

Staff Report



To: Planning & Zoning Board

From: Jessica Entwistle, Planner I, Planning and Development Services

Date: December 15, 2023

Re: **Ordinance No. 02-2024, An ordinance of the City of Deltona, Florida, amending the Deltona Village Business Planned Unit Development (BPUD) to rezone an additional ± 25.96 acres of land to be included within the BPUD; providing for severability; and providing for an effective date.**

Summary of Application:

Applicant:

Frank DeMarsh, Deltona Retail Holdings, LLC,

Request:

To amend the Deltona Village BPUD Overall Development Plan/Master Development Plan (ODP/MDP) to rezone and include additional land totaling approximately 25.96 acres to the BPUD. This item was included in Ordinance No. 04-2023 with the following meetings and dates:

- March 15, 2023 – Planning and Zoning Board recommended approval 6 to 1.
- April 3, 2023 – City Commission denied Ordinance No. 04-2023 with a 4 to 3 vote.
- May 1, 2023 – The applicant requested a rehearing at City Commission.
- May 22, 2023 – Applicant requested the item to be continued to the next meeting.
- June 19, 2023 – City Commission tabled 25.96 acres, but approved Ordinance No. 04-2023, amending the ODP/MDP, amending the DA to update the multifamily cap from 414 to 652 units, and to rezone and include 0.61 acres at first hearing.
- July 17, 2023 – City Commission approved Ordinance No. 04-2023 at Final Reading.
- October 18, 2023 – Applicant requested to take the 25.96 acres off the table.
- December 13, 2023 – Planning and Zoning Board recommended approval 6 to 1.

The parcels to be included within the Deltona Village BPUD are as follows:

Reference	Tax ID	Description	Size
Former Interchange Commercial Center BPUD Parcel (Ordinance No. 22-2004)	8106-04-00-0542	Refer to attached survey	25.96 Acres
Former Interchange Commercial Center BPUD Parcel (Ordinance No. 22-2004)	8106-04-00-0691	Refer to attached survey	

Tax Parcel Numbers:

The following parcel numbers are associated with the original and previously amended, approximately 140-acre, Deltona Village BPUD property:

Lot 1: 8107-06-00-0010 – Vacant, east side of N. Normandy Blvd.

Lot 2: 8107-06-00-0020 – Vacant, east side of N. Normandy Blvd.

Lot 3: 8107-06-00-0030 – Vacant, east side of N. Normandy Blvd.

Lot 4: 8107-06-00-0040 – Epic Theater site

Tract A: 8107-06-00-0001 – Roadway Access – John Wayne Tr.

Tract B: 8107-06-00-0002 – Stormwater site

Lot 5: 8107-06-00-0050 – Vacant, large tract extending south of Graves Av.

Lot 7: 8106-06-00-0070 – Vacant, east of the N. Normandy corridor.

Exception “F”: 8107-04-04-0240

Exception “H”: 8107-03-06-0160

Exception “I”: 8107-03-04-0200

Exception “J”: 8107-01-03-0060

Exception “K”: 8107-01-04-0010

Exception “M”: 8107-03-03-0150

Exception “Q”: A portion of 8107-06-00-0050

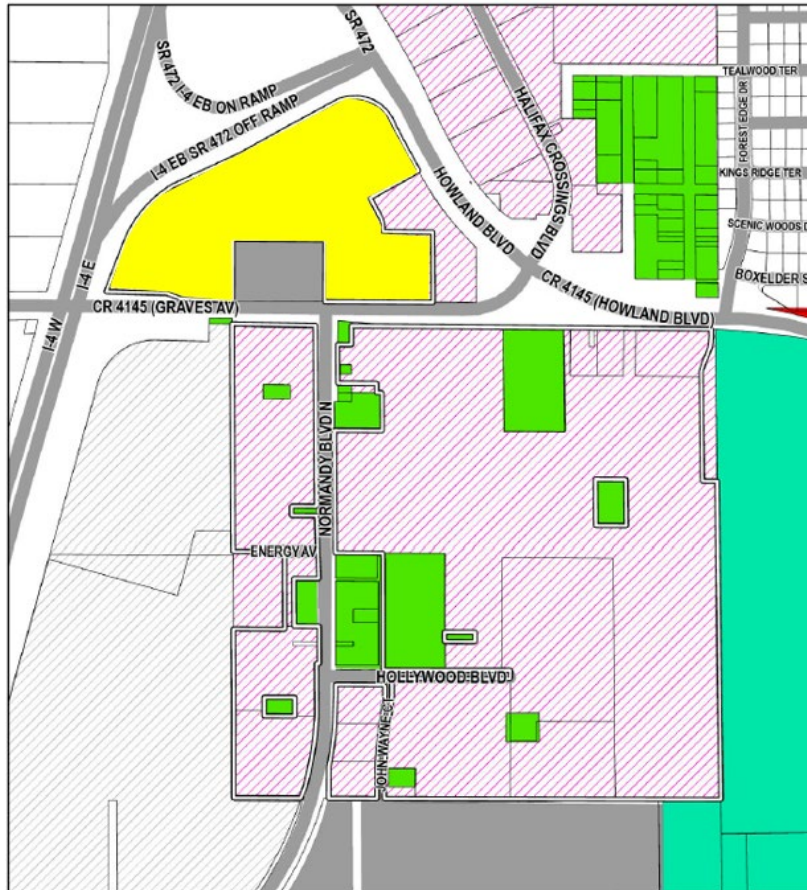
Exception “R”: A portion of 8107-04-02-0010

