

Ordinance No. 2024-4810

An ordinance of the City of Sanford, Florida providing for the rezoning of a parcel of real property totaling approximately 4.87 acres in size located at 2340 Celery Avenue and assigned Tax Parcel Identification Number 29-19-31-300-0120-0000 by the Seminole County Property Appraiser from Seminole County Agriculture (A-1) to City Planned Development (PD) (map of the PD property is attached); providing for findings and intent; providing for the taking of implementing administrative actions; providing for the adoption of a map by reference; providing for conflicts; providing for severability; providing for non-codification and the correction of scrivener's errors and providing for an effective date and potential reversion.

Whereas, an application has been submitted proposing to rezone real property generally addressed as 2340 Celery Avenue from Seminole County Agriculture (A-1) to City Planned Development (PD) to establish specified uses on the PD Property; and

Whereas, the fee simple title owner of the real property that is the subject of this Ordinance is Dave's House At Celery, LLC of Winter Park who has no named manager, but whose registered agent is Elena Norman (the "Property Owner"); and

Whereas, the applicant on behalf of the Property Owner is Laurence Poliner, P.E., of RCE Consultants, LLC located in Altamonte Springs; and

Whereas, the subject real property is assigned the following Tax Parcel Identification Number 29-19-31-300-0120-0000, as assigned by the Seminole County Property Appraiser; and

Whereas, the subject real property is a site 4.87 acres in size and is addressed as 2340 Celery Avenue which real property is located off Celery Avenue, between the Celery Farm and Celery Park Estate Subdivisions; and

Whereas, a Citizens Awareness and Participation Plan (CAPP) meeting was

held on March 27, 2024 by Mr. Poliner and the CAPP report has been found to be satisfactory to the City; and

Whereas, the PD property currently has a group home use on the site and is not assessed a taxable value and the Applicant is seeking to establish a 16-unit single family residential subdivision (8 duplex units) (although the project was sought to be modified when being heard by the Planning and Zoning Commission which is not permitted under the rules of that Commission and controlling law relating to notices to the public) on the PD property; and

Whereas, the PD property is located sub-area 1 of the County/City Joint Planning Agreement (JPA) for all lands east of the line described as the eastern $\frac{3}{4}$ line of Sections 29 and 32, Township 19, Range 31 (the western boundary line of the University of Florida Agricultural Experimental Station, and shown on Exhibit "D" of the JPA as the dashed line) density generally shall not exceed 2.5 dwelling units per net buildable acre although a maximum of 3.5 dwelling units per net buildable acre is allowed in a clustering pattern with a minimum of 15% of gross site area set aside for common open space and subject to one of the following conditions (a). perimeter lots being a minimum of 9,000 square feet in size; or, (b). lots less than 9,000 square feet in size shall be separated from the site boundary by an open space tract not less than 25' in width, but for all lands west of said line, density shall not exceed 4 dwelling units per net buildable acre; and

Whereas, the PD property must be developed within 3 years as set forth in the provisions of Section 4.3.G of the City's *Land Development Regulations (LDRs)*; and

Whereas, the City's Planning and Development Services Department conducted a thorough review and analysis of the demands upon public facilities and recommended

that the subject rezoning application be approved having determined that the proposal is technically sufficient and consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Sanford*, the City's *LDRs*, and the controlling provisions of State law; and

Whereas, the City of Sanford Planning and Zoning Commission considered the rezoning application submitted by the Applicant at its October 3, 2024, meeting and recommended that the City Commission deny an ordinance to approve the rezoning and the PD Master Plan to establish specified uses on the PD Property based on the request being inconsistent with the goals, objectives and policies of the City's *Comprehensive Plan* as recommended by City staff; and

Whereas, the City planning and development staff have determined that the rezoning request is now consistent with the underlying land use and the goals and objectives of the City's *Comprehensive Plan* and recommends approval of this Ordinance as a result of the modified PD Master Plan being submitted by the Applicant; and

Whereas, the City Commission has determined that the proposed rezoning of the PD Property as set forth in this Ordinance is consistent with the *Comprehensive Plan of the City of Sanford*, the City's *LDRs*, and the controlling provisions of State law as a result of the modified PD Master Plan being submitted by the Applicant; and

Whereas, the City Commission of the City of Sanford, Florida has taken all actions relating to the rezoning action set forth herein in accordance with the requirements and procedures mandated by State law.

Now, therefore , be it enacted by the People of the City of Sanford, Florida:

Section 1. Legislative Findings And Intent.

(a). The City Commission of the City of Sanford hereby adopts and incorporates into this Ordinance the City staff report and City Commission agenda memorandum relating to the application relating to the proposed establishment of the 2340 Celery Avenue PD as well as the recitals (whereas clauses) to this Ordinance.

(b). The approval set forth in this Ordinance is subject to the specific conditions that are set forth subsequently in this Ordinance and the Property Owner has agreed that no requirement herein lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the City seeks to avoid, minimize, or mitigate.

(c). The City of Sanford has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

(d). This Ordinance is consistent with the goals, objectives, and policies of the *Comprehensive Plan of the City of Sanford*.

Section 2. Rezoning Of PD Property/Implementing Actions; Establishment Of The 2340 Celery Avenue PD.

