

**ORDINANCE NO. 2023-30**  
**LDR 22-10**

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, RELATING TO THE REZONING OF APPROXIMATELY 258.3 CONTIGUOUS ACRES, MORE OR LESS, PURSUANT TO AN APPLICATION BY THE PROPERTY OWNER OF SAID ACREAGE; AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF NEWBERRY LAND DEVELOPMENT REGULATIONS; PROVIDING FOR REZONING FROM THE AGRICULTURAL (A) AND RESIDENTIAL (MIXED) SINGLE-FAMILY/MOBILE HOME (RSF/MH-2) ZONING DISTRICT TO THE PLANNED RESIDENTIAL DEVELOPMENT (PRD) ZONING DISTRICT ON CERTAIN LANDS WITHIN THE CORPORATE LIMITS OF THE CITY OF NEWBERRY, FLORIDA; TAX PARCELS 02514-000-000, 02508-002-000, 02522-000-000, 02523-001-000, 02523-001-001, 02538-004-001, 02538-004-002, 02538-006-000, 02538-006-002, AND A PORTION OF 01981-001-001; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Section 166.021, Florida Statutes, as amended, empowers the City Commission of the City of Newberry, Florida, hereinafter referred to as the City Commission, to prepare, adopt and enforce land development regulations;

**WHEREAS**, Sections 163.3161 through 163.3215, Florida Statutes, as amended, the Local Government Comprehensive Planning and Land Development Regulation Act, requires the City Commission to prepare and adopt regulations concerning the use of land and water to implement the City of Newberry Comprehensive Plan, hereinafter referred to as the Comprehensive Plan;

**WHEREAS**, an application, **LDR 22-10**, for a Site-Specific Amendment to the Official Zoning Atlas (“rezoning”), as described below, has been filed with the City by the property owners;

**WHEREAS**, the Planning and Zoning Board of the City of Newberry, Florida, hereinafter referred to as the Planning and Zoning Board, has been designated as the Local Planning Agency of the City of Newberry, hereinafter referred to as the Local Planning Agency;

**WHEREAS**, pursuant to Section 163.3174, Florida Statutes, as amended, and the Land Development Regulations, as amended, the Planning and Zoning Board, serving also as the Local Planning Agency, held the required public hearing, with public notice having been provided, on said application for an amendment, as described below, and at said public hearing, the Planning and Zoning Board, serving also as the Local Planning Agency, reviewed and considered all comments received during said public hearing and the Concurrence Management Assessment concerning said application for an amendment, as described below, and recommended to the City Commission approval of said application for an amendment, as described below;

**WHEREAS**, pursuant to Section 166.041, Florida Statutes, as amended, the City Commission held the required public hearings, with public notice having been provided, on said application for an amendment, as described below, and at said public hearing, the City Commission reviewed and considered all comments received during said public hearing, including the

recommendation of the Planning and Zoning Board, serving also as the Local Planning Agency concerning said application for an amendment, as described below;

**WHEREAS**, the City Commission has determined and found said application for the amendment to be consistent with the City’s Comprehensive Plan and City’s Land Development Regulations (“LDRs”); and,

**WHEREAS**, the City Commission has determined and found that approval of said application for an amendment, as described below, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare of the City of Newberry.

**NOW, THEREFORE, BE IT ORDAINED BY THE PEOPLE OF THE CITY OF NEWBERRY, FLORIDA, AS FOLLOWS:**

**Section 1. Official Zoning Map Amended.** Pursuant to an application LDR 22-10 by JBrown Professional Group, Inc. dba JBPro Group, Inc., Agent, on behalf of Jason, Mary, James, Connie, Paul, Tammy, and Lewis Coleman and Austin, Emma, and David Mattox, Owner, (and referenced to herein as “Applicant”) to amend the Official Zoning Atlas of the City of Newberry Land Development Regulations by changing the zoning from Agricultural (A) to Planned Residential Development (PRD) on ±258.3 acres, known as Westone, **the Zoning District classification is hereby changed from AGRICULTURAL (A) and Residential (Mixed) Single-Family/Mobile Home (RSF/MH-2) to PLANNED RESIDENTIAL DEVELOPMENT (PRD)** on property more particularly described as follows (and referred to herein as the “Property”):

**Alachua County Parcel Identification Numbers (“PIN”) 02514-000-000, 02508-002-000, 02522-000-000, 02523-001-000, 02523-001-001, 02538-004-001, 02538-004-002, 02538-006-000, 02538-006-002, and a portion of 01981-001-001; ±258.3 acres.**

## LEGAL DESCRIPTION

**Parcel 1, PIN 02514-000-000  
Instrument No. 2326626, ACPR:**

The Southeast Quarter of the Southeast Quarter (SE 1/4 of SE 1/4), the Southwest Quarter of the Southeast Quarter (SW 1/4 of SE 1/4); the Southeast Quarter of the Southwest Quarter (SE 1/4 of SW 1/4), the South 210 feet of the Northwest Quarter of the Southeast Quarter (NW 1/4 of SE 1/4) and the South 210 feet of the Northeast Quarter of the Southwest Quarter (NE 1/4 of SW 1/4) of Section Five (5), Township Ten (10) South, Range Seventeen {17} East, Alachua County, Florida.

LESS and EXCEPT the following:

1. The right of way for County Road No. 337 (SW 2661" Street) along the East line of the Southeast Quarter of the Southeast Quarter (SE 1/4 of SB 1/4);
2. Land described in Deed to Albert Charles Crocker in O.R. Book 1444, Page 174;
3. Land described in Deed to Albert Charles Crocker in O.R. Book 1444, Page 176;

4. Land described in Deed to Mary Lee Willis Lee in O.R. Book 1725, Page 2275;
5. Land described in Deed to Donald Amett Willis in O.R. Book 1725, Page 2307;
6. Land described in Deed to Ron Dell Willis and Deborah Doreen Willis, his wife, in O.R. Book 1765, Page 2355;
7. Land described in Deed to Jimerison Clark Crocker in O.R. Book 1914, page 1964;
8. Land described in Deed to Albert C. Crocker in O.R. Book 1914, Page 1967;
9. Land described in Deed to Donald Arnett Willis in O.R. Book 2082, Page 807;

All lying and being in Alachua County, Florida.

