

# City of Deltona

**REGULAR CITY COMMISSION MEETING**  
**MONDAY, AUGUST 17, 2015**  
**6:30 P.M.**

*Mayor*  
John Masiarczyk

*Vice Mayor*  
Nancy Schleicher  
*District 4*

*Commissioners:*

Mitch Honaker  
*District 1*

Diane Smith  
*District 2*

Heidi Herzberg  
*District 3*

Brian Soukup  
*District 5*

Chris Nabicht  
*District 6*

*City Manager*  
Jane K. Shang

**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. **Silent Invocation Presented by Commissioner Honaker.**
4. **APPROVAL OF MINUTES & AGENDA:**
  - A. **Approval of Minutes - Regular Commission Meeting of August 3, 2015 - Joyce Raftery, City Clerk (386) 878-8502.**
5. **PRESENTATIONS/AWARDS/REPORT:**
6. **CITY COMMISSION SPECIAL REPORTS:**
7. **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. If

**an item is removed for clarification only, it will be discussed immediately following action on the Consent Agenda. If an item is removed for further discussion, it will be discussed under New Business immediately following the last listed item.**

**8. CONSENT AGENDA:**

- \*A. Request for consideration of Commissioner Soukup's appointment to the Ordinance Review Committee - Joyce Raftery, City Clerk (386) 878-8502.**

*At the Regular Commission Meeting held on August 3, 2015 Commissioner Soukup requested to table his appointment to the Committee until the next Regular Commission Meeting.*

*On July 6, 2015 the City Commission approved Ordinance No. 08-2015, creating the "Ordinance Review Committee." The City has run press releases, posted the opening on DTV, the City's web page and on bulletin boards.*

- \*B. Request for approval of Interlocal Agreement for Groundwater Monitoring, Modeling, and Related West Volusia Water Supply Plan Planning and Implementation Services - Gerald Chancellor, Public Works Department (386) 878-8998.**

*The St. Johns River Water Management District has approved a Prevention and Recovery Strategy for Blue Spring to include a Water Supply Plan (Plan) for the West Volusia area. Where the City of DeLand, the City of Deltona, the City of Orange City and the County of Volusia are all water suppliers and the Strategy and Water Supply Plan was developed based upon input from the Suppliers. The City of Deltona formally recognized and supported the Plan in a prior interlocal agreement amongst the Suppliers. The Suppliers desire to jointly fund the costs for an engineering firm to continue to monitor groundwater and to continue to assist with planning and implementation of the Water Supply Plan.*

- \*C. Request for approval of Resolution No. 2015-27, adopting the 2015 Volusia County Mitigation Strategy as approved by the Florida Division of Emergency Management and FEMA – Mark Rhame, Fire Department (386) 575-6902.**

*Volusia County's hazard mitigation planning efforts began in 1997 with the formation of the Volusia Prepares Committee. The Volusia 2020 Committee developed the first Local Mitigation Strategy (LMS) in 1999, as part of the Florida Department of Community Affairs LMS Initiative. The last version of the LMS was updated in 2009 (adopted in 2010). This multijurisdictional planning effort was led by Volusia Prepares, with support from the Mitigation 20/20 program and all municipalities.*

*The 2015 LMS update was prepared by the Volusia Prepares LMS Working Group with assistance from PBS&J, a consultant who provided professional mitigation planning services. The LMS Update process was led by the LMS Working Group Chair, Volusia County Emergency Management Plans Coordinator Larry LaHue and Volusia County LMS Coordinator Pat White.*

*Local hazard mitigation planning is the process of organizing community resources, identifying and assessing hazard risks and determining how to best minimize or manage those risks. This process results in a hazard mitigation plan that identifies specific mitigation actions, each designed to achieve both short-term planning objectives and a long-term community vision. To ensure the functionality of a hazard mitigation plan, responsibility is assigned for each proposed mitigation action to a specific individual, department or agency along with a schedule or target completion date for its implementation. Plan maintenance procedures are established for the routine monitoring of implementation progress, as well as the evaluation and enhancement of the mitigation plan itself. These plan maintenance procedures 35 Item 8C ensure that the plan remains a current, dynamic and effective planning document over time that becomes integrated into the routine local decision making process.*

*Mitigation planning offers many benefits, including:*

- *saving lives and property*
- *saving money*
- *speeding recovery following disasters*
- *reducing future vulnerability through wise development and post-disaster recovery and reconstruction*
- *expediting the receipt of pre-disaster and post-disaster grant funding*
- *demonstrating a firm commitment to improving community health and safety*

*The version presented (June 2015) has been reviewed by the Florida Division of Emergency Management and by FEMA. This plan meets all of the requirements of the Disaster Mitigation Act of 2000. A current LMS is a specific requirement for any local government applying for federal mitigation grant funds. Our current LMS expired March 31st, 2015.*

**\*D. Request for approval of Resolution No. 2015-33 and approval to establish and adopt Title VI and Nondiscrimination Policy and Plan – Becky Vose, City Attorney (407) 448-0111 (Cell).**

*The City of Deltona, as a recipient of federal funding from the State for various activities, is required to ensure that its services, programs and related benefits are conducted and distributed in a manner that is not inconsistent with the Title VI of the Civil Rights Act of 1964 (“Title VI”) and other related federal and state laws and regulations. Title VI and the related nondiscrimination laws forbids federal aid recipients from excluding from participation, denying the benefits of or subjecting to discrimination anyone on the basis of race, color or national origin. Accordingly, a Title VI Policy and Plan has been drafted for City Commission’s approval and adoption. The resolution that shall serve to authorize the establishment and implementation of the Title VI and Nondiscrimination Policy and Plan is attached to this Memorandum as Exhibit “1”.*

*Deltona values diversity and welcomes input from all interested parties, regardless of cultural identity, background or income level. The City does not tolerate discrimination in any of its programs, services or activities. By approving and*

*accepting the attached resolution that shall serve to immediately establish the Title VI and Nondiscrimination Policy and Plan attached thereto, the City assures that no person shall, on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI and related nondiscrimination laws and regulations, be denied the benefits or be otherwise subjected to discrimination or retaliation under any program, service or activity provided by the City. However, the Title VI and Nondiscrimination Policy and Plan will not apply to complaints relating to employment by the City as there are other procedures and processes available for those types of 42 Item 8D complaints.*

**9. ORDINANCES AND PUBLIC HEARINGS:**

**A. Public Hearing - Ordinance No. 05-2015, Fernanda Place Subdivision Rezoning Application, RZ15-002, at second and final reading - Chris Bowley, Planning and Development Services Department (386) 878-8602.**

*The property consists of two adjacent parcels – one is ±120 acres and is generally west of Osteen Cemetery Road and the other parcel is ±22 acres and is directly west of the ±120 acre site. None of the property has direct frontage on Howland Boulevard. Osteen Cemetery Road is a prescriptive right-of-way (ROW) to the south that provides access through the subject property to an adjacent cemetery to the east.*

*The subject property was annexed in 2005, as the Pender property. In 2009, following ownership change, the City Future Land Use Map for only the ±120 acre site was amended from Volusia County designations to City Low Density Residential and Conservation with a density cap established within the Policy FLU4-1.1 of the Future Land Use Element. The Conservation overlay designation is ±60 acres, is memorialized on the City's Future Land Use Map, and primarily coincides with environmental sensitive areas on-site and areas within the 100-year floodplain. During the Preliminary/Final Plat process, the subdivision will be designed in keeping with the Conservation overlay area.*

*In 2010, the ±120-acres were rezoned to Residential Planned Unit Development (RPUD) for an update to the former Pender subdivision with 240 single-family residential units. Access was approved for direct connection to Howland Boulevard that complied with the aforementioned density cap.*

*In 2014, following ownership change, an application was filed to add the ±22-acres and to change the Future Land Use 52 Item 9A designation on that parcel from Volusia County Agricultural Resource to City Low Density Residential (LDR). The adopted Comprehensive Plan Amendment with policy added, also followed the aforementioned density cap of up to two units per acre and limited the number of units on that tract to 45 units.*

*This proposal is to rezone both parcels to RPUD, as a unified project called Fernanda Place. The RPUD rezoning request would supersede the 2010 approved RPUD on the ±120 acre parcel and result in rezoning the ±22 acre parcel from A-1, a Volusia County designation, to City zoning that is consistent with the recently applied Low Density Residential City Land Use category. On July 15, 2015, the Planning & Zoning Board heard the rezoning request listed in Ordinance No. 05-*

*2015 and recommended that the City Commission adopt the ordinance, with the condition that the internal roadways within the project remain privately owned and maintained, following construction, since they are specific only to this project.*

**B. Public Hearing - Ordinance No. 27-2015, Amending Sections 58-34 and 58-37 of the City of Deltona's Code of Ordinances allowing for an 811 Report to Release City Easement Abandonment, at second and final reading - Chris Bowley, Planning and Development Services Department (386) 878-8602.**

*The majority of the platted lots within the City of Deltona (City) are single-family residential lots created from the Deltona Lakes Plat (Plat). On the Plat, easements are established for drainage and utility purposes. However, the majority of the easements are not used for either purpose and, on occasion, proposed for vacation; especially associated with lot combinations. During the vacation process, there is a lengthy notification process for the potential utility providers to provide a letter of release. Oftentimes, the requests for the letters either goes unanswered or takes a great amount of time to receive (whether or not there is no objection to the action).*

*To provide greater customer service for residents or applicants and to ensure that no City easements are vacated that includes utilities, the provision of the 811 report has the potential to be used in lieu of receipt of the utility letters of release. If there are no utilities listed in the required 811 report and the City does not need the easement, then the 811 report verification will expedite the vacation process and allow land owners to use their property, as proposed, sooner.*

**10. OLD BUSINESS:**

**11. NEW BUSINESS:**

**12. CITY ATTORNEY COMMENTS:**

**13. CITY MANAGER COMMENTS:**

**14. CITY COMMISSION COMMENTS:**

**15. 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:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 3 - A  
**SUBJECT:** Silent Invocation Presented by Commissioner Honaker.

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<b>LOCATION:</b>	N/A
<b>BACKGROUND:</b>	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.
<b>ORIGINATING DEPARTMENT:</b>	City Manager's Office
<b>SOURCE OF FUNDS:</b>	N/A
<b>COST:</b>	N/A
<b>REVIEWED BY:</b>	City Manager
<b>STAFF RECOMMENDATION PRESENTED BY:</b>	N/A - Invocation Only.
<b>POTENTIAL MOTION:</b>	N/A - Invocation Only.
<b>AGENDA ITEM APPROVED BY:</b>	<hr/> Jane K. Shang, City Manager



## AGENDA MEMO

**TO:** Mayor & City Commission      **AGENDA DATE:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 4 - A  
**SUBJECT:** Approval of Minutes - Regular Commission Meeting of August 3, 2015 -  
Joyce Raftery, City Clerk (386) 878-8502.

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<b>LOCATION:</b>	N/A
<b>BACKGROUND:</b>	N/A
<b>ORIGINATING DEPARTMENT:</b>	City Clerk's Office
<b>SOURCE OF FUNDS:</b>	N/A
<b>COST:</b>	N/A
<b>REVIEWED BY:</b>	City Manager
<b>STAFF RECOMMENDATION PRESENTED BY:</b>	City Clerk Joyce Raftery - That the Commission approve the minutes of the Regular Commission Meeting of August 3, 2015.
<b>POTENTIAL MOTION:</b>	"I move to approve the minutes of the Regular Commission Meeting of August 3, 2015, as presented."
<b>AGENDA ITEM APPROVED BY:</b>	<hr/> Jane K. Shang, City Manager
<b>ATTACHMENTS:</b>	<ul style="list-style-type: none"><li>• Minutes of August 3, 2015</li></ul>

**CITY OF DELTONA, FLORIDA  
REGULAR CITY COMMISSION MEETING  
MONDAY, AUGUST 3, 2015**

1 A Regular Meeting of the Deltona City Commission was held on Monday, August 3, 2015 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 6:30 p.m. by Mayor Masiarczyk.

7  
8 **2. ROLL CALL:**

9	10 Mayor	John Masiarczyk	Present
11	Vice Mayor	Nancy Schleicher	Present
12	Commissioner	Heidi Herzberg	Present
13	Commissioner	Mitch Honaker	Present
14	Commissioner	Chris Nabicht	Present
15	Commissioner	Diane Smith	Absent (Excused)
16	Commissioner	Brian Soukup	Present
17	City Manager	Jane K. Shang	Present
18	City Attorney	Becky Vose	Present
19	City Clerk	Joyce Raftery	Present

20  
21 Also present: Planning & Development Services Director Chris Bowley; Public Works/Deltona  
22 Water Director Gerald Chancellor; Parks & Recreation Director Steve Moore; and VCSO Captain  
23 Eagan.

24  
25 **3. INVOCATION AND PLEDGE TO THE FLAG:**

26  
27 **A. Silent Invocation Presented by Mayor Masiarczyk.**

28  
29 Mayor Masiarczyk led everyone in a silent invocation and the pledge to the flag.

30  
31 The National Anthem was sung by Ryan Aceituno, Graduate of Stetson University.

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

34  
35 **A. Minutes:**

36  
37 **1. Approval of Minutes – Special City Commission Meeting of July 20, 2015 and Regular  
38 City Commission Meeting of July 20, 2015.**

39  
40 **Motion by Commissioner Herzberg, seconded by Vice Mayor Schleicher to approve the minutes  
41 of the Special City Commission Meeting of July 20, 2015 and Regular City Commission Meeting  
42 of July 6, 2015, as presented.**

43  
44 **Motion carried unanimously with members voting as follows: Commissioner Herzberg, For;  
45 Commissioner Honaker, For; Commissioner Nabicht, For; Commissioner Soukup, For; Vice  
46 Mayor Schleicher, For; and Mayor Masiarczyk, For.**

47  
48 **5. PRESENTATIONS/AWARDS/REPORTS:**

1 **A. Presentation – Quarterly Reports of City Advisory Boards/Committees.**

2  
3 Deltona Economic Development Advisory Board (DEDAB) Chairperson Tanya Boggs read the  
4 DEDAB Quarterly Report for the record.

5  
6 **6. CITY COMMISSION SPECIAL REPORTS:** None.

7  
8 **7. PUBLIC FORUM – Citizen comments for item not on the agenda.**

9  
10 1) Barbara Willey, 1407 Section Line Trail, Deltona, spoke about a drainage problem on her road  
11 since 2009 and the issue being worse now that traffic has been detoured onto her road from Saxon  
12 Blvd. due to construction, Public Works had come out to the area several times and she would like to  
13 get the issue fixed.

14  
15 Mayor Masiarczyk stated Mr. Chancellor could look at that but, it is a County project where there is  
16 stormwater work being done that may tie into it which could solve some of the problems in that area.

17  
18 2) Inez Rodriguez, Pizza Family Ministries, 689 Deltona Blvd., Deltona, spoke about the upcoming  
19 Youth Performing Arts & Leadership Academy, wanting to keep the program going, she asked for  
20 the Commission's support to spread the word about a camp from August 10<sup>th</sup> – 14<sup>th</sup> and that the  
21 program is available to everyone between the ages of eight (8) and 18.

22  
23 3) Carolyn Carbonell, 589 Saxon Blvd., Deltona, spoke about being appointed as the Principal of  
24 Deltona High School, that she was previously a teacher in Deltona, she asked for the Commission's  
25 support for her and the Deltona High School, to rally around the Deltona High School, that the high  
26 school is at the gateway to the City, she was interested in partnering with the City to beautify the  
27 gateway on Howland Blvd., her idea to line from the corner of Wolf Pack Run down Howland Blvd.  
28 to the Race Track and down Wolf Pack Run to the YMCA with pole flags and she has many more  
29 ideas, she invited everyone to the opening football game on August 28, 2015 at 7:00 p.m. and she  
30 invited the Mayor and Commission to be a part of the coin toss, she introduced her Assistant  
31 Principal Jane Baxter, she provided gift bags to the Commission and staff and she stated that one (1)  
32 of her Assistant Principals, Christina Lapnow, who was involved in Thursdays crash in DeLand is  
33 still in the hospital with serious injuries but, she is doing a lot better.

34  
35 4) Mike Williams, 2889 Cottageville Street, Deltona, reminded everyone of the 5K Walk to raise  
36 money for Associate Pastor Estelle Singleton-Fenderson who needs a double lung transplant, he  
37 asked for everyone to participate in the 5K Walk and to show support for the cause whether  
38 monetary or physical.

39  
40 5) Dr. Bob Mertens, 1400 Hartley Avenue, Deltona, spoke about an issue he is having with a  
41 neighbor, that he went through the Special Magistrate process, that he is the only resident in his  
42 neighborhood with the issue, the neighbor being found in violation but, was let go, that his rights are  
43 being violated and he wants to know what the City is going to do about his issue.

44  
45 Commissioner Soukup stated he provided his phone number to Dr. Mertens so the next time there  
46 was an issue to contact him and that he has not received a call from Dr. Mertens.

47

1 Dr. Mertens asked who he makes an appeal to regarding the Special Magistrate's decision and  
 2 Mayor Masiarczyk replied either the City Attorney or City Manager.

3  
 4 **8. CONSENT AGENDA:**

5  
 6 **Motion by Vice Mayor Schleicher, seconded by Commissioner Nabicht to approve Consent**  
 7 **Agenda Items 8-A and 8-B.**

8  
 9 **Motion carried unanimously with members voting as follows: Commissioner Herzberg, For;**  
 10 **Commissioner Honaker, For; Commissioner Nabicht, For; Commissioner Soukup, For; Vice**  
 11 **Mayor Schleicher, For; and Mayor Masiarczyk, For.**

12  
 13 **\*A. Request for approval of Resolution No. 2015-31 and Budget Amendment for FY 14/15**  
 14 **2015-33 and 2015-34 - Robert Clinger, Finance Department (386) 878-8552.**

15  
 16 **Approved by Consent Agenda - to approve Resolution No. 2015-31 amending the Annual**  
 17 **General Fund and Park Projects Fund Budget for the FY14/15 and Budget Amendments 2015-**  
 18 **33 and 2015-34 to reallocate anticipated surplus funds to other projects.**

19  
 20 **\*B. Request for approval of Resolution No. 2015-32 changing the meeting date for the first**  
 21 **budget hearing in September to September 9, 2015 at 5:30 p.m. – Robert Clinger, Finance**  
 22 **Department (386) 878-8552.**

23  
 24 **Approved by Consent Agenda - to adopt Resolution No. 2015-32 changing the meeting date for**  
 25 **the first budget hearing in September to September 9, 2015 at 5:30 p.m.**

26  
 27 **9. ORDINANCES AND PUBLIC HEARINGS:**

28  
 29 **A. Public Hearing – Public Hearing - Ordinance No. 05-2015, Fernanda Place Subdivision**  
 30 **Rezoning Application, RZ15-002, at first reading - Chris Bowley, Planning and Development**  
 31 **Services Department (386) 878-8602.**

32  
 33 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

34  
 35 **Motion by Commissioner Nabicht, seconded by Commissioner Herzberg to approve**  
 36 **Ordinance No. 05-2015, Fernanda Place rezoning with the modification that the streets will be**  
 37 **public streets and not private streets taken care of by the Homeowners Association (HOA) and**  
 38 **stormwater, streets and utilities will be built according to City specifications and then taken**  
 39 **over by the City.**

40  
 41 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

42  
 43 City Attorney Becky Vose read the title of Ordinance No. 05-2015 for the record.

44  
 45 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE OFFICIAL**  
 46 **ZONING MAP TO REZONE APPROXIMATELY 142 ACRES OF LAND LOCATED EAST**  
 47 **OF HOWLAND BLVD. AND WEST OF OSTEEN CEMETERY RD. NEAR BOTH PRIDE**  
 48 **ELEMENTARY AND PINE RIDGE HIGH SCHOOLS FROM COUNTY A-1 (PRIME**

1 **AGRICULTURE) AND CITY OF DELTONA RESIDENTIAL PLANNED UNIT**  
2 **DEVELOPMENT (RPUD) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT:**  
3 **PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY AND PROVIDING**  
4 **FOR AN EFFECTIVE DATE.**

5  
6 **Motion carried unanimously with members voting as follows: Commissioner Herzberg, For;**  
7 **Commissioner Honaker, For; Commissioner Nabicht, For; Commissioner Soukup, For; Vice**  
8 **Mayor Schleicher, For; and Mayor Masiarczyk, For.**

9  
10 Ordinance No. 05-2015 was adopted at 6:55 p.m.

11  
12 **B. Public Hearing - Ordinance No. 27-2015, Amending Sections 58-34 and 58-37 of the**  
13 **City of Deltona's Code of Ordinances allowing for an 811 Report to Release City Easement**  
14 **Abandonment, at first reading - Chris Bowley, Planning and Development Services**  
15 **Department (386) 878-8602.**

16  
17 Mayor Masiarczyk opened and closed the public hearing as there were no public comments.

18  
19 City Attorney Becky Vose read the title of Ordinance No. 27-2015 for the record.

20  
21 **AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING SECTIONS 58-**  
22 **34 AND 58-37, OF ARTICLE IV, "APPLICATION", OF CHAPTER 58, "STREETS,**  
23 **SIDEWALKS AND OTHER PUBLIC PLACES", OF THE CODE OF THE CITY OF**  
24 **DELTONA, BY PERMITTING AN 811 REPORT IN LIEU OF UTILITY COMPANY**  
25 **LETTER OF RELEASE FOR CITY EASEMENT ABANDONMENT; AND PROVIDING**  
26 **FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.**

27  
28 **Motion by Commissioner Honaker, seconded by Vice Mayor Schleicher to approve Ordinance**  
29 **No. 27-2015, amending Sections 58-34 and 58-37 of the City of Deltona's Code of Ordinances**  
30 **that allows for either a utility letter of release or an 811 Report within the City easement**  
31 **abandonment process.**

32  
33 **Motion carried unanimously with members voting as follows: Commissioner Herzberg, For;**  
34 **Commissioner Honaker, For; Commissioner Nabicht, For; Commissioner Soukup, For; Vice**  
35 **Mayor Schleicher, For; and Mayor Masiarczyk, For.**

36  
37 Ordinance No. 27-2015 was adopted at 6:58 p.m.

38  
39 **10. OLD BUSINESS:** None.

40  
41 **11. NEW BUSINESS:**

42  
43 **A. Consideration of appointment of seven (7) members to the Ordinance Review**  
44 **Committee - Joyce Raftery, City Clerk (386) 878-8502.**

45  
46 Mayor Masiarczyk went down the dais for each Commissioner to select an appointment to the  
47 Committee as follows: Commissioner Honaker – Kelly Latham, Commissioner Smith submitted a  
48 letter with her appointment – Joe Cerrato, Commissioner Herzberg – Cheri Taylor, Vice Mayor

1 Schleicher – Thomas Walsh, Commissioner Soukup requested to table his appointment until the next  
2 Regular Commission Meeting, Commissioner Nabicht – Rossana Sepulveda and Mayor Masiarczyk  
3 – Sonjia Kihlmire.

4  
5 **Motion by Commissioner Nabicht, seconded by Commissioner Herzberg to confirm the**  
6 **Commission member's appointments for a two (2) year term to expire on August 3, 2017 to the**  
7 **Ordinance Review Committee.**

8  
9 **Motion carried unanimously with members voting as follows: Commissioner Herzberg, For;**  
10 **Commissioner Honaker, For; Commissioner Nabicht, For; Commissioner Soukup, For; Vice**  
11 **Mayor Schleicher, For; and Mayor Masiarczyk, For.**

12  
13 **12. CITY ATTORNEY COMMENTS:**

14  
15 Mrs. Vose stated she is working on a form for the evaluation of the City Manager which she will be  
16 distributing soon.

17  
18 **Mrs. Vose stated with regards to the Jablonski Trust, staff will be contacting the Council on**  
19 **Aging to discuss a possible commitment of funds for a future senior center and she asked the**  
20 **Commission if it was okay to ask the Mayor to be involved with some of those discussions and**  
21 **there was no objection.**

22  
23 Mayor Masiarczyk stated there needs to be a formal discussion with the Council on Aging (COA)  
24 with regards to the City moving forward with plans to build a new senior center and that the  
25 Commission would like the COA to provide a formal response in writing that the money will be set  
26 aside for planning purposes. The COA does want to have some input on the plans and staff will send  
27 the COA copies of the plans as the City moves forward with the project.

