

**ORDINANCE NO. 2022-34  
LDR 22-13**

**AN ORDINANCE OF THE CITY OF NEWBERRY, FLORIDA, RELATING TO THE REZONING OF APPROXIMATELY 48.2 CONTIGUOUS ACRES, MORE OR LESS, PURSUANT TO AN APPLICATION BY THE PROPERTY OWNER OF SAID ACREAGE; AMENDING THE OFFICIAL ZONING ATLAS OF THE CITY OF NEWBERRY LAND DEVELOPMENT REGULATIONS; PROVIDING FOR REZONING FROM THE RESIDENTIAL (MIXED) SINGLE-FAMILY/MOBILE HOME (RSF/MH-2) ZONING DISTRICT TO THE PLANNED RESIDENTIAL DEVELOPMENT (PRD) ZONING DISTRICT ON CERTAIN LANDS WITHIN THE CORPORATE LIMITS OF THE CITY OF NEWBERRY, FLORIDA; TAX PARCELS 01993-000-000 AND 02002-000-000; PROVIDING SEVERABILITY; REPEALING ALL ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE**

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

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

**WHEREAS**, an application, **LDR 22-13**, for a Site-Specific Amendment to the Official Zoning Atlas (“rezoning”), as described below, has been filed with the City by the property owners;

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

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

**WHEREAS**, pursuant to Section 166.041, Florida Statutes, as amended, the City Commission held the required public hearings, with public notice having been provided, on said application for an amendment, as described below, and at said public hearing, the City Commission reviewed and considered all comments received during said public hearing, including the recommendation of the Planning and Zoning Board, serving also as the Local Planning Agency concerning said application for an amendment, as described below;

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

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

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

**Section 1. Official Zoning Map Amended.** Pursuant to an application LDR 22-13 by eda consultants, inc., Agent for Pat M. Post, Owner, to amend the Official Zoning Atlas of the City of Newberry Land Development Regulations by changing the zoning from Residential (Mixed Single-Family/Mobile Home (RSF/MH-2) to Planned Residential Development (PRD) on ±48.2-acres, **the Zoning District classification is hereby changed from RESIDENTIAL (MIXED) SINGLE-FAMILY/MOBILE HOME (RSF/MH-2) to PLANNED RESIDENTIAL DEVELOPMENT (PRD)** on property more particularly described as follows:

**Legal Description:**

All of Blocks 2 through 9 of Chapman and Smith’s Addition to Newberry, Florida, according to the Plat thereof as recorded in Plat Book A, Page 122, of the Public Records of Alachua County, Florida.

AND:

All of Block 1 through 8 of Central Florida Addition to Newberry, Florida, according to the Plat thereof as recorded in Plat Book B, Page 1, of the Public Records of Alachua County, Florida.

AND:

Lot 4 of Holt Estate Addition to Newberry, Florida, according to the Plat thereof as recorded in Plat Book A, Page 85, of the Public Records of Alachua County, Florida.

LESS:

That part conveyed to the City of Newberry in Official Records Book 1742, Page 1602, of the Public Records of Alachua County, Florida.

Alachua County Parcel Identification Numbers 01993-000-000 and 02002-000-000; ±48.2-acres

**Owner Information**

Pat M. Post  
28826 West Newberry Road

Newberry, Florida 32669-2674

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

**Section 3. Development Order.** A Development Order with findings and conditions is herewith made a part of this ordinance as “Attachment B – Development Order PD LDR 22-13”, shall govern the development and use of the above described property. Any deviation from the development order shall be deemed a violation of the Land Development Regulations.

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

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

**Section 6. Effective Date.** This Ordinance shall be adopted upon the date provided below, as passed.

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

DONE THE FIRST READING, by the City Commission of the City of Newberry, Florida, at a regular meeting, this 25th day of July, 2022.

DONE, THE PUBLIC NOTICE, in a newspaper of general circulation in the City of Newberry, Florida, by the City Clerk of the City of Newberry, Florida on this 12th day of January, 2023.

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DONE THE SECOND READING, AND ADOPTED ON FINAL PASSAGE, by an affirmative vote of a majority of a quorum present of the City Commission of the City of Newberry, Florida, at a regular meeting, this 23rd day of January, 2023.

