



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Agenda Planning and Zoning Board

Wednesday, July 15, 2015

7:00 PM

Council Chambers

1. CALL TO ORDER:

2. ROLL CALL:

3. APPROVAL OF MINUTES & AGENDA:

Approval of Minutes for - May 20, 2015.

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

7. NEW BUSINESS:

A. Rezoning Application, RZ15-002, Fernanda Place, Ordinance No. 05-2015

C. Ordinance No. 09-2015: Amending Section 110-806, Fences, Walls & Hedges, of the City's Land Development Code (LDC)

B. 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

8. STAFF COMMENTS:

9. BOARD/COMMITTEE MEMBERS COMMENTS:

10. ADJOURNMENT:

NOTE: If any person decides to appeal any decision made by the Deltona Board/Committee 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.



Minutes
Planning and Zoning Board

Wednesday, May 20, 2015

7:00 PM

Commission Chambers

1. CALL TO ORDER:

The meeting was called to order at 7:00 p.m.

2. ROLL CALL:

Also present: Planning & Development Director, Chris Bowley, AICP; Planning & Development Assistant Director, Ron Paradise and Administrative Assistant, Kathrine Kyp.

Present: 4 - Member Tom Burbank
Member Adam Walosik
Member Noble Olasimbo
Member Stony Sixma

Excused: 2 - Member Wendy Hickey
Member Victor M. Ramos

Absent: 1 - Member Herb Zischkau

3. APPROVAL OF MINUTES & AGENDA:

A. Approval of Minutes for - April 15, 2015

Motion by Member Olasimbo, seconded by Member Sixma, to approve as amended the Minutes for the April 15, 2015 Planning and Zoning Board meeting . The motion carried by the following vote:

For: 4 - Member Burbank, Member Walosik, Member Olasimbo and Member Sixma

6. OLD BUSINESS:

7. NEW BUSINESS:

B. Lake Sidney Shores Conditional Use Application, CU15-002, Resolution No. 2015-07

Mr. Bowley made a statement that the applicant has requested a postponement of the application and therefore the item cannot be heard at this meeting.

C. Rezoning Application, RZ15-002, Fernanda Place, Ordinance No. 05-2015

Mr. Paradise stated for the record that, the applicant has requested a date certain postponement of the application to the Planning and Zoning Board Meeting to July 15, 2015.

A. Zoning Variance Application, VR15-001, Resolution No. 2015-13

Mr. Paradise provided the Board with a brief description of the zoning variance to allow a home carport addition in the front yard of the dwelling, located at 2845 Redbud Court. Staff recommended denial of the application, due to no established hardship.

Member Olasimbo and Member Walosik discussed the fact that there is no hardship on the property to support the zoning variance request. Chairman Burbank referred to a case in the past and stated that maybe the Ordinance in the Code is the hardship itself.

Chairman Burbank opened the public forum.

Barbara Williams 2845 Redbud Court, applicant for the zoning variance request, stated the reason she is requesting the variance is due to the sun hitting the inside of her home and a safe place for her kids to play. She mentioned that she has driven around the City and has noticed that there are other carports in other parts of the City. She plans to build according to the direction of the Board.

Kim Diaz, 3124 Nickerbean Street, spoke for the application and stated that she likes the carport idea in the front of the dwelling and wants to build one for her property as well.

Chairman Burbank closed the public forum.

Chairman Burbank spoke regarding a similar case where sunlight was a hardship. Member Walosik spoke that the condition of sunlight is not a condition for the hardship, as there are five conditions in the Code that need to be demonstrated and not one of them was met.

Member Olasimbo stated, the conditions of hardship was not met and the applicant can plant trees to block the sunlight. Member Walosik spoke of the domino effect throughout the City and people wanting to store their items in the garage.

Motion by Member Walosik, seconded by Member Olasimbo, to recommend that the City Commission deny Zoning Variance Application, VR15-001, Resolution No. 2015-13 . The motion carried by the following vote:

For: 4 - Member Burbank, Member Walosik, Member Olasimbo and Member Sixma

8. STAFF COMMENTS:

Mr. Bowley stated that Chairman Burbank requested Staff to make an amendment to the Land Development Code for Sec.110-1200 Creation. C.(c) Officers. "The director of development services shall perform the secretary's duties in opening the meeting and calling for nominations for chairperson at the first meeting of the board following its establishment by the city commission." Mr. Bowley stated that this sentence will be deleted, since it is out dated.

9. BOARD/COMMITTEE MEMBERS COMMENTS:

None.

10. ADJOURNMENT:

The meeting was adjourned at 7:18 p.m.

ATTEST:

Tom Burbank, CHAIRMAN

Kathrine Kyp, RECORDING SECRETARY

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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:

