

# City of Bowling Green

## Minutes of Regular Meeting

January 12, 2021

Present: Mayor Gardner, Vice-Mayor Fite, Commissioner Durastanti, Commissioner Lunn, Commissioner Jones, City Manager Lawrence, Police Chief Scheel, Accounts Specialist Virginia Gordillo in absence of City Clerk Silva, Attorney Buhr, and members of the audience.

Absent: None

1. **Call to order** – The meeting was called to order by Mayor Gardner.
2. **Prayer** – Commissioner Durastanti  
**Flag Salute** – Vice-Mayor Fite

3. **Old Business**

A. **Approval of Minutes**

1) **Regular Meeting 12/08/2020**

Commissioner Durastanti made a motion to approve. Motion was seconded by Vice-Mayor Fite. All in favor, (3) motion carried.

B. **Ordinance No. 2020-03 – 2<sup>nd</sup> Reading**

AN ORDINANCE OF THE CITY OF BOWLING GREEN, FLORIDA, REPEALING ORDINANCE 2016-06 AND AMENDMENTS THERETO AND REPLACING IT WITH MORE CURRENT REGULATIONS; PROVIDING FOR DEFINITIONS, PROHIBITIONS OF CERTAIN ANIMALS AND EXCEPTIONS; PROVIDING FOR EXCEPTIONS TO FARM ANIMALS PROHIBITIONS FOR REGULATIONS FOR URBAN CHICKENS; PROVIDING FOR REQUIREMENTS AS TO WHERE DOGS CAN BE HOUSED AND LIMITING THE NUMBER OF DOGS AND/OR CATS ON ANY PROPERTY WHILE PROVIDING EXCEPTION FOR CAT FOSTERING; PROHIBITING DOGS FROM RUNNING AT LARGE, AND INOCULATION OF DOGS; PROVIDING FOR DANGEROUS DOG CLASSIFICATION PROCEDURES; INCLUDING DEFINITIONS, NOTICE AND HEARING PROCEDURES FOR CLASSIFYING A DOG AS A “DANGEROUS DOG” PURSUANT TO CHAPTER 767 FLORIDA STATUTES; PROVIDING FOR IMPOUNDMENT; PROVIDING FOR POLICIES AND PROCEDURES OF THE ANIMAL CONTROL OFFICER AND FEES FOR IMPOUNDMENT, AND FUTURE AMENDMENT BY RESOLUTION; PROVIDING FOR CIVIL AND CRIMINAL PENALTIES AND OTHER REMEDIES FOR VIOLATIONS OF ORDINANCE; PROVIDING FOR ADOPTION OF FLORIDA STATUTE 828 AND 767 AND PROVIDING CIVIL PENALTIES FOR ANIMAL CRUELTY; PROVIDING FOR CIVIL CITATION REQUIREMENTS AND FINES; PROVIDING FOR ATTORNEY FEES AND COSTS AND AGENCY FEES AND COSTS; PROVIDING FOR MEDIATION IF ACCEPTABLE TO BOTH PARTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR SAVINGS; PROVIDING FOR LIBERAL CONTRUCTION AND AN EFFECTIVE DATE.

Ordinance 2020-03 died to no motion

#### **4. New Business**

**A. Swearing in of new commissioners** – Attorney Buhr swore in Commissioner Herbert C. Lunn and Commissioner N’Kosi Jones.

**B. Peace Ranch Presentation by Jon Solin**

Jon Solin handed the Council board an informational packet of the campground that he is constructing on 20 acres a little outside of the city limits. He is asking for the possibility to hook into the City’s water/wastewater line. Do to questions and concerns during the discussion, this was postponed until next month’s meeting so City Manager Lawrence can get information from Inframark and Pennoni regarding the connection and its impact to the wastewater system.

**C. Resolution No. 2020-20**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BOWLING GREEN, FLORIDA, GRANTING A VARIANCE TO ALLOW FOR THE FENCE HEIGHT LIMITATION FROM 4 TO 6 FEET A WITHIN THE REQUIRED FRONT, REAR AND SIDE STREET SETBACK AREAS, ON PROPERTY LOCATED AT 124 MAIN STREET EAST, BOWLING GREEN, FLORIDA (PARCEL ID: 04-33-25-0010-00023-004B). Attorney Buhr conducted a hearing for Resolution 2020-20 with the parties involved. Applicant Virginia Neu, Jennifer Salisbury from the Central Florida Region and the opponent Dorine Brummett had a back to forth discussion regarding the matter.

First motion to deny variance along Central Ave to 6’ was made by Vice-Mayor Fite. Second by Commissioner Lunn. Roll call vote, all in favor. Motion carried.

Second motion to deny variance along the front to 6’ was made by Vice-Mayor Fite. Second by Commissioner Jones. Roll call vote, all in favor. Motion carried.

#### **5. Mayor Gardner**

Mayor Gardner welcomed the new Commissioners.

#### **6. Recreation Committee**

Chiquita Robinson from 637 5<sup>th</sup> Ave, Wauchula Florida stated that they are having good turn outs at the Feeding Tampa Bay. Announced that starting in February, every second Saturday of the month they will be holding a small event of vendors with different items such as craft and jewelry.

#### **7. Commissioners**

Commissioner Jones is grateful to be part of the board. Commissioner Durastanti is excited to have Commissioner Lunn back and welcomed Commissioner Jones aboard. Vice Mayor Fite welcomed the new board members. Commissioner Lunn stated that he is happy to be back.

#### **8. City Attorney**

Attorney Buhr suggested that he will be drafting up some rules and regulations for future hearings so that everyone is well prepared.

#### **9. City Manager**

City Manager Lawrence advised the Commissioners about holding a workshop for the new Commissioners. Workshop scheduled for January 26<sup>th</sup> at 6p.m.

**10. Police Chief**

Chief Scheel stated that he met with the new Sheriff and that he is willing to work together with the City of Bowling Green.

**11. City Clerk**

Accounts Specialist Gordillo welcomed the new Commissioners and asked to stop by the office to finish up paperwork for HR.

**12. Public**

Frank McMonicle from 1119 Palm Dr in Avion Palms wanted to share his gratitude with the City Police Department, as well as give compliments regarding the new water system. He stated that all the water tests he ran in the park came out with hardly any sulfur in it. They are very pleased with the Nano system and the water quality we have.

**Mayor Gardner adjourned the meeting.**

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Duane Gardner, Mayor

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Maria Carmen Silva, City Clerk

# City of Bowling Green

## City Commission Workshop Minutes

January 26,2021

Present: Vice-Mayor Fite, Commissioner Durastanti, Commissioner Lunn, Commissioner Jones, City Manager Lawrence, Accounts Specialist Gordillo, Jim, and Jean Kelly

Absent: Mayor Gardner

**Call to order** – The workshop was called to order by Vice-Mayor Fite.

City Manager Lawrence presented the Commission with a PowerPoint on the following topics.

- A. Communication – discussion was made regarding e-mails. City e-mails are public record and should only be used for city purposes.
- B. Transparency – City Manager Lawrence explained the process and purpose of the Manager's Report given on a weekly basis.
- C. Accountability – City Manager Lawrence explained that he holds a Managers Meeting every two weeks to bring issues to the table and how they can help each other to solve any issues which creates team building and accountability.
- D. Partners – City Manager Lawrence did a brief description of each of the partners the city is currently working with which include Inframark, Central Florida Planning, Pennoni, Kimley-Horn, Fox Enterprises and Fur Wagman
- E. Projects – discussion was made regarding the Water Plant Nano system and how it is almost to its final stage. Effluent Transmission Line is in the works and where our water will go. City Manager Lawrence briefly discussed how the new CDBG Grant Application has been sent out and awaiting a response from them. Brief discussion on the FDOT SCOP Program and the streets that are to be paved first this year. Discussion was made regarding the Main Street Park project. Commissioner Jones expressed that the park layout looks nice but would like to know what kind of material the pavilion will be built of. Will it be made of material that will withhold hurricane winds? City Manager Lawrence said that he will get with Terry (Wauchula City Manager) to get a prize estimate of their pavilion and let the Commission know. Discussion regarding the upcoming Pyatt Park project. City Manager Lawrence showed the Commission an old drawing of the Pyatt Park design and explained the changes and new equipment being put in once the project starts. Commissioner Jones was concerned about the field lights being taken down. City Manager Lawrence stated that the ball field hasn't been used in years and that was in the proposal. They will have to determine if they keep the ball field lights or not. The City Hall flooring bids will close on Friday. So far there has been one submittal. City Manager Lawrence stated that he has resubmitted the request for 100,000.00 for an I/I study on our sewer lines. A

brief discussion was made regarding the Peace Ranch hook up to our water/wastewater system. Pennoni will be conducting the study to see if this project will be feasible for the City.

**Workshop Adjourned.**

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**Duane Gardner, Mayor**

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**Maria Carmen Silva, City Clerk**

**ORDINANCE NO. 2021-01**

**AN ORDINANCE OF THE CITY OF BOWLING GREEN, FLORIDA, AMENDING THE CITY OF BOWLING GREEN COMPREHENSIVE PLAN FUTURE LAND USE MAP, SPECIFICALLY AMENDING APPROXIMATELY 2.57 ACRES LOCATED AT 4805 CHURCH AVENUE (PARCEL NUMBERS 04-33-25-0010-00004-0001 and 04-33-25-0010-00004-001C), FROM THE FUTURE LAND USE OF LOW DENSITY RESIDENTIAL TO MEDIUM DENSITY RESIDENTIAL; TRANSMITTING SAID AMENDMENT TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY FOR NOTIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 163, Part II, *Florida Statutes*, establishes the Community Planning Act (“Act”), which empowers and mandates the City of Bowling Green, Florida (“City”), to plan for future development and growth and to adopt and amend comprehensive plans, or elements or portions thereof, to guide the future growth and development of the City; and

**WHEREAS**, pursuant to the Act, the City has adopted a comprehensive plan (“Comprehensive Plan”); and

**WHEREAS**, the Act authorizes a local government desiring to revise its comprehensive plan to prepare and adopt comprehensive plan amendments; and

**WHEREAS**, the City has prepared an amendment to the Future Land Use Map of the Comprehensive Plan to change certain property within the City with a Future Land Use classification of “Low Density Residential” to “Medium Density Residential;” and

**WHEREAS**, pursuant to Section 163.3187, Florida Statutes, the City Commission held a meeting and hearing on this Future Land Use Map Amendment (Ordinance 2021-01), with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including support documents; and

**WHEREAS**, in exercise of its authority, the City Commission has determined it necessary to adopt the proposed amendment to the Future Land Use Map contained herein and as shown as Exhibit “A” to encourage the most appropriate use of land, water and resources consistent with the public interest; and deal effectively with future problems that may result from the use and development of land within the City; and to ensure that the Comprehensive Plan is in full compliance with State law; and

**WHEREAS**, the City Commission finds that the proposed amendment to the Future Land Use Map contained herein furthers the purposes of, and is consistent with, the City’s Comprehensive Plan, and is consistent with and compliant with State law, including, but not limited to, Chapter 163, Part II, *Florida Statutes*.

**NOW, THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOWLING GREEN, FLORIDA, THAT:**

**Section 1.** The Future Land Use Map of the City's Comprehensive Plan is hereby amended to include the map amendment set forth in Exhibit "A," attached hereto and incorporated herein by reference, which applies the "Medium Density Residential" Future Land Use designation to the property as designated on such Exhibit.

**Section 2.** 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 3.** All existing ordinances or parts of existing ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 4.** An official, true, and correct copy of this Ordinance and the City's Comprehensive Plan, as adopted and amended from time to time, shall be maintained by the City Clerk. The City Clerk shall make copies available to the public for a reasonable publication charge.

**Section 5.** A copy shall be provided to the Florida Department of Economic Opportunity (hereinafter the "DEO"), as required by Section 163.3187, Florida Statutes.

**Section 6.** This small scale amendment shall not become effective until thirty-one (31) days after adoption. If challenged within thirty (30) days after adoption, the amendment shall not become effective until the State Land Planning Agency or the Administration Commission, respectively, issues a final order determining the adopted amendment is in compliance.

**INTRODUCED AND PASSED** on First Reading the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**PASSED AND DULY ADOPTED** on Second Reading with a quorum present and voting by the City Commission of the City of Bowling Green, Florida meeting in Regular Session this day of \_\_\_\_\_, 2021.

