

**PLANNING COMMISSION  
POLK COUNTY, FLORIDA**

**Applicant:** Richard McIntee  
**Property Owners:** RDM Construction & Development LLC  
**Case Number:** LDCU-2025-37 (Temple Circle Duplex)

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**ORDER DENYING LDCU-2025-37 WITHOUT PREJUDICE**

THIS MATTER came before the Polk County Planning Commission (“Planning Commission”) at a public hearing held on April 1, 2026, in accordance with the Polk County Land Development Code (“LDC”) sections 303, 906 and 973, and the Polk County Comprehensive Plan (“Comprehensive Plan”), pursuant to the application submitted for Case Number LDCU-2025-37. The Planning Commission fully incorporates herein the entire record for the public hearing of LDCU-2025-37. The Planning Commission having been fully advised in the premises, makes the following findings of fact and rulings for its written order, in accordance with LDC §973.E.1 and §125.022, Florida Statutes:

1. The Applicant, Richard McIntee (“Applicant”), submitted an application for a Conditional Use (CU) to allow a duplex to be located on approximately 0.40 acres within a Residential Low-2 (RL-2) future land use district (the “Application”). The subject site is located at 268 Temple Circle South, south of Auburndale, and is designated as Lot 5, Group 3 of the Orange Hill Subdivision in Section 28, Township 28, Range 25 of unincorporated Polk County. The site is located within the Transit Supportive Development Area (TSDA). The Orange Hill Subdivision was recorded on March 20, 1973, prior to the adoption of the Comprehensive Plan, Land Development Code. The RL-2 future land use designation is an accurate representation of the existing lot sizes. The subject property is 0.40 acres and is surrounded by lots ranging around +/- 0.36 acres to +/- 0.69 acres.

2. Within the TSDA, the residential density in RL designations is 7 DU/AC, which allows for these two units through the Conditional Use process, as detailed in LDC Sections 303 and 906.

3. The surrounding homes were built between 1973 and 1980, however, the make and model of the mobile homes date back to the early 1960s. The surrounding homes are comparable in size to the two proposed units. The average square footage of homes within the immediate surrounding area is approximately 1,000 square feet. While no duplex is located within the Orange Hill Subdivision, three (3) duplexes are located within a quarter mile to the north and have been there since 1983 on lots smaller to the subject property (+/- 0.24 acres). The site plan shows setbacks can be met. Access will be from Temple Circle East. Utilities are available from the Florida Governmental Utility Authority and a private septic system. No additional buffering or screening will be required.

4. The Development Review Committee (DRC) concluded that the Application was consistent with the Comprehensive Plan and Land Development Code and compatible with the surrounding land uses and general character of the area and recommended approval.

5. On April 1, 2026, the Planning Commission held an advertised public hearing for LDCU-2025-37. Mr. Kyle Rogus of the Polk County Land Development Division presented a slide show depicting the subject property and surrounding neighborhood. Mr. Rogus testified that he recommended approval of the application, and in his opinion, the Application was consistent with the Comprehensive Plan and compatible with the surrounding land uses and general character of the area. The Applicant testified that the proposed use is compatible with the neighborhood. Neighboring residents provided opposition testimony at the hearing. Their collective concern was the increase in density that approving this conditional use request would create. They testified that no other lot in the Orange Hill Subdivision has more than one (1) dwelling unit (DU) and that allowing this lot to have a duplex would negatively impact the single-family residential character of the area. The Planning Commission voted 5-2 to deny the Application.

6. The Proposed CU request is inconsistent with the Comprehensive Plan and LDC and is incompatible with the surrounding land uses and general character of the area for the following reasons:

- i. The Comprehensive Plan and LDC define Compatibility as follows: “A condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.” In this case, placement of a Duplex on the subject property is incompatible with the immediate surrounding area of single-family homes. No other Duplex is located within the Orange Hill Subdivision. The introduction of Duplexes would change the character of the neighborhood from a traditional single-family residential neighborhood of lower density to one with a significantly higher density.
- ii. The proposed request is inconsistent with Comprehensive Plan Policy 2.102-A2: COMPATIBILITY, which requires land to be developed so adjacent uses are compatible with each other so that one or more of the following provisions are accomplished: a. there have been provisions made which buffer incompatible uses from dissimilar uses; b. incompatible uses are made more compatible through limiting intensity and scale of the more intense use; c. uses are transitioned through gradual scaling of different land uses activities through the use of innovative techniques such as a Planned Unit Development. In this case, use of the property for a Duplex is incompatible with the immediate surrounding area of single-family homes. The introduction of Duplexes will change the character of the neighborhood from a traditional single-family neighborhood to one with significantly higher density. Additionally, no conditions were provided pursuant to subsections a.-c. to mitigate the incompatibility.

- iii. Consideration of the factors in LDC section 303 related to Duplexes and LDC sections 906.A.2. and D.12.a., b., and c. related to Conditional Uses supports denying the Application. The introduction of a Duplex on a lot within the Orange Hill Subdivision increases the density within the subdivision, rendering the proposed use incompatible with the surrounding area, as all other lots within the subdivision are single-family residential. Duplexes are therefore not compatible with the general nature and character of this single-family residential subdivision.

7. The Applicant carries the initial burden of showing that the Application meets the Comprehensive Plan and LDC requirements. In addition, LDC section 920A. states the Applicant carries the burden of persuasion and of demonstrating entitlement to the development order. In this case, the initial burden was not met.

8. Per LDC section 933, a final decision of the Planning Commission that results in denying the application “shall be deemed a denial without prejudice thereby allowing a re-application for requests without material changes on the same property within one year after the final decision...”

It is therefore ORDERED AND ADJUDGED as follows:

In accordance with the Polk County Comprehensive Plan and the Polk County Land Development Code, the Polk County Planning Commission hereby denies LDCU-2025-37 without prejudice for the reasons set forth above. Pursuant to section 933 of the LDC, a re-application for a CU request without material changes on the subject site may be submitted at any time.

DONE and ORDERED in open session in Bartow, Polk County, Florida this 6th day of May, 2026.

**POLK COUNTY PLANNING  
COMMISSION**

**ATTEST:**

By: \_\_\_\_\_  
Merle Bishop, Chair

BY: \_\_\_\_\_  
Lyndsay Yannone, Recording Secretary

This Decision is rendered to the Clerk on \_\_\_\_\_, 2026.

By: \_\_\_\_\_  
Deputy Clerk

cc: Land Development Division Official File  
Richard McIntee, Applicant