**Parcel 2, PIN 02508-002-000  
Instrument No. 2829280, ACPR:**

A tract of land situated in the Southeast 1/4 of Section 5, Township 10 South, Range 17 East, Alachua County Florida, said tract of land being more particularly described as follows:

Commence at the Northwest corner of the Southeast 1/4 of the aforementioned Section 5, Township 10 South, Range 17 East, for a point of reference; thence run South 01°26'03" East, along the West line of said Southeast 1/4 of Section 5, 56.26 feet to the Southerly right of way line of State Road No. 26 (100 foot right of way), and the point of beginning; thence run South 88°21'07" East, along said right of way line, 369.57 feet; thence run South 01°26'03" East, parallel to the West line of the Northwest 1/4 of the Southeast 1/4 of Section 5, 1075.85 feet to the North line of the South 210.00 feet of said Northwest 1/4 of the Southeast 1/4 of Section 5; thence run South 88°42'30" West, along said North line of the South 210.00 feet of the Northwest 1/4 of the Southeast 1/4 of Section 5, 369.08 feet to the West line of the Northwest 1/4 of the Southeast 1/4 of Section 5; thence run North 01°26'03" West along said West line of the Northwest 1/4 of the Southeast 1/4 of Section 5, 1101.24 feet to the point of beginning.

**Parcel 3, PIN 02522-000-000  
Instrument No. 2326525, ACPR:**

THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER (NW 1/4 OF NW 1/4) OF SECTION 8, TOWNSHIP 10 SOUTH, RANGE 17 EAST, ALACHUA COUNTY, FLORIDA.

**Parcel 4 & 5, PINs 02523-001-000 and -001  
Instrument No. 3343124, ACPR:**

The East 1/2 of the Northwest 1/4 Less the East 12.5 acres of the Northwest 1/4 of the Northwest 1/4 of Section 8, Township 10 South, Range 17 East, Alachua county, Florida.

Together with a non-exclusive perpetual easement for ingress and egress over the North 50 feet of the East 12.5 acres of the Northeast ¼ of the Northwest ¼ and over the North 50 feet of the West¼ of the Northwest¼ of the Northeast¼ of Section 8, Township 10 South, Range 17 East, Alachua County, Florida.

Also, together with easement rights contained in Grant of Easement recorded in Official Records Book 894, Page 587 of the Public Records of Alachua County, Florida.

ALSO

The Southeast ¼ of the Northwest ¼ of Section 8, Township 10 South, Range 17 East, Alachua County, Florida.

**Parcel 6, PIN 02538-004-001  
Instrument No. 3283629, ACPR:**

*Tract 3: (James)*

*That part of Castle Heights Subdivision, as per Plat thereof recorded in Plat Book "B": Page 11, of the Public Records of Alachua County, Florida, lying in Section 9, Township 10 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:*

*Commence at a railroad spike on the centerline of County Road No. C-337 marking the Northwest corner of Section 9, Township 10 South, Range 17 East, and thence run N 89°40'44" E, along the North line of said Section 9, a distance of 50.00 feet to an iron rod and cap (PSM 4929) on the East right of wayline of County Road Road No. C-337 and the Point of Beginning; thence run S 00°39'11" E, along said right of wayline, a distance of 490.17 feet to a concrete monument (PSM 2001); thence run N 89°40'18" E, a distance of 192.23 feet to an iron rod and cap(PSM 4929), on the West right of wayline of Magnolia Avenue; thence run N 00°41'09" W, along said right of wayline and a Northerly extension thereof, a distance of 74.96 feet to an iron rod and cap(PSM 4929); thence run N 89°40'18" E, a distance of 1077.32 feet to an iron rod and cap(PSM 4929), on the East line of the Northwest 1/4 of the Northwest 1/4, Section 9, Township 10 South, Range 17 East; thence run N 00°34'45" W, along the East line of the Northwest 1/4 of the Northwest 1/4 of said Section 9, a distance of 285.91 feet to an iron rod and cap (PSM 4929); thence run S 89°40'44" W, a distance of 1134.53 feet to an iron rod and cap(PSM 4929) on the East right of wayline of Park Avenue; thence run N 00°40'06" E, and along the East right of way line of Park Avenue, a distance of 129.14 feet to the North line of aforesaid Section 9; thence run S 89°40'44" W, along the North line of said Section 9, a distance of 135.31 feet to the Point of Beginning. Containing 9.07 acres, more or less.*

*SUBJECT TO the easements, right-of-ways and other restrictions as may be set forth in the plat of Castle Heights Subdivision, which this parcel is a part of; Said plat being of public record in Plat Book B, page 11 of the Alachua Public Records.*

*Tract 9: (James)*

*A parcel of land in the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 4, Township 10 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:*

*Commence at a concrete monument (PSM 2001) marking the Southwest corner of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 4, Township 10 South, Range 17 East of said Section 9 for a Point of Reference and thence run N 00°17'40" W, along the West line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4, a distance of 865.20 feet to an iron rod and cap (PSM 4929) and the Point of Beginning; thence continue N 00°17'40" W, along the West line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4, a distance of 205.58 feet to an iron rod and cap (PSM 4929) marking the Southwest corner of that certain parcel of land conveyed in Official Records Book 1466, Page 19, Public Records of Alachua County, Florida; thence run N 87°51'32" E, along the South line of said parcel, a distance of 176.26 feet to an iron rod and cap (PSM 4929) marking the Southeast corner of said conveyed parcel; thence run N 00°17'40" W, along the East line of said conveyed parcel, a distance of 247.26 feet to an iron rod and cap (PSM 4929), marking the Northeast corner of said conveyed parcel said point being on the South right of wayline of SW 4th Avenue; thence run N 87°51'32" E, along said right of wayline, a distance of 435.79 feet to an iron rod and cap (PSM 4929) on the West right of wayline of SW 260th Street; thence run S 00°16'25" W, a distance of 474.44 feet to an iron rod and cap (PSM 4929); thence run S 89°52'49" W, a distance of 607.04 feet to the Point of Beginning. Containing 5.49 acres, more or less.*

Parcel 7 & 9, Instrument No. 3283628, ACPR:

*Tract 4: (Kevin)*

*That part of Castle Heights Subdivision, as per Plat thereof recorded in Plat Book "B": Page 11, of the Public Records of Alachua County, Florida, lying in Section 4, Township 10 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:*

*Commence at a railroad spike on the centerline of County Road No. C-337 marking the Northwest corner of Section 9, Township 10 South, Range 17 East, and thence run N 89°40'44" E, along the North line of said Section 9, a*

distance of 50.00 feet to an iron rod and cap(PSM 4929) on the East right of way line of County Road Road No. C-337; thence continue N 89°40'44" E, along the North line of said Section 9, a distance of 135.31 feet to iron rod and cap (PSM 4929) and the Point of Beginning; thence continue N 89°40'44" E, along the North line of said Section 9, a distance of 1134.73 feet to a concrete monument (PSM 2001) marking the Northeast corner of the Northwest 1/4 of the Northwest 1/4 of said Section 9, · thence run S 00°34'45" E, along the East line of the Northwest 1/4 of the Northwest 1/4 of said Section 9, a distance of 129.13 feet to an iron rod and cap (PSM 4929); thence run S 89°40'44" W, a distance of 1134.53 feet to an iron rod and cap (PSM 4929) on the East right of wayline of Park Avenue; thence run N 00°40'06" E, and along the East right of way line of Park Avenue, a distance of 129.14 feet to the Point of Beginning. Containing 3.66 acres, more or less.

