

AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CHANGING THE ZONING FROM MH-5, VOLUSIA COUNTY URBAN MOBILE HOME, B-4, VOLUSIA COUNTY GENERAL COMMERCIAL AND B-5, VOLUSIA COUNTY HEAVY COMMERCIAL TO PD, PLANNED DEVELOPMENT DISTRICT, ON DESCRIBED PROPERTY LOCATED AT 927 SOUTH CLARA AVENUE BETWEEN BERESFORD AVENUE AND HAVEN ROAD; APPROVING A DEVELOPMENT PLAN FOR PETROLEUM STORAGE, OFFICES, VEHICLE PARKING AND MAINTENANCE, A PLANNED DEVELOPMENT CONSISTING OF APPROXIMATELY 2.31 ACRES OF PROPERTY; DIRECTING A CHANGE IN THE COMPREHENSIVE ZONING MAP; CONDITIONING FINAL DEVELOPMENT APPROVAL ON A DETERMINATION OF CONCURRENCY; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Stephen B. DeLuca for Delco Oil, Inc., (hereinafter referred to as "Applicant"), owns a 2.31 acre parcel of land located at 927 South Clara 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, Applicant has applied for a change of zoning from the present zoning classification of Volusia County MH-5, Urban Mobile Home, Volusia County B-4, General Commercial and Volusia County B-5, Heavy Commercial, to PD, Planned Development District; and

WHEREAS, said rezoning as a PD District 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, Applicant has submitted an application for approval of a development plan for the Delco Oil, Inc. PD to encompass all of 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 industrial land use designation which encourages intensified development in outlying or newly developed areas for a variety of commercial and office needs; encourages clustering of new development to promote shared facilities and access and to discourage linear development along collector and arterial level roadways; permits energy and cost effective delivery of services; and, requires properly designed ingress and egress to avoid undue traffic hazards or congestion;

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 MH-5, Urban Mobile Home, Volusia County B-4, General Commercial and Volusia County B-5, Heavy Commercial, to PD, Planned Development District.

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 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 Report, Narrative, 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 Delco Oil, Inc. PD, including the Development Plan Report, Narrative, Maps and other supporting documentation (on file with the City Planning Department), are incorporated herein by reference and which is 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. Pursuant to Article 5 of the City's Land Development Regulations, the Applicant shall comply with all applicable infrastructure regulations.

Section 8. The City Commission may rezone any portion of the Project which has not obtained a certificate of occupancy within five years from the date of adoption of this Ordinance.

Section 9. Prior to the issuance of a building permit for any nonresidential development, Applicant shall submit an easement document, acceptable to the City of DeLand, permitting additions to shared access, parking, utilities and stormwater.

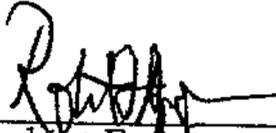
Section 10. The City Engineer, Planning Director and Building Department are hereby directed to change the Comprehensive Zoning Map of the City of DeLand to conform with the change of zoning enacted in this Ordinance.

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.

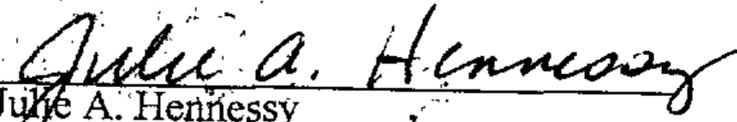
Section 13. The effective date of this Ordinance shall be the later date of the following events: (1) the date of issuance of a certificate of consistency or conditional certificate of consistency with regard to the land use designation of the subject property by the Volusia Growth Management Commission; (2) thirty-one (31) days after its adoption by the City Commission; or (3) if properly challenged by an affected person, after the state land planning agency or the Administration Commission, respectively, issues a final order determining this adopted small scale development amendment to be in compliance. No development orders, development permits or land uses dependent on this Ordinance may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this Ordinance may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the Department of Community Affairs, Bureau of Local Planning, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

PASSED AND DULY ADOPTED this 21st day of February, 2005.



