

**POLK COUNTY  
DEVELOPMENT REVIEW COMMITTEE  
STAFF REPORT**

<b>DRC Date:</b> September 26, 2024	<b>Level of Review:</b> Level 4 Review
<b>PC Date:</b> November 6, 2024	<b>Type:</b> Land Development Code Text Amendment
<b>BoCC</b> December 17, 2024	<b>Case Numbers:</b> LDCT-2024-19
<b>Dates:</b> February 18, 2025	<b>Case Name:</b> North Prong IND Text Amendment
<b>Applicant:</b> David C. Carter, PE	<b>Case Planner:</b> Mark J. Bennett, AICP, FRA-RA, Senior Planner

<b>Request:</b>	Change the text of the Land Development Code Appendix E, Section E105, to limit the intensity of the IND on certain areas of the property, subject to LDCPAS-2024-12, which is a request for a Comprehensive Plan Amendment to change 420 acres from Agricultural/Residential-Rural (A/RR) and Phosphate Mining (PM) to Industrial (IND).
<b>Location:</b>	North and west sides of Nichols Road, south of State Road (SR) 60, east of County Line Road, south of the City of Mulberry, in Sections 6, 7 & 8, Township 30, Range 23
<b>Property Owners:</b>	Diamondback Properties, LLC, Mims Ranch LLC, Mims Properties Investments, LLC, and Alafia Industrial, LLC.
<b>Parcel Size (Number):</b>	420 acres
<b>Future Land Use:</b>	Phosphate Mining (PM) & Agricultural/Residential-Rural (A/RR)
<b>Development Area:</b>	Rural Development Area (RDA)
<b>Nearest Municipality:</b>	Mulberry
<b>DRC Recommendation:</b>	Approval
<b>Planning Commission Vote:</b>	Approval 7:0
<b>Florida Commerce:</b>	N/A

**Proposed Change to the LDC:**

Change Appendix E Section E105, Parcel Specific Comprehensive Plan Amendments with Conditions, to limit the intensity of the proposed Industrial (IND) activity on the site.

**Summary:**

The applicant seeks a change to the Land Development Code Appendix E, Section E105, to limit the intensity of the IND activity on certain areas of the 420-acre parcel. The specific limitations are as follows:

- Establishment of a 200-foot-wide buffer zone on certain portions of the site
- Limitations on uses within the buffer zone
- Special Landscaping Requirements

## Findings of Fact

- *LDCT-2024-19 is an applicant-initiated request to amend Appendix E, Section E105, Parcel Specific Comprehensive Plan Amendments with Conditions, to limit the intensity of the Industrial (IND) activity on the site.*
- *This case is related to LDCPAL-2024-12. That request is for a Comprehensive Plan Amendment to change 420 acres from Agricultural/Residential-Rural (A/RR) and Phosphate Mining (PM) to Industrial (IND).*
- *LDCPAL-2024-12 also includes a text change to Appendix 2.135 - Parcel Specific Future Land Use Map Amendments with Conditions to reference that the subject site has conditions in the Land Development Code to limit the proposed intensity of the proposed Industrial (IND) activity on the site.*
- *The subject property is located North and west sides of Nichols Road, south of State Road (SR) 60, east of County Line Road, south of the City of Mulberry, in Sections 6, 7 & 8, Township 30, Range 23.*
- *The subject site was previously used for phosphate mining and has vacant buildings related to the manufacturing of phosphate.*
- *The applicant's Project Narrative, contained in the Impact Assessment Statement for the corresponding Comprehensive Plan Amendment, states that "Changing the land use from PM to IND is a logical and practical progression of land use. Other land use districts would not fit in with the character of the vicinity. The area has very few homes near and many of them have worked directly or indirectly for the mining industry. The site has a rail line running through it, so industrial uses that require rail access can be served, with minimal change to the rail lines."*
- *The unincorporated community of Nichols, northeast of the site, consists of primarily residential uses.*
- *North of the site, within the city of Mulberry, there is a proposed residential planned development.*
- *Industrial uses have the potential to cause adverse impacts upon adjoining properties, due to the potential types of activities and uses that are allowed.*
- *The primary concern with this request is the potential impact of industrial activities on the adjacent Nichols community, and the planned residential development north of the site in the City of Mulberry.*
- *The proposed text change contains additional provisions, such as buffering and restrictions on uses, within 200 feet of the site's boundary with the proposed residential development in the City of Mulberry.*

