AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, June 24, 2021

Time: 5:30 PM

Location: Council Chambers, City Hall
1000 City Center Circle
Port Orange

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call

B. DISCUSSION/ACTION

3. Consideration of Minutes
4. APPLICATION: Planned Commercial Development Rezoning/Dunlawton Storage Planned Commercial Development
   CASE NO.: 21-65000001
   STAFF CONTACT: Gwen Perney, Principal Planner (386) 506-5673/gperney@port-orange.org
   APPLICANT: Robert A. Merrell III, Esquire, Cobb Cole; 149 S. Ridgewood Ave., Suite 700, Daytona Beach, FL 32114

   A request by the applicant to rezone +/- 6.21 acres from A (Agriculture) to PCD (Planned Commercial Development) and approval of the Dunlawton Storage Master Development Agreement (MDA) and Conceptual Development Plan (CDP).

C. OTHER BUSINESS

5. Commissioner Comments
6. 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
MAY 27, 2021

THE REGULAR PLANNING COMMISSION MEETING of the City of Port Orange was called to order by Chairman John Junco at 5:30pm.

Pledge of Allegiance

Silent Invocation

Roll Call

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

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

3. Consideration of Minutes

Motion to approve the minutes as presented from March 25, 2021 was made by Commissioner Jordan and Seconded by Commissioner Schmidt. Motion carried unanimously by roll call vote.

Motion to approve the minutes as presented from May 3, 2021 was made by Commissioner Schmidt and Seconded by Commissioner Jordan. Motion carried unanimously by roll call vote.

4. CASE NO.: 21-90000004
APPLICATION: Variance/1387 Hyde Park Dr.

A request by the applicant for a Variance from Chapter 16, Section 3(b)(2)(f) of the Land Development Code (LDC), to allow a 6-foot tall fence to be located 19.9-feet from a right-of-way

in lieu of the required 30-feet.

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

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

Sharon Petty, Applicant, provided additional information regarding her request for a variance and answered questions from Commissioners.

Commissioner White read a letter submitted by the Windsor Hill HOA Board recommending denial of the variance request.

Motion to approve Case No. 21-90000004 was made by Commissioner Jordan and Seconded by Commissioner Green.

Commissioner Jordan inquired about approving a different variation option. Mrs. Cruz responded alternative options were provided to the homeowner who decided not to pursue them.

Motion failed unanimously by roll call vote.

Mrs. Cruz explained the appeals process to Ms. Sharon. The appeal must be submitted in writing within 5 business day to go before City Council.

5. CASE NO.: 21-60000001
APPLICATION: Rezoning/3704 Nova Rd.

A request by the applicant to rezone ±5.55 acres from Planned Unit Development (PUD) to Highway Commercial (HC).

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

Gwen Perney, Principal Planner, discussed details of the proposed rezoning and answered questions from Commissioners.

Robert Reinhagen, citizen, asked if there is any intention to widen Nova where the property meets it. Commissioner Jordan responded it is a State road and not a City decision.

Motion to approve Case No. 21-60000001 was made by Commissioner White and Seconded by Commissioner Bofamy. Motion carried unanimously by roll call vote.

6. CASE NO.: 21-25000003
APPLICATION: LDC Text Amendment/Chapters 3, 13, 16 and 17

A request to amend Chapters 3, 13, 16 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.

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

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

Motion to approve Case No. 21-25000003 was made by Commissioner Bofamy and Seconded by Commissioner Schmidt. Motion carried unanimously by roll call vote.

C. OTHER BUSINESS

7. Commissioner Comments

Commissioner Jordan wished everyone a Happy Memorial Day.

Chairman Junco asked for an update on the digital permit system. Tim Burman, Community Development Director, stated they are still working on it and as it gets closer to launch there will be more information provided.

8. Staff Comments

Mr. Burman informed the Commissioners about a Growth Management Training Course available to City Council and Planning Commission on June 3, 2021.

Mrs. Cruz introduced Chris Carson, Senior Planner.

D. PUBLIC COMMENTS

There were none.

E. ADJOURNMENT – 6:27 p.m.

_____

Chairman John Junco

STAFF REPORT

PCD Rezoning and Dunlawton Storage Master Development Agreement and Conceptual Development Plan
CASE NO. 21-65000001

REQUEST:	Rezone ±6.21 acres from Agriculture (A) to Planned Commercial Development (PCD) and approve the Dunlawton Storage Master Development Agreement (MDA) and Conceptual Development Plan (CDP)
LOCATION:	720 Dunlawton Avenue (Figure 1 - Location Map)
OWNER:	Janet C. Brickle
APPLICANT:	Robert A. Merrill III, Esq., Cobb Cole
STAFF CONTACT:	Gwen Perney, Principal Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	June 24, 2021

Introduction

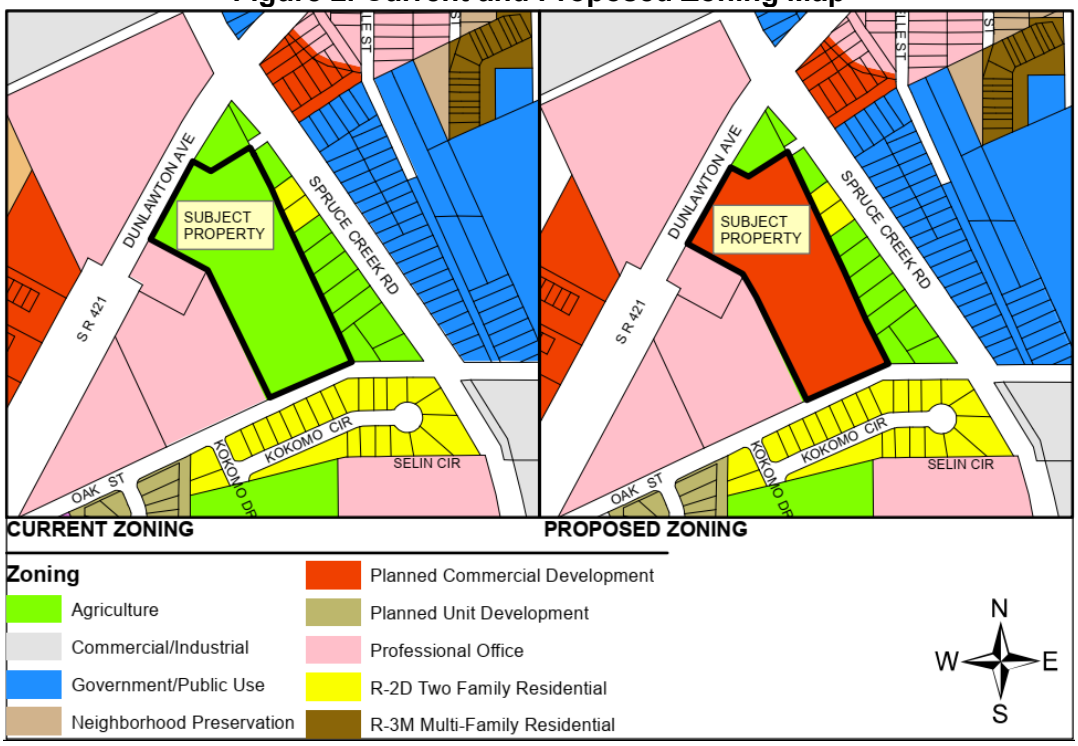
The applicant requests to rezone ±6.21 acres from Agriculture (A) to Dunlawton Storage Planned Commercial Development (PCD) and approval of the Dunlawton Storage PCD Master Development Agreement (MDA) and Conceptual Development Plan (CDP) (Exhibit 1). If approved, the intent is to develop the subject property with a commercial multi-tenant building and self-storage facility including covered RV and boat storage. The subject property is located at the southwest corner of Dunlawton Avenue and Spruce Creek Road. (Figure 1 - Location Map).

