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<https://meet.goto.com/228642909>

AGENDA

PLANNING AND ZONING COMMISSION / LOCAL PLANNING AGENCY MEETING WEDNESDAY MAY 15, 2024 – 5:05 P.M.

1. CALL TO ORDER:

2. PLEDGE OF ALLEGIANCE:

3. ROLL CALL:

4. APPROVAL OF MINUTES:

- a) April 17, 2024
- b) May 1, 2024

5. PUBLIC HEARING:

- a) **RESOLUTION NO. 2024-31/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. 2024-32 APPROVING THE CONDITIONAL USE PERMIT AND SITE PLAN FOR ONE (1) MOBILE FOOD VENDING UNIT LOCATED AT 1005 VERNON STREET IN THE C-1 ZONING DISTRICT. **/PUBLIC HEARING**

- b) **RESOLUTION NO. 2024-45/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. 2024-20 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 GARAFOLLO; FURTHER AMENDING THE FUTURE LAND USE MAP TO ADD 10.37 ACRES MORE OR LESS AS CR512 OLD TOWN OVERLAY DISTRICT, ALL AS REQUESTED BY MARIAN ESTATES. **/PUBLIC HEARING**

6. PUBLIC COMMENTS:

7. NEXT MEETING:

8. 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.

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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&Z20240515AGENDA.DOC

**PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY MEETING
WEDNESDAY April 17, 2024 5:05PM**

MINUTES

1. **CALL TO ORDER:** Chair Akers called the meeting to order at 5:05PM
2. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
3. **ROLL CALL:**
 - Present:** Commissioner Michael Ruheman, Alternate Commissioner Dominic Foti, Alternate Commissioner Eric Boissat, Chairman Buddy Akers and City Attorney John Rhodeback
 - Excused:** Commissioner Claudia Luna and Commissioner Jose Cardoso
 - Late:** Commissioner Michael Barone
 - Also Present:** Recording Secretary Miriam Bedolla, City Planner Robert Loring
 - Alternate Commissioner Dominic Foti** will be filling in for Commissioner Jose Cardoso
 - Alternate Commissioner Eric Boissat** will be filling in for Commissioner Claudia Luna

City Attorney John Rhodeback asked Chairman Akers to speak before the approval of the minutes. He stated he wanted to go over a few items that needed to be addressed regarding the procedures of these meetings. He stated that according to the Code of Ordinance the Alternate Members are to be announced at the beginning of each meeting when filling in for a one of the full-time commissioners. For example, for this meeting there are two commissioners that are out there for both Alternate Commissioners Foti and Boissat are able to fill in for Commissioner Cardoso and Luna for this meeting. If there was only one vacant to fill, the most senior alternate member, which in this case would be Alternate Commissioner Foti, would be the one filling in and taking place of the full-time commissioner if only one was absent. It is important that these rules are followed because alternate members cannot make a motion when all members are here, as they are only alternates and can only make a motion when filling in for a full-time member. Alternate Commissioner Foti asked if it was required for alternate members to attend the meetings, which Attorney Rhodeback stated they had the option to attend or not attend the meetings and allowed to participate in the discussion, but not vote on a motion when all full-time members was present, only when filling in. Another important point Attorney Rhodeback wanted to make was to keep discussion items to agenda items as much as possible to stay on track as going off the agenda could possibly bring along sunshine violations. Alternate Commissioner Boissat asked how does an alternate member become a full-time member to which Attorney Rhodeback stated that if there were an opening in P&Z it would be a decision of the City Council since they are the ones to elect the members. Recording Secretary encouraged all members to read the ordinance she handed out to them regarding the rules and their role as members to help answer any other questions they may have. Attorney Rhodeback also added that a quorum consists of 3 members, one of which could be the chair and both alternative members if that were the only ones to show up, they could still conduct official city business and make recommendations in that case. In the absence of a quorum there can still be a discussion but no official recommendation to the City Council and it is important that it be recorded in the minutes for the record.

4. APPROVAL OF MINUTES:

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

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

Commissioner Michael Barone arrived late at 5:15pm

MOTION by Commissioner Ruehman, **SECONDED** by Alternate Commissioner Boissat to approve the minutes for December 6, 2023, February 7, 2024, March 6, 2024, March 20, 2024.

ALL AYES:

MOTION CARRIED 5-0

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**

Chairman Akers introduced the Resolution.

Attorney Rhodeback stated that Resolution No. 2024-56 had been removed from the agenda reason is because there was an error in the caption with respect to the acreage. He stated that whenever there was a change to the substance of a caption, for advertising purposes you have to start over, which is why there can not be a discussion on this item today until it is readvertised and set for a different meeting in the future.

Chairman Akers stated that with that being said he moved on to the next item on the agenda.

6. NEW BUSINESS:

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

Chairman Akers introduced the new business.

