



AGENDA
PLANNING COMMISSION
CITY OF PORT ORANGE

Meeting Date: Thursday, August 26, 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: Subdivision Plat and Plans/The Palms at Ashton Lakes Subdivision
CASE NO.: 21-50000002
LOCATION: Southeast corner of S. Williamson Blvd. and Oakwater Lane (6241 S. Williamson Blvd.)
STAFF CONTACT: Gwen Perney, Principal Planner (386) 506-5673/gperney@port-orange.org
APPLICANT: Roger Strcula, Upham, Inc.; 265 Kenilworth Ave., Ormond Beach, FL 32174

A request by the applicant to subdivide ±18.7 acres into two (2) commercial lots as shown on the approved The Palms at Ashton Lakes Planned Commercial Development (PCD) Conceptual Development Plan (CDP).

5. APPLICATION: PUD Rezoning/Madeline Commons Planned Unit Development Master Development Agreement and Conceptual Development Plan
CASE NO.: 20-65000002
LOCATION: North of Charles St., between McDonald Rd. and 5th St.
STAFF CONTACT: Gwen Perney, Principal Planner (386) 506-5673/gperney@port-orange.org
APPLICANT: A. Joseph Posey, Jr., Storch Law Firm; 420 S. Nova Rd., Daytona Beach, FL 32114

A request by the applicant to approve the rezoning of 34.6 acres from R-2D (Two-Family Residential) to PUD (Planned Unit Development) and the Madeline

Commons Master Development Agreement and Conceptual Development Plan.

6. APPLICATION: 21-1 Large-Scale Comprehensive Plan Amendment/Property Rights Element
CASE NO.: 21-20000001
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org
APPLICANT: City of Port Orange

A request to amend the Comprehensive Plan to create a Property Rights Element in compliance with House Bill 59.

7. APPLICATION: Amendment to Port Orange Town Center Community Redevelopment Plan
CASE NO.: 21-15000001
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org
APPLICANT: City of Port Orange

A request to amend the Port Orange Town Center (POTC) Redevelopment Plan to modify the Riverwalk Planned Community Conceptual Development Plan (CDP).

8. APPLICATION: LDC Amendment/Chapter 2, 17, and 18
CASE NO.: 21-25000005
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@port-orange.org
APPLICANT: City of Port Orange

A request to amend Chapters 2, 17, and 18 of the Land Development Code (LDC) regarding the Riverwalk Overlay District and the Planned Commercial-Riverwalk (PC-R) zoning district.

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.



Planning Commission Meeting

Thursday, August 26, 2021

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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.

PLANNING COMMISSION MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
JULY 22, 2021

THE REGULAR PLANNING COMMISSION MEETING of the City of Port Orange was called to order by Chairman John Junco at 6:30 p.m.

Pledge of Allegiance

Roll Call

Present: John Junco, Chairman
Maria Mills-Benat
Darrel "Bo" Bofamy
Stan Schmidt, Vice Chairman
Thomas Jordan
Newton White

Absent: Lance Green (unexcused)

Also Present: Shannon Balmer, Assistant City Attorney
Robin Fenwick, City Clerk

DISCUSSION/ACTION

3. Consideration of Minutes – June 24, 2021

Motion to approve was made by Member Thomas Jordan and Seconded by Vice Chairman Stan Schmidt. Motion carried unanimously by roll call vote.

4. APPLICATION: PUD Amendment/7th Amendment to the Bennett's Hammock PUD
CASE NO.: 20-40000005
LOCATION: 1143 Old Hammock Rd.
STAFF CONTACT: Gwen Perney, Principal Planner (386) 506-5673/gperney@port-orange.org
APPLICANT: A. Joseph Posey; 420 South Nova Rd, Daytona Beach, FL 32114

A request by the applicant to amend the Bennett's Hammock Planned Unit Development (PUD) Master Development Agreement (MDA) to establish the framework for the development of a 6-lot single-family home subdivision.

Gwen Perney, Principal Planner, discussed details of the proposed amendment to establish the framework for the development of a 6-lot single-family home subdivision.

Joseph Posey, Storch Law Firm, Attorney for applicant, provided background information regarding their meetings with the neighbors.

April Blowers, citizen/neighbor, thanked the applicant for working with them.

Motion to approve was made by Member
Thomas Jordan and Seconded by Bo Bofamy.
Motion carried unanimously by roll call vote.

5. APPLICATION: MDA Amendment/3rd Amendment to the Riverwalk Amended and Restated Master Development Agreement
CASE NO.: 21-40000001
LOCATION: East of Ridgewood Ave., south of Ocean Ave.
STAFF CONTACT: Tim Burman, Community Development Director (386) 506-5675/tburman@port-orange.org
APPLICANT: Josif Atanasoski, Manager of Halifax River Partners, LLC;
1800 N.US. Hwy. 1, Ormond Beach, FL 32174

A request by the applicant to amend the Riverwalk Amended and Restated Master Development Agreement (MDA) to extend the required completion date of the Phase 1 site improvements and restaurant building (Fysh Bar & Grill) to March 21, 2022.

Tim Burman, Community Development Director, discussed the request to extend the required completion date of the Phase 1 site improvements and restaurant building (Fysh Bar & Grill) to March 21, 2022 and answered questions from Commissions.

Commissioners expressed disappointment but understood the construction issues and delays happening right now.

Jeff Brock, Attorney for Applicant, explained the troubles they are having with delivery of construction materials.

Motion to approve the Third Amendment to the Riverwalk Amended & Restated Master Development Agreement (MDA), subject to the text being added to the Third Amendment regarding the demolishing of the two structures at 3641 Ridgewood Ave., adding criteria for off-site overflow parking on Phase 2 and Phase 3 of the Riverwalk Concept Development Plan, and City Attorney's review as to legal form and content was made by Member Maria Mills-Benat and Seconded by Member Bo Bofamy. Motion carried 4-2 by roll call vote with Members Jordan and White voting no.

6. APPLICATION: Subdivision Plat and Plans/Woodhaven Subdivision Phase 2
CASE NO.: 21-50000001
LOCATION: South side of Williamson Boulevard, between Cypress Head Subdivision and Williamson Boulevard
STAFF CONTACT: Penelope Cruz, Planning Manager (386) 506-5671/pcruz@portorange.org
APPLICANT: Zev Cohen & Associates, Inc.; 300 Interchange Blvd., Ormond Beach, FL 32174

A request by the applicant to approve Phase 2 of the Woodhaven Subdivision, which includes 229 single-family lots and 100 townhome lots on +/- 209.89 acres.

Penelope Cruz, Planning Manager, discussed details of the subdivision plat and plans for Phase 2 of the Woodhaven Subdivision with a variance request to waive the requirement to provide a trash compactor or dumpster in the townhome portion of the subdivision and to allow curbside pickup and answered questions from Commissioners. Staff recommends approval subject to the variance approval and the applicant addressing all remaining comments on the plat and plans prior to scheduling consideration by City Council.

Dick Smith, ICI Homes, responded to concerns from Commissioners relating to the fence and landscaping at Phase 1 along I-95 that has not been completed.

Commissioners remain concerned that ICI Homes has not completed the repairs as previously agreed to.

Robert Reinhausen, citizen, spoke regarding his concerns regarding the Future Land Use requirements. Mrs. Cruz advised the when a property is zoned PUD, the gross density will be permitted to be spread throughout the PUD, which is a standard in the industry practiced and addressed in the Woodhaven MDA. They are currently below the unit limits based on the MDA, which is consistent with the Comprehensive Plan.

Motion to approve the final plat and plans for Woodhaven Phase 2, subject to approval of the subdivision variance to allow the townhome portion of the subdivision to be developed with individual curbside solid waste disposal and addressing all remaining comments on the plat and plans prior to scheduling consideration by City Council was made by Member Thomas Jordan and Seconded by Member Stan Schmidt. Motion failed 3-3 by roll call vote with Members Jordan and White voting no, as well as Chairman Junco.

OTHER BUSINESS

7. Commissioner Comments

Commissioner White thanked Staff for the thorough presentations. Chairman Junco thanked the building division team for their work during all the construction delays.

8. Staff Comments

There were none.

PUBLIC COMMENTS

There were none.

ADJOURNMENT – 6:18 p.m.

Chairman John Junco



STAFF REPORT

SUBDIVISION PLAT / THE PALMS AT ASHTON LAKES SUBDIVISION

CASE NO. 21-50000002

REQUEST:	To subdivide ± 18.7 acres into two (2) commercial lots as shown on the approved The Palms at Ashton Lakes Planned Commercial Development (PCD) Conceptual Development Plan (CDP).
LOCATION:	Southeast corner of S. Williamson Boulevard and Oakwater Lane (6241 S. Williamson Blvd.)
OWNER:	NX Port Orange Owner, LLC
APPLICANT:	Roger Strcula, Upham Inc.
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Gwen Perney, Principal Planner (386) 506-5673
PLANNING COMMISSION DATE:	August 26, 2021

DISCUSSION

The applicant is requesting to subdivide ± 18.72 acres located at the southeast corner of S. Williamson Boulevard and Oakwater Lane (Figure 1) into two (2) commercial lots. The subdivision plat (Exhibit A) has been designed according to the lot dimensional requirements and lot layout of the approved The Palms at Ashton Lakes Planned Commercial Development (PCD) Master Development Agreement (MDA) and Conceptual Development Plan (CDP). The proposed subdivision plat will create a ± 17.67 -acre lot (Lot #1) for The Palms at Ashton Lakes Assisted Living Facility (ALF), which is currently under construction, and a ± 1.05 -acre lot (Lot #2) vacant commercial outparcel.

Figure 1. Location Map



In 2019, The Palms at Ashton Lakes Planned Commercial Development MDA and CDP was approved and set up the framework for the development of the subject property and subdivision of the subject property into two (2) commercial lots. Currently, The Palms at Ashton Lakes ALF is being built on Lot #1. The ALF site was designed to provide a shared access point along S. Williamson Boulevard, stormwater retention areas, and utility infrastructure to also support Lot #2. The subdivision plat includes preserving the existing St. John's River Water Management District conservation easements located along the east side of the property and along S. Williamson Boulevard as well as the existing Ashton Lakes residential subdivision sign at the northwest corner of Lot #1.

Prior to development on Lot #2, a site plan will need to be submitted to the City and approved by City staff. Any development on Lot #2 will be required to meet the standard commercial site requirements (landscape buffers, screening, architecture, infrastructure, parking, etc.) in the City's Land Development Code and The Palms at Ashton Lakes MDA. A specific use for Lot #2 is not known at this time.

The permitted uses for the two (2) proposed lots are set forth in The Palms at Ashton Lakes MDA. The permitted uses in the MDA include Assisted Living Facility and all uses permitted in the City's Community Commercial (CC) zoning district except motor vehicle service stations, convenience stores, bars, and self-storage facilities (Exhibit B). A specific use for Lot #2 is not known at this time.

The required subdivision infrastructure (water, sewer, drainage, access drives, and driveways) to serve the subdivision is currently being constructed as part of the site plan for The Palms at Ashton Lakes Assisted Living Facility. Therefore, no subdivision infrastructure improvements are required with the subdivision plat as all required subdivision infrastructure improvements will be built and accepted as part of the Palms at Ashton Lakes Assisted Living Facility site plan prior to the subdivision plat being recorded.

The proposed lots will be accessed from driveways off of Oakwater Lane and Williamson Boulevard. Cross-access easements are provided on the plat between the lots for vehicles and pedestrians to move between the lots.

CONCURRENCY REVIEW

Public facilities and services are currently available to serve the proposed two (2) commercial lots. Concurrency reviews for transportation, water, sewer, and stormwater drainage were completed for the proposed two lots when the site plan for The Palms at Ashton Lakes ALF was approved in 2019.

CONSISTENCY WITH COMPREHENSIVE PLAN

The proposed subdivision plat is consistent with the City's Comprehensive Plan. The subject property is designated *Commercial and Conservation* on the City's Future Land Use (FLU) Map. Approximately 12.35 acres of the 18.72-acre subject property is designated *Commercial* and the remaining 6.37 acres is designated *Conservation*. The 6.37 acres designated as *Conservation* is currently covered with an existing conservation easement dedicated to the St. Johns River Water Management District and will remain undeveloped.

According to the City's Comprehensive Plan, the subject property is part of a Community Commercial Node located around the intersection of S. Williamson Boulevard and Oakwater Lane/Airport Road. The Palms at Ashton Lakes PCD rezoning, and the MDA and CDP were found to be consistent with the City's Comprehensive Plan when approved in 2019.

REMAINING TECHNICAL COMMENTS

The Staff Development Review Committee (SDRC) has reviewed this project and there are some remaining technical comments that must be addressed prior to scheduling this item for City Council. These comments include minor revisions to line work on the plat, designation of existing and proposed easements on the plat, and adding language to the dedication block regarding ownership and maintenance of common facilities.

RECOMMENDATION:

Staff recommends approval of the Subdivision Plat for The Palms at Ashton Lakes Subdivision, as it has been designed in accordance with the requirements of the City's Land Development Code (LDC) and The Palms at Ashton Lakes Master Development Agreement, subject to resolution of the remaining staff comments prior to scheduling this item for City Council.

ATTACHMENT:

1. Exhibit A – The Palms at Ashton Lakes Subdivision Plat
2. Exhibit B – Permitted Uses for The Palms at Ashton Lakes PCD

EXHIBIT B

7. PERMITTED USES:

The usage of the property may include the following:

A. Type of Use:

- (1) The property described on Exhibit "A" & depicted on Exhibit "B" shall be authorized to include the following uses:
 - (a) Assisted Living Facilities ("ALF")
 - (b) Permitted Uses, Permitted Uses with special Development Requirements, and Special Exception Uses allowed in the Community Commercial (CC) zoning district, as amended from time to time.
- (2) The following uses in the Community Commercial (CC) zoning districts are prohibited:
 - (a) Motor vehicle service stations
 - (b) Convenience stores with or without fuel operations
 - (c) Bars, lounges, and night clubs
 - (d) Fortune tellers, astrologers, and palm readers
 - (e) Funeral Homes
 - (f) Game/recreation facilities
 - (g) Marina, recreational
 - (h) Motor vehicle and boat storage facilities
- (3) Assisted Living Facility or ALF shall refer to a facility, for more than three persons unrelated to the owner, where shelter and services are provided and may include meals, housekeeping, medical and personal care assistance. An ALF may also include Memory Care Facilities ("MCF") designed to care for persons who are experiencing the effects of Alzheimer's, dementia or other medically diagnosed cognitive impairment. Independent Living Facilities ("ILF") that provide shelter and services such as meals, housekeeping, limited medical and personal care assistance may also be included in an ALF development provided that the ALF and MCF uses are the predominant use and the facility has a business tax receipt issued by the City for an ALF.



STAFF REPORT

PUD Rezoning and Madeline Commons Planned Unit Development (PUD) Master Development Agreement and Conceptual Development Plan

CASE NO. 20-65000002

REQUEST:	To approve the rezoning of 34.6 acres from R-2D (Two-Family Residential) to PUD (Planned Unit Development) and the Madeline Commons Master Development Agreement and Conceptual Development plan
LOCATION:	North of Charles Street, East of Madeline Avenue and McDonald Road, West of 5 th Street
PROPERTY OWNERS:	Dennis R. McDonald, Eve V. Reynolds, James R. Parker, Trustee, Parker Family Trust, Michael M. Kemmer, Co-Trustee, Wilda McDonald Kemmer Revocable Trust, Thomas Murray McDonald, Mina Sue Kelly, Juanita Melinda Bressler and Robert B Kemmer, Co-Trustee, Wilda McDonald Kemmer Revocable Trust, and Madeline Commons, LLC
APPLICANT:	A. Joseph Posey Jr., Storch Law Firm
STAFF CONTACT:	Gwen Perney, Principal Planner (386) 506-5673
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 26, 2021

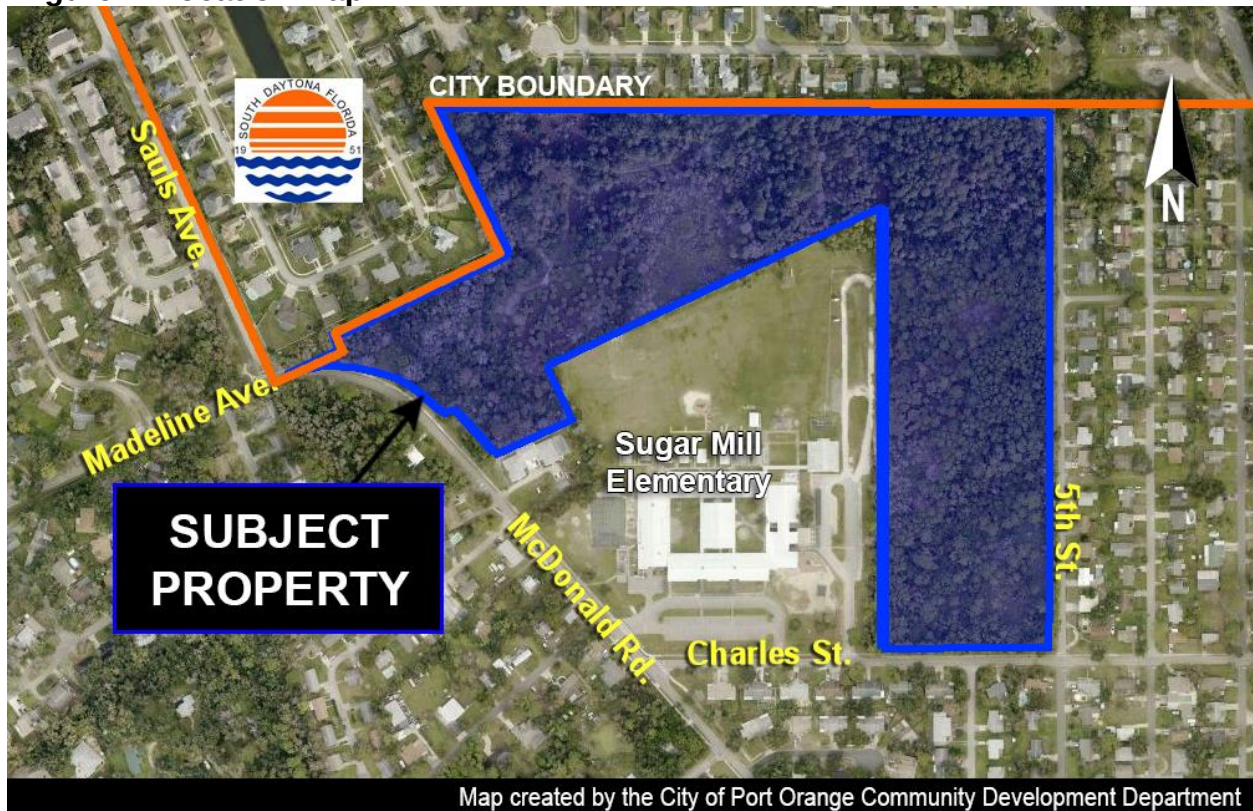
INTRODUCTION

The applicant requests to rezone ±34.6 acres from Two-Family Residential (R-2D) to PUD Planned Unit Development (PUD) and requests approval of the Madeline Commons Master Development Agreement (MDA) and Conceptual Development Plan (CDP). If approved, the intent is to develop the subject property as a residential subdivision with a maximum of 149 single-family lots, along with associated subdivision improvements. The subject property is located north of Charles Street and Sugar Mill Elementary School, between McDonald Road and 5th Street (Figure 1 – Location Map on Page 2).

According to the Land Development Code (LDC), the MDA for the proposed PUD 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 MDA that graphically depicts the dimensional requirements and general location of lots, roads, off-site improvements, parking, open space, landscape buffers, utilities, and drainage areas.

Specific subdivision 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, roadway design, and other development requirements are finalized with the subdivision plat and plans. The subdivision plat and 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 subdivision plat and plans for the Madeline Commons PUD property is required to be designed to meet the requirements of the LDC and the proposed MDA and CDP. At this time, subdivision plat and plans have not been submitted.

Figure 1. Location Map



The subject property is currently undeveloped and surrounded by Sugar Mill Elementary School and several existing residential subdivisions with various sized lots. The residential subdivisions to the north of the subject property are in the city of South Daytona. The subject property has an existing Future Land Use (FLU) designation of *Urban Medium Density Residential* (4 to 8 units per acre) and is zoned Two-Family Residential (R-2D). The land use, zoning, future land use, and density of the adjacent properties is provided below in Table 1. The Future Land Use and zoning maps of the subject property and adjacent properties are attached as Exhibits A and B. The subject property has not been subject to any FLU or zoning amendments since 1985.

Table 1. Surrounding Land Uses, FLU Designations, Zoning, and Density

Direction	Existing Land Use	FLU Designation	Zoning District	Existing Density
North	City of South Daytona Single Family Homes (Harborside Village)	City of South Daytona <i>Residential Density 1</i> (0-4 units/acre)	City of South Daytona Single-Family Residential (R1B)	2.96 u/a
	City of South Daytona Single Family Homes (Coventry Forest)	City of South Daytona <i>Residential Density 2</i> (4-8 units/acre)	City of South Daytona Single-Family Residential (R1C)	3.56 u/a
South	City of Port Orange Sugar Mill Elementary	City of Port Orange <i>Public/Institutional</i>	City of Port Orange Government Public Use (GPU)	N/A
	City of Port Orange Two-Family Homes (Amber Village)	City of Port Orange Urban <i>Medium Density Residential</i> (4-8 units/acre)	City of Port Orange Two-Family Residential (R- 2D)	5.03 u/a
	City of Port Orange Single Family Homes (Portona)	City of Port Orange <i>Suburban Residential</i> (2-4 units/acre)	City of Port Orange Single-Family Residential (R-8SF)	4.02 u/a
East	City of Port Orange Single Family Homes (Portona)	City of Port Orange <i>Urban Medium Density Residential</i> (4-8 units/acre)	City of Port Orange Single-Family Residential (R-8SF)	4.02 u/a
West	City of Port Orange Single Family Home	City of Port Orange <i>Suburban Residential</i> (2-4 units/acre)	City of Port Orange Single-Family Residential (R-10SF)	1.5 u/a

According to the applicant, new homeowners are looking for quality homes on smaller, less maintenance-intensive lots than the homes that have been previously constructed in this area. The applicant also states that the proposed development will complement the surrounding neighborhood by condensing the lots within the boundary of the subject property and allowing more open space for common areas within the PUD property that include stormwater retention areas, tree preservation areas and passive park areas than if the property was developed as a duplex subdivision under its current zoning.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

The ±34.6-acre subject property is designated *Urban Medium Density Residential* (4 to 8 units per acre) on the City's Future Land Use Map (Exhibit 1). The FLU designation for the subject property is **not** proposed to be changed as part of this development proposal and will remain consistent with the surrounding neighborhoods. The Comprehensive Plan states that the *Urban Medium Density Residential* designation is intended to allow for the development of various types of residential uses, such as, duplexes, villas, cluster homes, townhouses, mobile homes, manufactured homes, or multi-family development at densities between four (4) and eight (8) units per acre. The density for the proposed single-family development is 4.3 residential units per acre. As shown in Table 2 below, the density for the proposed Madeline Commons PUD is consistent with the density of the existing FLU for the subject property and the existing residential subdivisions in the surrounding area.

Table 2. Density of Surrounding Subdivisions

Subdivision	Current FLU	Actual Units per Acre
Proposed Madeline Commons PUD	4-8 units/acre	4.30
Harborside Village – South Daytona	0-4 units/acre	2.96
Countrywalk	4-8 units/acre	3.10
Coventry Forest – South Daytona	4-8 units/acre	3.56
Portona	2-4 units/acre	4.02
Sugar Forest	2-4 units/acre	4.67
Amber Village	4-8 units/acre	5.03
Oak Hammock	4-8 units/acre	5.94
Average Density for Surrounding Area		4.18

Figure 2. Subject Property, Surrounding Developments, and Roadway Network



The City's Comprehensive Plan Policy Objective 2.8 states that the City shall discourage urban sprawl by directing development to the areas within the City's service area boundaries and areas where public facilities and services are available and encouraged infill development consistent with the underlying future land use designation. The proposed Madeline Commons PUD is considered an infill development as it is currently surrounded by existing development and the subject property is served by existing public infrastructure and services (water, sewer, roads, fire, police, schools, etc.) that can support new development. Figure 2 above shows the location of the subject property in relation to the existing developments and roadway network.

DEVELOPMENT PROPOSAL

The following discussion will focus on the significant aspects of the proposed MDA and CDP for the development of the subject property with a maximum of 149 single-family lots (Conceptual Development Plan – Exhibit 3) such as general site layout, access, dimensional requirements, landscape buffers, utilities, and drainage areas.

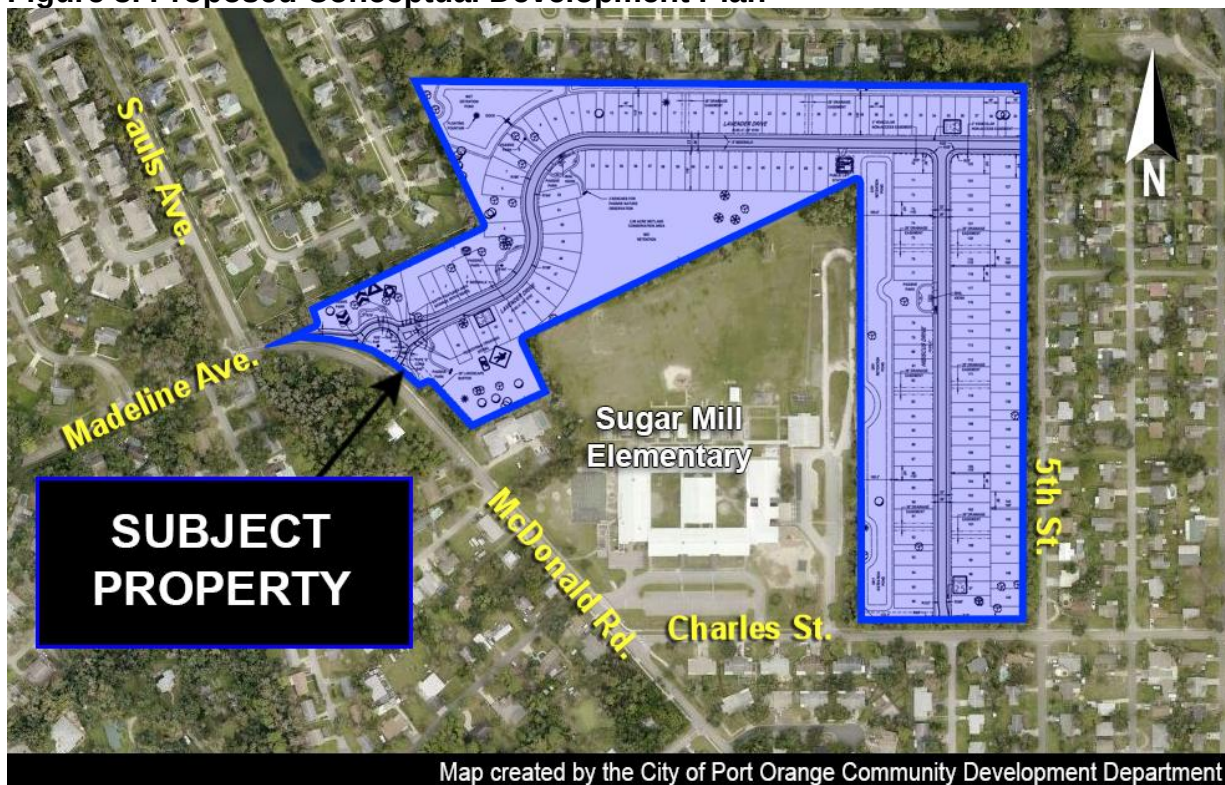
The applicant has requested the PUD zoning to permit the development of single-family homes and the ability to request flexibility in setbacks and lot size to incorporate the existing natural features such as specimen trees, historic trees, and a wetland area into the subdivision design. However, as typical with PUDs, there are deviations from the LDC as part of the proposed Madeline Commons MDA and CDP which are further discussed in the report.

General Layout

The Conceptual Development Plan (CDP) shows the general layout of the single-family lots, stormwater improvements, open space areas, common open space areas, tree preservation areas, public roadways, and off-site roadway improvements (Figure 3 of the Staff Report and Exhibit B of the MDA).

The applicant has also proposed a redesign of the existing Madeline Avenue and McDonald Road curve and the entrance to the PUD development as a round-about to assist in traffic flow and safety at this future intersection. Also, the applicant has proposed a new westbound right turn lane along Charles Street into the Sugar Mill Elementary parent pick-up driveway to assist in reducing on-street school traffic. The proposed improvements are discussed further in the report.

Figure 3. Proposed Conceptual Development Plan



Dimensional Requirements

The proposed MDA provides the dimensional requirements (lot width and area, setbacks, building height, open space, building coverage, etc.) for the single-family lots. According to the applicant, the dimensional requirements in the MDA are to create buildable lots for detached single-family homes while allowing for the preservation of as many trees as possible and a +/- 2-acre wetland; therefore, some of the dimensional requirements are less than conventionally zoned single-family subdivisions. The table below (Table 3) lists the proposed dimensional requirements for the PUD. The requested deviation from the required minimum open space and maximum building coverage requirements for the Madeline Commons PUD are discussed further in the report.

Table 3 - Dimensional Requirements – Single Family Lots

Zoning District	Minimum Lot Width	Minimum Lot Area	Maximum Building Coverage	Minimum Open Space	Front Bldg. Setback	Side Bldg. Setback	Rear Bldg. Setback	Maximum Height
Madeline Commons PUD 40-foot Lots	40 ft.	4,400 sq. ft.	55%	32%	20 ft.	5 ft.	15 ft.	35 ft.
Madeline Commons PUD 50-foot Lots Lot Fronting onto 5th Street)	50 ft.	5,000 sq. ft.	55%	32%	20 ft.	5 ft.	15 ft.	35 ft.
PUD	---	--	40%	40%	--	--	--	35 ft.

Traffic

If the PUD is approved, the proposed subdivision will be required to comply with the City's Transportation Concurrency Management requirements in the LDC. The developer may be required to enter into a Proportionate Fair-Share Agreement with the City to pay for part of scheduled improvements for any impacted areas, similar to other developments within the City.

According to the Institute of Transportation Engineers (ITE) Trip Generation Manual, the proposed 149 single-family-lot development is anticipated to create less trips than if the subject property was developed under the current R-2D zoning as a duplex subdivision. The number of duplex units (156) is based on a conceptual design provided by the applicant that illustrated how a standard duplex development designed under the R-2D zoning district could potentially fit on the subject property. The table below (Table 4) provides the anticipated trips for the proposed single-family subdivision in the Madeline Commons PUD compared to a duplex subdivision.