*SUB.IECT TO the easements, right-of-ways and other restrictions as may be set forth in the plat of Castle Heights Subdivision, which this parcel is a part of; Said plat being of public record in Plat Book B, page 11 of the Alachua Public Records.*

*Tract S: (Kevin)*

*A parcel of land in the Southwest quarter of Southwest quarter of Section 4, Township 10 South, Range 17 East, Alachua County, Florida, being a part of Castle Heights Subdivision, as per Plat thereof recorded in Plat Book "B": Page 11, of the Public Records of Alachua County, Florida, being more particularly described as follows:*

*For a POINT OF REFERENCE commence at the Southwest corner of Section 4, Township 10 South, Range 17 East; thence North 88°46'18" East along Section Line 50.00 feet to the East Right-of-Way Line of State Road No. 337 to the Point of Beginning; Thence continue North 88°46'18" East along Section Line 1270.00 feet to the Southeast corner of said Southwest quarter of Southwest quarter of Section 4, Township 10 South, Range 17 East; thence North 01°14'27" West along the East Line of said Southwest quarter of Southwest quarter 282.85 feet; thence South 89°16'01" West, 427.06 feet; thence North 01°14'27" West, 204.00 feet to the SE corner of property described in mortgage deed recorded in Official Records Book 857, Page 850, of the Public Records of Alachua County, Florida; thence South 89°16'17" West along the South line of above said property 839.27 feet to the Southwest corner of above said property and the East Right-of-Way line of State Road No. 337; thence South 00°48'04" E, along said Right-of-Way Line, 498.00 feet, more or Jess, to dose on the Point of Beginning.*

*SUBJECT TO the easements, right-of-ways and other restrictions as may be set forth in the plat of Castle Heights Subdivision, which this parcel is a part of; Said plat being of public record in Plat Book B, page 11 of the Alachua Public Records.*

*LESS AND EXCEPT that certain parcel of land conveyed by Warranty Deed dated February 4, 2005, recorded in Official Records Book 3066, Page 921, Public Records of Alachua County, Florida.*

**Parcel 8, PIN 02538-006-000  
Instrument No. 3283627, ACPR:**

*Tract 1: {Lewis}*

*That part of Castle Heights Subdivision, as per Plat thereof recorded in Plat Book "B": Page 11, of the Public Records of Alachua County, Florida, lying in Section 9, Township 10 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:*

*Commence at a railroad spike on the centerline of County Road No. C-337, marking the Northwest corner of Section 9, Township 10 South, Range 17 East, and thence run N 89°40'44" E, along the North line of said Section 9, a distance of 50.00 feet to an iron rod and cap {PSM 4929} on the East right of way line of County Road Road No. C-337; thence run S 00°39'11" E, along said right of way line, a distance of 490.17 feet to a concrete monument {PSM 2001}, thence run N 89°40'18" E, a distance of 192.23 feet to an iron rod and cap {PSM 4929}, on the West right of wayline of Magnolia Avenue; thence run S 00°41'09" E, along said right of wayline, a distance of 297.27 feet to an iron rod and cap {PSM 4929} and the Point of Beginning; thence run N 89°05'25" E, a distance of 1076.64 feet to an iron rod and cap {PSM 4929} on the East line of the Northwest 1/4 of the Northwest 1/4, Section 9, Township 10 South, Range 17 East; thence run S 00°34'45" E, along the East line of the Northwest 1/4 of the Northwest 1/4 of said Section 9, a distance of 367.00 feet to an iron rod and cap {PSM 4929}; thence run S 89°05'25" W, along the South right of way line of Wilson Street, a distance of 1075.95 feet to an iron rod and cap {PSM 4929} on the West right of way line of Magnolia Avenue, thence run N 00°41'09" W, along said right of wayline, a distance of 367.00 feet to the Point of Beginning. Containing 9.07 acres, more or less.*

*SUBJECT TO the easements, right-of-ways and other restrictions as may be set forth in the plat of Castle Heights Subdivision, which this parcel is a part of, Said plat being of public record in Plat Book B, page 11 of the Alachua Public Records.*

*Tract 8: (Lewis)*

*A parcel of land in the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 4, Township 10 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:*

*Commence at a concrete monument (PSM 2001) marking the Southwest corner of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 4, Township 10 South, Range 17 East of said Section 9 for a Point of Reference and thence run N 00°17'40" W, along the West line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4, a distance of 532.28 feet to an iron rod and cap (PSM 4929) and the Point of Beginning; thence continue N 00°17'40" W, along the West line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4, a distance of 332.92 feet to an iron rod and cap(PSM 4929); thence run N 89°52'49" E, a distance of 607.04 feet to an iron rod and cap (PSM 4929) on the West right of wayline of SW 260th Street; thence run S 00°16'25" W, a distance of 332.93 feet to an iron rod and cap(PSM 4929); thence run S 89°52'49" W, a distance of 603.73 feet to the Point of Beginning. Containing 4.63 acres, more or less.*

**Parcel 10, PIN 02538-006-002  
Instrument No. 3283626, ACPR:**

*Tract 2: {Jason}*

*That part of Castle Heights Subdivision, as per Plat thereof recorded in Plat Book "B": Page 11, of the Public Records of Alachua County, Florida, lying in Section 9, Township 10 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:*

*Commence at a railroad spike on the centerline of County Road No. C-337, marking the Northwest corner of Section 9, Township 10 South, Range 17 East, and thence run N 89°40'44" E, along the North 1/4 of said Section 9, a distance of 50.00 feet to an iron rod and cap {PSM 4929} 011 the East right of way line of County Road Road No. C-337; thence run S 00°39'11" E, along said right of way line, a distance of 490.17 feet to a concrete monument {PSM 2001}; thence run N 89°40'18" E, a distance of 192.23 feet to an iron rod and cap(PSM 4929), on the West right of wayline of Magnolia Avenue and the Point of Beginning; thence run S 00°41'09" E, along said right of way line, a distance of 297.27 feet to an iron rod and cap (PSM 4929), thence run N 89°0S'25" E, a distance of 1076.64 feet to an iron rod and cap (PSM 4929) on the East line of the Northwest 1/4 of the Northwest 1/4, Section 9, Township 10 South, Range 17 East; thence run N 00°34'45" W, along the East line of the Northwest 1/4 of the Northwest 1/4 of said Section 9, a distance of 361.30 feet to an iron rod and cap (PSM 4929), thence run S 89°40'18" W, a distance of 1077.32 feet to an iron rod and cap (PSM 4929);*



thence run S 00°41'09" E, and along the West right of wayline of Magnolia Avenue, a distance of 74.96 feet to the Point of Beginning. Containing 9.07 acres, more or less.

