



Disc Golf Course Facility

Proposal of a Park Impact
Fees Credit Agreement for a
New Recreational Facility

Agenda

- Background
- Parks Master Plan
- Imagine 2050
- Donated Land
- Operations/Partnership
- Proposed Course Layout
- Council Actions



Background

- KB Homes of Jacksonville, owners of the Whiteview Multi-Family development, have donated land for a City park.
- Currently, residents travel to other counties to play Disc Golf
- Staff recommends that the City park be developed into Flagler County's first Disc Golf Course



Parks Master Plan

Goal 1:

Invest in current infrastructure and address aging facilities

Goal 2:

Improve and enhance programming and outreach

Objective 1.5:

Develop additional outdoor recreational facilities and amenities

Objective 1.7/2.3:

Explore opportunities for non-traditional sport and recreation opportunities

Objective 2.7:

Partner with other service providers, when possible, to develop programs and service to meet demand and trends



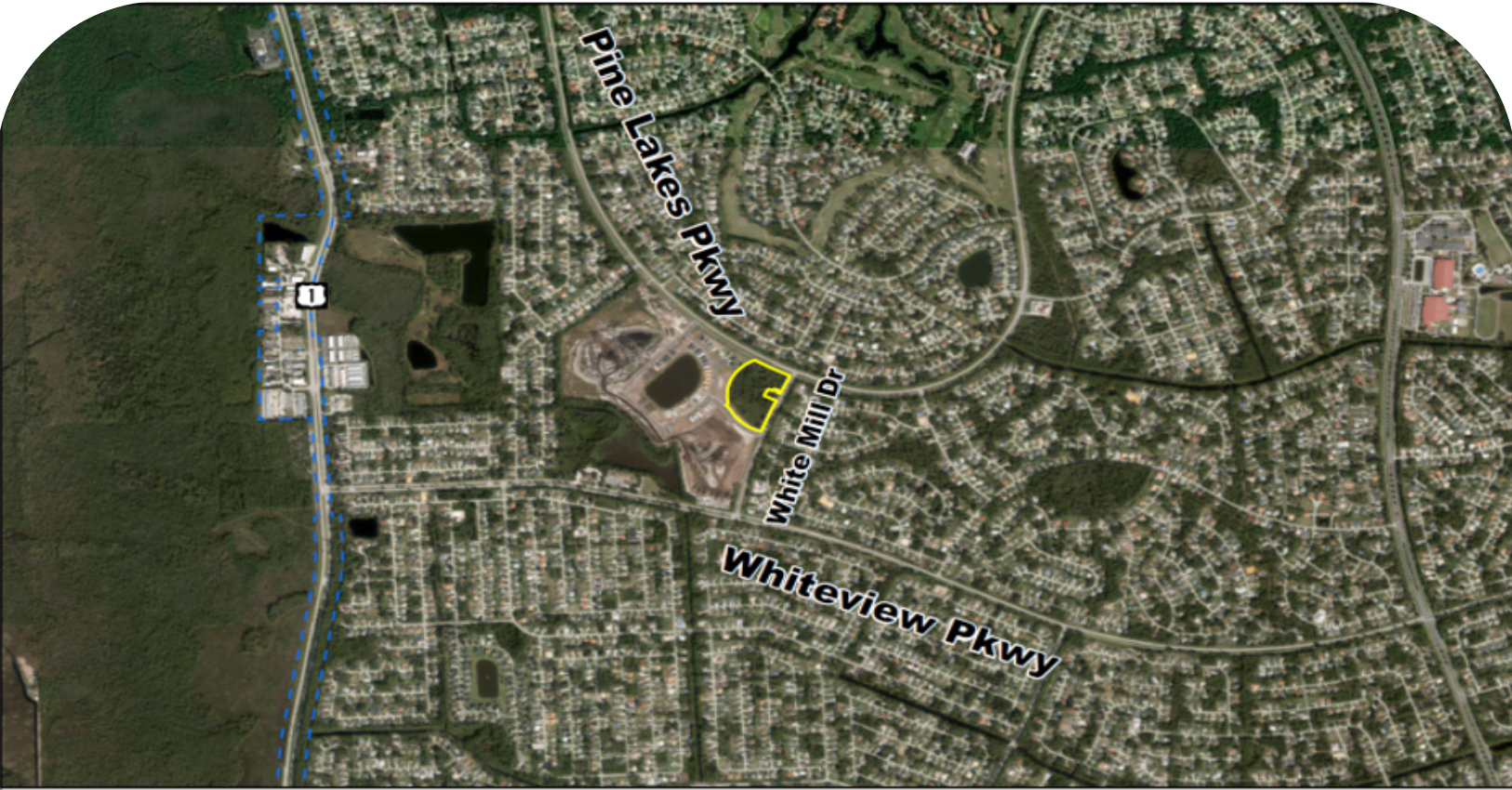
Imagine 2050: City of Palm Coast's Comprehensive Plan