City Planner Mr. Loring stated that food trucks were a fairly new item to Florida and did not start popping till the early 200s. During that time the state did not have much regulations for them, so they just kind of operated, and as a result legislation overregulated them. Mr. Loring stated that The City of Ft. Pierce also wanted to overregulate them by stating saying they were impeding on local businesses and as a result turned into the landmark case of Diaz vs City of Ft. Pierce, which came back and stated it was a free market and they had the ability to operate. Legislation on food

truck have gone round and round and legislation has stated that cities can regulate some things related to food trucks. The ordinance talks about mobile food trucks and how they can operate in any commercial district such as C-1, C-2, RPO, I, PIN, and PDD zoning districts such as CR 512 and Willow Street that are developed and not on the side of the road. For example, if Dollar General has given a food truck permission to be on their property to sell, that is fine but they can only be there during Dollar General's business hours of operation and not after hours. Also, Dollar General has the capacity and parking space to allow a vender to operate there, but that does not mean that there can be two or three other food trucks in that same parking area. That would be for a much bigger commercial property such as a Walmart that has many more parking spaces and could accommodate more than one food truck. Alternate Commissioner Boissat asked if it was possible to use Operation Hope to have more than one food truck since they have enough parking spots for more than one and avoid having to be 1500 feet from each other. City Planner Loring stated the city cannot force a business to allow them on their property. Commissioner Ruehman stated that other businesses who have food trucks on them have gone through a site plan and have had to spend money setting up the right way and maybe that is the way it should be done to make it fare. The commissioners expressed their concerns regarding mobile food trucks and asked if they could remain mobile and leave at the end of the day without having to leave their food truck on site every day because they did not think it was fair for businesses who have gone through a site plan and have spent more money to do things the right way. City Planner Loring did state there are regulations and rules that need to be obeyed before conducting any business within the city. The commissioners suggested existing restaurants owners should have the ability to review the food truck ordinance and make recommendations to P&Z and City Council.

7. PUBLIC COMMENTS:

Chairman Akers asked if anyone else from the public had any comments to state their name and address for the record.

Jed Aranes, 13960 101 Street – stated his concerns and agreed with one of the commissioners regarding having a place where food trucks could set up like it has been done with other events such as the Rodeo or Frog Leg and have a variety of different foods and not just Mexican food. He also suggested to have some type of regulation or guidelines for those wanting to come and operate in the city.

8. NEXT MEETING: TBA

9. ADJOURNMENT:

There being no further business Chairman Akers adjourned the meeting at 6:23 pm.

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

Miriam Bedolla

P&Z20240417MINUTES.DOC

PLANNING & ZONING COMMISSION/LOCAL PLANNING AGENCY MEETING
WEDNESDAY May 1, 2024 5:05PM

MINUTES

1. **CALL TO ORDER:** Chair Akers called the meeting to order at 5:07PM
2. **PLEDGE OF ALLEGIANCE:** The Pledge was recited.
3. **ROLL CALL:**
 - Present:* Commissioner Michael Barone, Commissioner Michael Ruehman, Commissioner Claudia Luna, Alternate Commissioner Dominic Foti, Alternate Commissioner Eric Boissat, City Attorney John Rhodeback, Chair Buddy Akers, and City Planner Robert Loring
 - Excused:* Commissioner Jose Cardozo
 - Also Present:* Recording Secretary Miriam Bedolla and CRA Rochelle Lawandales.
 - Alternate Commissioner Dominic Foti** will be filling in for Commissioner Jose Cardozo
4. **NEW BUSINESS:**
 - a) **DISCUSSION ON THE 2024 COMMUNITY REDEVELOPMENT AREA PLAN UPDATE.**

Chairman Akers introduced the City CRA Planner, Rochelle Lawandales.

CRA Planner Lawandales introduced herself and stated she was pleased to come back to help with the planning and growth of the city. She stated there was an update to the Redevelopment Plan that was adopted in 2009. The city had established a Community Redevelopment Area in 2005 which was just a small area in the city. In 2009 it was expanded in order to take in more properties and create some catalysts for redevelopment and for getting a stimulus of events happening. She explained what was being done and why it had been done the way it had been, due to the plan being done in 2009 giving it a lot of time passing since the town decided they wanted to extend the deadline to what was statutorily available which was 40 years and to identify what accomplishments had been made and what still needed to be done and assess those things and see what needed to be thrown out that was no longer valuable and see what new things may have arisen since then. She then talked a little about the history and reviewed some of the accomplishments made throughout the years. She stated there was no action that would be taken place that night and that this item would be coming back on June 19th to P&Z as a Public Hearing to make a recommendation to the City Council who will then act on that recommendation the following day on June 20th.