Table 4. Trip Generation Table

	ITE Code	Daily Trips	AM Peak	PM Peak
Single-Family (149 units) Proposed Zoning - Madeline Commons PUD	210	1,502	115	149
Two-Family Residential (156 units) Current Zoning – R-2D (Duplex Subdivision)	210	1,566	121	156

Source: ITE Trip Generation Manual 10th Edition

The Institute of Transportation Engineers (ITE) Trip Generation Manual is nationally recognized by transportation professionals including transportation engineers, transportation planners, consultants, educators, technologists, and researchers for conducting vehicle trip generation rate analysis studies, determining on-site circulation patterns, performing access management studies, and determining traffic signal timing.

According to the latest traffic counts for Charles Street, McDonald Road, and Madeline Avenue, there is capacity for the anticipated $\pm 1,502$ vehicular trips estimated to be generated by the proposed Madeline Commons PUD project (Table 5). The city conducts traffic counts each year and during the school year to capture all daily traffic along its streets. The 2020 Traffic Counts were completed in October 2020 and are anticipated to increase in 2021 to a more typical volume as schools and businesses return to regular operations from the decrease seen during the COVID-19 state of emergency in 2020.

Table 5. Roadway Capacities for Roadways Adjacent to Madeline Commons

Roadway Segment	Roadway Classification Per City Comp Plan	Maximum Capacity Vehicles Per Day	2019 Volume Per Day	2020 Volume Per Day	Remaining Capacity Vehicles Per Day	V/C Ratio****
Charles St. (US1 to FEC Railroad)	Local Collector*	12,744	2,031	1,879	10,865	14.74%
Charles St. (FEC Railroad to McDonald Rd.)	Local Collector*	12,744	2,776	2,114	10,630	16.59%
McDonald Rd. (Charles St. to Madeline Ave.)	Local Collector*	12,744	2,990	2,656	10,088	20.84%
Madeline Ave. (Sauls Rd. to Nova Rd.)	Minor Arterial**	14,040	5,264	4,652	9,388	33.13%
Nova Rd. (N. City Limits to Madeline Ave.)	Principal Arterial ***	39,800	27,000	--	12,800	67.84%

Source: City of Port Orange, Traffic counts conducted by Traffic Engineering Data Solutions, Inc. (TEDS)

* Local Collector Roadway – A route that provides primary access to or through a subdivision or subdivisions and connects those developments to the major collector and arterial system.

** Minor Arterial Roadway – A route which generally interconnects with principal arterial routes and provides service to trips of shorter length and a lower level of travel mobility.

*** Principal Arterial Roadway - A route which generally serves the major centers of activity of an urban area, the highest traffic volume corridors, and the longest trip purpose and carries a high proportion of the total urban area travel on a minimum of mileage.

****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.

Although roadway capacity exists along the adjacent roadways, it has been observed that during the school year, cars stack within the travel lanes along Charles Street during parent pick-up and drop-off times. To minimize on-street stacking along westbound Charles Street, a requirement of the MDA is for the developer to dedicate additional right-of-way along Charles Street for a right-turn lane to be constructed as part of the subdivision improvements. The MDA additionally specifies that this work may only be done when school is not in session.

Access and Parking

The subdivision will be accessed from entrances along McDonald Road/Madeline Avenue, Charles Street, and 6th Street. The streets within the Madeline Commons PUD will be designed as public roads as required by the LDC.

The CDP proposes to modify the curve that transitions Madeline Avenue to McDonald Road and build a round-about at the entrance to the subdivision. The round-about is an alternative to installing a new street entrance along the existing curve which could potentially be a traffic safety issue regarding visibility around the curve. According to research conducted by the Federal Highway Administration, roundabouts are a safer alternative to two-way stops and signalized intersections as they reduce vehicular and pedestrian conflict points and serve as a traffic-calming devices as slower speed are required to navigate the circle. The traffic circle is not anticipated to reduce roadway capacity and according to FDOT, up to 14,000 vehicles per day can travel through a single-lane, three-leg round-about. Pedestrian safety improvements will be provided including signage, lighting, and pavement markings to warn drivers and assist pedestrians travelling through the traffic circle. The Volusia County School District was provided the CDP for review and had no comments or concerns regarding the proposed round-about.

The proposed subdivision will comply with the parking requirements in the City's LDC for residential single-family homes. The CDP also shows on-street parking spaces, separate from the travel lanes adjacent to the proposed mail kiosk areas. These parking spaces will be maintained by the HOA and allow residents to park to get their mail without blocking a travel lane. Sidewalks will be provided along both sides of the proposed public streets as well as the west side of 5th Street, as required by the LDC.

Tree Preservation, Landscaping, and Buffers

The proposed PUD will comply with the landscaping and tree preservation requirements of the LDC, including perimeter landscape buffers and tree preservation. A formal review of the landscaping and tree preservation will occur with the review of the subdivision plat and plans to verify compliance with the proposed MDA and LDC.

A minimum ten (10) foot wide buffer is proposed along the north perimeter and adjacent to the school property. A twenty (20) foot wide right-of-way buffer will be provided along McDonald Road and Charles Street. The proposed perimeter buffers meet or exceed the minimum perimeter buffers required by the LDC. At the request of the Volusia County School District, the applicant has agreed to install a 6-foot-tall privacy fence between the PUD property and the school property at the time the subdivision is developed.

The LDC requires a minimum 15% of the subject property to be reserved for the protection of existing trees. The proposed CDP provides 8.26 acres (23.9%) of the subject property as tree preservation area, which is greater than the minimum 15% (5.19 acres) required by the LDC.

The LDC requires a minimum of 80% of the existing 81 specimen trees on the subject property to remain. The proposed CDP shows 66 specimen trees or 81% of the existing trees being preserved. The specimen trees proposed to be removed will be mitigated with a contribution towards the City's Tree Mitigation Bank or replacement trees, or a combination of both, as per the requirements of the LDC. Within the specimen tree count, there are three (3) historic live oak trees on the subject property that will remain and be incorporated into the design of the subdivision common areas.

The proposed MDA requires any proposed development of the subject property to comply with the City, County, State, or Federal regulations that pertain to protected wildlife species and wetlands. There are five (5) areas identified as isolated wetlands on the subject property totaling ± 3.4 acres. Of the five (5) wetland areas, four (4) of the smaller wetland areas (± 1.39 acres) are proposed to be impacted and mitigated at the time the subdivision is developed, according to the current Volusia County and LDC mitigation requirements. According to the environmental study prepared by Ecological Consulting Solutions, Inc. that was submitted with the PUD application, the four (4) small wetland areas have been impacted by adjacent development over time, are isolated and of poor quality and will be filled as part of developing the subdivision. The larger ± 2 -acre wetland, located north of the school property will remain and be covered by a conservation easement.

Potable Water and Sanitary Sewer

The proposed subdivision will be served by City potable water and sanitary sewer and will comply with the requirements of the City's Land Development Code (LDC) and proposed MDA for improvements related to potable water and sanitary sewer. Irrigation will be provided by a private well and will comply with the requirements of the City's LDC.

Stormwater Management

The stormwater drainage infrastructure for this project will be provided as generally depicted on the CDP with a combination of both wet and dry retention areas. The stormwater drainage design will be reviewed with the submittal of the subdivision plans. 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.

The drainage area shown on the CDP will provide stormwater drainage for the entire 34.6-acre property and will also be required to meet the stormwater requirements of the St. Johns River Water Management District. The CDP shows the existing ditches along 5th Street and Charles Street being piped to maintain the conveyance capacity of existing runoff patterns. If the PUD zoning amendment is approved, formal engineered drainage plans are required to be submitted as part of subdivision plat and plans application.

Architecture

The single-family homes in the Madeline Commons PUD will be detached one or two-story homes. If the rezoning is approved, the subdivision covenants and restrictions will govern the aesthetics of the homes.

Schools

The Volusia County School District provided a determination that there is adequate school capacity at existing schools for the estimated forty-two (42) students anticipated to be generated by the proposed development (Exhibit 4). Concurrency reservations are required to be made at the time of subdivision plat and plans review.

Policy Issues

The following is an analysis of the requested deviations from the Land Development Code (LDC) in the proposed Madeline Commons PUD. The PUD zoning district allows the applicant to request flexibility from standard code requirements. To be eligible for this flexibility, the applicant must provide innovative subdivision or site design. The Planning Commission and City Council will need to consider the following deviations from the LDC requested by the applicant:

Establish a minimum open space requirement of 32% and a maximum building coverage of 55%. The LDC has both a maximum building coverage and a minimum open space requirement per lot that varies based on the zoning category. The PUD zoning district requires a maximum building coverage of 40% and 40% of the lot to remain as open space, with the remaining 20% of the lot area dedicated for impervious improvements such as driveways, patios, pool decks, sidewalks, etc. According to the applicant, the direction of this project is to provide enhanced common open space and amenities (walking paths, seating areas, park areas, conservation areas, etc.) for the enjoyment of all homeowners rather than providing more private open space on individual lots. This creates less yard maintenance for individual homeowners and allows for more of the existing trees to be preserved in common areas. The applicant states that because a PUD requires 60% of the subject property to be open space, it off-sets the reduction in the amount of open space on the proposed single-family lots. In comparison to the current zoning on the subject property (R-2D), development of a duplex subdivision would not require additional open space beyond the 35% on a platted lot and a minimum 15% tree preservation area.

- a. The LDC requires the maximum building coverage on each single-family lot to be 40%. The intent of the maximum building coverage for the single-family lot is to establish the maximum area of a lot that can be covered by both principal and accessory buildings to preserve open space on the lot. Based on the information provided by the applicant, the proposed building coverage for the single-family lots is 55%. According to the applicant, the intent of this subdivision is to provide detached single-family homes that meet the current demands of home buyers and off-set the reduced private yard area with common open area and amenities for all homeowners to use instead of private open space on individual lots.

- b. The LDC requires a minimum of 40% open space on each single-family lot. The intent of this code requirement is to retain a portion of each lot that is not developed with impervious surfaces or a building. According to the applicant, while the proposed lots do not meet the 40% open space requirement, the overall 34.6-acre development is designed with open space that exceeds 60%. The applicant states that the intent of this subdivision is to create a subdivision with a priority on providing open area and amenities for all homeowners to use instead of private open space on individual lots. Based on information provided by the applicant, the minimum open space for a lot is 32%.

Public Notice

A Public Notice sign was posted on the site on September 18, 2020. As of August 20, 2021, staff has received phone calls or office visits from seventeen (17) people requesting general information regarding the proposed PUD rezoning. Concerns included traffic, drainage, environmental issues, and school impacts.

A neighborhood meeting was held by the applicant on February 23, 2021 at The Lakeside Center and was attended by approximately 90 people. According to the applicant's summary of the neighborhood meeting (Exhibit 5), questions from the residents that attended were regarding drainage, traffic, and the project's effect on their quality of life. A second neighborhood meeting was held by the applicant on April 16, 2021 at the Piggotte Center in South Daytona and was attended by approximately 40 people. The purpose of this meeting was to discuss the updated proposed rezoning and to receive additional feedback. Attendees had similar concerns as the previous meeting. The plan discussed at the last neighborhood meeting still contained townhome units. The current plan does NOT contain any townhome units.

Recommendation

Staff recommends approval of the rezoning of ±34.6 acres from R-2D (Two-Family Dwelling) to PUD (Planned Unit Development) and approval of the Madeline Commons PUD Master Development Agreement and Conceptual Development Plan, subject to approval of the policy issues discussed in the staff report as requested by the applicant:

1. Establish a minimum open space requirement of 32% and a maximum building coverage of 55% for the individual lots.

Attachments

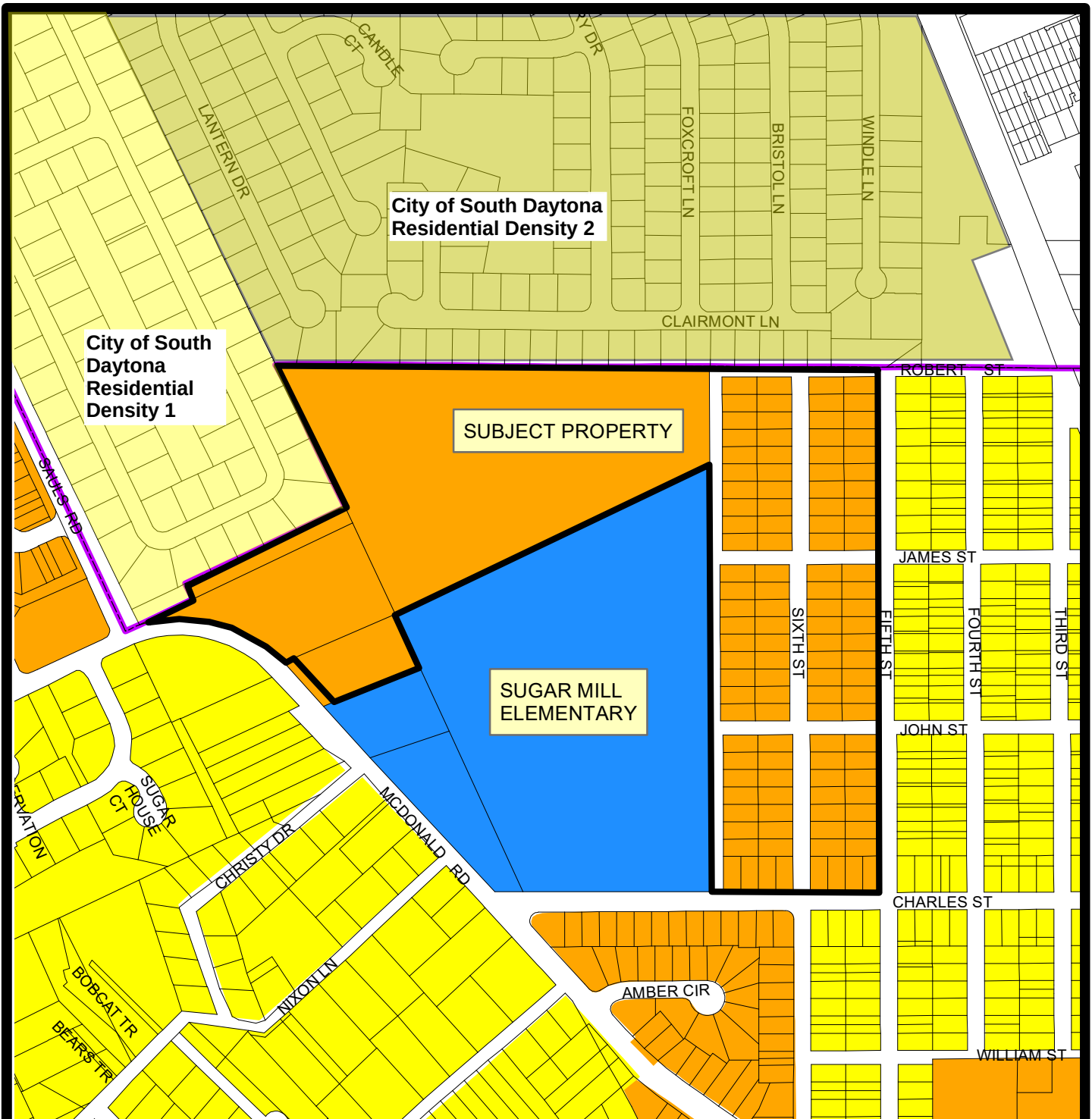
Exhibit 1 – Current Future Land Use Map

Exhibit 2 – Current and Future Zoning Map

Exhibit 3 – Madeline Commons Master Development Agreement and Conceptual Development Plan

Exhibit 4 – School District Review Letter

Exhibit 5 – Neighborhood Meeting Summaries



CURRENT FUTURE LAND USE

- Public/Institutional
- Suburban Residential
- Urban Medium Density Residential
- City Boundary



CITY OF PORT ORANGE

DEPARTMENT OF COMMUNITY DEVELOPMENT

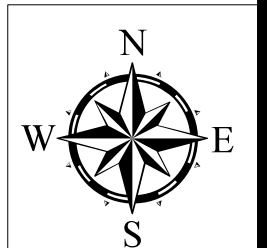
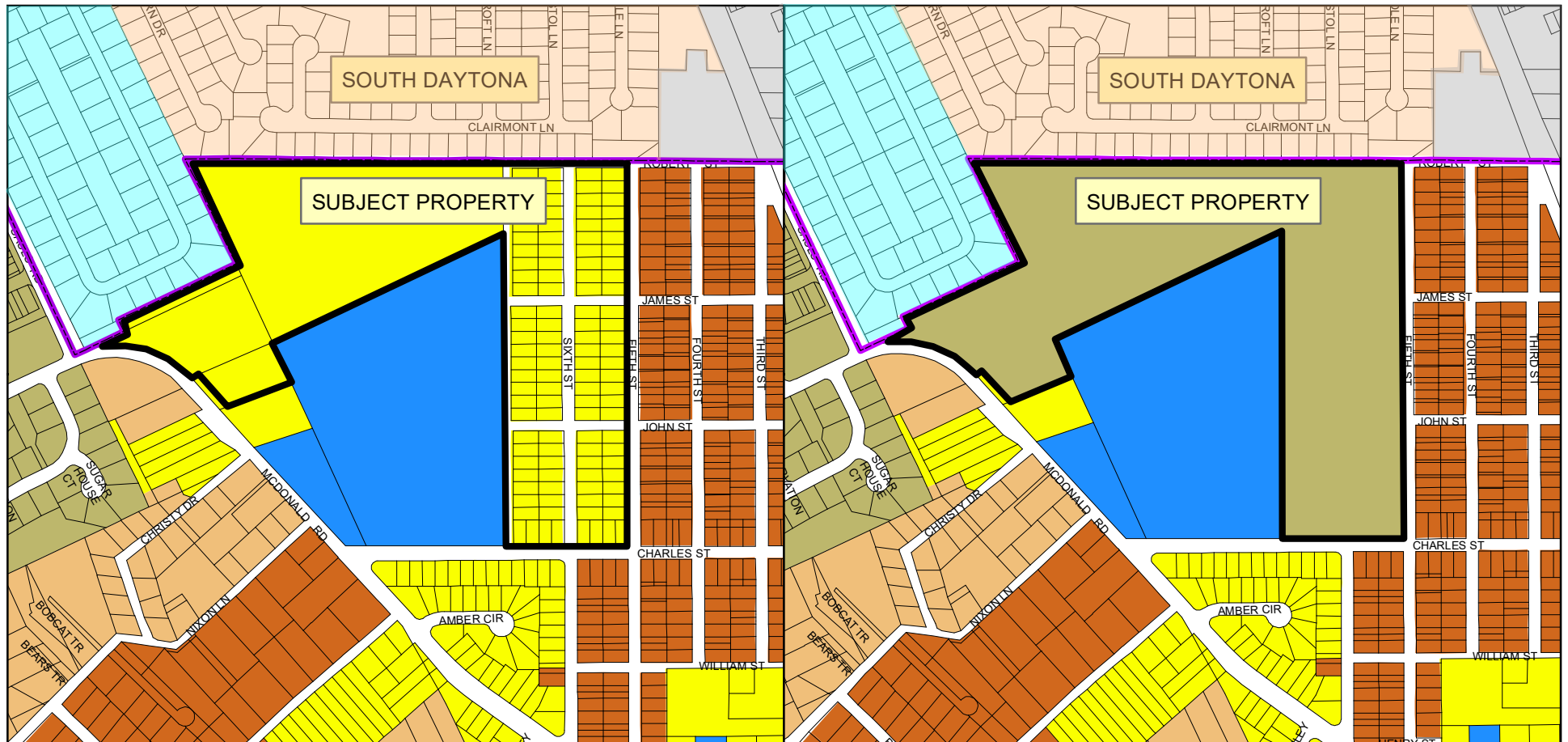
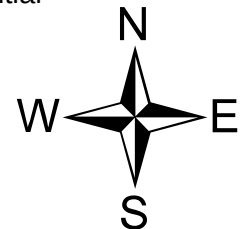
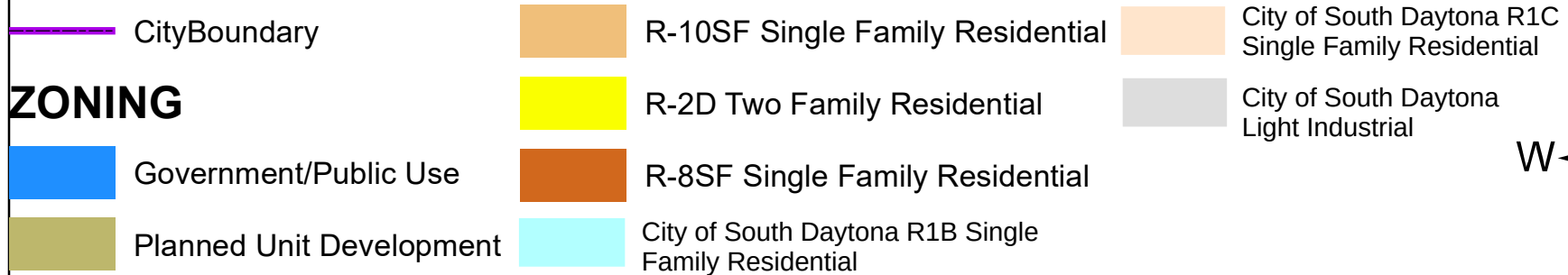


EXHIBIT 2



CURRENT ZONING

PROPOSED ZONING



**MADELINE COMMONS PLANNED UNIT DEVELOPMENT PUD
MASTER DEVELOPMENT AGREEMENT**

This Madeline Commons Planned Unit Development (“PUD”) Master Development Agreement (“MDA”) is entered into by and between the City of Port Orange, a Florida municipal corporation (the “City”), and James R. Parker, as Trustee of the Parker Family Dated June 18, 2001 as Amended December 12, 2006, Eve V. Reynolds, Individually, T. Murray McDonald, Jr., Mina Sue Kelly, and Juanita Melinda Bressler, as Successor Co-Trustees of the Thomas Murray McDonald Revocable Trust Dated May 27, 2004, Robert Kemmer and Michael Kemmer, as Successor Co-Trustees of the Wilda McDonald Kemmer Revocable Living Trust, Dated September 20, 2001, and as Successor Co-Trustees for the Residuary Credit Shelter Trust created under the Robert Lewis Kemmer Revocable Trust of 1995, and Carol Pare, as Successor Trustee of the Dennis Roger McDonald Revocable Trust dated March 23, 2004, as Revised, Amended and Restated February 17, 2009, and Madeline Commons, LLC, a Delaware limited liability company (collectively, the “Owners”), including their successors and assigns, (collectively the “Parties”), hereby covenant and agree, and bind their successor and assigns as follows:

1. OWNERSHIP OF THE PROPERTY

This Planned Unit Development, commonly known as “Madeline Commons”, involves approximately +/- 34.602 acres of land which is legally described on Exhibit A attached hereto, and shall henceforth be referred to as the “Property”. The Property is under unified ownership of the Owners, signatories to this Agreement. This Agreement between the City and the Owners shall revoke any and all prior development agreements applicable to the Property.

2. DEVELOPMENT CONCEPT

The Madeline Commons PUD provides for single-family detached residential development and townhomes that protect the moderate-density and transitional character of the Charles Street

area. The Property will be subdivided into a maximum of one hundred and forty-nine (149) single-family lots for detached dwelling units, with buffers that ensure the project is compatible with the surrounding, existing neighborhoods. All single-family-lots will be privately owned.

3. DEVELOPMENT AGREEMENT AND CONCEPTUAL DEVELOPMENT PLAN

Development of the Property shall be controlled by the terms and provisions of this Madeline Commons PUD, The MDA and the Conceptual Development Plan (“CDP”), attached hereto as Exhibit “B”, for the Property which generally depicts the planned layout of public roads, lots, amenities, and other planned features or improvements to the Property and demonstrates the lot coverage requirements available to lot owners within the PUD. Collectively, this MDA and the CDP for the Property may be referred to as the “Plan”. In the event of a conflict between the terms and provisions of the MDA and the graphic illustrations of the CDP, the MDA shall control. If the MDA is silent regarding a particular subject or requirement, such silence shall not be construed as a conflict with the CDP. If the Plan fails to address a particular subject or requirement, the applicable City ordinances in effect at the time of development, as defined by the City of Port Orange Land Development Code (“LDC”) shall control. The parties acknowledge that compliance with the City’s LDC may necessitate modification to the CDP. In the event modification to comply with the LDC is required, and the modifications to the CDP are not in conflict with the textual provisions of this MDA and any City ordinances not superseded by this MDA, the modifications shall be deemed “minor” and may be approved without formal amendment of this MDA. Minor modifications shall require the City Administrative Official’s written approval. If the Owners are not satisfied with the suggested resolution of any problem or the decision by the City Administrative Official categorizing the modification as minor or major, the Owners may appeal the decision pursuant to the LDC.

4. USAGE OF THE PROPERTY

A. Permitted Uses

The Property shall be used for residential purposes and developed as a residential community with common open space and other buffers as specified herein. The Property shall be developed for a maximum of one hundred and forty-nine (149) single-family, detached dwelling units, for a maximum of 4.31 dwelling units per acre. When considered in light of other housing and community choices in the vicinity, the Madeline Commons PUD will provide for a compatible residential development that is consistent with the surrounding land use pattern and will protect the character of the existing residential subdivisions in the vicinity to the Madeline Commons PUD.

The PUD will have an overall density of 4.31 dwelling units per acre which is consistent with the density requirements of the “Urban Medium Density Residential (4 to 8 Units per acre)” Future Land Use designation of the Property. This design also provides for a compatible transition between the varying densities of the surrounding properties.

B. Dimensional Requirements

Lot dimensions and configurations within the Property are generally depicted on the CDP. The lot sizes and configurations shall comply with the minimum dimensional requirements described below. The lot dimensions and areas shown on Exhibit “B” may be adjusted during the final subdivision process.

The total number of residential units in the development shall not exceed 149 dwelling units or a gross project density of 4.31 dwelling units per acre.

1. Single Family Lot Development Requirements

a. Setbacks

- i. Front: 20 feet
 - ii. Front Corner: 20 feet
 - iii. Rear: 15 feet
 - iv. Side: 5 feet
 - b. Minimum Lot Size
 - i. 40-Foot-Wide Lots
 - 1. Width: 40 feet
 - 2. Depth: 110 feet
 - 3. Area: 4,400 square feet
 - ii. 50-Foot-Wide Lots
 - 1. Width: 50 feet
 - 2. Depth: 100 feet
 - 3. Area: 5,000 square feet
 - c. Maximum Building Height: 35 feet (measured from the grade to the mid-point of the trusses)
 - d. Minimum Open Space: 32%
 - e. Maximum Impervious Area: 68%
 - f. Maximum Building Coverage: 55%
 - g. Minimum Living Area: 1,100 square feet
 - h. Permitted accessory structures for single-family residential lots shall be as provided for in the City LDC.
2. Overall PUD Development Requirements
- a. Maximum Building Coverage: 40%

- b. Minimum Open Space: 60% (20% of which shall be common open space)

C. Open Space

Notwithstanding the open space requirements for individual lots, 60% of the Madeline Commons PUD shall be open space, and 20% of the Madeline Commons PUD shall be common open space.

D. Notice

The Owners shall provide a written notice in the covenants and restrictions and in each contract for sale and purchase of lots in the Madeline Commons PUD stating the following: “Accessory structures shall not be permitted to be located in the perimeter landscape buffers established in Section 11 of the Madeline Commons PUD MDA, except as provided in that section. Buildings on the lots shall not be permitted to exceed the total building lot coverage requirements established in Section 4 of the MDA.”

5. ARCHITECTURAL STANDARDS AND REVIEW

The overall architectural theme of the project shall be consistent with covenants and restrictions adopted for the non-profit homeowners’ association created pursuant to Section 11 of the Madeline Commons PUD MDA.

6. PHASING

The development of the Madeline Commons PUD may occur in a single or two phases. Each proposed phase shall include the construction of all subdivision and infrastructure improvements necessary for said phase to stand alone. Project amenities, such as park areas and on-street parking spaces, shall be constructed prior to issuance of a certificate of occupancy for the first house in the phase in which they are located. Any proposed phasing must meet the minimum requirements of the City LDC.

7. SANITARY WASTE, STORMWATER, AND POTABLE WATER

In the event of development, the Owners will extend water and sewer lines to serve the Property and the development authorized herein and the water and sewer lines shall be public utilities. If the City desires to extend the water and sewer lines prior to the Owners' need for installation of the Owners' lines, the Owner shall grant the necessary utility easement to the City and the City shall install and pay for such lines. All lines and other necessary infrastructure shall be sized adequately to serve both the adjoining property and the lots within the PUD. The Owners shall comply with the City's LDC and the rules and regulations of the St. Johns River Water Management District concerning stormwater drainage. Stormwater flow calculations for all turn lane improvements, including modifications to the Charles Street northerly ditch and Fifth Avenue westerly ditch, must take into account all contributing flow from the school property and watershed southerly of Charles Street. Fifth Avenue westerly ditch south of John Street will require a minimum 30" stormwater pipe. Driveway aprons along Fifth Street must not block existing stormwater flow draining to Halifax River through John Street infrastructure.

Irrigation to be provided by the lowest quality water source, including reclaimed water, surface/storm water, or an irrigation well if available. If a lower quality water source is not available or not deemed feasible pursuant to St. Johns River Water Management District Rule or applicable state law, then potable water will be used for irrigation. Potable water and sanitary sewer will be supplied to the Property by City of Port Orange. Upon completion of all infrastructure for utilities, the same will be conveyed to the City of Port Orange. Currently, there is an existing lift station on 5th Street for sewer and an existing water main for potable water for the Property to tie into. The Owners shall be responsible for any utility infrastructure upgrades

needed for the development, including the relocation of any existing utilities. Improvements will be constructed in accordance with City of Port Orange Utility Construction Standards.

All single-family lots shall maintain a minimum eight (8) foot separation between air conditioning units, door stoops, generators, gas tanks, or other mechanical equipment on adjacent lots, and fences shall have a minimum six (6) inch clearance under them for stormwater runoff to flow, and there shall be no landscaping between homes in the side yard except for one (1) three (3) gallon shrub in front of the air conditioning unit or other mechanical equipment.

Runoff from higher adjacent lands, if any, shall be considered as part of site plan and subdivision review, and provisions for conveyance of said runoff shall be included in the drainage plan. The Port Orange Nova Canal North and Halifax River Watersheds Stormwater Master Plan will be used to establish tailwater and other project boundary conditions. The stormwater report shall include the depressional storage volume when modeling the pre-existing conditions for the 25 year/24 hour and 100 year/24-hour frequency storms. The minimum floor finished elevation shall be one foot above the Base Flood Elevation project wide.

8. ACCESS AND PARKING

A. **ACCESS.** The minimum fifty (50) foot wide roadways identified as Lavender Drive and Hibiscus Drive shall be dedicated to the City for use by public as generally depicted on the CDP. The exact location of all roadways and reserved street names will be provided and depicted when the Property is subject to the subdivision process. A minimum 20-feet clearance will be provided along all roadways to ensure emergency response vehicle access.

B. PARKING

i. Single Family Lot Parking

1. Each single-family lot shall have a driveway with adequate space to park at least two standard size vehicles and a garage with adequate space to park at least two standard size vehicles.

ii. Common Parking Spaces

1. The additional parking spaces shown on the Conceptual Development Plan shall be provided to accommodate visitors and guests.

