AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, January 28, 2021 **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
4. Election of Officers

B. DISCUSSION/ACTION

5. Consideration of Minutes
6. APPLICATION: LDC Amendment/Chapters 2 and 8
   CASE NO.: 21-25000001
   APPLICANT: City of Port Orange
   STAFF CONTACT: Margaret Tomlinson, Construction and Engineering Manager (386) 506-5661/mtomlinson@port-orange.org

   A request to amend Chapters 2 and 8 of the Land Development Code (LDC) to clarify and improve the floodplain management regulations and provide consistency with the recently released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures and an addendum to the 2017 CRS Coordinator's Manual.
7. APPLICATION: PUD Amendment/1st Amendment to the Sunset Cove PUD Master Development Agreement
   LOCATION: 3890 Sunset Cove Drive
   CASE NO.: 20-40000006
   APPLICANT: City of Port Orange
   STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675/tburman@port-orange.org

   A request to amend the Master Development Agreement (MDA) for the Sunset Cove Planned Unit Development (PUD) to allow a six-foot rear setback for a pool for Lot 71 of the Sunset Cove Subdivision Phase II.

8. APPLICATION: LDC Amendment/Chapters 2, 5, 6, 8, 9 and 17
   CASE NO.: 21-25000002
   APPLICANT: City of Port Orange
   STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org

   A request to amend Chapters 2, 5, 6, 8, 9 and 17 of the Land Development Code (LDC) to clarify submittal requirements and make the code more efficient to use.

C. OTHER BUSINESS

9. Commissioner Comments
10. 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 ACCOMODATIONS, PLEASE NOTIFY THE CITY CLERK'S OFFICE (PHONE: 386-506-5563) AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE.

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

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT (ADA), IF YOU ARE A PERSON WITH A DISABILITY WHO NEEDS AN ACCOMMODATION IN ORDER TO PARTICIPATE IN THIS PROCEEDING, YOU ARE ENTITLED, AT NO COST TO YOU, THE PROVISION OF CERTAIN ASSISTANCE. PLEASE CONTACT THE CITY CLERK FOR THE CITY OF PORT ORANGE, 1000 CITY CENTER CIRCLE, PORT ORANGE, FLORIDA 32129, TELEPHONE NUMBER 386-506-5563, CITYCLERK@PORT-ORANGE.ORG, AS FAR IN ADVANCE AS POSSIBLE, BUT PREFERABLY WITHIN 2 WORKING DAYS OF YOUR RECEIPT OF THIS NOTICE OR 5 DAYS PRIOR TO THE MEETING OR HEARING DATE. IF YOU ARE HEARING OR VOICE IMPAIRED, CONTACT THE RELAY OPERATOR AT 7-1-1 or 1-800-955-8771.

UPON REQUEST BY A QUALIFIED INDIVIDUAL WITH A DISABILITY, THIS DOCUMENT WILL BE MADE AVAILABLE IN AN ALTERNATE FORMAT. IF YOU NEED TO REQUEST THIS DOCUMENT IN AN ALTERNATE FORMAT, PLEASE CONTACT THE CITY CLERK WHOSE CONTACT INFORMATION IS PROVIDED ABOVE.

REGULAR PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
DECEMBER 17, 2020

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

Pledge of Allegiance

Silent Invocation

Roll Call

Present:	Maria Mills-Benat John Junco Darrel "Bo" Bofamy Lance Green Stan Schmidt Thomas Jordan Newton White
Also Present:	Shannon Balmer, Assistant City Attorney Shelby Field, Assistant City Clerk

B. <u>DISCUSSION/ACTION</u>

4. Consideration of Minutes

Motion to approve the minutes as presented from November 19, 2020 was made by Commissioner Bofamy and Seconded by Commissioner Jordan. Motion carried unanimously by roll call vote.

5. CASE NO. 20-90000004
Variance/L7101 SR 421 Owens
5311 S. Williamson Blvd.

A request by the applicant for a variance from Chapter 16, Section 9(c)(8), of the Land Development Code to allow a setback for a communication tower to be less than the required minimum distance of 110 percent of the fall radius for the tower.

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

(Continued from November 19, 2020 Planning Commission Meeting)

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

Mary Solik, Representative for the Applicant, responded to questions from Commissioners.

> *Motion to approve Case No. 20-90000004 was made by Commissioner Jordan and Seconded by Vice Chairman Junco.*

Commissioner Green is against the location of the cell tower and believes it doesn't meet the criteria. Mr. Burman responded to concerns and clarified that this tower is not taking over part of the Thompson Pump property.

> *Motion passed 5-2 by roll call vote with Commissioner Green and Commission Bofamy voting no.*

6. CASE NO.: 20-20000004

Small-Scale Comprehensive Plan Future Land Use Map Amendment/5100, 5120, and 5128 Riverside Drive
5100, 5120, and 5128 Riverside Drive

A request by the applicant to Change the Future Land Use (FLU) designation for ±3.4 acres from Urban Medium Density Residential (4-8 units/acre) to Commercial.

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

Chair Mills-Benat opened items #6 and #7 together.

Gwen Perney, Planner, discussed details of the proposed FLU amendments~~,~~ rezoning, and MDA Amendment and answered questions from Commissioners.

Penelope Cruz, Planning Manager, responded to questions from Commissioners.

Joseph Posey, Storch Law Firm, provided additional information and answered questions from Commissioners.

> *Motion to approve Case No. 20-20000004 was made by Vice Chairman Junco and Seconded by Commissioner Jordan. Motion passed unanimously by roll call vote.*

7. CASE NO.: 20-65000001

PCD Amendment/6th Amendment to the Clark Professional Center and Wedding Chapel Planned Commercial Development Master Development Agreement and Conceptual Development Plan
5100, 5120, and 5128 Riverside Drive

A request by the applicant to rezone three properties along Riverside Drive from Single-Family Residential (R-7SF) to Planned Commercial Development (PCD) and to approve the Sixth Amendment to the Clark Professional Center and Wedding Chapel PCD Master Development Agreement to incorporate the three properties into the existing wedding and event facility within the PCD.

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

Motion to approve Case No. 20-65000001 with recommendation of approval on policy issues was made by Commissioner Schmidt and Seconded by Commissioner Jordan. Motion passed unanimously by roll call vote.

