FORUM - Citizen comments for any items.
(4 minute maximum length)**

CONSENT AGENDA: All items marked with an * will be considered by one motion unless removed from the Consent Agenda by a member of the City Commission.

7. **CONSENT AGENDA:**

- *A. **Request for approval of proposed changes to the Parks and Recreation Advisory Committee By-Laws.**
- *B. **Request for approval of Sole Source award to Menzi USA Sales for an AEBI Terratrak TT210 Machine**

8. **ORDINANCES AND PUBLIC HEARINGS:**

- A. **Public Hearing - Ordinance No. 18-2013, Phase II-B Amendments to the Land Development Code, at first reading and to schedule second and final reading.**
- B. **Public Hearing - Ordinance No. 01-2014, Tractor Supply Company Amendment to the Official Zoning Map (RZ13-007), at first reading and to schedule second and final reading.**

9. **OLD BUSINESS:**

- A. **Saxon Ridge Homeowners' Association - Acceptance of streets.**
- B. **Bus Benches - Update - Waverly Media and Maverick Bench Media.**

10. **NEW BUSINESS:**

- A. **Request for consideration of a Commercial Sewer Feasibility Study of the Saxon/N. Normandy Blvd. intersection area.**

11. **CITY ATTORNEY COMMENTS:**

12. **CITY MANAGER COMMENTS:**

- A. **Lobbyist Update.**

13. CITY COMMISSION COMMENTS:

14. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the City Commission with respect to any matter considered at this meeting or hearing, he/she will need a record of the proceedings, and for such purpose he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (F.S. 286.0105).

Individuals with disabilities needing assistance to participate in any of these proceedings should contact the City Clerk, Joyce Raftery 48 hours in advance of the meeting date and time at (386) 878-8500.



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 3 - A
SUBJECT: Invocation Presented by Commissioner Nabicht.

LOCATION:	N/A
BACKGROUND:	At the Regular City Commission Meeting on Monday, October 17, 2011, the City Commission approved to have each Commissioner by District schedule someone to present the invocation at each Regular City Commission meeting rotating each Commissioner by District starting with District #1, #2, #3, #4, #5, #6 and the Mayor.
ORIGINATING DEPARTMENT:	City Clerk's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	City Clerk
STAFF RECOMMENDATION PRESENTED BY:	N/A - Invocation Only.
POTENTIAL MOTION:	N/A - Invocation Only.
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 4 - A
SUBJECT: Approval of Minutes - Regular City Commission Meeting of January 6, 2014.

LOCATION:	N/A
BACKGROUND:	N/A
ORIGINATING DEPARTMENT:	City Clerk's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	City Clerk
STAFF RECOMMENDATION PRESENTED BY:	City Clerk Joyce Raftery - To approve the minutes of the Regular City Commission Meeting of January 6, 2014.
POTENTIAL MOTION:	"I move to approve the minutes of the Regular City Commission Meeting of January 6, 2014."
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none">• Minutes of January 6, 2014

**CITY OF DELTONA, FLORIDA
REGULAR CITY COMMISSION MEETING
MONDAY, JANUARY 6, 2014**

1 A Regular Meeting of the Deltona City Commission was held on Monday, January 6, 2014 at the
2 City Hall Commission Chambers, 2345 Providence Boulevard, Deltona, Florida.

3
4 **1. CALL TO ORDER:**

5
6 The meeting was called to order at 6:32 p.m. by Mayor Masiarczyk.

7
8 **2. ROLL CALL:**

9			
10	Mayor	John Masiarczyk	Present
11	Vice Mayor	Heidi Herzberg	Present
12	Commissioner	Webster Barnaby	Present
13	Commissioner	Zenaida Denizac	Present
14	Commissioner	Fred Lowry	Present
15	Commissioner	Chris Nabicht	Present
16	Commissioner	Nancy Schleicher	Present
17	City Manager	Dave Denny	Present
18	City Attorney	Becky Vose	Present
19	City Clerk	Joyce Raftery	Present

20
21 Also present: Public Works/Deltona Water Director Gerald Chancellor; Planning and Development
22 Services Director Chris Bowley; Parks and Recreation Director Steve Moore; Building and
23 Enforcement Services Director/Acting Deputy City Manager Dale Baker; and Acting Fire Chief
24 Robert Rogers.

25
26 **3. INVOCATION AND PLEDGE TO THE FLAG:**

27
28 Invocation Presented by Commissioner Lowry – Pastor Kevin Key, Cornerstone Christian
29 Community Church.

30
31 The National Anthem was sung by the musical group Harmony.

32
33 **4. APPROVAL OF MINUTES & AGENDA:**

34
35 **A. Minutes:**

36
37 **1. Approval of Minutes – Regular City Commission Meeting of December 16, 2013.**

38
39 Commissioner Schleicher stated that on page 16, line 19, of the minutes, under Commissioner Nabicht's
40 comments the correct spelling for the Hey God organization is HAYGD.

41
42 **Motion by Vice Mayor Herzberg, seconded by Commissioner Nabicht to approve the minutes of**
43 **the Regular City Commission Meeting of December 16, 2013, as amended.**

44
45 **Motion carried unanimously with members voting as follows: Commissioner Barnaby For;**
46 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
47 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

48
49 **B. Additions or Deletions to Agenda:**

1
 2 **Mr. Denny asked to pull Item 7-B, and to table Item 8-B to time certain to January 21, 2014, and**
 3 **the Commission concurred.**

4
 5 **5. PRESENTATIONS/AWARDS/REPORTS:**

6
 7 **A. Presentation - Super Star Student of the Month Certificates for December, 2013.**

8
 9 The Commission presented Super Star Students of the Month certificates for December, 2013.

10
 11 **B. Presentation – 3rd Annual Christmas Parade entry winners.**

12
 13 The Commission presented trophies to the 3rd Annual Christmas Parade entry winners.

14
 15 **6. PUBLIC FORUM – Citizen comments for items not on the agenda.**

16
 17 a) Robin King, 329 Bill France Boulevard, stated that she is the new President and CEO for the
 18 Center for Business Excellence (CBE), the CBE's new location is in Orange City, services provided by
 19 the CBE, and statistics of services provided for 2013. She also stated that the CBE's name is changing
 20 to Career Source Flagler/Volusia County, and that there would be a ribbon cutting ceremony in
 21 February, 2014.

22
 23 Commissioner Barnaby thanked Ms. King for attending the Commission meeting and for all that CBE
 24 does and he asked that she provide the CBE website, and Ms. King replied www.onestops.com.

25
 26 b) Michael Daly, 1931 Vienna Avenue, stated that he was representing West Volusia Youth
 27 Baseball (WVYB), he thanked the Commission for approving the funding to replace the batting cage
 28 roof, for the services provided by Parks and Recreation, and he invited the Commission to attend the
 29 WVYB opening day ceremony at 9:00 a.m. on February 15, 2014.

30
 31 c) Richard Jorza, 585 Cavalier Avenue, requested assistance in addressing Vann Park's drainage
 32 problems, over growth of trees, and he asked if there were any unused land in Deltona for hunting
 33 purposes.

34
 35 Mayor Masiarczyk replied he was not aware of any land in Deltona that could be used for hunting, that
 36 Mr. Jorza could confer with staff, and that he could check with private property owners to try and obtain
 37 permission to hunt on their property.

38
 39 Vice Mayor Herzberg asked if there was an environmental constraint to trimming trees and bushes at
 40 Vann Park, and Mr. Denny relied "yes", that much of the property is protected wetlands, staff would go
 41 out and survey the situation, and that staff may not be able to do anything without requesting the Saint
 42 Johns River Water Management District take a look at the area with them and let the City know what
 43 can and cannot be done.

44
 45 d) Edwin Lasanta, 459 Haversham Road, President of the Saxon Ridge Home Owners Association
 46 (HOA), congratulated the City on the new Waste Water Treatment Plant, he asked when the HOA could
 47 count on the City hooking Saxon Ridge homes up to the reclaimed water system, and also for feedback
 48 on the petition and tentative agreement that was turned in to the City on May 1, 2013, and for the City
 49 to take over the maintenance of certain roads and sidewalks in Saxon Ridge.

1
2 Mayor Masiarczyk asked Mrs. Vose to contact Mr. Lasanta, provide him with an updated status of the
3 project and to set up the finalization of the process.
4

5 e) Jamison Jessup, 557 Noremac Avenue, stated the Commission should have received an email
6 on January 6, 2014 concerning the Disability Fairness organization that fights for the rights of
7 individuals with disabilities, and he discussed that Deltona's bus benches and bus stops are not
8 Americans for Disability Act (ADA) compliant, he contacted the Florida Department of Transportation
9 (FDOT) to discuss the issue, what makes a bus bench or bus stop ADA compliant, reasons that
10 Deltona's bus benches and stops are not compliant, the benefit of having ADA compliant bus services,
11 removing the bus benches was not enough of a remedy, and that he believes the City has a legal and
12 moral obligation to make bus benches and bus stops ADA compliant.
13

14 f) Michael Williams, 2889 Cottageville Street, stated that Martin Luther King (MLK) breakfast
15 ticket sale responses are good, there were over 250 entries from area schools for the MLK greeting card
16 competition, scheduled events for the MLK breakfast, and the Gospel Celebration on January 19, 2014
17 at the Deltona Alliance Church.
18

19 Commissioner Barnaby asked Mrs. Vose where the City was with the Waverly Media bus bench
20 agreement and if there were any other bus bench companies operating in Deltona. Mrs. Vose replied
21 that she sent out the notice of default on December 13, 2013, the return receipts were received, there is a
22 30 day waiting period, if Waverly Media does nothing in that 30 days then they are in default, the
23 course of action from there, to include cancelling the agreement, would be up to the Commission, that
24 she believes the issue is being scheduled for the next Regular Commission meeting in January, and that
25 the City currently only has one (1) bus bench contract.
26

27 Vice Mayor Herzberg asked if the bus benches mentioned by Mr. Jessup were owned by Waverly
28 Media, if the contract were terminated would those bus benches be removed, if all the bus benches were
29 along the two (2) bus routes in Deltona, and that the next contract should require ADA compliant bus
30 benches. Mrs. Vose replied "yes" the bus benches were owned by Waverly Media, all 163 bus benches
31 would be removed if the contract were terminated, not all bus benches are located along a bus route
32 which is not a requirement, and if the City went out to bid for a new bus bench contract to make it very
33 specific that the bus benches be ADA compliant.
34

35 g) Daniel Dudley, 1089 Pearl Tree Road, a member of the Sterling Park Estates HOA, discussed
36 the City's future plans to change the zoning of three (3) lots where Saxon Boulevard and Sterling Silver
37 Boulevard intersect, he commended the Commission on the commercial growth that it is trying to
38 attract to the City, that the area is currently zoned as office, medical, professional (OMP), the
39 neighborhood has one (1) road for entry and exit, 73 homes, the rezoning is a bad choice, number of
40 accidents in the area, blind spots on Saxon Boulevard, a petition being circulating against the change,
41 and that all Sterling Park and local area residents are opposed to the rezoning.
42

43 Mayor Masiarczyk replied that he had discussed the issue with Mr. Hoyt, Sterling Park HOA President
44 and that the City is aware of the concerns.
45

46 Commissioner Schleicher asked if there was a plan to hold an informational meeting where residents
47 can come and discuss the project, and Mr. Denny replied "yes", that there is a Public Hearing scheduled
48 for February 19, 2014, the rezoning board recommendation will be scheduled to come in front of the
49 Commission within the next few meetings, and that there will be an informational meeting held for the

1 Sterling Park and local residents.

2
 3 Mr. Dudley asked if the informational meeting would be held before the Public Hearing on February
 4 19, 2014, and Mr. Denny replied that he was not sure the meeting could be scheduled before the Public
 5 Hearing but that the Planning & Zoning Board only makes recommendations, the Commission makes
 6 the final determination.

7
 8 **7. CONSENT AGENDA:**

9
 10 Mayor Masiarczyk read the title of each item on the Consent Agenda.

11
 12 Commissioner Schleicher asked to pull agenda item 7-F.

13
 14 **Motion by Commissioner Schleicher, seconded by Vice Mayor Herzberg to approve Consent**
 15 **Agenda Items 7-A, 7-C, 7-D, 7-E and 7-G.**

16
 17 **Motion carried unanimously with members voting as follows: Commissioner Barnaby For;**
 18 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
 19 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

20
 21 ***A. Request for approval to piggyback Rockdale County Bid # 12-43 with E.H. Wachs**
 22 **Company for a Trailer Mounted Valve Maintenance Machine – Deltona Water.**

23
 24 **Approved by Consent Agenda – to approve the award to the E. H. Wachs Company at a total**
 25 **cost not to exceed \$54,965.00 in accordance with the Rockdale County Bid # 12-43 for one (1)**
 26 **Trailer Mounted Valve Maintenance Machine.**

27
 28 **B. Request for approval of Resolution No. 2013-06, expressing support for the ECHO**
 29 **Grant application for the Veterans Museum expansion project.**

30
 31 **Item was pulled from the agenda by the City Manager.**

32
 33 ***C. Request for approval to purchase playground equipment for Dwight Hawkins Park**
 34 **piggybacking the US Communities Contract #110171.**

35
 36 **Approved by Consent Agenda – to approve the purchase of playground equipment through**
 37 **Kompan Inc. piggybacking US Communities Contract #110171 at a total cost of \$59,362.46.**

38
 39 ***D. Request for approval to use All Rite Services, Inc. for Dwight Hawkins Park fencing**
 40 **piggybacking the Seminole County School Board Bid #09100010B.**

41
 42 **Approved by Consent Agenda - to approve using All-Rite Fence Services, Inc. to provide all**
 43 **materials and services necessary to install fencing at Dwight Hawkins Park piggybacking the**
 44 **School Board of Seminole County Bid #09100010B.**

45
 46 ***E. Request for approval to use All Rite Services, Inc. for Wes Crile Park fencing**
 47 **piggybacking the Seminole County School Board Bid #09100010B.**

48
 49 **Approved by Consent Agenda - to approve using All-Rite Fence Services, Inc. to provide all**

1 **materials and services necessary to install fencing at Wes Crile Park piggybacking the School**
 2 **Board of Seminole County Bid #09100010B.**

3
 4 **F. Request for fee waiver – West Volusia Youth Baseball – Annual Opening Day Parade.**

5
 6 Commissioner Schleicher stated that the request is over the limit of \$750 dollars allowed to be waived
 7 and she suggested the West Volusia Youth Baseball (WVYB) adopt the park during the baseball season
 8 to perform a type of in-kind service, which would be a win/win situation for the City and WVYB.

9
 10 Commissioner Nabicht stated that every year the City receives the same request for fee waivers and he
 11 asked the City Manager to schedule a workshop to review the current fee schedule and waiver policy.
 12 He stated the fees are in place to offset costs to the City, if the fees are going to be continually waived to
 13 just take them off the books, to look at the fee waiver historical data at the workshop to try and develop
 14 a better formula, and concurred with Commissioner Schleicher that if the City is extending a fee waiver
 15 to an organization than that organization should assist the City by doing some type of clean-up day or
 16 some other type of an event that matches the type of organization that was granted the fee waiver.

17
 18 Mayor Masiarczyk stated the City needs to follow the established fee policy as it applies to
 19 everybody, that perhaps the Commission should readdress the policy and amend it if needed, and he
 20 asked if WVYB was willing to pay the difference in the fee. Mr. Moore replied that he had a
 21 discussion with WVYB's President Mike Daly, and that WVYB is willing to pay the difference.

22
 23 Vice Mayor Herzberg stated that fees are continually waived and reduced for different organizations
 24 and events, the Commission needs to review the fee schedule and waiver policy and make a firm
 25 decision, the community service idea is a good one but not to tie WVYB to that, but instead to
 26 address that during the policy review, and to have staff obtain data from other cities on fee waivers
 27 which could all be reviewed during the workshop.

28
 29 Commissioner Denizac stated the issue has been discussed numerous times, that perhaps the policy
 30 needs one (1) more review and adjustment, but then the Commission needs to be fair and consistent
 31 across the board in enforcing the policy.

32
 33 **Motion by Commissioner Schleicher, seconded by Vice Mayor Herzberg to authorize staff to**
 34 **waive the fees in the amount of \$750.00 and the West Volusia Youth Baseball League would pay**
 35 **the difference in the amount of \$110.00 associated with the Annual West Volusia Youth Baseball**
 36 **Opening Day Parade on Saturday, February 15, 2014.**

37
 38 **Motion carried with members voting as follows:**

39
 40 **Commissioner Barnaby For**
 41 **Commissioner Denizac Against**
 42 **Commissioner Lowry Against**
 43 **Commissioner Nabicht Against**
 44 **Commissioner Schleicher For**
 45 **Vice Mayor Herzberg For**
 46 **Mayor Masiarczyk For**

1 ***G. Request for approval of the purchase of renewal support for the CRW Trakit product**
 2 **from CRW Associates for a total price of \$25,500.**

3
 4 **Approved by Consent Agenda – to approve renewal of the technical support and software**
 5 **maintenance for the Trakit product and web access to Trakit at a total cost of \$25,500.**

6
 7 **8. ORDINANCES AND PUBLIC HEARINGS:**

8
 9 **A. Public Hearing - Ordinance No. 17-2013, an amendment to the Capital Improvements**
 10 **Element of the City’s Comprehensive Plan.**

11
 12 Mayor Masiarczyk asked if there were any staff updates.

13
 14 Planning and Development Services Director Chris Bowley replied that the word “not” on page 22
 15 of the CIE booklet, under Project Description is a typographical error that should be deleted, and the
 16 error will be changed before it comes before the Commission for second reading.

17
 18 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

19
 20 City Attorney Becky Vose read the title of Ordinance No. 17-2013.

21
 22 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE**
 23 **COMPREHENSIVE PLAN OF THE CITY OF DELTONA, BY AMENDING THE CAPITAL**
 24 **IMPROVEMENTS ELEMENT PROVIDING FOR THE REPLACEMENT OF THE**
 25 **CAPITAL IMPROVEMENT PROJECT SHEETS; FINDING CONFORMITY WITH STATE**
 26 **STATUTES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE**
 27 **DATE.**

28
 29 **Motion by Commissioner Nabicht, seconded by Commissioner Barnaby to approve Ordinance**
 30 **No. 17-2013, at first reading, that amends and updates the City of Deltona's Comprehensive Plan**
 31 **Capital Improvements Element and the Five-Year Schedule of Capital Improvements, as**
 32 **amended.**

33
 34 **Motion carried unanimously with members voting as follows: Commissioner Barnaby For;**
 35 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
 36 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

37
 38 Ordinance No. 17-2013 was approved at 7:45 p.m.

39
 40 **B. Public Hearing - Ordinance No. 01-2014, Tractor Supply Company Amendment to the**
 41 **Official Zoning Map (RZ13-007).**

42
 43 **Item was tabled to time certain to January 21, 2014 by the City Manager.**

44
 45 **9. OLD BUSINESS:** None.

46
 47 **10. NEW BUSINESS:**

48
 49 **A. Request for approval of Neighborhood Stabilization Program (NSP) Real Estate Broker**

1 **Services.**

2
 3 Mayor Masiarczyk opened the public hearing.

4
 5 Michael Williams, 2889 Cottageville Street, stated one of the screening criteria for selecting
 6 Neighborhood Stabilization Program (NSP) real estate brokers is that the real estate company must
 7 be able to get to Deltona within 30 minutes, and he asked why Weatherspoon Realty was chosen
 8 since the company is located in Lake Mary.

9
 10 Planning and Development Director Chris Bowley replied that the drive from Lake Mary to Deltona
 11 is less than 30 minutes, and the company has NSP real estate experience.

12
 13 Mayor Masiarczyk closed the public hearing.

14
 15 **Motion by Vice Mayor Herzberg, seconded by Commissioner Schleicher to approve the**
 16 **following list of real estate brokers to be used within the Neighborhood Stabilization Program:**
 17 **Watson Realty Corp. – DeLand, Re/Max Associates, Inc. – Deltona, Total Realty Corp. –**
 18 **DeLand, and Weatherspoon Realty - Lake Mary.**

19
 20 **Motion carried unanimously with members voting as follows: Commissioner Barnaby For;**
 21 **Commissioner Denizac, For; Commissioner Lowry, For; Commissioner Nabicht, For;**
 22 **Commissioner Schleicher, For; Vice Mayor Herzberg, For; and Mayor Masiarczyk, For.**

23
 24 **11. CITY ATTORNEY COMMENTS:** None.

25
 26 **12. ACTING CITY MANAGER COMMENTS:**

27
 28 Mr. Denny stated that he was approached by an individual who wanted to purchase a piece of City
 29 property near the intersection of Howland Boulevard and State Road (SR) 415, it is a depressed area
 30 better known as Lake David, is about one (1) acre in size, that the owner of the surrounding old
 31 antiquated subdivision lots that the City just vacated wants to purchase the property, and that to
 32 proceed he requires the Commission's approval to inform the individual to pay for an appraisal of
 33 the property and then proceed from there.

34
 35 **After discussion, the Commission concurred to move forward by having an appraisal done,**
 36 **and to sell the property.**

37
 38 **A. Lobbyist Update:**

39
 40 Mr. Denny stated due to the holidays it has been slow in Tallahassee and there is nothing to report
 41 that would affect Deltona.

42
 43 **13. CITY COMMISSION COMMENTS:**

44
 45 a) Commissioner Lowry wished everyone a Happy New Year.

46
 47 b) Commissioner Schleicher thanked Mr. Denny for pulling Agenda Item 7-B and she asked that
 48 the issue be placed on a Workshop agenda. She thanked the VCSO for conducting a wellness check on
 49 an elderly resident, and encouraged people not to be afraid to ask for a wellness check when there is a

1 concern about someone because it may just save a life. She asked everyone to keep former
2 Commissioner Carl Carey and his family in their thoughts and prayers as his 11 year old grandson just
3 passed away on December 31, 2013, and that everyone stay warm, and extended encouragement for
4 Florida State University to win tonight's football game.

5
6 c) Commissioner Denizac thanked Parade Committee Chair Crystal Harris for all her work in
7 coordinating the 2013 Deltona Christmas Parade.

8
9 d) Commissioner Barnaby stated that he is looking forward to the Commission doing great things
10 for Deltona in 2014, that he attended last year's Team Volusia Economic Development Corporation
11 (TVEDC) annual meeting which found to be very inspirational in terms of moving Deltona forward,
12 encouraged Commissioners to try and attend meetings that benefit economic development in the West
13 Volusia County region and Deltona, and he asked that he be allowed to attend this year's annual
14 TVEDC meeting.

15
16 Vice Mayor Herzberg stated that it would be well worth attending the TVEDC 2014 annual meeting
17 just to hear guest speaker Gray Swoope, Florida's Secretary of Commerce, President & CEO,
18 Enterprise Florida Inc. She stated he was very well versed in economic development and the City of
19 Deltona.

20
21 **After discussion, the Commission concurred that Commissioners can attend the TVEDC 2014**
22 **annual meeting in Daytona Beach and to submit a travel reimbursement form.**

23
24 Commissioner Denizac stated that the current City policy for funding Commissioners to attend
25 meetings is manifested through the City's annual budget, and any changes to the policy need to be
26 discussed during the budget process.

27
28 The Commission discussed the current policy for Commissioners to attend events and seminars both in-
29 state and out of state, who attends meetings when the City has a designated representative, the
30 importance of attending events such as the TVEDC annual meeting, the current policy supporting
31 Commissioners attendance at meetings if it is one (1) of the in-state meetings that they want to attend,
32 and the Commission being provided with a copy of the Commission Travel Policy.

33
34 Vice Mayor Herzberg stated that all non-investor guests can attend the TVEDC annual meeting and
35 would pay a \$25.00 registration fee, the City of Deltona is an investor so there should not be a charge to
36 attend, and she will check with the TVEDC to confirm that information. She also discussed
37 Commissioners attending functions such as the Florida League of Cities annual meeting, the budget
38 process for designating funds for Commissioner's registration and attendance expenditures, a
39 comparison of other cities attendance at functions, and she stated that more than one (1) Commissioner
40 attending a function is not a unique situation.

41
42 Commissioner Nabicht stated his disbelief in discussing Commission travel policy issues again, that the
43 Commission discussed function attendance at a prior workshop where he suggested developing a clear
44 list of what meetings Commissioners could and could not go to, and the Commission as a body
45 concurred that to police themselves. He stated there are no changes being made to policies, and the
46 Commission is merely following a previously agreed upon process.

47
48 e) Vice Mayor Herzberg wished everyone a Happy New Year, she thanked everyone for attending

1 the Commission meeting, and the Commission needing to establish a City “Grant” policy, and a grant
2 matching fund account.

3
4 Commissioner Nabicht stated that he believed the Commission had discussed previously and concurred
5 to leave the grant application process up to staff, if a grant came up before the Commission, the
6 Commission would then decide whether or not to accept the grant, and where the matching funds would
7 originate from.

8
9 The Commission discussed grants coming available outside of the budget process, setting match funds
10 aside for grants, staff time spent on preparing grant applications, staff time spent executing requirements
11 for approved grants, not deterring staff from searching for grants, the Veterans Museum expansion, the
12 grant application process being initiated over two (2) years ago, changes to the ECHO grant funding
13 mechanism made by the County, the Veterans Museum expansion grant being discussed on several
14 occasions prior to the Commission meeting, and adding the grant process to a Workshop agenda.

15
16 **After discussion, the Commission concurred to add “Grants” to a future Commission Workshop.**

17
18 e) Mayor Masiarczyk stated he received a beautiful gift of Greek food in the mail at City Hall from
19 Lyla Temissia in Warren Michigan, and he asked if anyone knew who the individual is, he thanked
20 Commissioner Denizac for the wonderful holiday meal, he thanked all employees for their hard work
21 and time put in on the Christmas Parade, he thanked winners and all parade entrants for participating,
22 and he wished everyone a Happy New Year.

23
24 **14. ADJOURNMENT:**

25
26 There being no further business, the meeting adjourned at 8:14 p.m.

27
28
29
30
31

32 **John Masiarczyk Sr., Mayor**

33 **ATTEST:**
34
35
36
37 **Mitch Honaker, Deputy City Clerk**



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 5 - A
SUBJECT: Presentation - Providing Autism Links & Support Inc. (PALS). Presented by the Deltona Dunkin Donuts/Baskin Robbins franchisee and property owners Gary and Peggy Heckel.

LOCATION:

N/A

BACKGROUND:

Martha Aleman, founder of an Autism Family Support Group, recommended that Dunkin Donuts/Baskin Robbins corporation make a donation to the PALS program (Providing Autism Links & Support Inc.).

PALS is a 501c3 program that provides recreational services for children with disabilities and are currently planning services for children and families living in Volusia County. Many families have expressed the lack of, and need for activities locally in Volusia County.

Deltona local business owners Gary and Peggy Heckel made a commitment to donate a portion of the proceeds from their grand opening of the Deltona Dunkin Donuts/Baskin Robbins to autism. The Heckels personally matched the donation made by Dunkin Donuts/Baskin Robbins corporation and are presenting a check for \$2,500 to Providing Autism Links & Support Incorporated (PALS).

ORIGINATING DEPARTMENT:

City Manager's Office

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

Public Information Officer, Acting City Manager

STAFF RECOMMENDATION PRESENTED BY:

N/A - Presentation Only.

**POTENTIAL
MOTION:**

N/A - Presentation Only.

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 5 - B
SUBJECT: Presentation - Certificate of Recognition - 4th Annual Holiday Parade of Homes winner.

LOCATION:

N/A

BACKGROUND:

Certificate to recognize the Stone Family, 1616 Gregory Drive, for winning the *4th Annual Deltona Holiday Parade of Homes'* competition. The contest started on November 24th and concluded on January 3rd.

Their house was selected by popular vote from the public and those votes were submitted between December 9th and January 3rd. The public could view the entries on the City TV Station-- Bright House Cable Ch. 199 and on the City website-- www.deltonafl.gov.

By their house being selected as the winning entry, the Stone family will get a yard sign from the City officially naming their house as the best decorated home in the *4th Annual Holiday Parade of Homes Contest*, and a gift certificate from Anderson ACE Hardware, presented by Mr. Bill Anderson.

ORIGINATING DEPARTMENT:

City Manager's Office

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

Public Information Officer; City Clerk

STAFF RECOMMENDATION PRESENTED BY:

N/A - Presentation Only.

POTENTIAL MOTION:

N/A - Presentation Only.

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager

ATTACHMENTS:

- Photo of Winning Entry



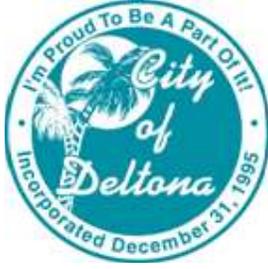
Anderson's

ACE

Hardware & Garden Center

#3) 1616 Gregory





AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 5 - C
SUBJECT: Presentation - Quarterly Reports of City Advisory Boards/Committees.

LOCATION:	N/A
BACKGROUND:	Quarterly Reports of City Advisory Boards/Committees: 1) Parks and Recreation Advisory Committee - Written Report Only <ul style="list-style-type: none">• Senior Advisory Sub-Committee• Youth Advisory Sub-Committee• Citizen Accessibility Advisory Sub-Committee 2) William S. Harvey Deltona Scholarship Advisory Board - Written Report Only
ORIGINATING DEPARTMENT:	City Clerk's Office
SOURCE OF FUNDS:	N/A
COST:	N/A
REVIEWED BY:	City Clerk
STAFF RECOMMENDATION PRESENTED BY:	N/A - Presentation Only.
POTENTIAL MOTION:	N/A - Presentation Only.
AGENDA ITEM APPROVED BY:	<hr/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none">• Parks and Recreation Quarterly Report• William S. Harvey Deltona Scholarship Quarterly Report

PARKS & RECREATION DEPARTMENT QUARTERLY REPORT OCTOBER, NOVEMBER, DECEMBER 2013

Parks & Recreation Advisory Board

Fourth quarter:

- This board met in October. At that time Mr. Moore updated the members on Dewey Boster, Dupont Lakes, Capital Projects, the Early Learning Coalition, the Thornby Loop and Bethune Cookman.
- There was no meeting in November or December.

Citizen Accessibility Advisory Sub-Committee

Fourth quarter:

- This sub-committee met in October. They discussed various disability issues in Deltona and would like to further discuss a plan for more City accessible facilities.
- There was no meeting in November or December.

Youth Advisory Sub-Committee

Fourth quarter:

- This sub-committee met in October to complete the plans for hosting the planned “Fall Dance” in November.
- In November they hosted the “Fall Dance” to further promote the “Teen Center” concept to the teens in the community.
- There was no meeting in November or December.

Senior Advisory Sub-Committee

Fourth quarter:

- This sub-committee successfully planned and hosted the first Arts and Craft Festival with 32 vendors and an estimated 400 attendees.
- They discussed hosting their first Sweetheart Italian Dinner in February 2014.
- There was no meeting in December.

Respectfully submitted,
Steve Moore, Director
Parks and Recreation Department



City of Deltona

Quarterly Report for the William S. Harvey Scholarship Advisory Board (Oct – Dec 2013)

- During this quarter the Advisory Board met on November 7, 2013:
 - The Board welcomed new members – Cristina Raimundo, Harry Meeks and Lori Burbank.
 - The Board selected Christopher Alcantara as Chairperson and David Dawson as the Vice Chairperson.
 - The Scholarship application and process were reviewed. The Board revised a few items on the application to provide additional clarification.
 - The Scholarship program was announced in the following manner:
 - Scholarship applications and flyers were hand delivered or e-mailed to area schools in November.
 - The Communications department created a flyer that was posted in local high schools, colleges, and throughout City Hall. The application packet was posted on Deltonafl.gov website, added a slide on DTV, and posted the information on social networking sites.
 - Deadline for applications to be submitted to City staff is February 24, 2014. City staff will scan the 2014 Scholarship applications to a disk and the disk will be available for the board members to pick-up by February 28, 2014. The board will meet on March 20, 2014 to rank the applications.

Pauline Shattuck – January 6, 2014



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, Acting City Manager **AGENDA ITEM:** 7 - A
SUBJECT: Request for approval of proposed changes to the Parks and Recreation Advisory Committee By-Laws.

LOCATION:

N/A

BACKGROUND:

At the Regular City Commission Meeting on Monday, August 15, 2011 the City Commission approved the proposed "generic" Advisory Board/Committee/Sub-Committee By-Laws and rescinded all prior Board, Committee and Sub-Committee specific By-Laws.

After reviewing the By-Laws with the Committee both the Committee Liaison and the Committee are requesting some minor changes to their By-Laws, specifically Article XII. Sub-Committees, as follows:

1. Page 5, remove "Section 2";
2. Page 5, Add the following to the end of Section 3 "The Staff Liaison to the Sub-Committee shall select volunteers from among residents of the City, to serve on each Sub-Committee.";
3. Page 5, Section 6, change the age from 15 thru 20 to "15 thru 18"; and
4. Page 5, correct the Section numbers (after Section 2 is removed).

ORIGINATING DEPARTMENT:

Parks Recreation

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

City Clerk

STAFF RECOMMENDATION

Steve Moore, Parks and Recreation Director - That the City

PRESENTED BY:

Commission approve changes to the Parks and Recreation Advisory Committee By-Laws.

POTENTIAL MOTION:

"I move to approve changes to the Parks and Recreation Advisory Committee By-Laws."

AGENDA ITEM APPROVED BY:

William D. Denny, Acting City
Manager

ATTACHMENTS:

- Generic By-Laws adopted by the City Commission
- Amended P&R Advisory Committee By-Laws
- P&R Advisory Committee By-Laws - Clean Copy



{Board/Committee Name}
By-Laws

Article I. **Purpose:**

Section 1. The {Board/Committee Name} was created by the adoption of Resolution No. {#} Board/Committee shall provide information and suggestions regarding topics that are provided to the Advisory Board/Committee by the City Commission and the Staff Liaison will present the recommendations to the City Commission on a quarterly basis or as needed. The Advisory Board/Committee shall not have the authority or take any action that will commit the expenditure of public funds, the use of City equipment or personnel and shall not make monetary or other commitments on behalf of the Advisory Board/Committee, the City Commission, or the City of Deltona.

Article II. **Staff Liaison:**

Section 1. The Advisory Board/Committee Liaison shall serve as the Staff Liaison to the City Commission. In the event the Staff Liaison is unavailable, the appointed designee will assume their responsibilities for the period of their absence.

Section 2. The Advisory Board/Committee Liaison shall provide a summary of the discussion(s) and recommendation(s) of the Board/Committee to the City Commission on a quarterly basis. The schedule of which City Commission Meeting the Boards/Committees will present their quarterly report at is provided by the City Clerk's Office.

Article III. **Membership:**

Section 1. The Advisory Board/Committee shall consist of {number of members}. The Mayor and each Commissioner shall each appoint or re-appoint one (1) member to the Advisory Board/Committee during the first regularly scheduled Commission meeting in December of each year. Each member shall serve a 12 month term and may be re-appointed for additional terms. These terms do not apply to the Firefighter's Pension Plan Board of Trustees, P & Z Board and Deltona Economic Development Advisory Board.

Section 2. All applicants to be considered for appointment to the Advisory Board/Committee shall complete a City of Deltona Citizen Board/Committee application form, which will be kept on file by the City Clerk.

Section 3. Each member of the Advisory Board/Committee shall reside within the City limits of the City of Deltona and shall serve his or her term without compensation.

Section 4. Any vacancy occurring during the term of an Advisory Board/Committee member shall be filled or replaced by appointment by their respective appointing member of the City Commission for the remainder of the vacancy term.

Article IV. Attendance:

Section 1. Members' office may be declared vacant by reason of death, resignation, mental or physical incapacity, absenteeism as prescribed hereafter, or for conduct bringing discredit to the City of Deltona or the Advisory Board/Committee.

Section 2. So that the Advisory Board/Committee may responsibly carry out its duties, all members should make every effort to attend all meetings. If a member has three (3) unexcused absences, the Advisory Board/Committee shall terminate the individual's membership and the Staff Liaison shall advise the appointing Commissioner of the vacancy. The Staff Liaison will also advise the City Clerk of the vacancy. The City Clerk will advertise the opening and place the appointment of a new member on a Regular City Commission Meeting Agenda.

Section 3. Absences may be excused by notifying the Staff Liaison of the circumstances prior to the meeting.

Article V. Officers and Duties:

Section 1. The members of the Advisory Board/Committee shall elect a Chairperson and a Vice-Chairperson each December to serve for a period of one (1) year. If a Chairperson and a Vice-Chairperson position become vacant for any reason, a replacement shall be elected by a majority of the full Advisory Board/Committee at their next regularly scheduled Advisory Board/Committee meeting.

Section 2. The Chairperson shall perform the duties ordinarily performed by a Chairperson. All requests and communications shall be channeled through the Staff Liaison. Any and all correspondence by any Board/Committee member shall be directed to the Staff Liaison only and the Staff Liaison will forward the information to the City Commission or staff as necessary. Under no circumstances should a Board/Committee member be directly discussing Board/Committee business with staff or the City Commission. Members of the Advisory Board/Committee may not at any time represent themselves or mislead anyone that they are an employee of the City of Deltona.

Section 3. The Vice-Chairperson shall preside at any meeting in the absence of the Chairperson. If both the Chairperson and Vice-Chairperson are absent, the remaining members, if a quorum is present, shall elect a temporary presiding officer.

Section 4. The Chairperson, Vice-Chairperson or the temporary officer shall ensure that all members of the Advisory Board/Committee are aware of all applicable rules, laws, regulations, policies and procedures.

Article VI. Quorum:

Section 1. In order to have an Advisory Board/Committee meeting, a quorum must be present. The majority of the members must be present to constitute a quorum. A quorum consists of half the Board, Committee or Sub-Committee members, plus one.

Section 2. There must be an affirmative vote of a majority of voting members present in order for any action to be taken by the Advisory Board/Committee.

Article VII. Meetings:

Section 1. Meetings of the Advisory Board/Committee will be held as needed and directed by the City Commission, generally once per month depending on the topic(s) provided by the Commission for discussion. Meetings will be held at a location to be determined by the Staff Liaison.

