

**BOARD OF COUNTY COMMISSIONERS
POLK COUNTY, FLORIDA**

Applicant: Chad Brooker, P.E., Traditions Engineering

Property Owner: HB & CT, LLC

Case Number: LDSPD-2025-2 (Old Dixie Highway SPD)

ORDER DENYING LDSPD-2025-2 WITHOUT PREJUDICE

THIS MATTER came before the Polk County Board of County Commissioners (“Board”) on June 2, 2026, at a public hearing held in accordance with the Polk County Land Development Code (“LDC”) and the Polk County Comprehensive Plan, pursuant to a De Novo application appealing the Planning Commission’s 6-1 approval of a Suburban Planned Development for Case Number LDSPD-2025-2 (the “Application”). The Board fully incorporates herein the entire record for the public hearing of LDSPD-2025-2, including the Planning Commission’s decision, the Development Review Committee’s Recommendation, and all testimony and evidence presented at the public hearing. The Board having been fully advised in the premises, makes the following findings of fact and rulings for this, its written order for LDSPD-2025-2, in accordance with §125.022, Florida Statutes:

1. The Applicant, Chad Brooker of Traditions Engineering (“Applicant”), applied on behalf of the property owner, HB & CT, LLC (“Property Owner”) for approval of a Suburban Planned Development (SPD) to develop thirty-one (31) single-family lots on approximately 20.29 acres (approximately 15 of which are upland acres) with a Residential Suburban (RS) land use district.

2. The Subject Property is located at 1994 Old Dixie Highway, west of the Polk Parkway, east of Delon Court, west of the City of Auburndale in Section 05, Township 28, Range 25, and is comprised of Parcel ID Numbers: 252805-000000-043010; 252805-000000-043050; and 252805-000000-043060.

3. According to Table 2.1 of the LDC, “Suburban Planned Development” is a “C3” conditional use in RS land use districts requiring a Level 3 Review. SPD’s in the RS district can reach up to 3 DU/AC by meeting locational criteria benchmarks found in LDC Section 303. Of the total property, an estimated 15 acres are upland with the balance of wetlands located to the northern end of the site. With calculations based on the upland acreage, the proposed density is 2.07 DU/AC. The minimum lot size is 10,010 sq. ft. (+/- 0.23 acres), though the majority of lots will exceed this. Standard lot widths are 60 feet. Setbacks will meet RS standards (10’ sides; 15’ rear; 25’ garage). A small portion of the site is within Residential Medium and the Transit Supportive Development Area in the I-4 Selected Area Plan (SAP), but this has no practical bearing on the requested SPD.

4. The surrounding uses are single-family homes on varying lot sizes and unit types, many of which were developed prior to the adoption of the Comprehensive Code and LDC. Though single-family uses are considered compatible with one another, disparate densities are evident. The Applicant's site plan has used open space and stormwater ponds in an attempt to mitigate the impact on neighboring properties. Additionally, landscaping will be planted along the eastern and western property lines, as well as along the frontage of Old Dixie Highway.

5. Section 204.A.3 of the LDC states, "*The purpose of the RS district is to provide areas for suburban-density residential development to promote the proper transition of land from rural to urban uses. The RS district permits single-family dwelling units, family care homes, agricultural support uses, and community facilities.*" According to Comprehensive Plan Policy 2.106-A1, "*SDAs shall be those areas within the County which are, in most cases, located between municipalities, TSDA or UGA and the Rural Development Areas (RDAs). In the SDA, agricultural activities coexist alongside low density developed areas in the fringes of municipalities and other urban centers. These areas have developed predominately residential, in a suburban pattern with County-owned, municipal or County-franchised potable-water systems, but without centralized sewer facilities and very little, if any, supporting public facilities and non-residential uses. Other urban services typically found to accompany a suburban area include, but are not limited to multimodal transportation facilities, public safety, recreational and educational services.*"

6. Per LDC Section 303, SPDs may contain single-family detached and duplex units at a gross density of up to, and including, three dwelling units per acre based upon a Locational Eligibility Score as determined by Tables 3.3 and 3.4 under Planned Developments. SPDs must meet conditional use criteria provided for Planned Developments within this Section. Table 3.4 SPD, Density Conversion Table of the LDC, states that 24 points can achieve a density up to 2.5 (DU/AC). According to LDC Table 2.2, Minimum lot sizes in RS are five acres. The proposed minimum lot size is 10,010 sq. ft. (+/- 0.23 acres). Standard lot widths are 60 feet. The proposed development will meet RS setback standards as follows: Minimum principal structure setbacks will be ten (10) feet from the sides and fifteen (15) feet from the rear. Minimum accessory structure setbacks will be five (5) feet from the sides and ten (10) feet at the rear. Front yard setback will be 20 feet from the right of way and 40 feet from centerline. Garage setbacks are twenty-five (25) feet.

