



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, August 27, 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: 20-2 Large-Scale Future Land Use Map Amendment/Osprey Apartments
LOCATION: South of Madeline Avenue, between Clyde Morris Boulevard and Bruner Road.
CASE NO.: 20-20000002
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org
APPLICANT: Jeffrey Brock, Smith Bigman Brock, P.A.; 444 Seabreeze Blvd., Suite 900, Daytona Beach, FL 32118

A request by the applicant to amend the Future Land Use designations of a +/- 35-acre site from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units per acre).

6. APPLICATION: Rezoning/Osprey Apartments
LOCATION: South of Madeline Avenue, between Clyde Morris Boulevard and Bruner Road
CASE NO.: 20-60000003
STAFF CONTACT: Gwen Perney, Senior Planner (386) 506-5673/gperney@port-orange.org
APPLICANT: Jeffrey Brock, Smith Bigman Brock, P.A.; 444 Seabreeze Blvd., Suite 900, Daytona Beach, FL 32118

A request by the applicant to rezone a +/- 35-acre site from Planned Unit Development (PUD) to Moderate Density Multifamily Residential (R-3M).

7. APPLICATION: Rezoning/4116 Nova Rd.

LOCATION: 4116 Nova Rd.

CASE NO.: 20-60000005

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

APPLICANT: ABC Nova Properties, LLC; 4116 S. Nova Rd., Port Orange, FL 32127

A request by the applicant to rezone +/- 9.9 acres of the overall +/- 13-acre property from Flood Plain-Conservation (F-C) to Commercial Industrial (CI).

8. APPLICATION: LDC Amendment/Chapter 16

CASE NO.: 20-25000002

APPLICANT: City of Port Orange

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

A request to approve text amendment to Chapter 16, Section 1 of the Land Development Code related to residential outside storage of disabled or abandoned recreational vehicles or equipment.

9. APPLICATION: LDC Amendment/Chapters 2, 16, and 17

CASE NO.: 20-25000005

APPLICANT: City of Port Orange

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

A request to approve text amendments to Chapter 2, 16, and 17 of the Land Development Code (LDC), updating the definition for atypical lots and type of fencing allowed on an atypical lot, and special setbacks for A/C units, pergolas and gazebos.

C. OTHER BUSINESS

10. Commissioner Comments

11. 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



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

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 August 27, 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 August 27, 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

Planning Commission Meeting

Thursday, August 27, 2020

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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
JULY 23, 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
Newton White
John Junco

Absent: Darrel “Bo” Bofamy (unexcused)
Lance Green (excused)
Stan Schmidt (unexcused)

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

B. DISCUSSION/ACTION

4. Consideration of Minutes

Motion to approve the minutes from May 27, 2020 with an amendment to add the discussion with ICI homes on the landscaping improvements required was made by Commissioner Jordan and Seconded by Commissioner White. Motion carried unanimously by roll call vote.

5. CASE NO.: 20-25000004

LDC Amendment/Chapter 9, Article II and Chapter 13

Request to amend Chapter 9, Article II and Chapter 13 of the Land Development Code (LDC) to update the historic tree removal process, update penalty fees, create tree abuse regulations, and to remove the landscape materials lists from the LDC and to adopt them by resolution.

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

Penelope Cruz, Planning Manager, discussed details of the proposed amendment and answered questions from Commissioners.

Motion to approve Case No. 20-25000004 as presented was made by Commissioner White and Seconded by Commissioner Junco. Motion passed unanimously by roll call vote.

C. OTHER BUSINESS

6. Commissioner Comments

Commissioner White asked about commercial property maintenance requirements. Tim Burman, Community Development Director, stated code enforcement handles any improvement requirements and they work closely with them by providing the codes.

7. Staff Comments

There were none.

D. PUBLIC COMMENTS

There were none.

E. ADJOURNMENT – 5:45 p.m.

Chair Mills-Benat



STAFF REPORT

20-2 Large-Scale Comprehensive Plan Amendment/
Osprey Pointe Apartments
CASE NO. 20-20000002

REQUEST:	Amend the Comprehensive Plan Future Land Use (FLU) Map to change the FLU for ±35 acres from <i>Office/Residential Transition</i> and <i>Commercial</i> to <i>Urban High Density Residential</i> (8-16 units/acre).
APPLICANT:	Jeffrey Brock, Smith Bigman Brock, P.A.
OWNER:	Palmetto Pointe, LLP
STAFF CONTACT:	Penelope Cruz, Planning Manager, (386)506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 27, 2020

INTRODUCTION

Jeffrey Brock, applicant on behalf of the property owner, Palmetto Point, LLP, requests to amend the Future Land Use (FLU) designations for ±35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre). The subject property is located along Clyde Morris Boulevard, south of Madeline Avenue, and east of Bruner Road. If approved, the applicant intends to rezone the subject property to the Moderate Density Multi-Family Residential District (R-3M) and submit a site plan for the development of a 384-unit multi-family complex.

Figure 1. Location Map



The applicant's development application requests to change the FLU designation on the subject property does not include a change to the City's Comprehensive Plan regarding extension of Brunner Road from its terminus to Clyde Morris Boulevard. If the development application is approved, staff has discussed with Volusia County and the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future as shown in the current City's Comprehensive Plan and NOT constructing Brunner Road from its terminus to Clyde Morris Boulevard. If the development applications are approved, maintaining the ability to construct Bruner Road in the future would maintain consistency with the City's Comprehensive Plan.

The subject property currently has Future Land Use (FLU) designations of *Office/Residential Transition* and *Commercial* and is zoned Planned Unit Development (PUD) without a Master Development Agreement (MDA). The subject property was part of the ±52.73 acre The Palms PUD approved in 2007 and allowed for the development of 451 multi-family units and 187,000 square feet of commercial uses. The MDA for The Palms, the previously approved PUD, expired in 2009 and the property remained vacant. In 2015, ±17.72 acres of the original The Palms PUD were rezoned to the Palmetto Pointe Planned Commercial Development (PCD) and was developed with a commercial development (Walmart Neighborhood Market).

DISCUSSION

The following discussion examines the proposed amendment, impacts of the proposed amendment, and existing environmental conditions.

PROPERTY OVERVIEW

The subject parcel is currently vacant. The surrounding existing land uses, Future Land Use designations, and Zoning classifications are identified below in Table 1.

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial	Commercial; Office/Residential Transition	Palmetto Pointe Planned Commercial Development (PCD)
South	Clyde Morris Blvd.; mobile home park	Urban Medium Density Residential; Office/Residential Transition	Residential Mobile Home (RMH)
East	Brunner Road; Single-family; City owned land; Police Department	Urban Medium Density Residential; Suburban Residential; Office/Residential Transition	R-8SF Single Family Residential; Volusia County MH- 1; R-3L Multi-Family Residential; Government/Public Use (GPU)
West	Clyde Morris Blvd.; vacant commercial; mobile home park	Commercial; Urban Medium Density Residential	Palmetto Point PCD; Groves PCD; Colony in the Wood Planned Unit Development (PUD); Residential Mobile Home (RMH)

The current FLU designations for the subject property and adjacent properties and the proposed FLU designation for the subject property is identified in Figure 2. The current zoning classification of the subject property and adjacent properties and the proposed zoning classification of the subject property are identified in Figure 3.

Figure 2. Current and Proposed FLU Map

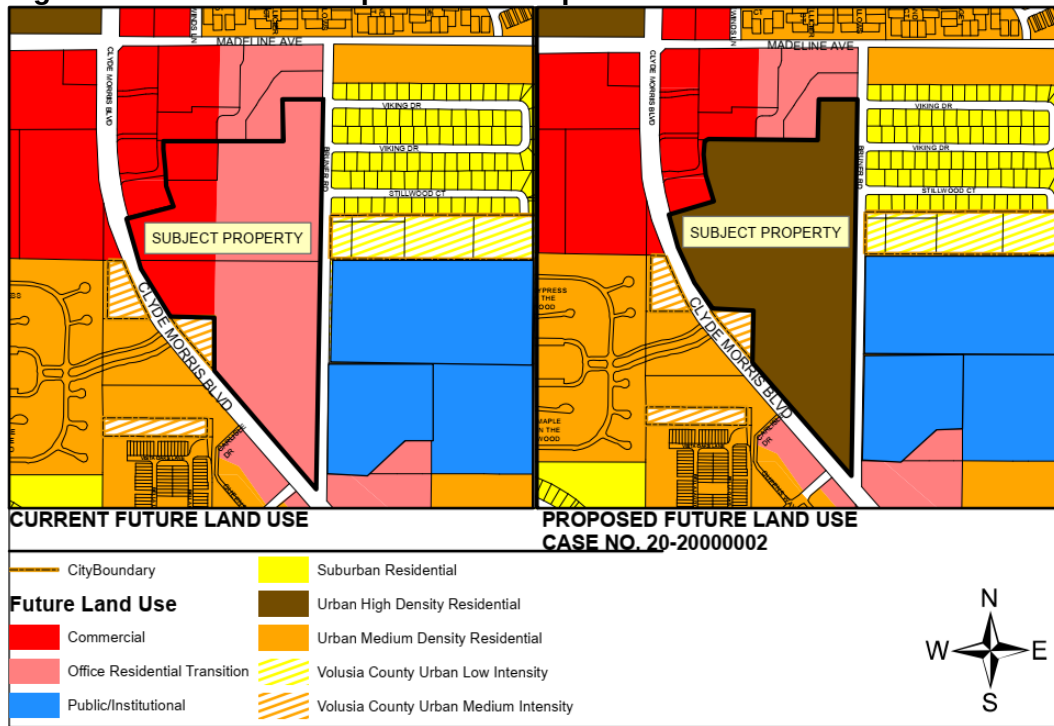
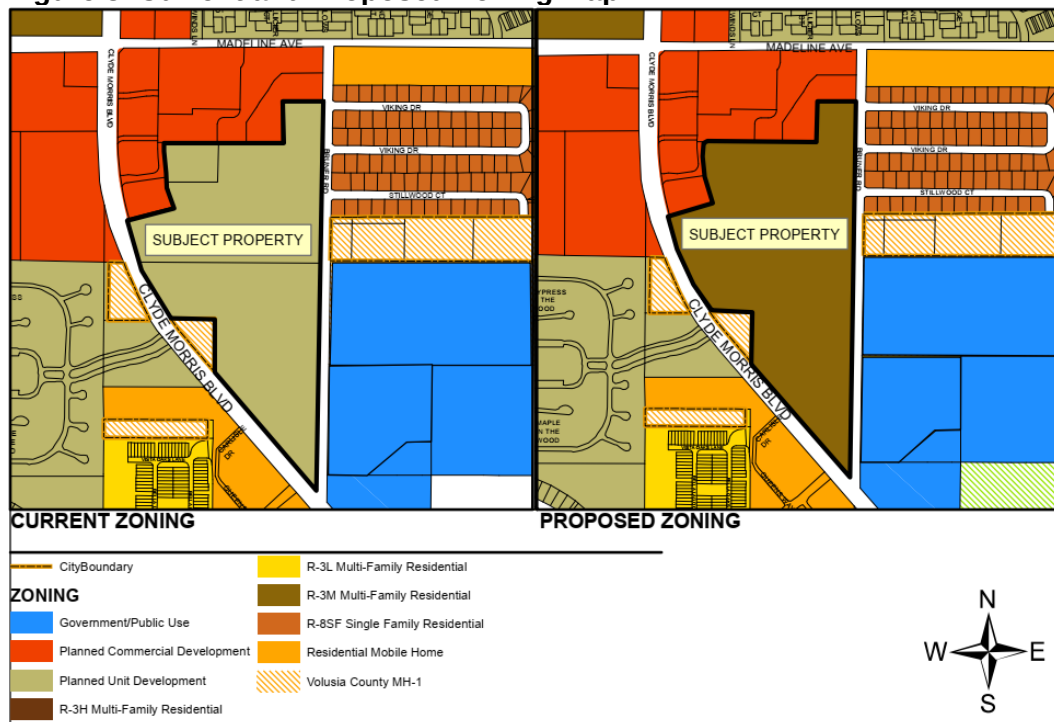


Figure 3. Current and Proposed Zoning Map



PROPOSED AMENDMENT

The proposed amendment is to change the FLU designations for ±35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre). The current FLU designations are *Commercial* and *Office/Residential Transition*, which is a mixed-use category that allows for a distribution of uses within the 35-acres, with the cumulative mixture of uses totaling 100%:

1. 75% office and 25% residential (up to 10 units per acre);
2. 75% office and 25% commercial; or
3. 100% office.

