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**MEMORANDUM**

**To:** Michael Rodriguez, County Attorney

**Cc:** Sean S. Moylan, Deputy County Attorney

**From:** Sarah Spector, Assistant County Attorney

**Date:** September 25, 2025

**Re:** Veranda Bay/Summertown Proposals

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The property that has recently been referred to as “Veranda Bay” is currently zoned Planned Unit Development (PUD) in Flagler County. In 2005, a PUD was approved for a mixed-use development over approximately 1,999 acres known as Hammock Beach River Club PUD by adoption of Ordinance 2005-22 (the “2005 PUD”). The 2005 PUD approved the PUD Development Agreement, which allows for 453 residential units (including a maximum of 150 of the 453 units permitted to be multi-family) together with a number of other uses, some of which are no longer included in what is currently being proposed.<sup>1</sup>

The current owner had proposed to annex the portion of the 2005 PUD property that was not conveyed to the County into the city limits of Flagler Beach last year but was met with opposition and threat of a lawsuit from surrounding landowners based on an enclave argument. The owner has since re-worked the project. The following is a comparison of the previous proposal for one large development known as Veranda Bay to the current proposal

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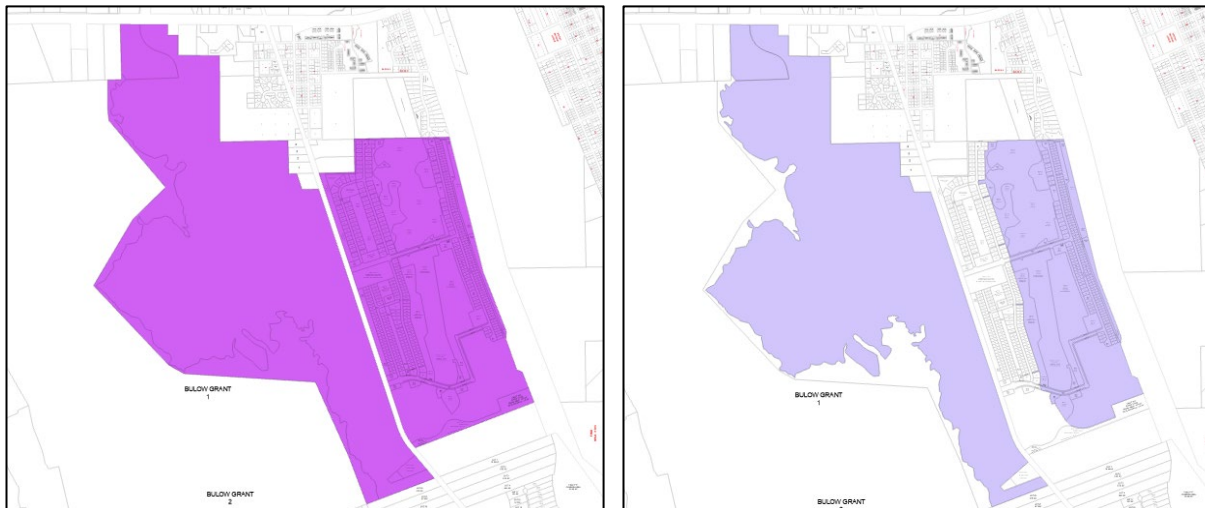
<sup>1</sup> The PUD Development Agreement provides the following relative to the project proposed in 2005:

The Project as depicted on the Conceptual Site Plan includes the following approved uses: a maximum of 453 residential units ( a maximum of 150 of the 453 units may be multi-family residential units) with accessory and recreational uses, ancillary amenities and facilities; an 18-hole golf course (including a golf clubhouse, social clubhouse, driving range, maintenance facilities, cart barn, comfort stations and related golf course facilities and uses); a dedicated utility site which may include potable water treatment facilities, raw water wells, wastewater treatment facilities, and reclaimed ("irrigation quality") water facilities; commercial that may include any one or more of the following uses: retail, office, hotel, and/or multifamily residential uses ( entitled to 230,694 gross square feet of retail/office area); a dedicated public boat ramp site; a dedicated fire station site; and a dedicated parcel of land measuring approximately 1,000 +/- acres that includes Future Land Use designated conservation lands and other wetland and upland areas (herein the "Project").

for two separate projects: Veranda Bay on the east side of John Anderson Highway and Summertown on the west side of John Anderson Highway.

