

City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Agenda

Planning and Zoning Board

Chair Tom Burbank
Vice Chair Adam Walosik
Member Stony Sixma
Member John Harper
Member Donald Philpitt
Member Michael Putkowski

Wednesday, September 21, 2016

7:00 PM

Deltona Commission Chambers

1. CALL TO ORDER:

2. ROLL CALL:

3. APPROVAL OF MINUTES & AGENDA:

A. Minutes of August 17, 2016.

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

A. [Project No. VR 16-003, Resolution No. 2016-37, Dollar Tree 823-827 Debary Avenue.](#)

7. NEW BUSINESS:

A. Summary of Powers and Duties for the Planning and Zoning Board.

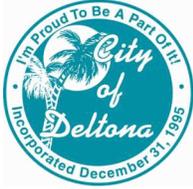
8. STAFF COMMENTS:

9. BOARD/COMMITTEE MEMBERS COMMENTS:

10. ADJOURNMENT:

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

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



City of Deltona

2345 Providence Blvd.
Deltona, FL 32725

Minutes

Planning and Zoning Board

Wednesday, August 17, 2016

7:00 PM

Deltona Commission Chambers

1. CALL TO ORDER:

The meeting was called to order at 7:00 pm.

2. ROLL CALL:

Also present: City Attorney, Wade Vose; Planning & Development Assistant Director, Ron Paradise and Planning Coordinator II, Kathrine Kyp.

Present: 6 - Chair Tom Burbank
Member John Harper
Member Noble Olasimbo
Member Donald Philpitt
Member Michael Putkowski
Member Stony Sixma

Excused: 1 - Vice Chair Adam Walosik

3. APPROVAL OF MINUTES & AGENDA:

A. Minutes of July 20, 2016

Motion by Member Sixma, seconded by Member Putkowski, to approve the minutes of July 20, 2016. The motion carried by the following vote:

For: 6 - Chair Burbank, Member Harper, Member Olasimbo, Member Philpitt, Member Putkowski and Member Sixma

4. PRESENTATIONS/AWARDS/REPORTS:

5. PUBLIC FORUM:

6. OLD BUSINESS:

7. NEW BUSINESS:

A. CU16-001, Resolution No. 38-2016, I.M.E.D. Conditional Use

Mr. Paradise presented a summary of Resolution No. 38-2016, the I.M.E.D. Conditional Use application. He stated that the church had a previous conditional use approval as well as an administrative extension that has expired. He noted they do have an approved

Site Plan Development Order that expires April 2, 2017. He noted that with this application, staff is recommending a 24 month approval timeframe for the conditional use.

Member Philpitt asked Mr. Paradise why is the approval for 24 months when Section 110-1102 noted for 12 months, Mr. Paradise stated that the Section 110-1102 has the ability to suggest 24 month period.

Member Putkowski and Mr. Paradise discussed when the building will be completed. Mr. Paradise stated that the applicant is in control of the timeline.

Member Sixma states the site is looking better and glad it is moving forward.

Chairman Burbank and Mr. Paradise discussed the conditions of approval.

Kelly Santos, Pastor for I.M.E.D., 2745 Lake Helen Osteen Rd., Deltona, stated they are requesting another conditional use approval to continue to work on the site. She stated they are working with staff to move the project forward.

Discussion occurred regarding the timeline of completion. Pastor Santos stated that they are working toward the end of this year.

Motion by Member Olasimbo, seconded by Member Sixma, to recommend for approval, CU16-001, Resolution No. 38-2016, I.M.E.D. Conditional Use. The motion carried by the following vote:

For: 6 - Chair Burbank, Member Harper, Member Olasimbo, Member Philpitt, Member Putkowski and Member Sixma

B. RZ16-002, Ordinance No. 30-2016, Dollar Tree 823-827 Debary Avenue

Mr. Paradise provided a presentation regarding the proposed rezoning from Professional Business (PB) to Commercial (C-1). He noted that the land is entitled for commercial and the location is near Thornby Park and the County Multi-Use trail. He noted the proposal is for a discount store and the additional uses in C-1 include restaurants and coffee shops. He noted, the wetland in the rear would allow additional buffering and development would need to comply with the Enterprise Overlay District such as paint color, design and various fenestration requirements.

