

ORDINANCE NO: 1232

AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA; AMENDING THE CITY'S COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FOR A 0.46 ACRE PARCEL OF PROPERTY GENERALLY LOCATED EAST OF HIGHWAY 17/92 AND NORTH OF MYSTERY HOUSE ROAD, FROM THE CLASSIFICATION OF POLK COUNTY RESIDENTIAL SUBURBAN (RS) TO CITY RESIDENTIAL LOW (RL); PROVIDING FOR A BUSINESS IMPACT ESTIMATE, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Davenport has adopted a Comprehensive Plan which meets the requirements of the Local Government Comprehensive Planning and Land Development Regulation Act of 1985; and,

WHEREAS, the City of Davenport is committed to planning and managing the future growth and development of the City; and,

WHEREAS, the City Commission has the authority to amend its Comprehensive Plan pursuant to Chapter 163, Florida Statutes; and,

WHEREAS, the Future Land Use Map of the Comprehensive Plan depicts the Land Use categories that are permissible within the City; and,

WHEREAS, the Local Planning Agency held a public hearing on January 16, 2024, to consider this amendment to the Future Land Use Map of the Comprehensive Plan; and,

WHEREAS, the City Commission of the City of Davenport desires to amend the Future Land Use Map of the Comprehensive Plan to designate the subject property's land use from Polk County Residential Suburban (RS) to City Residential Low (RL) and,

WHEREAS, the subject property consists of a 0.46 acre parcel of property; and,

WHEREAS, the City Commission held public hearings to consider this amendment, 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, although exempt under the statute, the City has nevertheless in its sole discretion performed a business impact estimate pursuant to § 166.041(4)(c), and determined that adoption of this ordinance:

- (1) serves a public purpose by serving the public health, safety, morals, and welfare of the City,
- (2) has no direct negative economic impact on private, for-profit businesses in the city,

- (3) will not result in direct compliance costs by businesses,
- (4) does not impose any new charge or fee on businesses for which businesses will be financially responsible,
- (5) does not create any additional municipal regulatory cost which is not recovered appropriately and lawfully by the City; and,

WHEREAS, the City has complied with all requirements and procedures of Florida law in processing this small-scale amendment to the City's Comprehensive Plan; and,

WHEREAS, the City Commission hereby finds and determines that this amendment is internally consistent with the City's Comprehensive Plan.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAVENPORT, FLORIDA, AS FOLLOWS:

SECTION 1. FINDINGS. The recitals set forth above are hereby adopted as the legislative findings of the City Commission of the City of Davenport, Florida.

SECTION 2. SMALL SCALE COMPREHENSIVE PLAN AMENDMENT – FUTURE LAND USE MAP. The City of Davenport Comprehensive Plan and Future Land Use Map, and ordinances which adopted and amended said Future Land Use Map, are hereby amended to designate the subject property listed below and more particularly described by legal description in Exhibit "A" and graphically depicted in Exhibit "B," both exhibits being attached hereto, from Polk County Residential Suburban (RS) to City Residential Low (RL)

Property Owner of Record:

Jesus M Melendez Diaz

Parcel Number:

272709-729501-000070

Legal Description:

See Exhibit "A"

Site Address:

336 Mystery House Rd, Davenport, FL 33837

General Location:

East of Hwy 17-92 and North of Mystery House Rd

Approximate Acreage:

.46 Acres

SECTION 3. BUSINESS IMPACT ESTIMATE. Pursuant to Section 166.041(4), Florida Statutes, the City of Davenport is required to prepare a business impact estimate for certain proposed ordinances. This proposed ordinance amends the land use

designation in accordance with the owner's proposed use related to a voluntarily annexation of land into the City of Davenport. Such an amendment to the City's Plan (1) serves a public purpose by serving the public health, safety, morals, and welfare of the City, (2) has no direct negative economic impact on private, for-profit businesses in the city, (3) will not result in direct compliance costs by businesses, (4) does not impose any new charge or fee on businesses for which businesses will be financially responsible, and (5) does not create any additional municipal regulatory cost which is not recovered appropriately and lawfully by the City. Thus, it is estimated that neither residents nor any business will incur additional costs. The City does not seek to impose any additional user or regulatory fees or charges, nor are any direct compliance costs expected. The Business Impact Estimate form for this ordinance is on file with the City Clerk.