28  
29 Mayor Masiarczyk stated the Commission could use the City Manager evaluation that was used in  
30 the past, make it simple, straight, direct and to the point and allow personal interviews and  
31 discussions as long as there are written statements if the Commission so deems they want to do it.

32  
33 Commissioner Nabicht stated he did not want to use the numbering system that was used for prior  
34 City Manager Faith Miller.

35  
36 Mayor Masiarczyk stated if anyone else had any other objections to contact Mrs. Vose and that there  
37 are requirements to do the evaluation in October.

38  
39 **13. CITY MANAGER COMMENTS:**

40  
41 Ms. Shang stated as a follow up to the conversation on the COA, she would like to have a workshop  
42 on the senior center, she would like to move that project forward and her intent is once the  
43 discussions with the COA are complete she is wanting to have a workshop towards the end of  
44 August on the senior center.

45  
46 Commissioner Nabicht stated as long as there is some framework as to what that discussion is going  
47 to be because the Commission has discussed it a couple of times and do not need to rehash the same  
48 things, maybe information to put together for the consultant.

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**A. Lobbyist Update:** None.

**14. CITY COMMISSION COMMENTS:**

a) Commissioner Soukup reminded everyone about National Night Out tomorrow at City Hall, he met with Principal Carbonell this week to discuss some things she has going on which is very exciting and that she brought goody bags for the Commission and staff.

b) Commissioner Herzberg stated last session for the Florida House and Senate there was a utility relocation Bill that died and is being resurrected, Mayor Laputka sent her information which she forwarded to the City Manager regarding a conference call he had with the Florida League of Cities (FLOC) discussing the view on the upcoming utility relocation situation and he also requested how the local representative voted on the issue last session and sadly, everyone voted yes, in favor of it. The Bill states that cities will be responsible for the cost of relocating utilities if road projects are done which will be a huge cost for the cities and right now it is the utility companies responsibility but, they are lobbying long and hard to get this passed. She read from a list, Representative Dwayne Taylor, Representative David Santiago, Representative Paul Renner, Representative Fred Costello, and the House all voted yes on the house floor. Senator David Simmons on Senate Bill 896 voted yes in the Senate Community Affairs which it did not make it out of. She stated she is going to get as much info as possible from the FLOC and everyone else, the Commission needs to look at the issue and to collectively send a letter that the Commission is not in support of this and contact all the representatives in Volusia County because this is a serious, costly venture if this passes. She stated our representatives need to hear from the Commission and the residents, so hopefully before this becomes another issue in the new session, the Commission can have a statement made and contact our representative.

Mayor Masiarczyk stated Commissioner Herzberg needed to keep the Commission informed on the issue, that this would trash the City, every road project or every project the City did would require the utilities being relocated and it would cost the cities hundreds of thousands of dollars just to put reuse lines down the road.

Commissioner Herzberg stated Mayor Laputka is strong on this issue, he is researching everything and will bring it up at the elected official's roundtable and hopefully all the elected officials and the county will be on board against this issue.

c) Commissioner Honaker asked that the Commission read the utility relocation Bill because it did not say "all utilities" but, "utilities that were not necessary to accommodate" whatever was being done. If it is utilities that are in the right-of-way, required to be moved then the utility companies still have to pay for that if what he read was right. He stated at Pine Ridge High School, those with freshman, there is the parents and students orientation on August 13<sup>th</sup> at 6:00 p.m. and on August 7<sup>th</sup> through August 16<sup>th</sup> are tax free shopping days up to \$750 on computers and accessories.

d) Vice Mayor Schleicher congratulated Parks & Recreation Director Steve Moore for the Senior Breakfast which was well attended, that the Walmart Hiring Center is open which is located in the Fountains Plaza, it will be open each day from 7:00 a.m. to 5:00 p.m. and there will be 95 people hired for the new Walmart Grocery Center located on Saxon Blvd. She reminded everyone that she will not be in attendance at Monday night's workshop.

1  
2 e) Commissioner Nabicht stated he, the City Manager and staff attended Representative  
3 Santiago's One Volusia last week at the International Speedway. Former U.S. Senator Mel Martinez  
4 was the guest speaker and updated everyone on the economic picture for Florida, that Florida is  
5 doing well and coming out of the recession, one of the things to look forward to is the expansion of  
6 the ports and Florida being ready to take on trade and commerce with the widening of the Panama  
7 Canal. He stated the Walmart Grocery will be opening on Saxon Blvd. on September 30<sup>th</sup> and will  
8 be having a ribbon cutting that morning at 7:30 a.m. Florida Hospital is also getting ready to have  
9 their grand opening on Saxon Blvd. as well. He stated he believed everyone received a letter from  
10 the representative of House District 28 regarding privatization of the management of transportation  
11 services in the State such as Lynx, Votran, etc. and he is going to be introducing a Bill in the next  
12 legislative session that staff needs to get the background information on, schedule a workshop and  
13 decide whether to oppose or support it. There are a lot of issues, Votran is a county entity which is  
14 privately managed and the City is having issues with expanding Votran within the City in order to  
15 move people around the City. He stated moving people around is the key to economic development,  
16 if the City cannot move people in and out of the City it will have no use for economic development.  
17 He stated he has asked the City Manager to look at proposing a moratorium on package plants until  
18 the City can get language changed in the Comprehensive Plan and Land Development Code (LDC).  
19 He stated he is adamantly opposed to privatizing any type of City service like roads, sewer and  
20 stormwater, none of which should be managed by an HOA because it is too important of an issue, it  
21 becomes a long term expense to the City and it degrades these residential subdivisions if it's not  
22 properly maintained.

23  
24 f) Mayor Masiarczyk stated there has been some talk about gated communities, access to them  
25 and response times. He asked Captain Eagan if there was quick access, a code that is available to all  
26 the Volusia County Sheriff's Office personnel and Captain Eagan replied it is siren activated. He  
27 stated the City does not get too involved with SunRail but, the City needs to start looking at that  
28 because there are some issues coming up which Orlando is taking the lead on with Osceola County.  
29 There is talk about cutting out different services at night and days of the week because ridership is so  
30 low. He started if SunRail starts tinkering with that right now with the I-4 project coming up, the  
31 City is going to be in trouble and he asked that if anyone hears any information that it be brought to  
32 the attention of the Commission so it can support or not support it. He stated he tried to get figures  
33 regarding the ridership which he could not get because SunRail does not keep records of that. He  
34 stated he would image based on being over there a few times just talking to people that quite a few  
35 are from this area, DeLand and Debary. He stated SunRail is getting pressure to tinker with the  
36 hours of service and once an action like that is taken it is hard to ever reverse. He stated he attended  
37 the Sons of Italy ribbon cutting on an addition of a clubhouse/pub on Doyle Road; the organization  
38 puts on a Wednesday night pasta night which cost only a few dollars and the organization has been a  
39 big supporter of many projects in the City. He confirmed that National Night Out is tomorrow night  
40 between 5:30 p.m. and 8:30 p.m. in the City Hall Courtyard and also tomorrow night at the Veterans  
41 Museum at 6:00 p.m. is the Coastguard Birthday Party and he invited everyone to stop by for some  
42 cake.

43  
44 **14. ADJOURNMENT:**

45  
46 There being no further business, the meeting adjourned at 7:23 p.m.  
47  
48

City of Deltona, Florida  
Regular City Commission Meeting  
August 3, 2015  
Page 8 of 8

1 **ATTEST:**

2

3

4

**John Masiarczyk Sr., Mayor**

---

**Joyce Raftery, CMC, City Clerk**



## AGENDA MEMO

**TO:** Mayor & City Commission      **AGENDA DATE:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 8 - A  
**SUBJECT:** Consideration of Commissioner Soukup's appointment to the Ordinance Review Committee - Joyce Raftery, City Clerk (386) 878-8502.

**LOCATION:**

N/A

**BACKGROUND:**

At the Regular Commission Meeting held on August 3, 2015 Commissioner Soukup requested to table his appointment to the Committee until the next Regular Commission Meeting.

On July 6, 2015 the City Commission approved Ordinance No. 08-2015, creating the "Ordinance Review Committee." The City has run press releases, posted the opening on D-TV, the City's web page and on bulletin boards.

**ORIGINATING DEPARTMENT:**

City Clerk's Office

**SOURCE OF FUNDS:**

N/A

**COST:**

N/A

**REVIEWED BY:**

City Manager

**STAFF RECOMMENDATION PRESENTED BY:**

Joyce Raftery, City Clerk - That the Commission confirm Commissioner Soukup's appointment of Melissa Roberts to the Ordinance Review Committee with a two (2) year term to expire on August 3, 2017.

**POTENTIAL MOTION:**

"I move to confirm Commissioner Soukup's appointment of Melissa Roberts to the Ordinance Review Committee with a two (2) year term to expire on August 3, 2017."

**AGENDA ITEM APPROVED BY:**

---

Jane K. Shang, City Manager

**ATTACHMENTS:**

- Application - Roberts
- Ordinance No. 08-2015
- Member List

Received July 19, 2015

Request From: Melissa Roberts  
Email: [melroberts6@hotmail.com](mailto:melroberts6@hotmail.com)  
Source IP: 50.88.179.190

Address: 2602 Shiprock Ct  
City: Deltona  
State: FL  
Zip: 32738  
Phone: 4076194250  
Alt Phone: 4076194250  
Fax:  
Organization:

#### Checkbox Choices

Parks & Recreation Youth Advisory Sub-Committee, Economic Development Advisory Board, William S. Harvey Scholarship Selection Committee , Ordinance Review Committee,

Number of Years as a Deltona Resident

2 - 5 Years

What Commission district do you reside in?

District 6

Are you a registered voter in Volusia County?

Yes

Who is your employer? (Please include number of years, address, phone number and title/position)

Developer Analyst (Remote), 3yrs, Premier HHC 445 Hamilton White Plains, NY 877-428-7722

Please summarize your work experience.

I have a Bachelor of Science degree in Applied Management, and will have a Master of Science in Industrial and Organizational (Business) Psychology in December of 2015. My professional experiences and educational background include: various analyst and management roles (operations, process, personnel, inventory, risk, and event/project), I/O psychology, human resources, business development, procurement, customer service, CRM, ERP, AP/AR, database development, and web form development in HTML/HTML5.

List any volunteer service organizations, clubs, or professional societies you are a member of and give the positions or titles you have held.

Received July 19, 2015

Central Florida Bambino Buddy Ball Base Ball League- Prev. Secretary, Current Member

Family Financial Resources-Prev. President, Current Member

Have you ever served on a committee or advisory board? If so, give the details, including any positions held. Have you ever held public office? If so, give the details, including offices involved, whether elected or appointed, and the length of service.

N/A

Describe any additional knowledge, skill, education, or experience you have, which would assist you in the duties of this Board/Committee.

My experiences as a board member at two non-profits, as well as my professional experiences as an Operations Manager add a dynamic perspective that would provide value added contributions.

Explain why you want to serve on this Board/Committee, and include any potential contribution you selection would bring.

Youth-Parks and Rec-as a parent of 2 children, I am very interested in contributing to the advancement of this local program.

Ordinances-as a resident, I feel that my insight would add representation from our neighborhood and local community

Potential conflict of interest: Do you do business, or are you engaged in the management of any business enterprise that has a financial interest with the City of Deltona? Please give details, including the name of the enterprise, the nature of the business, and the position you hold.

No.

Have you ever been convicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? If so, give details. Do not include traffic violations or fines of \$100 or less that were imposed, unless it also included a jail sentence.

No.

List names, addresses, and telephone numbers of at least three persons who are in a position to comment on your qualifications and of whom inquiry may be made by the City of Deltona.

Lou Azzara 4074216074, Nicole Nockler 4077825565, Ashley Conway 4077823699

Additional Information or Comments

**ORDINANCE NO. 08-2015**

**AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, ADOPTING A NEW SECTION 1-17, "ORDINANCE REVIEW COMMITTEE" OF CHAPTER 1, "GENERAL PROVISIONS", OF THE CODE OF THE CITY OF DELTONA, ESTABLISHING AN ORDINANCE REVIEW COMMITTEE; PROVIDING FOR APPOINTMENT OF MEMBERS AND DUTIES OF COMMITTEE; AND PROVIDING FOR CONFLICTS, CODIFICATION, SEVERABILITY AND FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:**

**SECTION 1:** A new Section 1-17, "Ordinance Review Committee", of Chapter 1, "General Provisions," of the Code of Ordinances of the City of Deltona is hereby adopted to read as follows:

**Sec. 1-17. – Ordinance Review Committee**

The City of Deltona Ordinance Review Committee (hereinafter, "committee") is hereby created. The committee shall be comprised of seven (7) persons, with the Mayor and each City Commission member appointing one person. The members of the committee will each be either a resident of the city or be involved in a business or other organization in the city. Each member shall serve a two (2) year term, and members can succeed themselves in office. The committee will review ordinances only as specifically designated by the City Commission, and shall make recommendations to the City Commission as to such ordinances. The procedures of the committee shall be regulated by By-Laws adopted by the City Commission.

**SECTION 2. CONFLICTS.** All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

**SECTION 3. CODIFICATION.** The provisions of this Ordinance shall be codified as and become and be made a part of the Code of Ordinances of the City of Deltona. The sections of this Ordinance may be renumbered or relettered to accomplish such intention.

**SECTION 4. SEVERABILITY.** In the event that any portion or section of this Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent

City of Deltona, Florida  
Ordinance No. 08-2015  
Page 2 of 2

jurisdiction, such decision shall in no manner affect the remaining portions or sections of this Ordinance on which shall remain in full force and effect.

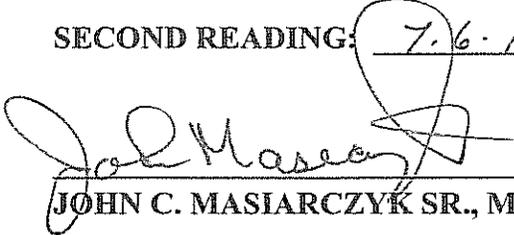
**SECTION 5. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon its final passage and adoption.

PASSED AND ADOPTED THIS 6<sup>th</sup> DAY OF July, 2015.

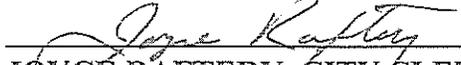
FIRST READING: 6-15-15

ADVERTISED: 6-25-15

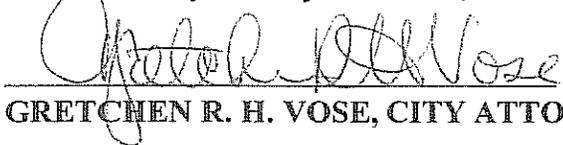
SECOND READING: 7-6-15

  
JOHN C. MASIARCZYK SR., MAYOR

ATTEST:

  
JOYCE RAFTERY, CITY CLERK

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

  
GRETCHEN R. H. VOSE, CITY ATTORNEY

NAME	YES	NO
HERZBERG	<input checked="" type="checkbox"/>	<input type="checkbox"/>
HONAKER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
NABICHT	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SMITH	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SOUKUP	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCHLEICHER	<input checked="" type="checkbox"/>	<input type="checkbox"/>
MASIARCZYK	<input checked="" type="checkbox"/>	<input type="checkbox"/>

STATE OF FLORIDA  
COUNTY OF VOLUSIA  
This is to certify that the  
foregoing is a true and correct copy of  
Ordinance 08-2015  
witness my hand and official Seal this  
7<sup>th</sup> day of July 2015  
  
Joyce Raftery, CMC  
City Clerk, City of Deltona, Florida

**City of Deltona, Florida**  
**ORDINANCE REVIEW COMMITTEE**

	<b><u>Appointed By</u></b>	<b><u>Apptd. Date</u></b>	<b><u>Term Expiration</u></b>
Sonjia Kihlmire 1113 Lyric Drive Deltona, FL 32738 (386) 574-7605 Email: <a href="mailto:lyric@cfl.rr.com">lyric@cfl.rr.com</a>	Mayor Masiarczyk	08-03-2015	08-03-2017
Kelly Latham 2132 Hainlin Court Deltona, FL 32738 (609) 849-7071 (609) 849-7070 Email: <a href="mailto:cosmickelly@hotmail.com">cosmickelly@hotmail.com</a>	Commissioner Honaker (District 1)	08-03-2015	08-03-2017
Joseph Cerrato 3253 Alling Court Deltona, FL 32725 (386) 848-3916 Email: <a href="mailto:joecer63@hotmail.com">joecer63@hotmail.com</a>	Commissioner Smith (District 2)	08-03-2015	08-03-2017
Cherri Taylor 1395 Comerwood Drive Deltona, FL 32738 (407) 257-9139 Email: <a href="mailto:mybankey@yahoo.com">mybankey@yahoo.com</a>	Commissioner Herzberg (District 3)	08-03-2015	08-03-2017
Thomas Walsh 1420 Avila Ave Deltona, FL 32725 (386) 956-4066 Email: <a href="mailto:tjwmpm@live.com">tjwmpm@live.com</a>	Commissioner Schleicher (District 4)	08-03-2015	08-03-2017
Vacant	Commissioner Soukup (District 5)	08-03-2015	08-03-2017
Rossana Sepulveda 2319 India Boulevard Deltona, FL 32738 (386) 259-4552 (917) 774-9072 Email: <a href="mailto:sepulv102@gmail.com">sepulv102@gmail.com</a>	Commissioner Nabicht (District 6)	08-03-2015	08-03-2017



## AGENDA MEMO

**TO:** Mayor & City Commission      **AGENDA DATE:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 8 - B  
**SUBJECT:** Request for approval of Interlocal Agreement for Groundwater Monitoring, Modeling, and Related West Volusia Water Supply Plan Planning and Implementation Services - Gerald Chancellor, Public Works Department (386) 878-8998.

**LOCATION:**

N/A

**BACKGROUND:**

The St. Johns River Water Management District has approved a Prevention and Recovery Strategy for Blue Spring to include a Water Supply Plan (Plan) for the West Volusia area. Where the City of DeLand, the City of Deltona, the City of Orange City and the County of Volusia are all water suppliers and the Strategy and Water Supply Plan was developed based upon input from the Suppliers. The City of Deltona formally recognized and supported the Plan in a prior interlocal agreement amongst the Suppliers. The Suppliers desire to jointly fund the costs for an engineering firm to continue to monitor groundwater and to continue to assist with planning and implementation of the Water Supply Plan.

**ORIGINATING DEPARTMENT:**

Public Works/Deltona Water

**SOURCE OF FUNDS:**

Utility Fund

**COST:**

Proposed cost is based on 2014 Water Usage for each of the Suppliers. The City of Deltona's 2014 Water Usage of 7.226 MGD, which equates to 43.26% cost share of the total cost (\$93,300) or \$40,701.87.

**REVIEWED BY:**

Public Works Director, Finance Director, City Attorney, City Manager

**STAFF RECOMMENDATION PRESENTED BY:**

Gerald Chancellor, P.E., Public Works Director - Staff recommends that the City Commission approve the

Interlocal Agreement between the City of DeLand, City of Deltona, City of Orange City and County of Volusia for Groundwater Monitoring, Modeling, and Related West Volusia Water Supply Plan Planning and Implementation Services.

**POTENTIAL  
MOTION:**

“I move to approve the Interlocal Agreement Between the City of DeLand, City of Deltona, City of Orange City and County of Volusia for Groundwater Monitoring, Modeling, and Related West Volusia Water Supply Plan Planning and Implementation Services and authorize the Mayor to sign the Agreement as the Authorized Representative of the City.”

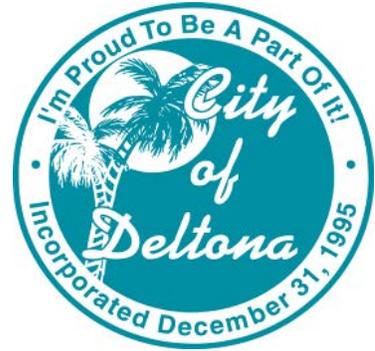
**AGENDA ITEM  
APPROVED BY:**

---

Jane K. Shang, City Manager

**ATTACHMENTS:**

- Gerald Chancellor - Interoffice Memorandum
- Interlocal Continuing Services Agreement
- ILA - Exhibit A



## INTER OFFICE MEMORANDUM

**DATE:** August 5, 2015

**TO:** Jane K. Shang, City Manager

**FROM:** Gerald Chancellor, Public Works Director

**SUBJECT:** *Agenda Item 15-331 – Interlocal Agreement for Groundwater Monitoring, Modeling & Related West Volusia Water Supply Plan*

---

The Cities of Deltona, DeLand & Orange City along with Volusia County are all suppliers and participants in the Strategy & Water Supply Plan. The Water Supply Plan includes a menu of projects which are available to the Suppliers, including the increased use of reclaimed water, interconnections of reclaimed water lines, rapid infiltration basins proximate to Blue Spring, alternative water supplies outside of the Blue Spring springshed and other projects.

The Suppliers have for many years been monitoring groundwater levels to obtain reliable data regarding various environmental and man-made impacts on water flow at Blue Springs. Continued participation to jointly fund the costs for an engineering firm to monitor groundwater and assist with planning & implementation of the Water Supply Plan is a fair & equitable way to share the financial burden.

Should you need any further information, please feel free to contact me at 386/878-8998 or via email at [gchancellor@deltonafl.gov](mailto:gchancellor@deltonafl.gov)

c:  
/paw

**INTERLOCAL AGREEMENT BETWEEN THE  
CITY OF DELAND,  
CITY OF DELTONA,  
CITY OF ORANGE CITY, AND  
COUNTY OF VOLUSIA  
FOR GROUNDWATER MONITORING, MODELING,  
AND RELATED WEST VOLUSIA WATER SUPPLY PLAN  
PLANNING AND IMPLEMENTATION SERVICES**

This Agreement is made and entered into by and between the City of DeLand (“DeLand”), the City of Deltona (“Deltona”), the City of Orange City (“Orange City”), and the County of Volusia (“Volusia”), collectively referred to herein as “Suppliers.”

**WITNESSETH:**

WHEREAS, the St. Johns River Water Management District (“District”) has approved a Prevention and Recovery Strategy for Blue Spring (“Strategy”), to include a Water Supply Plan for the West Volusia area, which was necessitated by the adopted MFL for Blue Spring; and

WHEREAS, the Strategy and Water Supply Plan were developed based upon input from the Suppliers, including a transient groundwater model which was developed for the Suppliers pursuant to a prior interlocal agreement between the Suppliers; and

WHEREAS, the Water Supply Plan includes a menu of projects which are available to the Suppliers, including the increased use of reclaimed water, interconnections of reclaimed water lines, rapid infiltration basins proximate to Blue Spring, alternative water supplies outside of the Blue Spring springshed, as well as other projects; and

WHEREAS, the Suppliers anticipate that the District will continue to provide matching funds for the projects in the Water Supply Plan, and the Suppliers will also utilize other grant and funding opportunities; and

WHEREAS, the Suppliers believe that they are more likely to obtain funding for projects in the Water Supply Plan when they jointly request funding for such projects; and

WHEREAS, the Suppliers recognize the regional benefit of joint planning and that there are economies of scale and other efficiencies to be obtained by jointly working on aspects of the Water Supply Plan; and

WHEREAS, the Suppliers have for several years been monitoring groundwater levels to support the continued reliance on the aforementioned transient groundwater model, and to otherwise obtain reliable data regarding various environmental and man-made impacts on water flow at Blue Spring; and

WHEREAS, the Suppliers desire to continue to jointly fund the costs for an engineering firm to continue to monitor groundwater and to continue to assist with planning and implementation of the Water Supply Plan.

NOW, THEREFORE, in consideration of the foregoing premises, which are hereby made a part of this Agreement, and the mutual covenants, terms and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Suppliers, each intending to be legally bound, agree to the following:

## **1. SCOPE OF WORK**

The Project Administrator (defined below) shall authorize a Consultant, under its continuing contract with Consultant, to conduct the services more particularly set forth in the proposal attached hereto as Exhibit "A."

## **2. GOVERNANCE AND MANAGEMENT**

(a) Any decisions which are necessary for the proper day-to-day administration of the work being performed by the Consultant shall be made by collective decisions of the Suppliers. Each of the Suppliers shall appoint one representative who shall be the person authorized to communicate on behalf of the respective Supplier on issues relevant to this Agreement. In the event that a dispute arises regarding the administration of this Agreement and/or the contract with Consultant, then the representatives of the Suppliers shall vote on the issue in dispute, and such vote shall be binding upon all Suppliers. In the unlikely event of a tie vote, then the Suppliers agree first to have their respective city or county managers meet to resolve the dispute, failing which they will enter into mediation. If no agreement is reached following mediation, then the Suppliers will enter into binding arbitration.

