



22 S Orange St Fellsmere, Florida 32948
Telephone: (772) 646-6309 Fax: (772) 646-6359
<https://meet.goto.com/977665053>

AMENDED AGENDA

PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY MEETING WEDNESDAY APRIL 17TH, 2024 – 5:05 P.M.

1. CALL TO ORDER:

2. PLEDGE OF ALLEGIANCE:

3. ROLL CALL:

4. APPROVAL OF MINUTES:

- a) December 6, 2023
- b) February 7, 2024
- c) March 6, 2024
- d) March 20, 2024

5. PUBLIC HEARING:

- a) **RESOLUTION NO. 2024-56/A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2023-33 AMENDING CHAPTER 1 FUTURE LAND USE ELEMENT, GOAL FLUE A. LAND USE OBJECTIVE FLUE A-3 INFILL DEVELOPMENT AND REDEVELOPMENT, POLICY FLUE A- 3.2, OVERLAY DISTRICT BOUNDARIES AND CHAPTER 1 FUTURE LAND USE ELEMENT, GOAL FLUE B, FUTURE LAND USE MAP OBJECTIVE FLUE B-5 GARAFOLO; FURTHER AMENDING THE FUTURE LAND USE MAP TO ADD 8.21 ACRES MORE OR LESS AS CR512 OLD TOWN OVERLAY DISTRICT./Public Hearing**

6. NEW BUISNESS:

- a) DISCUSSION ON THE CONSIDERATION OF CODE CHANGES RELATED TO FOOD TRUCKS AND OTHER CHAPTER 5, LDC CHANGES.

7. PUBLIC COMMENTS:

8. NEXT MEETING:

9. ADJOURNMENT:

Courtesy Access to Meeting

As a courtesy to the public, the city will attempt to provide coverage of the meeting by internet or telephonic means. Due to unforeseen technical or other difficulties access to the meeting may be interrupted or may not be possible at all via internet or by telephonic means, which will result in your inability to participate in the meeting. Should such technical difficulties occur, the meeting will continue without interruption and without your participation. To be assured of participation in the proceedings you must attend the meeting in person. For your information participation by internet or telephone does not constitute "presence" at the meeting under Florida law.

Please join my meeting from your computer, tablet, or smartphone.

<https://meet.goto.com/977665053>

You can also dial in using your phone.

United States: 1-408-650-3123 **Access Code: 977-665-053**

Pursuant to Section 286.0105, Florida Statutes, the City hereby advises the public that: If a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

In accordance with the Americans with Disabilities Act and Section 286.26 Florida Statutes, any person who may need special accommodations or translators for this meeting must contact the City Clerk's Office at (772) 646-6301 or the TDD Line 772-783-6109 at least 48 hours in advance of the meeting.

Copies of the proposed Ordinance and Resolution are available for review in the Office of the City Clerk, 22 S. Orange Street, Fellsmere FL between the hours of 8:30 a.m. and 12 noon and 1:00 p.m. and 5:00 p.m., Monday through Friday. Interested parties may appear at the meeting and be heard with respect to the proposed Ordinance and Resolution. The City Clerk must receive written comments at least 3 days prior to the Council meetings.

De conformidad con la Sección 286.0105 de los Estatutos de la Florida, la Ciudad informa al público de que: Si una persona decide apelar una decisión tomada por la junta, agencia o comisión con respecto a cualquier asunto considerado en dicha reunión o audiencia, necesitará un registro de los procedimientos, y que, para tal fin, él o ella puede necesitar asegurarse de que se realice un registro literal de los procedimientos, registro que incluya el testimonio y la evidencia sobre la cual se basará la apelación.

De acuerdo con la Ley de Estadounidenses con Discapacidades y la Sección 286.26 de los Estatutos de la Florida, las personas con discapacidades que necesiten adaptaciones especiales para participar en esta reunión deben comunicarse con la secretaria municipal al (772) 646-6301 o comunicarse con la Línea TDD 772-783-6109, al menos 48 Horas antes de la reunión.

Copias de las propuestas Ordenanzas y / o Resoluciones están disponibles para su revisión en la Oficina de la secretaria municipal de la ciudad, 22 S. Orange Street, Fellsmere FL entre las 8:30 a.m. y 12 mediodía y 1:00 p.m. y 5:00 p.m. de lunes a viernes. Las personas interesadas pueden asistir a la reunión y ser escuchadas con respecto a las propuestas de las Ordenanzas y Resoluciones. La secretaria municipal debe recibir comentarios por escrito al menos tres (3) días antes de las reuniones del Consejo.

P&Z20240417AGENDA.DOC

**PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY MEETING
Wednesday December 6, 2023, 5:05P.M. MINUTES**

1. **CALL TO ORDER:** Chair Akers called the meeting to order at 5:05p.m.
2. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
3. **ROLL CALL:**
Present: Buddy Akers Chair, Commissioner Michael Barone, Commissioner Claudia Luna, Alternate Commissioner Eric Boissat, Alternate Commissioner Dominic Foti, Commissioner Michael Ruehman, Commissioner Jose Cardozo
Also Present: City Manager Mark Mathes, City Attorney John Rhodeback, City Planner Robert Loring, Recording Secretary Miriam Bedolla and Dulce Villaseñor, Mr. Statan, Hannah Novelli.
4. **APPROVAL OF MINUTES:**
 - a) September 20, 2023 - Meeting

Chairman Buddy Akers introduced the minutes, he asked if there were any questions or changes, being there were none he recommended a motion to approve.

MOTION by Commissioner Ruehman, **SECONDED** by Chairman Akens to approve the Minutes for P&Z Meeting for September 20, 2023.

ALL EYES:

MOTION CARRIED 7-0

5. **PUBLIC HEARING:**
 - a) **RESOLUTION NO. 2023-18/A** RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2023-13 AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF PDD-PLANNED DEVELOPMENT DISTRICT FOR 0.58 ACRES, MORE OR LESS OWNED BY EMILANO ALMANZA AND SAN JUANITA ALMANZA./**PUBLIC HEARING**

— City Attorney John Rhodeback read Resolution No. 2024-18 by title only.

— Presentation of Proposal:

City Manager Mathes led the presentation, outlining the details of the proposed rezoning. The property in question, located at 12645 County Road 512, previously housed various commercial activities, including the former tenants Fruteria Nuno and a two-story building. The proposal aimed to formalize the commercial uses of the property and presented a site plan depicting the layout, including parking areas and storage facilities.

Justification for Plan Development Zoning:

The need for Plan Development zoning was explained, primarily to accommodate additional uses and ensure compliance with specific standards, particularly regarding setbacks and landscaping requirements. The presentation emphasized the need to formalize the existing uses and provide flexibility for future development.

Conditions of Approval:

A detailed discussion followed regarding the conditions of approval for the project. Special conditions, including land dedication for road widening, landscaping requirements, and noise

control measures, were highlighted. The conditions also addressed issues such as access to paved roads, buffer zones, and compliance with city regulations.

Discussion and Clarifications:

commissioners sought clarification on various aspects of the proposal, including the buffer zone, landscaping, parking arrangements, and noise mitigation measures. Concerns were raised regarding visual screening, storage height limits, and stormwater management. City Manager Mathes and City Planner Loring provided explanations and reassurances, addressing the concerns raised by the commissioners.

Conclusion and Vote:

After a thorough discussion and consideration of the proposal and its conditions, the Planning Commission voted on the resolution.

MOTION by Commissioner Ruehman **SECONDED** by Commissioner Cardozo, to approve **Resolution No. 2023-18.**

ALL AYES:

MOTION CARRIED 7-0

RESOLUTION NO. 2023-19/A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2023- 20 APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT.

City Attorney John Rhodeback read Resolution No. 2024-19 by title only.

Discussion and Conclusion:

Robert city planner led discussion this resolution was very briefly discusses as City Manager Mathes stated this was just a part 2 of resolution 2023-18/A all commissioners agreed no further discussion.

MOTION by Commissioner Ruehman **SECONDED** by Alternate Commissioner Foti, to approve **Resolution No. 2023-19.**

ALL AYES:

MOTION CARRIED 7-0

b). RESOLUTION NO. 2023-48/A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2023-28 AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF POD-PLANNED DEVELOPMENT DISTRICT FOR 3.0 ACRES, MORE OR LESS OWNED BY INDIAN RIVER COUNTY FOR FIRE STATION 7./**PUBLIC HEARING**

City Attorney John Rhodeback read Resolution No. 2024-48 by title only.

