



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, July 27, 2017

Time: 5:30 PM

Type of Meeting: Regular

Location: Council Chambers
City Hall, 1000 City Center Circle

A. CALL TO ORDER

1. Pledge of Allegiance
2. Silent Invocation
3. Roll Call

B. DISCUSSION/ACTION

4. Consideration of Minutes
5. Case No. 17-70000002
SPECIAL EXCEPTION/MINI WAREHOUSE AND MOTOR VEHICLE AND BOAT
STORAGE FACILITY IN THE COMMUNITY COMMERCIAL (CC)
ZONING DISTRICT
6250 South Williamson Boulevard

Continued from the June 22, 2017 Planning Commission meeting - A request by the applicant to approve a Special Exception to allow a Mini Warehouse and Motor Vehicle and Boat Storage Facility within the Community Commercial (CC) zoning district.

Staff Contact: Briana Conlan-King (386) 506-5676/brking@port-orange.org

6. Case No. 17-40000001
EIGHTH AMENDMENT TO THE AMENDED AND RESTATED PORT ORANGE
GATEWAY CENTER PLANNED COMMERCIAL DEVELOPMENT (PCD)
MASTER DEVELOPMENT AGREEMENT (MDA) AND CONCEPTUAL
DEVELOPMENT PLAN (CDP)
1771 Dunlawton Avenue

Continued from the June 22, 2017 Planning Commission meeting - A request by the applicant to amend the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Amended and Restated Port Orange Gateway Center Planned Commercial Development (PCD) to allow two new outparcel lots (Lot 3A and Lot 3B) to be created from the existing Super Target lot (Lot 3), establish dimensional requirements for the new lots, as well as parking and signage requirements.

Staff Contact: Penelope Cruz (386) 506-5671/pcruz@port-orange.org

7. Case No. 17-50000003
SUBDIVISION REPLAT/PORT ORANGE GATEWAY CENTER LOT 3
1771 Dunlawton Avenue

Continued from the June 22, 2017 Planning Commission meeting - A request by the applicant to replat Lot 3 (Super Target parcel) of the Port Orange Gateway Center Subdivision to create three lots (Lot 3A, Lot 3B, and modified existing Lot 3).

Staff Contact: Penelope Cruz (386) 506-5671/pcruz@port-orange.org

8. Case No. 17-40000003
FIFTEENTH AMENDMENT TO THE COUNTRYSIDE PLANNED UNIT
DEVELOPMENT (PUD) MASTER DEVELOPMENT AGREEMENT (MDA) AND
CONCEPTUAL DEVELOPMENT PLAN (CDP)
1058 Dunlawton Avenue

A request by the applicant to amend the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Countryside Planned Unit Development (PUD) to expand the bank use currently permitted on the property to allow additional commercial uses.

Staff Contact: Briana Conlan-King (386) 506-5676/brking@port-orange.org

9. Case No. 17- 25000005
LDC TEXT AMENDMENT/MEDICAL MARIJUANA - REVISED TO BE
CONSISTENT WITH STATE LAW

Amendment to Chapters 2, 12, 16, 17, and 18 of the Land Development Code (LDC) related to medical marijuana. The proposed amendments would apply the current zoning requirements for a pharmacy in the City to a medical marijuana dispensary to be consistent with State law uses and also remove all regulations related to the cultivation and processing of medical marijuana preempted by State law.

Staff Contact: Penelope Cruz (386) 506-5671/pcruz@port-orange.org

C. OTHER BUSINESS

10. Commissioner Comments

11. Staff Comments

D. PUBLIC COMMENTS

E. ADJOURNMENT

ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE BY THE **PLANNING COMMISSION** WILL NEED A RECORD OF THE PROCEEDINGS, AND FOR SUCH PURPOSE HE OR SHE MAY NEED TO ENSURE AT HIS OR HER OWN EXPENSE FOR THE TAKING AND PREPARATION OF A VERBATIM RECORD OF ALL TESTIMONY AND EVIDENCE OF THE PROCEEDINGS UPON WHICH THE APPEAL IS TO BE BASED. NOTE: IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, TO THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-8771. UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

PLANNING COMMISSION MEETING MINUTES
CITY OF PORT ORANGE
1000 CITY CENTER CIRCLE
COUNCIL CHAMBERS
JUNE 22, 2017

THE REGULAR MEETING OF THE PLANNING COMMISSION of the City of Port Orange was called to order by Chairman Lance Green at 5:30 p.m.

Pledge of Allegiance

Silent Prayer

ROLL CALL:

Present: Lance Green, Chairman
John Junco
Newton White
Mike Arminio
Bo Bofamy
Thomas Jordan
Maria Mills-Benat

Also Present: Matthew Jones, Deputy City Attorney
Robin Fenwick, City Clerk

4. Consideration of Minutes

Motion to approve the April 27, 2017 Minutes as presented was made by Commissioner Arminio, and Seconded by Commissioner Junco. Motion carried unanimously by roll call vote.

5. Case No. 17-70000002

SPECIAL EXCEPTION/MINI WAREHOUSE AND MOTOR VEHICLE AND BOAT STORAGE FACILITY IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT
6250 South Williamson Boulevard

A request by the applicant to approve a Special Exception to allow a Mini Warehouse and Motor Vehicle and Boat Storage Facility within the Community Commercial (CC) zoning district.

Staff Contact: Briana Conlan-King (386) 506-5676/brking@port-orange.org

Tim Burman, Planning Manager, provided details of the Special Exception being requested. He discussed parking and access for this property, as well as other projects of a similar nature that have been approved in the same general area. A 50' buffer is required. Staff recommends approval of the Special Exception as the applicant has met the requirements of the City's Codes.

The size of the fencing around the property was discussed. A 10' fence could be required during the site plan review.

Joey Posey, Attorney for Applicant, discussed the plan for the project. The building will be only one story. Chris Butera, Realtor, talked about the value of the property and the project being proposed, as well as the history of the listing of the property. He believes there will be only a 20-25' visual into the natural wetland area. Roscoe Turner Trail access will not be permitted. They are proposing a 10' opaque fence along western boundary. There will be no businesses operating out of the storage units. David Fahmie, Acorn Mini Storage, applicant, is agreeable to installing a deceleration lane if the County allows it. There will be no one living on the premises.

Commissioners questioned Mr. Posey for clarification of the details.

Public comments were made in opposition of this project as they believe it is incompatible. Concerns were raised regarding property values, traffic patterns, noise levels, lighting issues, and fencing. Security issues were discussed. The citizens would like to know the environmental impact.

Roger Strcula, P.E., Upham, Inc., discussed the access discussions with the County. They are waiting for approvals from the County.

Mr. Posey offered to continue the item to July 27, 2017 to allow time to gather more details and information from the County.

Motion to continue was made by Commissioner Arminio, and Seconded by Commissioner Junco. Motion carried 6-1 by roll call vote with Commissioner Jordan voting no.

6. Case No. 17-40000001

EIGHTH AMENDMENT TO THE AMENDED AND RESTATED PORT ORANGE GATEWAY CENTER PLANNED COMMERCIAL DEVELOPMENT (PCD) MASTER DEVELOPMENT AGREEMENT (MDA) AND CONCEPTUAL DEVELOPMENT PLAN (CDP) 1771 Dunlawton Avenue

A request by the applicant to amend the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Amended and Restated Port Orange Gateway Center Planned Commercial Development (PCD) to allow two new outparcel lots (Lot 3A and Lot 3B) to be created from the existing Super Target lot (Lot 3), establish dimensional requirements for the new lots, as well as parking and signage requirements.

Staff Contact: Penelope Cruz (386) 506-5671/pcruz@port-orange.org

The applicant requested a continuance until July 27, 2017.

Motion to continue was made by Commissioner Arminio, and Seconded by Commissioner Bofamy. Motion carried unanimously by roll call vote.

7. Case No. 17-50000003
SUBDIVISION REPLAT/PORT ORANGE GATEWAY CENTER LOT 3
1771 Dunlawton Avenue

A request by the applicant to replat Lot 3 (Super Target parcel) of the Port Orange Gateway Center Subdivision to create three lots (Lot 3A, Lot 3B, and modified existing Lot 3).

Staff Contact: Penelope Cruz (386) 506-5671/pcruz@port-orange.org

The applicant requested a continuance until July 27, 2017.

Motion to continue was made by Commissioner Arminio, and Seconded by Commissioner Mills-Benat. Motion carried unanimously by roll call vote.

OTHER BUSINESS

8. Commissioner Comments – *Wayne Clark, Community Development Director, answered questions from Commissioners relating to ongoing projects throughout the City.*

9. Staff Comments – *There were none.*

Planning Commission Meeting

June 22, 2017

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PUBLIC COMMENTS - There were none.

ADJOURNMENT: 7:22 p.m.

Chairman Lance Green



STAFF REPORT

Special Exception for a Mini-Warehouse and Motor Vehicle and Boat Storage Facility in the Community Commercial Zoning District

CASE NO. 17-70000002

REQUEST:	To allow the operation of a Mini-Warehouse and Motor Vehicle and Boat Storage Facility within the Community Commercial (CC) zoning district.
PROPERTY OWNER:	MB REO-FL LAND, LLC
APPLICANT:	Roger W. Strcula, P.E., Upham, Inc., for the Developer David Fahmie, Acorn Mini Storage
LOCATION:	6250 S. Williamson Boulevard (Figure 1 – Page 2)
STAFF CONTACT:	Briana Conlan-King, Planner (386) 506-5676
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION DATE:	July 27, 2017 (Continued from June 22, 2017)

UPDATE:

The staff report has been revised to reflect additional information provided after the June 22, 2017 Planning Commission Meeting.

CASE BACKGROUND:

Roger Strcula, applicant for the Developer David Fahmie, Acorn Mini Storage, has applied for a Special Exception to operate a mini-warehouse and motor vehicle and boat storage facility within the Community Commercial (CC) zoning district (Exhibit A). The proposed use would be located at the southwest corner of S. Williamson Boulevard and Roscoe Turner Trail (Figure 1). If the Special Exception is approved, the applicant will have to submit a site plan for staff review and the proposed development will be required to meet all architecture, landscape buffer and screening, site development and infrastructure requirements of the City's Land Development Code.

The subject property is 11.8 acres and has had Community Commercial (CC) zoning since 1994. In addition to the proposed mini-warehouse and motor vehicle and boat storage uses, the existing zoning of the property also allows uses such as office, medical office, restaurants with a drive-thru, retail, convenience store with gas, bank, and health/fitness clubs.

According to the Land Development Code (LDC), "a special exception is a use that would not be appropriate without restriction, but which, if controlled as to number, area, location or relation to the surrounding area, would promote the public health, safety and general welfare." The LDC defines a mini-warehouse as "self-service storage facility in a building consisting of individual self-contained units of varying size that are leased or owned for the storage of business and household goods, or for contractor's supplies" and defines a motor vehicle and boat storage facility as "land where the long-term parking of motor vehicles and boats is accommodated."

Figure 1. Location Map – 6250 S. Williamson Blvd.



According to the applicant, the entire 11.8-acre site is proposed to be developed with at least seven (7) one-story self-storage buildings and a paved enclosed outdoor storage area with approximately 100 designated storage parking spaces for vehicles, RVs, and boats. The site will also have landscape buffers, screening fencing, a stormwater pond, a parking lot and water and sewer infrastructure as required by the City's Land Development Code. At this time, no other uses are proposed on the site except for the two Special Exception uses.

SPECIAL EXCEPTION DEVELOPMENT STANDARDS:

All Special Exception uses are required to meet a uniform list of development standards, encompassing traffic generation, landscaping and buffering, and others [Ch. 18, Sec. 2(d)(2) of the LDC]. The following are the development standards and how they apply to the requested Special Exception for a mini-warehouse and motor vehicle and boat storage facility.

Standard Special Exception Development Standards:

1. *Traffic generation and access for the proposed use shall not adversely impact adjoining properties and the general public safety.*

The commercial zoning for the subject property currently allows uses such as office, medical office, restaurants with a drive-thru, retail, convenience store with gas, bank, and health/fitness clubs. According to the ITE Trip Generation Manual, 9th Edition, the traffic expected to be generated from a self-storage and motor vehicle and boat storage facility is significantly less than other uses currently allowed on the subject property (Table 1).

Table 1. ITE Daily Trip Rate for uses in CC Zoning District

Use	Daily Trip Rate	Multiplier
Mini-warehouse	2.5	Per 1,000 SF
Warehouse (Motor vehicle and boat storage)	3.56	Per 1,000 SF
General Office	11.03	Per 1,000 SF
Health/Exercise Club	32.93	Per 1,000 SF
Medical/Dental Office	36.13	Per 1,000 SF
Retail	44.32	Per 1,000 SF
Child Care Facility	74.06	Per 1,000 SF
Restaurant - no Drive-Thru	127.15	Per 1,000 SF
Bank	148.15	Per 1,000 SF
Restaurant with Drive-Thru	496.12	Per 1,000 SF
Convenience Store with gas	845.6	Per 1,000 SF

According to the latest traffic counts for Williamson Boulevard, there is capacity for the traffic estimated to be generated by the proposed development of this property (Table 2).

Table 2. Traffic Capacity

Roadway Segment	Maximum Capacity Vehicles Per Day	Current Vehicles Per Day*	Remaining Capacity Vehicle Per Day	Daily V/C Ratio**
Williamson Blvd. from Taylor Rd. to Spruce Creek Bridge	37,970	23,310	14,660	0.61
Williamson Blvd. from Spruce Creek Bridge to Airport Rd.	35,820	19,250	16,570	0.54
Airport Rd. from Williamson Blvd. to Pioneer Tr.	33,300	8,430	24,870	0.25

*Source: Volusia County Traffic Engineering, 2016

**V/C Ratio (Volume-Demand-to-Capacity Ratio) compares roadway demand (vehicle volumes) with roadway supply (carrying capacity).

