



**City of Palm Coast
Agenda
COUNCIL BUSINESS
MEETING
AMENDED AGENDA**

City Hall
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoastgov.com

***Mayor David Alfin
Vice Mayor Eddie Branquinho
Council Member Ed Danko
Council Member John Fanelli III
Council Member Nick Klufas***

Tuesday, November 15, 2022

9:00 AM

COMMUNITY WING

City Staff

Denise Bevan, City Manager

Neysa Borkert, City Attorney

Virginia A. Smith, City Clerk

- Public Participation shall be in accordance with Section 286.0114 Florida Statutes.
- Other matters of concern may be discussed as determined by City Council.
- If you wish to obtain more information regarding the City Council's agenda, please contact the City Clerk's Office at 386-986-3713.
- In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a reasonable accommodation to participate in any of these proceedings or meeting should contact the City Clerk at 386-986-3713, at least 48 hours prior to the meeting.
- City Council Meetings are streamed live on YouTube at <https://www.youtube.com/user/PalmCoastGovTV/live>.
- It is proper meeting etiquette to silence all electronic devices, including cell phones while Council is in session.
- Any person who decides to appeal any decision of the City Council with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to hire a court reporter 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.

A. CALL TO ORDER

B. PLEDGE OF ALLEGIANCE TO THE FLAG

C. ROLL CALL

D. PUBLIC PARTICIPATION

Public Participation shall be held in accordance with Section 286.0114 Florida Statutes. And pursuant to the City Council's Meeting Policies and Procedures:

- (1) Each speaker shall at the podium, provide their name and may speak for up to 3 minutes.
- (2) The Public may provide comments to the City Council relative to matters not on the

agenda at the times indicated in this Agenda. Following any comments from the public, there may be discussion by the City Council.

(3) When addressing the City Council on specific, enumerated Agenda items, speakers shall:

(a) direct all comments to the Mayor;

(b) make their comments concise and to the point;

(c) not speak more than once on the same subject;

(d) not, by speech or otherwise, delay or interrupt the proceedings or the peace of the City Council;

(e) obey the orders of the Mayor or the City Council; and

(f) not make any irrelevant, impertinent or slanderous comments while addressing the City Council; which pursuant to Council rules, shall be considered disorderly.

(4) Any person who becomes disorderly or who fails to confine his or her comments to the identified subject or business, shall be cautioned by the Mayor and thereafter must conclude his or her remarks on the subject within the remaining designated time limit.

Any speaker failing to comply, as cautioned, shall be barred from making any additional comments during the meeting and may be removed, as necessary, for the remainder of the meeting.

Members of the public may make comments during the public comment portion of the meeting. Please be advised that public comment will only be permitted during the public comment portions of the agenda at the times indicated by the Chair during the meeting.

E. MINUTES

- 1. MINUTES OF THE CITY COUNCIL:
NOVEMBER 1, 2022 BUSINESS MEETING**

F. PRESENTATIONS AND PROCLAMATIONS

- 2. PRESENTATION OF AWARD FOR THE 2022 FMIT PARTNERSHIP**
- 3. PROCLAMATION - PALM COAST HOLIDAY BOAT PARADE DAY**
- 4. PROCLAMATION - NOVEMBER AS BE LOCAL, BUY LOCAL MONTH**

G. ORDINANCES SECOND READ

- 5. ORDINANCE 2022-XX AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR 30+/- ACRES OF PROPERTY FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE & TIMBERLANDS AND CONSERVATION TO CITY OF PALM COAST DESIGNATION OF MIXED USE AND CONSERVATION - US 1 AND WHITEVIEW**
- 6. ORDINANCE 2022-XX AMENDING THE ZONING MAP DESIGNATION FOR A 30+/- ACRE**

PARCEL FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE TO CITY OF PALM COAST DESIGNATION OF HIGH INTENSITY COMMERCIAL (COM-3) AND PRESERVATION (PRS) - US 1 AND WHITEVIEW

H. ORDINANCES FIRST READ

- 7. ORDINANCE 2022-XX HARBORSIDE MASTER PLANNED DEVELOPMENT**

I. RESOLUTIONS

- 8. RESOLUTION 2022-XX PROVIDING AUTHORIZATION TO INITIATE LEGAL PROCEEDINGS FOR THE HOLLAND PARK SPLASH PAD**
- 9. RESOLUTION 2022-XX APPROVING A BUDGET AMENDMENT FOR FISCAL YEAR 2021/2022 RELATING TO THE DISASTER RESERVE FUND**
- 10. RESOLUTION 2022-XX APPROVING A COST-SHARE AGREEMENT WITH ST. JOHNS RIVER WATER MANAGEMENT DISTRICT FOR THE LONDON WATERWAY EXPANSION PROJECT**

J. CONSENT

- 11. RESOLUTION 2022-XX APPROVING PIGGYBACKING THE LAKE COUNTY CONTRACT WITH TEN-8 FIRE & SAFETY, LLC FOR TWENTY (20) NEW BUNKER GEAR JACKETS AND TWENTY (20) NEW BUNKER GEAR PANTS FOR FIRE OPERATIONS**
- 12. RESOLUTION 2022-XX APPROVING A WORK ORDER WITH CONNECT CONSULTING, INC., FOR THE REHAB AND PUMP REPLACEMENT FOR WELL SW-38 AND REPLACEMENT OF WELL SW-7**

K. PUBLIC PARTICIPATION

Remainder of Public Comments is limited to three (3) minutes each.

L. DISCUSSION BY CITY COUNCIL OF MATTERS NOT ON THE AGENDA

M. DISCUSSION BY CITY ATTORNEY OF MATTERS NOT ON THE AGENDA

N. DISCUSSION BY CITY MANAGER OF MATTERS NOT ON THE AGENDA

- 13. REPORTING OF EMERGENCY AND SOLE SOURCE PURCHASES FOR OCTOBER 2022**

O. ADJOURNMENT

- 14. AGENDA WORKSHEET AND CALENDAR**

City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department CITY ADMINISTRATION Division	Amount Account #
Subject MINUTES OF THE CITY COUNCIL: NOVEMBER 1, 2022 BUSINESS MEETING	
Presenter : Virginia Smith, City Clerk	
Background :	
Recommended Action : ADOPT THE MINUTES OF THE CITY COUNCIL: NOVEMBER 1, 2022 BUSINESS MEETING	



**City of Palm Coast
Minutes
COUNCIL BUSINESS
MEETING**

City Hall
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoastgov.com

**Mayor David Alfin
Vice Mayor Eddie Branquinho
Council Member Ed Danko
Council Member John Fanelli III
Council Member Nick Klufas**

Tuesday, November 1, 2022

6:00 PM

COMMUNITY WING

City Staff

**Denise Bevan, City Manager
Neysa Borkert, City Attorney
Virginia A. Smith, City Clerk**

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A. CALL TO ORDER

Mayor Alfin called the meeting to order at 6:00 PM

B. PLEDGE OF ALLEGIANCE TO THE FLAG

C. ROLL CALL

Present and responding to roll call were the following:

Council: David Alfin
Eddie Branquinho
Ed Danko
Nick Klufas
John Fanelli III

City Clerk Virginia Smith called the roll. All members were present.

D. PUBLIC PARTICIPATION

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Any speaker failing to comply, as cautioned, shall be barred from making any additional comments during the meeting and may be removed, as necessary, for the remainder of the meeting.

Michael Feldhauer-Event two weeks ago at the Readiness Center and sign issues. City needs to come up with a program to promote events. Political signs are out of control. Look at sign issues. We need to assist event promoters for business.

Steve Carr-report speeding on internet is good except when I am done doing my yard work, I forget what time of day it is. Encourages the City work with the Sheriff's office to obtain a program that records speeding 24 hours per day. (Black Cat Radar)

Gary Kunas-event on Friday that should have been avoided. Drain water being flushed in canal with sand and debris. Horrendous amounts of sand. Why does it take so long to respond to a complaint-3 months later. This is wrong and should be dealt with at time of complaint. Submitted a filter that should be installed.

Bruce Stone-Council meetings should be held an hour later. People say they cannot attend a 6pm meeting.

Jan Markewicz-Safety on Cimmaron Drive. Submitted photos via email, which are attached to these minutes. Sidewalks will certainly mean a lot to us. November starts our 3rd year of coming in with our talks. We are on 3rd base and we are close. Want to make sure we can make it to homebase.

John White-sidewalk issues from Belle Terre to Town Center-there are tripping hazards. Flashing needs to be removed. East Hampton sidewalks, a weed wacker needs to be used.

E. MINUTES

Pass

Motion made to approve by Council Member Danko and seconded by Vice Mayor Branquinho

Approved - 5 - Mayor David Alfin, Vice Mayor Eddie Branquinho, Council Member Ed Danko, Council Member Nick Klufas, Council Member John Fanelli III

- 1. MINUTES OF THE CITY COUNCIL:
OCTOBER 18, 2022 BUSINESS MEETING**

F. PRESENTATIONS AND PROCLAMATIONS

- 2. PRESENTATION - FLORIDA URBAN FORESTRY COUNCIL AWARD**

Erin Givens, President of the Florida Urban Forestry Council provided Council with an overview of what the Urban Forestry Council does and presented an award to Ms. Carol Mini, Urban Forester. The category awarded to the City employee is the Outstanding Tree Advocate award. Recognizes education to the public regarding Urban forestry.

Ms. Mini thanked the residents and Council and staff for their support.

Mayor Alfin gave kudos to Ms. Mini and spoke of an article he read in the Evolve magazine, a local magazine mentioning Flagler County is 85% green. It behooves us to keep that percentage or make it bigger.

- 3. PROCLAMATION - NOVEMBER AS SHIRLEY CHISHOLM MONTH**

CM Klufas presented this Proclamation to members supporting Shirley Chisolm.

- 4. PROCLAMATION - NOVEMBER 14, 2022 AS WORLD DIABETES DAY AND THE MONTH OF NOVEMBER DIABETES AWARENESS MONTH**

VM Branquinho presented this Proclamation. Members of the Diabeates Alliance provided information on diabetes and how to prevent diabetes.

5. PROCLAMATION - NOVEMBER AS VETERAN APPRECIATION MONTH

Mayor Alfin presented this Proclamation.

6. PROCLAMATION - NOVEMBER AS SISTER CITIES PARTNERSHIP MONTH BETWEEN PALM COAST AND THE USS GERALD R. FORD

Mayor Alfin presented this Proclamation.

Dave Lydon from Flagler County invited all to come and celebrate our veteran's as the County and City team up to provide a nice celebration to our Veteran's.

G. ORDINANCES FIRST READ

7. ORDINANCE 2022-XX AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR 30+/- ACRES OF PROPERTY FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE & TIMBERLANDS AND CONSERVATION TO CITY OF PALM COAST DESIGNATION OF MIXED USE AND CONSERVATION - US 1 AND WHITEVIEW

City Attorney Borkert read the title into the record.

Mr. Jose Papa presented on Items 7 and 8 together.

*Public Comment
There were none.*

Pass

Motion made to be approved on first reading by Vice Mayor Branquinho and seconded by Council Member Danko

Approved - 5 - Mayor David Alfin, Vice Mayor Eddie Branquinho, Council Member Ed Danko, Council Member Nick Klufas, Council Member John Fanelli III

8. ORDINANCE 2022-XX AMENDING THE ZONING MAP DESIGNATION FOR A 30+/- ACRE PARCEL FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE TO CITY OF PALM COAST DESIGNATION OF HIGH INTENSITY COMMERCIAL (COM-3) AND PRESERVATION (PRS) - US 1 AND WHITEVIEW

City Attorney Borkert read the title into the record. Reminded Council this is a quasi-judicial item and called for any ex-parte communication. There were none.

Mayor Alfin requested the City Attorney provide the meaning of quasi-judicial. Ms. Borkert provided such.

This item was presented with item 7.

Public Comment

Nick Caruso-wonder what kind of business is going in there. Mr. Papa responded with a list of businesses that could go in the site for commercial use, such as a U Haul services.

Pass

Motion made to be approved on first reading by Vice Mayor Branquinho and seconded by Council Member Fanelli III

Approved - 5 - Mayor David Alfin, Vice Mayor Eddie Branquinho, Council Member Ed Danko, Council Member Nick Klufas, Council Member John Fanelli III

H. RESOLUTIONS

9. RESOLUTION 2022-XX APPROVING THE EXECUTION OF AN FDOT LOCAL AGENCY PROGRAM (LAP) SUPPLEMENTAL AGREEMENT NO. 1 FOR THE CONSTRUCTION OF THE LEHIGH TRAILHEAD PROJECT

R20220147

City Attorney Borkert read the title into the record.

Mr. Carl Cote provided an overview to this item.

Public Comment

There were none.

Pass

Motion made to approve by Vice Mayor Branquinho and seconded by Council Member Danko

Approved - 5 - Mayor David Alfin, Vice Mayor Eddie Branquinho, Council Member Ed Danko, Council Member Nick Klufas, Council Member John Fanelli III

I. CONSENT

**10. RESOLUTION 2022-XX APPROVING A MASTER SERVICE AGREEMENT WITH
ADVANCED ENVIRONMENTAL LABORATORIES, INC., FOR LABORATORY
ANALYSIS SERVICES**

R20220146

Pass

**Motion made to to be adopted on consent by Vice Mayor Branquinho and
seconded by Council Member Fanelli III**

**Approved - 5 - Mayor David Alfin, Vice Mayor Eddie Branquinho, Council
Member Ed Danko, Council Member Nick Klufas, Council Member John Fanelli
III**

*Public Comment
There were none.*

J. OTHER BUSINESS

**11. PRESENTATION - CERTIFICATES TO GRADUATING STUDENTS OF THE CITY
OF PALM COASTS CITIZENS ACADEMY CLASS**

*Mayor Alfin and Ms. Kershaw, Communications and Marketing Director
presented the certificates to the graduates of the Citizen's Academy.*

K. PUBLIC PARTICIPATION

Remainder of Public Comments is limited to three (3) minutes each.

There were none.

L. DISCUSSION BY CITY COUNCIL OF MATTERS NOT ON THE AGENDA

*Mayor Alfin-House of Horror last night and it was just a very scary and exciting
experience for us. Faces of joy and tears of horror last night. Thanked everyone
for their hard work for this event.*

VM Branquinho thanked all who are running for office.

*CM Fanelli-thanked the Florida Urban Forestry and mentioned the CHIRP
program is wonderful. Gives children the opportunity to see what nature is in our
community.*

M. DISCUSSION BY CITY ATTORNEY OF MATTERS NOT ON THE AGENDA

Ms. Borkert spoke to Council regarding upcoming workshops for Council. Working with the City Manager and staff to bring you a workshop, probably in January. Will discuss Council processes, ethics and sunshine laws.

CM Danko asked for an explanation of the signage issue brought up earlier today. Mayor Alfin provided an overview to the event and the signage issue and that the City will work with them.

N. DISCUSSION BY CITY MANAGER OF MATTERS NOT ON THE AGENDA

Nothing at this time.

O. ADJOURNMENT

The meeting was adjourned at 7:35 P.M.

*Respectfully submitted by: Virginia A. Smith, MMC
City Clerk*

12. AGENDA WORKSHEET AND CALENDAR

City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department	HUMAN RESOURCES	Amount
Division	RISK AND SAFETY	Account
		#
Subject	PRESENTATION OF AWARD FOR THE 2022 FMIT PARTNERSHIP FOR RISK AND SAFETY	
Presenter : Tim Wilsey, Human Resource Manager		
Background :		
<p>The City of Palm Coast has been selected as the winner of the 2022 FMIT Partnership Award for Risk and Safety.</p>		
FMIT Partnership Award		
<p>The Florida Municipal Insurance Trust (FMIT), administrated by the Florida League of Cities (FLC), is recognizing its valued partners with a new award. The FMIT Partnership Award is designed to recognize members' successful insurance processes, risk management efforts, and other proactive measures that improve the quality of life in their community and working environment.</p>		
<p>The FMIT is a partnership of local governments in Florida, so these efforts should align with the FLC's mission to serve the needs of Florida's cities. All members with at least one line of related coverage through the FMIT are eligible for this award.</p>		
<p>The award selection criteria:</p>		
Award Categories		
<ul style="list-style-type: none"> • Innovation Award - Recognizing creative processes that turn problems into progress, reduce costs, and keep staff and the community safe. • Risk & Safety Award - Recognizing the implementation of FMIT Risk & Safety Management frameworks with proven results. • Insurance Leader Award – Honoring long-term support of FMIT services and improved insurance processes that meet specific needs of public entities. 		
<p>Members who receive this award are publicly recognized on the FMIT website, in the League's Quality Cities magazine, and at the FMIT booth in the Exhibit Hall at the FLC Annual Conference. Awards are presented at council meetings, regional league meetings, or FLC Annual Conference breakfast events.</p>		

**City of Palm Coast – Risk & Safety Award
Human Resources and Risk & Safety Management Processes**

After several years of elevated workers' compensation claims frequency and related experience mod increases, the City of Palm Coast's Human Resources and Risk Management team, led by Tim Wilsey and Renina Fuller, partnered with the Florida Municipal Insurance Trust (FMIT) Risk and Safety Management department to implement needed changes. Focus areas included:

- A renewed emphasis on employee safety and a concentrated effort on return-to-work policies and programs.
- An increase in the City's employee safety training.
- A renewed and more narrowly focused Safety Committee.

These changes brought about a significant reduction in employee-related injuries (both frequency and severity) over three years, lower financial costs associated with those claims, and a continuing decrease in the City's workers' compensation experience mod (elevated experience mods often result in increased premiums). Palm Coast has also been a strong advocate of all services and programs provided by the FMIT and the Florida League of Cities (FLC).

**Recommended Action :
FOR PRESENTATION ONLY.**

City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department CITY ADMINISTRATION Division	Amount Account #
Subject PROCLAMATION - PALM COAST HOLIDAY BOAT PARADE DAY	
Presenter : Mayor and City Council	
Background : The Palm Coast Yacht Club requested the City of Palm Coast proclaim December 3, 2022, as "Palm Coast Holiday Boat Parade Day."	
Recommended Action : PROCLAIM DECEMBER 3, 2022 AS PALM COAST HOLIDAY BOAT PARADE DAY	



PROCLAMATION

WHEREAS, the Palm Coast Yacht Club is honored and proud to annually organize the Palm Coast Holiday Boat Parade, one of our area's major holiday events; and

WHEREAS, the Palm Coast Yacht Club, which offers social and nautical education activities for all who love boating, inaugurated the Boat Parade in 1983 and has been at its helm for the past 39 years; and

WHEREAS, the 2022 Holiday Parade will respectfully honor the memory of Joe Rizzo, who was a long-time champion of the Flagler School System, executive director of the Flagler Education Foundation, and a major mover and shaker in the Palm Coast community; and,

WHEREAS, boaters and fans will be treated to the colorful and festive decorations adorning so many parade vessels, led by Grand Marshalls Mayor David Alfin and Flagler County Sheriff Rick Staly; and

WHEREAS, the Parade begins at 6:00 p.m. on Saturday, December 3rd at Waterfront Park; and

WHEREAS, hundreds of community members line the canals each season, looking forward to cheering a true holiday tradition on the water in Palm Coast.

NOW, THEREFORE, BE IT PROCLAIMED, by the Mayor and the Palm Coast City Council that Saturday, December 3, 2022 is declared as

"PALM COAST HOLIDAY BOAT PARADE DAY"

Signed this 15th day of November 2022.

CITY OF PALM COAST, FLORIDA

Witnessed by:

David Alfin, Mayor

Virginia A. Smith, City Clerk

City of Palm Coast, Florida Agenda Item

Agenda Date: November 15, 2022

Department CITY ADMINISTRATION Division	Amount Account #
Subject PROCLAMATION - NOVEMBER AS BE LOCAL, BUY LOCAL MONTH	
Presenter: Brittany Kershaw, Director of Communications & Marketing	
Background: "Be Local Buy Local" is an annual effort on the Saturday after Thanksgiving that promotes local, small businesses that have contributed to the financial success of the City of Palm Coast by contributing close to \$9 million last year alone in sales tax collections. The funds generated to the City by our small businesses have contributed to our spacious Community Center and similar projects, as well as street and sidewalk improvements. Small businesses have created 65.1 percent of net new jobs since the turn of the century, and 2022 marks the 13th annual Small Business Saturday. The City of Palm Coast appreciates and honors small businesses with this Proclamation.	
Recommended Action: PROCLAIM NOVEMBER 2022 AS "BE LOCAL, BUY LOCAL" MONTH	



PROCLAMATION

WHEREAS, the City of Palm Coast, Florida, is focused on encouraging residents to “Be Local Buy Local,” where we promote small, local businesses and the contributions they make to our economy and community; and

WHEREAS, our community receives a portion of three different sales taxes collected when we purchase goods and services locally. Last year, the amount of sales tax returned to the City amounted to over \$10 million, up from \$8.2 million in 2020; and

WHEREAS, this money helps pay for important community projects such as the Community Center and Holland Park. It also pays for street improvements, sidewalks, and more; and

WHEREAS, if every resident of Palm Coast spends \$25 at a local business on any given day, it would infuse \$1.462 million annually into our local economy!

WHEREAS, on Nov. 26th, as the holiday shopping season kicks into high gear, Small Business Saturday will be celebrated by many who are dedicated to supporting small businesses; and

WHEREAS, founded by American Express in 2010, this day is celebrated each year on the Saturday after Thanksgiving. Since it started in 2010, consumers have reported spending an estimated \$103 billion across all Small Business Saturdays combined. 2022 marks the 13th annual Small Business Saturday; and

WHEREAS, according to the U.S. Small Business Administration, most recent figures show there are currently 32.5 million small businesses in the United States; they represent 99.9 percent of all businesses with employees in the United States and are responsible for 64 percent of new jobs created in the U.S.

NOW, THEREFORE, BE IT PROCLAIMED, by the Mayor and the City Council of the City of Palm Coast, Florida, November 2022, as

“Be Local, Buy Local Month”

Signed this 15th day of November 2022.

CITY OF PALM COAST, FLORIDA

Witnessed by:

David Alfin, Mayor

Virginia A. Smith, City Clerk

City of Palm Coast, Florida Agenda Item

Agenda Date: November 15, 2022

Department	COMMUNITY DEVELOPMENT	Amount
Division		Account #
Subject	ORDINANCE 2022-XX AMENDING THE FUTURE LAND USE MAP DESIGNATION FOR 30+/- ACRES OF PROPERTY FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE & TIMBERLANDS AND CONSERVATION TO CITY OF PALM COAST DESIGNATION OF MIXED USE AND CONSERVATION – US 1 AND WHITEVIEW	
Presenter : Jose Papa, AICP, Senior Planner		
<p>Background: <u>UPDATE FROM THE NOVEMBER 1, 2022 BUSINESS MEETING</u> This item was heard by City Council at their November 1, 2022 Business Meeting. There were no changes suggested to this item.</p> <p><u>ORIGINAL BACKGROUND FROM THE NOVEMBER 1, 2022 BUSINESS METTING</u> The subject area is an approximately 30-acre site located on the westside of US-1 at the terminus of Whiteview Pkwy. The application is a proposed FLUM amendment to change the current Flagler County designation of Agriculture & Timberlands and Conservation to City of Palm Coast designation of Mixed Use and Conservation. There is a companion zoning map amendment for the subject parcel to change the current zoning designation from Flagler County Agriculture to City of Palm Coast High Intensity Commercial (COM-3) and Preservation (PRS).</p> <p>The proposed amendment was reviewed for the following:</p> <ul style="list-style-type: none"> • Analysis of the proposed amendment’s impacts on public facilities and infrastructure. Consistent with the required analysis to compare the proposed land use designation with the existing land use designation, staff conducted a maximum potential development analysis for public facilities and infrastructure. The proposed amendment will result in higher demand on water and sewer facilities but should have a lower impact on transportation facilities. • Impacts on the environmental/cultural resources. There are no significant impact on the environmental attributes on the subject parcel since the parcel is mainly composed of planted pine. The amendment does propose to protect a 5.4 acre wetland area which is interconnected to a larger wetland system. • Compatibility with surrounding land uses. The proposed FLUM designations are generally consistent with the surrounding properties. 		

Finally, the proposed amendment is consistent with comprehensive plan policies regarding:

- Directing development where existing infrastructure is available.

Public Process

Neighborhood Meeting

As required by the Land Development Code, a neighborhood meeting was hosted by the applicant on October 4, 2022. Other than the applicants and City staff, there were no attendees from the surrounding community.

Planning and Land Development Regulation Board (PLDRB) Public Hearing

The PLDRB held a public hearing on October 19, 2022 to review and hear public comments on the proposed amendment. There were no public comments and the Board voted 6-1 to recommend approval.

Recommended Action:

THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD (PLDRB) FINDS APPLICATION #5190 CONSISTENT WITH THE COMPREHENSIVE PLAN AND RECOMMENDS THAT CITY COUNCIL APPROVE THE FLUM AMENDMENT FROM AGRICULTURE & TIMBERLANDS, AND CONSERVATION (FLAGLER COUNTY DESIGNATIONS) TO MIXED USE AND CONSERVATION (CITY OF PALM COAST DESIGNATION) – US 1 AND WHITEVIEW

ORDINANCE 2022-_____
WHITEVIEW-US-1 COMPREHENSIVE PLAN AMENDMENT
(APPLICATION #5190)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE AMENDMENT OF THE CITY OF PALM COAST 2035 COMPREHENSIVE PLAN, AS PREVIOUSLY AMENDED, PURSUANT TO SECTION 163, FLORIDA STATUTES; AMENDING THE FUTURE LAND USE MAP (FLUM) DESIGNATION FOR 30+/- ACRES OF CERTAIN REAL PROPERTY FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE & TIMBERLANDS AND CONSERVATION TO CITY OF PALM COAST DESIGNATIONS OF MIXED USE AND CONSERVATION AS DESCRIBED IN MORE DETAIL IN THE LEGAL DESCRIPTION WHICH IS AN EXHIBIT TO THIS ORDINANCE; PROVIDING FOR CONFLICTS, RATIFICATION OF PRIOR ACTS, CODIFICATION, SEVERABILITY, AND AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Palm Coast enacted Ordinance 2010-07, adopting the *City of Palm Coast 2035 Comprehensive Plan* which includes the City of Palm Coast Future Land Use Map (FLUM), which Plan and FLUM have been amended from time-to-time; and

WHEREAS, Section 163.3161 et seq., Florida Statutes established the Community Planning Act; and

WHEREAS, Section 163.3184, Florida Statutes, establishes a process for adoption of comprehensive plans or plan amendments amending the future land use designation of property; and

WHEREAS, the City of Palm Coast is desirous of amending the future land use designation of property located within the City from Flagler County Designation of Agriculture & Timberlands and Conservation to City of Palm Coast Designation of Mixed Use and Conservation; and

WHEREAS, the City of Palm Coast Planning and Land Development Regulation Board (PLDRB) acting as the City’s Local Planning Agency, considered the proposed map amendments at a public hearing on October 19, 2022, and voted to recommend approval of the proposed Comprehensive Plan Amendment; and

WHEREAS, on November 1, 2022, and November 15, 2022, the City of Palm Coast City Council held public hearings on this Comprehensive Plan amendment after due public notice and upon thorough and complete consideration and deliberation, adopted the proposed Comprehensive Plan amendment; and

WHEREAS, the Comprehensive Plan amendments adopted by this Ordinance complies with the requirements of the Community Planning Act, the State Comprehensive Plan as set forth in Chapter 187, Florida Statutes, as well as other applicable law, and is consistent with the goals, objectives, and policies and the overall land use plan of the City’s *Comprehensive Plan*; and

WHEREAS, the City Council of the City of Palm Coast hereby reaffirms its commitment to the goal of enacting and implementing sound growth management practices within the City; and

WHEREAS, the City Council of the City of Palm Coast finds that this Ordinance is in the best interests of the health, safety, and welfare of the citizens of Palm Coast.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF PALM COAST, FLORIDA, THAT THE FUTURE LAND USE MAP IS AMENDED AS FOLLOWS:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council of the City of Palm Coast.

SECTION 2. FUTURE LAND USE MAP AMENDED. The 30+/- acres subject area, generally located west of US-1 at the terminus of Whiteview Parkway, as depicted and legally described in “Exhibit A”, attached hereto, is hereby amended Flagler County Designation of Agriculture & Timberlands and Conservation to City of Palm Coast Designation of Mixed Use and Conservation.

SECTION 3. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. CODIFICATION. It is the intention of the City Council of the City of Palm Coast, Florida, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Ordinance of the City of Palm Coast, Florida; that the Sections of this Ordinance may be renumbered or re-lettered to accomplish such intention; that the word, “Ordinance” may be changed to Section,” “Article,” or other appropriate word.

SECTION 5. SEVERABILITY. If any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not be construed as to render unconstitutional or invalid the remaining provision of the Ordinance.

SECTION 6. EFFECTIVE DATE. The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance. No development orders, development permits, or land uses dependent on this amendment may be issued or commence before it has become effective. If a final order of noncompliance is issued by the Administration Commission, this amendment may nevertheless be made effective by adoption of a resolution affirming its effective status, a copy of which resolution shall be sent to the state land planning agency.

APPROVED on first reading after due public notice and hearing the 1st day of November 2022.

ADOPTED on second reading after due public notice and hearing the 15th day of November 2022.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

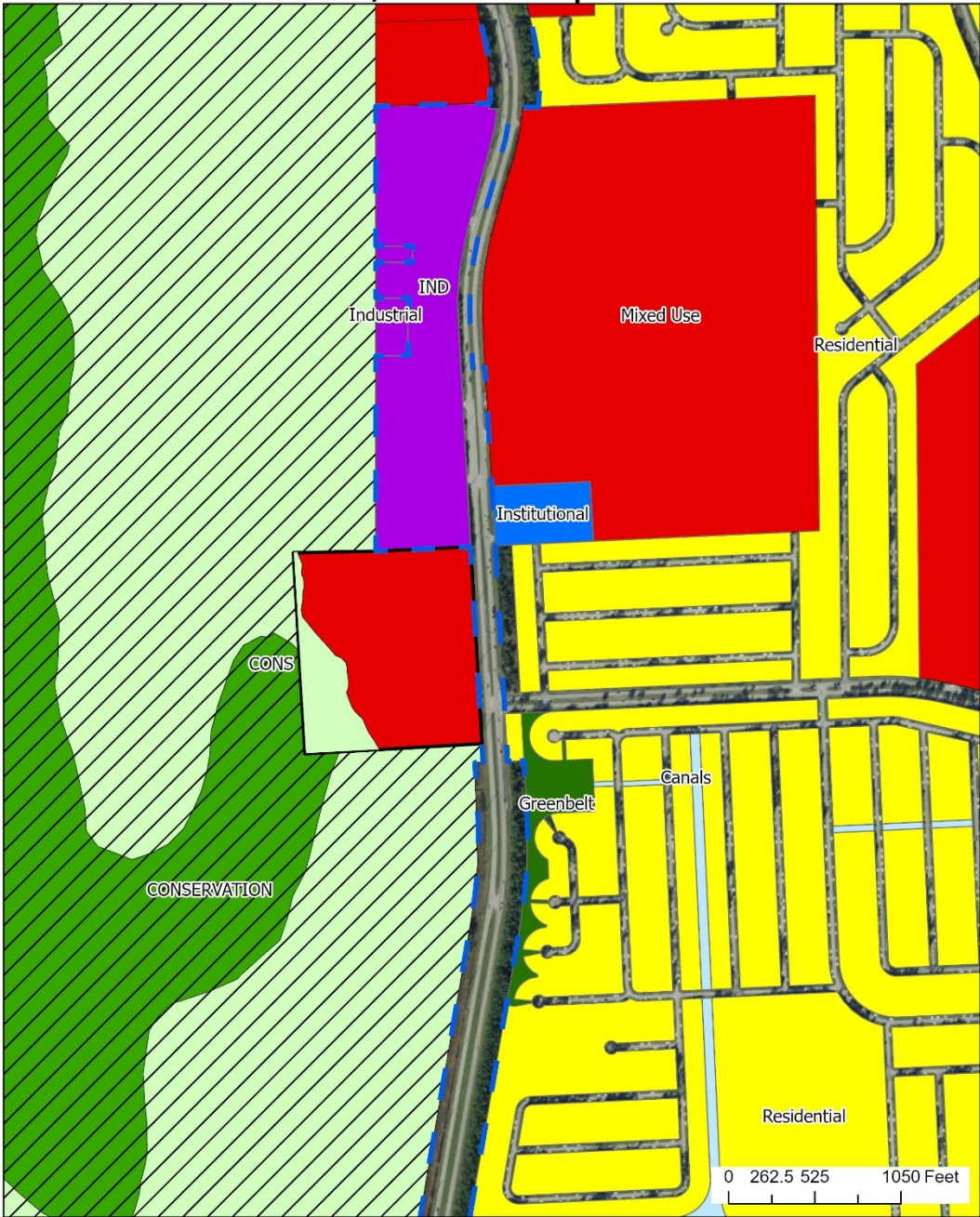
EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF FLAGLER, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING WEST OF U.S. HIGHWAY NO. 1, IN GOVERNMENT SECTION 27, TOWNSHIP 11 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER (1/4) CORNER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 30 EAST, THENCE NORTH 87°22'42" EAST ALONG THE NORTH LINE OF SECTION 27 A DISTANCE OF 578.50 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE SOUTH 03°17'33" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1200.00 FEET; THENCE DEPARTING U.S. HIGHWAY NO. 1, SOUTH 86°42'27" WEST A DISTANCE OF 1080.54 FEET; THENCE NORTH 03°17'33" WEST A DISTANCE OF 1225.95 FEET TO A POINT ON THE NORTH LINE OF SECTION 27; THENCE NORTH 88°53'41" EAST ALONG THE NORTHLINE OF SECTION 27 A DISTANCE OF 502.44 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
AMENDED FUTURE LAND USE MAP



Legend

- | | | | |
|------------------------|---------------|--------------|--------------|
| Palm Coast City Limits | Canals | Mixed Use | Flagler FLUM |
| Whiteview/US 1 | Greenbelt | Residential | AG-TIMBER |
| Palm Coast FLUM | Industrial | CONSERVATION | CONS |
| AG & TIMBER | Institutional | | IND |



Map Created By: Planning Division



**COMMUNITY DEVELOPMENT DEPARTMENT
COMPREHENSIVE PLAN AMENDMENT STAFF REPORT
CITY COUNCIL
November 1, 2022**

OVERVIEW

Case Number: 5190

Applicant: Gurnoor Kaur, Agent/Broker on behalf of Wam Group Inc.

Size of subject property: Approximately 30+/- acres

Property Description: An approximately 30 acre parcel located on the westside of US-1 at the terminus of Whiteview Pkwy.

Property Owner: Wam Group Inc.

Real Estate ID #: 27-11-30-0000-01010-0010

Current FLUM Designation: Flagler County Agriculture & Timberlands, and Conservation

Current Zoning Designation: Agriculture

Current Use: Vacant

Requested Action: Future Land Use Map (FLUM) amendment to change 30+/- acres of Agriculture & Timberlands, and Conservation (Flagler County Designations) to Mixed Use and Conservation (City of Palm Coast Designation).

There is a companion zoning map amendment that will change the zoning on the designated parcels to be consistent with the proposed FLUM designations of the subject property.

Recommendation: The Planning and Land Development Regulation Board (PLDRB) finds Application #5190 consistent with the Comprehensive Plan and recommends that City Council approve the FLUM amendment from Agriculture & Timberlands, and Conservation (Flagler County Designations) to Mixed Use and Conservation (City of Palm Coast Designation).

Project Planner: José Papa, AICP, Senior Planner

ANALYSIS

BACKGROUND

The application is for a small-scale Future Land Use Map (FLUM) amendment for a 30+/- acre subject area located on the westside of US-1 at the terminus of Whiteview Pkwy.

The subject property was annexed into the City on January 2022 (Ord. #2022-01). It currently retains the Flagler County FLUM designations of Agriculture & Timberlands, and Conservation. The property also retains the Flagler County zoning designation of Agriculture. The potential buyer is requesting the proposed amendments to designate the property with a City FLUM designation of Mixed Use and City zoning designation of High Intensity Commercial (COM-3) to develop a U-Haul Moving and Storage Store (truck rentals, self-storage, and related retail sales). Additionally, an approximately 5.4 acre section of the parcel will be designated as Conservation due to its environmental quality.

Neighborhood Meeting

As required by the Land Development Code, a neighborhood meeting was hosted by the applicant on October 4, 2022. Other than the applicants and City staff, there were no attendees from the surrounding community.

Planning and Land Development Regulation Board (PLDRB) Public Hearing

The PLDRB held a public hearing on October 19, 2022 to review and hear public comments on the proposed amendment. There were no public comments and the Board voted 6-1 to recommend approval.

DENSITY/INTENSITY AND POPULATION

Note: The analysis for comprehensive plan map amendments takes into consideration the maximum development potential under the current and proposed Future Land Use Map (FLUM) categories and represent the theoretical maximum development potential within the land use category.

The table below shows a comparison should the subject property be developed for residential use. The current designation of Agriculture & Timberlands permits 1 dwelling unit/5 acres while a City Mixed Use designation may permit up to 15 dwelling units/acre.

As expected, Table 1 indicates a greater potential under the proposed FLUM designation, however, as previously discussed, there is a companion zoning amendment to High Intensity Commercial, a zoning designation that does not permit residential uses.

TABLE 1 - FLUM DESIGNATION MAXIMUM DENSITY/INTENSITY ALLOWED (RESIDENTIAL USE)				
	# of Acres	Maximum Density ⁽¹⁾	Maximum # of units ⁽²⁾	Population (2.4 persons/dwelling unit)
Proposed FLUM: Mixed Use	25	15 du/acre	369	886
Current FLUM: Agriculture & Timberlands	28	.2 du/acre	6	13
NET CHANGE	-3		363	872
<i>Footnotes:</i>				
<i>⁽¹⁾ Maximum densities are established by Comprehensive Plan Policy.</i>				

PUBLIC FACILITIES AVAILABILITY /IMPACT ANALYSIS (BASED ON THEORETICAL YIELD OF MAXIMUM DEVELOPMENT POTENTIAL)

Objective 1.1.3-Evaluation of Amendments to the FLUM

Review proposed amendments to the Future Land Use Map (FLUM) based upon environmental conditions, the availability of facilities and services, school capacity, compatibility with surrounding uses, and other generally accepted land use planning principles.

Policy 1.1.3.2 - At a minimum, infrastructure availability and capacity, specified as follows, shall be considered when evaluating proposed FLUM amendments:

- A. Existing and future capacity of roadways based on functional classifications and best available data for traffic modeling. For the purposes of evaluating capacity, roadway improvements programmed in the FDOT 5-year Work Plan or listed in either the City or the County 5-year Capital Improvement Program shall be considered.*
- B. Large-scale, high-intensity commercial projects shall be concentrated at intersections of the following arterials*
- C. Existing and future availability and capacity of central utility systems.*
- D. Availability and capacity of receiving watercourses and drainage systems to convey design storm events.*

PUBLIC FACILITIES CAPACITY/IMPACT ANALYSIS

As previously stated the analysis for comprehensive plan map amendments takes into consideration the maximum development potential under the current and proposed land use category and represents the theoretical maximum development potential within the existing and proposed land use categories. Based on an analysis of the development potential under the existing and proposed FLUM, the proposed amendment will result in an increase on the potential impact on public facilities (transportation, water, and sewer). Once a specific development is proposed for the site, a more detailed review of the development impacts on public facilities will be conducted.

The results of the net impact analysis are shown on Table 3, and are summarized below:

Transportation

The proposed FLUM amendment will have a potential decrease of 551 PM peak hour trips. A more in-depth traffic study will be required as part of the site plan/plat review process.

Potable Water

The proposed FLUM amendment will have a potential net increase in demand for potable water of .029 MGD. As part of the site plan/plat review process, the property owner and/or developer will need to coordinate with the City of Palm Coast Utility Department to determine the appropriate engineering requirements (size of water line, pump stations, etc.) for potable water service.

Wastewater

The proposed FLUM amendment will have a potential net increase in demand for sanitary sewer treatment of .016 MGD. As part of the site plan/plat review process, the property owner and/or developer will need to coordinate with the City of Palm Coast Utility Department to determine the appropriate engineering requirements (size of sewer line, lift stations, etc.) for wastewater service.

Solid Waste

There is no LOS requirement for solid waste for non-residential development since the developer will be required to provide their own solid waste provider.

Public Recreation and Open Space

There is no projected demand from the proposed amendment since it is likely to be developed for non-residential uses.

Public Schools

There is no projected demand from the proposed amendment since it is likely to be developed for non-residential uses.

Stormwater

N/A. Stormwater treatment facilities are reviewed for consistency with LOS during site plan review.

Table 2 Public Facilities Impact Analysis

Density ⁽¹⁾	# of units or square feet of development	Transportation (PHT) ⁽²⁾	Potable Water (GPD) ⁽³⁾	Sanitary Sewer (GPD) ⁽⁴⁾	Solid Waste (lbs./capita/day) ⁽⁵⁾	Recreation and Parks (8 acres/ 1000 pop.) ⁽⁶⁾	Public Education (students) ⁽⁷⁾	Stormwater Drainage ⁽⁸⁾
Proposed FLUM designation								
Mixed Use (24.6 ac.) - Max Use FAR .55	589366.8	2,334	100,192.4	58,936.7	--	--	--	N/A
(minus) 34% pass-by trips for shopping center		794						
Conservation (5.4 acres)		--	--	--	--	--	--	
	Total	1540	100192	58937	--	--	--	N/A
Current FLUM designation								
Agriculture & Timberlands (27.6 ac.) - Max FAR .35	420789.6	2,091	71,534.2	42,079.0	--	--	--	N/A
Conservation (2.4 ac.)	--	--	--	--	--	--	--	
	Total	2091	71534	42079	--	--	--	
Net Change	168577.2	-551	28,658	16,858	--	--	--	N/A

Footnotes:

- ⁽¹⁾ Calculation of Intensity: Lot Size (acre)*FAR*43560.
- ⁽²⁾ Transportation: Non-residential PM Peak Hour Trips (PHT), Industrial Use = ITE Code 820: Shopping Center = 3.96/1000 sq. ft. based on equation in ITE Manual, 9th Edition (minus 34% for pass-by trips)
- ⁽²⁾ Transportation: Non-residential PM Peak Hour Trips (PHT) = ITE Code 817: Nursery/Garden Center = 4.97/1000 sq. ft.
- ⁽³⁾ Potable Water: Commercial = 17 gpd/100 sq. ft.
- ⁽⁴⁾ Wastewater: Commercial = 10 gpd/100 sq. ft.
- ⁽⁵⁾ Solid Waste: No Level of Service Requirement for Non-residential
- ⁽⁶⁾ Recreation and Parks = No LOS Requirement for Non-residential
- ⁽⁷⁾ Public Education Non-Residential = No LOS Requirement for Non-residential
- ⁽⁸⁾ Stormwater/Drainage: Stormwater Treatment will be reviewed for consistency with adopted LOS, during site plan approval process.

ENVIRONMENTAL/CULTURAL RESOURCES ANALYSIS

Objective 1.1.3-Evaluation of Amendments to the FLUM

Review proposed amendments to the Future Land Use Map (FLUM) based upon environmental conditions, the availability of facilities and services, school capacity, compatibility with surrounding uses, and other generally accepted land use planning principles.

Policy 1.1.3.1- At a minimum, the following environmental factors shall be evaluated each time FLUM amendments are proposed:

- A. Topography and soil conditions including the presence of hydric soils.
- B. Location and extent of floodplains and the Coastal Planning Area, including areas subject to seasonal or periodic flooding.
- C. Location and extent of wetlands, certain vegetative communities, and protected wildlife species.
- D. Location and extent of other environmentally sensitive features.
- E. Proximity to wellfields and aquifer recharge areas.
- F. Impacts to potable water supply.

A. TOPOGRAPHY AND SOIL CONDITIONS

The analysis area is vacant and naturally vegetated. The site is bounded by US Highway 1 to the east, vacant land to the south and west, and an industrial park to the north. According to the October 2022 Aquatic Research Monitoring, Equipment & Deployment, LLC. (Aquatic) assessment, the land use proposal area does contain St. Johns River Water Management District (SJRWMD) and Florida Department of Environmental Protection (FDEP) jurisdictional wetlands; the total analysis area contains 23.95 acres of uplands and 6.05 acres of wetlands. The wetlands detailed on Aquatic's "FLUCFCS Map" Figure, reflect the boundaries that were delineated in the field pursuant to state and federal guidelines (Chapter 62-340 F.A.C. and the 1987 Corps of Engineers Wetlands Delineation Manual). Further description of these features may be found in the Section C, Vegetative Communities.

As detailed within the Aquatic report, the *Soil Survey of Flagler County, Florida* indicates six (6) soil types within the property.

Analysis: There are no indicators of unique topographical reliefs or soils that would be affected by the FLUM change.

FINDING: It is not anticipated that the proposed FLUM change from Agriculture & Timberlands to Mixed Use will negatively impact the local topography or prevent the proposed development permissible within the FLUM designation.

B. FLOODPLAINS

Federal Emergency Management Agency's (FEMA), Flood Insurance Rate Map (FIRM) source indicates that the subject property lies within a Special Flood Hazard Area (SFHA) with "A" Zone designation. Portions of the property lie outside of the SFHA and has a designation of a "X" Zone.

Analysis: Compensatory storage will be required for any floodplain impacts as well as a Letter of Map Change to establish a Base Flood Elevation.

FINDING: It is not anticipated that the proposed FLUM change will negatively impact the function of a SFHA as compensatory storage will be required.

C. VEGETATIVE COMMUNITIES

According to the Aquatic report, the assessment area is comprised of the following vegetative community types and features.

1. Pine Flatwoods (411): 19.85 acres
2. Upland Scrub (436): 4.1 acres
3. Bay Swamp (611): 5.4 acres
4. Freshwater Forested (610): 0.45 acres
5. Vegetated Non-Forested Wetland (640): 0.2 acres

Analysis: There are wetlands located on the property and any impacts will need to be permitted through St. Johns River Water Management District (SJRWMD) and/or the Florida Department of Environmental Protection (FDEP).

FINDING: It is staff's opinion that Wetland 1 noted in the Aquatic report is connected to a much larger high quality wetland system and should be designated as Conservation on the Future Land Use Map with an accompanying zoning of Preservation. Wetland 1 is

noted in the report as being 5.4 acres on the west side of the property. Florida Perforate Cladonia (*Cladonia perforate*) was found on the site and is a Federally listed endangered and State listed threatened plant. Extensive efforts should be made to preserve or relocate all occurrences of this “Reindeer Lichen”.

D. PROTECTED SPECIES DISTRIBUTION/ WILDLIFE UTILIZATION

The submitted Aquatic report documents that Potentially Occupied Gopher Tortoise burrows were located on-site. No other species of listed or management status have high or moderate likelihood of occurrence with the site area.

Analysis: There is potential for wildlife to utilize the property as it is mostly surrounded by other vacant land. Wildlife utilization may change over time due to various factors. To ensure that the referenced species and any potentially occurring species in the future, the Unified Land Development Code (Section 10.04.03.A, LDC) requires that a listed species study is performed by a Qualified Environmental Professional (QEP) at site plan or preliminary plat. Further, a study is valid for one year for the property that was investigate to capture any changes in wildlife utilization.

FINDING: The proposed FLUM amendment will not change the need to relocate the Gopher Tortoise prior to any development activities. This need remains no matter the FLUM designation.

E. GROUNDWATER RESOURCE PROTECTION

According to City maintained data, the nearest production well is not within 500 feet of the site. The site is not located within the Secondary Protection Zone or the Primary Protection Zone as defined by Section 10.03.02.B, LDC.

Analysis: The amendment is not within an aquifer recharge area or within a wellhead protection zone(s).

FINDING: The proposed land use change is not anticipated to impact groundwater resources.

F. HISTORICAL RESOURCES

No cultural resource report was provided by the applicant. Staff reviewed data from the Master Site File, however no survey has been conducted in the area of this property.

Analysis: Staff is unable to analyze the historic features on the property due to the lack of information provided.

FINDING: Staff cannot provide a finding as no information was provided, nor could staff locate any information from the Master Site File. Any finding of architectural and cultural resources during the site plan review or construction process will require compliance with LDC and state rules for protecting such resources including stopping construction while further investigation is conducted.

LAND USE COMPATIBILITY ANALYSIS

Policy 1.1.3.3 – At a minimum, compatibility with proximate uses and development patterns shall be considered when evaluating proposed FLUM amendments.

- A. This policy shall not be construed to mean that different categories of uses are inherently incompatible; rather, it is intended to promote the use of transitional areas where densities and intensities can be appropriately scaled.*
- B. Buffers are encouraged as an effective means of transition between areas where there is a greater degree of disparity in terms of densities and intensities.*
- C. Impacts to the health, safety, and welfare of surrounding residents shall be considered.*

Surrounding Future Land Use Map Designation:

North: Industrial, Agriculture & Timberlands (Flagler County Designations)

South: Agriculture & Timberlands (Flagler County Designation)

East: Residential (City of Palm Coast Designation)

West: Agriculture & Timberlands (Flagler County designation)

Surrounding Zoning Designation:

North: Industrial (Flagler County Designation)

South: Agriculture (Flagler County designation)

East: Public/Semipublic (City of Palm Coast Designation)

West: Agriculture (Flagler County designation)

Surrounding Property Existing Uses:

North: Town & Country Business Park (a mix of light-industrial and heavy commercial uses)

South: Vacant

East: US-1 and vacant public/semipublic land

West: Vacant

The proposed Mixed Use designation is consistent and compatible with the existing uses and the development pattern for the area.

The area to the north of the subject property is developed as the Town & Country Business Park. This business park is almost built-out with a variety of uses ranging from a pet resort, auto repair shops, and outdoor storage of building materials. The areas to the south, east, and west of the subject property are currently vacant.

The proposed amendment to Mixed Use is compatible with the development to the north, and is consistent with the development patterns currently occurring along the westside of US-1 between Whiteview Pkwy. and Royal Palms Pkwy. (a distance of approximately 2 miles). This stretch of roadway over the past two years has seen the construction of additional storage facilities, as well as construction of commercial flex space buildings.

Additionally, the proposed designation of Conservation for a 5.4 acre portion of the parcel is consistent with protecting the environmental features found on the site and the surrounding area.

CONSISTENCY WITH COMPREHENSIVE PLAN

In addition to being consistent with Objective 1.1.3 and Policy 1.1.3.3 which establishes the criteria for review of Future Land Use Map Amendments as provided in the previous section. The proposed amendment is consistent with the following policies in the Comprehensive Plan:

Policy 1.1.3.3 – At a minimum, compatibility with proximate uses and development patterns shall be considered when evaluating proposed FLUM amendments.

A. This policy shall not be construed to mean that different categories of uses are inherently incompatible; rather, it is intended to promote the use of transitional areas where densities and intensities can be appropriately scaled.

Analysis: As discussed in the section titled “Land Use Compatibility Analysis”, the proposed designation of the subject property to mixed use is compatible with existing and on-going development patterns along the westside of US-1. Additionally, a major arterial (US-1) provides an appropriate buffer between the development pattern on the westside of US-1 (mainly non-residential) and the eastside of US-1 (mainly residential).

Policy 1.3.1.3 - The City shall encourage development to locate in the areas where public facilities, infrastructure, and services are available. Where there are deficiencies and where appropriate, the City shall require the developer to provide or extend the facilities as necessary to accommodate development. Applicable impact fees shall be used by the City consistent with State law to offset the costs of the City providing facilities.

Analysis: The proposed amendment is consistent with Policy 1.3.1.3, the location of the subject property is adjacent to a major arterial (US-1) and there are existing water and sewer lines along the US-1 corridor. Consistent with the policy, the developer will be responsible for extending any facilities as necessary.

Policy 1.4.2.1 -The City shall provide an appropriate balance of commercial, retail, office, and industrial land uses on the FLUM to balance jobs and housing.

Analysis: The proposed amendment is consistent with Policy 1.4.1.2 by maintaining the existing and on-going development pattern of non-residential uses along this stretch of US-1 (westside). The Mixed Use designation adds to the potential location of commercial, retail, office, and industrial development.

Policy 5.1.3.2 – The City shall designate urban densities or intensities on the Future Land Use Map only in areas that have sufficient existing or planned capacity for potable water facilities and wastewater facilities where connection is available consistent with Policies 1.1.1.2 and 1.1.3.2. For the purposes of this Plan, any residential density exceeding one (1) dwelling unit per acre shall be deemed to be an urban density.

Analysis: The proposed amendment to Mixed Use at this location is consistent with Comprehensive Plan policy to create urban densities or intensities in areas that have sufficient existing or planned capacity for potable water and wastewater facilities.

Policy 5.2.2.3 – The City shall designate urban densities or intensities on the Future Land Use Map only in areas that have sufficient existing or planned capacity for sanitary sewer facilities and where connection is available as set forth in State law and City regulations. The City shall minimize the use of septic tanks in accordance with the provisions of Objective 5.2.3 and policies implementing that objective. For the purpose of this Plan, any residential density exceeding one (1) dwelling unit per acre shall be deemed to be an urban density.

Analysis: The proposed amendment to Mixed Use land use designation is consistent with Comprehensive Plan policy above to designate urban densities or intensities in areas that have sufficient existing or planned capacity for sanitary sewer facilities.

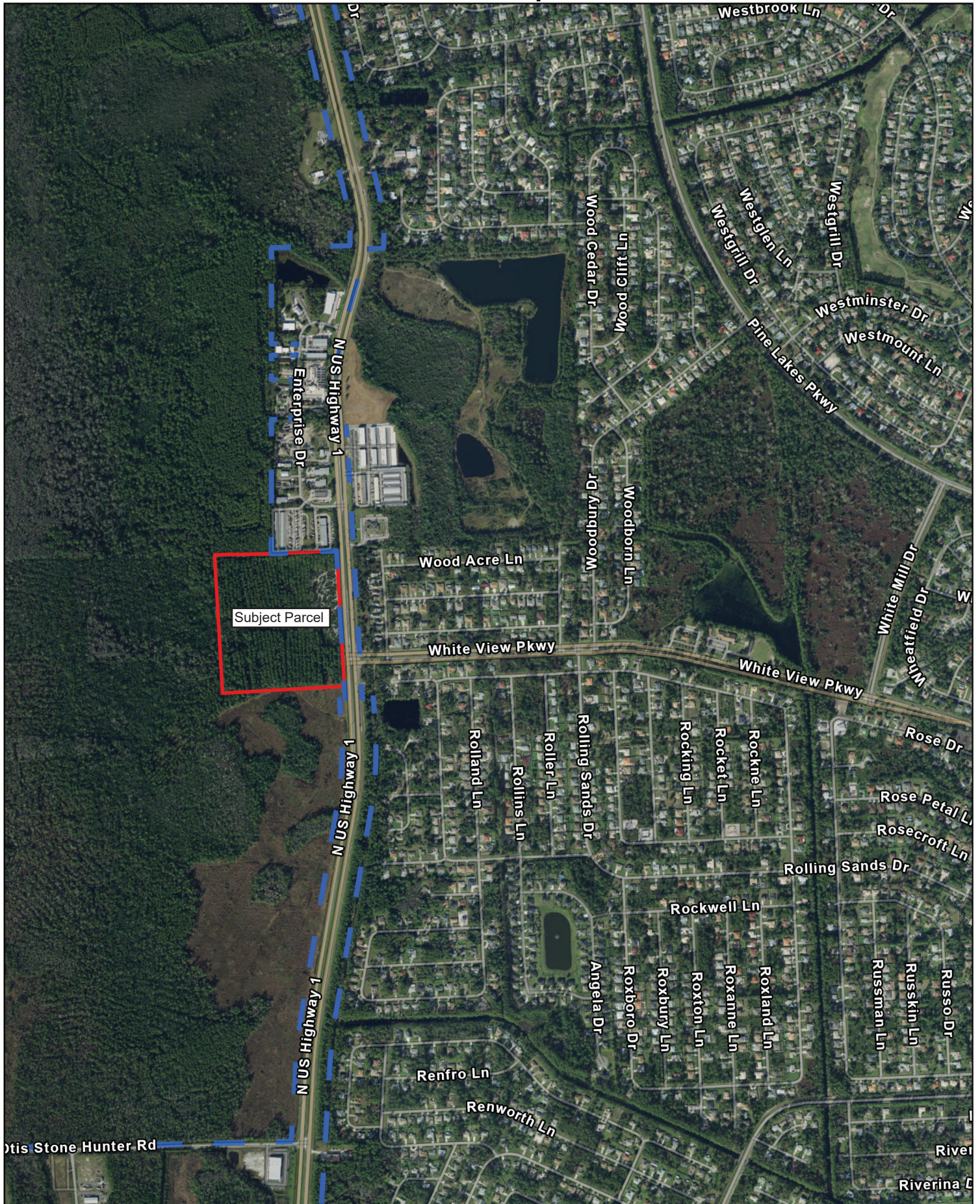
Policy 6.1.9.9- *The Conservation future land use designations shall be established on the FLUM to provide protection of wetland systems and other environmental sensitive lands. This FLUM designation provides for preservation of large interconnected high quality wetland systems and other high quality environmentally sensitive areas. Conservation areas are generally a minimum of 10 acres in size, with most being substantially larger. Other areas, which may be classified conservation, include natural water bodies and lakes, estuaries, oak hammocks and other large areas consisting of native vegetation areas, wildlife corridors, and aquifer recharge zones. Unlike most of the other land use designations that follow property lines, the boundaries of most areas assigned this land use designation have been drawn to encompass the environmentally sensitive area using best available aerial mapping data and will require field verification to determine wetland quality and boundaries with precision.*

Analysis: The proposed amendment to designate an approximately 5.4 acre portion of the parcel is consistent with Comprehensive Plan policy above to preserve large interconnected high quality wetland systems and other high quality environmentally sensitive areas.

RECOMMENDATION

The Planning and Land Development Regulation Board (PLDRB) finds Application #5190 consistent with the Comprehensive Plan and recommends that City Council approve the FLUM amendment from Agriculture & Timberlands, and Conservation (Flagler County Designations) to Mixed Use and Conservation (City of Palm Coast Designation).

Whiteview/US 1



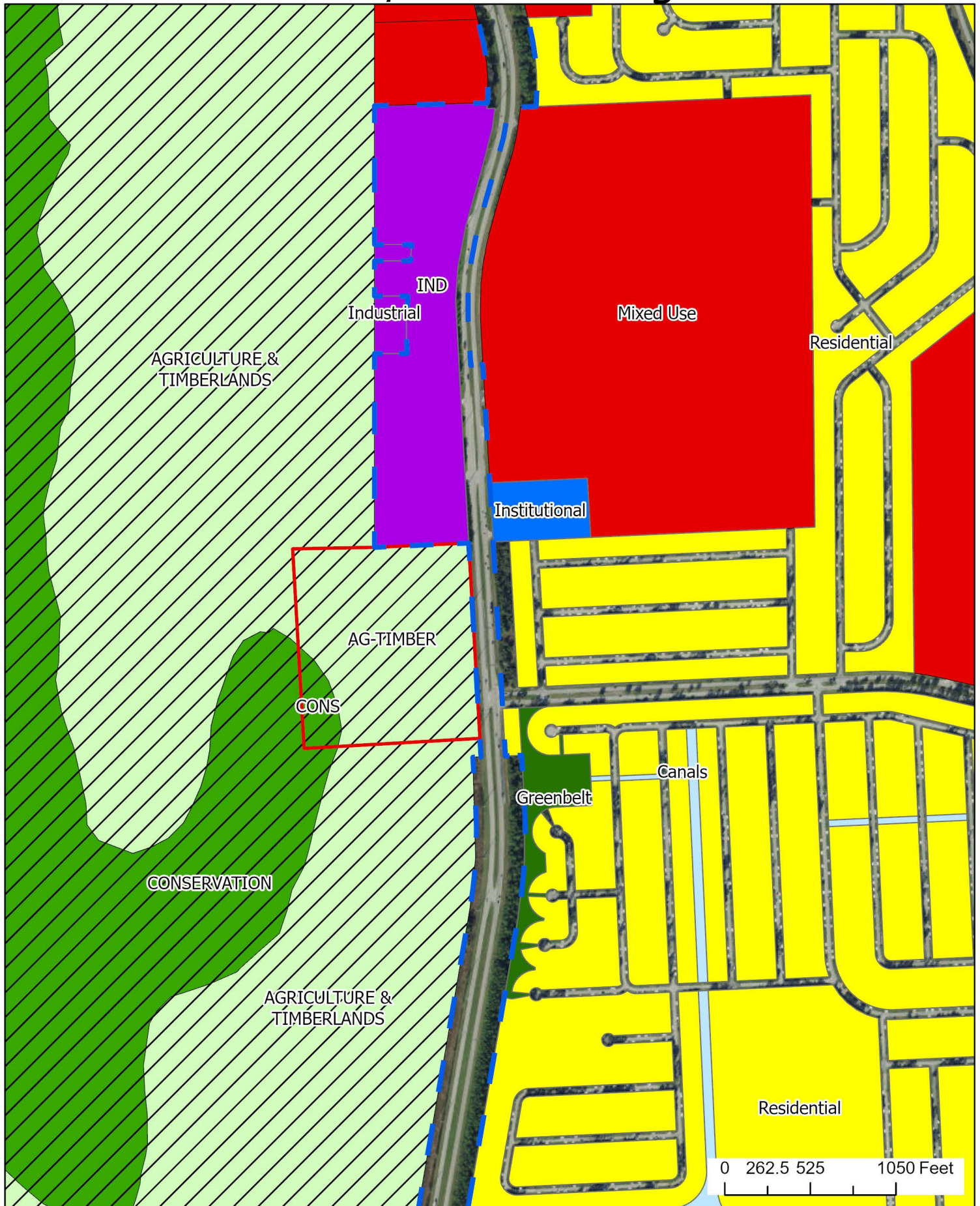
Legend

-  Palm Coast City Limits
-  Whiteview/US 1 Parcel

0 370 740 1480 Feet



Whiteview/US 1-Existing FLUM



Legend

- Palm Coast City Limits
- Whiteview/US 1 Parcel
- Palm Coast FLUM
- AG & TIMBER

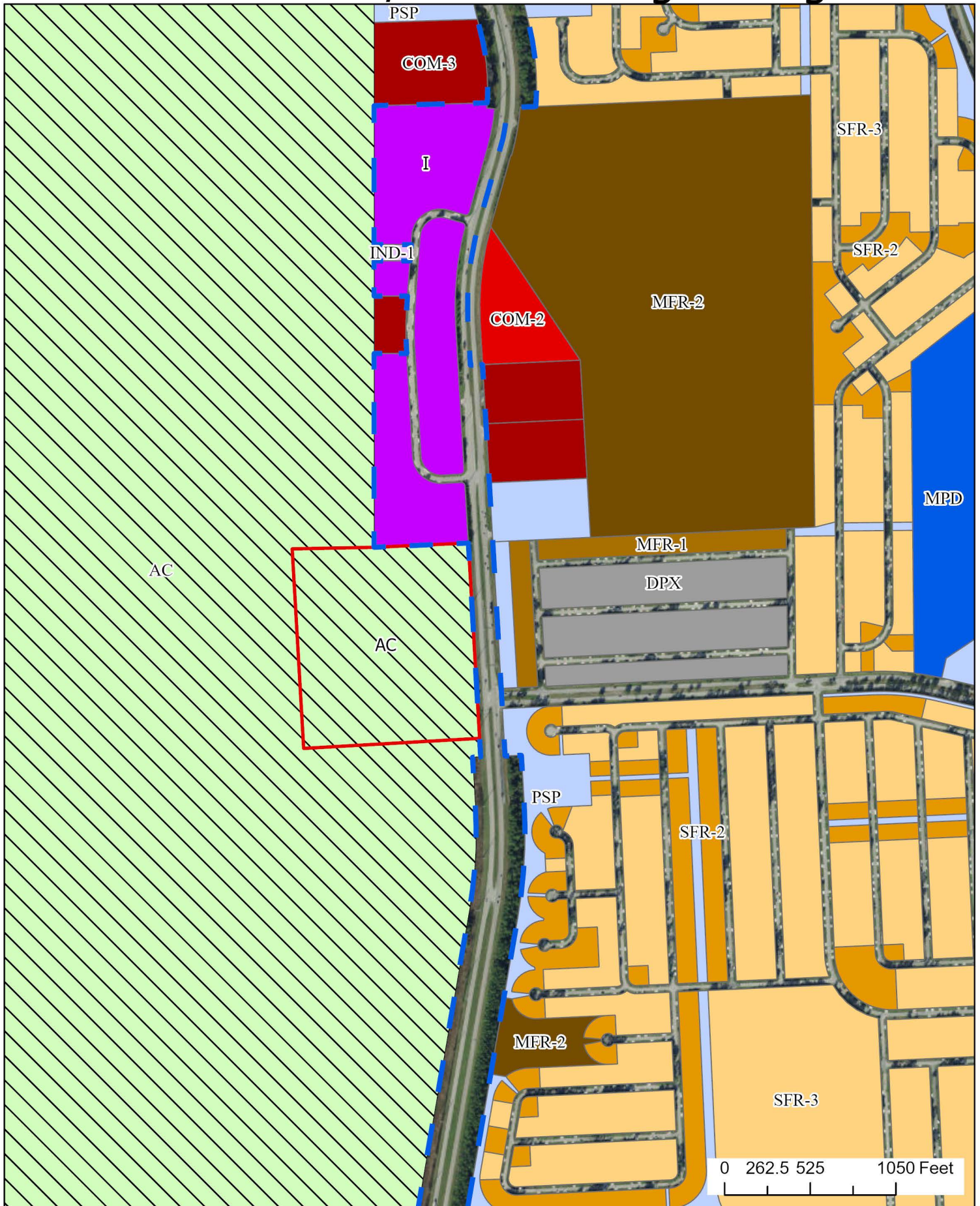
- Canals
- Greenbelt
- Industrial
- Institutional

- Mixed Use
- Residential
- CONSERVATION

- Flagler FLUM**
- AG-TIMBER
- CONS
- IND



Whiteview/US 1-Existing Zoning



Legend

- Palm Coast City Limits
- Whiteview/US 1 Parcel
- Palm Coast Zoning
- AC

- COM-2
- COM-3
- DPX
- IND-1

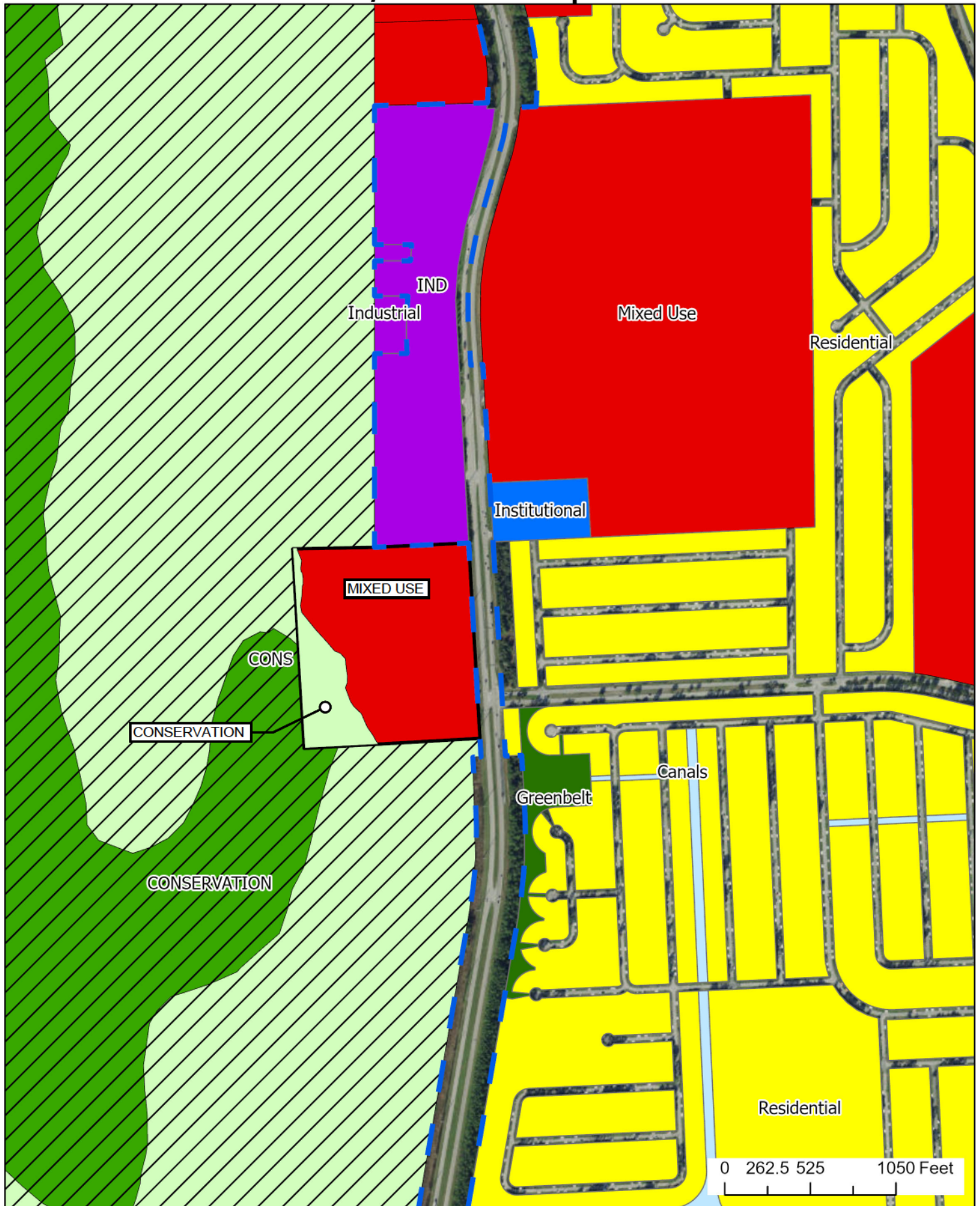
- MFR-1
- MFR-2
- MPD
- PSP

- SFR-2
- SFR-3
- Flagler Zoning
- AC

I



Whiteview/US 1-Proposed FLUM



Legend

- | | | | |
|-----------------------------|------------|--------------|------------------------|
| Palm Coast City Limits | Canals | Mixed Use | Flagler FLUM AG-TIMBER |
| Whiteview/US 1 | Greenbelt | Residential | CONS |
| Palm Coast FLUM AG & TIMBER | Industrial | CONSERVATION | IND |
| Institutional | | | |



City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department	COMMUNITY DEVELOPMENT	Amount
Division	PLANNING	Account #
Subject	ORDINANCE 2022-XX AMENDING THE ZONING MAP DESIGNATION FOR A 30+/- ACRE PARCEL FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE TO CITY OF PALM COAST DESIGNATION OF HIGH INTENSITY COMMERCIAL (COM-3) AND PRESERVATION (PRS) - US 1 AND WHITEVIEW	
Presenter : Jose Papa, AICP, Senior Planner		
Background :		
THIS IS A QUASI-JUDICIAL ITEM. PLEASE REMEMBER TO DISCLOSE ANY EX-PARTE COMMUNICATION.		
<u>UPDATE FROM THE NOVEMBER 1, 2022 BUSINESS MEETING</u>		
This item was heard by City Council at their November 1, 2022 Business Meeting. There were no changes suggested to this item.		
<u>ORIGINAL BACKGROUND FROM THE NOVEMBER 1, 2022 BUSINESS METTING</u>		
<p>The subject area is an approximately 30 acre site located on the westside of US-1 at the terminus of Whiteview Pkwy. The zoning map amendment application proposes to change the current designation from Flagler County designation of Agriculture to City of Palm Coast designation of High Intensity Commercial (COM-3) and Preservation. There is a companion Future Land Use Map (FLUM) amendment to change the current designation from the Flagler County designations of Agriculture & Timberlands, and Conservation to City of Palm Coast designation of Mixed Use and Conservation.</p> <p>The proposed High Intensity Commercial (COM-3) zoning mainly permits a variety of commercial/retail uses along with office uses related to the building industry, as well as warehouse and distribution facilities.</p> <p>Staff analyzed the proposed rezoning based on the criteria in the City of Palm Coast Land Development Code. In summary, staff makes the following findings:</p> <ul style="list-style-type: none"> - the proposed rezoning is consistent with the Comprehensive Plan including a policy to protect large, interconnected wetlands, - the proposed rezoning is consistent with the surrounding land uses and does not cause a nuisance or threat to the general welfare and safety of the public. The proposed COM-3 zoning is generally consistent with the development pattern found to the north (light industrial, storage, and building industry uses), 		

- the proposed amendment will not cause undue hardship or liability to the City since public infrastructure (water, sewer, roadways) are adjacent to the site and any extension will be the responsibility of the property owner.