7. On April 1, 2026, the Planning Commission held an advertised public hearing for LDSPD-2025-2. The site plan reviewed by the Planning Commission provided for the construction of thirty-one (31) single-family lots on approximately 15 upland acres, with a gross density of 2.07 dwelling units per upland acre. Ms. Aleya Inglima of the Polk County Land Development Division presented the case to the Planning Commission and testified that the Development Review Committee (DRC) recommended approval of the Application. The Applicant provided testimony to the Planning Commission in support of the Application and specifically testified that the proposed SPD served as a transition from lower density to higher density residential areas. Five (5) neighboring residents in the area testified in opposition to the SPD and expressed their concerns regarding the compatibility of denser development in the area. The Planning Commission received two emails from the public opposing the Application. Following all presentations, testimony and discussion, the Planning Commission voted to approve the Application by a vote of 6-1.

8. The Appellant, Jon Leonard of 288 Delon Court in Auburndale, timely filed an application and paid the required fee for a De Novo hearing pursuant to LDC section 921.

9. On June 2, 2026, the Board held a De Novo hearing for LDSPD-2025-2. Mr. Ian Nance of the Polk County Land Development Division provided the following documents to the Board, which are part of the record¹: (1) staff report; (2) site plan; (3) area map; (4) impact assessment statement; (5) Application; (6) de novo application; (7) proposed final order; (8) Planning Commission and BoCC PowerPoint Presentations; and (9) written comments from neighbors in opposition of the Application. The Board accepted Mr. Nance as an expert in the field of land use planning. Mr. Nance presented a PowerPoint presentation to the Board that included aerial pictures of the Subject Property, a parcel map showing the densities of the adjacent residential properties, the land use map, the site plan, and an aerial of the site plan overlaid on the Subject Property. Mr. Nance testified that the DRC recommended approval of the Application.

10. Anthony L. Werschky on behalf of the Property Owner, HB & CT, LLC, gave a presentation to the Board with an overview of the Application, the history of the project site, applicable comprehensive plan policies, and proposed resolutions to citizen objections. Specifically, the Applicant and Property Owner testified in regard to flooding, drainage and water retention concerns that numerous steps would be taken to ensure less water would flow onto neighboring properties than occurs today. Following Mr. Werschky's presentation, the Applicant, Chad Brooker as the engineer for the project, also made a presentation to the Board.

11. Following the Applicant and Property Owner's presentations, the Appellant, Jon Leonard, gave a presentation to the Board in opposition to the Application. Mr. Leonard indicated that he was representing over forty (40) other neighboring residents in the area adjacent to the proposed development. The Appellant testified that the proposed development is not compatible with the surrounding area and creates "an enclave inside homes on much larger acreage." Mr. Leonard stated that this enclave carve-out cannot be deemed a transition area, as homes on 1.5 acres all the way up to 10 acres surround the proposed enclave of higher density development.

12. Following the Appellant's presentation, the Board received public comment. One neighbor provided testimony to the Board in opposition to the Application and noted significant flooding on his adjacent properties during prior storm events. Other neighbors testified that the proposed planned development is incompatible with the surrounding rural, residential suburban area comprised of larger lot sizes of one dwelling unit per five acres. One neighbor testified that the traffic congestion on Old Dixie Highway is already a problem due to nearby development, and that additional traffic due to the proposed SPD would increase traffic further, rendering the proposal incompatible with the surrounding rural area.