9. INFRASTRUCTURE IMPROVEMENTS.

The proposed development will require the Owners' removal of the existing eastbound Madeline Avenue curve transition to McDonald Road and dedication of the northwest property corner for new proposed roadway round-about connecting Madeline Avenue and McDonald Road, as generally depicted on the CDP. The round-about will be dedicated to the City by either subdivision plat or separate instrument. Pedestrian crossing signaling, crosswalk striping, and yield signage shall be constructed for the round-about together with appropriate pedestrian crossing improvements for Lavender Drive and Sauls Street, at the Owner's expense. An off-site right turn lane, generally depicted on the CDP west of the project entrance on Charles Street, shall be constructed by the Owner and connect to the first parent loop for Sugar Mill Elementary School for use by the school. All roadway improvements proposed for the realignment of the Madeline Avenue and McDonald Road intersection shall be constructed at the same time as the other roadway infrastructure for the subdivision; however, roadway improvements on Charles Street shall only be constructed during the summer months to avoid the fall and spring school sessions at Sugar Mill Elementary.

The City acknowledges that the above connection to the first parent loop for Sugar Mill Elementary School will help address needed roadway improvements identified by the City. In furtherance of the obligations set forth herein, the City and the Owner shall enter into a Transportation Impact Fee Credit Agreement for said improvements and provision of plans for future improvements at the time of submission of plat and plans for the Project, with amount of credits not to exceed \$134,398.00, in a form substantially the same as the attached, marked as Exhibit “C” and made a part hereof by reference.

Sidewalks shall be constructed as depicted on the CDP. A five-foot (5’) sidewalk shall be installed for public use along each side of the public roadways within the development.

10. IMPACT FEE CREDIT

The development of the Property shall comply with the transportation concurrency management requirements established in the City of Port Orange Comprehensive Plan and LDC. Nothing in this Agreement shall be construed as a waiver by the Owners of their right to pursue impact fee credits for any and all work performed by Owners for which impact fee credits can be awarded.

11. MAINTENANCE OF COMMON OPEN SPACE AND COMMON FACILITIES

The Owners shall form and incorporate a non-profit homeowners’ association (the “HOA”) which will operate, maintain and control, subject to other documents of record, the common areas, and common facilities, including but not limited to stormwater drainage systems within the Property, the vehicle staging and mail kiosk areas, and the entrance features and landscape buffers on the Property. The development will be a platted subdivision of the Property.

The general scope and format of the HOA documents, and the covenants and restrictions, will be similar in concept to the documents of similar home owners’ associations in Port Orange.

The covenants and restrictions governing the Property and association responsibility shall be executed and recorded in the Public Records of Volusia County, Florida. The HOA will have a board of directors to legislate and govern the rules and orders of the HOA. The HOA board will have the means and authorization to carry out and regulate the by-laws and restrictions governing the maintenance, operation and repairs of all common areas and facilities. Not only will the board of directors be able to regulate and govern the common area; the board will also regulate each member requiring the maintenance and service of their own individual building site. The HOA rules may be enforced by fines and liens upon the individual building sites and any other remedy available at law. The HOA covenants and restrictions shall include provisions limiting on-street parking within the development to those parking areas identified on the Conceptual Development Plan and shall include provisions requiring the ongoing maintenance and repair of any sidewalks and roadways not dedicated to the City. The HOA may charge and collect dues to maintain operate and service all common facilities on the Property. The HOA will have authority to place a lien against individual building sites to collect unpaid HOA dues. The owner of each lot within the Property will automatically become a member of the HOA by virtue of purchasing a building subject to the rules, covenants, and restrictions of the HOA. The HOA will have the authority and means to hire, supervise, and regulate persons employed by them for the maintenance, repair and operation of common areas and facilities. If the association fails to perform the maintenance, repair or replacement, as necessary, of the storm water drainage facility, the City shall have the right to enter upon the common area of the Property and to provide the maintenance, repair, or replacement of the stormwater drainage facility and shall have the right to lien all owners of record in the Property for the cost of such maintenance, repair, and replacement as the City may deem necessary. If requested by the City and as otherwise needed for plat improvements, the Owners will provide

easements and grants for the installation, maintenance and upkeep of the public utilities including water, sewer, and electricity. The Owners may from time to time add additional covenants and restrictions or make changes in the Association by-laws as may be required to guarantee that the project will be developed in accordance with the policies outlined in this Agreement.

12. PROJECT BUFFERS AND LANDSCAPING

In order to comply with the requirements of Chapter 13, Sections 3 and 3.5 of the Port Orange LDC, a perimeter buffer shall be provided as shown on the CDP and shall comply with the following standards and requirements. The intent of the landscape buffer is to provide a protected green space separation between the Property and surrounding neighborhoods. There shall be a perimeter buffer with a width of ten (10') feet along the Property boundary adjacent to the City of South Daytona, twenty (20') feet along 5th Street where lots are not present, twenty (20') along Charles Street, twenty (20') feet along McDonald Road, and ten (10') feet along the Property boundary adjacent to Sugar Mill Elementary School. A six (6) foot privacy fence setback a minimum 3-feet from the Property line for maintenance shall also be installed along the Property boundary adjacent to Sugar Mill Elementary School. All buffers will remain as existing conditions or at time of each lot build out shall be required to install minimum landscape requirements for the Port Orange LDC. Landscape buffers and privacy fencing shall be constructed in the initial phase of development. No clearing or altering of the Property shall occur until the phase of that project area has been issued an approved construction plan. Existing vegetation in the perimeter buffer that may remain undisturbed shall count toward the landscaping requirements for the buffer. Existing vegetation that is determined by the City to be invasive exotics, diseased/dying and/or interfering with required extension of utilities may be removed, provided that any viable protected or specimen trees shall be mitigated in accordance with the City of Port Orange LDC. The

landscape plans required for the final plat shall account for the removal and mitigation of trees with the perimeter buffers. No structures, primary or accessory, will be allowed within perimeter buffers, except for fencing. The Madeline Commons HOA shall establish maintenance standards in the covenants and restrictions for the landscape/buffer easements. The covenants and restrictions shall provide for procedures to allow the HOA to notice individual lot owners that landscaping is not being maintained in accordance with the standards established in the covenants and restrictions. The covenants and restrictions shall include provisions for the HOA to charge the individual lot owners for the costs of the HOA maintaining the landscape buffer.

13. ENVIRONMENTAL CONSIDERATIONS

Both during and after construction, the Owners will use reasonable efforts to preserve trees and natural vegetation within the Property and maximize protection of natural drainage pathways. The PUD shall comply with the tree preservations of the City's LDC. The Owners shall comply with all rules, statutes, laws and regulations pertaining to protected wildlife species, including but limited to the rules and permitting requirements of the Florida Game and Freshwater Fish Commission concerning gopher tortoises. Compliance with the City Environmental Preservation Code may necessitate modification of the Conceptual Development Plan.

14. EXPIRATION

Development of the Madeline Commons PUD shall commence within five (5) years from the effective date of this Agreement and all development shall be completed within ten (10) years from the effective date. Failure to comply with the schedule set out above shall cause this Agreement to lapse unless the schedule is modified by mutual agreement of the Owners and the City. Development shall be as defined by the LDC.

15. EFFECTIVE DATE

This Agreement shall become effective and run with the land upon recording by the City of Port Orange at the Owners' expense in the public records of Volusia County, Florida.

16. AMENDMENTS

Amendments to this Agreement and CDP shall comply with the requirements established in Chapter 3, Article 1 and Chapter 17, Section 17 of the City of Port Orange LDC. The City may grant administrative variance for the dimensional requirements of this PUD when deemed appropriate by the administrative official. Application for administrative variances from the dimensional requirements of this PUD shall be made on the appropriate forms provided by the City for that purpose and shall be accompanied by the appropriate review fee. In no case shall an administrative variance be granted when such variance exceeds ten (10%) percent of the required dimension.

17. CONFORMANCE WITH THE LAWS

The Owners agree:

- A. To develop the Property according to all PUD regulations of the City to the extent those regulations are not inconsistent with the CDP for the Property.
- B. To provide agreements, contracts, deed restrictions, and sureties and other documents required by the City Legal Department for completion of the development or approved development phases, and for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at public expense, and that the Owners' successors in title will be bound by the Owners' commitments made in the Agreement.
- C. To be bound by all City codes and ordinances that are not in conflict with the provisions of 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 shall not affect the validity of enforceability of any other provision of this Agreement unless the holding so states.

19. PRIOR AGREEMENTS

This Agreement represents the complete understandings 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 is hereby voided and superseded by this Agreement.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties hereto attached their hands and seals this ____ day of _____, 20____.

WITNESSES:

CITY OF PORT ORANGE, FLORIDA
A Chartered Municipal Corporation

Name: _____

By: _____
Donald O. Burnette, Mayor

Name: _____

Date: _____, 2021

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 as Mayor, of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that he is duly authorized to execute the foregoing agreement on behalf of the city. He is personally known to me.

Notary Public, State of Florida at Large

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

WITNESSES:

Name: _____

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

Name: _____

Date: _____, 2021

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, as City Clerk, of the City of Port Orange, Florida, a chartered municipal corporation, who acknowledge that she is duly authorized to execute the foregoing agreement on behalf of the city. She is personally known to me.

Notary Public, State of Florida at Large

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

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Dennis Roger McDonald Revocable Trust Dated
March 23, 2004, as Revised, Amended and Restated
February 17, 2009

Print Name of Witness 1

By: _____
Carol Pare, Successor Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Carol Pare, as Successor Trustee of the Dennis Roger McDonald Revocable Trust Dated March 23, 2004, as Revised, Amended and Restated February 17, 2009. He / she is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Eve V. Reynolds

Print Name of Witness 1

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Eve V. Reynolds. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Parker Family Trust

Print Name of Witness 1

By: James R. Parker, Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by James R. Parker, as Trustee of the Parker Family Trust. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Wilda McDonald Kemmer Revocable Trust
dated September 20, 2001

Print Name of Witness 1

By: Michael M. Kemmer, Successor Co-Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Michael M. Kemmer, Successor Co-Trustee of the Wilda McDonald Kemmer Revocable Trust. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Wilda McDonald Kemmer Revocable Trust
dated September 20, 2001

Print Name of Witness 1

By: _____
Robert Kemmer, Successor Co-Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Robert Kemmer, Successor Co-Trustee of the Wilda McDonald Kemmer Revocable Trust. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Thomas Murray McDonald Revocable Trust
Dated May 27, 2004

Print Name of Witness 1

By: _____
T. Murray McDonald, Jr., Successor Co-Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by T. Murray McDonald, Jr., Successor Co-Trustee of the Thomas Murray McDonald Revocable Trust. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s): Thomas Murray McDonald Revocable
Trust Dated May 27, 2004

Print Name of Witness 1

By: _____
Mina Sue Kelly, Successor Co-Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online
notarization or ☐ physical presence, this ____ day of _____, 20____, by Mina
Sue Kelly as Successor Co-Trustee of the Thomas Murray McDonald Revocable Trust Dated
May 27, 2004. He / She is ☐ personally known to me or ☐ has produced the following as
identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Thomas Murray McDonald Revocable Trust
Dated May 27, 2004

Print Name of Witness 1

By: _____
Juanita Melinda Bressler, Successor Co-Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Juanita Melinda Bressler as Successor Co-Trustee of the Thomas Murray McDonald Revocable Trust Dated May 27, 2004. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he/she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Wilda McDonald Kemmer Revocable Trust

Print Name of Witness 1

By: _____
Robert B. Kemmer, Co-Trustee

Witness 2 Signature

Print Name of Witness 2

STATE OF FLORIDA
COUNTY OF VOLUSIA

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Robert B. Kemmer, as Co-Trustee of the Wilda McDonald Kemmer Revocable Trust. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Signed, sealed and delivered
In the presence of

Witness 1 Signature

Owner(s):
Madeline Commons, LLC

Print Name of Witness 1

By: Moishe Goldshmidt, Managing Member

Witness 2 Signature

Print Name of Witness 2

STATE OF _____
COUNTY OF _____

The forgoing instrument was acknowledged before me, by means of ☐ online notarization or ☐ physical presence, this ____ day of _____, 20____, by Moishe Goldshmidt, as Managing Member of Madeline Commons, LLC. He / She is ☐ personally known to me or ☐ has produced the following as identification _____, and he / she did not take an oath.

Notary Type, Print, or Stamp Name

My Commission Expires: _____

Exhibit A
Legal Description

LEGAL DESCRIPTION -per Schedule A

Parcel 1: All of Blocks 22 through 27, inclusive, PORTONA, according to the map or plat thereof recorded in Map Book 10, at Page 107, of the Public Records of Volusia County, Florida

Parcel 2: Lot 2 (except one-half acre north of canal on West line of Lot 2 and except the East 625 feet), Section 4, Township 16 South, Range 33 East, Volusia County, Florida. AND Less and Except any portion of Lot 2 lying West of McDonald Road. AND Less and Except that portion of Lot 2 conveyed in Warranty Deed recorded in Official Records Book 2317, Page 1472, of the Public Records of Volusia County, Florida. AND Less and Except all of that portion platted as Amber Village, according to plat thereof recorded in Plat Book 40, Page 61, of the Public Records of Volusia County, Florida.

Parcel 3: North 290 feet of the East 660 feet, East of McDonald Road of Sugar House Reservation and East 500 feet of South 50 feet of Lot 2, Block 12, Dunlawton, Port Orange, Florida. Lying and being in Volusia County, Florida.

Parcel 4: The North 170 feet of the South 370 feet of the North 660 feet of the East 660 feet, East of McDonald Road of Dunlawton Sugar House Reservation, according to the map recorded in Deed Book "M", Page 187, Public Records of Volusia county, Florida.

Containing 1,507,262.61 square feet (34.602 acres±)

Exhibit B
Conceptual Development Plan

INDEX OF SHEETS	
DWG.NO.	DESCRIPTION
1	COVER
2	SITE LAYOUT PLAN
3	COMMON OPEN SPACE EXHIBIT
4	TOPOGRAPHY & FEMA MAP EXHIBIT
5	TREE PLAN
6	TREE PRESERVATION PLAN
7	ADJACENT PROPERTY EXHIBIT

CONCEPTUAL DEVELOPMENT PLAN (CDP) FOR MADELINE COMMONS

SECTION 04, TOWNSHIP 16S, RANGE 33E
630402220010, 630400000021, 633701130010,
633701130017

975 MCDONALD ROAD
PORT ORANGE, FL 32129
FEBRUARY 2021
REVISED AUGUST 2021

LEGAL DESCRIPTION

PARCEL 1: ALL OF BLOCKS 22 THROUGH 27, INCLUSIVE, PORTONA, ACCORDING TO THE MAP OR PLAT THEREOF RECORDED IN MAP BOOK 10, AT PAGE 107, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA

PARCEL 2: LOT 2 (EXCEPT ONE-HALF ACRE NORTH OF CANAL ON WEST LINE OF LOT 2 AND EXCEPT THE EAST 625 FEET), SECTION 4, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA, AND LESS AND EXCEPT ANY PORTION OF LOT 2 LYING WEST OF MCDONALD ROAD. AND LESS AND EXCEPT THAT PORTION OF LOT 2 CONVEYED IN WARRANTY DEED RECORDED IN OFFICIAL RECORDS BOOK 2317, PAGE 1472, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA. AND LESS AND EXCEPT ALL OF THAT PORTION PLATTED AS AMBER VILLAGE, ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 40, PAGE 61, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PARCEL 3: NORTH 290 FEET OF THE EAST 660 FEET, EAST OF MCDONALD ROAD OF SUGAR HOUSE RESERVATION AND EAST 500 FEET OF SOUTH 50 FEET OF LOT 2, BLOCK 12, DUNLAWTON, PORT ORANGE, FLORIDA. LYING AND BEING IN VOLUSIA COUNTY, FLORIDA.

PARCEL 4: THE NORTH 170 FEET OF THE SOUTH 370 FEET OF THE NORTH 660 FEET OF THE EAST 660 FEET, EAST OF MCDONALD ROAD OF DUNLAWTON SUGAR HOUSE RESERVATION, ACCORDING TO THE MAP RECORDED IN DEED BOOK "M", PAGE 187, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.
CONTAINING 1,507,262.61 SQUARE FEET (34.602 ACRES±)

PROJECT STATEMENT

PROPOSE A PLANNED UNIT DEVELOPMENT TO BE KNOWN AS "MADELINE COMMONS" CONSISTING OF 149 SINGLE FAMILY DETACHED DWELLING UNITS ON 34.602 ACRES (4.31 UNITS PER ACRE).

NOTE:

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



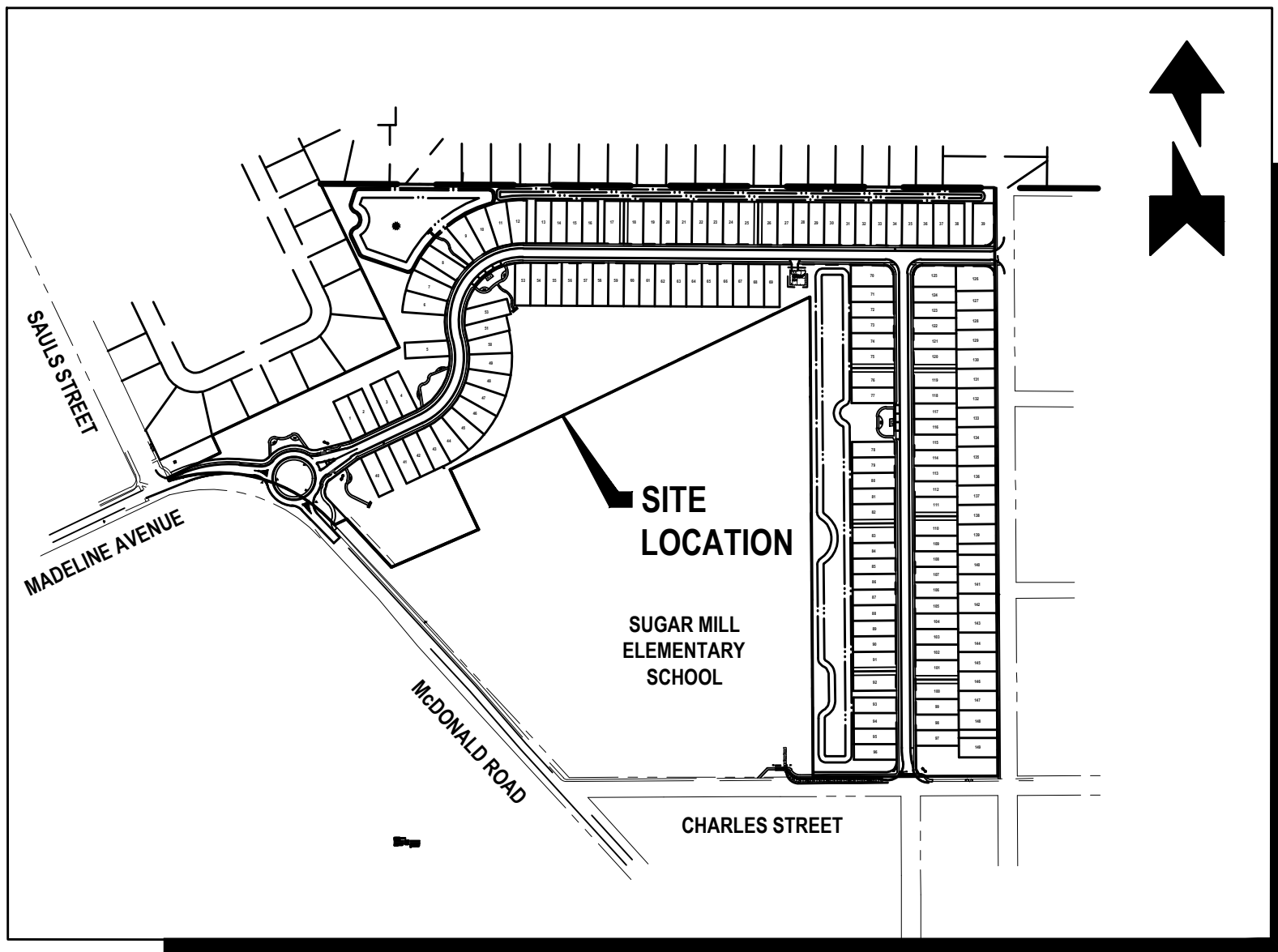
AERIAL MAP

SCALE: 1" = 500'



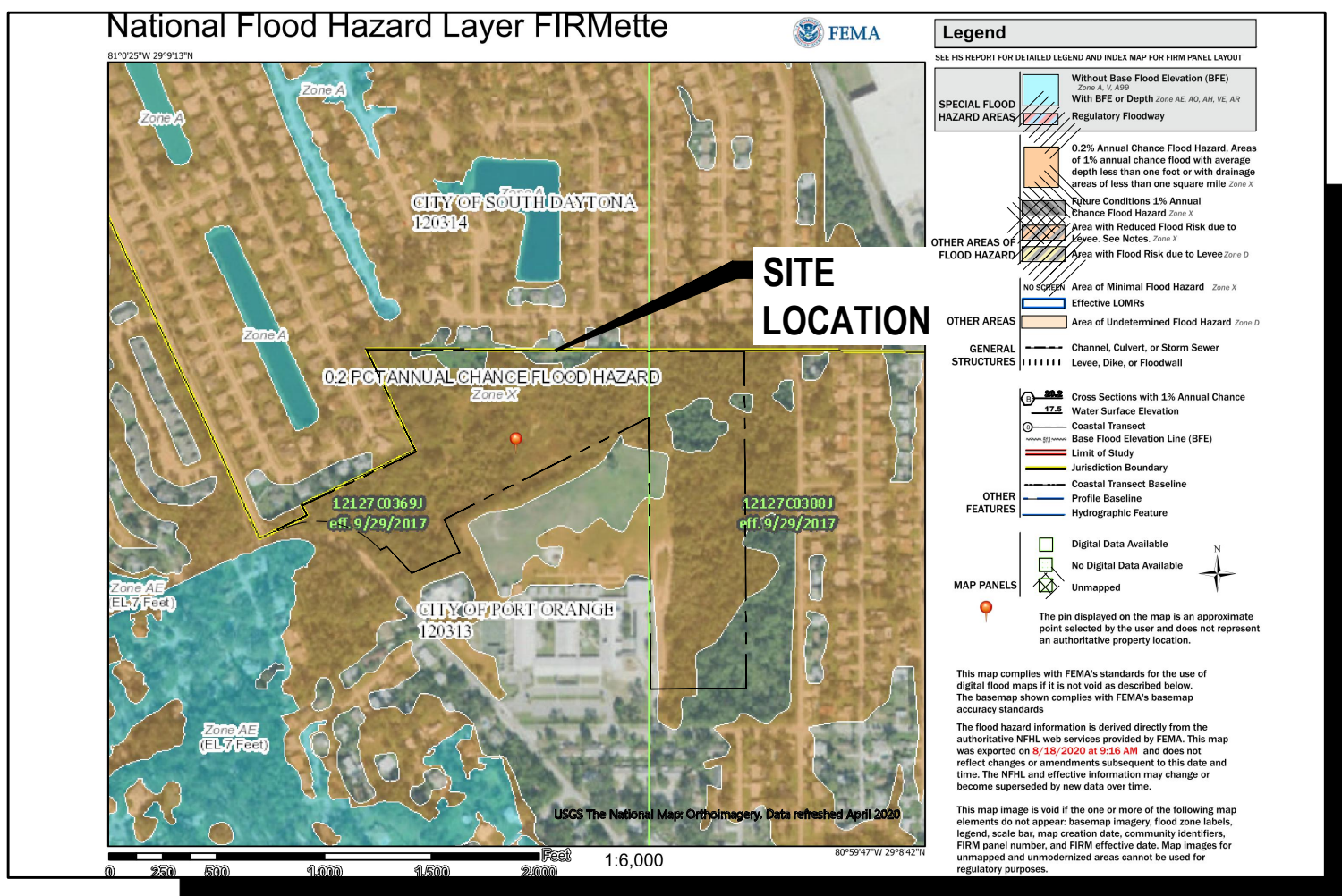
LOCATION MAP

SCALE: 1" = 400'



CDP MAP

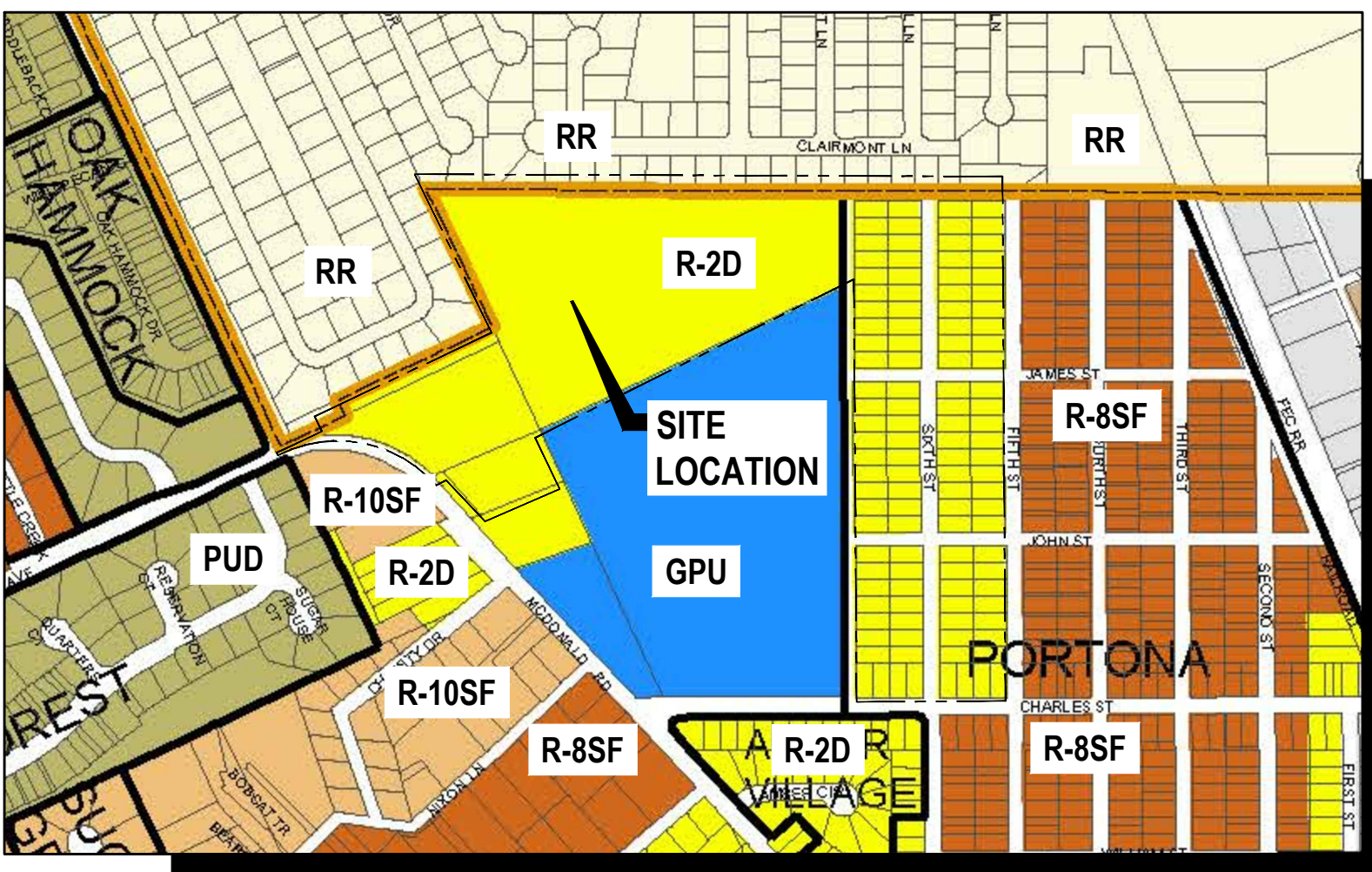
SCALE: 1" = 400'



FLOOD ZONE MAP

SCALE: 1" = 800'

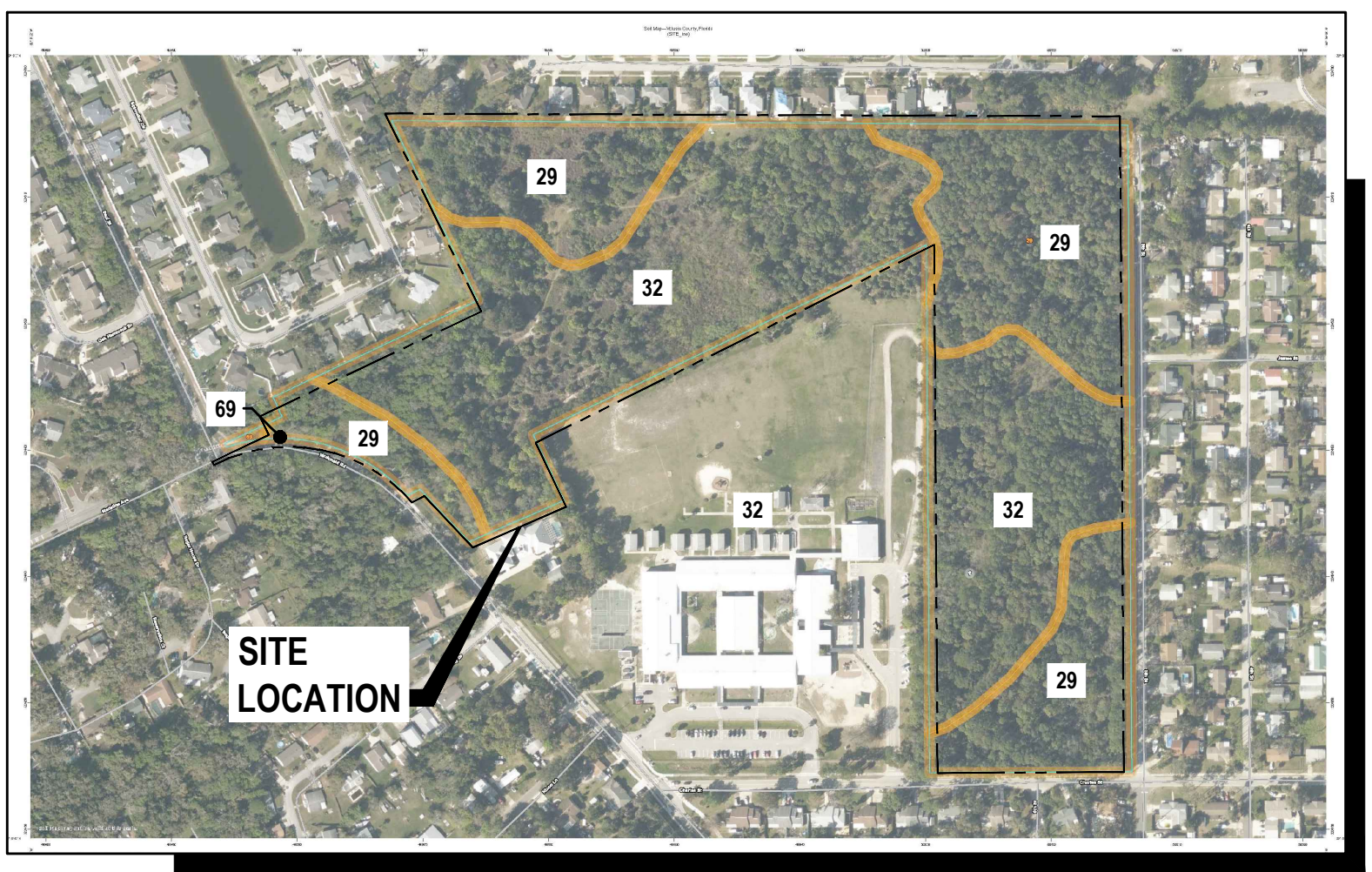
FLOOD ZONE "X" & "SHADED X"
PANEL No. 12127C0369J, EFF. 2/29/2017
PANEL No. 12127C0368J, EFF. 9/29/2017