As she had stated before the plan has been extended to 40 years, making this plan go till 2045. New programs and projects have been re-estimated what the financial capacity is and have included a new Capital Improvement Plan. As she stated before in 2005, the first redevelopment area was established as shown on the map, and it was a small area confined to those areas and mayor roadways within the village or the heart of the town as people know it. In 2009 the city expanded taking in more land like the one across I-95. She also talked about the different areas within the city such as the East CR 512 Corridor, Mid-Town CR 512, The Carter James & Hall, and the Village Center and the accomplishments, what is in progress, and what is still to be accomplished. Land annexation, overlay zoning district, park improvements are just some of the

examples she talked about that have occurred throughout these areas as the accomplishments and progress. She also talked about the Broadway Master Plan that was talked about years ago on what Broadway could look like and the improvements it could have. She showed all commissioners ideas such as streetscape options, public parking areas, park modifications that can be updated and improved, gateway and entry with new signage that can identify Fellsmere. She stated if anyone had any questions, she was there to answer them or they could contact her at any time. She also reminded all commissioners that this item would be coming back on June 19th as a Public Hearing.

Alternate Commissioner Boissat asked why was all of this growth and expansion being pushed as his concern, as many others in the area, like it the way it is and think it should stay the same. CRA Planner Rochelle Lawandales explained the focus was only on improving and growing local and to use the lots and spaces that are already within the city/center. The city already has the annexation of lands around the center and that is not what she was referring to when it came to growth. Her focus and growth were only on the areas she mentioned and talked about.

Alternate Commissioner Boissat asked how many more food stores were really needed in the area, which Mrs. Lawandales stated that was something the market determines based on the needs needed. Attorney Rhodeback stated that from a legal perspective not a political perspective a number of land owners within the city, and some of them want to develop their property in a certain way. If they have commercial property and vacate and want to operate a store, as a government we are limited to the things we can say no too, because if someone has a permeate use and they want to develop something within that zoning category we cannot say no nor stop it because growth is inevitable but they have to follow certain rules and regulation that are implemented. Discussion continued regarding some of the improvements and accomplishments in the city and the traffic issue throughout the city. Attorney Rhodeback explained it is all concurrent with development and they go hand and hand. CR 512 is a county road not a city road and the city are working with the county to ensure CR 512 will be able to accommodate the traffic that will be coming through.

Chairman Akers stated he thought a good job was being done with making plans and getting it moved along. He asked if anyone else had any other questions. Commissioner Barone asked if someone could explain to the newer commissioners the benefits of adding additional parcels. Mrs. Lawandales stated she wanted to make sure that everyone understood that they were not expanding the district, or the heart of the city as others call it. The district boundaries are the same as they were set in 2009. In 2005 it was smaller and in 2009 it was increased to take advantage of catalyst projects that were in the works at the time before the recession.

5. PUBLIC COMMENTS:

Chairman Akers asked if anyone else from the public had any comments to state their name and address for the record.

Jed Aranes, 13960 101 Street – stated he moved to Fellsmere because of the rural culture that is here and other people he knows feel the same way. He thinks the 45-year plan is a great plan and a possible smaller Walmart would also be okay to help with the food desert. He also expressed his concerns regarding the traffic and widening CR 512 all at once.

Attorney Rhodeback explained that you could not force someone to solve an issue that they are not creating would be very difficult. Widening the whole road to solve the entire cities problem is not possible. That is why it can only be done as development comes in. CR 512 is a county road.

6. NEXT MEETING:

7. ADJOURNMENT:

There being no further business Chairman Akers adjourned the meeting at _____pm.

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

Miriam Bedolla

P&Z20240501MINUTES.DOC

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

MEETING DATES **PZ:** May 15, 2024, **COUNCIL:** May 16, 2024

REQUEST: Conditional Use and Final Development Plan Approval to allow one (1) food truck in the C-2 zoning district with onsite parking, stormwater retention, and future outdoor seating. The property is located at 1005 Vernon Street, the applicant is Mr. & Mrs. Brown.

REASON FOR REQUEST: To allow the owner to complete site plan improvements to operate a permanently placed mobile food service with future outdoor seating located on site. Please refer to Resolution #2024-32 for a list of requested design relief and recommended conditions of approval.

DESCRIPTION: Food trucks are allowed as Conditional Use if approved by City Council. The applicant is proposing site and perimeter and onsite landscaping that will meet the City of Fellsmere standards for the C-2 Commercial District standards. The site will be served by a new on-site parking area that will be located to the east of the proposed food truck location. The new seating areas will be implemented in a future phase as shown on the Final Development Plan; the existing driveway located at the northeast corner of the property will be improved to accommodate new traffic on site and provide a stormwater drainpipe as required.

CONCURRENCY ISSUES:

Water – Water service exists to the existing property. Adequate capacity exists within the water plant and service lines to accommodate the added demand.

Sewer – The use will be serviced by sewer service. Currently, adequate capacity exists within the sewer plant and service lines to accommodate the added demand.