- *The proposed text change will allow for redevelopment of the site for industrial uses, while ensuring compatible development occurs next to the existing and planned residential uses adjacent to the site.*

### **Development Review Committee Recommendation:**

The Land Development Division, based on the Findings of Fact, finds that the proposed text change request is **CONSISTENT** with the Polk County Land Development Code and the Polk County Comprehensive Plan. Staff recommends **APPROVAL** of **LDCT-2024-19**.

**Planning Commission Recommendation:** On November 6, 2024, in an advertised public hearing, the Planning Commission voted (7:0) to **recommend APPROVAL** of **LDCT-2024-19**.

### **Analysis:**

This amendment was submitted currently with LDCPAL-2024-12. That request is for a Comprehensive Plan Amendment to change 420 acres from Agricultural/Residential-Rural (A/RR) and Phosphate Mining (PM) to Industrial (IND). The same Plan Amendment also includes a text change to Appendix 2.135 - Parcel Specific Future Land Use Map Amendments with Conditions. The changes to the text of both the Comprehensive Plan and the Land Development Code are necessary to implement specific requirements.

During the review of the corresponding plan amendment, staff identified a concern regarding compatibility. More specifically, the concern is about the potential impact of industrial activities on the adjacent Nichols community, and the planned residential development north of the site in the City of Mulberry. Industrial uses have the potential to cause adverse impacts upon adjoining properties, due to the potential types of activities and uses that are allowed. To address these concerns, this text amendment to the Land Development Code (along with a text amendment to the Comprehensive Plan) are proposed.

This text amendment will provide for additional restrictions on uses and buffering to ensure compatibility. A 25-foot-wide landscaping buffer is proposed where the site is adjacent to the Nichols community. For the portions of the site are next to the City of Mulberry's Residential Planned Unit Development that are not already buffered by wetlands, a 200-foot buffer zone is proposed. The 200-foot standard was selected because that the setback requirement for construction aggregate processing, an intensive, industrial use. Within this buffer zone, a 25-foot-wide landscape buffer will be required. Within 100 feet of the property line, there are significant restrictions on allowed uses, with primarily low-intensive uses, such as landscaping, stormwater management, and other similar types of uses. Between 100 to 200 feet, limitations of certain types of industrial uses are proposed, with the intent of minimizing impacts onto adjoining properties. These provisions, if approved, will ensure that this site will be compatible with the existing and proposed residential uses nearby.

### **Limits of the Proposed Ordinance**

The focus of this amendment is to restrict the allowable uses within certain portions of the Industrial (IND) land use district to limit the intensity of the IND activity. This is necessary to ensure that the proposed redevelopment of a former phosphate mining activity will be compatible with the existing residential uses in the unincorporated community of Nichols, and the proposed residential planned development in the City of Mulberry north of the site.

## **Consistency with the Comprehensive Plan**

This change is in conjunction with LDCPAL-2024-12. This amendment will designate the subject property as Industrial. The proposed text change to limit the intensity of the IND activity will ensure that the proposed on-site development is consistent with the levels of existing and planned infrastructure, as well as ensure compatibility with the existing and planned residential uses adjacent to the site.