	PREVIOUS PROPOSAL	CURRENT PROPOSAL		
		TOTAL	VERANDA BAY	SUMMERTOWN
Acreage	899	779	234 <sup>2</sup>	545 <sup>3</sup>
Density (Residential)	2200 (2.4 units/ac)	2017 (2.6 units/ac)	377 (1.6 units/ac)	1,640 units (3.0 units/ac)
Intensity (Commercial)	650,000 sq. ft.	856,000 sq. ft.	16,000 sq. ft.	840,000 sq. ft.
Open Space	300 ac.	>40%	>40% (42 acres/17% dedicated as conservation)	>40%

To avoid the enclave issue, the developer has removed the property immediately adjacent to the east side of John Anderson Highway from the proposed development. The picture on the left below shows the land included in the previous annexation proposal, while the picture on the right shows what is currently being considered for annexation.



Though a large portion of the previously proposed project is being excluded from the annexation, the majority of the property has been platted and is available for residential development. The following is a comparison of the previously proposed project to the

<sup>2</sup> The total area to be annexed is only 210.7 acres, while the area identified as the Summertown project is 233.92 acres. This is because a 23.22-acre parcel is already located within the Flagler Beach city limits.

<sup>3</sup> The total area to be annexed is only 514.12 acres, while the area identified as the Summertown project is 544.97 acres. This is because a 30.86-acre parcel is already located within the Flagler Beach city limits.

current proposal together with the excluded lots so as to be able to better compare the density and intensity of the two versions.

	PREVIOUS PROPOSAL	CURRENT PROPOSAL			
		TOTAL	VERANDA BAY	SUMMERTOWN	EXCLUDED
Acreage	899	899	234	545	120 <sup>4</sup>
Density (Residential)	2200 (2.5 units/ac)	2230 (2.6 units/ac)	377 <sup>5</sup> (1.6 units/ac)	1,640 (3.0 units/ac)	213 (1.8 units/ac)
Intensity (Commercial)	650,000 sq. ft.	856,000 sq. ft.	16,000 sq. ft. <sup>6</sup> 150 marina berths	840,000 sq. ft.	0 sq. ft.
Open Space	300 ac.	>40%	>40% <sup>7</sup>	>40%	?

The following is a more in-depth review of the differences between what was previously proposed and the current proposal.

### **VERANDA BAY**

According to the Comprehensive Plan application narrative, the Veranda Bay development will be a mix of residential, supporting retail, and marina uses to be developed over a single five-year period with an anticipated 2030 buildout. As currently proposed, this requires both a rezoning and Future Land Use Map amendment. The text associated with the Future Land Use Map amendment creates a site-specific text amendment that reads as follows:

**Policy A.1.1.3.H** – Development of the Property shall be limited to a maximum of 377 residential units, a maximum of 16,200 square feet of nonresidential uses and a maximum of 150 marina berths (“Development Plan”). Land uses permitted within the Low Density Residential and Commercial Future Land Use designation shall be allowed as permitted in the City Comprehensive Plan and Land Development Regulations (July 2025). Changes to the Development

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<sup>4</sup> This acreage is assumed using the overall acreage of 899 and subtracting the acreage of the property included in the two applications.