Robert F. Apgar
Mayor - Commissioner

ATTEST:



Julie A. Hennessy
City Clerk - Auditor

Passed on first reading: November 1, 2004
Adopted on second reading: February 21, 2005

APPROVED AS TO FORM AND LEGALITY:



Darren J. Elkind
City Attorney

Instrument# 2005-117335 # 4
Book: 5547
Page: 3056

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE NORTH LINE OF THE NW 1/4 OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 30 EAST, AS BEING NORTH 89° 57'02" WEST.
2. UNDERGROUND FOUNDATIONS AND UTILITIES WERE NOT LOCATED.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, ADJOINERS OR OTHER INSTRUMENTS OF RECORD.
4. WETLAND AREAS WERE NOT ADDRESSED AS A PART OF THIS SURVEY.
5. NORTH-SOUTH & EAST-WEST TIES TO RECOVERED MONUMENTATION AND IMPROVEMENTS ARE BASED ON CARDINAL DIRECTION.
6. ALL BEARINGS AND DISTANCE ARE CALCULATED UNLESS OTHERWISE NOTED.

DESCRIPTION:

(PER O.R. BOOK 2537, PAGE 1654)

LOTS 24, 25, AND 26, PAGE'S SUBDIVISION OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER, SECTION 21, TOWNSHIP 17 SOUTH, RANGE 30 EAST, ACCORDING TO MAP IN MAP BOOK 9, PAGE 245, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA,

AND (PER O.R. BOOK 4621, PAGE 2156)

THE WEST 1/2 OF LOTS 27 AND 28, THE PAGE SUBDIVISION, A SUBDIVISION ACCORDING TO MAP IN MAP BOOK 9, PAGE 245, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA,

AND (PER O.R. BOOK 4737, PAGES 4906 & 4907 AND PER O.R. BOOK 5206, PAGE 89)

PARCEL 1

THE EAST 1/2 OF LOTS 27 AND 28, AND LOTS 35, 36 AND 37, PAGES SUBDIVISION OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 30 EAST, ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED IN MAP BOOK 9, PAGE 245, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, WEST 1/2 OF LOT

AND (PER O.R. BOOK 4207, PAGE 1468)

LOTS 5 TO 11, INCLUSIVE, BLOCK A, ASSESSORS SUBDIVISION OF THE NORTH 22 ACRES, SECTION 20, TOWNSHIP 17 SOUTH, RANGE 30 EAST, ACCORDING TO A MAP IN MAP BOOK 5, PAGE 189, VOLUSIA COUNTY, FLORIDA.

LOCATED IN SE
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VOL

**BOWYER-SINGLETON
& ASSOCIATES, INCORPORATED**
ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL

111 WEST RICH AVENUE DELAND, FLORIDA 32720
306-705-0460 • FAX 386-785-0715 • L. B. NO. 1221

REVISIONS			
FB/G	DATE	DRAWN	CKD

1
2 MODEL PD PLANNED DEVELOPMENT AGREEMENT

3 IN THE CITY COMMISSION OF THE

4 CITY OF DELAND, FLORIDA

5 IN RE: Z0411, Application of

6 Delco Oil, Inc.

7 ORDINANCE # 2005-07

8 (*# to be Provided After Commission Approval*)

9 ORDER AND RESOLUTION

10 GRANTING A REQUEST FOR CHANGE OF ZONING FROM B4, B5 and MH5

11 TO

12 DELCO OIL, INC. INDUSTRIAL PD (PLANNED DEVELOPMENT)

13
14 The application of Delco Oil, Inc. hereinafter, "Applicant", for rezoning was heard by
15 and before the City Commission, DeLand Florida, on (*public hearing date*). Based upon
16 the verified Application and other supporting documents, maps, charts, overlays, other
17 evidence and instruments; the advice, report, and recommendations of the Community
18 Development, and other Departments and agencies of DeLand, Florida; and the testimony
19 adduced and evidence received at the Public Hearing on this Application by the Planning
20 Board on (*public hearing date*), and otherwise being fully advised, the City Commission
21 does hereby find and determine as follows:

Received
FEB 10 2005
Planning & Zoning



GENERAL FINDINGS

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A. That the application of Delco Oil, Inc. was duly and properly filed herein on July 8, 2004 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 2.31 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 # 2002-09, as amended.

E. That the Applicant has complied with the "Due Public Notice" requirements of the City Commission, Land Development Regulations Ordinance # 2002-09 , as amended.



FINDINGS REGARDING REZONING

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A. That the Applicant has applied for a change of zoning from the present zoning classification(s) of the parcel described in Exhibit "A" from B4, B5 and MH5 and to Industrial Planned Development.