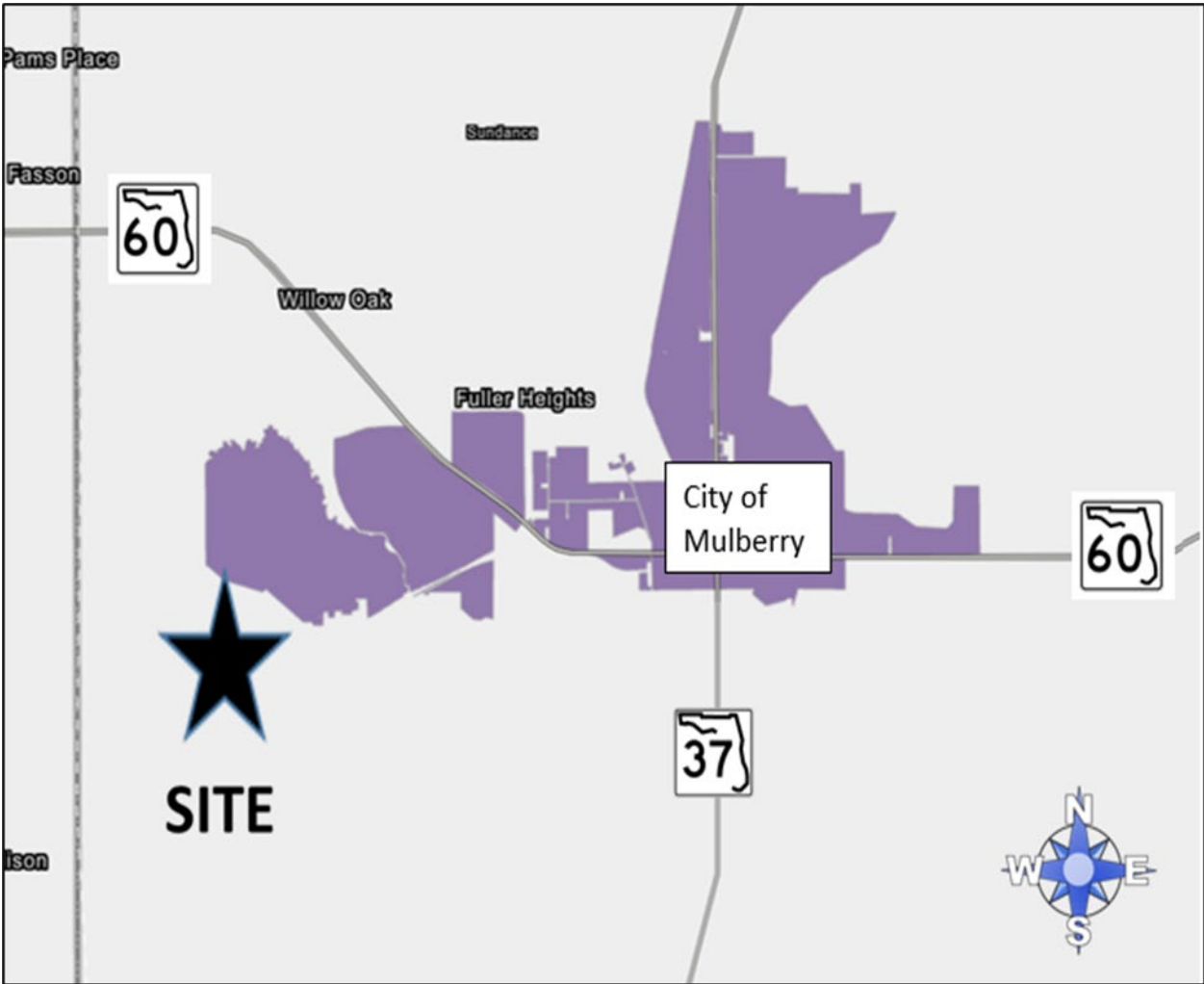
**Comments from Other Agencies:** None

**Draft Ordinance:** Under separate attachment

### **Exhibits:**

Exhibit 1 - Location Map

Exhibit 2 - Proposed Text Change



Location Map

R. LDCPAL-2024-12 Parcel numbers 233006-000000-022020, 233007-000000-011010, 233007-000000-022020, 233008-000000-012020, 233008-000000-021020, 233008-000000-012090, and 233008-000000-021120,