(b) The County of Volusia shall serve as the Project Administrator, and shall have overall administrative responsibility for implementing the terms of this Agreement. Under the direction of the Suppliers' representatives, the Project Administrator shall be responsible for implementing and overseeing the services of the Consultant. The Project Administrator shall have the responsibility of scheduling periodic meetings of the Suppliers' representatives, keeping the Suppliers informed of the progress of the Consultant's work and other developments related to the work contemplated by this Agreement, and for such other administrative tasks necessitated by this Agreement and the contract with the Consultant.

### 3. FUNDING

(a) The proposed cost of the Consultant's services is \$93,300.00, which is to be paid by the Suppliers in accordance with the following table:

Supplier	2014 Usage (MGD)	Percentage of Total	Total Share
DeLand	4.700	28.37%	<b>\$26,473.68</b>
Deltona	7.226	43.62%	<b>\$40,701.87</b>
Orange City	1.793	10.82%	<b>\$10,099.43</b>
Volusia Co.	2.845	17.19%	<b>\$16,025.02</b>
Total	16.564	100.0%	<b>\$93,300.00</b>

(b) All contributions made by the Suppliers pursuant to this Agreement shall be paid to the Project Administrator. Upon receipt of an invoice or other pay application from the Consultant for services contemplated by this Agreement, the Project Administrator shall forthwith furnish to each of the other Suppliers a reimbursement request setting forth each Suppliers' pro-rata share of the said invoice calculated on the basis of percentages, as set forth in the table in Section 3(a) of this Agreement. The Suppliers shall reimburse the Project Administrator within thirty (30) days of receipt of the reimbursement request. All amounts payable by the Suppliers pursuant to this Agreement are subject to appropriation of said funds by the governing body of the respective supplier.

(c) Changes in the negotiated scope of work that will cause the Consultant's charges to increase must be unanimously approved by the Suppliers, and the Project Administrator shall not authorize the Consultant to undertake such additional or different work until the Project Administrator receives written notification from each Supplier that it has authorized payment of the additional funds. Any additional amounts charged by the Consultant will be paid by the Suppliers on the basis of percentages of consumption, as set forth in the table in Section 3(a) of this Agreement.

### 4. TERMS, AMENDMENT, TERMINATION

The term of this Agreement shall commence upon its execution by all Suppliers, and shall remain in effect until completion of all work set forth in the Consultant's proposal attached hereto as Exhibit "A."

## **5. AGREEMENT NOT A JOINT VENTURE**

This Agreement is not intended to create a joint venture amongst the parties hereto, and in no event shall any party to this Agreement be responsible for the acts of any other party, or such other party's employees, agents or representatives.

## **6. OWNERSHIP OF DOCUMENTS**

Ownership and copyright to all reports and all accompanying data (in all formats) produced pursuant to this Agreement shall be vested in each of the Suppliers. Any source documents or any other documents or materials developed, secured or used in the performance of this Agreement shall be considered property of the Party from which such documents or materials originated.

## **7. SOVEREIGN IMMUNITY**

Each participating party expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Each party shall be liable for its own actions and negligence. Notwithstanding anything set forth in any section of this Agreement to the contrary, nothing in this Agreement shall be deemed as a waiver of immunity or limits of liability of any party beyond any statutory limited waiver of immunity or limits of liability which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and liability of any party for damages shall not exceed the statutory limits of liability, regardless of the number or nature of any claim which may arise including but not limited to a claim sounding in tort, equity or contract.

## **8. NO THIRD PARTY BENEFICIARIES**

Nothing in this Agreement shall inure to the benefit of any third party for any purpose, including but not limited to the purpose of allowing any claim against any party, which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

## **9. ENTIRE AGREEMENT**

This Agreement, including exhibits, constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof, and there are no warranties, representations or other agreements in connection with the subject matter hereof, except as specifically set forth herein.

**INTERLOCAL AGREEMENT BETWEEN THE  
CITY OF DELAND,  
CITY OF DELTONA,  
CITY OF ORANGE CITY, AND  
COUNTY OF VOLUSIA  
FOR GROUNDWATER MONITORING, MODELING,  
AND RELATED WEST VOLUSIA WATER SUPPLY PLAN  
PLANNING AND IMPLEMENTATION SERVICES**

IN WITNESS WHEREOF,

Executed by Volusia County on the \_\_\_\_ day of \_\_\_\_\_, 2015.

VOLUSIA COUNTY

By: \_\_\_\_\_  
Jason P. Davis, County Chair

Attest:

\_\_\_\_\_  
James T. Dinneen, County Manager

**INTERLOCAL AGREEMENT BETWEEN THE  
CITY OF DELAND,  
CITY OF DELTONA,  
CITY OF ORANGE CITY, AND  
COUNTY OF VOLUSIA  
FOR GROUNDWATER MONITORING, MODELING,  
AND RELATED WEST VOLUSIA WATER SUPPLY PLAN  
PLANNING AND IMPLEMENTATION SERVICES**

Executed by the City of DeLand on the \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF DELAND

By: \_\_\_\_\_  
Robert F. Apgar, Mayor

Attest:

\_\_\_\_\_  
Julie A. Hennessy, City Clerk-Auditor

Approved as to legal form:

By: \_\_\_\_\_  
Darren J. Elkind, City Attorney

**INTERLOCAL AGREEMENT BETWEEN THE  
CITY OF DELAND,  
CITY OF DELTONA,  
CITY OF ORANGE CITY, AND  
COUNTY OF VOLUSIA  
FOR GROUNDWATER MONITORING, MODELING,  
AND RELATED WEST VOLUSIA WATER SUPPLY PLAN  
PLANNING AND IMPLEMENTATION SERVICES**

Executed by the City of Deltona on the \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF DELTONA

By: \_\_\_\_\_  
John C. Masiarczyk, Sr., Mayor

Attest:

\_\_\_\_\_  
Joyce Raftery, CMC, City Clerk

Approved as to legal form:

By: \_\_\_\_\_  
Gretchen "Becky" Vose, City Attorney

**INTERLOCAL AGREEMENT BETWEEN THE  
CITY OF DELAND,  
CITY OF DELTONA,  
CITY OF ORANGE CITY, AND  
COUNTY OF VOLUSIA  
FOR GROUNDWATER MONITORING, MODELING,  
AND RELATED WEST VOLUSIA WATER SUPPLY PLAN  
PLANNING AND IMPLEMENTATION SERVICES**

Executed by the City of Orange City on the \_\_\_\_ day of \_\_\_\_\_, 2015.

CITY OF ORANGE CITY

By: \_\_\_\_\_  
Tom Laputka, Mayor

Attest:

\_\_\_\_\_  
Debbie Renner, City Clerk-Auditor

Approved as to legal form:

By: \_\_\_\_\_  
William Reischmann, City Attorney

BRAD T. BLAIS, P.E.  
 DAVID A. KING, P.E.  
 ANDREW M. GIANNINI, P.E.  
 KEVIN A. LEE, P.E.

Quentin L. Hampton Associates, Inc.  
*Consulting Engineers*  
 P.O. DRAWER 290247  
 PORT ORANGE, FLORIDA 32129-0247

TELEPHONE: (386) 761-8810  
 FAX: (386) 761-3977  
 EMAIL: qlha@qlha.com

July 21, 2015  
 REVISED

Mike Ulrich  
 Water Resources & Utilities Director  
 Volusia County  
 123 W. Indiana Avenue  
 DeLand, FL 32922

Email: [mulrich@volusia.org](mailto:mulrich@volusia.org)  
 Hard Copy Mailed Only on Request

**WVWS WATER SUPPLY PLAN COORDINATION,  
 PLANNING AND IMPLEMENTATION  
 - SCOPE OF SERVICES -**

Dear Mike,

We are pleased to offer this scope of services and fee estimate for the above referenced project.

The West Volusia Water Suppliers (WVWS) have prepared a Water Supply Plan (WSP) which has been accepted and adopted by the St. John's River Water Management District (SJRWMD). The WSP identifies a series of projects which will increase the availability of fresh groundwater while simultaneously satisfying the Blue Spring Minimum Flow Regime (MFR). Some of the projects are currently under design and/or construction. Other projects have been conceptually planned, but require additional design and study activities in order to establish construction cost estimates and initiate final design and permitting activities.

The enclosed scope of services describes a series of tasks required to: continue the environmental monitoring plan, meet with WVWS members, prepare presentations, coordinate projects and activities with regulatory agencies, develop planning documents for raw water supply and treatment facilities and assist negotiations for long term water supply with Farmton, LLC.

**SCOPE OF SERVICES**

QLH's Scope of Work will include the following:

**Task A – Environmental Monitoring Plan**

Maintain and operate the monitoring stations that were installed under Phase II. Download the data sets from these stations and from the SJRWMD and USGS websites to maintain a complete database for the EMP. The monitoring will be conducted annually. At the completion of the monitoring period, all data will be compiled in a format suitable for correlative model input and for submittal of data in an acceptable electronic format. The scope of work includes time and materials, such as travel to each monitoring station to download data, equipment maintenance during the monitoring period and time spent

converting the collected data into a format suitable for subsequent use in correlative models, if necessary.

### **Task B - Water Supply Plan Coordination and Assistance**

Attend and document bi-monthly meetings with WVWS members. The ENGINEER shall schedule bi-monthly meetings with representatives of the West Volusia Suppliers. An allowance for meetings is included in the fee schedule. Professional fees for attendance at meetings will be billed against the established allowance in accordance with the attached fee schedule. Provide updates to Councils and Commissions as necessary. Attend meetings with rate consultants and legal counsel for water rates and water supply negotiations, respectively. Additional tasks as deemed necessary by WVWS members.

### **Task C - Water Supply Project Planning and Implementation**

Prepare preliminary designs and construction cost estimates for the following projects:

<b>WVWS Water Supply Project Descriptions</b>
West Volusia Water Suppliers (WVWS) Aquifer Recharge Enhancement
Deep Creek/Leffler Water Supply, Treatment and Transmission Facilities
Farmton Water Supply and Transmission Facilities

This task will include further development of the referenced projects for consideration by SJRWMD for grant funding. This task may include submission of a consumptive use permit (CUP) application on behalf of the WVWS for up to 4mgd of groundwater from the Deep Creek/Leffler property.

### **Task D - Hydrogeologic Services**

Provide sub-consulting services for performing groundwater modeling associated with development of WVWS water supply projects. An allowance is established to fund groundwater modeling efforts which may be deemed necessary to support continued development of the group's water supply projects. This work will be billed at actual cost plus 10%.

### **PROGRESS MEETINGS**

The ENGINEER shall schedule meetings with representatives of the West Volusia Suppliers. An allowance for meetings is included in the fee schedule. Professional fees for attendance at meetings will be billed against the established allowance in accordance with the QLH fee schedule.

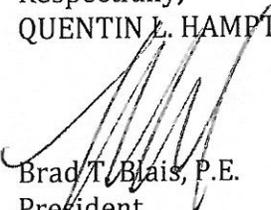
**COMPENSATION**

Payment for all services will be in accordance with the Standard Contract for Engineering Services. QLH fees include 10% administrative overhead charges applied to sub-consultant charges. Total compensation for all services, materials, supplies and any other items or requirements necessary to complete the work described herein shall NOT EXCEED **\$93,300**. This amount being further broken down as follows:

<b>Task A.</b>	<u>Environmental Monitoring</u>	
	1. Sub-consultant Fees	\$36,000
	2. QLH Fees and charges	<u>\$ 3,600</u>
	Sub-total	\$39,600
<b>Task B.</b>	<u>Water Supply Plan Coordination and Assistance</u>	
	3. QLH Fees and Charges	\$20,000
<b>Task C.</b>	<u>Water Supply Project Planning and Implementation</u>	
	4. QLH Fees and charges	\$20,000
	5. Printing Allowance	<u>\$ 500</u>
	Sub-total	\$20,500
<b>Task D.</b>	<u>Hydrogeologic Services</u>	
	6. Sub-consultant Fees	\$12,000
	7. QLH fees and charges	<u>\$ 1,200</u>
	Sub-total	\$13,200
<b>Total Tasks A - D</b>		<b>\$93,300</b>

Thank you for this opportunity to continue to be of service. If you have additional questions, or required further assistance, please do not hesitate to call.

Respectfully,  
 QUENTIN L. HAMPTON ASSOCIATES, INC.

  
 Brad T. Blais, P.E.  
 President

  
 Kevin A. Lee, P.E.  
 Project Manager

BTB/KAL:bf

Enclosures



## AGENDA MEMO

**TO:** Mayor & City Commission      **AGENDA DATE:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 8 - C  
**SUBJECT:** Request for approval of Resolution No. 2015-27, adopting the 2015 Volusia County Mitigation Strategy as approved by the Florida Division of Emergency Management and FEMA - Mark Rhame, Fire Department (386) 575-6902.

---

**LOCATION:**

City wide

**BACKGROUND:**

Volusia County's hazard mitigation planning efforts began in 1997 with the formation of the Volusia Prepares Committee. The Volusia 2020 Committee developed the first Local Mitigation Strategy (LMS) in 1999, as part of the Florida Department of Community Affairs LMS Initiative. The last version of the LMS was updated in 2009 (adopted in 2010). This multijurisdictional planning effort was led by Volusia Prepares, with support from the Mitigation 20/20 program and all municipalities.

The 2015 LMS update was prepared by the Volusia Prepares LMS Working Group with assistance from PBS&J, a consultant who provided professional mitigation planning services. The LMS Update process was led by the LMS Working Group Chair, Volusia County Emergency Management Plans Coordinator Larry LaHue and Volusia County LMS Coordinator Pat White.

Local hazard mitigation planning is the process of organizing community resources, identifying and assessing hazard risks and determining how to best minimize or manage those risks. This process results in a hazard mitigation plan that identifies specific mitigation actions, each designed to achieve both short-term planning objectives and a long-term community vision. To ensure the functionality of a hazard mitigation plan, responsibility is assigned for each proposed mitigation action to a specific individual, department or agency along with a schedule or target completion date for its implementation. Plan maintenance procedures are established for the routine monitoring of implementation progress, as well as the evaluation and enhancement of the mitigation plan itself. These plan maintenance procedures

ensure that the plan remains a current, dynamic and effective planning document over time that becomes integrated into the routine local decision making process.

Mitigation planning offers many benefits, including:

- saving lives and property
- saving money
- speeding recovery following disasters
- reducing future vulnerability through wise development and post-disaster recovery and reconstruction
- expediting the receipt of pre-disaster and post-disaster grant funding
- demonstrating a firm commitment to improving community health and safety

The version presented (June 2015) has been reviewed by the Florida Division of Emergency Management and by FEMA. This plan meets all of the requirements of the Disaster Mitigation Act of 2000. A current LMS is a specific requirement for any local government applying for federal mitigation grant funds. Our current LMS expired March 31<sup>st</sup>, 2015.

**ORIGINATING DEPARTMENT:**

Fire Administration

**SOURCE OF FUNDS:**

N/A

**COST:**

N/A

**REVIEWED BY:**

Fire Chief, Finance Director, City Attorney, City Manager

**STAFF RECOMMENDATION PRESENTED BY:**

Deputy Chief Sievert - That the City Commission approve Resolution No. 2015-27 to adopt the Volusia County Local Mitigation Strategy.

**POTENTIAL MOTION:**

“I move to adopt Resolution No.2015-27 adopting the 2015 Volusia County Local Mitigation Strategy as approved by the Florida Department of Emergency Management and FEMA.”

**AGENDA ITEM APPROVED BY:**

---

Jane K. Shang, City Manager

**ATTACHMENTS:**

- Resolution No. 2015-27
- Letter from Division of Emergency Management

**Resolution Number 2015-27****A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA, RELATING TO THE ADOPTION OF VOLUSIA COUNTY LOCAL MITIGATION STRATEGY; ADOPTING THE VOLUSIA COUNTY MITIGATION STRATEGY PURSUANT TO SECTION 322 “MITIGATION PLANNING” OF THE ROBERT T STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, areas of the City of Deltona are vulnerable to the human and economic costs of natural, technological and societal disasters, and

**WHEREAS**, the City of Deltona governing body realizes the importance of reducing or eliminating those vulnerabilities for the overall good and welfare of the community, and

**WHEREAS**, the City of Deltona has been an active participant in Volusia Prepares, the Local Mitigation Strategy working group, which has established a comprehensive, coordinated planning process involving the county and its municipalities, as well as other public and private sector organizations, to eliminate or decrease these vulnerabilities, and

**WHEREAS**, City of Deltona representatives and staff have identified, justified and prioritized a number of proposed projects and programs needed to mitigate the vulnerabilities of unincorporated areas of Volusia County to the impacts of future disasters, and

**WHEREAS**, City of Deltona representatives and staff have reviewed the information provided by or for other participating jurisdictions and organizations, including the projects and programs they have proposed for incorporation into the Volusia County Local Mitigation Plan, and

**WHEREAS**, these proposed projects and programs have been incorporated into the current edition of the Volusia County Local Mitigation Plan that has been prepared and issued for consideration and implementation by the communities and jurisdictions of Volusia County,

**Now therefore, be it resolved on this 17th day of August, 2015 that,**

1] The City of Deltona hereby accepts and approves of its designated portion of the Volusia County Local Mitigation Plan,

City of Deltona, Florida  
 Resolution No. 2015-27  
 Page 2 of 2

2] The City of Deltona accepts and endorses the mitigation goals and objectives established by Volusia Prepares for the countywide plan, and the anticipated schedule for the next updating of the plan

3] The City of Deltona finds that the proposed mitigation projects and programs included in the plan by other jurisdictions and organizations are acceptable, that they will not adversely affect the county or its neighborhoods, and that they do not conflict with or duplicate the mitigation proposals made by the county itself.

2] The agency personnel of the City of Deltona are requested and instructed to pursue available funding opportunities for implementation of the proposals designated therein,

4] The agencies and organizations within the City of Deltona will, upon receipt of such funding or other necessary resources, seek to implement the proposals contained in the county's individual section of the strategy, and

5] The City of Deltona will continue to participate in the updating and expansion of the Volusia County Local Mitigation Plan in the years ahead, and

6] The City of Deltona will further seek to encourage the businesses, industries and community groups operating within City of Deltona to also participate in the updating and expansion of the Volusia County Local Mitigation Plan in the years ahead.

**PASSED AND RESOLVED** by the City Commission of the City of Deltona,  
 Florida this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
 JOHN MASIARCZYK, Mayor

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



STATE OF FLORIDA  
**DIVISION OF EMERGENCY MANAGEMENT**

RICK SCOTT  
 Governor

BRYAN W. KOON  
 Director

June 22, 2015

Ms. Pat White  
 Local Mitigation Strategy Coordinator  
 3825 Tiger Bay Road  
 Daytona Beach, Florida 32124

Re: Volusia County Local Hazard Mitigation Plan Approved Pending Adoption

Dear Ms. White:

This is to confirm that we have completed a State review of the Volusia County Local Mitigation Strategy (LMS) update for compliance with the federal hazard mitigation planning standards contained in 44 CFR 201/6(b)-(d). Based on our review and comments, Volusia County developed and submitted all the necessary plan revisions and our staff has reviewed and approved these revisions. We have determined that the Volusia County LMS plan is compliant with federal standards, subject to formal community adoption, for the jurisdictions below:

Volusia County, Unincorporated  
 City of Daytona Beach  
 City of Daytona Beach Shores  
 City of DeBary  
 City of DeLand  
 City of Deltona  
 City of Edgewater  
 City of Holly Hill  
 City of Lake Helen  
 City of New Smyrna Beach  
 City of Oak Hill  
 City of Orange City  
 City of Ormond Beach  
 City of Pierson  
 City of Ponce Inlet  
 City of Port Orange  
 City of South Daytona  
 Volusia County School Board

Upon submittal of a copy of all participating jurisdictions' documentation of their adoption resolutions to our office, we will send all necessary documentation to the Federal

Mr. Miles Anderson  
June 22, 2015  
Page two

Emergency Management Agency (FEMA) who will issue formal approval of the Volusia County LMS.

If you have any questions regarding this matter, please contact David M. Block at 850-413-9959 or david.block@em.myflorida.com.

Respectfully,



Miles E. Anderson,  
Bureau Chief, Mitigation  
State Hazard Mitigation Officer

MEA/dmb

Attachments: MEMORADUM: State approval of LMS plans under Program Administration by States (PAS)



## AGENDA MEMO

**TO:** Mayor & City Commission                      **AGENDA DATE:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager                      **AGENDA ITEM:** 8 - D  
**SUBJECT:** Request for approval of Resolution No. 2015-33 and approval to establish and adopt Title VI and Nondiscrimination Policy and Plan – Becky Vose, City Attorney (407) 448-0111 (Cell).

**LOCATION:**

N/A

**BACKGROUND:**

The City of Deltona, as a recipient of federal funding from the State for various activities, is required to ensure that its services, programs and related benefits are conducted and distributed in a manner that is not inconsistent with the Title VI of the Civil Rights Act of 1964 (“Title VI”) and other related federal and state laws and regulations. Title VI and the related nondiscrimination laws forbids federal aid recipients from excluding from participation, denying the benefits of or subjecting to discrimination anyone on the basis of race, color or national origin. Accordingly, a Title VI Policy and Plan has been drafted for City Commission’s approval and adoption. The resolution that shall serve to authorize the establishment and implementation of the Title VI and Nondiscrimination Policy and Plan is attached to this Memorandum as Exhibit “1”.

Deltona values diversity and welcomes input from all interested parties, regardless of cultural identity, background or income level. The City does not tolerate discrimination in any of its programs, services or activities. By approving and accepting the attached resolution that shall serve to immediately establish the Title VI and Nondiscrimination Policy and Plan attached thereto, the City assures that no person shall, on the basis of race, color, national origin, sex, age, disability, family or religious status, as provided by Title VI and related nondiscrimination laws and regulations, be denied the benefits or be otherwise subjected to discrimination or retaliation under any program, service or activity provided by the City. However, the Title VI and Nondiscrimination Policy and Plan will not apply to complaints relating to employment by the City as there are other procedures and processes available for those types of

**ORIGINATING DEPARTMENT:**

complaints.

City Attorney's Office

**SOURCE OF FUNDS:**

N/A

**COST:**

N/A

**REVIEWED BY:**

City Attorney, Finance Director, City Manager

**STAFF RECOMMENDATION PRESENTED BY:**

Becky Vose, City Attorney - The City Commission approve Resolution No. 2015-33 and approval to establish and adopt the Title VI and Nondiscrimination Policy and Plan.

**POTENTIAL MOTION:**

"I move to approve Resolution No. 2015-33 and approval to establish and adopt the Title VI and Nondiscrimination Policy and Plan."

**AGENDA ITEM APPROVED BY:**

---

Jane K. Shang, City Manager

**ATTACHMENTS:**

- Resolution No. 2015-33
- Title VI Policy 7-6-15

**RESOLUTION NO. 2015 -33****A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA SETTING FORTH THE CITY'S POLICY OF NON-DISCRIMINATION**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELTONA FLORIDA, AS FOLLOWS:**

**SECTION 1. The City Commission adopts the following non-discrimination policy.****General Commitment to Non-Discrimination**

Title VI of the Civil Rights Act prohibits any person in the United States from being denied the benefits of or discriminated against under any program or activity that receives federal financial assistance.

The City of Deltona values diversity and both welcomes and actively seeks input from all interested parties, regardless of cultural identity, background or income level. Moreover, the City does not tolerate discrimination in any of its programs, services or activities. Deltona prohibits discrimination and/or exclusion from municipal facilities, programs, activities and services based on a person's race, color, national origin, creed, sex, age, sexual orientation, disability, veteran status, religion, income, ability to speak English, or family status. Deltona will actively work to ensure inclusion of everyone in our community so that City programs, services and activities represent the diversity we enjoy.

**Persons with Disabilities**

The City is committed to including individuals with disabilities in municipal services programs and activities. The City shall make every effort to ensure that its services programs and activities when viewed in their entirety are readily accessible to and usable by individuals with disabilities. In an effort to promote meaningful access for persons with disabilities, the City recognizes its obligation to provide modifications to policies, practices, and procedures and where necessary to provide auxiliary aids to qualified individuals with disabilities.