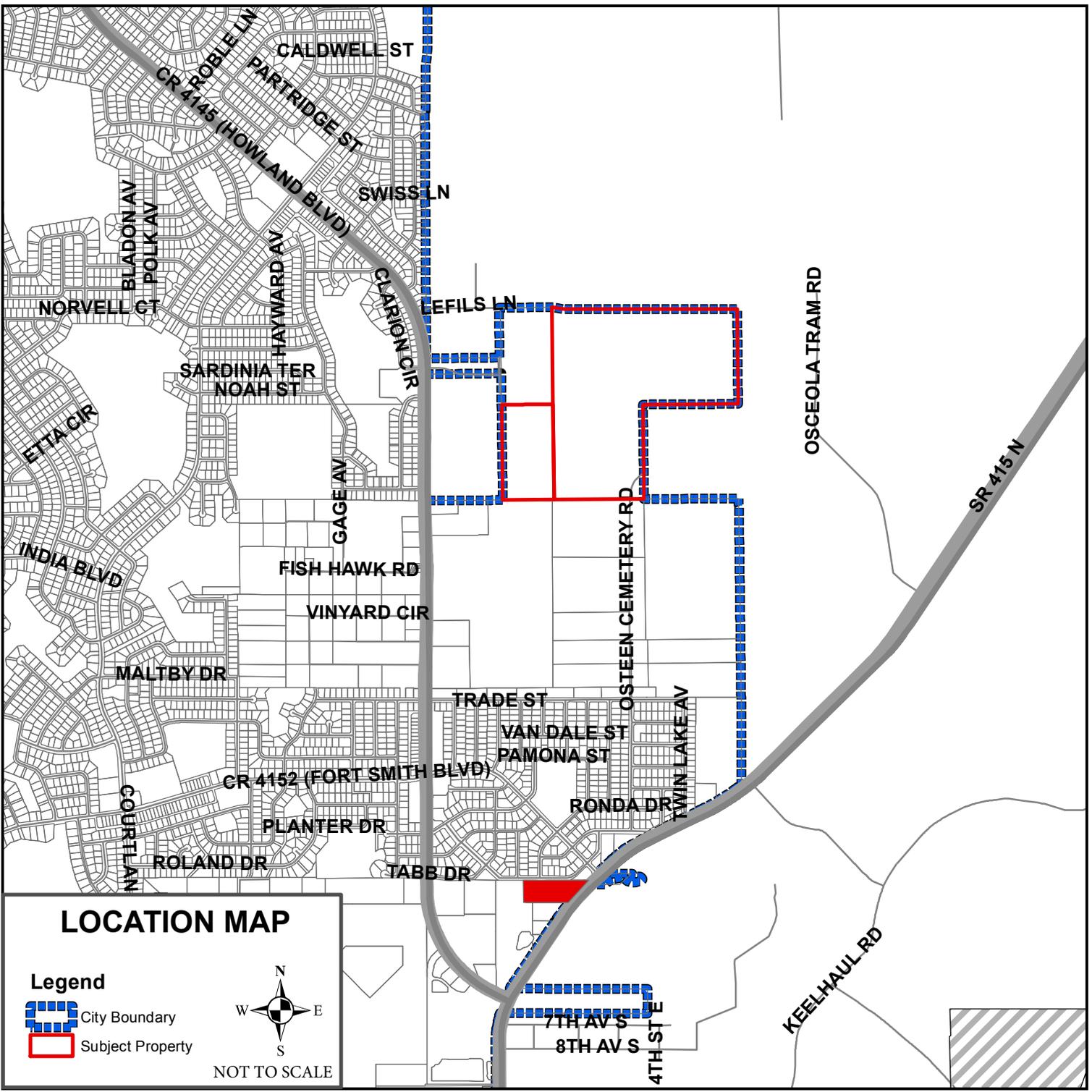
- 1) A relatively larger home square foot requirement;
- 2) New homes that comply with modern building codes;
- 3) Project amenities like buffers, open space and natural reserve areas; and
- 4) Home/property owner association management.

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.