The proposed *Urban High Density Residential* (8-16 units/acre) FLU designation is a multi-family residential designation, compared to the current FLU *Commercial* and *Office/Residential Transition* designations that allow the development of office, commercial and residential uses. The following tables identify the current adopted and proposed FLU designations by acreage (Table 2), maximum allowable density/intensity and net change in density/intensity (Table 3).

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

	Current FLU (acres)	Proposed FLU (acres)	Net Change in FLU (acres)
Office/Residential Transition	26.2	0	-26.2
Commercial	8.8	0	-8.8
Urban High Density Residential (8-16 units/acre)	0	35	+35
Total Acreage	35	35	35

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

	Current FLU (theoretical max dwelling units/sq.ft.)	Proposed FLU (theoretical max dwelling units/sq.ft.)	Net Change in FLU (theoretical max dwelling units/sq.ft.)
Office/Residential Transition			
Scenario 1 (25% Residential*/75% Office**)	66 d/u 1,284,666 sq.ft.	0	-66 d/u -1,284,666 sq.ft.
Scenario 2 (25% commercial*/75% office**)	428,222 sq.ft. 1,284,666 sq.ft.	0	-1,712,888 sq.ft.
Commercial***	191,446 sq.ft.	0	-191,446 sq.ft.
Urban High Density Residential (8-16 units/acre)	0	560 d/u****	+560

*up to 10 units/acre

**1.5 Floor-area ratio for non-residential; 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.

***0.5 Floor-area ratio (FAR)

****560 units is the theoretical maximum allowed by the FLU designation; the actual proposed development is for 384 units

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 current Future Land Use designations versus the requested 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		PROPOSED LAND USE (Urban High Density Residential)	NET CHANGE	
	Scenario 1 (Commercial + ORT at 25% Residential/ 75% Office)	Scenario 2 (Commercial + ORT at 25% commercial/ 75% office)		Scenario 1	Scenario 2
Residential Units	66	0	560	+494	+560
Non-residential Buildable Sq. Ft.	Commercial: 191,446 sq.ft. Office: 1,284,666 sq.ft.	Commercial: 619,668 sq.ft. Office: 1,284,666 sq.ft.	0	Commercial: -191,446 sq.ft. Office: -1,284,666 sq.ft.	Commercial: -619,668 sq.ft. Office: -1,284,666 sq.ft.
Population ¹	149	0	1,260	+1,111	+1,260
Peak Hour Trips/Daily Trips ²	6,236/ 55,026	7,784/ 72,875	347/ 3,724	-5,889/ -51,302	-7,437/ -69,151
Sanitary Sewer (gallons/day) ³	158,097	190,433	89,600	-68,497	-100,833
Potable Water (gallons/day) ⁴	159,408	190,433	100,800	-58,608	-89,633
Solid Waste (lbs./person) ⁵	15,239	19,043	4,045	-11,195	-14,999
Stormwater Drainage ⁶	n/a	n/a	n/a	n/a	n/a
Recreation/Open Space ⁷ (acres)	1.04	0	8.82	+7.78	+8.82

Notes:

1. Population: 2.25 persons per household (per 2010 Census)
2. Transportation: Multifamily Apartments (220) 0.62 PM peak hour trips per unit and 6.65 daily trips per unit; Shopping Center (820) 3.71 PM Peak Hour; 42.70 Average Daily; Medical Office (720) trips per 1000 sq.ft. – 4.27 PM Peak Hour, 36.13 Average Daily; ITE Trip Generation Manual, 9th 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 current FLU designations on the property are *Commercial* and *Office/Residential Transition* and the *Office/Residential Transition* designation is a mixed-use category that allows the following theoretical maximum development scenarios:

1. 25% residential and 75% office (scenario 1); or
2. 25% commercial and 75% office (scenario 2).

According to the Infrastructure Impact Analysis, the proposed FLU designation would *decrease* the theoretical maximum square-footage of non-residential development allowed and increase the theoretical maximum number of residential units allowed on the 35-acre property. Overall, the amendment results in a net decrease in impacts to public infrastructure, except for recreation and open space. All future development plans submitted for the subject property will require a detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) are met. As with all development, specific site development proposals for the subject property is subject to concurrency regulations at the time of development requiring public facilities and services to be provided or for the developer to enter into a mitigation agreement for their impacts.

TRANSPORTATION

A transportation report has been prepared by LTG, Inc., and reviewed by staff. As indicated in the report, there is a decrease in the number of daily trips and P.M. peak hour trips from the current to the proposed FLU designation. The reduction in anticipated daily trips and P.M. peak hour trips is due to the change from a FLU designation that supports non-residential uses to a FLU designation that support residential uses. According to the Institute of Transportation Engineers (ITE), residential dwelling units have a lower trip generation than office and commercial uses because office and commercial uses attract trips from a larger area. Based on the ITE Trip Generation Manual, 10th Edition, the proposed FLU designation could generate 347 P.M. peak hour trips, and 3,742 daily trips based on theoretical maximum of 560 units. The proposed multi-family development of 384 units could generate 238 P.M. peak hour trips, and 2,554 daily trips. This is a decrease from the current FLU designation.

The extent of the anticipated impacts on the road network will not be known until the traffic concurrency review is conducted with the final site plan for this site. The City requires the submittal of a traffic study at the time a final site plan is submitted for the development of the apartment complex, to fully assess the impacts of the development on the surrounding roadway network at the time of development and to identify any roadway improvements that might be needed. Similar to other developments within this area of the City, the developer may be required to enter into a Transportation Fair-Share and Concurrency Agreement with the City, and possibly Volusia County, to pay for part of the scheduled improvements for the impacted areas. In addition to a possible fair-share payment, the developer of the property may be required to construct mobility improvements to improve capacity and provide alternative modes of transportation along this corridor such as, turn lanes and sidewalks.

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 89,600 gallons per day (gpd) of wastewater. This is a net decrease 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 100,800 gpd of potable water. This is a net decrease 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 4,045 pounds of garbage per day. This is a net decrease 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 development of the property will be required to address stormwater retention on the property in accordance with these City standards.

RECREATION AND OPEN SPACE

There is available capacity at existing park facilities to accommodate the proposed FLU amendment. The proposed FLU designation would require 8.82 acres of parkland. 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

The Volusia County School District reviewed the proposed FLU amendment for impacts to school capacity. The School District determined that there is adequate school capacity for the estimated 49 students anticipated to be generated by the proposed FLU amendment (Exhibit 1).

ENVIRONMENTAL CONDITIONS

The subject property is primarily categorized as palmetto prairies and pine flatwoods. According to the environmental analysis prepared by Biological Consulting Services, Inc. (BCS) in April 2020 for the subject property, there is about 6.41 acres of wetlands and the possibility of gopher tortoises, but no protected species were observed on site. One osprey nest (delisted species) was observed on the edge of the wetlands in the northwest portion of the site. The osprey was removed from Florida's Endangered and Threatened Species list in 2018; however, the osprey, active nests, eggs, and young are still protected under the Federal Migratory Bird Treaty Act. The osprey nest tree is located within a proposed tree preservation area for the proposed Osprey Pointe Apartments and according to BCS should not be affected by the proposed development. Any subsequent development on the subject property will be required to comply with all federal, state, regional and local regulations pertaining to the protection, relocation, mitigation, and preservation of trees, gopher tortoises, wetlands and other environmental resources.

As with all new development projects this size, an updated Environmental Assessment (EA) will need to be prepared and submitted at the time a site plan is submitted. As part of the EA, the biological consultant is required to identify and document the presence/location of gopher tortoise burrows observed throughout the subject property. If gopher tortoise burrows are identified on the subject property and the developer's project impacts the burrows, the developer will need obtain a permit from the Florida Fish and Wildlife Conservation Commission (FFWCC) to relocate any gopher tortoises from the impacted burrows. In addition to obtaining a permit from FFWCC, the developer will also be required to make a payment to a gopher tortoises mitigation bank. Site clearing will not be allowed to begin until FWC has approved the relocation after action report for the gopher tortoise's relocation and mitigation payment has been received. In addition, an updated study is required within 90 days prior to the start of site clearing activities to ensure an accurate count and location of the active gopher tortoise burrows. At this time the developer has not provided the City with site development plans.

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 the proposed multi-family use provides a transitional use between the more intense commercial development and the existing single-family homes across Bruner Road. All public facilities have adequate capacity to accommodate the proposed amendment.

The proposed land use category meets the locational criteria for the *Urban High Density Residential* designation of being located adjacent to a community- or sub-regional-level commercial node or mixed-used center, along an arterial roadway. All public facilities have adequate capacity to accommodate the proposed amendment, and it is compatible with adjacent land uses as described below.

However, the proposed amendment is not consistent with the policies in the Comprehensive Plan regarding the retention of the existing commercial acreage already designated on the FLU map. The following objective and policies are provided in the City's adopted Comprehensive Plan, Future Land Use Element:

- *Objective 3.1: Maintaining Land for Non-residential Uses.* Ensure that the amount of land already designated for non-residential uses does not decrease.
- *Policy 3.1.1: Retain designated commercial and industrial development areas* for their appropriate uses, unless such uses have been planned to be accommodated elsewhere.

The 35-acre amendment would result in a net decrease of a ± 8.82 acres of land within the City designated for commercial. If approved, the ± 8.82 acres would change from a commercial use to a residential use. However, if the FLU amendment is approved, there would still be approximately 40 acres of commercial land at the Clyde Morris Blvd./Madeline Ave. commercial node and of the 40 remaining acres of commercial land, ± 18 -acres remains vacant and can be developed with commercial uses. There are multiply options for commercial development within the Clyde Morris Blvd./Madeline Ave. commercial node as there is still vacant commercial land and tenant spaces at built shopping centers. The additional residential units to this area could encourage the further development of the existing commercial land, outparcels and leasing of existing commercial space at the Clyde Morris Blvd./Madeline Ave. commercial node.

Figure 4. Clyde Morris Blvd./Madeline Ave. commercial node



The acreage of the subject property designated for commercial development has expanded over the last 15 years beyond the original acreage for the commercial node through changes that extend the commercial land use further south along Clyde Morris Boulevard. Future Land Use Element *Policy 3.2.1* states that, “Commercial uses will be located at roadway intersections, commercial nodes, and mixed-use centers, as defined in the Future Land Use Element.” The land with a Commercial FLU designation proposed to be changed as part of this amendment is located further south along Clyde Morris Boulevard and not at the immediate intersection where the traditional commercial node was established. While the proposed FLU Amendment reduces the amount of land with a Commercial FLU designation it does apply a more appropriate FLU designation to the land and is consistent with Future Land Use Element Policy 3.2.1.

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. 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 abuts the Neighborhood Walmart and a multi-tenant commercial building to the north, Clyde Morris Boulevard and Pickwick Village mobile home park to the south, to the east is Bruner Road, The Vikings and

Sandalwood residential subdivisions, vacant city-owned land, and the Police Department, and to the west is Clyde Morris Boulevard, vacant commercial land, and Colony in the Wood mobile home park. (see Table 1 – page 2).

The proposed multi-family development provides a transitional use between the more intense commercial development at the Clyde Morris Boulevard /Madeline Avenue commercial node and the existing single-family homes across Bruner Road. The subject property will also comply with design requirements in the Land Development Code to ensure compatibility between land uses, such as scale of development, height, setbacks, landscape buffers, and architectural design.