8. CASE NO.: 20-60000006

Rezoning/Catholic Church of the Epiphany
304, 308, 312, 316, 320, and 324 Fleming Avenue

A request by the applicant to rezone ±1.1 acres from R-8SF Single-family Residential to Government/Public Use (GPU).

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

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

Jerry Finley, Engineer, addressed some concerns raised by Commissioners regarding future changes to the property.

Gina Hesch, Citizen, is concerned with the lack of information about what will happen to the property in the future.

Billy Gilmore, Citizen, believes if Fleming Ave was vacated the church could do whatever they want with the property and that is a concern of his. He believes the church has a plan but isn't disclosing it.

Mike Arminio, Citizen, stated the city is asking the church to do this to make everything consistent. He is in favor of the item.

Mrs. Cruz answered questions from Commissioners and clarified that staff stated they would need to rezone the properties in order to continue using them for non-residential uses only after finding out from the church at a pre-application meeting that the church has already been using the single-family homes for church offices and ministries.

Motion to approve Case No. 20-60000006 was made by Commissioner Jordan and Seconded by Commissioner Green. Motion passed 4-3 by roll call vote with Vice

Chairman Junco, Commissioner Jordan and Chair Mills-Benat voting no.

9. CASE NO.: 20-30000002
Conditional Use/Thrive Community Church
6156 Williamson Boulevard

A request by the applicant for a Conditional Use to allow outdoor church services and activities/meetings.

STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org
Peter Keirstead, Pastor, Thrive Community Church

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

Andrew Giannini, Engineer, discussed the location of the future building on the property and answered questions from Commissioners.

Pete Keirstead, Applicant, answered questions from Commissioners.

Motion to approve Case No. 20-30000002 was made by Commissioner Jordan and Seconded by Vice Chairman Junco.

Motion to amend the motion to include a requirement to make the tent an earth tone was made by Commissioner White. Motion was withdrawn.

Motion passed 5-2 by roll call vote with Commissioner Jordan and Commissioner White voting no.

C. <u>OTHER BUSINESS</u>

10. Commissioner Comments

Commissioners wished everyone Happy Holidays and thanked staff for their work.

11. Staff Comments

There were none.

D. <u>PUBLIC COMMENTS</u> – there were none.

E. <u>ADJOURNMENT</u> – 7:25 p.m.

_____

Chair Mills-Benat

STAFF REPORT
CASE NO. 21-25000001
LDC Amendment/Chapters 2 and 8

REQUEST:	Amendments to the Land Development Code (LDC) Chapters 2 and 8 to clarify and improve the floodplain management regulations and provide consistency with the recently released FEMA Policy #104-008-03 Floodplain Management Requirements for Agricultural Structures and Accessory Structures and an addendum to the 2017 CRS Coordinator's Manual
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	**Approval**
STAFF CONTACT:	Margaret Tomlinson, Construction & Engineering Manager (386) 506-5661
PLANNING COMMISSION DATE:	January 28, 2021

INTRODUCTION:

The proposed amendments to Chapter 2 (Definitions) and Chapter 8, Article III (Floodplain Management) in this package are intended to maintain the floodplain management regulations of the existing code so the City can retain its standing in the Community Rating System (CRS) of the National Flood Insurance Program (NFIP) while providing consistency with the current edition of the Florida Building Code. The City has a Class 5 rating in the CRS. The Class 5 community rating affords flood insurance policy holders a discount of 25% for structures located in the Special Flood Hazard Area (SFHA) and 10% outside the SFHA. The proposed amendments consist of definition changes and the replacement of specific language to provide consistency with the FEMA policy that went into effect on January 1, 2021.

The amendments are being proposed in order to make the Land Development Code consistent with the State Floodplain Management Office's prerequisite guidance to qualify as a NFIP CRS Class 8 community and its Model Ordinance language based on FEMA Policy #104-008-03. In the CRS, the lower the class rating number, the greater flood insurance premium reduction or discount (see Figure 1 below). As a Class 5 community, Port Orange must meet Class 8 prerequisites to retain the Class 5 rating, or otherwise drop to Class 9 at the first cycle visit after 2021. All of the city's other existing floodplain management regulations are being maintained with these amendments and no additional requirements are being proposed.

Table 110-1. CRS classes, credit points, and premium discounts.			
CRS Class	Credit Points (cT)	Premium Reduction	
		In SFHA	Outside SFHA
1	4,500+	45%	10%
2	4,000–4,499	40%	10%
3	3,500–3,999	35%	10%
4	3,000–3,499	30%	10%
5	2,500–2,999	25%	10%
6	2,000–2,499	20%	10%
7	1,500–1,999	15%	5%
8	1,000–1,499	10%	5%
9	500–999	5%	5%
10	0–499	0	0

SFHA: Zones A, AE, A1–A30, V, V1–V30, AO, and AH

Outside the SFHA: Zones X, B, C, A99, AR, and D

Preferred Risk Policies are not eligible for CRS premium discounts because they already have premiums lower than other policies. Preferred Risk Policies are available only in B, C, and X Zones for properties that are shown to have a minimal risk of flood damage.

Some minus-rated policies may not be eligible for CRS premium discounts.

Premium discounts are subject to change.

Figure 1 – CRS Classes, credit points and premium discounts

BACKGROUND:

In February 2020, FEMA issued Policy #104-008-03, a policy defining agricultural structures and accessory structures and specifying conditions and limitations that must be imposed when communities allow property owners to build those structures using wet floodproofing techniques instead of complying with the NFIP requirements to elevate or dry floodproof nonresidential structures. The concepts of floodproofing are defined as follows:

Dry floodproofing. A combination of measures that results in a structure, including the attendant utilities and equipment, being watertight with all elements substantially impermeable to the entrance of floodwater and with structural components having the capacity to resist flood loads.

Wet floodproofing. The use of flood-damage-resistant materials and construction techniques to minimize flood damage to areas below the flood protection level (Higher Regulatory Standard of BFE +1' in Port Orange), which is intentionally allowed to flood.