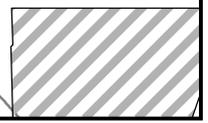
LOCATION MAP

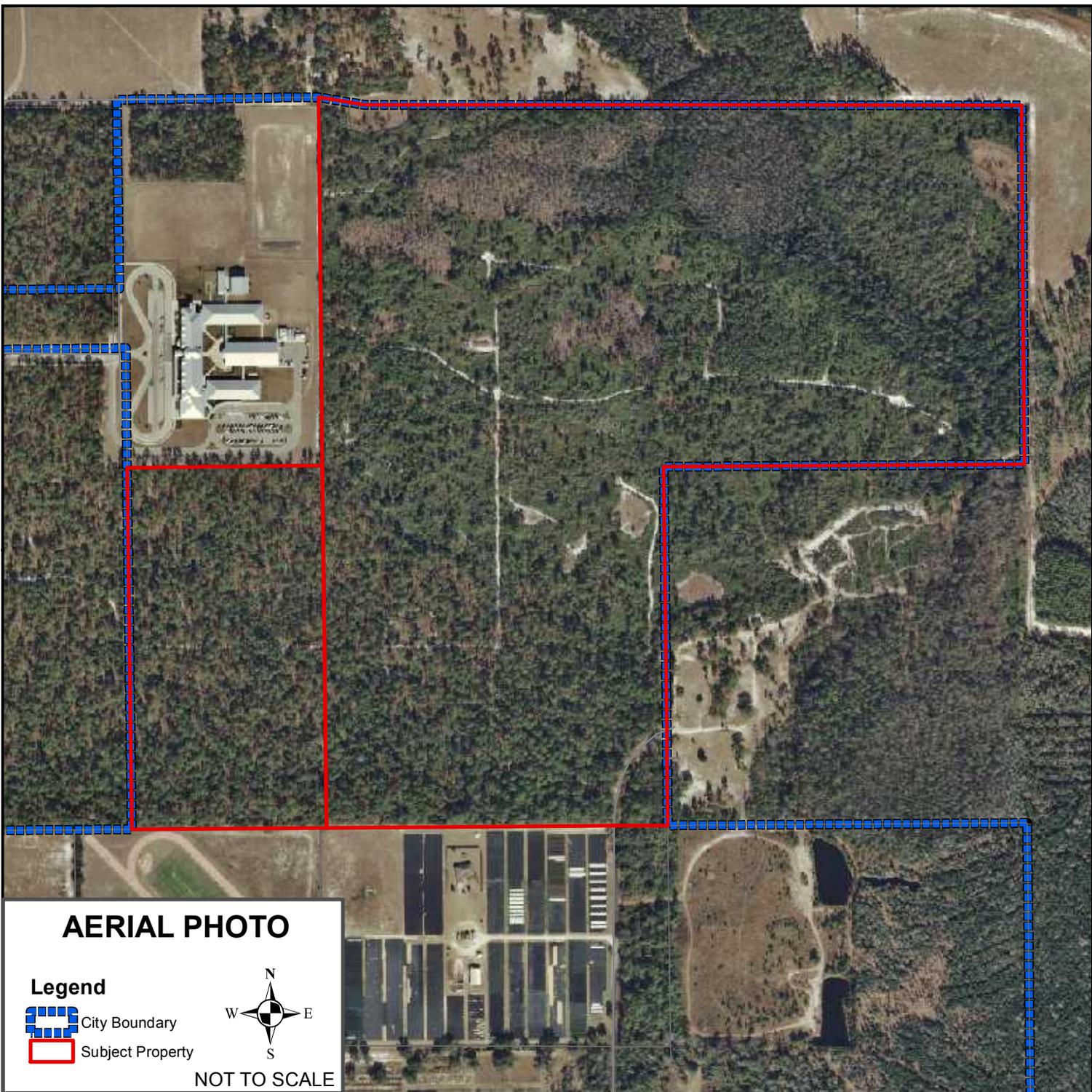
Legend

-  City Boundary
-  Subject Property



NOT TO SCALE





AERIAL PHOTO

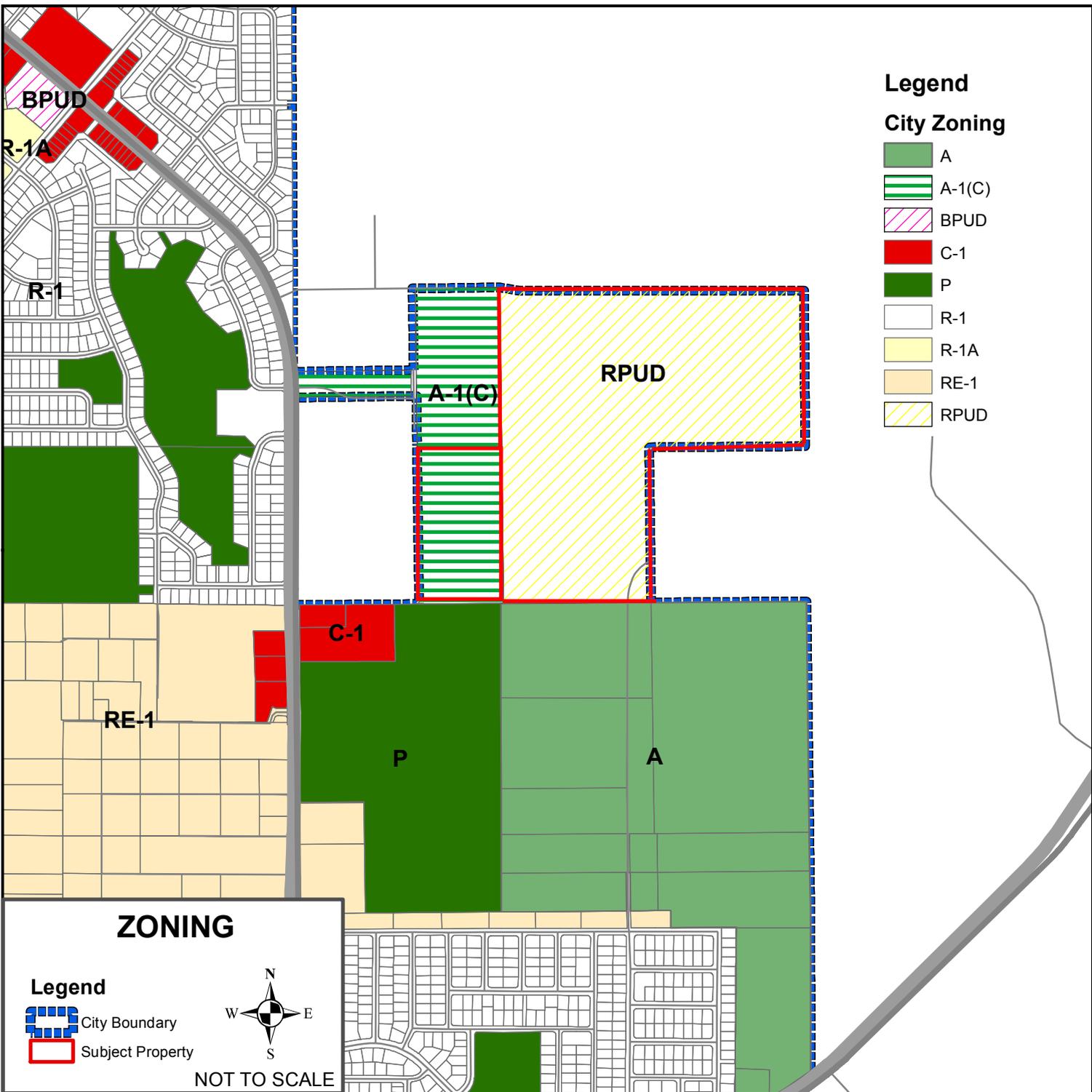
Legend

 City Boundary