Transportation –A traffic study has not been provided; however, it appears that the use would not cause excessive trip generation as a result of the uses proposed on site. The City has proposed within the proposed resolution a clause that would require the applicant to cease or curtail any retail activities until such a time as any parking issue is remedied on site.

Stormwater – The plan as submitted is compliant with the standard for projects located within the FWCD that are not subject to oversight from SJWRMD – in essence, holding back 2” over the entire site. This site is also under the purview of a Master Stormwater system that accounts for all properties lying along N. Broadway.

Solid Waste – Mandatory solid waste service for nonresidential uses. Adequate capacity exists within the Indian River County landfill.

Recreation – Not applicable for nonresidential uses.

Public Schools – Not applicable for nonresidential uses.

CONSISTENCY WITH COMPREHENSIVE PLAN: The property has a Commercial District future land use and a C-2 Commercial zoning district classification. Permanently placed Food trucks are only allowed with Conditional Use approval.

CONDITIONS OF APPROVAL: Please refer to City Council Resolution #2024-32 containing the recommended conditions of approval.

STAFF RECOMMENDATION: Recommend the Planning and Zoning Board recommend City Council approval of the request with the attached site sketch and conditions of approval.

RECOMMENDED PZ/LPA MOTION/ACTION: Via Resolution #2024-31, recommend the City Council approve the Conditional Use as set forth in City Council Resolution #2024-32.

RESOLUTION NO. 2024-31

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. 2024-32 APPROVING THE CONDITIONAL USE PERMIT AND SITE PLAN FOR ONE (1) MOBILE FOOD VENDING UNIT LOCATED AT 1005 VERNON STREET IN THE C-1 ZONING DISTRICT.

WHEREAS, the Planning and Zoning Commission/Local Planning Agency held an advertised public hearing on _____, 2024 to consider a Conditional Use Permit and Site Plan for Anthony B. Brown, Sr. (the “Applicant”) located on land as described in Resolution No. 2024-32 (“the Property”); and

WHEREAS, the Planning and Zoning Commission/Local Planning Agency has reviewed the Conditional Use Permit and Site Plan and determined them to be in conformity with the Comprehensive Plan and applicable provisions of the Land Development Code (the “Code”); and

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 in accordance with Section 17.19 E. 3. of the Code held a Public Hearing and heard comments from the public on _____, 2024 regarding the Conditional Use Permit and Site Plan for the Applicant.

SECTION 2. The Conditional Use Permit and Site Plan are in conformity with the official plans and policies of the City and with the general purpose, goals, objectives, policies and standards of the Comprehensive Plan, Land Development Code and the Code of Ordinance of the City of Fellsmere. The following findings of fact required by Section 17.19 C. of the Code are made:

- a. The proposed conditional use will not have an undue adverse effect upon nearby property.
- b. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.
- c. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through building design, site design, landscaping, and screening.
- d. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with applicable district regulations.
- e. The proposed conditional use will be served by adequate public facilities and

services, including roads, police protection, fire protection, solid waste disposal, water, sewer, drainage structures, parks and mass transit.

SECTION 3. The Planning and Zoning Commission/Local Planning Agency for the City of Fellsmere, Florida, recommends to the City Council that they adopt Resolution No. 2024-32 approving the Conditional Use Permit and Site Plan for one (1) Mobile Food Vending Units.

SECTION 4. 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:

Chair, 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
CITY OF FELLSMERE, FLORIDA

REVIS "BUDDY" AKERS, CHAIRMAN

ATTEST:

Miriam Bedolla, Commission/Agency Secretary

**RESOLUTION
NO. 2024-32**

A RESOLUTION OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, PERTAINING TO THE GRANTING OF CONDITIONAL USE PERMIT AND SITE PLAN APPROVAL FOR ONE (1) MOBILE FOOD VENDING UNIT OWNED BY ANTHONY B. BROWN, SR. AT 1005 VERNON STREET; PROVIDING FOR RATIFICATION; CONSISTENCY WITH THE COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE; APPROVAL OF CONDITIONAL USE PERMIT AND SITE PLAN; CONDITIONS OF APPROVAL; REPEAL OF CONFLICTING PROVISIONS; SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Anthony B. Brown, Sr. (the “Applicant”) has applied for a Conditional Use Permit (“CUP”) and Site Plan approval for vacant of land described in Exhibit ‘A’ attached hereto and by this reference made a part hereof (the “Property”); and

WHEREAS, the Applicant has applied for a Conditional Use Permit and Site Plan approval for one (1) Mobile Food Vending Unit for the Property; and

WHEREAS, the Planning and Zoning Commission heard the Applicant’s request and received the input, comments and evidence from all interested persons and determined that the Conditional Use Permit and Site Plan were consistent with the applicable provisions of the Comprehensive Plan and Land Development Code and thereafter recommended approval of the Conditional Use Permit and Site Plan at their _____, 2024 meeting; and