City Planner Loring highlighted the layout of the area, noting the presence of homes and vacant spaces. Emphasis was placed on the lack of direct access to the fire station from surrounding neighborhoods, with the only access point being via 98th Ave.

Concerns were raised about increased traffic and noise due to emergency responses, but it was clarified that the fire station's operations would not significantly impact existing traffic conditions. Robert city planner assured that emergency vehicle movements were standard and would not pose a safety risk to residents.

Additionally, the presentation outlined the installation of water and sewer lines during

construction, which would benefit nearby residents by providing access to essential services.

MOTION by Commissioner Ruehman **SECONDED** by Commissioner Cardozo, to approve **Resolution No. 2023-48.**

ALL AYES:

MOTION CARRIED 7-0

RESOLUTION NO. 2023-49/A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2023- 50 APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT ON 3.0 ACRES, MORE OR LESS, FOR FIRE STATION 7 OWNED BY INDIAN RIVER COUNTY, FLORIDA LOCATED ON THE CORRIGAN RANCH. / **PUBLIC HEARING**

City Attorney John Rhodeback read Resolution No. 2024-49 by title only.

Discussion and Conclusion:

City Manager Mathes explained this is a second public hearing related to the exact same project as previous public hearing, this public hearing is to approve the site plan, previous was for rezoning. if you have any additional comments, you'd like to share this would be your opportunity to share them. No additional comments.

MOTION by Commissioner Cardozo **SECONDED** by Commissioner Barone to approve **Resolution No. 2023-49** as amended recommending the City Council adopt Resolution No. 2023-50 on the condition it includes relief from the 10% dedication requirement.

6). NEW BUSINESS:

a). Election of Chair and Vice-Chair

Chairman Akers moved on to the nomination of Vice Chair. Commissioner Jose Cardozo got nominated to be Vice Chairman. Chairman Akers asked him if he accepted the nomination, Commissioner Cardozo accepted. Chairman made motion to keep same Chair and Vice Chair, all commissioners agreed.

MOTION by Commissioner Ruehman **SECONDED** by Commissioner Barone to keep Buddy Akers as Chairman and Jose Cardozo as Vice Chair for another term.

b). Sunshine Law & Guide to The Code of Ethics Presentation by City Attorney Rhodeback

Commissioners were informed about the legal requirements surrounding public meetings, including openness to the public, reasonable notice, and the recording of minutes.

City Attorney Rhodeback explained the implications of violating the Sunshine Law, highlighting potential legal consequences such as avoiding actions taken in violation and payment of attorney fees. Examples of previous violations and their repercussions were provided to underscore the importance of compliance.

Commissioners were advised on the various scenarios where Sunshine Law violations could occur, including exchanges via email, text messages, or other digital communication platforms. The importance of consulting with legal counsel if unsure about potential violations was emphasized.

Conclusion:

The Sunshine Law concluded with Commissioners being encouraged to seek clarification or guidance from legal counsel if needed. The discussions provided valuable insights into the operational and legal aspects of the topics at hand.

7). PUBLIC COMMENTS: Chairman Akers asked if anyone from the public had a comment to send a chat or call and to state their name and address for the record. Hanna Novelli stated her concerns were answered with this meeting and she welcomes the fire station to the neighborhood, Chairman Akers closed the public comments.

8). Next Meeting: TBA

9). ADJOURNMENT:

MOTION by Chairman Akens **SECONDED** by Commissioner Cardozo to adjourn.

There being no further business Chairman Akers adjourned the meeting at 6:05 pm.

These minutes were approved by the City of Fellsmere Planning and Zoning Commission/ Local Planning Agency at their meeting held on _____ day of April 2024.

Dulce Villasenor, Recording Secretary
P&Z20231206MINUTES.DOC

**PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY MEETING
Wednesday February 7, 2024 5:05P.M. MINUTES**

1. **CALL TO ORDER:** Chair Akers called the meeting to order at 5:05p.m.
2. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
3. **ROLL CALL:**
 - Present:** Buddy Akers Chair, Commissioner Michael Ruehman, Commissioner Michael Barone, Commissioner Claudia Luna, Alternate Commissioner Eric Boissat, Alternate Commissioner Dominic Foti
 - Excused:** Commissioner Jose Cardozo.
 - Also Present:** City Manager Mark Mathes, City Attorney John Rhodeback, City Planner Robert Loring, Recording Secretary Dulce Villaseñor, Shinski Teijon LLC, Juan Nuno, Susan Adams, Patricia Horn, Eric Nuno
4. **PUBLIC HEARING:**
 - a) **RESOLUTION NO. 2024-02** A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2024-03 APPROVING THE CONDITIONAL USE PERMIT AND FINAL DEVELOPMENT PLAN FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY FRUTERIA NUNO, LLC AND LOCATED AT 32 NORTH BROADWAY, FELLSMERE, FLORIDA IN THE NORTH BROADWAY OVERLAY DISTRICT PURSUANT TO THE LAND DEVELOPMENT CODE SECTIONS 3.23 AND 9.6. / **PUBLIC HEARING**

City Attorney John Rhodeback read Resolution No. 2024-02 by title only.

City Planner Loring commenced with the discussion of Resolution No. 2024-02, concerning the approval of a conditional use permit and final development plan for a mobile food vending unit owned by Fruteria Nuno LLC. The unit is located at 32 N Broadway, within the North Broadway Overlay District. Various relief provisions were discussed, including permission for alcohol service, parking requirements, vending machine placement, and building design standards. Concerns were raised about fairness regarding permit regulations for established businesses compared to temporary vendors. Questions were also raised about alcohol sales and compliance with state regulations.

Public Comments: Susan Adams, representing Marsh Landing, expressed excitement about business development on Broadway but raised concerns about the proximity of the food truck to her banquet room, requesting additional buffering for noise and lighting. She also highlighted frustrations regarding regulatory disparities between established businesses and temporary vendors.

Fruteria Nuno Response: The applicant assured the commission of their intention to minimize disruptions and comply with regulations. They emphasized their commitment to operating responsibly and serving as good neighbors.

Commission Deliberation: The commission discussed potential solutions, including landscape buffering and compliance enforcement for temporary vendors. Concerns were raised about accessibility requirements and the timeline for ramp construction. The need for proactive code enforcement to address non-compliance issues was emphasized.

Chairman Akers asked the commissioners if they had any questions hearing none he moved on to next item.

MOTION by Commissioner Ruehman **SECONDED** by Alternate Commissioner Boissat, to approve **Resolution No. 2024-02** as amended.

ALL AYES:

MOTION CARRIED 6-0

- b) **RESOLUTION NO. 2024-14** A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2024- 06 AMENDING THE CITY OF FELLSMERE OFFICIAL ZONING MAP TO ADD A ZONING CLASSIFICATION OF PDD-PLANNED DEVELOPMENT DISTRICT FOR 5.20 ACRES, MORE OR LESS LOCATED ON THE EAST SIDE OF OPERATION HOPE AND OWNED BY TEAGAN, LLC, A FLORIDA LIMITED LIABILITY COMPANY. / **PUBLIC HEARING**

City Attorney John Rhodeback read Resolution No. 2024-14 by title only.

City Planner Loring addressed the zoning classification of planned development for a 5.2-acre property on the east side of Operation Hope, owned by Tegan LLC. The proposal included plans for a storage and maintenance building. Relief provisions were requested due to the building's design and location. Discussion centered on road access, drainage, and lighting requirements.

Public Comments: Patricia Horn concerns were expressed about potential noise and visual impacts on neighboring properties. Requests were made for landscape buffering to mitigate these impacts.

Applicant Response: Shinski Teijon LLC The applicant acknowledged concerns and expressed willingness to address them through additional landscaping and design adjustments.

Commission Deliberation: The commission deliberated on the project's impact on neighboring properties, drainage considerations, and future road expansions.

MOTION by Commissioner Ruehman **SECONDED** by Commissioner Luna, to approve **Resolution No. 2024-14** as amended.

ALL AYES:

MOTION CARRIED 6-0

- c) **RESOLUTION NO. 2024-15/** A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT RESOLUTION NO. 2024- 16 APPROVING THE FINAL DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT ON 5.20 ACRES, MORE OR LESS, FOR A STORAGE AND MAINTANENCE BUILDING LOCATED ON THE EAST SIDE OF OPERATION HOPE AND OWNED BY TEAGAN, LLC, A FLORIDA LIMITED LIABILTY COMPANY. / **PUBLIC HEARING**

City Attorney John Rhodeback read Resolution No. 2024-15 by title only.