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

Staff finding: The amendment results in a net decrease in impacts to public infrastructure, except for recreation and open space. 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. The amendment is for an infill property surrounded by existing development, with access to existing infrastructure. The proposed amendment will provide for a multi-family development located in close proximity to existing shopping, services, and existing public infrastructure.

SMART GROWTH SUMMARY

The proposed Future Land Use amendment expands housing choices by developing areas of infill or underutilized vacant land within the City that has accesses to existing infrastructure and services (water, sewer, roads, schools, etc.) [Future Land Use Element, Policy 1.2.4 and 2.3.8]. The proposed development of subject property will connect to the sidewalk network on Clyde Morris Boulevard and construct a sidewalk along Bruner Road connecting to Clyde Morris Boulevard. This will promote walking and biking to established commercial development, offices, services, multi-modal facilities (Votran bus service, sidewalks and bike lanes) along the Clyde Morris Boulevard and Madeline Avenue corridors.

PUBLIC NOTICE

On May 22, 2020, staff posted the property notifying the public of the proposed amendment. The proposed amendment has also been advertised in the News-Journal pursuant to Florida Statutes. As of the time this agenda item was prepared, staff has

received 20 inquiries regarding the proposed amendment with general inquiries regarding what was proposed as well as environmental and traffic concerns.

STAFF RECOMMENDATION

Staff recommends approval of the request to change the Future Land Use designation of approximately 35 acres from *Office/Residential Transition* and *Commercial* to *Urban High Density Residential* (8-16 units/acre), and transmittal to the required review agencies for review.

ATTACHMENTS

Exhibit 1 – Volusia County School District School Capacity Analysis

EXHIBIT 1

Dr. Scott Fritz
Superintendent of Schools

School Board of Volusia County

Mrs. Ida D. Wright, Chairman
Mrs. Linda Cuthbert Vice-Chairman
Mr. Carl Persis
Mr. Ruben Colón
Ms. Jamie M. Haynes

School Adequate Capacity Determination
Finding of Adequate Capacity Letter

June 16, 2020

Smith Brigman Brock
 Jeffrey P. Brock; Esq.
 220 Charles Street
 Port Orange FL. 32129

RE: Osprey Pointe Apartments – Port Orange
 School Capacity Review #20-03-23-002-A

Dear Mr. Brock:

The County Charter requires any Comprehensive Plan Amendment or Rezoning allowing increased residential density be effective only when adequate public schools can be timely planned and constructed to serve the projected increase in student population. The district uses this requirement as the guiding principle behind the school adequate capacity review.

The School District has reviewed the information for the proposed Osprey Pointe Apartments associated with 35.005 +/- acres of property located at 3835 Clyde Morris Blvd. within the city limits of Port Orange. Proposed amendment would provide for three hundred and eighty-four (384) multi-family units.

The district uses county wide Student Generation Rates (SGRs) of (.127) for multi-family dwelling units. By applying the SGR to the use types in Table 1, we find the project could generate forty-nine (49) full time students.

Table 1

UNIT TYPE	SGR	UNIT COUNT	STUDENTS GENERATED
Single Family Dwelling Unit	.273	0	0
Multifamily Dwelling Unit	.127	384	48.768
Manufactured Home Dwelling Unit	.047	0	0
Total			49

Osprey Pointe Apartments – Port Orange
June 16, 2020

When performing adequate capacity review district staff evaluates the effects of the proposed change compared to any remaining permanent capacity within the impacted schools, up to 100%, Table 2. The projected increase in student population may be over 100% if there are plans to serve increased student population in that planning area within the long-term planning horizon. A finding of adequate capacity may be issued in either case.

Table 2

Schools	2019-20 SY Enrollment	% of Permanent Capacity	Plans for capacity increase long-term	Traditional K-12 Students projected
Sugar Mill Elementary	633	107%	no	21
Silver Sands Middle	1324	118%	no	13
Atlantic High	1412	107%	no	14
Other				1

The students projected to be generated by this project will increase the existing percentage above 100% permanent capacity at all levels. Sugar Mill elementary is the projected to decrease in total students over the next several years. Currently the planning area for Silver Sands Middle School and Atlantic High (Halifax Planning area) is not over 100%. The School Board also owns a future school site in the Corasci area, grade levels to be determined. Based upon these long-term plans for growth, the school district has no objections to the proposed rezoning.

All future development orders, such as site plans and subdivisions, are subject to school concurrency review. School concurrency will be evaluated at that time when the impact of development is specifically quantified and known. Only funded school improvements and then current capacity will be considered at that time. No Student Reservations have been made at this time.

No Student Reservations have been made at this time.

Please note that the School Board has the right to adjust the attendance boundaries to balance the student enrollment populations at these area schools. Consequently, students generated from this project may not attend the current assigned schools.

If you should have additional questions please contact me at (386) 947-8786, extension 50806.

Sincerely,



Stephanie B. Doster,
Coordinator, Planning

Cc: Dr. Scott Fritz, Superintendent of Schools
Steve Grube, Director of Planning and Construction
Penelope Cruz, City of Port Orange
Kiersta Hill, Volusia County School Board
Project File

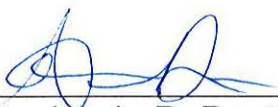


Finding of Adequate School Capacity **Volusia County School Board**

Project Information	
Project Name	Osprey Pointe Apartments
VCSB Project #	#20-06-16-001-A
Jurisdiction Project#	
Parcel ID Numbers:	6306-00-00-0130; 6306-00-00-0132; 6306-00-00-0112
Project Location:	3835 Clyde Morris Blvd
Potential Residential Units:	384
Property Owner/Applicant:	Palmetto Pointe
Notes: Additional review will be required at time of subdivision/site plan submittal(s). No Student Reservations have been made.	

Based upon the Findings of Fact, pursuant to School Board Policy 612 and Section 206 of the County Charter, the school district has determined at this time that school capacity is adequate to serve the proposed increase in residential density. This Finding shall constitute competent substantial evidence that adequate public school capacity is likely to be available at the time it is required to serve the planned new development.

Capacity is not being reserved with this Finding unless otherwise noted on this document. This Finding of Adequate School Capacity allows this subject project to continue through the Comprehensive Plan Amendment and/or rezoning process; however, may be subject to additional school capacity review in the future.



Stephanie B. Doster,
Coordinator, Planning

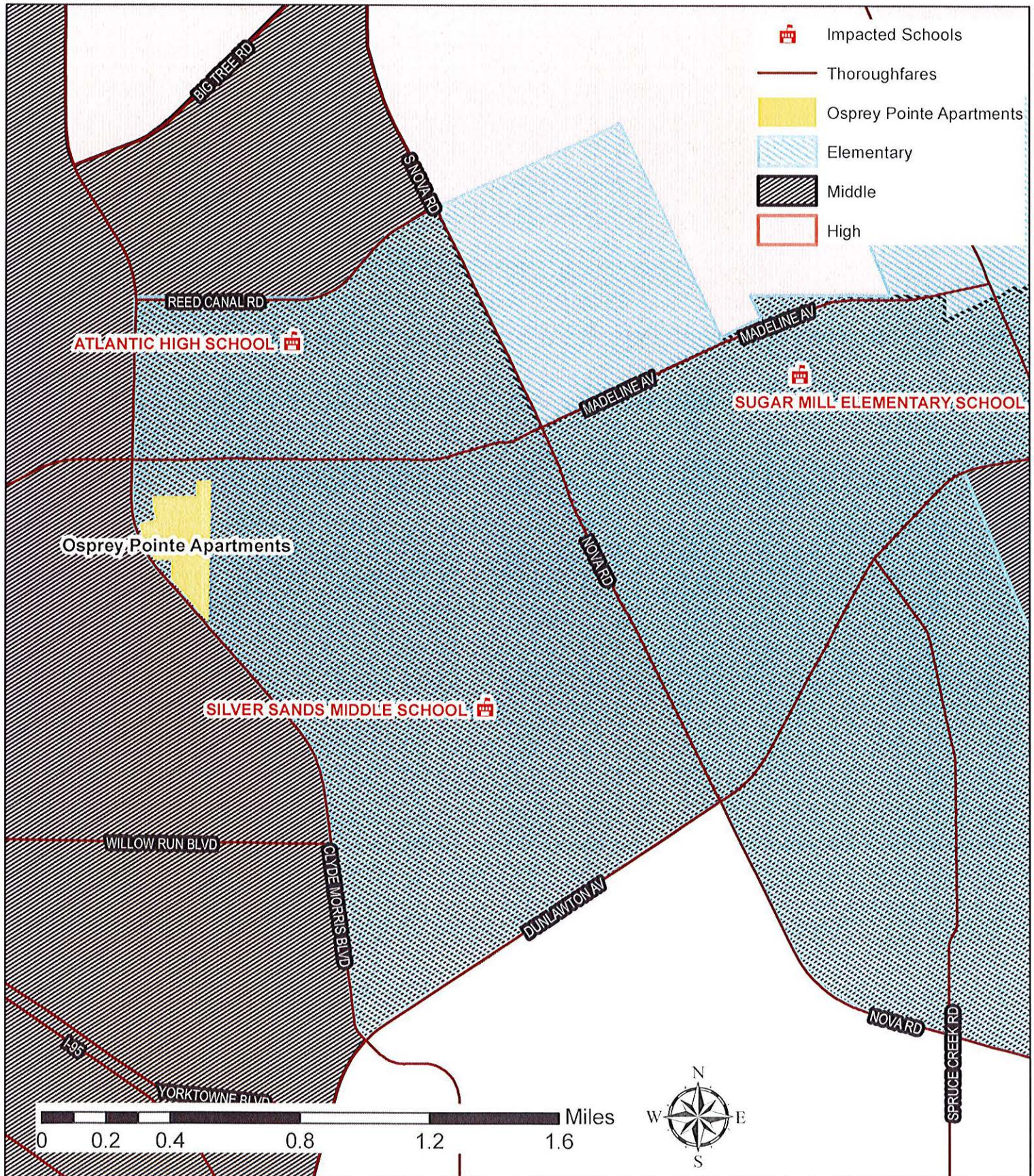
____16June2020____
Issue Date

VCSB Schools Impacted by Development

Adequate Capacity Review -

Osprey Pointe Apartments

Created by Facilities Services
June 2020





STAFF REPORT

CONVENTIONAL REZONING

**Planned Unit Development (PUD) to
Moderate Density Multi-Family Residential (R-3M)
CASE NO. 20-60000003**

REQUEST:	Rezone $\pm$ 35 acres from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M)
LOCATION:	3835 Clyde Morris Blvd. (Figure 1 – Location Map)
PROPERTY OWNER:	Palmetto Pointe, LLP
APPLICANT:	Jeffrey Brock, Smith Bigman Brock, P.A.
STAFF CONTACT:	Gwen Perney, Senior Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 27, 2020

Property Overview

Jeffrey Brock, applicant on behalf of the property owner, Palmetto Pointe, LLP, requests to rezone the $\pm$ 35-acre subject property from Planned Unit Development (PUD) to Moderate Density Multi-Family Residential District (R-3M). The property is located along the east side of Clyde Morris Boulevard, south of Madeline Avenue, between Clyde Morris Boulevard and Bruner Road. The rezoning request is a shift from the negotiated PUD zoning district to a conventional residential zoning district that uses the Land Development Code (LDC) to provide development regulations. If the rezoning is approved, the applicant intends to submit a site plan for the development of a 384-unit multi-family complex on the subject property.

Figure 1. Location Map



Map created by the City of Port Orange Community Development Department

The applicant's development application request to change the zoning designation on the subject property does not affect the Comprehensive Plan regarding the extension of Bruner Road from its current southern terminus to Clyde Morris Boulevard. If the rezoning application is approved, Staff has discussed with Volusia County and the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future, but not constructing Bruner Road from its terminus to Clyde Morris Boulevard as part of developing the subject property.

