



REGULAR CITY COUNCIL MEETING

6:30 PM – COUNCIL CHAMBERS – CITY HALL

APRIL 19, 2022

AGENDA

ALL CITIZENS DESIRING TO ADDRESS THE PORT ORANGE CITY COUNCIL DURING CITIZEN PARTICIPATION SHOULD COMPLETE A SPECIAL APPLICATION FORM WHICH IS LOCATED ON THE STANDS OUTSIDE THE COUNCIL CHAMBERS. AFTER COMPLETING THE FORM, PRESENT IT TO THE CITY CLERK.

A. OPENING

1. Invocation by Pastor David Troxler of First Christian Church
2. Pledge of Allegiance
3. Roll Call

B. SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

4. National Crime Victims' Rights Week Proclamation
5. Vietnam War Veterans Day Proclamation

C. TOWN CENTER CRA JOINT SPECIAL MEETING

6. Release of Mortgage on Caldwell Funeral Home Parcel in Riverwalk

D. CONSENT AGENDA

7. Public Comments on Consent Agenda Items Only
8. Agenda Approval
9. Approval of Minutes
 - a. April 5, 2022 - Regular City Council Meeting
10. Bid Awards and Contract Items
 - a. Approval of Task Authorization No 1 with Kimley Horn & Associates, Inc., for Construction Administration during construction phase of the Water Reclamation Facility Building Expansion project.

- b. Approval of Change Order #7 to Saboungi Construction Inc. for Playground Equipment at the REC Center

11. Resolution No. 22-11 - Tree Bank Policy

12. Resolution No. 22-13 - Calling a Primary and Regular Election for the Purpose of Electing City Council Members for Districts 1, 2, and 4 and providing for the qualifying period and election dates

13. Approval of the Third Amendment to Interlocal Agreement for Fire and/or Rescue Mutual Aid within Volusia County

14. Approval of an Easement to Florida Power and Light at the REC Center

E. PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

F. COUNCIL COMMENTS

15. Comments/Concerns from Council Members

G. BOARD APPOINTMENTS, INTERVIEWS, REPORTS

16. Citizen Advisory Committee for TPO

17. Golf Course Advisory Board Report

18. Parks & Recreation Advisory Board Report

H. PUBLIC HEARING

19. First Reading - Ordinance No. 2022-7 - Rezoning/5231 Nova Road (Case No. 22-60000002)

20. Small-Scale Future Land Use Map Amendment & Rezoning for 3741 S. Nova Road

- a. First Reading - Ordinance No. 2022-8 - Small-scale Future Land Use Map Amendment/3741 S. Nova Road (Case No. 22-20000001)

- b. First Reading - Ordinance No. 2022-9 - Rezoning/3741 S. Nova Road (Case No. 22-60000001)

21. First Reading - Ordinance No. 2022-10 - Land Development Code Amendment/Chapters 2 and 15 (Case No. 22-25000002)

I. REGULAR AGENDA

22. Discussion on ArtHaus Use Agreement

J. ADDITIONAL ITEMS

23. City Attorney

24. City Manager

K. COUNCIL COMMITTEE REPORTS

25. City Council Committee Reports

- a. First Step Shelter - Council Member Chase Tramont
- b. Port Orange/South Daytona Chamber of Commerce - Mayor Don Burnette

L. 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 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.



COMMUNITY REDEVELOPMENT AGENCY FOR PORT ORANGE TOWN CENTER

AGENCY MEETING DATE: 4/19/2022

SUBJECT: (C6) Release of Mortgage on Caldwell Funeral Home Parcel in Riverwalk

DEPARTMENT: City Attorney

RECOMMENDED MOTION:

CRA Motion:

Move to recommend approval of the City's Release of the Mortgage encumbering the property known as Cardwell with a Parcel ID of 6303-10-02-0030; authorize City Manager and City Attorney to finalize the release document and authorize Chairman and Agency Clerk to sign any necessary documents for completion of the release of the Cardwell property.

City Council Motion:

Move to approve the Release of the Mortgage encumbering the property known as Cardwell with a Parcel ID of 6303-10-02-0030; authorize City Manager and City Attorney to finalize the release document and authorize Mayor and City Clerk to sign all necessary documents for completion of the release of the Cardwell property.

SUMMARY: In 2009, the Port Orange Town Center Community Redevelopment Agency ("CRA") took out a mortgage on the Cardwell property (PARCEL ID 6303-10-02-0030) in favor of the City of Port Orange ("City") as a way to document the debt responsibility of the CRA. In 2016, the City and CRA entered into a Property Exchange Agreement ("Exchange Agreement") with Halifax River Partners, LLC ("HRP") where it was agreed that the CRA would convey the Cardwell property to HRP in exchange for completing the public trail and park between Ocean Avenue and Herbert Street, along with other certain site improvements. While HRP's project has taken longer than expected and the parties have amended the agreements, HRP has now completed its obligations as currently agreed and the City and CRA are moving forward with the closing to complete the conveyance of the Cardwell property to HRP, in accordance with the Property Exchange Agreement, as amended.

The value of the Cardwell property for purposes of the exchange is \$260,000.00. HRP constructed the segment of the public trail and park between Ocean Avenue and Herbert Street at a cost of approximately \$1,200,000.00 and conveyed said trail to the City.

In furtherance of completing the property exchange, the staff is requesting that the City and CRA agree to release the mortgage encumbering the Cardwell property. This does not release the CRA from its debt obligations to the City, but it is necessary to release

the Cardwell property as collateral for the debt owed in order for the City and CRA to fulfill their contractual commitments under the Property Exchange Agreement.

ATTACHMENTS:

1.	Release of Mortgage on Cardwell	Cardwell Release of Mortgage 2019 .pdf
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Robin Fenwick	Created/Initiated - 3/30/2022
Shannon Balmer	Approved - 4/7/2022
Tim Burman	Approved - 4/7/2022
John McKinney	Approved - 4/8/2022
Shannon Balmer	Approved - 4/8/2022
Wayne Clark	Approved - 4/8/2022
Robin Fenwick	Final Approval - 4/8/2022

This instrument prepared by:
Shannon K. Balmer, Assistant City Attorney
City of Port Orange
1000 City Center Circle
Port Orange, FL32129

Property Appraiser's Parcel ID No:
6303-10-02-0030

RELEASE OF MORTGAGE

KNOW ALL BY THESE PRESENTS: that **The Community Redevelopment Agency for Port Orange Town Center**, public body corporate politic established pursuant to Section 163.356, Florida Statutes, located in the City of Port Orange, State of Florida, County of Volusia, 1000 City Center Circle, Port Orange, FL 32129-4144, Mortgagor, by Mortgage recorded on November 6, 2009, in **Official Records Book 6415, Page 84**, of the public records of Volusia County, Florida ("Mortgage"), mortgaged certain real property to **The City of Port Orange**, a Florida Municipal corporation, Mortgagee; and

WHEREAS, the Mortgagor has requested the Mortgagee to release the property hereinafter described, from the lien and operation of the Mortgage.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Mortgagee does remise, release, quit-claim, exonerate and discharge from the lien and operation of the Mortgage unto the Mortgagor, its successors and assigns, that property conveyed by the Mortgage, more particularly described as follows:

The Westerly 316 feet of the Southerly $\frac{1}{2}$ of Lot 2, and the Westerly 316 feet of the Northerly $\frac{1}{2}$ of Lot 3, All in Block 2, HAND TRACT, Port Orange, Florida, according to the map or plat thereof, as recorded in Map Book 2, Page 185, Public Records, Volusia County, Florida, **EXCEPTING THEREFROM** that portion lying in U.S. Highway No. 1, as now established and in use. ("Released Property")

TO HAVE AND TO HOLD the same, with the appurtenances, unto the Mortgagor, its heirs and assigns forever, freed, exonerated and discharged of and from the lien and encumbrance of the Mortgage and Related Documents, and every part thereof; provided always, nevertheless, that nothing herein contained shall in anywise impair, alter or diminish the effect, lien or encumbrance of the aforesaid Mortgage on the remaining part of said mortgaged property not hereby released therefrom or any of the rights and remedies of the holder thereof.

[REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the Mortgagee has caused these presents to be executed in its name, on this _____ day of _____, 2022.

Signed, sealed, and delivered in the presence of: Mortgagee: the **City of Port Orange**, a Florida Municipal corporation

1st Witness signature

By: _____
Donald O. Burnette, Mayor

Print name

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

2nd Witness signature

Print name

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] or [] online notarization this _____ day of _____, 2022, by Donald O. Burnette and Robin L. Fenwick, respectively as Mayor and City Clerk of the City of Port Orange, Florida on behalf of said entity. He/she is () personally known to me or () has produced _____ as identification.

Notary Public
My Commission Expires:

REGULAR CITY COUNCIL MEETING MINUTES
COUNCIL CHAMBERS – CITY HALL
1000 CITY CENTER CIRCLE
PORT ORANGE, FLORIDA
APRIL 5, 2022

THE REGULAR CITY COUNCIL MEETING of the City of Port Orange was called to order by Mayor Donald O. Burnette at 6:30 p.m.

Invocation by Pastor Sheila Turner of A Touch of HIS Hem Ministries

Pledge of Allegiance

Roll Call	Present:	Council Member Reed Foley Council Member Chase Tramont Council Member Drew Bastian Vice Mayor Scott Stiltner Mayor Donald Burnette
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Also Present:	City Manager Wayne Clark City Attorney Matthew Jones City Clerk Robin Fenwick
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SPECIAL AWARDS, REPORTS, RECOGNITION AND PROCLAMATIONS

4. Water Conservation Month Proclamation

Mayor Don Burnette read the proclamation.

5. Autism Awareness Day Proclamation

Council Member Chase Tramont spoke regarding autism and read the proclamation for Autism Awareness on behalf of the Mayor.

6. Actuarial Report Presentations

a. Police Pension Plan - Chad Little, Freiman Little Actuaries, provided information from the annual report for the Police Pension Fund.

b. Fire Pension Plan - Doug Lozen, Foster & Foster, provided information from the annual report for the Fire Pension Fund.

c. General Employees' Pension Plan – David Leonard, Benefits USA, provided information from the annual report for the General Employees' Pension Fund.

7. FY2021 Audit Discussion with James Moore & Co

Zach Chalifour, CPA with James Moore & Company, provided details of the audit and answered questions from Council.

8. Public Comments on Consent Agenda Items Only

There were none.

9. Agenda Approval

There were no changes requested by Council.

Motion to approve was made by Vice Mayor Scott Stiltner and Seconded by Council Member Drew Bastian. Motion carried unanimously by voice vote.

10. Approval of Minutes

- a. March 15, 2022 - Regular City Council Meeting
- b. March 22, 2022 - Special City Council Meeting

11. Bid Awards and Contract Items

- a. Intent to Award RFP #21-07 to Charter Communications Operating LLC for Internet and Voice-over-IP Services
- b. Request to waive formal bid requirements for Parks & Recreation uniforms until April 1, 2023
- c. Approval of the Intent to Award ITB #21-17 to Simpson Environmental Services, LLC for Police Department Duct/HVAC Mold Remediation

12. Resolution No. 22-12 - Authorizing the Mayor and City Clerk to execute documents related to the return of \$225,840 of CDBG-CV funding to the U.S. Department of Housing and Urban Development and closing out the grant award

Motion to approve the Consent Agenda as presented was made by Vice Mayor Scott Stiltner and Seconded by Council Member Chase Tramont. Motion carried unanimously by roll call vote.

City Council recessed at 7:23 p.m. to hold the meetings of the corporations, minutes of which are under separate cover.

MEETING OF CORPORATIONS

13. Port Orange Property Development, Inc. Joint Annual Meeting of the Members, Directors and Design Review Board

14. City Center Corporate Park Property Owner's Association, Inc. Joint Special Meeting of Directors and Members

City Council reconvened at 7:32 p.m.

PUBLIC PARTICIPATION (Non-Agenda – 20 minutes)

Kristin Johansson, citizen, provided an update from the Port Orange/South Daytona Chamber of Commerce.

Robert Reinhausen, citizen, spoke regarding the lack of data collected on hate crimes. He'd like to see a policy or procedure showing how the police department handles hate crimes.

Sherrise Boyd, County Council At Large Candidate, introduced herself and discussed her candidacy.

Reina Lee, citizen, spoke regarding feminine hygiene products that are no longer sold in public bathrooms. She believes they should be to assist those in need of the products.

COUNCIL COMMENTS

15. Comments/Concerns from Council Members

Vice Mayor Scott Stiltner thanked the Port Orange Community Trust volunteers for their work on the Spring Food & Brew Fest.

Council Member Reed Foley thanked the Rotary for their efforts on the golf tournament.

BOARD APPOINTMENTS, INTERVIEWS, REPORTS

16. Environmental Advisory Board Report

Kris Cunningham, Chair, provided an update to Council.

PUBLIC HEARING

17. First Reading - Ordinance No. 2022-6 - Approval of an Amendment to the Emergency Management Ordinance

Mayor Don Burnette read Ordinance No. 2022-6.

ORDINANCE NO. 2022-6

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, AMENDING THE CODE OF ORDINANCES, CHAPTER 26, EMERGENCY MANAGEMENT, ARTICLE I, IN GENERAL, SECTION 26-6.2, DECLARATION OF STATE OF EMERGENCY AND SECTIONS 26-6.3 (c)(6)&(d), EMERGENCY MANAGEMENT POWERS, TO LIMIT THE DURATION OF EMERGENCY ORDERS FOR CERTAIN EMERGENCIES AND CREATE EXCEPTIONS TO CURFEW; AND ADDING SECTION 26-10, AVAILABILITY OF EMERGENCY ORDERS, DECLARATIONS AND ORDINANCES TO PROVIDE THAT

EMERGENCY ORDERS, DECLARATIONS AND ORDINANCES SHALL BE AVAILABLE ON THE CITY'S WEBPAGE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2022-6 was made by Vice Mayor Scott Stiltner and Seconded by Council Member Reed Foley. Motion carried unanimously by roll call vote.

REGULAR AGENDA

18. Second Reading - Ordinance No. 2022-5 - LDC Amendment/ Chapter 9, Article II, Section 19 (Case No. 22-25000002)

Mayor Don Burnette read Ordinance No. 2022-5.

ORDINANCE NO. 2022-5

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING CHAPTER 9, ARTICLE II OF THE LAND DEVELOPMENT CODE, TO ALLOW FUNDS FROM THE CITY'S TREE BANK TO BE USED FOR EDUCATIONAL OUTREACH PROGRAMS AND TREE GIVEAWAYS; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Motion to adopt Ordinance No. 2022-5 was made by Vice Mayor Scott Stiltner and Seconded by Council Member Reed Foley. Motion carried unanimously by roll call vote.

19. Request for Waiver of Bidding Requirements, Direction and Approval of the Type of Show, Date for the 4th of July Spectacular, and Award to Vendor

Motion to approve the fireworks show with 2,951 shells on July 4, 2022, waive the formal bidding requirements, award to Explosive Touch, for the 4th of July Fireworks Spectacular for FY22, authorize the City Manager and City Attorney to finalize contract documents, and authorize the Mayor and City Clerk to execute the associated documents

was made by Council Member Chase
Tramont and Seconded by Vice Mayor
Scott Stiltner.

Susan Lovallo, Parks & Recreation Director, discussed the issues in contracting with fireworks companies for the July 4th celebration.

Motion carried unanimously by roll call
vote.

ADDITIONAL ITEMS

20. City Attorney - There was nothing further.

21. City Manager - There was nothing further.

COUNCIL COMMITTEE REPORTS

22. City Council Committee Reports
- a. River to Sea TPO - Council Member Reed Foley provided an update.
 - b. General Employees' Pension Board - Vice Mayor Scott Stiltner had nothing to add to the actuarial report presentation.
 - c. Arthaus – Nothing to report.
 - d. Roundtable of Elected Officials – No meeting was held.

ADJOURNMENT - 8:11 p.m.

Attest:

Mayor Donald O. Burnette

Robin Fenwick, MMC
City Clerk



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (D10a) Approval of Task Authorization No 1 with Kimley Horn & Associates, Inc., for Construction Administration during construction phase of the Water Reclamation Facility Building Expansion project.

DEPARTMENT: Public Utilities

GOAL: 2 - Infrastructure

RECOMMENDED MOTION: Move to approve Task Authorization No 1 with Kimley Horn & Associates, Inc., for Construction Administration during construction phase of the Water Reclamation Facility Building Expansion project.

SUMMARY: The operations building at the Water Reclamation Facility was built in 1980 and as the facility has grown over the years, so has the number of staff at the plant. During hurricane events, it has become evident that the facility does not have adequate space to properly accommodate emergency response staff much beyond a 16-hour period. In addition, the existing building is lacking meeting space, office space, and the plant operations control room needs IT upgrades, which requires additional space.

AIA Agreement CA7305 to MGN Contracting, Inc. was awarded and approved by City Council on November 2, 2021. This request is for Task Authorization No 1 for construction phase services of the project in the amount of \$41,280. The bid price for construction is \$318,000. The substantial completion will be 330 days from the issuance of a Notice to Proceed with a final completion date of 395 days with an additional 55 days for the project to close out. The total term will be 450 days.

Kimley Horn & Associates was the design engineer for the project. This authorization is for construction administration services, which is the next step in the process for a construction project of its type and funding is included in the project budget.

PRESENTER: Lynn Stevens

ATTACHMENTS:

1.	Task Authorization No 1 - Kimley-Horn WRF Ops Bld Const Admin (1)	Task Authorization No 1 - Kimley-Horn WRF Ops Bld Const Admin (1).pdf
2.	Dept Justification Memo - WRF Bldg Expansion ITB 20-12 - Construction	Dept Justification Memo - WRF Bldg Expansion ITB 20-12 - Construction

	Phase Services	Phase Services.docx
Julia Wiggins	Created/Initiated - 3/10/2022	
Julia Wiggins	Approved - 3/10/2022	
Richard Colby	Approved - 3/10/2022	
Junos Reed	Approved - 3/10/2022	
Steve Parnell	Approved - 3/10/2022	
Lynn Stevens	Approved - 3/17/2022	
Robin Burris	Approved - 3/23/2022	
Linda Truitt	Approved - 3/25/2022	
Matthew Jones	Approved - 4/7/2022	
Wayne Clark	Approved - 4/7/2022	
Robin Fenwick	Final Approval - 4/7/2022	

TASK AUTHORIZATION NO. 1
Master Contract for Professional Engineering Services for Public Utilities and
Environmental Services dated January 18, 2022
Between the City of Port Orange, Florida and Kimley-Horn and Associates, Inc.

THIS Task Authorization is entered into by and between the **CITY OF PORT ORANGE, FLORIDA**, a chartered municipal corporation with its principal place of business at 1000 City Center Circle, Port Orange, Florida 32129 (the "City") and **KIMLEY-HORN AND ASSOCIATES, INC.**, North Carolina corporation, registered to transact business in Florida, with its principal place of business at 421 Fayetteville Street, Suite 600, Raleigh, North Carolina 27601 ("Engineer"), and hereinafter collectively referred to as the "Parties," and is to that certain Master Contract relating to Professional Engineering Services for Public Works, Utilities and Environmental Services, as dated above, and any amendments thereto, hereinafter collectively referred to as the "Contract." The Parties, in exchange for the mutual covenants contained herein and in the Contract, agree as follows:

1. This Task Authorization expressly modifies the Contract and in the event of a conflict, the terms and conditions of this Task Authorization shall prevail.

2. In addition to all other terms and conditions contained in the Contract, Engineer shall provide services relating to ITB 20-12 Water Reclamation Facility Building Expansion Construction Phase Services, as more particularly described in the Scope of Services attached hereto and incorporated herein as Task Authorization Exhibit "1."

3. Engineer shall complete the services to be provided herein with 450 days of the date of written notice by the City to the Engineer.

4. In return for the services identified above, the City agrees to compensate Engineer at the prices set forth in Exhibit "1" attached hereto and made a part hereof, subject to a limit not to exceed \$41,280.00. All payments shall be governed by the Local Government Prompt Payment Act as Set forth in Sections 218.70 through 218.79, Florida Statutes, as amended.

5. Truth-in-Negotiations

(a) For any fixed fee, cost-plus-a-fixed-fee or guaranteed maximum-not-to-exceed compensation professional service contract or compensation in a Task Authorization over \$150,000.00, Engineer shall execute a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. Any professional service contractor Task Authorization under which such certificate is required must contain a provision that the original contract price or compensation and any additions thereto will be adjusted to exclude any significant sums by which the City determines the contract price or compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract or compensation adjustments must be made within one (1) year following the end of the Contract. Otherwise, such adjustments shall be deemed waived by the Engineer and null and void for the purposes of this Contract or Task Authorization. The signature on this Contract by the Engineer shall act as the execution of a truth-in-negotiation certificate stating that the wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting.

(b) Engineer's signature on this Contract or a Task Authorization shall act as execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation set forth in this Contract or a Task Authorization are accurate, complete, and current at the time of contract. The certification shall also constitute an affirmation that Engineer has disclosed all debts or fees owed to or that are pending before the City prior to the execution of this Contract or Task Authorization.

6. This Task Authorization may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument. The delivery by facsimile or e-mail of an executed copy of this Task Authorization shall be deemed valid as if an original signature was delivered. No contract shall be formed between the Engineer and the City until the City signs this Task Authorization.

IN WITNESS WHEREOF, the Parties have made and executed this Task Authorization for the purposes herein expressed on the dates set forth below.

Witnesses:

KIMLEY-HORN AND ASSOCIATES, INC.