City Planner Loring explained Resolution No. 2024-15 involved a zoning map amendment for the same property discussed in Resolution No. 2024-14. The commission discussed the proposed changes and their implications for future development.

Public Comments: No additional public comments were made on this agenda item.

Commission Deliberation: The commission considered the implications of the zoning map amendment and its alignment with the city's development goals.

MOTION by Commissioner Ruehman **SECONDED** by Alternate Commissioner Boissat, to approve **Resolution No. 2024-15.**

ALL AYES:

MOTION CARRIED 6-0

5. PUBLIC COMMENTS: Chairman Akers asked if anyone from the public had a comment to send a chat or call and to state their name and address for the record. hearing none, Chairman Akers closed the public comments.

6. NEXT MEETING:

7. ADJOURNMENT:

MOTION by Commissioner Ruehman **SECONDED** by Commissioner Akers to adjourn. There being no further business Chairman Akers adjourned the meeting at 6:15 pm.

These minutes were approved by the City of Fellsmere Planning and Zoning Commission/ Local Planning Agency at their meeting held on ____day of April 2024.

Dulce Villasenor, Recording Secretary
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**PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY MEETING
Wednesday March 6, 2024, 5:05P.M. MINUTES**

1. **CALL TO ORDER:** Chair Akers called the meeting to order at 5:05p.m.
2. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
3. **ROLL CALL:**
 - Present:** Buddy Akers Chair, Commissioner Michael Barone, Commissioner Claudia Luna, Alternate Commissioner Eric Boissat, Alternate Commissioner Dominic Foti
 - Excused:** Commissioner Michael Ruehman.
 - Not Excused:** Commissioner Jose Cardozo
 - Also Present:** City Manager Mark Mathes, City Attorney John Rhodeback, City Planner Robert Loring, recording Secretary Dulce Villaseñor.

4. **PUBLIC HEARING:**
 - a) **RESOLUTION NO. 2024-26** A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2024-14 AMENDING CHAPTER 1 FUTURE LAND USE ELEMENT, GOAL FLUE B, FUTURE LAND USE MAP OBJECTIVE FLUE B-4 FELLSMERE 392 AND AMENDING THE COMPREHENSIVE FUTURE LAND USE MAPS TO CHANGE THE LAND USE CLASSIFICATION FROM REGIONAL EMPLOYMENT ACTIVITY CENTER (REAC) TO LOW DENSITY MIXED USE NEIGHBORHOOD (LDMXN) FOR 2.68 ACRES, MORE OR LESS, WITHIN THE DEVELOPMENT KNOWS AS "FELLSMERE PRESERVE". / **PUBLIC HEARING**

City Attorney John Rhodeback read Resolution No. 2024-26 by title only.

City Manager Mathes introduced Resolution No. 2024-26, This resolution is concerning a land use recommendation for Fellsmere Preserve. The resolution proposed amending the city's comprehensive future land use maps to change the land use classification from Regional Employment Activity Center (REAC) to Low Density Mixed-Use Neighborhood (LDMXN) for approximately 42.6 acres.

Discussion on Textual Changes:

Textual changes were discussed, focusing on density transfer and green building requirements. The importance of density transfer for the development's success was emphasized.

Explanation of Green Building:

Commissioners received a brief explanation from city manager Mathes of green building practices, emphasizing environmental impact reduction through methods such as local resource use and energy efficiency.

Clarification on Density Units:

Questions arose regarding "units per acre," clarifying it referred to permitted dwelling units per acre. It was noted that the proposed density transfer did not entail an increase but rather a redistribution of existing density.

Presentation of Future Land Use Map:

A future land use map was presented, outlining proposed changes in land use classification.

Specific attention was drawn to the transition area from Regional Employment Activity Center to Low Density Mixed-Use Neighborhood.

Overview of Development Plan:

Commissioners received an overview from city manager Mathes of the development plan, including commercial and residential zone allocation. Details regarding the inclusion of a surf park, hotels, restaurants, and residential units were provided.

Conclusion:

The presentation concluded, reaffirming that proposed changes aligned with the city's long-term development goals. Attendees were reminded that the resolution focused solely on land use designations and did not grant permission for specific development activities.

Nicholas Font attended virtually reaffirming that proposed changes aligned with the city's long-term development goals.

Motion by Commissioner Barone **SECONDED** by Alternate Commissioner Boissat, to approve Resolution No. 2024-26.

ALL AYES:

MOTION CARRIED 5-0

5. PUBLIC COMMENTS: Chairman Akers asked if anyone from the public had a comment to send a chat or call and to state their name and address for the record. Chairman Akers closed the public comments.

6. NEXT MEETING: March 20, 2024

7. ADJOURNMENT:

MOTION by Commissioner Barone **SECONDED** by Alternate Boissat to adjourn. There being no further business Chairman Akers adjourned the meeting at 5:45 pm.

These minutes were approved by the City of Fellsmere Planning and Zoning Commission/ Local Planning Agency at their meeting held on ____day of April 2024.

Dulce Villasenor, Recording Secretary
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PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY MEETING
Wednesday, March 20, 2024 5:05P.M.

MINUTES

1. **CALL TO ORDER:** Chair Akers called the meeting to order at 5:05p.m.

2. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.

3. **ROLL CALL:**

Present: Commissioner Michael Ruehman, Commissioner Claudia Luna, Alternate Commissioner Dominic Foti, Alternate Commissioner Eric Boissat, City Attorney John Rhodeback, City Planner Robert Loring, and Chair Buddy Akers

Excused: Commissioner Michael Barone and Commissioner Jose Cardozo

Also, Present: Recording Secretary Miriam Bedolla

4. **PUBLIC HEARING:**

- a) **RESOLUTION NO. 2024-28/A** RESOLUTION OF THE PLANNING AND ZONING COMMISSION, ACTING AS THE LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, REMOMMENDING THE ADOPTION OF ORDINANCE NO. 2024-15 FOR THE ANNUAL UPDATE TO THE TEXT OF THE CAPITAL IMPROVEMENTS ELEMENT OF THE COMPREHENSIVE PLAN. **/PUBLIC HERING**

City Attorney John Rhodeback read Resolution No. 2024-28 by title only.

City Planner Robert Loring stated this was an exercise that is handed down from the state. The state hands it down to the county and the county hands it down to the city. This is an annual exercise that the city goes through so everyone can get together and talk about capital improvements and to see where we are with everything. On page 9 from the agenda pertains to the City of Fellsmere and its capital program in efforts to match any grant opportunities as they arise. Mr. Loring asking commissioners if they had any questions. Chair Akers stated it was not complicated and just needed to be looked at to understand what was going on. Mr. Loring stated that this was done in 5-year increments with one-year increments where the city just makes adjustments so the next 5-year capital improvement project will happen next year. Commissioner Eric commented about the rise in services and Mr. Loring stated the county did no look at us much for stuff. Commissioner asked who prioritized the list provided, Mr. Loring stated the City Manager and the Public Works Director were in charge of that. Discussion was continued among the commissioners regarding their concerns on where money is being spent and what projects should be focused and prioritize vs some of the ones listed on page 9. Discussion and concerns continued among the commissioners regarding the money that would be spent for the Fellsmere Grade Project and what real benefit would that bring to the community and the residents of Fellsmere vs people visiting the area and using that road for fishing. The commissioners were in agreement that the dirt roads should be listed as a priority and focus on the list instead.

City Attorney John Rhodeback stated they could make a recommendation to council on what to do on this particular ordinance such as deny or they make changes to attachment A because it did not provide for enough capital improvement funding for the dirt roads that exist within the city. He continued to explain to them that this was part of their role in the government process, and the city's council's role would be to take

P&Z's recommendation under consideration which would be relayed to them to make their own determination. He also stated that all council and P&Z members had diverse background which does not include budgeting 7.6 million dollars and rely on staff to make determination and make recommendations to the city council, the city manager, to help with projects like this which is how government works. This is where P&Z comes in on their roll and if there are different ideas on how these things should be prioritized, we will get a motion crafted up making a recommendation to city council that these priorities should be shifted and then it will be up to them if they accept the recommendation or reject it or offer their own. Mr. Loring stated that they also needed to be cautious about their designations because grant money usually needed to be spent within a certain period of time. The commissioners then went on and talked about other items that were also of their concern where money was projected to be spent on other projects. Chair Akers suggested having some workshops throughout the year to help explain their roll as members of P&Z and talk about needs the city may have to help with the future budgeting of this list and its priorities in projects. Commissioner Foti also suggesting perhaps showing last year's budget along with the new list to compare and see if the city was on track and spending as much as the project indicated it would. The commissioners also suggested that perhaps a workshop could be done to involve the community and get their input on needs they thought were important.