ZONING MAP

SCALE: 1" = 500'

ZONING : (R-2D) TWO FAMILY RESIDENTIAL



SOILS MAP

SCALE: 1" = 400'

SOIL TYPE:(29) IMMOKALEE SAND
(32) MYAKKA-MYAKKA, WET, FINE SANDS, 0 TO 2 PERCENT SLOPES
(69) TUSCAWILLA FINE SAND

1230 North US1, Suite 3
Orlando, FL 32817
Phone (386) 872-7794
www.newkirk-engineering.com

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L.C. # 26000594
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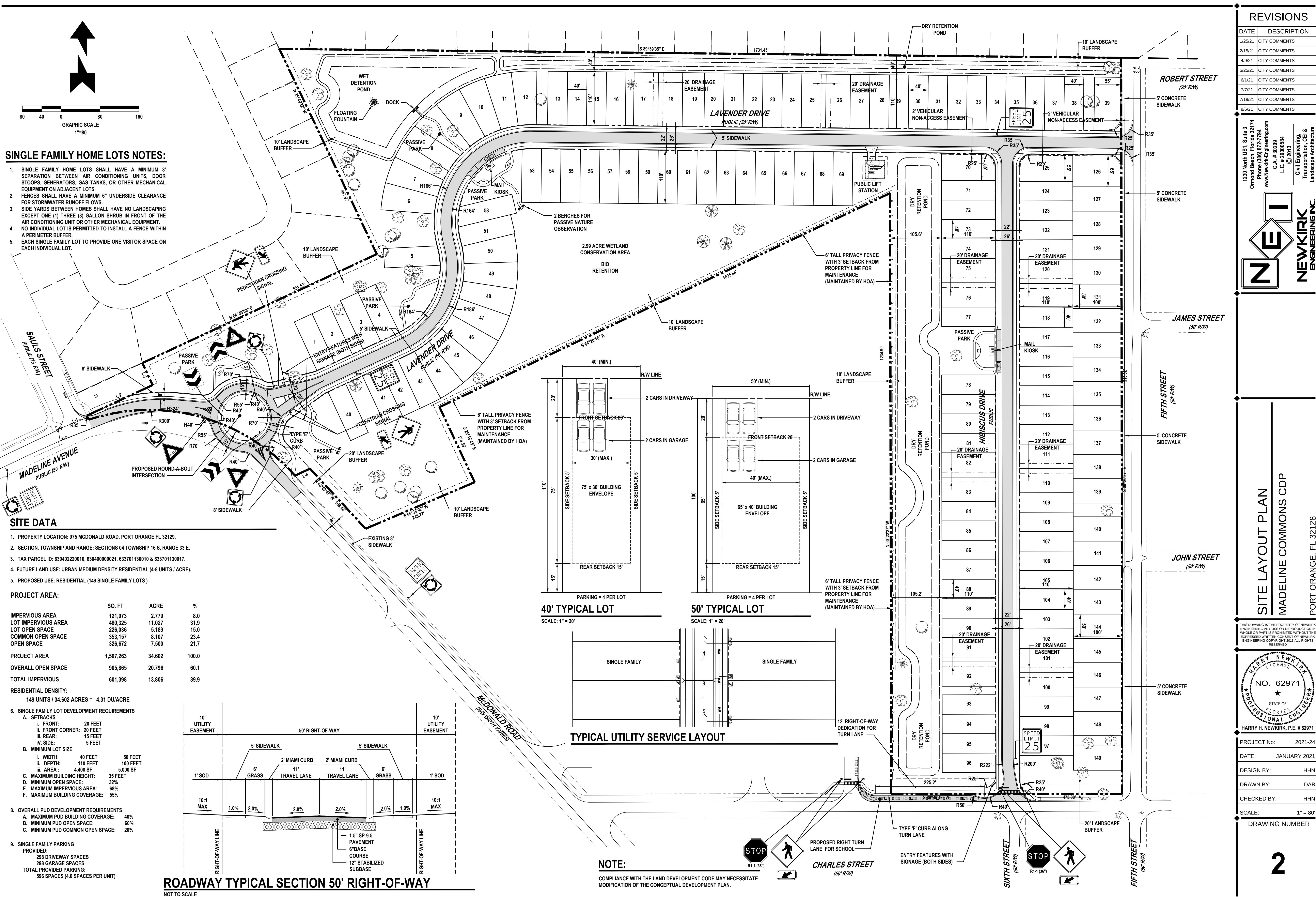
NEWKIRK
ENGINEERING INC.

HARRY H. NEWKIRK
LICENSE
NO. 62971
STATE OF
FLORIDA
PROFESSIONAL ENGINEER

HARRY H. NEWKIRK, P.E. # 62971

DRAWING NUMBER

1



SINGLE FAMILY HOME LOTS NOTES:

- 1. SINGLE FAMILY HOME LOTS SHALL HAVE A MINIMUM 8' SEPARATION BETWEEN AIR CONDITIONING UNITS, DOOR STOOPS, GENERATORS, GAS TANKS, OR OTHER MECHANICAL EQUIPMENT ON ADJACENT LOTS.
- 2. FENCES SHALL HAVE A MINIMUM 6" UNDERSIDE CLEARANCE FOR STORMWATER RUNOFF FLOWS.
- 3. SIDE YARDS BETWEEN HOMES SHALL HAVE NO LANDSCAPING EXCEPT ONE (1) THREE (3) GALLON SHRUB IN FRONT OF THE AIR CONDITIONING UNIT OR OTHER MECHANICAL EQUIPMENT.
- 4. NO INDIVIDUAL LOT IS PERMITTED TO INSTALL A FENCE WITHIN A PERIMETER BUFFER.
- 5. EACH SINGLE FAMILY LOT TO PROVIDE ONE VISITOR SPACE ON EACH INDIVIDUAL LOT.

SITE DATA

- 1. PROPERTY LOCATION: 975 McDONALD ROAD, PORT ORANGE FL 32129.
- 2. SECTION, TOWNSHIP AND RANGE: SECTIONS 04 TOWNSHIP 16 S, RANGE 33 E.
- 3. TAX PARCEL ID: 630402220010, 630400000021, 633701130010 & 633701130017.
- 4. FUTURE LAND USE: URBAN MEDIUM DENSITY RESIDENTIAL (4-8 UNITS / ACRE).
- 5. PROPOSED USE: RESIDENTIAL (149 SINGLE FAMILY LOTS)

PROJECT AREA:	SQ. FT	ACRE	%
IMPERVIOUS AREA	121,073	2.779	8.0
LOT IMPERVIOUS AREA	480,325	11.027	31.9
LOT OPEN SPACE	226,036	5.189	15.0
COMMON OPEN SPACE	353,157	8.107	23.4
OPEN SPACE	326,672	7.500	21.7
PROJECT AREA	1,507,263	34.602	100.0
OVERALL OPEN SPACE	905,865	20.796	60.1
TOTAL IMPERVIOUS	601,398	13.806	39.9

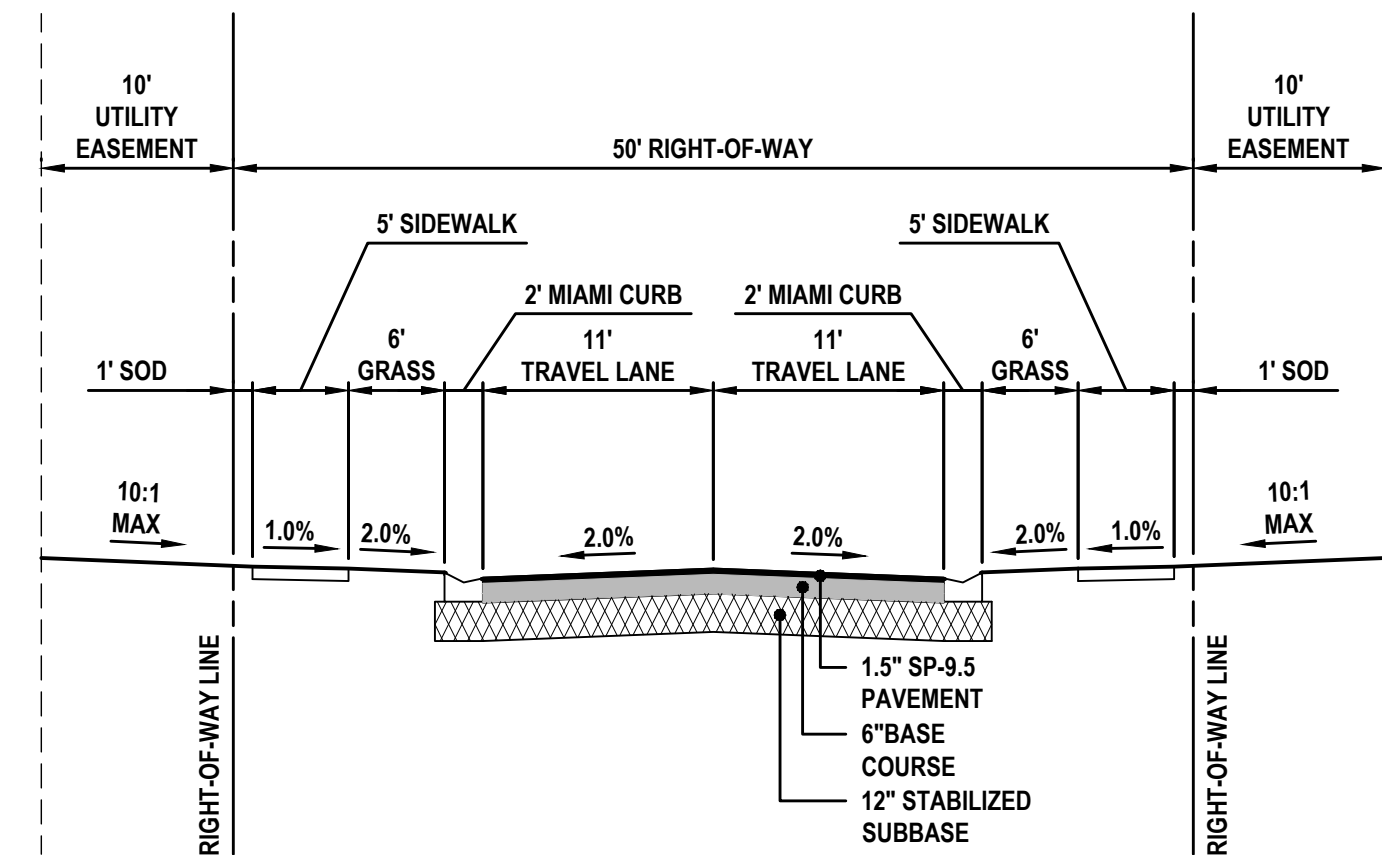
RESIDENTIAL DENSITY:
149 UNITS / 34.602 ACRES = 4.31 DU/ACRE

6. SINGLE FAMILY LOT DEVELOPMENT REQUIREMENTS

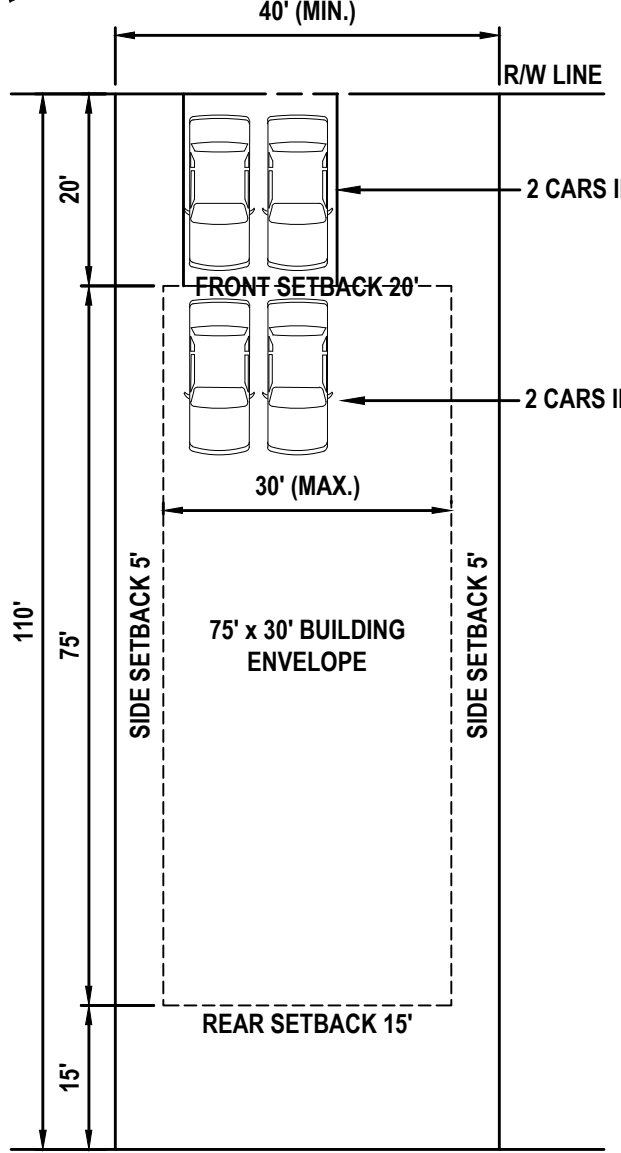
- A. SETBACKS
 - i. FRONT: 20 FEET
 - ii. FRONT CORNER: 20 FEET
 - iii. REAR: 15 FEET
 - iv. SIDE: 5 FEET
- B. MINIMUM LOT SIZE
 - i. WIDTH: 40 FEET
 - ii. DEPTH: 110 FEET
 - iii. AREA: 4,400 SF
- C. MAXIMUM BUILDING HEIGHT: 35 FEET
- D. MINIMUM OPEN SPACE: 32%
- E. MAXIMUM IMPERVIOUS AREA: 68%
- F. MAXIMUM BUILDING COVERAGE: 55%

- 8. OVERALL PUD DEVELOPMENT REQUIREMENTS
 - A. MAXIMUM PUD BUILDING COVERAGE: 40%
 - B. MINIMUM PUD OPEN SPACE: 60%
 - C. MINIMUM PUD COMMON OPEN SPACE: 20%

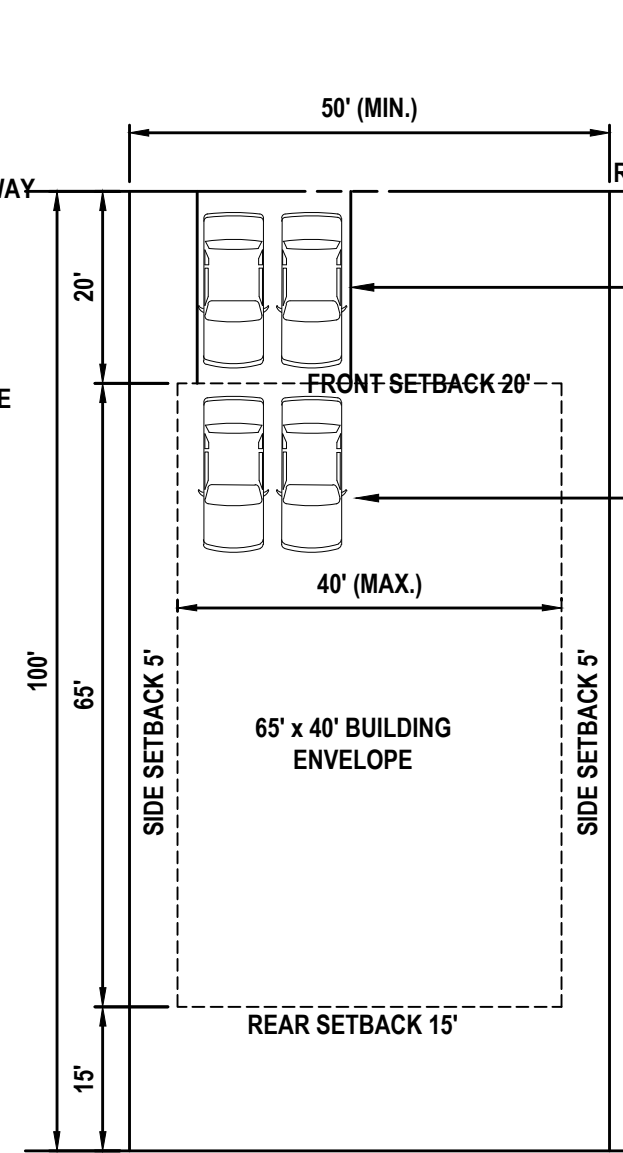
- 9. SINGLE FAMILY PARKING PROVIDED:
 - 298 DRIVEWAY SPACES
 - 298 GARAGE SPACES
 - TOTAL PROVIDED PARKING: 596 SPACES (4.0 SPACES PER UNIT)



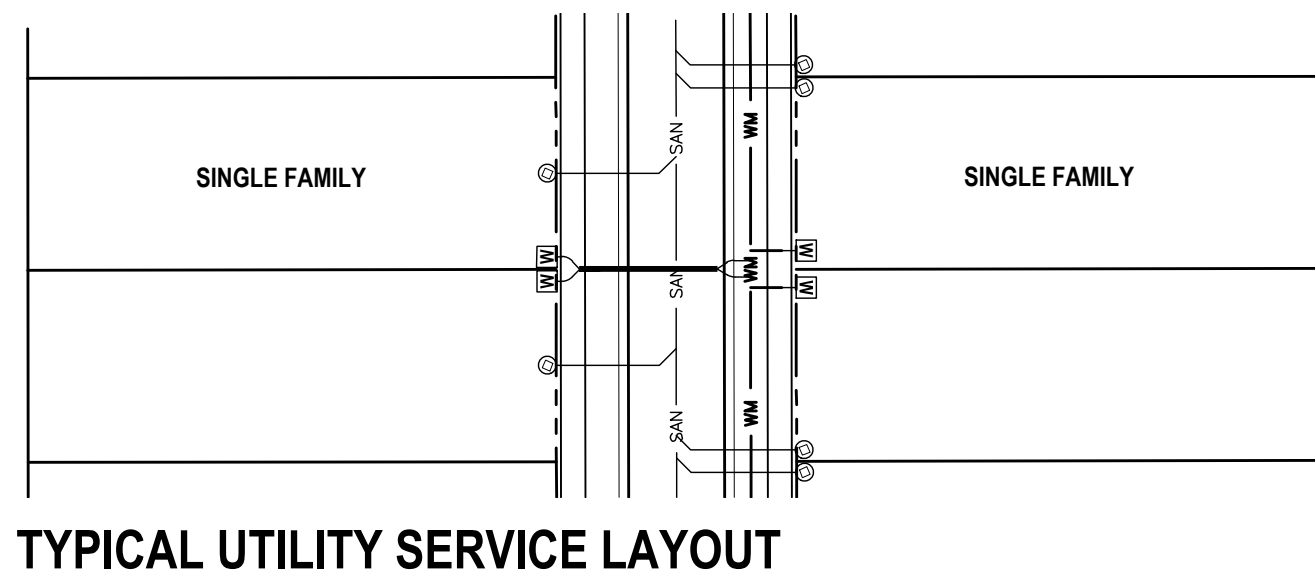
ROADWAY TYPICAL SECTION 50' RIGHT-OF-WAY
NOT TO SCALE



40' TYPICAL LOT
SCALE: 1" = 20'



50' TYPICAL LOT
SCALE: 1" = 20'



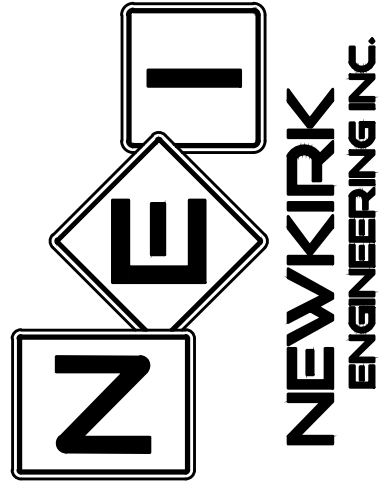
TYPICAL UTILITY SERVICE LAYOUT

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

REVISIONS

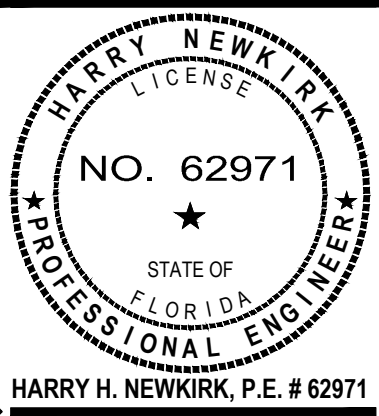
DATE	DESCRIPTION
1/25/21	CITY COMMENTS
2/15/21	CITY COMMENTS
4/9/21	CITY COMMENTS
5/25/21	CITY COMMENTS
6/13/21	CITY COMMENTS
7/17/21	CITY COMMENTS
7/19/21	CITY COMMENTS
8/6/21	CITY COMMENTS

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Phone (386) 872-7794
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SITE LAYOUT PLAN
MADELINE COMMONS CDP
PORT ORANGE, FL 32128

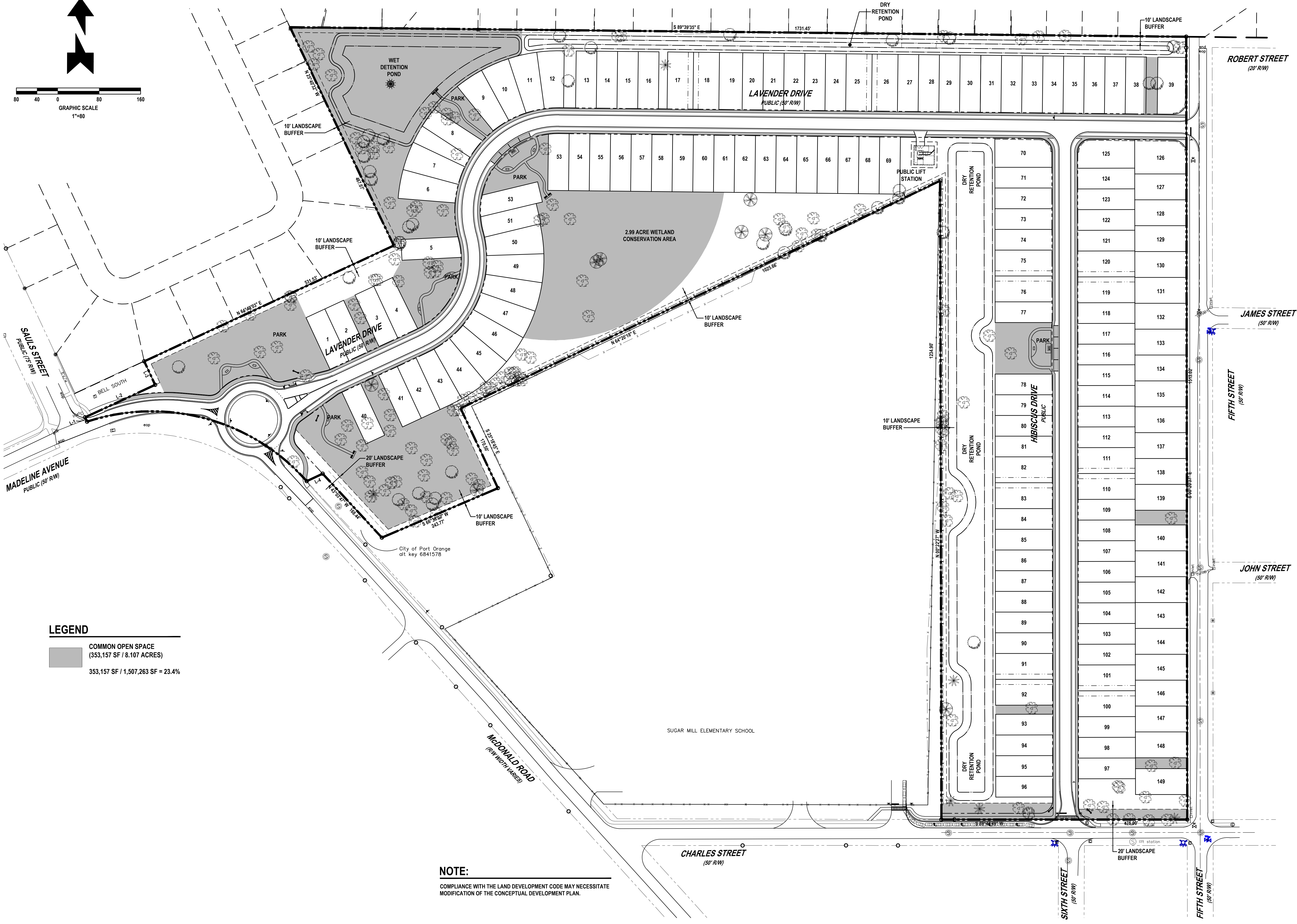
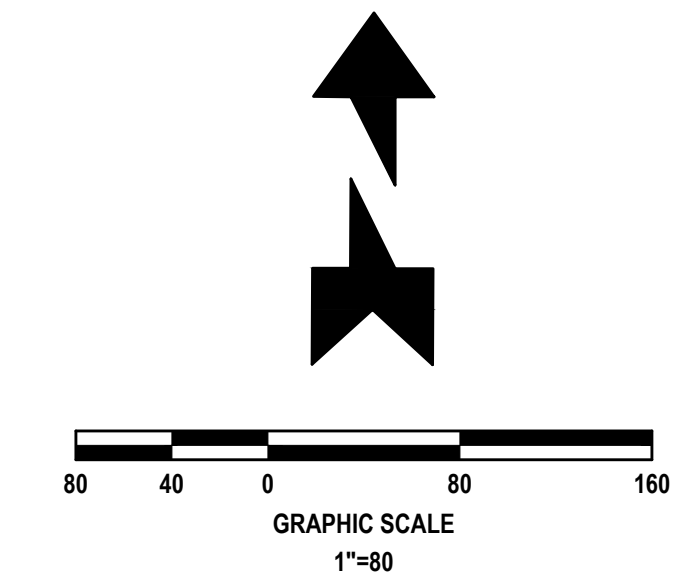
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HARRY H. NEWKIRK, P.E. # 62971

PROJECT No: 2021-24
DATE: JANUARY 2021
DESIGN BY: HHN
DRAWN BY: DAB
CHECKED BY: HHN
SCALE: 1" = 80'
DRAWING NUMBER

2



LEGEND

COMMON OPEN SPACE
(353,157 SF / 8.107 ACRES)

353,157 SF / 1,507,263 SF = 23.4%

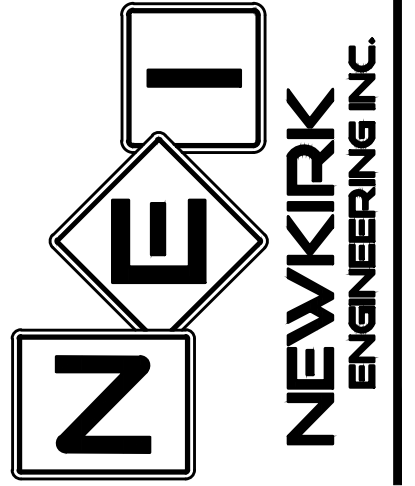
NOTE:

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

REVISIONS

DATE	DESCRIPTION
1/25/21	CITY COMMENTS
2/15/21	CITY COMMENTS
4/9/21	CITY COMMENTS
6/1/21	CITY COMMENTS
7/19/21	CITY COMMENTS
8/6/21	CITY COMMENTS

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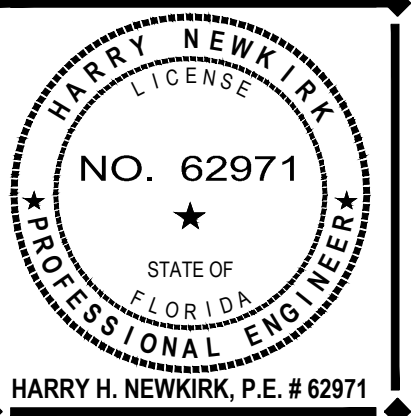


