

ORDINANCE NO. 2022 - 37

AN ORDINANCE OF THE CITY COMMISSION OF DELAND, FLORIDA, CHANGING THE ZONING FROM VOLUSIA COUNTY'S, R-3A, URBAN SINGLE-FAMILY TO CITY'S PLANNED DEVELOPMENT, THE CANOPY AT BLUE LAKE PD, ON PROPERTY LOCATED ON THE NORTH SIDE OF EAST WISCONSIN AVENUE AND WEST NORTH BLUE LAKE AVENUE; APPROVING A PLANNED DEVELOPMENT PLAN CONSISTING OF APPROXIMATELY 4.8 +/- ACRES OF PROPERTY MAKING FINDINGS OF CONSISTENCY WITH THE COMPREHENSIVE LAND USE PLAN FOR THE CITY OF DELAND; DIRECTING CHANGE IN THE COMPREHENSIVE ZONING MAP; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Petitioner, Viatcheslav Yedlin, on behalf of the owner, Yedlin & Co LLC, owns approximately 4.8 +/- acres of land located on the north side of east Wisconsin Avenue and west of north Blue Lake Avenue, which is more particularly described in the legal description attached hereto as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, the Applicant has applied for a change of zoning designations from Volusia County's R-3A, Urban Single-Family to The Canopy at Blue Lake PD, Planned Development; and

WHEREAS, said rezoning is consistent with both the Comprehensive Plan and the purpose and intent of Section 33-32 of the Code of Ordinances of the City of DeLand (the "Code"); and

WHEREAS, the applicant has submitted an application for the approval of a development plan in order to amend the property zoning designation so as to change certain development standards for the property described in Exhibit "A" (hereinafter the "Property" or the "Project"); and

WHEREAS, the proposed development plan meets or exceeds the minimum conditions and standards for the PD District with respect to minimum development size, perimeter setbacks, comprehensive plan consistency, internal compatibility, external compatibility, open spaces, sidewalks, environmental constraints, internal access and circulation, external transportation access, off-street parking, public facilities and unified control; and

WHEREAS, the proposed development plan is consistent with the Urban Low Intensity future land use designation.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:

Section 1. The City Commission has held a public hearing to approve the change of zoning from Volusia County's R-3A, Urban Single Family to The Canopy at Blue Lake Planned Development (PD), on property located on the north side of east Wisconsin Avenue and west of north Blue Lake Avenue consisting of approximately 4.8 +/- acres of property.

Section 2. Pursuant to the determination made at public hearing, the City Commission hereby amends the Comprehensive Zoning Map of the City to include the land described in Exhibit "A" as The Canopy at Blue Lake PD, Planned Development District.

Section 3. The zoning of the Property as PD, Planned Development District, is made pursuant to Section 33-32 of the Code and the development of the Property shall take place in accordance with that Section and in substantial compliance with the Development Plan Agreement, Maps and other supporting documentation submitted by Applicant which shall be filed and retained for public inspection in the office of the City Planning Department and constitute a supplement to the official Zoning Map of the City.

Section 4. The approved Development Plan for The Canopy at Blue Lake PD, Planned Development District, including the Development Plan Agreement, Map and other supporting documentation (on file with the City Planning Department), are attached hereto as Exhibit "B" and by this reference made a part hereof.

Section 5. The failure of the approved Development Plan to address a particular permit, condition, term or restriction shall not relieve the Applicant of the necessity of complying with any law governing said permitting requirements, conditions, terms or restrictions, as same may be amended or enacted from time to time in the future. All current land development regulations of the City are applicable to the PD District except to the extent that they conflict with a specific provision of the approved Development Plan.

Section 6. At the time of development, the Applicant shall comply with all relevant building codes and development standards contained in the City’s Code of Ordinances or in the Development Plan; provided, however, that the development standards contained in the adopted Development Plan shall supersede comparable standards contained in the Code of Ordinances.