Chairman Akers asked if anyone had any other questions, hearing none he continued and opened the public hearing to which there were none and closed the public hearing.

MOTION by Commissioner Ruehman, **SECONDED** by Alternate Commissioner Boissat, to approve Resolution No. 2024-28 recommending that the City Council adopt Ordinance No. 2024-08 with the understanding that the Planning and Zoning Commission be given more opportunity to be involved in the prioritizing of items within the Capital Improvement Plan in the future.

ALL AYES:

MOTION CARRIED 5-0

5. PUBLIC COMMENTS:

6. NEXT MEETING: TBD

7. ADJOURNMENT:

There being no further business Chairman Akers adjourned the meeting at 6:06 p.m.

These minutes were approved by the City of Fellsmere Planning and Zoning Commission/ Local Planning Agency at their meeting held on ____ day of _____, 2024.

Miriam Bedolla, Recording Secretary
P&Z20240320MINUTES.DOC

**PLANNING COMMISSION/LOCAL PLANNING AGENCY
REGULAR MEETING
CITY COUNCIL CHAMBERS**

MEETING DATES **PZ:** April 17, 2024 **COUNCIL:** April 18, 2024

REQUEST: Comprehensive Plan Text and Future Land Use Amendment for Marian Estates.

REASON FOR REQUEST: In support of Planned Development.

DESCRIPTION: Developers of a 78-acre parcel on the south side of CR512 west Myrtle Street and East of Park Lateral are requesting a future land use and text amendment to the Comprehensive Plan. The future land use amendment is to assign the Old Town District Overlay to the 8-acre commercial frontage along CR512, and the text amendment adjusts certain of their site specific policies. The Applicant is also requesting an amendment to the Annexation Agreement for the same reasons. The Annexation Agreement amendment will be under a separate item after the Comprehensive Plan amendment is approved by the State.

Pursuant to our land development code, the zoning will be Planned Development District given the size of the parcel. The Planned Development will be under a separate item after the Comprehensive Plan amendment is approved by the State.

The Text amendments to the Comprehensive Plan address the following:

- Adjust density allowance from 4.58 units per acre to 4.71 and change the ratio of single-family to multifamily from 152/168 to 150/182.
- Add commercial area to Old Town Overlay District.

CONCURRENCY ISSUES: For the amendments, there are no concurrency issues since the proposed changes are de minimus in terms of impact to concurrency elements. Concurrency will be re-evaluated at time of development.

CONSISTENCY WITH COMPREHENSIVE PLAN: The proposed changes are consistent with the Comprehensive Plan.

STAFF RECOMMENDATION: Conduct Public Hearing and Approve PZ Resolution 2023-33

RECOMMENDED PZ/LPA MOTION/ACTION: Approve PZ Resolution 2023-56.

ENCLOSED DOCUMENTS:

PZ Resolution 2023-56
CC Ordinance 2023-33
Proposed Future Land Use Map

RESOLUTION NO. 2023-56

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION/LOCAL PLANNING AGENCY FOR THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, RECOMMENDING THE CITY COUNCIL ADOPT ORDINANCE NO. 2023-33 AMENDING CHAPTER 1 FUTURE LAND USE ELEMENT, GOAL FLUE A. LAND USE OBJECTIVE FLUE A-3 INFILL DEVELOPMENT AND REDEVELOPMENT, POLICY FLUE A- 3.2, OVERLAY DISTRICT BOUNDARIES AND CHAPTER 1 FUTURE LAND USE ELEMENT, GOAL FLUE B, FUTURE LAND USE MAP OBJECTIVE FLUE B-5 GARAFOLO; FURTHER AMENDING THE FUTURE LAND USE MAP TO ADD 8.21 ACRES MORE OR LESS AS CR512 OLD TOWN OVERLAY DISTRICT.

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held an advertised public hearing on _____, 2024 to consider the adoption of amendments to the Comprehensive Plan Chapter 1 Future Land Use Element. Goal FLUE A, Land Use Objective FLUE A-3 Infill Development and Redevelopment Policy FLUE A- 3.2 Overlay District Boundaries and Chapter 1 Future Land Use Element, Goal FLUE B, Future Land Use Map Objective FLUE B-5 Garafolo; and future amending the Future Land Use Map to add 8.21 acres more or less as CR512 Old Town Overlay District as more fully provided in Ordinance No. 2023-33; and

WHEREAS, the Planning and Zoning Commission/ Local Planning Agency has determined that the proposed amendment to the Comprehensive Plan as set forth in Ordinance No. 2023-33 is consistent with the Comprehensive Plan and is necessary and appropriate.

NOW, THEREFORE, BE IT RESOLVED by the Planning and Zoning Commission/ Local Planning Agency for the City of Fellsmere, as follows:

SECTION 1. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, Florida, in accordance with Section 163.3174 Florida Statutes 2023, held a public hearing and heard comments from the public on _____, 2024.

SECTION 2. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, Florida, recommends to the City Council that they adopt Ordinance No. 2023-33 amending the Chapter 1 Future Land Use Element, Goal FLUE B, Future Land Use Map Objective FLUE B-5 Garafolo of the Comprehensive Plan 2035.

SECTION 3. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was moved for adoption by Commission Member _____ . The motion was seconded by Commission Member _____ and, upon being put to a vote, the vote was as follows:

Chairman, Revis "Buddy" Akers	_____
Commission Member Michael Barone	_____
Commission Member Jose Cardozo	_____
Commission Member Michael T. Ruehman	_____
Commission Member Claudia Luna	_____
Alternate Commission Member Dominic Foti	_____
Alternate Commission Member Eric Boissat	_____

The Chairman thereupon declared this Resolution fully passed and adopted this _____ day of _____, 2024.

PLANNING & ZONING
COMMISSION/LOCAL
PLANNING AGENCY
CITY OF FELLSMERE, FLORIDA

Revis "Buddy" Akers, Chairman

ATTEST:

Miriam Bedolla, Commission/Agency Secretary

**ORDINANCE
NO. 2023-33**

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP SERIES AS REQUESTED BY MARION ESTATES; AMENDING THE TEXT OF THE COMPREHENSIVE PLAN CHAPTER 1. FUTURE LAND USE ELEMENT, GOAL FLUE A. LAND USE OBJECTIVE FLUE A-3 INFILL DEVELOPMENT AND REDEVELOPMEN, POLICY FLUE A-3.2. OVERLAY DISTRICT BOUNDARIES ANDCHAPTER 1. FUTURE LAND USE ELEMENT GOAL FLUE B. FUTURE LAND USE MAP OBJECTIVE FLUE B-5 GARAFOLO; FURTHER AMENDING THE FUTURE LAND USE MAP TO ADD 8.21 ACRES MORE OR LESS AS CR512 OLD TOWN OVERLAY DISTRICT; PROVIDING FOR RATIFICATION; AUTHORITY; COMPREHENSIVE PLAN TEXT AND MAP AMENDMENT; TRANSMITTAL PHASE; ADOPTION PHASE; TRANSMITTAL OF DRAFT PLAN AMENDMENT AND FINAL ADOPTION DOCUMENTS; COMPILATION; SEVERABILITY; CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapters 163 and 166, Florida Statutes (2023), provides authority for the City of Fellsmere to prepare and enforce Comprehensive Plans for the development of the City; and

WHEREAS, Section 163.3161 et. seq. Florida Statutes (2023), established the Community Planning Act, which mandates the preparation of comprehensive plans and unified land development regulations for all units of local government; and

WHEREAS, the Florida Legislature has reconfirmed that Sections 163.3161 through 163.3217, Florida Statutes (2023), provides the necessary statutory direction and basis for city officials to carry out their comprehensive planning and land development regulations powers, duties and responsibilities; and

WHEREAS, the Comprehensive Plan has been found to be in compliance by the Department of Commerce; and

WHEREAS, Sections 163.3184 and 163.3187 Florida Statutes (2023), provide authority to adopt this Ordinance amending the Comprehensive Plan; and

WHEREAS, the Planning and Zoning Commission acting as the Local Planning Agency has reviewed the proposed changes to the Comprehensive Plan and held an advertised public hearing on _____, 2024 and recommended to the City Council the adoption of the amendments to the Comprehensive Plan; and

WHEREAS, based upon public hearings and due consideration, the City Council believes that the health, safety, welfare, environmental and general conditions of the citizens of the City are furthered by the amendments to the Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. RATIFICATION. The above recitals are hereby ratified, adopted and incorporated herein as legislative findings of the City Council.