Individuals requesting modifications or auxiliary aids/services must when possible, provide the City a minimum of 72 hours advance notice. Because of logistical difficulties in obtaining certain services e.g., interpreters, persons requesting aids and services are strongly encouraged to provide the City additional advance notice. Examples of auxiliary aids and materials which may be made available include: interpreters; note takers; written materials; telephone handset amplifiers; TDD's; enlarged text; qualified readers; audio recordings, larger print readers, Braille, and assistance in locating items – all services will be provided at no cost.

Although the City will give primary consideration to an individual's choice of auxiliary aid/service, it may not be possible for the City to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or a activity or in an undue financial

or administrative burden. However, in such instances, the City will furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burden.

### **Limited English Speaking (LEP) Persons**

Consistent with Executive Order 12898, *Environmental Justice in Low Income and Minority*

*Populations*, and in order to avoid the exclusion and/or discrimination against limited English speaking persons on the grounds of national origin, the City is committed to taking reasonable steps to ensure that such eligible persons have meaningful access to the City's services, programs and activities. The City recognizes that one the most important elements required for meeting this obligation is for an appropriate mix of written and oral language assistance e.g., translation services, to be accessible to limited English speaking persons.

Which documents must be translated, when oral translation is necessary, and whether such services must be immediately available depend on many factors. As a result, the City is committed to following the United States Department of Justice (USDOJ) guidance on making such determinations, which includes determining:

- 1) Frequency of Contact with the Program
- 2) Nature and Importance of the Program
- 1) Number or Proportion of LEP Individuals
- 2) Resources Available

As part of this effort, it will be the policy of the City to post this policy statement or a statement summarizing this policy (translated into languages that are most frequently spoken in the City). The posting will occur in places where municipal services are provided and on appropriate public documents e.g., advertisements, notices.

### **Questions, requests and complaints**

Individuals having questions, requests for services/modifications or complaints concerning the City of Deltona's policy on nondiscrimination should contact the City's Human Resources/Risk Manager.

Cara Burgess, Human Resources Manager  
 2345 Providence Blvd.  
 Deltona, FL 32725  
 Phone Number: (386) 878-8753  
 FAX: (386) 878-8751  
 E-mail: cburgess@deltonafl.gov  
 Days/Hours Available: Monday – Friday, 8:00AM to 5:00PM

### **Complaints**

The complaint should be in writing (or submitted through the use of an auxiliary aid) and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. A complaint must be filed within one hundred eighty (180) days after the date of the alleged discrimination, unless the time for filing is extended by federal authorities.

### **Complaint Investigation**

Upon receipt of a signed complaint, the City's Human Resources/Risk Manager will, within five (5) working days, provide the complainant or his/her representative with a written acknowledgement of the complaint.

The City's Human Resources/Risk Manager will take reasonable steps to resolve the matter and respond to the complaint within thirty (30) days. The City's Human Resources/Risk Manager has 'easy access' to the City Manager and is not required to obtain other approval to discuss discrimination.

Should the City be unable to satisfactorily resolve the complaint, the City's Human Resources/Risk Manager shall forward the complaint, along with a record of its disposition, through the City's grievance process.

### **ADA/504 STATEMENT**

Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA) and related federal and state laws and regulations forbid discrimination against those who have disabilities. Furthermore, these laws require federal aid recipients and other government entities to take affirmative steps to reasonably accommodate the disabled and ensure that their needs are equitably represented in the transportation planning process.

The City of Deltona will make every effort to ensure that its facilities, programs, services and activities are accessible to those with disabilities. The City will make every effort to ensure that its public involvement activities include representation by the disabled community and disability service groups. The City encourages the public to report any facility, program, service or activity that appears inaccessible to the disabled. Furthermore, the City will provide reasonable accommodation to disabled individuals who wish to participate in public involvement events or who require special assistance to access City facilities, programs, services or activities. Because providing reasonable accommodation may require outside assistance, organization or resources, the City asks that requests be made at least 72 hours prior to the need for accommodation.

Questions, concerns, comments or requests for accommodation should be made to:

Cara Burgess, Human Resources Manager  
2345 Providence Blvd.

City of Deltona, Florida  
Resolution No. 2015-33  
Page 4 of 4

Deltona, FL 32725  
Phone Number: (386) 878-8753  
FAX: (386) 878-8751  
E-mail: cburgess@deltonafl.gov  
Days/Hours Available: Monday – Friday, 8:00AM to 5:00PM

Additionally the City has designated an ADA Coordinator to make it easier to help members of the public with questions and concerns about disability discriminations, act as a single source of information on ADA compliance with public infrastructure, and can focus on moving projects and facilities towards compliance. The ADA Coordinator is:

Steve Roland  
2345 Providence Blvd.  
Deltona, FL 32725  
Phone Number: (386) 878-8653  
FAX: (386) 878-8651  
E-mail:sroland@deltonafl.gov  
Days/Hours Available: Monday – Friday, 8:00AM to 5:00PM

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF  
DELTONA, FLORIDA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

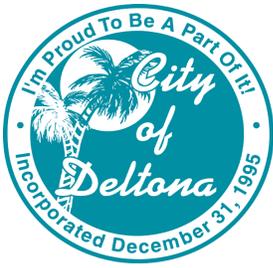
BY: \_\_\_\_\_  
JOHN C. MASIARCZYK, SR., Mayor

ATTEST:

\_\_\_\_\_  
JOYCE RAFTERY, CMC, City Clerk

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

\_\_\_\_\_  
GRETCHEN R. H. VOSE, ESQ. City Attorney



# City of Deltona

## **General Commitment to Non Discrimination**

Title VI of the Civil Rights Act prohibits any person in the United States from being denied the benefits of or discriminated against under any program or activity that receives federal financial assistance.

The City of Deltona values diversity and both welcomes and actively seeks input from all interested parties, regardless of cultural identity, background or income level. Moreover, the City does not tolerate discrimination in any of its programs, services or activities. Deltona prohibits discrimination and/or exclusion from municipal facilities, programs, activities and services based on a person's race, color, national origin, creed, sex, age, sexual orientation, disability, veteran status, religion, income, ability to speak English, or family status. Deltona will actively work to ensure inclusion of everyone in our community so that City programs, services and activities represent the diversity we enjoy.

## **Persons with Disabilities**

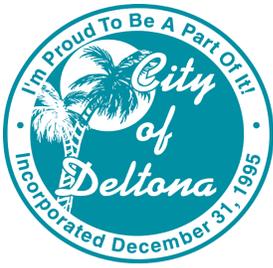
The City is committed to including individuals with disabilities in municipal services programs and activities. The City shall make every effort to ensure that its services programs and activities when viewed in their entirety are readily accessible to and usable by individuals with disabilities. In an effort to promote meaningful access for persons with disabilities, the City recognizes its obligation to provide modifications to policies, practices, and procedures and where necessary to provide auxiliary aids to qualified individuals with disabilities.

Individuals requesting modifications or auxiliary aids/services must when possible, provide the City a minimum of 72 hours advance notice. Because of logistical difficulties in obtaining certain services e.g., interpreters, persons requesting aids and services are strongly encouraged to provide the City additional advance notice. Examples of auxiliary aids and materials which may be made available include: interpreters; note takers; written materials; telephone handset amplifiers; TDD's; enlarged text; qualified readers; audio recordings, larger print readers, Braille, and assistance in locating items – all services will be provided at no cost.

Although the City will give primary consideration to an individual's choice of auxiliary aid/service, it may not be possible for the City to provide auxiliary aids that would result in a fundamental alteration in the nature of a service, program, or a activity or in an undue financial or administrative burden. However, in such instances, the City will furnish another auxiliary aid, if available, that does not result in a fundamental alteration or undue burden.

## **Limited English Speaking (LEP) Persons**

Consistent with Executive Order 12898, *Environmental Justice in Low Income and Minority*



# City of Deltona

*Populations*, and in order to avoid the exclusion and/or discrimination against limited English speaking persons on the grounds of national origin, the City is committed to taking reasonable steps to ensure that such eligible persons have meaningful access to the City's services, programs and activities. The City recognizes that one the most important elements required for meeting this obligation is for an appropriate mix of written and oral language assistance e.g., translation services, to be accessible to limited English speaking persons.

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- 3) Nature and Importance of the Program
- 4) Resources Available

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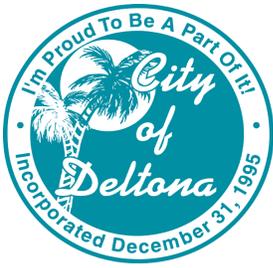
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 Phone Number: (386) 878-8753  
 FAX: (386) 878-8751  
 E-mail: [cburgess@deltonafl.gov](mailto:cburgess@deltonafl.gov)  
 Days/Hours Available: Monday – Friday, 8:00AM to 5:00PM

## **Complaints**

The complaint should be in writing (or submitted through the use of an auxiliary aid) and contain information about the alleged discrimination such as name, address, phone number of complainant and location, date, and description of the problem. A complaint must be filed within one hundred eighty (180) days after the date of the alleged discrimination, unless the time for filing is extended by federal authorities.



# City of Deltona

## **Complaint Investigation**

Upon receipt of a signed complaint, the City's Human Resources/Risk Manager will, within five (5) working days, provide the complainant or his/her representative with a written acknowledgement of the complaint.

The City's Human Resources/Risk Manager will take reasonable steps to resolve the matter and respond to the complaint within thirty (30) days. The City's Human Resources/Risk Manager has 'easy access' to the City Manager and is not required to obtain other approval to discuss discrimination.

Should the City be unable to satisfactorily resolve the complaint, the City's Human Resources/Risk Manager shall forward the complaint, along with a record of its disposition, through the City's grievance process.

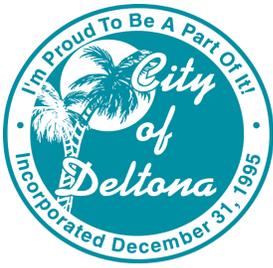
## **ADA/504 STATEMENT**

Section 504 of the Rehabilitation Act of 1973 (Section 504), the Americans with Disabilities Act of 1990 (ADA) and related federal and state laws and regulations forbid discrimination against those who have disabilities. Furthermore, these laws require federal aid recipients and other government entities to take affirmative steps to reasonably accommodate the disabled and ensure that their needs are equitably represented in the transportation planning process.

The City of Deltona will make every effort to ensure that its facilities, programs, services and activities are accessible to those with disabilities. The City will make every effort to ensure that its public involvement activities include representation by the disabled community and disability service groups. The City encourages the public to report any facility, program, service or activity that appears inaccessible to the disabled. Furthermore, the City will provide reasonable accommodation to disabled individuals who wish to participate in public involvement events or who require special assistance to access City facilities, programs, services or activities. Because providing reasonable accommodation may require outside assistance, organization or resources, the City asks that requests be made at least 72 hours prior to the need for accommodation.

Questions, concerns, comments or requests for accommodation should be made to:

Cara Burgess, Human Resources Manager  
 2345 Providence Blvd.  
 Deltona, FL 32725  
 Phone Number: (386) 878-8753  
 FAX: (386) 878-8751  
 E-mail: [cburgess@deltonafl.gov](mailto:cburgess@deltonafl.gov)  
 Days/Hours Available: Monday – Friday, 8:00AM to 5:00PM



# City of Deltona

Additionally the City has designated an ADA Coordinator to make it easier to help members of the public with questions and concerns about disability discriminations, act as a single source of information on ADA compliance with public infrastructure, and can focus on moving projects and facilities towards compliance. The ADA Coordinator is:

Steve Roland  
2345 Providence Blvd.  
Deltona, FL 32725  
Phone Number: (386) 878-8653  
FAX: (386) 878-8651  
E-mail: [sroland@deltonafl.gov](mailto:sroland@deltonafl.gov)  
Days/Hours Available: Monday – Friday, 8:00AM to 5:00PM



## AGENDA MEMO

**TO:** Mayor & City Commission      **AGENDA DATE:** 8/17/2015  
**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 9 - A  
**SUBJECT:** Public Hearing - Ordinance No. 05-2015, Fernanda Place Subdivision Rezoning Application, RZ15-002, at second and final reading - Chris Bowley, Planning and Development Services Department (386) 878-8602.

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**LOCATION:**

The property is generally located north of Pine Ridge High School and southeast of Pride Elementary School, along the east side of Howland Boulevard.

**BACKGROUND:**

The property consists of two adjacent parcels – one is ±120 acres and is generally west of Osteen Cemetery Road and the other parcel is ±22 acres and is directly west of the ±120 acre site. None of the property has direct frontage on Howland Boulevard. Osteen Cemetery Road is a prescriptive right-of-way (ROW) to the south that provides access through the subject property to an adjacent cemetery to the east.

The subject property was annexed in 2005, as the Pender property. In 2009, following ownership change, the City Future Land Use Map for only the ±120 acre site was amended from Volusia County designations to City Low Density Residential and Conservation with a density cap established within the Policy FLU4-1.1 of the Future Land Use Element. The Conservation overlay designation is ±60 acres, is memorialized on the City's Future Land Use Map, and primarily coincides with environmental sensitive areas on-site and areas within the 100-year floodplain. During the Preliminary/Final Plat process, the subdivision will be designed in keeping with the Conservation overlay area.

In 2010, the ±120-acres were rezoned to Residential Planned Unit Development (RPUD) for an update to the former Pender subdivision with 240 single-family residential units. Access was approved for direct connection to Howland Boulevard that complied with the aforementioned density cap.

In 2014, following ownership change, an application was filed to add the ±22-acres and to change the Future Land Use

designation on that parcel from Volusia County Agricultural Resource to City Low Density Residential (LDR). The adopted Comprehensive Plan Amendment with policy added, also followed the aforementioned density cap of up to two units per acre and limited the number of units on that tract to 45 units.

This proposal is to rezone both parcels to RPUD, as a unified project called Fernanda Place. The RPUD rezoning request would supersede the 2010 approved RPUD on the ±120 acre parcel and result in rezoning the ±22 acre parcel from A-1, a Volusia County designation, to City zoning that is consistent with the recently applied Low Density Residential City Land Use category. On July 15, 2015, the Planning & Zoning Board heard the rezoning request listed in Ordinance No. 05-2015 and recommended that the City Commission adopt the ordinance, with the condition that the internal roadways within the project remain privately owned and maintained, following construction, since they are specific only to this project.

**ORIGINATING DEPARTMENT:**

Planning and Development Services

**SOURCE OF FUNDS:**

N/A

**COST:**

N/A

**REVIEWED BY:**

Planning Director, Finance Director, City Attorney, City Manager

**STAFF RECOMMENDATION PRESENTED BY:**

Ron Paradise, Planning and Development Services Assistant Director - Staff recommends that the City Commission approve Ordinance No. 05-2015, Fernanda Place rezoning with the changes suggested to the development agreement by City staff to include but not limited to the streets and other applicable infrastructure being dedicated to the City.

**POTENTIAL MOTION:**

"I move to approve Ordinance No. 05-2015, Fernanda Place rezoning with the changes suggested to the development agreement by City staff to include but not limited to the streets and other applicable infrastructure being dedicated to the City."

**AGENDA ITEM APPROVED BY:**

---

Jane K. Shang, City Manager

**ATTACHMENTS:**

- Fernanda Place Staff Report 6.29

- Project Location Map
- Aerial Map
- Zoning
- Future Land Use Map
- Proposed Zoning Map
- Soils Map
- Fernanda Place TIA 284\_UPDATE - DH
- Fernanda DA 7.1.15
- Fernanda Ord 05-2015
- 24802 PD 2015-06-25



# Staff Report

**To:** Planning and Zoning Board

**From:** Ron Paradise, Assistant Planning Director

**Date:** June 29, 2015

**Re:** Fernanda Place Rezoning Application, RZ15-002, Ordinance No. 05-2015

---

## A. Summary of Application:

**Applicant:** David Evans, Evans Engineering, 719 Irma Av. Orlando, FL 32803

**Request:** To rezone approximately 142 acres of land located east of Howland Blvd. and west of Osteen Cemetery Rd. near both Pride Elementary and Pine Ridge High schools from County A-1 (Prime Agriculture) and City of Deltona Residential Planned Unit Development (RPUD) to Residential Planned Unit Development.

**Tax Parcel No.:** 8230-00-00-0020 and 8230-00-00-0050

**Property Acreage:** ±142.2 Acres

**Property Location:** The property is located east of Howland Blvd. and is situated generally between Pride Elementary and Pine Ridge High School.

**Legal Description:** 8230-00-00-0020 – Section 30, Range 18S, Township 32E Lot 5 & the N ½ of Lot 6 Per OR 4887 PG 3102 Per OR 5510 PG 4869-4870 Per OR 6693 PG 4410 Per OR 6860 PG 0869 Per OR 6860 PG 0871 Per OR 6865 PG 0443 and 8230-00-00-0050 – Section 30, Range 18S, Township 32E E 11.4 Chains of S ½ of Gov. Lot 4 Per OR 4887 PG 3102 Per OR 5510 PG 4869-4870 Per OR 6693 PG 4410 Per OR 6860 PG 0869 Per OR 6860 PG 0871 Per OR 6865 PG 0443

## B. Existing Zoning:

1. **Subject Property:** RPUD and County A-1 (Prime Agriculture)
2. **Adjacent Properties:**
  - North:** County A-1 and Forestry Resource
  - South:** Public and Agriculture
  - East:** County Forestry Resource
  - West:** County A-1

**C. Background:**

The property consists of two abutting parcels. One parcel is +/-120 acres and is generally west of Osteen Cemetery Road. The other parcel consists of approximately 22 acres and is situated west of the 120 acre site. However, none of the property has direct frontage on Howland Blvd. Currently the only access to the property is off of Osteen Cemetery Road. Osteen Cemetery Road is a prescriptive right of way that was stabilized by the County many years ago with a thin veneer of cold pack.

The subject property was annexed in 2005 and in 2009, the City Future Land Use Map for only the 120 acre site was amended from County, non-urban land use designations to City Low Density Residential and Conservation. The Conservation, accounting for 60 acres of the site, is environmentally sensitive and exhibits significant development constraints. However, the County Future Land Use category of Agriculture Resource on the adjacent 22 acres was not changed at that time. In 2010, the 120 acres was rezoned to Residential Planned Unit Development (RPUD) and featured a 240 unit subdivision intended to be developed with detached dwellings on individual lots. Access to the project was to be a direct connection to Howland Blvd. The 240 unit subdivision was consistent with a density cap approved by the City through the Comprehensive Plan amendment process.

The 2010 rezoning was approved by the City Commission but the Development Agreement was never recorded and the property lied dormant for five years.

In 2014, after ownership changes, an application was filed to change the Future Land Use designation on the 22 acre parcel from County Agricultural Resource to City Low Density Residential (LDR). The land use change was adopted by the City in early 2015 and ultimately approved by the Volusia Growth Management Commission and the Florida Department of Economic Opportunity with a density cap of no more than two units per acre.

The proposal is to rezone both parcels to Residential Planned Unit Development (RPUD) titled as Fernanda Place. The RPUD rezoning request would supersede the 2010 approved RPUD on the 120 acre parcel and result in rezoning the 22 acre parcel from A-1, a County designation, to a zoning that is consistent with the recently applied Low Density Residential City Land Use category.

## **D. Support Information**

### **Public Facilities:**

- a. Potable Water: The City of Deltona utilities will serve the project with potable water. The developer will be responsible for installing water distribution infrastructure designed and constructed to City specifications. The City has ample potable water capacity to serve the development.
- b. Sanitary Sewer: Wastewater management will be provided by the City of Deltona Utilities. Wastewater will be treated at the new City of Deltona eastern wastewater plant where new wastewater treatment capacity will be shortly available.
- c. Fire Protection: Deltona Fire Services will provide firefighting and medical call service to the site. The nearest City fire station is Station 64 located off of Ft. Smith Blvd. near the Ft. Smith Blvd./Courtland Blvd. intersection.
- d. Law Enforcement: Volusia County Sheriff's Office (VCSO) will provide service to the project.
- e. Electricity: The property proposed to be rezoned is located in the Florida Power and Light service area.

## **E. 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 property is designated as Conservation and Low Density Residential (LDR) on the Future Land Use Map. Furthermore, the property is limited by Comprehensive Plan Policy to 285 units - about two dwelling units per acre. The project is proposed for 284 units consistent with the Comprehensive Plan density cap.

+/- 60 acres of the 142 acre property is designated as Conservation. The Conservation area includes land that is development constrained by abundant wetland acreage, poorly drained soils and the 100 year floodplain. According to the definition of the Conservation designation, Conservation areas are intended to be used for "natural resource preservation" and any development should be "low intensity" and "resource based." Development, including most infrastructure, lots and roads are intended to be directed away from Conservation designated land. However, up to 5% of the upland acreage of the Conservation area can be used for stormwater retention if the stormwater system is integrated into the natural system. Examples of stormwater systems being integrated into a natural system include but not limited to littoral planting of stormwater retention areas, etc.

Currently, as proposed, most of the project stormwater is located in the Conservation area. In addition, a roadway segment and all or portions of ten lots are located within the Conservation area. These elements of the project need to be redesigned consistent with the purpose and intent of the Comprehensive Plan.

The following Comprehensive Plan provisions are applicable:

***OBJECTIVE FLUI-4***

*Future Land Use designations will reflect the inherent capabilities and limitations of the existing natural features of the land.*

The Conservation area is unsuitable to support development associated with a residential subdivision. Soils are poorly drained, and wetlands comprise a significant amount of the Conservation areas. Therefore project needs to be redesigned to limit use/development of the Conservation area.

***Policy FLUI-4.2***

*The City shall discourage development within any known flood plains as identified by the best available data, such as FEMA flood maps.*

Policy intends to direct development and investment away from the 100 year floodplain. The Conservation area contains all of the 100 year floodplain on the project property. In addition, City land development regulations discourage creating lots within the 100 year floodplain. Finally, the City participates in the FEMA Community Rating System (CRS) which translates into insurance premium savings for policy holders in the City. A criterion to participate in the CRS is for a local government to not allow the creation of lots that impact the floodplain.

***OBJECTIVE FLUI-5***

*The City of Deltona shall protect natural, archaeological, and historic resources from any adverse development impacts. This will be accomplished through the implementation of the land development regulations and coordination with appropriate permitting agencies.*

Objective states that the City will protect natural resources. The natural resources on the project property that represent the most ecological value are included within the Conservation designation – an appropriate method to protect resources.

The balance of the project is designated as Low Density Residential (LDR). The LDR Future Land Use designation is an urban category that allows a residential density range of 0 to 6 units per acre. Basically, the LDR, the most commonly applied Future Land Use category within the City, recognizes and facilitates a detached dwelling development pattern representing the dominate development pattern within the City. However, according to the Comprehensive Plan, the project property is associated with a density

cap. More specifically, the 120 acre tract is capped at a total of 240 units. See the attached policy that was adopted by the City in 2009:

***Policy FLU4-1.1***

*The property covered by ordinance number 12-2009 is designated as Conservation and Low Density Residential. The gross density on the subject parcel will be limited to 240 dwelling units. The 240 units shall be located on the area designated as LDR.*

In 2015 the City of Deltona adopted a Future Land Use Map amendment for the remaining 22 acres that included another Comprehensive Plan provision:

***Policy FLU4-1.2***

*The property covered by ordinance 29-2014 is designated as Low Density Residential. The gross density on the subject parcel will be limited to 45 dwelling units.*

The maximum gross density allowance on the 142 acre property is 285 units. The applicant is planning 284 units and that number has been established in the Development Agreement as the maximum density. The 284 unit maximum density planned is consistent with the Comprehensive Plan.

A major tenet of the City Comprehensive Plan is ensuring that public services are available to support development – concurrency. The new development associated with Fernanda Place will need to be supported by central water and sewer, transportation, etc. The following policies indicate that public services will need to be provided for the project:

***Policy FLU1-1.5***

*Densities or intensified new development shall not exceed the capacity of the existing transportation system or the capacity of improvements as programmed in the Transportation and Capital Improvements elements unless the City proceeds with implementing a transportation concurrency exception area (TCEA).*

Transportation and traffic management regarding this project have been extensively studied as part of the Comprehensive Plan Future Land Use amendment process. Traffic impact analysis at the time found that there was capacity along Howland Blvd. in the immediate vicinity of the project to support many more units than what is proposed as part of the subject RPUD rezoning request. However, transportation impacts on the City network will be off-set by both County and City transportation impact fees.

***Policy FLU1-1.8***

*Sites for development shall be accessible to the following essential public facilities and services at the levels of service adopted in this Comprehensive Plan: fire services, transportation, potable water, an appropriate wastewater treatment facility, solid waste and stormwater management.*

The project can be served by adequate public infrastructure.