Public Process

Neighborhood Meeting

As required by the Land Development Code, a neighborhood meeting was hosted by the applicant on October 4, 2022. Other than the applicants and City staff, there were no attendees from the surrounding community.

Planning and Land Development Regulation Board (PLDRB) Public Hearing

The PLDRB held a public hearing on October 19, 2022 to review and hear public comments on the proposed amendment. There were no public comments and the Board voted 7-0 to recommend approval.

Recommended Action:

THE PLANNING AND LAND DEVELOPMENT REGULATION BOARD (PLDRB) FINDS APPLICATION #5192 CONSISTENT WITH THE COMPREHENSIVE PLAN AND RECOMMENDS THAT CITY COUNCIL APPROVE THE ZONING MAP AMENDMENT FROM AGRICULTURE (FLAGLER COUNTY DESIGNATION) TO HIGH INTENSITY COMMERCIAL (COM-3) AND PRESERVATION (PRS) (CITY OF PALM COAST DESIGNATION) – US 1 AND WHITEVIEW

ORDINANCE 2022 - _____
WHITEVIEW-US-1 ZONING MAP AMENDMENT
(APPLICATION #5192)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP AS ESTABLISHED IN SECTION 2.06 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE; AMENDING THE ZONING DESIGNATION FOR APPROXIMATELY 30+/- ACRES, FROM FLAGLER COUNTY DESIGNATION OF AGRICULTURE TO CITY OF PALM COAST DESIGNATION OF HIGH INTENSITY COMMERCIAL (COM-3) AND PRESERVATION (PRS); SUBJECT PROPERTY IS MORE PARTICULARLY DESCRIBED IN EXHIBIT “A” AND GRAPHICALLY DEPICTED IN EXHIBIT “B”; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Palm Coast, pursuant to the authority vested in Chapter 163 and Chapter 166, Florida Statutes and the City of Palm Coast Unified Land Development Code, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Chapter 2 (Review Authority, Enforcement, and Procedures) of the City of Palm Coast Unified Land Development Code have been satisfied; and

WHEREAS, the City Council of the City of Palm Coast has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various City reviewing departments, and the recommendation of the Planning and Land Development Regulation Board (PLDRB); and

WHEREAS, the City Council has considered the findings in the staff report and the following findings of fact:

1. The rezoning is consistent with the purposes, goals, objectives, and policies of the City of Palm Coast Comprehensive Plan;
2. The rezoning is compatible as defined in the Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for rezoning;
3. The rezoning will result in a logical, timely and orderly development pattern;
4. The staff report has demonstrated sufficient justification that there are changed circumstances, which would require the rezoning request.

WHEREAS, the City now intends to change the zoning of the subject property from Flagler County Designation of Agriculture to City of Palm Coast Designation of High Intensity Commercial (COM-3) and Preservation (PRS).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1. Recitals. The foregoing recitals are true and correct and are fully incorporated herein by this reference.

SECTION 2. Rezoning of Subject Property. The zoning designations for the subject parcel is hereby changed from Flagler County Designation of Agriculture to City of Palm Coast Designation of High Intensity Commercial (COM-3) and Preservation (PRS).

SECTION 3. Conflicts. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 4. Severability. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 5. Effective Date. This Ordinance shall become effective immediately upon the effective date of Ordinance No. 2022-___ as adopted by the City Council of the City of Palm Coast, Florida, and pursuant to the City Charter. If Ordinance No. 2022-___ does not become effective, then this Ordinance shall become null and void.

APPROVED on first reading the 1st day of November 2022, at a public hearing.

ADOPTED on the second reading the 15th day of November 2022, at a public hearing.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

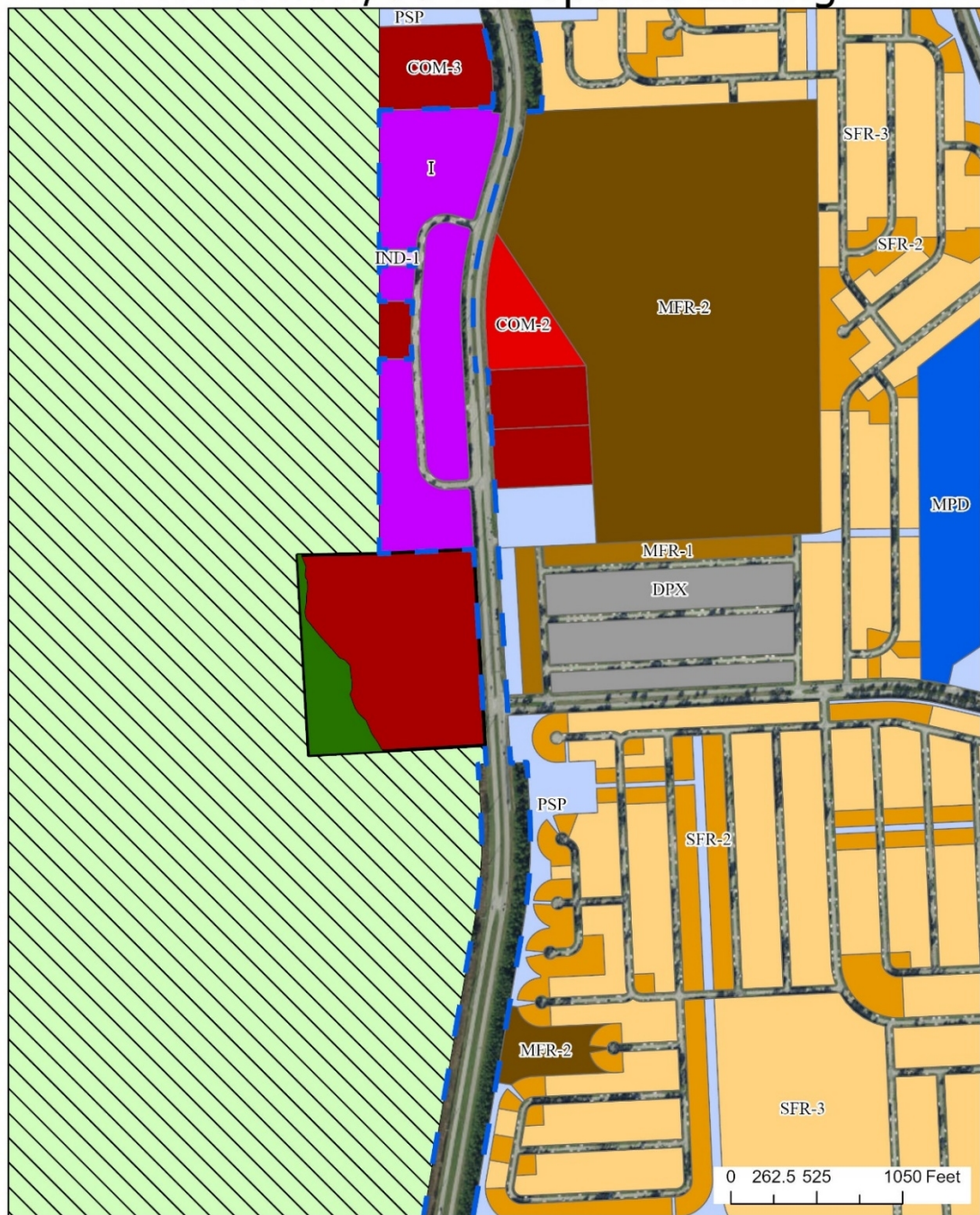
EXHIBIT A
LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF FLAGLER, STATE OF FLORIDA, AND IS DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LYING WEST OF U.S. HIGHWAY NO. 1, IN GOVERNMENT SECTION 27, TOWNSHIP 11 SOUTH, RANGE 30 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER (1/4) CORNER OF SECTION 27, TOWNSHIP 11 SOUTH, RANGE 30 EAST, THENCE NORTH 87°22'42" EAST ALONG THE NORTH LINE OF SECTION 27 A DISTANCE OF 578.50 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF U.S. HIGHWAY NO. 1; THENCE SOUTH 03°17'33" EAST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 1200.00 FEET; THENCE DEPARTING U.S. HIGHWAY NO. 1, SOUTH 86°42'27" WEST A DISTANCE OF 1080.54 FEET; THENCE NORTH 03°17'33" WEST A DISTANCE OF 1225.95 FEET TO A POINT ON THE NORTH LINE OF SECTION 27; THENCE NORTH 88°53'41" EAST ALONG THE NORTHLINE OF SECTION 27 A DISTANCE OF 502.44 FEET TO THE POINT OF BEGINNING.

EXHIBIT B PROPOSED ZONING MAP AMENDMENT



Legend

- | | | | |
|------------------------|-------|-------|-------------------|
| Palm Coast City Limits | COM-3 | MPD | Flagler Zoning AC |
| Whiteview/US 1 | DPX | PSP | I |
| Palm Coast Zoning AC | IND-1 | SFR-2 | |
| COM-2 | MFR-1 | SFR-3 | |
| | MFR-2 | | |



Map Created By: Planning Division



**COMMUNITY DEVELOPMENT DEPARTMENT
ZONING MAP AMENDMENT STAFF REPORT
CITY COUNCIL
November 1, 2022**

OVERVIEW

Application Number: 5192

Applicant: Gurnoor Kaur, Agent/Broker on behalf of Wam Group Inc.

Property Description: 30+/- acre parcel located on the westside of US-1 at the terminus of Whiteview Pkwy.

Property Owner: Wam Group Inc.

Parcel ID: 27-11-30-0000-01010-0010

Current FLUM designation: Flagler County Agriculture & Timberlands, and Conservation, there is a companion FLUM amendment application to change the designation to Mixed Use (City of Palm Coast designation)

Current Zoning designation: Agriculture (Flagler County designation)

Current Use: Vacant

Size of subject property: 30 ± acres

Requested Action: Rezoning from Flagler County designation of Agriculture to High Intensity Commercial (COM-3) and Preservation (PRS) (City of Palm Coast Designation). Action is necessitated by annexation of property into the City of Palm Coast municipal boundary

Recommendation: The Planning and Land Development Regulation Board (PLDRB) finds Application #5192 consistent with the Comprehensive Plan and recommends that City Council approve the Zoning Map amendment from Agriculture (Flagler County Designation) to High Intensity Commercial (COM-3) and Preservation (PRS) (City of Palm Coast Designation).

ANALYSIS

BACKGROUND/SITE HISTORY

The application is for a 30+/- acre parcel which was annexed into the City in 2022 (Ord. #2022-1). The proposed zoning amendment will designate the parcel as City of Palm Coast designation of High Intensity Commercial (COM-3) (approximately 24.6 acres) and 5.4 acres of Preservation (PRS) from Flagler County designation of Agriculture.

There is a companion small-scale Future Land Use Map (FLUM) amendment to designate the subject parcels as City of Palm Coast Mixed Use and Conservation from Flagler County Designation of Agriculture & Timberlands, and Conservation.

Planning and Land Development Regulation Board (PLDRB) Public Hearing

The PLDRB held a public hearing on October 19, 2022 to review and hear public comments on the proposed amendment. There were no public comments and the Board voted 7-0 to recommend approval.

LAND USE AND ZONING INFORMATION

USE SUMMARY TABLE:

CATEGORY:	EXISTING:	PROPOSED:
Future Land Use Map (FLUM)	Agriculture & Timberlands and Conservation (Flagler County designation)	Mixed Use and Conservation (City of Palm Coast designation)
Zoning District	Agriculture (Flagler County designation)	High Intensity Commercial (COM-3) and Preservation (PRS) (City of Palm Coast designation)
Use	Vacant	Storage and Retail Facility

SURROUNDING LAND USES:

Future Land Use Map Designation:

North: Industrial, Agriculture & Timberlands (Flagler County Designations)

South: Agriculture & Timberlands (Flagler County Designation)

East: Residential (City of Palm Coast Designation)

West: Agriculture & Timberlands (Flagler County designation)

Zoning Designation:

North: Industrial (Flagler County Designation)

South: Agriculture (Flagler County designation)

East: Public/Semipublic (City of Palm Coast Designation)

West: Agriculture (Flagler County designation)

Existing Uses:

North: Town & Country Business Park (a mix of light-industrial and heavy commercial uses)

South: Vacant

East: US-1 and vacant public/semipublic land

West: Vacant

**SITE DEVELOPMENT REQUIREMENTS
Proposed in Comparison to Existing**

Criteria	COM-3 & Preservation (Proposed)	Agriculture (Existing)
Min. Lot Size (sq. ft.)	30,000	5 acres
Min. Lot Width	100'	200'
Max. Impervious area	.70	.35 (maximum lot coverage)
Max. FAR Ratio	.50	--
Max. Bldg. Height	75'	No maximum
Min. Interior Side & Rear Setback	10'	25'
Min. Street Side Setback	25' (Arterial/Collector) or 20' (Local)	50' any street

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE CHAPTER 2 SECTION 2.05.05

The Unified Land Development Code, Chapter 2, Part II, Section 2.05.05 states: *When reviewing a development order application, the approval authority shall determine whether sufficient factual data was presented in order to render a decision. The decision to issue a development order shall be based upon the following, including but not limited to:*

A. The proposed development must not be in conflict with or contrary to the public interest;

Staff Finding: The proposed rezoning of the subject property is not in conflict with, or contrary to, the public interest. The subject site is abutted to the north, west, and south by properties zoned for non-residential uses. The property abuts US1 to the east. The zoning to High Intensity Commercial (COM-3) along a major arterial is appropriate. Having direct access to US1 mitigates the traffic impacts to local roads.

B. The proposed development must be consistent with the Comprehensive Plan and the provisions of this LDC;

Staff Finding: The request is consistent with the following objectives and policies of the Comprehensive Plan:

- Policy 1.3.1.3 - The City shall encourage development to locate in the areas where public facilities, infrastructure, and services are available. Where there are deficiencies and where appropriate, the City shall require the developer to provide or extend the facilities as necessary to accommodate development. Applicable impact fees shall be used by the City consistent with State law to offset the costs of the City providing facilities.

Analysis: The proposed rezoning is consistent with Policy 1.3.1.3, the location of the subject property is adjacent to a major arterial (US-1) and there are existing water and sewer lines along the US-1 corridor. Consistent with the policy, the developer will be responsible for extending any facilities as necessary.

- Policy 1.4.2.1 – The city shall provide an appropriate balance of commercial, retail, office, and industrial land uses on the FLUM to balance jobs and housing.

Analysis: The proposed zoning map amendment is consistent with Policy 1.4.2.1. by maintaining the existing and on-going development pattern of non-residential uses along this stretch of US-1 (westside). Additionally, rezoning a portion of the subject parcel to Preservation protects the most environmentally sensitive portion of the parcel consistent with Policy 6.1.1.9, which recommends a Conservation designation for interconnected high quality wetlands.

C. The proposed development must not impose a significant financial liability or hardship for the City;

Staff Findings: Rezoning the subject property to COM-3 will not impose a significant financial liability or hardship for the City. The property is situated along a major corridor (US-1) and is in proximity to water and sewer lines. Any need to extend water or sewer lines will be the responsibility of the developer.

D. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants;

Staff Finding: The rezoning will not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants. The site is located along a corridor with similar development patterns as the uses permitted within the proposed COM-3 zoning. The COM-3 designation along the westside of US-1 is appropriate since US-1 with a 150' right-of-way serves as a buffer between residential uses on the eastside of US1 and the uses permitted in COM-3.

E. The proposed development must comply with all other applicable local, state and federal laws, statutes, ordinances, regulations, or codes;

Staff Finding: Any proposed development on the property must comply with the City's Land Development Code, Comprehensive Plan and the requirements of all other applicable local, state and federal laws, statutes, ordinances, regulations and codes.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE CHAPTER 2 SECTION 2.06.03

The Unified Land Development Code, Chapter 2, Part II, Sec. 2.06.03 states: "*The Planning and Land Development Regulation Board and City Council shall consider the following criteria, in addition to the findings listed in Subsection 2.05.05, when reviewing a rezoning application*":

- A. *Whether it is consistent with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan;*

Staff Finding: As noted previously in the analysis prepared for ULDC Chapter 2, Part II, Section 2.05.05 of this staff report, the requested rezoning is in conformance with the Comprehensive Plan elements, and their goals, objectives and policies.

- B. *Its impact upon the environment and natural resources;*

Staff Finding: The parcel is predominantly composed of planted pine. Approximately 5.4 acres of the subject parcel is proposed to be zoned to Preservation. This designation protects the most

environmentally sensitive portion of the parcel consistent with Policy 6.1.1.9, which recommends protecting wetlands interconnected to a larger system.

C. Its impact on the economy of any affected area;

Staff Finding: The rezoning will have a positive effect on the economy in the area. The rezoning provides opportunities to expand the availability of jobs or services in the area. As a COM-3 zoned parcel, a variety of office uses may be permitted including building industry related offices, additionally, warehouse and distribution facilities are a permitted use.

D. Its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste, or transportation;

Staff Finding: As part of the site plan review process, any proposed development will be reviewed to ensure that any negative impact on infrastructure or governmental services are addressed.

E. Any changes in circumstances or conditions affecting the area;

Staff Finding: The subject parcel was annexed into the City effective on January 2022. As an annexed property, a Comprehensive Plan amendment and Zoning Map amendment is necessary to designate the subject parcels with an appropriate City designation as required by state law.

F. Compatibility with proximate uses and development patterns, including impacts to the health, safety, and welfare of surrounding residents;

Staff Finding: As previously stated, the proposed COM-3 designation is consistent and compatible with the existing uses and the development pattern for the area.

The area to the north of the subject property is developed as the Town & Country Business Park. This business park is almost built-out with a variety of uses ranging from a pet resort, auto repair shops, and outdoor storage of building materials. The areas to the south, east, and west of the subject property are currently vacant.

The proposed amendment to COM-3 is compatible with the development to the north, and is consistent with the development patterns currently occurring along the westside of US-1 between Whiteview Pkwy. and Royal Palms Pkwy. (a distance of approximately 2 miles). This stretch of roadway over the past two years has seen the construction of additional storage facilities, as well as construction of commercial flex space buildings.

Finally, designation a portion of the western section of the parcel provides protection for an interconnected wetland.

G. Whether it accomplishes a legitimate public purpose:

Staff Finding: Yes, the rezoning accomplishes a legitimate public purpose. The COM-3 zoning will make the subject parcel available for development. Additionally, the COM-3 zoning along a major arterial is appropriate and the location along US1 doesn't intrude on a residential area.

PUBLIC PARTICIPATION

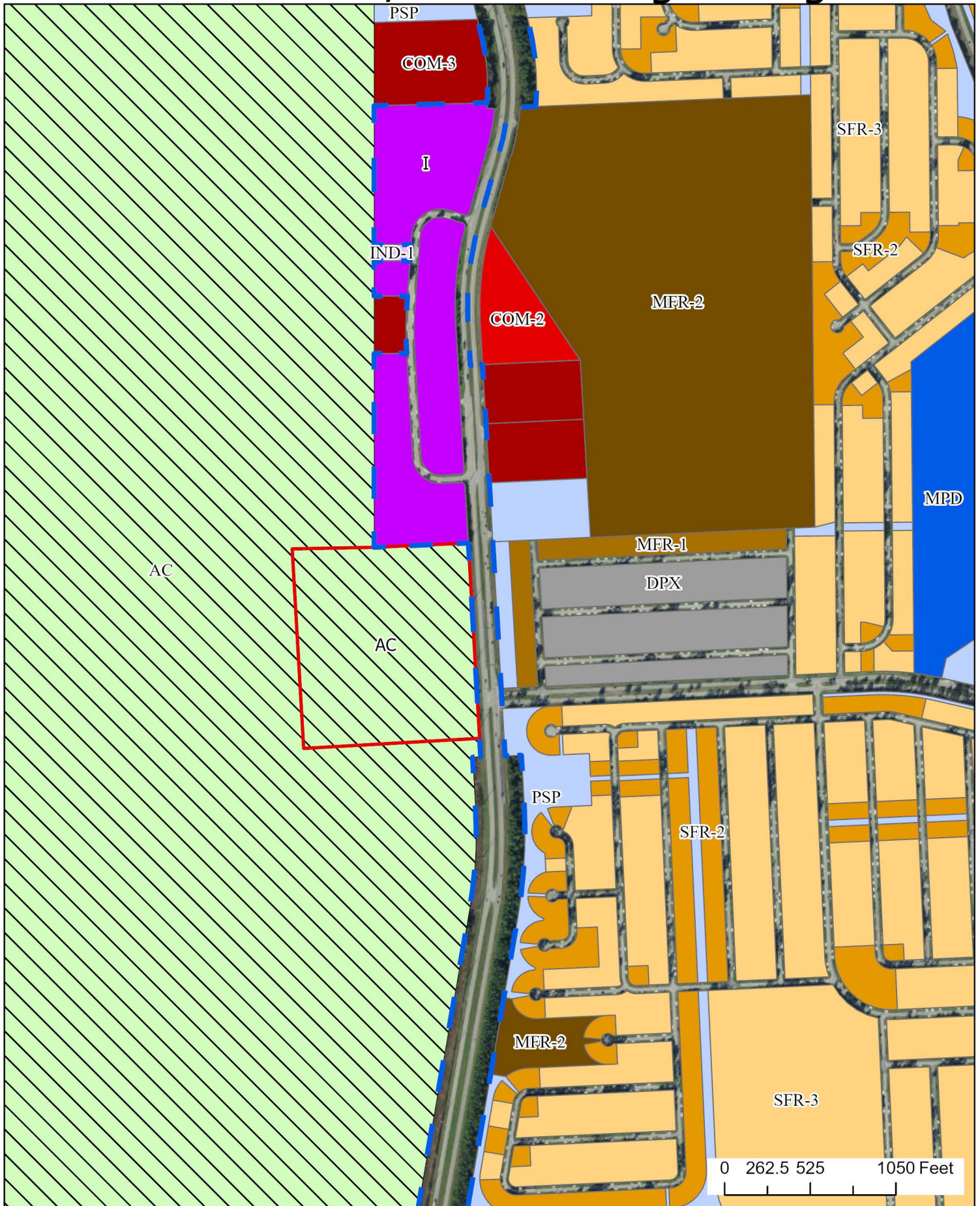
Neighborhood Meeting

As required by the Land Development Code, a neighborhood meeting was hosted by the applicant on October 4, 2022. Other than the applicants and City staff there were no attendees from the surrounding community.

RECOMMENDATION

The Planning and Land Development Regulation Board (PLDRB) finds Application #5192 consistent with the Comprehensive Plan and recommends that City Council approve the Zoning Map amendment from Agriculture (Flagler County Designation) to High Intensity Commercial (COM-3) and Preservation (PRS) (City of Palm Coast Designation).

Whiteview/US 1-Existing Zoning



Legend

- Palm Coast City Limits
- Whiteview/US 1 Parcel
- Palm Coast Zoning
- AC

- COM-2
- COM-3
- DPX
- IND-1

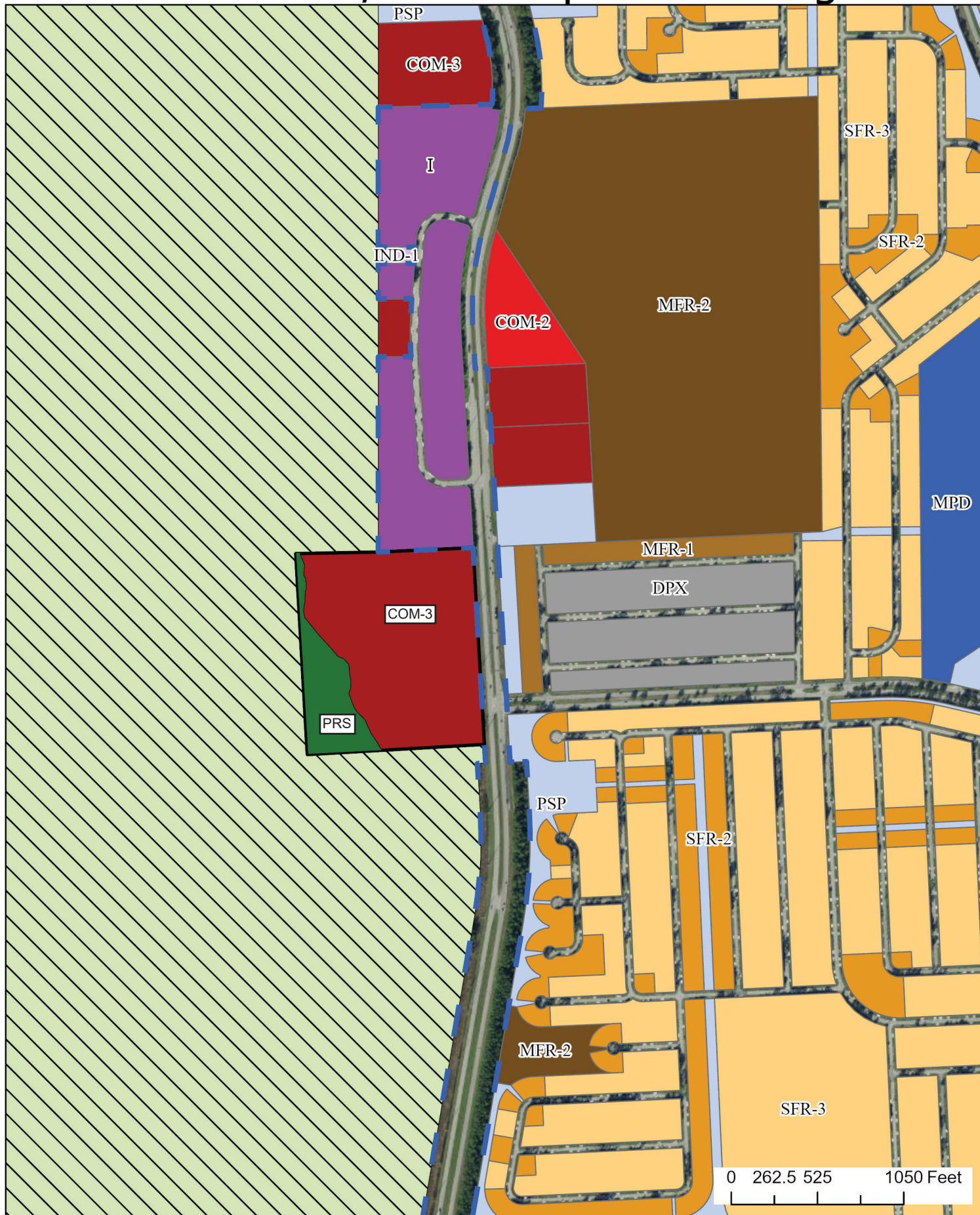
- MFR-1
- MFR-2
- MPD
- PSP

- SFR-2
- SFR-3
- Flagler Zoning
- AC

I



Whiteview/US 1-Proposed Zoning



Legend

- | | | |
|------------------------|-------|-------|
| Palm Coast City Limits | COM-3 | MPD |
| Whiteview/US 1 | DPX | PSP |
| Palm Coast Zoning | IND-1 | SFR-2 |
| AC | MFR-1 | SFR-3 |
| COM-2 | MFR-2 | |

- | | |
|----|---|
| AC | I |
| I | |
- Flagler Zoning



City of Palm Coast, Florida Agenda Item

Agenda Date: November 15, 2022

Department	COMMUNITY DEVELOPMENT	Amount
Division	PLANNING	Account #
Subject	ORDINANCE 2022-XX HARBORSIDE MASTER PLANNED DEVELOPMENT	
Presenter: Ray Tyner, Deputy Chief Development Officer and Bill Hoover, Senior Planner, AICP		
<p>Background: JDI Palm Coast, LLC, as the applicant is proposing to rezone 17.64 +/- acres that has an existing marina with 84 wet slips, a 72-unit residential condominium building, a 525-space parking garage, infrastructure, and vacant cleared land. The property is located on the east and northeast sides of the intersection between Palm Harbor Parkway and Clubhouse Drive. It is also located adjacent to the south side of the Clubhouse Waterway and along the west side of the Intracoastal Waterway. The proposed rezoning is from Harborside Inn & Marina PUD to Harborside Master Planned Development (MPD) for a potential mixed-use project that is intended to include a marina with ship's store, townhouses, multi-family units and possibly a restaurant and/or hotel.</p> <p>The applicant is requesting two options for the development, one primarily adding residential units and the second primarily adding residential units and a hotel. Per LDC Section 3.05.03.C, residential density calculations cannot include lands being used for commercial purposes so in scenario one 0.7 +/- acre of commercial land area for Lots 1 and 2 are subtracted from the project size while on scenario two, 2.7 +/- acres of commercial land area for Lots 1 - 3 are subtracted from the project size. (Note that hotels and commercial uses are governed by intensity limits, typically using maximum floor area ratios, rather than density limitations.) In scenario one, the proposed 432 units would have an overall project density on the 16.94 +/- acres of 25.5 units/per acre. In scenario two, the proposed 432 units would have an overall project density on the 14.94 +/- acres of 28.9 units/per acre.</p> <p><u>Planning and Land Development Regulation Board (PLDRB) Meeting on September 20, 2022:</u> This project was heard by the PLDRB on September 20, 2022. Planning staff recommended "denial" of the project due to the proposed very high density and compatibility issues with neighboring properties which did not meet various goals and policies of the Comprehensive Plan and sections of the Land Development Code (LDC). After a very lengthy meeting the PLDRB voted 6-0 to continue the project until the October 19, 2022, PLDRB meeting and requested that the applicant and Planning staff get together to see if they could minimize their differences in the MPD Development Agreement.</p> <p><u>Updated Information:</u> The applicant and staff held several meetings discussing the issues between the two parties which resulted in agreement on most all items. However, the major issue that remains is the maximum project density. The applicant is seeking 25.5 or 28.9</p>		

units/per acre depending on the applicant's choice of two development options. Staff and the applicant differ on the interpretation of the Comprehensive Plan and applicable sections of the LDC that determine maximum project densities.

On October 6th, City Staff initiated and sent the applicant a proposed new Section 10 to be included within the MPD Development Agreement. Staff's professional planning opinion suggested that if eight development standards were implemented within the project, and the project was limited to 18.3 units/acre, Staff could consider the project consistent with the Comprehensive Plan and the LDC; and specifically, with Comprehensive Plan Policy 1.1.2.2. Staff's proposed eight development standards are attached in the Staff report as Exhibit "A."

Staff opines that 18.3 units/acre would be consistent with the Comprehensive Plan and the LDC if the applicant implemented all eight items listed in Exhibit "A." At 18.3 units/per acre this would yield a maximum of either 310 units on 16.94 acres or 273 units on 14.94 acres. This is an increase of 22% over the maximum 15 units/per acre allowed in the Mixed Use District, absent the inclusion of the types of changes allowed in Policy 1.1.2.2 in order to promote and encourage creatively planned projects and in recognition of special geographical features, environmental conditions, economic issues, or other unique circumstances.

The 22% increase in density is consistent with the previous PUD approval which permitted a 22% increase in base intensity which increased the Floor Area Ratio from 55% to 67%. Staff believes their suggested eight development items would make the project equivalent in nature to the previous project regarding Policy 1.1.2.2. These eight standards would allow staff to support a 22% increase for density and is based on consistency with the Comprehensive Plan and LDC. Staff believes the eight standards listed in Exhibit "A", would make the 18.3 units/ per acre project compatible with the surrounding neighborhood. In staff's professional opinion the applicant's proposal of 25.5 to 28.9 units per acre is not compatible with neighboring properties, as required by several sections in the LDC.

The applicant reviewed staff's proposal for 18.3 units/acre with the eight standards, and on October 10th, the applicant provided a written response that is attached in the Staff Report as Exhibit "B". The applicant suggested that much of staff's proposed text should be deleted, and suggested alternative text be included with approximately the same development standards (one standard was dropped by the applicant). (Note applicant's proposed MPD DA includes their proposed alternative standards.) The applicant argued that if they met even some of staff's eight standards, the project would be entitled to 432 units and a density of 25.5 or 28.9 units/per acre.

Planning and Land Development Regulation Board (PLDRB) Meeting on October 19, 2022

This project was heard again by the PLDRB on October 19, 2022. Planning staff recommended "denial" of the project due to the proposed very high density and compatibility issues with neighboring properties which did not meet various goals and policies of the Comprehensive Plan and sections of the Land Development Code (LDC). After a lengthy meeting, the PLDRB voted 7-0 to recommend denial of the project to the City Council.

Public Participation: A neighborhood information meeting was held at 11:00 a.m. on September 8, 2022, at the 3rd floor of the on-site parking garage. By staff's count 48 persons attended this meeting including three persons representing the developer and one City staff member. The developer erected two City provided signs along Palm Harbor Parkway at least 14 days prior to each of the PLDRB meetings and will do so again 14 days prior to each City Council public

hearings. The City ran a news ad 20 days prior to the September 20, 2022, PLDRB meeting and since the project was continued (“date certain” to October 19, 2022) by the PLDRB no additional news ad was required. News ads are being run 13 days prior to each City Council public hearing.

A total of 29 persons from the public spoke at the two PLDRB meetings with 11 speaking at the first PLDRB meeting and 18 speaking at the second PLDRB meeting. Staff did not notice anyone speaking at both hearings as the City Attorney announced those speaking at the first hearing were already on the record and there was no need to speak again. All or nearly all speakers had concerns with the project and their concerns primarily involved: project density and number of units, building height, traffic, stormwater and flooding issues, utility concerns, and lack of specific development plans by the developer.

Recommended Action:

The Planning and Land Development Regulation Board found, by a vote of 7 to 0, the proposed MPD Application No. 5132 not in compliance with the Comprehensive Plan’s Goal 1.1 and Policies 1.1.1.2 and 1.1.2.2 and not in compliance with the Land Development Code’s Sections 3.03.04, 3.03.04.B.2, and 3.03.04.D and recommended denial to City Council to rezone 17.64 +/- acres from Harborside Inn & Marina PUD to Harborside MPD.

LIVINGSTON & SWORD, P.A.

Attorneys At Law

November 14, 2022

Jason DeLorenzo
Chief Development Officer
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

Subject: Request for Continuance to Date Certain
Harborside Master Planned Development Rezoning

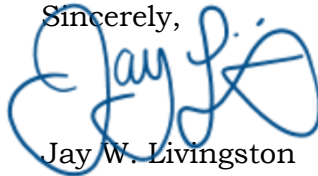
Dear Mr. Delorenzo:

I am writing to confirm, per our recent discussions, JDI Palm Coast, LLC's request to continue the Harborside Master Planned Development Rezoning currently scheduled for first reading at the City of Palm Coast City Council's November 15, 2022 business meeting. JDI Palm Coast, LLC is requesting that this matter be rescheduled to a time certain for the December 13, 2022, and January 3, 2022, City Council meetings.

We intend to resubmit a revised Master Planned Development Agreement to you and your staff. The continuance will provide time for you and your staff to review the revisions and for any additional discussions needed before it is finalized this week, well in advance of City Council's consideration.

Please contact me if you have any questions or comments.

Sincerely,



Jay W. Livingston

CC: JDI Palm Coast, LLC
Tarik Bateh
Michael Chiumento III, Esq.
Ray Tyner
Neysa Borkett, Esq.

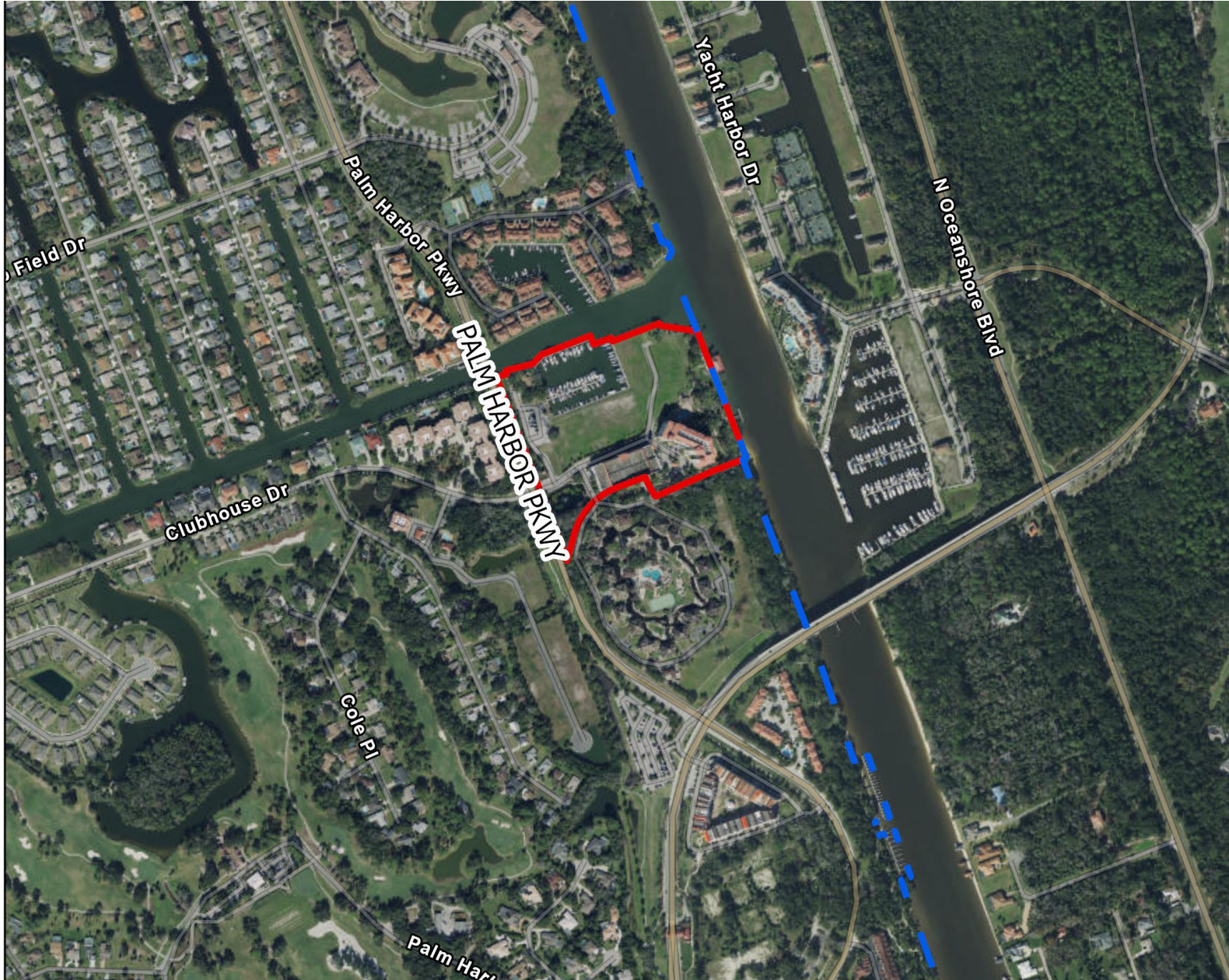
391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@protonmail.ch

HARBORSIDE MPD

**City Council Public Hearing
on November 15, 2022**

Location Map

Harborside is 17.64 +/- acres and is located on the east and northeast sides of Palm Harbor Parkway at its intersection with Clubhouse Drive.





Close-up Aerial

Applicant, JDI Palm Coast, LLC wants to rezone the property from Harborside Inn & Marina PUD to Harborside MPD in order to complete development of this project and are requesting 432 homes (includes 72 existing and 360 new homes) and COM-2 uses.

FLUM

Subject property and the land to the south are Mixed Use. Lands to the west and north are Residential. To the east across the ICW is a Flagler County parcel designated Mixed-Use Low Intensity.



Zoning Map

Site and lands to the north and south are MPD.
Lands to the west are MFR-1.
Land to the East is zoned Flagler County PUD.



Legend

Palm Coast City Limits	MFR-1	SFR-4
Harborside	MPD	Flagler Zoning
Palm Coast Zoning	PSP	PUD
DPX	SFR-2	R/C

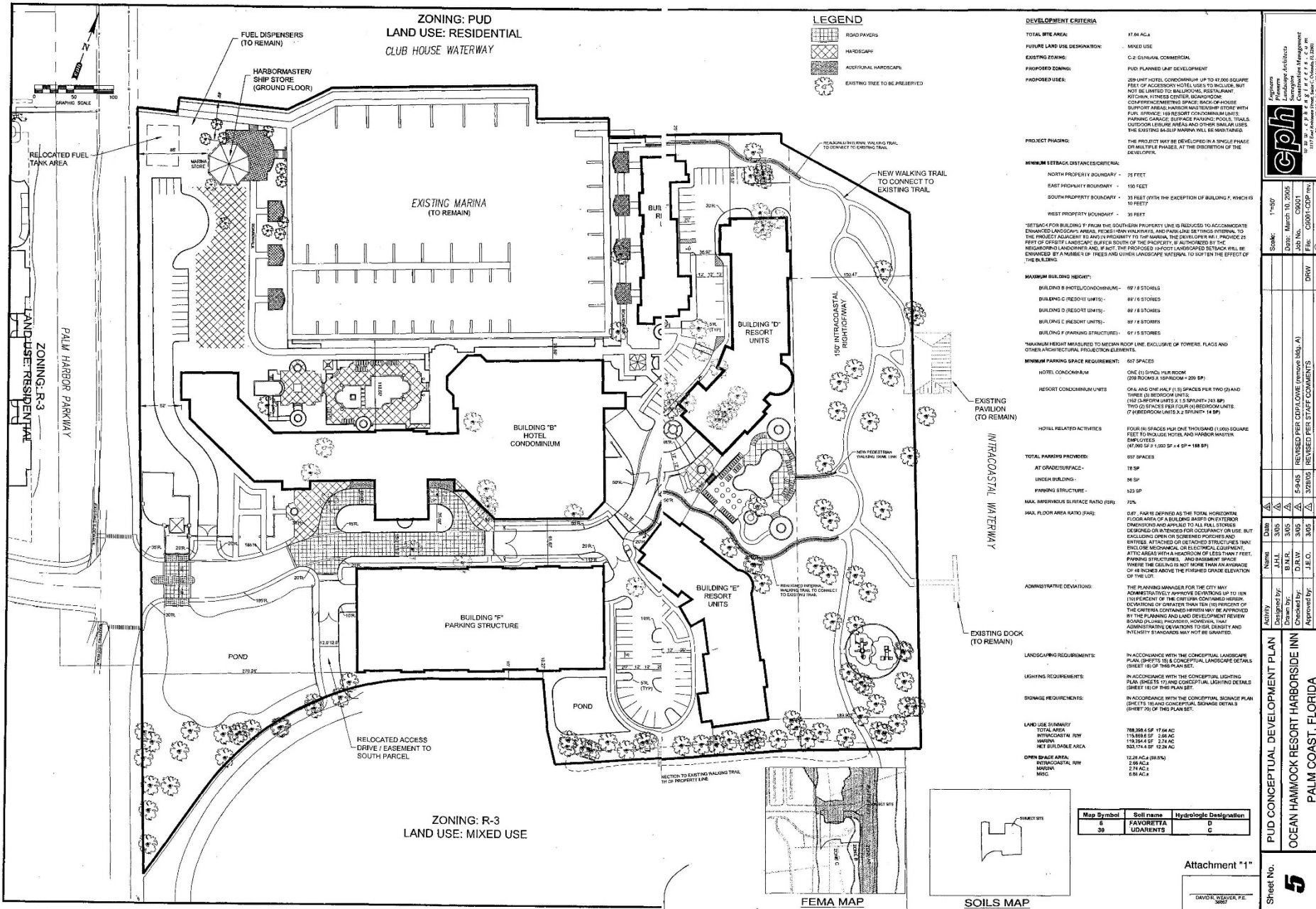
Background/History



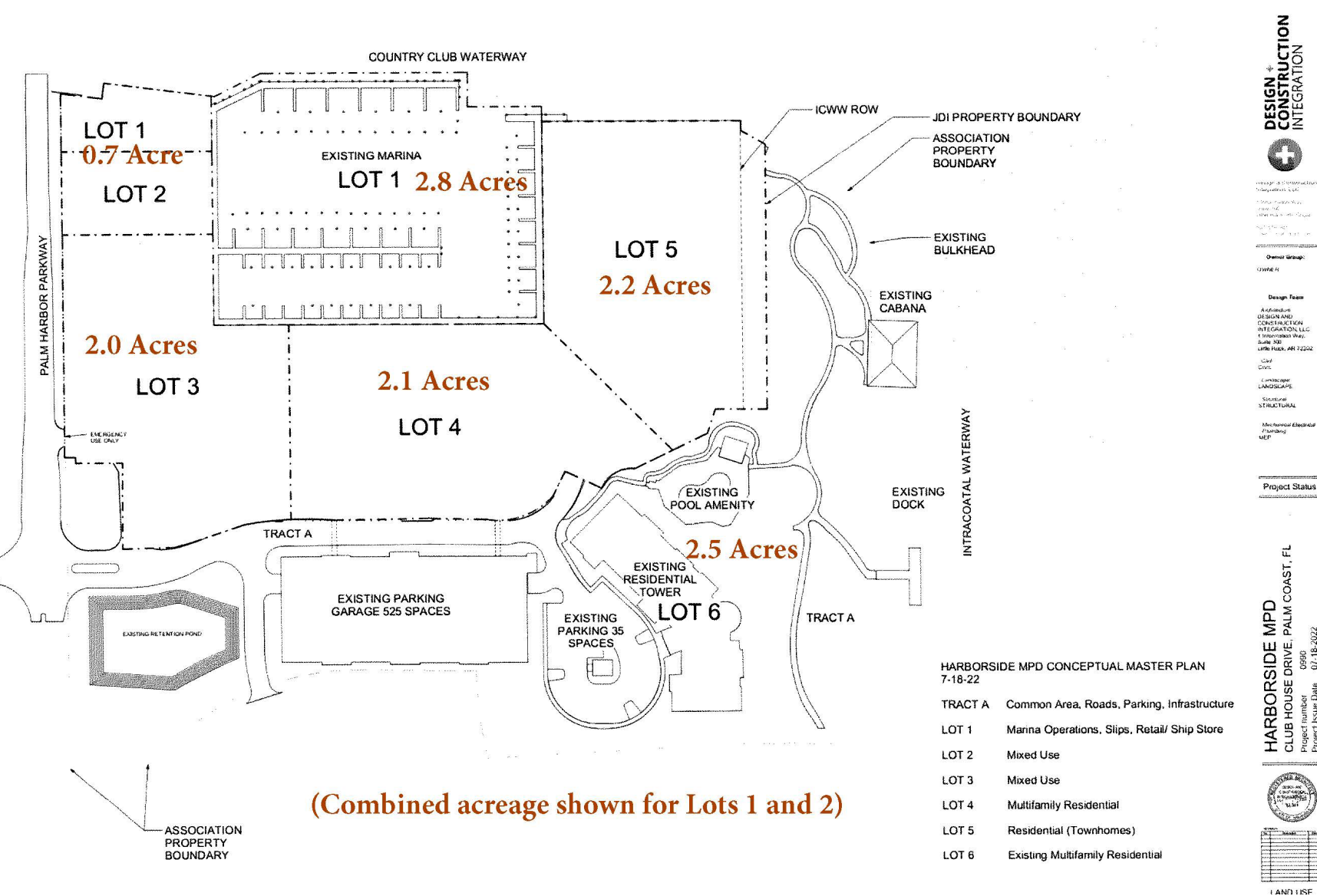
- 1970's, 154-room Sheraton resort hotel with a restaurant, bar and meeting rooms was constructed.
- 1986, the ship store, marina wet slips and bulkhead were constructed.
- 2005, Centex Homes bought the site.
- 2006, hotel and parking removed.
- 2007, 72-unit, seven-story condo building was constructed.
- 2016, applicant purchased north half of site.

Previous 2005 PUD Master Plan

Commercial uses were approved on what is now shown as Lots 1 – 4. Later the 2007 PUD Amendment allowed more development flexibility but did not change the development entitlements.



Proposed Density Compared to 2005/2007 PUDs



Previous PUDs had Lots 1 – 4 with COM-2 uses and the project development limits were governed by FAR. This is the building area divided by lot size. A 2-story building with 5,000 s.f. per floor = 10,000 s.f., so on a 20,000 s.f. lot it would have a FAR of 0.50.

Applicant's MPD Possible Conceptual Plan



Lot 1 and 2 are for ship store and possible restaurant.

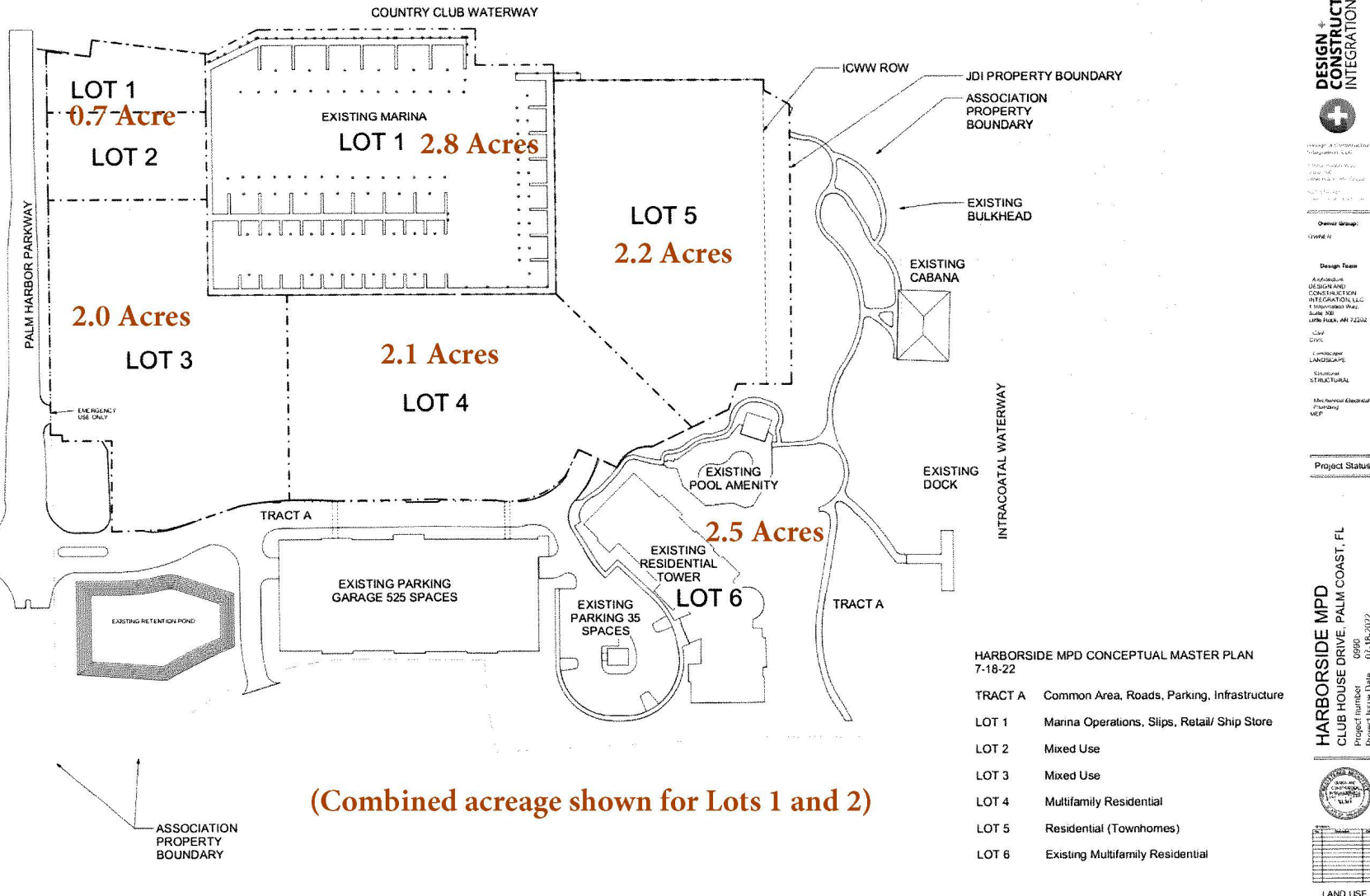
Lot 3 is for a possible hotel, multi-family or townhomes.

Lot 4 is for multi-family.

Lot 5 has 30 townhomes.

Proposed MPD Master Plan with Density Calculations

LDC Section 3.05.03.C. advises lands in a mixed use district cannot be counted for both commercial intensity and residential density.



Total Site = 17.64 Acres

Scenario 1: Lot 1 and 2 used for COM-2.

432 Units/16.94 Acres = 25.5 Units/Per Acre.

Scenario 2: Lots 1, 2 and 3 used for COM-2.

432 Units/14.94 Acres = 28.9 Units/Per Acre.

DESIGN + CONSTRUCTION INTEGRATION

Design Team:
 A+M+R
 DESIGN AND CONSTRUCTION INTEGRATION LLC
 1 International Way, Suite 500
 Little Rock, AR 72202

Project Status

HARBORSIDE MPD
 CLUB HOUSE DRIVE, PALM COAST, FL
 Project number: 0990
 Project Issue Date: 07-18-2022



MPD Possible Conceptual Plan – Reflects Scenario 2



This conceptual plan is only showing 302 units on 14.94 acres for a density of 20.2 units/ per acre.

However, applicant is requesting 432 units for a density of 28.9 units/per acre.



Density Comparison (in units/per acre)

N – Marina Cove	7.8
NW - Bella Harbor	10.5
W – Waterside	7.6
S – Celebrity Resorts	5.2
E – F.C.'s Harbor Village Marina	6.7
Average density =	7.6

Applicant is proposing 25.5 or 28.9 units/per acre, about three times the above average.

Five Review Criteria from Sec. 2.05.05 of LDC

When reviewing a development order application, the approval authority shall determine whether sufficient factual data was presented in order to render a decision. The decision to issue a development order shall be based upon the following, including but not limited to:

- A. The proposed development must not be in conflict with or contrary to the public interest:*
- B. The proposed development must be consistent with the Comprehensive Plan and the provisions of the LDC:*

Five Review Criteria from Sec. 2.05.05 of LDC

C. The proposed development must not impose a significant financial liability or hardship for the City;

D. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City's inhabitants;

E. The proposed development must comply with all other applicable local, state and federal laws, statutes, ordinances, regulations, or codes.

Five Review Criteria from Sec. 2.05.05 of LDC

Findings: The applicant is requesting two basic scenarios:

Scenario 1, proposes 432 units on 16.94+/- acres with a density of 25.5 units/acre.

Scenario 2, proposes 432 units on 14.94+/- acres with a density of 28.9 units/acre.

The proposed density of either 25.5 or 28.9 units/acre exceeds the maximum density of 15 units/acre for a MPD with a Mixed Use designation on the FLUM (Policy 1.1.1.2).

The MPD Agreement is not consistent with Policy 1.1.2.2 which may permit deviations from density and intensity standards if a project promotes and encourages creatively planned projects and recognizes special geographical features, environmental conditions, economic issues, or other unique circumstances.

Five Review Criteria from Sec. 2.05.05 of LDC

Findings (Continued): Does not meet Goal 1.1 of Comprehensive Plan as it does not preserve the character of residential communities.

Is not in compliance with LDC Section 3.03.04 as the MPD does not show it will produce a functional, enduring and desirable environment with no significant adverse impacts to adjacent properties.

Is not meeting LDC Section 3.03.04.B.2 as the MPD does not encourage a more compatible and harmonious development of contiguous lands.

Is out of compliance with LDC Section 3.03.04.D as the residential density exceeds what is permitted within the Comprehensive Plan for a MPD within the mixed use district on the FLUM.

Review Findings from Sec. 2.09.04 of LDC

The Planning and Land Development Regulation Board and City Council shall consider the following criteria, in addition to the findings listed in Subsection 2.05.05, when reviewing a master planned development application:

Staff has provided detailed findings of these eleven criteria within the staff report.

Planning and Land Development Regulation Board Meetings

- A neighborhood meeting was held on September 8, and signs were erected along Palm Harbor Pkwy and news ads run per LDC.
- Initially the project was heard at the Sept. 20 PLDRB and the PLDRB voted to continue the project “date certain” to the Oct. 19 PLDRB meeting and requested staff and the applicant to get together in order to minimize the differences between the applicant’s proposal and what staff would support.
- The key differences between the two parties were resolved before the second meeting except for the density issue.

Remaining Key Issue is Residential Density

- Prior to the second PLDRB meeting on October 19th, staff sent the applicant 8 proposed development standards that would allow staff to support a density of 18.3 units/per acre which would allow 310 units under Scenario 1 on 16.94 acres or 273 units under Scenario 2 on 14.94 acres.
- The 22% increase in density (15 units + 22% increase = 18.3 units/per acre) is consistent with the previous PUD approval, which in staff's opinion would make the project equivalent in nature to the previous PUD which was granted a 22% increase in base intensity from 55% to 67% for its maximum Floor Area Ratio, due to the commercial project having a destination resort hotel with numerous benefits for City residents so it met Policy 1.1.2.2 of the Comp. Plan.
- Policy 1.1.2.2 states, *Deviations from these density and intensity standards may be permissible in order to promote and encourage creatively planned projects and in recognition of special geographical features, environmental conditions, economic issues, or other unique circumstances.*



Standard 1.

Construct a sit-down restaurant on Lots 1, 2 or 3 that would have a minimum of 4,000 sq. ft. of gross floor area and at least 75 seats for patrons.
(Constructed prior to exceeding 15 units/per acre.)

Standard 2.

Remodel or construct a new ship's store that can include the sit-down restaurant within the same building. (Constructed prior to exceeding 15 units/per acre.)





Standard 3.

Keep the marina open including fuel sales to the public and at least 25% of wet slips available for transient/restaurant (not for on-site residential use).

A slip space to include accommodations for commercial use (i.e smaller barge for bulkhead repairs).



Standards 4./6.

If the Owner decides to sell the marina the City shall have the first right of refusal.

Maintain a “Clean Marina” designation from the DEP.

Standard 5.

Maintain existing boat ramp to be utilized by public entities for public related activities such as emergency events.



Standard 7.



Construct a paved 5' wide sidewalk that would connect from the existing trail located on the west side of the ICW west adjacent to the drainage canal and running westerly south of the Condominium and then south of the Parking Garage. The existing trail easement along the ICW would be vacated by the City upon completion of the new trail. (Constructed in the initial phase or within 18 months and completion within 24 months of the approval of the MPD Agreement, whichever is earlier.)



Standard 8.

Provide prototype Palm Coast entry way sign or as agreed to by both parties along the Intracoastal Waterway. The sign can be combined with developers sign.

Owner's Response to Staff's Eight Standards

Staff Item#	<u>Owner's Response to Staff</u>	Developer's Proposed Units*	Developer's Proposed Density*
	Owner may elect, at any time, to increase the residential unit count above 254 total units by fulfilling 1 or more of the following conditions ("Density Bonus Incentive Conditions"): <i>Note: Staff's proposal would have yielded an increase of 56 units and 3.3 units/per acre.</i>		
	MPD Base Density is 15 units/per acre	254	15 per/acre
1)	Owner shall construct a sit-down restaurant on Lots 1, 2 and/or 3 with at least 4,000 sq. ft. of gross floor area and 75 seats for patrons	+ 50	3 per/acre
2)	Owner shall renovate, remodel, or construct a new Ship's Store, which may include and be combined with the sit-down restaurant described above.	+ 25	1.5 per/acre
3)	Owner shall be operating a marine vessel fuel sale operating at the marina (subject to commercially reasonable viability) at the time the request for the additional units is made in an application for site plan approval.	+ 25	1.5 per/acre
3)	Owner shall make a wet slip at the Marina available for public daily short-term transient use.	+ 525 (25 per slip)	31 per/acre
4)	Owner shall provide the City of Palm Coast with a one-time right of first offer (i.e., one-time first opportunity to negotiate in good faith) to purchase the marina, prior to Owner pursuing a sale of the marina to a third party.	+ 50	3 per/acre

**These are based on Scenario 1 (COM-2 on Lots 1 & 2 with no hotel on Lot 3) so residential area is 16.94 +/- acres.*

Owner's Response to Staff's Eight Conditions

Staff Item#	<u>Owner's Response to Staff</u> Owner may elect, at any time, to increase the residential unit count above 254 total units by fulfilling 1 or more of the following conditions ("Density Bonus Incentive Conditions"): <i>Note: Staff's proposal would have yielded an increase of 56 units and 3.3 units/per acre.</i>	Developer's Proposed Units*	Developer's Proposed Density*
5)	Owner shall open and be operating a private boat ramp at the marina (subject to commercially reasonable viability) at the time the request for additional units is made in an application for site plan approval.	+ 25	1.5 per/acre
6)	Owner shall be maintaining or have obtained a Clean Marina designation pursuant to the Florida Department of Environmental Protection Clean Marina Program, or a comparable program if the FDEP's Clean Marina Program is discontinued, at the time the request for the additional units is made in an application for site plan approval.	+ 25	1.5 per/acre
7)	Construct a 5' wide sidewalk run from existing trail along Intracoastal Waterway along south side of project	NA	No response
8)	Owner shall provide the City with a license to construct, at the City's expense, a Welcome sign on the ICW, which sign shall be compatible in size with Owner's private sign in the same location.	+ 25	1.5 per/acre
8)	Owner shall fund the costs of installing the City's welcome sign on the ICW as described above.	+ 25	1.5 per/acre
	Totals	1029**	60.7 per/acre**

*These are based on Scenario 1 (COM-2 on Lots 1 & 2 with no hotel on Lot 3) so residential area is 16.94 +/- acres.