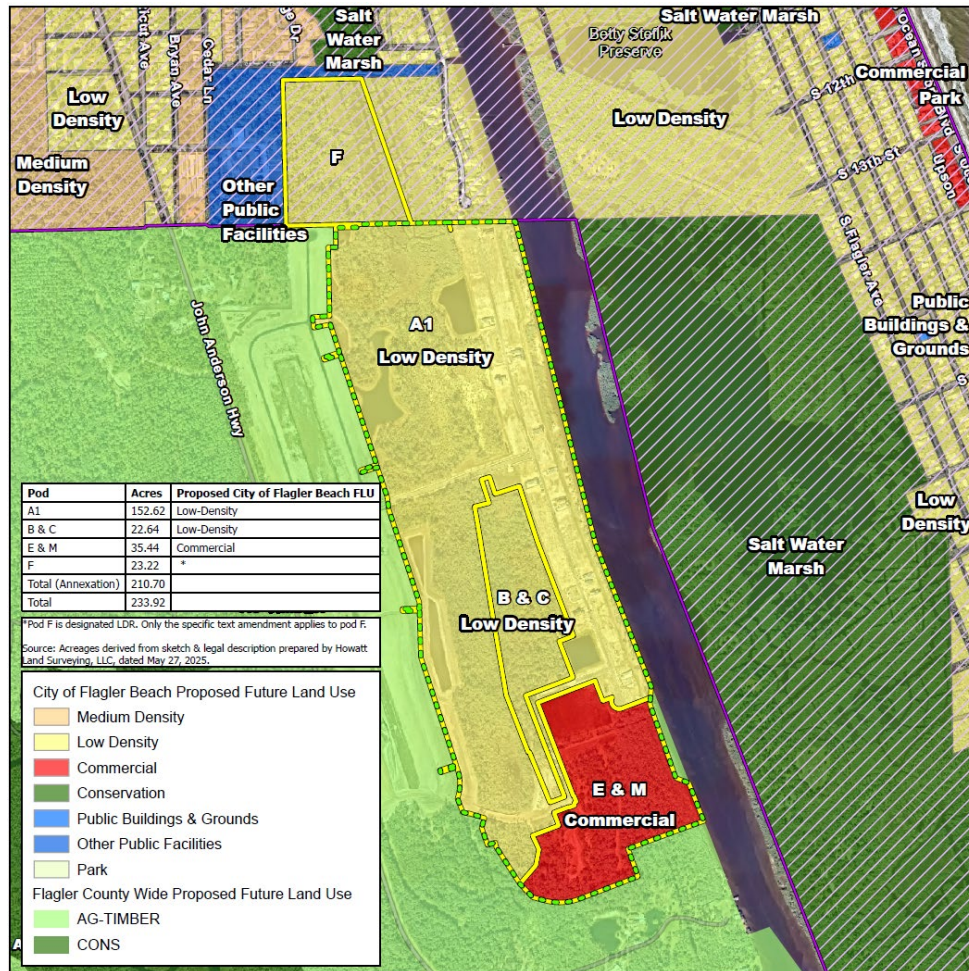
<sup>5</sup> The Comprehensive Plan application estimates that this will result in an additional 784 residents in the City, based on 2.08 people per unit, the average population per residential unit according to the US Census.

<sup>6</sup> The proposed Comprehensive Plan language calls out 16,200 square feet of non-residential uses, with 10,000 square feet identified for retail and 6,200 square feet identified for recreational community center.

<sup>7</sup> Section 10(b) of the proposed Development Agreement provides that a minimum of 42 acres (17%) of the overall property will be dedicated as conservation. Paragraph 15 of the Comprehensive Plan application states that the project includes 69 acres of wetland conservation/set aside.

Plan may be permitted providing the net new external trips (PM peak hour) do not increase as certified by the Developer's traffic engineer.

The following map identifies the **Low Density Residential**<sup>8</sup> and **Commercial** Future Land Use areas the developer is proposing to replace the current Agriculture Timber designation assigned by the County:



Similar to the proposed Future Land Use Map amendment, the current version of the Development Agreement, associated with the rezoning from Planned Unit Development (PUD) (County) and C-Conservation (City) to one unified Master Planned Development

<sup>8</sup> The Flagler Beach Comprehensive Plan provides that the density in the Low Density Residential Future Land Use category is a range from two units per acre to five units per acre. Here, they purport to cap density to a maximum of 377 units over 234 gross acres, with wetlands being excluded as required by Policy A. 2.1.7 of the Flagler Beach Comprehensive Plan.



(MPD) within the City of Flagler Beach, breaks the project down into four (4) tracts: (1) A1, (2) B & C, (3) E & M, and (4) F<sup>9</sup> as shown on the following proposed MPD Master Plan:



The following table identifies the uses allowed on each tract:

TRACT	ZONING DISTRICT	APPROVED USES
A-1	Residential	SFR, Town House and Conservation
B	Residential	SFR, Town House, Multi-family
C	Residential	SFR, Town House, Multi-family
E	Mixed Use	Mixed-Use, Commercial, Town House, Multi-family, Marina, SFR
F	Residential	SFR and Private Amenity
M	Mixed Use	Mixed-Use, SFR, Commercial, Town House, Multi-family, Marina

<sup>9</sup> Tract F is not included in the legal description of the property to be annexed into the city limits of Flagler Beach because it is already located in the city. It is included in the zoning and FLUM amendment proposals.

The mixed-use areas are to be located adjacent to the Intracoastal Waterway and are intended to be developed into a commercial or private marina, which may include a ship store, **fueling station**, restaurants, retail uses, or other commercial uses integrated with medium- to high-density residential uses. The “fueling station” proposed use is new in this application,<sup>10</sup> as is a reference to the marina basin being used to make up part of the 40% of land pledged to be set aside as open space (along with passive recreation, conservation areas (also new), buffers, and wetlands). Also new to this application is the proposed **water taxi service** use permitted in the commercial area of the development. The provision of the previous Development Agreement that allowed for conversion of uses, together with the Land Use Conversion Matrix attached as an exhibit, have been deleted in their entirety.