Figure 1. Location Map

Discussion

The subject property is located within the Eastport Business Center Community Redevelopment Area (CRA) and zoned Agriculture (A) (Figure 2 – Zoning map). According to the Land Development Code (LDC), the Agriculture (A) zoning district is intended to serve as an interim use until development is proposed as indicated on the City's Future Land Use (FLU) map. The current FLU designation of the subject property is *Office/Residential Transition* and allows for low-intensity commercial, office, and residential development to serve as a transition between residential and commercial nodes. The proposed PCD rezoning, and Dunlawton Storage MDA and CDP is to establish development requirements on the subject property in accordance with the current FLU designation of the property.

Figure 2. Current and Proposed Zoning Map



The existing improvements on the subject property include a gravel parking lot on the west side of the site currently used by employees of the adjacent Politis Law office building, and rows of cedar trees that were planted approximately ten years ago. These improvements are proposed to be removed as part of the proposed site improvements.

According to the applicant, the proposed development will provide needed indoor storage along with covered recreational vehicle (RV) and boat parking to serve new and existing homes within Port Orange. The applicant also states the location of the project was selected due to its proximity to boat ramps on the Halifax River as well as access to major arterial roadways. to reduce RV and boat traffic on the local roadway network.

According to the Land Development Code (LDC), the proposed MDA constitutes a zoning document for the subject property, establishing permitted uses and certain development requirements. An MDA and CDP does not grant approval of any specific

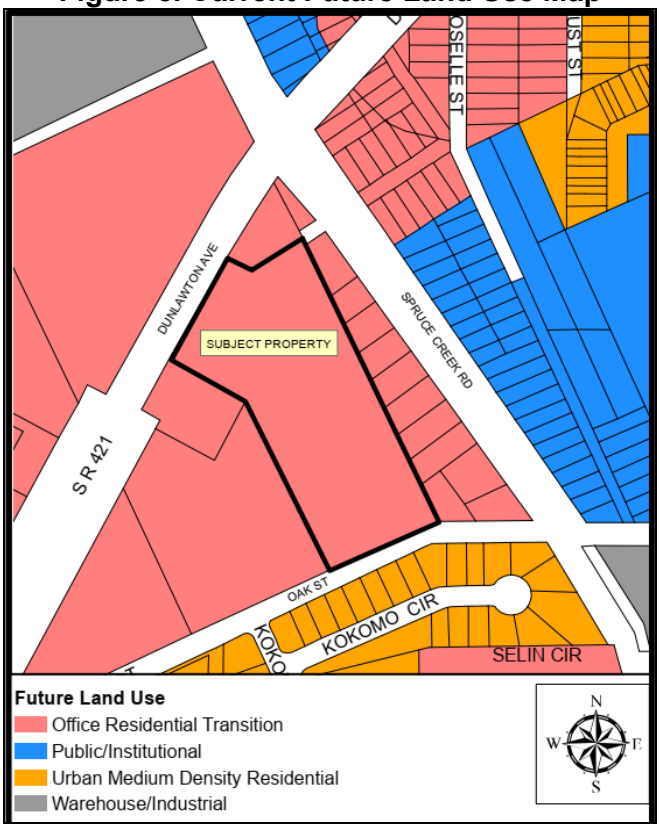
development itself, but rather establishes parameters for how the property can be developed. The CDP is an exhibit to the proposed MDA that includes the dimension requirements, and general location of lots, roads, parking, open space, landscape buffers, utilities, and drainage areas.

Specific site development requirements listed in the MDA and LDC, such as the type and location of trees and shrubs in the landscape buffers, location and size of the stormwater pipes, and water and sewer lines, parking lot design, 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 and construction details. The site plan for the Dunlawton Storage project is required to be designed to meet the requirements of the LDC and the proposed MDA.

Consistency with Comprehensive Plan

The current Future Land Use (FLU) designation of the subject property is *Office/Residential Transition* (Figure 3 – Future Land Use Map). The *Office/Residential Transition* FLU category allows for mixed-use development to serve as a transition between residential and commercial nodes. The *Office/Residential Transition* FLU designation allows office-type uses, houses of worship, residential uses up to 10 units/acre, and low-intensity commercial uses in 25% of the gross leasable area of any office development. The proposed use of the subject property as a self-storage facility and a multi-tenant building for professional office/retail uses is consistent with the current FLU designation on the subject property.