BY THE MAYOR OF THE CITY OF  
NEWBERRY, FLORIDA

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

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

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

APPROVED AS TO FORM AND  
LEGALITY:

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

Attachments (2): Attachment A – Preliminary Development Plan  
Attachment B – Preliminary Development Order PRD LDR 22-13

**Attachment A**  
**Master Plan**



**Attachment B**  
**Preliminary Development Order PD LDR 22-13**

**Section 1.** This Preliminary Development Order, being a part of and incorporated thereto as Attachment B within this **Ordinance No. 2022-34** shall constitute the Order that the City of Newberry City Commission has issued in response to the application filed by the Applicant, for the Post 40 Planned Residential Development. The scope of development to be permitted pursuant to this Order includes activities described in the application, and, further that the City of Newberry City Commission, having received the above referenced documents, and having received all related comments, testimony, and evidence submitted by each party and members of the general public, finds there is competent substantial evidence to support the following findings of fact:

- A. That, the Applicant submitted to the City of Newberry City Commission the materials attached as part of its application, which are by reference made a part hereof;
- B. That, the Applicant proposes the development of the Post 40 Development as a Planned Residential Development (PRD) located within the City of Newberry's Urban Service Area, within the Economic Development Overlay and Transportation Project Enhancement Areas;
- C. That, the proposed PRD is not located in an area of critical State concern as designated pursuant to Section 380.05, Florida Statutes, as amended; and,
- D. That, excepting for concurrency certifications, which are not being made as part of this preliminary master plan approval, the project is consistent with the City of Newberry's Comprehensive Plan and Land Development Regulations.

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

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

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

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

### **Objectives**

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

The general purpose of the Post 40 Planned Residential Development (PRD) is for residential use. The project will permit a single-family subdivision of detached houses including tiny homes.

#### **2. General Character of the Planned Development**

The development includes only residential uses as identified on the Preliminary Development Plan. The Plan shows uses as “Single Family Residential”, ROW, and Open Space. The plan shows which areas will be single-family attached housing and which will be single-family detached.

Within all areas will be associated infrastructure improvements, including roadways, utilities, common areas and stormwater management facilities. The site will utilize Northwest 266 Street as a primary access point with connections to existing roadways and stub-outs to adjacent property. Internal roadways will meet block length standards and minimize cul-de-sacs to ensure a walkable grid network. Common Open Space, including a landscape buffer (minimum 10’ width) is located along the site's north, east and south perimeter to ensure compatibility with adjacent properties.

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

### **Density and Land Uses**

1. The maximum gross density for the PRD, containing residential uses, shall be limited to equal to or less than four (4) single family residential dwelling units per acre.
2. The site’s perimeter shall include a minimum 10-foot-wide buffer to adjacent lots.
3. To encourage and support an active community, the site shall provide sidewalks.
4. Except as otherwise provided herein or on the Preliminary Development Plan, the proposed intensity and density will follow the general pattern outlined in the Attachment A. Specific proposed uses, building sizes, design and location will be established at time of Site Development Plan approval.

5. The land use area boundaries are approximate locations and may be adjusted during development plan approval.

### **Proposed Public Services**

1. The PRD will be served by City centralized potable water and sanitary sewer facilities.
2. Electrical service will be provided by the City of Newberry and service lines will be installed underground.
3. Stormwater treatment will be provided in the form of retention basins which shall be landscaped and developed as common areas for passive/active recreational uses.
4. Public services infrastructure, such as water and sewer facilities, shall be transferred to the City upon completion of an inspection one-year after construction is complete.
5. The proposed development will be accessed Northwest 266 Street. Necessary modifications to these roadways will be assessed during Site/Development Plan review. All public facility modifications necessary for serving on site uses will be the responsibility of the developer.
6. All plat improvements shall be warrantied as provided in Section 5.39 of the Land Development Regulations or by surety instrument acceptable to the City.
7. All site and development plans shall be warrantied as provided in Section 5.39 of the Land Development Regulations or by surety instrument acceptable to the City prior to any building permits being issued.