SECTION 2. AUTHORITY. This Ordinance is being adopted pursuant to Article VIII, Section 2, Constitution of the State of Florida; Chapter 166, Part I, Florida Statutes (2023), and Chapter 163, Part II, Florida Statutes (2023).

SECTION 3. COMPREHENSIVE PLAN TEXT AND MAP AMENDMENT. The Comprehensive Plan Chapter 1. Future Land Use Element, Goal FLUE A, Land Use Objective FLUE A-3 Infill Development and Redevelopment, Policy FLUE A-3.2 Overlay District Boundaries and Goal FLUE B Future Land Use Map Objective FLUE B-5 Garafolo are amended to read as set forth in Composite Exhibit “A” attached hereto and by this reference made a part hereof, and the Future Land Use Map is amended to add 8.21 acres more or less as CR512 Old Town Overlay District (hereinafter the above Text Amendments and Map Amendment are collectively referred to as “Comprehensive Plan Amendments”).

SECTION 4. TRANSMITTAL PHASE. The Comprehensive Plan Amendments as set forth above and in Composite Exhibit “A” are approved for transmittal to the review agencies and the State land planning agency (Florida Department of Commerce) as provided in Section 163.3184 Florida Statutes 2023, within ten (10) working days after the initial public hearing.

SECTION 5. ADOPTION PHASE. The State land planning agency (Florida Department of Commerce) and reviewing agencies have reviewed the Comprehensive Plan Amendments as contained herein and had no comments related to important state resources and facilities that would be adversely affected by the amendments. Therefore, the Comprehensive Plan Amendments as set forth in Section 3. above adopted as of the effective date of this Ordinance.

SECTION 6. TRANSMITTAL OF DRAFT PLAN AMENDMENT AND FINAL ADOPTION DOCUMENTS. The City Manager is directed to transmit a certified copy of this Ordinance and the plan amendment and appropriate supporting data and analyses to reviewing agencies designated under Section 163.3184 (3) Florida Statutes 2023 within ten (10) working days after the initial public hearing and proceed in accordance with the provisions of Chapter 163, Part II, Florida Statutes 2023. The adopted plan amendments, along with all supporting data and analysis shall be transmitted within ten (10) working days after the second public hearing to the State land planning agency (Florida Development of Commerce) and any other agency or

government that provided timely comments. See Section 163.3184(3) (b) 1 and (c) 2, Florida Statutes (2023).

SECTION 7. COMPILATION. The provision of this Ordinance may be incorporated into the City of Fellsmere, Florida Comprehensive Plan and the word “ordinance” may be changed to “section”, “article”, “chapter”, or other appropriate word, and the sections of this Ordinance may be re-titled, re-numbered or re-lettered, to accomplish such condition.

SECTION 8. SEVERABILITY. If any section, part of a sentence, phrase or word of this Ordinance is for any reason held to be unconstitutional, inoperative or void, such holdings shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Ordinance without such unconstitutional, invalid or inoperative part. Grammatical, typographical and other like errors may be corrected and additions, alterations and omissions, not affecting the construction or meaning of this Ordinance, the City Land Development Code and the City Code of Ordinances may be freely made.

SECTION 9. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of conflict.

SECTION 10. EFFECTIVE DATE. As set forth in Section 163.3184 Florida Statutes 2023, the effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the Florida Department of Commerce notifies the City that the plan amendment is complete. If timely challenged, this amendment shall become effective on the date the Department of Commerce or the Administration Commission enters a final order determining this adopted amendment to be in compliance.

PASSAGE UPON FIRST READING

The foregoing Ordinance was moved for passage upon first reading this ____ day of _____, 2024 by Council Member _____. The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Mayor Joel Tyson	_____
Council Member Fernando R. Herrera	_____
Council Member Inocencia Hernandez	_____
Council Member Gerry Renick	_____
Council Member Jessica Salgado	_____

ATTEST:

Maria Suarez-Sanchez, City Clerk

ADOPTION

The foregoing Ordinance was moved for adoption by Council Member _____ . The motion was seconded by Council Member _____ and, upon being put to a vote, the vote was as follows:

Mayor Joel Tyson	_____
Council Member Fernando R. Herrera	_____
Council Member Inocensia Hernandez	_____
Council Member Gerry Renick	_____
Council Member Jessica Salgado	_____

The Mayor thereupon declared this Ordinance fully passed and adopted this _____ day of _____, 2024.

CITY OF FELLSMERE, FLORIDA

Joel Tyson, Mayor

ATTEST:

Maria Suarez-Sanchez, City Clerk

I HEREBY CERTIFY that Notice of the public hearings on this Ordinance was published in the Press Journal, as required by State Statute, that the foregoing Ordinance was duly passed and adopted on the ____ day of _____, 2024, and the first reading was held on the ____ day of _____, 2024, and that the first public hearing was held on the ____ day of _____, 2024, and that the second and final reading and public hearing was held on the ____ day of _____, 2024.

Maria Suarez-Sanchez, City Clerk

**COMPOSITE
EXHIBIT "A"
TO
ORDINANCE 2023-33**

Comprehensive Plan Amendment

**OBJECTIVE FLUE B-5. MARION ESTATES
ORDINANCE NO. 07-25, (AMENDED BY
ORDINANCE NO. 2023-33, ADOPTED ON
_____, 2024)**

The amendment to the Comprehensive Plan Future Land Use Maps as requested by CGV of Fellsmere, LLC is subject to compliance with the following conditions and requirements, which shall run with the land.

1. The density of the residential development on the above-described land shall not exceed ~~4.58~~ 4.71 dwelling units per acre in order to achieve a maximum of Three Hundred ~~Twenty~~ Thirty-Two (332) residential units (~~152~~150 town homes and ~~168~~182 single-family homes) on Seventy ~~and Fifty-Six~~ One-hundredth (70.56) acres. The commercial activity shall be limited to the Northern Eight and ~~Seventy-seven~~ Twenty-One One Hundredths (8.7721) acres and no portion of this land shall be entitled to be used for calculating density within the residential development.
2. The owner/developer shall demonstrate prior to site plan approval that all concurrency provisions have been addressed or met including but not limited to: sanitary sewer, solid waste, drainage, potable water, parks and recreation, and transportation facilities, including mass transit, where applicable.
3. The owner/developer shall enter into a development agreement to provide for payment of fees for construction of public facilities and services demanded by the development.
4. Existing roadways shall be used as the basis for forming a "grid" pattern for new developments to the extent practical based upon the geography and typography.
5. Architectural and site designs standards shall provide for a uniform theme or character of the development, with a mix of styles and range of prices to assure access by various income groups.
6. The development will incorporate Green Building (LEED) buildings and the site standards to the extent feasible.

**COMPOSITE
EXHIBIT "A"
TO
ORDINANCE 2023-33**

Comprehensive Plan Amendment

POLICY FLUE A-3.2 – OVERLAY DISTRICT BOUNDARIES

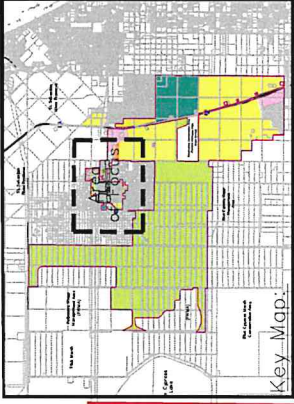
Policy FLUE A-3.2. - Overlay District Boundaries.

The following infill/redevelopment mixed-use districts are hereby created as future land use map overlays.