Wet floodproofing techniques include using flood resistant materials below the base flood elevation (BFE) and installing flood openings to allow flood waters to enter and exit the structure. Wet floodproofed structures are required to have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation if they are not comprised of flood resistant materials. Wet floodproofing is only allowed for parking and storage areas.

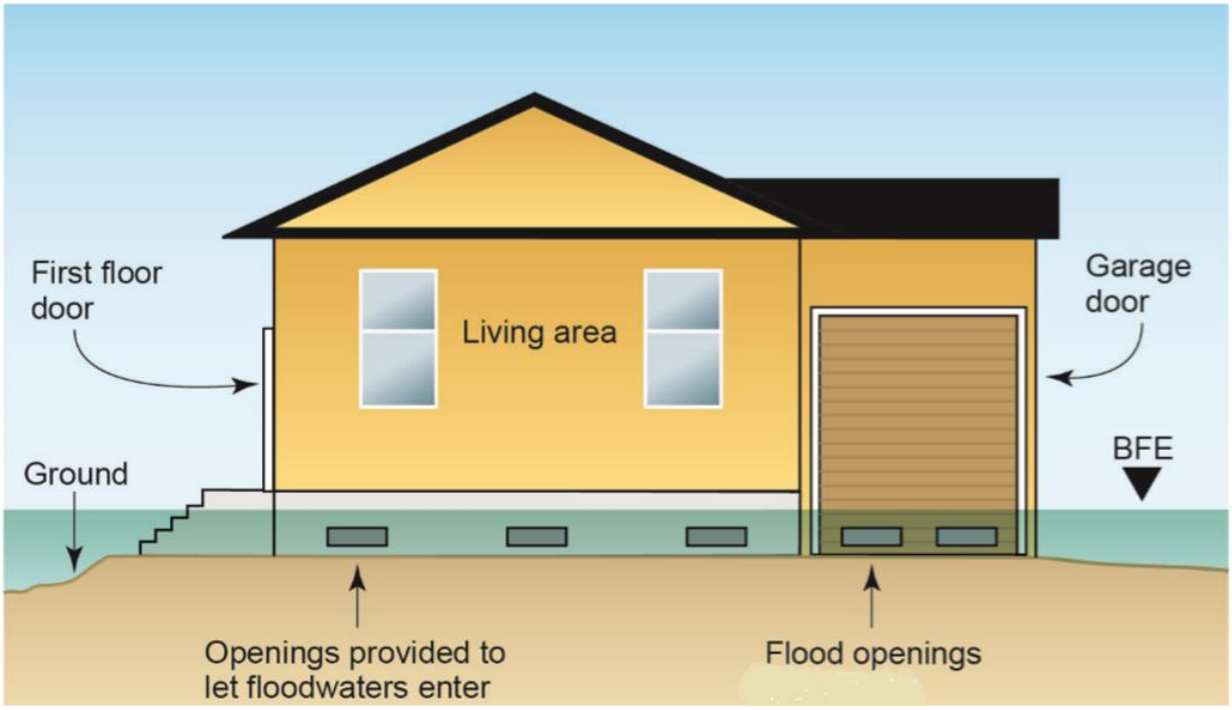


Figure 2 - Wet Floodproofing of Garage - Flood damage-resistant materials below the BFE (Higher Regulatory Standard of BFE +1' in Port Orange)

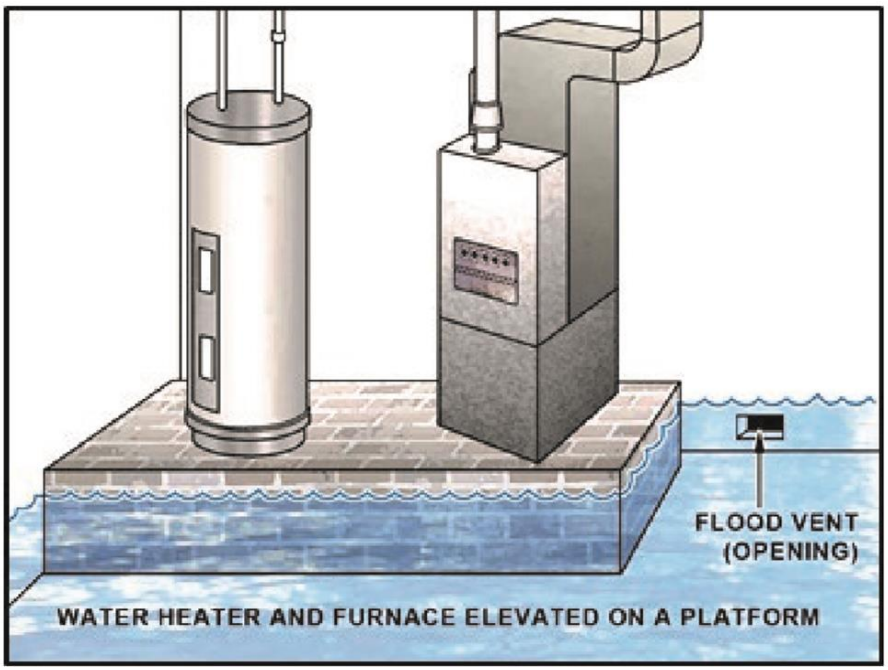


Figure 3 - Wet Floodproofing - Mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the BFE *(Higher Regulatory Standard of BFE +1' in Port Orange)*

Communities in the NFIP must regulate all development in Special Flood Hazard Areas (SFHAs). SFHAs include Flood Zones A, AE, AO, AH, AR, A99, V and VE. The NFIP regulations specify buildings and structures must be elevated to or above the Base

Flood Elevation (BFE), with an allowance for dry floodproofing non-residential buildings in SFHAs identified as Flood Zone A/AE. It is only by FEMA policy that wet floodproofing measures are permitted in specific circumstances. The City's proposed ordinance modifies floodplain management regulations to allow permits to be issued for wet floodproofed accessory structures that are not larger than the size limits specified in the Policy, 600 square feet in Flood Zone A and 100 square feet in Flood Zone V.