COMMON OPEN SPACE EXHIBIT

MADLINE COMMONS CDP

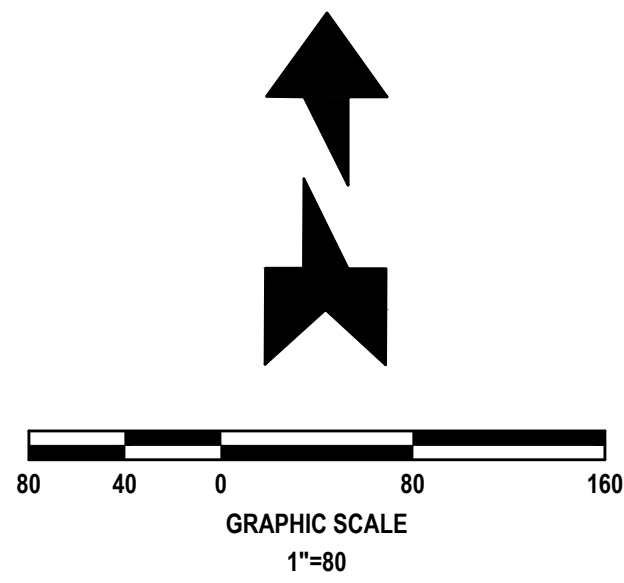
PORT ORANGE, FL 32128

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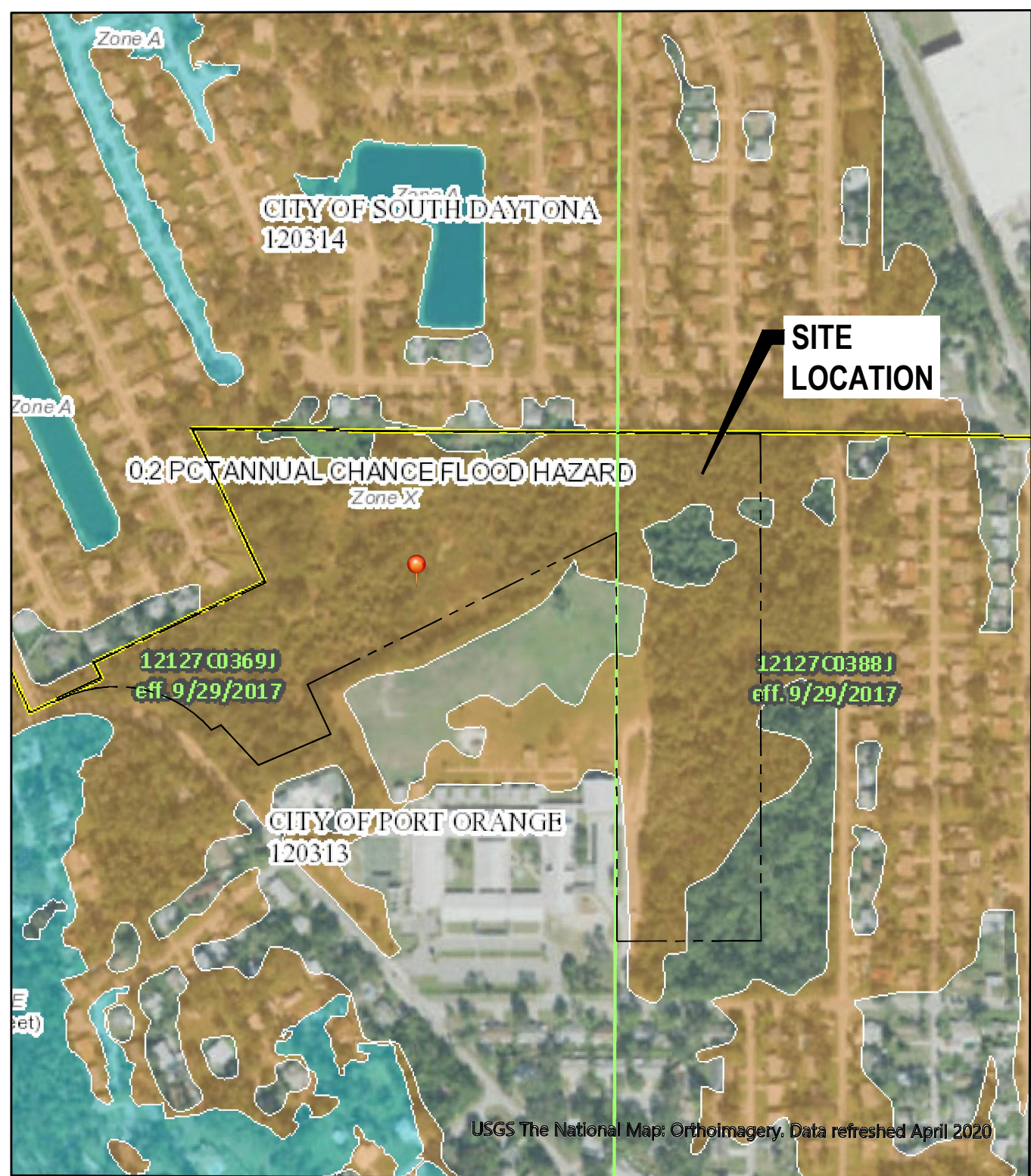
PROJECT No: 2021-24
DATE: JANUARY 2021
DESIGN BY: HHN
DRAWN BY: DAB
CHECKED BY: HHN
SCALE: 1" = 80'
DRAWING NUMBER

3



SKULLS STREET
PUBLIC (60' R/W)

MADLINE AVENUE
PUBLIC (60' R/W)



FEMA FLOOD MAP

SCALE: 1" = 450'

ENTIRE PROPERTY = FLOOD ZONE "X"

NOTE:

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

NOTES

- ELEVATIONS SHOWN ARE NORTH AMERICAN VERTICAL DATUM 1988 (NAVD88).
- SITE SOILS:
 - (29) IMMOKALEE SAND
 - (32) MYAKKA-MYAKKA, WET, FINE SANDS, 0-2% SLOPES
 - (69) TUSCAWILLA FINE SAND

LEGEND

- PORTIONS OF PROPERTY IN FLOOD ZONE X.
- PORTIONS OF PROPERTY IN FLOOD ZONE X (0.2% ANNUAL FLOOD CHANCE).
- EXISTING DRAINAGE BASIN BOUNDARY
- EXISTING FLOW PATH

SUGAR MILL ELEMENTARY SCHOOL

CHARLES STREET
(50' R/W)

TURN LANE IMPROVEMENT
REQUIRES RIGHT-OF-WAY
DESIGN
MODIFICATION. ENTIRE DITCH
TO BE PIPED WITH INLETS TO
EXISTING INLET AT 5TH
STREET

EXISTING BASIN 3

EXISTING BASIN 2

EXISTING BASIN 1

EXISTING BASIN 4

EXISTING BASIN 5

ROBERT STREET
(20' R/W)

JAMES STREET
(50' R/W)

FIFTH STREET
(50' R/W)

JOHN STREET
(50' R/W)

POST DEVELOPMENT
STORMWATER OUTFALL

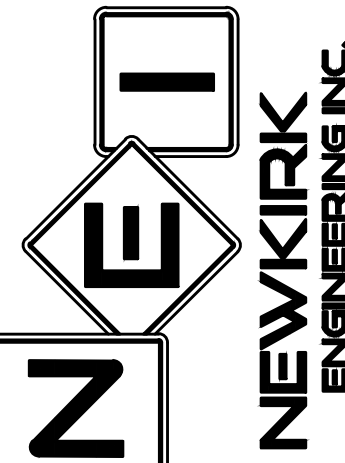
FIFTH STREET
(50' R/W)

SIXTH STREET
(50' R/W)

REVISIONS

DATE	DESCRIPTION
1/25/21	CITY COMMENTS
2/15/21	CITY COMMENTS
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8/6/21	CITY COMMENTS

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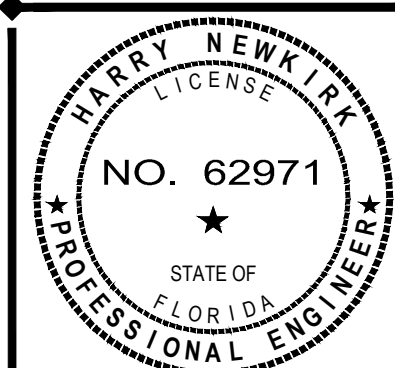


TOPOGRAPHY &
FEMA MAP EXHIBIT

MADLINE COMMONS CDP

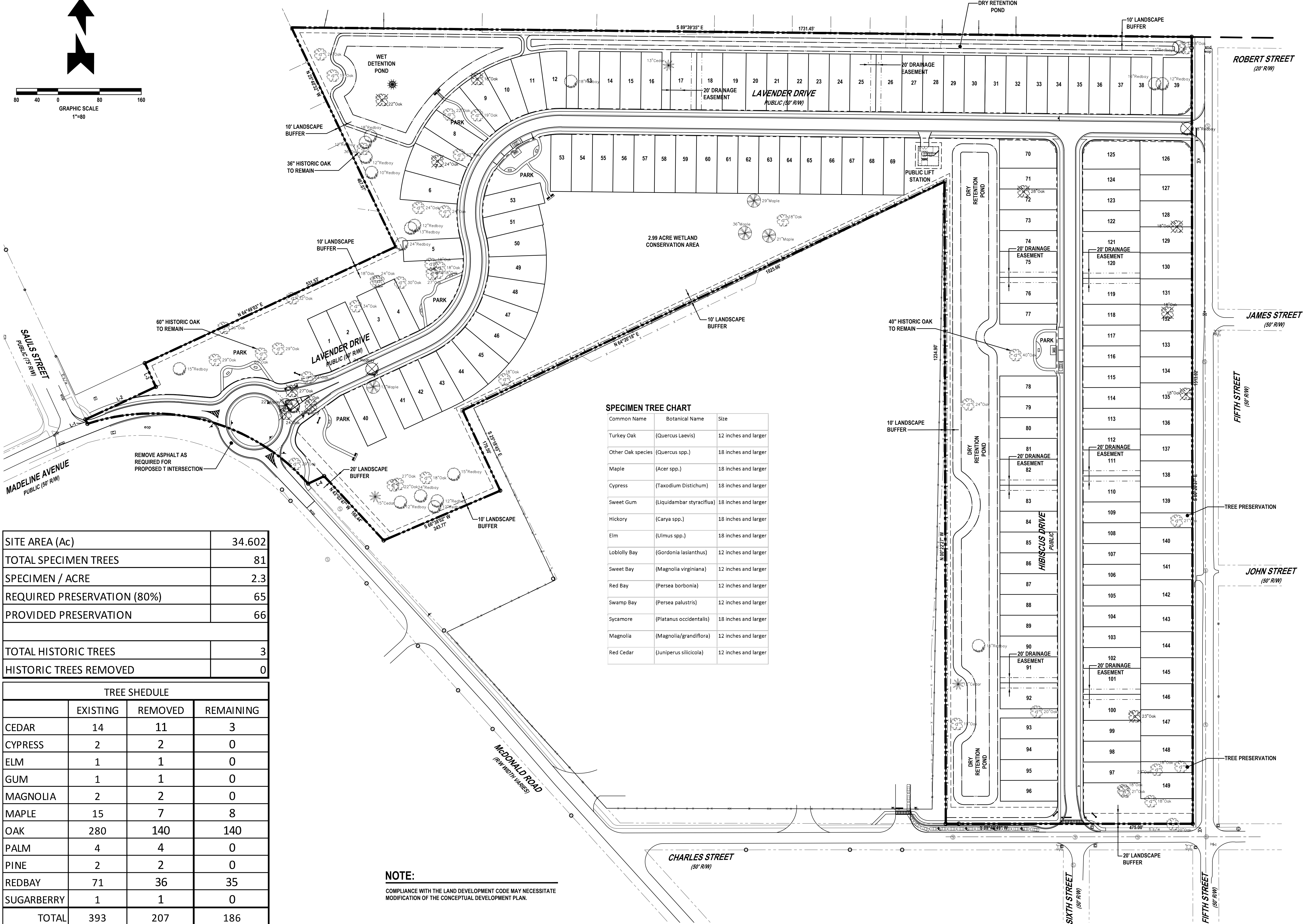
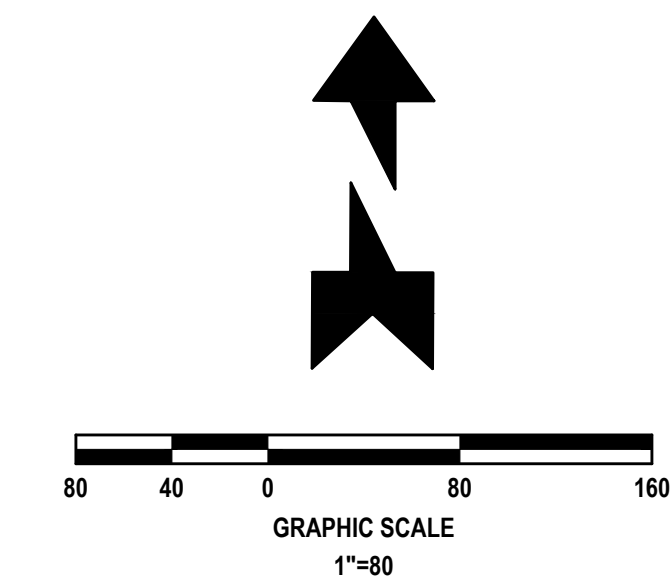
PORT ORANGE, FL 32128

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DRAWN BY:	DAB
CHECKED BY:	HHN
SCALE:	1" = 80'
DRAWING NUMBER	

4



SITE AREA (Ac)	34.602
TOTAL SPECIMEN TREES	81
SPECIMEN / ACRE	2.3
REQUIRED PRESERVATION (80%)	65
PROVIDED PRESERVATION	66
TOTAL HISTORIC TREES	3
HISTORIC TREES REMOVED	0

TREE SHEDULE			
	EXISTING	REMOVED	REMAINING
CEDAR	14	11	3
CYPRESS	2	2	0
ELM	1	1	0
GUM	1	1	0
MAGNOLIA	2	2	0
MAPLE	15	7	8
OAK	280	140	140
PALM	4	4	0
PINE	2	2	0
REDBAY	71	36	35
SUGARBERRY	1	1	0
TOTAL	393	207	186

SPECIMEN TREE CHART		
Common Name	Botanical Name	Size
Turkey Oak	(Quercus laevis)	12 inches and larger
Other Oak species	(Quercus spp.)	18 inches and larger
Maple	(Acer spp.)	18 inches and larger
Cypress	(Taxodium distichum)	18 inches and larger
Sweet Gum	(Liquidambar styraciflua)	18 inches and larger
Hickory	(Carya spp.)	18 inches and larger
Elm	(Ulmus spp.)	18 inches and larger
Loblolly Bay	(Gordonia lasianthus)	12 inches and larger
Sweet Bay	(Magnolia virginiana)	12 inches and larger
Red Bay	(Persea borbonia)	12 inches and larger
Swamp Bay	(Persea palustris)	12 inches and larger
Sycamore	(Platanus occidentalis)	18 inches and larger
Magnolia	(Magnolia grandiflora)	12 inches and larger
Red Cedar	(Juniperus silicicola)	12 inches and larger

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

REVISIONS

DATE	DESCRIPTION
1/25/21	CITY COMMENTS
2/15/21	CITY COMMENTS
4/9/21	CITY COMMENTS
6/1/21	CITY COMMENTS
7/7/21	CITY COMMENTS
7/19/21	CITY COMMENTS
8/6/21	CITY COMMENTS

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Ormond Beach, Florida 32174
Phone (386) 872-7794
www.Newkirk-Engineering.com
C.A. # 30209
L.C. # 26000584
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Civil Engineering,
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Landscape Architecture

TREE PLAN

MADLINE COMMONS CDP

PORT ORANGE, FL 32128

HARRY H. NEWKIRK, P.E. # 62971

PROJECT No:

2021-24

DATE:

JANUARY 2021

DESIGN BY:

HHN

DRAWN BY:

DAB

CHECKED BY:

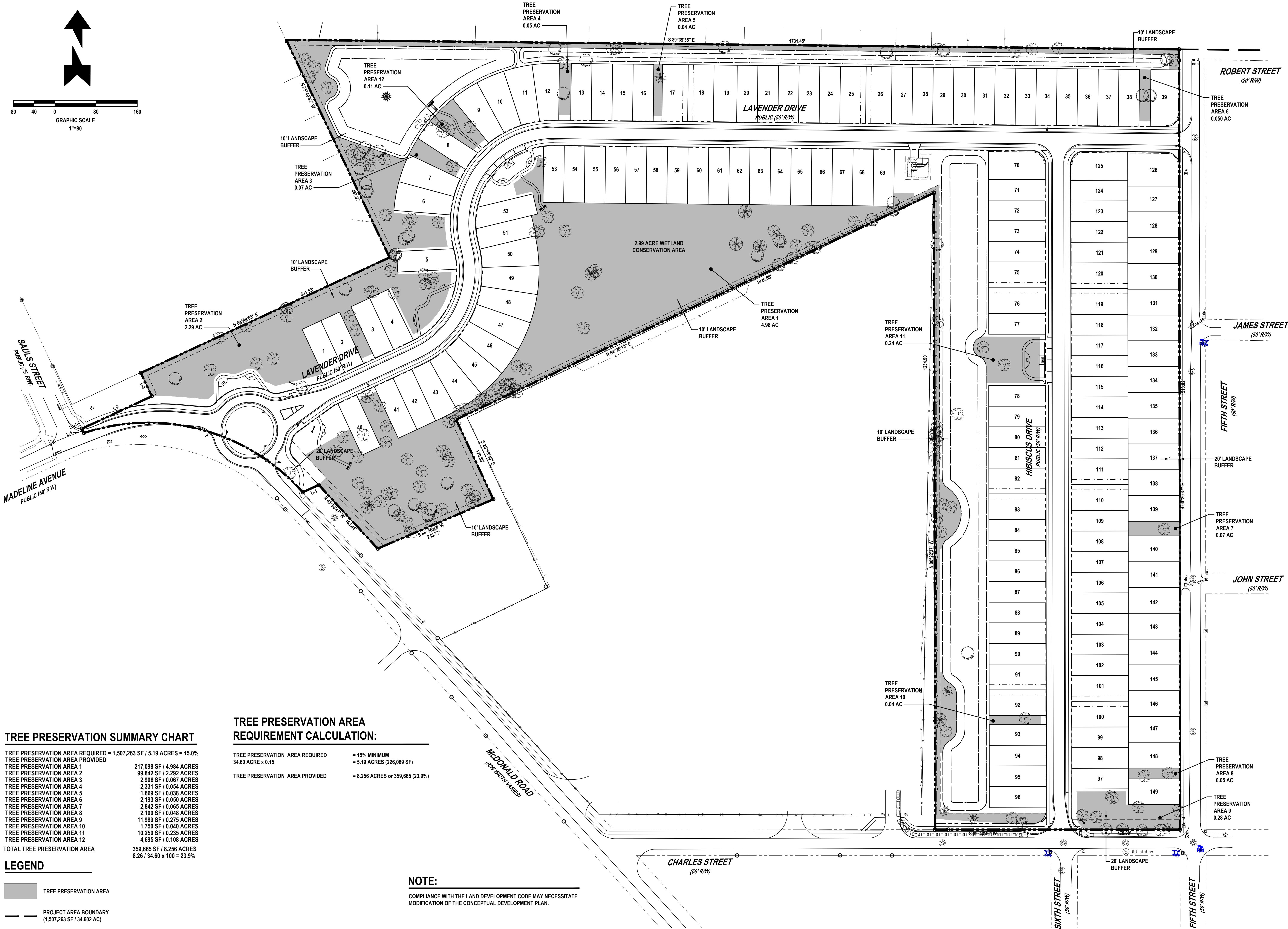
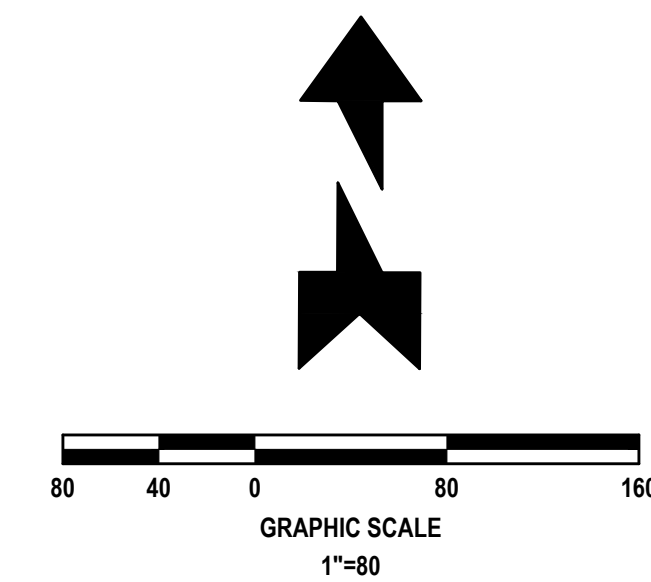
HHN

SCALE:

1" = 80'

DRAWING NUMBER

5



TREE PRESERVATION SUMMARY CHART

TREE PRESERVATION AREA REQUIRED = 1,507,263 SF / 5.19 ACRES = 15.0%	
TREE PRESERVATION AREA PROVIDED	
TREE PRESERVATION AREA 1	217,098 SF / 4.984 ACRES
TREE PRESERVATION AREA 2	99,842 SF / 2.292 ACRES
TREE PRESERVATION AREA 3	2,906 SF / 0.067 ACRES
TREE PRESERVATION AREA 4	2,331 SF / 0.054 ACRES
TREE PRESERVATION AREA 5	1,669 SF / 0.038 ACRES
TREE PRESERVATION AREA 6	2,193 SF / 0.050 ACRES
TREE PRESERVATION AREA 7	2,842 SF / 0.065 ACRES
TREE PRESERVATION AREA 8	2,100 SF / 0.048 ACRES
TREE PRESERVATION AREA 9	11,989 SF / 0.275 ACRES
TREE PRESERVATION AREA 10	1,750 SF / 0.040 ACRES
TREE PRESERVATION AREA 11	10,250 SF / 0.235 ACRES
TREE PRESERVATION AREA 12	4,695 SF / 0.108 ACRES
TOTAL TREE PRESERVATION AREA	359,665 SF / 8.256 ACRES
	8.26 / 34.60 x 100 = 23.9%

LEGEND

- TREE PRESERVATION AREA
- PROJECT AREA BOUNDARY (1,507,263 SF / 34.602 AC)

TREE PRESERVATION AREA REQUIREMENT CALCULATION:

TREE PRESERVATION AREA REQUIRED	= 15% MINIMUM
34.60 ACRE x 0.15	= 5.19 ACRES (226,089 SF)
TREE PRESERVATION AREA PROVIDED	= 8.256 ACRES or 359,665 (23.9%)

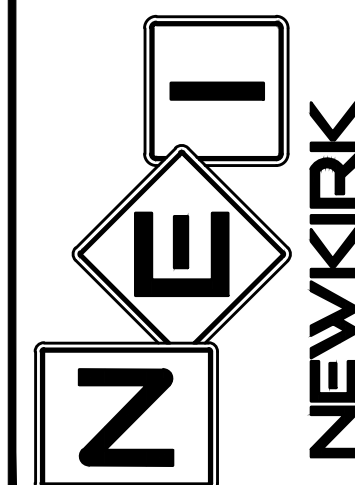
NOTE:

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REVISIONS

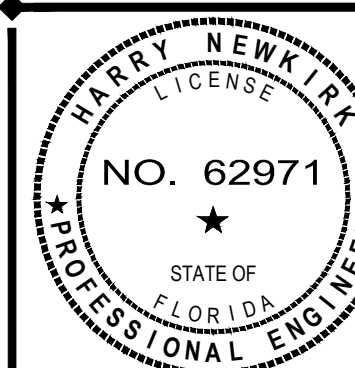
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7/19/21	CITY COMMENTS

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TREE PRESERVATION PLAN
MADELINE COMMONS CDP
PORT ORANGE, FL 32128

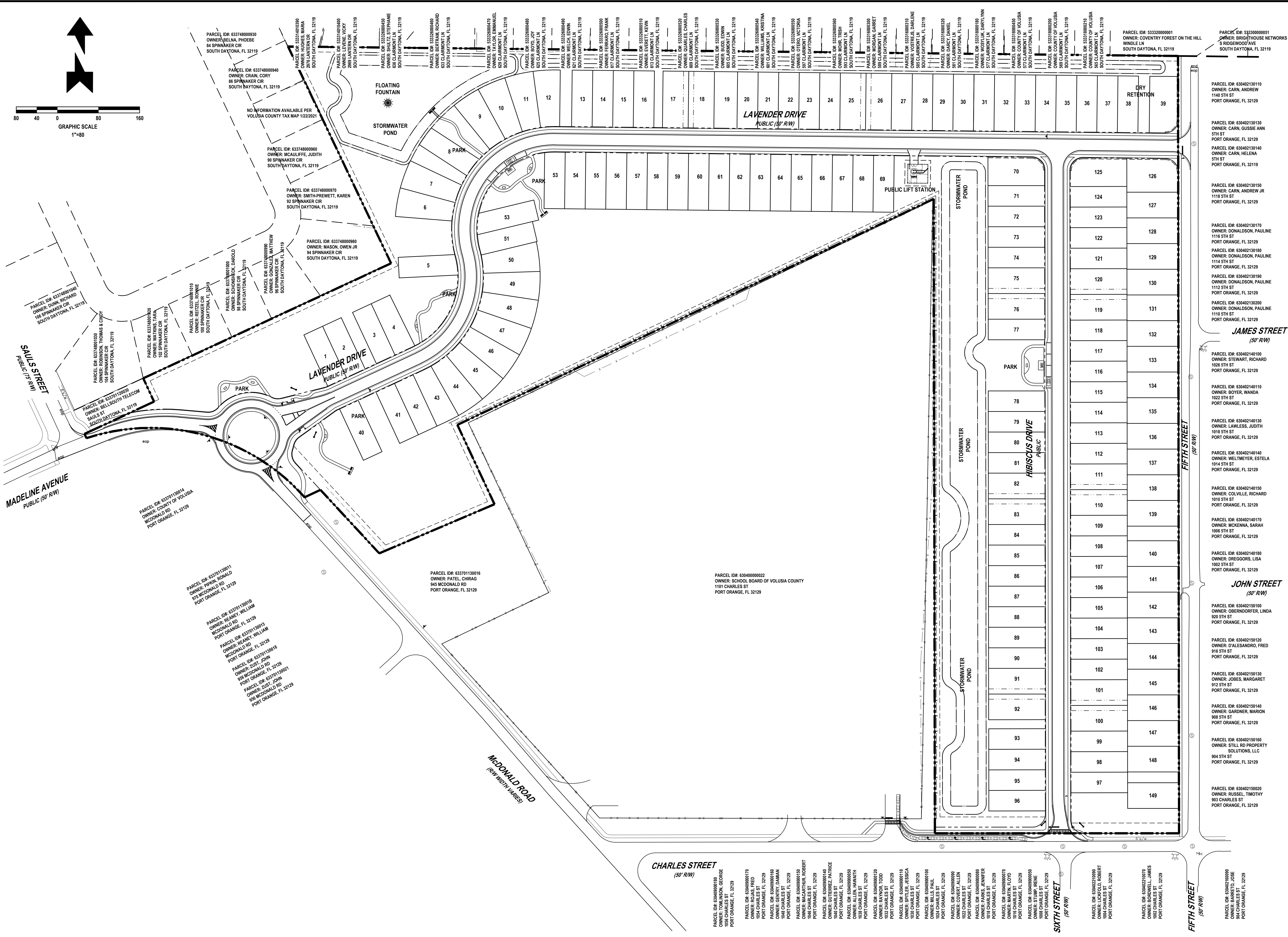
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REVISIONS

DATE	DESCRIPTION
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NEWKIRK
ENGINEERING INC.

1

2

ADJACENT PROPERTY EXHIBIT

MADLINE COMMONS CDP

PORT ORANGE, FL 32128

HARRY NEWKIRK
LICENSE
NO. 62971
STATE OF
FLORIDA
PROFESSIONAL ENGINEER

HARRY H. NEWKIRK, P.E. # 62971

PROJECT No:

2021-24

DATE:

JANUARY 2021

DESIGN BY:

HHN

DRAWN BY:

DAB

CHECKED BY:

HHN

SCALE:

1" = 80'

DRAWING NUMBER

7

Page 61 of

Exhibit C
Transportation Impact Fee Credit Agreement

EXHIBIT "C"

TRANSPORTATION IMPACT FEE CREDIT AGREEMENT

THIS TRANSPORTATION IMPACT FEE CREDIT AGREEMENT (the "Agreement") is made and entered into this _____ day of _____, 2021 (the "Effective Date") by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation located in Volusia County, Florida (the "City"), and _____, a _____, (the "Developer/Owner"); collectively referred to as "Parties".

RECITALS

WHEREAS, the Developer/Owner warrants that they are the current record title owners of the property (the "Subject Property") legally described on **Exhibit "A"** attached hereto and by this reference made a part hereof; and

WHEREAS, the City approved certain entitlements for the construction of improvements on the Subject Property, which are more particularly described as the Madeline Commons Planned Unit Development ("PUD") Master Development Agreement of record in Official Records Book _____, Page _____, Public Records of Volusia County, Florida (the "MDA"); and

WHEREAS, the City owns the right-of-way adjacent to the Subject Property, commonly known as Madeline Avenue, McDonald Road, and Charles Street; and

WHEREAS, certain off-site roadway improvements, including appropriate pedestrian crossing improvements, are required for the purpose of roadway realignment, as more particularly described in **Exhibit "B"** ("Roundabout and Right Turn Lane Improvements") and

WHEREAS, Developer/Owner desires to provide completed, LDC compliant plans to the City for certain off-site roadway improvements for the purpose of City's construction of said improvements as more particularly described in **Exhibit "C"** ("Plans for City Construction"); and

WHEREAS, in accordance with Chapter 21, Article II, Division 1, of the City of Port Orange Code of Ordinances, the City requires developers to pay certain transportation impact fees for the purpose of paying its fair share of the impacts attributable to said development on the transportation system of the City: and

WHEREAS, in accordance with Chapter 21, Article II, Division 1, Section 11, of the City of Port Orange Code of Ordinances, the Developer/Owner may seek transportation impact fee credits based upon the Developer/Owner's qualifying contribution, as defined in Chapter 21, Article II, Division 1, Section 11(c)(1), of constructing the Roundabout and Right Turn Lane Improvements, more particularly described in Exhibit "B", and providing the Plans for City Construction, more particularly described in Exhibit "C" for the benefit of the City in the construction of the necessary roadway improvements as shown in said Exhibit; and

WHEREAS, the construction of the Roundabout and Right Turn Lane Improvements will realign and improve the safety and efficiency of the Madeline Avenue and McDonald Road intersection; and

WHEREAS, providing the Plans for City Construction to the City, will save the City money and time in the design phase and opportunity for acceleration of the construction of the necessary roadway improvements; and

WHEREAS, City and Owner recognize the value of the construction of certain roadway improvements as provided herein, and the provision of completed engineered plans to the City for the benefit of the City's ability to complete the construction of certain roadway improvements; and

WHEREAS, the City and Developer/Owner now desire to enter into this Agreement to set forth the duties and obligations for such contributions to the City, and establish the impact fee credits to which the Developer/Owner will be entitled.

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Recitals.** City and Developer/Owner hereby represent to each other that the above recitals are true and correct and by this reference are made a part of this Agreement.

2. **Agreement to Construct Roundabout and Right Turn Lane Improvements.** Subject to and in accordance with the terms and conditions of this Agreement, Developer/Owner agrees to construct the roundabout at the intersection of McDonald Road and Madeline Avenue and construct the Charles Street right-turn lane into the school in accordance with the engineered plans, submitted and approved by the City of Port Orange and in accordance with the requirements set forth in the Land Development Code of the City of Port Orange ("LDC") and any other requirements of law, as more particularly described in **Exhibit "B"** attached hereto and made a part hereof by reference, hereinafter referred to as "Roundabout and Right Turn Lane Improvements".

3. **Agreement to design, permit, and provide to the City, Plans for the City's construction of roadway improvements.** Subject to and in accordance with the terms and conditions of this Agreement, Developer/Owner agrees to provide for the design and permitting of the engineered plans of the Charles Street left turn lane into the school and Charles Street left turn lane onto McDonald Road; and the intersection improvements at Madeline Avenue and Nova Road in accordance with the City's 2021 River 2 Sea Transportation Planning Organization (TPO) application for this intersection or an approved Feasibility Study from the River 2 Sea Transportation Planning Organization (TPO), as more particularly described in **Exhibit "C"** attached hereto and made a part hereof by reference, hereinafter referred to as "Plans for City Construction".

4. **Ownership of the Plans for City Construction.** Developer/Owner shall facilitate the conveyance and certification to the City of a set of Plans for City Construction stamped "Approved for Construction".