**CITY OF BOWLING GREEN**

\_\_\_\_\_  
Duane Gardner, Mayor

**ATTEST:**

\_\_\_\_\_  
Maria Carmen Silva, City Clerk

**Approved as to Form:**

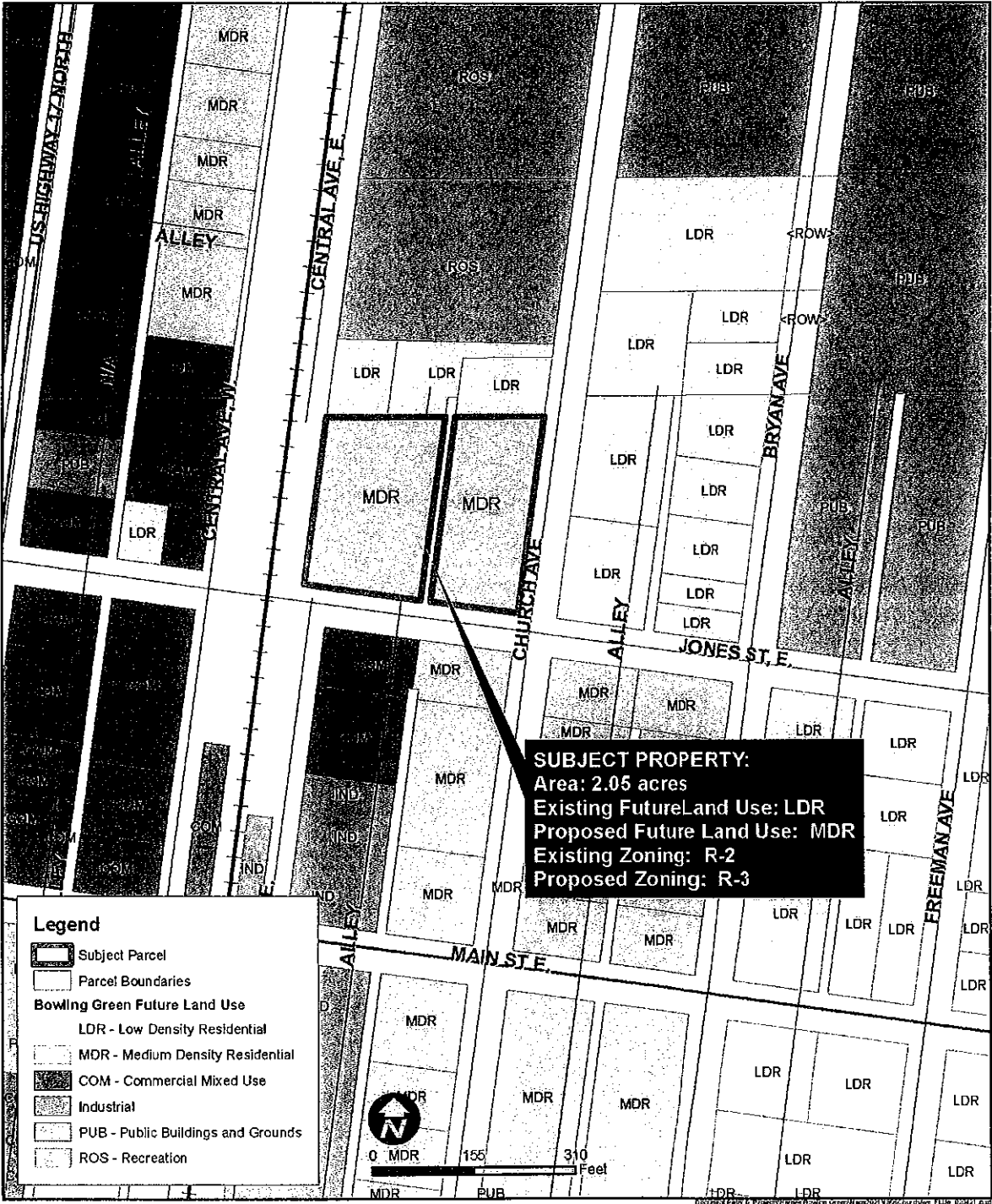
\_\_\_\_\_  
Gerald Buhr, City Attorney

**ORDINANCE NO. 2021-01**

**EXHIBIT "A"**

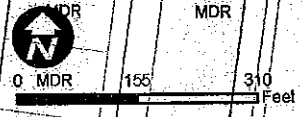


# CITY OF BOWLING GREEN FUTURE LAND USE MAP - PROPOSED



**Legend**

- Subject Parcel
- Parcel Boundaries
- Bowling Green Future Land Use**
- LDR - Low Density Residential
- MDR - Medium Density Residential
- COM - Commercial Mixed Use
- Industrial
- PUB - Public Buildings and Grounds
- ROS - Recreation



Map created by City of Bowling Green Planning Department, 2014

**ORDINANCE NO. 2021-02**

**AN ORDINANCE OF THE CITY OF BOWLING GREEN, FLORIDA AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF BOWLING GREEN FOR APPROXIMATELY 2.57 ACRES FROM R-2 (SINGLE AND TWO FAMILY RESIDENTIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL) LOCATED AT 4805 CHURCH AVENUE ((PARCEL NUMBERS 04-33-25-0010-00004-0001 and 04-33-25-0010-00004-001C); PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

WHEREAS, there has been an applicant-initiated request to amend zoning for the property described below; and

WHEREAS, the requested zoning is consistent with the Future Land Use Element of the Bowling Green Comprehensive Plan; and

WHEREAS, the City Commission of the City of Bowling Green held meetings and hearings regarding the parcels show on Exhibit "A", with due public notice having been provided, to obtain public comment, and considered all written and oral comments received during public hearings, including supporting documents; and

WHEREAS, in exercise of its authority, the City Commission of the City of Bowling Green has determined it necessary to amend the Official Zoning Map to change the City zoning classification assigned to this property.

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF BOWLING GREEN, FLORIDA (HEREINAFTER REFERRED TO AS THE "CITY"), AS FOLLOWS:**

1. The parcel is described as located at 4805 Church Avenue (Parcel Numbers 04-33-25-0010-00004-0001 and 04-33-25-0100-00004-0010) as shown in Exhibit "A" attached hereto.
2. The parcels, as platted and described above, constitute less than five percent (5%) of the municipally-zoned area of the City; and
3. That any section, paragraph, or portion which may be deemed illegal or unconstitutional shall not affect any other section of this ordinance.
4. That all other ordinances or parts of ordinances in conflict herewith are hereby repealed.
5. An official, true, and correct copy of this Ordinance and the City's Land Development Code, as adopted and amended from time to time, shall be maintained by the City Clerk. The City Clerk shall make copies available to the public for a reasonable publication charge.

**INTRODUCED AND PASSED** on First Reading this \_\_\_\_ day of \_\_\_\_\_, 2021.

**PASSED AND DULY ADOPTED**, on Second Reading with a quorum present and voting, by the City Commission of Bowling Green, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2021.

**CITY OF BOWLING GREEN**

\_\_\_\_\_  
Duane Gardner, Mayor

**Attest:**

\_\_\_\_\_  
Maria Carmen Silva, City Clerk

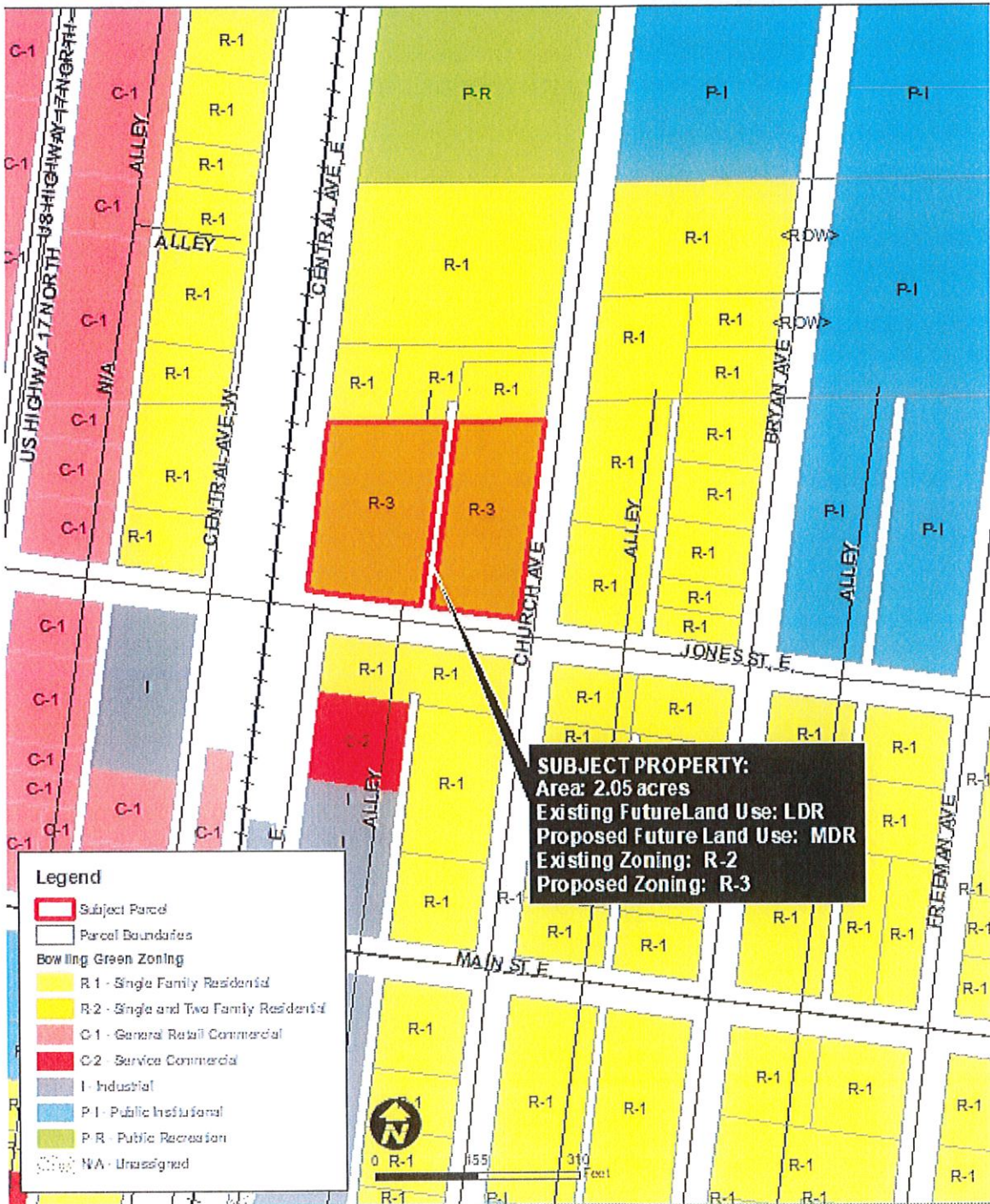
**Approved as to Form:**

\_\_\_\_\_  
Gerald Buhr, City Attorney

ORDINANCE NO. 2021-02

EXHIBIT "A"

CITY OF BOWLING GREEN  
**ZONING MAP - PROPOSED**





**CITY OF BOWLING GREEN  
SMALL SCALE FUTURE LAND USE MAP AMENDMENT  
AND REZONING  
OVERVIEW REPORT**

FEBRUARY 9, 2021

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**TO:** CITY OF BOWLING GREEN CITY COMMISSION

**FROM:** CENTRAL FLORIDA REGIONAL PLANNING COUNCIL

**SUBJECT:** **Ordinance No. 2021-01- Small Scale Future Land Use Map Amendment:** City-initiate Future Land Use Map Amendment to change the Future Land Use from Low Density Residential to Medium Density Residential on approximately 2.57 acres located at the 4805 Church Avenue (parcel numbers 04-33-25-0010-00004-0001 and 04-33-25-0010-00004-001C). This is a Small Scale Future Land Use Map Amendment.

**Ordinance No. 2021-02 - Rezoning:** City-initiated rezoning of approximately 2.57 acres located at 4805 Church Avenue R-2 (Single and Two Family Residential) to R-3 (Multiple Family Residential (parcel numbers 04-33-25-0010-00004-0001 and 04-33-25-0010-00004-001C).

*The proposed amendments provide for consistency with development on the parcels.*

**AGENDA AND HEARING DATES:**

- **City Commission (First Reading): February 9, 2021**
- **City Commission (Second Reading): March 9, 2021**

**ATTACHMENTS:**

- Overview Report
- Aerial Photo Map
- Existing Future Land Use Map
- Proposed Future Land Use Map
- Existing Zoning Map
- Proposed Zoning Map
- Ordinance No. 2021-01(Future Land Use Map Amendment)
- Ordinance 2021-02 (Rezoning)

## OVERVIEW REPORT

### PROJECT DESCRIPTION/REQUEST:

#### Project Location and Request:

The property is located at 4805 Church. This is a City-initiated Future Land Use Map Amendment from Low Density Residential to Medium Density Residential and Rezoning from R-2 (Single and Two Family Residential) to R-3 (Multiple Family Residential (parcel numbers 04-33-25-0010-00004-0001 and 04-33-25-0010-00004-001C).

