**ORDINANCE NO. 2023-23**

CPA 23-06

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, AMENDING ORDINANCE NO. 4-91, AS AMENDED, RELATING TO AN AMENDMENT TO THE FUTURE LAND USE MAP OF THE CITY OF NEWBERRY COMPREHENSIVE PLAN, UNDER THE EXPEDITED AMENDMENT PROCEDURES ESTABLISHED IN SECTIONS 163.3184 (2) AND (3), FLORIDA STATUTES, AND IN CONFORMANCE WITH SECTIONS 163.3161 THROUGH 163.3215, FLORIDA STATUTES; PROVIDING FOR A CHANGE IN FUTURE LAND USE CLASSIFICATION FROM AGRICULTURE TO PLANNED DEVELOPMENT ON CERTAIN LANDS WITHIN THE CORPORATE LIMITS OF THE CITY OF NEWBERRY, FLORIDA; MORE PARTICULARLY DESCRIBED IN EXHIBIT A, CONSISTING OF APPROXIMATELY 1,293 ACRES; 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, empowers and requires the City Commission to prepare, adopt and implement a Comprehensive Plan;

 **WHEREAS,** an application, **CPA 23-06**, for an amendment, as described below, to the Future Land Use Plan Map of the City of Newberry Comprehensive Plan, hereinafter referred to as the City's Comprehensive Plan has been filed with the City;

 **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 City of Newberry Local Planning Agency, hereinafter referred to as the Local Planning Agency;

 **WHEREAS**, pursuant to Section 163.3174, Florida Statutes, and Ordinance No. 9-92, as amended, entitled City of Newberry Land Development Regulations, hereinafter referred to as the City's Land Development Regulations, 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, to the Future Land Use Plan Map of the City's Comprehensive Plan 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 concerning said application for an amendment, as described below, to the Future Land Use Plan Map of the City's Comprehensive Plan and recommended to the City Commission approval of said application for amendment, as described below, to the Future Land Use Plan Map of the City's Comprehensive Plan;

 **WHEREAS,** the City Commission held two public hearings, with public notice having been provided, under the provisions of the regular amendment public hearing procedures established in Sections 163.3161 to 163.3215, Florida Statutes, on said application for amendment, as described below, to the Future Land Use Plan Map of the City's Comprehensive Plan and at said public hearings, the City Commission reviewed and considered all comments received during said public hearings, including the recommendation of the Planning and Zoning Board, serving also as the Local Planning Agency;

 **WHEREAS,** the City Commission, found said application for an amendment, as described below, to the Future Land Use Plan Map of the City’s Comprehensive Plan to be compatible with the Land Use Element objectives and policies, and those of other affected elements of the City’s Comprehensive Plan; and

**WHEREAS,** the City Commission, found, subsequent to the expedited submittal to the Florida Department of Economic Opportunity pursuant to the Expedited State Review Process provided in Section 163.3184 (3), Florida Statutes, no objections, recommendations or comments were submitted by said Department and that said application for an amendment, as described below, to the Future Land Use Element of the City’s Comprehensive Plan was found by the State Land Planning Agency to be compatible with the other affected elements of the City’s Comprehensive Plan; and

 **WHEREAS,** the City Commission, has determined and found that approval of an application for amendment to the Future Land Use Plan Map of the City’s Comprehensive Plan, would promote the public health, safety, morals, order, comfort, convenience, appearance, prosperity or general welfare.

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

**Section 1. Future Land Use Map Amended.** Pursuant to an application,**CPA 23-06,** a request by Patrice Boyes, Esq. and CHW Professional Consultants on behalf of Norfleet Properties, LLLP; E.D. Norfleet & Sons, Inc.; E.D. Norfleet, Jr. and Phyllis Norfleet; E.D. Norfleet III; Katrina Bill; and, Norfleet Construction Co. to amend the Future Land Use Map of the City of Newberry Comprehensive Plan by changing the future land use classification of certain lands within the City, the **future land use classification is hereby changed from** **AGRICULTURE to PLANNED DEVELOPEMENT** on property more particularly described in EXHIBIT A.

**Section 2. 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 3. Scrivener’s Error.** The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Manager or designee without public hearing, by filing a corrected or re-codified copy of the same with the City.

**Section 4. Conflict.** All ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

**Section 5. Effective Date.** This ordinance shall become effective upon adoption. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance in accordance with Section 163.3184, Florida Statutes. No development orders, development permits, or development dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Economic Opportunity, Division of Community Planning and Development, 107 East Madison Street, MSC-160, Tallahassee, FL 32399-4120.