In November 2020, the State Floodplain Management Office provided guidance for modification to local floodplain management regulations to allow communities to comply with the addendum to the FEMA 2017 CRS Coordinator's Manual to increase the Class 8 Freeboard Prerequisites effective January 1, 2021. Freeboard is elevating a building's lowest floor above predicted flood elevations by a small additional height (generally 1-3 feet above NFIP minimum height requirements). The NFIP CRS establishes prerequisites for participation in the program and prerequisites to achieve certain classification levels. In 2020, FEMA announced new prerequisites for CRS communities to attain or retain a Class 8 or better. One Class 8 prerequisite is to adopt and enforce a requirement of at least one foot of freeboard for all residential buildings. Starting with the 5th Edition Florida Building Code (FBC), all buildings within the scope of the FBC are required to be elevated or protected to at least BFE plus 1 foot, including one- and two-family dwellings. To fully meet the Class 8 prerequisite for at least one foot of freeboard, CRS communities must eliminate the 36-inch option for manufactured homes. Previously, the NFIP regulations (44 CFR Section 60.3) allowed manufactured homes that were installed in "existing manufactured home parks or subdivisions" to be elevated on "reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade," even if that meant the lowest floors were below the base flood elevation.

The Class 8 freeboard prerequisite affects Class 5 through Class 8 communities. Communities in Classes 1 through 4 already meet the new freeboard prerequisite. The City has a Class 5 rating. Any already participating CRS community that cannot meet the Class 8 freeboard prerequisite at its first cycle visit after 2021 will change to a Class 9 community. Port Orange flood insurance policy holders, both in and out of the SFHA, would see their discount drop to 5% upon policy renewal after 2021 in the event Port Orange is dropped to Class 9.

The Florida Department of Emergency Management (DEM) prepared guidance to ensure the floodplain ordinance meets the National Flood Insurance Program (NFIP) requirements and has reviewed the proposed ordinance. The ordinance deletes obsolete terms and definitions related to new and existing mobile home and manufactured home parks or subdivisions that are no longer applicable with the elimination of the 36-inch option. The proposed ordinance was specifically written to replace existing regulations, satisfy the NFIP, to coordinate with the Florida Building Code, and to meet the requirements of Florida Statutes and the DEM.

SUMMARY OF PROPOSED AMENDMENTS:

The proposed code amendments include two categories: 1) definition changes and 2) code improvements. The first category consists of definition clarifications and to eliminate obsolete references and make the code more efficient to use. The code

improvements section includes changes to the content of the existing code that provide consistency with FEMA policy and NFIP CRS class prerequisites.

A. DEFINITION CHANGES

These changes are recommended to make the code consistent with FEMA Policy, to allow the City to meet certain CRS Class 8 prerequisites, and to clarify and ensure consistency when staff interprets the code and when citizens, contractors or developers refer to the code.

Amendment #1 – Amend LDC Chapter 2, Section 2 – Definitions for "Accessory Structure"

Accessory structure (appurtenant structure). A structure that is located on the same parcel of property as the principal structure and the use of which is incidental to the use of the principal structure. Accessory structures shall constitute a minimal investment, shall not be used for human habitation, and shall be designed to have minimal flood damage potential. Examples of accessory structures are detached garages, carports, storage sheds, pole barns, and hay sheds. For floodplain management purposes, the term includes only accessory structures used for parking and storage.

Amendment #2 – Delete in LDC Chapter 2, Section 2 – Definitions

"Existing manufactured home park or subdivision", "Existing mobile home park or subdivision," "Expansion to an existing manufactured home park or subdivision," "Expansion to an existing mobile home park or subdivision," "New manufactured home park or subdivision," and "New mobile home park or subdivision". Definitions for Manufactured home, Manufactured home park or subdivision, Mobile home, Mobile home park and Mobile home subdivision are not affected by this amendment.

B. CODE IMPROVEMENTS

These changes are recommended to make the code consistent with FEMA Policy, to allow the City to meet certain CRS Class 8 prerequisites, and to clarify and ensure consistency when staff interprets the code and when citizens, contractors or developers refer to the code.

Amendment #1 – Amend Chapter 8, Article III, Section 9 (a) to add (3) Accessory Structures

(a) Buildings and Structures.

(1) Design and construction of buildings, structures and facilities exempt from the Florida Building Code. Pursuant to Section 8(d)(3) of this ordinance, buildings, structures, and facilities that are exempt from the Florida Building Code, including substantial improvement or repair of substantial damage of such buildings, structures and facilities, shall be designed and constructed in accordance with the flood load and flood resistant construction requirements of ASCE 24. Structures exempt from the Florida Building Code that are not walled and roofed buildings shall comply with the requirements of Section 9(g) of this ordinance.

(2) Buildings and structures seaward of the coastal construction control line. If extending, in whole or in part, seaward of the coastal construction control line and also located, in whole or in part, in a flood hazard area:

a. Buildings and structures shall be designed and constructed to comply with the more restrictive applicable requirements of the Florida Building Code, Building Section 3109 and Section 1612 or Florida Building Code, Residential Section R322.

b. Minor structures and non-habitable major structures as defined in section 161.54, F.S., shall be designed and constructed to comply with the intent and applicable provisions of this ordinance and ASCE 24.

(3) Accessory structures. Accessory structures are permitted below the base flood elevation provided the accessory structures are used only for parking or storage and:

a. If located in special flood hazard areas (Zone A/AE) other than coastal high hazard areas, are one-story and not larger than 600 sq. ft., and have flood openings in accordance with Section R322.2 of the Florida Building Code, Residential.

b. If located in coastal high hazard areas (Zone V/VE), are not located below elevated buildings and are not larger than 100 sq. ft.

c. Are anchored to resist flotation, collapse or lateral movement resulting from flood loads.

d. Have flood damage-resistant materials used below the base flood elevation plus one (1) foot.

e. Have mechanical, plumbing and electrical systems, including plumbing fixtures, elevated to or above the base flood elevation plus one (1) foot.

Amendment #2 – Amend LDC Chapter 8, Article III, Section 9 (d) to revise the Elevation

(d) Manufactured homes.

(1) General. All manufactured homes installed in flood hazard areas shall be installed by an installer that is licensed pursuant to F.S. § 320.8249, and shall comply with the requirements of Chapter 15C-1, F.A.C. and the requirements of this article. If located seaward of the coastal construction control line, all manufactured homes shall comply with the more restrictive of the applicable requirements.

(2) Limitations. New installations of manufactured homes shall not be permitted in floodways or coastal high hazard areas (zone V).