The promotion of land use compatibility is a central goal of the City Comprehensive Plan. A prime method to achieve land use compatibility articulated by the Plan and implemented by the City Land Development Code is the strategic use of buffers. The project abuts several land use types that range from institutional (schools, cemetery) to agricultural. The minimum buffer afforded will be 20 feet in width. The afforded buffers will promote land use compatibility consistent with the following policies:

***Policy FLUI-7.8***

*Appropriate buffers and transition areas shall be utilized to ensure compatibility between residential areas and commercial and industrial developments in a manner that balances neighborhood protection and economic development goals.*

***Policy FLUI-7.13***

*New residential development shall afford a buffer to non-residential land uses.*

**2. Its impact upon the environment or natural resources.**

As has been stated, the most environmentally and constrained land on the Fernanda Place property has been earmarked for very low intensity and mostly passive oriented uses under the Conservation Future Land Use category. The intent is to direct development away from areas that are not suitable to support such development. Therefore, most development activity, including roads, lots and most stormwater infrastructure will need to be located outside of the Conservation designated area.

Wetlands are intended to be highly safeguarded and afforded a minimum of a 25 foot buffer. The most ecologically important wetlands are located within the Conservation area and investment and development are intended to be directed away from the Conservation area. There is recognition that three small, isolated herbaceous wetland areas located in the LDR designated acreage are planned to be filled. Impacts to these wetland systems will need to be permitted and mitigated consistent with applicable wetland protection provisions of the City, County, regional, state or federal entities as applicable.

The property contains habitat for gopher tortoises. Before the property is developed, the site will need to be appropriately surveyed to determine tortoise population density and location. The incidental take of tortoises is not currently allowed by the Florida Fish and Wildlife Conservation Commission and on-site preservation and/or relocation will be the method of which to protect tortoises from development activities.

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

Fernanda Place represents a residential development pattern that is common here in Deltona – detached dwellings on individual lots. However, the homes will be larger (1,400 square feet and larger) than many of the existing homes in the City and the development will be associated with amenities such as a nature preserve and open space areas. The design and aesthetics will be subject to standards which will be under the purview of a property owner’s association or similar organization. Conversely, lot sizes are proposed to be smaller than a majority of the lots in the City. While 80’X125’ (10,000 square feet) is a common lot size that was platted within many of the Deltona Lakes units, the Fernanda project will allow lot sizes no less than 60’X120’ (7,200 square feet). Project amenities, larger home floor plans, suburban style lots, homeowner controls, and the fact that the homes will be new portend a residential product that is associated with higher property values compared to some of the older, established residential neighborhoods in the City. However, residential land uses are service hungry. The provision of water, sewer, police, fire, transportation, etc. services is costly for local governments and in some cases residential uses, even new homes, may not represent a break even proposition in the context of revenues versus service costs.

### 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 RPUD request will result in the need for more school workstations. The developer will need to work with the Volusia County School District to address school capacity. As of the writing of this report the applicant has approached the School District about school workstation capacity and mitigation. In addition, according to the RPUD development agreement draft document, the applicant will continue to work with the School District before any other land development process such as platting are initiated.
- b. **Sewage Disposal:** The project will be served by City of Deltona Utilities. The initial phase of the City eastern wastewater plant should be operational before homes are built within the project and there will be adequate capacity to support the 80,656 gallons of wastewater per day generated from the project.
- c. **Potable Water:** To support the project, the City of Deltona Utilities will need to provide 85,200 gallons of potable water per day. The City has the capacity, both physical and permitted, to serve Fernanda Place.
- d. **Drainage:** Stormwater management will be permitted consistent with Chapter 98 of the City Land Development Code and the St. Johns River Water Management

District. In addition, the stormwater management will need to be consistent the Conservation Land Use category. More specifically, 5% of the upland area can be used for stormwater retention. Therefore, the stormwater management system as depicted on the submitted MDP will need to be redesigned to be consistent with the Comprehensive Plan. Currently there are 5 acres of retention proposed within the Conservation area. However, 30 acres of the Conservation area can be characterized as upland and 1.5 upland acres of the Conservation would be eligible for stormwater management.

- e. **Transportation Systems:** The project property at a density of 284 units will generate 2,744 trips per day. The applicant has studied traffic extensively with regard to this project. The first study was performed as part of the recent Comprehensive Plan Future Land Use map change of the 22 acre parcel and updated as part of this rezoning request. The nearest City thoroughfare to the project is Howland Blvd. The segment of Howland Blvd. that will be most impacted by the project is located between Courtland Blvd. and Ft. Smith Blvd. As a two lane facility, this segment of Howland Blvd. carries 11,770 trips. (2013 traffic counts) Factoring the City minimum level of service (LOS) standard capacity of “E”, this segment of Howland Blvd. can support an additional 5,280 trips.

As has been stated, this segment of Howland Blvd. has enough roadway capacity to support traffic from the proposed development. However, the subject segment of Howland Blvd. is in the process of being expanded to four lanes. The four lane expansion will provide greater capacity for Howland Blvd. thus protecting an acceptable level of mobility on the City transportation network notwithstanding the new trips generated from project.

The property proposed to be rezoned does not have direct access to a City thoroughfare. As has been stated, the nearest thoroughfare is Howland Blvd. However, current road access to the property is from Osteen Cemetery Rd. Osteen Cemetery Rd. is a two lane facility that can be described as a prescriptive right-of-way. In addition, Osteen Cemetery Rd. was once an unpaved County maintained road but was improved/stabilized by the County many years ago. The improvement involved a layer of asphalt with very little if any road base upgrade. The end result is Osteen Cemetery Rd. is not improved to a typical urban standard and is not suitable to support traffic from the project. Therefore, the Fernanda Place development will not use Osteen Cemetery Rd. for access. The method of access will be a connection through an unincorporated enclave to Howland Blvd. This connection will be facilitated by an existing 40' wide platted public right-of-way. To ensure appropriate urban cross section width articulated by the City Land Development Code, land owned by the applicant that abuts the aforementioned 40' right-of-way can be used to expand the cross section. The requirement for a direct connection to Howland Blvd. is stated in Development Agreement.

Furthermore, the access road will need to comply with all design standards of the City and County and will be designed to align at right angles with the Golden Hills Rd. and Howland Blvd. intersection.

Finally, Osteen Cemetery Rd. does extend through the extreme southeastern corner of the Fernanda Place property. The road will need to be realigned to ensure that the Osteen Cemetery Rd. remains open and passable. Any realignment of Osteen Cemetery Rd. will occur during the plat process in accordance with the location and roadway design parameters of the City Land Development Code.

5. **Any changes in circumstances or conditions affecting the area:** The only changes in the area involve transportation improvements. One improvement is the four lane expansion of SR 415 from Howland Blvd. to the Volusia/Seminole County line. This expansion is almost complete and should be open shortly. The other upgrade involves adding two more travel lanes to Howland Blvd. from Courtland Blvd. to Ft. Smith Blvd. area. This improvement has been discussed elsewhere in this staff report.
6. **Any mistakes in the original classification:** No known mistakes.
7. **Its effect upon the public health, welfare, safety, or morals:** The City of Deltona is a residential community dominated by detached dwellings on individual lots. The lot size and dimension of the Fernanda Place development tend to be smaller than a good portion of the 10,000 square foot lot existing development pattern prevalent throughout the City. However, lot sizes smaller than 10,000 square feet are not without precedence within the City. A good example is some of the phases of the Arbor Ridge subdivision that feature 60'X120' lots. In fact, the dimensional requirements for Fernanda Place were modeled after the Arbor Ridge standards. Fernanda Place essentially represents a continuation of the residential essence of Deltona. In addition, traffic from the development will have direct access to the City thoroughfare network and will not unduly burden existing neighborhoods with heightened levels of traffic. Also, as proposed in the updated Development Agreement, the project will be associated with a high level of environmental safeguard. Buffers to adjacent land uses will be afforded. Therefore, the project will have no deleterious effects on public health, welfare, safety, or morals.

#### **CONCLUSION/STAFF RECOMMENDATION:**

Residential development has been the primary component of this community since the first areas the Deltona Lakes Plat were recorded in the early 1960's. While residential development can be associated with tax revenue/expenditure imbalances, the new residential development associated with

the project may be closer to being fiscally neutral than, older residential neighborhoods in the City for the following reasons:

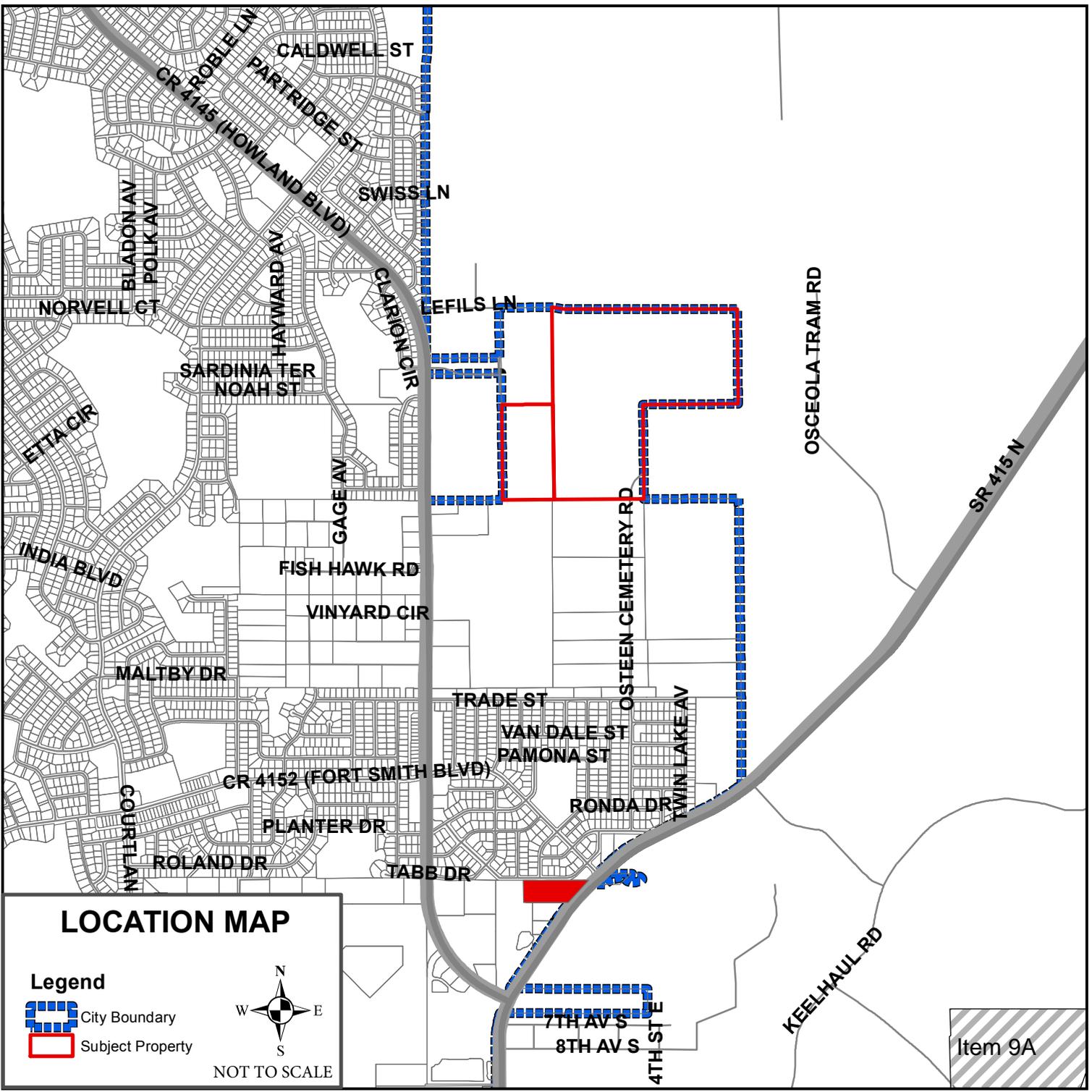
- 1) A relatively larger home square foot requirement;
- 2) New homes that comply with modern building codes;
- 3) Project amenities like buffers, open space and natural reserve areas; and
- 4) Home/property owner association management.

From a planning standpoint, population projections indicate future population growth for the City but growth rates will be modest compared to historical rates. Therefore, there still is a need for housing in the City and the project represents an area that is suitable for new residential development within the present incorporated limits of the City.

The project is compatible with the general development format of the City and does not conflict with adjacent land uses. In addition, the project is intended to be associated with a high standard of environmental protection.

The Fernanda Place RPUD, as with all Planned Unit Development zoned areas, is associated with a written Development Agreement (DA). Attached is a copy of the Fernanda Place DA and illustrated in an underline and strike through format are changes to the DA proposed by City staff. The changes to the DA generally involve clarifications to the dimensional requirements; addition of a granny flat as a potential Conditional Use; various supplemental requirements addressing accessory structures, etc.; architectural controls and home/property owners association establishment; project access including requirements regarding Osteen Cemetery Road; entrance signage; and environmental protection initiatives including protection of the area of the property designated as Conservation on the Future Land Use Map.

Staff recommends that the Fernanda Place RPUD be approved by the City consistent with the suggested changes to the Development Agreement and associated modification to the Master Development Plan to address matters including, but not limited to, protection of the Conservation area.