Section 2. All meetings of the Advisory Board/Committee or any two (2) members thereof, are declared to be public meetings open to the public at all times, and may not be held unless due notice to the City and the public is given as required by Florida's Government-in-the-Sunshine Laws.

Article VIII. Order of Business:

Section 1. At all regular Advisory Board/Committee meetings, the following shall be the general order of business:

- 1) Call to order by the Chairperson
- 2) Roll call
- 3) Approval of minutes
- 4) Public Comments
- 5) Old business
- 6) New business
- 7) Member comments
- 8) Adjournment

Section 2. In order to provide an opportunity for discussion of business before the Advisory Board/Committee prior to a motion, it shall be the duty of the

Chairperson to state the matter of business to the Advisory Board/Committee and to provide a period of discussion of the facts relevant to the topic prior to entertaining a motion. After a motion is made and seconded, the Chairperson shall allow additional discussion by the Advisory Board/Committee members. Any member may call for a vote if additional discussion becomes repetitive or irrelevant to the motion.

Article IX. Minutes:

Section 1. The Staff Liaison or the appointed designee shall be responsible for preparing written minutes of all meetings and notices of such meetings in accordance with the Advisory Board/Committee Meeting Agenda Procedure as approved by the City Clerk. The “Draft” minutes, which should be marked “Draft”, of each meeting shall be open for public inspection two (2) weeks following the meeting date on the City’s Website. The “Approved” minutes which will replace the “Draft” minutes shall be properly recorded and open for public inspection the day following the date the minutes were approved by the Advisory Board/Committee, with the original signed minutes kept in the City Clerk’s Office. The Staff Liaison or the appointed designee will be responsible for all public notifications.

Section 2. All communications by or on behalf of the board or any board member(s) shall be made either in public at a board meeting, through communications to the Staff Liaison, or through items placed in the minutes of the board. Neither the board, nor any board member(s), shall purport to speak on behalf of the board or as an official board member through any other means of communication. This restriction shall not prevent any board member from expressing his or her individual ideas or opinions relating to any matter, so long as such expression of ideas or opinions are expressed as that *individuals’* ideas or opinions, and not as the ideas or opinions of the board, or the ideas or opinions of such individual *as a board member*.

Article X. Voting:

Section 1. Any member of the Advisory Board/Committee having a personal or financial interest in any matter shall disclose such interest to the Advisory Board/Committee and shall complete and file with the City Clerk such Memorandum of Voting Conflict as required by law. No member present shall abstain from voting on any matter except as provided by Florida Statutes.

Article XI. By-Laws:

Section 1. The City Commission has final approval of all By-Laws or By-Law changes as recommended by the Staff Liaison, the appointed designee or the Advisory Board/Committee.

Section 2. Motions to amend or add to the By-Laws shall be made in writing to the Staff Liaison. Voting on such motions shall be considered at the next regular meeting of the Advisory Board/Committee.

Article XII. Sub-Committees:

Section 1. Sub-Committees currently only apply to the P&R Advisory Sub-Committees, however, the Deltona Economic Development Advisory Board has already discussed and would like to create several Sub-Committees. Each Sub-Committee would need to go before the City Commission for approval and justification.

Section 2. The Advisory Board/Committee shall select Sub-Committee Chairpersons from among its members to serve as Chairperson of each Sub-Committee, where applicable. The Sub-Committee Chairperson shall select volunteers, from among residents of the City, to serve on each Sub-Committee.

Section 3. All individuals considered for appointment to a Sub-Committee shall complete a City of Deltona Citizen Board/Committee application form, which will be kept on file by the City Clerk.

Section 4. Each Sub-Committee member's term shall expire one (1) year after the member is appointed or re-appointed.

Section 5. Each member of the Sub-Committee shall reside within the City limits of the City of Deltona. Every effort will be made to include representation from each Commission district on the Sub-Committee where possible.

***Section 6 only applies to the Youth Advisory Sub-Committee and would not be included in any other Board/Committee By-Laws.**

Section 6. Members of the Youth Advisory Sub-Committee, excluding the Chairperson, shall be 15 thru 20 years of age.

Section 7. Each member shall serve his or her term without compensation.

Section 8. The Chairperson of each Sub-Committee shall ensure that all members of the Sub-Committee are aware of all applicable rules, laws, regulations, policies and procedures.

Article XIII. Dual Office Holding:

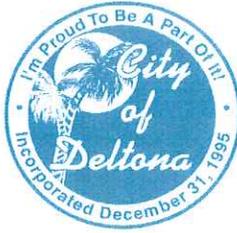
Section 1. It is the policy of the City of Deltona that no citizen may, simultaneously, serve on more than one City Board, Committee or Sub-Committee. This policy does not apply to citizens serving on Sub-Committees, or Committees and Boards of a temporary nature, and does not apply to citizens

serving on Sub-Committees of the actual board or committee on which such citizen serves.

Section 2. This policy limiting the number of Boards/Committees on which a citizen may serve shall apply prospectively only, and shall not affect the current term being served by citizens on any Board and/or Commission within the City of Deltona. (Commission Policy/Procedure: CC06-001)

Article XIV. Sunset Provision:

Section 1. The Advisory Board/Committee and Sub-Committees shall be sunset upon determination by the Deltona City Commission that the Advisory Board/Committee has served its purpose and is no longer needed for recommendations on related matters.



Parks & Recreation Advisory Committee By-Laws

Article I. Purpose:

Section 1. The Parks & Recreation Advisory Committee was created by the approval and adoption of Resolution No. 2000-04 and became effective April 3, 2000 as adopted by the City Commission. The Board/Committee shall provide information and suggestions regarding topics that are provided to the Advisory Board/Committee by the City Commission and the Staff Liaison will present the recommendations to the City Commission on a quarterly basis or as needed. The Advisory Board/Committee shall not have the authority or take any action that will commit the expenditure of public funds, the use of City equipment or personnel and shall not make monetary or other commitments on behalf of the Advisory Board/Committee, the City Commission, or the City of Deltona.

Article II. Staff Liaison:

Section 1. The Advisory Board/Committee Liaison shall serve as the Staff Liaison to the Advisory Board/Committee. In the event the Staff Liaison is unavailable, the appointed designee will assume their responsibilities for the period of their absence.

Section 2. The Advisory Board/Committee Liaison shall provide a summary of the discussion(s) and recommendation(s) of the Board/Committee to the City Commission on a quarterly basis. The schedule of which City Commission Meeting the Boards/Committees will present their quarterly report at is provided by the City Clerk's Office.

Article III. Membership:

Section 1. The Advisory Board/Committee shall consist of seven (7) members. The Mayor and each Commissioner shall each appoint or re-appoint one (1) member to the Advisory Board/Committee during the first regularly scheduled Commission meeting in December of each year. Each member shall serve a 12 month term and may be re-appointed for additional terms. These terms do not apply to the Firefighter's Pension Plan Board of Trustees, P & Z Board and Deltona Economic Development Advisory Board.

Section 2. All applicants to be considered for appointment to the Advisory Board/Committee shall complete a City of Deltona Citizen Board/Committee application form, which will be kept on file by the City Clerk.

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Article IV. Attendance:

Section 1. Members' office may be declared vacant by reason of death, resignation, mental or physical incapacity, absenteeism as prescribed hereafter, or for conduct bringing discredit to the City of Deltona or the Advisory Board/Committee.

Section 2. So that the Advisory Board/Committee may responsibly carry out its duties, all members should make every effort to attend all meetings. If a member has three (3) unexcused absences, the Advisory Board/Committee shall terminate the individual's membership and the Staff Liaison shall advise the appointing Commissioner of the vacancy. The Staff Liaison will also advise the City Clerk of the vacancy. The City Clerk will advertise the opening and place the appointment of a new member on a Regular City Commission Meeting Agenda.

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Advisory Board/Committee By-Laws
Page 4 of 6

Chairperson to state the matter of business to the Advisory Board/Committee and to provide a period of discussion of the facts relevant to the topic prior to entertaining a motion. After a motion is made and seconded, the Chairperson shall allow additional discussion by the Advisory Board/Committee members. Any member may call for a vote if additional discussion becomes repetitive or irrelevant to the motion.

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Article XII. Sub-Committees:

Section 1. Each Sub-Committee would need to go before the City Commission for approval and justification.

~~**Section 2.** The Advisory Board/Committee shall select Sub-Committee Chairpersons from among its members to serve as Chairperson of each Sub-Committee, where applicable. The Sub-Committee Chairperson shall select volunteers, from among residents of the City, to serve on each Sub-Committee.~~

Section 32. All individuals considered for appointment to a Sub-Committee shall complete a City of Deltona Citizen Board/Committee application form, which will be kept on file by the City Clerk. The Staff Liaison to the Sub-Committee shall select volunteers from among residents of the City, to serve on each Sub-Committee.

Section 43. Each Sub-Committee member's term shall expire one (1) year after the member is appointed or re-appointed.

Section 54. Each member of the Sub-Committee shall reside within the City limits of the City of Deltona. Every effort will be made to include representation from each Commission district on the Sub-Committee where possible.

***Section 65 only applies to the Youth Advisory Sub-Committee and would not be included in any other Board/Committee By-Laws.**

Section 65. Members of the Youth Advisory Sub-Committee, excluding the Chairperson, shall be 15 thru ~~2018~~ years of age.

Section 76. Each member shall serve his or her term without compensation.

Section 87. The Chairperson of each Sub-Committee shall ensure that all members of the Sub-Committee are aware of all applicable rules, laws, regulations, policies and procedures.

Article XIII. Dual Office Holding:

Section 1. It is the policy of the City of Deltona that no citizen may, simultaneously, serve on more than one City Board, Committee or Sub-Committee. This policy does not apply to citizens serving on Sub-Committees, or Committees and Boards of a temporary nature, and does not apply to citizens serving on Sub-Committees of the actual board or committee on which such citizen serves.

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Parks & Recreation Advisory Committee By-Laws

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Section 1. The Parks & Recreation Advisory Committee was created by the approval and adoption of Resolution No. 2000-04 and became effective April 3, 2000 as adopted by the City Commission. The Board/Committee shall provide information and suggestions regarding topics that are provided to the Advisory Board/Committee by the City Commission and the Staff Liaison will present the recommendations to the City Commission on a quarterly basis or as needed. The Advisory Board/Committee shall not have the authority or take any action that will commit the expenditure of public funds, the use of City equipment or personnel and shall not make monetary or other commitments on behalf of the Advisory Board/Committee, the City Commission, or the City of Deltona.

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Section 4. Any vacancy occurring during the term of an Advisory Board/Committee member shall be filled or replaced by appointment by their respective appointing member of the City Commission for the remainder of the vacancy term.

Article IV. Attendance:

Section 1. Members' office may be declared vacant by reason of death, resignation, mental or physical incapacity, absenteeism as prescribed hereafter, or for conduct bringing discredit to the City of Deltona or the Advisory Board/Committee.

Section 2. So that the Advisory Board/Committee may responsibly carry out its duties, all members should make every effort to attend all meetings. If a member has three (3) unexcused absences, the Advisory Board/Committee shall terminate the individual's membership and the Staff Liaison shall advise the appointing Commissioner of the vacancy. The Staff Liaison will also advise the City Clerk of the vacancy. The City Clerk will advertise the opening and place the appointment of a new member on a Regular City Commission Meeting Agenda.

Section 3. Absences may be excused by notifying the Staff Liaison of the circumstances prior to the meeting.

Article V. Officers and Duties:

Section 1. The members of the Advisory Board/Committee shall elect a Chairperson and a Vice-Chairperson each December to serve for a period of one (1) year. If a Chairperson and a Vice-Chairperson position become vacant for any reason, a replacement shall be elected by a majority of the full Advisory Board/Committee at their next regularly scheduled Advisory Board/Committee meeting.

Section 2. The Chairperson shall perform the duties ordinarily performed by a Chairperson. All requests and communications shall be channeled through the Staff Liaison. Any and all correspondence by any Board/Committee member shall be directed to the Staff Liaison only and the Staff Liaison will forward the information to the City Commission or staff as necessary. Under no circumstances should a Board/Committee member be directly discussing Board/Committee business with staff or the City Commission. Members of the Advisory Board/Committee may not at any time represent themselves or mislead anyone that they are an employee of the City of Deltona.

Section 3. The Vice-Chairperson shall preside at any meeting in the absence of the Chairperson. If both the Chairperson and Vice-Chairperson are absent, the remaining members, if a quorum is present, shall elect a temporary presiding officer.

Section 4. The Chairperson, Vice-Chairperson or the temporary officer shall ensure that all members of the Advisory Board/Committee are aware of all applicable rules, laws, regulations, policies and procedures.

Article VI. Quorum:

Section 1. In order to have an Advisory Board/Committee meeting, a quorum must be present. The majority of the members must be present to constitute a quorum. A quorum consists of half the Board, Committee or Sub-Committee members, plus one.

Section 2. There must be an affirmative vote of a majority of voting members present in order for any action to be taken by the Advisory Board/Committee.

Article VII. Meetings:

Section 1. Meetings of the Advisory Board/Committee will be held as needed and directed by the City Commission, generally once per month depending on the topic(s) provided by the Commission for discussion. Meetings will be held at a location to be determined by the Staff Liaison.

Section 2. All meetings of the Advisory Board/Committee or any two (2) members thereof, are declared to be public meetings open to the public at all times, and may not be held unless due notice to the City and the public is given as required by Florida's Government-in-the-Sunshine Laws.

Article VIII. Order of Business:

Section 1. At all regular Advisory Board/Committee meetings, the following shall be the general order of business:

- 1) Call to order by the Chairperson
- 2) Roll call
- 3) Approval of minutes
- 4) Public Comments
- 5) Old business
- 6) New business
- 7) Member comments
- 8) Adjournment

Section 2. In order to provide an opportunity for discussion of business before the Advisory Board/Committee prior to a motion, it shall be the duty of the

Chairperson to state the matter of business to the Advisory Board/Committee and to provide a period of discussion of the facts relevant to the topic prior to entertaining a motion. After a motion is made and seconded, the Chairperson shall allow additional discussion by the Advisory Board/Committee members. Any member may call for a vote if additional discussion becomes repetitive or irrelevant to the motion.

Article IX. Minutes:

Section 1. The Staff Liaison or the appointed designee shall be responsible for preparing written minutes of all meetings and notices of such meetings in accordance with the Advisory Board/Committee Meeting Agenda Procedure as approved by the City Clerk. The “Draft” minutes, which should be marked “Draft”, of each meeting shall be open for public inspection two (2) weeks following the meeting date on the City’s Website. The “Approved” minutes which will replace the “Draft” minutes shall be properly recorded and open for public inspection the day following the date the minutes were approved by the Advisory Board/Committee, with the original signed minutes kept in the City Clerk’s Office. The Staff Liaison or the appointed designee will be responsible for all public notifications.

Section 2. All communications by or on behalf of the board or any board member(s) shall be made either in public at a board meeting, through communications to the Staff Liaison, or through items placed in the minutes of the board. Neither the board, nor any board member(s), shall purport to speak on behalf of the board or as an official board member through any other means of communication. This restriction shall not prevent any board member from expressing his or her individual ideas or opinions relating to any matter, so long as such expression of ideas or opinions are expressed as that *individuals’* ideas or opinions, and not as the ideas or opinions of the board, or the ideas or opinions of such individual *as a board member*.

Article X. Voting:

Section 1. Any member of the Advisory Board/Committee having a personal or financial interest in any matter shall disclose such interest to the Advisory Board/Committee and shall complete and file with the City Clerk such Memorandum of Voting Conflict as required by law. No member present shall abstain from voting on any matter except as provided by Florida Statutes.

Article XI. By-Laws:

Section 1. The City Commission has final approval of all By-Laws or By-Law changes as recommended by the Staff Liaison, the appointed designee or the Advisory Board/Committee.

Section 2. Motions to amend or add to the By-Laws shall be made in writing to the Staff Liaison. Voting on such motions shall be considered at the next regular meeting of the Advisory Board/Committee.

Article XII. Sub-Committees:

Section 1. Each Sub-Committee would need to go before the City Commission for approval and justification.

Section 2. All individuals considered for appointment to a Sub-Committee shall complete a City of Deltona Citizen Board/Committee application form, which will be kept on file by the City Clerk. The Staff Liaison to the Sub-Committee shall select volunteers from among residents of the City, to serve on each Sub-Committee.

Section 3. Each Sub-Committee member's term shall expire one (1) year after the member is appointed or re-appointed.

Section 4. Each member of the Sub-Committee shall reside within the City limits of the City of Deltona. Every effort will be made to include representation from each Commission district on the Sub-Committee where possible.

***Section 5 only applies to the Youth Advisory Sub-Committee and would not be included in any other Board/Committee By-Laws.**

Section 5. Members of the Youth Advisory Sub-Committee, excluding the Chairperson, shall be 15 thru 18 years of age.

Section 6. Each member shall serve his or her term without compensation.

Section 7. The Chairperson of each Sub-Committee shall ensure that all members of the Sub-Committee are aware of all applicable rules, laws, regulations, policies and procedures.

Article XIII. Dual Office Holding:

Section 1. It is the policy of the City of Deltona that no citizen may, simultaneously, serve on more than one City Board, Committee or Sub-Committee. This policy does not apply to citizens serving on Sub-Committees, or Committees and Boards of a temporary nature, and does not apply to citizens serving on Sub-Committees of the actual board or committee on which such citizen serves.

Section 2. This policy limiting the number of Boards/Committees on which a citizen may serve shall apply prospectively only, and shall not affect the current

term being served by citizens on any Board and/or Commission within the City of Deltona. (Commission Policy/Procedure: CC06-001)

Article XIV. Sunset Provision:

Section 1. The Advisory Board/Committee and Sub-Committees shall be sunset upon determination by the Deltona City Commission that the Advisory Board/Committee has served its purpose and is no longer needed for recommendations on related matters.



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 7 - B
SUBJECT: Request for approval of Sole Source award to Menzi USA Sales for an AEBI Terratrak TT210 Machine

LOCATION:

N/A

BACKGROUND:

The Stormwater Division currently mows steep slopes in all of the City's drainage retention ponds. The current AEBI mower, utilized to perform this service, has reached the end of its service life and needs to be replaced.

The AEBI Terratrak TT210 machine is specialized and technologically advanced in its ability to mow on banks with steep slopes and is versatile in its performance, providing the capability to mow in both ditches and flat areas. The machine has the ability to balance itself with a hydraulic "crab mechanism" while in operation. The machine is enclosed, cabbed and structured to eliminate safety issues and concerns with the operator while performing services on steep slopes and banks, as well as protecting them from the elements.

Multiple requests have been made to other tractor manufacturers and distributors to provide an equivalent machine capable of mowing on such steep slopes and banks. No other vendors have been able to provide an equivalent to this machine.

This machine has been budgeted in the current FY2013/2014 budget and will be replacing an older model in the City's current fleet, which will be sent to auction when the new one arrives.

ORIGINATING DEPARTMENT:

Public Works/Deltona Water

SOURCE OF FUNDS:

Stormwater Capital Equipment

COST:

\$117,410.00

REVIEWED BY:

Public Works Director, Finance Director

**STAFF
RECOMMENDATION
PRESENTED BY:**

Gerald Chancellor, Public Works Director - Staff recommends award to Menzi USA Sales, Inc. for one (1) AEBI Terratrak TT210 machine at a total cost not to exceed \$117,410.00.

**POTENTIAL
MOTION:**

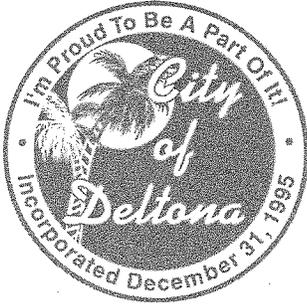
"I move to approve award to Menzi USA Sales, Inc. for one (1) AEBI Terratrak TT210 machine at a total cost not to exceed \$117,410.00."

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager

ATTACHMENTS:

- Sole Source Justification
- Menzi USA Sales Quote
- AEBI Terratrak TT210 specifications



CITY OF DELTONA

Sole Source Justification

Vendor: MENZI USA SALES / AEBI SCHMIDT INTERNATIONAL
 Commodity: 2013 AEBI TERRATRAC TT210
 Estimated annual expenditure for the above commodity or service: \$ 117,410.00

Initial all entries below that apply to the proposed purchase. Attach a memorandum containing complete justification and support documentation as directed in initialed entry. (more than one entry will apply to most sole source products/services requested).

1. SOLE SOURCE REQUEST IS FOR THE ORIGINAL MANUFACTURER OR PROVIDER, THERE ARE NO REGIONAL DISTRIBUTORS. (Attach the manufacturer's written certification that no regional distributors exist. Item no. 4 also must be completed.)
2. SOLE SOURCE REQUEST IS FOR THE ONLY STATE OF FLORIDA DISTRIBUTOR OF THE ORIGINAL MANUFACTURER OR PROVIDER. (Attach the manufacturer's — not the distributor's — written certification that identifies all regional distributors. Item no. 4 also must be completed.)
3. THE PARTS/EQUIPMENT ARE NOT INTERCHANGEABLE WITH SIMILAR PARTS OF ANOTHER MANUFACTURER. (Explain in separate memorandum.)
4. THIS IS THE ONLY KNOWN ITEM OR SERVICE THAT WILL MEET THE SPECIALIZED NEEDS OF THIS DEPARTMENT OR PERFORM THE INTENDED FUNCTION. (Attach memorandum with details of specialized function or application.)
5. THE PARTS/EQUIPMENT ARE REQUIRED FROM THIS SOURCE TO PERMIT STANDARDIZATION. (Attach memorandum describing basis for standardization request.)
6. NONE OF THE ABOVE APPLY. A DETAILED EXPLANATION AND JUSTIFICATION FOR THIS SOLE SOURCE REQUEST IS CONTAINED IN ATTACHED MEMORANDUM.

The undersigned requests that competitive procurement be waived and that the vendor identified as the supplier of the service or material described in this sole source justification be authorized as a sole source for the service or material.

Richard Charles
 DEPARTMENT DIRECTOR

1/2/14
 Date

CITY MANAGER (over \$10,000) _____ over \$25,000-approved by Commission on above date _____

(PURCHASING USE ONLY) SOLE SOURCE AUTHORIZATION
 APPROVED BY PURCHASING: _____ DATE: _____ SOLE SOURCE NO.: _____
 DISAPPROVED BY: _____ DATE: _____ REASON: _____

SOLE SOURCE JUSTIFICATION MEMO

As per instructed on the City's Sole Source Justification Form, the following memo serves as justification for the sole source purchase of the AEBI Terratrak TT210 machine.

Item # 2 - Sole Source Request is for the only State of Florida Distributor of the original manufacturer or provider.

- See attached for letter from AEBI Schmidt International (Manufacturer) confirming that Menzi USA is the authorized distributor for AEBI Schmidt International in the Southeast USA.

Item # 4 - This is the only known item or service that will meet the specialized needs of this Department or perform the intended function.

- The AEBI Terratrak TT210 machine is specialized and technologically advanced in its ability to mow on banks with steep slopes and is versatile in its performance, providing the capability to mow in both ditches and flat areas. The machine has the ability to balance itself with a hydraulic "crab mechanism" while in operation. The machine is enclosed, cabbed and structured to eliminate safety issues and concerns with the operator while performing services on steep slopes and banks, and protecting them from the elements as well.
- Multiple requests have been made to other tractor manufacturers and distributors to provide an equivalent machine capable of mowing on such steep slopes and banks. No other vendors have been able to provide and equivalent to this machine.

Item # 5 - The Parts/Equipment are required from this source to permit standardization.

- The Stormwater Division has standardized to this mower for steep slopes and banks within the ditches and stormwater ponds located throughout the City. There are currently 2 AEBI Tractors in the City's fleet. The training needed to operate these tractors is specialized. This new machine will be replacing an older model, which will be sent to auction when the new one arrives.



Aebi Schmidt International AG
Zürcherstrasse 310
CH - 8500 Frauenfeld
Post address:
Thurgauerstrasse 40, CH - 8050 Zürich

Phone +41 44 30858 80
Fax +41 44 30858 99
www.aebi-schmidt.com

Aebi Schmidt International AG
Thurgauerstrasse 40, CH - 8050 Zürich

Menzi USA
1850 Fairbank Street
Lakeland, FL 33805

Contact: Josef Seiler
Phone: +1 864 404 61 42

E-mail: Josef.Seiler@aebi-schmidt.com

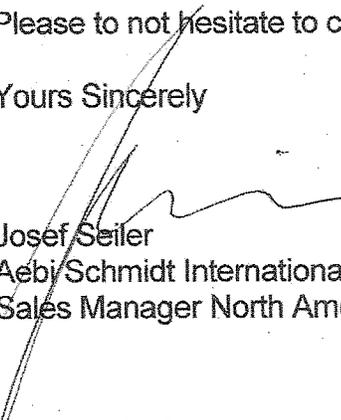
Date: 10/11/2013

To whom it may concern

This letter serves to confirm that Menzi USA, based in Lakeland, FL is authorized as a distributor for the Southeast USA territory to perform sales and services for Aebi- Schmidt International.

Please do not hesitate to contact me if you have any additional questions.

Yours Sincerely


Josef Seiler
Aebi Schmidt International
Sales Manager North America

(864) 404- 6142

AEBI



Terratrac Aebi TT210





Attachment number 3 in Pa

Technical data / Terratrak Aebi TT210

Engine

Diesel, Kubota V2607-DI-T, 2615 cm³, 4 cylinders, 4-stroke, turbo-charged, water-cooled, power 49.2 kW (67 HP) at 2700 rpm according to SAE J1995 (Gross Intermittent). Elastic mounting. Max. torque 220 Nm at 1600 rpm, torque rise 26%.

Electrical equipment

12 V, 90 ampere alternator, 100 Ah, high capacity, cold-start battery. Turn-off using ignition key. Central electrics panel, on-board computer for displaying: driving speed, water temperature, fuel level, PTO shaft speed (front and rear), engine rpm, operating hours indicator.

Transmission

Infinitely variable hydrostatic drive, which can be changed under load, with automotive control. Option: Switch off automotive control.

Speeds

Slow range: 0 to 12 km/h. Fast range: 0 to 40 km/h. The whole speed range can be selected using the multifunction drive lever for both forward and reverse drive without any interruption of the transmitted power.

PTO shafts

Standard 13/8", 6 splines. Front and rear PTO shafts engageable under load. Rotation speeds: front 570 rpm, rear 590 rpm. Rotation clockwise (viewed from end of PTO shaft). Rear and front PTO can be fully loaded.

Axle drive

4-wheel drive with differential lock on both axles. Rear axle always engaged. Front axle can be hydraulically engaged. Front and rear differential locks electro-hydraulically pre-selectable (engage automatically when wheels spin, disengage when no load is present), status indicator light. 100% locking.

Steering

Hydrostatic 4-wheel steering based on a 'load sensing' system. Front wheel steering pre-selectable via pushbutton. The automatic sensing and synchronization of the wheel positions using inductive sensors make it possible to change the steering mode at any time even while in motion. Turning radius 3,0 m.

Tyres

Low pressure Terra-, AS- or Turf-tyres, 31x15.50-15.

Brakes

Hydraulic servo foot brakes operating on all four wheels, additional hydrostatic driving brake. Handbrake/independent wheel brakes: mechanical servo-assisted brakes operating on rear wheels. Linings free of asbestos. Parking brake, hill holder.

Driver's cab

Vibration-damped driver's cab. OECD-approved roll guard (ROPS) with front curved windscreen, right hand sliding window. Comfort seat.

Operation

The most important functions can be controlled using pushbuttons on the multi-function drive lever.

Hydraulics

Pressure 175 bar. Flow rate 25 l/min at engine speed of 2700 rpm, oil reservoir for auxiliary hydraulic cylinders 10 l.

Front hydraulic linkage

3-point Cat. I. Lifting power: 1177 daN (1200 kg). Controlled using seat valves with the functions raise, carry, lower, float position, weight transfer, side shift. The complete linkage can be displaced hydraulically by 20 cm to the left or right. All functions selectable using the multifunction drive lever. 'Weight transfer' function, infinitely adjustable. Adjustable sink regulator. External operation of lift and lower functions. Quick-action couplings on the lower link (pick-up hooks).

Rear hydraulic linkage

3-point cat. I + II with lateral stabilizing chains and top link. Lifting power: 980 daN (1000 kg). Controlled using the seat valves with the functions raise, carry, lower, float position, weight transfer (infinitely adjustable). Adjustable sink throttle. External operation of lift and lower. Lifting arms with crank adjustment (adjustment range 100mm).

Auxiliary hydraulics

4 hydraulic connectors, DWAS-, 2 connectors at the front and rear for double-action cylinders (incl. float position).
5 hydraulic connectors, DWA-/-; 2 connectors at the front and rear for double-action cylinders (optional extra).

Drawbar

Ø 26 mm, 270 mm above ground.

Dimensions

Length	3440 mm
Width	1880 mm
Height	2040 mm

Weights

Weight	1900 kg
Permissible front axle weight	1800 kg
Permissible rear axle weight	1800 kg
Permissible total weight	2950 kg
Trailer weight (with brakes) max.	3500 kg
Trailer weight (without brakes) max.	900 kg
Trailer coupling load max.	600 kg

Fuel tank capacity

62 l

Optional equipment

All-round-view cab with heater and dust filter; additionally with air-conditioner (CFC free). Armrests and backrest extension to the comfort seat. Swivel seat. Front cardan shaft with free wheel (either with or without overload clutch). True rear-wheel steering including quasi 'crab mode' steering: Pre-selectable using pushbutton as with the four-wheel and front-wheel steering. Dual tyres at front and rear (6.50-16) with quick-action connectors. Quick-fit, height-adjustable trailer hitch. Snow chains.

Technical specifications are subject to change without notice. Photos are without obligation.



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 8 - A
SUBJECT: Public Hearing - Ordinance No. 18-2013, Phase II-B Amendments to the Land Development Code, at first reading and to schedule second and final reading.

LOCATION:

City-wide

BACKGROUND:

Since 2011, the City Commission has adopted a series of amendments to the Land Development Code (LDC) designed to achieve a variety of important goals Phase I was for organizational improvements and Phase II-A was for substantive changes for the highest priority of amendments to the LDC.

Phase II-B is the second cycle of amendments to the LDC that affects four (4) chapters of the LDC(Chapters 70, 74, 106, and 110) and enacts a new Chapter 75 (Site Plan). The proposed amendments advance the goal of further improving the effectiveness and efficiency of our Code. The goals are accomplished by adjusting or removing certain provisions or steps in the development review process that, in our view, are unnecessary, burdensome, costly, or inefficient.

Implementation of the proposed amendments will significantly increase Deltona's competitive edge by further streamlining the development review process, reclassifying certain types of development applications, and clarifying a number of related Code provisions. Certain zoning revisions relating to fences, accessory uses, and refinements to other provisions are also recommended as part of this initiative.

A City Commission Workshop was held on October 28, 2013, and the Commission reviewed and gave staff direction to proceed with the Phase II-B Amendment cycle that includes additions, deletions, and revisions to certain provisions of Chapter 70, Section 30, "Definitions"; Chapter 74, "Administration"; Chapter 106, "Subdivisions"; Chapter 110, "Zoning"; and add new Chapter 75, "Site Plan". Finally, the Planning and Zoning Board reviewed Phase II-B on December 18, 2013, and recommended that the City

ORIGINATING DEPARTMENT:

Commission approve Ordinance No. 18-2013.

SOURCE OF FUNDS:

Planning and Development Services

COST:

N/A

REVIEWED BY:

N/A

STAFF RECOMMENDATION PRESENTED BY:

Planning Director, City Attorney

Tom Pauls, AICP, Planning Manager - Staff recommends that the City Commission approve Ordinance No. 18-2013, that amends the Code of Ordinances Subpart B, Land Development Code, by adding, revising, and deleting certain provisions of Chapter 70, Section 30, "Definitions"; Chapter 74, "Administration"; Chapter 75, "Site Plan"; Chapter 106, "Subdivision"; and Chapter 110, "Zoning", at first reading and to schedule second and final reading.

POTENTIAL MOTION:

"I move to approve Ordinance No. 18-2013, that amends the Code of Ordinances Subpart B, Land Development Code, by adding, revising, and deleting certain provisions of Chapter 70, Section 30, "Definitions"; Chapter 74, "Administration"; Chapter 75, "Site Plan"; Chapter 106, "Subdivisions"; and Chapter 110, "Zoning" at first reading and to schedule second and final reading."

AGENDA ITEM APPROVED BY:

William D. Denny, City Manager

ATTACHMENTS:

- Ordinance No. 18-2013
- Exhibit A
- Summary of Proposed Amendments

ORDINANCE NO. 18-2013

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, AMENDING CODE OF ORDINANCES SUBPART B, LAND DEVELOPMENT CODE, BY ADDING, REVISING, AND DELETING CERTAIN PROVISIONS OF CHAPTER 70, SECTION 30 “DEFINITIONS”; CHAPTER 74, “ADMINISTRATION”; CHAPTER 75, “SITE PLAN”; CHAPTER 106, “SUBDIVISIONS”; AND CHAPTER 110, “ZONING”; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Deltona amended Code of Ordinance Subpart B, Land Development Code, by revising and organizing Chapters 70 through 110, via Ordinance No. 19-2011, adopted on November 7, 2011; and

WHEREAS, such amendments have established a foundation to enable the City to introduce more substantive and community-based changes; and

WHEREAS, on June 17, 2013, Phase II-A of the Land Development Code amendments was adopted by the City Commission via Ordinance No. 06-2013; and

WHEREAS, these Phase II-B amendments include more substantive changes to the Land Development Code, Chapter 70 Section 30, Chapter 74, (new) Chapter 75, Chapter 106, and Chapter 110, by adding, deleting, and revising certain sections; and

WHEREAS, the Planning and Zoning Board held a public hearing on December 18, 2013, and forwarded its recommendations to the City Commission.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

Section 1. Code of Ordinances Subpart B, Land Development Code, Chapter 70, Section 70-30 “Definitions”; Chapter 74, Article I Section 74-1 through Section 74-7, Article II Section

City of Deltona, Florida
Ordinance No. 18-2013
Page 2 of 3

74-26 through Section 74-28; (new) Chapter 75 “Site Plan”; Chapter 106 Article II Section 106-26 through Section 106-32; Chapter 110 Section 110-307 “R1-AAA, AA, A, and R1 Single-family classification”, Section 110-312 “MH, Mobile Home Park classification”, Section 110-314 through Section 110-319, Section 110-806 “Fences, walls and hedges”, Section 110-809 “Mobile Home”, Section 110-813 “Planned Unit Development regulations”, Section 110-815 “Final Site Plan”, Section 110-817 “Conditional Uses”, Section 110-827 “Accessory Uses and Structures”, and Section 110-1202 “Powers and Duties”, are hereby amended as follows:

See Exhibit A, Land Development Code Amendments, attached hereto

Section 2. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this ordinance, which can be given effect, without the invalid provision or application.

Section 3. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA THIS _____ DAY OF _____, 2014.

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____
JOHN C. MASIARCZYK, SR., Mayor

City of Deltona, Florida
Ordinance No. 18-2013
Page 3 of 3

ATTEST:

JOYCE RAFTERY, City Clerk

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

GRETCHEN R. H. VOSE, City Attorney

PHASE II-B

SUMMARY OF THE LDC PROPOSED AMENDMENTS

The content of this document summarizes LDC changes. This particular document is for reference only and is not to be considered part of the ordinance packet.

November 19, 2013

Chapter 70. GENERAL PROVISIONS

Sec. 70-30. Definitions

Appeal: a request for a City Commission review of the enforcement official's interpretation ~~of~~ regarding any provision of this ordinance. ~~or a request for a variance.~~

~~**Circus headquarters:** administrative and operational center of a circus. Such a center would typically provide for the keeping of livestock and wild animals, storage and maintenance of vehicles, equipment and recreational vehicles, offices, dormitories, buildings and structures and training facilities customarily associated with such an enterprise.~~

~~**Commercial fish processing plant:** premises used for the receiving, processing, packaging, storage, and wholesale or retail distribution and sale of sea and fresh water food products.~~

~~**Constrained thoroughfare:** a state or county roadway upon which adding two or more through lanes to meet current or future traffic needs is not reasonably attainable because of physical or policy barriers.~~

Development Review Committee (DRC): group of people performing administrative review of development applications as set forth in City Ordinance No. 96-59 [section 74-1(b)], as it may be amended from time to time.

