



PORT ORANGE CITY COUNCIL and
THE COMMUNITY REDEVELOPMENT AGENCY FOR
PORT ORANGE TOWN CENTER
JOINT SPECIAL MEETING
Council Chambers
Wednesday, September 8, 2021 @ 5:30 PM

SPECIAL MEETING AGENDA

Pursuant to Section 3.06 of the Charter of the City of Port Orange, the Mayor has called a **Joint Special Meeting** of the City Council and the Community Redevelopment Agency for Port Orange Town Center to be held for the following purposes:

A. OPENING

1. Roll Call

B. PROOF OF NOTICE OF MEETING OR WAIVER OF NOTICE

C. DISCUSSION/ACTION

2. Second Reading - Ordinance No. 2021-21 - Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (Case No. 21-40000001)

D. ADJOURNMENT

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



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



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

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

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

ANY INVOCATION THAT IS OFFERED BEFORE THE OFFICIAL START OF THE CITY COUNCIL MEETING SHALL BE THE VOLUNTARY OFFERING OF A PRIVATE PERSON, TO AND FOR THE BENEFIT OF THE CITY COUNCIL. THE VIEWS OR BELIEFS EXPRESSED BY THE INVOCATION SPEAKER

City Council/Town Center CRA Joint Special Meeting

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HAVE NOT BEEN PREVIOUSLY REVIEWED OR APPROVED BY THE CITY COUNCIL OR THE CITY STAFF, AND THE CITY IS NOT ALLOWED BY LAW TO ENDORSE THE RELIGIOUS BELIEFS OR VIEWS OF THIS, OR ANY OTHER SPEAKER. PERSONS IN ATTENDANCE AT THE CITY COUNCIL MEETING ARE INVITED TO STAND DURING THE OPENING INVOCATION AND PLEDGE OF ALLEGIANCE. HOWEVER, SUCH INVITATION SHALL NOT BE CONSTRUED AS A DEMAND, ORDER, OR ANY OTHER TYPE OF COMMAND. NO PERSON IN ATTENDANCE AT THE MEETING SHALL BE REQUIRED TO PARTICIPATE IN ANY OPENING INVOCATION THAT IS OFFERED. A PERSON MAY EXIT THE CITY COUNCIL CHAMBERS AND RETURN UPON COMPLETION OF THE OPENING INVOCATION IF A PERSON DOES NOT WISH TO PARTICIPATE IN OR WITNESS THE OPENING INVOCATION.



CITY COUNCIL AGENDA ITEM

REQUESTED COUNCIL MEETING DATE 9/8/2021

Consent item: No

SUBJECT: (C2) Second Reading - Ordinance No. 2021-21 - Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (Case No. 21-40000001)

DEPARTMENT: Community Development

GOAL: 4 - Economic Development

RECOMMENDED MOTION: CRA - Move to approve Ordinance No. 2021-21, approving the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement.

City Council - Move to approve Ordinance No. 2021-21, approving the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement, as recommended by the Planning Commission and Port Orange Town Center CRA

SUMMARY: Planning Commission Action (7/22/2021): Recommended Approval (4-2)

City Council Action - 1st Reading (8/17/2021): Recommended Approval (4-0)

The property owner, Halifax River Partners, LLC (HRP), is requesting approval of the proposed Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA) to defer the completion date of the Riverwalk Phase 1 site improvements and the Fysh Bar and Grill restaurant until March 21, 2022. The current MDA requires all Phase 1 site improvements and the restaurant to be completed by September 20, 2021. If approved, the Third Amendment also extends the completion date of the Economic Development Incentive Agreement (EDIA) between the City and HRP for the Phase 1 site improvements and the restaurant. According to the EDIA, if the Phase 1 site improvements and the restaurant are not completed by the required date, the EDIA will terminate and HRP will not be eligible to receive 50% of the property tax increment revenue (TIF) attributed to the public improvements installed in Phase 1 and remaining credit for building and development permit fees.