 Subject Property



NOT TO SCALE



Legend
City Zoning

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

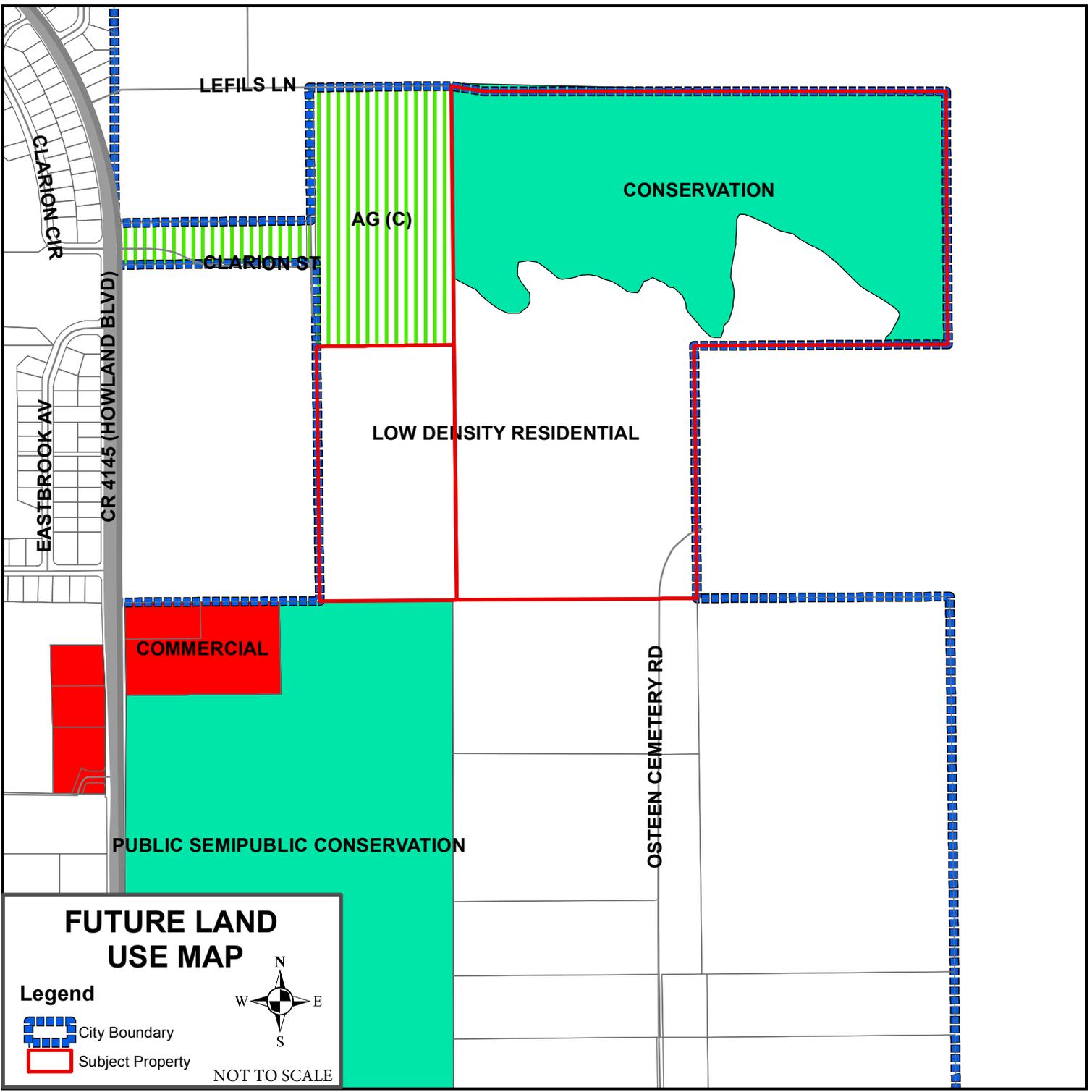
ZONING

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-  City Boundary
-  Subject Property


