



MCGREGOR T. LOVE

*Senior Associate*

mcgregor.love@lowndes-law.com

215 North Eola Drive, Orlando, Florida 32801-2028

T: 407-418-6311 | F: 407-843-4444

MAIN NUMBER: 407-843-4600



March 26, 2025

Santiago Avila, Jr.  
Mayor  
City of Deltona  
2345 Providence Boulevard  
Deltona, FL 32725

**Re: Request for Rehearing Regarding Resolution No. 2025-24**

Dear Mayor Avila:

This law firm represents JDG Vineland, LLC (JDG) in connection with Resolution No. 2025-24, which is a request for Vineland Reserve Phase 1 final plat approval for a 126-lot townhome subdivision on approximately 20.3 acres of property located east of Peach Creek Drive, southeast to Phase 2 and 3 of Vineland Reserve Single Family homes (the "Final Plat"). On March 18, 2025, following a public hearing before the Deltona City Commission, the Commission voted to deny the Final Plat (the "Denial"). As discussed below, the City Commission overlooked or misapprehended some facts or points of law in reaching its Denial decision. Accordingly, pursuant to Section 110-1005 of the City's Land Development Code, JDG hereby requests a rehearing of the Denial decision.

#### **FACTUAL BACKGROUND**

Prior to the Denial vote, the City Commission's discussion centered around the Vineland Reserve Phase 1 dry retention pond (the "Pond"), which is reflected on the Final Plat as Tract A. On the Engineering Construction Plans, which were reviewed and approved by the City on September 27, 2023, the Pond is depicted as Tract RA-1. Construction of the horizontal infrastructure improvements, including the Pond, commenced in May 2024, and was substantially completed in January 2025.

At their regular meeting on February 13, 2025, the Development Review Committee approved and accepted the Vineland Reserve Final Plat and recommend the City Commission approve and accept the Final Plat, subject to certain conditions. On March 7, 2025, Pegasus Engineering published a Project Memorandum for the City regarding Vineland Reserve Phase 1 (the "Pegasus Memo"), the scope of



which was limited to a post-construction evaluation of the Pond. In closing, the Pegasus Memo provided the following:

*Given the elevation discrepancies for the Pond RA-1 top of bank, overflow weir and seasonal high-water table, Zev Cohen and UES needs to revise the stormwater modeling to demonstrate the following:*

- 1. Pond RA-1 will not overtop during the 100-year/24-hour storm event.*
- 2. The volume discharged from Pond RA-1 does not exceed the runoff volume computed for Basin A in the pre-development condition.*
- 3. Pond RA-1 fully recovers the retention volume between the pond bottom and the overflow weir within 14 days, including any adverse drawdown impacts related to modeling the impermeable geomembrane pond liner that was excluded from the original analysis.*

*The revised stormwater modeling will be reviewed and/or approved before construction of the townhomes is allowed to proceed. If the revised stormwater modeling does not demonstrate compliance with the previously permitted Phase 1 construction plans or the City's development regulations, modifications to Pond RA-1 and/or the overflow structure will be required before construction of the townhomes is allowed to proceed.*

Prior to the hearing, City staff sent the Pegasus Memo to representatives of JDG, who responded acknowledging receipt of the same.

As part of the backup materials published in connection with the Final Plat hearing on March 18th, the City published a staff report (the "Staff Report"), which recommended approval with conditions. The first two proposed conditions of approval concerned the Pegasus Memo (which the Staff Report called the "Peer Review"):

**STAFF RECOMMENDATION:** Staff find that the Vineland Reserve Final Plat complies with the Code of Ordinances, Comprehensive Plan and Chapter 177, Florida Statutes, and recommends approval with the following conditions:

1. The Final Plat Development Order shall be recorded into the public records concurrently with Final Plat mylar. The Final Plat Development Order and Final Plat mylar shall not be recorded until the completion of an engineering peer review to verify the geotechnical data underlying the Stormwater Infrastructure design calculations (the "Peer Review"). In the event the Peer Review results in a need to revise the Final Plat, the Development Order shall be null and void, requiring the Applicant to submit a revised Final Plat under SD24-0012 within 20 working days of the City's notification to the Applicant of the Peer Review results. In the event that revisions are not required, recording of the Final Plat shall be executed within 20 working days of the City's notification to the Applicant of the Peer Review results.
2. The issuance of construction or site development permits pursuant to this Development Order shall be conditioned upon the completion and findings of the Peer Review and all conditions thereto as described in the item above.