Printed Name: _____ By: _____
Jonathan D. Thigpen, Senior Vice President

Printed Name: _____ Date: _____

Witnesses:

CITY OF PORT ORANGE

Printed Name: _____

By: _____
Donald O. Burnette, Mayor

Printed Name: _____

Date: _____

Witnesses:

ATTEST:

Printed Name: _____

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

Printed Name: _____

Date: _____

EXHIBIT “1”

Engineer's Quote

Consisting of 2 Pages



PROPOSAL FOR WRF ADMINISTRATION BUILDING EXPANSION CONSTRUCTION PHASE SERVICES

Describing a specific agreement between Kimley-Horn and Associates, Inc. (Kimley-Horn), and The City of Port Orange (the Client or the City) in accordance with the terms of the Master Agreement for Continuing Professional Services dated January 18, 2022, which is incorporated herein by reference.

Project Understanding

The scope of work presented below was prepared following discussions with the City of Port Orange staff regarding the City of Port Orange WRF Administration Building Expansion. City staff requested that Kimley-Horn provide a proposal to provide construction phase services. The following is our understanding of the specific scope of work that has been requested by City staff.

Specific Scope of Basic Services:

Task 1: Construction Phase Services

- A. Kimley-Horn will contract directly with the electrical engineering and architectural subconsultant Kimley-Horn will enlist the services of an electrical engineering and architectural subconsultant to update all building plans to reference the most recent Florida Building Codes (Architectural, Structural, & MEP)
- B. Kimley-Horn will provide construction phase services for review and comment on electrical and Instrumentation shop drawings and material submittals.
- C. Kimley-Horn will provide construction phase services to review and reply to Contractor Requests for Information (RFI's).
- D. Kimley-Horn will attend construction progress meetings as needed. It is assumed that a maximum of 8 meetings will be required.
- E. Kimley-Horn will provide the certification of completion.
- F. Kimley-Horn will enlist the services of an electrical engineering subconsultant and architectural subconsultant to assist with the required construction phase services.
- G. Kimley-Horn will provide as-built review and record drawing completion.

Schedule:

These services will be completed as expeditiously as possible. Revised building plans will be provided within 30 days of construction notice to proceed. Kimley-Horn assumes a total project schedule of 8 months.

Deliverables:

Deliverables for this project include the following:

- Updated Building Plans

Kimley»Horn

- Final Record Drawings

Method of Compensation:

Kimley-Horn will perform these services for the total lump sum fee of \$41,280.00 inclusive of expenses. Invoices will be billed on a percent complete basis per task. A breakdown of the fee by task is as follows:

Task	Description	Subconsultant	Kimley-Horn	Lump Sum
1	Construction Phase Services	\$27,210	\$14,070	\$41,280
Total				\$41,280

Other Special Terms:

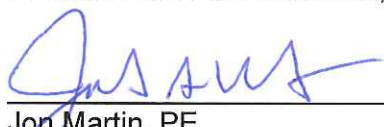
Services provided under this agreement will be invoiced on a monthly basis. All invoices will include a description of services provided.

ACCEPTED:

CITY OF PORT ORANGE, FLORIDA

KIMLEY-HORN AND ASSOCIATES, INC.

BY: _____

BY:  _____

Jon Martin, PE

TITLE: _____

TITLE: Sr. Vice President

DATE: _____

DATE: 2-22-22



City of Port Orange Public Works and Utilities Department

TO: Wayne Clark, City Manager

THRU: Lynn Stevens, Public Works and Utilities Director
Julia Wiggins, Public Works and Utilities Business Manager

FROM: Junos Reed P.E., Engineering and Construction Manager

DATE: March 8, 2022

SUBJECT: Kimley Horn and Associates, Inc. – Task Authorization No. 1 under the Master Contract for Professional Engineering Services for Public Utilities and Environmental Services CA7763 for ITB 20-12 Water Reclamation Facility Building Expansion Construction Phase Services

REQUEST:

The Public Works & Utilities Department is requesting approval of Task Authorization No 1 under the Master Contract for Professional Engineering services with Kimley Horn for Construction Phase Services for the Water Reclamation Facility Building Expansion project.

PURPOSE:

The purpose of this request is to provide construction administration services during the expansion of the existing operations building at the Water Reclamation Facility.

CONSIDERATION:

The operations building at the Water Reclamation Facility was built in 1980 and as the facility has grown over the years, so has the number of staff at the plant. During hurricane events it has become evident that the facility does not have adequate space to properly accommodate emergency response staff much beyond a 16-hour period. In addition, the existing building is lacking meeting space, office space, and the plant operations control room needs IT upgrades, which requires additional space.

AIA Agreement CA7305 to MGN Contracting, Inc. was awarded and approved by Council on November 2, 2021. Task Authorization No 1 is for construction phase services of the project in the amount of \$41,280. The construction cost is \$318,000. The substantial completion will be 330 days from the issuance of a Notice to Proceed with a final

completion date of 395 days with an additional 55 days for project close out. The total term will be 450 days.

A request to transfer funds from Water and Sewer 401 Fund balance to Project SSP015 will be included in the mid-year adjustment request.

FUNDING:

This project is part of the Public Works & Utilities Department Capital Improvement Program approved in the FY21 budget.

Fund: 401

Name: Water and Sewer Services

Cost Center: Water and Sewer

Program: Wastewater Treatment

Spend Category: Buildings – New Construction

Project Worktag: SSP015

FY21 Remaining Budget: \$737.00

Actual: \$41,280.00

RECOMMENDATION:

The Public Utilities Department recommends approval of Task Authorization No 1 under the Master Contract for Professional Engineering services with Kimley Horn for Construction Phase Services for the Water Reclamation Facility Building Expansion project in the amount not to exceed \$41,280.00.

ANTICIPATED SCHEDULE:

- a) Council Approval Date: April 19, 2022
- b) Notice to Proceed for construction expected mid-March
- c) The project will be substantially complete 330 days from the Notice to Proceed date and final completion 395 days from Notice to Proceed. Requesting 450 for TA to allow for project closeout post construction.

ATTACHMENTS:

- 1. Task Authorization No. 1 draft documents
- 2. Kimley Horn Construction Phase Services Proposal



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (D10b) Approval of Change Order #7 to Saboungi Construction Inc. for Playground Equipment at the REC Center

DEPARTMENT: Parks & Recreation

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve Change Order #7 to Saboungi Construction and authorize the Mayor and City Clerk to execute the associated documents.

SUMMARY: The City has been awarded a larger grant for playground equipment at the REC than was anticipated when the project was originally set up. At the time, staff had applied for the Racing and Rec District Grant but it had not been awarded, so a conservative estimate of \$50,000 from grant funding was put in the contract. We were awarded \$225,000 in grant funding for the playground. The grant funding was accepted by the City Council last year through Resolution 21-17 and the budget was appropriated per Resolution 21-19. The grant funding is available in project QPC082. The grant does not require any City matching funds.

The Contractor has now finished the design work with the playground company. Staff is requesting the change order to the contract of \$174,999.81 added to the \$50,000 placeholder allowance. This will cover the anticipated actual cost funded by the grant. The change order will allow the contractor to proceed with the use of these funds for the playground. This change order is not requesting any City funds be allocated to this part of the project. The Racing and REC grant will pay 100% of the cost of the playground.

PRESENTER: Susan Lovallo

ATTACHMENTS:

1.	Saboungi Change Order No 7 Rec Playground Equipment	Saboungi Change Order No 7 Rec Playground Equipment.pdf
2.	Change Order No 7 Chart Kompan Playground Equipment Grant Funds Chart REC CENTER QPC082 - BUDGET RESOLUTION 05182021	Change Order No 7 Chart Kompan Playground Equipment Grant Funds Chart REC CENTER QPC082 - BUDGET RESOLUTION 05182021.xlsx

Susan Lovallo	Created/Initiated - 3/25/2022
Susan Lovallo	Approved - 3/25/2022
Sandy Woodman	Approved - 3/29/2022
Alison Sylvester	Approved - 3/31/2022
John McKinney	Approved - 3/31/2022
Matthew Jones	Approved - 4/8/2022
Wayne Clark	Approved - 4/8/2022
Robin Fenwick	Final Approval - 4/8/2022

CHANGE ORDER NO. 7

To AIA Agreement approved May 18th, 2021, Between the City of Port Orange and Saboungi Construction, Inc. for ITB # 21-13, Rec Remodel and Expansion project.

Project: # QPC082 – Rec Remodel and Expansion

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE: Original Contract Price: \$ 3,963,162.00	CHANGE IN CONTRACT TIMES: Original Contract Times: 305 Days Substantial Completion: May 18,2022 Final Completion: June 17,2022
Net changes from previous Change Order: No. 1: \$ 9,778.23 No. 2 \$ 25,268.67 No. 3 \$ 42,624.31 No. 4 \$ 19,139.77 No. 5 \$ 9,448.53 No. 6 \$ 4,688.84	Changes in contract time from previous Change Orders: N/A
Contract Price prior to this Change Order: \$ 4,074,110.35	Contract Completion Date prior to this Change Order: Substantial Completion: May 18, 2022 Final Completion: June 17,2022
Net Increase (decrease) of this Change Order No. 7: Increase Line \$ 174,999.81	Changes in contract time requested this Change Order No. 1: (Requires Council Approval) N/A
Contract Price with all approved Change Orders: \$ 4,249,110.16	Contract Times with all approved Change Orders: Completion: June 17,2022

CHANGES ORDERED:

- I. GENERAL: This Change Order is necessary to cover changes in the work to be performed under the Contract Agreement entered by and between the parties on May 18,2021.
- II. REQUIRED CHANGES: This Change Order is to add the additional Playground Equipment for The Rec expansion and improvements project. **This proposal includes a \$50,000.00 Contract Credit Allowance, which was previously allocated for playground equipment in the original contract price. An amount of \$175,000 from the Grant Fund Balance will cover the remaining amount for the playground equipment in this Change Order No. 7.** No goods shall be delivered, nor services commenced hereunder until this Change Order has been fully executed by all parties.
- III. JUSTIFICATION: This Change Order is to add the additional Playground Equipment. Grant Fund Balance of \$175,000.00 will cover the cost.

Changes in scope require Council approval. Is this a scope change? Yes
- IV. PAYMENT: Payment for this Change Order shall be made in accordance with the terms of the Contract Agreement subject to a limit up to but not to exceed **\$ 4,249,110.16**. All payments shall be governed by the Local Government Prompt Payment Act as set forth in Florida Statutes Section 218.70 through 218.79, as amended.

Acknowledgments:

The change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order.

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein.

The prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under competitive bidding; and,

The change in price and/or delivery date described is fair and reasonable and has been mutually agreed upon in full agreement and final settlement of all claims arising out of this modification including all claims for delays and disruptions resulting from, caused by, or incident to such modifications and change orders.

RECOMMENDED BY:
SUSAN LOVALLO
PARKS AND RECREATION DIRECTOR

ACCEPTED BY:
SABOUNGI CONSTRUCTION, INC.
Contractor

By: _____
Susan L Lovallo
Parks & Recreation Director

By: _____
Hassan Saboungi, Vice President

Date Signed: _____

Date Signed: _____

RECOMMENDED BY:

City's Representative

RECOMMENDED BY:

Engineer of Record

By: N/A
Printed Name: _____
Title: _____

Date Signed: _____

By: _____
N/A
Printed _____ Name: _____

Title: _____

Date _____ Signed: _____

APPROVED BY:

CITY OF PORT ORANGE

Department Head—Approval delegated by City Manager. Scope, schedule and cost changes above either \$25K or limit of unforeseen conditions allowance go to City Council.

By: _____
Susan Lovallo, Parks and Recreation Director

Date Signed: _____

City Manager—Approval authority for changes up to either \$25K or limit of unforeseen conditions allowance. Scope and schedule changes sent to City Council.

By: _____
Wayne Clark, City Manager

Date Signed: _____

If Council approval is required:

By: _____
Printed Name: Don Burnette
Title: Mayor

Affirmed:

Date Signed: _____

Robin L. Fenwick, MMC, City Clerk

Date Signed: _____

M. "Mike" Sabounqi
President



Hassan Sabounqi
Vice President

290 A North U.S. Highway 1, Ormond Beach, FL 32174-4504
Tel: (386) 672-2077 Fax: (386) 673-4189
www.sabounqiconstruction.com

* March 17, 2022 *

Mr. Dana Smith
DJ Design, Inc.
913 North Nova Road
Holly Hill FL 32117

Change Order No 7

Re: Expansion and Improvements to The REC
Change Order Proposal - KOMPAN Playground Equipment *

Dear Dana,

Pursuant to the numerous online meetings with Kompan, Inc. discussing ideas and designs, we are pleased to submit this change order proposal for the final agreed upon playground design offered by Kompan.

1. Interior Playground System by Kompan, Inc.	\$ 188,275.32
2. Cut Building Opening, Patch & Trim (G.C. Crew)	\$ 2,710.00
Sub-Total	\$ 190,985.32
General Conditions 5%	\$ 9,549.27
Sub-Total	\$ 200,534.59
O & P 10%	\$ 20,053.46
Sub-Total	\$ 220,588.05
P & P Bonds 2%	\$ 4,411.76
Total	\$ 224,999.81
Less Contract Allowance	\$ < 50,000.00 >
Total C.O. Proposal	\$ 174,999.81

Kindly issue a written directive and change order so we may proceed.

Regards,

Hassan Sabounqi
Vice President

RECREATION REMODEL - QPC082

TOTAL BID AMOUNT \$ 4,500,000

PROJECT BUDGET AND FUNDING

	BUDGET RESO		
	PROJECT	APPROP FB	TOTAL
611 Includes match of \$800,000	910,000	1,165,000	2,075,000
			-
199 ECHO GRANT AWARD 19-11	400,000		400,000
199 ECHO GRANTAWARD 20-10	400,000		400,000
199 DBRR GRANT	225,000		225,000
			-
317 GENERAL FUND - CAPITAL		1,400,000	1,400,000
			-
TOTAL	1,935,000	2,565,000	4,500,000

\$ -

FUNDING			
611	199	317	TOTAL
2,075,000			2,075,000
			-
			-
			-
	1,025,000		1,025,000
			-
		1,400,000	1,400,000
			-
2,075,000	1,025,000	1,400,000	4,500,000



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (D11) Resolution No. 22-11 - Tree Bank Policy

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life and 5 - Fiscal Sustainability

RECOMMENDED MOTION: Move to approve Resolution No. 22-11.

SUMMARY: The subject Tree Bank Policy is being proposed in conjunction with a Land Development Code amendment to allow a portion of the City's tree bank funds to be used to fund educational outreach programs and tree giveaways to residents and business owners of the City of Port Orange to plant on their property within the corporate limits of the city (ORD. 2022-5). The proposed Tree Bank Policy specifies the type and size of trees that may be purchased for giveaways, as well as setting a maximum amount of funds from the tree bank account that can be used for tree giveaways and educational outreach. This will provide the regulatory guidelines for the City, Environmental Advisory Board (EAB), or other designated City boards to use said funds to purchase trees to giveaway to residents and business owners during community events (Arbor Day, Earth Day, Family Days, etc.), as well as to create educational outreach programs that encourage the preservation of the City's tree canopy.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Resolution No. 22-11 with exhibit	Res. No. 22-11 Tree Bank Policy Fin 4-8-22.pdf
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Penelope Cruz
Margaret Tomlinson
Shannon Balmer
John McKinney
Wayne Clark
Robin Fenwick

Created/Initiated - 3/16/2022
Approved - 3/16/2022
Approved - 4/8/2022
Approved - 4/11/2022
Approved - 4/12/2022
Final Approval - 4/12/2022

RESOLUTION NO. 22-11

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, ESTABLISHING A POLICY FOR THE USE OF TREE BANK FUNDS FOR EDUCATIONAL OUTREACH AND TREE GIVEAWAYS, AS AUTHORIZED BY ORDINANCE 2022-5; ESTABLISHING THE MAXIMUM AMOUNT OF FUNDS FROM THE TREE BANK ACCOUNT THAT CAN BE USED FOR EDUCATIONAL OUTREACH AND TREE GIVEAWAYS; SUPERSEDING PRIOR RESOLUTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Port Orange is dedicated to the continual enhancement and beautification of the community, including the planting of new trees, educating the public about proper planting, and providing trees for tree giveaways; and

WHEREAS, Ordinance No. 2022-5 amended Chapter 9, Article II, Section 19 of the Land Development of the City of Port Orange, Florida (LDC) to authorize the use of the City's Tree Bank funds for educational outreach and tree giveaways to residents and business owners of the City of Port Orange pursuant to a Tree Bank Policy as established by resolution; and

WHEREAS, the City of Port Orange desires to establish the Tree Bank Policy for the purpose of establishing regulatory guidelines for use of Tree Bank funds to purchase trees to giveaway to residents and business owners during community events (Arbor Day, Earth Day, Family Days, etc.), as well as to create educational outreach programs; and

WHEREAS, the City of Port Orange finds that educating the public on tree planting and providing funds for the purchase of trees for tree giveaways is in the best interest and welfare of the City and its residents and business owners.

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

Section 1. The above and foregoing recitals are true and correct as if fully set forth herein.

Section 2. The City Council of the City of Port Orange hereby establishes and approves the Tree Bank Policy, attached hereto as Exhibit "1", and made a part hereof by reference.

Section 3. This Resolution shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Adopted on the day of

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

EXHIBIT “1”

Tree Bank Policy

The purpose of this directive is to set forth the City’s policy as it relates to the application and authorization of expending funds from the Tree Bank project account in furtherance of educational outreach and tree giveaways to residents and business owners of the City of Port Orange and establishing the maximum amount of Tree Bank funds that can be used for tree giveaways and educational outreach within the City of Port Orange.

Statement of Policy

Applicability

The provisions of this directive apply directly to the City of Port Orange (“City”), the City of Port Orange Environmental Advisory Board (“EAB”), and other designated City boards.

In General

The City of Port Orange is dedicated to the continual enhancement and beautification of the community, including educating the public about the proper planting and care of trees and providing trees for tree giveaways. In furtherance of the City’s objectives, the City desires to establish a Tree Bank Policy that will provide the regulatory guidelines for the City, Environmental Advisory Board (EAB), and other designated City boards to use funds from the Tree Bank project account to purchase trees to giveaway to residents and business owners during community events (Arbor Day, Earth Day, Family Days, etc.), as well as to create educational outreach programs that encourage the preservation of the City’s tree canopy.

Program and Procedure:

- Funds from the Tree Bank project account can be used for tree giveaways and educational outreach, not to exceed 10% of the account balance at the beginning of the then-current fiscal year.
- Funding for tree giveaways may be funded by the Tree Bank project account, sponsorships, and donations.
- Environmental Advisory Board (“EAB”) will conduct educational outreach and oversee tree giveaways at events approved by the EAB.
- Applications for educational outreach and tree giveaways are open to any group.
- Applications for educational outreach and tree giveaways shall be submitted for review and approval to the Environmental Advisory Board.
- Applications are required to be submitted no later than thirty (30) days PRIOR to the next available Environmental Advisory Board meeting.
- The EAB will give consideration to the following when reviewing an application for

attendance of an event for the purpose of educational outreach and tree giveaways:

- Availability of funds
 - Scheduling
 - Availability of trees for the tree giveaway
- The application for educational outreach and tree giveaways shall be on a form approved by the Community Development Director or their designee.
- Trees for tree giveaways are based on the availability of funds and trees.
- Tree giveaway event data (e.g. number of trees given out, type of trees, volunteer hours, and costs) shall be provided by the EAB to designated City staff, as determined by the Community Development Director, by email or mail, within 30 days following the event.
- Tree care information is required to be distributed to each recipient of a tree.

Tree Giveaway Program Minimum Requirements

- At the event, trees will be available on a first-come-first-serve basis and there will be no guarantee or obligation of the City or EAB to provide trees once the supply has been exhausted.
- A maximum of two trees per property for City of Port Orange residents and business owners.
- Proof of residency or business ownership (driver's license or water bill) is required to receive a free tree.
- All trees provided shall be installed solely on or within private property within the City of Port Orange corporate limit. No trees shall be installed within City right-of-way, City easement areas, or on property owned by the City.
- Trees given away are required to be native or Florida-friendly trees suitable to flourish in USDA Plant Hardiness Zone 9B.

Authority:

In accordance with the adopted policy, as authorized by Chapter 9, Article II, Section 19(e) of the Land development Code, the City of Port Orange, the Community Development Director, or their designee, will be responsible for the oversight of the Tree Bank Policy. Any changes to this policy shall require City Council approval.

Exceptions:

Providing funds are available, the EAB, on its own motion, may elect to attend an event, subject to approval by the EAB at a scheduled meeting.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (D12) Resolution No. 22-13 - Calling a Primary and Regular Election for the Purpose of Electing City Council Members for Districts 1, 2, and 4 and providing for the qualifying period and election dates

DEPARTMENT: City Clerk

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve Resolution No. 22-13.

SUMMARY: The purpose of this resolution is to establish the qualifying period and election dates for a primary and regular election to elect Council Members for Districts 1, 2, and 4.

PRESENTER: Robin Fenwick

ATTACHMENTS:

1.	Reso No. 22-13 - Calling for Primary and Regular Elections	2022 Resolution Calling for Primary and Regular Elections.docx
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Robin Fenwick
Matthew Jones
Wayne Clark
Robin Fenwick

Created/Initiated - 3/30/2022
Approved - 4/7/2022
Approved - 4/7/2022
Final Approval - 4/7/2022

RESOLUTION NO. 22-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, CALLING A PRIMARY AND REGULAR ELECTION FOR THE PURPOSE OF ELECTING A CITY COUNCIL MEMBER FOR DISTRICTS 1, 2, AND 4; PROVIDING FOR A QUALIFYING PERIOD AND ELECTION DATES; AUTHORIZING THE CITY CLERK TO MAKE ALL ARRANGEMENTS NECESSARY FOR SAID ELECTIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 2008-35 approved by the City Council amended the Charter and established primary and regular elections dates, a qualifying period, and terms of office for city council members and the mayor; and

WHEREAS, the Charter of the City of Port Orange, Florida, provides that a primary election and a regular election, if needed, shall be held in even-numbered years for electing city council members and the mayor; and

WHEREAS, this year (2022), there are three City Council seats (Districts 1, 2 and 4) up for election.