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NOT TO SCALE



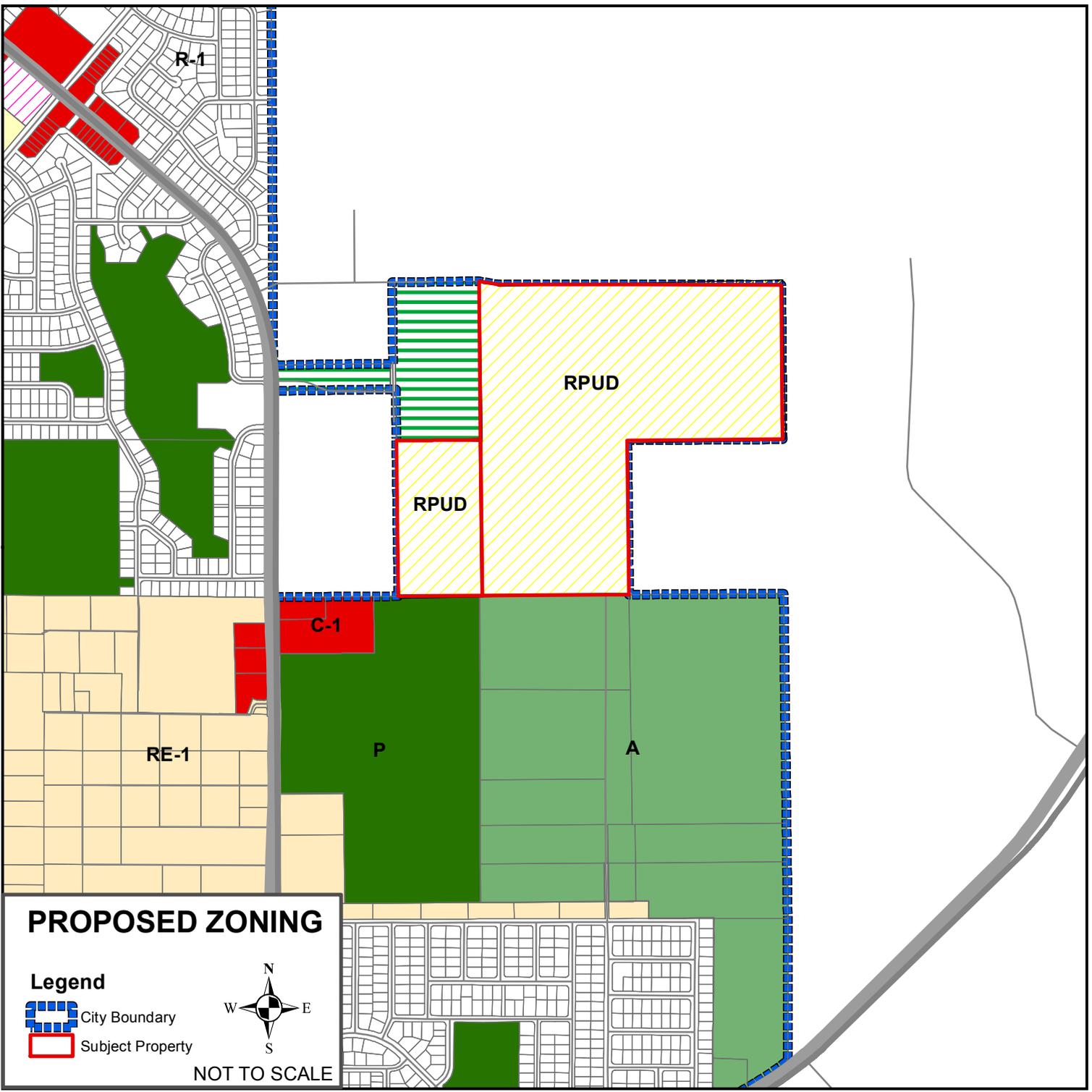
FUTURE LAND USE MAP

Legend

-  City Boundary
-  Subject Property



NOT TO SCALE



R-1

RPUD

RPUD

C-1

RE-1

P

A

PROPOSED ZONING

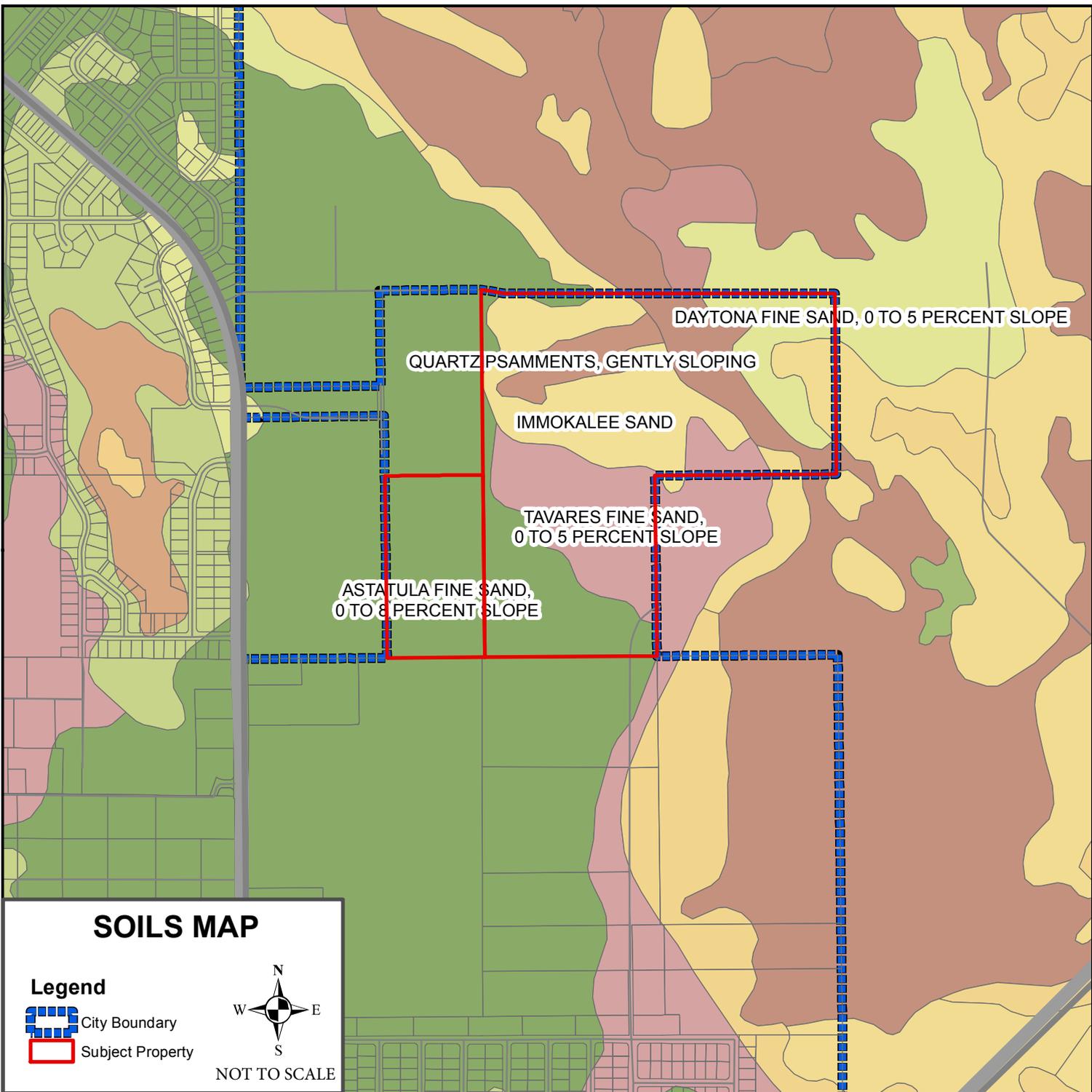
Legend

 City Boundary

 Subject Property



NOT TO SCALE



DAYTONA FINE SAND, 0 TO 5 PERCENT SLOPE

QUARTZ PSAMMENTS, GENTLY SLOPING

IMMOKALEE SAND

TAVARES FINE SAND,
0 TO 5 PERCENT SLOPE

ASTATULA FINE SAND,
0 TO 8 PERCENT SLOPE

SOILS MAP

Legend

 City Boundary

 Subject Property



NOT TO SCALE

June 17th, 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

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:

Roadway Segment	From	To
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

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.

