



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, June 25, 2020

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. APPLICATION: Conditional Use/Christ the King Community Church
LOCATION: 6015 Spruce Creek Rd.
CASE NO.: 20-30000001
APPLICANT: Scott Kirschner, Christ the King Community Church
STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675/tburman@port-orange.org

A request by the applicant for approval of a Conditional Use to allow outdoor church services and program/meetings on the subject property.

6. APPLICATION: PUD Amendment/First Amendment to the New Port Planned Unit Development Master Development Agreement
LOCATION: 1401 Reed Canal Rd.
CASE NO.: 20-40000002
APPLICANT: POA Development, LLC
STAFF CONTACT: Briana Conlan-King, Senior Planner (386) 506-5676/brking@port-orange.org

A request by the applicant to amend the Master Development Agreement (MDA) for the New Port Apartments Planned Unit Development (PUD) to allow the multi-family development project to be completed in phases in accordance with the requirements in the Land Development Code.

7. APPLICATION: PUD Amendment/Third Amendment to the Woodhaven Planned Unit Development Master Development Agreement

LOCATION: North of Pioneer Trail, between I-95 and the Cypress Head Subdivision
CASE NO.: 20-40000003
APPLICANT: CC Woodhaven, LLC
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

A request by the applicant to amend the Master Development Agreement (MDA) for the Woodhaven Planned Unit Development (PUD) to address modifications to subdivision and lot design/requirements for their future residential developments within the PUD.

8. APPLICATION: PCD Amendment/Second Amendment to the Amended and Restated Riverwalk Planned Commercial Development Master Development Agreement

LOCATION: East of Ridgewood Avenue, south of Ocean Avenue, north of Herbert Street

CASE NO.: 20-40000004

APPLICANT: Josif Atanasoski, Manager, Halifax River Partners, LLC

STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675/tburman@port-orange.org

A request by the applicant to amend the Amended and Restated Master Development Agreement (MDA) for the Riverwalk Planned Commercial Development (PCD) to extend the required completion of the Riverwalk Phase 1 site improvements and restaurant building (Fysh Bar & Grill) to September 20, 2021.

9. APPLICATION: 20-1 Large-Scale Comprehensive Plan Amendment/4057 Bruner Road

LOCATION: 4057 Bruner Road

CASE NO.: 20-20000002

APPLICANT: City of Port Orange

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

A request to amend the Comprehensive Plan Future Land Use (FLU) Map to change the FLU for ±18.7 acres from Volusia County *Urban Low Intensity* (0.2-4 units/acre) to *City of Port Public/Institutional*.

10. APPLICATION: Administrative Rezoning/4057 Bruner Road and 4505 Clyde Morris Boulevard

LOCATION: 4057 Bruner Road and 4505 Clyde Morris Boulevard

CASE NO.: 20-60000004

APPLICANT: City of Port Orange

STAFF CONTACT: Gwen Perney, Senior Planner (386) 506-5673/gperney@port-orange.org

A request to rezone ±18.7 acres from Volusia County (MH-1) to City of Port Orange Government Public Use (GPU) and ±8.1 acres from Multi-Family Residential (R-3L)

to GPU.

11. APPLICATION: LDC Amendment/Chapter 20
CASE NO.: 20-25000003
APPLICANT: City of Port Orange
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

A request to approve amendments to Chapter 20 of the Land Development Code (LDC), regarding the Ridgewood Targeted Business Program.

C. OTHER BUSINESS

12. Commissioner Comments
13. Staff Comments

D. PUBLIC COMMENTS

E. ADJOURNMENT

NOTICES – PURSUANT TO SECTION 286.0105 OF THE FLORIDA STATUTES, IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS PUBLIC MEETING OR HEARING, SUCH PERSON WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, SUCH PERSON MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED. THE CITY DOES NOT PREPARE OR PROVIDE SUCH A RECORD.



FOR SPECIAL ACCOMMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) 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 OR HEARING DATE.



HELP FOR THE HEARING IMPAIRED IS AVAILABLE THROUGH THE ASSISTIVE LISTENING SYSTEM RECEIVERS CAN BE OBTAINED FROM THE CITY CLERKS' OFFICE.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), 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, 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 OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

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.

PUBLIC PARTICIPATION INSTRUCTIONS

Planning Commission Meeting

Thursday, June 25, 2020

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Due to the Novel Coronavirus Disease 2019 (COVID-19) and Federal, State, County, and the City's Declarations of State of Emergency, and City of Port Orange Executive Order 9, the City of Port Orange will be calling meetings only when necessary, and conducting public meetings using communications media technology until the Local State of Emergency has concluded. Those wishing to attend meetings are encouraged to join the meeting through electronic means.

The June 25, 2020 Planning Commission Meeting will be conducted physically in Council Chambers at City Hall, 1000 City Center Circle with an opportunity to participate virtually. Access in Council Chambers will be limited in order to comply with the safety instructions relating to COVID-19.

To view and/or participate in the Planning Commission meeting on June 25, 2020, which begins at 5:30 p.m., you have the following additional options:

1. Watch the meeting online, but not participate:

You may watch the meeting via Spectrum Channel 498 or through the City's YouTube Channel:

<https://www.youtube.com/channel/UCTYNmc7tZVRrB2NH5-Oj7hg>

2. Watch the meeting online and provide public comment prior to the meeting:

You may watch the meeting as listed above, and also provide written comments no less than 3 hours prior to the meeting time by emailing City Clerk Robin Fenwick at cityclerk@port-orange.org, regular mail at 1000 City Center Circle, Port Orange, FL 32129, or place it in the Drop Box at the front door of City Hall. Please include your full name, city of residence, and comments by the deadline and your comments will be read into the record. There is also a form located on the City's website at: www.port-orange.org/publiccomments which can be submitted electronically. Time limits will be enforced so written comments must be limited to no more than 3 minutes.

3. Watch the meeting online and provide public comment during the meeting:

Request to Speak instructions:

To request to attend virtually and speak during the meeting, you must complete the Request to Speak form prior to the start of the meeting to be placed on a list. You may access the form by visiting www.port-orange.org/publiccomments. You must fill out all required information for the form to be submitted. Forms are due to the City Clerk no later than 24 hours prior to the meeting date/time. Once the form is received, the meeting link and instructions will be provided to you via email.

For additional information or for special assistance prior to the meeting, please contact Robin Fenwick, City Clerk, cityclerk@port-orange.org or (386) 506-5563.

REGULAR PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
MAY 28, 2020

THE REGULAR PLANNING COMMISSION MEETING of the City of Port Orange was called to order by Chair Mills-Benat at 5:30pm.

Pledge of Allegiance

Silent Invocation

Roll Call

Present: Maria Mills-Benat, Chair
Thomas Jordan
Darrel “Bo” Bofamy
Lance Green
Newton White
Stan Schmidt

Absent: John Junco (excused)

Also Present: Shannon Balmer, Assistant City Attorney
Shelby Field, Assistant City Clerk

B. DISCUSSION/ACTION

4. Consideration of Minutes

Motion to approve the minutes as presented from February 27, 2020 was made by Commissioner White and Seconded by Commissioner Jordan. Motion carried unanimously by roll call vote.

Chair Mills-Benat read Commissioner Bofamy’s voting conflict form into the record. He is declaring a conflict for items # 5 and #6 on this agenda.

5. Case No: 19-20000005

Small-Scale Future Land Use Map Amendment/All Aboard Storage Taylor Road

A request by the applicant to change the Comprehensive Plan Future Land Use (FLU) designation for ±4.07 acres from Volusia County Urban Low Intensity (ULI) to City of Port Orange Office/Residential Transition (ORT).

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671 pcruz@port-orange.org

Penelope Cruz, Planning Manager, asked to open items #5 and #6 together. Commissioners agreed. Mrs. Cruz discussed details of the proposed amendment and rezoning and answered questions from Commissioners.

Andy Clark, President of All Aboard Storage, introduced himself and discussed his desire to make sure everything is right with the project and the surrounding neighbors and answered questions from Commissioners.

Joe Peterson, Crane Lakes HOA President, spoke for 6 of the 7 HOA board members in support of the All Aboard Storage project.

Motion to approve Case No. 19-20000005 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote with Commissioner Bofamy abstaining.

6. Case No: 19-65000003

PCD Rezoning/All Aboard Storage Taylor Road

A request by the applicant to approve rezoning of ±10.2 acres to All Aboard Storage Taylor Road Planned Commercial Development (PCD) and the Master Development Agreement (MDA) and Conceptual Development Plan (CDP).

STAFF CONTACT: Gwen Perney, Senior Planner (386) 506-5673 gperney@port-orange.org

Motion to approve Case No. 19-65000003 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote with Commissioner Bofamy abstaining.

7. Case No: 20-20000001

Small-Scale Future Land Use Map Amendment/Thrive Community Church

A request by the applicant to change the Comprehensive Plan Future Land Use (FLU) designation for ±8.2 acres from Volusia County Urban Low Intensity (0.2-4 units/acre) to City of Port Orange Rural Transition (0-2 units/acre).

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz asked to open items # 7 and #8 together. Commissioners agreed. Mrs. Cruz discussed details of the proposed amendment and rezoning and answered questions from Commissioners.

Michael Woods, Representative for the applicant, spoke on the desire to reduce the land use.

Motion to approve Case No. 20-20000001 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote.

8. Case No: 20-60000001
Rezoning/Thrive Community Church

A request by the applicant to rezone ±8.2 acres from Volusia County Rural Agriculture (A-2) to City of Port Orange Government/Public Use (GPU).

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671 pcruz@port-orange.org

Mrs. Cruz discussed details of the proposed amendment and answered questions from Commissioners.

Motion to approve Case No. 20-60000001 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote.

9. Case No: 20-40000001
Fourth Amendment to the Master Development Agreement and Conceptual Development Plan for the Home Depot PCD

A request by the applicant to amend the Master Development Agreement (MDA) and Conceptual Development Plan (CDP) for the Home Depot Planned Commercial Development (PCD).

STAFF CONTACT: Briana Conlan-King, Senior Planner (386) 506-5676 brking@port-orange.org

Mrs. Cruz discussed details of the proposed amendment and answered questions from Commissioners.

Jacob Lawson, Representative for the applicant, answered questions from Commissioners.

Motion to approve Case No. 20-40000001 with the policy consideration was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote.

10. Case No: 20-60000002
Administrative Rezoning/4035 Nova Road; 5245 and 5279 Nova Road; and 4050 Nova Road

A request to rezone ±0.95 acres from Planned Commercial Development (PCD) to Community Commercial (CC), ±2.36 acres from Commonwealth Plaza Planned Commercial Development

(PCD) to Community Commercial (CC), and ±17.9 acres from Professional Office (PO) and High Density Residential (R-3H) to Government Public Use (GPU).

STAFF CONTACT: Gwen Perney, Senior Planner (386) 506-5673 gperney@port-orange.org

Mrs. Cruz discussed details of the proposed rezoning and answered questions from Commissioners.

Motion to approve Case No. 20-60000002 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote.

11. Case No: 19-50000002

Subdivision Replat/Altamira Shopping Village

A request by the applicant to replat +/- 19 acres of the Altamira Shopping Village property into 5 lots and 3 tracts as shown on the approved Altamira Planned Commercial Development (PCD) Conceptual Development Plan (CDP).

STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675 tburman@port-orange.org

Tim Burman, Community Development Director, discussed details of the proposed subdivision replat and answered questions from Commissioners.

Robert Reinhausen, citizen, would like to know why a project started 9 years ago isn't being finished until now.

Michael Woods, Representative, explained the delays.

Motion to approve Case No. 19-50000002 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed unanimously by roll call vote.

C. OTHER BUSINESS

12. Commissioner Comments

Commissioner Jordan thanked staff for their hard work.

Commissioner White asked for an update on the Riverwalk project.

Commissioner Green is pleased with the progress made on the Madeline/Williamson property (former church) and staff's involvement.

13. Staff Comments

Mr. Burman provided an update on the Riverwalk project. He stated this may be an item that will come before the Planning Commission soon.

Mr. Burman provided an update on a few other projects in the city and answered questions from Commissioners.

D. PUBLIC COMMENTS

There were none.

E. ADJOURNMENT – 7:17pm

Chair Mills - Benat



STAFF REPORT

CASE NO. 20-30000001

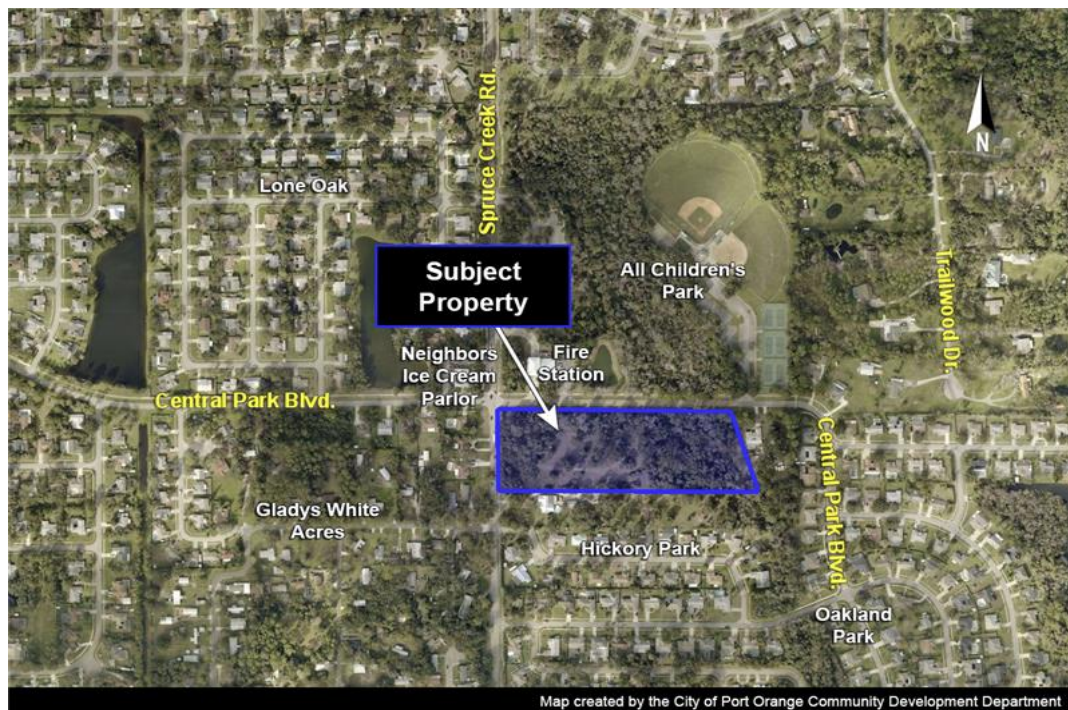
Conditional Use to allow outdoor church services and program/meetings

REQUEST:	Allow outdoor church services and activities/meetings
PROPERTY OWNER:	Christ the King Network
APPLICANT:	Scott Kirshner, Christ the King Church
STAFF RECOMMENDATION:	Approval
LOCATION:	6015 Spruce Creek Road (see Figure 1 – Location Map)
STAFF CONTACT:	Tim Burman, Community Development Director (386) 506-5675
CITY COUNCIL DATE:	June 25 th , 2020

PROPERTY OVERVIEW

The property owner/applicant, Christ the King Church, is requesting approval of a conditional use over for a two-year period to temporarily utilize their property for outdoor church services and activities/meetings while the church finalizes design plans to construct their permanent facility on the subject property. According to the applicant, they anticipate having a permanent building on-site within the next two years. The property is located at 6015 Spruce Creek Road, on the southeast corner of Central Park Boulevard and Spruce Creek Road.

Figure. 1 Location Map



In the Fall of 2019, the Church rezoned the property to Government/Public Use (GPU) with the intent to construct a church and fellowship hall on the subject property. The Church currently rents space at Cypress Creek Elementary School on Sundays. However, while the development plans are being prepared, the Church would like to use their property to hold outdoor services and activities/meetings and install temporary site improvements to allow the site to be used as the home for the Church. The primary use of the property under the proposed Conditional Use will be on Sunday mornings and church related activities on Saturday evening and/or after 5pm on the weekdays. The applicant has been advised of the requirements in the Code of Ordinances related to noise and light restrictions.

According to the Government/Public Use (GPU) zoning district, a church is a permitted use in the GPU zoning district, so the proposed Conditions Use is consistent with the subject property's current zoning. Typically, the use of a site is associated with a developed permanent building; however, in this case the use could occur outside and without a building. Over the last few weeks, the Church has been using the site since they are not able to meet at Cypress Creek Elementary School and some of the site improvements listed below exist on site (picnic tables, stage, exterior string lights, and trailer). Therefore, to establish parameters for the temporary use of the site as an outdoor church, staff recommended that a Conditional Use be requested by the church due to the uniqueness of the site use and to allow for specific conditions to ensure minimal impact to the surrounding area.

DEVELOPMENT PROPOSAL

As stated in the letter of request (See – Exhibit “A”), Christ the King Church's proposal for the next two years is to operate their church and other activities on the subject property using temporary structures. The applicant is proposing to install or maintain the following site improvements (See – Exhibit “B”).

