

**ORDINANCE NO: 1290**

**AN ORDINANCE OF THE CITY OF DAVENPORT, FLORIDA; CHANGING THE ZONING CLASSIFICATION FOR A PARCEL TOTALING .94 ACRES OF PROPERTY GENERALLY LOCATED EAST OF KINGHAM RD AND NORTH OF NORTH BLVD W, FROM THE CLASSIFICATION OF CITY SINGLE FAMILY RESIDENTIAL (R-3) TO CITY LOW DENSITY RESIDENTIAL (R-5); PROVIDING FOR A BUSINESS IMPACT ESTIMATE, SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 163, Florida Statutes, empowers the City Commission of the City of Davenport, Florida, to prepare and enforce Land Development Regulations for the implementation of the adopted Comprehensive Plan; and,

**WHEREAS**, changing City Single Family Residential (R-3) to City Low Density Residential (R-5) Zoning is consistent with the City of Davenport Comprehensive Plan's land use designation of the Property; and,

**WHEREAS**, the City of Davenport Planning Commission, sitting as the Local Planning Agency, recommended approval of a change in the zoning classification of the Property and found that the rezoning is consistent with the City's Comprehensive Plan; and,

**WHEREAS**, the City of Davenport has followed all statutory and Code requirements for noticing and advertising this rezoning Ordinance and public hearings associated with the rezoning; 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 Commission has received public input on the rezoning and a recommendation from staff; and,

**WHEREAS**, the City Commission of the City of Davenport finds that the applicants have met the criteria for rezoning under the City's land development regulations and that rezoning will not adversely affect the public interest.

**NOW, THEREFORE, BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF DAVENPORT:**

**Section 1. Findings.** The City Commission hereby adopts and incorporates the above stated Recitals as legislative findings that support and form the basis for the adoption of this ordinance.

**Section 2. Rezoning.** The Property identified below and by their legal descriptions in Exhibit "A" shall hereafter be classified on the Official Zoning Map as Low Density Residential (R-5)

**Property Owner of Record:**

Matilde Fabian Mirabal

**Parcel Number:**

272704-722000-030321

**Legal Description:**

See Exhibit "A"

**Site Address:**

1140 North Blvd W, Davenport, FL 33837

**General Location:**

EAST OF KINGHAM RD AND NORTH OF NORTH BLVD W

**Approximate Acreage:**

.94 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 rezones property 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.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall take effect if and when the companion Comprehensive Plan Future Land Use Map amendment relative to the subject property (Ordinance No. 1175) becomes effective pursuant to § 163.3184(3)(c)(4), Fla. Stat. If the companion Comprehensive Plan Future Land Use Map amendment does not become effective, then this Ordinance shall become null and void.

**INTRODUCED, PASSED AND DULY ADOPTED ON FIRST READING** by the City Commission of Davenport, Florida, meeting in Regular Session this 19<sup>th</sup> day of August 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 5<sup>th</sup> day of September, 2024.

**CITY OF DAVENPORT, FLORIDA**

(SEAL)

\_\_\_\_\_  
Brynn Summerlin, Mayor

Attest:

\_\_\_\_\_  
Raquel Castillo, City Clerk

Approved as to form and legality by:

\_\_\_\_\_  
Thomas Cloud, City Attorney

**EXHIBIT "A"**  
**POLK COUNTY, FLORIDA**  
**LEGAL DESCRIPTION**

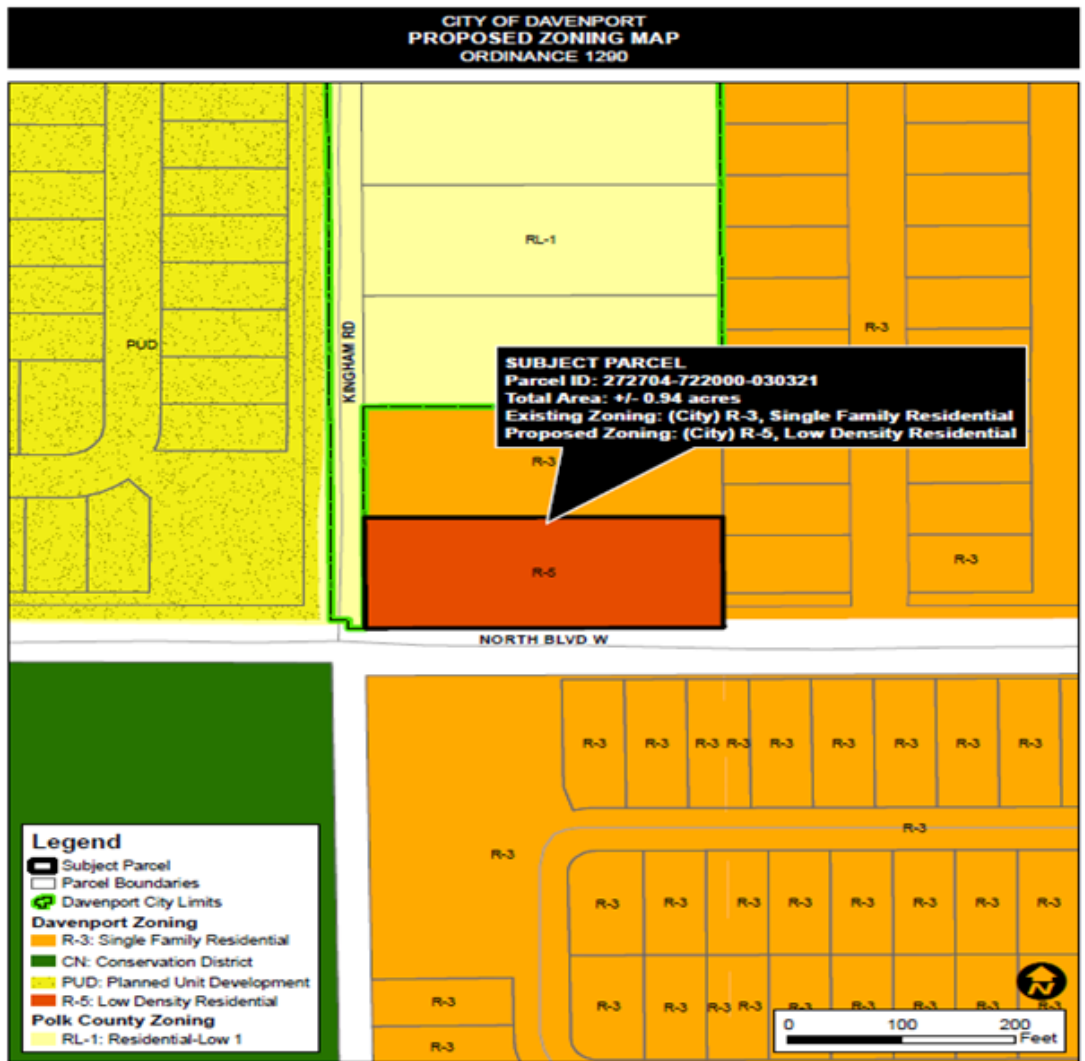
**METES AND BOUNDS LEGAL DESCRIPTION**

**Parcel ID: 272704-722000-030321**  
**Address: 1140 North Blvd W, Davenport, FL 33837**

**Legal Description**

**The South 144.23 feet of Tract 32, in the Northwest 1/4 of Section 4, Township 27 South, Range 27 East, as shown on the plat of FLORIDA DEVELOPMENT COMPANY SUBDIVISION, according to the plat thereof as recorded in Plat Book 3, Pages 60 through 63, Public Records of Polk County, Florida subject to rights of way of record or in use.**

# 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; CHANGING THE ZONING CLASSIFICATION FOR .94 ACRES OF PROPERTY GENERALLY EAST OF KINGHAM RD AND NORTH OF NORTH BLVD W, FROM CITY ZONING CLASSIFICATION OF SINGLE FAMILY RESIDENTIAL (R-3) TO CITY ZONING OF LOW DENSITY RESIDENTIAL (R-5); PROVIDING FOR 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 law<sup>1</sup> 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;
  - b. Sections 190.005 and 190.046, Florida Statutes, regarding community development districts;

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<sup>1</sup> See Section 166.041(4)(c), Florida Statutes.

- 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 zoning reclassification to provide the necessary residential zone 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.

*Zoning 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.*