Discussion amongst board members and staff occurred regarding a cross access easement connection between 7-11 and the property, wetland buffers, etc.

Member Olasimbo excused himself from the application due to a conflict of interest because he owns property near the proposed location.

Peter Pensa, AICP, AVID Group, 2300 Curlew Road Suite 201, Palm Harbor, FL, applicant, noted the requested zoning is appropriate and the wetland will be preserved.

Chairman Burbank opened the public hearing.

Sandra Walters, 480 Warrior Trail, Deltona, spoke against the application and noted that this area is in the Enterprise gateway and is designed to enstil a sense of place. She noted the other uses allowed in the C-1 zoning classification such as gas stations, billiards and package stores. She requested a different vision.

Janet Deyette, 2451 Timbercrest Dr., Deltona spoke against the application and asked for the board to carefully consider the rezoning. She noted they fought hard for the Thornby project and asked the board to not approve the application.

Ed Sullivan, 165 Oaklea Dr., Deltona, spoke against the application and stated that the PB zoning and explained the intention of the transitional zones. He stated with the rezoning there would be no transition and asked to preseve the PB district.

Carol Aymar, 1328 Sioux Trail, Enterprise, spoke against the application and noted per Section 110-315, the C-1 district clearly states it is not suitable for transitional areas.

Chairman Burbank spoke regarding the neighborhood behind the site and stated the buffer requirements will protect the neighborhood.

Member Harper spoke regarding the allowed impervious service percentage for Commercial. Mr. Paradise noted .70 % ISR is allowed for commercial and industrial uses within Deltona.

Member Philpitt asked for the specific design notes for the EOD, Mr. Paradise provided with a visual example.

General discussion ensured between the board and Staff occurred regarding the design requirements of the Enterprise Overlay District and the PB district uses.

Motion by Member Harper, seconded by Member Philpitt, to recommend for approval, RZ16-002, Ordinance No. 30-2016, Dollar Tree 823-827 Debary Avenue. The motion failed by the following vote:

For: 2 - Member Harper and Member Philpitt

Against: 3 - Chair Burbank, Member Putkowski and Member Sixma

Abstain: 1 - Member Olasimbo

C. VR16-003, Resolution No. 2016-37, Dollar Tree 823-827 Debary Avenue

Mr. Paradise stated that the applicant has requested to continue the application to a time certain to September 21, 2016 and 7:00 p.m. and the first hearing of the City Commission on October 17, 2016 at 6:30 p.m.

D. Proposed City of Deltona Community Redevelopment Area Redevelopment Plan

Mr. Paradise provided a background on the Community Redevelopment Area (CRA), located in the southwestern portion of the City. He explained to the Board the process to finalize the CRA. He noted the Board is required to review the plan and provide comments Staff will transmit to the CRA Board for review. He stated the Board is to review and make recommendations as to the conformity to the comprehensive plan and the City as a whole. He stated the plan was intended to be flexible for the area, demonstrate compliance with statutory requirements and provide a capitol improvement plan and budget.

Discussion ensued amongst the board and staff regarding the expectations of the CRA, proposed improvements, landscaping, sewer, roundabouts and the Strategic Plan. Member Olasimbo stated the plan is consistent with other CRA plans and noted that the plan is designed to express a vision for the area.

Member Philpitt and Mr. Paradise discussed the protection of the Trust Fund.

Motion by Member Harper, seconded by Member Olasimbo, to recommend to the Community Redevelopment Agency that Proposed City of Deltona Community Redevelopment Area Redevelopment Plan conforms with the City's Comprehensive Plan. The motion carried by the following vote:

For: 6 - Chair Burbank, Member Harper, Member Olasimbo, Member Philpitt, Member Putkowski and Member Sixma

8. STAFF COMMENTS:

9. BOARD/COMMITTEE MEMBERS COMMENTS:

Member Olasimbo stated he will be retiring and stepping down from the Planning and Zoning Board effective August 31, 2016.

General discussion occurred amongst the board members regarding recommendations in light of City Commission decisions.

10. ADJOURNMENT:

The meeting adjourned at 8:25 pm.