~~**Due public notice:**~~

~~(1) "Due public notice" as used in connection with the phrase "public hearing" or "hearing with due public notice" shall mean with respect to applications and appeals in which there is to be a public hearing of the city commission or of the planning and zoning board as provided for in this section:~~

~~a. The publication of notice with the following information: day, time, place and purpose, place or places within the City where the change may be inspected by the public, and that interested parties may appear at the meeting and be heard with respect to the proposed change. Said notice shall be published at least once in a newspaper of general circulation in the area at least ten days prior to the date of such public hearing, unless a longer notice period is required by statute for the type of application to be heard. Notices published in local newspapers shall meet or exceed the minimum requirements of state law as required by F. S. § 166.041, and chapter 163, F.S., as they may be amended from time to time.~~

~~b. In addition for applications affecting less than five percent of the total land area of the City, similar notices setting forth the time, day, place and purpose of such hearing shall be mailed, by US mail, at least ten days prior to the date of the planning and zoning board public hearing by the applicant to the last known address of the owners of the property involved, if the applicant is not the owner of the property involved, and to the owners of property within 300 feet of the property lines of the property involved. In the absence of information to the contrary, the owners of the properties to receive notice by certified mail shall be determined by reference to the latest records published by the Volusia County Property Appraiser. The owner of the property involved, or his or her duly authorized agent, shall acknowledge receipt of the notice~~

~~forms provided by the enforcement official. Provided, however, it is the intent of this provision that only one said mailing is required to be sent to owner(s) of property adjoining the property involved; but said notice shall contain the time, day, and place of all public hearing(s). In each case, the owner of the affected property, and the owners of the property within 300 feet of the affected property, shall be notified by certified U.S. mail that is postmarked at least 14 days prior to the planning and zoning board public hearing on a rezoning or a plan amendment, with a return receipt. A copy of said notice shall be provided to the enforcement official at least ten days prior to the first public hearing date that appears on the notice, and shall be kept available for public inspection during regular business hours in the office of the enforcement official. For amendments initiated by the City, the required notice by U.S. Mail shall be sent by certified mail, and a record of those to whom the notice was sent shall be maintained with the application file by the Planning and Development Services Department. For applications initiated by the City, no return receipt or acknowledgment of notice by the affected property owners shall be required. Affected parties may make their support of or objections to a city initiated amendment at a duly noticed public hearing, but their appearance at a hearing is not required. Except that if any party wishes to establish legal standing to object to the approval of the ordinance then that party must state the reasons for such objections at a public hearing as required by state law.~~

~~e. For applications affecting less than five percent of the total land area of the City, the owner or his or her duly authorized agent, or for applications initiated by the City, a member of the staff of the Planning and Development Services Department, a contractor hired by the City and duly authorized to perform said posting, or the authorized staff of another city department, shall also post, at least ten days prior to the date of such public hearing, the sign or signs provided by the enforcement official. For purposes of posting property that is the subject of a city initiated amendment, said notice may be posted on public right of way in front of the property affected by the proposed amendment, but shall not be placed so as to obstruct the vision of drivers at any intersection, including driveway intersections. The City shall not be required to place posted notice on or along any property line that abuts private streets or easements, but shall limit such postings to streets maintained by the City, Volusia County, or the Florida Department of Transportation, such posting shall not be required when the public agency responsible for the affected street right of way refuses to permit said posting within its right of way. However, the responsible city agency shall not prohibit said posting of notice on right of way maintained by the City. The sign or signs provided by the enforcement official shall be printed on a brightly-colored, easily recognizable, weather resistant material of minimum size 22 inches in width and 28 inches in height. One sign shall be posted for each 200 feet of front lot line. Corner properties will be posted on both front lot lines. Each sign shall be placed in a location along the lot line that provides the greatest visibility from the adjacent street or road. The posted sign or signs should remain in place until the completion of the public hearing of the city commission and shall be removed by the applicant within ten days following the conclusion of the last public hearing noticed thereon. Failure to remove the sign or signs after ten days following the last noticed public hearing appearing thereon shall be a violation of this code, and shall be punishable as provided in Chapter 2, Code of Ordinances of the City of Deltona, Florida, as it may be amended from time to time. In the case of an application from the owners of 51 percent or more of the area involved, the City shall require such persons to give the notice required by mail and to post the property in accordance with this section. In all cases, affidavit proof of the required publication, mailing, and posting of the notices shall be presented to the enforcement officer or his or her designee at least ten days before the first hearing date appearing in the notice.~~

~~d. Provided, however, in lieu of the foregoing, with respect to the publication of the notice concerning the amendments of the text of this section, said notice shall be as provided in subsection (1) a., above.~~

~~e. When an agenda item for a public hearing that was duly advertised and noticed in accordance with this section is continued to a date certain, no further notice or advertisement shall be required. However when two or more hearing dates were placed on any notice, and the initial or intermediate hearing is continued to a date certain, an amended notice shall be mailed and/or posted as required by this section which shall provide notice of any changed date for any subsequent hearing for which a date certain was not set that is affected by the continuance.~~

~~f. When a hearing is tabled or postponed without a date certain, the hearing and any subsequent hearing that may have been advertised and noticed shall be re-advertised and re-noticed in accordance with the requirements of this section.~~

~~(2) Except for appeals as otherwise provided for in this section, the city commission shall provide for due public notice as used in connection with the phrase "public hearing" or "hearing with due public notice" for applications involving five percent or more of the land area of the City in the manner as provided in F.S. § 166.041, as it may be amended from time to time. For plan amendments and development agreements affecting five percent or more of the total land area of the City, notice shall be provided as required by chapter 163, F.S., as it may be amended from time to time.~~

Exempt Ex~~ca~~vation: an excavation that does not require a conditional use permit (refer to Sec. 110-817(o))

Existing Construction: means, for the purposes of floodplain management, structures for which the start of construction commenced before April 18, 1974. This term may also be referred to as "existing structures".

Final Site Plan (FSP): plan required by ~~e~~Chapter ~~7475~~, ~~article II~~, of the ~~L~~and ~~d~~Development ~~e~~Code in order to obtain a development order or permit, which demonstrates the manner in which the developer shall conform to the requirements of said code.

Fire Lane: (Also called a fire or emergency access lane or road) is a driving lane adjacent to or part of a non-residential development that is reserved to provide for emergency vehicle access.

~~**General recreation/city park:** any general recreation use that is located in the city.~~

Granny Flat (also known as In-law apartments or garage apartments): a separate or attached dwelling unit, sometimes associated with a garage, including a food preparation area, built on a lot already containing a home or in conjunction with new home construction.

~~**Local park (five--19 acres):** pedestrian-oriented park located at the approximate center of a neighborhood and designed to serve one or more of the recreational needs of the neighborhood population. The park may be landscaped areas designed for passive recreation or contain a broad range of active recreational facilities. The facilities to be provided are a function of the community requirements in a specific location and other facilities available elsewhere. This small local park may be located among several developed subdivisions or planned unit developments.~~

~~**Local park (20--50 acres):** recreational area designated and located to provide the recreational needs of several neighborhoods, urbanized communities or rural communities. The larger local park is primarily land based with a diversity of active/user facilities and may serve a combination of the urban and rural communities. In lower density areas this type of park may be provided on site or adjacent to a public school. In denser areas, this park can be provided at the convergence of several neighborhoods and is intended to serve a larger population.~~

Mean Sea Level (MSL): The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this ordinance, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929, or North American Vertical Datum (NAVD) of 1988.

Multi-family use: and includes apartment houses; cooperative apartments; condominiums; two-family dwellings; multiple-family dwellings; efficiency units; penthouses; farm worker living facilities; and two-family (duplex) dwellings.

~~**Multiple-family dwelling:** building containing three or more dwellings intended to be occupied primarily by permanent residents.~~

~~**Multifamily parcel:** residential parcel of land which is not classified as a single family or duplex parcel as defined in this article.~~

Non-conforming lots: area of land which abuts a street and which either complied with or was exempt from either the Volusia County Subdivision Regulations [~~chapter~~ Chapter 106, Code of Ordinances], if it was annexed after the effective date of this chapter [November 16, 1998], or the City of Deltona Subdivision Regulations (Ordinance Number 96-25, Section One, Appendix A, Article II) [section 70-58, chapter 106, Code of Ordinances] on the effective date of this chapter, but which does not meet the minimum area or width requirements of the currently adopted zoning district.

Non-conforming sign: A sign that was in existence before the adoption of Chapter 102 and does not comply with the requirements of said code.

Non-conforming use: building or land occupied by a use that does not conform to the regulations of the zoning classification in which it is located.

Non-residential activity: any activity occurring on any described parcel of land, whether or not within a structure, with the exception of residential activity as defined herein.

Non-residential parcel: parcel of land other than a residential parcel.

Non-vehicular ingress and egress easement: easement entitling the holder of the easement to control access across the easement by motor vehicles.

Reclaimed ~~W~~water: effluent treated to advanced levels meeting the Florida Department of Environmental Regulation criteria and reused through irrigation or other approved methods.

Rendition: the act of notifying the applicant or other interested stakeholders regarding the final determination made by a decision making body. ~~filing of a signed, written decision with the zoning enforcement official or his/her designee. If a timely petition for rehearing has been filed, the decision shall not be deemed rendered until its disposition.~~

~~**Residential condo/townhouse:** includes single family town homes, town home condominiums, and single family attached villas.~~

~~**Residential land development activity:** the carrying out of any building activity or the making of any material change in the use or appearance of any structure or land.~~

~~**Retail:** includes the sale of non-wholesale merchandise and goods for public consumption and may include adult bookstores; adult theatres; accounting and bookkeeping services; antique shops; apiaries; art goods and bric-a-brac shops; auction parlors; automobile driving schools; aviaries; bakeries, retail (including preparation of products for sale on the premises); beauty shops and parlors; barber shops; bars and liquor stores; bicycle stores; boathouses; building materials storage and sales; bus stations; carwashes; catering services; cigar stores; night clubs; private clubs; commercial nurseries and/or greenhouses; kennels or breeding farms; computer hardware or software service and sales; confectionery and ice cream stores; conservatories; contractor and building material yards; curb markets; curio stores; drug and sundry stores; electric service and sales; electronic service and sales; fish camps; flea markets; florist shops; florists retail; fruit stores; funeral homes; garden supplies and retail fertilizer stores; general retail sales and services; hardware stores (retail only); household moving centers; interior decorating, costuming, draperies; jewelry stores; watch repairs; Laundromats; laundry and cleaning agencies; laundry and dry cleaning establishments; self-service laundries; lawn equipment service and sales; leather goods~~

~~stores (retail only); linen supply and industrial launderers; marinas; millineries, wearing apparel and furrier stores; mobile recreational vehicle and shelter sales, services, storage and repair; model home centers; moving and storage companies; music and radio stores; newsstands; paint stores; pawnshops; pest exterminators; pet stores; photograph galleries; plumbing fixture shops (retail only); plumbing shops with indoor storage only; plumbing, sales and service; printing and engraving, including Photostatting and publishing; printing shops; retail plant nurseries; retail specialty shops; riding stables; rug cleaning establishments; stamp redemption centers; tailor or tailor shops; tattoo parlors and body piercing establishments; taxicab stands; travel agencies; truck and freight transfer terminals; truck stops; truck storage; welding and soldering shops; and, wholesale retail nurseries.~~

Retail sales and services: the duly licensed selling of general or specialized merchandise or services directly to the consumer from a store, shop or similar building. The repair, installation, servicing and/or making/fabricating of ~~that~~ merchandise sold on site is allowed as an accessory use to the permitted sales. This definition does not include a flea market or curb market.

~~**RV park:** includes mobile home parks and accessory laundry buildings, commissaries, swimming pools and recreational facilities; campers; campgrounds and recreational vehicle parks; and mobile recreational shelters and vehicles.~~

Sign Hheight: vertical distance measured from the finished grade to the highest point of the structure.

Single-family use: includes garage apartments; single-family dwellings; model homes; expanded residential building sites; patio homes; and single-family dwellings for the owner or manager of an existing permitted principal use.

~~**Single family dwelling:** building containing only one dwelling. This term includes a manufactured or mobile home dwelling.~~

Specimen tree: means the following species of trees with ~~the~~ minimum specified DBH that are considered of significance to preserve; ~~determined to be specimen trees in the City;~~

Table 70-1 Specimen Trees

Common Name	Botanical Name	DBH
Turkey Oak	(Quercus leavis)	12 inches and larger
Other Oak species	(Quercus spp.)	18 inches and larger
Maple	(Acer spp.)	18 inches and larger
Sweet Gum	(Liquidambar styraciflua)	18 inches and larger
Hickory	(Carya spp.)	18 inches and larger
Elm	(Ulmus spp.)	18 inches and larger
Loblolly Bay	(Gordonia lasianthus)	12 inches and larger
Sweet Bay	(Magnolia virginiana)	12 inches and larger
Red Bay	(Persea borbonia)	12 inches and larger
Swamp Bay	(Persea palustris)	12 inches and larger
Sycamore	(Platanus occidentalis)	18 inches and larger
Magnolia	(Magnolia grandiflora)	12 inches and larger

Bald Cypress	(Taxodium distichum)	18 inches and larger
Red Cedar	(Juniperup silicicola)	12 inches and larger

~~**Speedway:** course for the racing of both motorized and non motorized vehicles. The term "speedway" includes a drag strip.~~

Stock in trade: all merchandise and equipment kept on-site and used in carrying on a business; a home occupation with a valid City business tax license is not permitted to stockpile materials on-site, except as allowed by Section 110-807(e).

~~**Toe scour protection:** mechanisms, devices or structures designed to prevent or minimize the removal of material by waves and currents at the base of a beach front structure, which includes sea walls, bulkheads, and revetments.~~

~~**Unimproved path:** passageway cut through the existing dune system which permits pedestrian access to the coastal beaches.~~

Chapter 74 ADMINISTRATION

ARTICLE I. IN GENERAL

Sec. 74-1. Administration.

(a) *Purpose.* The purpose of this section is to set out the various administrative procedures of this ~~chapter~~Land Development Code. ~~and~~ Other purposes include ~~to provide~~providing for the establishment of the ~~d~~Development ~~r~~Review ~~e~~Committee, ~~the city planner, and the land development division~~and illustrating the duties/responsibilities of both the Development Review Committee and the City of Deltona Planning and Development Services Department regarding land development review.

(b) *Development* ~~r~~Review ~~e~~Committee.

(1) *Established.* There is hereby established a ~~d~~Development ~~r~~Review ~~e~~Committee (DRC).

(2) *Membership.* Membership of the DRC shall include the following, or their designated representative:

- a. ~~City planner~~Planning and Development Services Director;
- b. City ~~e~~Engineer ~~or~~ Public Works Director;
- c. City ~~f~~Fire ~~m~~Marshal ~~or~~ Fire Safety Manager; ~~or~~
- d. Other members as may be designated by the ~~e~~City ~~m~~Manager.

Other ~~e~~City, county, local, state or federal agencies may be consulted by the DRC for advice or recommendations on any matter or application being considered by the DRC. The ~~e~~City ~~m~~Manager may add or delete ~~such~~ additional members of the DRC as he/she may deem necessary to promote the implementation of this ~~chapter~~Land Development Code. The ~~e~~City ~~m~~Manager shall appoint a chairman of the DRC from among the members of the DRC to preside at the meetings.

(3) *Duties and responsibilities.* The duties and responsibilities of the DRC shall include:

- a. Reviewing all applications under this ~~chapter~~Land Development Code to:
 1. Delineate areas of noncompliance with city development requirements; and
 2. Define steps necessary to bring applications into compliance with city development requirements.
- b. Approving applications for ~~d~~Development ~~e~~Orders upon a determination that the development applications meet the City's provisions of the Land Development Code.
- c. When, in the judgment of the DRC, strict application of the applicable requirements of this ~~chapter~~Land Development Code ~~will be~~ ~~would result in an~~ inequitable, ~~or~~ unreasonable ~~result~~, stifle innovative design ~~or creative design~~, or create an undue hardship when applied to a specific project or development, the DRC may modify such requirements to the extent necessary to achieve equity or reasonableness; ~~or~~ relieve the undue hardship; However, provided that no such modification shall be contrary to the requirements of law or the general policies of this ~~chapter~~Land Development Code; Furthermore, nor shall any ~~such~~ modification ~~as~~ applied to one development; shall not establish precedent with regard to any other development subject to review. ~~Application for such modification may be submitted with the development review application at any phase of the review process.~~
- d. Performing ~~such~~ additional duties as the ~~e~~City ~~m~~Manager may, from time to time, assign.

- (4) *Meetings.* The DRC shall meet, as required, at ~~asuch~~ place ~~as~~ determined by the DRC. An agenda ~~and report~~ shall be prepared and distributed to each member and to the applicant at least five (5) working days prior to each meeting. All applicants having requests to be reviewed by the DRC shall be invited to attend and participate in the meeting. ~~Such~~The records of the proceedings of the DRC meetings as required by law, shall be kept.
- (c) ~~Land development manager~~Planning and Development Services Department.
- ~~(1) Position established and appointment.~~ ~~The position of land development manager (LDM) is hereby established within the planning and development services department of the City. The LDM shall be appointed in a manner consistent with the City of Deltona Charter.~~
- ~~(2)~~1) Duties and responsibilities. The duties and responsibilities of the ~~LDM~~Planning and Development Services Department shall include:
- a. Being a central intake point for applications;
 - b. Reviewing applications for completeness;
 - c. Acting as a liaison between applicants and the DRC;
 - d. Preparing and distributing agendas and reports for meetings of the DRC, P&Z, and the City Commission;
 - e. Taking and preparing the minutes of all DRC meetings;
 - f. Comparing and ensuring final construction plans and final plats with an approved Development Order to ensure consistency;
 - ~~ag.~~ Coordinating application review procedures;
 - ~~bh.~~ Issuing concurrency certificates of capacity;
 - ~~e.~~ ~~Administration and management of the land development division;~~
 - ~~di.~~ Issuing ~~d~~Development ~~e~~Orders and development permits, as applicable, in compliance with the requirements and procedures of ~~this ordinance~~requisite City Ordinances;
 - ~~ej.~~ ~~Recording~~Obtaining validation from the applicant regarding the recordation of final subdivision plats with the Volusia County eClerk of the Circuit eCourt; and
 - ~~f.~~ ~~Ensuring that final construction plans and final plats are consistent with approved development orders;~~
 - ~~g.~~ ~~Performing such additional duties as the city manager may assign.~~
 - k. Performing other functions, as may be assigned by the Director of Planning and Development Services.
- ~~(d) Planning and Development Services Department.—~~
- ~~(1) Duties and responsibilities.~~ ~~The duties of the Planning and Development Services Department shall include:—~~
- ~~a.—Being a central intake point for applications;~~
 - ~~b.—Reviewing applications for completeness;~~
 - ~~c.—Providing liaison between applicants and the DRC;~~
 - ~~d.—Preparing and distributing agendas and reports for meetings of the DRC, P & Z, and the city commission;~~

- ~~e. Taking and preparing the minutes of all DRC meetings;~~
- ~~f. Comparing final construction plans and final plats with the approved development order to ensure consistency;~~
- ~~g. Performing such other functions as may be assigned by the director of Planning and Development Services.~~

Sec.74-2. ~~Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals~~ Reserved.

- ~~(a) *Purpose.* The purpose of this section is to provide for the applicability, approval and issuance of development orders and development permits to ensure that all of the provisions of this chapter are complied with, to ensure the installation of required improvements, to provide for public services and facilities agreements, and to provide an appeal process.~~
- ~~(b) *Applicability.* No person shall undertake the development of land in the City except pursuant to a valid development order or development permit issued under this chapter unless specifically exempted as provided by this chapter. All development shall meet the requirements of this chapter prior to the approval and issuance of any development order or development permit, unless specifically exempted from the requirements of this chapter by provisions set forth herein, or one or more such requirements are waived in accordance with provisions set forth herein.~~
- ~~(c) *Approving authority.* The DRC shall approve, approve with conditions or deny the development order. The DRC on their own motion and for cause, may continue consideration of an application to a subsequent meeting.~~
- ~~(d) *Issuance of development orders and development permits.* A preliminary development order, upon issuance, shall authorize continuation to the next step in a development review process. A final development order, upon issuance, shall authorize issuance of appropriate development permits. A development permit, upon issuance, shall authorize commencement of construction of the work covered by the scope of the permit. No development or construction shall commence unless a valid final development order or development permit(s) have been issued as provided by this chapter. All development or construction commenced pursuant to a valid development order or development permit shall be completed in a manner which is consistent with the approved development order or development permit. *(e) Installation of improvements.* All improvements required to be installed, constructed or provided by the developer as a condition to the approval of a development order shall be installed and completed or guaranteed as specified in 96-51(a)(1) of this Code.~~
- ~~(f) *Public services and facilities agreements.* In order to further the purposes of this ordinance regarding the provision of public services and facilities to a proposed development, the city commission may enter into an agreement with the developer of the proposed development which will provide a means to:

 - ~~(1) Ensure the certainty of providing public services and facilities for the proposed project;~~
 - ~~(2) Ensure the provision of public services and facilities to other developments in the vicinity of the proposed development;~~
 - ~~(3) Allocate the costs of providing public services and facilities;~~
 - ~~(4) Allocate the capacities of the public services and facilities;~~
 - ~~(5) Determine the responsibilities for construction and maintenance of the public services and facilities.~~~~
- ~~(g) *Appeals.* Any person claiming to be aggrieved by a decision of the enforcement official or the DRC may file a written appeal within 15 days after said decision with the Planning and Development~~

~~Services Department to have the decision reviewed by the city commission. The appeal shall state fully the specific grounds for the appeal and all of the facts relied upon by the petitioner. The city commission shall consider only those items specified in the petition.~~

Sec. 74-3. Application review requirements.

An application for a Site Plan or Subdivision Plat ~~d~~Development ~~e~~Order, as defined by Chapter 74 of this Code, shall be reviewed, as appropriate, by the Planning and Development Services Director, the Development Review Committee (DRC), the Planning and Zoning Board, and the City Commission. ~~in accordance with section 74-4.~~ Development Orders shall only be issued after all required reviews and appropriate final actions have been taken by the appropriate decision making bodies. No application for a ~~d~~Development ~~e~~Order shall be approved which does not comply with the following:

- (1) The ~~e~~Comprehensive ~~p~~Plan;
- (2) This ~~chapter~~Land Development Code; or
- (3) ~~The zoning ordinance [ch. 110].~~Other applicable regulations.

Sec. 74-4. Development review procedures.

All applications and supporting information required by this ~~chapter~~Land Development Code shall be filed with the Planning and Development Services Department. All required application fees, as set by resolution of the ~~e~~City ~~e~~Commission, shall be paid prior to acceptance of the application. The number of copies of the supporting information needed for distribution to all concerned reviewing agencies, as determined by the Planning and Development Services Director or his/her designee, shall be submitted with the application prior to acceptance by the City. Except as otherwise provided in this ~~ordinance~~Land Development Code, the following procedures shall govern the review of ~~such~~applicable applications:-

- (a) *Completeness of application.* The Planning and Development Services Director or his/her designee shall review the application to determine its completeness. Within ~~three~~seven (7) working days after application receipt, he/she shall either accept the complete application ~~if it is complete~~ and forward to the applicant a notice of acceptance, or reject the application if it is incomplete and forward to the applicant a notice of incompleteness specifying the data missing from the application received.
 - (1) If neither a notice of acceptance nor incompleteness is sent, the application shall be deemed accepted for purposes of beginning the time limits of this article on the ~~fourth~~eighth (8th) working day after the filing of the application.
 - (2) If a notice of incompleteness is sent, the applicant ~~shall~~may resubmit the application with the additional data required by the City. Upon receipt, the Planning and Development Services Director or his/her designee shall review the resubmittal application in the manner provided in this subsection for the original application.
- (b) *Distribution of accepted application.* Following acceptance of an application, the Planning and Development Services Department shall forward a copy of the application to all applicable City review agencies and to any county, regional, state, or federal agency deemed by the Planning and Development Services Director or his/her designee to be a concerned agency for the review process.
- (c) *Review responsibilities.* Each member of the ~~e~~City review agency shall prepare a report that details~~which sets out in writing~~ their comments specifying the exact references to the ~~e~~Code or other regulations being commented on and recommendations regarding the application. ~~Comments and~~ shall be forwarded~~ed~~ ~~such report~~ to the Planning and Development Services Director or his/her designee

~~at or~~ before the meeting of the DRC held in accordance with this ~~article~~ Land Development Code. The Planning and Development Services Director or his/her designee may waive one or more agency reviews, in whole or in part, under this section upon his/her determination that such a review has already been made regarding the same land and no change in standards or circumstances has occurred which necessitates further review. ~~The Planning and Development Services Director or his/her designee shall provide a quarterly report to the DRC, the city manager and to the city commission of all such waivers granted and the reasons therefor.~~

- (d) *Review.* Applications shall be reviewed by the DRC and shall be discussed at a scheduled DRC meeting that is held in accordance with the requirements of this ~~article~~ Land Development Code. ~~If the development is not wholly or partially within a flood-prone area and is for development of fewer than 20 dwelling units or less than 10,000 gross square feet of nonresidential floor area,~~ the Planning and Development Services Director or his/her designee shall distribute the application for review and, where appropriate, recommendation or determination, as in subsection 74-4(b), ~~and but~~ may waive the requirement that the application be reviewed at a DRC meeting. If review of the application at the DRC's meeting has been waived, the Planning and Development Services Director or his/her designee shall coordinate appropriate informal review and forward to the applicant a report of the DRC's actions within twenty (20) working days of acceptance of the application or as prescribed in Section 74-4(e).
- (e) *Application revision.* An application may be revised by the applicant after it has been reviewed by the DRC, if the DRC recommends such revisions. If any portion of the review process must be repeated to accommodate the revised application, the applicable time limits prescribed in this ~~article~~ Land Development Code shall be extended to the extent necessary to resolve outstanding issues upon mutual consent of the applicant and City; otherwise ~~but~~ not to exceed twenty (20) working days from the date that the revision has been received.
- (f) *Development ~~Order~~ review.* As provided in subsection 74-4(e) allowing extended review or, otherwise, ~~W~~within twenty (20) working days from the acceptance of an application or revised application, the DRC shall make one (1) of the following determinations:
- (1) That the application or revised application is in compliance with the requirements of this ~~chapter~~ Land Development Code and other applicable regulation, and shall approve the application; or
 - (2) That the application or revised application is not fully in compliance with the requirements of this ~~chapter~~ Land Development Code and other applicable regulations, stating those conditions which they find are necessary to ensure compliance ~~with this chapter~~, and shall approve the application subject to those conditions being met; or
 - (3) That the application or revised application is not in compliance with the requirements of this ~~chapter~~ Land Development Code and other applicable regulations, and shall deny the application, stating the basis for ~~such~~ denial, or, may continue consideration of and final action on the application pending submittal of a revised application.
- (g) *Subdivision final plat review and final approval:*
- (1) DRC consideration, ~~and city commission final action.~~
- a. Within twenty (20) working days from the acceptance of the application or revised application for a subdivision ~~f~~Final ~~P~~plat ~~d~~Development ~~e~~Order the DRC shall consider the application and shall make a recommendation to the Planning and Zoning Board or eCity eCommission, as appropriate for final action; or, if the DRC determines the application is not in compliance with the requirements of this chapter, the DRC may continue consideration of the application pending submittal of a revised application.

- b. If the application is recommended for approval with conditions by the DRC, the Planning and Development Services Director or his/her designee may request that the applicant submit a revised application incorporating the conditions of approval prior to sending the Final Plat application to the eCity eCommission for final action. Within ten (10) working days after submittal of a revised application which meets the conditions of the DRC the Planning and Development Services Director or his/her designee shall transmit the revised application to the eCity eCommission for final approval noting any conditions of approval by the DRC. The Planning and Development Services Director or his/her designee may request subsequent revised applications prior to transmitting the application to the eCity eCommission, if the application, as revised, does not meet the requirements of the DRC's conditional approval.
- c. If the application is recommended for approval by the DRC without conditions; or, if the Planning and Development Services Director or his/her designee determines that all of the DRC's conditions have been resolved; or, that any remaining conditions should be resolved by the eCity eCommission, the Planning and Development Services Director or his/her designee shall, within five (5) working days, transmit the application to the eCity eCommission for consideration for final action at the next available eCity eCommission meeting.
- d. No application recommended for denial by the DRC shall be transmitted to the eCity eCommission for final action. ~~However, -except that~~ the applicant may appeal ~~from~~ the DRC's denial, pursuant to subsection 74-~~25~~(g).
- e. If the proposed Final Plat subdivision contains more than 200 lots, the DRC shall transmit the application to the Planning and Zoning Board.

(2) Planning and Zoning Board.

- a. At a regularly scheduled public meeting, the Planning and Zoning Board shall review the application and make recommendations to the City Commission on proposed Final Plat subdivisions containing more than 200 lots.

~~(h) Subdivision final plat review;~~

(3) City eCommission final action.

- a. ~~(1)~~ At a regularly scheduled public meeting the eCity eCommission shall review the application and the DRC recommendation for conformity to this ~~chapter~~Land Development Code and shall act appropriately upon the application.
- b. ~~(2)~~ The appropriate action of the eCity eCommission shall be one of the following determinations:
- 1.a. That the application is in compliance with the requirements of this ~~chapter~~Land Development Code, ~~in which ease then~~ the eCity eCommission shall approve the application; ~~or,~~
 - 2.b. That the application is not fully in compliance with the requirements of this ~~chapter~~Land Development Code, stating those conditions ~~which they find that~~ are necessary to ensure compliance with this ~~chapter~~Land Development Code, ~~in which ease then~~ the eCity eCommission shall approve the application subject to those conditions being met; ~~or,~~
 - 3.e. That the application is not in compliance with requirements of this ~~chapter~~Land Development Code, ~~in which ease then~~ the eCity eCommission shall deny the application and state the basis for such denial;

~~4.d.~~ A final determination by the eCity eCommission under this subsection may be deferred if the eCity eCommission finds that available information is insufficient ~~on which~~ to base either approval or denial of a particular application. In that event, and the eCity eCommission will direct or has directed that a specific study commence, or specific information be provided, to give provide the City eCommission sufficient with information sufficient to form the basis on which to approve or deny the application. The information shall be provided, or, and the study ~~shall will~~ be completed within a time certain, not to exceed six (6) months from the date of the eCity eCommission's determination under this subsection; ~~provided, however, as a A~~ prerequisite to directing that a specific study commence to provide the City eCommission with information sufficient to form the basis on which to approve or deny a particular application, is that the City eCommission shall identify the inadequacy of the information available with respect to the application; or

~~5.e.~~ If the eCity eCommission determines that adequate public facilities required under this chapter are not available, but are planned to become available in the future, they may:

- (i) ~~Defer action until adequate public facilities are available; or,~~
- (ii) ~~Approve the application subject to the condition that no building permit shall be issued until adequate public facilities are available; or,~~
- (iii) ~~Approve the application subject to the condition that no certificate of occupancy be issued until adequate public facilities are available; or,~~
- (iv) ~~Approve the application subject to the condition that the developer enter into a public services and facilities agreement pursuant to this chapter to ensure that adequate public facilities are available at the time the impacts of the development occur.~~

~~(ih)~~ *Valid period and issuance of Site Plan dDevelopment eOrders.*

- (1) The valid period of any Final Site Plan dDevelopment eOrder shall begin on the date of approval by Development Review Committee (DRC) ~~either the DRC or city commission~~ and shall remain valid for a period of 24 months from the date of issuance.
- (2) Development eOrders shall be issued by the Planning and Development Services Director or his/her designee within ~~five~~ ten (10) working days or a mutually agreed upon time between the applicant and City after ~~being notified of the actions of either the DRC approval, provided all conditions or the city commission provided all conditions of approval, if any,~~ have been resolved and that the approved concurrency certificate of capacity, if required, can be or has been issued pursuant to eChapter 86.

~~(ji)~~ *Effect of dDevelopment eOrder.* If construction of a site development has commenced pursuant to a ~~valid~~ the issuance of a building permit during the valid period of a ~~final s~~ Site pPlan dDevelopment eOrder, construction may be completed in accordance with the approved dDevelopment eOrder, as long as the building permit remains valid.

If construction of the required improvements in a subdivision development has commenced during the valid period of a ~~PPL~~ Preliminary Plat dDevelopment eOrder, the improvements may be completed in accordance with the approved dDevelopment eOrder beyond the valid period of that dDevelopment eOrder only if the subdivision ~~fFinal pPlat development order~~ has been approved by the eCity eCommission and appropriately recorded with the Volusia County Clerk of the Circuit Court. Construction of the required improvements in a subdivision shall be completed or shall be guaranteed for completion, pursuant to eChapter 96, article III, and prior to recording the ~~fFinal p~~ Plat.

~~A development order for a subdivision final plat shall be issued only after the final plat is recorded and upon issuance~~ shall remain valid until the subdivision or any part thereof is ~~abandoned~~ vacated in accordance with the laws of the City of Deltona and the State of Florida.

During the period of ~~threeninety (90) months-days~~ before and ~~threeninety (90) months-days~~ after the expiration of any ~~dDevelopment oOrder~~, the developer may request an extension of that valid period from the DRC. Such request shall be submitted to the Planning and Development Services Department. The DRC may approve an extension of that valid period for a period of time not to exceed twelve (12) months and may attach such conditions as they determine appropriate.

Sec. 74-5. ~~Determination and offsetting of impact on public services and facilities of the City.~~ Development orders, development permits, approval authority, installation of improvements, public services and facilities agreements, and appeals.

- (a) Purpose. The purpose of this section is to provide for the applicability, approval and issuance of Development Orders and development permits to ensure that all of the provisions of this chapter are complied with and to provide for an appeal process.
- (b) Applicability. No person shall undertake the development of land in the City except pursuant to a valid Development Order and/or development permit issued under this Land Development Code, unless specifically exempted as provided by this Land Development Code. All development shall meet the requirements of this Land Development Code prior to the approval and issuance of any Development Order or development permit, unless specifically exempted from the requirements of this Land Development Code by provisions set forth herein, or one or more requirements are waived in accordance with provisions set forth herein.
- (c) Approving authority. The DRC and the City Commission shall, as applicable, approve, approve with conditions, or deny the issuance of a Development Order or development permit. The DRC or the City Commission, as applicable, on their own motion and for cause, may continue consideration of an application to a subsequent meeting.
- (d) Issuance of Development Order and development permits. A Development Order, upon issuance, shall authorize the issuance of appropriate development permits. A development permit, upon issuance, shall authorize commencement of construction of the work covered by the scope of the permit. No development or construction shall commence, unless a valid Development Order and/or development permit has been issued, as provided by this Land Development Code and other applicable regulations. All development or construction commenced, pursuant to a valid Development Order and/or development permit, shall be completed in a manner that is consistent with the approved Development Order and development permit.
- (1) Issuance of Development Order for Site Plan. The Planning and Development Services Director or his/her designee shall administratively issue a Development Order for Site Plan, either with or without conditions, or deny the issuance of the Development Order, whichever is consistent with the action of the Development Review Committee (DRC).
- (2) Issuance of Development Order for subdivision plats. Development Orders shall be issued for all subdivision Preliminary Plats and Final Plats in accordance with the Land Development Code provisions of Chapter 106. Final Plats shall be approved by the City Commission and recorded in the Volusia County Clerk of the Circuit Court office, as prescribed by Chapter 106.
- (e) Installation of improvements. All improvements required to be installed, constructed or provided by the developer as a condition to the approval of a Development Order, shall be installed and completed or guaranteed as specified in this Land Development Code and compliant with all other applicable regulations.

(f) *Public services and facilities agreements.* In order to further the purposes of this Land Development Code and other applicable regulations regarding the provision of public services and facilities to a proposed development, the City Commission may enter into an agreement with the developer of the proposed development that is consistent with Chapter 86 of this Land Development Code.

(1) Ensure the certainty of providing public services and facilities for the proposed project;

(2) Ensure the provision of public services and facilities to other developments in the vicinity of the proposed development;

(3) Allocate the costs of providing public services and facilities;

(4) Allocate the capacities of the public services and facilities;

(5) Determine the responsibilities for construction and maintenance of the public services and facilities.

(g) *Appeals.* Any person claiming to be aggrieved by a final decision of the Planning and Development Services Director, the DRC, or the Planning and Zoning Board, may file with all applicable fees a written appeal within 15 days after said decision to the Planning and Development Services Director or his/her designee to have the decision reviewed by the City Commission. The appeal shall state fully the specific grounds for the appeal and all of the facts relied upon by the petitioner. The City Commission shall consider only those items specified in the petition.