Property Acreage:

BPUD is approximately 140.61 acres. Total land proposed to be added to the BPUD site is approximately 25.96 acres. This will bring the BPUD to a total of approximately 166.57 acres.

Property Location:

The two (2) subject parcels to be added to the Deltona Village BPUD are located North of Graves Avenue adjacent to the Maschmeyer Properties concrete plant site. The expansion parcels can be seen below in yellow.



Legal Descriptions: See attached Exhibit “B”

Existing & Proposed Zoning:

Existing: Interstate Commerce Center (ICC) BPUD (Parcel IDs: 8106-04-00-0542 & 8106-04-00-0691). The ICC BPUD parcels were previously rezoned; however, the development agreement was never recorded.

The City Comprehensive Plan Future Land Use Map depicts the subject two (2) parcels being located within the City of Deltona Activity Center. Under the Activity Center guidelines, the land ideally would be used for commercial or office type uses. However, under the Activity Center uses, certain residential formats can be contemplated through the Planned Unit Development zoning process.

Proposed:

The applicant proposes to include the two (2) parcels within the Deltona Village BPUD Zoning Designation via Ordinance No. 02-2024. This would bring the total acreage to 166.57 acres.

Background:

The property within the Deltona Village has a long history with regard to development. The majority of the Deltona Village property was once envisioned as a residential subdivision. The subdivision known as Davis Park was platted in the 1920's. Davis Park consisted of numerous roughly 40-acre areas referred to

as 'additions' and was designed as a traditional grid subdivision with lots accessed by a network of north/south aligned roadways. The lots were either (depending on addition) 25 feet or 30 feet in width and generally retained 135 feet of depth.

The Davis Park subdivision did not develop for many decades. In the 1980's and 1990's, before the incorporation of the City, the County established plans for the area that would become Deltona Village and surrounding vacant land on both sides of Interstate 4 associated with the Interstate 4 and SR 472 interchange. The goal, in recognition of the strategic interchange location, was to earmark the area as a future employment and service hub which would become known as the Southwest Volusia Activity Center. After incorporation, Deltona's first Comprehensive Plan recognized the Activity Center with special planning provisions and land use guidelines. In the early 2000's, with the intent of promoting development within the Activity Center, the County of Volusia sponsored an area wide Development of Regional Impact (DRI) for an approximately 1,400-acre area. The 1,400-acre area wide DRI was located on both east and west sides of Interstate 4. The DRI was approved, but contrary to expectations, the DRI designation did not encourage development within the Activity Center. By 2010, based on inactivity, the DRI incorporated area east of Interstate 4 was determined by the City of Deltona to be expired. However, the City Activity Center planning provisions were maintained within the City's Comprehensive Plan.

In 2004, the City Commission approved an Ordinance for the Interchange Commercial Center (ICC) BPUD located north of Graves Avenue and south of the I-4 exit ramp. This PUD development agreement, although approved via Ordinance No. 22-2004, was never executed or recorded. Therefore, although the zoning map reflects the zoning, the land use entitlements were voided.

On February 15, 2010, the Deltona Village BPUD was approved via Ordinance No. 21-2009. The approved BPUD uses include traditional retail, office, service commercial, and light industrial uses. Finally, there were Conditional Use options including an allocation of up to 414 multi-family units. The intensity of the Deltona Village BPUD was capped at 900,000 square feet of retail. The 900,000 square-footage cap was also extended to a 38-acre parcel (ICC BPUD site) under similar ownership located north of Graves Avenue and south of the I-4/SR 472 eastbound interchange off-ramp. The square-footage cap regarding allowed uses such as multi-family residential was reconciled through an equivalency matrix. The equivalency matrix is a tool used to convert densities and intensities so the overall intensity cap is not exceeded.