Section 7. The City Commission may rezone any portion of the Project which has not obtained a site plan approval within five years from the date of adoption of this Ordinance.

Section 8. Prior to the issuance of a building permit, Applicant shall submit an easement document, acceptable to the City of DeLand, permitting additions to shared access, parking, utilities, and stormwater.

Section 9. Pursuant to Article 5 of the City’s Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

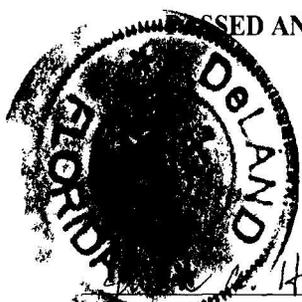
Section 10. The City Engineer, Planning Director, and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

Section 11. No rights to obtain final development orders nor any rights to develop the property have been granted or implied by this Ordinance. Final development orders for the property including, but not limited to, subdivision and site plan approval shall be subject to a determination of concurrency.

Section 12. If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 13. This Ordinance shall become effective immediately upon its adoption.

PASSED AND DULY ADOPTED this 19th day of December, 2022.



Julie A. Hennessy
Julie A. Hennessy
City Clerk - Auditor

Christopher M. Cloudman
Christopher M. Cloudman
Mayor - Commissioner

Passed on first reading: October 17, 2022
Adopted on second reading: December 19, 2022

APPROVED AS TO FORM AND LEGALITY:

Darren J. Elkind
Darren J. Elkind
City Attorney

EXHIBIT "A"

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA AND THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, TOWNSHIP 17 SOUTH, RANGE 30 EAST, VOLUSIA COUNTY, FLORIDA, SAID POINT BEING A 4-INCH BY 4-INCH CONCRETE MONUMENT STAMPED PRM 3282.

THENCE BEARING SOUTH 1 DEGREE 47 MINUTES 32 SECONDS EAST ALONG THE EAST LINE OF SAID NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, A DISTANCE OF 647.78 FEET TO THE INTERSECTION OF THE NORTH BOUNDARY OF THE EAST WISCONSIN AVE. R/W, SAID POINT BEING A 5/8" IRC (NO ID);

THENCE BEARING SOUTH 89 DEGREES 39 MINUTES 36 SECONDS WEST A DISTANCE OF 328.89 FEET TO THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, SAID POINT BEING A ½" IRC (ILLEGIBLE);

THENCE BEARING NORTH 1 DEGREE 39 MINUTES 6 SECOND WEST ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, A DISTANCE OF 646.97 FEET TO THE INTERSECTION OF THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, SAID POINT BEING A ½" IR (NO ID)

THENCE BEARING NORTH 89 DEGREES 31 MINUTES 34 SECONDS EAST ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE ¼) OF THE NORTHWEST ONE-QUARTER (NW ¼) OF THE SOUTHEAST ONE-QUARTER (SE ¼) SECTION 10, A DISTANCE OF 327.28 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 4.875 ACRES MORE OR LESS.

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“EXHIBIT B”
PLANNED DEVELOPMENT AGREEMENT
IN THE CITY COMMISSION OF THE
CITY OF DELAND, FLORIDA
IN RE: 2022-37, Application of
Yedlin & Co, LLC
ORDINANCE # 2022-37
ORDER AND RESOLUTION
GRANTING A REQUEST FOR CHANGE OF ZONING FROM ***VCR-3A*** TO
The Canopy at Blue Lake PD PD (PLANNED DEVELOPMENT)

The application of (*Yedlin & Co, LLC*), hereinafter, "Applicant", for rezoning was heard by and before the City Commission, DeLand Florida, on December 19, 2022. Based upon the verified Application and other supporting documents, maps, charts, overlays, other evidence and instruments; the advice, report, and recommendations of the Community Development, and other Departments and agencies of DeLand, Florida; and the testimony adduced and evidence received at the Public Hearing on this Application by the Planning Board on September 21, 2022, and otherwise being fully advised, the City Commission does hereby find and determine as follows:

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GENERAL FINDINGS

A. That the application of (*Yedlin & Co, LLC*) was duly and properly filed herein on July 18, 2022, as required by law.

B. That all fees and costs which are by law, regulation, or Ordinance required to be borne and paid by the applicant have been paid.