FUTURE LAND USE MAP AMENDMENT & REZONING	
Applicant	City of Bowling Green
Property Owner	NMB Investors LLC
Property Size	Approximately 2.57 acres
Previous Hearing Dates	2017 - Rezoning
Parcel ID	04-33-25-0010-00004-0001 and 04-33-25-0010-00004-001C
Future Land Use	Existing: Low Density Residential Proposed: Medium Density Residential
Zoning	Existing: R-2 (Single and Two Family Residential) Proposed: R-3 (Multiple Family Residential)

### SITE ANALYSIS:

#### Description of Property:

The parcels totaling approximately 2.57 acres are partially developed with Single Family Attached housing. The proposed amendments will recognize this development as well as the next phase of the development.

#### Future Land Use:

The property has a Future Land Use designation of Low Density Residential. This request is to change the Future Land Use on the approximately 2.57-acre parcels to Medium Density Residential. A description of each Future Land Use designation, consistent with the City of Bowling Green Comprehensive Plan is provided below.

Policy 1.2(a): The **Low Density Residential** designation shall meet Bowling Green's housing demands for this range of density, promote efficient use of infrastructure, and protect existing single family neighborhoods. Single and two family housing units are permissible to a maximum density of 6 units per gross acre. Compatible public land uses are permissible to a maximum intensity of 0.5 FAR.

Policy 1.2(b): The **Medium Density Residential** designation shall meet Bowling Green's housing demand for this range of density and promote efficient use of existing infrastructure. Maximum density for Medium Density Residential is 12 units per gross acre. Compatible public land uses are permissible to a maximum intensity of 0.5 FAR.

**Zoning:**

The property is zoned R-1 (Single Family Residential). This request is to rezone approximately 1.00 acre of the parent 10 acre parcel from R-1 (Single Family Residential) to C-1 (General Retail Commercial). A description of each Zoning designation as defined in the City of Bowling Green’s Land Development Code is provided below.

***2.04.02.03 R-2 Single and Two Family Residential District***

*Purpose:* The purpose of this district is to recognize existing small lot subdivisions of single family homes and duplexes and to provide for infill development on small lots within these subdivisions; along with the necessary and incidental accessory uses, and uses characteristic with, but not detrimental to, the principal use. In no case shall a density be permitted in the R-2 district that exceeds 4.1 dwelling units per net acre (4.1 du/ac) for single family homes and six dwelling units per net acre (6 du/ac) for duplexes.

***2.04.02.04 R-3 Multiple Family Residential District***

*Purpose:* To establish areas which are appropriate for medium density residential development, to allow for: development of single family homes at a density not to exceed six dwelling units per net acre (6 du/ac); duplexes at a density not to exceed eight dwelling units per net acre (8 du/ac); mobile home parks, recreational vehicle parks, apartments, townhouses, and condominiums, and all types of multi-family units with a density not to exceed twelve dwelling units per net acre (12 du/ac); with ample open space and outdoor living areas; along with the necessary and incidental accessory uses, and uses characteristic with, but not detrimental to, the principal use.

**Surrounding Uses:**

The following table indicates the Existing Future Land Use, Zoning, and Existing Use for the property surrounding the site.

<u>Northwest:</u> FLU: Low Density Residential ZONING: R-2 (Single and Two Family Residential) EXISTING USE: Vacant	<u>North:</u> FLU: Low Density Residential; ZONING: R-1 (Single Family Residential) EXISTING USE: Residential	<u>Northeast:</u> FLU: Low Density Residential ZONING: R-1 (Single Family Residential) EXISTING USE: Residential
<u>West:</u> FLU: Low Density Residential ZONING: R-2 (Single and Two Family Residential) EXISTING USE: Vacant	<u>Subject Parcels</u> FLU: Low Density Residential ZONING: R-1 (Single Family Residential) PROPOSED ZONING: R-2 (Single and Two Family Residential) EXISTING USE: Residential	<u>East:</u> FLU: Low Density Residential ZONING: R-1 (Single Family Residential) EXISTING USE: Residential

<u>Southwest:</u> FLU: Low Density Residential ZONING: R-1 (Single Family Residential); R-2 (Single and Two Family Residential) EXISTING USE: Vacant	<u>South:</u> FLU: Medium Density Residential; Commercial Mixed Use ZONING: R-1 (Single Family Residential) EXISTING USE: Residential	<u>Southeast:</u> FLU: Medium Density Residential ZONING: R-1 (Single Family Residential) EXISTING USE: Residential
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**PUBLIC FACILITIES AND SERVICES ANALYSIS:**

The proposed Medium Density Residential Future Land Use and R-3 zoning do not demonstrate any negative impacts on the City’s public facilities and services.

**COMPREHENSIVE PLAN COMPATIBILITY:**

The proposed R-3 zoning is permitted in the Medium Density Residential Future Land Use designation and is consistent with the Goals, Objectives, and Policies of the City’s Comprehensive Plan.

**CITY COMMISSION MOTIONS:**

**ORDINANCE 2021-01: FLU Amendment**

1. I move the City Council approve Ordinance 2021-01 on first reading.
2. I move the City Council approve with changes Ordinance 2021-01 on first reading.

**ORDINANCE 2021-02: Rezoning**

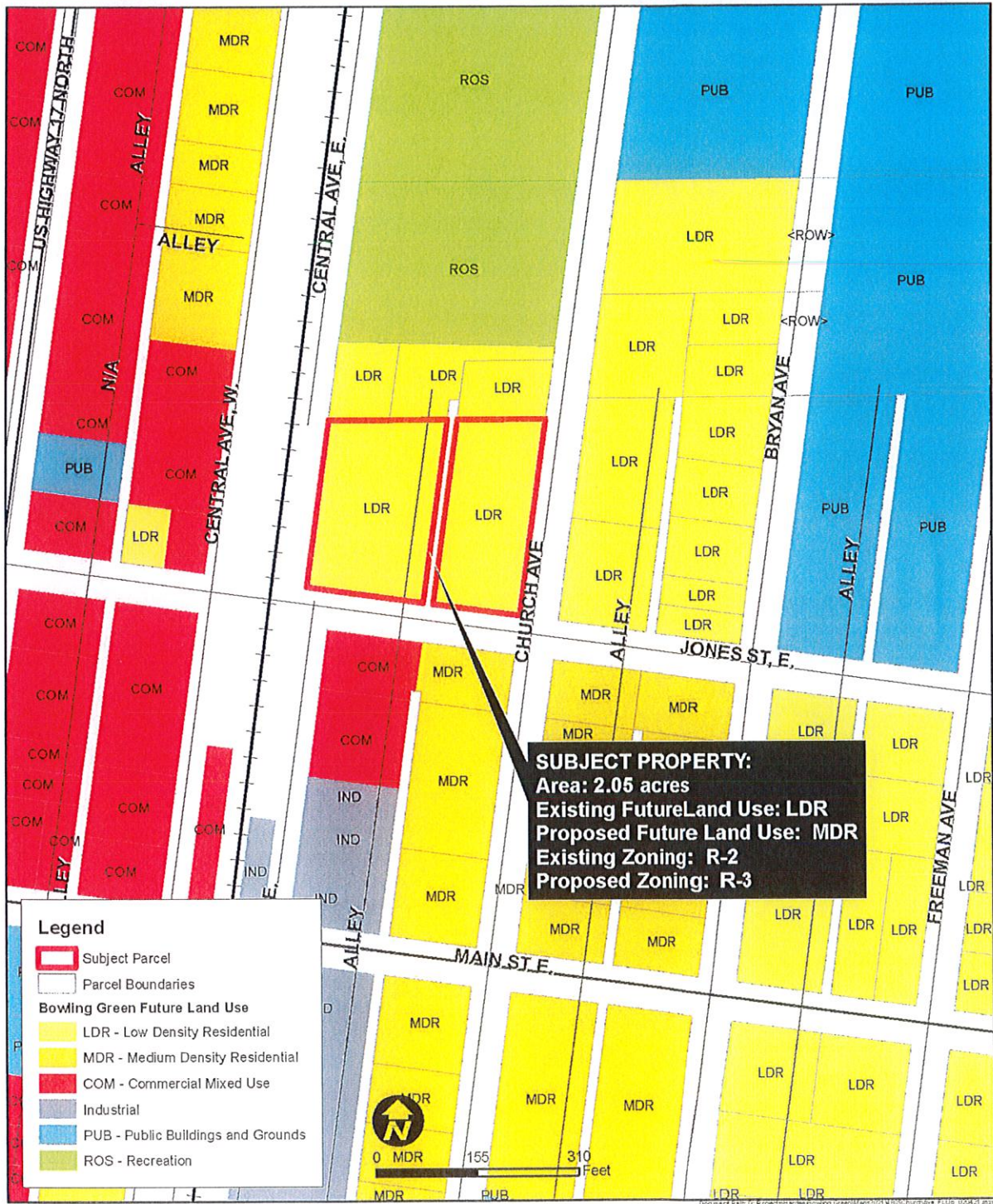
1. I move the City Council approve Ordinance 2021-02 on first reading.
2. I move the City Council approve with changes Ordinance 2021-02 on first reading.