In 2018, the Deltona Village BPUD (Ordinance No. 10-2018) was amended by the City to modify minimum lot width and sizes. In addition, the 2018 amendment changed the 414-unit multi-family Conditional Use entitlement to a permitted use within the BPUD.

In 2021, the City Commission approved a second amendment to the Deltona Village BPUD to include an additional 10.3 acres of Deltona Retail Holdings, LLC, acquired properties by rezoning into the BPUD with no additional intensity/density entitlements.

On March 15, 2023, the Planning and Zoning Board recommended the City Commission approve Ordinance No. 04-2023 with a 6 to 1 vote. On April 3, 2023 the City Commission denied the Ordinance with a 4 to 3 vote. On May 1, 2023, the applicant requested a rehearing, and on May 22, 2023 requested the item be continued to the next meeting. On June 19, 2023, the City Commission tabled 25.96 acres of the original 26.57 acres from Ordinance No. 04-2023. The Commission then Ordinance No. 04-2023, amending the Deltona Village BPUD Overall/Master Development Plan, amending the DA to update the multifamily cap from 414 to 652 units, and to rezone and include 0.61 acres with a 4 to 2 vote.

In 2023, the City Commission approved a third amendment to the Deltona Village BPUD to include an additional \pm 0.61-acre parcel, increase the multi-family allocation from 414 units to 652 units, and update the overall Development Plan/Master Development Plan.

To date, Deltona Village has developed the Epic movie theater, Race Trac gas station, Starbucks, and a Burger King fast-food restaurant. Various site plans have been approved including a 301 multi-family unit complex (currently under construction) for Integra Myst (SP21-0004), and a 52,800 square-foot light manufacturing facility (SP22-0007).

The current requested amendment via Ordinance No. 02-2024, requests the following:

- 1.) Rezone an additional \pm 25.96 acres of land to be included within the Deltona Village BPUD.

Development Agreement Amendment:

The applicant is amending the Development Agreement to update the acreage to include the \pm 25.96 acres.

Rezone and Inclusion of Property:

When the Deltona Village BPUD was approved, there were several properties inholdings/hold out parcels located within and along the margin of the BPUD property not included within the PUD. These inholdings/hold out parcels represent legacies of the past that can be traced to the original 1920's vintage Davis Park subdivision. As part of the 2010 Deltona Village BPUD, these inholdings were referred to as "exception" parcels. There was recognition by the Deltona Village owner, and he would continue to better unify the BPUD project by acquiring the exception parcels. However, although these parcels have come under unified ownership, a rezoning to incorporate them within the PUD is required. Part of the intent of this amendment to the Deltona Village BPUD is to incorporate a portion

of the former ICC property. According to the City Land Development Code Sec. 110-319(k)(5)d., the addition of acreage to a Planned Unit Development constitutes a major amendment. A major PUD amendment needs to be reviewed by the City and ultimately decided by the City Commission. The process involves the approval of an Ordinance and requires due public notice (advertising) and a minimum of three (3) public hearings (one (1) hearing with the Planning and Zoning Board and two (2) hearings with the City Commission).

The two (2) former ICC BPUD parcels will add an additional 25.96 acres. The addition of land to the project will better unify the project and allow for greater control over development in the area. While the addition of extra land does materially alter the BPUD, the applicant/owner is not requesting the uses, intensity cap of 900,000 square feet, nor any other development parameter be altered to account for the additional acreage. If incorporated into the Deltona Village BPUD, the 25.96 acres of land would be subject to the current BPUD use allocations, dimensional requirements, density/intensity controls, etc.

Support Information:

Public Facilities:

- a. Potable Water: Volusia County Utilities
- b. Sanitary Sewer: Volusia County Utilities
- c. Fire Protection: Deltona Fire Station 65
- d. Law Enforcement: Volusia Sheriff's Office (VSO)
- e. Electricity: Duke Energy

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 Comprehensive Plan is the City long range master planning document. The Plan includes numerous policies intended to guide growth and development to achieve City goals including viable land use patterns, a sustainable economy, and the efficient use of City infrastructure. Staff reviewed the proposed amendment to the Deltona Village BPUD in light of the Comprehensive Plan and deems the request consistent per the following goal and policies:

Policy FLU1-2.3

The City shall expand commercial, industrial, and mixed-use developments in appropriate locations in order to discourage sprawl and to promote energy efficient development patterns.

The addition of the 25.96 acres will result in a more unified and efficient development pattern, and therefore, further this provision. Furthermore, it unifies the former ICC PUD property, originally contemplated together within the Deltona Village BPUD property for vested square-footage and trip allocations per the original Development Agreement, will not add any additional entitlements.