Tom Burbank, Chairperson

ATTEST:

Kathrine Kyp, Board Secretary



Staff Report

To: Planning and Zoning Board

From: Ron A. Paradise, Assistant Director, Planning and Development Services

Date: September 8, 2016

Re: VR16-003, Resolution No. 2016-37 Dollar Tree 823, 825, and 827 DeBary Avenue.

A. Summary of Application:

Applicant: Peter Pensa, AICP
Avid Group, LLC.
2300 Curlew Road, Suite 201
Palm Harbor, FL 34683

Request: The City has received an application for a variance to Section 110-808(e)(5)a which is a 25 feet thoroughfare landscape buffer requirement for non-residential development.

Tax Parcel No.: 30-18-31-52-04-0020, 30-18-31-52-04-0030, 30-18-31-52-04-0040

Property Acreage: ± 0.60 Acres

Property Location: 823, 825, and 827 DeBary Avenue

Legal Description: Lots 2, 3, and 4, excluding new Right of Way Block 1396, Deltona Lakes Unit Fifty-Two, according to the plat thereof as recorded in Map Book 28, Page 58 Public Records of Volusia County, Florida.

B. Existing Zoning: Professional Business (PB) (The City is processing a rezoning request to change the zoning on the property to C-1. This rezoning request is scheduled to be heard by the City Commission for the first reading on September 19, 2016.)

C. Background: The City has received an application for a variance from the required 25 feet landscape buffer, Section 110-808(e)(5)a, to reduce the buffer to 15 feet for the properties located

at 823, 825, and 827 DeBary Avenue. The aforementioned property is part of a larger area of land totaling ±1.46 acres of land under similar ownership. The Applicant is requesting this variance to facilitate the development of a ±10,500 square foot retail store, related parking and a stormwater management facility.

D. Support Information

Public Facilities:

- a. Potable Water: to be supplied by Deltona Water
- b. Sanitary Sewer: to be supplied by Deltona Water
- c. Fire Protection: Deltona Fire Station 61
- d. Law Enforcement: Volusia County Sheriff's Office (VCSO)
- e. Electricity: Duke Energy

E. Matters for Consideration:

1. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

The three properties cited in this application were associated with a Volusia County eminent domain action to facilitate the widening of DeBary Av. The eminent domain action was settled in 2007 with Volusia County paying for a trapezoid shaped strip of land ranging from over 11 feet on the west line of Lot 2 to a 20 foot width projected from the east line of Lot 4. The Applicant suggests the aforementioned eminent domain action has constrained the property. Another constraint mentioned by the Applicant is a portion of the parent property is within a wetland and unbuildable. In addition, the wetland acreage, as per City Code, is required to be afforded a 25 foot upland buffer.

However, there are many properties fronting on major transportation thoroughfares entitled for commercial activities that were the subject of eminent domain actions resulting in linear strips of land bought for highway expansion. Thus, there is no hardship associated with the pre-existing conditions. In addition, the presence of wetland acreage is very common. Land development projects are often modified, including intensity reduction, to ensure wetlands and wetland buffers are protected. Appropriate scaling and massing is consistent with the City Comprehensive Plan.

2. Special conditions and circumstances exist that do not result from the actions of the applicant.

As stated above, the conditions associated with the property are not special or out of the ordinary. The Applicant, applying as a contract purchaser, does not yet own the property. However, the

Applicant is quite aware of the dimension of the land, City landscape buffer requirements and wetland characteristics.

3. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classifications, under the terms of the chapter, and would work cause an unnecessary and undue hardship on the applicant.

The property is zoned Professional Business (PB). The PB zoning classification allows various office and administrative uses. In addition, the Applicant has made an application to rezone the property to C-1 (Neighborhood Commercial). The C-1 zoning allows a wider range of uses including retail opportunities. The reason for the request to reduce the 25 foot landscape buffer is to fit a retail use featuring 10,500 square feet of floor area. However, all properties are subject to limitations in relation to land use intensity. An option would be to scale the development expectation appropriately to comply with City landscape buffer and wetland protection requirements.

4. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

A specific land development expectation (10,500 square feet of retail) is driving the request for the variance. However, reasonable use of the land could include less intensive land uses and/or a lower gross floor area yield. The result would be less horizontal development required (parking, stormwater, etc.) as well as affording required landscape buffer requirements and protection for wetlands.