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

Section 1. A primary election for Council Members in Districts 1, 2, and 4 shall be held eleven (11) weeks prior to the first Tuesday after the first Monday in November, 2022, to wit: August 23, 2022.

Section 2. A regular election for Council Members in Districts 1, 2, and 4, if needed, shall be held on the first Tuesday after the first Monday in November, 2022, to wit: November 8, 2022.

Section 3. The qualifying period for the above described primary and regular

elections for the City of Port Orange shall begin on Monday, June 13, 2022, at 12:00 p.m. (noon). The deadline for qualifying shall be Friday, June 17, 2022, at 12:00 p.m. (noon). No qualifying documents will be accepted by the City Clerk after that date and time.

Section 4. In the event not more than one person qualifies as a candidate for a designated seat on the City Council to be filled at an election, that seat shall not be listed on the primary or regular city election ballot. Each unopposed candidate shall be deemed to have voted for himself/herself.

Section 4. The City Clerk is authorized to make all necessary arrangements for the above-described elections in accordance with the Charter of the City of Port Orange and applicable state law.

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

—

MAYOR DONALD O. BURNETTE

ATTEST:

Robin Fenwick, MMC, City Clerk

Adopted on the ____ day of April, 2022.

Reviewed and Approved:

Matthew J. Jones, City Attorney



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (D13) Approval of the Third Amendment to Interlocal Agreement for Fire and/or Rescue Mutual Aid within Volusia County

DEPARTMENT: Fire/Rescue Services

GOAL: 1 - Public Safety 3 - Quality of Life and 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve the Third Amendment to Interlocal Agreement for Fire and/or Rescue Mutual Aid within Volusia County.

SUMMARY: The cities of Port Orange, Daytona Beach, Daytona Beach Shores, Deland, Deltona, Edgewater, Holly Hill, New Smyrna Beach, Orange City, Ormond Beach, South Daytona, the Town of Ponce Inlet, and Volusia County have entered into an Interlocal Agreement for Fire And/Or Rescue Service Mutual Aid Within Volusia County. The initial agreement was approved in 2005 and renewed in five-year increments, with no additional language added or removed since the agreement's inception.

The interlocal agreement is intended to assist surrounding agencies during emergencies. A single significant event or several more minor emergencies simultaneously will exhaust local resources. This agreement provides agencies with the ability to handle emergencies properly.

PRESENTER: Joe Wulfing

ATTACHMENTS:

1	THIRD_AMENDMENT_TO_INTERLOCAL _AGREEMENT 2022	THIRD_AMENDMENT_TO_INTERLOCAL _AGREEMENT 2022.docx
2	Interlocal_Attachment_A	Interlocal_Attachment_A.pdf

Joe Wulfing
Joe Wulfing
Robin Burris
Linda Truitt
Matthew Jones

Created/Initiated - 3/3/2022
Approved - 3/5/2022
Approved - 3/9/2022
Approved - 3/11/2022
Approved - 4/7/2022

Wayne Clark
Robin Fenwick

Approved - 4/7/2022
Final Approval - 4/7/2022

**THIRD AMENDMENT TO INTERLOCAL AGREEMENT
FOR FIRE AND/OR RESCUE MUTUAL AID
WITHIN VOLUSIA COUNTY, FLORIDA**

THIS THIRD AMENDMENT to the Agreement is made and entered by and between the undersigned local governments as follows:

WHEREAS, the Cities of Daytona Beach, Daytona Beach Shores, Deland, Deltona, Edgewater, Holly Hill, New Smyrna Beach, Orange City, Ormond Beach, Port Orange, South Daytona, the Town of Ponce Inlet and Volusia County ("Parties") entered into an *Interlocal Agreement for Fire And/Or Rescue Service Mutual Aid Within Volusia County, Florida* ("Agreement"), on October 25, 2006, pursuant to the authority of Chapter 163, Florida Statutes for the purpose of providing mutual aid in fire and rescue services; and

WHEREAS, the Agreement was recorded in the Official Records Book 5940, Pages 3252-72, Public Records of Volusia County, Florida on October 25, 2006; and

WHEREAS, Section 19 of the Agreement anticipates five year extensions of terms upon written mutual agreement of the parties; and

WHEREAS, the parties entered into a First Amendment extending the term of the Agreement for an additional five-year term extending the Agreement to October 24, 2016; and

WHEREAS, the parties entered into a Second Amendment extending the term of the Agreement for an additional five-year term extending the Agreement to October 24, 2021;

NOW THEREFORE, in consideration of the premises, mutual covenants, provisions and representations contained herein, constituting good and valuable consideration, the Parties hereto agree as follows:

1. The recitals set forth above are true, correct and form a material part of this Third Amendment.

2. Pursuant to Paragraph 19 of the Agreement as amended by the Second Amendment, which allows the term of the Agreement to be extended for additional terms of five (5) years upon written amendment, the term of the Agreement shall be extended for an additional five (5) years and shall remain in effect through October 24, 2026.

3. Attachment A to the Agreement is hereby replaced in its entirety with Attachment A revised, a copy of which is attached hereto and incorporated herein.

4. This Third Amendment shall become effective upon being filed and recorded with the Clerk of the Circuit Court of Volusia County, Florida.

5. This Third Amendment is made pursuant to Article 20 of the Agreement. Amendment

shall remain in full force and effect for those local governments which approve and execute this Third Amendment, notwithstanding the failure of any local government to approve and execute this Third Amendment.

6. The provisions of this Third Amendment shall prevail against any conflict with a provision of the Agreement. Otherwise, all other terms and conditions of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties, by and through the undersigned have entered into this Third Amendment to the Mutual Aid Agreement in counterparts on the date and year hereafter written for the purpose stated above.

THE COUNTY OF VOLUSIA

By: _____
Jeff Brower, County Chair

Attest: _____
George Recktenwald, County Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Jeff Brower and George Recktenwald, as County Chair and County Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF ORANGE CITY

By: _____
Gary Blair, Mayor

Attest: _____
Dale Arrington, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Gary Blair and Dale Arrington, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF HOLLY HILL

By: _____
Chris Via, Mayor

Attest: _____
Joe Forte, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Chris Via and Joe Forte, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF DAYTONA BEACH

By: _____
Derrick L. Henry, Mayor

Attest: _____
Deric Feacher, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Derrick L. Henry and Deric Feacher, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF DAYTONA BEACH SHORES

By: _____
Nancy Miller, Mayor

Attest: _____
Michael Booker, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Nancy Miller and Michael Booker, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF SOUTH DAYTONA

By: _____
Bill Hall, Mayor

Attest: _____
James Gillis, Jr, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Bill Hall and James Gillis, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF ORMOND BEACH

By: _____
Bill Partington, Mayor

Attest: _____
Joyce Shanahan, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Bill Partington and Joyce Shanahan, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE TOWN OF PONCE INLET

By: _____
Gary Smith, Mayor

Attest: _____
Jeaneen Clauss Witt, Town Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Gary Smith and Jeaneen Clauss Witt, as Mayor and Town Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF NEW SMYRNA BEACH

By: _____
Russ Owen, Mayor

Attest: _____
Khalid Resheidat, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Russ Owen and Khalid Resheidat, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF EDGEWATER

By: _____
Mike Thomas, Mayor

Attest: _____
Glenn Irby, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Mike Thomas and Glenn Irby, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF DELTONA

By: _____
Heidi Herzberg, Mayor

Attest: _____
John Peters III, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Heidi Herzberg and John Peters, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF DELAND

By: _____
Robert F. Apgar, Mayor

Attest: _____
Michael Pleus, City Manager

Date: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Robert F. Apgar and Michael Pleus, as Mayor and City Manager, respectively, of the County of Volusia, on behalf of the County. They are personally known to me or have produced _____ as identification.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

THE CITY OF PORT ORANGE

By: _____
Donald O. Burnette, Mayor

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

Date: _____

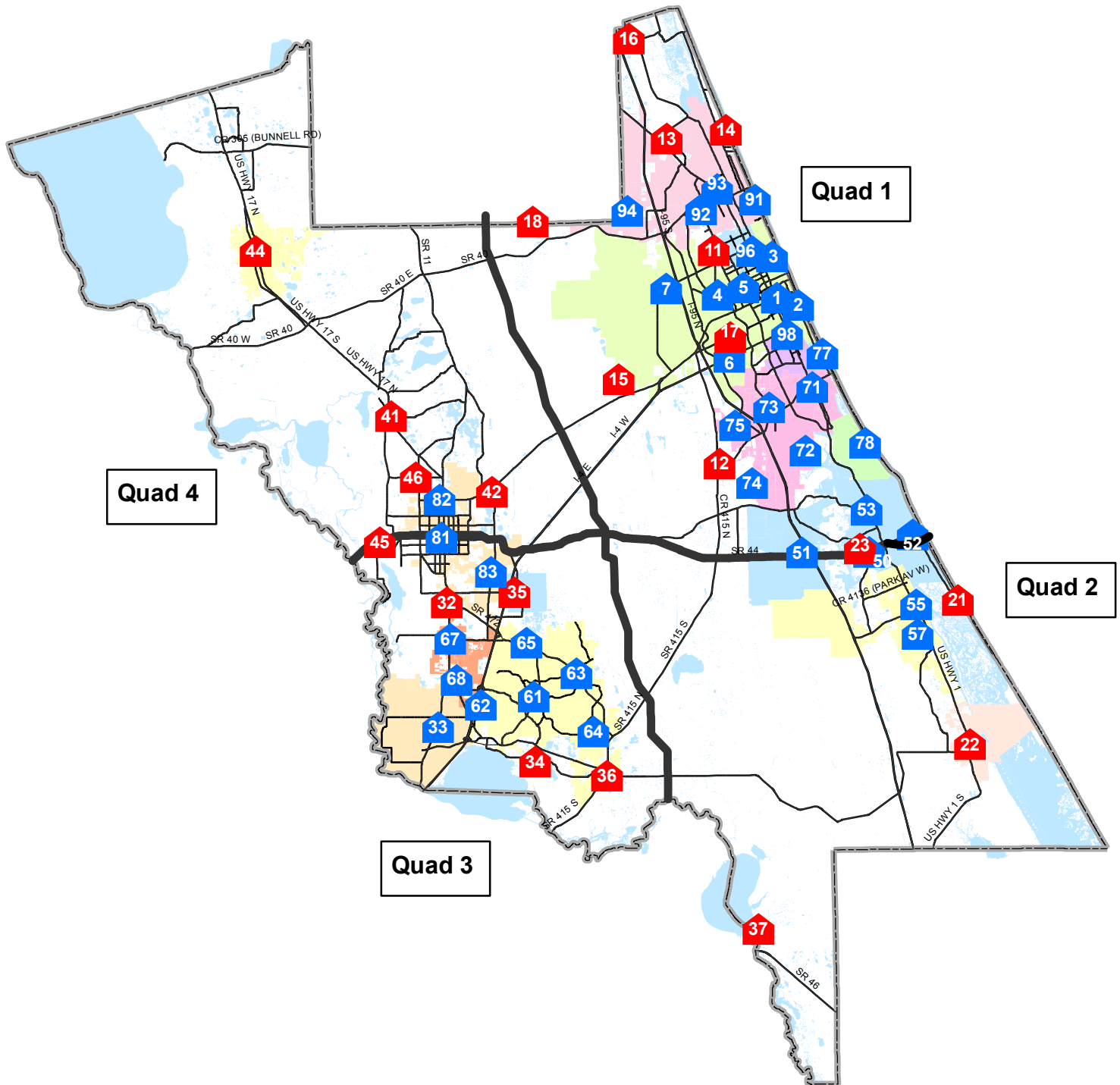
STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, in person, by Donald Burnette and Robin Fenwick, as Mayor and City Clerk, respectively, of the City of Port Orange, on behalf of the City of Port Orange. They are personally known to me.

Notary Seal

Notary Public, State of Florida at Large
Commission No.: _____

VCFS Quad Area



- ▮ County Fire Station
- ▮ City Fire Station



June 24, 2016



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (D14) Approval of an Easement to Florida Power and Light at the REC Center

DEPARTMENT: Parks & Recreation

GOAL: 6 - Organizational Excellence

RECOMMENDED MOTION: Move to approve granting an easement to Florida Power and Light (FPL) and authorize the Mayor and City Clerk to execute the associated documents.

SUMMARY: During the construction of the REC new power lines and a new transformer had to be installed and existing lines had to be moved. Florida Power and Light has requested an easement on the property to allow them to service the lines. Attached is the easement for execution.

PRESENTER: Susan Lovallo

ATTACHMENTS:

1.	City of Port Orange Easement to FPL for REC project	REC FPL Easement.pdf
----	---	----------------------

Susan Lovallo	Created/Initiated - 3/25/2022
Susan Lovallo	Approved - 3/25/2022
John McKinney	Approved - 3/31/2022
Matthew Jones	Approved - 4/7/2022
Wayne Clark	Approved - 4/7/2022
Robin Fenwick	Final Approval - 4/7/2022

Work Request No. 10829334

Sec.8, Twp 16 S, Rge 33 E

Parcel I.D. 6308-00-06-0010
(Maintained by County Appraiser)

UNDERGROUND EASEMENT (BUSINESS)

This Instrument Prepared By

Name: Matthew Shaw
Co. Name: FPL
Address: 3000 Spruce Creek Rd
Port Orange, FL 32129

The undersigned, in consideration of the payment of \$1.00 and other good and valuable consideration, the adequacy and receipt of which is hereby acknowledged, grant and give to Florida Power & Light Company, its affiliates, licensees, agents, successors, and assigns ("FPL"), a non-exclusive easement forever for the construction, operation and maintenance of underground electric utility facilities (including cables, conduits, appurtenant equipment, and appurtenant above-ground equipment) to be installed from time to time; with the right to reconstruct, improve, add to, enlarge, change the voltage as well as the size of, and remove such facilities or any of them within an easement described as follows:

Reserved for Circuit Court

See Exhibit "A"

Together with the right to permit any other person, firm, or corporation to attach or place wires to or within any facilities hereunder and lay cable and conduit within the Easement Area and to operate the same for communications purposes; the right of ingress and egress to the Easement Area at all times; the right to clear the land and keep it cleared of all trees, undergrowth and other obstructions within the Easement Area; the right to trim and cut and keep trimmed and cut all dead, weak, leaning or dangerous trees or limbs outside of the Easement Area, which might interfere with or fall upon the lines or systems of communications or power transmission or distribution; and further grants, to the fullest extent the undersigned has the power to grant, if at all, the rights hereinabove granted on the Easement Area, over, along, under and across the roads, streets or highways adjoining or through said Easement Area.

IN WITNESS WHEREOF, the undersigned has signed and sealed this instrument on _____, 20__.

Signed, sealed and delivered in the presence of:

(Witness' Signature)

Print Name: _____
(Witness)

(Witness' Signature)

Print Name: _____
(Witness)

City of Port Orange _____

By: _____

Print Name: MAYOR DONALD O. BURNETTE

Print Address: 1000 CITY CENTER CIRCLE
PORT ORANGE, FL 32129

ATTEST: _____
ROBIN L. FENWICK, MMC, CITY CLERK

STATE OF FLORIDA AND COUNTY OF VOLUSIA. The foregoing instrument was acknowledged before me by means of [XX] physical presence or [] online notarization this _____ day of _____, 20__, by Donald O. Burnette and Robin L. Fenwick, respectively as Mayor and City Clerk of the City of Port Orange, a chartered municipal corporation, who are personally known to me or have produced _____ as identification, and who did (did not) take an oath.
(Type of Identification)

My Commission Expires:

Notary Public, Signature

Print Name _____

EXHIBIT 'A'

DESCRIPTION: PREPARED BY BRIEL & ASSOCIATES LAND SURVEYORS, INC.

A PORTION OF THAT PARCEL OF LAND KNOWN AS TAX PARCEL ID 630800060010 LYING IN SECTION 8, TOWNSHIP 16 SOUTH, RANGE 33 EAST, VOLUSIA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FROM A CONCRETE MONUMENT AT THE SOUTHWEST CORNER OF THE PLAT OF COUNTRYSIDE COMMERCIAL CENTER PHASE III RECORDED IN MAP BOOK 40, PAGE 35 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, SAID CORNER HAVING COORDINATES OF NORTH 1740456.39 FEET, EAST 650916.12 FEET BASED ON THE STATE PLANE COORDINATE SYSTEM FOR THE EAST ZONE OF FLORIDA, NAD 83(2011) DATUM, RUN N00°56'20"W ALONG THE WEST LINE OF SAID MAP BOOK 40, PAGE 35 AND THE WEST LINE OF THE PLAT OF COUNTRYSIDE PUD UNIT XII-A RECORDED IN MAP BOOK 41, PAGE 170, ALSO BEING THE EAST LINE OF PORT ORANGE CORPORATE PARK RECORDED IN MAP BOOK 47, PAGES 99-100 A DISTANCE OF 2348.78 FEET TO AN IRON ROD WITH A CAP STAMPED "LB 4335" HAVING COORDINATES OF NORTH 1742804.85 FEET, EAST 650877.63 FEET; THENCE DEPARTING SAID LINE N88°12'50"W 640.60 FEET TO THE POINT OF BEGINNING OF THE HEREIN DESCRIBED EASEMENT, SAID POINT HAVING COORDINATES OF NORTH 1742824.82 FEET, EAST 650237.34 FEET; THENCE S00°29'02"W 67.04 FEET; THENCE S63°36'08"E 57.95 FEET; THENCE S00°41'38"W 29.71 FEET; THENCE S54°30'53"W 3.78 FEET; THENCE S00°40'58"E 45.27 FEET; THENCE S01°13'23"W 57.96 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 40.89 FEET AND A DELTA ANGLE OF 33°56'28"; THENCE RUN SOUTHERLY ALONG THE ARC OF SAID CURVE 24.22 FEET TO THE POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 148.50 FEET AND A DELTA ANGLE OF 26°24'31"; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE 68.45 FEET; THENCE DEPARTING SAID CURVE N16°02'07"E ALONG A NON-TANGENT LINE 41.37 FEET; THENCE N00°55'27"W 18.16 FEET; THENCE N89°04'33"E 16.50 FEET; THENCE S00°55'27"E 16.50 FEET; THENCE S89°04'33"W 5.54 FEET; THENCE S16°02'07"W 18.80 FEET TO A POINT LYING ON A CIRCULAR CURVE CONCAVE TO THE NORTHWEST HAVING A RADIUS OF 138.50 FEET AND A DELTA ANGLE OF 15°27'46", FROM WHICH POINT A RADIAL LINE BEARS N39°22'23"W; THENCE NORTHEASTERLY ALONG THE ARC OF SAID CURVE 37.38 FEET TO THE POINT OF COMPOUND CURVATURE OF A CIRCULAR CURVE CONCAVE TO THE WEST HAVING A RADIUS OF 30.89 FEET AND A DELTA ANGLE OF 33°56'28"; THENCE NORTHERLY ALONG THE ARC OF SAID CURVE 18.30 FEET TO THE POINT OF TANGENCY; THENCE N01°13'23"E 57.80 FEET; THENCE N00°40'58"W 50.33 FEET; THENCE N54°30'53"E 3.93 FEET; THENCE N00°41'38"E 18.35 FEET; THENCE N63°36'08"W 57.92 FEET; THENCE N00°29'02"E 73.30 FEET; THENCE S89°30'58"E 10.00 FEET TO THE POINT OF BEGINNING. CONTAINING 3953 SQUARE FEET MORE OR LESS.

NOTES:

1. THIS SKETCH OF DESCRIPTION IS NOT INTENDED TO REPRESENT A LAND BOUNDARY SURVEY.
2. BEARINGS ARE BASED ON THE STATE PLANE COORDINATE SYSTEM FOR THE EAST ZONE OF FLORIDA, NAD 83(2011) DATUM.

© 2022, BRIEL & ASSOCIATES LAND SURVEYORS, INC.

SHEET 1 OF 2

SKETCH & DESCRIPTION FOR: CITY OF PORT ORANGE

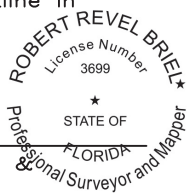
This Map or Report conforms to the Standards of Practice for professional surveyors and mappers as outline in Chapter 5J-17, F.A.C.

Robert R Briel

Digitally signed by Robert R Briel
Date: 2022.03.30 10:58:16 -04'00'

ROBERT R. BRIEL, Florida Professional Surveyor
Mapper, No. 3699

This survey is prepared and certified for the exclusive use of the client or clients named hereon. Not valid without the signature and original raised seal of a Florida licensed surveyor and mapper. Additions or deletions to survey maps or reports by other than the signing party is prohibited.



REVISIONS	MARCH 30, 2022	
SKETCH OF		
DESCRIPTION	DECEMBER 3, 2021	21022-FPL
TYPE	DATE	JOB NO.
EASEMENT LYING IN SECTION 8, TOWNSHIP 16 SOUTH, RANGE 33 EAST VOLUSIA COUNTY PROPERTY ID 630800060010		
DWN BY: RRB	CHK BY: RRB	SCALE: 1"=40'



BRIEL & ASSOCIATES

Land Surveyors, Inc.