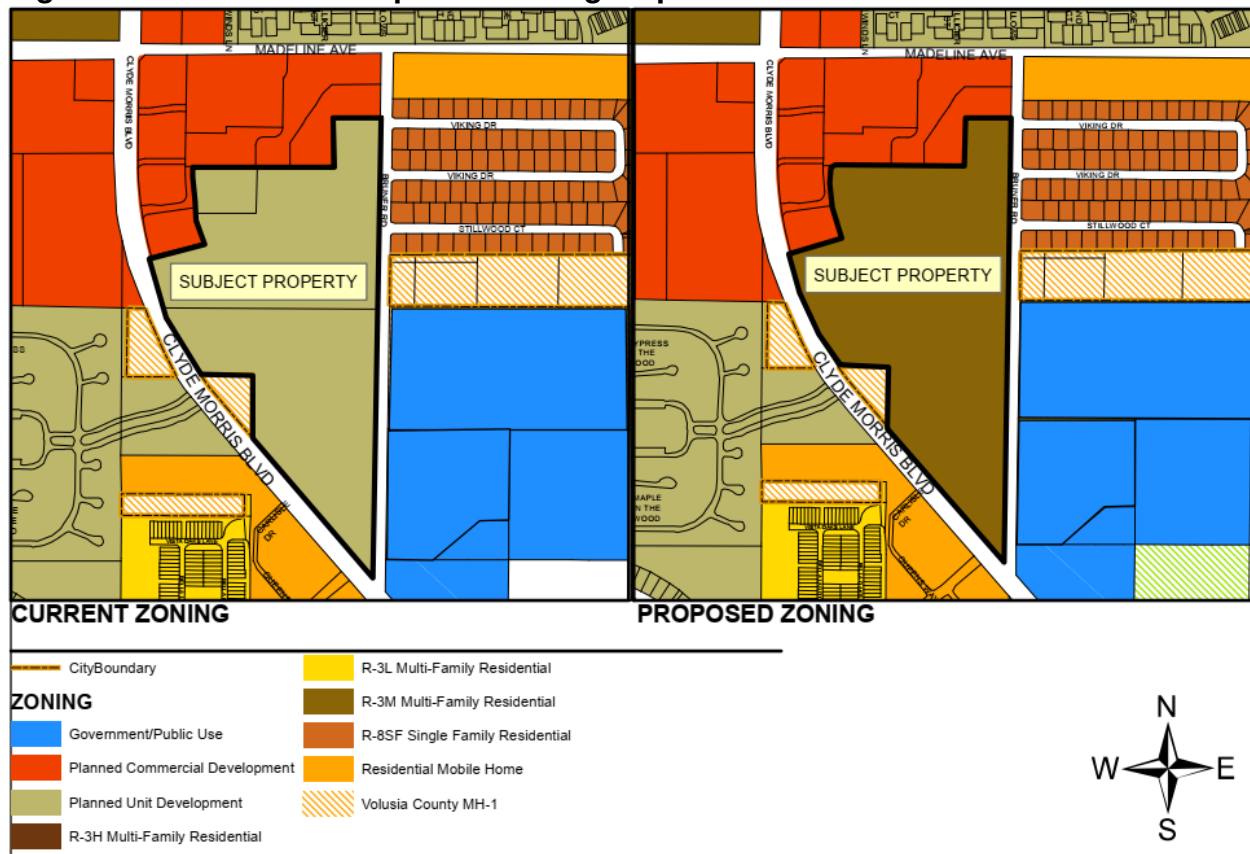
DISCUSSION

The applicant is requesting to rezone the subject property to R-3M with the intent to construct a multi-family development. According to the LDC, the R-3M zoning district is intended to provide moderate density multi-family development on relatively large tracts of land in single or common ownership with a maximum of 12 dwelling units per acre. The proposed R-3M zoning district is consistent with the *Urban High Density Residential* (8-16 units/acre) Future Land Use (FLU) designation that the applicant has applied to change concurrently with the subject rezoning application. A similar property in the City zoned R-3M and developed with a multi-family development is The Groves Apartments, located at the northwest corner of Clyde Morris Boulevard and Madeline Avenue.

If approved, the applicant intends to construct a 384-unit apartment complex, with associated site improvements and off-site improvements. The proposed density for the project is ± 10.9 units per acre, which is less than the R-3M zoning district maximum of 12 units per acre.

The subject property was part of the ± 52.73 acre The Palms PUD approved in 2007 which allowed for the development of 451 multi-family units and 187,000 square feet of commercial uses. The MDA for the previously approved The Palms PUD, expired in 2009 and the property remained vacant. In 2015, ± 17.72 acres of the original The Palms PUD were rezoned to the Palmetto Pointe Planned Commercial Development (PCD) and was developed with a commercial development (Walmart Neighborhood Market).

Therefore, the remaining ± 35 -acre subject property is still vacant and zoned Planned Unit Development (PUD) without a Master Development Agreement (MDA). The LDC does not provide permitted uses or dimensional requirements for properties zoned PUD without an MDA. The rezoning of the subject property to R-3M is to establish permitted uses and dimensional requirements (minimum lot width and area, building setbacks, maximum height, building coverage, open space, etc.) as provided in the LDC so the property can be developed as a multi-family development (Figure 2).

Figure 2. Current and Proposed Zoning Map

The current PUD zoning on the subject property is a residential designation; however, without an MDA, there are no listed permitted uses or dimensional requirements for the subject property. The PUD zoning district is intended to provide a flexible approach for unique and innovative land development proposals, which would otherwise not be permitted by this code. Because the applicant intends to develop the site in compliance with the requirements already established in the LDC and does not anticipate any deviations from basic code provisions, the applicant has selected to use a standard zoning district consistent with the proposed FLU designation of the property (See Case No. 20-20000002 Staff Report). Currently, no development can occur until the subject property is rezoned to a conventional City zoning district or a new MDA is approved.

If the subject property is rezoned to the R-3M conventional zoning category, the City's Land Development Code will provide permitted uses and dimensional requirements for any proposed development on the subject property. The dimensional requirements for the R-3M zoning district are shown in Table 1.

Table 1. Dimensional Requirements for the R-3M Zoning District

	Min Living Area/D.U. (Sq. Ft.)	Min Lot Area/D.U.	Min Lot Width	Max Building Coverage	Min Open Space	Front Building Setback	Side Building Setback	Rear Building Setback	Max Building Height
Apartments & Condominiums	600	—	150'	40%	60%	30	25**	25**	45'
Fee simple Townhomes	900	2,000 sq. ft.	20' D.U.	40%	60%	—	—	25**	35'
**Multifamily buildings of greater than 25 feet in height shall have a building setback equal to or greater than the building height									

All future development plans (subdivision and site plan) will require detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) and City's Comprehensive Plan are met. Specific site development requirements listed in the LDC, such as the width of the landscape buffers, location and size of the stormwater pipes, water lines, and sewer lines, parking lot design, architectural design, tree and wetland preservation/mitigation, and other development requirements are finalized with the site plan. Site plans are typically a 20 to 50-page set of technical documents that are signed and sealed by a licensed engineer and contain extensive engineering, landscaping, and construction details. The site plan for the subject property will be required to be designed to meet the requirements of the LDC.

As with all development, specific site development proposals for the subject property are subject to concurrency regulations at the time of development such as school and transportation concurrency. Concurrency review determines if the developer is required to construct facilities, or for the developer to enter into a mitigation agreement to pay for their impacts. As for traffic, the developer may need to enter into a Transportation Fair-Share and Concurrency Agreement to pay for part of the scheduled improvements for impacts to the roadway network. Any subsequent development on the subject property will also be required to comply with all federal, state, regional and local regulations pertaining to the protection, relocation, mitigation, and preservation of trees, gopher tortoises, wetlands and other environmental resources.

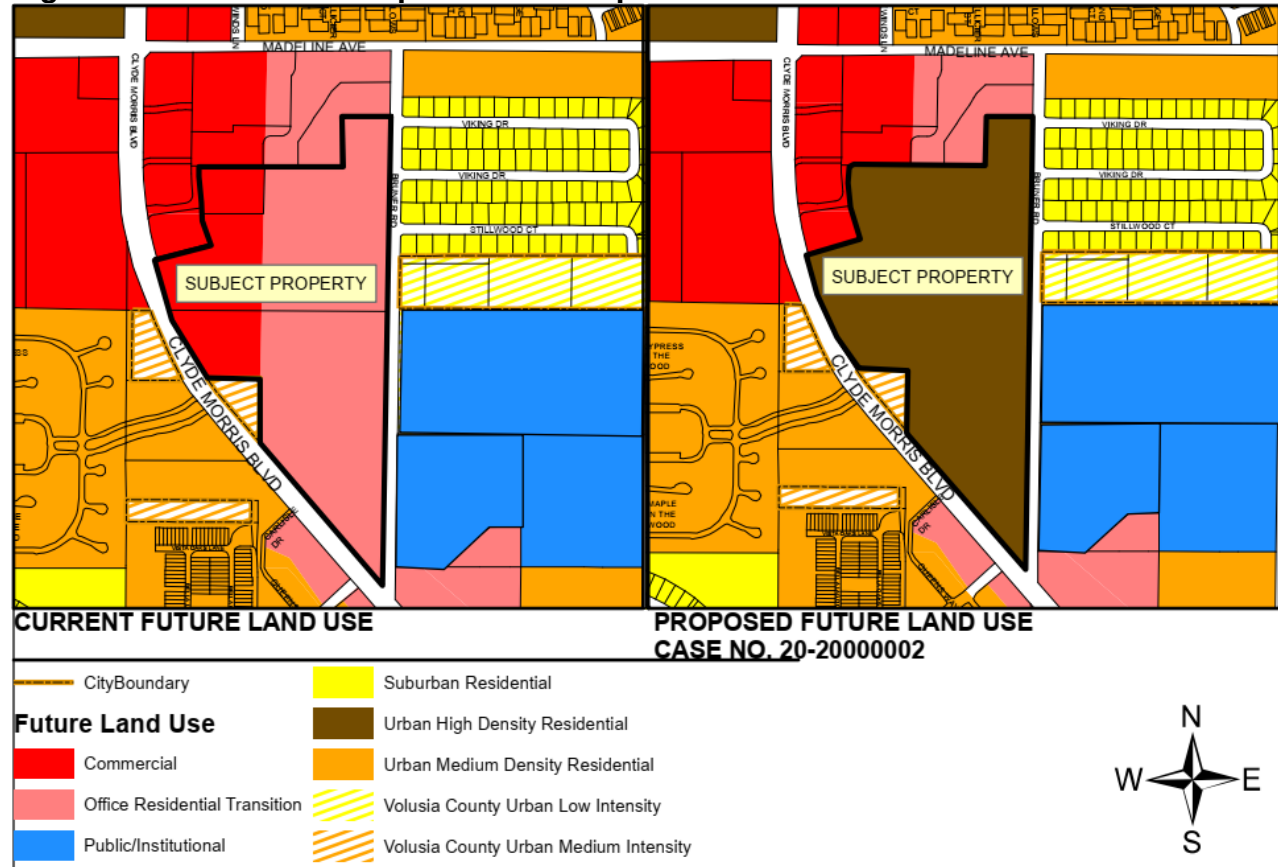
In addition to the standard development requirements in the LDC, there is a specific development requirement for any property zoned R-3M regarding project access. According to the LDC, a property zoned R-3M is required to have direct access onto an arterial or major collector road as designated under the functional classification system in the City's Comprehensive Plan. The subject property has direct access onto Clyde Morris Boulevard, which is designated as an arterial road in the City's Comprehensive Plan and will be required to provide an access point onto Clyde Morris Boulevard. Staff has discussed with the potential developer about maintaining the right-of-way for the possible extension of Bruner Road in the future, but not constructing Bruner Road from its terminus to Clyde Morris Boulevard as part of developing the subject property. However, the LDC does not restrict access from the subject property onto Bruner Road.

The rezoning request 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.