5. The granting of the variance is in harmony with the general intent and purpose of this chapter and the City of Deltona Comprehensive Plan, as it may be amended from time to time, and that such variance will not be injurious to the area involved.

Based on a review of several generations of concept plans submitted by the Applicant, the need for horizontal control to accommodate a preferred development format has resulted in impacts to wetland buffer resources and has appeared to cause encroachment into other landscape buffers besides the front, street 25 foot landscape buffer. Landscape buffers are intended to provide a soft transition between a roadway and development; provide a unified and harmonious land use interface; maximize land use compatibility and improve community aesthetics. In addition, wetland buffers enhance protection of wetland resources by maintaining the ecological interdependence between wetlands and uplands (i.e. nesting and feeding areas for amphibians and reptiles); and protects wetlands from intrusion by exotic and other opportunistic vegetation. Therefore, the reduction of the buffer would not be consistent with the general intent of the City Code.

The following Comprehensive Plan provisions are appropriate with regard to this request:

Policy FLUI-1.2

The City of Deltona shall utilize land development regulations that contain specific and detailed provisions required to implement the Comprehensive Plan and which:

- a. Provide a balance of residential and non-residential land uses that offer opportunities to live, work and play within the City boundaries particularly in compact mixed-use developments;*
- b. Regulate the subdivision of land;*
- c. Regulate the use of land and water bodies consistent with this Element and ensure the compatibility of adjacent land uses;*
- d. Provide for open space;*
- e. Protect natural resource areas;*
- f. Regulate areas subject to seasonal and periodic flooding and provide for drainage and stormwater management;*
- g. Protect potable water well fields and aquifer recharge areas;*
- h. Regulate signage;*
- i. Ensure safe and convenient traffic flow on and off site and vehicle parking needs;*
- j. Provide that development orders and permits issued shall not result in a reduction below the level of services standards adopted in this Comprehensive Plan;*
- k. Provide for the transfer of development rights;*
- l. Contain performance standards for protecting archaeological or historically significant properties or areas;*
- m. Protect against adverse impacts to wildlife and their habitats.*
- n. Appropriately manage aesthetics and design, i.e. streetscape, building design, etc.*
- o. Promote an energy efficient urban development form intended to reduce greenhouse gas emissions both locally and regionally.*

9J-5.006(3)(c)(1,2,3,4,5,6,7,8)

The above policy establishes basic parameters underpinning various land development regulations. The proposed variance does not represent adequate protection of environmental resources. In addition, the variance request does not adequately manage aesthetics consistent with community expectations.

Policy FLUI-6.1

An environmental upland buffer of no less than 25 feet shall be utilized to protect the ecological functions of lake shores, streams, and wetlands. 9J-5.006(3)(c)(4,6)

As has been stated elsewhere in this report, there is doubt cast on the ability to afford the requisite 25 foot upland buffer as stated in the above policy.