According to the applicant, the proposed Third Amendment is to extend the completion date for the construction of Phase 1 site improvements (parking lot, landscaping, sidewalk, stormwater, and turn lanes) that serve the private development in Phase 1 and the restaurant. According to the applicant, the additional 6-months requested to complete the project is due to building material shortages and delays in the delivery of materials. The applicant states that the shortage of building materials and delivery delays is not limited to this project but is also affecting construction projects throughout

the state and country.

As of early August, the contractor for the Riverwalk Fysh Bar and Grill Restaurant at Riverwalk finished the construction of the concrete masonry unit (CMU) block walls for the first floor of the restaurant and is setting the structural steel for the second floor. The steel for the second floor is anticipated to be set by the middle of August, then construction of the concrete masonry unit (CMU) block walls for the second floor, along with the roof, will be completed. Once the exterior building walls and roof are completed, interior plumbing, electrical, and mechanical work will begin. The contractor is also actively working on the grading for the parking lot and retention ponds and installing the underground stormwater infrastructure in the parking lot.

The proposed Third Amendment provides the following:

1. Defer the completion date for the permanent on-site and off-site improvements in Phase 1 and the restaurant from September 20, 2021 to March 21, 2022.
2. Require HRP to demolish the non-residential structures on the City-owned "Dave's Pest Control" property (3641 Ridgewood Avenue) and removal of ground vegetation, invasive species and dead or diseased trees on the property by December 30, 2021.
3. Allow the applicant the ability to establish off-site overflow parking areas, if necessary, for the Fysh Bar and Grill restaurant, according to the off-site overflow parking standards in the Third Amendment.

There are no specific criteria to be used as a basis for staff recommendations for the requested deviations from the timeline in the original Riverwalk Amended and Restated Master Development Agreement. Staff recommendations on zoning matters are generally based on consideration of compatibility with adjacent uses, availability of adequate infrastructure and consistency with adopted plans (such as Comprehensive Plan, City Vision, budget, etc.). The proposed timing to complete the Phase 1 site improvements is different than originally planned in the Riverwalk Amended and Restated MDA and requires Planning Commission, CRA and Council direction on whether the specific deviation to the completion date will be acceptable.

The staff report is attached for more details.

Project No.: N/A

Funding Account No.: N/A

Presenter: Tim Burman

ATTACHMENTS:

1.	Ordinance 2021-21 with exhibit	Ord 2021-21 Riverwalk.pdf
2.	Final Staff Report - Riverwalk 3rd_Amendment	Final Staff Report - Riverwalk 3rd_Amendment.docx
3.	Guidelines for Joint Meeting	Joint Meeting CR CC 9-821.pdf

Penelope Cruz
Robin Fenwick

Created/Initiated - 8/17/2021
Final Approval - 8/19/2021

ORDINANCE NO. 2021-21

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, APPROVING THE THIRD AMENDMENT TO THE RIVERWALK AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT (MDA); PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and Developer desire to further amend the Riverwalk Amended and Restated Master Development Agreement (“MDA”) recorded in Official Records Book 7306, Page 1188, as amended by the First Amendment to the Riverwalk Amended and Restated Master Development Agreement recorded in Official Records Book 7750, Page 1657, and as further amended by Second Amendment to the Riverwalk Amended and Restated Master Development Agreement recorded in Official Records Book 7912, Page 2562 all in Public Records of Volusia County, Florida; and

WHEREAS, the City and Developer desire to enter into the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (hereinafter referred to as the (“Third Amendment”)); and

WHEREAS, the Developer submitted a request to the Planning Commission to approve the Third Amendment; and

WHEREAS, a public hearing was held following public notice as prescribed by ordinance; and

WHEREAS, the Planning Commission has by unanimous vote recommended approval of the proposed Third Amendment; and

WHEREAS, the City Council has approved by a majority vote of the members present the approval of the Third Amendment.

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

Section 1. The City Council of the City of Port Orange does hereby approve the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (attached hereto as **Exhibit “1”**).