13. After the residents testified, Mr. Werschky presented rebuttal argument in response to the public comments. Specifically, Mr. Werschky noted the entire area to the east of the

¹ Pursuant to Resolution 2022-090, all documents attached to the agenda item for de novo hearing shall be deemed part of the record unless removed from the record by motion of the Board. All PowerPoint presentations given to the Board during the de novo hearing shall be deemed part of the record unless removed from the record by motion of the Board.

proposed development is Residential Medium (RM) density, which is a greater density than what is proposed by the Applicant. Mr. Werschky also noted that a traffic study would be conducted as part of the approval process to determine what the best practice would be as to traffic patterns and flows. Mr. Brooker reiterated that the Subject Property and the proposed development thereon will serve as a transition area, transitioning between higher RM density properties to the lower density lots to the west which the neighbors spoke of as being incompatible. At the end of the public hearing, the Board members discussed the Application and ultimately determined that the Application's proposed density is incompatible with the existing nature of the surrounding area. The Board voted 3-2 to deny LDSPD-2025-2 without prejudice.

14. As further discussed below, the Application is not compatible with the surrounding land use and general character of the area surrounding the Subject Property. Although single-family residential uses are often considered compatible with one another, in this proposed development disparate densities are evident. This property is in a transition area between Residential Medium land use districts surrounding the Polk Parkway and Auburndale to the east, and less-intense residential development to the west that was created prior to the adoption of the Comprehensive Plan and LDC, some before the adoption of any zoning ordinances. The proposed density of 2.07 du/ac is significantly higher than the adjacent Residential Suburban (RS) density that is located immediately to the south, southwest, west and northwest of the Subject Property, and higher still than that of the Agricultural Residential Rural (A/RR) density located due north. Pursuant to LDC Table 2.2, density in both the RS and the A/RR land use categories are 1 dwelling unit per 5 acres.

15. Comprehensive Plan POLICY 2.102-A2 states, "Land shall be developed so that adjacent uses are compatible with each other" and provides three options to ameliorate incompatibilities. The tools for accomplishing higher standards of compatibility, as outlined in the Comprehensive Plan, are (i) buffering; (ii) limiting scale and intensity; and (iii) transition using innovative techniques. The Applicant has clustered the lots south of the wetlands and has used open space and stormwater ponds to mitigate and buffer the impact on neighboring properties. However, these mitigation proposals are insufficient to overcome the SPD's incompatibility with the surrounding, lower-density residential areas.

16. Because the proposed mitigation strategies do not ameliorate the incompatibility issues present, the Application is inconsistent with various Comprehensive Plan and LDC policies, including without limitation, the following:

- a. 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, the residents provided testimony explaining how the Application's proposed high density will unduly negatively affect the character of the area. The Board was also provided with, *inter alia*, maps and aerial pictures demonstrating the lower-density nature of the area.

- b. The Application is inconsistent with Policy 2.102-A2: COMPATIBILITY, which states “[l]and shall be developed so that adjacent uses are compatible with each other, pursuant to the requirements of other Policies in this Future Land Use Element, 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, the Applicant is proposing to construct 31 single-family lots on approximately 15 upland acres, which equates to a density of 2.07 du/ac, in contrast with the lesser density surrounding areas of RS and A/RR which allow 1 du per 5 acres.
- c. The Application is inconsistent with Policy 2.102-A10: LOCATION CRITERIA, and Policy 2.119-A2: LOCATION CRITERIA, which both require consideration of a list of factors when determining the appropriateness of establishing or expanding any land use or development area. Both policy sections require consideration of the nearness to incompatible land uses. In this case, proposed buffering does not mitigate the Application’s incompatibility with the adjacent lower-density RS and A/RR areas; therefore, the Application is inconsistent with Policy 2.102-A10 and Policy 2.119-A2.
- d. The Application is inconsistent with Policy 2.119-A3: DEVELOPMENT CRITERIA, subsection b., which requires new residential development, immediately adjacent to existing residential areas, to be designed so as to minimize any potential adverse impacts due to dissimilar densities or building scale. Here, the opposition presented evidence that the dissimilar densities would adversely impact the surrounding RS and A/RR areas. Additionally, the practical development potential of the Subject Property is limited by wetlands and flood zones, access, and current unavailability of centralized wastewater within this region of Auburndale’s utility service area. While a flood study and wetland delineation would be required during the Level 2 Review process, many adjacent property owners testified during the public hearing that they had personally observed significant flooding, drainage and stormwater retention issues on the site and the surrounding area. This testimony, along with other fact-based substantial competent evidence depicting the general rural nature of the area demonstrates the proposed development’s inconsistency with Policy 2.119-A3.
- e. The Application is inconsistent with the LDC section 303 regarding a Planned Development (PD), which includes a Suburban Planned Developments (SPD) as proposed. An PD application must address how the planned development meets intensity and timeliness standards, as well as internal and external design criteria. Subsection C provides: “The intensity and timeliness of a PD shall be determined by the surrounding infrastructure needed to support the residents within that development.” Under this section, the minimum qualifications for residential density shall be based on achieving a locational eligibility score.

