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May 28, 2025

**VIA CERTIFIED MAIL**

Santiago Avila, Jr., Mayor  
Dale "Doc" Dougherty, City Manager  
City of Deltona  
2345 Providence Boulevard  
Deltona, Florida 32725

Re: Rehearing of Quasi-Judicial Hearing and Request for Approval of Ordinance  
No. 12-2024 (Synergy at Normandy)

Dear Mr. Mayor and Mr. City Manager,

I write to you today on behalf of my client, Warranty Parts Solutions, LLC and Scott Banta as Owner and Applicant of the above referenced request for rezoning. As you are aware, at the May 19, 2025 City Commission Hearing, the rezoning request for Ordinance No. 12-2024 was denied by a vote of 4-3. Voting in the affirmative were Vice Mayor Heirot, Commissioner Santiago, and Commission Lulli. Voting in the negative (and therefore the prevailing side) was Mayor Avila, Commissioner Avila-Vasquez, Commissioner Howington and Commissioner Colwell. Pursuant to Section 110-1005 of the City's Code of Ordinances, I am filing this request/motion for rehearing as I believe a few points of law or fact may have been overlooked or otherwise misapprehended by one or more members of the Commission, with the grounds stated below. This motion has been filed within 10 working days of the rendition of the decision and served upon the Mayor, the City Manager and all adjoining property owners previous notified of the hearing via certified mail. I intend to present this request orally at the City Commission meeting on Monday, June 16, 2025. The meeting starts at 630 pm and is held in City Commission Chambers at 2345 Providence Boulevard, Deltona, Florida.

Our request for the rehearing is based upon three elements of fact or points of law that have been overlooked or otherwise misapprehended by the City Commission.

- 1) A denial on the basis of the status of the traffic impact analysis is insufficient for the reasons cited at the hearing. At the hearing, the fact that the traffic analysis for the project was under review was cited as a basis for the denial of the rezoning request. While that review

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was underway, there was no outstanding information that would require further discretionary consideration by the Commission. The report under review was submitted in accordance with the traffic methodology approved by the City of Deltona. To be clear, there is no issue regarding the scope or scale of the analysis. The analysis was submitted in accordance with the requirements of the jurisdiction. Moreover, there is no issue outstanding regarding the nature of the improvements to be made nor the assumptions made in preparing the traffic analysis. The traffic consultant based the analysis on the parameters requested by the City, specifically regarding turn lanes into the project from Normandy and the condition to dedicate ROW for same. There is no question nor dispute about the lanes requested/required by the City nor whether the applicant shall provide them. Ultimately at site plan, the final alignment and a proportionate fair share agreement may be addressed, based upon your current policies, but that will not impact how the project addresses the traffic to be generated. Additionally, City Staff has confirmed with the County of Volusia that any comments related to traffic analysis will be addressed at site plan. If the vote was based on insufficiency of traffic analysis, that can only be because the level of detail requested is more appropriate for site plan review, not at rezoning. The record reflects that all necessary materials have been submitted and the applicant has agreed to be bound by the findings of the traffic analysis. We respectfully request a reconsideration of the application taking into consideration that all necessary traffic analysis has been submitted for this stage of the process and that the process is proceeding as intended.

- 2) A denial on the basis of heavy vehicular traffic into the residential neighborhood to the south is insufficient for the reasons provided at the hearing. Specifically, concerns were raised at the public hearing regarding an existing concern/condition related to heavier vehicles (delivery/semis and the like) leaving the existing Amazon facilities to the north and traveling south along Normandy into residential areas. An objection was made regarding the continuation of any such operations or the increase of heavy vehicle traffic into the residential neighborhood. Notwithstanding the fact that the volume and nature of deliveries to the site are of a lesser scale and intensity as those experienced with Amazon, it is inappropriate to lay the responsibility to handle any existing traffic issue (or the possible increase of same) solely with the applicant. At all times, the applicant has agreed to limit access within the project through physical design, signage and engineering. However, if the goal is to resolve with certainty the impact of heavy vehicles into the residential subdivision to the south, that authority and ability lies solely with the City Commission. Specifically, as Normandy is a city right of way, the City is empowered to regulate its use and restrict, as it sees fit, the nature of the vehicles which may operate on the roadway. To that end, the City has already adopted by reference, as codified in Chapter 66, Article III of the City Code of Ordinances, a "Residential Traffic Calming Handbook." (A digital copy is available on the City's website at <https://deltonafl.gov/DocumentCenter/View/532/Traffic-Calming-Handbook-PDF>). This

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Handbook was adopted in 2007, mainly to address neighborhood issues regarding speed and volume. That said, the same authority that exists to address those issues may also be used to address restrictions regarding vehicle weight and/or hours of operation through a particular neighborhood. If the current conditions on Normandy need to be addressed, the Handbook provides guidance and a means to do so. The fact of the matter is that this pathway to a remedy already exists, regardless of the application at hand. The City could have, at any point in time, used the process to remedy the pre-existing conditions and concerns raised at the public hearing, but has not done so. If there is a desire to see that accomplished now, the Handbook and its empowering authority provide a pathway for the City Commission to address the concerns raised. As this remedy was not addressed at the public hearing, this merits a reconsideration of the rezoning request.

- 3) The final basis for a request for a rehearing addresses the unique consequences of the denial. What seemed to be readily recognized at first reading, but not directly addressed at second reading, is that the denial of the rezoning request results in the applicant having **no legal use of the subject property**. This is different from most rezoning requests in that there are usually entitlements by right in place for a property, regardless of whether the application is approved or denied. However, under the current entitlement structure provided by the underlying land use designation, **no use** of the property is permitted without a rezoning to PUD with a development agreement. Per the staff report, the proposed development agreement is consistent with the goals, objectives and procedures of the comprehensive plan and no inconsistencies were identified by staff or at the public hearing. At all steps along the way, the applicant has acquiesced to the requests of the staff and then the City Commission. Denial of the rezoning request results in a taking of the owner's property rights. The extremity of this denial opens up takings claims under Federal takings standards, State taking standards, and pursuant to the statutory relief under a Bert Harris action. Consult with the City Attorney, but the City's exposure here is substantial. It does not appear that the City Commission properly considered this factor in making its ultimate decision at second reading. It is in the interest of all parties to resolve this with a rehearing and ultimate approval of the rezoning request rather than pursuing the matter through the courts.

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For these reasons, I respectfully submit this request for rehearing and ask for the City Commission to take this matter under reconsideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "Michael Woods", written over a horizontal line.

**Michael Woods**

Michael.Woods@CobbCole.com

MJW/rre

cc: All Adjoining Property Owners Previously Notified of Hearing