Section 2. The Mayor and City Clerk are hereby authorized to execute said Third Amendment.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on second reading on the day of _____, 2021

Passed and adopted on second and final reading on the day of _____, 2021

Reviewed and Approved: _____
Shannon K. Balmer, Assistant City Attorney

EXHIBIT "1"

Prepared By:

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

Return Recorded Document to:

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

THIRD AMENDMENT TO THE RIVERWALK AMENDED AND RESTATED MASTER DEVELOPMENT AGREEMENT

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

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

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

WHEREAS, the Parties amended the MDA under the Second Amendment To The Riverwalk Amended and Restated Mater Development Agreement dated September 15, 2020 and recorded in Official Records Book 7912, Page 2562 of the Public Records of Volusia County, Florida and

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

NOW THEREFORE, the Parties hereby agree as follows;

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

2. Paragraph 6 of the MDA, “Phasing” is hereby amended to revise subparagraph “g.” as follows: The improvements listed as iii, iv, v, and viii were timely constructed and accepted by the City and the remaining improvements shall be completed on or before March 21, 2022:

- i. All the improvements on Lot 4 of the proposed subdivision plat referenced herein, also referred to as the "point", including a restaurant and the associated site improvements, extending into the intracoastal river within the mixed-use area except for the 2 multi-purpose marina buildings and the 58-slip marina.
- ii. The shared permanent parking facilities as shown on the CDP, located on Lot 9 of the proposed subdivision plat.
- iii. The Public Trail and Park (PTP), including landscaping within the utility corridor, lights, stormwater, benches, trash receptacles, and other amenities.
- iv. Off-site work on the portion of Ocean Avenue to complete the PTP to the north side of the Ocean Avenue right-of-way where the PTP continues into the City’s Riverwalk Park.
- v. Necessary utilities to service all proposed lots indicated on the Conceptual Replat, incorporated herein by reference on the CDP (Exhibit “ E”) and utilities to maintain service to off-site property currently served with laterals on the Project Area Property.
- vi. All stormwater improvements serving all phases except for structures and dry retention that specifically only serve the two condominium tower parking areas in Phase 2 and Phase 3.
- vii. Landscaping, except around the condominium tower footprints and condominium parking areas.
- viii. Demolition of Cardwell structures, including the building and all subsurface structures and soils.
- ix. Temporary parking for the existing marina as described in this amendment
- x. An Eight (8) foot pedestrian pathway on Lot 4. the subject of the pedestrian easement referenced in subsection 3.e.x, of this Agreement and as generally shown on Exhibit 1. attached hereto and made apart hereof by reference.
- xi. Demolition of the structures and associated concrete pads and pavement on the Dave’s Pest Control property, more particularly identified as Parcels 630316000014 and 630310020050, including but not limited to the removal of all ground vegetation, invasive species and dead or diseased trees on the property prior to the issuance of the Certificate of Occupancy for the Restaurant on the Point or by December 30, 2021 whichever occurs first. Applicant shall obtain a building permit to demolish the structures and comply with all City requirements for demolition.

4. Paragraph 12 of the MDA, “Bonding” is hereby amended to revise subparagraph “b.” as follows:

- b. Prior to the close of escrow, a separate bond, letter of credit or cash deposit shall be provided by the Owner/Developer to the City, to be held in escrow, guaranteeing the completion of the demolition and construction of the Public Trail and Park (PTP) and associated PTP utilities, stormwater and landscaping as set forth on plans stamped “Approved for Construction,” in the amount of two (2) years of the net income for the Cardwell property along with a timing requirement that the PTP and the associated PTP improvements shall be complete within 14 months from the commencement of

construction. The remaining Phase I improvements, as set forth in paragraph 6.g. of the MDA, as amended herein, shall be complete on or before March 21, 2022. The bond, letter of credit or cash deposit shall be released to Owner/Developer upon the timely completion of the Phase I improvements otherwise it shall be forfeited.

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

d. Prior to the issuance of a certificate of occupancy for any use in Phase I or March 21, 2022, whichever date is earlier, Owner/Developer shall complete the permanent parking facilities as required in subparagraph 6.g as set forth in the MDA, as amended, and as otherwise required by the City’s LDC.