Goal 4.3: Recreation and Park system development and management



- Community feedback focused on variety of recreational activities and actions to improve recreational amenities
- Disc Golf Course was identified through resident feedback in both the Parks Master Plan and Imagine 2050
- First Disc Golf Course in Flagler County



Donated Land



Distant Map

-  Subject Property
-  Palm Coast City Limits

0 925 1,850 Feet



Map Provided by the Planning Division
Date: 7/12/2024

The City of Palm Coast prepares and uses this map/map data for its own purposes. This map/map data displays general boundaries and may not be appropriate for site specific uses. The City uses data believed to be accurate; however, a degree of error is inherent in all maps. This map/map data is distributed AS-IS without warranties of any kind, either expressed or implied including, but not limited to, warranties of suitability to a particular purpose or use. This map/map data is intended for use only at the published scale. Detailed on-the-ground surveys and historical analyses of sites may differ substantially from this map/map data.



Operations/Partnership

- MOU agreement with Flagler County Disc Golf Club
 - All Ages Programing
 - Maintenance
- Open to the public
 - No admission cost
- Hours of Operation
 - Sunrise to Sunset



Proposed Disc Golf Course Layout



- 18-hole Disc Golf Course
- Low maintenance amenity
- Natural Vegetation
 - Limited Clearing
 - Preserves Tree Canopies



Examples of Limited Clearing



Council Action

Approval of contract with
Marbella Apartments (FL),
LLC



RESOLUTION 2024-_____
**IMPACT FEE CREDIT CONTRACT WITH MARBELLA APARTMENTS (FL),
LLC**

**A RESOLUTION OF THE CITY OF PALM COAST,
FLORIDA, APPROVING THE TERMS AND CONDITIONS OF
THE PARK IMPACT FEE CREDIT CONTRACT BETWEEN
THE CITY OF PALM COAST, FLORIDA AND MARBELLA
APARTMENTS (FL), LLC; AUTHORIZING THE CITY
MANAGER OR DESIGNEE, AND EXECUTE SAID
CONTRACT; PROVIDING FOR SEVERABILITY;
PROVIDING FOR CONFLICTS; PROVIDING FOR
IMPLEMENTING ACTIONS; AND PROVIDING AN
EFFECTIVE DATE**

WHEREAS, Marbella Apartments (FL), LLC are willing to design and construct a Disc Golf Course Facility on parcel 23-11-30-6060-00000-00B0 for the City of Palm Coast; and

WHEREAS, this parcel was previously donated to the City of Palm Coast by KB Home Jacksonville, LLC as a park site; and

WHEREAS, this parcel of land meets the Parks & Recreation goals to provide more options for the residents of Palm Coast regarding recreation; and

WHEREAS, the City of Palm Coast desires to contract with Marbella Apartments (FL), LLC for the future park impact fee credits for the above mentioned project.

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

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

SECTION 2. APPROVAL OF THE CONTRACT. The City Council hereby approves the terms and conditions of the Impact Fee Credit Contract between the City of Palm Coast, Florida and Marbella Apartments (FL) LLC, as attached hereto and incorporated herein by reference as Exhibit "A."

SECTION 3. AUTHORIZATION TO NEGOTIATE, FINALIZE, AND EXECUTE. The City Manager, or designee, is hereby authorized to negotiate, finalize, and execute the agreement as depicted in Exhibit "A."

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 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 5. CONFLICTS. All resolutions or parts of resolutions in conflict with this Resolution are hereby repealed.

SECTION 6. IMPLEMENTING ACTIONS. The City Manager is hereby authorized to take any actions necessary to implement the action taken in this Resolution.

SECTION 7. EFFECTIVE DATE. This Resolution shall become effective immediately upon its passage and adoption.

DULY PASSED AND ADOPTED by the City Council of the City of Palm Coast, Florida, on this 1st day of October 2024.