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

Residential: Maximum of 4.0 dwelling units per acre (du/ac) gross density with a proposed 180 detached single-family dwelling units and may include up to 16 tiny homes—not to exceed 180 dwelling units total.

Non-Residential: None.

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

1. Total Site Area = 48.2 acres, more or less (100%)
2. Residential, Single-Family Area = 24 acres, more or less (49.8%)
3. Common Open Space = 16.2 acres, more or less (34%)

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

1. AREAS 1 and 2: Permitted principal (detached single-family dwelling units and tiny homes), limited, and accessory uses and special exceptions consistent with the residential, single-family (RSF) zoning district.

- 2. Open space is allowed in any land use area
- 3. Stormwater management facilities can be located within any land use area. (The Preliminary Development Plan does not specify actual size and location of the proposed facilities.)

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

1. Phasing

- a. The PRD shall be constructed in up to three (3) phases.
- b. Transportation enhancements interior to the site will be based on a cumulative inventory of units receiving a certificate of occupancy.
- c. The PRD must receive Final Development Plan approval and must demonstrate that adequate public facilities are available to serve the project. In addition, development shall be in accordance with FDOT access management, safety and operation requirements.
- d. Any on-site or off-site improvements required for this project shall be the responsibility of the developer of that particular project phase.

2. Development Standards (Setbacks, Building Height)

|                          |  |
|--------------------------|--|
| LOT AREA, MIN. (SQ FT)   | Area 1: 6,600 s.f.<br>Area 2: 5,500 s.f. |
| LOT WIDTH, MIN. (FT)     | Area 1: 60 ft.<br>Area 2: 50 ft.         |
| LOT COVERAGE, MAX        | 40%                                      |
| FRONT SETBACK, MIN. (FT) | 20 ft.                                   |
| SIDE SETBACK, MIN. (FT)  | Area 1: 7.5 ft.<br>Area 2: 5 ft.         |
| REAR SETBACK, MIN. (FT)  | 15 FT                                    |
| SIDE STREET, MIN. (FT)   | N/A                                      |
| BLDG HEIGHT, MAX. (FT)   | 35 ft.                                   |

3. Buffering

- a. Common area and open space shall be located in a manner generally consistent with the Attachment A to buffer adjacent properties. The site’s perimeter shall include a minimum 10-foot-wide buffer to larger adjacent lots.
- b. Common area, open space, and buffers shall be used within the development in accordance with the Attachment A and as further delineated on final development plans.

4. Lot Coverage

The site is located within the Urban Service Area but outside the Historic District/designated Main Street area and transportation enhancement project area. The maximum permitted Floor Area Ratio is 0.75.

#### 5. Off-Street Parking

Residential: Two (2) spaces for each dwelling unit.

Off street parking dimensions and any other permitted uses not specified above shall comply with the parking requirements outlined in the City of Newberry Land Development Regulations.

#### 5. Supplementary Regulations

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

### **IV. Public Facilities**

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

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

All roadways, utility easements, and right-of-way, as shown on the Preliminary Development Plan and Utility Plan shall be constructed by the developer and may be dedicated to the public.

### 1. Generally

All local roadways hereinafter developed (if dedicated to the public) shall have a minimum wearing surface of twenty-four (24) feet and a minimum right of way of sixty (60) feet. If local roads are not dedicated to the public (they shall be maintained by the Owners Association) these roads may be designed with a minimum twenty (20) foot wearing surface. All roadways, having less than a 50-foot right of way shall require additional utility easements to be located adjacent to the right of way. All public roads shall be constructed in conformance with Section 5.26 of the City of Newberry Land Development Regulations. All construction plans as filed and approved by the City Commission, shall be maintained by Developer for a period of one (1) year after completion, inspection, and approval of the constructed facilities for each internal development, as provided within the City's Land Development Regulations. Every dwelling unit or other use permitted in the PD shall have a legal means of ingress and egress by way of public or private right-of-way, which meets the minimum requirements of the City's Land Development Regulations. Except as provided elsewhere, all streets shall be constructed as required by the City of Newberry.

### 2. On-Street Parking

On-street parking shall be permitted within the PRD in a logical manner and promote traffic calming measures. The following standards shall be applied when designing the internal road network.