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

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

- i. The temporary parking lot shall be constructed in conformance with the standards set forth herein and as approved by the City, requiring a paved, stabilized shell or gravel parking lot with stormwater facilities, and an ADA compliant walkway from the temporary parking to the marina facilities as shown on the approved subdivision construction plans.
- ii. Landscaping for the temporary parking facilities, as required by the LDC and this Agreement shall not be required during the period of time set forth in this section.
- iii. Temporary lighting for the temporary parking area and designated pedestrian crosswalk and pathway to the marina shall be required
- iv. The allowance of the temporary parking may require a site plan or building permit and shall expire upon completion of the Phase I improvements on or before March 21, 2022

8. Paragraph 18 of the MDA, “Parking” is hereby amended to add a new subparagraph, “g”. as follows:

g. The Owner/Developer may establish overflow parking in areas within Phase 2 and Phase 3 as indicated in the CDP if the minimum parking spaces on Phase 1 complies with the Land Development Code (LDC) and this MDA. The overflow parking shall be

approved according to the LDC through a site plan or site plan modification and comply with the requirements in the LDC. Screening of the overflow parking perimeter shall be provided where it is visible from any public or private street or right-of-way or public trail and shall be screened with any combination of hedge, fence, walls or berms which provide a minimum three-foot high visual barrier. Landscaping buffers and internal parking lot landscape required in Chapter 13 of the LDC may be waived by the administrative official as part of the site plan or site plan modification, but the screening (combination of hedge, fence, walls or berms) around the overflow parking perimeter shall not be waived.

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

a. The effective date of this Agreement shall be upon the recording of the Agreement, and the recording shall occur within 30 days of the City Council approval. If all PTP improvements and associated PTP utilities, stormwater drainage, and landscaping are not commenced by September 20, 2018 and completed by November 20, 2019, then this Agreement shall expire, except as amended by City Council. Except as otherwise provided herein, the remaining Phase I improvements, as set forth in paragraph 6.g. of this Agreement, including but not limited to the completion of the restaurant, shall be completed on or before Five and one-half (5 1/2) years from the date of approval of this Agreement, said date being March 21, 2022. The Owner/Developer, their successors or assigns, shall not be relieved of the prior obligations to develop infrastructure, landscaping, or any other common features required to serve the existing marina. Prior to the issuance of a Certificate of Occupancy and/or Letter of Completion being issued to allow the marina to re-open, all parking and site improvements required by the Land Development Code are to be completed as provided in Paragraph 18 of this Agreement. This obligation shall survive and shall not terminate in the event that this Agreement expires.

b. The Phase I improvements set for in Paragraph 6.g. of this Agreement are required to be completed on or before March 21, 2022 in accordance with Subsection 21.a. herein. In the event the Owner/Developer does not complete the required Phase I improvements set forth in Paragraph 6.g. of this Agreement on or before March 21, 2022, then the Owner/Developer entitlements under this Agreement shall lapse and this Agreement shall be of no further force and effect.

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

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

THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.

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

WITNESSES (as to both):

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

Signature

By: _____
Donald O. Burnette, Mayor

Printed Name

Signature

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

Printed Name

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged by 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 Florida municipal corporation, on behalf of the City. He is personally known to me and did not take an oath.

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

STATE OF FLORIDA
COUNTY OF VOLUSIA

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

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

HALIFAX RIVER PARTNERS, LLC

WITNESSES:

Signature

Printed Name

Signature

Printed Name

By: _____
Josif Atanasoski, Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged by physical presence before me this _____ day of _____, 2021, by JOSIF ATANASOSKI, Manager of HALIFAX RIVER PARTNERS, LLC. He is personally known to me or has produced _____ as identification.

Notary Public, State of Florida at Large

My Commission Expires:



STAFF REPORT

Third Amendment to the Riverwalk Amended and Restated Master Development Agreement
CASE NO. 21-40000001

REQUEST:	Approve the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA)
LOCATION:	East of Ridgewood Avenue, south of Ocean Avenue, north of Herbert Street (see Figure 1).
APPLICANT:	Josif Atanasoski, Manager, Halifax River Partners, LLC
OWNER:	Halifax River Partners, LLC; Port Orange Town Center
STAFF CONTACT:	Tim Burman, Community Development Director (386) 506-5675
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	July 22, 2021 - Recommended Approval (4-2)
CITY COUNCIL:	August 17, 2021