**Developer stated they would cap units at 432 equal to a density of 25.5 units/per acre in Scenario 1.

Previous PUD Approval

As approved in 2005 and somewhat modified in 2007, the project was approved a maximum Floor to Area Ratio increase of 22% (from .55 to .67) for the zoning district, as provided for in Policy 1.1.2.2. The 2007 PUD is still in effect.

This was in recognition of the project's vision and goal to promote a destination resort hotel with meeting and conference rooms that would attract business conventions and tourists.

Additionally, the development program approval included: 47,000 sq. ft. of accessory hotel uses including ballrooms, restaurant, kitchen, ship store with fuel service, trails, and maintain the existing 84 marina slips.

Economic Impact from 2005 PUD Rezoning Staff Report

The economic impacts of the project were analyzed using the Florida Fiscal Impact Analysis Modeling System developed by Fishkind and Associates. The icon destination resort hotel's impacts would create the following (shown in 2005 dollars):

- \$18 million in gross state sales tax receipts to the State over next 20 years,
- 457 jobs with 268 being permanent jobs and an additional 103 jobs based on indirect impacts, and
- \$17 million in annual employee wages.

Summary of Staff Analysis

- Staff finds that absent of conditions that create a destination resort hotel with amenities such as marina, sit-down restaurant, and/or conference space, or other facility as suggested by staff, then the justifications that warrant exceeding the permitted densities and intensities on the subject property no longer exist.
- As proposed, the project is more typical of other multi-family residential projects with likely similar financial challenges for viability that have no plan for a creative project which takes advantage of the site's geographical features or unique circumstances and produces special economic benefits to area and City-wide residents.

Next Steps

- 2nd City Council Public Hearing for this Rezoning
- If approved, it would return to the PLDRB during the Subdivision Master Plan process and to PLDRB and City Council for any site plans having more than 100 multi-family homes.

Recommendation

The Planning and Land Development Regulation Board found the proposed MPD Application No. 5132 not in compliance with the Comprehensive Plan's Goal 1.1 and Policies 1.1.1.2 and 1.1.2.2 and not in compliance with the Land Development Code's Sections 3.03.04, 3.03.04.B.2, and 3.03.04.D and recommended denial to City Council to rezone 17.64 +/- acres from Harborside Inn & Marina PUD to Harborside MPD.

The applicant's team has a PowerPoint Presentation that follows:

ORDINANCE 2022-____
REZONING APPLICATION NO. 5132
HARBORSIDE MPD

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, PROVIDING FOR THE AMENDMENT OF THE OFFICIAL ZONING MAP AS ESTABLISHED IN SECTION 2.06 OF THE CITY OF PALM COAST UNIFIED LAND DEVELOPMENT CODE; AMENDING THE OFFICIAL ZONING MAP FOR 17.64+/- ACRES OF CERTAIN REAL PROPERTY GENERALLY LOCATED AT THE EAST AND NORTHEAST SIDES OF THE INTERSECTION BETWEEN CLUB HOUSE DRIVE AND PALM HARBOR PARKWAY, AND BEING MORE PARTICULARLY DESCRIBED IN THE ATTACHED EXHIBIT “A”, FROM HARBORSIDE INN & MARINA PLANNED UNIT DEVELOPMENT (PUD) TO MASTER PLANNED DEVELOPMENT (MPD) ZONING DISTRICT; APPROVING THE HARBORSIDE MASTER PLANNED DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, JDI Palm Coast, LLC, as the Applicant is the owner of Parcel Number 38-11-31-0000-01030-0000 consisting of 9.28+/- acres located at the northeast corner of the intersection between Club House Drive and Palm Harbor Parkway in the City of Palm Coast, Flagler County, Florida, more particularly described in Exhibit “A”; and

WHEREAS, the Applicant has the permission of the abutting owner to the south Palm Coast Resort Community Association, Inc. that owns Parcel Number 38-11-31-7103-000F0-0000 consisting of 8.36 +/- acres, more particularly described on Exhibit “A” to include that property within this rezoning; and

WHEREAS, combined the two properties comprise the 17.64 +/- acres of the subject property; and

WHEREAS, the Applicant desires to complete development the subject property (“Project”) to meet the residential demands of Palm Coast residents as it continues to grow; and

WHEREAS, as a result, the Applicant requests approval for a Master Planned Development (MPD) on the Property per the conditions set forth in this Development Agreement; and

WHEREAS, the Applicant voluntarily agrees with the conditions, terms, and restrictions hereinafter recited, and has agreed voluntarily to their imposition as an incident to development of the Property; and

WHEREAS, the City of Palm Coast City Council (“City Council”) finds that this Development Agreement (DA) has been properly conditioned with terms and restrictions to be consistent with the City’s Comprehensive Plan (2035) (the “Comprehensive Plan”) and Unified Land Development Code (the “LDC”) and that the conditions, terms, restrictions, and requirements set forth herein are necessary to ensure compliance with the Comprehensive Plan and LDC and the protection of the public health, safety, and welfare of the citizens of the City; and

WHEREAS, the City Council further finds that this Development Agreement is consistent with and an exercise of the City’s powers under the Municipal Home Rule Powers Act; Article VIII, Section 2(b) of the Constitution of the State of Florida; Chapter 166, Florida Statutes; the City of Palm Coast City Charter; other controlling law; and the City’s police powers; and

WHEREAS, additional conditions of approval may also be included within the minutes of relevant meetings of the Planning & Land Development Regulation Board and City Council. Furthermore, any representations or promises made by the Applicant during the zoning review and approval process for the Project (whether oral or in writing) shall also be additional conditions of approval if deemed appropriate by the City; and

WHEREAS, this is a non-statutory Development Agreement which is not subject to or enacted pursuant to the provisions of Sections 163.3220 -163.3243, Florida Statutes; and

WHEREAS, the Applicant intends to classify and develop the Property as a Master Planned Development (MPD) as set forth in a MPD Development Agreement (MPD DA); and

WHEREAS, the Applicant’s application for a Master Planned Development is approved subject to the MPD Development Agreement’s terms and conditions; and

WHEREAS, the Planning and Land Development Regulation Board and City Staff of the City of Palm Coast have recommended approval of this Ordinance and the Planning and Land Development Regulation Board has found this requested change and recommended conditions of approval consistent with the City of Palm Coast Comprehensive Plan; and

WHEREAS, the City Council of the City of Palm Coast held a duly noticed public hearing on the proposed zoning change set forth hereunder and considered findings and advice of staff, citizens, and all interested parties submitting written and oral comments and supporting data and analysis, and the recommendation of the Planning and Land Development Regulation Board which voted 7 - 0 to deny at the regularly scheduled

meeting conducted on October 19, 2022, and after complete deliberation, the City Council hereby finds the requested change consistent with the City of Palm Coast Comprehensive Plan and that sufficient, competent, and substantial evidence supports the zoning change set forth hereunder, and

WHEREAS, the City Council of the City of Palm Coast hereby finds that this Ordinance serves a legitimate government purpose and is in the best interests of the public health, safety, and welfare of the citizens of Palm Coast, Florida.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY OF PALM COAST, FLORIDA:

SECTION 1. LEGISLATIVE AND ADMINISTRATIVE FINDINGS. The above recitals (whereas clauses) are hereby adopted as the legislative and administrative findings of the City Council.

SECTION 2. ZONING MAP AMENDMENT AND MPD AGREEMENT.

(a) That the Official Zoning Map of the City of Palm Coast as described in City of Palm Coast Unified Land Development Code Section 3.01.02. is hereby amended to include a change of classification to City of Palm Coast Master Planned Development District (MPD) for the property legally described on Exhibit “A,” which is attached and incorporated herein by this reference. City Staff is hereby directed to promptly amend the Official Zoning Map upon the effective date of this Ordinance.

(b) The Harborside Master Planned Development Agreement (“Development Agreement”) and its exhibits attached hereto as Exhibit “B”, with all appropriate signatures and joinders, is hereby adopted and approved by the City Council of the City of Palm Coast and shall constitute the regulations for the specific MPD District. The Development Agreement shall be recorded in the Official Records of Flagler County, Florida, by the City Clerk.

SECTION 3. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

SECTION 4. CONFLICTS. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

SECTION 5. EFFECTIVE DATE. This Ordinance shall become effective immediately upon its passage and adoption.

Approved on first reading this _____ day of _____, 20__

Adopted on the second reading after due public notice and hearing this _____ day of _____ 20__.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

Attachments:

Exhibit "A" – Legal Description of subject property subject to Official Zoning Map amendment

Exhibit "B" – MPD Development Agreement

EXHIBIT "A"
LEGAL DESCRIPTION

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 38 AND 39, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF COMMENCEMENT REFERENCE BEING THE SOUTHEASTERLY CORNER OF THE SUBDIVISION PLAT COUNTRY CLUB COVE SECTION-3 MAP BOOK 6, PAGE 8, THENCE NORTH 20°57'23" WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (104' R/W) (PLATTED AS YOUNG PARKWAY) A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE NORTH 20°57'23" WEST, A DISTANCE OF 568.90 FEET TO A POINT ON THE SOUTHERLY LINE OF CLUB HOUSE WATERWAY, THENCE DEPARTING PALM HARBOR PARKWAY RUN NORTH 75°49'57" EAST ALONG THE SOUTHERLY LINE OF SAID WATERWAY, A DISTANCE OF 50.71 FEET, THENCE DEPARTING SAID SOUTHERLY LINE OF WATERWAY RUN NORTH 14°10'03" WEST, A DISTANCE OF 18.32 FEET, THENCE RUN 75°49'57" EAST, A DISTANCE OF 137.00 FEET, THENCE RUN 43°22'03" EAST, A DISTANCE OF 61.55 FEET, THENCE RUN NORTH 68°48'16" EAST, A DISTANCE OF 255.62 FEET, THENCE RUN SOUTH 20°57'23" EAST, A DISTANCE OF 41.83 FEET, THENCE RUN NORTH 69°02'37" EAST, A DISTANCE OF 90.90 FEET, THENCE RUN SOUTH 20°57'23" EAST ALONG THE EASTERLY LINE OF THE MARINA BASIN, A DISTANCE OF 18.31 FEET, THENCE RUN NORTH 69°02'37" EAST, A DISTANCE OF 245.01 FEET, THENCE RUN SOUTH 20°49'47" EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY, A DISTANCE OF 11.95 FEET, THENCE DEPARTING SAID LINE RUN SOUTH 81°28'20" EAST, A DISTANCE OF 34.51 FEET; THENCE RUN SOUTH 20°49'46" EAST, A DISTANCE OF 326.24 FEET; THENCE RUN SOUTH 69°10'14" WEST, A DISTANCE OF 64.03 FEET; THENCE RUN SOUTH 02°50'30" EAST, A DISTANCE OF 31.50 FEET; THENCE RUN SOUTH 43°14'16" WEST, A DISTANCE OF 101.07 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, THENCE WESTERLY A DISTANCE OF 49.19 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 70°45'50", A RADIUS OF 39.82 FEET, A CHORD BEARING OF SOUTH 39°02'14" WEST AND A CHORD DISTANCE OF 46.12 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN NORTH 86°30'35" WEST, A DISTANCE OF 48.71 FEET; THENCE RUN SOUTH 13°15'43" WEST, A DISTANCE OF 5.88 FEET; THENCE RUN SOUTH 05°49'47" WEST, A DISTANCE OF 26.63 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 90.81 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 52°29'13", A RADIUS OF 99.13 FEET, A CHORD BEARING OF SOUTH 48°39'52" WEST AND A CHORD DISTANCE OF

87.67 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 70°21'07" WEST, A DISTANCE OF 73.04 FEET; THENCE RUN SOUTH 68°05'47" WEST, A DISTANCE OF 113.67 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 102.04 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°59'42", A RADIUS OF 417.75 FEET, A CHORD BEARING OF SOUTH 67°15'17" WEST AND A CHORD DISTANCE OF 101.79 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 56°08'49" WEST, A DISTANCE OF 25.68 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 49.37 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 16°51'18", A RADIUS OF 167.81 FEET, A CHORD BEARING OF SOUTH 49°22'57" WEST AND A CHORD DISTANCE OF 49.19 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 53°30'16" WEST, A DISTANCE OF 18.15 FEET; THENCE RUN SOUTH 17°59'47" EAST, A DISTANCE OF 16.81 FEET TO A POINT ON A NON-TANGENT CURVE NORTHEASTERLY, THENCE WESTERLY A DISTANCE OF 57.34 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°08'25" WEST, A RADIUS OF 250.00 FEET, A CHORD BEARING OF SOUTH 75°00'53" WEST AND A CHORD DISTANCE OF 57.21 FEET TO A POINT OF TANGENCY; THENCE RUN SOUTH 69°02'37" WEST, A DISTANCE OF 82.92 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 434,771 +/- SQUARE FEET OR 9.98 ACRES.

PARCEL 2

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 38 AND 39, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF BEGINNING BEING THE SOUTHEAST CORNER OF THE PLAT, COUNTRY CLUB COVE SECTION-3, MAP BOOK 6, PAGE 8, THENCE NORTH 20°57'23" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (PLATTED AS YOUNG PARKWAY) (104' R/W) A DISTANCE OF 125.00 FEET, THENCE DEPARTING SAID RIGHT-OF-WAY RUN NORTH 69°02'37" EAST, A DISTANCE OF 82.92 FEET TO A POINT OF CURVATURE, CONCAVE SOUTHERLY, THENCE EASTERLY A DISTANCE OF 57.34 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°08'25", A RADIUS OF 250.00 FEET, A CHORD BEARING OF NORTH 75°00'53" EAST AND A CHORD DISTANCE OF 57.21 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT LINE, THENCE RUN NORTH 17°59'47" WEST, A DISTANCE OF 16.81 FEET, THENCE RUN NORTH 53°30'16" EAST, A DISTANCE OF 18.51 TO A POINT OF CURVATURE CONCAVE SOUTHWESTERLY, THENCE EASTERLY A DISTANCE OF 49.37 FEET ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A CENTRAL

ANGLE OF 16°51'18" EAST, A RADIUS OF 167.81 FEET, A CHORD BEARING OF NORTH 49°22'57" EAST AND A CHORD DISTANCE OF 49.19 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 56°08'49" EAST, A DISTANCE OF 25.68 FEET TO A POINT OF CURVATURE CONCAVE NORTHERLY, THENCE EASTERLY A DISTANCE OF 102.04 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°59'42", A RADIUS OF 417.75 FEET, A CHORD BEARING OF NORTH 67°15'17" EAST AND A CHORD DISTANCE OF 101.79 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 68°05'47" EAST, A DISTANCE OF 113.67 FEET; THENCE RUN NORTH 70°21'07" EAST, A DISTANCE OF 73.04 FEET TO A POINT OF CURVATURE CONCAVE SOUTHEASTERLY, THENCE EASTERLY A DISTANCE OF 90.81 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 52°29'13", A RADIUS OF 99.13 FEET, A CHORD BEARING OF NORTH 48°39'52" EAST AND A CHORD DISTANCE OF 87.67 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 05°49'47" EAST, A DISTANCE OF 26.63 FEET; THENCE RUN NORTH 13°15'43" EAST, A DISTANCE OF 5.88 FEET; THENCE RUN SOUTH 86°30'35" EAST, A DISTANCE OF 48.71 FEET TO A POINT OF NON-TANGENCY OF A CURVE CONCAVE NORTHWESTERLY, THENCE EASTERLY A DISTANCE OF 49.19 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 70°45'50", A RADIUS OF 39.82 FEET, A CHORD BEARING OF NORTH 39°02'14" EAST AND A CHORD DISTANCE OF 46.12 FEET TO A POINT OF NON-TANGENCY; THENCE RUN NORTH 43°14'16" EAST, A DISTANCE OF 101.07 FEET; THENCE RUN NORTH 02°50'30" WEST, A DISTANCE OF 31.50 FEET; THENCE RUN NORTH 69°10'14" EAST, A DISTANCE OF 64.03 FEET; THENCE RUN NORTH 20°49'46" WEST, A DISTANCE OF 326.24 FEET; THENCE RUN SOUTH 81°28'20" EAST, A DISTANCE OF 148.73 FEET; THENCE RUN SOUTH 21°16'59" EAST A DISTANCE OF 668.31 FEET; THENCE RUN SOUTH 69°02'37" WEST, A DISTANCE OF 165.00 FEET; THENCE RUN SOUTH 66°01'12" WEST, A DISTANCE OF 317.67 FEET; THENCE RUN NORTH 33°24'47" WEST, A DISTANCE OF 43.00 FEET; THENCE RUN NORTH 25°19'15" WEST, A DISTANCE OF 65.48 FEET; THENCE RUN SOUTH 69°37'11" WEST, A DISTANCE OF 144.48 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 323.49 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 54°12'33", A RADIUS OF 341.91 FEET, A CHORD BEARING OF SOUTH 42°30'58" WEST AND A CHORD DISTANCE OF 311.56 FEET TO A POINT OF TANGENCY; THENCE RUN SOUTH 15°24'47" WEST, A DISTANCE OF 133.48 FEET TO A POINT ON THE AFORESAID EAST RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (PLATTED AS YOUNG PARKWAY) (104' R/W); THENCE RUN NORTH 20°57'23" WEST ALONG THE AFORESAID EAST RIGHT-OF-WAY, A DISTANCE OF 267.58 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

CONTAINING AN AREA OF 333,736 +/- SQUARE FEET OR 7.66 ACRES.

LESS AND EXCEPT

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 38 AND 39, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF COMMENCEMENT REFERENCE BEING THE SOUTHEASTERLY CORNER OF THE SUBDIVISION PLAT COUNTRY CLUB COVE SECTION-3 MAP BOOK 6, PAGE 8, THENCE SOUTH 20°57'23" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (104' R/W) (PLATTED AS YOUNG PARKWAY) A DISTANCE OF 267.58 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE NORTH 15°24'47" WEST, A DISTANCE OF 133.45 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY, THENCE EASTERLY A DISTANCE OF 323.49 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 54°12'33", A RADIUS OF 341.91 FEET, A CHORD BEARING OF NORTH 42°30'58" EAST AND A CHORD DISTANCE OF 311.56 FEET TO THE POINT OF INTERSECTION WITH A TANGENT LINE; THENCE RUN NORTH 69°37'11" EAST, A DISTANCE OF 144.48 FEET; THENCE RUN SOUTH 25°19'15" EAST, A DISTANCE OF 65.48 FEET; THENCE RUN SOUTH 33°24'47" EAST, A DISTANCE OF 43.0 FEET; THENCE RUN NORTH 66°01'12" EAST, A DISTANCE OF 317.67 FEET; THENCE RUN NORTH 69°02'37" EAST, A DISTANCE OF 1.68 FEET; THENCE RUN NORTH 20°57'23" WEST, A DISTANCE OF 42.23 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE RUN SOUTH 69°07'02" WEST, A DISTANCE OF 96.22 FEET; THENCE RUN NORTH 21°15'26" WEST, A DISTANCE OF 71.09 FEET; THENCE RUN NORTH 43°37'11" WEST, A DISTANCE OF 34.38 FEET; THENCE RUN NORTH 65°56'39" WEST, A DISTANCE OF 153.68 FEET; THENCE RUN NORTH 24°09'52" EAST, A DISTANCE OF 97.87 FEET; THENCE RUN SOUTH 65°50'56" EAST, A DISTANCE OF 211.30 FEET; THENCE RUN SOUTH 20°57'23" EAST, A DISTANCE OF 130.99 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 29,503 +/- SQUARE FEET OR 0.677 ACRES.

EXHIBIT “B”
MASTER PLANNED DEVELOPMENT AGREEMENT
ORDINANCE No. 20



COMMUNITY DEVELOPMENT DEPARTMENT
STAFF REPORT FOR HARBORSIDE MPD
CITY COUNCIL
NOVEMBER 15, 2022

OVERVIEW

Application Number: 5132

Applicant: JDI Palm Coast, LLC

Property Description: 17.64 +/- acres of property located on the east and northeast sides of the intersection between Palm Harbor Parkway and Clubhouse Drive

Property Owners: JDI Palm Coast, LLC and Palm Coast Resort Community Association, Inc.

Parcel ID #: 38-11-31-0000-01030-0000 and 38-11-31-7103-000F0-0000

Current FLUM designation: Mixed Use

Current Zoning designation: Centex Harborside Inn & Marina PUD

Current Use: Residential condos, parking garage, marina with wet slips, infrastructure, and vacant cleared land

Size of subject property: 17.64 +/- acres

Requested Action: Rezoning from Harborside Inn & Marina PUD to Harborside Master Planned Development (MPD)

Recommendation: Denial

ANALYSIS

REQUESTED ACTION

JDI Palm Coast, LLC as the applicant is proposing to rezone 17.64 +/- acres that has an existing marina with 84 wet slips, a 72-unit residential condominium building, a 525-space parking garage, infrastructure, and vacant cleared land. The property is located on the east and northeast sides of the intersection between Palm Harbor Parkway and Clubhouse Drive. It is also located adjacent to the south side of the Clubhouse Waterway and along the west side of the Intracoastal Waterway. The proposed rezoning is from Harborside Inn & Marina PUD to Harborside Master Planned Development (MPD) for a potential mixed-use project that is intended to include a marina with ship's store, townhouses, multi-family units and possibly a restaurant and/or hotel.

The applicant is requesting two options for the development, one primarily adding residential units

and the second primarily adding residential units and a hotel. Per LDC Section 3.05.03.C, residential density calculations cannot include lands being used for commercial purposes so in scenario one 0.7 +/- acre of commercial land area for Lots 1 and 2 are subtracted from the project size while on scenario two, 2.7 +/- acres of commercial land area for Lots 1 - 3 are subtracted from the project size. (Note that hotels and commercial uses are governed by intensity limits, typically using floor area ratios, rather than density limitations.) In scenario one, the proposed 432 units would have an overall project density on the 16.94 +/- acres of 25.5 units/per acre. In scenario two, the proposed 432 units would have an overall project density on the 14.94 +/- acres of 28.9 units/per acre.

BACKGROUND/SITE HISTORY

The 154-room Sheraton resort hotel with a restaurant, bar and meeting rooms was constructed in the 1970's. In 1986, the harbor master's office and ship store were constructed. In 1988, the pavilion along the Intracoastal Waterway was constructed and in 2000, bulkheads and the boat slips were constructed at the marina. In 2004, the property was still occupied by the marina and the Sheraton resort hotel along with lots of surface parking.

The City Council on May 17, 2005, adopted Ordinance # 2005-18, that approved the rezoning of the 17.64 +/- acre site from General Commercial (C-2) to Harborside Inn and Marina Planned Unit Development (PUD). In addition to the marina, the 2005 PUD added a 209-unit hotel condominium, up to 47,000 sq. ft. of accessory hotel uses including restaurants and conference areas, a harbor master/ship store with fueling services, 169 resort condominium units, a parking garage, and related recreational uses.

On July 29, 2005, Centex Homes purchased the subject property and in early 2006, they had the Sheraton resort hotel and its surface parking area removed. In late 2006/early 2007, the 72-unit seven-story condominium building was constructed which was followed by construction of the five-level parking garage. These two buildings were located on the 8.36 +/- acre parcel to the south of the applicant's 9.28 +/- acre parcel that comprises the northern portion of the PUD.

On October 16, 2007, the City Council adopted Ordinance No. 2007-24, which amended and restated the Harborside Inn & Marina PUD. On February 26, 2009, Centex Homes turned over the balance of the southern tract of land that was not owned by individual condominium owners to the Palm Coast Resort Community Association, Inc.

On December 28, 2016, Centex Homes sold the northern 9.28 +/- acre tract to the applicant (JDI Palm Coast, LLC).

FUTURE LAND USE ELEMENT OF THE COMPREHENSIVE PLAN AND DENSITY

The applicant is requesting two basic scenarios, one primarily adding residential units and the second primarily adding residential units and a hotel. Residential density calculations cannot include lands that are being used for commercial purposes so in scenario one 0.7 +/- acre of commercial land area for Lots 1 and 2 are subtracted from the project size while on scenario two, 2.7 +/- acres of commercial land area for Lots 1 - 3 are subtracted from the project size. In scenario one, the proposed 432 units would have an overall project density on the 16.94 +/- acres of 25.5 units/per acre. In scenario two, the proposed 432 units would have an overall project density on the 14.94 +/- acres of 28.9 units/per acre. The proposed density of either 25.5 or 28.9 dwelling units/acre is inconsistent with the Comprehensive Plan as it exceeds the maximum density for a Master Planned Development (MPD) within a Mixed Use FLUM of 15 dwelling units/acre (Policy 1.1.1.2).

As proposed the MPD Development Agreement (DA) is inconsistent with Comprehensive Plan Policy 1.1.2.2 which reads, Permitted densities and intensities within a MPD shall generally follow those allowed within the corresponding zoning districts associated with the land use designation assigned to the property. Deviations from these density and intensity standards may be permissible to promote and encourage creatively planned projects and in recognition of special geographical features, environmental conditions, economic issues, or other unique circumstances.

As currently constructed, the MPD-DA is not consistent with the intent of Policy 1.1.2.2 that allows deviations from density and intensity standards if a project promotes and encourages creatively planned projects and recognizes special geographical features, environmental conditions, economic issues, or other unique circumstances.

As originally approved in 2005 (Ord. 2005-18), the City approved a Floor to Area Ratio (FAR) above the maximum FAR for the zoning district, as provided for in Policy 1.1.2.2 (from a maximum of .55 to .67), in recognition of the project's vision and goal to promote the following:

- develop a creatively planned icon resort project,
- a project that recognizes the special and unique location of the site by promoting a hotel with conference and meeting facility which takes advantage of the property's unique location at the intersection of Clubhouse Waterway and the Intracoastal Waterway,
- a project that recognizes the need to update the hotel facility and amenities (including conference and meeting space) to attract business guests and tourists to the City as a way to provide economic benefits to City businesses, and
- enhances the City's overall quality of life.

Additionally, the development program approved in the 2005 PUD-DA, included 47,000 sq. ft. of accessory hotel uses including ballrooms, restaurant, kitchen, ship's store with boat fuel service, trails, and other amenities. In contrast the DA proposes 10,000 sq. ft. of restaurants and a 3,000 sq. ft. ship store but does not commit to the restaurant.

As proposed within Lot 3, the DA provides the option of constructing townhomes, multi-family units or a hotel with meeting space. Furthermore, although the declarant recognizes the significance and importance of the marina facilities, there is no assurance of its continued operation. This is of great importance since the continued operation of a marina, as well as the presence of an iconic resort with amenities, are the main elements in justifying deviation from the permitted density and intensity on the property. Absent of the presence of a hotel/conference room venue and marina operations which were originally envisioned in the approval of the original PUD as a "creatively planned icon resort project", the project instead is more typical of the other

multi-family residential projects located in the surrounding area which have significantly lower density and height (see Marina Cove with a density of 7.8 units/per acre, Waterside Condominiums with a density of 7.6 units/per acre, Bella Harbor with a density of 10.5 units/per acre, and Celebrity Resorts with a density of 5.2 units/per acre). These four nearby projects have heights between two to four floors. Across the Intracoastal Waterway and within the unincorporated area of Flagler County, Harbor Village Marina has a density of 6.7 units/per acre and a height of seven stories but is actually located within the larger Hammock Dunes DRI that has an overall density of 4.1 units/per acre.

Analysis of Consistency with Policy 1.1.1.3

Policy 1.1.1.3 – Measured on a citywide, or cumulative basis, the following density and intensity limitations shall be placed on the FLUM designations:

...

Mixed Use - A maximum of 20% of the total land area within this FLUM designation (citywide) may be zoned or developed for residential use with a maximum of 33% of the residential units occurring at a density equal to or greater than 15 units per acre. A maximum of 25% of the total land area within this FLUM designation (citywide) may be zoned or developed at an intensity equal to or greater than a 0.55 Floor Area Ratio.

As stated in Policy 1.1.1.3 above, the Comprehensive Plan provides for additional limitations on the density and intensity within the Mixed Use land use designation. As a negotiated agreement, the appropriate densities, and intensities in a MPD Development Agreement are controlled by other policies within the Comprehensive Plan and criteria established in the Land Development Code and is not a given.

As stated in the narrative in this section, the DA as written has not provided any assurance or created conditions that allows for a density or intensity to deviate from the underlying zoning district if the project promotes and encourages creatively planned projects and in recognition of special geographical features, environmental conditions, economic issues, or other unique circumstances, as allowed by Policy 1.1.2.2.

Between the September 20th and October 19th PLDRB meetings, staff and the applicant continued to dialogue to create development standards that may satisfy the Comprehensive Plan and the LDC and permit Staff to recommend the project have a density greater than the 15 du units/acre allowed in a typical MPD, to satisfy various provisions in the Comprehensive Plan, including policy 1.1.2.2. These development standards are discussed in Exhibit "A" to this staff report. However, the applicant has not agreed to limit the density to 18.3 du/acre.

Additionally, in reviewing a Master Planned Development, the Planning and Land Development Regulation Board, and City Council need to consider criteria found in Section 2.09.04 (in italics below) when determining the appropriate densities and intensities for an MPD.

....

C. Degree of departure of the proposed development from surrounding areas in terms of character and density/intensity. (Response included in D. below.)

D. Compatibility within the development and relationship with surrounding neighborhoods.

As discussed in more detail later in this staff report the requested maximum densities for the MPD (25.5 or 28.9 dwelling units/acre) and the potential impact from a density that is 3 times greater than the average density of the surrounding community is inconsistent and therefore would not justify a deviation from the established density for this project of 15 dwelling units/acre.

As such, although Policy 1.1.1.3 allows the PLDRB to recommend and the City Council to approve development to occur at a density equal to or greater than 15 units/per acre, there are other policies and LDC provisions that mitigate against exceeding 15 units/per acre. It should be noted that no other mixed use or residential projects in the City have exceeded 15 units/per acre. Policies established in the Comprehensive Plan as well as criteria established in the Land Development Code provide standards as to when such “deviations” may occur.

Staff spelled out specific development standards in Exhibit “A” which the applicant had the option of inserting in their MPD DA so that Staff could have recommended a density increase to 18.3 units/per acre (22% increase over the 15 units/per acre), but the applicant chose to reject Staff’s proposed package of standards prior to the October 19th PLDRB. Instead, the applicant devised optional and much more lenient standards that the applicant claimed would be consistent with the Comprehensive Plan and the LDC and allow the project to go substantially beyond the 15 dwelling units/acre, without even satisfying Policy 1.1.2.2, and achieve densities up to 28.9 units/per acre.

LAND USE AND ZONING INFORMATION

USE SUMMARY TABLE:

CATEGORY:	EXISTING:	PROPOSED:
Future Land Use Map (FLUM)	Mixed Use	Mixed Use
Zoning District	Planned Unit Development (PUD)	Master Planned Development (MPD)
Use	Marina with ship’s store and 84 wet slips, 72-unit residential condominiums, 525-space parking garage, infrastructure, and vacant land	Marina with ship’s store and 84 wet slips, 360 more multi-family residential units including townhouses and possibly a hotel and/or restaurant
Acreage	17.64 +/- acres	17.64 +/- acres

SURROUNDING LAND DESIGNATIONS AND USES:

NORTH: FLUM: Canals then Residential
 Zoning: Public/Semi-Public (PSP) then Master Planned Development (MPD)
 Uses: Residential Condominiums with boat slips

EAST: FLUM: Intracoastal Waterway then Flagler County Mixed Use –
 Low Intensity
 Zoning: Intracoastal Waterway then Flagler County Hammock
 Dunes DRI/PUD

	Uses:	Intracoastal Waterway then Residential Condominiums and single-family homes with boat slips
SOUTH:	FLUM:	Mixed Use
	Zoning:	Master Planned Development (MPD)
	Uses:	Time-share multi-family community
WEST:	FLUM:	Residential
	Zoning:	Multi-family Residential (MFR-1)
	Uses:	Residential Condominiums with boat slips

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE, CHAPTER 2, SECTION 2.05.05

The Unified Land Development Code, Chapter 2, Part II, Section 2.05.05 states: When reviewing a development order application, the approval authority shall determine whether sufficient factual data was presented in order to render a decision. The decision to issue a development order shall be based upon the following, including but not limited to:

A. The proposed development must not be in conflict with or contrary to the public interest;

Staff Finding: The proposed development is in conflict with and contrary to the public interest as the proposed density is not compatible with neighboring projects and thus exceeds what is allowed within the Comprehensive Plan.

B. The proposed development must be consistent with the Comprehensive Plan and the provisions of this LDC;

Staff Finding: As outlined previously, the request is inconsistent with some of the following objectives and policies of the Comprehensive Plan:

- Chapter 1 Future Land Use Element:

-Goal 1.1 – Preserve the character of residential communities, prevent urban sprawl and protect open space and environmental resources, while providing a mix of land uses, housing types, services, and job opportunities in mixed use centers and corridors.

The project's proposed density of 2.5 to 3 times of neighboring projects prevents urban sprawl but does not protect the character of the overall neighborhood community.

-Policy 1.1.1.2 – The future land use designations shall permit the zoning districts listed and generally described in the following table. The maximum densities and intensities for each future land use designation and zoning district are also included in the table. The table states the maximum densities/intensities for an MPD within the Mixed Use District are 15 units per acre and/or 0.55 floor area ratio.

The FLUM designates the subject property as Mixed Use and Master Planned Development (MPD) is an allowed zoning district for the Mixed Use designation within this

FLUM table. This policy is not met as the subject property is proposed for a MPD rezoning with densities substantially exceeding the maximum of 15 units/per acre.

-Policy 1.1.2.2 – Permitted densities and intensities within a MPD shall generally follow those allowed within the corresponding zoning districts associated with the land use designation assigned to the property. Deviations from these density and intensity standards may be permissible in order to promote and encourage creatively planned projects and in recognition of special geographical features, environmental conditions, economic issues, or other unique circumstances.

The proposed zoning reclassification is to Master Planned Development (MPD). A MPD is allowed to have up to 15 units/per acre if located within the Mixed Use District on the Future Land Use Map which this project meets based on its previous development. Staff outlined in Exhibit “A” development standards that would allow staff to support the project having a density of up to 18.3 units/per acre, but these were not agreed to by the applicant. For example, these included the developer constructing a 4,000 sq. ft. sit-down restaurant having at least 75 seats for patrons. Since all of these development standards are not being committed to by the applicant, then the project is not really a creatively planned project having special economic benefits for City and neighboring residents and the density should be limited to 15 units/per acre.

-Policy 1.1.4.1 – The Mixed Use land use designation is intended to provide opportunities for residents to work, shop, engage in recreational activities, and attend school and religious services in reasonably close proximity to residential dwellings.

Residents in the on-site community and those residing nearby will be able to utilize recreational activities at the marina but not necessarily a restaurant and/or hotel with accessory uses, which are at the applicant’s option. Additionally, the applicant has not agreed to relocate the trail that is currently located along the eastern side of the subject property and adjacent to the Intracoastal Waterway. Currently, signs are located along this public trail advising potential trail users that it is private property. It should be noted that the previously approved PUD project located the restaurant, the hotel’s meeting space and other public facilities on the NE corner of the project adjacent to the Intracoastal Waterway. The applicant’s new MPD proposal relocates the optional restaurant and hotel to the NW portion of the project adjacent to Palm Harbor Parkway. As a result, City Staff has agreed to support a design in Exhibit “A” whereby the public trail would be relocated to provide public access to these facilities while also providing improved privacy for the existing 72 residences of this project.

C. The proposed development must not impose a significant financial liability or hardship for the City;

Staff Finding: Public roadways and public utilities are available to serve the site and the developer will construct needed improvements at the intersection of Clubhouse Drive and Palm Harbor Parkway, if deemed applicable by their traffic impact study. A traffic study has not been provided to City staff as part of this application.

D. The proposed development must not create an unreasonable hazard, or nuisance, or constitute a threat to the general health, welfare, or safety of the City’s inhabitants;

Staff Finding: The proposed standards in the MPD rezoning provide for densities exceeding 25 units/per acre which will create an unreasonable nuisance to the City’s inhabitants, especially

those on neighboring properties due to the proposed project's densities that are about three times the average of neighboring properties.

E. The proposed development must comply with all other applicable local, state and federal laws, statutes, ordinances, regulations, or codes.

Staff Finding: As proposed the project does not comply with the City's Land Development Code and Comprehensive Plan as the proposed density exceeding 25 units/per acre far exceeds what is allowable for this project within the MPD Zoning District.

ANALYSIS BASED ON UNIFIED LAND DEVELOPMENT CODE, CHAPTER 2, SECTION 2.09.04

The Unified Land Development Code, Chapter 2, Part II, Sec. 2.09.04 states, "The Planning and Land Development Regulation Board and City Council shall consider the following criteria, in addition to the findings listed in Subsection 2.05.05, when reviewing a master planned development application:"

A. Consistency with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan.

Staff Finding: The proposed application is inconsistent with some goals and objectives of the Comprehensive Plan as previously outlined in this staff report. These primarily involve the proposed density for the project exceeding 25 units/per acre and the DA being constructed in a way that provides no assurance of the creation of an iconic creatively planned project which recognizes the project's special geographical features, environmental conditions, economic issues, or other unique circumstances.

B. Consistency with the general intent of the LDC.

Staff Finding: The proposed density calculations and development standards in the MPD are inconsistent with various specific standards established by the LDC as previously outlined in this staff report. Section 3.03.04.D. of the LDC states that "projects shall not exceed the density or intensity permitted within the Comprehensive Plan Future Land Use Map category where the particular master planned development is proposed." Additionally, as previously described, the proposed project does not meet the intent of the Master Planned District as outlined in LDC Section 3.03.04.B.2 which states, "Encourage a more compatible and harmonious development of contiguous lands."

Due to the project's proposed maximum density between 25 - 29 units/per acre, Planning staff does not believe Section 3.03.04 is met where it states, "An application for rezoning to a Master Planned Development District shall show that the planned development will produce a functional, enduring, and desirable environment, with no significant adverse impacts to adjacent properties."

C. Degree of departure of the proposed development from surrounding areas in terms of character and density/intensity.

Staff Finding: Staff has determined the proposed development is out of character and too intense at this location. For example, density to the north at Marina Cove is 7.8 units/per acre, to the northwest at Bella Harbor is 10.5 units/per acre, directly west at Waterside is 7.6 units/per acre, directly south at Celebrity Resorts is 5.2 units/per acre and across the Intracoastal

Waterway at Harbor Village Marina is 6.7 units/per acre. These five projects have an average density of only 7.6 units/per acre.

D. Compatibility within the development and relationship with surrounding neighborhoods.

Staff Finding: As proposed the very high density of the project is out of character with neighboring properties and other properties along Palm Harbor Parkway as described in detail previously in this staff report.

E. Adequate provision for future public education and recreation facilities, transportation, water supply, sewage disposal, surface drainage, flood control, and soil conservation as shown in the development plan.

Staff Finding: As required by the LDC, future development applications will be analyzed in further detail to determine if there is adequate public infrastructure capacity to serve the development. Other public service needs will also be reviewed in more detail as the development review progresses. For example, future applications for development will require traffic studies, utility agreements, and coordination with Flagler Schools, etc. before approval. The subject project will be required to pay applicable impact fees to accommodate its impact on the public infrastructure and services.

F. The feasibility and compatibility of development phases to stand as independent developments.

Staff Finding: The developer has not shown any specific phasing for continued development of the project. However, the proposed lots within the MPD are situated where they can be adequately developed independently through the platting process.

G. The availability and adequacy of primary streets and thoroughfares to support traffic to be generated within the proposed development.

Staff Finding: A traffic impact study will be required during the Subdivision Master Plan to demonstrate that all roadways within the project's study area and the intersection of Clubhouse Drive and Palm Harbor Parkway, with the project's traffic included, will operate at the City's adopted level of service.

H. The benefits within the proposed development and to the general public to justify the requested departure from standard development requirements inherent in a Master Planned Development District classification.

Staff Finding: The applicant has not demonstrated a benefit to the City in order to exceed the 15 units/per acre of the MFR-2 Zoning District unless specific development standards (see Exhibit "A") are met to allow the project to increase its density by 22% to 18.3 units/per acre. The applicant has proposed a maximum density between 25 - 29 units/per acre.

I. The conformity and compatibility of the development with any adopted development plan of the City of Palm Coast.

Staff Finding: The project's proposed density is about 2.5 to 3 times what has already been developed in neighboring projects.

J. Impact upon the environment or natural resources.

Staff Finding: The landowners will be required to submit all applicable environmental reports or studies as required by the LDC. These studies may include environmental resource assessments, cultural resources, stormwater calculations, floodplain analysis, and threatened and endangered species studies during the site plan or platting process for any new development within the MPD.

K. Impact on the economy of any affected area.

Staff Finding: The residents that will inhabit these new homes should have a positive impact on State and local income including permit and impact fees, taxes, and other sources.

PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING ON SEPT. 20, 2022

This project was heard by the PLDRB on September 20, 2022. Planning staff recommended “denial” of the project due to the proposed very high density and compatibility issues with neighboring properties which did not meet various goals and policies of the Comprehensive Plan and sections of the Land Development Code (LDC). After a very lengthy meeting the PLDRB voted 6-0 to continue the project until the October 19, 2022 PLDRB meeting and requested that the applicant and Planning staff get together to see if they could minimize their differences in the MPD Development Agreement.

UPDATED INFORMATION

The applicant and staff held several meetings discussing the issues between the two parties which resulted in agreement on most all items. However, the major issue that remains is the maximum project density. The applicant is seeking 25.5 or 28.9 units/per acre depending on the applicant’s choice of two development options. Staff and the applicant differ on the interpretation of the Comprehensive Plan and applicable sections of the LDC that determine maximum project densities.

On October 6th, City Staff initiated and sent the applicant a proposed new Section 10 to be included within the MPD Development Agreement. Staff in their professional planning opinion suggested that if eight development standards were implemented within the project, and the project was limited to 18.3 units/acre, Staff could consider the project consistent with the Comprehensive Plan and the LDC; and specifically, with Comprehensive Plan Policy 1.1.2.2. Staff’s proposed eight development standards are attached as Exhibit “A.”

Staff opines that 18.3 units/acre would be consistent with the Comprehensive Plan and the LDC if the applicant implemented all eight items listed in Exhibit “A.” At 18.3 units/per acre this would yield a maximum of either 310 units on 16.94 acres or 273 units on 14.94 acres. This is an increase of 22% over the maximum 15 units/per acre allowed in the Mixed Use District, absent the inclusion of the types of changes allowed in Policy 1.1.2.2 in order to promote and encourage creatively planned projects and in recognition of special geographical features, environmental conditions, economic issues, or other unique circumstances.

The 22% increase in density is consistent with the previous PUD approval which permitted a 22% increase in base intensity which increased the Floor Area Ratio from 55% to 67%. Staff believes their suggested eight development items would make the project equivalent in nature to the previous project regarding Policy 1.1.2.2. These eight standards would allow staff to support a 22% increase for density and is based on consistency with the Comprehensive Plan and LDC. Staff believes the eight standards listed in Exhibit "A", would make the 18.3 units/ per acre project compatible with the surrounding neighborhood. In staff's professional opinion the applicant's proposal of 25.5 to 28.9 units per acre is not compatible with neighboring properties, as required by several sections in the LDC.

The applicant reviewed staff's proposal for 18.3 units/acre with the eight standards, and on October 10th, the applicant provided a written response that is attached as Exhibit "B". The applicant suggested that much of staff's proposed text should be deleted, and suggested alternative text be included with approximately the same development standards (one standard was dropped by the applicant). (Note applicant's proposed MPD DA includes their proposed alternative standards.) The applicant argued that if they met even some of staff's eight standards, the project would be entitled to 432 units and a density of 25.5 or 28.9 units/per acre.

PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING ON OCTOBER 19, 2022

This project was heard again by the PLDRB on October 19, 2022. Planning staff recommended "denial" of the project due to the proposed very high density and compatibility issues with neighboring properties which did not meet various goals and policies of the Comprehensive Plan and sections of the Land Development Code (LDC). After a lengthy meeting the PLDRB voted 7-0 to recommend denial of the project to the City Council.

PUBLIC PARTICIPATION

Unified Land Development Code Chapter 2, Part II, Section 2.05.02 requires developers or property owners who are requesting to rezone property within the City to notify neighboring property owners within 300 feet of the area proposed for development and hold a Neighborhood Information Meeting.

To comply with this standard, the applicant notified neighboring property owners via regular mail on August 30, 2022, of an upcoming neighborhood information meeting that was held September 8, 2022, at 11:00 a.m. at the 3rd deck of the on-site parking garage. Approximately 48 persons attended this meeting including the applicant's three representatives and one City staff member. The meeting ended at approximately 12:15 PM.

Two City provided signs were erected on the subject property along Palm Harbor Parkway on September 6, 2022, to notify neighbors and the general public of the public hearing for the Planning and Land Development Regulation Board on September 20, 2022. The applicant erected two new October 4th notifying of the October 19, 2022 PLDRB meeting. The City ran a news ad 20 days prior to the September 20, 2022 PLDRB meeting and since the project was continued ("date certain" to October 19th) by the PLDRB no additional newspaper ad was required. The City will run news ad 13 days prior to each City Council public hearing and the applicant will erect two signs on the property at least 14 days prior to each City Council meeting.

A total of 29 persons from the public spoke at the two PLDRB meetings with 11 speaking at the first PLDRB meeting and 18 speaking at the second PLDRB meeting. Staff did not notice anyone speaking at both hearings as the City Attorney announced that those speaking at the first hearing were already on the record and there was no need to speak again. All or nearly all speakers had concerns with the project and their concerns primarily involved: project density and number of units, building height, traffic, stormwater and flooding issues, utility issues and lack of specific development plans by the developer.

RECOMMENDATION

The Planning and Land Development Regulation Board found the proposed MPD Application No. 5132 not in compliance with the Comprehensive Plan's Goal 1.1 and Policies 1.1.1.2 and 1.1.2.2 and not in compliance with the Land Development Code's Sections 3.03.04, 3.03.04.B.2, and 3.03.04.D and recommended denial to City Council to rezone 17.64 +/- acres from Harborside Inn & Marina PUD to Harborside MPD.

EXHIBIT "A"

STAFF'S VERSION ON 10-6-22 (ITEM 3 ON PAGE 12 CLARIFIED ON 10-26-22)

SECTION X. PROJECT DENSITIES AND INTENSITIES

- (a) The Subject Property was partially developed prior to approval of the PUD in 2007, and these improvements included: the Existing Condominium, the Parking Garage, marina with ship's store and 84 slips, a fishing dock and gazebo along the Intracoastal Waterway, a master stormwater system, and a central roadway with utilities. Additionally, the previous owner of the Harborside Property made a payment of \$200,000 to the City to partially fund a public boat ramp elsewhere in the City to remedy the loss of the boat ramp to the public. Based on these improvements and the fact that the Comprehensive Plan was modified to 15 units/per acre for MPDs in 2010, the Project is entitled to a density of 15 residential units/per acre as allowed in an area designated Mixed Use on the Future Land Use Element (FLUM) with a MPD Agreement.
- (b) Per Policies 1.1.1.3 and 1.1.2.2 of the Comprehensive Plan, the 2007 PUD allowed a 22% increase from 55% to 67% in the maximum Floor Area Ratio for a MPD located within a Mixed Use designation on the FLUM. The increase was justified since the project development was for an icon destination resort that would include enhanced conference and meeting facilities and a variety of recreational and leisure activities. That project was expected to provide tourism and economic development while maintaining public access along the Intracoastal Waterway adjacent to the site. The destination resort was intended to continue the 84-slip marina, allow for 169 resort condominiums (including the 72-unit Existing Condominium), and a 209-unit icon resort condominium hotel with up to 47,000 square feet of accessory hotel uses that could include: ballrooms, restaurant, fitness center, conference meeting space, pools, trails, and harbor master/ship store with fuel service.

-
- (c) The Owner no longer wants to develop the PUD as previously approved and has applied for a new MPD Agreement which primarily changes the basis of the MPD development limits from FAR (intensity) to residential density. Since a destination icon resort is no longer intended, the owner has agreed to provide the following to justify an increase in density beyond 15 residential units/per acre. If the Owner provides all of the following in the shown time frames, the residential density of the Project shall be increased by 22% to 18.3 residential units/per acre:
- 1) Construct a sit-down restaurant on Lots 1, 2 or 3 that would have a minimum of 4,000 sq. ft. of gross floor area and at least 75 seats for patrons. (Constructed prior to exceeding 15 units/per acre.)
 - 2) Remodel or construct a new ship's store that can include the sit-down restaurant within the same building. (Constructed prior to exceeding 15 units/per acre.)
 - 3) Keep the marina open including fuel sales to the public and at least 25% of wet slips available for ~~non~~-transient/restaurant (limit of 75% of slips to onsite residents) use. A slip space to include accommodations for commercial use (i.e smaller barge for bulkhead repairs).
 - 4) If the Owner decides to sell the marina the City shall have the first right of refusal.
 - 5) Maintain existing boat ramp to be utilized by public entities for public related activities such as emergency events.
 - 6) Maintain a "Clean Marina" designation from the DEP.
 - 7) Construct a paved 5' wide sidewalk that would connect from the existing trail located on the west side of the Intracoastal Waterway west adjacent to the drainage canal and running westerly south of the Condominium and then south of the Parking Garage. The existing trail easement along the Intracoastal Waterway would be vacated by the City upon completion of the new trail. (Constructed in the initial phase or commencing construction

within 18 months and completion within 24 months of the approval of the MPD Agreement, whichever is earlier.)

- 8) Provide prototype Palm Coast entry way sign or as agreed to by both parties along the Intracoastal Waterway. The sign can be combined with developers sign.

EXHIBIT "B"

APPLICANT'S VERSION RECEIVED ON 10-9-22

SECTION 10. PROJECT DENSITY

The City has determined that the Project satisfies the criteria set forth in Policy 1.1.2.2 of the Comprehensive Plan's Future Land Use Element permitting an increase in densities and/or intensities for the Project. The residential unit count within the Project shall be limited to 254 units, except as provided in this Section X. In addition, Owner may elect, at any time, to increase the residential unit count above 254 total units by fulfilling one or more of the following conditions ("Density Bonus Incentive Conditions"):

1. 50 additional residential units: Owner shall construct a sit-down restaurant on Lots 1, 2 and/or 3 with at least 4,000 sq.ft. of gross floor area and at least 75 seats for patrons.
2. 50 additional residential units: Owner shall provide the City of Palm Coast with a one-time right of first offer (i.e., one-time first opportunity to negotiate in good faith) to purchase the marina, prior to Owner pursuing a sale of the marina to a third party.
3. 25 additional residential units: Owner shall renovate, remodel, or construct a new Ship's Store, which may include and be combined with the sit-down restaurant described above.
4. 25 additional residential units: Owner shall be maintaining or have obtained a Clean Marina designation pursuant to the Florida Department of Environmental Protection ("FDEP") Clean Marina Program, or a comparable program if the FDEP's Clean Marina Program is discontinued, at the time the request for the additional units is made in an application for site plan approval.
5. 25 additional residential units: Owner shall be operating a marine vessel fuel sale operating at the marina (subject to commercially reasonable viability) at the time the request for the additional units is made in an application for site plan approval.


6. 25 additional residential units: Owner shall open and be operating a private boat ramp at the marina (subject to commercially reasonable viability) at the time the request for additional units is made in an application for site plan approval.
7. 25 additional residential units per wet slip: Owner shall make a wet slip at the Marina available for public daily short-term transient use.
8. 25 additional residential units: Owner shall provide the City with a license to construct, at the City's expense, a Welcome sign on the ICW, which sign shall be compatible in size with Owner's private sign in the same location.
9. 25 additional residential units: Owner shall fund the costs of installing the City's welcome sign on the ICW as described above.

Under no circumstances will more than 432 residential units be permitted within the Project.

Harborside Inn & Marina



Legend

 Palm Coast City Limits

 Harborside


0 450 900 Feet



Harborside Inn & Marina



Legend

 Palm Coast City Limits

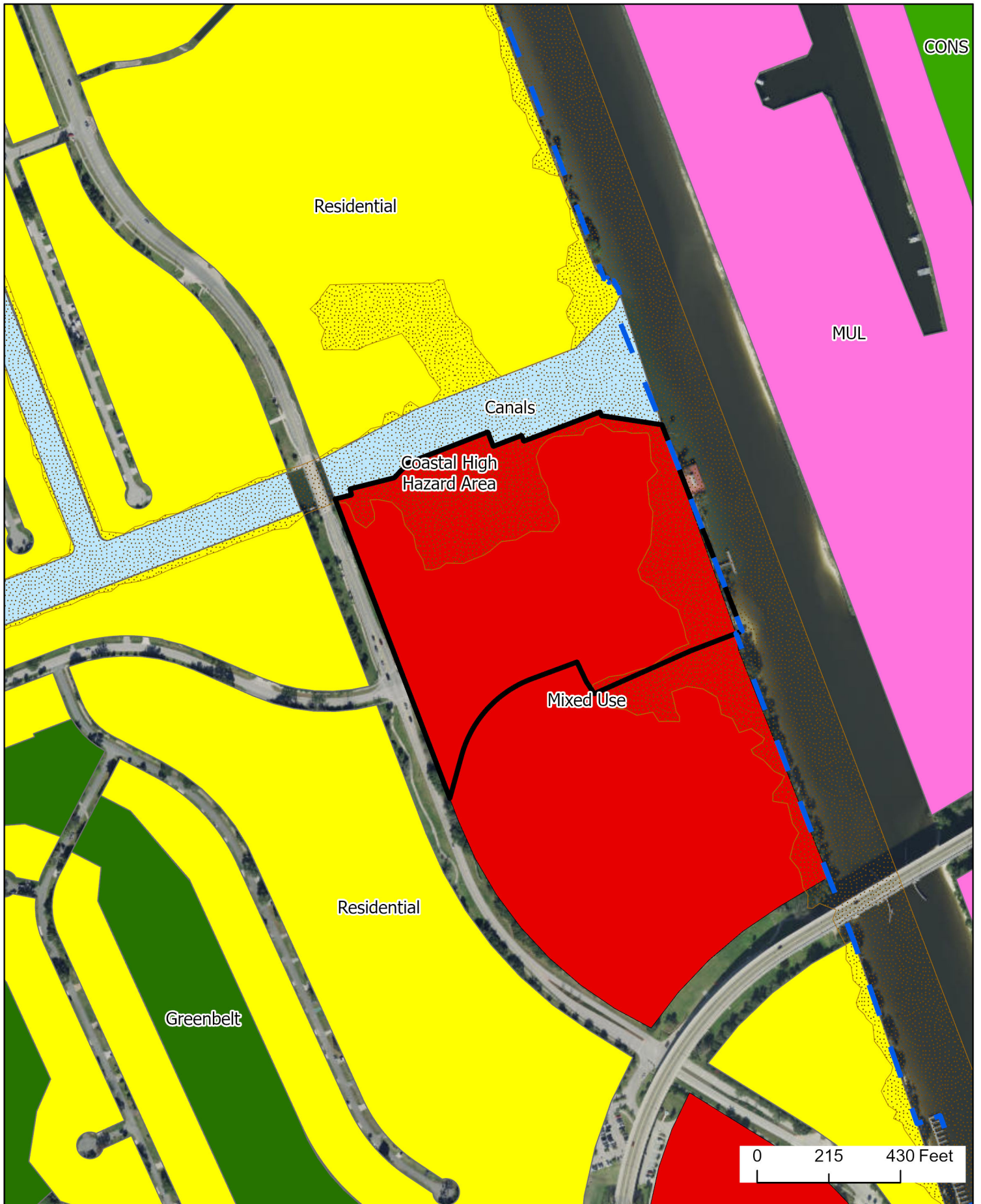
 Harborside

0 215 430 Feet



Map Created By: Planning Division

Harborside Inn & Marina-FLUM

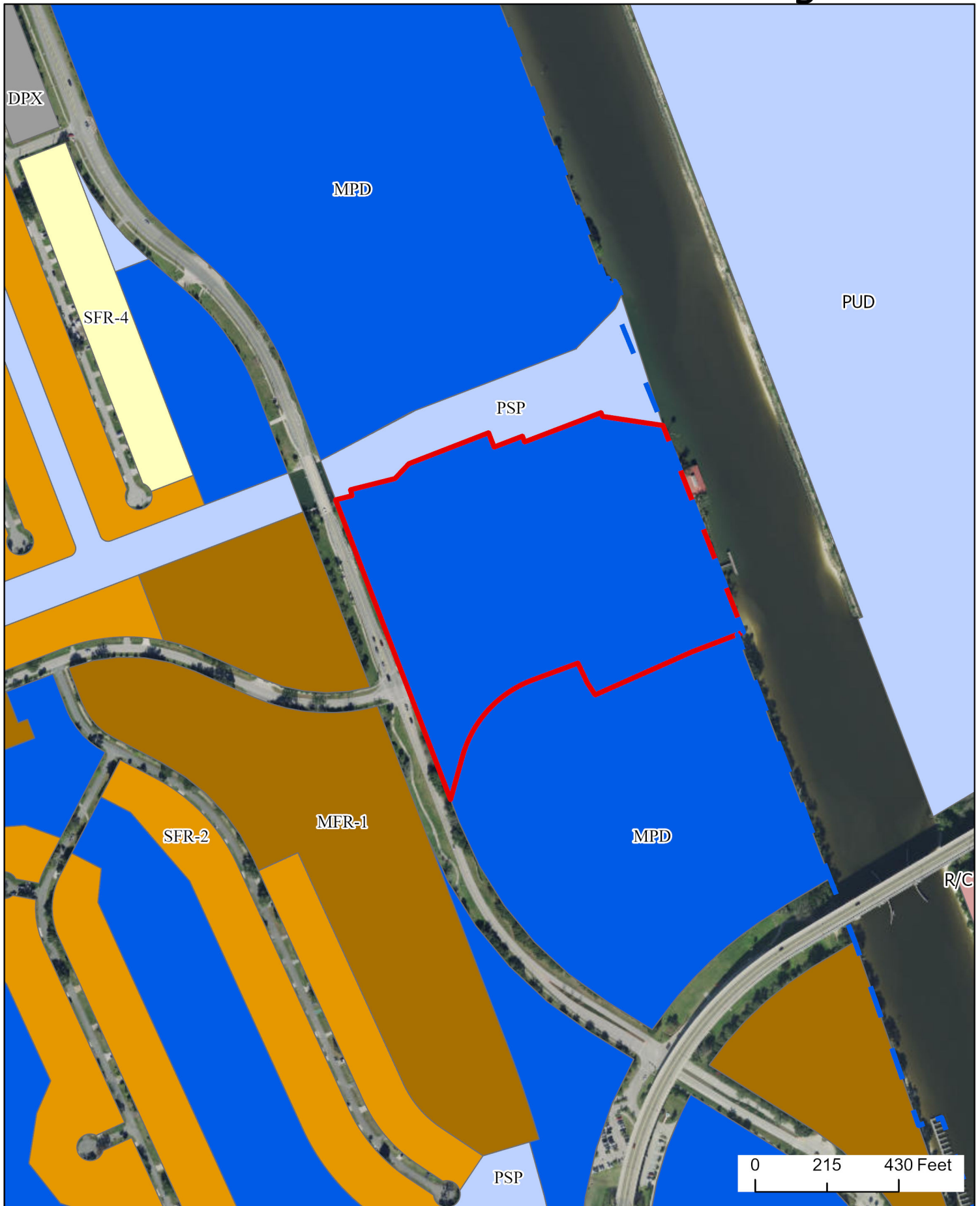


Legend

- | | | |
|------------------------|--------------------------|--------------|
| Palm Coast City Limits | Coastal High Hazard Area | Flagler FLUM |
| Harborside | Greenbelt | CONS |
| Palm Coast FLUM | Mixed Use | MUL |
| Canals | Residential | |



Harborside Inn & Marina-Zoning



Legend

- | | | |
|------------------------|-------|-------|
| Palm Coast City Limits | MFR-1 | SFR-4 |
| Harborside | MPD | PUD |
| DPX | PSP | R/C |
| SFR-2 | | |






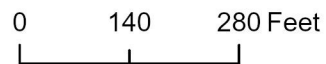
Harborside - Surrounding Densities



Legend

 Palm Coast City Limits

 Harborside



LIVINGSTON & SWORD, P.A.

Attorneys At Law

September 4, 2022

Ray Tyner
Deputy Development Director
City of Palm Coast
Palm Coast, Florida 32164

Subject: JDI Palm Coast, LLC
Application for Rezoning to Master Planned Development (MPD)

Dear Mr. Tyner:

Please find enclosed an application to rezone the property described in the application to MPD. In addition to the application for rezoning, which is enclosed with this letter, the requirements for the application are being submitted along with this letter via the City's Online Development Services portal.

An application for rezoning requires an analysis based upon the review findings as outlined in subsection 2.05.05 and subsection 2.06.03 of the Unified Land Development Code. This letter is a preliminary analysis of the criteria and will be supplemented and finalized before the application is considered by the Planning and Land Development Regulation Board after we receive and respond to staff comments to the application.

The review findings and analysis for subsection 2.05.05 are as follows:

A. The proposed development must not be in conflict with or contrary to the public interest.

Rezoning the property to MPD is not in conflict with or contrary to the public interest. The property is already subject to an existing PUD, which is being modified pursuant to the proposed Development Agreement. The proposed zoning entitlements and plan of development are compatible with the existing multi-family tower and consistent with the property's Mixed Use designation on the Future Land Use Map.

B. The proposed development must be consistent with the Comprehensive Plan and the provisions of this LDC.

The property is within the Mixed Use future land use designation. The proposed zoning district is consistent with that designation as well as the relevant goals and objectives in the City of Palm Coast's comprehensive plans. The project

391 Palm Coast Parkway SW #1
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jay.livingston314@protonmail.ch

proposes a mixture of residential and non-residential uses, including marina support facilities, residential and townhomes, as well as a hotel, restaurant and bar. The proposed densities and intensities for the project are consistent with Policy 1.1.1.3 and Objective 1.1.2 of the Future Land Use Element. Specifically, Policy 1.1.2.2 permits deviations from density and intensity standards “to promote and encourage creatively planned projects”.

Objective 1.1.2 of the Future Land Use Element of the Comprehensive Plan (“FLUE”) encourages the use of innovative land development regulations by permitting Master Planned Developments (“MPD”) in any FLUM designation. Policy 1.1.1.3 allows for 20% of the total land area in the City with a Mixed Use Future Land Use Map (FLUM) designation to be residential and 33% of the residential units developed in these areas to occur at a density equal to or greater than 15 units per acre. The FLUE allows deviations in the permitted uses, intensities and densities on land zoned MPD.

The Harborside MPD proposes a maximum density greater than 15 units per acre. This is permitted because the property is designated Mixed Use on the FLUM, is already in the PUD zoning district under the existing PUD as recorded in Official Records Book 1253, Page 1924 (the “PUD”) (which already permits residential density greater than 15 units per acre) and the pending application proposes to rezone the property to MPD. Policy 1.1.2.2 of the FLUE provides:

Permitted densities and intensities within a MPD shall generally follow those allowed within the corresponding zoning districts associated with the land use designation assigned to the property. Deviations from these density and intensity standards may be permissible in order to promote and encourage creatively planned projects and in recognition of special geographic features, environmental conditions, economic issues, or other unique circumstances.

First, it must be noted that this policy was already utilized for the entitlements approved in the existing PUD. Excerpts from the PUD are enclosed with this letter. Due to the justifications provided by the prior owner/developer, the City approved the PUD to allow for a deviation from the maximum Floor Area Ratio of 0.55 to 0.67. This permitted a project that combined multiple residential buildings with a “condominium hotel” and a significant intensity of non-residential uses along with the marina and supporting uses. To support the increased intensity of the project the prior developer constructed a stormwater system and 525 space parking structure. Unfortunately, after a single 8-story, 72-unit residential tower was constructed the market was impacted by the Global Financial Crisis and the remaining portions of the project were not developed.

The Harborside MPD proposes a creatively planned mixed use project with a reduction in the non-residential intensity and modest increase in the residential density. This will allow for a mixed use project that is financially feasible and fully utilizes the infrastructure already constructed pursuant to the PUD. The

increased density is justified under Policy 1.1.2.2 for the foregoing reasons and the following:

Promotes and Encourages Creatively Planned Projects

The Harborside MPD is a creatively planned mixed use project that includes a synergistic mix of uses including hotel, restaurant & bar, retail /ship store, office / dockmaster, marina with wetslips, fueling and ancillary supporting services, and sufficient density of residential uses to make the project financially feasible; particularly if hotel use ultimately proves to be infeasible.

Geographic/Natural Features

The project site was developed as a hotel and marina long before the City of Palm Coast existed. After the hotel exceeded its useful life and was demolished it was planned and significantly built out as one, if not the single most, dense master plans in the City of Palm Coast. The portions built to date include an 8-story residential building (believed to be the tallest building in the City) and a parking garage with 525 parking spaces (believed to be the only multi-level parking garage in the City). The PUD and resultant project were only possible by application of Policy 1.1.2.2. The parcel size and development area predated the incorporation of the City of Palm Coast, which must be taken into account when considering an appropriate use for this exceptionally unique location.

The unique, double-waterfront location, fronting both entrance to the saltwater canals from the Intracoastal Waterway (“ICW”) and the ICW itself, is the perfect and only remaining location in the City to create walkable density at a level which complements surrounding existing uses on both sides of the ICW. The existing PUD and the elements of it which have been constructed are the most clear, convincing and substantial evidence that this location at the confluence of two navigable waterways offering direct access to the ICW plus views of the Atlantic Ocean at even moderate heights should be, and in fact already has been, approved and developed to a density in excess of 15 units per acre according to Policy 1.1.2.2. Projects in the immediate vicinity of the Harborside project are also more densely developed than is typically found elsewhere within either the City limits or Flagler County as a whole. For example, nearby and within the City limits there is an abundance of 4-story, tightly spaced residential buildings, including directly across Palm Harbor Parkway from the project site. The densely developed Yacht Harbor Village is directly across the ICW in unincorporated Flagler County.