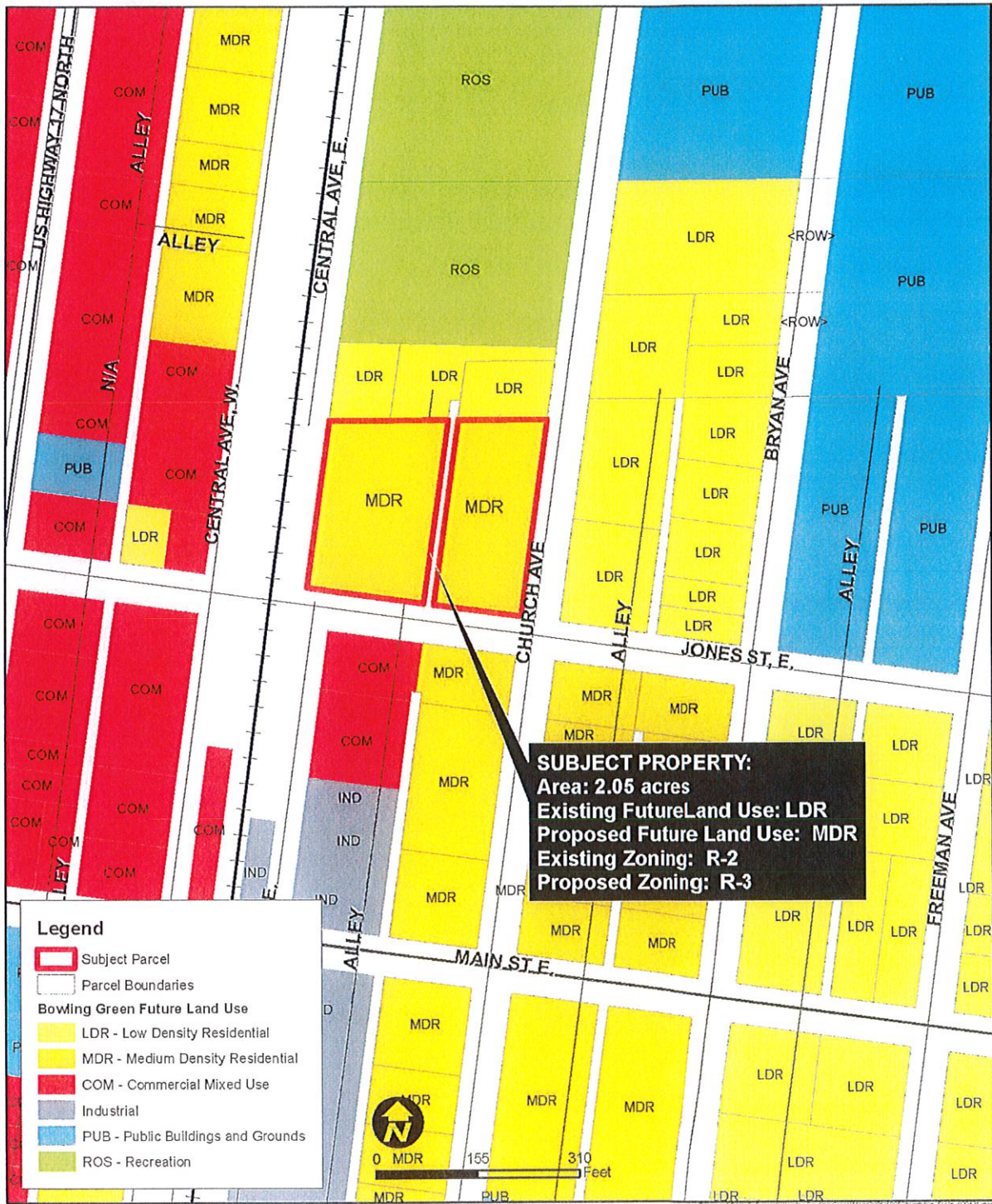
# CITY OF BOWLING GREEN AERIAL MAP



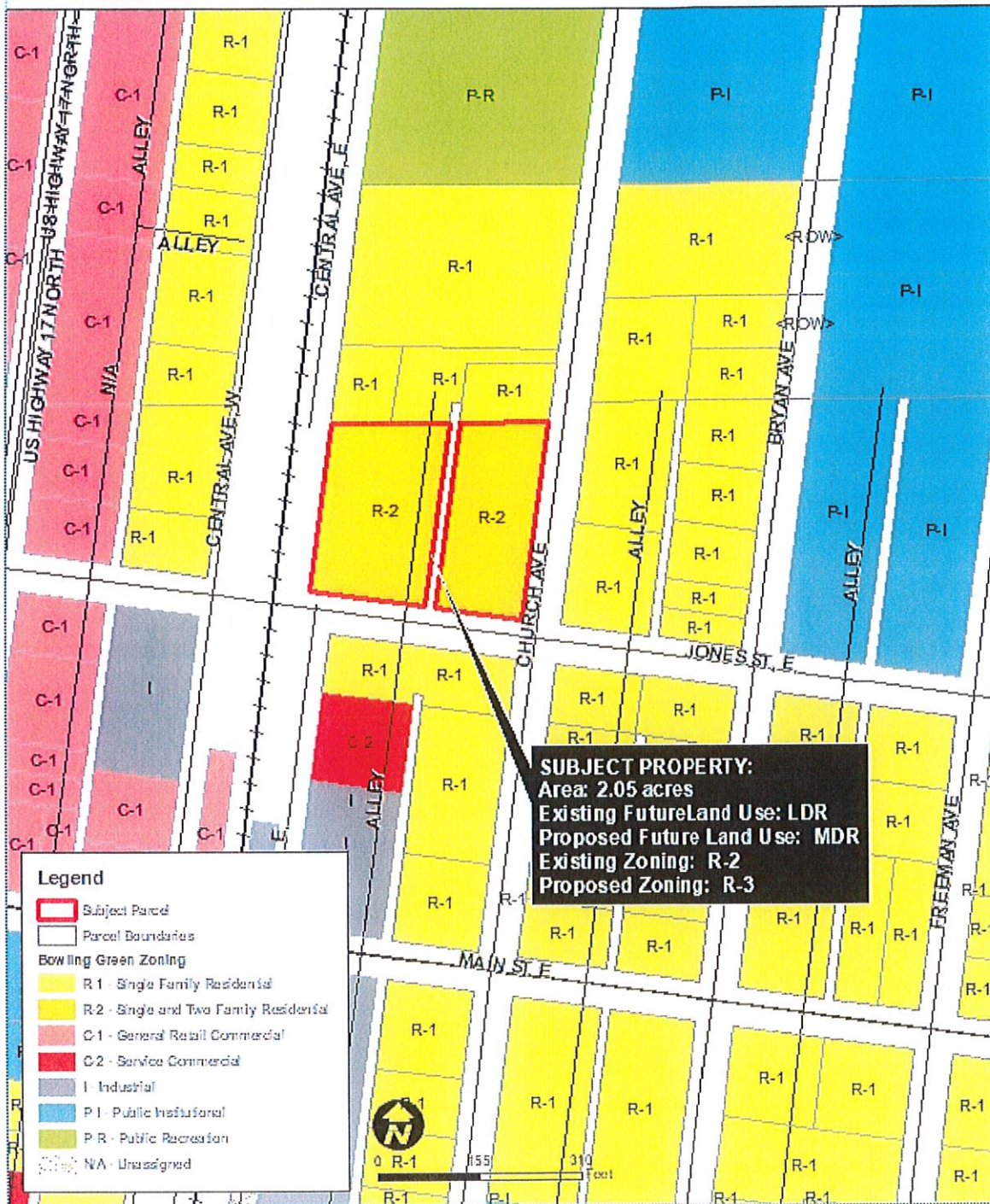
# CITY OF BOWLING GREEN FUTURE LAND USE MAP - EXISTING



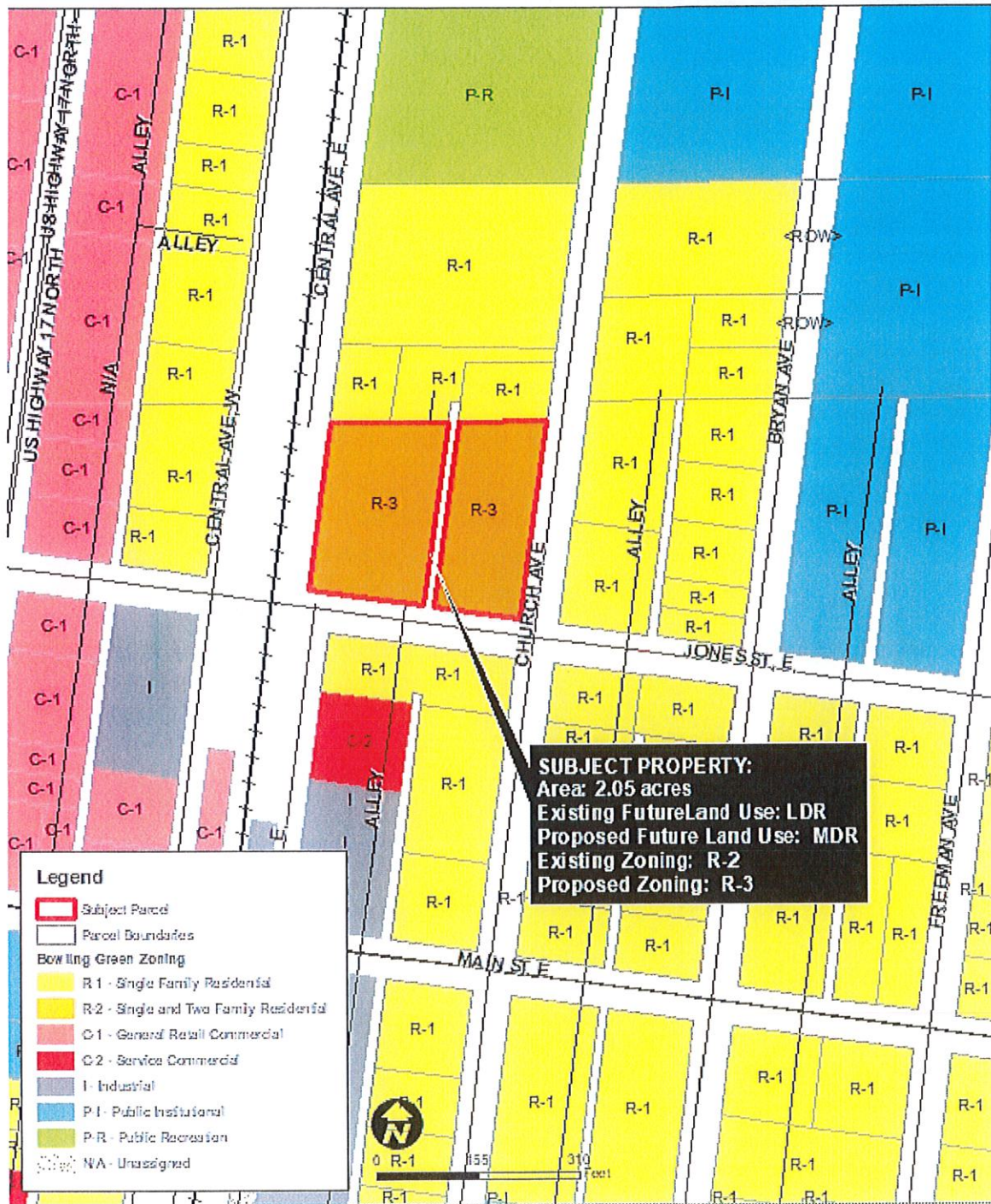
# CITY OF BOWLING GREEN FUTURE LAND USE MAP - PROPOSED



# CITY OF BOWLING GREEN ZONING MAP - EXISTING



# CITY OF BOWLING GREEN ZONING MAP - PROPOSED



## RESOLUTION 2021-01

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF BOWLING GREEN, FLORIDA, GRANTING A VARIANCE TO REDUCE THE LOT WIDTH REQUIREMENT FOR R-2 ZONING FROM 60 FEET TO 50 FEET, ON PROPERTY LOCATED AT 4905 MARTIN LUTHER KING DRIVE, BOWLING GREEN, FLORIDA (PARCEL ID: 05-33-25-0090-00001-0008).**

**WHEREAS**, Thelma River ('applicant') has requested a variance to reduce the lot width requirement for R-2 zoning from 60 feet to 50 feet to permit the rebuild of a single family home on property located at 4905 Martin Luther King Drive, Bowling Green, Florida (see Exhibit "A"); and

**WHEREAS**, the subject property is located within the R-2 zoning district which has development standards requiring a minimum lot width of 60 feet; and

**WHEREAS**, the property has a lot width of 50 feet and is a nonconforming lot of record; and

**WHEREAS**, the variance application has been filed consistent with the requirements of the City of Bowling Green Land Development Code Section 7.09.02(A) which states: "In R-1, R-2 and R-3 districts, single family dwelling units shall not be built on lots of less than 10% of the required width nor 5,000 square feet in size, without a variance authorized by the Zoning Board of Appeals."; and

**WHEREAS**, notice of the Public Hearing was advertised in the Herald Advocate and public notice was mailed to all parcels located within 300 feet of said property; and

**WHEREAS**, the City Commission acting as the Board of Adjustment may authorize variances from specific provisions of the Unified Land Development Code (Code) as will not be contrary to the public interest and the intent of the Code; and

**WHEREAS**, based on the evidence, testimony, exhibits, comments of public officials and agencies, comments from the applicant, and comments from all interested parties, this Board finds as follows:

1. That the proposed public notice of this hearing was provided as required by law.
2. That the hearing before this Board was extensive and complete, that all pertinent facts, matters, and issues were submitted and that all interested parties were heard at said hearing.
3. That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same land use classification.
4. That the special conditions and circumstances do not result from the actions of the applicant.
5. That the requested variance, if approved, will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.

6. That literal interpretation of the provisions of this code would deprive the applicant of rights commonly enjoyed by other properties in the identical land use classification and will constitute an unnecessary and undue hardship on the applicant.
7. That the variance granted is the minimum variance that will make possible a reasonable use of the land or structure.
8. That the granting of the variance will be in harmony with the general intent of this code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING AND ZONING BOARD (ACTING AS THE BOARD OF ADJUSTMENT) OF THE CITY OF AVON PARK, FLORIDA**

**Section 1.** The variance request to reduce the lot width requirement for R-2 zoning from 60 feet to 50 feet to permit the rebuild of a single-family home on property located at 4905 Martin Luther King Drive, Bowling Green, Florida as depicted in Exhibit "A" is granted.

**Section 2.** **Effective Date.** This Resolution shall become effective immediately upon its passage.

**Section 3.** A certified copy of this Resolution shall be duly recorded in the public records of the City of Bowling Green, Hardee County, Florida.

**INTRODUCED AND PASSED** by the City Commission of the City of Bowling Green, Florida, in regular session, this \_\_\_ day of \_\_\_, 2021.

**CITY COMMISSION ACTING AS  
THE BOARD OF ADJUSTMENT  
CITY OF BOWLING GREEN, FLORIDA**

\_\_\_\_\_  
Duane Gardner, Mayor

Attest:

\_\_\_\_\_  
Maria Carmen Silva, City Clerk

Approved as to form:

\_\_\_\_\_  
Gerald Buhr, City Attorney



**CITY OF BOWLING GREEN  
REQUEST FOR VARIANCE  
OVERVIEW REPORT  
February 9, 2021**

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**TO:** Bowling Green City Commission

**SUBJECT:** **Variance Request:**  
**Resolution 2021-01 - Variance:** A resolution of the City Commission of the City of Bowling Green, Florida, granting a variance to reduce the lot width requirement for R-2 from 60 feet to 50 feet, on property located at 4905 Martin Luther King Drive, Bowling Green, Florida (PARCEL ID: 05-33-25-0090-0000I-0008).