B. That the said rezoning to a PD is consistent with both the City of DeLand Comprehensive Plan Ordinance # 1990-04, as amended, and the intent and purpose of the City of DeLand Land Development Regulations Ordinance # 2002-09, as amended, and does promote the public health, safety, morals, general welfare and orderly growth of the area affected by the rezoning request.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE CITY OF DELAND, FLORIDA, IN OPEN MEETING DULY ASSEMBLED IN THE CITY COMMISSION CHAMBERS, 121 WEST RICH AVENUE, DELAND, FLORIDA, THIS (public hearing date) DAY OF Feb. 21, A.D., 2005, AS FOLLOWS:

A. That the Application of Delco Oil, Inc. for the rezoning of the subject parcel is hereby granted.

B. That the zoning classification of the subject parcel described in Exhibit "A" attached hereto is hereby amended from B4, B5 and MH5 to PD as described in Article VII of the City of DeLand, Land Development Regulations Ordinance # 2002-09, as amended.



1 C. That the Official Zoning Map of the City of DeLand, is hereby amended to
2 show the rezoning of said parcel to Delco Oil, Inc. PD.

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4 D. That the City of DeLand Land Development Regulations Ordinance # 2002-
5 09, as amended, is consistent with the provisions of the "Development Agreement" as
6 hereinafter set forth in this Ordinance and with respect to any conflict between Land
7 Development Regulations Ordinance # 2002-09, as amended, and the "Development
8 Agreement", the provisions of the "Development Agreement" shall govern. Ordinance No.
9 02-09, as amended, shall govern with respect to any matter not covered by the
10 "Development Agreement." The City of DeLand, will ensure overall compliance with this
11 Ordinance.

12
13 E. Unless otherwise provided for herein the City of DeLand, Land Development
14 Regulations Ordinance # 2002-09, as amended, shall apply to the PD in the same manner
15 as the M-1 zoning classification.

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17 F. Nothing in this Ordinance shall abridge the requirements of any City of
18 DeLand Ordinance other than Ordinance 2002-09, as amended. Timing and review
19 procedures contained in this Order and Resolution may be modified to comply with the City
20 of DeLand Land Development Regulations, Ordinance No. 2002-09, as amended. Further,
21 nothing in the Development Agreement is intended to abridge the requirements of
22 Ordinance No. 2002-09, as amended, and any other County Ordinances.

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24 DEVELOPMENT AGREEMENT



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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.

1. Planned Development Plan The Planned Development Plan shall consist of the Development Plan Map prepared by Delco Oil, Inc. and this development agreement. The Planned Development Plan 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 No. 2002-09, 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.

B. Land Uses Within the PD. The development of the parcel shall be consistent with the uses prescribed for each area within the proposed Delco Oil, Inc. Industrial PD. The location and size of said land use areas are shown on the Development Plan Map, Exhibit "B". The following land uses shall be allowed as permitted principal uses and



1 structures along with their customary accessory uses and structures: Petroleum storage
2 offices, parking and maintenance.

3

4 C. Development Standards.

- 5 1. Minimum lot area 2.31 acres
- 6 2. Minimum lot width and/or depth N/A refer to Exhibits A & B
- 7 3. Minimum yard size (building)
- 8 a. Front yard: 8 ft.
- 9 b. Rear yard: 2 ft.
- 10 c. Side yard: 10 ft.
- 11 d. Waterfront yard: N/A ft.
- 12 4. Minimum floor area: N/A sq. ft.
- 13 5. Maximum lot coverage Impervious surface coverage 70%
- 14 6. Maximum building height 65 ft.
- 15 7. Landscape buffer requirements N/A
- 16 8. Minimum building separation N/A
- 17 9. Off-street parking requirements Subject to land use regulations
- 18 10. Signage requirements N/A
- 19 12. Open Space and/or Common Area requirements meeting the Land
- 20 Development Regulations Ordinance # 2002-09 N/A

21

22 D. Environmental Considerations Any new development will be subject
23 to Land Development Regulations.

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25 E. Sewage Disposal and Potable Water. Provision for sewage disposal and
26 potable water needs of the PD will be provided in accordance with the Comprehensive
27 Plan, Ordinance No.1990-04, as amended, the Land Development Regulations Ordinance
28 No. 2009-09, as amended, and State of Florida Administrative Code 64E-6

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F. Stormwater Drainage. Provision for stormwater retention shall be in accordance with the Land Development Regulations Ordinance # 2002-09, as amended.