- Installing a monument sign with landscaping around the sign base;
- Designate parking areas on existing cleared grassed areas to accommodate up to 125 vehicles. Parking areas are to be rotated periodically to keep grassed areas in good condition;
- Provide a driveway apron within the right-of-way and ten-foot beyond the right-of-way off Spruce Creek Road and Central Park Boulevard;
- Provide power into the site via an existing power pole on the south property line;
- Provide water to the site from an existing water service on Spruce Creek Road.
- Removing trash and litter after use;
- Install and maintain picnic tables, playground for kids, shed, stage, and exterior string lights; and
- Set-up of a tent for church service during times with inclement weather.

REVIEW CRITERIA

When reviewing an application for a Conditional Use, the Planning Commission and City Council must consider the following requirements and criteria [Chapter 18, Section 1(d)(2) of the Land Development Code].

- (a) Traffic generation and access for the proposed use shall not adversely impact adjoining properties and the general public safety.*

No adverse impacts to adjoining properties and the general public safety are anticipated with the approval of the Conditional Use. Access to the property will be through a designated access points along Spruce Creek Road and Central Park Boulevard that comply with the Land Development Code.

According to the latest traffic counts for Central Park Boulevard, Hensel Road, and Spruce Creek Road, capacity exists on these roadways to accommodate the conditional use and future development of this property. The church would only be using the site on weekends for worship and small group meetings during on weekdays. Therefore, staff does not foresee any adverse impacts to the safety of the general public.

- (b) 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.*

This criterion is met. Parking will be provided throughout the grassed site. As part of the conditional use, the applicant does not plan to develop any impervious parking areas. The intent is to have members of the church park throughout the site in designated grass parking area. According to the church, the anticipated number of guests is between 200 to 250. Based on the parking requirements in the LDC, 66 to 84 parking spaces would be needed. Based on an on-site parking analysis, there is enough space for current and future members of the church to parking on the subject property.

The church has designated multiple areas for parking, so areas are not over utilized become rutted, uneven, unable to drain properly, unsightly or unmaintained. According to the Land Development Code, if grassed parking areas are utilized so as to become rutted, uneven, unable to drain properly, unsightly or unmaintained, the city may require that the area be paved.

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

This criterion is met. The existing landscaping along the property lines and rights-of-way will remain and serve as the buffer. The applicant will be required to maintain the landscaping and site during the duration of the Conditional Use. In addition, landscaping will be installed around the ground sign and a hedge will be installed adjacent to the single-family home located to the south.

If any site improvements require trees to be removed, the applicant will be required to submit tree removal permits and install replacement materials as required by the Land Development Code.

- (d) 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.*

This criterion will be addressed with the submittal of building permits. Staff will ensure that this criterion is met through the review of building permits or site-plan. Items that will remain on-site to facilitate the use of the site as an outdoor church will be required to be screened, such as the equipment trailer, portable toilet, garbage cans, etc. As part of the conditional use, a permeant sign will be installed with additional architectural and landscape treatment. The applicant is aware of these necessary improvements.

The applicant has indicated that a building permit will be submitted to install a tent if there is pending inclement weather over a weekend so that service can occur. Tents that are greater than 10' X 10' require a building permit, to ensure proper installation. The applicant is aware of the requirement to secure a building permit and the timeframe the tent could remain up would be limited.

- (e) *Size, location or number of conditional uses in an area shall be limited so as to maintain the overall character of the district as intended by this code.*

This criterion is met. This would be the first use of this type in this area and as an interim use it will be removed once the permanent church is built. The conditional use is intended to establish a timeframe and parameters for the temporary use of the site for outdoor church service until their permanent building is constructed.

In granting a Conditional Use, the Planning Commission may recommend, and the City Council may prescribe appropriate conditions and safeguards to ensure compliance with the requirements of LDC. Such conditions may include time limits for the duration of the conditional use, specific minimum or maximum limits to regular code requirements, or any other conditions reasonably related to the requirements and criteria of this chapter.

RECOMMENDATION

Based on the findings of this report, Staff recommends **approval** of the Conditional Use to allow Christ the King Church's to hold outdoor weekly service and church related activities/meetings at 6015 Spruce Creek Road, subject to the following:

- One 32 SF maximum ground sign is the only signage allowed on the property.
- The Conditional Use will expire on July 21, 2022.;
- Site lighting may emit no more than 0.5 foot-candles at the property line and will not spill over onto adjacent properties and rights-of-way.
- Sound or noise projecting from this shall not exceed dBA of 60 between the hours of 7:00am -10:00pm and dBA of 50 10:00pm – 7:00am. It will be the responsibility of the permit holder to monitor for noise violations.
- The Conditional Use is only valid for Christ the King Church.
- If other events are planned other than activities mentioned in the Conditional Use, a special event permit would need to be submitted and approved (e.g. Fall Festival).
- The construction of screening for equipment to remain on site, modification to existing temporary sign, landscape buffer along the south property line, and at least one concrete driveway apron is required within 2 months of the Conditional Use approval.

ATTACHMENTS

1. Exhibit A – Letter of Request form the Applicant
2. Exhibit B – Concept Plan

ZAHN ENGINEERING, INC.

Land Planning • Civil Engineering • Permitting

June 19, 2020

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

ZEI#108

**Re: Christ the King Church
Conditional Use
6015 Spruce Creek Road**

Dear Tim:

Please revise our request for a Conditional Use dated May 18, 2020 for the Christ the King Church property located at 6015 Spruce Creek Road, and revise the Concept Plan per the attached.

The intention is to utilize the property for outdoor church services and related uses for a time frame not to exceed two years. This allows for growth of the congregation and funds toward construction of a church and related infrastructure (paving, grading, utilities, lighting, landscaping, etc.). As shown in the attached Concept Plan the following improvements are anticipated under this application:

- Stage and outdoor gathering area (200-250 worshipers)
- A tent to be used as needed for functions or for inclement weather
- Playground
- A storage shed
- Wood fenced area to hide trailer, trash, etc.
- Access to City reclaimed water for irrigation (access point to be identified by City)
- A designated parking area on existing grassed cleared area to accommodate 100-125 cars. Areas will be rotated in use to maintain existing grass surface in good condition.

It is anticipated that power will be provided via an existing power line on the south property line. An existing water service located on Spruce Creek Road will be used for potable water. Two access points are contemplated and noted on the Concept Plan.

If you have any questions or require additional information, please don't hesitate to contact our office.

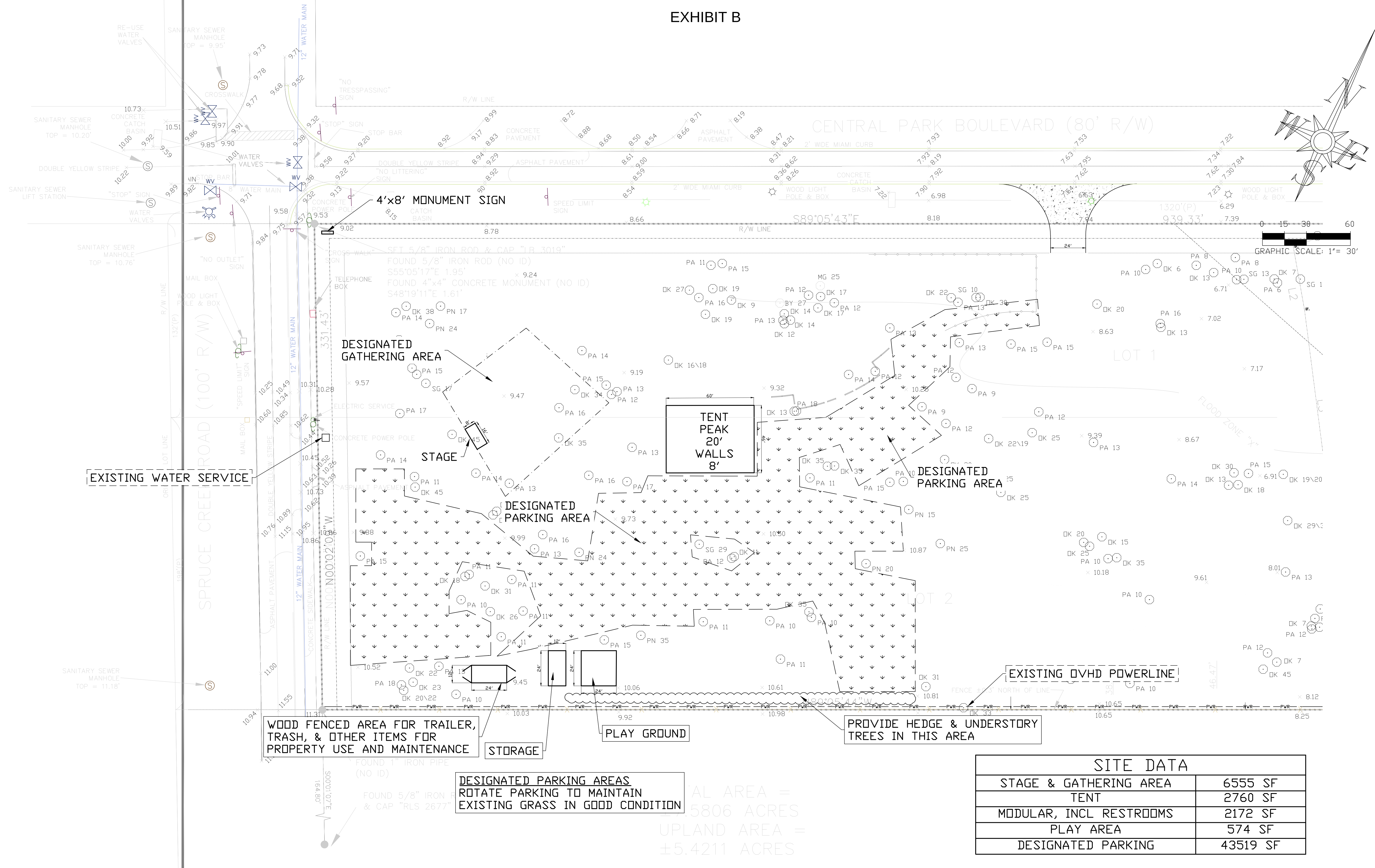
Sincerely,
ZAHN ENGINEERING, INC.


Pete Zahn, PE

CC: Project File, Tracer File

150 S Palmetto Ave, Ste 201 • Daytona Beach, FL 32114
Phone: (386) 252-0020 • Fax: (386) 252-6050
www.zahneng.com

EXHIBIT B



SITE DATA	
STAGE & GATHERING AREA	6555 SF
TENT	2760 SF
MODULAR, INCL RESTROOMS	2172 SF
PLAY AREA	574 SF
DESIGNATED PARKING	43519 SF

NO.	DATE	APPR.	REVISION DESCRIPTION	
			REMOVED TEMP. MODULAR UNITS, ADDED MONUMENT SIGN	
1.	06-19-20			

Zahn Engineering, Inc.
Civil Engineering • Land Planning • Permitting
150 South Palmatree Avenue, Suite 201, Daytona Beach, Florida 32114
Ph: (386) 252-0020 - Fax: (386) 252-6050
www.zahneng.com

DESIGNED:	CM	CM	JW	06-19-20	08
DRAWN:					
CHECKED:					
DATE:					
FILE:					

CONCEPT PLAN FOR
CONDITIONAL USE

CHRIST THE KING COMMUNITY CHURCH

6015 SPRUCE CREEK ROAD, PORT ORANGE

VOLUSIA COUNTY, FL

PROJECT NUMBER
108

NOT VALID WITHOUT SEAL



STAFF REPORT

FIRST AMENDMENT TO THE NEW PORT PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT CASE NO. 20-40000002

REQUEST:	Amend the Master Development Agreement (MDA) for the New Port Apartments Planned Unit Development (PUD) to allow the multi-family development project to be completed in phases in accordance with the requirements in the Land Development Code.
APPLICANT:	POA Development, LLC
OWNER:	Carl Cautedella, The Collier Companies
LOCATION:	1401 Reed Canal Road
STAFF CONTACT:	Briana Conlan-King, Senior Planner (386) 506-5676
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION DATE:	June 25, 2020

INTRODUCTION

The applicant, POA Development, LLC, is requesting an amendment to the New Port Apartments Planned Unit Development (PUD) Master Development Agreement (MDA) to allow the approved multi-family development to be constructed in phases in accordance with the requirements in the Land Development Code. The subject property is ± 29.7 -acres and is located on the south side of Reed Canal Road, between Clyde Morris Boulevard and Atlantic High School (Figure 1).

Figure 1 - Location Map



DISCUSSION

The New Port Apartments PUD was approved in 2018 for the development of a 310-unit multi-family development on the subject property, along with associated site and off-site improvements. Site and building construction began in March 2020 and according to the contractor completion of the entire project is expected to take approximately 22 months.

According to the applicant, the proposed First Amendment removes a specific development requirement in the MDA that requires the entire development to be completely constructed in one phase. Therefore, all 23 buildings (includes residential, maintenance, garages, and clubhouse) and on-site and off-site improvements would need to be completed, inspected, and approved by the City and other review agencies before Certificates of Occupancy (CO) could be issued for any of the residential-unit buildings or clubhouse. The applicant's request is to allow development of the project in phases in accordance with the LDC, similar to other recently developed multi-family projects.

According to the applicant, multi-family developments are developed in multiple phases due to their duration of construction, size of the project, and to allow for units to be leased and income to be collected. The applicant also states that phasing the construction of the site improvements and construction of the buildings reduces the chance of damage being done with a staggered approach. In addition, the applicant states that the phased construction approach reduces the chance of damage to completed infrastructure during building construction.

The City's LDC has requirements in place for multi-family developments to be completed in phases, subject to all required infrastructure being completed and accepted by the City prior to issuance of the Certificate of Occupancy for each building or phase. A phased construction of a multi-family development is common in Port Orange as the last four multi-family developments built were completed in phases (Hawthorn Grove, White Palm, Reserve at Westport, and Springs at Port Orange). These multi-family development projects were developed under conventional zoning and completion was phased as allowed in the LDC. The applicant is requesting the subject MDA amendment to be able to continue the construction of the development in phases consistent with other multi-family developments in the City and in accordance with the LDC. As done with the other multi-family developments, the submittal of a phasing plan prior to the first request for the first Certificate of Occupancy is required. The phasing plan is reviewed by staff to verify all necessary infrastructure and site improvements are shown to be completed with each proposed phased. Each phase will be required to provide for connection to each of the remaining phases and must include easements and utility extensions necessary to facilitate the development of subsequent phases. The request by the applicant to phase the construction of this multi-family development is consistent with the phased construction for the last four multi-family developments constructed in the City as permitted by the LDC.

The proposed amendment does not increase the number of residential units or change any of the dimensional regulations in the PUD. All the amendment is requesting is to allow the project to be developed in phases and for the issuance of COs for the residential buildings in accordance with the LDC.

There are no specific criteria to be used as a base for staff recommendation for the requested deviation from the original MDA. Staff recommendations on zoning matters are generally based on consideration of compatibility with adjacent uses, availability of adequate infrastructure and consistency with adopted plans (such as Comprehensive Plan, City Vision, budget, etc.). The phasing of the project is different than originally single phased completion documented in the Master Development Agreement (MDA) and therefore requires Planning Commission and Council direction to amend the MDA to allow the project to be developed according to the established phasing process allowed in the LDC. The request by the applicant to phase the construction of this multi-family development is consistent with the phased construction for the last four multi-family developments constructed in the City and allowed by the LDC.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The subject property is designated *Urban Medium Density Residential* (4-8 units/acre) and *Urban High Density* (8-16 units/acre) on the City's Future Land Use Map. The New Port Apartment PUD MDA was found to be consistent with the Comprehensive Plan in 2018. The proposed amendment to the MDA is related to phasing and the MDA remains consistent with the type of land use and intensity allowed for the subject property by the City's Comprehensive Plan Future Land Use Map.

PUBLIC NOTICE

Two Public Notice signs were posted on the PUD property, one along Reed Canal Road and one along Richel Dr. in May 2020. At the time this agenda item was prepared, staff has received two (2) phone calls requesting general information regarding the proposed amendment.

RECOMMENDATION

Staff recommends approval of the First Amendment to the Master Development Agreement (MDA) for the New Port Apartments Planned Unit Development (PUD).

ATTACHMENTS

Exhibit 1 – First Amendment to the New Port Apartments PUD Master Development Agreement

Exhibit 1

Prepared By:

Jeffrey P. Brock, Esq
Smith Bigman Brock, P.A.
444 Seabreeze Blvd. – Suite 900
Daytona Beach, FL 32118

Return Recorded Document to:

Records Clerk
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

**FIRST AMENDMENT TO THE
NEW PORT APARTMENTS PLANNED UNIT DEVELOPMENT
(A RESIDENTIAL PUD)
MASTER DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO THE NEW PORT APARTMENTS PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT (the “First Amendment”), is entered into by and between POA DEVELOPMENT, LLC, a Florida limited liability company, (“Owner/Developer”) having a mailing address of 220 N. Main Street, Gainesville, Florida 32601 and the CITY OF PORT ORANGE, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, FL 32129 (the “City”), (collectively the “Parties”), who hereby agree and covenant as follows:

WHEREAS, the Parties previously entered into that certain New Port Apartments Planned Unit Development Master Development Agreement dated June 14, 2019 and recorded in Official Records Book 7708, Page 2336, Public Records of Volusia County, Florida (the “MDA”) for a proposed 310-unit apartment complex on the real property more particularly described on Exhibit A attached hereto; and

WHEREAS, the Parties desire to amend the MDA to allow the phasing of construction of the proposed apartment complex as more particularly set forth below.