ATTEST:

CITY OF PALM COAST

KALEY COOK, CITY CLERK

DAVID ALFIN, MAYOR

APPROVED AS TO FORM AND LEGALITY

MARCUS DUFFY, CITY ATTORNEY

Attachment: Exhibit "A" - Impact Fee Credit Contract between the City of Palm Coast, Florida and Marbella Apartments (FL), LLC

Prepared by:
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

Return to:
City Clerk
City of Palm Coast
160 Lake Avenue
Palm Coast, FL 32164

PARCEL ID: 23-11-30-6060-00000-00B0

**IMPACT FEE CREDIT CONTRACT
BETWEEN THE CITY OF PALM COAST, FLORIDA
AND
MARBELLA APARTMENTS (FL), LLC**

THIS **IMPACT FEE CREDIT CONTRACT** ("**Contract**") is made by and between Marbella Apartments (FL), LLC (hereinafter referred to as "**Developer**"), with a principal address of 3060 Peachtree Road NW, Ste. 360, Atlanta, GA 30305 and the **CITY OF PALM COAST, FLORIDA**, a municipal corporation, ("**City**") with a principal address of 160 Lake Avenue, Palm Coast, FL 32164. For and in consideration of a valuable sum in dollars, the premises and the mutual covenants and obligations created hereby, as well as other good and valuable considerations, Developer agrees to use Park Impact Fees to construct a Disc Golf Course Facility on certain city-owned real property subject to and upon the terms and conditions set forth below. The effective date of this Contract (the "**Effective Date**") shall be the date upon which the last of Developer and City shall have signed this Contract.

WHEREAS, the Developer proposes to develop certain land abutting the City's property more particularly described in attached as **Exhibit A** with an impact generating development under City Code Section 29-103 known as Whiteview Multi-Family Apartments; and

WHEREAS, Developer agrees to address said impacts by constructing a Disc Golf Course Facility Project on the City-owned property described in attached **Exhibit A** pursuant to the concept plan described in **Exhibit B**, in exchange for future park impact fee credits for the Whiteview Multi-Family Apartments project; and

WHEREAS, this Agreement is authorized by and consistent with City Code Section 29-103.

NOW THEREFORE, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Developer and the City do hereby covenant, stipulate and agree as follows:

ARTICLE I. RECITALS, TERM AND ACCEPTANCE.

- 1.1 **RECITALS.** The above recitals are true and correct and are adopted as an integral part of this Agreement.
- 1.2 **TERM.** The term of this Agreement shall commence upon the complete execution of this Agreement by the parties hereto and shall continue in full force and effect until the Developer has completed and the City has accepted construction of the facilities and Developer has fulfilled its bonding requirements as provided in Section 3 of this Agreement, and Developer has received all designated impact fee credits, except that Sections 1.3, 2.1, 2.2, 3.3, 4.4, and 4.7 shall survive the expiration or early termination of this Agreement.
- 1.3 **ACCEPTANCE.** Upon approval of As-builts for this project by the City, the City shall accept the maintenance of this project for the life of the course and facilities project.

ARTICLE II – PROPERTY AND PARK IMPACT FEES

The real property which is the subject matter of this Contract consists of parcel identification number 23-11-30-6060-00000-00B0, which is owned by the City of Palm Coast, and is more particularly described in attached Exhibit A (hereinafter referred to as the "Property").

2.1. **Park Impact Fees.** The parties agree that Developer shall construct a Disc Golf Course Facility on the Property utilizing future park impact free credits, in the amount not to exceed five hundred sixty-nine thousand one hundred thirteen dollars (\$569,113.00), from the Whiteview Multi-Family Apartments project. Should the project exceed the “not to exceed” dollar amount listed above, the Developer is responsible for the remainder costs associated with the construction of this project. Any additional costs shall not be eligible for future park impact fee credits. Should the City not approve the competitive bids, the City can approve to proceeding with construction of the Disc Golf Facility project with the understanding that Developer is responsible for costs over and above the above-stated “not to exceed” amount.

2.2. **Calculation and Payment of City Park Impact Fees.**

- (a) *Calculation of Impact Fee.* The City has calculated the total park impact fee liability for the Developer based on the impact fee rates in place as of the date the City received the Developer’s permit application for the Whiteview Multi-Family Apartments project. The final Park Impact Fees to be applied are not to exceed five hundred sixty-nine thousand one hundred thirteen dollars (\$569,113.00) for the design and construction of the Disc Golf Course Facility Project.
- (b) *Payment of Impact Fees.* All impact fees due for the development shall be paid to the property owner of the Multi-Family Apartments upon completion and acceptance of the Disc Golf Course Facility construction project by the City. The City of Palm Coast hereby waives the application

fee for the Disc Golf Course Facility Project. The permit fees shall be included in the future park impact fee credits.