The application has been filed consistent with the requirements of the City of Bowling Green Land Development Code Section 7.09.02(A) which states: “In R-1, R-2 and R-3 districts, single family dwelling units shall not be built on lots of less than 10% of the required width nor 5,000 square feet in size, without a variance authorized by the Zoning Board of Appeals.”

**AGENDA DATE:**

Tuesday, February 9, 2021, 6:30 PM: City Commission Public Hearing

**CITY COMMISSION MOTION OPTIONS:**

1. Move to **approve** Resolution 2021-01.
2. Move to **approve with changes** Resolution 2021-01.
3. Move to **deny** Resolution 2021-01.

**ATTACHMENTS:**

- Overview
- Location Map
- Aerial Photo Map
- Future Land Use Map
- Zoning Map
- Application Site Plan



**OVERVIEW:**

<b>Applicant</b>	Thelma River
<b>Property Owner</b>	Thelma River
<b>Parcel ID</b>	05-33-25-0090-00001-0008
<b>Parcel Address</b>	4905 Martin Luther King Drive
<b>Subject Area</b>	0.16 acres
<b>Existing Future Land Use</b>	Low Density Residential
<b>Existing Zoning</b>	R-2, Single and Two Family Residential

**REASON FOR REQUEST:**

Thelma River (“applicant”) are requesting approval of a variance to reduce the lot width requirement for R-2 from 60 feet to 50 feet.

The subject property is located at 4905 Martin Luther King Drive in Bowling Green. The variance will allow the applicant to rebuild a single-family home on the property. The applicant has provided a site plan and will meet setbacks for R-2 zoning. The variance will allow the applicant to build on the nonconforming lot of record.

**The variance would be for 10 feet from the required 60 feet required for lot width in R-2 zoning.**

The application has been filed consistent with the requirements of the City of Bowling Green Land Development Code Section 7.09.02(A) which states: “**In R-1, R-2 and R-3 districts, single family dwelling units shall not be built on lots of less than 10% of the required width nor 5,000 square feet in size, without a variance authorized by the Zoning Board of Appeals.**”

**EVALUATION REQUIREMENTS:**

***7.09.02 Nonconforming Lots of Record***

Lots not meeting the standards established in this Code for minimum width, depth and area but recorded in the public records of Hardee County prior to the date of adoption of this Code or amendment thereto may be used for building purposes with the following provisions:

- (A) **In R-1, R-2 and R-3 districts, single family dwelling units shall not be built on lots of less than 10% of the required width nor 5,000 square feet in size, without a variance authorized by the Zoning Board of Appeals.**
- (B) All other structures shall be built on lots of no less than 10% of the required width nor 6,000 square feet in size, without a variance authorized by the Zoning Board of Appeals.
- (C) Contiguous lots that are of single ownership, and do not separately meet width, depth and area requirements of the applicable land use classification, shall be considered a single lot for development purposes.
- (D) Nonconforming lots of record shall not be reduced in size, width or depth without a variance authorized by the Zoning Board of Appeals.
- (E) All development permitted on nonconforming lots of record shall be subject to normal setbacks and all other requirements of this Code.

## **City of Bowling Green Unified Land Development Code**

### **7.08.01 Criteria for Granting a Variance**

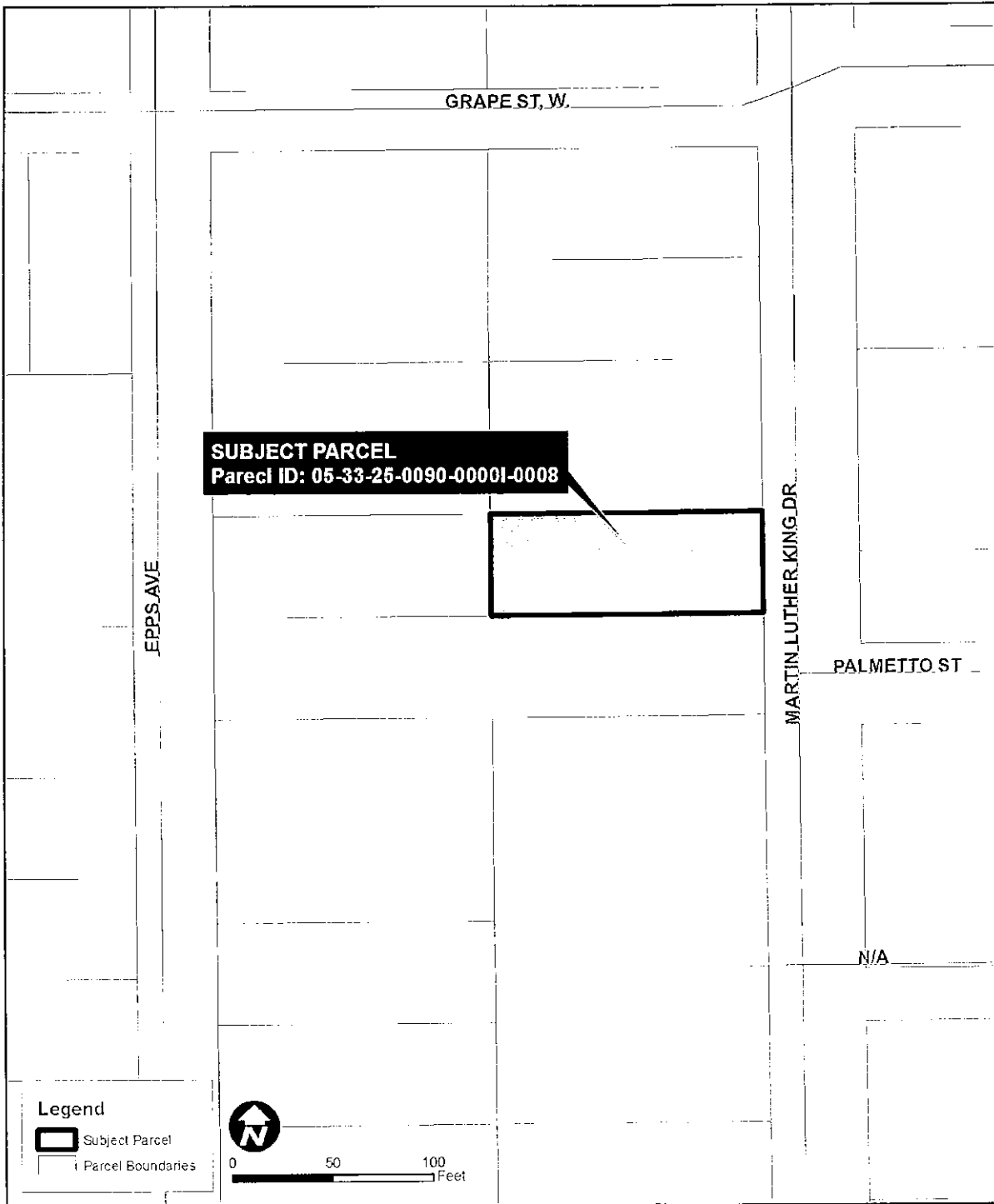
The granting of a variance shall be based on a determination by the Zoning Board of Appeals that the request will not be contrary to the public interest and the intent of this Code, and that strict enforcement of the regulation in question would create an undue and unnecessary hardship for the applicant. Considerations of health, convenience or economics shall not be considered as justification for a variance. Approval of a variance shall be based solely on the following criteria, all of which must be fully satisfied:

- (A) Special conditions and circumstances exist that are peculiar to the land or structure involved and that are not applicable to other lands or structures in the same land use classification.
- (B) The special conditions and circumstances do not result from the actions of the applicant.
- (C) The requested variance, if approved, will not confer on the applicant any special privilege that is denied by the provisions of this Code to other lands or structures in the same land use classification.
- (D) Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other properties in the identical land use classification and will constitute an unnecessary and undue hardship on the applicant.
- (E) That the variance granted is the minimum variance that will make possible a reasonable use of the land or structure.
- (F) That the granting of the variance will be in harmony with the general intent of this Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

For each variance granted, the Zoning Board of Appeals shall approve, and the chairman shall sign, a resolution listing the above criteria and attesting that each has been satisfied.

The application has been filed consistent with the requirements of the City of Bowling Green Land Development Code Section 7.09.02(A) which states: **“In R-1, R-2 and R-3 districts, single family dwelling units shall not be built on lots of less than 10% of the required width nor 5,000 square feet in size, without a variance authorized by the Zoning Board of Appeals.”**