NOW THEREFORE, the Parties hereby agree as follows;

1. The recitals stated above are true and correct and are incorporated herein by reference.
2. Paragraph 6 of the MDA, “Phasing” is hereby amended and revised to read as follows:

“The development of the proposed 310-unit apartment complex shall be constructed in phases in accordance with the MDA and the LDC.”

3. This First Amendment shall be effective upon recording in the public records of Volusia County, Florida.

4. All the provisions of the MDA not in conflict herewith shall remain in full force and effect and shall be supplemented for the matters specifically amended herein by this First Amendment. The MDA shall survive the execution of this First Amendment.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the New Port Apartments Planned Unit Development Master Development Agreement, by and through their duly authorized representatives, on the respective dates shown below.

WITNESSES (as to both):

**CITY OF PORT ORANGE, a Florida
Municipal Corporation**

Signature

By: _____
Donald O. Burnette, Mayor

Printed Name

Signature

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

Printed Name

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2020, by _____ and DONALD O. BURNETTE, Mayor of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public, State of Florida at Large
My Commission Expires:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2020, by _____ and ROBIN L. FENWICK, City Clerk of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public, State of Florida at Large
My Commission Expires:

WITNESSES:

By: _____, Manager

Date: _____

Signature _____

Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2020, by _____, Manager of POA DEVELOPMENT, LLC. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida at Large

My Commission Expires:

Exhibit A

Lots 3, 4, and 5 Bennet Subdivision of the Northeast $\frac{1}{4}$ of Section 6, Township 16 South, Range 33 East, according to the map thereof as recorded in Plat Book 6, Page 11 of the Public Records of Volusia County, Florida.



STAFF REPORT

Third Amendment to the Woodhaven PUD Master Development Agreement

CASE NO. 20-40000003

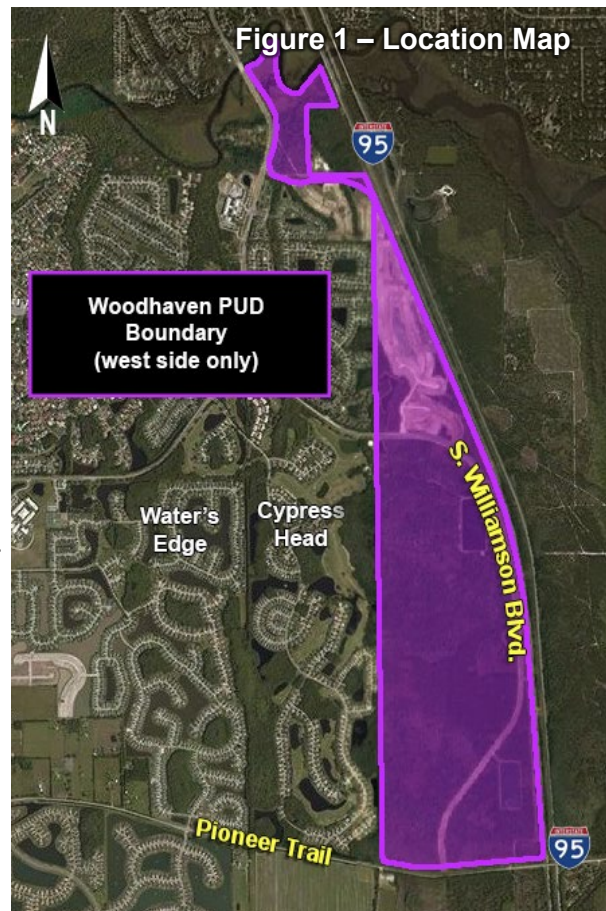
REQUEST:	To amend the Woodhaven PUD Master Development Agreement for the Woodhaven Planned Unit Development to address modifications to subdivision and lot design/requirements for their future residential developments within the PUD.
LOCATION:	North of Pioneer Trail, between I-95 and the Cypress Head Subdivision
OWNER:	CC Woodhaven, LLC; Pioneer Investments of Port Orange, Inc.; and Pioneer Community Development District
APPLICANT:	CC Woodhaven, LLC
STAFF CONTACT:	Penelope Cruz, Planning Manager (386)506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	June 25, 2020

INTRODUCTION

The applicant, CC Woodhaven, LLC, is requesting an amendment to the Woodhaven Planned Unit Development (PUD) Master Development Agreement (MDA) to address modifications to subdivision and lot design/requirements for their future residential developments in Woodhaven. The proposed amendment to the PUD does not increase the number of allowed residential units or commercial square-footage in the PUD.

The applicant's proposed amendment includes the following requests to:

- 1) establish an 18-inch side yard setback for A/C units and other ground mounted equipment;
- 2) allow the development of townhomes in the designated residential area south and west of Williamson Boulevard and east of the Cypress Head Golf Course; and
- 3) provide the developer with the option to install sidewalks on one or both sides of the private streets within future residential phases.



DISCUSSION

The following is an analysis of the requested deviations from the Land Development Code (LDC) or changes to the Woodhaven Master Development Agreement (MDA) proposed in the Third Amendment.

1. Setback for A/C units and Other Ground Mounted Equipment

The applicant is requesting to establish a minimum 18-inch side yard setback for A/C units and other ground mounted equipment (except for generators and propane tanks) in lieu of the 30-inch side setback in the Land Development Code. The requested setback would apply for any single-family or two-family (duplex) lot. This request is similar to the variance approved for Phase I by the Planning Commission in September 2019. Similar to the conditions approved as part of the variance for Phase I, any single-family or two-family lot with a minimum 18-inch side setback for ground-mounted equipment in lieu of the required 30-inch side yard setback would be subject to the following conditions:

- Minimum separation of air conditioning unit or mechanical equipment on adjacent lots of 8’;
- Air conditioning unit pad is to be set-back a minimum of 20’ from the front building corner;
- Only picket style fencing in the rear yard outside the extended plane of the side walls of the home;
- No landscaping between homes in the side yard, except for one (1) 3-gallon shrub in front of the air conditioning units or other mechanical equipment;
- Prior to requesting a Certificate of Occupancy, an as-built drawing of the side yard for a lot with a setback less than 30-inches shall be submitted to the City to verify required grading and drainage swale construction according to the approved building permit; and
- Setback for a generator and propane tank are not included in this request.

According to the applicant, the request to establish an 18-inch side yard setback for any single-family or two-family lot throughout the Woodhaven PUD is due to a design issue discovered during the permitting/construction in Woodhaven Phase 1. According to the applicant, the width for some of the newer ICI home models requires the placement of the air conditioning unit and other similar equipment in the rear yard instead of the side yard due to the side yard setback in the LDC. The applicant has stated that placement of air conditioning units in the rear yard of the lots was evaluated; however, the concern is that having the air conditioning unit in the rear yard would limit a homeowner’s ability to fully use the rear yard. According to the applicant, the lots and homes in Woodhaven are designed to use the rear yard as an extension of the home with outdoor living space, such as patios, decks, screen rooms, pool, etc., and with the air conditioning unit(s) and other similar equipment being placed in the rear yard, the applicant believes this would limit a homeowner’s ability to fully develop their rear yard. Therefore, the applicant is requesting the special side setback to allow air conditioning units and other similar equipment to be placed 18-inches from the side property lot line, so the rear yard can be developed with patios, decks, screen rooms, pool, etc.

The applicant has also stated that the air conditioning units chosen to be installed to serve homes in Woodhaven were selected because of their efficiency rating which coincides with how the homes are designed and built efficiently. The applicant states selection of the more-efficient air conditioning units, which are larger in size, has resulted in not being able to meet the LDC required side setback and need to be placed in the rear yard of the homes. As discussed previously, the applicant has stated that placement of the air conditioning units in the rear yard is not the desired placement because it impacts the development potential of the rear yard to install patios, screen rooms, pool, etc. According to the applicant, the side yard setback for air conditioning units was adopted in the LDC during the late 1990’s, but since that time, the minimum SEER (Seasonal Energy Efficiency Ratio) rating requirement for air conditioning units has increased from 10 to 14 SEER over the last 15+ years. The SEER rating measures the air conditioning system’s energy

efficiency by calculating the cooling output divided by the amount of electric energy input. The higher the SEER rating, the greater energy efficiency of your air conditioning system. As part of the request, the applicant provided documentation that shows over the last 15 years, air conditioning units have become physically larger and require concrete pads at least 35-inches in width compared to 30-inch pads that were required when the side yard setback for an air conditioning unit was established in the LDC.

Similar requests to reduce the side yard setback for an air conditioning unit for other single-family developments within Port Orange have been approved in the past. The Oakbrook Subdivision and Royal Palm Subdivision PUDs were each approved with a side yard setback for air conditioning unit of 18-inches. Also, when the City adopted the Planned Community-Agricultural (PC-A) zoning district, it included a 24-inch side yard setback for air conditioning units. The intent of the reduced side yard setback for air conditioning units and other similar equipment is related to: 1) maintaining the ability to place the air conditioning units and other similar equipment in the side yard for the 50-feet to 60-feet wide lots, and 2) account for an increase in the size (width and height) of air conditioning units as they are being designed/built to be more efficient. All future building permits for new single-family or two-family dwellings will be reviewed to ensure that conveyance of stormwater in the side yard swales is not impacted.

2. Townhomes

The proposed amendment to the PUD does not increase the number of residential units allowed in the overall PUD or change the required 50-foot buffer required along the western boundary of the PUD between Woodhaven Subdivision and Cypress Head Subdivision/Golf Course. The applicant is requesting to allow townhomes (maximum of 4-units attached) in the designated Woodhaven PUD residential area located south and west of Williamson Boulevard and east of the Cypress Head Subdivision/Golf Course as generally shown in Figure 3 on Page 4.

Figure 2. Example of a 3 and 4-Unit Townhomes in Phase 1



The current Woodhaven MDA states that only single-family homes and passive parks may be built within the first 300-feet perpendicular from the westernmost boundary of the PUD. The applicant is requesting to add townhomes (maximum of 4-units attached) to the list of development that can be built along the westernmost boundary of the PUD provided that a Woodhaven townhome unit is not located within 500-feet of a single-family home in Cypress Head

Subdivision. This townhome location requirement would apply to the areas identified as Residential Pods C and D on the adopted Woodhaven PUD Conceptual Development Plan (CDP) (see Figure 2). The proposed amendment only modifies the locational criteria for development of townhomes (maximum of 4-units attached) and does not change to requirement for a 50-foot buffer along the west boundary line of Woodhaven or allow development of townhomes adjacent to an existing single-family home in Cypress Head (500' separation).

According to the applicant, the sale of the fee simple townhomes in Phase 1 of Woodhaven was well received and ICI would like to replicate the housing types built in Phase I of Woodhaven in future residential Woodhaven phases. The applicant states the request is to allow flexibility in the design of future phases by allowing the placement of townhomes adjacent to the Cypress Head Golf Course and to serve as a transitional use between the Cypress Head Golf Course and the single-family homes in Woodhaven. The applicant states that due to the location of Residential Pods C and D adjacent to golf course or wooded/conservation areas, the limitation to only develop single-family homes within 300-feet of the western boundary should not apply since there are no single-family homes adjacent to the west boundary in Pods C and D. To ensure separation between single-family homes in Cypress Head and townhomes in Woodhaven, the applicant has included in the amendment that townhomes are to be designed with no more than 4-units attached, and townhomes cannot be located within 500-feet of a single-family home in Cypress Head Subdivision.

Figure 3. General Location of Where Townhomes Would be Allowed



3. Sidewalks

The proposed amendment to the PUD related to placement of sidewalks would only apply to private rights-of-way within Woodhaven. The applicant has requested language be modified to expand the developer's option to install five-foot-wide sidewalks on one or both sides of the private streets within future residential phases of the Woodhaven PUD. The current Woodhaven MDA

that was approved in 2013, requires a five-foot-wide concrete sidewalk along both sides of all streets, unless it is a cul-de-sac 300-feet in length or less. According to the applicant, the request to modify this section of the MDA to include all private streets in Woodhaven is to reduce the amount of pavement within the private streets, reduced pedestrian/vehicle conflicts in roughly half the driveways, allow for additional drainage areas within the private right-of-way, and reduce sidewalk damaged from tree planted in the front of residential lots.

According to the applicant, all future residential roads in Woodhaven will be private roads and if there are request by residents for additional sidewalks within the private streets it will be up to the developer or HOA to install the sidewalks and not the City of Port Orange. Also, since the streets will be privately owned, the applicant would like to use their neighborhood street design detail as they believe only having a sidewalk on one side of the street does not impact how the street will function for both pedestrians and vehicles.

According to the Land Development Code, a minimum 4-foot wide concrete sidewalk is to be constructed along both sides of all streets within a subdivision. The intent of this requirement is to provide a safe public sidewalk network within all subdivisions that connects to the City's overall sidewalk and bike path network. As part of the applicant's proposed amendment, there is a 5-foot sidewalk proposed on one side of the street that will connect with other sidewalks within the residential neighborhood. According to the applicant, the proposed subdivisions in Woodhaven will consist of private streets and are anticipated to be gated. The request to provide the developer with the option to only install a 5-foot sidewalk along one side of a private neighborhood street within Woodhaven requires Planning Commission and Council direction on whether to allow the specific deviation requested by the applicant.

Staff support for this requested deviation is based on the streets being located on low-density, private residential streets within a gated community, with limited points of interconnectivity, and the reduction of impervious area within the rights-of-way. Typically, the traffic traveling through gated communities with limited interconnectivity is limited to residents and guest. As mentioned above, this would only apply to private streets and if there are requests for sidewalks to be added in the future along these private streets, it will be the responsibility of the developer or HOA to permit and construct.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The original MDA was found to be consistent with the City's Comprehensive Plan and City's Future Land Use (FLU) Map when it was approved in 2013. The proposed Third Amendment does not change the FLU designation for the property, does not increase the number of allowed residential units or commercial square-footage in the PUD, and is consistent with the general intent of the Comprehensive Plan.

PUBLIC NOTICE

A Public Notice sign was posted on the site on June 5, 2020. As of June 19, 2020, staff has received six (6) phone calls, requesting general information regarding the proposed PUD amendment. The main concern from callers was ensuring the required 50' buffer along the western PUD boundary would remain.

RECOMMENDATION

Staff recommends approval of the Third Amendment to the Woodhaven PUD Master Development Agreement, subject to the City Attorney's review to legal form and content.

ATTACHMENT

Exhibit 1 - Third Amendment to the Woodhaven PUD Master Development Agreement

EXHIBIT A

THIRD AMENDMENT TO THE WOODHAVEN PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT

This Agreement, 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 (hereinafter the “City”) and CC WOODHAVEN, LLC, and PIONEER INVESTMENTS OF PORT ORANGE, INC, (the “Owner/Developer”) and PIONEER COMMUNITY DEVELOPMENT DISTRICT (the “Owners”) whose address is 2379 Beville Road, Daytona Beach, FL 32119, shall constitute the third amendment to the Woodhaven Planned Unit Development (PUD) Master Development Agreement (MDA) hereinafter referred to as the Third Amendment.

WHEREAS, the City and Stanaki Partnership, a Florida general partnership (the “Prior Owner”) entered into an agreement and covenant to bind their successors and assigns to the terms and provisions of a development agreement entitled “Stanaki Planned Unit Development Master Development Agreement”, recorded in Official Records Book 4213, Page 1610, Public Records of Volusia County, Florida (the “Original MDA”); and

WHEREAS, the City and Prior Owner entered into the “First Amendment to the Stanaki Planned Unit Development Master Development Agreement” (the “Amended MDA”), recorded in Official Records Books 4794, Page 4301, Public Records of Volusia County, Florida; and

WHEREAS, the City, the Owners and Intervest Construction, Inc., entered into the “Second Amendment and Restatement to the Stanaki Planned Unit Development Master Development Agreement and Conceptual Plan” (the “Woodhaven MDA”), recorded in Official Records Books 6939, Page 1453, Public Records of Volusia County, Florida; and

WHEREAS, the City, the Owners and Intervest Construction, Inc., entered into the “First Amendment to the Woodhaven Planned Unit Development Master Development Agreement” (the “First Amended Woodhaven MDA”), recorded in Official Records Books 7280, Page 1824, Public Records of Volusia County, Florida; and

WHEREAS, the City, Owners and Owner/Developer entered into the “Second Amendment to the Woodhaven Planned Unit Development Master Development Agreement” (the “Second Amended Woodhaven MDA”), recorded in Official Records Books 7692, Page 4295, Public Records of Volusia County, Florida; and

WHEREAS, Owner/Developer is the Property Owner of the subject property consisting of 866 +/- acres of real property located within the municipal limits of the City of Port Orange, Florida, a description of which is attached hereto and incorporated herein as Exhibit “A” (“Property”); and

WHEREAS, the City, Owners, and Owner/Developer agree to amend the Woodhaven MDA Agreement by this Third Amendment to address and otherwise clarify those items set forth below; and

WHEREAS, the Property Owner is the owner of the property which is the only property impacted by this Third Amendment.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the City, Owners and Owner/Developer hereby covenant and bind themselves as follows:

1. This Third Amendment complies with the City's Comprehensive Plan.
2. Woodhaven MDA, Exhibit B, Section B. Permitted Uses: Residential Pods: The second paragraph of this section shall be amended as follows:

Community development within the first three hundred (300) feet perpendicular from the westernmost boundary shall be limited to single-family dwellings and passive parks. However, in Residential Pods C and D, multi-family townhomes limited to four (4) units per building, shall be permitted if there are no single-family dwellings within the first five hundred (500) feet to the west of the westernmost boundary.