LB 3869

1790 Hwy A1A, Suite 208 • Satellite Bch., Florida 32937 • (321) 773-7775

EXHIBIT 'A'



TAX PARCEL ID
630800060010
SECTION 8
TOWNSHIP 16 SOUTH,
RANGE 33 EAST,
VOLUSIA COUNTY, FL

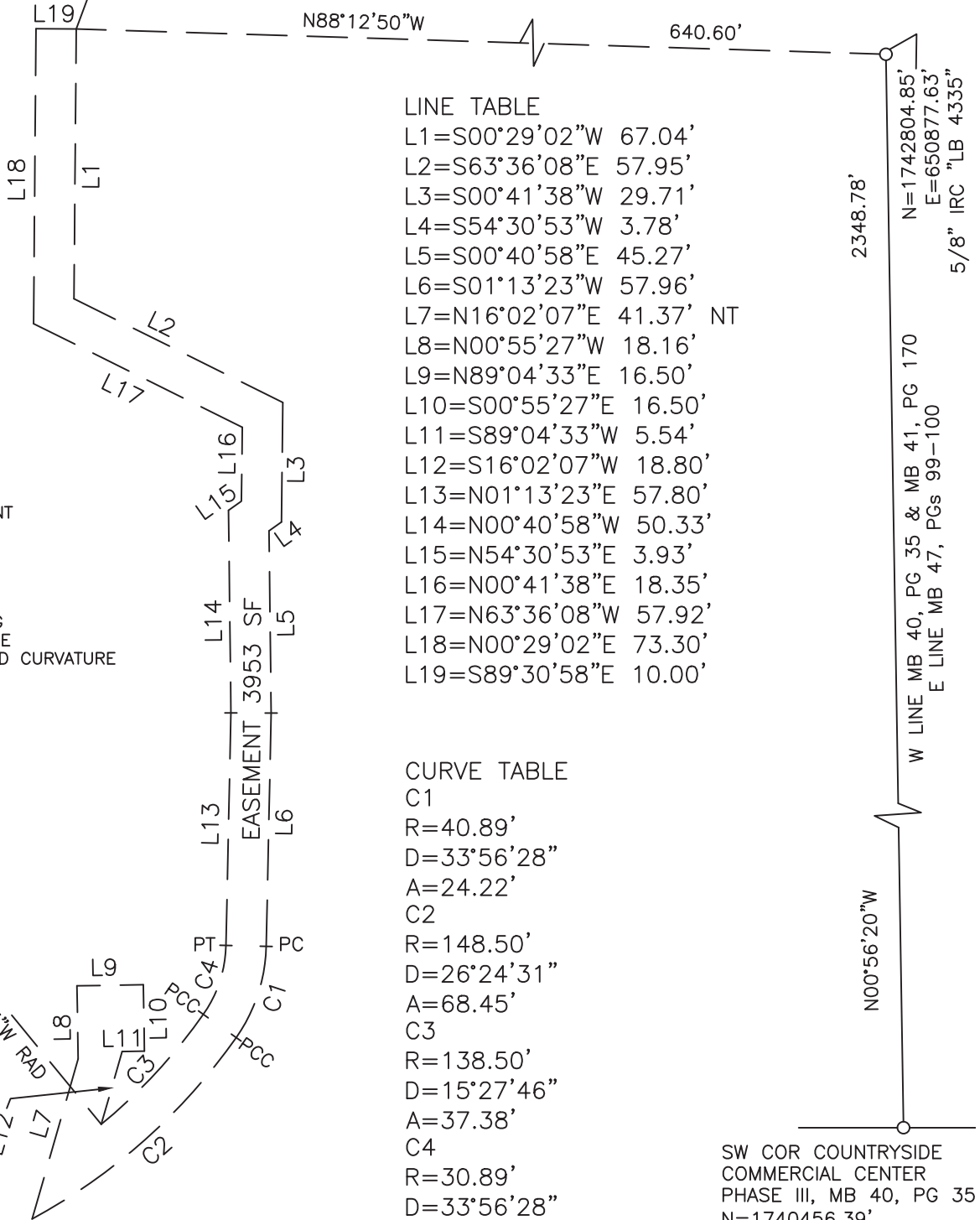
ABBREVIATIONS:

A = ARC LENGTH
CM = CONCRETE MONUMENT
COR = CORNER
D = DELTA ANGLE
IRC = IRON ROD & CAP
MB = MAP BOOK
NT = NON-TANGENT
P.O.B. = POINT OF BEGINNING
PC = POINT OF CURVATURE
PCC = POINT OF COMPOUND CURVATURE
PG = PAGE
PT = POINT OF TANGENCY
R = RADIUS
RAD = RADIAL
SF = SQUARE FEET

P.O.B.

N=1742824.82'
E=650237.34'

PER STATE PLANE COORDINATE SYSTEM FOR THE EAST
ZONE OF FLORIDA, NAD 83(2011) DATUM (TYPICAL)



LINE TABLE

L1=S00°29'02"W 67.04'
L2=S63°36'08"E 57.95'
L3=S00°41'38"W 29.71'
L4=S54°30'53"W 3.78'
L5=S00°40'58"E 45.27'
L6=S01°13'23"W 57.96'
L7=N16°02'07"E 41.37' NT
L8=N00°55'27"W 18.16'
L9=N89°04'33"E 16.50'
L10=S00°55'27"E 16.50'
L11=S89°04'33"W 5.54'
L12=S16°02'07"W 18.80'
L13=N01°13'23"E 57.80'
L14=N00°40'58"W 50.33'
L15=N54°30'53"E 3.93'
L16=N00°41'38"E 18.35'
L17=N63°36'08"W 57.92'
L18=N00°29'02"E 73.30'
L19=S89°30'58"E 10.00'

CURVE TABLE

C1
R=40.89'
D=33°56'28"
A=24.22'
C2
R=148.50'
D=26°24'31"
A=68.45'
C3
R=138.50'
D=15°27'46"
A=37.38'
C4
R=30.89'
D=33°56'28"
A=18.30'

SW COR COUNTRYSIDE
COMMERCIAL CENTER
PHASE III, MB 40, PG 35
N=1740456.39'
E=650916.12'
4"x4" CM, NO ID

© 2022, BRIEL & ASSOCIATES LAND SURVEYORS, INC.



BRIEL & ASSOCIATES
Land Surveyors, Inc.

LB 3869

1790 Hwy. A1A, Suite 208 • Satellite Bch., Florida 32937 • (321) 773-7775

SHEET 2 OF 2



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (H19) First Reading - Ordinance No. 2022-7 - Rezoning/5231 Nova Road
(Case No. 22-60000002)

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance No. 2022-7, rezoning ± 1.8 acres, located at 5231 Nova Road, from Planned Commercial Development (PCD) to Community Commercial (CC).

SUMMARY: Planning Commission Action (3/24/22): Recommended Approval (Vote 5-0)

The applicant is requesting to rezone the 1.8 acre subject property (5231 Nova Road) from Planned Commercial Development (PCD) to Community Commercial (CC). The property is located along the north side of Nova Road, east of Regency Boulevard. The rezoning request is a shift from the negotiated PCD zoning district to a conventional zoning district that uses the Land Development Code (LDC) to provide development regulations. The CC zoning district permits typical community-scale commercial uses commonly found at shopping centers and outparcels of this type, such as: retail stores, restaurants, personal services (hair salon, barber shop, nail salon, retail dry cleaning, etc.) offices, breweries, health/exercise clubs, childcare centers, convenience store/gas station, banks, and similar uses.



Map created by the City of Port Orange Community Development Department

The subject property is currently developed as a house of worship and pre-school. The current Master Development Agreement (MDA) for the PCD was approved in 2001 and restricts the use of the property to only a house of worship and accessory uses typically associated with a house of worship. Although the current PCD restricts the use of the property to a house of worship and accessory uses, the subject property has been designated *Commercial* on the City's Future Land Use map since 1980 and was zoned C-1 (Commercial) Shopping Center prior to being rezoned to PCD in 1985.

If the rezoning is approved, the contract purchaser, JMCG Corporate Building LLC (aka Chen Medical), intends to redevelop the existing building into a medical office/clinic in accordance with the requirements of the CC zoning district and the development regulations in the Land Development Code (LDC). According to their website, Chen Medical is a family-owned primary and specialty care practice geared towards healthcare for Medicare-eligible seniors.

As part of any future redevelopment, a site plan and/or building permits will be required to be submitted for staff review to verify all LDC and Florida Building Code requirements are met to ensure compatibility with adjoining properties, and that adequate public facilities and services are available.

The staff report is attached for more information.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance 2022-7 with exhibits	Ord. No. 2022-7 Rezoning 5231 Nova rd.pdf
2.	Staff Report	Final Staff Report_Rezoning - 5231 Nova.pdf

Penelope Cruz	Created/Initiated - 3/28/2022
Tim Burman	Approved - 3/30/2022
Shannon Balmer	Approved - 4/7/2022
Wayne Clark	Approved - 4/7/2022
Robin Fenwick	Final Approval - 4/7/2022

ORDINANCE NO. 2022-7

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY
CONSISTING OF APPROXIMATELY ±1.8 ACRES FROM
PLANNED COMMERCIAL DEVELOPMENT (PCD) TO
COMMUNITY COMMERCIAL (CC); AUTHORIZING
REVISION OF THE OFFICIAL ZONING ATLAS; AND
PROVIDING AN EFFECTIVE DATE.

WHEREAS, ±1.8 acres of the property located at 5231 Nova Road to be rezoned
from Planned Commercial Development (PCD) to Community Commercial (CC); and

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

WHEREAS, the Planning Commission has by a majority vote recommended
approval of the proposed rezoning; and

WHEREAS, the City Council has approved by a majority vote of the members
present the rezoning of the described property; and

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 rezone ±35
acres of the property located at 5231 Nova Road to be rezoned from Planned
Commercial Development (PCD) to Community Commercial (CC), more particularly
described in **Exhibit “1”**, attached hereto.

Section 2. The City Council of the City of Port Orange does hereby approve,
authorize and direct the revision of the City's Official Zoning Atlas to show the
classification for the areas as hereby rezoned as shown on **Exhibit “2”**, attached hereto.

Section 4. This ordinance shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

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

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

Exhibit 1

Parcel Identification Number: 6315-00-00-0104

That portion of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of section 15, Township 16 South, Range 33 East, Volusia County, Florida, described as follows; Commence at the intersection of the West line of Isabelle Avenue, with the South line of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, said point being a distance of 420 feet Westerly of the Southeast corner of said Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15; thence North along said West line of Isabelle Avenue, a distance of 477.15 feet to the South line of an undedicated street; thence South 89 degrees 43 minutes 00 seconds West along said line, a distance of 275.81 feet to the Point of Beginning of the parcel of land; from said point continue South 89 degrees 43 minutes 00 seconds West, a distance of 262.55 feet to a point; thence South 27 degrees 56 minutes 00 seconds West, a distance of 131.00 feet to a point; thence South 75 degrees 32 minutes 00 seconds West, a distance of 20.31 feet to a point; thence South 27 degrees 56 minutes 00 seconds West, a distance of 51.00 feet to a point in the Northeasterly line of Nova Road, said line being a curve, concave Southwesterly having a radius of 1960.08 feet; thence Southeasterly along said line, a chord distance of 246.65 feet to a point; thence North 27 degrees 56 minutes 00 seconds East a distance of 309.9 feet to the Point of Beginning.

1.36 acres

Together with

Parcel Identification Number: 6315-00-00-0105

That portion of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, Township 16 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the intersection of the West line of Isabelle Avenue, with the South line of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, said point being a distance of 420 feet Westerly of the Southeast corner of said Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15; thence North along said West line of Isabelle Avenue, a distance of 477.15 feet to the South line of an undedicated street; thence South 89 degrees 43 minutes West along said line, a distance of 275.81 feet to the Point of Beginning of this parcel of land; From said Point of Beginning go South 27 degrees 56 minutes West, a distance of 309.9 feet to a point in the Northeasterly line of Nova Road, said line being a curve, concave Southwesterly and having a radius of 1960.08 feet; thence Northwesterly along said line, a chord distance of 374.0 feet to a point; thence North 26 degrees 23 minutes East, a distance of 136.65 feet to the South line of aforesaid undedicated street; thence North 89 degrees 43 minutes East along said line a distance of 427.1 feet to the Point of Beginning.

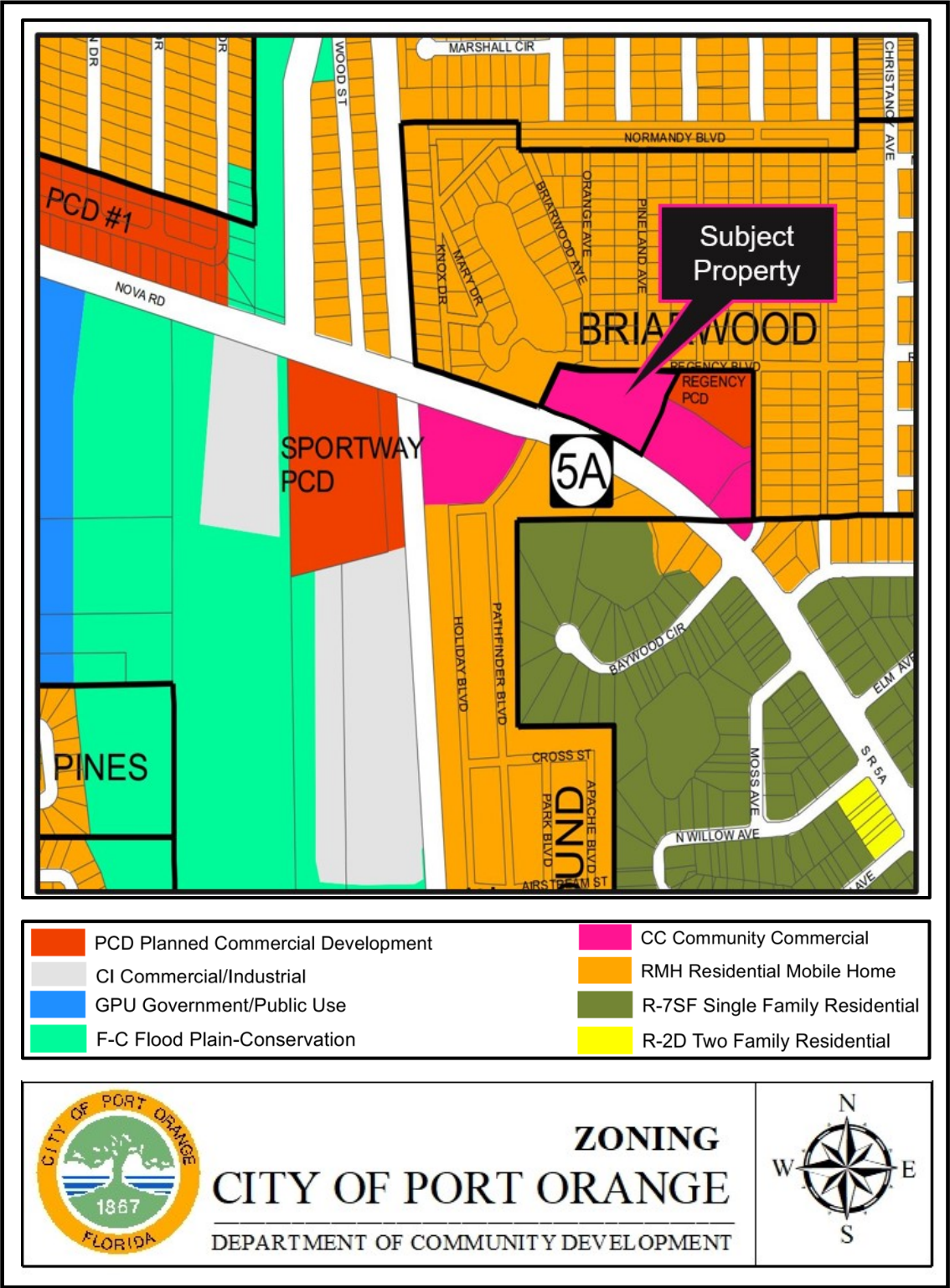
Less and except the following:

That portion of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, Township 16 South, Range 33 East, Volusia County, Florida, described as follows: Commence at the intersection of the West line of Isabelle Avenue, with the South line of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15, said point being a

distance of 420 feet Westerly of the Southeast corner of said Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 15; thence North along said West line of Isabelle Avenue, a distance of 477.15 feet to the South line of an undedicated street; thence South 89 degrees 43 minutes West along said line, a distance of 275.81 feet to the Point of Beginning of the parcel of land; from said Point of Beginning continue South 89 degrees 43 minutes West, a distance of 262.55 feet to a point; thence South 27 degrees 56 minutes West, a distance of 131.0 feet to a point; thence South 75 degrees 32 minutes West, a distance of 20.31 feet to a point; thence South 27 degrees 56 minutes West, a distance of 51.0 feet to a point in the Northeasterly line of Nova Road, said line being a curve, concave Southwesterly having a radius of 1960.08 feet; thence Southeasterly along said line, a chord distance of 246.65 feet to a point; thence North 27 degrees 56 minutes East a distance of 309.9 feet to the Point of Beginning.

.44 acres

EXHIBIT "2"





STAFF REPORT

CONVENTIONAL REZONING / 5231 NOVA ROAD
CASE NO. 22-60000002

REQUEST:	Rezone ±1.8 acres from Planned Commercial Development to Community Commercial (CC)
LOCATION:	5231 Nova Rd. (Figure 1 – Location Map)
PROPERTY OWNER:	New Life Church & Common Wealth Christian Academy Commonwealth Ministries Ins.
CONTRACT PURCHASER:	JMCG Corporate Building LLC (aka Chen Medical)
APPLICANT:	Alliance Permitting Service
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 5-0 (March 24, 2022)
CITY COUNCIL:	April 19, 2022

Property Overview

The subject property is currently zoned Planned Commercial Development (PCD) and developed as a house of worship and pre-school. The current Master Development Agreement (MDA) for the PCD was approved in 2001 and restricts the use of the property to only a house of worship and accessory uses typically associated with a house of worship, such as office, recreation, community center, religious bookstore, and childcare facility. Although the current PCD restricts the use of the property to a house of worship and accessory uses, the subject property has been designated *Commercial* on the Future Land Use map since the 1980s and was zoned C-1 Shopping Center prior to the 1985 city-wide rezoning of shopping centers to PCD. The applicant, Alliance Permitting Service, is requesting to rezone the subject property from PCD to Community Commercial (CC).

Figure 1. Location Map



Map created by the City of Port Orange Community Development Department

If the rezoning is approved, the contract purchaser, JMCG Corporate Building LLC (aka Chen Medical), intends to redevelop the existing building into a medical office and clinic in accordance with the requirements of the CC zoning district and the development regulations provided in the Land Development Code (LDC). According to their website, Chen Medical is a family-owned primary and specialty care practice committed to delivering healthcare to Medicare-eligible seniors.

Discussion

According to the applicant, the contract purchaser does not anticipate deviating from the requirements in the LDC, therefore, the contract purchaser selected to use a standard zoning district and meet the requirements in the LDC including landscape buffers, parking, building setbacks, tree preservation, infrastructure, and traffic concurrency. The applicant believes that following the list of permitted uses in the CC zoning district and the development requirements in the LDC is a more efficient and transparent process to redevelop the site.

Access to the property is currently provided from Nova Road. Any proposed modifications to the current access drives off Nova Road would need to be reviewed and approved by FDOT. Water and sewer are available and currently service the property. As part of any future redevelopment, site plans and/or building permits will be required to verify all LDC and Florida Building Code requirements are met, such as landscape buffers, parking, building setbacks, tree preservation, and infrastructure, to ensure compatibility with adjoining properties, and that adequate public facilities and services are available.

The CC zoning district permits typical community-scale commercial uses commonly found at shopping centers and outparcels of this type such as: retail stores, restaurants, personal services (hair salon, barber shop, nail salon, retail dry cleaning, etc.) offices, breweries, health/exercise clubs, childcare centers, convenience store/gas station, banks, and similar uses. If the property is rezoned to CC and the contract purchaser does not redevelop the site as a medical office/clinic, the proposed use of the subject property will need to be a permitted use in the CC zoning district.

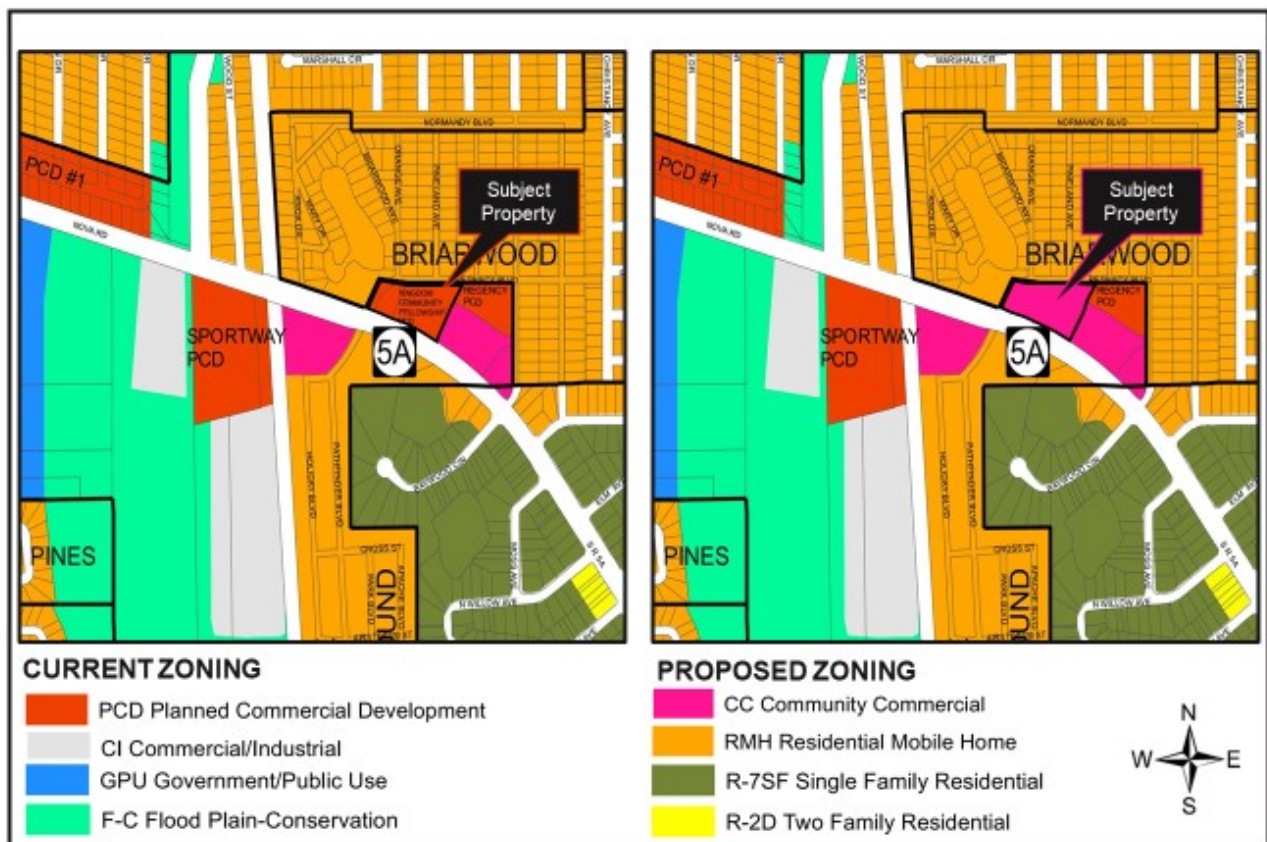
Compatibility with Surrounding Uses and Zoning

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

The proposed CC zoning district is appropriate for this location and is compatible with the surrounding properties. Table 1 summarizes the land use and zoning of the adjacent properties. The subject property is located along a major arterial roadway (Nova Road) and adjacent to existing commercial properties currently zoned CC and the Briarwood mobile home park (Figure 2 – Current and Proposed Zoning Map).