~~(a) *Procedure.* During the review of an application for a development order, a determination will be made by the City according to policies set out in the comprehensive plan, the zoning ordinance [chapter 110, Code of Ordinances], and this chapter as to the environmental, physical and fiscal impact of the development on the public services and facilities of the City as set forth in this subsection and chapter 86 and the measures necessary to offset said impacts.~~

~~(1) The determination of impact will use the best available information as provided in chapter 86 and will be based upon the maximum impact of the proposed development as generated from the submitted application for a development order. The applicant is encouraged to provide any information in addition to required submittals that will assist in more accurately determining impact.~~

~~(2) The measures necessary to offset the impact of the proposed development shall be as set out in this subsection and chapter 86, as the case may be.~~

~~(b) *Availability of thoroughfare system roads.* The availability of the thoroughfare system roads shall be as provided in chapter 86 of this Code. The road impact fee zone fund shall only be expended in the fund zone in which the development is located. Said funds shall be expended prior to or concurrent with the expenditure of other public funds for thoroughfare system improvements.~~

~~(c) *Availability of parks and recreation facilities.* The availability of the parks and recreation facilities shall be as provided in chapter 86 of this Code. Moneys deposited by a developer pursuant to subsection 74-5(c)(1)(b) previously repealed are hereby transferred into the park impact fee zone fund. Said funds shall only be expended in the fund zone in which the development is located. Said funds shall be expended prior to or concurrent with the expenditure of other public funds for park system improvements.~~

~~(d) *Availability of the stormwater management system.* The proposed development shall be designed to provide for the construction and maintenance of a stormwater management system, which conforms to the standards of chapter 98, article IV, and chapter 86 of this Code, and of any other governmental agency having jurisdiction over the area.~~

- ~~(e) Availability of the potable water system. The availability and capacity of the potable water system shall be as provided in chapter 86 of this Code.~~
- ~~(f) Availability of the sanitary sewer system. The availability and capacity of the sanitary sewer system shall be as provided in chapter 86 of this Code.~~
- ~~(g) Availability of the hazardous waste disposal system. The hazardous waste disposal system of the City shall have the capacity to serve the proposed development at the levels of service as set out in chapter 50, solid waste.~~
- ~~(h) Availability of the mass transit system. The availability and capacity of the mass transit system shall be as provided in chapter 86 of this Code.~~
- ~~(i) Protection of natural resource management areas.—~~
- ~~(1) Proposed developments which will directly or indirectly impact natural resource management areas (NRMA), as provided in the land use element of the comprehensive plan, shall produce minimal adverse effects on those areas. Acquisition of all applicable city, state and federal environmental permits shall be prima facie evidence of compliance with this provision.~~
- ~~a. An application for development of any land identified as a NRMA shall include an environmental impact assessment (EIA) report identifying the effects that the proposed development would have on the area. The EIA is to be reviewed by the environmental management department (EMD) in accordance with policies set out in the conservation element of the comprehensive plan. That assessment shall be considered by the DRC and/or city commission during review of an application.~~
- ~~b. For the purpose of this article, the applicant shall not have met the procedural requirements for the submittal of a complete application until an EIA has been submitted where required.~~
- ~~(j) Tree protection measures. The existing trees and tree coverage of a proposed development shall be adequately maintained and protected through consideration, to the maximum extent possible, of the standards and requirements of chapter 98, article II of this Code.~~
- ~~(k) Availability of school system sites and adequacy of school bus circulation in new residential development.—~~
- ~~(1) The school system sites of the City shall have adequate capacity to serve the educational needs of the residents of the proposed development prior to the issuance of a certificate of occupancy. In order to provide for lands to be used to meet the need for school sites created by new residential development, a developer may dedicate land acceptable to the Volusia County School Board of suitable size, dimension, soil type, topography and general character to meet the need for school sites created by the development.~~
- ~~(2) Land to be utilized as school sites in connection with proposed development shall be of sufficient size and dimensions, shall be in a suitable location, shall have adequate accessibility, and shall be transferred in an appropriate manner.~~
- ~~a. Location and accessibility.~~
- ~~1. School sites should be centrally located closest to the areas of greatest student concentration in order to make the site within walking distance to those areas. The distance between schools shall be a minimum of one mile for elementary schools, two to three miles for junior high or middle schools. When a development does not generate enough students to create a full enrollment, the sites shall be located in such a way that students in adjacent residential areas can have easy access to the facility.~~

- ~~2. School sites shall be located in areas that are free from health or safety hazards, and protected against noise, air pollution or odors.~~
 - ~~3. The site shall be accessible from two different public streets (preferably collector street) both constructed to county specifications. Median cuts, left and right turning lanes and storage lanes shall be provided as required to facilitate access of buses, teachers, parents, students and services. All roads entering or exiting from arterials or collectors shall have a minimum of 60 foot curb radius.~~
 - ~~4. School sites shall be connected to residential development by sidewalks, walkways and hike paths in order to facilitate safe pedestrian movement.~~
 - ~~5. Location of school sites immediately adjacent to arterial streets is discouraged. If such location is unavoidable, construction of overpasses or pedestrian lights shall be made a part of the project and included in the bonding requirements.~~
 - ~~6. Appropriate assurance that potable water and wastewater facilities will be available to serve all school buildings shall be given to the Volusia County School Board. Water supply shall include fire hydrants. Such assurance shall also be given for electric and telephone service. A positive drainage system shall be provided to the site with an easement, if necessary, to the outfall.~~
- ~~b. Acreage and dimensions:~~
- ~~1. An elementary school site shall be at least 20 acres in size. The site shall be able to accommodate a school building of approximately 400 feet of frontage and 500 feet of depth; playfield area of ten acres, including softball field; playground area adjacent to the kindergarten classrooms; parking in front and on both sides of the school; and a bicycle parking lot. The recommended site shall have a minimum frontage of 600 feet.~~
 - ~~2. A junior high or middle school site shall be at least 35 acres in size. The site shall be able to accommodate a school building of approximately 800 feet of frontage of 600 feet of depth; parking in the front and on the bus pickup side; and sport facilities, including six tennis courts, six handball courts, two basketball courts, track and field events, 220 yard track, two softball fields, and a bike parking lot. Sport facilities shall be located in a single area of approximately 15 acres adjacent to the gym. The recommended site shall have a minimum frontage of 1,200 feet.~~
 - ~~3. A high school site shall be at least 80 acres in size. The site shall be able to accommodate a two story school building of approximately 1,000 feet of frontage and 800 feet of depth; parking for 550 cars and service drives to kitchen and shops; sport facilities, including six handball courts, outdoor pool, track and field events, a 440 yard track, one softball and one baseball field, soccer field; bicycle parking lot; and a 200 feet by 400-foot driver education course site. The recommended site shall have a minimum frontage of 1,320 feet.~~
- ~~e. Procedure for conveying sites to the school board. To convey school sites to the school board, the following provisions shall be met at no cost to the school board. All documents shall be in a form approved by the school board attorney.~~
- ~~1. The delivery to the school board of a complete and current abstract of title or a title insurance commitment to insure said property in a sum to be agreed upon by the school board;~~
 - ~~2. The delivery to the school board, or the title insurance agent, of a deed with sufficient funds for recording same;~~

- ~~3. The escrow of taxes for the current year pursuant to F.S. § 196.295, as the same may be amended, or the payment of said taxes for the year; taxes shall be prorated to date of closing.~~
- ~~4. The issuance of a title insurance policy subsequent to recording of the deed and escrow of taxes.~~
- ~~d. School bus circulation. Where it is necessary that school buses enter a residential development, there shall be a circulation system, or turnaround area of at least 100 foot diameter, such that the buses need not back up in order to leave the development. Alternatively, bus stop locations may be provided at the edge of the development. The preferred location of bus stops is adjacent to a public area such as a park.~~
- ~~e. Amount of land per student. The amount of land needed per student for school sites generated by new residential development is hereby found to be as follows*:-~~

Table 74-1 Amount of Land Per Student

Elementary Student	0.026 acres
Middle Student	0.031 acres
High Student	0.042 acres

~~*Source: Henderson Young Study for Volusia County School Impact Fee Ordinance, No. 92-9, as amended, page 11.~~

- ~~(l) Availability of solid waste facilities. The availability and capacity of solid waste facilities shall be as provided in chapter 86 of this Code.~~
- ~~(m) Availability of pedestrian and bicycle circulation facilities.—~~
- ~~(1) The availability of pedestrian and bicycle facilities shall be as provided in the City's Comprehensive Plan, as amended, and chapter 96, article II of this Code.~~
- ~~(2) There is hereby established a City of Deltona walkway/bikeway improvement trust fund. Money deposited in this fund shall be used for the purpose of constructing walkways and bicycle facilities in areas determined by the City to be needed for the safety and convenience of the pedestrians and bicyclists of the City. The trust fund shall be divided into as many subfunds as there are road impact fee zones. Money paid into the trust fund shall be deposited into the appropriate subfund as determined by the location of the development under consideration.~~
- ~~a. The DRC or city commission in their consideration of a development application may approve the payment of money into the trust fund in lieu of construction of the sidewalks, walkways and/or bicycle facilities required by chapter 96, article II.~~
- ~~b. The amount of money to be paid in lieu of construction shall be determined by the City's engineering department by establishing the average cost of constructing such facilities. The engineering department shall review such cost annually and certify such cost to the Planning and Development Services Director or his/her designee prior to October 1 of each year. Such cost shall be utilized by the Planning and Development Services Director or his/her designee to make a determination of the amount of money owed by the developer as payment into the trust fund. The DRC may approve a different amount of money to be paid into the trust fund by the developer based upon the actual cost of constructing the facilities in the development as evidenced by a construction bid, submitted by the developer and verified by the city planner, for that purpose.~~

- ~~e. The total amount of money owed shall be paid to the Planning and Development Services Department prior to issuance of a building permit for a site development or prior to recording the final plat for a subdivision development. The Planning and Development Services Director or his/her designee shall keep a record of all money paid into the trust fund and shall, upon payment, deposit the money into the appropriate subfund. Payment of all the money owed by the developer shall constitute full payment of the money necessary for the City to construct the required facilities at the location of the development at any future time deemed appropriate by the city commission.~~

Sec. 74-6. Zoning and land development fees.

This section sets forth fees required for review and approval of land development activities pursuant to the Land Development Code. The fee schedule shall include all necessary expenses for the conduct of the municipal government and shall be established by resolution of the City Commission. Upon an application submittal for zoning or land development, the ~~director of Planning and Development~~ Services Director or his/her designee will determine all designated fees which shall be applicable based on the services required to review each application. All such fees must be submitted in full to the City concurrently with each application. Failure to submit the required fee shall render the application incomplete.

~~Permitting f~~ Fees shall be required for any zoning and land development activity as listed under the following designations, including and not limited to: Land development review; extensions; meetings; letters; change of grade; development orders; appeals; incomplete submittals and re-submittals; site plan reviews; development plan reviews; plat reviews; lot elevation variances; certificate of concurrency; easement and right-of-way use or vacation; combination of lots; modification requests; tree removal; model sales center; pre-construction wetland alteration permit; stormwater permit; temporary sign permit; annual sign renewal permit; special event permit; additional inspections and re-inspections; annexations; conditional uses; zoning variances; rezoning; future land use amendments; planned unit developments; engineering permits; escrow accounts and miscellaneous administrative charges.

Some land development applications may require associated consulting services and fees. In such cases, the City will hire peer professionals with expertise in associated development related disciplines to assist in the review and provide recommendations regarding land development applications. Consultant activities include, but are not limited to, traffic planning, engineering, surveying, design, environmental, etc. Consultant costs will be borne by the applicant. The hiring and payment of a consultant will be conducted consistent with applicable City procurement processes.

Sec. 74-7. Public Notice.

(a) "Public notice" as used in connection with the phrase "public hearing" or "hearing with due public notice" refers to applications and appeals in which there is to be a public hearing of the City Commission or of the Planning and Zoning board as provided for in this section:

(1) Legal Notice (newspaper publication).

- a. The publication of notice with the following information: day, time, place and purpose, place or places within the City where the change may be inspected by the public, and that interested parties may appear at the meeting and be heard with respect to the proposed change.
- b. Said notice shall be published at least once in a newspaper of general circulation in the area at least ten (10) days prior to the date of such public hearing, unless a longer notice period is required by statute for the type of application to be heard. Notices published in local newspapers shall meet or exceed the minimum requirements of state law as required by F. S. § 166.041, and Chapter 163, F.S., as they may be amended from time to time.

(2) Individual Notice (certified mailing).

- a. For applications affecting less than five percent (5%) of the total land area of the City, notices setting forth the time, day, place and purpose of the hearing shall be mailed, by certified U.S. mail, at least ten (10) days prior to the date of the Planning and Zoning Board public hearing by the applicant to the last known address of the owners of the property involved, if the applicant is not the owner of the property involved, as well as, to the owners of property within 300 feet of the property lines of the property involved, all as determined by reference to the latest records published by the Volusia County Property Appraiser absent information as to ownership to the contrary.
- b. The Planning and Development Services Director, or his or her designee, shall provide the notice forms to the owner of the property involved, or his or her duly authorized agent, and shall keep such notice available for public inspection during regular business hours. The applicant shall furnish the Planning and Development Services Director, or his or her designee, a copy of each of the U.S. Postal Service Certified Mail Receipt for each notice required to be sent, showing postmark in compliance with this ordinance, prior to the date of the first hearing on the application.
- c. It is the intent of this provision that only one mailing is required to be sent to an owner of property within 300 feet of the property lines of the property involved; and that notice shall contain the time, day, and place of all public hearing(s).
- d. For amendments initiated by the City, the required notice shall be sent by certified U.S. mail and a record of those to whom the notice was sent shall be maintained with the application file by the Planning and Development Services Department.

(3) Posted Notice (posted sign).

- a. For applications affecting less than five (5%) percent of the total land area of the City that the owner or his or her duly authorized agent, or for applications initiated by the City, a member of the Planning and Development Services Department staff, a contractor hired by the City and duly authorized to perform said posting, or the authorized staff of another City department, shall post at least ten (10) days prior to the date of such public hearing, the signs provided by the enforcement official.
- b. For purposes of posting property that is the subject of a City initiated amendment, the notice shall be posted on public right-of-way in front of the property affected by the proposed amendment, but shall not be placed so as to obstruct the vision of drivers at any intersection, including driveway intersections.
- c. The City shall not be required to place posted notices on or along any property lines that abut private streets or easements, but shall limit postings to streets maintained by the City, Volusia County, or the Florida Department of Transportation. Postings shall not be required when the public agency responsible for the affected street right-of-way refuses to permit the posting within its right-of-way. However, the responsible City agency shall not prohibit the posting of notice on rights-of-way maintained by the City.
- d. The sign or signs provided by the enforcement official shall be printed on a brightly-colored, easily recognizable, weather-resistant material of minimum size that is 22 inches in width and 28 inches in height.
- e. One (1) sign shall be posted for every 200 feet of front lot line. Corner properties will be posted on both front/street side lot lines.
- f. Each sign shall be placed in a location along the lot line that provides the greatest visibility from the adjacent street or road.

- g. The posted sign or signs shall remain in place until the completion of the public hearing of the City Commission and shall be removed by the applicant within ten (10) days following the conclusion of the last public hearing. Failure to remove the sign or signs after ten (10) days following the last noticed public hearing shall be a violation of this Code, and shall be enforceable as provided in Chapter 2, Code of Ordinances of the City of Deltona, Florida, as it may be amended from time to time.
- (b) Except for appeals, as otherwise provided for in this section, the City Commission shall provide for a public notice, as used in connection with the phrase "public hearing" or "hearing with due public notice", for applications involving five (5%) percent or more of the land area of the City in the manner, as provided in F.S. § 166.041, as it may be amended from time to time. For plan amendments and Development Agreements affecting five (5%) percent or more of the total land area of the City, notice shall be provided, as required by Chapter 163, F.S., as it may be amended from time to time.
- (c) When an agenda item for a public hearing that was duly advertised and noticed in accordance with this section is continued to a date certain, no further notice or advertisement shall be required. When a hearing is tabled or postponed without a date certain, the hearing and any subsequent hearing that may have been advertised and noticed shall be re-advertised and re-noticed in accordance with the requirements of this section.

Sec. 74-~~78~~--74-25. Reserved.

ARTICLE II. ~~FINAL SITE PLAN APPROVAL PROCEDURES~~Reserved

~~Sec. 74-26. Final site plan review.~~

~~(a) Approval required. Unless otherwise stated in this chapter, granting of a final site plan development order (FSP) is required prior to the issuance of any development permit allowing the commencement of site construction of any development in the City.~~

~~(b) Exempt development. The following activities shall not require compliance with this article, but may be subject to other articles:~~

~~(1) Implementation, by a governmental entity, of a water management plan approved by the city commission, as such plan relates to an approved development of regional impact (DRI) (not a conceptual DRI).~~

~~(2) Construction of a single family home and customary accessory structures on an existing single family classified lot.~~

~~(3) Construction of a single duplex and customary accessory uses on an existing duplex classified lot.~~

~~(4) The installation of those improvements which are required to develop a subdivision and for which development permits have been issued pursuant to chapter 106.~~

~~(5) Agricultural production practices, which include fencing, drainage, irrigation and other agricultural uses and structures, including portable structures which do not conflict with existing city ordinances.~~

~~(6) Public building under 10,000 sq. ft. subject to Development Review Committee administrative review and final action to ensure compliance with City and Fire Codes.~~

~~(c) On and off site development. The provisions of this article shall be applied to all development which is the subject of an FSP, whether that development is on or off the subject site.~~

~~(Ord. No. 96-25, § 1(301), 3-4-1996)~~

Sec. 74-27. Conceptual or preliminary site plan review.~~(a) Necessity for filing.—~~~~(1) All applicants for an FSP shall first submit a conceptual site plan application (CPN) to the Planning and Development Services Department.~~~~(2) The Planning and Development Services Director or his/her designee shall, within three working days of acceptance of the application, review the application for conformity with this chapter and other development regulations and notify the applicant in writing of the results of the review. Thereafter, the applicant may submit an application for an FSP.~~~~(b) Procedures.—An application for an FSP shall be filed and processed pursuant to sections 74-3 and 74-4 of this chapter.~~~~(c) Required submittals.—A CPN or FSP application shall include the following:~~~~(1) Conceptual site plan application.—~~~~a. Statement of ownership of the proposed development, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;~~~~b. Legal description;~~~~c. Current zoning classification(s);~~~~d. Schematic representation of proposed use, including building size, shape and location on the site;~~~~e. Schematic representation of vehicular circulation within the site, including driveways, parking areas and loading areas;~~~~f. Schematic representation of points of connection to the public right-of-way.~~~~(2) Final site plan application.—After receiving the written results of the CPN review an FSP application may be submitted pursuant to sections 74-3 and 74-4 of this chapter and shall include the following information and exhibits drawn to a scale of not less than one inch equals 50 feet:~~~~a. Statement of ownership of the proposed development, and the names, addresses and telephone numbers of the developer and any project engineers, architects or planners;~~~~b. Legal description;~~~~c. Current zoning classification(s);~~~~d. Vicinity map at a scale of one inch equals 2,000 feet with sufficient information to locate the property in the field;~~~~e. A survey of the subject property, prepared by a registered surveyor, showing the boundaries of the project, and any existing streets, buildings, watercourses, easements and section lines;~~~~f. Flood-prone areas;~~~~g. Water bodies or courses;~~~~h. Swamp or wetland areas;~~~~i. A site plan containing the title of the project, its date, scale and a north arrow, and illustrating the location of all proposed buildings and structures, access and traffic flow, off-street parking and off-street loading areas, recreational facilities, landscaped and buffer areas, refuse collection areas, proposed utilities, and existing and proposed topography at one-foot contour intervals;~~

- ~~j. Total acreage, project density, and the percentages of total acreage for each permitted use, for building coverage and for impervious surface coverage;~~
- ~~k. Statement of the proposed number of off-street parking and loading spaces and how that number was calculated;~~
- ~~l. Statement of the proposed arrangements for the maintenance of common open space areas and facilities;~~
- ~~m. Location and height of all structures and total floor area with dimensions to lot lines, and designation of use;~~
- ~~n. Building separations;~~
- ~~o. Vehicular circulation system for bicycles, cars and other required vehicle types, with indication of connection to adjacent streets;~~
- ~~p. All adjacent rights of way, with indication of centerline and width, paving width, existing median cuts, driveways and intersections, street light poles and power company facilities;~~
- ~~q. Pedestrian circulation system;~~
- ~~r. Provider of water and sewerage facilities;~~
- ~~s. Existing and proposed fire hydrant locations and water main sizes;~~
- ~~t. Direction of drainage flows and nature of retention facilities, if any;~~
- ~~u. Indication of existing native vegetation that will be preserved;~~
- ~~v. Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern;~~
- ~~w. Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern;~~
- ~~x. Identify known historic and archaeological sites;~~
- ~~y. Tentative construction schedule for the proposed development, including, if applicable, a tentative schedule for phasing construction, the date potable water facilities are needed to serve the proposed development and a commitment from the appropriate potable water provider, if other than the City, demonstrating that adequate capacity shall be available to service the proposed development at the time of impact as provided in chapter 86; provided, however, the level of service standards described in chapter 86 shall be adhered to by any potable water facility provider;~~
- ~~z. The date sanitary sewer facilities are needed to service the proposed development and a demonstration and commitment from the appropriate sanitary sewer system provider, if other than the City, that adequate capacity shall be available to service the proposed development at the time of impact as provided in chapter 86; provided, however, the level of service standards described in chapter 86 shall be adhered to by any sanitary sewer provider.~~
- ~~aa. Location of solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;~~
- ~~bb. Off-street parking, loading, bicycle parking and mass transit loading (bus stop) areas and provisions for accessibility to vehicles of the required type;~~
- ~~cc. Areas for emergency vehicles and fire engines, and provisions for accessibility to vehicles of the required type;~~

- ~~dd. Design of all paved areas, including dimensions, radii and elevations, as well as plans for traffic control signs and pavement markings;~~
- ~~ee. Location of all drainage features, and retention areas, if any; lowest floor elevation of proposed buildings;~~
- ~~ff. Plans and specifications required pursuant to all other applicable articles of this chapter;~~
- ~~gg. Computation of pervious and impervious area, in square footage and percentage;~~
- ~~hh. Building floor areas, elevations, sizes, types and typical floor plans;~~
- ~~ii. Plans for signs, which at a minimum shall include location, size and setbacks;~~
- ~~jj. A landscaping plan meeting the requirements of the zoning ordinance [chapter 110, Code of Ordinances];~~
- ~~kk. Location and plans for any outside storage areas;~~
- ~~ll. Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;~~
- ~~mm. If the FSP was prepared on an appropriate CAD system, the applicant shall provide such computer disks to the Planning and Development Services Director or his/her designee.~~
- ~~nn. Location, type, and description of proposed erosion and sedimentation controls. At a minimum:~~
- ~~1. For proposed developments greater than or equal to one acre or to developments less than one acre that are part of a larger common plan of development, a draft copy of the NPDES Generic Construction NOI (Notice of Intent) and SWPP (Stormwater Pollution Prevention Plan) shall be submitted to the City.~~
 - ~~2. Requirement that erosion control inspectors for project are Florida State Certified.~~
- ~~One or more of the above items of information may be waived by the Planning and Development Services Director or his/her designee at the time of application if deemed unnecessary in a particular case. The waived item may still be subsequently required by any reviewing department or agency if they deem it necessary.~~
- ~~oo. Other relevant items as may be required by the Planning and Development Services Director, Development Review Committee and other decision making bodies.~~
- ~~(Ord. No. 96-25, § 1(302), 3-4-1996; Ord. No. 43-2005, § 2, 1-3-2006)~~

Sec. 74-28. Conformity to recorded plat and zoning regulations.

- ~~(a) *Conformity to recorded plat.* If an FSP includes land previously platted, it shall conform to such plat.~~
- ~~(b) *Conformity to zoning regulations.* Development depicted in a FSP shall conform to all applicable city zoning regulations [chapter 110, Code of Ordinances].~~

Secs. 74-29~~6~~--74-50. Reserved.

Chapter 75. SITE PLAN

ARTICLE I. FINAL SITE PLAN APPROVAL PROCEDURES

Sec. 75-1. Purpose.

The purpose of this Chapter is to establish requirements and procedures for site plan review activities within the City.

Sec. 75-2. Site Plan development activity; review requirements.

(a) The following development activities shall require DRC Site Plan review, unless exempted by Section 75-4(c) and shall provide the information required, per section 75-4(d):

- 1) Residential or nonresidential developments including nonresidential additions.
- 2) A change in the use of property to any permitted use that will require or voluntarily result in a site alteration in order to meet the provisions of the Land Development Code (e.g. a need for additional parking); with the exception of nonresidential structures occupied by multiple tenants where the existing and proposed uses are permitted and no site alteration is proposed or required. In such exceptions, no DRC review is required.
- 3) Except or otherwise provided herein, applications for new paved areas shall be reviewed and approved by the DRC. The review may be conducted informally without filing a Site Plan application or, due to its complexity or size of project, warrant the submittal of a Site Plan application requiring a DRC meeting, as may be determined by the Planning and Development Services Director.

Sec. 75-3. Conceptual site plan review.

(a) Necessity for filing.

- (1) While there is no requirement to file a Conceptual Site Plan (CSP), all applicants for a FSP are encouraged to request a pre-application meeting with staff and have the option to file a CSP to the Planning and Development Services Department prior to submitting an application for FSP approval. The applicant may begin site plan review by filing a FSP.
- (2) The DRC will review the CSP application for conformity with this Chapter and other development regulations. The Planning and Development Services Director or his/her designee will notify the applicant in writing of the results of the review. The CSP will be considered as a separate document to the FSP.

(b) Optional submittal. A CSP application shall include the following:

(1) Conceptual site plan application.

- a. Statement of ownership of the proposed development, and the names, mailing addresses, email addresses, telephone numbers, and any project engineers, architects, planners or any others representing the developer;
- b. Legal description;
- c. Current zoning classification;

- d. Schematic representation of the proposed use, including building size, shape, and location on the site;
- e. Schematic representation of vehicular and pedestrian circulation within the site, including driveways, parking areas, and loading areas;
- f. Schematic representation of points of connection to the public rights-of-way; and
- g. Other relevant features, as may be requested by the City staff or provided by the applicant.

Sec. 75-4. Final site plan review.

- (a) Procedures. An application for an FSP shall be filed and processed pursuant to Sections 74-3 and 74-4 of this Code.
- (b) Approval required. Unless otherwise stated in this Chapter, the granting of a Final Site Plan (FSP) and associated Development Order is required prior to the issuance of any development permit allowing for the commencement of site construction activity for any development within the City. This Chapter does not address subdivision Preliminary Plat Development Order and Final Plat approvals consistent with Chapter 106. For information on subdivision Preliminary Plat Development Order and Final Plat approvals, see Chapter 106.
- (c) Exempt development. The following activities shall not require compliance with this Chapter, but may be subject to other Chapters:
 - (1) Construction of a single-family home and customary accessory structures on an existing single-family zoned lot.
 - (2) Construction of a duplex and customary accessory uses on an existing duplex zoned lot.
 - (3) The installation of those improvements, which are required to develop a subdivision and for which Development Order, plat approvals, and related permits have been issued, pursuant to Chapter 106.
 - (4) Agricultural production practices, which include fencing, drainage, irrigation, and other agricultural uses and structures, including portable structures, which do not conflict with existing City ordinances.
 - (5) Public buildings under 10,000 sq. ft., subject to DRC administrative review and final action, to ensure compliance with City ordinances and City Fire Codes.
- (d) Required submittals.
 - (1) Final site plan application. A FSP application shall include the following information and exhibits drawn to a scale of not less than one inch equals 60 feet:
 - a. Statement of ownership of the proposed property to be developed, the names, mailing addresses, e-mail addresses, and telephone numbers, and any project engineers, architects, planners, surveyors, or any others representing the developer;
 - b. Notarized authorization of owner, if the preparer of the site plan is someone other than the property owner;
 - c. Current zoning classifications;
 - d. Vicinity map at a scale not to exceed one inch equals 2,000 feet, with sufficient information to locate the property in the field;
 - e. A survey of the subject property that is less than two (2) years old, prepared, stamped and signed by a registered surveyor, showing the boundaries of the project, to include a legal

description, any existing streets, buildings, watercourses, easements and section lines. This survey shall be drawn to a scale of not less than one (1) inch equal sixty (60) feet.

- f. Water bodies or courses;
- g. Swamp, wetland areas, conservation areas, or environmentally sensitive areas;
- h. A site plan containing the title of the project, date, scale, and a north arrow. It shall also include, among other features listed herein, the location of all existing and proposed buildings uses and structures; access and traffic flow; off-street parking and loading areas; vehicular reservoir areas; recreational facilities; and existing and proposed topography at one-foot contour intervals;
- i. Total acreage, project density/intensity, and the percentages of total acreage for each permitted use, for building coverage, and for impervious surface coverage;
- j. Calculation of the required and proposed number of off-street parking and loading spaces;
- k. Statement of the proposed arrangements for the maintenance of common open space areas and facilities;
- l. Height and setbacks of all structures and total floor area by land use;
- m. Identify distances between separate buildings, where applicable;
- n. Onsite vehicular circulation systems for bicycles, cars, trucks, and/or other required vehicle types, showing connections to related off-site facilities;
- o. All adjacent rights-of-way, including all existing and proposed, centerlines and widths, pavement widths, acceleration/deceleration lanes, existing median cuts, driveways and intersections, street light poles, and power company facilities;
- p. Onsite and connections to off-site pedestrian systems;
- q. Type, size and location of all existing and proposed utilities, including water sewer, electric, gas, communication and the providers of such utilities;
- r. Existing and proposed fire hydrant locations and water main sizes;
- s. Direction of drainage flows, retention/detention facilities, and their association with project phasing;
- t. Tree survey and related information consistent with the provisions of Chapter 98 of the Land Development Code and existing native vegetation that will be preserved that shall not be altered by site engineering;
- u. Identify known wildlife corridors, habitats, plants, and/or animals for Federal and State endangered species, threatened species or species of special concern;
- v. Identify known historic and archaeological sites;
- w. The date potable water and sanitary sewer facilities are needed to provide service to the proposed development and a verification from the appropriate potable water and sanitary sewer utility. That adequate capacity shall be available to serve the proposed development at the time of impact and meet the required fire flows and duration, as provided in Chapter 86;
- x. Location and screening of a solid waste disposal system and provisions for accessibility to refuse collection and recycling trucks;

- y. Bicycle parking, mass transit loading (bus stop) areas, if any, and provisions for accessibility to vehicles of the required type;
- z. Areas for emergency vehicles and fire engines and provisions for accessibility to vehicles of the required type through the use truck turning simulation shown on the plan. This provision typically includes plans to accommodate a WB-40 or greater wheelbase;
- aa. Design of all paved areas, including dimensions, cross sections, radii and elevations, as well as plans for traffic-control signs and pavement markings;
- bb. Per Section 110-829(f)(4)d, of the Land Development Code and within the right-of-way limits, the maximum recommended driveway grade is approximately three (3%) percent. Further, the maximum allowable grade is four and two tenths percent or one half-inch per linear foot and the maximum slope immediately beyond the right-of-way line shall not change in excess of five (5%) percent for either angle of approach or break over angle;
- cc. Location of all floodplain areas, established base flood elevations (BFE), and any proposed finished floor elevations (FFE);
- dd. Stormwater management construction plan calculations, which includes the computation of pervious and impervious surface areas, in square footage and percentage;
- ee. Construction type(s), building floor areas, including a floor area ratio calculation, elevations, sizes, types and typical floor plans;
- ff. Plans for all proposed site signage meeting Chapter 102, which includes location, design, size, copy area, and setbacks;
- gg. A landscaping and irrigation plan meeting the requirements of Section 110-808 of the Land Development Code;
- hh. Location of common areas and open space areas;
- ii. Location of outdoor storage areas and related screening features;
- jj. Illumination plan related to parking area;
- kk. Any additional information deemed necessary by any reviewing department or agency, or deemed appropriate by the developer;
- ll. The applicant shall provide the City with a minimum of eight (8) hard copies of the site plan package (10 copies if the project proposes to access a Volusia County roadway or is located in the Deltona North utility area) and an electronic copy of the Site Plan package including a separate PDF for each plan sheet; and
- mm. A Soil and Erosion Control Plan showing the location, type, and description of proposed erosion and sedimentation controls. At a minimum, it shall include:
 1. For proposed developments greater than or equal to one acre or developments less than one acre that are part of a larger common plan of development, a draft copy of the NPDES Generic Construction NOI (Notice of Intent) and SWPP (Stormwater Pollution Prevention Plan) shall be submitted to the City.
 2. Requirement that erosion control inspectors for project are Florida State Certified.
- nn. Waivers may occur for City regulations, if that option is already provided within a specific section of the City's Code of Ordinances for that specific regulation. If eligible, administrative waiver requests shall be made in writing by the developer to the Planning and Development Services Director.

oo. Plans and specifications required pursuant to all other applicable articles of this chapter and other relevant items as may be required by the Planning and Development Services Director, DRC, and other decision making bodies responsible for reviewing Site Plan applications.

(e) On and off-site development. The provisions of this article shall be applied to all development, which is the subject of a FSP, whether that development is on or off of the subject site.

Sec. 75-5. Conformity to recorded plat and zoning regulations.

(a) Conformity to recorded plat. All Final Site Plans shall conform to applicable plats.

(b) Conformity to regulations and policies. All Final Site Plans shall conform to applicable City, County, Regional, State, and Federal regulations and policies.

Chapter 106 SUBDIVISIONS

ARTICLE I. IN GENERAL

Secs. 106-1 - - 106-25. Reserved.

ARTICLE II. SUBDIVISION REGULATIONS

Sec. 106-26. Purpose.

- (a) The purpose of this article is to establish procedures for the subdivision of land in the City of Deltona, ~~Florida.~~
- (1) *Prohibitions on transfer of lots and issuance of development or building permits for lots not in compliance with this chapter.* It shall be a violation of this ~~e~~Chapter for anyone who is the owner or agent of the owner of any land to transfer, sell, agree to sell, or negotiate to sell ~~such~~ land by reference to, exhibition of, or other use of a plat of a subdivision of ~~such~~ land without having the plat approved and recorded, and the Final Plat Development Order has been issued as required by this ~~e~~Chapter. ~~In addition, a~~No development permit or building permit shall be issued on any lot unless that lot is in compliance with this ~~e~~Chapter. In addition, the City shall require all applicable site related features associated with the legally permissible subdivision of land to be included on a plat without exception.

Sec. 106-27. Exemption or vested rights.

- (a) *Exempt activities.* The following activities are exempt from the provisions of this article, but not from the standards of other articles and chapters of the Land Development Code, including but not limited to, Chapter 96, Improvements, Chapter 98 Natural Resource Protection, Chapter 94, Impact Fees, Chapter 90, Flood Control, and Chapter 110, Zoning, provided said exempt activities are consistent with the ~~e~~City's adopted ~~e~~Comprehensive ~~p~~Plan, ~~as it may be amended from time to time,~~ and Chapter 86 of this Code.
- (1) Subdivision of an existing lot as defined in this chapter into two or more lots where all resulting lots are consistent with the ~~e~~Comprehensive ~~p~~Plan and contain 25 acres or more in area and where no new streets or access easements are planned to be dedicated and accepted by the public. Deeds and other conveyances shall include in bold capital letter ten-point type or greater the following statement:
- "NO GOVERNMENTAL AGENCY, INCLUDING THE CITY OF DELTONA, SHALL EVER BE RESPONSIBLE FOR THE MAINTENANCE, UPKEEP OR IMPROVEMENT OF ANY PRIVATE DRIVES, ROADS, STREETS, EASEMENTS OR RIGHTS-OF-WAY PROVIDING INGRESS AND EGRESS TO THE PROPERTY HEREIN CONVEYED."
- (2) Conveyance of lands to another without division.
- (3) ~~Any division by inheritance (whether testate or intestate), or by partition or other order of the court, including divisions of land for distribution to immediate family members and to living trusts in preparation for inheritance.~~ Residential subdivision of not more than two (2) lots, where each lot is less than one (1) acre in size, provided the lots are served by public water and sewer, have direct and proper access to paved public right-of-way and meet all zoning requirements.
- (4) Acquisition of property for public purposes.

- (5) The division of air space into units within a building wherein said building is held in common, undivided, ownership.
- (6) Subdivision of an existing lot as defined in this chapter into not more than four (4) lots is deemed to be a minor subdivision where all resulting lots are consistent with the eComprehensive plan only if all of the following conditions are met:
- a. The original parcel was created from a division allowed by ~~the e~~City or County regulations in effect at the time of the creation.
 - b. The property to be divided is zoned for agricultural or single-family uses.
 - c. All proposed lots shall meet the minimum lot width and area requirements of the Deltona Zoning Code, as it may be amended from time to time (~~e~~Chapter 110, Code of Ordinances) but shall not be less than one (1) acre in area.
 - d. All lots created under this exemption provision shall be located entirely out of the 100 year floodplain as determined by the Federal Insurance Rate Maps (FIRM). However, an applicant may seek a DRC determination regarding the appropriateness of allowing a subdivision exemption that involves the floodplain under this provision that is consistent with Section 106-30(c)(4).
- (7) The following types of combinations and restrictions of lots:
- a. Combinations of all or portions of previously exempted, platted, or unrecorded lots where no new lots contain less area, depth, and width than the original lots, and where the number of new lots created does not exceed the number of lots existing prior to the combination.
 - b. Combinations of previously exempted whole platted lots or previously exempted whole unrecorded lots with non-exempted whole platted lots for the purpose of creating a unified building site to meet zoning requirements provided all resulting combined lots abut for a distance of at least 35 feet at least one publicly maintained street or road that has been opened legally as of October 29, 1976, and which is capable of being traversed by an ordinary two-wheel drive privately-owned passenger vehicle. The separated portions of lots that have been severed by a publicly dedicated street may be considered whole lots for the combining purposes of this exemption.
 - c. Where there is a combination of lots granted by the City, any easements along the lot line that is proposed to be removed shall be verified to ensure that no utilities exist in that area. Where utility lines are present, those easements shall remain.
- (8) Divisions of land for purposes of conveyances, where ~~such~~these divisions were lawful under regulations in effect at the time ~~such divisions~~they were ~~made~~established, and where vested rights have been acquired by the ~~subdivider~~(applicant/developer) in reliance upon previous regulations where the following criteria have been met:
- a. A platted subdivision or unrecorded map or survey illustrating the division of the lands, which plat, unrecorded map or survey was in existence prior to October 29, 1976; and
 1. Substantial physical on-site development prior to October 29, 1976; or
 2. Streets legally opened as of October 29, 1976, which are capable of being traversed by an ordinary two-wheel drive privately-owned passenger vehicle, and at least 25 percent of the lots have been sold by bona fide contracts to different owners in parcels of not more than four lots each.
 3. Portions of existing subdivisions meeting the above criteria may be exempted.
- (9) Adjustment of the lot lines of only previously exempted unrecorded lots upon a showing that:

- a. The adjustment does not reduce any lot to a size less than that permitted by the zoning of the lot; and
- ~~b. The adjustment does not reduce any lot to a size less than the average size of comparable building sites within a radius of 500 feet from the boundary of the lot for which exemption is sought; and~~
- ~~eb.~~ The adjustment does not increase the number of lots.
- (10) Any approved "division having no substantial impact," ~~any "minor subdivision",~~ or any "summary review of division of land" into ten (10) lots or less in accordance with the previous subdivision regulations, as amended, and administered by the County of Volusia before the incorporation of the City is hereby exempt from provisions of this article, but not from other applicable provisions of the Code of Ordinance, City of Deltona, ~~This~~ includes, but is not limited to ~~e~~Chapter 96, Improvements, Chapter 98, Natural Resources, Chapter 86 Concurrency Management, and ~~e~~Chapter 110, Zoning, provided that any application for the above-described divisions ~~was~~were received by the appropriate governmental agency on or before January 19, 1988.
- (11) Divisions that were created by purchase contracts or conveyances which occurred prior to January 19, 1988, which would have met the "legal exemption and vested rights", ~~or~~ "divisions having no substantial impact" or the "summary review process" of the subdivision ~~R~~regulations, as amended and administered by the County of Volusia before the incorporation of the City.

Sec. 106-28. ~~Sketch plan review.~~Reserved.