Economic Issues

The City maximizes its benefit from the unique intersection of two navigable waterways via a mix of uses with an orientation around the waterfronts. However, mixed use developments are extremely expensive, complicated and time consuming – much more so than conventional single use development. The waterfront location of this site makes it both highly desirable and very expensive. Expensive to purchase, develop and maintain. Not merely expensive to purchase.

But also to develop and maintain. Far more expensive than other non-waterfront locations.

The existing and proposed mix of uses, marina, waterfront dining and the infrastructure and parking necessary to accommodate them are not now and have not historically been profitable endeavors for developers. They are not financially viable now nor are they likely to be in the foreseeable future in light of the enormous cost to develop and maintain without even considering the cost to acquire the underlying land. But these amenities provide a material public benefit and are enjoyed by the community at large as well as the residents and their guests of the mixed-use project. They create a sense of place, a neighborhood feel with authenticity. They create community. But they are also “money losers”. But with a thoughtful mix of uses and densities, they can become “loss leaders” such that the whole is greater than the sum of the parts.

To offset the unavoidably high cost of a mixed use project of this type, other financially viable uses must be developed. Otherwise, these amenities cannot be developed much less maintained for the life of the project. In the project location residential is the only use which is both appropriate and financially viable. More specifically, residential uses must be developed at a level necessary to attain “economies of scale” from both a development cost and operating cost perspective. Such economies of scale are not attainable on this site at a density of only 15 units per acre.

The 432 requested residential units (of which 72 exist today) is necessary to attain reasonable economies of scale in development costs – which are elevated due to the coastal, waterfront location and necessary sustainability measures including storm resistance. Similarly, the requested unit quantity is necessary to operate efficiently a first-class residential project without overburdening residents with excessive, unsustainable ongoing costs for repairs, maintenance and the like.

In order to feasibly develop a mixed-use project with some degree of public benefit in the form of waterfront dining and recreation, residential density as requested must be permitted because of the site-specific requirements of construction and the more general costs of operation.

Other Unique Circumstances

The application is to allow modifications to a previously approved mixed use project providing residential, hospitality, marina and outdoor recreation uses. To best bolster mixed-use projects, a sufficient residential density is necessary to provide stability and predictability to the overall plan from a use and activity standpoint. Commercial uses and users frequently come and go but residential uses are a constant, predictable, stabilizing element. A case in point is European Village, which has had material struggles over time with stability in its retail and other non-residential spaces. Additional residential uses provide sustainable

activity and pedestrian life to what may otherwise be perceived as a bit of a ghost town.

Finally, as noted above, the infrastructure constructed to accommodate the intensity permitted in the PUD by application of Policy 1.1.2.2 must be taken into account. These unique features of the project site, namely the stormwater infrastructure and parking garage, were constructed with the increased intensity allowed only because of Policy 1.1.2.2. Any deviation from the PUD plan should ensure that the existing capacity of this infrastructure is utilized both to prevent waste and to prevent an undue burden being placed on existing residents of the 72-unit residential tower who could be left to bear the lion's share of the cost to operate and maintain such immense infrastructure. The proposed Harborside MPD does just that by increasing the residential density as allowed by Policy 1.1.2.2 without sacrificing the mixed use nature of the project, which will also include the marina, marina supporting uses and a retail ships store, restaurants and bars, and a hotel if allowed by market conditions.

- C. The proposed development must not impose a significant financial liability or hardship for the City.

The proposed development will not impose any financial liability or hardship on the City. In fact, the development will contribute impact fees to offset the impacts on City infrastructure and services. After the property is developed it will also increase the residential and non-residential tax base of the City as well as provide additional sales tax revenue.

- D. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulations, or codes.

Development of the property will be in compliance with all relevant laws and regulations as part of the development review and approval process.

The review findings and analysis for subsection 2.06.03 are as follows:

- A. Whether the rezoning is consistent with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan.

The requested rezoning is consistent with the property's Mixed Use future land use designation. It is also consistent with and furthers the goals and objectives of all relevant adopted elements of the City's Comprehensive Plan as explained in more detail above.

- B. Its impact upon the environment or natural resources.

The proposed development is within an existing mixed use development, which has already addressed environmental and natural resources on site and in

the immediate area. The proposed development avoids and minimizes impacts to these resources.

C. Its impact on the economy of any affected area.

The proposed development will have a positive impact on the economy of the affected area.

D. Its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste, or transportation systems.

The proposed development will contribute all applicable impact fees for sewage disposal, potable water, drainage, fire, police protection, solid waste, or transportation, less any credits for previously paid but unused capacity reservations for water and sewer. The residential components of the project will contribute impact fees for schools as well as any proportionate fair share mitigation obligation that may be required to address any student station needs created by the development.

E. Any changes in circumstances or conditions affecting the area.

The surrounding area is and remains planned as a mixed use area suitable for the proposed mixture of residential and non-residential uses.

F. Compatibility with proximate uses and development patterns, including impacts to the health, safety, and welfare of surrounding residents.

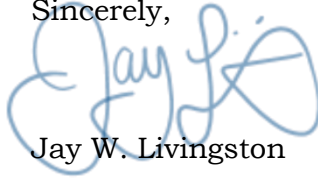
The proposed development is compatible with the surrounding uses and development patterns. The eastern portion of the property is limited to townhouse with higher density residential uses to the west. This will ensure compatibility with the existing multi-family tower and avoid any conflicts with the non-residential uses proposed for the western portion of the property. It will also avoid non-residential traffic in the residential areas of the project. The location for the proposed hotel, restaurant, bar and marina support facilities will further these compatibility goals while also ensuring commercial visibility from the adjacent Palm Harbor Parkway.

G. Whether it accomplishes a legitimate public purpose.

The proposed development will provide a mixture of residential and non-residential uses to serve the onsite residents as well as the neighborhood and City as a whole. It will also ensure the long term viability of the marina, which is and has been a landmark in the City of Palm Coast since before the incorporation of the City.

Please contact me if you have any questions, comments or require additional information.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jay W. Livingston". The signature is stylized and cursive.

Jay W. Livingston

CC: JDI Palm Coast, LLC



- GENERAL APPLICATION:** Rezoning Special Exception
 Nonstatutory Land Division/Parcel Reconfiguration Vacating Plat
 Subdivision Master Plan Preliminary Plat Final Plat
 Master Site Plan Nonresidential Controlling Master Site Plan
 Technical Site Plan Site Plan Addition Development Order Modification
 Variance Parking Flexibility
 Wireless Communication Facility (new structure)

CD Plus Application #: _____ Application Submittal Date: _____
 Fee Paid: \$ _____ Date of Acceptance: _____
 Employee Name Accepting Application (print name): _____
 Rejected on _____ Rejected by: _____
 Reason for Rejection: _____

- A. PROJECT NAME:** Harborside
- B. LOCATION OF SUBJECT PROPERTY (PHYSICAL ADDRESS):** _____
15 Palm Coast Resort Blvd, Palm Coast, FL 32137; 120 Palm Coast Resort Blvd, Palm Coast, FL 32137
- C. PROPERTY APPRAISER'S PARCEL NUMBER(s):** _____
38-11-31-0000-01030-0000; 38-11-31-7103-000F0-0000
- D. LEGAL DESCRIPTION:** _____ Subdivision Name: N/A Section: 38-39 Block: N/A Lot _____
Phase Two, Bldg "D"; Phase Three, Bldg "C"; Phase One, Bldg "E"
- E. SUBJECT PROPERTY ACRES / SQUARE FOOTAGE:** 17.6426 acres in total
- F. FUTURE LAND USE MAP DESIGNATION:** Mixed Use EXISTING ZONING DISTRICT: MPD
 OVERLAY DISTRICT: District 2
- G. FLOOD ZONE:** AE, X COMMUNITY PANEL NUMBER: 0129 DATE: 6/6/2018
- H. PRESENT USE OF PROPERTY:** Air / Marina (2000); Condo Parking Garage (2804)
- I. DESCRIPTION OF REQUEST / PROPOSED DEVELOPMENT (MAY ATTACH ADDITIONAL SHEETS):** _____
MPD / Mixed-Use Development
- J. PROPOSED NUMBER OF LOTS:** 5 lots (1-5) + 1 tract (A)
- K. CHECK APPROPRIATE BOX FOR SITE PLAN:**
 Tier 1 (up to 40,000 sq. ft. / 40 units)
 Tier 2 (up to 100,000 sq. ft. / 100 units)
 Tier 3 (exceeding 100,000 sq. ft. / 100 units)
- L. LIST BELOW ANY APPLICATIONS CURRENTLY UNDER REVIEW OR RECENTLY APPROVED ASSOCIATED WITH THIS APPLICATION:**
N/A
- M. WATER/SEWER PROVIDER:** City of Palm Coast
- N. IS THERE AN EXISTING MORTGAGE?** Yes No



OWNER:	APPLICANT / AGENT:
Name: JDI Palm Coast LLC	Name: Livingston & Sword, P.A.
Mailing Address: P.O. Box 64 Little Rock, AR 72203	Mailing Address: 391 Palm Coast Pkwy SW, #1 Palm Coast, FL 32137
Phone Number:	Phone Number: 386-439-2945
E-mail Address:	E-mail Address: jay.livingston314@gmail.com

MORTGAGE HOLDER:	ENGINEER OR PROFESSIONAL:
Name: Chambers Bank	Name: CPH, Inc.
Mailing Address: P.O. Box 609 Danville, AR 72833 c/o: Philip Alexander	Mailing Address: 520 Palm Coast Pkwy SW Palm Coast, FL 32137 c/o Jason Kellogg
Phone Number: 479-495-4625	Phone Number: 386-445-6569
E-mail Address: philipalexander@chamber-bank.com	E-mail Address: jkellogg@cphcorp.com

PLANNER:	TRAFFIC ENGINEER:
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

SURVEYOR:	LANDSCAPE ARCHITECT:
Name:	Name:
Mailing Address:	Mailing Address:
Phone Number:	Phone Number:
E-mail Address:	E-mail Address:

ATTORNEY:	DEVELOPER OR DOCKMASTER:
Name: Livingston & Sword, P.A.	Name:
Mailing Address: 391 Palm Coast Pkwy SW, #1 Palm Coast, FL 32137	Mailing Address:
Phone Number: 386-439-2945	Phone Number:
E-mail Address: jay.livingston314@gmail.com	E-mail Address:

I HEREBY CERTIFY THAT ALL INFORMATION ON THIS APPLICATION IS CORRECT:

Signature of owner OR person authorized to represent this application

Signature(s) Jay Livingston

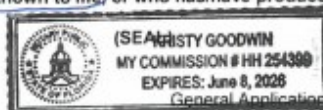
Printed or typed name(s): Jay W. Livingston

NOTARY: This instrument was acknowledged before me on this 31 day of May, 2022 by

Jay Livingston who is/are personally known to me or who has/have produced

as identification.

K. Goodwin
Signature of Notary Public, State of Florida



General Application (sheet 2 of 2)

9.3 Parking.

Development Type	Off street Parking
Hotel Condominium	One space per room (209 x 1 space = 209 spaces) Total: 209 spaces
Resort Condominium Units	<ul style="list-style-type: none"> One and one half space per two (2) and three (3)-br units (162 3-br units x 1.5 = 243); Two spaces per four (4) br units 7 4-br units x 2 = 14; Total: 257 spaces
Hotel related activities	4 spaces per 1000 square feet (188 spaces) to include hotel and harbor master employees <ul style="list-style-type: none"> 47,000 SF / 1,000 SF x 4 = 188 Total: 188 Spaces
Total Required for all uses:	654 Spaces

9.4 Maximum Impervious Surface Ratio ("ISR") – The maximum ISR for the Project shall be 0.70.

9.5 Maximum Floor Area Ratio ("FAR") – The maximum FAR for the Project shall be 0.67, FAR is defined as the total horizontal floor area of a building based on exterior dimensions and applied to all full stories designed or intended for occupancy or use, but excluding open or screened porches and entries, attached or detached structures that enclose mechanical or electrical equipment, attic areas with a headroom of less than 7 feet, parking structures, and basement space where the ceiling is not more than an average of 48 inches above the finished grade elevation of the lot.

The underlying Mixed Use Future Land Use Map designation allows a maximum FAR of 0.55. An increase to 0.67 is permissible under Comprehensive Plan Future Land Use Element Policy 1.1.2.2, which states:

- Permitted densities and intensities within a PUD shall generally follow those allowed within the corresponding zoning districts associated with the land use designation assigned to the property. Deviations from these density and intensity standards may be permissible in order to promote and encourage creatively planned projects and in recognition of special geographical features,

environmental conditions, economic issues, or other unique circumstances.

The FAR for the Project is consistent with Future Land Use Element Policy 1.1.2.2 of the City of Palm Coast Comprehensive Plan in that the Project:

- Promotes and encourages a creatively planned icon resort project.
- Recognizes the special and unique location of the site at the “intersection” of Club House Drive and the Intracoastal Waterway, and near the Palm Coast Parkway Bridge. As such, it is the only non-highway oriented hotel, conference and meeting facility in the City.
- Recognizes the need to update the hotel facility and amenities, including conference and meeting space, to attract business guests to the City, which will provide economic benefits to City businesses.
- Recognizes the need to update the hotel facility and amenities to attract tourists, which will also provide economic benefits to City businesses.
- Minimizes adverse impacts to the environment through creatively-designed landscaping and lighting design.
- Enhances the City’s overall quality of life.

Further, under Future Land Use Element Policy 1.1.1.3, up to 25 percent of the land area within the Mixed Use designation citywide may be developed at an intensity greater than 0.55 FAR.

9.6 Finished Floor Elevations - The minimum finished floor elevations for livable heated or cooled area shall be at least one (1) foot above the site’s 100-year flood elevation. Garage structures and unlivable spaces, may be constructed at or above the site’s 100-year flood elevations, contingent upon provisions being made to allow inflow and outflow of surface water in the unlivable areas.

9.7 Administrative Deviations - The Planning Manager for the City may administratively approve deviations up to ten (10) percent of the criteria contained herein. Deviations of greater than ten (10) percent of the criteria contained herein may be approved by the Planning and Land Development Review Board (PLDRB); provided, however, that administrative deviations to ISR and FAR maximum standards may not be granted.

10.0 Permits and Certificates of Occupancy

Immediately upon the issuance of a Development Order for a Phase of horizontal construction and upon receipt of a bond for that Phase’s site improvements, the City will accept applications for Building Permit(s) for specific buildings or facilities to be constructed in that phase, so as to permit simultaneous horizontal and vertical construction, provided the Developer has obtained the necessary State

LIVINGSTON & SWORD, P.A.

Attorneys At Law

September 4, 2022

Ray Tyner
Deputy Development Director
City of Palm Coast
Palm Coast, Florida 32164

Subject: JDI Palm Coast, LLC
Application for Rezoning to Master Planned Development (MPD)

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The property is within the Mixed Use future land use designation. The proposed zoning district is consistent with that designation as well as the relevant goals and objectives in the City of Palm Coast's comprehensive plans. The project

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Palm Coast, Florida 32137
T 386.439.2945
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proposes a mixture of residential and non-residential uses, including marina support facilities, residential and townhomes, as well as a hotel, restaurant and bar. The proposed densities and intensities for the project are consistent with Policy 1.1.1.3 and Objective 1.1.2 of the Future Land Use Element. Specifically, Policy 1.1.2.2 permits deviations from density and intensity standards “to promote and encourage creatively planned projects”.

Objective 1.1.2 of the Future Land Use Element of the Comprehensive Plan (“FLUE”) encourages the use of innovative land development regulations by permitting Master Planned Developments (“MPD”) in any FLUM designation. Policy 1.1.1.3 allows for 20% of the total land area in the City with a Mixed Use Future Land Use Map (FLUM) designation to be residential and 33% of the residential units developed in these areas to occur at a density equal to or greater than 15 units per acre. The FLUE allows deviations in the permitted uses, intensities and densities on land zoned MPD.

The Harborside MPD proposes a maximum density greater than 15 units per acre. This is permitted because the property is designated Mixed Use on the FLUM, is already in the PUD zoning district under the existing PUD as recorded in Official Records Book 1253, Page 1924 (the “PUD”) (which already permits residential density greater than 15 units per acre) and the pending application proposes to rezone the property to MPD. Policy 1.1.2.2 of the FLUE provides:

Permitted densities and intensities within a MPD shall generally follow those allowed within the corresponding zoning districts associated with the land use designation assigned to the property. Deviations from these density and intensity standards may be permissible in order to promote and encourage creatively planned projects and in recognition of special geographic features, environmental conditions, economic issues, or other unique circumstances.

First, it must be noted that this policy was already utilized for the entitlements approved in the existing PUD. Excerpts from the PUD are enclosed with this letter. Due to the justifications provided by the prior owner/developer, the City approved the PUD to allow for a deviation from the maximum Floor Area Ratio of 0.55 to 0.67. This permitted a project that combined multiple residential buildings with a “condominium hotel” and a significant intensity of non-residential uses along with the marina and supporting uses. To support the increased intensity of the project the prior developer constructed a stormwater system and 525 space parking structure. Unfortunately, after a single 8-story, 72-unit residential tower was constructed the market was impacted by the Global Financial Crisis and the remaining portions of the project were not developed.

The Harborside MPD proposes a creatively planned mixed use project with a reduction in the non-residential intensity and modest increase in the residential density. This will allow for a mixed use project that is financially feasible and fully utilizes the infrastructure already constructed pursuant to the PUD. The

increased density is justified under Policy 1.1.2.2 for the foregoing reasons and the following:

Promotes and Encourages Creatively Planned Projects

The Harborside MPD is a creatively planned mixed use project that includes a synergistic mix of uses including hotel, restaurant & bar, retail /ship store, office / dockmaster, marina with wetslips, fueling and ancillary supporting services, and sufficient density of residential uses to make the project financially feasible; particularly if hotel use ultimately proves to be infeasible.

Geographic/Natural Features

The project site was developed as a hotel and marina long before the City of Palm Coast existed. After the hotel exceeded its useful life and was demolished it was planned and significantly built out as one, if not the single most, dense master plans in the City of Palm Coast. The portions built to date include an 8-story residential building (believed to be the tallest building in the City) and a parking garage with 525 parking spaces (believed to be the only multi-level parking garage in the City). The PUD and resultant project were only possible by application of Policy 1.1.2.2. The parcel size and development area predated the incorporation of the City of Palm Coast, which must be taken into account when considering an appropriate use for this exceptionally unique location.

The unique, double-waterfront location, fronting both entrance to the saltwater canals from the Intracoastal Waterway ("ICW") and the ICW itself, is the perfect and only remaining location in the City to create walkable density at a level which complements surrounding existing uses on both sides of the ICW. The existing PUD and the elements of it which have been constructed are the most clear, convincing and substantial evidence that this location at the confluence of two navigable waterways offering direct access to the ICW plus views of the Atlantic Ocean at even moderate heights should be, and in fact already has been, approved and developed to a density in excess of 15 units per acre according to Policy 1.1.2.2. Projects in the immediate vicinity of the Harborside project are also more densely developed than is typically found elsewhere within either the City limits or Flagler County as a whole. For example, nearby and within the City limits there is an abundance of 4-story, tightly spaced residential buildings, including directly across Palm Harbor Parkway from the project site. The densely developed Yacht Harbor Village is directly across the ICW in unincorporated Flagler County.

Economic Issues

The City maximizes its benefit from the unique intersection of two navigable waterways via a mix of uses with an orientation around the waterfronts. However, mixed use developments are extremely expensive, complicated and time consuming - much more so than conventional single use development. The waterfront location of this site makes it both highly desirable and very expensive. Expensive to purchase, develop and maintain. Not merely expensive to purchase.

But also to develop and maintain. Far more expensive than other non-waterfront locations.

The existing and proposed mix of uses, marina, waterfront dining and the infrastructure and parking necessary to accommodate them are not now and have not historically been profitable endeavors for developers. They are not financially viable now nor are they likely to be in the foreseeable future in light of the enormous cost to develop and maintain without even considering the cost to acquire the underlying land. But these amenities provide a material public benefit and are enjoyed by the community at large as well as the residents and their guests of the mixed-use project. They create a sense of place, a neighborhood feel with authenticity. They create community. But they are also “money losers”. But with a thoughtful mix of uses and densities, they can become “loss leaders” such that the whole is greater than the sum of the parts.

To offset the unavoidably high cost of a mixed use project of this type, other financially viable uses must be developed. Otherwise, these amenities cannot be developed much less maintained for the life of the project. In the project location residential is the only use which is both appropriate and financially viable. More specifically, residential uses must be developed at a level necessary to attain “economies of scale” from both a development cost and operating cost perspective. Such economies of scale are not attainable on this site at a density of only 15 units per acre.

The 432 requested residential units (of which 72 exist today) is necessary to attain reasonable economies of scale in development costs – which are elevated due to the coastal, waterfront location and necessary sustainability measures including storm resistance. Similarly, the requested unit quantity is necessary to operate efficiently a first-class residential project without overburdening residents with excessive, unsustainable ongoing costs for repairs, maintenance and the like.

In order to feasibly develop a mixed-use project with some degree of public benefit in the form of waterfront dining and recreation, residential density as requested must be permitted because of the site-specific requirements of construction and the more general costs of operation.

Other Unique Circumstances

The application is to allow modifications to a previously approved mixed use project providing residential, hospitality, marina and outdoor recreation uses. To best bolster mixed-use projects, a sufficient residential density is necessary to provide stability and predictability to the overall plan from a use and activity standpoint. Commercial uses and users frequently come and go but residential uses are a constant, predictable, stabilizing element. A case in point is European Village, which has had material struggles over time with stability in its retail and other non-residential spaces. Additional residential uses provide sustainable

activity and pedestrian life to what may otherwise be perceived as a bit of a ghost town.

Finally, as noted above, the infrastructure constructed to accommodate the intensity permitted in the PUD by application of Policy 1.1.2.2 must be taken into account. These unique features of the project site, namely the stormwater infrastructure and parking garage, were constructed with the increased intensity allowed only because of Policy 1.1.2.2. Any deviation from the PUD plan should ensure that the existing capacity of this infrastructure is utilized both to prevent waste and to prevent an undue burden being placed on existing residents of the 72-unit residential tower who could be left to bear the lion's share of the cost to operate and maintain such immense infrastructure. The proposed Harborside MPD does just that by increasing the residential density as allowed by Policy 1.1.2.2 without sacrificing the mixed use nature of the project, which will also include the marina, marina supporting uses and a retail ships store, restaurants and bars, and a hotel if allowed by market conditions.

- C. The proposed development must not impose a significant financial liability or hardship for the City.

The proposed development will not impose any financial liability or hardship on the City. In fact, the development will contribute impact fees to offset the impacts on City infrastructure and services. After the property is developed it will also increase the residential and non-residential tax base of the City as well as provide additional sales tax revenue.

- D. The proposed development must comply with all other applicable local, state, and federal laws, statutes, ordinances, regulations, or codes.

Development of the property will be in compliance with all relevant laws and regulations as part of the development review and approval process.

The review findings and analysis for subsection 2.06.03 are as follows:

- A. Whether the rezoning is consistent with all adopted elements of the Comprehensive Plan and whether it furthers the goals and objectives of the Comprehensive Plan.

The requested rezoning is consistent with the property's Mixed Use future land use designation. It is also consistent with and furthers the goals and objectives of all relevant adopted elements of the City's Comprehensive Plan as explained in more detail above.

- B. Its impact upon the environment or natural resources.

The proposed development is within an existing mixed use development, which has already addressed environmental and natural resources on site and in

the immediate area. The proposed development avoids and minimizes impacts to these resources.

C. Its impact on the economy of any affected area.

The proposed development will have a positive impact on the economy of the affected area.

D. Its impact upon necessary governmental services such as schools, sewage disposal, potable water, drainage, fire and police protection, solid waste, or transportation systems.

The proposed development will contribute all applicable impact fees for sewage disposal, potable water, drainage, fire, police protection, solid waste, or transportation, less any credits for previously paid but unused capacity reservations for water and sewer. The residential components of the project will contribute impact fees for schools as well as any proportionate fair share mitigation obligation that may be required to address any student station needs created by the development.

E. Any changes in circumstances or conditions affecting the area.

The surrounding area is and remains planned as a mixed use area suitable for the proposed mixture of residential and non-residential uses.

F. Compatibility with proximate uses and development patterns, including impacts to the health, safety, and welfare of surrounding residents.

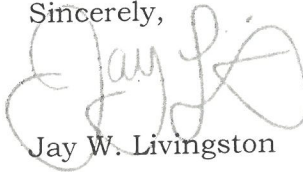
The proposed development is compatible with the surrounding uses and development patterns. The eastern portion of the property is limited to townhouse with higher density residential uses to the west. This will ensure compatibility with the existing multi-family tower and avoid any conflicts with the non-residential uses proposed for the western portion of the property. It will also avoid non-residential traffic in the residential areas of the project. The location for the proposed hotel, restaurant, bar and marina support facilities will further these compatibility goals while also ensuring commercial visibility from the adjacent Palm Harbor Parkway.

G. Whether it accomplishes a legitimate public purpose.

The proposed development will provide a mixture of residential and non-residential uses to serve the onsite residents as well as the neighborhood and City as a whole. It will also ensure the long term viability of the marina, which is and has been a landmark in the City of Palm Coast since before the incorporation of the City.

Please contact me if you have any questions, comments or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jay W. Livingston". The signature is stylized and cursive, with the first name "Jay" being the most prominent part.

Jay W. Livingston

CC: JDI Palm Coast, LLC



GENERAL APPLICATION: Rezoning Special Exception
 Nonstatutory Land Division/Parcel Reconfiguration Vacating Plat
 Subdivision Master Plan Preliminary Plat Final Plat
 Master Site Plan Nonresidential Controlling Master Site Plan
 Technical Site Plan Site Plan Addition Development Order Modification
 Variance Parking Flexibility
 Wireless Communication Facility (new structure)

CD Plus Application #: _____ Application Submittal Date: _____
 Fee Paid: \$ _____ Date of Acceptance: _____
 Employee Name Accepting Application (print name) _____
 Rejected on _____ Rejected by: _____
 Reason for Rejection: _____

A. PROJECT NAME: Harborside

B. LOCATION OF SUBJECT PROPERTY (PHYSICAL ADDRESS) _____
15 Palm Coast Resort Blvd, Palm Coast, FL 32137, 120 Palm Coast Resort Blvd, Palm Coast, FL 32137

C. PROPERTY APPRAISER'S PARCEL NUMBER(s): _____
38-11-31-0000-01030-0000; 38-11-31-7103-000F0-0000

D. LEGAL DESCRIPTION _____ Subdivision Name, N/A Section, 38-39 Block, N/A Lot
Phase Two, Bldg "D"; Phase Three, Bldg "C"; Phase One, Bldg "E"

E. SUBJECT PROPERTY ACRES / SQUARE FOOTAGE: 17 6426 acres in total

F. FUTURE LAND USE MAP DESIGNATION Mixed Use EXISTING ZONING DISTRICT: MPD
 OVERLAY DISTRICT: District 2

G. FLOOD ZONE: AE, X COMMUNITY PANEL NUMBER: 0129 DATE: 6/6/2018

H. PRESENT USE OF PROPERTY: Air / Marina (2000), Condo Parking Garage (2804)

I. DESCRIPTION OF REQUEST / PROPOSED DEVELOPMENT (MAY ATTACH ADDITIONAL SHEETS): _____
MPD / Mixed-Use Development

J. PROPOSED NUMBER OF LOTS: 5 lots (1-5) + 1 tract (A)

K. CHECK APPROPRIATE BOX FOR SITE PLAN
 Tier 1 (up to 40,000 sq. ft. / 40 units)
 Tier 2 (up to 100,000 sq. ft. / 100 units)
 Tier 3 (exceeding 100,000 sq. ft. / 100 units)

L. LIST BELOW ANY APPLICATIONS CURRENTLY UNDER REVIEW OR RECENTLY APPROVED ASSOCIATED WITH THIS APPLICATION
N/A

M. WATER/SEWER PROVIDER: City of Palm Coast

N. IS THERE AN EXISTING MORTGAGE? Yes No



OWNER:		APPLICANT / AGENT:	
Name:	JDI Palm Coast LLC	Name:	Livingston & Sword P A
Mailing Address:	P O Box 64 Little Rock AR 72203	Mailing Address:	391 Palm Coast Pkwy SW, #1 Palm Coast, FL 32137
Phone Number:		Phone Number:	386-439-2945
E-mail Address:		E-mail Address:	jay.livingston314@gmail.com

MORTGAGE HOLDER:		ENGINEER OR PROFESSIONAL:	
Name:	Chambers Bank	Name:	CPH Inc
Mailing Address:	P O Box 609 Danville, AR 72833 c/o Philip Alexander	Mailing Address:	520 Palm Coast Pkwy SW Palm Coast, FL 32137 c/o Jason Kellogg
Phone Number:	479-495-4625	Phone Number:	386-445-6569
E-mail Address:	philipalexander@chamber-bank.com	E-mail Address:	jkollogg@cphcorp.com

PLANNER:		TRAFFIC ENGINEER:	
Name:		Name:	
Mailing Address:		Mailing Address:	
Phone Number:		Phone Number:	
E-mail Address:		E-mail Address:	

SURVEYOR:		LANDSCAPE ARCHITECT:	
Name:		Name:	
Mailing Address:		Mailing Address:	
Phone Number:		Phone Number:	
E-mail Address:		E-mail Address:	

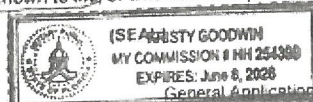
ATTORNEY:		DEVELOPER OR DOCKMASTER:	
Name:	Livingston & Sword, P A	Name:	
Mailing Address:	391 Palm Coast Pkwy SW, #1 Palm Coast, FL 32137	Mailing Address:	
Phone Number:	386-439-2945	Phone Number:	
E-mail Address:	jay.livingston314@gmail.com	E-mail Address:	

I HEREBY CERTIFY THAT ALL INFORMATION ON THIS APPLICATION IS CORRECT:
Signature of owner OR person authorized to represent this application

Signature(s): [Signature]
Printed or typed name(s): Jay W. Livingston

NOTARY: This instrument was acknowledged before me on this 31 day of May, 2022 by Jay Livingston who is/are personally known to me or who has/have produced _____ as identification.

[Signature]
Signature of Notary Public, State of Florida



9.3 Parking.

Development Type	Off street Parking
Hotel Condominium	One space per room (209 x 1 space = 209 spaces) Total: 209 spaces
Resort Condominium Units	<ul style="list-style-type: none"> One and one half space per two (2) and three (3)-br units (162 3-br units x 1.5 = 243); Two spaces per four (4) br units 7 4-br units x 2 = 14; Total: 257 spaces
Hotel related activities	4 spaces per 1000 square feet (188 spaces) to include hotel and harbor master employees <ul style="list-style-type: none"> 47,000 SF / 1,000 SF x 4 = 188 Total: 188 Spaces
Total Required for all uses:	654 Spaces

9.4 Maximum Impervious Surface Ratio ("ISR") – The maximum ISR for the Project shall be 0.70.

9.5 Maximum Floor Area Ratio ("FAR") – The maximum FAR for the Project shall be 0.67, FAR is defined as the total horizontal floor area of a building based on exterior dimensions and applied to all full stories designed or intended for occupancy or use, but excluding open or screened porches and entries, attached or detached structures that enclose mechanical or electrical equipment, attic areas with a headroom of less than 7 feet, parking structures, and basement space where the ceiling is not more than an average of 48 inches above the finished grade elevation of the lot.

The underlying Mixed Use Future Land Use Map designation allows a maximum FAR of 0.55. An increase to 0.67 is permissible under Comprehensive Plan Future Land Use Element Policy 1.1.2.2, which states:

- Permitted densities and intensities within a PUD shall generally follow those allowed within the corresponding zoning districts associated with the land use designation assigned to the property. Deviations from these density and intensity standards may be permissible in order to promote and encourage creatively planned projects and in recognition of special geographical features,

environmental conditions, economic issues, or other unique circumstances.

The FAR for the Project is consistent with Future Land Use Element Policy 1.1.2.2 of the City of Palm Coast Comprehensive Plan in that the Project:

- Promotes and encourages a creatively planned icon resort project.
- Recognizes the special and unique location of the site at the "intersection" of Club House Drive and the Intracoastal Waterway, and near the Palm Coast Parkway Bridge. As such, it is the only non-highway oriented hotel, conference and meeting facility in the City.
- Recognizes the need to update the hotel facility and amenities, including conference and meeting space, to attract business guests to the City, which will provide economic benefits to City businesses.
- Recognizes the need to update the hotel facility and amenities to attract tourists, which will also provide economic benefits to City businesses.
- Minimizes adverse impacts to the environment through creatively-designed landscaping and lighting design.
- Enhances the City's overall quality of life.

Further, under Future Land Use Element Policy 1.1.1.3, up to 25 percent of the land area within the Mixed Use designation citywide may be developed at an intensity greater than 0.55 FAR.

9.6 Finished Floor Elevations - The minimum finished floor elevations for livable heated or cooled area shall be at least one (1) foot above the site's 100-year flood elevation. Garage structures and unlivable spaces, may be constructed at or above the site's 100-year flood elevations, contingent upon provisions being made to allow inflow and outflow of surface water in the unlivable areas.

9.7 Administrative Deviations - The Planning Manager for the City may administratively approve deviations up to ten (10) percent of the criteria contained herein. Deviations of greater than ten (10) percent of the criteria contained herein may be approved by the Planning and Land Development Review Board (PLDRB); provided, however, that administrative deviations to ISR and FAR maximum standards may not be granted.

10.0 Permits and Certificates of Occupancy

Immediately upon the issuance of a Development Order for a Phase of horizontal construction and upon receipt of a bond for that Phase's site improvements, the City will accept applications for Building Permit(s) for specific buildings or facilities to be constructed in that phase, so as to permit simultaneous horizontal and vertical construction, provided the Developer has obtained the necessary State

**HARBORSIDE
MASTER PLAN DEVELOPMENT AGREEMENT
(Amended and Restated PUD Agreement)**

THIS MASTER PLAN DEVELOPMENT AGREEMENT, (herein referred to as the “MPD Agreement”) is made and executed this ____ day of _____, 2022, by and between the **CITY OF PALM COAST**, a Florida municipal corporation (the “City”), whose address is 160 Lake Avenue, Palm Coast, Florida, 32164; **JDI PALM COAST, LLC**, a Georgia limited liability company (“Owner”) whose address is 1 Information Way, Suite 350, Little Rock, AR 72202; and the **PALM COAST RESORT COMMUNITY ASSOCIATION, INC.**, a Florida Not for Profit Corporation (“Association”) who address is 1 Information Way, Suite 350, Little Rock, AR 72202.

WITNESSETH:

WHEREAS, JDI Palm Coast, LLC is the principal owner and developer of certain real property located within the municipal limits of the City, as more particularly described on that certain Special Warranty Deed recorded in Official Records Book 2178, Page 1106, of the Public Records of Flagler County, Florida (**“Harborside Property”**); and

WHEREAS, the Palm Coast Resort Community Association, Inc., is the principal owner of certain real property located within the municipal limits of the City, as more particularly described on that certain Special Warranty Deed recorded in Official Records Book 1706, Page 1481, of the Public Records of Flagler County, Florida (**“Association Property”**); and

WHEREAS, the Owner desires to complete the development of the Harborside Property and the Association Property for a mixed use development (the “Project”); and

WHEREAS, the Project is located on that certain real property consisting of 17.64

acres, which includes the Harborside Property and the Association Property, as more particularly described on **Exhibit “A”** (the “Subject Property”); and

WHEREAS, the Subject Property has a Future Land Use Map designation of Mixed-Use; and

WHEREAS, the Subject Property is subject to Ordinance 2007-24 as recorded in Official Records Book 1624, Page 311 of the Public Records of Flagler County, Florida, which amended and restated the Planned Unit Development Agreement recorded in Official Records Book 1253, Page 1924 of the Public Records of Flagler County, Florida embracing 17.64 acres of land (the “PUD”); and

WHEREAS, a portion of the Association Property was developed pursuant to the PUD, including, without limitation, a gazebo and fishing dock along the Intracoastal Waterway, a parking structure consisting of 525 parking spaces (“Parking Garage”), a master stormwater system, and other supporting improvements, all located on the Association Property and supporting the Project; and an 8 story residential tower consisting of 72 residential units as established by the Declaration of Condominium for Palm Coast Resort as recorded in Official Records Book 1560, Page 799 of the Public Records of Flagler County, Florida, as amended (the “Existing Condominium”); and a marina and supporting uses on the Harborside Property; and

WHEREAS, the Project and this MPD Agreement do not affect the Existing Condominium, which was permitted, developed and constructed pursuant to the PUD; and

WHEREAS, this MPD Agreement shall amend, restate, replace and supersede the PUD; and

WHEREAS, the Owner and the Association are in voluntary agreement with the conditions, terms, and restrictions hereinafter recited, and have agreed voluntarily to their imposition; and

WHEREAS, the City of Palm Coast Planning and Land Development Regulation Board (“PLDRB”) and City of Palm Coast City Council finds that this MPD Agreement is consistent with the City’s Comprehensive Plan and Unified Land Development Code (“LDC”) and that the conditions, terms, restrictions, and requirements set forth herein are necessary for the protection of the public health, safety, and welfare of the citizens of the City; and

WHEREAS, the City of Palm Coast City Council further finds that this MPD Agreement is consistent with and an exercise of the City’s powers under the *Municipal Home Rule Powers Act*; Article VIII, Section 2(b) of the *Constitution of the State of Florida*; Chapter 166, *Florida Statutes*; the *City of Palm Coast City Charter*; other controlling law; and the City’s police powers; and

WHEREAS, this is a non-statutory MPD Agreement which is not subject to or enacted pursuant to the provisions of Sections 163.3220 -163.3243, *Florida Statutes*.

NOW, THEREFORE, it is hereby resolved and agreed by and between the City, the Association, and the Owner that the Master Plan Development is approved subject to the following terms and conditions:

SECTION 1. RECITALS.

The above recitals are true and correct and are incorporated herein by this reference and form a material part of this MPD Agreement upon which the City, the Owner, and the Association have relied.

SECTION 2. REPRESENTATIONS OF OWNER AND ASSOCIATION.

- (a) The Owner hereby represents and warrants to the City that it is the principal owner of the Harborside Property in accordance with the title opinion or title certification provided by the Owner to the City issued by an attorney or title insurance company licensed to provide services in the State of Florida showing all liens, mortgages, and other encumbrances not satisfied or released of record relative to the Harborside Property.
- (b) The Association hereby represents and warrants to the City that it is the principal owner of the Association Property in accordance with the title opinion or title certification provided by the Association to the City issued by an attorney or title insurance company licensed to provide services in the State of Florida, showing all liens, mortgages, and other encumbrances not satisfied or released of record relative to the Association Property.
- (c) The Owner represents and warrants to the City that it has the power and authority to enter into and consummate the terms and conditions of this MPD Agreement; that all acts, approvals, procedures, and similar matters required in order to authorize this MPD Agreement have been taken, obtained or followed, as the case may be; that this MPD Agreement and the proposed performance of this MPD Agreement by the Owner is not an *ultra vires* act; and that, upon the execution of this MPD Agreement by the parties, this MPD Agreement shall be valid and binding upon the parties hereto and their successors in interest.
- (d) The Association represents and warrants to the City that it has the power

and authority to enter into and consummate the terms and conditions of this MPD Agreement; that all acts, approvals, procedures, and similar matters required in order to authorize this MPD Agreement have been taken, obtained or followed, as the case may be; that this MPD Agreement and the proposed performance of this MPD Agreement by the Association is not an *ultra vires* act; and that, upon the execution of this MPD Agreement by the parties, this MPD Agreement shall be valid and binding upon the parties hereto and their successors in interest.

- (e) The Owner and Association hereby represent to the City that all required joinders and consents have been obtained and set forth in a properly executed form on this MPD Agreement. Unless otherwise agreed to by the City, all liens, mortgages, and encumbrances not satisfied or released of record must be subordinated to the terms of this MPD Agreement and joinders must be executed by any mortgagees. It is the responsibility of the Owner and the Association to ensure that said subordinations and joinders occur in a form and substance acceptable to the City Attorney prior to the City's execution of this MPD Agreement. If the Owner and Association fail to attain the joinder and consent, then the Owner and Association shall lose all rights and benefits deriving hereunder.

SECTION 3. APPROVAL OF MASTER PLAN DEVELOPMENT

- (a) The City Council at its business meeting of _____ 2022, adopted Ordinance No. 2022-_____ rezoning the Subject Property to

Master Planned Development, subject to the terms and conditions of this MPD Agreement.

- (b) The Owner and Association acknowledge that if this MPD Agreement is ever terminated, the approval shall be deemed null and void and any land uses approved for the Subject Property that have not received Master Site Plan, Master Subdivision, or Technical Site Plan approval or other City issued authorization to commence construction shall no longer be permitted and shall revert to their prior zoning as defined in the PUD, unless otherwise approved by the City Council.
- (c) The current provisions of the LDC, as may be amended from time-to-time, shall be applicable to the Subject Property unless otherwise specifically stated herein. Any City Code provision not specifically so identified will not be affected by the terms of this MPD Agreement, and will be subject to enforcement and change under the same criteria as if no MPD Agreement were in effect.

SECTION 4. PROJECT DESCRIPTION; PERMITTED USES.

- (a) The Project shall be a mixed-use project consisting of commercial, marina, residential and supporting uses. The development plan for the Project is generally outlined below and depicted on the MPD Conceptual Master Plan, which is attached as Exhibit “B” hereto (the “MPD Conceptual Master Plan”). Commercial uses may include all uses permitted in the COM-2 zoning district, including, without limitation, general retail, restaurants, bars, hotels, marinas, and ancillary supporting uses. Additionally, microbreweries will be

permitted uses within this mixed use Project. Marina uses include wet slip storage, a marina ship store, marina dockmaster/management offices, and fueling facilities. Residential uses may include all uses permitted in the MFR-2 zoning district, including, without limitation, multi-family residential units and townhouses. The uses listed above, all uses permitted in the COM-2 or MFR-2 zoning districts on or after the Effective Date of this MPD Agreement, and all uses listed below in Section 4(c) are permitted by right (the "Permitted Uses"). Any uses not listed herein shall be determined by the Land Use Administrator ("LUA") per Section 3.01.07 of the Unified Land Development Code (LDC). Adequate parking shall be provided for all uses proposed for development in accordance with the parking ratios set forth at Section 8, Table 8.1. For any permitted uses not listed in Table 8.1, the parking ratios as set forth in the LDC shall control.

- (b) The Project includes the Parking Garage, gazebo and fishing dock, master stormwater management system, and other common elements located on the Association Property, which were previously constructed pursuant to the PUD. The MPD Conceptual Master Plan identifies lots and tracts where the Permitted Uses may be developed on the Subject Property. The final locations and configuration of the Permitted Uses will be determined by an application or applications for Master Site Plan or Master Subdivision Plan for each lot or tract, which must be approved before the issuance of any technical site plan or preliminary plat development orders authorizing construction.

- (c) The Permitted Uses shall be permitted on the lots and tracts depicted in the MPD Conceptual Master Plan as follows:
- 1) TRACT A and LOTS 1-6: Roads, driveways, sidewalks and paths, parking areas, landscaping, utilities, stormwater facilities, signage, infrastructure, amenities, the Parking Garage which was already constructed, and other common areas and supporting elements.
 - 2) LOT 1 and LOT 2: Marina and marina support facilities, which may include berthing slips for vessels and liveaboard vessels; a private boat ramp to support marina operations; a dockmaster facility and office; vessel refueling station; restrooms for boaters; ship's store; boat, kayak, and other water-based recreation equipment rentals; restaurants, microbreweries, and bars with both indoor and outdoor sitting and service areas; and general retail uses that complement and support the marina. A private boat ramp, if any, shall be available for official government entity use for emergency situations only.
 - 3) LOT 3: All uses permitted in the COM-2, including, without limitation, restaurants, microbreweries and bars with both indoor and outdoor sitting and service areas, and/or MFR-2 zoning districts, including, without limitation, short term rentals. Residential uses and commercial uses are permitted within the same buildings.
 - 4) LOT 4: All uses permitted in the MFR-2 zoning district, including, without limitation, short term rentals.
 - 5) LOT 5: Townhouses, which may be on individually platted lots, with no

setback between units. Short term rentals shall be permitted for the townhouses. The setback between individual buildings shall be as defined in Table 8.2, except as required by Building and Fire Codes. Each townhouse will have a garage and driveway sufficient to meet the parking requirements set forth in Table 8.1.

- 6) LOT 6: All uses permitted in the MFR-2 zoning district, the Existing Condominium which was already constructed pursuant to the PUD, and ancillary supporting uses.
- 7) Temporary Sales/Construction Trailers and Model Units. Temporary sales and construction trailers and model units may be located within the Project.

SECTION 5. MARINA / SHIP'S STORE

The Owner represents to the City that the Owner has the bona fide and good faith present intent to maintain the marina, ship's store, dock master office, fueling and pump out facility (hereinafter "Marina Facilities") as a viable economic enterprise into the foreseeable economic future. Further, the Owner recognizes the significance and importance of the Marina Facilities to the citizens of the City, the general public, and the historic maritime community of users of the Marina Facilities. The Owner shall use commercially reasonable efforts to operate and maintain the marina facilities in good working order and condition. The owner may replace or relocate the existing ship's store and dockmaster facility on Lot 1 and/or Lot 2.

SECTION 6. DEVELOPMENT PLAN

- (a) The MPD Conceptual Master Plan depicts the general land use areas for the entire development for the Project. The exact location of structures, lot

lines, roadways, parks, community amenities, internal landscape buffers, wetlands, drainage facilities and other improvements shown on the MPD Conceptual Master Plan may be modified during review of the site development plans and subdivision plat and plans. Additionally, Lots 1 and 2 may be combined into one or more integrated Lot(s) allowing all of the Permitted Uses for Lots 1 and 2 as noted in Section 4(c). As well, Lots 3 and 4 may also be combined into one or more integrated Lot(s) allowing all of the Permitted Uses noted in Section 4(c) for both Lots 3 and 4; provided that Lot 4, as shown on the MPD Conceptual Master Plan, is not utilized for commercial uses.

- (b) Adjustments to the MPD Conceptual Master Plan are anticipated to occur during the site development of the Project and subdivision plat review processes. Revisions to the MPD Conceptual Master Plan which meet the intent and purpose of the City's Comprehensive Plan and LDC shall be approved subject to the reasonable determination of the LUA, if the substantial integrity of the MPD Conceptual Master Plan and the development standards contained herein are maintained. Modifications to the exact type of residential units, locations and the number of lots, roadways, primary sidewalk and pathway system, and other improvements that do not increase the intensity, density or types of development uses or buildings heights shall be approved by the LUA. Any modification to the MPD Conceptual Master Plan that increases the intensity, density or types of development uses, increases building heights, reduces the total amount

of open space, or decreases the size of any perimeter buffer within the Project shall require the approval of the City Council following the review of the PLDRB.

- (c) The Project may be developed in multiple phases as depicted on the MPD Conceptual Master Plan and as provided herein.
- (d) Limitation on Construction Traffic — Construction vehicles access to the Project shall be from Palm Harbor Parkway to the fullest extent practical. Construction vehicles are prohibited from using Club House Drive west of its intersection with Palm Harbor Parkway to enter or exit the Project site. Owner or Owner's representative shall inform all contractors regarding this requirement.
- (e) The existing Parking Garage as depicted on the MPD Conceptual Master Plan contains a total of 525 parking spaces. A maximum of 73 spaces in the Parking Garage shall be allocated to the Existing Condominium. The remaining spaces in the Parking Garage, together with existing and future surface parking, may be used to meet the parking requirements of the Project. The Owner shall be permitted to construct elevated pedestrian walkways from the Parking Garage to any proximate structure or structures.

SECTION 7. LAND DEVELOPMENT CODE APPLICABILITY

The LDC applies to the Project, unless expressly otherwise provided in this MPD Agreement. The provisions of this Section supersede any inconsistent provisions of the LDC or other ordinances of the City.

- (a) Architecture. The architectural features of the Project shall be primarily of Mediterranean and/or Florida vernacular styles, reflective of coastal Florida's historic architectural styling which are deemed to be compatible or complementary with the architecture of the existing Parking Garage and Condominium as they exist as of the date of this MPD Agreement.
- (b) Stormwater. The Property includes a previously permitted and constructed stormwater system for the entire development area, which presently is operated and maintained by the Association.
- (c) Landscape. The Project will be enhanced through adjustments of building, parking, and roadway locations to provide landscaping that will accentuate residential areas, commercial areas, entrances, and other common spaces. All ornamental landscape beds and lawn areas will be irrigated. Florida Water Star landscaping standards are encouraged where feasible.
- (d) Entry Features and Signage. All common area sign elements will have a complementary design throughout the community. There are two existing entrance signs, one at the primary entrance from Palm Harbor Parkway, and one at the Intracoastal Waterway entry. These two entrance signs may be updated to provide overall project identity. Due to the diverse nature of the development, a directional sign program will be designed to provide direction for visitors and residents. Directional signage may include the identity of the facility or amenity and each directional sign will not exceed three feet in height and nine square feet in area. Monument and wall signs will be constructed per the City of Palm Coast LDC. Signs will be allowed

on multiple frontages on the Lots that front: Tract A, the Marina, Country Club Waterway, and the Intracoastal Waterway.

- (e) Roads, Streets and Alleys. The Project is being developed with private roads, the standards for which shall be established during Master Site Plan, Master Subdivision, or Technical Site Plan approval as appropriate; and shall be maintained by the Association or respective owner of such road. The Project shall provide and maintain two access points onto Palm Harbor Parkway. One of the access points shall be at the existing improved entrance to the Subject Property as depicted on the MPD Conceptual Master Plan. The second access point may be a stabilized grass emergency right of way for emergency vehicle access only and shall be constructed to support a 75,000 pound emergency vehicle and completed with the First Phase of the Project. Should an access point become available through the property to the south, the Association shall use commercially reasonable efforts to allow for emergency-only use from this additional access point through Association property for the Project.
- (f) School Bus Stops. Improved school bus stops for use by residents, consisting of benches or pads, may be provided by the Owner at or nearby the Palm Harbor Parkway entrance. The specific locations and design of school bus stops for the Project shall be determined by the Flagler County Public School District.

- (g) Recreation. Recreation facilities shall be provided consistent with the LDC level of service standard. Recreation facilities may include existing facilities developed and constructed pursuant to the PUD.
- (h) Pedestrian / Bicycle Access. The Project shall provide pedestrian and bicycle interconnectivity using sidewalks and pathways with bicycle racks at convenient locations.
- (i) Lighting. Decorative pole mounted lighting fixtures shall have complementary design and be provided throughout the Project. Such lighting may include, but not be limited to, solar powered lighting fixtures. Additional landscape lighting may include low level lighting and occasional accent lighting.
- (j) Vehicle Charging Stations. Subject to financial viability, the Owner shall make a good faith, commercially reasonable effort to install electric vehicle charging stations within the Project.
- (k) Nothing herein shall be deemed a prohibited exaction under Fla. Stat. Section 70.45, and Owner and the Association agree they have not suffered any damages under that statute.

SECTION 8. SITE DEVELOPMENT REQUIREMENTS

- (a) The following table lists the general uses, maximum square footage and minimum parking requirements for the Project. Parking requirements may be modified at Owner's request during site plan submittals based on parking ratio criteria in the Site Development Data Table that are applicable within the Property.

TABLE 8.1 – SITE DEVELOPMENT REQUIREMENTS

Use	Tract / Lot	Maximum Quantity	Unit	Minimum Parking Spaces	per Quantity of Units
Infrastructure/Common Area/etc.	A	N/A	N/A	0	0
Marina	1	100	Slips	1	4
Ship Store / Dock Master	1,2	3,000	SF	1	375
Restaurant / Bar	1,2	10,000	SF	1	100 ¹
Hotel	3	150	Keys	1	1
Hotel Meeting Space	3	5,000	SF	1	200
Townhomes	3 and/or 5	60 ²	Units	2	1
Multifamily Residential	3 and/or 4	300	Units	1.5	1
Existing Multifamily Residential	6	72	Units	1.5	1

¹ Includes outdoor eating/drinking areas.

² The maximum number of townhomes allowed in the Project shall be sixty (60) which may be placed on Lot 3, Lot 5, or both.

TABLE 8.2 – SETBACK³, HEIGHT⁴ AND OTHER REQUIREMENTS

	TRACT A	LOT 1	LOT 2	LOT 3⁵	LOT 4	LOT 5	LOT 6
Maximum Height	N/A ⁶	35'	35'	80'	80'	45'	N/A ⁷
Minimum ICW ROW Setback	N/A	N/A	N/A	N/A	N/A	0'	0'
Minimum Country Club Waterway Setback	0'	0'	0'	N/A	N/A	10'	N/A
Minimum Marina Setback	0'	0'	10'	10'	10'	10'	N/A
Minimum Tract A Setback	N/A	0'	0'	0'	0'	0'	0'
Minimum Interior Side Setback⁸	0'	0'	0'	10'	10'	N/A	N/A
Maximum ISR⁹	N/A	0.7	0.7	0.7	0.7	0.7	N/A
Maximum FAR¹⁰	N/A	0.55	0.55	0.55	0.55	0.55	N/A

(b) Emergency Services. Fire protection requirements for the Project will be met through a system of fire hydrants installed by the Owner in accordance

³ All setbacks will be measured from the lot line to the foundation of the vertical building structure.

⁴ Building heights shall be measured in accordance with the LDC.

⁵ Those portions of any buildings lying within the westerly 60' of Lot 3 shall be limited to a Height of 60'; however portions of such Lot 3 buildings situated east of such mark shall be limited to a Height of 80'.

⁶ The existing Parking Garage is limited to its existing height.

⁷ The Existing Condominium is limited to its existing height.

⁸ Interior side setbacks may be eliminated if Lots as depicted on the MPD Conceptual Master Plan are combined for development.

⁹ ISR (impervious surface ratio) is calculated on the total acreage embraced by the MPD (17.64 +/- acres) rather than individual lots, and all of the marina basin and stormwater pond areas shall be calculated as "open space"

¹⁰ FAR (floor area ration) is only applicable to non-residential uses and calculated on the total acreage embraced by the MPD rather than individual lots.

with City standards. The locations of fire hydrants will be shown on the final site plans or subdivision plans. The water requirements for the fire system will be served by the City.

- (c) Maintenance. All lands within the Project shall be maintained by their respective owners, and not by the City.
- (d) All services for the Project, including utilities, fire protection, solid waste, telephone, electricity, cable television, fiber optics, and stormwater management shall be provided by the responsible parties. All new utilities serving the Project shall be installed underground except wells and pump stations. Water and wastewater services will be provided by the City of Palm Coast.

SECTION 9. TRAFFIC. A traffic impact analysis methodology reasonably acceptable to the Applicant and City will be determined prior to initiating the Traffic Impact Analysis to determine the specific analysis criteria (i.e. times and locations). In general, a traffic impact analysis will be performed consisting of the review of projected AM and PM peak hour flows on the study area roadways and intersections. The review will include capacity analysis for roadways and intersections utilizing projected AM and PM peak hour flows in order to determine the adequacy of existing roadways/intersections and the need for improvement recommendations. The traffic impact analysis must be submitted by the Owner with each application for subdivision master plan or master site plan review, which shall include an analysis of the intersection of Club House Drive and Palm Harbor Parkway to determine the necessity of a traffic signal and/or turn lanes.

SECTION 10. PROJECT DENSITY

The City has determined that the Project satisfies the criteria set forth in Policy 1.1.2.2 of the Comprehensive Plan's Future Land Use Element permitting an increase in densities and/or intensities for the Project. The residential unit count within the Project shall be limited to 254 units, except as provided in this Section X. In addition, Owner may elect, at any time, to increase the residential unit count above 254 total units by fulfilling one or more of the following conditions ("Density Bonus Incentive Conditions"):

1. 50 additional residential units: Owner shall construct a sit-down restaurant on Lots 1, 2 and/or 3 with at least 4,000 sq.ft. of gross floor area and at least 75 seats for patrons.
2. 50 additional residential units: Owner shall provide the City of Palm Coast with a one-time right of first offer (i.e., one-time first opportunity to negotiate in good faith) to purchase the marina, prior to Owner pursuing a sale of the marina to a third party.
3. 25 additional residential units: Owner shall renovate, remodel, or construct a new Ship's Store, which may include and be combined with the sit-down restaurant described above.
4. 25 additional residential units: Owner shall be maintaining or have obtained a Clean Marina designation pursuant to the Florida Department of Environmental Protection ("FDEP") Clean Marina Program, or a comparable program if the FDEP's Clean Marina Program is discontinued, at the time the request for the additional units is made in an application for site plan approval.
5. 25 additional residential units: Owner shall be operating a marine vessel fuel sale operating at the marina (subject to commercially reasonable viability) at

the time the request for the additional units is made in an application for site plan approval.

6. 25 additional residential units: Owner shall open and be operating a private boat ramp at the marina (subject to commercially reasonable viability) at the time the request for additional units is made in an application for site plan approval.
7. 25 additional residential units per wet slip: Owner shall make a wet slip at the Marina available for public daily short-term transient use.
8. 25 additional residential units: Owner shall provide the City with a license to construct, at the City's expense, a Welcome sign on the ICW, which sign shall be compatible in size with Owner's private sign in the same location.
9. 25 additional residential units: Owner shall fund the costs of installing the City's welcome sign on the ICW as described above.

Under no circumstances will more than 432 residential units be permitted within the Project.

SECTION 11. BREACH; ENFORCEMENT; ALTERNATIVE DISPUTE RESOLUTION.

- (a) In the event of a breach hereof by either party hereto, the other party hereto shall have all rights and remedies allowed by law, including the right to specific performance of the provisions hereof.
- (b) In the event that a dispute arises under this MPD Agreement, the parties shall attempt to resolve all disputes informally. In the event of a failure to informally resolve all disputes, the City, the Association, and Owner agree to engage in mediation before a certified Circuit Court mediator selected by the parties. In the event that the parties fail to agree to a mediator, a

certified mediator may be selected by each party and the certified mediators so selected shall then select a single certified mediator, who is not one of the originally selected mediators, to serve as the sole mediator. The parties shall equally pay all costs of mediation. A party who unreasonably refuses to submit to mediation may not later object in Circuit Court that the other party failed to comply with this Section 10(b) by not participating in the mediation prior to filing suit.

- (c) Prior to the City filing any action or terminating this MPD Agreement as a result of a default under this MPD Agreement, the City shall first provide the Owner written notice of the said default. Upon receipt of said notice, the Owner shall be provided a thirty (30) day period in which to cure the default to the reasonable satisfaction of the City prior to the City filing said action or terminating this MPD Agreement. If thirty (30) days is not a reasonable period of time in which to cure the default, the length of the cure period shall be extended for a time period acceptable to the City, but in no case shall the cure period exceed three hundred sixty (360) days from the initial notification of default. Upon proper termination of the MPD Agreement, the Owner shall immediately be divested of all rights and privileges granted hereunder only as pertains to all undeveloped portions of the Project which have not yet received Master Site Plan, Master Subdivision, or Technical Site Plan approval, and not as pertains to portions of the Project which have received such approval(s). The remaining unapproved property will be considered to be zoned pursuant to the PUD.

SECTION 12. NOTICES.

- (a) All notices required or permitted to be given under this MPD Agreement shall be in writing and must be delivered to the City, the Association, or the Owner at its address set forth below (or such other address as may be hereafter be designated in writing by such party).
- (b) Any such notice shall be personally delivered or sent by registered or certified mail or overnight courier.
- (c) Any such notice will be deemed effective when received (if sent by hand delivery, or overnight courier) or on that date which is three (3) days after such notice is deposited in the United States mail (if sent by registered or certified mail).
- (d) The parties' addresses for the delivery of all such notices are as follows:

As to the City: City Manager
 160 Lake Avenue
 Palm Coast, Florida, 32164

As to the Owner: JDI Palm Coast, LLC
 1 Information Way, Suite 350
 Little Rock, AR 72202

As to the Association: Palm Coast Resort Community Association, Inc.
 1 Information Way, Suite 350
 Little Rock, AR 72202

SECTION 13. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this MPD Agreement are severable, and if any phrase, clause, sentence, paragraph or section of this MPD Agreement shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the

remaining phrases, clauses, sentences, paragraphs and sections of this MPD Agreement.

SECTION 14. SUCCESSORS AND ASSIGNS.

- (a) This MPD Agreement and the terms and conditions hereof shall be binding upon and inure to the benefit of the City, the Owner, and the Association, and their respective successors-in-interest. The terms and conditions of this MPD Agreement similarly shall be binding upon the Subject Property and shall run with the land and the title to the same.
- (b) This MPD Agreement touches and concerns the Subject Property.
- (c) The Owner and the Association have expressly covenanted and agreed to this provision and all other terms and provisions of this MPD Agreement.

SECTION 15. GOVERNING LAW/VENUE/COMPLIANCE WITH LAW.

- (a) This MPD Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the Code of Ordinances of the City.
- (b) Venue for any dispute shall be in the Seventh Judicial Circuit Court in and for Flagler County, Florida, or the Middle District of Florida, for federal actions.
- (c) The Owner and the Association shall fully comply with all applicable local, state, and federal environmental regulations and all other laws of similar type or nature.
- (d) Without waiving the Owner's and the Association's potential rights, remedies and protections or the City's defenses pursuant to Chapter 70 of the Florida Statutes, as may be amended, this MPD Agreement shall not limit the future exercise of the police powers of the City to enact ordinances, standards, or rules regulating development generally applicable to the entire area of the City,

such as requiring compliance with the City capital facilities plan; parks master plan, including parks and trail dedications; utility construction and connections; mandating utility capacities; requiring street development or other such similar land development regulations and requirements.

- (e) If state or federal laws are enacted after execution of this MPD Agreement, which are applicable to and preclude the parties' compliance with this MPD Agreement, this MPD Agreement shall be modified as necessary to comply with the relevant law.
- (f) This MPD Agreement shall also not be construed to prohibit the City from adopting lawful impact fees applicable to the Project and the master planned development authorized hereunder.

SECTION 16. TERM / EFFECTIVE DATE. This MPD Agreement shall be effective upon adoption by the City Council of the City and execution of this MPD Agreement by all parties. This MPD Agreement may be developed in phases and shall remain active, provided new construction commences within 5 years from its effective date and is completed within 15 years of its effective date. The term of this MPD Agreement may be extended for additional 5 year periods by the City Council, at a duly noticed public hearing held no later than three (3) months after the expiration of the then current term, after review by the PLDRB.

SECTION 17. RECORDATION. Upon adoption by the City Council of the City of Palm Coast, Florida and execution of this MPD Agreement by all parties, this MPD Agreement and any and all amendments hereto shall be recorded by the City with the Clerk of the Circuit Court of Flagler County within thirty (30) days after its execution by the City at the

Owner's expense, and the MPD Agreement shall run with the land.

SECTION 18. PERMITS.

- (a) The failure of this MPD Agreement to address any specific City, county, state, or federal permit, condition, term, or restriction shall not relieve the Owner or the City of the requirement of complying with the law governing said permitting requirements, conditions, terms, or restrictions.
- (b) All development and impact fees charged by the City for construction or development of subdivisions or site plans, applicable to the Project, shall be paid by the Owner or applied to any impact fee credits held by the Owner at the time the City issues a building permit or a certificate of occupancy.

SECTION 19. THIRD PARTY RIGHTS. This MPD Agreement is not a third-party beneficiary contract, and shall not in any way whatsoever create any rights on behalf of any third party.

SECTION 20. TIME IS OF THE ESSENCE.

- (a) Strict compliance shall be required with each and every provision of this MPD Agreement.
- (b) Time is of the essence to this MPD Agreement and every right or responsibility required herein shall be performed within the times specified.

SECTION 21. ATTORNEY'S FEES. In the event of any action to enforce the terms of this MPD Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, paralegals' fees, and all costs incurred, whether the same be incurred in a pre-litigation negotiation, litigation at the trial, or appellate level.

SECTION 22. FORCE MAJEURE. The parties agree that in the event that the failure by

either party to accomplish any action required hereunder within a specific time period (“Time Period”) constitutes a default under terms of this MPD Agreement and, if any such failure is due to any unforeseeable or unpredictable event or condition beyond the control of such party including, but not limited to, acts of God, acts of government authority (other than the City’s own acts), acts of public enemy or war, terrorism, riots, civil disturbances, power failure, shortages of labor or materials, injunction or other court proceedings beyond the control of such party, or severe adverse weather conditions (“Uncontrollable Event”), then notwithstanding any provision of this MPD Agreement to the contrary, that failure shall not constitute a default under this MPD Agreement and any Time Period prescribed hereunder shall be extended by the amount of time that such party was unable to perform solely due to the Uncontrollable Event.

SECTION 23. CAPTIONS. Sections and other captions contained in this MPD Agreement are for reference purposes only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this MPD Agreement, or any provision hereof.

SECTION 24. INTERPRETATION.

- (a) The Owner, the Association, and the City agree that all words, terms and conditions contained herein are to be read in concert, each with the other, and that a provision contained under one (1) heading may be considered to be equally applicable under another in the interpretation of this MPD Agreement.
- (b) This MPD Agreement shall not be construed more strictly against either party on the basis of being the drafter thereof, and both parties have

contributed to the drafting of this MPD Agreement.

SECTION 25. FURTHER ASSURANCES. Each party agrees to sign any other and further instruments and documents consistent herewith, as may be necessary and proper to give complete effect to the terms of this MPD Agreement.

SECTION 26. COUNTERPARTS. This MPD Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one (1) and the same document.

SECTION 27. MODIFICATIONS / AMENDMENTS/NON-WAIVER.

- (a) Amendments to and waivers of the provisions herein shall be made by the parties only in writing by formal amendment. This MPD Agreement shall not be modified or amended except by written agreement executed by all parties hereto and upon approval of the City Council of the City.
- (b) Failure of any party hereto to exercise any right hereunder shall not be deemed a waiver of any such right and shall not affect the right of such party to exercise at some future date any such right or any other right it may have.

SECTION 28. ENTIRE AGREEMENT; EFFECT ON PRIOR AGREEMENTS.

This MPD Agreement constitutes the entire agreement between the parties and supersedes all previous oral discussions, understandings, and agreements of any kind and nature as between the parties relating to the subject matter of this MPD Agreement.