G. Access and Transportation System Improvements. All access and transportation system improvements shall be provided in accordance with the Land Development Regulations, Ord. 02-09, as amended. The parcel shall be developed in substantial accordance with the following access and transportation system improvements:

1. Access. N. Clara Avenue, Haven Avenue and Carter Street
2. Transportation System Improvements. No changes are proposed at

this time.

H. Internal Roadways. N/A

I. Building or Property Owners Association. N/A

J. Other. A 6 foot chain link fence with barbed wire shall be permitted along all street frontages.

K. Reverter Provision: N/A

L. Binding Effect of Plans; Recording; and Effective Date. The Planned Development Plan, including any and all amendments shall bind and inure to the benefit of



Instrument# 2005-117335 # 12
Book: 5547
Page: 3064

DONE and ORDERED by the City Commission, City of DeLand, Florida, this
21st day of Feb., 2005 (mo/yr).

Comment [COMMENTS]:
This has one (1) inch margins on the left and right. Make sure the Development Agreement document margins match so these pages will line up and display correctly.

ATTEST:

City Commission of DeLand Florida

Mike Abels
Mike Abels
City Manager

Robert Apgar
Robert Apgar
Mayor

ATTEST:

STATE OF FLORIDA
CITY OF DELAND

Julie A. Hennessy, CMC
City Clerk - Auditor

The foregoing instrument was acknowledged before me this 21st day of
Feb., 2005 (mo/yr), by Mike Abels and Robert Apgar, 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: SUELLEN POPE
Suellen Pope
Commission No.: _____
My Commission Expires: _____



Suellen Pope
MY COMMISSION # DD275341 EXPIRES
January 20, 2008
BONDED THRU TROY FAIR INSURANCE, INC.

Handwritten signature

Instrument # 2005-117335 # 13
Book : 5547
Page : 3065

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WITNESSES:

Diane Morris

Stephen DeLuca President
Applicant's Name, Title & Corporation

Stephen DeLuca

DeLco Oil Inc
Applicant's Name, Title & Corporation

Owner of Property (if other than applicant)

The foregoing instrument was acknowledged before me this 11 day of
02/2005 (mo/yr), by (Stephen DeLuca NAME), who is personally
known to me or who has produced _____ as
identification.

NOTARY PUBLIC, STATE OF FLORIDA

Type or Print Name:
Diane Morris



Commission No.: _____

My Commission Expires: _____

Diane Morris
MY COMMISSION # DD076613 EXPIRES
March 31, 2006
BONDED THRU TROY FAIN INSURANCE, INC.

Revised February 11, 2005 u/p/zone/pd_doc

Handwritten initials

EXHIBIT "A"

Instrument # 2005-117335 # 14
 Book: 5547
 Page: 3066

SURVEY NOTES:

1. BEARINGS SHOWN HEREON ARE ASSUMED AND BASED ON THE NORTH LINE OF THE NW 1/4 OF SECTION 21, TOWNSHIP 17 SOUTH, RANGE 30 EAST, AS BEING NORTH 89° 57'02" WEST.
2. UNDERGROUND FOUNDATIONS AND UTILITIES WERE NOT LOCATED.
3. LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR RIGHTS-OF-WAY, EASEMENTS, OWNERSHIP, ADJOINERS OR OTHER INSTRUMENTS OF RECORD.
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DESCRIPTION:

(PER O.R. BOOK 2537, PAGE 1654)

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AND (PER O.R. BOOK 4621, PAGE 2156)

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AND (PER O.R. BOOK 4737, PAGES 4906 & 4907 AND PER O.R. BOOK 5206, PAGE 89)

PARCEL 1

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AND (PER O.R. BOOK 4207, PAGE 1468)