5. **Costs and Obligations of the Plans for City Construction.** Developer/Owner shall be solely responsible for the financial costs and obligations associated with constructing Roundabout and Right Turn Lane Improvements and providing the Plans for City Construction to the City and completing the process of submitting the Plans for City Construction to the City for review and approval and acceptance by the City.

6. **Transportation Impact Fee Credits.**

- a. Value of the Impact Fee Credits. The amount of transportation impact fee credits to which the Developer/Owner is entitled hereunder have been determined in accordance with Chapter 21, Article II, Division 1, Section 6, of the City of Port Orange Code of Ordinances. The total amount of such credit shall not exceed **\$134,398.00**, based on the development of 149 residential units at **\$902 per unit**.
- b. Vesting of Impact Fee Credits. Upon approval and acceptance of the Roundabout and Right Turn Lane Improvements and the approval and acceptance of Plans for City Construction, all in accordance with this Agreement, this Agreement shall serve as a final authorization of a Transportation Impact Fee Credit for the Developer/Owner's project on the Subject Property in the dollar amount not to exceed the amount set forth in **Paragraph 6.a.** hereinabove, recognizing that such credit will be used in connection with the future development of the Developer/Owner's project on the Subject Property in accordance with the entitlements as set forth in the MDA. The Transportation Impact Fee Credit shall be applied to the Transportation Impact Fee at the rate in effect at the time of this Agreement and as set forth in Paragraph 6.a., hereinabove.
- c. Vesting subject to TPO Approval. In the event that the plans for the intersection improvements at Madeline Avenue and Nova Road in accordance with the City's 2021 River 2 Sea Transportation Planning Organization (TPO) application for this intersection or an approved Feasibility Study from the River 2 Sea Transportation Planning Organization (TPO) are not accepted or approved by TPO, then said obligation to provide the plans for this particular improvements shall be considered removed from this Agreement and any Transportation Impact Fee Credit allowed as set forth in Paragraph 6.a. shall be reduced accordingly. All other construction of improvements and provision of plans as set forth herein shall be taken only as a whole for the purpose of vesting.
- d. Use of Impact Fee Credits.
 - i. Upon vesting per Paragraph 6.b., the City shall establish a Transportation Impact Fee Credit for the Developer/Owner in the amounts outlined in Paragraph 6.a hereinabove, from which the Developer/Owner can draw down as needed to obtain building permits from the City for the development of the Subject Property.

- ii. It shall be the responsibility of the Developer/Owner prior to the submittal of an application for a building permit to the City, to submit such information as required by the City to assess Transportation Impact Fees on any development of the Subject Property. Upon payment of any other applicable fees due on the planned construction and until such time that the Transportation Impact Fee Credit has been fully exhausted, the City shall issue an impact fee voucher to the Developer/Owner that indicates that the Transportation Impact Fee has been paid.

7. Notwithstanding any language to the contrary, the Parties hereby agree as follows:

- a. The acceptance of the Plans for City Construction, shall be subject to the submittal and review process as set forth in the LDC, and approval and acceptance by the City, with the understanding that the Developer/Owner retains the responsibility and liability following such acceptance for compliance with all outstanding construction standards, codes, regulations, ordinances and state laws. This provision shall survive the termination or expiration of this Agreement.
- b. Upon City's approval and acceptance of the Plans for City Construction, ownership of said plans shall be transferred and assigned to the City. The engineer of record for the Plans for City Construction shall join in the signing of this Agreement for the purpose of concurrence and consent of such transfer of ownership and to the terms and conditions set forth herein.

8. **Relationship Between the Parties.** The Parties hereby mutually agree that this Agreement shall not operate to create the relationship of partnership, joint venture, between City and Developer/Owner. Developer/Owner's contractors are exclusively and solely under the control and dominion of Developer/Owner. Nothing herein shall be deemed to make Developer/Owner or its contractors an agent or contractor of the City.

9. **Amendment; Modification.** No supplement, modification, or amendment of this Agreement shall be binding unless executed in writing and signed by both Parties.

10. **Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual right by custom, estoppel, or otherwise.

11. **Binding Effect.** Each and all of the covenants and conditions shall be binding on and shall inure to the benefit of the Parties, and their successors, heirs, personal representatives, or assigns. This section shall not be construed as an authorization for any Party to assign any right or obligation.

12. **No Third Party Beneficiaries.** The City shall not be liable to any third party who may have relied on this Agreement. This Agreement is solely for the benefit of the Parties hereto

and no causes of action shall accrue upon or by reason hereof to or for the benefit of any third party.

13. **Invalidity; Severability.** If any provision of this Agreement is contrary to, or prohibited by any applicable law or regulation, or deemed invalid by any court of competent jurisdiction, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited or invalid. The remainder of this Agreement shall not be invalidated thereby and shall be given full force and effect.

14. **Effective Date.** This Agreement shall become effective upon approval and execution by all Parties.

15. **Entire Agreement.** This Agreement contains and sets forth all the promises, covenants, agreements, conditions, and understandings between the Parties with respect to the subject matter of this Agreement.

16. **Counterparts.** This Agreement may be executed in any number of counterparts and by the Parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

17. **Assignment.** This Agreement and the terms and conditions hereof shall run with be binding upon the Subject property as covenants running with the land, and this Agreement shall be binding upon and inure to the benefit of the City and the Developer/Owner and their respective assigns and successors in interest to the Subject Property.

[Signatures on Following Page]

IN WITNESS WHEREOF, City and Developer/Owner have executed this Agreement as of the dates set forth below.

Signed, sealed and delivered
in the presence of:

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

Witness 1

By: _____
Wayne Clark, City Manager

Print Name of Witness 1

Attest:

Witness 2

By: _____
Robin Fenwick, City Clerk

Print Name of Witness 2

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 Wayne Clark, City Manager of City of Port Orange, Florida, a chartered municipal corporation, on behalf of City, who is personally known to me and did not take an oath.

(Seal)

Notary Type, Print or Stamp Name
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 Fenwick, City Clerk of City of Port Orange, Florida, a chartered municipal corporation, on behalf of City, who is personally known to me and did not take an oath.

(Seal)

Notary Type, Print or Stamp Name
My commission Expires _____

Signed, sealed and delivered
in the presence of:

OWNER/DEVELOPER

Witness 1

Print Name of Witness 1

Witness 2

Print Name of Witness 2

By: _____
Print Name & Title

Dated: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of [XX] physical presence
or [] online notarization this ____ day of _____, 2021, by _____, as
_____ of _____, a _____. They are [] personally
known to me or produced _____ as identification and did not take an oath.

(Seal)

Notary Type, Print or Stamp Name
My commission Expires _____

IN WITNESS WHEREOF, this Concurrence and Consent to the transfer of ownership of the Plans for City Construction, subject to the terms and conditions set forth in this Agreement is executed by the undersigned on the date set forth below.

WITNESSES:

ENGINEER

Name: _____

Name: _____

By: _____

Name: _____

Title: _____

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

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

(Seal)

Notary Type, Print or Stamp Name

My commission Expires _____

EXHIBIT “A”

Legal Description

DRAFT

EXHIBIT “B”

“Roundabout and Right Turn Lane Improvements”

DRAFT

EXHIBIT “C”

“Plans for City Construction”

DRAFT



Scott Fritz, Ed.D.
Superintendent of Schools

School Board of Volusia County

Mrs. Linda Cuthbert, Chairman
Ms. Jamie M. Haynes, Vice Chairman
Mrs. Anita Burnette
Mr. Ruben Colón
Mr. Carl Persis

School Adequate Capacity Determination Finding of Adequate Capacity Letter

July 20, 2021

Mr. A. Joseph Posey, Jr., Esq.
Storch Law Firm
420 South Nova Road
Daytona Beach, FL 32114

RE: Madeline Commons – City of Port Orange (Second Amended Application)
School Capacity Review #20-10-13-001-A

Dear Mr. Posey:

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

The District has reviewed the updated information for the proposed PUD Madeline Commons associated with 34.602 +/- acres of property located at the intersection of Madeline Avenue and Nova Road within Port Orange city limits. Proposed amendment would provide for one hundred and forty-nine (149) single-family-home units.

The district uses a county wide Student Generation Rate (SGR) of (0.273) per single-family dwelling unit to calculate projected students. By applying the SGR to the use types in Table 1 below, the project could generate forty-two (42) full time students.

Table 1

UNIT TYPE	SGR	UNIT COUNT	STUDENTS GENERATED
Single Family Dwelling Unit	0.273	149	42
Multifamily Dwelling Unit	0.127	0	0
Manufactured Home Dwelling Unit	0.047	0	0
	Total	149	42

Madeline Commons – Daytona Beach
July 20, 2021

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

Table 2

Schools	2019-20 SY Enrollment	% of Permanent Capacity	Plans for capacity increase long-term	Traditional K-12 Students projected
Sugar Mill Elementary	633	112.84%	No	18
Silver Sands Middle	1,324	118.26%	No	11
Spruce Creek High	2,501	122.27%	No	12
Other				1

The student projections generated by this project will increase the existing percentage above 100% permanent capacity at all levels. Sugar Mill Elementary is projected to decrease in total students over the next several years to be at or below 100%. Currently, the planning area (Halifax) for Silver Sands Middle School and Spruce Creek High is at or over 100% but below 115% and 120%, respectively, for concurrency. Based on this and long-term plans for growth, the school district has no objections to the proposed development plan. Minimum planning considerations should include pedestrian and vehicular access, safety, connectivity, and buffering.

All future development orders, such as site plans and subdivisions, are subject to school concurrency review. School concurrency will be evaluated at that time when the impact of development is specifically quantified and known. Only funded school improvements and then current capacity will be considered at that time.

No Student Reservations have been made at this time.

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

Should you have additional questions, please contact me at (386) 947-8786, extension 50709.

Sincerely,



Stephanie B. Doster,
Coordinator, Planning

CC: Scott Fritz, Ed.D, Superintendent of Schools
Steven Grube, Director, Planning and Construction
Perney Gwen, Principal Planner, City of Port Orange
Lisa Divina, Volusia County School Board Project File



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

Project Information	
Project Name	Madeline Commons
VCSB Project #	#20-10-13-001-A
Jurisdiction Project#	
Parcel ID Numbers:	6304-00-00-0021; 6337-01-13-010; 6304-02-22-0010; 6337-01-13-0017
Project Location:	Madeline Avenue and Nova Road
Potential Residential Units:	149 Single Family Units
Property Owner/Applicant:	A. Joseph Posey, Jr., Esq. – Agent
Notes: Additional review will be required at the time of subdivision/site plan submittal(s). No Student Reservations have been made.	

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

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

A blue ink signature of Stephanie B. Doster, consisting of a stylized 'S' and 'D'.

Stephanie B. Doster
Coordinator, Planning

20 July 2021
Issue Date

Exhibit 5

SUMMARY OF NEIGHBORHOOD MEETING FOR MADELINE COMMONS

A neighborhood meeting was held on February 22 at 6:00PM at the Lakeside Community Center to discuss the proposed residential Planned Development rezoning for Parcel Nos. 6304-00-00-0021, 6337-01-13-0010, 6304-02-22-0010, and 6337-01-11-30-0017. In attendance at the meeting were A. Joseph Posey of Stoch Law Firm, attorney for the developer; Harry Newkirk of Newkirk Engineering, the project engineer. Approximately 90 area residents and neighbors were in attendance. A sign-in sheet was provided, however, the number of attendees made it difficult to direct an orderly use of the sign-in sheet, therefore, it was not utilized. Although there were a number of attendees from neighborhoods in the City of South Daytona, most of the attendees lived in the City of Port Orange.

Mr. Posey began by giving a presentation that explained existing conditions and entitlements for the property, and then moved to explain the features of the Madeline Commons Planned Development. The presentation highlighted the additional amenities being proposed with this development (i.e., club house for residents, the clustering of development that allow for an increase in buffers and open space, redesign of Madeline and McDonald transition to alleviate congestion and address pedestrian safety and assisting the City with the redesign of the Madeline and Nova intersection). There were several comments provided prior to the meeting by area residents, with regard to traffic, drainage and environments, and those comments were incorporated into the presentation. A full-size concept plan, several building elevations and a proposed entrance feature were on display before, during and after the meeting so that attendees could see a graphic depiction of the development. After finishing his presentation of the project, Mr. Posey opened the meeting to questions. The questions included:

- How compatible is this project with the surrounding community?
- How will this project access 5th Street?
- How will this project affect access from Sauls Street?
- How much will homes cost in the development?
- What traffic improvements options are available for the Madelina and McDonald transition?
- How far is the development from adjoining residents?
- Why are you proposing townhomes as part of the project?
- What density are you proposing? Can density be reduced for this project?
- How much of a buffer will be provided along Charles, McDonald and Madeline?
- How will you be addressing drainage issues in the area?
- How will you be addressing traffic congestion during and after school hours?
- Can you work with the school to help with the traffic situation?
- How will the existing wildlife be affected? What areas of the project are being preserved?
- Will the project have an HOA?
- What is the process for approval and how many hearings will there be on this project?

Mr. Newkirk addressed the design questions related to drainage and traffic. The question-and-answer session for the project continued for about an hour and half. There were many comments about the affect on quality of life in the area. All attendees were encouraged to contact Mr. Posey's office if they had any follow up questions or comments. Mr. Posey stated that he will investigate options to address the traffic and design related concerns raised by the residents. The meeting ended approximately at 8:15 PM.

SUMMARY OF SECOND NEIGHBORHOOD MEETING FOR MADELINE COMMONS

A neighborhood meeting was held on April 16th at 6:00PM at the Piggotte Center Reception Hall to discuss the updated concept plan form the proposed residential Planned Development rezoning for Parcel Nos. 6304-00-00-0021, 6337-01-13-0010, 6304-02-22-0010, and 6337-01-11-30-0017. In attendance at the meeting were A. Joseph Posey of Stoch Law Firm, attorney for the developer; Harry Newkirk of Newkirk Engineering, the project engineer; and Crystal Mercedes, Transportation Planner for Lassiter Transportation. Approximately 40 area residents and neighbors were in attendance. A sign-in sheet was provided and copy of same is enclosed. Although there were a number of attendees from neighborhoods in the City of South Daytona, most of the attendees appeared to be from the City of Port Orange.

Mr. Posey began by giving a presentation that explained the revisions to the concept plan, which included the traffic improvements, proposed round-about and turn lane for school traffic. He then moved to explain the reduced number of townhomes proposed and the addition of more single-family lots within the project. The presentation was structured as an update to compare the changes from the previous plan. A full-size concept plan, several building elevations and a proposed entrance feature were on display before, during and after the meeting so that attendees could see a graphic depiction of the development. After finishing his presentation of the project, Mr. Posey opened the meeting to questions. The questions included:

- How much are homes within the development?
- How can short term rentals be restricted within the community?
- How can quality be maintained for area residents?
- With project have an HOA?
- What are the existing entitlements for the project? How do they affect future development rights?
- How much will homes cost in the development?
- How large are the buffers within the development?
- What other traffic improvements are possible for the project?
- What drainage improvements are proposed for the project?
- Can you elaborate on the discussions with the School to address the traffic situation?
- What is the process for approval? How many hearings will there be on this project?

The question-and-answer session for the project continued for most of the meeting. Mr. Newkirk addressed the design questions related to site design and drainage, and Crystal Mercedes addressed traffic related questions. There were many comments about the quality within the development and a back and forth about options to address traffic, including the potential use of traffic tables for speeding. All attendees were encouraged to contact Mr. Posey's office if they had any follow up questions or comments. Mr. Posey stated that he will continue investigating options to address the traffic and design related concerns raised by the residents. The meeting ended approximately at 8:00 PM.



STAFF REPORT

21-1 Large-Scale Comprehensive Plan Amendment/
CASE NO. 21-20000001

REQUEST:	Amend the Comprehensive Plan to create a Property Rights Element in compliance with House Bill 59.
APPLICANT:	City of Port Orange
STAFF CONTACT:	Penelope Cruz, Planning Manager, (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 26, 2021

OVERVIEW

The proposed amendment is a City initiated request to approve a Large-Scale Comprehensive Plan Text Amendment, creating a Property Rights Element in the City's Comprehensive Plan, to ensure that private property rights for property owners are considered in local decision making. House Bill 59 was approved¹ during the 2021 legislative session and signed by Governor DeSantis on June 29, 2021 and became effective on July 1, 2021. The proposed amendment will not create any impacts for residents, as the amendment is to ensure it is documented at the local level that private property rights are to be considered in all local decision making in addition to existing protections in State and Federal law related to private property rights.

DISCUSSION

House Bill 59 mandates all local governments to adopt a Property Rights Element as part of their comprehensive plan. According to House Bill 59, prior to the City processing the next city-initiated or private property landowner-initiated amendment to the City's Comprehensive Plan, the City must add a property rights element to the comprehensive plan. Therefore, this essentially means that any development proposal that requires a comprehensive plan amendment is under a moratorium until the City adds a property rights element into their Comprehensive Plan. Staff has initiated this amendment as there are pending private property owner-initiated and City-initiated Future Land Map amendment requests that would not be able to be processed until the property rights element is added into the City's Comprehensive Plan.

House Bill 59 included model language that a local government could use to establish the mandated property rights element in their comprehensive plan and be in compliance with House Bill 59. Staff is proposing the following Goal, Objective, and Policies be included as Chapter 11 in the City's Comprehensive Plan to ensure private property rights are considered in all local decision making and comply with House Bill 59. The

¹ House Vote 82 Yeas - 32 Nays; Senate Vote 38 Yeas - 0 Nays

Goal, Objective, and Policies listed below are consistent with the model language provided in House Bill 59:

PROPOSED AMENDMENT

CHAPTER 11 – PROPERTY RIGHTS ELEMENT

GOAL 1: TO RESPECT JUDICIALLY ACKNOWLEDGED AND CONSTITUTIONALLY PROTECTED PRIVATE PROPERTY RIGHTS.

Objective 1.1: The following policies are to ensure that private property rights shall be considered in local decision making.

Policy 1.1.1: The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.

Policy 1.1.2: The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 1.1.3: The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1.1.4: The right of a property owner to dispose of his or her property through sale or gift.

RECOMMENDATION

Staff recommends approval of the proposed amendment to the City's Comprehensive Plan to create a Property Rights Element (Chapter 11) in compliance with House Bill 59.

Attachments

Exhibit A - House Bill 59 (see the highlighted State mandate)

Exhibit A

CHAPTER 2021-195

Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 59

An act relating to growth management; amending s. 163.3167, F.S.; specifying requirements for certain comprehensive plans effective, rather than adopted, after a specified date and for associated land development regulations; amending s. 163.3177, F.S.; requiring local governments to include a property rights element in their comprehensive plans; providing a statement of rights which a local government may use; requiring a local government to adopt a property rights element by the earlier of its adoption of its next proposed plan amendment initiated after a certain date or the next scheduled evaluation and appraisal of its comprehensive plan; prohibiting a local government's property rights element from conflicting with the statement of rights contained in the act; amending s. 163.3237, F.S.; providing that the consent of certain property owners is not required for development agreement changes under certain circumstances; providing an exception; amending s. 337.25, F.S.; requiring the Department of Transportation to afford a right of first refusal to certain individuals under specified circumstances; providing requirements and procedures for the right of first refusal; amending s. 380.06, F.S.; authorizing certain developments of regional impact agreements to be amended under certain circumstances; providing retroactive applicability; providing a declaration of important state interest; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (3) of section 163.3167, Florida Statutes, is amended to read:

163.3167 Scope of act.—

(3) A municipality established after the effective date of this act shall, within 1 year after incorporation, establish a local planning agency, pursuant to s. 163.3174, and prepare and adopt a comprehensive plan of the type and in the manner set out in this act within 3 years after the date of such incorporation. A county comprehensive plan is controlling until the municipality adopts a comprehensive plan in accordance with this act. A comprehensive plan for a newly incorporated municipality which becomes effective ~~adopted~~ after January 1, 2016 ~~2019~~, and all land development regulations adopted to implement the comprehensive plan must incorporate each development order existing before the comprehensive plan's effective date, may not impair the completion of a development in accordance with such existing development order, and must vest the density and intensity approved by such development order existing on the effective date of the comprehensive plan without limitation or modification.

Section 2. Paragraph (i) is added to subsection (6) of section 163.3177, Florida Statutes, to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.—

(6) In addition to the requirements of subsections (1)-(5), the comprehensive plan shall include the following elements:

(i)1. In accordance with the legislative intent expressed in ss. 163.3161(10) and 187.101(3) that governmental entities respect judicially acknowledged and constitutionally protected private property rights, each local government shall include in its comprehensive plan a property rights element to ensure that private property rights are considered in local decisionmaking. A local government may adopt its own property rights element or use the following statement of rights:

The following rights shall be considered in local decisionmaking:

1. The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights.
2. The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.
3. The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.
4. The right of a property owner to dispose of his or her property through sale or gift.

2. Each local government must adopt a property rights element in its comprehensive plan by the earlier of the date of its adoption of its next proposed plan amendment that is initiated after July 1, 2021, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to s. 163.3191. If a local government adopts its own property rights element, the element may not conflict with the statement of rights provided in subparagraph 1.

Section 3. Section 163.3237, Florida Statutes, is amended to read:

163.3237 Amendment or cancellation of a development agreement.—A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest. A party or its designated successor in interest to a development agreement and a local government may amend or cancel a development agreement without securing the consent of other parcel owners whose property was originally subject to the development agreement, unless the amendment or



STAFF REPORT

Amendment to the Port Orange Town Center Community Redevelopment Plan Case No. 21-15000001

REQUEST:	Amend the Port Orange Town Center (POTC) Redevelopment Plan to modify the Riverwalk Planned Community Conceptual Development Plan (CDP) to further encourage the development of the Riverwalk area as a waterfront mixed-use destination along the Halifax River.
APPLICANT:	City of Port Orange
STAFF RECOMMENDATION:	Approval
STAFF CONTACT:	Penelope Cruz, Planner Manager (386) 506-5671
PLANNING COMMISSION DATE:	August 26, 2021

INTRODUCTION

The proposed amendments to the Port Orange Town Center (POTC) Redevelopment Plan would modify the Riverwalk Planned Community Conceptual Development Plan (CDP) to continue implementing the redevelopment in the Riverwalk area: 1) remove limits to the amount of residential units and non-commercial square-footage that could be developed in pre-determined areas within the Riverwalk; 2) identify the general location of a public use trail along the Halifax River, between the current terminus and Dunlawton Avenue; and 3) expand the area for the marina project type.

The POTC Redevelopment Plan (A Plan for Town Center) was originally adopted in 1998 and amended in 2007, 2014, and 2016. The Plan currently envisions the Riverwalk project area as a walkable development along the Halifax River that includes commercial, office, residential, civic, and entertainment uses. The original development concept for Riverwalk has changed in recent years from having one developer establish a master plan for the entire Riverwalk area to a City park and multiple developers developing specific areas within the +/- 35-acre Riverwalk area to achieve the Plan.

The current focus of the Riverwalk project is on development of the ±10 acres of land currently owned by the City and Port Orange Town Center Community Redevelopment District (CRA) located at the south end of the Riverwalk area. On July 20, 2021, the City Council and CRA entered into a Real Estate Brokerage Agreement with Colliers International Florida, LLC to market and list for sale the City's and CRA's ±10 acres to potential developers for the development of a waterfront mixed-use destination along the Halifax River.

At the April 28, 2021 City Council Workshop, the City Council provided direction to staff to make the necessary changes to the CRA Plan and Land Development Code to support the development of the City's and CRA's ±10-acre site as a waterfront mixed-use destination along the Halifax River that completes the Riverwalk public trail, provides

residents with access to the Halifax River, and provides a desired commercial, office, residential, civic, entertainment, and water-based uses.

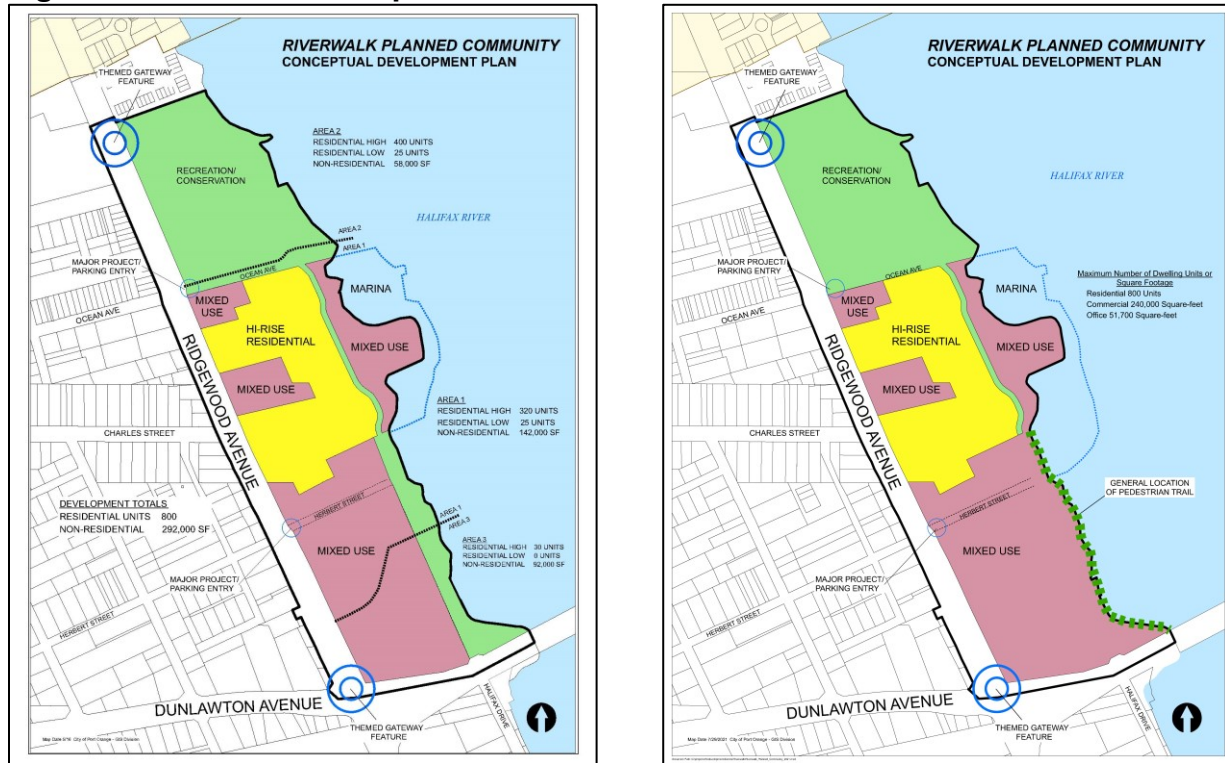
The proposed amendments to the CDP are intended to assist in the development of the last significant parcel within the Riverwalk area.

SUMMARY OF PROPOSED AMENDMENTS

The proposed amendment is to clarify the development parameters on the CDP as follows:

- 1) Remove the three “Area” labels on the CDP and the maximum number of dwelling units and office and retail square-footage allowed for each area as shown on the CDP. According to the City’s Comprehensive Plan, a maximum of 800 residential units, 240,000 square-feet of commercial, and 51,700 square-feet of office is allowed to be developed in the ±35-acre Riverwalk area. The CDP currently divides the Riverwalk area into three (3) Areas and for each Area there is a maximum number of dwelling units and maximum amount of retail and office square-footage allowed. However, the maximum number of dwelling units and retail and office square-footage listed on the CDP for each Area did not correspond with current project types in each Area. For example, on the CDP it identifies the area north of Ocean Avenue that is currently developed as Riverwalk Park as “Area 1” and allows for the development of 425 dwelling units and 58,000 square-feet of non-residential uses. The CDP has been revised to remove the labels that identified the three “Areas” and call outs for each Area as to the maximum number of dwelling units and non-residential square-footage allowed. A note has been added to the CDP that provides the overall maximum number of dwelling units and office/retail square-footage allowed in the ±35-acre Riverwalk area according to the City’s Comprehensive Plan.
- 2) Modify the area of the Recreation/Conservation project type for the southern portion of the Riverwalk Trail to a dashed line located along the shoreline and provide a note that the line identifies the general location of the required public use trail. The change is to identify that it is a requirement to continue the public use trail from the current terminus to Dunlawton Avenue for potential developers, but also provide flexibility in the where the trail is constructed (on land, over the water, or combination of both).
- 3) Expand the general area for the marina project type to extend further to the south to expand the opportunity to develop more water-based uses (marina, boat rentals, water taxi, etc.) to achieve the development of Riverwalk as waterfront mixed-use destination along the Halifax River.

Figure 1. Current and Proposed Riverwalk CDP



CONSISTENCY WITH THE COMPREHENSIVE PLAN

The proposed amendment is consistent with the intent of the Comprehensive Plan policies regarding the Riverwalk project being a walkable community along the Halifax River that includes commercial, office, residential, civic, and entertainment uses. The Comprehensive Plan states that development should create a unique riverfront location based on a healthy mix of entertainment, retail, office and housing uses and promote river-based activities and events to attract citizens and tourists.

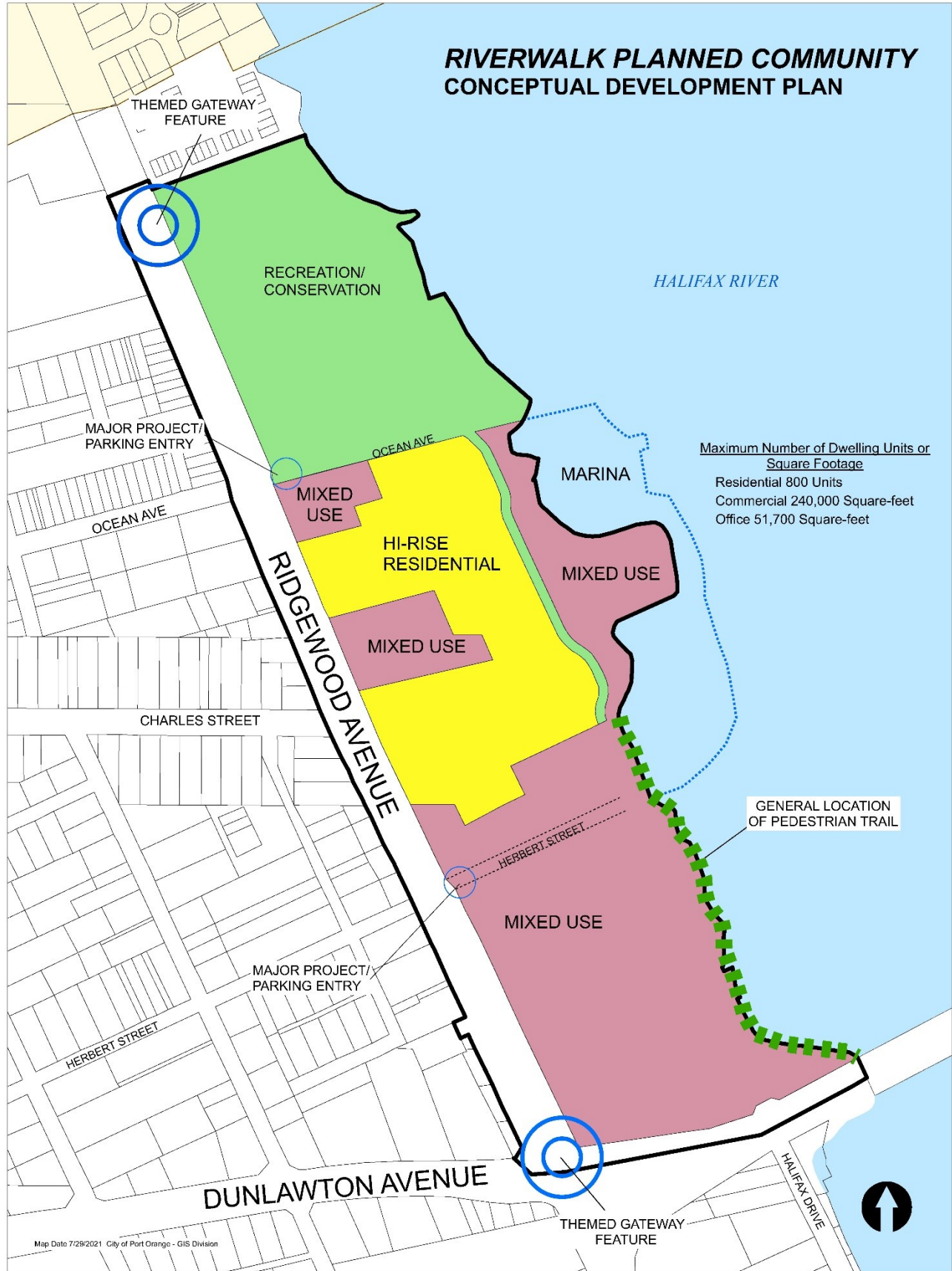
RECOMMENDATION

Approval of the proposed amendments to the Port Orange Town Center Redevelopment Plan.