3. Woodhaven MDA, Exhibit B, Section H. Infrastructure: The fourth subsection, Sidewalks and Bikeways, shall be amended as follows:

Bikeways and sidewalks shall be constructed concurrently with the building of homes within Woodhaven. Sidewalks and bikeways may be separate or a shared-use facility. The Owner shall construct five (5) foot wide (min.) sidewalks on one or both sides of streets in private rights of way within Woodhaven. A sidewalk or bicycle lanes are required on both sides of South Williamson Boulevard. If the sidewalk serves as a shared-use facility the minimum width shall be eight (8) feet, consistent with the City of Port Orange requirements. Cul-de-sacs within private rights of way ~~that are three hundred (300) feet or less in length~~ shall be required to have a sidewalk only on one side of the street.

4. Woodhaven MDA, Exhibit B, Section N. Accessory Structures: Section N shall be added as follows:

In addition to the criteria set forth herein in Section B, Table 2, single-family detached Minimum Side Setbacks for ground-mounted air conditioning units and other similar equipment shall be 18 inches subject to the following conditions:

- Minimum separation of air conditioning unit or mechanical equipment on adjacent lots of 8';
- Air conditioning unit pad is to be set-back a minimum of 20' from the front building corner;

- Only picket style fencing in the rear yard outside the extended plane of the side walls of the home;
 - No landscaping between homes in the side yard, except for one (1) 3-gallon shrub in front of the air conditioning units or other mechanical equipment;
 - Prior to requesting a Certificate of Occupancy, an as-built drawing of the side yard for a lot with a setback less than 30-inches shall be submitted to the City to verify required grading and drainage swale construction according to the approved building permit; and
 - Setbacks for a generator, propane tank and/or pool equipment shall be in accordance with the Land Development Code.
5. Conformance With Laws: Owners agree that in developing the Woodhaven PUD Property the Owners or the Owners' successors in interest shall be required:
 - a. To develop the Woodhaven PUD Property according to all regulations of the City to the extent those regulations are not inconsistent with this Agreement.
 - b. To be bound by all City codes and ordinances that are not in conflict with the provision of this Agreement.
 6. Enforceability: If any provision of this Third 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 Third Amendment unless the holding so states.
 7. Prior Agreements: The provisions of the Second Amended Woodhaven MDA recorded in Official Records Book 7692, Page 4295, Official Records of Volusia County, Florida; the First Amended Woodhaven MDA, recorded in Official Records Books 7280, Page 1824, Public Records of Volusia County, Florida; and the Woodhaven MDA, recorded in Official Records Books 6939, Page 1453 Official Records of Volusia County, Florida, shall continue in full force and effect. With respect to those matters specifically amended herein, this Third Amendment shall govern.
 8. Police Power: Nothing contained in this Third Amendment shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules and regulations. Further, nothing contained in this Third Amendment shall be construed as a waiver of the attempted waiver by the City of its sovereign immunity under the constitution and laws of the State of Florida.
 9. Effective Date.
 - a. This Third Amendment shall be effective upon recording by the City at the Owners' expense in the public records of Volusia County, Florida. The Second Reading of the Ordinance for this Third Amendment shall not take place until Owners have provided an executed copy of this Third Amendment to the City Clerk addressing all

issues discussed prior to the scheduled Second Recording. If there are no additional requirements, corrections or conditions attached by the City Council at the Second Reading, this Third Amendment shall be signed by the Mayor and City Clerk and recorded.

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

WITNESSES:

**CITY OF PORT ORANGE, a Florida
Municipal Corporation**

Printed Name

By: _____
Donald O Burnette, Mayor

Printed Name

Printed Name

Attest _____
Robin L. Fenwick, CMC, City Clerk

Printed Name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by [] physical presence or [] online notarization this ____ day of _____, 2020, by Donald O. Burnette, Mayor of the CITY OF PORT ORANGE, FLORIDA, a Florida Municipal Corporation, on behalf of the City. He is personally known to me and did not take an oath.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by [] physical presence or [] online notarization this ____ day of _____, 2020, by Robin L. Fenwick, MMC, City Clerk, of the CITY OF PORT ORANGE, FLORIDA, a Florida Municipal Corporation, on behalf of the City. She is personally known to me and did not take and an oath.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

Signed, sealed and delivered
in the presence of:

OWNER:
CC WOODHAVEN, LLC, a Florida
limited liability company
By: CC North Central, LLC, a Florida
limited liability company, its sole member

Witness 1

Print Name of Witness 1

By: _____
Morteza Hosseini-Kargar, President

Witness 2

Date: _____

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by [] physical presence or []
online notarization the ____ day of _____, 2020, by Morteza Hosseini-Kargar, as
President, of CC North Central, LLC, a Florida limited liability company, sole member of CC
Woodhaven, LLC, a Florida limited liability company. He is personally known to me and did not
take an oath.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

Signed, sealed and delivered
in the presence of:

OWNER:
**PIONEER INVESTMENTS OF PORT
ORANGE, INC,** a Florida Corporation

Witness 1

Print Name of Witness 1

Witness 2

Print Name of Witness 2

By: _____
Morteza Hosseini-Kargar, President

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by [] physical presence or []
online notarization the ____ day of _____, 2020, by Morteza Hosseini-Kargar, as
President, of Pioneer Investments of Port Orange, Inc., a Florida Corporation. He is personally
known to me and did not take an oath.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

Signed, sealed and delivered
in the presence of:

OWNER:
PIONEER COMMUNITY
DEVELOPMENT DISTRICT

Witness 1

Print Name of Witness 1

Witness 2

Print Name of Witness 2

By: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by [] physical presence or []
online notarization the ____ day of _____, 2020, by _____,
as _____, of Pioneer Community Development District. He/She is personally
known to me and did not take an oath.

Notary Public, State of Florida at Large
Printed Name, Commission Seal and Term Expiration Date

EXHIBIT "A"

LEGAL DESCRIPTION WOODHAVEN PLANNED UNIT DEVELOPMENT (Page 1 of 5)

A PART OF SECTIONS 29, 32 AND 33, TOWNSHIP 16 SOUTH, RANGE 33 EAST, AND A PART OF SECTIONS 4, 5, 8 AND 9, TOWNSHIP 17 SOUTH, RANGE 33 EAST, CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY LINE OF PIONEER TRAIL AND THE WEST LINE OF THE EAST ONE-HALF OF SECTION 8, TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE N 01°21'03" W, ALONG THE WEST LINE OF THE EAST ONE HALF OF SAID SECTION 8, 384.80 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF SECTION 5, TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE N 00°38'02" W, ALONG THE WEST LINE OF THE EAST ONE HALF OF SAID SECTION 5, A DISTANCE OF 5316.53 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF SECTION 32, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE N 00°43'04" W, ALONG THE WEST LINE OF THE EAST ONE-HALF OF SAID SECTION 32, A DISTANCE OF 5281.63 FEET TO THE SOUTHWEST CORNER OF THE EAST ONE-HALF OF SECTION 29, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE N 00°25'15" W, ALONG THE WEST LINE OF THE EAST ONE-HALF OF SAID SECTION 29, A DISTANCE OF 1322.31 FEET TO THE NORTH-EAST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 29; THENCE N 01°24'22"E, ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER, A DISTANCE OF 579.693 FEET TO A POINT LYING 100 WESTERLY OF, WHEN MEASURED PERPENDICULAR TO, A FLORIDA POWER AND LIGHT COMPANY EASEMENT, AS RECORDED IN OFFICIAL RECORD BOOK 2980, PAGE 0441, THENCE N 23°21'45" W AND PARALLEL TO SAID EASEMENT A DISTANCE OF 32.01 FEET TO A POINT ON A CURVE, SAID CURVE HAVING A RADIUS OF 950.00 FEET, A CHORD BEARING OF N 56°41'11" W AND A CHORD LENGTH OF 1043.81 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 66°38'52", AN ARC DISTANCE OF 1105.06 FEET TO A POINT THAT IS 100 FEET SOUTHERLY OF, AS MEASURED PERPENDICULAR TO, ABOVE DESCRIBED FLORIDA POWER AND LIGHT COMPANY EASEMENT; THENCE S 89°59'23" W, PARALLEL TO SAID EASEMENT A DISTANCE OF 249.78 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 600.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 15°14'06", AN ARC DISTANCE OF 159.54 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 700.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 36°19'20", AN ARC DISTANCE OF 443.76 FEET TO THE POINT OF TANGENCY THEREOF; THENCE N 68°55'23" W A DISTANCE OF 488.02 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 600.00 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 05°58'50", AN ARC DISTANCE OF 82.83 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF AIRPORT ROAD; THENCE N 15°17'59" E, ALONG THE EASTERLY RIGHT-OF-WAY LINE OF AIRPORT ROAD A DISTANCE OF 436.02 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 1100.00 FEET; THENCE, ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 42°32'50", AN ARC DISTANCE OF 816.85 FEET; THENCE N 27°14'51" W A DISTANCE OF 364.55 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 31,436.56 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 01°05'48", AN ARC DISTANCE OF 601.69 FEET, MORE OR LESS, TO THE SOUTH LINE OF SPRUCE CREEK; THENCE ALONG THE SOUTH LINE OF SPRUCE CREEK, IN A GENERALLY NORTHERLY DIRECTION, TO INTERSECT WITH THE NORTH LINE OF SECTION 29, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE S 89°59'01" E ALONG THE NORTH LINE OF SAID SECTION 29 A DISTANCE OF 226.11 FEET, MORE OR LESS, TO THE WESTERLY LINE OF SPRUCE CREEK; THENCE ALONG SPRUCE CREEK, SOUTHERLY AND NORTHERLY, TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (S.R. 9), AS SHOWN OF THE FLORIDA DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MAP, SECTION 79002-2407; THENCE S 23°21'45" E, ALONG SAID RIGHT-OF-WAY LINE, 870 FEET; MORE OR LESS, TO THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 29; THENCE S 89°

EXHIBIT "A"

LEGAL DESCRIPTION WOODHAVEN PLANNED UNIT DEVELOPMENT (Page 2 of 4)

56'07" W, ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, 626.71 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 29; THENCE S 00°24'16" E, ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, 1320.13 FEET TO THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 29; THENCE N 89°59'23" E, ALONG THE SOUTH LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 29, A DISTANCE OF 1187.83 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95; THENCE S 23°21'45" E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 5925.95 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 11,359.30 FEET; THENCE, ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 04°21'58", AN ARC DISTANCE OF 865.63 FEET TO THE NORTHERLY LINE OF A 50.00 FOOT F.D.O.T HAUL ROAD ACCESSING BORROW PIT NO. 6, AS DESCRIBED IN OFFICIAL RECORD BOOK 1697, PAGES 97 THROUGH 99; THENCE S 66°38'15" W, ALONG SAID HAUL ROAD 301.47 FEET TO THE NORTH LINE OF BORROW PIT NO. 6; THENCE S 89°28'15" W, ALONG THE NORTH LINE OF BORROW PIT NO. 6, 435.33 FEET TO THE WEST LINE OF BORROW PIT NO. 6; THENCE S 00°31'45" E, ALONG THE WEST LINE OF BORROW PIT NO. 6, 500.00 FEET TO THE SOUTH LINE OF BORROW PIT NO. 6; THENCE N 89°28'15" E, ALONG THE SOUTH LINE OF BORROW PIT NO. 6, 500.00 FEET TO THE EAST LINE OF BORROW PIT NO. 6; THENCE N 00°31'45" W, ALONG THE EAST LINE OF BORROW PIT NO. 6, 348.41 FEET; THENCE N 23°21'45" W, 118.55 FEET TO THE SOUTHERLY LINE OF AFORESAID 50.00 FOOT HAUL ROAD; THENCE N 66°38'15" E, ALONG SAID HAUL ROAD, A DISTANCE OF 297.53 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95, SAID POINT LYING IN A CURVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 11,359.30 FEET; A CHORD BEARING OF S 11°37'02" E, AN A CHORD LENGTH OF 2817.95 FEET; THENCE, ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 14°15'01", AN ARC DISTANCE OF 2825.23 FEET; THENCE S 04°29'32" E, 2954.25 FEET TO THE NORTHERLY LINE OF AN F.D.O.T HAUL ROAD ACCESSING BORROW PIT NO. 5, AS DESCRIBED IN OFFICIAL RECORD BOOK 1697, PAGES 97-99; THENCE S 85°30'28" W, ALONG SAID HAUL ROAD, 322.12 FEET TO THE EAST LINE OF BORROW PIT NO. 5; THENCE N 01°11'32" W, ALONG THE EAST LINE OF BORROW PIT NO. 5, 449.92 FEET TO THE NORTH LINE OF SAID BORROW PIT; THENCE S 88°48'28" W, ALONG THE NORTH LINE OF SAID BORROW PIT, 400.00 FEET TO THE WEST LINE OF SAID BORROW PIT; THENCE S 01°11'32" E, ALONG THE NORTH LINE OF SAID BORROW PIT, 900.00 FEET TO THE SOUTH LINE OF SAID BORROW PIT; THENCE N 88°48'28" E, ALONG THE SOUTH LINE OF SAID BORROW PIT, 400.00 FEET TO THE EAST LINE OF SAID BORROW PIT; THENCE N 01°11'32" W, ALONG THE EAST LINE OF SAID BORROW PIT, 400.00 FEET TO THE SOUTHERLY LINE OF AFOREMENTIONED 50.00 FOOT HAUL ROAD; THENCE N 85°30'28" E, ALONG THE SOUTHERLY LINE OF SAID HAUL ROAD, 325.00 FEET TO THE WESTERLY LINE OF INTERSTATE 95; THENCE S 04°29'32" E, ALONG SAID RIGHT-OF-WAY LINE, 1455.88 FEET TO THE NORTHERLY LINE OF THE I-95 LIMITED ACCESS RIGHT-OF-WAY; THENCE, ALONG SAID RIGHT-OF-WAY, S 84°44'18" W, A DISTANCE OF 125.61 FEET; THENCE S 79°01'40" W, A DISTANCE OF 502.49 FEET; THENCE S 84°44'18" W, A DISTANCE OF 210.19 FEET; THENCE S 06°04'28" E, A DISTANCE OF 20.32 FEET TO THE NORTHERLY RIGHT-OF-WAY OF PIONEER TRAIL; THENCE, ALONG THE NORTHERLY RIGHT-OF-WAY OF PIONEER TRAIL, S 83°53'59" W, A DISTANCE OF 1170.06 FEET; THENCE S 84°37'22" W, A DISTANCE OF 174.58 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 795.59 FEET; THENCE, ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 13°34'54", AN ARC DISTANCE OF 188.59 FEET; THENCE N 81°47'44" W, A DISTANCE OF 119.32 FEET; THENCE N 80°38'20" W, A DISTANCE OF 696.51 FEET; THENCE N 79°05'49" W, A DISTANCE OF 696.51 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

TOGETHER WITH:

EXHIBIT "A"

LEGAL DESCRIPTION WOODHAVEN PLANNED UNIT DEVELOPMENT (Page 3 of 4)

OF SECTIONS 4, 5, 8 AND 9, TOWNSHIP 17 SOUTH, RANGE 33 EAST, CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: Book: 4
Page: 4