1. CR 512 Old Town. This district applies as follows:
 - a. All properties fronting CR 512 between Willow Street and ~~Myrtle Street~~ 141st Avenue and those properties that contain corner frontage with CR 512 and ~~Myrtle Street~~ 141st Avenue and CR 512 and Willow Street.
2. CR 512 Old Town - Off Road. This district applies as follows:
 - a. All properties not fronting CR 512 that lie as follows:
 - i. Between CR 512 and Oregon Avenue and between N. Willow Street and N. Pine Street but excluding those properties with frontage on N. Willow Street;
 - ii. Between CR 512 and Michigan Avenue and between S. Willow Street and S. Pine Street; and
 - iii. Between CR 512 and California Avenue and containing a Medium Density Residential future land use designation.
3. CR 512 Frontage Road. This district applies as follows:
 - a. To all portions of a site and buildings located to a depth of 450 feet from the edge of the CR 512 right-of-way between Willow Street and 120th Street, excluding those properties otherwise contained within the CR 512 Old Town district.
4. N. Broadway. This district applies as follows:
 - a. All properties fronting N. Broadway Street but excluding those properties that contain corner frontage with CR 512 and N. Broadway Street;
5. N. Broadway - Off Road. This district applies as follows:

- a. All properties fronting the east side of N. Orange Street but excluding those properties that fall within the boundaries of the CR 512 Old Town district and the S. Carolina Avenue district; and
 - b. All properties fronting the west side of N. Pine Street but excluding those properties that fall within the boundaries of the CR 512 Old Town district and the S. Carolina Avenue district; and
6. N. Willow. This district applies as follows:
- a. All properties fronting N. Willow Street south of the former railroad right-of-way as recorded in Special Warranty Deed dated December 9, 2010 in Official Records Book 2463, Page 1625 but excluding those properties that contain corner frontage with CR 512 and N. Willow Street.
7. N. Myrtle. This district applies as follows:
- a. All properties fronting N. Myrtle Street but excluding those properties that contain corner frontage with CR 512 and Myrtle Street or contain corner frontage with S. Carolina Avenue and N. Myrtle Street.
8. S. Carolina. This district applies as follows:
- a. All properties with frontage on the south side of S. Carolina Avenue containing an Old Town future land use designation but excluding those properties that contain corner frontage with S. Carolina Avenue and N. Broadway Street.

The boundary between the CR 512 Old Town district and the CR 512 Old Town - Off Road district shall be determined at time of development application for property fronting CR 512 to allow for parcel aggregation.



- Land Use Legend:**
- Low Density Residential (LDR)
 - Low Density Mixed Use Neighborhood (LDMXN)
 - Low Density Mobile Home (LDMH)
 - Medium Density Residential (MDR)
 - High Density Residential (HDR)
 - Neighborhood Commercial (NC)
 - Old Town (OTD)
 - Regional Employment Activity Center (REAC)
 - General Commercial (GC)
 - Industrial (I)
 - Public / Institutional (PIN)
 - Recreation (REC)
 - Conservation (CON)
 - Villages of Fellsmere (VOF)
 - AG-1 (County)
 - L-1 (County)
 - Fellsmere City Limits
 - Infill/Redevelopment Overlay

Note:
 1. Educational uses, public buildings and grounds, and other public facilities are also allowed in all residential designations, LDMXN, and VOF land use categories.

Development Limitations for Site Specific Properties:

Map #	Max Allowable Development	Future Land Use	Comp. Plan Objective
1	Not Applicable	LDMXN	B-15 & B-19
2	3.5 units per acre	LDR	B-16
3	650 units	LDMXN	B-17
4	Residential -19,750	VOF	B-21
5	320 units	LDMXN	B-18
6	Non-Residential: 250,000sf - Industrial: up to 80% of total square feet - Commercial: up to 20% of total square feet - Office: up to 5% of total square feet Residential: - 5,600 units	LDMXN	B-10
7	Residential - 1.69 Units per acre Non-Residential - 12,000,000 sf	LDMXN REAC/Industrial	B-22

Disclaimer: The location of the various land features or uses, street networks, greenways, multiuse corridors, or any other public or private facilities depicted on this plan are approximate.

Future Land Use Map

Figure 1-1C

Adopted: 10/07/10, Ord 2010-07

Revised: 01/08/15, Ord 2014-17;

Ord 2023-33

701 E Ocean Blvd., Stuart, Florida 34954
 (772) 220-2100 • Fax (772) 223-0220



22 S. Orange Street
 Fellsmere, Florida 32948
 (772) 646-6313
 www.cityoffellsmere.com

**PLANNING COMMISSION/LOCAL PLANNING AGENCY
REGULAR MEETING
CITY COUNCIL CHAMBERS**

MEETING DATES **PZ:** April 17, 2024 **COUNCIL:** April 18, 2024

REQUEST: Consideration of Code Amendments related to Food Trucks and Other Chapter 5, LDC changes

REASON FOR REQUEST: Discussion on the consideration of code changes related to food trucks and Other Chapter 5, LDC changes

DESCRIPTION: The City has adopted regulations for permanent placement of food trucks. The City has not adopted regulations for mobile food trucks. Recent state law changes have limited to some degree how we treat mobile food trucks. This item seeks Planning Commission input on the draft regulations attached. Also attached is the current approved regulations for permanent food trucks as well as the recent state law regarding food trucks.

The draft regulations address food trucks as well as other Chapter 5, LDC changes related to the following: Outside Display; Retail Sales; and Retail Sales not conducted within a building.

CONCURRENCY ISSUES: Not applicable.

CONSISTENCY WITH COMPREHENSIVE PLAN: All of the proposed changes are consistent with the Comprehensive Plan.

CONDITIONS OF APPROVAL: NA

STAFF RECOMMENDATION: Discuss changes and provide direction.

RECOMMENDED PZ/LPA MOTION/ACTION: Discussion.

Section 5.3 Criteria for specified uses. The following uses shall be subject to the minimum standards of this Code and the following specific standards.

R. Outside display ~~or, street vending or sidewalk~~ vending.

1. Duly licensed commercial business within zoning districts permitted to conduct outside display may display their products on the outside of their business, in a neat and orderly manner under the following requirements.
 - a. All outside display areas shall be located adjacent to the main building and shall not impede pedestrian or traffic flow and shall not take up required parking areas. The defined areas shall be well maintained, provide for walking and accessibility, be free of debris, and have proper lighting, seating, and trash receptacles. All other areas of the site shall be free of merchandise.
 - b. Only agricultural and/or equestrian products may be permanently stored outside a business that is duly licensed to sell such products, such as a feed store or hardware store. No such products may be located forward of the front building line of such store.
 - c. Outside storage and/or sales shall not be located:
 - (1) Within fifteen (15) feet of any street intersection or pedestrian crosswalk;
 - (2) Within five (5) feet of a primary roadway access into a parcel;
 - (3) Within five (5) feet of another outside vending location;
 - (4) Within five (5) feet of a building exit;
 - (5) Within fifteen (15) feet of a fire hydrant;
 - (6) Within an area that abuts the display windows of a permanent business location not owned by the outside vendor; or
 - (7) Where in the opinion of the City's designated representatives it represents an obstruction to traffic safety or endangers the public welfare.
 - (8) Prior to the use of a public sidewalk for sidewalk sales, the business owner shall file with the Community Development Director a plan depicting the area of the sidewalk to be so utilized. In no case shall the sidewalk width remaining for passage of pedestrian be reduced to less than 5' in width.
 - (9) All use of public streets for street vending shall require approval by the City Council as part of a special event permit.
 - d. Merchandise considered valid for outside sales includes, but is not limited to: small retail items; agricultural products (human consumable products); prepared foods; crafts; art works; plant materials, garden supplies (except mowers, tractors or other heavy equipment), ~~furniture~~, and the like. Services would include: caricatures, face painting, massage therapy by a licensed massage therapist; nail technicians; cosmetics, and similar services.
 - e. Prohibited items include ~~furniture, appliances~~, vehicles, auto parts, tires, heavy equipment of any kind, fireworks, and any hazardous products.
 - f. The City Council shall reserve the right to determine if a product is a valid material to be included in an outside sales environment.
 - ~~g.~~ For all other non-residential districts or locations where 'Outside Display' of goods is not listed as a permitted or prohibited use, such use shall be a conditional use, where the City Council shall reserve the right to determine if the site is appropriate for such use and if a product is a valid material to be included in an outside sales environment.
 - ~~h.~~ The products displayed for sale may be from vendors authorized by the property owner under the following conditions.:
 - (1) the vendor and property owner shall each obtain the required business tax receipt, if required by law;
 - (2) the location of vendor stalls shall be reflected on an approved site plan;
 - (3) vendor stalls shall not contain any signage;
 - (4) except for mobile food vending units, vendor stalls shall be inspected by the fire official prior to their initial utilization; and
 - (5) except for mobile food vending units, vendor stalls shall not be conducted from a vehicle.
2. Outdoor auctions.
 - a. Outdoor auctions shall not be allowed within the OTD district.
 - b. Prior to commencement of any such activities, a site plan which meets the requirements specified in Article XIV shall be approved by the City Manager;
 - c. No site shall be located within one hundred (100) feet of a residential use or residentially zoned area;
 - d. Adequate separation of vehicular and pedestrian circulation systems shall be provided;
 - e. All off-street parking and loading areas shall have stabilized surfaces;
 - f. Where within five hundred (500) feet of a residential use or residentially zoned area, hours of operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m.;

- g. A Type A buffer with a six-foot opaque feature shall be provided between a permanent auction site and abutting residential uses, including residential uses separated from the site by a local road.
- h. All amplified sound devices shall obtain required permits and meet all such requirements of the City.

