**ORDINANCE NO. 2024-08**

Revised

LDR 23-18

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, RELATING TO THE REZONING OF APPROXIMATELY 50 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) ZONING DISTRICT TO THE INDUSTRIAL (I) ZONING DISTRICT ON CERTAIN LANDS WITHIN THE CORPORATE LIMITS OF THE CITY OF NEWBERRY, FLORIDA; LOCATED ON THE SOUTH OF TAX PARCELS 01875-000-000 AND 01875-001-000; 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 23-18,** 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 Concurrency 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 23-18 by CHW consultants, inc., Agent behalf of E.D. Norfleet, Jr. and Phyllis Norfleet and Katrina Bill, Owner, to amend the Official Zoning Atlas of the City of Newberry Land Development Regulations by changing the Zoning from Agricultural (A) to Industrial (I) on the south 50 acres on property more particularly described as follows:

**Legal Descriptions: South 50 Acres of Tax Parcels 01875 & 01875-1**

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.

**~~Section 2. Conditions of Approval.~~** ~~Said approval by the City Commission is conditioned upon satisfaction of the following requirements (s)~~

1. ~~Prior to commencement of industrial use of the property all the mitigation with regards to environment, and noise shall be fulfilled. The Owner shall provide a berm/ opaque landscape buffer along the south and east plot line for visual screening. This buffer shall be not less than 25 feet especially on the south and East property lines. Landscaping shall be provided on the berm as well to add the overall height of the opacity.~~
2. ~~The Owner shall actively monitor noise and vibration complaints in a report recording the date, time, phone/email/address, name of the person, and nature of the complaint. An electronic form of the report must be made available by email to the City Manager or their designee within 24 hours of the request.~~
3. ~~The hour of operation shall be strictly restricted to 7 am to 7 pm.~~

**Section 2 ~~3~~ . 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  ~~4~~. Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4 ~~5~~. Effective Date. Effective Date.** The effective date of this plan amendment shall be thirty-one (31) days following the date of adoption of this plan amendment. However, if any affected person files a petition with the Florida Division of Administrative Hearings pursuant to Section 120.57, Florida Statutes, to request a hearing to challenge the compliance of this plan amendment with Section 163.3187, Florida Statutes, as amended, within thirty (30) days following the date of adoption of this plan amendment, the plan amendment may not become effective until the state land planning agency or the Administrative Commission, respectively, issues a final order of compliance.

**Section 5 ~~6~~. 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 \_\_\_day of , 2024.

**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 \_\_day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 2024.

**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 , 2024.

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

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:

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City Attorney’s Office