FOR A POINT OF BEGINNING COMMENCE AT THE INTERSECTION OF THE WEST LINE OF THE NORTHWEST ONE-QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 33 EAST AND THE NORTHERLY RIGHT-OF-WAY LINE OF PIONEER TRAIL; THENCE N 17°11'56" W ALONG THE NORTHERLY LINE OF PIONEER TRAIL A DISTANCE OF 572.58 FEET; THENCE N 17°22'20" W A DISTANCE OF 435.83 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE LEFT, SAID CURVE HAVING A RADIUS OF 383.92 FEET, A CHORD BEARING OF N 44°32'43" W AND A CHORD LENGTH OF 332.39 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 54°20'47", AN ARC DISTANCE OF 345.19 FEET TO INTERSECT WITH THE EASTERLY RIGHT-OF-WAY LINE OF THE I-95 LIMITED ACCESS RIGHT-OF-WAY; THENCE N 19°03'29" W, ALONG SAID RIGHT-OF-WAY LINE, 24.67 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF SAID LIMITED ACCESS RIGHT-OF-WAY, SAID POINT LYING ON A CURVE TO THE SOUTHWEST, SAID CURVE HAVING A RADIUS OF 431.97 FEET, A CHORD BEARING OF N 82°28'32" W AND A CHORD LENGTH OF 172.44 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 23°01'57", AN ARC DISTANCE OF 173.65 FEET; THENCE N 03°58'28" W, A DISTANCE OF 10.00 FEET; THENCE S 85°04'48" W, A DISTANCE OF 296.84 FEET; THENCE S 88°53'39" W, A DISTANCE OF 601.33 FEET; THENCE S 85°04'48" W, 124.35 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 95 (S.R. 9); THENCE N 04°08'45" W, ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 5070.93 FEET TO THE POINT OF CURVATURE OF A CURVE TO THE NORTHWEST, SAID CURVE HAVING A RADIUS OF 5904.85 FEET; THENCE ALONG THE ARC OF SAID CURVE, PASSING THROUGH A CENTRAL ANGLE OF 18°52'13", AN ARC DISTANCE OF 1944.69 FEET; THENCE N 23°00'58" W A DISTANCE OF 5325.67 FEET; THENCE N 17°58'25" W, A DISTANCE OF 853.30 FEET; THENCE N 13°59'11" E A DISTANCE OF 502.04 FEET TO THE NORTH LINE OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SECTION 29, TOWNSHIP 18 SOUTH, RANGE 33 EAST; THENCE S 89°39'50" E, ALONG THE NORTH LINE OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER, 684.29 FEET TO THE NORTHEAST CORNER OF THE OF THE WEST ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 29; THENCE S 00°04'58" E, ALONG THE EAST LINE OF THE WEST ONE HALF THE THE SOUTHEAST ONE-QUARTER, 1834.12 FEET; THENCE S 89°37'45" E A DISTANCE OF 1332.18 FEET TO THE EAST LINE OF SAID SECTION 29; THENCE S 00°05'29" E ALONG THE EAST LINE OF SECTION 29 A DISTANCE OF 812.94 FEET TO THE NORTH-EAST CORNER OF SECTION 32, TOWNSHIP 18 SOUTH, RANGE 33 EAST; THENCE S 00°14'52" E ALONG THE EAST LINE OF SECTION 32 A DISTANCE OF 1304.58 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 33; THENCE S 89°57'51" E ALONG THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 33 A DISTANCE OF 1324.08 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 33; THENCE S 00°09'18" E ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF THE NORTHWEST ONE-QUARTER OF SECTION 33, A DISTANCE OF 1298.76 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 33; THENCE S 00°16'26" E ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 33 A DISTANCE OF 1306.92 FEET TO THE NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 33; THENCE N 89°47'25" E ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER A DISTANCE OF 1320.92 FEET TO THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 33; THENCE S 00°03'41" E ALONG THE EAST LINE OF THE SOUTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 33 A DISTANCE OF 1307.06 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SECTION 4, TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE S 00°58'55" E ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 4 A DISTANCE OF 2039.28 FEET; THENCE S 89°23'12" W A DISTANCE OF 176.00 FEET; THENCE S 00°58'55" E A DISTANCE OF 578.00 FEET TO THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 4; THENCE S 89°23'12" W ALONG THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SECTION 4 A DISTANCE OF 178.00 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF SECTION 4; THENCE S 00°58'55" E ALONG THE EAST LINE OF THE SOUTHWEST ONE QUARTER OF SECTION 4 A DISTANCE OF 2624.38 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF SECTION 9, TOWNSHIP 17 SOUTH, RANGE 33 EAST; THENCE S 00°42'24" E ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF SECTION 9 A DISTANCE OF 1582.42 FEET TO THE NORTHERLY RIGHT-OF-WAY LINE OF PIONEER TRAIL AND THE POINT OF BEGINNING OF THIS DESCRIPTION.

ABOVE DESCRIBED LANDS CONTAINING 1208 ACRES, MORE OR LESS

EXHIBIT "A"

**LEGAL DESCRIPTION
WOODHAVEN PLANNED UNIT DEVELOPMENT
(Page 4 of 4)**

Less and except the following property now part of the Doris Leeper Spruce Creek Preserve:

A PORTION OF THE FOLLOWING DESCRIBED PROPERTY LYING EAST OF INTERSTATE HIGHWAY 95:
THE WEST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 29, TOWNSHIP 16 SOUTH, RANGE 33 EAST, TOGETHER WITH THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4, LESS THE NORTH 511 FEET THEREOF, OF SAID SECTION 29, TOGETHER WITH THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 32, TOWNSHIP 16 SOUTH, RANGE 33 EAST, TOGETHER WITH THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 AND THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4, SECTION 33, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA.

MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SECTION 32, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE, ALONG THE EAST LINE OF SAID SECTION 32, S00°34'53"E, 1,304.47 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE, ALONG THE NORTH LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33, N89°40'17"E, 1,324.49 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 33; THENCE ALONG THE EAST LINE OF SAID SOUTHWEST QUARTER, S00°30'04"E, 1,298.69 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33; THENCE, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER, S00°28'23"E, 1,306.90 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 33; THENCE, ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER, N89°25'46"E, 1,321.44 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE, ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, S00°25'12"E, 979.77 FEET; THENCE S89°26'15"W, 2,062.40 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 95 (STATE ROAD 9), SAID POINT ALSO BEING THE BEGINNING OF A NON TANGENT CURVE CONCAVE WEST, HAVING A RADIUS OF 5,904.65 FEET, A CENTRAL ANGLE OF 13°41'21" AND A CHORD BEARING OF N16°32'46"W; THENCE NORTHERLY ALONG SAID RIGHT-OF-WAY LINE, AND ALONG THE ARC OF SAID CURVE, 1,410.74 FEET; THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, N23°23'27"W, 5,326.34 FEET; THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, N18°20'54"W, 853.30 FEET; THENCE, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, N13°32'28"E, 501.56 FEET TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 16 SOUTH, RANGE 33 EAST; THENCE, ALONG SAID NORTH LINE, N89°57'32"E, 687.27 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 29; THENCE, ALONG THE EAST LINE OF THE WEST HALF OF SAID SOUTHEAST QUARTER, S00°26'01"E, 1,833.77 FEET TO THE SOUTH LINE OF THE NORTH 511 FEET OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 29; THENCE ALONG SAID SOUTH LINE, S89°59'41"E, 1,332.93 FEET TO A POINT ON THE EAST LINE OF SAID SECTION 29; THENCE, ALONG SAID EAST LINE, S00°26'50"E, 812.81 FEET TO THE POINT OF BEGINNING.

CONTAINING 225.000 ACRES, MORE OR LESS.

Less and except Woodhaven - Phase 1 plat recorded March 11, 2019, in Plat Book 60 at Page 49-57, inclusive, of the Public Records of Volusia County.



STAFF REPORT

Second Amendment to the Riverwalk Amended and Restated Master Development Agreement
CASE NO. 20-40000004

REQUEST:	Approve the Second Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA)
LOCATION:	East of Ridgewood Avenue, south of Ocean Avenue, north of Herbert Street (see Figure 1).
APPLICANT:	Josif Atanasoski, Manager, Halifax River Partners, LLC
OWNER:	Halifax River Partners, LLC; Port Orange Town Center
STAFF CONTACT:	Tim Burman, Community Development Director (386)506-5675
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	June 25, 2020

DISCUSSION

The proposed Second Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA) is to defer the completion of the Riverwalk Phase 1 site improvements and restaurant building (Fysh Bar & Grill) until September 20, 2021 and remove the timeframe for recording the subdivision plat for the Riverwalk project area. The current MDA requires the subdivision plat to subdivide the project area into 9 lots to be recorded and all Phase 1 site improvements and the restaurant on the point to be completed by September 20, 2020.

In addition to the proposed amendment to the MDA, there are additional associated documents that may require Port Orange Town Center CRA recommendation and City Council approval. If one of the associated documents is not approved or modified, it could require modifications to the MDA amendment. Amendments to the following documents are anticipated to be considered prior to or in conjunction with the proposed MDA amendment:

- Amendment to the Economic Development Incentives Agreement;
- Amendment to the Exchange Agreement for the Cardwell Funeral Home Property; and
- Amendment to the Parking Easement Agreement for Special Event Parking on Halifax River Partners, LLC Property.

The Riverwalk Amended and Restated Master Development Agreement (MDA) was approved by the City Council in September 2016 and established a phasing plan along with specific timeframes for completion of the Public Trail and Park, recording of the

subdivision plat for the MDA project area, site and subdivision improvements for Phase 1 of the Riverwalk development, and completion of the restaurant on the point. The MDA was amended in September 2019, to extend the timeframe to record the Riverwalk Plat and complete the required Phase 1 site improvements (parking lots, turn lanes, stormwater, landscaping, and sidewalks) from September 20, 2019 to September 20, 2020, and extend the completion date for the 23-foot-wide public trail and park from September 20, 2019 to November 20, 2019.

The project is still expected to be completed in five phases (Figure 2), with each phase being required to have adequate access and infrastructure to support development. The majority of the site improvements (utilities, stormwater landscape buffers, and improved public trail), and restaurant on the point property are to be completed with Phase 1. The 23-foot-wide public trail and park and associated site improvements (landscape, benches, light poles, stormwater, etc.), burying of the FPL power lines, and underground utilities improvements in the former Halifax Drive right-of-way were completed and accepted by the City of Port Orange by November 20, 2019. The remaining Phase 1 site improvements (parking lot, landscaping, sidewalk, stormwater, turn lanes) that serve the private development in Phase 1 and the restaurant on the point have not been completed. As of June 19, 2020, the site development plan for the Phase 1 improvements was approved and the building permit for the restaurant is currently under review. The residential condominium buildings are expected to be constructed in Phases 2 and 3 and additional marina boat slips constructed in Phases 4 and 5.

In 2016, Phase 1 also included the Captain Daddy's Riverboat Restaurant, 38-slip marina and parking for these uses. However, due to damage caused by Hurricane Matthew in October 2016, the riverboat restaurant was removed, and the marina closed in 2018. At this time, neither of these uses have been reopened.

According to the applicant, the intent of the proposed Second Amendment is to remove the date the subdivision plat is to be recorded and extend the completion date for the construction of Phase 1 site improvements (parking lot, landscaping, sidewalk, stormwater, and turn lanes) that serve the private development in Phase 1 and the restaurant on the point. The applicant indicated that the modifications to the MDA are to accommodate the site work and building construction for the restaurant on the point, but due to unforeseen conditions, the developer of the project is requesting to extend the completion of the remaining Phase 1 requirements until September 2021.

The Phase 1 improvements being requested to be deferred are to support the private development proposed on the point property and the developer anticipates development of the restaurant on the point in 2021. Therefore, the applicant is requesting to defer the remaining Phase 1 site improvements (parking lots, turn lanes, stormwater, landscaping, and sidewalks) required in the First Amendment to the original MDA to be completed by September 20, 2021.

There are no specific criteria to be used as a base for staff recommendations for several of the requested deviations from the original MDA. Staff recommendations on zoning matters are generally based on consideration of compatibility with adjacent uses, availability of adequate infrastructure and consistency with adopted plans (such as

Comprehensive Plan, City Vision, budget, etc.). The proposed timing of developing Phase 1 is different than originally planned in the Riverwalk Amended and Restated Master Development Agreement (MDA) and First Amendment to the original MDA and will require Planning Commission and Council direction on whether the specific deviations to the completion date for the remaining Phase 1 improvements and removal of a recording date for the subdivision plat will be acceptable.

If approved, the proposed Second Amendment will remove the recording date for the subdivision plat and extend the completion and acceptance of the remaining Phase 1 site improvements the restaurant on the point to September 20, 2021 (Figure 3). The proposed Second Amendment (see Exhibit 1) provides the following:

- Removes the date the 9-lot subdivision plat for the project area is to be recorded. The requirement to record the plat in the original MDA was to ensure the property that the 23-foot-wide Public Trail and Park (Tract A) was located on could be transferred to the City of Port Orange. Since the recording of the MDA in 2016, an alternative method was used to create Tract A and allow its ownership to be transferred over to the City of Port Orange. With the City securing ownership of Tract A, there is no need for the plat to be recorded by a specific date and when the subdivision plat is to be recorded it can be based on the property owner's timeframe;
- Defer the construction of the permanent parking lot and associated stormwater and installation of landscape buffers, landscape islands in the parking lot, sidewalks and irrigation on Lot 4 and Lot 9 in Phase 1 to September 20, 2021;
- Defer the completion of the two (2) left-turn lanes on Ridgewood Avenue in Phase 1 to September 20, 2021;
- Defer the construction of a 12' sidewalk along Ridgewood Avenue to September 20, 2021;
- Defer the issuance of a Certificate of Occupancy for the restaurant on the point to September 20, 2021;
- Provide the developer the ability to develop temporary parking on the Cardwell Parcel or within the MDA project area to re-open the 38-slip marina, with temporary parking to be removed by September 20, 2020; and
- Provide the City Council the authority to extend the deadline date in the Second Amendment MDA up to 6 months, provided all required rough-in mechanical, electrical, and plumbing inspections have been held and approved by September 20, 2021.

As part of the proposed Second Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA), the property owner has agreed to allow the City to use the lands west of the public trail for overflow parking during approved City special events. The City and Developer will need to amend the current Parking Easement Agreement for this use.

The Staff Development Review Committee (SDRC) has reviewed the proposed amendment and the applicant will need to address some comments such as correcting formatting errors prior to this item being considered by City Council.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The subject property is designated *Planned Community-Riverwalk* on the City's Future Land Use (FLU) Map. The original MDA was found to be consistent with the City's Comprehensive Plan when it was approved in 2016. The proposed Second Amendment does not change the FLU designation for the property and is consistent with the general intent of the Comprehensive Plan.

PUBLIC NOTICE

On June 5, 2020, staff posted the property notifying the public of the proposed MDA amendment. As of the time this agenda item was prepared, there has been zero (0) phone calls regarding the proposed MDA.

RECOMMENDATION

Staff recommends approval of the Second Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA), subject to the City Attorney's review to legal form and content.

ATTACHMENT

Exhibit 1 - Second Amendment to the Riverwalk Amended and Restated Master Development Agreement

EXHIBIT 1

Prepared By:

Jeffrey P. Brock, Esq
Smith Bigman Brock, P.A.
444 Seabreeze Blvd. – Suite 900
Daytona Beach, FL 32118

Return Recorded Document to:

Records Clerk
City of Port Orange
1000 City Center Circle
Port Orange, FL 32129

SECOND AMENDMENT TO THE RIVERWALK AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO THE RIVERWALK AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT (the “Second Amendment”), is entered into by and between HALIFAX RIVER PARTNERS, LLC, a Florida limited liability company, (“Owner/Developer”) Josif Atanasoski, Manager, having a mailing address of 1800 No. U.S. Highway 1, Ormond Beach, FL 32174 and the CITY OF PORT ORANGE, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, FL 32129 (the “City”), (collectively the “Parties”), who hereby agree and covenant as follows:

WHEREAS, the Parties previously entered into that certain Riverwalk Amended and Restated Master Development Agreement dated September 20, 2016 and recorded in Official Records Book 7306, Page 1188, Public Records of Volusia County, Florida (the “MDA”); and

WHEREAS, the Parties amended the MDA under the First Amendment To The Riverwalk Amended and Restated Master Development Agreement dated September 17, 2019 and recorded in Official Records Book 7750, Page 1657 of the Public Records of Volusia County Florida (“First Amendment”); and

WHEREAS, the Parties desire to further amend the MDA as more particularly set forth below.

NOW THEREFORE, the Parties hereby agree as follows;

1. The recitals stated above are true and correct and are incorporated herein by reference.
2. 3. Paragraph 6 of the MDA, “Phasing” is hereby amended to revise subparagraph “g.” as follows:
 - i. All the improvements on Lot 4 of the proposed subdivision plat referenced herein, also referred to as the "point", including a restaurant and the associated site improvements,

- extending into the intracoastal river within the mixed-use area except for the 2 multi-purpose marina buildings and the 58-slip marina.
- ii. The shared permanent parking facilities as shown on the CDP, located on Lot 9 of the proposed subdivision plat.
 - iii. The PTP, including landscaping within the utility corridor, lights, stormwater, benches, trash receptacles, and other amenities.
 - iv. Off-site work on the portion of Ocean Avenue to complete the PTP to the north side of the Ocean Avenue right-of-way where the PTP continues into the City's Riverwalk Park.
 - v. Necessary utilities to service all proposed lots indicated on the Conceptual Replat, incorporated herein by reference on the CDP (Exhibit "E") and utilities to maintain service to off-site property currently served with laterals on the Project Area Property.
 - vi. All stormwater improvements serving all phases except for structures and dry retention in the two condominium tower parking areas.
 - vii. Landscaping, except around the condominium tower footprints and condominium parking areas.
 - viii. Demolition of Cardwell structures, including the building and all subsurface structures and soils.
 - ix. Temporary parking for the existing marina as described in Paragraph 18 of the MDA, "Parking", as amended.
 - x. An Eight (8) foot pedestrian pathway on Lot 4. the subject of the pedestrian easement referenced in subsection 3.e.x, of this Agreement and as generally shown on Exhibit 1. attached hereto and made apart hereof by reference.

4. Paragraph 7 of the MDA, "Subdivision" is hereby amended to delete subparagraph "f." in its entirety.

5. Paragraph 12 of the MDA, "Bonding" is hereby amended to revise subparagraph "b." as follows:

b. Prior to the close of escrow, a separate bond, letter of credit or cash deposit shall be provided by the Owner/Developer to the City, to be held in escrow, guaranteeing the completion of the demolition and construction of the Public Trail and Park (PTP) and associated PTP utilities, stormwater and landscaping as set forth on plans stamped "Approved for Construction," in the amount of two (2) years of the net income for the Cardwell property along with a timing requirement that the PTP and the associated PTP improvements shall be complete within 14 months from the commencement of construction. The remaining Phase I improvements, as set forth in paragraph 6.g. of the MDA, as amended herein, shall be complete on or before September 20, 2021. The bond, letter of credit or cash deposit shall be released to Owner/Developer upon the timely completion of the Phase I improvements, otherwise it shall be forfeited.