SECTION 4. SEVERABILITY. 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 5. CONFLICTS. That portion of any Ordinance which may conflict with this Ordinance is hereby repealed with the adoption of this Ordinance.

SECTION 6. EFFECTIVE DATE. This Small-Scale Development Ordinance does not become effective until 31 days after adoption. If challenged within 30 days after adoption, small scale development amendments may not become effective until the state land planning agency or the Administration Commission, respectively, issues a final order determining that the adopted small scale development amendment is in compliance.

INTRODUCED, PASSED AND DULY ADOPTED ON FIRST READING by the City Commission of Davenport, Florida, meeting in Regular Session this 16th day of January, 2024.

CITY OF DAVENPORT, FLORIDA

(SEAL)

By: _____
Brynn Summerlin, Mayor

Attest:

Raquel Castillo, City Clerk

INTRODUCED, PASSED AND ENACTED ON SECOND READING, by the City Commission of the City of Davenport, Florida, meeting in Regular Session, this 5th day of February, 2024.

CITY OF DAVENPORT, FLORIDA

(SEAL)

By: _____
Brynn Summerlin, Mayor

Attest:

Raquel Castillo, City Clerk

Approved as to form and legality:

Thomas Cloud, City Attorney

EXHIBIT "A"
POLK COUNTY, FLORIDA
LEGAL DESCRIPTION

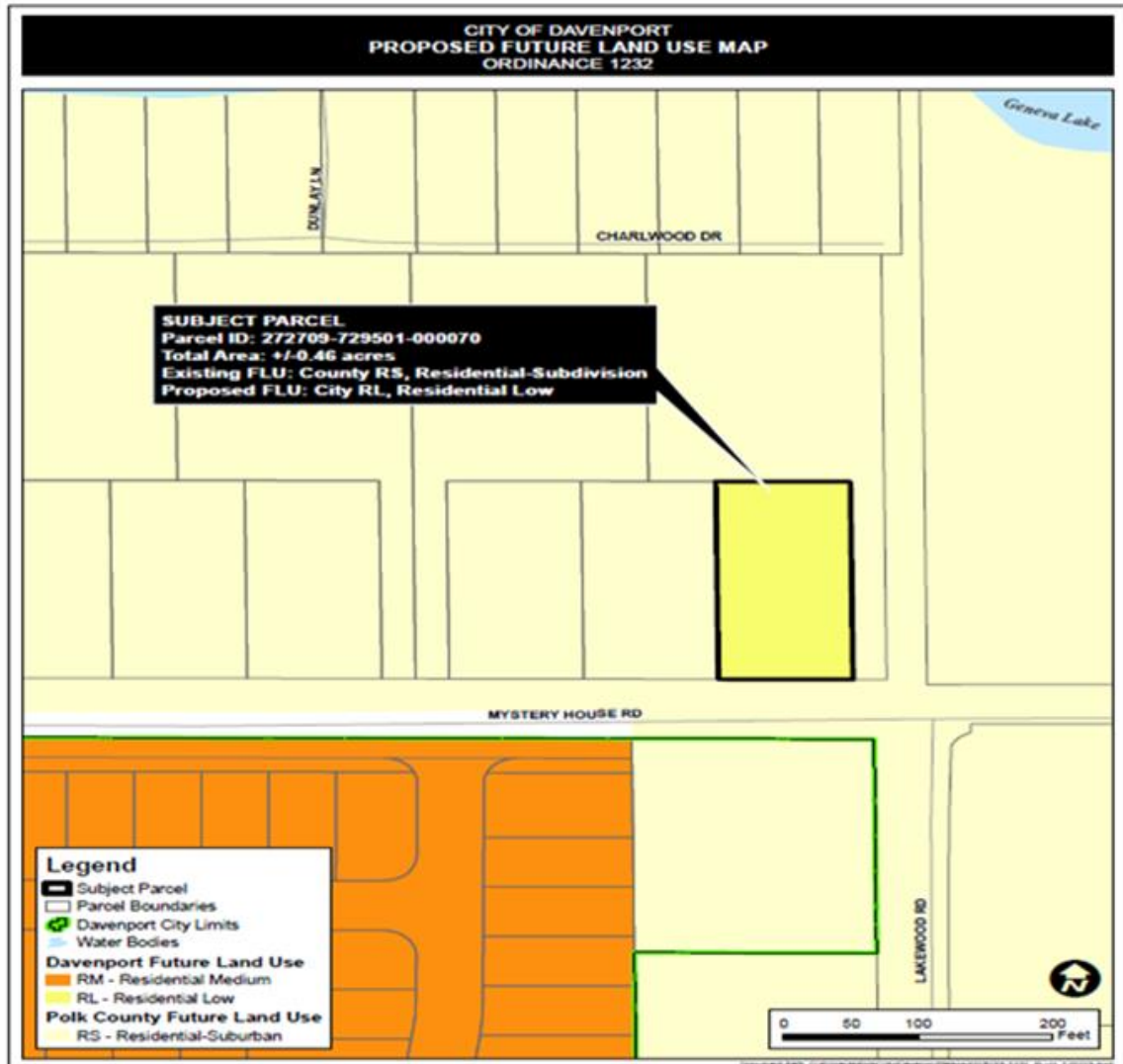
METES AND BOUNDS LEGAL DESCRIPTION

Parcel ID: 272709-729501-000070
Address: 336 Mystery House Rd
Davenport, FL 33837

Legal Descriptions

MYSTERIOUS SUBDIVISION PB 89 PG 5 LOT 7

EXHIBIT "B" Location Map





Business Impact Estimate

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

Proposed ordinance's title/reference:

AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA; AMENDING THE CITY'S COMPREHENSIVE PLAN BY CHANGING THE FUTURE LAND USE MAP DESIGNATION FOR A PARCEL TOTALING .46 ACRES OF PROPERTY GENERALLY LOCATED EAST OF HWY 17-92 AND NORTH OF MYSTERY HOUSE RD, FROM THE CLASSIFICATION OF POLK COUNTY RESIDENTIAL SUBURBAN (RS) TO CITY RESIDENTIAL LOW (RL); PROVIDING A BUSINESS IMPACT ESTIMATE, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.

This Business Impact Estimate is provided in accordance with section 166.041(4), Florida Statutes. If one or more boxes are checked below, this means the City of Davenport is of the view that a business impact estimate is not required by state law¹ for the proposed ordinance, but the City of Davenport is, nevertheless, providing this Business Impact Estimate as a courtesy and to avoid any procedural issues that could impact the enactment of the proposed ordinance. This Business Impact Estimate may be revised following its initial posting.