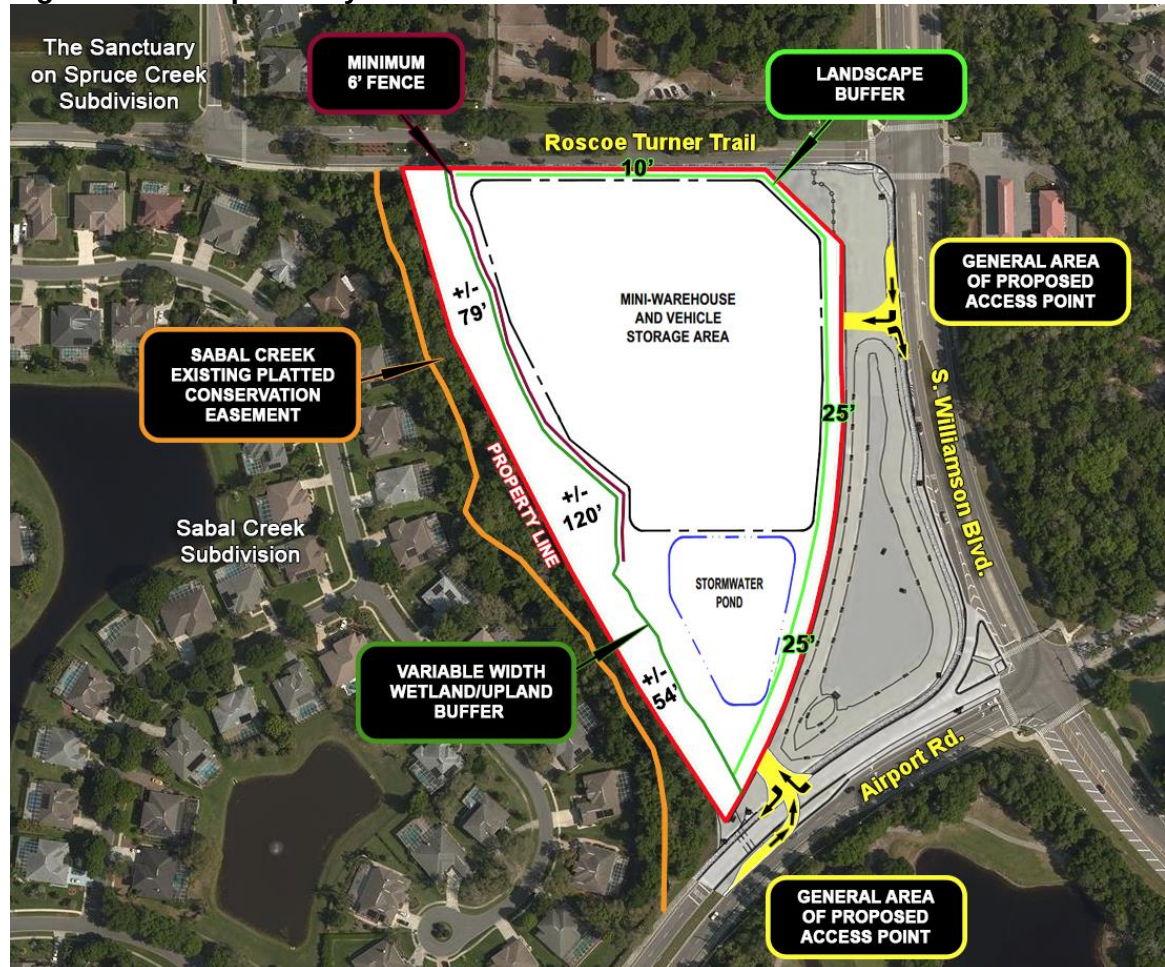
Access from Williamson Boulevard and Airport Road in this area is under Volusia County's jurisdiction. The applicant met with Volusia County staff about access for the subject property on July 5, 2017. According to the applicant, Volusia County staff indicated access to the site will be allowed as follows:

- Airport Road - A driveway could be constructed at the south end of the site, along with a left-turn lane for vehicles traveling eastbound on Airport

Road to turn into the site. Access into the site will be right turn in, right turn out and left turn in.

- Williamson Boulevard – A driveway could be constructed just north of the existing retention pond along with a right-turn lane for vehicles traveling southbound on Williamson Boulevard to turn into the site. The right turn lane will begin south of Roscoe Turner Trail. Access would be restricted to right turn in and right turn out.

Figure 2. Conceptual Layout



Roscoe Turner Trail is a private road and its use to access the site would need to be approved by the Sanctuary on Spruce Creek's Home Owner's Association through an access easement agreement between the developer and the HOA. Staff has not received any indication this would be approved by the HOA, nor that the applicant will request this access.

The site plan submittal for this property will be required to comply with the City's Concurrency Management requirements in the LDC. Detailed traffic analysis occurs at the site plan review stage to identify any improvements that might be required. Similar to other developments within the City, the developer may be

required to enter into a Fair Share Concurrency Agreement with the City to pay for part of the scheduled improvements for any impacted areas.

2. *Off-street parking, loading and service areas shall be provided and located such that there is no adverse impact on adjoining properties, beyond that generally experienced in the district.*

Parking will be provided and designed as required by the LDC. The total number of parking spaces and design of the parking lot spaces will be reviewed with the submittal of the site plan. The LDC currently requires one space per 50 storage cubicles for a mini-warehouse facility and one space per ten stalls for a motor vehicle and boat storage facility.

3. *Required yards, screening or buffering, and landscaping shall be consistent with the district in general and the specific needs of the abutting land uses.*

The site will be developed with landscape buffers in accordance with the LDC for screening the surrounding properties and rights-of-way from a mini-warehouse and motor vehicle and boat storage facility. Minimum requirements include a 20' landscape buffer along the front of the property adjacent to Williamson Boulevard and along Airport Road, a 10' landscape buffer along Roscoe Turner Trail and a 40' landscape buffer and a 6' fence or wall along the property line abutting the Sabal Creek Subdivision.

There is also a designated wetland on the subject property adjacent to the Sabal Creek Subdivision. At its narrowest point, the wetland area on the subject property is +/-54' wide. As part of the site plan, a conservation easement will be required over the wetland. The easement will preclude development and the removal or disturbance of any vegetation. In addition, to the wetland on the subject property, there is a conservation easement on the Sabal Creek Subdivision property, adjacent to the subject property, and at its narrowest point the easement is +/-39' in width (Figure 2, page 4).

4. *Architectural and signage treatments shall comply with the general provisions applicable to permitted uses in the district, to the greatest extent possible, and be sensitive to surrounding development.*

The architectural style of buildings, accessory structures, wall/fence and site furnishings will be developed with a common architectural theme and comply with the City's LDC. A formal review of the architectural design will occur with the site plan to verify compliance with the LDC. Any proposed signage will have to meet the regulations set forth by the LDC.

5. *Size, location or number of special exception uses in an area shall be limited so as to maintain the overall character of the district as intended by this code.*

The proposed development is located approximately +/- 1.6 miles from a similar facility (All Aboard Storage). The closest approved Special Exception (2015) for

a mini-warehouse facility is located just north of the All Aboard Storage facility, along Taylor Road between the southbound I-95 on-ramp and Williamson Boulevard. This site has not yet been developed. Both sites are in different zoning districts than CC and are not associated with the subject property's CC zoning area. There is currently no development activity on this site. The subject site will be developed to meet the building setback, building coverage and open space requirements for the CC zoning district.

In addition to the standard development requirements for all Special Exceptions, a mini-warehouse use and motor vehicle and boat storage use in the CC zoning district must also comply with additional development requirements [Ch. 18, Sec. 3(b)(10) of the LDC]. The following are the additional development requirements for a mini-warehouse use and a motor vehicle and boat storage use and how they apply to the request.

Specific Mini-Warehouse Special Exception Development Standards:

1. *Warehouse buildings shall be screened from any public rights-of-way by a six-foot high opaque fence or wall with a type 2 bufferyard planted along the street side of the fence or wall. Bufferyard requirements may be increased in accordance with chapter 13 of this Code.*

The proposed development will comply with the right-of-way landscape buffer and wall/fence requirements in the LDC. This includes the increased 25' buffer along the front of the property adjacent to Williamson Boulevard and Airport Road and 10' along Roscoe Turner Trail, as well as the 40' landscape buffer and 6' fence or wall along the property line abutting the Sabal Creek Subdivision. (Table 3).

Table 3. Bufferyard Requirements per LDC Ch 13, Sec. 3(d)

Roadway	Type 2 Buffer Width	Right-of-Way Buffer Width	Amount of Increase in Buffer Width
S. Williamson Blvd. (<i>Public right-of-way</i>)	10'	25'	+ 15'
Airport Rd. (<i>Public right-of-way</i>)	10'	25'	+ 15'

2. *The proposed site shall be a minimum of two acres.*

The subject property is +/- 11.8 acres.

3. *The proposed site shall front on an arterial roadway.*

The site fronts on Williamson Boulevard. Williamson Boulevard is defined by the City's Comprehensive Plan as an urban principal arterial roadway.

Specific Motor Vehicle and Boat Storage Special Exception Development Standards:

1. *The proposed site shall front on an arterial roadway.*

The site fronts on Williamson Boulevard. Williamson Boulevard is defined by the City's Comprehensive Plan as an urban principal arterial roadway.

2. *The proposed site shall be a minimum of two acres.*

The subject property is +/- 11.8 acres.

3. *Buffering shall be provided based on a land use intensity factor of six for completely enclosed facilities and seven for fenced facilities.*

According to the applicant, the motor vehicle and boat storage facility will be enclosed with a fence or wall. The width of the landscape buffer between Sabal Creek Subdivision and the proposed development will be based on a land use intensity of a seven (fenced facility).

LDC requirements for a land use intensity factor of seven (7) are a minimum 40' landscape buffer between the subject property and the Sabal Creek Subdivision. Currently, there is a designated wetland on the subject property adjacent to Sabal Creek, and at its narrowest point, it is +/- 54' wide. As part of the site plan, a conservation easement will be required over the wetland. The easement will preclude development and the removal or disturbance of any vegetation. This area will meet the LDC requirement for the buffer. In addition, to the wetland on the subject property, there is a conservation easement on the Sabal Creek Subdivision property, adjacent to the subject property and at its narrowest point, the easement is +/-39' in width (Figure 2, page 4).

4. *Outside storage shall be completely enclosed within a six- to eight-foot high opaque fence or wall.*

All outside storage will be completely enclosed with a six to eight-foot fence or wall to screen the area, as well as, comply with all the landscape buffer requirements in the LDC. This includes the minimum 20' landscape buffer along the front of the property adjacent to Williamson Boulevard and Airport Road 10' landscape buffer along Roscoe Turner Trail and a 40' landscape buffer and 6' fence along the property line abutting the Sabal Creek Subdivision.

5. *Vehicles, for purposes of this Special Exception, shall include automobiles, trucks, vans, boats, boat trailers, recreational vehicles, and other similar vehicles, which are customarily owned, rented or leased by the average family. Such vehicles shall be licensed and fully operational at all times. Towing to and impoundment at the facility of any inoperable vehicle or appurtenance thereof shall not be permitted.*

According to the applicant, the proposed development will only allow licensed, insured and operational automobiles, trucks, vans, boats, boat trailers, recreational vehicles, and other similar vehicles to be stored. The proposed development will rent assigned spaces for a minimum time period of one month.

6. *Vehicle washing shall be confined to a commercial facility or pervious surface in compliance with the water conservation regulations of the city.*

The site plan submittal for this property will be required to comply with the City's water conservation regulations in the LDC. According to the applicant, vehicle or boat washing is not anticipated at the proposed development.

7. *Vehicle servicing shall be limited to regular maintenance items such as changing oil, tires, batteries, and other similar activities. Mechanical or body repair, painting, engine rebuilding, or other similar work which would customarily be performed at a motor vehicle service center shall not be permitted.*

According to the applicant, vehicle servicing within the proposed development will be limited to regular maintenance items as allowed by the LDC, such as changing oil, tires, batteries, and other similar activities.

8. *Living quarters for a resident manager may be permitted, provided such quarters are occupied by the manager and the manager's immediate family.*

According to the applicant, no living quarters for a resident manager are proposed for this development.

9. *Required parking shall be provided at a ratio of one space for each ten storage stalls or fraction thereof, plus one space for each employee at the largest shift and two spaces if resident manager living quarters are provided.*

Parking will be provided and designed as required by the LDC. The total number of parking spaces and design of the parking lot spaces will be reviewed with the submittal of the site plan. The LDC currently requires one space per ten stalls for a motor vehicle and boat storage facility.

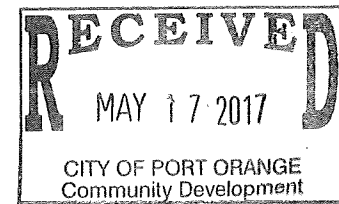
RECOMMENDATION:

Staff recommends approval of the Special Exception to allow a Mini-Warehouse and Motor Vehicle and Boat Storage Facility within the Community Commercial (CC) zoning district to be developed and operated at 6205 S. Williamson Boulevard.

ATTACHMENTS:

Exhibit A – Applicant's letter dated May 17, 2017

Exhibit B – Letters from Sabal Creek residents dated June 2017 and July 2017



May 17, 2017

Ms. Penelope Cruz, AICP
Principal Planner
Department of Community Development
1000 City Center Circle
Port Orange, Florida 32129

Re: Acorn Mini-Storage
Tax Parcel ID: 6331-00-00-0015 (10.65± Acres)
Request for Special Exception Application

Ms. Cruz:

Submitted is an application for a Special Exception on the referenced property located at the southwest quadrant of South Williamson Boulevard and Roscoe Turner Trail. The property is zoned Community Commercial (CC) with a FLU designation of Commercial. In accordance with Chapter 17, Section 21(c), (7) and (8) of the LDC, a special exception is required for developments requesting the use of mini-warehouses and motor vehicle and boat storage facilities within the CC Zoning District.

Mr. David Fahmie of Acorn Mini-Storage desires to pursue utilization of the property to expand his storage business into Port Orange. It is proposed to develop the major portion of the property for mini-warehouses and storage and develop the remainder of the property fronting along South Williamson Boulevard for commercial use. A conceptual site plan will be submitted separately to illustrate the locations for the warehouse and storage facilities, commercial area and points of access. The Developer is aware that a Volusia County Right-of-Way Permit will be required for access onto Williamson Blvd. and Airport Road.

The property is zoned Community Commercial (CC).

- Parking required for outdoor storage is equal to one space per 10 outdoor storage spaces.
- Parking required for mini-storage is equal to 1 space per 50 units.
- Buffer yard requirements include:
 - An minimum 40 ft buffer along Sabal Creek Subdivision
 - An minimum 10 ft buffer along Roscoe Turner Trail
 - An minimum 50 ft buffer along South Williamson Boulevard
- Maintain wooded buffer along Sabal Creek Subdivision for screening and wetland preservation
- Opaque wall of fence to screen the interior yards from view, the building wall may be utilized for screening. The wall, fence and building will comply with the City's architectural requirements.

In accordance with Chapter 18, Section 2.(d).2 of the LDC, the Planning Commission and City Council consider and approve special exception for Acorn Mini Storage to proceed with its planned development. The following must be considered for approval:

- (1) traffic generation and access for the proposed use and if proposed development will create any adverse impacts to adjoining properties,
- (2) off-street parking, loading and service area locations
- (3) any screening or buffering and landscaping required dependent on abutting land uses
- (4) architectural and signage treatments
- (5) the size, location or number of special exceptions requested so that the exception(s) will not degrade the overall character of the district intended by City code.