# LOCATION MAP

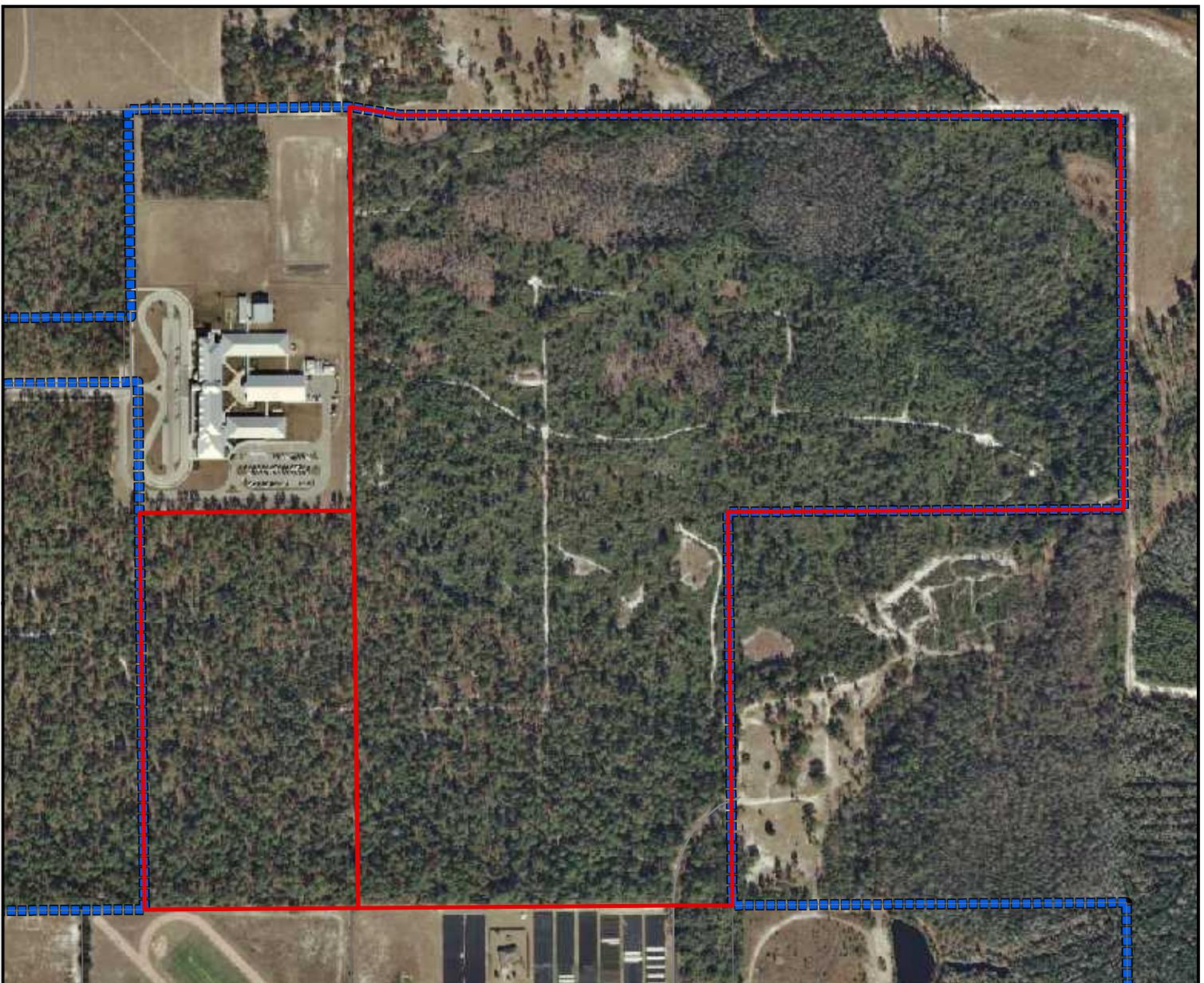
## Legend

-  City Boundary
-  Subject Property



NOT TO SCALE

Item 9A



# AERIAL PHOTO

## Legend

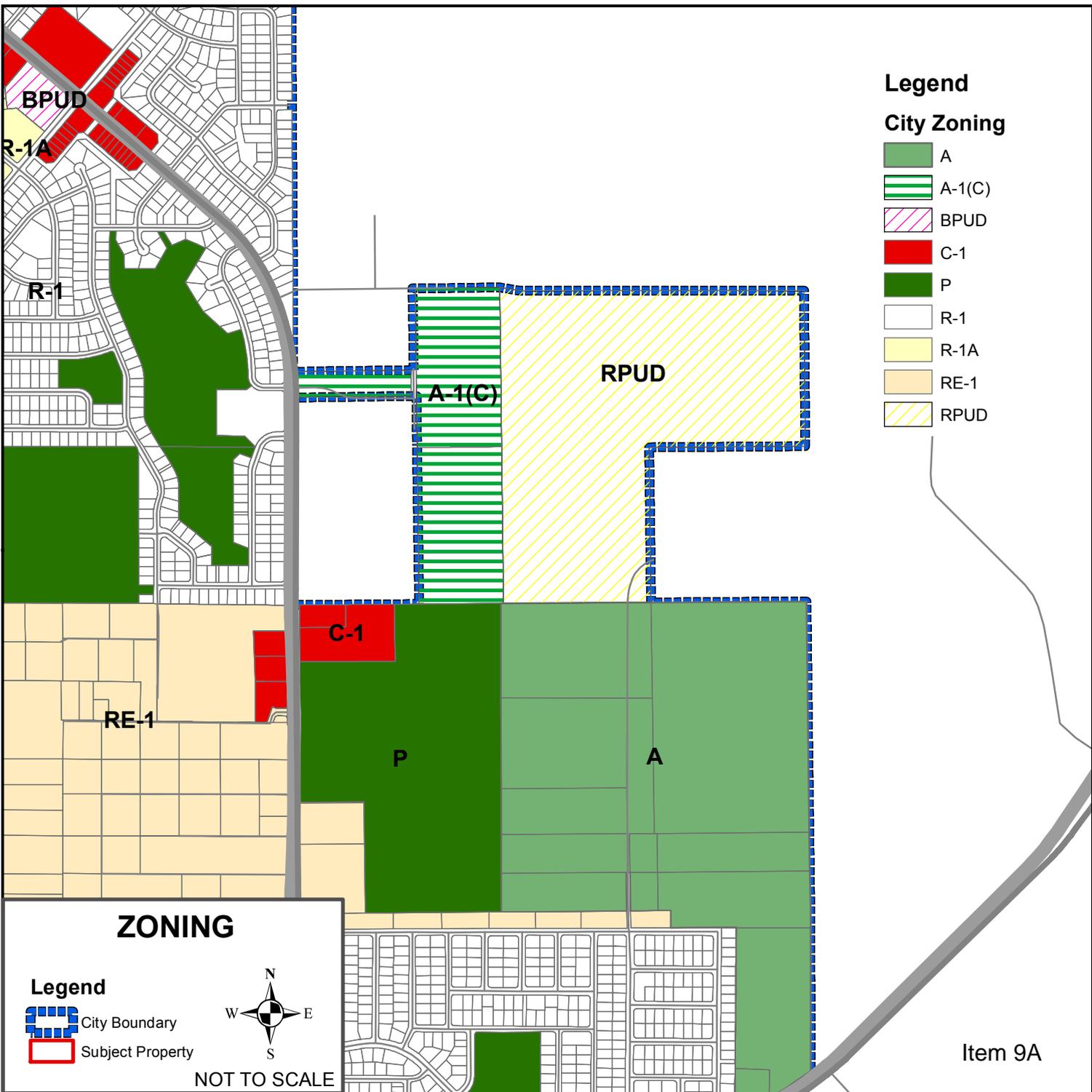
 City Boundary

 Subject Property



NOT TO SCALE

Item 9A



**Legend**  
**City Zoning**

- A
- A-1(C)
- BPUD
- C-1
- P
- R-1
- R-1A
- RE-1
- RPUD

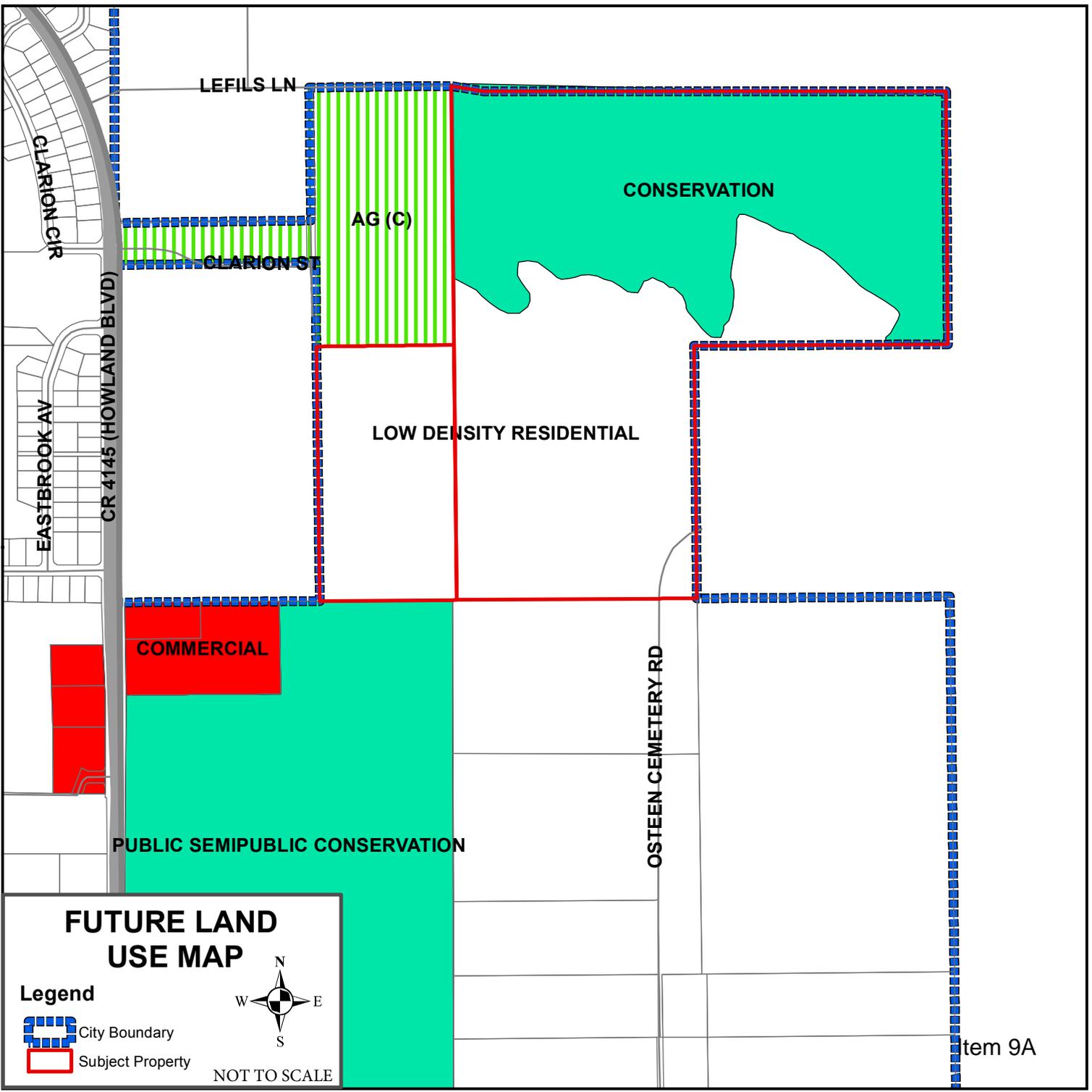
**ZONING**

**Legend**

- City Boundary
- Subject Property

NOT TO SCALE

Item 9A



# FUTURE LAND USE MAP

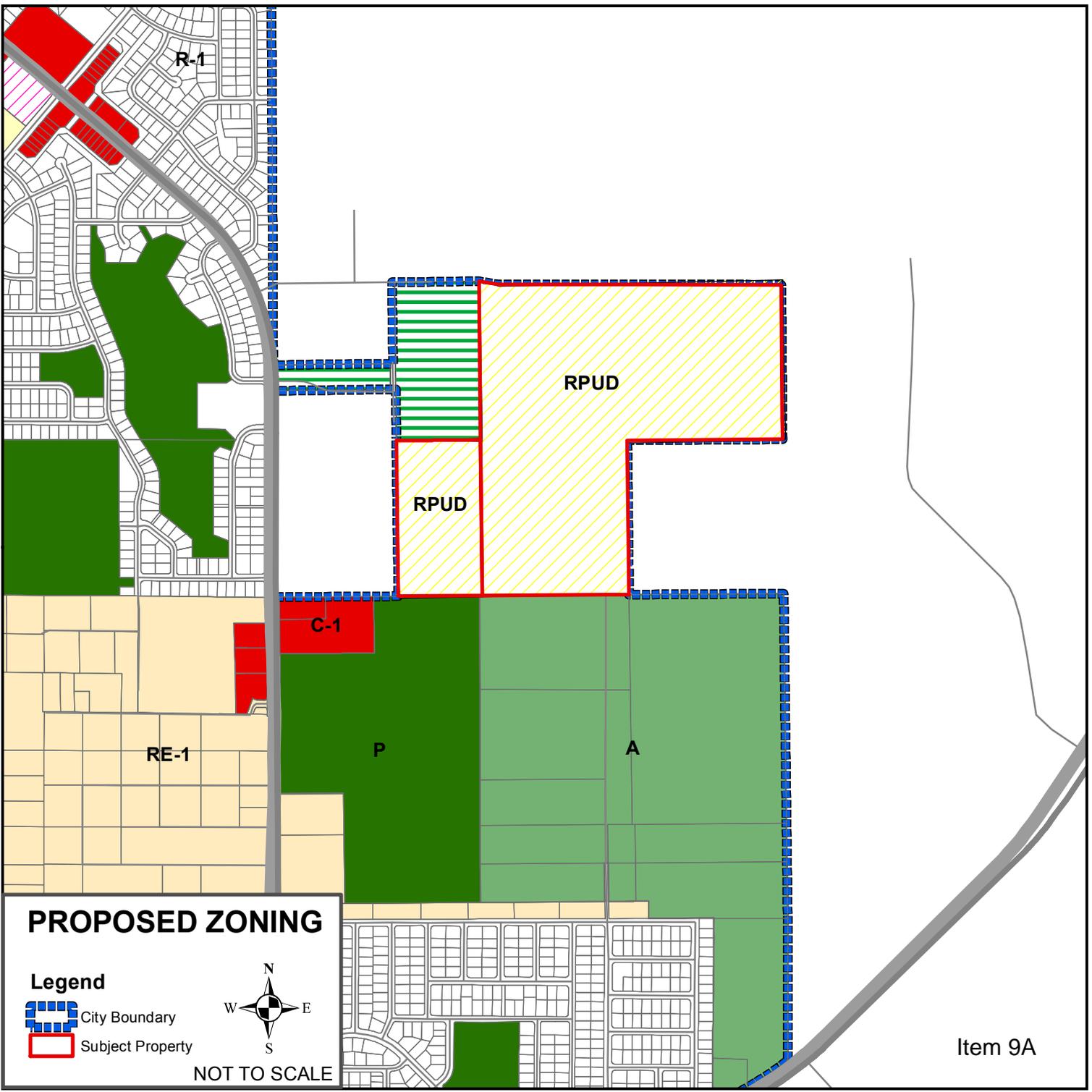
## Legend

-  City Boundary
-  Subject Property



NOT TO SCALE

tem 9A



R-1

RPUD

RPUD

C-1

RE-1

P

A

# PROPOSED ZONING

## Legend

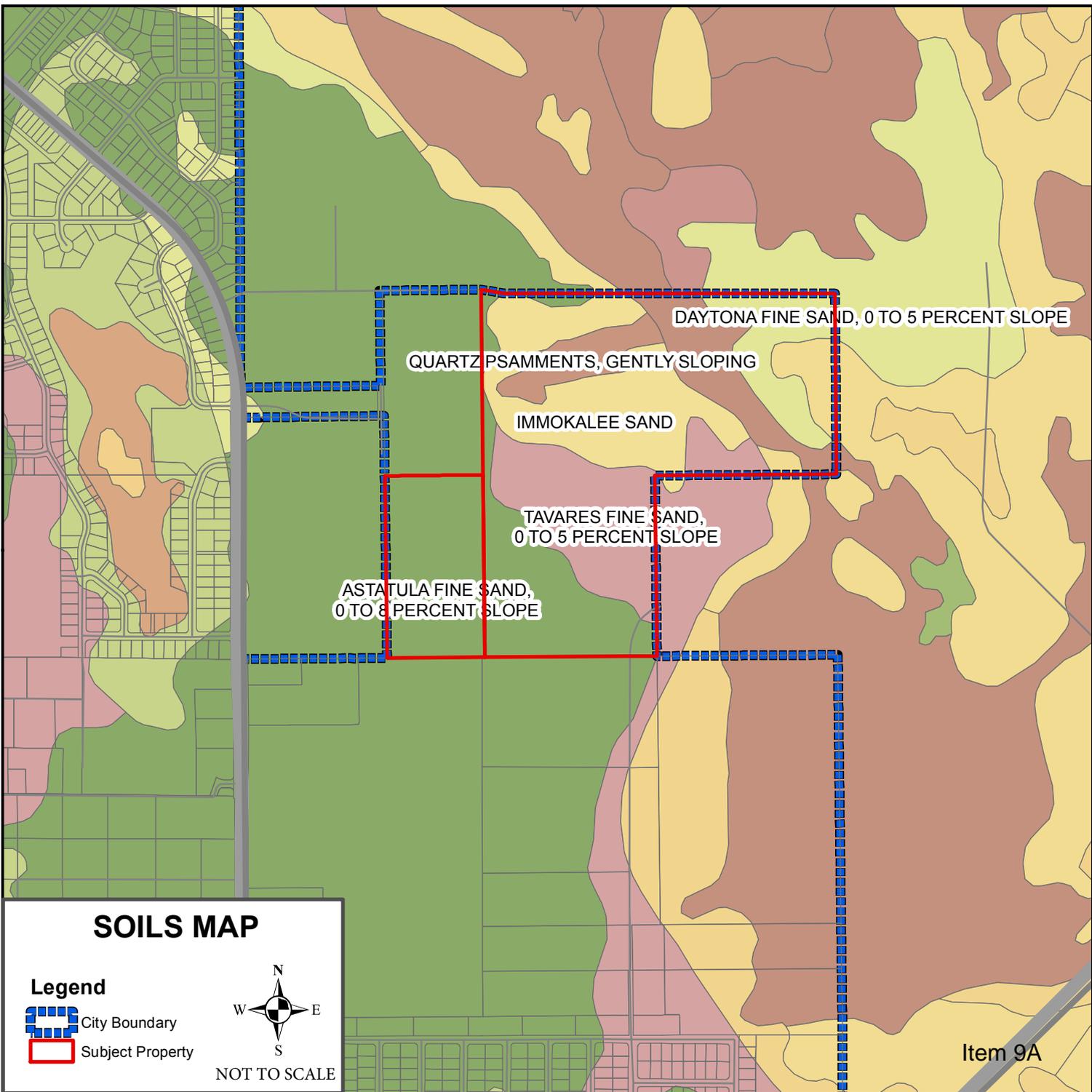
 City Boundary

 Subject Property



NOT TO SCALE

Item 9A



# SOILS MAP

## Legend

-  City Boundary
-  Subject Property



NOT TO SCALE

Item 9A

VHB

Fernanda Place (300 DU)

June 17<sup>th</sup>, 2015

Ron Paradise  
Assistant Director, Planning & Development Services  
2345 Providence Boulevard  
Deltona, Florida, 32725

**RE: TECHNICAL MEMORANDUM  
FERNANDA PLACE, DELTONA**

## INTRODUCTION

The purpose of this memorandum is to update the previously submitted Comprehensive Plan Amendment and Transportation Demand Analysis for the Fernanda 300 dwelling units (DU) parcel. The proposed update is to reduce the development plan to 284 DU. Thus, the subsequent traffic impacts to the study area will be reduced. The 102 acre site currently has a Low Density Residential Land use approved for 240 DU. The updated site plan is attached.

## TRANSPORTATION ASSESSMENT

As a result of the change in the development plan, the new trip generation for the site is 2,744 daily trips, 209 AM peak hour trips (53 entering – 156 exiting) and 269 PM peak hour trips (170 entering – 99 exiting). Table 1 provides a comparison of the previously submitted trip generation and the proposed trip

VHB

Fernanda Place (300 DU)

June 2015

generation. In summary, there is a reduction of 142 daily, 11 AM peak hour and 14 PM peak hour trips.

A revised future roadway analysis was conducted to provide the traffic impacts to the roadway segments within the study area. This analysis assists City staff to track committed trips for each project. Tables 2 and 3 provide the future year 2016 AM and PM peak hour roadway analyses. Project trips from the adjacent parcel of the development were added as background trips. The analysis concludes that all study area roadways exhibit traffic volumes lower than their respective maximum service volumes with the exception of the following roadway segments:

<b>Roadway Segment</b>	<b>From</b>	<b>To</b>
Howland Boulevard	Providence Boulevard	Elkham Boulevard
Providence Boulevard	Elkham Boulevard	Ft. Smith Boulevard

It should be noted that the deficient roadway segments listed above are operating adversely in the PM peak hour condition due to background traffic. The latest Volusia County Road Program does not currently list these roadway segments as being programmed for widening in the current five year schedule (see attached). Based on the Florida legislation found in Chapter No. 2011-139 (H.B. 7207), effective June 2, 2011, the identified deficient roadways and intersections are considered a pre-existing transportation deficiency. Therefore, consistent with this legislation, the proposed land use should not be required to contribute towards the cost of eliminating the pre-existing deficiency.

The previous 2016 future intersection analysis determined that all study area intersections operate at an acceptable LOS once programmed improvements

VHB

Fernanda Place (300 DU)

June 2015

were in place for Howland Boulevard. Therefore no further analysis was conducted.

In summary, the conclusions and recommendations remain the same as the previously submitted analysis. The original conclusions and recommendations are listed below:

## CONCLUSION AND RECOMMENDATIONS

The final section of the report identifies the major conclusions and recommendations regarding the traffic impacts associated with the proposed Fernanda Place development.

### CONCLUSION

#### **EXISTING CONDITIONS**

- The analysis concludes that all study area roadways exhibit traffic volumes lower than their respective roadway LOS service volume for the AM & PM peak hours for the YR 2014 existing conditions with the exception the following roadway segments:

#### PM peak hour:

- Howland Blvd. from Providence Blvd. to Elkcam Blvd.
  - Providence Blvd. from Elkcam Blvd. to Ft. Smith Blvd.
- 
- All study area intersections operate at the allowable LOS "E" for the existing conditions with the exception of the intersection of Howland Blvd at Learning Ln / Clarion St., which is operating below acceptable LOS "E" in the AM peak hour condition.

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**FUTURE YR 2016 CONDITIONS**

- The analysis concludes that all study area roadways exhibit traffic volumes lower than their respective maximum roadway capacities for the AM & PM peak hours for the YR 2016 with the exception of following roadway segments:

PM peak hour:

- Howland Blvd. from Providence Blvd. to Elkcam Blvd.
- Providence Blvd. from Elkcam Blvd. to Ft. Smith Blvd.

The deficient roadway segments listed above are operating below their respective maximum service volumes for the YR 2016 and are deficient either in the existing conditions or due to background traffic growth, without adding the Fernanda Place development project trips.

- All study area intersections operate at the allowable LOS "E" for the existing conditions – including the project entrances.
- Based on the Florida legislation found in Chapter No. 2011-139 (H.B. 7207), effective June 2, 2011, the identified deficient roadways and intersections are considered a pre-existing transportation deficiency. Therefore, consistent with this legislation, the proposed development should not be required to contribute towards the cost of eliminating the pre-existing deficiency.

**RECOMMENDATION:**

Based on the above conclusions, VHB respectfully requests traffic concurrency approval for the proposed Text Amendment for Fernanda Place.

VHB

Fernanda Place (300 DU)

June 2015

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Sincerely,



Karl Krichbaum  
Project Manager  
VHB

**Attachments:**

Site Plan

Trip Generation Comparison

YR 2016 Future Roadway Segment Analysis – AM Condition

YR 2016 Future Roadway Segment Analysis – PM Condition

Volusia County Road Program – Impact Fee Zone 3

DATE	REVISIONS	BY

DATE: \_\_\_\_\_  
 DRAWN BY: \_\_\_\_\_  
 CHECKED BY: \_\_\_\_\_

**EVANS ENGINEERING, INC.**  
 LAND SURVEYING & ENGINEERING  
 719 HIMA AVENUE  
 ORLANDO, FLORIDA 32803  
 (407) 822-1515  
 WWW.EVANSENGINEERING.COM  
 CERTIFICATE OF REGISTRATION NO. 0006183

**PINDER PLACE**  
 FOR  
**FERNANDA INVESTMENTS, LLC**  
 FLORIDA  
 CITY OF DELTONA

**CONCEPT #10**  
**SITE PLAN**

DRAWN: \_\_\_\_\_  
 CHECKED: \_\_\_\_\_  
 DATE: MARCH 2015  
 SCALE: 1"=150'  
 SHEET NO. 2015-03  
 SHEET # 1.0

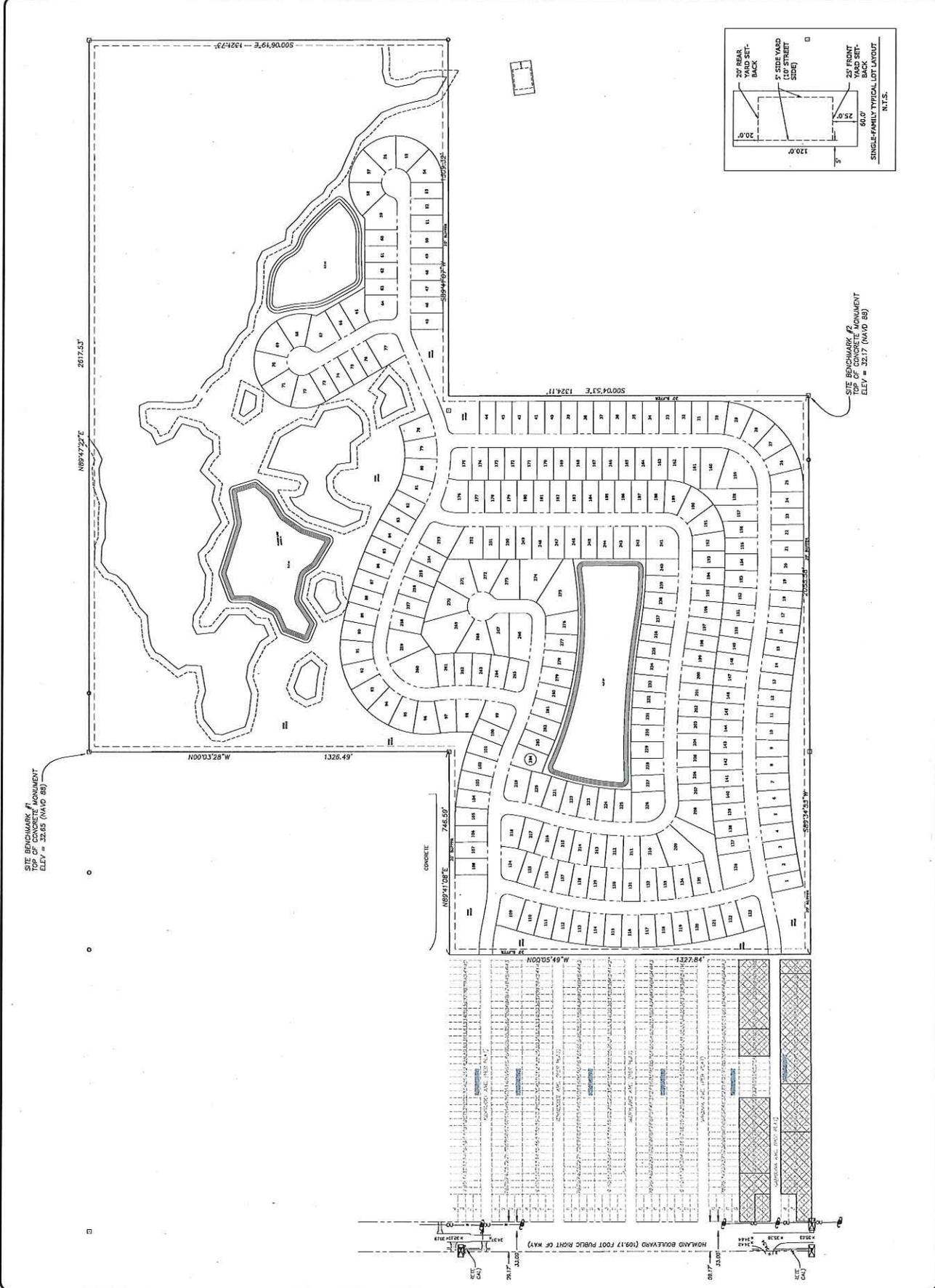


Table 1  
**Fernanda Place**  
*Trip Generation Summary Comparison*

New Proposed Density		Max Density (DU/Acres)	Size / Units	Daily Trips	Total Trips					
ITE Code	Land Use				AM Peak Hour			PM Peak Hour		
					Total	Enter	Exit	Total	Enter	Exit
210	Single Family	284 / DU	209	2,744	209	53	156	269	170	99
<b>Totals:</b>				<b>2,744</b>	<b>209</b>	<b>53</b>	<b>156</b>	<b>269</b>	<b>170</b>	<b>99</b>

**Previously submitted Text Amendment Density**

Previously submitted Text Amendment Density		Max Density (DU/Acres)	Size / Units	Daily Trips	Total Trips					
ITE Code	Land Use				AM Peak Hour			PM Peak Hour		
					Total	Enter	Exit	Total	Enter	Exit
210	Single Family	300 / DU	220	2,886	220	55	165	283	179	104
<b>Totals:</b>				<b>2,886</b>	<b>220</b>	<b>55</b>	<b>165</b>	<b>283</b>	<b>179</b>	<b>104</b>

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Notes: *The proposed density is a reduction than initially submitted.  
 Trip generation rates and equations are based on the  
 Institute of Transportation (ITE) Trip Generation Manual 9th Edition*

Table 2.  
**Fernanda Place**  
 2016 AM Peak Hour Roadway Analysis

Roadway / Segment	No. of Lanes	Critical / Near Critical	Adopted LOS	MSV	Existing AM Peak	Growth Rate	Background Traffic AM PK	Background Traffic LOS	Background Deficiency?	Background Project	YR 2016 Project Traffic Dist%	Project Traffic Trips	Total Traffic	LOS	Project Deficiency?
<b>Howland Boulevard</b>															
Providence Blvd. to Elkcam Blvd.	2	Critical	E	1,230	1,024	1.7%	1,059	C	No	8	4.39%	34	1,101	C	No
Courtland Blvd. to Project Entrance	4*		E	3,410	1,357	1.0%	1,384	C	No	20	3.78%	82	1,486	C	No
Project Entrance to Ft. Smith Blvd.	4*		E	3,410	1,129	1.0%	1,152	C	No	30	5.89%	127	1,309	C	No
<b>Providence Blvd.</b>															
Elkcam Blvd. to Ft. Smith Blvd.	2	Near Critical	E	1,020	865	1.0%	882	D	No	1	0.10%	1	884	D	No

Sources: GMB Engineers & Planners, Inc.  
 2012 FDOT Quality/LOS Handbook  
 2013 Volusia County Traffic Counts  
 FDOT Florida Traffic Online (2013)  
 Level of Service 2013 Critical / Near Critical State and County Roadways  
 CFRPM Model Volumes v3.1

Notes:

\* Funded for widening FY 13/14 (Volusia County Road Program, Impact Fee Zone 3 - Southwest Volusia)

June-15

Table 3  
**Fernanda Place**  
 2016 PM Peak Hour Roadway Analysis

Roadway / Segment	No. of Lanes	Critical / Near Critical	Adopted LOS	MSV	Existing PM Peak	Growth Rate	Background Traffic PM PK	Background Traffic LOS	Background Deficiency?	Background Project	YR 2016 Project Dist%	Project Trips	Total Traffic	LOS	Project Deficiency?
<b>Howland Boulevard</b>															
Providence Blvd. to Elkcam Blvd.	2	Critical	E	1,230	1,379	1.7%	1,426	F	Yes	10	4.39%	44	1,480	F	No
Courtland Blvd. to Project Entrance	4*		E	3,410	1,071	1.0%	1,092	C	No	25	3.78%	106	1,223	C	No
Project Entrance to Ft. Smith Blvd.	4*		E	3,410	1,140	1.0%	1,163	C	No	39	5.89%	163	1,365	C	No
<b>Providence Blvd.</b>															
Elkcam Blvd. to Ft Smith Blvd.	2	Near Critical	E	1,020	1,189	1.0%	1,213	F	Yes	1	0.10%	1	1,215	F	No

June-15

Sources: GMB Engineers & Planners, Inc.  
 2012 FDOT Quality/LOS Handbook  
 2013 Volusia County Traffic Counts  
 FDOT Florida Traffic Online (2013)  
 Level of Service 2013 Critical / Near Critical State and County Roadways

Notes:  
 \* Funded for widening FY 13/14 (Volusia County Road Program, Impact Fee Zone 3 - Southwest Volusia)



# Volusia County Road Program

## 5 Year Schedule FY 13/14 - FY 17/18 Year Costs in (\$1,000)

IMPACT FEE ZONE 3 - Southwest Volusia																		
Project	Section	Fund	Scope	FY 13/14			FY 14/15			FY 15/16			FY 16/17			FY 17/18		
				ENG	R/W	CON	ENG	R/W	CON	ENG	R/W	CON	ENG	R/W	CON	ENG	R/W	CON
Doyle Road	Courtland Blvd to SR415	LAP	Paved Shld's						1113									
Howland Blvd Widening	Courtland Blvd to N of SR415	BOND	4 LN			4236												
"	"	TRIP	"			5879												
"	3 Laning of Ft Smith east & west of Howland	CITY	"			540												
Debt Service for Bonds		IMPACT				300			300			300				300		300
Debt Service for Bonds		LOGT				1608			1608			1608				1608		1608

IMPACT FEE ZONE 4 - Northwest Volusia																		
Project	Section	Fund	Scope	FY 13/14			FY 14/15			FY 15/16			FY 16/17			FY 17/18		
				ENG	R/W	CON	ENG	R/W	CON	ENG	R/W	CON	ENG	R/W	CON	ENG	R/W	CON
Kepler Rd at SR44	Kepler N 1000/SR44 E to Lk Winnemissett	IMPACT	Intersection	400	2000				2979									
Orange Camp Rd Widening	MLK Blvd to W of I-4 incl frontage rd stubout	CIGP	"						821									
"	"	BOND	"	350	774				420									
Debt Service for Bonds		IMPACT				392			392			392				392		392

**BOND** - Bond Funding    **CBIR** - Community Budget Issue Request (State Funding)    **CGP** - County Incentive Grant Program (State Grant)    **CITY** - Cost sharing with City    **DEV** - Developer Funding    **FED GRANT** - Federal Grant  
**IMPACT** - Road Impact Fee Funding    **LAP** - Local Agency Program (Federal Grant)    **LOGT** - Local Option Gas Tax Funding    **ONE** - One Cent Gas Tax Funding    **TRIP** - Transportation Regional Incentive Program (State Grant)

[TEMPLATE]

**THIS INSTRUMENT PREPARED BY  
AND AFTER RECORDING RETURN TO:**

Gretchen R. H. Vose, Esq.  
City Attorney  
City of Deltona  
2345 Providence Boulevard  
Deltona, Florida 32725

<p><b>For Recording Purposes Only</b></p> <p>Si gnat ur e of Not ar y</p>
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**Exhibit "A" to Ordinance No. \_\_\_\_\_**

**DEVELOPMENT AGREEMENT**

for the project known as Fernanda Place Planned Unit Development (PUD) located east of Howland Blvd. approximately 1.5 miles north of the CR 415/Howland Blvd. intersection (hereinafter referred to as the "Subject Property").