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

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

Table 1
Fernanda Place
Trip Generation Summary Comparison

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

Previously submitted Text Amendment Density

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

VHB

June 2015

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 Trips	Total Traffic	LOS	Project Deficiency?
Howland Boulevard															
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
Providence Blvd.															
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)

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 Traffic Dist%	Project Trips	Total Traffic	LOS	Project Deficiency?
Howland Boulevard															
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
Providence Blvd.															
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 Shoulders						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	
Debt Service for Bonds		LOGT				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													
Orange Camp Rd Widening	MLK Blvd to W of I-4 incl frontage rd stubout	CIGP	"															
"	"	BOND	"	350	774													
Debt Service for Bonds		IMPACT				392			392			392					392	

BOND - Bond Funding CBIR - Community Budget Issue Request (State Funding) CIGP - 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>For Recording Purposes Only</p> <p>Signature of Notary</p>
--

~~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.

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

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

ATTEST:

JOYCE RAFTERY, CMC, City Clerk

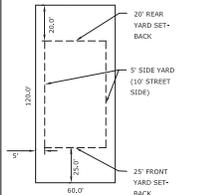
Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

GRETCHEN R. H. VOSE, City Attorney

SOIL TYPES

- 4 ASTATULA FINE SAND
- 17 DAYTONA SAND
- 20 INHAKALEE SAND
- 32 HYAKKA - HYAKKA VIET FINE SAND
- 34 HYAKKA - ST JOHNS COMPLEX
- 64 QUARTZSAPPHIRES
- 66 SAHSLA MUCK
- 68 TAVARES FINE SAND

TYPICAL LOT LAYOUT



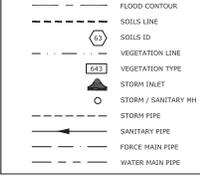
LAND USE DATA

- 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% 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

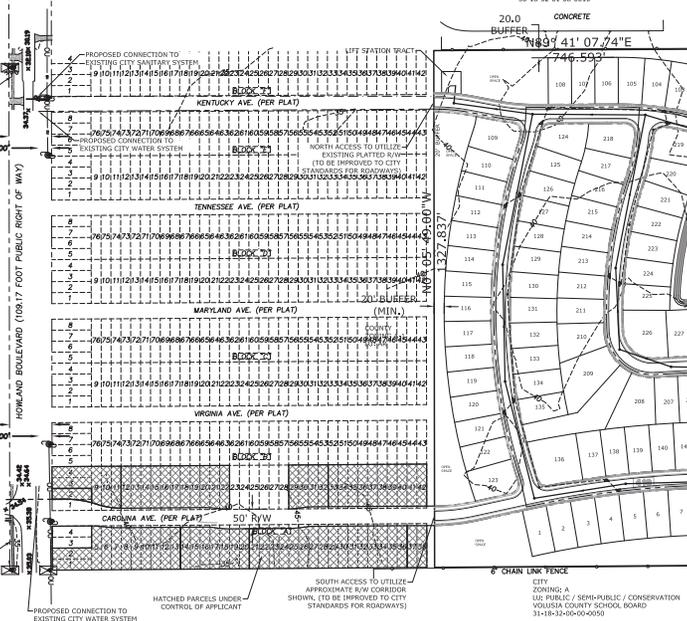
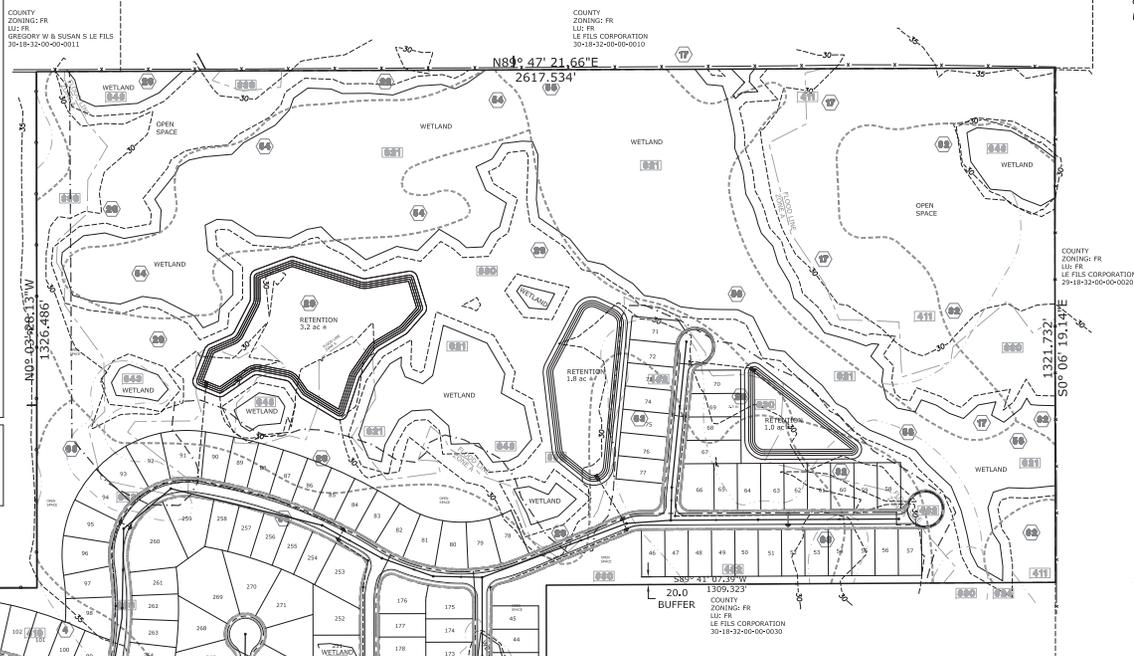
LEGEND



AREA CALCULATIONS

TOTAL AREA:	142.2 ACRES
R/W AREA:	134 ACRES
LOTS AREA:	536 ACRES
RETENTION:	9.8 ACRES
WETLAND:	22.3 ACRES
CONSERVATION BUFFER:	6.2 ACRES
OPEN SPACE:	36.2 ACRES