*SUBJECT TO the easements, right-of-ways and other restrictions as may be set forth in the plat of Castle Heights Subdivision, which this parcel is a part of Said plat being of public record in Plat Book B, page 11 of the Alachua Public Records.*

*Tract 7: (Jason)*

*A parcel of land in the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 4, Township 10 South, Range 17 East Alachua County, Florida, being more particularly described as follows:*

*Commence at a concrete monument (PSM 2001) marking the Southwest corner of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of Section 4, Township 10 South, Range 17 East of said Section 9 for the Point of Beginning 1J11d thence run N 00°17'40" W, along the West line of the West 1/2 of the Southeast 1/4 of the Southwest 1/4 of said Section 4, a distance of 532.28 feet to an iron rod and cap (PSM 4929); thence run N 89°52'49" E, a distance of 603.73 feet to an iron rod and cap(PSM 4929) on the West right of way line of SW 260th Street; thence run S 00°16'25" W, a distance of 381.67 feet to a concrete monument (LB 4665) marking the Northeast corner of that certain parcel of land conveyed in Official Records Book 1772, Page 182, Public Records of Alachua County, Florida; thence run S 89°44'30" W, along the North line of said parcel a distance of 290.17 feet to a concrete monument (LB 4665) marking the Northwest corner of said conveyed parcel. thence run S 00°15'41" W, a distance of 149.92 feet to an iron rod (no number) marking the Southwest corner of said conveyed parcel said point being on the South line of aforesaid Section 4, thence run S 89°52'49" W, along the South line of said Section 4, a distance of 308.32 feet to the Point of Beginning. Containing 6.34 acres, more or less.*

**Section 2. Preliminary Development Plan.** A preliminary development plan, submitted as part of the above described application and herewith made a part of this ordinance as “*Attachment A – Preliminary Development Plan,*” shall govern the development and use of the Property. Any deviation from the preliminary development plan shall be deemed a violation of the Land Development Regulations.

**Section 3. Development Order.** A Development Order with findings and conditions is herewith made a part of this ordinance as Attachment B – Development Order. The Development Order shall govern the development and use of the Property. Any deviation from the development order shall be deemed a violation of the Land Development Regulations.

**Section 4. Severability.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional or unenforceable, then all remaining provisions and portions of this ordinance shall remain in full force and effect.

**Section 5. Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 6. Effective Date.** This Ordinance shall be adopted upon the date provided below, as passed, but shall only become effective upon the date of effectiveness of the corresponding Future Land Use Plan Amendment, CPA 22-06.

**Section 5. Authority.** This Ordinance is adopted pursuant to the authority granted by Section 166.021, Florida Statutes, as amended, and Sections 163.3161 through 163.3215, Florida Statutes, as amended.

DONE THE FIRST READING, by the City Commission of the City of Newberry, Florida, at a regular meeting, this 24 day of October, 2022.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Newberry, Florida, by the City Clerk of the City of Newberry, Florida on this 28 day of September, 2023.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Newberry, Florida, at a regular meeting, this 9 day of October, 2023.

BY THE MAYOR OF THE CITY OF  
NEWBERRY, FLORIDA

\_\_\_\_\_  
Honorable Jordan Marlowe, Mayor

ATTEST, BY THE CLERK OF THE  
CITY COMMISSION OF THE CITY OF  
NEWBERRY, FLORIDA:

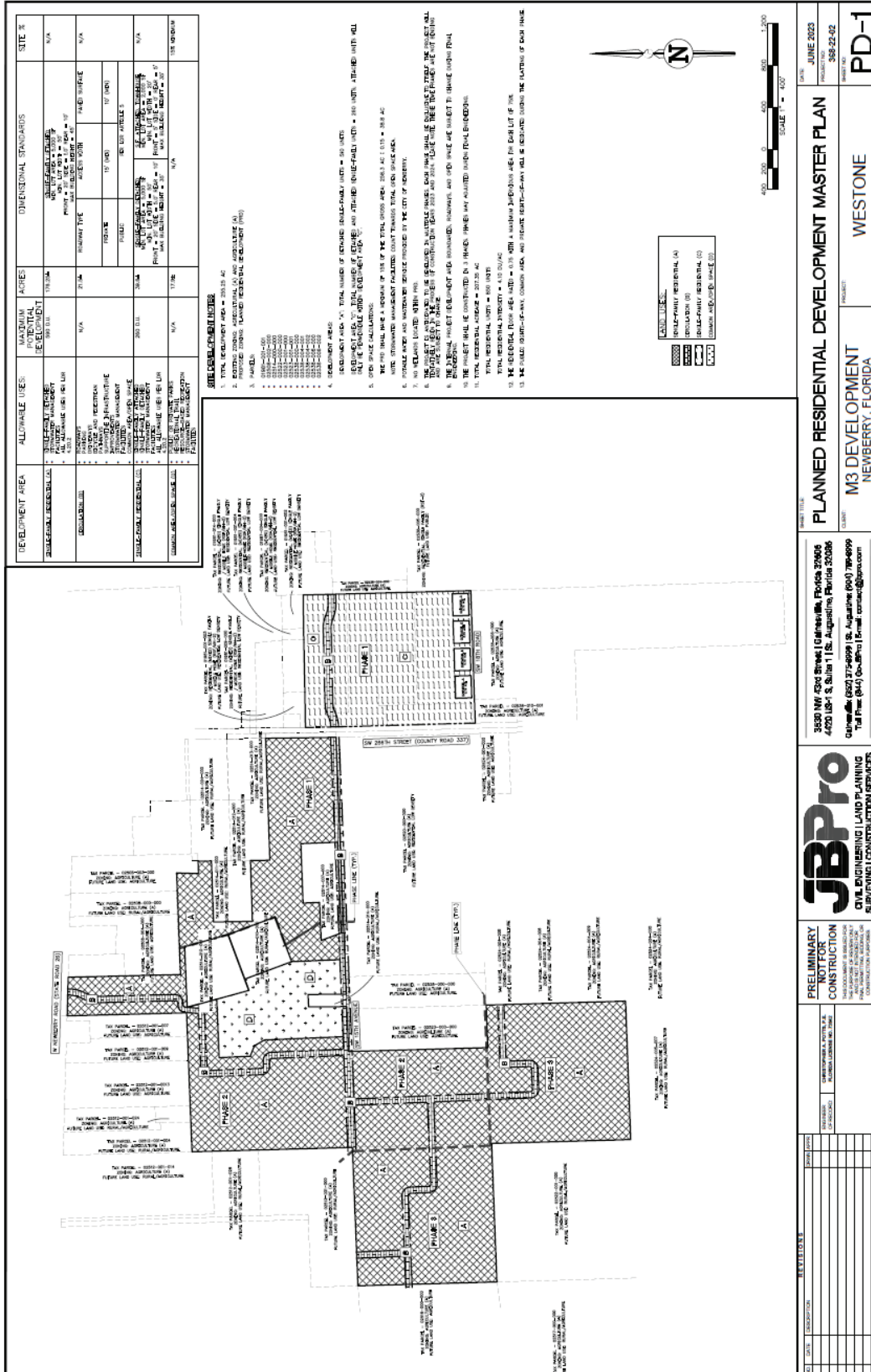
\_\_\_\_\_  
Judy S. Rice, City Clerk

APPROVED AS TO FORM AND  
LEGALITY:

\_\_\_\_\_  
City Attorney's Office

Attachments (2): Attachment A – Preliminary Development Plan  
Attachment B – Development Order

## Attachment A Preliminary Development Plan



Planning & Zoning Board 10/03/2022  
 City Commission First Reading 10/24/2022  
 City Commission Second Reading/Enactment 10/09/2023

**Attachment B**  
**Preliminary Development Plan**  
**Development Ordinance 32023-30 for File No. LDR 22-10**

**Section 1.** This Preliminary Development Order, being a part of and incorporated thereto as Attachment B within this **Ordinance No. 2023-30** (“Ordinance”) shall constitute the Order that the City of Newberry City Commission has issued in response to the application filed by the Applicant, for the Planned Residential Development known as Westone. The scope of development to be permitted pursuant to this Order includes activities described in the application, and, further that the City of Newberry City Commission, having received the above referenced documents, and having received all related comments, testimony, and evidence submitted by each party and members of the general public, finds there is competent substantial evidence to support the following findings of fact:

- A. That, the Applicant submitted to the City of Newberry City Commission the materials attached as part of its application, which are by reference made a part hereof;
- B. That, the Applicant proposes the development of Westone as a Planned Residential Development (PRD) located within the City of Newberry’s Urban Service Area, outside of the Economic Development Overlay and Transportation Project Enhancement Areas;
- C. That, the proposed PRD is not located in an area of critical State concern as designated pursuant to Section 380.05, Florida Statutes, as amended; and,
- D. That, excepting for concurrency certifications, which are not being made as part of this preliminary development plan approval, the project is consistent with the City of Newberry’s Comprehensive Plan and Land Development Regulations.
- E. The City understands the Applicant may submit a petition to establish a community development district as defined in Fs. 190.003(6), an independent special district, for the purposes of financing design and construction of infrastructure and amenities necessary for the operation and success of the Development. The term Applicant and Developer may be used interchangeably for the purposes of this Ordinance and obligations cited herein. In addition, such obligations shall be transferrable to heirs, successors, and assigns, including, but not limited to, a community development district.

The City agrees that if Developer submits such a petition containing the the information required by Fs. 190.005 and the Development otherwise meets the criteria for the establishment of a community development district, the City may adopt an ordinance in accordance with Fs. 190.005 establishing the community development district.

If a community development district is established for the Development, then such community development district may finance, fund, plan, acquire, construct or reconstruct, enlarge or equip, operate and maintain systems and facilities for those

purposes set forth in Fs. 190, generally and including specifically and without limitation those purposes in Fs. 190.012(2).

If the Developer is required by this Ordinance to provide, pay for, or otherwise cause to be provided infrastructure, projects, systems, or facilities as set forth in Fs. 190, including without limitation those in Fs. subsection 190.012(1) and (2), then it is intended that a community development district may independently satisfy such obligations and the City consents to the community development district's role. To the extent any such obligation under this Ordinance is met or performed by a community development district then the Developer shall no longer be subject to the obligations.

**Section 2.** The City of Newberry City Commission, having made the above findings of fact, reaches the following conclusions of law:

- A. These proceedings have been duly conducted pursuant to applicable law and regulations, and based upon the record in this proceeding, the various departments of the City and the Applicant are authorized to approve/conduct development as described herein, subject to the conditions, restrictions, and limitations set forth herein; and
- B. The review by the City and interested citizens reveals that the preliminary development plan (subject to meeting the terms of concurrency management) for this PRD is consistent with the City of Newberry's Comprehensive Plan and Land Development Regulations, by the terms and conditions of this Order and the application. To the extent that the application is inconsistent with the terms and conditions of this Order, the terms and conditions of the Order shall prevail. The Developer shall file a request for concurrency reservation for potable water, sanitary sewer, recreation, storm water facilities, and public school at the time of construction plan approval.

**Section 3.** Having made the above findings of fact and drawn the above conclusions of law, it is ordered that **this Order is hereby approved, subject to the following conditions, restrictions, and limitations:**

## **I. Preliminary (Master) Development Plan**

### **Objectives**

#### **1. General Purpose**

The general purpose of the Westone PRD is to provide a mixture of attached and detached single-family residences in a tract home development. The project will permit a residential density of 4 units per acre. In addition, the PRD will provide recreational trails, passive parks, and resource-based (outdoor/natural) recreation.

#### **2. General Character of the PRD**

The development includes residential and passive recreational uses as identified on the Preliminary Development Plan ("Plan"). The Plan shows uses as "Residential-Single Family", circulation, and open space. The development straddles Southwest 266 Street. The two land areas are illustrated as detached residential as Area A on the west side of Southwest 266 Street and

attached and detached residential Area C on the east side of Southwest 266 Street. All open space/recreational amenities are located in Area A.

Within both of these areas will be associated infrastructure improvements, including roadways, utilities, common areas (as described above) and stormwater management facilities. The site will utilize Southwest 266 Street as a primary access point, providing access to State Road 26, with connections to existing roadways and stub-outs to adjacent property to accommodate future (re)development. Internal roadways will meet block length standards and minimize cul-de-sac to ensure a walkable grid network. Common Open Space, including a natural buffer (minimum 10-foot-wide) is located along the site's perimeter to ensure compatibility with adjacent properties.

A consistent architectural theme shall be established for all proposed structures according to the City's design guidelines found in City of Newberry Land Development Regulations and will be enforced by an owners' association to be established for the Planned Development. The proposed mix of uses and architectural controls should provide a high quality, vibrant project that will serve as an example of the type of project that the City of Newberry desires.

### **Density and Land Uses**

1. The maximum gross density for the Westone PRD, containing both residential and nonresidential uses, shall be limited to not more than four (4) dwelling units per acre.
2. Adjacent uses are either agricultural or residential. External compatibility shall be ensured by locating the townhouses adjacent to existing residential uses on the east side of Southwest 266 Street with open spaces and detached single-family lots on the west side where a majority of the site abuts agricultural land uses. The site's perimeter shall include a minimum 10-foot-wide landscaped buffer.
3. To encourage and support an active community, the site will include both active and passive recreation throughout. A recreational trail and sidewalk system will be established to allow residents to walk or bicycle to one another's residence or common areas. Private parks will be provided in Area D.
4. Except as otherwise provided herein or on the Preliminary Development Plan, the proposed distribution of lots will follow the general pattern outlined in the Preliminary Development Plan. Specific proposed uses, building sizes, design and location will be established with each proposed development and associated Final Development Plan for each phase.
5. The land use area and phasing boundaries are approximate locations and may be adjusted during development plan approval.
6. The Preliminary Development Plan shall incorporate a phasing plan and each phase shall be developed in a manner such that active phase development is not reliant on an undeveloped phase in order to provide safe and convenient access, potable water services, wastewater services, and surface water management.