The previous Development Agreement called for the dedication or conveyance to the City of a four (4) acre park site with direct access to John Anderson Highway. The proposed Development Agreement, instead, calls for a two (2) acre City park site as well as a “private, active amenity for the residents.” (See Section 9(e).)

Sections 10(f) and (g) of the proposed Development Agreement require the developer to record an encumbrance or easement on its property adjacent to John Anderson Highway to ensure that the buffer along John Anderson is 100 feet in average width along the eastern side of the right of way. This is curious given that, as now configured, the portion of Veranda Bay on the east side of John Anderson does not actually abut John Anderson. Additionally, the developer named in the Development Agreement owns very little property that abuts John Anderson. The majority of the frontage is owned by the Gardens at Hammock Beach Community Development District (the “CDD”), having been deeded by the developer in May and June 2025.

The section on wetlands contained within the project boundaries (Section 10(l)) has been substantially amended, with the stated purpose being to balance “ecological sustainability with efficient land development, promoting no net loss of wetland functions while allowing for practical site design.” Section 10(l)(iii) identifies those uses allowed within identified wetlands in furtherance of the purpose of the section:

To facilitate reasonable development while preserving wetland integrity, the following activities are permitted within wetlands and required upland buffers, provided they do not result in adverse impacts to wetland functions:

- Authorized wetland restoration, enhancement, monitoring, or mitigation activities with approved permits from FDEP, SJRWMD, or the U.S. Army Corps of Engineers (ACOE).

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<sup>10</sup> “Fueling station” was added as a permitted use in Section 3(b), but Section 10(p) of the previous Development Agreement did provide that the **marina** may include “fueling facilities.” Accordingly, it appears this may have been contemplated previously but not called out as a specifically permitted use in the section of the Development Agreement detailing the project and the MPD Master Plan.

- Elevated walkways, paths, nature trails, hiking trails, or walking paths not exceeding six (6) feet in width, constructed of wood, environmentally friendly materials, natural materials, or open grid systems.
- Minor drainage structures such as swales or outfall pipes.
- Pruning or planting of suitable native vegetation, including removal of exotic and nuisance plant species (as defined by the Florida Exotic Pest Plant Council Invasive Plant List).
- Manual clearing with hand tools of vegetation on single parcels, maintaining ecological functions like wildlife habitat and nutrient filtration.
- Bona fide agricultural, fire control, silviculture, and mosquito control activities following best management practices from relevant state agencies.
- Utility facilities, including crossings, easements, or rights-of-way for service provision.
- Custodial maintenance of stormwater management systems.
- Driveway installations for single-family units in existing subdivisions where wetland crossings are the only access point, maintaining hydrologic connections and using best management practices.
- Activities qualifying for de minimis alterations under state general permits or Florida Statutes.
- Wetland impacts for access to permissible uses or linear projects, following an approved alternatives analysis for avoidance and minimization, including Florida Department of Transportation projects.

Wetland buffers are addressed in Section 10(l)(vi) as follows:

A natural upland buffer shall be provided adjacent to all wetlands, including saltwater marshes and the Intracoastal Waterway, to protect ecological functions. The buffer shall average no less than twenty-five (25) feet in width across the site, with a minimum width of fifteen (15) feet in constrained areas, unless otherwise permitted by FDEP, SJRWMD or ACOE, provided the overall average meets or exceeds twenty-five (25) feet. This averaging allows for flexible site planning while maintaining equivalent protection.

Buffers shall not be created by filling jurisdictional wetlands unless allowed by SJRWMD permit and appropriate mitigation. Existing vegetation within buffers shall be preserved or revegetated with native species if disturbed. Allowed activities within buffers are outlined in Sections 10(l) (iii) and (iv) above.

Reference to the spine road is removed given that its proposed location is now within the project limits of the **Summertown** development. Similarly, references to the setbacks from

Bulow Creek have been removed. Finally, while the previous Development Agreement allowed for the continuation of agriculture and silviculture until all necessary development permits are obtained, such has been removed from the proposed Development Agreement given that this use is contained wholly within the property to the west of John Anderson Highway.