Policy FLU1-7.16

Applicants requesting amendments to the Zoning and/or Future Land Use Map shall be evaluated with respect to consistency with the Goals, Objectives and Policies of all Elements, other timely issues, and in particular the extent to which the proposal, if approved, would:

- a. Satisfy a deficiency in the Future Land Use Map to accommodate projected population or economic growth of the City;*
- b. Maintain and/or improve the City's ratio of non-residential lands to residential lands available for economic use. Support efforts to increase the provision of a viable mixture of land uses in a compact, walkable area that is accessible to the full range of feasible non-motorized and motorized transportation modes;*
- c. Enhance or impede the provision of services at adopted LOS Standards;*
- d. Be compatible with abutting and nearby land uses;*
- e. Enhance or degrade environmental resources; and*
- f. Based on the ability to provide adequate potable water and/or sanitary sewer resources.*

The inclusion of the subject parcels within the Deltona Village BPUD will ensure a more unified and master planned development. Greater unification of the Deltona Village area will encourage a more viable mixture of land uses (subsection c.), protect adopted LOS standards (subsection d.), improve land use compatibility (subsection e.). The Activity Center area utilities are provided and serviced by Volusia County Utilities (subsection f.).

Policy FLU1-7.19

Zoning on specific parcels of land shall be consistent with the Future Land Use Map.

Incorporating the subject parcels within the Deltona Village BPUD, this request is consistent with the Activity Center Future Land Use designation.

Policy FLU2-1.5

Future development within the Activity Center shall require rezoning to a Planned Unit Development (PUD) or amendment to an existing PUD. Provided, however, that any development of an existing parcel that is 0.5 acres or less in size and which is permissible by the existing zoning classification assigned the parcel shall not require rezoning to PUD if the

existing zoning classification is consistent with the Activity Center Plan future land use designation.

Including the subject parcels within the Deltona Village BPUD through a major amendment to the BPUD constitutes a rezoning of the parcels to a PUD and is consistent with the above policy.

Policy FLU2-1.10

The City shall require the use of common access arrangements, shared parking and internal access during the development review process for the Activity Center.

The 25.96 acres of the formerly known ICC PUD property will likely have limited access points off of Graves Avenue only. Due to the irregular shape of this piece of land, it will require the design to incorporate common access and internal arrangements.

Policy ED1-2.1

The City shall pursue land use entitlements that are appropriately allocated to promote economic development.

Inclusion of the 25.96 acres within the Deltona Village BPUD will appropriately grant land use entitlements to the subject parcels. However, the addition of land does not provide an overall increase in vested intensities/densities for the Deltona Activity Center BPUD.

Policy ED2-1.2

The City shall ensure the integrity of the land uses within the Deltona Activity Center are maintained, and include any uses deemed beneficial to the Activity Center, and maintain concurrency.

Incorporation of the subject parcels will promote greater land use integrity by incorporating the adjacent and internal land into the greater Deltona Village development plan.

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

The subject parcels requested for inclusion within the BPUD are vacant and undeveloped. The parcels remain in a natural condition with forested sites and are fragmented from other natural areas by roadways, development, and agricultural activity. While these small areas are habitat for small birds and mammals, these areas may also provide cover for larger animals like deer. Listed species that could utilize these properties include gopher tortoises and scrub jays. While the pastured parcels are utilized for active agriculture, these areas could also support gopher tortoises. In some cases, tortoise populations per acre can be quite high within improved and semi-improved pasture landscapes. While the habitat associated with the exception parcels is not a conducive scrub jay habitat, the interface of the scrub and pasture area may

support jays. It is not uncommon for jays to occupy these transition areas; however, these edge areas represent marginal jay habitat.

With regard to listed species, individual developments will be responsible for the surveying of listed species, and if present, formulating habitat management plans.

A portion of the ICC site proposed is situated within the 100-year floodplain, Zone A, along the northeast portion of the property. The 'A' flood zone designation does not disqualify the land from development, however, requires a professional determination of a base flood elevation by a surveyor or engineer. This is normally reviewed at time of site plan/subdivision review.

Topography of the parcels is generally flat to mildly rolling. All of the parcels' soils are sandy and well drained.

3. *Its impact upon the economy of any effected area.*

The inclusion of the 25.96 acres of subject parcels within the Deltona Village BPUD will facilitate a more unified development pattern with larger less interrupted land masses available to support modern development formats. The provision of infrastructure, including internal access, will be more linear and efficient. While the BPUD entitlement package will not change as a result of the inclusion of the 25.96-acre net total of parcels, the addition of the property will represent a much less constrained Deltona Village development package. Also, adding the subject parcels to the BPUD will better position the Deltona Village project for development. Therefore, the inclusion of the exception parcel within the Deltona Village BPUD will be economically beneficial for the City by facilitating a more complete development package able to support larger, more unified development products and patterns.

