

ORDINANCE NO. 01-16

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEBARY, FLORIDA, APPROVING A REQUEST TO CHANGE THE ZONING CLASSIFICATION OF APPROXIMATELY 296.2 ACRES OF LAND LOCATED WEST OF BARWICK ROAD AND THE SOUTHSIDE OF FORT FLORIDA ROAD HAVING VOLUSIA COUNTY TAX PARCEL IDENTIFICATION NUMBER 08-19-30-00-00-0010 FROM A-2 (RURAL AGRICULTURE) AND RC (RESOURCE CORRIDOR) ZONING CLASSIFICATIONS TO FORT FLORIDA COMMONS MPUD (MIXED PLANNED UNIT DEVELOPMENT) AND RC (RESOURCE CORRIDOR) ZONING CLASSIFICATIONS; PROVIDING FOR A DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, Empire Cattle, Ltd. (“applicant”), as applicant and fee simple owner, submitted a rezoning application to the City requesting the adoption of this Ordinance pertaining to that certain real property being approximately 296.2 acres in size and having a Volusia County Tax Parcel Identification Number 08-19-30-00-00-0010, and legally described to wit (the “Property”):

THE SOUTH 1/2 OF THE NORTHEAST 1/4; THE SOUTH 1/2 OF THE NORTHWEST 1/4; GOVERNMENT LOTS 1 AND 3; AND THE NORTH 1/2 OF GOVERNMENT LOT 6; ALL IN SECTION 8, TOWNSHIP 19 SOUTH, RANGE 30 EAST. LYING SOUTH OF FORT FLORIDA ROAD, VOLUSIA COUNTY, FLORIDA.

ALL EXCEPT THE RIGHTS OF WAY FOR ANY AND ALL PUBLIC ROADS ON AND OVER SAID REAL PROPERTY AND EXCEPT ALL ELECTRIC OR POWER LINE EASEMENT OR RIGHTS OF WAY AGREEMENTS THEREFORE, HERETOFORE GIVEN.

EXCEPT THE SOUTH 30 FEET OF SAID LOT 1 AND EXCEPT THE SOUTH 30 FEET OF THE NORTH 1/2 OF SAID LOT 6.

; and

WHEREAS, the applicant is requesting that the Property be rezoned from A-2 (Rural Agricultural) and RC (Resource Corridor) zoning classifications to a MPUD (Mixed Planned Unit Development) and a RC (Resource Corridor) Zoning Classification, with the portions of the Property currently zoned RC retaining its RC zoning; and

WHEREAS, the Property has a Comprehensive Plan Future Land Use Map designation of SW Mixed Use Area (SWMUA) and Environmentally Sensitive Lands (ESL); and

WHEREAS, the applicant has represented it agreement with the provisions of the Development Agreement attached to this Ordinance and intent to execute the same; and

WHEREAS, this Ordinance has been advertised and noticed in accordance with the requirements of state law and Section 1-10 of the City of DeBary Land Development Code; and

WHEREAS, the City Council acting in its capacity as the City of DeBary Local Planning Agency and Governing Body has conducted the necessary public hearings on this Ordinance; and

WHEREAS, based upon competent, substantial evidence presented in the record, this Ordinance meets the requirements for rezoning pursuant to Section 1-6, City of DeBary Land Development Code and Comprehensive Plan Policy 5.505 and is consistent with the City of DeBary Comprehensive Plan.

NOW THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF DEBARY AS FOLLOWS:

SECTION 1. Recitals. The City Council finds that the above recitals are true and correct.

SECTION 2. Rezoning. The application of Empire Cattle, Ltd. for the rezoning of the Property is granted subject to the terms and conditions forth herein. The City of DeBary official zoning map is hereby amended from A-2 (Rural Agricultural) and RC (Resource Corridor) zoning classifications to MPUD (Mixed Planned Unit Development) and RC (Resource Corridor) zoning classifications, with the portions of the Property currently zoned RC (Resource Corridor) retaining its RC (Resource Corridor) zoning. The portions of the Property zoned RC (Resource Corridor) shall be remain and be maintained in perpetuity in their natural condition without right of development, excavation, clearing, dredging or fill. The MPUD approved by this Ordinance shall be referred to as the “Fort Florida Commons MPUD.” The development of the Property shall be governed by the Development Agreement and Master Development Plan attached hereto as Attachment “A” and is incorporated herein by this reference, and the same are hereby approved. With respect to any conflict between the City of DeBary Land Development Code, as amended, and the Development Agreement, the provisions of the Development Agreement shall control to the extent of the conflict. The City of DeBary Land Development Code, as amended, shall govern the development of the Property with respect to any matter not addressed by this Ordinance or the Development Agreement. The City of DeBary Zoning Enforcement Official will ensure overall compliance with this Ordinance and the attached Development Agreement and Master Development Plan. A violation of this Ordinance or any provision of the attached Development Agreement and Master Development Plan is considered a violation of the Land Development Code and zoning of the Property.

SECTION 3. Recording. The City Clerk is hereby directed to record this Ordinance and the attached Development Agreement and Master Development Plan in the Public Records of Volusia County, Florida. This Ordinance and attached Development Agreement and Master Development Plan affecting the Property shall run with the land and shall be applicable to and binding on the applicant and any and all successors and assigns in interest.

SECTION 4. Severability. If any portion of this Ordinance is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable or void, the balance of the Ordinance shall continue in full force and effect.

SECTION 5. Conflicts. In the event of a conflict or conflicts between this Ordinance and other ordinances, this Ordinance shall control to the extent such conflict exists.

SECTION 6. Effective Date. This Ordinance shall take effect immediately upon adoption.

First reading and public hearing occurred on January 20, 2016.

Second reading and public hearing, and adoption occurred on February 3, 2016.

ADOPTED BY the City Council of the City of DeBary, Florida this 3rd day of February, 2016.

CITY COUNCIL
CITY OF DEBARY, FLORIDA

By: _____
Clint Johnson, Mayor

ATTEST:

By: _____
Dan Parrott, City Clerk

ATTACHMENT: Attachment "A" – Development Agreement and Master Development Plan