C. That the applicant is the *owner* of a 4.874 acre parcel of land which is situated in DeLand, Florida. This parcel of land is described more particularly in the survey and legal description, a true copy of which is attached hereto as Exhibit "A".

D. That the Applicant has complied with the concept plan provision as required by Land Development Regulations Ordinance #2013-11, as amended.

E. That the Applicant has complied with the "Due Public Notice" requirements of the City Commission, Land Development Regulations Ordinance #2013-11, as amended.

1 FINDINGS REGARDING REZONING

2
3 A. That the Applicant has applied for a change of zoning from the present
4 zoning classification(s) of the parcel described in Exhibit "A" from *VCR-3A* to *The Canopy*
5 *at Blue Lake PD* (Planned Development).
6

7 B. That the said rezoning to a PD is consistent with both the City of DeLand
8 Comprehensive Plan Ordinance # 1990-04, as amended, and the intent and purpose of the
9 City of DeLand Land Development Regulations Ordinance #2013-11, as amended, and
10 does promote the public health, safety, morals, general welfare and orderly growth of the
11 area affected by the rezoning request.
12

13 NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF
14 DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY
15 COMMISSION CHAMBERS, 120 SOUTH FLORIDA AVENUE, DELAND, FLORIDA, THIS
16 19th DAY OF DECEMBER, 2022, AS FOLLOWS:
17

18 A. That the Application of *Yedlin & Co, LLC* for the rezoning of the subject
19 parcel is hereby granted.
20

21 B. That the zoning classification of the subject parcel described in Exhibit "A"
22 attached hereto is hereby amended from *VCR-3A* to *The Canopy at Blue Lake PD* PD as
23 described in Article VII of the City of DeLand, Land Development Regulations Ordinance
24 #2013-11, as amended.
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2 C. That the Official Zoning Map of the City of DeLand, is hereby amended to
3 show the rezoning of said parcel to *The Canopy at Blue Lake PD*.

4

5 D. That the City of DeLand Land Development Regulations Ordinance #2013-
6 11, as amended, is consistent with the provisions of the "Development Agreement" as
7 hereinafter set forth in this Ordinance and with respect to any conflict between Land
8 Development Regulations Ordinance #2013-11, as amended, and the "Development
9 Agreement", the provisions of the "Development Agreement" shall govern. Ordinance
10 #2013-11, as amended, shall govern with respect to any matter not covered by the
11 "Development Agreement." The City of DeLand, will ensure overall compliance with this
12 Ordinance.

13

14 E. Unless otherwise provided for herein the City of DeLand, Land Development
15 Regulations Ordinance #2013-11, as amended, shall apply to the PD in the same manner
16 as the *R-1A* zoning classification.

17

18 F. Nothing in this Ordinance shall abridge the requirements of any City of
19 DeLand Ordinance other than Ordinance #2013-11, as amended. Timing and review
20 procedures contained in this Order and Resolution may be modified to comply with the City
21 of DeLand Land Development Regulations, Ordinance #2013-11, as amended. Further,
22 nothing in the Development Agreement is intended to abridge the requirements of
23 Ordinance #2013-11, as amended, and any other City Ordinances.

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DEVELOPMENT AGREEMENT

A. Development Concept The property shall be developed as a PD substantially in accordance with the Planned Development Plan. The Planned Development Plan shall govern the development of the property as a PD and shall regulate the future land use of this parcel. The subdivision improvements shall all be constructed in a single phase.

1. Planned Development Plan The Planned Development Plan shall consist of the Development Plan Map prepared by *Newkirk Engineering, Inc.* and dated 12-14-2022 and this Development Agreement. The Development Plan Map is hereby approved and incorporated in this Ordinance by reference as Exhibit "B". The Planned Development Plan shall be filed and retained for public inspection in the Planning Department and it shall constitute a supplement to the Official Zoning Map of the City of DeLand.