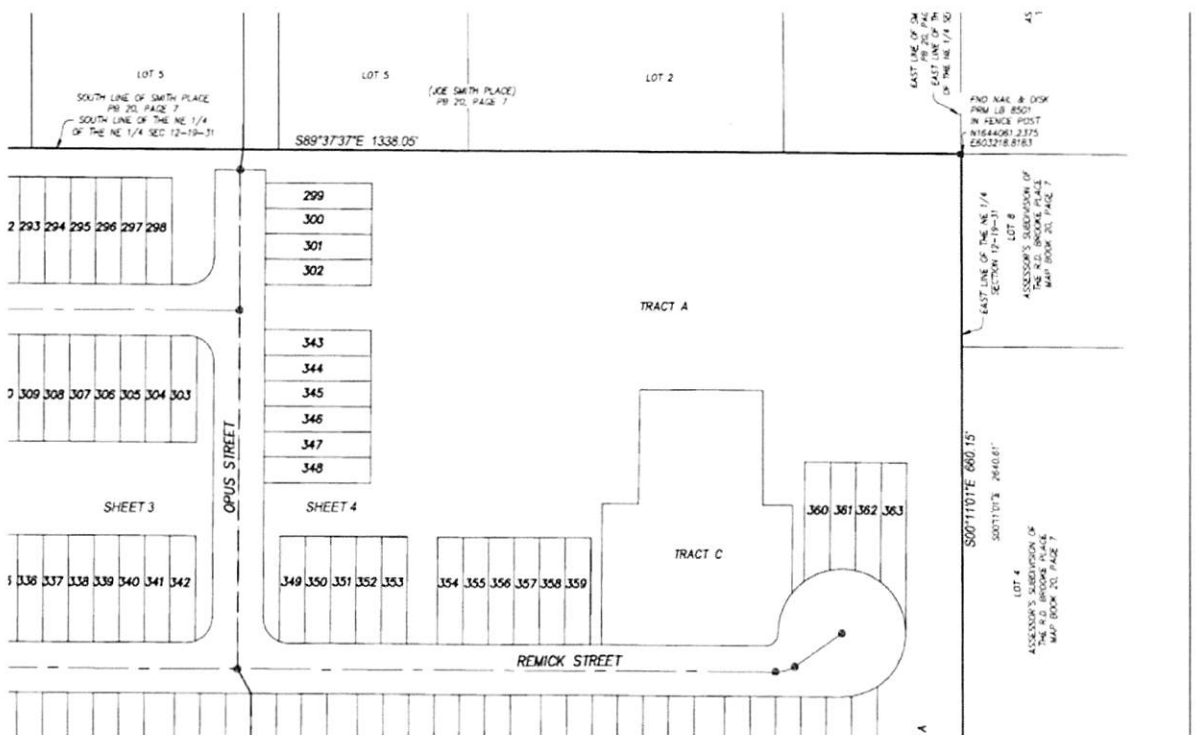
#### **LEGAL STANDARD OF REVIEW**

The law in Florida is clear that final plat approval is a ministerial act such that the City has no discretion to withhold or deny final plat approval where an applicant satisfies the local regulations. *Broward Cnty. v. Narco Realty, Inc.*, 359 So. 2d 509, 511 (Fla. 4th DCA 1978) ("Inasmuch as Narco has met all of the legal requirements for platting land, the county had no discretion to refuse this plat approval and the trial court was correct in issuing the Peremptory Writ of Mandamus."). *See also Broward Cnty. v. G.B.V. Intern., Ltd.*, 787 So. 2d 838, 842 (Fla. 2001) ("A decision granting or denying a . . . plat application is governed by local regulations, which must be uniformly administered."); *City Nat. Bank of Miami v. City of Coral Springs*, 475 So. 2d 984, 985 (Fla. 4th DCA 1985) ("It is elementary that once a party complies with all legal requirements for platting there is no discretion in government authority to refuse approval of the plat.").

In the *Narco Realty, Inc.* case, once the landowner had "done all the law required of him to entitle his plat to be recorded," any discretion of the local government to deny the plat "vanished" even where a vague provision in the local regulations allowed the governing body to impose additional conditions. *Narco Realty, Inc.*, 359 So. 2d at 511. The cases illustrate that once an applicant satisfies the text of the applicable code requirements for a final plat, there is no discretion to impose additional conditions. *See id.*

### **BASIS FOR REHEARING**

During the public hearing on the Final Plat, Commissioners expressed concern that the Final Plat's depiction of the Pond might not accurately represent the completed project if future changes to the Pond were required by the Pegasus Memo. This belief, which was material to the Commission's Denial decision, is incorrect: under no circumstance would compliance with the Pegasus Memo's recommended actions require revisions to the Final Plat. The Final Plat does not—nor should it—depict geological or topographic details for the Pond or any other feature of the project. Instead, consistent with Florida Statute and the City's Land Development Code, the Final Plat depicts only the boundary of the Pond (as Tract A):



Conceivably, the revised stormwater modeling recommended by the Pegasus Memo could require changes to the depth of the Pond or the grade of the berm. It could not, however, conceivably require changes to the Final Plat's simple depiction of the Tract A boundary. As a result, concerns regarding changes that may be required by the Pegasus Memo's recommendations are not competent

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substantial evidence that can support Denial of the Final Plat. For the foregoing reasons, JDG requests a rehearing on the Final Plat.

Sincerely,

A handwritten signature in black ink, consisting of stylized, overlapping loops and a long horizontal stroke extending to the right.

McGregor T. Love  
Senior Associate

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