1. Applicability

The provisions and requirements of this Subsection apply to the subject site, the boundaries of which are shown on the Future Land Use Map Series and Land Use District maps, more particularly those depicted in the panel showing Range 23, Township 30, Sections 6, 7 & 8. The site is legally described as:

A PARCEL OF LAND LYING IN SECTIONS 6, 7 & 8 TOWNSHIP 30 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 8; THENCE N 00°31'21" W ALONG THE WEST LINE OF SAID SECTION 8 A DISTANCE OF 40.80 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF HIGHWAY 676 (NICHOLS ROAD) AS SHOWN ON STATE ROAD DEPARTMENT RIGHT OF WAY MAP SECTION 16570-2603; THENCE S 89°47'53" W ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 1341.19 FEET; THENCE N 01°36'26" W ALONG THE WEST BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 8109, PAGE 1092 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA FOR A DISTANCE OF 731.25 FEET TO A POINT ON THE NORTH BOUNDARY OF THE SOUTH 770 FEET OF SAID SECTION 7 ALSO BEING ON THE BOUNDARY OF PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 6599, PAGE 1374 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE N 89°52'34" E ALONG SAID LINE A DISTANCE OF 1205.05 FEET; THENCE ALONG THE BOUNDARY OF SAID PARCEL PER OFFICIAL RECORDS BOOK 6599, PAGE 1374 FOR THE FOLLOWING TWO COURSES; (1) N 70°25'03" W A DISTANCE OF 571.56 FEET; (2) N 58°07'50" W A DISTANCE OF 841.52 FEET TO A POINT ON THE BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 4365, PAGE 708 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID PARCEL FOR THE FOLLOWING EIGHT COURSES; (1) N 00°29'56" W A DISTANCE OF 1100.00 FEET; (2) N 54°26'52" E A DISTANCE OF 1500.00 FEET; (3) N 20°31'38" W A DISTANCE OF 1499.96 FEET; (4) N 50°30'08" W A DISTANCE OF 350.03 FEET; (5) S 89°39'34" W A DISTANCE OF 600.31 FEET; (6) N 00°25'24" W A DISTANCE OF 850.00 FEET; (7) S 54°20'01" E A DISTANCE OF 680.34 FEET; (8) N 89°38'35" E A DISTANCE OF 1000.00 FEET TO THE EAST LINE OF SAID SECTION 6; THENCE S 00°20'32" E A DISTANCE OF 149.88 FEET TO THE NORTHWEST CORNER OF SAID SECTION 8; THENCE S 00°31'21" E ALONG THE WEST BOUNDARY OF SAID SECTION 8 A DISTANCE OF 306.94 FEET TO A POINT ON THE BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 7424, PAGE 1395 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID PARCEL FOR THE FOLLOWING THREE COURSES; (1) S 64°44'45" E A DISTANCE OF 80.71 FEET; (2) S 52°34'43" E A DISTANCE OF 851.75 FEET; (3) S 74°52'26" E A DISTANCE OF 1657.71 FEET TO A POINT ON THE BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 5373, PAGE 511 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING SEVEN COURSES; (1) N 45°44'25" E A DISTANCE