WHEREAS, the City Council has received the input, comments and evidence from all interested persons, citizens, and affected persons; and

WHEREAS, the City Council has determined that the approval of the Applicant's request for a Conditional Use Permit and Site Plan are consistent with the Goals, Objectives, and Policies of the Comprehensive Plan, the Land Development Code (the “Code”) and the Code of Ordinances of the City of Fellsmere as required in Section 17.19C of the Land Development Code (“LDC”); and

WHEREAS, the City Council has determined that the approval of the Site Plan is consistent with Article XIV of the Land Development Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fellsmere, Indian River County, Florida, as follows

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

SECTION 2. CONSISTENT WITH COMPREHENSIVE PLAN AND LAND DEVELOPMENT CODE. The Conditional Use Permit Application is consistent with the general purpose, goals, objectives, policies and standards of the Comprehensive Plan 2035, Land Development Code and the Code of Ordinance of the City of Fellsmere. The following findings of fact required by Section 17.19 C. of the Code are made:

- a. The proposed conditional use will not have an undue adverse effect upon nearby property.
- b. The proposed conditional use is compatible with the existing or planned character of the neighborhood in which it would be located.
- c. All reasonable steps have been taken to minimize any adverse effect of the proposed conditional use on the immediate vicinity through building design, site design, landscaping, and screening.
- d. The proposed conditional use will be constructed, arranged, and operated so as not to interfere with the development and use of neighboring property, in accordance with applicable district regulations.
- e. The proposed conditional use will be served by adequate public facilities and services, including roads, police protection, fire protection, solid waste disposal, water, sewer, drainage structures, parks, and mass transit.

SECTION 3. APPROVAL OF CONDITIONAL USE PERMIT AND SITE PLAN. Subject to the requirements and conditions set forth in Section 4 of this Resolution, the Conditional Use Permit and Site Plan for one (1) Mobile Food Vending Unit for the Property located at 1005 Vernon Street and more particularly described in Exhibit 'A', are hereby approved.

SECTION 4. CONDITIONS OF APPROVAL. The approval of the Conditional Use Permit and Site Plan are subject to and expressly conditioned on the continuous satisfaction of, and compliance with, the following conditions and requirements:

1. Before commencement of development, the Applicant shall obtain all Federal, State, County and Local permits as may be applicable to any new development, redevelopment, or use of the Property and to continuously keep such permits current and in good standing. Issuance of this development order by the City does not create any right on the part of the Applicant to obtain a permit from a Federal, State, County or Local agency and does not create any liability on the part of the City for issuance of a development order if the Applicant fails to obtain requisite approvals or fulfill the obligations imposed by a Federal, State, County or Local agency or undertakes actions that result in a violation of Federal, State, County or Local agency or undertakes actions that result in a violation of Federal, State, County or Local law. See Section 166.033 F. S.

2. After the first year following the issuance of a Certificate of Occupancy or a final inspection for the improvements, the City Council shall have the authority to hold hearings at any time to review the Mobile Food Vending Units activity for compliance with all conditions and requirements of approval and all applicable ordinances and resolutions of the City. If the use of the Property is not in compliance, the City Council may amend the Conditions of Approval, revoke or suspend the Local Business Tax Receipt (occupational license), terminate the Final Site Plan and Conditional Use, or refer the matter to the Code Enforcement Special Master as a code violation for other sanctions as deemed appropriate.
3. The use, occupancy, development, or redevelopment of the Property shall be limited to and in accordance with the Final Site Plan attached hereto as Exhibit 'B' and by this reference made a part hereof. Where specific provisions in this Resolution or in the Land Development Code are not addressed on the Site Plan, the specific provisions of this Resolution or in the Land Development Code shall apply to the development on the Property.
4. All public or private improvements required under the terms of this Resolution shall be constructed at the expense of and by the Applicant as approved by the City.
5. Deferral from Architectural elevations being submitted for the proposed future outdoor seating area until such a time as a building permit is applied for. The existing temporary structure shall be removed within twelve (12) months of the effective date of this resolution.
6. Payment in lieu of planting and maintenance of Street Trees along N. Willow due to future construction. The City will procure, install, and maintain required trees along the roadway at a later date. Payment shall be \$150 of the required caliper for a total cost of \$1,800.00 – this is inclusive for three (3) required trees. Payments shall be made to the City of Fellsmere within twelve (12) months of the effective date of this resolution.
7. Memorializing that no additional Open Space (interior) trees will be required as result of the development provided that the existing trees found on site are kept and maintained in a manner consistent with the Land Development Code.
8. The Applicant shall install the required landscaping that meets the District standards within six (6) months of the effective date of this Resolution. The applicant shall prepare a landscape plan for review and approval by the City no later than thirty (30) days prior to installation of required landscaping.