Figure 3. Current Future Land Use Map



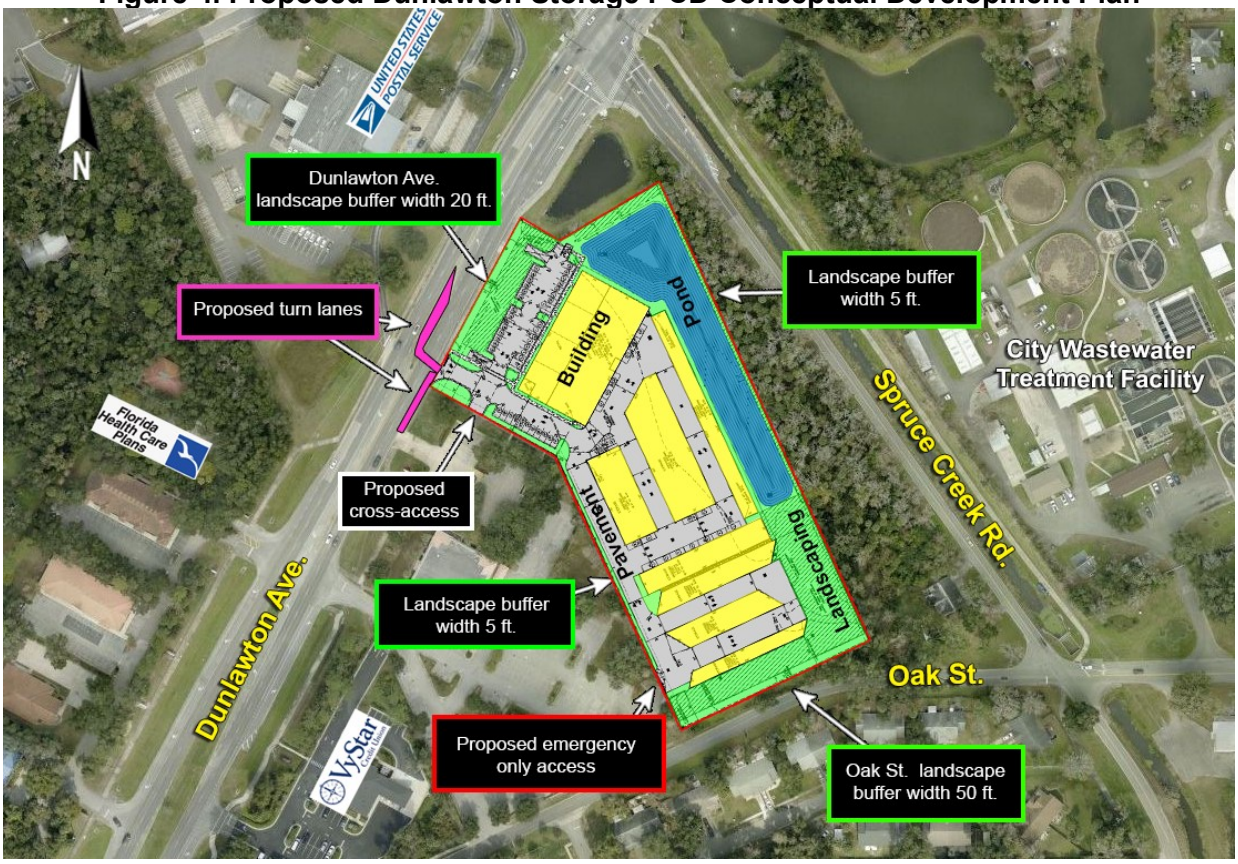
Development Proposal

If approved, the Dunlawton Storage MDA and CDP will provide the regulatory framework for the development of the subject property with a multi-tenant building for office and limited retail uses and a self-storage facility including covered RV and boat storage. The following discussion will focus on the significant aspects of the proposed MDA and CDP.

General Layout

The CDP shows the general layout of the proposed two-story multi-use building with ±10,500 square feet of office/retail space on the first floor facing Dunlawton Avenue and ±39,900 square feet of self-storage (1st and 2nd floor), four one-story self-storage buildings in the central portion of the site (±38,300 square feet), covered RV and boat storage buildings (±16,000 square feet) at the southern portion of the site, stormwater improvements, tree preservation areas, landscape buffers, sidewalks, parking areas, cross access points, and off-site improvements (see - Figure 4).

Figure 4. Proposed Dunlawton Storage PCD Conceptual Development Plan



Dimensional Requirements

The proposed MDA provides the dimensional requirements for the development. The proposed maximum building coverage, minimum open space, building setbacks, and building height are generally comparable to similar City standard commercial zoning districts (see Table 1). The proposed dimensional requirements are equal to or greater than those required in the LDC for a PCD or similar commercial zoning districts.

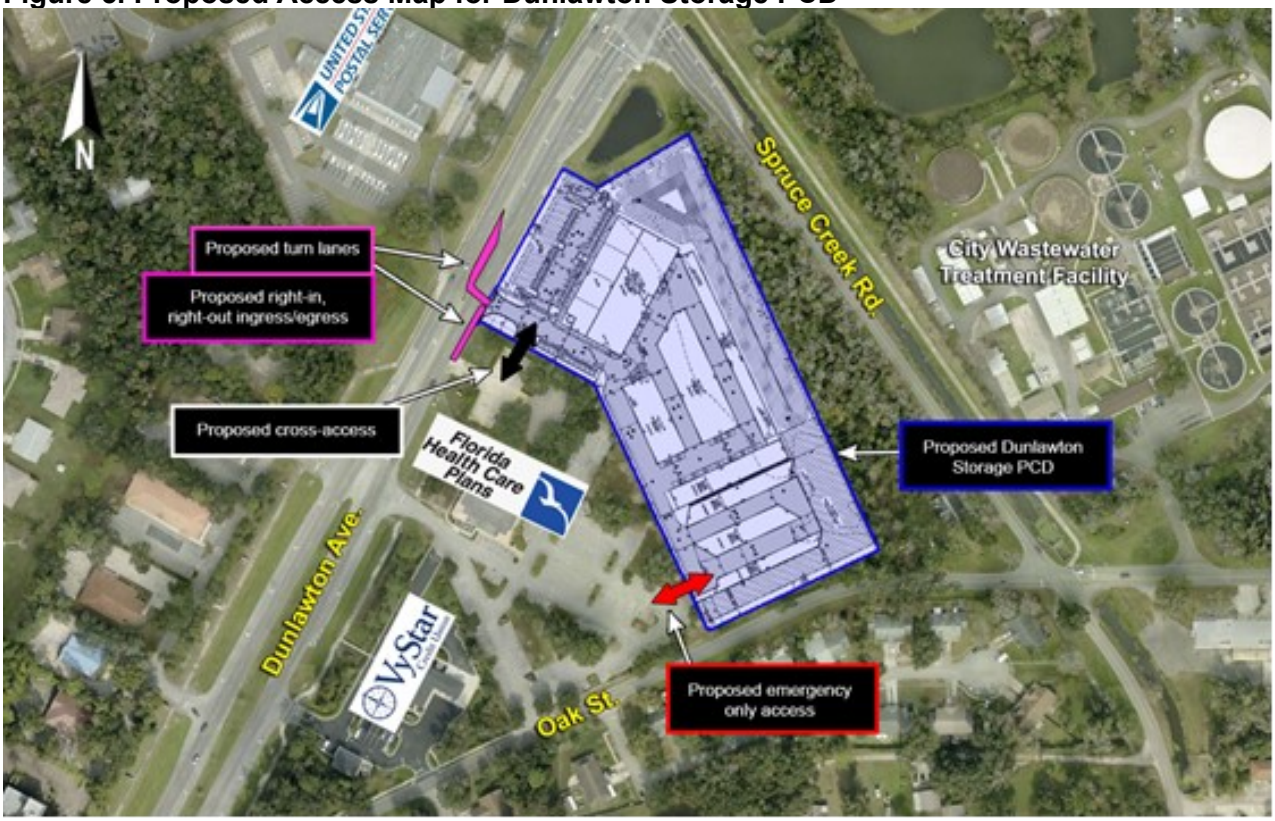
Table 1. Dimensional Requirements

Zoning District	Maximum Building Coverage	Minimum Open Space	Dunlawton Ave. Setback	Side Bldg. Setback	Oak Street Bldg. Setback	Maximum Height
Proposed Dunlawton Storage PCD	**30%**	**30%**	**50 ft.**	**10 ft.**	**50 ft.**	**45 ft.**
Planned Commercial Development (PCD)	35%	30%	20 ft.	-	10 ft.	45 ft.
Office/Residential Transition (ORT)	35%	30%	20 ft.	10 ft.	10 ft.	45 ft.
Professional Office (PO)	30%	30%	20 ft.	15 ft.	10 ft.	45 ft.

Access and Parking

The PCD property will be accessed from Dunlawton Avenue. As shown on the CDP, a dedicated right turn lane and left turn lane are proposed for vehicles to turn into the site. Access from Oak Street is prohibited in the MDA and CDP and a non-vehicular access easement along Oak Street will be recorded with the site plan. The proposed access into the site and turn lanes is generally consistent with the City's adopted Dunlawton Corridor Plan (Figure 5 – Proposed Access Map).