- a. As measured from face of curb to face of curb or edge of asphalt to edge of asphalt:
  - i. Roads less than 26 feet wide, on-street parking is prohibited and signage acceptable to the City Manager or their designee shall be posted notifying drivers and residents of such.
  - ii. Roads equal to or greater than 26 feet wide but less than 32 feet wide, on-street parking is permitted on one side.
  - iii. Roads equal to or greater than 32 feet wide, on-street parking is permitted on both sides of the street.
- a. In no case, shall clear travel paths be less than 20 feet wide for the purposes of access by emergency vehicles.
- b. Where on-street parking is provided on roads greater than 500 feet in length, on-street parking must alternate from one side of the street to the other.

### 3. Street Design

- a. As Road segments greater than 500 feet in length with less than a 5-degree change in direction shall incorporate traffic calming improvements to include, but are not limited to, chicanes, canopy street trees in bulb-outs, roundabouts at intersections, on-street parking, speed humps, speed bumps, paver-brick crossings, neckdowns or chokers, and/or speed tables.
- b. Stub roads for future road network connections shall have reflective signage posted on a metal pole stating "Future Thru Street" at the terminus of the asphalt.

### 4. Sidewalks

A sidewalk shall be provided along the east side of Northwest 266 Street from the north limit of the subject property southerly to Northwest 3 Avenue/Rock Road. Back of sidewalk should generally follow the property line(s), however, if unique conditions or topology exist which prevent alignment, deviations may be approved by the City Manager or their designee. In addition, all interior streets, roads, and right-of-way must include sidewalks on both sides of the street. Said improvements shall be required prior to the completion and acceptance of utilities by the City of Newberry as they occur within each phase of the project.

#### 5. Stormwater Treatment Basin

To the greatest extent possible, on-site stormwater management basins along and abutting Northwest 266 Street shall be designed to incorporate flow from the right-of-way and in no case shall cause discharge into the right-of-way.

#### 6. Improvements to Northwest 266 Street from Northwest 8th Lane to Northwest 3rd Avenue

The developer shall reconstruct that portion of Northwest 266 Street, from Northwest 8th Lane and adjacent to the western property limit to Northwest 3rd Avenue in accordance with the standards adopted in the street improvement schedule provided in Appendix B, Article 5, Section 5.26 entitled "Streets" of the City of Newberry Code of Ordinances.

In addition, the City shall contribute a dollar amount not to exceed \$200,000 which shall be applied towards the cost for improving Northwest 266th Street. Upon completion of the reconstruction and acceptance of those improvements by the City, the City shall reimburse the Developer for costs directly associated with the construction, provided the Developer is in compliance with applicable laws, codes, statutes, rules and regulations. The City shall reimburse the Developer within sixty (60) calendar days from date on which Developer provides to the City the following Development-related closeout information: Inspection documentation, pay application with Schedule of Values, invoices, and supporting cost documentation signed and sealed by the Engineer of Record.

The reconstruction of that certain portion of Northwest 266th Street shall be completed prior to the issuance of a Certificate of Occupancy.

### **VI. Permitting**

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

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

### **Water and Wastewater**

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

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

## **VII. Conditions**

1. The Developer shall commit to the following list of conditions:
  - a. *Design.* The following standards and regulations apply:
    - 4.a.1 Renderings and façade elevations showing the proposed building design shall be submitted as part of the Final Master Plan and Site and Development Plan application.
    - 4.a.2 Design shall incorporate the Florida Vernacular style of architecture in accordance with existing City design regulations listed in Section 4.2.36.4. Standards for new construction and re-construction for commercial (non-industrial) development of the City’s Zoning Regulations (City of Newberry Code of Ordinances) unless the aesthetic value and quality of design is of such high standard, as determined by the City Commission, same may grant an exception to this requirement.
    - 4.a.3 No corrugated metal siding shall be permitted. Proposed designs may incorporate exterior architectural metal cladding, however, must be submitted for consideration and approval by the Land Development Regulation Administrator.
  - b. *Landscaping.* The following standards and regulations apply:
    - 4.b.1 Landscaping shall be installed along the perimeter of stormwater management areas, as approved by the Utilities Director and Land Development Regulation Administrator.
    - 4.b.2 A landscape plan shall be submitted as part of the Site and Development Plan application, incorporating landscape features into parking areas and around buildings.
    - 4.b.3 The use of native plants and existing vegetation in all landscaping is encouraged throughout the development.
    - 4.b.4 Landscaping shall be maintained, and in the event of disease or damage, landscaping shall be replaced with similar plantings.
    - 4.b.5 Each detached single-family lot shall have its own canopy tree located in the front yard and shall meet the requirements of Chapter 74, Article III of the City of Newberry Codes of Ordinances, entitled “Tree City Ordinance.”