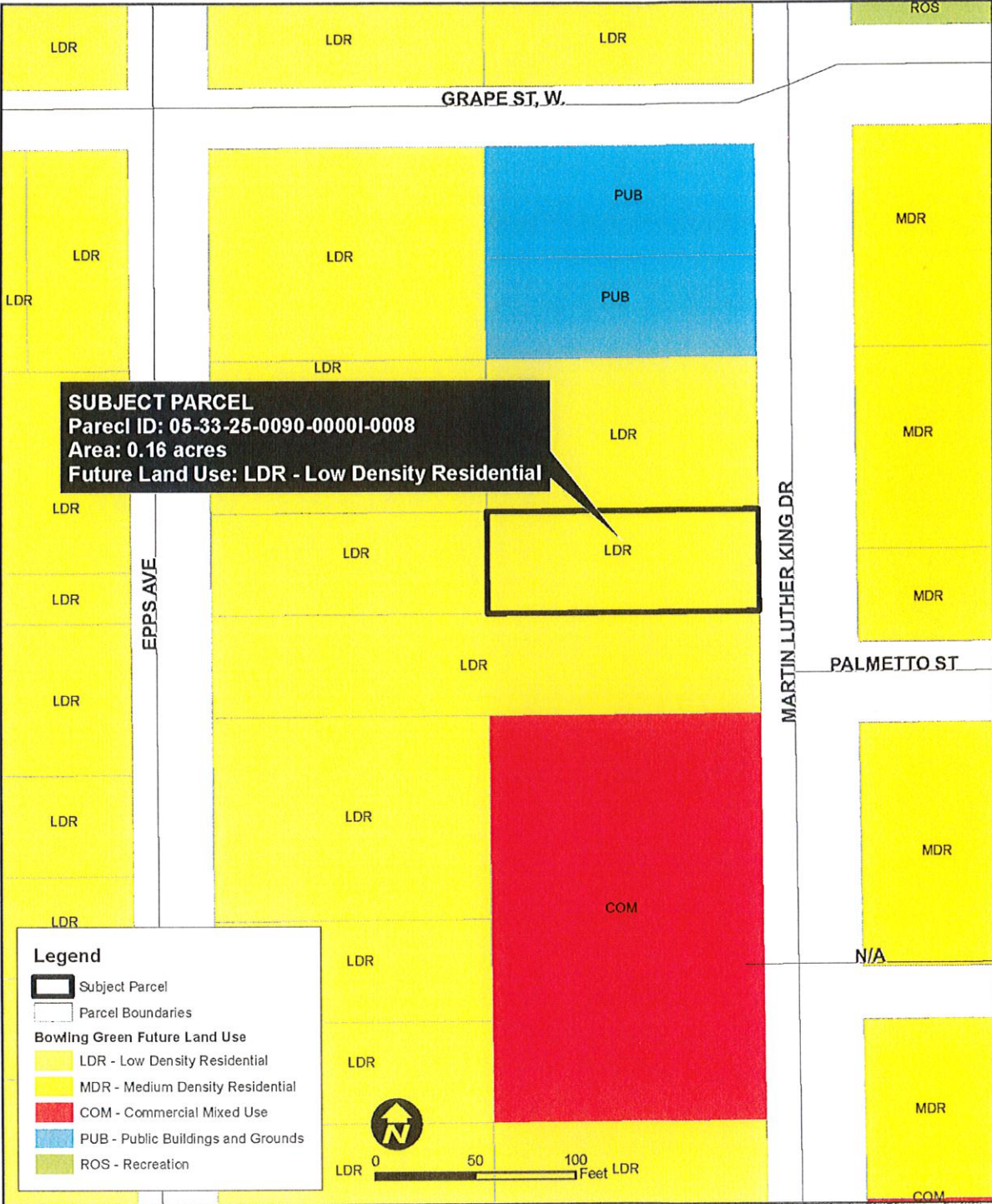
# LOCATION MAP



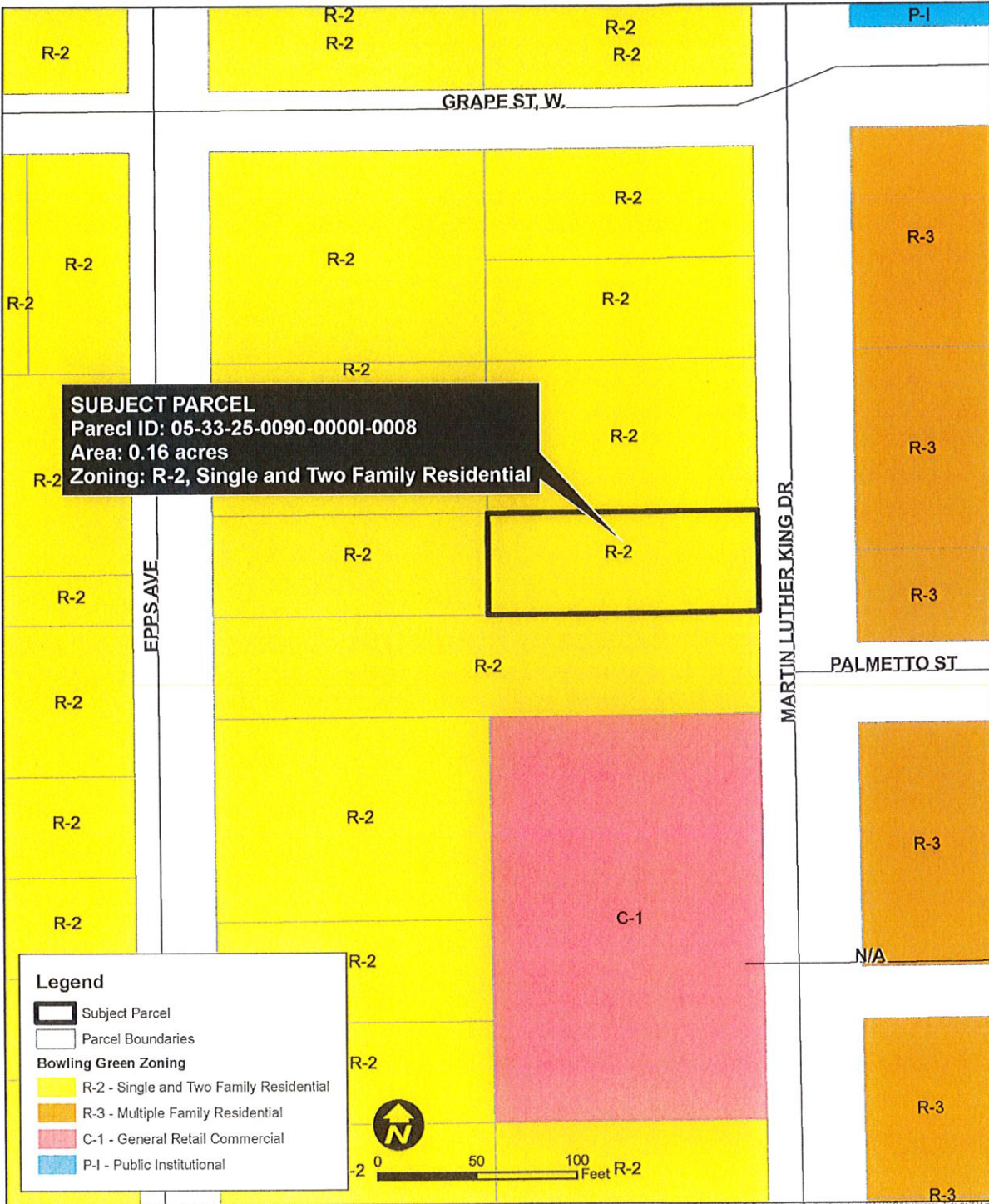
# CITY OF BOWLING GREEN AERIAL PHOTO MAP



# CITY OF BOWLING GREEN FUTURE LAND USE MAP



# CITY OF BOWLING GREEN ZONING MAP



CITY OF BOWLING GREEN  
APPLICATION TO ZONING BOARD OF APPEALS (CITY COUNCIL)

APPLICANT NAME: Thelma River  
PHONE: 863 244-2889  
ADDRESS: 4905 MLK Drive Bowling Green

OWNER(S) NAME: THELMA RIVERS  
OWNER'S SIGNATURE: Thelma Rivers

PROPERTY \_\_\_\_\_ APPRAISER \_\_\_\_\_ I.D.# \_\_\_\_\_

BOWLING GREEN ZONING DESIGNATION: \_\_\_\_\_ R2 \_\_\_\_\_

STREET ADDRESS OR GENERAL LOCATION OF PROPERTY:  
4905 MLK DR Bowling Green

EXISTING USE OF PROPERTY: (Explain how property is currently used; attach a lot survey):  
Single family home

PROPOSED USE OF PROPERTY (Explain in detail proposed structures, additions, other physical changes; show on survey):  
Single family home

EXPLAIN THE VARIANCE REQUESTED: (What are current code requirement, and what is being requested?)  
Variance to construct new home on a lot that is smaller in width than minimum required lot width

DESCRIPTION OF SURROUNDING PROPERTY ON ALL SIDES:

ON NORTH: vacant lot

ON SOUTH: vacant lot

ON WEST: ~~MLK BLVD~~ VACANT LOT

ON EAST: MLK BLVD

863 445-1895 Terry





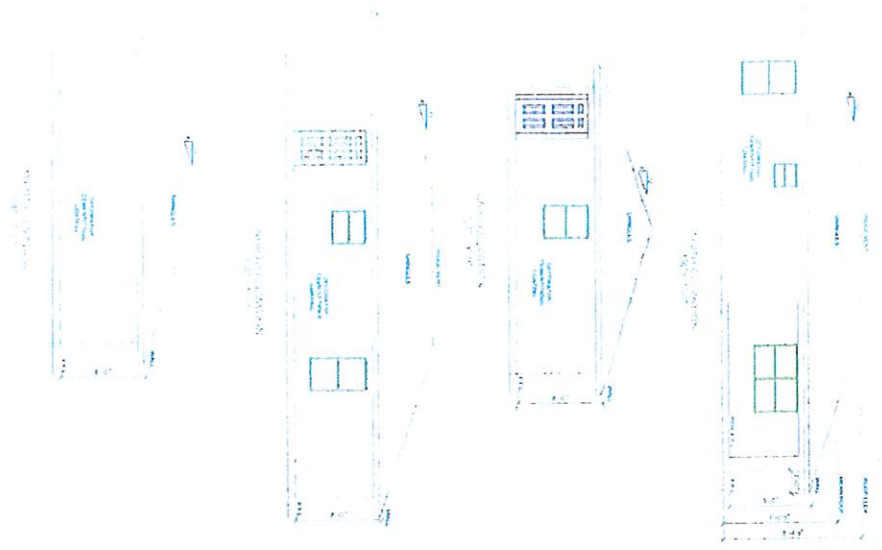


ATTACH:

1. Legal description
2. Sketch plan or survey showing property dimensions, proposed location of structures, parking and access, yard areas, landscape, signs, and other improvements.
3. Notarized authorization to apply for variance, from the owner, if different from applicant.

All decisions of the Zoning Board of Appeals (City Council) are final. Variance requests, once acted upon, may not be reheard unless the applicant can demonstrate that the decision resulted from an error in substantive or procedural law, or provides new evidence or information not discoverable prior to the initial hearing. A different or more effective presentation of the same evidence or information shall not be considered grounds for a rehearing.

Any person or persons aggrieved by any decision of the Zoning Board of Appeals (City Council), may, within 30 days after the date of the public hearing at which the decision was rendered, but not thereafter, apply to the courts for relief in the manner provided by the laws of the State of Florida.



**DESIGN DATA**

Project Name	RIVERS' RESIDENCE
Client	Mr. & Mrs. [Name]
Address	4905 MLK DRIVE, [City, State]
Site Area	[Area]
Proposed Building Area	[Area]
Design Date	[Date]
Design Scale	1" = 20'
Design By	[Name]
Checked By	[Name]
Approved By	[Name]
Professional Seal	[Seal]

**GENERAL NOTES**

1. See the site plan for the location of the proposed building.
2. The proposed building shall be constructed in accordance with the approved plans.
3. The proposed building shall be constructed on a foundation of [Material].
4. The proposed building shall be constructed with [Material].
5. The proposed building shall be constructed with [Material].
6. The proposed building shall be constructed with [Material].
7. The proposed building shall be constructed with [Material].
8. The proposed building shall be constructed with [Material].
9. The proposed building shall be constructed with [Material].
10. The proposed building shall be constructed with [Material].

**SWIN ENGINEERING SERVICES, INC.**

Professional Engineer  
 License No. [Number]  
 State of [State]

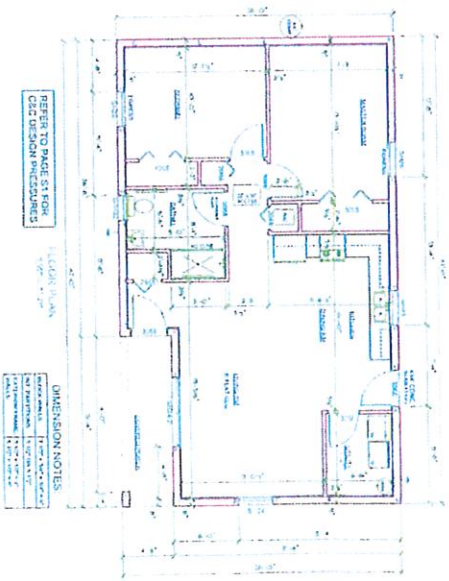
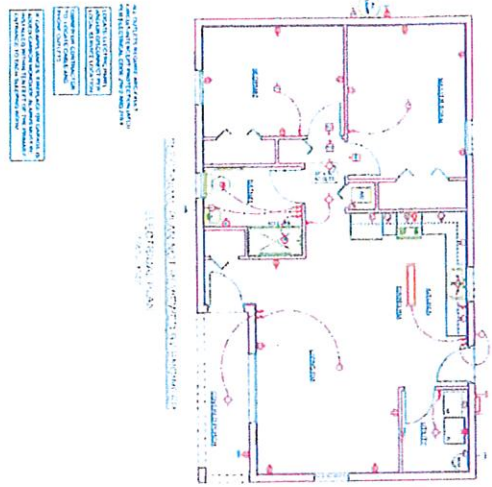
Project No. [Number]  
 Date: [Date]

**A1**

**RIVERS' RESIDENCE**



Item No.	Description	Quantity	Unit
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**SINER ENGINEERING SERVICES, INC.**  
 10000 W. 10th Avenue, Suite 100  
 Denver, CO 80202  
 Phone: (303) 751-1111  
 Fax: (303) 751-1112  
 Email: info@siner.com  
 Website: www.siner.com

**PROJECT INFORMATION**  
 Project Name: RIVERS' RESIDENCE  
 Project Address: 4905 Martin Luther King Drive  
 Project City: Denver, CO  
 Project State: CO  
 Project Zip: 80202  
 Project Date: 02/09/2021

**A2**  
 Architectural  
 Second Floor Plan

**RIVERS' RESIDENCE**

## WLawrence

---

**From:** Roger Homann <RHomann@Pennoni.com>  
**Sent:** Tuesday, February 2, 2021 5:28 PM  
**To:** WLawrence; Gerald Buhr  
**Cc:** Jeff McKinney  
**Subject:** Peace Ranch Project

Bill and Gerald:

The following are Pennoni's responses to the wastewater issues regarding the Peach Ranch RV Park Project. Sorry this took a little longer than I wanted to, but we have been working with Ovivo/Paul Jacobs to gain their input on the wastewater plant's ability to treat the RV waste. We still do not have the final word on this, but I wanted to get you something back for your consideration. Please give me a call if you would like to discuss.

- 1) Issue with chemicals from RV dump station and other RV connections: At the relatively low flows anticipated from the project, the RV sewage tank chemicals should not be a problem. However, we are working with Ovivo/Paul Jacobs (WWTF vendor) to confirm if they have any further experience with the RV tank chemicals. We will forward this to you once received.
- 2) Potential for high strength wastewater from development: As part of the planning review, the Developer should be asked to provide lab results for wastewater from similar project and also after the project is constructed so that the strength of the wastewater may be assessed. If wastewater is high strength, then a surcharge could be charged to the owner for the high strength waste based on an agreed upon formula (would suggest something similar to what Polk County Utilities uses). There would be periodic sampling that the site owner would need to provide results for should the wastewater prove to be high strength.

The City's new WWTF should have no problem handling higher strength wastewater at the proposed relatively low flows. The current influent is considerably lower strength than what the WWTF was designed for:

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~130-200 mg/L BOD

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Design influent levels:

388 mg/L BOD

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Blending of potentially higher strength wastewater from the development would not be reasonably expected to cause the overall influent levels to exceed the design levels at the relatively low proposed flows from the development.