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Regency Boulevard right-of-way; Residential Mobile Home	Urban Medium Density Residential (4-8 u/a)	Residential Mobile Home (RMH)
South	Stormwater pond; Recreation Vehicle Park	Urban Medium Density Residential (4-8 u/a)	Residential Mobile Home (RMH)
East	Commercial	Commercial	Community Commercial (CC)
West	Clubhouse for Residential Mobile Home	Urban Medium Density Residential (4-8 u/a)	Residential Mobile Home (RMH)

Figure 2. Current and Proposed Zoning Map

The current PCD zoning district is intended to provide a flexible approach for unique and innovative land development proposals, which would otherwise not be permitted by this code. Because the contract purchaser intends to redevelop the site in compliance with the LDC and does not anticipate deviating from the requirements in the LDC, the applicant selected to use the standard CC zoning district and meet the requirements in the LDC.

Consistency with Comprehensive Plan

The proposed rezoning is generally consistent with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan and is compatible with adjacent properties. Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land

uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is negatively impacted by the other. As part of any future site redevelopment, site plans and/or building permits will be required to be submitted for staff review, to verify all LDC requirements are met, such as landscape buffers, parking, building setbacks, tree preservation, and infrastructure, to ensure compatibility with adjoining properties and that adequate public facilities and services are available.

The proposed CC zoning district is consistent with the subject property's current *Commercial* Future Land Use (FLU) designation. (Figure 3 – Future Land Use Map). The *Commercial* FLU designation is generally characterized by uses that provide for the retail sale of items and provision of services to the general public. Based on compatibility with adjacent uses and availability of infrastructure, the requested zoning is appropriate for this location, and it is consistent with existing FLU designation.

Figure 3. Current Future Land Use Map



Public Notice

On February 25, 2022, staff posted the property notifying the public of the proposed rezoning. As of the time this agenda item was prepared, there have been four (4) phone calls requesting general information regarding the proposed rezoning.

Staff Recommendation

Staff recommends **approval** of the request to rezone ±1.8 acres from Planned Commercial Development (PCD) to Community Commercial (CC).

Attachments:

Exhibit 1 – List of Permitted Uses for the Community Commercial (CC) zoning district

Exhibit 1

Community Commercial (LDC, Chapter 17, Section 21)

Permitted uses.

- (1) Adult/vocational education.
- (2) Appliance/electronic repair shops.
- (3) Banks.
- (4) Business services.
- (5) Clubs, lodges, and fraternal organizations.
- (6) Convenience stores with or without fuel operations.
- (7) Financial services.
- (8) Fleet-based services.
- (9) Funeral homes.
- (10) Furniture and appliance stores.
- (11) Health/exercise clubs.
- (12) Medical offices/clinics.
- (13) Motor vehicle service stations.
- (14) Offices.
- (15) Office supplies.
- (16) Personal services.
- (17) Restaurants.
- (18) Retail home building materials.
- (19) Retail nurseries and garden supplies.
- (20) Retail sales and services.
- (21) Veterinary clinics.

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

- (1) Athletic/sports facilities (subsection 2).
- (2) Brewery (subsection 3.7).
- (3) Child care centers (subsection 4).
- (4) Craft food and beverage producer (subsection 5.15).
- (5) Community gardens (subsection 5.1).
- (6) Microbrewery (subsection 9.57).
- (7) Theaters (subsection 17).

Special exception uses (chapter 18, section 3).

- (1) Bars, lounges, and night clubs (subsection 3).
- (2) Fortune tellers, astrologers, and palm readers (subsection 6).
- (3) Game/recreation facilities (subsection 7).
- (4) Marina, recreational (subsection 9.6).
- (5) Mini-warehouses (subsection 10).
- (6) Motor vehicle and boat storage facilities (subsection 12).



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (H20a) First Reading - Ordinance No. 2022-8 - Small-scale Future Land Use Map Amendment/3741 S. Nova Road (Case No. 22-20000001)

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance No. 2022-8, amending the Future Land Use designation of ± 2.3 acres, located at 3741 Nova Road, from *Office/Residential Transition (ORT)* to *Commercial*, and authorizing staff to send the amendment to the required review agencies.

SUMMARY: Planning Commission Action (3/24/2022): Recommended Approval (Vote 4-1)

The applicant is requesting to change the Future Land Use (FLU) designation of the subject property (3741 S. Nova Road) from Office/Residential Transition (ORT) to Commercial. The property is located on the east side of S. Nova Road, approximately 2,000 feet north of Dunlawton Avenue. The applicant's proposed FLU amendment is being processed concurrently with a rezoning application to rezone the subject property from Professional Office (PO) to Community Commercial (CC). If approved, the applicant intends to redevelop the property as a multi-tenant building for professional office and retail uses under the CC zoning district and requirements in the Land Development Code. At this time, no tenants have been identified for the proposed multi-tenant building.



The proposed Commercial FLU category provides a similar variety of uses and intensities as the current Office/Residential Transition designation but does not require a specific ratio of office to commercial type uses on site. According to the applicant, removing the Office/Residential Transition designation mixed-use requirements (75% office uses; 25% commercial uses) will allow for greater flexibility and redevelopment opportunities for this property based on the market and shifting conditions. The proposed use of the subject property as a commercial multi-tenant building is consistent with the proposed FLU designation and compatible with the surrounding land uses and zoning.

As part of any future redevelopment, a site plan and/or building permits will be required to be submitted for staff review to verify all LDC and Florida Building Code requirements are met to ensure compatibility with adjoining properties, and that adequate public facilities and services are available.

The staff report is attached for more information.

PRESENTER: Tim Burman, Penelope Cruz

ATTACHMENTS:

1.	Ordinance 2022-8 with exhibit	Ord. No. 2022-8 Small Scall 3741 S Nova.pdf
2.	Staff Report	Final CC Staff Report - FLUA - 3741 S. Nova Road.pdf

Penelope Cruz	Created/Initiated - 3/30/2022
Tim Burman	Approved - 3/30/2022
Shannon Balmer	Approved - 4/7/2022
Wayne Clark	Approved - 4/8/2022
Robin Fenwick	Final Approval - 4/8/2022

ORDINANCE NO. 2022-8

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, RELATING TO
COMPREHENSIVE PLANNING; AMENDING THE FUTURE
LAND USE MAP OF THE COMPREHENSIVE PLAN;
AMENDING THE FUTURE LAND USE DESIGNATION FOR
+2.3 ACRES FROM OFFICE/RESIDENTIAL (ORT) TO
COMMERCIAL FOR PROPERTY GENERALLY LOCATED
AT 3741 SOUTH NOVA ROAD; PROVIDING FOR
CONFLICTING ORDINANCES, SEVERABILITY AND AN
EFFECTIVE DATE.

WHEREAS, after careful review and a public hearing, the Planning Commission, sitting as the Local Planning Agency, has forwarded a recommendation to the City Council regarding this proposed amendment to the Comprehensive Plan for the City of Port Orange; and

WHEREAS, the proposed amendment to the Comprehensive Plan directly relates to small scale development activities as provided in Section 163.3187(1)(c), Florida Statutes; and

WHEREAS, the City Council of the City of Port Orange has received comments and proposals from the general public and held at least one public hearing with regard to the proposed amendment to the Comprehensive Plan; and

WHEREAS, the amendment to the Comprehensive Plan shall be submitted to the Volusia Growth Management Commission for a determination of consistency in accordance with Section 202.3 of the Charter of Volusia County, Florida; and

WHEREAS, the City Council hereby declares that the purpose and intent of the proposed amendment to the Comprehensive Plan is to guide future growth and development; encourage the most appropriate use of land, water, and other resources,

consistent with the public interest; promote and protect the public health, safety, comfort, good order, appearance, convenience, aesthetics, and general welfare; prevent the overcrowding of land and avoid undue concentration of population; provide adequate and efficient transportation, water, sewage, drainage, fire protection, parks, recreational facilities, housing, and other services, facilities and resources; and conserve and protect natural resources within the City, while protecting private property rights; and

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

Section 1. For purposes herein, the term “Comprehensive Plan”, shall mean the Comprehensive Plan for the City of Port Orange, consisting of the two (2) volumes entitled “Comprehensive Plan City of Port Orange 2010-2025”, including Binder No. 1, consisting of ten (10) elements, including Future Land Use and Future Land Use Map; Transportation; Housing; Public Facilities; Public Schools Facilities; Coastal Zone Management; Conservation; Recreation and Open Space; Intergovernmental Coordination; and Capital Improvements, all as adopted by Ordinance No. 1999-43, as subsequently amended by Ordinances No. 1999-46, 1999-56, 1999-57, 2000-1, 2000-8, 2000-13, 2000-25, 2000-29, 2000-41, 2001-2, 2001-21, 2001-26, 2001-28, 2001-75, 2001-76, 2001-89, 2002-7, 2002-20, 2003-3, 2003-1, 2003-22, 2003-39, 2004-34, 2004-39, 2005-1, 2005-3, 2005-13, 2005-15, 2005-25, 2005-27, 2005-30, 2005-31, 2005-49, 2006-9, 2006-16, 2006-24, 2006-41, 2006-51, 2006-53, 2007-4, 2007-14, 2007-30, 2007-48, 2007-55, 2007-57, 2007-60, 2007-61, 2008-2, 2008-8, 2008-9, 2008-12, 2008-16, 2008-19, 2008-36, 2009-3, 2009-19, 2009-20, 2010-14, 2010-20, 2010-30, 2011-24, 2011-34, 2012-8, 2012-24, 2012,30, 2013-20, 2013-25, 2014-31, 2014-32,

2015-42, 2015-44, 2016-6, 2016-20, 2016-24, 2016-26, 2017-4, 2017-33, 2018-10, 2018-15, 2018-18, 2018-20, 2018-29, 2018-30, 2019-11, 2019-21, 2019-23, 2019-33, 2019-41, 2020-2, 2020-5, 2020-11, 2020-14, 2020-22, 2020-34, 2020-39, 2021-1, 2021-24, 2021-28, and this ordinance.

Section 2. The Future Land Use Map of the Comprehensive Plan is hereby amended from Office/Residential Transition (ORT) to Commercial as shown on the Map depicted in **Exhibit “A”**, attached hereto and by reference made a part hereof.

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:

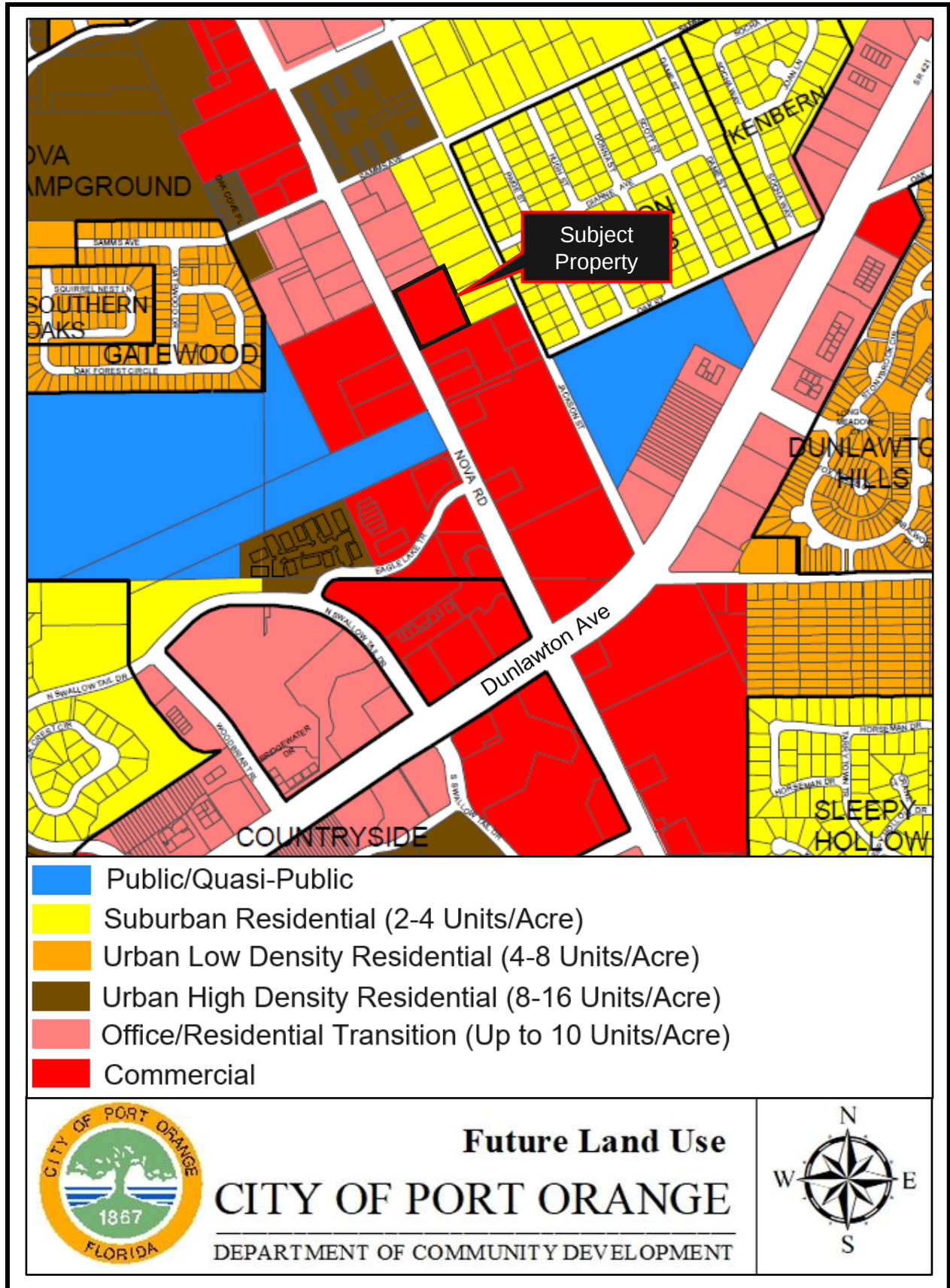
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

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

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

EXHIBIT "A"





STAFF REPORT

SMALL-SCALE FUTURE LAND USE MAP AMENDMENT

3741 S. NOVA ROAD
CASE NO. 22-20000001

REQUEST:	Amend the Comprehensive Plan Future Land Use (FLU) Map to change the FLU designation for ±2.3 acres from <i>Office/Residential Transition (ORT)</i> to <i>Commercial</i> .
LOCATION:	3741 S. Nova Road (see Figure 1)
OWNER:	Ashirwaad Properties, LLC
APPLICANT:	Parmjit Singh
STAFF CONTACT:	Gideon Smith, Senior Planner (386) 506-5676
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 4-1 (March 24, 2022)
CITY COUNCIL DATE:	April 19, 2022

INTRODUCTION

Parmjit Singh, applicant, requests approval to change the Future Land Use (FLU) designation of ±2.3 acres from *Office/Residential Transition (ORT)* to *Commercial*. The subject property is located on the east side of S. Nova Road, approximately 2,000 feet north of Dunlawton Avenue. The applicant's proposed FLU amendment is being processed concurrently with a rezoning application to rezone the subject property from Professional Office (PO) to Community Commercial (CC). The proposed Community Commercial (CC) zoning is consistent with the proposed *Commercial* FLU designation, which allows for development of community scale businesses along arterial or collector roads that consist of a variety of office, retail, and personal services. If approved, the applicant intends to redevelop the property as a multi-tenant building for professional office and retail uses under the CC zoning district and requirements in the Land Development Code.

Figure 1. Location Map



DISCUSSION

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

PROPERTY OVERVIEW

The subject property was previously developed as a bank and is currently vacant. Access to the property is provided by two driveways along South Nova Road. The southern access point is currently designed as a one-way drive and the northern access point is currently designed as a two-way drive. The subject site is located approximately 2,000 feet north of the intersection of S. Nova Road and Dunlawton Avenue.

Below: Subject Property Looking Northeast



Above: Southern Driveway Entrance to Subject Property Looking Northeast



Above: Northern Driveway Entrance to Subject Property Looking East

The surrounding existing land uses, Future Land Use designations, and Zoning classifications are identified in Table 1.

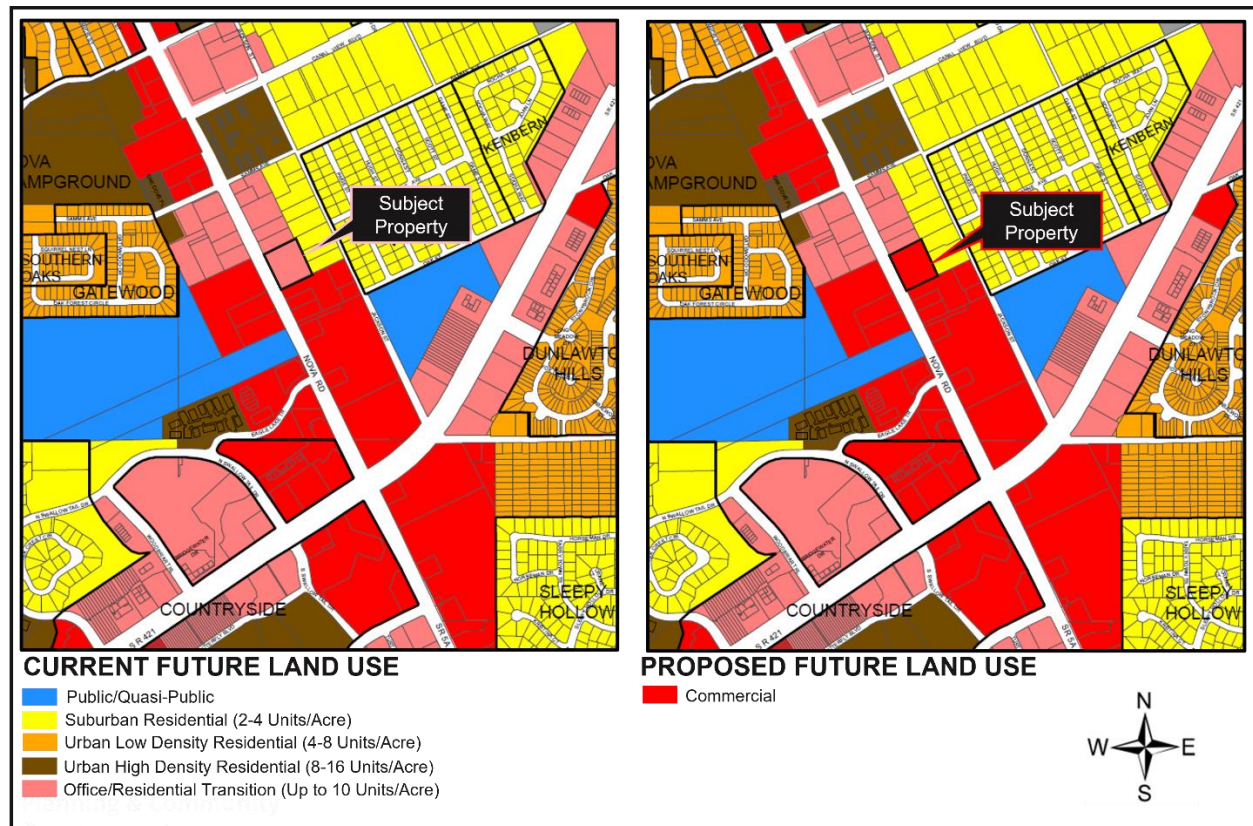
Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial (Vacant)	<i>Office Residential Transition</i>	Professional Office (PO)
South	Commercial (Shopping Center)	<i>Commercial</i>	Community Commercial (CC)
East	Residential (Single-Family)	<i>Suburban Residential (2-4 u/a)</i>	R-8SF Single-Family Residential
West	Commercial (All Aboard Storage) and S. Nova Road Right-of-Way	<i>Commercial</i>	Community Commercial (CC)

The subject property is adjacent to an undeveloped commercial property to the north, developed commercial properties to the south and west, and three residential properties to the east.