- ~~(a) The intent of this review is to give the developer an opportunity to introduce a proposed subdivision to the development review committee (DRC) for the purpose of familiarizing the developer with a broad range of DRC considerations prior to the preparation of detailed plan documents. These considerations include, but are not limited to, such items as the comprehensive plan, city development policies and regulations, other development in the vicinity of the proposed subdivision, soil types, area drainage patterns, floodplain and floodprone areas, and the capability of the land to support the proposed development. One specific purpose of this procedure is to provide the applicant with staff comments concerning floodprone areas in the proposed subdivision and to provide staff recommendations concerning those floodprone areas and the level of development considered to be acceptable by the DRC.~~
- ~~(1) Procedures.—~~
- ~~a. An application for sketch plan review shall be filed and processed pursuant to sections 74-4(a) through (e). Exhibits shall be submitted in sufficient copies, as determined by the Planning and Development Services Director or his/her designee, to meet the requirements of the DRC and any additional agency deemed to be a concerned review agency.~~
- ~~b. A developer may elect to skip the sketch plan review and proceed directly to the overall development plan (ODP) review at section 106-29 where it has been determined that the project does not lie wholly or partly in a floodprone area.~~
- ~~(2) Required submittals.— Sketch plan shall be drawn at a scale no smaller than one inch equals 200 feet and shall illustrate clearly:—~~
- ~~a. Vicinity map at a scale no smaller than one inch equals 2,000 feet with sufficient information to locate the property in the field.~~
- ~~b. Total acreage.~~

- ~~e. Floodprone area (if applicable).~~
 - ~~d. Water bodies or courses.~~
 - ~~e. Swamp or wetland areas as defined herein.~~
 - ~~f. Specific soil types and their limitations for planned use. Soil information is to be taken from the most recent soil survey of the city. The soil types and boundaries shall be delineated on the plan.~~
 - ~~g. Graphically depict on plan, predominant plant communities and identify types by common name and location.~~
 - ~~h. Parcel number according to Volusia County Property Appraiser's Office.~~
 - ~~i. Topography of the site at not more than five foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor. The topographical survey shall be consistent with current land development.~~
 - ~~j. Tentative layout of street system, lot patterns, drainage systems, approximate subdivision boundaries, and existing zoning.~~
 - ~~k. Areas that may be reserved for parks or recreation sites, conservation easements, or natural open space areas.~~
 - ~~l. Streets adjacent to the tract, including rights of way and pavement widths, and driveways on both sides of adjacent streets within 300 feet of proposed development.~~
 - ~~m. Lots and blocks of adjacent recorded plats, giving plat book and page number along with names of such plats.~~
 - ~~n. Current zoning and existing uses of subject property and of adjacent and surrounding properties.~~
 - ~~o. Proposed location of water and wastewater treatment facilities.~~
 - ~~p. All existing on site or adjacent easements, including drainage, electricity, gas, water, wastewater, or other pipeline or utility easements.~~
 - ~~q. The legal description of the property proposed for platting.~~
 - ~~r. Any other appropriate information thought necessary by the prospective applicant to make a schematic presentation.~~
 - ~~s. Identify known wildlife corridors for federal and state endangered species, threatened species or species of special concern.~~
 - ~~t. Identify known plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species or species of special concern.~~
 - ~~u. Identify known historic and archaeological sites.~~
- ~~(3) DRC review. The DRC shall review the application and informally discuss with the applicant any steps necessary to bring the application into compliance with the requirements of this chapter. Thereafter, the applicant may submit an ODP application pursuant to section 106-29.~~
- ~~(4) Floodprone areas. If the DRC determines that a development lies within a floodprone area, it shall provide written recommendations to the applicant regarding the level of development that may be acceptable in such areas. DRC recommendations may address preservation of land contour, species preservation, development and maintenance of aesthetic values such as scenic views, and maintenance of freedom of movement of wildlife.~~

~~In defining the floodprone areas, the DRC shall consider topography, flood maps, soil conditions, vegetation, seasonal high water table, man-made drainage systems and the storage capacity thereof, natural watersheds, watercourses and basins. The applicant shall provide the DRC with the information it deems necessary regarding these items.~~

~~(5) *Request for determination by city commission.* If the applicant is aggrieved by the DRC's recommendations regarding development in floodprone areas, he/she may request an appeal to the city commission. Appeals must be filed with the Planning and Development Services Department within 20 working days following the transmission of the DRC's recommendations to the applicant and must state with particularity the points of disagreement and the specific basis for such disagreement. All other DRC recommendations are advisory only and not subject to city commission review under this appeal.~~

~~The appeal to the city commission may be based only on evidence reviewed by the DRC. No additional evidence shall be submitted to the city commission by either the applicant or the DRC subsequent to the DRC's review. Provided, however, the applicant may submit additional evidence to the DRC within 20 working days following the transmission of the DRC's recommendations to the applicant. Within 20 working days following the receipt of the additional evidence by the DRC, it shall then transmits its written response to the additional evidence to the applicant. The time to appeal to the city commission shall begin to run upon the applicant's receipt of the response from the DRC.~~

Sec. 106-29. Overall development plan review Reserved.

~~(a) *Procedures.* After a sketch plan review has been completed pursuant to section 106-28, an ODP application shall be filed, processed and reviewed pursuant to sections 74-3 and 74-4 of this Code. The application and exhibits shall be consistent with the recommendations developed by the DRC during the sketch plan review.~~

~~(b) *Required submittals.* The application shall include the following supporting information:~~

~~(1) *Information submitted for sketch plan review.* All items required for sketch plan review under section 106-28(a)(2), revised to reflect changes from sketch plan submittal phase.~~

~~(2) *General information.*~~

~~a. Name of subdivision; name, address, telephone number of the subdivider, subdivision designer, professional engineer and registered surveyor;~~

~~b. Date of survey and schematic plan preparation, north point and graphic scale;~~

~~c. Total acreage in tract, acreage in public or other land usage, total number of lots, linear feet in streets;~~

~~d. Names and location of adjoining subdivisions and streets;~~

~~e. Other supplemental materials or any deed restrictions or protective covenants for the subdivision and any other information considered by either the applicant or the DRC to be pertinent to the review of the ODP.~~

~~(3) *Existing site data.*~~

~~a. City limits lines (if any), property lines, rights of way, pavement widths, easements, streets, driveways, railroads, utility transmission lines, storm sewers, ditches and culverts, sanitary sewers, water mains, bridges, buildings, bulkhead and bulkhead lines;~~

- ~~b. Wooded, wetland, and 100 year flood plain areas, marshes, watercourses, ponds, and other similar conditions affecting the site;~~
- ~~c. Topography of the site at not more than two foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor;~~
- ~~d. Soil borings if required.~~

~~(4) Proposed site data.—~~

- ~~a. Street rights of way and pavement widths;~~
- ~~b. Other rights of way or easements;~~
- ~~c. Schematic plans of all underground utilities, including but not limited to sanitary sewers, storm sewers, water lines or electric lines if located underground; schematic details indicating proximity and/or connections to existing systems or proposals for development of new systems;~~
- ~~d. Proposals for dikes or any created water bodies or changed watercourses;~~
- ~~e. Locations of bulkheads and bridges, if any;~~
- ~~f. Typical lot dimensions;~~
- ~~g. Parks, school sites, and other public uses, if any;~~
- ~~h. Designation of areas to be used for purposes other than residential and public, if any;~~
- ~~i. Surface drainage patterns with direction of flow and method of disposal on site and off site;~~
- ~~j. Approximate spot elevations sufficient to indicate proposed grading of the streets and landscapes;~~
- ~~k. Plans and information required pursuant to all other applicable articles of this chapter;~~
- ~~l. Tentative construction schedule for the proposed development, including, if applicable, a tentative schedule for phasing construction, the date potable water facilities are needed to serve the proposed development and a commitment from the appropriate potable water provider, if other than the city, demonstrating that adequate capacity shall be available to service the proposed development at the time of impact as provided in chapter 86; provided, however, the level of service standards described in chapter 86 shall be adhered to by any potable water facility provider;~~
- ~~m. The date sanitary sewer facilities are needed to service the proposed development and a commitment from the appropriate sanitary sewer system provider, if other than the city, that adequate capacity shall be available to service the proposed development at the time of impact as provided in chapter 86; provided, however, the level of service standards described in chapter 86 shall be adhered to by any sanitary sewer provider.~~

Sec. 106-30. Preliminary plat and construction plan review.

- ~~(a) After issuance of an ODP the developer may file an application for a preliminary plat and construction plan (PPL) development order. The PPL shall be filed, processed and approved pursuant to sections 74.3 and 74.4 of this chapter. [Two application submittal processes are provided for Preliminary Plats:](#)~~
 - ~~(1) [Phased Developments.](#)~~

- a. In all cases involving phased developments, the applicant shall file a Preliminary Plat and Construction Plan and, upon receipt of the related Development Order, may then file a Final Plat application for the first phase of the project.
- b. No Final Plat application shall be filed until the Preliminary Plat (PP) and Construction Plan (CP) Development Order has been issued.
- c. Preliminary Plat and Construction Plan Development Orders shall be filed, processed and approved consistent with Sections 74-3 and 74-4 of this Land Development Code.
- d. Phased subdivisions applications shall include tables, illustrations, other ways to convey information that describe relevant geographic (i.e. boundary of phases), and measurable elements (i.e. number of lots) that pertain to each phase of the project and totals for the project as a whole, including those areas intended for public and private use.
- (2) Non-Phased Developments. For subdivisions that do not involve phased developments, the developer may bypass the requirement to file a Preliminary Plat application and proceed to file the Final Plat and Construction Plan Development Order, as provided in Section 106-31(a)(1)b.
- (b) All applicants who are prepared to submit a Preliminary Plat and Construction Plan application are strongly urged to participate in a pre-application meeting with City staff in order to discuss substantive issues related to the pending submittal.
- (b)c) The Preliminary Plat and Construction Plan application shall be consistent with ~~the approved ODP and the requirements of this chapter~~ this Land Development Code and all other applicable regulation.
- (1) Procedure and required submittals. The applicant shall provide the Planning and Development Services Department with a minimum of 8 hard copies of the Preliminary Plat and Construction Plan package (10 copies if the plat proposes to access a Volusia County roadway or is located in the Deltona North utility area), an electronic copy of the Preliminary Plat and Construction Plan package including a separate PDF for each plat sheet, and appropriate fee. ~~An application for preliminary plat and construction plan review, the proper fee, and sufficient copies of the exhibits, as determined by the Planning and Development Services Director or his/her designee, shall be filed with the Planning and Development Services Department. Exhibits~~ The application shall include:
- a. ~~General information~~ *The Preliminary Plat and Construction Plan format requires that:*
1. ~~All plans shall be submitted on 24" x 36" sheet sizes.~~
 - (i) ~~Construction plans shall be submitted on 24" x 36" sheet sizes~~ in a format approved by the ~~eCity e~~Engineer.
 2. ~~(ii) A preliminary plan~~ *Plats, submitted as a separate document from the Construction Plan, of the final plat shall be submitted in the same format as required for Final Plats by Florida Statute, Chapter 177, and by the applicable provisions of this chapter Land Development Code.*
 2. ~~A survey of the subject property prepared by a registered surveyor containing the legal description of the subject property and the surveyor's certificate of accuracy.~~
- b. *General information and General Notes.*
1. *A current, no older than two (2) years, at scale survey of the subject property prepared by a registered surveyor containing the legal description of the subject property, Property Appraiser's tax identification number(s), and the surveyor's certificate of accuracy. The legal description shall also be presented to the City as part of a Word file;*

2. A vicinity map at a scale not to exceed one inch equals 2,000 feet with sufficient information to locate a property in the field;
3. Name of the proposed subdivision; and the name, address, telephone number, and e-mail address of the applicant/owner, subdivision designer, professional engineer, and registered surveyor, and other members of the development team;
4. Date of survey and schematic plan preparation, north arrow, and graphic scale;
5. Total acreage in the tracts, acreage in public or other land usage, total number of lots, and the linear feet of streets;
6. Names and location of adjoining plats/subdivisions and lots, blocks and streets; including the plat book and page number as applicable;
7. Current zoning and existing uses of the subject property and of adjacent and surrounding properties; and
8. Other supplemental information requested by the Planning and Development Services Director or the DRC.

c. Existing Site Data – identify public and privately owned.

1. City limit lines (if applicable), property lines, easements, streets, easements, rights-of-way, cross sections, driveways, railroads, utility transmission lines, adjacent street and rights-of-way within 300-ft. of the site, storm sewers, ditches and culverts, sanitary sewer, potable water, and reuse water infrastructure, bridges, buildings, bulkheads;
2. Wooded, wetland and 100 year floodplain areas, marshes, predominant plant communities, watercourses, ponds, and other similar conditions affecting the site;
3. Identify plants and animals which inhabit the site that are listed as federal and state endangered species, threatened species, or species of special concern and known wildlife corridors;
4. Identify topography of the site at not more than one (1) foot vertical contour intervals based on mean sea level data furnished by a professional engineer or surveyor.
5. Identify specific soil types and their limitations for the planned use. Soil information is to be taken from the most recent soil survey or from soil borings, if required;
6. Identify known historic and archaeological sites.

bd. Proposed site data and construction details. —

1. Tentative construction schedule of the proposed development, including, if applicable, a tentative schedule for phasing construction;
2. The date potable water and sanitary sewer facilities are needed to serve the proposed development and a commitment from the appropriate potable water and/or sanitary sewer provider demonstrating adequate capacity shall be available to service the proposed development at the time of impact as provided in Chapter 86;
3. Engineering plans and locations for all utilities, including, but not limited to, sanitary sewer, storm sewers, water lines and electric lines (if located underground). Show connections to existing systems; stormwater detention or retention facilities or alternative stormwater control system; storm drainage and sewage disposal systems; storm and sanitary profiles; and, when present or proposed, cross sections, inverts, and top elevations of structures;

4. Information on essential services, including electric or gas services, including a commitment from the provider that adequate electric or gas service, where appropriate, will be available prior to issuance of the Development Order;
- ~~5.~~ 5. Street rights-of-way, pavement widths, grades and elevations, street names, plans, profiles, and, when requested by the city engineer, cross-sections. Street center line dimensions, scalar block and lot layouts, lot and block numbers;
- ~~6.~~ 6. Other rights-of-way or easements, including locations, dimensions and purposes;
7. Any deed restrictions, protective covenants, homeowner association/property owner association documents for the subdivision and any other information deemed necessary by either the applicant or the DRC;
- ~~3. Plans for all underground utilities, including but not limited to sanitary sewers; storm sewers; water lines; and electric lines, if located underground; showing connections to existing systems, or proposals for developing new water supply; storm drainage; and sewage disposal systems; storm and sanitary profiles; and, when required by the city engineer based on site conditions, cross sections; and inverts and top elevations of structures.~~
- ~~48.~~ 48. Contour changes, dikes or any created water bodies or changed watercourses;
- ~~59.~~ 59. Bulkheads and bridges; engineering plans, and cross-sections;
- ~~6. Street center line dimensions, scalar block and lot layouts, lot and block numbers.~~
10. Parks, school sites, common areas, and other public uses, if any;
- ~~711.~~ 11. Areas to be used for purposes other than residential and public; and with the purposes, location and dimensions of each indicated;
12. Areas reserved for natural resources protection, conservation easements, tree protection areas, open space, etc. Natural and/or preservation areas shall not be used for stormwater management;
13. Surface drainage patterns with direction of flow;
- ~~8. Information on essential services, including electric or gas services, including a commitment from the provider that adequate electric or gas service, where appropriate, will be available prior to issuance of the development order pursuant to the comprehensive plan.~~
- ~~914.~~ 14. Location, type, and description of proposed erosion and sedimentation controls. At a minimum, Stormwater management and Best Management Practices during construction; to include the following:
- ~~i. For proposed developments greater than or equal to one acre or to developments less than one acre that are part of a larger common plan of development, a draft copy of the NPDES Generic Construction NOI (Notice of Intent) and SWPP (Stormwater Pollution Prevention Plan) shall be submitted to the city. The location, type, and description of all proposed erosion and sedimentation controls (i.e., silt fences, synthetic hay bales, etc.).~~
 - ~~ii. Requirement that erosion control inspectors for project are Florida State Certified~~ Fuel storage areas.
 - iii. Concrete washout areas.
 - iv. Temporary construction entrance and fire apparatus access roadway details.

- v. Areas where construction waste and material storage have the potential to impact stormwater runoff.
- vi. Dewatering areas and the associated discharge points with turbidity limits.
- vii. For proposed developments greater than or equal to one acre or developments less than one acre that are part of a larger common plan of development, a draft or final copy (if applicable) of the site construction generic permit (CGP) notice of intent (NOI), to be submitted to the City.
- viii. Other information, as deemed necessary by the City.

(2) *Developer's option to commence construction.*

a. *Phased Development:* The developer may elect to commence ~~site development~~construction of the subdivision after the ~~PPL Preliminary Plat and Construction Plan~~ eDevelopment eOrder has been issued. ~~and may at the same time apply for a final plat (FPL) development order or may apply for a FPL development order prior to commencement of construction.~~

~~(3) Development permits required prior to commencement of construction. No construction shall commence nor shall an application for a FPL development order be accepted unless a PPL development order has been issued. If the developer elects to commence site development construction prior to or concurrently with Final pPlat approval, he/she shall notify in writing the Planning and Development Services Director or his/her designee of that intention. The Planning and Development Services Director or his/her designee shall then issue a development permit authorizing the commencement of site development construction pursuant to consistent with the approved eConstruction pPlans, provided the approval process for all other permits adheres to applicable from local, regional, state, and federal, state or regional agencies have been issued laws.~~

(3) DRC review. The DRC shall review and take final action on all Preliminary Plat and Construction Plan applications, to ensure compliance with the provisions of the Land Development Code.

(4) 100 year flood zone. If a 100 year flood zone is present on-site, as defined by the Federal Insurance Rate Maps (FIRM), the DRC shall recommend that development and related investment be directed away from this flood zone or other mitigation measures as deemed appropriate.

(5) Appeal DRC decision to the City Commission. If the applicant is aggrieved by the DRC's decision, he/she may request an appeal to the City Commission. Appeals must be filed with the Planning and Development Services Department within twenty (20) working days following the transmission of the DRC's decision to the applicant and must specify the points of disagreement and basis for the disagreement.

Sec. 106-31. Final pPlat eReview.

- (a) ~~After the PPL development order has been issued pursuant to section 106-30, the developer may submit an application for a FPL development order.~~ No improvements, including streets, shall be accepted and maintained by the eCity unless and until the Final Plat (FPL) has been approved by the eCity eCommission, and has been duly recorded by the Volusia County Clerk of the Circuit Court, ~~County of Volusia, Florida~~. The eClerk shall record only those Final Plats FPL's that which have been submitted for recording by the Planning and Development Services Director or his/her designee.

(1) *Procedures.*

a. *Phased Developments:* For phased developments an application for a Final Plat and Development Order shall be filed, processed and approved pursuant to Section 74-4 of this Land Development Code. The submittals shall be consistent with the issued Preliminary Plat and Development Order and shall include any conditions.

a1. The developer shall submit ~~as the FPL~~ an application for a Final Plat only for that portion of the property with an approved Preliminary Plat ~~which the subdivider proposes to record and develop at the time. Such and that~~ portion of the site shall conform to all requirements of this Chapter.

b2. The developer shall submit an appropriate number of ~~copies~~ blue-line prints, as determined by the Planning and Development Services Director or his/her designee, of the ~~Final Plat~~ to the Planning and Development Services Department.

e3. The ~~FPL~~ Final Plat shall be prepared by a currently registered land surveyor at a scale of one inch equals 100 feet, or ~~such~~ other scale approved by the City Engineer. All ~~FPL's~~ Final Plats shall be prepared on standard sheet sizes as required by F.S. Ch. 177, as amended, and shall be 22 inches by 28 inches, including a three-inch binding margin on the left side and a one-inch margin on the other three sides.

b. *Non-Phased Developments:* For non-phased developments an application for a Final Plat and Construction Plan Development Order shall be filed, processed and approved consistent with Sections 74-3 and 74-4 of this Land Development Code. In addition to the required submittals of Section 106-31(a)(2), the application for a Final Plat and Construction Plan Development Order shall include all items required under Sections 106-30(c)(1)c. (*Existing Site Data*) and 106-30(c)(1)d. (*Proposed site data and construction details*). All applicants who are prepared to submit a Final Plat and Construction Plan application are strongly urged to participate in a pre-application meeting with City staff in order to discuss substantive issues related to the pending submittal.

(2) *Required submittals.*

a. The following information shall be shown on the submittals:

1. Name of the subdivision, date of the survey, north ~~point~~ arrow, and graphic scale.
2. A vicinity map drawn at scale of one inch equals ~~400~~ 2,000 feet, or other scale deemed appropriate by the City Engineer.
3. Names and locations of all adjoining ~~or interior~~ subdivisions, City limit lines, bulkhead lines, property lines, rights-of-way and easements.
4. Accurate location and legal description of all monuments, markers and control points. The legal description of the property being platted shall appear on sheet 1 of the Final Plat.
5. Sufficient horizontal and vertical survey data to readily ~~determine~~ identify and reproduce on the ground every onsite straight or curved boundary line, lot line, right-of-way line, easement line, bulkhead line and setback line, including, but not limited to, linear dimensions, bearings or deflection angles, radii, arcs, ~~and~~ central angles, top of slope, slope angle, bottom of slope, points of curve, points of reverse curve, points of tangent, and other commonly used survey features. All dimensions shall be measured to the nearest one-hundredth of a foot and all angles to the nearest second of a degree.

6. ~~The purpose of~~ All proposed rights-of-way, easements and areas to be dedicated to public use ~~with the purpose of each stated.~~
 7. Areas to be used for purposes other than residential and public, if any, with the purpose, location and dimensions of each indicated.
 8. Lot and block numbers, street names and all right-of-way or easement widths.
 9. Signed certificates shall appear on sheet 1 of all ~~FPL's~~ Final Plats. The following signed certificates shall be completed on the FPL Final Plat prior to submission: dedication, joinder and consent to dedication, all required acknowledgements, certificate of surveyor, certificate of approval by eCity registered land surveyor (RLS), certificate of approval by eCity eCommission, and certificate of approval by land development manager and certificate of clerk.
 10. The FPL Final Plat shall include ~~such~~ additional information as may be required by F.S. ch. 177, as amended.
- b. The following information shall be provided on sheets separate from the FPL Final Plat:
1. Name, address and telephone number of the ~~subdivider~~ owner, subdivision designer, professional engineer, registered surveyor, abutting property owners, and mortgagees of the property.
 2. A title opinion which meets the requirements of F.S. ch. 177, as amended.
 3. Any deed restrictions or protective covenants, with the appropriate filing fees.
 4. ~~Such e~~ Engineering plans to include: cross sections, plan and profile drawings of streets, bulkheads, bridges, sidewalks, water distribution systems, water treatment plants, sewerage collection systems, sewage treatment plants, and storm sewer systems as required by the eCity.
 - ~~5. A filing fee, payable to the Clerk of the Circuit Court of Volusia County, for recordation of the FPL.~~
 6. A tax receipt or statement confirming that all current and previous taxes have been paid in accordance with F.S. § 197.0152, as amended.
- c. If the developer elects to construct the improvements after the issuance of the FPL Final Plat, the following information shall be provided in addition to subsections 106-31(a)(2)a. and b.:
1. A signed and sealed professional engineer's estimate of the total construction cost or a signed contract which encompasses all proposed improvements.
 2. A performance guarantee in accordance with subsection 96-76(a).
 - ~~3. All items required in subsection 106-31(a)(2)d.1. through 4. must be provided after subdivision improvements have been completed.~~
- d. Upon completion of construction of the required improvements, the following information shall be provided in addition to subsections 106-31(a)(2)a. and b.:
1. A signed and sealed professional engineer's certification of the constructed improvements and the total construction cost. If fire hydrants were installed, the professional engineer must certify that the water distribution system of the development meets the National Fire Protection Association capacity requirements for fire hydrants.

2. A maintenance agreement in the form of cash or letter of credit in the amount of fifteen (15%) percent of the total construction cost that is acceptable to the city's legal department City Attorney and the eCity eEngineer.
3. ~~Two~~Three (3) sets of bond copies and a CD with AutoCAD and Portable Document Format (PDF) of the mylar as-built construction plans signed and sealed by the professional engineer which encompass all required improvements. ~~If the as built construction plans were prepared on an appropriate CAD system, t~~ The applicant shall also provide the Planning and Development Services Director or his/her designee an electronic version of the approved 'as built' plans using a software platform acceptable to the City, such computer disks to the Planning and Development Services Director or his/her designee.
4. ~~Adequate test reports signed and sealed by a professional engineer, as required by the city engineer, and to assure that all improvements substantially meet city standards and specifications. Test reports prepared by an independent testing laboratory qualified to perform test(s) specific to the development, as accepted by the City Engineer, in order to ensure that all improvements are in compliance with City standards and specifications.~~

(3) *Recording requirements.*

~~a. Recording period. No plat may be recorded except during the effective period of an FPL.~~

~~ba. Platted dedications.~~ All streets, alleys, easements, rights-of-way, parks, school sites and public areas shown on an accepted and recorded plat, unless otherwise stated, shall be deemed to have been dedicated or granted, as appropriate, to the public for ~~the uses~~ by of the public. The recorded plat shall constitute, unless otherwise stated, an acceptance of said offer to dedicate, grant or reserve. Reservations must be clearly indicated as such, and must include the word "reservations."

~~eb. Necessary documents.~~ Prior to recording, an applicant shall furnish the eCity with those documents necessary to evidence and ensure compliance with ~~such~~ requirements, standards, restrictions or conditions of this chapter as requested by the eCity. ~~Such~~These documents ~~may shall~~ include, but are not limited to, bonds or other security, agreements, restrictive covenants, deeds and easements, ~~if evidence of compliance with such requirements, standards, restrictions or conditions is not appropriately contained in the development order or on and recorded with~~ the ~~f~~Final pPlat to be recorded.

~~dc. Recordation of plats.~~ Plats shall be recorded in the following manner:

1. ~~Following City Commission approval, All fees, documents, the original plat and three mylar copies of the plat shall be submitted~~the developer/applicant shall submit the original mylar plat signed by the developer/applicant, and one paper copy of the approved plat to the Planning and Development Services Director or his/her designee. The applicant shall provide to the City an appropriate electronic version of the plat in a format approved by the Planning and Development Services Director or his/her designee. The developer/applicant shall then transmit the ~~be~~ be required to comply with all applicable provisions of F.S. Ch. 177, City Code, and any related conditions of approval by the City of Deltona. The developer/applicant shall record the Final Plat at Volusia County Clerk of the Circuit Court within twenty (20) working days following City Commission approval of the Final Plat. fees and documents to the clerk of the circuit court, hereinafter referred to as the clerk. The clerk shall, thereafter, transmit notice of completion of filing to the Planning and Development Services Director or his/her designee. Also, if the application was prepared on an appropriate CAD system,

~~the applicant shall provide such computer disks to the Planning and Development Services Director or his/her designee.~~

2. The Planning and Development Services Director shall sign the original mylar plat and arrange for the ~~one mylar copy of the~~ plat ~~will to~~ be signed by the Mayor and City Registered Surveyor, ~~retained by the clerk. One mylar copy of the recorded plat shall be retained by the DAD, and the other mylar copy of the recorded plat will be returned to the applicant.~~ The Final Plat, completely signed by all parties, shall be transmitted to the developer/applicant for processing and recordation at Volusia County Clerk of the Circuit Court.
3. The applicant will provide the City with two (2) hard copies of the recorded plat. Note that the Volusia County Clerk of the Circuit Court will retain the original mylar and will require one (1) mylar copy for their internal records.
4. Upon receipt of a copy of the recorded Final Plat, the Planning and Development Services Director or his/her designee will issue a Final Plat Development Order to the applicant that is consistent with Section 106-26 of this Chapter and other applicable provisions. In cases where related infrastructure has not been built or received final inspection, such infrastructure shall be bonded in accordance with Section 96-76.
35. ~~No plat of lands in the eCity subject to these regulations shall be recorded, whether as an independent instrument or by attachment to another instrument entitled to record, unless and until ~~such the Final p~~ Plat has been approved by the eCity eCommission and ~~an FPL~~ all appropriate signatures have been affixed to the plat ~~has been issued.~~~~

Sec. 106-32. Vacation of platted subdivisions.

- (a) The City Commission of the City of Deltona may adopt resolutions vacating plats in whole or in part of recorded subdivisions in the eCity returning the property covered by ~~such these~~ plats either in whole or in part into acreage. Before ~~such~~ resolutions ~~ofto~~ vacate~~ing~~ any plat either in whole or in part ~~shall beare~~ entered by the eCity eCommission, it must be shown that the persons making application for ~~such the~~ vacation own the fee simple title to the whole or that part of the tract covered by the plat sought to be vacated, and it must be further shown that the vacation will not adversely affect the ownership or right of convenient access of persons owning other tracts or parts of the subdivision, or properties that are accessed through such subdivision.
- (b) Persons making application for vacation of plats, either in whole or in part shall give notice of their intention to apply to the eCity eCommission to vacate ~~such the~~ plat by publishing legal notice in a newspaper of general circulation in ~~the Volusia eCounty in which the tract or parcel of land is located,~~ in not less than two (2) weekly issues of ~~such the~~ paper, and must attach to the petition for vacation and the proof of ~~such~~ publication, together with certificates showing that all state and county taxes have been paid.
- (c) ~~Every such r~~Resolution by the eCity eCommission shall have the effect of vacating all streets and alleys which have not become highways necessary for use by the traveling public. ~~Such A~~ vacation shall not become effective until an original or a certified copy of ~~such the related~~ resolution has been filed in the offices of the ~~Volusia County circuit court eClerk of the Circuit Court~~ and duly recorded in the public records of ~~such~~ Volusia eCounty.
- (d) The owner of any land subdivided into lots may ~~file for~~ record a plat for the purpose of showing ~~such the subject~~ land as acreage. ~~Such This~~ plat and the procedure ~~in connection therewith,~~ shall conform to the requirements of F.S. eChapters 163 and 177, except that:

- (1) No survey or certificate of any surveyor or engineer shall be required. However, the eCity eCommission may require a survey of the exterior boundaries of the land and the placing of suitable monuments along ~~such~~the boundaries if it finds that the last preceding survey of record is faulty or inadequate or that insufficient monuments are in position along ~~such~~these boundaries.
- (2) No improvements shall be required except ~~such~~as may be necessary to provide equivalent access, as provided in this section.
- (3) No findings need be made ~~as to~~for the suitability of the land or as to the provision of public facilities and services ~~for it~~.
- ~~(e) The city commission may, on its own motion, order the vacation and reversion to acreage of all or any part of a subdivision within its jurisdiction, including the vacation of streets or other parcels of land dedicated for public purposes of any such streets or other parcels when:~~
- ~~(1) The plat of the subdivision was recorded as provided by law not less than five years before the date of such action; and~~
- ~~(2) In the subdivision or part thereof, not more than ten percent of the total subdivision area has been sold as lots by the original subdivider or his successor in title.~~
- ~~(f) Such action shall be based on a finding by the city commission that the proposed vacation and reversion to acreage of subdivided land conforms to the comprehensive plan of the area and that the public health, safety, economy, comfort, order, convenience and welfare will be promoted thereby. Before acting on a proposal for vacation and reversion of subdivided land to acreage, the city commission shall hold public hearing thereon, with due public notice.~~
- ~~(g) If land in a subdivision or part thereof is proposed for reversion to acreage either at the instance of the city commission or by filing a plat by the owner, and such land is subject to existing zoning regulations, the city commission shall, upon recommendations as to zoning, where such agency exists concurrently with the proceedings for vacation and reversion to acreage, or for consideration of an action on such plat, conduct provisable in view of the conditions that will exist subsequent to such reversion to acreage.~~
- ~~(h) No owner of any parcel of land in a subdivision shall be deprived by the reversion to acreage of any part of the subdivision of reasonable access to such parcel or of reasonable access therefrom to existing facilities to which such parcel has therefore had access. Such access remaining or provided after such vacation need not be the same as that theretofore existing, but shall be reasonably equivalent thereto.~~
- ~~(i) Every such resolution or motion to vacate plat and reversion to acreage by the city commission shall not become effective until the original or a certified copy of such resolution or motion has been filed and recorded in the office of the clerk of the circuit court of the county, and the clerk of the circuit court shall thereupon make proper notation of such resolution or motion on such vacated plat.~~

Note: Some amendments to Chapter 110 merely change the reference from Chapter 74 to reflect the new Chapter 75 of the Land Development Code. Sections that only change references from Chapter 74 to Chapter 75 are not listed below.

Chapter 110 ZONING*

ARTICLE III. ESTABLISHMENT OF CLASSIFICATIONS AND OFFICIAL ZONING MAP

Sec. 110-307. R1-AAA, AA, A, and R1, Single-family classifications.

(e) Dimensional requirements.

R1-AAA, AA, A, and R1 Single-Family	R1-AAA	R1-AA	R1-A	R1	R1 (Arbor Ridge Subdivision)
Minimum lot size					
Area (sq. ft.)	20,000	12,000	9,500	7,400	5,000
Width (ft.)	100	90	80	75	45
Minimum yard size					
Front yard(ft.)	25	25	25	25	25
Front yard abutting an arterial or collector street (ft)	30	30	30	30	30
Rear yard (ft.)	10	10	10	10	10
Side yard (ft.)	6	6	6	6	6
Side street yard (ft.)	25	25	25	25	25 15
Waterfront (ft.) ⁽¹⁾	25	25	25	25	25
Maximum building height (ft.)	35	35	35	35	35
Maximum lot coverage (with principal and accessory buildings)(%)	35	35	35	35	35
Minimum floor area (sq. ft.)	1,400	1,400	1,400	1,200	1,200
Accessory Structures Minimum Setbacks (ft.)					
Front yard (ft.) ⁽²⁾	<i>Not permitted</i>				
Rear yard (ft.)	10	10	10	10	10
Interior side yard (ft.)	6	6	6	6	6
Side street yard back-to-back existing SFR structures (ft.) ⁽²⁾	15	15	15	15	15
Side street yard with existing house adjacent to a vacant lot ⁽²⁾	25	25	25	25	25
Side street yard adjacent to the existing front yard of a developed lot ⁽²⁾	25	25	25	25	25
Side street yard abutting an arterial or collector street ⁽²⁾	25 30				

⁽¹⁾ 25 feet from the rear property line or the ordinary high water mark, whichever is most restrictive (110-818).

(2) Accessory buildings and structures, other than lawn ornaments and fences built in accordance with this chapter, shall not be located in the front yard forward of the edge of the principal dwelling, or ~~in~~beyond any side street yard setback on lots of less than 2.45 acres. On lots of 2.45 acres or more, accessory uses and structures other than swimming pools and their decks may be located in the front yard and side street yard past the main building line provided they are set back a minimum of 100 feet from the front yard and the side street yard and 75 feet from any interior side lot line. (Sec. 110-827(c)(1)d.)

ARTICLE II. INTERPRETATION

Sec. 110-319. PUD, Planned Unit Development.

- (a) *Purpose and intent.* The purpose and intent of the PUD Planned Unit Development classification is to provide for integrated and innovative developments, which are consistent with the eComprehensive pPlan, in order to advance our City's economic growth potential and promote a more balanced and effective development pattern~~so as to promote a mixture of housing costs and types and economical and orderly development consisting of a single or of a mixture of compatible land uses.~~ FurtherIn addition, it is intended that a proposed development be sensitive to existing adjacent and future land uses as depicted by the ~~fFuture~~ lLand ~~uUse~~ Mmap of the eComprehensive pPlan, the natural environment and the impact upon supporting public infrastructure through such mechanisms as, but not limited to, the establishment of appropriate buffer areas between land uses, limitations upon the types of permissible uses, and structures ~~which~~that are to be permitted in the development.

The PUD ~~Planned Unit Development~~ classification has been divided into four (4) sub-classifications for land uses of. ~~These sub-classifications are~~ residential, business, industrial and mixed use. ~~Further regulations applicable to all planned unit developments are located in section 110-813 et seq., of this chapter.~~

PUDs that~~Residential Planned Unit Developments (RPUD), Business Planned Unit Developments (BPUD), and Industrial Planned Unit Developments (IPUD) which~~ were in existence prior to the effective date of this eChapter [November 16, 1998] shall continue in accordance with their original approval ~~by the city commission,~~ and shall be deemed to be lawful conforming land uses. To the extent of any specific amendment to these ~~aforsaid~~ PUD's, ~~said~~the amendment must comply with the requirements of this ordinanceChapter. Terms previously used in ~~said~~said the approved PUD's may continue to be employed.

- (b) *Permitted principal uses and structures.* The permitted principal uses and structures shall be those agreed upon by the eCity eCommission~~and are dependent upon which sub-classification is requested.~~

A Residential Planned Unit Development ~~shall~~will be indicated ~~by~~on the Official Zoning mMap with the symbol RPUD. The permitted uses within an RPUD may be ~~those applied from found in~~ any of the residential zoning classifications of this eChapter and shall be, ~~provided that said uses are~~ listed in the dDevelopment aAgreement, and depicted as part of the PUD plan. All uses shall be ~~have been~~ approved by the eCity eCommission.

A Business Planned Unit Development ~~shall~~will be indicated ~~by~~on the Official Zoning mMap with the symbol BPUD. The permitted uses within a BPUD may be applied from~~those found in~~ any of the business oriented zoning classifications of this eChapter and shall be, ~~provided that said uses are~~ listed in the dDevelopment aAgreement, and depicted as part of the PUD plan. All uses shall be ~~have been~~ approved by the eCity eCommission.

An Industrial Planned Unit Development ~~shall~~will be indicated ~~by~~on the Official Zoning Map ~~may~~with the symbol IPUD. ~~The~~The permitted uses within an IPUD may be ~~applied from those found in any~~applied from those found in any of the ~~Industrial~~Industrial zoning classifications of this ~~e~~eChapter ~~and shall be, provided that said uses are~~and shall be, provided that said uses are listed in the ~~d~~dDevelopment ~~a~~aAgreement, ~~and depicted as part of the PUD plan. All uses shall be -and~~and depicted as part of the PUD plan. All uses shall be -and ~~have been~~have been approved by the ~~e~~eCity ~~e~~eCommission.