DISCUSSION

The proposed Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA) is to extend the required completion date for the Riverwalk Phase 1 site improvements and the Fysh Bar & Grill Restaurant to March 21, 2022. The current MDA requires all Phase 1 on-site and off-site improvements (parking lots, turn lanes, stormwater, landscaping, parking lot lights and walk lights, utilities, sidewalks, etc.) and the restaurant to be completed by September 20, 2021. According to the applicant, the additional 6-months requested to complete the project is due to building material shortages and delays in the delivery of materials. The applicant states that the shortage of building materials and delivery delays is not only limited to this project but are affecting construction projects throughout the state and country.

As of August 4, the contractor for the Riverwalk Fysh Bar and Grill Restaurant at Riverwalk finished the construction of the concrete masonry unit (CMU) block walls for the first floor of the restaurant and is setting the structural steel for the second floor. The steel for the second floor is anticipated to be set by the middle of August, then construction of the concrete masonry unit (CMU) block walls for the second floor, along with the roof, will be completed. Once the exterior building walls and roof are completed, interior plumbing, electrical, and mechanical work will begin. The contractor is also actively working on the grading for the parking lot and the retention area, installing the underground stormwater infrastructure in the parking lot, and completing the new seawall around the perimeter of the point property (Figure 1).



Figure 1. Riverwalk Fysh Bar and Grill Restaurant and Site Work

The overall HRP Riverwalk project is still expected to be completed in five phases (Figure 2), with each phase being required to have adequate access and infrastructure to support development. The 23-foot-wide public trail and park and associated site improvements, burying of the FPL power lines, and underground utilities improvements in the former Halifax Drive right-of-way were completed and accepted by the City of Port Orange by November 20, 2019. The remaining on-site and off-site improvements to support the Fysh Bar and Grill restaurant on the point property are to be completed with Phase 1. The

residential condominium buildings are expected to be constructed in Phases 2 and 3 and additional marina boat slips constructed in Phases 4 and 5.