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:* N/A
- b. *Sewage Disposal:* Sanitary sewer (Volusia County Utilities).
- c. *Potable Water:* Central water (Volusia County Utilities).
- d. *Drainage:* Appropriately designed and constructed on-site drainage facilities will address stormwater run-off.
- e. *Transportation Systems:* Traffic studies were established within the Activity Center DRI and Deltona Village BPUD. The end result was a square foot cap for the entire project of 900,000 square feet, including 1,141 PM Peak Hour and 17,808 average daily trip caps. The 900,000

square-foot threshold was extended to include property also owned by the applicant located north of Graves Av. south of the eastbound Interstate 4 off-ramp (Former ICC BPUD property). As part of the Deltona Village BPUD a development equivalency matrix is used to convert entitlements while maintaining adherence to the 900,000 square-foot entitlement cap.

The addition of the subject parcels to the Deltona Village BPUD will increase the size of the project by 25.96 acres. However, the entitlements of the project will not change and the addition of extra area to the BPUD will essentially reduce the intensity of the project. Therefore, traffic generation volumes will not change.

Furthermore, incorporation of the parcels within the BPUD will more readily facilitate cross access and connection to an internal roadway network. The result will be more efficient traffic patterns, greater opportunity for internalized traffic and less impacts on the City roadway network.

The following transportation-oriented provisions from the Comprehensive Plan are applicable:

Policy T1-1.4

The City of Deltona shall maintain land use regulations, including, but not limited to, access control/management and cross access easements, to facilitate safe and efficient mobility on the City transportation network.

Policy T1-3.2

The City of Deltona shall maintain land use regulations, including access management, which provide for the continued safe and efficient movement of local traffic. Such regulations also maintain and enhance roadway level of service, capacity, and mobility.

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

The acquisition of the one (1) exception parcel by the applicant/Deltona Village owner, and the decision to include a portion of the former ICC PUD does represent a change of circumstances. Unifying these parcels under the Deltona Village BPUD is logical and represents appropriate method to ensure a more functional development pattern.

6. Any mistakes in the original classification.

The existing Agriculture zoning classification was intended to represent a place holder type of zoning with the expectation the Deltona Activity Center sub-element urban oriented land use guidelines would be applied through a Planned Unit Development zoning action. The ICC BPUD rezoning, which occurred through a City Commission action (Ordinance No. 22-2004), never achieved execution or recording of development agreement, therefore, voiding

the land use entitlements. The request to bring the subject parcels under the Deltona Village BPUD development plan does not represent a mistake or oversight but is an orderly transition of land use entitlement.

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

Ordinance No. 02-2024 represents an amendment from Ordinance No. 04-2023 to Ordinance No. 21-2009, Ordinance No. 10-2018, and lastly Ordinance No. 06-2021. As previously stated, Ordinance No. 04-2023 adds approximately 25.96 acres of land to the Deltona Village BPUD through the addition of one (1) inholding parcel, and the former ICC BPUD parcels.

With the exception of Exception “B”, and a portion of the land directly east of the Maschmeyer concrete plant, the majority of land requested for inclusion was previously cleared under agricultural exemptions. Therefore, any impacts to the environment will be minimal upon development.

CONCLUSION/STAFF RECOMMENDATION:

The Deltona Village BPUD is a significant element of the City of Deltona Activity Center. The Deltona Village project is allocated for a range of commercial service uses, potential residential opportunities, and employment-oriented development, including general and medical office. The request is to amend the Development Agreement to memorialize changes approved, and add 25.96 acres of land to the Deltona Village BPUD. These parcels have been over the years obtained by the applicant/owner. Because of the added land, there will be no increase of density/intensity, the use allocation will not change nor will other parameters of the Deltona Village BPUD. The BPUD amendment will create opportunity for a more unified and integrated development pattern being managed by a single entity. More functional development patterns offered by the amendment is consistent with the Comprehensive Plan and furthers City economic development goals for a greater service sector presence and expanded employment opportunity.

Staff recommends the Planning & Zoning Board recommend approval to the City Commission of Ordinance No. 02-2024 for the amendment to the Deltona Village BPUD to rezone and include additional land totaling approximately 25.96 acres to the BPUD.

Attachments:

Map Series

Ordinance No. 02-2024

Exhibit ‘A’ – Deltona Village DA Amendment

Exhibit ‘B’ –Deltona Village DA dated July 17, 2023.