ATTACHMENTS

Exhibit A – Proposed Port Orange Town Center Redevelopment Plan, Riverwalk Planned Community Conceptual Development Plan

EXHIBIT A





STAFF REPORT

CASE NO. 21-25000005

LDC Amendment/ Chapters 2, 17, and 18

REQUEST:	Amendments to Chapters 2, 17, and 18 of the Land Development Code (LDC) regarding the Riverwalk Overlay District and the Planned Commercial-Riverwalk (PC-R) zoning district.
APPLICANT:	City of Port Orange
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	August 26, 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, 17, and 18 of the Land Development Code (LDC) are intended to update the Riverwalk Overlay District (ROD) and the Planned Commercial-Riverwalk (PC-R) zoning district regulations in an effort to support the City’s redevelopment efforts in the Riverwalk area.

Riverwalk Overlay District (ROD) Amendments

The Riverwalk Overlay District (ROD) was adopted in 2004 to limit the uses that could be developed on property adjacent to the City’s ±35-acre Riverwalk area that would be inconsistent with the City’s long-term vision of the Riverwalk area as a walkable mixed-used development along the Halifax River that includes commercial, office, residential, civic, and entertainment uses. The ROD is generally located on the west and east side of Ridgewood Avenue, north of Meeker Place to the north City boundary.

The proposed amendments to the ROD include adjustments to the overlay district boundary and minor changes that are simple clean-up items, address problems encountered when applying the code, or intended to support the City’s redevelopment efforts within the overlay district, such as:

- Revise the boundary of the ROD to remove parcels zoned Neighborhood Preservation (NP) and Government Public Use (GPU). The uses listed as permitted uses in the ROD are not consistent with the uses and intent of the NP or GPU zoning district.
- Include the ROD boundary map in the LDC.
- Remove the additional permitted uses for property within the ROD. The uses removed are duplicate uses already listed as permitted for the properties within ROD by the underlying zoning.
- Update the list of permitted uses with special development requirements to include indoor motor vehicle and boat storage, off-site parking lot, and outdoor fruit and vegetable or craft markets, and established special development requirements to ensure these uses are developed within the City's current vision for the area surrounding the Riverwalk area.
- Remove the childcare facilities use from the list of prohibited uses, as this use can be developed in a manner consistent with the City's current vision for the area surrounding the Riverwalk area.
- Clarify that a use listed as a prohibited use for a property within the ROD does not apply if the property is zoned PCD and the prohibited use has been approved by the City Council as part of an active MDA.
- Update terms and uses revised in previous LDC amendments for internal consistency.

Planned Commercial-Riverwalk (PC-R) zoning district Amendments

In 2007, the Riverwalk District property located on the east side of Ridgewood Avenue between the north City limit and Dunlawton Avenue was rezoned to Planned Commercial-Riverwalk (PC-R) and the City adopted the PC-R zoning district regulations. The original development concept for Riverwalk has changed in recent years from having one developer establish a master plan for the development of the entire ±35-acre Riverwalk area to a City park and multiple developers developing specific areas within the ±35-acre Riverwalk area to achieve the Port Orange Town Center Plan objectives. However, the PC-R zoning district still has requirements based on the ±35-acre Riverwalk area being master planned that can impact redevelopment options for the remaining undeveloped areas.

The proposed amendments include both minor changes that are simple clean-up items and amendments address problems or issues encountered when applying the code, as well as changes that are intended to support the City's redevelopment efforts and the new approach to redeveloping the remaining vacant property within the ±35-acre Riverwalk area:

- Revise the total density and intensity (non-residential square-footage) entitlements to be consistent with the format in the City's Comprehensive Plan and the Port Orange Town Center Community Redevelopment Plan: 1) maximum of 800 residential units, 2) 240,000 square-feet of commercial, and 3) 51,700 square-feet of office.
- Remove all references to a design manual and defer to the architectural requirements in Chapter 14 of the LDC.
- Remove references to master planned infrastructure, such as a master stormwater management system and stormwater credits, as this was related to a prior vision for the entire ±35-acres to be master planned.
- Remove references to conditional certificates of occupancy and bonding of improvements and defer to the City's current process for issuing certificates of occupancy and bonding improvements.

- Remove references to the Riverwalk Parking Authority, parking standards manual, and parking credits as these items or requirements were related to a prior vision for the entire ±35-acres to be a master planned.
- Remove duplicate text regarding public parks and recreation facilities.
- Add the following permitted uses for the Mixed-Use project type: outdoor fruit and vegetable or craft market, hotel, marina, water taxi, and medical office.
- Remove the section about interim conditional uses for the Mixed-Use project type that expired in 2014.
- Remove the list of prohibited uses in the Mixed-use and Hi-rise residential project types. This language is not needed as Chapter 17, Section 1 of the LDC states that if a use is not listed as a permitted use for a specific zoning district, the use is prohibited. Also, the other City zoning districts only list permitted uses and do not list prohibited uses.
- Revise dimensional requirements for mixed uses to remove requirements for the maximum and minimum number of stories a building must have and allow the existing maximum/minimum height requirements to regulate height; and reduce the minimum living area from 800 square-feet to 500 square feet based on current market trends and to add flexibility in design.
- Replace Figure 17:4 with the revised Riverwalk Planned Community Conceptual Development Plan.

RECOMMENDATION

Staff recommends approval of the amendments to Chapter 2, 17, and 18 of the Land Development Code (LDC).

ATTACHMENTS

Exhibit 1 - Proposed LDC Amendments to Chapter 2, 17, and 18

Exhibit 1

Underlined text indicates additions and ~~strikethrough~~ text indicates deletions

Chapter 2 - DEFINITIONS AND INTERPRETATIONS

Outdoor fruit and vegetable or craft market. Outdoor market uses expressly permitted in the Riverwalk Overlay District. These uses are generally small-scale in nature, pedestrian oriented, tend to serve the everyday needs of residents of and visitors to the district, and are intended to occur within and help create an active streetscape environment in conjunction with outdoor seating, reduced or eliminated setbacks, and centralized off-site parking.

~~Riverwalk retail. Retail uses expressly permitted in the Riverwalk Overlay District. These uses are generally small-scale in nature, and tend to serve the everyday needs of residents of and visitors to the district. The uses are typically pedestrian- and/or entertainment-oriented in nature, and are intended to occur within and help create an active streetscape environment in conjunction with outdoor seating, reduced or eliminated setbacks, and centralized off-site parking. Such uses may include, but are not limited to, bakeries, delicatessens, bookshops, and fruit and vegetable markets.~~

Chapter 17 – ZONING

Section 25.5: - Riverwalk Overlay District (ROD).

(a) *Purpose and intent.* The Riverwalk Overlay District is designed to promote the development and redevelopment of the Riverwalk Special Character District, in accordance with concepts outlined in the Port Orange Town Center Redevelopment Plan (POTCRP). The POTCRP calls for this area to be redeveloped as "an attractive, inviting and economically successful mixed-use environment that promotes a positive image and identify for the community." ~~More specifically, the Riverwalk Special Character District is envisioned as a mixed-use, water-, pedestrian-, and destination-oriented district.~~

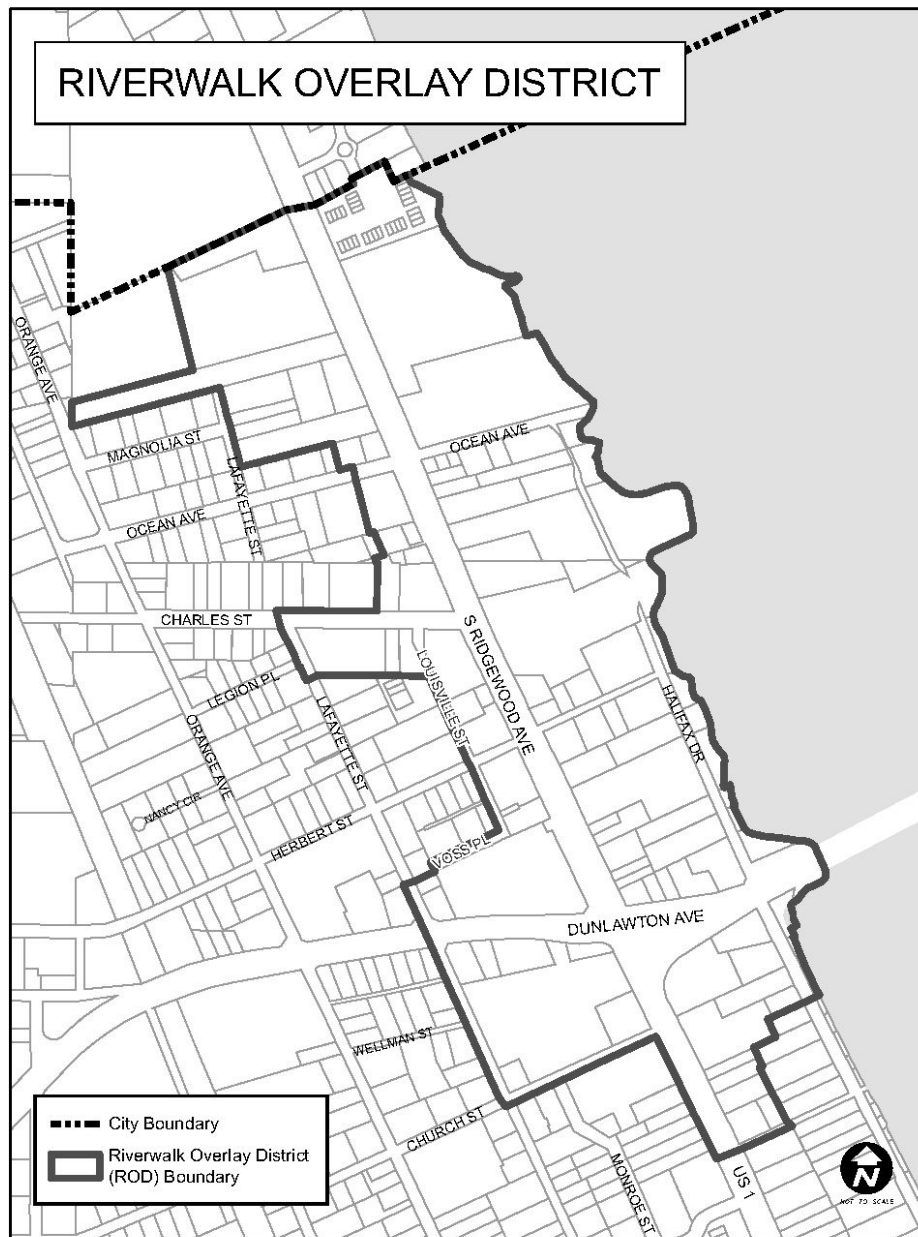
(1) The purpose of the Riverwalk Overlay District is to allow uses that support these goals, while prohibiting uses which, while normally permitted by the underlying zoning, would be contradictory to the stated goals and vision of the Riverwalk Special Character District and the POTCRP. It is also the intent of the Riverwalk Overlay District to continue to promote the modernization and beautification of the Ridgewood Avenue corridor and to protect the integrity of adjoining residential areas. The Riverwalk Overlay District is intended to accommodate a mixture of office and commercial uses, ~~and residential uses~~ based upon the redevelopment strategy for the Port Orange Town Center. The permitted ~~and special exception~~ uses shown are designed to be developed as a combination of uses on a single site, as opposed to conventional single-use, single-site development.

(2) It is acknowledged that certain properties lying within a portion of the Riverwalk Overlay District are already developed for uses that are prohibited from being established pursuant to the overlay district. It is the express intent of this provision to foster the continued economic viability of existing businesses in the Riverwalk Overlay District by allowing such existing developments to continue as legal, conforming uses. Therefore, properties that were developed with legal, conforming uses prior to the September 28, 2004 effective date of Ordinance No. 2004-28 establishing the Riverwalk Overlay Ordinance shall continue to be deemed and treated for purposes of zoning as legal conforming uses until such time as the underlying or overlay zoning is changed.

(3) The provision for legal conforming uses described in section 25.5, paragraph (a)(2) shall not apply to property within and east of Ridgewood Avenue and within and north of Dunlawton Avenue. Said property shall be governed by chapter 17, section 30 and the Land Development Code as otherwise applicable.

(b) *Location.* The boundaries of the Riverwalk Overlay District shall be as shown on Figure 17 below3 (Special Character Districts) of the Port Orange Town Center Redevelopment Plan, as may be amended from time to time.

Figure 17
Riverwalk Overlay District (ROD) Boundary



(c) *District regulations.* The type of permitted uses or special exceptions allowed shall be determined according to the underlying zoning classification. Additional requirements, allowances and/or restrictions may be found within the regulations for the Riverwalk Overlay District. All proposed projects must comply with any other applicable regulations of the City of Port Orange. When regulations contained within the underlying zoning district conflict with regulations detailed in the Riverwalk Overlay District, the requirements in the Overlay District shall control. ~~Examples for applying the requirements of the Riverwalk Overlay District are found below.~~ For an example, a property owner within the Riverwalk Special Character District, whose property has an underlying zoning of "RD" (Ridgewood Development District) wants to open a motor vehicle service station. Motor vehicle service stations are a permitted use within the "RD" zoning district. However, the use is expressly prohibited within the "ROD" (Riverwalk Overlay District). Therefore, the use would not be allowed.

~~Example B: A property owner within the Riverwalk Special Character District, whose property has an underlying zoning of "CC" (Community Commercial), wants to construct a three-story building with retail on the first floor and residential units on the top two stories. Multifamily dwellings are not a permitted or special exception use within the "CC" zoning district. However, mixed-use multifamily dwellings are permitted with special development requirements in the Riverwalk Overlay District. Therefore, the regulations in the "ROD" would be applied and the property owner would be able to construct the proposed mixed-use building.~~

~~Example C: Bars, lounges and nightclubs are a special exception use within the "RD" (Ridgewood Development) Zoning District. The special exception criteria that must be met in order for approval to be granted are outlined in chapter 18, subsection 3(b)(3), LDC. Bars, lounges and nightclubs are also special exception uses within the "ROD." However, special, separate criteria have been developed specifically for this type of use within the overlay district. In this scenario, the criteria listed in chapter 18, subsection 3(b)(2.5), LDC, would apply.~~

~~(d) *Permitted uses (RD, CC, PO, PCD, GPU).* In addition to the uses permitted by the above underlying zoning districts, the following additional uses are also permitted within the Riverwalk Overlay District. These additional uses only apply to those properties located within one of the above underlying zoning districts:~~

- ~~(1) Bed and breakfast inns.~~
- ~~(2) Internet cafes.~~
- ~~(3) Medical offices/clinics.~~
- ~~(4) Parking garages.~~
- ~~(5) Professional offices.~~
- ~~(6) Riverwalk Retail:~~
 - ~~(a) Antique shops.~~
 - ~~(b) Apothecaries.~~
 - ~~(c) Bakeries.~~
 - ~~(d) Bookshops.~~
 - ~~(e) Boutiques.~~
 - ~~(f) Coffee shops.~~
 - ~~(g) Delicatessens.~~
 - ~~(h) Fruit and vegetable markets.~~
 - ~~(i) Ice cream parlors/soda fountains.~~
 - ~~(j) Neighborhood markets.~~
 - ~~(k) Newsstands.~~

(e) *Permitted uses with special development requirements (chapter 18, section 4) (RD, CC, PO, PCD without active MDA-GPU).*

In addition to the uses permitted by the above underlying zoning districts, the following additional use is also permitted with special development requirements within the Riverwalk Overlay District. ~~This~~These additional uses only apply~~ies~~ to those properties located having at least one of the above underlying zoning district designations:

- ~~(1) Mixed-use multi-family dwellings (subsection 9.6).~~
- (1) Motor vehicle and boat storage facilities, indoor (subsection 9.77).
- (2) Off-site parking lot (subsection xx).
- (3) Outdoor fruit and vegetable or craft markets. (subsection xx).

~~(f) Special exception uses (chapter 18, section 3) (RD, CC, PO, PCD, GPU).~~ In addition to the special exception uses permitted by the above underlying zoning districts, the following additional uses are also permitted within the Riverwalk Overlay District. These additional uses only apply to those properties located within one of the above underlying zoning districts:

- ~~(1) Bars, lounges and night clubs (subsection 2.5).~~
- ~~(2) Game/recreation facilities (subsection 7.5.).~~
- ~~(3) Houses of worship (subsection 8.5).~~
- ~~(4) Manufacturing: craftsman shop (subsection 9.4).~~
- ~~(5) Tobacconists (subsection 20.5).~~

(g) *Prohibited uses.* The following uses, otherwise permitted within the RD, CC, PO, and PCD, without an executed master development agreement, and PC-R-GPU zoning districts, shall be expressly prohibited as principal uses, with the exception of drive-thru facilities, which shall be prohibited under any circumstance (either as a principal or accessory use), within the Riverwalk Overlay District, unless specifically approved by City Council as part of a PCD:

- (1) Appliance/electronic repairs shops.
- (2) Assisted living facilities.
- (3) Auction houses.
- (4) Boat repair.
- (5) Boat sales.
- (6) Cemeteries.
- ~~(7) Childcare centers.~~
- ~~(8)~~ Commercial/industrial equipment and supplies.
- ~~(98)~~ Construction-contractor's yard and storage and home improvement contractor.
- ~~(109)~~ Convenience stores, with or without fuel operations.
- ~~(1110)~~ Drive-thru facilities.
- ~~(1211)~~ Equipment rentals.
- ~~(1312)~~ Fleet-based services.
- ~~(1413)~~ Fortunetellers, astrologers, and palm readers.
- ~~(1514)~~ Funeral homes.
- ~~(1615)~~ Greenhouses and nurseries (wholesale and retail).
- ~~(1716)~~ Guyed, and lattice, camouflaged and monopole communication towers.
- (17) House of worship.
- (18) Hospitals.
- (19) Maintenance contractors.

- (20) Manufacturing: fabrication.
- (21) Mini-warehouses.
- (22) Mobile home sales.
- ~~(23) Motor vehicle and boat storage facilities~~
- ~~(2423)~~ Motor vehicle repair facilities.
- ~~(2524)~~ Motor vehicle sales.
- ~~(2625)~~ Motor vehicle service centers.
- ~~(2726)~~ Motor vehicle service stations.
- ~~(2827)~~ Nursing homes.
- ~~(2928)~~ Office/warehouse facilities.
- (29) Outdoor motor vehicle and boat storage facilities.
- (30) Pawn shops.
- (31) Public utility stations/plants.
- (32) Retail home building materials.
- (33) Tattoo ~~parlors~~ establishment.
- (34) Taxidermy.
- (35) Veterinary clinics.
- (36) Wholesalers and distributors.
- (37) Xerographic and offset printing.

Chapter 18 - CONDITIONAL USES, SPECIAL EXCEPTIONS AND PERMITTED USES WITH SPECIAL DEVELOPMENT REQUIREMENTS

Section 3: - Special requirements for special exception uses.

(a) *In general.* For those special exception uses listed below, the following special requirements shall apply in addition to those described in section 2(d) above.

(b) *Special requirements.*

[No changes to subsections (1) and (2) and (3) through (7) and (8)]

~~(2.5) Bars, lounges, and night clubs (ROD).~~

~~(a) The proposed site shall be at least 500 feet from the nearest house of worship, school or childcare center.~~

~~(b) The proposed site shall be at least 300 feet from a residential zone measured along right-of-way centerlines. This condition shall not apply to mixed-use zoning districts that allow a combination of residential and non-residential uses.~~

[No changes to subsections (3) through (7)]

~~[(7.4)] Game/recreation facilities (ROD).~~

~~(a) The proposed site shall be at least 300 feet from the nearest house of worship, school or child care center.~~

~~(b) The proposed site shall be at least 1,000 feet from any other such use.~~

~~(c) The proposed site shall be at least 300 feet from a residential zone measured along right-of-way centerlines. This condition shall not apply to mixed-use zoning districts that allow a combination of residential and non-residential uses.~~

[No changes to subsections (7.5) through (8)]

~~(8.5) Houses of worship (ROD).~~

~~(a) The proposed site shall front on an arterial or major collector roadway.~~

~~(b) A separate special exception shall be required for other facilities developed in conjunction with a house of worship as may be listed herein.~~

[No changes to subsections (9)]

~~(9.4) Manufacturing, craftsman shop (ROD).~~

~~(a) The proposed use shall be ancillary to a permitted retail use.~~

~~(b) The proposed use shall not occupy more than 25 percent of the total gross leasable floor space within the permitted retail use.~~

~~(c) The proposed shop shall abide by the noise regulations established by article IV. of the City of Port Orange Code of Ordinances.~~

[No changes to subsections (9.5) through (20)]

~~(20.5) Tobacconists (ROD).~~

~~(a) The proposed site shall be at least 500 feet from the nearest house of worship, school or childcare center.~~

~~(b) The proposed site shall be at least 300 feet from a residential zone measured along right-of-way centerlines. This condition shall not apply to mixed-use zoning districts that allow a combination of residential and non-residential uses.~~

[No changes to subsections (21) through (24)]

Section 4: - Special development requirements for permitted uses.

(b) Special development requirements.

[No changes to subsections (1) through (9.57)]

~~(9.6) Mixed-use multifamily dwellings (ROD).~~

~~(a) First floor retail space, approved as part of the final site development plan, shall include, but not be limited to, neighborhood markets, personal services, retail stores, and restaurants (type A and seating no more than 50 persons).~~

~~(b) No outdoor living areas such as patios, balconies or screen enclosures shall be permitted to face Ridgewood Avenue.~~

~~(c) No outdoor activity areas such as pools, shuffleboard courts, tennis courts, or other similar areas shall be permitted within the front yard adjacent to Ridgewood Avenue.~~

[No changes to 9.7 and 9.75]

(9.77) Motor vehicle and boat storage facilities, indoor (ROD).

(a) The proposed site shall front on an arterial roadway.

(b) The proposed site shall be a minimum of two acres.

(c) No outside storage shall be permitted.

(d) Full architectural treatment shall be required on all sides. Such treatment shall include, but not be limited to, building finishes, roof design and materials, window and door styles, architectural details and colors.

(e) Vehicle washing shall be confined to a commercial facility or pervious surface in compliance with the water conservation regulations of the city, and fully screened from rights-of-way.

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

[No changes to 9.8 through 10.5]

(10.75) Off-site parking lot (ROD).

(a) The city may allow the use of alternative surfaces such as recycled concrete, aggregate concrete, paver blocks, or other semi-pervious material if determined by the Administrative Official to be acceptable.

(b) Stormwater, landscaping, buffer, setback, and other applicable provisions of this code shall be complied with regardless if parking lot is paved or finished with an alternative surface. Internal landscaping and buffer width may be reduced by the administrative official if there are site constraints.

(c) If finished with an alternative surface, that material is to be minimum of two inches deep, placed upon a porous weed barrier and effectively contained within a border of concrete, railroad ties, or other rigid material.

(c) Spaces shall be delineated in some manner, such as use of railroad ties, wheel stops, or other similar material.

(d) If non-paved areas become rutted, uneven, unable to drain properly, unsightly, or unmaintained, the City will require that the area be paved according to the City's Standard Construction Details.

(e) Approval of an off-site parking lot requires approval of a site plan.

(f) Designated pedestrian route from the off-site parking lot to the use it will serve is required, whether existing or to be constructed with the off-site parking lot.

(g) Chapter 12, Section 6(a)(1) and (2) shall not apply.

[No changes to 11 through 12.2]

(12.3) Outdoor fruit and vegetable or craft markets (ROD).

(a) Outdoor display areas shall be located entirely on private property outside any required fire lane or fire access way. Displayed merchandise shall occupy a location that does not disrupt the normal function of the site or its circulation and does not encroach upon parking spaces, driveways, pedestrian walkways, or required landscaped areas. These displays shall not obstruct sight distances or otherwise create hazards for vehicle or pedestrian traffic.

(b) The merchandise in the outdoor display and sales area including but not limited to the display racks, tables, and stands, shall not exceed a height of 6 feet.

(c) The design of all improvements, sales racks, and furniture shall be of a quality to sustain weather and wear and shall be of commercial-grade materials.

(d) All display and sale merchandise, furniture and fixtures and other portable appurtenances shall be removed from outdoors at the end of each business day. No outside storage shall be permitted.

(e) Outdoor display and sales areas are exempt from the parking requirements of Chapter 12 but are prohibited in parking lots/areas.

(f) The business or property owner shall maintain the outdoor display and sales area and the adjoining street, curb, gutter and sidewalk in a neat, clean and orderly condition at all times, regardless of the source of the refuse and litter.

(g) If necessary, the business or property owner shall clean the surface of the sidewalk by washing or buffing to remove any stains, marks, or discoloration and in accordance with prevailing storm water and water quality regulations.

(h) Furniture, fixtures, and appurtenances shall be kept clean and in good condition.

Section 30: Planned community—Port Orange Riverwalk (PC-R) district.

(a) *Zoning and development.*

- (1) *District.* The following regulations provide the zoning and development framework for the Planned Community—Port Orange Riverwalk (PC-R) zoning district. This area is identified on the city's future land use map of the comprehensive plan as planned community no. 2. The PC-R zoning district meets the locational criteria identified in section 28(b) above, as well as in the future land use element of the city's comprehensive plan. The approved macro conceptual development plan for the PC-R zoning district is shown in Figure 17:4.
- (2) *Area.* The PC-R zoning district encompasses the approximately 35-acre area adjacent to the Halifax River inclusive of all lands lying east of U.S. 1/Ridgewood Avenue, north of S.R. 421/Dunlawton Avenue and south of the Intercoastal Villas at the city's northern corporate boundary. This area is part of the Riverwalk Special Character District as designated by the Port Orange Town Center Redevelopment Plan, adopted by Ordinance No. 1998-78 in December 1998. Essential to the realization of the redevelopment objectives for the Riverwalk Area is the transformation of the Halifax River shoreline into a linear park, inclusive of a boardwalk promenade, for the use and enjoyment of the public into perpetuity.
- ~~(3) *Project areas/micro regions.* The redevelopment within PC-R will occur in a series of three mixed-use micro regions or project areas. These areas are depicted in Figure 17:4. The developer, prior to the commencement of construction within a project area, shall prepare a comprehensive project area plan consistent with the conceptual development plan and including subdivision and/or site plans. In the event that the developer does not have authority for all property owners within the project area, the project area plan shall identify such areas as future phases. The project area plan shall include the access, utility and other infrastructure connections and easements designed to serve the future phases of the project area plan. The developer shall be required to obtain city council overall development approval of the project area plan. Phasing of construction within a project area is permissible, if approved as part of the overall project area plan. To help achieve the redevelopment goals for the Riverwalk District as expressed in the Port Orange Town Center Redevelopment Plan, flexibility to transfer development entitlements between project areas is permissible. Up to ten percent of the development entitlements for the entire planned community may be transferred from one project area to another, if approved as part of the overall project area plan. The project area entitlements are shown in Figure 17:4. If an applicant submits a conceptual plan and master development agreement as permitted in section 30(a)(5), the submittal and approval by city council of a comprehensive project area plan is not required.~~
- (34) *Project types.* The zoning regulations within PC-R contain district-wide regulations as well as regulations that are differentiated among five project types. Each of these project types have specialized development guidelines to reflect the unique characteristics and goals for that type of development. The five project types within PC-R are:
 - a. Hi-rise residential
 - b. Mixed-use (including low-rise residential)
 - c. Recreation/conservation
 - d. Marina
 - e. Streetscapes
- (45) *Application for conceptual plan and master development agreement.* The conceptual plan and master development agreement allows unique and innovative land development proposals for property, by establishing development parameters, conditions, and requirements. If the conceptual plan and master

development agreement fails to address a particular subject or requirement, the requirements of the city's land development code shall control.