### **Proposed Public Services**

1. The Westone PRD development will be served by City centralized potable water and sanitary sewer facilities.
2. The Developer has expressed interest in a pioneering agreement for construction of the off-site lift station necessary to support the development of the PRD. The City Commission hereby authorizes the City Manager and Public Works Department to negotiate and execute a pioneering agreement with the Developer, which agreement shall be finalized within eighteen (18) months of the effective date of this Preliminary Development Plan. The pioneering agreement shall contain provisions for ensuring repayment of all reasonable costs and professional fees incurred by the Developer in connection with installing a lift station to serve development in excess of the development approved by this Preliminary Development Plan.
3. Electrical service will be provided by the City of Newberry and Central Florida Electric Co-op and service lines will be installed underground.
4. Stormwater treatment will be provided in the form of retention basins which shall utilize ground cover and shrubs to stabilize the banks and prevent erosion and utilize trees within the basin to stabilize the soil and prevent formation of sink holes.
5. Public services infrastructure, such as water and sewer facilities, shall be transferred to the City upon completion of an inspection one-year after construction is complete.
6. The proposed development will have limited access points on SR 26. Necessary modifications to these roadways will be assessed during Site/Development Plan review for each phase. All public facility modifications necessary for serving on site uses will be the responsibility of the developer.
7. All plat improvements shall be warrantied as provided in Section 5.39 of the Land Development Regulations or by surety instrument acceptable to the City.
8. All site and development plans shall be warrantied as provided in Section 5.39 of the Land Development Regulations or by surety instrument acceptable to the City prior to any building permits being issued.
9. Any and all site or development phase specific improvements shall be reviewed at time of development application or prior to commencement of infrastructure improvement for each phase.
10. The City reserves the right to make final determinations on the location of public facilities on the site as to best serve the development and acquire land or easements that are deemed necessary for the construction, access, and maintenance of those public facilities.

### **Permitted Gross Density (per the Preliminary Development Plan, which is attached hereto and made a part hereof)**

Residential: Maximum of 4.0 dwelling units per acre (du/ac) gross density with a maximum total of 850 single-family dwelling units.



Phased Development table provided in Article III below.

### **Maximum Values/Development Information**

1. Residential, Single-Family Area = 210 acres, more or less (81%)
2. Common Open Space = 26 acres, more or less (10%)
  - a. An additional 5% open space will be identified on the plan to not equal less than a total of 38.8 acres, more or less, of open space.
3. Circulation = 21 acres, more or less (9%)
4. Total Site Area = 258 acres, more or less (100%)

### **II. Permitted Uses and Structures, in accordance with areas shown on the Preliminary Development Plan**

1. Area 'A': Permitted principal, limited, and accessory uses and special exceptions consistent with the Residential, Single-Family (RSF) zoning district.
2. Open Space is allowed in any land use area.
3. Stormwater Management Facilities can be located within any land use area. (The Preliminary Development Plan does not specify actual size and location of the proposed facilities.)

### **III. Phasing, Building Setbacks, Lot Layout Design Standards, Buffering, Building Height and Lot Coverage, and Off-Street Parking**

#### **1. Phasing**

- a. The PRD shall be constructed in multiple phases as designated on the Phasing Plan, to be completed within twenty years. The final number of phases, size of each phase will be determined at construction plan approvals for each phase.
- b. Community amenities must be constructed and available for use by residents of the PRD prior to the issuance of a Certificate of Occupancy for any dwelling unit, not including dry models or sales office(s) included in the phase after the first or initial phase of lot and home development. Notwithstanding the foregoing, the Developer shall be permitted to construct a trail/sidewalk system on any phase of the Property in advance of platting and site development approval for that particular phase.
- c. Transportation enhancements will be based on a cumulative inventory of units receiving a Certificate of Occupancy and monitoring Florida Department of Transportation annual counts for State Road 26.
- d. Each phase of development within the PRD must receive Construction Plan and Subdivision approval and must demonstrate that adequate public facilities are available to serve the project.
- e. Any on-site or off-site improvements required for this project shall be the responsibility of the developer of that particular project phase.

#### **2. Development Standards (Setbacks, Building Height)**

DEVELOPMENT AREA	ALLOWABLE USES:	MAXIMUM POTENTIAL DEVELOPMENT	ACRES	DIMENSIONAL STANDARDS			SITE %
SINGLE-FAMILY RESIDENTIAL (A)	<ul style="list-style-type: none"> <li>• SINGLE-FAMILY DETACHED</li> <li>• STORMWATER MANAGEMENT FACILITIES</li> <li>• ALL ALLOWABLE USES PER LDR 4.20.2</li> </ul>	590 D.U.	168.4±	SINGLE-FAMILY DETACHED MIN. LOT AREA = 5,000 SF MIN. LOT WIDTH = 50' FRONT = 20' SIDE = 5.0' REAR = 10' MAX BUILDING HEIGHT = 45'			N/A
CIRCULATION (B)	<ul style="list-style-type: none"> <li>• ROADWAYS</li> <li>• PARKING</li> <li>• DRIVEWAYS</li> <li>• BICYCLE AND PEDESTRIAN PATHWAYS</li> <li>• SUPPORTIVE INFRASTRUCTURE IMPROVEMENTS</li> <li>• STORMWATER MANAGEMENT FACILITIES</li> <li>• COMMON AREA/OPEN SPACE</li> </ul>	N/A	21.5±	ROADWAY TYPE	ACCESS WIDTH	PAVED SURFACE	N/A
				PRIVATE	15' (MIN)	10' (MIN)	
				PUBLIC	PER LDR ARTICLE 5		
SINGLE-FAMILY RESIDENTIAL (C)	<ul style="list-style-type: none"> <li>• SINGLE-FAMILY ATTACHED</li> <li>• SINGLE-FAMILY DETACHED</li> <li>• STORMWATER MANAGEMENT FACILITIES</li> <li>• ALL ALLOWABLE USES PER LDR 4.20.2</li> </ul>	260 D.U.	42.0±	SINGLE-FAMILY DETACHED MIN. LOT AREA = 5,000 SF MIN. LOT WIDTH = 50' FRONT = 20' SIDE = 5.0' REAR = 10' MAX BUILDING HEIGHT = 45'	S.F. ATTACHED TOWNHOUSE MIN. LOT AREA = 2,000 SF MIN. LOT WIDTH = 20' FRONT = 5' SIDE = 0' REAR = 5' MAX BUILDING HEIGHT = 45'	N/A	
COMMON AREA/OPEN SPACE (D)	<ul style="list-style-type: none"> <li>• PUBLIC OR PRIVATE PARKS</li> <li>• RECREATIONAL TRAIL</li> <li>• RESOURCE-BASED RECREATION</li> <li>• STORMWATER MANAGEMENT FACILITIES</li> </ul>	N/A	26.4±	N/A			15% MINIMUM

**3. Buffering**

- a. Common area/open space shall be located in accordance with the Preliminary Development Plan to buffer adjacent properties. The site’s perimeter shall include a minimum 10-foot-wide conservation area that will serve as a buffer to adjacent lots.
- b. Common area/open space/buffers shall be used within the development in accordance with the Preliminary Development Plan and as further delineated on final development plans.