(SIGNATURES AND NOTARY BLOCKS ON NEXT PAGE)

IN WITNESS WHEREOF, the City, the Owner, and the Association have caused this MPD Agreement to be duly executed by his/her/its/their duly authorized representative(s) as of the date first above written.

OWNER'S CONSENT AND COVENANT:

COMES NOW, the Owner on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this MPD Agreement.

WITNESSES:

JDI Palm Coast, LLC
A Georgia Limited Liability Company

(print)

By: _____

(print)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 2022 by _____, the manager of _____, which is the manager of JDI Palm Coast, LLC, a Georgia limited liability company, on behalf of the JDI Palm Coast, LLC. He ___ is personally known to me or ___ who has produced _____ (type of identification) as identification.

NOTARY PUBLIC

Print Name: _____

My Commission expires: _____

ASSOCIATION'S CONSENT AND COVENANT:

COMES NOW, the Association on behalf of itself and its successors, assigns and transferees of any nature whatsoever, and consents to and agrees with the covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this MPD Agreement.

WITNESSES:

Palm Coast Resort Community Association,
Inc.
A Florida Not for Profit Corporation

(print)

By: _____

(print)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this ___ day of _____, 2022 by _____, the President of the Palm Coast Resort Community Association, Inc., a Florida Not for Profit Corporation, on behalf of the Corporation. He ___ is personally known to me or ___ who has produced _____(type of identification) as identification.

NOTARY PUBLIC

Print Name: _____

My Commission expires: _____

CITY OF PALM COAST, FLORIDA

David Alfin, Mayor

ATTEST:

Virginia A. Smith, City Clerk

APPROVED AS TO FORM AND LEGALITY:

Neysa Borkert, City Attorney

STATE OF FLORIDA

COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2022, by David Alfin, Mayor _____ (date) by _____ (name of person acknowledging) , who is personally known to me or who has produced (type of identification) as identification.

Notary Public – State of Florida

Print Name: _____

My Commission expires: _____

EXHIBIT "A"

Legal Description of Subject Property

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 38 AND 39, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF COMMENCEMENT REFERENCE BEING THE SOUTHEASTERLY CORNER OF THE SUBDIVISION PLAT COUNTRY CLUB COVE SECTION-3 MAP BOOK 6, PAGE 8, THENCE NORTH 20°57'23" WEST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (104' R/W) (PLATTED AS YOUNG PARKWAY) A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUE NORTH 20°57'23" WEST, A DISTANCE OF 568.90 FEET TO A POINT ON THE SOUTHERLY LINE OF CLUB HOUSE WATERWAY, THENCE DEPARTING PALM HARBOR PARKWAY RUN NORTH 75°49'57" EAST ALONG THE SOUTHERLY LINE OF SAID WATERWAY, A DISTANCE OF 50.71 FEET, THENCE DEPARTING SAID SOUTHERLY LINE OF WATERWAY RUN NORTH 14°10'03" WEST, A DISTANCE OF 18.32 FEET, THENCE RUN 75°49'57" EAST, A DISTANCE OF 137.00 FEET, THENCE RUN 43°22'03" EAST, A DISTANCE OF 61.55 FEET, THENCE RUN NORTH 68°48'16" EAST, A DISTANCE OF 255.62 FEET, THENCE RUN SOUTH 20°57'23" EAST, A DISTANCE OF 41.83 FEET, THENCE RUN NORTH 69°02'37" EAST, A DISTANCE OF 90.90 FEET, THENCE RUN SOUTH 20°57'23" EAST ALONG THE EASTERLY LINE OF THE MARINA BASIN, A DISTANCE OF 18.31 FEET, THENCE RUN NORTH 69°02'37" EAST, A DISTANCE OF 245.01 FEET, THENCE RUN SOUTH 20°49'47" EAST ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE INTRACOASTAL WATERWAY, A DISTANCE OF 11.95 FEET, THENCE DEPARTING SAID LINE RUN SOUTH 81°28'20" EAST, A DISTANCE OF 34.51 FEET; THENCE RUN SOUTH 20°49'46" EAST, A DISTANCE OF 326.24 FEET; THENCE RUN SOUTH 69°10'14" WEST, A DISTANCE OF 64.03 FEET; THENCE RUN SOUTH 02°50'30" EAST, A DISTANCE OF 31.50 FEET; THENCE RUN SOUTH 43°14'16" WEST, A DISTANCE OF 101.07 FEET TO A POINT ON A NON-TANGENT CURVE CONCAVE SOUTHEASTERLY, THENCE WESTERLY A DISTANCE OF 49.19 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 70°45'50", A RADIUS OF 39.82 FEET, A CHORD BEARING OF SOUTH 39°02'14" WEST AND A CHORD DISTANCE OF 46.12 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT LINE; THENCE RUN NORTH 86°30'35" WEST, A DISTANCE OF 48.71 FEET; THENCE RUN SOUTH 13°15'43" WEST, A DISTANCE OF 5.88 FEET; THENCE RUN SOUTH 05°49'47" WEST, A DISTANCE OF 26.63 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 90.81 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 52°29'13", A RADIUS OF 99.13 FEET, A CHORD BEARING OF SOUTH 48°39'52" WEST AND A CHORD DISTANCE OF 87.67 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 70°21'07" WEST, A DISTANCE OF 73.04 FEET; THENCE RUN SOUTH 68°05'47" WEST, A DISTANCE OF 113.67 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE

WESTERLY A DISTANCE OF 102.04 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°59'42", A RADIUS OF 417.75 FEET, A CHORD BEARING OF SOUTH 67°15'17" WEST AND A CHORD DISTANCE OF 101.79 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 56°08'49" WEST, A DISTANCE OF 25.68 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 49.37 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 16°51'18", A RADIUS OF 167.81 FEET, A CHORD BEARING OF SOUTH 49°22'57" WEST AND A CHORD DISTANCE OF 49.19 FEET TO A POINT OF NON-TANGENCY; THENCE RUN SOUTH 53°30'16" WEST, A DISTANCE OF 18.15 FEET; THENCE RUN SOUTH 17°59'47" EAST, A DISTANCE OF 16.81 FEET TO A POINT ON A NON-TANGENT CURVE NORTHEASTERLY, THENCE WESTERLY A DISTANCE OF 57.34 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°08'25" WEST, A RADIUS OF 250.00 FEET, A CHORD BEARING OF SOUTH 75°00'53" WEST AND A CHORD DISTANCE OF 57.21 FEET TO A POINT OF TANGENCY; THENCE RUN SOUTH 69°02'37" WEST, A DISTANCE OF 82.92 FEET TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 434,771 +/- SQUARE FEET OR 9.98 ACRES.

PARCEL 2

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 38 AND 39, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A POINT OF BEGINNING BEING THE SOUTHEAST CORNER OF THE PLAT, COUNTRY CLUB COVE SECTION-3, MAP BOOK 6, PAGE 8, THENCE NORTH 20°57'23" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (PLATTED AS YOUNG PARKWAY) (104' R/W) A DISTANCE OF 125.00 FEET, THENCE DEPARTING SAID RIGHT-OF-WAY RUN NORTH 69°02'37" EAST, A DISTANCE OF 82.92 FEET TO A POINT OF CURVATURE, CONCAVE SOUTHERLY, THENCE EASTERLY A DISTANCE OF 57.34 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°08'25", A RADIUS OF 250.00 FEET, A CHORD BEARING OF NORTH 75°00'53" EAST AND A CHORD DISTANCE OF 57.21 FEET TO THE POINT OF INTERSECTION WITH A NON-TANGENT LINE, THENCE RUN NORTH 17°59'47" WEST, A DISTANCE OF 16.81 FEET, THENCE RUN NORTH 53°30'16" EAST, A DISTANCE OF 18.51 TO A POINT OF CURVATURE CONCAVE SOUTHWESTERLY, THENCE EASTERLY A DISTANCE OF 49.37 FEET ALONG THE ARC OF SAID CURVE, TO THE LEFT, HAVING A CENTRAL ANGLE OF 16°51'18" EAST, A RADIUS OF 167.81 FEET, A CHORD BEARING OF NORTH 49°22'57" EAST AND A CHORD DISTANCE OF 49.19 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 56°08'49" EAST, A DISTANCE OF 25.68 FEET TO A POINT OF CURVATURE CONCAVE NORTHERLY, THENCE EASTERLY A DISTANCE OF 102.04 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 13°59'42", A RADIUS OF 417.75 FEET, A CHORD

BEARING OF NORTH 67°15'17" EAST AND A CHORD DISTANCE OF 101.79 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 68°05'47" EAST, A DISTANCE OF 113.67 FEET; THENCE RUN NORTH 70°21'07" EAST, A DISTANCE OF 73.04 FEET TO A POINT OF CURVATURE CONCAVE SOUTHEASTERLY, THENCE EASTERLY A DISTANCE OF 90.81 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 52°29'13", A RADIUS OF 99.13 FEET, A CHORD BEARING OF NORTH 48°39'52" EAST AND A CHORD DISTANCE OF 87.67 FEET TO A POINT OF TANGENCY; THENCE RUN NORTH 05°49'47" EAST, A DISTANCE OF 26.63 FEET; THENCE RUN NORTH 13°15'43" EAST, A DISTANCE OF 5.88 FEET; THENCE RUN SOUTH 86°30'35" EAST, A DISTANCE OF 48.71 FEET TO A POINT OF NON-TANGENCY OF A CURVE CONCAVE NORTHWESTERLY, THENCE EASTERLY A DISTANCE OF 49.19 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 70°45'50", A RADIUS OF 39.82 FEET, A CHORD BEARING OF NORTH 39°02'14" EAST AND A CHORD DISTANCE OF 46.12 FEET TO A POINT OF NON-TANGENCY; THENCE RUN NORTH 43°14'16" EAST, A DISTANCE OF 101.07 FEET; THENCE RUN NORTH 02°50'30" WEST, A DISTANCE OF 31.50 FEET; THENCE RUN NORTH 69°10'14" EAST, A DISTANCE OF 64.03 FEET; THENCE RUN NORTH 20°49'46" WEST, A DISTANCE OF 326.24 FEET; THENCE RUN SOUTH 81°28'20" EAST, A DISTANCE OF 148.73 FEET; THENCE RUN SOUTH 21°16'59" EAST A DISTANCE OF 668.31 FEET; THENCE RUN SOUTH 69°02'37" WEST, A DISTANCE OF 165.00 FEET; THENCE RUN SOUTH 66°01'12" WEST, A DISTANCE OF 317.67 FEET; THENCE RUN NORTH 33°24'47" WEST, A DISTANCE OF 43.00 FEET; THENCE RUN NORTH 25°19'15" WEST, A DISTANCE OF 65.48 FEET; THENCE RUN SOUTH 69°37'11" WEST, A DISTANCE OF 144.48 FEET TO A POINT OF CURVATURE CONCAVE NORTHWESTERLY, THENCE WESTERLY A DISTANCE OF 323.49 FEET ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 54°12'33", A RADIUS OF 341.91 FEET, A CHORD BEARING OF SOUTH 42°30'58" WEST AND A CHORD DISTANCE OF 311.56 FEET TO A POINT OF TANGENCY; THENCE RUN SOUTH 15°24'47" WEST, A DISTANCE OF 133.48 FEET TO A POINT ON THE AFORESAID EAST RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (PLATTED AS YOUNG PARKWAY) (104' R/W); THENCE RUN NORTH 20°57'23" WEST ALONG THE AFORESAID EAST RIGHT-OF-WAY, A DISTANCE OF 267.58 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

CONTAINING AN AREA OF 333,736 +/- SQUARE FEET OR 7.66 ACRES.

LESS AND EXCEPT

A PARCEL OF LAND LYING IN GOVERNMENT SECTIONS 38 AND 39, TOWNSHIP 11 SOUTH, RANGE 31 EAST, FLAGLER COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

AS A POINT OF COMMENCEMENT REFERENCE BEING THE SOUTHEASTERLY CORNER OF THE SUBDIVISION PLAT COUNTRY CLUB COVE SECTION-3 MAP BOOK 6, PAGE 8, THENCE SOUTH 20°57'23" EAST ALONG THE EASTERLY RIGHT-OF-WAY LINE OF PALM HARBOR PARKWAY (104' R/W) (PLATTED AS YOUNG

PARKWAY) A DISTANCE OF 267.58 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE NORTH 15°24'47" WEST, A DISTANCE OF 133.45 FEET TO A POINT ON A CURVE CONCAVE SOUTHEASTERLY, THENCE EASTERLY A DISTANCE OF 323.49 FEET ALONG THE ARC OF SAID CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 54°12'33", A RADIUS OF 341.91 FEET, A CHORD BEARING OF NORTH 42°30'58" EAST AND A CHORD DISTANCE OF 311.56 FEET TO THE POINT OF INTERSECTION WITH A TANGENT LINE; THENCE RUN NORTH 69°37'11" EAST, A DISTANCE OF 144.48 FEET; THENCE RUN SOUTH 25°19'15" EAST, A DISTANCE OF 65.48 FEET; THENCE RUN SOUTH 33°24'47" EAST, A DISTANCE OF 43.0 FEET; THENCE RUN NORTH 66°01'12" EAST, A DISTANCE OF 317.67 FEET; THENCE RUN NORTH 69°02'37" EAST, A DISTANCE OF 1.68 FEET; THENCE RUN NORTH 20°57'23" WEST, A DISTANCE OF 42.23 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE RUN SOUTH 69°07'02" WEST, A DISTANCE OF 96.22 FEET; THENCE RUN NORTH 21°15'26" WEST, A DISTANCE OF 71.09 FEET; THENCE RUN NORTH 43°37'11" WEST, A DISTANCE OF 34.38 FEET; THENCE RUN NORTH 65°56'39" WEST, A DISTANCE OF 153.68 FEET; THENCE RUN NORTH 24°09'52" EAST, A DISTANCE OF 97.87 FEET; THENCE RUN SOUTH 65°50'56" EAST, A DISTANCE OF 211.30 FEET; THENCE RUN SOUTH 20°57'23" EAST, A DISTANCE OF 130.99 FEET TO THE POINT OF BEGINNING.

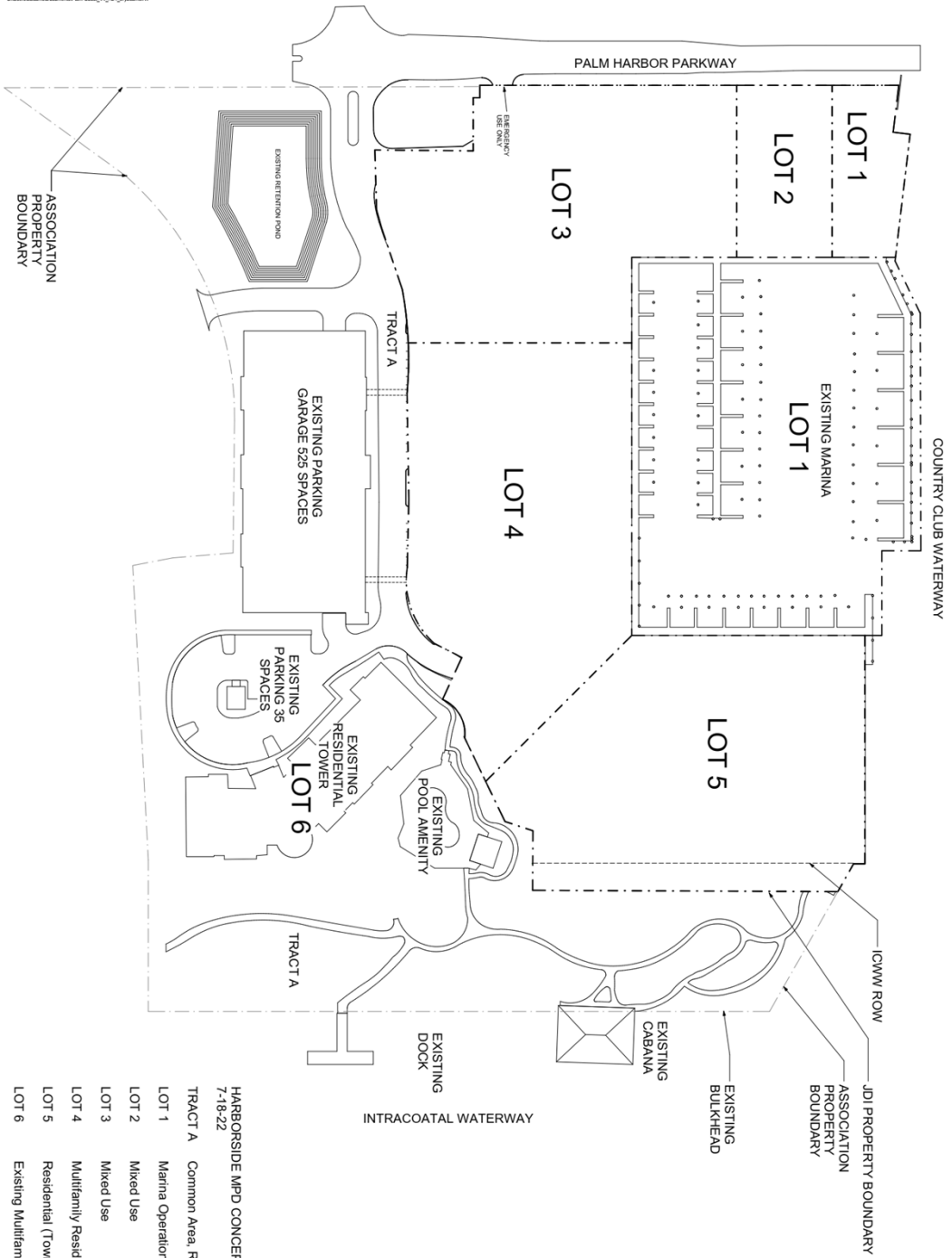
CONTAINING AN AREA OF 29,503 +/- SQUARE FEET OR 0.677 ACRES.

EXHIBIT "B"

MPD Conceptual Master Plan

On Following Page

CONCEPTUAL SITE PLAN



HARBORSIDE MPD CONCEPTUAL MASTER PLAN
7-18-22

TRACT A	TRACT B	TRACT C
LOT 1	LOT 2	LOT 3
LOT 4	LOT 5	LOT 6
Common Area, Roads, Parking, Infrastructure	Marina Operations, Slips, Retail/ Ship Store	Mixed Use
Mixed Use	Mixed Use	Mixed Use
Multifamily Residential	Multifamily Residential	Multifamily Residential
Residential (Townhomes)	Residential (Townhomes)	Residential (Townhomes)
Existing Multifamily Residential	Existing Multifamily Residential	Existing Multifamily Residential

A 102
LAND USE PLAN



HARBORSIDE MPD
CLUB HOUSE DRIVE, PALM COAST, FL
Project number: 0990
Project Issue Date: 07-18-2022

Project Status

Design Team
Architect: DESIGN AND CONSTRUCTION INTEGRATION, LLC
Site Work: DESIGN AND CONSTRUCTION INTEGRATION, LLC
Civil: DESIGN AND CONSTRUCTION INTEGRATION, LLC
Landscape: DESIGN AND CONSTRUCTION INTEGRATION, LLC
Structural: DESIGN AND CONSTRUCTION INTEGRATION, LLC
Mechanical/Electrical/HVAC: DESIGN AND CONSTRUCTION INTEGRATION, LLC
Masterplan/Financial: DESIGN AND CONSTRUCTION INTEGRATION, LLC

Owner
Design & Construction Integration, LLC
10000 US Highway 1
Suite 200
LPGA, FL 32114
561.231.5000
561.231.5001
www.designandconstruction.com



LIVINGSTON & SWORD, P.A.

Attorneys At Law

MEMORANDUM

TO: Ray Tyner
Bill Hoover
Jordan Myers

FROM: Jay W. Livingston, Esq.

CC: Tarik Bateh
Bob Dickinson

DATE: September 14, 2022

SUBJECT: Harborside MPD – Neighborhood Meeting

The neighborhood meeting for the Harborside Master Planned Development rezoning application was held on September 8, 2022, on the third floor of the parking garage located at the project site. The attached notice of the meeting was mailed to all owners within 300' of the project site. The attached sign in sheet lists all the neighbors that were in attendance.

First, Tarik Bateh, a representative of the landowner, welcomed the audience and gave an overview of the existing PUD and the proposed MPD Plan, pointing to a large print out of a colored conceptual plan. A copy of the colored plan presented at the meeting is attached. Tarik noted that the original Centex resort plan provided more intense uses, particularly as to height and non-residential space. Many residents expressed they'd prefer more residential as opposed to a hotel but did not outright oppose a hotel. Everyone seemed to be excited about a restaurant. The residents of the existing condo liked that the residential uses in the MPD Conceptual Master Plan are thoughtfully bifurcated from the commercial uses. The condo residents also liked this feature of the plan because it largely protects the views of the water.

Next, Mr. Bateh fielded audience questions and provided responses, which are summarized as follows:

- How many stories will the townhomes be?
 - At least 2, possibly 3.
- Avg size of townhomes?
 - 3BR maybe 4BR-5BR.
 - Minimum 1,800. Could be closer to +/-2,600 sf.
- Cost of building townhomes?
 - \$350-450/sf.

391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@protonmail.ch

- Price of townhomes
 - Minimum \$600k, could be \$900k or over a million.
- Who owns/controls marina?
 - JDI Palm Coast, LLC.
- Same access into the property?
 - Yes – One shared main entrance for entire master plan.
- What type of hotel?
 - It will likely be a Marriott Springhill Suites or a similar product
 - Absolutely will not build poor quality. It will not be a Motel 6, which would wreck the overall project
 - Hotel is the most challenging component financially so there could be more residential in lieu of a hotel. That option was well received
- Where will people park?
 - Townhomes self-parked
 - Multifamily both surface and garage
 - Restaurant some surface and rest garage
 - Hotel largely garage except short term parking
 - Marina users in garage
 - Condo residents in parking circle and garage
- Questions about Emergency Access Points
 - One will be provided north of existing entrance
 - If one can also be provided south of retention pond, then that's great would like to have that too
 - Same for southeast side of overall property, if one can be provided that's great and would love to connect into it
 - The more emergency access points the better
- Various traffic related questions relating to ingress/egress.
 - Guessing 700 cars in fully built and fully occupied development, plus Legacy time share
 - Traffic study required at Plat/Site Plan applications.
- One person claimed 2 cars per multifamily unit
 - That's incorrect, more like 1.25 cars per unit
 - Demographics suggest more mature residents, often 1 person occupying 2- or 3-bedroom unit hence lower parking needs and fewer cars
- Traffic lights at intersection with more people?
 - We do not think that will be needed but traffic study will confirm.
- Multifamily unit sizes and rents
 - This will be Class A and very nice
 - This will be extremely expensive to build no matter what, whether we like it or not
 - 800-1400 SF and \$2100-\$3500 rents
- Hotel size?
 - Limited to 80ft per application but likely +/-4 stores for ~125 rooms
- Discussion of Restaurant
 - Suggested Golden Lion operator could be candidate
 - One audience member said call it "The Blue Lion" and everyone laughed
- Vertical mixed use in any building with ground floor retail?
 - Very unlikely, very complicated and expensive and not demanded by market

- At most, hotel may have a restaurant.
- One member thought that the plans were not specific enough
 - Replied this is zoning not civil site plan approval and zoning must allow reasonable flexibility
 - Our presentation demonstrates most likely scenario so as not to mislead
- How mitigate construction nuisance of noise, debris
 - As best as possible, will consider optimal sequencing subject to market forces as to what gets built in what order and when
 - Want to minimize discomfort to neighbors, want to be a good neighbor
 - Whatever Construction Company does this will have massive experience on similar projects and know how to handle this best
- When would construction start?
 - Dictated by city and planning of Palm Coast
 - Hope Zoning by Thanksgiving, 12-24 months before start of vertical construction from now
- Are you taking into consideration FedEx routes?
 - Yes, will be confirmed by traffic study.
- Are there any new amenities that are being built that condo gets to use?
 - Gazebo renovation is planned, Fishing Dock, Park spaces by water, Restaurant
- How long start to finish – construction timeline?
 - Really hoping less than 5 years, but unlikely faster than 36 months.
- Colliers has a listing online – marketing by lot size?
 - Colliers does not have an exclusive listing, Jacoby may have initiated those sorts of conversations
 - It's very likely we self-develop all the residential, but we might sell a hotel pad because hotels are a specialized operating business more than a real estate business
- If this is luxury, will we be able to support it or have low occupancy.
 - If market doesn't support Class A, we wouldn't build.
- Gazebo plans?
 - Plan to renovate or completely redo but want it as an amenity.
- Complaints about the general public walking onto private property via the sidewalk / trail system on the southern end of the property.
 - Note this is private property and unauthorized people should not be coming onto private property as that's trespassing.
 - Noted Planning Staff had requested public access but noted Applicant rejected this request because it's a taking and because it creates liability issues so working hard to keep private property private.
 - Condo residents we very concerned about this and supported fencing it off because many timeshare visitors use that area to the dismay of condo residents.
- What will happen to Marina?
 - Keeping fuel
 - Plan to renovate marina to make nicer
 - No plans for boat launch
 - Hope to have kayak launch either at marina or fishing dock but not sure where

- Impact of construction on street.
 - Discussed setback of height on buildings closest to Palm Harbor Pkwy as noted in submitted MPD DA
- Marina slips for people staying at hotel.
 - Yes, likely to provide some transient slips for people coming to eat at restaurant and such
 - Not planning a boat ramp.
- How maintain parking circle adjacent to condo as exclusive to condo
 - Intention is roundabout area exclusive use for condo residents
 - Condo Association can gate it if they would like.
- What if the elevated walkway falls and blocks the driveway then people are trapped?
 - Very unlikely but can just exit via garage instead.
- Petro truck delivering gas to marina – Please make sure to account for space.
 - Will do via civil engineering plans
- When is the first planning meeting?
 - Tuesday September 20.
- How involved will developer be regarding security?
 - Very. Critical to financial success. Same for parking enforcement. Will have professional management company.
- Hotel amenity?
 - Gym, Pool will likely be required by any flag.
 - Hotel will likely not want to share amenities with other parcels

LIVINGSTON & SWORD, P.A.

Attorneys At Law

August 29, 2022

NOTIFICATION OF NEIGHBORHOOD MEETING FOR THE HARBORSIDE MASTER PLAN DEVELOPMENT REZONING

**RE: Proposed Development Project – Harborside Master Plan Development
Adjacent Property Owner Notification of Neighborhood Meeting**

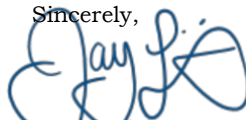
Dear Property Owner:

A Neighborhood Meeting to discuss the application for rezoning to Master Planned Development for the project known as Harborside located at 15 Palm Coast Resort Blvd, Palm Coast, FL 32137 with parcel ID # 38-11-31-0000-01030-0000 and 38-11-31-7103-000F0-0000, is scheduled at the project site on **September 8, 2022 from 11 AM to 12:30 PM on the third floor of the parking garage at 120 Palm Coast Resort Blvd., Palm Coast, FL 32137**. Attendees should park on the 2nd and 3rd floor of the parking garage. The meeting will be held near the elevator on the 3rd floor. The meeting will be at the project site and seating will not be available. If you require seating please bring a lawn or folding chair.

The applicant has submitted an application to rezone the property to Master Planned Development to develop a mixed use project consisting of commercial, marina, residential and supporting uses. A copy of the conceptual master plan is attached for your use and reference.

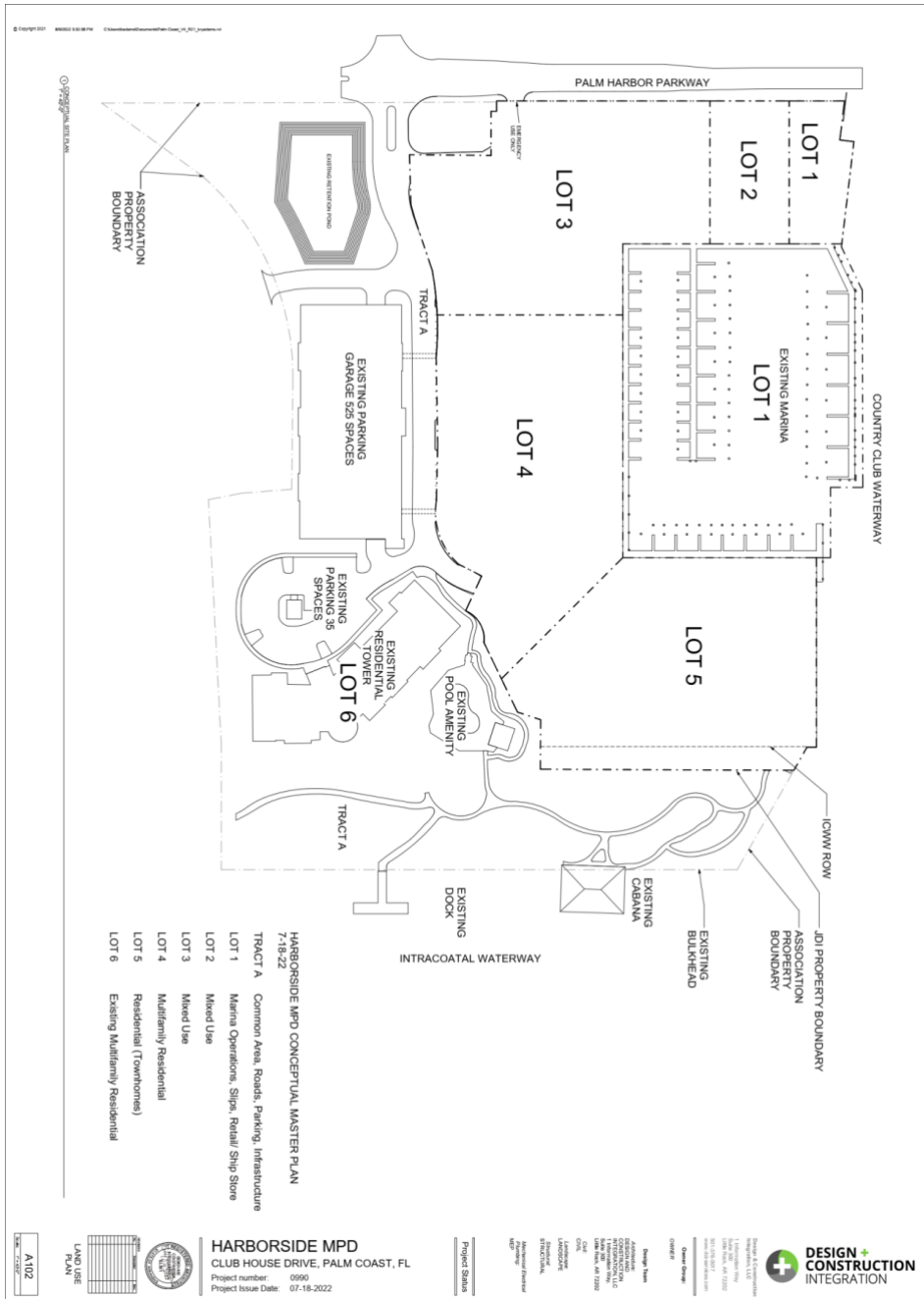
We hope you can attend the above referenced meeting where the proposed project and the development review process at the City of Palm Coast will be discussed. If you have any questions, please contact me at (386) 439-2945.

Sincerely,



Jay W. Livingston, Esq.
Attorney for JDI Palm Coast LLC

391 Palm Coast Parkway SW #1
Palm Coast, Florida 32137
T 386.439.2945
F 866.896.5573
jay.livingston314@gmail.com



- HARBORSIDE MPD CONCEPTUAL MASTER PLAN**
7-18-22
- TRACT A Common Area, Roads, Parking, Infrastructure
 - LOT 1 Marina Operations, Slips, Retail/ Ship Store
 - LOT 2 Mixed Use
 - LOT 3 Multifamily Residential
 - LOT 4 Multifamily Residential
 - LOT 5 Residential (Townhomes)
 - LOT 6 Existing Multifamily Residential

Project Status

Approved for Construction

HARBORSIDE MPD
CLUB HOUSE DRIVE, PALM COAST, FL

Project number: 0990
Project Issue Date: 07-18-2022

DESIGN + CONSTRUCTION INTEGRATION

10000 W. US Highway 1
Suite 100
Palm Beach Gardens, FL 33418
Tel: 561-351-1000
Fax: 561-351-1001
www.dci-integration.com

SIGN IN SHEET
 Neighborhood Meeting
 Harborside Master Plan Development Rezoning
 September 8, 2022 @ 11 AM to 12:30 PM, 3rd Level Parking Garage
 120 Palm Coast Resort Blvd., Palm Coast, FL 32137

NAME	ADDRESS	PHONE NUMBER	EMAIL
DAVIN THORNBURN	4 Marina Point Pl.	678-425-0911	DAVINTHORNB@AOL.COM
Joe Danaher	9 Marina Point Pl	859-420-3755	JoeDanaher@gmail.com
Ronald DeCesive	104 eug house br 409 pc	386-763-0777	RonaldDeCesive@mcn.com
Diana Kischel	4140 RCR Unit 904	545-527-2230	AKischel@gmail.com
Deborah Jackson	146 PCR B Unit 103	561-703-0739	deborah.jc@gmail.com
Amy Fries	1 Magna Point Pl	804-513-2490	ayofries@gmail.com
Robbie Ote	146 PCR # 503	386-283-4746	
Linda Hefenberg	146 PCR # 705	586-283-5738	lindahill49@bellsouth.net
Angela Joe Conitt	Unit 302 RCR	386-5033387	angelaconitt@yahoo.com
Rita + Sive Linos	# 204	561-8187611	RITA@AOL.COM
ELDA TORRENTE	146 Palm Coast R #306	(305) 245-1278	eldatorrente@comcast.net
Linda Kellman	146 PCR # 401	986-237-4816	
Jerry DiMadico	146 PCR # 304	(201) 207-1506	zora.vehe206@gmail.com
Fluoride Ridge Building	76 Rivers Edge Ln	407-925-2338	fluorideridge@comcast.net
Bob Vanders	741 PCR #401	386-951-7588	ericvanders@gmail.com
Bob Leathman	49 Rivers Edge Ln Palm Coast	407-402-9541	leathmanb@aol.com
Alan & Kathy Ford	146 PCR # 703	770-617-6375	mcpsocial@yahoo.com
Cristina Costa	146 Palm Coast Res 505	986-973-8610	Cristina.Costa23@yahoo.com
HARRY LITTLE	146 PCR Blvd 505	586-264-8802	PTMISS5@ATTMAIL
DANNY LOBLE			PTMISS5@ATTMAIL.COM

SIGN IN SHEET
 Neighborhood Meeting
 Harborside Master Plan Development Rezoning
 September 8, 2022 @ 11 AM to 12:30 PM, 3rd Level Parking Garage
 120 Palm Coast Resort Blvd., Palm Coast, FL 32137

NAME	ADDRESS	PHONE NUMBER	EMAIL
Mrs. Dawn Smith	146 Bluff Road # 706	386-935-4497	gmevzsm@dsmail.com
David Valinski	200 BELLWOOD CT # 107	859-653-3445	amclexthens@gmail.com
Bill & Sandy Currey	146 Palm Coast Blvd # 402	410-562-7011	BRVALINS@aol.com
Suzanne Alkelson	112 Club House # 302	410-212-6682	SCURRYMD@PPD.com
RICK PINSON	112 CLUB HOUSE # 304	407-376-0241	dkp7@concast.net
Linda Bellorah	146 Palm Coast Blvd # 616	412-385-3615	RICK R PINSON @hotmail.com
James Kincaid	106 Clubhouse Dr unit 312	770-512-3098	bellyatn@barn.com (please send the plans)
Gaige Crink	146 Palm Coast Blvd Unit 514	386-364-9745	chaykincaid@aol.com
Kipp Furry	24 Cole Pl Unit 514	386-376-1399	gcock2472@gmail.com
Robert Toedter	43 GARDENS WALK Unit 43	610-370-9604	kwill@willfurry.com
			bobt@rtconsultingengineering.com



Page: 1
Date: 10/20/2023 10:00 AM
User: [redacted]

The signs are up and the photos are below. They should remain in place until the parking area signs are not required after the project has completed. Thank you.

Bill Brown
1000 N. Orange
P.O. Box 1000
Orange, FL 32667
Tel: 407.261.1111
www.browns.com

Phone: 407.261.1111
Email: bill@browns.com
Fax: 407.261.1111
Website: www.browns.com

Photos of the updated signs that were posted today are attached. Let me know if you need anything else.

Bill Brown
1000 N. Orange
P.O. Box 1000
Orange, FL 32667
Tel: 407.261.1111
www.browns.com





From: [CHARLES and MARY KACZOREK](#)
To: [Bill Hoover](#)
Cc: [Nick Klufas](#); [Irene Schaefer](#); RTyner@palmcoast.gov
Subject: JDI/VCC development
Date: Monday, October 17, 2022 6:07:16 PM

As a resident of Palm Coast Resort, I am writing to express my opposition to the planned JDI/VCC development being proposed adjacent to our property. I have spoken to many other concerned residents, who also share my view of this project.

The proposed density and heights of the JDI/VCC plan with either of their 2 scenarios is not consistent with the surrounding communities..It was indicated at the prior development board meeting that the JDI/VSCC plan would be 2 times the previous original plan and also the original plan was for condominium units....The project is simply too massive and the height of the apartments is inconsistent with Palm Coast structural plans.

One of the JDI arguments for this project is that the 5 story garage is already built ...so a high rise apartment and hotel would be compatible to what is already there... That is is ridiculous!!!! It is truly the tail wagging the dog!!

The rental units being proposed also do not add value to the area.

To the contrary ...they decrease the value of surrounding areas. It is widely understood that no one takes more care and pride of property than owners. The final straw is that they will not be the developer or builder of the hotel or restaurant.

That it will be subcontracted out .When JDI was questioned on this ,the reply was "trust us" ..it will be high end.... Furthermore if a hotel is not developed..will there be more rental apartments built in its place?

Are we to trust someone who was combative and disrespectful to the entire planning board and insensitive to the surrounding community.??!!

Another big concern is safety..the garage has always been an issue for local residents. There have been multiple thefts of property, drug dealings and vagrancy....We do not have on site security to deal with the additional concerns that will arise with increased use.

I disagree with JDI assessment that the garage can handle all the increase use that will come from this development. There numbers are grossly understated.... Hotel guests,,restaurant patrons.employees..230 unit apartment..condo owners....what if each apartment unit has multiple cars!!....There is also only one elevator!!

Additional safety concern is the fact that at this time there is only one road in and out of the complex. I have witnessed multiple accidents at that intersection..The area is already densely populated with the European Village and the intercostal bridge traffic volume...A traffic impact study needs to be initiated before any approval is done.

We are just recovering from the latest hurricane this last storm had water that breached the shore line and came half way up to the existing condo...I hope a safety study will take all of this into consideration. Alternate evacuation plans for this proposed increased density is needed to a avoid a disaster.

This project will also put a strain on our water and sewage services. I hope the proper studies are done to determine what the correct density would be for the existing systems... I have seen overflowing drainage in the area and hope that city engineers sign off on the safety of this project also.

We consider Palm Coast as an undiscovered gem in Florida.. I hope and pray that you support the residents with intelligent planned growth and not the greedy developers, who will be long gone when the problems surface.

Charles and Mary Kaczorek
146 Palm Coast Resort Blvd
Unit 308

From: [Doreen Koenigsamen](#)
To: [PLDRB](#)
Cc: [David Alfin](#); [Edward Danko](#); [John M. Fanelli](#); eddiebranquinho@palmcoastgov.com
Subject: Harborside MPD Application No. 5132
Date: Tuesday, October 18, 2022 4:58:51 PM

Dear Planning Board Members,

As a condominium owner at 146 Palm Coast Resort Blvd. since 2008, I am writing in regard to the hearing of JDI Palm Coast's Rezoning Proposal for a Mixed-Use Project that will be presented on October 19, 2022.

The area in question is bounded by:

1. Palm Harbor Pkwy. and Clubhouse Drive
2. The Clubhouse Waterway along with an existing Marina
3. The Intracoastal Waterway
4. A Retention Pond, an existing Garage Facility, Palm Coast Resort Blvd. and the existing condominium building at 146 PCRB.

Also of note is the property abutting 146, Legacy Resort, which uses PCRB as it means of access and egress.

Over the years, the development plan for this property has changed always with increasing density. As I understand it, JDI PC's Rezoning Proposal before you now for approval has several remaining issues that have not been finalized. Furthermore, that JDI PC is proposing that the issues regarding density left to be made at a future date BE AT THEIR OPTION. From reading published backup information, your Department's Staff's professional opinion and JDI PC's opinion do not agree on certain FACTS regarding density. It is felt that JDI PC is not in compliance and recommend denial of this application to the City Council.

Your staff has been at the site. I believe you can understand the concerns of local residents. The proposed density and additional contemplated development will have a major adverse - and possibly dangerous - affect on the site.

Along with safety problems regarding traffic, security and parking there is only one elevator in the garage. When the Boat Parade is held in December, Palm Coast Resort feels compelled to hire security. When nearby European Village holds events, there is off-road parking leading up to then onto PCRB and then overflowing into the garage. At these times, Palm Coast finds it necessary to send out traffic control agents. As it is now, patrol cars are sometimes on the upper levels of the garage because of cars ignoring the stop sign at the entrance to PCRB and speeding on Palm Harbor Parkway.

I'm sure others in the area have brought issues and concerns to you also. I hope you will give them all your thoughtful attention. Palm Coast offers so much to enhance our way of life and I hope you will decide to keep its future in our hands and not have a Developer make decisions that will affect our quality of life.

Thank you for this opportunity.

Doreen Koenigsamen

Sent from my iPhone

To The Palm Coast Commissioners and Mayor
September 19, 2022 (Corrected to include footnote A)

Dear Commissioners and Mayor,

On September 1, 2022 May Management sent out a notice from the Palm Coast Resort (PCR) Condominium Homeowner Association Board, telling our homeowners that a deal had been reached with JDI (VCC), the new owners of the Master Association previously owned by JDI (Jacoby). That notice specifically says, "For the Master Board to agree to the above mentioned property transfers and dedicated parking, we have agreed that the PCR Condominium Association Board would not object to the development plans being proposed to the City of Palm Coast by JDI." It goes on to say, "The next step is to execute a Memorandum of Understanding (MOU) addressing the areas of agreement between the Master Board and PCR." While we as independent homeowners or as groups of homeowners can object, the Board will not. Furthermore, a homeowner vote is not required. So let me express my views, as well as that of other homeowners, as suggested by our Board.

Density:

The following are the density rates of abutting or nearby communities, as best as I can determine them.

1. Bella Harbor 13.93 units per acre. (42 units on 3.14 acres)
2. Waterside 9.42 units per acre (39 units on 4.14 acres)
3. Marina cove 8.17 units per acre (65 units on 7.96 acres)
4. Canopy walk 4.15 units per acre (220 units of 52.98 acres)
5. JDI(VCC)Plan 22.2 units per acre (230 units on 10.4 acres) (A) Footnote page 4.

The density of JDI (VCC)'s development plan is substantially above the others shown. It is also substantially above the density of the original, Commission approved, Master Association Plan Centex proposed, as well Pulte's later plan. Most of our condominium units were sold under expectations of far less density and no rental apartment complexes. Furthermore, none of the above listed communities has a planned hotel of 125 keys, an 84-slip operating marina (with numerous, "live-a-board" residents) and a planned restaurant. In short, we have gone from a low density, "premier" condominium complex (where units sold in excess of \$1 million) to a high-density condominium and apartment complex.

Safety:

With this increased density, residents, guests, patrons, visitors, employees and contractors of Legacy Vacation Resorts (72 units), the planned hotel (125 keys), the existing Marina (80 slips) the planned townhouses (30 units) the rental complex (200 units) and 146 Palm Coast Resort Blvd. (72 units) must all pass through single entrance at Palm Harbor Parkway and Club-House Drive. (That is a total of 579 units, keys and slips.) That entrance has a concrete wall and deep water retention pond on one side and a dead-end marina entrance (and canal) on the other. In the event of a natural disaster or serious emergency drivers have no choice but to exit through that single entrance. No other vehicular entrance or exits are available today. That may well be a safety issue, as you would know.

Garage, Elevator Volume and Safety:

The existing garage serving the Master Association development has a maximum capacity of about 500 cars on four floors. The developer's planned apartment complex will be five floors and contain 200 rental units. PCR currently owns 11.5% of the Master Association and is allotted 1.5 cars per residential unit or 108 parking spaces. Assuming apartment renters are also allotted 1.5 cars per unit, that is another 300 cars, for a total of 408 spaces, excluding usage by guests, hotel customers (125 keys), marina patrons and visitors, various contractors and employees. There are already times, which I have observed, when Marina parking is full and overflows onto the grass which abuts it.

While the garage may have the numerical capacity to handle this volume, it has only one 3,500 pound capacity elevator. That elevator holds a maximum of 21 people (i.e., 167 pounds per person, on average).

It concerns me that JDI(VCC) expects that renters of its "luxury complex" (their words) would be willing to pay rents of \$2,100 per month (\$25,200 per year) to \$3,500 per month (\$42,000 per year) for an apartment with a one-elevator garage serving up to 500 cars. One elevator may be a safety issue. Especially in the event of a natural disaster or that single elevator breaking down. Many of PCR's residents are older and unable to walk up or down multiple ramps or stairways.

Townhouses:

The JDI(VCC) conceptual plan calls for the construction of 30 townhomes. The townhomes are logically located along the intercoastal waterway, the Club-House canal and the Marina. Those townhouses were described as “luxury residences” of up to 2,600 square feet, selling from \$600,000 to \$900,000 each.

But no community pool is included in the plan and the townhouses are not described as having private garages or nearby, on-street guest parking. The parking included in the plan is located at the south end of the property, as much as a football field away. Furthermore, the Pavilion is in disrepair and may not be used. It should be repaired or replaced, as one of the few amenities in this “luxury” development. While it is described as a “conceptual” plan, even as such it appears to need more work and possibly community input.

Security:

One of our Deputy Sheriffs lives at Palm Coast Resorts. He has graciously agreed to park his police vehicle in a highly visible space, when at home, to act as a deterrent to crime. PCR has experienced trespassing, vandalism, substance abuse, and thefts in the JDI/VCC garage, at the fishing pier and at the Pavilion which will now serve a much larger Master Association community. The entire community and garage are ungated. As such, security at the Tidelands, Grand Haven, Yacht Harbor, Waterside and other local communities is clearly superior to that of JDI/VCC’s development plan. This is a serious concern, unaddressed at the conceptual plan level.

September 20 or 21, 2022 Commission Meeting:

It seems to me, as a layman, that this entire process has moved along too quickly. JDI(VCC)’s attorneys, Livingston & Sword, first announced the zoning plan to nearby communities on August 29, 2022. On September 1, 2022 our Board announced what PCR homeowners would receive as part of the deal, without a description of JDI(VCC)’s development plan. That came on September 8, in a “neighborhood” garage meeting set up by a JDI/VCC representative. That is a total of no more than 22 days for the community and Commission to consider JDI/VCC’s plan.

There are enough issues involving density, traffic, safety, security, the condition of the Marina and the Pavillion (and others which I have not highlighted) to warrant further review. If I were an elected Commission member, I would suggest a delay of any zoning changes until these and other questions, surely to be raised by other Palm Coast residents, can be satisfactorily addressed.

Thank you for your understanding and service to the Palm Coast Community, ranked several times as one of the “best places to live and retire in Florida”. I appreciate your work and patience.

John R. Mueller
146 Palm Coast Resort Blvd
Unit 208
Palm Coast, Florida 32137

(A) Footnote: The City of Palm Coast Harborside MPD - Application #5132 of September 20, 2022 referred to a density of 25.5 units per acre (432 units on 16.94 acres) and 26.9 units per acre (402 units on 14.94 acres) depending on different building plans. Where the numbers come from is not explained. But both density numbers, as well as my own calculation, show density at far greater levels than our neighbors and the Centex/Pulte plans which were approved by the City. In fact, the City suggested to JDI(VCC) that a density of 12 to 15 units per acre would be acceptable.

Michael and Lisa Fisher
7 Avenue de la Mer, Unit 401
Palm Coast, Florida 32137

October 13, 2022

City of Palm Coast Planning Board
160 Lake Avenue
Palm Coast, Florida 32164

Re: Harborside MPD – Application #5132

Mr. Chairman and Board Members:

I am the owner of unit 506 at Palm Coast Resort, and bought it from the original developer, Centex. I was at the previous Hearing on September 20, 2022, and like many of my fellow owners, I was appalled at the rudeness of the applicant and his presentation. Many times he said that he heard the owners concerns and he addressed them. That has not been the case. To the contrary, the developer had their plans in mind and their application has no compromise. At the Hearing, the Applicant relentlessly bullied his plan forward, and demanded a decision... even if it were a denial. It seemed to me that he feels he will receive a favorable decision from the County Council. Although I would like to see the property developed, I hope that reasonable minds will prevail and perhaps the Applicant will reconsider the input from the Planners and the residents of Palm Coast Resort and make their application something that ALL OF US can be proud of, as this “signature site” so deserves.

I have several issues that concern me. Other community members have other concerns. Here are mine:

- 1) I had mentioned at a public forum set up by the developer (Jacoby) at the Community Center on Palm Coast Parkway prior to Covid, and as I reiterated at the September 20th Hearing, building an 8 Story Building opposite and parallel to the tall parking garage is a terrible planning detail. It creates a “Canyon Effect” as we drive past to the Palm Coast Resort. My opposition is not to the building height, it is to the closeness and orientation that should be better planned. Better planning details should be considered and utilized.
- 2) At the September Hearing it was stated that 378 units were originally approved. 72 units were built in the existing Palm Coast Resort building. This leaves 306 units unbuilt that were approved. The developer has proposed 33%-40% more units than the 306 unbuilt (402 and 432 units). I do not have a problem with the developer requesting a rezoning, **BUT** as a condition of approval a maximum number of units should be stated. Although others may feel this too many, I suggest that maximum number to be 306 units. That is still very generous, as when the original plan was approved, the property was designated a “Signature Site” for the City. This plan is not even comparable in quality to the Centex plan.

- 3) Before any number of units are approved, many items need to be satisfied, including utilities, parking, and traffic. The original Plan was approved almost 2 decades ago. The population has grown considerably since the original approval. No matter how units are considered, I believe that the Planning Board and the County Council should have a full traffic report in front of them to make any decision. To my knowledge, this applicant has not submitted a full traffic report.

If the Applicant chooses to push this application forward without reasonably including the neighborhoods concerns, I urge both the Planning Board and the County Council to deny this application.

Thank you for your consideration,

Michael Fisher

Michael Fisher

Date September 14, 2022

To, The City of Palm Coast, Planning Department

RE: Public hearing proposed for September 20, 2022, Harborside Master Plan Development. Currently known as Palm Coast Resort site on Palm Harbor Parkway

Centex Corporation originally developed the site and built a 72-unit condominium with a parking garage. During construction I owned a unit at Waterside Condominiums, 114 Clubhouse Dr. Palm Coast. First phase of construction appeared to be fast tracked. We experienced a lot of construction noise, blowing debris and workers with a complete disregard, throwing trash out their windows and not securing construction materials in the back of pickup trucks. Then came the housing bust.

The residence of Waterside certainly understands that at some point the balance of the site would be developed. Under the leadership of Mayor Jon Netts, Waterside communicated their position and concerns of future development. Any new developer taking over control of the site agreed with the city that the city had an option to take over the marina and run it. Providing a fueling station for local residents and travelers of the intracoastal. All concerned parties at that time understood that adjoining property owners would have a level of influence on how the site would be built out. From 2007 to date, I have been president of the Waterside Condominium Association. We have several residents that live on the street side of Palm Harbor Parkway. The way their units are configured, their living rooms, master bedrooms and verandas are all facing Palm Harbor Parkway. One can realize how significantly those folks would be impacted. Currently the traffic impact since the new exit off of I-95 has generated an increase. The four way stop at the end of Clubhouse to Palm Harbor Parkway

including the entrance to Palm Coast Resort has its safety issues. Many cars traveling on Palm Harbor Parkway blow through the stop signs. I'm sure that any project that is being reviewed by the planning commission would require a current traffic study, proposed streetlight with possible turning lanes.

We understand that the property owner is seeking a new zoning agreement. The Waterside Community is most concerned about parcel two and three of proposed plot plan. The nature of rezoning would give them great flexibility. High density per acre. I understand that if this rezoning is approved that they could build a structure up to 40,000 ft.² with no public input required. From our perspective this is unacceptable because we have no idea where the buildings would be placed. Type of architecture, building height, exterior materials, roof design, site lighting, refuge areas, parking, landscaping and buffering landscaping. All of the above are potential impacts to our residents on street side. It is the responsibility of our community, City of Palm Coast to recognize and be passionate for protecting the residents of Waterside Condominiums.

The last time I met with city planning officials it was stated that the walking path to the intracoastal would be maintained and an additional vehicle exit for any proposed project is required. How will that work?

Does the city currently have an agreement with the developer establishing impact fees, such as, water, sewer, traffic control and our public schools.

The Waterside Community respectfully would like to be included in all phases of any proposed construction to protect their quality of life and financial investment.

We are requesting a meeting with the planning department for further details on this proposed project. We expect full transparency and cooperation for our concerns.

In closing, I respectfully request that this letter be put on your meeting agenda, under communications and read aloud to the attendees.

Thank you for your time and considerations.

Respectfully,

Robert Crocetta, President, Waterside Condominiums at Palm Coast.
e-mail rpcservicesllc@aol.com
Cell-386-623-5858

Date October 19, 2022

To, The City of Palm Coast, Planning Department

Re: Public hearing for October 19, 2022 at 5:30 PM, Harborside Master Plan Development. Site known as Palm Coast Resort on Palm Harbor Parkway.

At City Hall, Council Chambers in the community wing, 160 Lake Ave., Palm Coast.

The residence at Waterside Condominiums have great concerns. Here are some of our observations.

Has an updated, 500 year storm management plan been provided by a licensed engineer?

Has a up-dated environmental review been done?

Municipal water supply, currently we run low pressures in the system.

Municipal sanitary sewer, from time to time, there is a sewer manhole in front of Waterside on Palm Harbor Parkway that has pushed raw sewer out of the top of the steel manhole lit. It seems to be evidence that the downstream trunk line is at capacity.

In general, traffic in our city has increased significantly. The new exit on I-95 has increased traffic on Palm Harbor Parkway. At the intersection of Clubhouse Drive is a four way stop. Every day several vehicles blow right through that intersection. There have been many accidents. Has a current traffic study been submitted to the City Engineer? It appears it is not required by MPD zoning until after the zoning application is approved. Putting the cart before the horse.

This site will require a separate exit. Where might that be?

I find it rather odd that a finished proposed site plan is not required or available by this developer? It is highly unusual most municipalities require a submittal of all information pertaining to the site and buildings when applying for re-zoning. The community and adjoining property owners are deceived by this process. It truly illustrates a lack of transparency by all parties.

Density per acre currently proposed is extraordinary. The surrounding properties have a density per acre on average 7.9. The developer who has not made up their mind are seeking a density of 26 to 32. What is the true number? This high density should be unacceptable to all stakeholders and is incompatible with other properties in this area.

There's a lot of questions surrounding this proposed project. We are asking this planning board to deny this application as presented.

A recommendation, the developer should make contact with all neighboring communities and schedule workshop sessions to reach alternative proposals.

We respectfully request that this letter be put in the minutes for the October 19, 2022 hearing, Harborside.

Submitted by,
Robert Crocetta, President of Waterside Condominiums for 16 years.
114 Clubhouse Dr. unit 206B
Palm Coast, FL 32137
Cell phone 386-623-5858
e-mail rpcservicesllc@aol.com

Date November 6, 2022

To: The City of Palm Coast, City Council

From: Waterside Condominiums at Palm Coast
114 Clubhouse Dr., Palm Coast Florida
Robert Crocetta, President of the Condominium Association.

Re: Public hearing November 15, 2022, Harborside Master Planned Development. Site known as Palm Coast Resort on Palm Harbor Parkway. To be held at City Hall Palm Coast Florida, 160 Lake Ave.

Waterside Condominiums are located on the corner of Clubhouse Drive and Palm Harbor Parkway across from the proposed development. The residents of our community will be seriously impacted by this project, views will be blocked with 60' and 80' foot high buildings. Environmental impacts, extreme high density of units per acre, noise, increased traffic congestion and impacting values.

In 2005 Centex Corporation received an approval for a PUD. In 2007 they returned to the City Council to increase number of units per acre.

Original PUD agreement gave the developer 10 years to finish. We believe the agreement has expired. All special zoning and use agreements have an expiration date.

We have asked the Planning Department several times to arrange a meeting with the developer to discuss their proposed project and our concerns. It never happened demonstrating arrogance and disc-concern for our community and residents. The Planning Boards public hearing of September 19 no residence from the Palm Coast Resort Condominiums of 72 units opposed the proposed project. There is some history. There was a dispute between this developer and the condominium association dealing with the parking garage rights and other legal matters. We understand that they settled their differences with the developer before presenting their application to the planning commission.

Marina Cove Condominium's also appeared to have no objection. We believe there needs and concerns were no high-rise buildings along the intracoastal where the low two-story townhouses are proposed.

It appears that those projects had a level of influence to negotiate their concerns. We feel Waterside will be more impacted than anyone else.

If their application for a Master Planned Development is approved as submitted or modified by the City Council, it should not allow the developer unusual rights to modify or relocate proposed structures on any one of the four parcels identified with in their current site plan application or modification.

We are concerned about the architectural appearance of any proposed structure and where it would be positioned on the site.

Where is the updated environmental impact study and how could it change the proposed site plan?

Where is the updated 500-year storm management plan? It could affect a site plan.

What will be the impact on the communities' public water and sanitary sewer infrastructure?

Increased traffic. The total traffic impact if approved as submitted would increase traffic at the four way stop. The simple calculation every vehicle would exit 4 times and enter four times in a 24 Hr. period. That would be a total of 3416 vehicles alone. It's a dangerous intersection currently and would become more dangerous.

Density per acre. If this project were to get approved based on its current submittal, would allow a total of 427 units on a 17-acre parcel. That is a density of 25 units per acre. This proposed high density is unusual for a small city to allow. This high density is incompatible with our community. Currently in this area the average density per acre is 7.9. The planning department had brought forward eight different points for consideration by the developer. The board's recommendation for density is still very incompatible. Perhaps no more than 12

units per acre. The Developers counterproposal to the planning boards eight points suggested they should have an increased entitlement of density per acre called bonuses. No bonuses please.

There's a lot of questions and concerns surrounding this proposed project. We are asking the City Council to deny this application as presented.

We are hopeful that the City Council will require the developer to resubmit a proposal that is compatible with this area.

We are willing to support a project that is fair and equitable to all stakeholders.

We respectfully request that our remarks be put in the minutes of your November 15, 2022 hearing.

Respectfully submitted,

Robert Crocetta, President of Waterside Condominiums for 16 years.

114 Clubhouse Dr. Unit 206B

Palm Coast, FL 32137

Cell phone 386-623-5858

E-mail rpcservicesllc@aol.com

ORDINANCE 2007-24
AMENDING AND RESTATING ORDINANCE NUMBER 2005-18
CENTEX PUD HARBORSIDE INN & MARINA

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA AND AMENDING AND RESTATING ORDINANCE NUMBER 2005-18 (ORB 1288, PAGE 1924 OF THE PUBLIC RECORDS OF FLAGLER COUNTY, FLORIDA) APPROVING THE PLANNED UNIT DEVELOPMENT (PUD) AGREEMENT BETWEEN CENTEX HOMES (DBA AS CENTEX DESTINATION PROPERTIES) AND THE CITY OF PALM COAST FOR THE HARBORSIDE INN AND MARINA PUD, REZONING PROPERTY (17.64 ACRES AS DESCRIBED IN THIS ORDINANCE) FROM PUD TO A REVISED PUD; AMENDING THE CITY OF PALM COAST OFFICIAL ZONING DISTRICT MAP; PROVIDING FOR LEGISLATIVE FINDINGS AND INTENT; PROVIDING FOR THE TAKING OF IMPLEMENTING ADMINISTRATIVE ACTIONS; REPEALING ALL CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-CODIFICATION AND PROVIDING FOR A CONTINGENT EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA:

SECTION 1: LEGISLATIVE FINDINGS AND INTENT.

- (a) The City Council of the City of Palm Coast hereby adopts the City staff report relating to the Development Agreement (DA) of the Harborside Inn Marina PUD as findings.
- (b) The City of Palm Coast has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.
- (c) This Ordinance is consistent with the Goals, Objectives and Policies of the *City of Palm Coast Comprehensive Plan*.

- (d) The PUD DA will not adversely affect the orderly development of the City of Palm Coast.
- (e) The PUD DA will not adversely affect the health and safety of the residents or workers in the area proximate to the property described in this Ordinance and will not be detrimental to the use of the adjacent properties or the general neighborhood.

SECTION 2: DEVELOPMENT AGREEMENT

- (a) Upon enactment of this Ordinance the PUD DA, an integral part of the existing Harborside Inn and Marina PUD, shall affect the following property zoned PUD:

LEGAL DESCRIPTION ATTACHED AS EXHIBIT "A"

- (b) The PUD DA and its exhibits, as attached hereto, with all appropriate signatures and joinders, is hereby adopted and approved by the City Council of the City of Palm Coast and shall constitute the regulations for the specific PUD District.
- (c) The PUD DA shall be recorded in the Official Records of Flagler County, Florida (Land Records) by the City Clerk.

SECTION 3. SEVERABILITY.

If any section, sentence, phrase, word or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word or portion of this Ordinance not otherwise determined to be invalid, unlawful or unconstitutional.

SECTION 4. CONFLICTS.

All ordinances or part of ordinances in conflict with this Ordinance are hereby repealed with regard to the zoning classification assigned to the subject property.

SECTION 5. NON-CODIFICATION.

This Ordinance shall be not be codified in the *City Code of the City of Palm Coast* or the *Land Development Code of the City of Palm Coast*; provided, however, that the actions taken herein shall be depicted on the zoning maps of the City of Palm Coast.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon passage and adoption; provided, however, that the change in the zoning from the current PUD to the PUD approved in this Ordinance shall not take effect until the running of the appeal periods relative to appealing the quasi-judicial

UNOFFICIAL DOCUMENT

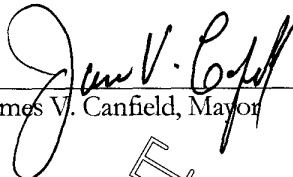
action of the City in rezoning the property that is the subject of this Ordinance or an action under Section 163.3215, *Florida Statutes* (30 days from the date of rendering) relative to the action taken in this Ordinance, or the successful defense of any timely filed appeal(s); provided, further, however, that that subject property shall not be deemed to be assigned the PUD zoning district until Ordinance Number 2007-~~23~~ has become effective and, if Ordinance Number 2007-~~23~~ shall not become effective, then the subject property shall retain its current zoning classification/district; provided, further, however, that if an appeal is not filed as to either ordinance, then this Ordinance and Ordinance Number 2007-~~23~~ shall become effective simultaneously. The effective date of this Ordinance shall be memorialized by the filing of an affidavit by the City Manager in the Public Records of Flagler County evidencing the fact that this Ordinance has become effective consistent with the provisions of this Section.


APPROVED upon first reading the second day of October 2007.

ADOPTED upon second reading after due public notice and public hearing the sixteenth day of October 2007.

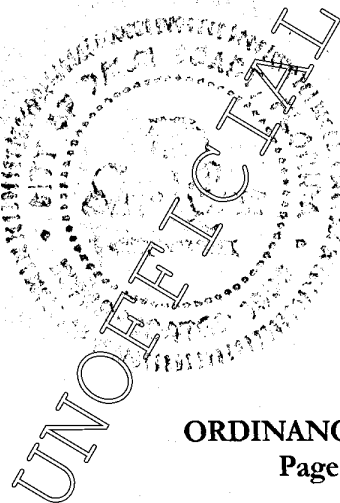
CITY OF PALM COAST, FLORIDA

ATTEST:


James V. Canfield, Mayor


Clare M. Hoeni, City Clerk

UNOFFICIAL DOCUMENT



ORDINANCE 2007-~~23~~
Page 3 of 3

EXHIBIT "A"

HARBORSIDE INN AND MARINA

FIRST AMENDED AND RESTATED PLANNED UNIT DEVELOPMENT AGREEMENT (ORIGINAL RECORDED AT ORB 1253, PAGE 1924)

1.0 Introduction

This is an amended and restated Planned Unit Development Agreement (this "PUD Agreement"), which amends and restates the prior agreement that is recorded at Official Records Book 1253, Page 1924, of the Public Records of Flagler County, Florida (the Original PUD Agreement"). This PUD Agreement provides for the redevelopment of the development which has been known as the Harborside Inn and Marina on approximately 17.64 +/- acres located on Palm Harbor Parkway, in the City of Palm Coast, Florida, south of the Club House Waterway and west of the Intracoastal Waterway (the "Property" which is described in Exhibit "1" hereto). The development that was formerly on the site consisted of a 154-unit hotel, an 84-boat slip marina, restaurant, conference/meeting space, fueling facility, harbor master/ship store, recreation facilities and associated parking. The Property is owned by Centex Homes, a Nevada general partnership, d/b/a Centex Destination Properties (herein the "Developer"), whose address is 1064 Greenwood Boulevard, Suite 200, Lake Mary, Florida 32746 (herein the "Developer"). The Developer and the City of Palm Coast (herein the "City") are collectively referred to herein as the "Parties." The City Council of the City has taken all actions relating to the zoning district change and the rezoning actions set forth herein in accordance with the requirements and procedures mandated by State law. This PUD Agreement is consistent with the goals, objectives and policies of the *Comprehensive Plan of the City of Palm Coast*. The parties recognize the importance of the area of the Property with regard to the historical development of the City and the initial plans and development of the City both prior to incorporation and after.

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2.0 Project Description

2.1 General - The Developer shall be entitled to redevelop the Property as an icon destination resort to include enhanced conference and meeting facilities and a variety of recreational and leisure activities.

The Developer shall be entitled to redevelop the Property into a 209 unit icon resort condominium hotel and/or hotel with up to 47,000 square feet of accessory hotel uses to include, but not be limited to, ballrooms, restaurant, kitchen, fitness center, boardroom, conference/meeting space, back-of-house support areas, harbor master/ship store with fuel service, a parking garage, surface parking, pools, trails, outdoor leisure areas and other similar uses. The Developer shall be entitled to continue use of the Property for the existing 84 slip marina in order to provide slips for resort guests, private members and members of the public.