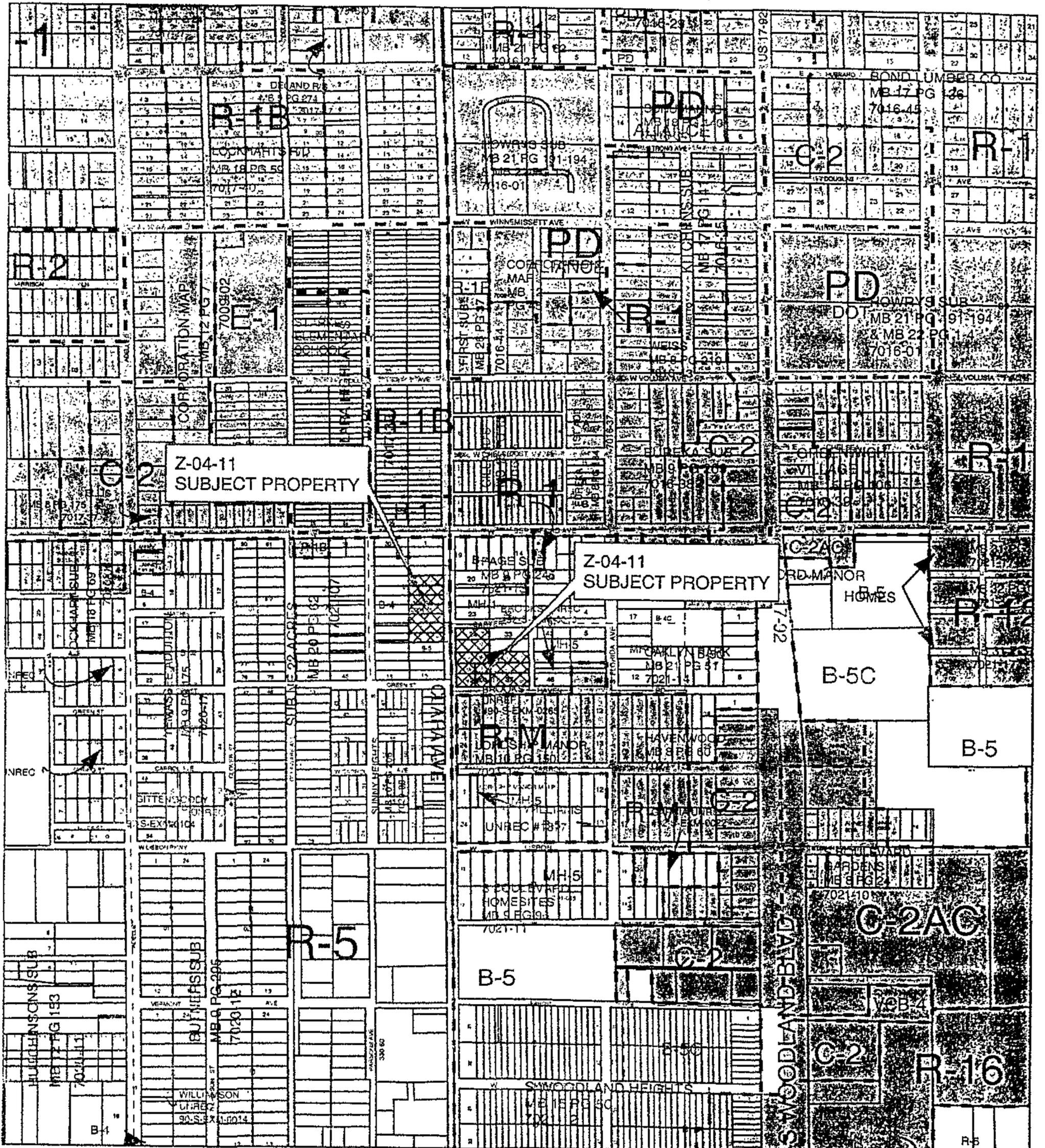
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LOCATED IN SEC
 17 SOUTH. VOLU:

**BOWYER-SINGLETON
 & ASSOCIATES, INCORPORATED**

ENGINEERING • PLANNING • SURVEYING • ENVIRONMENTAL
 111 WEST RICH AVENUE DELAND, FLORIDA 32720
 386-705-0468 • FAX 386-785-0715 • L. B. NO. 1221