THIS DEVELOPMENT AGREEMENT (hereinafter referred to as the "Agreement") is entered into and made as of the \_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the CITY OF DELTONA, a Florida municipal corporation, with a mailing address of 2345 Providence Boulevard, Deltona, Florida 32725, (hereinafter referred to as the "City"), and Fernanda Investments LLC, (hereinafter referred to as the "Owner or Owner/Developer"), and \_\_\_\_\_, (hereinafter referred to as the "Developer", if the Developer is a separate entity from the "Owner/Developer" and the Developer has an executed Notarized Owner Authorization from the Owner/Developer).

**WITNESSETH**

**WHEREAS**, the Owner warrants that it holds legal title to the lands located in Volusia County, Florida, and within the corporate limits of the City of Deltona, said lands being more particularly described in Exhibit "~~B~~" "A", Legal Description for the Subject Property, attached hereto and by this reference made a part hereof; and that the holders of any and all liens and encumbrances affecting such property will subordinate their interests to this Agreement; and

**WHEREAS**, the Owner/Developer has clear title of the Subject Property ~~or the Developer is currently under contract to purchase the Subject Property~~ and intends to develop such property as an RPUD; and

**WHEREAS**, the Owner/Developer or Developer desires to facilitate the orderly development of the Subject Property in compliance with the laws and regulations of the City and of other governmental authorities, and the Owner/Developer or Developer desires to ensure that its development is compatible with other properties in the area and planned traffic patterns; and

**WHEREAS**, the development permitted or proposed under this Development Agreement is consistent with and will continue to adhere to the City's Comprehensive Plan, Land Development Code, concurrency management system, and all ~~land~~ other appropriate development regulations, all as may be amended, and, except as specifically specified herein, this Agreement does not replace, supersede, or grant variances to those regulations; and

**WHEREAS**, it is the purpose of this Agreement to clearly set forth the understanding and agreement of the parties concerning the matters contained herein; and

**WHEREAS**, the Owner/Developer and/or Developer have sought the City's approval to develop the Subject Property, and the City approved Ordinance No. \_\_\_\_\_, through rezoning the Subject Property to a form of Planned Unit Development (PUD), as defined under the City's Land Development Code on \_\_\_\_\_. The PUD shall consist of this Agreement as the Written Agreement of the PUD and an Exhibit "~~C~~", "B" Master Development Plan (MDP), attached hereto and by this reference made a part hereof as the Preliminary Plan, subject to the covenants, restrictions, and easements offered by the Owner/Developer or Developer and contained herein, (hereinafter the "Master Development Plan"). Where more detailed criteria for City required submittals exceed the criteria required for a Master Development Plan, the more detailed criteria applies.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. **Recitals and Definitions.** The recitals herein contained are true and correct and are incorporated herein by reference. All capitalized terms not otherwise defined herein shall be as defined or described in the City's Land Development Code as it may be amended from time to time, unless otherwise indicated.

2. **Ownership.** The legal and equitable owners of the Subject Property ~~are~~ is: Fernanda Investments LLC.

3. **Title Opinion/Certification.** The Developer will provide to the City, in advance

of the City's execution and recordation of this Agreement, a title opinion from a licensed attorney in the state of Florida, or a certification by an abstractor or title company authorized to do business in the state of Florida, verifying marketable title to the Subject Property to be in the name of the Owner/Developer and any and all liens, mortgages, and other encumbrances that are either satisfied or not satisfied or released of record.

4. **Subordination/Joinder.** Unless otherwise agreed to by the City and if applicable, all liens, mortgages, and other encumbrances that ~~is~~ are not satisfied or released of record, must be subordinated to the terms of this Agreement or the Lienholder join in this Agreement. It shall be the responsibility of the Owner/Developer and/or Developer to promptly obtain the said subordination or joinder, in form and substance that is acceptable to the City Attorney, prior to the execution and recordation of this Agreement.

5. **Duration.** The duration of this Agreement is binding and runs with the land in perpetuity, unless amended.

6. **Development of the Subject Property.** Development of the Subject Property shall be subject to performance standards listed in this Agreement. Where a land use listed below differs from a defined use in the City of Deltona's Code of Ordinances, the use listed in this Agreement shall prevail.

- A. Comprehensive Plan Policies ~~specific to this Subject Property.~~
- B. Permitted principal uses allowable on the Subject Property:
  - 1. Single Family Residential
- C. Prohibited principal uses, if any:
  - 1. ~~N/A~~ Any non-residential oriented use, unless otherwise specified in this Development Agreement.
- D. Proposed minimum density (in number of dwelling units per acre) ~~or minimum intensity (measured in floor area ratio): 2.0 dwelling units/acre~~ No minimum density.
- E. Proposed maximum ~~density~~ number of dwelling units (in the total number of dwelling units per acre) or maximum intensity (measured in floor area ratio), if any: 2.0 dwelling units/acre ~~284 units for the entire project~~
- F. Impervious surface ratio is not to exceed ~~70~~ 65% of the gross square footage for the Subject Property in total.
- G. Maximum lot coverage: 50% (in %) ~~(dry retention systems can be used towards open space): 50%.~~

- H.** Minimum landscaping and bufferyard requirements are per shall comply with the City's Land Development Code as it may be amended from time to time. A 20 foot perimeter buffer shall be required to separate the RPUD from surrounding land uses. Stormwater management facilities shall not be placed within bufferyards.
- I.** Minimum lot size area (in acreage or square footage): 7,200 sq. ft.
- J.** Minimum lot width (in feet): 60 ft. measured at the front yard setback line
- K.** Minimum lot depth (in feet): 120 ft.
- L.** Minimum yard setbacks (Primary Structures):
1. Front yard: 25 ft.
  2. Side yard: ~~7.5~~ 5 ft.
  3. Street side yard: ~~10.0~~ 15 ft. (no side street yard figure is cited on the MDP)
  4. Rear yard: ~~20~~ 10 ft. (conforms more closely to the Deltona setbacks at large. Need to change the MDP.)
- M.** Maximum building height (in feet): 35 ft.
- N.** Minimum Floor Area (sq. ft.) 1,400
- O.** Supplementary Regulations: All residential-oriented accessory uses shall comply with Article VIII of Chapter 110, City of Deltona Land Development Code, as it may be amended from time to time.
- P.** Accessory Structures Minimum Setbacks
- Note: accessory buildings and structures, other than lawn ornaments and fences built in accordance with section 6O of this Development Agreement, shall not be located in the front yard forward of the edge of the principal dwelling, or beyond any side street yard setback.
1. Front yard: Not permitted
  2. Rear yard: 10 ft.
  3. Side yard: 5 ft.
  4. Side street yard back to back existing SFR structures: 15 ft.
  5. Side street yard with existing house adjacent to a vacant lot: 25 ft.
  6. Side street yard adjacent to the existing front yard of a developed lot: 25 ft.

- Q. ~~Minimum~~ The project shall comply with all applicable Pparking standards, are as per Sections. 110-828 and 110-829 of the City's Land Development Code effective as of the date hereof.
- R. ~~Minimum lighting standards per the City's Land Development Code shall be included on a separate Illumination Plan to be provided at the time of site plan submittal. Lighting associated with this RPUD shall be consistent with all applicable City of Deltona Land Development Code requirements.~~
- S. ~~Development within the Fernanda Place project shall be subject to Aarchitectural controls and development on the Subject Property shall follow a common architectural themes as defined by the homeowner or property owners association, as listed in this Agreement by harmoniously coordinating the general appearance of all buildings and accessory structures. All controls and variations shall be defined by a Homeowners Association or Property Owners Association, as defined within this Agreement.~~
- T. Utility provision and dedication: The Owner/Developer or Developer shall connect to the City of Deltona's central utility systems, ~~when available, or to Volusia County's central utility systems, where applicable,~~ at their sole cost and expense. Utility fees shall be paid to Deltona Water ~~or Volusia County, respectively,~~ before any building permit is issued. Central utility systems are to be designed, permitted, and constructed to ~~the respective service provider~~ City specifications and dedicated to the respective service provider City upon final inspection, clearance, and acceptance by the service provider -City. In addition, all powerlines that serve development within the RPUD shall be buried in accordance with the specifications of the utility provider, the City or any other entity as applicable.
- U. ~~Stormwater and environmental: Per parcel stormwater systems or master~~ The on-site stormwater system shall be designed and constructed compliant with all City, St. Johns River Water Management District and other applicable agency regulations and requirements. Stormwater retention shall be directed away from protected wetlands, required wetland buffers, the 100 year floodplain and the Conservation area except as illustrated in Section 15 of this agreement. Stormwater areas shall be owned and maintained by an established Homeowners Association or Property Owners Association in private ownership and shall not be dedicated to or become the responsibility of the City of Deltona. All environmental permitting, mitigation, and/or soil and erosion control for the property shall conform to all federal, state, and local permits/requirements, shall be the sole responsibility of the Homeowners Association or Property Owners Association, and shall be maintained in good condition/standing with the applicable permitting authorities. Best Management Practices and conformance to National Pollutant Discharge Elimination System (NPDES) criteria are required.

- V. Transportation, site access, and traffic devices: The Owner/Developer or Developer is responsible for all transportation improvements within the Subject Property and any off-site transportation requirements, as a result of the proposed development, for site function, that maintains or improves the level of service for area roadways, and ensures the public health, safety, and welfare for the community. All permits shall be obtained from appropriate permitting agencies prior to development. There is recognition that the access to this RPUD will be extended off of Howland Blvd. through land that is located within unincorporated Volusia County. The access roadway shall comply with all design and construction standards of the City of Deltona. The road access to Howland Blvd. along with all other public roads within the RPUD shall be dedicated to the City as per the Land Development Code. However, the developer shall be responsible for obtaining a Use Permit with the County of Volusia to connect to Howland Blvd. In addition, the main project entrance road shall be designed to align with the Golden Hills St./Howland Blvd. intersection at right angles. The RPUD project abuts an elementary school. To facilitate non-vehicular access to the elementary school, the developer shall contact the Volusia County School District to determine the best route and location for a pedestrian connection between the RPUD and the school. Finally, a portion of a prescriptive right of way known locally as Osteen Cemetery Road extends through the southeastern corner of the property. This road cannot be used for general subdivision access. Nor shall construction activity be routed down Osteen Cemetery Road. No lots can be created that access Osteen Cemetery Road and the MDP shall depict Osteen Cemetery Road, including appropriate buffers. Osteen Cemetery Road may be established as a public right of way during the platting process. To facilitate the proposed subdivision pattern as depicted on the MDP, Osteen Cemetery Road will need to be realigned. Realignment of the road will be addressed during the platting process and realignment shall comply with all applicable City design and land development standards, and the City shall determine the appropriate level of service per the City Comprehensive Plan and current traffic counts.
- W. Signage: All signs shall comply with the Chapter 102 of the City Land Development Code. Entrance signage shall be a free standing monument type sign, be no more than six feet high with an 18 inch base and feature no more than 48 square feet of copy area. The sign shall not contain any electronic messaging. The entrance sign shall be permitted separately and must be approved by the Director of Planning and Development Services. An elevation of the sign, including color renditions and other design elements shall be part of the submittal to the Director.

7. **Public Facilities/Land Dedication.** ~~Facilities or tracts that either are or shall become public facilities/tracts that will serve the development and/or are on the Subject Property are, as follows: Conservation and Upland Buffers, Open Space, Stormwater Management, and Lift Station.~~ Roads and utilities shall be dedicated to the City through the plat process illustrated

in the City Land Development Code. Stormwater, open space, landscape buffers, entrance signage, natural resource areas, etc. shall be the responsibility of the Developer and/or the Homeowners Association to own, maintain or otherwise manage in accordance with applicable laws/regulations and best practices.

8. **Development Permits/Fees.** The Owner/Developer or Developer is responsible for obtaining, permitting, and the payment of all fees for facilities and services to ensure for the Subject Property. Any site permits shall be kept current with the respective permitting agency and shall ensure the protection of the public health, safety, and welfare of the community and the development. All impact fees are applicable and no impact fee credits shall be awarded through this Agreement; unless a cessation exists through a City moratorium that is Citywide. Proportionate fair share site improvements shall not be used in lieu of impact fees.

9. **Obligations.** Should the Owner/Developer or Developer fail to undertake and complete its obligations as described in this Agreement to the City's specifications, then the City shall give the Owner/Developer or Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation. If the Owner/Developer or Developer fails to complete the obligations within the ninety (90) day period, then the City, without further notice to the Owner/Developer or Developer, or its successors in interest, may, without prejudice to any other rights or remedies it may have, place liens and take enforcement action on the Subject Property. A lien of such assessments shall be superior to all others, and all existing lienholders and mortgagees, by their execution of the subordination or joinder documents, agree to subordinate their liens or mortgages to the City's said liens or assessments. Notice to the Owner/Developer or Developer and its successors in interest shall be deemed to have been given upon the mailing of notice to the address or addresses set forth in Paragraph (23) hereof.

10. **Site Plan/Plat Approval.** Exhibit "CB", the Master Development Plan, ~~is the Preliminary Plan of the PUD and this Agreement. The Master Development Plan~~ shall not replace, supersede, or absolve the Owner/Developer or Developer from approvals for any ~~site plan~~, preliminary plat, and/or final plat and their respective construction plans and other regulations. Where more detailed criteria for City required submittals exceed the criteria required for a Master Development Plan, the more detailed criteria applies.

11. **Indemnification.** The Owner/Developer or Developer shall indemnify and hold the City harmless from any and against all claims, demands, disputes, damages, costs, expenses, (to include attorneys' fees whether or not litigation is necessary and if necessary, both at trial and on appeal), incurred by the City as a result, directly or indirectly, of the use or development of the Subject Property, except those claims or liabilities caused by or arising from the negligence or intentional acts of the City, or its employees or agents. It is specifically understood that the City is not guaranteeing the appropriateness, efficiency, quality or legality of the use or development of the Subject Property, including but not limited to, drainage or water/sewer plans, fire safety, or quality of construction, whether or not inspected, approved, or permitted by the City.

12. **Compliance.** The Owner/Developer or Developer agrees that it, and their successors and assigns, will abide by the provisions of this Agreement, the City's Comprehensive Plan and the City's Code of Ordinances, including the Fire Code and other appropriate regulatory provisions. ~~but not limited to, the site plan regulations of the City as amended from time to time, which are incorporated herein by reference and such subsequent amendments hereto as may be applicable.~~ Further, all required improvements, including landscaping, shall be continuously maintained by the Owner/Developer or Developer until the project is turned over to the Homeowners Association and then by the Homeowners Association, or their successors and assigns, in accordance with the City's Code of Ordinances. The City may, without prejudice to any other legal or equitable right or remedy it may have, withhold permits, Certificates of Occupancy or plan/plat approvals to the Subject Property, should the Owner/Developer or Developer fail to comply with the terms of this Agreement. In the event of a conflict between this Development Agreement and the City's Land Development Code, the more restrictive regulations shall govern the development of the Subject Property.

13. **Obligations for Improvements.** Any surface improvement as described and required hereunder included, but not limited to such as signalization, walls, stormwater management facilities, medians, and utilities, or any other surface improvement shall be performed, prior to the issuance of the first Certificate of Occupancy on that portion of the Subject Property that the surface improvement(s) relates or is otherwise scheduled in this Agreement. Should the Owner/Developer or Developer fail to undertake and complete its obligations as described in this Agreement and to the City's specifications, then the City shall give the Owner/Developer or Developer thirty (30) days written notice to commence and ninety (90) days to complete said required obligation at the sole expense of the Owner/Developer or Developer. If the Owner/Developer or Developer fails to complete the obligations within the ninety (90) day period, then the City, without further notice to the Owner/Developer or Developer and their successors and assigns in interest, may but shall not be required to, perform such obligations at the expense of the Owner/Developer or Developer or their successors and assigns in interest, without prejudice to any other rights or remedies the City may have under this Agreement. Further, the City is hereby authorized to immediately recover the actual and verified cost of completing the obligations required under this Agreement and any legal fees from the Owner/Developer or Developer in an action at law for damages, as well as record a lien against the Subject Property in that amount. The lien of such assessments shall be superior to all others,

and all existing lienholders and mortgagees, by their execution of the subordination or joinder documents, agree to subordinate their liens or mortgages to the City's said liens or assessments. Notice to the Owner/Developer or Developer and their successors and assigns in interest shall be deemed to have been given upon the mailing of notice as provided in paragraph (24) of this Agreement.

14. **Concurrency and Vested Rights.** The Owner/Developer or Developer acknowledges and agrees that prior to the issuance of any development orders for the Property, the Owner/Developer or Developer must have received and be in the possession of a valid ~~unexpired~~ certificate of capacity/concurrency management system approval consistent with the City's Land Development Code. The capacity certificate/approval verifies the availability of infrastructure and service capacity sufficient to permit the proposed development of the Subject Property without causing a reduction in the levels of service adopted in the City's Comprehensive Plan. The certificate of capacity/approval shall be effective for a term, as defined in the City's Code of Ordinances. Neither this Agreement nor the approved Master Development Plan shall create or result in a vested right or rights to develop the Subject Property, as cited in Section 86-34 of the City's Land Development Code.

15. **Environmental and Tree Preservation.** There are portions of the property that are environmentally sensitive/associated with development constraints. The ecological and poor development suitability indices include wetland acreage, poorly drained soils and extensive 100 year floodplain acreage. Therefore, in 2009, the City designated this environmental/constrained area as Conservation on the City Future Land Use Map. The Conservation area accounts for 60 acres and is located in the northeastern section of the project. The Conservation area will be used for open space area with only passive uses allowed. Passive uses include natural resource protection, including tree preservation, nature trails, and wildlife habitat. However, consistent with the Comprehensive Plan up to 5% of the upland acreage of the Conservation area can be used for stormwater management purposes but wetlands or wetland buffers within the Conservation area cannot be altered for stormwater management purposes. Stormwater infrastructure within the Conservation area shall be designed to mimic natural systems and be integrated into the natural landscape. Other infrastructure including roads will be directed away from the Conservation area. Lots will not be platted into the Conservation area nor will lots be platted into the 100 year floodplain area. Internal roadways shall be designed to avoid Conservation designated land or aligned in a manner that minimizes impacts to the Conservation area.

Wetlands on site to be protected will be afforded a minimum of a 25 foot buffer. There are two isolated wetland areas that are proposed to be filled. Impacts to these two wetland polygons will be permitted and mitigated as per the City Land Development Code and other applicable governmental agencies.

The upland area of the property provides habitat for gopher tortoises. Any gopher tortoises found on site will be relocated or mitigated pursuant to the rules and regulations of Florida Fish and

Wildlife Conservation Commission.

Tree protection shall be in accordance with the City Land Development Code.

The Owner/Developer or Developer is responsible to obtain all site related permits and approval prior to any development activity on or for the Subject Property. This may involve mitigation for habitat of threatened or endangered flora and fauna or for species identified for proportion (i.e. tree preservation). This Agreement does not vest or exempt the Owner/Developer or Developer from any permitting and mitigation obligations needed to develop a Subject Property.

16. **Homeowners Association or Property Owners Association.** The charter and by-laws of any Homeowners Association (“HOA”) or Property Owners Association (“POA”) for the Subject Property and any deed restrictions related thereto shall be furnished to the City for approval by the City Attorney prior to the recording thereof in the Public Records of Volusia County, Florida. Such recording shall take place before ~~a Certificate of Occupancy is issued for the first development project~~ any other development approval application is accepted by the City including but not limited to a plat application on land covered by this Agreement. The HOA or POA shall at a minimum be responsible for maintaining the common open space, stormwater areas, landscaping, entry features, any common utility systems, such as for irrigation, ~~and~~ site lighting, implementing architectural controls, and project signage. The Owner/Developer or Developer shall be responsible for establishing the HOA or POA and recording said information in the Public Records of Volusia County, Florida. The City is not responsible for the enforcement of any agreements or deed restrictions entered into between property owners or occupiers of the Subject Property. If maintenance for the Subject Property is not maintained following issuance of a Certificate of Occupancy, the City has Code Enforcement services.

17. **Enforcement.** Both parties may seek specific performance of this Agreement and/or bring an action for damages in a court within Volusia County, Florida, if this Agreement is breached by either party. In the event that enforcement of this Agreement by the City becomes necessary, and the City is successful in such enforcement, the Owner/Developer or Developer shall be responsible for the payment of all of the City’s costs and expenses, including attorney fees, whether or not litigation is necessary and, if necessary, both at trial and on appeal. Such costs, expenses and fees shall also be a lien upon the Subject Property superior to all others. Should this Agreement require the payment of any monies to the City, the recording of this Agreement shall constitute a lien upon the Subject Property for said monies, until said are paid, in addition to such other obligations as this Agreement may impose upon the Subject Property and the Owner/Developer or Developer. Interest on unpaid overdue sums shall accrue at the rate of the lesser of eighteen percent (18%) compounded annually or at the maximum rate allowed by law.

18. **Utility Easements.** For any easement not established on a plat for the Subject Property, the Owner/Developer or Developer shall provide to the City such easements and other

legal documentation, in form mutually acceptable to the City Attorney and the Owner/Developer or Developer, as the City may deem reasonably necessary or appropriate for the installation and maintenance of the utility and other services, including but not limited to, sanitary sewer, potable water, and reclaimed water services, electric, cable, gas, fire protection and telecommunications.

19. **Periodic Review.** The City reserves the right to review the Subject Property subject in relation to this Agreement periodically to determine if there has been demonstrated good faith compliance with the terms of this Agreement. If the City finds that on the basis of substantial competent evidence that there has been a failure to comply with the terms of this Agreement, the City may not issue development orders or permits until compliance with this Agreement has been established.

20. **Notices.** Where notice is herein required to be given, it shall be by certified mail return receipt requested, hand delivery or nationally recognized courier, such as Federal Express or UPS. E-mail delivery of documents shall not replace or be in lieu of the aforementioned process. Said notice shall be sent to the following, as applicable: ~~SidJaffer@yahoo.com~~

**OWNER/DEVELOPER'S OR DEVELOPER'S REPRESENTATIVES:**

Sadique Jaffer  
Fernanda Investments LLC  
27 N. Summerlin Avenue  
Orlando FL 32801

**CITY'S REPRESENTATIVES:**

City Manager  
City of Deltona  
2345 Providence Boulevard  
Deltona, Florida 32725

With copy to:

Director  
Planning & Development Services  
City of Deltona  
2345 Providence Boulevard  
Deltona, Florida 32725

Should any party identified above change, it shall be said party's obligation to notify the remaining parties of the change in a fashion as is required for notices herein. It shall be the Owner/Developer's or Developer obligation to identify its lender(s) to all parties in a fashion as is required for notices herein.

21. **Compliance with the Law.** The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve the Owner/Developer or Developer of the Subject Property from the necessity of complying with the law governing said permitting requirements, conditions, terms, or restrictions.

22. **Captions.** The captions used herein are for convenience only and shall not be relied upon in construing this Agreement.

23. **Binding Effect.** This Agreement shall run with the land, shall be binding upon and inure to the benefit of the Owner/Developer or Developer and their successors and assigns in interest, and the City and their successor and assigns in interest. This Agreement shall become effective upon its execution and recordation with the Public Records of Volusia County, Florida. This Agreement does not, and is not intended to, prevent or impede the City from exercising its legislative authority as the same may affect the Subject Property.

24. **Subsequently Enacted State or Federal Law.** If either state or federal law is enacted after the effective date of this Agreement that is applicable to and precludes the parties' compliance with the terms of this Agreement, this Agreement and correlating zoning amendment shall be modified or revoked, as is necessary, to comply with the relevant state or federal law.

25. **Severability.** If any part of this Development Agreement is found invalid or unenforceable in any court, such invalidity or unenforceability shall not affect the other parts of this Development Agreement, if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can be affected. To that end, this Development Agreement is declared severable.

26. **Covenant Running with the Land.** This Agreement shall run with the Subject Property and inure to and be for the benefit of the parties hereto and their respective successors and assigns and any person, firm, corporation, or entity who may become the successor in interest to the Subject Property or any portion thereof.