A Mixed Use Planned Unit Development ~~shall~~will be indicated ~~on the -by the~~on the -by the Official Zoning Map ~~with the -may~~with the -may symbol MPUD. The permitted uses within an MPUD may consist of any of the uses as approved by the ~~e~~eCity ~~e~~eCommission ~~within a mixed-use development program format that is consistent with the City's Comprehensive Plan, including the Mixed Use Development matrix, and achieves both residential and non-residential uses. Residential uses shall be at a proposed density that is complementary to the non-residential development and shall be incorporated into the project, so that development of the residential component of the master development program is achieved.~~

~~A Planned Unit Development within the Deltona Activity Center as identified in the Deltona Comprehensive Plan, shall be limited to the land uses permitted in the MF, PB, C 1, C 2, and I classifications. Multi family residential land uses shall only be proposed as a component of an office residential development, and shall not exceed 30 percent of the land area of the PUD.~~

(c) *Dimensional requirements.*

(1) *Minimum parcel size.* To utilize the PUD zoning process, the minimum parcel size shall be one (1) acre.

~~Area:~~

~~Residential only: Five acres.~~

~~Business only: 1.5 acres.~~

~~All others: One acre.~~

(d) *Minimum lot area and yard requirements.* Minimum lot sizes, width, and yard areas shall be described in the ~~d~~dDevelopment ~~a~~aAgreement. In determining yard sizes, the ~~e~~eCity ~~e~~eCommission shall consider whether or not the proposed PUD will have adverse effects upon adjoining properties. ~~Factors which may be considered in determining yard sizes include, but are not limited to, existing and future land uses, lot size, and buffer requirements.~~

(e) *Intensity/Density.* The floor area ratio (FAR) or total number of dwelling units per acre of land shall be calculated and described in the ~~d~~dDevelopment ~~a~~aAgreement, and shall not ~~permit on the site a number of dwelling units that~~exceeds the ~~range~~maximum number of dwelling units that are permitted by the underlying future land use category ~~in of~~in of the adopted ~~Deltona~~Deltona Comprehensive Plan. A Comprehensive Plan amendment may be needed prior to the proposed PUD zoning action.

(f) *Landscape buffer requirements.* A landscape buffer area meeting or exceeding the minimum requirements of section 110-808 shall be constructed. ~~As peripheral landscaped buffer areas are expanded, the minimum amount of required landscaping materials shall be increased, at minimum in the same proportion as the increase in the area of the landscaped buffer zone. Due to the fact that the~~PUD process is undertaken as a uniform master development program, a landscape plan is required that shows the proposed perimeter buffer yard widths, level of opacity for screening from adjacent land uses, internal landscape buffers between parcels and within parcels, foundation landscaping, entryway and common area landscaping, and proposed plant material. The proposed landscape plan shall meet or exceed standards established in Section 110-808 of this Code.

(g) *Off-street parking and loading requirements.* Off-street parking and loading areas ~~shall meeting~~shall the requirements of ~~s~~sSection 110-828 ~~of this Code shall be constructed.~~of this Code shall be constructed. No waivers or modifications of ~~the~~the minimum required number of off street parking and loading spaces shall be permitted in the

~~developer's agreement for any PUDs. No reduction of the minimum required pervious surface area, landscaped area, or numbers of plants shall be permitted in the developer's agreement for any PUD. However, creative designs that meet or exceed the minimum required pervious surface area, landscaped area, and/or amount of landscaping materials may be permitted. Creative designs that meet or exceed the minimum number of required parking spaces and dimensional requirements for parking facilities may be permitted.~~

- (h) *Transportation impact analysis report: Purpose.* ~~The~~ A transportation impact analysis report is designed to identify the transportation impacts and problems, which are likely to be generated by a proposed use, because of size, density, traffic, generation rates, or location. The report will also identify all improvements required to ensure safe ingress and egress from a proposed development, maintenance of adequate street capacity, and elimination of hazardous conditions and improvements necessary for immediately surrounding roadways and intersections, as a result of the property development.
- (i) *Thresholds for traffic impact and analysis report.* A transportation impact analysis (TIA) report shall be required for any project that is anticipated to generate in excess of 1,000 trips per day, as defined by the current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual or if a PUD is located in an area that has traffic safety or congestion concerns. The contents of the transportation impact analysis report shall, at a minimum, be consistent with a locally accepted methodologies. ~~unless waived by the director of development services upon consultation with a qualified traffic engineer employed or contracted by the city, for any use which, according to the Institute of Transportation Engineers Trip Generation Manual, latest edition, rates published by the Florida Department of Transportation or rates documented by study and agreed to prior to use by the director of development services or his or her duly authorized representative, will generate in excess of 1,000 trips per day. The contents of the transportation impact analysis report shall meet the requirements of section 110-821.07.~~
- (j) *Types of signs permitted.* Signs are permitted in accordance with the requirements of ~~the Deltona Sign Code~~ Chapter 102, Code of Ordinances, as it may be amended from time to time. No variances or waivers of ~~minimum~~ Deltona Sign Code requirements may shall be authorized. ~~in the developer's agreement, development order, or ordinance for any PUD.~~
- (k) Planned Unit Development regulations. The following regulations apply to all Planned Unit Developments (PUDs):
- (1) Unified ownership. All land within the PUD shall be under the ownership of one entity, either by deed, agreement for deed or contract for purchase. PUD applicants shall present either an opinion of title by an attorney licensed in Florida or a certification by an abstractor or a title company, authorized to do business in Florida, that, at the time of initial application, unified ownership of the entire area within the proposed PUD is in the name of the applicant, or contract seller. Unified ownership shall thereafter be maintained until after the recording of the Development Agreement and Master Development Plan.
 - (2) Utility distribution lines. All utility distribution lines within an RPUD and the residential portions of a MPUD shall be located underground, where possible. Aboveground utility connections may be permitted where there is hardship, as determined by the City Engineer, and the permissibility shall be recorded in the Development Agreement.
 - (3) Open space requirements. A minimum of 25 percent of the open space shall be designated as common open space. Common open space shall meet the following standards:
 - a. Its location, shape, size and character shall be illustrated on the PUD plan.

b. It shall be dedicated to and maintained by a HOA or POA. Maintenance guarantees shall be included in the Development Agreement.

(4) Procedure for rezoning to PUD.

a. Pre-application stage. A pre-application meeting shall be conducted before a PUD rezoning application can be accepted. After the pre-application meeting, a conceptual plan may be submitted for review and comment prior to filing the application for rezoning.

1. Pre-application meeting. The pre-application meeting is intended to provide for an informational exchange between the applicant and the administrative staff and will be arranged by the Planning and Development Services Department. No fee shall be charged. The applicant need not submit any plans or other information. However, the more information provided to staff for the proposed PUD will assist staff in providing guidance. At a minimum, the applicant will be advised of the PUD procedures and requirements, forms, application materials, guidelines, checklists, the Comprehensive Plan, zoning and other land development regulations. This information will be made available at a reasonable cost.

2. Written Development Agreement (DA). As part of the PUD plan, a written Development Agreement shall be prepared, following a general format supplied by the Planning and Development Services Department at the pre-application meeting. The DA, along with the PUD plan, shall govern the development of the PUD and shall regulate the future use of the land. The DA shall include any statements or information requested by any reviewing department or agency at the pre-application meeting, such as:

aa. Evidence of unified ownership and control.

bb. Statement agreeing to:

1) Proceed with the proposed development according to all regulations;

2) Provide appropriate performance and maintenance guarantees;

3) Follow all other provisions of this Chapter to the extent not expressly inconsistent with the written DA, and bind the applicant's successors in title to his commitments.

cc. The acreage and percentage of the total land area devoted to each of the proposed land uses.

dd. Maximum density for each type of dwelling.

ee. Maximum building heights.

ff. Minimum building spacing and floor areas.

gg. Lot sizes, yard areas and buffer areas, including perimeter buffers.

hh. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.

ii. Statement regarding ingress/egress controls to the site.

jj. Statement regarding any road improvements to be made and the thresholds for the traffic impact analysis.

kk. When the PUD is planned for phase development, a schedule of the phases.

ll. The proposed language of any covenants, easements or other restrictions.

mm. Environmental considerations.

nn. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.

- b. Master Development Plan (MDP). After the pre-application meeting, a MDP shall be submitted to the Planning and Development Services Department. When submitted, written comments on the MDP shall be made within twenty (20) business days by the Planning and Development Services Department and any other departments. The Planning and Development Services Department shall coordinate this review. A MDP shall indicate general land use categories and the approximate height, location, architectural character and site intensities/density of dwelling units, and other structures. The MDP shall show the proposed street layout, approximate street widths, school sites, open space areas, parks, existing structures, natural/conservation areas, floodplain areas (if applicable), total acreage and the existing zoning. Finally, the MDP shall include a vicinity map, and any other salient information deemed appropriate by the applicant.
- c. RPUD application stage. A completed and signed application for rezoning to a RPUD, together with a PUD Master Development Plan, Development Agreement, and all related fees shall be submitted to the Planning and Development Services Department. If a rezoning applicant desires concurrent review under the Land Development Code, the applicant shall state it at the time of application, and shall submit any additional applications and information as required by those regulations.

The RPUD Master Development Plan shall consist of an illustrative plan and a written Development Agreement. Those documents shall include the following information:

1. RPUD plan exhibits. The plan shall consist of the following:

- aa. Name of project and name, address, telephone number of the developer and his professional project engineers, architects, planners, etc.
- bb. The date the plan was drawn, its scale, and a north arrow.
- cc. Names and location of adjoining streets and names of abutting property owners.
- dd. Legal description of property, boundary survey and the location of all existing streets, buildings, railroads, bulkhead lines, easements, and other important features on or adjoining the property.
- ee. The general topography and physical conditions of the site, including natural areas of vegetation and type, general soil types, wetland areas, 100-year floodplain areas, watercourses, water bodies, and natural drainage patterns.
- ff. Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.
- gg. General feasibility plans for potable water, sewage disposal, and stormwater drainage.
- hh. Approximate location and area encompassed for each proposed land use within the development.
- ii. Approximate location and size of common open space.
- jj. Additional material, maps, studies, or reports deemed necessary by any reviewing department or agency.

d. *BPUD, IPUD or MPUD requirements: application stage.* An application for rezoning to BPUD, IPUD or MPUD, together with a PUD Master Development Plan, Development Agreement, and all related fees set at the pre-application meeting, shall be submitted to the Planning and Development Services Department. If an applicant for rezoning desires concurrent review under the Land Development Code Ordinance No. 96-25 as it may be amended from time to time, the applicant shall so state at the time of application and shall submit any applications and additional information as required by those regulations. The Master Development Plan shall include:

1. *BPUD, IPUD, and MPUD plan exhibits.* The Master Development Plan shall be drawn to an appropriate engineers scale to include the location and boundary of the site referenced by the legal description and boundary survey; the date the plan was drawn, its scale, and a north arrow; and the name, address and telephone number of the developer and his professional project engineers, architects and planners. In addition, the MDP shall include all of the following, if applicable:

- aa. The approximate size and location of all proposed buildings and other structures, the specified use of buildings and structures may be indicated, if known.
- bb. Generalized off-street parking and loading plans, including circulation plans for vehicular movement.
- cc. Driveway and access controls, including number and approximate location of driveways.
- dd. Approximate location, size and description of open spaces, landscaped areas, or buffers.
- ee. Approximate location and size of all easements, rights-of-way, or drainage facilities and structures.
- ff. Approximate boundary lines and dimensions of parcels proposed to be subdivided.
- gg. The general topography and physical conditions of the site, including features such as water bodies, wooded areas, wetland areas, vegetation types, soils, 100-year floodplain areas, and steep grades or depressions on the site.
- hh. General location of signs.
- ii. Environmental considerations.
- jj. Any other conditions of development, specifications, limitations, constraints, standards or proposed physical features not specifically included in items a. through h. above.

(5) *Post-approval stage.*

- a. *Recording PUD plan.* After City Commission approval of the rezoning application to PUD, the Master Development Plan, and the written Development Agreement, both signed by the Mayor, and attested by the City Clerk, shall be recorded in the public records of Volusia County, Florida, by and at the expense of the applicant.
- b. *Subdivision and/or Final Site Plan approval.* After the MDP and Development Agreement is recorded, a subdivision and/or Final Site Plan applications shall be prepared and submitted in the manner required by the Land Development Code.
- c. *Construction.* During permitting and construction, the Enforcement Official shall enforce compliance with the approved Final Site Plan or the Final Plat.

d. Amendments. Minor amendments not altering the intent and purpose of the approved Master Development Plan or Development Agreement may be approved by the appropriate Enforcement Official after departmental review and comment. Examples of minor amendments include de-minimis design oriented changes to landscaping, parking or building elevation. PUD amendments that are determined to be major revisions to the MDP and/or DA will need to be reviewed and processed under Section 110-1101 of the Land Development Code. Major amendments can be described as materially altering proposals that involve changes of uses, density/intensity, reconfiguration of lots, etc.

ARTICLE VIII. SUPPLEMENTARY REGULATIONS

Sec. 110-806. Fences, walls and hedges.

~~Fences, walls and hedges may be permitted in any yard area, provided:~~

~~(a) No fence, wall, hedge or other continuous planting shall be erected, placed or maintained on any lot line within any front yard or within the side street yard setback in residential areas more than four feet in height measured from the natural contour of the ground of adjoining lots or the particular lot (whichever is lower). Fences, walls and hedges, except those fences whose opacity of 25 percent or less erected to meet the requirements of the Florida Building Code as it may be amended from time to time, shall not exceed four feet in height when erected on an atypical, waterfront, or golf course lot rearward of the rearmost point of the principal structure. Fences, walls and hedges in other rear and side yards shall not exceed six feet in height. On vacant lots, the permitted fencing is the same as that for developed lots in the same zoning district. Razor wire, barbed wire, chicken wire, and electric fences are prohibited in residential zoning districts or development, except that electric fences to contain horses are permitted in the RE-5 and RE-1 zoning districts where lots are 2.45 acres or larger and horses are present on the lots.~~

~~(b) Non-conforming fences lawfully permitted prior to January 20, 2004 may be replaced in its originally permitted location with an issued building permit. The homeowner shall present evidence to the building official of prior permitting, such as copies of original building permit; or copies of a survey showing fence at permitted location dated prior to December 31, 1995; or one (1) sworn affidavit that a lawful building permit for the fence was obtained by the homeowner and one (1) sworn affidavit from a person, other than the homeowner, that the fence existed in the location prior to January 20, 2004.~~

~~(c) Retaining walls shall not exceed the above height limitations measured on the high side of the property.~~

~~(d) This section shall not be applied to any commercial or industrial classifications or the RP Resource Protection or P Public use classifications.~~

a) Purpose and Intent. Fences, walls, and hedges are a recognized method to establish property boundaries, provide a level of privacy and security, and contain domesticated animals. However, fences, especially along roads, can alter the streetscape where vistas associated with the open space and natural characteristics of the City are diminished. In addition, fencing along roads can harmfully impact pedestrian and motorist safety by impeding sightlines and visibility. The requirements of this section are intended to ensure that the benefits of fencing, walls, and hedges remain an option while protecting the scenic characteristics of the City and maintaining a level of safety for the traveling public.

b) A fence permit is required prior to building or installing any fence or wall within the City of Deltona.

- c) Walls erected in accordance with this Section shall meet the requirements of the Florida Building Code, as amended.
- d) Materials.
- 1) Fences or walls, may be constructed of wood, chain link, masonry, concrete, vinyl, or wrought iron.
 - 2) Agricultural fencing such as razor wire, barbed wire, chicken wire, and electric fences are prohibited in residential zoning districts or development, except that electric fences to contain horses are permitted in the RE-5 and RE-1 zoning districts where lots are 2.45 acres or larger and horses are present on the lots.
- e) Height and Setback Requirements. The measurement of fence, wall, and hedge height shall be taken from the natural contour of the ground of adjoining lots or the particular lot (whichever is lower). Refer to Section 70-30 (Definitions) for graphic illustration of yard areas.
- 1) Front Yard. Fences, walls, and hedges no higher than four (4) feet may be erected, placed, or maintained within any front yard.
 - 2) Rear Yard. Any fence or wall constructed along the rear property line shall not exceed six (6) feet in height. For fence height and setback requirements on waterfront and golf course lots refer to Section 110-806(g).
 - 3) Side Yard. Any fence or wall constructed along a side lot line between properties shall not exceed six (6) feet in height.
 - 4) Side Street Yard. Any fence or wall constructed along a side street yard shall not exceed six (6) feet in height and may be placed within the side street yard, as allowed below, in order to facilitate greater use of the yard:
 - a. The nearest exterior wall of the dwelling;
 - b. The side street setback line; or
 - c. The side street accessory structure setback line for the R1-AAA, AA, A, and R1 per Section 110-307(e).
- f) Residential fences shall be constructed with the finished side facing outward from the property. Fence posts and support beams shall be on the side of the fence facing away from the neighboring property.
- g) Fences, walls, and hedges on waterfront, or golf course lot. On waterfront or golf course properties, fences, walls, and hedges constructed along the rear property line and within that portion of the side lot lines located within the rear yard shall comply with the following:
- 1) Up to four (4) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or more shall not exceed four (4) feet in height above natural grade.
 - 2) Up to six (6) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or less shall not exceed six (6) feet in height above natural grade.
 - 3) Fences shall be built with a uniform percentage of opacity.
- h) Fences, walls, and hedges on vacant lots. On vacant lots, the permitted fencing is the same as that for developed lots in the same zoning district. On vacant corner lots, fences, walls, and hedges shall be located only within the minimum allowable setback area. If a dwelling is added later, the fence, wall or hedge may need to be relocated with possible height adjustments to meet code requirements.
- i) Non-conforming fences. Unless it is integral or a necessary part of another structure, whether principal or accessory, at such time that an entire fence on a property is destroyed or planned to be replaced, the

property owner shall obtain a building permit and locate the new fence in accordance with the provisions of the City Code. In cases where the fence is integral or a necessary part of the structure noted above, the type, size, and location of the fence may be replaced in-kind.

j) The above regulations also apply to residential uses within non-residential zoning districts.

k) This section shall not be applied to any agricultural, commercial, industrial, Resource Protection (RP), Public (P) use classifications, or any publicly used property.

Sec. 110-808. Landscaping requirements.

(m) Modification of development standards for site plan approval.

- (1) This section is established to provide standards and procedures for the granting of administrative modifications of development standards. The modification of standards is specifically intended to promote high standards for ~~f~~Final ~~s~~Site ~~p~~Plan reviews under ~~e~~Chapter ~~7574, article II~~, Code of Ordinances, ~~—~~, as it may be amended from time to time, to provide flexibility in the administration of standards in recognition of site specific conditions, and to establish conditions to ensure compatibility, where standards are modified.

Sec. 110-809. Mobile home.

(a) General requirements. The following regulations apply to mobile home parks:

- (7) ~~Final ~~s~~Site ~~p~~Plan ~~d~~Development ~~e~~Order required.~~ A ~~f~~Final ~~s~~Site ~~p~~Plan ~~d~~Development ~~e~~Order for new parks and expansion of existing parks, meeting the requirements of ~~e~~Chapter ~~7574, article II~~, Code of Ordinances, as it may be amended from time to time, shall have been issued prior to commencement of construction. Prior to issuance of any building permit for any sale of the mobile homes in the park, construction of the required improvements shall have been completed in accordance with ~~e~~Chapter 96, ~~a~~Article III, Code of Ordinances, as it may be amended from time to time.

Sec. 110-813. ~~Planned unit development regulations~~Reserved.

~~The following regulations apply to all planned unit developments (PUD) unless the specific type (i.e. RPUD, MPUD, BPUD, or IPUD) is otherwise referenced.~~

~~*(a) Unified ownership.* All land within the PUD shall be under the ownership of one person, either by deed, agreement for deed or contract for purchase. PUD applicants shall present either an opinion of title by an attorney licensed in Florida or a certification by an abstractor or a title company, authorized to do business in Florida, that, at the time of initial application, unified ownership of the entire area within the proposed PUD is in the applicant, or contract seller. Unified ownership shall thereafter be maintained until after the recording of the master development plan or final plat.~~

~~*(b) Commercial uses in an MPUD.* Commercial uses and structures shall be located and designed primarily to serve the needs of the MPUD residents. Commercial areas should normally be located in an area accessible only from streets within the MPUD. When commercial uses or structures are approved as part of an MPUD, the commercial operation shall not begin until certificates of occupancy have been issued for all dwelling units in the total project, unless otherwise provided in the development agreement.~~

~~(c) *Utility distribution lines.* All utility distribution lines within the PUD shall be located underground; however, those appurtenances requiring aboveground installations may be exempted by the city commission.~~

~~(d) *Open space requirements.* Sixty percent of an RPUD project or the residential portion of an MPUD containing residential uses shall be open space. A minimum of 35 percent of the open space shall be designated as common open space. Common open space shall meet the following standards:~~

- ~~(1) It shall be dedicated to and usable by all residents of the RPUD/MPUD.~~
- ~~(2) Its location, shape, size and character shall be illustrated on the master development plan.~~
- ~~(3) Maintenance guarantees shall be approved by the city commission.~~

~~(e) *Procedure for rezoning to PUD.*~~

~~(1) *Pre application stage.* A pre application meeting is required before a PUD rezoning application can be accepted. After the pre application meeting, a sketch plan may be submitted for review and comment prior to filing the application for rezoning.~~

~~a. *Pre application meeting.* The pre application meeting is intended to provide an opportunity for an informational exchange between the applicant and the administrative staff. It will be arranged by the Planning and Development Services Department. No fee shall be charged. The applicant need not submit any plans or other information; however, the more information, such as sketch plans, proposed land uses, site information, adjacent land uses, and proposed density, that the applicant does submit, the more complete the responsive comment can be. As a minimum, the applicant will be advised of the usual procedures and requirements. Forms, application materials, guidelines, checklists, copies of the comprehensive plan, and of the zoning and subdivision regulation, will be made available at a reasonable cost.~~

~~b. *Sketch plan.* After the pre application meeting, a sketch plan may be submitted to the Planning and Development Services Department. If submitted, written comments on the sketch plan shall be made by the growth management department and any other interested departments within 30 days. The growth management department shall coordinate this review. If submitted, a sketch plan shall indicate general land use categories and the approximate height, location, architectural character and density of dwellings, and other structures. The sketch plan shall also show the tentative major street layout, approximate street widths, sites of schools, open space areas and parks, existing structures, waterways, wooded areas, wetlands, floodplain areas (if applicable), total acreage and existing zoning. Finally, it shall include a vicinity map, and any other information deemed appropriate by the applicant.~~

~~Written comments on the sketch plan are informational only and are subject to change after a more detailed review of the rezoning application.~~

~~(2) *RPUD application stage.* An application for rezoning to RPUD, together with a master development plan (MDP) and such application fees as are set at the pre application meeting, shall be submitted to the Planning and Development Services Department. If a rezoning applicant desires concurrent review under the land development code, he shall so state at the time of application, and shall submit any additional information required by those regulations.~~

~~The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:~~

~~a. *Preliminary plan exhibits.* The preliminary plan shall consist of the following:~~

- ~~1. Name of project and name, address, telephone number of the developer and his professional project engineers, architects and planners.~~
 - ~~2. The date the plan was drawn, its scale, and a north arrow.~~
 - ~~3. Names and location of adjoining streets and names of abutting property owners.~~
 - ~~4. Legal description of property, boundary survey and the location of all existing streets, buildings, railroads, bulkhead lines, easements, and other important features in or adjoining the property.~~
 - ~~5. The general topography and physical conditions of the site, including natural areas of vegetation and type, general soil types, wetland areas, 100-year floodplain areas, watercourses, water bodies, and natural drainage patterns.~~
 - ~~6. Conceptual configuration of proposed streets, which depict access into and traffic flow within the development, with particular reference to the separation of vehicular traffic from pedestrian or other types of traffic.~~
 - ~~7. General feasibility plans for potable water, sewage disposal, and stormwater drainage.~~
 - ~~8. Approximate location and area encompassed for each proposed land use within the development.~~
 - ~~9. Approximate location and size of common open space.~~
 - ~~10. Such additional material, maps, studies, or reports subsequently deemed necessary by any reviewing department or agency.~~
- ~~b. *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the Planning and Development Services Department at the pre-application meeting. The development agreement, along with the preliminary plan, shall govern the development of the PUD and shall regulate the future use of the land. The development agreement shall include any statements or information requested by any reviewing department or agency at the pre-application meeting, such as:~~
- ~~1. Evidence of unified ownership and control.~~
 - ~~2. Statement agreeing to:

 - ~~a) Proceed with the proposed development according to all regulations;~~
 - ~~b) Provide appropriate performance and maintenance guarantees;~~
 - ~~c) Follow all other provisions of this chapter to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his commitments.~~~~
 - ~~3. The acreage and percentage of the total land area devoted to each of the proposed land uses.~~
 - ~~4. Maximum density for each type of dwelling.~~
 - ~~5. Maximum building heights.~~
 - ~~6. Minimum building spacing and floor areas.~~
 - ~~7. Lot sizes, yard areas and buffer areas, including perimeter buffers.~~
 - ~~8. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.~~

~~9. When the PUD is planned for phase development, a schedule of the phases.~~

~~10. The proposed language of any covenants, easements or other restrictions.~~

~~11. Any additional information or statements subsequently deemed necessary by any reviewing department or agency.~~

~~(3) *BPUD, IPUD or MPUD application stage.* An application for rezoning to BPUD, IPUD or MPUD, together with a master development plan (MDP) and such application fees as are set at the pre-application meeting, shall be submitted to the Planning and Development Services Department. If an applicant for rezoning desires concurrent review under the land development code Ordinance No. 96-25 as it may be amended from time to time, he shall so state at the time of application and shall submit any additional information required by those regulations. The master development plan shall consist of a preliminary plan and a written development agreement. Those documents shall include the following information:~~

~~a. *Preliminary plan exhibits.* The preliminary plan shall be drawn to an appropriate engineers scale to include the location and boundary of the site referenced by the legal description and boundary survey; the date the plan was drawn, its scale, and a north arrow; and the name, address and telephone number of the developer and his professional project engineers, architects and planners. In addition, the preliminary plan shall include all of the following, if applicable:~~

~~1. The approximate size and location of all proposed buildings and other structures, the specified use of buildings and structures may be indicated, if known.~~

~~2. Generalized off street parking and loading plans, including circulation plans for vehicular movement.~~

~~3. Driveway and access controls, including number and approximate location of driveways.~~

~~4. Approximate location, size and description of open spaces, landscaped areas, or buffers.~~

~~5. Approximate location and size of all easements, rights of way, or drainage facilities and structures.~~

~~6. Approximate boundary lines and dimensions of parcels proposed to be subdivided.~~

~~7. The general topography and physical conditions of the site, including features such as water bodies, wooded areas, wetland areas, vegetation types, soils, 100 year floodplain areas, and steep grades or depressions on the site.~~

~~8. General location of signs.~~

~~9. Any other conditions of development, specifications, limitations, constraints, standards or proposed physical features not specifically included in items a. through h. above.~~

~~b. *Written development agreement.* In addition to a preliminary plan, a written development agreement shall be prepared, following a general format supplied by the Planning and Development Services Department at the pre-application meeting. The development agreement, along with the preliminary plan, shall govern the development of the BPUD, MPUD or IPUD and shall regulate the future use of the land. The development agreement shall include the following information:~~

~~1. Evidence of unified ownership and control.~~

~~2. Statement agreeing to:~~

- ~~a) Proceed with the proposed development according to all regulations;~~
- ~~b) Provide appropriate performance and maintenance guarantees;~~
- ~~e) Following all other provisions of this chapter to the extent not expressly inconsistent with the written development agreement, and bind the applicant's successors in title to his commitments.~~
- ~~3. A listing of the land uses agreed upon in each component of the BPUD, MPUD or IPUD.~~
- ~~4. Maximum building heights.~~
- ~~5. Minimum building spacing and floor areas.~~
- ~~6. Lot sizes, yard areas, and buffer areas, including perimeter buffers.~~
- ~~7. Statement regarding ingress/egress controls to the site.~~
- ~~8. Statement regarding any road improvements to be made and the thresholds for the traffic impact analysis.~~
- ~~9. Statement regarding the disposition of sewage and stormwater, and arrangements for potable water.~~
- ~~10. When the BPUD, MPUD or IPUD is planned for phase development, a schedule of the phases.~~
- ~~11. The proposed language of any covenants, easements or other restrictions.~~
- ~~12. Any additional information or statements subsequently deemed necessary by any reviewing department or agency~~

~~(f) Post approval stage. —~~

- ~~(1) *Recording MDP.* After city commission approval of the rezoning application to PUD, the preliminary plan, and the written development agreement, both signed by the mayor, and attested by the city clerk, shall be recorded in the public records of Volusia County, Florida, at the expense of the applicant.~~
- ~~(2) *Final site plan approval.* After the MDP is recorded, a final site plan shall be prepared and submitted in the manner required by the land development code, Ordinance No. 96-25, as it may be amended from time to time. If the PUD includes a subdivision required to comply with the land development code, preliminary and final plats of the subdivision portion may be submitted in lieu of the final site plan, for review and approval as governed under the land development code.~~
- ~~(3) *Construction.* During construction, the zoning enforcement official shall enforce compliance with the approved final site plan or the final plat.~~
- ~~(4) *Amendments.* Minor amendments not altering the intent and purpose of the approved master development plan may be approved by the zoning enforcement official after such departmental comment as he deems appropriate.~~

Sec. 110-815. ~~Final site plan~~Reserved.

~~*Procedure.* Where final site plan is required by this chapter, it shall be submitted to the Planning and Development Services Department. An approved final site plan shall expire as provided in chapter 74, article I, section 74-4(i), Code of Ordinances as it may be amended from time to time.~~

Sec. 110-817. Conditional uses.

The following uses or structures are permitted as conditional uses only when listed as permitted conditional uses in article III and meet all requirements as set forth in article XI.

(a) Public utility uses and structures.

(2) A ~~f~~Final ~~s~~Site ~~p~~Plan meeting the requirements of ~~e~~Chapter ~~7574, article II~~, Code of Ordinances, as it may be amended from time to time, is required.

(o) Excavations.

(2) The following requirements and conditions must be met for any non-exempt excavation. A non-exempt excavation requires a Conditional Use to this ~~e~~Chapter and issuance of a permit in accordance with the ~~f~~Final ~~s~~Site ~~p~~Plan procedures of ~~e~~Chapter ~~7574, article II~~, Code of Ordinances, as it may be amended from time to time.

a. Each application for a special exception shall be accompanied by plans, drawings, and information prepared by a Florida registered engineer depicting, at a minimum:

1. Existing and proposed topography at one-foot contour interval. Such topography shall extend a minimum of 150 feet beyond the top of the bank of excavation.
2. Proposed side slopes and depths, which meet these minimums:

All sides of the excavated area shall, at a minimum, comply with the following:

- a) One foot vertical for each six (6) feet horizontal to a depth of ten (10) feet below the dry season water table elevation, unless waived by the City eCommission.
- b) For depths greater than ten (10) feet below the dry season water table elevation, the slope may be one-foot vertical for each one-foot horizontal.

Notwithstanding ~~s~~Section 110-806 of this ~~z~~Zoning ~~e~~Ordinance, any excavation in excess of the aforementioned slope shall be enclosed by a six-foot-high chain link fence approved by the Planning and Development Services Department ~~which~~and shall include a gate that shall be closed and locked at all times ~~when~~during which the excavation pit is not in use. ~~Said f~~Fencing shall be completely installed prior to initiation of the excavating activity and shall remain in place, ~~unless determined otherwise by the City engineer division~~, until the excavation is satisfactorily reclaimed, as determined by the City Engineer or his/her designee.

3. Wet and dry season water elevations and the existing surface drainage pattern.
4. Notwithstanding any other minimum yard sizes required by this ~~e~~Chapter, the top of the bank of an excavation shall be set back one hundred fifty (150) feet from the following ~~minimum distance~~:
 - a) ~~One hundred fifty feet from t~~The right-of-way of any public street, road, or highway.
 - b) ~~One hundred fifty feet from a~~butting residential or mobile home classified property.
 - c) ~~One hundred fifty feet from a~~ny other abutting property.
 - d) ~~One hundred fifty feet from a~~ny natural or man-made surface water body, watercourse, or wetland.
5. Perimeter landscape buffers in which, at a minimum, are 50 feet in width. Said buffers shall be established prior to initiation of the excavating activity and shall meet the requirements of ~~s~~Section 110-808(b)(1).

6. The area and amount of material to be excavated in cubic yards. A discussion of the proposed method of excavation shall be provided.
7. The proposed method of dewatering.
8. The time, duration, phasing and proposed work schedule of the total project.
9. A detailed reclamation plan, drawn to an acceptable scale, and program to be performed upon completion of the project. As a minimum, the plan of reclamation shall include:
 - a) Time, duration, phasing and proposed work schedule of the reclamation.
 - b) Depiction of finished, stabilized, side slopes, including methods and plant materials proposed for use. For a wet excavation, a littoral zone is required to be established around the resultant water body. The specifications of said zone shall be determined in conjunction with the Planning and Development Services Department, in accordance with the administrative policies and procedures established by that department. The establishment, to the fullest extent practical, of sinuous shorelines is required.
 - c) Landscape plan for the portion of the property disturbed by excavation and associated activities, including an inventory of plant/tree species to be used.
 The reclamation plan must be approved by the ~~e~~Development ~~r~~Review ~~e~~Committee.
 - d) The resultant artificial water body shall comply with the standards established by the St. Johns River Water Management District and other appropriate agencies. Said water bodies may be required to be stocked with fish. Ambient water quality testing may also be required.
10. A hydro-geologic report, prepared by a qualified engineer or hydrologist, of the proposed excavation-site. ~~Such a~~The report shall, at a minimum, provide:
 - a) A detailed description of subsurface conditions.
 - b) A groundwater contour map.
 - c) A map depicting the thickness and depths of material to be excavated.
 - d) A discussion of the environmental impacts of the proposed excavation, including but not limited to the impact of the proposed excavation upon existing area wells.
 - e) A recommendation of the necessity to install monitoring wells.
11. The proposed location of access points to the site and proposed haul routes for disposal of excavated material. Vehicular access to and from excavations shall be designated by the ~~council~~City Commission at the time of approval of the special exception.
12. Proposed plans for fencing and signs.
13. A statement from the applicant identifying all other federal, state and local permits required, if any.
- b. The bottom of any reclaimed excavation should be graded to allow all water to drain to a sump area not less than 15 feet by 15 feet (225 square feet). The bottom of the excavation shall be graded in a fashion which will not cause water to accumulate in stagnant pools. The bottom of excavations shall be uniformly graded to prevent anoxic sinks.
- c. Whenever the City of Deltona of Public Works Department determines that the use of any ~~e~~City or ~~e~~County right-of-way designated by the applicant for ingress and egress to and from the excavation-site will be subject to excessive deterioration resulting in the breakdown of the subsurface and base of ~~such~~that right-of-way, the applicant may be required to agree to

provide the eCity with funds in the amount necessary to mitigate the adverse impact upon the right-of-way ~~which that~~ is caused by the excavation operation and to ensure that ~~said the~~ roadway is maintained in a satisfactory condition. In the case of roads maintained by the eCounty, the applicant may be required to ~~come to execute~~ an agreement with the eCounty ~~about how the to mitigate~~ adverse impacts ~~will be mitigated. In furtherance of this The~~ agreement with either the eCity or the eCounty, or both, the excavator may be required by the City eCommission to post an acceptable performance bond, irrevocable letter of credit, or funds in escrow in the amount up to 100 percent of the estimated reconditioning costs, as estimated by the City's Public Works dDepartment of public works.

- d. All excavations, as applicable, shall be reclaimed in accordance with the rules of the State of Florida Department of Natural Resources, Division of Resource Management, as found in ~~chapters 16C 36 and 16C 39, the~~ Florida Administrative Code. The requirements of this chapter shall not relieve a person from complying with the above said state rules, as applicable. Should the requirements of this eChapter conflict with said sState rules, the stricter reclamation and restoration requirements shall govern.
- e. All reclamation activities shall be initiated at the earliest possible date. Reclamation of the site concurrent with excavation activities is encouraged, provided that the reclamation activities will not interfere with the excavating activity or if the excavating activity will damage the reclaimed areas.
- f. All temporary structures shall be removed from the premises upon completion of the excavation activity, unless said structures are of sound construction ~~and~~ are compatible with the reclamation goals. Said structures shall be accurately depicted upon the approved reclamation plan.
- g. Whenever it is determined that reclamation of the excavation pit is required at the termination of the project, in order to prevent soil erosion, adverse effects on eCity or eCounty-maintained rights-of-way or natural drainage patterns, to protect the natural environment surrounding the excavation pit or to protect the character and value of surrounding property, the eCity eCommission may require an acceptable performance bond, funds in escrow, or irrevocable letter of credit in the amount of 100 percent of the estimated cost of reclamation. ~~Said The~~ cost shall be derived using the proposed plan of reclamation. ~~Said The~~ bond or letter of credit shall be conditioned so that the excavation and reclamation shall be in accordance with the approved reclamation plan.
- h. No person may engage in the business of being an excavator, until ~~such that~~ person has secured an occupational license in accordance with the eCity and eCounty occupational license requirements.
- i. No excavator may excavate a parcel of land until he or she shall obtain an excavation permit issued by the Planning and Development Services Department in accordance with the terms of this eChapter prior to any excavation being made on the property to be excavated.
- j. The excavation shall not be used for the disposal of foreign material without prior approval from the Planning and Development Services Department, and, when required, the eCounty eEnvironmental mManagement department Division, and the Florida Department of Environmental Regulation Protection and without obtaining all appropriate federal, state and local permits.
- k. The excavation shall comply with the tree protection requirements specified by eChapter 98, ~~a~~Article II, Code of Ordinances, as it may be amended from time to time, and the eCity noise ordinance, Ordinance No. 96-15 [eChapter 38, ~~a~~Article III, Code of Ordinances], as it may be amended from time to time.

- l. If upon the conclusion of public hearings the Conditional Use is approved, ~~f~~Final ~~s~~Site ~~p~~Plan approval is required, as specified by ~~e~~Chapter ~~7574, article H~~, Code of Ordinances, as it may be amended from time to time, ~~is required~~.
- m. Off-site discharge is prohibited.

Sec. 110-827. Accessory Uses and Structures

(c) Design standards.