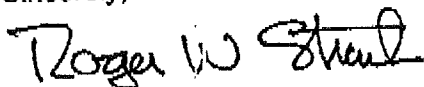
It is understood per Chapter 18, Section 3 of the LDC, the following conditions are required for mini-warehouses and motor vehicle and boat storage Special Exceptions within the CC zoning:

- Subsections 10: Mini-warehouses (CC, HC, RD):
 - The building must be screened from public rights-of-ways by a 6 ft high opaque fence or wall with a "Type 2" buffer yard along the fence or wall.
 - The site must be a minimum of two acres and must front an arterial roadway.
- Subsection 12: Motor vehicle and boat storage facilities (CC):
 - The site must be a minimum of two acres and must front an arterial roadway.
 - Buffering must use a land use intensity factor of (6) for completely enclosed facilities and (7) for fenced facilities.
 - Outside storage must be completely enclosed within a 6 ft to 8 ft high wall or fence.
 - Permitted vehicles include: automobiles, trucks, vans, boats, boat trailers, recreational vehicles and vehicles owned, rented or leased by the average family.
 - The vehicles must be licensed and fully operational at all times. A towing or impoundment facility is not permitted.
 - Vehicle washing must be confined to a commercial facility or pervious surface in compliance with water conservation regulations of the City.
 - Vehicles servicing is limited to regular maintenance items (i.e. oil change, tires, batteries, etc.). No mechanical, body repair, painting, engine rebuild etc. is permitted.
 - Living quarters for a resident manager and manager's immediate family may be permitted.
 - Required parking ratio is equal to one space for each ten storage stalls plus one space for each employee and two spaces if there is a live-in resident manager.

The site currently meets the criteria for the Special Exception. All site development regulations will be addressed at the time of site plan submittal.

It is requested to review the application for the requested Special Exception for SDRC review. Please contact me should you have any questions.

Sincerely,



Roger W. Strcula, PE
President

cc: Mr. David Fahmie, Acorn Mini Storage, Inc.
Mr. Shai Shwartz, MB REO-GL LAND, LLC.

Written comments of Michael A. Matthews in the matter of a request for a Special Exception for a mini-warehouse and motor vehicle and boat storage facility, and other ancillary development, within the Community Commercial (CC) zoning district located at 6250 S. Williamson Blvd, Port Orange, FL, between Roscoe Turner Trail and Airport Road (the “Development Site”). Case #17-70000002.

Thank you for the opportunity to provide written comments for this important Public Hearing. For background purposes and to establish my standing in this matter, my name is Michael A. Matthews and I have been a homeowner and resident of property located at 6090 Sabal Hammock Circle in the Sabal Creek Subdivision since November, 1997, the location of which is situated adjacent to the Wetlands Buffer and the proposed Development Site.

As a responsible homeowner, I’m not “anti-development.” As a matter of fact, I welcome commercial development that meets certain criteria, such as (1) being “compatible” to the neighborhood; (2) allowing for the continued and uninterrupted quiet and peaceful use and enjoyment by adjacent homeowners; (3) does not contribute to excessive traffic congestion, noise, odors, unsightly structures, nuisance lighting, and an attraction for increased crime; (4) protects the local environment; and

(5) does not negatively affect adjacent property values. In my personal opinion, I believe that the proposed mini-warehouse and motor vehicle and boat storage facility not only fails to meet the aforementioned criteria, but the intended use of the Development Site is not the highest and best use of the property, and such proposed use does not rise to the level of granting a Special Exception.

Please allow me to cite several examples as to why the granting of a Special Exception is not in the best interests of the neighborhood. First is traffic congestion. The proposed Development Site has limited ingress and egress from both Williamson Blvd and Airport Road. This means that should a Day Care Center be built, this would create excessive traffic during morning and evening rush hours when many motorists entering the property from the north on Williamson Blvd must exit on Airport Road and, to access Williamson Blvd to the north, must perform a u-turn opposite the entrances to Sabal Creek and Cypress Head housing developments. If you've ever tried to exit these

developments during morning and evening rush hours, especially when school is in session, then you would know that the adding of additional traffic congestion places an unacceptable burden on the residents of both communities.

Further, given my past experience in corporate real estate for a major commercial airline, I know firsthand that incompatible development at or near established residential areas does indeed negatively affect property values, especially if those incompatible developments expose residents to excess noise, crime, pollution, or changes the nature and character of the neighborhood.

Arguably many of the homeowners in and around Williamson Blvd and Airport Road selected this area for its unique, quiet suburban setting, away from the traffic noise, congestion, and development associated with other areas of Port Orange. Aside from Bike Week and BiketoberFest, this area of Port Orange is a grand place to live, and the millions of taxpayer dollars spent on widening Williamson Blvd to

Airport Road and its subsequent extension to Pioneer Trail served to enhance its special and unique charm and character, and provided for additional development opportunities away from established residential areas.

Bottom line, this is our neighborhood. If a Special Exception is granted and the developer is allowed to proceed with the development of the property as planned, that special and unique charm and essential character of our neighborhood is gone, replaced by a mini-warehouse and a static collection of motor vehicles and boats. Suffice it to say, no matter how high you build a perimeter wall or the number of trees planted to hide the area from sight, or legal limitations placed on the developer by the City, this area will be an “eye sore,” a nuisance, and a blemish on our neighborhood.

As an example, just north of the Development Site on Williamson Blvd is a similar motor vehicle and boat storage facility situated adjacent to an established housing development. Yes, the area has a nicely painted and

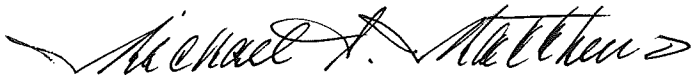
maintained concrete block wall to hide the area from sight; however, the owners found it necessary to add a chain link fence addition to the top, ostensibly to prevent unlawful entry. This tends to beg the question as to whether this is what residents of Sabal Creek have to look forward to.

In summary, I oppose the developer's request for a Special Exception and change in use for the purpose of developing a mini-warehouse and motor vehicle and boat storage facility on the grounds that the proposed development: (1) is not the highest and best use of the property; (2) is not compatible to the neighborhood; (3) has the potential to alter the quiet, peaceful, and safe use and enjoyment of the neighborhood by adjacent homeowners; (4) could result in the pollution of adjacent wetlands; and (5) could result in the diminution of adjacent property values.

It is therefore recommended that the City reject the developer's request for a Special Exception and suggest that they look elsewhere to develop their mini-warehouse and motor vehicle and boat storage

facility, perhaps further south on Williamson Blvd toward Pioneer Trail.

Respectfully Submitted,

A handwritten signature in black ink that reads "Michael A. Matthews". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Michael A. Matthews
6090 Sabal Hammock Circle
Port Orange, FL 32128
386-788-1673

6088 Sabal Hammock Circle
Port Orange, FL 32128

Tim Burman, Planning Manager
City of Port Orange, Community Development
1000 City Center Circle
Port Orange, FL 32129

June 15, 2017

Mr. Burman:

We are residents of the Sabal Creek subdivision and we strongly OPPOSE the building of an Acorn Mini-Storage on the corner of Williamson Blvd. at Airport Road. This project has been based on a "Zoning Exception" and should NOT be considered for building.

Even with a twenty foot easement, this eyesore will abut our residence, increasing noise pollution, light pollution, traffic, and accumulation of trash. Additionally, this building is likely to attract vermin and rodents; the location provides potential access to our property. This eyesore will negatively impact property value, something we carefully considered before moving to Port Orange. Finally, a storage facility already exists on Williamson within two miles of this proposed location.

Please do NOT allow this zoning exception to move forward. Not only is the proposed Acorn Mini-Storage unnecessary but a huge nuisance.

Thank you.

Respectfully,



Dr. Pat Sekel



Deacon David Sekel

6088 Sabal Hammock Circle
Port Orange, FL 32128

Tim Burman, Planning Manager
City of Port Orange, Community Development
1000 City Center Circle
Port Orange, FL 32129

June 15, 2017

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Please do NOT allow this zoning exception to move forward. Not only is the proposed Acorn Mini-Storage unnecessary but a huge nuisance.

Thank you.

Respectfully,

A handwritten signature in black ink, appearing to read "Deacon David Sekel". The signature is fluid and cursive, with the first name "Deacon" and last name "Sekel" clearly distinguishable.

Deacon David Sekel

July 21, 2017

Weber Family
6092 Sabal Hammock Circle
Port Orange, FL 32128

City of Port Orange
Planning Commission
1000 City Center Circle
Port Orange, FL 32129

RE: Special Exemption Case NO. 17-70000002

Dear Chairman Green:

As a directly affected adjacent property owner, we are writing the commission and submitting written testimony regarding Case Number 17-70000002. I will not be able to attend the July 27th meeting because of work travel. My family would like to adjust our testimony from last month's hearing and would like our position on the record.

The adjacent property owners had a positive meeting with the Developer (David Fahmie), the land broker and established what a good neighbor situation would require for a development of this type which requires a special exception. The below requests are to ensure that all neighboring properties are not negatively affected in appearance and property value. We have invested a great deal of time and money to maintain the high standards of these neighborhoods and do not wish to see that hard work destroyed by commercial development.

We no longer have a negative view of this development because of the trip counts associated with this use. We continue to have grave concerns that if the parcel is not properly developed it will create financial hardship on adjacent properties. Therefore, if this parcel was allowed to be developed into mini-warehouses we request the following items be included in the special exception:

1. The natural boarder between the residential neighborhood must be maintained (not clear cut or re-planted) and enhanced with mature landscaping so the buildings are not seen or heard from the adjacent homes.
2. Build a minimum of 10 foot concrete block sound deadening decorative wall between the residents and the development.
3. As agreed in the meeting, the 11 foot solid building wall could serve as the wall between the adjacent properties to the rear. It must be connected without openings to the 10 foot wall.
4. Maintain landscaping between the residents and development wall including irrigation if needed.

5. Build a brick wall around the road frontage of the development to mirror the Sanctuary and Sabal Creek neighborhoods.
6. Plant mature landscaping around the road frontage of the development to mirror the Sanctuary and Sabal Creek neighborhoods, as well, as the Dunlawton corridor for example.
7. Restrict night time lighting from leaving the property (must not be seen from the adjacent homes).
8. Hours of operation must be restricted to open 7 AM close 10 PM.
9. The buildings must contain a full NFPA 13 fire sprinkler system to protect the adjacent homes.
10. No chain link fences allowed.
11. Any boat or RV storage must not be seen from any adjacent locations.
12. As agreed in the meeting, must provide in writing that the building will only be one (1) story.
13. The future retail shown on the south corner should not be allowed, the traffic associated with retail use would be extremely detrimental to the roads involved.
14. Add a deceleration lane on southbound Williamson Blvd for use by the Sanctuary Neighborhood and the new development to prevent crashes in front of both areas.
15. The reported plans by the county for access to and from the property must be discussed and approved by public safety officials of the City. Vehicle crashes in this area are already to numerous and have been very serious in nature.

Respectfully submitted,

Thomas G. Weber, CFO, EFO, MPA, MiFireE

Thomas G. Weber

Fire Chief, Retired

City of Port Orange

Exhibit 1

Current Neighborhoods





Acorn Properties in Boca Raton and Palm Coast





STAFF REPORT

Eighth Amendment to the MDA & CDP for the
Port Orange Gateway Center PCD
CASE NO. 17-40000001

Request:	Amend the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Port Orange Gateway Center Planned Commercial Development (PCD)
Location:	1771 Dunlawton Ave.
Owner:	Target Corporation
Applicant:	Roger W. Strcula, P.E., Upham, Inc.
Staff Recommendation:	Approval , subject to approval of the policy considerations as described in the staff report
Staff Contact:	Penelope Cruz (386) 506-5671
Planning Commission:	July 27, 2017 (continued from June 22, 2017)

DISCUSSION

The proposed Eighth Amendment to the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Port Orange Gateway Center Planned Commercial Development (PCD) is to provide the regulatory framework to create two new commercial lots and development requirements for the new lots. The development proposal is to subdivide Lot 3 (the existing Super Target retail store) into three lots (Lot 3, 3A, and 3B). The location of the proposed new lots (Lot 3A and Lot 3B) and the modified Lot 3 is shown in Figure 1 below.

Figure 1. Location Map



Lot 3 will contain the existing Super Target building and most of the parking lot. The proposed Lot 3A is currently part of the Super Target overflow parking lot located south of Chick-Fil-A and if approved, will be developed with a $\pm 11,982$ square-foot commercial multi-tenant building. The proposed Lot 3B is currently part of the Super Target garden center and overflow parking lot located south of the Super Target building and will be developed with a $\pm 25,000$ square-foot commercial multi-tenant building.

The permitted uses proposed in the Eighth Amendment for Lot 3A and Lot 3B include: restaurants, retail sales and services, personal services, and professional and medical offices. These uses allow a variety of tenants to occupy the new buildings and are compatible with the uses allowed on the other lots within the Gateway Center PCD and within the City's other commercial zoning districts.

The following is an analysis of the requested deviations from the Land Development Code (LDC) proposed in the Eighth Amendment.

Parking: Parking will be provided as required by the Land Development Code (LDC), except for the retail store (Super Target), located on Lot 3. The applicant has proposed a parking ratio of 1 space per 284 square feet instead of the 1 space per 250 square feet required by the LDC.

The Institute of Transportation Engineers (ITE) Parking Generation Manual, 4th edition indicates that the average parking ratio for a retail store is between 1 parking space per 238 square-feet to 1 parking space per 296 square-feet. The proposed 1 space per 284 square-feet parking ratio is in the ITE suggested range.

The applicant's proposed parking ratio requires 529 parking spaces be provided for the existing Super Target store. The requested reduction in parking spaces amounts to 71 less parking spaces than required by City code. The existing LDC parking requirements for retail uses were last updated in 1996. The applicant, along with the Target Corporation, has stated that the proposed parking ratio will provide sufficient parking for customers based on the typical traffic generated by this store.

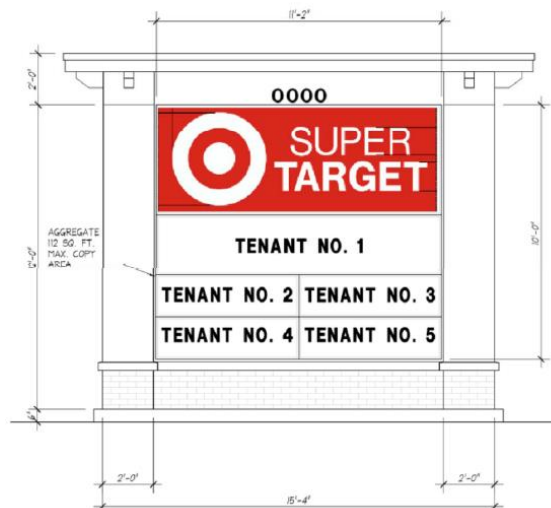


According to the applicant and the Target Corporation, the proposed parking ratio will provide sufficient parking for the Port Orange Target store. The Target Corporation recently conducted a Parking Needs Study (Exhibit B) to identify the parking necessary to support a store based on its specific sales volume. According to the study, Target has determined 340 parking spaces are needed for a store with 500 cash resister transactions per hour. The study states that the busiest hour in 2016 at the Port Orange store had 414 transactions per hour, which is below the average for comparison stores and that a parking count of 340 is conservative and sufficient. The applicant's proposed parking ratio provides for 529 parking spaces which is 189 spaces more than suggested by Target's Parking Needs Study.