**Section 6. Authority.** This Ordinance is adopted pursuant to the authority granted by Section 166.021 and Sections 163.3161 through 163.3215, Florida Statutes.

**DONE THE FIRST READING,** by the City Commission of the City of Newberry, Florida, at a regular meeting, this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_, 2023.

**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 the \_\_\_\_\_\_\_\_ day of \_\_\_\_\_, 2023.

**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 \_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 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

**EXHIBIT A**

LEGAL DESCRIPTION

TAX PARCEL NOS. 01822-000-000 AND 01822-005-000 (E.D. NORFLEET & SONS, INC., AND NORFLEET PROPERTIES, LLLP, RESPECTIVELY)

A tract of land situated in Section 16, Township 9 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:

Commence at a 4" square concrete monument at the Southeast corner of the aforementioned Section 16, Township 9 South, Range 17 East and run N.00°26'00"W., along the East line of said Section 16, a distance of 40.00 feet to the North right of way line of N. W. 46th Avenue (80 foot wide right of way) and the POINT OF BEGINNING; thence run S.88°30'31"W., along said North right of way line, a distance of 1585.57 feet to a 5/8" iron rod and cap stamped LB6894; thence, departing said North right of way line, run N.00°35'51"W., a distance of 465.00 feet to a 5/8" iron rod and cap stamped LB6894; thence run N.88°30'31"E., parallel with said North right of way line, a distance of 275.18 feet to the intersection with the West line of the East Half of the Southeast Quarter (E 1/2 of SE 1/4) of said Section 16; thence run N.00°30'25"W., along said West line, a distance of 2133.79 feet to the Northwest corner of said E 1/2 of the SE 1/4; thence run N.88°04'15"E., along the North line of said SE 1/4, a distance of 695.33 feet to the Northwest corner of lands described in Official Records Book 4139, page 1531 of the Public Records of Alachua County, Florida; thence S.01°05'00"E., along the West line of said lands, a distance of 294.15 feet to the Southwest corner thereof; thence N.88°09'34"E., along the South line of said lands, a distance of 296.07 feet to the Southwest corner of the land described in Official Records Book 2223, page 282 of the Public Records of Alachua County, Florida; thence N.88°09'27"E., along the South line of said lands, a distance of 295.12 feet to a 5/8" iron rod and cap stamped LS4929 on the West right of way line of State Road No. 45 (184 foot wide right of way); thence run S.01°06'44"E., along said West right of way line, a distance of 541.33 feet to a 5/8" iron rod and cap stamped LB6894; thence, departing said West right of way line, run S.88°01'31"W., a distance of 440.00 feet to a 5/8" iron rod and cap stamped LB6894; thence run S.01°06'44"E., a distance of 499.88 feet to a 5/8" iron rod and cap stamped LB6894; thence run N.88°01'31"E., a distance of 440.00 feet to a 5/8" iron rod and cap stamped LB6894 on said West right of way line; thence run S.01°06'44"E., along said West right of way line, a distance of 1051.33 feet to a 5/8" iron rod and cap stamped LB6894 at the intersection with the aforementioned East line of Section 16; thence, departing said West right of way line, run S.00°26'00"E., along said East line of Section 16, a distance of 220.83 feet to the POINT OF BEGINNING.

TAX PARCEL NO. 01838-000-000 (E.D. NORFLEET & PHYLLIS G. NORFLEET)

PART OF ORB 1278, PAGE 955

The E 1/2 of the NE 1/4 and the E 1/4 of the W 1/2 of the NE 1/4 in Sec. 20, T9S, R17E, subject to rights-of-way, easements and reservations of record or otherwise.

TAX PARCEL NO. 01844-000-000 (E.D. NORFLEET & PHYLLIS G. NORFLEET)

PART OF ORB 1278, PAGE 955

All of Sec. 21, T9S, R17E, LESS the S 1/2 of the SE 1/4, railroad rights-of-way, road rights-of-way and other existing easements and restrictions of record or otherwise, in Alachua County, Florida.

TAX PARCEL NO. 01875-000-000 (EDWARD D. NORFLEET, JR.)

AS PER ORB 317, PAGE 569

The North Half (N1/2) of Section Twenty-Eight (28), Township None (9) South, Range Seventeen (17) East.