- (c) Construction Management fees shall be included in the costs and the entire project shall not exceed \$569,113. No building CO shall be issued prior to the completion and acceptance of the Disc Golf Course Facility by the City.

ARTICLE III-FACILITIES

3.1 Facilities to be constructed.

A. The Developer hereby agrees to construct the Disc Golf Course Facility project to include but not be limited to the following and be located on City's Property:

- (a) Disc Golf Course,
- (b) Public restroom facility,
- (c) Ingress/Egress with parking lot, and
- (d) Shade structures.

B. City Option to Design, Permit and/or Construct Disc Golf Course Facility. The City and Developer further agree that the City reserves the right to construct or cause to be constructed any phase or all of the Disc Golf Course Facility project.

- (a) The City shall notify the Developer of the City's decision whether to design, permit and/or construct any part of the Improvements outlined in **Exhibit "B."**
- (b) Developer shall either be paid in full for any allowable costs approved by the City incurred before the City decides and notifies the Developer of the City's intent to complete any part of the Improvement(s) as outlined in **Exhibit "B"** or, at the discretion of the City, be provided a proportionate credit towards the Developer's impact fee established under Section 2 hereof based on the total dollar amount of any such approved costs.
- (c) Design costs shall not exceed 10% of the construction cost.
- (d) Management Fee shall not exceed 2% of costs incurred.

C. Design Documents. The design documents shall become property of the city who can utilize the documents to bid, permit and construct the improvements if the City chooses to do so.

3.2 Course details. The Disc Golf Course shall be constructed to include 18 holes and designed and constructed as generally depicted in Exhibit "B".

3.3 Maintenance Bond. Developer shall provide any maintenance and performance bonds as required by the City's Land Development Code in effect at the time of conveyance or as may otherwise be reasonably required by the City. The bond shall be in an amount not less than 10% of the total construction cost and shall remain in effect for a period of one year from the date of

acceptance by the City.

3.4 **Design Phases.** The City shall review the design phase at 30%, 60%, 90% and 100% submissions for the Disc Golf Course Facility. .

3.5 **Construction Phases.** The City shall review, inspect, and approve all construction phases. The City shall also attend all construction progress meetings.

3.6 Developer understands and agrees that the Whiteview Multi-family project shall not be issued any building COs until construction of the Disc Golf Course Facility Project has been completed and approved by the City.

ARTICLE IV-OTHER

4.1. **Severability.** If any one or more of the provisions of this Contract is held invalid, illegal or unenforceable, the remaining provisions of this Contract shall be unimpaired, and the remaining provisions of this Contract shall be construed to best carry out the original intent of the parties hereto.

4.2. **Complete Agreement.** This Contract evidences the complete understanding of the parties hereto as respects the matters addressed herein. No agreement or representation, unless set forth in this Contract, shall bind either of the parties hereto. This Contract may be executed in separate counterparts, each of which shall be deemed an original, and all which shall constitute one and the same instrument. Electronic signatures will be acceptable and binding. Any amendments to this Agreement must be in writing and signed by both parties to be effective.

4.3. **Notices.** All notices will be in writing and delivered to the parties and Broker by mail, personal delivery, or electronic means. Buyer's failure to timely delivery written notice to Seller, when such notice is required by this Contract, regarding any contingency will render that contingency null and void, and this Contract will be construed as if the contingency did not exist. Any notice, document, or item delivered to or received by an attorney or licensee (including a transactions broker) representing a party will be as effective as if delivered to or received by that party. Notice shall be given to the following addresses:

To Seller: Marbella Apartments (FL), LLC
3060 Peachtree Road NW, Ste. 360,
Atlanta, GA 30305

To Buyer: City of Palm Coast
Attention: City Manager
160 Lake Avenue
Palm Coast, FL 32164

4.4. **Headings; Governing Law.** The headings contained in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract. This Contract shall be governed in all respects, including validity, interpretation and effect, by the laws of the State of Florida. In any action or proceeding required to enforce or interpret the terms of this Agreement, venue shall be the Seventh Judicial Circuit in and for Flagler County, Florida, or the Middle District of Florida in Orlando, FL., if in federal court.