Off-Site Signage: Super Target currently has a monument sign on Dunlawton Avenue. The applicant is proposing to remove the current Super Target monument sign on Dunlawton Avenue and replace it in the same location, with a new multi-tenant sign that identifies Super Target and the tenants located on Lot 3B. If the proposed lot configuration is approved, the current Super Target sign would be located on Lot 3A. According to the LDC, off-site signage is any sign that directs attention to a business not conducted or available on the premises where their sign is located. The proposed multi-tenant monument sign will be designed to meet the height, sign area and design requirements in the LDC. No deviations are requested for the dimensional requirements or number and size of tenant panels.



Existing Target Monument Sign



Proposed Off-Site Multi-Tenant Sign

The proposed sign would be located in the same place as the current Super Target sign along Dunlawton Avenue, north of the driveway at Panera Bread. According to the applicant, the off-site signage is being requested due to the configuration of the proposed lot layout. The sign would identify the businesses located on Lot 3 and Lot 3B. The proposed sign could have up to 112 square feet of sign area and up to 6 tenant panels. Dunlawton Square has signs similar in area and height to the proposed sign (Figure 2).

Figure 2. Dunlawton Square Monument Sign



Access to Lot 3 and Lot 3B will be from Dunlawton Avenue; however, the proposed lot configuration does not provide Lot 3B with frontage onto Dunlawton Avenue. Lot 3 does have limited frontage on Dunlawton Avenue to locate a sign, but according to the applicant, there is limited room to install a sign because of the exiting driveway and mature trees in the 50' landscape buffer. Access to Lot 3 and Lot 3B from Dunlawton Avenue will be from driveways located on other lots.

The applicant considered placing a sign on Lot 3 but ultimately preferred replacing the existing Super Target sign on Lot 3A with a new multi-tenant sign that identifies Super Target and the tenants located on Lot 3B. However, this is considered off-site signage and cannot be permitted without PCD policy approval. If the off-site sign was placed on Lot 3, the applicant would still have to request for an off-site sign to identify tenants located on Lot 3B. The request would not increase the total number of monument signs on Dunlawton Avenue but would permit flexibility for businesses allowed on the sign.

The sign installed in front of Starbucks and Chipotle on Dunlawton Avenue is similar to the proposed sign. This sign has 84 square feet of sign area, 4 tenant panels, and off-site sign advertisement for Lowes. This off-site signage was approved through a PCD because Lowes did not have any frontage on Dunlawton Avenue after the outparcel was created. The proposed off-site sign could be larger at 112 square feet of sign area and up to 6 tenant panels.

Wall Signage Height: Wall signage will be provided as required by the Land Development Code (LDC), except for the wall sign height requirement. The applicant has proposed a wall sign height requirement for Lot 3A and Lot 3B to be 25% of the building height for tenants located in a multi-tenant building instead of the 2-foot maximum height required by the LDC. Similar requests have been approved at other shopping centers.

A maximum sign height limit of 25% of building height was approved as part of the Altamira, The Pavilion, and Dunlawton Square PCDs. The wall sign height for the multi-tenant building (Starbucks and Chipotle) on Lot 6A of the Gateway Center PCD is 25% of the building height and was approved through a PCD amendment in 2012. The typical height for wall signage within these PCDs for the non-anchor tenants has ranged between 2.5' to 3.5' for the multi-tenant units. According to the applicant, national tenants typically prefer wall signage between 2.5' to 3.5' in height, and a consistent height requirement for all the tenants would provide flexibility in locating tenants within the center.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The subject property is designated *Commercial* on the City's Future Land Use map. The original PCD zoning district and MDA were found to be consistent with the City's Comprehensive Plan when it was approved in 1999. The proposed 8th amendment does not change the Future Land Use designation of the PCD property and is consistent with the general intent of the Comprehensive Plan.

OUTSTANDING TECHNICAL COMMENTS

The Staff Development Review Committee (SDRC) has reviewed this proposal and there are no outstanding technical comments.

SUMMARY OF POLICY ISSUES

As part of its review of the Amendment proposal, the Planning Commission and City Council will need to consider the following deviations from the LDC:

1. Allow a parking ratio of 1 space per 284 square feet for Target;
2. Allow off-site signage for Super Target (Lot 3) and tenants of Lot 3B on Lot 3A; and
3. Allow a wall sign height requirement to be 25% of the building height feet for tenants located in a multi-tenant building for Lot 3A and Lot 3B.

RECOMMENDATION

Staff recommends **approval** of the Eighth Amendment to the Port Orange Gateway Center PCD Master Development Agreement and Conceptual Development Plan, subject to review by the City Attorney as to legal form and content.

ATTACHMENTS

1. Exhibit 1 – Eighth Amendment to the Gateway Center MDA and CDP
2. Exhibit 2 – Target's Parking Need Study

This Document Prepared By:
Upham, Inc.
265 Kenilworth Avenue
Ormond Beach, FL 32174

Return Recorded Document to:
Office of Records Clerk
1000 City Center Circle
Port Orange, FL 32129

EXHIBIT 1



**EIGHTH AMENDMENT TO THE
AMENDED AND RESTATED
MASTER DEVELOPMENT AGREEMENT FOR THE
PORT ORANGE GATEWAY CENTER
PLANNED COMMERCIAL DEVELOPMENT (PCD)**

This Agreement, entered into by and between the CITY OF PORT ORANGE, a Florida municipal corporation whose address is 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter referred to as the "City"); TARGET CORPORATION, Attn: Real Estate Portfolio Management (T-1795), 1000 Nicolet Mall, TPN-12H, Minneapolis, MN 55403, (hereinafter referred to as the "Property Owner"); and 2017 YORKTOWN PORT ORANGE LLC, a Florida limited liability company whose address is 151 Sawgrass Corners Drive, Suite 202, Ponte Vedra Beach, Florida 32082, (hereinafter referred to as the "Contract Purchaser") or Assignee, constitutes the Eighth Amendment to the Amended and Restated Master Development Agreement for the Port Orange Gateway Center Planned Commercial Development (hereinafter referred to as the "Eighth Amendment").

WHEREAS, TARGET CORPORATION is the Property Owner of Lot 3 (further described in Exhibit "A") and the proposed Lots 3, 3(A) and 3(B) (further described in Exhibit "A-1") (the "Property") and 2017 YORKTOWN PORT ORANGE LLC, successor by assignment from Southeast Investments, Inc., is the Contract Purchaser of Lot 3(A) and Lot 3(B) as shown on the proposed "Port Orange Gateway Center Lot 3", a replat of a portion of Lot 3 Port Orange Gateway Center Replat per Map Book 50, Page 24; and

WHEREAS, The City, Lowe's Home Centers, Inc. and Port Orange Gateway Center, Inc. previously entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled "Master Development Agreement for The Port Orange Gateway Center Planned Commercial Development (PCD)" (hereinafter referred to as the "Original MDA") recorded in Official Records Book 4397, Page 4153, Public Records of Volusia County, Florida

WHEREAS, The City and Port Orange Gateway Center previously entered into an agreement and covenant with the Property Owner to bind their successors and assigns to the terms and provisions of a development agreement entitled "Amended and Restated Master Development Agreement for The Port Orange Planned Commercial Development" (hereinafter referred to as the "Amended and Restated MDA"), recorded in Official Records Book 4886, Page 3772, Public Records of Volusia County, Florida, which included the Property; and

WHEREAS, the City and Port Orange Gateway Center previously entered into a first amendment to the Amended and Restated MDA entitled, "First Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Planned Commercial Development (PCD)" (hereinafter referred to as the "First Amendment") recorded in Official Records Book 4904, Pages 20-26, Public Records of Volusia County, Florida; and

WHEREAS, the City and Port Orange Gateway Center previously entered into a second amendment to the Amended and Restated MDA entitled, "Second Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Planned Commercial Development (PCD)" (hereinafter referred to as the "Second Amendment"). Recorded in Official Records Book 5281, Page 2720, Public Records of Volusia County, Florida; and

WHEREAS, the City and Port Orange Gateway Center previously entered into a third amendment to the Amended and Restated MDA entitled, "Third Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Planned Commercial Development (PCD)" (hereinafter referred to as the "Third Amendment") recorded in Official Records Book 5389, Page 4833, Public Records of Volusia County, Florida; and

WHEREAS, the City and Port Orange Gateway Center previously entered into a fourth amendment to the Amended and Restated MDA entitled, "Fourth Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Commercial Development (PCD)" (hereinafter referred to as the "Fourth Amendment") recorded in Official Records Book 5860, Page 1476, Public Records of Volusia County, Florida; and

WHEREAS, the City and Port Orange Gateway Center previously entered into a fifth amendment to the Amended and Restated MDA entitled, "Fifth Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Commercial Development (PCD)" (hereinafter referred to as the "Fifth Amendment") recorded in Official Records Book 6582, Page 1603, Public Records of Volusia County, Florida; and

WHEREAS, the City, Lowe's Home Centers, Inc. and Ferber Construction Management, LLC, entered into a sixth amendment to the Amended and Restated MDA entitled, "Sixth Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Commercial Development (PCD)" (hereinafter referred to as the "Sixth Amendment") recorded in Official Records Book 6682, Page 1329, Public Records of Volusia County, Florida; and

WHEREAS, the City entered into a seventh amendment to the Amended and Restated MDA entitled, "Seventh Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Commercial Development (PCD)" (herein after referred to as the "Seventh Amendment") recorded in Official Records Book 7193, Page 2234, Public Records of Volusia County, Florida; and

WHEREAS, the City and the Property Owner have opted to further amend the operation and effect of the Amended and Restated MDA as further modified by the First, Second, Third, Fourth, Fifth, Sixth and Seventh Amendments all as applied to the Property by creating and agreeing to this "Eighth Amendment to the Amended and Restated Master Development Agreement for The Port Orange Gateway Center Planned Commercial Development (PCD)"; and

WHEREAS, the Property Owner is the owner of the Property which is the only property impacted by the Eighth Amendment; and

WHEREAS, the City and the Property Owner wish to amend the Amended and Restated MDA and the First, Second, Third, Fourth, Fifth, Sixth and Seventh Amendments as applied to the Property to allow for the following:

1. Provide for a division of Lot 3 in order to create three (3) lots, being identified as Lot 3, Lot 3(A) and Lot 3(B).
2. Multi-tenant building with an end-unit that may contain a drive-thru window on Lot 3(A).
3. Two attached separate buildings: one building as a multi-tenant building and one retail building on Lot 3(B).

NOW THEREFORE, the City and the Property Owner hereby agree as follows:

1. The premises stated above are true correct and form a material part of the Eighth Amendment.
2. Paragraph 1, Section (d) of the Amended and Restated MDA which incorporates the Amended CDP as Exhibit "B" and the Amended CDP as applied to Lot 3 are hereby further amended to reflect the modifications shown by this Eighth Amendment **Exhibit "B,"** attached hereto and incorporated herein by reference.
3. Paragraph 7, "Uses", Section (a) of the Amended and Restated MDA as applied to Lot 3 as originally described in the Amended and Restated MDA as now described as Lots 3, 3(A) and 3(B) is hereby further amended as follows:

(a) Permitted Uses on the Property shall be as follows:

<u>PERMITTED USES</u>	<u>SITE AREA</u>	<u>RETAIL AREA</u>	<u>OTHER AREA</u>
LOT 3	13.46 AC	174,000 SF	
COMMERCIAL/RETAIL			
OFFICE			16,100 SF
RECEIVING/STORAGE			26,500 SF
LOT 3(A)	2.06 AC	12,000 SF	
BUSINESS SERVICES			
FINANCIAL SERVICES			
FURNITURE AND			
APPLIANCE STORES			
OFFICE SUPPLIES			

RESTAURANT (TYPE A & B) RETAIL SALES AND SERVICES PERSONAL SERVICE PROFESSIONAL AND MEDICAL OFFICES ONE-DRIVE THRU BREWERY, CRAFT FOOD AND BEVERAGE PRODUCER AND MICROBREWERY			
LOT 3(B) BUSINESS SERVICES FINANCIAL SERVICES FURNITURE AND APPLIANCE STORES OFFICE SUPPLIES RESTAURANT (TYPE A & B) RETAIL SALES AND SERVICES PERSONAL SERVICE PROFESSIONAL AND MEDICAL OFFICES VETERINARY CLINIC BREWERY, CRAFT FOOD AND BEVERAGE PRODUCER AND MICROBREWERY	3.00 AC	25,000 SF	

(b) Exhibit "C," Dimensional Requirements, is amended to provide the following Dimensional Requirements for Lot 3(A) and Lot 3(B) and Parking Requirements for Lots 3, 3(A) and 3(B) as follows:

Requirements	Lot 3	Lot 3(A)	Lot 3(B)
Minimum Lot Area	500,000 sq. ft.	75,000 sq. ft.	100,000 sq. ft.
Minimum Lot Width	150 feet	200 feet	200 feet
Maximum Building Coverage	No change	25%	25%
Maximum Building Height	No change	31 feet	31 feet
Building Setbacks	No change		
Dunlawton Internal Lot Line Rear I-95 / Lot 1	No change	50 feet 20 feet 20 feet	50 feet 0 feet 20 feet 50 feet

Requirements	Lot 3	Lot 3(A)	Lot 3(B)
Maximum Impervious Surface	81%	64%	76%
Minimum Open Space	19%	36%	24%
Required Parking	1 space / 284 SF ⁽¹⁾	1 space/ 250 SF	1 space/ 250 SF

(1) Parking requirement for “Retail” and “Office” building floor area only is hereby amended to 1 space per 284 square feet.

4. Paragraph 9(b), “**PCD Infrastructure**,” of the Amended and Restated MDA is hereby amended to add a new subparagraph :

- (1) Replat. The Property Owner (Target Corporation) may proceed to create the proposed Lots 3, 3(A), and 3(B) by replatting the existing Lot 3, together with easement encumbrances existing and shown per title opinion updated at the time immediately prior to recording.
- (2) Site Plan. A Development Order for any site plan submitted for Lot 3(A) and Lot 3(B) can be issued any time following the recording of the above-mentioned replat. In addition, Lot 3(B) will be subject to the provisions specified per a, b and c as follows:
 - a. In the event the proposed development of a Lot adversely impacts existing public infrastructure; i.e., water and sanitary sewer mains, lines or related facilities; the affected Site Plan shall graphically depict and specifically address construction of the new and relocated infrastructure.
 - b. All new public infrastructure required to be relocated to accommodate site development, together with abandonment of pre-existing infrastructure serving the Port Orange Gateway Center subdivision, shall be designed and constructed in accordance with the Port Orange Land Development Code in effect at the time of site plan review, with all associated costs paid by the Contract Purchaser.
 - c. Easements. Upon completion, connection, inspections, approval and acceptance by the City Public Utilities Department, the Lot Owner shall grant to the City permanent utility easement(s) over the new, relocated infrastructure. The City shall then process for Council approval the Owner’s petition to vacate such segments of pre-existing easements of record over the abandoned infrastructure.