Figure 5. Proposed Access Map for Dunlawton Storage PCD



The applicant is in discussions with the Florida Department of Transportation (FDOT) about the turn lanes on Dunlawton Avenue for the subject property. Access from Dunlawton Avenue and turn lanes on Dunlawton Avenue is under FDOT's jurisdiction. According to the applicant, FDOT staff approved the eastbound right-turn lane and are still evaluating the request for a westbound left-turn lane. If the left-turn lane is not approved by FDOT, westbound vehicles accessing the site would need to make a U-turn at an existing median opening on Dunlawton Avenue or turn south (left) onto Spruce Creek Road, then turn west (right) onto Oak Street, then east (right) onto Dunlawton Avenue, and travel eastbound to the site. The applicant is requesting FDOT approve the left-turn lane into the site off Dunlawton to not increase traffic along Oak Street or require U-turns to access the site.

Cross-access with the commercial property to the west (Politis Law Office) is proposed along the front of the subject property and with the Florida Health Care site at the rear of the property. The cross-access at the rear of the site will be gated and only used by emergency response vehicles, or if the access points along Dunlawton Avenue are closed due to an emergency.

The proposed parking for the development will meet the parking requirements for self-storage and multi-tenant commercial buildings, standard parking size dimensions, and drive aisle width requirements in the LDC. A 5-foot-wide sidewalk will be built along the subject property boundary on the north side of Oak Street and extend the existing sidewalk. A sidewalk will be provided to connect the proposed development to the existing 8-foot-wide sidewalk along Dunlawton Avenue. There is an existing Votran bus stop in front of the property along Dunlawton Avenue.

Traffic

If the PCD is approved and at the time the site plan is submitted, the proposed development will be required to comply with the City's Concurrency Management requirements in the LDC. Similar to other developments within the City, the developer may be required to enter into a Transportation Fair-Share and Concurrency Agreement with the City to pay for part of the scheduled improvements for any impacted areas.

According to the preliminary trip generation report provided by the project engineer, the proposed development could generate approximately 28 A.M. peak hour trips, 33 P.M. peak hour trips, and 706 daily trips. According to the latest traffic counts for Dunlawton Avenue, there is capacity for traffic estimated to be generated by future development of this property (Table 2).

Table 2. Roadway Capacity for Dunlawton Avenue

Roadway Segment	Maximum Capacity Vehicles per day	Current Vehicles per day	Remaining Capacity Vehicles per day	V/C Ratio*
Dunlawton Ave. – Ridgewood Ave. to Spruce Creek Rd.	39,800	26,500	13,300	0.66
Dunlawton Ave. – Spruce Creek Rd. to Nova Rd.	39,800	33,000	6,800	0.83

Source: Volusia County Traffic Engineering, 2019

*Volume/Capacity (V/C) Ratio - Volume-Demand-to-Capacity Ratio compares roadway demand (vehicle volumes) with roadway supply (carrying capacity). A V/C ratio of 1.00 indicates the roadway is operating at its capacity

The current Future Land Use designation (*Office/Residential Transition)* for the subject property allows for uses such as general offices, medical and professional offices, banks, multi-family, and health/fitness clubs, retail sales, personal services, multi-family developments, adult care/retirement facilities, and institutional uses. According to the ITE Trip Generation Manual, 10th Edition, the traffic expected to be generated from the proposed development is less than other uses or combination of uses that could be developed on the subject property according to the current FLU designation.

Landscaping, Tree Preservation and Environmental Protection

The proposed development will comply with the landscaping and 15% tree preservation requirements of the LDC, such as right-of-way buffers, perimeter buffers, foundation plantings, and parking lot plantings. The dimensions of the proposed landscape buffers are as follows:

- Oak Street - Fifty (50) foot wide buffer
- Dunlawton Avenue - Twenty (20) foot wide buffer
- East and West Property Lines - Five (5) foot perimeter buffer

According to the LDC, the required width for the Oak Street right-of-way landscape buffer is ten (10) feet wide. To minimize the concerns expressed by residents at the neighborhood meeting regarding the aesthetics of the buildings, noise, light, and screening, the PCD provides a fifty (50) foot wide right-of-way landscape buffer along Oak Street.

The applicant is requesting a deviation from the LDC to allow for the preservation of three (3) or 60% of the healthy or fair condition specimen trees for this property. The LDC requires that a minimum of four (4) or 80% of the healthy or fair condition specimen trees be saved for this property. According to the Environmental Report submitted with the PCD application, there are seven (7) specimen trees for the subject property but two (2) are dead or deteriorated to a point where death of the tree is imminent. Therefore, there are currently five (5) healthy or fair condition specimen trees on the subject property. The applicant is requesting in the MDA to save 60% or three (3) of the five (5) healthy or fair condition specimen trees in lieu of 80% or four (4) of the five (5) healthy or fair condition specimen trees.

According to the applicant, the central location and proximity of the two (2) specimen trees proposed to be removed and the site geometry did not allow for many options to accommodate the storage buildings, associated parking/drive isles for access and maneuverability, and the necessary preservation area required for the future health of these two (2) trees. The project engineer considered and analyzed other site layouts but believes the proposed layout preserves the most specimen trees and allows for reasonable use of the property. The applicant is not requesting to remove the historic Live Oak tree or other specimen trees located at the southeast corner of the site.

According to the LDC, the applicant is required to save four (4) of the five (5) healthy specimen trees. If the removal of the additional one (1) specimen tree is approved as part of the proposed MDA, the applicant will be required to provide ten (10) upsized shade trees a minimum 14 feet in height and four (4) inches in caliper at the time of planting to mitigate the removal of the specimen trees. These upsized trees are in

addition to the minimum number of trees required on-site. The upsized replacement trees are required to be planted within the 50-foot Oak Street landscape buffer to provide a more impactful buffer along Oak Street across from a residential area as a public benefit for removal of the trees.

There are no wetlands located on site. A formal review of the landscaping, tree preservation, environmental protection requirements will occur with the review of the site plan to verify compliance with the proposed MDA, LDC, County, State, and Federal regulations.

Potable Water and Sanitary Sewer
The subject property will be served by existing City potable water and sanitary sewer infrastructure and will comply with the requirements of the LDC and the City's Standard Construction Details for those utilities. Reclaimed water is available in this area.

Stormwater Management
The stormwater drainage infrastructure for this project will be in the form of a retention pond as generally depicted on the CDP. The stormwater drainage design will be reviewed with the submittal of any site plan for the subject property. Per the City's Land Development Code, the applicant will be required to construct on-site stormwater facilities, designed to accommodate and treat the 25 year, 24-hour storm event, without causing flooding to adjacent properties or polluting the receiving water bodies.