**LESS** railroad and highway rights-of-way.

**LESS & EXCEPT:**

A PARCEL OF LAND SITUATED IN SECTION 28, TOWNSHIP 9 SOUTH, RANGE 17 EAST, ALACHUA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHEAST CORNER OF SAID SECTION 28; THENCE SOUTH 87°48’32” WEST, ALONG THE NORTH LINE OF SAID SECTION 28, A DISTANCE OF 35.88 FEET TO THE WEST RIGHT OF WAY LINE OF US HIGHWAY NO. 27-41 / STATE ROAD NO. 45 (HAVING A 184’ WIDE RIGHT OF WAY): THENCE SOUTH 01°06’45” EAST, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 1835.46 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 01°06’45” EAST, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 828.07 FEET TO AN INTERSECTION WITH THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 28; THENCE SOUTH 88°09’26” WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 2617.96 FEET TO THE EASTERLY RIGHT OF WAY LINE OF A CSX RAILROAD RIGHT OF WAY (HAVING A RIGHT OF WAY WIDTH OF 100 FEET); THENCE NORTH 02°54’05” WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 828.14 FEET; THENCE NORTH 88°09’26” EAST, A DISTANCE OF 2643.81 FEET TO THE POINT OF BEGINNING; CONTAINING 50.00 ACRES, MORE OR LESS.

TAX PARCEL NO. 01877-000-000 (E.D. NORFLEET, JR. & PHYLLIS G. NORFLEET)

PART OF ORB 681, PAGE 100

Northwest one-quarter (NW1/4) of the Southwest one-quarter (SW1/4) of Section Twenty-Eight (28), Township Nine (9) South, Range Seventeen (17) East, Alachua County, Florida.

TAX PARCEL NO. 01877-001-001 (EDWARD D. NORFLEET, JR. & PHYLLIS NORFLEET)

AS PER ORB 875, PAGE 787

NE 1/4 OF SW 1/4 of Section 28, Township 9 South, Range 17 East, less Railroad Right of Way, Alachua County, Florida.

TAX PARCEL NO. 01878-000-000 (E.D. NORFLEET, JR. & PHYLLIS G. NORFLEET)

PART OF ORB 681, PAGE 100

South one-half (S1/2) of the Southwest one-quarter (SW1/4) of Section Twenty-Eight (28), Township Nine (9) South, Range Seventeen (17) East, Alachua County, Florida, LESS Railroad right of way.

TAX PARCEL NO. 01892-001-001 (E.D. NORFLEET & SONS, INC.)

AS PER ORB 2208, PAGE 454

The North Half (N. 1/2) of the following described property:

A PARCEL OF LAND SITUATED IN SECTION 32, TOWNSHIP 9 SOUTH, RANGE 17 EAST AND BEING A PORTION OF BLOCK B-4 AND THE RIGHTS-OF-WAY AS SHOWN THEREON, OF "WEST NEWBERRY ESTATES", A SUBDIVISION AS PER PLAT THEREOF, AS RECORDED IN PLAT BOOK "B", PAGE 46 OF THE PUBLIC RECORDS OF ALACHUA COUNTY, FLORIDA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING COMMENCE AT A SANDSTONE MONUMENT (NO I.D.) AT THE NORTHEAST CORNER OF SAID SECTION 32; THENCE RUN SOUTH 00 DEG. 41 MIN. 29 SEC. WEST ALONG THE EAST LINE OF SAID SECTION 32, A DISTANCE OF 4451.93 FEET; THENCE DEPARTING SAID EAST LINE RUN NORTH 88 DEG. 29 MIN. 10 SEC. WEST, A DISTANCE OF 1326.02 FEET; THENCE RUN NORTH 04 DEG. 08 MIN. 34 SEC. EAST, A DISTANCE OF 1676.02 FEET; THENCE RUN NORTH 01 DEG. 12 MIN. 24 SEC. EAST, A DISTANCE OF 2745.54 FEET TO THE NORTH LINE OF SAID SECTION 32; THENCE RUN NORTH 90 DEG. 00 MIN. 00 SEC. EAST ALONG SAID NORTH LINE, A DISTANCE OF 1200.38 FEET TO THE POINT OF BEGINNING.

TAX PARCEL 01892-021-016 (NORFLEET CONSTRUCTION COMPANY)

AS PER ORB 3445, PAGE 172

A tract of land situated in Section 32, Township 9 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:

BEGIN at a concrete monument at the Northwest corner of the Northeast Quarter (NE 1/4) of the aforementioned Section 32, being also the Northwest corner of Lot 16, Block 2 of WEST NEWBERRY ESTATES, a subdivision as per plat thereof recorded in Plat Book "B", page 46 of the Public Records of Alachua County, Florida, and run thence Southerly along the West line of said N. E. 1/4, a distance of 254.68 feet more or less to an iron rod at the Southwest corner of said Lot 16; thence run Easterly, along the South line of said Lot 16, a distance of 1290.54 feet more or less to an iron rod at the Southeast corner of said Lot 16; thence continue Easterly, along an Easterly projection of said South line of Lot 16, across North Drive, a 40 foot wide right of way dedicated by the Plat of said WEST NEWBERRY ESTATES, and into Lot 16, Block 4 of said WEST NEWBERRY ESTATES, a distance of 103.79 feet more or less to the West line of the land described in Warranty Deed recorded in Official Records Book 2208, page 454 of said Public records; thence run Northerly, along said West line, a distance of 297.86 feet more or less to the North line of said Section 32; thence run Westerly, along said North line, a distance of 1392.57 feet more or less to the POINT OF BEGINNING.