5. Paragraph 13(b), “**Signage**” of the Amended and Restated MDA is hereby amended to add a new subparagraph:

(c) Wall signs for individual businesses shall be as permitted by Chapter 15 of the Port Orange Land Development Code, except as set forth in this subsection (b):

(1) Wall Signage Requirements for Lots 3(A) and 3(B) is as follows:

- a. Each tenant is permitted a maximum wall sign height equal to 25% of the building height over the tenant front entrance.

6. Paragraph 13(c)(1), “**Signage**” of the Amended and Restated MDA is hereby amended to add new subparagraphs:

- a. Monument Sign on Dunlawton Avenue for Tenants on Lot 3A:
 - i. The maximum height to the top of the sign cabinet is 12.0 feet. An additional 2.0 feet in height is allowed above the sign cabinet for architectural embellishments consistent with the building or complex, up to a total maximum sign structure height of 14.0 feet (further illustrated in Exhibit “D”). The maximum number of panels is five (5) for a total maximum copy area of 84 square feet.
- b. Monument Sign on Dunlawton Avenue on Lot 3(A) for Tenants of Lot 3 and Lot 3(B):
 - i. The existing sign located on Lot 3(A) along Dunlawton Ave is increased in height and copy area. The maximum height to the top of the sign cabinet is 12.0 feet. An additional 2.0 feet in height is allowed above the sign cabinet for architectural embellishments consistent with the building or complex, up to a total maximum sign structure height of 14.0 feet (further illustrated in Exhibit “D”).
 - ii. The maximum number of panels is six (6) panels for a total maximum copy area of 112 square feet.

7. This Eighth Amendment shall be effective as of the date it is executed by all parties.

8. The Amended and Restated MDA, as previously enacted, and the First Amendment, Second Amendment, Third Amendment, Fourth Amendment, Fifth Amendment, Sixth Amendment and Seventh Amendment shall remain in full force and effect except with the respect to those matters specifically amended by the Eighth Amendment.

IN WITNESS WHEREOF, the parties have executed this Eighth Amendment, by and through their duly authorized representatives, on the respective dates below.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
a Chartered Municipal Corporation

Name: _____

By: _____
Donald O. Burnette, Mayor

Name: _____

Date: _____

Name: _____

Attest: _____
Robin L. Fenwick, CMC, City Clerk

Name: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by Donald O. Burnette, as Mayor of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that he is duly authorized to execute the foregoing agreement on behalf of the city. He is personally known to me.

Notary Public, State of Florida at Large
Printed name, commission and expiration of commission term:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 20__ by Robin L. Fenwick, as City Clerk of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledged that she is duly authorized to execute the foregoing agreement on behalf of the city. She is personally known to me.

Notary Public, State of Florida at Large
Printed name, commission and expiration of commission term:

**2017 YORKTOWN PORT ORANGE
LLC**

WITNESSES:

Printed name

Printed name

By: _____

Paul S. Ferber, Title Manager
151 Sawgrass Corners Drive, Suite 202
Pointe Vedra Beach, Florida 32082

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by **PAUL S. FERBER, Title Manager of 2017 Yorktown Port Orange LLC**, a Florida limited liability company, who is personally known to me and did not take an oath.

(Seal)

Notary Public

TARGET CORPORATION

WITNESSES:

Printed name

Printed name

By: _____

Name: _____

Its: _____

1000 Nicolet Mall, TPN-12H

Minneapolis, MN 55403

STATE OF MINNESOTA
COUNTY OF HENNEPIN

The foregoing instrument was acknowledged before me this ____ day of _____, 2017,
by _____, _____ **of Target Corporation,**
a Minnesota corporation, who is personally known to me and did not take an oath.

(Seal)

Notary Public

Exhibit “A”
Legal Description of Lot 3

Lot 3, PORT ORANGE GATEWAY CENTER REPLAT, a subdivision, according to the plat thereof recorded in Map Book 50, pages 24 through 27, Public Records of Volusia County, Florida.

Exhibit "A-1"
Legal Description of Lot 3, Lot 3(A) and Lot 3(B)

LOT 3:

BEING A PORTION OF LOT 3, PORT ORANGE GATEWAY CENTER REPLAT, AS RECORDED IN MAP BOOK 50, PAGE 24, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE NORTHWEST CORNER OF LOT 1, PORT ORANGE GATEWAY CENTER REPLAT, AS RECORDED IN MAP BOOK 50, PAGE 24, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING ON THE NORTHEASTERLY RIGHT-OF-WAY OF INTERSTATE I-95; THENCE RUN N31°24'34"W ALONG SAID RIGHT-OF-WAY FOR A DISTANCE OF 212.12 FEET FOR A POINT OF BEGINNING; THENCE N31°24'34"W FOR A DISTANCE OF 175.83 FEET; THENCE N30°03'51"W FOR A DISTANCE OF 179.47 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, N59°57'39"E FOR A DISTANCE OF 109.27 FEET; THENCE N15°07'52"E FOR A DISTANCE OF 512.34 FEET; THENCE S74°52'45"E FOR A DISTANCE OF 389.06 FEET; THENCE S15°07'13"W FOR A DISTANCE OF 20.00 FEET; THENCE S74°52'47"E FOR A DISTANCE OF 314.68 FEET; THENCE S15°07'15"W FOR A DISTANCE OF 455.03 FEET; THENCE S74°52'47"E FOR A DISTANCE OF 192.00 FEET; THENCE S15°07'13"W FOR A DISTANCE OF 212.00 FEET; THENCE S74°52'47"E FOR A DISTANCE OF 98.00 FEET; THENCE S15°07'13"W FOR A DISTANCE OF 171.06 FEET; THENCE N74°50'52"W FOR A DISTANCE OF 289.96 FEET; THENCE S15°07'20"W FOR A DISTANCE OF 89.00 FEET; THENCE N74°52'40"W FOR A DISTANCE OF 124.15 FEET; THENCE N15°07'13"E FOR A DISTANCE OF 318.96 FEET; THENCE N74°52'47"W FOR A DISTANCE OF 134.86 FEET; THENCE N15°07'13"E FOR A DISTANCE OF 27.50 FEET; THENCE N74°52'47"W FOR A DISTANCE OF 267.00 FEET; THENCE S15°07'13"W FOR A DISTANCE OF 236.81 FEET TO THE POINT OF BEGINNING.

LOT 3A:

BEING A PORTION OF LOT 3, PORT ORANGE GATEWAY CENTER REPLAT, AS RECORDED IN MAP BOOK 50, PAGE 24, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHEAST CORNER OF LOT 4, PORT ORANGE GATEWAY CENTER REPLAT, AS RECORDED IN MAP BOOK 50, PAGE 24, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING ON THE WESTERLY RIGHT-OF-WAY OF DUNLAWTON AVENUE (STATE ROAD No. 421); THENCE RUN S15°07'13"W ALONG SAID RIGHT-OF-WAY FOR A DISTANCE OF 450.00 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, N74°52'47"W FOR A DISTANCE OF 98.00 FEET; THENCE N15°07'13"E FOR A DISTANCE OF 212.00 FEET; N74°52'47"W FOR A DISTANCE OF 192.00 FEET; THENCE N15°07'13"E FOR A DISTANCE OF 238.00 FEET; THENCE S74°52'47"E FOR A DISTANCE OF 290.00 FEET TO THE POINT OF BEGINNING.

LOT 3B:

BEING A PORTION OF LOT 3, PORT ORANGE GATEWAY CENTER REPLAT, AS RECORDED IN MAP BOOK 50, PAGE 24, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

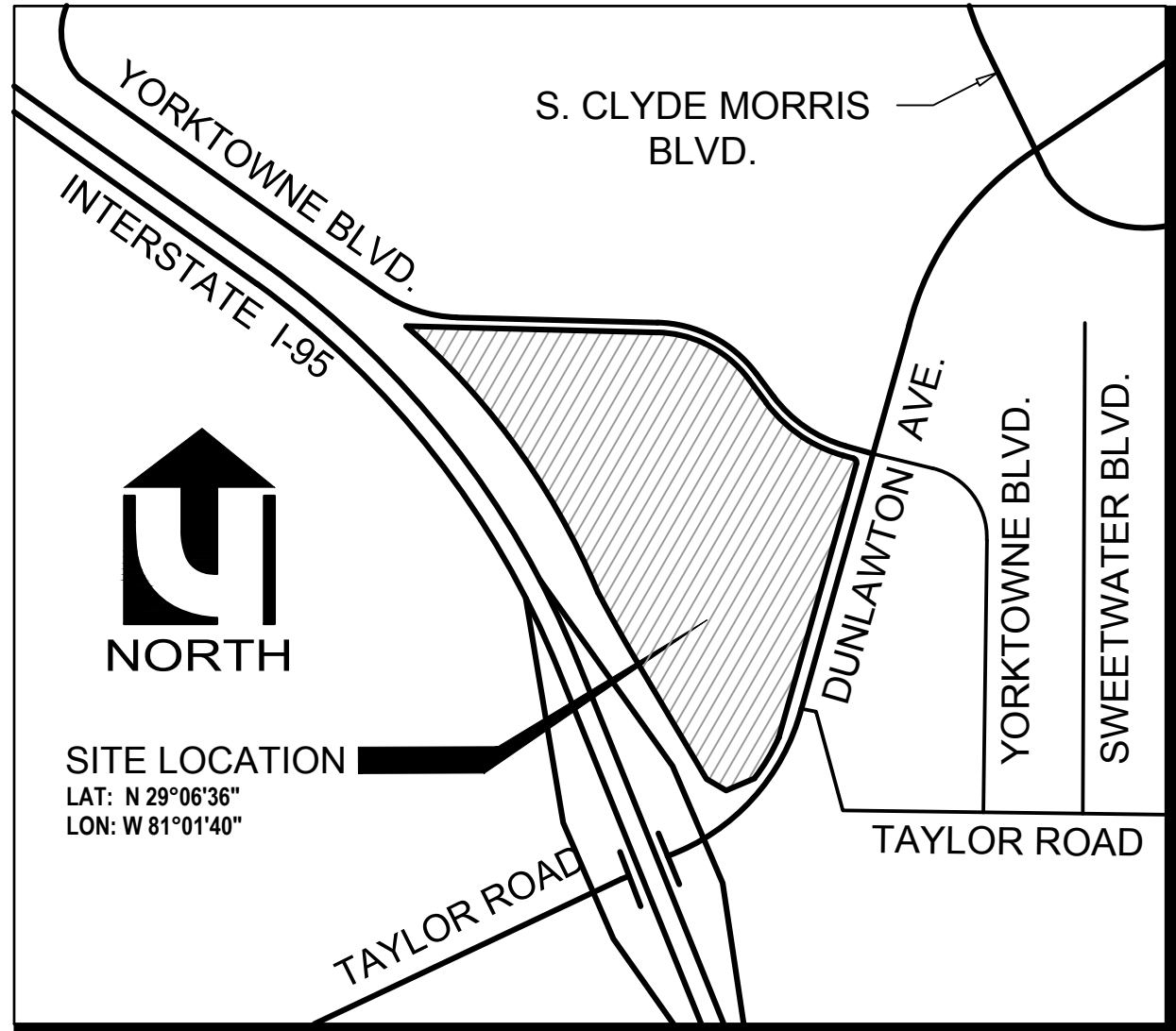
BEGIN AT THE NORTHWEST CORNER OF LOT 1, PORT ORANGE GATEWAY CENTER REPLAT, AS RECORDED IN MAP BOOK 50, PAGE 24, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER BEING ON THE NORTHEASTERLY RIGHT-OF-WAY OF INTERSTATE I-95; THENCE RUN N31°24'34"W ALONG SAID RIGHT-OF-WAY FOR A DISTANCE OF 212.12 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY, N15°07'13"E FOR A DISTANCE OF 236.81 FEET; THENCE S74°52'47"E FOR A DISTANCE OF 267.00 FEET; THENCE S15°07'13"W FOR DISTANCE OF 27.50 FEET; THENCE S74°52'47"E FOR A DISTANCE OF 134.86 FEET; THENCE S15°07'13"W FOR A DISTANCE OF 318.96 FEET; THENCE N74°52'40"W FOR A DISTANCE OF 213.51 FEET; THENCE S58°35'26"W FOR A DISTANCE OF 50.00 FEET TO THE POINT OF BEGINNING.