Policy FLUI-9.2

COMMERCIAL/MIXED USE

GENERAL COMMERCIAL CRITERIA

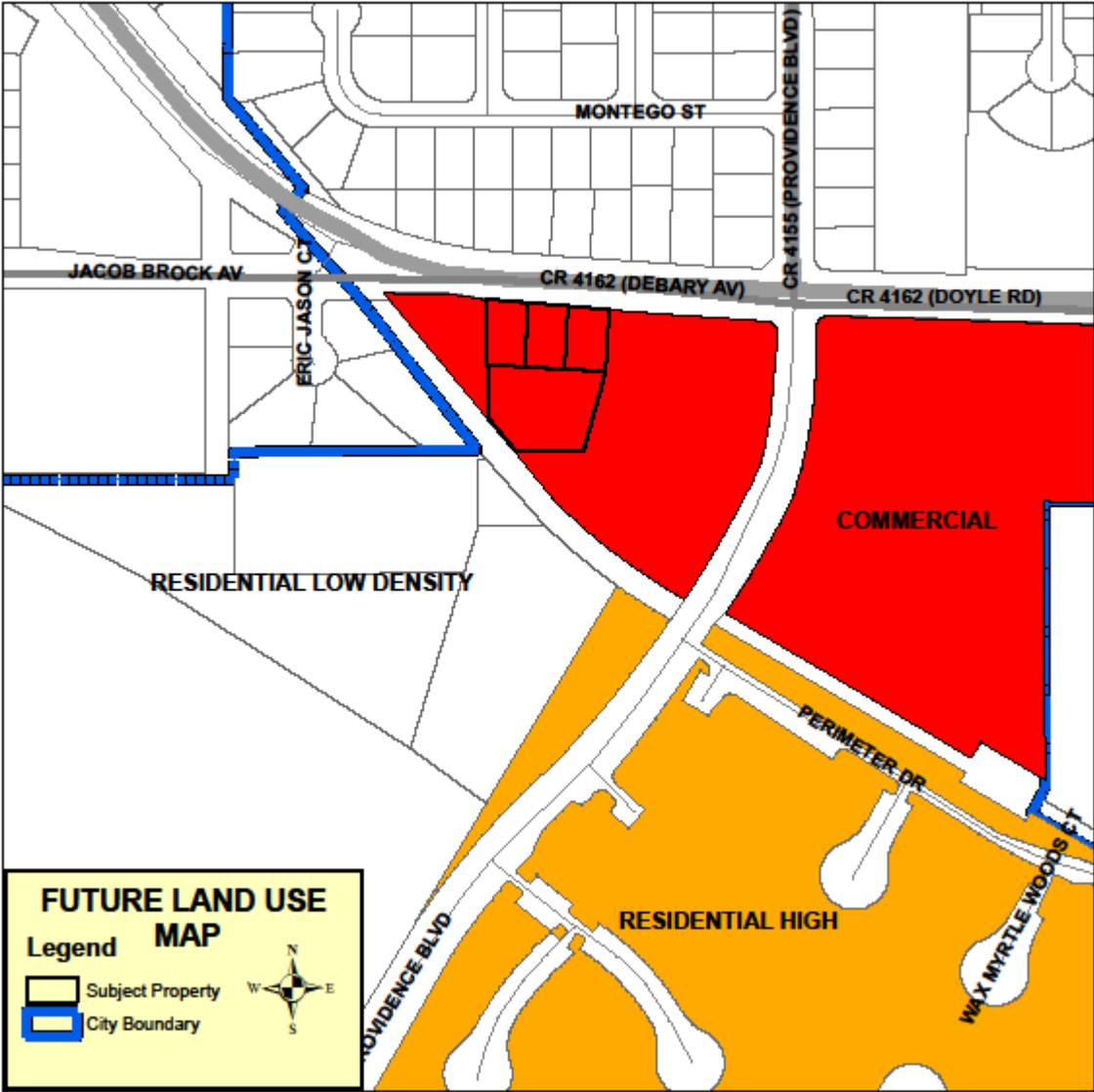
- 1. be located in planned centers to avoid strip commercial development;*
- 2. not be located along or have access to local streets, unless there can be a demonstrated overriding public interest;*
- 3. be located in areas which are adequately served by the arterial and collector road system so as not to unduly burden the local road network serving adjacent neighborhoods;*
- 4. have adequate area and road frontage for controlled access points, cross access easements, and proper spacing between driveways to minimize the impact on level of service standards and safety of the adjacent road network;*
- 5. have sufficient area to provide adequate parking, landscaping, stormwater management, building setbacks and buffering;*
- 6. if located adjacent to existing residential neighborhoods, be developed to provide adequate buffers, maintain adequate tree cover, and maximize visual compatibility with the surrounding neighborhoods;*
- 7. if developed as part of a Planned Unit Development (PUD), be located and designed to service that development's population;*
- 8. if located at the intersection of two major roads, there should be a mix of commercial uses (i.e. office, retail, and service) to provide a wide range of goods and services.*
- 9. provide appropriate pedestrian linkages (i.e. sidewalks, bicycling, etc.) and mass transit access.*
- 10. have intensity dependent upon type of use as outlined in the land development code.*
- 11. be no less than a ½ acre in land area.*
- 12. Shall meet all applicable land development regulations.*

