

AFTER ACTION AGENDA

REGULAR CITY COMMISSION MEETING
MONDAY, MARCH 17, 2014
6:30 P.M.

DELTONA COMMISSION CHAMBERS
2345 PROVIDENCE BLVD.
DELTONA, FLORIDA



AGENDA

1. **CALL TO ORDER**
2. **ROLL CALL - CITY CLERK**
3. **INVOCATION AND PLEDGE TO THE FLAG:**
 - A. **Invocation Presented by Commissioner Barnaby.**
4. **APPROVAL OF MINUTES & AGENDA:**
 - A. **Approval of Minutes - Regular City Commission Meeting of March 3, 2014.**

[The Commission voted unanimously to approve the minutes of the Regular City Commission Meeting of March 3, 2014.](#)
 - B. **Additions or Deletions to Agenda.**
5. **PRESENTATIONS/AWARDS/REPORTS:**
 - A. **Recognition to promote Deltona talent at local shows and performances.**
 - B. **Proclamation – Boys and Girls Club Week Proclamation and Certificate of Recognition to Shane Smith for achieving Harris Saxon Club Youth of the Year.**
 - C. **Annual Audit Presentation – Comprehensive Annual Financial Report for the Year Ended September 30, 2013.**

[After discussion, the Commission voted unanimously to accept the City of Deltona's Comprehensive Annual Financial Report \(CAFR\) for the fiscal year ended September 30, 2013.](#)

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

CONSENT All items marked with an * will be considered by one motion unless removed
AGENDA: 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.

7. CONSENT AGENDA: None.

8. ORDINANCES AND PUBLIC HEARINGS:

- A. Public Hearing - Ordinance No. 02-2014, Zoning Map Amendment to change the Zoning Designation from Mixed Planned Unit Development (MPUD) for three lots to the Saxon Sterling Silver Business Planned Unit Development (BPUD).**

The subject property (site) has a long entitlement history within the City of Deltona. In 2005, the subject site was rezoned to Mixed Use Planned Unit Development (MPUD) and became known as the Retirement Community at Sterling Park MPUD. The MPUD rezoning was consistent with the Commercial future land use designation for the property. The mixed-use subdivision included four (4) lots and lot 3 was developed as the Sterling Court retirement facility. This age-targeted facility includes 118 multi-family residential units within a medium-rise building and one-story duplexes and triplexes to the east of that facility.

The Development Agreement and Cross Access Easement (DA) for the MPUD were executed in 2006 and prevail as the governing document that issued development rights for the land (see the attached DA and summary). The MPUD was also platted in 2006 that created legal lots of record for the four (4) lots, along with conditions of approval (see attached). A brief overview of the subject property is as follows:

***Lot 1:** Approved for commercial uses, which allows for office uses, with a 0.25 floor area ratio (FAR). The 0.25 FAR allows for more urban development at greater intensities. Land uses that generate high traffic volumes were precluded. A right-in/right-out access point was granted onto Saxon Boulevard. A screen wall and landscaping is required along the north and west property lines to mitigate impacts to adjacent low density residential land uses. There is a 15-ft. wide Florida Power Corporation easement along the Saxon Boulevard frontage and a 1-ft. wide non-vehicular ingress and egress easement along the Saxon Boulevard and Sterling Silver Boulevard roadway frontages. There is also a utility easement at the northeast corner of the lot.*

Lot 3: *Is the retirement center and is not included in this BPUD rezoning application.*

Lots 2 and 4: *Approved for general office or medical office development. If developed with general office uses, then there is a 0.25 FAR cap. Medical office development is limited to a 0.12 FAR cap. There is a 15-ft. wide Florida Power Corporation easement along the Saxon Boulevard frontage and a 1-ft. wide non-vehicular ingress and egress easement along the Saxon Boulevard and Sterling Silver Boulevard roadway frontages. There is a 20-ft. wide easement dedicated to the Volusia County School Board along the south property line and, along the east property line of lot 4, there is a 24-ft. wide access and utility easement for access to a City lift station and to provide cross-access to the adjacent medical plaza to the south.*

Road B: *Was platted, then later vacated through Ordinance No. 02-2008. Tract A on the Final Plat was then dedicated to the public through a Special Warranty Deed and is now Alabaster Way. Ordinance No. 02-2008, also vacated Tract C (common area), and kept the 24-ft. wide access and utility easement for access along the east property line of lot 4.*