**4. Urban Service Area**

- a. The site is located within the Urban Service Area, but outside the Historic District/designated Main Street area and transportation enhancement project area.

**5. Off-Street Parking**

Residential: 2 spaces for each dwelling unit  
 Off street parking dimensions and any other permitted uses not specified above shall comply with the parking requirements outlined in the City of Newberry Land Development Regulations.

**6. Supplementary Regulations**

Except as modified herein by the Order, all other provisions of Section 4.2, Supplementary District Regulations, Land Development Regulations, shall apply to the development as appropriate.

**IV. Public Facilities**

- a. The owner shall be responsible for all costs associated with the installation of infrastructure needed to support the proposed level of development.
- b. The Developer and City shall enter into a pioneering agreement as provided hereinabove.
- c. All utilities lines shall be installed underground.
- d. Public utility easements for this purpose shall be provided within the development’s construction plans.

- e. Location and dimension of public utility easements shall be approved by the City of Newberry.
- f. The Developer(s) is/are responsible for the installation of all lines, equipment, and appurtenances for the connection of structures to all available utilities provided by public and private entities, including but not limited to City facilities, Cox Communications, appropriate electric utility and AT&T.
- g. Such construction of public facilities shall be as provided within the construction plans, as approved by the City.
- h. No lift station well may be greater than 24 feet in depth as measured from the adjacent grade one (1) foot from the opening.
- i. Potable water flow calculations and modeling shall be provided with the application for Final Development Plan and shall be updated at the beginning of each phase per the Phasing Plan included with the Preliminary and Final Development Plan as may be amended.
- j. The City and Developer shall coordinate on a mutually agreed upon location of public facilities on the site as to best serve the development and facilitate service of utilities.
- k. The City reserves the right to require dedication or conveyance of land(s) or granting of easement(s) deemed necessary to provide adequate utility services, to include, but not limited to, immediate and future access by the City, its employees, and contractors, as well as on-going maintenance of the facilities.

**V. Streets, Stormwater Facilities and Common Open Space**

- a. All roadways, utility easements, and right-of-way, as shown on the Preliminary Development Plan and Utility Plan shall be constructed by the developer and may be dedicated to the public.
- b. All local roadways hereinafter developed (if dedicated to the public) shall have a minimum wearing surface of twenty-four (24) feet and a minimum right of way of sixty (60) feet.
- c. If local roads are not dedicated to the public (they shall be maintained by the Owners Association) these roads may be designed with a minimum fifty (50) feet with a twenty (20) foot wearing surface.
- d. All roadways, having less than 50 feet of right of way shall require additional utility easements to be located adjacent to the right of way.
- e. No right-of-way may be greater than 500 feet in length without incorporating traffic calming measures to include, but not limited to, chicanes, staggered on-street parking, curves not greater than a 50-foot radii excluding driveway(s) and street intersection(s), and/or raised intersection(s).
- f. On rights-of-way less than 26 feet of improved width as measured from face of curb to face of curb or edge of asphalt to edge of asphalt, on-street parking shall be prohibited.
- g. On rights-of-way greater than 26 feet, but less than 32 feet, of improved width as measured from face of curb to face of curb or edge of asphalt to edge of asphalt, on-street parking shall be permitted on one side of the street and must alternate more than every 220 feet of continuous aisle of on-street parking.

- h. On rights-of-way greater than 32 feet of improved width as measured from face of curb to face of curb or edge of asphalt to edge of asphalt, on-street parking shall be permitted on both sides of the street.
- i. Each aisle of on-street parking must begin and end with a bulb-out measuring 150 square feet in area and containing a drought tolerant deciduous tree species consistent with the City's Tree Ordinance.
- j. All public roads shall be constructed in conformance with Section 5.26 of the City of Newberry Land Development Regulations.
- k. All construction plans as filed and approved by the City Commission, shall be maintained by Developer for a period of one (1) year after completion, inspection, and approval of the constructed facilities for each internal development, as provided within the City's Land Development Regulations.
- l. Every dwelling unit or other use permitted in the PD shall have a legal means of ingress and egress by way of public or private right-of-way, which meets the minimum requirements of the City Land Development Regulations.
- m. Except as provided elsewhere, all streets shall be constructed as required by the City Land Development Regulations.
- n. A pedestrian crossing must be constructed on Southwest 266 Street to provide the residents on the east side of same (Area C) access to the to the open space (Area D) located on the west side of same in a manner or form acceptable to the body of government having jurisdiction over the right-of-way.
- o. Costs and construction, limited to solely materials and labor, of the extension of Southwest 15 Avenue, not including other connecting or adjacent roads, streets, avenues, or other paths-of-travel, will be borne by the Developer in accordance with a cost estimate prepared by a Professional Engineer licensed in the State of Florida. The costs assumed by the Developer for the construction of Southwest 15 Avenue as described herein before may be credited back in the form of multi-modal transportation impact fee credits or waivers at a 1-to-1 ratio for every dollar spent in the construction of Southwest 15 Avenue. Cost estimates will be verified by City staff. If the City must seek outside consultancy for review, the consultant's fee for review will be borne by the Developer. That cost is not eligible for impact fee credit.
- p. Construction of Southwest 15 Avenue may occur in segments relevant to the phase of development with entitlements and all necessary authorization from the City to commence construction.

## **VI. Permitting**

The development will follow all applicable approval and permitting as required by the City, State of Florida, Suwannee River Water Management District and any other governmental authority pertaining to said development.

The Preliminary Master Development Plan Order does not contemplate the issuance of a certificate of concurrency compliance with respect to level of service, including, but not limited to public schools, potable water, sanitary sewer, solid waste, stormwater, and recreation. The Developer shall be responsible for the mitigation of impacts as set out in City ordinances. Minor

changes to this Order may be made to comply with provisions of outside agency permitting, subject to City approval.