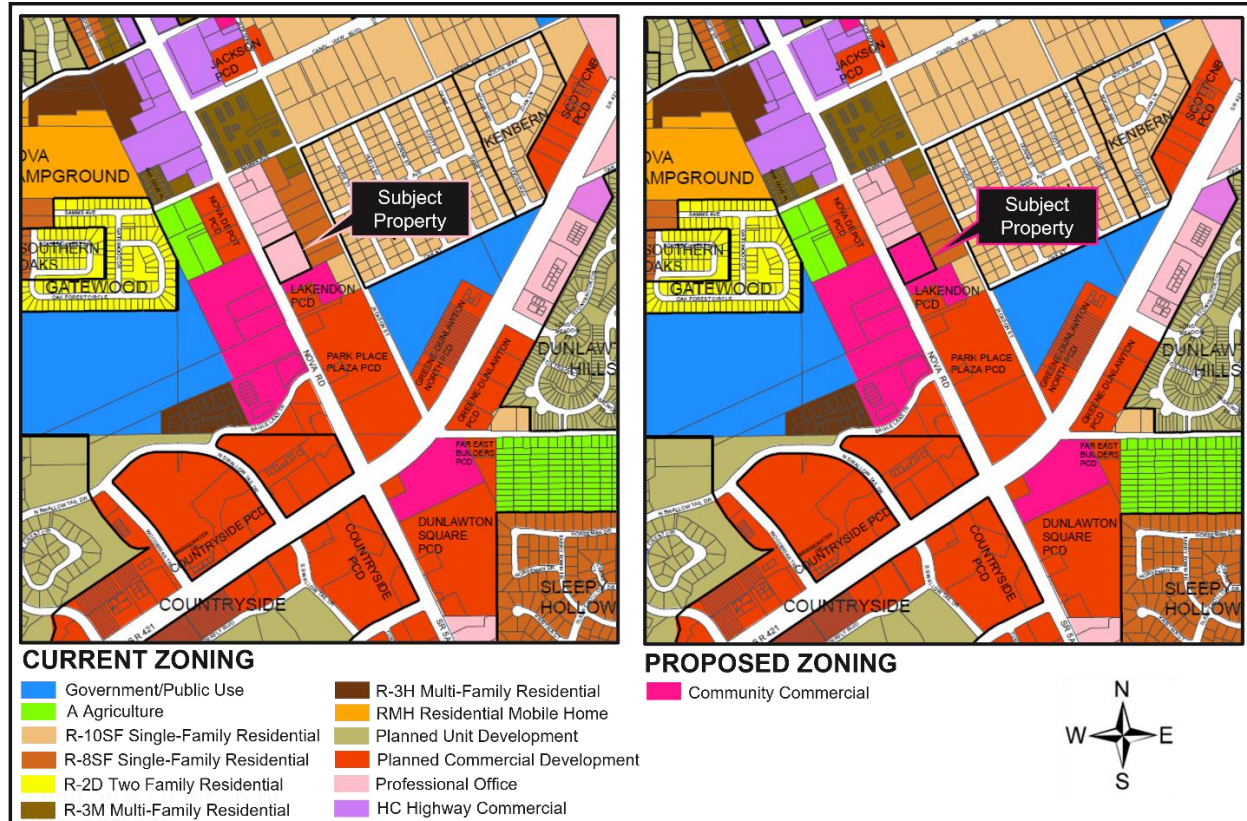
The current adopted and proposed FLU designation for the subject property and adjacent properties is identified in Figure 2.

Figure 2. Current and Proposed FLU Map



The current adopted and proposed zoning classification for the subject property and adjacent properties is identified in Figure 3. The applicant submitted a rezoning application that is being concurrently reviewed with the proposed FLU amendment to rezone the subject property from Professional Office (PO) to Community Commercial (CC) (Case No. 22-60000001).

Figure 3. Current and Proposed Zoning Map



PROPOSED AMENDMENT

The proposed amendment is to change the FLU designation for ±2.3-acres from *Office/Residential Transition (ORT)* to *Commercial*. The following table identifies the current adopted and proposed FLU designations by acreage (Table 2):

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

FLU Categories	Current FLU (acres)	Proposed FLU (acres)	Net Change in FLU (acres)
Office/Residential Transition (ORT)	2.3	0	-2.3
Commercial	0	2.3	+2.3
Total Acreage	2.3	2.3	0

The current *Office/Residential Transition (ORT)* FLU designation is a mixed-use category that allows for a distribution of uses on the subject property, with the cumulative mixture of uses totaling 100% based on the following theoretical maximum scenarios:

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

The proposed *Commercial* FLU category provides a similar variety of uses and intensities as the current *ORT* designation but does not require a specific ratio of office to commercial type uses on site. According to the applicant, removing the *ORT* designation mixed-use requirements (75% office uses; 25% commercial uses) will allow for greater flexibility and redevelopment opportunities for this location based on the market and shifting conditions. The proposed use of the subject property as a commercial multi-tenant building is consistent with the proposed FLU designation.

The maximum allowable density/intensity and net change in density/intensity between the proposed *Commercial* FLU designation and the current *Office/Residential Transition* FLU designation is shown in Table 3. The two theoretical maximum development scenarios for the current *ORT* FLU designation were compared to the proposed *Commercial* FLU designation. In both scenarios, the proposed amendment results in a decrease in density and intensity.

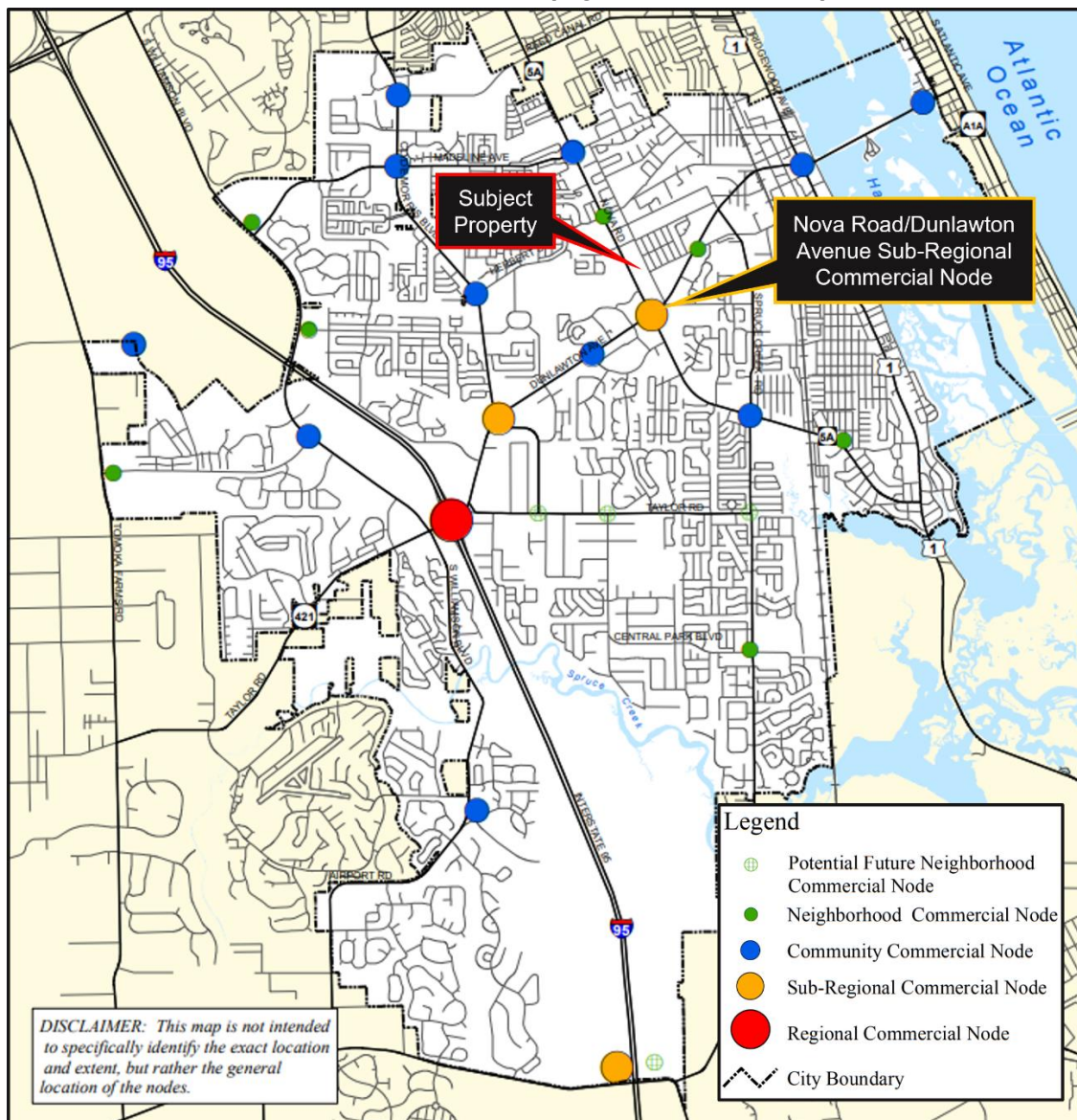
Table 3. Current & Proposed Future Land Uses – Density/Intensity by Category

	Current FLU	Proposed FLU	Net Change in FLU
	[Theoretical Maximum Density (units)/Intensity (sq. ft.)]		
Office/Residential Transition <i>Scenario #1</i> 25% Residential (10 units/acre)/75% Office (1.5 FAR*)	5 units 112,712 sq. ft. office	0	-5 units -112,712 sq. ft. office
Office/Residential Transition <i>Scenario #2</i> 25% commercial (1.5 FAR)/75% office (1.5 FAR)	37,571 sq. ft. commercial 112,712 sq. ft. office	0	-37,571 sq. ft. commercial -112,712 sq. ft. office
Commercial (0.75 FAR for sub-regional node)	0	75,141 sq. ft. commercial	+75,141 sq. ft. commercial
TOTAL	Scenario #1: 5 units 112,712 sq. ft.	Scenario #1: 0 units 75,141 sq. ft.	-5 units -37,571 sq. ft.
	Scenario #2: 150,283 sq. ft.	Scenario #2: 75,141 sq. ft.	-75,142 sq. ft.

* The floor area ratio (FAR) is the relationship between the total amount of building floor area and the total area of the lot on which the building stands.

According to the Port Orange Comprehensive Plan, the proposed *Commercial* FLU designation is to allow for the retail sale of items and services to the general public in areas that consist of shopping centers, retail stores, restaurants, automobile service facilities, personal services, offices, and similar uses. The Comprehensive Plan designates commercial nodes at intersections of roadways and uses the functional classification of the adjacent roadways and size of the surrounding neighborhoods to dictate the amount of commercial use designated within each node. The subject site is within the locational criteria of the S. Nova Road and Dunlawton Avenue sub-regional commercial node that is identified in the Comprehensive Plan for commercial uses intended to serve the general and specialized shopping needs of the general population and visitors. If approved, the proposed FLU designation will promote the utilization of an existing commercial property that has access to existing infrastructure such as water, sewer, and roads, and will promote the redevelopment of infill properties and reduce sprawl.

Figure 4. General Location of Commercial Nodes (Figure 1-9 of the Comprehensive Land Use Plan)



INFRASTRUCTURE IMPACT ASSESSMENT

In accordance with standard practice from the Florida Department of Economic Opportunity (DEO) and other review agencies, an impact comparison analysis of the proposed amendment has been completed based upon the *theoretical maximum* development potential under the current Future Land Use designation versus the FLU designation proposed. The theoretical maximums used in the analysis are NOT the actual development potential proposed on the subject property. Development of the site will be required to comply with required setbacks, landscape buffers, stormwater retention, parking, and other site improvements that reduce the overall development potential of the site. The following seven public facilities and services were examined:

- | | |
|-------------------|------------------------|
| 1. Transportation | 5. Stormwater Drainage |
| 2. Sanitary Sewer | 6. Recreation |
| 3. Potable Water | 7. School |
| 4. Solid Waste | |

Table 4. Impact Analysis (Theoretical Max.)

Development Variable	Current Land Use		Proposed Land Use	Net Change	
	Scenario 1 (25% Residential/ 75% Office)	Scenario 2 (25% commercial/ 75% office)	100% Commercial (0.75 FAR)	Scenario 1 (25% Residential/ 75% Office)	Scenario 2 (25% commercial/ 75% office)
Residential Units	5	0	0	-5	0
Non-residential Buildable Sq. Ft.	112,712	150,283	75,141	-37,571	-75,142
Population ¹	12	0	0	-12	0
PM Peak Hour Trips/Daily Trips ²	484/4,106	621/5,677	279/3,209	-205/-897	-342/-2,468
Sanitary Sewer (gallons/ day) ³	12,071	15,028	7,514	-4,557	-7,514
Potable Water (gallons/ day) ⁴	12,171	15,028	7,514	-4,657	-7,514
Solid Waste (lbs./day) ⁵	1,165	1,503	751	-414	-752
Stormwater Drainage ⁶	n/a	n/a	n/a	n/a	n/a
Recreation/ Open Space (acres) ⁷	0.08	0	0	-0.08	0

Table 4 Notes:

1. Population: 2.39 persons per household (per 2019 Census American Community Survey ACS 5-Year Estimates)
2. Transportation: Multi-family Apartments (220) 0.62 PM peak hour trips per unit and 6.65 daily trips per unit; Shopping Center (820) trips per 1000 sq. ft. - 3.71 PM Peak Hour; 42.70 Average Daily; Medical Office (720) trips per 1000 sq. ft. - 4.27 PM Peak Hour, 36.13 Average Daily; ITE Trip Generation Manual, 10th Edition
3. Sanitary Sewer: 160 gallons per day per Equivalent Residential Unit; 1/10 gallon per square foot per day of non-residential development

4. Potable Water: 180 gallons per day per Equivalent Residential Unit; 1/10 gallon per square foot per day of non-residential development
5. Solid Waste: 3.21 pounds per person per day; 10 lbs. per 1,000 square feet of non-residential development per day
6. Stormwater Drainage: LOS standard = 25-year, 24-hour event; Drainage system must be designed to meet the requirements of the Land Development Code
7. Rec. & Open Space: 7 acres/1,000 persons (0.007 acres/person)

According to the Infrastructure Impact Analysis, the proposed FLU designation would decrease the theoretical maximum square-footage of non-residential development allowed and decrease the theoretical maximum number of residential units allowed on the subject property. The actual development potential on the subject property will most likely be less than the theoretical maximum when redevelopment of the site occurs and site requirements in the LDC are applied. Overall, the amendment results in a net decrease in impacts to all public infrastructure.

All future development plans submitted will require detailed technical review by the Staff Development Review Committee (SDRC) to determine all requirements in the Land Development Code (LDC) are met. As with all development, specific site development proposals for the subject property are subject to concurrency regulations at the time of development requiring transportation facilities to be provided or for the developer to enter into a mitigation agreement for their impacts.

TRANSPORTATION

Based on the 10th Edition of the ITE Trip Generation Manual, the proposed *Commercial* FLU designation could generate 279 P.M. peak hour trips, and 3,209 daily trips based on theoretical maximum of 75,141 square feet of non-residential, which would be a decrease from the current *Office/Residential Transition* FLU designation.

As indicated in the Impact Analysis (Table 4), there is a decrease in the number of daily trips and P.M. peak hour trips from the current to the proposed FLU designation. According to the ITE Trip Generation Manual, the medical and professional office and residential uses allowed under the current FLU designation could generate more vehicular trips than general commercial uses allowed under the proposed FLU designation. The uses allowed in the current FLU designation typically attract new trips to an area and while the uses allowed in the *Commercial* FLU designation also attracts new trips, there is typically a portion of project trips that already exist on the adjacent roadways. Therefore, the proposed FLU designation reduces the buildable area (square-footage) and supports uses that typically attract a percentage of existing trips on the roadway network.

Volusia County Traffic Counts (2019)

Road	Location	Volume	Capacity	V/C	Remaining Capacity
Nova Road	Madeline Rd, to Dunlawton Ave.	27,000	39,800	0.68	32%

Volume/Capacity (V/C) 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 and anything under 1.00 indicate there is unutilized capacity remaining for the roadway.

The extent of the anticipated impacts on the road network will not be known until the traffic concurrency review is conducted with the site plan for this site. Similar to other developments within this area of the city, the developer may be required to enter into a Transportation Fair-Share and Concurrency Agreement with the City, and possibly Volusia County, to pay for part of the scheduled improvements for the impacted areas. In addition to a possible fair-share payment, the developer of the property may be required to construct mobility improvements to improve capacity and provide alternative modes of transportation along this corridor such as, turn lanes, cross access driveway stub outs to adjacent properties, and sidewalks.

SANITARY SEWER

The City has available sewer capacity to accommodate the proposed FLU amendment and future redevelopment of the subject property. The City's adopted LOS standard for sanitary sewer is 160 gallons per day per Equivalent Residential Unit (ERU) and 1/10 gallon per square foot per day of non-residential development. Using these standards, the proposed FLU designation would theoretically generate approximately 7,500 gallons per day (gpd) of wastewater, which is a net decrease of over 4,557 gpd between the current and proposed FLU designations.

POTABLE WATER

The City has available potable water capacity (well and Consumptive Use Permit) to serve the proposed FLU amendment. The City's adopted LOS standard for potable water is 180 gallons per day per Equivalent Residential Unit and 1/10 gallon per square foot per day of non-residential development. Using these standards, the proposed FLU designation would demand approximately 7,500 gallons of potable water per day based on the theoretical maximum development analysis, which is a net decrease of over 4,657 gallons per day.

SOLID WASTE COLLECTION

There is available capacity at the landfill to address the City's solid waste disposal needs. Solid waste generated within the City of Port Orange is delivered to the Volusia County landfill, a 3,000-acre Class I landfill with a projected life span to the year 2050. The City's adopted LOS standard for solid waste is 3.21 pounds per person per day and 10 lbs. per 1,000 square feet of non-residential development per day. Using this standard, the proposed FLU designation would generate approximately 750 pounds per day of solid waste based on the theoretical maximum development analysis, which is a net decrease of over 414 pounds per day.

STORMWATER DRAINAGE

There is no anticipated impact to the City's drainage system from the proposed land use change. Stormwater management in the City of Port Orange deals with both quality and quantity. The City's adopted LOS standard for stormwater is the 25-year, 24-hour storm event. More specifically, the stormwater facilities must be capable of treating and

conveying the runoff from such a storm without causing flooding of adjacent properties or polluting any receiving water bodies. In addition, the Comprehensive Plan and Land Development Code require that there be no net loss of stormwater retention function as a result of development. In other words, a given parcel must have the same ability to store and discharge water after development as it does before development occurs. Any future redevelopment of the property will be required to address stormwater retention on the property in accordance with these City standards.

RECREATION AND OPEN SPACE

The proposed FLU designation does not require additional parkland because it is a non-residential FLU designation that does not increase residential demand.

SCHOOLS

Pursuant to the Volusia County School District criteria, the proposed FLU amendment and any future redevelopment of this property is exempt from School Concurrency review because the request is to change to a non-residential FLU designation.

ENVIRONMENTAL CONDITIONS

The majority of the subject property is already developed with a non-residential structure and associated drive aisles, parking areas, and landscaping. The subject property is primarily categorized as hardwood hammocks uplands, with a potential of wetland presence towards the northern portion of the subject property. There are no surface waters on the subject property. Any subsequent redevelopment will be required to comply with all federal, state, regional and local regulations pertaining to the protection and preservation of valuable environmental resources.

REVIEW CRITERIA AND STAFF FINDINGS

1. *The land use proposal is consistent with the goals, objectives, and policies of the adopted Port Orange Comprehensive Plan.*

Staff finding: The proposed FLU amendment is generally consistent with the pertinent Goals, Objectives, and Policies of the City's Comprehensive Plan. The proposed FLU designation is compatible with adjacent parcels. Adequate capacity exists for portable water, sewer, schools, recreation, and stormwater, and solid waste. As with all development, the specific site development proposals for the subject property will be subject to concurrency regulations requiring adequate public facilities to be provided to mitigate the impacts.

2. *Amendments shall not result in incompatible land use designations for adjacent parcels or a neighborhood. Compatibility shall be determined by scale of development, intensity, density, and type of use, and the juxtaposition of uses.*

Staff finding: The proposed FLU amendment is compatible with the adjacent properties (see Table 1 – page 2). Compatibility is defined in the Comprehensive Plan as a condition in which dissimilar land uses can co-exist in relative proximity to one another in a stable fashion over time, such that neither use is unduly negatively impacted by the other.

The subject property is within the locational criteria of the Dunlawton/Nova intersection sub-regional commercial node and is adjacent to an undeveloped commercial property to the north, developed commercial properties to the south and west, and residential properties to the east. Any future redevelopment will be required to comply with all LDC requirements, including those pertaining to buffers along S. Nova Road and buffer and screening between the subject property and the existing residential properties to the east.

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

Staff finding: All public facilities have adequate capacity to accommodate the proposed amendment and therefore there are no negative impacts. The detailed use-specific concurrency analysis will be conducted as part of any future redevelopment of the site requiring adequate public facilities to be provided to mitigate impacts.

4. *Whether the amendment increases the clearance time for evacuation of the population in the Hurricane Vulnerability Zone above twelve hours.*

Staff finding: The subject property is located within the Hurricane Vulnerability Zone; however, the proposed *Commercial* FLU designation does not allow residential uses. Therefore, there will not be any impact to the clearance time for evacuation of the population in the Hurricane Vulnerability Zone.

5. *Whether the amendment discourages the proliferation of urban sprawl.*

Staff finding: The proposed amendment will not encourage sprawl. The proposed amendment will support the redevelopment of an infill property that has access to existing infrastructure such as water, sewer, and roads.