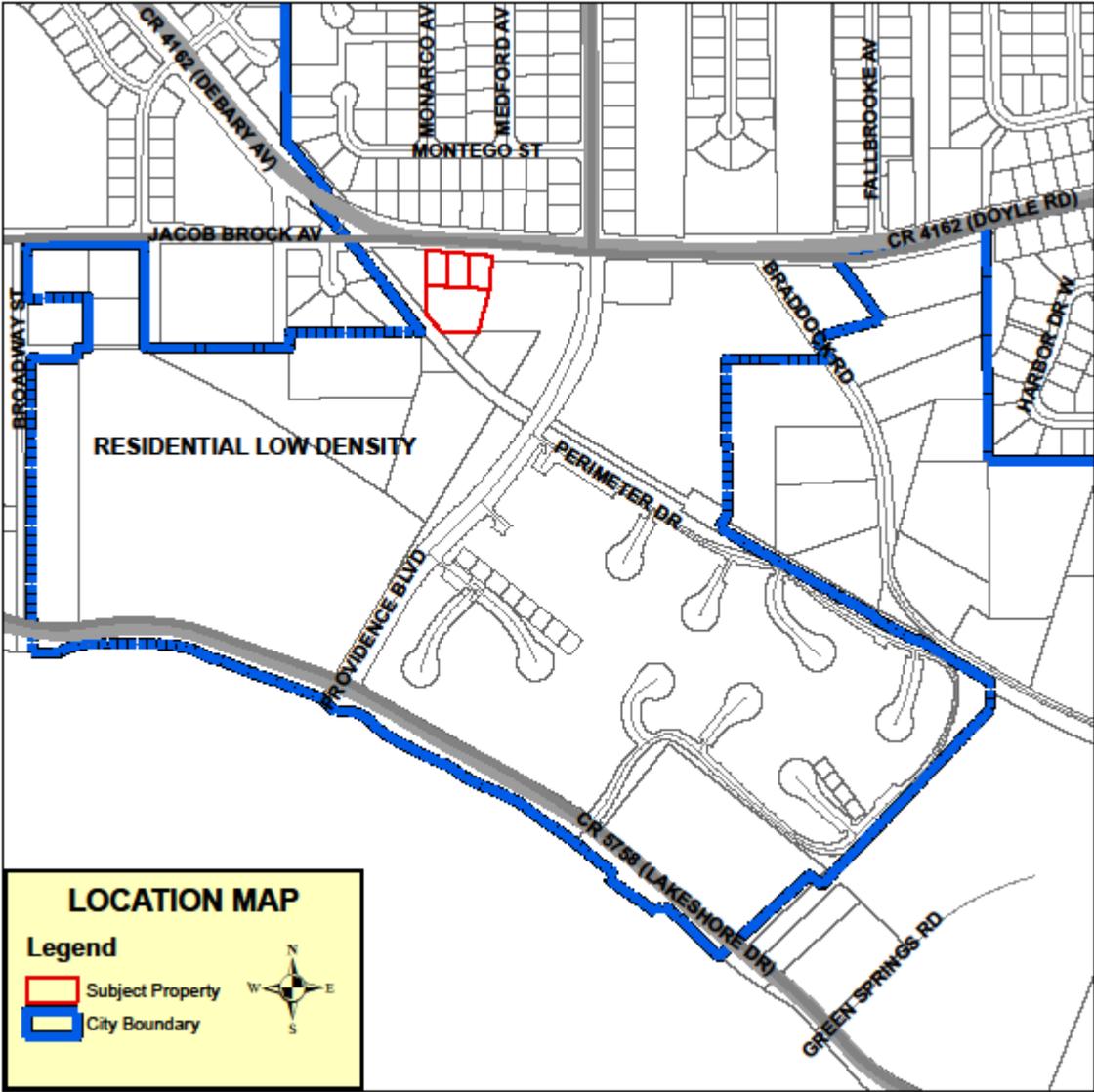
This policy represents location criteria for commercial land uses. Note subsection number 5. The proposed land development is too intense and does not have adequate area to provide landscaping and buffering.