27. **Recordation of Agreement.** The parties hereto agree that an executed original of this Agreement shall be recorded by the City, at the Developer's expense, in the Public Records of Volusia County, Florida.

28. **Applicable Law/Venue.** This Agreement and the provisions contained herein shall be construed, controlled, and interpreted according to the laws of the State of Florida. Venue of any litigation relating to this Agreement shall be in the courts of Volusia County, Florida.

29. **Time of the Essence.** Time is hereby declared of the essence to the lawful performance of the duties and obligations contained in this Agreement. The Owner/Developer or Developer shall execute this Agreement within ten (10) business days of City Commission

adoption of Ordinance No. \_\_\_\_; and agrees to pay the cost of recording this document in the Public Records of Volusia County, Florida. Failure to execute this Agreement within ten (10) business days of this ordinance adoption ~~may~~ shall result in the City not issuing development orders or permits until execution and recordation of this Agreement has occurred.

30. **Agreement; Amendment.** This Agreement constitutes the entire agreement between the parties, and supersedes all previous discussions, understandings and agreements, with respect to the subject matter hereof; provided, however, that it is agreed that this Agreement is supplemental to the City’s Comprehensive Plan and does not in any way rescind or modify any provisions of the City’s Comprehensive Plan. Amendments to and waivers of the provisions of this Agreement shall be made by the parties only in writing by formal amendment.

31. **Effective Date.** The Effective Date of this Agreement shall be the day this Agreement is recorded in the Public Records of Volusia County, Florida.

**IN WITNESS WHEREOF**, the Owner, the Developer and the City have executed this Agreement.

**OWNER/DEVELOPER**

**By:**

\_\_\_\_\_  
Signature of Witness # 1

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Print or type name

**As:**  
\_\_\_\_\_  
Print or type

**ATTEST:**  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

**As:**  
\_\_\_\_\_

Mailing Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STATE OF FLORIDA**  
**COUNTY OF** \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_\_\_, by \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, who is/are personally known to me or who has/have produced \_\_\_\_\_ as identification and who did not (did) take an oath.

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Print or type name

(NOTARY SEAL)

**DEVELOPER**

**By:**  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or type name

\_\_\_\_\_  
Signature of Witness # 1

\_\_\_\_\_  
Print or type name

**As:**  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Witness #2

\_\_\_\_\_  
Print or type

\_\_\_\_\_  
Print or type name

**ATTEST:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

**As:**

\_\_\_\_\_  
Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**STATE OF FLORIDA**  
**COUNTY OF \_\_\_\_\_**

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, and \_\_\_\_\_, of \_\_\_\_\_, who is/are personally known to me or who has/have produced \_\_\_\_\_ as identification and who did not (did) take an oath.

\_\_\_\_\_  
Signature of Notary

(NOTARY SEAL)

\_\_\_\_\_  
Print or type name

**CITY OF DELTONA:**

**By:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**ATTEST:**

**Date:** \_\_\_\_\_

Mailing Address:  
City of Deltona  
2345 Providence Boulevard  
Deltona, Florida 32725

**STATE OF FLORIDA**  
**COUNTY OF** \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, and \_\_\_\_\_, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Deltona.

\_\_\_\_\_  
Signature of Notary

(NOTARY SEAL)

\_\_\_\_\_  
Print or type name

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

\_\_\_\_\_  
Gretchen R. H. Vose  
City Attorney

**ORDINANCE NO. 05-2015**

**AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING THE OFFICIAL ZONING MAP TO REZONE APPROXIMATELY 142 ACRES OF LAND LOCATED EAST OF HOWLAND BLVD. AND WEST OF OSTEEN CEMETERY RD. NEAR BOTH PRIDE ELEMENTARY AND PINE RIDGE HIGH SCHOOLS FROM COUNTY A-1 (PRIME AGRICULTURE) AND CITY OF DELTONA RESIDENTIAL PLANNED UNIT DEVELOPMENT (RPUD) TO RESIDENTIAL PLANNED UNIT DEVELOPMENT: PROVIDING FOR CONFLICTS, PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

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**WHEREAS**, the City of Deltona, Florida has received an application to rezone approximately 142 acres from County A-1 (Prime Agriculture) and City of Deltona Residential Planned Unit Development (RPUD) to City of Deltona Residential Planned Unit Development (RPUD); and

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

**WHEREAS**, after said public hearing, the City Commission of the City of Deltona, Florida, has determined that the RPUD zoning 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.** Located in the City of Deltona, Florida the following property is hereby rezoned to RPUD:

8230-00-00-0020 – Section 30, Range 18S, Township 32E Lot 5 & the N ½ of Lot 6  
Per OR 4887 PG 3102 Per OR 5510 PG 4869-4870 Per OR 6693 PG 4410 Per OR

City of Deltona, Florida  
Ordinance No. 05-2015  
Page 2 of 3

6860 PG 0869 Per OR 6860 PG 0871 Per OR 6865 PG 0443 and 8230-00-00-0050 –  
Section 30, Range 18S, Township 32E E 11.4 Chains of S ½ of Gov. Lot 4 Per OR  
4887 PG 3102 Per OR 5510 PG 4869-4870 Per OR 6693 PG 4410 Per OR 6860 PG  
0869 Per OR 6860 PG 0871 Per OR 6865 PG 0443

**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 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 provisions  
or applications 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 \_\_\_\_\_, 2015.**

First Reading: \_\_\_\_\_

Advertised: \_\_\_\_\_

Second Reading: \_\_\_\_\_

BY: \_\_\_\_\_  
JOHN C. MASIARCZYK, SR., Mayor

City of Deltona, Florida  
Ordinance No. 05-2015  
Page 3 of 3

ATTEST:

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JOYCE RAFTERY, CMC, City Clerk

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

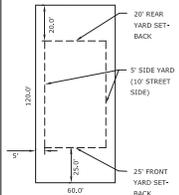
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GRETCHEN R. H. VOSE, City Attorney

**SOIL TYPES**

- 4 ASTATAULA FINE SAND
- 17 DAYTONA SAND
- 20 INHAKALEE SAND
- 32 HYAKKA - HYAKKA VIET FINE SAND
- 34 HYAKKA - ST JOHNS COMPLEX
- 64 QUARTZSAPPHIRENTS
- 66 SAHLSA MUCK
- 68 TAVARES FINE SAND

**TYPICAL LOT LAYOUT**



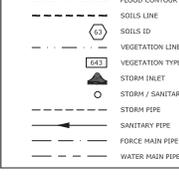
**LAND USE DATA**

- Parcel ID's: 30-18-32-00-00-0050, 30-18-32-00-00-0020
- Current Site Zoning: A-1 (C) (Parcel 0050) RPUD (Parcel 0020)
- Proposed Zoning: RPUD
- Site Contains: 142.2 acres (6,139,445.67 s.f.), Vacant/Agricultural/Residential Single Family Residential
- Use: Vacant/Agricultural/Residential Single Family Residential
- Proposed Use: Single Family Residential
- Total Number of Proposed Units: 284
- Project will be Phased:
- Building Setbacks:
  - a. Front 25'
  - b. Side 5'
  - c. Rear 20'
- Minimum Lot Size: 7,200s.f.
- Minimum Lot Width: 60'
- Minimum Lot Depth: 120'
- Maximum Building Height: 2 Stories and 35' Height
- Density:
  - Developable area: 142.2 ac.
  - Dwelling Units: 284
  - Gross Density: 2.0 DU/AC
  - Net Developable Area (Less wetlands 22.53 ac): 119.6 ac
  - Net Density: 2.37 DU/AC
  - Stormwater Retention: 9.8 ac.
  - Utility Providers:
    - a. Potable water: City of Deltona
    - b. Wastewater/Reclaim: City of Deltona
    - c. Electric: Florida Power & Light
    - d. Fire Protection: City of Deltona
- Subject property lies within Zone A, area with no base flood determined according to the national flood insurance program rate map, community panel number 12127C06451, dated February 19, 2014.
- Open Space: 25% Required 35.6 ac  
25% Required, 35.6 ac  
Open Space Provided: 65.1 ac

**VEGETATIVE TYPES**

- 410 MIXED RANGELAND
- 411 PINE FLATWOOD
- 412 OTHER PINE / SPECIAL
- 430 SCRUB OAK
- 431 CYPRESS SWAMP
- 432 CYPRESS / PINE / CABBAGE PALM
- 433 WET PRAIRIE

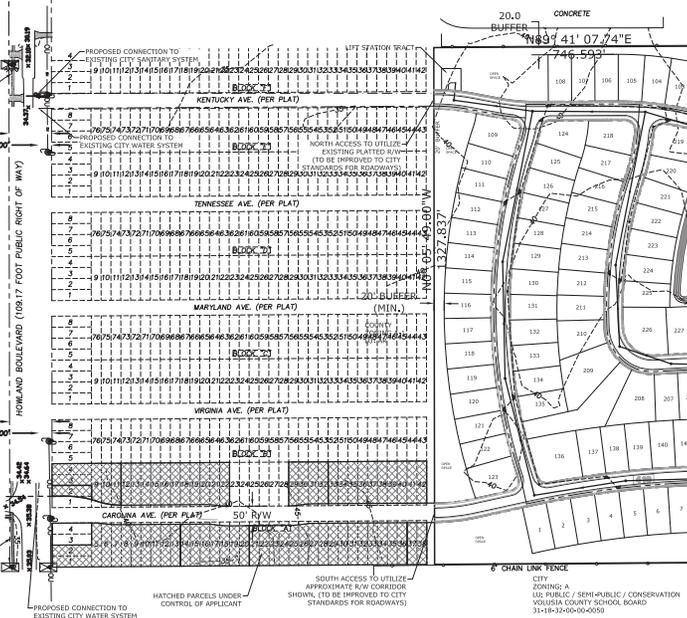
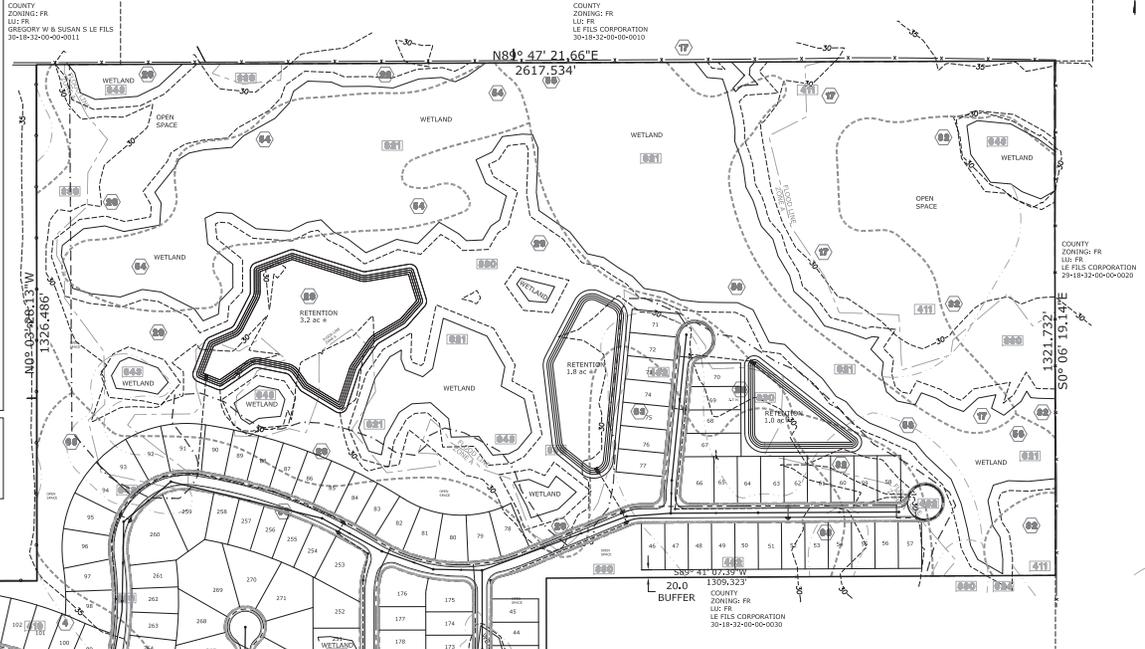
**LEGEND**



**AREA CALCULATIONS**

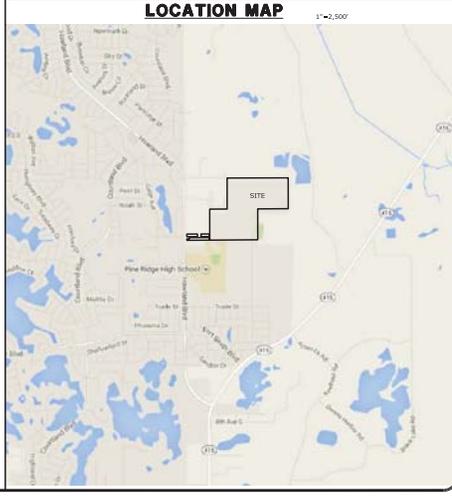
TOTAL AREA:	142.2 ACRES
R/W AREA:	134 ACRES
LOTS AREA:	536 ACRES
RETENTION:	63 ACRES
WETLAND:	22.53 ACRES
CONSERVATION BUFFER:	4.9 ACRES
OPEN SPACE:	36.2 ACRES

CITY ZONING: A-1  
VOLUSIA COUNTY SCHOOL BOARD  
30-18-32-01-00-0010



<b>OWNER:</b> FERNANDA INVESTMENTS, LLC 27 NORTH SUMMERLIN AVENUE ORLANDO, FLORIDA 32801 407-649-9888	<b>ENGINEER:</b> EVANS ENGINEERING, INC. 719 IRMA AVENUE ORLANDO, FLORIDA 32803 47-872-1515	<b>SURVEYOR:</b> ALLEN & COMPANY 16 EAST PLANT STREET WINTER GARDEN, FLORIDA 34787 407-654-5355
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**LEGAL DESCRIPTION**  
The South 1/2 of Government Lot 4 except that portion platted in D.M. Jarvis' First Addition to Osteen, Florida, Map Book 21, Pages 114 through 116, Public Records of Volusia County, Florida (being the West 31 acres of the South 1/2 of Government Lot 4), and all of Government Lot 5 and the North 1/2 of Government Lot 6, all lying in Section 30, Township 18 South, Range 32 East, Volusia County, Florida.



BY	
REVISIONS	
DATE	

TITLE  
DWG. L. ENR. 77. #1008

**EVANS ENGINEERING, INC.**  
ONE UNIVERSITY CENTER DRIVE, SUITE 200  
ORLANDO, FLORIDA 32809  
WWW.EVANS-ENG.COM  
407-872-1515  
CERTIFICATE OF AUTHORIZATION NO. 0000788

**FERNANDA PLACE**  
FOR  
**FERNANDA INVESTMENTS, LLC**  
CITY OF DELTONA, FLORIDA

**LAND USE PLAN**  
**SITE PLAN**

**DRAWN:** JMK  
**CHECKED:** DLE  
**DATE:** JUNE 2016  
**SCALE:** 1"=150'  
**SUB #:** 84802  
**SHEET #:**

**1.0**



## AGENDA MEMO

**TO:** Mayor & City Commission      **AGENDA DATE:** 8/17/2015

**FROM:** Jane K. Shang, City Manager      **AGENDA ITEM:** 9 - B

**SUBJECT:** Public Hearing - Ordinance No. 27-2015, Amending Sections 58-34 and 58-37 of the City of Deltona's Code of Ordinances allowing for an 811 Report to Release City Easement Abandonment, at second and final reading - Chris Bowley, Planning and Development Services Department (386) 878-8602.

**LOCATION:**

Citywide

**BACKGROUND:**

The majority of the platted lots within the City of Deltona (City) are single-family residential lots created from the Deltona Lakes Plat (Plat). On the Plat, easements are established for drainage and utility purposes. However, the majority of the easements are not used for either purpose and, on occasion, proposed for vacation; especially associated with lot combinations. During the vacation process, there is a lengthy notification process for the potential utility providers to provide a letter of release. Oftentimes, the requests for the letters either goes unanswered or takes a great amount of time to receive (whether or not there is no objection to the action).

To provide greater customer service for residents or applicants and to ensure that no City easements are vacated that includes utilities, the provision of the 811 report has the potential to be used in lieu of receipt of the utility letters of release. If there are no utilities listed in the required 811 report and the City does not need the easement, then the 811 report verification will expedite the vacation process and allow land owners to use their property, as proposed, sooner.

**ORIGINATING DEPARTMENT:**

Planning and Development Services

**SOURCE OF FUNDS:**

N/A

**COST:**

N/A

**REVIEWED BY:**

Planning Director, Finance Director, City Attorney, City Manager

**STAFF  
RECOMMENDATION  
PRESENTED BY:**

Chris Bowley, Planning and Development Services Director  
- Staff recommends that the City Commission approve Ordinance No. 27-2015, amending Sections 58-34 and 58-37 of the City of Deltona's Code of Ordinances that allows for either a utility letter of release or an 811 Report within the City easement abandonment process.

**POTENTIAL  
MOTION:**

"I hereby move to approve Ordinance No. 27-2015, amending Sections 58-34 and 58-37 of the City of Deltona's Code of Ordinances that allows for either a utility letter of release or an 811 Report within the City easement abandonment process, at second and final reading."

**AGENDA ITEM  
APPROVED BY:**

---

Jane K. Shang, City Manager

**ATTACHMENTS:**

- Ordinance No. 27-2015
- Staff Report Ord No. 27-2015 811 Report

**ORDINANCE NO. 27-2015**

**AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING SECTIONS 58-34 AND 58-37, OF ARTICLE IV, "APPLICATION", OF CHAPTER 58, "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES", OF THE CODE OF THE CITY OF DELTONA, BY PERMITTING AN 811 REPORT IN LIEU OF UTILITY COMPANY LETTER OF RELEASE FOR CITY EASEMENT ABANDONMENT; AND PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.**

---

**WHEREAS**, it has been determined that an 811 report is sufficient to indicate the absence of utilization of a specific easement area without the need for a specific utility company letter of release for purposes of the abandonment of a city easement; and

**WHEREAS**, allowing an 811 report to be used in lieu of a letter of release from a utility company streamlines the development process;

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

**Section 1.** Section 58-34, "Application form", of Article IV "Application", of Chapter 58, "Streets, Sidewalks and other Public Places", of the City's Code of Ordinances, is hereby amended to read as follows:

Section 58-34. Application form.

(a) All requests for abandonment of city easements and other non-fee interests which the city may have in real property shall be made in writing upon an application form which shall be furnished by the city and which shall require the following information:

(1) The name and address of the applicant.

(2) A specific legal description of the easement or other non-fee interest of the city which the applicant seeks to have abandoned and the location by geographic map of same. Where possible, a legal description by metes and bounds shall be provided, which description shall be accompanied by a plat, map or drawing which also shows the general area involved and the location of the specific property non-fee interest sought to be abandoned.

- (3) The reason for the request of abandonment.
- (4) The names and addresses of the owners and occupants of real property bounding and abutting the easement or other non-fee interest of the city which the applicant seeks to have abandoned.
- (5) A letter of release from all utility companies that may be involved or concerned with the abandonment or an 811 report.
- (6) Such other relevant information as the city may require. The application shall be signed by the party or parties requesting same who shall verify same under oath that the information contained therein is true and correct.

(b) An application for an approval under this section shall be deemed withdrawn 30 days after the date the department of development services notifies the applicant of any deficiencies contained in the application or additional information needed to review the application. The department of development services may, upon written request and good justification by the applicant, grant not more than one 30-day extension. At the expiration of the 30-day period, or any extension thereof, the application shall automatically expire, be deemed withdrawn, and become null and void. The balance of permit fees and charges paid at the time of application, and plan check fees, to the extent not expended by the city for review of the application, shall be refunded, except that the administrative fee shall be retained.

**Section 2.** Section 58-37, "Procedures for application for abandonment of easements or other non-fee interest, of Article IV, "Application", of Chapter 58, "Streets, Sidewalks and other Public Places", of the City's Code of Ordinances is hereby amended to read as follows:

Section 58-37. Procedures for applications for abandonment of easements or other non-fee interest.

(a) Upon receipt of an application, letters of release or an 811 report and applicable fee, the development services department shall review same for completeness and for compliance with the requirements of this chapter. The development services department may reject the application if a similar application has been considered at any time within six months of the date the application is submitted. Upon the application being properly submitted, it shall be accepted for filing with the development services department, and the applicant shall be given a receipt for the fee paid. As soon as practicable thereafter, the development services department shall proceed with review of the application as follows:

- (1) Advise the city's director of public works of the application made by forwarding a copy thereof for review and recommendations for approval or disapproval to be made to the development services department requested to be made within not more than 20 days' time.
  - (2) Examine, analyze and review the application for abandonment to determine whether the public health, safety and welfare would be served thereby and whether the interest sought to be abandoned is no longer needed and can reasonably no longer be expected to be needed in the future to serve the public health, safety or welfare.
  - (3) Report the department's recommendations on the application for abandonment to the director of development services, or his or her designee.
  - (4) The director of development services, or his or her designee, shall inform the applicant of the department's decision on the application.
- (b) If the application is approved, the director of development services, or his or her designee, upon review of the application materials, may prepare a certificate or other document necessary to abandon the easement or other non-fee interest for the mayor's signature, provided, however, that applications for the abandonment of public rights-of-way shall require the passage and adoption of an ordinance to complete the abandonment.
- (c) If the application is denied, the applicant may, within ten days of receipt of notice, file the requisite papers to appeal the decision to the city commission on forms prepared by the department of development services. The city commission shall establish by resolution a fee for appeal of the denial of abandonment application, which fee may be amended from time to time.

**Section 3.** Conflict. All Ordinances or parts of Ordinances insofar as they are inconsistent or in conflict with the provisions of this Ordinance are hereby repealed to the extent of any conflict.

**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.

City of Deltona, Florida  
Ordinance No. 27-2015  
Page 4 of 4

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF  
DELTONA, FLORIDA THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2015.**

First Reading: \_\_\_\_\_

Advertised: \_\_\_\_\_

Second Reading: \_\_\_\_\_

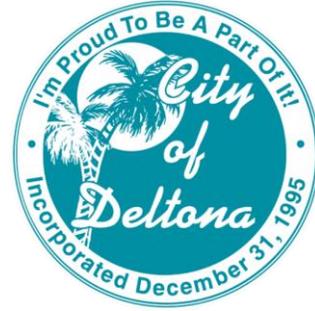
BY: \_\_\_\_\_  
JOHN C. MASIARCZYK, SR., Mayor

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, ESQ., City Attorney



# Staff Report

**To:** Planning and Zoning Board

**From:** Chris Bowley, AICP, Director  
Planning & Development Services

**Date:** June 26, 2015

**Re:** Ordinance No. 27-2015: Amending Sections 58-34 and 58-37 of the City of Deltona's Code of Ordinances allowing for an 811 Report to Release City Easement Abandonment

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## A. Summary of Application:

**Applicant:** City of Deltona

**Request:** To amend Sections 58-34 and 58-37 of the City's Code of Ordinances allowing for an 811 report in lieu of a utility company letter of release for City easement abandonment.

**B. Background:** The majority of the platted lots within the City of Deltona (City) are single-family residential lots created from the Deltona Lakes Plat (Plat). On the Plat, easements are established for drainage and utility purposes. However, the majority of the easements are not used for either purpose and, on occasion, proposed for vacation. During the vacation process, there is a lengthy notification process to the potential utility providers to provide a letter of release. Often times, the requests go unanswered or the letters take a great amount of time to receive (whether or not there is no objection to the action).

To provide greater customer service and to ensure that no City easements are vacated that include utilities, the provision of the 811 report has the potential to be used in lieu of receipt of the utility letters of release. If there are no utilities listed in the required 811 report and the City does not need the easement, then the 811 report verification will speed up the vacation process.

**CONCLUSION/STAFF RECOMMENDATION:**

Staff has reviewed the attached ordinance and supports the language listed within it. The ordinance addresses a longstanding issue that encumbered lands through City easements are not being used or will not be used restrict land owners from achieving development or redevelopment on their properties. The approval of Ordinance No. 27-2015 facilitates the ability of a landowner to vacate a City easement in a timely manner, without having to wait an inordinate amount of time for a response from a utility provider, if one is received. The ordinance allows the City to continue to determine whether the easement is viable and to ensure that alternative easements exist for the future. Thus, staff recommends approval of Ordinance No. 27-2015.