Consistency with Comprehensive Plan

The applicant has applied to change the FLU designations of the subject property to *Urban High Density Residential (8-16 units per acre)* concurrently with the subject rezoning application (Case No. 20-20000002). The proposed R-3M zoning district is consistent with the proposed *Urban High Density Residential (8-16 units per acre)* FLU designation as the R-3M zoning district allows for multi-family development up to 12 residential units per acre (see Exhibit 1). If the rezoning is approved, the applicant intends to submit a site plan for the development of a 384-unit multi-family apartment complex, at a density of approximately ± 10.9 units/acre, which is consistent with the proposed FLU category and zoning (see Figure 3).

Figure 3. Current and Proposed FLU Map



Compatibility with Surrounding Uses and Zoning

The subject parcel is currently vacant. The surrounding existing land uses, Future Land Use designations, and Zoning classifications are identified in Table 2. The proposed R-3M zoning district will serve as a transition from a higher intensity commercial development at the Clyde Morris Boulevard/Madeline Avenue commercial node and the single-family residential properties to the east. Placement of higher density residential zoning near designated commercial nodes provides density to support existing

commercial development, and future development of the designated commercial node around the intersection of Clyde Morris Boulevard and Madeline Avenue. The existing commercial node centered around the intersection of Clyde Morris Boulevard/Madeline Avenue is designated as a Community Commercial Node. Community Commercial nodes are generally designed to serve the general shopping needs of areas within a ± 2 -mile radius.

The City's Comprehensive Plan, Future Land Use Element encourages the creation of a residential land use pattern that accommodates a diverse housing mix that meets the life-cycle and socio-economic needs of City residents (Objective 4.1), and mixed residential densities in older neighborhoods as a financially feasible alternative to commercial encroachment (Policy 4.2.1). Similar development scenarios in the City exist at the intersection of Clyde Morris Boulevard and Dunlawton Avenue (Ocean Oaks Apartments), Clyde Morris Boulevard and Reed Canal Road (Atlantic Apartments and Reserve at Crystal Lake Apartments), and Village Trail and Dunlawton Avenue (Lakeside Apartments and Park at Countryside Apartments).

Table 2. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial	<i>Commercial/ Office/Residential Transition</i>	Palmetto Pointe Planned Commercial Development (PCD)
South	Clyde Morris Blvd.; Mobile Home Park	<i>Urban Medium Density Residential; Office/Residential Transition</i>	Residential Mobile Home (RMH)
West	Clyde Morris Blvd.; vacant commercial; mobile home park	<i>Commercial; Urban Medium Density Residential</i>	Palmetto Pointe PCD; Groves PCD, Colony in The Wood Planned Unit Development (PUD); Residential Mobile Home (RMH)
East	Bruner Road; Single-Family; City owned land; Police Department	<i>Suburban Residential; Urban Low Intensity; Urban Medium Density Residential; Office/Residential Transition</i>	Single Family Residential (R-8SF); Volusia County MH-1; Multi-Family Residential (R-3L); Government Public Use (GPU)

Schools

The Volusia County School District reviewed the proposed rezoning for impacts to school capacity and determined that there is adequate school capacity for the estimated 49 students anticipated to be generated by the proposed rezoning. If the rezoning is approved, further review will be conducted by the Volusia County School District for capacity reservation for the schools in the proposed development's school zone.

Smart Growth Summary

The proposed rezoning expands housing choices by developing areas of infill or underutilized vacant land within the City that has access to existing infrastructure and services (water, sewer, roads, schools, etc.) [Future Land Use Element, Policy 1.2.4 and 2.3.8]. The proposed development for the subject property will be required to connect to the existing and proposed sidewalk network along Clyde Morris Boulevard and the future Bruner Road sidewalk including the extension of the existing sidewalk along Bruner Road to the south. This will promote walking and biking to established commercial development, offices, services, multi-modal facilities (Votran bus service, sidewalks and bike lanes) along the Clyde Morris Boulevard and Madeline Avenue corridors.

Public Notice

On May 22, 2020, staff posted the property notifying the public of the proposed amendment. As of the time this agenda item was prepared, staff has received 20 inquiries regarding the proposed amendment with general inquiries regarding what type of development is being proposed as well as environmental and traffic concerns including opposition of access to Bruner Road as well as the construction of the remainder of Bruner Road.

Staff Recommendation

Staff recommends approval of the request to rezone ±35 acres from Planned Unit Development (PUD) to Moderate Density Multi-family Residential (R-3M) District.

Attachments

Exhibit 1 – List of permitted uses for R-3M

Exhibit 1

Section 12: - Moderate density multifamily residential (R-3M) district.

(a) Purpose and intent. The moderate density multifamily residential (R-3M) district is intended to provide moderate density multifamily development on relatively large tracts of land in single or common ownership.

(b) Permitted uses.

(1) Multifamily dwellings (12 units per gross acre maximum allowable density).

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

(1) Assisted living facilities (subsection 1).

(2) Childcare centers (subsection 4).

(3) Clubs, lodges, and fraternal organizations (subsection 5).

(4) Nursing homes (subsection 10).

(5) Community gardens (subsection 5.1).

(c) Special exception uses (chapter 18, section 3).

(1) Houses of worship (subsection 8).

(2) Private schools (subsection 16).



STAFF REPORT

CONVENTIONAL REZONING

Flood-Plain Conservation (F-C) to Commercial Industrial (CI)

CASE NO. 20-60000005

REQUEST:	Rezone ±9.9 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI)
LOCATION:	4116 Nova Rd. (Figure 1 – Location Map)
OWNER/APPLICANT:	ABC Nova Properties, LLC
STAFF CONTACT:	Gwen Perney, Senior Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 27, 2020

Property Overview

The applicant is proposing to rezone ±9.9 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI) in order to establish permitted uses and development requirements for the subject property as required in the City's Land Development Code. The subject property is located on the south side of Nova Road, along the east side of the Florida East Coast Railroad and is currently developed as a commercial golf driving range (Figure 1). If the rezoning is approved, the applicant intends to market the subject property as a site suitable for light manufacturing, warehouse and distribution related uses, office, and indoor and outdoor storage uses.

Figure 1. Location Map



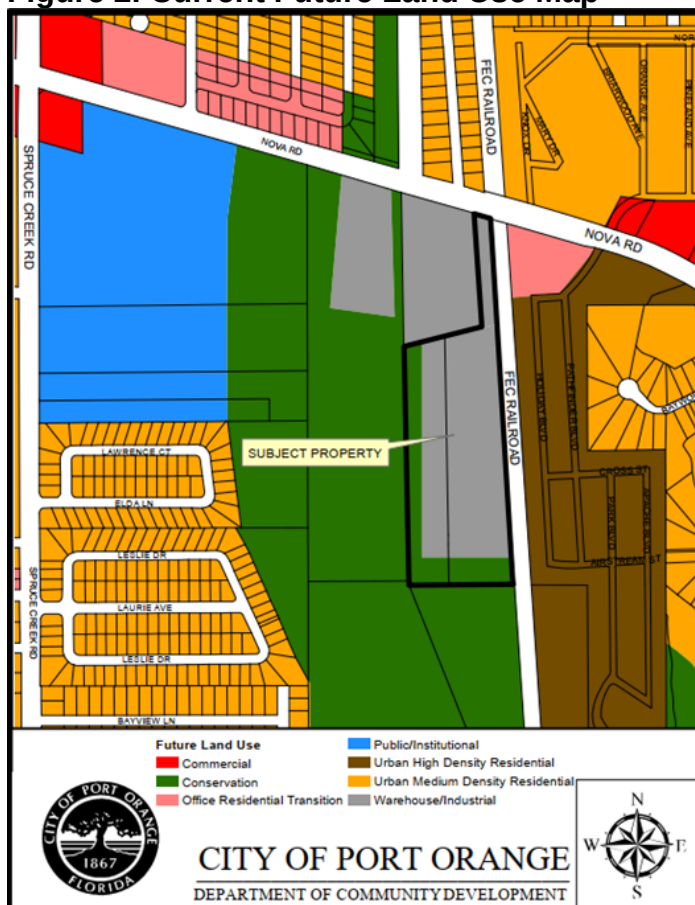
Map created by the City of Port Orange Community Development Department

Discussion

The overall size of the property owner's property is approximately ± 13.04 acres of which ± 9.9 acres is developed as a golf driving range. In 1994, the City approved a special exception to allow the development of a driving range which included an office/range building, a maintenance shed, parking lot, and a retention area at the south end of the property to be developed.

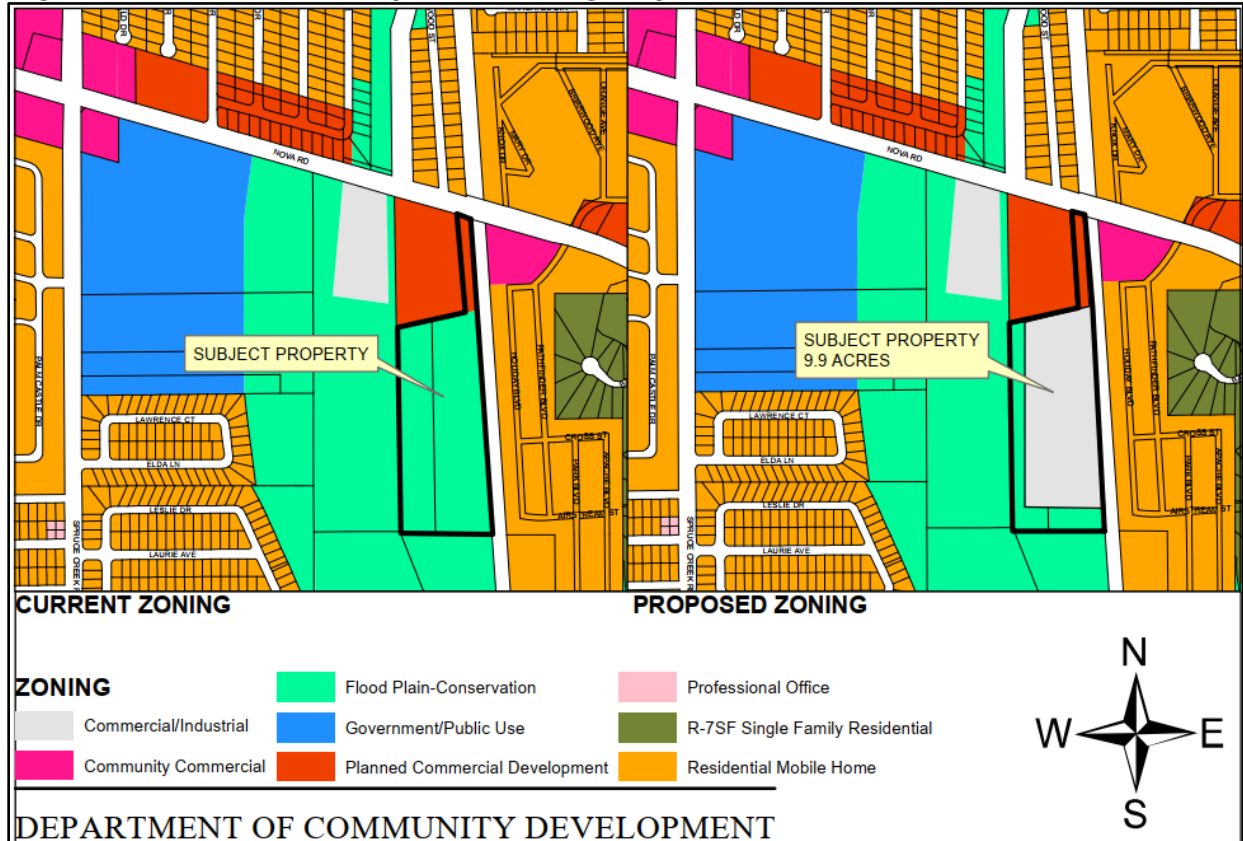
In 2012, the City Council approved a Future Land Use (FLU) amendment that changed the FLU designation for the ± 9.9 acres from *Conservation* to *Warehouse/Industrial*. The FLU designation for the remaining ± 2.37 acres of the subject property was not changed in 2012 and remains designated *Conservation* due to the presence of wetlands (Figure 2 – Current Future Land Use Map). The applicant's rezoning request only pertains to the ± 9.9 acres designated with the *Warehouse/Industrial* FLU designation and does **NOT** include the 2.37-acres with the *Conservation* FLU designation (Figure 3 – Current and Proposed Zoning Map). The natural wetlands adjacent to the ± 9.9 acres proposed to be rezoned will remain zoned F-C and continue to function as natural wetlands. The remaining 0.77 acres is the existing driveway access to the property which will remain zoned Planned Commercial Development (PCD) as it also serves the adjacent Go Kart City property. According to the 2012 FLU amendment file, the subject property was not rezoned in 2012 because it was not initiated by the property owner at that time

Figure 2. Current Future Land Use Map



The proposed CI zoning district is consistent with the *Warehouse/Industrial* FLU designation and is intended to provide for less intense storage, repair, industrial services and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties (Exhibit 1). The current and proposed zoning map is shown in Figure 3.