In addition, the Developer shall be entitled to develop up to 169 new resort condominium units, 72 of which have been constructed and issued a certificate of occupancy for Building "E" as depicted on the Conceptual Master Development Plan (Exhibit "2") (The improvements described above, together with the redevelopment referred to in Section 2.2 are collectively referred to as the "Project").

2.2 Redevelopment Of Ship Store; Developer's Intent; Contingent Rights Of City -

The Developer represents to the City that the Developer has the bona fide and good faith present intent to maintain the ship store and fueling and pump out facility (hereinafter "ship store") as a viable economic enterprise into the foreseeable economic future. The Developer, further, recognizes the significance and importance of the ship store to the citizens of the City, the general public, and the historic maritime community of users of the ship store.

The Developer shall be entitled to redevelop the existing ship store, which ship store shall be open to the general public. During the redevelopment of the structure encompassing the Ship Store the Developer shall be entitled to conduct its Ship Store operations from an appropriate trailer located in the general vicinity of the Ship Store.

Should the Developer determine that, based upon demonstrable economic and market considerations, the ship store cannot reasonably be maintained as a viable economic enterprise and use by the Developer, then, in such case, the Developer agrees that the City may utilize the ship store on a temporary basis (which shall mean the period of time during which the Developer does not intend to operate the ship store), after

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accomplishing appropriate due diligence and entering into an appropriate lease with the Developer, at a rent of \$10.00 per month, with the City and the Developer engaging in bona fide and good faith negotiations to enter a lease agreement whereby the City would be granted adequate real property interests to continue the ship store use and operation for the temporary period. The Developer also agrees that it shall phase all development activities in a manner to reasonably ensure that any disruption in the operation or activities of the ship store is minimized to the greatest extent reasonably practicable and that such phasing, to the greatest extent reasonably practicable, eliminates any necessity for the ship store and its operations to be suspended for any period of time beyond a de minimus suspension for routine maintenance of a normative nature. Should such suspension of the activities of the ship store beyond a de minimus extent be reasonably necessary, the Developer shall provide reasonable written notice to the City prior to such suspension occurring in order for the City to have an adequate period of time to notify maritime users and the boating public of such suspension of use.

3.0 Boat Launch Facility/Boat Ramp Contribution.

As a result of the Project, the Developer closed the privately-owned boat ramp on the Property. Prior to adoption of this PUD Agreement, the Developer has contributed the sum of \$200,000.00 to the City to partially fund a public boat launch facility/boat ramp in the City or to otherwise assist the City in remedying the loss of the boat ramp to the public as determined by the City. The Developer has no further obligations with respect thereto.

4.0 Land Use and Zoning

4.1 Future Land Use Map (FLUM) - The FLUM designation for the Property set forth in the City's Comprehensive Plan is Mixed Use. This PUD Agreement and redevelopment of the site as set forth herein is consistent with the *Comprehensive Plan*.

4.2 Zoning - The zoning designation assigned to the Property is and shall be Planned Unit Development ("PUD").

5.0 PUD Conceptual Development Plan; Development Review

5.1 Development Plan Overview - The PUD Conceptual Development Plan (Exhibit "2") depicts Project characteristics and the approximate location of boundaries, streets, easements, property lines and intended uses. The PUD Conceptual Development Plan depicts 209 unit hotel condominium and/or hotel; up to 47,000 square feet of accessory hotel uses to include, but not be limited to: ballrooms, restaurant, kitchen,

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fitness center, boardroom; conference/meeting space; back-of-house support areas; harbor master/ship store with fuel service; 169 resort condominium units; parking garage; surface parking; pools, trails, outdoor leisure areas and other similar uses. The Developer shall be entitled to continue use of the Property for the 84 slip marina in order to provide slips for resort guests, private members and members of the public. The Developer shall be entitled to redevelop the Ship Store and fueling facility/pump out facility, which ship store and fueling facility shall be open to the general public. The PUD Conceptual Development Plan (Exhibit "A") also illustrates the general location of proposed access points, driveways, landscape buffers, and other pertinent information.

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5.2 Architecture – The architectural features of the Project shall be a combination of Spanish Colonial, Spanish Mission, and Spanish Eclectic styles reflective of St. Augustine’s Spanish architectural styling as substantially shown on the Conceptual Architectural Character attached (Exhibit “3”).

5.3 Modifications to the PUD Conceptual Development Plan – The exact location and number of structures and units, roadways and other improvements as provided for in Exhibit “2” are subject to change as a result of the City’s development review process and such modifications shall not require amendment of this PUD Agreement. The PUD Conceptual Development Plan (Exhibit “2”) and the other plans and details attached to this PUD Agreement indicate an approved plan of development for the Project, but development of the Project is not limited to the specific details indicated on the aforesaid attachments. The exact location and number of structures and units, roadways and other improvements as provided for in Exhibit “2” may be subject to change as a result of the development review process and such modifications, if deemed Administrative Modifications as stated elsewhere in this PUD Agreement shall not require amendment of this PUD Agreement. Modifications to the exact location and number of structures and units, roadways and other improvements may be requested by the Developer and may be approved by the City Manager, acting as the Land Use Administrator (“LUA”), or designee, during review of conceptual site plan, construction documents, preliminary plats and final site plans for the Project or portions thereof provided, however, that the development standards contained in this PUD Agreement shall be maintained as expressed elsewhere. Moreover, the LUA is authorized to approve modifications to the Conceptual Development Plan, conceptual site plan, construction documents, and final site plans for the Property or portions thereof (collectively, “Plans” and individually, a “Plan”) including, without limitation:

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- (i). the Plans provide for no less than 209 resort condominium hotel and/or hotel units and the accessory hotel uses as described above;
- (ii). no Plan increases the maximum building height of any building or decreases the minimum required parking (for the applicable density) as otherwise provided in this PUD Agreement;
- (iii). setbacks from the Property's existing (as of the date this PUD Agreement is signed by the Parties) boundary lines are not decreased;
- (iv). the maximum Floor Area and Impervious Surface Ratio (each as hereinafter defined) are not exceeded; and
- (v). the applicable Plan maintains the development standards as expressed elsewhere in this PUD Agreement. All such modifications are hereinafter referred to as "Administrative Modifications".

The parties recognize that the Developer was entitled, prior to the approval of this PUD Agreement, to develop 97 additional resort condominium units inasmuch as the Developer having constructed an 8 story building (Building "E") comprised of 72 units and associated parking garage (Building "F"), thereby using 72 of the 169 condominium resort unit development entitlements. The Developer has, therefore, remaining entitlements to construct an 8 story resort condominium building (Building "D") and a 6 story resort condominium building (Building "C") consisting of 97 resort condominium units as well as an 8 story resort condominium hotel building (Building "B") consisting of 209 resort condominium hotel units

Additionally, this PUD Agreement provides the Developer with alternative entitlement scenarios to enable development of additional resort condominium hotel and/or hotel units, as follows:

- (i). The Developer may, at the Developer's discretion, convert Building "D" into 2 buildings containing resort condominium, condominium hotel and/or hotel units/rooms, which buildings shall not exceed a maximum height of 6 stories with no additional unit entitlements being granted, but the Developer retaining the right to construct Building "B" and Building "C" to the extent of remaining unit entitlements.
- (ii). The Developer may convert the units entitled to be developed as resort condominium units and/or condominium hotel units into hotel units; with all buildings complying with the height limitations stated elsewhere in this PUD Agreement and with no additional unit entitlements being granted.
- (iii). The Developer may convert portions of the resort condominium units and condominium hotel units into hotel units within the hotel building complying with the height limitations stated elsewhere in this PUD Agreement and with no additional unit entitlements being granted.

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5.4 Conflicts between the PUD Agreement and PUD Conceptual Development Plan - In the event of a conflict between the terms of this PUD Agreement and the PUD Conceptual Development Plan, the provisions of this PUD Agreement shall prevail.

5.5 Land Development Code Applicability –The development of the Project shall proceed in accordance with the terms of this PUD Agreement. In the event of an inconsistency between the terms of this PUD Agreement and the City’s *Land Development Code (LDC)*, as it exists now or as it may be amended in the future, the terms of this PUD Agreement shall prevail. Where specific requirements are not contained in this PUD Agreement, the *LDC* shall apply to the extent that it does not conflict with the provisions of this PUD Agreement or the general intent of the PUD Conceptual Development Plan.

5.6 Conceptual Site Plan Approval and Development Review Process Approval of this PUD Agreement shall constitute conceptual site plan approval for the Project and approval of the Conceptual Development Plan. The Conceptual Development Plan contains a level of detail satisfactory to permit the Project to proceed directly to the processing of conceptual site plan, construction documents, preliminary plats and final site plans without requiring overall development plan review. The LUA is authorized to approve construction plans, preliminary plats and final site plans for the Project without further review of the Planning and Land Development Regulation Board (“PLDRB”) or the City Council, provided however, that the hotel footprint (Building “B”) as depicted herein, if reconfigured, not be extended northerly.

6.0 Phasing and Duration; Construction Traffic

6.1 Phasing -The Project may be developed in a single phase or multiple phases, at the discretion of the Developer. Notwithstanding the above Phasing provisions, and upon reactivation of the Development, the initial phase of development shall include no more than 1 building containing resort condominium units. At the sole discretion of the Developer, the initial phase and/or the next phase of development thereafter shall include the Resort Hotel (Building “B”) and related amenities including, but not be limited to, ballrooms, restaurant, kitchen, fitness center, boardroom and conference/meeting space. Infrastructure necessary to support each phase of the Project shall be constructed concurrently with or prior to that phase. The Developer shall notify the LUA of proposed phasing at the time of construction document submittal(s). Subject to the foregoing, phasing of the Project shall be within the sole discretion of the Developer. Each phase may include temporary construction trailers, which shall be removed upon completion of work in each applicable phase. In addition, during the redevelopment of the structure encompassing the Ship Store,

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the Developer may install an appropriate trailer located in the general vicinity of the Ship Store. Any construction trailers, sales trailers, a trailer substituting for the Ship Store and construction staging areas shall be screened with LUA approved landscaping or other screening methods to the extent reasonable to minimize their view from Palm Harbor Parkway, Marina Cove and the Intracoastal Waterway. The location and screening of the existing construction and sales trailers currently located on the Property have been approved by the LUA. Each phase may include a temporary real estate sales trailer, which will be removed upon completion of work in each applicable phase or completion of sales activity, whichever occurs later.

6.2 Duration of Construction Activities - As to each of Buildings "B", Building "C", and Building "D," as may be modified, Developer shall not be permitted to commence the construction of any of those buildings unless the Developer has applied for the building permit for such building within 5 years after Effective Date (as hereinafter defined) of this PUD Agreement and thereafter maintains the active status of such permit; provided, however, that extensions of this time period, in increments of 2 years each, shall be granted by the City Council unless it concludes that to do so would adversely affect the health, safety and welfare of the community.

Developer may, at any time and from time to time, amend the previously submitted Plan(s), including, without limitation, the phasing shown thereon. Such amended Plan(s) shall be subject to approval of the LUA in the same fashion as the initial Plan(s) pursuant to Sections 5.3 and 5.7 above.

6.3 Limitation on Construction Traffic - Construction vehicle access to the Project shall be from Palm Harbor Parkway. Construction vehicles are prohibited from using Club House Drive west of its intersection with Palm Harbor Parkway to enter or exit the Project site.

7.0 Project Infrastructure

The Project will include infrastructure to support the proposed uses, including water and wastewater service, drainage, private roads, vehicular and pedestrian internal and access facilities, and off site improvements needed to meet the City's concurrency requirements.

7.1 Water/Wastewater - The Project is located wholly within the City Limits and is therefore within the City's water and wastewater service areas. All proposed permanent uses within the Project will be served by central water and sewer services and shall meet the level of service concurrency requirements of the City's Comprehensive Plan for water and sewer. The City shall be the potable water and wastewater service provider for the Project upon payment of applicable fees. The City will operate and

maintain onsite water utilities dedicated to the City by the Developer. The City is under no obligation to accept the dedication of any facility.

All uses within the Project shall connect to central water and sewer services prior to issuance of a certificate of occupancy. Reclaimed water service is not currently available to the Project. The Developer shall meet applicable St. Johns River Water Management District (SJRWMD) rules for consumptive use of water, including requirements pertaining to use of the lowest quality water source as indicated in Rule 40C-2.301(4)(g), *Florida Administrative Code* ("F.A.C."). Further, as provided in Rule 40C-2.301(4)(f), F.A.C., "[w]hen reclaimed water is readily available it must be used in place of higher quality water sources unless the applicant demonstrates that its use is not economically, environmentally or technologically feasible."

The Project may include a master irrigation system(s) for common landscape areas. A master irrigation system(s) may utilize water sources as allowed by Chapter 40C-2, F.A.C., including, but not limited to groundwater, surface water, reclaimed water, and/or potable water. Appropriate permits will be obtained for consumptive uses of water.

7.2 Internal Sidewalks and Vehicular Access – The Project shall incorporate pedestrian and bicycle friendly internal sidewalks and vehicular access and shall be substantially as provided in the PUD Conceptual Development Plan (Exhibit "2") and Conceptual Landscape Plan and Details (Exhibit "4"). A bicycle lane, 2' in width, shall be included within the internal driveway. Buildings shall be interconnected using walking paths or sidewalks, and bicycle racks shall be provided by the Developer for all buildings in locations to be reasonably determined by the Developer. The Project shall retain its existing access to Palm Harbor Parkway at Club House Drive. The linear walking trails located within the Intracoastal right-of-way shall be available for use by the general public. Access to the St. Joe Walkway shall be maintained. Notwithstanding the right of the public to utilize the aforesaid trails and walkway, the City shall have no obligation to maintain the same. The Project currently includes a private drive for internal movement and circulation. A new replacement private drive has recently been constructed by the Developer substantially in accordance with the PUD Conceptual Development Plan. The Developer has entered into a cross access agreement with the adjacent property owner(s) to the south to accommodate the driveway connection. The internal driveway will be privately owned and maintained, but the City shall have third party beneficiary rights therein. Easements of ingress and egress including but not limited to, cross access easements as appropriate, shall be provided among and between tracts within the Property at the time of the recording of a plat establishing the individual

tracts to ensure interconnectivity between tracts and to ensure that all tracts will have access to a public roadway.

7.3 Transportation Concurrency – A traffic analysis has been submitted to the City that demonstrates that concurrency for the Project will be met. Any future concurrency analysis shall consider only new trips generated by the Project (trips in addition to those generated by the previous use on the site). Concurrency for the Project may be reserved upon the non-refundable payment of 25% of the applicable City impact fees by the Developer which payment shall be calculated to include those impact fees paid by the Developer prior to the date of this PUD Agreement. These fees shall be nonrefundable, but shall be credited against total impact fees due for the Project. The vesting of capacity will run with the vesting of the project, and cannot be transferred to another project.

7.4 Drainage - The Project shall include a management and storage of surface waters (“MSSW”) system, as permitted by the SJRWMD. The MSSW system shall be planned, designed, permitted, and constructed by the Developer and maintained by the Developer and/or an Association as set forth herein. The MSSW system shall include management of stormwater runoff lakes, underground storage chambers, structures, piping, and facilities. Best Management Practices (BMPs) to treat, control, attenuate, and convey stormwater and surface waters may include, but are not limited to, vegetated natural buffers, swales, dry retention, and wet detention. BMPs shall include the aeration of stormwater ponds as determined to be necessary by the City. The Developer shall reserve unto itself and its respective successors and assigns, drainage easements for MSSW system access, construction, operation, repair, maintenance and replacement.

7.5 Landscaping - General landscaping around parking lots, roadways, entrances, and other common areas shall include ornamental and native plant material in accordance with the LDC. These areas shall be landscaped to include courtyards, foundation and other types of landscaping to reflect outdoor spaces and to blend with the natural vegetation, all as substantially provided in the Conceptual Landscape Plan and Details attached hereto as Exhibit “4”, which were approved under Ordinance No. 2005-18, and are included within the Plans. All ornamental landscape beds and lawn areas shall have supplemental irrigation. Flexibility within this PUD Agreement allows for further refinement of site development, landscaping and preservation of existing vegetation. Supplemental landscaping substantially as shown on the Conceptual Landscape Plan and Details shall be required in buffer areas or other areas lacking in or devoid of natural vegetation.

7.6 Lighting – The lighting shall be substantially as provided in the Conceptual Lighting Plan and Details attached to this PUD Agreement as

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Exhibit "5", which were approved under Ordinance No. 2005-18, and are included within the Plans. As to lighting sources installed after the Effective Date, (i) Developer shall provide lighting around all buildings and in the parking lot areas to enhance security for all residents, (ii) appropriate shielding methods, as approved by the LUA, shall be utilized to reasonably minimize off site glare to existing residential areas so as to prevent such glare from unreasonably interfering with existing residential areas, and (iii) the same shall not unreasonably interfere with the traveling public, either on or off site. Methods may include, but are not limited to, glare shields, full cut off fixtures and low wattage light fixtures.

7.7 Signage – Signage for the Project shall be as provided in the Conceptual Signage Plan and Details attached to this PUD Agreement as Exhibit "6", which were approved under Ordinance No. 2005-18, and are included within the Plans.

7.8 Fire Protection - Fire protection requirements for the Project shall be met through a system of fire hydrants installed on the site by the Developer in accordance with City standards. The locations of fire hydrants shall be shown on all construction documents. The water requirements for the fire system will be served by the City. The Project shall comply with the City's fire protection requirements. The City will provide fire protection services to the Project.

7.9 Utilities - All internal utility lines for the Project shall be placed underground by the Developer. The Developer shall provide all necessary utilities for the development of the Property.

7.10 Interconnectivity - A bicycle/pedestrian connection shall be constructed by the Developer between Palm Harbor Parkway and the Intracoastal Waterway, and walkway(s) and sidewalks shall be constructed by the Developer along Palm Harbor Parkway in front of the Project, substantially as shown on the Conceptual Interconnectivity Plan attached as Exhibit "7".

8.0 Resource Protection

8.1 Wetlands - No wetlands exist within the Project. A ditch is located at the southeast boundary of the Project. No impacts to this ditch will occur unless approved by the LUA.

8.2 Water Resources - Water conservation strategies shall be incorporated by the Developer into the construction, operation, and maintenance phases of the Project, and shall be included in the covenants and deed restrictions. Landscaping shall be substantially as provided in the Conceptual Landscape Plan and Details (Exhibit "4").

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8.3 Stormwater Pollution Prevention - A stormwater pollution prevention plan shall be attached to and incorporated into the construction and permit documents for all projects constructed within the Project, pursuant to the requirements of applicable State and Federal regulations.

8.4 Air Quality - The following fugitive dust control measures, at a minimum, shall be undertaken during all construction and demolition activities throughout the construction process of the Project and may be enforced or modified by the LUA to protect the public interest. The Developer shall ensure that all contractors working within the Property moisten soil, demolition debris and related materials which shall include, at a minimum, all roads, parking lots or material stockpiles as necessary to control dust and that contractors working within the Property remove soil and other dust-generating material deposited on paved streets by vehicular traffic, earth moving equipment or soil erosion; and, after final grade and within 60 days thereof, that the contractors shall use mulch, hydro-seeding or sod on all open areas to control dust.

8.5 Hurricane Evacuation - All purchasers of property interests within the Property shall be provided with information regarding the vulnerability of the Property to the impacts of hurricanes. This information shall take the form of educational materials designed to increase evacuation participation.

9.0 General Building Criteria

The general building criteria specified below includes minimum setback distances from Buildings "B", Building "C", Building "D", Building "E" and Building "F" to the Property's existing boundaries, maximum building height limitations, minimum property widths, off street parking requirements, maximum impervious area and floor area and procedures to address deviations from the criteria contained herein. Where reference is made in other Sections to particular buildings or unit types, the references are to the buildings and unit types shown on the PUD Conceptual Development Plan for the Project attached to this PUD Agreement as Exhibit "1". Such building and unit designations are subject to modification and relocation as Administrative Modifications as provided elsewhere in this PUD Agreement, provided that the minimum setback distances (measured from the Property's existing boundary lines) are not decreased, maximum building heights are not exceeded, minimum property widths are not reduced, minimum parking requirements (for the applicable density) are met, maximum impervious area is not exceeded and floor area and maximum unit/room requirements are not violated

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9.1 Setbacks Distances/Criteria –

Property Boundary	Minimum Setback
NORTH	25'
EAST	150'
SOUTH	35' (with the exception of Building F, which is 10' ⁽¹⁾)
WEST	35'

These setbacks shall be measured from the Property's existing boundary lines. To maintain the integrity and design character of the PUD Conceptual Development Plan, if the Property is subdivided into parcels, the setbacks described herein or by the City's LDC shall not apply to any newly created parcels. Only those setbacks required for fire safety reasons, as determined by the LUA, shall apply to any newly created parcels.

9.2 Building Height -

Development Type	Maximum Vertical Height* Feet/Stories
Building "B" (Hotel)	89' / 8 ¹ / ₈ Stories
Building "C" (Resort Units)	69' / 6 ¹ / ₆ Stories
Building "D" (Resort Units)	89' / 8 ¹ / ₈ Stories
Building "E" (Resort Units)	89' / 8 ¹ / ₈ Stories
Building "F" (Parking Structure)	61' / 5 ¹ / ₅ Stories
* Maximum height measured to median roof line. Flags and architectural projection elements shall be in substantial conformity with Exhibit "3".	

Where reference is made in this Section to particular buildings (and unit types), the references are to the buildings (and unit types) shown on the PUD Conceptual Development Plan for the Project attached to this PUD Agreement as Exhibit "1". Such building (and unit type) designations are subject to modification as Administrative Modifications as provided elsewhere in this PUD Agreement, provided that the maximum height of any unconstructed building does not exceed 89'8 stories (Building "D" as delineated on PUD Conceptual Development Plan (Exhibit "2"), and

¹ Setback for Building F from the southern property line is reduced to accommodate enhanced landscape areas, pedestrian walkways, and park-like settings internal to the Project adjacent to and in close proximity to the Marina. The Developer shall provide 25' of offsite landscape buffer south of the Property, if authorized by the neighboring landowner and, if not, a landscaped setback shall be enhanced by tree plantings and other landscape material planting, as approved by the LUA, to soften the effect of the Building.

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provided that any building located in the area occupied by Building "C" as shown on the PUD Conceptual Development Plan (Exhibit "2") shall not exceed 6 stories or 69' to include replacement of Building "C" and "D" with 3 smaller buildings not exceeding 69' in height.

9.3 Parking. -

Development Type	Off street Parking
Hotel Condominium/Hotel	1 space per room
Resort Condominium Units	<ul style="list-style-type: none"> • 1.5 spaces per 2 and 3-bedroom units; • 2 spaces per 4 bedroom unit;
Hotel related activities	4 spaces per 1000 square feet (if maximum of 47,000 square feet is constructed 188 spaces would be required) to include hotel and harbor master employees

The total spaces required for the Project are subject to adjustment based on the density of the Project.

9.4 Maximum Impervious Surface Ratio ("ISR") – The maximum ISR for the Project shall be 0.70.

9.5 Maximum Floor Area Ratio ("FAR") – The maximum FAR for the Project shall be 0.67. FAR is defined as the total horizontal floor area of a building based on exterior dimensions and applied to all full stories designed or intended for occupancy or use, but excluding open or screened porches and entries, attached or detached structures that enclose mechanical or electrical equipment, attic areas with a headroom of less than 7', parking structures, and basement space where the ceiling is not more than an average of 48" above the finished grade elevation of the lot. The FAR for the Project is consistent with the City's *Comprehensive Plan*.

9.6 Finished Floor Elevations – The minimum finished floor elevations for livable heated or cooled area shall be at least 1 foot above the 100 year flood elevation. Garage structures and unlivable spaces, may be constructed at or above the site's one hundred (100)-year flood elevations, contingent upon allowing inflow and outflow of surface water being adequate within the unlivable areas.

10.0 Permits and Certificates of Occupancy

Immediately upon the issuance of a development order for a phase of horizontal construction and upon receipt of a bond for that phase's site

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improvements, the City will accept and process applications for building permits for specific buildings or facilities to be constructed in that phase, so as to permit simultaneous horizontal and vertical construction if the Developer has obtained all necessary State and Federal permits for the Project. Certificates of occupancy will be issued by the City when infrastructure improvements that are necessary to serve the specific building(s), rather than the entire phase or Project, have been completed and all project closeout documentation for such building has been provided to and accepted by the City.

11.0 Property Owners' Association(s)

The Developer may establish, in its discretion, 1 or more property owners' association(s) for the Project (the "Association"). The Association shall own and be responsible for maintenance of internal roadways, lighting, common landscape improvements, fencing, signage, pedestrian easements, the MSSW system components and any common property or facilities within the Project. The Association and/or Developer shall have the right to transfer the maintenance obligation and title to any of the common property or facilities to any successor-in-interest, or to the City or other appropriate entity if authorized by City; provided, however, that the City is under no obligation to accept the transfer of title. The duties and responsibilities of multiple associations shall be reasonably harmonized and coordinated pursuant to the documents assigning responsibilities to the various organizations. The Association shall provide for a person or persons who shall be responsible for providing reasonable coordination with the City relative to development activities and related matters.

12.0 Platting

Due to the nature of the Project, no platting will be required. Notwithstanding the foregoing, the Developer may elect to subdivide and plat all or a portion of the Property. The LUA is authorized to approve any such preliminary plat, provided that the development standards contained in this PUD Agreement are maintained.

13.0 Successors and Assigns

This PUD Agreement shall be binding on the City and the Developer, and their respective successors and assigns. Each party represents and warrants to the other that it has all necessary power and authority to enter into and consummate the terms and conditions of this PUD Agreement, that all acts, approvals, procedures and similar matters required in order to authorize this PUD Agreement have been taken, obtained or followed, as the case may be, that this PUD Agreement and the proposed performance of this PUD Agreement by such party is not an ultra vires act and that

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upon the execution of this PUD Agreement by both Parties, this PUD Agreement shall be valid and binding upon the Parties hereto and their successors in interest. The terms and conditions of this PUD Agreement, similarly, shall be binding upon the Property and shall run with the title to same.

14.0 Amendment of this PUD Agreement

Modifications to the terms of this PUD Agreement, other than those to the Conceptual Development Plan and Administrative Modifications permitted hereunder, shall be made in accordance with the requisite PUD amendment procedures. In addition, *de minimus* amendments to this PUD Agreement may be approved administratively by the LUA.

15.0 Applicable Law; Venue

15.01 Law - This PUD Agreement shall be construed, controlled and interpreted according to the laws of the State of Florida.

15.02 Venue - Venue for any proceeding arising under this PUD Agreement shall be the Seventh Judicial Circuit in and for Flagler County, Florida.

16.0 Construction of Agreement

16.1 Interpretation - This PUD Agreement shall not be construed against either Party on the basis of it being the drafter of this PUD Agreement. The Parties agree that both herein played an equal part in drafting this PUD Agreement.

16.2 Capitalizations - Capitalized terms contained herein shall have the meaning assigned to them in the City's ordinances and, if not defined in the City's ordinances, shall have no more force or effect than uncapitalized terms.

16.3 Captions - Captions and section headings in this PUD Agreement are provided for convenience only and shall not be deemed to explain, modify, amplify or aid in the interpretation or construction of meaning of this PUD Agreement.

16.4 Force Majeure. No party shall be considered in default in performance of its obligations hereunder, and the duty to accomplish such obligation shall be reasonably suspended, to the extent that, and during such period that, performance of such obligations, or any of them, is delayed or prevented by Force Majeure. Force Majeure shall include, but not be limited to, hostility, revolution, civil commotion, strike, epidemic, fire, flood, wind, earthquake, terrorism, hurricane, explosion, any law, permit, approval, proclamation, regulation, or ordinance or other act of government, or any act of God or any cause whether of the same or

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different nature, existing or future; provided that the cause whether or not enumerated in this Section is beyond the reasonable control and without the fault or negligence of the party seeking relief under this Section.

17.0 Severability

If any provision of this PUD Agreement, or its application to any person, entity or circumstances is specifically held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this PUD Agreement and the application of the provisions hereof to other persons, entities or circumstances shall not be affected thereby and, to that end, this PUD Agreement shall continue to be enforced to the greatest extent possible consistent with law and the public interest. Notwithstanding the foregoing, if the effect of a determination or holding by a court that a particular term, clause or provision of this PUD Agreement is invalid or unenforceable is such that either party to this PUD Agreement shall no longer have the substantial benefit of its respective bargain under this PUD Agreement or any material portion of this PUD Agreement, then, and in such event, whichever of the Parties is thus adversely affected, may, at its option and in its sole and absolute discretion, cancel and terminate this PUD Agreement upon its delivery of written notice thereof to the other party. If practicable, this PUD Agreement shall be modified as necessary to maintain the original intent of this PUD Agreement.

18.0 Exhibits

The Exhibits to this PUD Agreement are hereby incorporated herein by the references made thereto, are a part of this PUD Agreement upon which the Parties have relied as if set forth in the text of this PUD Agreement verbatim and are included within the Plans.

19.0 Effective Date and Duration

The Effective Date (herein so called) of this PUD Agreement shall be the later to occur of: (i) the expiration date of all appeal periods with respect to passage and/or adoption of Ordinance Number 2007-23 and Ordinance Number 2007-24 (collectively, the "Ordinances"); and (ii) if an appeal is made with respect to the passage, adoption and/or any other element of either of the Ordinances, the date on which any and all such appeals are resolved in favor of the passage and adoption of the Ordinances as initially enacted. If any such appeal is made, the Developer shall have the right, at any time up to the Effective Date, in Developer's sole and absolute discretion, to terminate this PUD Agreement and cease any activities with respect to defending against the appeal. In addition, the Developer may, at its absolute and sole discretion, elect in writing to waive conditions (i) and (ii) above causing the Effective Date of this PUD

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Agreement to be the same date said written waiver is made. The Original PUD Agreement shall continue in full force and effect, and the Property shall retain its current PUD zoning classification/district, until such time, if any, as the Effective Date shall occur. Following the Effective Date, this PUD Agreement shall remain in effect for as long as this Ordinance is valid. This PUD Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall, together, constitute one and the same instrument.

20.0 Notices

- (a). Any required notices shall be furnished to the party entitled to such notice at least 30 days prior to the effective date of said notice.
- (b). Any notices required or permitted hereunder shall be in writing and shall be deemed properly made when delivered by certified United States mail, postage prepaid, and addressed as set forth herein, or at such address as shall have been specified by written notice to the other party delivered in accordance herewith:

FOR THE CITY:

James Landon
City Manager
City of Palm Coast
2 Commerce Boulevard
Palm Coast, Florida 32164

FOR THE DEVELOPER:

James Riley
Centex Homes
1274 GranBay Parkway
Suite 2400
Jacksonville, Florida 32258

With a copy to:

Michael D. Chimento III, Esquire
Chimento and Guntharp, P.A.
4 Old Kings Road North, Suite B
Palm Coast, Florida 32137

UNOFFICIAL DOCUMENT

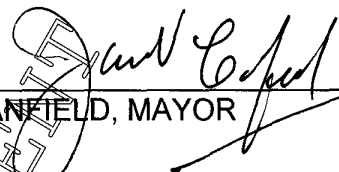
CMH

- (c). The Parties agree not to claim any waiver by the other party of such notice requirements based upon the other party having actual knowledge, implied, verbal or construction notice, lack of prejudice or any other grounds as a substitute for the failure of the other party to comply with the express written notice requirements herein.
- (d). Computer notification (e-mails and message boards) do not constitute proper "written notice" under the terms of this PUD Agreement.
- (e). Either of the parties may change, by written notice as provided herein, the addresses or persons designated for receipt of notice.

IN WITNESS WHEREOF, the Parties have executed this PUD Agreement on the dates set forth below.

**CITY COUNCIL
CITY OF PALM COAST**

By:



 JAMES CANFIELD, MAYOR

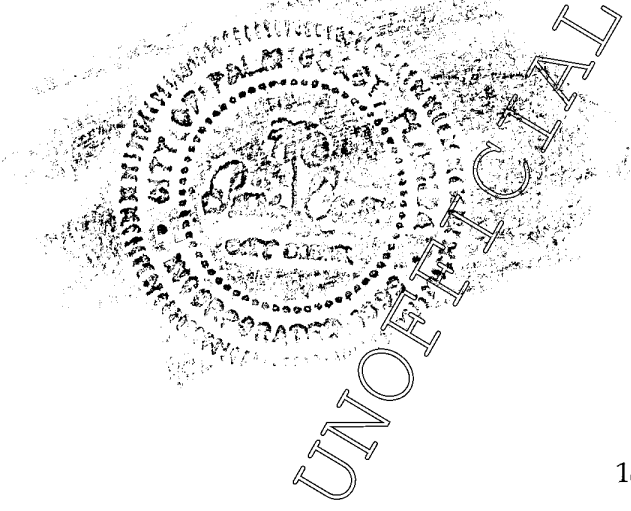
ATTEST:

By: 

 CLAIR HOENI, CITY CLERK

**Clair M. Hoeni
City Clerk**

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CENTEX

DEVELOPER/CENTEX HOMES, a
Nevada general partnership, d/b/a
Centex Destination Properties

By: **CENTEX REAL ESTATE
CORPORATION**,
a Nevada corporation,
its Managing General Partner

ATTEST:

By: *[Signature]*
Attesting Authority
Date: 10/23/07

By: *[Signature]*
Lawfully Authorized Signatory

Signed, sealed and delivered
in the presence of:

[Signature]
Witness One Printed Name: PAIGE N. HANFORD
[Signature]
Witness Two Printed Name: ENAM. CARSELL LANGLOIS

ACKNOWLEDGEMENT

STATE OF Florida)
COUNTY OF Seminole

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared the above signatories and witnesses the signatories executing on behalf of and stating that they have authority to bind Centex Destination Properties said persons having acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under requisite corporate/entity authority and they are personally known to me.

WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of October, 2007.

(Affix Notary Seal)

[Signature]
Notary Public, State of Florida
Print Name: Corinne M. Detroit



LIST OF EXHIBITS

- Exhibit "1" Legal Description.
- Exhibit "2" PUD Conceptual Development Plan.
- Exhibit "3" Conceptual Architectural Character.
- Exhibit "4" Conceptual Landscape Plan and Details.
- Exhibit "5" Conceptual Lighting Plan and Details.
- Exhibit "6" Conceptual Signage Plan and Details.
- Exhibit "7" Conceptual Interconnectivity Plan.

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Exhibit /

Sheraton Hotel lands

DESCRIPTION:

OFF REC 0550 PAGE 1669

A parcel of land lying in Government Sections 38 and 39, Township 11 South, Range 31 East, Flagler County, Florida, being more particularly described as follows;

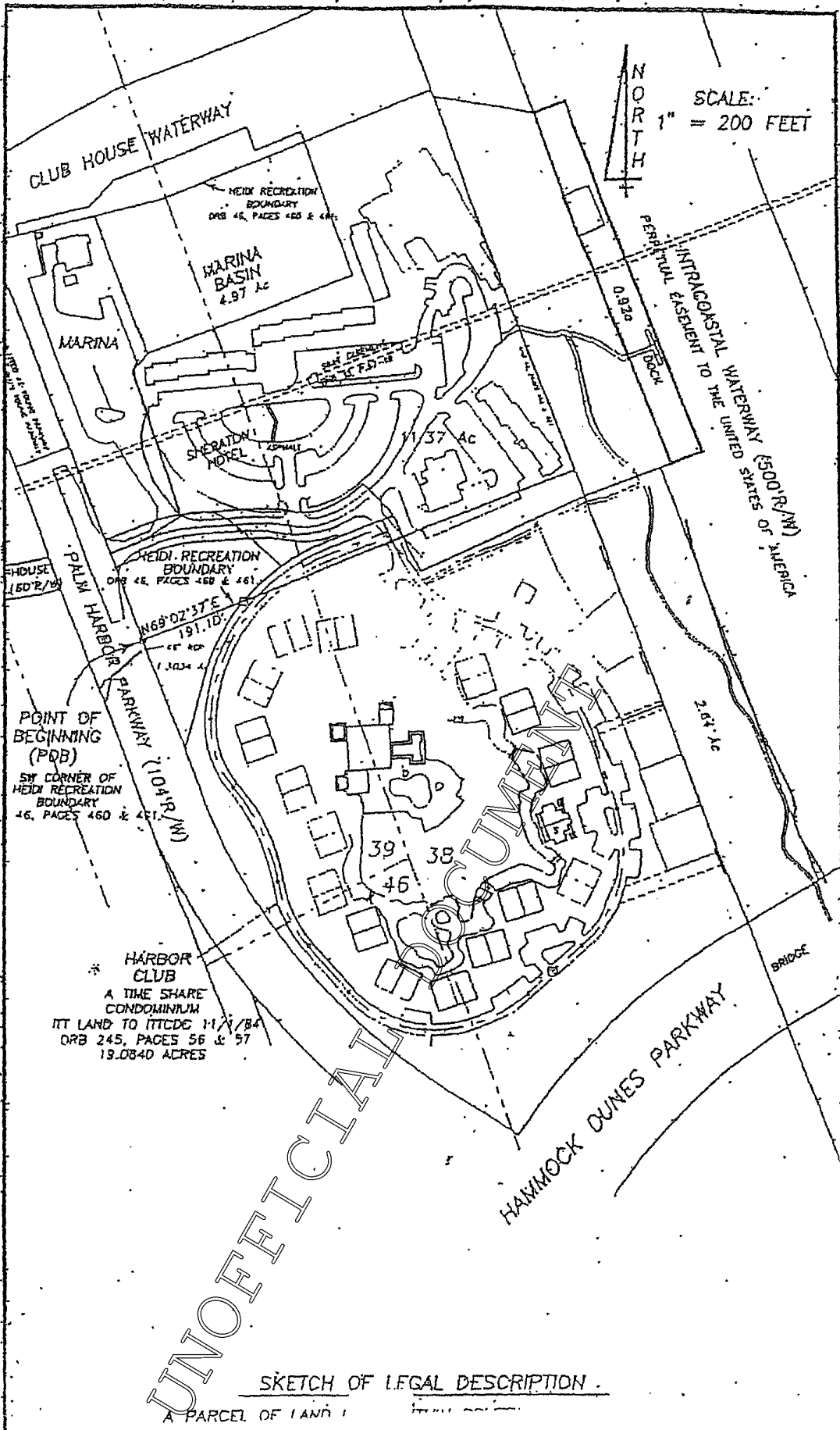
A POINT OF BEGINNING being the southeast corner of the Plat Country Club Cove Section-3, Map Book 6, Page 8, thence North $20^{\circ}57'23''$ West along the East right-of-way line of Palm Harbor Parkway (platted as Young Parkway) (104'R/W) a distance of 123.00 feet, thence departing said right-of-way North $69^{\circ}02'37''$ East a distance of 82.92 feet to a point of curvature, concave Southerly, thence Easterly a distance of 57.32 feet along the arc of said curve to the right having a central angle of $11^{\circ}56'32''$, a radius of 275.00 feet, a chord bearing of North $75^{\circ}00'53''$ East and a chord distance of 57.21 feet to the point of intersection with a non-tangent line, thence North $17^{\circ}59'47''$ West a distance of 188.91 feet, thence North $15^{\circ}07'19''$ West a distance of 80.85 feet, thence North $38^{\circ}28'13''$ East a distance of 38.06 feet, thence North $69^{\circ}02'37''$ East a distance of 400.00 feet, thence North $20^{\circ}57'23''$ West a distance of 250.00 feet, thence North $69^{\circ}02'37''$ East a distance of 45.00 feet, thence South $20^{\circ}49'47''$ East along the westerly right-of-way line of the Intracoastal Waterway a distance of 11.95 feet, thence departing said line South $81^{\circ}28'20''$ East a distance of 183.24 feet, thence South $21^{\circ}16'59''$ East a distance of 668.31 feet, thence South $69^{\circ}02'37''$ West a distance of 165.00 feet to a point on the West right-of-way line of the Intracoastal Waterway, thence departing said right-of-way South $66^{\circ}01'12''$ West a distance of 317.67 feet, thence North $33^{\circ}24'47''$ West a distance of 43.00 feet, thence North $25^{\circ}19'15''$ West a distance of 65.48 feet, thence South $69^{\circ}37'11''$ West a distance of 144.48 feet to a point of curvature, concave Southeasterly, thence Westerly a distance of 323.49 feet along the arc of said curve to the left having a central angle of $54^{\circ}12'26''$, a radius of 341.92 feet, a chord bearing of South $42^{\circ}30'58''$ West and a chord distance of 311.56 feet to a point of tangency, thence South $15^{\circ}24'47''$ West a distance of 133.46 feet, thence North $20^{\circ}57'23''$ West a distance of 267.58 feet to the POINT OF BEGINNING.

subject to a perpetual easement to the United States of America for the Intracoastal Waterway (500'R/W) Map Book 4, Pages 1 through 19, of the Public Records of Flagler County, Florida.

Parcel containing 12.6686 acres more or less.

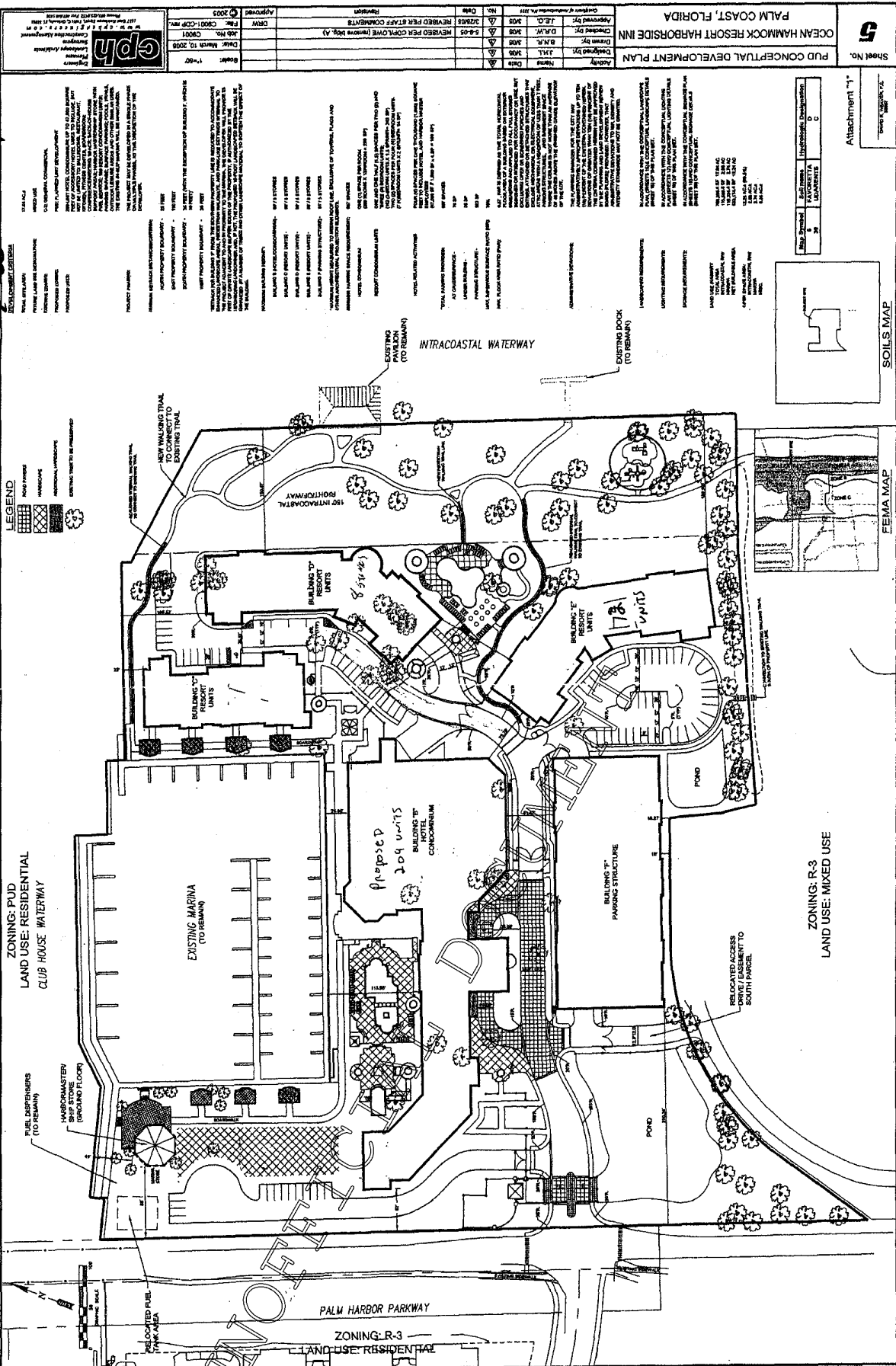
TOGETHER WITH the boat dock and pavillion located on and adjacent to the above described property and as more particularly shown on the attached Exhibit B.

UNOFFICIAL



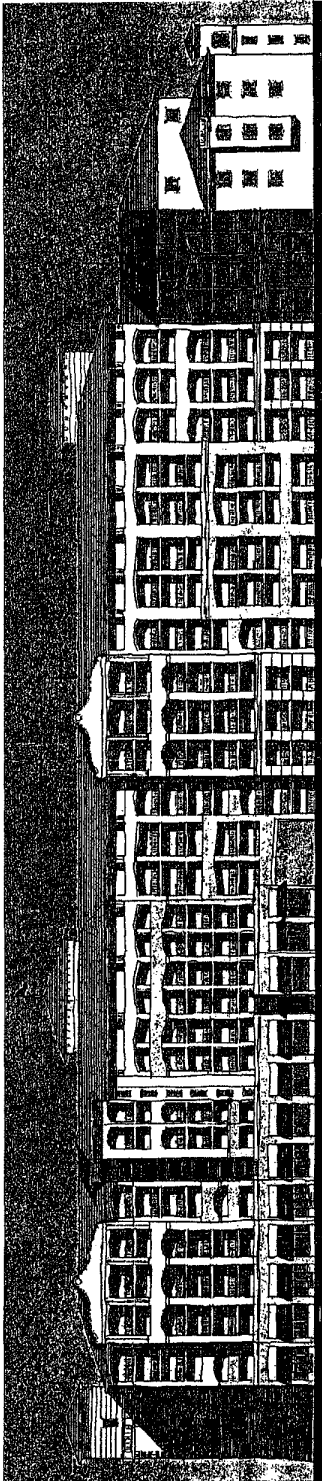
REC 0550 PAGE 1670

Exhibit 2

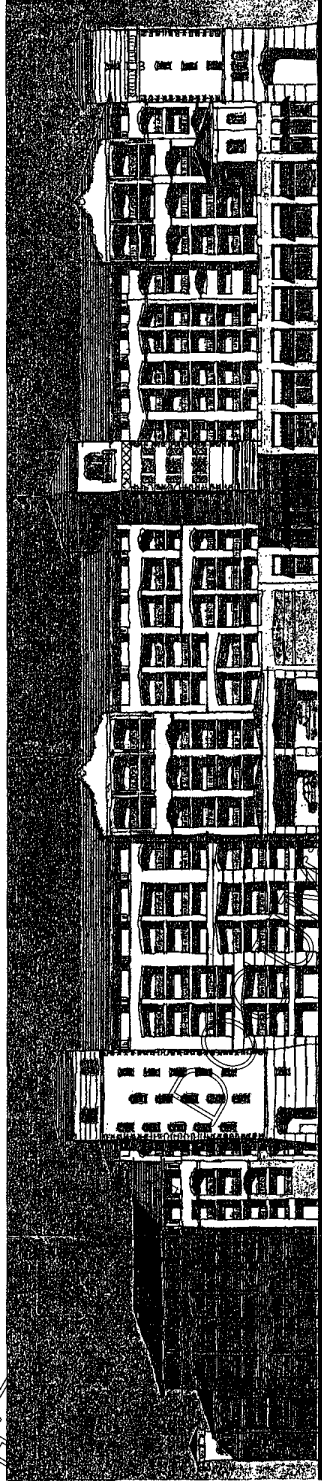


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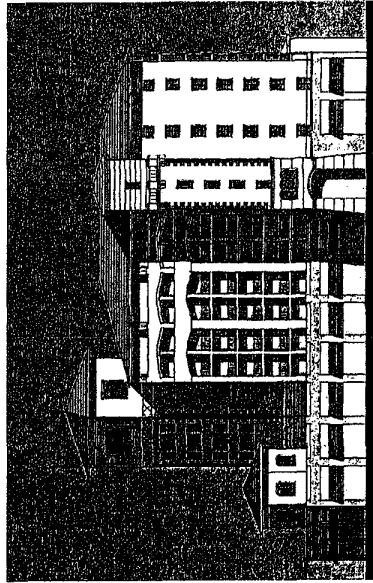
Exhibit 3



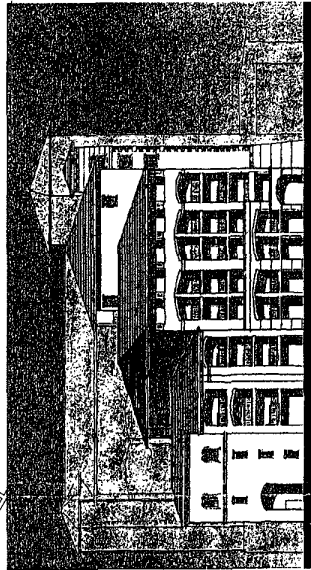
BUILDING B
NORTH ELEVATION



BUILDING B
SOUTH ELEVATION



BUILDING B
WEST ELEVATION



BUILDING B
EAST ELEVATION

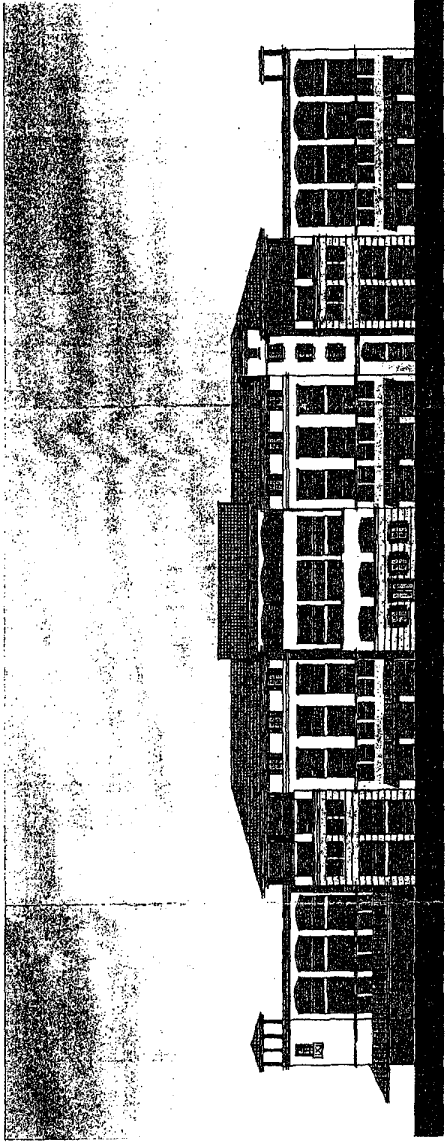
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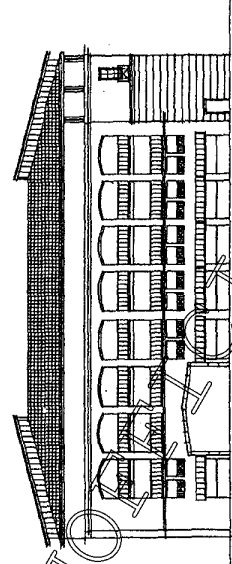
Harborside Inn and Marina
Palm Coast, Florida

9
ARCHITECTURE, P.A.

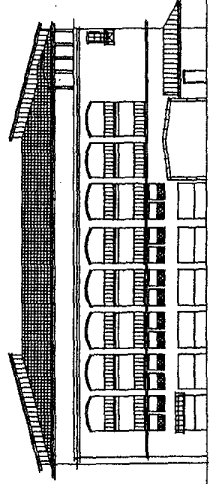
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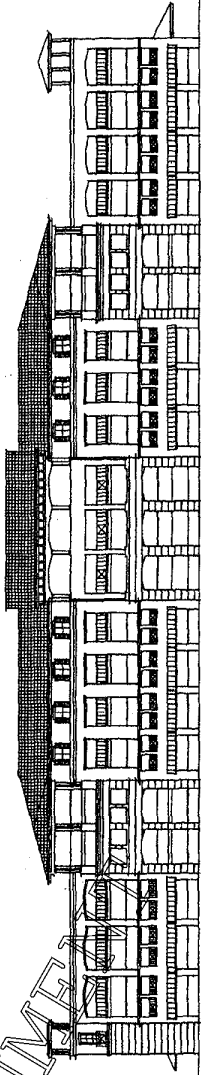
BUILDING F
NORTH ELEVATION



WEST ELEVATION



EAST ELEVATION



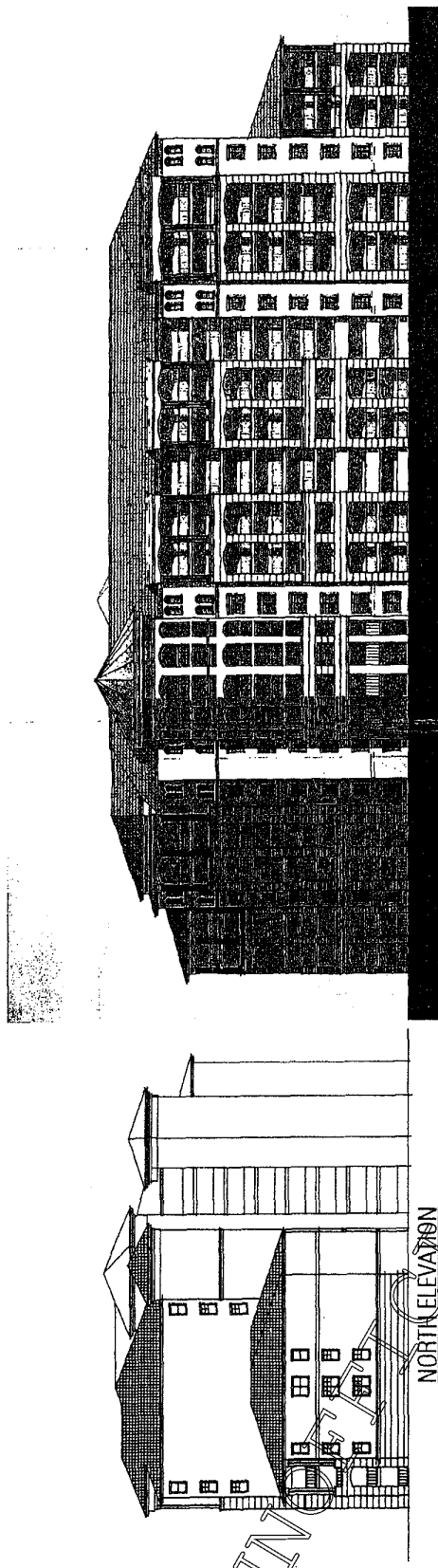
SOUTH ELEVATION



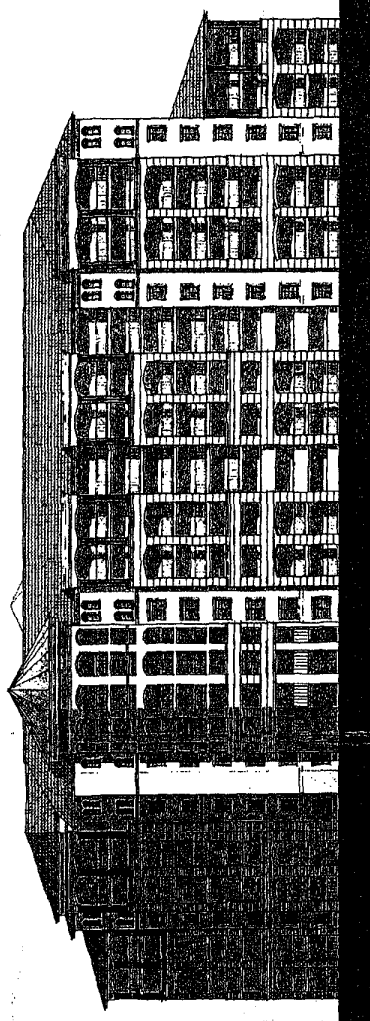
Harborside Inn and Marina
Palm Coast, Florida

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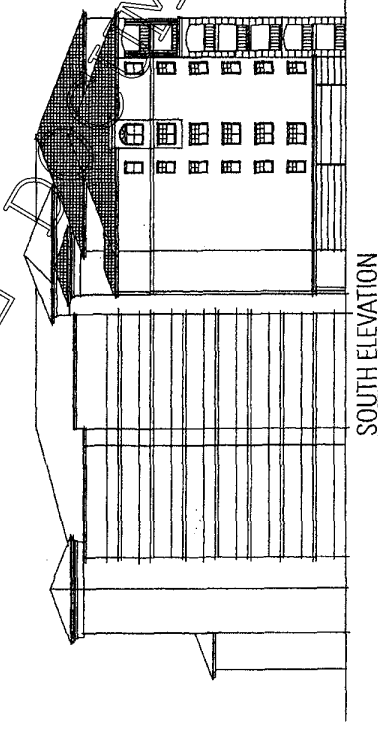
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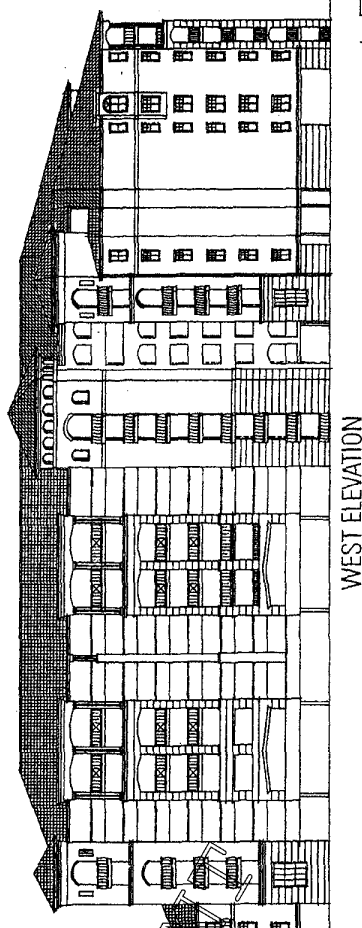
NORTH ELEVATION



BUILDING D
EAST ELEVATION



SOUTH ELEVATION

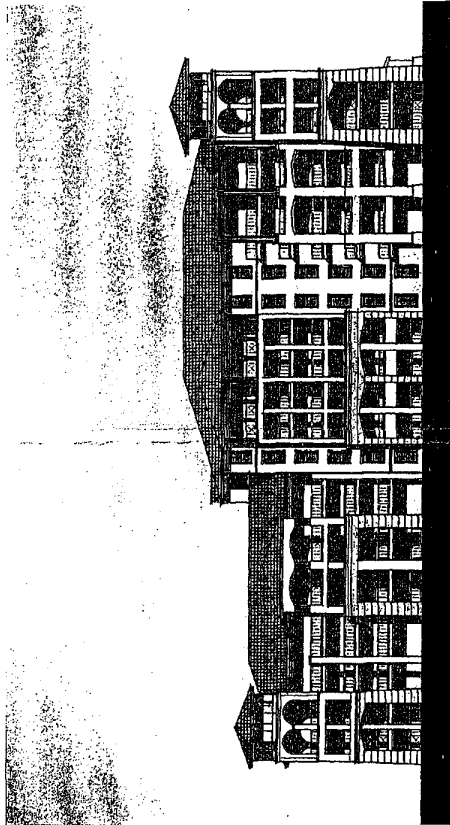


WEST ELEVATION

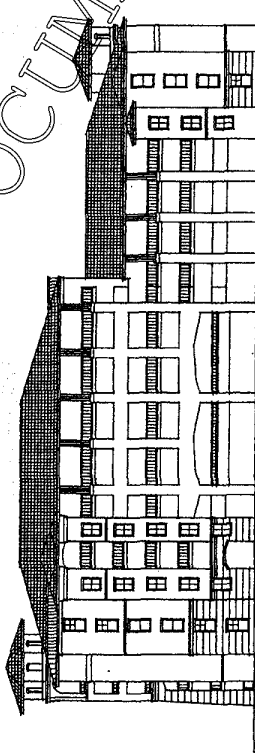


Harborside Inn and Marina
Palm Coast, Florida

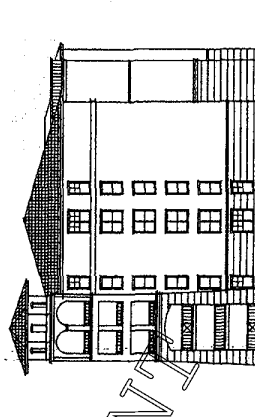
AWD



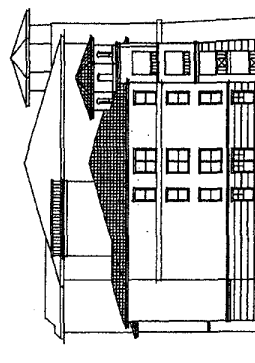
BUILDING C
WEST ELEVATION



EAST ELEVATION



SOUTH ELEVATION



NORTH ELEVATION

UNOFFICIAL DOCUMENT

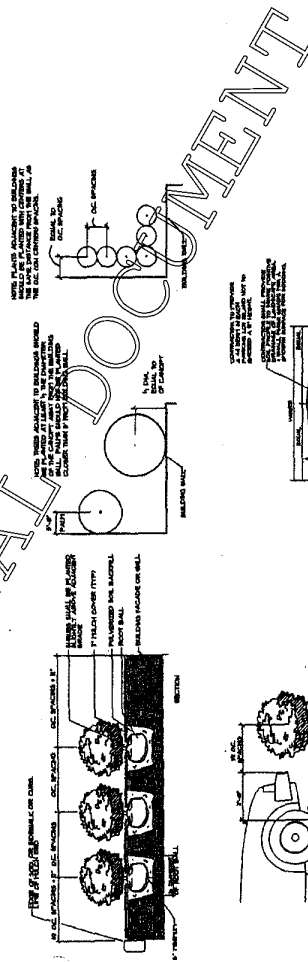
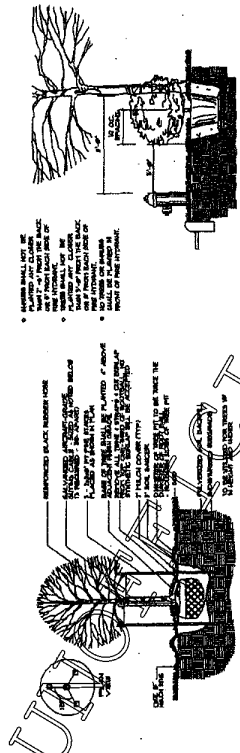
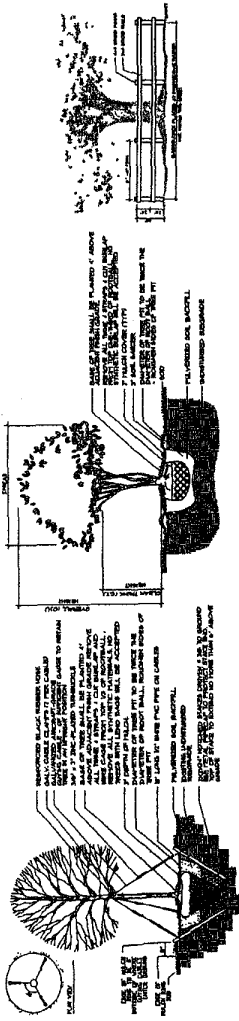


Harborside Inn and Marina
Palm Coast, Florida

Handwritten initials: CMH



HARBORSIDE INN AND MARINA
PALM COAST, FLORIDA
 CONCEPTUAL LANDSCAPE PLAN
SHEET 16



GENERAL NOTES

1. ALL TREE TRUNKS SHALL BE PROTECTED BY AN APPROVED TREE PROTECTION SYSTEM (TPS) AT ALL TIMES. THE TPS SHALL BE INSTALLED PRIOR TO ANY CONSTRUCTION AND SHALL REMAIN IN PLACE UNTIL THE TREE IS FULLY ESTABLISHED. THE TPS SHALL BE MAINTAINED AT ALL TIMES AND SHALL BE REPAIRED AS NEEDED. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
2. THE TPS SHALL BE INSTALLED PRIOR TO ANY CONSTRUCTION AND SHALL REMAIN IN PLACE UNTIL THE TREE IS FULLY ESTABLISHED. THE TPS SHALL BE MAINTAINED AT ALL TIMES AND SHALL BE REPAIRED AS NEEDED. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
3. THE TPS SHALL BE MAINTAINED AT ALL TIMES AND SHALL BE REPAIRED AS NEEDED. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
4. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
5. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
6. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
7. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
8. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
9. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.
10. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.