9. The Applicant shall install one handicap parking space with ADA path to main entrance to serve the development within ninety (90) days of the effective date of this Resolution.
10. The Applicant shall obtain a driveway/patio permit for the installation of new brick-paver patio and/or concrete parking area.
11. The Applicant shall remove all improvements upon the Property that are in conflict with the Final Site Plan and Landscape Plan and return such areas to sod or landscaping.
12. Concurrent with the construction of any portion of the brick paver or concrete outdoor dining pad, the Applicant shall construct an ADA compliant access to the proposed patio area from Vernon Street and from the parking area to the Mobile Food Vending Unit.
13. The Applicant is proposing to use a stabilized millings surface for the proposed parking area. The Applicant shall maintain the millings surface parking free of grass or weed intrusions and keep the millings surface in a neat and orderly arrangement confined only to the areas shown on the Final Site Plan. At the sole discretion of the City, the Applicant shall convert the millings surface parking spaces to an alternative City-approved stabilized surface within sixty (60) days of receiving written notification from the City.
14. All new signs, site lighting and all site furnishings will require compliance with the City's sign, lighting, and architectural standards to the extent signs, lighting and site furnishings are so regulated. Signage on any umbrellas or street furniture is prohibited.
15. No outdoor sales shall be conducted from a vehicle, trailer, truck, or other device and/or vehicle, with the exception of the singular approved food truck.
16. The Applicant shall subscribe for and maintain solid waste pick up service from a solid waste hauler having a franchise with the City and shall construct the required dumpster enclosure in Phase II, as shown on the Final Site Plan.
17. The Applicant shall comply with all requirements in Section 5.3 DD Mobile Food Vending Units of the Land Development Code.
18. Applicant shall obtain a Business Tax Receipt (BTR) from the City of Fellsmere for the one (1) mobile food vending unit and all other businesses or vending units on site.
19. If the parking provided on site is determined by the City, at its sole discretion, to be inadequate to serve the demand for parking generated by the use of the Property, the Applicant shall be required to limit the use of the Property commensurate with the available parking to support such use or construct

additional parking within sixty (60) days of receipt of written directive of the City.

20. The Applicant shall enter into a required payment agreement with the City for the Indian River County Impact Fees requirement for Restaurant Uses prior to issuance of a building permit for each phase of construction as noted below:

PHASE I- Construction of a 22 x 9 Food Truck pad, internal sidewalk, and stabilized parking area (198 sq feet of developed area times \$20.39 equaling a IRC impact fee of \$4,037.22 (\$20,396 per 1000 s.f. of development or \$20.39 per square foot).

PHASE II- Construction of a outdoor seating area pergola, or pavilion for the use of outdoor seating 360 square feet equaling a IRC impact fee of \$7,340.40.

21. As provided in Section 17.19 I, Land Development Code, the Conditional Use Permit and Site Plan granted by this Resolution may be revoked for:

- A. Violation of any condition or requirement imposed in this Resolution.
- B. Upon complaint and proof of adverse effect on adjacent properties.

The Conditional Use Permit and Site Plan may be revoked only after the City Council holds a public hearing, unless the permittee consents to a revocation of the Conditional Use Permit and Site Plan. If the permittee provides written consent to the revocation to the City Manager or designee, he shall revoke the Conditional Use Permit and Site Plan and notify the City Council of the revocation.

22. A violation of any of the conditions or requirements of approval shall constitute a code violation subject to enforcement through the Code Enforcement Special Master, unless a different remedy is specifically provided in any such condition or requirement, in which case such different remedy shall either supersede this provision or be in addition to code enforcement action as determined by the City.

SECTION 5. REPEAL OF CONFLICTING PROVISIONS. All previous resolutions or parts thereof, which conflict with the provisions of this Resolution, to the extent of such conflict, are superseded and repealed.

SECTION 6. SEVERABILITY. If any section, part of a sentence, paragraph, phrase or word of this Resolution is for any reason held to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions hereof and it shall be construed to have been the legislative intent to pass this Resolution without such unconstitutional, invalid or inoperative part.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

The foregoing Resolution 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 Herrera	_____
Council Member Inocensia Hernandez	_____
Council Member Gerald W. Renick	_____
Council Member Jessica Salgado	_____

The Mayor thereupon declared this Resolution duly passed and adopted this _____ day of _____, 2024.

CITY OF FELLSMERE, FLORIDA

Joel Tyson, Mayor

ATTEST:

Maria Sanchez-Suarez, City Clerk

EXHIBIT "A"
TO
RESOLUTION NO. 2024-32

Legal Description of Lot (Real Property)

Lot 123 and 124, Block 5, Hall, Carter and James Subdivision, a subdivision plat of Fellsmere Farms Company Tract 1354, in Township 31 South, Range 37 East, according to the plat thereof, as recorded in Plat Book 3, Page 31, of the Public Records of Indian River County, Florida.