4.5. **Representation by Counsel.** The parties acknowledge that each is represented in this transaction by counsel.

4.6. **Relationship of the Parties.** The relationship of the parties to this Agreement is contractual and Developer is an independent contractor and not an agent of the City. Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public in any manner, which would indicate any such relationship with the other.

4.7. **Sovereign Immunity.** Notwithstanding any other provision set forth in this Contract, nothing contained in this Contract shall be construed as a waiver of the City's right to sovereign immunity under Section 768.28, or other limitations imposed on the City's potential liability under state or federal law. As such, the City shall not be liable under this Contract for punitive damages or interest for the period before judgment. Further, the City shall not be liable for any claim or judgment, or portion thereof, to any one person for more than two hundred thousand dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds the sum of three hundred thousand dollars (\$300,000.00).

4.8. **Specific Performance.** Strict compliance shall be required with each and every provision of this Contract. The parties agree that failure to perform the obligations provided by this Contract shall result in irreparable damage and that specific performance of these obligations may be obtained by a suit in equity.

4.9. **Development Permits.** Nothing herein shall be construed as a development permit authorizing a specific development of any kind. The Developer is responsible for obtaining all necessary permits and approvals. This Contract is for sole purpose of setting forth the payment terms of certain development fees imposed by the City in accordance with City Code and City policy. Nothing herein shall be construed to limit the City's authority to grant or deny any development permit applications or requests subsequent to the effective date of this Contract. The failure of this Contract to address any particular City, County, State or Federal permit, condition, term or restriction shall not relieve Developer or the City of the necessity of complying with the law governing said permitting requirement, condition, term or restriction. Without imposing any limitation on the City's police powers, the City reserves the right to withhold, suspend, or terminate any and all certificates of occupancy for any building or unit if Seller is in breach of any provision of this Contract.

4.10 **Attorney's Fees.** In the event any action or negotiation shall be instituted by a Party to enforce any of the terms and provision contained herein, whether by suit or otherwise, the

prevailing party in such action or negotiation shall be entitled to reasonable attorney's fees, costs and expenses incurred in enforcing the Agreement, including fees and costs incurred upon appeal or in bankruptcy court

4.11. **Termination.** This Contract shall terminate at such time the Developer has fully developed the City's Disc Golf Course Facility on the City's property and all development impact fees required by this Contract have been applied. If the City terminates this Contract, the City shall record a notice of termination in the public records of Flagler County, Florida.

4.12. **Recording.** This Contract shall be recorded by the City in the Public Records of Flagler County, Florida within five (5) working days of its complete execution by the Developer and the City. The cost of recording shall be paid by the City.

4.13. **No General Obligation.** Notwithstanding any other provision of this Contract, the obligations undertaken by the parties hereto shall not be construed to be or constitute general obligations, debts or liabilities of the City within the meaning of the Constitution and laws of the State of Florida.

4.14. **Force Majeure.** Neither party shall be considered in default in performance of its obligations hereunder to the extent that performance of such obligations, or any of them singularly, is delayed or prevented by a bona fide force majeure. For the purpose of the Agreement, a bona fide force majeure is defined in accordance with the common law of the State of Florida as being an event or circumstance beyond the control and authority and without the fault or negligence of the party seeking relief under this Section. The maximum relief granted to either party under this Section shall be the tolling of time for the duration of the force majeure. A force majeure may be deemed to excuse performance pursuant to this Agreement only to the extent such performance is actually prevented or precluded by such force majeure.

4.15. **Due Authority.** Each party represents and warrants to the other party that: (i) it has full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) the person executing this Agreement is authorized to do so; and (III) this Agreement constitutes a valid and legally binding obligation of the parties, enforceable in accordance with its terms.

4.16. **Binding Effect.** All of the provisions, rights, terms, covenants, and obligations contained in this Agreement shall be binding upon the Parties, and their respective successors in interest, assignees, representatives, lessees, and all other person acquiring the Property, or any portion thereof, or any interest therein, whether by operation of law or in any manner whatsoever.

IN WITNESS WHEREOF, the parties have executed this Contract as of the day and year indicated below.

WITNESSES:

DEVELOPER:
Marbella Apartments (FL), LLC

(print)

(print)

By: _____
Print name: _____
Title: _____
Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by _____ the _____ of _____, a _____, (check one) who is personally known to me or who produced _____ as identification.