(a). Upon enactment of this Ordinance the PD Property, as depicted in the map attached to this Ordinance, shall be rezoned from the Seminole County Agriculture (A-1) zoning district to the City's PD zoning district to establish the 2340 Celery Avenue PD.

(b). The City Manager, or designee, is hereby authorized to execute any documents necessary to formalize approval of the rezoning action taken herein with regard to the 2340 Celery Avenue PD and to revise and amend the Official Zoning Map or Maps of the City of Sanford as may be appropriate to accomplish the action taken in

this Ordinance and as set forth herein.

(c). The conditions to be incorporated into the pertinent non-statutory development agreement relating to the action taken in this Ordinance include the following:

(1). Pursuant to Section 4.3.G of the City's *LDRs*, this rezoning shall expire 3 years from the effective date of this Ordinance if all improvements have not been completed or an extension granted; provided, further, however, that upon expiration, the property shall revert to an un-zoned status; provided, further, however, that no extension may be granted after expiration.

(2). All development shall be consistent with the 2340 Celery Avenue PD Master Plan, dated as received by the City on October 8, 2024, unless otherwise specifically set forth any associated non-statutory development agreement or a development order; provided, however, that all subsequent development orders shall be consistent with the provisions of this Ordinance.

(3). If City staff, by means of a determination or determinations by the City's Administrative Official, and the Property Owner are unable to agree to the details of this Ordinance or the implementing PD non-statutory development agreement in any way, the matter will be submitted to the Planning and Zoning Commission for resolution at a public hearing, and the matter will be adjudicated by means of a development order or denial development order relating thereto.

(4). In agreeing to the above conditions in the subsequent PD non-statutory development agreement, the Property Owner shall be conclusively deemed to have agreed that, in accordance with the provisions of Section 70.45, *Florida Statutes*, pertaining to governmental exactions, the City has not imposed any prohibited exaction. The term “prohibited exaction” is defined by that statute to mean “. . . any condition imposed by a governmental entity on a property owner’s proposed use of real property that lacks an essential nexus to a legitimate public purpose and is not roughly proportionate to the impacts of the proposed use that the governmental entity seeks to avoid, minimize, or mitigate.”

Section 3. Incorporation Of Documents And 2340 Celery Avenue PD Master Plan For The 2340 Celery Avenue PD.

The documents attached to this Ordinance are hereby ratified and affirmed and incorporated into this Ordinance as a substantive part of this Ordinance establishing the 2340 Celery Avenue PD.

Section 4. Conflicts.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed.

Section 5. Severability.

If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful, or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or

unconstitutional.

Section 6. Non-Codification; Implementation.

(a). This Ordinance shall not be codified in the *City Code of the City of Sanford* or the City's *LDRs*; provided, however, that the actions taken herein shall be depicted on the zoning maps of the City of Sanford by the City Manager, or designee. Typographical errors and other matters/Scrivener's errors of a similar nature that do not affect the intent of this Ordinance, as determined by Administrative Official, in conjunction with the City Clerk and City Attorney, may be corrected without the need for a public hearing.

(b). The City Manager, or designee, shall implement the provisions of this Ordinance by means of a non-statutory development agreement which shall be executed by the Property Owner, or their successor(s) in interest within 60 days of the effective date of this Ordinance or the PD Property's zoning classification shall revert to an un-zoned status. Further, if, pursuant to Section 4.3.G of the City's *LDRs*, this rezoning expires in 3 years from the effective date of this Ordinance due to all improvements having not been completed or an extension granted; then the property shall revert to an un-zoned status with the sole entitlement to construct 1 single family residential structure as consistent with the goals, objectives and policies of the City's *Comprehensive Plan*.

(c). The non-statutory development agreement referenced in Subsection (b).of this Section shall be and constitute a development order and shall not create contractual rights of the Property Owner against the City nor contractual obligations of the City to the Property Owner and, to that end, the Property Owner shall have no contractual rights or remedies against the City with regard to any land use action of the City.

(d). The City has not waived any rights or remedies by taken the action set forth

herein or in the implementing development agreement and any successive development orders and reserves any and all rights and remedies available to the City under controlling law including, but not limited to, the protections under the laws pertaining to sovereign immunity and, further, all matters set forth herein may be enforced by any code enforcement process available to the City under the provisions of controlling law.

Section 7. Effective Date.

This Ordinance shall take effect upon enactment.

Passed and adopted this 18th day of November, 2024.

Attest:

**City Commission of the City of
Sanford, Florida**

Traci Houchin, MMC, FCRM
City Clerk

Art Woodruff
Mayor

Approved as to form and legal sufficiency.

William L. Colbert
City Attorney



Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

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The City is of the view that the following exception(s) to the Business Impact Estimate requirement, that are checked off in a box below, apply to the above-referenced proposed ordinance. Although, the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:

- a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
- b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
- c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
- d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

This is a rezoning ordinance which was enacted upon application of the property owner.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City:

None.

3. Estimate of direct compliance costs that businesses may reasonably incur:

None.

4. Any new charge or fee imposed by the proposed ordinance:

None.

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

The effect of the proposed ordinance, which was enacted upon application by the property owner, should enhance the economic goals and investment backed expectations of the property owner.

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None.

7. Additional information

Reference to the City staff report/agenda memorandum and the public hearings on the proposed ordinance may be of assistance.