6. Paragraph 18 of the MDA, “Parking” is hereby amended to revise subparagraph “d.” as follows:

d. Prior to the issuance of a certificate of occupancy for any use in Phase I or September 20, 2021, whichever date is earlier, Owner/Developer shall complete the permanent parking facilities as required in subparagraph 6.g as set forth in the MDA, as amended, and as otherwise required by the City’s LDC.

7. Paragraph 18 of the MDA, “Parking: is hereby amended to revise subparagraph, “e.”, as follows:

e. The Owner/Developer may use the Cardwell Parcel to comply with the parking requirement if the former 39 slip marina is re-opened. Prior to use of this parcel for parking, the demolition of Cardwell structures, including the building and all subsurface structures and soils shall be completed, and work approved by the City. If the City still owns the parcel at the time the marina is re-opened and parking is required, a license agreement approved by the City Council between the City, Owner/Developer, and marina tenant is required prior to use of parcel for parking. The temporary parking on this parcel or in the Project Area for the Marina shall comply with the following.

- i. The temporary parking lot shall be constructed in conformance with the standards set forth herein and as approved by the City, requiring a paved, stabilized shell or gravel parking lot with stormwater facilities, and an ADA compliant walkway from the temporary parking to the marina facilities as shown on the approved subdivision construction plans.
- ii. Landscaping for the temporary parking facilities, as required by the LDC and this Agreement shall not be required during the period of time set forth in this section.
- iii. Temporary lighting for the temporary parking area and designated pedestrian crosswalk and pathway to the marina shall be required
- iv. The allowance of the temporary parking may require a site plan or building permit and shall expire upon completion of the Phase I improvements on or before September 20, 2021.

8. Paragraph 21 of the MDA, “Effective Date/Expiration” is hereby amended to revise subparagraph “a.”, as follows:

a. The effective date of this Agreement shall be upon the recording of the Agreement, and the recording shall occur within 30 days of the City Council approval. If all PTP improvements and associated PTP utilities, stormwater drainage, and landscaping are not commenced by September 20, 2018 and completed by November 20, 2019, then this Agreement shall expire, except as amended by city council. Except as otherwise provided herein, the remaining Phase I improvements, as set forth in paragraph 6.g. of this Agreement, including but not limited to the completion of the restaurant, shall be completed on or before Five (5) years from the date of approval of this Agreement, said

date being September 20, 2021, otherwise, this Agreement shall expire and be of no further force and effect except as timely amended by city council. The Owner/Developer, their successors or assigns, shall not be relieved of the prior obligations to develop infrastructure, landscaping, or any other common features required to serve the existing marina. Prior to the issuance of a Certificate of Occupancy and/or Letter of Completion being issued to allow the marina to re-open, all parking and site improvements required by the Land Development Code are to be completed. as provided in Paragraph 18 of this Agreement. This obligation shall survive and shall not terminate in the event that this Agreement expires.

b. The Phase I improvements set forth in Paragraph 6.g. of this Agreement are required to be completed on or before September 20, 2021, in accordance with Subsection 21.a., herein. However, subject to the conditions set forth hereinbelow, the City Council, at their sole discretion, may consider extending the deadline for completion for a period of up to six (6) months, said date being on or before March 21, 2022, without amending this Agreement. In order for the Developer/Owner to request an extension of the deadline for up to six (6) months, as set forth hereinabove, all rough-in inspections for mechanical, plumbing, and electrical shall be completed and approved by the City. In the event the City Council does not extend the deadline for completion or Owner/Developer does not complete the required Phase I improvements set forth in Paragraph 6.g of this Agreement within said approved extended time period, then Owner/Developers' entitlements under this Agreement shall lapse and this Agreement shall be of no further force and effect.

9. This Second Amendment shall be effective upon recording in the public records of Volusia County, Florida.

10. All the provisions of the MDA and First Amendment not in conflict herewith shall remain in full force and effect and shall be supplemented for the matters specifically amended herein by this Second Amendment. The MDA and First Amendment shall survive the execution of this Second Amendment.

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to the Riverwalk Amended and Restated Master Development Agreement, by and through their duly authorized representatives, on the respective dates shown below.

WITNESSES (as to both):

**CITY OF PORT ORANGE, a Florida
Municipal Corporation**

Signature

By: _____
Donald O. Burnette, Mayor

Printed Name

Signature

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

Printed Name

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2020, by _____ and DONALD O. BURNETTE, Mayor, of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public, State of Florida at Large
My Commission Expires:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2020, by _____ and ROBIN L. FENWICK, City Clerk, of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

Notary Public, State of Florida at Large
My Commission Expires:

HALIFAX RIVER PARTNERS, LLC

WITNESSES:

Signature

Printed Name

Signature

Printed Name

By: _____
Josif Atanasoski, Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 2020, by JOSIF ATANASOSKI, Manager of HALIFAX RIVER PARTNERS, LLC. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida at Large

My Commission Expires:



STAFF REPORT

20-1 Large-Scale Comprehensive Plan Amendment/
4057 Bruner Road
CASE NO. 20-20000003

REQUEST:	Amend the Comprehensive Plan Future Land Use (FLU) Map to change the FLU for ± 18.7 acres from Volusia County <i>Urban Low Intensity</i> (0.2-4 units/acre) to City of Port <i>Public/Institutional</i> .
LOCATION:	4057 Bruner Road
APPLICANT/OWNER:	City of Port Orange
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	June 25, 2020

INTRODUCTION

The City of Port Orange requests approval to change the Future Land Use (FLU) designation of approximately 18.7 acres from Volusia County *Urban Low Intensity* (0.2-4 units/acre) to City of Port *Public/Institutional*. The subject property is located on the east side of Bruner Road, north of the City's water treatment plant and vacant city owned property (Gray property). If approved, the City plans to use the subject property as a Debris Management Site (DMS).

Figure 1. Location Map



Map created by the City of Port Orange Community Development Department

DISCUSSION

Over the last few years, the City has used available City property, or contracted with private landowners, to handle debris management. The permanent establishment of a DMS provides the City with certainty as to the DMS location and we prepare for hurricane season each year. The City acquired the subject property in March 2020 to use as a debris management site (DMS) for the temporary disposal of vegetative debris generated by a natural disaster. The City's intent for property is to remain vacant open space until it is needed as a DMS. The subject site would enable debris haulers to efficiently and effectively remove debris from streets and residents' homes and have it delivered to the proposed DMS on the subject property. Once all storm debris is collected, it will be reduced by chipping and then hauled to the local landfill for ultimate disposal.

The surrounding existing land uses, Future Land Use designations, and Zoning classifications for the properties adjacent to the subject property are identified in Table 1.

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Residential Mobile Home and Single Family Residential	Volusia County Urban Low Intensity	Volusia County MH-4
South	Vacant and City Wellfield	Urban Medium Density Residential (4-8 units/acre) and Public/Institutional	Multi-Family Residential (R-3L) and Government Public Use (GPU)
East	Residential Mobile Home	Urban Medium Density Residential (4-8 units/acre)	Residential Mobile Home (RMH)
West *	Vacant	Office/Residential Transition and Commercial	Planned Unit Development (PUD)

* Development applications are currently under review for a proposed multi-family development.

PROPOSED AMENDMENT

The proposed amendment is to change the FLU designation for ±18.7 acres from Volusia County *Urban Low Intensity* (0.2-4 units/acre) to City of Port Orange *Public/Institutional*. The proposed use of the site as a City DMS is allowed under the proposed *Public/Institutional* FLU designation.

The *Public/Institutional* FLU designation allows publicly owned lands to be developed as schools, libraries, active recreation parks, City administrative offices and yards, utility plants, the City's wellfield properties west of Tomoka Farms Road, and transportation facilities. This designation also allows privately owned land to be developed with uses that serve public needs, such as franchise utility operations, hospitals, churches, schools, institutions, etc. The intensity of permitted uses within this category is limited to a maximum floor area ratio (FAR)¹ of 0.2. This land use category may be located wherever needed to serve the City's population, businesses, and infrastructure in the most efficient manner. However, it is recognized that such uses are acceptable in a wide range of land

¹ The floor area ratio (FAR) is the relationship between the total amount of building floor area and the total area of the lot on which the building stands.

use environments and, therefore, small and/or isolated properties of this type may also be designated under adjoining land use types where appropriate.

The current and proposed Future Land Use designation of the subject property and adjacent properties are identified on Figure 2. The current and proposed zoning classification of the subject property and adjacent properties are identified on Figure 3.

Figure 2. Current and Proposed Future Land Use Map

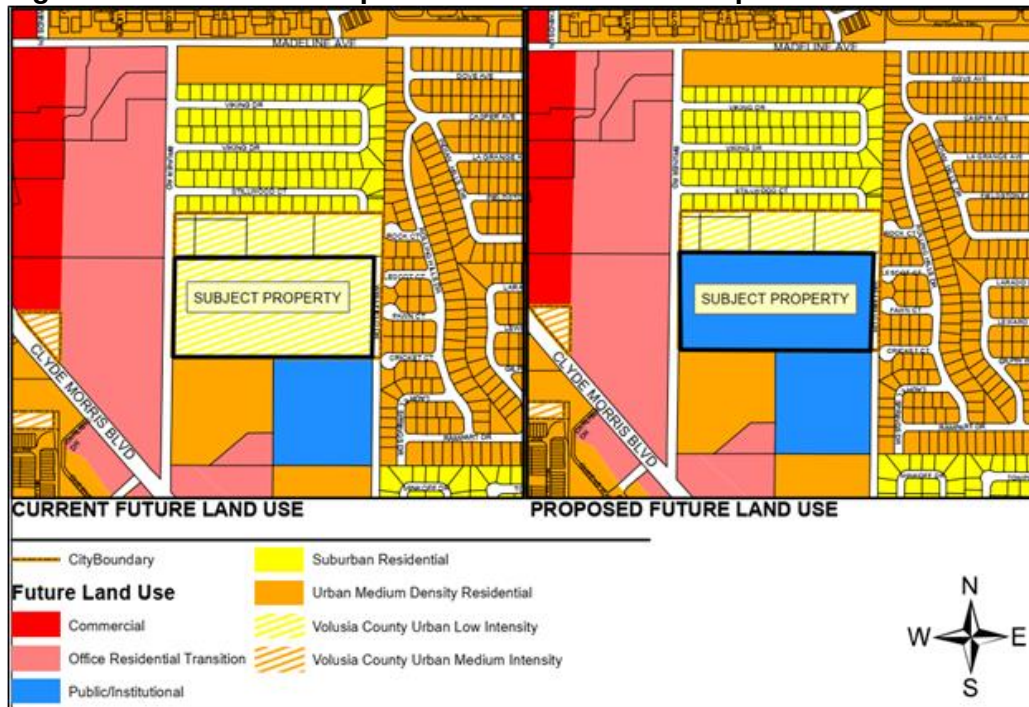
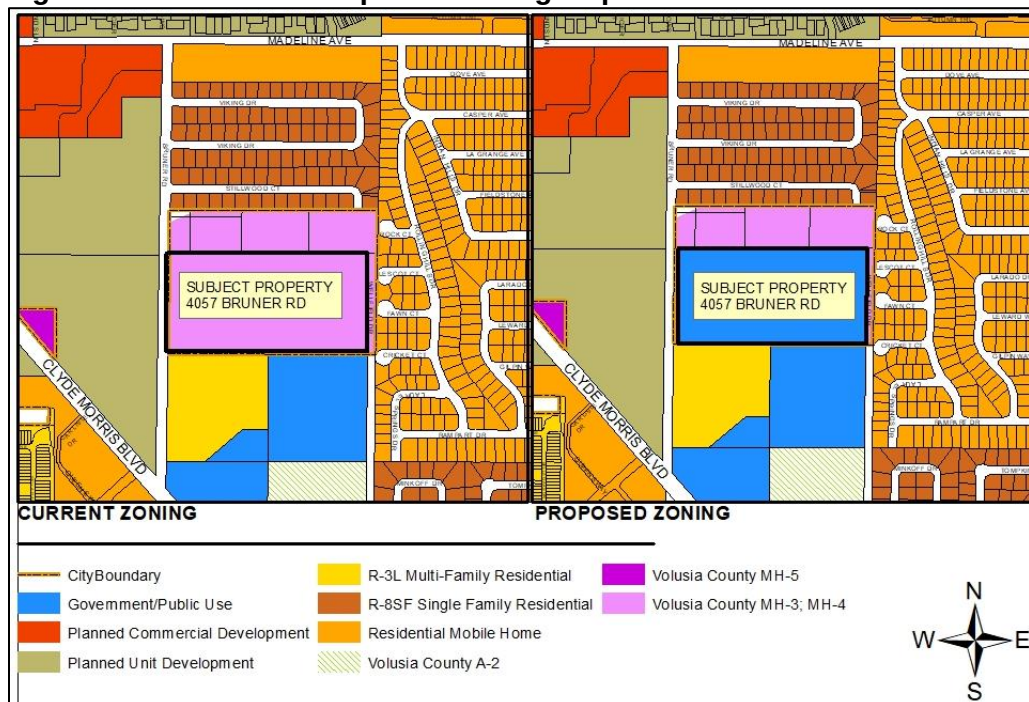


Figure 3. Current and Proposed Zoning Map



The following tables identify the current adopted and proposed FLU designations by acreage (Table 2) and the change to density/intensity on the subject property (Table 3).

Table 2. Current & Proposed Future Land Uses – Acreage by Category

FLU Designation	Current FLU (acres)	Proposed FLU (acres)	Net Change in FLU (acres)
Volusia County Urban Low Intensity (0.2-4 units/acre)	18.7	0	-18.7
City of Port Orange <i>Public/Institutional</i>	0	18.7	+18.7
Total Acreage	18.7	18.7	0

Table 3. Current & Proposed Future Land Uses – Density by Category

FLU Designation	Current FLU (theoretical max units/sq.ft.)	Proposed FLU (theoretical max units/sq.ft.)	Net Change in FLU (theoretical max units/sq.ft.)
Volusia County Urban Low Intensity (0.2-4 units/acre)	75 units	0	-75
City of Port Orange Public/Institutional (*FAR 0.2)	0	162,914 sq.ft.	+162,914 sq.ft.
Net Change	-75 units	+162,914 sq.ft.	-75 units +162,914 sq.ft.

*The floor area ratio (FAR) is the relationship between the total amount of building floor area and the total area of the lot on which the building stands.

INFRASTRUCTURE IMPACT ASSESSMENT

In accordance with standard practice from the Florida Department of Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the theoretical maximum development potential under the currently adopted Future Land Use (FLU) designation versus the proposed FLU designation. The following seven public facilities and services were examined:

1. Transportation
2. Sanitary Sewer
3. Potable Water
4. Solid Waste
5. Stormwater Drainage
6. Recreation
7. Schools

Table 4. Impact Analysis (Theoretical Max.)

Development Variable	Current Land Use (VC Urban Low Intensity 0.2-4 units/acre)	Proposed Land Use (PO Public /Institutional)	Net Change
Residential Units	75	0	-75
Square footage	0	162,914 sq.ft.	+162,914 sq.ft.
Population ¹	169	0	-169
P.M. Peak Hour Trips/ Daily Trips ²	77/714	189/2,154	+112/+1,440
Sanitary Sewer (gallons/day) ³	12,000	16,291	+4,291
Potable Water (gallons/day) ⁴	13,500	16,291	+2,791
Solid Waste (lbs./day) ⁵	543	1,629	+1,086
Stormwater Drainage ⁶	n/a	n/a	n/a
Recreation/Open Space ⁷ (acres)	1.2	0	-1.2

Notes:

1. Population: 2.25 persons per household (per 2010 Census)
2. Transportation: Single-family (210) = 1.02 PM peak hour trips/unit and 9.52 daily trips/unit; Hospital (610) = 1.16 PM peak hour trips/1000 sq.ft. and 13.22 daily trips/1000 sq.ft; ITE Trip Generation Manual, 10th Edition
3. Sanitary Sewer: 160 gallons per day per Equivalent Residential Unit; 1/10 gallon per square foot per day of non-residential development
4. Potable Water: 180 gallons per day per Equivalent Residential Unit; 1/10 gallon per square foot per day of non-residential development
5. Solid Waste: 3.21 pounds per person per day; 10 lbs. per 1,000 square feet of non-residential development per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event; Drainage system will be designed to meet the requirements of the Land Development Code
7. Rec. & Open Space: 7 acres/1,000 persons (0.007 acres/person)

The proposed FLU designation would decrease the theoretical maximum number of residential units allowed on the subject property and increase the theoretical maximum of non-residential square-footage. Overall, the proposed amendment results in a net increase in impacts to public infrastructure based on the theoretical maximum analysis required by Florida Statutes. All public infrastructure has available capacity for the proposed amendment. However, the actual use of the site as a City DMS will be significantly less intense than the theoretical maximum impacts indicated in the *Impact Analysis*. For example, according to Florida Statutes, the theoretical maximum for daily and P.M. Peak trips for the *Public/Institutional* FLU designation must use the highest traffic generating use allowed by the *Public/Institutional* FLU designation in the Impact Analysis even though the City's intent for the site is to remain as vacant open space until it is needed as a DMS.

TRANSPORTATION

According to the ITE Trip Generation Manual, the anticipated maximum trip generation potential for the current FLU designation is 77 PM peak-hour trips and 714 daily trips. The anticipated maximum trip generation potential for the proposed FLU designation is 189 PM peak-hour trips and 2,154 daily trips based on the theoretical maximum development analysis. However, based on the proposed use of the subject site as DMS facility, the trips that would be produced on a daily basis will be de minimus. The only anticipated traffic accessing the site would be when the site is being used as a DMS and periodic city vehicles accessing the site for maintenance and training. No deficiencies have been identified on the existing and future roadway network in this area in the short term or the long-term.