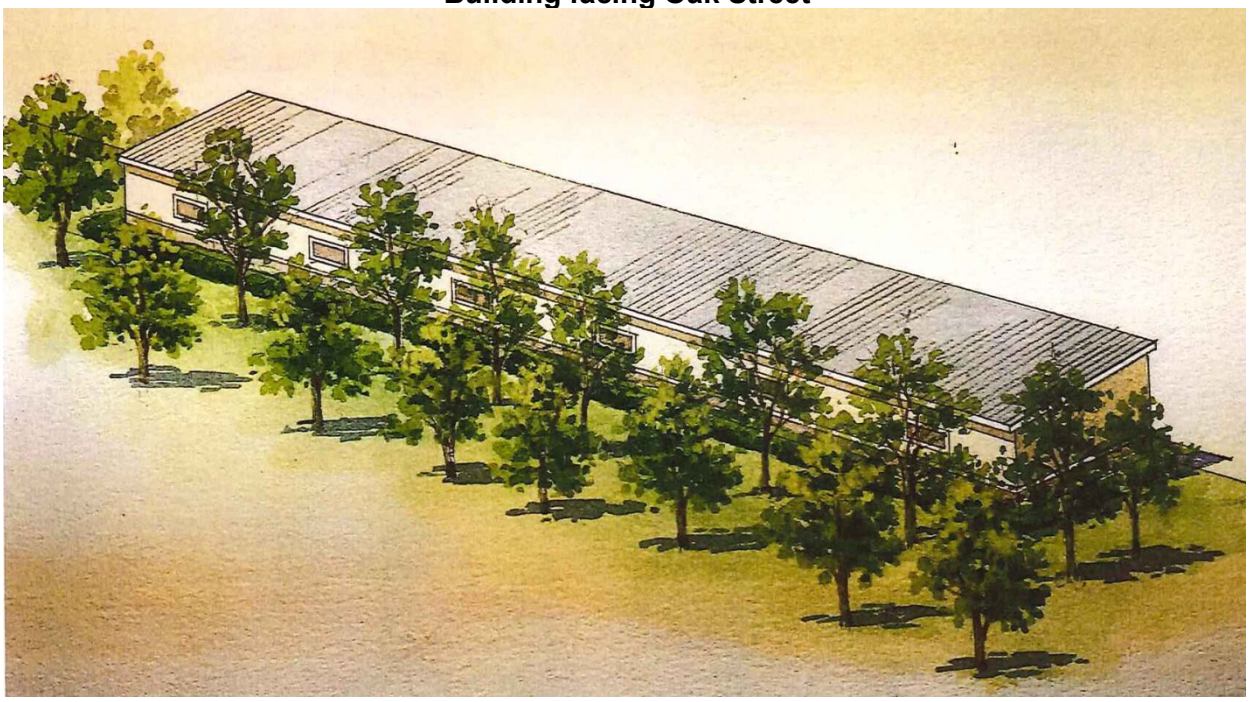
Architecture
The architecture style for the PCD is the Florida Vernacular architecture style. All of the buildings (see Figure 6) in the PCD will be designed to comply with the Florida Vernacular architecture style along with the architectural standards in the LDC for non-residential buildings.

Figure 6. Proposed Architectural Rendering of the Building on Dunlawton Avenue

The building along Dunlawton Avenue will be two stories with retail/office uses on the first floor and self-storage units on the second floor. The self-storage building, and RV and boat canopy storage structures will also be required to incorporate elements (building materials, roof style, and colors) of the Florida Vernacular architecture style.

The design of screening/security walls or fencing will also be required to incorporate elements of the Florida Vernacular architecture style (see Figure 7). According to the MDA, the rear and side elevations of the self-storage buildings that are visible from an adjacent property will be designed to function as a screening wall, similar to other recently approved self-storage facilities in Port Orange. In areas where screening is not needed, a decorative aluminum rail fence and landscaping will be provided for security.

Figure 7. Proposed Architectural Rendering of the Rear Elevation of Self-Storage Building facing Oak Street



Site lighting will be reviewed with the site plan submittal and any proposed lighting will be required to face internal to the site and be fitted with glare guards to provide full cut-off of light at the property line. The applicant has stated any security cameras attached to the light poles or buildings will face internal to the site.

Public Notice

A Public Notice sign was posted on the site on March 26, 2021. A neighborhood meeting with the adjacent property owners was held by the development team on May 10, 2021. General concerns included project access, gopher tortoise relocation, aesthetics of the back of the buildings along Oak Street, and lighting and security camera locations. According to the applicant, the development team worked with the adjacent residents to address or minimize their concerns expressed at the neighborhood meeting. Staff has not received any additional inquiries regarding the project since the neighborhood meeting.

Recommendation

Staff recommends approval of the request to rezone ±6.21 acres from Agriculture (A) to Dunlawton Storage Planned Commercial Development (PCD) and approval of The Dunlawton Storage PCD Master Development Agreement (MDA) and Conceptual Development Plan, subject to approval of the following policy issue:

1. Allow for the preservation of three (3) or 60% of the healthy or fair condition specimen trees for this property in lieu of the minimum four (4) or 80% of the healthy or fair condition specimen trees be saved for this property along with the planting of ten (10), 14-foot tall, 4-inch caliper shade trees, within the 50-foot Oak Street buffer.

Attachments

Exhibit 1 – Dunlawton Storage PCD Master Development Agreement and Conceptual Development Plan

MASTER DEVELOPMENT AGREEMENT
DUNLAWTON STORAGE PLANNED COMMERCIAL DEVELOPMENT

THIS DUNLAWTON STORAGE PLANNED COMMERCIAL DEVELOPMENT AGREEMENT (this "Agreement") is entered into by and between the City of Port Orange, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter "City"); Janet C. Brickle, an individual (hereinafter "Owner"); and Vanacore Construction, Inc., a Florida profit corporation, having a mailing address of 1451 N. U.S. Hwy 1, Suite 13, Ormond Beach, FL 32174 (hereinafter "Developer"). Parties hereby agree and covenant and bind their successors and assigns as follows:

1. THE PROPERTY:

The property that is subject to this Master Development Agreement (hereinafter "Agreement") consists of approximately 6.21 +/- acres of real property located on Dunlawton Avenue within the municipal limits of the City of Port Orange. The subject property is further described on Exhibit "A", which is attached hereto and by reference made a part hereof (the "Property"). The Property is under unified ownership of Owner, who is a signatory to this Agreement.

2. CONFORMANCE WITH COMPREHENSIVE PLAN:

The City has determined that the Property is suitable in size, location and character for the uses proposed, that the uses proposed meet the needs of the City, and that the uses proposed are consistent with the City's comprehensive plan as of the date of adoption of this Agreement enacting the zoning provided herein.

3. DEVELOPMENT:

The Property shall be developed as an indoor climate controlled and warehouse self- storage facility with outdoor RV and boat storage areas and commercial/professional office space as depicted on the Conceptual Development Plan (CDP) prepared by Parker Mynchenberg and Associates, dated _____ and revised _____, which is attached hereto and incorporated herein as Exhibit "B" and as more particularly described herein. The development of the Property will require the approval of a site plan application, which shall be reviewed in accordance with this Agreement and the Land Development Code.

4. DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN:

A. Development of the Property shall be controlled by the terms and conditions of this Agreement and the CDP. The CDP generally depicts the planned layout of improvements to the Property. Collectively, this Agreement and the CDP for the Property may be referred to as the "Plan". In case of conflict between any textual provision of this Agreement and the CDP, the textual provision of this Agreement shall control. If the Agreement is silent regarding a particular subject or requirement, such silence shall not be construed as a conflict with the CDP. Except as otherwise provided in this Agreement, in the event of a conflict between the terms and provisions of the Plan and the City's ordinances, the terms and provisions of the Plan shall control.

If the Plan fails to address a particular subject or code requirements, the requirements of the applicable City ordinance(s) as defined by the City's Land Development Code ("LDC"), shall control.

B. In the event modifications to comply with the LDC are required, and modifications to the CDP are not in conflict with the textual provisions of this Agreement and LDC requirements not superseded by this Agreement, the modifications shall be deemed "minor" and may be approved without formal amendment of this Agreement. All other modification shall be deemed "major" and shall require formal amendment of this Agreement. Minor modifications shall require the written approval by the Administrative Official, who is defined in the LDC. If the Owner is not satisfied with the suggested resolution or the decision of the City Administrative Official categorizing the modifications as minor or major, the Owner may appeal the decision to the Planning Commission. Appeals from the Planning Commission may be made to the City Council.

5. PHASING:

Development may be constructed in multiple phases; any proposed phases must be in compliance with the LDC. Permits for development of phases or sub-phases shall be submitted for approval through the City's Final Site Plan and/or Subdivision Plat and Plan process.

6. PERMITTED USES:

Permitted uses shall be (i) indoor and warehouse self-storage facility (ii) outdoor boat and RV storage as shown on the CDP; (iii) those uses allowed in the City of Port Orange's Professional Office (PO) Zoning District, as they may be amended from time to time and (iv) those uses allowed in the City of Port Orange's Community Commercial Zoning District, as they may be amended from time to time. Development of the property for commercial uses will be limited to 25% of the overall land area – development of the property for indoor and warehouse self-storage uses shall be considered an office use for the purpose of meeting this requirement.

The following uses will not be permitted: funeral home, motor vehicle service station, Assisted Living Facility, Child Care Centers, Nursing Homes, Houses of Worship, Private Schools, Clubs, Lodges and Fraternal Organizations, Convenience store with or without fuel operations, Retail Home Building Materials, Retail Nurseries and Garden Supplies, Athletic/sports Facilities, Theaters, Bars, lounges and nightclubs, Fortune tellers, Astrologers and palm readers, Game/recreation Facilities, Marina, recreational.

7. DIMENSIONAL REQUIREMENTS:

The Property shall be subject to the following dimensional requirements:

Maximum Building Coverage: 30%
Minimum Open Space: 30%
Min Building Setbacks:
Dunlawton Avenue: 50 feet
Oak Street: 50 feet

Side: 10 feet
Maximum Building Height: 45 feet
Maximum Impervious: 70%

8. STORMWATER SYSTEM MAINTENANCE:

Stormwater Facilities and Floodplain Management - Stormwater retention shall comply with the City's LDC and the regulations of the St. Johns River Water Management District. Structures within the Special Flood Hazard Area (SFHA) shall be required to conform with the City's LDC and the regulations of the St. Johns River Water Management District. The property is within the Eastport Business Center Community Redevelopment Area (CRA) District and exempt from the floodplain Compensatory Storage requirements per LDC, Ch. 8, Art. III, Sec. 8(c)(6). The site and building designs shall comply with all other City LDC requirements and the regulations of the St. Johns River Water Management District. The site design shall minimize floodplain impacts.

9. LANDSCAPE BUFFER AND TREE CONSERVATION:

A. All landscape buffers, foundation landscaping, vehicular use/parking landscaping, supplemental landscaping, and tree preservation, shall be developed in compliance with the Land Development Code (LDC). The specimen tree preservation requirement for the project area is 60% in lieu of the 80% required by the LDC, in order to allow for orderly development of the site as illustrated on the CDP. Required mitigation will be upsized replacement trees (14' tall, 4" in caliper at the time of planting) in the Oak Street buffer.

B. Owner shall install the following landscape buffers along perimeter of the property:

a. Dunlawton Avenue: 20 feet
b. Oak Street: 50 feet
c. All other perimeters: 5 feet

10. ARCHITECTURAL DESIGN STANDARDS:

A. All buildings and accessory structures on the Property shall be developed in compliance with the requirements of the LDC.

B. All building and accessory structures constructed within the Property shall be developed consistent with the building elevations by BPF Design Incorporated attached hereto and incorporated herein as Exhibit C. The architectural theme shall be established by harmoniously coordinating the general appearance of all buildings and related structures.

C. All structures within the Property shall complement one another and shall convey a sense of quality and permanence.

D. Screening of the property from adjacent residential uses shall be achieved through the use of screening materials such as a screening wall and/or appropriate landscaping. Where screen is

required abutting building walls, screening may be provided between building walls to provide proper buffering. Screening will be required for areas utilized for RV/Boat storage that are visible from a public right-of-way.

11. ROADS, SIDEWALKS, PARKING, ACCESS AND CONNECTIVITY:

A. Driveway location on Dunlawton Avenue shall be as located as generally shown on the CDP, subject to approval by FDOT. Vehicular access on Oak Street shall not be permitted.

B. Road, drives, and sidewalks within the Property shall be private.

C. Developer of the property will be required to construct any required pedestrian improvements, as generally shown on the CDP, and in accordance with the traffic impact analysis conducted with the site plan application. Developer shall construct a minimum five-foot sidewalk along Oak Street.

D. The parking lot design and minimum parking requirements shall be in compliance with the LDC.

E. Prior to approval of any site plan, the Owner/Developer of the property shall provide the existence of an access easement for the construction and maintenance of an access drive to the Southern Property (Parcel No. 633751000020), recorded in the public records of Volusia County, Florida (the "Easement').

12. PUBLIC UTILITIES AND STORMWATER MANAGEMENT:

A. Public utilities shall be designed to meet the City's specifications and requirements of the LDC and City Standard Construction Details.

B. Stormwater shall be retained on-site unless otherwise specified in herein. The Owner shall comply with the LDC, City Standard Construction Details and the rules and regulations of the St. John's River Water Management District concerning storm water drainage. The Owner shall provide all required easements to the City over the proposed retention area and related stormwater structures.

13. SIGNAGE:

The signage for the Property shall be in compliance with the terms set forth in the LDC.

14. ENVIRONMENTAL CONDITIONS:

A. Both during and after construction, the Owner shall use reasonable efforts to preserve trees and natural vegetation within the Property and maximize protection of natural drainage pathways. The PCD shall comply with the tree preservation requirements of the City's LDC except as specifically provided in this Agreement.

B. The Owner shall comply with all rules, statues, laws and regulations pertaining to protected wildlife species, including but not limited to the rules and permitting requirements of the Florida Fish and Wildlife Commission. Compliance with the City Environmental Preservation Code may necessitate modification of the CDP.

C. Compliance with the environmental preservation code may necessitate modification of the conceptual plan.

15. EFFECTIVE DATE AND EXPIRATION:

A. This Agreement shall be effective upon recording by the City of Port Orange at the Owner's expense in the public records of Volusia County, Florida.