Tract B: *Is a 44-ft. wide ingress/egress/drainage and utility easement platted between lots 2 and 4.*

Other: *There were sidewalks and landscape medians required to be constructed by the Owner/Developer and maintained by a Property Owner Association (POA). There is an 8-ft. wide sidewalk along the south side of Alabaster Way, along the west side of Sterling Silver Boulevard, and a 5-ft. wide sidewalk along the frontage of Saxon Boulevard (required to be 8-ft. wide). There is a landscape median within the Sterling Silver Boulevard entryway with decorative site lighting, but it does not include landscaping and is not maintained (no POA established). There are pedestrian crosswalks delineated, as required in the DA, and striping needs to be completed. Turn lane arrows have also been added, as required. There is a signal warrant for a light that is required either at the intersection of Sterling Silver Boulevard and Saxon Boulevard or along Saxon Boulevard at another location.*

The applicant proposes two options for this Master Development Plan (Options 1 and 2), as well as amendments to the previously approved DA. The major differences from the 2006 approved MPUD are that lot 3 is not included within this rezoning application to BPUD (only the vacant lots 1, 2, and 4); lot 1 is proposed to have two development options – office or commercial use and lots 2 and 4 are proposed for intensive commercial uses. The "plan or exhibit" represents the preliminary plan for the MDP, as defined in the Land Development Code. The DA represents the written agreement of the MDP. Prior to final adoption of an MDP, the preliminary plan and written agreement shall be

consistent to form the MDP. Any changes proposed to the preliminary plan and DA will be require consistency between the two.

Through these options, the applicant desires to keep commercial development rights and Option 1 grants the applicant the greatest development program flexibility. It permits commercial development on lots 2 and 4 and grants the applicant the ability to decide whether lot 1 is developed with retail commercial or office land uses (since office development is a permitted use within retail commercial zoning). Option 2 is a more limited development program. It also allows commercial development on lots 2 and 4, but limits lot 1 to office/medical use only.

As supported in the attached documentation and staff report, staff supports Option 2. Option 2 would locate intensive retail commercial land uses farther away from existing low density residential land uses, limit the intensity of the commercial use to be more compatible with the medium density residential use on lot 3, and reduces traffic on City roads. Staff supports limiting the intensity of commercial development from 0.25 FAR as is currently permitted on lot 1, to a 0.182 FAR on lots 2 and 4. Staff also recommends restricting the hours of operation for commercial uses to ensure more neighborhood compatibility with the lesser-intensive residential land uses in the area.

Due to the proposed development program in Options 1 and 2, as well as that already approved in the current DA, access management and tie-in to the existing transportation network is important for site function. As such, the applicant has submitted a Transportation Impact Analysis (TIA), which was reviewed by Volusia County and a peer review consultant (GMB). The applicant shall be required to incorporate the County and peer review consultant comments into their TIA.

Finally, the Planning and Zoning Board heard Ordinance No. 02-2014 at the February 19, 2014, public hearing and recommended that the City Commission deny the rezoning application. Following receipt of the GMB peer review comments, staff forwarded those comments to the applicant on January 28, 2014, with a request to update the TIA. Staff also met with the applicant following the February 19, 2014, P&Z meeting, to ensure that their preliminary plan and Development Agreement issues from the P&Z meeting were addressed and that the MDP components will be consistent. As of the date of this report, those items have not been updated by the applicant for consistency. Therefore, staff recommends the item be continued (date-certain) to the April 7, 2014, City Commission public hearing until those items can be made consistent.

After discussion, the Commission voted unanimously to table Item 8-A to time certain to April 7, 2014.

B. Public Hearing – Resolution No. 2014-02, declaring certain real property of the City of Deltona as surplus and authorizing the sale or disposal of such property.

The City of Deltona is the owner of certain real property located at Northeast quadrant of SR 415 and Howland Boulevard, Deltona, Volusia County, Florida.

This is a vacant parcel that is not needed to serve any municipal purpose and therefore the City considers it to be surplus. This property was a new parcel for lake created in accordance with DOR Regulations, all gaps (such as lakes), to be assessed and mapped.

One adjacent property owner has expressed his interest in purchasing the subject parcel.

After discussion, the Commission voted unanimously to adopt Resolution No. 2014-02 declaring certain real property of the City as surplus and authorizing the sale or disposal of such property.