Exhibit “B”
Conceptual Development Plan

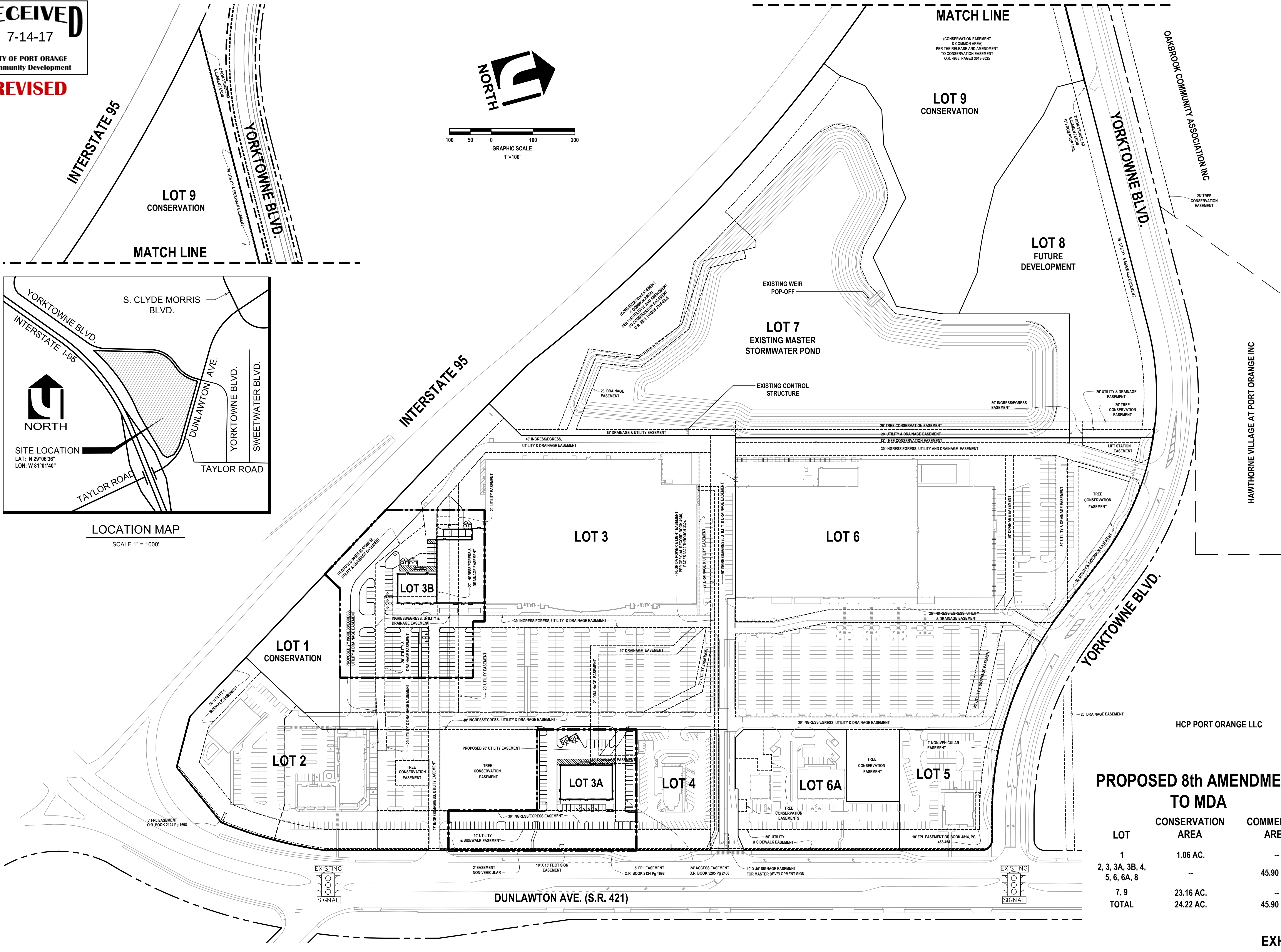
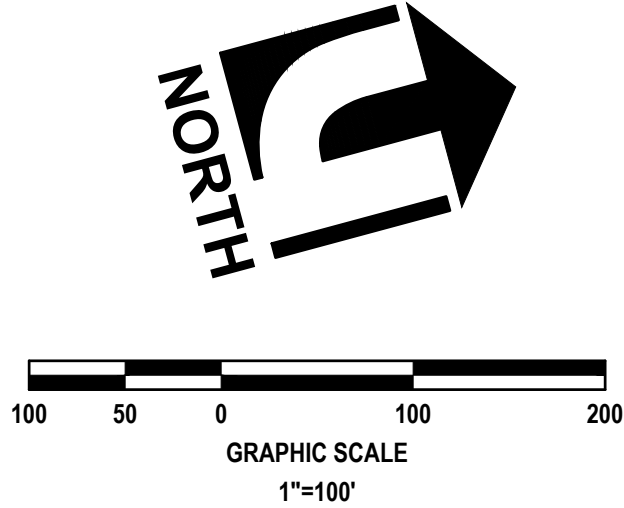
[copy attached hereto]

RECEIVED
7-14-17
CITY OF PORT ORANGE
Community Development

REVISED



LOCATION MAP
SCALE 1" = 1000'



PROPOSED 8th AMENDMENT
TO MDA

LOT	CONSERVATION AREA	COMMERCIAL AREA
1	1.06 AC.	--
2, 3, 3A, 3B, 4, 5, 6, 6A, 8	--	45.90 AC.
7, 9	23.16 AC.	--
TOTAL	24.22 AC.	45.90 AC.

REVISIONS

DATE	DESCRIPTION
06/26/17	UPDATED TO MATCH 8TH AMENDMENT
07/11/17	REV. PER 6/23 COMMENTS

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UPHAM, INC.

CIVIL ENGINEERING-SURVEYING-LANDSCAPE ARCHITECTURE
265 Kenilworth Avenue • Ormond Beach • Florida 32174
Voice: 386.672.9515 • Fax: 386.673.6554 • uphaminc.com
LB # 0003612 LC # 0000357

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CONCEPTUAL DEVELOPMENT PLAN
PORT ORANGE GATEWAY CENTER
DUNLAWTON AVENUE
PORT ORANGE, FLORIDA

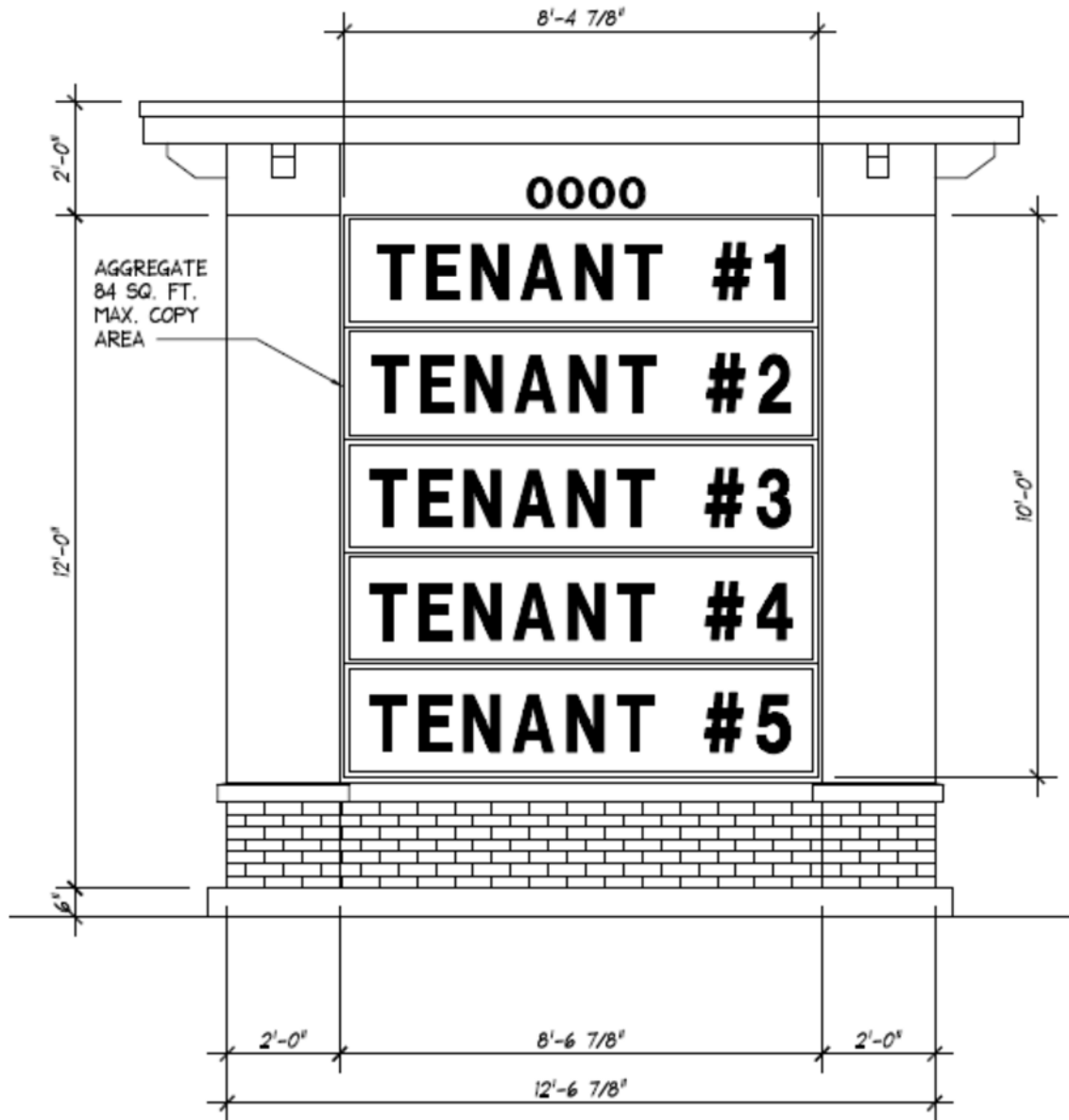
PROJECT No: 170203
DATE: MAY 24, 2017
DESIGN BY: RWS
DRAWN BY: JAE
CHECKED BY: RWS
SCALE: AS SHOWN
SHEET NUMBER:

1

EXHIBIT B

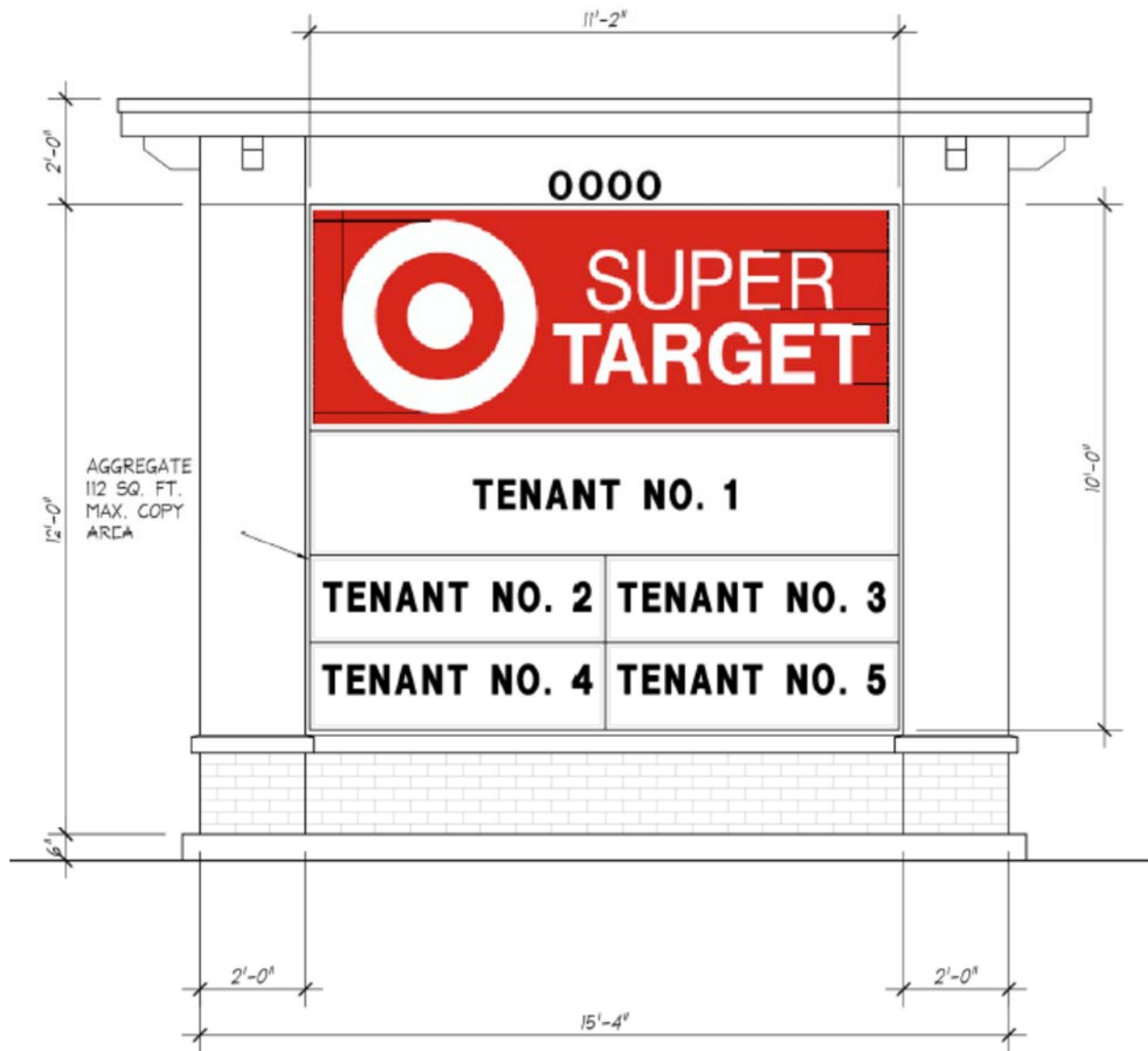
Exhibit "D"

Monument Sign Two, Dunlawton Avenue

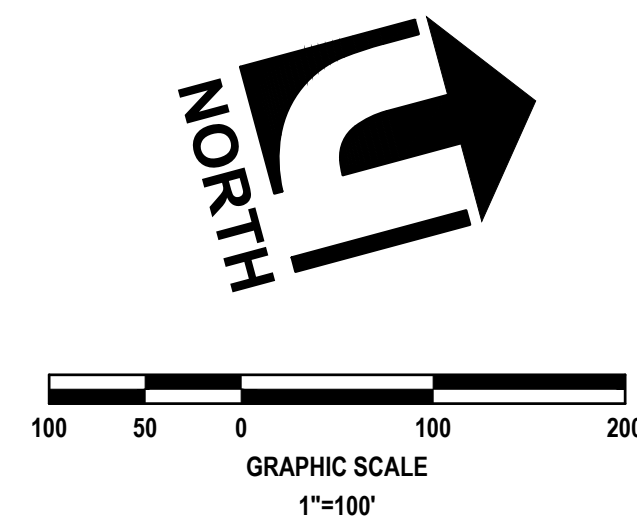


Monument Sign Dunlawton Avenue
for Tenants on Lot 3(A)

Monument Sign One, Dunlawton Avenue



Monument Sign Dunlawton Avenue on Lot 3(A) for Tenants on Lot 3 and Lot 3(B)



LOT	CONSERVATION AREA	COMMERCIAL AREA
1	1.06 AC.	--
2, 3, 3A, 3B, 4, 5, 6, 6A, 8	--	45.90 AC.
7, 9	23.16 AC.	--
TOTAL	24.22 AC.	45.90 AC.

EXHIBIT B

REVISIONS	
DATE	DESCRIPTION
06/26/17	UPDATED TO MATCH 8TH
	AMENDMENT
07/11/17	REV PER 6/23 COMMENTS

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CONCEPTUAL DEVELOPMENT PLAN
PORT ORANGE GATEWAY CENTER
DUNLAWTON AVENUE
PORT ORANGE, FLORIDA

PROJECT No:	170203
DATE:	MAY 24, 2017
DESIGN BY:	RWS
DRAWN BY:	JAE
CHECKED BY:	RWS
SCALE:	AS SHOWN
SHEET NUMBER:	

1



1000 Nicollet Mall
Minneapolis, MN 55403

Jennifer Santelli
Senior Development Manager
Direct: 612-761-7080
Mail Stop TPN-12K
jennifer.santelli@target.com

April 18, 2017

Director of Community Development
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

**Re: Target Parking Reduction
T1795 Port Orange FL**

Dear Director:

Target Corporation has over fifty years of experience in designing, building and maintaining parking lots to service our portfolio of stores throughout the United States. Target continually evaluates our product and delivery of our brand throughout the stores and within our sites to provide a quality guest experience. Over the past decade, Target has taken an interest in maintaining our Target brand and streamlining our operations to create efficiencies in our delivery chain and reduce ongoing maintenance costs operations. One significant area which has received significant review is the amount of parking that the Target stores have for our guests. For many years the standard parking ratio for retail operations, including Target, was five (5) stalls per one thousand (1,000) square feet of building. Target built a number of stores at this ratio, including the Port Orange store. In an effort to continue to provide a quality guest experience and understand how our sites operate, especially the amount, efficiency and supply of parking that our stores require, Target executed a Parking Needs Study to identify the parking necessary to support a store of a specific sales volume.