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



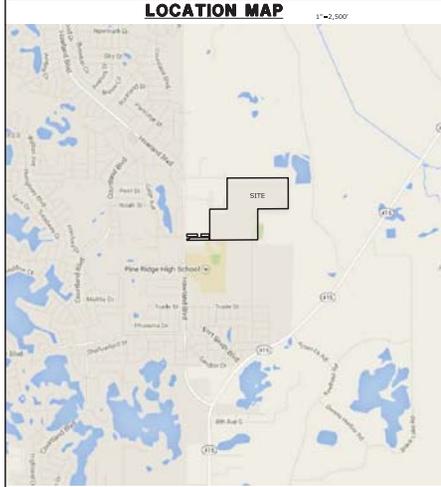
OWNER: FERNANDA INVESTMENTS, LLC
27 NORTH SUMMERLIN AVENUE
ORLANDO, FLORIDA 32801
407-649-9888

ENGINEER: EVANS ENGINEERING, INC.
719 IRMA AVENUE
ORLANDO, FLORIDA 32803
47-872-1515

SURVEYOR: ALLEN & COMPANY
16 EAST PLANT STREET
WINTER GARDEN, FLORIDA 34787
407-654-5355

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	
DATE	
REVISIONS	

DATE: _____
DRAWN BY: _____
CHECKED BY: _____
DATE: _____

EVANS ENGINEERING, INC.
ONE UNIVERSITY CENTER DRIVE
ORLANDO, FLORIDA 32809
WWW.EVANS-ENG.COM
407-649-9888
CERTIFICATE OF AUTHORIZATION NO. 0000678

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'
JOB #: 84802
SHEET #:

1.0



Staff Report

To: Planning and Zoning Board

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

Date: June 11, 2015

Re: Ordinance No. 09-2015: Amending Section 110-806, Fences, Walls & Hedges, of the City's Land Development Code (LDC)

A. Summary of Application:

Applicant: City of Deltona

Request: To amend Section 110-806, Article III, of the City's LDC that provides for an administrative exception for the four (4) foot hedge height in front yards.

B. Background: The predominant land use within the City of Deltona is single-family residential lots and homes. There is a variety of screening material used by homeowners for privacy, decoration, consistency with adjacent properties, etc. The proposed amendment to Section 110-806(1) of the Land Development Code pertains to front yard criteria for only fence heights in front yards, as proposed:

(1) Front yard. Fences, walls, and hedges no higher than four (4) feet may be erected, placed, or maintained within any front yard. A hedge in excess of four (4) feet in height may be allowed by the director of development services, upon submission of an application setting forth substantial and competent evidence that the proposed or existing hedge does not harmfully impact pedestrian and motorist safety by impeding sightlines and visibility. The process set forth in section 94-14 will be utilized for the administrative review of such applications.

With the above language, requests to increase the height of hedges within the front yard could be approved without having to go through a lengthy process. The proposed safeguard is to have the proposed hedge height increase reviewed by staff prior to the hedge height being increased above four (4) feet, provided safety measures remain paramount.

CONCLUSION/STAFF RECOMMENDATION:

The proposed amendment to Section 110-806 of the LDC allows for flexibility through an administrative exception to the four (4) foot height limitation on lots that have to continue to provide clear sight distances, safe ingress-egress, and other public safety measures. Proof of the need to go above the four (4) hedge height is that of the applicant to ensure that public safety is adhered to and shall only apply to hedges that can be adjusted through maintenance (as opposed to walls or fences). Based on the above, staff recommends approval of Ordinance No. 09-2015.

ORDINANCE NO. 09-2015

AN ORDINANCE OF THE CITY OF DELTONA, FLORIDA, AMENDING SECTION 110-806, "FENCES, WALLS AND HEDGES," OF ARTICLE VIII, "SUPPLEMENTARY REGULATIONS", OF CHAPTER 110 "ZONING", OF THE LAND DEVELOPMENT CODE OF THE CITY OF DELTONA; PROVIDING FOR ADMINISTRATIVE EXEMPTION FROM A FOUR-FOOT LIMIT ON HEDGES IN FRONT YARDS; 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: Section 110-806, "Fences, Walls and Hedges", of Article VIII, "Supplementary Regulations", of Chapter 110, "Zoning", of the Land Development Code of the City of Deltona, is hereby amended to read, as follows:

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

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

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

(c) -Walls erected in accordance with this section shall meet the requirements of the Florida Building Code, as amended.

(d) -Materials.

(1) -Fences or walls may be constructed of wood, chain link, masonry, concrete, vinyl, or wrought iron.

(2) -Agricultural fencing, such as razor wire, barbed wire, chicken wire, and electric fences are prohibited in residential zoning districts or development, except that electric fences to contain horses are permitted in the RE-5 and RE-1 zoning districts, where lots are 2.45 acres or larger and horses are present on the lots.

(e) -Height and setback requirements. The measurement of fence, wall, and hedge height shall be taken from the natural contour of the ground of adjoining lots or the particular lot (whichever is lower). Refer to section 70-30 (Definitions) for graphic illustration of yard areas.

(1) -Front yard. Fences, walls, and hedges no higher than four (4) feet may be erected, placed, or maintained within any front yard. A hedge in excess of four (4) feet in height may be allowed by the director of development services, upon submission of an application setting forth substantial and competent evidence that the proposed or existing hedge does not harmfully impact pedestrian and motorist safety by impeding sightlines and visibility. The process set forth in Section 94-14 of this code will be utilized for the administrative review of such applications.

—(2) -Rear yard. Any fence or wall constructed along the rear property line shall not exceed six (6) feet in height. For fence height and setback requirements on waterfront and golf course lots, refer to section 110-806(g).

(3) -Side yard. Any fence or wall constructed along a side lot line between properties shall not exceed six (6) feet in height.