- f. Per LDC Section 303, SPDs may contain single-family detached and duplex units at a gross density of up to, and including, three dwelling units per acre based upon a Locational Eligibility Score as determined by Tables 3.3 and 3.4 under Planned Developments. SPDs must meet conditional use criteria provided for Planned Developments within this Section. Table 3.4 SPD, Density Conversion Table of the LDC, states that 24 points can achieve a density up to 2.5 (DU/AC).
- g. To reach the proposed density (2.07 DU/AC), a Locational Eligibility Score of 22 points is required by LDC Section 303. The application shows this site could attain 25 points based on location near arterial and collector roadways; availability of a potable water line; proximity to emergency medical care and schools; proximity to commercial districts, employment opportunities, and parks; and its location within an open basin with a positive outfall. However subsection C specifically dictates that “the Locational Eligibility Score is not an entitlement but rather a measure of timing only. The maximum density in Table 3.4 is **not** guaranteed” (*emphasis added*). As previously mentioned, the Application’s higher density is incompatible with the nature and character of the area and fails to provide gradual changes in intensity and density. Subsection E regarding external design requires the proposed development to be compatible with and responsive to the character of the surrounding area. Specifically, “PDs shall provide for gradual changes in intensity and density when sharing property boundaries with less intense adjacent development using buffering and screening techniques; increases in peripheral lot sizes and widths; decreases in height; and other compatibility strategies as necessary to adequately protect existing or probable uses of surrounding property.” In this case, insufficient mitigation exists to buffer and protect the adjacent RS and A/RR areas from the proposed higher density development. Further, “the entrances and most common vehicle routes of a proposed development shall minimize adverse impacts upon nearby development and have an adequate amount of access points to serve the number of units within the development.” The proposed development will have direct access to Old Dixie Highway, which the Board received testimony from area residents that is already overburdened and congested with traffic.
- h. Given the reasons stated above, the Application also fails to meet the following: sections 906A.2., 3., and 5.; and sections 906D.12.a, b., and c.

17. Florida courts have held that it is appropriate to consider whether the proposed zoning “is consistent with the properties adjacent to the [subject] property and is consistent with the actual development of the area.” *Metro. Dade County v. Blumenthal*, 675 So. 2d 598, 605 (Fla. Dist. App. 3d 1996). Citizen testimony is perfectly permissible and constitutes substantial competent evidence, so long as it fact-based. *Miami-Dade County v. Walberg*, 739 So. 2d 115 (Fla. Dist. App. 3d 1999). Here, the Board received fact-based testimony regarding the character and aesthetics of the neighborhood as compared to the requested higher density of the proposed project. Additionally, the Board was provided with evidence depicting the general character of the area, including photographs, an aerial map overlaying the site plan on the Subject Property, and a parcel map. Maps, reports, and other information which, in conjunction with the testimony

of the neighbors, if believed by the Commission, constitutes competent substantial evidence. *Walberg*, 739 So. 2d at 118.

18. The Applicant carries the initial burden of persuasiveness and of demonstrating entitlement to the development order through competent substantial evidence. *See* LDC §§ 959A. & C. In this case, the initial burden was not met.

19. Per LDC section 933, after a petition for an action for a property has been denied by final decision without prejudice, a re-application for requests without material changes on the same property may be submitted at any time.

It is therefore ORDERED AND ADJUDGED as follows:

For the reasons set forth above, and in accordance with the Polk County Comprehensive Plan and the Polk County Land Development Code, the Board hereby denies LDSPD-2025-2 without prejudice. Therefore, pursuant to LDC section 933, a request for a SPD on the Subject Property may be submitted at any time.

DONE AND ORDERED in Bartow, Polk County, Florida, in regular session this **16th** day of **June, 2026**, by the Polk County Board of County Commissioners.

**Polk County Board of
County Commissioners**

**ATTEST: Stacy M. Butterfield, Clerk
and Auditor to the Board**

By: _____
Martha Santiago, Ed. D., Chair

By: _____
Deputy Clerk

This Decision is rendered to the Clerk on _____, 2026.

By: _____
Deputy Clerk

cc: Chad Brooker, Applicant
Land Development Division Official File