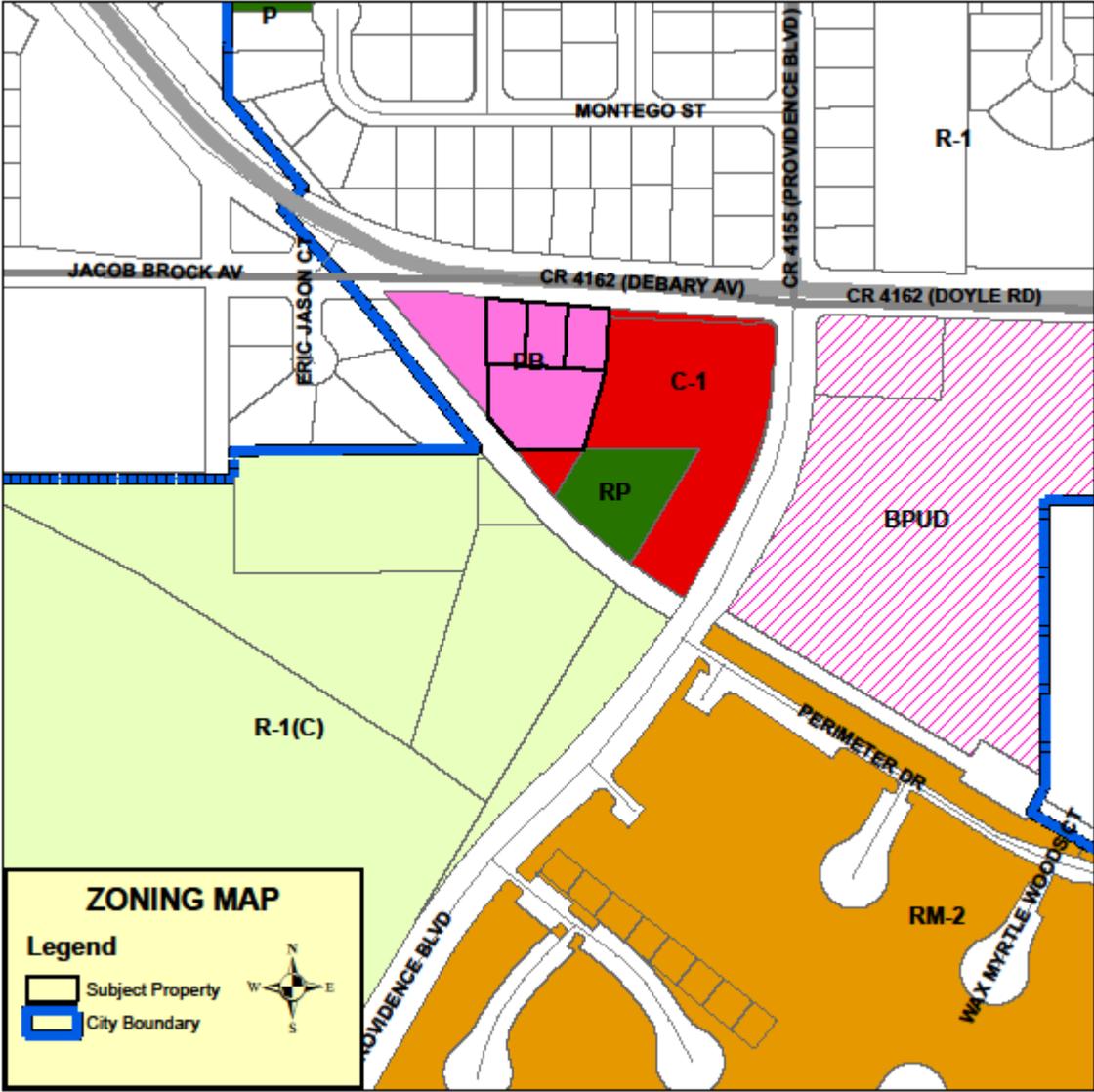
CONCLUSION/STAFF RECOMMENDATION:

The basic essence for determining the appropriateness of a variance is if the regulation represents a hardship. There has been no demonstrated hardship regarding the City zoning regulations. Many commercial developments have occurred while affording required landscape buffers. In addition, attempting to superimpose a preferred land development on a property where the constraints are well known in advance does not constitute a hardship and can be considered as self-imposed. The project could be scaled appropriately in light of City regulations and physical conditions. Therefore, staff finds no grounds for granting the requested variance. In addition, the variance request is not consistent with the Comprehensive Plan. Staff recommends denial of the variance request to allow a 15 foot landscape buffer in lieu of the required 25 foot buffer.