SANITARY SEWER

The City has available sewer capacity to accommodate the proposed FLU amendment. The City's adopted LOS standard is 160 gallons per day per Equivalent Residential Unit (ERU) and 1/10 gallon per square foot per day of commercial, industrial, or institutional development. Using these standards, the proposed land use would theoretically generate 16,291 gallons per day (gpd) of wastewater. This is a net increase of 4,291 gpd between the current and proposed FLU designations.

POTABLE WATER

The City has available potable water capacity (well and Consumptive Use Permit) to serve the proposed FLU amendment. The City's adopted LOS standard is 180 gallons per day per ERU and 1/10 gallon per square foot per day of commercial, industrial, or institutional development. Using these standards, the proposed land use would theoretically demand 16,291 gpd of potable water. This is a net increase of 2,791 gpd in demand between the current and proposed FLU designations. Even though the City may have the technical capability to pump 15 MGD from its wells, prohibitions within the City's 20-year Consumptive Use Permit (CUP) issued by the St. Johns River Water Management District (SJRWMD) significantly limit the amount of water that is permitted to be withdrawn. The City's CUP allows for an average daily withdrawal of 8.97 MGD and a maximum daily withdrawal of 13.46 MGD in 2020. Actual average daily flow during the 2019 calendar year was 6.05 MGD. When reviewing Future Land Use amendments, the following is considered to determine the amount of permitted water capacity available for all other future uses: the current year CUP allocation, consumption in the previous calendar year, reserved capacity, and projected consumption. Based upon these measures, the City still has available CUP capacity.

SOLID WASTE COLLECTION

There is available capacity at the landfill to address the City's solid waste disposal needs. The City's collection standard is 1,350 residential units per curbside collection crew, per day, and a weight standard of 3.21 pounds per person per day. The proposed land use would generate 1,629 pounds of garbage per day. This is a net increase of 1,086 pounds/day between the current and proposed FLU. Solid waste generated within the City of Port Orange is delivered to the Volusia County landfill, a 3,000-acre Class I landfill with a projected life span to the year 2050.

STORMWATER DRAINAGE

There is no anticipated impact to the City's drainage system from the proposed land use. Stormwater management in the City of Port Orange deals with both quality and quantity. The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan and Land Development Code require that there be no net loss of stormwater retention function as a result of development. In other words, a given parcel must have the same ability to store and discharge water after development as it does before development occurs. Any future redevelopment of the property will be required to address stormwater retention on the property in accordance with these City standards.

RECREATION AND OPEN SPACE

The proposed FLU designation does not require additional parkland because the proposed FLU designation does not increase residential demand. According to the City's 2019 Concurrency Management Report, the City has an excess of 55 acres of parkland, so no additional parkland is needed.

SCHOOLS

Pursuant to the Volusia County School District criteria, the proposed FLU amendment and any future development of this property is exempt from School Concurrency review because the proposed FLU amendment is a decrease in allowable residential units and subject property is proposed for a non-residential use.

ENVIRONMENTAL CONDITIONS

An environmental analysis was prepared by Young Bear Environmental (YBE) (May 2020). According to YBE, the subject site is disturbed land that is located within a highly developed urban area. The property was declared a Brownfield Site by Volusia County in March 2020.

In addition to the lake onsite, a small wetland occurs in the southeast corner. YBE states it is anticipated that protected species utilization is highly limited. The gopher tortoise, a state listed threatened species, was observed on the subject site. Several gopher tortoise burrows were found throughout the site. No other protected species, aside from gopher tortoises, were observed and none are anticipated. The gopher tortoise will require proper permitting with Florida Wildlife Conservation Commission (FWC) prior to site preparation activities. Any subsequent development will be required to comply with all federal, state, regional and local regulations pertaining to the protection and preservation of valuable environmental resources.

REVIEW CRITERIA AND STAFF FINDINGS

1. *The land use proposal is consistent with the goals, objectives, and policies of the adopted Port Orange Comprehensive Plan.*

Staff finding: The proposed FLU amendment is generally consistent with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. The proposed FLU category is compatible with adjacent parcels and adequate capacity

exists for potable water, sewer, schools, traffic, and solid waste to accommodate the proposed amendment. The Comprehensive Plan states that this land use category may be located wherever needed to serve the City's population, businesses, and infrastructure in the most efficient manner. The subject property is located adjacent to existing City owned property/facilities and located in an area that can efficiently serve the City. As with all development, the specific site development proposals for the subject property will be subject to concurrency regulations requiring adequate public facilities to be provided to mitigate the impacts.

2. *Amendments shall not result in incompatible land use designations for adjacent parcels or a neighborhood. Compatibility shall be determined by scale of development, intensity, density, and type of use, and the juxtaposition of uses.*

Staff finding: The proposed FLU amendment is compatible with the adjacent properties (see Table 1 – page 2). Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is unduly negatively impacted by the other. The subject property will also comply with design requirements in the Land Development Code to ensure compatibility between adjacent land uses. The subject property has historically been used as a debris disposal site. The City intends to clean-up the site keep it as vacant open space until it is needed as a DMS.

3. *An amendment shall not result in negative economic, social, or other impacts to the City of Port Orange.*

Staff finding: All public facilities have adequate capacity to accommodate the proposed amendment and therefore there are no negative impacts.

4. *Whether the amendment increases the clearance time for evacuation of the population in the Hurricane Vulnerability Zone above twelve hours.*

Staff finding: The subject property is not located within the Hurricane Vulnerability Zone.

5. *Whether the amendment discourages the proliferation of urban sprawl.*

Staff finding: The proposed amendment will not encourage sprawl. Pursuant to section 171.043(1) Florida Statutes, the subject property was determined to be, reasonably compact and to not contribute to urban sprawl during the annexation review. The proposed amendment is for an infill property that has access to existing infrastructure and services.

PUBLIC NOTICE

On June 12, 2020, staff posted the property notifying the public of the proposed FLU amendment and rezoning. At the time this agenda item was prepared, there has been one (1) inquiry received that was a general inquiry asking what was proposed.

STAFF RECOMMENDATION

Staff recommends approval of the request to change the Future Land Use designation of approximately 18.7 acres of land from Volusia County *Urban Low Intensity* (0.2-4 units/acre) to City of Port Orange *Public/Institutional*, and transmittal to the required review agencies for review.



STAFF REPORT ADMINISTRATIVE REZONING CASE NO. 20-60000004

REQUEST:	Rezone ±18.7 acres from Volusia County Rural Mobile Home (MH-3 and MH-4) to City of Port Orange Government Public Use (GPU) and ±8.1 acres from City of Port Orange Multi-Family Residential (R-3L) to City of Port Orange Government Public Use (GPU)
LOCATION:	4057 Bruner Road and 4505 Clyde Morris Boulevard (Figure 1 – Location Map)
OWNER/APPLICANT:	City of Port Orange
STAFF CONTACT:	Gwen Perney, Senior Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	June 25, 2020

Property Overview

The proposed administrative rezoning is to rezone approximately 18.7 acres from Volusia County Rural Mobile Home (MH-3 and MH-4) to City of Port Orange Government Public Use (GPU) and approximately 8.1 acres from City of Port Orange Multi-Family Residential (R-3L) to City of Port Orange Government Public Use (GPU). The subject properties are located on the east side of Bruner Road, to the north and west of the City's water treatment plant and Police Station. If approved, the City plans to use 4057 Bruner Road as a Debris Management Site (DMS) and to relocate the Public Utilities Field Operations facility from the current location on Oak Street to 4505 Clyde Morris Boulevard.

Figure 1. Location Map



Discussion

The following outlines the request to rezone these properties. The proposed rezoning was reviewed according to the criteria established in Chapter 3, Section 7 of the Land Development Code (LDC) in terms of consistency with the Comprehensive Plan and the surrounding land uses and zoning.

4057 Bruner Road

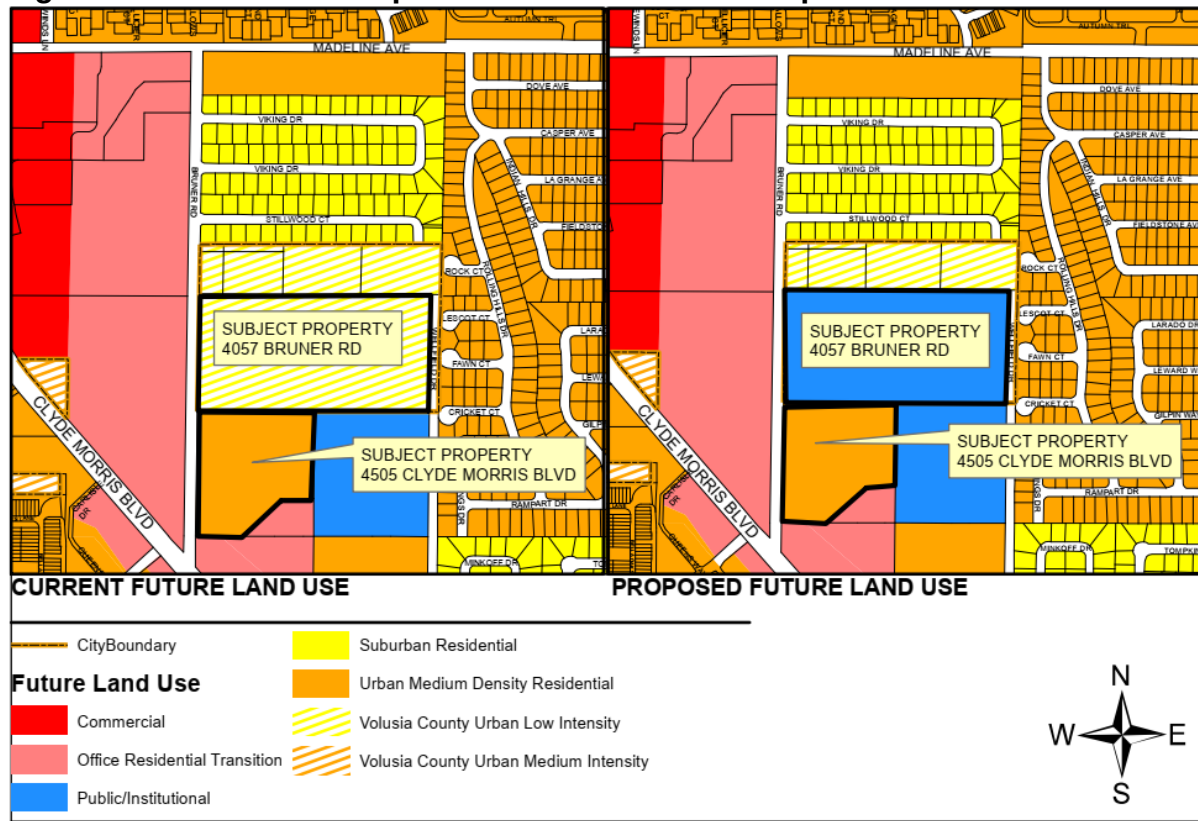
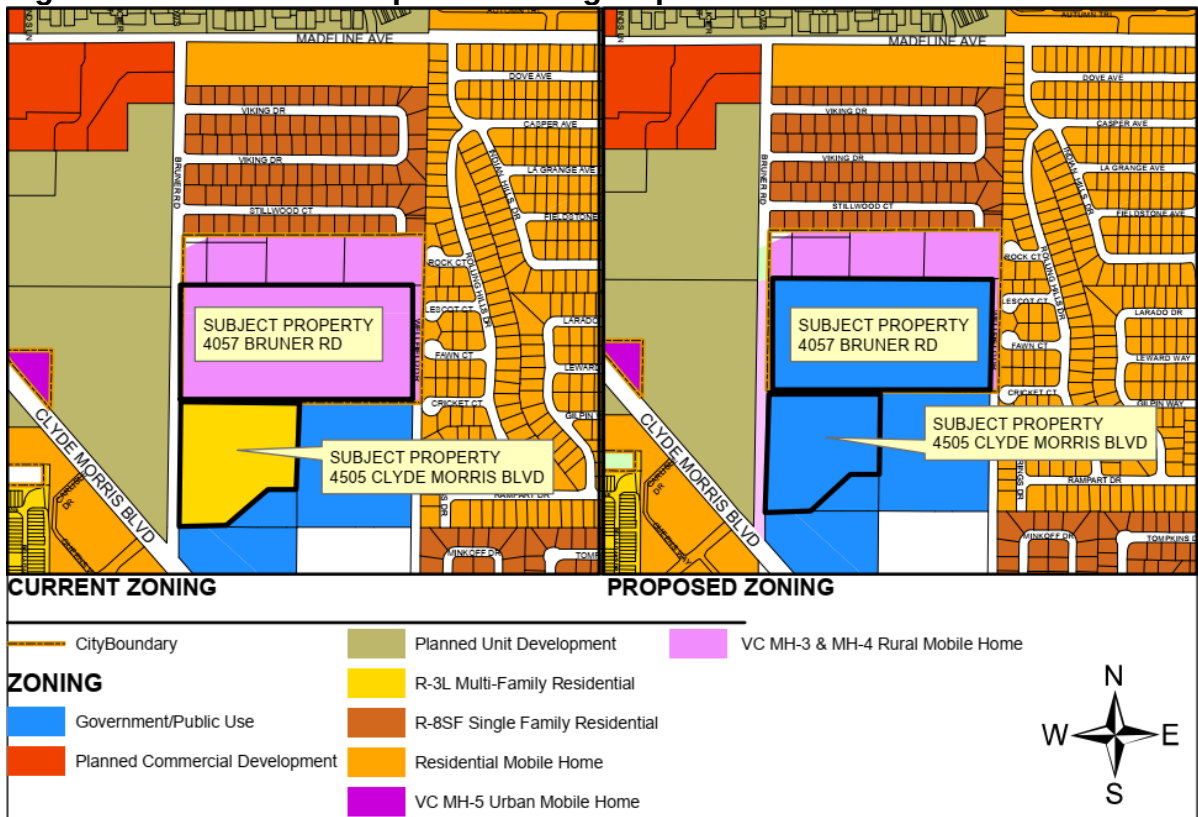
Over the last few years, the City has used available City property, or contracted with private landowners, to handle debris management. The permanent establishment of a Debris Management Site (DMS) provides the City with certainty as to the DMS location as we prepare for hurricane season each year. The City acquired the subject property in March 2020 to use as a DMS for the temporary disposal of vegetative debris generated by a natural disaster. The City's intent for the property is to remain vacant open space until it is needed as a DMS. The subject site would enable debris haulers to more efficiently and effectively remove debris from streets and residents' homes and have it delivered to the proposed DMS. Once all storm debris is collected, it will be reduced by chipping and then hauled to the local landfill for ultimate disposal.

An application to change the Future Land Use (FLU) designation to City of Port Orange *Public/Institutional* is running concurrent with this application. The proposed Government Public Use (GPU) zoning designation is consistent with the *Public/Institutional* FLU designation as it is property that will provide a public use of a post-storm debris management site for city-wide public use (Figures 2 and 3).

4505 Clyde Morris Boulevard

The City acquired the subject property in 2005 as part of a multi-parcel sale to construct the current Police Station. The property has been zoned residential since 1981, and in 2007, a portion of the property was rezoned to GPU concurrently with construction of the Police Station. With the subject property being used as a single-family residence in 2007, the subject property was not rezoned to GPU with the Police Station parcels. In May 2020, the single-family residence was removed, and the property can now be rezoned to GPU for consistency with the adjacent City-owned properties. The City is evaluating the relocation of the Public Utilities Field Operations facility from its current location on Oak Street to a new facility on the subject property. The City anticipates construction of the new facility to occur within the next three years.

The proposed zoning is consistent with the current FLU *Urban Median Density Residential* (4-8 units/acre). According to Future Land Use Element Policy 2.1.4 in the City's Comprehensive Plan, it recognizes that public/institutional uses are acceptable in a wide range of the City's Future Land Use designations, and isolated properties, such as the subject property, may be designated under any Future Land Use land use category where appropriate. Based on compatibility with adjacent zoning districts, access to an arterial roadway, availability of infrastructure, and ability to sufficiently buffer to adjacent uses, it has been determined that the proposed uses (City administrative or facility uses) and requested zoning are appropriate at this location and consistent with the current FLU designation.

Figure 2. Current and Proposed Future Land Use Map**Figure 3. Current and Proposed Zoning Map**

Consistency with Comprehensive Plan and Surrounding Uses and Zoning

The proposed rezoning is generally consistent with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan and are compatible with adjacent properties (Table 1). Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is negatively impacted by the other.

If the City has future plans to develop either property, site plans and/or building permits will be required to be submitted for staff review, to verify all LDC requirements are met, such as landscape buffers, parking, building setbacks, tree preservation, and infrastructure, to ensure compatibility with adjoining properties and that adequate public facilities and services are available.