The Parking Needs Study involved evaluation of the number of vehicles present during the busiest periods of the year, which fall in December during the holiday season. This evaluation included counting cars in the parking lot over a period of time to determine parking needs. These counts were then referenced against the cash register transactions for the corresponding time frames and from these holiday transactions the busiest hours of operation were determined with a field verified parking demand. While the Urban Land Institute recommends a design standard of the twentieth (20th) highest hour of operation, Target chose to design to the eighth (8th) highest hour of operation. From the over one hundred studies at various urban and suburban sites across the country, Target was able to establish a formula for calculating eighth (8th) busiest hour parking demand based on annual store sales. We have found this formula to be a much more accurate calculation for parking versus building size.

Bearing that in mind, the extracted store study data below describes nine stores of similar sales volume and the number of cash register transactions with simultaneous parking lot car counts on Saturday afternoon one weekend before Christmas at approximately 3:00 PM. As noted, the Urban Land Institute recommends a design standard of the twentieth (20th) highest hour of operation while the data below averages at the

eighth (8th) highest hour of operation providing an additional buffer to the proposed parking supply for the Port Orange development.

Store Location	Cash Register Transactions/hr	Parking Car Counts
Lombard, IL	576	381
Oswego, IL	475	306
Palmdale, CA	441	365
Santa Ana, CA	481	340
Edgewater, NJ	596	417
Linden, NJ	597	322
Eagan, MN	498	305
Glenview, IL	421	334
Wheaton, IL	421	292
Totals averaged	500	340

For comparison, the 2016 eighth (8th) highest hour at the Port Orange store was 319 transactions per hour, with the busiest hour at 414 transactions per hour, both well below the average for comparison stores, suggesting that the average parking count of 340 is conservative and sufficient. Based on this data, Target has determined that approximately 340 stalls are required to successfully operate this store to our strict standards. With the store at approximately 174,700 square feet, this equates to a parking ratio of 1.94/1,000 s.f.

With a proposed post-development parking supply of approximately 510 spaces, or 2.9/1,000 s.f. for the Port Orange store, Target Corporation is committed to the redevelopment of our existing real estate with the knowledge that the parking proposed in the redevelopment is sufficient for our success.

Target appreciates your consideration of this matter. Please contact me at Jennifer.Santelli@Target.com if you have any questions.

Sincerely,



Jennifer Santelli, AICP



STAFF REPORT

Subdivision Replat/Port Orange Gateway Center, Lot 3
CASE NO. 17-50000003

Request:	To Replat Gateway Center PCD Lot 3 into three lots.
Location:	1771 Dunlawton Ave.
Owner:	Target Corporation
Applicant:	Roger W. Strcula, P.E., Upham, Inc.
Staff Recommendation:	Approval
Staff Contact:	Penelope Cruz (386) 506-5671
Planning Commission Date:	July 27, 2017 (continued from June 22, 2017)

PROPERTY OVERVIEW

Roger W. Strcula, applicant, requests approval to Replat Lot 3 (± 18.5 acres) of the Gateway Center PCD Subdivision. The subject property is located on the west side of Dunlawton Avenue, north of I-95 (Figure 1). If approved, the Replat will create one ± 13.93 -acre lot (Lot 3, the existing Super Target retail store), one ± 2.06 -acre outparcel (Lot 3A), and one ± 2.99 -acre outparcel (Lot 3B).



The subject property is zoned Planned Commercial Development (PCD) with a Future Land Use (FLU) designation of *Commercial*. Staff is concurrently reviewing the Eighth Amendment to the Amended and Restated Gateway Center PCD Master Development Agreement (MDA) and Conceptual Development Plan (CDP). The Eighth Amendment will provide requirements for the development of Lot 3A and Lot 3B. Approval of the Eighth Amendment is required for the Subdivision Replat to be approved. The proposed Replat would reconfigure the existing Lot 3 into 3 lots (Exhibit 1). The proposed 3 lots have been designed according to the requirements of the City's Land Development Code (LDC) and the dimensional standards outlined in the proposed Eighth Amendment. If the Eighth Amendment and the Replat are approved, the applicant intends to build a ±25,000 square-foot commercial multi-tenant building on Lot 3B and a ±11,982 square-foot multi-tenant building on Lot 3A.

DISCUSSION

The proposed subdivision will be consistent with the development requirements set forth in the Land Development Code (LDC), Amended and Restated Gateway Center PCD Master Development Agreement, and the proposed Eighth Amendment. Development of Lot 3A and Lot 3B will require Site Plan approval. The proposed lots will be accessed through the existing entrance points to the shopping center and the cross-access drives. The existing conservation easements will not be impacted by the subdivision and will remain. The permitted uses for the site are set forth in the proposed Eighth Amendment and include such uses as retail, restaurants, and offices.

There are existing utility easements on Lot 3 that will remain depicted on the proposed Replat. However, after the Replat has been recorded, the developer of Lot 3B will be requesting the City Council to approve the vacation of a portion of the utility easement to accommodate the proposed building layout. The easements will officially be vacated when the new utility infrastructure has been installed according to the approved Site Plan for Lot 3B and the City has received easements from the property owner over the relocated utility infrastructure. After the new easements are recorded, building permits for Lot 3B can be issued.

CONCURRENCY REVIEW

Public facilities and services are currently available to serve the existing Lot 3 (Super Target retail store) and the two proposed lots (Lot 3A and Lot 3B). Consistent with the LDC, the concurrency review for transportation, water, sewer, solid waste, and stormwater drainage will be conducted with the Site Plan review for Lot 3A and Lot 3B.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The proposed Replat for the Gateway Center Subdivision is consistent with the City's Comprehensive Plan. The subject property is designated *Commercial* on the City's Future Land Use map. The Gateway Center Subdivision is part of the Regional Commercial Node designated in the Comprehensive Plan at the Dunlawton/I-95 Interchange. The original PCD and MDA were found to be consistent with the City's Comprehensive Plan when it was approved in 1999.

OUTSTANDING TECHNICAL COMMENTS

The Staff Development Review Committee (SDRC) has reviewed this proposal and the applicant will need to address some minor comments related to formatting of the Replat prior to this item being considered by City Council.

RECOMMENDATION

Staff recommends approval of the Port Orange Gateway Lot 3 Replat, subject to the approval of the Eighth Amendment to the Amended and Restated Master Development Agreement and Conceptual Development Plan to the Port Orange Gateway Center PCD (Case No. 17-40000001).

ATTACHMENTS

1. Exhibit 1 – Replat



STAFF REPORT

15th AMENDMENT TO THE COUNTRYSIDE PUD MDA & CDP
CASE NO. 17-40000003

REQUEST:	Amend the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Countryside Planned Unit Development (PUD).
PROPERTY OWNER:	Suntrust Bank
APPLICANT:	Robert Ziengenfuss, Z Development Services
LOCATION:	1058 Dunlawton Ave.
STAFF CONTACT:	Briana Conlan-King, Planner (386) 506-5676
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION DATE:	July 27, 2017

DISCUSSION:

The subject property is currently zoned Planned Unit Development (PUD) and is part of the Countryside PUD. The Countryside PUD was approved in 1981 and established as a +/- 400 acre mixed-used development. Since 1981, the Countryside PUD has been amended fourteen times over 36 years. The proposed 15th Amendment to the Countryside PUD Master Development Agreement (MDA) and Conceptual Development Plan (CDP) would apply to the +/- 1.5 acre former Suntrust Bank property located at the southwest corner of Dunlawton Avenue and South Swallow Tail Drive (Figure 1 – Location Map). The proposed amendment is to expand the bank use currently permitted on the property to allow additional commercial uses.

Figure 1 - Location Map



The MDA and CDP (Master Land Use Plan), approved in 1981, designated bank as the only use allowed on the property. From 1981 to 2016, the subject property has been occupied by a bank. The subject property has been vacant since 2017.

According to the applicant, the proposed amendment to the MDA and CDP is to expand the permitted uses on the subject property to allow commercial uses, as allowed in the Community Commercial (CC) zoning district, to assist the redevelopment of the subject property. The applicant states that it is difficult to predict future redevelopment options on the subject property, and if the only use allowed on the property is a bank, it limits the redevelopment options for the site.

If the amendment is approved, the existing bank building will be demolished and a development application to construct a commercial multi-tenant building is anticipated to be submitted. At this time, future tenants have not been identified.

The CC zoning district permits typical community-scale commercial uses commonly found at shopping centers and outparcels of this type such as retail stores, restaurants, personal services (hair salon, barber shop, nail salon, retail dry cleaning, etc.), offices, breweries, child care centers, convenience store/gas station, banks, and similar uses. The current Countryside PUD MDA states that only one convenience store with fuel is allowed on the north side and south side of Dunlawton Avenue within the Countryside PUD. At this time, there is a convenience store with fuel on the north side of Dunlawton Avenue (Wawa) and on the south side of Dunlawton Avenue (Circle K). As a result, no additional convenience store with gas is allowed unless one of the existing stores closes.

Access to the property is available off South Swallow Tail Drive and Butterfly Lane. Water and sewer is available and serves the property. As part of any future site improvements, a site plan would be required and stormwater, traffic generation, landscaping, tree preservation, architecture and modifications to the parking lot will be addressed in accordance with the City standards in the Land Development Code (LDC). The applicant is not requesting any deviations from the LDC as part of the proposed 15th Amendment.

RECOMMENDATION:

Staff recommends **approval** of the 15th Amendment to the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Countryside Planned Unit Development (PUD).

ATTACHMENT:

Exhibit 1 – 15th Amendment to the Master Development Agreement (MDA) and Conceptual Development Plan (CDP)



REVISED

This Instrument Prepared By:
Jonathan P. Huels
Lowndes, J)rosdick, Doster, Kantor & Reed, P.A.
215 N. Eola Drive
Orlando, FL 32801

**STATE OF FLORIDA
COUNTY OF VOLUSIA**

**FIFTEENTH AMENDMENT TO
COUNTRYSIDE PLANNED UNIT
DEVELOPMENT
MASTER LAND USE PLAN**

THIS FIFTEENTH AMENDMENT TO COUNTRYSIDE PLANNED UNIT DEVELOPMENT MASTER LAND USE PLAN (this "Fifteenth Amendment") is entered into by and between the City of Port Orange, a Florida municipal corporation whose address is 1000 City Center Circle, Port Orange, FL 32129 (the "City"), and Hill/Gray Seven, L.L.C., a Florida limited liability company whose address is 1350 City View Center, Oviedo, FL 32765 (the "Owner"), and constitutes the fifteenth amendment to the Countryside Planned Unit Development Agreement.

WHEREAS, the City approved the Countryside Planned Unit Development Agreement recorded December 14, 1981, in the Official Records Book 2317, Page 1531, Public Records of Volusia County, Florida which was subsequently amended (the "PUD Agreement");

WHEREAS, the PUD Agreement included an exhibit known as the "Master Land Use Plan" that specified the type and intensity of use of various parcels with the Countryside Planned Unit Development;

WHEREAS, the Owner is the owner of certain real property (the "Subject Property") located in Port Orange, Florida more particularly described Exhibit "A";

WHEREAS, the Master Land Use Plan (now commonly referred to as Conceptual Development Plan "CDP") is one of the guiding documents for the implementation of development and access permitted by the PUD Agreement, and the Developer wishes to redevelop the Subject Property for commercial uses in accordance with the Master Land Use Plan, as amended by the Master Land Use Plan Insert, attached hereto as Exhibit "B" and otherwise consistent with the City of Port Orange Land Development Code; and

WHEREAS, the proposed changes are consistent with the City of Port Orange Comprehensive Plan and Land Development Code.

NOW, THEREFORE, the City, and the Owner hereby agree, in consideration of mutual premises and covenants contained herein, and with the intent to be legally bound and to bind their successors and assigns to the following:

1. The recitals stated above are true and correct and are incorporated herein by reference.

2. This Fifteenth Amendment to the PUD Agreement shall apply only to the Subject Property.
3. This Fifteenth Amendment, the PUD Agreement, as previously amended and all applicable City ordinances, resolutions and regulations in effect at the time of development of the Subject Property shall govern the development unless they are in conflict with the terms and provisions of this Amendment. In that event, this Amendment shall control. in case of any conflict between the terms of this Fifteenth Amendment and the exhibits to or terms contained in the PUD Agreement as amended, the terms and exhibits contained in this Fifteenth Amendment shall control. The Owner agrees to be bound by all other applicable City ordinances, resolutions and regulations that are not in conflict with or contrary to the terms and exhibits of this Fifteenth Amendment or the PUD Agreement as amended. .
4. The Subject Property shall be developed for commercial uses permitted in the PUD Agreement, which allowed uses and dimensional requirements shall expressly include those listed in the City's Community Commercial (CC) Zoning District, as may be amended from time to time, and developed in conformity with the insert to the Master Land Use Plan, as amended, prepared by Z Development Services and dated June 12, 2017, a copy of which is attached hereto and by reference made a part hereof as Exhibit "B". With approval of this Fifteenth Amendment, Exhibit "B" shall supersede the Master Land Use Plan and the PUD Agreement as they relate to the Subject Property.

Development of the Subject Property for commercial uses shall comply with the development requirements set forth in the City's Land Development Code, as may be amended from time to time. It is acknowledged by all parties hereto that approval of this Fifteenth Amendment, and the exhibits attached hereto, does not constitute final site plan approval. The parties hereto acknowledge that the final site plan will address the requirements as set forth in the PUD Agreement, as amended, and in accordance with the City of Port Orange Land Development Code.

5. This Fifteenth Amendment shall be recorded in the Public Records of Volusia County Florida. The provisions of the Fifteenth Amendment shall inure to the benefit of the parties hereto and the Subject Property, and shall be binding upon any person, firm or corporation that may become a subsequent owner, successor in interest or assign, directly or indirectly, of the Subject Property or any portion thereof.
6. In the event of any claim, action, litigation or proceeding under this Fifteenth Amendment, venue shall be in Volusia County, Florida and no other location, and the prevailing party shall be entitled to an award of reasonable attorney's fees and costs.
7. If any provision of the Fifteenth Amendment is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding shall not affect the validity or enforceability of any other provision of this Fifteenth Amendment.

8. This Fifteenth Amendment and the Master Land Use Plan, as amended, represents the complete understanding by and between the parties with respect to the development of the Subject Property. All other terms and provisions of the Master Land Use Plan and the PUD Agreement shall remain in full force and effect to the extent not otherwise modified by, or in conflict with, this Fifteenth Amendment.

[signatures on following pages]

IN WITNESS WHEREOF, the patties have accepted this Fifteenth Amendment, by and through their duly authorized representatives, on the dates indicated below.

WITNESSES:

HILL/GRAY SEVEN, LLC, a Florida
limited liability company

By:

Name: _____

Name: _____

Title: _____

Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2017, by _____, as _____ of Hill/Gray Seven, LLC, a Florida limited liability company, who acknowledges that he/she is duly authorized to execute the foregoing agreement on behalf of said entity. He/She is personally known to me.