RESOLUTION NO. 2016-37

A RESOLUTION OF THE CITY OF DELTONA, FLORIDA, ALLOWING A VARIANCE FOR A FIFTEEN FOOT LANDSCAPE BUFFER INSTEAD OF THE REQUIRED 25 FOOT LANDSCAPE BUFFER FOR LOTS 2, 3, AND 4 BLOCK 1396, DELTONA LAKES UNIT 52, MAP BOOK 28 PAGES 58-59; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City has received an application to vary from the 25 foot landscape buffer as established in chapter 110 section 808 of the Deltona Code of Ordinances ; and

WHEREAS, in accordance with Section 110-1103 Deltona City Code of Ordinances, the City of Deltona held a public hearing after due public notice to review the proposed Variance Application, Project No. VR16-003 and;

WHEREAS, the City Commission found a literal enforcement of the provision of Chapter 110, Zoning Ordinance, would result in unnecessary and undue hardship on the applicant that is not self-imposed.

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

Section 1. Located in the City of Deltona, Florida, the landscape buffer requirement for the following properties are hereby varied from the 25 feet as required in Section 110-808 to 15 feet: Lots 2, 3, and 4, excluding new right of way, Block 1396, Deltona Lakes Unit Fifty-Two, according to the plat thereof as recorded in Map Book 28, Pages 58 and 59, Public Records of Volusia County, Florida.

Section 2. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Resolution, which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution, are declared severable.

Section 3. Effective Date. This resolution 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 _____, 2016.

JOHN C. MASIARCZYK, SR., Mayor

ATTEST:

JOYCE RAFTERY, CMC, MMC, City Clerk

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

GRETCHEN R. H. VOSE, City Attorney

Article XII: Land Development Code Planning & Zoning Board

**Summary of P&Z
Powers & Duties**

P&Z Powers & Duties

- P&Z created in 1999
- 7 members per City Commission (CC) districts & Mayor
- Members appointed for 3-year terms & can serve 2 consecutive terms
- 3 consecutive unexcused absences or for cause from CC may lead to removal
- Elects Chair/Vice-Chair/Secretary officers at 1st meeting each year

P&Z Powers & Duties

- P&Z has no employees or contract vendors
- P&DS provides staff support & brings P&Z reports to CC
- P&Z can request staff assistance, but not direct staff to undertake specific projects
- P&Z suggests through staff for CC to consider projects it deems worthwhile (via a majority vote)
- Members can be reimbursed for reasonable expenses in connection with their duties

P&Z Powers & Duties

- CC/City Manager may provide additional coverage for professional insurance/training/limited for pre-budgeted expenses
- P&Z meets third (3rd) Wednesday of the month
- Quorum with four (4) members
- P&Z follows by-laws & Robert's Rules of Order
- P&Z can vote to limit the # of applications it hears each month
- P&Z is designated as City's Local Planning Agency & Land Development Regulations Commission
- P&Z should work on their annual work program & can review the 5-Year CIP

P&Z Powers & Duties

P&Z holds public hearing(s) with due public notice, prior to transmittal to the CC on the following items:

- CPAs & FLU Map amendments
- LDC/subdivision regulation amendments
- PUDs
- Conditional uses
- Zoning variances
- CIP/budget amendments
- CDD establishment/changes
- Development agreements per Florida Local Government Development Act
- DRIs
- Final Plat for subdivisions with > 200 lots

P&Z Powers & Duties

P&Z shall consider the following per application:

- Consistency with the City's Comp Plan
- Consistency with adopted ordinances/laws/zoning regulations
- Land use compatibility, neighborhood character, community safety, land uses for function and aesthetics, and the physical ability to construct or alter a site
- Impacts of the development on the natural environment, including flora, fauna, and other natural resources
- Public facilities & services
- Transportation systems

P&Z Powers & Duties

- P&Z votes by formal written approved motion to recommend to the CC for approval, approval with specific conditions, or denial of each application stating the P&Z's conclusion
- P&Z review not required for amendments to ordinances by staff to correct syntax errors, change fees set by the CC, change organization of ordinances (non-content changes), or change State Statute mandated processes

Questions?