- (1) In all residential zoning districts for single family projects only, accessory buildings, antennas and their supporting structures, and swimming pools shall be subject to the following requirements:
 - a. Swimming pools shall be allowed only in the rear and side yards.
 - b. Transmission towers for amateur radio antennas and their supporting structures shall be allowed in accordance with Chapter 82, Communication Antennas and Towers, Code of Ordinances of the City of Deltona, Florida, as it may be amended from time to time, and shall meet the standards as set forth in Chapter 82, ~~d~~Division 2, Code of Ordinances, except that on single family residential and agricultural lots of five acres or more amateur radio antennas and their supporting structures shall be permitted uses up to a height of 199 feet measured from the finished grade at the base of the tower, and shall be set back from the nearest property line a distance equal to the height of the antenna plus the tower (i.e. the fall radius).
 - c. The zoning lot coverage for all accessory buildings and structures on a zoning lot shall be included as part of the calculation of maximum impervious areas for the particular zoning district in which the use is located. However, only half of the surface area of swimming pool basins (not including surrounding deck area) shall be considered impervious surface.
 - d. Accessory buildings and structures, other than lawn ornaments and fences built in accordance with this chapter, shall not be located in the front yard forward of the edge of the principal dwelling, or ~~in~~ beyond any side street yard setback on lots of less than 2.45 acres. On lots of 2.45 acres or more, accessory uses and structures other than swimming pools and their decks may be located in the front yard and side street yard past the main building line provided they are set back a minimum of 100 feet from the front yard and the side street yard and 75 feet from any interior side lot line.

ARTICLE XII. PLANNING AND ZONING BOARD

Sec. 110-1202. Powers and duties.

- (a) *Designation as local planning agency.* The ~~b~~Board is hereby designated as the City's ~~H~~Local ~~p~~Planning ~~a~~Agency (LPA), as required by the Local Government Comprehensive Planning and Land Development Regulation Act, ~~s~~Section 163.3161 et seq., and ~~s~~Section 163.3174, Florida Statutes. ~~The board shall prepare, or cause to be prepared, the elements of the comprehensive plan required in section 163.3177, Florida Statutes, and any other appropriate elements, and shall make recommendations regarding the comprehensive plan to the city commission.~~ The ~~b~~Board shall have the general responsibility for adherence to the ~~conduct of the e~~Comprehensive ~~p~~Planning program. The ~~b~~Board and the ~~e~~Comprehensive ~~p~~Planning program shall comply with all requirements of the Local Government Comprehensive Planning and Land Development Regulation Act and the Board shall monitor and oversee the effectiveness and status of the ~~e~~Comprehensive ~~p~~Plan, and recommend

to the eCity eCommission such changes in the eComprehensive pPlan, as may from time to time, ~~be required.~~ The bBoard shall perform any other duties assigned by the eCity eCommission, and may prepare and recommend to the eCity eCommission any other proposals to implement the eComprehensive pPlan.

(b) *Designation as land development regulations commission.* The bBoard is hereby ~~also~~ designated as the City's Hand development regulations eCommission in accordance with the provisions of the Local Government Comprehensive Planning and Land Development Regulations Act, ~~s~~Section 163.3161, et seq., and Section 163.3194, Florida Statutes. The bBoard shall develop and recommend to the eCity eCommission land development regulations that implement the eComprehensive pPlan and review land development regulations or amendments thereto for consistency with the adopted eComprehensive pPlan.

~~(c) *Annual Work Program.* The board shall receive recommendations from the Planning and Development Services Department regarding an annual work program. Following receipt of those recommendations, the board shall prepare an annual work program for recommendation to the city commission. The work program shall include an estimated budget for its implementation. The work program shall be in a format developed by the staff and approved by the city manager. The city manager and the city commission shall determine the priorities given the individual items in the work program in the proposed annual budget and in the adopted budget, respectively.~~

~~(d) *Five year capital improvements program and annual capital improvements budget.* The board shall review the city's proposed capital improvements plan and budget, and make recommendations on capital budget priorities to the city commission annually. This review shall require one public hearing with due public notice. This public hearing shall be conducted in accordance with the requirements of subsection 163.3181(3), Florida Statutes, as it may be amended from time to time. The proposed five-year capital improvements plan is mandated by the Local Government Comprehensive Planning and Land Development Regulation Act, chapter 163, part II, Florida Statutes, and shall be developed annually for presentation to the board by an interagency capital improvements committee chaired by the director of development services. The capital improvements committee shall consist of the director of development services; the director of finance and internal services; the director of public works; the assistant city manager or other staff person charged with senior management responsibility for parks and recreational facilities; the fire chief; and such other members as may be appointed by the city manager. The city manager shall determine the priorities and recommended funding levels given to the planning and zoning board's recommended capital improvements budget for the capital improvements program and budget annually proposed to the city commission. The city commission shall determine the priorities and funding given to the recommendations of the board and the city manager for the adopted capital improvements program and budget.~~

~~(e) *Applications and proposals requiring public hearings.* The Planning and Zoning Board shall review all applications and proposals to be transmitted to the City Commission for a vote on the following items: Prior to the transmittal of an application or proposal to the city commission, the board shall hold one public hearing with due public notice on the following applications and proposals, whether initiated by the city or by other applicants:~~

- (1) Plan amendments, including future land use map amendments;
- (2) Zoning map changes;
- ~~(3) Changes to the city's zoning ordinance or a proposed new zoning ordinance;~~
- ~~(4) Changes to the city's sign ordinance or a proposed new sign ordinance;~~
- (5) Changes to the Hand development eCode or a proposed new Hand development eCode, including subdivision regulations;

- (64) Planned unit developments;
- (75) Conditional uses;
- (86) Zoning variances;
- (97) Amendments to the approved capital improvements program or budget;
- (108) The establishment of, or changes to established, community development districts;
- (119) Changes to ~~or~~ proposed architectural design standards;
- ~~(12) Changes to or proposed landscaping ordinances, tree preservation ordinances, or environmental protection ordinances;~~
- (1310) Proposed ~~d~~Development ~~a~~Agreements created pursuant to the "Florida Local Government Development Agreement Act";
- (1411) Proposed ~~d~~Developments of ~~R~~regional ~~I~~mpact (DRI); ~~and~~
- ~~(15) Development review final site plans for buildings over 30,000 square feet in area under heating and cooling or developments over 15 dwelling units per acre; and~~
- (1612) Proposed Final Plat subdivisions containing more than 200 lots.

When reviewing applications and proposals requiring public hearings, the Board shall consider the following criteria, as applicable, per application and proposal:

- (1) Consistency with the City's Comprehensive Plan;
- (2) Consistency with adopted ordinances, relevant laws, and zoning regulations;
- (3) Land use compatibility, neighborhood character, community safety, land uses for function and aesthetics, and the physical ability to construct or alter a site;
- (4) Impacts of the development on the natural environment including flora, fauna, and other natural resources;
- (5) Public facilities and services (i.e. water, sanitary sewer, parks, schools, fire, police, etc.); and
- (6) Transportation systems.

~~The board shall review all such applications for consistency with the adopted comprehensive plan, for consistency with the purposes and intent of this chapter or of the ordinance proposed to be amended, and for the ability of the application to meet the standards for approval of the application that are contained in the relevant laws and ordinances governing the application's approval. The board shall also consider:~~

- ~~(1) Noise, vibrations, odor, glare, shadows, or visual impacts on the neighborhood and adjoining properties.~~
- ~~(2) Any impacts on environmentally sensitive lands or natural resources, including but not limited to water bodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants or animal species or species of special concern, wellfields, and individual wells;~~
- ~~(3) Adequacy of public facilities to serve the development, including but not limited to roads, sidewalks, bikepaths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreational facilities, and public schools;~~
- ~~(4) On site and off site traffic impacts, pedestrian safety and adequate access and egress for city service and emergency vehicles;~~
- ~~(5) Use of space from a functional and aesthetic perspective;~~

~~(6) Safety of occupants, visitors, and the surrounding neighborhood;~~

~~(7) Proposed use of materials and architectural features in relationship to neighborhood or surrounding area character, and aesthetic considerations.~~

(fd) Advisory recommendations to the Ceity eCommission. The bBoard shall make a recommendation to the eCity eCommission by formal written approved motion of the bBoard as to the conclusion of the bBoard's review that an application or proposal should be considered by the eCity eCommission for approval, approval with specific conditions recommended by the bBoard, or denial. The bBoard's recommendation shall be transmitted to the eCity eCommission with all related information through the esta**bl**ished City Commission agenda process.~~staff reports, an index and executive summary of the staff reports prepared by the Planning and Development Services Department, a summary of written materials submitted by the public for consideration at the board's public hearing, a summary of public comments at the hearing, and the complete application or proposal.~~

(ge) Applications and proposals exempt from bBoard review. Planning and zZoning bBoard review shall not be required for amendments to eCity ordinances that are initiated by the staff or the eCity eCommission to correct grammar and spelling errors, change fees as set by the City Commission, change the organization of the ordinances with no content changes, or change processing procedures when mandated by sState sStatutes.~~, provided such changes do not affect consistency with the comprehensive plan, the use of land, or change the meaning of the adopted regulations.~~



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 8 - B
SUBJECT: Public Hearing - Ordinance No. 01-2014, Tractor Supply Company Amendment to the Official Zoning Map (RZ13-007), at first reading and to schedule second and final reading.

LOCATION:

Located at 890 SR 415; northeast of the intersection of SR 415 and Howland Boulevard, along the west side of SR 415.

BACKGROUND:

The City of Deltona received an application to amend the Official Zoning Map from the Volusia County classification of Rural Residential (RR-C) to the City's C-1 Retail Commercial zoning designation. The proposed area to be rezoned is approximately five (5) acres that are currently vacant and wooded. There are plans for a Tractor Supply Company retail store to be located at this location that follows the prototype of the recently constructed in Mims, Florida.

The subject property was annexed into the City in 2004. In 2006, a County future land use designation of Urban Low Intensity was changed to a City Commercial designation. As part of the Future Land Use Map Amendment process, the Volusia Growth Management Commission (VGMC) conditionally approved the change to City Commercial to include a limitation on intensity with a 0.22 floor area ratio (FAR) and a limitation on the number of curb cuts along SR 415. The proposed conditions will be adhered to by the applicant with this development.

The subject property is also dependant upon the vacation of the 2nd Addition to the Carnell Plat, an antiquated subdivision, which occurred on December 16, 2013. The applicant is working with the City and the underlying property owner (Pell) to create a 50-ft. wide cross-access easement along the Tractor Supply Company site's southern boundary. Finally, the ordinance and application was reviewed by the City's Planning and Zoning Board at the December 18, 2013, meeting and the Board recommended that the City Commission approve Ordinance No. 01-2014

with the conditions that there be no access to Sandlor Drive to the north, there be screening and buffering along the north side of the Tractor Supply Company site, there be directional lighting away from the residences along Sandlor Drive, and there is a fence installed along the north side of the Tractor Supply Company site. The applicant has agreed to accommodate those conditions and will also provide additional landscape buffer width that exceeds the minimum Code requirements. Finally, the item was continued, date-certain, from the January 6, 2014, City Commission public hearing to the January 21, 2014, City Commission public hearing.

ORIGINATING DEPARTMENT:

Planning and Development Services

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

City Attorney, Finance Director, Planning Director

STAFF RECOMMENDATION PRESENTED BY:

Chris Bowley, AICP, Director of Planning and Development Services - Staff recommends that the City Commission approve Ordinance No. 01-2014, for the rezoning of approximately five (5) acres from Rural Residential (RR-C) to the City's C-1 Retail Commercial (Project RZ13-007), at first reading and to schedule second and final reading.

POTENTIAL MOTION:

"I move to approve Ordinance No. 01-2014, for the rezoning of approximately five (5) acres for Rural Residential (RR-C) to the City's C-1 Retail Commercial (Project RZ13-007), at first reading and to schedule second and final reading."

AGENDA ITEM APPROVED BY:

William D. Denny, City Manager

ATTACHMENTS:

- Ordinance No. 01-2014
- Staff Report 110113

ORDINANCE NO. 01-2014

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, BY AMENDING THE OFFICAL ZONING MAP FOR THE FOLLOWING PROPERTY: A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 19 SOUTH, RANGE 32 EAST AND BEING (A PART OF LOTS 14 THROUGH 25, BLOCK 203), (LOTS 1 THROUGH 8, AND PART OF LOTS 9 THROUGH 16, BLOCK 403), AND (LOT 1, AND PART OF LOTS 2, 3, 5 AND UN-NUMBERED LOT IN BLOCK 601), TOGETHER WITH PORTIONS OF VACATED 1ST STREET EAST, 2ND STREET EAST AND PORTIONS OF VACATED ALLEYS ALL AS SHOWN ON THE PLAT OF 2ND ADDITION TO CARNELL AS RECORDED IN PLAT BOOK 10, PAGE 128 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 995.4 FEET OF SAID SECTION 6 WITH THE SOUTH RIGHT OF WAY LINE OF SANDLOR DRIVE AS SHOWN ON THE PLAT OF DELTONA LAKES AS RECORDED IN PLAT BOOK 28, PAGE 95 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE N.89°53'05"E., ALONG SAID RIGHT OF WAY LINE, 401.12 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°53'05"E., ALONG SAID RIGHT OF WAY LINE AND THE EASTERLY PROLONGATION THEREOF, 854.00 FEET TO A POINT LYING ON THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD NO.415 AS SHOWN ON STATE ROAD RIGHT OF WAY MAP FOR STATE ROAD NO. 415, SECTION 79120, F.P. NO.407355 4 AND THE ARC OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 3355.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.45°57'40"W.; THENCE SOUTHWESTERLY, ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°56'37", 406.58 FEET; THENCE N.89°53'05"W., 589.13 FEET; THENCE N.00°06'55"W., 308.14 FEET TO THE POINT OF BEGINNING. CONTAINING 5.07 ACRES MORE OR LESS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, the City has received an application to amend the Official Zoning Map from Rural Residential (Volusia County) to the Retail Commercial District (C-1) for the subject property to be rezoned; and

WHEREAS, the City of Deltona, Florida and its Land Planning Agency have complied with the requirements of Municipal Home Rule Powers Act, sections 166.011 et. seq., Florida Statutes, in considering the proposed zoning amendment; and

City of Deltona, Florida
 Ordinance No. 01-2014
 Page 2 of 4

WHEREAS, after said public hearing, the City Commission of the City of Deltona, Florida, has determined that the zoning on the subject property will be amended to the Retail Commercial District (C-1) and has further determined that said zoning action is consistent with the Comprehensive Plan of the City of Deltona, Florida.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, as follows:

Section 1. The zoning on the following property will be amended from Volusia County Rural Residential to City of Deltona Retail Commercial District (C-1):

A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 19 SOUTH, RANGE 32 EAST AND BEING (A PART OF LOTS 14 THROUGH 25, BLOCK 203), (LOTS 1 THROUGH 8, AND PART OF LOTS 9 THROUGH 16, BLOCK 403), AND (LOT 1, AND PART OF LOTS 2, 3, 5 AND UN-NUMBERED LOT IN BLOCK 601), TOGETHER WITH PORTIONS OF VACATED 1ST STREET EAST, 2ND STREET EAST AND PORTIONS OF VACATED ALLEYS ALL AS SHOWN ON THE PLAT OF 2ND ADDITION TO CARNELL AS RECORDED IN PLAT BOOK 10, PAGE 128 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 995.4 FEET OF SAID SECTION 6 WITH THE SOUTH RIGHT OF WAY LINE OF SANDLOR DRIVE AS SHOWN ON THE PLAT OF DELTONA LAKES AS RECORDED IN PLAT BOOK 28, PAGE 95 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE N.89°53'05"E., ALONG SAID RIGHT OF WAY LINE, 401.12 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°53'05"E., ALONG SAID RIGHT OF WAY LINE AND THE EASTERLY PROLONGATION THEREOF, 854.00 FEET TO A POINT LYING ON THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD NO.415 AS SHOWN ON STATE ROAD RIGHT OF WAY MAP FOR STATE ROAD NO. 415, SECTION 79120, F.P. NO.407355 4 AND THE ARC OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 3355.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.45°57'40"W.; THENCE SOUTHWESTERLY, ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°56'37", 406.58 FEET; THENCE N.89°53'05"W., 589.13 FEET; THENCE N.00°06'55"W., 308.14 FEET TO THE POINT OF BEGINNING.

Section 2. This Ordinance is adopted in conformity with and pursuant to the Comprehensive Plan of the City of Deltona, the Local Government Planning and Land Development Act, Sections 163.161 et. seq., Florida Statutes, and the Municipal Home Rule Powers Act, Sections 166.011 et. seq., Florida Statutes.

Section 3. Conflicts. Any and all Ordinances or parts of Ordinances in conflict herewith are hereby repealed.

Section 4. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this Ordinance which can be given effect without the invalid provision or application.

Section 5. Effective Date. This Ordinance shall take effect immediately upon its final adoption by the City Commission.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA THIS _____ DAY OF _____, 2014.

First Reading: _____

Advertised: _____

Second Reading: _____

BY: _____
JOHN C. MASIARCZYK, SR., Mayor

City of Deltona, Florida
Ordinance No. 01-2014
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ATTEST:

JOYCE RAFTERY, CMC, City Clerk

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

GRETCHEN R. H. VOSE, City Attorney

Memorandum

To: Planning and Zoning Board

From: Chris Bowley, AICP

Date: November 1, 2013

Re: Project No. RZ13-007, Amendment to the Official Zoning Map

I. SUMMARY OF APPLICATION:

APPLICANT: Rodney M. Honeycutt, P.E.
Honeycutt & Associates, Inc.
5195 S. Washington Avenue
Titusville, FL 32780

Request: The City of Deltona Planning and Development Services Department has received an application to amend the Official Zoning Map from the Volusia County classification of Rural Residential (RR-C) to C-1 Retail Commercial for a portion of parcels 9206-01-03-0010 and 9206-01-03-0011.

A. SITE INFORMATION:

1. **Tax Parcel No.:** 9206-01-03-0010, 9206-01-03-0011
2. **Property Addresses:** 890 N. SR 415
3. **Property Acreage:** ±5 Acres
4. **Property Location:** South of the intersection of SR 415 and Ft. Smith Blvd. in Deltona.
5. **Property Legal Description:** A PARCEL OF LAND LYING IN SECTION 6, TOWNSHIP 19 SOUTH, RANGE 32 EAST AND BEING (A PART OF LOTS 14 THROUGH 25, BLOCK 203), (LOTS 1 THROUGH 8, AND PART OF LOTS 9 THROUGH 16, BLOCK 403), AND (LOT 1, AND PART OF LOTS 2, 3, 5 AND UN-NUMBERED LOT IN BLOCK 601), TOGETHER WITH PORTIONS OF VACATED 1ST STREET EAST, 2ND STREET EAST AND PORTIONS OF VACATED ALLEYS ALL AS SHOWN ON THE PLAT OF 2ND ADDITION TO CARNELL AS RECORDED IN PLAT BOOK 10, PAGE 128 OF THE PUBLIC RECORDS OF

VOLUSIA COUNTY, FLORIDA. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF THE WEST 995.4 FEET OF SAID SECTION 6 WITH THE SOUTH RIGHT OF WAY LINE OF SANDLOR DRIVE AS SHOWN ON THE PLAT OF DELTONA LAKES AS RECORDED IN PLAT BOOK 28, PAGE 95 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA; THENCE N.89°53'05"E., ALONG SAID RIGHT OF WAY LINE, 401.12 FEET TO THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE N.89°53'05"E., ALONG SAID RIGHT OF WAY LINE AND THE EASTERLY PROLONGATION THEREOF, 854.00 FEET TO A POINT LYING ON THE WESTERLY RIGHT OF WAY LINE OF STATE ROAD NO. 415 AS SHOWN ON STATE ROAD RIGHT OF WAY MAP FOR STATE ROAD NO. 415, SECTION 79120, F.P. NO.407355 4 AND THE ARC OF A CIRCULAR CURVE, CONCAVE SOUTHEASTERLY, HAVING A RADIUS OF 3355.00 FEET AND TO WHICH POINT A RADIAL LINE BEARS N.45°57'40"W.; THENCE SOUTHWESTERLY, ALONG SAID RIGHT OF WAY LINE AND ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°56'37", 406.58 FEET; THENCE N.89°53'05"W., 589.13 FEET; THENCE N.00°06'55"W., 308.14 FEET TO THE POINT OF BEGINNING.

CONTAINING 5.07 ACRES MORE OR LESS.

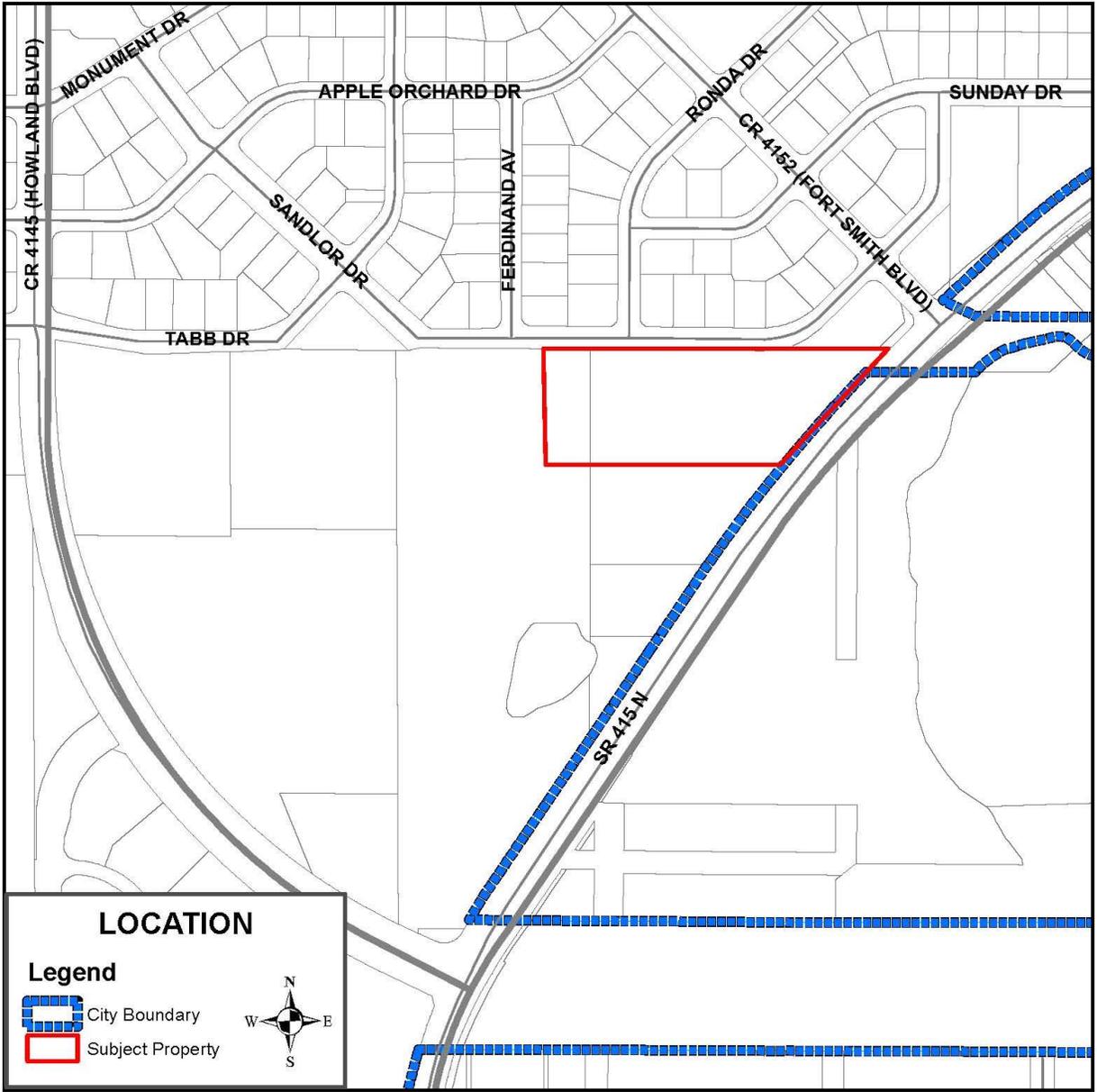


Figure 1: Location Map



Figure 2: Aerial Photo

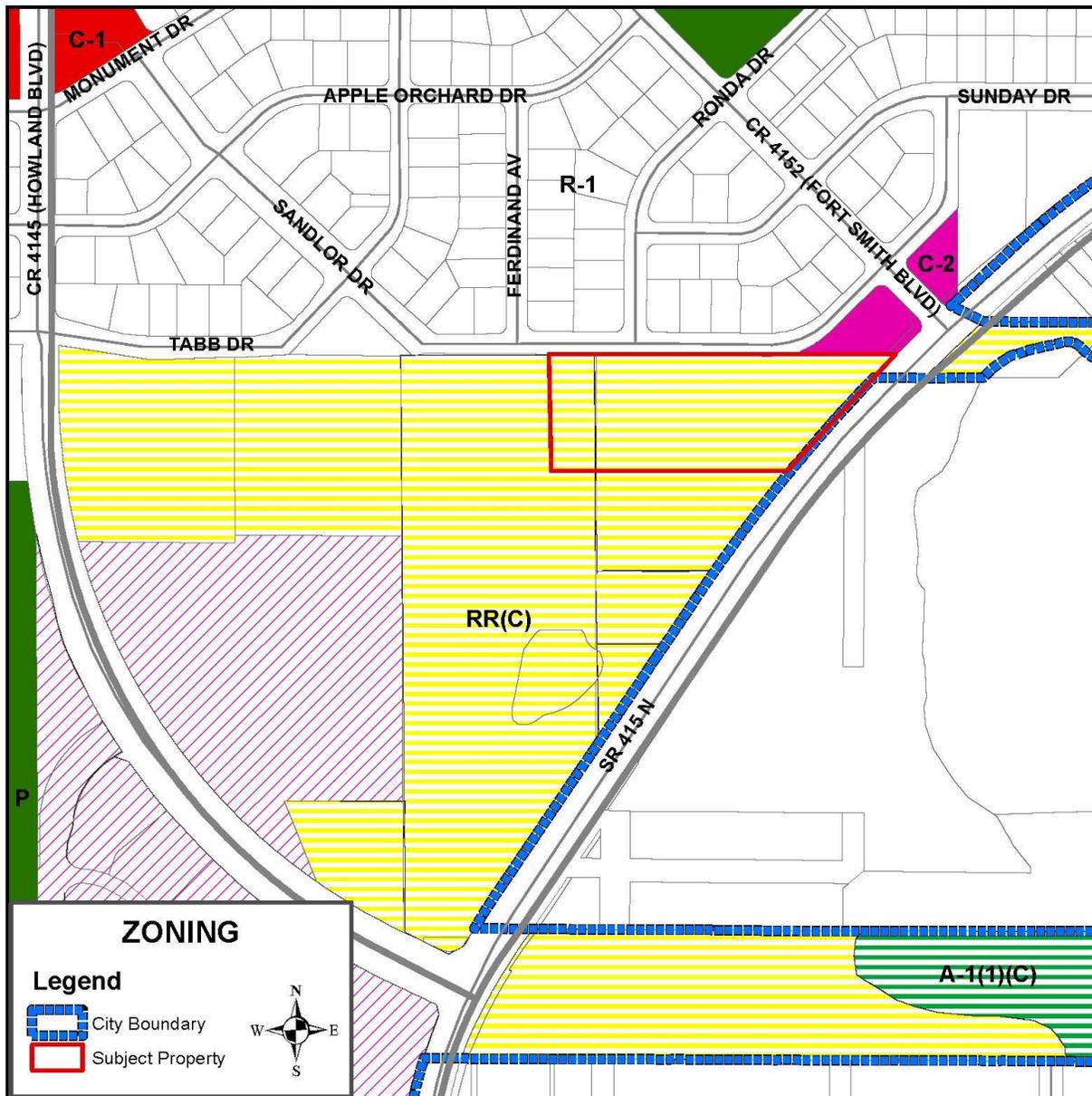


Figure 3: Existing Zoning

B. Existing Zoning:

1. Subject Property:

Existing: Volusia County Rural Residential, RR(C)

Requested: Retail Commercial, C-1

2. Adjacent Properties:

North: R-1, Single Family Residential and C-2, General Commercial

South: Volusia County Rural Residential, RR(C)

East: Volusia County Osteen Mixed Use Village (OMV)

West: Volusia County Rural Residential, RR(C)

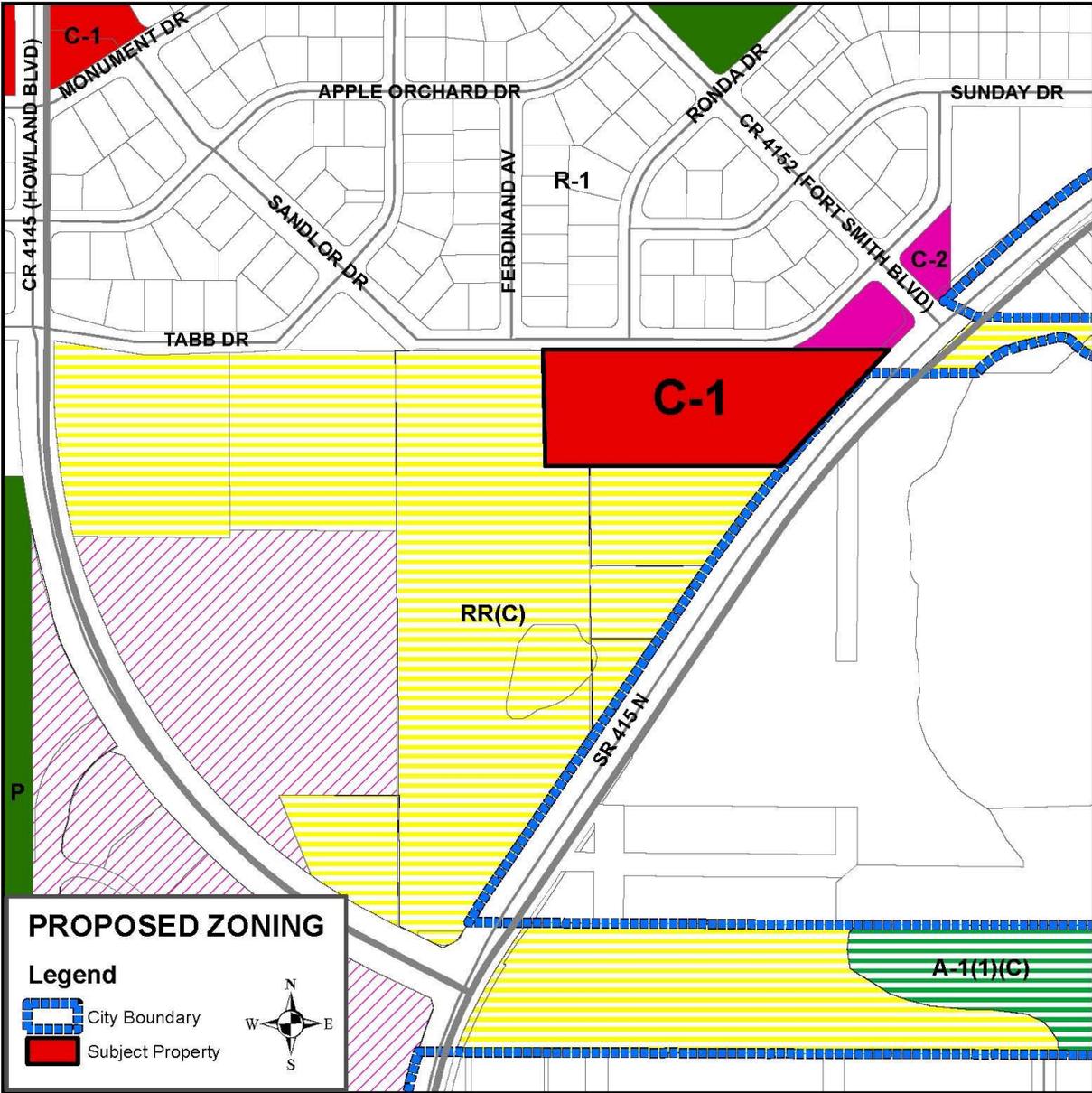


Figure 4: Proposed Zoning

C. Proposed Zoning:

Retail Commercial District (C-1) (Section 110-315 Purpose and Intent.) The purpose of the C-1-Retail Commercial Zoning District is to establish neighborhood commercial development along high-volume roads that are compatible with nearby single-family residential areas. The C-1-Retail Commercial Zoning District is not suitable for transitional areas. Therefore, low intensity commercial development with no residential mix is permitted. The C-1-Retail Commercial Zoning District was first established in the original Deltona Lakes Community Development Plan to serve this purpose in the planned development. It may be applied to achieve a commercial development that is suitable for serving surrounding single-family residential development in all other appropriate areas of the City of Deltona, including those areas that were not included in the original Deltona Lakes Community Development Plan. The C-1-Retail Commercial Zoning district shall only be applied to areas that are designated in the Commercial Future Land Use category on the adopted Future Land Use Map in the Deltona Comprehensive Plan, as it may be amended from time to time.

D. Back Ground:

The subject property was annexed into the City in 2004. In 2006, the County Future Land Use designation of Urban Low Intensity was changed to City Commercial (C). As part of the Future Land Use Map amendment process, the Volusia Growth Management Commission (VGMC) conditionally approved the change to City Commercial. Conditions included a limitation on intensity which resulted in a Floor Area Ratio (FAR) cap of 0.22, as well as a limitation to the amount of curb cuts onto SR 415. These conditions will be adhered to throughout the development process and is supported by the FDOT design the of improved SR 415. The property was also associated with an antiquated, 1920's vintage plat, known as the 2nd Addition to Carnell. To date, the applicable 2nd Addition to Carnell roads, alleys and lots have been vacated through two (2) separate actions of the City Commission. The applicant is working with the retailer Tractor Supply Company (TSC), which is interested in the site to establish a store. The TSC facility would feature a standalone store with an outdoor display area. This design mirrors the newest TSC prototype constructed in Mims, Florida.

E. Support Information

Public Facilities:

- a. Potable Water: to be supplied by Deltona Water
- b. Sanitary Sewer: to be supplied by Deltona Water (once available)
- c. Fire Protection: City Fire Station 64
- d. Law Enforcement: Volusia County Sheriff's Office (VCSO)
- e. Electricity: Florida Power and Light (FP&L)

F. Matters for Consideration:

Section 110-1101, Code of City Ordinances, states that the City shall consider the following matters when reviewing applications for amendments to the Official Zoning Map:

1. Whether it is consistent with all adopted elements of the Comprehensive Plan.

The amendment to the Official Zoning Map will not diminish the vision of the goals or the policies of the Comprehensive Plan. The current Future Land Use for the site is Commercial, as adopted by Ordinance No. 10-2005 and VGMC Resolution No. 2006-02, and the C-1 zoning is consistent with the Commercial Future Land Use designation.

2. Its impact upon the environment or natural resources.

The property is currently undeveloped and forested with a mixture of pines and scrub oak. The property is located on the eastern escarpment of a physiographic area of the County known as the DeLand Ridge. The soil is predominately well drained Astatula and Cassia Fine Sand series soil. According to the September 2011 FEMA flood zone maps, the subject property is not located within the 100 year floodplain.

Gopher tortoise burrows have been observed on the property. However, before property development, the applicant will need to permit the relocation of the tortoises to a suitable mitigation bank site. There are no other known listed species that utilize the property.

3. Its impact upon the economy of any affected area.

The proposed impact upon the local economy would be the creation of service-oriented jobs. The proposed rezoning would facilitate the commercial development of the property. Therefore, the rezoning would result in a property taxed at a commercial use rate, which would be much more than the current vacant land assessment. The commercial development of the property would represent a diversification of the City tax base to become less reliant on residential uses.

4. Notwithstanding the provisions of Article XIV of the Land Development Code, Ordinance No. 92-25 [Chapter 86, Code of Ordinances] as it may be amended from time to time, its impact upon necessary governmental services, such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste or transportation systems.

- a. **Schools:** The Volusia County School Board staff has indicated that this rezoning will not affect local schools.
- b. **Sewage Disposal:** The site will be served by City sewer and capacity is available. However, the new lines on SR 415 near the property are currently inactive and will remain inactive until the completion of the Eastern Waste Water Treatment Plant. In the interim, the project will be served by a septic tank and the City will require that the waste water system on the property be designed to allow for quick and convenient connection to City sewer as soon as the lines are activated.
- c. **Potable Water:** Deltona Water will serve the site and sufficient potable water capacity is available.

- d. **Drainage:** All site related stormwater runoff will be managed on-site and will be constructed in accordance with the necessary requirements of the City's Land Development Code and other permitting agencies.
- e. **Transportation Systems:** The subject property is located near the intersection of SR 415 and Howland Blvd. and there is capacity on both roads to support the C-1 rezoning. Both of these roads are either in the planning phase or the construction phase of widening. The 9th Addition of the ITE Trip Generation Manual lists peak hour traffic generation rates for a Tractor Supply Store. The weekday peak is 1.4 trips per 1,000 square feet of floor space resulting in 26.32 peak hour trips (a Tractor Supply Store generates more traffic on a Saturday than on a weekday). The 26.32 trips will not adversely affect the current levels of service on adjacent roads. The subject property will also eventually be served by a cross access network that will link other developments planned in the area. The cross access network will connect SR 415 to the signalized intersection of the Wal-Mart Super Center driveway and Howland Blvd. The subject cross access network will help keep traffic off of thoroughfare streets and provide more route options for motorists. The subject network of cross access ways has been conceptually planned and will be implemented incrementally as more land in the area is developed.

Votran transit transportation is available at the Wal-Mart Super Center via bus routes 21 and 22. However, this site is slightly more than the normal quarter-mile walk radius used for mass transit planning.

5. Any changes in circumstances or conditions affecting the area.

The subject property, along with other land in the area has been contemplated for commercial development for some time. The Wal-Mart Super Center complex near the property to be rezoned has been almost fully developed with outparcel uses. It is logical to expect that there would be demand for more commercial development in the vicinity of the Wal-Mart. In addition, there are significant infrastructure investments occurring in the area. Investments include the SR 415 widening, the development of the City Eastern Wastewater Treatment plant and the extension of urban utilities (water and sewer).