(4) -Side street yard. Any fence or wall constructed along a side street yard shall not exceed six (6) feet in height and may be placed within the side street yard, as allowed below, in order to facilitate greater use of the yard:

a. -The nearest exterior wall of the dwelling;

b. -The side street setback line; or

c. -The side street accessory structure setback line for the R1-AAA, AA, A, and —R1 per section 110-307(e).

(f) -Residential fences shall be constructed with the finished side facing outward from the property. Fence posts and support beams shall be on the side of the fence facing away from the neighboring property.

(g) -Fences, walls, and hedges on waterfront, or golf course lot. On waterfront or golf course properties, fences, walls, and hedges constructed along the rear property line and within that portion of the side lot lines located within the rear yard shall comply with the following:

(1) -Up to four (4) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or more shall not exceed four feet in height, above natural grade.

(2) -Up to six (6) feet in height: Fences, walls, and hedges constructed on a waterfront or golf course lot with an opacity of 25 percent or less shall not exceed six (6) feet in height, above natural grade.

(3) -Fences shall be built with a uniform percentage of opaqueness.

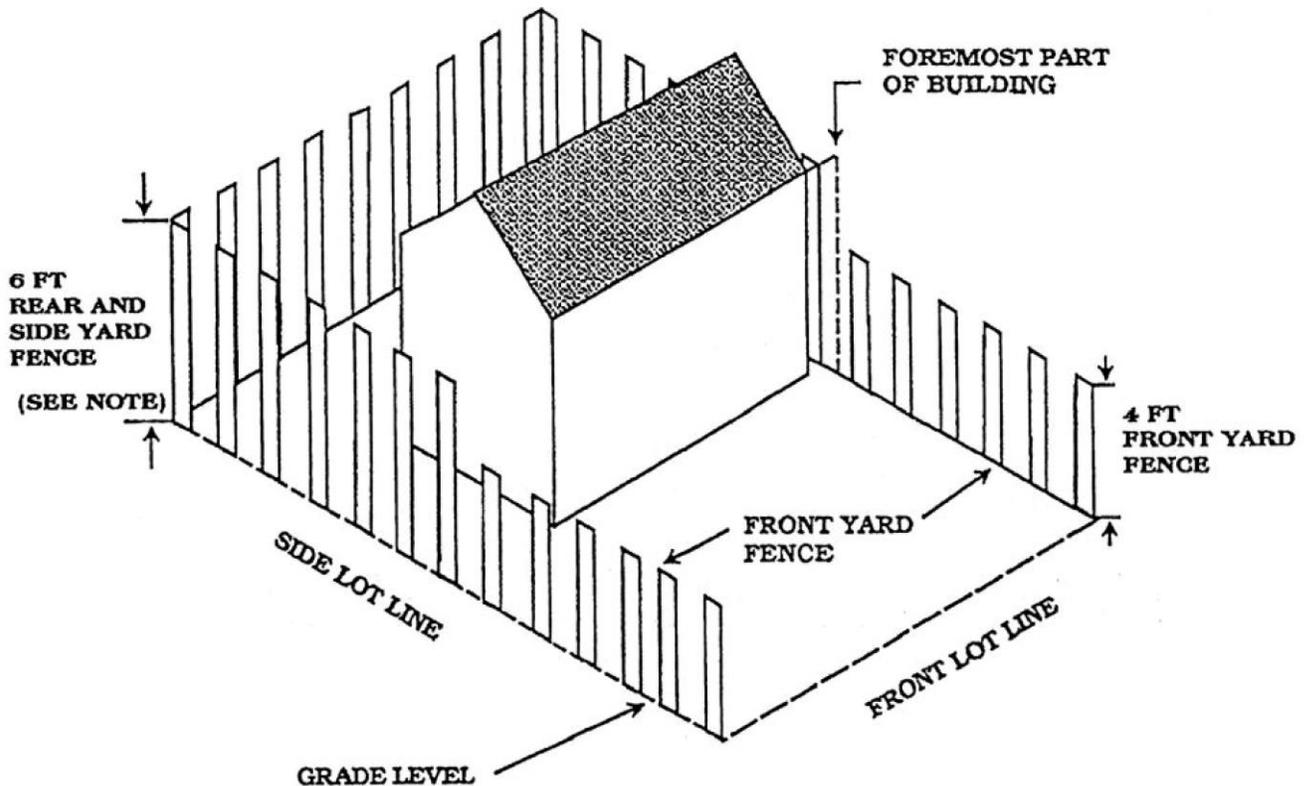
(h) -Fences, walls, and hedges on vacant lots. On vacant lots, the permitted fencing is the same as that for developed lots in the same zoning district. On vacant corner lots, fences, walls, and hedges shall be located only within the minimum allowable setback area. If a dwelling is added later, the fence, wall or hedge may need to be relocated with possible height adjustments to meet code requirements.

(i) -Non-conforming fences. Unless it is integral or a necessary part of another structure, whether principal or accessory, at such time that an entire fence on a property is destroyed or planned to be replaced, the property owner shall obtain a building permit and locate the new fence in accordance with the provisions of the City Code. In cases where the fence is integral or a necessary part of the structure noted above, the type, size, and location of the fence may be replaced in-kind.

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

(k) -This section shall not be applied to any agricultural, commercial, industrial, resource protection (RP), public (P) use classifications, or any publicly used property.

FENCING REQUIREMENTS



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 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 ____ DAY OF _____, 2015.

FIRST READING: _____

ADVERTISED: _____

SECOND READING: _____

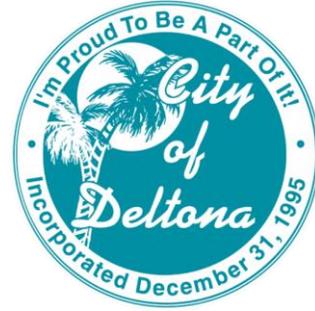
JOHN C. MASIARCZYK SR., MAYOR

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



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

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.

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.

**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