PUBLIC NOTICE

On February 18, 2022, staff posted the property notifying the public of the proposed amendment. The proposed amendment has also been advertised in the *News-Journal* pursuant to Florida Statutes. As of the time this agenda item was prepared, staff has not received any inquiries regarding the proposed amendment.

STAFF RECOMMENDATION

Staff recommends approval of the request to change the Future Land Use designation of ±2.3 acres from *Office/Residential Transition (ORT)* to *Commercial*, and authorization for staff to send the amendment to the required review agencies.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (H20b) First Reading - Ordinance No. 2022-9 - Rezoning/3741 S. Nova Road (Case No. 22-60000001)

DEPARTMENT: Community Development

GOAL: 3 - Quality of Life

RECOMMENDED MOTION: Move to approve Ordinance No. 2022-9, rezoning ±2.3 acres, located at 3741 Nova Road, from Professional Office (PO) to Community Commercial (CC), subject to the approval of the proposed Future Land Use amendment (Case No. 22-20000001) for the subject property.

SUMMARY: Planning Commission Action (3/24/2022): Recommended Approval (Vote 4-1)

The applicant is requesting to rezone the subject property (3741 S. Nova Road) from Professional Office (PO) to Community Commercial (CC). The property is located on the east side of S. Nova Road, approximately 2,000 feet north of Dunlawton Avenue. The subject property has been zoned Professional Office since the late 1970s and was originally developed in 1979 as a non-residential structure. The site was formerly used as a bank and is currently vacant.



The applicant has submitted a Future Land Use (FLU) amendment application, to be reviewed concurrently with the subject rezoning request, to change the FLU designation of the subject property from *Office/Residential Transition* (ORT) to *Commercial* (Case No. 22-20000001). If approved, the applicant intends to redevelop the subject property as a multi-tenant commercial building in accordance with the requirements of the CC zoning district and development regulations in the Land Development Code (LDC). At this time, no tenants have been identified for the proposed multi-tenant building.

According to the applicant, the request to rezone the subject property to the CC zoning district is to assist with the redevelopment of the property. The CC zoning district permits typical community-scale commercial uses commonly found at shopping centers and outparcels of this type, such as: retail stores, restaurants, personal services (hair salon, barber shop, nail salon, retail dry cleaning, etc.), offices, breweries, health/exercise clubs, childcare centers, convenience store/gas station, banks, and similar uses. Prior to the current owner purchasing the property, the inquiries that staff received regarding redevelopment of the property were for commercial uses such as restaurant, retail sales, brewery, and personal services that are not currently permitted or the square-footage for the use are restricted by the current PO zoning district. The PO zoning district allows uses such as offices, veterinary clinics, fleet-based services, business and financial services.

As part of any future redevelopment, a site plan and/or building permits will be required to be submitted for staff review to verify all LDC and Florida Building Code requirements are met to ensure compatibility with adjoining properties, and that adequate public facilities and services are available.

The staff report is attached for more information.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance 2022-9 with exhibits	Ord. No. 2022-9 Rezoning 3741 Nova rd.pdf
2.	Staff Report	Final CC Staff Report - Rezoning - 3741 S Nova Road.pdf

Penelope Cruz	Created/Initiated - 3/30/2022
Tim Burman	Approved - 3/30/2022
Shannon Balmer	Approved - 4/7/2022
Wayne Clark	Approved - 4/7/2022
Robin Fenwick	Final Approval - 4/7/2022

ORDINANCE NO. 2022-9

AN ORDINANCE OF THE CITY OF PORT ORANGE,
VOLUSIA COUNTY, FLORIDA, REZONING PROPERTY
CONSISTING OF APPROXIMATELY ±2.3 ACRES FROM
PROFESSIONAL OFFICE (PO) TO COMMUNITY
COMMERCIAL (CC); AUTHORIZING REVISION OF THE
OFFICIAL ZONING ATLAS; AND PROVIDING AN
EFFECTIVE DATE.

WHEREAS, ±2.3 acres of the property located at 3741 South Nova Road to be rezoned from Professional Office (PO) to Community Commercial (CC); and

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

WHEREAS, the Planning Commission has by a majority vote recommended approval of the proposed rezoning; and

WHEREAS, the City Council has approved by a majority vote of the members present the rezoning of the described property; and

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 rezone ±35 acres of the property located at 3741 South Nova Road to be rezoned from Professional Office (PO) to Community Commercial (CC), more particularly described in **Exhibit “1”**, attached hereto.

Section 2. The City Council of the City of Port Orange does hereby approve, authorize and direct the revision of the City's Official Zoning Atlas to show the classification for the areas as hereby rezoned as shown on **Exhibit “2”**, attached hereto.

Section 4. This ordinance shall become effective immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

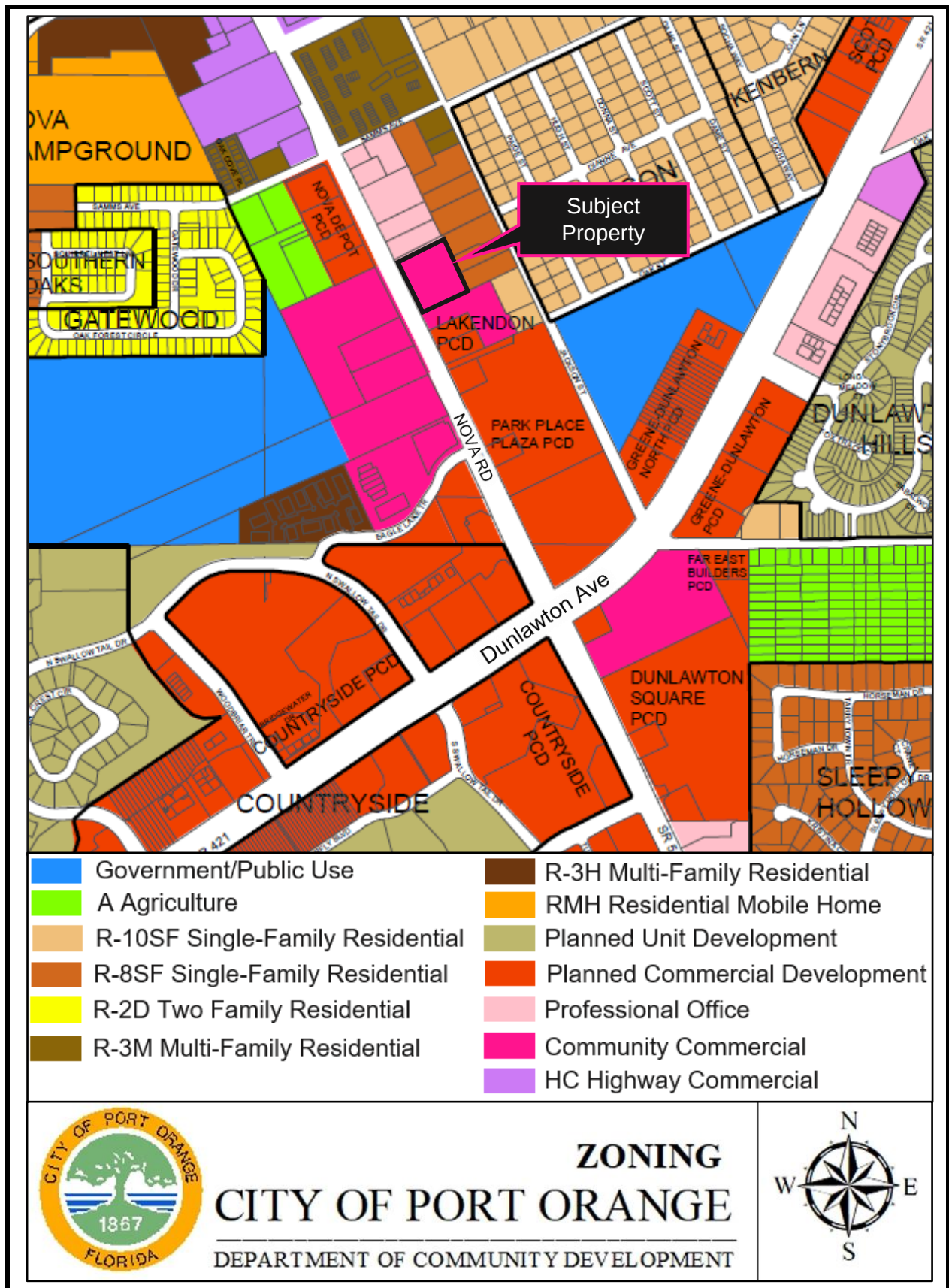
Passed and adopted on second and final reading on the day of

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

EXHIBIT 1

The Westerly 305 feet of the North one half (1/2) of Lot 3, Block 25, Dun-Lawton, according to the map or plat thereof recorded in Deed Book M, Page 187 of Public Records of Volusia County, Florida, as measured from the Easterly boundary of the existing right-of-way of State Highway 5-A, as now laid out, also known as New Canal Road Truck Route.

LESS AND EXCEPTING THEREFROM that portion conveyed to the State of Florida in that certain Quit Claim Deed recorded in Deed Book 507, Page 135.





STAFF REPORT

CONVENTIONAL REZONING/3741 S. NOVA ROAD

CASE NO. 22-60000001

REQUEST:	Rezone ±2.3 acres from Professional Office (PO) to Community Commercial (CC)
APPLICANT:	Parmjit Singh
PROPERTY OWNER:	Ashirwaad Properties, LLC
LOCATION:	3741 S. Nova Road (see Figure 1)
STAFF CONTACT:	Gideon Smith, Senior Planner (386) 506-5676
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 4-1 (March 24, 2022)
CITY COUNCIL DATE:	April 19, 2022

INTRODUCTION

The applicant is requesting to rezone the ±2.3-acre subject property from Professional Office (PO) to Community Commercial (CC). The subject property is located on the east side of S. Nova Road, approximately 2,000 feet north of Dunlawton Avenue (Figure 1 – Location Map). If approved, the applicant intends to redevelop the subject property as a multi-tenant commercial building in accordance with the requirements of the CC zoning district and development regulations in the Land Development Code (LDC).

Figure 1: Location Map



Map created by the City of Port Orange Community Development Department

DISCUSSION

The subject property has been zoned Professional Office since the late 1970s and was originally developed in 1979 as a non-residential structure. The site was formerly used as a bank and is currently vacant. If the rezoning is approved, the applicant intends to redevelop the former bank site as a multi-tenant commercial building under the CC zoning district requirements in the Land Development Code (LDC).

Below: Subject Property Looking Northeast



Access to the property is currently available along Nova Road from the two existing driveways. Any proposed modifications to the access drives off Nova Road would need to be reviewed and approved by FDOT. Water and sewer are available to service the property.



Above: Southern Driveway Entrance to Subject Property Looking Northeast



Above: Northern Driveway Entrance to Subject Property Looking East

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

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

According to the applicant, the request to rezone the subject property to the Community Commercial (CC) zoning district is to assist with the redevelopment of the property. Prior to the current owner purchasing the property, the inquiries that staff received regarding redevelopment of the property were all for commercial uses not permitted by the current Professional Office (PO) zoning district.



Above: Existing Shopping Center Immediately South of the Subject Property

The CC zoning district permits typical community-scale commercial uses commonly found at shopping centers and outparcels of this type such as: retail stores, restaurants, personal services (hair salon, barber shop, nail salon, retail dry cleaning, etc.), offices, breweries, health/exercise clubs, childcare centers, convenience store/gas station, banks, and similar uses. If the property is rezoned to CC and the applicant does not redevelop the site as a multi-tenant commercial building, any future proposed use of the subject property will need to be a permitted use in the CC zoning district and comply with all requirements in the LDC.

COMPATIBILITY WITH SURROUNDING USES AND ZONING

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

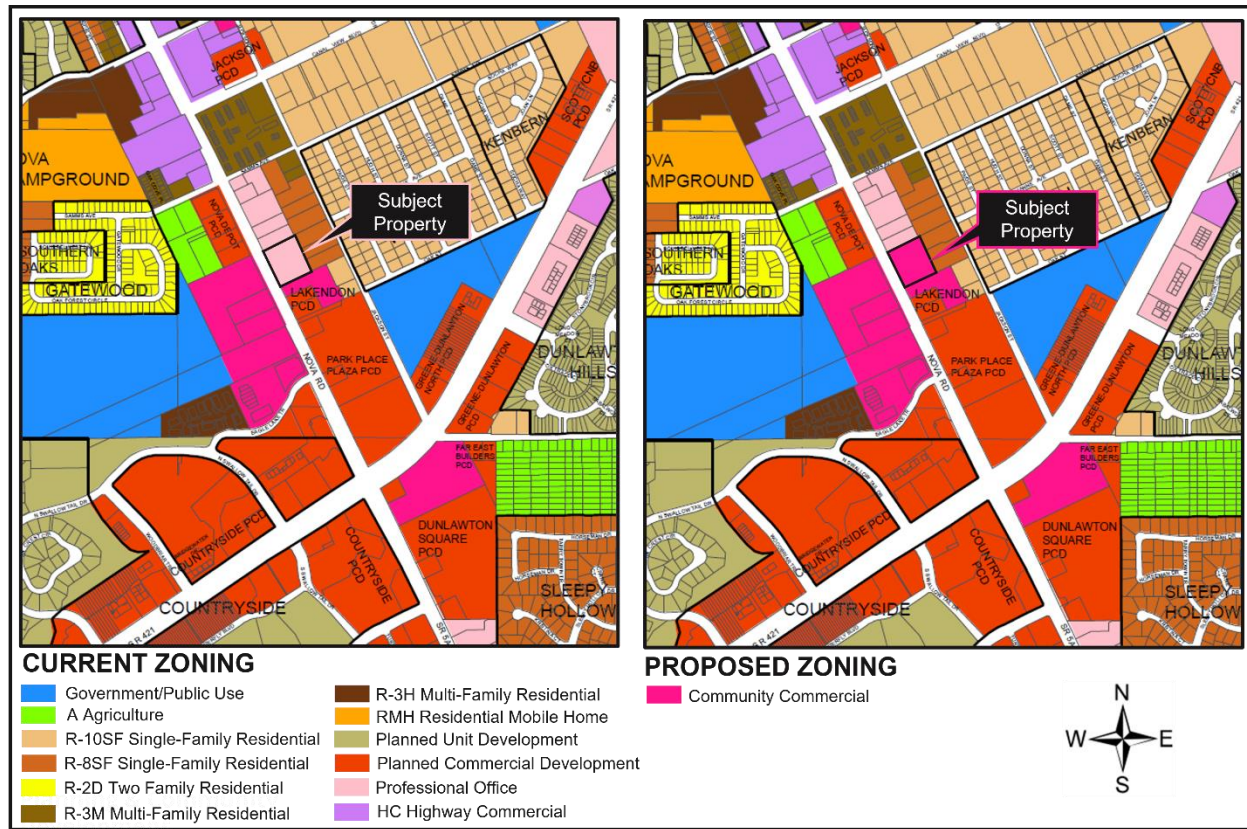
The proposed CC zoning district is compatible with the surrounding uses and zoning. Table 1 summarizes the land use and zoning of the adjacent properties. The subject property is currently developed with a commercial building that was formerly occupied by a bank and is adjacent to existing commercial properties zoned CC to the south and west. The adjacent property to the north is an undeveloped vacant parcel zoned Professional Office (PO). The subject property abuts three residential properties to the east that are zoned R-8SF Single-Family Residential. If approved, the LDC requires the installation of a minimum 6-foot-tall fence, wall, or living wall between the subject property and the adjacent residential zoned properties.

Table 1. Surrounding Land Uses and Zoning

Direction	Existing Land Use	FLU Designation	Zoning District
North	Commercial (Vacant)	<i>Office Residential Transition</i>	Professional Office (PO)
South	Commercial (Shopping Center)	<i>Commercial</i>	Community Commercial (CC)
East	Residential (Single-Family)	<i>Suburban Residential (2-4 u/a)</i>	R-8SF Single-Family Residential
West	Commercial (All Aboard Storage) and S. Nova Road Right-of-Way	<i>Commercial</i>	Community Commercial (CC)

The current adopted and proposed zoning classification for the subject property and adjacent properties is identified in Figure 2.

Figure 2. Current and Proposed Zoning Map



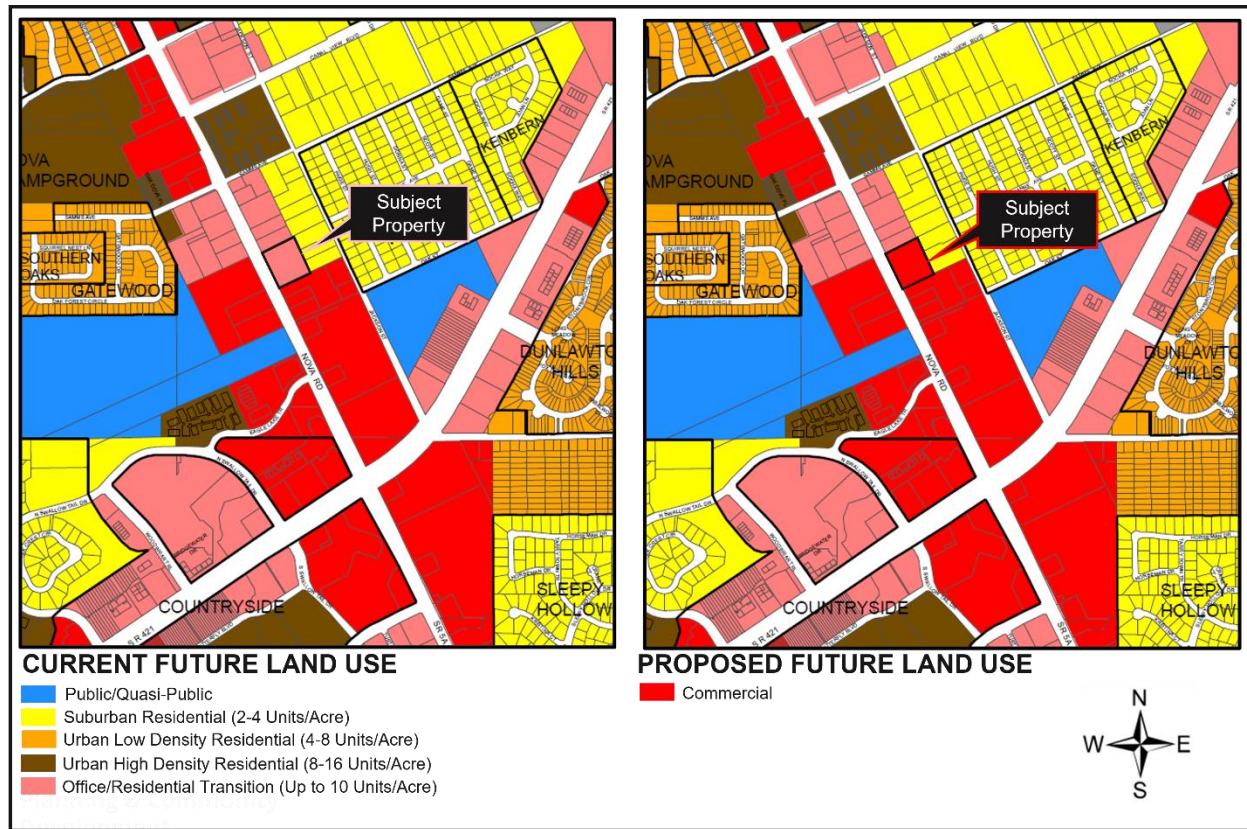
CONSISTENCY WITH COMPREHENSIVE PLAN

The subject property is currently designated *Office/Residential Transition* (ORT) on the Future Land Use (FLU) map. The applicant has submitted a FLU amendment application to be reviewed concurrently with the subject rezoning to change the FLU designation of the subject property from *Office/Residential Transition* (ORT) to *Commercial* (Case No. 22-20000001). If the FLU amendment is approved, the proposed CC zoning will be consistent with the proposed *Commercial* FLU designation as this designation allows for the retail sale of items and services to the general public.

The subject site is also located approximately 2,000 feet north of the intersection of S. Nova Road and Dunlawton Avenue, which is identified in the Comprehensive Plan as a sub-regional commercial node. The proposed rezoning promotes utilization of an existing commercial property that has access to existing infrastructure such as water, sewer, and roads, and promotes redevelopment of infill properties and reduces sprawl. Based on compatibility with adjacent uses, access to an arterial roadway, being located in a designated commercial node, and the availability of existing infrastructure, the proposed rezoning is appropriate for this location and is consistent with proposed FLU designation.

The current adopted and proposed FLU designation for the subject property and adjacent properties is identified in Figure 3.

Figure 3. Current and Proposed Future Land Use Map



PUBLIC NOTICE

On February 18, 2022, staff posted the property notifying the public of the proposed rezoning. As of the time this agenda item was prepared, there have been no phone calls or other inquiries on the proposed rezoning.

STAFF RECOMMENDATION

Staff recommends approval of the request to rezone ± 2.3 acres from Professional Office (PO) to Community Commercial (CC) district subject to approval of the proposed Future Land Use amendment (Case No. 22-20000001) for the subject property.



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (H21) First Reading - Ordinance No. 2022-10 - Land Development Code Amendment/Chapters 2 and 15 (Case No. 22-25000002)

DEPARTMENT: Community Development

GOAL: 4 - Economic Development

RECOMMENDED MOTION: Move to approve Ordinance No. 2022-10, amending Chapters 2 and 15 of the Land Development Code.

SUMMARY: Planning Commission Action (3/24/22): Recommended Approval (Vote 5-1)

In October 2021, the City adopted a new sign code, primarily to conform to the United States Supreme Court ruling in *Reed v. Town of Gilbert* that signage regulations are to be content neutral. As staff has been working in the new code, the following clean-up items were identified to improve the new code as part of an on-going maintenance effort. The proposed amendment includes clarifications that are simple clean-up items and new requirements to allow roof signs in the Down Under and Riverwalk Special Character Districts of the Port Orange Town Center Community Redevelopment Area to further support the City's redevelopment efforts.