2. Amendments. All amendments of the Planned Development Plan, other than those deemed by the Planning Department to be minor amendments as set out in Ordinance #2013-11, as amended, shall require the review and recommendation of the Planning Board and action by the City Commission in the same manner as a rezoning of the parcel. The plan shall also require review of Fire for changes.

3. Subdivision Approval. After the Planned Development Plan is recorded, and prior to any construction, including clearing and landfill, **a preliminary plat** of the area to be subdivided shall be submitted for review and approval in the manner

1 required by Article XIII of the City of DeLand Land Development Regulations, Ordinance
2 #2013-11, as amended.

3

4 B. Unified Ownership. The Applicant or his successors shall maintain unified
5 ownership of the subject parcel until after issuance of the final plat.

6

7 C. Phases of Development. The development will be constructed in a single
8 phase.

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10 D. Land Uses Within the PD. The development of the parcel shall be consistent
11 with the uses prescribed for each area within the proposed *The Canopy at Blue Lake PD*.
12 The location and size of said land use areas are shown on the Development Plan Map,
13 Exhibit "B". The following land uses shall be allowed as permitted principal uses and
14 structures along with their customary accessory uses and structures: ***Single Family
15 Residential and accessory uses and structures, utility lift station, stormwater
16 management area, common open space and mail kiosk.***

17

18 E. Development Standards.

19 *Maximum Density* 4 DU / Acre

20 *Maximum Number of Lots* 12 Lots

21 *Minimum Lot Requirements*

22 1. *Minimum lot area* 9,500 SF

23 2. *Minimum lot width and/or depth* 85-ft Minimum Width

24 90-ft Minimum Depth

25 3. *Minimum yard size (building)*

1 *diversity and screening ability. The site will be graded to minimum cut and fill requirements*
2 *allowing for retention of as much of the existing soil bacteria and mycelium as possible, as*
3 *well as minimizing impacts of dust and other construction nuisance activities to neighboring*
4 *properties. No on-site burning of cleared vegetation will be allowed during construction.*

5

6 G. Sewage Disposal and Potable Water. Provision for sewage disposal and
7 potable water needs of the PD will be provided in accordance with the Comprehensive
8 Plan, Ordinance No.1990-04, as amended, the Land Development Regulations Ordinance
9 #2013-11, as amended, and State of Florida Administrative Code 64E-6. Sewer is
10 anticipated to be provided extension of existing City of Deland gravity sewer, and city water
11 for potable and fire protection.

12

13 H. Stormwater Drainage. Provision for stormwater retention shall be in
14 accordance with the Land Development Regulations Ordinance #2013-11, as amended.

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16 I. Access and Transportation System Improvements. All access and
17 transportation system improvements shall be provided in accordance with the Land
18 Development Regulations, Ordinance #2013-11, as amended. The parcel shall be
19 developed in substantial accordance with the following access and transportation system
20 improvements:

21 1. Access. The proposed site access consists of a single cul-de-sac
22 roadway connecting to East Wisconsin Ave.

23 2. Transportation System Improvements. 5-ft concrete sidewalks shall be
24 included on both sides of the proposed cul-de-sac roadway, as well as along the frontage

1 of Wisconsin Ave. Also, if permitted by Volusia County, a marked crosswalk will be
2 provided at the site's Eastern property line to provide a safe route to Blue Lake Ave.
3 Elementary School.

4
5 J. Internal Roadways. The proposed roadway consists of a 50-ft right-of-way
6 width and includes 5-ft concrete sidewalks on both sides, as well as 12-ft travel lanes and
7 2-ft Miami curb. The roadway will be dedicated to the City of DeLand.