EXHIBIT "B"
TO
RESOLUTION NO. 2024-32

Site Plan

SITE DATA:

ADDRESS 1005 N. VERNON ST. ZONING: C-1 / GEN. COM.	
SITE AREA = 8,712 SQ. FT.	100.0%
DEVELOPED AREA = 8,712 SQ. FT.	100.0%
OPEN AREA = 7,582 SQ. FT.	87.03%
PERVIOUS AREAS	TOTAL = 7,582 SQ. FT. 87.03%
STONE DRIVE AND PARKING = 2,504 SQ. FT.	27.74%
RETENTION POND = 1,780 SQ. FT.	20.43%
LANDSCAPING & OPEN AREAS = 3,298 SQ. FT.	38.86%
IMPERVIOUS AREAS	TOTAL = 1,130 SQ. FT. 12.97%
H/C PARKING & SIDEWALK = 306 SQ. FT.	3.51%
FOOD TRUCK = 464 SQ. FT.	5.33%
FUTURE OUTDOOR SEATING AREA = 360 SQ. FT.	4.13%

SEC. 3.25 TABLE 3E C-1 DEVELOPMENT STANDARDS:

PROPOSED	REQUIRED
LOT WIDTH = 108.50'	100' MINIMUM
LOT DEPTH = 80.0'	100' MINIMUM
LOT AREA = 8,712.0 S.F.	12,000 S.F. MINIMUM *
FRONT SETBACK = 14.0'	35' MINIMUM *
CORNER SETBACK = 23.0'	15' MINIMUM
SIDE SETBACK = 30.0'	7.5' MINIMUM
REAR SETBACK = 50.0'	25' MINIMUM
MAXIMUM HEIGHT = 15.0'	35' MAXIMUM
MAX. BLDG LENGTH = 35.0'	65' MAXIMUM
MIN. BLDG SIZE = 360 SQ. FT.	NO REGULATION
MAX. COVERAGE +/- = 64.78%	85% MAXIMUM

RELIEF REQUESTED: *

LOT DEPTH - 100' MIN. TO 80'
 LOT AREA - 12,000 SQ. FT. MIN. TO 8,712 SQ. FT.
 FRONT SETBACK - 35' MIN. TO 14'
 DEFER FROM SIDEWALK BEING CONSTRUCTED ALONG EAST R.D.W. AT WILLOW STREET.

SCOPE OF WORK:

THE PROJECT CONSISTS OF ONE (1) PERMANENT FOOD TRUCK WITH PARKING, COVERED OUTDOOR SEATING, LANDSCAPING, AND A STORMWATER RETENTION SYSTEM LOCATED ON SITE.

LEGAL DESCRIPTION:

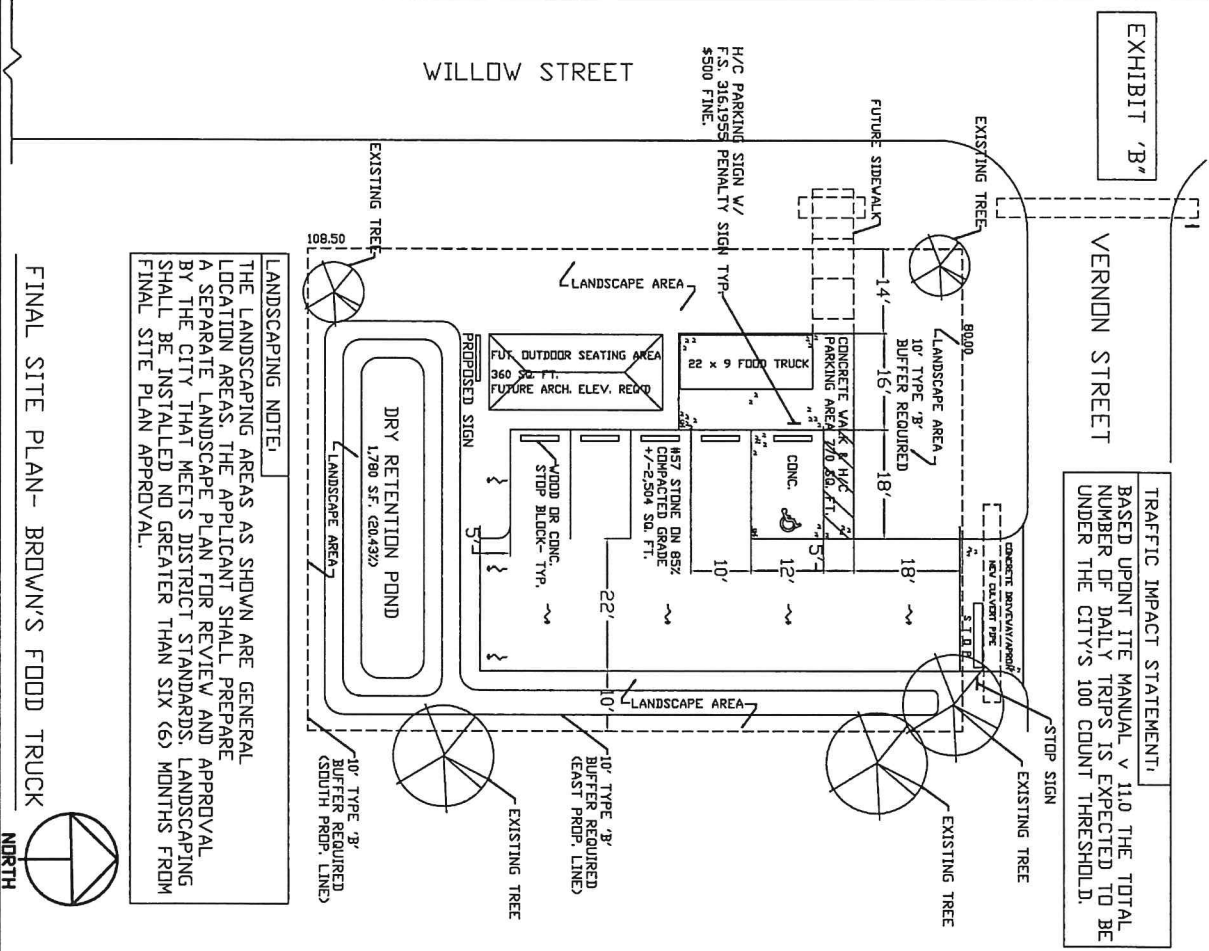
TRACT 1354, BLOCK 6, LOTS 147 & 148

EXHIBIT 'B'

VERNON STREET

TRAFFIC IMPACT STATEMENT:
 BASED UPON THE MANUAL V 11.0 THE TOTAL NUMBER OF DAILY TRIPS IS EXPECTED TO BE UNDER THE CITY'S 100 COUNT THRESHOLD.

WILLOW STREET



LANDSCAPING NOTE:
 THE LANDSCAPING AREAS AS SHOWN ARE GENERAL LOCATION AREAS. THE APPLICANT SHALL PREPARE A SEPARATE LANDSCAPE PLAN FOR REVIEW AND APPROVAL BY THE CITY THAT MEETS DISTRICT STANDARDS. LANDSCAPING SHALL BE INSTALLED NO GREATER THAN SIX (6) MONTHS FROM FINAL SITE PLAN APPROVAL.

FINAL SITE PLAN - BROWN'S FOOD TRUCK



BROWN'S FOOD TRUCK - FINAL SITE PLAN VIA CONDITIONAL USE APPROVAL 1005 N. VERNON STREET

Project Name and Address	Project Number
CONTRACT INFORMATION PASTOR ANNE BRUN queerh@cs716y.choc.com	1
DATE: March 17, 2024	Sheet: 1 of 1
Project: A-1	

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

#5(b)

MEETING DATES

PZ: May 15, 2024

COUNCIL: May 16, 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 2024-45

RECOMMENDED PZ/LPA MOTION/ACTION: Approve PZ Resolution 2024-45.

ENCLOSED DOCUMENTS:

PZ Resolution 2024.45

CC Ordinance 2024-20

Proposed Future Land Use Map

RESOLUTION NO. 2024-45

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. 2024-20 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 10.37 ACRES MORE OR LESS AS CR512 OLD TOWN OVERLAY DISTRICT, ALL AS REQUESTED BY MARIAN ESTATES.

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 10.37 acres more or less as CR512 Old Town Overlay District as more fully provided in Ordinance No. 2024-20; 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. 2024-20 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. 2024-20 amending the Chapter 1 Future Land Use Element, Goal FLUE B, Future Land Use Map Objective FLUE B-5 Garafolo of the Comprehensive Plan.

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. 2024-20**

AN ORDINANCE OF THE CITY OF FELLSMERE, INDIAN RIVER COUNTY, FLORIDA, AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP SERIES AS REQUESTED BY MARIAN 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 10.34 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 10.34 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 Inocensia 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 2024-20**

Comprehensive Plan Amendment

**OBJECTIVE FLUE B-5. MARIAN ESTATES
ORDINANCE NO. 07-25, (AMENDED BY
ORDINANCE NO. 2024-20, 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 4.85 dwelling units per acre in order to achieve a maximum of Three Hundred Thirty-Two (332) residential units (150 town homes and 182 single-family homes) on Sixty-Eight and Fourty-Three One-hundredth (68.43) acres. The commercial activity shall be limited to the Northern Ten and Thirty-Four One Hundredth (10.34) 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 2024-20**

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 141st Avenue and those properties that contain corner frontage with CR 512 and 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.