REVISIONS		DATE	DRAWN	REVISION	CHKD



PLANNING BOARD

CHANGE OF
 ZONING FROM
 (VC) MH-5 & B-5
 TO
 PD

10/20/04
 Z-04-11

Legend

- zon arc
- - - dzon arc
- master arc
- CITYNAME
-  DELAND



City of DeLand

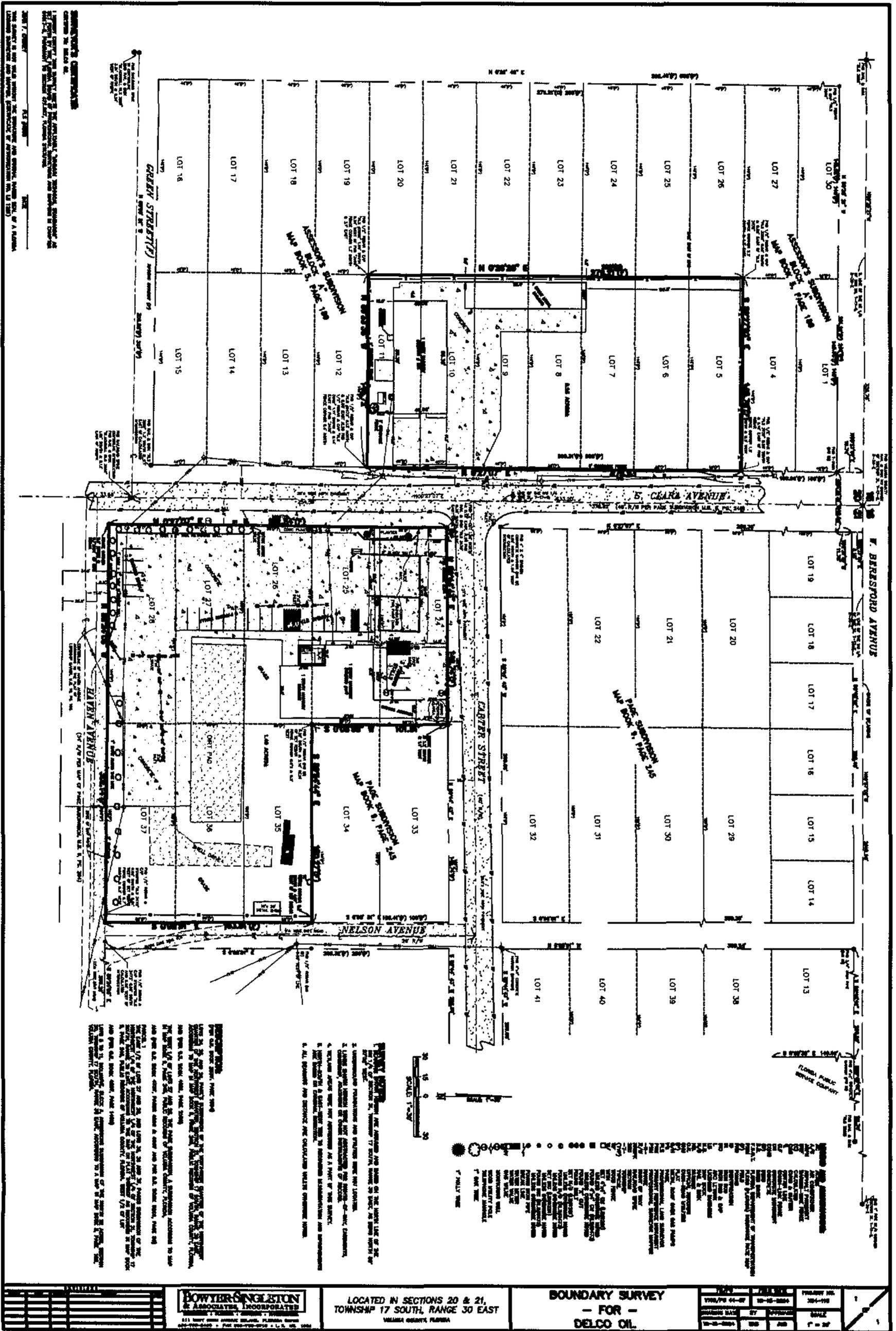


Faith, Hope & Charity

2-04-11

Received
 APR 19 2005

Planning & Zoning



DATE	FILE NO.	TRACER NO.
11/10/04	05-00-0004	304-110
DATE	FILE NO.	TRACER NO.
11/10/04	05-00-0004	304-110

BOWYER SINGLETON & ASSOCIATES, INCORPORATED
 111 WEST WINDY HAVEN BLVD., FLORIDA BEACH, FLORIDA 32030
 407-255-2200 • FAX 407-255-2201 • U.S. 90 32030

LOCATED IN SECTIONS 20 & 21,
 TOWNSHIP 17 SOUTH, RANGE 30 EAST
 VOLUSIA COUNTY, FLORIDA

BOUNDARY SURVEY
 - FOR -
DELCO OIL