9. OLD BUSINESS: None.

10. NEW BUSINESS:

A. Consideration of request from THR Florida LP for a reduction of fine from \$37,100.00 assessed pursuant to Special Magistrate Case DEL-13-088 and DEL-13-090.

An Order Imposing Fine/Lien was entered on June 26, 2013, by the City of Deltona Special Magistrate, ordering THR Florida LP to pay to the City of Deltona a fine in the amount of one hundred dollars (\$100.00) per day beginning June 26, 2013, for each and every day the violations exist and continues to exist or until a cap of \$20,000.00 is reached for each case. The violation occurred when the respondent failed to obtain a building permit for installing a fence and replacing an air conditioning unit at the home located at 1202 Voyager Street. The total accumulated amount due is \$37,100.00. On February 26, 2014 Sean K. Mills, Esq. representing THR Florida LP appeared before the Special Magistrate to request a recommendation to reduce the fine.

The Special Magistrate made a recommendation to reduce the fine to \$1000.00 (each case) with the stipulation that any outstanding Municipal Liens on other properties owned by THR Florida LP within the City of Deltona also be paid.

After discussion, the Commission voted 5 to 2 (Commissioner Nabicht and Vice Mayor Herzberg voted against the motion) to grant a fine reduction for THR Florida LP concerning Case No. DEL-13-088 and Case No. DEL-13-090 for the property located at 1202 Voyager Street, Deltona, Florida, to the sum

of \$5,000.00 per case for a total of \$10,000, to be paid within 30 days (April 17, 2014) and pay all Municipal Liens on any other property owned in the City of Deltona or the fine reverts back to the original amount.

B. Request for the abandonment of two easements on SR 415.

The City received the attached easements from the property owners in March and May of 2012, respectively for the installation of water and wastewater utilities on their properties. These easements were granted to the City for the SR415 utility project. However, due to project revisions, neither of the easements were utilized by the City nor will they be in the future. Therefore, the property owners have requested the City to abandon these easements and Public Works proposes to do so.

It should be noted that the same owners have granted the City new easements in February, 2014 for utility improvements and the new SR415 lift station on SR415. The new easements will facilitate the construction of these improvements and allow the City to provide utility services in the SR415 and Doyle Road corridors.

After discussion, the Commission voted unanimously to approve the abandonment of said easements as they are no longer required, necessary or useful to the interests of the City and the public for the use for which it was originally granted.

C. Request for appointment of a City representative to the Tourist Development Council (TDC) for a four year term and the appointment of an alternate City representative.

Currently, Mayor Masiarczyk is the appointed City representative to the Tourist Development Council whose term expires March 31, 2014.

This advisory council makes recommendations to the Volusia County Council for the effective operation of the special projects or of the uses of the tourist development tax revenue. Members include the county chair, elected officials from municipalities, and persons involved in the tourism industry.

After discussion, the Commission voted unanimously to appoint Mayor John Masiarczyk as the City's representative to the Tourist Development Council (TDC) for a term to expire on March 31, 2018 and appoint Commissioner Chris Nabicht as the alternate City's representative.

D. Consideration of appointment or re-appointment of four (4) members to the City's Planning and Zoning Board.

The appointments of Tom Burbank, David McKnight, Noble Olasimbio, and Adam Walosik, expired on March 15, 2014 and all wish to be re-appointed to the City's

Planning and Zoning Board.

The City has run a press release and posted the openings on the City's web page, D-TV, and City bulletin board. To date, the City has received applications from the following interested individuals: Ruben Colon, Rod Geilen, Raphael Gomez, Jose Irizarry, Maribel Montanez and Timothy O. Willis. Also, attached are the applications of the current advisory board members who are interested in being re-appointed.

After discussion, the Commission voted unanimously to confirm the re-appointments of Adam Walosik (Commissioner Lowry's appointment), Noble Olasimbo (Commissioner Schleicher's appointment), Tom Burbank (Commissioner Nabicht's appointment), and David McKnight (Vice Mayor Herzberg's appointment) to the Planning and Zoning Board for a term to expire on March 15, 2017.

11. CITY ATTORNEY COMMENTS:

12. CITY MANAGER COMMENTS:

A. Lobbyist Update.

13. CITY COMMISSION COMMENTS:

14. ADJOURNMENT:

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

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