(3) Foundations. All new manufactured homes and replacement manufactured homes installed in flood hazard areas shall be installed on permanent, reinforced foundations that:

a. In flood hazard areas (zone A) other than coastal high hazard areas, are designed in accordance with the foundation requirements of the Florida Building Code, Residential, Section R322.2 and this article.

b. In coastal high hazard areas (zone V), are designed in accordance with the foundation requirements of the Florida Building Code, Residential, Section R322.3 and this article.

(4) Anchoring. All new manufactured homes and replacement manufactured homes shall be installed using methods and practices which minimize flood damage and shall be securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Methods of anchoring include, but are not limited to, use of over-the-top or frame ties to ground anchors. This anchoring requirement is in addition to applicable state and local anchoring requirements for wind resistance.

(5) Elevation. All manufactured homes that are placed, replaced, or substantially improved in flood hazard areas shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential Section R322.2 (Zone A) or Section R322.3 (Zone V and Coastal A Zone). ~~Manufactured homes that are placed, replaced, or substantially improved shall comply with section 9 (d)(6) or 9 (d)(7) of this article, as applicable.~~

~~(6) General elevation requirement. Unless subject to the requirements of section 9 (d)(7) of this article, all manufactured homes that are placed, replaced, or substantially improved on sites located: (a) outside of a manufactured home park or subdivision; (b) in a new manufactured home park or subdivision; (c) in an expansion to an existing manufactured home park or subdivision; or (d) in an existing manufactured home park or subdivision upon which a manufactured home has incurred "substantial damage" as the result of a flood, shall be elevated such that the bottom of the frame is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential, Section R322.2 (zone A) or Section R322.3 (zone V).~~

~~(7) Elevation requirement for certain existing manufactured home parks and subdivisions. Manufactured homes that are not subject to section 9 (d)(6) of this article, including manufactured homes that are placed, replaced, or substantially improved on sites located in an existing manufactured home park or subdivision, unless on a site where substantial damage as result of flooding has occurred, shall be elevated such that either the:~~

~~a. Bottom of the frame of the manufactured home is at or above the elevation required, as applicable to the flood hazard area, in the Florida Building Code, Residential, Section R322.2 (zone A) or Section R322.3 (zone V); or~~

~~b. Bottom of the frame is supported by reinforced piers or other foundation elements of at least equivalent strength that are not less than 36 inches in height above grade.~~

(6) ~~(8)~~ Enclosures. Enclosed areas below elevated manufactured homes shall comply with the requirements of the Florida Building Code, Residential, Section R322 for such enclosed areas, as applicable to the flood hazard area.

(7) ~~(9)~~ Utility equipment. Utility equipment that serves manufactured homes, including electric, heating, ventilation, plumbing, and air conditioning equipment and other service facilities, shall comply with the requirements of the Florida Building Code, Residential, Section R322, as applicable to the flood hazard area.

SUMMARY LIST OF AMENDMENTS:

Minor Definition Changes

1) Amend Accessory Structure definition in Chapter 2, Section 2
2) Delete definitions of “existing manufactured home park or subdivision, ”existing mobile home park or subdivision,” “expansion to an existing manufactured home park or subdivision,” “expansion to an existing mobile home park or subdivision,” “new manufactured home park or subdivision,” and “new mobile home park or subdivision” in Chapter 2, Section 2

Code Improvements

1) Amend Chapter 8, Article III, Section 9 (a) to add (3) Accessory Structures
2) Amend Chapter 8, Article III, Section 9 (d) to revise manufactured home elevation requirements

RECOMMENDATION:

Approval of the amendments to Chapters 2 and 8 of the Land Development Code.

STAFF REPORT

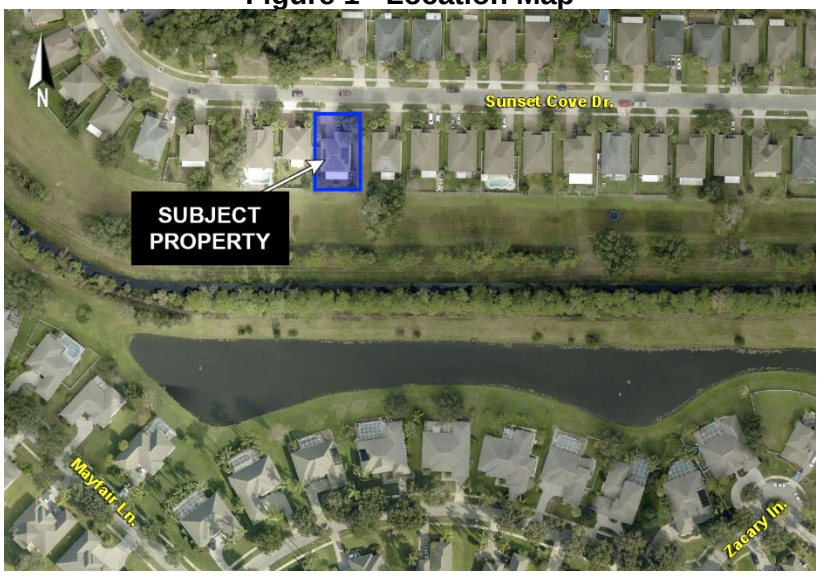
FIRST AMENDMENT TO THE SUNSET COVE PLANNED UNIT DEVELOPMENT MASTER DEVELOPMENT AGREEMENT CASE NO. 20-40000006

REQUEST:	Amend the Master Development Agreement (MDA) for the Sunset Cove Planned Unit Development (PUD) to allow a six-foot rear setback for a pool for Lot 71 of the Sunset Cove Subdivision Phase II
APPLICANT:	City of Port Orange
OWNERS:	Calvin Lee Hines and Charisse Marie Hines
LOCATION:	3890 Sunset Cove Drive
STAFF CONTACT:	Tim Burman, Community Development Director (386) 506-5675
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	January 28, 2021

INTRODUCTION

The proposed 1st Amendment to the Sunset Cove Planned Unit Development (PUD) Master Development Agreement (MDA) is to allow a six-foot rear yard setback for a swimming pool on Lot 71 of the Sunset Cove Subdivision (Phase II). Similar to the Land Development Code, the Sunset Cove MDA requires an eight-foot setback from the rear lot line to the pool. Since the rear setback for a pool is listed in the active Sunset Cove MDA, the only process to request a modified setback is to amend the MDA.