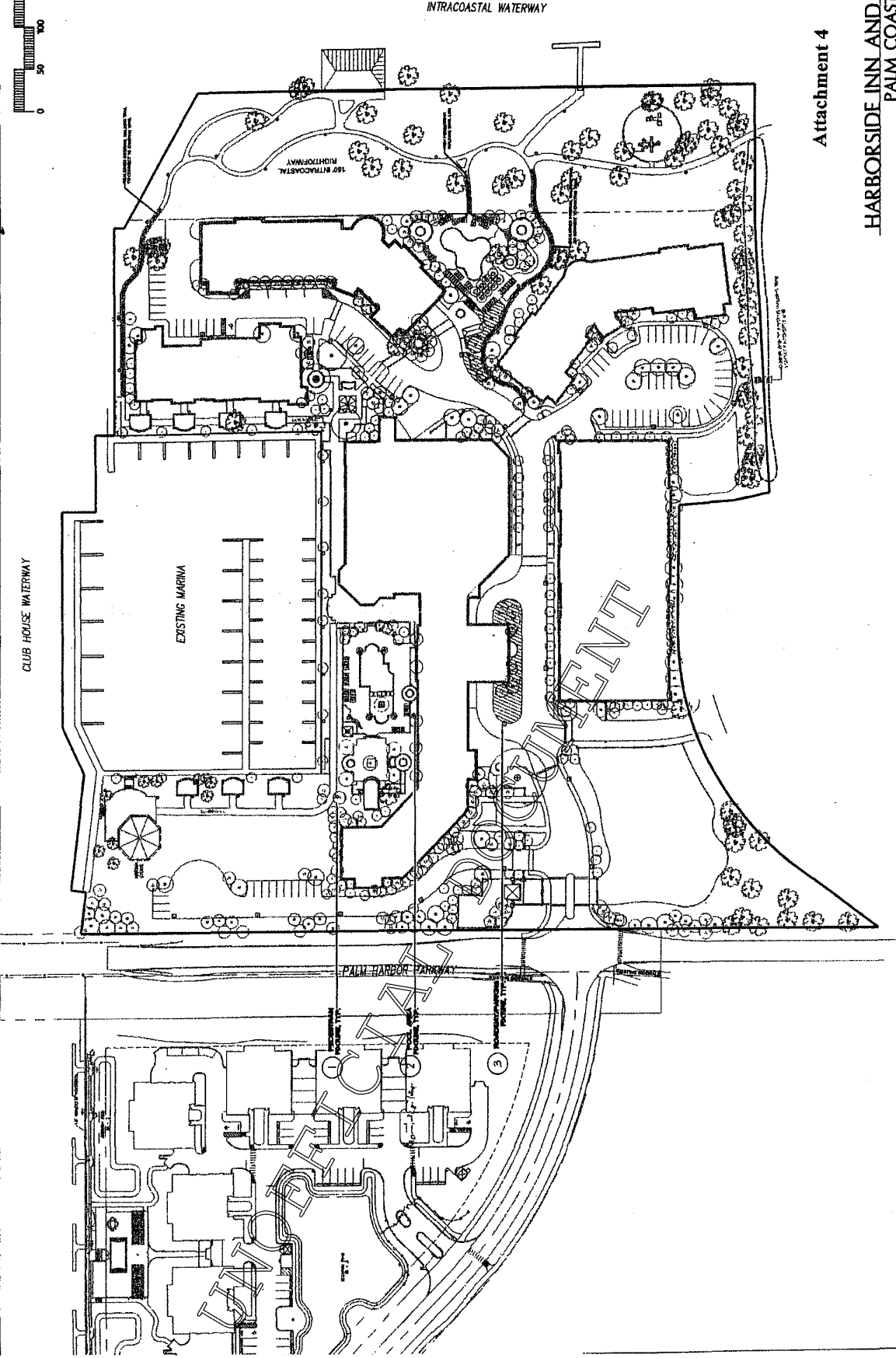
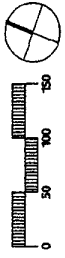
TREE PROTECTION REQUIREMENTS

ALL TREE TRUNKS SHALL BE PROTECTED BY AN APPROVED TREE PROTECTION SYSTEM (TPS) AT ALL TIMES. THE TPS SHALL BE INSTALLED PRIOR TO ANY CONSTRUCTION AND SHALL REMAIN IN PLACE UNTIL THE TREE IS FULLY ESTABLISHED. THE TPS SHALL BE MAINTAINED AT ALL TIMES AND SHALL BE REPAIRED AS NEEDED. THE TPS SHALL BE REMOVED ONLY WHEN THE TREE IS FULLY ESTABLISHED AND THE TRUNK IS PROTECTED BY A PERMANENT BARRIER.

UNOFFICIAL DOCUMENT

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Exhibit S



Attachment 4

HARBORSIDE INN AND MARINA
PALM COAST, FLORIDA
CONCEPTUAL LIGHTING PLAN
SHEET 17

CMAA

LANDSCAPE LIGHTING KEY

TYPE	DESCRIPTION	MANUFACTURER	MODEL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL

GENERAL LIGHTING NOTES:
 ALL LIGHTING SHALL BE PROVIDED FOR THE ENTIRE PROJECT AND SHALL BE INSTALLED AND OPERATED IN ACCORDANCE WITH THE LATEST EDITIONS OF THE NATIONAL ELECTRICAL CODE (NEC) AND THE ILLINOIS ELECTRICAL CODE (IEC).
 THE CONTRACTOR SHALL ALSO PROVIDE ALL NECESSARY CONDUITS AND WIRING TO THE LIGHT FIXTURES.
 ALL LIGHTS SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL JURISDICTION.
 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.
 THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE LOCAL JURISDICTION.
 ALL LIGHTING SHALL BE INSTALLED IN ACCORDANCE WITH THE MANUFACTURER'S INSTALLATION INSTRUCTIONS.

DESIGNER FLOOD

REQUIREMENTS:

- Material: Aluminum
- Finish: Powder Coat
- Mounting: Adjustable
- Beam Angle: 15°
- Color Temperature: 3000K
- Wattage: 100W

INSTALLATION:

1. Mounting holes are spaced 12" on center.

2. Mounting holes are spaced 12" on center.

3. Mounting holes are spaced 12" on center.

4. Mounting holes are spaced 12" on center.

5. Mounting holes are spaced 12" on center.

6. Mounting holes are spaced 12" on center.

7. Mounting holes are spaced 12" on center.

8. Mounting holes are spaced 12" on center.

9. Mounting holes are spaced 12" on center.

10. Mounting holes are spaced 12" on center.

3000 RICHMOND SERIES

REQUIREMENTS:

- Material: Aluminum
- Finish: Powder Coat
- Mounting: Adjustable
- Beam Angle: 15°
- Color Temperature: 3000K
- Wattage: 100W

INSTALLATION:

1. Mounting holes are spaced 12" on center.

2. Mounting holes are spaced 12" on center.

3. Mounting holes are spaced 12" on center.

4. Mounting holes are spaced 12" on center.

5. Mounting holes are spaced 12" on center.

6. Mounting holes are spaced 12" on center.

7. Mounting holes are spaced 12" on center.

8. Mounting holes are spaced 12" on center.

9. Mounting holes are spaced 12" on center.

10. Mounting holes are spaced 12" on center.

1000 VIKING SERIES

REQUIREMENTS:

- Material: Aluminum
- Finish: Powder Coat
- Mounting: Adjustable
- Beam Angle: 15°
- Color Temperature: 3000K
- Wattage: 100W

INSTALLATION:

1. Mounting holes are spaced 12" on center.

2. Mounting holes are spaced 12" on center.

3. Mounting holes are spaced 12" on center.

4. Mounting holes are spaced 12" on center.

5. Mounting holes are spaced 12" on center.

6. Mounting holes are spaced 12" on center.

7. Mounting holes are spaced 12" on center.

8. Mounting holes are spaced 12" on center.

9. Mounting holes are spaced 12" on center.

10. Mounting holes are spaced 12" on center.

REQUIREMENTS

TYPE	DESCRIPTION	MANUFACTURER	MODEL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL

REQUIREMENTS

TYPE	DESCRIPTION	MANUFACTURER	MODEL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL

REQUIREMENTS

TYPE	DESCRIPTION	MANUFACTURER	MODEL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL
SYMBOL	SYMBOL	SYMBOL	SYMBOL

② POOL AREA LIGHTING

① PEDESTRIAN LIGHTING

⑤ ROADWAY & PARKING LIGHTING

FORM TO SQUARE

REQUIREMENTS:

- Material: Aluminum
- Finish: Powder Coat
- Mounting: Adjustable
- Beam Angle: 15°
- Color Temperature: 3000K
- Wattage: 100W

INSTALLATION:

1. Mounting holes are spaced 12" on center.

2. Mounting holes are spaced 12" on center.

3. Mounting holes are spaced 12" on center.

4. Mounting holes are spaced 12" on center.

5. Mounting holes are spaced 12" on center.

6. Mounting holes are spaced 12" on center.

7. Mounting holes are spaced 12" on center.

8. Mounting holes are spaced 12" on center.

9. Mounting holes are spaced 12" on center.

10. Mounting holes are spaced 12" on center.

POST TOP

REQUIREMENTS:

- Material: Aluminum
- Finish: Powder Coat
- Mounting: Adjustable
- Beam Angle: 15°
- Color Temperature: 3000K
- Wattage: 100W

INSTALLATION:

1. Mounting holes are spaced 12" on center.

2. Mounting holes are spaced 12" on center.

3. Mounting holes are spaced 12" on center.

4. Mounting holes are spaced 12" on center.

5. Mounting holes are spaced 12" on center.

6. Mounting holes are spaced 12" on center.

7. Mounting holes are spaced 12" on center.

8. Mounting holes are spaced 12" on center.

9. Mounting holes are spaced 12" on center.

10. Mounting holes are spaced 12" on center.

ROADWAY & PARKING LIGHTING

REQUIREMENTS:

- Material: Aluminum
- Finish: Powder Coat
- Mounting: Adjustable
- Beam Angle: 15°
- Color Temperature: 3000K
- Wattage: 100W

INSTALLATION:

1. Mounting holes are spaced 12" on center.

2. Mounting holes are spaced 12" on center.

3. Mounting holes are spaced 12" on center.

4. Mounting holes are spaced 12" on center.

5. Mounting holes are spaced 12" on center.

6. Mounting holes are spaced 12" on center.

7. Mounting holes are spaced 12" on center.

8. Mounting holes are spaced 12" on center.

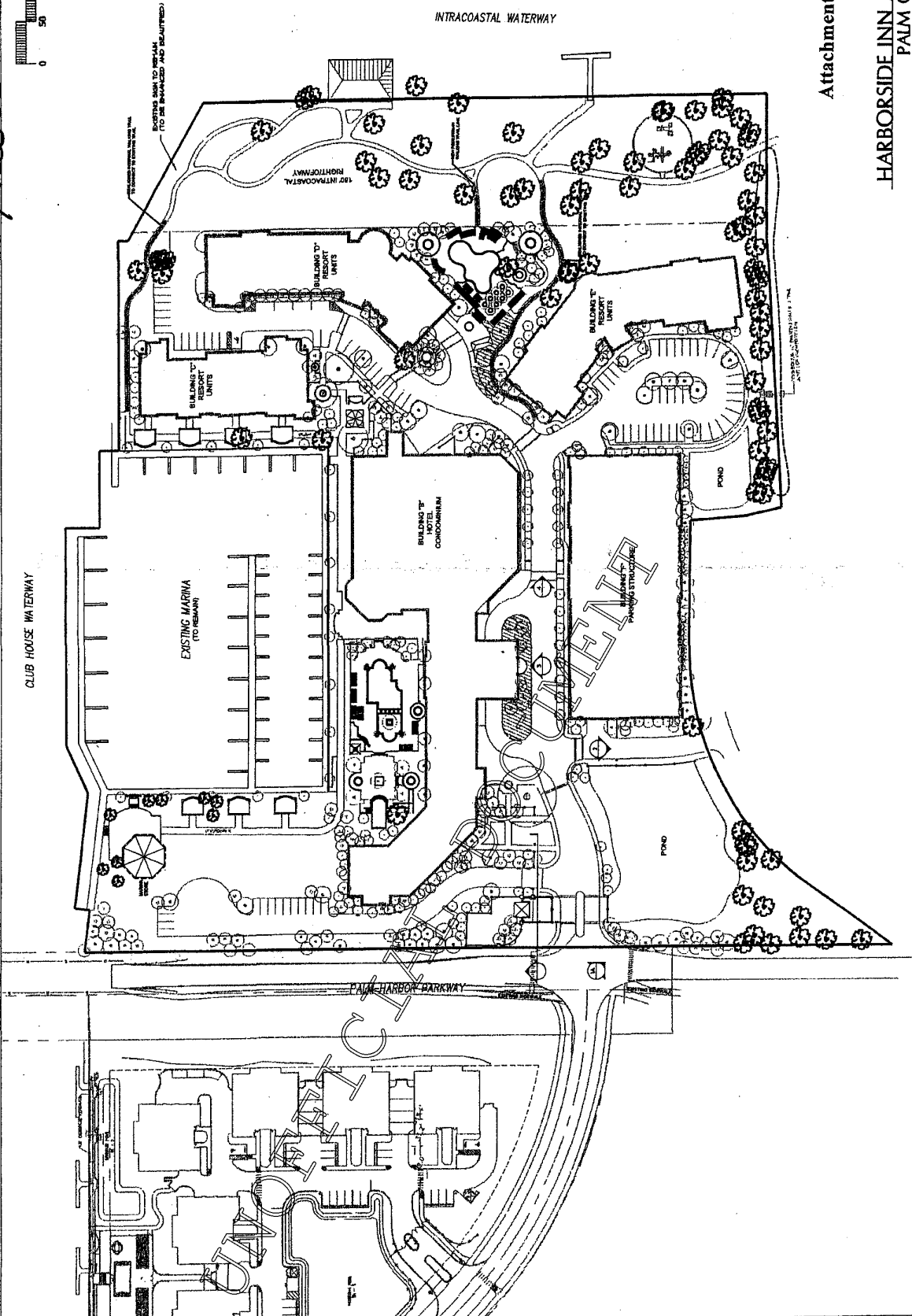
9. Mounting holes are spaced 12" on center.

10. Mounting holes are spaced 12" on center.

UNOFFICIAL

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Exhibit 6

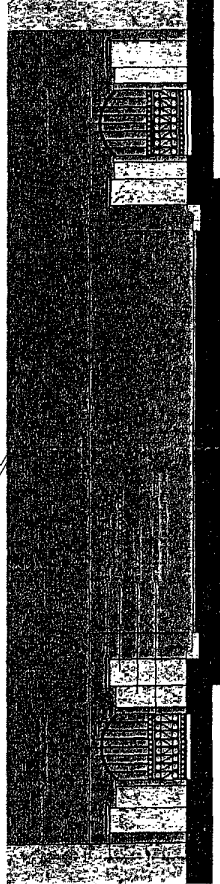
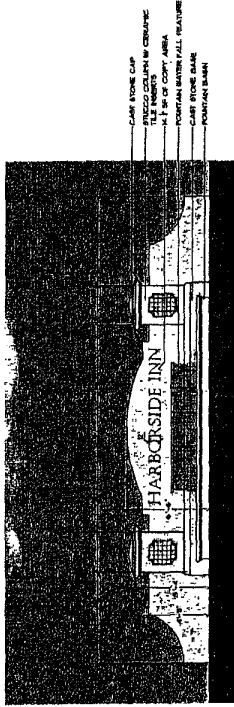
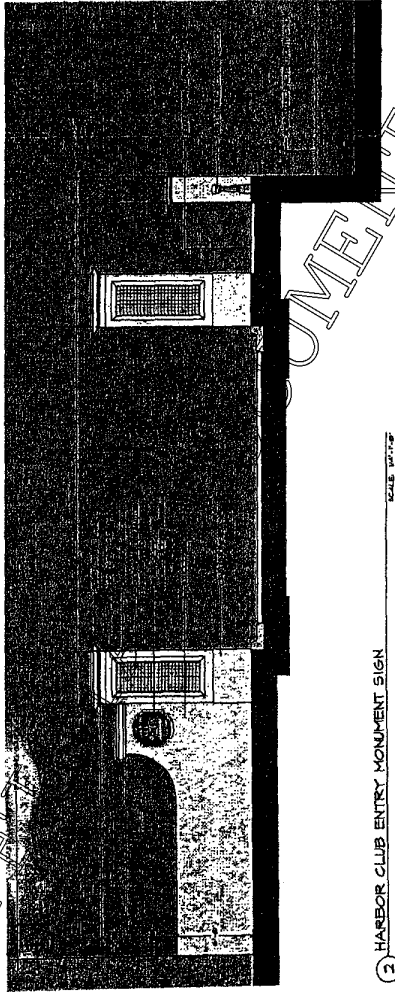
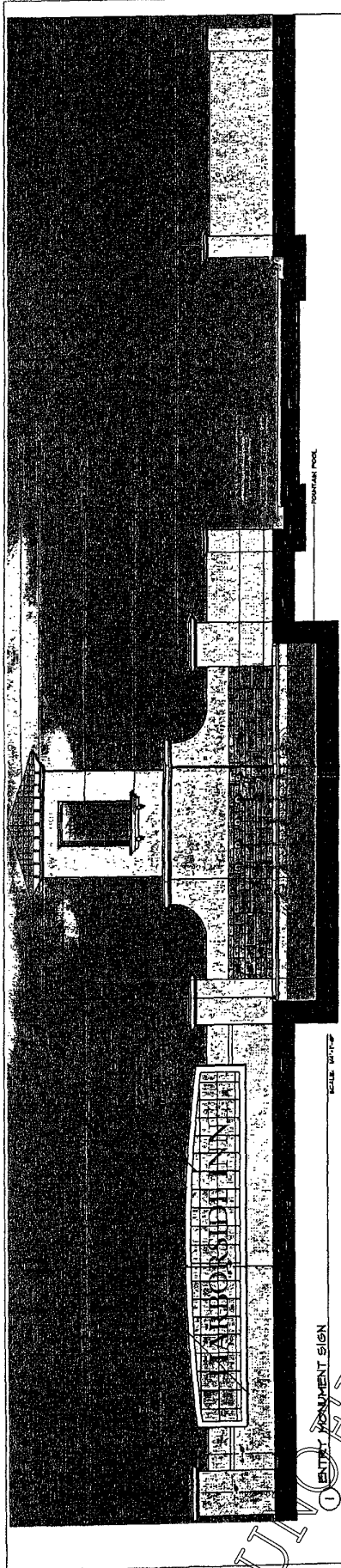


Attachment 5



HARBORSIDE INN AND MARINA
PALM COAST, FLORIDA
 CONCEPTUAL SIGNAGE PLAN
 SHEET 19

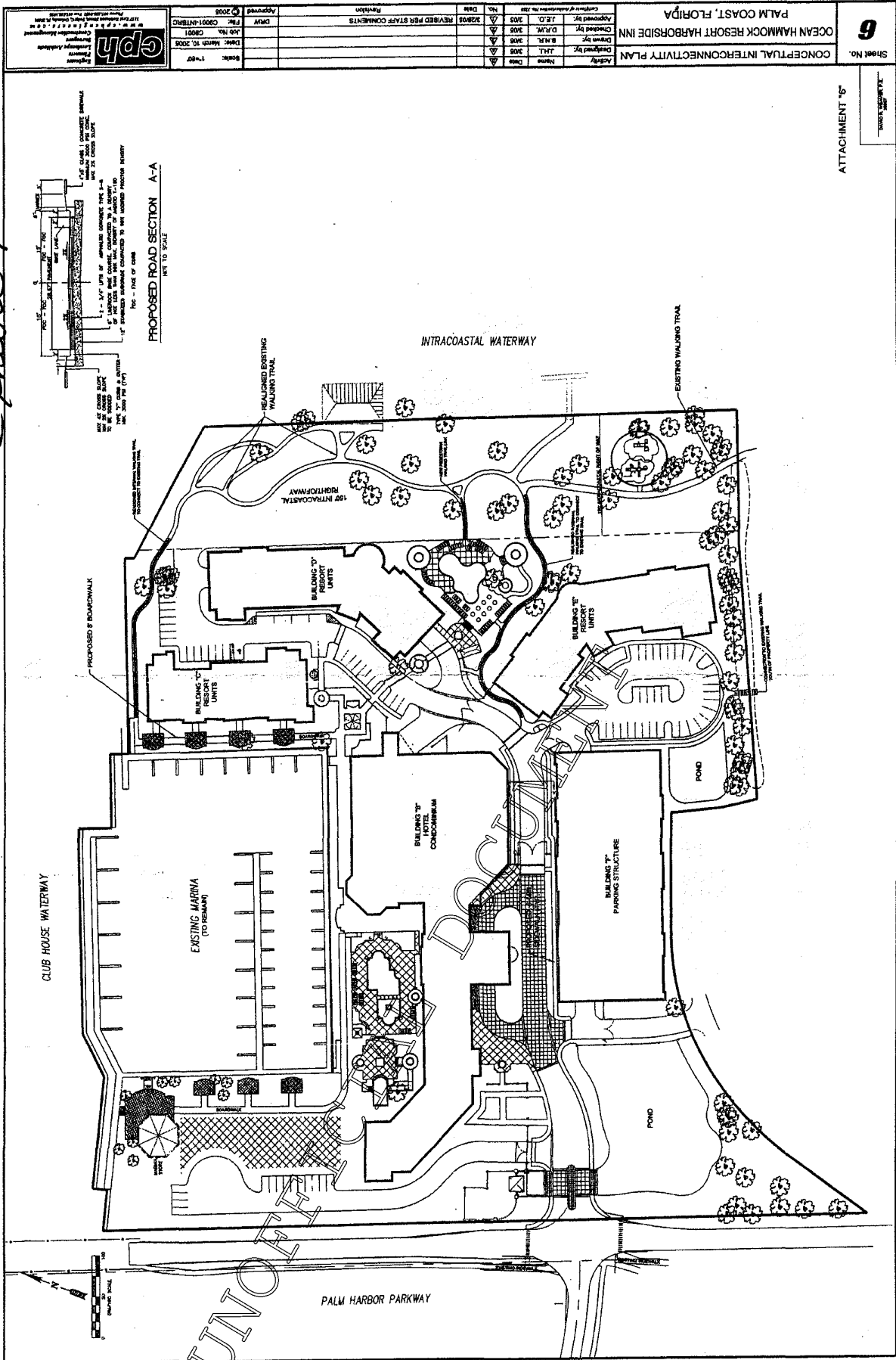
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HARBORSIDE INN AND MARINA
PALM BEACH COUNTY
CONCEPTUAL ARCHITECTURE
ATTACHMENT #5
SHEET 20

CMH

Exhibit 17



gph Golder Associates Environmental & Planning 1111 West 19th Avenue, Suite 100 Fort Lauderdale, FL 33311 Phone: (954) 576-1000 Fax: (954) 576-1001 Email: info@gph.com		Date: March 10, 2008 Scale: 1"=50' File: C:\001\INTBRO	Approved: [Signature] Date: 3/10/08	Revised per staff comments Revision	No. 2008 Date: 3/10/08 Checked by: J.H.L. Drawn by: J.H.L. Design by: J.H.L. Project: 2008	Activity: Conceptual Interconnectivity Plan Location: Palm Coast, Florida Client: Ocean Hammock Resort Harborside Inn
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ATTACHMENT 'S'

Sheet No. 9

AMH

City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department CITY ADMINISTRATION	Amount
Division	Account #
Subject RESOLUTION 2022-XX PROVIDING AUTHORIZATION TO INITIATE LEGAL PROCEEDINGS FOR THE HOLLAND PARK SPLASH PAD	
Presenter : Carl Cote, Director and Trevor Arnold, Attorney	
<p>Background : On April 12, 2022, City staff specialized legal representative, Mr. Trevor B. Arnold of Gray Robinson, P.A. presented Council with an update on the Splash Pad located at Holland Park.</p> <p>On June 7, 2022, City staff and Mr. Arnold provided City Council with another update regarding the Splash Pad located at Holland Park. In addition, City Council approved piggybacking the Collier County Contract (#18-7432-Aq) with Martin Aquatic Design & Engineering, through June 4, 2025, for professional aquatic design and engineering services.</p> <p>City staff negotiated a scope and fee per Florida Statute 287.055 'Consultants' Competitive Negotiation Act' (CCNA) to complete an assessment of the splash pad. This initial analysis had been completed and a report identifying the deficiencies is contained within the report. During the assessment, it was determined that complete removal of the splash pad surfacing material that has failed be removed, so that further analysis could be conducted. This would be to determine if there were any concrete deck or drainage issues. The removal occurred the week of August 22, 2022, and survey work was conducted the week of August 29th. A revised report was issued in September.</p> <p>On September 6, 2022, an update was provided to City Council. Council approved a not-to-exceed amount of \$92,470, with Martin Aquatic Design & Engineering contract. This contract was to complete the design to correct the deficiencies and prepare a bid package to be issued for construction.</p> <p>On October 5, 2022, legal mediation with involved parties was conducted with no settlement reached. This item to provide City Council with an update on the legal process and to obtain authorization for legal proceedings for the Holland Park Splash Pad.</p>	
<p>Recommended Action : ADOPT RESOLUTION 2022-XX PROVIDING AUTHORIZATION TO INITIATE LEGAL PROCEEDINGS FOR THE HOLLAND PARK SPLASH PAD</p>	

RESOLUTION 2022-____
AUTHORIZATION TO INITIATE LEGAL PROCEEDINGS
HOLLAND PARK SPLASH PAD

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AUTHORIZING TREVOR ARNOLD, ESQUIRE, OF GRAY ROBINSON, P.A., TO INITIATE LEGAL PROCEEDINGS RELATING THE HOLLAND PARK SPLASH PAD; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Holland Park Splash pad has been inoperable since October 2021 due to design and construction defects; and

WHEREAS, the City Manager of the City of Palm Coast determined it was in the City's best interest to contract with Trevor Arnold, Esquire, of Gray Robinson P.A. to represent the City's legal interests in determining responsibility and liability for the design and/or construction defects of the Holland Park Splash Pad; and

WHEREAS, the City Council of the City of Palm Coast authorized Trevor Arnold of Gray Robinson, P.A., in June 2022 to conduct a pre-suit mediation with the responsible parties, which was held on October 5, 2022; and

WHEREAS, the pre-suit mediation ended without resolution or settlement; and

WHEREAS, the City Council desires to authorize Trevor Arnold, of Gray Robinson P.A. to continue to represent the City and initiate a lawsuit and any other legal proceedings necessary against the responsible parties for the Holland Park Splash Pad design and construction defects.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORIZATION TO INITIAL LEGAL PROCEEDINGS. The City Council of the City of Palm Coast hereby authorizes Trevor Arnold of Gray Robinson, P.A. to continue to represent the City and initiate a lawsuit and any other legal proceedings necessary against the responsible parties for the Holland Park Splash Pad design and construction defects.

SECTION 2. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the necessary documents to effectuate the City Council’s authorizations contained herein.

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 4. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 5. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the City Council.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 15th day of November 2022.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

City of Palm Coast, Florida Agenda Item

Agenda Date: November 15, 2022

Department FINANCE Item Key	Amount Account: 2103 – Disaster Reserve
Subject: RESOLUTION 2022-XX APPROVING A BUDGET AMENDMENT FOR FISCAL YEAR 2021/2022 RELATING TO THE DISASTER RESERVE FUND	
Presenter: Helena Alves, Financial Services Director	
Background: As a result from Hurricane Ian, the Disaster Reserve Fund expenditures have exceeded the projected budget for Fiscal Year 2021-2022 by approximately \$500,000 which requires City Council to amend the Fiscal Year 2021-2022 budget accordingly.	
Recommended Action: ADOPT RESOLUTION 2022-XX APPROVING A BUDGET AMENDMENT FOR FISCAL YEAR 2021-2022 RELATING TO THE DISASTER RESERVE FUND	

RESOLUTION 2022-____
FISCAL YEAR 2021-2022
DISASTER RESERVE BUDGET AMENDMENT

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PALM COAST, FLORIDA, AMENDING THE FISCAL YEAR
2021-2022 BUDGET RELATING TO THE DISASTER
RESERVE FUND EXPENDITURES; PROVIDING FOR
SEVERABILITY; PROVIDING FOR CONFLICTS;
PROVIDING FOR IMPLEMENTING ACTIONS AND
PROVIDING AN EFFECTIVE DATE**

WHEREAS, Disaster Reserve Fund expenditures exceeded the final budget for Fiscal Year 2021-2022 due to Hurricane Ian; and

WHEREAS, City Council desires to amend the Fiscal Year 2021-2022 budget.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE
CITY OF PALM COAST, FLORIDA, AS FOLLOWS:**

SECTION 1. APPROVAL OF BUDGET AMENDMENT. The City Council of the City of Palm Coast hereby amends the Fiscal Year 2021-2022 budget by \$500,000 relating to the expenditures in the Disaster Reserve Fund.

SECTION 2. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 3. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 4. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 5. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the City Council.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 15th day of November 2022.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

Attachment: Exhibit A-Budget amendment

EXHIBIT A - Budget Summary attachment for public hearings

FY 2022-2023 DISASTER RESERVE FUND

		FY 2021-2022 REVISED BUDGET	
<u>REVENUES:</u>			
Intergovernmental Revenue		\$	500,000
Fund Balance Appropriation			1,150
TOTAL REVENUES:		\$	501,150
<u>EXPENDITURES:</u>			
Operating Expenses		\$	501,150
TOTAL EXPENDITURES:		\$	501,150

City of Palm Coast, Florida Agenda Item

Agenda Date: November 8, 2022

Department	CONSTRUCTION MANAGEMENT & ENGINEERING	Amount
Division	ENGINEERING	Account
Subject	RESOLUTION 2022-XX APPROVING A COST-SHARE AGREEMENT WITH ST. JOHNS RIVER WATER MANAGEMENT DISTRICT FOR THE LONDON WATERWAY EXPANSION PROJECT	
Presenter : Carmelo Morales, Stormwater Engineer III		
<p>Background : In an effort to enhance and stay consistent with the Stormwater Master Plan and to address drainage related issues, the City wishes to expand the stormwater attenuation and treatment capacity of the London Waterway. The project objective is to increase the flood storage capacity within London Waterway to reduce peak elevations, improve water quality in receiving waters with additional stormwater treatment, enhance the environment to support native fauna and flora, and deliver an aesthetic project that can serve the immediate neighborhood as a passive park. The project consists of construction an 11-acre lake along with corresponding storm sewer for inflow and outflow structures and 4.2 acres of littoral zone.</p> <p>The St. Johns River Water Management District (SJRWMD) cost-share program is designed to fund the construction of local stormwater management and alternative water supply projects as well as conservation implementation projects.</p> <p>Staff requested grant funding for the London Waterway Expansion project, in an amount not to exceed \$904,500, towards the estimated construction cost of \$3,618,000. The district has determined that providing cost-share funding to recipient will benefit the water resources and one or more of the district's missions and initiatives. This request was approved by the Governing Board (contract#37938).</p> <p>This item is to approve the cost-share grant agreement with SJRWMD.</p>		
<p>Recommended Action : ADOPT RESOLUTION 2022-XX APPROVING A COST-SHARE AGREEMENT WITH ST. JOHNS RIVER WATER MANAGERMENT DISTRICT FOR THE LONDON WATERWAY EXPANSION PROJECT</p>		

RESOLUTION 2022 - ____
LONDON WATERWAY
COST-SHARE AGREEMENT
ST. JOHN'S RIVER WATER MANAGEMENT DISTRICT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING THE COST-SHARE GRANT AGREEMENT WITH ST. JOHNS RIVER WATER MANANGEMENT DISTRICT FOR THE CONSTRUCTION OF THE LONDON WATERWAY EXPANSION PROJECT; AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE SAID GRANT AGREEMENT; PROVIDING FOR SEVERABILITY, PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the St. Johns River Water Management District and the City of Palm Coast desire to facilitate the London Waterway Expansion Project; and

WHEREAS, the St. Johns River Water Management District has requested the City of Palm Coast to execute and deliver to the St. Johns River Water Management District the cost-share grant agreement contract #37938.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA AS FOLLOWS:

SECTION 1. APPROVAL OF AGREEMENT. The City Council of the City of Palm Coast hereby approves the cost-share agreement contract #37938 for construction cost of the London Waterway project, with St. John's Water River Management District, as attached hereto and incorporated herein by reference as Exhibit "A."

SECTION 2. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the work order as depicted in Exhibit "A."

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force of effect of any section or part of this Resolution.

SECTION 4. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 5. IMPLENETING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon adoption by the City Council.

DULY PASSED and approved by the City Council of the City of Palm Coast, Florida on this 15th day of November 2022.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

Attachment: Exhibit A – Cost-Share Agreement SJRWMD

**COST-SHARE AGREEMENT
BETWEEN THE
ST. JOHNS RIVER WATER MANAGEMENT DISTRICT
AND CITY OF PALM COAST**

THIS AGREEMENT (“Agreement”) is entered into by and between the GOVERNING BOARD of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT (the “District”), whose address is 4049 Reid Street, Palatka, Florida 32177, and CITY OF PALM COAST (“Recipient”), 160 Lake Avenue, Palm Coast, Florida 32164. All references to the parties hereto include the parties, their officers, employees, agents, successors, and assigns.

RECITALS

The waters of the state of Florida are among its basic resources, and it has been declared to be the policy of the Legislature to promote the conservation, development, and proper utilization of surface and ground water. Pursuant to chapter 373, Fla. Stat., the District is responsible for the management of the water resources within its geographical area.

The District 2022-2023 cost-share funding program is designed to fund the construction of local stormwater management and alternative water supply projects as well as conservation implementation projects. Its goals are to contribute to: (1) reduction in water demand through indoor and outdoor conservation measures; (2) development of alternative or non-traditional water supply sources; such as reclaimed water, surface water, or seawater; (3) water quality improvements (for example, nutrient-loading reduction in springsheds or other surface-water systems); and (4) water resource development opportunities (for instance, increasing available source water through expansion or development of surface-water storage). The current cost-share funding program also recognizes the importance of providing funding opportunities for construction of flood protection and natural-systems restoration projects, which are important components of the District’s core mission focus.

The District has determined that providing cost-share funding to Recipient for the purposes provided for herein will benefit the water resources and one or more of the District’s missions and initiatives.

At its May 10, 2022 meeting, the Governing Board selected Recipient’s proposal for cost-share funding. The parties have agreed to jointly fund the following project in accordance with the funding formula further described in the Statement of Work, Attachment A (hereafter the “Project”):

Palm Coast London Waterway Expansion Project

In consideration of the above recitals, and the funding assistance described below, Recipient agrees to perform and complete the activities provided for in the Statement of Work, Attachment A. Recipient shall complete the Project in conformity with the contract documents and all attachments and other items incorporated by reference herein. This Agreement consists of all of the following documents: (1) Agreement, (2) Attachment A — Statement of Work; and (3) all other attachments, if any. The parties hereby agree to the following terms and conditions.

1. **TERM; WITHDRAWAL OF OFFER**

- (a) The term of this Agreement is from the date upon which the last party has dated and executed the same (“Effective Date”) until December 31, 2023 (“Completion Date”). Recipient shall not commence the Project until any required submittals are received and approved. Time is of the essence for every aspect of this Agreement, including any time extensions. Any request for an extension of time beyond the Completion Date must be made before October 1, 2023. Timely requests to extend, for longer than six months, the Completion Date of the Agreement for projects whose District contribution exceeds \$100,000 may only be approved by the District’s Governing Board. Notwithstanding specific mention that certain provisions survive termination or expiration of this Agreement, all provisions of this Agreement that by their nature extend beyond the Completion Date survive termination or expiration hereof (e.g., delivery of a final report, will remain in full force and effect after the Completion Date as necessary to effect performance).
- (b) This Agreement constitutes an offer until authorized, signed and returned to the District by Recipient. This offer terminates 90 days after receipt by Recipient; provided, however, that Recipient may submit a written request for extension of this time limit to the District’s Project Manager, stating the reason(s) therefor. Request for extension of time after the 90 days will be denied. The Project Manager shall notify Recipient in writing if an extension is granted or denied. If granted, this Agreement shall be deemed modified accordingly without any further action by the parties.
- (c) If the construction project, or the conservation project, which is eligible for District reimbursement, does not begin before June 30, 2023, the cost-share agreement will be subject to termination and the funds subject to reallocation.

- 2. **DELIVERABLES.** Recipient shall fully implement the Project, as described in the Statement of Work, Attachment A. Recipient is responsible for the professional quality, technical accuracy, and timely completion of the Project. Both workmanship and materials shall be of good quality. Unless otherwise specifically provided for herein, Recipient shall provide and pay for all materials, labor, and other facilities and equipment necessary to complete the Project. The District’s Project Manager shall make a final acceptance inspection of the Project when completed and finished in all respects. Upon satisfactory completion of the Project, the District will provide Recipient a written statement indicating that the Project has been completed in accordance with this Agreement. Acceptance of the final payment by Recipient shall constitute a release in full of all claims against the District arising from or by reason of this Agreement.

- 3. **OWNERSHIP OF DELIVERABLES.** Unless otherwise provided herein, the District does not assert an ownership interest in any of the deliverables under this Agreement.

4. **AMOUNT OF FUNDING**

- (a) For satisfactory completion of the Project, the District shall pay Recipient 25% of the total construction cost of the Project, but in no event shall the District cost-share exceed \$904,500. The District cost-share is not subject to modification based upon price escalation in implementing the Project during the term of this Agreement. Recipient shall be responsible for payment of all costs necessary to ensure completion of the Project. Recipient shall notify the District’s Project Manager in writing upon receipt of any additional external funding for the Project not disclosed prior to execution of this Agreement.
- (b) “Construction cost” is defined to include actual costs of constructing Project facilities, including construction management. Land acquisition, engineering design, permitting, and solicitation costs are excluded. Construction cost does not include any costs incurred prior to the Effective Date, unless expressly authorized by the Statement of Work. Costs that are excluded will not be credited toward Recipient’s cost-share.
- (c) Work performed or expenses incurred after the Completion Date are not eligible for Cost-Share reimbursement.

5. PAYMENT OF INVOICES

- (a) Recipient shall submit itemized invoices as per the Statement of Work, Attachment A for reimbursable expenses by one of the following two methods: (1) by email to acctpay@sjrwmd.com (preferred) or (2) by mail to the St. Johns River Water Management District, Finance Director, 4049 Reid Street, Palatka, Florida 32177-2571. The invoices shall be submitted in detail sufficient for proper pre-audit and post-audit review. Invoices shall include a copy of contractor and supplier invoices to Recipient and proof of payment. Recipient shall be reimbursed for 25% of approved cost or the not-to-exceed sum of \$904,500, whichever is less. The District shall not withhold any retainage from this reimbursement. District reimbursement is subject to annual budgetary limitation, if applicable, as provided in subsection (g). If necessary for audit purposes, Recipient shall provide additional supporting information as required to document invoices.
- (b) **End of District Fiscal Year Reporting.** The District's fiscal year ends on September 30. Irrespective of the invoicing frequency, the District is required to account for all encumbered funds at that time. When authorized under the Agreement, submittal of an invoice as of September 30 satisfies this requirement. The invoice shall be submitted no later than October 30. If the Agreement does not authorize submittal of an invoice as of September 30, Recipient shall submit, prior to October 30, a description of the additional work on the Project completed between the last invoice and September 30, and an estimate of the additional amount due as of September 30 for such Work. If there have been no prior invoices, Recipient shall submit a description of the work completed on the Project through September 30 and a statement estimating the dollar value of that work as of September 30.
- (c) **Final Invoice.** The final invoice must be submitted no later than 45 days after the Completion Date; provided, however, that when the Completion Date corresponds with the end of the District's fiscal year (September 30), the final invoice must be submitted no later than 30 days after the Completion Date. **Final invoices that are submitted after the requisite date shall be subject to a penalty of ten percent of the invoice. This penalty may be waived by the District, in its sole judgment and discretion, upon a showing of special circumstances that prevent the timely submittal of the final invoice. Recipient must request approval for delayed submittal of the final invoice not later than ten days prior to the due date and state the basis for the delay.**
- (d) All invoices shall include the following information: (1) District contract number; (2) Recipient's name, address, and authorization to directly deposit payment into Recipient's account (if Recipient has not yet provided the District with a completed Direct Deposit Authorization form; (3) Recipient's invoice number and date of invoice; (4) District Project Manager; (5) Recipient's Project Manager; (6) supporting documentation as to cost and/or Project completion (as per the cost schedule and other requirements of the Statement of Work); (7) Progress Report (if required); (8) Diversity Report (if otherwise required herein). Invoices that do not correspond with this paragraph shall be returned without action within 20 business days of receipt, stating the basis for rejection. Payments shall be made within 45 days of receipt of an approved invoice.
- (e) **Travel expenses.** If the cost schedule for this Agreement includes a line item for travel expenses, travel expenses shall be drawn from the project budget and are not otherwise compensable. If travel expenses are not included in the cost schedule, they are a cost of providing the service that is borne by Recipient and are only compensable when specifically approved by the District as an authorized District traveler. In such instance, travel expenses must be submitted on District or State of Florida travel forms and shall be paid pursuant to District Administrative Directive 2000-02.
- (f) **Payments withheld.** The District may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect the District from loss as a result of: (1) defective work not remedied; (2) failure to maintain adequate progress in the Project; (3) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.

(g) **Annual budgetary limitation.** For multi-fiscal year agreements, the District must budget the amount of funds that will be expended during each fiscal year as accurately as possible. The Statement of Work, Attachment A, includes the parties' current schedule for completion of the Work and projection of expenditures on a fiscal year basis (October 1 – September 30) ("Annual Spending Plan"). If Recipient anticipates that expenditures will exceed the budgeted amount during any fiscal year, Recipient shall promptly notify the District's Project Manager and provide a proposed revised work schedule and Annual Spending Plan that provides for completion of the Work without increasing the Total Compensation. The last date for the District to receive this request is August 1 of the then-current fiscal year. The District may in its sole discretion prepare a District Supplemental Instruction Form incorporating the revised work schedule and Annual Spending Plan during the then-current fiscal year or subsequent fiscal year(s).

6. **LIABILITY AND INSURANCE.** Each party is responsible for all personal injury and property damage attributable to the negligent acts or omissions of that party, its officers, employees and agents. Recipient accepts all risks arising from construction or operation of the Project. Nothing contained herein shall be construed or interpreted as denying to any party any remedy or defense available under the laws of the state of Florida, nor as a waiver of sovereign immunity of the state of Florida beyond the waiver provided for in §768.28, Fla. Stat., as amended. Each party shall acquire and maintain throughout the term of this Agreement such liability, workers' compensation, and automobile insurance as required by their current rules and regulations. If Florida Department of Environmental Protection ("FDEP") funds will be used to fund all or a portion of the Agreement, additional FDEP insurance requirements applicable to the Recipient are included in the insurance attachment to the Agreement.

7. **FUNDING CONTINGENCY.** This Agreement is at all times contingent upon funding availability, which may include a single source or multiple sources, including, but not limited to: (1) ad valorem tax revenues appropriated by the District's Governing Board; (2) annual appropriations by the Florida Legislature, or (3) appropriations from other agencies or funding sources. Agreements that extend for a period of more than one Fiscal Year are subject to annual appropriation of funds in the sole discretion and judgment of the District's Governing Board for each succeeding Fiscal Year. Should the Project not be funded, in whole or in part, in the current Fiscal Year or succeeding Fiscal Years, the District shall so notify Recipient and this Agreement shall be deemed terminated for convenience five days after receipt of such notice, or within such additional time as the District may allow. For the purpose of this Agreement, "Fiscal Year" is defined as the period beginning on October 1 and ending on September 30.

8. **PROJECT MANAGEMENT**

(a) The Project Managers listed below shall be responsible for overall coordination and management of the Project. Either party may change its Project Manager upon three business days' prior written notice to the other party. Written notice of change of address shall be provided within five business days. All notices shall be in writing to the Project Managers at the addresses below and shall be sent by one of the following methods: (1) hand delivery; (2) U.S. certified mail; (3) national overnight courier; or (4) email. Notices via certified mail are deemed delivered upon receipt. Notices via overnight courier are deemed delivered one business day after having been deposited with the courier. Notices via e-mail are deemed delivered on the date transmitted and received.

DISTRICT
 Derek Busby, Project Manager
 St. Johns River Water Management District
 4049 Reid Street
 Palatka, Florida 32177-2571
 Phone: 386-329-4459
 Email: dbusby@sjrwmnd.com

RECIPIENT
 Carmelo Morales, Project Manager
 City of Palm Coast
 160 Lake Avenue
 Palm Coast, Florida 32164
 Phone: 386-986-4758
 Email: cmorales@palmcoastgov.com

- (b) The District's Project Manager shall have sole responsibility for transmitting instructions, receiving information, and communicating District policies and decisions regarding all matters pertinent to performance of the Project. The District's Project Manager may issue a District Supplemental Instruction (DSI) form, Attachment C, to authorize minor adjustments to the Project that are consistent with the purpose of the Project. Both parties must sign the DSI. A DSI may not be used to change the District cost-share or percentage, quantity, quality or the Completion Date of the Project, or to change or modify the Agreement.

9. PROGRESS REPORTS AND PERFORMANCE MONITORING.

- (a) **Progress Reports.** Recipient shall provide to the District quarterly Project update/status reports as provided in the Statement of Work. Reports will provide detail on progress of the Project and outline any potential issues affecting completion or the overall schedule. Recipient shall use the District's Project Progress Report form, Attachment B. Recipient shall submit the Project Progress Reports to the District's Project Manager and District's Budget Coordinator within 15 days after the closing date of each calendar quarter (March 31, June 30, September 30 and December 31).
- (b) **Performance Monitoring.** For as long as the Project is operational, the District shall have the right to inspect the operation of the Project during normal business hours upon reasonable prior notice. Recipient shall make available to the District any data that is requested pertaining to performance of the Project.

10. **WAIVER.** The delay or failure by the District to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the District's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

11. FAILURE TO COMPLETE PROJECT

- (a) Should Recipient fail to complete the Project, Recipient shall refund to the District all of the funds provided to Recipient pursuant to this Agreement. However, the District, in its sole judgment and discretion, may determine that Recipient has failed to complete the Project due to circumstances that are beyond Recipient's control, or due to a good faith determination that the Project is no longer environmentally or economically feasible. In such event, the District may excuse Recipient from the obligation to return funds provided hereunder. If the Project has not been completed within 30 days after the Completion Date, Recipient shall provide the District with notice regarding its intention as to completion of the Project. The parties shall discuss the status of the Project and may mutually agree to revise the time for Project completion or the scope of the Project. Failure to complete the Project within 90 days after the Completion Date shall be deemed to constitute failure to complete the Project for the purposes of this provision.
- (b) In the event the Project constitutes a portion of the total functional project, this paragraph shall apply in the event the total functional project is not completed. In such event, the 90-day timeframe provided herein shall commence upon the date scheduled for completion of the total functional project at the time of execution of this Agreement, unless extended by mutual agreement of the parties. Paragraphs 11(a) and 11(b) shall survive the termination or expiration of this Agreement.

12. **TERMINATION.** If Recipient materially fails to fulfill its obligations under this Agreement, including any specific milestones established herein, the District may provide Recipient written notice of the deficiency by forwarding a Notice to Cure, citing the specific nature of the breach. Recipient shall have 30 days following receipt of the notice to cure the breach. If Recipient fails to cure the breach within the 30-day period, the District shall issue a Termination for Default Notice terminating this Agreement without further notice. In such event, Recipient shall refund to the District all funds provided to Recipient pursuant to this Agreement

within 30 days of such termination. The District may also terminate this Agreement upon ten days' written notice in the event of any material misrepresentations in the Project Proposal.

Delay or failure by the District to enforce any right, remedy or deadline hereunder shall not impair, or be deemed a waiver of, any such right, remedy or deadline, or impair the District's rights or remedies for any subsequent breach or continued breach of this Agreement.

ADDITIONAL PROVISIONS

13. **ASSIGNMENT.** Recipient shall not assign this Agreement, or any monies due hereunder, without the District's prior written consent. Recipient is solely responsible for fulfilling all work elements in any contracts awarded by Recipient and payment of all monies due. No provision of this Agreement shall create a contractual relationship between the District and any of Recipient's contractors or subcontractors.
14. **AUDIT; ACCESS TO RECORDS; REPAYMENT OF FUNDS**
- (a) **Maintenance of Records.** Recipient shall maintain its books and records such that receipt and expenditure of the funds provided hereunder are shown separately from other expenditures in a format that can be easily reviewed. Recipient shall keep the records of receipts and expenditures, copies of all reports submitted to the District, and copies of all invoices and supporting documentation for at least five years after expiration of this Agreement. In accordance with generally accepted governmental auditing standards, the District shall have access to and the right to examine any directly pertinent books and other records involving transactions related to this Agreement. In the event of an audit, Recipient shall maintain all required records until the audit is completed and all questions are resolved. Recipient will provide proper facilities for access to and inspection of all required records.
- (b) **Repayment of Funds.** District funding shall be subject to repayment after expiration of this Agreement if, upon audit examination, the District finds any of the following: (1) Recipient has spent funds for purposes other than as provided for herein, including but not limited to construction materials not used in the Project; (2) Recipient has failed to perform a continuing obligation of this Agreement; (3) Recipient has received duplicate funds from the District for the same purpose; (4) Recipient has been advanced or paid unobligated funds; (5) Recipient has been paid funds in excess of the amount Recipient is entitled to receive under the Agreement; and/or (6) Recipient has received more than 100% contributions through cumulative public agency cost-share funding.
15. **CIVIL RIGHTS.** Pursuant to chapter 760, Fla. Stat., Recipient shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, age, handicap, or marital status.
16. **COOPERATION WITH THE INSPECTOR GENERAL, PURSUANT TO §20.055(5) FLA. STAT.** Recipient and any subcontractors understand and will comply with their duty, pursuant to §20.055(5), Fla. Stat., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.
17. **DISPUTE RESOLUTION.** Recipient is under a duty to seek clarification and resolution of any issue, discrepancy, or dispute involving performance of this Agreement by submitting a written statement to the District's Project Manager no later than ten business days after the precipitating event. If not resolved by the Project Manager, the Project Manager shall forward the request to the District's Office of General Counsel, which shall issue a written decision within ten business days of receipt. This determination shall constitute final action of the District and shall then be subject to judicial review upon completion of the Project.
18. **DIVERSITY REPORTING.** The District is committed to the opportunity for diversity in the performance of all cost-sharing agreements, and encourages Recipient to make a good faith effort to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation as contractors. The District will assist Recipient by sharing information on W/MBEs. Recipient shall provide

with each invoice a report describing: (1) the company names for all W/MBEs; (2) the type of minority, and (3) the amounts spent with each during the invoicing period.

19. **GOVERNING LAW, VENUE, ATTORNEY'S FEES, WAIVER OF RIGHT TO JURY TRIAL.** This Agreement shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. As used herein, "shall" is always mandatory. In the event of any legal proceedings arising from or related to this Agreement: (1) venue for any state or federal legal proceedings shall be in Orange County; (2) each party shall bear its own attorney's fees, including appeals; (3) for civil proceedings, the parties hereby consent to trial by the court and waive the right to jury trial.
20. **INDEPENDENT CONTRACTORS.** The parties to this Agreement, their employees and agents, are independent contractors and not employees or agents of each other. Nothing in this Agreement shall be interpreted to establish any relationship other than that of independent contractors during and after the term of this Agreement. Recipient is not a contractor of the District. The District is providing cost-share funding as a cooperating governmental entity to assist Recipient in accomplishing the Project. Recipient is solely responsible for accomplishing the Project and directs the means and methods by which the Project is accomplished. Recipient is solely responsible for compliance with all labor, health care, and tax laws pertaining to Recipient, its officers, agents, and employees.
21. **CONFLICTING INTEREST IN RECIPIENT.** Recipient certifies that no officer, agent, or employee of the District has any material interest, as defined in §112.312, Fla. Stat., either directly or indirectly, in the business of Recipient to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement.
22. **NON-LOBBYING.** Pursuant to §216.347, Fla. Stat., as amended, Recipient agrees that funds received from the District under this Agreement shall not be used for the purpose of lobbying the Legislature or any other state agency.
23. **PERMITS.** Recipient shall comply with all applicable federal, state and local laws and regulations in implementing the Project and shall include this requirement in all subcontracts pertaining to the Project. Recipient shall obtain any and all governmental permits necessary to implement the Project. Any activity not properly permitted prior to implementation or completed without proper permits does not comply with this Agreement and shall not be approved for cost-share funding.
24. **PUBLIC ENTITY CRIME.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in §287.017, Fla. Stat., for CATEGORY TWO (\$35,000) for a period of 36 months following the date of being placed on the convicted vendor list.
25. **PUBLIC RECORDS.** Records of Recipient that are made or received in the course of performance of the Project may be public records that are subject to the requirements of chapter 119, Fla. Stat. If Recipient receives a public records request, Recipient shall promptly notify the District's Project Manager. Each party reserves the right to cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other materials related hereto and subject to the provisions of chapter 119, Fla. Stat., as amended.

26. **ROYALTIES AND PATENTS.** Recipient certifies that the Project does not, to the best of its information and belief, infringe on any patent rights. Recipient shall pay all royalties and patent and license fees necessary for performance of the Project and shall defend all suits or claims for infringement of any patent rights and save and hold the District harmless from loss to the extent allowed by Florida law.

IN WITNESS WHEREOF, the St. Johns River Water Management District has caused this Agreement to be executed on the day and year written below in its name by its Executive Director, or duly authorized designee, and Recipient has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached. This Agreement may be executed in separate counterparts, which shall not affect its validity. Upon execution, this Agreement constitutes the entire agreement of the parties, notwithstanding any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. This Agreement cannot be changed by any means other than written amendments referencing this Agreement and signed by all parties.

ST. JOHNS RIVER WATER
MANAGEMENT DISTRICT

CITY OF PALM COAST

By: _____
Michael A. Register, P.E., Executive Director, or designee

By: _____

Typed Name and Title

Date: _____

Date: _____

Attest: _____

Typed Name and Title

- Attachments:
- Attachment A — Statement of Work and Cost Schedule
- Attachment B — Project Progress Report Form
- Attachment C — District Supplemental Instructions Form

**ATTACHMENT A - STATEMENT OF WORK
PALM COAST LONDON WATERWAY EXPANSION PROJECT**

I. INTRODUCTION/BACKGROUND

The St. Johns River Water Management District (District) is continuing its Cooperative Cost Share Initiative Program in Fiscal Year (FY) 2022-2023 to develop and implement resource and water supply development projects and promote conservation. On May 10, 2022, the District's Governing Board approved funding for Cooperative Cost Share projects. Each project selected for funding will have a positive benefit to one or more of the District's core missions; including water supply, water quality, natural systems or flood mitigation.

The City of Palm Coast (Recipient) requested funding for their London Waterway Expansion project (Project) for the not to exceed amount of \$904,500, towards the estimated construction cost of \$3,618,000. This request was approved by the Governing Board. The Recipient is located in Flagler County.

II. OBJECTIVES

The objective of this contract is to provide cost share dollars that will enable the Recipient to provide stormwater treatment and improve the quality of the water being discharged into the London Waterway, Hulett Branch downstream, and the receiving Pelicer Creek Aquatic Preserve.

III. SCOPE OF WORK

The project consists of construction an 11-acre lake along with corresponding storm sewer for inflow and outflow structures and 4.2 acres of littoral zone.

IV. PROJECT ADMINISTRATION AND DELIVERABLES

The Recipient shall be responsible for the following:

- Complete and obtain final project design, construction plans, and specifications;
- Obtain all required permits, including right of access to the project sites, related to project construction and subsequent operation and maintenance of the completed work;
- Assure compliance with all permits and permit conditions;
- Provide procurement for project construction;
- Perform supervision and inspection of construction;
- Perform construction contract administration;
- Assure compliance with cost accounting practices and procedures required for reimbursement of cost share funds expended.

The Recipient shall provide the following to the District's Project Manager:

- Bi-weekly informal project status updates;
- Timely invoices for actual construction costs in accordance with this cost share agreement (i.e. quarterly, with appropriate substantiation that demonstrates that the applicant has paid for the total work cost and is seeking reimbursement up to the match amount) to enable proper review by the District's Project Manager prior to payment authorization. Deliverables to be submitted with invoices include (as applicable):
 - Interim progress status summaries including inspections, meeting minutes and field notes and dated color photographs of the construction completed to include on-going work that represents the time-period being invoiced;

- Final invoice submittals for completed construction including inspections and dated color photographs of the construction site prior to, during and immediately following completion of the construction task;
- Construction plans, specifications, and contract documents for the site work must be made available upon request;
- Written verification that the record drawings and any required final inspection reports for the project are received;
- Engineer’s certificate of completion for work completed for invoice period;
- Quarterly progress reports identifying project progress to date, key milestones reached, overall project schedule versus time for project completion, an updated spend-down plan, key issues to be resolved, project construction photos with dates. Quarterly reports shall also be emailed to the District’s Budget Coordinator at hbarber@sjrwmd.com.
- Certification of construction completion by a Professional Engineer registered in the state of Florida.

The Recipient shall ensure the task in the Task Identification section below is completed.

V. TASK IDENTIFICATION AND TIME FRAMES

The expiration date of this cost share agreement is December 31, 2023. The projected schedule is as follows:

Task Description	Anticipated Start Date	Anticipated Completion Date
Construction	November 28, 2022	December 31, 2023

VI. BUDGET/COST SCHEDULE

For satisfactory completion of the Project, the District shall pay Recipient 25% of the total construction cost of the Project, but in no event shall the District's cost-share exceed \$904,500. It is anticipated that approximately \$678,250 will be expended in FY 22-23 with approximately \$226,250 being expended in FY 23-24.

Recipient shall invoice the District quarterly with appropriate documentation. The District’s Project Manager shall provide an invoice template that will be used. Invoices shall include a copy of the contractor’s invoices submitted to the Recipient, proof of payment by Recipient, list of addresses and types of the properties connected (if applicable), and other required supporting documentation for reimbursement up to match amount. For in-house expenses, Recipient shall provide copies of all receipts for materials and a system report showing documentation of staff time or other proof of staff time expenses for the Project. The final invoice shall be submitted with the final project report. If the total actual cost of this project is less than originally estimated, the District’s cost-share amount shall be reduced accordingly. Recipient may invoice more frequently submitting all required documentation and include general status information. Recipient may invoice the District for Project construction work beginning October 1, 2022. The District will not reimburse for any expenses prior to October 1, 2022.

Recipient shall submit quarterly progress reports to the District’s Project Manager and the District’s Budget Analyst within 15 days of the end of quarter for work accomplished during each quarter. The email address for the District’s Budget Analyst is hbarber@sjrwmd.com. The Recipient shall submit a final project report within 15 days of Final Completion and acceptance detailing the Project’s accomplishments and any issues resolved during the course of the work.

Estimated Cost Schedule for Reimbursement (all dollar amounts are approximate and may be reallocated between the construction tasks).

FY 22-23 (10/1/2022 – 9/30/2023)

Description	Estimated Task Amount	Estimated Reimbursement Amount
Construction	\$2,713,000	\$678,250

FY 23-24 (10/1/2023 – 9/30/2024)

Description	Estimated Task Amount	Estimated Reimbursement Amount
Construction	\$905,000	\$226,250

**ATTACHMENT B
PROJECT PROGRESS REPORT**

Contract #: 37938

Date: _____

Report Number: _____

**St. Johns River Water Management District
Project Progress Report**

Contract/Project Identification

Project Name:	Palm Coast London Waterway Expansion Project		
Recipient:	City of Palm Coast		
SJRWMD Contract Number:	37938	SJRWMD Project Manager:	Derek Busby
		Recipient's Project Manager:	Carmelo Morales

Construction Schedule

Construction Start Date:	
Construction Completion Date:	
Contract Expiration Date:	

Reporting Period

Beginning Date:	
Ending Date:	

Cost-Share Budget

Total Cost-Share Budget:		Cost-Share Amount Expended This Period:	
Cost-Share Amount Expended To-date:		Percent Cost-Share Budget Expended:	

Spend-Down Plan

Fiscal Year 1

Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Fiscal Year 2

Reimbursement #	Anticipated Amount	Anticipated Date
1		
2		
3		
4		

Project Readiness and Schedule Tracking

Project Phase	% Complete Shown in Application	% Complete Currently	Start Date Shown in Application	Completion Date Shown in Application	Current Start Date	Current Completion Date	Notes: Explain anticipated deviations from schedule
Planning							
Design							
Permitting							
Bidding & Award							

SOW Construction Tasks/Milestones/Deliverables

Task Number	Tasks/Milestones/Deliverables	Total Construction % Complete	Start Date Shown in SOW	Completion Date Shown in SOW	Current Start Date	Current Completion Date
1						

Project update including problems, issues and solutions. Explain in detail.

Include digital photographs of work accomplished during reporting period. Attach an additional page of notes if necessary to explain reasons for lateness or unusual events or circumstances.

ATTACHMENT C — DISTRICT’S SUPPLEMENTAL INSTRUCTIONS (sample)

DISTRICT SUPPLEMENTAL INSTRUCTIONS #

DATE:

TO: Carmelo Morales
City Of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

FROM: Derek Busby, Project Manager

CONTRACT NUMBER: 37938

CONTRACT TITLE: Palm Coast-London Waterway Expansion Project

The Work shall be carried out in accordance with the following supplemental instruction issued in accordance with the Contract Documents without change in the Contract Sum or Contract Time. Prior to proceeding in accordance with these instructions, indicate your acceptance of these instructions for minor adjustments to the work as consistent with the Contract Documents and return to the District’s Project Manager.

- 1. RECIPIENT’S SUPPLEMENTAL INSTRUCTIONS:
- 2. DESCRIPTION OF WORK TO BE CHANGED:
- 3. DESCRIPTION OF SUPPLEMENTAL INSTRUCTION REQUIREMENTS: .

Recipient’s approval: (choose one of the items below):

Approved: _____ Date: _____

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: _____ Date: _____

(N/A agrees to implement the Supplemental Instructions as requested but reserves the right to seek a Change Order in accordance with the requirements of the Agreement.)

Approved: _____ Date: _____
Derek Busby, District Project Manager

Acknowledged: _____ Date: _____
, District Procurement Specialist

c: Contract file
Financial Services

City of Palm Coast, Florida Agenda Item

Agenda Date: November 15, 2022

Department	PUBLIC SAFETY	Amount	\$53,073.80								
Division	FIRE	Account #	10014000-052000								
Subject	RESOLUTION 2022-XX APPROVING PIGGYBACKING THE LAKE COUNTY CONTRACT WITH TEN-8 FIRE & SAFETY, LLC FOR TWENTY (20) NEW BUNKER GEAR JACKETS AND TWENTY (20) NEW BUNKER GEAR PANTS FOR FIRE OPERATIONS										
Presenter:	Fire Chief Berryhill										
Background :	<p>The current budget for our Fire Department includes the replacement of aging bunker gear (protective firefighting equipment). According to the NFPA guidelines, bunker gear has a life expectancy of approximately ten years, and we are beyond that with some of our older equipment. The Fire Department's plan is to consistently replace 20 sets per year to ensure we have upgraded equipment for our employees.</p> <p>This year we are requesting 20 replacement sets. The Fire Department formed a committee to set standards for bunker gear that the firemen are to use.</p> <p>The Fiscal Year 2023 budget includes \$53,073.80 in available funding in the City's Fire Department operating budget for the purchase of Fire Equipment – Personal Protective Equipment (Bunker Gear).</p> <p>Staff recommends approving a piggyback contract with Lake County and Ten-8 Fire & Safety, LLC to purchase the Fire Equipment – Personal Protective Equipment (Bunker Gear).</p>										
SOURCE OF FUNDS WORKSHEET FY 2023	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">Improvements – Fire Operating Supplies 10014000...052000.....</td> <td style="width: 20%; text-align: right;">\$317,029.00</td> </tr> <tr> <td>Total Expended/Encumbered to Date.....</td> <td style="text-align: right;">\$74,030.42</td> </tr> <tr> <td>Current (WO/Contract).....</td> <td style="text-align: right;">\$53,073.80</td> </tr> <tr> <td>Balance.....</td> <td style="text-align: right;">\$189,924.78</td> </tr> </table>			Improvements – Fire Operating Supplies 10014000...052000.....	\$317,029.00	Total Expended/Encumbered to Date.....	\$74,030.42	Current (WO/Contract).....	\$53,073.80	Balance.....	\$189,924.78
Improvements – Fire Operating Supplies 10014000...052000.....	\$317,029.00										
Total Expended/Encumbered to Date.....	\$74,030.42										
Current (WO/Contract).....	\$53,073.80										
Balance.....	\$189,924.78										
Recommended Action :	<p>ADOPT RESOLUTION 2022-XX APPROVING PIGGYBACKING THE LAKE COUNTY CONTRACT WITH TEN-8 FIRE & SAFETY, LLC FOR TWENTY (20) NEW BUNKER GEAR JACKETS AND TWENTY (20) NEW BUNKER GEAR PANTS FOR FIRE OPERATIONS</p>										

RESOLUTION 2022-____
PURCHASE OF BUNKER GEAR

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AUTHORIZING PIGGYBACKING THE LAKE COUNTY AGREEMENT WITH TEN-8 FIRE & SAFETY, LLC FOR THE PURCHASE OF BUNKER GEAR; AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE NECESSARY DOCUMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS, AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Palm Coast Fire Department provides emergency response to residents and visitors; and

WHEREAS, the City Council of the City of Palm Coast desires to approve piggybacking the Lake County contract with Ten-8 Fire & Safety, LLC for the purchase of bunker gear.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:

SECTION 1. APPROVAL OF PIGGYBACKING CONTRACT. The City Council of the City of Palm Coast hereby approves piggybacking the Lake County contract with Ten-8 Fire & Safety, LLC for the purchase bunker gear, as attached hereto and incorporated herein by reference respectively as Exhibit “A.”

SECTION 2. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the necessary documents.

SECTION 3. SEVERABILITY. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Resolution are severable, and if any phrase, clause, sentence, paragraph or section of this Resolution shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Resolution.

SECTION 4. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 5. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 15th day of November 2022.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

Attachments: Exhibit A – Piggyback Contract Lake County and Ten-8 Fire & Safety, LLC



City of PALM COAST

Finance Department
Budget & Procurement Office

160 Lake Avenue
Palm Coast, FL 32164
386-986-3730

TEN-8 FIRE & SAFETY, LLC.
Attn: Cindy Morgan
2950 59th Avenue Drive East
Bradenton, FL 34203

RE: Engagement Letter Authorizing Piggyback

Contract for Fire Equipment, Supplies and Services

Contract Name

22-730K Lake County, FL

Contract Reference

Dear Cindy,

The City of Palm Coast, Florida requests permission to utilize your company's above referenced contract in accordance with its terms and conditions and pricing. If agreed, please indicate approval by electronically signing below as well as the Addendum covering the E-Verify and Public Records requirements.

All invoices should be sent via email to ap@palmcoastgov.com. If email is not possible, please mail invoices to: City of Palm Coast, Attn: Accounts Payable, 160 Lake Avenue, Palm Coast, Florida 32164. All legal notices should be sent to the attention of the City Manager at the same address.

Please feel free to contact me at the email address below if you have any questions.

Regards,

Jesse K. Scott

Jesse K. Scott
Procurement Coordinator
jkscott@palmcoastgov.com

This Engagement Letter is hereby acknowledged and agreed to:

CITY OF PALM COAST

By: _____

Print: Denise Bevan

Title: City Manager

Date: _____

TEN-8 FIRE & SAFETY, LLC.

By: Cindy Morgan
(Authorized Signatory)

Print Name: Cindy Morgan

Title: VP of Equipment and Rescue Sales

Date: Aug 24, 2022 | 8:01 AM PDT



ENGAGEMENT LETTER ADDENDUM**1. E-Verify Registration and Use.**

A. Pursuant to section 448.095, Florida Statutes, beginning January 1, 2021, SUPPLIER shall register with and use the U.S. Department of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the work authorization status of all SUPPLIER employees hired on and after January 1, 2021.

B. Subcontractors

(i) SUPPLIER shall also require all subcontractors performing work under this Agreement to use the E-Verify system for any employees they may hire during the term of this Agreement.

(ii) SUPPLIER shall obtain from all such subcontractors an affidavit stating the subcontractor does not employ, contract with, or subcontract with an unauthorized alien, as defined in section 448.095, Florida Statutes.