**Water and Wastewater**

**The City of Newberry reserves water and wastewater capacity for development on a first come, first serve basis when final development orders (either final plats for residential development or site and construction plans for non-residential development) are approved by the City Commission. Based on the City's current water and wastewater flow data and outstanding capacity reservations, there currently exists available capacity to serve the proposed development.**

**The City of Newberry has initiated the process of expanding its wastewater treatment capacity. The City makes no representation as to available water and wastewater capacity at any time in the future.**

**The proposed development shall be subject to impact fees as may be implemented by the City of Newberry, Florida which shall be assessed and collected at time of and prior to building permit issuance consistent with Section 163.31801(4)(e) of the Florida Statutes.**

**Pursuant to Appendix B, Article 4, Section 4.21.7 of the City of Newberry Code of Ordinances, no building permit shall be issued for any portion of a proposed planned development until the final development plan has been approved and minimum requirements for fire safety and building codes have been satisfied.**

**VII. Additional Conditions and Requirements**

1. The Developer shall comply with the following list of conditions:
  - a. *Site and Development Plan Approval Required.* All parties acknowledge that the Developer shall apply for Site and Development Plan approval prior to each phase of development of this property.
  - b. *Public Facilities.* City will be sole provider of potable water, reuse water (if provided by City) and sanitary sewer service to the development.
  - c. Further, the Developer agrees to extend potable water and sanitary sewer to the site prior to development.
    - i. Such connection can be by gravity or force main.
    - ii. Force main connections to existing gravity or force main require construction of on-site lift stations.
    - iii. Connection to an existing force main can only be accomplished by force main.
  - d. If the City requires oversizing of lines to serve other properties, the difference in cost for the oversizing shall be borne by the City. The City shall determine all costs and values related to this section.
  - e. *Design.* The following standards and regulations apply:
    - i. Renderings and façade elevations showing the proposed building design shall be submitted as part of the first building permit application within each phase of development, which recognizes that preferred designs and particular

- homebuilder requirements may change over time and are not typically finalized until shortly before commencement of home building. application.
- ii. No corrugated metal siding shall be permitted on buildings or other permanent structure visible from a public right-of-way. Proposed designs may incorporate exterior architectural metal cladding, however, must be submitted for consideration and approval by the Land Development Regulation Administrator prior to presentation to a City board.
  - iii. The same or similar model of home (regardless of left or right orientation of design) or exterior paint color, tint, or shade shall not be located directly adjacent to the same or similar model—applicable to directly abutting lots and lots located directly across a road, right-of-way, or other public path of travel.
  - iv. A diagram of the current designated model and paint color for a homes within the current and any relevant past phases will be provided with each building permit submittal for construction of a new home.
- f. *Landscaping.* The following standards and regulations apply:
- i. Landscaping shall be installed along the perimeter of stormwater management areas, as approved by the Utilities Director and Land Development Regulation Administrator.
  - ii. A landscape plan shall be submitted as part of the Site and Development Plan application, incorporating landscape features into parking areas and around buildings.
  - iii. The use of native, drought tolerant, and existing vegetation in all landscaping is encouraged throughout the development.
  - iv. Landscaping shall be maintained, and in the event of disease or damage, landscaping shall be replaced with similar plantings.
  - v. Street trees, as required by the City’s “Tree Ordinance” (ref. Part I, Chapter 74, Article III, Section 74.65 thereof) shall be located no closer than 6 feet from any improved surface used for travel, including roads, gutters, curbs, sidewalks, driveways, or trails.
  - vi. Lots abutting the Southwest 266 Street/County Road 337 right-of-way shall install a 100% opaque fence or wall not less than 6-feet tall as measured within 1-foot of the adjacent grade and landscaping consistent with Zone 2 requirements of the Overlay District standards, Appendix B, Article 4, Section 4.22(A)(5)(g)(v), entitled “Overlay districts.”
  - vii. Neighborhood signage shall be located outside of the right-of-way and wholly on private property.
- g. *Stormwater Management and Parking Areas.* Where practical, proposed stormwater management and parking areas shall be incorporated as design features, locating stormwater management facilities along internal roads.
- h. *Signs.* Signage identifying the PRD shall complement the overall design of the main building. The frame shall match the exterior building color, consistent with that of the North Florida Vernacular, unless an alternative architectural styling is approved by the City Commission with the Final Development Plan. Monolithic sign supports shall be similar in size, scale, mass, and character of the exterior building elements.

Proposed signage design and location shall be submitted as part of the Final Development Plan.

- i. *Final Development Plan.* The following shall apply:
  - i. Within 12 months of adoption of the Preliminary Development Plan, the owner or their designee shall submit to the City the final development plan covering all or a part of the approved preliminary development plan.
  - ii. This period may be extended by 12 months by the City Commission if requested in writing by the owner or their designee prior to the expiration of the preliminary development plan.
  - iii. If the final development plan is not approved within the allotted time, the land use classification and zoning designation shall revert to the prior land use and zoning in effect prior to the approval of the Planned Residential Development.
  - iv. No building permit shall be issued for any portion of a proposed Planned Residential Development until the final development plan has been approved and minimum requirements for fire safety and buildings codes have been satisfied.
  
- j. *Revisions, amendments, deviations, changes.* Revisions, amendments, deviations, and/or changes to preliminary development plan which affect the following shall be reviewed by the Planning and Zoning Board and the City Commission in the same manner as the initial application:
  - i. Intent and character.
  - ii. Density or land use pattern.
  - iii. Proposed buffers.
  - iv. Location or dimensions of arterial or collector streets.
  - v. Or other substantial changes as enumerated in Appendix B, Article 4, Section 4.21.8 of the City of Newberry Code of Ordinances.

Minor changes may be approved by the LDR Administrator.

*Deviation, specifically.* The following shall apply:

- i. Deviation from the approved Final Development Plan shall be cause for revocation of the Final Development Plan until such time as the deviations are corrected or become a part of the approved Final Development Plan.
- ii. The current owner, their assigns, or successors-in-interest shall submit an application to amend the Final Development Plan within 30 calendar days of notice.
- iii. No later than 90 days from the date of notice shall the City Commission consider the deviation at a duly advertised public hearing.
- iv. In the event the Final Development Plan deviation is denied by the City Commission, the owner shall have 180 days to complete any corrections to the improvement of the site(s), building(s), right(s)-of-way, and/or infrastructure, as identified in the notice of deviation from the adopted Final Development Plan.

- k. *Time limitations.* If substantial development has not begun, as determined by the LDR Administrator, within two (2) years after the approval of the final development plan, the approval of the planned development will lapse, however, the owner or their designee may request in writing for the City Commission to extend the period for beginning construction not to exceed an additional two years. Should the development plan lapse, the land use designation and zoning classification shall revert to same established prior to the adoption of the Planned Development.

**Section 4.** This Order shall be binding upon the Applicant, assigns, or successors-in-interest.

**Section 5.** It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality that may be created or designated as successor-to-interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Order, adopted herewith as part of this Ordinance.