It is worth noting that Section 4(e) provides the following relative to future property that may be subject to annexation:

The Parties agree and acknowledge that, in the event, the Declarant obtains title to any portion of those Public Lands (13-12-31-2850-0PL30-0000) previously dedicated to the County, the Parties shall in good faith annex such into the City, amend its land use designation and rezone the property in a manner that is consistent with adjacent lands owned by the Declarant or its assigns. The identified property, outlined in turquoise in the picture below, is located at the southernmost end of the Veranda Bay project:



The property south of Presidio Boulevard and directly south of Stillwater Drive is not proposed to be annexed into the City. Rather, this is the property the developer is specifically excluding to avoid the enclave argument. However, annexing the outlined property will arguably create an enclave. This is, of course, a hypothetical situation because the developer would first have to acquire the property, meaning the County would have to be willing to convey it.

## **SUMMERTOWN**

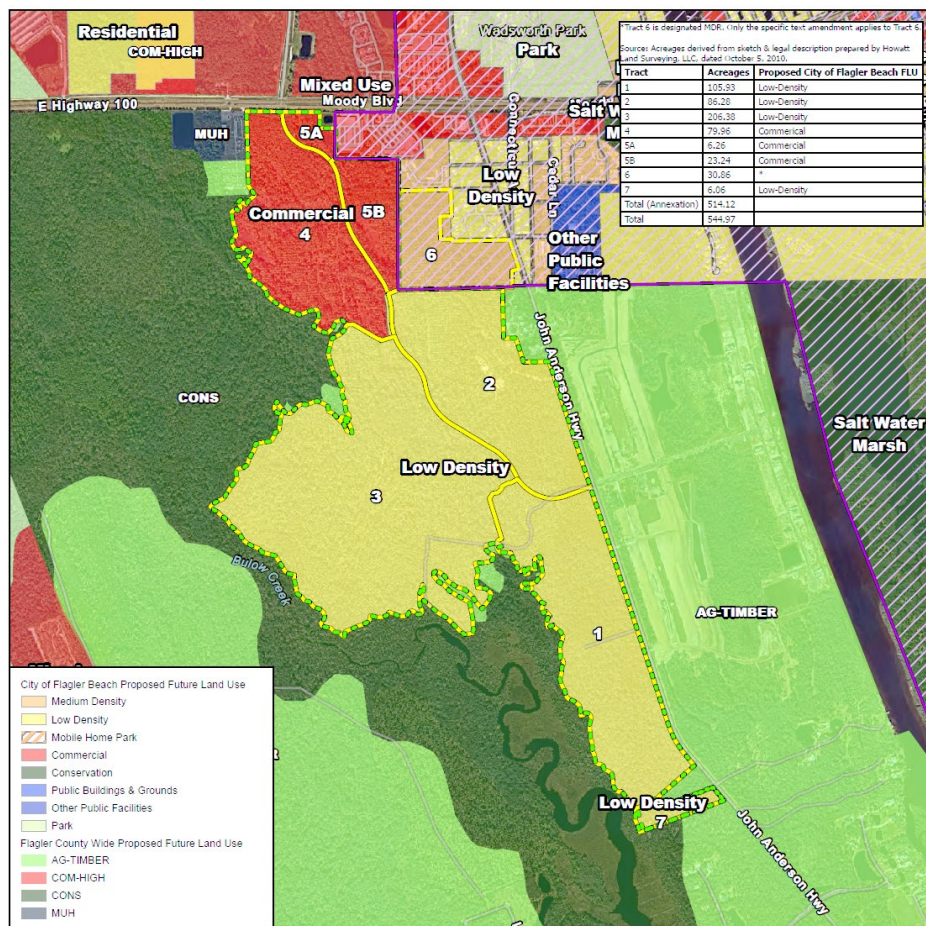
According to the Comprehensive Plan application narrative, the Summertown development will also be a mix of residential and supporting retail uses to be developed over a multiphase



period with an anticipated 2045 buildout. As currently proposed, this requires both a rezoning and Future Land Use Map amendment. The text associated with the Future Land Use Map amendment creates a site-specific text amendment that reads as follows:

**Policy A.1.1.3.I –** Development of the Property shall be limited to a maximum of 1,640 residential units, a maximum of 840,000 square feet of nonresidential uses and a maximum of 250 hotel rooms (“Development Plan”). Land uses permitted within the Low Density Residential and Commercial Future Land Use designation shall be allowed as permitted in the City Comprehensive Plan and Land Development Regulations (July 2025). Changes to the Development Plan may be permitted providing the net new external trips (PM peak hour) do not increase as certified by the Developer’s traffic engineer.