AA. Retail Sales; ~~general merchandise.~~

1. ~~Building Required. Retail uses shall be conducted in an enclosed building to be considered a permitted use as shown in Table 3.C. Retail uses not conducted in an enclosed building shall be approved as a conditional use and shall be subject to the supplemental regulations of part MM herein. Department store, furniture and appliance sales, showroom or catalog stores and variety store~~
 - a. ~~Provide a site plan which meets the requirements specified in Article XIV;~~
 - b. ~~A Type A buffer with a six (6) foot opaque feature shall be provided between the showroom site and abutting residential uses, including residential uses separated from the showroom site by a local road.~~
2. Drug Stores.
 - a. A Type A buffer with a six (6) foot opaque feature shall be provided between the drug store site and abutting residential uses, including residential uses separated from the site by a local road.
 - b. Shall provide exterior lighting within all parking and pedestrian areas of the site with an illumination of not less than two (2) average maintained foot candles as measured thirty-five (35) inches above the ground surface. The light shall be maintained at all times any customer or worker is present on the premises.
3. Flea Market.
 - a. Provide a site plan which meets the requirements specified in Article XIV;
 - b. No site shall be located within one hundred (100) feet of a residential use or residentially zoned area;
 - c. Adequate separation of vehicular and pedestrian circulation systems shall be provided;
 - d. All off-street parking and loading areas shall have paved surfaces;
 - e. Where within five hundred (500) feet of a residential use or residentially zoned area, hours of operation shall be limited to the hours of 8:00 a.m. to 9:00 p.m.;
 - f. A Type A buffer with a six-foot opaque feature shall be provided between the flea market site and abutting residential uses, including residential uses separated from the site by a local road.
4. Retail stores are limited within Industrial areas-see "Industrial, Light".
5. ~~Uses that are not intended to be accommodated within the Neighborhood Commercial future land use designation include: large scale discount stores, chain stores, health spas; motels; wholesale, warehousing, and mini-warehousing activities; outdoor storage; package stores; sales, service or repair of motor vehicles, machine equipment or accessory parts, including tire and battery shops; commercial amusements; and other similar services.~~

DD. Mobile food vending units as principal use.

1. Mobile food vending unit as a principal use on a property shall require conditional use approval as set forth in section 17.19 of the Land Development Code.
2. To qualify as a principal use, the mobile food vending unit parks overnight at the property in which it is located.
- ~~2.3.~~ All improvements on site shall be of a permanent nature except for the mobile food vending unit.
- ~~3.4.~~ Shall be more than 1,500 feet from any other mobile food vendor.
- ~~4.5.~~ The mobile food vending unit may remain on the property full time or may be removed and returned to the property at the discretion of the operator.
- ~~5.6.~~ A permanent bathroom facility is required and shall be sized as required by the Florida Building Code. Applicants may request via the conditional use approval the use of an adjacent business' bathroom facilities if such facilities are compliant with the Accessibility Standards of the Florida Building Code and such shared use is allowed by the Florida Building Code.
- ~~6.7.~~ The use shall comply with the article V, section 5.3.J., eating and drinking establishments and section 5.3.S. outdoor seating.
- ~~7.8.~~ If outdoor seating is provided to consume food or beverage products on site, a permanent shade structure is required.
- ~~8.9.~~ Design standards shall comply with article VII of the Land Development Code except as otherwise set forth below:
 - a. A designated off-street loading space is not required; however, the required site plan shall demonstrate that the site can accommodate the expected delivery vehicles that may serve the property.
 - b. Parking requirements shall be one space per employee plus five spaces for each separate mobile food vending unit placed on the property. If parking is determined by the city, at its sole discretion, to be inadequate to serve the demand, the applicant shall provide additional spaces as directed by the city within 60 days of receipt of written notice.

- 9-10. The use shall comply with article IX of the Land Development Code except as otherwise set forth below:
- a. The mobile food vending unit shall not be required to comply with the architectural standards; however, the city shall have the sole discretion to approve the color of the mobile food vending unit and any images, applied signs and other graphics. The applicant shall be required to provide color photos of the proposed food vending unit as part of the conditional use approval. All permanent improvements shall continue to comply with the architectural standards, if applicable.
 - b. Parking shall be located to the side or rear of the placement of the mobile food vending unit; however, if placed to the side, the parking may extend beyond the extension of the front of the unit but shall maintain a minimum 15-foot wide parking perimeter buffer between the parking the property line.
 - c. A dumpster shall be required if outdoor seating is provided to consume food or beverage products on site.
 - d. Strict compliance with the building foundation landscape requirements is not required for the mobile food vending unit; however, the applicant shall propose a landscape plan that screens any supporting utilities such as electrical transformers, propane tanks, backflow preventers, lift stations, and the undercarriage and tow hitch of the mobile food vending unit. All permanent improvements shall comply with the building foundation requirements, if applicable.
- ~~10-11.~~ Signs shall comply with article X and section 9.3.E and 9.4.E of the Land Development Code, as applicable.
- ~~11-12.~~ Landscaping shall comply with article XI and section 9.3.C and 9.4.C of the Land Development Code, as applicable.
- ~~12-13.~~ No alcohol shall be sold or consumed on the property.
- ~~13-~~ The property shall not contain any outdoor telephone, vending machines, or other machines dispensing, displaying, or storing products for sale or use unless a permanent building is constructed on the property and such uses are designed to be complimentary with the permanent building. Such uses shall be approved as part of the conditional use approval.
15. Existing, legally approved mobile food vending units that no longer meet the spacing requirements of this code shall be considered legal conforming uses.

EE. **Mobile food vending units as accessory use** ~~Reserved.~~

1. Mobile food vending unit as an accessory use shall only be allowed within the following zoning districts: C-1, C-2, RPO, I, PIN, and PDD and must be located on a developed property.
2. To qualify as an accessory use, the mobile food vending unit must not park overnight at the developed commercial property and may only be open for business at the same times as the business located on the developed commercial property.
3. Shall require certificate of zoning as set forth in Section 17.21.A of the Land Development Code prior to operation. Pursuant to State Law, no fee will be assigned.
4. The following conditions shall be demonstrated to the City of Fellsmere to receive a certificate of zoning for mobile food vending units operated as accessory uses:
 - a. Shall not be located within 1,500 feet of another accessory or principal mobile food vending unit or established restaurant.
 - b. No signage beyond that which may appear on the mobile food vending unit except for one (1) A-frame sign located on the same property as the mobile food vending unit.
 - c. Parking requirements shall be five spaces for each separate mobile food vending unit placed on the property in addition to the required parking for all other permitted uses on the site. Location of mobile food vending unit may not result in the loss of parking below the code required minimum parking unless otherwise approved by the City Manager.
 - d. The location of the mobile food vending unit shall not block any ingress/egress, building entrance or emergency exits or conflict with required fire access, intersection site distance requirements, or required access for the principal use.
 - e. Shall operate only during the business hours of the principal business located on the property.
 - f. No outdoor seating is allowed. Food and beverages for sale are for take-away service only.
 - g. No temporary or permanent furniture or improvements on site shall be allowed in support of the mobile food vending unit except for temporary trash/recycling receptacles.
 - h. No alcohol shall be sold.
 - i. Permission from property owner to locate on site.
 - j. Proof of licensing by the State.
 - k. When operating on city-owned land, a mobile food vendor must maintain insurance as required by the City and naming the City of Fellsmere as additional insured.