Once the RV park is built, it is suggested to test the waste during peak season, to confirm its strength and composition. City may want to look at formulating an industrial pre-treatment program or establish limits on the park's size/growth. For example, if the park plans on expanding or doing any kind of improvements that could alter or increase the waste stream then RV park must give xx days for City to evaluate if existing WWTF can support the growth.

Another consideration might be to allow the use of a septic tank to pretreat the RV dump station waste and then send the leachate to the City. Or septic tanks could be used for all of the produced wastewater of the development. We generally don't like the idea of septic tanks but that could be a viable option for this development.

- 3) Potential I/I problem: If the proposed system is properly designed, I/I should not be a problem. The design plans should be reviewed during the development review process to make sure the RV connection points, RV dumping station, gravity manholes, and lift station are not susceptible to I/I. Detailed design plans should be required to be submitted for review. Requiring that the Developer comply with the City's utility design standards is reasonable. The RV connections should be located well away from the driveway/pad and protected to minimize being broken or damaged by the RVs or other vehicles entering or leaving the site.
- 4) Force main ownership: The force main constructed for the project should be owned by the City to allow potential future connections. The City should master plan what the likely flows might be for future connections along the force main route and consider upsizing the force main over what would be needed for project. Reasonably, the cost to upsize the force main should be borne by the City.
- 5) Downstream lift station and other collection system upgrades: The connection point would be to an existing manhole at intersection of County Line Road and Poplar Avenue. This manhole should be lined by the developer, as it will accept force main flow, which will likely produce hydrogen sulfide. Sewage flows via gravity main from this location south to the master lift station located at the WWTF. The master lift station should be able to accommodate the relatively small flows from the project (approximately 14 gpm peak flow); however, this should be analyzed in detail following the developer's submittal of design plans.
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[Watch Now: Smart City Planning!](#)



## WLawrence

---

**m:** Gerald Buhr <gerald@buhrlaw.com>  
**sent:** Wednesday, February 3, 2021 12:30 PM  
**To:** Roger Homann; WLawrence  
**Cc:** Jeff McKinney  
**Subject:** RE: Peace Ranch Project

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Thanks

Jerry



GERALD T. BUHR, P.A.

Certified by the Florida Bar as a City, County and Local Government specialist since 2003

City Attorney for: Zolfo Springs,\* Bowling Green, San Antonio and Avon Park

\* 2017 – Twenty-Five Years as City Attorney for Zolfo Springs, Florida

of Counsel to:

Saxon Gilmore & Carraway, P.A.

Phone (863) 508-7055; Fax (863) 508-7066

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**Roger Homann, PE**

**Pennoni**

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## WLawrence

---

**m:** Roger Homann <RHomann@Pennoni.com>  
**Sent:** Wednesday, February 3, 2021 2:32 PM  
**To:** Gerald Buhr; WLawrence  
**Cc:** Jeff McKinney  
**Subject:** RE: Peace Ranch Project

Jerry,

I understand your concerns. A very big issue is that we don't know what the concentrations in the wastewater will be. This is why it is important to ask developer for representative data from a similar facility to better analyze the situation and also to require sampling of their actual effluent after the development is built.

I may be wrong, but I don't interpret the Mosaic Agreement to mean that if the City starts accepting an industrial discharge that Mosaic could or would terminate the discharge. This would only be if the industrial wastewater "substantially increases existing or adds new contaminant concentrations in or to the reclaimed water" (treated effluent going to Mosaic) or "adversely changes the physical characteristics of the reclaimed water in a substantial way beyond standards allowed by applicable permits." Depending on the what the characteristics of the developments wastewater are, it may not be classified as industrial wastewater per the FDEP definition.

The WWTF was designed based on higher influent concentrations than what the City is actually seeing and the effluent design levels are lower than what is required by Mosaic:

Parameter	Influent	Effluent	Notes
Flow (MGD)	0.32	-	
BOD – Biochemical Oxygen Demand (mg/L)	388	5	
TSS – Total Suspended Solids (mg/L)	332	5	After filtration
TKN – Total Kjeldahl Nitrogen (mg/L)	67	2.0	
NH <sub>3</sub> -N – Ammonia Nitrogen (mg/L)	-	1.0	
NO <sub>3</sub> -N – Nitrate Nitrogen (mg/L)	-	3.0	
TN – Total Nitrogen (mg/L)	-	5.0	Includes est. refractory Org-N
TP – Total Phosphorus (mg/L)	9	1.0	May require chemical polishing

In our review of the Mosaic agreement, we noticed that it requires sampling of the following parameters on an annual basis:

- Nitrate
- Chloride
- Total Dissolved Solids
- Total Nitrogen
- Total Phosphorus

The City is not currently sampling for these parameters, as this is not required by your FDEP operating permit. **These parameters should be added to the City's annual sampling schedule. We recommend that you sample these parameters ASAP to help with the analysis of the Peach Ranch Project. For this sampling event both plant influent and plant final effluent samples should be taken.** Again, the plant is designed to treat to levels below what the Mosaic agreement requires, but it will be better to confirm with analytical data, which will allow plant operations to be modified prior to sending treated effluent to the South Pasture Mine Mosaic site if there are any effluent levels that come back higher than the Mosaic limits.

Roger Homann, PE

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GERALD T. BUHR, P.A.

Certified by the Florida Bar as a City, County and Local Government specialist since 2003

City Attorney for: Zolfo Springs, \* Bowling Green, San Antonio and Avon Park

\* 2017 – Twenty-Five Years as City Attorney for Zolfo Springs, Florida

of Counsel to:

Saxon Gilmore & Carraway, P.A.

Phone (863) 508-7055; Fax (863) 508-7066

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under the Internal Revenue Code or (2) promoting, marketing or recommending to another party any matters addressed herein.

From: Roger Homann <[RHomann@Pennoni.com](mailto:RHomann@Pennoni.com)>  
Sent: Tuesday, February 2, 2021 5:28 PM  
To: WLawrence <[wlawrence@bowlinggreenfl.org](mailto:wlawrence@bowlinggreenfl.org)>; Gerald Buhr <[gerald@buhrlaw.com](mailto:gerald@buhrlaw.com)>  
Cc: Jeff McKinney <[JMcKinney@Pennoni.com](mailto:JMcKinney@Pennoni.com)>  
Subject: Peace Ranch Project

Bill and Gerald:

The following are Pennoni's responses to the wastewater issues regarding the Peach Ranch RV Park Project. Sorry this took a little longer than I wanted to, but we have been working with Ovivo/Paul Jacobs to gain their input on the wastewater plant's ability to treat the RV waste. We still do not have the final word on this, but I wanted to get you something back for your consideration. Please give me a call if you would like to discuss.

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The City's new WWTF should have no problem handling higher strength wastewater at the proposed relatively low flows. The current influent is considerably lower strength than what the WWTF was designed for:

Current influent (based on Aug-Oct 2020 DMRs):

~130-200 mg/L BOD

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Design influent levels:

388 mg/L BOD

332 mg/L TSS

Blending of potentially higher strength wastewater from the development would not be reasonably expected to cause the overall influent levels to exceed the design levels at the relatively low proposed flows from the development.

Once the RV park is built, it is suggested to test the waste during peak season, to confirm its strength and composition. City may want to look at formulating an industrial pre-treatment program or establish limits on the park's size/growth. For example, if the park plans on expanding or doing any kind of improvements that could alter or increase the waste stream then RV park must give xx days for City to evaluate if existing WWTF can support the growth.

Another consideration might be to allow the use of a septic tank to pretreat the RV dump station waste and then send the leachate to the City. Or septic tanks could be used for all of the produced wastewater of the development. We generally don't like the idea of septic tanks but that could be a viable option for this development.

- 3) Potential I/I problem: If the proposed system is properly designed, I/I should not be a problem. The design plans should be reviewed during the development review process to make sure the RV connection points, RV dumping station, gravity manholes, and lift station are not susceptible to I/I. Detailed design plans should be required to be submitted for review. Requiring that the Developer comply with the City's utility design standards is reasonable. The RV connections should be located well away from the driveway/pad and protected to minimize being broken or damaged by the RVs or other vehicles entering or leaving the site.
- 4) Force main ownership: The force main constructed for the project should be owned by the City to allow potential future connections. The City should master plan what the likely flows might be for future connections along the force main route and consider upsizing the force main over what would be needed for project. Reasonably, the cost to upsize the force main should be borne by the City.
- 5) Downstream lift station and other collection system upgrades: The connection point would be to an existing manhole at intersection of County Line Road and Poplar Avenue. This manhole should be lined by the developer, as it will accept force main flow, which will likely produce hydrogen sulfide. Sewage flows via gravity main from this location south to the master lift station located at the WWTF. The master lift station should be able to accommodate the relatively small flows from the project (approximately 14 gpm peak flow); however, this should be analyzed in detail following the developer's submittal of design plans.
- 6) Impact fees issue: The City should review its current impact fees to make sure appropriate. FRWA may be able to provide this service to the City at no charge. Impact fees to City should not be waived, as the excess capacity of the City's WWTF and collection system will be expended by the project wastewater flows.
- 7) Mosaic Agreement issue: Per the FDEP's definition of "industrial wastewater" it is unclear whether or not the wastewater from the project would be considered "industrial wastewater" as the strength of the wastewater is not at this time known. However, for transparency, Mosaic should be notified in advance of the wastewater from the project.

Mosaic Agreement states the following regarding "industrial wastewater":

- (9) To provide forty-five (45) days advance notice to Mosaic in the event the WWTF will begin accepting "industrial wastewater" (as defined by 62-600.200 F.A.C.) for treatment;

62-600.200 F.A.C. definition of industrial wastewater and domestic wastewater:

(30) "Industrial wastewater" means process and non-process wastewater from manufacturing, commercial, mining, and silvicultural facilities or activities, including the runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling or processing, and all other wastewater not otherwise defined as domestic wastewater. Industrial wastewater does not include demineralization concentrate as stated in Rule 62-610.865, F.A.C.

(21) "Domestic wastewater" means wastewater derived principally from dwellings, business buildings, institutions, and the like, commonly referred to as sanitary wastewater or sewage. Where industrial wastewater is combined with domestic wastewater for treatment, the determination of whether or not the wastewater treatment plant is designated as "domestic" shall be made by the Department considering any or all of the following: biosolids classification; whether wastewaters have been pretreated or contain constituents within 50-150%, by concentration, of typical domestic wastewater; and whether the permittee, when not required to provide more stringent or otherwise specific levels of treatment, can provide assurance of facility compliance with domestic wastewater treatment standards contained in this chapter.

**Pennoni**

401 Third Street SW | Winter Haven, FL 33880

Direct: +1 (863) 888-0278

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## WLawrence

---

**m:** Gerald Buhr <gerald@buhrlaw.com>  
**nt:** Thursday, February 4, 2021 8:34 AM  
**To:** Roger Homann; WLawrence  
**Cc:** Jeff McKinney  
**Subject:** RE: Peace Ranch Project

If you get comfortable with the connection, then I am too.

Jerry



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**From:** Roger Homann <RHomann@Pennoni.com>

**Sent:** Wednesday, February 3, 2021 2:32 PM

**To:** Gerald Buhr <gerald@buhrlaw.com>; WLawrence <wlawrence@bowlinggreenfl.org>

**Cc:** Jeff McKinney <JMcKinney@Pennoni.com>

**Subject:** RE: Peace Ranch Project

Jerry,

I understand your concerns. A very big issue is that we don't know what the concentrations in the wastewater will be. This is why it is important to ask developer for representative data from a similar facility to better analyze the situation and also to require sampling of their actual effluent after the development is built.

I may be wrong, but I don't interpret the Mosaic Agreement to mean that if the City starts accepting an industrial discharge that Mosaic could or would terminate the discharge. This would only be if the industrial wastewater "substantially increases existing or adds new contaminant concentrations in or to the reclaimed water" (treated effluent going to Mosaic) or "adversely changes the physical characteristics of the reclaimed water in a substantial way beyond standards allowed by applicable permits." Depending on the what the characteristics of the developments wastewater are, it may not be classified as industrial wastewater per the FDEP definition.