Figure 3. Current and Proposed Zoning Map



Access to the property will be from Nova Road (FDOT maintained arterial roadway) and Port Orange water and sewer is available to serve the property. All future development plans submitted will require detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) are met and ensure compatibility with adjoining properties and that adequate public facilities and services are available. As with all development, the subject property shall comply with federal, state, county, and local stormwater and environmental regulations along with concurrency regulations requiring transportation facilities to be provided or for the developer to enter into a mitigation agreement for their impacts. Any subsequent development on the subject property will also be required to comply with all federal, state, regional and local regulations pertaining to the protection, relocation, mitigation, and preservation of trees, gopher tortoises, wetlands and other environmental resources.

The applicant's rezoning request was reviewed according to the criteria established in Chapter 3, Section 7 of the Land Development Code (LDC) for consistency with the Comprehensive Plan and the surrounding land uses and zoning.

Consistency with Surrounding Uses and Zoning

The proposed rezoning is generally 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.

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial (Go-Kart City)	<i>Warehouse/Industrial</i>	Planned Commercial Development (PCD)
South	Vacant	<i>Conservation</i>	Flood-Plain Conservation
East	Residential Mobile Home (Rose Bay RV Campground) and FEC Railroad Tracks	<i>Office/Residential Transition and Urban High Density Residential (8-16 units/acre)</i>	Community Commercial (CC) and Residential Mobile Home (RMH)
West	Commercial (Sparks Concrete)	<i>Warehouse/Industrial and Conservation</i>	Commercial Industrial (CI) and Flood-Plain Conservation

The zoning and future land use of adjacent properties is compatible with the proposed CI zoning. The CI district is intended to provide for less intense storage, repair services, industrial services and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties than the more intense Light Industrial (LI) zoning district. The proposed zoning is compatible with the surrounding uses and zoning.

The adjacent property to the south is part of the Rose Bay drainage area. The proposed rezoning will NOT rezone any land with existing wetlands along the south and west property lines. These wetlands will remain and serve as a buffer to the Rose Bay drainage area. In addition, the LDC requires a 25-foot wetland buffer adjacent to all wetland areas for further protection of the wetlands and this is typically covered with a conservation easement received at the time of development. All required stormwater improvements including retention ponds and compensating stormwater drainage areas will be required to be constructed within the area proposed to be rezoned to CI.

Based on compatibility with adjacent zoning districts, access to an arterial roadway, availability of infrastructure, preservation of existing wetlands, and ability to sufficiently buffer to adjacent uses, it has been determined that the requested zoning is appropriate at this location and consistent with the current *Warehouse/Industrial* FLU designation.

Consistency with the Comprehensive Plan

The proposed Commercial Industrial (CI) zoning is consistent with the current FLU designation of *Warehouse/Industrial* and with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. According to the Comprehensive Plan, the

Warehouse/Industrial FLU designation supports the development of light manufacturing, warehouse and distribution related uses, office and service uses in order to provide for a convenient business environment; and the CI zoning district is intended to provide development opportunity for warehouse and industrial uses such as less intense warehouse, repair, industrial service, professional office and limited manufacturing uses that are anticipated to have fewer potential impacts on surrounding properties.

The proposed rezoning of the subject property to CI is consistent with *Warehouse/Industrial* FLU designation and supports Goal 3 in the Future Land Use Element to provide for commercial and industrial development to maintain the economic health of the City and to increase the job opportunities, per capita income, and convenience for its residents.

Public Notice

On August 3, 2020, staff posted the property notifying the public of the proposed rezoning. As of the time this agenda item was prepared, there has been 1 phone call from the manager of Go-Kart City inquiring about the proposed rezoning.

Staff Recommendation

Staff recommends approval of the administrative rezoning of ±9.9 acres from Flood-Plain Conservation (F-C) to Commercial Industrial (CI).

Attachments

Exhibit 1 – List of Permitted Uses for the CI zoning district

Exhibit 1

Commercial Industrial

Permitted uses.

- (1) Adult/vocational education.
- (2) Antennas.
- (3) Appliance/electronic repair shops.
- (4) Boat repair, engine.
- (5) Business services.
- (6) Commercial/industrial equipment and supplies.
- (7) Commercial/industrial services.
- (8) Commercial/industrial warehouses.
- (9) Construction and home improvement contractor.
- (10) Fleet-based services.
- (11) Greenhouses and nurseries (wholesale and retail).
- (12) Infrastructure construction contractor's yard.
- (13) Laboratory, research and development.
- (14) Laundry and dry cleaning plants.
- (15) Maintenance contractors.
- (16) Manufacturing: craftsman shops.
- (17) Manufacturing: fabrication.
- (18) Manufacturing: limited.
- (19) Mini-warehouses.
- (20) Motor vehicle and boat storage facilities.
- (21) Motor vehicle repair facilities.
- (22) Motor vehicle service stations.
- (23) Motor vehicle towing and impoundment.
- (24) Offices.
- (25) Taxidermy.
- (26) Transportation services.
- (27) Truck/trailer/automobile rental.
- (28) Wholesalers and distributors.

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

- (1) Brewery (subsection 3.7).
- (2) Kennels (subsection 8).
- (3) Health/exercise club (subsection 6).
- (4) Motor vehicle sales (subsection 9.75).

Special exception uses (chapter 18, section 3).

- (1) Adult entertainment (subsection 1).
- (2) Used motor vehicle parts yards (subsection 23).



STAFF REPORT

LDC Amendment – Chapter 16, Section 1
CASE NO. 20-25000002

REQUEST: Amend Chapter 16, Section 1 of the Land Development Code related to residential outside storage of disabled or abandoned recreational vehicles or equipment

APPLICANT: City of Port Orange

STAFF CONTACTS: Gwen Perney, Senior Planner (386) 506-5673
Deborah Pearson, Code Compliance Manager (386) 506-5644

STAFF RECOMMENDATION: Approval

PLANNING COMMISSION: August 27, 2020

SUMMARY OF PROPOSED AMENDMENT

The proposed amendment is to update the regulations in the Land Development Code (LDC) related to outside storage of inoperable, disabled, abandoned, and/or unregistered/unlicensed recreational vehicles and equipment on residential properties, such as RV's, boats, motor coaches, and jet skis. Currently, Chapter 16 of the LDC prohibits outside storage of unlicensed or inoperable motor vehicles but does not specifically address recreational vehicles or equipment. The proposed Ordinance also amends related sections of the Code of Ordinances; however, the Planning Commission is only required to make a recommendation on the amendment to the Land Development Code. The proposed Ordinance is attached as Exhibit 1.

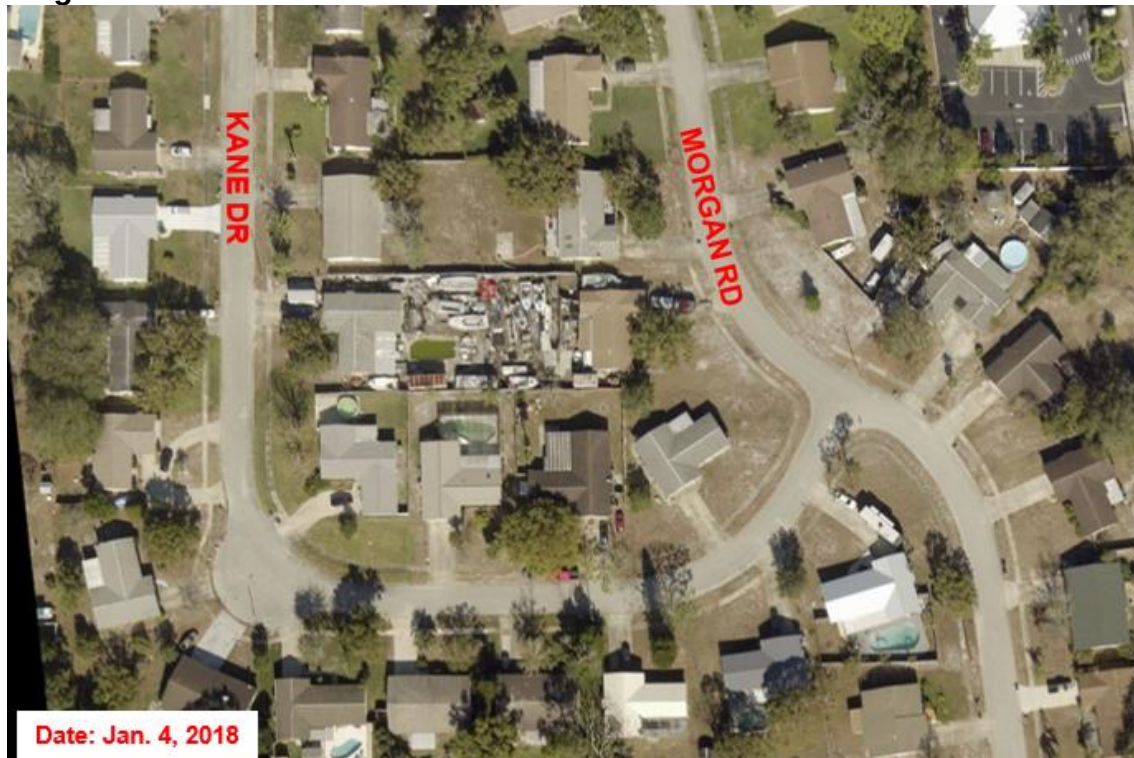
Amending the LDC and Code of Ordinances to address inoperable, disabled, abandoned, and unregistered/unlicensed inoperable or abandoned recreational vehicles and equipment, will allow Code Enforcement to cite a property owner that stores an inoperable or abandoned recreational vehicle(s) and equipment on a residential lot for a violation so the nuisance can be abated in a timely manner.

Recently, Code Enforcement staff has worked with the City Attorney's office to strengthen the language in the LDC and Code of Ordinances to be able to cite residential property owners for inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment. Code Enforcement Staff has observed or received complaints from residents about inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment stored outside and creating a nuisance for adjacent property owners and neighborhoods throughout the city. In some cases, inoperable, disabled, abandoned, and/or unregistered/unlicensed recreational vehicles can pose threats to the community as they:

- Contribute to blight.
- May become a home for rodents, mosquitoes, insects, and other unsanitary vermin.
- May be a fire hazard if they contain flammable substances.
- May contain fluids that, if leaked, may contaminate the environment and contribute to storm water and groundwater pollution.
- Residents can be physically harmed by coming into contact with loose, sharp, or jagged parts from an abandoned or inoperable vehicle.

The proposed amendment does not change the current code requirements for parking of licensed, registered and operable recreational vehicles and equipment. The amendment only applies to inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment.

Figure 1. Example of nuisance properties with inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment in a residential neighborhood



STAFF RECOMMENDATION

Approval of the Land Development Code Amendment to Chapter 16, Section 1, related to Residential Outside Storage of inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment.