Figure 1 - Location Map



DISCUSSION

In August 2020, a building permit for a pool on the subject property was inadvertently approved by the City with the six-foot rear setback in lieu of the required eight-foot rear setback. Upon receiving the approved building permit from the City, the pool contractor ordered the fiberglass inground pool, prepared the site, and installed/set the pool. During a scheduled steel and ground inspection in November 2020, the rear setback for the pool was questioned since it was not the typical 8-foot. Upon

review of the building permit approved by the City, construction drawings were approved with a 6-foot rear setback instead of the required 8-setback. Staff initially spoke to the pool contractor about shifting the pool closer to the home, but due to the size of the rear yard and location of an existing concrete patio and porch attached to the single-family home, the pool could not be shifted closer to the home to meet the required eight-foot rear setback. The proposed amendment is to establish a 6-foot rear setback for the pool on Lot 71 based on the rear setback that was approved by the City for the pool permit. The side setback for the pool meets the required 8-foot setback and is not part of the proposed amendment. If the amendment is approved, the contractor would be able to finalize the work associated with completing the pool install.

The intent of the eight-foot setback for a pool is to provide separation between adjacent lots and structures, allow room for a walkway around the pool, and area for necessary grading. In this case, the subject property abuts a +/- 70-wide common area for Sunset Cove Subdivision and +/- 100-foot-wide canal. Therefore, if approved, the modified rear-yard setback for the pool would not impact an adjacent lot within the subdivision. Due to the size of the pool, the necessary grading is minimal and can be completed within the 6-foot area between the pool and property line. The proposed amendment does not modify the required rear-yard setback for a concrete walkway (5'), pool screen enclosure (5'), and paver walkway (2.5').

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The subject property is designated *Suburban Residential (2-4 units/acre)* on the City's Future Land Use (FLU) Map. The Sunset Cove PUD was found to be consistent with the Comprehensive Plan when it was approved in 2007. The proposed amendment does not change the FLU designation or density allowed for the subject property and is consistent with the general intent of the Comprehensive Plan.

RECOMMENDATION

Staff recommends approval of the First Amendment to the Master Development Agreement (MDA) for the Sunset Cove Planned Unit Development (PUD).

ATTACHMENT

Exhibit 1 – First Amendment to the Sunset Cove PUD Master Development Agreement

Prepared By:
Michael J Woods, Esq
Cobb Cole, P.A.
231 N Woodland Blvd.
DeLand, FL 32720

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1000 City Center Circle
Port Orange, FL 32129

FIRST AMENDMENT TO
SUNSET COVE
A RESIDENTIAL PUD
MASTER DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO SUNSET COVE A RESIDENTIAL PUD MASTER DEVELOPMENT AGREEMENT (the "First Amendment"), is entered into by and between CALVIN LEE HINES AND CHARISSE MARIE HINES, husband and wife, ("Owner") having a mailing address of 3890 Sunset Cove Drive, Port Orange Florida 32129 and the CITY OF PORT ORANGE, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, FL 32129 (the "City"), (collectively the "Parties"), who hereby agree and covenant as follows:

WHEREAS, the City and Owner's predecessors in title previously entered into that certain "SUNSET COVE A RESIDENTIAL PUD MASTER DEVELOPMENT AGREEMENT" dated October 8, 2003 and recorded in Official Records Book 5191, Page 4242, Public Records of Volusia County, Florida (the "MDA") for a single-family, detached home residential neighborhood consisting of approximately 51.514 acres of land, more particularly described therein, including the specific parcel of real property more particularly described on Exhibit A attached hereto and referred to herein as "Subject Property"; and

WHEREAS, CALVIN LEE HINES AND CHARISSE MARIE HINES ("Owner") are the Property Owners of the Subject Property which is the only property impacted by this First Amendment; and

WHEREAS, the Parties desire to amend the MDA to revise the Special Setbacks for Mechanical Equipment and Accessory Structures, specifically adjusting the permitted Swimming Pool setback as it applies to the Subject Property as more particularly set forth below.

NOW THEREFORE, the Parties hereby agree as follows:

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

2. Paragraph 4. J. 1. of the MDA, "Swimming Pool" as applied to the Subject Property is hereby amended and revised to read as follows:

	Side	Rear
Swimming Pool[1]	8'	6~~8~~'

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

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

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to the Sunset Cove A Residential PUD Master Development Agreement, by and through their duly authorized representatives, on the respective dates shown below.

WITNESSES:

_____
Signature
Printed Name_____

_____
Signature
Printed Name_____

_____
Signature
Printed Name_____

_____
Signature
Printed Name_____

CITY OF PORT ORANGE, a Florida Municipal Corporation

By: _____
Donald O. Burnette, Mayor

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

Date:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of **[XX]** physical presence or [ ] online notarization this _____ day of _____, 2021, by DONALD O. BURNETTE, Mayor of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City. He is personally known to me and did not take an oath.

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

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [**XX**] physical presence or [ ] online notarization this _____ day of _____, 2021, by ROBIN L. FENWICK, City Clerk of the CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation, on behalf of the City. She is personally known to me and did not take an oath.

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

WITNESSES:

_____ By: _____
Signature CALVIN LEE HINES
Printed Name_____

_____
Signature
Printed Name_____

_____ By: _____
Signature CHARISSE MARIE HINES
Printed Name_____

_____
Signature
Printed Name_____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [**XX**] physical presence or [ ] online notarization this _____ day of _____, 2021, by CALVIN LEE HINES. He is personally known to me or has produced _____ as identification.

_____
Notary Public, State of Florida at Large

My Commission Expires:

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [**XX**] physical presence or [ ] online notarization this _____ day of _____, 2021, by CHARISSE MARIE HINES. She is personally known to me or has produced _____ as identification.

_____
Notary Public, State of Florida at Large

My Commission Expires:

Exhibit A

Lot 71, SUNSET COVE – PHASE II, according to the plat thereof as recorded in Map Book 54, Pages 24 through 27 of the Public Records of Volusia County, Florida.