Notary Public
Print Name: _____
My Commission expires:

WITNESSES:

CITY:
CITY OF PALM COAST, FLORIDA

(print)

By: _____
Lauren Johnston, Acting City Manager

(print)

ATTEST:
By: _____
Kaley Cook, City Clerk

Date: _____

[CITY SEAL]

STATE OF FLORIDA
COUNTY OF FLAGLER

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this _____ day of _____, 2024, by Lauren Johnston, Acting City Manager of the City of Palm Coast, Florida, who is personally known to me.

Notary Public
Print Name: _____
My Commission expires:

EXHIBIT A
[CITY'S PROPERTY TO BE DEVELOPED]
Parcel ID: 23-11-30-6060-00000-00B0

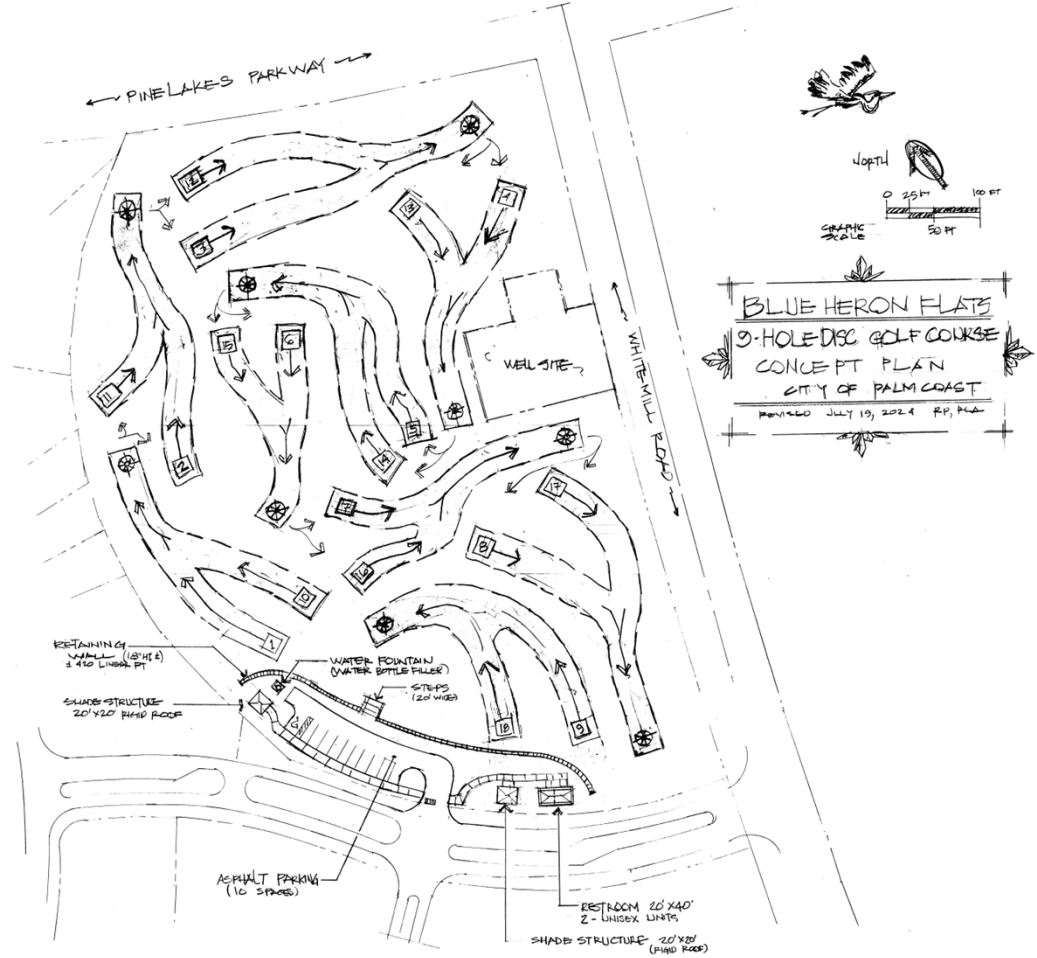
Tract "B" of WHITEVIEW VILLAGE PHASE I, according to the Plat thereof as recorded in Plat Book 40, Page(s) 46 through 55, of the Public Records of Flagler County, Florida.