TAX PARCEL 01894-001-002 (NORFLEET PROPERTIES, LLLP)

AS PER ORB 3758, PAGE 558

A tract of land situated in Section 33, Township 9 South, Range 17 East, Alachua County, Florida, being more particularly described as follows:

BEGIN at a concrete monument at the Northwest corner of the aforementioned Section 33, Township 9 South, Range 17 East and run thence S.03°00'39"E., along the West line of said Section 33, a distance of 240.02 feet; thence run N.86°17'52"E., a distance of 2.90 feet to the beginning of a curve concave Northwesterly, said curve having a radius of 2029.86 feet; thence run Northeasterly, with said curve, through an arc angle of 26°01'03", an arc distance of 921.74 feet (chord bearing and distance of N.73°17'20"E., 913.84 feet respectively) to the North line of said Section 33; thence run S.88°30'12"W., along said North line, a distance of 891.05 feet to the POINT OF BEGINNING.

TAX PARCEL NO. 01845-000-000 (NORFLEET PROPERTIES LLLP)

ORB 4952 PAGE 1846

The N 1/2 of South one-half (S 1/2) of the Southeast Quarter (SE 1/4) of Section 21, Township 9 South, Range 17 East

LESS AND EXCEPT that tract of land situated in the South 1/2 of the Southeast 1/4 of Section 21, Township 9 South, Range 17 East, Alachua County, Florida, said tract of land being more particularly described as follows:

Commence at a concrete monument at the Southeast comer of the aforementioned Section 21, Township 9 South, Range 17 East for the point of reference and run N 89° 05’ 07” E, along the South line of Section 22, Township 9 South, Range 17 East, a distance of 24.17 feet to a nail and disk at the intersection of said South line with the centerline of State Road No. 45 (AKA U.S. Highway No. 41 and 27); thence run N 01° 06’ 42” W, along said centerline, a distance of 1252.95 feet; thence run S 88° 56’ 47” W., a distance of 619.78 feet to a 5/8 steel rod and cap (A.C.L.S., INC.) and the True Point of Beginning; thence continue S 88° 56’ 47” W., a distance of 210.00 feet to a 5/8” steel rod and cap (A.C.L.S., INC.); thence run S 01° 03’ 13” E a distance of 210.00 feet to a 5/8” steel rod and cap (A.C.L.S., INC.); thence run N 88° 56’ 47” E., a distance of 210.00 feet to a 5/8” steel rod and cap (A.C.L.S., INC.); thence run N 01° 03’ 13” W, a distance of 210.00 feet to the True Point of Beginning, containing 1.012 acres more or less.

SUBJECT TO AND TOGETHER WITH an easement for ingress, egress, and public utilities over, under and across a 20-foot-wide strip of land, said strip of land being more particularly described as follows:

Commence at the aforementioned Southeast corner of Section 21, Township 9 South, Range l7 East for the point of reference and run N 89° 05’ 07” E, along the aforementioned South line of Section 22, Township 9 South, Range 17 East, a distance of 24.17 feet to the aforementioned center of State Road No. 45; thence run N 01° 06” 42” W, along said centerline, a distance of 1252.95 feet; thence run S 88° 56’ 47” W., a distance of 60.00 feet to the East right of way line of said State Road No. 34 and the True Point of Beginning of said 20 foot strip of land; thence continue S 88° 56’ 47” W a distance of 559.78 feet to a 5/8” steel rod and cap (A.C.L.S., INC.) at the Northeast comer of the afore-described 1.012 acre tract of land; thence run S 01° 03’ 13” E., along the East line of said 1.012 acre tract of land, a distance of 20.00 feet; thence run N 88° 56” 47” E, a distance of 559.80 feet to said East right of way line; thence run N 01° 06’ 42” W., along said East right of way line, a distance of 20.00 feet to the True Point of Beginning.

TAX PARCEL NO. 01845-002-000 (NORFLEET PROPERTIES LLLP)

ORB 4916 PAGE 965

The South one-half of the South one-half of the Southeast Quarter of Section 21, Township 9 South, Range 17 East, Alachua County, Florida.