B. The second reading of the Ordinance shall not take place until the Owner has provided an executed copy of the MDA to the City of Port Orange addressing all issues discussed prior to the scheduled second reading. If there are no additional requirements, corrections, or conditions attached by the City Council at the second reading, the Agreement shall be signed by the Mayor and City Clerk and recorded upon approval by City Council.

C. Development of Phase 1 of the Property shall commence within five (5) years from the effective date of this Agreement and subsequent phases of the Development shall be completed within twenty (20) years from the effective date unless it is extended by mutual agreement of the parties. Failure to comply with the established schedule shall cause the Agreement to lapse. The term "Development" shall have the meaning as set forth in the LDC.

16. AMENDMENTS:

A. Amendments to this Agreement shall not be effective unless in writing and signed by all record title property owners of the land for which the amendment is to be applied, and the City.

B. Before amending this Agreement, the City shall conduct one or more public hearings. At the City's option, one of the public hearings may be held by the Planning Commission.

C. Notice of intent to consider an amendment to this Agreement shall be published by the City, at the Owner's cost, in a newspaper of general circulation and readership in Volusia County, Florida.

D. If applicable, notice of intent to consider an amendment shall comply with the requirements of Section 166.041(3)(c), Florida Statutes, as amended from time to time.

E. The day, time, and place at which the second public hearing shall take place shall be announced at the first public hearing.

F. The notices required above shall specify the location of the Property, the location of that portion of the Property subject to the proposed amendment, the nature of the proposed amendment, and the following information to the extent applicable: Changes permitted,

conditional, and/or prohibited uses proposed, changes in building intensities and/or height proposed.

G. All notices shall specify a place where a copy of the proposed amendment can be obtained.

17. CONFORMANCE WITH LAWS:

The Owner agrees to develop the Property according to all regulations of the City and the requirements of this Agreement to the extent those regulations are not inconsistent with the Plan for the property, and to be bound by all City codes, ordinances and this Agreement.

18. ENFORCEABILITY:

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or otherwise unenforceable, such holding not affect the validity or enforceability of any other provision of this Agreement unless the holding so states.

19. PRIOR AGREEMENTS:

This Agreement represents the complete understanding by and between the parties with respect to the development and continued use of the subject Property. Any and all prior agreements between the parties with respect to any subject comprehended by this Agreement are hereby voided. Any amendment to this Agreement shall be in writing and signed by the City and the owner of the Property.

20. POLICE POWER:

Nothing contained in this Agreement shall be construed as a waiver of or contract with respect to the regulatory and permitting authority of the City as it now or hereafter exists under applicable laws, rules and regulations. Further, nothing contained in this Agreement shall be construed as a waiver of the attempted waiver by the City of its sovereign immunity under the Constitution and laws of the State of Florida.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto attached their hands and seals on the dates set forth below.

Signed, sealed and delivered in the presence of:

_____
Witness 1

_____
Print Name of Witness 1

_____
Witness 2

_____
Print Name of Witness 2

THE CITY OF PORT ORANGE, FLORIDA, a Florida municipal corporation

By: _____
Donald O. Burnette, Mayor

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

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2021 by Donald O. Burnette, Mayor, of The City of Port Orange, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

_____
Notary Public
Commission No: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2021 by Robin Fenwick, City Clerk, of The City of Port Orange, Florida, a chartered municipal corporation, on behalf of the City. They are personally known to me and did not take an oath.

_____
Notary Public
Commission No: _____

Signed, sealed and delivered in the presence of:

Janet C. Brickle, an individual ("Owner")

_____
Witness 1

By: _____

_____
Print Name of Witness 1

Date: _____

[Corporate Seal]

_____
Witness 2

_____
Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2021, by Janet C. Brickle, referred to in this agreement as "Owner." He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

_____
Notary Public
Commission No. _____

Signed, sealed and delivered in the presence of:

Vanacore Construction, Inc., a Florida profit corporation ("Developer")

_____
Witness 1

_____
Print Name of Witness 1

By: _____
Name: Scott Vanacore

_____
Witness 2

Date: _____

_____
Print Name of Witness 2

[Corporate Seal]

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 2021, by Scott Vanacore of Vanacore Construction, Inc., referred to in this agreement as "Developer." He or she is [_] personally known to me or [_] produced as identification and did not take an oath.

_____
Notary Public
Commission No. _____

Approved as to legal form:

By: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT A

Legal Description of the Property

LOT 3, BRICKLE SUBDIVISION, MAP BOOK 50, PAGE 169 THROUGH 170, VOLUSIA COUNTY, FLORIDA.

EXHIBIT B

Conceptual Development Plan (CDP)

DUNLAWTON STORAGE PCD
720 DUNLAWTON AVENUE
CONCEPTUAL DEVELOPMENT PLAN

OWNER:

JANET BRICKLE
168404 CR 49
WELLBORN, FL 32094

SURVEYOR:

SLIGER & ASSOCIATES, INC.
JOE ZAPERT, PLS #4046
321 NOVA ROAD
PORT ORANGE, FLORIDA 32127
(386)761-5385
E-MAIL: jzapert@sligerassociates.com

SITE DESIGNER, ENGINEER & LANDSCAPE ARCHITECT

PARKER MYNCHENBERG & ASSOCIATES, INC.
PARKER MYNCHENBERG P.E. #32645
PARKER MYNCHENBERG L.A. #1553
CERTIFICATE OF AUTHORIZATION #00003910
1729 RIDGEWOOD AVE.
HOLLY HILL, FLORIDA 32117
(386) 677-6891 FAX (386) 677-2114
E-MAIL: info@parkermynchenberg.com

PARKING REQUIRED:
RETAIL = 1 SPACE / 250 SF
10,500 X (1 SPACE / 250 SF) = 42 SPACES
STORAGE = 1 SPACE / 50 UNITS
900 UNITS X (1 SPACE / 50 UNITS) = 18 SPACES

TOTAL PARKING REQUIRED = 60 SPACES

PARKING PROVIDED:
STANDARD.....57
HANDICAPPED.....3
TOTAL.....60

ADJACENT PROPERTY OWNERS:

1.....POLITIS LAW FIRM, PA
2.....H H HOLDINGS, INC
3.....CITY OF PORT ORANGE
4.....CITY OF PORT ORANGE
5.....UNITED STATES POSTAL SERVICE
6.....CHRIS VINSKI
7.....KENNETH M JOHNSON, JR
8.....JILL A KOURY
9.....DAVID L ZIMMERMAN
10.....IVELISSE COLON SANCHEZ
11.....PAMELA KNOWLES
12.....JORGE VEGA GUZMAN
13.....MARTA M LAGOMARSINI
14.....JUDY L MCDANIELS
15.....TERRI K HINKS
16.....MICHAEL H ILARDI
17.....RITA LOMBARDI

LEGAL DESCRIPTION:

LOT 3, BRICKLE SUBDIVISION, MAP BOOK 50, PAGE 169 THROUGH 170, VOLUSIA COUNTY, FLORIDA

TAX PARCEL NUMBER: 633751000030

SITE AREA = 270,742 SF
RETAIL = 10,500 SF
STORAGE:
1ST FLOOR AREA = 69,226 SF
2ND FLOOR AREA = 25,200 SF
TOTAL STORAGE AREA = 94,426 SF
TOTAL BUILDING AREA = 104,926 SF

F.A.R. = 106,651 SF / 270,742 SF = 0.388

MAXIMUM BUILDING COVERAGE = 30%
PROPOSED BUILDING COVERAGE = 79,726 SF = 29.45%

IMPERVIOUS AREA:
BUILDINGS = 79,726 SF
PAVEMENT / SIDEWALKS = 84,496 SF

TOTAL IMPERVIOUS AREA = 164,222 SF = 60.66%

MINIMUM OPEN SPACE = 30%
PROPOSED OPEN SPACE = 106,520 SF = 39.34%

BUILDING SETBACKS:

FRONT (DUNLAWTON AVE AND OAK ST).....50'
SIDE.....10'
REAR.....25'

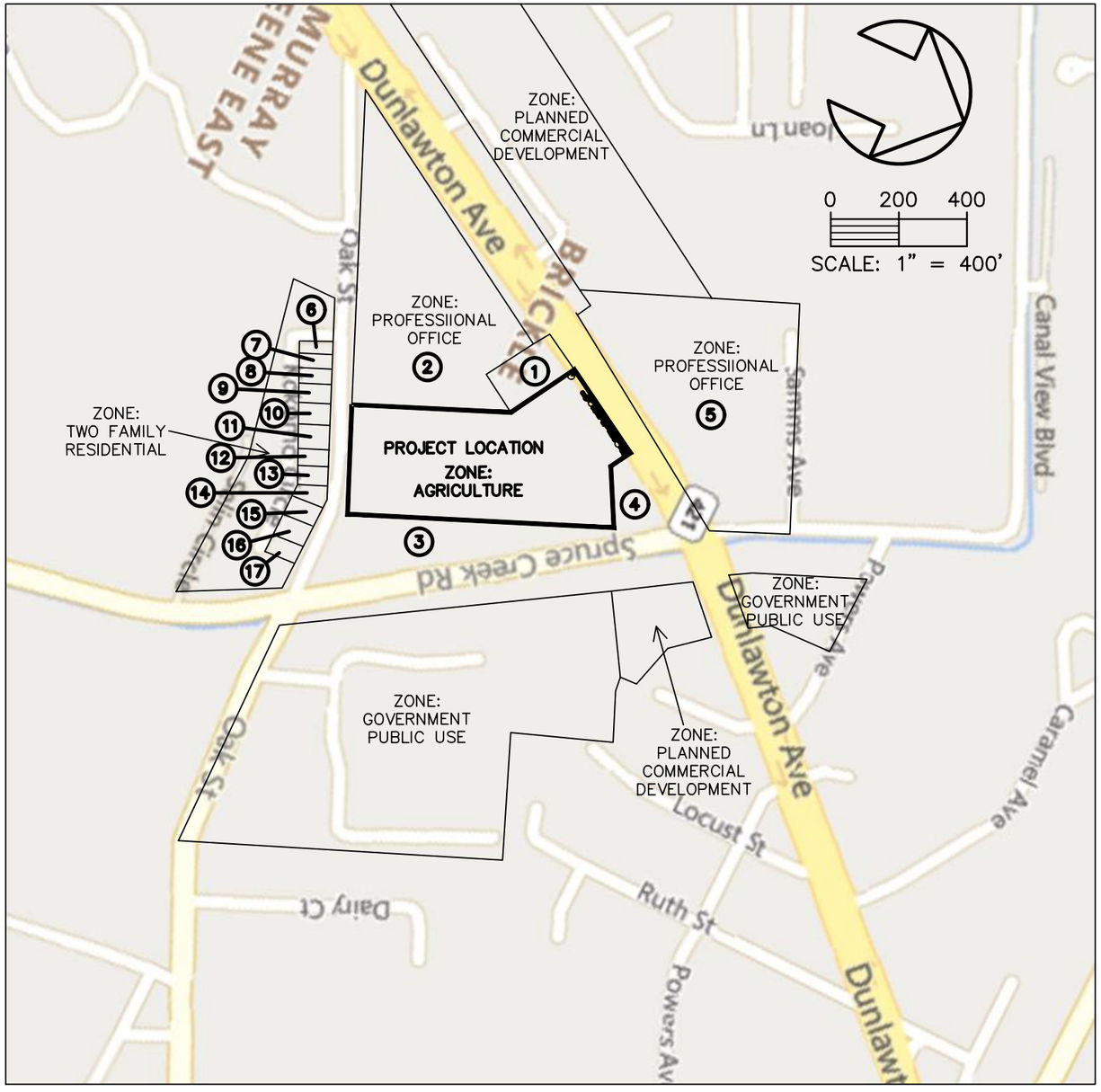
LANDSCAPE BUFFERS:

	REQUIRED	PROVIDED
DUNLAWTON AVE	20'	20'
OAK ST	10'	50'
SIDE (EAST & WEST)	5'	5'

TREE PRESERVATION CALCULATION:

SITE AREA = 270,742 SF
15% TREE PRESERVATION = 270,742 SF X 0.15 = 40,611 SF
TREE PRESERVATION AREA PROVIDED = 40,615 SF

NOTE:
COMPLIANCE WITH THE LAND DEVELOPMENT CODE MAY NECESSITATE MODIFICATION OF THE CONCEPTUAL PLAN.



VICINITY MAP
ZONE: AGRICULTURE

PARKER MYNCHENBERG & ASSOCIATES, INC.
PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com
CERTIFICATE OF AUTHORIZATON NUMBER 00003910

EXHIBIT B-1

3-20-21
REV.4-15-21
REV.6-08-21

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NOTE:
NO DIRECT VEHICULAR ACCESS TO
OAK STREET PROVIDED

DUNLAWTON STORAGE PCD
720 DUNLAWTON AVENUE
CONCEPTUAL DEVELOPMENT PLAN
PARKER MYNCHENBERG & ASSOCIATES, INC.

PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
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(386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com
CERTIFICATE OF AUTHORIZATON NUMBER 00003910

0 40 80 160
SCALE: 1" = 80'

EXHIBIT B-2

3-20-21
REV.4-15-21
REV.6-08-21

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PRE-DEVELOPMENT BASIN

POST-DEVELOPMENT BASIN

EXHIBIT B-3

DUNLAWTON STORAGE PCD
720 DUNLAWTON AVENUE
CONCEPTUAL DEVELOPMENT PLAN
PARKER MYNCHENBERG & ASSOCIATES, INC.

PROFESSIONAL ENGINEERS * LANDSCAPE ARCHITECTS
1729 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
(386) 677-6891 FAX (386) 677-2114 E-MAIL: info@parkermynchenberg.com
CERTIFICATE OF AUTHORIZATON NUMBER 00003910

0 30 60 120

SCALE: 1" = 60'

3-20-21
REV.4-15-21
REV.6-08-21

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