The WWTF was designed based on higher influent concentrations than what the City is actually seeing and the effluent design levels are lower than what is required by Mosaic:

Parameter	Influent	Effluent	Notes
Flow (MGD)	0.32	-	
BOD – Biochemical Oxygen Demand (mg/L)	388	5	
TSS – Total Suspended Solids (mg/L)	332	5	After filtration
TKN – Total Kjeldahl Nitrogen (mg/L)	67	2.0	
NH <sub>3</sub> -N – Ammonia Nitrogen (mg/L)	-	1.0	
NO <sub>3</sub> -N – Nitrate Nitrogen (mg/L)	-	3.0	
TN – Total Nitrogen (mg/L)	-	5.0	Includes est. refractory Org-N
TP – Total Phosphorus (mg/L)	9	1.0	May require chemical polishing

In our review of the Mosaic agreement, we noticed that it requires sampling of the following parameters on an annual basis:

- Nitrate
- Chloride
- Total Dissolved Solids
- Total Nitrogen
- Total Phosphorus

The City is not currently sampling for these parameters, as this is not required by your FDEP operating permit. **These parameters should be added to the City's annual sampling schedule. We recommend that you sample these parameters ASAP to help with the analysis of the Peach Ranch Project. For this sampling event both plant influent and plant final effluent samples should be taken.** Again, the plant is designed to treat to levels below what the Mosaic agreement requires, but it will be better to confirm with analytical data, which will allow plant operations to be modified prior to sending treated effluent to the South Pasture Mine Mosaic site if there are any effluent levels that come back higher than the Mosaic limits.

**Roger Homann, PE**

**Pennoni**

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From: Gerald Buhr <[gerald@buhrlaw.com](mailto:gerald@buhrlaw.com)>  
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roger – My biggest concern is in that a) the high BOD or COD wastewater would violate our contract with Mosaic if it is deemed “industrial wastewater” which is forbidden; and, b) would it raise our effluent nitrogen to a level that would violate the Wauchula or Mosaic agreements even if it is not industrial wastewater. The numbers in the Mosaic agreement are very tight for any WWTP, and they refused to modify them after our several attempts, and provided for almost instantaneous disconnection of our effluent if we violate the standards. That would be very unfortunate for BG.

Thanks

Jerry



Gerald Thomas Buhr

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**Roger Homann, PE**

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## WLawrence

---

**From:** Danielle DeLeon <danielle.deleon@hardeecounty.net>  
**Date:** Friday, January 22, 2021 1:58 PM  
**To:** 'Terry Atchley'; WLawrence  
**Subject:** Grant Agreement  
**Attachments:** Grant Agreement - Feasibility Study.pdf

Good Afternoon Gentlemen,

Attached is the grant agreement for the feasibility study. Please add to your city's next commission meeting for approval and signature.

Each of the cities, County and IDA have their own signature page. I will need the original of just your signature page returned to me no later than 12 noon on February 12, 2021. I will be more than happy to pick it up or you can always stop by the office and drop it off.

I will provide a full copy of the agreement to each of you once it has been recorded by the Clerk to the Board.

Thank you and have a wonderful weekend.

*Danielle DeLeon*

BOCC Office Manager

412 W Orange St, Suite 103  
Wauchula, FL 33873  
E: [danielle.deleon@hardeecounty.net](mailto:danielle.deleon@hardeecounty.net)  
P: 863.773.9430

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**HARDEE COUNTY  
ECONOMIC DEVELOPMENT AUTHORITY**

**GRANT AWARD AGREEMENT**

**THIS AGREEMENT**, made and entered into this 16<sup>th</sup> day of February, 2021, by and between the Hardee County Economic Development Authority, hereinafter referred to as "EDA," and the City of Wauchula, located at 126 S. 7<sup>th</sup> Avenue, Wauchula, FL 33873, the City of Bowling Green, located at PO Box 608, Bowling Green, FL 33834, the Town of Zolfo Springs, located at PO Box 162, Zolfo Springs, FL 33890 and Hardee County Board of County Commissioners, located at 412 W Orange St, Suite 103, Wauchula, Florida 33873, collectively referred to as the "APPLICANTS" hereafter.

The EDA, pursuant to Section 211.3103(3)(b)3 F.S., is authorized to establish the Infrastructure/Job Creation Grant Program to provide grants to qualified for-profit and not-for-profit entities to fund projects that provide economic development opportunities, job creation and infrastructure within the geographic boundaries of Hardee County.

The EDA has determined that the APPLICANTS have met all the requirements necessary for participation in the EDA grant Program, and

The EDA desires to distribute funds to the APPLICANTS for projects that provide economic development, job creation opportunities and infrastructure within the geographic boundaries of Hardee County the sum not to exceed \$300,000; and

The application and infrastructure program guidelines attached hereto as Exhibit "A", is hereby incorporated into this agreement and the representations made by the APPLICANTS therein are incorporated as if full set forth herein; and

In consideration for the mutual undertakings and agreements hereinafter set forth, EDA and the APPLICANTS agree as follows:

**1.0 PARTIES:** The parties and their respective addresses for purposes of this

Agreement are as follows:

HARDEE COUNTY  
ECONOMIC DEVELOPMENT AUTHORITY  
C/O COUNTY MANAGER'S OFFICE  
412 W. ORANGE ST., ROOM 103  
WAUCHULA, FL 33873  
P: 863-773-9430; F: 863-773-0958

HARDEE COUNTY BOCC  
412 W ORANGE ST, SUITE 103  
WAUCHULA, FL 33873  
P: 863-773-9430; F: 863-773-0958

CITY OF WAUCHULA  
126 S. 7<sup>TH</sup> AVE.  
WAUCHULA, FL 33873  
P: 863-773-3131; F: 863-773-6376

CITY OF BOWLING GREEN  
PO BOX 608  
BOWLING GREEN, FL 33834  
P: 863-375-2255; F: 863-375-3362

TOWN OF ZOLFO SPRINGS  
PO Box 162  
ZOLFO SPRINGS, FL 33890  
P: 863-735-0405; F: 863-735-1684

**2.0 ADMINISTRATOR:** The Agreement administrator is Lawrence W. McNaul, County Manager. The City of Wauchula Agreement Administrator is Mayor Keith Nadaskay. The City of Bowling Green Agreement Administrator is Mayor Samuel Fite Jr. The Town of Zolfo Springs Agreement Administrator is Mayor Rod Cannon. The County Agreement administrator is Park Winter, Utilities Director. All approvals referenced in this agreement must be obtained from the agreement administrators or their designees. Any notice, demand, request, or other communication shall be effective only if in writing and when it is received by the Agreement Manager at the address provided for herein.

In the event that a different Agreement Administrator is designated by either Party after execution of this contract, notice of the name, address and telephone number of the new Agreement Manager shall be delivered in writing to the other Party and said notification shall be attached to originals of this Agreement.



The APPLICANTS and the Hardee County Industrial Development Authority (IDA) hereby agree that the IDA shall administer the grant on behalf of the APPLICANTS and shall fund the feasibility study in an amount not to exceed \$300,000. The IDA shall be the entity entitled to reimbursement from the EDA as contemplated herein.

**3.0 TERM OF AGREEMENT:** The term of this Agreement shall commence upon full execution of this agreement, and continue for a two-year period, unless terminated earlier as hereinafter provided prior to that time.

**4.0 APPLICANT DESCRIPTIONS:**

(a) The County is or will be an operating unit of Hardee County Board of County Commissioners, FEIN 59-6000632.

(b) The City of Wauchula is or will be operating unit of City of Wauchula, FEIN 59-6000446.

(c) The City of Bowling Green is or will be operating unit of City of Bowling Green, FEIN 59-6000281.

(d) The Town of Zolfo Springs is or will be operating unit of Town of Zolfo Springs, FEIN 59-6045866.

**5.0 PROJECT DESCRIPTION:** Utilities Feasibility Study.

**6.0 NOTICES:** All notices pertaining to this Agreement are in effect upon receipt by EDA, shall be in writing, and shall be transmitted either by personal hand delivery, United States Post Office, return receipt requested; or overnight express mail delivery. Facsimile may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth above for the respective parties shall be the places where notices shall be sent unless prior written notice of change of address is given.

**7.0 OBLIGATIONS OF THE APPLICANTS:** The APPLICANTS agrees to:

(a) administer funds in accordance with the Approved Plan, a copy of which is attached hereto and incorporated herein as Exhibit "B".

(b) provide a budget and detailed reports to the EDA regarding the project. Reports must be completed to the satisfaction of the EDA.

(c) upon request by the EDA, and within a reasonable time, allow the EDA to inspect supporting documentation of reported outcomes and expenses inclusive of receipts, canceled checks, basis for disbursements and invoices.

(d) retain records for at least five (5) years following the end of this Agreement or deliver such records to the EDA for retention. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the five (5) year period, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the five (5) year period, whichever is later.

(e) upon request by the EDA, and within a reasonable time, allow the EDA to inspect, review and audit all records received or created pursuant to this Agreement.

(f) submit quarterly project status reports and quarterly reimbursement requests as attached hereto and incorporated herein as Exhibit "C".

**8.0 OBLIGATIONS OF THE EDA:**

(a) provide a format for all required reports and assist the APPLICANTS in completing reports satisfactory to the EDA.

(b) provide or assist in obtaining technical assistance as needed to distribute the Designated Funds in accordance with the Approved Plan.

(c) following any site visit or review, provide a written report with comments and recommendations regarding the manner in which services are being provided.

(d) provide oversight for the efficient and effective distribution of the Designated Funds.

**9.0 TERMINATION OF THIS AGREEMENT:**

(a) The Agreement may be terminated by EDA upon failure of the APPLICANTS to comply with any material term or condition of this Agreement or a decision by the APPLICANTS either not to proceed with the project defined in Section 5.0 or to proceed with that project in a location outside of Hardee County, Florida.

**10.0 PENALTY:** Any APPLICANT that fraudulently procures or receives funds under this program is liable for repayment.

**11.0 LEGAL REQUIREMENTS:**

(a) This agreement is executed and entered in Hardee County and will be construed, performed, and enforced in all respects in accordance with the laws and rules of the State of Florida. Each party will perform its obligations in accordance with the terms and conditions of this agreement. Any and all litigation arising under this Agreement shall be brought in the appropriate court in Hardee County, Florida.

**12.0 NON-DISCRIMINATION:** The APPLICANTS will not discriminate against any employee employed in the performance of this agreement, or against any applicant for employment because of age, ethnicity, religious belief, disability, national origin, or sex. The APPLICANTS shall insert a similar provision in all subcontracts for services by this Agreement.

**13.0 ATTORNEY FEES:** In any litigation (even through appellate level) or proceeding to enforce or interpret any term or provision of this agreement, or if EDA must hire counsel to protect its interest in bankruptcy proceeding filed by the APPLICANTS, the prevailing party shall be entitled to an award of its reasonable attorneys' fees from the non-prevailing party.

**14.0. RESTRICTION AGAINST ASSIGNMENT:** No part of this Agreement shall be assigned, subcontracted, or delegated by either Party to a third party without the prior written consent of the other Party.

**15.0 ENFORCEABILITY:** If any term or provision of this Agreement is found to be illegal and unenforceable, the remainder of the Agreement will remain in full force and effect and such term of provision will be deemed stricken.

**16.0 WAIVER:** The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach, or wrongful conduct.

**17.0 COUNTERPARTS:** This Agreement may be executed in counterparts, each of which shall be considered an original for all purposes.

**18.0 MODIFICATION:** This writing contains the entire Agreement of the parties. No representations were made or relied upon by either party, other than those that are expressly set forth. No agent, employee, or other representative of either party is empowered to alter any of the terms of this Agreement, unless done in writing and signed by an authorized officer of the APPLICANTS and the authorized agent of EDA.

**19.0 ENTIRE AGREEMENT:** This instrument embodies the entire agreement of the parties. There are no provisions, terms, condition, or obligations other than those contained in this agreement; and this agreement superseded all previous communication, representation, or agreement, either verbal or written, between the parties. No amendment will be effective unless reduced to writing and signed by the parties.

**20.0 DUPLICATE ORIGINALS:** This Agreement is executed in duplicate originals.

**HARDEE COUNTY  
ECONOMIC DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
Authorized Signature                      Date

Title: \_\_\_\_\_

Witnesses:  
\_\_\_\_\_  
\_\_\_\_\_

**HARDEE COUNTY BOCC**

\_\_\_\_\_  
Authorized Signature                      Date

Title: \_\_\_\_\_

Witnesses:  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Victoria L. Rogers, Clerk to the Board  
Hardee County BOCC

**CITY OF WAUCHULA**

\_\_\_\_\_  
Authorized Signature                      Date

Title: \_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

**CITY OF BOWLING GREEN**

\_\_\_\_\_  
Authorized Signature                      Date

Title: \_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_

**TOWN OF ZOLFO SPRINGS**

\_\_\_\_\_  
Authorized Signature                      Date

Title: \_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_



**INDUSTRIAL DEVELOPMENT AUTHORITY**

\_\_\_\_\_  
Authorized Signature                      Date

Title: \_\_\_\_\_

Witnesses:

\_\_\_\_\_

\_\_\_\_\_