- (a) Application shall be made to the department utilizing the form provided by the department for that purpose and accompanied by the appropriate review fee.
- (b) *Review of application materials.* Within two working days of the receipt of an application, the department shall determine whether the submittal is complete. Incomplete submittals shall be returned to the applicant with the deficiencies noted in writing. Re-application shall be accompanied by a re-application fee as adopted by resolution of the city council.
- (c) *Initiation of development review.* When an application is determined to be complete or substantially complete, it shall be reviewed by the staff development review committee (SDRC).
- (d) *Conceptual development plan.* The applicant shall provide a conceptual development plan, drawn at a scale of no smaller than one inch equal to 100 feet. The plan shall show the development potential of the site, including natural and manmade conditions, constraints, and opportunities, and contain the following information, when applicable. An asterisk (*) denotes information which may be waived by the applicant for purposes of approval of the conceptual plan exhibit of the master development agreement. If any of the denoted information is not provided, the conceptual plan exhibit shall not be considered to satisfy the requirements for a site plan or subdivision plan submittal, and full compliance with the procedure for approval of the latter shall be required. The conceptual plan shall be prepared according to the following standards.
 - (1) Project name, date, north arrow, and the legal description, boundary dimensions and area in acreage of the property;
 - (2) Name and address of owner, surveyor, engineer, and any other professional consultants involved with the generation of the plan information. If the property is owned by a corporation, company or partnership, the name and address of the president and secretary, and the state of incorporation shall be provided;
 - (3) A vicinity map drawn to scale showing the zoning of the area and the relationship of the subject property to surrounding development;
 - (4) Proposed common areas, drainage areas, conservation areas, lot lines (*) and lot dimensions (*);
 - (5) Proposed street names and lot numbers (*);
 - (6) Acreage in lots, drainage areas, common areas, streets and other uses, and the minimum lot size, average lot size (*) and total number of lots (*);
 - (7) Existing topography shown in one-foot contours and delineation of flood insurance rate map flood zones;
 - (8) Environmental assessment providing delineation of all wetlands, wooded areas, vegetative communities and listed species habitats; general description of the character of such wetlands, wooded areas, vegetative communities and listed species habitats; and a tree survey in accordance with requirements of this code (*);
 - (9) The location of existing and proposed buildings, utilities, roads, easements or other improvements on the property, and all roads, lot lines, and abutting property owners within 150 feet of the subject property;
 - (10) A soils report including one percolation test per ten acres with one or more eight-foot deep soil boring(s) at each percolation test site (*);
 - (11) Statement that compliance with the land development code may necessitate modification of the conceptual plan;

- (12) Soil types, drainage basins and natural drainage patterns;
 - (13) General character, size and location of buildings, parking and loading areas, bufferyards and landscaped areas for each proposed land use;
 - (14) Site data for each land use and parcel to verify that requirements of the master development agreement have been satisfied;
 - (15) General location, size and function of open space areas to verify that requirements of the master development agreement and this section have been satisfied;
 - (16) One copy of the computer disk(s) depicting the proposed development layout, including the streets and lots, for projects prepared on an appropriate computer-aided drafting (CAD) system; and
 - (17) Any other information deemed pertinent by the department, planning commission or city council.
- (e) *Master development agreement.* The agreement shall contain and/or address the following information, when applicable. The master development agreement shall be prepared according to the following standards.
- (1) Permitted uses and special exceptions.
 - (2) Minimum dimensional requirements. Such requirements shall include lot area and width, setbacks, building height, minimum floor area, spacing between buildings, maximum building coverage, minimum landscaped area and any other dimensional information pertinent to the project.
 - (3) Landscaping, parking and signage requirements when unique or different from those described in this development code.
 - (4) Architectural controls. Such controls shall provide for a common architectural theme to be applied to all structures.
 - (5) Project phasing.
 - (6) Landowners association. An association or unified collective of individual associations shall be established to provide for maintenance of common area facilities and to enforce the specific restrictions established by the association.
 - (7) Maximum number [of] building lots if applicable.
 - (8) Improvements to infrastructure which may be required in addition to those specified by this code or at an earlier time than would otherwise be determined by this code.
 - (9) Statement that compliance with the environmental preservation code may necessitate modification of the conceptual plan.
 - (10) Expiration date.
 - (11) Statement of ownership and legal description.
 - (12) Any other information deemed pertinent by the department, planning commission or city council.
- (f) *Application review process.*
- (1) Staff development review committee (SDRC). All applications shall be reviewed by the SDRC, and members' comments shall be delivered and discussed at a SDRC meeting. Formal comments of the SDRC shall be transmitted in writing to the applicant no later than three working days after the meeting.

- (2) Resubmittal of the revised conceptual plan and master development agreement. The revised conceptual plan and master development agreement shall be submitted no later than 60 days after the original SDRC meeting review. The revised conceptual plan and master development agreement shall be reviewed by the SDRC members, with findings reported by the department to the planning commission for their consideration.
- (g) *Approval of application for conceptual plan and master development agreement.*
- (1) *Planning commission action.* The planning commission shall consider the conceptual plan and master development agreement at a regularly scheduled meeting to determine if the application meets the requirements of this code. Upon consideration of the comments of the SDRC and public, the commission shall take one of the following actions:
 - (a) Table the consideration of the application until their next regularly scheduled meeting to allow for the resolution of outstanding issues. No application shall be tabled more than one time in the presence of the applicant by the planning commission.
 - (b) Recommend that the application be denied.
 - (c) Recommend that the application be approved.
 - (d) Recommend that the application be approved with conditions.
 - (2) *Community Redevelopment Agency (CRA) for Port Orange Town Center action.* The town center CRA shall consider the conceptual plan and master development agreement at a scheduled meeting. The town center CRA shall determine if the conceptual plan and master development agreement are consistent with the adopted community redevelopment plan for Port Orange Town Center.
 - (3) *City council approval.* The city council shall consider the conceptual plan and master development agreement at a regularly scheduled meeting, and determine if the application meets the requirements of this code. Upon consideration of the comments of the department, the public, the recommendation of the planning commission and the consistency determination by the Community Redevelopment Agency of Port Orange Town Center, the city council shall take one of the following actions:
 - (a) Table the consideration of the application to allow for the resolution of outstanding issues.
 - (b) Deny the application.
 - (c) Remand the application back to the planning commission.
 - (d) Approve the application.
 - (e) Approve the application with conditions.
- (h) *Execution of master development agreement.* The second reading of the ordinance for the conceptual plan and master development agreement shall not take place until the developer has provided an executed copy of the master development agreement to the city clerk. The document shall be a fully corrected copy which addresses all issues discussed prior to the scheduled second reading. The document shall also include reduced copies of the revised conceptual plan exhibits. If there are no additional requirements, corrections or conditions attached by the city council at the second reading, the executed document shall be signed by the city clerk and mayor and forwarded to the county clerk for recording. If there are additional requirements, corrections or conditions attached by the city council at the second reading, the applicant shall revise the agreement and conceptual plan and return the documents to the department within 30 days for execution and recording. The requirement to return the

document within 30 days shall be specified by the city council as a condition for approval of the conceptual plan and master development agreement.

- (i) *Failure to provide timely resubmission.* Failure to meet any of the resubmission deadlines cited above shall require the filing of a new application, including the appropriate review fees.
 - (1) *Extension of resubmittal deadlines.* The administrative official may extend the deadlines cited above, when warranted by unforeseeable events. A request for extension shall be filed in writing with the department explaining the circumstances justifying the extension.
 - (j) *Final development plan approval.* Unless otherwise noted within the development agreement, final development approval for subdivisions or site plans within the PC-R shall be required in accordance with the general procedures established by this code. Conceptual plan exhibits of the master development agreement which fully satisfy the requirements for site plan or subdivision plan submittal shall be considered as such.
 - (k) *Expiration of master development agreement.* Any master development agreement executed and recorded after the adoption of this development code shall be required to include an expiration date or series of expiration dates tied to specific improvements or phases. Such date(s) shall be determined based upon the size of the project, the installation of physical improvements, and any other factors pertinent to the specific proposal. If the city should determine that the developer has failed to satisfy the requirements necessary to avert expiration, the development agreement shall be considered null and void, and approval of any additional final development plans for the PC-R shall not be permitted without resubmission and approval of a new development agreement in accordance with the procedures established in this development code.
 - (l) *Amendments to the master development agreement and/or conceptual development plan.* Subsequent to execution and recording, the master development agreement and/or conceptual development plan may be amended at any time upon mutual agreement of both the city and the appropriate amending party, unless otherwise provided in the agreement. Application for amendment of the master development agreement and/or conceptual development plan shall be made to the department utilizing the form provided by the department for that purpose and accompanied by the appropriate review fee. Amendment shall completely restate the original agreement along with the language for the requested amendment. Upon receipt of the application by the department, the amendment shall be placed on the next available SDRC agenda. Subsequent to action by the planning commission and town center CRA, final review and approval shall be requested by the city council.
- (b) *District-wide regulations for PC-R.*
- (1) *Development entitlements.* Consistent with the future land use element of the city's comprehensive plan, the maximum development entitlements granted by development orders within the Planned Community—Port Orange Riverwalk (PC-R) shall not exceed 800 residential units, 240,000 square feet of commercial uses, and 51,700 square feet of office uses.~~and 292,000 gross leasable square feet of non-residential development. Of the maximum 800 total residential units, the maximum number of Hi-Rise Residential units shall be 720 units.~~ Parking garages and recreation facilities within public spaces shall not count towards overall development entitlements. Buildings for other institutional, civic and quasi-public uses shall count as part of the overall non-residential development.
 - ~~(2) *Entitlement allocation.* Entitlements shall be allocated based upon an approved project area plan and in conformance to the entitlement allocation formula. The allocation shall not exceed the "Adjusted Ownership Entitlement" (AOE) calculated in accordance with the entitlement allocation formula. The entitlement allocation formula shall be computed using the following defined components:~~

Acreage owned in project area	{AO}
Total acreage in project area	{TA}

Ownership percentage in project area	{OP}
Entitlement allocation for project area	{EA}
Existing uses in project area	{EU}
Adjusted ownership entitlements	{AOE}

Entitlement Allocation Formula:

Step One:

— = — OP

Step Two:

OP × (EA minus EU) = AOE

The property acreage owned (AO) divided by the total acreage in the project area (TA) shall equal the ownership percentage (OP). The ownership percentage (OP) times the remainder of the entitlement allocation to the project area (EA), after subtracting the existing uses in the project area (EU) shall equal the adjusted ownership entitlement (AOE).

- (23) *Design guidelines.* To realize the new-urbanism characteristics envisioned for the Riverwalk area, all development shall incorporate mixed-use concepts. ~~Infrastructure shall be master planned by a master developer, subject to approval by the city, for the entire PC-R area to ensure adequate facilities to support the density/intensity of the private development as well as the civic functions and special events that will be staged in the public spaces along the Boardwalk and elsewhere in the district.~~ A compact, urban pattern, and the prioritization of pedestrian and public modes of transportation over private automobile use shall prevail. No drive-thru facilities, such as those commonly found at banks, fast-food restaurants and drug stores shall be permitted, unless approved by the City Council as part of a Master Development Agreement. The design of buildings and public spaces shall convey a sense of quality, permanence and unique place-making. Waterfront views and a celebration of the city's riverfront through waterfront views and water-oriented uses are encouraged.
- ~~(4) *Design manual.* All construction within PC-R shall comply with the Riverwalk Planned Community Design Manual as formally adopted by the city council. Where conflict exists between the design manual and any other provision of the land development code or city standard construction details, the Riverwalk Planned Community Design Manual shall prevail. Where the Riverwalk Planned Community Design Manual is silent on an issue, the LDC or standard construction details shall apply. Any deviation from the adopted design manual shall be clearly noted as such on all plans, specification and shop drawings at the time of initial submittal. If inadvertent deviations in design are not so noted, the standards set forth in the Riverwalk Planned Community Design Manual shall prevail.~~
- (35) *Expedited review and approval.* All applications and requests for development related approvals, including building permits and inspections, shall be granted expedited status, pursuant to chapter 20 (2)(g) of this code. For each development within the Port Orange Riverwalk Planned Community, the city manager shall designate a staff person to serve as the city's project manager.
- ~~(6) *Certificates of occupancy.* Certificates of occupancy may be conditionally granted upon satisfactorily completing all final building and life-safety code inspections, and when access to the building does not pose any public safety hazards and the structures and site facilities serving the structures are substantially completed. Landscaping of private spaces and public spaces adjacent to private developments may be phased as part of the overall project area approval. Bonding of remaining site and building improvements shall be required in accordance with the bonding provision in section 30(b)(6) of this code.~~
- ~~(7) *Bonding of code required improvements.* Bonding of remaining building, on-site and off-site improvements may be authorized to permit the issuance of a conditional certificate of occupancy. On or before the issuance of the conditional certificate of occupancy the developer shall execute a site~~

improvement agreement in the form approved by the city attorney and shall bond the cost of completion in an amount equal to 150 percent of the engineer/architect/landscape architect's estimate of probable cost for all remaining improvements. On or before council's approval of the agreement, the developer shall provide the city with the appropriate easement(s) and/or other legal authority to enter the property to ensure that the required improvements can be constructed. In the event the developer fails to complete the improvements within 60 days of issuance of the conditional certificate of occupancy, then the city may notify the surety and demand completion of the improvements. The surety shall process of a rating from A.M. Best Company of at least AAA.

(48) *Parking and access/mandatory purchase of parking credits.*

- a. ~~On-site parking may be allowed in the PC-R district based upon a site plan of one acre or more prepared by the developer, consistent with the urbanism goals of the Riverwalk Project and the city's ordinance adopting the parking standards manual. In the event that the developer desires to purchase parking credits from the Riverwalk Parking Authority, then the credits may be acquired from the Riverwalk Parking Authority based upon availability subject to all other committed uses. Each project area shall be evaluated for parking demand generation based upon the specific combination of uses proposed within that project area. All code required parking obligations not met by on-site parking shall be met through the purchase of parking credits for access to spaces within multi-modal transportation facilities owned and operated by the Riverwalk Parking Authority.~~
- ab. For Hi-Rise Residential developments, each residential unit shall be assessed a parking demand of 1.5 parking spaces per unit. Each Hi-Rise development shall be allowed to provide a portion of its parking in up to two levels of private parking between the finish grade and below the first floor of residential units, and up to 12 surface spaces near the building entrance. No less than three-tenths (.3) of one vehicular parking space per unit in each Hi-Rise Residential development shall be provided through the purchase of parking credits from the Riverwalk Parking Authority.
- b. Parking for other uses shall comply with Chapter 12 of the Land Development Code.
- ~~c. For Mixed-Use developments, each use shall be required to provide for the number of parking spaces as established in the parking standards manual.~~
- ~~d. Parking credits means the unit or price of a share of the parking facilities, including the costs of land as defined in the parking manual, design, permits, and construction of the parking facilities serving the Riverwalk Project Area. The price for parking facilities credits shall be determined at the time of construction. The formula for the credits shall be as follows: the total cost for the fair market value of land, design, permits and constructing the parking facility improvements plus accrued interest divided by the total number of parking spaces equals the cost of one parking space or one parking credit. To the extent available, the developer may purchase parking credits to provide the additional parking required for the private facilities.~~

(59) *Transportation concurrency exception area (TCEA) mobility enhancements.*

- a. Notwithstanding the exemption from the transportation concurrency review procedures of chapter 4, section 2 of this code, all developments within PC-R shall fund and/or construct operational improvements to the city's transportation system to ensure the continued safety and efficiency of the transportation system and to mitigate the transportation impacts of their proposed development. The city shall enact a special assessment or other funding mechanism specifying the TCEA programs and improvements. Prior to the adoption of the funding mechanism the developer shall pay a minimum of five percent above the applicable transportation impact fees (city and county). The developer shall be credited with the minimum payment in the special assessment. Developer participation in transportation system management (TSM) and transportation demand management (TDM) programs and improvements shall be required as part of the mitigation strategies for all developments.

- b. A traffic impact analysis (TIA), as required according to the latest adopted River two Sea Transportation Planning Organization TIA guidelines, shall be submitted~~required for all developments~~ to determine the level of impact for which mitigation shall be required. Operational improvements may include, but not be limited to, the addition of turn lanes, deceleration lanes, signage, signals and pavement markings. The TIA shall identify and analyze the multi-modal mobility enhancements that the developer intends to utilize to address impacts of the development, including but not limited to, new or expanded public transit facilities, ~~community trolley/shuttle facilities and services~~, water-taxi facilities and services, ~~and~~ new or enhanced roadway system networks, and bike paths and sidewalks, including the Riverwalk Boardwalk/Urban Trail.
- ~~c. Additionally, all developments shall be required to adhere to the "complete streets" policy (Policy 4.1.9 of the Transportation Element of the Comprehensive Plan) design standards. All developments shall provide the following as required by the city:~~
 - ~~1. Safe and convenient on-site pedestrian circulation such as sidewalks and crosswalks connecting buildings, parking areas and existing or planned public sidewalks;~~
 - ~~2. Cross access connections/easement and/or joint driveways;~~
 - ~~3. Dedication of land and/or easements for the construction of public sidewalks and mass-transit facilities;~~
 - ~~4. Project entrances, bus shelters, bicycle facilities, sidewalks, and streetscape enhancements.~~
- cd. Any developer-funded improvements required by this section shall be constructed prior to issuance of a certificate of occupancy for the development. When a cash payment is accepted by the city in lieu of actual construction of improvements, payment shall be submitted to the city prior to the issuance of development permits.
- ~~(10) Stormwater management/mandatory purchase of stormwater credits.~~
 - ~~a. Each development in PC-R shall be required to participate in the master-planned stormwater management system, and shall be required to purchase stormwater credits from the city to participate in that system.~~
 - ~~b. Stormwater credits means the unit or price of a share of the stormwater system planned for offsite mitigation. The stormwater credit price would be determined at the time of construction. The formula for the credits shall be as follows: the total cost of the improvements plus accrued interest divided by the total amount of impervious area needed to be treated equals the value of one credit. To the extent available, the developer shall purchase stormwater credits for the developer's share of impervious area in the entire Riverwalk Project Area. The total cost of improvements shall include the fair market value of land, design, permits and construction of the off-site stormwater system.~~
- ~~(11) Signage/way finding.~~ Signage of all types, including street banners, shall be regulated by the design standards of the Riverwalk Planned Community Design Manual. Where conflicts exist between chapter 14 of this code and the Riverwalk Planned Community Design Manual, the design manual shall prevail.
- ~~(12) Construction signage.~~ In addition to the construction signage otherwise authorized by this code, construction signage promoting site development within PC-R may be approved in accordance with the design manual. Such signage shall be designed with high quality images and lettering and shall be incorporated into the site construction fencing.
- ~~(13) Landscaping.~~ For developments within PC-R, the landscape design standards contained within the Riverwalk Planned Community Design Manual shall supersede all other landscape standards of this code, with the exception of countywide minimum standards.

~~(614)~~ *Tree preservation.* Tree mitigation, as required by this code, shall be computed and shall be accounted for on a project area basis. Up to 50 percent of the required mitigation for tree removal may be authorized by the city for reforestation of public areas, as part of a project area plan. Required tree mitigation within a project area may be deferred from one phase to another, but shall be completed prior to the issuance of the certificate of occupancy for the last building or building shall within the project area.

~~(715)~~ *Lighting/illumination.* Lighting within PC-R shall be consistent throughout the district and shall be regulated by the design standards of the first approved development within the district Riverwalk Planned Community Design Manual.

~~(16) Special roadway corridor provisions.~~ The U.S. 1/Ridgewood Avenue and S.R. 421/Dunlawton Avenue corridors shall be enhanced by a revitalized streetscape program that includes the placement of all overhead utility lines underground. The roadway segments adjacent to each project area shall be improved as offsite required improvements for the project area, consistent with the typical roadway cross sections contained within the Riverwalk Planned Community Design Manual.

~~(817)~~ *Finished floor elevation.* Elevation 9 mean sea level is hereby established as the minimum finished floor elevation for all structures within PC-R.

~~(18) Public parks and recreation facilities.~~

~~a. Public parks and recreation facilities, including amenities such as open space, boardwalks, trails, plazas, open air theaters, historical displays, fountains, kiosks, piers, public art, kayak/canoe launches, water related uses, play areas, sensory gardens, trail heads, community centers, stages, picnic shelters and other related facilities also including accessory uses such as restrooms, concessions, storage areas, administrative offices, parking and other accessory uses shall be permitted in all project types.~~

~~b. Public parks and recreation facilities shall be developed consistent with a project area plan approved by city council. If the city has not adopted a design manual, parking manual or infrastructure master plan for the PC-R district, public parks and recreation facilities shall be developed consistent with current standards in the recreation (REC) zoning district and other applicable standards in the city Code of Ordinances, Land Development Code, standard construction details and other existing regulations for items such as stormwater, water, sewer, parking, transportation, underground placement of overhead utilities, signage, landscaping, architecture/design requirements and for other improvements.~~

(c) *Hi-Rise Residential.* The Hi-Rise Residential development shall comply with the district-wide regulations and the following regulations for on-site improvements.

- (1) *Permitted uses.* Multi-family residential dwelling units up to 60 dwelling units/acre and ancillary retail, office and personal service uses, including, but not limited to, cafe, snack bar, bakery, deli, newsstand, ATM, hair salon, fitness center and florist.
- (2) *Permitted uses with special development criteria.* None.
- (3) *Conditional uses.* None.
- (4) *Prohibited uses.* Drive-thru lanes for ancillary uses.
- (5) *Dimensional requirements.*

Max. building height	15 stories of residential over two levels of parking (Not to exceed 175 feet from required finished floor elevation)
Min. building height:	4 stories (45 ft.)
Min. lot size:	5 acres
Min. lot width:	500 ft.

Min. living area:	1,200 sq. ft. per unit
Max. impervious coverage:	80 percent
Setbacks for all structures:	
West	100 ft. from U.S. 1
North	0 ft.
South	0 ft.
East	75 ft. min. from seawall
Streetscape	Min. 10 feet along street frontages and consistent with the design manual

- (d) *Mixed-use.* The mixed-use development shall comply with the district-wide regulations and the following regulations for onsite improvements.

(1) *Permitted uses.*

Bars, lounges, and nightclubs

Hotel

Marina

Outdoor fruit and vegetable or craft market

Residential uses up to 32 dwelling units/acre

Professional and medical offices (2nd floor and above only)

Retail uses

Personal services

Restaurants

Public/civic facilities

Water taxi service

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

(a) Craft food and beverage producer (subsection 5.15).

~~(b) Medical offices (subsection 9.7)~~

~~(be)~~ Microbrewery (subsection 9.57).

~~(3) Conditional uses. Interim uses (chapter 18, section 1).~~

~~(a) Interim uses. Application for an interim use shall be made in the same manner as a conditional use as provided for in chapter 18 of this code. Notwithstanding anything to the contrary in this code, the following interim uses shall be permitted in the PC-R zoning district upon approval of the conditional use:~~

~~Boat and boat trailer storage~~

~~Commercial marinas~~

~~Concessionaires licensed by the city/CRA for nonmotorized water-based activity such as paddleboat, canoe, kayak and windsurfing~~

~~Farmers' market~~

~~Motor vehicle parking lot~~

~~Promotional sales of specified duration, such as weekend car, boat and tent sales~~

~~Public special events, subject to approval under [chapter 58,] article II, section 58-51, City Code of Ordinances~~

~~Private special events, subject to approval under [chapter 58,] article II, section 58-51, City Code of Ordinances~~

~~Public boat ramp~~

~~Public parks and recreational facilities~~

~~Recreational vehicle park and recreational vehicle storage~~

~~Ride-share commuter lot or other transit program~~

~~Water taxi station~~

~~(b) — *Development standards for interim uses.*~~

~~(1) — In addition to the requirements of chapter 18 of this code, interim uses shall be subject to site review and recommendation by the CRA for consistency with the design, character and redevelopment objectives of the PC-R District.~~

~~(2) — No interim uses shall degrade, destroy or otherwise negatively impact the property such that the cost of redevelopment is increased or important natural features are compromised.~~

~~(3) — Signage for interim uses shall comply with the design, construction and permitting requirements of this code for temporary signs, but shall be allowed for the duration of the interim use permit.~~

~~(4) — The CRA may recommend time limits, conditions and other requirements or variances as deemed necessary to further the redevelopment objectives of the CRA's adopted plan.~~

~~(c) — All permitted interim uses shall terminate on December 31, 2014. Any interim use that continues past December 31, 2014, shall be conclusively deemed a nuisance and upon 30 days' notice, the city shall have the right to enter upon the property and remove or demolish the nuisance and place a lien on the property for all actual costs incurred to abate the nuisance including reasonable attorney fees.~~

~~(4) — *Prohibited uses.*~~

~~Adult entertainment~~

~~Automobile-oriented uses~~

~~Discount and factory outlet stores~~

~~Appliance/electronic repair shops~~

~~Assisted living facilities~~

~~Auction houses~~

~~Boat repair~~

~~Boat sales~~

~~Cemeteries~~

~~Childcare centers~~

~~Commercial/industrial equipment and supplies~~

~~Construction contractor's yard and storage~~

~~Convenience stores with fuel operations~~
~~Drive-thru facilities~~
~~Equipment rentals~~
~~Fleet-based services~~
~~Fortunetellers, astrologers, and palm readers~~
~~Funeral homes~~
~~Greenhouses and nurseries (wholesale and retail)~~
~~Hospitals~~
~~Houses of worship~~
~~Maintenance contractors~~
~~Manufacturing: fabrication~~
~~Mini-warehouses~~
~~Mobile home sales~~
~~Motor vehicle and boat storage facilities~~
~~Motor vehicle repair facilities~~
~~Motor vehicle sales~~
~~Motor vehicle service centers~~
~~Motor vehicle service stations~~
~~Nursing homes~~
~~Office/warehouse facilities~~
~~Pawn shops~~
~~Public utility stations/plants~~
~~Retail home building materials~~
~~Tattoo parlors~~
~~Taxidermy~~
~~Veterinary clinics~~
~~Wholesalers and distributors~~
~~Xerographic and offset printing~~

(35) *Dimensional requirements.*

Max. building height	4 stories or not to exceed 65 ft. above finished floor elevation (excluding architectural appurtenances)
Min. building height	2 stories or min. 20 ft. above finished floor elevation
Min. lot size	1 acre
Min. lot width	0
Min. living area	500800 sq. ft. per unit
Impervious coverage	100% max.
Max. building setbacks (build-to lines)	

Street frontages	10 ft. (All existing and planned street frontage) min. building setbacks (except for street frontages)
Front	10 ft.
Side	10 ft.
Corner side	10 ft.
Rear	10 ft.
Streetscape	Min. 10 feet along street frontages or consistent with the design manual

(e) *Recreation/conservation.*

(1) *Permitted uses.*

Public parks and recreation facilities

Public open space

Public boardwalk/urban trail

Public plazas

Open air theaters

Historical displays

Fountains

Informational kiosks

Public fishing piers

Public art

Private uses allowed by vendor/concessionaire leases with the city or CRA (e.g. cafes, food/beverage carts, street musicians and artists)

~~(2) Permitted uses with special development criteria. None.~~

~~(3) Conditional uses. None.~~

~~(4) Prohibited uses.~~

~~Drive-thru facilities.~~

~~(25)~~ *Dimensional requirements.* None.

(f) *Marina.*

(1) *Permitted uses.*

Public marinas and customary ancillary facilities including, but not limited to, harbor master's offices, fuel operations, restrooms and shower facilities.

Water taxi service

~~(2) Permitted uses with special development criteria. None.~~

~~(3) Conditional uses. None.~~

~~(24)~~ *Prohibited uses.*

Liveaboards except for occasional overnight stays as allowed by chapter 9, section 29(a) of this code, and as allowed by section 82-44, Code of Ordinances.

Commercial fishing.

~~(35)~~ *Dimensional requirements.*

Public marina development within PC-R shall be exempt from the provisions of chapter 9, section 27(a)(11) and section 27(a)(12) pertaining to width of finger pier and length from bulkhead.

~~(g)~~ *Streetscapes.*

~~(1)~~ *Permitted uses within public lands.*

~~Public utilities (underground)~~

~~Landscaping~~

~~"Street Furniture" including benches and trash cans~~

~~Way finding signage~~

~~Informational Kiosks~~

~~Private uses allowed by vendor/concessionaire leases with the city or CRA (e.g. cafes, food/beverage carts, street musicians and artists)~~

~~(2)~~ *Permitted uses with special development criteria. None.*

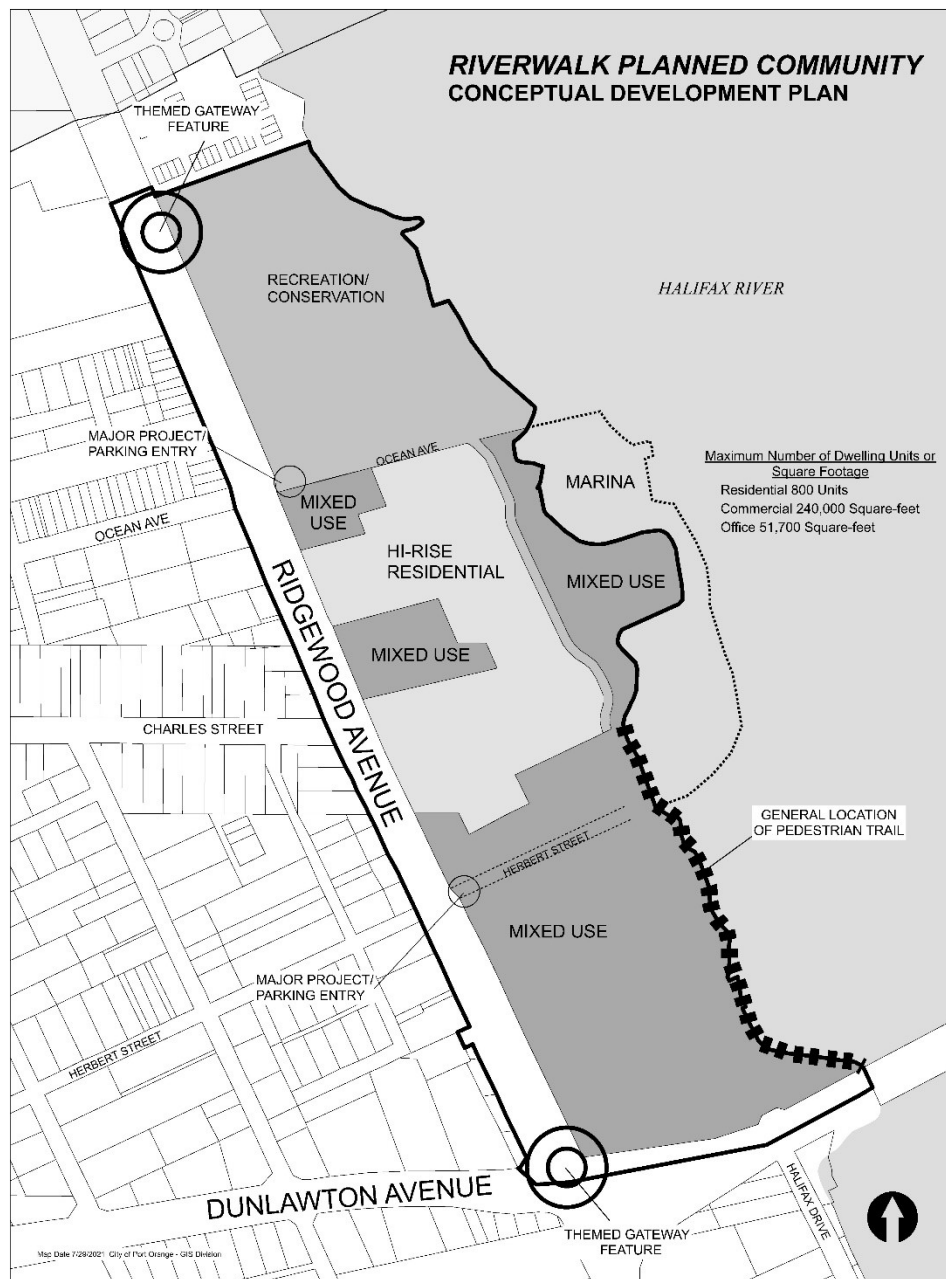
~~(3)~~ *Conditional uses. None.*

~~(4)~~ *Prohibited uses. None.*

~~(5)~~ *Dimensional requirements. None.*

Figure 17:4

[Editors note: Delete existing image and replace with new]



RIVERWALK PLANNED COMMUNITY CONCEPTUAL DEVELOPMENT PLAN