6. Any mistakes in the original classification.

No known mistakes.

7. Its effect upon the public health, welfare, safety or morals.

The property is located off of SR 415, but is located just south of an established neighborhood that is accessed generally by Sandlor Dr. The property is separated from a tier of homes located on the north side of Sandlor Dr. by the 60' wide Sandlor right-of-way. Also, the homes along the Sandlor corridor will be afforded a landscaped buffer yard, as per Section 110-808 of the City Land Development Code. City staff has been informed by the applicant that the buffer yard along Sandlor Dr. will be much larger than the minimum width required by City code. Primary access to the property to be rezoned will be from SR 415 via a planned internal cross access network. There will be no

connection to Sandlor Dr., which will minimize traffic impacts in the adjacent neighborhood. Therefore, the proposed rezoning will be compatible with the adjacent neighborhood and will have no adverse impacts on the health, welfare, safety or morals of the City.

CONCLUSION/STAFF RECOMMENDATION:

The proposed rezoning is to support a commercial development – Tractor Supply Store. The rezoning represents an incremental improvement of the City tax base, which is overly reliant on residential uses. In addition, the commercial development will facilitate more commercial options for residents in a City that is underserved by commercial uses. The proposed use on the property to be rezoned is retail and the job base will be service oriented. The rezoning will be compatible with the adjacent neighborhood and the rezoning is consistent with the Comprehensive Plan. Therefore, staff recommends approval of the rezoning from Volusia County Rural Residential to C-1 (Retail Commercial).



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 9 - A
SUBJECT: Saxon Ridge Homeowners' Association - Acceptance of streets.

LOCATION:

Saxon Ridge subdivision

BACKGROUND:

The Saxon Ridge Homeowners' Association appeared before the City Commission at a workshop on August 25, 2011, to request that the City take responsibility for the maintenance and repair of their streets and sidewalks. Issues regarding whether there ever had been a dedication of the streets to the City were raised and debated. There were particular concerns that Saxon Ridge has many decorative features integral to its streets, and the maintenance and repair of those features would be very expensive for the City. After the workshop, City staff had several meetings with HOA representatives. A compromise was reached that appears to satisfy the concerns of both the City and the HOA. The HOA has agreed to accept sole responsibility for the maintenance and repair of all decorative brick inlaid crosswalks and traffic circles on the streets in the subdivision as well as the maintenance and repair of all stormwater and surface water systems, decorative subdivision street name signs, and arbor streetscape. The city recently repaired several potholes in the subdivision streets. In the future, if the HOA does not fulfill its responsibilities, such as repairing stormwater and surface water systems that may impact streets, the city can make the repairs and bill the HOA. If such bill is not paid, then the city can place a non-ad valorem assessment on the tax bills of the property owners. This agreement was specifically written in a way that forecloses the HOA from attempting to force the City to do other improvements to the subdivision, and eliminates any potential issue about the installation of a wall along I-4.

ORIGINATING DEPARTMENT:

City Attorney's Office

SOURCE OF FUNDS:

N/A

COST:	N/A
REVIEWED BY:	City Manager, City Attorney
STAFF RECOMMENDATION PRESENTED BY:	Becky Vose, City Attorney - Recommend approval of Settlement Agreement with Saxon Ridge Homeowners' Association.
POTENTIAL MOTION:	"I move to approve the Settlement Agreement between the City of Deltona and the Saxon Ridge Homeowners' Association."
AGENDA ITEM APPROVED BY:	<hr style="width: 30%; margin-left: 0;"/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none"> • Saxon Ridge Agreement

SETTLEMENT AGREEMENT

The parties, SAXON RIDGE HOMEOWNER'S ASSOCIATION, INC., a Florida not-for-profit corporation, its successors and/or assigns (hereinafter "Association"), and THE CITY OF DELTONA, a political subdivision of the State of Florida (hereinafter "City"), (hereinafter collectively "Parties"), hereby enter into this Settlement Agreement on this ____ day of _____, 2014.

RECITALS:

A. The Association and the City are engaged in a dispute regarding whether the paved vehicular roadways (hereinafter "Streets") located within the Saxon Ridge subdivision were dedicated to and accepted by the City for public use, and whether the City is obligated to maintain and repair same.

B. It is the intent of this Agreement to resolve all existing and potential conflicts, including but not limited to any conflicts regarding Streets, the plats regarding Saxon Ridge subdivision, any previous agreements or claimed agreements between the Parties or for the benefit of any Party, and resolve with finality any conflict or potential conflict between the Association and the City which has been raised, or could have been raised, prior to the date of this Agreement.

C. Subject to the specific restrictions relating to maintenance set forth herein, the City acknowledges that the Streets are City streets and they will be maintained and repaired on an equal footing with other streets within the City of Deltona.

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants and agreements herein contained, and other good and valuable consideration, the

receipt and sufficiency of which are hereby acknowledged and accepted, the Parties agree as follows:

1. Each and every one of the above Recitals is true and correct.

2. The City agrees to, acknowledges and/or accepts dedication of the Streets located within the Saxon Ridge Subdivision, Phases 1, 2A, 2B, and 3 for the public use, and the stormwater system associated with such Streets. The Streets accepted shall be those depicted on the Plat for each respective phase, more specifically described below:

a. **Saxon Ridge Phase One, recorded at Plat Book 48, page 22:**

Haversham Rd., Ashbourne Way, and Brayton Circle.

b. **Saxon Ridge Phase Two-A recorded at Plat Book 49, Page 22:**

Shawsbury Way, Gaynor Ct., Kettering Rd.

c. **Saxon Ridge Phase Two-B recorded at Plat Book 50, page 34:**

Haversham Rd., Kettering Rd.

d. **Saxon Ridge Phase Three recorded at 50, page 35:**

Shawsbury Way, Gaynor Ct., Kettering Rd., Leyburn Drive

All Plats are recorded in the Public Records of Volusia County.

3. The City further agrees that its acknowledgement and/or acceptance of the Streets for the public use includes an obligation to assume maintenance and repair of those Streets in perpetuity, as it deems necessary in its sole discretion to keep the Streets in good order and repair as deemed appropriate by the City. The obligation to maintain and repair the Streets shall include an obligation to maintain the sidewalks running adjacent to the Streets, all traffic signals and traffic signage on the Streets which is not decorative or an upgrade from the standard signage used by the City, and all pavement markings and striping on the Streets.

4. The Association expressly agrees and acknowledges that it shall be solely responsible for the repair and maintenance of the utilities, common areas, stormwater system, and easements owned by the Association, and the following items, [“Association Items”], at no expense or cost to the City:

- a. repair and maintenance of the decorative brick inlaid crosswalks on the Streets
- b. repair and maintenance of decorative brick inlaid traffic circles located at Street intersections
- c. repair and maintenance of decorative subdivision Street name signs
- d. maintenance of the arbor streetscape
- e. repair and maintenance of stormwater system

All repairs shall be made by the Association in compliance with City Code and standards. The City has the right to make, as a condition precedent to the repair of Streets, that the Association repair any associated Association Items at the Association’s expense, prior to, or contemporaneously with, any repairs by the City.

5. In the event the Association does not promptly accomplish the repairs and maintenance for which it has responsibility, the City shall have the right, after ten (10) working day’s written notice to the Association, (or immediately if the repairs are a matter of public safety and must be accomplished promptly, as determined by the City), to accomplish such repairs and maintenance at the expense of the owners of properties in Saxon Ridge Subdivision, Phases 1, 2A, 2B, and 3. If the Association does not promptly reimburse the City for the expenses incurred by the City in accomplishing the repairs and maintenance which are the responsibility of the Association, the City shall have the right to assess a non-ad valorem assessment under Florida Statutes, Section 197.3632, equally apportioned among all properties in Saxon Ridge Subdivision, Phases 1, 2A, 2B, and 3, to cover such expenses, plus administrative expenses of the City relating to such assessments.

6. All notices and other communications required or permitted in this Agreement shall be in writing and shall be deemed to have been given at the time personally delivered or telecopied, or on the third day after such is postmarked and mailed by any party addressed to the parties as follows, or to such other person or place specified in writing by any party:

If to Association: Saxon Ridge HOA, Inc.
c/o Angelia Gordan
All About Management, Inc.
PO Box 1569
Sanford, Florida 32771
407-688-7408 (fax)

With a copy to: Asima Azam, Esq.
24 South Orange Avenue
Orlando, Florida 32801
(407) 426-8030 (fax)

If to City: City of Deltona
2345 Providence Blvd.
Deltona, Florida 32725
(386) 878-8851 (fax)

With a copy to: Gretchen R. H. Vose, Esq.
City Attorney
City of Deltona
2345 Providence Blvd.
Deltona, Florida 32725
(386) 878-8871 (fax)

7. Any action to enforce the terms of this Settlement Agreement shall be brought in the Seventh Judicial Circuit in and for Volusia County, Florida.

8. Any failure to enforce, or delay in enforcing any of the provisions of this Settlement Agreement shall not constitute a waiver of such provision.

9. If any part of this Settlement Agreement shall be held to be invalid or unenforceable, the Settlement Agreement shall be construed as if not containing that part or provision.

10. The Parties each declare and represent that they have full and complete authority to enter into this Settlement Agreement.

11. This Settlement Agreement may be recorded in the Public Records of Volusia County, Florida.

12. This Settlement Agreement fully resolves all existing and potential conflicts between the Parties, including but not limited to any conflicts regarding Streets, the plats regarding Saxon Ridge subdivision, the First Amendment to Developer's Agreement recorded on July 14, 2000, at O.R. Book 4571, Page 238, Public Records of Volusia County, Florida, any claims for the construction of any walls or barriers, or other common area or other improvements relating to Saxon Ridge subdivision, and any other agreements or claimed agreements between the Parties or for the benefit of any Party, and resolves with finality any conflict or potential conflict between the Association and the City which has been raised, or could have been raised, prior to the date of this Agreement (hereinafter "Prior or Potential Disputes"). Each Party fully and completely releases and discharges the other Party from any liability, causes of action, controversies, claims and demands whatsoever, in law or in equity, which either Party has against the other Party relating in any way to the Prior or Potential Disputes, except that nothing releases any obligations of either Party under this Settlement Agreement.

13. Prior to this Agreement being accepted by the City, the Association shall disclose in writing to the City any and all currently existing or pending maintenance or repair items of any sort relating to any street, sidewalk, or any other portion of any facilities that are contemplated hereunder to be maintained or repaired by the City, of which the Association or any member of the Association is aware. Such disclosure shall be appended to this Agreement as an exhibit.

14. The Parties each acknowledge that there are no other agreements or representations between the City and the Association, either oral or written, express or implied, not embodied in this Settlement Agreement executed this day.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement for the purposes stated herein.

ATTEST:

SAXON RIDGE HOMEOWNERS' ASSOCIATION

Secretary

President

(CORPORATE SEAL)

Date

ATTEST:

CITY OF DELTONA

JOYCE RAFTERY
City Clerk

WILLIAM "DAVE" DENNY
City Manager

Date

Approved as to Form and Legality:

GRETCHEN R.H. VOSE
City Attorney



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 9 - B
SUBJECT: Bus Benches - Update - Waverly Media and Maverick Bench Media.

LOCATION:

City-wide

BACKGROUND:

On July 1, 2001, the City of Deltona entered into an Agreement with Maverick Bench Media Company, Inc., which permitted Maverick to install benches at bus stops and other public places with advertising on the benches. In exchange for the permission to install the benches and sell advertising on the benches, Maverick was to pay Deltona a percentage of the advertising revenues. Maverick Bench Media Company was later acquired by Waverly Media, and the Agreement with the City has been continued through Maverick which is now a wholly owned subsidiary of Waverly Media. The city recently conducted a financial audit of payments by Maverick and Waverly to the city and it was determined that Maverick and Waverly had complied with the financial terms of the Agreement. The Agreement also requires Maverick to pull permits for the installation of benches and to fully comply with all city, state and federal laws. Maverick has failed to pull permits for the installation of benches, and the vast majority (if not all) of the benches currently do not comply with code requirements, including ADA requirements. On December 13, 2013, the City Attorney served a default letter on Maverick and Waverly Media, indicating the actions needed to bring the Agreement into compliance. The default letter was received by Maverick and Waverly on December 18, 2013. Waverly Media responded to the default letter on January 9, 2014, through a letter from its attorney, Douglas Gartenlaub.

ORIGINATING DEPARTMENT:

City Attorney's Office

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:	City Manager, City Attorney
STAFF RECOMMENDATION PRESENTED BY:	N/A
POTENTIAL MOTION:	N/A
AGENDA ITEM APPROVED BY:	<hr style="width: 100%;"/> William D. Denny, City Manager
ATTACHMENTS:	<ul style="list-style-type: none"> • Default Letter • 2001 Bus Bench Agreement • Response by Waverly



December 13, 2013

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED
TO EACH OF THE BELOW
LISTED ADDRESSES**

Maverick Bench Media Company, Inc.
4188 Dairy Court, Suite D
Port Orange, FL 32129

Maverick Bench Media Company, Inc.
140 S. Beach Street
Suite 303
Daytona Beach, FL 32114

Douglas K. Gartenbaud, Esq.
Burr & Forman, LLP
200 S. Orange Avenue
Suite 800
Orlando, FL 32801

Re: Agreement between City of Deltona and Maverick Bench Company, Inc.
("Agreement")
Notice of Default under Section 19 of Agreement

Dear Sir or Madam:

As you may be aware, this law firm represents the City of Deltona as its City Attorney, and this letter is sent on behalf of the City of Deltona in accordance with the terms of the Agreement. Please accept this letter as formal notice of Default under Section 19 of the Agreement.

A recent review of the Agreement and city records revealed that although your client is required under sections 16 and 17 of the Agreement to secure city permits for the installation of benches, and to comply with "all applicable laws ordinances regulations and orders of Federal State County and municipal authorities pertaining to Contractor's performance," your client has failed to pull building permits for its benches, and has failed to comply with applicable building code requirements for the installation of its benches. In particular, building permits must be applied for and acquired, and all building code requirements must be met.

COUNSEL TO EXTRAORDINARY FAMILIES, BUSINESSES & LEADERS WORLDWIDE SINCE 1973

324 W. MORSE BOULEVARD • WINTER PARK, FLORIDA 32789
TELEPHONE: (407) 645-3735 • FACSIMILE: (407) 628-5670 • TOLL FREE: (866) 789-VOSE
INTERNATIONAL (LONDON, ENGLAND): +44 (0)20 3555 1473 • INTERNET: WWW.VOSELAW.COM

Item 9B

Maverick Bench Media Company, Inc.
December 13, 2013
Page 2

The applicable requirements include, but are not limited to, wind load and ADA compliance. The ADA requirements include, but are not limited to:

209.2.2 Bus Loading Zones.

In bus loading zones restricted to use by designated or specified public transportation vehicles, each bus bay, bus stop, or other area designated for lift or ramp deployment shall comply with 810.2.

209.2.3 On-Street Bus Stops.

On-street bus stops shall comply with 810.2 to the maximum extent practicable.

810.2 Bus Boarding and Alighting Areas.

Bus boarding and alighting areas shall comply with 810.2.

810.2.1 Surface.

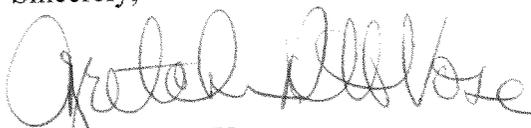
Bus stop boarding and alighting areas shall have a firm, stable surface.

810.2.2 Dimensions.

Bus stop boarding and alighting areas shall provide a clear length of 96 inches (2440 mm) minimum, measured perpendicular to the curb or vehicle roadway edge, and a clear width of 60 inches (1525 mm) minimum, measured parallel to the vehicle roadway.

Under the terms of the Agreement, your client has thirty (30) days after receipt of this written notice of breach to take appropriate actions to cure the breach. Thank you for your attention to this important matter.

Sincerely,



Gretchen R. H. Vose
City Attorney

Agreement

THIS IS AN AGREEMENT made and entered into this 1st day of July
2001 by and between:

The City of Deltona, a municipal corporation in Volusia County in the State of Florida, hereinafter referred to as "City";

AND

Maverick Bench Media Company Inc. a Florida Corporation, and now and formerly known as Associated Marketing, Inc., a Florida Corporation, hereinafter referred to as "Contractor"

In Consideration of the Mutual Promises, Covenants and Agreements, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

I. PURPOSE AND USE

The Contractor shall have the non-exclusive right to furnish and maintain Bus Benches with advertising, for the use of the public, at locations specifically approved by the City. All costs associated therewith shall be borne solely by the Contractor and the City shall have no liability for any such costs.

The potential locations shall be public bus stops, parks, shopping centers, business zones, school bus stops and in other similar areas where they are needed for the accommodation and pedestrian convenience of the public. All locations and bench installations must conform to federal, state and municipal law, ordinances, and rules and regulations.

2. INSTALLATIONS

Permission must be obtained from the City prior to the installation of any bus benches to be located on public property and the contractor shall obtain all necessary permits at its sole cost and expense. Bus bench installations must adhere to all federal, state and local laws, ordinances and regulations. The Agreement provides for a maximum number of benches at One Hundred Twenty Five (125) benches with signs.

No bench, unless otherwise authorized, may be placed so that the angle of its long diversion in relation to the curb line shall be greater than twenty degrees (20), and no bench, unless otherwise authorized, may be placed so that it is closer than eighteen inches (18) to the face of the curb

The contractor shall provide written consent from a property owner approving the location of a bus bench on the owner's property. Such written consent shall be submitted with the Contractor's application for permission from the City to install the bench.

3. CONSTRUCTION AND DESIGN

All bus benches will be constructed of top grade materials and shall be painted in agreed upon colors for the City. The bench dimensions shall not exceed Forty-Three inches (43) in height nor more than Seventy-Four inches (74) long nor more than Twenty-Eight inches (28) in seat height.

The Parties acknowledge that certain sections of the City have unique charm and character and Contractor may propose the location and use of a different bench design, type and construction more compatible to those areas. All requests by the Contractor for approval to deviate from the standard bus bench construction and design shall be made to the City Manager or designee who will approve or reject such deviation in sole or in part at his sole discretion, provided, however, that the City Manager may refer any request to the City Commission for its formal approval.

4. BUS BENCH MAINTENANCE

The Contractor shall, at his sole cost and expense, maintain all bus benches in good and serviceable condition during the entire term of this Agreement. The Contractor shall routinely monitor and inspect each bench receptacle location at least one time each week, and to remove any trash, weeds or unsightly vegetative growth found on or around the surrounding grounds within 5' of each end of the bench but limited to the public-right-of-way area of the bus bench and to repair, recondition or replace each bench found to be damaged or in disrepair. The Contractor shall maintain records of the inspections it provides and these records shall be available for the review of appropriate City personnel.

The Contractor shall have during working hours sufficient personnel to answer the phone for citizens, who wish to call concerning benches, a log of complaints about bus benches,

including the subject of the complaint and the action taken, shall be kept and made available upon City request.

The City reserves the right periodically to inspect such bus benches to determine their condition. The Contractor shall replace or recondition, to the satisfaction of the City Manager or designee, any bus benches, which the City determines are no longer in good or stable or serviceable condition. The style and construction of any replacement bus bench shall be the same as the bus bench replaced, unless prior City approval is received as provided in Paragraph 3. In the event, the City shall determine that a bus bench should be repaired, replaced, or removed for noncompliance with this Agreement, the Contractor shall repair, replace or remove the same within ten (10) working days of receipt of such notice.

In the event the City Manager or designee determines that a bench constitutes a hazard to persons or property or disrupts the public right of way, the Contractor shall remove the bench no later than the next work day from receipt of such notice. In the event, the contractor fails to repair, replace or remove the same within the above-specified period, the City shall have the right to move or remove the said bus bench at the expense of the Contractor.

5. BENCH ADVERTISING

The Contractor is authorized to sell advertising to be placed upon the benches only in the manner provided herein. The Contractor shall deduct all commissions paid to independent contractors and agencies from revenue figures used to pay revenue under this contract, if applicable. **Advertising of brand liquor, cigarette, firearms, massage parlors, adult bookstores, adult theaters, adult escort services, nude, pornographic, erotic, obscene or objectionable matters are prohibited. No defamatory, religious, ethnic, racial, discriminatory or politically offensive advertising, nor acts of violence, criminal activity or derogatory statements against the government of the United States, State of Florida or local government or law enforcement agencies. The determination of objectionable matter shall be at the sole discretion of the City Commission whose decisions shall be final.**

The advertising panel shall have a solid background with lettering composed of not more than three colors, plus any logo or trademark colors. Day-glow paints or any psychedelic painting is expressly prohibited. The advertising panel for bus benches shall have a maximum size of twenty-four (24) inches by seventy-two (72) inches and be constructed of plywood or other suitable materials approved by the City. All advertising including any illustrations, design, arrows, characters, numbers, letters and similar markings shall only be placed on the back of the

bench and not on any other part of the bench. An artificially lighted bus bench-advertising panel is expressly prohibited. All request by the Contractor for approval to deviate from the standard advertising panel design and construction shall be made to the City Commission through the City Manager who may approve or reject such deviation in whole or in part at its sole discretion.

The Contractor shall provide up to **10** of its advertising panels, for **public service advertising for the City**. The Contractor shall provide the bench at no cost to the City with the cost of panel production paid for by the City. No fees or revenue calculations shall apply to these benches. The advertisement copy shall be provided by the City to the Contractor with no more than one panel change per public location per year. The location of the public service benches shall be by mutual agreement between the Contractor and the City. These benches are reserved solely for programs under the direction and funded by or through the City. Non-Profits do not qualify under this section. A reduced rate is provided for such organizations

6. ORIGINAL TERM AND RENEWAL

The Contractor shall have 90 days to market the product. The contract shall commence for revenue calculation on July 01, 2001 through June 30, 2006. The original contract period is for an initial **Ten (10) years** and renews for additional **Five (5) year** periods upon the same terms and conditions. It is expressly understood and agreed that the rights and obligations created by the acceptance of this proposal by the City shall remain in full force and effect for each period from and after the inception of such agreement and, thereafter, such rights and obligations shall self-extend and renew for like periods without restrictions in number upon the same terms, covenants and conditions.

The parties acknowledge and agree that the payments as proposed and accepted by the City shall be firm for the initial Agreement term. The payments for subsequent terms shall be subject to negotiation between the parties for each extension terms and shall reflect the current economic conditions in the City, number of bus benches proposed and anticipated revenues from those bus benches for the extension terms. Contractor shall submit to the City its proposed adjustments to the payments at least ninety (90) days prior to the expiration of the contract term then in effect.

The City may, after examination, refuse to accept the proposed adjustments if they are not properly documented, increases are considered insufficient, or decreases are considered excessive. In the event the City does not wish to accept the adjusted annual payments, and the matter cannot be resolved to the satisfaction of the City, the City reserves the right to cancel

the Agreement upon giving thirty (30) days advanced written notice to the Contractor. After the elapse of such thirty (30) day period, the Agreement shall terminate and the Contractor shall have thirty (30) days in which to remove all existing bus benches that have been installed pursuant to this Agreement.

7. REVENUE PAYMENTS TO CITY

Contractor shall make payment to the City of Deltona semi-annually in the amount of **TWELVE percent (12%)** of the gross rental/advertising fee collected by Contractor. Contractor agrees to provide copies of Contractor's monthly sales tax reports to the Department of Revenue and/or allow a representative of the City to audit the books and records of Contractor at the request of the City.

All payments required to be made by this Agreement be sent or personally delivered to the following address:

City Manager
City of Deltona
P.O. Box 5550
Deltona, FL 32728-5550

8. RECORDS, ACCOUNTS, AND STATEMENTS

Contractor shall keep at a location within Volusia County, Florida, approved by City, true, accurate, and complete records and accounts of all advertising sales, expenses, and other business being transacted under this Agreement throughout the term of the Agreement, including any option terms and for five (5) years following its expiration or cancellation.

The Contractor agrees to and shall give City or City's representative access during reasonable business hours upon seven (7) business days' notice to examine and audit such records and accounts. Such records shall be maintained, as an independent certified public accountant would need in order to examine the records pursuant to generally accepted auditing standards.

Within sixty (60) days after each fiscal year, Contractor shall deliver to the City a written annual financial statement pertaining to their operations under this Agreement. Said statement shall be prepared in accordance with generally accepted auditing standards and shall be certified as true, accurate and complete by Contractor, by and through authorized independent Public Accountant.

9. REPORTS

The contractor shall submit to the City a Monthly report within (15) business days after the end of each monthly period of the Agreement. Each report shall contain the following:

- (a) The location and date of installation of bus benches installed during the prior period
- (b) The location and date of removal of bus benches removed during the prior period
- (c) A listing of all bus benches located within the City, including identifying numbers and locations at the end of the prior quarter.
- (d) Application for permission to install bus benches during the upcoming quarter. The form of the application to be approved and provided by the City

All reports and maps, including the annual financial statement, shall be sent to the City's Contract Administrator. The form of the report to be developed by the Contractor is subject to the prior approval of the City or City's Contract Administrator.

10. INSURANCE AND PERFORMANCE

At all times during the term of this Agreement, the Contractor at its sole cost and expense, shall maintain in full force and effect, public liability insurance with coverage as follows:

- (a) Not less than one million dollars (\$1,000,000) for death of or injury to, any one person in any one occurrence
- (b) Not less than one million dollars (\$1,000,000) for death of, or injury to, two or more persons in any one occurrence.
- (c) Not less than one million dollars (\$1,000,000) property damage in any one occurrence.

Certificates of such insurance shall be delivered to City prior to the beginning of any operations under the Agreement; such policies shall name the City as additional insured and shall provide that City's Risk Manager be given at least thirty (30) days advance written notice of cancellation or material modification.

11. INDEMNIFICATION

The Contractor covenants and agrees to identify and hold the City harmless for any

death of or injury to persons or damage to or loss of property, which may occur as a result of the Contractor's performance under this Agreement. The Contractor also specifically agrees to defend the City in the event any claim is made against the City as a result of any such death, injury or damage, and to pay all costs, judgments and fees, including attorney's fees, which may be incurred by the City as a result of such a claim. If called upon by City, the Contractor shall assume and defend not only itself but also City in connection with any suit or cause of action in connection with such claim, and such defense shall be at no cost or expense whatsoever to City.

12 SUPERVISION OF CONTRACTOR PERFORMANCE

The City Manager shall administer the Agreement for the City. The City Manager may delegate to other City staff all or a part of the supervision of Contractor's performance under this Agreement.

13. INDEPENDENT CONTRACTOR

The Contractor is an independent contractor under this Agreement. Personal services provided by the Contractor shall be by employees of the Contractor or Independent Contractors subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to goods and services rendered under this Agreement shall be those of the Contractor. It is the intent of the parties that the Contractor's principle's or senior management personnel will be available for the entire initial contract term. Personnel of equal or higher qualifications may replace such personnel, subject to prior City Manager or designee approval, which shall not be unreasonably withheld. The City acknowledges that Contractor may subcontract all or part of its obligations under this Agreement. Substitution of subcontractors shall be done only with the prior written approval of the City Manager, which approval shall not be unreasonably withheld.

14. UNCONTROLLABLE CIRCUMSTANCES ("Force Majeure")

The City and Contractor will be excused from the performance of their respective obligations under this Agreement when and to the extent that their performance is delayed or prevented by any circumstances beyond their control including, fire, flood, explosion, strikes or

other labor disputes, act of God or public emergency, war, riot, civil commotion, malicious damage, act or omission of any governmental authority, delay or failure or shortage of any type of transportation, equipment, or service from a public utility needed for their performance provided that:

- (a) The non performing party gives the other party prompt written notice describing the particulars of the Force Majeure including but not limited to, the nature of the occurrence and its expected duration, and continues to furnish timely reports with respect thereto during the period of the Force Majeure,
- (b) The excuse of performance is of no greater scope and of no longer duration than is required by the Force Majeure;
- (c) No obligations of either party that arose before the Force Majeure causing the excuse of performance are excused as a result of the Force Majeure;
And
- (d) The non-performing party uses its best efforts to remedy its inability to perform. Notwithstanding the above, performance shall not be excused for a period in excess of two (2) months, provided extenuating circumstances, the City may excuse performance for a longer term.
- (e) Economic hardship of the Contractor will not constitute Force Majeure. The term of the Agreement shall be extended by a period equal to that during which either party's performance is suspended under this provision of the Agreement.

15. ASSIGNMENT

Neither this Agreement, nor any portion thereof unless otherwise authorized herein, shall be assigned without the formal consent of the City. No such approval will be construed as making the City a party of or to such assignment, or subjecting the City to liability of any kind to any assignee even if subcontracting is authorized herein. No subcontracting agreement shall, under any Circumstances, relieve the Contractor of any liability or obligation under this Agreement.

16. PERMITS

Contractor shall have the sole responsibility, at its sole cost and expense, to secure all necessary City, County, State and Federal licenses and permits for the installation of the benches that may be required. There will be no permit charge by the City.

17. CONFORMITY TO LAW

Contractor shall comply with all applicable laws, ordinances, regulations, and orders of Federal, State, County and municipal authorities pertaining to Contractor's performance under this Agreement. The Contractor covenants and agrees that there will be no discrimination as to race, color, creed or national origin in the Contractor's performance of the Agreement.

18. NOTICES

All notices required by law and by this Agreement to be given by one party to the other shall be in writing and sent by certified mail, return receipt requested to the parties at the following addresses:

City: City Manager
City of Deltona
P O Box 5550
Deltona, FL 32728-550

Contractor: Maverick Bench Media Company, Inc.
140 S. Beach Street, Suite 303
Daytona Beach, FL 32114

or to such other addresses as the parties may by writing to the other designate.

19. DEFAULTS

In the event of the breach of any of the covenants of the Agreement by the Contractor, and such breach is not cured or corrected or appropriate actions undertaken within thirty (30) days after receipt of written notice of the breach, then the City shall have the right to terminate this Agreement at the expiration of the thirty (30) day notice.

20. FINAL REPOSITORY

The parties mutually represent and warrant to each other that this Agreement, consisting of paragraphs I through 24, inclusive, constitutes the final repository of the parties on its subject matter and may not be changed, modified, discharged or extended except by written instrument duly executed by the parties. The parties agree that no previous representations or warranties shall be binding upon either party nor has the execution of this Agreement been induced on the part of any party except as expressed in writing in this Agreement.

21. INTEREST

All delinquent payments to the City shall bear interest at the rate equivalent to the periodic composite of current annual interest rates on five (5) year United States Government agency issues in effect as of the date of delinquency, but not less than ten per cent (10%) per annum. Such interest shall be calculated from the due date, exclusive of any grace period, to the date of payment, on a daily basis, and will be due and payable when billed.

22. NON-WAIVER

Failure of the City to insist upon the strict performance of any of the covenants, conditions and agreements of this Agreement in any one or more instances, shall not be construed as a waiver or relinquishment in the future of any such covenants, conditions and agreements.

23. INDEMNITY AGAINST COSTS AND CHARGES

In the event of any litigation concerning this Agreement, the prevailing party shall be entitled to recover from the losing party all reasonable costs and attorneys' fees through all appeals.

24. LITIGATION VENUE

The parties waive the privilege of venue and agree that all litigation between them

in the state courts shall take place in the City of Deltona or Volusia County, Florida, and that all litigation between them in the Federal Courts shall take place in the Southern District in and for the State of Florida

IN WITNESS OF THE FOREGOING, the parties have set their hands and seal the day and year first written above

City

City of Deltona

WITNESSES:

Helen J. Dicks

James D. Day

(CORPORATE SEAL)

By: John Masarajik
Title:

ATTEST:

Sarah G. Miller

City Clerk
Approved as to form:

James P. [Signature]
City Attorney

WITNESSES:

Carrie Culbertson

Maverick Bench Media Company Inc
Now and Formerly Known as
Associated Marketing, Inc

By: [Signature]
Title: President (SEAL)



Douglas K. Gartenlaub
Board Certified Business Litigation
dgartenlaub@burr.com Direct Dial: (407) 540-6643 Direct Fax: (321) 249-0517

200 South Orange Avenue
Suite 800
Orlando, FL 32801

Main (407) 540-6600
Fax (407) 540-6601

BURR.COM

January 09, 2014

VIA FACSIMILE (407-628-5670), ORIGINAL TO FOLLOW BY U.S. MAIL

Gretchen R. H. Vose
City Attorney
City of Deltona
324 W. Morse Boulevard
Winter Park, Florida 32789

Dear Ms.Vose:

I am in receipt of your 'Default' letter dated December 13, 2013. Please direct all future correspondence regarding this matter to my attention.

First with regard to your allegation that a default exists based on an alleged failure to pull permits, that assertion is disingenuous and unavailing. The benches in question were all in place when my client acquired Maverick Bench Company, Inc. ('Maverick') many years ago. Since acquisition my client has dutifully paid the City what it is due under the contract. Since the City has known of the existence of these benches for years, it must be assumed that the City oversaw their installation, so for you to now raise the issue of permits is legally and equitably unsupportable. Paragraph # 2 specially required permits and permission to be obtained *prior to installation*, if that didn't happen why did the City never question it before now? I must therefore assume that either benches did not require a permit or the City waived this requirement. Certainly the City is equitably estopped from raising this issue now as a 'Default' after years of benefiting from my clients benches.

In addition, your notice is defective under paragraph 4 which requires 10 day notice to my client of a defective bench and a right to replace, repair or remove the defective bench. Your notice provides none of the specifics necessary for my client to identify the bench or the alleged defect. If you wish to provide locations and specific issues I would request you also remember that my client contracted to put up *benches, not bus stops, pads or other alighting surfaces*. Any discussion of such additional items would be outside the contract and potentially subject to additional cost. I would also point out that though you have quoted the ADA you do not specify whether you are using the 1991 or 2010 version of the statute, if the City wishes to proceed down this road please provide the specific version.

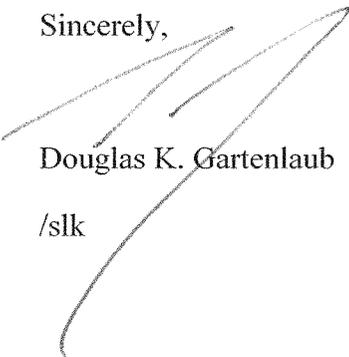
Gretchen R.H. Vose
January 09, 2014
Page 2

Finally, please note these benches were all installed prior to the effective date of 2010 ADA. They have not been altered or changed and therefore would at best be subject to the 1991 version of the ADA. If the City does require their removal either my client, a successor contractor or the City will need to comply with the current 2010 ADA at substantially increased cost to the Citizens of Deltona.

My client has always endeavored to comply with the terms of this contract. It has always made timely payment. It submitted, without complaint, to Deltona's recent audit and since I have not received notice of a problem with that audit, but instead received your notice of 'Default' on the questionable issues cited, I assume everything was in order. My client would be happy to sit down and discuss resolution of the City of Deltona's concerns regarding the matters set out in your letter, if the City wishes to discuss resolution of these issues in good faith. Please feel free to contact my office to set up such a meeting if that is acceptable.

If you have any other questions or concerns please feel free to contact the undersigned.

Sincerely,



Douglas K. Gartenlaub

/slk



AGENDA MEMO

TO: Mayor & City Commission **AGENDA DATE:** 1/21/2014
FROM: William D. Denny, City Manager **AGENDA ITEM:** 10 - A
SUBJECT: Request for consideration of a Commercial Sewer Feasibility Study of the Saxon/N. Normandy Blvd. intersection area.

LOCATION: Generally located from the Fisher Plant to the Saxon/N. Normandy intersection.

BACKGROUND: The Saxon Boulevard commercial cluster is an intensive, urban high traffic, high commercial demand area within the City of Deltona. The primary restrictions for commercial development in this area are (1) the majority of residential properties and (2) the lack of commercial sewer. Currently, developers and their representatives are doing lot assemblage in this area, which leaves the lack of commercial sewer as the primary handicap for future commercial development.

Staff review has determined that a sewer system engineering and feasibility study be performed to assess the existing conditions and potential expansion of the sanitary sewer system to allow for future commercial development. Quentin L. Hampton Associates, Inc., who currently contracts with the City of Deltona, has agreed to perform this study for \$10,600.00.

ORIGINATING DEPARTMENT: City Manager's Office

SOURCE OF FUNDS: Incentive Infrastructure Reserve Funds

COST: \$10,600.00

REVIEWED BY: Planning Director, Finance Director, City Attorney

STAFF RECOMMENDATION PRESENTED BY: Jerry Mayes, Economic Development Manager - Staff recommends that the City Commission direct staff to commence with the sanitary sewer feasibility study for the Saxon/N. Normandy Blvd. area.

**POTENTIAL
MOTION:**

"I move to direct staff to commence with the sanitary sewer feasibility study of the Saxon/N. Normandy Blvd. intersection area."

**AGENDA ITEM
APPROVED BY:**

William D. Denny, City Manager

ATTACHMENTS:

- Commercial Sewer Feasibility Study Proposal

**SCOPE OF SERVICES
SAXON BOULEVARD SEWER SYSTEM
ENGINEERING REPORT AND FEASIBILITY STUDY
CITY OF DELTONA, FLORIDA**

GENERAL

The proposed scope of services to be provided by QLH includes preparation of an engineering report and feasibility study for a sanitary sewer system in the vicinity of Saxon Boulevard east of I-4. The feasibility study will include an assessment of the proposed service area, conceptual designs, and planning level cost estimates.

ENGINEERING FEASIBILITY STUDY

The proposed report will follow a general outline, as follows:

1. Introduction
2. Service Area Description
3. Conceptual Sewer Design
4. Force Main Routing and Alternatives
5. Cost Estimates
6. Conclusions and Recommendations

COMPLETION TIME AND COMPENSATION:

The report will be completed in 4 weeks from the Notice to Proceed (NTP) date. Total compensation for all services, materials, supplies and any other items or requirements necessary to complete the work described here in shall be performed for a lump sum, not to exceed fee of **\$10,600**.