Clean-up items: These changes are minor clean-up items to correct formatting, typographical errors and other inadvertent omissions. None of these clean-up items change the content of the regulations.

Roof Signs: The current sign regulations do not allow roof signs within the City. The proposed amendment would allow roof signs only in the Commercial District (Comm) within the Down Under Special Character District or the Mixed-use District (MXU) within the Riverwalk Special Character District of the Port Orange Town Center Community Redevelopment Area (CRA) and create design and location requirements for a roof sign. If the proposed amendment is approved, the sign area of a roof sign would count toward the maximum wall sign area allowed for a building. The intent of the proposed amendment is to provide alternative signage design options for properties in these Special Character Districts based on their unique location and designation as a commercial/entertainment destination area.



The staff report is attached for more information.

PRESENTER: Penelope Cruz, Tim Burman

ATTACHMENTS:

1.	Ordinance 2022-10	Ord. No. 2022-10 LDC Amendments Ch 2 15 revisions to updated sign codes W TB REV.pdf
2.	Staff Report	Staff Report.pdf

Penelope Cruz
Tim Burman
Shannon Balmer
Wayne Clark
Robin Fenwick

Created/Initiated - 3/28/2022
Approved - 3/29/2022
Approved - 4/7/2022
Approved - 4/8/2022
Final Approval - 4/8/2022

ORDINANCE NO. 2022-10

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA AMENDING THE LAND DEVELOPMENT CODE CHAPTERS 2 AND 15 UPDATING THE CURRENT SIGNAGE REGULATIONS ADDRESSING MINOR FORMATTING MATTERS; PROVIDING FOR THE ALLOWANCE OF AND REQUIREMENTS FOR ROOF SIGNS WITHIN THE COMMERCIAL DISTRICT OF THE DOWN UNDER SPECIAL CHARACTER DISTRICT AND THE RIVERWALK SPECIAL CHARACTER DISTRICT, BOTH A PART OF THE PORT ORANGE TOWN CENTER COMMUNITY REDEVELOPMENT AREA; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the proposed amendments are necessary to improve the content of the existing Land Development Code (“Code”) by making necessary updates to the City’s signage regulations to correct minor formatting matters and provide for the allowance of and requirements for roof signs within the commercial district of the Down Under Special Character District and the Riverwalk Special Character District, both within the Port Orange Town Center Community Redevelopment Area.

WHEREAS, the Planning Commission has recommended amendments to the Land Development Code; and

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

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

SECTION 1: The City Council of the City of Port Orange hereby amends Chapter 2, Section 2 of the Land Development Code, to read as follows:

Chapter 2 - DEFINITIONS AND INTERPRETATIONS

Section 2: - Definitions.

Art sculpture. An artistic form in which materials are worked into three-dimensional art objects that do not contain a commercial message.

Sign, area. The entire sign face, including the display surface and any framing, trim, or molding, but not including the supporting structure. ~~The sign area shall be measured as a rectangle, encompassing the largest horizontal width and largest vertical height.~~

[No other changes to Section 2, Chapter 2, Land Development Code]

SECTION 2: The City Council of the City of Port Orange hereby amends Chapter 15 of the Land Development Code, to read as follows:

Chapter 15 – SIGNS

[No changes to Sections 1 thru 4]

Section 5: - Prohibited signs.

(14) Any sign painted, erected, or constructed upon, above or over the roof or parapet of any building, unless permitted and installed in accordance with the standards set forth in subsection 11(c)(15) below.

[No changes to Sections 6 thru 10]

Section 11: - Permanent signs.

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

(c) Permanent sign types. Permanent signs include the following types:(1) *Monument sign.* Monument signs are subject to the following standards:

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

(g) The minimum dimensional requirements and number of signs allowed for each district shall be as follows:

Standard	Res	MF/I	Com	MXC	RD RC
Allowed	No, except as provided for in section 3 below	No, except as provided for in section 3 below	Yes	Yes	Yes
Permit required	N/A	N/A	Yes	Yes	Yes
Max. number of signs for a single tenant building	N/A	N/A	1 per primary frontage, 1 per secondary frontage, not to exceed 2 total signs on a frontage	1 per primary frontage, 1 per secondary frontage, not to exceed 2 total signs on a frontage	1 per primary frontage, 1 per secondary frontage, not to exceed 2 total signs on a frontage
Max. sign area for single tenant building	N/A	N/A	48 sq. ft.—Arterial or Collector Roadway 32 sq. ft.—All other roadways	48 sq. ft.—Arterial or Collector Roadway 32 sq. ft.—All other roadways	48 sq. ft.—Arterial or Collector Roadway 32 sq. ft.—All other roadways
Max. height for single tenant building sign	N/A	N/A	8 ft.	8 ft.	8 ft.
Max. number of signs for multi-tenant building	N/A	N/A	Sites with more than 300 feet of primary or secondary frontage shall be allowed to place an	Sites with more than 300 feet of primary or secondary frontage shall be allowed to place an	Sites with more than 300 feet of primary or secondary frontage shall be allowed to place an

Standard	Res	MF/I	Com	MXC	RDR C
			additional sign meeting these standards on the frontage the second sign is located	additional sign meeting these standards on the frontage the second sign is located	additional sign meeting these standards on the frontage the second sign is located
Max. number <u>sign area</u> for tenant in a multi-tenant building	N/A	N/A	56 sq. ft.—less than 10,000 sq. ft. of floor area 84 sq. ft.—10,000 sq. ft. to 75,000 sq. ft. of floor area 112 sq. ft.—greater than 75,000 sq. ft.	56 sq. ft.—less than 10,000 sq. ft. of floor area 84 sq. ft.—10,000 sq. ft. to 75,000 sq. ft. of floor area 112 sq. ft.—greater than 75,000 sq. ft.	56 sq. ft.—less than 10,000 sq. ft. of floor area 84 sq. ft.—10,000 sq. ft. to 75,000 sq. ft. of floor area 112 sq. ft.—greater than 75,000 sq. ft.
Min. size for tenant panel	N/A	N/A	10 sq. ft.	10 sq. ft.	10 sq. ft.
Max. sign height	N/A	N/A	12 ft.	12 ft.	12 ft.
Illumination	N/A	N/A	Internally, externally or halo lit	Internally, externally or halo lit	Internally, externally or halo lit
Changeable copy area	N/A	N/A	50% of the sign face	None	50% of the sign face
Digital sign	N/A	N/A	25% of the sign face	25% of the sign face	25% of the sign face

[No changes to subsections (2) – (8)]

(9) *Projecting signs*. Projecting signs are subject to the following standards:

(a) Projecting signs may be attached vertically or horizontally to any building frontage that abuts an arterial or collector roadway.

~~(b) Projecting signs shall be attached to any building frontage that abuts an arterial or collector roadway.~~

~~(be)~~ Projecting signs shall not extend four feet above the top of the building wall to which it is attached.

~~(cd)~~ Projecting signs shall be spaced a minimum of ten feet apart on multi-tenant buildings, unless there is less than ten feet separating tenant entrances.

~~(de)~~ The minimum dimensional requirements and number of signs allowed for each district shall be as follows:

[No change to table]

[No changes to subsection (10)]

(11) Murals and art sculptures. Murals and art sculptures are subject to the following standards:

(a) Murals may be located on a principal structure, accessory structure, fence or wall, or other structure on a lot.

(b) Art sculptures may be located on a lot outside of required buffers and yard setbacks.

~~(bc)~~ The minimum dimensional requirements and number of ~~signs~~ murals and art sculptures allowed for each district shall be as follows:

Standard	Res	MF/I	Comm	MXU	RC
Allowed	No	Yes	Yes	Yes	Yes
Permit required	N/A	Yes	Yes	Yes	Yes
Max. number	N/A	Unlimited, subject to max. area	Unlimited, subject to max. area	Unlimited, subject to max. area	Unlimited, subject to max. area
Max. area <u>for murals</u>	N/A	25% of an eligible building facade or accessory structure area	75% of an eligible building facade or accessory structure area	75% of an eligible building facade or accessory structure area	100% of an eligible building facade or accessory structure area
Max. height	N/A	Roof line	Roof line	Roof line	Roof line
Illumination	N/A	External	External	External	External

Standard	Res	MF/I	Comm	MXU	RC
Subject to max. wall sign area allowance	N/A	No	No	No	No

(12) *Wall signs.* The standards below apply to all wall signs:

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

(e) Signage attached to a multi-story (greater than two stories) multi-tenant building shall be arranged so the signs share a common horizontal centerline along the façade, spaced evenly across the building facade, and are separated vertically from all other signs a minimum of twice the height of the ~~building height~~ largest sign on the building.

(f) The minimum dimensional requirements and number of signs allowed for each district shall be as follows:

[No change to table]

[No changes to subsections (13) and (14)]

(15) *Roof sign.* Roof signs are subject to the following standards:

(a) A roof sign may be erected on a building located in the Down Under Special Character District within the Commercial District (Comm) Area and the Riverwalk Special Character District within the Mixed-use (MXU) District Area. The boundaries of the Down Under and Riverwalk Special Character Districts are defined in the most current version of the Port Orange Town Center Community Redevelopment Area (CRA) Plan.

(b) Roof signs shall not be oriented toward an adjacent residential use.

(d) No portion of any roof sign structure shall project beyond an exterior wall.

(e) A roof sign shall not extend higher than four (4) feet beyond the highest point of a parapet wall or the roof upon which it is placed.

(f) The minimum dimensional requirements and number of signs allowed for each district shall be as follows:

<u>Standard</u>	<u>Res</u>	<u>MF/I</u>	<u>Comm</u>	<u>MXU</u>	<u>RC</u>
<u>Permitted</u>	<u>No</u>	<u>No</u>	<u>Yes</u>	<u>Yes</u>	<u>No</u>
<u>Permit required</u>	<u>N/A</u>	<u>N/A</u>	<u>Yes</u>	<u>Yes</u>	<u>N/A</u>
<u>Max. number for single tenant building</u>	<u>N/A</u>	<u>N/A</u>	<u>1 per building</u>	<u>1 per building</u>	<u>N/A</u>
<u>Max. number for tenant in a multi-tenant building</u>	<u>N/A</u>	<u>N/A</u>	<u>1 per building</u>	<u>1 per building</u>	<u>N/A</u>
<u>Max. sign height for single tenant building</u>	<u>N/A</u>	<u>N/A</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>N/A</u>
<u>Max. sign height for tenant in a multi-tenant building</u>	<u>N/A</u>	<u>N/A</u>	<u>4 ft.</u>	<u>4 ft.</u>	<u>N/A</u>
<u>Illumination</u>	<u>N/A</u>	<u>N/A</u>	<u>External, Internal or Halo lit</u>	<u>External, Internal or Halo lit</u>	<u>N/A</u>
<u>Subject to max. wall sign allowance</u>	<u>N/A</u>	<u>N/A</u>	<u>Yes</u>	<u>Yes</u>	<u>N/A</u>
<u>Digital sign</u>	<u>N/A</u>	<u>N/A</u>	<u>No</u>	<u>No</u>	<u>N/A</u>
<u>Changeable copy</u>	<u>N/A</u>	<u>N/A</u>	<u>No</u>	<u>No</u>	<u>N/A</u>
<u>Channel letters</u>	<u>N/A</u>	<u>N/A</u>	<u>Yes</u>	<u>Yes</u>	<u>N/A</u>
<u>Cabinet & box sign</u>	<u>N/A</u>	<u>N/A</u>	<u>No</u>	<u>No</u>	<u>N/A</u>

Section 12: - Temporary signs.

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

(e) *Temporary sign types*. Temporary signs include the following types:

[No changes to subsection (1)]

(2) *Sandwich board sign*. Sandwich board signs are subject to the standards below:

Figure 15:32 Examples of sandwich board signs



[Editor's note: delete 3rd and 4th picture and replace with new two new pictures]

(a) A sandwich board may convey changeable messages through the use of re-writable surfaces, such as chalkboards or dry-erase boards. Individual changeable copy plastic letters shall not be permitted, and paper signs shall not be attached to a sandwich board sign. Sandwich board signs with changeable copy shall not be composed of plastic.

[No other changes to Chapter 15, Land Development Code]

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 7: The provisions of this Ordinance shall become and be made a part of the Land Development Code of the City of Port Orange and the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to codify the provisions of this Ordinance.

SECTION 8: If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

SECTION 9: This Ordinance shall take effect immediately upon adoption.

MAYOR DONALD O. BURNETTE

ATTEST:

Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the day of

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

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



STAFF REPORT

CASE NO. 22-25000002

LDC Amendment/ Chapters 2 and 15

REQUEST:	Amendments to Chapters 2 and 15 of the Land Development Code (LDC) to address clean-up items to the new sign code and add criteria to allow roof signs in the Down Under and Riverwalk special character districts located within the Port Orange Town Center Community Redevelopment Area.
APPLICANT:	City of Port Orange
STAFF CONTACT:	Penelope Cruz, Planning Manager (386) 506-5671
STAFF RECOMMENDATION:	Approval
PLANNING COMMISSION:	Recommended Approval 5-1 (March 24, 2022)
CITY COUNCIL:	April 19, 2022

INTRODUCTION

In October 2021, the City adopted a new sign code, primarily to conform to the United States Supreme Court ruling in *Reed v. Town of Gilbert* that signage regulations are to be content neutral. As staff has been working with the new code, amendments were identified to improve the new code, as part of an on-going maintenance effort. The proposed amendments include clarifications that are simple clean-up items and new requirements to allow roof signs in the Down Under and Riverwalk Special Character Districts of the Port Orange Town Center Community Redevelopment Area to further support the City's redevelopment efforts.

PROPOSED AMENDMENTS

The proposed amendments to Chapters 2 and 15 of the Land Development Code (LDC) include the following clarifications and minor changes that are simple clean-up items or further support the City's redevelopment efforts.

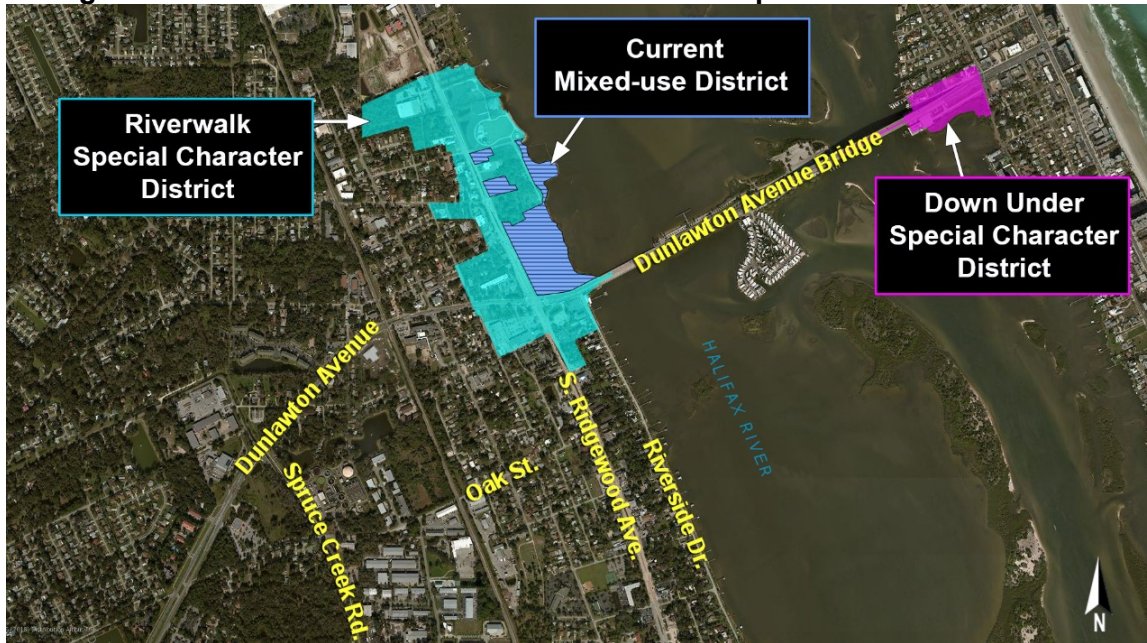
Clean-up items: As staff has been working with the new sign code minor clean-up items have been identified to correct formatting, typos and other inadvertent errors and omissions. None of these clean-up items change the content of the regulations.

Roof Signs: The current sign regulations do not allow roof signs within the City. The proposed amendment would allow roof signs for only developments located in the commercial district of the Down Under Special Character District or the mixed-use district of the Riverwalk Special Character District of the Port Orange Town Center Community Redevelopment Area (CRA) and create requirements for a roof sign. If the proposed amendment is approved and a tenant in the Down Under or Riverwalk Special Character District of the CRA installs a roof sign, the sign area of the roof sign would count toward the maximum wall sign area allowed for that building. Therefore, if a tenant would install a roof sign, it would not allow for that tenant to have more signage than other commercial buildings within the city.

The intent of the proposed amendment is to provide alternative signage options for properties in these Special Character Districts based on their unique location or designation as being a

commercial/entertainment destination area. Providing more flexibility in signage design in these areas further supports the City's redevelopment efforts to make these areas iconic placemaking designation.

Figure 1. Location of Down Under and Riverwalk Special Character Districts



Due to the location of the businesses in the Down Under district being under the Dunlawton Bridge, the visibility of a typical 8-foot-tall ground monument sign is significantly reduced to traffic going over the bridge. Therefore, most of the businesses in the Down Under have chosen not to install a monument sign. The proposed amendment would allow for these businesses to have adequate signage comparable to other commercial businesses in the city.

Mixed-use developments, such as those planned in the Riverwalk Special Character District rely on exterior signs to identify and attract visitors to the mixed-use development and create distinct identification features for the development. Providing signage alternatives, such as a roof sign, expands the signage options available for a development or business in the mixed-use development to advertise internally and externally to potential customers.

Figure 2: Examples of Roof Signs



Recommendation

Staff recommends approval of the amendments to Chapters 2 and 15 of the Land Development Code (LDC).

Attachments

Exhibit 1 - Proposed LDC Amendments to Chapters 2 and 15 (See Ordinance Exhibit)



CITY COUNCIL AGENDA ITEM

COUNCIL MEETING DATE 4/19/2022

SUBJECT: (I22) Discussion on ArtHaus Use Agreement

DEPARTMENT: Parks & Recreation

GOAL: Fiscal Responsibility

RECOMMENDED MOTION: Staff requests Council direction on terms of the use agreement for ArtHaus at the REC.

SUMMARY: As a result of discussions at Council's October 2019 workshop, staff have worked with ArtHaus about relocating their program to the renovated REC building at City Center. ArtHaus provided input about the design of the REC renovations. The new space at the REC building provides more square footage than the existing facility, enhanced amenities, and exposure for their program. Partnering with ArtHaus adds to the cultural activities available to the community at the REC. As part of the ECHO agreement, cultural events must be offered at the REC. Without the partnership with ArtHaus, staff would have to offer additional programming to meet this need.

ArtHaus currently operates out of a city-owned building in the Riverwalk area. This building is being considered as part of the sale related to the Bristol Riverwalk Development and is not expected to be available for this use in the future.

Staff has held several meetings with the Director and some ArtHaus Board members to discuss options for a new agreement. Staff will present options to the City Council for consideration and discussion. Based on the City Council's direction, staff will prepare an agreement to be brought forward at a future meeting.

The current agreement with ArtHaus does not include a lease fee. However, the organization does pay for the maintenance and utilities of the current building. The options to be presented by staff will address different levels of lease payments and in-kind support provided by ArtHaus to the City. All the options include ArtHaus continuing to be responsible for a component related to utilities and maintenance costs, as would be defined by the contract. The contract will also define terms related to items such as inspection, access, and parking.

The maintenance component would include factors such as exterior signage, custodial services for both inside and outside their space, minor electric and plumbing, HVAC maintenance, window cleaning, and indoor pest control. ArtHaus would be responsible for a portion of the utility bill. For example, the agreement could include responsibility for 12% of the utility bill. The 12% represents the percentage of the total REC space that would be occupied by ArtHaus (3,727 sf out of the approximately 31,000 sf).

Option One:

- No lease payment for the term of the agreement.
- In-Kind Support: Window art at City Hall once a year and 12 free classes at the REC each year.

Option Two:

- No lease payment for the first 18 months.
- At the end of 18 months, charge the cost per square foot schedule as shown below. This schedule is based off the same rate per square foot that the YMCA pays. The total square footage of the ArtHaus portion of the building is 3,727 square feet.
 - Year 2024 \$5.62 sf, \$1,745.48 a month
 - Year 2025 \$5.73 sf, \$1,779.64 a month
 - Year 2026 \$5.85 sf, \$1,816.91 a month
 - Year 2027 \$5.96 sf, \$1,851.08 per month
 - The price will continue to increase 3% each year until contract renewal time. Building in adjustments annually within a contract is intended to assist with the escalating cost of overhead and maintenance repairs not covered under the contract.
- In-Kind Support: Window art at City Hall once a year, 1 class a month for 18 months to coincide with the length of the lease payment waiver.

The Council may want to recommend other options such as a hybrid of the above options or provide no fee waiver and treat this lease like the YMCA lease as described above, or other methods of fee determination.

ArtHaus prefers option one and is requesting the opportunity to speak during the meeting.

PRESENTER: Susan Lovallo

ATTACHMENTS:

Susan Lovallo	Created/Initiated - 2/22/2022
Susan Lovallo	Approved - 2/22/2022
Robin Burris	Approved - 2/23/2022

Linda Truitt	Approved - 2/25/2022
Matthew Jones	Approved - 3/4/2022
Wayne Clark	Approved - 3/4/2022
Robin Fenwick	Final Approval - 3/4/2022