ATTACHMENTS

Exhibit 1 – Proposed Ordinance

EXHIBIT 1

ORDINANCE NO. 2020-

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 16, SECTION 1(e)(1)(b) RELATING TO OUTSIDE STORAGE TO ADD A REGULATION FOR INOPERABLE, DISABLED, ABANDONED, AND UNREGISTERED/UNLICENSED RECREATIONAL VEHICLES AND EQUIPMENT; AMENDING THE CODE OF ORDINANCES SECTION 70-48 TO ADD A REGULATION PERTAINING TO INOPERABLE DISABLED, ABANDONED, AND UNREGISTERED/UNLICENSED RECREATIONAL VEHICLES AND EQUIPMENT AND TO ADD PRIVATE MOTOR COACHES TO THE DEFINITION OF RECREATIONAL VEHICLES; AMENDING THE CODE OF ORDINANCES SECTION 70-50 BY DELETING OBSOLETE PROVISIONS AND PROVIDING FOR GENERAL ENFORCEMENT; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, certain inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment have accumulated in the City of Port Orange and are a detriment to the health, safety and welfare of the citizens of the community; and

WHEREAS; accumulation of such recreational vehicles and equipment is unsightly and creates a blighting effect upon the neighborhood or area in which the vehicle or equipment is situated; and

WHEREAS, inoperable, disabled, abandoned, and unregistered/unlicensed recreational vehicles and equipment may become attractive nuisances to children who may be injured by the poor and deteriorated condition of said recreational vehicles and equipment; and

WHEREAS, such recreational vehicles and equipment by reason of their state of disrepair and lack of use could possibly become infested with vermin, rodents, insects, etc.; and

WHEREAS, the City desires to maintain a safe and beautiful City; and

WHEREAS, this ordinance protects the integrity, value and character of residential neighborhoods; and

WHEREAS, it is in the best interest of the public health, safety and welfare that this ordinance be adopted; and

WHEREAS, for purposes of this ordinance words with underlined (underlined) type shall constitute additions to the original text and words with strikethrough (~~strikethrough~~) type shall constitute deletions from the original text.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

SECTION 1. The City Council of the City of Port Orange, Florida, hereby amends Chapter 16, Miscellaneous Regulations, Section 1(e)(1)(b), Accessory Uses and Structures, of the City of Port Orange Land Development Code to read as follows:

Section 1: - Accessory uses and structures.

...

(e) *Outside storage.* Outside storage of new and used equipment and materials shall be regulated as follows.

(1) *Residential uses.*

(a) Outside storage of materials and equipment shall be restricted to the rear yard area and screened by an opaque fence or hedge so that such materials are not visible from any public right-of-way or adjoining lot.

(b) Materials and equipment such as appliances, ~~unlicensed or inoperable motor vehicles~~ motor vehicle parts, and equipment and materials used as part of a business conducted off-site shall not be stored outside. Additionally, unlicensed/unregistered, disabled, abandoned, or inoperable motor vehicles shall not be stored outside. Unlicensed/unregistered, disabled, abandoned or inoperable Recreational vehicles or equipment (as defined in section 70-48 of this Code of Ordinances) shall not be stored outside unless awaiting repair and stored pursuant to section 70-48(h). This prohibition shall not apply to licensed/~~registered~~ and operable motor vehicles, ~~boats,~~ recreational vehicles and equipment and other such vehicles, which are merely being parked on-site. However, such vehicles shall be subject to other provisions of this code, such as those relating to driveways, which may regulate or restrict their location on site.

(c) Unless otherwise stated, temporary storage containers (e.g. PODS) shall be restricted to the driveway for a period not to exceed 72 hours in any continuous 30-day period. However, if said container is placed as permitted and is related to an improvement that has been issued a building permit, said container will be permitted for the duration of the building permit and shall be removed prior to the city's issuance of a certificate of occupancy or completion.

...

SECTION 2. The City Council of the City of Port Orange, Florida, hereby amends Chapter 70, Section 70-48, Parking of recreational vehicles and equipment on residential premise of the City of Port Orange Code of Ordinances to read as follows:

Sec. 70-48 Parking of recreational vehicles and equipment on residential premises.

(a) For the purpose of this section, "recreational vehicle or equipment" means any vehicle, motorized equipment or equipment customarily towed behind a motor vehicle, which is designed, intended, or used for recreational purposes, including but not limited to, boats, boat trailers, travel trailers, private motor coaches, truck campers or motor homes and camping trailers as defined in F.S. § 320.01(1)(b). ~~"Recreational vehicle or equipment" shall not include a private motorcoach as defined in F.S. § 320.01(1)(b)5.~~

(b) For the purpose of this section, "front plane of a dwelling unit" means the plane of the longest front facade parallel or nearly parallel to the front lot line, and shall include the roof overhang of said longest front facade.

(c) For purposes of this section, *disabled or abandoned recreational vehicles or equipment* means any vehicle or equipment which:

(1) Is wrecked and unrepaired, or is incapable of functioning as a recreational vehicle or equipment in its present state;

(2) Has no engine, transmission, or other major and visible parts, or has other major or visible components which are dismantled;

(3) Is not registered and/or licensed as required by law;

(4) Is apparently inoperative, as indicated by vegetation underneath the recreational vehicle or equipment as high as the vehicle or equipment body or frame or refuse or debris collected underneath the vehicle or equipment;
or

(5) Is otherwise located on property in an apparent state of disuse or neglect, so as to render the recreational vehicle or equipment unsightly to a reasonable person viewing the vehicle or equipment from outside the property on which the vehicle or equipment is located.

(ed) No recreational vehicle or equipment greater than 24 feet in length shall be parked or stored on any residential lot or the right-of-way adjoining the residential lot except for the following:

(1) In an enclosed building or a completely enclosed garage.

(2) Behind the front plane of a dwelling unit.

(3) Anywhere on residential premises for a period not to exceed 72 hours in any continuous 30-day period for the purpose of maintenance, loading or unloading.

The recreational vehicle or equipment shall be measured along the centerline from the front to the rear of the vehicle or equipment and shall include all appurtenances, accessories and attachments, including but not limited to the trailer tongue, inboard and/or outboard engine, and engine trailer assembly.

(de) When a recreational vehicle or equipment is stored or when parked for maintenance, loading and unloading, the recreational vehicle engine or associated equipment engine shall not be operated between the hours of 9:00 p.m. and 7:00 a.m. Subsection (de)(3) shall not be construed to prohibit the arrival and departure of recreational vehicles to and from the driveway of the residence.

(ef) No recreational vehicle or equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

(fg) No recreational vehicles and equipment shall be parked on the right-of-way adjoining the residential premises.

(h) There shall be no parking or storage of abandoned or disabled recreational vehicles or equipment on any residential lot or the right-of-way

adjoining any residential lot other than temporary parking or storage for those awaiting repair. Such temporary parking or storage shall be confined to an enclosed building or completely enclosed garage or behind the front plane of the dwelling unit. Such temporary parking or storage shall not exceed 7 days.

SECTION 3. The City Council of the City of Port Orange, Florida, hereby amends Chapter 70, Section 70-50, Enforcement, of the City of Port Orange Code of Ordinances as follows:

Sec. 70-50. Enforcement.

~~(a) Whenever a code inspector determines that a vehicle is disabled or abandoned on residentially-zoned or agriculturally-zoned private property in violation of section 70-49, the code inspector shall place a notice as described in subsection (b) of this section on the windshield or some other prominent, visible part of the vehicle.~~

~~(b) The notice shall be not less than eight inches by ten inches, shall be sufficiently weatherproof to withstand normal exposure to the elements, and shall be in substantially the following form:~~

~~NOTICE TO THE OWNER OF THIS VEHICLE AND ALL PERSONS HAVING AN INTEREST IN THIS VEHICLE. This vehicle, to wit: (setting forth brief description) is unlawfully on the following property: (describing location by legal description or street address) and must be removed within fifteen (15) days; otherwise the City of Port Orange will remove and dispose of the vehicle pursuant to section 70-50 of the Code of Ordinances, City of Port Orange, Florida. If the city does remove and/or dispose of the vehicle, the owner of the vehicle and the owner or occupant of the property shall be responsible for removal, storage, disposition, and notice costs. The owner of the vehicle and the owner or occupant of the property shall have the right to appeal this determination by filing an appeal within fifteen (15) days from the date of this notice. The appeal must be in writing and delivered to the office of: (setting forth the city manager or the title of his designee) at: (setting forth business address), Dated this: (setting forth the date of posting of the notice). Signed: (setting forth name, title, business address, and telephone number of code inspector).~~

~~(c) If the code inspector places a notice on the vehicle the code inspector shall also make every reasonable attempt to ascertain the name and address of the owner of the vehicle. If such name and address is reasonably available to the code inspector, the code inspector shall mail or hand deliver a copy of the notice to the owner of the vehicle on or before the date on which the notice is posted on the motor vehicle.~~

~~(d) The owner of the vehicle and the owner or occupant of the property shall have the right to appeal the code inspector's determination, so long as such appeal is filed on or before the date stated on the notice. The sole grounds for appeal are that the vehicle is not disabled or abandoned as defined in section 70-~~

~~49. The appeal shall be deemed filed when delivered in writing to the office of the city manager or his designee, and the owner of the vehicle or the owner or occupant of the property shall bear sole responsibility for such delivery.~~

~~(e) The city manager or his designee shall promptly schedule a hearing on the appeal, which hearing shall be held within five business days of the date on which the appeal is filed. At the hearing, the owner of the vehicle and the owner or occupant of the property may appear individually or by counsel and shall have the burden of proving that the vehicle complies with section 70-49 by a preponderance of the evidence. The code inspector shall be entitled to attend the appeal and present any contrary evidence. Within three days of the hearing, the city manager or designee shall render a written decision on the appeal and provide copies thereof to the owner of the vehicle and the owner or occupant of the property, to counsel, if any, and to the code inspector. The decision of the city manager or his designee shall be deemed final administrative action. The time for removal of the vehicle shall be tolled so long as any appeal is pending but shall begin to run immediately upon the rendition of a decision on any such appeal.~~

~~(f) After the time set for removal has expired, and all available appeals have been exhausted, the code inspector shall request a city law enforcement officer to have the vehicle removed to a storage facility and disposed of in compliance with applicable state law or city ordinance.~~

~~(g) The procedures set forth in this section provide an additional or supplemental means of obtaining compliance with section 70-49. Nothing contained in this section shall prohibit the city from enforcing 70-49 by any other means.~~

~~(h) Any employee of the city and any person authorized by such employee is immune from prosecution, civil or criminal, for reasonable, good faith trespass upon real property while in the discharge of duties imposed by this section.~~

Unless otherwise specified, the provisions of this article may be enforced by:

(a) Enforcement proceedings by the special magistrate;

(b) A suit brought by the city in the circuit or county court to restrain, enjoin or prevent a violation of this article; or

(c) Enforcement as provided in section 1-8 of this Code.

SECTION 4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

SECTION 5. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the

invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 6. This ordinance shall become effective immediately upon final passage by the City Council.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of _____

Passed and adopted on second and final reading on the day of _____

Reviewed and Approved: _____
Matthew J. Jones, City Attorney

[CA 7162]



STAFF REPORT

CASE NO. 20-25000005

LDC Amendment/Chapter 2, 16, and 17 – Atypical Lots, Fences Design & Special Setbacks for A/C units, Pergola and Gazebo

REQUEST:	Amendments to Chapter 2, 16, and 17 of the Land Development Code (LDC), updating the definition for atypical lots and type of fencing allowed on an atypical lot and special setbacks for A/C units, pergola and gazebo.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION:	August 27, 2020

Introduction

Staff has been updating the Land Development Code in phases over the past several years. Prior amendments included updates to sign regulations, the “green” building initiative, erosion control, floodplain management, updates to Building Code references, county-wide Traffic Impact Analysis standards, school concurrency, Construction Standards modifications, fire impact fees, site plan and subdivision regulations, removal of select uses from the Ridgewood Corridor zoning district, zero lot line homes in the R-2D zoning district, microbreweries, architecture requirements, economic development – Ridgewood targeted businesses, tree preservation and others.