The following map identifies the **Low Density Residential** and **Commercial** Future Land Use areas the developer is proposing to replace the current Agriculture Timber, Conservation, and Mixed Use High Intensity designations assigned by the County:

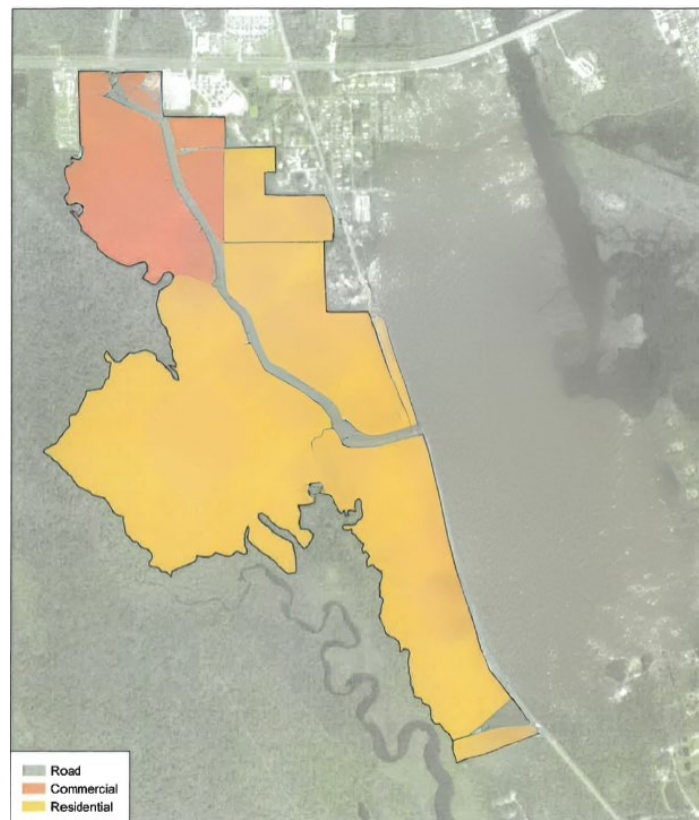


Similar to the proposed Future Land Use Map amendment, the current version of the Development Agreement, associated with the rezoning from PUD (County) and R-Reserved and SFR-Single-Family Residential (City) to one unified MPD within the City of Flagler Beach,

breaks the project down into eight (8) tracts: Tracts 1, 2, 3, 4, 5A, 5B, 6,<sup>11</sup> and 7. The following table identifies the uses allowed on each tract:

TRACT	ZONING DISTRICT	APPROVED USES
1	Residential	SFR, Town House, Multi-family
2	Residential	SFR, Town House, Multi-family
3	Residential	SFR, Town House, Multi-family
4	Commercial	Mixed-Use, Commercial, Town House, Multi-family
5A & 5B	Commercial	Mixed-Use, Commercial, Town House, Multi-family
6	Residential	SFR, Town House, Multi-family
7	Residential	SFR, Amenity

However, unlike the Veranda Bay MPD Master Plan, the Summertown MPD Master Plan does not delineate the individual tracts; instead, it simply separates the property into Residential, Commercial, and Road tracts as shown below:

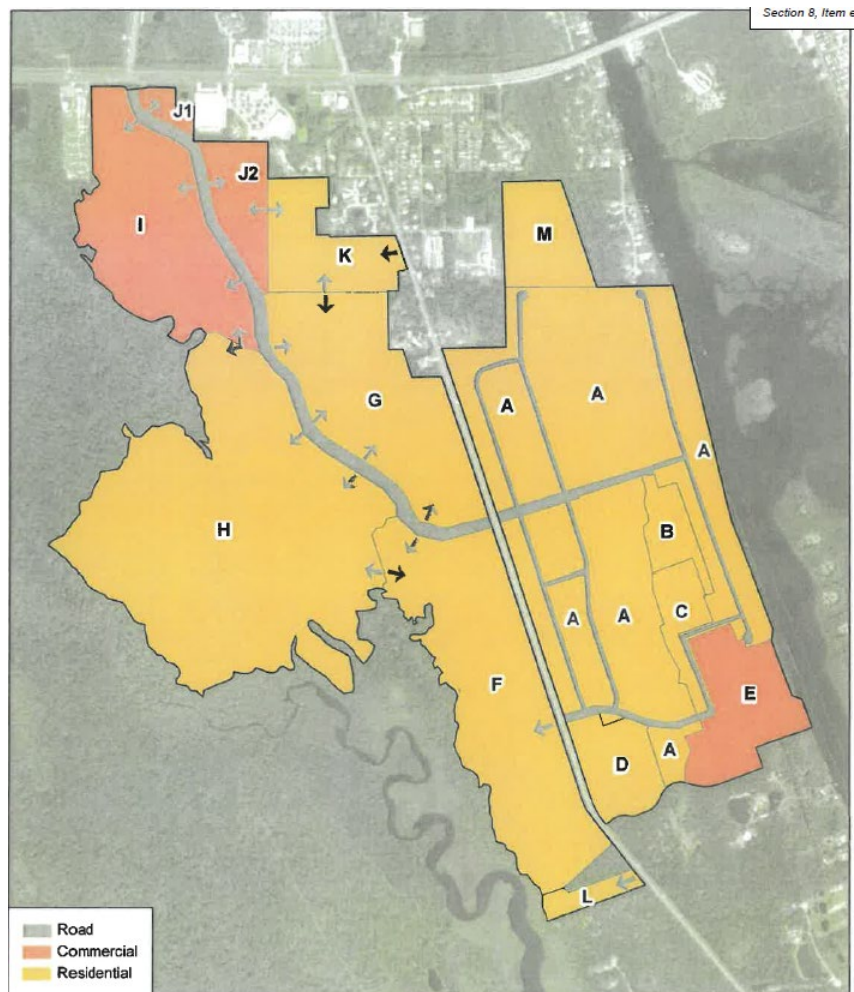


<sup>11</sup> Tract 6 is not included in the legal description of the property to be annexed into the city limits of Flagler Beach because it is already located in the city. It is included in the zoning and FLUM amendment proposals, though there is no proposal to change its FLUM designation (which is currently Medium Density).

Consistent with the proposed Future Land Use Map amendment and the Use Table set forth in the Development Agreement, the Commercial areas coincide with Tracts 4, 5A and 5B, while all other tracts are shown as Residential except for that carved out for the Spine Road.

The Spine Road, which is identified as a public right-of-way in Section 7(c) of the Development Agreement, is now proposed to be built by the time the 150<sup>th</sup> home in Summertown is completed or no additional building permits will be issued until construction of the Spine Road is complete. Notwithstanding the foregoing, the City is precluded from refusing to issue a building permit for those residential lots identified by “Flagler County’s approval of Application#3210, the Preliminary Plat for the Hammock Beach River Club PUD (a/k/a the Gardens PUD).”

As a reminder, the previous proposal was to complete construction of the Spine Road (1) prior to issuance of the Certificate of Occupancy on the 265<sup>th</sup> building in Tracts B through F or (2) prior to the issuance of a residential building permit for Tracts G, H, and K. The following depicts the previous tract layout for ease of reference:

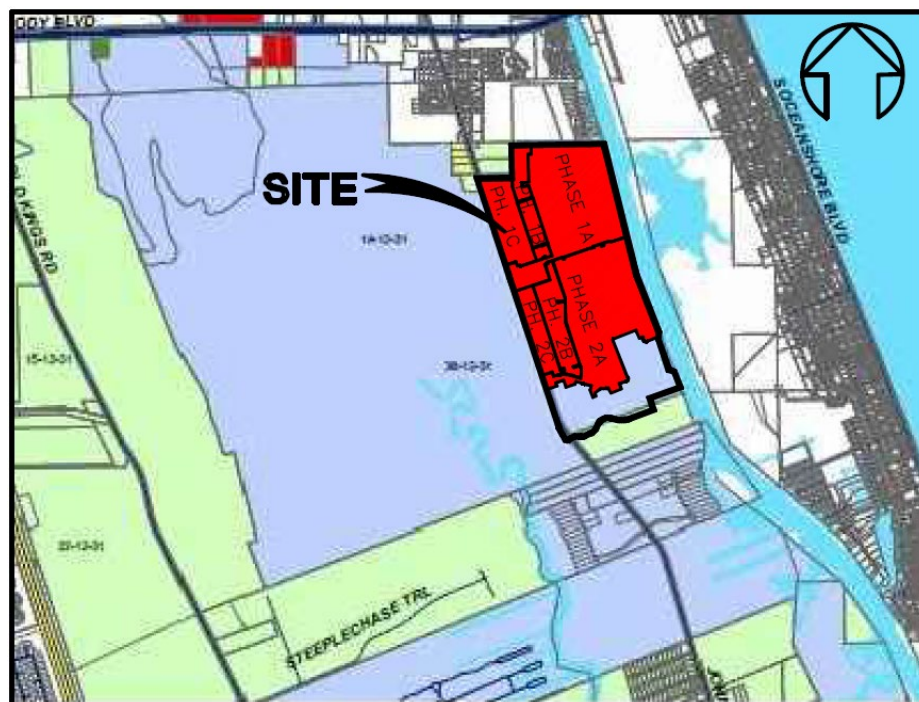




It is also important to note that the referenced Application#3210 allowed for development of a 335-lot subdivision in six (6) phases on 824.13 ± acres, broken down as follows:

- 56 units in Phase 1A (90.40 acres);
- 54 units in Phase 1B (18.02 acres);
- 35 units in Phase 1C (26.73 acres);
- 66 units in Phase 2A (97.66 acres);
- 65 units in Phase 2B (21.82 acres) and
- 59 units in Phase 2C (16.91 acres).

The following, a snippet from the Phase 1A preliminary plat, identifies the various phases as proposed by the Application #3210 plats, all of which are to the east of John Anderson Highway:



Because the restriction as currently proposed only applies to Summertown and does not take into account any development within Veranda Bay or the property that is now excluded from both Veranda Bay and Summertown, it is possible that 740 homes<sup>12</sup> will be constructed without the benefit of the Spine Road.

The previous Development Agreement called for the dedication or conveyance to the City of two (2) one-acre park sites with direct access to the Spine Road and the multiuse trail

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<sup>12</sup> This number is reached by adding together (1) 213 lots outside of both Veranda Bay and Summertown, (2) 377 lots in Veranda Bay, and (3) 150 lots in Summertown that may be constructed before the Spine Road.



constructed by the Declarant. The proposed Development Agreement, instead, calls for one (1) two-acre City park site meeting the same requirements. (See Section 9(g).)

Section 9(h) of the Development Agreement calls for City assistance in removing the Summertown property from the Gardens at Hammock Beach CDD boundaries and creating a new CDD for the Summertown property.

Section 10(l) carries forward the same wetland provisions as contained in the current Veranda Bay Development Agreement. Section 10(m) of the Development Agreement then carries forward Bulow Creek buffer requirements, with the following changes (with additions being underlined and deletions being ~~struck through~~):

**Bulow Creek Buffer.** The Developer shall provide a 25-foot minimum and 75-foot average buffer along the limits of the Project boundary that coincides with Bulow Creek. The Declarant shall also provide a natural buffer no less than ~~seventy-five (75)~~ one hundred (100) feet from the edge of the Bulow Creek ~~river bank~~ riverbank. Notwithstanding the foregoing, the minimum setback shall be 75-feet in those areas as generally depicted in **Exhibit “G” F**. The Declarant shall in good faith evaluate opportunities for Flagler County to purchase from the Declarant Environmentally Sensitive Lands as defined by state statute and local ordinance. In no way shall the Declarant be obligated to sell or convey any portion of the Property to the County or any third party as contemplated by the aforementioned sentence.

The following graphic is included as Exhibit F:



Section 16 of the Development Agreement carries forward the right to convert uses that was found in the previous Development Agreement but not included in what is currently being proposed for Veranda Bay. The following is the included conversion table:

Veranda Bay - Land Use Exchange Table

Land Use Type	Proposed Quantity	Units	Net External PM Peak	
			Trips	Trip Rate
Single-family Detached Residential	1,067	DUs	824	0.772
Single-family Attached Residential	96	DUs	46	0.476
Multifamily Housing (Mid-Rise) 4 - 10 Story Buildings	1,332	DUs	447	0.335
Shopping and Retail	456	KSF	1,518	3.327
Recreational Community Center	22	KSF	57	2.545

Convert From	Convert To				
	SF Detached	SF Attached	Multi-Family	Shopping/Retail	Rec Comm Center
Single-family Detached Residential	1.000	1.622	2.304	0.232	0.303
Single-family Attached Residential	0.617	1.000	1.421	0.143	0.187
Multifamily Housing (Mid-Rise) 4 - 10 Story Buildings	0.434	0.704	1.000	0.101	0.132
Shopping and Retail	4.310	6.989	9.931	1.000	1.307
Recreational Community Center	3.297	5.347	7.597	0.765	1.000

**Example:**

To convert 50 Single Family Residential Dwelling Units to Shopping/Retail, multiply  $50 * 0.23 =$

11,602.00 SF

To convert 10,000 SF Shopping/Retail to Single Family Detached Residential, multiply  $10,000/1000 * 4.310$

43.00 Units