Table 1. Surrounding Land Uses and Zoning
4057 Bruner Road

Direction	Existing Land Use	FLU Designation	Zoning District
North	Residential Mobile Home and Single Family Residential	<i>Volusia County Urban Low Intensity</i>	Volusia County (MH-4)
South	Vacant and City Wellfield	<i>Urban Medium Density Residential (4-8 units/acre) and Public/Institutional</i>	Multi-Family Residential (R-3L) and Government Public Use (GPU)
East	Residential Mobile Home	<i>Urban Medium Density Residential (4-8 units/acre)</i>	Residential Mobile Home (RMH)
West	Vacant	<i>Office/Residential Transition and Commercial</i>	Planned Unit Development (PUD)

4505 Clyde Morris Boulevard

Direction	Existing Land Use	FLU Designation	Zoning District
North	Vacant	<i>Volusia County Urban Low Intensity</i>	Volusia County (M-4)
South	Police Station	<i>Office/Residential Transition</i>	Government Public Use (GPU)
East	Water Plant	<i>Public/Institutional</i>	Government Public Use (GPU)
West	Vacant	<i>Office/Residential Transition and Commercial</i>	Planned Unit Development (PUD)

Public Notice

On June 12, 2020, staff posted the property notifying the public of the proposed rezoning. At the time this agenda item was prepared, there has been one (1) inquiry received that was a general inquiry asking what was proposed.

Staff Recommendation

Staff recommends **approval** of the administrative rezoning of (1) ±18.7 acres from Volusia County Rural Mobile Home (MH-3 and MH-4) to City of Port Orange Government Public Use (GPU) and (2) ±8.1 acres from City of Port Orange Multi-Family Residential (R-3L) to City of Port Orange Government Public Use (GPU).

Attachments

Exhibit 1 – List of Permitted Uses for the GPU zoning districts

Exhibit 1

Government Public Use

Permitted uses. All uses proposed by any governmental entity or agency thereof shall be permitted in this district. In addition, the following quasi-public uses shall be permitted in this district:

- (1) Adult/vocational education.
- (2) Cemeteries.
- (3) Charitable organization offices.
- (4) Hospitals.
- (5) Houses of worship.
- (6) Nursing homes.
- (7) Private schools.
- (8) Public utility stations/plants.

Permitted uses with special development requirements (chapter 18, section 4).

- (1) Child care centers (subsection 4).
- (2) Community gardens (subsection 5.1).

Special exception uses (chapter 18, section 3).

- (1) Marina, recreational (subsection 9.6).



STAFF REPORT

CASE NO. 20-25000003

LDC Amendment/Chapter 20 - Ridgewood Corridor Improvements

REQUEST:	Amendments to Chapter 20 of the Land Development Code (LDC), regarding the Ridgewood Targeted Business Program.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION:	Recommended Approval

Introduction

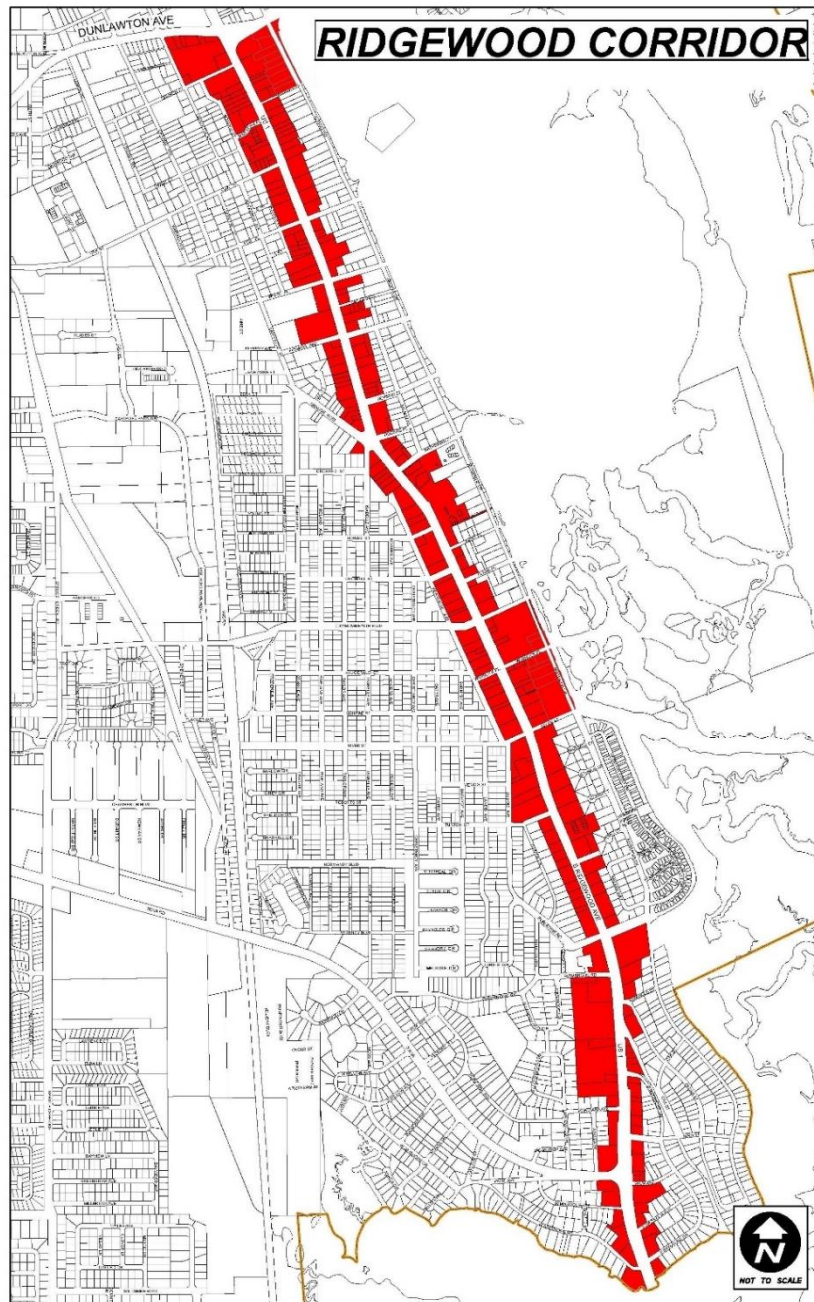
The proposed amendment to the Land Development Code is to improve upon current adopted strategies to encourage redevelopment of targeted businesses within the Ridgewood Corridor (Figure 1 on page 2). If approved, the proposed amendment would continue implementation of the Ridgewood Corridor Plan (RCP) Long Term Strategy #1 regarding incentives to encourage redevelopment and improve the corridor by making it more attractive, improving its economic position, and minimizing activities that discourage investment.

Summary of Proposed Amendments to LDC - Chapter 20

1. *Extend Timeframe for the Target Business Site Improvement Waiver Program:*

In December 2017, City Council approved a three-year pilot program for Ridgewood Corridor targeted businesses that waived the requirement for a site development plan and site improvements that are not required to meet accessibility, Building and Fire Code requirements if there is no increase in the area of the principal building. This temporary waiver of required site improvements will currently terminate on January 31, 2021, unless terminated earlier or extended by City Council action. The proposed amendment is to extend the timeframe for the Target Business Site Improvement Waiver Program until January 31, 2023.

The intent of the Target Business Site Improvement Waiver Program is to encourage redevelopment of the Ridgewood Corridor by allowing smaller “mom-and-pop” and local businesses to get started without a substantial amount of upfront costs. Some communities have successfully encouraged redevelopment by allowing some site upgrades to be deferred until the areas have transformed and there is enough private market interest to drive the higher level of improvements. There is a risk that the improvements may never get done, but the standard regulatory environment has not been successful at encouraging reinvestment in this area.

Figure 1. Ridgewood Corridor Map

According to the targeted business owners that have redeveloped along the corridor, they would not have been able to have a business located in Port Orange if it was not for the Ridgewood Targeted Business Program because their business was able to get started without a substantial amount of upfront costs. Staff believes extending the timeframe for the Target Business Site Improvement Waiver Program will provide staff with additional time to further promote the program to continue the redevelopment and reinvestment in the City's oldest commercial corridor. The number of new targeted businesses each year since the targeted business program started has been consistent (5 targeted businesses per year). There is a risk that the improvements may never get done, but the current regulatory environment for these businesses has not been successful at encouraging reinvestment in this area.

Since the start of the pilot program in December 2017, there have been forty (40) new businesses added to the Ridgewood Corridor of which seventeen (17) were targeted businesses (**Exhibit 2**). Staff is also requesting the timeframe extension to allow additional time for staff to evaluate the positive and negative associated with the program along the Ridgewood Corridor as it relates to further redevelopment, impacts to adjacent properties, and reinvestment into businesses established during the program.

Figure 2. Examples of Targeted Businesses Added Since December 2017



Chicken Coop Restaurant - 5901 Ridgewood Ave.



Water's Edge Dental – 4410 Ridgewood Ave.



E & J Bait & Tackle – 5253 Ridgewood Ave.

2. *Expand the list of The Ridgewood Corridor Targeted Businesses:*

Over the last 2 ½ years there have been a number of businesses that inquired about the Target Business Site Improvement Waiver Program but were not specifically listed as a targeted business. Currently, the following businesses are Ridgewood Corridor Targeted Businesses: restaurants; professional offices; developments that assemble land to create a connection from Ridgewood to the riverfront; water-based businesses (e.g. watersports sales and rentals, such as kayaks, jet skis, paddle boards, etc., water taxis, boat tours, fish markets, bait and tackle shops); eco-tourism (e.g. guided tours);

grocery store; craft food and beverage producer; microbrewery; and any other enterprise/project with an anticipated socio-economic benefit and supported by the city council. Staff is proposing the following businesses to be considered as a Ridgewood Corridor Targeted Business:

- Adult/vocational education
- Appliance/electronic repair shops
- Business service
- Convenience stores without fuel operations
- Financial services
- Fleet-based services
- Health/exercise club
- Laboratory, research and development
- Manufacturing (craftsman shop and limited)
- Personal services
- Retail home building materials

See Exhibit 3 for the definition of each use/businesses from the Land Development Code. Staff believes that expanding the list of targeted businesses will further encourage redevelopment and reinvestment in the corridor and allow for more job-creating businesses to get established along the Ridgewood Avenue Corridor without a substantial amount of upfront costs. In addition, the proposed uses for consideration as targeted businesses typically do not create nuisances to adjacent properties and can add businesses that provide desired services and create jobs. However, the subject amendment includes a requirement for screening of outdoor storage or equipment if it is determined by administrative official that this improvement is needed to not create a nuisance to adjacent properties.

Recently, staff was able to work with businesses not currently on the Targeted Business list to find a location along the Ridgewood Corridor that met their needs and did not need upgrades (e.g. Natural Nirvana – Manufacturing: craftsman shop), or to utilize the phased improvement process provided in the LDC (e.g. Dave’s Pest Control – fleet base) to make necessary site improvements. After working with these job-creating businesses, staff wanted to re-evaluate the targeted business list to include additional businesses to increase the opportunity for quality job-creating businesses or service providing businesses to be add.

Recommendation

Approval of the amendments to Chapter 20 of the Land Development Code, subject to review by the City Attorney as to legal form and content.

Attachments

Exhibit 1 - Proposed LDC Amendments to Chapter 20

Exhibit 2 - Targeted Businesses added since 2017

Exhibit 3 – Definitions of proposed additional targeted businesses

Exhibit 1

Land Development Code

Chapter 20 - ECONOMIC DEVELOPMENT INCENTIVES

Sec. 2: - Overview of available city incentives.

[No changes to sections (a) – (e)]

(f) *Waiver of required site improvements for Ridgewood Corridor Targeted Business.* As a pilot program, developers of all Ridgewood Corridor targeted businesses, as identified in subsection (k)(2), with direct frontage on Ridgewood Avenue (regardless of zoning) may request a waiver of required site improvements other than those improvements related to screening of outdoor storage and equipment, accessibility, Building Code, and Fire Code so long as there is no increase in the area of the principal structure. Waivers shall be reviewed and approved by staff, and all approved waivers shall be documented and reported to city council. This pilot program shall terminate and expire on January 31, ~~2021~~2023, unless terminated earlier or extended by city council action.

[No changes to sections (g) – (j)]

(k) *Targeted businesses program.*

[No changes to section (1)]

(2) *Targeted businesses—Ridgewood Corridor.* The following businesses shall be targeted businesses along the Ridgewood Corridor and may be extended assistance by the city: restaurants; professional offices; Adult/vocational education; Appliance/electronic repair shops; Business service; Convenience stores without fuel operations; Financial services; Fleet-based services; Health/exercise club; Laboratory, research and development; Personal services; developments that assemble land to create a connection from Ridgewood to the riverfront; water-based businesses (e.g. watersports sales and rentals, such as kayaks, jet skis, paddle boards, etc., water taxis, boat tours, fish markets, bait and tackle shops); eco-tourism (e.g. guided tours); grocery store; craft food and beverage producer; microbrewery; manufacturing (craftsman shop and limited); Retail home building materials; and any other enterprise/project with an anticipated socio-economic benefit and supported by the city council.

Exhibit 2 – Definitions of Additional Targeted Businesses

Adult/vocational education - An establishment for the instruction or guidance in an occupation, profession, civic activity or art form, and may include, but not limited to, the teaching of a trade apprenticeship, acting/drama, citizenship, cooking, and music and voice.

Appliance/electronic repair shops - A retail establishment offering for sale the repair services of small appliances and electronic equipment, with such repair generally occurring on the premises.

Business service - An establishment where the performance of duties related to business operations are provided within or outside of the confines of such an establishment, and may include, but not be limited to, business machine repair, computer service and repair, microfilming, secretarial and typing service, and telephone answering service.

Convenience stores without fuel operations - An establishment which offers for sale a limited line of food and household goods and is designed for quick service to customers with small purchases. Such an establishment may not offer for sale fuel by way of self-service gasoline/diesel pumps or LP gas tanks.

Financial services - An establishment engaged in the management of money and credit, and may include, but not be limited to, accounting, bookkeeping, investment securities, money transfer, mortgage loans, pension plans, stock and bond brokerage, and tax planning. This term would not include the term bank.

Fleet-based services - An establishment whose primary purpose is to provide mobile services to residential and/or commercial customers, including, but not limited to, pest control, cable television, mobile detailing, septic tank, lawn care, and other similar types of services.

Health/exercise club - An establishment which provides for athletic and physical force training or health and recreational exercise. This term may include, but not be limited to, the terms "aerobics instruction," "dance instruction," "fitness center," "gymnasium (private)," "gymnastics school," "karate," "martial arts," "self defense instruction," and "weight room."

Laboratory, research and development - An establishment engaged in the investigation, testing and experimentation of the natural, physical or social sciences, or engaged in engineering and development as an extension of investigation with the object of creating end products. This type of facility may include, but not be limited to, asphalt and concrete testing, foundation testing, materials testing, and soils, geology, and groundwater testing.

Manufacturing: craftsman shop - A trade type of establishment where products are made based on a specific manual skill or art, and may include, but not be limited to, cabinetmaking, fireworks, painting, pottery, stained glass, upholstery and woodworking.

Manufacturing: limited - Establishments which are engaged in the making of a finished product, primarily by means of assembly of component parts. Limited manufacturing uses shall encompass those manufacturing uses defined by this code as "Craftsman Shop," but shall be distinguished from other manufacturing uses defined as "Fabrication" or "Processing" by the scale and intensity of the facility and its operations, and its impacts on surrounding properties.

Personal services - An establishment which provides for the care of a person or a person's apparel, and may include, but not be limited to, beauty/barber shop, nail salon, tanning salon, application of cosmetic permanent eye makeup, laundry, dry cleaning (retail store), garment service, and shoe repair. This term shall not include pain management clinic or tattoo establishment.

Retail home building materials - An establishment which offers for retail sale materials and equipment for home and garden construction and maintenance, and may include, but not be limited to, aluminum, cabinets, caulking material and equipment, doors, fill material, fireplace, gutters, lighting and fan products, lumber and plywood, plant materials, siding, tiles, and windows and shutters.

Exhibit 3

Targeted Businesses Added to Ridgewood Avenue Corridor Since December 2017

	Business Name	Address	BT / CO Issued	Active
1	Waters Edge Dental	4410 Ridgewood	5/8/2019	Y
2	Kid City USA	4530 Ridgewood	3/12/2018	Y
3	A Classic Touch Painting	5811 Ridgewood	12/28/2018	Y
4	E & J Bait & Tackle	5253 Ridgewood	11/16/2018	Y
5	Newberry Realty	4240 Ridgewood Ave #103	2/26/2019	Y
6	Ed Water's Transport	5606 Ridgewood	5/6/2019	Y
7	Rhein Stube (fka Howard's Café)	201 Commonwealth Ave #D	4/17/2019	Y
8	Ideal Services	4393 Ridgewood #2	1/29/2020	Y
9	Salty Dog Wellness	5111 Ridgewood Ave. #2020	1/11/2019	Y
10	United Engineering Consultants	4240 Ridgewood Ave #104	12/10/2019	Y
11	Chicken Coop	5901 Ridgewood	3/17/2020	Y
12	La Cantina Cocina Mexicana	4085 Ridgewood	12/7/2018	Y
13	Atlantic Creamery	4066 Ridgewood Ave	8/15/2019	Y
14	Conviva Care Center	4770 Ridgewood Ave	6/17/2019	Y
15	Progressive Medical Community	5111 Ridgewood Ave. #301	6/12/2020	Y
16	Pizza City	5882 Ridgewood Ave	10/15/2019	Y
17	Blue Palm Property Mgmt (relocated to Dunlawton)	4393 Ridgewood Ave #3	2/20/2020	N