8
9 K. Building or Property Owners Association. The subdivision will be developed
10 with a home-owners association responsible for the maintenance of the proposed
11 stormwater facilities and sanitary sewer lift station. The charter and by-laws of said
12 association and any other agreements, covenants, easements or restrictions shall be
13 furnished to the City of DeLand at the time of creation. The applicant shall be responsible
14 for recording said information in the Public Records of Volusia County, Florida. Also, the
15 applicant shall bear and pay all costs for recording all of the aforementioned documents.

16 With respect to the enforcement of said agreements, covenants, easements or
17 restrictions entered into between the applicant and the owners or occupiers of property
18 within the *The Canopy at Blue Lake PD PD*, the City of DeLand shall only enforce the
19 provisions of the "Development Agreement" and City of DeLand Land Development
20 Regulations Ordinance #2013-11, as amended, whichever is applicable, and not the
21 private agreements entered into between the aforementioned parties.

22
23 L. Electrical Service and franchise utilities shall be installed underground in 10-ft
24 easements dedicated along the home site frontage of all lots. Municipal utilities (water and

1 sewer) shall be installed within the roadway right-of-way.

2
3 M. Model Homes and Temporary Sales Offices. Construction of a Model Home
4 and/or Temporary Sales Office may commence after preliminary plat approval and
5 installation of all infrastructure improvements, including an energized lift station and
6 connection of the sanitary sewer system, for said phase have been approved by the City of
7 DeLand. The City Engineer shall make the final determination on the acceptance and
8 approval.

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10 N. Reverter Provision: The City Commission may rezone the subject property if a
11 final plat has not been approved and recorded on or before 5 years from the effective date
12 of this ordinance as may be necessary or appropriate to protect adjoining properties or the
13 public health, safety and welfare, unless the City Commission, for good cause shown, shall
14 extend the time period indicated in this paragraph.

15
16 O. Binding Effect of Plans; Recording; and Effective Date. The Planned
17 Development Plan, including any and all amendments shall bind and inure to the benefit of
18 the Applicant and his successor in title or interest. The *The Canopy at Blue Lake PD PD*
19 zoning, provisions of the "Development Agreement," and all approved plans shall run with
20 the land and shall be administered in a manner consistent with Article XII of the City of
21 DeLand Land Development Regulations Ordinance #2013-11, as amended.

22
23 This Ordinance and all subsequent amendments shall be filed with the Clerk of the
24 Court and recorded within forty-five (45) days following execution of the document by the

1 City Commission, in the Official Records of Volusia County, Florida. One copy of the
2 document, bearing the book and page number of the Official Record in which the
3 document was recorded, shall be submitted to the Planning Department for placement in
4 the public file. The date of recording of this document shall constitute the effective date of
5 the The Canopy at Blue Lake PD PD or its subsequent amendments. The applicant shall
6 pay all filing costs for recording documents.

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DONE and ORDERED by the City Commission, City of DeLand, Florida, this
9th day of March (mo/yr).

ATTEST:

City Commission of DeLand Florida

Michael P. Pleus
Michael P. Pleus
City Manager

Christopher M. Cloudman
Christopher M. Cloudman
Mayor

ATTEST:

Julie A. Hennessy
Julie A. Hennessy, M.A.
City Clerk - Auditor



STATE OF FLORIDA
CITY OF DELAND

The foregoing instrument was acknowledged before me this 9th day of
March (mo/yr), by Michael P. Pleus and Christopher M.
Cloudman, as City Manager and Mayor, City of DeLand, respectively, on
behalf of the City of DeLand, and who are personally known to me.



NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name: Julia Hewitt
Commission No.: 66908791
My Commission Expires: 12/29/23

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WITNESSES:

YEDLIN & CO, LLC

[Signature]
[Signature]

[Signature]
Viatcheslav Yedlin, Manager

The foregoing instrument was acknowledged before me this 21st day of February 2023, by Viatcheslav Yedlin, as the Manager of Yedlin & Co, LLC, who is personally known to me or who has produced PP GK591463 as identification.



NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:

Justin Payne

Commission No GG330858

My Commission Expires: May 5, 2023