Notary Public, State of Florida at Large

Printed, typed or stamped name, commission and expiration of commission term

WITNESSES:

CITY OF PORT ORANGE, a Florida
Municipal Corporation.

By:

Name: _____

Donald O. Burnette, Mayor

Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Donald O. Burnette, Mayor of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledges that he is duly authorized to execute the foregoing agreement on behalf of the City. He is personally known to me.

Notary Public, State of Florida at Large

Printed, typed or stamped name, commission and expiration of commission term

Attest:

Name: _____

Robin L. Fenwick, City Clerk

Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Robin L. Fenwick, as City Clerk, of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledges that she is duly authorized to execute the foregoing agreement on behalf of the City. She is personally known to me.

Notary Public, State of Florida at Large

Printed, typed or stamped name, commission and expiration of commission term

Exhibit "A"

Parcel 1:

Lot 3, of HOWELL PLACE AT COUNTRYSIDE, according to plat thereof recorded in Plat Book 40, Page 12 of the Public Records of Volusia County, Florida.

Parcel 2:

A portion of Parcel "A", of HOWELL PLACE AT COUNTRYSIDE, according to plat thereof recorded in Plat Book 40, Page 12 of the Public Records of Volusia County, Florida, being more particularly described as follows:

From the Point of Beginning being the Northeast corner of said Parcel A, thence South $33^{\circ}58'19''$ East along the Easterly line of said Parcel "A", a distance of 330.57 feet to a point in the Northerly right-of-way line of Butterfly Boulevard (a 50 foot wide right-of-way); thence South $56^{\circ}02'38''$ West along said Northerly right-of-way of Butterfly Boulevard, a distance of 10.00 feet; thence North $33^{\circ}58'49''$ West departing said Northerly right-of-way of Butterfly Boulevard, a distance of 330.57 feet to a point in the Southerly right-of-way line of Dunlawton Boulevard (a 200 foot wide right-of-way also known as State Road 421); thence North $56^{\circ}01'11''$ East along said Southerly right-of-way line of Dunlawton Boulevard, a distance of 10.00 feet to the Point of Beginning.

RECEIVED
7-7-17
CITY OF PORT ORANGE
Community Development

REVISED

JURISDICTION: CITY OF PORT ORANGE, FLORIDA
PARCEL ID No: 09-16-33-11-00-0030

DATE: 07-06-17

PARCEL 1:
LOT 3, HOWELL PLACE AT COUNTRYSIDE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 40, PAGE 12, OF THE PUBLIC
RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL 2:
A PORTION OF PARCEL "A", HOWELL PLACE AT COUNTRYSIDE, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 40, PAGE 12, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF SAID PARCEL "A"; THENCE SOUTH 33°58'19" EAST ALONG THE EASTERLY LINE OF SAID PARCEL "A", A DISTANCE OF 330.57 FEET TO A POINT IN THE NORTHERLY RIGHT-OF-WAY LINE OF BUTTERFLY BOULEVARD (A 50 FOOT WIDE RIGHT-OF-WAY); THENCE SOUTH 56°02'38" WEST ALONG SAID NORTHERLY RIGHT-OF-WAY OF BUTTERFLY BOULEVARD, A DISTANCE OF 10.00 FEET; THENCE NORTH 33°58'49" WEST DEPARTING SAID NORTHERLY RIGHT-OF-WAY OF BUTTERFLY BOULEVARD, A DISTANCE OF 330.57 FEET TO A POINT IN THE SOUTHERLY RIGHT-OF-WAY LINE OF DUNLAWTON BOULEVARD (A 200 FOOT WIDE RIGHT-OF-WAY ALSO KNOWN AS STATE ROAD 421); THENCE NORTH 56°01'11" EAST ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DUNLAWTON BOULEVARD, A DISTANCE OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 68,645 SQUARE FEET OR 1.576 ACRES MORE OR LESS.

OWNER/DEVELOPER

SUNTRUST BANK
919 E MAIN ST 14TH FLOOR
RICHMOND, VIRGINIA 23219
PHONE: 813-284-3330
CONTACT: KEVIN POMET
EMAIL: KEVIN.POMET@SUNTRUST.COM

Z DEVELOPMENT SERVICES
708 EAST COLONIAL DRIVE, SUITE 100
ORLANDO, FLORIDA 32803
PHONE: 407-271-8910
FAX: 407-442-0604
CONTACT: ROBERT ZIEGENFUSS, PE
EMAIL: BOB@ZDEVELOPMENTSERVICES.COM

CADD SCAPES, INC.
3162 PAMA DRIVE
DELTONA, FLORIDA 32738
PHONE: 407-310-5567
CONTACT: JASON BRIDGEWATER, RLA
EMAIL: JASONBRIDGEWATER@GMAIL.COM

ACCURIGHT SURVEYS OF ORLANDO, INC.
2012 E. ROBINSON STREET
ORLANDO, FLORIDA 32803
PHONE: 407-894-6314
CONTACT: JAMES D. BRAV, PSM
EMAIL: JBRAV@ACCURIGHTSURVEYS.NET

SHEET No.	DESCRIPTION
CV	COVER SHEET
C1	LAND USE PLAN

[illegible]

Z DEVELOPMENT
s e r v i c e s
CA 29354
708 E. COLONIAL DR., STE 100 PH: (407) 271-8910
ORLANDO, FL 32803 FAX: (407) 442-0604

REVISION	DATE	REVISION	DATE
CITY PLD COMMENTS	07-06-17		

ROBERT ZIEGENFUSS, P.E., LEED AP
FL REG. # 56752

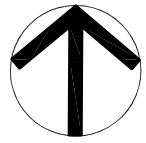
1058 DUNLAWTON AVENUE
PORT ORANGE, FLORIDA

DATE: 06-12-17
DRAWN: OH
CHECKED: RZ

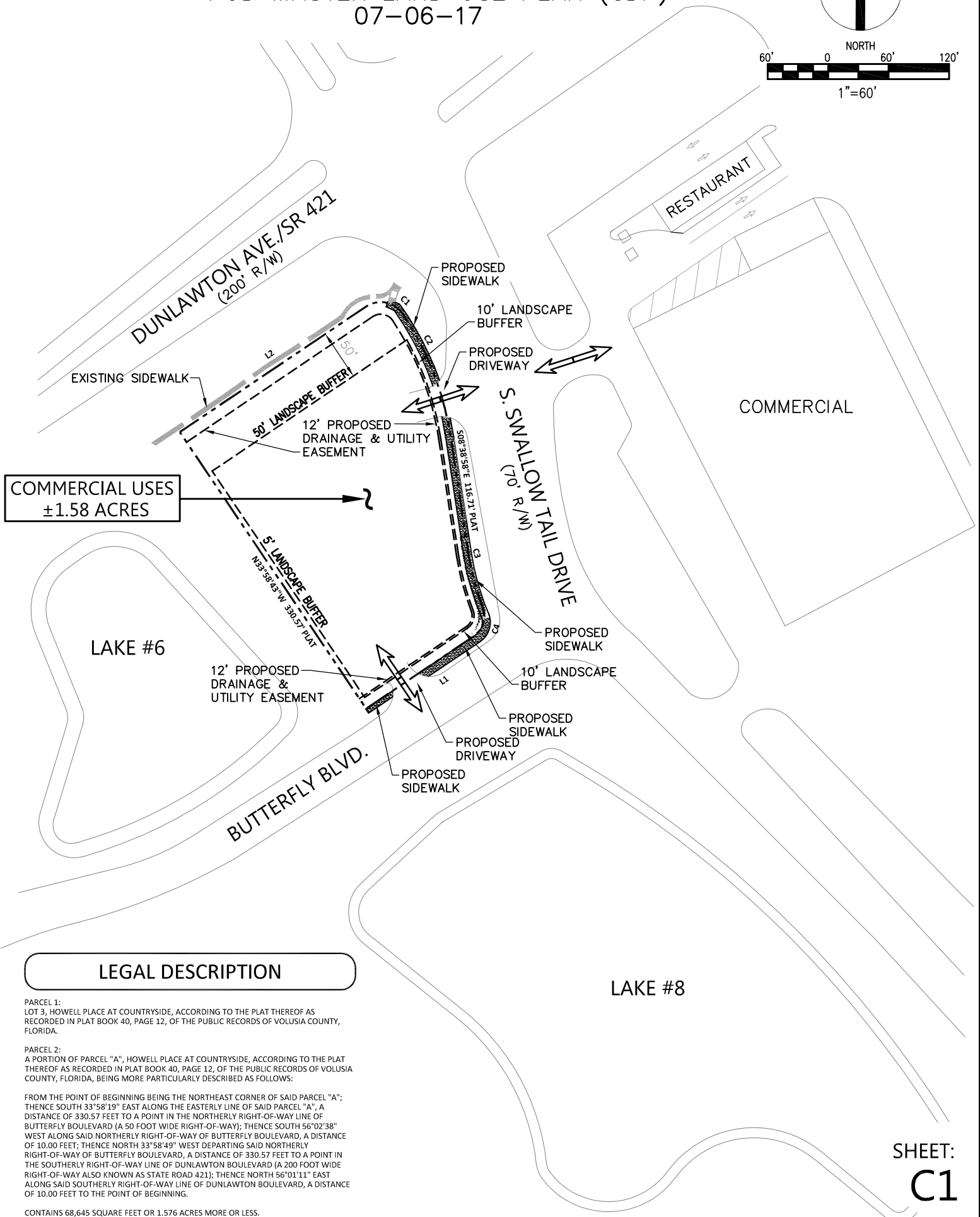
CV

PROJECT NO.: 2017.115

15th AMENDMENT TO THE COUNTRYSIDE
PUD MASTER LAND USE PLAN (CDP)
07-06-17



60' 0 60' 120'
NORTH
1"=60'



LEGAL DESCRIPTION

PARCEL 1:
LOT 3, HOWELL PLACE AT COUNTRYSIDE, ACCORDING TO THE PLAT THEREOF AS
RECORDED IN PLAT BOOK 40, PAGE 12, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY,
FLORIDA.

PARCEL 2:
A PORTION OF PARCEL "A", HOWELL PLACE AT COUNTRYSIDE, ACCORDING TO THE PLAT
THEREOF AS RECORDED IN PLAT BOOK 40, PAGE 12, OF THE PUBLIC RECORDS OF VOLUSIA
COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM THE POINT OF BEGINNING BEING THE NORTHEAST CORNER OF SAID PARCEL "A";
THENCE SOUTH 33°58'19" EAST ALONG THE EASTERLY LINE OF SAID PARCEL "A", A
DISTANCE OF 330.57 FEET TO A POINT IN THE NORTHERLY RIGHT-OF-WAY LINE OF
BUTTERFLY BOULEVARD (A 50 FOOT WIDE RIGHT-OF-WAY); THENCE SOUTH 56°02'38"
WEST ALONG SAID NORTHERLY RIGHT-OF-WAY OF BUTTERFLY BOULEVARD, A DISTANCE
OF 10.00 FEET; THENCE NORTH 33°58'49" WEST DEPARTING SAID NORTHERLY
RIGHT-OF-WAY OF BUTTERFLY BOULEVARD, A DISTANCE OF 330.57 FEET TO A POINT IN
THE SOUTHERLY RIGHT-OF-WAY LINE OF DUNLAWTON BOULEVARD (A 200 FOOT WIDE
RIGHT-OF-WAY ALSO KNOWN AS STATE ROAD 421); THENCE NORTH 56°01'11" EAST
ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE OF DUNLAWTON BOULEVARD, A DISTANCE
OF 10.00 FEET TO THE POINT OF BEGINNING.

CONTAINS 68,645 SQUARE FEET OR 1.576 ACRES MORE OR LESS.

LAKE #8

SHEET:
C1



STAFF REPORT

CASE NO. 17-25000005

LDC Amendment/Chapters 2, 12, 16, 17, and 18

REQUEST:	To amend Chapters 2, 12, 16, 17, and 18 to apply the zoning requirements for a pharmacy in the City to a medical marijuana dispensary to be consistent with State law and also remove all regulations related to the cultivation and processing of medical marijuana preempted by State law.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval , based on the general direction provided by the City Council at their 7-18-17 meeting
STAFF CONTACT:	Penelope Cruz, Principal Planner (386) 506-5671
PLANNING COMMISSION DATE:	July 27, 2017

Introduction

On June 23, 2017, Governor Scott signed into law, new state legislation for uses related to medical marijuana. The new State law for medical marijuana preempts local government's regulation of medical marijuana treatment centers with dispensing facilities (medical marijuana dispensaries) along with the cultivation and processing of marijuana.

According to the new state law, a local government has two options for regulating medical marijuana dispensaries:

1. The City can by Ordinance ban medical marijuana dispensaries from locating within the boundaries of the City; or
2. The City can allow medical marijuana dispensaries in any zoning district where a pharmacy is an allowed use, except for sites located within 500 feet of a public or private elementary, middle, or secondary school.

A pharmacy is classified as a retail use and is allowed in all the City's standard commercial zoning districts [Highway Commercial (HC), Interchange Commercial Development (ICD), Community Commercial (CC), Ridgewood Development (RD), Planned Community-agricultural (PC-A), Planned Community-Riverwalk (PC-R) and a majority of the Planned Commercial Developments (PCD)].

The new state law also delegated the authority to regulate the cultivation and processing of marijuana to the State. The City's current zoning regulations related to

cultivation and processing of medical marijuana are not consistent with the new state law and are no longer enforceable.

Based on the new law, any use involving the cultivation and processing of marijuana could be developed on land zoned for agricultural uses (cultivation) and industrial uses (processing), subject to complying with the state requirements for these uses.

At the July 18, 2017 meeting, Council provided general direction to prepare an amendment to the LDC that would treat medical marijuana dispensaries consistently with the zoning requirements for pharmacies in the City and also remove all regulations related to the cultivation and processing of medical marijuana preempted by State law.

Summary of Proposed Amendments

- Revise the definition of *retail pharmacy* to include *medical marijuana treatment center dispensing facility* [Chapter 2];
- Remove the definitions for *medical marijuana cultivation*, *medical marijuana dispensaries*, and *medical marijuana processing facilities* [Chapter 2];
- Remove the parking requirements specific to medical marijuana related uses as pharmacy parking requirements would be applicable [Chapter 12];
- Remove the marijuana related uses from the list of prohibited home occupations [Chapter 16];
- Remove text regarding the 2014 expired moratorium on medical marijuana related facilities and activities [Chapter 16];
- Remove *medical marijuana dispensaries* as a Special Exception use in the Community Commercial zoning district; and remove *medical marijuana cultivation* and *medical marijuana processing facilities* as Special Exception uses in the Commercial Industrial and Light Industrial zoning districts [Chapter 17]; and
- Remove the special requirements for medical marijuana related Special Exception uses [Chapter 18].

Recommendation

Approval of the amendments to Chapters 2, 12, 16, 17, and 18 of the Land Development Code.