Summary of Proposed Amendments

The proposed amendments are intended to improve the content of the existing code, as part of an on-going maintenance effort. The proposed amendments include clarifications and minor changes that are simple clean-up items that make the code more efficient to use, and code improvements that includes changes to the content of the existing code that are intended to address problems or issues encountered when applying the code.

Amendments to Chapter 2 and 16 Atypical Lot Fence Regulations (LDC, Chapter 2, Section 2 & Chapter 16, Section 3)

The proposed amendment revises the definition for an atypical lot as a lot within a subdivision that abuts a street at one end and a waterway/body of water which is 100 feet or more in width (Halifax River, Spruce Creek, or common area stormwater pond) or a golf course within the same subdivision. The current atypical lot definition includes a waterway/body of water which is 100 feet, a golf course, or more in width along with common open space in a subdivision. The common open space referenced in the definition could include tree preservation area, dry retention, and wetland areas.

The atypical lot definition is used to apply LDC requirements for fence height and setbacks for accessory structures greater than 4-feet in height to preserve and protect views to significant natural (rivers and creeks) and human-made (stormwater ponds and golf course) features within the city. With the development of newer residential subdivisions over the last 20 years, there are more situations where a residential lot abuts a wooded common area or

a dry retention common area and according to the current requirement in the LDC, these lots are limited to a 4' fence and no accessory structures greater than 4-feet in height within the rear yard. These are the lots residents typically question the need of preserving non-water related common areas when they are requesting permits for fences and sheds (Figure 1).

Figure1. Example of Dry Retention and Wooded Common Areas



If the proposed amendment is approved, the fence height and accessory structure setback requirements in the LDC for lots abutting the Halifax River, Spruce Creek, stormwater ponds bodies of water 100 feet or more in width, and golf courses would NOT change. However, residential lots within a subdivision that abut a common open space such as a tree preservation area, dry retention, and wetland areas would be able to install opaque fencing at a maximum height of 6' and locate accessory structures with a rear yard.

Amendments to Chapters 16 – Type of 6' Tall Fence Allowed on Atypical Lot

The proposed amendment expands the type of fences that can be constructed at 6-feet tall in the rear yard of an atypical lot. For an atypical lot, the LDC restricts the maximum height of a fence within the rear yard at 4-foot tall but allows for a chain link fence at 6-foot tall. The intent of the 4-foot height restriction in the LDC is to maintain the rear yard views of a golf course and/or water body (retention pond, lake, river, and stream) for adjacent properties by limiting the height of an opaque fence at 4-foot. The proposed amendment expands on the fence types allowed to be installed at 6-foot in the rear yard of an atypical lot. Similar to the currently allowed 6-foot chain link fence, other non-opaque fence options (clear glass or plastic and picket fences) would be acceptable at 6-foot tall since views would not be fully obstructed. These non-opaque fencing options function similarly to a chain link fence in that they do not obstruct the view of the common area (see Figure 2).

Figure 2. Example of a clear glass fence and wrought iron picket fence



Special Setback for Accessory Structures

Amendments to Chapters 16 and 17 – Set Back for Air Conditioning Unit

At a recent City Council meeting, the Council approved a Planned Unit Development (PUD) amendment that updated the side yard setback for a residential air conditioning unit (A/C unit) based new size standards for A/C units. City Council indicated at that meeting that staff should amend the LDC to be consistent with the new size standards for A/C units, so variances or PUD amendments are not requested.

The proposed amendment would update the City-wide side yard setback for an air conditioning unit (A/C unit) from 3.5 foot (42-inches) or 50% of the side building setback to a minimum side yard setback of 1.5 foot (18-inches) along with special conditions to maintain drainage. The current setback was established in the mid-1990's but as air conditioning units are being designed to be more energy efficient, this has resulted in the units becoming larger in size and requiring a larger concrete pad.

Majority of the remaining vacant land zoned for single-family dwellings in the City is designated for 50-foot to 60-foot wide lots with 5-foot side yard setbacks. The proposed side yard setback for an air conditioning unit would maintain the ability to place an air conditioning unit in the side yard for the 50-foot to 60-foot wide lots, and account for increases in the size (width and height) of new or replacement air conditioning units.

The proposed minimum 1.5-foot (18-inch) side setback also includes the necessary conditions to maintain drainage swales and separation of units between properties:

- Minimum separation of air conditioning unit or mechanical equipment on adjacent lots of 8-feet.
- New air conditioning unit pads shall be set-back a minimum of ten (10) feet from the front building corner; replacement units may be located on the existing pad location.
- For new construction, prior to requesting a Certificate of Occupancy on the residential dwelling, an as-built drawing of the side yard for a lot with an air conditioning unit setback less than 2.5-feet shall be submitted to the City to verify required grading and drainage swale construction according to the approved building permit.

Amendments to Chapter 2 and 16 – Definition and Setbacks for Pergola and Gazebo

The proposed amendment would define a “pergola” and “gazebo” and establish setbacks for placement on a property within the side or rear yard. Over the past year, staff has seen an increase in inquiries from residents and developers for setbacks to install gazebos or pergolas on their property. However, there are no specific side and rear setbacks for these structures in the LDC. Therefore, the proposed amendment is to define these structures and establish setbacks. Similar to other accessory structures, a pergola or gazebo would not be allowed within a front yard.

Staff researched what other neighboring cities use as setbacks and how the pergola and gazebo function on the lot compared to other accessory structures (e.g. Ormond Beach, DeLand, Orange City) with established setbacks already in the LDC. The following definitions and setbacks for a pergola and gazebo are proposed to be added to the LDC:

- Definition added for a pergola - A freestanding or attached structure of parallel colonnades supporting an open roof of crossing rafters or trellis
- Definition added for a gazebo - A freestanding roofed structure that is open or screened on all sides.
- Establish minimum setbacks for a gazebo or pergola of seven and one-half feet (7½') from the side and rear property line, or the required side-yard setback of principal structure, whichever is less (e.g. 5-feet for a lot with a 5-foot side setback).

Figure 2 – Example Gazebo and Pergola



Gazebo



Pergola

Accessory Uses and Accessory Structures Not Specified

The current LDC states that, “Any specific accessory use or structure which is not addressed within this chapter shall not be located on any lot.” Accessory uses and structures are incidental to the principal use established on the same lot; subordinate to and serve the principal use; subordinate in area, extent and purpose to the principal use; and contribute to the comfort, convenience or necessity of users of the principal use. No accessory structure or use is permitted on any lot which does not have an established principal use conforming to the requirements of the LDC. No accessory structure is permitted on any lot which does not have a permitted principal structure.

In order to account for new accessory structures not specifically addressed in the LDC, the proposed amendment adds the following general statement, “If any specific accessory structure is not specifically addressed within this chapter, the administrative official or their designee shall use the setback applicable to the most clearly comparable accessory structure.”

Recommendation

Approval of the amendments to Chapters 2, 16, and 17 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 Chapters 2, 16, and 17

EXHIBIT 1
Proposed Land Development Code Amendments

Land Development Code

Chapter 2 – Definitions and Interpretations

Section 2: - Definitions.

Atypical lot. A lot within a subdivision which, as a result of subdivision design, abuts a street at one end and any of the following at the opposite end:

(a) A waterway or body of water, either of which is 100 feet or more in width, including but not limited to the Halifax River, ~~and Spruce Creek,~~ or a designated common open space area within the same subdivision which is a body of water; or

(b) A golf course fairway or green within the same subdivision; ~~or~~

~~(c) A designated common open space area within the same subdivision which is a body of water 100 feet or more in width.~~

Gazebo. A freestanding roofed structure that is open or screened on all sides.

Pergola. A freestanding or attached structure of parallel colonnades supporting an open roof of crossing rafters or trellis'.

Chapter 16 – Miscellaneous Regulation

Section 1: - Accessory uses and structures.

[No changes to subsections (a) through (b)]

(c) *General provisions.*

(1) Outdoor storage shall be prohibited, except as specifically permitted herein.

(2) Signs, fences, walls, parking and loading areas, and other such features which are typically located within required yard areas shall comply with the applicable provisions of this code for such uses and structures.

(3) Any specific accessory use ~~or structure~~ which is not addressed within this chapter shall not be located on any lot. If any specific accessory structure is not specifically addressed within this chapter, the administrative official or their designee shall use the setback applicable to the most clearly comparable accessory structure.

[No changes to subsections (d) through (e)]

(f) *Atypical lots.* The atypical lot requirements are intended to preserve and protect views to significant natural and human-made features within the city. These features include, but are not limited to the Halifax River, bodies of water 100 feet or more in width, golf courses and subdivision dedicated common open spaces that are a body of water 100 feet or more in width. The atypical lot provisions are not intended to apply to subdivision common areas that are utility or gas easements, or that function as buffers between adjacent roadways or neighboring subdivisions.

[No changes to Section 2]

Section 3: - Fences and walls.

[No changes to subsection (a)]

(b) General provisions.

[No changes to subsection 1]

(2) Height.

(a) For individual single-family and two-family residential lots, no permanent fence or wall shall exceed six feet in height in rear or side yards, except as provided in subparagraph (e) below. In addition, fences and walls shall not exceed four feet in height when erected on an atypical lot within the required rear yard setback, except as provided in subsection (h) below.

[No changes to subsections (b) through (g)]

(h) On atypical lots, chain link fences and other non-privacy fences (e.g. clear glass or plastic and metal/aluminum picket fences) that are not opaque, but function similarly to a chain link fence in that they do not obstruct the view of the common area may not exceed six feet in height when erected within the required rear yard.

[no changes to subsection (2)(i) through subsection (5)]

[No changes to Section 4]

Section 5: - Special setbacks.

[No changes to subsection (a)]

(b) Special setbacks.

[The following special setbacks are to be amended and/or added to the table in alphabetical order.]

Structure or Building Feature	Special Setback
Air conditioning unit	3.5 <u>1.5</u> feet into yard (1) <u>(9)</u>
<u>Gazebo</u>	<u>7.5 feet into yard or the required side-yard setback of principal structure, whichever is less (2)</u>
<u>Pergola</u>	<u>7.5 feet into yard or the required side-yard setback of principal structure, whichever is less (2)</u>

NOTES:

(1) In no case shall the special setback exceed 50 percent of the minimum yard dimension.

(2) Location within required yards permitted in rear and side yards only.

[no changes to notes (3) through (8)]

(9) There shall be a minimum separation of air conditioning unit or mechanical equipment on adjacent lots of eight (8) feet. New air conditioning unit pads shall be set-back a minimum of ten (10) feet from the front building corner; replacement units may be located on the existing pad location. For new construction, prior to requesting a Certificate of Occupancy on the residential dwelling, an as-built drawing of the side yard for a lot with an air conditioning unit setback less than 2.5-feet shall be submitted to the City to verify required grading and drainage swale construction according to the approved building permit.

Chapter 17 - ZONING DISTRICT REGULATIONS

29: - Planned community—Agricultural (PC-A) district.

[No changes to subsections (a) through (c)]

(d) Neighborhood district

[No changes to subsections (1) through (5)]

(6) Dimensional requirements. [No changes to table; only to footnote 3]

³ The following appurtenances shall be allowed to encroach ~~three feet~~ one and one half (1.5) feet into the side-yard setback; air conditioning equipment, pool pumps and related equipment, other equipment appurtenant to the residential use where otherwise permitted to be located outside, concrete pads associated with air conditioning equipment, and garage stoops. There shall be a minimum separation of air conditioning unit or mechanical equipment on adjacent lots of eight (8) feet. New air conditioning unit pads shall be set-back a minimum of ten (10) feet from the front building corner; replacement units may be located on the existing pad location. For new construction, prior to requesting a Certificate of Occupancy on the residential dwelling, an as-built drawing of the side yard for a lot with an air conditioning unit setback less than 2.5-feet shall be.