OF 169.92 FEET; (2) S 49°50'22" E A DISTANCE OF 282.89 FEET; (3) S 52°10'14" E A DISTANCE OF 1688.35 FEET; (4) N 87°15'28" E A DISTANCE OF 312.79 FEET; ( 5) S 43°10'16" E A DISTANCE OF 177.06 FEET TO THE MAINTAINED RIGHT OF WAY OF OLD NICHOLS ROAD AS SHOWN ON MAINTAINED RIGHT OF WAY MAP BOOK 10, PAGES 134-135 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; (6) S 00°14'20" E ALONG SAID RIGHT OF WAY A DISTANCE OF 34.14 FEET; (7) S 89°35'59" W A DISTANCE OF 303.75 FEET; THENCE S 52°51'26" E A DISTANCE OF 165.08 FEET TO THE NORTHEAST CORNER OF THE WEST 298 FEET OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 8; THENCE S 00°33'22" E ALONG THE EAST LINE OF SAID WEST 298 FEET A DISTANCE OF 668.87 FEET TO THE NORTH LINE OF A PARCEL BEING THE EAST 198 FEET OF THE WEST 396 FEET OF THE NORTH 220 FEET OF THE SOUTH 660 FEET OF SAID NORTHEAST 1/4 OF THE SOUTHEAST 1/4; THENCE ALONG SAID PARCEL FOR THE FOLLOWING 3 COURSES; (1) S 89°46'18" W A DISTANCE OF 100.29 FEET; (2) S 00°33'21" E A DISTANCE OF 219.70 FEET; (3) N 89°46'18" E A DISTANCE OF 100.29 FEET TO A POINT ON SAID EAST LINE OF THE WEST 298 FEET; THENCE S 00°33'21" E ALONG SAID EAST LINE AND THE EAST LINE OF THE WEST 298 FEET OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SAID SECTION 8 A DISTANCE OF 848.74 FEET TO A POINT ON THE BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3404, PAGE 1719 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING THREE COURSES: (1) S 89°51'44" W A DISTANCE OF 328.29 FEET; (2) N 00°32'37" W A DISTANCE OF 199.55 FEET; (3) S 89°49'41" W A DISTANCE OF 3461.83 FEET TO A POINT ON THE EAST BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 8284, PAGE 273 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID BOUNDARY FOR THE FOLLOWING THREE COURSES; (1) S 17°50'46" W A DISTANCE OF 600.80 FEET; (2) N 72°09'14" W A DISTANCE OF 90.00 FEET; (3) S 89°50'46" W A DISTANCE OF 131.56 FEET; THENCE CONTINUE S 89°50'46" W A DISTANCE OF 65.85 FEET TO THE WEST LINE OF SAID SECTION 8; THENCE S 00°31'21" E ALONG SAID WEST LINE A DISTANCE OF 215.80 FEET TO THE BOUNDARY OF A PARCEL OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 8284, PAGE 273 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA; THENCE ALONG SAID PARCEL FOR THE FOLLOWING TWO COURSES: (1) S 17°13'28" W A DISTANCE OF 141.27 FEET; (2) S 67°07'48" E A DISTANCE OF 46.92 FEET TO THE WEST LINE OF SAID SECTION 8; THENCE S 00°31'21" E ALONG SAID WEST LINE A DISTANCE OF 166.64 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT LANDS DESCRIBED IN OFFICIAL RECORDS BOOK 8284, PAGE 273 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

AND LESS AND EXCEPT: COMMENCE AT THE SOUTHWEST CORNER OF SAID SECTION 8; THENCE N89°49'36"E ALONG THE SOUTH LINE OF SAID SECTION 8 A DISTANCE OF 1585.08 FEET; THENCE N00°10'24"W A DISTANCE OF 1328.09 FEET TO THE POINT OF BEGINNING; THENCE N03°49'08"W A DISTANCE OF 455.34 FEET; THENCE N33°36'33"E A DISTANCE OF 609.37 FEET; THENCE N48°16'13"E A DISTANCE OF 212.04 FEET; THENCE N79°38'45"E A DISTANCE OF 532.36 FEET; THENCE S55°21'54"E A DISTANCE OF 256.35 FEET; THENCE S32°32'18"E A DISTANCE OF 584.83 FEET; THENCE S57°26'47"W A DISTANCE OF 1030.09 FEET; THENCE S89°29'58"W A DISTANCE OF 646.16 FEET TO THE POINT OF BEGINNING.

AND LESS AND EXCEPT LANDS WITHIN THE CSX RAILROAD RIGHT OF WAY.