- c. *Stormwater Management and Parking Areas.* Where practical, proposed stormwater management and parking areas shall be incorporated as design features, locating stormwater management facilities along internal roads.
- d. *Signs.* Signage identifying the PRD shall complement the overall design of the main building. The frame shall match the exterior building color, consistent with that of the North Florida Vernacular, unless an alternative architectural styling is approved by the City Commission with the Final Development Plan. Monolithic sign supports shall be similar in size, scale, mass, and character of the exterior building elements. Proposed signage design and location shall be submitted as part of the Final Development Plan.
- e. *Final Development Plan.* The following shall apply:
  - 4.e.1 Within 12 months of adoption of the Preliminary Development Plan, the owner or their designee shall submit to the City the final development plan covering all or a part of the approved preliminary development plan.
  - 4.e.2 This period may be extended by 12 months by the City Commission if requested in writing by the owner or their designee prior to the expiration of the preliminary development plan.
  - 4.e.3 If the final development plan is not approved within the allotted time, the land use classification and zoning designation shall revert to the prior land use and zoning in effect prior to the approval of the Planned Residential Development.
  - 4.e.4 No building permit shall be issued for any portion of a proposed Planned Residential Development until the final development plan has been approved and minimum requirements for fire safety and buildings codes have been satisfied.
- f. *Revisions, amendments, deviations, changes.* Revisions, amendments, deviations, and/or changes to preliminary development plan which affect the following shall be reviewed by the Planning and Zoning Board and the City Commission in the same manner as the initial application:
  - 4.f.1 Intent and character.
  - 4.f.2 Density or land use pattern.
  - 4.f.3 Proposed buffers.
  - 4.f.4 Location or dimensions of arterial or collector streets.
  - 4.f.5 Or other substantial changes as enumerated in Appendix B, Article 4, Section 4.20.8 of the City of Newberry Code of Ordinances.

Minor changes may be approved by the LDR Administrator.

*Deviation, specifically.* The following shall apply:

- i. Deviation from the approved Final Development Plan shall be cause for revocation of the Final Development Plan until such time as the deviations are corrected or become a part of the approved Final Development Plan.

- ii. The current owner, their assigns, or successors-in-interest shall submit an application to amend the Final Development Plan within 30 calendar days of notice.
  - iii. No later than 90 days from the date of notice shall the City Commission consider the deviation at a duly advertised public hearing.
  - iv. In the event the Final Development Plan deviation is denied by the City Commission, the owner shall have 180 days to complete any corrections to the improvement of the site(s), building(s), right(s)-of-way, and/or infrastructure, as identified in the notice of deviation from the adopted Final Development Plan.
- g. *Time limitations.* If substantial development has not begun, as determined by the LDR Administrator, within two (2) years after the approval of the final development plan, the approval of the planned development will lapse, however, the owner or their designee may request in writing for the City Commission to extend the period for beginning construction not to exceed an additional two years. Should the development plan lapse, the land use designation and zoning classification shall revert to same established prior to the adoption of the Planned Development.
- h. *Impact fees.* Developer acknowledges that impact fees shall be assessed during the building permit application review and paid prior to the issuance of a building permit.

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

**Section 5.** It is understood that any reference herein to any governmental agency shall be construed to mean any future instrumentality that may be created or designated as successor-to-interest to, or which otherwise possesses any of the powers and duties of any referenced governmental agency in existence on the effective date of this Order, adopted herewith as part of this Ordinance 2022-34.