STAFF REPORT
CASE NO. 21-25000002
LDC Amendment/ Chapters 2, 5,6, 8, 9 and 17

REQUEST:	Amendments to Chapters 2, 5, 6, 8, 9 and 17 of the Land Development Code (LDC) that include clarifications and minor changes that are simple clean-up items that make the code more efficient to use.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
PLANNING COMMISSION:	January 28, 2021

Introduction
Staff has been updating the Land Development Code (LDC) 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.

Proposed Amendments
The proposed amendments to Chapters 2, 5, 6, 8, 9 and 17 of the Land Development Code (LDC) are intended to improve and update 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, or address problems or issues encountered when applying the code.

Amendment #1: Survey Requirements for Development Applications and Building Permits [Chapters 2, 6, 8, and 9]:

The proposed amendment is to update the requirements for tree and topographic/boundary surveys that are submitted as part of a site plan application or building permit application to ensure accurate existing conditions are analyzed during the review of a site plan or building permit initial submittal for development review. The following changes are being proposed as it relates to surveys that are submitted as part of a site plan application or building permit application:

a) For a site plan application, a tree survey and topographic/boundary survey is to be conducted within the last calendar year. This is to ensure accurate existing conditions are analyzed during the development review process to reduce the need for plan revisions and field changes based on an absence of data on older outdated surveys.
b) Any survey prepared for a development application or building permit will need to be based on Vertical Datum in NAVD 1988 rather than NGVD 29. The requirement to use

Vertical Datum in NAVD 1988 is because FEMA Flood Insurance Rate Maps (FIRMs) are in NAVD88 Vertical Datum and as part of the City's Floodplain Management duties, Finished Floor Elevations are to be one foot above the Base Flood Elevation in NAVD88. When a survey or site plan is in a differing vertical datum, the Base Flood Elevation could be higher than what is cited on the FEMA Flood Insurance Rate Maps. The vertical datum difference between NAVD 1988 and NGVD 29 is +/- 1-foot and can impact stormwater calculations and grading. Also, the Interconnected Pond Routing network data in the City's GIS stormwater map is in NAVD88, so there is a greater potential for inconsistency in incorporating new improvements into the network if the vertical datum is different.

c) For any survey submitted as part of a building permit to improve residential real property which will affect any exterior dimensions or relationship to property lines, including new, moved, or relocated structures or mobile homes, additions, swimming pools, or accessory structures, additional topographical information will need to be provided. The additional topographical information to be provided will provide staff with accurate topographic information for their review to ensure structures are raised 1-foot above the Base Floor Elevation (BF), accessory structures meet the new FEMA requirements that became effective January 1, 2021, and improvements do not create additional run-off onto adjacent properties.

Amendment #2: Removal of Duplicate Language for Roadway Paving Specifications [Chapter 5]:

The proposed amendment is to delete outdated roadway paving and curbing specifications in the LDC. The City's current roadway paving and curbing specifications are listed in the City's Standard Construction Details. In November 2019, the City's Standard Construction Details for roadway paving and curbing specifications were amended to align with FDOT standard for roadway pavement specifications.

The LDC already includes language that requires developers to comply with the specifications and requirements in the City's Standard Construction Details; therefore, having duplicate language in the LDC and City's Standard Construction Details is not needed.

Amendment #3: Planned Unit Development (PUD) and Planned Commercial Development (PCD) Submittal Requirements [Chapter 17]:

The proposed amendment to is to clarify the requirement for the number paper copies of a Master Development Agreement (MDA) and Conceptual Development Plan (CDP) submitted as part of a PUD and PCD application. Currently the submittal requirements for a PUD or PCD is five (5) hard copies of a proposed MDA and CDP. In recently years, the City has made an effort to reduce the number of paper submittals and to have staff review development applications electronically. The LDC already includes flexible language to allow staff to determine the number of hard copies to be submitted for standard development applications (site plan, subdivision, conditional use, etc.) which has allowed staff to reduce the number of paper copies submitted as we transition to paperless review.

The proposed language to Chapter 17 would allow staff the ability to determine the number of paper copies of a MDA and CDP that need to be submitted as part of a PUD or PCD application and would be consistent with the current language in Chapter 3 and continue the City's movement away from paper submittals.

Recommendation
Staff recommends approval of the amendments to Chapters 2, 5, 6, 8, 9 and 17 of the Land Development Code (LDC).

Attachments
Exhibit 1 - Proposed LDC Amendments to Chapters 2, 5, 6, 8, 9 and 17

EXHIBIT 1

Chapter 2 - DEFINITIONS AND INTERPRETATIONS
Section 2: - Definitions.

Base flood elevation. The elevation of the base flood, including wave height, relative to the ~~National Geodetic Vertical Datum (NGVD),~~ North American Vertical Datum (NAVD) or other datum specified on the flood insurance map (FIRM).

Chapter 5 – SUBDIVISIONS
Section 4: - Paving and drainage improvements.

The following paving and drainage improvements shall be constructed in all subdivisions, and shall include the complete clearing and grading of all road rights-of-way, unless specifically shown otherwise on the approved plans.

(a) *Roadways and streets*. All subdivisions shall construct a system of roadways and streets to provide access to proposed lots and for the through traffic needs of the project and area. In addition, any unpaved streets which provide access to the subdivision shall be improved as required in this section.

[No change to subjections 1 and 2]

(3) *Construction*. Basic construction requirements for roads and curbing ~~are as follows. See~~ shall be pursuant to the City's standard construction details ~~for detailed specifications~~.

~~(a) Roadway pavement shall consist of 1¼ inches of Type S-III asphalt over a six-inch soil cement, limerock or recycled concrete base, over a six-inch compacted subbase. Recycled concrete or limerock for base applications shall be allowed on roadways only where the lowest elevation of the roadway subbase is six inches above the seasonal high groundwater table as certified by a Florida licensed professional soils engineer. In areas not meeting these standards, a soil cement base will be required. All crushing of recycled concrete shall be done prior to the material being placed in the roadway. Testing shall have the same requirements and be performed at the same locations and intervals as required for limerock. The administrative official may grant an administrative variance from the foregoing requirements and thereby allow alternative concrete pavements where the alternative concrete pavements are shown to be equivalent to the pavement otherwise required.~~

~~(b) All roads shall have 24-inch wide concrete curbs. Miami curbs or vertical curbs shall be used on local streets, and vertical curbs for enclosed drainage shall be used on major collector and arterial roads. Where swale drainage is approved, an environmental curb is required.~~

[There are no changes to the text of subsections (c) through (f), but they are to be renumbered accordingly.]