DRAFT

EXHIBIT B

Disc Golf Course Facility Area DRAFT CONCEPTUAL PLAN





BLUE HERON FLATS
DISC GOLF COURSE



PINE LAKES PKWY

WHITE MILL DRIVE

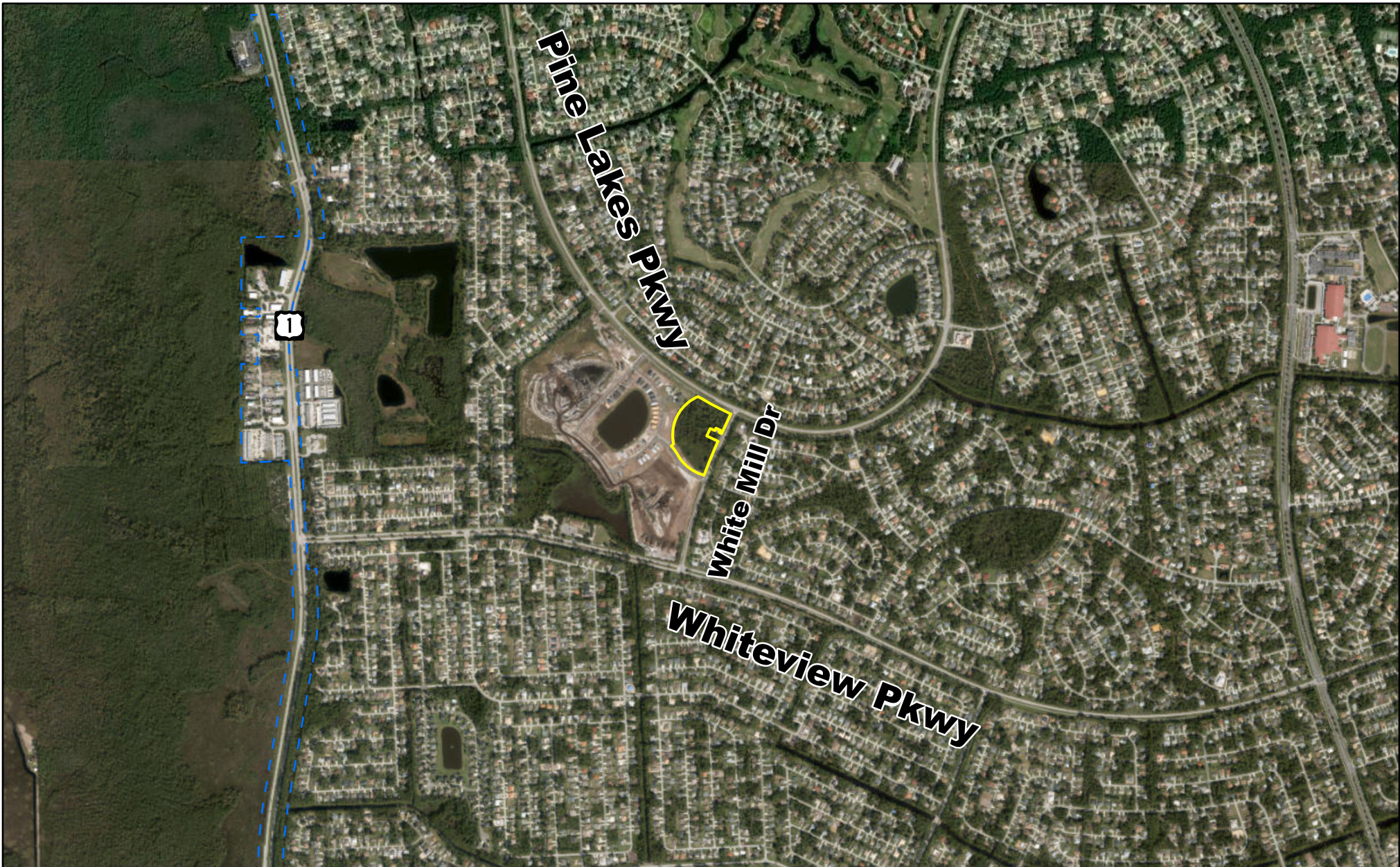


BLUE HERON FLATS DISC GOLF COURSE
PALM COAST, FLORIDA



DATE: 8/19/24

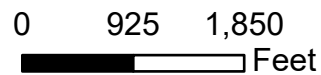


ALLIANT



Distant Map

-  Subject Property
-  Palm Coast City Limits



Map Provided by the Planning Division

Date: 7/12/2024

636

2022 MAXAR Imagery

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