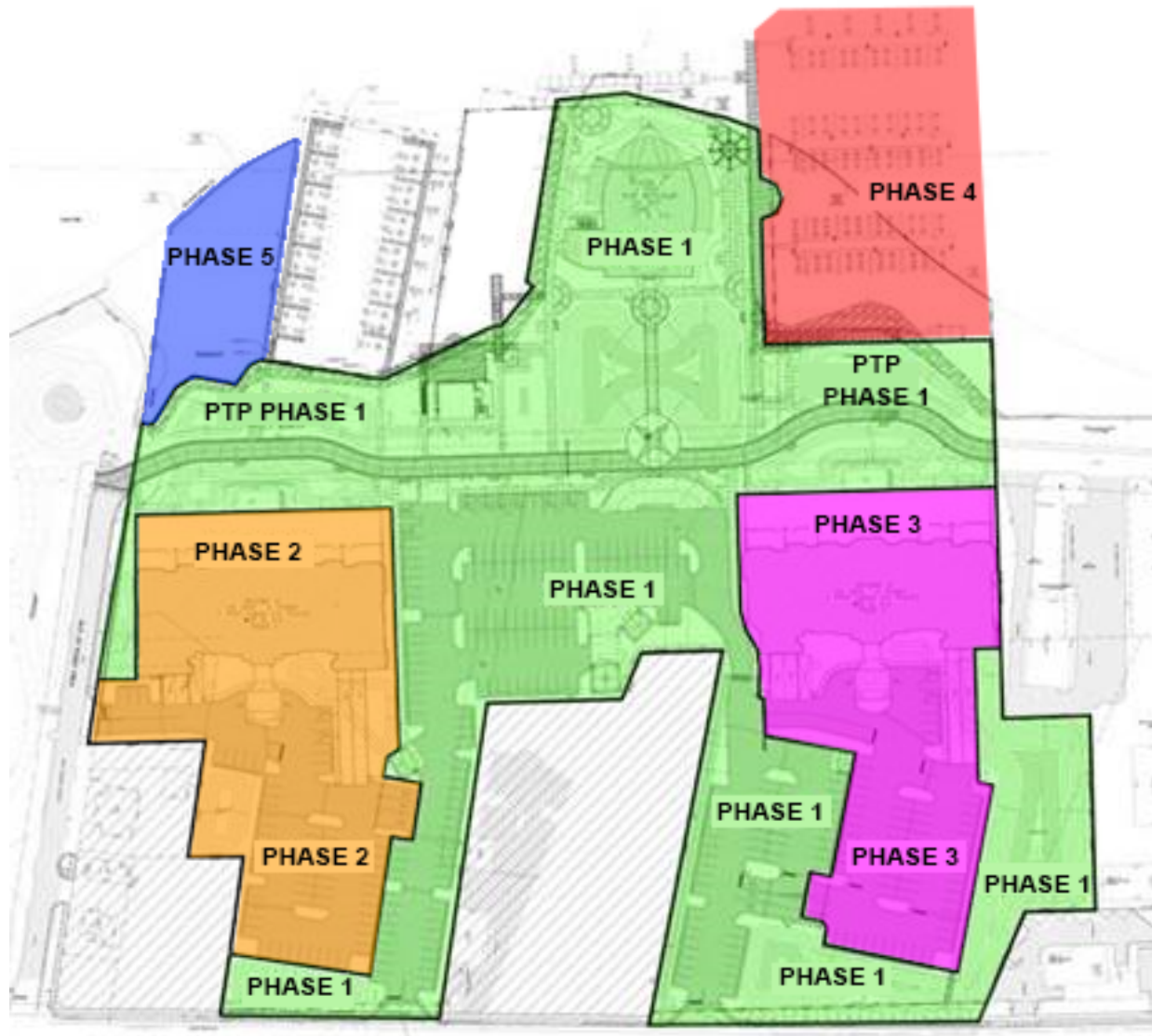


Figure 2. Concept and Phasing Plan for the Riverwalk Amended and Restated Master Development Agreement (MDA).

If approved, the proposed Third Amendment to the MDA will provide or require the following:

1. Extends the completion and acceptance date for the Phase 1 on-site and off-site improvements and the issuance of the Certificate of Occupancy for the Fysh Bar and Grill restaurant from September 20, 2021 to March 21, 2022.
2. Requires the applicant to submit a building permit application along with all necessary documentation required to obtain a building permit to demolish the non-residential structures on the City-owned “Dave’s Pest Control” property (3641 Ridgewood Avenue) by December 30, 2021, along with the removal of debris associated with the

demolishing of the two buildings and any required erosion control measures prior to or after demolishing. Along with demolishing the two buildings, the applicant will also remove ground vegetation, invasive species and dead or diseased trees on the City-owned "Dave's Pest Control" property. Prior to issuance of the building permit to demolish the two buildings, a temporary construction easement will need to be executed between the Port Orange Town Center (POTC) Community Redevelopment Agency (CRA) and the contractor the applicant selects to perform the work.

3. Allow the ability to establish off-site overflow parking areas, if necessary, for the Fysh Bar and Grill restaurant on property located within Phase 2 and Phase 3, according to the standards in the Third Amendment and the Land Development Code. The overflow parking areas would be required to comply with the requirements in the Land Development Code for on-site overflow parking areas, which include, the overflow parking areas being shown on an approved site development plan, the overflow parking spaces being delineated, and the overflow spaces cannot become rutted, uneven, unable to drain properly, unsightly, or unmaintained.

The Riverwalk Amended and Restated Master Development Agreement (MDA) was approved by the City Council in September 2016 and established a phasing plan along with specific timeframes for completion of on-site and off-site improvements (parking lots, turn lanes, stormwater, landscaping, and sidewalks) for Phase 1 of the Riverwalk development and completion of the restaurant (Fysh Bar and Grill) on the point. The MDA was amended in September 2019 to extend the timeframe to complete the required Phase 1 site improvements and restaurant from September 2019 to September 2020, and in 2020 the MDA was amended to extend the timeframe to complete the required Phase 1 site improvements and restaurant from September 2020 to September 2021. If the Third Amendment is approved, the date to complete the Phase 1 site improvements and restaurant would be extended from September 20, 2021 to March 21, 2022.