(iii) SUPPLIER shall maintain a copy of all subcontractor affidavits for the duration of this Agreement and provide it to CTIY upon request.

C. SUPPLIER must provide evidence of compliance with section 448.095, Florida Statutes. Evidence shall consist of an affidavit from the SUPPLIER stating all employees hired on and after January 1, 2021 have had their work authorization status verified through the E-Verify system and a copy of their proof of registration in the E-Verify system.

D. Failure to comply with this provision is a material breach of the Agreement, and shall result in the immediate termination of the Agreement without penalty to CITY. SUPPLIER shall be liable for all costs incurred by CITY to secure a replacement agreement, including but not limited to, any increased costs for the same services, any costs due to delay, and rebidding costs, if applicable.

2. Public Records.

A. The Parties specifically acknowledge that the Agreement is subject to the laws of the State of Florida, including without limitation, Chapter 119, Florida Statutes, which generally make public all records or other writings made or received by the Parties. If SUPPLIER is either a "contractor" as defined in Section 119.0701(1)(a), Florida Statutes, or an "agency" as defined in Section 119.011(2), Florida Statutes, SUPPLIER shall:

i. Keep and maintain all public records required by CITY to perform the Services herein; and

ii. Upon request from CITY's custodian of public records, provide CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S. or as otherwise provided by law; and

iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement Term and following completion of the Agreement if SUPPLIER does not transfer the records to CITY; and

iv. Upon completion of the Agreement, transfer, at no cost, to CITY all public records in possession of SUPPLIER or keep and maintain public records required by CITY to perform the Services herein. If SUPPLIER transfers all public records to CITY upon completion of the Agreement, SUPPLIER shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If SUPPLIER keeps and maintains public records upon completion of the Agreement, SUPPLIER shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to CITY, upon request from CITY'S custodian of public records, in a format compatible with the information technology systems of CITY.

B. All requests to inspect or copy public records relating to the Agreement shall be made directly to CITY. Notwithstanding any other provision of this Agreement to the contrary, failure to comply with the requirements of this paragraph shall result in the immediate termination of the Agreement, without penalty to CITY. A contractor who fails to provide the public records to CITY within a reasonable time may be subject to penalties pursuant to Section 119.10, Florida Statutes. Further, SUPPLIER shall fully indemnify and hold harmless CITY, its officers, agents and employees from any liability and/or damages, including attorney's fees through any appeals, resulting from SUPPLIER'S failure to comply with these requirements.

C. IF THE SUPPLIER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUPPLIER’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY’S CUSTODIAN OF PUBLIC RECORDS, ATTN: VIRGINIA SMITH, CITY CLERK, AT 386-986-3713, vsmith@palmcoastgov.com, 160 LAKE AVENUE, PALM COAST, FLORIDA 32164.

CITY OF PALM COAST

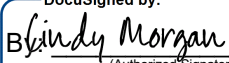
TEN-8 FIRE & SAFETY, LLC.

By: _____

Print: Denise Bevan

Title: City Manager

Date: _____

DocuSigned by:

(Authorized Signatory)
FC6D29A6A2E64A0C
Print Name: Cindy Morgan

Title: VP of Equipment and Rescue Sales

Date: Aug 24, 2022 | 8:01 AM PDT

In Process



TEN-8 FIRE & SAFETY, LLC
2904 59TH AVENUE DRIVE EAST

BRADENTON, FL 34203
USA
Phone: 800-228-8368
Fax: 941-756-2598

Sell To:

CITY OF PALM COAST

SUITE 214
PALM COAST FL 32164
USA

Original

QUOTATION

Quote Number: **231001415** Document Date: **11/07/22** Page: **1/1**
Customer No.: **C00772** Federal Tax ID - Business Partner: **85-8012603784C-8**
PO Number:

Sales Employee: **Wilkerson, Mitchell B** Email: **mwilkerson@ten8fire.com**

Document Owner: **Wilkerson, Mitchell B** Email: **mwilkerson@ten8fire.com**

Delivery Address: **CITY OF PALM COAST**

160 LAKE AVENUE, SUITE 214
PALM COAST FL 32164
USA

Description	Quantity	UoM	Vendor	Price	Total
EQUIPMENT Palm Bay Classix Coat	20	EA		1,526.75	30,535.00
EQUIPMENT Palm Bay Classix Pant	20	EA		1,126.94	22,538.80
FRGT01 FREIGHT CHARGE	1			0.00	0.00
PRICED PER LAKE COUNTY CONTRACT #22-730K, EXPIRES 7/31/2023					

Subtotal: **\$ 53,073.80**
Total Before Tax: **\$ 53,073.80**
Total Tax Amount: **\$ 0.00**
Total Amount: \$ 53,073.80

Valid Until: **12/07/2022**

City of Palm Coast, Florida Agenda Item

Agenda Date: November 15, 2022

Department	WATER AND WASTEWATER UTILITY	Amount	\$312,000.00
Division		Account #	54029088 063000 81019
Subject	RESOLUTION 2022-XX APPROVING A WORK ORDER WITH CONNECT CONSULTING, INC., FOR THE REHAB AND PUMP REPLACEMENT FOR WELL SW-38 AND REPLACEMENT OF WELL SW-7		
Presenter: Peter Roussell, Deputy Utility Director			
<p>Background : This item is for standard operations.</p> <p>The Utility Department has identified the need to rehab and replace the pump for SW-7 well and replace the pump for SW-38 well. These well sites are Public Water Supply Wells that supply raw water to Water Treatment Plant #1. SW-7 was originally constructed in 1973 and has a production rate of 150 gallons per minute (GPM) with a specific capacity of 7.3 GPM/ft. of drawdown. The specific capacity has declined to less than 2 with a production rate of approximately 40 GPM. Connect Consulting, Inc. (CCI) will provide hydrogeological services and engage in several field duties associated with the rehabilitation and relocation to complete SW-7. City staff noticed a large amount of sand in the pipeline for SW-38. CCI evaluated SW-38 in September 2022 and determined that the sand was coming from the uppermost portion of the screen. CCI recommended rehabilitating SW-38 to reduce/eliminate sand production and improve the specific capacity. The well was originally constructed in 2006 as a screen filter packed into the confined surficial aquifer. The specific capacity was 12 GPM/ft. of drawdown when SW-38 was originally constructed.</p> <p>Under the existing contract RFSQ-CD-20-31, staff negotiated a scope and fee not-to-exceed \$65,000.00 with CCI, for the rehab and pump replacement of well SW-38 and \$247,000.00 for the replacement of well SW-7. City staff has determined that the cost for the services is reasonable and fair and are consistent with these types of services for a project of this size and scope. Funds for this project have been budgeted in the FY 2023 Utility Capital Projects-Improvements-Wellfield and Wells fund.</p>			
SOURCE OF FUNDS WORKSHEET FY 2023			
Improvements – Wellfield and Wells 54029088 063000 81019.....\$2,600,000.00			
Total Expended/Encumbered to Date..... 74,780.00			
Current (WO/Contract)..... 312,000.00			
Balance.....\$2,213,220.00			
<p>Recommended Action : ADOPT RESOLUTION 2022-XX APPROVING A WORK ORDER WITH CONNECT CONSULTING, INC., FOR THE REHAB AND PUMP REPLACEMENT FOR WELL SW-38 AND THE REPLACEMENT OF WELL SW-7</p>			

RESOLUTION 2022-_____
REHABILITATION AND PUMP REPLACEMENT
WELL SW-38 AND REPLACEMENT OF WELL SW-7

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, APPROVING A WORK ORDER WITH CONNECT CONSULTING, INC., FOR THE REHABILITATION AND PUMP REPLACEMENT OF WELL SW-38 AND THE REPLACEMENT OF WELL SW-7; AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE NECESSARY DOCUMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR IMPLEMENTING ACTIONS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Connect Consulting, Inc., has expressed a desire to provide the rehab and pump replacement for well SW-38 and the replacement of well SW-7 for the City of Palm Coast; and

WHEREAS, the City Council of the City of Palm Coast desires for Connect Consulting, Inc., to provide the rehab and pump replacement for well SW-38 and the replacement of well SW-7.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PALM COAST, FLORIDA, AS FOLLOWS:

SECTION 1. APPROVAL OF WORK ORDER. The City Council of the City of Palm Coast hereby approves the terms and conditions of the work order with Connect Consulting, Inc., for the rehab and pump replacement for well SW-38 and the replacement of well SW-7, as attached hereto and incorporated herein by reference as Exhibit “A.”

SECTION 2. AUTHORIZATION TO EXECUTE. The City Manager, or designee, is hereby authorized to execute the necessary documents.

SECTION 3. SEVERABILITY. If any section or portion of a section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Resolution.

SECTION 4. CONFLICTS. All resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

SECTION 5. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 6. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 15th day of November 2022.

ATTEST:

CITY OF PALM COAST

VIRGINIA A. SMITH, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY:

NEYSA BORKERT, CITY ATTORNEY

Attachment: Exhibit A – Connect Consulting Inc. Work Order/Proposal



Central Florida Office
1210 Emmel Road
Lake Helen, FL 32744
Office: 386-473-7766
Mobile: 561-866-0540
E-mail: drobertson@cciwater.com

Water Resource Consultants

September 27, 2022

Donald Holcomb
WTP No. 1 Lead Operator
City of Palm Coast
2 Utility Drive
Palm Coast, FL 32164

**RE: Proposal – Public Water Supply Well SW-38
Rehabilitation and Pump Replacement**
CCI Project No. 101.06

Figures

1. Well Location Maps
2. Site and Wellhead Photographs
3. Well Completion Report
4. Sand in Pipeline

Tables

1. Well Construction Details

Dear Mr. Holcomb:

Connect Consulting, Inc. (CCI) is pleased to submit this proposal to the City of Palm Coast (City) to rehabilitate Public Water Supply (PWS) Well SW-38, a Confined Surficial aquifer (CSA), screen and filter-packed well originally constructed in 2006. Towards that end, we have developed a scope of work to complete the project as requested by the City. Well SW-38 is located east of US Highway 1, Palm Coast, FL 32137 on Parcel ID 33-10-30-0000-01030-00A2 as shown in **Figure 1**. Site and wellhead photographs are shown in **Figure 2**.

Discussion

SW-38 was originally constructed as a CSA, screened and filter-packed well in 2006 by Freeman Well Drillers. The well completion report for SW-38 is included in **Figure 3**. The well construction details for SW-38 are listed below in **Table 1**.

Table 1 – Well Construction Details

Well No.	District ID	Outer Casing Diameter (in.)	Inner Casing Diameter (in.)	Outer Casing Depth (ft.)	Screen Interval (ft.)	Total Depth (ft.)	Source
SW-38	35378	16	10	60	60-100	105	CSA

Notes: in. – inches ft. – feet CSA – Confined Surficial aquifer

The specific capacity was 12 gallons per minute per foot of drawdown (GPM/ft.) when SW-38 was originally constructed. In June 2022 during replacement of the flow meter, City personnel noticed a large amount of sand in the pipeline (**Figure 4**). CCI evaluated SW-38 in September 2022 and determined the sand was coming from the upper-most portion of the screen (70 feet). CCI recommended rehabilitating SW-38 to reduce/eliminate the sand production and improve the specific capacity. The following scope of work was developed with input from City personnel to implement the rehabilitation of SW-38.

Scope of Work

A. Well Evaluation and Rehabilitation

Hydrogeologic Services:

1. Project management
2. Well rehabilitation program design
3. Oversight during rehabilitation
4. Data collection during testing
5. Reporting

Well Field Services:

1. Mobilize all equipment to the site to perform the scope of work.
2. Remove the pump from the well.
3. Inject up to four (4) 55-gallon drums of 20° Baume (32%) hydrochloric acid (HCL) into the well and filter pack in 10–20-gallon batches over a two (2) week period.
4. Re-develop the well using high pressure (~600 psi), horizontal jetting in combination with air lift eductor development for up to 40 hours. The high-pressure horizontal jetting tool shall be capable of 360° rotation and vertical movement throughout the total length of the screen section. The jetting tool will be kept in constant motion both rotating and moving the tool up and down in the screened section to not jet a hole in the filter pack.
5. Install a test pump capable of producing up to 200 GPM and continue re-developing the well by surging and over pumping at up to 200 GPM for up to 24 hours. Development will be deemed complete when the

- discharge can be maintained sand free (<5.0 mg/L as measured on a Rossum sand tester) and Turbidity <1.0 NTU.
6. Run the step drawdown pumping test to establish the new specific capacity.
 7. Conduct a post-rehabilitation static and pumped TV survey.
 8. Install the new pump and re-grout the base.
 9. Flow test the pump.
 10. Disinfect the well with sodium or calcium hypochlorite.
 11. Clean up and restore the site.
 12. Demobilize all equipment and secure site.

B. Pump Replacement:

1. Furnish and install new submersible pump and motor (up to 10 HP). Pump sizing will be based on the results of the post-rehabilitation step-drawdown pumping test.

Cost and Schedule

We will complete the scope of work described above on a lump sum/fixed fee basis as follows:

Well Rehabilitation and Pump Replacement:	\$65,000.00
Time of Completion (from authorization):	120 Days

We appreciate the opportunity to assist the City with this project.

Please review this proposal and contact me with any questions.

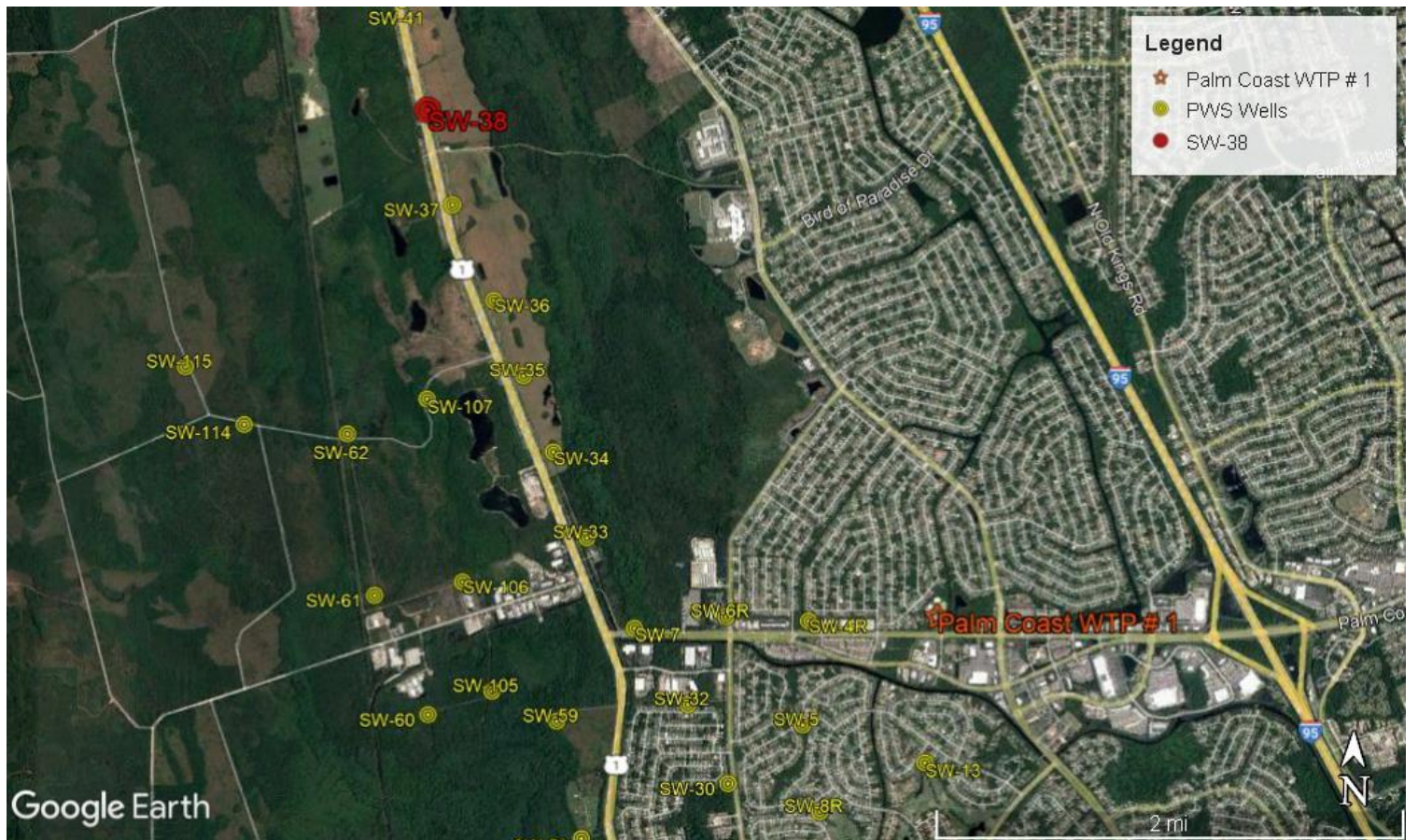
Sincerely:

Connect Consulting, Inc.

David S. Robertson
 David S. Robertson, P.G
 Principal Hydrogeologist

Cc: Fred Greiner
 Peter Roussel
 Thomas Freeman
 Gary Eichler

FIGURES





SW-38

WELL COMPLETION REPORT (Please complete in black ink or type.)

PERMIT # 103266-1 CUR# 1947 DID # _____

If permit is for multiple wells indicate the number of wells drilled _____

Indicate remaining wells to be cancelled _____

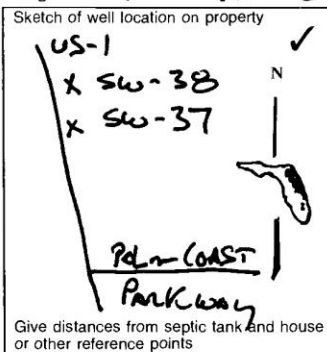
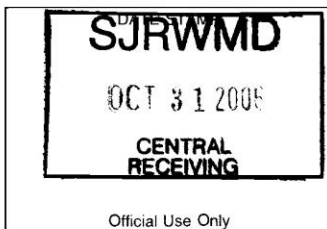
WATER WELL CONTRACTOR'S (All wells drilled need an individual completion report)

SIGNATURE George Freeman License # 2737

I certify that the information provided in this report is accurate and true.

Grout	No. of Bags	From (Ft.)	To (Ft.)
Neat Cement:	63	0	60
Bentonite:	2 1/2	0	60

WELL LOCATION: Site Address US-1 (County) FLAGLER
SW 1/4 of SE 1/4 of Section 33 Twp: 10S Rge: 30E
 Latitude 29° 35' 13.1" N Longitude 81° 16' 45.0" W



CHEMICAL ANALYSIS WHEN REQUIRED

Iron: _____ ppm Sulfate: _____ ppm

Chloride: _____ ppm

[] Lab Test [] Field Test Kit

Pump Type

[] Centrifugal [] Jet [] Submersible [] Turbine

Horsepower _____ Capacity _____ G.P.M. _____

Pump Depth _____ Ft. Intake Depth _____ Ft.

OWNER'S NAME PALM COAST

COMPLETION DATE 10/10/06 Florida Unique I.D. _____

WELL USE: DEP/Public Irrigation _____ Domestic _____ Monitor _____

HRS Limited _____ 62-524 _____ Other _____

DRILL METHOD Rotary [] Cable Tool [] Combination

[] Jet [] Auger Other _____

Measured Static Water Level 23 Measured Pumping Water Level 49

After 24 Hours at 30 G.P.M. Measuring Pt. (Describe): TOC

Which is 3 Ft. Above [] Below Land Surface

Casing: [] Black Steel [] Galv. [] PVC Other STAINLESS STEEL

Casing Diameter & Depth (Ft.)	Depth (Ft.)		DRILL CUTTINGS LOG Examine cuttings every 20 ft. or at formation changes. Note cavities, depth to producing zones. Color Grain Size Type of Material
	From	To	
Diameter <u>16"</u> From <u>0</u> To <u>60</u>	0	20	TAN, MED-FINE SAND
	20	30	BROWN, ORGANIC - SAND
	30	40	BUFF, MED SHELL w/ SAND
	40	50	SAME
Diameter <u>10"</u> From <u>0</u> To <u>100</u>	50	60	BUFF SHELL w/ BLUE CLAY
	60	100	BUFF, MED SHELL w/ SAND
	100	110	TAN/GRAY SAND w/ CLAY
	110	120	GRAY, LMS
Liner [] or Casing [] Diameter _____ From _____ To _____			

Driller's Name: (print or type) GEORGE FREEMAN





Central Florida Office
1210 Emmel Road
Lake Helen, FL 32744
Office: 386-473-7766
Mobile: 561-866-0540
E-mail: drobotson@cciwater.com

Water Resource Consultants

October 25, 2022

Donald Holcomb
WTP No. 1 Lead Operator
City of Palm Coast
2 Utility Drive
Palm Coast, FL 32164

**RE: Proposal – City of Palm Coast
Public Water Supply Well SW-7 Replacement
CCI Project No. 101.XX**

Figures

1. Well Location Maps
2. SW-7 Well Construction Diagram
3. Site and Wellhead Photographs
4. Conceptual Subsurface Well Construction Details
5. Typical Wellhead Completion Details

Tables

1. Well Construction Details

Dear Mr. Holcomb:

Connect Consulting, Inc. (CCI) is pleased to submit this proposal to the City of Palm Coast (City) to replace Public Water Supply (PWS) Well SW-7, a Confined Surficial aquifer (CSA), screen and filter-packed well originally constructed in 1973. Towards that end, we have developed a scope of work to complete the project as requested by the City. Well SW-7 is located north of Palm Coast Parkway in Palm Coast, FL 32137 on Parcel ID 15-11-30-0000-02030-0000 as shown in **Figure 1**.

Discussion

SW-7 was originally constructed as a CSA, screened and filter-packed well in 1973. This well was one of the original wells constructed by ITT Community Development Corporation. The original production capacity was 150 gallons per minute (GPM) and the original specific capacity was 7.3 GPM per foot of drawdown (GPM/ft.). The specific capacity has declined to less than 2 GPM/ft. in 2022 and

the well is producing ~40 GPM currently. SW-7 is one of the few, remaining wells that was constructed as a smaller diameter well than the standard for CSA wells, namely a 16x10-inch diameter well. The well construction details for SW-7 are listed below in **Table 1**.

Table 1 – Well Construction Details

Well No.	District ID	Outer Casing Diameter (in.)	Inner Casing Diameter (in.)	Outer Casing Depth (ft.)	Screen Interval (ft.)	Total Depth (ft.)	Source	Capacity (GPM)
SW-7	6652	12	6	55	55-80	80	CSA	110

Notes: in. – inches ft. – feet CSA – Confined Surficial aquifer
 GPM – Gallons per minute

A well construction diagram of the existing well is shown in **Figure 2**. Photographs of the wellhead and well site are shown in **Figure 3**.

The City has requested CCI to prepare a proposal to replace SW-7. The following scope of work was developed with input from City personnel to implement the replacement of SW-7.

Scope of Work

A. Hydrogeologic Services:

1. Apply for and secure a Consumptive Use Permit modification to the St. Johns River Water Management District (SJRWMD), adding SW-7R as a replacement well for SW-7.
2. Assist the licensed water well contractor in preparing and submitting a well construction permit to the SJRWMD.
3. Assist City with Florida Department of Environmental Protection (FDEP) Application for a Specific Permit to Construct PWS Components as required under Florida Administrative Code Chapter 62-555.
4. Provide project management
5. Develop conceptual well design and technical specifications
6. Provide oversight services during construction and testing
7. Collection and tabulation of testing data
8. Prepare a final report summarizing the construction and testing

Note: City staff or others will apply for and receive FDEP Public Water Supply permit needed for the project (FDEP form 62-555.900(1)). CCI will assist with providing documents/information related to well construction and testing to allow the City to obtain the Certification of Construction Completion and Request for Clearance to Place Permitted PWS Components into Operation (FDEP form 62-555.900(9)).

B. Field Services:

Task 1 – SW-7R Construction and Testing

1. Provide and prepare a boundary and topographic survey of Palm Coast Well Site SW-7 located at 6772 Palm Coast Pkwy NW, Palm Coast, FL 32137, Flagler County Property Appraiser ID 15-11-30-0000-02030-0000. One (1) signed and sealed boundary and topographic survey maps on 24-inch by 36-inch media will be prepared. One (1) electronic AutoCAD drawing (.dwg) file and one (1) Adobe image (.pdf) file will be prepared.
2. Conduct a site visit with City staff to select a new location for SW-7R.
3. Apply for and secure a Well Construction Permit for SW-7R from the SJRWMD.
4. Remove the existing vertical turbine pump and column. Deliver to City or dispose of as directed.
5. Disassemble existing wellhead and discharge piping to facilitate access to new well location.
6. Mobilize drilling rig and support equipment.
7. Drill a 6-inch pilot hole to a target depth of up to 120 feet. Identify and log the cuttings every 10-feet and condition the borehole before removing the drilling tools.
8. Conduct geophysical logs (Electric and gamma ray) on the pilot hole.
9. Based on the cuttings (lithologic log) and the geophysical logs, finalize the well design by selecting the depth setting for the outer 16-inch casing and the screened interval for the inner 10-inch casing, screen, and blank sections.
10. Once the well design has been finalized, ream the 6-inch pilot hole to a nominal diameter of 20-inches to the depth selected for the outer 16-inch casing, estimated from existing data at ~55-feet.
11. Install new 16-inch diameter, 0.375-inch wall, steel casing.
12. Equip the steel outer casing with an airtight cement header. Install a tremie line through the airtight header to within 5 feet of the bottom of the casing. Then pressure grout the outer casing, bottom to top with neat Type I/II Portland cement.
13. After allowing the cement to cure for at least 8-hours, drill out a nominal 16-inch bore hole to the target total depth to accommodate a 10-inch inner, stainless steel casing, a 10-inch stainless steel (40-50 slot) well screen and a 10-inch stainless steel blank (5-foot) on the bottom of the screen.
14. Install the 10-inch inner casing, screen, and blank section to the target total depth, estimated from existing data at ~90 feet.
15. Once the inner casing and screen have been installed, immediately fill the annulus using a tremie line with new, clean, well rounded silica gravel pack, from bottom to top, by “washing” in the gravel using clean, fresh potable water with disinfectant added periodically during the installation.

16. After the gravel pack has been installed to a point ~10-feet below the top of casing, air lift the well to remove the majority of the drilling mud followed by treating the well with a solution of a mud thinning agent placed in the screen section (~600 gallons) and leave in the well over night.
17. After the mud thinning agent treatment, begin well development, which will consist of a combination of high pressure (+600 PSI) horizontal jetting and simultaneous eductor reverse air development. Development should proceed until the well is fully developed and the discharge is sand free, which could take up to 40 hours.
18. After the well is completely developed, conduct a step-drawdown pumping test at three (3) increasing rates, such as 100-125-150 GPM or as directed by the Hydrogeologist.
19. Conduct a constant rate pumping test (4-hours) at the recommended design rate, which will be determined from the analysis of the step-drawdown pumping test. Assist the City in the collection of water quality samples during the last hour of the constant rate pumping test. The samples will be analyzed by the City's contract environmental laboratory for Florida Administrative Code 62-550 and 62-555 parameters required to place the well into service.
20. Construct a minimum 6'x6'x8" concrete well pad and pump pedestal that meets current FDEP standards.
21. Furnish new submersible well pump and motor complete.
22. Complete equip and connect work as detailed in Task 2.
23. Disinfect the well and turn the well over to the City for bacteriologic sample clearance. **Figure 4** illustrates the conceptual subsurface design for the new well.
24. Submit a Well Completion Report to SJRWMD.
25. Clean up and restore the site; demobilize equipment and materials.

Task 2 – Equip and Connect

1. City staff or others will provide drawings on FDEP-approved wellhead piping layout. **Figure 5** shows the typical wellhead completion details.
2. Furnish and install a new stainless-steel discharge head.
3. Reconnect the wellhead piping and install additional piping where needed. The City will provide a new flow meter for installation in the pipeline.
4. Assist City with re-installing electrical service to the new well and flow test and adjust the pump.
5. Prepare an As-built/Record Survey of the proposed improvements at the site. Provide one (1) signed and sealed boundary and topographic survey maps on 24-inch by 36-inch media and one (1) electronic AutoCAD drawing (.dwg) file, and one (1) Adobe image (.pdf) file.
6. Provide documents/information related to well construction and testing to support City staff or others responsible for submitting the *Certification of Construction Completion and Request for Clearance to Place Permitted PWS Component into Service* (FDEP form 62-555.900(3)).

Task 3 – SW-7 Abandonment

1. Apply for and secure a Well Abandonment Permit for SW-7 from the SJRWMD.
2. Mobilize necessary equipment for abandonment work.
3. The abandonment of SW-7 will begin by removing the 6-inch diameter casing and screen. The inside of the 12-inch diameter casing will then be cleaned to TD.
4. If the inner screen is able to be removed bentonite pellets will be placed as deep as possible in the borehole at SW-7, overlapping the bottom of the 12-inch casing by at least 5-feet. A grout tremie line will then be placed within 2-feet of the top of the bentonite pellets and neat Portland Type I/II cement will be pumped from bottom to top back to land surface. The top of the 12-inch casing will be cut ~2 feet below grade and the hole filled with sand, leveled, and graded smooth.
5. Demolish and remove the existing well pad and pump pedestal. Remove and dispose of concrete off site as appropriate.
6. Submit a Well Completion Report to SJRWMD.
7. Clean up the site and demobilize.

Cost and Schedule

CCI will complete the scope of work described above on a lump sum/fixed fee basis as follows:

SW-7 Replacement:	\$247,000.00
Time of Completion (from authorization):	180 Days

We appreciate the opportunity to assist the City with this project.

Please review this proposal and contact us with any questions.

Sincerely:

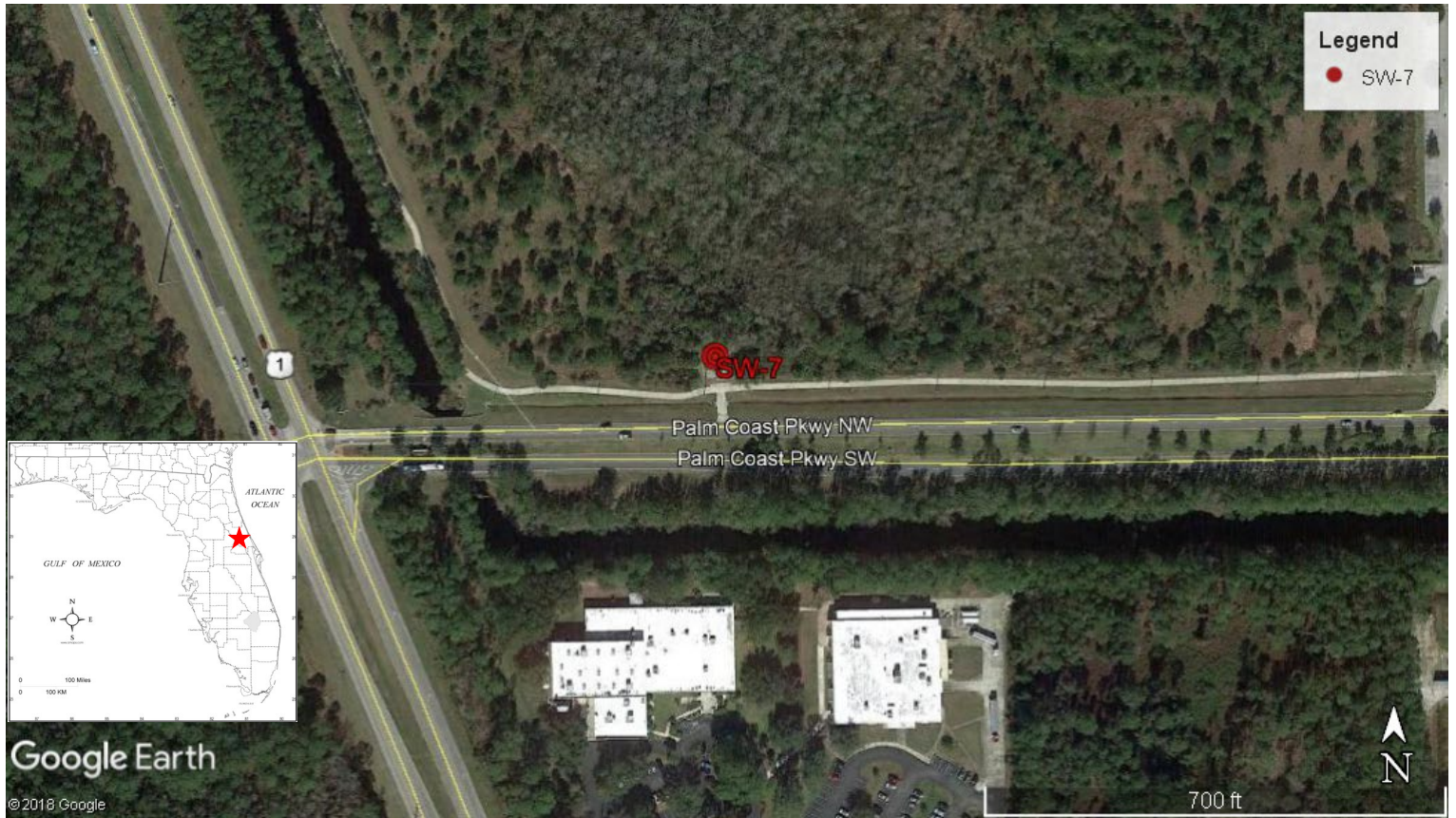
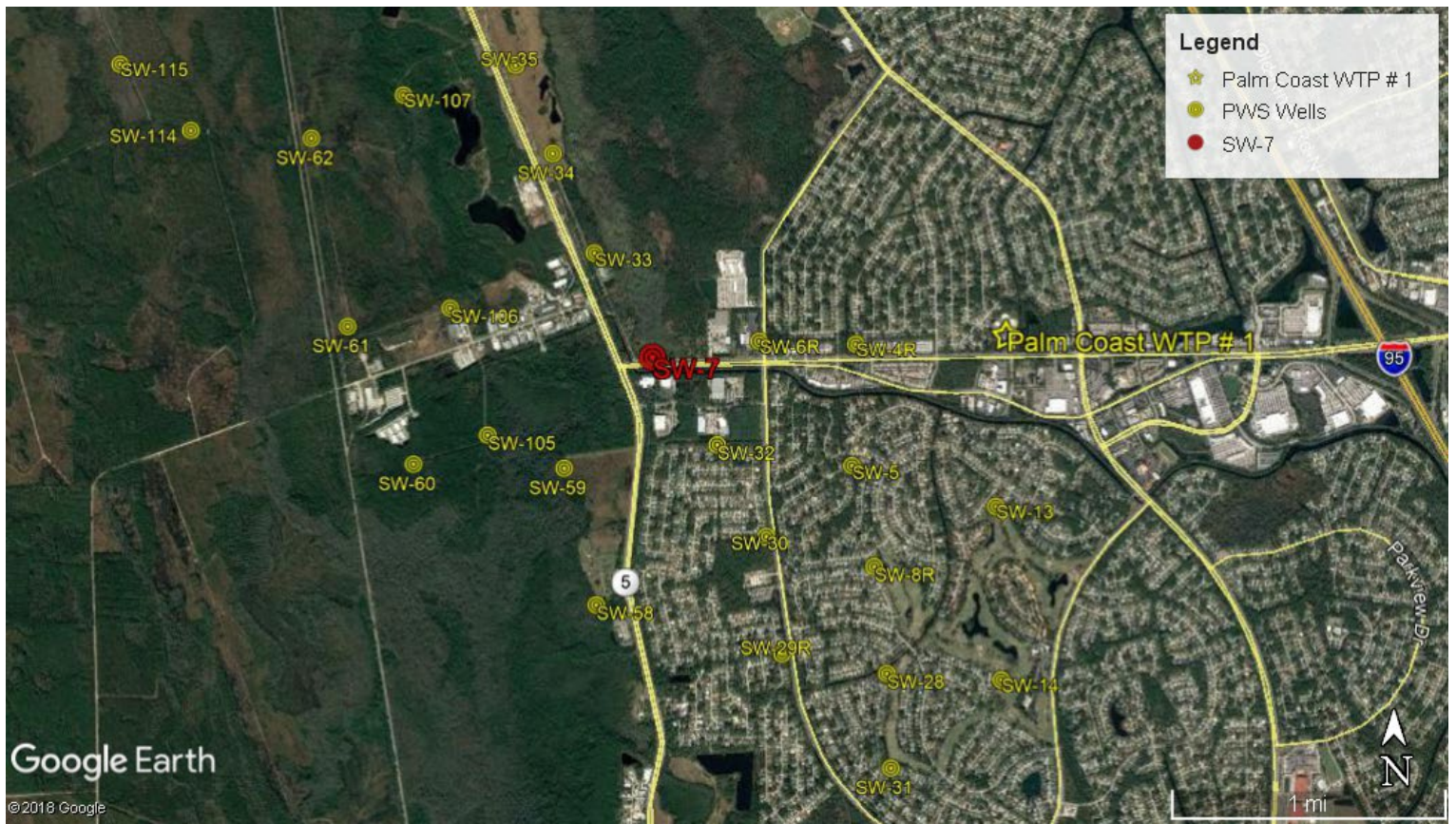
Connect Consulting, Inc.

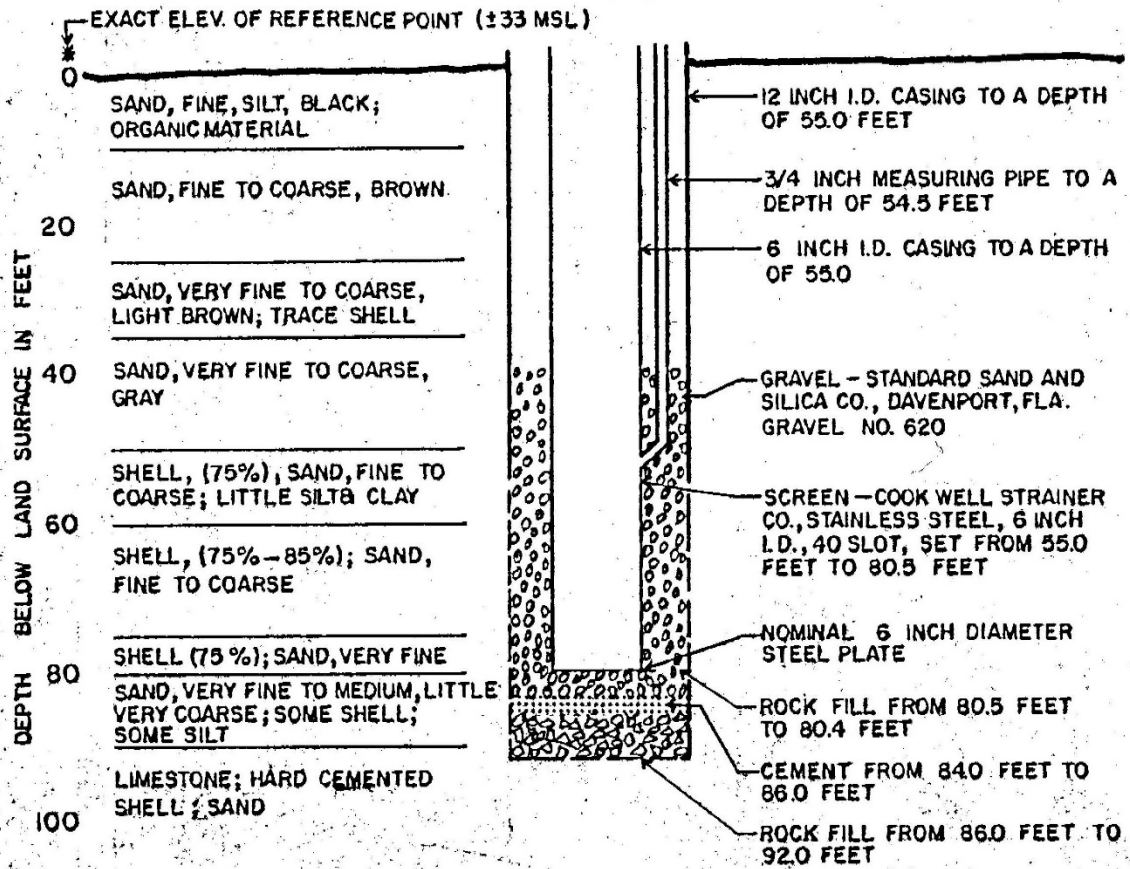
David S. Robertson

David S. Robertson, P.G
Principal Hydrogeologist

Cc: Stephen Flanagan
Peter Roussel
Fred Greiner
Jim Andersen
Gary Eichler
Thomas Freeman

FIGURES

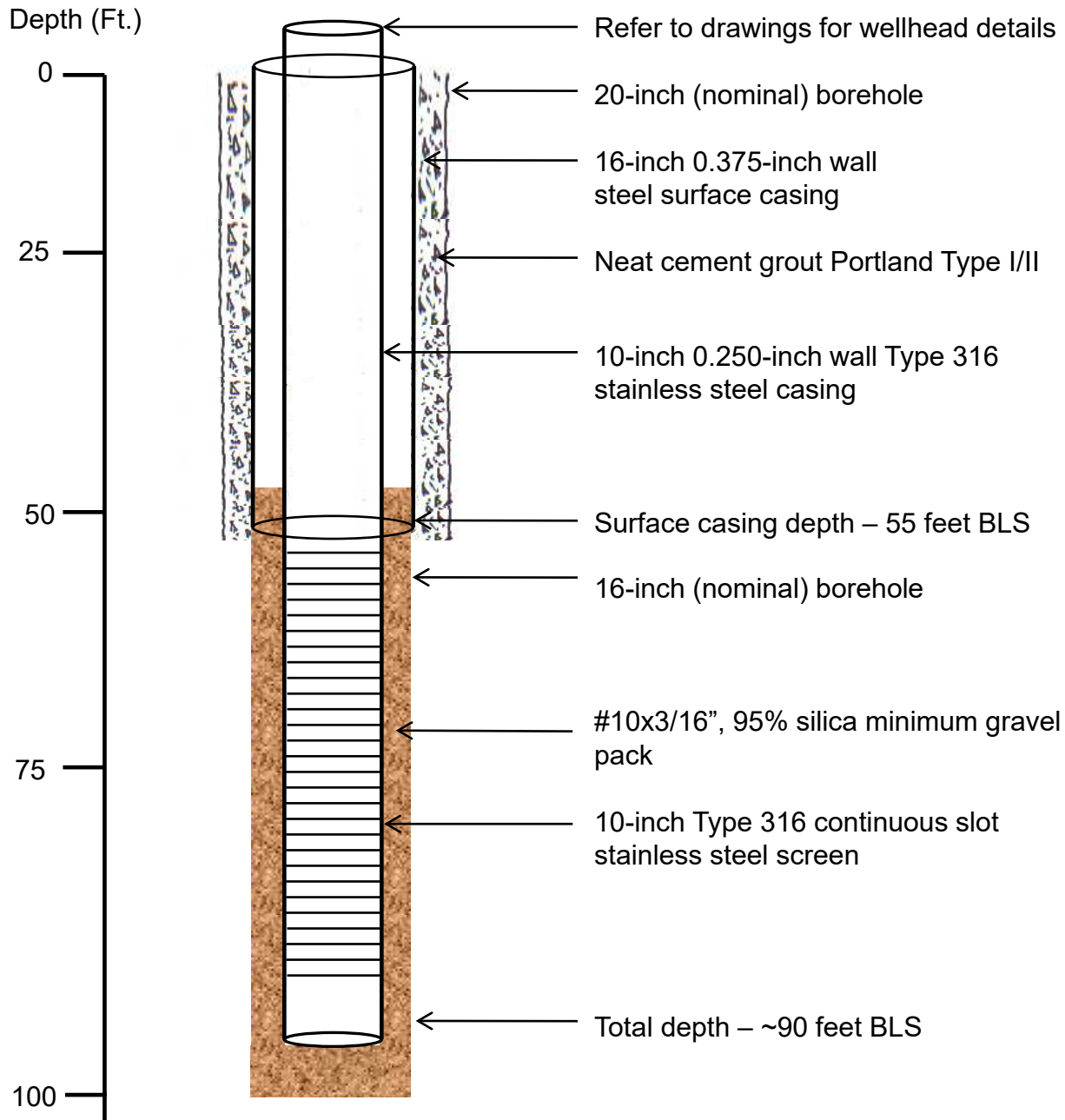




CONSTRUCTION DIAGRAM PRODUCTION WELL SW-7

(N.T.S.)

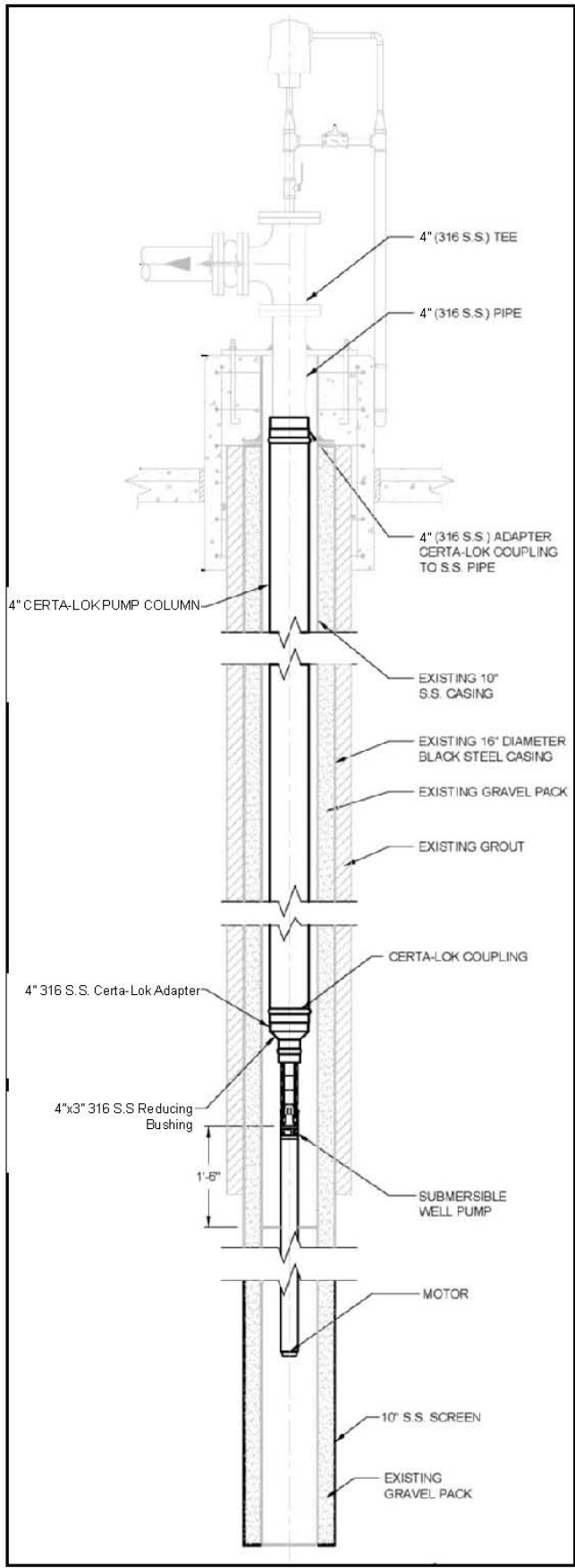




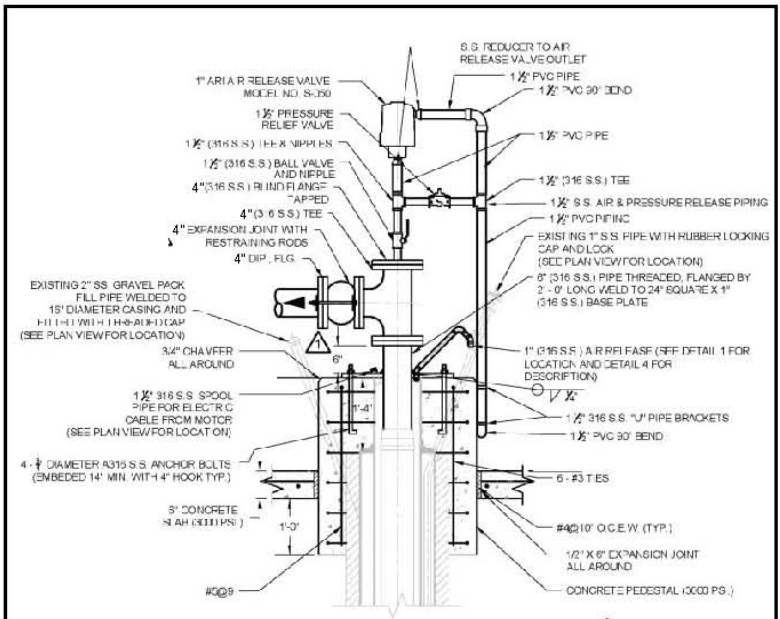
Not To Scale

Notes:

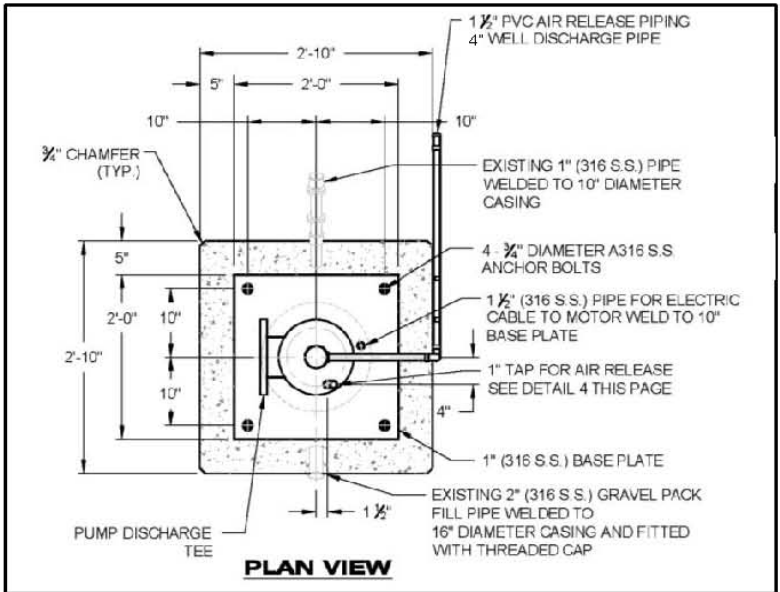
1. Pit casing not shown.
2. Actual depths to be determined in the field based on subsurface conditions and pilot hole data.



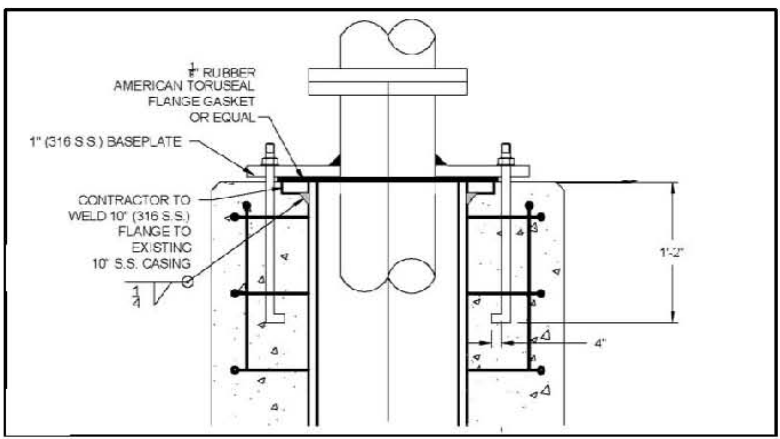
Well Section



Pump Discharge Section



Pump Pedestal Detail



Casing Flange Detail

WORK ORDER RAP – this form is to be used in place of the RAP for Requisitions involving Master Services Agreement.

Project Manager Name: _____

Admin Support (and anyone else) who may need a copy: _____

Org Code _____ Object Code _____ Project Code _____

Supplier Information:

Legal Business Name: _____ Vendor # _____

Address: _____

Contact Person: _____

Email to send WO: _____ Phone _____

Bid Details:

Contract Info (The following is specific to the Master Services Agreement)

Contract Project Name _____

Contract Project # _____

Work Order Info (The following is to be completed if the Work Order is for a specific project which is different than the contract name. For example, you may have a contract for Traffic Engineering Services under RFSQ-CD-19-2 and a work order project named Belle Terre & SR100 Intersection Improvements under LOI-CD-19-46)

Work Order Project Name _____

Work Order Project # _____

Method of Compensation: Select one

Fixed Fee (Fixed fee is a set amount to complete the work. The amount will not change regardless of time or materials. The Fixed Fee can only be increased if there is a corresponding increase in the scope and both parties agree to the increase under a separate Work Order with a corresponding PO adjustment or new PO. Fixed fee is typically project specific.)

Not to Exceed /Unit Based (Not to Exceed/Unit Based is an estimated amount of spend to perform the work. All or a portion of the Total Cost is based on a unit measure such as estimated time and/or materials. It is a cap on spend that can only be estimated because the time and/or materials in not known until the work is complete. "Not to exceed" can be increased if both parties agree under a separate work order that more time and/or materials than originally estimated are needed.) "Not to exceed" Amount \$ _____

Pricing Information: Select one

The total cost is based solely on what was included in the underlying master service agreement.

I have attached a quoted price specific for this project and Work Order.

Schedule: Select one

As needed

The work must be completed by ____/____/____
Provide end date

Description of Services: Select one

The description of services (scope of work) is based solely on what was included in the underlying master service agreement.

I have attached a scope of work specific for this project and Work Order.

Other:

Do you want to attach anything else to the Work Order: No Yes if Yes, Identify _____

Please provide any additional information that you think will help us to prepare the Work Order:

WORK ORDER RAP – this form is to be used in place of the RAP for Requisitions involving Master Services Agreement.

Project Manager Name: _____

Admin Support (and anyone else) who may need a copy: _____

Org Code _____ Object Code _____ Project Code _____

Supplier Information:

Legal Business Name: _____ Vendor # _____

Address: _____

Contact Person: _____

Email to send WO: _____ Phone _____

Bid Details:

Contract Info (The following is specific to the Master Services Agreement)

Contract Project Name _____

Contract Project # _____

Work Order Info (The following is to be completed if the Work Order is for a specific project which is different than the contract name. For example, you may have a contract for Traffic Engineering Services under RFSQ-CD-19-2 and a work order project named Belle Terre & SR100 Intersection Improvements under LOI-CD-19-46)

Work Order Project Name _____

Work Order Project # _____

Method of Compensation: Select one

Fixed Fee (Fixed fee is a set amount to complete the work. The amount will not change regardless of time or materials. The Fixed Fee can only be increased if there is a corresponding increase in the scope and both parties agree to the increase under a separate Work Order with a corresponding PO adjustment or new PO. Fixed fee is typically project specific.)

Not to Exceed /Unit Based (Not to Exceed/Unit Based is an estimated amount of spend to perform the work. All or a portion of the Total Cost is based on a unit measure such as estimated time and/or materials. It is a cap on spend that can only be estimated because the time and/or materials in not known until the work is complete. "Not to exceed" can be increased if both parties agree under a separate work order that more time and/or materials than originally estimated are needed.) "Not to exceed" Amount \$ _____

Pricing Information: Select one

The total cost is based solely on what was included in the underlying master service agreement.

I have attached a quoted price specific for this project and Work Order.

Schedule: Select one

As needed

The work must be completed by ____/____/____
Provide end date

Description of Services: Select one

The description of services (scope of work) is based solely on what was included in the underlying master service agreement.

I have attached a scope of work specific for this project and Work Order.

Other:

Do you want to attach anything else to the Work Order: No Yes if Yes, Identify _____

Please provide any additional information that you think will help us to prepare the Work Order:

City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department	FINANCIAL SERVICES	Amount
Division	FINANCE	Account #
Subject	REPORTING OF EMERGENCY AND SOLE SOURCE PURCHASES FOR OCTOBER 2022	
Presenter : Denise Bevan, City Manager		
Background : Attached is a list of all emergency and sole source purchases for the month of October 2022, in accordance with Sec 2.25 of Chapter 2, Article 1 Division 3 of the Code of Ordinances of the City of Palm Coast (Procurement Policy).		
Recommended Action : FOR REPORTING ONLY - VIA CITY MANAGER COMMENTS		

Oct-22

EMERGENCY PURCHASES

Entry Date	Req #	Total Amount	Vendor	Description	Department
10/24/2022	650	\$1,938.41	ALTERNATIVE POWER SOLUTIONS, INC	WTP#1 GENERATOR REPAIR	WATER PLANT #1
10/26/2022	678	\$7,000.00	CONNECT CONSULTING, INC	Parks Maintenance - Emergency PO Irrigation Well	PARKS FACILITIES MAINTENANCE
10/28/2022	704	\$66,102.00	XYLEM WATER SOLUTIONS USA INC	REPLACEMENT PUMP 54-7	WASTEWATER PUMPING

SOLE SOURCE PURCHASES

Entry Date	Req #	Total Amount	Vendor	Description	Department
10/5/2022	251	\$29,822.53	MISSION COMMUNICATION, LLC	1 YEAR SERVICE PACKAGE	WASTEWATER PUMPING
10/5/2022	252	\$15,000.00	ASSURED MECHANICAL SERVICES, INC	BLANKET ORDER ELECTRICAL SUPPLIES	WASTEWATER PUMPING
10/5/2022	270	\$25,000.00	XYLEM WATER SOLUTIONS USA INC	WW PUMPING ELECTRICAL SUPPLIES	WASTEWATER PUMPING
10/5/2022	283	\$23,998.00	PACIFIC CONSOLIDATED INDUSTRIES LLC	WTP#3 Service Maintenance	WATER TREATMENT PLANT #3
10/6/2022	307	\$25,500.00	PIONEER PRODUCTION SERVICES, LLC	short-form documentary series on PBS	COMMUNICATIONS & MARKETING
10/10/2022	366	\$8,950.00	BIOREM ENVIRONMENTAL US LTD	MEDIA KITS	WASTEWATER PUMPING
10/10/2022	395	\$10,000.00	PINNACLE OZONE SOLUTIONS, LLC	WPT#3 Inspect/repair ozone system	WATER TREATMENT PLANT #3
10/11/2022	428	\$5,500.00	NATIONAL RESEARCH CENTER, INC.	non-scientific survey	COMMUNICATIONS & MARKETING
10/12/2022	456	\$11,000.00	PROPLUS PRODUCTS, INC.	Golf - Chemicals & Fertilizers for PHGC	PALM HARBOR GOLF COURSE
10/12/2022	468	\$20,000.00	SUNSHINE STATE ONE CALL OF FLORIDA, INC	CALL SERVICE-UNDERGROUND UTILITY LOCATES	WATER DISTRIBUTION
10/12/2022	473	\$6,000.00	FLORIDA STATE GOLF ASSOCIATION, INC.	Golf - FSGA GHIN Fees	PALM HARBOR GOLF COURSE
10/13/2022	504	\$30,000.00	SUBURBAN PROPANE LP	Aquatics - Propane for the Pool	AQUATIC CENTER
10/13/2022	512	\$7,513.00	XYLEM WATER SOLUTIONS USA INC	REPLACEMENT PUMP GG-H	WASTEWATER PUMPING

10/14/2022	513	\$16,708.00	XYLEM WATER SOLUTIONS USA INC	REPLACEMENT PUMP 57-3 AND 1 SPARE	WASTEWATER PUMPING
10/14/2022	514	\$8,354.00	XYLEM WATER SOLUTIONS USA INC	REPLACEMENT PUMP 58-1	WASTEWATER PUMPING
10/17/2022	520	\$27,770.00	ENERGY ENGINEERING SYSTEMS, LLC	LIFT STATIONS 30-1 AND 37-3 ODOR CONTROL	WASTEWATER PUMPING
10/17/2022	522	\$24,892.00	XYLEM WATER SOLUTIONS USA INC	REPLACEMENT PUMP 4-2	WASTEWATER PUMPING
10/19/2022	576	\$7,200.00	SERVICE CORPS OF RETIRED EXECUTIVES ASSOC. INC.	BLANKET PO FOR FY'23 FOR SCORE SERVICES	Planning
10/19/2022	580	\$8,401.00	TRICIRCLE PAVERS, INC.	ROUND PEP STONE	WASTEWATER COLLECTION
10/24/2022	304	\$21,500.00	ACUSHNET COMPANY	Golf- Titleist and FootJoy Merchandise for Resale	PALM HARBOR GOLF COURSE

City of Palm Coast, Florida Agenda Item

Agenda Date : November 15, 2022

Department CITY ADMINISTRATION	Amount
Division	Account
	#
Subject AGENDA WORKSHEET AND CALENDAR	
Presenter :	
Background :	
Recommended Action :	

December 6, 2022 BUSINESS MEETING			
1	Resolution	FDEM Subgrant Award and Agreement	Alves
2	Resolution	Fire Station design	Cote/Gebo
3	Resoluiton	Purchase Fire Equipment	Mancill/LaChance
4	Ordinance 2nd	Harborside Inn and Marina MPD	Hoover
5	Oath	Oath of Office Newly elected Council	Smith
6	Appointment	Council liaisons	Smith
7	Appointment	Council Vice Mayor selection	Smith
8	Resolution	Certify General Election	Smith
December 13, 2022 WORKSHOP MEETING			
1	Resolution	Concession Agreement	DeLorenzo
2	Resolution	Amend Aquatic Center Fee Structure	Hirst
3	Resoluiton	Parks Master Plan	McDermott
4	Resolution	CAPER	Papa
December 20, 2022 BUSINESS MEETING			
1	Resolution	Concession Agreement	DeLorenzo
2	Resolution	Amend Aquatic Center Fee Structure	Hirst
3	Resoluiton	Parks Master Plan	McDermott
4	Resolution	CAPER	Papa
January 3, 2023 BUSINESS MEETING			
January 10, 2023 WORKSHOP MEETING			
1	Presentation	Stormwater Rate Study	Cote
2	Resolution	Salt Water Canal Study	Cote/Schrager
3	Presentation	Neighborhood Roadway Safety	Cote/Grunewald
4	Resolution	Cultural Arts Grants-2nd round	Hirst
5	Presentation	Council Priority Community Center Parking	Hirst/Berryhill
6	Presentation	SAP City Council Priority Update	Johnston
January 17, 2023 BUSINESS MEETING			
1	Proclamation	National Stalking Awareness Month	Kershaw
2	Proclamation	National Human Trafficking Awareness Month	Kershaw
3	Resolution	Whiteview Subdivision Phase 2 Final Plat	Leap/Tyner
4	Resolution	Riverie Phase 1 Final Plat	Leap
5	Ordinance 1st	Cascades at Grand Landings Annexation	Papa
February 7, 2023 Business Meeting			
1	Ordinance 2nd	Cascades at Grand Landings Annexation	Papa
February 14, 2023 WORKSHOP MEETING			
February 21, 2023 BUSINESS MEETING			
Future			
1	Resolution	Verizon Lease Agreement A1A tower amendments	Akins/Eldredge
2	Resolution	Tri-party sub lease tower agreement amendment	Akins/Eldredge
4	Resolution	Continuing Services Grant Compliance Services	Cote
5	Resolution	P1 Control Structure Rehab	Cote
6	Resolution	K-Section Drainage Improvements	Cote
7	Resolution	Old King's Road Design Force Main to WWTP 1	Cote
8	Resolution	Construction Contract for the OKR Force Main to WWTP 1	Cote
9	Resolution	Hydrogeological Services for the Wells SW-1, SW-2, & SW-3 for WTP 1	Cote
10	Resolution	Construction Contract for the WWTP 1 Generator project	Cote
11	Resolution	Matanzas West Ph1 Construction	Cote
12	Resolution	Construction Contract for the WWTP 1 Sludge Dewatering project	Cote
13	Ordinance	Construction Contract for the Equip Wells SW-1, SW-2 & SW-3 for WTP 1	Cote/Grunewald
14	Resolution	Palm Harbor Golf Course Concession Lease Agreement	Delorenzo
15	Resolution	WTP#1 Relocation of SW7 and 115. Rehab SW-38	Flanagan
16	Resolution	MPA Quick Lime Chemical	Flanagan
17	Resolution	Occupational Services	Fuller
18	Ordinance 1st	Animal Control amendment	Grossman
19	Proclamation	Autism Awareness Month (4/4/2023)	Kershaw
20	Resolution	Sawmill Branch Ph 2 Final Plat	Leap/Tyner
21	Resolution	Toll Brothers Final Plat	Leap/Tyner
22	Resolution	Savannah @ Seminole Pointe Master Site Plan	Lens
23	Resolution	Reverie at Palm Coast PH2 FKA Spring Lake - Final Plat	Leap/Tyner
24	Ordinance	Dry Lake Rezoning	Myers
25	Resolution	Town Center Tracts 18B & 18C (site plan)	Myers
26	Ordinance 1st	Colbert Lane MPD	Myers

27	Ordinance	Coquina Shores Rezoning	Myers
28	Ordinance	Cascades at Grand Landing FLUM	Myers
29	Ordinance	Cascades at Grand Landing Rezoning	Myers
30	Ordinance 1st	Coquina Shores FLUM	Papa



Meeting Calendar for 11/16/2022 through 2/28/2023

11/16/2022 5:30 PM

Planning & Land Development Regulation Board
City Hall

11/18/2022 8:30 AM

Volunteer Firefighters' Pension Board
City Hall

12/1/2022 5:00 PM

Beautification and Environmental Advisory Committee
City Hall

12/6/2022 6:00 PM

City Council
City Hall

12/7/2022 10:00 AM

Code Enforcement Board
City Hall

12/13/2022 9:00 AM

City Council Workshop
City Hall

12/20/2022 9:00 AM

City Council
City Hall

12/21/2022 5:30 PM

Planning & Land Development Regulation Board
City Hall



Meeting Calendar for 11/16/2022 through 2/28/2023

1/3/2023 6:00 PM

City Council
City Hall

1/4/2023 10:00 AM

Code Enforcement Board
City Hall

1/10/2023 9:00 AM

City Council Workshop
City Hall

1/17/2023 9:00 AM

City Council
City Hall

1/18/2023 5:30 PM

Planning & Land Development Regulation Board
City Hall

1/26/2023 5:00 PM

Beautification and Environmental Advisory Committee
City Hall

2/1/2023 10:00 AM

Code Enforcement Board
City Hall

2/7/2023 6:00 PM

City Council
City Hall



Meeting Calendar for 11/16/2022 through 2/28/2023

2/14/2023 9:00 AM

City Council Workshop
City Hall

2/15/2023 5:30 PM

Planning & Land Development Regulation Board
City Hall

2/21/2023 9:00 AM

City Council
City Hall

2/23/2023 5:00 PM

Beautification and Environmental Advisory Committee
City Hall