Chapter 6 - SITE DEVELOPMENT
Section 5: - Site development plans.

The review process for site development plans is outlined in section 3, development plan review process, in chapter 3 of this code. Approval of the final site development plans results in the issuance of a development order.

(a) *Site development plan exhibits*. The following information and documentation shall be shown on or enclosed with the plans submitted for approval. The plans shall be drawn at the largest scale feasible, based on the size of the project, however in no case shall the scale be smaller than one inch equal to 60 feet.

[No changes to subsections 1 - 7]

(8) A topographic and boundary survey of the property conducted within the last calendar year.

Chapter 8 - BUILDING AND FIRE CODES
ARTICLE II: - SITE PLANS, SINGLE- AND TWO-FAMILY RESIDENTIAL
Section 4: - Site plan required for real property improvements.

Any application for a permit to improve residential real property which will affect any exterior dimensions or relationship to property lines, including new, moved, or relocated structures or mobile homes, additions, swimming pools, fences, or accessory structures, shall be accompanied by a certified survey and a site development plan in accordance with the following:

(a) *Certified topographical and boundary survey.* The required ~~certified~~ survey shall be drawn to a scale of one inch equal to 20 feet for lots up to one acre and to a scale no smaller than one inch equal to 40 feet for lots of one acre or larger, shall bear the seal and signature of the surveyor-of-record, and shall show all lot lines with bearings and distances, all easements thereon, all abutting rights-of-way, and a property description. The survey must be conducted within the last calendar year and accurately depict the conditions on site at time of submittal. The survey shall include sufficient topographic data to adequately depict drainage patterns on and off site and shall be referenced to the NAVD88 vertical datum. All survey work shall be accomplished in accordance with the state Minimal Technical Standards (MTS) as set forth in F.A.C. Ch. 5J-17.

(b) *Site development and grading plan.* The required site development and grading plan shall be based on the certified topographical and boundary survey ~~be drawn to a scale of one inch equal to 20 feet for lots up to one acre and to a scale no smaller than one inch equal to 40 feet for lots of one acre or larger,~~ and shall show the following:

(1) All easements, required building setbacks, and dimensions between proposed buildings and all lot lines measured at the closest point perpendicular to said lot lines;

(2) All existing and proposed driveways, sidewalks, and patios including material type, dimensions, and distances to lot lines;

(3) The location of all existing and proposed accessory structures, including mechanical equipment, swimming pools, fences, sheds, etc.;
(4) The proposed location and specifications of water, sewer, and electric utility services;
(5) The proposed landscaping including required new materials, trees to remain, tree preservation details, and lawn treatment;
(6) ~~A site grading plan showing proposed finish elevations of floors, patios, driveways, street crown and lot corners, and proposed grading to provide positive drainage of the lot to an approved public conveyance or designated detention or retention area.~~ Existing and proposed elevations spaced not less than 25-feet apart of the following items as applicable to current site conditions and proposed improvements:
    (i) finished floors of residences, patios, garages, pools, and accessory structures;
    (ii) driveway at the edge of pavement, garage, and property line and if a rural driveway is required due to no curb and gutter present in the right of way, the driveway elevations at the low points within the right of way and direction of flow;
    (iii) abutting rights-of-way including street crown, sidewalk, edge-of-pavement, curb and gutter, culverts, and swales;
    (iv) lot corners, midpoints, and high points; and
    (v) at the limits of the proposed improvements.
(7) Existing elevations of the area surrounding the lot 5 feet beyond the property line to assure stormwater originating on the lot does not adversely impact downstream owners or adjacent lands.
(8) Proposed elevations providing positive drainage of the lot to an approved public conveyance or designated detention or retention area.
(9) Drainage flow arrows.

Chapter 9 - ENVIRONMENTAL PROTECTION
ARTICLE II: - TREE PRESERVATION
Section 16: - Specimen tree protection requirements.

[No changed to subsections a – c]

(d) *Tree survey/all development applications*. A tree survey conducted within the last calendar year shall be required for all development applications. The tree survey shall locate all trees having a caliper of six inches or greater at DBH which are species of specimen trees. The tree survey shall also identify all other trees having a caliper of six inches or greater at DBH which are located within required landscape buffers, along rights-of-way, and within required perimeter buffers. If an area is to be maintained as a natural buffer and will remain undisturbed and located in a designated tree preservation area or conservation easement, then this area may be exempt from the tree survey requirements.

Chapter 17 - ZONING DISTRICT REGULATIONS
Section 17: - Planned unit development (PUD) district.

[No changes to subsections a – g]

(h) Application for rezoning.

(1) Application for conceptual plan and master development agreement approval. Application for conceptual plan and master development agreement approval shall be made to the department utilizing the form provided by the department for that purpose, accompanied by the appropriate review fee and the appropriate number of proposed plans, as determined by the administrative official based upon the size and scope of the proposed development. ~~Initial application shall be accompanied by ten copies of the conceptual plan,~~ The conceptual plan must be signed and sealed by a registered engineer, architect, or landscape architect, as required by this code~~, and five copies of the master development agreement. Conceptual plans~~ and shall be prepared according to the standards of this code.

[No changes to subjections i – p]

Section 18: - Planned commercial development (PCD) district.

[No changes to subsections a – f]

(g) *Application for rezoning.*

(1) Application for conceptual plan and master development agreement approval. Application for conceptual plan and master development agreement approval shall be made to the department utilizing the form provided by the department for that purpose, ~~and~~ accompanied by the appropriate review fee and the appropriate number of proposed plans, as determined by the administrative official based upon the size and scope of the proposed development. ~~Initial application shall be accompanied by ten copies of the conceptual plan,~~The conceptual plan must be signed and sealed by a registered engineer, architect, or landscape architect, as required by this code~~, and five copies of the master development agreement. Conceptual plans~~ and shall be prepared according to the standards of this code.