If approved, the Third Amendment also extends the completion date of the Economic Development Incentive Agreement (EDIA) between the City and HRP for the Phase 1 site improvements and the restaurant. According to the EDIA, if the Phase 1 site improvements and the restaurant are not completed by the required date, the EDIA will terminate and HRP will not be eligible to receive 50% of the property tax increment revenue (TIF) attributed to the public improvements installed in Phase 1 and remaining credit for building and development permit fees.

There are no specific criteria to be used as a base for staff recommendation for the requested time extension to the completion date for the remaining Phase 1 on-site and off-site improvements and the Fysh Bar and Grill restaurant from the original MDA. Staff recommendations on zoning matters are generally based on consideration of compatibility with adjacent uses, availability of adequate infrastructure and consistency with adopted plans (such as Comprehensive Plan, City Vision, budget, etc.). The proposed timing of developing Phase 1 is different than originally planned in the Riverwalk Amended and Restated Master Development Agreement (MDA) and amendments to the original MDA and will require Planning Commission and Council direction on whether the extension to the completion date for the remaining Phase 1 on-site and off-site improvements and the Fysh Bar and Grill restaurant will be acceptable.

CONSISTENCY WITH THE COMPREHENSIVE PLAN

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

PUBLIC NOTICE

On July 12, 2021, staff posted the property notifying the public of the proposed MDA amendment. As of the time this agenda item was prepared, there has been zero (0) phone calls regarding the proposed MDA.

RECOMMENDATION

Staff recommends approval of the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (MDA).

ATTACHMENT

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

**JOINT SPECIAL MEETING OF PORT ORANGE TOWN CENTER
COMMUNITY REDEVELOPMENT AGENCY AND
CITY COUNCIL OF PORT ORANGE, FLORIDA
September 8, 2021**

[Mayor] I call the Special Joint Meeting of the Port Orange Town Center Community Redevelopment Agency and Port Orange City Council to Order.

1. **Roll Call: Members of the Port Orange Town Center Community Redevelopment Agency:** Chair Stan Schmidt, Michael Benedict, Donald Burnette, Drew Bastian, Scott Stiltner, Chase Tramont, Jonathan Foley
2. **Roll Call: Members of the City Council:** Donald Burnette, Drew Bastian, Scott Stiltner, Chase Tramont, Jonathan Foley

[Mayor] Do I have an objection to the notice of meeting? Hearing no objection, the notice is accepted.

3. **[Mayor]** I will be opening the item for presentation by staff and joint discussion by City Council and the CRA. Chairman Schmidt will call for the vote by the CRA and I will call for the vote by City Council.
- 4.
5. **Mayor opens the item:**

[Mayor] Item C.2. is Second Reading of Ordinance No. 2021-21, the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement (Case No. 21-40000001)

7. **Community Development will present the item.**
8. **Mayor will direct the discussion and questions for both the CRA and City Council.**
9. **[Mayor]** Call for Public Comments.
10. **[Mayor]** Final comments from CRA and City Council prior to vote.
11. **[Mayor]** Chairman Schmidt will call for the vote by CRA.
12. **[Chairman Stan Schmidt]** I need a motion for Item C.2. Ordinance 2021-21.
13. **Motion:**

“Move to recommend approval of Ordinance No. 2021-21, approving the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement, as recommended by the Planning Commission.”

[Chairman Stan Schmidt] *Second? Voice vote.*

[Chairman Stan Schmidt] *Call the roll.*

14. **[Mayor]** I need a motion for Item C.2. Ordinance 2021-21.

15. **Motion:**

“Move to approve Ordinance No. 2021-21, approving the Third Amendment to the Riverwalk Amended and Restated Master Development Agreement, as recommended by the Planning Commission.”

[Mayor] Second? Voice vote.

[Mayor] Call the roll.

14. **[Mayor]** Any further business to be brought before the Members of the Town Center Redevelopment Agency and City Council?

15. **[Mayor]** There being none, I will entertain a motion for this joint special meeting to be adjourned.