- The proposed ordinance is required for compliance with Federal or State law or regulation;
- The proposed ordinance relates to the issuance or refinancing of debt;
- The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant or other financial assistance accepted by the municipal government;
- The proposed ordinance is an emergency ordinance;
- The ordinance relates to procurement; or
- The proposed ordinance is enacted to implement the following:
 - a. Part II of Chapter 163, Florida Statutes, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;

¹ See Section 166.041(4)(c), Florida Statutes.

- b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;
- c. Section 553.73, Florida Statutes, relating to the Florida Building Code; or
- d. Section 633.202, Florida Statutes, relating to the Florida Fire Prevention Code.

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

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

This proposed ordinance will provide land use reclassification to provide the necessary residential density for the area, thus serving the public health safety, morals and welfare.

2. An estimate of the direct economic impact of the proposed ordinance on private, for-profit businesses in the City of Davenport, if any:
- (a) An estimate of direct compliance costs that businesses may reasonably incur;
 - (b) Any new charge or fee imposed by the proposed ordinance or for which businesses will be financially responsible; and
 - (c) An estimate of the City of Davenport's regulatory costs, including estimated revenues from any new charges or fees to cover such costs.

Land use reclassification does not lessen or remove any private resident or commercial business. Thus, it is estimated that neither residents nor any business will incur additional costs. The city does not seek to impose any additional user or regulatory fees or charges, nor are any direct compliance costs expected.

3. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: *Zero (0)*

4. Additional information the governing body deems useful (if any):

City of Davenport staff solicited comments from businesses and residents in the City of Davenport as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on City of Davenport's website, public workshop, etc. The proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not affect residents or businesses.