AND

THAT PART OF SECTION 8, TOWNSHIP 30 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

THAT PART OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 LYING EAST OF THE WEST 298 FEET AND LYING NORTH AND WEST OF THE RIGHT OF WAY OF COUNTY ROAD 676 (NICHOLS ROAD),

LESS THAT PART OF THE SOUTH 920 FEET LYING WEST OF THE EAST 280 FEET,

AND

THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 LYING EAST OF THE WEST 298 FEET,

LESS THE NORTH 50 FEET OF THE EAST 867 FEET,

AND LESS THE EAST 198 FEET OF THE WEST 396 FEET OF THE NORTH 220 FEET OF THE SOUTH 660 FEET,

AND LESS THE MAINTAINED RIGHT OF WAY OF NIXON ROAD AS RECORDED IN MAINTAINED RIGHT OF WAY MAP BOOK 3, PAGE 210 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA.

AND

THAT PART OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 30 SOUTH, RANGE 23 EAST, POLK COUNTY, FLORIDA, LYING WEST OF COUNTY ROAD 676 (NICHOLS ROAD) AND LYING SOUTH OF THE CSX RAILROAD RIGHT OF WAY.

## 2. Applicability – 200-Foot-Wide Buffer Zone

The provisions and requirements of this subsection apply to a 200-foot-wide strip along a portion of the north side of the subject site as shown in Figure “A”, more particularly that area legally described as:

A parcel of land lying in Sections 6, 7 & 8 Township 30 South, Range 23 East, Polk County, Florida, described as follows:

Begin at the Northwest corner of said Section 8; thence S 00°31'21” E along the west boundary of said Section 8 a distance of 306.94 feet to a point on the boundary of a parcel of land described in Official Records Book 7424, page 1395 of the public records of Polk County, Florida; thence along said parcel for the following three courses; (1) S 64°44'45” E a distance of 80.71 feet; (2) S 52°34'43” E a distance of 851.75 feet; (3) S 74°52'26” E a distance of 1092.21 feet; thence S 15°05'26” W a distance of 200.00 feet; thence N 74°52'26” W a distance of 1131.75 feet; thence N 52°34'43” W a distance of 869.85 feet; thence N 64°44'22” W a distance of 184.91 feet; thence N 00°31'21” W a distance of 433.01 feet to the south line of said Section 6; thence N 00°20'32” W a distance of 149.88 feet to the boundary of a parcel of land described in Official Records Book 4365, page 708 of the public records of Polk County, Florida; thence N 89°38'35” E along said



boundary a distance of 200.00 feet to the east line of said Section 6; thence S 00°20'32" E along the east line of said Section 6 a distance of 149.88 feet to the Point of Beginning.

### 3. Allowable uses within the phased setback

- a. The first 100 feet shall allow for passive activities such as, but not limited to Landscaping, Stormwater management, Floodplain compensation, open spaces, natural habitat and restoration, utility easements, mitigation and buffer zones.
- b. Within 100 to 200 feet, industrial activities including, but not limited to such as Non-Phosphate Mining, Off-site Agricultural support, General Farming, Solar Electric – Power Generation Facilities, Commercial Vehicle Parking, Light Assembly, Light Manufacturing, Light Repair, and other uses similar in intensity and activity, but do not have any outdoor storage or operations, shall be allowed in this area. Additionally, the uses allowed by LDCU 2024-24, as approved by the Planning Commission on October 2, 2024, shall be allowed in this area. Light and General Manufacturing and all other uses permitted in Industrial listed in the Land Development Code Section 205 Table 2.1.
- c. Outside of 200 feet shall allow activities including Aggregate Storage and Processing along with Salvage Yards activities, and all other uses permitted in Industrial listed in Section 205 Tables 2.1. & 2.2, subject to the requirements of the Land Development Code.
- d. In addition to the foregoing, these uses must comply with the location and review criteria in Section 205, Tables 2.1 & 2.2 for Standard Land Use Districts.

### 4. Landscape Buffers

- a. The required 25-foot-wide landscaped buffer shall be planted when site development activity occurs within the 200-foot-wide strip as legally described in this Section, or when site development activity occurs within the adjoining Residential Planned Unit Development property in the City of Mulberry.
- b. The required 25-foot-wide landscaped buffer to be located next to the CSX railroad, on the eastern side of the subject property, shall be planted when site development activity occurs within 200 feet.