LL. **Accessory Dwelling.**

1. Accessory dwellings within the limits of the original plat of the Town of Fellsmere according to the plat thereof recorded in Plat Book 2, Pages 2 and 3, Public Records of St. Lucie County, now lying in Indian River County or within the limits of the plats of the Hall, Carter & James Subdivision according to the plats thereof recorded in Plat Book 3, Page 31 and Plat Book 2, Page 98, Public Records of St. Lucie County, now lying in Indian River County or within the limits of the plat of the Lincoln Park Subdivision according to the plat thereof recorded in Plat Book 1, Page 60, Public Records of Indian River County, shall be governed by the following standards:
 - a. locate on a minimum 1/3-acre lot or larger;
 - b. locate within a zoning district as set forth in Table 3.B;
 - c. provide a stabilized driveway and parking surface capable of accommodating a minimum of four vehicles;
 - d. meet minimum life safety requirements of the Florida Building Code as determined by an inspection of the Building Official;
 - e. maintain a properly functioning septic system permitted by the Health Department for the primary residence and accessory living unit;
 - f. limit to no more than 40% of the floor area of the primary residence; and
 - g. principal structure shall be a homestead residence.

Unpermitted accessory living units in existence as of January 1, 2004 not otherwise meeting the requirements of a. through g. above shall be allowed to remain as nonconforming uses subject only to items cd. through e. above.
2. Accessory living units constructed as part of new residential subdivisions shall meet the following standards:
 - a. The use of accessory dwelling units to provide an opportunity for dispersed housing or other accessory uses within the single-family subdivision shall be approved as part of a final development plan as a planned development.
 - b. Accessory dwelling units included within or architecturally connected to the main residential structure approved as part of a final development plan shall not constitute a unit for the purposes of limiting density at the sole discretion of the City Council.
 - c. Accessory dwelling units shall be evaluated for concurrency purposes to determine availability of services when included within a proposed development plan.
 - d. The accessory living unit shall be limited to no more than 40% of the floor area of the primary residence.
 - e. The use of the accessory dwelling for rental purposes shall be approved as part of a final development plan as a planned development at the sole discretion of the City Council.
3. Recreational Vehicle (RV) shall not be allowed as an accessory dwelling unit.
4. No more than one accessory dwelling may be approved for any single family residence or nonresidential development.

MM. Retail Sales Not Conducted in a Permanent Building

Except for Mobile Food Vending units regulated by part DD and EE herein and Outdoor Display regulated by Part R herein, all retail uses that are not conducted within a permanent building shall comply with the following.

1. Retail Sales Not Conducted in a Permanent Building shall require conditional use approval as set forth in Section 17.19 of the Land Development Code.
2. All improvements on site shall be of a permanent nature.
3. The Retail Sales Not Conducted in a Permanent Building may remain on the property full time or may be removed and returned to the property at the discretion of the operator.
4. Site design shall comply with the design standards of Article VII of the Land Development Code except as otherwise set forth below.
 - i. A designated off-street loading space is not required; however, the required site plan shall demonstrate that the site can accommodate the expected delivery vehicles that may serve the property.
 - ii. Parking requirements shall be based on the area set aside for retail sales. If parking is determined by the city, at its sole discretion, to be inadequate to serve the demand, the applicant shall provide additional spaces as directed by the City within 60 days of receipt of written notice.
5. The use shall comply with Article IX of the Land Development Code except as otherwise set forth below.
 - iii. All permanent structures, equipment or machines shall comply with the architectural standards. The Applicant shall be required to provide color photos of all proposed equipment and machines as part of the conditional use approval.

- iv. Parking shall continue to be maintained to the side or rear of the location of the retail sales; however, if placed to the side, the parking may extend beyond the extension of the front of the sales area but shall maintain a minimum 15' wide parking perimeter buffer between the parking the property line.
 - v. A dumpster may not be required, at the sole discretion of the City Council, if the operator removes all trash at the end of each operating day. The operator may not utilize the dumpsters of adjacent establishments for their trash. If solid waste is determined by the city, at its sole discretion, to be problematic for any reason, the applicant shall provide an on-site dumpster as directed by the City within 60 days of receipt of written notice.
 - vi. Strict compliance with the building foundation landscape requirements is not required for retail sales not conducted in a permanent building; however, the Applicant shall propose a landscape plan that provides for frontage landscape and landscape screens for any supporting utilities such as electrical transformers, propane tanks, backflow preventers, and lift stations. All permanent improvements shall comply with the building foundation requirements, if applicable.
- 6. Signs shall comply with Article X and Section 9.3.E and 9.4.E of the Land Development Code, as applicable.
 - 7. Landscaping shall comply with Article XI and Section 9.3.C and 9.4.C of the Land Development Code, as applicable.
 - 8. No alcohol shall be sold.
 - 9. The property shall not contain any outdoor telephone, vending machines, or other machines dispensing, displaying, or storing products for sale or use unless a permanent building is constructed on the property and such uses are designed to be complimentary with the permanent building. Such uses shall be approved as part of the conditional use approval.
 - 10. Items that may be sold outside of a permanent building may include those items allowed by part R herein.

Florida Statute 509.102 Mobile food dispensing vehicles; temporary commercial kitchens; preemption.—

(1)(a) As used in this section, the term “mobile food dispensing vehicle” means any vehicle that is a public food service establishment and that is self-propelled or otherwise movable from place to place and includes self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal.

(b) As used in this section, the term “temporary commercial kitchen” means any kitchen that is a public food service establishment used for the preparation of takeout or delivery-only meals housed in portable structures that are movable from place to place by a tow or are self-propelled or otherwise axle-mounted, that include self-contained utilities, including, but not limited to, gas, water, electricity, or liquid waste disposal. Such kitchens are subject to all provisions of this chapter except as may be provided herein. The term does not include a tent.

(2)(a) Regulation of mobile food dispensing vehicles, and temporary commercial kitchens, involving licenses, registrations, permits, and fees is preempted to the state. A municipality, county, or other local governmental entity may not require a separate license, registration, or permit other than the license required under s. 509.241, or require the payment of any license, registration, or permit fee other than the fee required under s. 509.251, as a condition for the operation of a mobile food dispensing vehicle or temporary commercial kitchen within the entity’s jurisdiction. A municipality, county, or other local governmental entity may not prohibit mobile food dispensing vehicles or temporary commercial kitchens from operating within the entirety of the entity’s jurisdiction.

(b) Any mobile food dispensing vehicle or temporary commercial kitchen that is operated on the same premises as and by a separately licensed public food service establishment may operate during the same hours of operation as the separately licensed public food service establishment that operates such mobile food dispensing vehicle or temporary commercial kitchen.

(3)(a) A temporary commercial kitchen may be used in conjunction with a permanent food service establishment licensed under this chapter for the purpose of supplementing the kitchen operations of the licensed permanent food service establishment. A temporary commercial kitchen may operate in this capacity as follows:

1. On the premises of the licensed permanent food service establishment for 60 consecutive days. Upon request of the operator of a temporary commercial kitchen, the division may grant one extension of up to 60 additional consecutive days.

2. During a period of renovation, repair, or rebuilding, on the premises of the licensed permanent food service establishment or off the premises within the line of sight of, and not to exceed 1,320 feet from, the licensed permanent food service establishment for 120 consecutive days. The division may exercise discretion to grant an additional extension of time upon a reasonable and reliable

demonstration by the licensed permanent food service establishment that additional time is needed to complete the renovation, repair, or rebuilding.

(b) If a permanent food service establishment licensed under this chapter, or the land upon which that establishment is sited, is rendered uninhabitable due to a natural disaster that is the subject of a declared state of emergency, a temporary commercial kitchen may operate on the premises of, or as near as reasonably practicable to, the location of the licensed permanent food service establishment. A temporary commercial kitchen may operate in this capacity only during the period of repair and rebuilding of the permanent establishment with which it is associated. The operators of a temporary commercial kitchen operating in this capacity must notify the division of the kitchen's location and renew the notification every 90 days for the duration of its operation.

(c) Except as authorized under paragraphs (a) and (b), a temporary commercial kitchen may not operate in one location for longer than 30 consecutive days. The operators of a temporary commercial kitchen must notify the division within 48 hours after commencing operation in a location.

(4) This section may not be construed to affect a municipality, county, or other local governmental entity's authority to regulate the operation of mobile food dispensing vehicles or temporary commercial kitchens other than the regulations described in subsection (2).

(5) This section does not apply to any port authority, aviation authority, airport, or seaport.

History.—s. 75, ch. 2020-160; s. 2, ch. 2023-48.